

# BUNREACT NA hÉIREANN

## A study of the Irish text

*Micheál Ó Cearúil*

with original contributions by  
Professor MÁIRTÍN Ó MURCHÚ

Foreword by BRIAN LENIHAN TD  
chairman of the All-Party Oireachtas Committee  
on the Constitution

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THE ALL-PARTY OIREACTHAS COMMITTEE  
ON THE CONSTITUTION  
COISTE UILE-PHÁIRTÍ AN OIREACTHAIS  
AR AN MBUNREACT

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## BROLLACH

Tá cúram théacs an Bhunreachta ar an Taoiseach. Tugtar cumhacht don Taoiseach le hAirteagal 25 téacs den Bhunrecht a ullmhú mar a bheidh i bhfeidhm san am. Nuair atá cóip den téacs sin deimhnithe ag an Taoiseach agus ag an bPríomh-Bhreitheamh, agus lámh an Uachtaráin curtha léi, deintear í a chur isteach ina hiris in oifig Chláraitheoir na Cúirte Uachtaraí. An cló Gaelach a bhí sa chéad leagan den téacs Gaeilge a rollaíodh. Is é sin a úsáideadh ó shin i leith – tugtar cóip den téacs Gaeilge mar a rollaíodh é níos luaithe i mbliana i bhFoscraibhinn 5.

Is é an téacs barántúil ná téacs an Bhunreachta sa dá theanga oifigiúla. Tá an forlámhas ag an téacs Gaeilge i gcás easaontachta idir na téacsanna rollaithe. Tuigeadh don choiste agus iad i mbun a gcuid oibre go raibh gá le staidéar bunúsach ar an téacs Gaeilge agus d'iarr ar Mhicheál Ó Cearúil dul i mbun an staidéir seo. Níl an coiste freagrach, áfach, as na tuairimí a nochtar ann.

Tagann trí ní ach go háirithe chun solais sa sárstaidéar seo:

- 1 Léiríonn téacs an Bhunreachta saibhreas agus seandacht na teanga. Is féidir roinnt de na téarmaí atá ann a rianú siar go dtí an t-ochtú haois. Baineann abairtí eile leis an dul chun cinn atá déanta ag an teanga agus leis an tslí ar cuireadh in oiriúint í don saol atá ann ó bunaíodh an Stát. Nochtar sa staidéar saibhreas na bhfoinsí scríofa sa Ghaeilge atá ar fáil dúinne inniu. Léirítear ann an oidhreacht scríofa agus seanchais atá cuimsithe sa teanga nua-aimseartha. Agus sinn ar thairseach ré nua chimid nach le gluaiseacht na hathbheochana ó 1893 i leith a thosaigh an teanga Ghaeilge a labhraítear inniu. Is acmhainn uasal a shíneann siar thar dhá mhíle bliain í an teanga a labhraítear sa Ghaeltacht ach go háirithe agus a mhúintear inár scoileanna.
- 2 Tabharfaidh an staidéar seo an-chabhair do dhaoine agus brí á baint acu as an mBunrecht. Ó 1937 i leith tá lear mór tráchtairachta sa Bhéarla ar an mBunrecht. Tá cáil an léinn ar chuid mhaith den ábhar sin. Ach is é seo an chéad staidéar cuimsitheach a deineadh ar théacs Gaeilge an Bhunreachta. Tabharfaidh an staidéar seo léargas eile dúinn ar ár mBunrecht. Beidh sé ina chabhair ach go háirithe do na breithiúna, dlíodóirí, polaiteoirí agus scoláirí dlí i gcoitinne.
- 3 Tugtar roinnt neamhréireachtaí i dtéacsanna an Bhunreachta chun solais sa staidéar seo. Léiríonn an t-údar go bhfuil deacrachtaí ann a bhaineann le cló, litriú, gramadach agus foclóir an téacs Gaeilge. Is iontach an staidéar é seo agus tá súil agam go spreagfaidh sé athbhreithniú ar an dá théacs den Bhunrecht agus gur fearrde iad dá bharr.

**Brian Lenihan, TD**

*Cathaoirleach*

*Coiste Uile-Pháirtí an Oireachtais ar an mBunrecht*

## FOREWORD

Article 25 of the Constitution empowers the Taoiseach to cause to be prepared under his supervision a text in both the official languages of the Constitution then in force. A copy of the text so prepared, when authenticated by the signatures of the Taoiseach and the Chief Justice and signed by the President, is enrolled for record in the office of the Registrar of the Supreme Court. The first Irish text was enrolled in the Gaelic script and the practice has been maintained ever since – a copy of the Irish text as enrolled earlier this year is reproduced as Appendix 5.

It should be noted that the constitutional text in both official languages is authentic. Article 25 provides that in case of conflict between the enrolled texts, the Irish language text prevails.

In the course of the work of the committee it became obvious that a detailed study of the Irish text was required. The committee engaged Micheál Ó Cearúil to undertake the study. However, the committee does not accept responsibility for the views expressed in the study.

In my opinion there are three clear lessons to be drawn from this excellent study:

- 1 The present Irish text of the Constitution illustrates the richness and antiquity of the language. Some of the terms employed in the Constitution have a lineage that can be traced back to the eighth century. Other expressions used in the Constitution relate to the modern development and adaptation of the language since the foundation of the State. The study discloses the wealth of written sources in the Irish language available to us today. The study illustrates the continuous literary tradition embodied in the modern language. On the eve of a new millennium we see that the Irish language spoken today did not begin with the revival movement initiated in 1893. The language spoken in the Gaeltacht in particular and taught in schools is the proud inheritance of a spoken tradition which has evolved over more than two millennia.
- 2 This study will be of immense assistance to those who wish to interpret the provisions of the Constitution. Since 1937 there has been a rich commentary in the English language on the provisions of the Constitution. Much of this material has acquired a high scholarly reputation. While passing reference and consideration has been given to the Irish text, this is the first detailed, comprehensive study of the official text of the Constitution in the Irish language. This study will shed further light on our Constitution and be a valuable help to those who interpret, profess and study the law.
- 3 The study illustrates certain anomalies in the texts of the Constitution. The author has identified difficulties relating to the script, spelling, grammar and vocabulary of the Irish text. It is my hope that this study will occasion a proper reconsideration of both texts with a view to their improvement.

**Brian Lenihan, TD**

*Chairman*

*The All-Party Oireachtas Committee on the Constitution*

*INTRODUCTION*  
BUNREACT NA hÉIREANN  
TEXT AND CONTEXT

Article 25.5.4° of the Constitution provides that, in the event of conflict with the English version, the Irish version of the Constitution will prevail:

In case of conflict between the texts of any copy of this Constitution enrolled under this section, the text in the national language shall prevail. *Igcás gan na téacsanna d'aon chóip áirithe den Bhunreacht seo a bheidh curtha isteach ina hiris faoin alt seo a bheidh de réir a chéile, is ag an téacs Gaeilge a bheidh an forlámhas.*

Deputy W.T. Cosgrave, former President of the Executive Council, commented on this as follows during the Dáil debate on the draft Constitution on 14 June 1937:

The Irish text is being made operative in cases of dispute in a court of law. As a matter of fact the Irish text is a mere translation of the English. The Constitution was thought out and framed in English by the President [of the Executive Council, Mr. de Valera]. ... It is unheard of and contrary to common sense that an imperfect translation, such as the Irish text of the Constitution, should be made the authoritative version for the courts.<sup>1</sup>

This study seeks to establish that the Irish text is in fact no 'mere translation' of the English and reveals that almost every section of the Constitution contains divergences of some degree between the two texts. The following study illustrates that, were an official direct translation into Irish to be made today of the original English text of the Constitution, very few sections of such a translation would correspond to the existing Irish text of the Constitution, this by no means being due solely, nor even principally, to developments in the language which have taken place since 1937. In the commentary on the Constitution which follows, we shall see that while many of the provisions of the 1937 Constitution are identical to provisions of the 1922 Constitution, the Irish text of which is an acknowledged direct translation of the English, the corresponding Irish text in the 1937 Constitution differs greatly, and one must assume deliberately, from that of the 1922 Constitution, again this being in very few instances due to developments in the Irish language between 1922 and 1937.

The Irish text of the 1937 Constitution was prepared as the Constitution was being drafted, as against the usual translation process which commences with a definitive text. Speaking in the above-mentioned Dáil debate of 14 June 1937, the President of the Executive Council, Éamon de Valera, said that providing an Irish version was no mere afterthought on his part; neither was it a direct translation of the English. The drafting in Irish was progressing along with the English step by step, almost from the beginning when the main ideas which were accepted were being put down in draft-form:

I want to tell those who suggest that the Irish was only an afterthought, a mere translation of the English, that the Irish drafting has gone on *pari passu* almost from the beginning, when the fundamental ideas that were accepted for the Constitution were being put in draft form. It is true that, as far as the literal drafting of the Constitution was concerned, it has been largely left to one person. ... But this does not mean that the Draft was not criticised. It does not mean that that draft was not changed from its original form to the form in which you have it now, finally. It was changed a number of times, but the principle was to get those changes always expressed and put in their final shape ... as far as possible by the one hand. The Irish has gone side by side with that. We got the most competent people we could for the Irish. This Constitution has been criticised and examined closely by language experts, and ... we have not had, as far as the Irish language is concerned, any criticism that was worth while.<sup>2</sup>

In fact, as against Deputy Cosgrave's assertion above, it is claimed in the authorised Irish biography of Éamon de Valera by Pádraig Ó Fiannachta and Tomás Ó Néill that to a certain extent the final English draft derived from the Irish:

<sup>1</sup> *Dáil Debates*, 14 June 1937, vol. 68, col. 351, in J.M. Kelly, *The Irish Constitution* (third ed., 1994), p. 211.  
<sup>2</sup> *Dáil Debates*, 14 June 1937, vol. 68, col. 413.



Na dréachta tosaigh den Bhunreacht a chuir Seán Ó hEatháin ar fáil ba iad ba bhonn do leagan Gaeilge a rinne Mícheál Ó Gríofa gan mhoill: bhí meas ag de Valera ar Ghaeilge shoiléir bheacht Mhíchíl. Ba é an leagan Gaeilge seo a bhí ag de Valera as sin amach mar bhonn saothair. Ba air a bunaíodh an leagan Béarla ina dhiaidh sin, i dtreo gur tiontú ón nGaeilge é an Béarla céanna.<sup>3</sup> (*The initial drafts of the Constitution which John Hearne provided were the basis for an Irish version which Mícheál Ó Gríobhtha made without delay: de Valera valued Mícheál's clear precise Irish. It was this Irish version which de Valera had from then on as a basis for work. It was on this that the English version was afterwards based, with the result that the English is a translation from the Irish.*)

This is in contrast to the Preamble, the Irish version of which, according to the authorised biography, is a direct translation done by T.F. O'Rahilly:

Fuair de Valera dréacht de bhrollach ar dtús ón Athair Éamann Ó Cathail, S.J., ach mheas sé go raibh sé róscaoilte. Ansin chuaigh sé i gcomhairle leis an Athair Seán Mac Uaid, C.S.Sp., i gColáiste na Carraige Duibhe ina chónagar, agus fuair dréacht sásúil uaidh. Rinne de Valera ábhar leasaithe ar an dréacht agus ansin chuir Tomás Ó Rathile, an scoláire cáiliúil, Gaeilge air.<sup>4</sup> (*De Valera initially got a draft of a preamble from Fr. Éamann Ó Cathail, S.J., but considered that it was too loose. Then he consulted Fr. Seán Mac Uaid, C.S.Sp., in Blackrock College near him, and got a satisfactory draft from him. De Valera made some amendment to the draft and then Tomás Ó Rathile, the famous scholar, put it into Irish.*)

Speaking in Seanad Éireann on the Second Stage of the Irish Legal Terms Bill, 1945, to which Bill we will later return, Senator Hayes referred as follows to the 'translation' of the Constitution:

The Constitution was framed in English and translated into Irish. The only competent body was not, in fact, the body that did it. It was handed over to another body. I do not exactly know who they were. The document on the face of it shows that they were not always in agreement. They produced what is a very unsatisfactory document. Then the extraordinary step was taken of making the Irish, which is really a translation, and not a very good translation, the document which was valid in law. When it was seen that the thing was not satisfactory, an effort was made to bring the translation staff to the rescue. That did not prove completely satisfactory either. Recently a new copy of the Constitution has been issued in Roman script with a new standard spelling.<sup>5</sup>

It is noteworthy that the Irish text of the Constitution was not prepared by the Translation Section of the Houses of the Oireachtas, Rannóg an Aistriúcháin, which section was responsible for translating the Acts of the Oireachtas from 1922 onwards. The original draft of the Irish text was made by Mícheál Ó Gríobhtha, a native of Co. Clare chosen personally by Éamon de Valera for this task. According to biographers Diarmuid Breathnach and Máire Ní Mhurchú, Mícheál was a native bilingual; his parents spoke English to the children, but Irish was generally spoken in the home and neighbourhood. He acquired a sound general education. He spent five or six years teaching before becoming a Customs and Excise Officer, having achieved the second place in Britain and Ireland in a competition for such officers. He served in Belfast, Glasgow and Dublin. From 1922 on Mícheál Ó Gríobhtha worked in the Department of Education, mostly in An Gúm, the section responsible for the publication of Irish books. He published stories and essays in various Irish magazines and journals and wrote a dozen books, including novels, short stories, plays and translations – among the books translated by him was *The First Man in the Moon* by H.G. Wells.<sup>6</sup>

The background to the Irish version of the Constitution, and particularly Mícheál Ó Gríobhtha's contribution, is the subject of a comprehensive article, published in the Irish magazine *Feasta* (October 1988), by the Advisory Archivist of Éamon de Valera's Papers, Breandán Mac Giolla Choille. John Hearne, a Legal Adviser in the Department of Foreign Affairs, provided 'A Plan for a basic constitutional

3 Tomás Ó Néill agus Pádraig Ó Fiannachta, *De Valera*, II (1970), p. 327.

4 *Ibid*, p. 328.

5 *Seanad Éireann Debates*, 26 April 1945, vol. 29, col. 2382.

6 Diarmuid Breathnach agus Máire Ní Mhurchú, *Beathaisnéis a hAon* (1986, p. 76). See also Breandán Mac Giolla Choille, 'I dtaobh an tsaothair sin na Gaeilge ar an mBunreacht', *Feasta*, October 1988, p.64:

Cláiríneach é a rugadh i gCathair Aeidh gar do Lios Uí Chathasaigh sa bhliain 1869, rud a d'fhág 67 de bhlianta bheith slánaithe aige nuair a ghlac sé air féin obair a dhéanfaí faoi mhórbhrú. Faoin am seo bhí cúl tugtha aige don obair sa tseirbhís chustaim agus mál, obair breis agus 30 bliain, agus gabháil le scríobh agus le heagarthóireacht Ghaeilge.

law and an Initial Version of a Draft' on 20 August 1936. By the twelfth or the fourteenth of October he had a draft of headings ready containing four Basic Declarations and 78 Articles. It was exactly at that time, according to Mac Giolla Choille, that it was decided to arrange to get an Irish version of the draft Constitution done, Micheál Ó Griobhtha (then 67 years of age) being chosen for that work. On 19 October 1936, Micheál was seconded from the Department of Education, having been working at that time as an assistant to the chairman of the Terminology Committee. He began work on the first Irish draft of the Constitution in a room in Government Buildings, close to Éamon de Valera. He had made good progress by 11 November, the day Risteárd Ó Foghludha (Fiachra Éilgeach) joined him as editor (non-established), also on secondment from the same Department, where he was an editor of publications. Both worked together on the Irish version from then until the Dáil accepted the draft Constitution as a document to be put before the people in a referendum.<sup>7</sup>

Breandán Mac Giolla Choille outlines their *modus operandi* as follows:

Is mar seo a d'oibrídis: Micheál ag céadscríobh an téacs Ghaeilge mar aistriú cruinnbheacht ar an fhocláocht dlíthiúil sa leagan Bhéarla; Risteard ag déanamh eagarthóireacht, alt ar alt agus focal ar fhocal, ar shaothar Mhíchil chun é a dhéanamh níos soiléite mar phrós Gaeilge nó chun é a thabhairt i gcóngar na gnáthchainte sa méid ab fhéidir é, gan baint de bhri an bhunleagain ó thaobh an dlí de. Bhí lámh an-trom ag Risteard mar eagarthóir agus ní foláir nó bhí foighne an naoimh ag Micheál. Tar éis na heagarthóireachta ar an chéad leagan, mar shampla, bhí na hathruithe chomh hiomadúil sin gurbh éigean do Mhícheál cur chuige agus cóip ghlan a scríobh amach a mbeadh ceartú Risteaird istigh inti, sula bhféadfaí tosaí ar an dara dréachtadh. As sin amach lean dréacht ar dhréacht i dtreo agus gur fhág an bheirt seo le huacht againn bailiúchán mór dréachtaí, cuid iomlán agus cuid ag baint le hairteagail ar leith. Bhíodh orthu nuadhreachtá a dhéanamh freisin de réir mar athruití na leaganacha Béarla a bhí á ndrúchtú agus á bhfeabhsú sa chomhaimsir.<sup>8</sup> (*This is how they worked: Micheál first writing the Irish text as a precise and exact translation of the legal wording of the English version; Risteard editing Micheál's work, section by section and word by word, to make it more legible as Irish prose, or to bring it closer to ordinary speech as far as possible, without diminishing the meaning of the original version as regards law. Risteard had a very heavy hand as editor and Micheál must have had the patience of a saint. After the editing on the first version, for example, the alterations were so numerous that Micheál had to sit down and write out a clear copy with Risteard's corrections inserted in it, before they could start on the second drafting. From then on draft followed on draft so that the two of them bequeathed us a large collection of drafts, some complete and some relating to specific articles. They had to make new drafts also according as the English versions, which were being drafted and improved simultaneously, were being changed.*)

This process of editing the Irish text, of interpreting the English text, in particular, both by Fiachra Éilgeach and others, as we shall see below, contributes to making the Irish version of the Constitution more than a 'mere translation'. We see in the drafts contained in the Archives how, for example, 'cróchda' was altered to 'órdha',<sup>9</sup> finally appearing as 'flannbhuí', expressing 'orange', in Article 7 of the Constitution, where 'The national flag is the tricolour of green, white and orange' is expressed in the Irish text as 'An bhratach trí dhath .i. uaine, bán, agus flannbhuí, an suaitheantas náisiúnta'. It is estimated that six drafts can be identified on which Micheál Ó Griobhtha and Risteárd Ó Foghludha co-operated between November 1936 and 30 April 1937, according to Breandán Mac Giolla Choille.

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Faoi 1936 bhí naoi gcinn de shaothair leis, idir bhunscríobh agus aistriúcháin foilsithe. Ina theannta sin bhí sé ag obair an uair úd mar chúntóir do Chathaoirleach an Choiste Téarmaíochta. Ar an 19 Deireadh Fómhair 1936 tugadh ar iasacht ón Roinn Oideachais é agus is i seomra i bhFoirgnimh an Rialtais, gar d'Éamon de Valera, a thosaigh sé ar an chéad leagan Gaeilge den bhunreacht a chur ar fáil.

(*He was a Clare man who was born in Cathair Aeidh, near Lissycasey, in 1869 - which makes him 67 years old when he undertook work which would be done under great pressure. By this time he had finished his work in the customs and excise service, work of over 30 years, and was engaged in Irish writing and editing.*)

*By 1936 nine works by him, between original writings and translations, had been published. He was also working at that time as an assistant to the Chairman of the Terminology Committee. On the 19th of October 1936, he was seconded from the Department of Education and began providing the first Irish version of the constitution in a room in Government Buildings, close to Éamon de Valera.)*

7 Breandán Mac Giolla Choille, op. cit., p. 64.

8 Ibid, p. 64. The author is obliged to his colleague Seán Ó Briain who read a draft of the translation of the article quoted here.

9 Ibid, p. 67. As the original word is crossed out, it is not very clear but at least one letter follows 'cróch' ('saffron').

There followed in succession: the Final Draft; Draft F or the Complete Irish Text; and finally 'A Complete Irish Copy' which the printers provided on 25 March 1937.

Liam Ó Rinn and Tomás Page, both of the Translation Section of the Houses of the Oireachtas, were appointed at the beginning of April 1937 to help them in the work 'and in particular to bring the text into conformity with the practice of that Section'.<sup>10</sup> In May a committee was set up, under the chairmanship of Professor Eoin Mac Néill, to make recommendations regarding changes that should be made to the Irish spelling in the draft Constitution in order to simplify it, which subject and committee we shall return to later below. Éamon de Valera had the Irish version of the draft Constitution sent to certain people, asking them to 'do anything possible to improve' that version (*'éinní a dhéanamh gur féidir é d'fhonn feabhas do chur ar an leagan Gaeilge den Dréacht-Bhunreacht'*). Among them were Fr Pádraig de Brún, Tomás Ó Máille, Tadhg Ó Donnchadha (Tórna), Éamonn Ó Donnchadha, Liam Ó Rinn, Cormac Ó Cadhlaigh and Gearóid Ó Murchadha. As Breandán Mac Giolla Choille outlines, some of the replies were full of praise, others were severely critical. Fr Pádraig de Brún wrote that 'the Irish of the Constitution saddens me and causes me despair', that 'nobody could understand the words "do-shannta, dochumhscuighthe, uachtarcheannais" without the English beside it'. De Brún continued:

Without putting a tooth in it the Irish of this script is misshapen and it reminds me of a verse of Yeats (*'Gan fiacal a chur ann obair mhíchumtha is ea Gaeilge na scríbhinne seo agus cuireann sé bhéarsa as Yeats i gcuimhne dom'*) – 'The wrong of unshapely things is a wrong too great to be told / I hunger to build them anew and sit on a green knoll apart / With the earth and the sky and the water remade etc. etc. *Ach ní hionann fonn agus aithdhéanamh*'.<sup>11</sup> (But will and remaking are not the same.)

The Irish scholar Tadhg Ó Donnchadha (Tórna), on the other hand, wrote that the Irish version was 'excellent', that the speech was 'correct' and 'exact' and 'the meaning easily comprehensible for a person who has experience of the Irish of our times'. A remark made by Tomás Ó Máille is of relevance today, as regards amendments to the Constitution: he recommended on 28 May 1937 leaving the translation into Irish of any changes which would be made in the Dáil up to those who translated the rest of the text into Irish, commenting that 'without that, the two styles will not suit each other and it will be a mess' (*'Gan sin, ní fheilfidh an dá nós dá chéile agus beidh an scéal ina phraiseach*'.<sup>12</sup>)

### Translating into Irish

'Irish and English being such utterly dissimilar languages, a literal translation from one to the other is impossible'.<sup>13</sup> So commences the 'General Notes on Grammar and Translation' in *Irish Composition* by the Christian Brothers (1907). The piece for translation should be read through first, 'so as fully to grasp the meaning'; the translation may then be attempted, 'care being taken to render the meaning rather than the individual words'. This does not mean, of course, that individual words may be neglected, but that their force rather than their literal equivalent should be expressed in writing, 'He knew his own mind, *bhí fhios aige féin go maith cad do bhí uaidh*' being cited as an example. The translator is instructed to break up any long and complicated English sentence into simple sentences before 'attempting' to translate it into Irish, 'The man having replied that he was a blacksmith, the farmer asked him ... , *dubhairt an fear gur ghabha é, d'fhiafruigh an feirmeoir de ...*' being cited for example. Some of the above features are noted in the comparisons which follow between the Irish and English texts of the Constitution, as is the next point made by the Christian Brothers, that is, that repetition of important words is useful in Irish, and no effort need be made to avoid such repetition, as is done by certain stereotyped phrases in English ('do so', 'for the purpose', 'former', 'latter', etc.) – the example cited in illustration of this point is 'Some of them must emigrate. If they do not do so ... , *Ní foláir do chuid aca gluaiseacht. Dá mbadh rud é nár ghluaiseadar ...*'. The translator is instructed to 'note well' that the definite article, possessive adjectives, prepositions, and conjunctions must be repeated in Irish with each word or phrase to which they belong, as in 'John, James and Peter, *Seaghán agus Séamus agus Peadar*'.<sup>14</sup>

<sup>10</sup> Ibid, p. 64.

<sup>11</sup> Ibid, p. 66.

<sup>12</sup> Ibid, p. 66.

<sup>13</sup> The Christian Brothers, *Irish Composition* (1907), p. 189.

<sup>14</sup> Ibid, p. 189f.

According to *Irish Composition*, 'abstract modes of expression' are not known in Irish, 'except in their proper place, i.e., in abstract and philosophical discussion'. Hence, 'Irish is much more simple and direct in style' than contemporary English. Among the examples cited here are 'He saw the condition in which it was, *chonnaic sé gach nídh mar a bhí*' and 'favouritism and bribery, *fabhar agus breab*'. The general is sometimes used for the particular, according to the Christian Brothers, citing the following: 'skating is a healthful exercise, *is deas an rud bheith ag sleamhnughadh ar an lic oidhir*', 'a great number of visitors resort there, *tagann mór-chuid daoine ann*' and 'the native language, *an Ghaoluinn*'. Two nouns sometimes represent an English noun plus adjective, etc. 'No trace of work of any kind' is translated as 'gan rian oibre ná gnótha', 'I am exceedingly ashamed' is translated as 'tá ceist agus ceann-fé orm' and 'a terrible loathing' as 'déistin agus seirbhthean' to illustrate that point. Attention is drawn to the opposition in usage between Irish and English in the following: 'up and down, *síos (is) suas*', 'backwards and forwards, *anonn is anall*', 'north-east wind, *gaoth anoir adtuaidh*', 'upside down, *bun os cionn*', 'from head to foot, *ó bhun bátha*', 'high or low, *thíos ná thuas*', 'good, bad, or indifferent, *olc, maith, ná donaidhe*' and, finally, 'for your life, *ar do bhás*'.<sup>15</sup>

The Rev. Gerald O'Nolan's *Studies in Modern Irish* (1920) also gives a particular view of the process of translation. 'At the very outset one must have a clear conception of what intelligent translation really means', states O'Nolan, who continues:

And here we must steer clear of the bogey of literal translation. A passage of English prose conveys certain ideas, thoughts, images, set forth by the writer to produce the desired impression of the personages, scenes or facts that are being described, or the philosophical or ethical principles that are being proved or illustrated. The rendering of such a passage into Irish must be consistent with the laws of Irish thought and expression. In deference to the laws of Irish thought insertions, omissions and other changes will take place, according to circumstances. In deference to the laws of Irish expression we must emancipate ourselves from the English *words*, as such, grasp the kernel of thought or emotion to be conveyed, and endeavour to clothe that kernel with the Irish words best suited to express the essential inner meaning. Language is an index to the national character. The fundamentals of the Irish character are, when all is said and done, very different to those of the English character, in spite of strong Celtic elements transfused through the Saxon ground-work of the latter. Hence a word-for-word translation is nearly always fatal.<sup>16</sup>

Finally, we turn to one of the most influential people in the early decades of this century, not only as regards Irish writing but on the form of the language itself, An tAthair Peadar Ua Laoghaire. In an article headed 'Some hints as to how English literary matter should be translated into Irish', edited by Thomas F. O'Rahilly in *Papers on Irish Idiom by the late Canon Peter O'Leary, PP* (1929)<sup>17</sup>, the following general rule is laid down for all learners of Irish:

It may be laid down as a general rule, such is the innate antagonism between the two languages in every phase, that so surely as a word is used figuratively in one it is certain to be taken literally in the other, and to express outrageous nonsense.<sup>18</sup>

The translator must focus on the sense of the English rather than the English words, advises Peadar Ua Laoghaire:

The translator must first find out the *sense* of what he wishes to translate. Then he must turn his back completely upon the English *words*, think the thoughts out as they might be thought out in Irish, and then express the thoughts in Irish exactly as he would express them if they were his own thoughts and he knew no language but Irish.<sup>19</sup>

The author concludes by advising the translator to 'reproduce' the English rather than 'translate' it:

Read over the English matter carefully. Take all the ideas into your mind. Squeeze the ideas clean from all English *froth*. Be sure that you allow none of that oozy stuff to remain. English is full of it. You must also get rid of everything in the shape of metaphor. Take instead of it the true idea which

15 Ibid, p. 191f.

16 Gerald Ó Nolan, *Studies in Modern Irish*, Part II, *Continuous Irish Prose* (Dublin 1920), p. 1.

17 Note that this article was first published in *Fáinne an Lae*, January 1899.

18 Thomas F. O'Rahilly, *Papers on Irish Idiom by the late Canon Peter O'Leary, PP*, p. 90.

19 Ibid, p. 91.

the metaphor is intended to convey. When you have the ideas cleared completely of foreign matter, put them into the Irish side of your mind, and shape them in the Irish language, just as you would if they had been your own ideas from the start.<sup>20</sup>

As David Greene reminds us, the advice above is in the spirit of the Irish tradition in that 'that tradition always preferred adaptation to translation'.<sup>21</sup> It may be noted here that we have in Irish the earliest vernacular translations of classical texts in existence.<sup>22</sup> *Scéla Alaxandair* is a tenth-century translation of an account of the life of Alexander the Great and *Togail Troí* is a free and much-expanded translation of the Latin prose narrative of the Trojan War, made in the late tenth century.<sup>23</sup> In the twelfth century the *Aeneid* was translated into prose as *Imtheachta Aeniosa*, Lucan's *De Bello Civili* as *In Cath Catharda*, and Statius's *Thebaid* as *Togail na Tebe*.<sup>24</sup>

In *Translating Ireland* (1996), Michael Cronin writes that, in the article referred to above, Peadar Ua Laoghaire 'is, in fact, restating a position that has had a long history in translation theory and practice, namely, that the translator must produce the text as if s/he were writing an original, contemporary text in the language'.<sup>25</sup> Nonetheless, as Michael Cronin observes, in Ua Laoghaire's observations – as in those of the Christian Brothers and of Ó Nualláin – 'inductive generalisations and moral/political values are merged', there being 'a distinctive value judgement' in the disparaging reference to English 'froth' above, for example.<sup>26</sup> Professor Máirtín Ó Murchú comments as follows on the above excerpts from the Christian Brothers, Ó Nualláin and Ua Laoghaire:

There are, of course, various types of translation, according to various purposes. If, for example, the object is to assist students in comprehending foreign-language texts, a word-for-word translation may be very useful. If, on the other hand, the object is, with comparable effect, to express in one language what has been written in another, then a word-for-word translation will not do and, as correctly argued by Peadar Ua Laoghaire, 'the translator must first find out the sense of what he wishes to translate'. But this reasonable advice is mingled, by him and others, with a confusion of other assertions about the essential characteristics of Irish style. There are questionable notions of 'linguistic relativity', e.g. 'the national character', etc., and there is the determined promotion of one subjective view of the optimal Irish prose style. The actual fact is that Irish and English can equally, in their distinctive ways, have elaborate or succinct styles, literary or colloquial, conservative or modish; in the case of the Irish version of the Constitution, there was no reason intrinsic to Irish why the Irish version could not have been as legalistic as the English, as the Irish 1922 text essentially was [as we shall see]. But this confusion of reasonable and questionable views about translation, and about the optimal Irish prose style, which Peadar Ua Laoghaire had a central role in developing, was an inescapable part of the 1937 drafters' literary formation and undoubtedly influenced the grammatical and lexical choices which they made, and must in large part explain the considerable stylistic divergence between the Irish 1937 text and its 1922 predecessor.

'Caint na ndaoine', 'the speech of the people', was for Peadar Ua Laoghaire of paramount importance:

For a living language, the books and the speech of the people should go hand in hand. What is printed in the books should be the exact representation of what comes out of the people's mouths.<sup>27</sup>

This emphasis on the contemporary spoken vernacular had two obvious consequences for the subsequent development of translation in Irish, according to Michael Cronin:

Firstly, the language of translation was to be the language of the people. The text would be 'naturalised' in translation, rendered in the idiom of the Gaeltacht speakers. Secondly, those who were most familiar with *caint na ndaoine* were obviously native speakers themselves. Therefore, the question of who was translating into Irish became more important.<sup>28</sup>

20 Ibid, p. 92.

21 David Greene, *Writing in Irish to-day* (1972), p. 16.

22 See Robert Welch, ed., *The Companion to Irish Literature*, 1996, p. 568.

23 Ibid, p. 562.

24 Ibid, p. 102.

25 Michael Cronin, *Translating Ireland* (1996), p. 147.

26 Ibid, pp. 147-8.

27 Thomas F. O'Rahilly, ed., op. cit., p. 86 (an article entitled 'The Irish of Keating's time').

28 Michael Cronin, op. cit., p. 148.

The new State recognised the need for translations into Irish. Five hundred pounds was allocated by the first Dáil for the provision of reading material in Irish, the money to be spent 'in publications urgently required such as text books on all subjects and Irish translations of standard works'.<sup>29</sup> A translation scheme inspired by existing Welsh and Flemish models, and run by the branch of the Department of Education set up in 1926 with responsibility for the publication of books in Irish, An Gúm, had by 1937 commissioned the translation of 214 books (out of a total of 389 books published under An Gúm), 170 of which were translations of English books. Of the one hundred novels published by An Gúm by 1937, eighty-two were translations.<sup>30</sup> The Minister mainly responsible for that scheme, Earnán de Blaghd, wrote as follows on the need for translations into Irish:

In the Galltacht ... there must be made available great masses of reading matter in Irish and reading matter to suit all tastes. The quantity that is required can only be obtained in time by translation. Therefore, we must translate English novels and detective stories in much greater numbers than had been thought of heretofore.<sup>31</sup>

Translation was recommended by Cearbhall Ó Dálaigh as a way of 'removing the rust' from Irish:

Molaim an t-aistriúchán. Sciomram, sciomram agus sciomram gan sos. Nuair a bheidh an mheing caithte den Ghaedhlig againn, dar fiadh go ndéanfar éacht. (*I recommend translation. Let us scrub, scrub and scrub unceasingly. When we have removed the rust from Irish, by Jove, great things will be done*).

Speaking of the literary language, Cearbhall Ó Dálaigh said that Irish had become rusty having been 'in the open under the bad weather' (*Tá meing tréis teacht ar an nGaedhlig ó bheith amuigh fé spéir le fada agus an droch-shíon ann*); ordinary affairs of learning had not been commented on in Irish for a long time and Irish was now 'clumsy and crude' (*Is fada ó tráchtadh ar ghnáth-chúrsaí léighinn sa nGaedhlig, agus sin a bheir di bheith go ciotach agus go tuatach indiu*).<sup>32</sup> Translation could help forge a new literary language in Irish as against 'caint na ndaoine'. In an article published in 1933, Liam Ó Rinn of the Translation Section of the Houses of the Oireachtas wrote that there was no country in Europe which did not have two types of expression, the type practised by the people when talking and doing business and the language in literature, which differed from each other as much as, for example, Cicero's Latin differed from the jargon of the Roman soldiers. So it was also in Ireland, until three or four hundred years ago, wrote Ó Rinn:

Nil aon tír san Eoraip iniu gan dhá shaghas cainte inti, an saghas a chleachtann na daoine nuair a bhí ag comhrádh nó ag déanamh gnótha agus an chaint a bhíonn sa litríocht, agus an oiread deifríochta eatorra is bhí in anallód idir Laidin Chicero, cuir i gcás, agus béarlagar na saighdiúirí Rómhánacha. Is mar sin a bhí an scéal in Éirinn, leis, go dtí trí nó ceathair de chéadta blian ó shoin.<sup>34</sup>

### **Irish text elucidates meaning of the English text**

It will be seen in particular from a comparison of the literal translation of the Irish text with the official English text of the Constitution in the study which follows, that practically every section of the Constitution contains divergences between the Irish and the English texts. Many of these divergences are related to the linguistic resources of the languages themselves and could not be described as significant. Other divergences are quite intentional. Take Article 28.8, for example:

Every member of the Government shall have the right to attend and be heard in each House of the Oireachtas. *Tá sé de cheart ag gach comhalta den Rialtas bheith i láthair agus labhairt i ngach Teach den Oireachtas.*

<sup>29</sup> *Miontuairiscí Díospóireachtaí an Chéad Dáil 1919-1921*, p. 273 – see Michael Cronin, op. cit., p. 156.

<sup>30</sup> See Roibeárd Ó Faracháin, 'Regarding An Gúm', *Bonaventura*, Summer 1937, p. 174.

<sup>31</sup> Earnán de Blaghd's Papers, P24/304(2), Archives, University College Dublin; published by Máirtín Mac Niocláis, *Seán Ó Ruadháin: Saol agus Saothar* (1991), p. 111.

<sup>32</sup> *The Nation*, 29 November 1930 – reprinted by Máirtín Mac Niocláis, op. cit., p. 113.

<sup>33</sup> Ibid, p. 113.

<sup>34</sup> 'Fear Faire', 'Tugtar Cead a gCinn Do Lucht Ceaptha Rudaí Nua', in *The United Irishman*, 13 May 1933, reprinted by Máirtín Mac Niocláis, op. cit., p. 113.

'To be heard' could easily be translated more literally as 'éisteacht a fháil' (literally 'to get a hearing') rather than be expressed as 'labhairt' ('to speak'). 'From the date' is expressed as 'ón lá', literally 'from the day', in Articles 12.3.1° and 27.5.1°i, for example, with 'after the date' being expressed as 'tar éis an lae' in Articles 25.2.1° and 26.3.3°. Again, this involved a deliberate decision not to use 'dáta' in the above contexts in the Irish text.

There is no doubt but that in some cases the Irish text expresses the sense of the English much more naturally, as in Article 28.9.4°, for example, where 'his appointment shall be terminated by the President' is expressed in the Irish text as 'ní foláir don Uachtarán an comhalta sin a chur as oifig', literally, 'the President must put that member out of office'. In his commentary on Article 25.5, J.M. Kelly, *The Irish Constitution* (1994), refers to a total of twenty-two Articles the Irish text of which the courts have looked at in order to elucidate the meaning of the corresponding English expressions. The Articles in question are Articles 11, 15.4.2°, 15.10, 15.12, 15.13, 16.2.3°, 28.4, 29.3, 29.5, 30.3, 34.3.1°, 36.iii, 38.5, 40.1, 40.3.1°, 42.4, 43, 44.2.3°, 45, 45.2.i, 46.1 and 50.1<sup>35</sup> – J.M. Kelly's report on the comments made by the courts are included in the commentaries on those Articles which follow in this study and only a couple of examples are highlighted here. With regard to Article 29.3, for example, in *The State (Sumers Jennings) v Furlong* ([1966] IR 183), Justice Henchy said that the Irish version "makes clear" that Ireland accepts the generally recognized principles of international law "as a guide (*ina dtreoir*) in its relations with other states" – i.e. merely as a guide, not as a rule operating to restrict the powers of the Oireachtas.<sup>36</sup> Article 29.3 reads as follows:

Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States. *Glacann Éire le bunrialacha gnáth-admhaithe an dlí idirnáisiúnta le bheith ina dtreoir d'Éirinn ina caidreamh le Stáit eile.*

Literally translated the Irish text reads:

Ireland accepts the generally acknowledged fundamental rules of international law to be a guide for Ireland in her relations with other States.

In the case of Article 40.3.1°, in *McGee v Attorney General* ([1974] IR 284) Justice Griffin pointed out that the Irish version, 'Ráthaíonn an Stát gan cur isteach lena dhlithibh ar cheartaibh pearsanta aon tsaoránaigh', was a guarantee **not to interfere with** citizens' personal rights, thus adding depth to the guarantee to 'respect' them in the English version.<sup>37</sup> Article 40.3.1° reads:

The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen. *Ráthaíonn an Stát gan cur isteach lena dhlíthe ar chearta pearsanta aon saoránaigh, agus ráthaíonn fós na cearta sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.*

A literal translation of the Irish text reads as follows:

The State guarantees not to interfere by its laws with the personal rights of any citizen, and it further guarantees to defend and assert those rights with its laws in so far as it is possible.

Finally, as regards Article 42.4, in *Crowley v Ireland* ([1980] IR 102) Justice Kenny pointed out that the Irish version 'ní foláir don Stát socrú do dhéanamh chun bunoidreachas do bheith ar fáil in aisce' brought out more clearly than the English the distinction between the duty to 'provide **for** free primary education, and a duty actually to 'provide' it.<sup>38</sup> Article 42.4 reads as follows:

The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions ... . *Ní foláir don Stát socrú a dhéanamh chun bunoidreachas a bheith ar fáil in aisce, agus iarracht a dhéanamh chun cabhrú go réasúnta agus chun cur le tionscnamh oideachais idir phríobháideach agus chumannnta agus, nuair is riachtanas chun leasa an phobail é, áiseanna nó fundúireachtaí eile oideachais a chur ar fáil.*

A literal translation of the Irish text reads:

<sup>35</sup> J.M. Kelly, op. cit., p. 205ff.

<sup>36</sup> Ibid, p. 207.

<sup>37</sup> Ibid, p. 208.

<sup>38</sup> Ibid, pp. 208-9.

The State must make provision for primary education to be available free, and endeavour to help reasonably and to augment educational undertaking both private and common and, when it is necessary for the welfare of the people, to provide other educational facilities or foundations.

Before concluding on references to the Irish text in the courts, it may be noted that some of the comments in the courts have taken individual Irish terms and phrases in isolation and not in the context of the Constitution as a whole and particularly without regard to the 1922 Constitution, where the terms involved are direct translations of English terms. In the work which follows, a literal English translation has been provided of each Article of the Constitution, pointing out where it appears that discrepancies exist between the English and the Irish texts. As, in accordance with Article 25.5.4°, the Irish text prevails in the case of conflict between the texts, in the context of a comprehensive review of the Constitution, consideration must first be given to emending the English text to bring it into conformity with the Irish. Taking two of the three Articles looked at above, for example, it would seem desirable to substitute 'guide' for 'rule' in the English text of Article 29.3 and 'not to interfere with' for 'to respect' in Article 40.3.1°.

Looking at a few further examples which have not yet been subject to comment by the courts in this regard, 'designate' in Article 6 ('to designate the rulers of the State') has the sense both of 'appoint' and 'nominate'. The Irish text in expressing 'designate' by 'ceap' chooses 'appoint', which term might perhaps be inserted in place of 'designate'. In Article 28.6.3°, 'The Tánaiste shall act for ... the Taoiseach' is expressed in the Irish text as 'Ní foláir don Tánaiste ... gníomhú thar ceann ... an Taoisigh', literally 'on behalf of the Taoiseach', which English phrase appears more precise than 'for' in the official English text. The term 'cóirigh' expresses 'constitute' in Article 18.4.1°iii, where we find 'from panels of candidates constituted as hereinafter provided' and, in the same context, expresses 'form' in Article 18.7.1°, where we find 'five panels of candidates shall be formed in the manner provided by law'. The English text might, for the sake of consistency, be emended to read either as 'constituted' or 'formed' in both cases above. 'The voters' might be emended to 'the number of voters', following the Irish text, in the final clause of Article 47.2.1°, which reads:

... and if the votes so cast against its enactment into law shall have amounted to not less than thirty-three and one-third per cent. of the voters on the register. ... *agus nach lú an méid vótaí a thugtar amhlaidh in aghaidh é a achtú ina dhlí ná cion trí tríochad is trian faoin gcéad de líon na dtoghthóirí atá ar an rolla.*

Finally, Article 44.2.6° reads as follows:

The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation. *Ní cead maoin aon aicme creidimh ná aon fhundúireachtaí oideachais a bhaint díobh ach amháin le haghaidh oibreacha riachtanacha chun áise poiblí, agus sin tar éis cúiteamh a íoc leo.*

The Attorney General's Committee on the Constitution (1968) commented as follows on this Article:

The word 'diverted' is a euphemism, and is neither a suitable word nor a good translation of the Irish 'a bhaint díobh', which is accurate and straightforward. 'Diversion' appears wider than 'taking from'. The two texts are not seriously inconsistent, however, and conflict could arise only if the property was clearly 'diverted for a necessary work of public utility', but not 'taken from' the institutions concerned. It is difficult to visualise any practical example of this conflict arising.<sup>39</sup>

The Review Group on the Constitution (1996) agreed with that view expressed above to the effect that the word 'diverted' in the English language version did not correspond with the words 'a bhaint díobh' in the Irish language version, adding that 'in any event, the use of the word "diverted" in this context is euphemistic and unsuitable'. The Review Group accordingly recommended that 'diverted' be replaced by 'compulsorily acquired', stating that there was 'no need for a change in the Irish language version'.<sup>40</sup>

39 See the *Report of the Constitution Review Group*, May 1996, p. 376.

40 *Ibid*, p. 387.



### The Constitution of the Irish Free State, 1922

Reference was made above to Liam Ó Rinn and Tomás Page of the Translation Section of the Houses of the Oireachtas being appointed in April 1937 'to bring the text into conformity with the practice of that Section' in particular. In translating the Acts of the Oireachtas precedence is of central importance. The very first Act enacted by the Dáil was the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, the First Schedule thereto containing the Constitution of the Irish Free State – it is noteworthy that the text of the 1937 Constitution does not form the Schedule to an Act, although a draft of the Constitution was passed by the Dáil. The Irish text of the 1922 Constitution provides the first occurrence of many of the terms and phrases found in the Acts to this day. That text, which is a direct translation of the English text, was prepared by a Committee which included the Minister for Education, Irish scholar and historian, Eoin Mac Néill; the Leas-Cheann Comhairle, Pádraig Ó Máille; the Clerk of the Dáil, Colm Ó Murchadha; Piaras Béaslaí; Liam Ó Rinn and Professors Osborn Bergin and T.F. O'Rahilly.<sup>41</sup>

That the Irish of this text for the most part does not appear in any way artificial or laboured today both belies the emphasis sometimes placed on the 'break' in Irish tradition and testifies to the achievement of the translators. Commenting on attempts made in the early decades of this century to impose the West Munster dialect (owing to the influence of An tAthair Peadar Ua Laoghaire in particular) as the official standard, David Greene states that 'the Irish version of the constitution of the Irish Free State is, indeed, an example of the use of this dialect for official purposes which showed clearly how adaptable it was, and would have rejoiced the heart of O'Leary himself'.<sup>42</sup> The following memorandum by Professor Eoin Mac Néill, on 23 January 1923, relating to a request for the supply of English-Irish dictionaries for various Departments, gives us an insight into the difficulty of the task that was undertaken by that translation committee:

The persons commissioned to draft the Irish version of the Treaty and Constitution had all available Dictionaries, both English-Irish and Irish-English. These persons were selected as experts (Colm Ó Muchadha, Liam Ó Rinn, Pádraic Ó Máille, Professors Bergin & MacNeill). I think they will all testify that for the purpose of introducing new technical terms they found the Dictionaries of small assistance and that most of the new terms that appear in the draft documents have no dictionary authority for their use in the technical senses for which the terms were adopted. It follows that less experienced persons would find the Dictionaries of still less assistance and might easily be misled by them into adopting very unsuitable terms.<sup>43</sup>

As stated earlier, many of the provisions of the 1922 Constitution are again found in the 1937 Constitution, but with significant emendation of the Irish text. Single terms are changed in some cases, 'seachtar' ('seven people') in Article 51 of the 1922 Constitution is expressed by the earlier and more regional term 'mórsheisear' (literally 'great six') in Articles 28.1 and 31.3 of the 1937 Constitution, for example, this being the normal expression of the personal number 'seven' in the earlier language. 'Ar seirbhís chogúil', translating 'on active service' in Article 71 of the 1922 Constitution, is expressed in Article 38.4.2° of the 1937 Constitution as 'ar fianas', a term which carries echoes of early Irish history and society. 'Béarla' ('the English language') becomes 'Sacs-Bhéarla' in the 1937 Constitution, again a term which is much more than a 'mere' literal translation of the term 'English'. Viewed as a translation, with 'glactar leis' having the literal sense of 'is accepted', Article 8.2 is a classic example of translation as transformation<sup>44</sup>:

The English language is recognised as a second official language. *Glactar leis an Sacs-Bhéarla mar theanga oifigiúil eile.*

The influence of politics on the language, the 1937 Constitution being very much Éamon de Valera's and Fianna Fáil's Constitution as against the pro-Treaty 1922 Constitution, must be borne in mind. We shall see below how, as regards both script and orthography, there was a deliberate return to the pre-1922 period and this appears in some cases to be paralleled in the language itself.

41 See Séamas Daltún, 'Scéal Rannóg an Aistriúcháin', in *Teangeolas* xvii, Winter 1983, p. 15. Note incidentally that the five Articles which comprise the Constitution of Dáil Éireann, 1919, are given in Irish alone in the *Minutes of Proceedings* of the First Session, 21 January 1919.

42 David Greene, *op. cit.*, p. 27.

43 From the files of Rannóg an Aistriúcháin.

44 Professor Máirtín Ó Murchú remarks on the above that one could possibly refer to this as an example of translation not simply as transformation but as propaganda.

Much more than individual terms of the 1922 Constitution were emended, the wording of complete sections in the Irish text being emended in some cases. The English text of Article 15.12 of the 1937 Constitution, for example, closely follows Article 19 of the 1922 Constitution but the corresponding Irish text has been significantly altered. Article 19 reads:

All official reports and publications of the Oireachtas or of either House thereof shall be privileged, and utterances made in either House wherever published shall be privileged. *Beidh gach tuairisc agus foillsiúchán oifigiúil den Oireachtas no d'aon Tigh de fé phríbhléid agus beidh gach ní adéarfár in aon Tigh de fé phríbhléid is cuma cá bhfoillseófar é.*

The enrolled text of Article 15.12 of the 1937 Constitution reads as follows:

All official reports and publications of the Oireachtas or of either House thereof and utterances made in either House wherever published shall be privileged. *Gach tuarascbháil agus foillseachán oifigeamhail ón Oireachtas agus ó gach Tigh de, maille le caint ar bith dá ndéantar i n-aon Tigh díobh, táid saor ar chúrsaibh dlíghidh cibé áit a bhfoillsighthear.*

Note above how 'táid saor ar chúrsaibh dlíghidh' replaces the more literal translation 'beidh (siad) fé phríbhléid' of the 1922 Constitution. We shall see in the commentary on that Article how on the one hand this phrase 'saor ar' is found in commentaries on early Irish law-tracts and on the other hand how 'faoi phríbhléid' replaces 'saor ar' in the Acts of the Oireachtas. Note also the more conservative synthetic third person plural, present tense, form of the substantive verb, 'táid', as against 'beidh' of the 1922 Constitution – the more conservative spelling of the later text will be dealt with below.

We shall see in the commentary on various Articles in the study which follows that sometimes in the Acts which follow directly on and give effect to provisions of the 1937 Constitution the language of the Constitution was not followed in the direct Irish translation of those Acts. 'Polling' is expressed as 'vótáil', literally 'voting', in Article 16.4.1<sup>o</sup> (which reads 'Polling at every general election for Dáil Éireann shall as far as practicable take place on the same day throughout the country', '*An vótáil do gach olltoghchán ar leith do Dháil Éireann ní foláir í a dhéanamh, sa mhéid gur féidir é, an t-aon lá amháin ar fud na dúiche uile*'), for example, yet we find the direct translation 'vótaíocht' in section 10(1) of the Referendum Act, 1942, where 'appoint by order the day (in this Act also referred to as the polling day) upon which the polling at such referendum shall take place' is translated as 'an lá (dá ngairmtear an lá vótaíochta freisin san Acht so) a déanfar an vótaíocht sa reifreann do cheapadh le hordú'. It is significant in this regard that some of the emendations made by the Second Amendment of the Constitution Act, 1941, involved emending the Irish text alone. The substitution of 'cíos' for 'fagháltas', expressing 'revenue' in Article 11, was the very first emendation in the 1941 Amendment of the Constitution, for example, no corresponding emendation being made to the English text.<sup>45</sup> As we shall also see below, divergences between the Constitution and the Acts have been compounded by the Irish Legal Terms Orders published between 1947 and 1956, under the Irish Legal Terms Act, 1945.

## Divergences

In his 1988 'Thomas Davis Lecture', John Kelly expressed the opinion that the Supreme Court had in some cases gone much too far 'in its over-literal interpretation of a document not originally intended to be so minutely parsed and scrutinised'.<sup>46</sup> He continued as follows:

Indeed, in one case the court put itself in the really unsustainable position of deciding a point on the ground that the Irish verb used to render an English phrase was in the future rather than in the present tense, while the English phrase was open to either a present or a future construction, and that the future sense of the Irish must therefore prevail, although plenty of other examples showed that the present construction was the one that accorded with actual known practice.<sup>47</sup>

45 The amendment of Article 34.5.2<sup>o</sup>, to give another example, involved the deletion of the words 'is neasa sinsearachta dÓ a bheas ar fagháil de bhreitheamhnaibh na Cúirte Uachtaraige a dhéanfaidh' and the insertion in their place of the words 'den Chúirt Uachtaraigh is sinsearaige dá mbeidh ar fagháil a dhéanfaidh gach breitheamh eile den Chúirt Uachtaraigh', the original Irish text not including all other judges of the Supreme Court making the declaration before the Chief Justice, as in the 1937 English text.

46 John Kelly, TD, 'Fundamental Rights and the Constitution', in Brian Farrell, ed., *De Valera's Constitution and Ours* (1988), p. 170.

47 *Ibid.*, p. 170f.

Article 30.3 was the Article in question, which reads as follows:

All crimes and offences prosecuted in any court constituted under Article 34 of this Constitution other than a court of summary jurisdiction shall be prosecuted in the name of the People and at the suit of the Attorney General or some other person authorised in accordance with law to act for that purpose. *I gcás gach coir agus cion dá dtugtar in aon chúirt a bhunaítear faoi Airteagal 34 den Bhunreacht seo, ach amháin cúirt dlínse achomaire, is in ainm an Phobail agus ar agra an Ard-Aighne, nó ar agra dhuine éigin eile a údaraítear ina chomhair sin de réir dlí, a dhéanfar an cúiseamh.*

In his work, *The Irish Constitution*, John Kelly reports as follows on the reference made to this section in the courts:

In *The State (Ennis) v Farrell* ([1966] IR 107), where what was in issue was the question whether the right of a common informer had survived the constitutional provision restricting the bringing of prosecutions to the Attorney General 'or some other person authorised in accordance with law to act for that purpose', Ó Dálaigh CJ (with whom the rest of the Supreme Court agreed) pointed out that the Irish counterpart of 'authorised', namely 'a údaraítear' was:

"quite express as a present autonomous form in negating the idea of the authorisation required being such only as might be made in the future."

He contrasted Article 34.4.3 (on the right of appeal to the Supreme Court from High Court decisions), where the clear future form of the Irish verb 'ordófar' put the future sense of the phrase 'as may be prescribed' beyond doubt. On the word 'prosecuted' in the same section, he said this was to be understood in its widest sense; this was confirmed by the Irish text, where the equivalent used was 'tugtar' = 'brought'.<sup>48</sup>

In the context of the significance placed by the courts on the divergence of tenses of the verb above, the various ways in which 'shall' and 'may' are expressed in the Constitution are noteworthy. 'May' is expressed as 'is dleathach do' (literally, 'it is lawful for') in the Irish text of Article 14.3, for example, which reads as follows:

The Commission may act by any two of their number and may act notwithstanding a vacancy in their membership. *Is dleathach don Choimisiún gníomhú trí bheirt ar bith dá líon agus gníomhú d'ainneoin folúntais ina gcomhaltas.*

In Article 28.3.1<sup>o</sup>, 'War shall not be declared and the State shall not participate in any war save with the assent of Dáil Éireann' is expressed as 'Ní dleathach cogadh a fhógairt ná páirt a bheith ag an Stát in aon chogadh ach amháin le haontú Dháil Éireann', literally 'It is not legal to declare a war or for the State to have a part in any war except with the assent of Dáil Éireann'. Indeed, the multiplicity of ways in which 'shall' and 'may' is expressed in the Constitution is one of the features which illustrate that the Irish text is not simply a 'mere' literal translation of the English text. The simple future tense of the verb, or the future tense of 'déan' followed by the verbal noun, is generally found in the Acts translating 'shall', with 'may' generally translated by the verb 'féad', with the Northern expression, 'tig le', also being found, as it is in some Articles of the Constitution. Note that we find the future tense in Article 49 of the 1922 Constitution, which provision is substantially reproduced in Article 28.3.1<sup>o</sup> above, Article 49 of the earlier Constitution reading as follows:

... the Irish Free State (Saorstát Éireann) shall not be committed to active participation in any war without the assent of the Oireachtas. *Ní cuirfear Saorstát Éireann fé oibleagáid páirt ghníomhach do thógaint in aon choga gan aontú an Oireachtais.*

Note also that the general practice of the Acts as regards the translation of 'shall' and 'may' is followed in the amendments to the Constitution, rather than employing phrases with 'dleathach', 'cead' or 'ní foláir' as in the original text of the Constitution. The phrase 'ní cead', literally 'it is not permitted', expresses 'shall not' in a number of Articles – Article 40.5, for example, reads:

The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law. *Is slán do gach saoránach a ionad cónaithe, agus ní cead dul isteach ann go foréigneach ach de réir dlí.*

<sup>48</sup> J.M. Kelly, *The Irish Constitution*, p. 207.

Note that 'shall' in the same English text (with 'each' and 'except' respectively in place of 'every' and 'save' above) is translated by the simple future tense of the verb in Article 7 of the 1922 Constitution:

Is slán do gach saoránach a árus comhnuithe agus ní raghfarr isteach ann le fóirneart ach do réir dlí.

The phrase 'ní foláir', generally rendering 'must' in Irish, as it does in Article 28.7.1<sup>o</sup>, expresses 'shall' in many Articles. Article 16.4.2<sup>o</sup>, for example, reads as follows:

Dáil Éireann shall meet within thirty days from that polling day. *Ní foláir do Dháil Éireann teacht le chéile taobh istigh de thríocha lá ón lá vótála sin.*

Note again that the simple future tense translates 'shall' in the corresponding Article 28 of the 1922 Constitution, where 'Dáil Éireann shall meet within one month of such day' is translated as 'Tiocfaidh Dáil Éireann le chéile fé cheann mí ón lá sin'. We find 'ní dleathach' and 'ní cead' expressing 'may not' in some Articles: in Article 28.7.2<sup>o</sup>, for example, 'but not more than two may be members of Seanad Éireann' is expressed as 'ach ní dleathach thar beirt acu a bheith ina gcomhaltá de Sheanad Éireann' and 'No person may be excluded from Irish nationality and citizenship ...', in Article 9.1.3<sup>o</sup>, is expressed as 'Ní cead náisiúntacht agus saoránacht Éireann a cheilt ar dhuine ar bith' in the Irish text. As against the many Articles where 'shall' is expressed either by phrases involving 'dleathach', 'cead' or 'ní foláir', 'it shall not be obligatory on the President' is expressed simply as 'ní bheidh ar an Uachtarán' (literally 'the President will not have to') in the Irish text of Article 27.4.2<sup>o</sup>. Finally, 'The Government shall be responsible to Dáil Éireann' is expressed as 'Tá an Rialtas freagrach do Dháil Éireann' (literally 'The Government is responsible to Dáil Éireann') in Article 28.4.1<sup>o</sup> and 'The head of the Government ... shall be called ... the Taoiseach' is expressed as 'An Taoiseach is teideal do cheann an Rialtais' (literally, 'The Taoiseach is the title of the head of Government') in Article 28.5.1<sup>o</sup>.

In a monograph entitled *Dúchas na Gaeilge* (1996), Maolmhaodhóg Ó Ruairc, a translator with the European Union in Brussels, in drawing attention in particular to the many ways 'may' and 'shall' are 'translated' in the Irish version of the Constitution, expresses the opinion that the translators 'were not the last to leave their mark on the Irish text' ('*nár bh iad na haistritheoirí ba dheireanaí a leag a rian ar an téacs Gaeilge*<sup>49</sup>). As against Maolmhaodhóg Ó Ruairc's view, the author of this study would interpret many of the divergences between the two texts as being due more to a deliberate effort on the part of the drafters of the Irish text to make that text read independently of the English text and to provide a text in natural Irish, complying with the general usage of the language rather than sacrificing the language to achieve exact correspondence with the English text. The following note in *The King's English*, by H.W. Fowler and F.G. Fowler, is instructive as regards the expressions we have seen above of 'shall' in the Irish text of the Constitution:

In our usage of the *shall* and *will* forms, as seen in principal sentences, there are elements belonging to three systems. The first of these, in which each form retains its full original meaning, and the two are not used to give different persons of the same tense, we shall call the pure system: the other two, both hybrids, will be called, one the coloured-future, the other the plain-future system. In Old English there was no separate future; present and future were one. *Shall* and *will* were the presents of two verbs, to which belong also the pasts *should* and *would*, the conditionals *should* and *would*, and the past conditionals *should have* and *would have*. *Shall* had the meaning of command or obligation, and *will* of wish. But as commands and wishes are concerned mainly with the future, it was natural that a future tense auxiliary should be developed out of these two verbs. The coloured future results from the application to future time of those forms that were practically useful in the pure system; they consequently retain in the coloured future, with some modifications, the ideas of command and wish proper to the original verbs. The plain future results from the taking of those forms that were practically out of work in the pure system to make what had not before existed, a simple future tense; these have accordingly not retained the ideas of command and wish.<sup>50a</sup>

49 Maolmhaodhóg Ó Ruairc, *Dúchas na Gaeilge* (1996) p. 213.

50a H.W. Fowler and F.G. Fowler, *The King's English* (Oxford 1934 [1906]), pp. 142-3. Note incidentally that two of the sections in the five Articles contained in the Constitution of the First Dáil Éireann 1919 commence with the phrase 'Is éigean' ('It is necessary') – as stated earlier, an Irish text alone of that Constitution is published in the *Official Record of the Minutes of Proceedings of the First Parliament of the Republic of Ireland, 1919-1921*. Section 3 of Article 2 ('An Dara hAlt'), for example, reads as follows:

Is éigean do gach Aireach bheith n-a Theachta san Dáil agus beidh sé freagarthach i gcomhnuidhe don Dáil.

Which were the practically useful and which the superfluous forms in the pure system is explained as follows:

*Thou shalt not steal* is the type of *shall* in the pure system. We do not ordinarily issue commands to ourselves; consequently *I shall* is hardly required; but we often ask for orders, and therefore *shall I?* is required. The form of the *shall* present in the pure system is accordingly:

Shall I? You shall. He shall. Shall we? They shall.

As to the past tense, orders cannot be given, but may be asked about, so that, for instance, *What should I do?* (i.e., What was I to do?) can be done all through interrogatively.

In the conditionals, both statement and question can be done all through. I can give orders to my imaginary, though not to my actual self. I cannot say (as a command) *I shall do it*; but I can say, as a conditional command, *I should do it*.

*I shall* and *we shall* are accordingly the superfluous forms of the present *shall* in the pure system.

Again, with *will*, *I will* meaning *it is my will*, it is obvious that we can generally state this only of ourselves; we do not know the inside of other people's minds, but we can ask about it. The present runs, then,

I will. Will you? Will he? We will. Will they?

The past tense can here be done all through, both positively and interrogatively. For though we cannot tell other people's present will, we can often infer their past will from their actions. So (I was asked, but) *I would not*, and *Why would I do it?* all through. And similarly in the conditionals, *I would not* (if I could), &c.

The spare forms supplied by the present *will*, then are *you will*, *he will*, *they will*; and these, with *I shall*, *we shall*, are ready, when the simple future is required, to construct it out of.<sup>50b</sup>

In the study which follows, we shall note, for example, much less emphasis on consistency in the expression of the terms of the English text than one would find in a translated work in general. 'Affirm' in the opening clause of Article 1, for example, is expressed by 'deimhnigh' (that Article reading 'The Irish nation hereby affirms its ... right to ...', '*Deimhníonn náisiún na hÉireann leis seo a gceart ... chun ...*'), which verb is the Irish legal term for both 'certify' and 'vouch'. 'Affirm' in the opening section of the Article dealing with International Relations, Article 29.1, echoes Article 1: 'Ireland affirms its devotion to the ideal of peace ... amongst nations'; 'affirm' is expressed in this instance by 'dearbhaigh', the Irish legal term for 'declare' ('Dearbhaíonn Éire gur mian léi síocháin ... a bheith ar bun idir náisiúin an domhain'). We shall also see how the very same English phrase is expressed in different ways in the Irish text. Article 12.2.2°, for example, reads:

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at an election for President. *Gach saoránach ag a bhfuil ceart vótála i dtoghchán do chomhaltá de Dháil Éireann, beidh ceart vótála aige i dtoghchán don Uachtarán.*

Compare this Irish text with that of Article 47.3:

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at a Referendum. *Gach saoránach ag a bhfuil sé de cheart vótáil i dtoghchán do chomhaltá de Dháil Éireann tá sé de cheart aige vótáil i Reifreann.*

### Emending the Irish text

Notwithstanding the merits of having an Irish text which reads as natural as possible and independent of any other text, there are cases where it would appear advisable to emend the Irish text to bring it into greater conformity with the English text, before the conflicts perhaps surface in litigation. Only three such examples will be highlighted here, the author acknowledging that legal experts may attach greater significance to other divergences outlined in the study. Article 43 concerns 'Private Property', Article 43.1.2° containing a guarantee by the State 'to pass no law attempting to abolish the right to private ownership or the general right to transfer, bequeath, and inherit property'. This is qualified as follows by Article 43.2.2°:

<sup>50b</sup> H.W. Fowler and F.G. Fowler, op. cit., pp. 143-4. The author is obliged to Jim O'Donnell for drawing this source to his attention. This subject is discussed further in the study which follows.

The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

'By law', however, is not specifically expressed in the Irish text, which reads as follows:

Uime sin, tig leis an Stát, de réir mar a bheas riachtanach, teorainn a chur le hoibriú na gceart réamhráite d'fhonn an t-oibriú sin agus leas an phobail a thabhairt dá chéile.

This literally translates as follows:

For that reason, the State may, as will be necessary, put a limit to the operation of the afore-mentioned rights in order to bring that operation and the welfare of the people into alignment.

The significance of this divergence is compounded by the relationship between Article 43 and Article 40.3.2<sup>o</sup>, which reads as follows:

The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the ... property rights of every citizen. *Déanfaidh an Stát, go sonrach, lena dhlíthe ... maoinchearta an uile shaoránaigh a chosaint ar ionsaí éagórach chomh fada lena chumas, agus iad a shuíomh i gcás éagóra.*

Specific reference is made to the State 'in its laws' in both texts of Article 40.3.1<sup>o</sup>, 'in its laws' being expressed as 'lena dhlíthe':

The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen. *Ráthaíonn an Stát gan cur isteach lena dhlíthe ar chearta pearsanta aon saoránaigh, agus ráthaíonn fós na cearta sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur feidir é.*

The second divergence to be highlighted here concerns Article 24.3. Article 24.1 provides that the time for the consideration by Seanad Éireann of Bills certified by the Taoiseach to be 'urgent and immediately necessary for the preservation of the public peace and security' be abridged to such period as specified in a resolution of Dáil Éireann. Article 24.3 provides that a Bill the time for the consideration of which by Seanad Éireann is abridged shall only remain in force for ninety days from the date of its enactment 'unless, before the expiration of that period, both Houses shall have agreed that such law shall remain in force for a longer period and the longer period so agreed upon shall have been specified in resolutions passed by both Houses'. In the Irish text, however, 'passed' is not specifically expressed, 'resolutions passed by both Houses' being expressed simply as 'rúin ón dá Theach', i.e. 'resolutions from both Houses', the Irish text corresponding to the English text quoted above reading as follows:

mura n-aontaíd dhá Theach an Oireachtais roimh dheireadh na tréimhse sin an dlí sin a fhanacht i bhfeidhm ar feadh tréimhse is sia ná sin, agus go luaitear i rúin ón dá Theach an tréimhse a aontaítear amhlaidh.

Finally, the English text of Article 12.4.4<sup>o</sup> provides that former or retiring Presidents may become candidates for re-election on their own nomination – 'Former or retiring Presidents may become candidates on their own nomination'. The term 'candidate' is not specifically expressed in the Irish text of that Article: 'Tig le haon duine atá nó a bhí ina Uachtarán é féin a ainmniú d'oifig an Uachtaráin'. This translates literally as 'Any person who is or who was a President may nominate himself for the office of (the) President' or 'It is open to any person who is or who was a President to nominate himself for the office of (the) President'. According to this Irish text, Presidents may nominate themselves for the office of President rather than as candidates for the office of President or for election to the office of President. Accordingly, if a President nominates himself or herself, it implies that there would be no election.<sup>51</sup>

### Post-1937 developments in Irish

Some of the changes made to the Irish text of the 1922 Constitution in the 1937 Constitution are due to the remarkable development of the language in the decade and a half following the establishment of the Irish Free State. As Daniel Corkery states in the concluding paragraphs to his monograph *The Fortunes of the Irish Language*:

<sup>51</sup> Professor Máirtín Ó Murchú remarks that this may well preserve the intention of an earlier draft, the emendation of which was overlooked in the Irish text.

In the light of the fact that the Gaelic League, or shall we say its idea, has provided the nation with a sovereign state, its other achievements are not worth mention – its founding of a modern literature in Irish, its forcing of the language into schools, colleges, and the National University, its vast publication scheme carried out without assistance from any government. These and kindred achievements are trifles if weighed against the setting-up of a sovereign state, for surely it has been noticed that languages die only when their fostering state is broken. ... For the first time since 1169, the Irish language has a state behind it. To say this is equivalent to saying that everything has changed for it, just as everything has changed for the languages of India, Pakistan, Palestine – and indeed for the whole world.<sup>52</sup>

The Acts of the Oireachtas passed between 1922 and 1937 were translated into Irish and accessible to the drafters of the Irish version of the 1937 Constitution. It would appear that the Constitution itself introduced new terms to the language – in the commentary we shall see, for example, that ‘referendum’ was simply rendered as ‘referendum’ in Irish translations of Acts up until 1937, the term ‘Reifreann’ being introduced to the Acts following the Constitution. The Attorney-General was styled ‘an tArd-Aighne’ in the 1937 Constitution as against the earlier ‘an tArd-Atúrnae’ and ‘an Príomh-Atúrnae’, ‘Ard-Aighne’ now being the Irish legal term for ‘Attorney-General’. ‘Tréas’ replaces the earlier ‘tréasan’ in the 1937 Constitution and is followed in subsequent Acts.

By the end of the thirties, according to David Greene, ‘Irish prose was a medium in which any theme of modern life could be handled’.<sup>53</sup> The development of the written language continued apace after 1937, the early 1940s being recognised as a period of great development of modern Irish writing, with the re-establishment of the Oireachtas literary competitions in 1939, the founding by an association of Irish-speaking university graduates of the Irish monthly journal *Comhar* in 1942, the founding of the publishing house of Sáirséal agus Dill in 1945 and, in particular, the appearance of works by the three giants of twentieth-century Irish literature, Máirtín Ó Direáin, Seán Ó Ríordáin and Máirtín Ó Cadhain. The Second World War was, according to Gearóid S. Mac Eoin, ‘a watershed’ in Irish literary history.<sup>54</sup>

In the concluding paragraphs of *Gaelic Literature Surveyed* (1929), Aodh de Blácam wrote that ‘There are signs of the coming of a school of writers who will possess the full vision of the Gaelic past, and will be armed with the new learning: to them we look to fulfil the poetic hope – *Beidh an t-ath-aoibhneas againn*’.<sup>55</sup> Eoghan Ó Hanluain takes this up in the opening paragraph of the chapter added to the 1973 edition of that work:

While it would be misleading to suggest that the renaissance – *an t-athaoibhneas* – looked forward to by de Blácam has come about, nevertheless, the development of writing in Irish must surely be beyond even his enthusiastic hopes: he could scarcely have conceived for instance of the authoritative tone of Máirtín Ó Direáin, of the modern note of anguish and the vivid imagery of Seán Ó Ríordáin or the vigour and range of Máirtín Ó Cadhain’s prose.<sup>56</sup>

Eoghan Ó Hanluain attributes the ‘quickening of literary activity’ in the early forties to some extent to the teaching of Irish and Irish literature in the schools and ‘the consequent emergence of a generation who took literature in Irish for granted’. It was, however, ‘the fact that Máirtín Ó Direáin, Seán Ó Ríordáin and Máire Mhac an tSaoi, began, opportunely, to write almost simultaneously which marked those years as a new beginning in poetry’, according to Eoghan Ó Hanluain.<sup>57</sup>

Each of these writers mined the language itself for different ore and highlighted various aspects and qualities of the language. A striking feature of the poetry of Ó Direáin, according to Ó Hanluain, is ‘his manipulation of a basic vocabulary in which words such as *cloch*, *cré*, *carraig*, *trá*, *teallach*, *fód* develop from being merely descriptive to the evocation of those human values which Ó Direáin sees being eroded by urban society’.<sup>58</sup> Máirtín Ó Direáin (b. 1910) has recorded that he did not come into

52 Daniel Corkery, *The Fortunes of the Irish Language* (1954), p. 128f.

53 David Greene, *Writing in Irish to-day*, p. 36.

54 Gearóid S. Mac Eoin, ‘Twentieth-Century Irish Literature’, in B. Ó Cuív, ed., *A View of the Irish Language* (1969), p. 63.

55 Aodh de Blácam, *Gaelic Literature Surveyed* (1929), p. 386.

56 *Ibid.*, p. 387.

57 *Ibid.*, p. 390.

58 *Ibid.*, p. 390.

contact with poetry, in the modern sense of the word, until he came to work in Dublin in 1937 – though, as David Greene remarks, he must have heard many folksongs in his home in Aran.<sup>59</sup> Ó Direáin states that the work of Irish poets from c. 1900 onwards ‘did not indicate that they were exploiting the language to its full extent’:

We had two choices when we began, to go on using the traditional style which had been squeezed dry long before we were born, or to use the natural power of the language as we knew it. We took the second choice. As Eliot says: ‘since our concern was speech, and speech impelled us to purify the dialect of the tribe’. So it was with us.<sup>60</sup>

With Seán Ó Ríordáin, whose first collection of poems was not published until 1952, ‘one is aware of being at a frontier both of language and sensibility’, according to Eoghan Ó Hanluain, who further states that Ó Ríordáin’s ‘extension of both language and sensibility marks one of the finer achievements in Irish writing over the past thirty years’.<sup>61</sup> In his introduction to a selection of modern Irish short stories written in the decade 1939-49, Seán Ó Tuama wrote as follows:

Ní áiteoidh aoinne nach féidir liricí fóna a cheapadh sa Ghaeilge gan an teanga a lúbadh mar bhí sí. Ach chun filíocht mhór a cheapadh, filíocht a fhreagróidh folmhas agus anbhá anma na haoise seo, caithfidh an file cur chun na teanga a athchruthú, le treoir thraidisiúna, chun caoi a thabhairt dó ar a mheon féin a nochtadh gan bhacail ar an nós nua-aoiseach. Is é sin atá á dhéanamh ag Seán Ó Ríordáin.<sup>62</sup> (*Nobody would argue that good lyrics cannot be composed in Irish without bending the language other than as it was. But in order to compose great poetry, the poet must proceed to recreate the language, with the guidance of tradition, in order to give him a means of revealing his own mind without hindrance in the modern manner. That is what Seán Ó Ríordáin is doing.*)

Apart from its intrinsic value, Máirtín Ó Cadhain’s work is, again according to Eoghan Ó Hanluain, ‘a guide to the imaginative resources of the language’. Liam O’Flaherty advised Ó Cadhain to ‘prune’ his language but his purpose ‘to mould the language’, along with ‘the natural tendency of his imagination’, determined otherwise.<sup>63</sup> Commenting on the difficulty inherent in realistic description in Irish of life outside the Gaeltacht, Ó Hanluain writes that the power of Ó Cadhain’s language ‘creates its own convincing reality’. David Greene wrote as follows on Ó Cadhain’s first book of short stories, *Idir Shúgradh is Dáiríre* (published in 1939):

These, though immature, brought a new style to Irish: the speech of the people, certainly, but used with a richness, not to say obscurity, hitherto unknown. This wealth of language is not deployed in the traditional manner, but is used to furnish a highly organised system of metaphor and simile which would have shocked O’Leary; nor does Ó Cadhain make any effort to avoid the neologisms thrown up by journalism and official documents – indeed, he often uses Irish which would be condemned as ‘untraditional’ by the purists were it not for the obvious fact that nobody who has yet written the language is so thoroughly part of the folk tradition, so that even Tomás Crithin’s style sometimes seems consciously literary by comparison.<sup>64</sup>

Tomás Ó Criomhthain’s *An tOileánach* was published only ten years earlier, in 1929, and *Peig* was in fact published the very same year as Ó Cadhain’s first collection. It was ten years later, in 1949, before Ó Cadhain’s first novel, *Cré na Cille*, was published. According to David Greene, writing in 1972, *Cré na Cille* is the only book by an Irishman which is worthy of comparison with *Ulysses*. ‘The concern of a writer is not only to purify the speech of the tribe, but to enrich it, and it was the great merit of Ó Cadhain that it was the enrichment of the language, if sometimes at the expense of clarity, which was his constant concern’.<sup>65</sup> That Ó Cadhain’s first two books, as issued by An Gúm for use in schools, each contain up to ninety pages of glossary and linguistic notes is an indication of the words and phrases brought into writing by Ó Cadhain.<sup>66</sup>

59 David Greene, op. cit., p. 37.

60 Ibid, p. 40.

61 Ibid, p. 391.

62 Seán Ó Tuama, *Nuabhéarsaíocht 1939-1949* (1950), p. 12.

63 Aodh de Blácam, op. cit., p. 395.

64 David Greene, op. cit. p. 38f.

65 Ibid, p. 45.

66 See ibid, p. 53.



The 1937 Constitution was over twenty years in existence by the time Tomás de Bhaldraithe's *English-Irish Dictionary* (1959) was published. This was, according to Eoghan Ó Hanluain (writing in 1973), 'perhaps the most practical contribution of scholarship to writing in Irish', having a pervasive 'and for the most part beneficial influence on Irish usage over the past ten years'.<sup>67</sup> That dictionary had to a great extent, wrote Ó Hanluain, 'standardised terminology and fulfilled its purpose of providing "Irish equivalents for English words and phrases in common use"'.<sup>68</sup>

The rate of development of new terms in Irish in the first half of this century is evidenced by the following. About 1950 Tomás de Bhaldraithe examined a check list of eighty modern terms prepared by Ralph E. Turner of Yale as a test for assessing the modernization of certain Asiatic languages. Only three of the eighty terms lacked corresponding words in Irish – these were 'demography', 'neurosis' and 'regimentation'. De Bhaldraithe remarked that most of the new words were not got from the source which has provided 90 per cent of the vocabulary of the language as it is used today, namely the people living in Irish-speaking districts, but from the professional classes (some native speakers of the language, some not). Terms were obtained in the following ways:

- by giving a new meaning to an old native word (e.g. 'rachmas' for 'capital'),
- by the revival of an old word (e.g. 'mortlaíocht' for 'mortality'),
- by the revival of an old word which has been given a new meaning (e.g., 'turgnamh' which once meant 'preparation', used for 'experiment'),
- by making a new word from native elements (e.g. 'bunreacht', i.e. basic law, for 'constitution'),
- by making a new Irish word from a foreign root (e.g. 'leictreachas' for 'electricity'), and, finally
- by giving an Irish form to a foreign word (e.g. 'leictreon' for 'electron').<sup>68</sup>

Many specialised dictionaries of terms have been published since 1937. Among the technical dictionaries published since 1937 are: *Téarmaí Dochtúireachta* (1942), *Lámhleabhar Siopadóireachta* (1948), *Téarmaí Mileata* (1953), *Foclóir Fealsaimh* (1958), *Téarmaí Cuntasáíochta* (1964), *Foclóir Eolaíochta* (1966), *Foclóir Bitheolaíochta* (1968), *Foclóir Tíreolaíochta* (1972), *Nua gach Bia* (1973), *Téarmaí Matamaitice* (1973), *Liosta d'Abairtí as Conarthaí Tionscanta na gComhphobal Eorpach* (1976), *Téarmaí Oifige* (1977), *Téarmaí Oideachais* (1977), *Ainmneacha Plandaí agus Ainmhithe* (1978), *Téarmaí Craolacháin* (1979), *Foclóir Tíreolaíochta agus Pleanála* (1981), *Téarmaí Staire* (1982), *Eacnamaíocht Bhaile* (1982), *Foclóir Déiríochta* (1985), *Foclóir Talmhaíochta* (1987), *Foclóir Staidéir Ghnó* (1989), *Téarmaí Ríomhaireachta* (1990), *Foclóir Ceirdeanna agus Teicneolaíochta* (1992) and *Foclóir Astralaíochta* (1998) which contain terms dealing respectively with medicine, shopping, military matters, philosophy, accountancy, science, biology, geography, food, maths, Treaties of the European Community, the office, education, plants and animals, broadcasting, geography and planning, history, home economics, dairying, agriculture, business studies, computers, trades and technology and astrology.<sup>69</sup> Most of the above dictionaries which were published since 1968 have been published by the 'Buainchoiste Téarmaíochta' (Permanent Terminological Committee) established by the Government in 1968 under the auspices of the Department of Education – a 'Coiste Téarmaíochta' was in existence from 1927 to 1939, and published nine booklets of terms.<sup>70</sup> Some of the terms in the above standard technical dictionaries differ from those of the Irish text of the Constitution. Just to give one example here, 'gairm' expresses 'commission' in Article 13.5.2<sup>o</sup>, which reads as follows:

All commissioned officers of the Defence Forces shall hold their commissions from the President. *Is ón Uachtarán a bheidh a ghairm ag gach oifigeach gairme de na Fórsaí Cosanta.*

'Commission' is translated as 'coimisiún, údarú, barántas', with 'commissioned officer' translated as 'oifigeach coimisiúnta', in the English-Irish Dictionary of Military and Related Terms, *Foclóir Béarla-Gaeilge de Théarmaí Mileata agus de Théarmaí Gaolmhara*, prepared by the Training Section of the Staff of the Army Headquarters, in consultation with the Translation Section of the Houses of the Oireachtas and the Dictionary Staff of the Department of Education, and issued under the direction of the Minister for Defence in 1969.

<sup>67</sup> Aodh de Blácam, op. cit., p. 403.

<sup>68</sup> See Colmán Ó Huallacháin, *The Irish Language in Society* (1991), p. 127f.

<sup>69</sup> See Éamonn Ó hÓgáin, 'Téarmaí Teicniúla sa Ghaeilge', *Teangeolas* xvii, Winter 1983, p. 32f.

<sup>70</sup> See Seán Ó Riain, *Pleanáil Teanga in Éirinn 1919–1985* (1994), p. 80f.

### *Téarmaí Dlí*

The year of the publication of De Bhaldraithe's *English-Irish Dictionary*, 1959, also saw the publication of *Téarmaí Dlí*, a glossary of the terms contained in ten Irish Legal Terms Orders made between 1947 and 1956 under the Irish Legal Terms Act, 1945. The Long Title of that Act, which was signed by the President on 22 May 1945, reads as follows:

An Act to authorise the provision, for the purpose of law, of standard equivalents in the Irish language for certain terms and to provide for the publication of legal forms and precedents in the Irish language.

Addressing the Dáil on 11 April 1945, on the Second Stage of the debate on the Irish Legal Terms Bill, 1945 (which subsequently became the Irish Legal Terms Act, 1945), the Minister for Justice, Mr Boland, said that the Bill was intended to provide for the publication of Irish translations of legal terms and 'to guarantee that such translations will be accepted as having the same meaning, force and effect as the corresponding English terms'. The Minister continued:

At present there is a difficulty in the way of any extensive use of the Irish language for legal purposes. The whole of the law, with the exception of the Constitution, is contained in the English language only, and numerous words and phrases used in the law have been given technical meanings, as distinct from the ordinary meanings, by statutes and judicial decisions. It is necessary to have corresponding technical terms in Irish, in order that Irish may be used for legal purposes. There is no difficulty about finding Irish translations for technical terms, but, on account of the very nature of technical terms, a dispute may arise as to whether any particular translation conveys the technical meaning assigned to the original English term. No doubt, if people used Irish extensively for legal purposes, a standard vocabulary of Irish technical legal terms would be established in course of time as a result of judicial decisions. That process would take a very long time, however, and people are unlikely to use Irish extensively for legal purposes until an authoritative vocabulary of technical terms is available.<sup>71</sup>

Under section 2 of the Act, provision is made for the constitution of a committee to be styled the Irish Legal Terms Advisory Committee ('an Coiste Comhairlitheach um Théarmaí Dlithiúla Gaeilge') consisting of a judge of the Supreme Court or the High Court, a judge of the Circuit Court, a justice of the District Court, a practising barrister, a practising solicitor, a member of the Oireachtas Translation Staff (to act as joint secretary) 'and such other person or persons as the Government may from time to time nominate' (that person or one of those persons acting as joint-secretary). Section 3 provides that 'the Minister for Justice may, whenever he so thinks proper, by order declare that the equivalent in the Irish language of any specified term shall be such word or words as he thinks fit and specifies in the order'. Before making the order a draft thereof, prepared with the assistance of the joint secretaries of the committee, must be considered by the committee and reported on.

As stated above, ten Irish Legal Terms Orders were published between 1947 and 1956, and the terms were subsequently published in 1959 in the English-Irish / Irish-English glossary entitled *Téarmaí Dlí*. On the basis of the terms published in *Téarmaí Dlí*, the Irish Legal Terms Advisory Committee never specifically directed its attention to Constitutional Law. Apart from the final Irish Legal Terms Order, which deals with 'Miscellaneous Terms' ('*Téarmaí Ilghnéitheacha*'), each Irish Legal Terms Order deals with terms related to a specific branch of law, the nine orders dealing respectively with the following:

- Terms relating to Landlord and Tenant Law, Conveyancing and Property Law
- Terms relating to Criminal Law
- Terms relating to Compensation for Workers
- Terms relating to Practice, Evidence and Procedure
- Terms relating to Contract Law
- Terms relating to Probate and Administration
- Terms relating to Torts
- Terms relating to Bankruptcy Law
- Terms relating to Company Law.

<sup>71</sup> *Dáil Éireann*, Parliamentary Debates, Vol. xcvi, col. 1892.

Speaking in the Dáil on the 'Irish Legal Terms Bill, 1945 – Money Resolution', Deputy Dillon referred as follows to the Constitution:

I understand that a close perusal of the Constitution in Irish reveals the interesting fact that the Constitution says what nobody intended it to say, and that there is considerable confusion because certain persons are claiming to interpret the Constitution literally in Irish: that they are claiming rights under it that it was never meant to give, and are even claiming to deny rights which the Constitution was intended to provide. That is largely because there is an eager battle going on between the expert Irish lexicographers as to the meaning of the words employed in the Irish text of the Constitution. If you are now going to have a set of legal terms, and if we all can produce expert evidence in the courts that the terms contained in the dictionary do not mean what they are meant to be, we will be in a very serious difficulty. Will the Minister tell us what precautions are going to be taken to secure that, in this new dictionary of legal terms, ambiguities similar to those which sprinkle the pages of the Constitution will not arise?<sup>72</sup>

The Deputy later returned to this topic:

We are dealing here with the fundamental and legal rights of individuals, with words which may be the foundation of protracted and expensive litigation. Is it intended that once this foclóir of legal terms is published that it will be illegal to employ any term not appearing in this foclóir to describe the things? In addition to the words prescribed in the publication here envisaged, will it be permissible to continue to use the words that people have been in the habit of using for those things? We are treading on dangerous ground in embarking on a new legal terminology in the Irish language.<sup>73</sup>

In fact, the publication of the Irish Legal Terms Orders has compounded the situation in that, while many of the terms contained in the Irish text of the Constitution correspond to those in *Téarmaí Dlí*, in quite a number of cases the meaning attributed to the Irish legal terms of those orders does not correspond to the senses of those terms in the Irish text of the Constitution as expressed in the corresponding English text – or, looking at it from the other side, terms in the English text of the Constitution are in many cases expressed in the Irish text by terms which differ from those in the Irish Legal Terms Orders. Each such divergence will be noted in the commentary and are presented in tabular form in Appendix 2 accompanying the study. We will highlight just a couple of examples here.

### Emending individual Irish terms

In the High Court, in *Ryan v. Attorney General* ([1965] IR 294), Justice Kenny defined 'imprescriptible' as 'that which cannot be lost by the passage of time or abandoned by non-exercise'<sup>74</sup>. This term is expressed as 'dochloíte' in Article 41.1.1°, where the Family is referred to as 'a moral institution possessing inalienable and imprescriptible rights', '*foras morálta ... ag a bhfuil cearta doshannta dochloíte*'. 'Dochloíte' expresses 'indefeasible' in Article 1 and 'conclusive' in Articles 25.4.5°, 25.5.3°, and 63. According to John Kelly, 'dochloíte' does not have Justice Kenny's meaning above of 'imprescriptible', conveying 'only something like "irrepressible", "indomitable"'. Following Statutory Instrument No. 51 of 1956, the last of the ten orders dealing with Irish Legal Terms, the Irish legal term for 'imprescriptible' is 'dochealaithe', 'imprescriptible rights' being translated in that Statutory Instrument, and subsequently in *Téarmaí Dlí*, as 'cearta dochealaithe'. Following the fourth such order (and *Téarmaí Dlí*), 'fianaise dochloíte' and 'toimhde dochloíte' are translated respectively as 'conclusive evidence' and 'conclusive presumption'.

'Imprescriptible' is but one of many terms in the Constitution for which an official legal translation has now been fixed by the ten Irish Legal Terms Orders and which differ from the terms in the Irish text of the Constitution. 'I affirm (decree, etc.)' is translated as 'daingním' in *Téarmaí Dlí*, with 'I affirm (as an unsworn witness)' translated as 'dearbhascain'; as we have seen above, however, in Article 1 of the Constitution 'affirm' is expressed by 'deimhnigh', while in Articles 29.1 and 29.2 'affirm' is expressed by 'dearbhaigh'. 'For the exclusive use of either of the said languages' is expressed as 'd'fhonn ceachtar den dá theanga sin a bheith ina haon-teanga' in Article 8.3, 'amháin' expressing

<sup>72</sup> Ibid, col. 2057f.

<sup>73</sup> Ibid, col. 2059.

<sup>74</sup> See J.M. Kelly, op. cit., pp. 1007 and 210.

'exclusive(ly)' in Articles 15.2.1<sup>o</sup>, 15.6.1<sup>o</sup> and 45. 'Exclusive right', on the other hand, is translated as 'ceart eisiatach' in *Téarmaí Dlí*. Finally, 'leas an phobail' expresses 'the common good' in Articles 6.1, 40.6.1<sup>i</sup>, 41.2.1<sup>o</sup>, 42.3.2<sup>o</sup>, 42.5, 43.2.2<sup>o</sup> and 45.2.ii, this phrase being translated as 'an mhaitheas phoiblí' in *Téarmaí Dlí* – which Irish phrase is found in the Preamble.

The above is but a small sample of the divergences between the Irish terms in the Constitution and the official Irish legal terms. The nature of the Irish text, not being a 'mere' translation of the English, lends itself to such divergences, the terms in *Téarmaí Dlí* being – as the Long Title of the Irish Legal Terms Act, 1945, states – 'standard equivalents' for the English terms. The potential significance of the Irish expression of a single term may be illustrated by the following incident. Articles 18.4.iii and 18.7.1<sup>o</sup> of the Constitution provide that forty-three of the elected members of Seanad Éireann are to be elected from five panels of candidates containing the names of persons having 'knowledge and practical experience' of certain 'interests and services'. Article 18.7.1<sup>iv</sup> provides that one of those panels contain the names of persons having knowledge and practical experience of 'Industry and Commerce, including banking, finance, accountancy, engineering and architecture'. The Irish text of Article 18.7.1<sup>iv</sup> reads as follows:

Tionscal is Tráchtáil ar a n-áirítear baincéireacht, airgeadas, cuntasáíocht, innealtóireacht agus foirgníocht.

In an application for registration in the Register of Nominating Bodies under the Seanad Electoral (Panel Members) Acts, 1947 and 1954, in the 1986 annual revision, the interpretation of the word 'foirgníocht' in Article 18.7.1<sup>iv</sup> was called into question. As we see above, this term expresses 'architecture' in that Article. However, the applicant body contended that the correct translation of 'foirgníocht' was 'construction' and not 'architecture', the former interpretation enhancing the registration of the applicant. Replying on 20/2/86 to the request made by the Clerk-Assistant of the Seanad for his observations on the matter, in particular whether the applicant's interpretation could be sustained, the Chief Translator of Rannóg an Aistriúcháin, the Translation Section of the Houses of the Oireachtas, stated:

'Foirgníocht' in our own documents, and in the standard official dictionaries [*Foclóir Gaeilge-Béarla* (Niall Ó Dónaill, 1977) and *English-Irish Dictionary* (Tomás de Bhaldraithe, 1959)], translates as '(act of) building; construction'. 'Architecture' in translation is 'aitireacht'. 'Foirgníocht', in modern usage (official or otherwise), would never be equated with 'architecture' .... The only reference available which would seem to back up the Bunreacht's version of equating 'foirgníocht' with 'architecture' is to be found in Foley's Dictionary (1855).

In a handwritten note on this reply in the files of Rannóg an Aistriúcháin we find the following account of the oral advice given, along with the written reply, to the Clerk-Assistant:

It is a principle of linguistics that all living languages undergo change – a type of metamorphosis – where the *form* of words or the precise *meaning* of words can change. This change can take place in two directions: (1) downwards in a perpendicular movement where the *form* of the word undergoes change, (2) horizontally or in a lateral movement where the precise *meaning* of a word can change. The perpendicular or first movement would be a *linguistic* variation. The lateral/horizontal movement would be a *morphological* change. Obviously, a morphological change has taken place in the precise meaning of 'architecture' in the Constitution as 'foirgníocht' in the 1930's period to the modern usage of 'construction'/'building' for 'foirgníocht'. 'Architecture' could have been a precise translation of 'foirgníocht' when the Constitution was drafted. Modern usage no longer accepts that 'architecture' is a precise translation of 'foirgníocht'. However this does not invalidate the interpreting of 'foirgníocht' as 'architecture' in the Constitution.

As will be highlighted in the study which follows, some terms and phrases found in the Irish text of the Constitution are no longer in current usage or no longer have the sense expressed by them in the Constitution. A few examples will suffice here: the term 'comhallacht'/'comhallach', expressing 'executive'; the term 'comhdhaonna' expressing 'social'; the phrase 'ar míthreoir' expressing 'incapacity'; 'conradh' expressing 'agreement' and 'cuir isteach ina iris' expressing 'enrol'.

'Gach cumhacht riala, idir reachtaíocht is comhallacht is breithiúnas' expresses 'All powers of government, legislative, executive and judicial' in Article 6.1; 'executive power' is expressed as 'cumhacht chomhallach' in Articles 28.2, 29.4.1<sup>o</sup> and 49.1, with 'aon fheidhm chomhallach' expressing 'any executive function' in Article 29.4.2<sup>o</sup>. In Article 29.7.3<sup>o</sup>, however, following the 1998 Amendment relating to the Belfast Agreement, 'executive powers and functions' is rendered as 'cumhachtaí agus feidhmeanna

feidhmiúcháin’, this being the current general translation of ‘executive’. Note that ‘The Executive Authority of the Irish Free State’ is translated as ‘Údarás Feidhmiúcháin Shaorstáit Éireann’ in Article 51 of the 1922 Constitution. ‘Comhallacht’ does not appear as a headword in *Téarmaí Dlí, Ó Dónaill* (1977) or in *Dinneen* (1927). While the adjective ‘comhallach’ is given as a headword in *Ó Dónaill*, it is translated there as ‘observant (*ar riail*, of a rule)’.

‘Comhdhaonnach’ expresses ‘social’ in the Preamble and in Articles 18.7.1<sup>v</sup>, 40.1, 41.1.2<sup>o</sup>, 43.2.1<sup>o</sup>, 45 and 45.1, with the genitive singular of ‘comhdhaonnacht’ with adjectival function, ‘comhdhaonnachta’, expressing ‘social’ in Articles 42.1 and 42.3.2<sup>o</sup>. *Ó Dónaill* translates this compound adjective as ‘social, companionable’, the citation there of ‘*saol ceart comhdhaonnach*, true social order’, which is found in the Preamble to the Constitution, revealing the Constitution as the probable source of the sense of ‘social’ there. *Dinneen* does not have this headword. *L. Mc Cionnaith* (1935) translates ‘social history’ and ‘social system’ respectively as ‘stair chomhdhaonnachta’ and ‘córas comhdhaonnach’, and ‘socialism’ as ‘comhdhaonnachas’, all followed by the abbreviation for ‘Terms published by Department of Education’. *L. Mc Cionnaith* gives no citation of the term ‘sóisialta’ s.v. ‘social’. *De Bhaldraithe*, on the other hand, s.v. ‘social’, cites ‘social problems, *ceisteanna sóisialta*’, ‘social reformer, *leasaitheoir sóisialta*’, ‘social services, *seirbhísí sóisialta*’, giving ‘comhdhaonnach’ as a secondary translation of ‘social’. *Dinneen* does not appear to give ‘sóisialta’/‘sóisialach’ as a headword, ‘sóisialta’ rendering ‘social’ in general usage, with ‘sóisialach’ also being used in the Acts, these terms having almost completely superseded ‘comhdhaonnach’. ‘Sóisialta’ translates ‘social’ in the *Official Report of Dáil Debates*, 29/5/23. ‘Co-mhuinteartha’ translates ‘social’ in the 1922 Constitution. ‘Vital, social and educational matters’ is translated as ‘cúrsaí buaine beatha, cúrsaí saoil na ndaoine, agus cúrsaí oideachais’ in section 2(b) of the Statistics Act, 1926. ‘Social amenities’ is cited in the *Oireachtas Dictionary of Official Terms* as having been translated as ‘aoibhneas cuideachtanais’ in ‘Dáil Reports (Oireachtas Accommodation)’, no specific date being given. Note in this regard that Tomás de Bhaldraithe, in the introduction to his English-Irish dictionary, refers to the period that followed the movement for the preservation of the Irish language and more particularly the period that followed the foundation of the State as ‘a period of abnormal development of the language’, new words sometimes being coined where an equivalent was already well established in traditional speech.

‘Míthreoir’ consistently expresses ‘incapacity’ in the Constitution. ‘Nó go ngabhfaidh míthreoir bhuan é’ expresses ‘or becomes permanently incapacitated’ in Article 12.3.1<sup>o</sup>. ‘Incapacity’, again in relation to the President, is referred to in Articles 12.3.3<sup>o</sup> (‘permanent incapacity’, ‘*míthreoir bhuan ... dá ghabháil*’), 12.7 (‘permanent incapacity’, ‘*go ngabhfaidh míthreoir bhuan é*’) and 14.1 (‘his temporary incapacity, or his permanent incapacity’, ‘*ar míthreoir go sealadach ... ar míthreoir go buan*’). ‘Míthreoir’ is employed in relation to the Taoiseach in Article 28.6.2<sup>o</sup> (‘become permanently incapacitated’, ‘*má ghabhann míthreoir bhuan é*’), in relation to members of the Government in Article 28.12 (‘incapacity’, ‘*ar míthreoir*’), in relation to members of the Council of State in Article 31.5 (‘becomes permanently incapacitated’, ‘*go ngeobhaidh míthreoir bhuan é*’), in relation to the Comptroller and Auditor General in Article 33.5.1<sup>o</sup> (‘for stated misbehaviour or incapacity’, ‘*de dheasca mí-iompair nó míthreora a luafar*’) and, finally, in relation to judges of the Supreme Court or the High Court in Article 35.4.1<sup>o</sup> (‘for stated misbehaviour or incapacity’, ‘*de dheasca mí-iompair nó míthreorach a luafar*’) – the Constitution providing that all of the above office-holders shall lose office if they become incapacitated. ‘Incapacity’ is given as the first sense of ‘míthreoir’ in *Dinneen*, whose entry s.v. ‘mí-threoir’ is as follows:

*Mí-threoir*, incapacity, of body or mind, legal disability, etc., state of going wrong, want, weakness, faintness; *mí-threoir ort!* faintness seize you! *ar mí-threoir*, disabled from any cause, as lameness, drink, etc.; (adjective) *mí-threorach*, feeble, vigourless, gone wrong or astray.

‘Míthreoir’ is translated as ‘weakness’ in Edward O’Reilly’s *Irish English Dictionary* (1821). ‘Míthreorach’ is translated as ‘weak, inefficient’ in the *Dictionary of the Irish Language based mainly on Old and Middle Irish Materials* (DIL). ‘Incapacity’ is not included in *Ó Dónaill*’s entry s.v. ‘míthreoir’, however, which entry would reflect the current understanding of the word:

*Míthreoir*, misguidance; upset, confusion, shiftlessness, feebleness. *Bheith ar míthreoir*, to be confused; to be helpless, enfeebled. *Míthreorach*. 1. Bewildered, confused. 2. Helpless, feeble, puny. 3. Misleading.

In section 87 of the First Schedule to the European Assembly Elections Act, 1977, for example, ‘a statement which is likely to mislead voters’ is translated as ‘ráiteas ar dóigh dó vótálaithe a chur ar míthreoir’. ‘Míthreoraím’ is translated as ‘I misdirect’, and ‘míthreorú’ as ‘misdirection’, in *Téarmaí Dlí*,

'incapacity' being translated there as 'éagumas', 'permanent incapacity' as 'éagumas buan' and 'I incapacitate' as 'éagumasáim'. In section 4 of the Finance Act, 1990, for example, 'he was totally incapacitated by physical or mental infirmity' is translated as 'go raibh sé ... faoi éagumas iomlán le héigliocht choirp nó mheabhrach'.

'International agreement' is expressed as 'conradh idirnáisiúnta' in Articles 19.5 and 19.6, 'conradh' being translated as 'contract' in *Téarmaí Dlí* – and so generally understood today – 'agreement' being translated as 'comhaontú' in *Téarmaí Dlí*, which term expresses 'convention' in Article 29.5.3°. Finally, 'enrol' is expressed by the phrase 'cuir isteach ina iris' in Article 25.5, with 'shall be enrolled for record in the office of the Registrar of the Supreme Court' being expressed as 'ní foláir (an chóip sin) a chur isteach ina hiris in oifig Iriseoir na Cúirte Uachtaraí' in Article 25.5.2°. 'I enrol' is translated as 'rollaím' in *Téarmaí Dlí*, with 'registrar' being translated as 'cláraitheoir', the term 'iriseoir' generally today being understood as 'journalist'.

### ***Téarmaí Dlí, the Constitution and the Acts***

As stated above, Constitution Law is not dealt with by any Irish Legal Terms Order and is therefore not included in *Téarmaí Dlí*. The publication *Téarmaí Dlí* is but a collection of the terms of those ten orders above and is by no means a comprehensive Irish-English / English-Irish legal dictionary. No Irish Legal Terms Order has been published since 1956 and the Irish Legal Terms Advisory Committee has not been convened for some years now. According to the minutes of the first meeting of that committee, Saturday, 12 April 1946, before the members began their work they were 'brought together' in Government Buildings in consultation with An Taoiseach Éamon de Valera and the Minister for Justice. Page two of the minutes reads:

Rinne an Taoiseach tagairt faoi leith don Bhunreacht chomh maith agus dúirt sé go mbeadh ar an gcoiste a mholadh conas a réiteofaí an scéal i gcás aon téarmaí a nglacfaidh an coiste leo a bheith bun os cionn le téarmaí atá sa Bhunreacht. (*The Taoiseach made special reference also to the Constitution and said that the committee would have to recommend how the affair would be settled in the case of any terms which the committee would accept being at variance with the terms in the Constitution.*)

The Constitution featured at the top of a list of documents which the joint secretaries were asked by the committee at their second meeting, 3 May 1946, to go through to put together a list of legal terms in Irish and English for early publication. On the evidence of *Téarmaí Dlí*, this would appear never to have been done and Éamon de Valera's instruction never carried out.

Section 3(3) of the Irish Legal Terms Act, 1945, provides:

Whenever the Minister makes a legal terms order declaring that the equivalent in the Irish language of a specified term shall be the word or words specified in the order, then, the said word or words whenever occurring in ... the official translation of any Act of the Oireachtas enacted in the English language on or after the operative day ... shall, unless the contrary intention appears, be construed as having the same meaning as, and have the same force and effect as, the said specified term.

The translator of the Acts therefore must follow the terminology in *Téarmaí Dlí* rather than the terms in the Constitution,<sup>75</sup> which situation leads to a divergence between the language of the Acts and that of the Constitution and creates a real difficulty in the case of Acts of the Oireachtas which relate to provisions of the Constitution.

The disparity between the Irish of the modern Acts and that of the Constitution can be illustrated by comparing Article 42.5 with the Long Title of the Adoption Act, 1988. Article 42.5 reads:

In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child. *I gcásanna neamhchoiteanna nuair a tharlaíonn, ar chúiseanna corpartha nó ar chúiseanna*

<sup>75</sup> We shall see in the commentaries which follow that, notwithstanding the provision of section 3 of the Irish Legal Terms Act, 1945, the terms found in *Téarmaí Dlí* are not always adhered to in translating the Acts. The phrase 'leas an phobail' seems to be favoured over *Téarmaí Dlí*'s 'an mhaitheas phoiblí', for example, with 'ceadaigh', 'allow' according to *Téarmaí Dlí*, sometimes translating 'approve' in the Acts, as against *Téarmaí Dlí*'s 'formheas'. As stated earlier, account must also be taken of precedent in translating the Acts.

*morálta, nach ndéanaid na tuistí a ndualgais dá gclainn, ní foláir don Stát, ós é an Stát caomhnóir leasa an phobail, iarracht a dhéanamh le beart oiriúnach chun ionad na dtuistí a ghlacadh, ag féachaint go cúí i gcónaí, áfach, do chearta nádúrtha dochloíte an linbh.*

In the Irish version of the Long Title of the Adoption Act, 1988, ‘i ndálaí eisceachtúla’ replaces ‘i gcásanna eisceachtúla’; ‘ar chúiseanna fisiciúla nó morálta’ replaces ‘ar chúiseanna corpartha nó ar chúiseanna morálta’; ‘i gcás na tuismitheoirí a bheith tar éis mainneachtain ina ndualgas i leith a leanaí’ replaces ‘nuair a tharlaíonn ... nach ndéanaid na tuistí a ndualgais dá gclainn’; and ‘a líonadh’ replaces ‘a ghlacadh’, the Long Title reading as follows:

An Act to provide, in exceptional cases where the parents for physical or moral reasons have failed in their duty towards their children, for the supplying, by the adoption of the children, of the place of the parents ... . *Acht do dhéanamh socrú, i ndálaí eisceachtúla, i gcás na tuismitheoirí a bheith, ar chúiseanna fisiciúla nó morálta, tar éis mainneachtain ina ndualgais i leith a leanaí, chun ionad na dtuismitheoirí a líonadh trí na leanaí a uchtáil.*

In section 32 of that Act, ‘The Court may ..., having due regard for the rights ... of the persons concerned (including the natural and imprescriptible rights of the child)’ is translated as ‘féadfaidh an Chúirt ... , ag féachaint go cúí do chearta na ndaoine lena mbaineann ... (lena n-áirítear cearta nádúrtha dochloíte an linbh)’ and in s3(1)(I)(D), ‘the State, as guardian of the common good, should supply the place of the parents’ is translated as ‘gur cóir don Stát, ós é caomhnóir leas an phobail é, ionad na dtuismitheoirí a ghlacadh’. We note how ‘cearta dochloíte’ of the Constitution is retained rather than the translation of ‘imprescriptible rights’ in *Téarmaí Dlí*, ‘cearta dochealaithe’, and ‘leas an phobail’ is retained rather than *Téarmaí Dlí*’s ‘an mhaitheas phoiblí’. This illustrates the problem in translating the Acts where reference is made to the Constitution: the natural tendency is to have the text of the Act conforming as closely as possible to that of the Constitution, sometimes resulting in divergences from the official Irish legal terms. Deputy Dillon’s remarks on 18 April 1945 during the Committee Stage of the debate on the Irish Legal Terms Bill, 1945, bear repeating by way of concluding this section:

But the fact is – and everybody closes his eyes to it – that in connection with the Constitution the best Irish lawyers were retained as well as the best Irish scholars, and the Taoiseach himself presided over their deliberations, taking a personal interest in every line, in every comma, in every word. Months were devoted to the preparation of the Irish text of the Constitution, and, nevertheless, after the period of amendment by legislation has passed, it is now discovered that the text of the Constitution contains several ambiguities, and the meaning attributed by the Taoiseach to many parts of the Constitution is seriously challenged by competent scholars who are not inclined to disagree with him and who would like to accept his interpretation, but who say that interpretation could not legally be attached to the phrases and sentences used. Now the Constitutional dovecots are fluttering, and everyone is wondering what he will do. Some are praying to God that the ambiguities in the Irish phrases of the Constitution will not be invoked by some wily individual who will go into the court on foot of the Irish text and reject the English. And probably out of the fertile brain of the Taoiseach some expedient will emerge to get out of this linguistic difficulty without going to the country on a referendum. He thought that every possibility of obscurity had disappeared, that he had provided for everything; but he discovered to his cost that he could not and did not.<sup>76</sup>

## Amendments

The question of the standardization of the terms of the Irish text of the Constitution, bringing them to conformity with the terms in *Téarmaí Dlí*, is particularly relevant in the context of future amendments of the Constitution. Many such amendments have been proposed in the reports of the All-Party Oireachtas Committee on the Constitution which deal with the Seanad and the office of the President, further amendments being recommended in the report on the courts to be published shortly. As the committee continues to report on the various institutions provided for in the Constitution it is envisaged that many more amendments will be proposed.

In a memo to the Attorney General on 2 June 1976, the Secretary of the Department of the Taoiseach stated that amendments to the original Irish version involved the introduction of new Irish text in

<sup>76</sup> *Parliamentary Debates*, Vol. xcvi, col. 2074.

practically one-third of the Articles of the Constitution – in Articles 11, 12, 13, 14, 15, 16, 18, 20, 24, 25, 26, 27, 28, 29, 34 and 40. The additions varied from two sections (ten subsections) plus six words (Article 25), a section and three subsections plus 18 words (Art. 34), a section, a subsection and twenty-nine words (Art. 27), a section (Art. 24), four subsections (Art. 40), a subsection and sixty-eight words (Art. 26), a subsection (Art. 29) and, in the other nine Articles, additional words ranging from one hundred and thirty-seven (Art. 28) to one (Art. 11). Since then many more amendments have been made to the Constitution, a total of nine having been added in the nineties – three in 1992, one in 1995, 1996 and 1997, two in 1998 and one in 1999. The Nineteenth Amendment of the Constitution, 1998, contains five new subsections which include two whole new Articles and a new section. Quite apart from the fact that these amendments have been passed by the people in roman script, and were subsequently enrolled in Gaelic script, and quite apart from the question of these amendments being in the modern standard spelling, appearing alongside the older spelling in the enrolled text, which questions will be discussed below, there is in the author's opinion the much more serious question of the divergences of terminology between these amendments and the original text and the fact that these amendments are to a great extent direct translations of an English text as against the main body of the text into which they are being incorporated which, as this study seeks to illustrate, is not a direct translation of the English text.

A comparison between the current Article 3 of the Constitution and the proposed new Article 3 illustrates the difficulty encountered in adding amendments to the Constitution which are literal translations while the basic Irish text of the Constitution is not a 'mere' literal translation. The current Article 3 reads:

... the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Éireann .... *bainfidh na dlíthe a achtófar ag an bParlaimint sin leis an limistéar céanna lenar bhain dlíthe Shaorstát Éireann.*

The proposed new Article 3, which is now embodied in the recently enrolled text of the Constitution along with the original Article 3, is based directly on the earlier Article; note, however, that the Irish text which translates a version of the above English text of the original Article 3 differs greatly from the Irish text above, the proposed new Article 3 reading as follows:

... the laws enacted by the Parliament ... shall have the like area and extent of application as the laws enacted by the Parliament .... *bainfidh na dlíthe a achtófar ag an bParlaimint ... leis an limistéar feidhme céanna, agus beidh an raon feidhme céanna acu, lenar bhain na dlíthe, agus a bhí ag na dlíthe, a d'achtaigh an Pharlaimint.*

We see that it was felt necessary to add 'feidhm' after 'limistéar' in order to render 'area of application', along with two clauses to include 'extent of application'. Moving on to the concluding clause of the current Article 3, '(they will have) the like extra-territorial effect' is expressed as 'beidh an éifeacht chéanna acu taobh amuigh den limistéar sin'; in the new Article 29.8, following the 1998 Amendment, we find 'críoch' replacing 'limistéar' above, and 'exercise' rendered by 'feidhmigh' as against 'oibrigh' throughout the original Irish text of the Constitution:

The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law. *Tig leis an Stát dlínse a fheidhmiú taobh amuigh dá chríoch de réir bhunrialacha gnáth-admhaithe an dlí idirnáisiúnta.*

In the phrase 'bunrialacha gnáth-admhaithe an dlí idirnáisiúnta' the wording adheres to that of the original text, as against the general direct translation of 'principle' as 'prionsabal'. Future amendments to the Constitution will contain an amalgam of both literal and non-literal translations of the English text, striving on the one hand to adhere to the language of the original text, and on the other to the language of the Acts and current Irish legal terminology. Not alone will these amendments differ in spelling and grammar from the original text but in some cases in the very language itself, in the terms and phrases found therein, leading to two distinctly different styles in the Irish text.

To illustrate the difficulty of dealing with amendments at present we will look at the amendments of Articles 15.7 and 41.2 recommended in the First Progress Report of the All-Party Oireachtas Committee on the Constitution (1997). Article 15.7 currently reads as follows:

The Oireachtas shall hold at least one session every year. *Ní foláir don Oireachtas suí uair sa bhliain ar a laghad.*



The Committee recommends amending the English text as follows:

Each House of the Oireachtas shall hold at least one meeting each year.

Whereas ‘meeting’ is simply translated as ‘cruinniú’ in *Téarmaí Dlí* we find ‘meeting’ expressed in the Constitution by ‘tionól’ (which is translated as ‘assembly’ in *Téarmaí Dlí*) in Articles 15.11.3°, 16.5 and 31.4 and by forms of the verb ‘comóir’ in Articles 13.2.3°, 31.8 and 32. While ‘each House of the Oireachtas’ is expressed as ‘gach Teach den Oireachtas’ in Article 15.8.1°, in Article 15.9.1° we find ‘gach Teach ar leith den Oireachtas’. Although ‘cruinniú’ renders ‘meeting’ in the amendment on Cabinet confidentiality in Article 28.4.3°, the translation proposed by Rannóg an Aistriúcháin in the case of the above recommended amendment is as follows:

Ní foláir do gach Teach den Oireachtas teacht le chéile uair sa bhliain ar a laghad.

The phrase ‘Ní foláir’ of the original would be retained, although not generally used in modern translations of the Acts, while ‘teacht le chéile’ here follows section 2 of the *Standing Orders* of Dáil Éireann (1997), where ‘On the first day of the meeting of the Dáil’ is translated as ‘An chéad lá a thiochfaidh an Dáil le chéile’. In the enrolled version of the Constitution following incorporation of this amendment, ‘meeting’ would be expressed in four different ways in the Irish text of the Constitution.

Articles 41.2.1° and 41.2.2° read as follows:

In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. *Go sonrach, admhaíonn an Stát go dtugann an bhean don Stát, trína saol sa teaghlach, cúnamh nach bhféadfaí leas an phobail a ghnóthú dá éagmais.*

The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home. *Uime sin, féachfaidh an Stát lena chur in áirithe nach mbeidh ar mháithreacha clainne, de dheasca uireasa, dul le saothar agus faillí a thabhairt dá chionn sin ina ndualgais sa teaghlach.*

The All-Party Oireachtas Committee on the Constitution has recommended eradicating this ‘dated provision which is much criticised’ and substituting in its place the following provision, which acknowledges the caring function of families without re-defining the family:

The State recognises that family life gives to society a support without which the common good cannot be achieved. The State shall endeavour to support persons caring for others within the home.

Based particularly on the terms in the Irish text of the current Articles 41.2.1° and 41.2.2°, it is proposed that the Irish text read:

Admhaíonn an Stát go dtugann saol an teaghlach don chomhdhaonnacht cúnamh nach bhféadfaí leas an phobail a ghnóthú dá éagmais. Féachfaidh an Stát le cúnamh a thabhairt do dhaoine a thugann aire do dhaoine eile sa teaghlach.

The repetition of the word ‘cúnamh’ above, however, may create a potential problem in that ‘cúnamh’ expresses ‘aid’ in Article 44.2.4° where ‘Legislation providing State aid for schools’ is expressed in the Irish text as ‘Reachtaíocht lena gcuirtear cúnamh Stáit ar fáil do scoileanna’. Technically, then, the second sentence of the Irish version of the amended Article 41.2 above could be read as ‘The State shall endeavour to give aid to people caring for others within the home’. ‘Tacaíocht’ rather than ‘cúnamh’ would be used in a direct translation of the above, independent of the context of the original wording of Article 41.2.1° – ‘A Long-term Support Framework for Female Carers of Older People and People with Disabilities’, the title of a 1996 report, is styled in Irish ‘Gréasán Tacaíochta Fadtéarmaí do Bhanchúramóirí Daoine Scothaosta agus Daoine faoi Mhíchumas’, for example. We also find ‘tacaíocht’ in phrases expressing ‘support’ in Articles 12.10.4° and 13.2.2°. In Article 45.4.1°, on the other hand, ‘to contribute to the support of the infirm’ is expressed as ‘cabhair maireachtála a thabhairt don easlán’. ‘Cabhair maireachtála’ literally means ‘living/subsistence help/aid’ and this again would involve the sense of ‘cúnamh’ which could result in the Irish text of the proposed new section being the subject of litigation. By way of conclusion here, the above is a good illustration of the need to take both texts of the Constitution into account when drafting amendments of the Constitution.

## Script and Spelling

‘The position is that the spelling in the Constitution is a certain compromise. It is not the spelling that was used in the Acts.’<sup>77</sup> So stated An Taoiseach Éamon de Valera, ‘father’ of the 1937 Constitution,<sup>78</sup> addressing Seanad Éireann on 14 May 1941 during the debate on the Second Amendment of the Constitution Bill, 1940. He could well have added that the script, or type, used in the Constitution also differed from that in the Acts, for the 1937 Constitution was presented to the Parliament and the people in Gaelic type as against the roman type of the 1922 Constitution and of the Acts from 1922 onwards.

In *A View of the Irish Language*, Professor Brian Ó Cuív, son-in-law of the former Taoiseach, states:

So powerful were the conservatives that in spite of the fact that Roman type and a more simplified form of spelling were already in use in parliamentary publications in Irish, the government decided to publish the new Irish constitution in 1937 in Gaelic type and the outmoded spelling.<sup>79</sup>

Quite apart from the fact that the choice of script can also be viewed as having a radical aspect to it in departing from the script of the 1922 Constitution and the Acts – the medium as the message – this statement does not take into account the efforts made by De Valera to present the 1937 Constitution in a more modern spelling, or orthography, which efforts will be outlined below. Furthermore, as will also be revealed below, An Taoiseach Éamon de Valera was personally responsible for the pivotal role in the simplification and standardization of Irish spelling played by the 1945 ‘Oireachtas edition’ of the Constitution; not only was the spelling used in that edition an advancement on that in the Acts theretofore, and a model for the Acts published in the following years, but that edition was printed in roman type. Therefore, within a decade of the publication of the 1937 Constitution, with its Gaelic type and ‘old spelling’<sup>80</sup>, an edition in standardized spelling and in roman type was provided and versions of that edition, currently termed the ‘Stationery Office text’ or the ‘popular edition’, have been regularly reprinted ever since.

### Script

Irish script and spelling were linked closely together in the early decades of this century as an emotive issue which had both political and economic aspects to it. Roman type greatly facilitated the printing of bilingual forms and documents after the foundation of the State and began to be used extensively in the Irish publications of the new State.<sup>81</sup> A memorandum was sent to the Secretary of the Executive Council on 25 May 1923, on the direction of the Minister of Industry and Commerce, seeking a decision from the Executive Council on the question of what type should be used in printing official documents in Irish. It is stated therein that ‘it is understood from the Stationery Office that while printing in romanised type costs 20% more than in English type, printing in Gaelic type costs 150% more’.<sup>82</sup> At a meeting of the Executive Council on 29 July 1924, it was decided that ‘Roman type is to be used generally throughout the Civil Service except as regards Intermediate examinations papers, in which case Gaelic lettering should continue so long as text books are printed in that manner’.<sup>83</sup> This followed on a letter from the Ministry of Finance on 17 July 1924, in which it was stated that ‘the interest of Finance in the matter is (1) printing in Gaelic script is more costly than printing in Roman script’ and (2) ‘typewriting in Gaelic script would mean an increase in typewriter equipment, practically all of which at present is in Roman script’.<sup>84</sup> The Ministry of Finance submitted that an order be made

77 Seanad Éireann, *Diosbóireachtaí Páirliminte* (Parliamentary Debates), *Tuairisc Oifigiúil* (Official Report), vol. 25, col. 1193-4.

78 So referred to during the Seanad debate above.

79 Brian Ó Cuív, ‘The Changing Form of the Irish Language’, in B. Ó Cuív, ed., op. cit., pp. 29-30.

80 ‘Sean-litriú’ (‘seana-litriughadh’).

81 See Máirtín Ó Murchú, *The Irish Language* (1985), p. 72.

82 This part of the introductory essay draws in particular on documents on Irish script and orthography and the Constitution housed in the National Archives. The author is indebted to Pádraig Ó Súilleabháin of the Department of the Taoiseach who allowed him to examine those files in Government Buildings. These documents will be referred to below simply as ‘National Archives’. See Seán Ó Riain, op. cit., where copies of some of the documents referred to are printed, accompanied by more detailed references.

83 Extract from Minutes, National Archives.

84 National Archives. See Seán Ó Riain, op. cit., p. 158.

by the Executive Council to the effect that roman script be used throughout the Service (except as regards Intermediate Examination papers), stating that 'there ought to be uniformity in the whole Government service' – while the roman script was used in the Acts of the Oireachtas and in Dáil literature generally, in the Civil Service, on the other hand, Gaelic script was used in some Departments.

Looking briefly at the history of Gaelic type here, the basis of the printing type known as 'an cló Gaelach' was the form of Irish writing found in Irish manuscripts from over a thousand years ago onwards.<sup>85</sup> In the earliest extant manuscripts, Irish is written in a style which was already distinctively Irish and, as the centuries passed, it grew increasingly divergent from the scripts which were evolving in Europe.<sup>86</sup> In later manuscripts the norm was to use the Irish script for Irish and the contemporary roman script for quotations and names in Latin, English and other languages. In a monograph entitled 'The Irish Character in Print, 1571-1923', E.W. Lynam writes:

The Irish letter is a strange survival from the past, which owes its preservation partly to Irish conservatism, partly to political and religious conflict. The letters are simply the Roman manuscript letters as they appeared after three centuries of careful and characteristic development in the hands of Irish scribes. Two manuscript hands were chiefly employed in Ireland at the end of the ninth century, the 'round' or half-uncial, and the 'pointed' Irish. Of these the 'pointed' was destined to become the popular hand, chiefly because it used up less parchment. And accordingly it was upon a lean and angular letter that the earliest authentic Irish printed letters (Antwerp, 1611) were modelled.<sup>87</sup>

Roman type was used in the first book to be printed in Irish, a translation of the 'Liturgy' of John Knox, printed in Edinburgh in 1567. Four years later, however, by order of Elizabeth I, in an attempt to promote the Protestant faith in Ireland, letters resembling those of Irish manuscript style were cut for practically all of the most distinctive letters in the Irish script, for the publication of Seán Ó Kearnaigh's *Aibidil Gaoidheilge & Caiticiosma*.<sup>88</sup> The font cut by the Franciscans in Louvain for the publication of Giollabhrighde Ó hEodhasa's *An Teagasg Criosdaidhe* in 1611 was an even more exact replication of Irish manuscript writing than that of Elizabeth I<sup>89</sup> and Irish types were produced in the eighteenth and nineteenth centuries, as well as in the present century. Gaelic type was clearly distinguishable from roman type not only by the forms of the letters but also by the use of a dot or stylised 'h' over consonants to mark the 'séimhiú' or lenition. The attraction of this distinctive Irish type and the attachment of many to it was expressed as follows by E.W. Lynam in the above-mentioned article in 1924:

Any one who is familiar with Irish in the Irish character will find not only difficulty but annoyance in reading it in Roman type. The language loses much of its individuality, just as Greek does in Roman type. The sounds of Irish, not well conveyed by Irish spelling, are still worse conveyed by a character which has alien and very definite phonetic associations. Apart, however, from considerations of language or traditions, it would be wrong to deprive the art of printing of any legitimate form of expression. Printing in the Irish letter is a rare and beautiful form of expression.<sup>90</sup>

An Irish 'Catechism' was published by Fr Theobald Stapleton in roman type in 1639 and a few authors of religious works followed suit.<sup>91</sup> Douglas Hyde printed *An Sgeuluidhe Gaodhalach* in roman script in 1895 and roman type was used to some extent in the official printed reports and other documents of the First Dáil Éireann, 1919-21.<sup>92</sup>

## Spelling

The issue of type was the subject of much debate in the new Free State and was, as we have stated, bound closely with that of spelling. The Gaelic League passed a resolution in 1928, for example, 'That it is better for Irish that no great change be made in the type or the spelling of Irish until the language

85 See Brian Ó Cuív, op. cit., p. 24.

86 See Máirtín Ó Murchú, op. cit., p. 69.

87 E.W. Lynam, 'The Irish Character in Print, 1571-1923', p. 286.

88 Máirtín Ó Murchú, op. cit., p. 69.

89 Ibid. p. 69.

90 E.W. Lynam, op. cit., p. 289.

91 Brian Ó Cuív, op. cit., p. 25.

92 Ibid. p. 26.

is out of danger of death or destruction'.<sup>93</sup> The background to the question of spelling or orthography is outlined as follows in a memorandum by T.F. O'Rahilly to Éamon de Valera in early 1942, the circumstances for which we shall see below:

Every reasonable person will agree that, if the Irish language is to have a chance of survival against English, its spelling must be made less cumbersome and antiquated, and must be brought into some decent conformity with the pronunciation of to-day.

The constant trend of the manuscript literature of 1650-1850 was towards modernizing the spelling; and if a complete modern system of spelling was not evolved, the reason is that Irish literature during that period was, owing to historical causes, but little cultivated. Unfortunately the clock was set back when, a generation ago, people began to take the spelling adopted by Atkinson in 1890 (*Trí Biorghaoithe an Bháis*) as a standard; and (with the change of *sg* to *sc*) Atkinson's spelling was taken over by Dinneen in his Dictionary (1905), and thus got a new lease of life.

The need for bringing Irish spelling up-to-date has long been felt. J.H. Molloy, a native of Co. Galway, in his Irish Grammar (first published in 1867), protests strongly against the antiquated spelling: 'Is it, then, any wonder that the Irish language should be dying away, when [owing to the way in which it is spelled] it is fettered, encumbered, and made quite unintelligible even to those who speak it?' (p. x f.). As specimens of his own improved spellings may be quoted *bliain*, *sleán*, *Dónall*, *córsa* (he explains that the *ó* here is nasal), *canúint*, *fearúil*, *cruinneód*, *d'oibreóinn*, *ceárta*, *tiarna*, *tiubh*, *colla* (sleep), *peaca*.

In 1893 William Larminie, who had studied Irish in Galway, Mayo and Donegal, wrote: 'The greatest defect in the English language is admitted to be its extraordinary spelling. But in this respect it is completely outdone by Irish Gaelic, which is troubled in an aggravated form with every evil that afflicts English. Different sounds are written in the same way, identical sounds are written in different ways. Silent letters attain to a tropical forestine luxuriance, through which the tongue of the learner despairs of hewing a way' (*West Irish Folk Tales*, p. 232).

Our Scottish kinsmen have long since introduced innumerable changes into the Early Modern Irish spelling (which was common to both countries at one time) in order to accommodate it to their modern pronunciation. Thus they write *Nollaig*, *ainnis*; and they drop silent consonants in *imeachd*, *biog* (E. Mod. Ir. *biodhg*), *fianáis* (*fiadhnaise*), *dòruinn*, (*doghraing*), *lúnasd* (*Lughnasadh*), *taibhse* (-*dhbh*-), *leòb* (*leadhb*), *meòraich* (*meabhraigh*), *solar* (*soláthar*), *òran* (*amhrán*), *fearail* (-*amhail*), *urras* (*urradhas*), *cunnart* (*cuntabhairt*), and so on.

The example of Wales should also be borne in mind. Welsh owes its vigorous life in large measure to the fact that its spelling is infinitely superior to that of its powerful competitor, English. I have read somewhere that a Welsh bilingual child learns to read and write Welsh in half the time that it takes him to learn to read and write English.<sup>94</sup>

The text *Trí Bior-Ghaoithe an Bháis* referred to above, and edited by Dr Robert Atkinson in 1890, was written by Fr Geoffrey Keating (Séathrún Céitinn) in the early seventeenth century and it was the orthography in this and other books printed in the seventeenth and eighteenth centuries which was favoured by influential figures in the language revival movement at the turn of the century.<sup>95</sup> While the Early Modern norm and its conventions were 'codified and powerfully promoted' by Dinneen's dictionary (first published in 1904 and again, revised and enlarged, in 1927), there was a growing acceptance in the early decades of the century that the writer should 'give us the language exactly as he speaks it himself, and as he hears it from the best native speakers' and that the forms of the spoken language ought to be reflected in spelling, the received spelling being, by now, in relation to pronunciation, 'extremely cumbersome'.<sup>96</sup> T.F. O'Rahilly argued that 'such cumbrous spellings as *beirbhiughadh* (for *beiriú*), *imthighthe* (for *imithe*), *faghbháil* (for *fáil*), *urradhas* (for *urrús*) and *filidheacht* (for *filíocht*) would be a severe handicap on any language, and are simply impossible in the case of Irish if we really mean to give it a fair chance of life'.<sup>97</sup> We find the following in the notes to his edition of *Papers on Irish Idiom by the late Canon Peter O'Leary P.P.* (1929):

Irish spelling is at present in a transition stage, and must needs be so for some time to come. When, in the nineties of the last century, Irish began to be re-cultivated as a literary language, the only

93 Ibid, p. 24.

94 National Archives.

95 Máirtín Ó Murchú, op. cit., pp. 63-4.

96 Ibid, p. 64.

97 Ibid, p. 66.

well-edited Modern Irish text and vocabulary were to be found in a book then easily procurable, Professor Robert Atkinson's edition of Keating's *Tri Bior-ghaoithe an Bháis*, which was published in 1890. It was most unfortunate, but easily intelligible, that the spelling employed by Atkinson in this book, being the only available model, should have been adopted by writers who in other respects aimed at reproducing the Irish of our own time. The handful of people living in Dublin thirty years ago who, in the circumstances of the moment, found themselves called on to decide what was the 'correct' Irish spelling, were men who were much better acquainted with the older literature than with the living speech. The fact was then unrecognized that our MSS. and printed books during the last three centuries, afford ample evidence of an ever-growing tendency to bring modern spelling into harmony with modern sounds. The result has been that most Irish books produced during the present century are burdened with an antiquated system of spelling which takes no account of present-day pronunciation. Like every other living language, Irish has been growing and changing all through the centuries. Its Sounds, its Grammar, and its Vocabulary are admittedly very different now from what they were three or four centuries ago. With regard to the Spelling alone many people nowadays appear to think that there is something sacrosanct and immutable in the system which an Englishman adopted when editing an Early-Modern text thirty-two years ago, and which in many ways is more rigid and more reactionary than even that of the antiquarian scribes of Keating's day. The Atkinsonian system has, therefore, little claim to be called either the 'correct' or the 'traditional' spelling from a present day standpoint. ... Canon O'Leary, the greatest of contemporary writers of Irish, was soon in revolt against the tyranny of the antiquated spelling; and, though he did not pause from his literary work to construct a system which would take its place, his voice was always raised against those who would erect Atkinson's spelling of a seventeenth-century text into an immutable law for current Irish. Speaking of the 'hideous-looking monsters' into which the antiquated spelling turns so many Irish words, he wrote in 1902: 'Look at one of them! You expect it ought to consist of seven or eight syllables. Get a native Irish speaker to pronounce it, and, presto! it becomes a nice, tidy little word of two nice, musical little syllables.' Elsewhere he appeals to those writers who know the language as a living tongue to turn a deaf ear to the would-be 'scholars' who try to force 'correct' spelling on them. The duty of such writers, he says, is 'to give us, in black and white on paper, the real living speech of the people, ... unclogged and unhampered with strings of adventitious letters whose original phonetic purpose has been obsolete for generations, and whose presence, therefore, in the spelling is a violation of the fundamental principle which has regulated Irish spelling from time immemorial'.<sup>98</sup>

Osborn Bergin and Shán Ó Cuív (father of Professor Brian Ó Cuív referred to above), with assistance from Richard O'Daly, had put forward a system of 'simple spelling', *Letiriú Shimplí*, in 1910. Work on devising a simplified standard had been officially begun by 1929,<sup>99</sup> the Translation Section of the Oireachtas having been engaged on an on-going basis in simplifying the orthography contained in Dinneen's *Irish-English Dictionary*. As early as 1931 the Department of Finance issued a circular entitled 'Spelling in Irish in Official Documents', to acquaint all members of the Civil Service 'with the system of Irish orthography followed in the Oireachtas Translation Office'. This contained a list of 'modifications of the spelling given in Dr Dinneen's dictionary adopted in the Oireachtas Translation Office'.<sup>100</sup> All changed, however, with the change of Government in March 1932; the new Fianna Fáil administration favoured the traditional spelling as it favoured the Gaelic script. At a Cabinet meeting of 29 March 1932, it was decided that 'any existing regulations prohibiting the use of Gaelic script in official communications or publications, including publications under the Department of Education's schemes for the preparation of books in Irish, shall be cancelled and that the use of Gaelic or Roman script should in future be optional'.<sup>101</sup> The Department of Education abandoned its plan for an ordered change-over in the schools from Gaelic to roman type<sup>102</sup> and instruction given by the Department of Education to L. Mac Cionnaith to produce his English-Irish dictionary in roman type was now reversed.<sup>103</sup> Thus it came about that the 1937 Constitution was in Gaelic rather than roman type.

98 Thomas F. O'Rahilly, ed., op. cit., pp. 115-6.

99 Máirtín Ó Murchú, op. cit., p. 66.

100 See Séamas Daltún, op. cit., p. 18.

101 Letter from the Secretary of the Executive Council to the Private Secretary of the Department of Education, 2/4/1932, National Archives.

102 See Brian Ó Cuív, op. cit., p. 26.

103 L. Mac Cionnaith had also commenced work on simplification of the orthography of the headwords and this too was abandoned. The dictionary was subsequently published in 1935.

### 1937 Committee

The orthography of the Constitution, however, was, as stated above, ‘a compromise’. Éamon de Valera set up a committee on 4 May 1937, before publication of the Constitution, to make recommendations by the end of the month regarding any changes that should be made to the orthography of the Draft Constitution in order to simplify it (*‘chun molta do dhéanamh i dtaobh aon atharuithe ba mhaith a dhéanamh ar litriú na Gaedhilge sa Dréacht-Bhunreacht d’fhonn an litriú san do shimpliú’*<sup>104</sup>). This committee was chaired by Professor Eoin Mac Néill and included Prof. T.F. O’Rahilly, along with Shán Ó Cuív and Prof. Osborn Bergin (the authors of *Letiriú Shimplí* referred to above), Risteárd Ó Foghludha (who acted as ‘editor’ of the Irish version of the 1937 Constitution), Colm Ó Murchadha (Clerk of the Dáil), Micheál Breathnach, Prof. Tomás Ó Máille, Pádraig Ó Siochfhradha, Prof. Séamus Ua Searcaigh and Peadar Mac Fhionnlaoich.<sup>105</sup> This Committee met on the 7th, 8th, 10th and 21st of May, completing their work before the 31st, submitting ‘an Alternative Report’, written by a small minority who did not agree completely with the general judgment, along with the general Report.<sup>106</sup> Among the recommendations to be signed by seven of the eleven members of that Committee (the signatures of T.F. O’Rahilly, Shán Ó Cuív, Osborn Bergin and Colm Ó Murchadha being absent<sup>107</sup>) were that ‘-ughadh’ be shortened to ‘ú’ (‘bunú’, for example, as against the headword ‘bunughadh’ in Dinneen’s *Irish-English Dictionary*), the conjunction ‘acht’ be written simply as ‘ach’, and ‘-aidh’ and ‘-ighidh’ (‘-idh’) be written respectively as ‘-a’ and ‘-e’ in the Present Subjunctive (e.g. ‘mura ndéana’, ‘go dtéighe sé’). While those signatories recommended replacing ‘-faidh’ and ‘-fidh’ with ‘-fa’ and ‘-fe’ respectively before a pronoun in the Future Tense (e.g. ‘leanfa sé’) – a modification of Irish orthography as yet not implemented – they were, on the whole, conservative in their approach to spelling reform, as they were in matters of morphology; with regard to the latter, for example, they recommended the retention of the old form of the dative plural in ‘-(a)ibh’.<sup>108</sup> Thus it is that the text of the 1937 Constitution contains an amalgam of both ‘old’ and (some) ‘new’ spellings. Taking the text of Article 1, for example, ‘do bhunú’ and ‘sinsear’ (‘sinsear’ being the form of the headword in *Dinneen*) of the new system appear alongside ‘riaghaltas’ (the form given as headword in *Dinneen*, whereas ‘rialtas’ occurs in the 1922 Constitution); ‘saoghal’ rather than ‘saol’, whereas the derivative adjective is spelled ‘saolta’ in section 5(7) of the Dublin Reconstruction (Emergency Provisions) Act, 1924; ‘poilitidheachta’ rather than ‘poilitíochta’, the form ‘politíochta’ occurring in the First Schedule to the District Justices (Temporary Provisions) Act, 1923; the old spelling is retained in ‘deimhnigheann’ (‘deimhníonn’ today), ‘do-chlaoidhte’ (‘dochloíte’), ‘saoidheacht’ (‘saíocht’), and ‘dúthchas’ (‘dúchas’); and, finally, the old dative plural is retained in ‘náisiúnaibh’:

Deimhnigheann náisiún na hÉireann leis seo a gceart do-shannta, do-chlaoidhte, ceannasach chun cibé cinéal Riaghaltais is rogha leo féin do bhunú, chun a gcaidreamh le náisiúnaibh eile do chinneadh, agus chun a saoghal poilitidheachta is geilleagair is saoidheachta do chur ar aghaidh do réir dhúthchais is gnás a sinsear.

The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

In the May 1941 Seanad address referred to above, Éamon de Valera acknowledged that political rather than linguistic considerations dictated the orthography of the Constitution and expressed regret for that decision:

104 See Séamas Daltún, op. cit., pp. 16, 20.

105 Eoin Mac Néill, T. F. O’Rahilly, Osborn Bergin and Colm Ó Murchadha had been on the Committee which prepared the Irish version of the 1922 Constitution, as was Liam Ó Rinn, who along with Tomás Page, as members of the Oireachtas Translation Staff, had examined a draft of the Irish version of the 1937 Constitution before it was printed — see Séamas Daltún, op. cit., p. 15.

106 See Breandán Mac Giolla Choille, op. cit., p. 66.

107 See Séamas Daltún, op. cit., p. 18.

108 Ibid, p. 21f.

The position is that, for the original Draft, we did get together a number of scholars, and those representing different points of view. I do not think they were satisfied themselves, and I do not think that the group that met would say that there would be anything like unanimity or common agreement as to spelling. We did it because I did not want to have controversy on what appeared to me to be a minor point. We did not have any of the controversies which might have arisen had we gone on a line which, in the long run, might have been a wiser line, that is, to follow the spelling of the translation department.

I am interested in it only from the Irish point of view – I am not interested in any small matters – in increasing the use of Irish in our lives, and I must say that the belief I have come to, with no other aim in mind than the development of the language and its increasing use in our lives, is that one of the things that would help us most would be to get a standardised spelling.<sup>109</sup>

### Standardization

On 16 May 1938, the very year following the presentation to the Parliament and people of the Constitution in Gaelic script and in a ‘compromised’ orthography, the Ministry of Finance circulated to the members of the Government copies of a memorandum entitled ‘Adoption of a uniform script and orthography in Irish’. The Commission on Irish in the Civil Service had recommended to the Minister for Finance that ‘uniformity should be introduced as regards the spelling and script used in documents in Irish published under Government auspices’. The Commission considered that ‘the Government, being the only authoritative body in the country competent to do so, should, after obtaining such advice as they deem fit, make and enforce an order that the type and orthography employed in future in Irish should conform to particular specified forms’. The principal argument in favour of the Oireachtas Translation Staff’s style of simplified spelling and roman script, according to this memo, was that ‘its comparative simplicity results in an economy of time and money in printing and typing’. Secondly, its adoption would introduce ‘increased accuracy and uniformity in the spelling of Irish by the elimination of alternative spellings, obscure dialectical forms and unnecessary accents’. It is stated, however, that ‘a strong body of influential opinion is opposed to simplification as being destructive of the integrity of the language’. As regards the modern roman lettering, the arguments in its favour were that roman type ‘avoids duplication of typewriters and printing machines’ and that its adoption would encourage the greater use of Irish ‘in business and newspapers’. Against this was the fact that all writers of Irish and students of the language were accustomed to Gaelic script.<sup>110</sup>

On 14 February 1939, Éamon de Valera spoke with the Clerk of the Dáil, Colm Ó Murchadha, about the system of Irish spelling in use in Dáil Éireann and asked him to suggest some names for a proposed Commission on Irish orthography. Colm Ó Murchadha suggested Osborn Bergin, T.F. O’Rahilly, Tadhg Ó Donnchadha (Tórna), Gearóid Ó Murchadha agus Séamus Ó Searcaigh.<sup>111</sup> A memo supplied by Colm Ó Murchadha on the system of Irish spelling used by the Translation Staff of Dáil Éireann (which memo had been printed in *Iris an Phuist*, 2/9/1931) was sent by the Taoiseach’s Office to those people suggested by Colm Ó Murchadha. Éamon de Valera wrote personally to An tAthair Pádraig de Brún on 17 May 1939, seeking his opinion on the system and stating that he felt increasing its usage would benefit the language (‘is dóigh liom go raghadh sé chun tairbhe don teangain a úsáid do mhéadú’).<sup>112</sup> The Dublin Institute for Advanced Studies, for the establishment of which in 1940 De Valera himself was responsible to a large extent, was also approached, and a copy of the decisions made by the School of Celtic Studies of that Institute on the question of Irish spelling was sent to the Private Secretary of the Taoiseach on 27 March 1941.<sup>113</sup> Were the Senators whom the Taoiseach addressed on 14 May 1941 aware of this, they might not have been as amused as Éamon de Valera certainly must have been by the following remarks he made on that occasion:

**The Taoiseach:** ... The point is that standard spellings are symbols to the eye, and I, for one, would like to be a dictator in that I would like to be able to say, “Let us get a group of people who know the language. Let them give us definitely what they think would be the best spelling and let us

109 Seanad Éireann, op. cit, col. 1191.

110 National Archives. See Seán Ó Riain, op. cit., p. 160ff.

111 National Archives.

112 National Archives.

113 National Archives.

standardise it everywhere as far as we could, even if we could not insist on private individuals using it.”

**Peadar Mac Fhionnlaoidh:** Níl mise i gcoinnibh sin. [*I am not against that*]<sup>114</sup>

**An Taoiseach:** Níl. [*No*]

**Mr. M. Hayes:** Was not the official Dáil system a good beginning?

**The Taoiseach:** It is a very good basis and, as I said, if I were allowed to be a dictator and having no kinks whatever, I would take the spelling which has been adopted by the Dáil translation staff. I would take it, say, to those who are in the present Institute and ask them for their opinion upon it, because they know the history of the language and its foundations. I would ask for their suggestions and then make sure the standard spelling was used in all Government publications of every kind – in every text book issued by a Government Department. ...

**Mr. M. Hayes:** I will vote for dictatorial powers for the Taoiseach on that.

**The Taoiseach:** You will be prepared to give them to me on that?

**Mr. M. Hayes:** Certainly, but not further or otherwise, as the lawyers say.<sup>115</sup>

### 1945 popular edition

Later on in that same address of 14 May 1941 the Taoiseach referred as follows to what was to become the first ‘popular edition’ of the Constitution, which was not destined to be published for a further four years, in 1945:

I was asked that, when a new edition of the Constitution was being prepared for the Dáil, it should be in the Roman lettering. I was asked if it was imperative that they should follow the previous form, and I said they should keep to what was consistent with the work they had done. Whatever views we may hold, or may have held at the start, a certain mass of work has been done. A standard has been reached.

I would like to send that standard to the Institute and ask them if they had any suggestions to make and to consider it in conjunction with the translation staff doing this work. Then we could say that this would be the standard and that every book for whose publication the State would be responsible would in future be published in that spelling.<sup>116</sup>

On 11 November 1941, Éamon de Valera went on to set up a committee ‘to recommend a system of abbreviated Irish spelling suitable for adoption as a standard system for general use’ (*‘Córas litrithe ghairid don Ghaedhilg do mholadh a bhéas feiliúnach le n-a ghlacadh mar chóras chaighdeánach chóchoiteann’*). This system was to avoid, as far as practicable, variant forms of spelling, and, at the same time, enable the speakers of different dialects to read words according to their own dialectical pronunciation, without undue strain. ‘The system recommended should be suitable for either Gaelic or roman characters and, particularly, for roman characters’.<sup>117</sup> T.F. O’Rahilly was appointed Chairman, and Séamus Mac Úgó Secretary, and the other members included Proinnsias S. Ó Tighearnaigh, Micheál Breathnach, Liam Ó Rinn, Domhnall Mac Grianna and Máirtín Ó Flaitheartaigh. The Taoiseach was to be disappointed by this Committee as he was by the 1937 Committee: by April 1942, it was acknowledged by the Chairman that agreement could not be reached among the members – this was the circumstance which occasioned the memo on Irish spelling from T.F. O’Rahilly quoted at length above – and it was agreed to discontinue the work of the Committee. That work was to be continued in a different manner: in a letter dated 29 April 1942, Muiris Ó Muimhneacháin, Secretary to the Taoiseach, informed the Clerk of the Dáil of the Taoiseach’s wish that the Chief Translator of the Oireachtas Translation Section, Liam Ó Rinn, be asked to undertake ‘to propose a system of abbreviated Irish spelling which would be suitable for adoption as a standard system for general use’. It was proposed that Professor T.F. O’Rahilly, by now Director of the School of Celtic Studies of the Dublin Institute for Advanced Studies, be asked to examine the results of the work when that would be available. ‘To start off this work’, according to the memo to the Clerk, the Taoiseach wished that a version of the Constitution as in force at the time be prepared in the spelling proposed as a standard spelling. The new Oireachtas edition of the Constitution was to be based on the manner of spelling that would be decided as a result of Liam Ó Rinn’s work:

114 Note that Peadar Mac Fhionnlaoidh was one of the members of the Committee set up by the Taoiseach in 1937 to look at the orthography of the Draft Constitution.

115 Seanad Éireann, op. cit, col. 1192f.

116 Seanad Éireann, op. cit, col. 1193f.

117 Draft Terms of Reference, National Archives.



Mar thús leis an obair seo, ba mhaith leis an dTaoiseach go ndéanfaí leagan den Bhunreacht mar atá i bhfeidhm anois d’ullmhú sa litriú a molfar mar litriú chaighdeánach. Is ar an modh litrithe a socrófar de bharr na h-oibre a bheidh ar siubhal ag Liam Ó Rinn ba cheart eagrán nua an Oireachtais den Bhunreacht do bhunú.<sup>118</sup>

Éamon de Valera was personally involved in the work. Points set out by Liam Ó Rinn on 12 October 1942, were discussed on the 19th of October by the Taoiseach, T.F. O’Rahilly and Liam Ó Rinn. Among the decisions arrived at were that the letter ‘v’ was not to be used in place of ‘mh’ or ‘bh’: ‘Generally “v” should only be used in words adopted from other languages, such as “vóta”.’<sup>119</sup> The Taoiseach met Liam Ó Rinn on 22 July 1943, to discuss recommendations made by Ó Rinn and in a memo from the Department of the Taoiseach the following day, based on the discussions, we read for example, that the Taoiseach inquired whether the form ‘cuirimíd’ alone should be recognised, on the ground that little difficulty would be experienced by those who wish to pronounce the word as ‘cuireamaid’.<sup>120</sup>

A comparison of Article 1 of the original 1937 Constitution with that of the 1945 popular edition (on the right below) illustrates the extent of orthographic changes involved:

Deimhnigheann náisiún na hÉireann leis seo a gceart do-shannta, do-chlaoidhte, ceannasach chun cibé cineál Ríaghaltais is rogha leo féin do bhunú, chun a gcaidreamh le náisiúnaibh eile do chinneadh, agus chun a saoghal poilitidheachta is geilleagair is saoidheachta do chur ar aghaidh do réir dhúthchais is gnás a sinsear.

Deimhníonn náisiún na hÉireann leis seo a gceart do-shannta, do-chlaoite, ceannasach chun cibé cineál Rialtais is rogha leo féin do bhunú, chun a gcaidreamh le náisiúnaibh eile do chinneadh, agus chun a saol polaitíochta is geilleagair is saíochta do chur ar aghaidh de réir dhúchais is gnás a sinsear.

On 7 March 1946, in answering a question in the Dáil from Deputy Dillon on ‘the standard spelling used in the Bunreacht’, the Taoiseach outlined the history of the standardization and referred to the resulting publication in July 1945 of the official standard for Irish spelling, *Litriú na Gaeilge: lámhleabhar an chaighdeáin oifigiúil* (i.e., ‘Irish Orthography: a handbook of the official standard’):

This standard spelling was the result of several years’ examination of the question. In 1941, I set up a committee to examine the whole problem of Irish spelling and to make recommendations for a system as simple as possible and suitable for adoption as a standard for general use. This committee found itself unable to make progress. I then entrusted the task to the chief translator on the Oireachtas Staff and, after his death, to his successor who, with the assistance of the whole translation section, re-examined the question in the greatest detail and, after some years of study, finally submitted the recommendations now incorporated in the booklet published under the title *Litriú na Gaeilge: An Caighdeán Oifigiúil*.<sup>121</sup>

Éamon de Valera was later responsible for charging the Translation Section with the task of standardizing Irish grammar which also resulted in a new official standard of orthography, both of which were set out in *Gramadach na Gaeilge agus Litriú na Gaeilge (An Caighdeán Oifigiúil)* (‘The Official Standard’), published by the Stationery Office in 1958. Following that publication, major revision of the orthography of the popular edition was undertaken for the edition published in the early 1960’s, as a comparison of Article 1 of the 1945 edition with that of current popular edition illustrates to some degree:

**[1945]** Deimhníonn náisiún na hÉireann leis seo a gceart do-shannta, do-chlaoite, ceannasach chun cibé cineál Rialtais is rogha leo féin do bhunú, chun a gcaidreamh le náisiúnaibh eile do chinneadh, agus chun a saol polaitíochta is geilleagair is saíochta do chur ar aghaidh de réir dhúchais is gnás a sinsear.

**[1960]** Deimhníonn náisiún na hÉireann leis seo a gceart doshannta, dochlaoite, ceannasach chun cibé cineál Rialtais is rogha leo féin do bhunú, chun a gcaidreamh le náisiúnaibh eile do chinneadh, agus chun a saol polaitíochta is geilleagair is saíochta do chur ar aghaidh de réir dhúchais is gnás a sinsear.

118 National Archives.

119 National Archives.

120 National Archives.

121 *Diosbóireachta Párlaiminte* (Dáil Debates), *Tuairisg Oifigiúil* (Official Report), vol. 99, col. 2085.

### Legal considerations

We see from ‘le náisiúin’ of the current edition above, as against the earlier ‘le náisiúnaibh’ that the dative plural in ‘-aibh’ was finally abandoned in the sixties. We remember that the 1937 Committee on the orthography of the Draft Constitution had recommended that this form be retained in the 1937 Constitution. In a draft version of the 1945 popular edition *Rannóg an Aistriúcháin*, the Oireachtas Translation Section, following the practice in the Acts, did not include this ending, except in the phrases ‘i gcoinnibh’ and ‘de dheascaibh’, which continue in the speech of some localities. The Taoiseach explained in his Dáil reply to Deputy Dillon on 7 March 1946, that legal considerations rather than political considerations were on that occasion responsible for the reluctance of the Department of the Taoiseach to allow that standardization:

I might perhaps add that in the edition of the *Bunreacht* to which I have referred, the -aibh form of the dative-plural, although not in accordance with the new standard, has been retained solely because of certain legal considerations. I am now inclined to the view that we were too meticulous in this matter.<sup>122</sup>

From the early history of the popular editions, particularly on the advice of the Attorney General’s Office, there has been an understandable reluctance to make any changes to the text of the 1937 Constitution in the popular editions which might in any way be suspected of affecting the sense of the original. In a memo from Muiris Ó Muimhneacháin to the Clerk of the Dáil on 14 June 1944, we read of the following limitations set by the Taoiseach to the work on the new edition of the Constitution:

As to the text of the Constitution to be issued under your supervision, the Taoiseach desires that the standard spelling should be adopted, subject to the proviso that no change should be made which would involve the substitution of different words or distinctive forms of words for words or forms of words occurring in the Irish text of the Constitution as enrolled in the Office of the Registrar of the Supreme Court. Apart from changes involving merely aspiration, eclipses or accents no change should be made in grammatical forms, so far as the Constitution is concerned, even where the existing forms appear to be imperfect or erroneous. Changes in regard to aspiration, eclipses and accents should be made sparingly and only where it is perfectly clear that the meaning of a word cannot be affected.<sup>123</sup>

The above memo was written following memos from the Oireachtas Translation Section towards the end of the previous month on changes made in the draft popular edition other than changes due to the new spelling system and on forms in the Constitution which were not consistent throughout the text. In referring in the memo above to ‘forms (which) appear to be imperfect or erroneous’, the Taoiseach would perhaps in particular have been thinking of the phrase ‘i mbun an Roinn Airgeadais’ (‘in charge of the Department of Finance’) in Article 28.7.1<sup>o</sup>. The Translation Section pointed out to the Department of the Taoiseach in 1944 that they saw no grammatic authority for that phrase as against the grammatically correct ‘i mbun na Roinne Airgeadais’.<sup>124</sup> Similarly, in Articles 27.5.1<sup>o</sup> and 27.6, one finds ‘an oiread sin tábhacht náisiúnta’ (‘such national importance’) instead of the gramatically correct ‘an oiread sin tábhachta náisiúnta’, ‘tábhacht’ being in the genitive case following ‘oiread’. It was queried in 1944 whether ‘Láithreach d’éis na scéala sin ... d’fhagháil don Uachtarán’ (‘Upon receipt of such notification ... the President ...’) in Articles 33.5.3<sup>o</sup> and 35.4.3<sup>o</sup> should be corrected to ‘Láithreach d’éis an scéala sin ... a fháil’ in the popular edition, but this phrase appeared as ‘Láithreach d’éis na scéala sin ... d’fháil’ in that 1945 edition. All of the above phrases have survived in popular edition after popular edition and still appear in the current popular edition.<sup>125</sup>

Many of the inconsistencies in the text of the Constitution which were pointed out in 1944, but remained unaltered in the 1945 popular edition, have been rectified in later popular editions of the

122 Ibid, col. 2087.

123 National Archives.

124 The genitive singular following the noun ‘bun’ in the prepositional phrase ‘i mbun’.

125 The Translation Section also questioned whether ‘comhairlí feadhmannais’ (‘functional councils’) in Article 15.3.1<sup>o</sup> in the 1937 Constitution and ‘comhairle feadhma’ (‘functional council’) in Article 19 should correspond. These appeared respectively as ‘comhairlí feadhmannais’ and ‘comhairle feidhme’ in the 1945 popular edition, appearing respectively as ‘comhairlí feidhmeannais’ and ‘comhairle feidhme’ in the current popular edition, as against either ‘comhairlí feidhmeannais’ and ‘comhairle feidhmeannais’ on the one hand or ‘comhairlí feidhme’ and ‘comhairle feidhme’ on the other.

Constitution. It was pointed out, for example, that there were two different forms of certain words in the Constitution. In Article 12.8 we find the form ‘dearbhadh’ in ‘an dearbhadh so leanas do dhéanamh’ (‘taking the following declaration’), and we find ‘Dearbhann Éire’ (‘Ireland affirms’) in Articles 29.1 and 29.2. On the other hand, the modern standard form ‘dearbhú’ is found instead of ‘dearbhadh’ on three occasions in Article 27.4.2° (following the Second Amendment of the Constitution Act, 1941): ‘breith do chraoladh dá dhearbhú ... do chraoladh breithe dá dhearbhú sin ... ag dearbhú mar adubhradh’ (‘has pronounced a decision ... to the effect ... a decision to that effect is pronounced ... to the effect aforesaid is pronounced’). These forms were published in popular editions up till the sixties, and in the current popular edition Article 12.8 reads as ‘an dearbhú seo’ and Articles 29.1 and 29.2 read as ‘Dearbhaíonn Éire’. Similarly, in Article 23.1.1°, the form ‘diúltadh’ is found in ‘mura ndéanann Seanad Éireann diúltadh dhó’ (‘nor rejected by Seanad Éireann’) alongside ‘go ndiúltuigheann Seanad Éireann’ (‘is ... rejected by Seanad Éireann’) – ‘diúltú dó’ replaces ‘diúltadh dhó’ in the current popular edition. The form ‘scrúdadh’ is found in Article 12.10.5° in ‘an chúis do scrúdadh’ (‘investigate the charge’), while the verb ‘scrúdaigh’ (modern standard form ‘scrúdaigh’) occurs in Article 12.10.7° in ‘do scrúdaigh an chúis’ (‘by which the charge was investigated’). We find ‘scrúdadh’ in the 1951 popular edition, for example, ‘scrúdú’ appearing in the current popular edition. Another such case is ‘aontadh’ and ‘aontú’. Finally, in Article 40.4.3° (following the Second Amendment of the Constitution Act, 1941), we find ‘do thabhairt’ (‘is produced’) alongside ‘go dtí go dtiubhraidh an Chúirt Uachtarach breith ar an gceist’ (‘until the Supreme Court has determined the question’); this appears as ‘go dtí go dtabharfaidh ...’ in the current popular edition.

While one finds ‘go’ in the 1937 Constitution in ‘Gach Bille **go** ndearnadh an tréimhse chun a bhreathnuighthe ag Seanad Éireann do ghiorrú’ (‘Every Bill the time for the consideration of which by Seanad Éireann shall be abridged’) in Article 25.3, ‘a’ is the predominant (and now standard) form in that context and is so found in Article 25.4.2°, ‘Gach Bille **a** gcuireann an tUachtarán a lámh leis’ (‘Every Bill signed by the President’), for example. While the Translation Section recommended substituting ‘a’ for ‘go’ in cases such as Article 25.3, ‘Gach Bille go ndearnadh an tréimhse’ remained in early popular editions, appearing as ‘Gach Bille a ndearnadh an tréimhse’ for the first time in the current popular edition. Again while one finds the relative particle ‘a’ in ‘chun sannadh ... na n-uiscí **a** thiocfas ina sheilbh amhlaidh’ (‘the alienation ... of the ... waters so acquired’) in Article 10.4, earlier on in the same section one finds the more conservative ‘uiscí thiocfas i seilbh an Stáit’ (‘waters acquired by the State’), that is, without the particle ‘a’. ‘Do’ is found in place of ‘a’ in other instances of that construction. The Translation Section recommended the use of ‘a’ in all such cases, and also recommended ‘a’ in place of ‘do’ before the verbal noun – which we see above in the current version of Article 1 in ‘a bhunú’, ‘a chinneadh’ and ‘a chur ar aghaidh’. Both ‘tar’ and ‘thar’ are found in the 1937 Constitution, the Translation Section recommending the use of ‘thar’ throughout.

### Relative

The final category of inconsistencies in the 1937 Constitution which we will touch on here is the old relative ending in ‘-s’ in ‘(a) bheas’, ‘(a) thagas’, etc. It was pointed out in one of the memos referred to above,<sup>126</sup> that while the form ‘a bheas’ occurs in ‘is Coimisiún a **bheas** comhdhéanta’ (‘a Commission constituted’ – i.e. the special form of the relative, future tense, of ‘bí’) in Article 14.1, in Article 25.5.3° one finds ‘an chóip a **bheidh** sínithe’ (‘The copy so signed’ – i.e. the ordinary third person singular, future, ending, instead of which, to be consistent, the form should have been ‘an chóip a bheas sínithe’). In Article 28.5.2° one finds ‘nithe a **bhaineas** le beartas’ (‘matters of ... policy’) as against ‘cibé saoráid eile a **chinnfidh** an tOireachtas’ (‘such other facilities ... as the Oireachtas may determine’) in Article 15.15. In Article 26.2.2° the older form of the future relative in ‘-s’ is followed by the general form of the future without ‘-s’ in the clause ‘isé **chraolfas** an bhreith sin ná an duine sin de na breitheamhnaibh sin a **cheapfaidh** an Chúirt chuige sin’ (‘and shall be pronounced by such one of those judges as the Court shall direct’). As the relative in ‘-s’ is generally found in the Constitution, the Translation Section asked whether the form in ‘-s’ be inserted throughout the text in the popular edition. The advice given was to leave the forms as they were in the original 1937 Constitution<sup>127</sup> and this advice has been followed to this day in the popular edition, with the result that one finds an amalgam of forms with and without the ending in ‘-s’ in relative phrases in the current popular edition.

126 A memo from Liam Ó Rinn’s successor as Chief Translator, Tomás Page, at the end of May, 1944.

127 National Archives.

This situation is being compounded with each new amendment of the Constitution. In line with the practice in the modern Acts, the form of the relative in ‘-s’ is not employed in the latest amendments. Thus we find ‘a bheidh’ in ‘aon duine eile a bheidh forordaithe le dlí’ (‘any other person prescribed by law’) in Article 41.3.2<sup>o</sup>iii following the Fifteenth Amendment of the Constitution, 1995, as against ‘faoin dlí a bheas i bhfeidhm’ (‘under the law ... in force’) in Article 41.3.3. The special form of the relative of the verb, ending in ‘-(e)as’ in the present tense and ‘-f(e)as’ in the future, is in the spoken language today confined to Ulster and Connacht Irish.<sup>128</sup> While these forms are allowed in official standard Irish<sup>129</sup>, they are not, however, given in the tables of the regular verbs therein, and are generally not written in standard Irish except in the set phrase ‘a leanas’ (‘the following ...’). In 1944, it was proposed that the ‘-s’ form should be generalized to all relevant constructions in the text but, today, to bring the popular edition into conformity with current practice would in fact require the exact opposite, i.e. the complete removal of all ‘-s’ relative forms. This would involve substituting ‘a bheidh’ for ‘a bheas’ in the following Articles: 14.1, 14.2.2<sup>o</sup>, 14.2.3<sup>o</sup>, 14.2.4<sup>o</sup>, 15.8.2<sup>o</sup>, 15.11.1<sup>o</sup>, 15.11.2<sup>o</sup>, 15.11.3<sup>o</sup>, 15.14, 16.2.3<sup>o</sup>, 16.2.4<sup>o</sup>, 16.2.6<sup>o</sup>, 16.6, 17.1.2<sup>o</sup>, 18.4.2<sup>o</sup>, 18.9, 22.2.3<sup>o</sup>, 28.7.1<sup>o</sup>, 28.11.2<sup>o</sup>, 30.6, 31.2, 32, 41.3.3<sup>o</sup>, 43.2.2<sup>o</sup>, 45.4.1<sup>o</sup>, 46.2, 48, 50.1 and 50.2. We find the form ‘a bhaineas’, usually written today simply as ‘a bhaineann’, in Articles 13.9, 14.5.1<sup>o</sup>, 18.7.1<sup>o</sup>ii, 28.5.2<sup>o</sup>, 28.12, 29.4.2<sup>o</sup>, 36, 36.iii and 45.1. The relative forms of other verbs in the Constitution are given below, followed by the forms which would be substituted in a standardized popular text:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
6.1	a thagas	a thagann
10.4	a thiocfas i seilbh	a thiocfaidh i seilbh
10.4	a thiocfas ina sheilbh	a thiocfaidh ina sheilbh
12.10.2 <sup>o</sup>	a dhéanfas	a dhéanfaidh
13.2.1 <sup>o</sup>	a chomórfas agus a lánscoirfeas	a chomórfaidh agus a lánscoirfidh
14.1	a oibreos is a chomhlionfas	a oibreoidh is a chomhlíonfaidh
15.3.1 <sup>o</sup>	a ionadaíos	a ionadaíonn
15.11.1 <sup>o</sup>	a dhéanfas	a dhéanfaidh
23.2.2 <sup>o</sup>	a thosaíos an tréimhse	a thosaíonn an tréimhse
26.2.2 <sup>o</sup>	a chraolfas	a chraolfaidh
28.1	a cheapfas	a cheapfaidh
28.2	a oibreos	a oibreoidh
29.4.1 <sup>o</sup>	a oibreos	a oibreoidh
34.4.5 <sup>o</sup>	a chraolfas	a chraolfaidh
34.5.1 <sup>o</sup>	a oireas	a oireann
34.5.4 <sup>o</sup>	a dhiúltós nó a fhailleos	a dhiúltóidh nó a fhailleoidh
40.6.2 <sup>o</sup>	a rialaíos	a rialaíonn
45.2.ii	a rachas	a rachaidh
45.2.iv	a rialós	a rialóidh

## Amendments

Whatever of the original inconsistencies of the 1937 Constitution, a process of systematically adding inconsistencies to the enrolled version of the Constitution was begun in 1983. Up until that year the old spelling was employed in the Irish text of all the amendments. Thus, for example, the Third Amendment of the Constitution, in 1972, involving the addition of a new subsection 3 to Article 29.4, contained such forms as ‘do bunuigheadh’, ‘Connradh’, ‘do sínigheadh’, ‘adh’, ‘insan’, ‘dlighthe’, ‘d’achtuigh’, ‘le n-ar’ and ‘dlighidh’ as against ‘a bunaíodh’, ‘Conradh’, ‘a síníodh’, ‘ú’, ‘sa’, ‘dlíthe’, ‘a d’achtaigh’, ‘lenar’ and ‘dlí’ (which forms are now in the popular edition as against the forms in the enrolled edition):

<sup>128</sup> It is well preserved in Ulster Irish (see Art Hughes, ‘Gaeilge Uladh’, in Kim McCone, Damian McManus, Cathal Ó Háinle, Nicholas Williams and Liam Breatnach, eds., *Stair na Gaeilge* [1994], p. 641), where the ending ‘-anns’ (i.e. the normal third person present ending plus the relative ‘s’) is often also found in the present tense. In Connacht, we find both the old relative form in ‘-s’, and the new form in ‘-nns’ (as in Ulster Irish), in the present relative and ‘-s’ in the future (see Ruairí Ó hUiginn, *ibid.*, p. 583). In Munster Irish, however, the relative ending ‘-as’ has almost died out and only on the Galway border can the present relative form ‘-ans’, and the future ‘-as’, be heard (see Seán Ua Súilleabháin, *ibid.*, pp. 516 and 523).

<sup>129</sup> See *An Caidhgeán Oifigiúil*, p. 46.

Tig leis an Stát do bheith ina chomhalta den Chomhphobal Eorpach do Ghual agus Cruach (do bunuigheadh le Connradh do sínigheadh i bPáras an 18adh lá d'Aibreán, 1951), de Chomhphobal Eacnamaíochta na hEorpa (do bunuigheadh le Connradh do sínigheadh insan Róimh an 25adh lá de Mhárta, 1957) agus den Chomhphobal Eorpach do Fhuinneamh Adamhach (do bunuigheadh le Connradh do sínigheadh insan Róimh an 25adh lá de Mhárta, 1957). Ní dhéanann aon fhoráileamh atá insan Bhunreacht so aon dlíghthe d'achtuigh, gníomhartha do rinne nó bearta le n-ar ghlac an Stát, de bhíthin riachtanais na n-oibleagáidí mar chomhalta de na Comhphobail, do chur ó bhail dlíghidh ná cosc do chur le dlíghthe d'achtuigh, gníomhartha do rinne nó bearta le n-ar ghlac an Comhphobail, nó institiúidí de na Comhphobail, ó fheidhm dlíghidh do bheith acu sa Stát.

The State may become a member of the European Coal and Steel Community (established by Treaty signed at Paris on the 18th day of April, 1951), the European Economic Community (established by Treaty signed at Rome on the 25th day of March, 1957) and the European Atomic Energy Community (established by Treaty signed at Rome on the 25th day of March, 1957). No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State necessitated by the obligations of membership of the Communities or prevents laws enacted, acts done or measures adopted by the Communities, or institutions thereof, from having the force of law in the State.

This was the form in which that amendment was put before the people, even though the new spelling was by that time being taught in all schools. The Fourth Amendment of the Constitution, also in 1972, merely involved the substitution of 'ocht mbliadhna déag' for 'bliadhain agus fiche', the old spelling 'mbliadhna' rather than the new 'mbliana' being in line with the spelling of that word throughout the text of the Constitution at the time. The Sixth Amendment of the Constitution, the 1979 adoption amendment, contained such old spellings as 'sainráidhte', 'dlíghthe', 'd'achtuigh', 'sonruighthe', 'feadhmanna' and 'do bunuigheadh' as against the official standard forms 'sainráite', 'dlíthe', 'a d'achtaigh', 'sonraithe', 'feidhmeanna' and 'a bunaíodh' respectively. 'Dlíghtheadh' and 'dlíghidh' rather than 'dlí' are again found in the Seventh Amendment of the Constitution, also in 1979, with 'socróchar', 'luaidhtear' and 'tíomsuighthe' in place of the modern standard forms 'socrófar', 'luaitear' and 'tíomsaithe' respectively.

The Eighth Amendment of the Constitution, 1983, however, which recognized the right to life of the unborn, introduced the new spelling to the enrolled text of the Constitution. The subsection introduced by this Amendment, Article 40.3.3°, reads as follows:

Admhaíonn an Stát ceart na mbeo gan breith chun a mbeatha agus, ag féachaint go cuí do chomhcheart na máthar chun a beatha, ráthaíonn sé gan cur isteach lena dhlíthe ar an gceart sin agus ráthaíonn fós an ceart sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

Compare the new spelling of the latter part of that subsection to that found in subsection 1 of the very same section (i.e. in Article 40.3.1°), which the above follows in the current enrolled text of the Constitution:

Ráthuigheann an Stát gan cur isteach le n-a dhlíghthibh ar cheartaibh pearsanta aon tsaoránaigh, agus ráthuigheann fós na cirt sin do chosaint is do shuidheamh le n-a dhlíghthibh sa mhéid gur féidir é.

The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

As against 'Admhaíonn an Stát' ('The State acknowledges'), with which the new Article 43.3.3° commences, we find 'Admhuigheann an Stát' in the enrolled text of Articles 41.1.1°, 41.2.1°, 42.1, 43.1.1°, 43.2.1° and 44.1. 'Ráthaíonn' ('guarantees') occurs twice in the new subsection as against 'Ráthuigheann' in Articles 40.3.1°, 40.6.1°, 41.1.2°, 42.1, 43.1.2° and 44.2.2°. 'Do shuidheamh' ('vindicate') and 'le n-a dhlíghthibh', as against 'a shuíomh' and 'lena dhlíthe' of the new subsection, are also found in the very preceding subsection (i.e. in Article 40.3.2°), 'dlíghtheadh' rather than 'dlí' being cited throughout the original Articles of the Constitution. As against 'ag féachaint go cuí (do)' ('with due regard [to]') in the new subsection, we find 'ag féachaint go cuibhe (do)' in Articles 16.2.4°, 42.4 and 42.5, with 'ná féachfaidh an Stát go cuibhe (do)' ('that the State shall not have due regard [to]') in Article 40.1.

The Ninth Amendment of the Constitution, 1984, substituted a new subsection 2 in Article 16.1 and kept with the spelling of the original. We therefore have ‘dligheadh’ instead of ‘dlí’ of the new spelling, ‘coingheallacha’ instead of the modern ‘coinníollacha’, ‘aca’ instead of ‘acu’ and ‘ceart bhótála’ instead of ‘ceart vótála’:

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| <ul style="list-style-type: none"> <li>i. Gach uile shaoránach, agus</li> <li>ii. cibé daoine eile sa Stát a cinnfear le dligheadh,</li> </ul> <p>cibé aca fir nó mná, ag a bhfuil ocht mbliadhna déag slán agus ná cuirtear fá dhícháilidheacht le dligheadh, agus a choimhlíonas coingheallacha an dlí i dtaobh toghcháin comhaltaí do Dháil Éireann, tá ceart bhótála aca i dtoghchán comhaltaí do Dháil Éireann.</p> | <ul style="list-style-type: none"> <li>i. All citizens, and</li> <li>ii. such other persons in the State as may be determined by law,</li> </ul> <p>without distinction of sex who have reached the age of eighteen years who are not disqualified by law and comply with the provisions of the law relating to the election of members of Dáil Éireann, shall have the right to vote at an election for members of Dáil Éireann.</p> |
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In the current popular edition this Irish text reads as follows:

- i. Gach uile shaoránach, agus
  - ii. cibé daoine eile sa Stát a cinnfear le dlí,
- cibé acu fir nó mná, ag a bhfuil ocht mbliana déag slán agus ná cuirtear<sup>130</sup> faoi dhícháilíocht le dlí, agus a chomhlíonann coinníollacha an dlí i dtaobh toghcháin comhaltaí do Dháil Éireann, tá ceart vótála acu i dtoghchán comhaltaí do Dháil Éireann.

The Tenth Amendment of the Constitution, 1987, which involved the addition of a sentence to Article 29.4.3<sup>o</sup> regarding the Single European Act, was passed in the old spelling, with ‘do sínigheadh’, ‘tar’, ‘adh’ and ‘insan’ of the old system as against ‘a síníodh’, ‘thar’, ‘ú’ and ‘sa’ of the new:

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| <p>Tig leis an Stát an Ionstraim Eorpach Aonair (do sínigheadh tar ceann Bhallstáit na gComhphobal i Lucsamburg an 17adh lá d’Fheabhra, 1986, agus insan Háig an 28adh lá d’Fheabhra, 1986) do dhaingniú.</p> | <p>The State may ratify the Single European Act (signed on behalf of the Member States of the Communities at Luxembourg on the 17th day of February, 1986, and at the Hague on the 28th day of February, 1986).</p> |
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The Eleventh Amendment of the Constitution, 1992, dealing principally with the Maastricht Treaty, was passed in the old spelling, adding new subsections 4, 5 and 6 to Article 29.4, ‘sínigheadh’, ‘dligthe’ and ‘tarraingigheadh’ of the old system being found respectively in subsections 4, 5 and 6 as against ‘síníodh’, ‘dlíthe’ and ‘tarraingíodh’ of the new spelling.

The Twelfth Amendment of the Constitution Bill, 1992, which dealt with the right to life of the unborn and proposed the addition of a sentence to Article 40.3.3<sup>o</sup>, returned again to the new spelling of the original Article 40.3.3<sup>o</sup>, which had been introduced by the Eighth Amendment of the Constitution, in 1983, as we saw above. While that Bill was not approved by the people in the referendum which took place on 25 November 1992, the Bills for the Thirteenth and Fourteenth Amendments of the Constitution, which also dealt with Article 40.3.3<sup>o</sup>, were so passed. Both of these were in the new spelling:

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| <p>Ní theorannóidh an fo-alt seo saoirse chun taisteal idir an Stát agus stát eile.</p> <p>Ní theorannóidh an fo-alt seo saoirse chun faisnéis a fháil nó a chur ar fáil sa Stát maidir le seirbhísí atá ar fáil go dleathach i stát eile ach sin faoi chuimsiú cibé coinníollacha a fheadfar a leagan síos le dlí.</p> | <p>This subsection shall not limit freedom to travel between the State and another state.</p> <p>This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.</p> |
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All subsequent amendments have been made in the new spelling and are so enrolled in the 1999 enrolled text of the Constitution. The Fifteenth Amendment, 1995, substitutes a lengthy subsection on divorce for the original short Article 41.3.2<sup>o</sup>; the Sixteenth Amendment, 1996, adds a new subsection on bail to Article 40.4 and the Seventeenth Amendment, 1997, adds a whole new subsection on Cabinet confidentiality to Article 28.4. Thus ‘an Rialtas’, for example, appears under the heading ‘an

<sup>130</sup> Note that we find the standard form ‘nach gcuirtear’ in the text of Article 16.1.1<sup>o</sup> in the popular edition.

Riaghaltas' in the new enrolled edition of the amendment contained in Article 28.4.3<sup>o</sup> and alongside 'an Riaghaltas' in the original subsections of that section. Article 28.4.3<sup>o</sup> reads as follows:

Déanfar rúndacht na bpléití ag cruinnithe den Rialtas a urramú i ngach toisc ach amháin i gcás ina gcinneadh an Ard-Chúirt gur ceart nochtadh a dhéanamh i dtaobh ní áirithe –

- i. ar mhaithe le riaradh cirt ag Chúirt, nó
- ii. de bhua leasa phoiblí sháraithe, de bhun iarratais chuige sin ó bhinse arna cheapadh ag an Rialtas nó ag Aire den Rialtas le húdarás Thithe an Oireachtais chun fiosrú a dhéanamh faoi ní a luafaidh siad ina thaobh go bhfuil tábhacht phoiblí ann.

The confidentiality of discussions at meetings of the Government shall be respected in all circumstances save only where the High Court determines that disclosure should be made in respect of a particular matter –

- i. in the interests of the administration of justice by a Court, or
- ii. by virtue of an overriding public interest, pursuant to an application in that behalf by a tribunal appointed by the Government or a Minister of the Government on the authority of the Houses of the Oireachtas to inquire into a matter stated by them to be of public importance.

In subsection 2, which precedes the above in the enrolled text, 'údarás' and 'Rialtas' are spelled respectively as 'ughdarás' and 'Riaghaltas' and, as against 'a luafaidh siad' ('stated by them'), we find the phrase 'a ghníomhóchaid' ('[they] shall act'), a feature dealt with below:

I gcomhghdarás a thiochfaidh an Riaghaltas le chéile agus a ghníomhóchaid, agus táid go léir le chéile freagarthach insna Rannaibh Stáit a riartar ag comhaltaibh an Riaghaltais.

The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government.

Unlike the 1992 Amendment on the Maastricht Treaty, the 1998 Amendment on the Amsterdam Treaty was in the new spelling and the new Article 29.4.5<sup>o</sup> now has 'Conradh', 'síníodh' and 'ú' ('2ú') instead of 'Conradh', 'sinigeadh' and 'udh' of the preceding subsection on the Maastricht Treaty:

Tig leis an Stát Conradh Amstardam ag leasú an Chonartha ar an Aontas Eorpach, na gConarthaí ag bunú na gComhphobal Eorpach agus Ionstraimí gaolmhara áirithe, a síníodh in Amstardam an 2ú lá de Dheireadh Fómhair, 1997, a dhaingniú.

The State may ratify the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts signed at Amsterdam on the 2nd day of October, 1997.

The 1998 Amendment which deals with the Belfast Agreement adds a very lengthy Article 29.7 to the Constitution in the new spelling, and also contains new Articles 2 and 3 and a new Article 29.8, which reads as follows:

Tig leis an Stát dlínse a fheidhmiú taobh amuigh dá chríoch de réir bhunrialacha gnáth-admhaithe an dlí idirnáisiúnta.

The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law.

We find 'bunriaghlacha gnáth-admhaithe an dlíghidh eadarnáisiúnta' in Article 29.3, however, rather than 'bunrialacha gnáth-admhaithe an dlí idirnáisiúnta' above. Again, if the terms of the Belfast Agreement are complied with, following the 1998 Amendment of the Constitution, the following new Article 2 would come immediately after the predominantly old spelling in Article 1 which we saw earlier:

Tá gach duine a shaolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, i dteideal, agus tá de cheart oidhreachta aige nó aici, a bheith páirteach i náisiún na hÉireann. Tá an teideal sin freisin ag na daoine go léir atá cáilithe ar shlí eile de réir dlí chun bheith ina saoránaigh d'Éirinn. Ina theannta sin, is mór ag náisiún na hÉireann a choibhneas speisialta le daoine de bhunadh na hÉireann atá ina gcónaí ar an gcoigrioch agus arb ionann féiniúlacht agus oidhrecht chultúir dóibh agus do náisiún na hÉireann.

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

For this new Article 2 to be of uniform spelling with the preceding Article 1, forms of 'saoghluigh', 'áirmheann' and \*cáilidheann would replace the above forms of the verbs 'saolaigh', 'áirigh' and 'cáiligh'; 'slighe' and 'comhnaidhe' respectively would replace the forms of the nouns 'slí' and 'cónaí' above and 'san' would replace 'sin'.

With the increase in the number of amendments being made to the Constitution this will result in a Constitution which will contain two different orthographic standards throughout the text. The only alternative to amending the later amendments to the older spelling and presenting all further amendments in the old spelling is to present a complete Irish text of the Constitution to the people in the official standard spelling, availing of that opportunity to remove the inconsistencies in that text that have already been pointed out, along with further inconsistencies as regards compliance with the official Irish standard, *An Caighdeán Oifigiúil*, published in 1958. While the popular edition can be taken as a basis for such a new text, due to the reluctance noted above in changing grammatical forms found in the original text, we see below that that text in the popular edition has not been fully grammatically standardized.

## Grammar

Under the current practice, the latest enrolled text of the Constitution, in addition to containing two orthographic or spelling standards, contains two different grammatical standards, as does the current popular edition of the Constitution. In the Seventeenth Amendment of the Constitution, 1997, for example, a 'séimhiú' has been added to 'Tithe' in the phrase 'le húdarás Thithe an Oireachtais' ('on the authority of the Houses of the Oireachtas') in Article 28.4.3°. On the other hand, even in the popular edition, following the original text, we find 'Tithe' without 'séimhiú', or lenition, in the phrase 'faoi bhráid Tithe an Oireachtais' ('[communicate with] the Houses of the Oireachtas') in Article 13.7.1°. This 'séimhiú' in Article 28.4.3° follows a major rule contained in *An Caighdeán Oifigiúil*: when a definite noun ('an tOireachtas' above) is in the genitive case following another noun (i.e. 'Tithe') which is subject to a word or phrase which takes the genitive case ('faoi bhráid'), the first noun simply has its initial consonant lenited (i.e. 'Thithe') and is not inflected<sup>131</sup> – in Article 1, therefore, in place of 'de réir dhúchais is gnás a sinsear' ('in accordance with its own genius and traditions'), where 'dúchais' is the genitive singular form of 'dúchas', according to the official standard we would have 'de réir dhúchas is ghnás a sinsear'. This rule has as yet not been implemented throughout the popular edition and its implementation would involve the following changes:

Article	Current form	Standardized form
1	de réir dhúchais is gnás a sinsear	de réir dhúchas is ghnás a sinsear
6	chun leasa an phobail	chun leas an phobail
6	i dtaobh beartas an Náisiúin	i dtaobh bheartas an Náisiúin
9.1.2°	cailleadh ... saoránacht Éireann	cailleadh shaoránacht Éireann
12.5	Faoi chuimsiú forálacha an Airteagail seo	Faoi chuimsiú fhorálacha an Airteagail seo
12.7	i ndiaidh deireadh théarma oifige a réamhtheachtaí	i ndiaidh dheireadh théarma oifige a réamhtheachtaí
12.8	I láthair Dia na nUilechumhacht	I láthair Dhia na nUilechumhacht
12.8	ar son leasa is fónaimh mhuintir na hÉireann	ar son leas is fhónamh mhuintir na hÉireann
12.10.2°	de réir forálacha an ailt seo	de réir fhorálacha an ailt seo
13.7.1°	faoi bhráid Tithe an Oireachtais	faoi bhráid Thithe an Oireachtais
13.8.1°	i gcomhlíonadh cumhachtaí is feidhmeanna a oifige	i gcomhlíonadh chumhachtaí is fheidhmeanna a oifige
17.2	ag moladh críche na leithghabhála	ag moladh chríoch na leithghabhála
18.4.2°	de bhun mhíreanna i agus ii	de bhun mhíreanna i agus ii
18.7.2°	faoi chuimsiú forálacha Airteagal 19	faoi chuimsiú fhorálacha Airteagal 19
24.1	chun Cathaoirleach gach Tí	chun Chathaoirleach gach Tí
25.1	de réir forálacha an ailt seo	de réir fhorálacha an ailt seo
27.5.1°	de réir forálacha alt 2	de réir fhorálacha alt 2
28.1	de réir forálacha an Bhunreachta	de réir fhorálacha an Bhunreachta

<sup>131</sup> See the chapter in *An Caighdeán Oifigiúil* entitled 'Foirm an Ainmnigh in ionad an Ghinidigh' (i.e. 'The Nominative Form in place of the Genitive'), p. 93.



<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
28.2	faoi chuimsiú forálacha an Bhunreacht	faoi chuimsiú fhorálacha an Bhunreacht
28.12	tuarastal comhaltaí an Rialtais	tuarastal chomhaltaí an Rialtais
31.4	I láthair Dia na nUilechumhacht	I láthair Dhia na nUilechumhacht
33.5.3 <sup>o</sup>	d'éis na scéala sin ... a fháil	d'éis an scéala sin ... a fháil
34.4.5 <sup>o</sup>	I láthair Dia na nUilechumhacht	I láthair Dhia na nUilechumhacht
34.5.3 <sup>o</sup>	tar éis lae a cheaptha	tar éis lá a cheaptha
35.4.3 <sup>o</sup>	d'éis na scéala sin ... a fháil	d'éis an scéala sin ... a fháil
42.3.2 <sup>o</sup>	caomhnóir leasa an phobail	caomhnóir leas an phobail
42.3.2 <sup>o</sup>	toisc cor an lae	toisc chor an lae
42.4	chun leasa an phobail	chun leas an phobail
42.5	caomhnóir leasa an phobail	caomhnóir leas an phobail
43.2.1 <sup>o</sup>	de réir bunrialacha an chirt chomhdhaonnaigh	de réir bhunrialacha an chirt chomhdhaonnaigh
45.2.ii	chun leasa an phobail	chun leas an phobail
45.2.ii	urlámhas gustail shaolta an phobail	urlámhas ghustal saolta an phobail
46.5	de réir forálacha alt 1	de réir fhorálacha alt 1
47.2.2 <sup>o</sup>	de réir forálacha alt 2	de réir fhorálacha alt 2

Two different systems as regards the verbs in the Constitution are being created in both the popular edition and in the enrolled text under the current practice. 'Leanfaidh siad' would generally be written today in place of 'leanfaid' in 'Na comhaltaí den Rialtas a bheas in oifig lá lánscotha Dháil Éireann, leanfaid dá n-oifig nó go gceaptar a gcomharbaí' ('The members of the Government in office at the date of a dissolution of Dáil Éireann shall continue to hold office until their successors shall have been appointed') in Article 28.11.2<sup>o</sup>. As we saw above, 'luafaidh siad' (the analytic form of the verb) rather than 'luafaid' (the synthetic form) is found in the amendment contained in Article 28.4.3<sup>o</sup>, in 'le húdarás Thithe an Oireachtais chun fiosrú a dhéanamh faoi ní a luafaidh siad ina thaobh go bhfuil tábhacht phoiblí ann' ('on the authority of the Houses of the Oireachtas to inquire into a matter stated by them to be of public importance'), following current official practice, whereas 'a ghníomhóidh' ('[they] shall act') is found in the previous subsection. The following are the synthetic forms found in the Constitution, the analytic forms being given in the column on the right:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
Preamble	ina rabhadar	ina raibh siad
Preamble	a rinneadarsan	a rinne siadsan
14.5.1 <sup>o</sup>	bainfid	bainfidh siad
15.1.3 <sup>o</sup>	ar a gcinnfid ..., a shuífid Tithe	ar a gcinnfidh siad ..., a shuífidh Tithe
15.12	táid	tá siad
16.2.4 <sup>o</sup>	ní thiochfaid	ní thiochfaidh siad
22.1.2 <sup>o</sup>	a chruinníd	a chruinníonn (siad)
23.1.2 <sup>o</sup>	a réitíd dhá Theach	a réitíonn dhá Theach
24.3	mura n-aontaíd dhá Theach	mura n-aontaíonn dhá Theach
28.3.2 <sup>o</sup>	a mheasfaid	a mheasfaidh siad
28.4.2 <sup>o</sup>	a ghníomhóid, agus táid	a ghníomhóidh siad, agus tá siad
28.12	leanfaid	leanfaidh siad
33.5.1 <sup>o</sup>	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
33.5.2 <sup>o</sup>	a rithid	a rithfidh (siad)
34.5.1 <sup>o</sup>	go gcomhlionfad	go gcomhlíonfaidh mé
34.5.1 <sup>o</sup>	go gcumhdód	go gcumhdóidh mé
35.4.1 <sup>o</sup>	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
35.4.2 <sup>o</sup>	a rithid	a rithfidh (siad)
35.4.3 <sup>o</sup>	lena mbainid	lena mbaineann siad
37.1	má oibríd	má oibríonn siad
38.4.1 <sup>o</sup>	a rinneadar	a rinne siad
42.5	nach ndéanaid na tuistí	nach ndéanann na tuistí
47.2.2 <sup>o</sup>	mura ndiúltaíd dó	mura ndiúltóidh siad dó
48	beid	beidh siad
50.1	leanfaid	leanfaidh siad

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
50.1	nach bhfuilid	nach bhfuil siad
50.2	tiocfaid	tiocfaidh siad

Staying with the verb, according to the official standard, the form of the future tense can be used for the present subjunctive except in phrases such as ‘go dté tú slán’ (i.e., when the present subjunctive has an optative function<sup>132</sup>). In Article 31.5, for example, ‘go dté’ and ‘mura dtarlaí’ in ‘nó go dté comharba an Uachtaráin a cheap é i gcúram a oifige, is é sin mura dtarlaí roimhe sin go n-éagfaidh an comhalta sin’ (‘until the successor of the President by whom he was appointed shall have entered upon his office ... unless he previously dies’), would generally be written today as ‘go rachaidh’ and ‘mura dtarlóidh’, that is, in the future tense rather than in the present subjunctive. The following Articles contain forms of the present subjunctive where generally today, in official documents in particular, the future tense would be found:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
12.3.1°	mura dtarlaí	mura dtarlóidh
18.9	mura n-éaga nó mura n-éirí as	mura n-éagfaidh nó mura n-éireoidh as
18.9	mura ndícháilítear é	mura ndícháileofar é
22.2.6°	mura gcuire an Coiste	mura gcuirfidh an Coiste
22.4.2°	mura ndéana	mura ndéanfaidh
28.9.4°	mura ndéana	mura ndéanfaidh
29.5.2°	mura dtoilí	mura dtoileoidh
30.5.3°	Mura ndéana	Mura ndéanfaidh
31.5	go dté ... mura dtarlaí	go rachaidh ... mura dtarlóidh
32	mura gcomóra	mura gcomórfaidh
33.5.1°	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
34.5.3°	sula dté	sula rachaidh
35.4.1°	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
47.2.2°	mura ndiúltaid dó	mura ndiúltóidh siad dó
50.2	mura n-achtaí	mura n-achtóidh

Turning to the adjective, according to the official standard, a qualifying adjective is lenited only following a feminine noun in the dative singular, ‘don bhean mhór’ being cited as example in *An Caighdeán Oifigiúil*<sup>133</sup>. Therefore the heading above Article 45, ‘Buntreoracha do Bheartas Chomhdhaonnach’ (‘Directive Principles of Social Policy’) would, according to the official standard, read as ‘Buntreoracha do Bheartas Comhdhaonnach’. This feature occurs in but a few Articles:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
15.3.1°	de shaol chomhdhaonnach ... de shaol gheilleagrach	de shaol comhdhaonnach ... de shaol geilleagrach
15.14	san am chéanna	san am céanna
31.3	san am chéanna	san am céanna
38.4.1°	faoi dhli mhíleata	faoi dhli míleata
39	ar mhodh foréigneach eile	ar mhodh foréigneach eile

132 See *An Caighdeán Oifigiúil*, p. 46.

133 Section 1(a) under the heading ‘Séimhiú ar Aidiachtaí’ in the chapter entitled ‘Séimhiú agus Urú’. In Old Irish, as both *o*-stems (masculine nouns) and *a*-stems (feminine nouns) ended in a vowel in the dative singular, the following adjective was lenited in every gender (Kim McCone, in K. McCone et al., op. cit., p.120, cites ‘don chéiliu chumachtach’ [Modern Irish ‘don chéile cumhachtach’] and ‘úan chluich thruimb’ [‘ón gclloch throm’]). Lenition of the adjective qualifying an article and noun in the dative singular masculine still continues in Ulster Irish (Art Hughes, *ibid.*, p. 633, cites ‘don fhear mhór’, ‘as an teach bheag’ and ‘ar an uan bhocht’) and in North Connacht. In Conamara, however, we find this lenition of masculine adjectives confined to certain phrases (Ruairí Ó hUiginn, *ibid.*, p. 605, cites ‘faoi Sheán Mhór’ [as against ‘le Seán Mór’] and ‘ina chogadh dhearg’), non-lenition being the practice in every other case. Generally one does not find lenition of the adjective in the dative case in Munster Irish, though one often finds such lenition in Muskerry (Seán Ua Súilleabháin, *ibid.*, p. 499, cites ‘fén gcrann mhuar’, for example).

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
40.6.1 <sup>o</sup> i	san am chéanna	san am céanna
41.1.2 <sup>o</sup>	don ord chomhdhaonnach	don ord comhdhaonnach
41.3.3 <sup>o</sup>	faoi dhlí sibhialta	faoi dhlí sibhialta
44.2.1 <sup>o</sup>	don ord phoiblí	don ord poiblí
45	do bheartas chomhdhaonnach	do bheartas comhdhaonnach
45.1	trí ord chomhdhaonnach	trí ord comhdhaonnach
45.3.1 <sup>o</sup>	ar thionscnamh phriobháideach	ar thionscnamh priobháideach
45.4.1 <sup>o</sup>	ar leas gheilleagrach	ar leas geilleagrach

### Variant forms

We saw above how it was pointed out in 1944 that two different forms of some words were found in the original 1937 Constitution. This situation is being compounded with the later amendments of the Constitution. The standard Irish form of the phrase ‘a bheirtear (do)’ (‘conferred (on)’), which occurs in Articles 12.1, 13.9, 15.1.1<sup>o</sup>, 28.5.1<sup>o</sup> and 40.4.2<sup>o</sup>, is ‘a thugtar (do)’.<sup>134</sup> Following the official standard, in the 1998 Amendment to the Constitution contained in Article 29.7.2<sup>o</sup>, ‘conferred’ is rendered as ‘a thugtar’ and we find ‘tugtar’ later on in the same sentence:

Tig le haon institiúid a bhunófar leis an gComhaontú nó faoin gComhaontú na cumhachtaí agus na feidhmeanna a fheidhmiú a **thugtar** di dá chionn sin i leith oileán na hÉireann ar fad nó i leith aon chuid de d’ainneoin aon fhorála eile den Bhunreacht seo lena **dtugtar** cumhacht nó feidhm dá samhail d’aon duine ... .

Any institution established by or under the Agreement may exercise the powers and functions thereby **conferred** on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution **conferring** a like power or function on any person or any organ of State ... .

‘Bheirtear’ (without preceding ‘a’) in Articles 12.8 and 15.1.1<sup>o</sup>, ‘a bheireann’ in Articles 13.6, 13.8.1<sup>o</sup>, 22.2.5<sup>o</sup>, 26.2.2<sup>o</sup>, 27.5.1<sup>o</sup> and 28.1, ‘a bhéarfaidh’ in Article 16.1.2<sup>o</sup> and ‘bhéarfaidh’ in Article 44.1 would, according to the official standard, be replaced by ‘tugtar’, ‘a thugann’, ‘a thabharfaidh’ and ‘tabharfaidh’ respectively.

While the 1937 Committee on the orthography of the Draft Constitution recommended substituting ‘tuistidhe’ for ‘tuismightheoir’ the official standard form today is ‘tuismitheoir’. ‘Tuistí’ in Articles 42.1, 42.2, 42.3.1<sup>o</sup> and 42.5 in the current popular edition would today be replaced by ‘tuismitheoirí’. Similarly ‘ar thrátha’ in Article 31.5 would be written as ‘ar thráthanna’ and ‘comhfhurtacht’, ‘ionadóir’, ‘chifear’, ‘sítheoilte’, ‘fundúireachtaí’, ‘dilleacht’, ‘foráileamh’ and ‘ar fianas’ in the Preamble, in Articles 15.1.2<sup>o</sup> (and 15.15), 25.5.1<sup>o</sup>, 40.6.1<sup>o</sup>ii, 42.4, 45.4.1<sup>o</sup>, 29.4.2<sup>o</sup> and 38.4.2<sup>o</sup> respectively would be written as ‘comhfhortacht’, ‘ionadóir’, ‘feicfeair’, ‘síothóilte’, ‘fondúireachtaí’, ‘dilleachta’, ‘foráil’ and ‘ar fiannas’, with ‘riala’ in Articles 6.1 and 6.2 being written as ‘rialach’ and ‘míthreora’ as ‘míthreorach’ in Article 33.5.1<sup>o</sup>. Finally, ‘a gheibheann’ in Article 44.2.1<sup>o</sup> would be written as ‘a fhaigheann’.

Miscellaneous other changes would also need to be made to the popular edition to ensure consistency in the Irish text. The clause ‘go ngeobhaidh míthreoir bhuan é’ (‘becomes permanently incapacitated’) in Article 31.5 of the popular edition, following the enrolled version, is found as ‘go ngabhfaidh míthreoir bhuan é’ in Article 12.3.1<sup>o</sup>, for example, following the official standard. Some forms would be lenited today which are unlenited in the current popular edition and the reverse also occurs, particularly in relation to lenition after a compound preposition.<sup>135</sup>

134 The verb that is inflected in ‘a bheirtear’ is not the simple verb ‘beir’ (‘bear’, ‘take’, ‘bring’, ‘carry’) but the compound verb ‘do-bheir’, or ‘do-beir’ in Old-Irish, prototonic form ‘tabair’, which gives us Modern Irish ‘tabhair’ (‘give’). As *Dinneen* states (s.v. ‘do-bheirim’), ‘bheirim’ became the general form of ‘do-bheirim’ and was often replaced by ‘tugaim’. In Munster, while ‘bheirim’ is found in some phrases, ‘tugaim’ and ‘tugann’ are the usual forms in Kerry — see Seán Ua Súilleabháin, *ibid.*, p. 532, and the commentary on Article 12.1. ‘Bheirim’, ‘bheir sé’ and ‘bhe(i)rt(e)ar’ are found in Ulster Irish (see Art Hughes, *ibid.*, p. 648). In Connacht, however, although the form ‘bheireann’ is heard in phrases such as ‘bheirim do shláinte’, the stem ‘tug’ is the usual stem in the present tense (see Ruairí Ó hUiginn, *ibid.*, p. 592). The standard Irish form is also ‘tug’.

135 See *An Caighdeán Oifigiúil*, s5 of the chapter on ‘Séimhiú agus Urú’.

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
6	idir reachtaíocht is comhallacht is breithiúnas	idir reachtaíocht is chomhallacht is bhreithiúnas
13.6	an chumhacht maolaithe	an chumhacht mhaolaithe
16.1.1°	a cinnfear le dlí	a chinnfear le dlí
22.2.2°	faoi bhráid Choiste Pribhléidí	faoi bhráid Coiste Pribhléidí
22.2.5°	thar breith an Choiste	thar bhreith an Choiste
25.4.5°	an dá théacs sínithe	an dá théacs shínithe
28.3.3°	staid phráinne náisiúnta	staid práinne náisiúnta
28.7.2°	thar beirt acu	thar bheirt acu
30.3	ar agra dhuine éigin eile	ar agra duine éigin eile
31.3	thar mhórsheisear	thar mhórsheisear
34.3.3°	bailíocht dhlí	bailíocht dlí
34.4.6°	thar breith na Cúirte	thar bhreith na Cúirte
37.1	gan bhail dlí	gan bail dlí
38.4.2°	i láthair / faoi dhlínse ... binse míleata	i láthair / faoi dhlínse binse mhíleata
38.5	i láthair choiste tiomanta	i láthair coiste thiomanta
40.1	idir daoine	idir dhaoine
40.4.3°	i bhfoirm cháis ríofa	i bhfoirm cáis ríofa
40.6.1°i	gan bac	gan bhac
44.2.5°	idir sho-aistrithe agus do-aistrithe	idir sho-aistrithe agus dho-aistrithe
45.2.i	idir fhear is bean	idir fhear is bhean
45.4.1°	cosaint sonrach	cosaint shonrach
45.4.1°	cabhair maireachtála	cabhair mhaireachtála
46.5	ar mbeith sásta dó	ar bheith sásta dó

We find the preposition ‘do’ (or *d’* before a vowel) before a verbal noun in the following Articles: 13.1.3°, 14.1.3°, 14.5.1°, 15.8.2°, 21.2.1°, 25.4.4°, 27.4.2°, 28.9.3°, 31.1, 40.4.5°, 43.1.2°, 44.2.4° and 50.2. While ‘do’ is found even in recent translations of Acts of the Oireachtas, according to Niall Ó Dónaill, *Foclóir Gaeilge-Béarla* (1977), the preposition ‘a’ replaces the preposition ‘do’ in standard Irish before verbal nouns – note that we find both prepositions in Article 50.2: ‘Dlíthe a bheas achtaithe roimh an mBunreacht seo a theacht i ngníomh agus a mbeidh luaite iontu iad **do** theacht i bhfeidhm dá éis sin’ (‘laws enacted before, but expressed to come into force after, the coming into operation of this Constitution’).

The special form of the dative singular found in some Articles is no longer generally found in official documents in Irish in the case of the following:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
12.8	i mo dhidin	i mo dhídean
40.1	ina bpearsain daonna	ina bpearsa dhaonna
40.4.2°	a thabhairt ina phearsain	a thabhairt ina phearsa
40.4.3°	a thabhairt ina phearsain	a thabhairt ina phearsa
40.4.4°	a thabhairt ina phearsain	a thabhairt ina phearsa
40.4.5°	a thabhairt ina phearsain	a thabhairt ina phearsa
42.1	dá gclainn	dá gclann
42.2	dá gclainn	dá gclann
42.5	dá gclainn	dá gclann

Other changes necessary to standardize the popular edition simply involve removing the hyphen, the general rule being that, if the elements of the compound are clearly identifiable, there is no need for hyphenation in a compound of two basic elements<sup>136</sup>:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
Preamble	Ró-naofa	Rónaofa
12.4.2°ii	Contae-Bhuirgí	Contaebhuirgí
12.4.3°	san aon-toghchán	san aontoghchán

136 See *An Caighdeán Oifigiúil*, s24(iv) of the part headed ‘Litríú na Gaeilge’. The opposite situation arises in Articles 3 and 31.1 where ‘athchomhlánú’ and ‘inchomhlíonta’ would respectively in standard Irish be replaced by ‘ath-chomhlánú’ and ‘in-chomhlíonta’. Perhaps the final entry given in the table above, ‘maothóige’, should remain hyphenated, the headword ‘maothóg’ having the sense of ‘soft thing; soft person, softy’ and ‘shell-less egg’ (*Ó Dónaill*).

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
12.11.1 <sup>o</sup>	stát-áras	státáras
15.10	a bhuan-orduithe	a bhuanorduithe
15.11.3 <sup>o</sup>	lena bhuan-orduithe	lena bhuanorduithe
16.4	lá a céad-tionóil	lá a céadtionóil
18.8	ar chéad-tionól	ar chéadtionól
29.7.3 <sup>o</sup> ii	gnáth-admhaithe	gnáthadmhaithe
30.3	gnáth-admhaithe	gnáthadmhaithe
40.6.1 <sup>o</sup> i	a bhonn-bhriseadh	a bhonnbhriseadh
41.1.1 <sup>o</sup>	buíon-aonad	buíonaonad
45.4.2 <sup>o</sup>	maoth-óige	maothóige

Among the remaining changes which would be made in standardizing the popular edition is the application of a genitive inflection to forms which would not in the current standard be left uninflected in such constructions:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
12.8	de réir an Bhunreacht	de réir an Bhunreachta
17.1.2 <sup>o</sup>	i dtaobh gach cás ar leith	i dtaobh gach cáis ar leith
18.4.2 <sup>o</sup>	in ionad líon comhionann	in ionad lín chomhionainn
27.1	an oiread sin tábhacht náisiúnta	an oiread sin tábhachta náisiúnta
27.5.1 <sup>o</sup>	an oiread sin tábhacht náisiúnta	an oiread sin tábhachta náisiúnta
27.6	an oiread sin tábhacht náisiúnta	an oiread sin tábhachta náisiúnta
28.7.1 <sup>o</sup>	i mbun an Roinn Airgeadais	i mbun na Roinne Airgeadais
29.4.2 <sup>o</sup>	chun a leithéid sin	chun a leithéide sin

The opposite situation occurs in Article 40.4.5<sup>o</sup> where, according to the official standard, ‘tar éis an fheidhmithe sin a mhoilliú’ would be written as ‘tar éis an feidhmiú sin a mhoilliú’. The following miscellaneous forms remain, among them the article being inserted in ‘Bunreacht Éireann’, ‘dlíthe Éireann’ and ‘Mí Nollag’, along with ‘lomdíreach’ being split as two separate words:

<i>Article</i>	<i>Current form</i>	<i>Standardized form</i>
10.2	go mba	gur
12.2.1 <sup>o</sup>	vóta lomdíreach	vóta lom díreach
12.8	Dia na nUilechumhacht	Dia na hUilechumhachta
12.8	do Bhunreacht Éireann	do Bhunreacht na hÉireann
15.11.3 <sup>o</sup>	cén méid comhalta	cá mhéad comhalta
16.1.2 <sup>o</sup>	ná cuirtear	nach gcuirtear
19	lomdíreach	lom díreach
28.1	ar a mhéid	ar a mhéad
31.4	Dia na nUilechumhacht	Dia na hUilechumhachta
31.5	go ngeobhaidh	go ngabhfaidh
34.4.5 <sup>o</sup>	Dia na nUilechumhacht	Dia na hUilechumhachta
34.5.1 <sup>o</sup>	dlíthe Éireann	dlíthe na hÉireann
44.1	do Dhia na nUilechumhacht	do Dhia na hUilechumhachta
44.2.1 <sup>o</sup>	gan san	gan sin
45.3.2 <sup>o</sup>	a imdháil	a imdháileadh
45.4.2 <sup>o</sup>	idir fheara is mná	idir fhir is mhná
49.1	de Mhí Nollag	de mhí na Nollag

The standardization of ‘Dia na nUilechumhacht’ to ‘Dia na hUilechumhachta’ also involves the substitution of a singular form for a plural form.

As stated in the blurb inside the cover of the Stationery Office text, or popular edition, that text conforms to the spelling, or orthographic, standard of the Translation Section of the Houses of the Oireachtas – no claim is made as regards the grammatical standard of the Translation Section.<sup>137</sup> We

<sup>137</sup> Note that the blurb on p. ii of the Stationery Office text refers to ‘litríú’ alone:

‘An litriú atá ar théacs Gaeilge an eagrán seo de Bhunreacht na hÉireann tá sé de réir chaighdeán litrithe Rannóg an Aistriúcháin d’Oifig Thithe an Oireachtais. (i.e. *The spelling/orthography of the Irish text of this edition of the Irish Constitution is in accordance with the orthographic standard of the Translation Section of the Office of the Houses of the Oireachtas*).

see from the above that the limitations laid down from the beginning regarding the ‘popular edition’ are reflected in each new such edition of the text of the Constitution. While generally conforming to the standard of orthography contained in *An Caighdeán Oifigiúil*, the text in the popular edition does not conform fully with the grammatical standards as laid out in that guide-book. As we have seen, six broad areas are involved in standardizing the popular text:

- The nominative in place of the genitive
- Analytic in place of synthetic forms of the verb
- The standard form in place of the special form of the relative
- The future in place of the present subjunctive
- Non-lenition of the adjective in the dative singular
- Standardization of variant forms

With amendments which conform to the official standard being introduced to a text which does not so conform, the level of grammatical inconsistency is being increased with each amendment. In this study, the unstandardised words and phrases which are presented above are noted in the commentaries on the subsections, sections and Articles in which they occur, and some additional words and phrases whose standard form is ambiguous are likewise noted. A standardised edition of the Irish text of the Constitution is incorporated in the study, with each commentary on any subsection, section or Article which contains unstandardised forms concluding with a standardised text. This text is also gender-proofed where necessary.

### Gender-proofing

Since the mid-nineties, the Acts of the Oireachtas are obliged to be gender-proofed. At its most basic level, in the English version of the Acts, this involves inserting ‘he or she’ and ‘his or her’ respectively where one formerly merely had ‘he’ and ‘his’. In the Irish version, where formerly one had ‘sé’ one now finds ‘sé nó sí’; the personal pronoun ‘a’ followed by lenition of the initial consonant of the noun (e.g. ‘a cheart’, ‘his right’) now has, in addition to that, ‘nó a’ followed by the noun with unlenited initial consonant (i.e. ‘a cheart nó a cheart’, ‘his right or her right’). A gender-proofed version of the English text of the Constitution has been prepared by the All-Party Oireachtas Committee on the Constitution and is published in the First Progress Report of that Committee, April 1997. The author of this study has prepared a gender-proofed version of the Irish text of the Constitution for the Committee which has been officially approved by the Translation Section of the Houses of the Oireachtas.

Unlike the English text, gender-proofing has already been introduced to the enrolled Irish text of the Constitution. In the opening sentence of the proposed new Article 2 contained in the text of the 1998 Amendment following the British-Irish Agreement, ‘it is the birthright of every person’ is rendered in Irish as ‘tá de cheart oidhreachta aige nó aici’, literally, ‘he or she has the birthright’, the complete sentence reading as follows:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. *Tá gach duine a shaolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, i dteideal, agus tá de cheart oidhreachta aige nó aici, a bheith páirteach i náisiún na hÉireann.*

Again, in the context of future amendments of the Constitution, if those amendments are to be gender-proofed, a gender-proofed version of the complete text of the Constitution is desirable to ensure uniformity in the text.

A gender-proofed edition of the Irish text of the Constitution is provided in the study which follows. The published gender-proofed English text was naturally taken into account in gender-proofing the Irish text. Nevertheless, in line with one of the general arguments of this study, the author would argue that the Irish text, as the text which has precedence, be taken into account in gender-proofing the English text. While the clause ‘such resolution shall operate to remove the President from his office’ in Article 12.10.7<sup>o</sup> is gender-proofed in the version published by the All-Party Oireachtas Committee on the Constitution to ‘such resolution shall operate to remove the President from his **or her** office’, for example, the Irish text needs no gender-proofing, reading ‘... is é is feidhm don rún sin an tUachtarán a chur as oifig’, literally ‘such resolution shall operate to remove the President from office’. Gender-proofing the English text from ‘from his office’ to ‘from office’, following the Irish text,

would appear to be the better course rather than emending to read ‘from his or her office’. Note that in Article 12.3.3° ‘... before or after he enters upon his office’ is gender-proofed to ‘... before or after **he the President** enters upon **his** office’, and in Articles 12.7 and 12.8 ‘... shall enter upon his office’ is gender-proofed to ‘... shall enter upon **his** office’ (note also that ‘upon’ itself is emended in Article 12.3.1°: ‘... the date upon which he enters upon his office’ is gender-proofed to ‘... the date upon which he **or she** enters ~~upon his~~ **into** office’).

Like the concluding clause in Article 12.10.7° above, the Irish version of ‘without fear or favour, affection or ill-will towards any man’, in Article 34.5.1°, ‘gan eagla gan claonadh, gan bá gan drochaigne chun duine ar bith’, needs no gender-proofing. The English text on the other hand is gender-proofed to read ‘without fear or favour, affection or ill-will towards any man **or woman**’. On approximately forty occasions in the Constitution ‘duine’ expresses ‘person’; therefore, translated literally, ‘chun duine ar bith’ would be ‘towards any person’. In view of this, ‘without fear or favour, affection or ill-will towards any man’ might be gender-proofed to read ‘without fear or favour, affection or ill-will towards any **man person**’. Other possible cases where the English text could be differently gender-proofed, based on the Irish text, are outlined in Appendix 3, which Appendix looks at cases where there would appear to be an option in how the text is gender-proofed and at some wider textual consequences of gender-proofing.

We shall see in the study which follows that in a few cases gender-proofing the Irish text may necessitate amending clauses more severely than simply altering ‘sé’ to ‘sé nó sí’ or ‘é’ to ‘é nó í’. As can be seen from the gender-proofed English version of Article 12.6.2°, it has occasionally been necessary to emend whole clauses, the gender-proofed version of that subsection reading as follows:

If A member of either House of the Oireachtas ~~be~~ **who is** elected President, ~~he~~ shall be deemed to have vacated his **or her** seat in that House.

The Irish version, however, only needs the following straightforward additions:

Má thoghtar comhalta de cheachtar de Thithe an Oireachtais chun bheith ina Uachtarán **nó ina hUachtarán**, ní foláir a mheas go bhfuil scartha aige **nó aici** le comhaltas an Tí sin.

The opposite situation arises in the following three instances, which would need more emendation than most of the Articles. While the English version of Article 31.2.ii, ‘Every person able and willing to act as a member of the Council of State who shall have held the office of President or the office of Taoiseach, or the office of Chief Justice, or the office of President of the Executive Council of Saorstát Éireann’, needs no gender-proofing, the words in bold below indicate the insertions which would have to be made to the Irish text in particular to include women who held the various offices listed above:

Gach duine ar cumas dó **nó di** agus ar fonn leis **nó léi** gníomhú ina chomhalta **nó ina comhalta** den Chomhairle Stáit, agus a bhí tráth ina Uachtarán **nó ina hUachtarán** nó ina Thaoiseach **nó ina Taoiseach** nó ina Phríomh-Bhreitheamh **nó ina Príomh-Bhreitheamh**, nó ina Uachtarán **nó ina hUachtarán** ar Ard-Chomhairle Shaorstát Éireann.

The repetition in the above text could be avoided by emending the text as follows, this being a more literal translation of the English:

Gach duine ar cumas dó **nó di** agus ar fonn leis **nó léi** gníomhú ~~ina mar~~ chomhalta den Chomhairle Stáit, agus a bhí tráth ~~ina~~ **i seilbh oifige mar** Uachtarán nó ~~ina mar~~ Thaoiseach nó ~~ina mar~~ Príomh-Bhreitheamh, nó ~~ina mar~~ Uachtarán ar Ard-Chomhairle Shaorstát Éireann.

The phrase ‘held the office of Deputy Chairman of Dáil Éireann’ is translated as ‘i seilbh oifige mar Leas-Chathaoirleach Dháil Éireann’ in section 1(3)(b) of the Ministerial and Parliamentary Offices Act, 1972, for example.

Article 44.1, ‘The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence, and shall respect and honour religion’, is gender-proofed as follows:

The State acknowledges that the homage of public worship is due to Almighty God. It shall hold **the** Name **of God** in reverence, and shall respect and honour religion.

The Irish version of Article 44.1 reads as follows:

Admhaíonn an Stát go bhfuil ag dul do Dhia na nUilechumhacht é a adhradh le hómós go poiblí. Beidh urraim ag an Stát dá ainm, agus bhéarfaidh oirmhidin agus onóir do Chreideamh.

Unlike the English text, gender-proofing the above involves emending both sentences. There is no difficulty gender-proofing the second sentence:

Beidh urraim ag an Stát **dá d'ainm Dé**, agus bhéarfaidh oirmhidin agus onóir do Chreideamh.

However, a straightforward gender-proofing of the first sentence of the Irish text, emending 'é' to 'é **nó í**', would involve referring to God as 'he or she'. To avoid this situation by substituting 'Dia na nUilechumhacht' for 'é' results in that phrase following immediately on its first usage:

Admhaíonn an Stát go bhfuil ag dul do Dhia na nUilechumhacht é **Dia na nUilechumhacht** a adhradh le hómós go poiblí.

An alternative to the above, retaining the current wording of the Irish text, would be to amend that text as follows:

Admhaíonn an Stát go bhfuil **adhradh le hómós go poiblí** ag dul do Dhia na nUilechumhacht.

A more severe emendation perhaps would read:

Admhaíonn an Stát go bhfuil **adhradh poiblí le hómós** ag dul do Dhia na nUilechumhacht.

Lastly, a similar type of emendation to that outlined above is necessary in the Preamble in order to avoid repetition in gender-proofing the Irish version of the clause 'so that the dignity and freedom of the individual may be assured', 'ionas go dtiocfaidh linn a uaisleacht agus a shaoirse a chur in áirithe do gach aon duine'. The straightforward gender-proofing of this clause would read as follows:

ionas go dtiocfaidh linn a uaisleacht agus a shaoirse **nó a huaisleacht agus a saoirse** a chur in áirithe do gach aon duine

or perhaps as

ionas go dtiocfaidh linn a uaisleacht **nó a huaisleacht** agus a shaoirse **nó a saoirse** a chur in áirithe do gach aon duine.

Following the wording of the clause in English more closely, one could avoid such repetition by emending the Irish clause to:

ionas go dtiocfaidh linn uaisleacht agus saoirse gach aon duine a chur in áirithe.

As stated above, other questions arising in gender-proofing the Irish text are outlined in Appendix 3.

### The Irish language

One of the principal interests of the author is in the way the Irish language developed over the centuries in response to the development of Irish life and society and how the language reflects and illustrates these developments.<sup>138</sup> The fact that 'slí' ('way'), for example, developed from 'slige', verbal noun of 'sligid', which originally had the sense of 'act of felling, smiting; a slaughter', hence the sense of 'of what is cleared or cut out', i.e. 'road, way, path', fascinates the author, particularly as we have written evidence from the ninth century of the sense of 'slaughter', a sense this word no longer has. Irish monks on the Continent in the eighth and ninth centuries, in writing notes or glosses on Latin words and phrases in texts they were using, have left us evidence of Irish words and phrases from those centuries. In a Latin commentary on the Psalms in a ninth-century manuscript which formerly belonged to the Columban monastery of Bobbio, and which is now in the Ambrosian Library at Milan, we find the following gloss: 'ata són .i. soirad iudae <sub>7</sub> slige assar' ('that is, to wit, deliverance of the Jews and slaughter of the Assyrians' — we find the Latin phrase 'extinxit Assirios' in the commentary itself).<sup>139</sup> We can follow the trail of 'slige' in Irish texts over the eleven hundred years right down to today. In an entry s.v. 'rót' in a glossary compiled by the King and Bishop of Cashel, Cormac mac Cuilleanáin, 836-908, we find an example of the use of 'slige' in the sense of 'road, way':

138 See Micheál Ó Cearúil, 'Sa teanga atá tábhacht na teanga' in M. Ó Cearúil, ed., *Gníomhartha na mBráithre* (1996), pp. 389-460.

139 See Whitley Stokes and John Strachan, *Thesaurus Palaeohibernicus – A Collection of Old-Irish Glosses ...* (1901), p. 161.



Atát tra ilanmand for na conaraib .i. sét 7 rúut 7 rámut 7 slige . . . bóthur. . . Slige dano, doscuet carpait sech alaile. Dorrónad fri himchomrac dá charpat' (*Now there are many names for ways: sét, rúut, ramut, slige . . . bothar. . . Slige [high-road] then, for the passing of chariots by each other was it made, for the meeting of two chariots*).<sup>140</sup>

This sense of 'road, way' is found today on the road-sign 'Géill Slí' ('Yield'). The 'five great roads' of Ireland in medieval times were called 'An tSlighe Mhór' ('The Great Road' – from Dublin to Clarinbridge, dividing the country in two halves), 'Slighe Dhála Meic Umhóir' ('The Road of Dála, son of Umhóir', from Dublin to Tarbert, being the road from West Munster to Tara), 'Slighe Assail' ('The Road of Assal', the main road from the ancient Midhe to Connacht [Rathcroghan]), 'Slighe Mhidhluachra' (possibly 'The Road of the Rushy Place of Meath', from Tara to Emain Macha, the main Dublin to Newry Road) and the 'Slighe Chualann' ('The Road of Cuala', a district comprising South Co. Dublin and part of Co. Wicklow).<sup>141</sup> In an early Irish law-text in *Egerton 90*, a manuscript in the British Library (formerly the British Museum), we have an example of 'slighe' in the later sense of 'way, means, method': 'cethre slighe imdénta' ('four methods of proof'). It is in this sense we find 'slí' in the Constitution; in Article 12.8, for example, 'Is é slí a rachaidh an tUachtarán i gcúram a oifige ná leis an dearbhú seo a leanas a dhéanamh' expressing 'The President shall enter upon his office by taking . . . the following declaration' (lit. 'The way the President will enter office is . . .').

Highlighting here just a couple of the terms found in the Constitution and which will be dealt with in the commentaries which follow, the term 'ceap' is found in the Constitution principally in the sense of 'appoint', 'Ceapfaidh an tUachtarán an Taoiseach', for example, expressing 'The President shall . . . appoint the Taoiseach' in Article 13.1.1<sup>0</sup> and 'ceapfaidh an Ard-Chúirt lá chun an bhreith bháis sin a fheidhmiú' expressing 'the High Court shall appoint a day for the execution of the said sentence of death' in Article 40.4.5<sup>0</sup>. This term comes from Latin 'cippus' and the date it was borrowed into Irish can be fixed at some time between 55 BC, when Julius Caesar invaded Britain (from where the Irish borrowed the Latin term), and AD 450 – most likely about the time St Partick was brought captive from Roman Britain to Ireland.<sup>142</sup> Latin 'cippus' had the senses of 'a boundary stone or pillar' and 'a tombstone, usually indicating the extent of the burial-ground'. The earliest examples of the form 'cepp' in Irish are in the sense of 'tree-stump, log, block' – we find the following in Cormac's ninth-century Glossary, for example: 'dobert buille don chip bóí isin étach' ([Athairne came and] gave a blow to the post that was in the dress' [i.e. as a dummy body]). Other senses included in the *Dictionary of Old and Middle Irish*, where examples are cited from early Irish literature, are 'anvil-block', 'stocks (for confinement), pillory, log to which a snare or trap was attached' and 'genealogical stock, ancestor'. From 'cepp' as the block on which articles were fashioned developed the verb 'ceppaid' in the sense of 'shapes, forms, fashions' and this has further developed to the general sense in Modern Irish of 'conceive, think' and 'mean, intend', along with 'appoint'.

The first item on the agenda of the first session of the First Dáil Éireann, held in the Mansion House, Dublin, on 21 January 1919, was 'Togađ Cinn Comhairle i gcóir an lae' ('Appointment of Speaker for the day').<sup>143</sup> Seóirse Pluinnceád proposed Cathal Brugha as 'Ceann Comhairle' and this was seconded by Pádraig Ó Máille. The third Article of the Constitution which was read and approved at that meeting deals specifically with the appointment each year by the Dáil of a 'Ceann Comhairle', and of a deputy ('Ceann Ionaid') in the absence of the 'Ceann Comhairle'. In Article 21 of the 1922 Constitution, the chairman of both the Dáil and the Seanad are referred to as 'Ceann Comhairle' ('Déanfaidh gach Tigh a Cheann Comhairle agus a Leas-Cheann Comhairle féin do cheapa' [*Each House shall elect its own Chairman and Deputy Chairman*]) and in Article 35 the chairman of the Committee of Privileges is also referred to as 'Ceann Comhairle'. 'An Ceann Comhairle' is referred to in Article 14.2 of the 1937 Constitution.

This term 'Ceann Comhairle' is attested in the Old Irish law-tract *Cáin Aicillne* ('The Law of Base Clientship') where we find the following phrase: 'nach ben forsa-mbe cenn comuirle', translated in *Ancient Laws of Ireland* as 'every woman over whom there is an adviser', i.e. a husband.<sup>144</sup> In the pseudo-historical text *Leabhar Gabhála* ('The Book of Invasions'), a version of which is contained in

140 Kuno Meyer, ed., *Sanas Cormaic (Cormac's Glossary)*, 1913, s1082.

141 See Colm Ó Lochlainn, 'Roadways in Ancient Ireland', in *Féil-sgríbhinn Eóin Mhic Néill* (1940), p. 465ff.

142 See Micheál Ó Cearúil, op. cit., p. 394ff.

143 *Dáil Éireann: Miontuairisc an Chéad Dála (Minutes of Proceedings) 1919-1921*, p. 7.

144 See the *Dictionary of the Irish Language based mainly on Old and Middle Irish Materials* (1983), s.v. 'cenn'.

the twelfth-century manuscript *Leabhar Laighean / The Book of Leinster*, Ninus son of Belus, the King of the world, is referred to as 'Cenn Comairle'<sup>145</sup> and in the version of *Táin Bó Cúalnge* in the same manuscript we find the following conversation between Queen Medb and Fergus: 'Ra gattá 7 ra brattá in slúag sa indiu. Feib théit echrad láir rena sergraig i crích n-aneóil gan **chend** cundraid ná **comairle** rempo, is amlaid testa in slúag sa indiu' ('This host has been plundered and despoiled today. As when a mare goes before her band of foals into unknown territory, with none to lead or counsel them, so this host has perished today').<sup>146</sup> Finally, in a thirteenth-century poem written from the Mediterranean, we find the line 'tech ar cind comairle', translated by Gerard Murphy as 'our counsellor's house'.<sup>147</sup>

'Aire', which expresses 'Minister' in the Constitution, is a word of Indo-European origin, related to Old Persian 'ariya-' ('Aryan'), and Old Indian 'ari-' ('attached to, faithful; a faithful devoted person'), 'aryá-' ('kind, favorable, attached to, true, devoted') and 'arya-' ('Aryan; one who is faithful to the Vedic religion').<sup>148</sup> The term 'aire' is found in early Irish law-tracts such as the eighth-century text *Críth Gablach*, which text has been edited by D. A. Binchy, who writes as follows on the meaning of 'aire' in early Irish legal literature:

[*aire*] is used to describe every freeman, 'commoner' as well as noble, who possesses an independent legal status, with an honour-price accruing to him in virtue of his own status. The *aire* is therefore *sui iuris*, as opposed to those persons, such as women and sons *in potestate*, whose honour-price is derived from the status of their 'superiors'. Occasionally however *aire* is used in the more restricted sense of 'noble' (as opposed to 'commoner'), which is the usual meaning in the [non-legal] literature.<sup>149</sup>

*Dinneen* (1927) translates 'aire' as 'a nobleman; one privileged', with 'recent' in parenthesis following the sense of 'a minister of state'. *Ó Dónaill* gives 'aire' in the sense of 'minister (of state)' as a separate headword to 'aire' in the sense of 'nobleman, chief', indicating that this latter sense is found only in earlier Irish literature.

Finally, we have citations of both 'dáiil' and 'Éire' in Irish literature going back approximately one thousand years, 'dál' in the sense of 'a meeting, conference, assembly, convention, a legal meeting, court' being frequent in early Irish laws, one such tract providing that a client must escort his lord 'fri dáiil' ('to a public assembly').<sup>150</sup> Yet the phrase 'Dáil Éireann', probably first used within Sinn Féin at its 'Ard-Fheis' in October 1918, only came into being in this century, 'Dáil Éireann' being the name given to a future national assembly by a writer under the pseudonym 'Gaeilgeoir' writing in the Gaelic League Journal *An Claidheamh Soluis* in 1906.<sup>151</sup> As stated by James Burke, one of the Deputies of the first Dáil, 'the ancient Irish word *Dáil* ... had the sanction of centuries of Gaelic history and tradition behind it', the name 'Dáil Éireann' giving the new assembly an immediate identity.<sup>152</sup>

Much emphasis has heretofore been placed, sometimes for propaganda purposes by the Irish language movement itself in the early decades of the century, on the break in the continuum of the language. In his pamphlet *What's This About the Gaelic League?* (1941), for example, Daniel Corkery wrote:

(The Gaelic League's) aim was to replace one of the most wide-flung, most up-to-date and progressive languages in the world by one that has been for almost three centuries neither the appendage of princes, nor the medium of trades, nor the language of the schools, nor the text book of even the humblest science, that had indeed become a pariah among languages, and was used no longer except by the hewer of wood and the drawer of water.

145 See R.A. Stewart Macalister, ed. *Lebor Gabála Éirenn*, II (1939), pp. 12-13: 'Tóesig imorro batar and reme, .i. in fer ba húasle ... issin túaith, issé ba cend comairle do chách' ('Aforetime there had been chieftains: he who was noblest ... in the community, he it was who was chief counsellor for every man').

146 Cecile O'Rahilly, ed., *Táin Bó Cúalnge from the Book of Leinster* (1967), pp. 134 and 270.

147 See *Éigse* vii, p. 77.

148 J.P. Mallory and D.Q. Adams, *Encyclopedia of Indo-European Culture* (1997), p. 213.

149 D.A. Binchy, *Críth Gablach*, p. 69.

150 See Fergus Kelly, *A Guide to Early Irish Law* (1988), p. 31.

151 See Arthur Mitchell, *Revolutionary Government in Ireland: Dáil Éireann 1919-22* (1995), and Tom Garvin, *Nationalist Revolutionaries in Ireland* (1987), p. 114. In the year 2006, according to the writer in *An Claidheamh Soluis*, 'Dáil Éireann' would be discussing the introduction of Japanese into Ireland as a second language, Irish being spoken by all and Russia having overcome England.

152 Arthur Mitchell, op. cit., p. 12.

Quite apart from the continued predominance of Irish in parts of the country right down to today, Corkery, author of *The Hidden Ireland*, would have been well aware of the vast amount and range of material in Irish available and sought after in manuscripts written and copied right up to and including the nineteenth century. According to Professor Brian Ó Cuív, 'there are still in existence in libraries in Ireland and elsewhere over three thousand Irish manuscripts which were written before the present century, and of these over a hundred were written between the ninth century and the second half of the sixteenth century when the first Irish books were printed'<sup>153</sup>; it follows from this that there are approximately two thousand nine hundred extant Irish manuscripts which were written between 1550 and the end of the last century. There was also a growing stream of material in Irish which was printed particularly in magazines and journals, but also in books, from the turn of the century onwards, following on the Irish of the later manuscripts as if no break had taken place in a tradition 're-established' by the Gaelic League at the end of the nineteenth and beginning of the twentieth century.<sup>154</sup> The amount of terms in the Constitution which are also to be found in early Irish law-tracts, as will be seen in the study which follows, illustrates the continuity of the language over the centuries. While great emphasis is placed in the study on what the author sometimes refers to as the 'recreation' of the language in the early decades of this century – especially in the context of early official translations, some of the terms of which had only a short span of life, others living today as if long-established – the citations of other terms from the Glosses of the eighth and ninth centuries and from the manuscripts of the twelfth and following centuries serve to remind us of the continuity of the language for well over one thousand years. The phrase 'síocháin ... a bheith ar bun' in Article 29.1 ('Ireland affirms its devotion to the ideal of peace ... amongst nations', *Dearbhaíonn Éire gur mian léi síocháin ... a bheith ar bun idir náisiúin*) corresponds almost exactly to 'in síd do beth ar bun', found in the *Leabhar Breac*, a manuscript compiled in 1411 or earlier, and 'gach achrann ... a réiteach' in the following section ('Ireland affirms its adherence to the principle of the pacific settlement of international disputes', *Dearbhaíonn Éire fós gur mian léi go ndéanfaí gach achrann idir náisiúin a réiteach go síochánta*) is almost the exact equivalent of 'an uile achrann ... a réigteach' ('to settle every dispute'), in a poem by Aogán Ó Rathaille (1670-1726). To coin Pearse's words, substituting 'language' for 'country', 'our language wears to us a new aspect, and yet she is her most ancient self'. This living language, in all its vigour and flexibility, informed every draft of the 1937 Constitution.

### Modus operandi

In the commentaries which follow on each Article, section and subsection, the senses of the headwords in Niall Ó Dónaill's 1977 *Irish-English Dictionary* (abbreviated as *Ó Dónaill*), are generally given first, these being the senses of the headwords in current Modern Irish. If the headword is included in *Téarmaí Dlí* then the meaning there is given, that being the official legal meaning of the word. The senses in Rev. Patrick S. Dinneen's 1927 *Irish-English Dictionary* (abbreviated as *Dinneen*) follow this, reflecting the senses given just ten years before the drafting of the Irish text of the Constitution. The earlier forms and meanings of the headwords are then given from the *Dictionary of the Irish Language based mainly on Old and Middle Irish Materials* (compact edition, 1983; abbreviated as DIL). Special emphasis is placed on citations from the Glosses of the eighth and ninth centuries, along with the senses of the headwords in early Irish law-tracts. Citations are then given from the Acts of the Oireachtas ('s' in these citations refers to the 'section' of the Act) and from other official Irish translations; emphasis is placed on the early official translations of the 1920s and on the variety of terms tested until those of the modern Acts were settled on. Emphasis is also placed on citations from two important sources for the drafters of the Irish text which had only become available in 1935: a four-volume typescript entitled *Oireachtas Dictionary of Official Terms* and L. Mc Cionnaith's *English Irish Dictionary*. The four-volume typescript entitled *Téarmaí Oifigiúla* post-dates the 1937 Constitution and contains citations therefrom, but also gives us some relatively early official translations.

153 Brian Ó Cuív, op. cit., p.24.

154 Professor Máirtín Ó Murchú commends the standard of Irish in particular of *Siamsa an Gheimhridh*, by Domhnall Ó Fotharta, published in 1892, and *Muinntear na Tuatha*, by Séamas Ó Dubhghaill, published in 1910, and refers to Dubhghlás De h-Íde's and Pádraig Ua Duinnín's Mac Tiernan Prize essays on Irish poetry and prose respectively.

In the literal English translations, emphasis is placed in the early Articles on the variety of interpretations possible, alternative individual terms being separated by a slash and alternative phrases being separated by a slash with a character space on either side of it – ‘relationship/relations’ as against ‘the nature / natural bent of’ in the literal English translation of Article 1, for example. For the most part, however, only the principal literal sense in the context of the subsection, section or Article is given, Professor Máirtín Ó Murchú having in many cases chosen between alternatives given in the author’s draft. The ‘Transitory Provisions’, which are not included in the popular edition of the Constitution, are not included in the study. The *Preamble*, the Irish text of which is an acknowledged translation of the English text, is commented on in Appendix 1.

The direct translation of the English text of the Constitution presented here evolved as an illustration of how such a text would be translated today and of the use of the terms discussed in the commentaries. This was a natural progression in the commentaries and had not been originally intended by the author. The process of translation itself gave the author an insight into the challenges faced by the drafters of the Irish text and, just as the drafters of that text at times departed from the translation of the 1922 Constitution in favour of their own words, the author of this work would admit yielding to the same temptation. The direct translation is preceded by a standardised and/or gender-proofed edition of the Irish text of the Constitution where that text needs emendation in order to standardise or gender-proof it.

Professor Máirtín Ó Murchú has read a draft of this work subsection by subsection, Article by Article, and his scholarly contributions are included as fully as possible in the work which follows. The author has benefited enormously from the master-classes he received as Professor Ó Murchú patiently and generously discussed his recommendations week after week over a period of many months. As will be noted in the commentaries presented here, the author has not always followed Máirtín Ó Murchú’s recommendations as regards the direct translations presented therein, Professor Ó Murchú at times favouring a less direct translation – this is of particular relevance in the context of the original Irish text not being a direct translation.

The enthusiasm for this project by the chairman of the All-Party Oireachtas Committee on the Constitution, Brian Lenihan TD, has been inspiring and a great support and encouragement for the author. The expertise of Jim O’Donnell, secretary of the committee and author of *Wordgloss* (1990), assisted by Karen Cullen, maintained the momentum which ensured the completion of this project in due time. The author is indebted to Tom Turley who is responsible for the design of the work and for the presentation of the mass of material which follows. The author also wishes to thank David Cooke for designing the cover of this study. Wendy A. Commins skilfully undertook the task of typesetting. The author also wishes to thank Sinéad Buckley of Rannóg an Aistriúcháin, and Eileen Mills, of the All-Party Oireachtas Committee on the Constitution, for typing early commentaries but without the help of Cliona Ní Bhréartúin, *Peanntrónaic*, along with Máire Ní Sheighin and Muireann Ní Chárthaigh, this work would never have been completed. Thanks finally to the Clerk of Dáil Éireann, Kieran Coughlan, who facilitated the ten-week secondment of the author from Rannóg an Aistriúcháin to the All-Party Oireachtas Committee on the Constitution to carry out this study and to Michelle O Riordan who read drafts of the work. Go raibh míle maith acu go léir.

MICHEÁL Ó CEARÚIL

11 Deireadh Fómhair 1999

# THE NATION AN NÁISIÚN

## ARTICLE 1 AIRTEAGAL 1

### TÉACS GAEILGE

Deimhniú náisiúna na hÉireann leis seo a gceart doshannta, dochloíte, ceannasach chun cibé cineál Rialtais is rogha leo féin a bhunú, chun a gcaidreamh le náisiúin eile a chinneadh, agus chun a saol polaitíochta is geilleagair is saíochta a chur ar aghaidh de réir dhúchais is gnás a sinsear.

### LITERAL ENGLISH TRANSLATION

The nation of Ireland hereby affirm(s)/certif(y)(ies) their unassignable/inalienable, invincible/conclusive, sovereign/commanding right to establish whatever type of Government they themselves choose, to determine their relationship/relations with other nations, and to promote their political and economic and learned life in accordance with the nature / natural bent and practices of their ancestors.

### ENGLISH TEXT

The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

### Divergences between the official texts

- 1 'To choose its own form of Government' is expressed as 'chun cibé cineál Rialtais is rogha leo féin a bhunú' ('to establish whatever type of Government they themselves choose') in the Irish text.
- 2 'In accordance with its (i.e. the Irish nation's) own genius and traditions' is expressed in the Irish text as 'de réir dhúchais is gnás a sinsear' ('in accordance with the nature / natural bent and practices of their ancestors').
- 3 The verb 'deimhnigh', here expressing 'affirms', expresses 'certifies' in Articles 22.2.1°, 24.1 and 40.4.2°, this verb being translated as 'certify, vouch' in *Téarmaí Dlí*, where 'I affirm (decree, etc.)' is translated as 'daingnim'; 'dearbhaigh' expresses 'affirms' in Articles 29.1 and 29.2.
- 4 The Irish term expressing 'indefeasible', 'dochloíte', expresses 'conclusive' in Article 25 and 'imprescriptible' in Articles 41 and 42.
- 5 'Develop' is expressed by 'cuir ar aghaidh', 'promote'/'advance', in the Irish text.
- 6 'The Irish Nation' is referred to in the plural in the Irish text and in the singular in the English text – 'a gceart', 'a gcaidreamh' ('their right', 'their relationship'), etc., versus 'its' in the English text.
- 7 The Irish text has 'a saol polaitíochta is geilleagair is saíochta' ('their political and economic and cultural life') while the English text has 'its life, political, economic and cultural'.

- 8 'Culture' today would be rendered simply as 'cultúr'; 'saíocht', on the other hand, is a very rich native term connoting 'learning', 'lore'.

### Commentary

*a chur ar aghaidh* This phrase expresses 'promote' in the Preamble and in Article 45, and generally translates 'promote', rather than 'develop' as in the present Article, in the Acts. In Article 1(1) of the Schedule to the Bretton Woods Agreement Act, 1957, for example, 'To promote international monetary co-operation' is translated as 'comhar idirnáisiúnta airgeadaíochta a chur ar aghaidh' and 'the promotion of friendly relations among nations' is translated as '(ar) chaidreamh cairdiúil a chur ar aghaidh idir náisiúin' in the First Schedule to the Diplomatic Relations and Immunities Act, 1967. *Ó Dónaill* translates 'cuir ar aghaidh é' as 'put it forward' and cites '*scéim a chur ar aghaidh*, to promote a scheme'. DIL s.v. 'agad' ('face'), cites 'do chum gnothuighe móra ar nanama do chur air aghaidh' ('to help on the great affair of our salvation') from Donlevy's *Catechism* (1st ed., 1742). Note that 'dul chun cinn' expresses 'develop' in Article 45.2.iii.

In official translations in the years following the founding of the State we can witness the multiplicity of terms expressing 'develop(ment)'. 'The Development Fund' is translated as '(don) Chiste Fás-saothrúcháin' in the Schedule to the Appropriation Act, 1922, with 'The Ireland Development Grant' being translated as 'Deontas Fás-saothrúchán na hÉireann' in Schedule (B) to the Appropriation Act, 1923, for example. 'To ensure the maximum development' is translated as 'chun a chur in áirithe an feabhsú maximum ... do dhéanamh' in s53(2) of the Railways Act, 1924, while in the Long Title of the Telephone Capital Act, 1924, 'An Act to grant money for the development of the telephonic system of Saorstát Éireann' is translated as 'Acht chun airgead do dheona chun scéim thelefónach Shaorstáit Éireann do chur i bhfeabhas'. 'Ag saothrú na cumadóireachta nó á cur ar aghaidh' translates 'in developing or exploiting the invention' in s43(6) of the Industrial and Commercial Property (Protection) Act, 1927, with 'ag saothrú na dtailte' translating 'in developing the lands' in s7(6) of the Land Act, 1927. According to the *Oireachtas Dictionary of Official Terms*, 'to develop building sites' is translated as 'ionaid tógála do chur ar aghaidh' in the (*Proceedings of the Public Accounts Committee*, 1927, p. xxiii, with 'fás' translating 'develop' in the 1928 *Proceedings*, p. xxix. 'Cumadóireacht d'fhorás' (as against 'saothrú' above), is cited in the same source as translating 'to develop an invention' in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1929; 'déanamh' is cited as translating 'develop (horse power)' and 'saothrachán' as translating

'development' in translations for the Department of Local Government and Public Health.

As David Greene points out in his monograph *The Irish Language* (1966, p. 57), 'forbairt is an old word meaning "growing, increasing", revived in recent years as an all-purpose equivalent for the English *development*'. According to the late Professor Greene, the native resources of the language were such that there was no necessity for the revival of the word 'forbairt', 'which, indeed, never meant "development" at any stage of its history'. Professor Greene states:

Unfortunately, many people are under the impression that such modern terms as *development*, *influence*, *interesting* represent essential concepts of human thought, and that no language can afford to be without them; yet, although they are all of Latin origin, not one of them occurs in Latin in anything resembling its modern meaning, and neither *development* nor *interesting* occurs in either the Authorised Version of the English Bible or the works of Shakespeare.... But most European languages, from Welsh to Russian, have accepted them either as loanwords, or calques.... It is not surprising that Irish has been under considerable pressure to admit equivalents, which could then be used with the freedom, and impreciseness, with which they are used in other languages; fortunately, the authority of de Bhaldraithe's *English-Irish Dictionary* has been brought to bear against the coining of unnecessary neologisms of this type. Thus under *development* we find *saothrú* (*na haighe*) ('cultivation [of the mind]'), *forleathnú* (*smaoinimh*) ('widening out [of an ideal]'), *tabhairt chun cinn* (*ceantair*) ('advancing [of a district]'); *forbairt* (*ceantair*) ('development [of a district]'), ... *tarlú* (happening); *toradh* (result); *imeachtaí* (proceedings); 'to await further developments': *fanacht le cor nua sa scéal* ('waiting for a new turn in the matter').

Nevertheless, thirty-three years later, 'forbairt' has gained common currency as a direct translation of 'development' – 'development scheme' is translated as 'scéim forbartha' in *Téarmaí Dlí*, for example – as has 'forbair' as a direct translation of the verb 'develop'. Note that *L. Mc Cionnaith* does not cite 'forbair' s.v. 'develop, -ment', focusing on translations of 'develop into' rather than 'develop'. *Dinneen*, however, translates 'forbraim' as 'I develop, grow, increase; irritate, bring to a crisis, strengthen' and translates 'forbairt' as 'act of increasing, growing, developing, bringing to a crisis; irritation; a growth, increase, or development; profit, emolument', citing '*díochur dubháilcí, forbairt subháilcí*, abolition of vices, development of virtues'. 'Development' is translated as 'forás, forbairt, eascarthain' in *Téarmaí Staire* (1934), all of which terms are avoided in the examples cited there:

The Greeks believed in the harmonious development of body and mind, *ba mhór ag na Gréagaigh cómhfhás cuirp agus intinne, nó bhí tóir ag na Gréagaigh ar*, etc. The King wished to be kept in touch with the latest development of the situation, *ba mhaith leis an Rí an t-athrughadh ba dheireannaighe a tháinig ar an sgéal a bheith ar eolus aige, ba mhian leis an Rí go gcuirfí i n-iúl do gach cor don sgéal do réir mar a thuitfeadh amach*.

Turning to the Acts, 'to develop, construct, maintain and administer industrial estates and factory buildings' is translated as 'easáit tionscail agus foirgnimh mhonarchan ... a fhorbairt, a dhéanamh, a chothabháil agus a riaradh'

in s11(iii) of the Industrial Development Act, 1969 (An tAcht um Fhorbairt Tionscail, 1969). We find 'forbair' in the same subsection alongside 'a chur ar aghaidh' in the following examples from the Acts: in s3(a) of the Higher Education Authority Act, 1971, 'furthering the development of higher education' is translated as 'forbairt ard-oideachais a chur ar aghaidh' and in s57(4) of the Finance Act, 1970, 'with a view to promoting industrial ... or other development' is translated as 'd'fhonn forbairt thionscail ... nó aon fhorbairt eile a chur ar aghaidh'.

*de réir dhúchais* 'Dúchas' is one of those terms, often emotive – like 'die Heimat' ('home, homeland, home [native] country') in German, for example – which are difficult to express in translation, carrying as they do many interconnected senses and having a long language-specific history behind them. *Ó Dónaill* translates 'dúchas' as (1) 'hereditary right or claim; birthright, heritage; ancestral estate, patrimony' (translating 'de réir dúchais agus reachta' as 'by traditional custom and law'), (2) 'native place or country, ancestral home; traditional connection', (3) 'kindred affection, natural affinity', (4) 'heredity, innate quality, natural bent' and (5) 'natural, wild, state; wildness, madness'. 'Dúthchas' is translated in *Dinneen* as 'nature; innate, intrinsic or ingrained quality; instinct, natural bent, heredity; ancestral stock or estate, one's home estate, district or country', translating 'do réir dúthchais' as 'inherently'. DIL translates 'dúthchas' as (a) 'hereditary right, claim by descent, birthright', (b) 'claim, privilege, custom', (c) 'inheritance, patrimony, territory', (d) 'native place or land', (e) 'connection, affinity, or attachment due to descent or long standing' and (f) 'inherited instinct or aptitude, natural (as opposed to acquired) tendency or bias'. It is based on 'dúthaig', translated in DIL as 'belonging to by virtue of descent or heredity'.

Turning to the Acts, in s20 of the Courts Act, 1971, 'whether the child is or is not a natural-born British subject' is translated as 'cibé acu atá nó nach bhfuil an leanbh ina ghéillsineach Briotanach de réir dúchais'. In the *Programme for a Partnership Government*, 1993-97, 'Our main priority will be to build a stronger indigenous industrial base' is translated as 'Mar thosaíocht, féachfaimid le bonn níos treise a chruthú don tionscal dúchasach' and 'deliveries of home-grown products' is cited as 'ar tháirgí dúchais a sholáthar' from translations of European legislation (CEE 1, 325).

Turning specifically to 'genius' (expressed in this Article as 'dúchas'), in *Foclóir Oifigiúil* 'native genius' is translated as 'dúchas', followed by the abbreviation for 'Leabhráin Choiste na dTéarmaí' (see below s.v. 'geilleagair'), with 'genius' itself being cited as 'ard-eagnaíocht, éirim' from the same source. *Téarmaí Staire* (1934) is the original source of these citations; we find the following entry there s.v. 'genius':

*Ard-eagnaidheacht*. The genius of the Romans for law and government, *éirim na Rómhánach chun reachtais is riaghaltais*. Native genius, *dúthchas*.

Having 'dúchas' qualified by 'a sinsear' reinforces the sense of ethnic inheritance but might also perhaps be considered tautology, though 'a sinsear' might be read as qualifying only 'gnás'. *De Bhaldraithe* translates 'genius' as (1)(a) 'ginias, sprid caomhnaithe', (2) 'sprid, mianach (aoise ar leith)' and (3)(a) 'féith (dúchais), bua ...'. *Dinneen* includes 'a vein of talent or genius; spirit, vigour' among the senses

of 'féith' and *Ó Dónaill* includes the figurative use, 'streak, strain, natural bent, talent', citing '*tá an fhéith ann chuige, it is in his nature*'. Professor Máirtín Ó Murchú remarks that while 'féith' is an individual talent, 'dúchas' may define a social group, large or small.

According to the official standard, while 'dúchas' would be lenited here, it would remain in the nominative case rather than the genitive (as here). See the chapter in *An Caighdeán Oifigiúil* entitled 'Foirm an Ainmnigh in ionad an Ghinidigh' (i.e. 'The Nominative instead of the Genitive Form'), p. 93, where it is stated that when a definite noun is in the genitive case, following another noun, the first noun is usually not inflected, but having its initial consonant lenited, when subject to a word or phrase which takes the genitive case – in this case, 'sinsear', genitive plural, being preceded by a possessive adjective, is a definite noun, therefore 'dúchas' and 'gnás', even though subject to a prepositional phrase, which takes the genitive case, are not inflected but simply lenited, i.e. 'de réir dhúchas is ghnás a sinsear'.

See the commentary on Article 14.5.2° regarding 'de réir' (which is translated as 'in accordance with' in *Téarmaí Dlí*); *Dinneen* cites '*ag caitheamh Gaedhilge leis de réir nótaí a shinnsir*', speaking to him in Irish in the ancestral way' from the Blasket Islands.

*gnás* 'Gnás' is translated as 'custom, usage' in *Ó Dónaill*, citing '*gnás na tíre, na haimisire*, the custom of the country, of the time' and '*de réir gnáis*, in the customary manner'. *Dinneen* translates 'gnás' as 'practice, fashion or habit; presence, company; a statute' with DIL translating this headword, based on cited examples of its usage from the eighth-century Glosses onwards, as (a) 'intercourse, companionship, frequentation' and (b) 'custom, usage, practice, manners', citing '*is comáith gnais caich diaraile*' ('the customs are equally good') from an early Irish law-tract. 'Gnás' is based on 'gnáth', translated in DIL as 'customary, usual, familiar, well-known'.

Turning to the Acts, in s11(3)(a) of the Transport (Miscellaneous Provisions) Act, 1971, 'Maidir le hoibleagáidí an Chomhchoiste ..., cibé acu dlí nó gnás is foras dóibh' translates 'The obligations, whether obtaining legally or by customary practice, of the Joint Committee'. In s13(3) of the First Schedule to the Capital Gains Tax Act, 1975, 'mura ndéileáiltear amhlaidh leo de réir ghnás stocmhargaidh sa Stát' translates 'unless they are so treated by the practice of a stock exchange in the State'. 'Gnás na nGiúdach' is cited as translating 'Jewish ritual method' in Statutory Instrument 48/175. In *Treaties establishing the European Communities* (1973, p. 245), '(le) hoibleagáidí forlionsa nach bhfuil baint ar bith acu, óna nádúr ná ó ghnás na tráchtála, le hábhar na gconarthaí sin' translates 'obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts'.

Turning to 'tradition', in s15 of the Shannon Electricity Act, 1925, '(any) ancient monument which in the opinion of the Minister is of public interest by reason of the historical, traditional, archaeological, or artistic interest attaching thereto' is translated as 'séadchomhartha ina mbeadh suim ag an bpuiblíocht dar leis an Aire, toisc stair, béaloideas, ársaíocht, no maise do bheith ag baint leis'. We find the following entry s.v. 'tradition' in *Téarmaí Staire* (1934):

Oral tradition, *tiodhnacal na sean, béaloideas na sean*. Facts transmitted by oral tradition, *seanchus a tháinig anuas tré bhéaloideas (ó bhéal go béal)*. They inherited the traditions of the Romans, *tháinig béasa na Rómhánach anuas chúcha*.

'Tradition' is cited in *Foclóir Oifigiúil* as being translated as 'sean-chuimhne shinsir', and 'traditional laws' as 'dlithe béaloideasacha', in *Stair an Bhíobla I* (edited by Máire Ní Mhuirgheasa from a manuscript written by Uaitéar Ua Ceallaigh c. 1726), with 'in consonance with its best traditions' cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'do réir mar is dual' in *Iris an Phuist*, 2/11/27. Neither *Dinneen* nor DIL appear to give 'traidisiún', the general modern translation of 'tradition', as a headword, *Dinneen* translating 'béalaireacht' as 'tradition' (citing Fr Francis Molloy's treatise on the Christian Doctrine in Irish, *Lucerna Fidelium* [published in Rome, 1676] as source), along with 'gnáth-chuimhne', which he also translates as 'constant remembrance'.

'Tradition' is simply translated as 'traidisiún' in more recent translations. 'Their education shall be entrusted to persons of a similar cultural tradition' is translated as 'is daoine arb ionann a dtraidisiún cultúrtha a thabharfaidh an t-oidreachas dóibh' in Article 24 of the Fourth Schedule to the Geneva Conventions Act, 1962, for example. In s7 of the *Joint Declaration* of 15 December 1993, 'when the genuine feelings of all traditions in the North must be recognised' is translated as 'nuair nach mór braithstintí macánta na dtraidisiún go léir sa Tuaisceart a aithint'; 'can accommodate all traditions' is translated as 'atá in ann freastal ar na traidisiúin go léir' in the *Report of the New Ireland Forum* (1984, 4.6), with 'while respecting their history, their culture and their traditions' being translated as 'agus a stair, a gcultúr agus a dtraidisiúin á n-urramú acu' in the *Treaty on European Union* (1992, p. 3). Finally, note how 'in all the diversity of their ... traditions', in the proposed new Article 3 contained in Article 29.7.3° (see below s.v. 'saíochta'), is translated as 'in éagsúlacht uile a ... dtraidisiún'.

*is rogha leo féin* 'Rogha' is translated as 'option' in *Téarmaí Dlí*, with 'déanaim rogha' translated as 'I exercise discretion'. 'Mar is rogha leat' is translated as 'as you choose' in *Ó Dónaill*, who cites '*is rogha liom imeacht anois*, I prefer to go now' and '*cibé acu is rogha leat*, whichever of them you like'. *Dinneen* translates 'is rogha liom' as 'I choose, elect'. We find 'is lib atá a rogu' ('it is you that have the choice') in the eighth-century Würzburg Glosses on the Pauline Epistles – see DIL s.v. 'rogu'.

Turning to modern legislation, 'mar is rogha leis an bhféichiúnaí breithiúnais' translates 'at the option of the judgment debtor' in s28(1)(b) of the Central Bank Act, 1971. In the Treaty establishing the European Atomic Energy Community, 'ag cibé céim den táirgeadh is rogha leis' translates 'at whichever stage of production he chooses' (*Treaties establishing the European Communities*, 1973, p. 550). Note that 'the right to live wherever one chooses without hindrance' is translated as 'ceart duine cónaí ina rogha áit, gan bhac' in the *Joint Declaration* of December 1993. 'Rogha' also translates 'preference' in the Acts – see, for example, s58(1) of the First Schedule to the European Assembly Elections Act, 1977, where 'the same order of preference' is translated as 'an t-ord céanna

rogha'. While 'roghnaím' is translated as 'I elect (i.e. in equity)' in *Téarmaí Dlí*, the general sense of 'roghnaigh' is 'choose, select' – see the *Treaties establishing the European Communities* (p. 1002), for example, where 'That judge shall be chosen by lot' is translated as 'Roghófar trí chrannchur an breitheamh sin'.

*a chinneadh* 'Cinneadh' is the verbal noun of 'cinn'. 'Cinnim' is translated as 'I determine (issue, etc.); I find (as a fact)' in *Téarmaí Dlí*, and as 'I fix, appoint, decide, resolve, agree, decree, determine, assign' in *Dinneen*. 'Cinn' is translated as 'fix, determine, decree' in *Ó Dónaill*, who cites '*comhairle a chinneadh*, to decide upon a course of action'. Like 'ceannas' below, the Old Irish verb 'cinnid' is based on 'cenn' ('head'); 'cinnid' is translated in DIL as (a) 'defines, fixes, settles' (an example of this sense being cited from the ninth-century Milan Glosses on the Commentary on the Psalms: '*sech is no cinned aimsir sóin*' ['that it should determine time']), (b) 'completes, finishes' and (c) 'decides (on a course of action), makes a decision'. Turning to the Acts, 'to have the matter determined by the tribunal' is translated as 'an t-ábhar a chur á chinneadh ag an mbinse' in s9(1)(d) of the Fourth Schedule to the Capital Gains Tax Act, 1975, for example.

*Deimhniú* 'Ireland affirms' is expressed as 'Dearbh-aíonn Éire' in Articles 29.1 and 29.2 ('International Relations').

'Deimhním' is translated as 'I certify; I vouch' in *Téarmaí Dlí*. *Ó Dónaill* translates 'deimhnigh' as 'certify; affirm, assure; check' and cites '*rud a dheimhniú*, to certify something, to confirm something' and '*breith cúirte a dheimhniú*, to affirm a court decision'. *Dinneen* translates 'deimhnighim' as 'I affirm, prove, verify, emphasise'. Old Irish 'deimnigid(ír)' is translated as 'confirms, certifies' in DIL, where examples are cited from the Glosses of the eighth century onwards – 'demnigid' glosses Latin 'confirmat' in the ninth-century St Gall Glosses on Priscian, for example. The verb 'deimnigid(ír)' is based on 'deimin', translated as 'sure, certain, undoubted' (as an adjective) and 'certainty, assurance, proof' (as a noun) in DIL.

Turning to the Acts, following *Téarmaí Dlí*, 'deimhnigh' generally translates 'certify' therein. In s75(4) of the Companies Act, 1963, for example, 'The registrar shall certify under his hand the registration of the order' is translated as 'Déanfaidh an clárathóir clárú an ordaithe ... a dheimhniú faoina láimh' and in s10(b) of the Finance Act, 1990, 'the aforementioned evidence shall include a certificate by an industrial development agency certifying that it has satisfied itself ... that ...' is translated as 'go mbeidh ar áireamh san fhianaise sin a dúradh deimhniú ó ghníomhaireacht forbartha tionscail á dheimhniú gur shásaigh sí í féin ... gur ...'.

Henry Murdoch, *A Dictionary of Irish Law* (2nd edition, 1993), has the following entry s.v. 'affirm': (1) 'To elect to be bound by a voidable contract', (2) 'To make a solemn declaration instead of an oath'. In *Téarmaí Dlí* 'I affirm (decree, etc.)' is translated as 'daingním' and 'I affirm (as an unsworn witness)' is translated as 'dearbhascaim', following the fourth Irish Legal Terms Order (S.I. No. 68 of 1949 – terms connected with Practice, Evidence and Procedure). In the *Treaty on European Union* (1992, p. 215), for example, 'The Conference affirms that ... the usual practice ... shall be continued' is translated as

'Daingníonn an Chomhdháil ... go leanfar den ghnáthchleachtas'. In s30(5) of the Road Traffic Act, 1933, 'and on the hearing of such appeal such Judge shall, if he affirms such conviction, confirm the consequential disqualification order made in respect of such person' is translated as 'agus ar éisteacht an athchomhairc sin déanfaidh an Breitheamh san, má dhaingníonn an ciontú san, daingniú ar an ordú di-cháilochta iarmartach do rinneadh maidir leis an duine sin'. In s30(2) of the First Schedule to the European Assembly Elections Act, 1977, on the other hand, we find the following as the form of the oath and affirmation to be administered by the presiding officer to the Assembly elector:

I swear by Almighty God (*or* – do solemnly, sincerely and truly declare and affirm – *as the case may be*) that my sight is so impaired ... that I am unable to vote without assistance. *Bheirim Dia Uilechumhachtach* (nó – *Dearbhaím agus dearbhascaim go sollúnta, go fireannach agus go hionraic* – de réir mar a bheidh) *go bhfuil mallachar radhairc chomh mór sin orm ... nach féidir liom vótáil gan chabhair.*

Note, however, that 'affirm' is sometimes translated as 'dearbhaigh' in the Acts – in the First Schedule to the Diplomatic Relations and Immunities Act, 1967, for example, 'The States Parties to the present Convention, ... Affirming that the rules of customary international law should continue ...' is translated as 'Tá na Stáit is Páirtithe sa Choinbhinsiún seo, ... Á dhearbhu dóibh gur cheart go leanfadh ...' and in the *New Ireland Forum Report* (1984, 3.16), 'the British Government affirmed ...' is translated as 'rinne Rialtas na Breataine dearbhuithe'. As stated above, 'Ireland affirms ...' is expressed as 'Dearbh-aíonn Éire ...' in Articles 29.1 and 29.2 of the Constitution. 'Dearbhaigh' is translated as 'declare, affirm; assure, confirm; attest, prove' in *Ó Dónaill*, with 'dearbhaím' translated as 'I declare' in *Téarmaí Dlí*. Finally, note that in the *Joint Declaration* of 15 December 1993 – perhaps following the present Article of the Constitution – 'notwithstanding the solemn affirmation by both Governments in the Anglo-Irish Agreement that ...' is translated as 'd'ainneoin an deimhniú sollúnta ón dá Rialtas sa Chomhaontú Angla-Éireannach nach ...'.

Looking at the earlier Acts, in s2(9) of the Damage to Property (Compensation) Act, 1923, 'where such decree has been varied or affirmed upon an appeal' is translated as 'in aon chás 'nar dineadh an aithne sin d'atharú no do dhaingniú ar athchomharc'. In s12(1) of the same Act, however, 'the Judge may make an order for the examination of such person upon oath or affirmation' is translated as 'féadfaidh an Breitheamh ordú do dhéanamh chun an duine sin do scrúdú fé mhóid no fé dhearbhu', while in s8(2) of the Treasonable Offences Act, 1925, 'to take or enter into ... an oath, affirmation or declaration' is translated as 'mionn do thabhairt no deimhniú no dearbhú do dhéanamh', with 'deimhniú' also being cited in the *Oireachtas Dictionary of Official Terms* as translating 'affirm' in the *Proceedings* of Dáil Éireann, 16/1/24.

Of the two terms expressing 'affirm' in the Constitution, 'dearbhaigh' might be favoured in the present context. 'Daingníonn' might appear to carry the sense of 're-affirm'. Professor Máirtín Ó Murchú remarks that in the literary language we would probably have 'maíonn' in this context.



*dochloíte* This adjective, which expresses 'indefeasible' in the present Article, expresses 'imprescriptible' in Articles 41.1.1° and 42.5, along with 'conclusive' in Articles 25.4.5° and 25.5.3°. 'Fianaise dochloíte' and 'toimhde dochloíte' are translated respectively as 'conclusive evidence' and 'conclusive presumption' in *Téarmaí Dlí*. This compound of the prefix 'do-' and 'cloíte', participle of 'cloigh', is translated as 'indomitable, invincible, indefatigable' in *Ó Dónaill*, who translates 'fianaise dhochloíte' as 'irrefutable evidence'. *Dinneen* translates 'do-chlaoidhte' as 'indefatigable, invincible, unconquered'. DIL cites two examples of 'dochloíte', translated as 'invincible, impregnable', the earliest being from the fifteenth-century *Book of Lismore*. 'Cloíte' is based on 'cloid', the general meaning of which is 'overthrows, vanquishes, conquers, destroys', according to DIL.

Turning to the Acts, in s8(2) of the Foyle Fisheries Act, 1952, probably following the present Article of the Constitution, 'absolute and indefeasible title' is translated as 'teideal iomlán dochloíte' and in s38(1) of the Finance Act, 1970, 'limited to take effect indefeasibly on the death of the survivor of the donor' is translated as 'teorannaithe chun éifeacht dochloíte a ghlacadh ar bhás mharthanóir an deontóra'. 'Imprescriptible rights' is translated as 'cearta dochloíte' in s3(1) of the Adoption Act, 1988, while in s64(3)(a) of the Building Societies Act, 1989, 'may be conclusively proved' is translated as 'féadfar a chruthú go dochloíte', with 'any such appeal shall be final and conclusive' being translated as 'is cinneadh críochnaitheach dochloíte a gcinneadh' in s416(4) of the Income Tax Act, 1967, for example.

'Indefeasible' in Article 1 of the Constitution echoes the third paragraph of the Easter Proclamation which reads as follows: 'We declare the right of the people of Ireland to the ownership of Ireland ... to be sovereign and indefeasible'. (See below s.v. 'ceannasach', regarding a recent Irish version of this Proclamation, which seems to follow closely the wording of the present Article of the Constitution.) According to Liam de Paor, *On the Easter Proclamation and Other Declarations* (1997, p. 63), this passage in the Proclamation is but a condensation of Pearse's final pamphlet, *The Sovereign People* (31 March 1916), in which Pearse refers to a secret manifesto issued to the Friends of Freedom in Ireland in June 1791, 'attributed to Tone in collaboration with Neilson and others', and from which he quotes the following passage:

The inherent and indefeasible claims of every free nation to rest in this nation – the will and the power to be happy, to pursue the common weal as an individual pursues his private welfare, and to stand in insulated independence, an imperial people. (cited *ibid*, p. 64)

Liam de Paor interprets 'sovereign and indefeasible (right)' as 'a right (of the people of Ireland) which is supreme and cannot be annulled'. 'Indefeasible' is defined in the *Shorter Oxford English Dictionary* as 'not defeasible; not liable to be made void, or done away with; that cannot be forfeited', while 'imprescriptible' is defined in *A Dictionary of Irish Law* as 'that which cannot be rightfully taken away, lost or revoked; inviolable'. Note that *De Bhaldraithe* translates 'indefeasible' as '(ceart) dochloíte, dochealaithe', also translating 'imprescriptible' as 'dochealaithe' – 'imprescriptible rights' is translated as 'cearta dochealaithe' in *Téarmaí Dlí* and 'dochealaithe' is

translated as 'indefeasible, imprescriptible' in *Ó Dónaill*, who cites 'ceart dochealaithe, indefeasible right'.

*doshannta* We find this adjective again in Articles 41.1.1° and 42.1, where it also expresses 'inalienable', with 'sannadh' expressing 'alienation' in Articles 10.3 and 10.4, while 'a shannadh' expresses 'to transfer (property)' in Article 43.1.2°. 'Doshannta', composed of the prefix 'do-' and the participle of 'sann', is translated as 'unassignable, inalienable' in *Ó Dónaill*. It does not seem to be given as a headword in *Dinneen*. 'Sannaim' is translated as 'I assign' in *Téarmaí Dlí*, 'sannaid' being translated as 'separates, alienates (land)' in DIL, where examples are given from early Irish law-tracts in particular. See further the commentary on Article 43.1.2° where 'sann' expresses 'to transfer'.

Turning to the Acts, in the Margin Title of s16 of the Children's Allowances Act, 1944, 'Children's allowances to be inalienable' is translated as 'Liúntais leanbhaí do bheith neamh-inaistrithe'. 'Neamh-inaistrithe', however, translates 'non-transferable' in s61(5) of the Schedule to the European Assembly Elections Act, 1977, for example. 'Alienable' is translated as 'do-inaistrithe' in the Widows' and Orphans' Act, 1935 (p. 29, reference in *Foclóir Oifigiúil*). 'The alienation, assignment ... of a holding' is translated as 'aistriú, sana ... ar ghabháltas' in s65(2) of the Land Act, 1923 and, in s10(2) of the Army Pensions Act, 1923, 'No pension ... shall be capable of being taken in execution or otherwise alienated by process of law for the payment of any debts' is translated as 'Ní féadfar aon phinsean ... do thógaint i bhfeidhmiú ná a seilbh d'aistriú in aon tslí eile tré chúrsa dlí in íoc aon fhiacha', while 'to alienate a residence, etc.' is translated as 'scarúint (le)' in the Methodist Church in Ireland Act, 1928 (p. 27, reference in the *Oireachtas Dictionary of Official Terms*). 'Aistrim' is translated as 'I transfer' in *Téarmaí Dlí*, with 'scaraim le' translated as 'I relinquish'.

Article 1 of the Constitution echoes the 'Message to the Free Nations of the World' from the Opening Session of the First Dáil Éireann, 21 January 1919, among other documents significant in Irish political history (see J.M. Kelly, *The Irish Constitution*, p. 11, n. 2). This Message states that in every generation Ireland 'defiantly proclaimed her inalienable right of nationhood'. While this is expressed in French as 'elle a affirmé hardiment à chaque génération ... ses inaliénables droits de nation', in Irish it is expressed as 'níor leig sí riamh do ré dul thairste gan an náisiúntacht is dual di féin ar leithligh do dhearbhadh go dána ...' (*Dáil Éireann, Minutes of Proceedings of the First Parliament of Ireland, 1919-1921*, pp. 18-20). Regarding the background of the word 'inalienable' in the Constitution, see Liam de Paor, *op. cit.*, p. 63:

The American Declaration speaks of 'unalienable' rights (of 'all men'), that is, rights which cannot be transferred to another. The French Declaration lists rights that are 'natural, imprescriptible and inalienable' (in Tom Paine's contemporary translation), that is, rights ('of man') which are founded in nature and can neither lapse through the passage of time nor be transferred.

'Inalienability' is defined as 'not transferable' in Henry Murdoch, *A Dictionary of Irish Law*, and as 'not alienable; that cannot be transferred from its present ownership or relation' in the *Shorter Oxford English Dictionary*. 'Alienate' is defined as 'to exercise the power of disposing or

transferring property' in *A Dictionary of Irish Law*. 'I alienate' is translated as 'coimhthím' in *Téarmaí Dlí*, with 'alienation' translated as 'coimhthiú'. 'The alienation of a cottage' is translated as 'coimhthiú iostáin' in s2(2) of the Labourers Act, 1965, and 'transfer or alienate his share in the Company' is translated 'a scair sa Chuideachta a aistriú nó a choimhthiú' in s11(2) of the Fóir Teoranta Act, 1972. In the *New Ireland Forum Report* (1984), 'deep and growing alienation' is translated as 'tá siad coimhthithe go mór, agus á gcoimhthiú tuilleadh'. 'Dochoimhthithe' is offered as a possible literal translation of 'inalienable' rather than 'doshannta' or 'neamh-inaistrithe' in the direct translation of this Article below.

*ceannasach* This headword also expresses 'sovereign' in Article 5. 'Ceannasach' is translated as (1) 'ruling, sovereign', (2) 'commanding, masterful' and (3) 'forward, self-assertive; bold, assured' in *Ó Dónaill* and as 'powerful, commanding; having supreme power; important; haughty; noble, good' in *Dinneen*. Only three examples are cited in DIL s.v. 'ceannasach', all of them fairly recent: 'fer ... cendasach' ('authorative' man) from the seventeenth-century *Annals of the Four Masters*, 'macaomh ... ceannasach' from Keating's seventeenth-century poetry and the final example, 'go ceannasach' ('haughtily'), from the glossary in *Egerton 158*, a paper manuscript in the British Museum, written in Cork in the eighteenth century. 'Cennasach' is based on 'cennas' (translated as 'headship, lordship, superiority, precedence' in DIL), which in turn is based on 'cenn' ('head').

In the Irish version of the 1916 Proclamation contained in Mark Tierney's *Ón nGorta Anall* (1982), 'We declare the right of the people of Ireland to the ownership of Ireland ... to be sovereign and indefeasible' is translated as 'Dearbhaímid gur ceart ceannasach dochloíte ceart mhuintir na hÉireann chun tír na hÉireann', with 'their right to national freedom and sovereignty' translated as 'a gceart chun saoirse agus ceannais náisiúnta' – see above s.v. 'dochloíte', for Liam de Paor's commentary on 'sovereign', including his reference to Pearse's *The Sovereign People* (1916), in his monograph on the Easter Proclamation.

Turning to the Acts, 'Sovereign States' is translated as 'Stáit cheannasacha' in Article 14.5(a) of the Second Schedule to the Radiological Protection Act, 1991; 'the sovereign equality of States' is translated as 'comhionannas ceannasach Stát' in the First Schedule to the Diplomatic Relations and Immunities Act, 1967, and 'of any foreign sovereign State' is translated as 'le haon Stát ceannasach iasachta' in s4 of the Second Schedule to the Defamation Act, 1961. In *Treaties establishing the European Communities* (1973, p. 538), 'the signature of a State acting in its sovereign capacity' is translated as 'síniú Stáit ag gníomhú dó ina cháil cheannasach'. In the *Anglo-Irish Agreement* of 1985, however, 'sovereign united Ireland' is translated as 'Éire aontaithe fhlaithiasach' and this is followed in the *Joint Declaration* of 15 December 1993, where 'a sovereign united Ireland' is translated as '(le) hÉirinn aontaithe fhlaithiasach'.

'Sovereignty' is translated as 'flaitheas' in s17(3) of the Air Navigation and Transport Act, 1936, where 'Any reference in the First Schedule to this Act to the territory of any High Contracting Party to the Warsaw Convention shall be construed as a reference to the territories subject

to his sovereignty, suzerainty, mandate or authority, in respect of which he is a party' is translated as 'Aon tagairt sa Chéad Sceideal a ghabhann leis an Acht so do chrích aon Ard-Pháirtí Chonnarthaigh i gConvensiún Warsaw léireofar í mar thagairt do sna críocha, fé n-a fhlaithias, fé n-a thiarnas, fé n-a mhandáid, no fé n-a údarás, dar páirtí é'. 'Sovereignty' is translated as 'oireachas, flaitheas' in *Téarmaí Staire* (1934), while *Dinneen* cites 'oireachas Éireann, the Irish throne'. 'Flaithius'/'Flaitheas' is translated principally as 'rule, sovereignty' in DIL, where 'cach rí gaibés fláithiús' ('every king who assumes sovereignty') is cited from the Glosses on the Psalms contained in a tenth-century manuscript in the library of St John's College, Cambridge. 'Flaithius' is based on 'flaith', translated as 'lordship, sovereignty, rule' in DIL, where examples are cited from the eighth-century Glosses onwards, this term also expressing 'a chief, lord' in Irish social organization – see DIL for references to 'flaith' from early Irish law-tracts. Note that in a draft of Article 5 we find 'Árd-fhlaithias is eadh Stát na hÉireann gurb iad muinntir na dúithche atá ina cheannas' (see Breandán Mac Giolla Choille, op. cit., p. 67), this Article reading as follows in the popular edition:

Is Stát ceannasach, neamhspleách, daonlathach Éire.  
*Ireland is a sovereign, independent, democratic State.*

Finally note that 'sovereign' is translated as 'ríonach' in Article 6 of the Aliens Order, 1946 (see *Téarmaí Oifigiúla*), that 'ceannasach' translates 'paramount' in s11 of the First Schedule to the Companies Act, 1963, where 'The company shall have a first and paramount lien on every share...' is translated as 'Beidh tús-lian ceannasach ag an gcuideachta ar gach scair', and that 'flaitheasach' is translated as 'heavenly, celestial' in *Ó Dónaill*, DIL citing two examples of 'flaitheasach' in the sense of 'belong to the heavens, celestial', from the Irish *Corpus Astronomia* – this being, as Professor Máirtín Ó Murchú remarks, a particular development of 'flaitheas Dé'.

Regarding translating 'ceannasach' as 'commanding' above, Máirtín Ó Murchú comments that 'commanding' has two senses in English, that of adjective and participle, and would be against translating 'ceannasach' as 'commanding' for fear the sense of the participle 'commanding' would be understood, which sense does not suit the context. Note that the sense of the adjective 'commanding' is very often expressed in Irish by 'ceannais', that is the genitive singular of 'ceannas' as attributive adjective, rather than 'ceannasach'. 'Commanding' was included in the translation above to illustrate the set of senses of 'ceannasach' other than 'sovereign'.

*saíocht* 'An tSaíocht Náisiúnta' expresses 'National Culture' in Article 18.7.1<sup>o</sup>; in the proposed new Article 2 contained in Article 29.7.3<sup>o</sup> (the Amendment following the Belfast Agreement), however, 'cultural identity and heritage' is rendered as 'féiniúlacht agus oidhreacht chultúir'.

'Saíocht' is translated as 'learning, erudition' in *Ó Dónaill*, with 'mastery, accomplishment' given as senses from earlier literature. *Dinneen* translates 'soidheacht' as 'wisdom, lore, culture, expert knowledge; sages (collectively)'. Earlier 'saidecht' is translated as 'skill, mastery, accomplishment (in an art or craft)' in DIL; this abstract noun is based on 'sú', translated in DIL as I(a) 'man of learning, scholar, wise man, sage', (b) 'head of a monastic or poetic school'; and II 'expert, master'. Professor Ó Murchú recommends

'inherited high culture' as a translation of 'saíocht'. See further the commentary of Article 18.7.1<sup>o</sup>.

Neither *Dinneen* nor DIL seem to have the headword 'cultúr', the usual translation of 'culture' today. The date 1510 follows the following figurative sense of 'culture' in the *Shorter Oxford English Dictionary*: 'Improvement or refinement by education and training', with the date 1805 following the following absolute sense: 'The training and refinement of mind, tastes, and manners; the condition of being thus trained and refined; the intellectual side of civilization'. See further Jim O'Donnell, *Wordgloss* (1990, p. 192) s.v. 'politics':

*Colere*, the Latin word from which 'cultural' derives, means 'to tend to', 'to cultivate'; 'culture' is sometimes used in a comprehensive sense to mean 'way of life' but here it is used in a restricted sense to cover education, the arts, language, leisure activities.

'Culture' is translated as 'cultúr' in *L. Mc Cionnaith*, who also refers the reader to 'refine', 'learning', 'polite', while *De Bhaldraithe* translates 'culture' as 'cultúr, oiliúint, saothúilacht'. In s5(1)(f) of the Institute for Advanced Studies Act, 1940, 'of the cultural and social background of Celtic civilisation' is translated as 'ar chúlrath chultúrtha agus shóisialta na sibhialtacha Ceiltighe' and in Schedule (B) to the Appropriation (No. 2) Act, 1947, 'certain Miscellaneous Educational and Cultural Services' is translated as 'Seirbhísi Ilghnéitheachta áirithe Oideachais agus Cultúir'. 'Culture media' is translated as 'méidia cultúir' in *Foclóir Oifigiúil*, followed by the abbreviation for the Department of Local Government, 787/39. Turning to the modern Acts, the wording of the Constitution as regards 'culture' is followed in s4 of the Higher Education Authority Act, 1971, where 'An tÚdarás shall bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture' is translated as 'coimeádfaidh sé i gcumhne i gcónaí na haidhmeanna náisiúnta atá ann an Ghaeilge a aisiriú agus an tsaocht náisiúnta a chaomhnú agus a fhorbairt'. Similarly, in the *New Ireland Forum Report* (1984, 4.13), 'all cultural, political and religious belief can be freely expressed and practised' is translated as 'saorhead a bheith acu a mbarshamhla saíochta, polaitíochta agus creidimh a chur os ard agus a chleachtadh'. In general, however, 'cultúr' expresses 'culture', the recent 'Department of Arts, Culture and the Gaeltacht', for instance, being styled 'An Roinn Ealaíon, Cultúr agus Gaeltachta' in Irish. In s33(3) of the Capital Gains Tax Act, 1975, for example, 'for educational, cultural or recreational purposes' is translated as 'chun críocha oideachais, cultúir nó caitheamh aimsire', while in the *Treaty on European Union* (1992, p. 47), 'their cultural and linguistic diversity' is translated as 'a n-éagsúlacht chultúrtha agus teanga', with 'cultural heritage' being translated as 'oidhreacht chultúrtha'. 'Cultural Relations Committee' is translated as 'An Coiste um Chaidreamh Cultúrtha' in the *Dáil Order Paper* of 24/6/1980, while 'the National Cultural Institutions Bill, 1996' is cited in Irish as 'an Bille um Fhorais Chultúir Náisiúnta, 1996'.

*geilleagair* The adjective 'geilleagrach' expresses 'economic' in Articles 15.3.1<sup>o</sup>, 45.2.v and 45.4.1<sup>o</sup>, with 'the European Economic Community' being cited by its official Irish title '(de) Chomhphobal Eacnamaíochta na hEorpa' in Article 29.4.3<sup>o</sup>.

'Geilleagar' (of which we have the genitive singular in the present Article) is translated as 'economy', following the abbreviation for 'Administration', in *Ó Dónaill*, who cites 'geilleagar na tíre, the national economy' and 'geilleagar talmhaíochta, agronomy'; *Ó Dónaill* translates 'geilleagrach' as 'pertaining to economy'. 'Eacnamaíocht' is translated by *Ó Dónaill* as (1) 'economy', citing 'eacnamaíocht pholaitiúil, political economy', (2) 'economics' and (3) 'cúiseanna eacnamaíochta, economic reasons'. As stated by Jim O'Donnell and Seán de Fréine, *Ciste Cúrsaí Reatha* (1992, p. 94), the Greek word 'oikonomia' ('oikos' ['house'] combined with 'nomus' ['law']) is the original source of the English terms 'economy' and 'economics' but, while 'economics' is expressed as 'eacnamaíocht' in Irish, a new word was composed to express 'economy', i.e. 'geilleagar' ('geall' combined with 'eagar' – *ibid*, p. 121). 'Eacnamaíocht', however, is not confined to expressing 'economics'; while 'geilleagar' seems to be the favoured translation of 'economy' in Irish legislation, the genitive of 'eacnamaíocht', 'eacnamaíochta', or the adjectival form 'eacnamaíoch', seem to be the favoured translation of 'economic'. This is vividly illustrated in s2(2) of the Ministers and Secretaries (Amendment) Act, 1977, the Act which established the 'Department of Economic Planning and Development', styled in Irish 'an Roinn Pleanála agus Forbartha Eacnamaíochta', while 'economy' itself is translated as 'geilleagar'; s2(2) reads as follows:

to promote and co-ordinate economic and social planning for the development of the economy both generally and as respects different sections thereof and different regions of the country .... *pleanáil eacnamaíochta agus sóisialach a chur ar aghaidh agus a chomhoirdniú chun an geilleagar a fhorbairt i gcoitinne agus maidir le hearnálacha éagsúla de agus maidir le réigiúin éagsúla den tír.*

In s6(c) of the Liability for Defective Products Act, 1991, 'for an economic purpose' is translated as 'chun críche eacnamaíche' and in s96(1) of the Fisheries Act, 1939, 'the economic conditions affecting the commercial development of fisheries' is translated as '(i dtaobh) na gcoinníollacha eacnamaíochta a bhaineann le hiascaigh d'fhorbairt ó thaobh na tráchtála'.

Turning to translations of European legislation, we find again that while 'eacnamaíochta' and 'eacnamaíoch' are favoured as translations of 'economic' – with the 'European Economic Community' itself, as we have seen, being officially styled 'Comhphobal Eacnamaíochta na hEorpa' – 'geilleagar' generally translates 'economy'. We find 'economies of Member States' translated as 'geilleagair na mBallstát' in *Treaties establishing the European Communities* (1973, p. 200), 'the various branches of the economy' as 'bránsí éagsúla an gheilleagair' (p. 247) and 'unity of their economies' as 'aontacht a ngeilleagair' (*ibid*, p. 173). Similarly in the *Treaty on European Union* (1992, p. 3), 'to establish an economic and monetary union' is translated as 'aontas eacnamaíoch agus airgeadaíochta a bhunú', while 'into the world economy' is translated as 'sa gheilleagar domhanda' (p. 60).

We do, of course, find exceptions to the usages noted above. In s1(1) of the Prices (Amendment) Act, 1965, for example, 'Whenever and so often as the Government are satisfied that the condition of the national economy is such that it is necessary to maintain stability of prices

generally' is translated as 'Aon uair agus gach uair is deimhin leis an Rialtas go bhfuil eacnamaíocht an náisiúin sa riocht gur gá praghsanna i gcoitinne a chobhsú'. 'Economic and Social Council of the United Nations' is translated as 'Comhairle Gheilleagrach agus Sóisialach na Náisiún Aontaithe' in s20(2)(c) of the Poisons Act, 1961. In s8 of Article XII of the Bretton Woods Agreement Act, 1957, 'cora airgeadaíochta nó geilleagair' translates 'monetary or economic conditions', with 'the general international economic situation' being translated as '(ar) chúrsaí geilleagair idirnáisiúnta i gcoitinne' in s3(a) of Article VII. In s6 of the Schedule to the Companies (Amendment) Act, 1986, 'useful economic life' (in relation to a fixed asset) is translated as 'saol eacnamúil úsáideach'.

Neither 'geilleagar' nor 'eacnamaíocht' seem to be given as headwords in *Dinneen*, where we find 'fearachas' translated as 'economy, husbandry', with 'fearachas tigh is baile' translated as 'thrift and economy'. 'Ní hamháin d'éifeachtúlacht ach fós do bhaileachas' translates 'not only efficiency, but also to economy' in s20 of the 'Limerick County Borough Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'necessity for economy' being translated as 'gá atá le bheith fearachasach' in *Iris an Phuist*, 12/10/1927 (cited in the *Oireachtas Dictionary of Official Terms*). 'Có-ionmhasach' translates 'economic' in Article 45 of the 1922 Constitution, with 'the economic welfare of the district' being translated as 'staid chó-ionmhuis an cheanntair' in s10(2)(b) of the Damage to Property (Compensation) Act, 1923.

Turning to 'eacnamaíocht' in the early Acts, in s2(1) of the Railways (Existing Officers and Servants) Act, 1926, 'or other economic cause' is translated as 'no de chúis eile eacnomíochta' and 'any matter affecting the general economic and other activities and conditions' is translated as 'éinní a bhaineann le gníomhachtaí agus cor an tsaol go generalta i gcúrsaí eacnomíochta agus eile' in s2 of the Statistics Act, 1926. 'Eacnomíocht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'economy' in the Limerick Harbour Act, 1926 (p. 29). 'Eacnomiciúil' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'economic' in a 'Cover of Official Reports of Dáil Debates' (abbreviated as D.D.), 29/5/1923, and 'coiste eacnomice' translates 'Economic Committee' in D.D. 21/11/1928, with 'Coiste Eacnomíochta' cited in the *Proceedings* of Dáil Éireann, 29/135. 'Economic interests' is translated as 'leasanna eacnamúla' in the Local Government Act, 1941 (cited in *Téarmaí Oifigiúla*) and 'economically' is translated as 'go heacnamúil' in the Town and Regional Planning Act, 1934 (ibid).

*L. Mc Cionnaith* translates 'economy (political, &c.)' as 'eacnomaidheacht' and 'economist' as 'eacnomaí', followed by the abbreviation for 'Terms published by Department of Education (*Foclóir Staire, Téarmaí Gramadaighe, &c., Téarmaí Eoluigheachta, Téarmaí Ceoil*)'. 'Economic statistics' is translated as 'staitistíochta eacnomiceamhla' in *L. Mc Cionnaith*, followed by the abbreviation for 'Terms from Staff of Dáil, *Foclóir Oifigeamhail*' ('economic and social statistics, *staitistíochta eacnomiciúla agus sóisialta*') is cited in *Oireachtas Dictionary of Official Terms*, from D.D., 29/5/23). *L. Mc Cionnaith* translates 'Economy (sci.)' as 'geilleagar' and 'economist' as 'geallagraí', both of which are followed by the abbreviation from 'Terms published by Department of Education'.

*De Bhaldraithe* translates 'economic' as 'eacnamaíochta,

geilleagrach', 'eacnamaíoch' being one of the translations of 'economical' given therein. 'Economics' is translated as 'eacnamaíocht (pholaitiúil)', with 'the economics of a country' translated as 'geilleagar tíre'. 'Economist' is translated as 'eacnomaí, geilleagraí' and 'political economy' as 'eacnamaíocht pholaitiúil, geilleagar polaitiúil'. Finally, note that *Ó Dónaill* translates 'eacnamaíoch' as 'economic(al)', giving 'eacnamúil' as a variant. Note also that 'by economic necessity' is expressed as 'de dheasca uireasa' (lit. 'because of want') in Article 41.2.2°.

*sinsear* Note that 'ár sinisir' translates 'our fathers' in the *Preamble*, for which see the commentary thereon, and Appendix 4 on the later Amendments.

*caidreamh* See the commentary on Article 29.3.

### Standardised Irish text

Deimhníonn náisiún na hÉireann leis seo a gceart doshannta, dochloite, ceannasach chun cibé cineál Rialtais is rogha leo féin a bhunú, chun a gcaidreamh le náisiúin eile a chinneadh, agus chun a saol polaitíochta is geilleagair is saíochta a chur ar aghaidh de réir dhúchas is ghnás a sinsear.

### Direct translation

Daingníonn<sup>1</sup> náisiún na hÉireann leis seo a cheart<sup>2</sup> dochoimhthithe<sup>3</sup>, dochealaithe<sup>4</sup>, agus flaitheasach<sup>5</sup> chun a chineál<sup>6</sup> féin Rialtais a roghnú, chun a chaidreamh<sup>7</sup> le náisiúin eile a chinneadh, agus chun a shaol<sup>8</sup> polaitíochta, eacnamaíochta<sup>9</sup> agus cultúrtha<sup>10</sup> a fhorbairt, de réir a dhúchais<sup>11</sup> agus a thraidisiún<sup>12</sup> féin.

### Variants

- 1 'Dearbhaíonn', 'Dearbhascann'
- 2 'a gceart'
- 3 'doshannta'
- 4 'dochloite'
- 5 'ceannasach'
- 6 'a gcineál'
- 7 'a gcaidreamh'
- 8 'a saol'
- 9 'polaitiúil, eacnamaíoch'
- 10 'cultúr'
- 11 'de réir a fhéithe dúchais'
- 12 'a ndúchais agus a dtraidisiún'

## ARTICLE 2 AIRTEAGAL 2

### TÉACS GAEILGE

Is é oileán na hÉireann go hiomlán, maille lena oileáin agus a fharraigí teorann, na críocha náisiúnta.

### LITERAL ENGLISH TRANSLATION

The island of Ireland entirely, along with its islands and its bordering/territorial seas, is the national territories/territory.

### ENGLISH TEXT

The national territory consists of the whole island of Ireland, its islands and the territorial seas.

### Divergences between the official texts

- 1 The English text refers to 'The national territory' while the Irish text refers to 'na críocha náisiúnta' ('the national territories/territory'), i.e. the plural form of 'críoch'; this plural form, however, is sometimes used in the sense of singular 'country'.
- 2 The Irish text makes 'its islands and the territorial seas' a sub-clause of 'the whole island of Ireland' – i.e. 'maile lena oileáin agus a fharraigí teorann' ('along with its islands and its territorial seas') – the emphasis being on the island of Ireland, with which phrase the Irish text commences.
- 3 The Irish text refers to 'its (i.e. the island of Ireland) territorial seas' ('a fharraigí teorann'), while the English text refers to 'the territorial seas'.

### Commentary

*críocha* The plural of 'críoch', this form expressing the singular 'territory' in Article 3 also. Note, however, that in the proposed new Article 3, contained in Article 29.7.3°, following the Amendment of the Constitution after the British-Irish Agreement concluded in Belfast on 10 April 1998, 'territory' is rendered as 'críoch' rather than 'críocha', with 'all the people who share the territory of the island of Ireland' being rendered as 'na daoine go léir a chomhroinneann críoch oileán na hÉireann i bpáirt lena chéile'.

*Dinneen* includes 'region, territory, land' among the senses of 'críoch', stating that 'críoch' in the sense of 'country, etc.' is often in the plural, and refers the reader to Latin 'finis' and 'fines'. Latin 'finis', is translated as 'a boundary, limit, border ... in plural borders, and hence territory, land, country enclosed within boundaries' in Charlton T. Lewis and Charles Short's *Latin Dictionary* (1890). DIL translates 'crích' as (a) 'boundary, limit (of territory), end, aim, purpose' and (b) 'confines, territory, district, land (in sg. and pl.)', and cites examples from the Glosses of the eighth century onwards, including 'hifar crichaib fadisin' ('in your own territories') from the ninth-century Milan Glosses on the Commentary on the Psalms. Note how E.G. Quin, General Editor of DIL (1953-75), in his edition of the text *Stair Ercuil, a Bás* (Life and Death of Hercules, p. 73), translates 'Ro fagaib in tremile cricha na Greige iar sin' as 'The great warrior then left the land of Greece'.

Regarding those two senses above of 'crích' in DIL, see Francis John Byrne, 'Tribes and Tribalism in Early Ireland' (*Ériu* 22, 1971, p. 162):

I should venture to propound the hypothesis that Irish history between the seventh and tenth centuries presents us with the spectacle of a tribal society being transformed by the introduction of a dynastic polity to a state wherein territorial lordship replaces hegemony over tribes as a political principle. By this I do not mean to imply that the archaic 'tribes' had no territorial sense (in this context it is interesting to note the semantic equivalence between the Irish *crích* 'border', secondarily 'territory', and the Latin *fines*), but merely that 'people' rather than 'district' was the concept uppermost in men's minds when they spoke of the *tuath*.

The proposed new Article 2, contained in Article 29.7.3°, following the 1998 Amendment of the Constitution,

replaces the emphasis on 'district' in the present Article 2 with an emphasis on 'people':

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage. *Tá gach duine a shaolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, i dteideal, agus tá de cheart oidhreacht a aige nó aici, a bheith páirteach i náisiún na hÉireann. Tá an teideal sin freisin ag na daoine go léir atá cáilithe ar shlí eile de réir dlí chun bheith ina saoránaigh d'Éirinn. Ina theannta sin, is mór ag náisiún na hÉireann a choibhneas speisialta le daoine de bhunadh na hÉireann atá ina gcónaí ar an gcoigríoch agus arb ionann féiniúlacht agus oidhreacht chultúir dóibh agus do náisiún na hÉireann.*

'Críoch' is translated as (1) 'limit; boundary', (2) 'region, territory' and (3) 'end ...' in *Ó Dónaill*, who cites '*críocha Laighean, na nDéise*, the territories of Leinster, of the Decies'. 'Críoch Cuinn' is a poetic name of Ireland, cited in DIL from the *Martyrology of Donegal*, for example. Note that *De Bhaldraithe* translates 'territory' as 'fearann, ceantar, dúiche, críocha'.

Turning to the Acts as regards the question of the plural 'críocha', we find 'críoch' and 'críocha' alternating with one another therein. In s4(2) of the Oireachtas (Allowances to Members) Act, 1938, 'a normal place of residence within the national territory' is translated as 'gnáth-áit chomhnaithe laistigh de sna críocha náisiúnta'. In s47(3) of the Transport Act, 1944, on the other hand, 'all persons who are ordinarily resident within the national territory' is translated as 'na daoine uile chomhnaíos de ghnáth laistigh den chrich náisiúnta', this English phrase being translated as 'na daoine uile a mbeidh gnáth-chónaí orthu laistigh de na críocha náisiúnta' in s35(2)(c) of the Transport Act, 1950. Again in s11(2) of the Turf Development Act, 1946, 'ceases to be ordinarily resident in the national territory' is translated as '(go) scoirfidh sé de bheith ina ghnáth-chomhnaí sna críocha náisiúnta' and in s24(2) of the Maritime Jurisdiction Act, 1959, 'any part of the national territory' is translated as '(le) haon chuid de na críocha náisiúnta'. In Article 126 of the Fourth Schedule to the Geneva Conventions Act, 1962, on the other hand, 'proceedings against internees who are in the national territory of the Detaining Power' is translated as '(le) himeachtaí i gcoinne imtheorannaithe atá i gcríoch náisiúnta na Cumhachta Coinneála' and, finally, 'Section 7 ... shall apply for the purposes of this Act to the national territory as it applies to designated areas' is translated as 'Beidh feidhm ag alt 7 chun críocha an Achta seo maidir leis an gcríoch náisiúnta mar atá feidhm aige maidir le limistéir ainmnithe' in s36(2) of the Sea Pollution Act, 1991.

In *Treaties establishing the European Communities* (1973, p. 963), 'the new Member States are authorized to retain the methods applied in their territory for declaring a herd of cattle officially free of tuberculosis or brucellosis' is translated as 'údaraitear do na Ballstáit nua leanúint den chóras a fheidhmítear ina gcríocha chun dearbhú oifigiúil a thabhairt go bhfuil eallach glan ón eitinn nó ón mbrúisealóis'. On p. 221, however, 'to move freely within the territory of Member States' is translated as 'chun

gluaiseacht faoi shaoirse laistigh de chríoch na mBallstát – note that in s13 of the Liability for Defective Products Act, 1991, ‘within the territory of any Member State’ is translated as ‘laistigh de chríoch aon Bhallstáit’.

Looking at early translations, the singular ‘críoch’ translates ‘territory’ in Article 11 of the 1922 Constitution also: ‘All the lands and waters ... within the territory of the Irish Free State’ is translated as ‘Gach talamh agus uisce ... laistigh de chríoch Shaorstáit Éireann’, ‘críoch’ being the old dative singular of ‘críoch’. ‘British Territory’ is translated as ‘Crích Bhriotáineach’ in ‘Translations for An Ard-Chomhairle’, 72 (reference in the *Oireachtas Dictionary of Official Terms*).

*teorann* ‘Teorainn’, genitive ‘teorann’, is translated as ‘limit’ in *Téarmaí Dlí*, and as ‘boundary, limit; border, frontier’ in *Ó Dónaill*, who cites ‘*clai teorann*, boundary fence’, ‘*baile teorann*, border town’ and ‘*uiscí teorann*, territorial waters’. Earlier ‘tórann’, the verbal noun of ‘do-foirndea’ (\*to-fo-rind-) is translated in DIL as follows: ‘act of marking out, delimiting’, (b) ‘share, division’, (c) ‘boundary, limit’; examples are cited from the Milan Glosses of the ninth century onwards, ‘fal torainde do flaith iar n-elod’ being cited from an early Irish law-tract (printed in *Ancient Laws of Ireland*, vol. 5; ‘fal torainde’ = Modern Irish ‘clai teorann’ cited above from *Ó Dónaill*). See further the commentary on Article 43.2.2° where ‘teorainn a chur le’ expresses ‘delimit’.

Regarding ‘farragai teorann’ (‘the territorial seas’), see s2 of the Maritime Jurisdiction Act, 1959, where ‘the territorial seas of the State shall be ...’ is translated as ‘is iad farragai teorann an Stáit ...’. We also find ‘territorial seas’ translated as ‘farragai teorann’ in s23(b) of the Merchant Shipping Act, 1992. Looking at the earlier Acts, ‘reisimint dúithche’ translates ‘territorial regiment’ in s3(10) of the Defence Forces (Temporary Provisions) Act, 1923, while in s3(5) of the Wireless Telegraphy Act, 1926, ‘the waters (whether inland or territorial) of Saorstát Éireann’ is translated as ‘uiscí Shaorstáit Éireann (pe’ca laistigh no lasmuich de dhóibh)’; in s14(1) of the same Act, ‘within the territorial waters of Saorstát Éireann’ is translated as ‘laistigh d’uiscí tíriúla Shaorstáit Éireann’. In s7(1) of the Enforcement of Law (Occasional Powers) Act, 1926, ‘whether within or outside his bailiwick, and whether within or outside the territorial boundaries of Saorstát Éireann’ is translated as ‘pe’ca laistigh no lasmuich dá bháillíocht atáid, no laistigh no lasmuich de theoranta críche Shaorstáit Éireann’ – ‘críche’ here being the genitive singular form of ‘críoch’, which in the plural expresses ‘territory’ in the present Article 2 of the Constitution.

*go hiomlán* ‘Iomlán’ is translated by *Ó Dónaill* as ‘full, whole, complete’, citing ‘*tá sé ann go hiomlán*, it is all there’, ‘*ó mo chroí go hiomlán*, with all my heart’ and ‘*go huile agus go hiomlán*, totally and entirely’. *Dinneen* translates ‘go hiomlán’ as ‘entirely, perfectly, fully’. In DIL s.v. ‘iomlán’, ‘rí ro gabasdair flaitheas ... an domhain mhoir uili go himlan’ (i.e. a king who seized the sovereignty of the whole world) is cited from the late text *Cath Finntrága*. ‘Iomlán’ is translated as ‘absolute’ in *Téarmaí Dlí*, where ‘i dteideal iomlán’ and ‘úinéir iomlán’ are translated as ‘absolutely entitled’ and ‘absolute owner’. ‘Éagumas iomlán’, ‘míchumas iomlán’ and ‘praghas iomlán ceannaigh’, however, are translated respectively as ‘total incapacity’, ‘total

disablement’ and ‘total purchase price’.

Turning to the Acts, ‘go hiomlán’ mainly translates ‘wholly’ or ‘in whole’, but also translates ‘entirely’, ‘totally’, ‘completely’, ‘solely’, ‘utterly’, ‘absolutely’ and ‘fully’, with the common phrases in the Acts, ‘wholly or partly’ and ‘in whole or in part’, being translated as ‘go hiomlán agus go páirteach’. In s18(3)(a) of the Radio and Television Act, 1988, ‘the need for understanding and peace within the whole island of Ireland’ is translated as ‘a riachtanaí atá comhthuiscint agus síocháin ar fud oileán na hÉireann uile’, following s13 of the Broadcasting Authority (Amendment) Act, 1976, where ‘within the whole island of Ireland’ is similarly translated as ‘ar fud oileán na hÉireann uile’. In s5.7 of the *New Ireland Forum Report* (1984), ‘embracing the whole island of Ireland’ is translated as ‘a chuimseoidh oileán iomlán na hÉireann’ while, in s6.5, ‘recruited from the whole island’ is translated as ‘d’earcfaí í ón oileán ar fad’. In *Treaties establishing the European Communities* (1973, p. 1391), ‘the extension to the whole of the Community of Community preference for agricultural products’ is translated as ‘go leathnófar go dtí an Comhphobal go léir an fabhar Comhphobail i leith táirgí talmhaíochta’ while, on p. 1488, ‘pig production throughout the whole Community’ is translated as ‘(do) tháirgeacht muc ar fud an Chomhphobail uile’.

See further the commentary on Articles 45.1 (where ‘leas an phobail uile’ expresses ‘the welfare of the whole people’) and 45.2.iv (where ‘uile’ expresses ‘as a whole’).

*Is é* Literally ‘it is’. ‘Treason shall consist only in’ is expressed as ‘Is é amháin is tréas ann’ in Article 39. ‘The Commission shall consist of the following persons’ is expressed as ‘Is iad na daoine seo a leanas an Coimisiún’ is Article 14.2.1°, while ‘An tUachtarán agus dhá Theach atá san Oireachtas’ expresses ‘The Oireachtas shall consist of the President and two Houses’ in Article 15.1.2°. ‘To the satisfaction of the Supreme Court consisting of not less than five judges’ is expressed as ‘go sásamh na Cúirte Uachtaraí agus í comhdhéanta de chúigear breitheamh ar a laghad’ in Article 12.3.1°, while in Article 22.2.3° ‘he shall appoint a Committee of Privileges consisting of an equal number of members’ is expressed as ‘ní foláir dó Coiste Pribhléidí a cheapadh. An líon céanna de chomhaltáí ... a bheas ar an gCoiste sin’ and in Article 26.2.1° ‘The Supreme Court consisting of not less than five judges shall ...’ is expressed as ‘Ní foláir don Chúirt Uachtarach, cúirt ina mbeidh cúigear breitheamh ar a laghad, ...’. ‘The Government shall consist of not less than seven’ is expressed in Article 28.1 as ‘Mórsheisear ar a laghad ... líon comhaltáí an Rialtais’ while in Article 31.2 ‘The Council of State shall consist of the following members’ is expressed as ‘Is iad na daoine seo a leanas a bheas ina gcomhaltáí den Chomhairle Stáit’. Finally, in Article 40.4.4°, ‘The High Court ... shall ... in respect of any particular case, consist of three judges and shall, in every other case, consist of one judge only’ is expressed as ‘Is tríúr breitheamh is Ard-Chúirt in aon chás áirithe ... agus is breitheamh amháin is Ard-Chúirt i ngach cás eile den sórt sin’.

Turning to ‘consists of’, in the present context, in the Acts, see s7(4)(b) of the Housing Act, 1970, for example, where ‘an area consisting of – (i) a borough ... or, (ii) an urban district’ is translated as ‘limistéar atá comhdhéanta – (i) de bhuirg ... nó, (ii) ceantar buirge’. In s8 of the Value-Added Tax (Amendment) Act, 1978, on the other

hand, 'if the consideration consisted entirely of an amount of money equal to the open market price' is translated as 'dá mba é a bhí go huile sa chomaoin suim airgid is comhionann leis an margadh-phraghas oscailte'; in s6 of the same Act, 'in any period consisting of ...' is translated as 'in aon tréimhse arb é atá inti ...'. In s63(6) of the Finance Act, 1990, 'the exchange concerned of shares ... shall constitute a disposal of interests' is translated as 'is éard a bheidh ... sa mhalartú áirithe sin ar scaireanna ... diúscairt leasanna' while in s42 (Table) of the same Act, 'activities carried on by a company in the course of a trade and which consist of -' is translated as 'gníomhaíochtaí arna seoladh ag cuideachta i gcúrsa trádála arb éard iad -'. This phrase 'arb éard iad/i/é' is frequently used in Acts, with 'nó ar a n-áirítear', translating 'consisting of or including'. Finally, regarding 'is éard é' etc., note that 'Is éard é ráta faoin gcéad chun críche mhír (a)(i) -' translates 'A percentage rate for the purpose of paragraph (a)(i) shall be -' in s11(1)(b) of the Social Welfare (Consolidation) Act, 1981, for example. See further the commentary on Article 14.2.1<sup>o</sup>.

*maille le* This phrase is translated as 'with, along with' in *Ó Dónaill*, who cites '*maille le míle eile acu*, together with a thousand more of them'. See DIL s.v. 'immalle', where examples of the prepositional phrase 'immalle fri/la' ('with, along with') are cited from the Glosses of the eighth century onwards.

### Direct translation

Is é atá sa<sup>1</sup> chríoch náisiúnta<sup>2</sup> oileán na hÉireann uile<sup>3</sup>, a oileáin<sup>4</sup> agus na farraigí teorann.

### Variants

- 1 'Is éard í an'
- 2 'Is é atá sna críocha náisiúnta'
- 3 'oileán iomlán na hÉireann', 'oileán na hÉireann go léir'
- 4 'a chuid oileán'

## ARTICLE 3 AIRTEAGAL 3

### TÉACS GAEILGE

Go dtí go ndéantar athchomhlánú ar na críocha náisiúnta, agus gan dochar do cheart na Parlaiminte is an Rialtais a bhunaítear leis an mBunreacht seo chun dlínse a oibriú sna críocha náisiúnta uile, bainfidh na dlíthe a achtófar ag an bParlaimint sin leis an limistéar céanna lenar bhain dlíthe Shaorstát Éireann, agus beidh an éifeacht chéanna acu taobh amuigh den limistéar sin a bhí ag dlíthe Shaorstát Éireann.

### LITERAL ENGLISH TRANSLATION

Until the national territories are made complete again, and without prejudice to the right of the Parliament and the Government that is established by this Constitution to operate jurisdiction in all the national territories, the laws that will be enacted by that Parliament will apply/relate to the same area as the laws of the Irish Free State applied/related to, and they will have the same effect outside of that area as the laws of the Irish Free-State had.

### ENGLISH TEXT

Pending the re-integration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiction over the whole of that territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Éireann and the like extra-territorial effect.

### Divergences between the official texts

- 1 'The laws ... shall have the like area and extent of application as the laws of Saorstát Éireann' is expressed as 'bainfidh na dlíthe ... leis an limistéar céanna lenar bhain dlíthe Shaorstát Éireann' ('the laws will apply/relate to the same area as the laws of Saorstát Éireann applied / related to') in the Irish text.
- 2 'Re-integration' is expressed as 'athchomhlánú' ('made complete again') in the Irish text.
- 3 'Over the whole of that territory' is expressed as 'sna críocha náisiúnta uile' ('in all the national territories/territory') in the Irish text.
- 4 'Territory' is twice expressed by 'críocha' (plural), as in Article 2, but we find 'taobh amuigh den limistéar sin' expressing 'extra-territorial' in the final clause, with 'limistéar' expressing 'area' earlier in the Article.
- 5 'Exercise' is expressed in the Irish text by 'oibrigh', which is translated as 'operate' in *Téarmaí Dlí*.
- 6 'The like extra-territorial effect (as the laws of Saorstát Éireann)' is expressed as 'an éifeacht chéanna ... taobh amuigh den limistéar sin a bhí ag dlíthe Shaorstát Éireann' ('the same effect outside of that area as the laws of Saorstát Éireann had') in the Irish text.

### Commentary

*bainfidh ... le* 'The laws enacted by the Parliament shall have the like area and extent of application as the laws of Saorstát Éireann' is expressed above as 'bainfidh na dlíthe a achtófar ag an bParlaimint sin leis an limistéar céanna lenar bhain dlíthe Shaorstát Éireann'. Compare this Irish text with that of the new Article 3 (following the Belfast Agreement), the final part of which reads as follows:

... the laws enacted by the Parliament ... shall have the like area and extent of application as the laws enacted by the Parliament ... . *bainfidh na dlíthe a achtófar ag an bParlaimint ... leis an limistéar feidhme céanna, agus beidh an raon feidhme céanna acu, lenar bhain na dlíthe, agus a bhí ag na dlíthe, a d'achtaigh an Pharlaimint.*

While this new amended Article 3 is based directly on the current Article 3, and strives to adhere as closely as possible to the wording of the Irish text, retaining 'bainfidh le', it was felt necessary to add 'feidhm' after 'limistéar' to translate 'area of application', and two extra clauses were felt necessary to include 'extent of application'. This illustrates one area of difficulty in amending the Irish text of any Article, the translator having to adhere to the Irish form of that Article and at the same time give as literal a translation as possible of the amendment.

Note that in s2(2) of the Constitution (Consequential Provisions) Act, 1937, 'any area which is ... not within the area and extent of application of the laws enacted by the

Oireachtas' is translated as 'aon liomataíste ná beidh ... laistigh de liomataíste feidhme na ndlithé achtófar ag an Oireachtas', the same English phrase being translated as 'aon liomataíste bheidh ... gan bheith sa liomataíste le n-a mbaineann dlithé an Oireachtais' in s30 of the Finance Act, 1938, and as 'aon liomataíste ná fuil laistigh den liomataíste ina bhfuil feidhm ag na dlithé a hachtuítear ag an Oireachtas' in s7(6) of the Local Authorities (Combined Purchasing) Act, 1939.

'Bain le' is translated as (1) 'touch, interfere with' and (2) 'concern, relate to' in *Ó Dónaill*, with 'bainim le' translated as 'I touch, I meddle with, I am connected with' in *Dinneen*. DIL cites 'benad fria chubus fessin' ('let it concern his own conscience'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the figurative use of 'benaoid fri (la)', which phrase is translated in DIL as 'touches, affects; is concerned with, meddles with'. See further the commentary on Article 29.4.2°.

In the modern Acts, 'bain le' generally translates 'relate to' – see s10 of the Sea Pollution Act, 1991, for example, where 'féadfaidh go mbainfidh Rialacháin faoin alt seo le longa i gcoitinne' translates 'Regulations under this section may relate to ships generally'. 'Apply to' in the modern Acts is generally translated as 'beidh feidhm ag ... maidir le' – see, for example, s23(4) of the Finance Act, 1990, where 'Sections 500 and 503 ... shall apply to a failure to ...' is translated as 'Beidh feidhm ag ailt 500 agus 503 ... maidir le mainneachtain' – with 'feidhm' translating 'application': see s42(2) of the same Act, for example, where 'For the purposes of subsection (1) and the application of section 116' is translated as 'Chun críocha fho-alt (1) agus fheidhm alt 116'.

In earlier Acts in general, however, 'bain le' and 'baint' translated 'apply' and 'application' respectively (although 'the Article shall apply ...' is translated as 'beidh feidhm ag an Airtíogal' in Article 79 of the 1922 Constitution, for example, and 'bain le' translates 'apply to' in some modern Acts) – see s3(1) of the Interpretation Act, 1923, for example, where 'the expression "Saorstát Éireann" ... when used for the purpose of defining the application of any law or the extent or incidence of any authority, obligation or imposition' is translated as 'ciallóidh an focal "Saorstát Éireann" ... nuair a húsáidfar é chun baint aon dlí no leithé no achar aon údaráis, oblagáide no leaga do mhiniú' – note here, also, how 'leithe' translates 'extent' which, as we have seen, is not specifically expressed in the Irish text of Article 3. In the Margin Title of s10 of the Second Schedule to the Electoral Act, 1923, 'Application of Rules in First Schedule' is translated as 'Rialacha den Chéad Sceideal á gcur i mbaint', the section itself reading as follows:

Rules 9 to 14 ... of the First Schedule to this Act, so far as they relate to the registration of Dáil ... Electors, shall apply to University constituencies. *Sa mhéid go mbainid le clárú Dáil-toghthóirí ... bainfidh le dáilcheanntair Phríomh-scoile Rialacha 9 go dtí 14 ... de Chéad Sceideal an Achta so.*

In the *Oireachtas Dictionary of Official Terms*, 'application of Act' is translated as 'cad leis go mbainfidh an tAcht', with 'general' following this entry (as against a specific reference). Finally, in s7(1) of the Local Elections (Amendment) Act, 1942, 'The Minister may by order make provision for the holding of the first elections of the

members of public assistance authorities to which this section applies' is translated as 'Féadfaidh an tAire, le hordú, socrú do dhéanamh chun céad-toghcháin chomhaltai údarásanna conganta phuiblí le n-a mbaineann an t-alt so do chomóradh'. See further the commentary on Article 23.1°.

Returning to 'extent', we have seen above how 'leithe' translates this term in s3(1) of the Interpretation Act, 1923; while 'leithe' is translated as 'extent, breadth' in *Dinneen*, this headword is translated principally as 'broadness, stoutness' in *Ó Dónaill*. In the Third Schedule to the Local Government Act, 1941, the heading 'Extent of Application' is translated as 'Méid an Churtha-i-mBaint', referring to 'Enactments Applied to Elections of Members of Local Authorities' ('Achtacháin a Cuirtear i mBaint le Toghcháin do Bhaill d'Údaráis Áitiúla'). 'Extent of Application of Part II' is translated as 'Méid na feidhme ag Cuid II' in the Margin Title of s8 of the Patents Act, 1991. In s190(4) of the Companies Act, 1963, 'The nature and extent of the interest or right in or over any shares ... shall ... be indicated' is translated as 'Déanfar nádúr agus réim an leasa nó an chirt in, nó ar, aon scaireanna ... a chur in iúl'. In s4(3)(g) of the Law Reform Commission Act, 1975, 'indicate the desirability, priority, scope and extent of any proposals for law reform' is translated as 'inmhianaitheacht, tosaíocht, scóip agus fairsinge aon tograí le haghaidh athchóiriú an dlí a chur in iúl'. Note that 'range, extent' is given as a secondary meaning of 'réim' in *Ó Dónaill*, who gives 'width, extent, amplitude, spaciousness' as the principal meaning of 'fairsinge'. As we have seen above, 'raon feidhme' translates 'extent of application' in the new Article 3.

*limistéar* This headword is translated as (1) 'area, tract, territory' in *Ó Dónaill*, citing '*limistéar tíre*, tract of country', and (2) 'sphere of action, district', citing '*limistéar údaráis*, sphere of authority'. *Dinneen* translates 'limistéar' as 'space, room; district, area, franchise'. It does not appear to be given in DIL.

'Limistéar' translates 'area' in the modern Acts. In s6(3) of the Road Transport Act, 1978, for example, 'Gairfear limistéar nua de gach limistéar díobh seo a leanas – an limistéar laistigh de chiorcal dar ga fiche míle agus dar lárphointe an phríomh-phostóifig i gcathair Bhaile Átha Cliath' translates 'Each of the following areas shall be known as a new area – the area included within a circle having a radius of twenty miles and its centre at the principal post office in the city of Dublin'. In Article 3 of the 1922 Constitution 'liomataíste' translates 'area', as it did in general in the earlier Acts – in s24 of the 'Offaly County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, for example, 'it is intended to pay on the area population basis our part of such salaries' is translated as 'isé rud atá beartuithe ná ár gcuid-ne de sna tuarastail sin d'íoc do réir méid na liomataístí agus do réir líon na ndaoine ionta' while, in s86 of the 'Tirconnail County Scheme', 'the proportion payable by the authority ... is to be calculated on an "area and population" basis' is translated as 'is do réir "liomataíste agus daoiniúlacht" a áireófar an cion a bheidh len' íoc ag an údarás'. 'Limistéar' translates 'region' in s1 of the Place-Names (Irish Forms) Act, 1973, where we find the following Interpretation:

"place-name" includes the name of any province, county, city, town, village, barony, parish or townland,



of any territorial feature (whether natural or artificial), district, region or place .... *Folaíonn "logainm" ainm aon chúige, contae, cathrach, mórbhaile, sráidbhaile, barúntachta, paróiste nó baile fearainn, nó ainm aon ghné tíre (nádúrtha nó saorga), aon dúiche, limistéir nó áite ....*

Regarding 'extra-territorial', see the commentary on Article 2 (where '[the] territorial seas' is expressed as '[a] fharragí teorann'). In s35(1) of the Dundalk Harbour and Port Act, 1925, 'san áit sin de ghrinneall agus de chladach Chuan Dhún Dealgan atá lasmuich den pharóiste' translates 'in that extra-parochial place of the bed and foreshore of Dundalk Harbour'. Note, however, that in s4 of the Pier and Harbour Provisional Order Confirmation (No. 2) Act, 1940, 'in the harbour and tidal waters of Fenit and in the extra parochial places thereof' is translated as 'i gcuan agus in uiscí taoide na Fiannaite agus sna háiteanna eachtar-pharóisteacha bhaineann leis an gcéanna'.

Turning to more modern legislation, in Article 8 of the 1985 Anglo-Irish Agreement, 'extra-territorial jurisdiction' is translated as 'dlinse sheach-chríochach', most likely modelled on 'seachbhreithiúnach' ('extra-judicial') – see, for example, Article 5(j) of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, where 'transmitting judicial and extra-judicial documents' is translated as 'tarchur doiciméad breithiúnach agus doiciméad seachbhreithiúnach'. Note finally that 'extraterritorial' is cited in Rannóg an Aistriúcháin as being translated as 'allchríche', followed by the reference 'Rep. Sec. Legn. Economic & Mon. Union, 28 June 1978, par 27(6)'.

*athchomhlánú* The verbal noun of 'athchomhlánaigh', which verb is not found as a headword either in *Ó Dónaill* or in *Dinneen*. According to the official standard, one would have a hyphen between 'ath' and 'comhlánaigh' (as one finds in the enrolled text), 'athchomhlánaigh' being composed of two prefixes combined with a verbal form based on 'lán' – see *An Caighdeán Oifigiúil*, p. 125, s.24(iii), regarding the use of a hyphen between two prefixes and note 'ath-chomhcheangal' in *Ó Dónaill*.

The verb 'comhlánaigh' is translated as 'complete, complement' in *Ó Dónaill* and the adjective 'comhlán' is translated as 'full up; complete, perfect' and 'gross' (as in '*brabús comhlán*, gross gain', which is also cited in *Téarmaí Dlí*). 'Cómhlánaighim' is translated as 'I complete, fulfil, perfect' in *Dinneen*, who cites '*cómhlánaighthead cumhachta na hEaglaise*, the Church's powers were completed'. 'Comhlán' is therein translated as 'full, very full; perfect; equally numerous'. The prefix 'aith-, ath-', with verbs and verbal nouns, corresponds in sense to Latin *re-*, according to DIL, 'comlán(aig)id' being translated as 'fulfils, completes'. The adjective 'comlán', based on 'lán', is translated in DIL as 'complete, perfect'.

'Comhlánaigh' translates 'complement', 'add to' and 'complete' in modern legislation. In the *Treaty on European Union* (1992, p. 197), for example, 'tacóidh an Comhphobal le gníomhaíochtaí na mBallstát agus comhlánóidh sé iad' translates 'the Community shall support and complement the activities of the Member States'; 'forálacha ... chun na cearta dá bhforáiltear sa Chuid seo a chomhlánú' translates 'provisions to strengthen or add to the rights laid down in this Part' (p. 16), while 'faoi chuimsiú chomhlánú an mhargaidh inmheánaigh' translates 'in the context of the completion of the internal

market' (p. 50). 'Agus ullmhóimid clár nua mar chomhlánú ar an gceann láithreach' translates 'and prepare a new programme to complement the existing one' in the *Programme for a Partnership Government, 1993-'97* (p. 32). In *Treaties establishing the European Communities* (1973, p. 68), 'i ndiaidh comhlánú na hoibríochta' translates 'following completion of the transaction' while 'comhlánófar an Coiste Eacnamaíoch agus Sóisialach trí daichead is dhá chomhalta a cheapadh' translates 'the Economic and Social Committee shall be enlarged by the appointment of forty-two members' (p. 1002).

Turning specifically to 're-integration', we find the wording of Article 3 of the Constitution followed directly in the opening of s7(1) of the Irish Nationality and Citizenship Act, 1957, where 'Pending the re-integration of the national territory' is translated as 'Go dtí go ndéantar athchomhlánú ar na críocha náisiúnta'. In Article 4 of the Schedule to the International Common Fund for Commodities Act, 1982, however, 'Any intergovernmental organization of regional economic integration' is translated as 'Aon eagraíocht idir-rialtasach um chomhtháthú eacnamaíoch réigiúnach', while in the Long Title of the Youth Employment Agency Act, 1981, 'the establishment, development ... co-ordination and integration ... of schemes' is translated as 'scéimeanna a bhunú, a fhorbairt ... a chomhordú agus a chomhaonadh', with 'for the co-ordination of the plans and activities ... and for their integration with national and social plans' being translated as 'chun na pleananna agus na gníomhaíochtaí ... a chomhoirdniú agus iad a chuimsiú sna pleananna náisiúnta eacnamaíochta agus sóisialacha' in s2(2)(d) of the Ministers and Secretaries (Amendment) Act, 1977.

In the *Programme for a Partnership Government, 1993-'97* (p. 11), 'the aim of this Scheme will be permanent re-integration of long-term unemployed people back into the workplace' is translated as 'is é aidhm na scéime seo go bhfaighidh daoine atá difhostaithe le fada lánpháirtíocht bhuan ar ais sa bhfórsa saothair', while 'integration of the shipping, fishing, aquaculture and marine leisure strategies with industrial development strategy in ancillary industry' is translated as 'straitéis loingis, iascaireachta, dobharchultúir agus siamsaíocht mhara a lánpháirtíú le straitéis forbartha tionsclaíoch i dtionscail choimhdeacha' (p. 51). 'To study ... the integration of the tax and social welfare codes' is translated as 'staidéar a dhéanamh ar chomhtháthú na gcód cánach agus leasa shóisialaigh' (p. 4), while 'following integration of the tax and social welfare systems' is translated as 'tar éis chomhiomlánú na gcóras cánach agus leasa shóisialaigh' (p. 27). 'Integrated economic development' is translated as 'forbairt eacnamaíoch chomhtháite' in the *New Ireland Forum Report* (1984, 5.2(8)) while 'integrated pollution control licence' is cited in Rannóg an Aistriúcháin as being translated as 'ceadúnas um rialú comhtháite ar thruailliú'. 'All Ireland economic integration' is translated as 'nascadh ar eacnamaíocht na hÉireann uile' in the *New Ireland Forum Report*.

In the *Treaty on European Union* (1992, p. 48), 'in order to facilitate vocational integration, and re-integration into the labour market' is translated as 'chun an t-imeascadh agus an t-athimeascadh gairmiúil ar mhargadh an tsaothair a éascú', while 'in the process of European integration undertaken with the establishment of the European Communities' is translated as 'i bpróiseas na lánpháirtíochta

Eorpaí a gabhadh ar láimh le bunú na gComhphobal Eorpach' (p. 3), with 'as a factor for integration within the Union' translated as 'mar thoisic ar mhaithe le lánpháirtíú laistigh den Aontas' (p. 62), and 'the smooth and gradual integration of the developing countries' translated as 'na tíortha i mbéal forbartha a lánpháirtíú go comhchuí comhleanúnach' (p. 60). In *Treaties establishing the European Communities* (p. 936), 'In the interest of the smooth functioning of the process of integration' is translated as 'Ar mhaithe leis an lánpháirtíú a dhéanamh chomh rianúil agus is féidir'. On the Dáil *Order Paper* of 26/2/75, '(objective of) European integration in economic ... spheres' is translated as '(go dtacaíonn sé le) lánpháirtíú na hEorpa sa réim eacnamaíoch ...'.

Based on the above, it is no wonder that 'integration' finds itself in the select list of terms and phrases 'which are not settled or which translators should be very careful in their use' appended to Maolmhaadhóg Ó Ruairc's guide-book for translators, *Aistrigh go Gaeilge* (1997). The author cites 'integration of races, *comhréimniú ciníoch*', 'integration of drainage, *iomlánú draenála*', 'political integration, *lánpháirtíú polaitiúil*' and 'integration (of schools, factories, etc), *lánaontú*' from the Department of Education's *Dictionary of Geography and Planning* (1981 [1972]), and 'economic integration, *lánpháirtíocht gheilleagrach*', 'forward integration, *réamh-lánpháirtíú*', 'backward integration, *cúlchumasc*' and 'monetary integration, *imeascadh airgeadaíochta*' from the same Department's *Dictionary of Business Studies* (1989). *De Bhaldraithe* translates 'I integrate' as 'slánaím, iomlánaím, déanaím iomlán' and 'integration' as 'slánú'.

Looking at some of the above terms translating 'integration', which is defined in the *Shorter Oxford English Dictionary* as 'the making up of a whole by adding together or combining the separate parts or elements; a making whole or entire', 'comhpháirtíocht' is translated as 'partnership' in *Téarmaí Dlí*, with 'conraitheoir compháirteach' and 'deonú comhpháirteach' translated respectively as 'joint contractor' and 'joint grant'. *Ó Dónaill* translates 'comhpháirtíocht' as 'copartnership' translating 'comhiomlán' as 'aggregate'. 'Comhtháthaigh' is therein translated as 'join together, fuse; coalesce, cohere; integrate', with 'comhtháthú' being translated as 'fusion, cohesion, coalescence; integration'.

Professor Máirtín Ó Murchú emphasises the importance of the development of the sense of 'integrate' in English since 1937 and the importance in particular of the Mathematical sense (<integer) in relation to De Valera's and the drafters' interpretation in 1937. While 'lánpháirtíú' attempts to express the contemporary sense of 'integrate' (as in 'the immigrants are integrated into the country', for example), 'ath-chomhlánú' perhaps better expresses the sense of all the parts being together again – in this context Professor Ó Murchú also refers to the term 'slánú' – which appears to be the sense of 're-integrate' in the present Article.

*a oibriú* 'Oibriú' is the verbal noun of the verb 'oibrigh', this verb generally expressing 'exercise' in the Constitution: in Article 40.6.1°, 'for the exercise of the following rights' is expressed in the Irish text as 'chun na cearta seo a lenas a oibriú'; in Article 6.2, 'These powers of government are exercisable only by ...' is expressed as 'is féidir na cumhachtaí riala sin a oibriú'; 'For the purpose of the

exercise of any executive function of the State' is expressed as 'Ionas go bhféadfar aon fheidhm chomhallach leis an Stát a oibriú' in Article 29.4.2° and in Article 35.2 'in the exercise of their judicial functions' is expressed as 'maidir lena fheidhmeanna breithimh a oibriú'. 'Exercise' is found in association with 'powers' and 'functions' in many Articles: 'feidhmeanna agus cumhachtaí ... a oibriú' expresses 'the exercise of ... functions and powers' in Article 37.1, 'na feidhmeanna agus na cumhachtaí sin a oibriú' expressing 'to exercise such powers and functions' in s2 of Article 37 and 'na cumhachtaí, na feidhmeanna ... a oibriú' expressing 'the ... powers, functions ... shall ... be exercised' in Article 49.2. 'Na cumhachtaí agus na feidhmeanna a oibriú agus a chomhlíonadh' expresses 'exercise and perform the powers and the functions' in Articles 12.1 and 14.4, with 'is cead don Uachtarán na cumhachtaí agus na feidhmeanna ... a oibriú is a chomhlíonadh' expressing 'The powers and functions ... shall be exercisable and performable by him' in Article 13.9 and 'Ní cead don Uachtarán aon chumhacht ná feidhm ... a oibriú ná a chomhlíonadh' expressing 'No power or function ... shall be exercisable or performable by him' in Article 13.11, 'cumhachtaí is feidhmeanna ... a oibriú is a chomhlíonadh' expressing 'exercise and perform the powers and the functions' in Article 14.1 and 'aon chumhacht nó feidhm a oibriú nó a chomhlíonadh' expressing 'to exercise or perform any power or function' in Article 14.5.2°. Finally, 'gach cumhacht, gach feidhm ... a oibriú agus a chomhlíonadh' expresses 'exercise and perform all ... powers, functions' in Article 30.1 and 'cumhachtaí nó feidhmeanna ... a oibriú nó a chomhlíonadh' expresses 'exercise or perform ... the powers or functions' in Article 32. Nevertheless, in the Amendment to the Constitution contained in Article 29.7.2°, following the Belfast Good Friday Agreement, we find the following:

Any institution established by or under the Agreement may **exercise** the powers and functions thereby conferred on it .... *Tig le haon institiúid a bhunófar leis an gComhaontú nó faoin gComhaontú na cumhachtaí agus na feidhmeanna a fheidhmiú a thugtar di dá chionn sin ...*

This is in line with the modern translation of 'exercise' in the Acts, and illustrates the potential danger of inconsistencies in the text with each Amendment of the Constitution.

'Oibrím' is translated as 'I operate' in *Téarmaí Dlí*, based on the first Irish Legal Terms Order (Statutory Rules and Orders No. 249 of 1947). 'Oibrigh' is translated as 'work' in *Ó Dónaill*, who translates 'cumhacht a oibriú' as 'to wield power'. 'Oibrigid', translated as 'works, acts' and 'effecting, causing' in DIL, is based on 'opair', which comes from Latin 'opus'/opera', and is translated as 'work, activity, employment, occupation' in DIL, the dative plural of which, 'oiprib', is cited from the eighth-century Würzburg Glosses on the Pauline Epistles, 'arna epiltis oc opair semper' ('that they might not die by being at work always') being cited from the ninth-century Milan Glosses on the Commentary on the Psalms. *Dinneen* translates 'oibrighim' as 'I work, work upon, operate, act (as a chemical, medicine, etc.), seethe, take effect on (ar), influence, seek to influence ...' and cites the following example and comment:

*ar ólais? d'ólas; ar oibrigh? d'oibrigh*, did you drink (the sea-water as physic)? I did; was it effective? yes;

*cf.* “gaybrick” and “olisher”, names for seaside visitors in Anglo-Irish at Youghal and Dungarvan.

Turning to ‘oibrigh’ in the Acts, ‘Cistí eischósta a oibríonn comhshocraíochtaí comhionannaithe’ translates ‘Off-shore funds operating equalisation arrangements’ in s64 of the Finance Act, 1990; ‘cé acu a d’oibreodh nó nach n-oibreodh an cumasc nó an tátcheangal áirithe atá beartaithe i gcoinne leas an phobail’ translates ‘whether or not the proposed merger or take-over concerned would operate against the common good’ in s8(2) of the Mergers, Take-overs and Monopolies (Control) Act, 1978, and ‘Oibreoidh ceadúnas ócáideach chun an té dá ndeonfar é do shaora ... ó sna forálacha den Acht so’ translates ‘An occasional licence shall operate to exempt the person to whom the licence is granted ... from the provisions of this Act’ in s6(4) of the Intoxicating Liquor Act, 1927. As regards ‘operate’ in the Constitution, in Article 12.10.7° ‘such resolution shall operate to remove the President from his office’ is expressed as ‘is é is feidhm don rún sin an tUachtarán a chur as oifig’ while ‘Nothing in this Constitution shall operate to invalidate the exercise of ...’ is expressed as ‘ní bheidh an t-oibriú sin gan bhail dlí de bhíthin aon ní sa Bhunreacht seo’ in Article 37.1, ‘oibriú’ here expressing ‘exercise’.

Turning to ‘exercise’ in the Acts, in the ‘Definitions’ in s1 of An Blascaod Mór National Historic Park Act, 1989, for example, ‘the reference to the performance of functions includes ... a reference to the exercise of powers and the carrying out of duties’ is translated as ‘folaíonn an tagairt do chomhlíonadh feidhmeanna ... tagairt d’fheidhmiú cumhachtaí agus do chomhall dualgas’ and in s8(3) of the Shipping Investment Grants Act, 1969, ‘any person who wilfully obstructs a person in the exercise of a right of entry and inspection’ is translated as ‘aon duine a choisfidh go toiliúil aon duine a bheidh ag feidhmiú cirt dul isteach agus iniúchta’. In Article 22 of the 1922 Constitution ‘for the exercise of its powers’ is translated as ‘chun a chomachta do chur i bhfeidhm’ and in Article 14, ‘(the) place of exercising this right’ is translated as ‘an áit na mbainfeadh feidhm as an gceart so’. In the Long Title of the Currency Act, 1927, ‘to exercise certain other functions in relation to the currency’ is translated as ‘chun feidhmeanna áirithe eile d’fheidhmiú maidir leis an airgead reatha’ and in s130(1) of the Industrial and Commercial Property (Protection) Act, 1927, ‘make, use, and exercise the invention’ is translated as ‘an chumadóireacht ... do dhéanamh, d’úsáid, agus d’fheidhmiú’. Finally, note that ‘The European Parliament shall exercise the powers conferred upon it by this Treaty’ and ‘the rights ... may not be exercised’ are translated respectively as ‘Déanfaidh Parlaimint na hEorpa ... na cumhachtaí a thugtar di sa Chonradh seo a fheidhmiú’ and ‘ní fhéadfar na cearta ... a fheidhmiú’ in the *Treaty on European Union* (1992, pp. 62 and 28). See further the commentary on Article 13.5.1°.

*éifeacht ... acu* In Article 37.2, following the Sixth Amendment of the Constitution Act, 1979, ‘(No) adoption of a person taking effect or expressed to take effect at any time ...’ is rendered as ‘aon uchtáil ar dhuine a ghlac éifeacht nó a bhfuil sé sainráite gur ghlac sí éifeacht aon tráth ...’ and in Article 40.4.5°, following the Second Amendment of the Constitution Act, 1941, ‘that sentence shall have effect’ is rendered as ‘beidh éifeacht ag an

mbreith bháis sin’. Similarly in the Amendment contained in Article 29.7.3°, ‘obliged ... to give effect to the amendment of this Constitution’ is rendered as ‘faoi oibleagáid ... éifeacht a thabhairt don leasú ar an mBunreacht seo’ and in subsection 5, ‘this section shall cease to have effect’ is rendered as ‘scoirfidh an t-alt seo d’éifeacht a bheith leis’. In Article 50.1 ‘shall continue to be of full force and effect’ is expressed as ‘leanfaid de bheith i lánfheidhm agus i lánéifeacht’ and ‘to secure the effective administration of justice’ is expressed as ‘chun riaradh cirt a chur i bhfeidhm le héifeacht’ in Article 38.3.1°. In Article 16.2.4°, however, ‘shall not take effect’ is expressed as ‘ní thiochfaid i bhfeidhm’ and ‘the legislation required to give effect to the Financial Resolutions’ is expressed as ‘an reachtaíocht a bheas riachtanach chun feidhm dlí a thabhairt do Rúin Airgeadais’ in Article 17.1.2°. In Article 27.4.2°, ‘until the Supreme Court has pronounced a decision ... to the effect that the said Bill ... is not repugnant to this Constitution’ is expressed as ‘go dtí go ndéanfaidh an Chúirt Uachtarach ... breith a chraoladh á dhearbhu gan an Bille sin ... a bheith in aghaidh an Bhunreacht seo’, followed by ‘if a decision to that effect is pronounced’, expressed as ‘i gcás an Chúirt Uachtarach do chraoladh breithe á dhearbhu sin’, with ‘to the effect aforesaid’ expressed as ‘ag dearbhú mar a dúradh’. ‘As effectively as it may’ is expressed as ‘chomh fada lena chumas’ in Article 45.1. Finally, in Article 29.7.4° (following the 1998 Amendment of the Constitution), ‘other than the amendment of this Constitution effected thereby’ is rendered as ‘seachas an leasú ar an mBunreacht seo a dhéantar leis an bhfo-alt sin 3°’.

Turning to the Acts, in s13(4)(b) of the Criminal Procedure Act, 1967, ‘the court shall enter a plea of not guilty, which shall have the same operation and effect in all respects as an order of a justice of the District Court’ is translated as ‘taifeadfaidh an chúirt pléadail neamhchiontach, arb ionann oibriú agus éifeacht di, go huile agus go hiomlán, agus d’ordú ó bhreitheamh den Chúirt Dúiche’. In s3(2)(b) of the Place-Names (Irish Forms) Act, 1973, ‘any instrument having or intended to have legal effect or consequences’ is translated as ‘aon ionstraim a mbeidh éifeacht dhlíthiúil nó iarmhairtí dlíthiúla aici nó beartaithe a bheith aici’. We find ‘éifeacht ag’ in the s93 of the Dundalk Harbour and Port Act, 1925, for example, where ‘The following provisions ... shall apply and have effect’ is translated as ‘Beidh feidhm agus éifeacht ag na forálacha so a leanas’.

Usually in the Acts today we find ‘éifeacht le’ rather than ‘éifeacht ag’ – see s4 of the Finance Act, 1976, for example, where ‘subsection (1) shall not have effect for the year of assessment’ is translated as ‘ní bheidh éifeacht le fo-alt (1) maidir leis an mbliain mheasúnachta’. In s21 of the Finance Act, 1990, ‘Subsection (3) shall not have effect in relation to a person where he so elects’ is translated as ‘Ní bheidh éifeacht le fo-alt (3) i ndáil le duine i gcás ina roghnóidh sé amhlaidh’. See further the commentary on Article 40.4.5°.

‘Éifeacht’ is translated principally as ‘force, significance; efficacy, effect; value, importance’ in *Ó Dónaill* and as ‘force, point, substance; avail; sense, wisdom; maturity; a big feat, prodigy’ in *Dinneen*, who concludes his entry with ‘*cf.*, effect’. No early examples are cited in DIL s.v. ‘éifecht’, translated as ‘efficacy, vigour, substance, meaning, purport’.

*dlínse* This headword is translated as 'jurisdiction' in *Téarmaí Dlí* and in *Ó Dónaill*, the latter citing '*Cén dlínse atá agat orm?* What jurisdiction have you over me?' The earlier form, 'dlighinse', is translated as 'authority' in *Dinneen* ('dligheadh' therein corresponding to standard Modern Irish 'dlí'), citing '*tá dlighinse agam ar*, I have jurisdiction over' – *Dinneen* also cites the standard Irish form 'dlínse' from Dr Michael Sheehan's *Sean-chaint na nDéise* (1906).

Turning to modern legislation, in Article 4 of the Fourth Schedule to the Radiological Protection Act, 1991, 'the territorial sovereignty and jurisdiction of a State' is translated as '(do) cheannasacht agus dlínse Stáit ar a chríocha' and in Article 8(1) of the same Schedule 'to establish its jurisdiction over the offences' is translated as 'chun a dhlínse a bhunú ar na cionta'. In *Treaties establishing the European Communities* (1973, p. 307), 'the courts of the country concerned shall have jurisdiction over complaints that ...' is translated as 'beidh dlínse ag cúirteanna na tíre lena mbaineann ar ghearáin go ...'.

'Údarás' translates 'jurisdiction' in the early Acts – in Article 3 of the 1922 Constitution, for example, 'in the area of the jurisdiction of the Irish Free State' and 'within the limits of the jurisdiction of the Irish Free State' are translated respectively as 'i líomataíste údaráis Shaorstáit Éireann' and 'laistigh de theoranta údaráis Shaorstáit Éireann'. When 'jurisdiction' was found in association with 'authority' ('údarás) in the Long Title of the Deputy Registrar in Bankruptcy (Cork) Act, 1926, 'breath-údarás' was called on to translate 'jurisdiction', 'those powers, authorities, and jurisdictions' being translated as 'na comhachta, na húdaráis agus na breath-údaráis sin'. We find 'dlínse' in s37(2)(ii) of the Dublin Port and Docks (Bridges) Act, 1929, where 'before a Court of summary jurisdiction' is translated as 'i láthair Cúirte dlighinse achmair', 'in aon chúirt údaráis inniúla' having translated 'in any Court of competent jurisdiction' in s66(4) of the Currency Act, 1927. See further the commentary on Article 34.3.2°.

*gan dochar* This phrase is translated as 'without prejudice' in *Téarmaí Dlí* and in the Acts in general, the common phrase therein, 'but without prejudice to the validity of anything previously done thereunder' being translated as 'ach sin gan dochar do bhailíocht aon ní a rinneadh roimhe sin faoin ordú' in s11 of the Regulation of Banks (Remuneration and Conditions of Employment) (Temporary Provisions) Act, 1973, for example.

Looking at earlier Acts, in Article 8 of the 1922 Constitution, 'or affect prejudicially the right of any child' is translated as 'ná baint go díobhálach ó cheart aon leinbh'. In s24 of the Dundalk Harbour and Port Act, 1925, however, 'No action ... shall abate or be discontinued, annulled or prejudicially affected by the repeal of the Act of 1855' is translated as 'Ní dhéanfaidh athghairm Acht 1855 maolú, scur, nea-mbríochaint, ná oibriú docharach ar aon aicsean', with 'was contrary to or in conflict with or prejudicial to the enforcement of a decree of a Dáil Court' being translated as 'do bheith contrárdha no coinbhliochtach no docharach d'aithne Dháil-Chúirte d'fheidhmiú' in s27(1)(c) of the Dáil Éireann Courts (Winding-Up) Act, 1923. Finally, in s2(2) of the Deputy Registrar in Bankruptcy (Cork) Act,

1926, 'This section shall not prejudice or affect the operation of any order heretofore made ... by the Judge' is translated as 'Ní dhéanfaidh an t-alt so dochar ná difir d'oibriú aon ordú a dhin an Breitheamh roimhe seo'.

'Dochar' is translated as 'harm; hurt, injury; loss, distress' in *Ó Dónaill*, where 'gan dochar duit' is translated as 'without wishing you any harm', *Ó Dónaill* also citing '*cás a dhíbhe gan dochar*, to dismiss a case without prejudice'. *Dinneen* translates 'dochar' as 'misfortune, hardship, damage, harm, hurt, loss, mischief; debit', citing '*gan díth gan dochar, gan díoghbháil*, without loss, harm or damage'. Earlier 'dochor', formed from 'do' + 'cor' (v. 'sochar' = 'so' + 'cor'), also had the sense of 'unfair or disadvantageous contract' in the early Irish laws. Rudolf Thurneysen comments as follows (in an article on 'sochor' in *Féil-sgríbhinn Eóin Mhic Néill*, 1940, p. 158):

The 'Brehon Laws' distinguish two kinds of contract, *so-chor* 'good contract' and *do-chor* 'bad contract'. The meaning of *dochor* leaves no room for doubt: it is a contract (sale, barter, etc.) in which the purchase-price, being either too high or too low, does not represent the value of the purchase so that one of the parties suffers a loss.

*a bhunaítear* See the commentary on Article 40.6.1°iii where this verb expresses 'form'.

### Standardised Irish text

Go dtí go ndéantar ath-chomhlánú ar na críocha náisiúnta, agus gan dochar do cheart na Parlaiminte is an Rialtais a bhunaítear leis an mBunreacht seo chun dlínse a oibriú sna críocha náisiúnta uile, bainfidh na dlíthe a achtófar ag an bParlaimint sin leis an limistéar céanna lenar bhain dlíthe Shaorstát Éireann, agus beidh an éifeacht chéanna acu taobh amuigh den limistéar sin a bhí ag dlíthe Shaorstát Éireann.

### Direct translation

Go dtí go ndéanfar an chríoch<sup>1</sup> náisiúnta a ath-lánpháirtíú<sup>2</sup>, agus gan dochar do cheart na Parlaiminte agus an Rialtais a bhunaítear<sup>3</sup> leis an mBunreacht seo chun dlínse<sup>4</sup> a fheidhmiú ar an gcríoch<sup>5</sup> sin go léir,<sup>6</sup> beidh an limistéar agus an raon<sup>7</sup> feidhme céanna<sup>8</sup> ag na dlíthe a achtóidh an Pharlaimint sin agus a bhí<sup>9</sup> ag dlíthe Shaorstát Éireann<sup>10</sup> agus beidh an éifeacht sheach-chríochach<sup>11</sup> chéanna leo<sup>12</sup>.

### Variants

- 1 'na críocha'
- 2 'a ath-chomhlánú', 'a athiomlánú', 'a ath-chomhtháthú'
- 3 'atá á mbunú'
- 4 'seo dlínse'
- 5 'na críocha'
- 6 'ar iomlán na críche sin,'
- 7 'réim'
- 8 'an limistéar feidhme céanna agus an réim feidhme céanna'
- 9 'sin a bhí'
- 10 'bainfidh na dlíthe a achtóidh an Pharlaimint sin leis an limistéar feidhme céanna, agus beidh an raon feidhme céanna acu, lenar bhain dlíthe, agus a bhí ag dlíthe, Shaorstát Éireann'
- 11 'eachtartha'
- 12 'maile leis an éifeacht sheach-chríochach chéanna'

# THE STATE AN STÁT

## ARTICLE 4 AIRTEAGAL 4

### TÉACS GAELIGE

Éire is ainm don Stát nó, sa Sacs-Bhéarla, *Ireland*.

### LITERAL ENGLISH TRANSLATION

Éire is the name of the State or, in the English tongue, *Ireland*.

### ENGLISH TEXT

The name of the State is Éire, or in the English language, *Ireland*.

### Divergences between the official texts

- 1 'Sacs-Bhéarla' differs in resonance from the direct translation of 'English', i.e. 'Béarla', which is found in the 1922 Constitution, for example.
- 2 One might perhaps expect different words to be italicized in the different texts – 'Éire' in one text and 'Ireland' in the other, or perhaps 'Ireland' in italics in the Irish text alone (as is the practice in the Acts in such cases, as we see in the commentary); both 'Éire' and 'Ireland' are in italics in the enrolled English text.
- 3 A comma comes before 'or' in the English text, a comma coming after the corresponding 'nó' in the Irish text; note that a comma is found both before and after 'or' in the enrolled English text.

### Commentary

*Sacs-Bhéarla* 'Saics-Bhéarla' is translated as 'the English language' in *Dinneen*, who cites '*Saics-Bhéarlamhail*, relating to English, "Englishry"', along with '*Saics-fhear*, an English-man' and '*Sacs-Ghail*, the English'. The prefix 'Sacs-' is translated as 'Saxon, English' in *Ó Dónaill*, who does not give 'Sacs-Bhéarla' as a headword.

Cathal Brugha, Ceann Comhairle of the Opening Session of the First Dáil, on 21 January 1919, used the term 'Saxbhéarla' on two occasions. After informing the audience not to shout ('gan éin liúirigh do dhéanamh'), no matter what was said in the Dáil, he said that because of the kind of education available in Ireland over a long period a lot of Irish people did not understand Irish and he would therefore ask them in 'Saxbhéarla gioblach' (i.e. 'tattered') not to cheer:

B'éidir go bhfuil roinnt daoine i láthair ná tuigeanann an Ghaedhilg: de dheascaibh an tsóirt sin oideachais atá in Éirinn le fada, tá, forior, a lán Éireannach ann ná tuigeanann teanga a dtíre féin, agus dá bhrígh sin tá orm cúpla focal do rádh insa Saxbhéarla gioblach: We desire that there shall be no cheering whatever.

Later on in the proceedings the Ceann Comhairle asked

Deputy Eumonn Ó Dubhgáin, from South Meath, as follows, to read the Declaration of Independence in English: 'Iarraidm ar an dTeachta ó Dheisceart na Midhe an Fhaisnéis do léigheadh dúinn insa Sacsbheurla' – the Declaration having previously been read out in Irish and French.

*L. Mc Cionnaith* (1935) does not include 'Sacs-Bhéarla' s.v. 'English' (language), citing 'labhram, bhí sé ag labhairt, Béarla; é do rádh i mBéarla [*Connacht, Ulster, Munster*], as Béarla [in *Munster*]; bíonn sé ag Béarlóireacht [in *Connacht, Munster*]' and in his series, *Cainnt na nDaoine* (1920, p. 217), an Canónach Pádraig Ó Laoghaire refers to English simply as 'Béarla'. As stated above, 'Sacs-Bhéarla' is not given as a separate headword in *Ó Dónaill*, who gives 'English language' as the current sense of 'Béarla', citing '*cainteoir Béarla*, English speaker', '*Béarla briste*, broken English' and '*lucht an Bhéarla*, (i) *History/historical*: the Englishry, (ii) English speakers, promoters of English'.

In Article 4 of the 1922 Constitution, 'The National language of the Irish Free State (Saorstát Éireann) is the Irish language, but the English language shall be equally recognised as an official language' is translated as 'Sí an Ghaedhilg teanga Náisiúnta Shaorstáit Éireann, ach có-aithneofar an Béarla mar theanga oifigiúil'. Similarly, in s16 of the Defence Act, 1954, 'It shall be lawful for the Government to raise ... defence forces to be called and known as Óglaigh na hÉireann or (in English) the Defence Forces' is translated as 'Is dleathach don Rialtas fórsaí cosanta dá ngairmfear agus ar a dtabharfar Óglaigh na hÉireann nó (i mBéarla) *the Defence Forces* a bhunú' – note the italicisation here, as in s10(1) of the Postal and Telecommunications Services Act, 1983, where 'The names of the companies shall be ... An Post or, in the English language, The Post Office' is translated as 'Is iad ainmneacha na gcuideachtaí ... An Post nó, sa Bhéarla, *The Post Office*'.

The earlier form of 'Béarla', 'bérlae', had the principal sense of 'speech, language' and was in use as such long before the English language itself came to be spoken – 'ataat ilchenéle bérlí isin biuthso' ('there are in this world many kinds of language') is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles, this Irish phrase glossing Latin 'multa ... genera linguarum'. We find reference in an early Irish law-tract to 'an berla nEgebtacca' (the Egyptian language) and in other early texts we find 'isin berla Greddaí' (Greek) and 'o'n berla Ebraide' (Hebrew). 'Bérlae' also had the sense of 'technical language', with 'legal language' being referred to as 'bérlae Féine' ('the language of the Féini'). The highest grade of judge in early Irish law is referred to as 'brithem trí mbérla' ('judge of three languages' / three styles of language) in one early Irish law-tract, being competent in traditional

law, poetry and canon law – see Fergus Kelly, *A Guide to Early Irish Law* (1988, p. 52). Cork is referred to as the main centre of legal language ('Bérlae Féne Érenn: Corcach', cited *ibid.*, p. 242, n.2) in the ninth-century *Triads of Ireland*. Only in the modern period did 'bérla' have the specific sense of '(the) English (language)' – DIL cites '*a hucht a bérla*, relying on ... her knowledge of the English language' from the *Annals of the Four Masters*, s.a. 1530. 'Lucht Bearla' in vol. ii of *Irish Minstrelsy* (1831) is translated by James Hardiman as 'the English race', for example, 'An aicme-so an Bheurla' being translated as '(No) *Sassanach* band' (p. 83).

Professor Máirtín Ó Murchú remarks that 'béarla' (-belre) meant 'language, speech' and, before the Norman period, was the word used, with an adjective (examples of which we see above) or a prefix, to name languages. Examples of a prefix other than 'Sacs-' include 'Frainc-', i.e. 'Frainc-Bhéarla', 'French', and you even had 'Scoit-Bhéarla', perhaps as a pseudo-learned term, for 'Irish'. When the suffix '-is', in naming languages (Modern Irish 'Fraincis', 'French', for example), was taken from Anglo-Norman, the old forms gradually died out, all except 'Sacs-Bhéarla' – it has even been suggested that 'English' may have been the original sense of 'Anglais', which is translated as 'milk and water; any diluted or inferior liquor' in *Dinneen*. With the passage of time, it was understood that 'Sacs-Bhéarla' and 'Béarla' were the same, or were stylistic alternatives, and the form 'Béarla' alone is in general usage throughout Ireland and Scotland; Máirtín Ó Murchú remarks that 'Béarla' as a term for the English language specifically is established in all varieties of Irish and Scots-Gaelic. Traces still remain of the original sense of the word 'béarla', however. Professor Ó Murchú quotes 'is ansin a bhí an béarla acu' (i.e. the argument/discussion), *Ó Dónaill* citing '*sin é an uair a bhí an béarla acu le chéile*, it was then that they started to talk excitedly to one another'.

Finally, we may note that the earlier form of 'Sacs', 'Saxa', comes from Latin 'Saxo', which is translated as (a) 'a Saxon' and (b) 'England' in DIL; Modern Irish 'Sasanach' comes from 'Saxanach', which is based both on 'Saxa' and on 'Saxain' (from Latin *Saxones*), 'the Saxons, Saxonland, England', according to DIL.

*is ainm don Stát* The phrase 'is ainm do' usually refers to personal names, *Ó Dónaill* citing '*Brian is ainm dó*, his name is Brian'. 'And declares his name and address' is translated as 'agus a dhearbhóidh cad is ainm agus seoladh dó' in s37(1) of the First Schedule to the European Assembly Elections Act, 1977, for example. Examples of 'ainm' ('name') are given in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles onwards, the earlier Ogam form, 'ANM', being therein interpreted as perhaps expressing either 'inscription' or 'mortal remains'. The earliest example of 'is ainm do' cited by DIL appears to be the following from Keating's seventeenth-century *History of Ireland*: 'an Colum Cille ... is é fá hainm baiste dhó Criomhthann' (i.e. Criomhthann was Colm Cille's christian name). In s10(1) of the Forestry Act, 1988, 'The name of the company shall be Coillte Teoranta or, in the English language, The Irish Forestry Board Limited' is translated as 'Coillte Teoranta nó, sa Bhéarla, *The Irish Forestry Board Limited*, is ainm don chuideachta'. Note 'Is iad ainmneacha na guideachtaí ...' translates 'The

names of the companies shall be ...' in s10(1) of the Postal and Telecommunications Services Act, 1983, cited above.

### Direct translation

Is é ainm an Stáit Éire, nó sa Bhéarla, *Ireland*<sup>1</sup>

### Variants

- <sup>1</sup> 'Éire is ainm don Stát, nó *Ireland* sa Bhéarla.', 'Éire, nó *Ireland* sa Bhéarla, is ainm don Stát.'

## ARTICLE 5 AIRTEAGAL 5

### TÉACS GAEILGE

Is Stát ceannasach, neamhspleách, daonlathach Éire.

### LITERAL ENGLISH TRANSLATION

Ireland is a sovereign/commanding, independent, democratic State.

### ENGLISH TEXT

Ireland is a sovereign, independent, democratic state.

### Divergences between the official texts

- As noted in the commentary on Article 1, where 'ceannasach' expresses 'sovereign' also, 'sovereign' is translated as 'flaitheasach' in the 1985 Anglo-Irish Agreement and in the 1993 Joint Declaration; 'ceannasach' can also be interpreted as 'commanding' or 'ruling', for example.
- 'Stát' has a capital 'S' in the Irish text as against the lower-case 's' in 'state', this also being the case in the enrolled texts.

### Commentary

*daonlathach* This headword is translated as 'democratic' in *Ó Dónaill*, who cites the variant form 'daonfhathach', that being the earlier form of this adjective. 'Daonlathach' is a compound of 'daon-' (translated as 'human', in compounds, in *Dinneen*) and an adjectival form based on 'flaith' ('lordship, sovereignty' and 'ruler, prince, lord, chief' according to *Ó Dónaill*). 'Democracy' derives through French from the Greek 'démocratiā' (a compound of 'demos' ['people'] and 'kratein' ['rule'] – see Jim O'Donnell and Seán de Fréine, *Ciste Cúrsaí Reatha*, p. 79, for example), of which the Irish is a calque or loan translation.

*Dinneen* does not appear to give 'daonlathach' as a headword, reflecting the recent origin of this compound. The abstract term 'daonfhathas' ('democracy') is, however, found in *Foclóir Staire is Tír-eóluíochta* (1928), the first of a series of collections of terms published by the Department of Education, s.v. 'government', this Irish term not being cited therein s.v. 'democracy' (the reader being referred to 'government', however):

Democratic measures, *dlichthe i bhfabhar na coitchiantachta*; the advance of democracy, *méadú ar chomhacht na ndaoine*; democratic government, *rialú mar mhaithe leis an gcoitchiantacht (le tromlucht na ndaoine, le ionndamhlacht na ndaoine)*.

A version of this entry is followed in *Téarmaí Staire* (1934) by a separate entry s.v. 'democrat(ic)', translated simply as 'daonfhilathach', with 'social democrat' translated as 'daonfhilathach comhdhaonnach'. *L. Mc Cionnaith* gives these collections of terms as the source of his translation of 'democracy' as 'daonfhilathas', also citing 'rights of the democracy, *ceart an phobail choitianta* [Munster, Connacht]' and 'laws in favour of democracy, democratic laws, &c., *dligthe i bhfabhar*, &c. *na coitiantachta* [Connacht, Munster]'.  
*De Bhaldraithe* translates 'democracy' simply as 'daonlathas' and 'democratic' as 'daonlathach'. So it is in the Acts also – see, for example, s13 of the Broadcasting Authority (Amendment) Act, 1976, where 'uphold the democratic values enshrined in the Constitution' is translated as 'tacóidh sé leis an bhfiúchas daonlathach atá cumhdaithe sa Bhunreacht'. 'A prosperous democratic society' is translated as 'sochaí dhaonlathach rathúil' in s4.7 of the *New Ireland Forum Report* (1984) and 'a modern democratic and pluralist society' is translated as 'sochaí dhaonlathach iolraíoch nua-aimseartha' in the *Joint Declaration* of December 1993.

The term 'flaith' in the compound 'daonlathach' itself reveals the hierarchical as against the democratic nature of early Irish society. In his 'Legal Glossary' appended to the early Irish law text, *Críth Gablach* (1979, p. 91), D.A. Binchy writes as follows regarding 'flaith':

*flaith* is both absolute and concrete: 'authority, rule', and the person who exercises such authority or rule.... *flaith* may be used of the king, of a noble, of a 'lord' over clients, etc .... The *grád flatha*, the 'noble grades', are distinguished from the commoners (subsequently called the *grád Fhéne*), not merely by birth and property qualifications, but also by certain well-defined prerogatives, above all by the possession of clients.

Professor Binchy has described early Irish society as being 'tribal, rural, hierarchical, and familiar' (see D.A. Binchy, 'Secular Institutions' in Myles Dillon, ed., *Early Irish Society*, 1954, p. 54), and elaborates on the hierarchical aspect as follows (p. 56):

When I speak of a hierarchical order I mean one in which society was more or less rigidly stratified, and in which the inequality of man – based on differences in birth and calling – had been erected into a legal principle.... Most men were free but they were certainly not equal.

At the top of the pyramid in each *túath* stood the king.... After the king came what the jurists call 'the grades of nobility'. Whether the various subdivisions of the aristocracy enumerated in the law tracts had much significance in real life I am inclined to doubt: the real distinction was between those of gentle birth ... and the commoner or churl.

'Flaitheasach', 'sovereign', is also based on 'flaith'.

*neamhspleách* This headword is translated as 'independent' in *Ó Dónaill*, 'conraitheoir neamhspleách' being translated as 'independent contractor' in *Téarmaí Dlí*. *Dinneen* translates 'neamh-spleádhach' as 'independent', citing '*fear neamh-spleádhach*, a man of independent character or means'. This adjective is composed of the prefix 'neamh-' (implying absolute negation or non-existence', according to *Dinneen*) and 'spleadhach', 'dependent' actually being the final sense of this headword

in *Dinneen*, the others being 'flattering, vain-glorious, intriguing; fictitious'. DIL only gives one example of 'spleadhach': 'gairm spleadhach' ('flattering titles'), from the seventeenth-century translation of *Job* xxxii. 21. This adjective is based on 'spled', which comes from Anglo-Saxon 'plega' and is translated in DIL as (a) 'sport, play' and (b) 'boasting, exaggeration; flattery'. Against this etymology, Professor Máirtín Ó Murchú notes firstly that the *Lexique Étymologique* points out that 'spleadhach' is very similar to Welsh 'ysbleddach' and that, if those are related etymologically, they could not have come from the Anglo-Saxon form. Professor Ó Murchú secondly refers to the form 'spleádhach' (translated as 'act of looking sharply at' in *Dinneen*) in the context of 'spleách'.

'Independent (of)' is translated as 'neamhspleádhach (do), ar neamhthuilleamaidhe (le), neamhthuilleamaidheach, ar neamhacra (do)' in *Téarmaí Staire* (1934). 'Independent' is translated as 'nea-spleách' in Article 69 of the 1922 Constitution. 'Independent assessor' is translated as '(ar) mheastóir nea-spleách' in s7(2) of the Public Safety (Punishment of Offences) Temporary Act, 1924. Note that 'if the parties to the transaction had been independent parties dealing at arm's length', in s376(1)(b) of the Income Tax Act, 1967, is translated as 'dá mba pháirtithe neamhspleácha ag déileáil ar neamhthuilleamaí le chéile na páirtithe san idirbheart'.

Note finally that 'independent' is expressed as 'saor neamhspleách' in Article 35.2.

*Éire* Sometimes a personal pronoun is found in apposition to the subject in phrases such as this, i.e. 'Is Stát ... í Éire'. This is called a 'fo-ainmní' ('secondary' or 'sub-subject') in *Graiméar Gaeilge na mBráithre Críostaí* (1960, s429, p. 209), where 'is áit dheas é Dún Garbhán' is cited as an example. As the same *Grammar* states, however, this 'fo-ainmní' is not necessary.

*ceannasach* See the commentary on Article 1.

### Direct translation

Is stát flaitheasach<sup>1</sup>, neamhspleách, daonlathach í Éire<sup>2</sup>.

### Variants

- 1 'ceannasach'
- 2 'daonlathach Éire'.

## ARTICLE 6.1 AIRTEAGAL 6.1

### TÉACS GAELIGE

Is ón bpobal, faoi Dhia, a thagas gach cumhacht riala, idir reachtaíocht is comhallacht is breithiúnas, agus is ag an bpobal atá sé de cheart rialtóirí an Stáit a cheapadh, agus is faoin bpobal faoi dheoidh atá gach ceist i dtaobh beartas an Náisiúin a shocrú de réir mar is gá chun leasa an phobail.

### LITERAL ENGLISH TRANSLATION

It is from the people, under God, that every power of rule, both legislation and fulfilment and judgement, comes and it is the people who have the right to appoint the rulers of the State, and it is up to / rests with the people

finally to settle every question regarding the policies of the Nation in accordance with what is necessary for the welfare of the people.

#### ENGLISH TEXT

All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

#### Divergences between the official texts

- 1 The terms corresponding to 'executive' ('comhallacht') in particular and, to a large extent, 'government' ('riala'), have been superseded, the former term, 'comhallacht', not being readily identifiable today or, as in the case of the term expressing 'government', 'riail', would not be interpreted as the corresponding terms in the English text.
- 2 'To decide all questions of national policy' follows on 'whose (i.e. the people) right it is' in the English text; this is not the case in the Irish text where 'gach ceist i dtaobh beartas an Náisiúin a shocrú' ('to settle all questions regarding the policies of the Nation') follows on 'agus is faoin bpobal faoi dheoidh atá' ('and it is (up) to / rests with the people'), a phrase found only in the Irish text. 'To decide all questions' is expressed as 'gach ceist a shocrú' ('to settle all questions') and 'national policy' is expressed as 'beartas [gen. pl.] an Náisiúin' ('the policies of the Nation') in the Irish text, 'Náisiúin' having a capital 'N' as against lower case 'n' in 'national'. A comma follows 'to decide all questions of national policy', no corresponding comma being found in the Irish text, which therefore emphasises more that it is for the people not simply to decide all questions of national policy but to decide them according to the requirements of the common good.
- 3 'Derive from' is expressed plainly as 'a thagas' ('come from') in the Irish text.
- 4 The Irish text refers to the right 'to appoint' ('a cheapadh') the rulers, whereas the English text has 'to designate' (the rulers), 'designate' having the senses of both 'nominate' and 'appoint'.
- 5 'In final appeal' is expressed as 'faoi dheoidh' ('finally') in the Irish text – though, as Professor Máirtín Ó Murchú notes, in a form redolent of high narrative style. 'In final appeal' can be either taken literally or in the sense of 'in the final analysis', this latter sense being the sense of the Irish text.

Note that Article 2 of the 1922 Constitution commences as follows:

All powers of government and all authority, legislative, executive, and judicial, in Ireland are derived from the people of Ireland .... *Tagann gach comhacht rialtais agus gach údarás reachtúcháin, feidhmiúcháin agus breithiuntais in Éirinn ó mhuintir na hÉireann ....*

#### Commentary

*a thagas* The special form of the relative, present indicative, of 'tar', this would now generally be replaced by 'a thagann'. We find the old special form of the relative

in '-s' in quite a number of Articles in the Constitution. While this special relative is allowed in the official standard (see *An Caighdeán Oifigiúil*, p. 46), it is not, however, given in the tables of the regular verbs, and is seldom written in official standard Irish except in the fixed expression 'a leanas' ('which follows').

The old special form of the relative of the verb, ending in '-(e)as' in the present tense and '-f(e)as' in the future, is well preserved in Ulster Irish – see Art Hughes, 'Gaeilge Uladh', in Kim McCone, Damian McManus, Ruairí Ó hUiginn, Cathal Ó Háinle, Nicholas Williams, Liam Breatnach, ed., *Stair na Gaeilge* (Maynooth 1994, p. 641), who states that the ending '-anns' is often found in the present tense, i.e. the normal present third person ending plus the relative '-s'. In Connacht, the future relative ends in 's' and we find both the old relative form in '-s' and the new form in '-nns' (as in Ulster Irish) in the present relative (see Ruairí Ó hUiginn, *ibid.*, p. 582). In Munster Irish, however, the relative ending '-as' has almost died out and only on the Galway border is the present relative form '-ans', and the future '-as', heard (see Seán Ua Súilleabháin, *ibid.*, pp. 516 and 523). The disregard of the relative ending was one of the features of the language which Richard Henebry (Ristead de Hinderberg) criticized in his series of articles on 'Revival Irish' in the *Leader*, 1908-9 (see Cathal Ó Háinle, *ibid.*, p. 760).

Note that 'a thagas' appears as 'a thigeas' in the enrolled text, the variant form 'tig' being allowed in the Stationery Office text in the phrase 'tig le'.

'Tar ó' literally means 'come from'. 'Tig', with the preposition 'ó', is found in *Treaties establishing the European Communities* (1973, p. 888), where 'guidelines deriving from those declarations' is translated as 'na treoirilinte a thig ó na dearbhuithe'. Turning specifically to 'derive', 'I derive title from' is translated as 'gabhaim teideal ó' in *Tearmaí Dlí*, where 'derivative title' is translated as 'teideal díorthaíoch'. 'Díorthaigh' is the technical term in the Acts for 'derive', though 'faigh' with the preposition 'as' or 'ó', is also found – see, for example, s17(Table) of the Finance Act, 1990, where 'in the nature of a rent derived from any lands' is translated as 'ar mhodh cíosa a fhaightear ó aon taillte'. Regarding 'díorthaigh', see, for example s28 of the Value-Added Tax (Amendment) Act, 1978, where 'products deriving essentially from his agricultural production' is translated as 'táirgí ... a dhíorthaíonn go bunúsach óna tháirgeadh talmhaíochta'. In s18(3)(b) of the Finance Act, 1966, 'a succession derived under a disposition made by the deceased' is translated as 'comharbas ... a dhíorthaigh faoi dhiúscairt a rinne an t-éagach' and in s8(2)(a) of the Capital Gains Tax Act, 1975, 'where any capital is derived from assets' is translated as 'i gcás aon tsuim chaipitiúil díorthú as sócmhainní'.

*riala* 'The organs of government' is expressed as 'na horgain rialtais' in Article 39, 'an Rialtas' expressing 'the Government' (i.e. with capital 'G') throughout the text.

'Riaghla', the form in the enrolled text, is given in *Ó Dónaill* as a variant form of the genitive singular of 'riaghail', which itself is an older spelling of 'riail'; the standard genitive singular of 'riail' is 'rialach'. 'Riail' is translated as 'rule' in *Tearmaí Dlí*. 'Riaghla' is cited before 'riaghlach' as the form of the genitive singular of 'riaghail' in *Dinneen*, who translates 'riaghail' as 'a rule, law or regulation; rule, government, direction or jurisdiction; a



religious rule, discipline, a religion; a system or dispensation', citing '*fá riaghail*, under the rule or government of'. Old Irish '*riagol*' comes from Latin '*régula*' and is translated as 'a rule whether prescription, law, tradition or custom' in DIL s.v. '*riagal*', where it is stated that '*riagol*' is used in a less definite and legal sense than '*dliged*', and that it passed into the sense of 'rule, authority'.

*Ó Dónaill* s.v. '*riail*', gives the following senses: (1) 'regulation, principle' and (2) 'sway, authority; order'. '*Rialú*', verbal noun of '*rialaigh*' (translated as (1) 'govern, control' and (3) 'regulate' in *Ó Dónaill*), is translated as 'rule, regulation; control, government'. 'Government' is translated as '*riaghaltas* [*Connacht, Munster*]' in *L. Mc Cionnaith*, who cites 'ceann, 7 c. an riaghaltais' and translates 'representative government' as '*dáil riaghaltais, riaghaltas tré theachtaí*', followed by the abbreviation for 'Terms published by Department of Education', which abbreviation also follows '*riaghaltas coisde, áiteamhail*', translating 'cabinet, local, government'. 'Method, system, of government' is translated as '*is maith an riaghlaidheacht í* [*Munster*]'. *Dinneen* translates '*riaghaltas*' as 'sovereignty, government'.

Note above that we find 'All powers of government' translated as '*gach comhacht rialtais*' in the corresponding Article 2 of the 1922 Constitution. Subsection 1 of s6 of the Offences Against the State Act, 1939, is entitled 'Usurpation of functions of government', '*Feidhmeanna riaghaltais d'fhorghabháil*', and reads as follows:

Every person who usurps or unlawfully exercises any function of government, whether by setting up ... a body of persons purporting to be a government or a legislature but not authorised in that behalf by or under the Constitution .... *Gach duine dhéanfaidh aon fheidhm riaghaltais d'fhorghabháil nó d'fheidhmiú go nea-dhleathach, tré chólucht daoine bhéarfáidh le tuigsint bheith ina riaghaltas no ina reachtasach ná beidh údarúithe chuige sin ag an mBunreacht ná fé do chur ar siúl.*

Subsection 1 of s7, which section is entitled 'Obstruction of government', '*An riaghaltas do bhac*', and is based closer still on Article 6 of the current Constitution, reads:

Every person who prevents or obstructs ... the carrying on of the governemnt of the State or any branch (whether legislative, judicial, or executive) of the government of the State .... *Gach duine chuirfidh cosc no bac ... le riaghaltas an Stáit no le haon bhrainse (pe'ca brainse reachtúcháin no breithiúntais no feidhmiúcháin e) de riaghaltas an Stáit do choimeád ar siúil ....*

While one might perhaps expect a verbal noun (see '*riailú*' above or see s27(2)(f) of the Defence Act, 1954, where 'the management, control and good government of such institutions' is translated as '*bainistí, rialú agus dea-riaradh na bhforas sin*'), remember that 'local government' is translated as '*rialtas áitiúil*'.

*comhallacht* 'Executive power' is expressed as '*cumhacht chomhallach*' in Articles 28.2, 29.4.1° and 49.1, with '*aon fheidhm chomhallach*' expressing 'any executive function' in Article 29.2.2°. In Article 29.7.3°, however, following the 1998 Amendment, 'executive powers and functions' is translated as '*cumhachtaí agus feidhmeanna feidhmiúcháin*', this being the current general translation of 'executive'.

'*Comhallacht*' does not appear as a headword in *Téarmaí Dlí, Ó Dónaill* nor in *Dinneen*. The adjective '*comhallach*', however, is given as a headword in *Ó Dónaill*, where it is translated as '*observant (ar riail, of a rule)*'. '*Comhall*' is translated as '*fulfilment, performance*' in *Ó Dónaill*, where '*comhall rialach, reachta*, observance of rule, of law' is cited, this being the verbal noun of '*comhail*', translated as '*fulfil, perform*' in *Ó Dónaill*, who cites '*gealltanais, dualgas, a chomhall*, to carry out a promise, an obligation' and '*riail a chomhall*, to observe a rule'. *Dinneen* translates '*cómhall*' as '*act of fulfilling; covenant, performance, execution, fulfilment; act, deed*' and '*cómhallaim*' as '*I fulfil or accomplish, discharge an office*'. The Old Irish deponent verb '*comalnaitheir*' is translated as '*fulfils, discharges, performs (a duty, undertaking), carries into effect, brings to pass (a promise, prophecy); fulfils, observes (a law, command); satisfies*' in DIL, the verbal noun '*comalnad*' being translated as '*act of fulfilling, completing, performing, carrying into effect; fulfilment*'. '*Comall*' is a later verbal noun of '*comalnaitheir*', which itself is based on '*comlann*', i.e. '*com*' + '*lán*' – see Article 3, where '*athchomhlánú*' is a doublet more recently formed from the same components.

Turning to 'executive' in the Acts, in s6 of the County Management (Amendment) Act, 1942, in accordance with the wording of the Constitution, 'the executive functions of such elective body' is translated as '*feidhmeanna comhallacha an chóluchta san*'. In s7(1) of the Offences Against the State Act, 1939, 'the executive' is translated as '(an) *chomhallacht*' but 'executive (branch)' is translated as '(brainse) *feidhmiúcháin*':

... the carrying on of the government of the State or any branch (whether legislative, judicial, or executive) of the government of the State or the exercise or performance by any member of the legislature, the judiciary, or the executive .... *le riaghaltas an Stáit no le haon bhrainse (pe'ca brainse reachtúcháin nó breithiúntais no feidhmiúcháin e) de riaghaltas an Stáit do choimeád ar siúl nó le haon bhall den reachtas, de sna breithiúin no den chomhallacht.*

'The Executive Authority of the Irish Free State' is translated as '*Údarás Feidhmiúcháin Shaorstáit Éireann*' in Article 51 of the 1922 Constitution; 'the Executive Council' is styled '*an Ard-Chomhairle*' in that Article, 'the Executive Council of Saorstát Éireann' being accordingly styled '*Ard-Chomhairle Shaorstát Éireann*' in Article 31.2.ii of the current Constitution – note that 'the National Executive' is translated as '(ag) an *gCoiste Náisiúnta*' in s13(1) of the Slaughtered Animals (Compensation) Act, 1928, and that '*an Coiste Feidhmiúcháin*' translates 'the Executive Committee' in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923.

*Ó Dónaill* gives the adjective '*feidhmitheach*' ('executive') as a headword and *De Bhaldraithe* so translates that adjective. *De Bhaldraithe* translates the noun 'executive' as (a) '*feidhmeannach*' and (b) '*coiste gnóthaí (cumainn)*'. *L. Mc Cionnaith* translates 'executive authority' as '*údarás feidhmiúcháin*', citing 'Terms from Staff of Dáil, *Foclóir Oifigeamhail*' as source. In the Margin Title of s17 of the County Management Act, 1940, 'Executive functions' is translated as '*Feidhmeanna feidhmiúcháin*' but in s7(2) of the County Management (Amendment) Act, 1942, 'the executive functions of such elective body' is translated as '*feidhmeanna comhallacha an chóluchta thoghaidhe sin*'. In s17(e) of the Dublin Cemeteries Committee Act, 1970,

'to provide such executive, professional, clerical, skilled or labouring staff as may be required by the Committee' is translated as 'cibé foireann fheidhmeannais, ghairmiúil, chléireachais, oilte nó oibreachais a fhostú a bheidh ag teastáil'. In the Capital Gains Tax Act, 1975, 'by reason of legislation in the country in which they have accrued or of executive action of the government of that country' is translated as 'mar gheall ar reachtaíocht sa tír inar fhaibhrigh siad nó mar gheall ar ghníomh feidhme ag rialtas na tíre sin'. In s10(3) of the Finance Act, 1953, 'by reason ... of executive action of the Government of that country' is translated as 'mar gheall ar bheart feidhmiúcháin ag Rialtas na tíre sin' and this form, the genitive of 'feidhmiúchán', generally translates 'executive' in the Acts and in current official usage. In s4 of Article IX of the Bretton Woods Agreements Act, 1957, for example, 'any other form of seizure by executive or legislative action' is translated as 'aon tsórt eile urghabhála trí ghníomhú feidhmiúcháin nó gníomhú reachtach'. 'The Executive Board' is translated as 'an Bord Feidhmiúcháin' in the *Treaty on European Union* (1992, p. 31), and on the *Dáil Order Paper* of 11/2/1981 the 'Civil Service Executive Union' is styled 'Aontas Feidhmiúcháin na Státseirbhíse'.

*a cheapadh* In Article 28.12 'the designation of members of the Government to be the Ministers in charge of the said Departments' is expressed as 'comhaltaí den Rialtas a cheapadh chun bheith ina nAíri i mbun na Ranna sin'. 'A cheapadh' expresses 'appoint' in Articles 22.2.3° and 31.3. In Article 13.8.2°, where both 'appoint' and 'designate' are found together, 'ainmnigh' expresses 'designate', with 'tribunal or body appointed or designated by either of the Houses of the Oireachtas' being expressed as 'binse nó comhlacht a cheapfar nó a ainmneofar ag ceachtar de Thithe an Oireachtais'. In Article 41.3.2°, a recent Amendment to the Constitution, 'a Court designated by law' is rendered as 'Cúirt a bheidh ainmnithe le dlí' and in Article 42.3.1° 'any particular type of school designated by the State' is expressed as 'aon chineál áirithe scoile a ainmnítear ag an Stát'. In Article 37.2, 'any person or body of persons designated by those laws' is expressed as 'aon duine nó aon dream a bheidh sonraithe leis na dlíthe sin'. Finally, in Article 15.10, 'beidh sé de chumhacht ag gach Teach acu pionós a cheapadh do lucht a sáraithe sin' expresses 'with power to attach penalties for their infringement'.

'Ceapaim' is translated as 'I appoint' in *Téarmaí Dlí* and 'appoint, assign' is just one of the sets of senses of this verb given in *Ó Dónaill*, who cites '*duine a cheapadh do rud*, to appoint someone to something' and '*is é an bás a cheapadh dúinn*, it is assigned to us to die'. *Dinneen* cites '*ceapadh 'na thaoiseach é*, he was appointed leader' and '*do cheapas lá don chruinniúghadh*, I fixed upon a day for the assembly'. The earlier form 'ceppaid' is translated as 'shapes, forms, fashions' and 'confines, restrict' in DIL, this verb being based on 'ceap', which comes from Latin 'cippus' – based on citations up to the beginning of the third century, 'cippus' had the senses of 'a boundary stone or pillar' and 'a tombstone', and came into Irish most likely before the second half of the fifth century (see Micheál Ó Cearúil, ed., *Gníomhartha na mBráithre*, p. 395). See the commentary on Articles 13.1.1°, 15.10, 34.4.5° and 40.4.3° where 'ceap' expresses respectively 'appoint', 'attach', 'direct' and 'fix'.

Turning to the Acts, in s2(vii)(a) of the Second Schedule

to the Value-Added Tax Act, 1972, 'not ... otherwise designated for the use of dogs' is translated as 'nach bhfuil ceaptha ar shlí eile le haghaidh madraí'. In s2(2) of the European Assembly Elections Act, 1977, 'The provisions of this Act replace the law providing for the designation by the Oireachtas of delegates to the Assembly' is translated as 'Gabhann forálacha an Achta seo ionad an dlí a fhoráil go gceapfadh an tOireachtas toscairí chun an Tionóil'. Usually, however, 'designate' is translated by 'ainmnigh' in the Acts, although 'sainigh' is sometimes found. In s10(2) of the Schedule to the European Assembly Elections Act, 1977, for example, 'one other person designated by the candidate' is translated as 'duine amháin eile arna ainmniú ag an iarrthóir'. 'Designated areas' is translated as 'limistéir ainmnithe' in s30 of the Finance Act, 1990. 'Ainmnigh' also translates 'name' and, in particular in Parliamentary usage, 'nominate', which may have contributed to the use of other terms. In s13(1)(b) of the Misuse of Drugs Act, 1977, 'designate that drug as a drug to which this subsection applies' is translated as 'an druga sin a shainiú mar dhruaga a mbaineann an fo-alt seo leis'. 'Designated order' is translated as 'ordú sainiúcháin' in s2(1) of the Wildlife Act, 1976. 'Sainigh' is translated as 'state expressly, specify; define' in *Ó Dónaill*. DIL translates 'sainigidir' as (a) 'is different, distinct', (b) 'makes different, distinguishes, gives pre-eminence to' and '*legal perhaps* appropriates (defines? specifies?)'. It is based on 'sain', translated as 'different, distinct, separate (from other things)' and 'peculiar, special (of a characteristic which distinguishes one thing from others)', in DIL.

We have seen above that, unlike Article 41.3.2°, a recent Amendment to the Constitution, where 'a Court designated by law' is rendered as 'Cúirt a bheidh ainmnithe le dlí', in Article 37.2, 'any person or body of persons designated by those laws' is expressed as 'aon duine nó aon dream a bheidh sonraithe leis na dlíthe sin'. 'Sonrú' also translates 'designate' in the Industrial Relations Act, 1946 (see *Téarmaí Oifigiúla*).

We find the following entry in Henry Murdoch, *A Dictionary of Irish Law* s.v. 'designated':

When considered in its Latin etymological sense relates to a sign or a mark of approval; the formal introduction to an accused renders a doctor a *designated* registered medical practitioner under the Road Traffic Acts....

The *Shorter Oxford Dictionary* s.v. 'designate', reads as follows:

(1) To point out, indicate; to specify 1801. (2) To point out by a name or description; to name, denominate 1818. (3.) To appoint, nominate for duty or office; to destine to a purpose or fate 1791.

The Irish text of Article 6.1 clearly reads 'appoint' as against 'nominate'. See further the commentary on Articles 13.8.2° and 42.3.1°.

*i dtaobh beartas an Náisiúin ... chun leasa an phobail* According to the official standard (i.e. *An Caighdeán Oifigiúil*), 'beartas' would be lenited here and in the nominative plural rather than the genitive plural, as here, and 'leas' would remain in the nominative case rather than the genitive, both 'beartas' and 'leas' being followed by 'definite' nouns (i.e. nouns preceded by the article) – see the commentary on Article 1 s.v. 'de réir dhúchais', regarding this rule of nominative instead of genitive. Note

that ‘chun leasa an phobail’ appears as ‘chun leas an phobail’ in the enrolled edition.

Regarding ‘náisiún’, this is a late Romance loanword – only three examples are cited in DIL s.v. ‘náisiún’ (‘a nation, people’), all from Ó Cianáin’s *Flight of the Earls*; other seventeenth-century texts show it to be well established in Irish usage, Professor Máirtín Ó Murchú referring to *Scáthán Shacramúinte na hAithridhe* and *Buaidh na Naomhchroidhe*, for example.

*Ó Dónaill* translates ‘leas an phobail’ as ‘the common good’. ‘Leas’ is translated as ‘interest’ in *Téarmaí Dlí*, ‘the common good’ being translated therein as ‘an mhaitheas phoiblí’. Note that ‘the common good’ is translated as ‘an mhaitheas phoiblí’ in the Preamble, ‘leas an phobail’ being found throughout the body of the Irish text. In the Long Title of the Local Government (Planning and Development) Act, 1963, ‘in the interests of the common good’ is translated as ‘chun tairbhe don mhaitheas phoiblí’. This is usually translated as ‘ar mhaithe le leas an phobal’ however – see, for example, the Long Title of the Local Government (Planning and Development) Act, 1976, where ‘An Act to make better provision, in the interests of the common good, in relation to ...’ is translated as ‘Acht do dhéanamh sócrú níos fearr, ar mhaithe le leas an phobail, i ndáil le ...’. See further the commentary on Articles 42.3.2° and 45.2.ii. Note, finally, that DIL cites ‘a mbearar ... do bhreathaibh díorgha dlighe isin maitheas phuiblidhe’ (‘... in the common weal’) from the seventeenth-century ‘Contention of the Bards’, also citing ‘san maitheas phuibhlidhe’ from Keating’s seventeenth-century *Three Shafts of Death*. *Dinneen* translates ‘an maitheas poiblidhe’ as ‘the public good’, *Ó Dónaill* translating ‘an mhaitheas phoiblí’ as ‘the common weal’.

*faoi dheoidh* This phrase is translated as ‘in the end, at last’ in *Ó Dónaill*. Old Irish ‘fo deud’ glosses Latin ‘in fine’ in the ninth-century St Gall Glosses on Priscian and is translated as ‘at last, in the end, ultimately’ in DIL s.v. ‘dead’, where examples are cited from the Glosses onwards. ‘Court of Final Appeal’ is styled ‘Cúirt Achomhairc Dheiridh’ in Article 34.2 of the Constitution, as it is in the Courts (Establishment and Constitution) Act, 1961, and in *Téarmaí Dlí*. ‘Cúirt Aith-éisteachta Deire’ translates ‘Court of Final Appeal’ in Article 64 of the 1922 Constitution.

*rialtóirí* ‘Rialtóir’ is translated as ‘ruler’ in *Ó Dónaill*, ‘riaghlóir’ being translated as ‘a ruler, an abbot, a censor’ in *Dinneen* (‘riaghlóirí’ is the form in the enrolled edition). ‘Riaglóir’, in original sense ‘a regulator’, hence according to DIL in Old Irish this word is used of the ‘regular’ numbers for calculating the age of the moon on the first day of each month. Only in late literature did it have the sense of ‘a ruler’ in general (DIL citing ‘riaghlóir do phobuil’ from the seventeenth-century translation of *Exodus*, xxii 28), this being a development of the sense of ‘a ruler or director in a monastery’. ‘Riagal’ (‘rule’), as we have already stated, comes from Latin ‘régula’. In contemporary Irish, the form ‘rialóir’ (< ‘riaghlóir’) is used of the instrument – see *Ó Dónaill*.

*is faoin bpobal* ‘Faoi’, literally ‘under’ – see *Ó Dónaill* s.v. ‘faoi’ (3)(c): ‘(Of assignment). *Rud a fhágáil faoi dhuine* (le déanamh), to leave something to someone (to do) ... *Fút féin atá sé*, it is up to yourself’.

*breithiúnas* This headword is translated as ‘judgment’ in *Téarmaí Dlí*, with ‘judicial discretion’ being translated as ‘rogha bhreithiúnach’. ‘The judiciary’ is translated as ‘an bhreithiúnacht’ in Statutory Instrument No. 308 of 1991.

*reachtaíocht* This headword is translated as ‘legislation’ in *Ó Dónaill*. ‘Legislative’ is translated as ‘reachtach’ in *Téarmaí Dlí*. See the commentary on Article 20, ‘Reachtaíocht’ being the heading of that Article.

*de réir* This phrase is translated as ‘in accordance with’ in *Téarmaí Dlí*.

### Standardised Irish text

Is ón bpobal, faoi Dhia, a thagann gach cumhacht rialach, idir reachtaíocht is chomhallacht is bhreithiúnas, agus is ag an bpobal atá sé de cheart rialtóirí an Stáit a cheapadh, agus is faoin bpobal faoi dheoidh atá gach ceist i dtaobh bheartais an Náisiúin a shocrú de réir mar is gá chun leas an phobail.

### Direct translation

Gach cumhacht rialtais, idir chumhacht reachtaíochta<sup>1</sup>, chumhacht fheidhmiúcháin<sup>2</sup>, agus chumhacht bhreithiúnais<sup>3,4</sup> díorthaíonn sí<sup>5</sup>, faoi Dhia, ón bpobal, arb é a gceart<sup>6</sup> rialtóirí an Stáit a ainmniú<sup>7</sup> agus, in achomharc deiridh<sup>8</sup>, gach ceist beartais náisiúnta a chinneadh, de réir riachtanais na maitheasa poiblí<sup>9</sup>.

### Variants

- 1 ‘reachtais’, ‘reachtach’
- 2 ‘fheidhmitheach’
- 3 ‘bhreithiúnachta’, ‘bhreithiúnach’
- 4 ‘Gach cumhacht rialtais, reachtach, feidhmitheach, breithiúnach,’ ‘Gach cumhacht rialtais, idir reachtaíocht, fheidhmiúchán is bhreithiúnacht,’
- 5 ‘siad’
- 6 ‘Is ón bpobal, faoi Dhia, a dhíorthaíonn gach cumhacht rialtais, idir chumhacht reachtaíochta, chumhacht fheidhmiúcháin, agus chumhacht bhreithiúnais, agus tá sé de cheart acu’
- 7 ‘a shainiú’, ‘a cheapadh’
- 8 ‘i ndeireadh thiar thall’, ‘faoi dheoidh’
- 9 ‘riachtanais leas an phobail’

## ARTICLE 6.2 AIRTEAGAL 6.2

### TÉACS GAELIGE

Is leis na horgain Stáit a chuirtear ar bun leis an mBunreacht seo, agus leo sin amháin nó lena n-údarás, is féidir na cumhachtaí riala sin a oibriú.

### LITERAL ENGLISH TRANSLATION

It is by the organs of State / State organs that are established by this Constitution, and by those alone or by/with their authority, that those powers of rule can be operated.

### ENGLISH TEXT

These powers of government are exercisable only by or on the authority of the organs of State established by this Constitution.

### Divergences between the official texts

- 1 'Are exercisable only by or on the authority of the organs of State' is expressed in the Irish text as 'Is leis na horgain Stáit ..., agus leo sin amháin nó lena n-údarás, is féidir ... a oibriú' ('It is by the organs of State, and by them alone or by/with their authority, that ... can be exercised'); the English text is theoretically capable of being read as follows: 'are exercisable only **by the authority of** the organs of State or **on the authority of** the organs of State' rather than 'are exercisable only by the organs of State or **on the authority of** the organs of State'.
- 2 As in the previous subsection, 'government' is expressed in the Irish text by the term normally expressing 'rule'.
- 3 'Oibrigh' expresses 'exercise' in the Irish text, as in Article 3; 'oibrim', however, is translated as 'I operate' in *Téarmaí Dlí*.
- 4 The Irish text expresses 'on the authority of' as 'lena n-údarás' ('with/by their authority').

### Commentary

*orgain* The plural form of 'organ'. 'Aon organ stáit' expresses 'any organ' in Article 29.4.2° and 'any organ of State' is rendered as 'aon organ Stáit' in Article 29.7.2° (following the 1998 Amendment of the Constitution). 'Na horgain rialtais' expresses 'the organs of government' in Article 39, with 'organs of public opinion' being expressed as 'orgain aigne an phobail' in Article 40.6.1°i and 'by any of the organs established by this Constitution' being expressed as 'le haon organ dá mbunaítear leis an mBunreacht seo' in Article 49.2.

'Organ' is given as a variant form of 'orgán' in *Dinneen*, who translates 'orgán' simply as 'an organ (*musical instrument*)'. *Ó Dónaill* does not give 'organ' as a headword, translating 'orgán' (pl. 'orgáin') as 'organ' (in the musical and physiological sense). 'Orgán' comes from Latin 'organum' and examples of this word are cited in DIL s.v. 'orgán', from the eighth-century Glosses onwards, in the sense of 'a musical instrument (probably a wind instrument, but frequently used in generic sense, often of martial music)'.

In the First Schedule to the Army Pensions Act, 1923, 'Wounds of ... internal ... abdominal organs' is translated as 'créachta in orgáin inmheánacha', with 'Total organic paralysis' being translated as 'Pairilis orgánach iomlán'. 'Orgáin' translates 'organs' in Schedule A (headed 'Maximum Rates Payable on Goods') to the Dundalk Harbour and Port Act, 1925. In s11 of Article IV of the Third Schedule to the Diplomatic Relations and Immunities Act, 1967, on the other hand, 'Representatives of Members to the principal and subsidiary organs of the United Nations' is translated as 'Ionadaithe Comhaltaí chun príomh-organ agus fo-organ na Náisiún Aontaithe' and in s1 of the Diplomatic Relations and Immunities (Amendment) Act, 1976, 'international organisations ..., their institutions or organs' is translated as 'eagraíochtaí ... idirnáisiúnta, a bhforais nó a n-orgain'. In the Margin Title of s75 of the Postal and Telecommunications Act, 1983, 'Messages to certain organs of State' is translated as 'Teachtaireachtaí chuig orgain áirithe Stáit'.

We find the form 'orgán' rather than 'organ' in trans-

lations of European legislation. In *Treaties establishing the European Union* (1973, p. 786), 'This Protocol shall also apply to the European Investment Bank, to the members of its organs' is translated as 'Bainfidh an Prótacal seo freisin leis an mBanc Eorpach Infheistíochta, le comhaltaí a orgán' – the same text in the *Treaty on European Union* (1992, p. 187), with the substitution of 'the European Central Bank' for 'the European Investment Bank', being translated as 'Beidh an Prótacal seo infheidhme freisin ar an mBanc Ceannais Eorpach, ar chomhaltaí a orgán'.

Note that while 'organic' is translated as 'organta', following the abbreviation 'phil', in *L. Mc Cionnaith*, in Colmán Ó Huallacháin's *Foclóir Fealsaimh* (1993 [1958]), 'orgánach' translates 'organic' and we get the following entry s.v. 'orgán': 'Páirt le feidhm áirithe in iomlán coimpléascúil', with *Gualterus Burley: De Potentiis Animae* (a manuscript in the National Library of Scotland) and *Regimen na Sláinte* cited as sources of 'orgán'. 'Organ', in the physiological sense, is now generally translated as 'ball' in the Acts – see, for example, s12(1) of the Health (Family Planning Act), 1979, where 'any disease affecting the generative organs of either sex' is translated as 'aon ghalar a thagann ar bhaill gheiniúna fir nó mná'.

*leo sin amháin nó lena n-údarás, is féidir ... a oibriú* In Article 49.2, 'the said powers, functions, rights and prerogatives shall not be exercised or be capable of being exercised ... save only by or on the authority of the Government' is expressed as '(achtaítear leis seo) nach dleathach agus nach féidir na cumhachtaí, na feidhmeanna, na cearta, agus na sainchumais sin a oibriú ... ach amháin ag an Rialtas nó le húdarás an Rialtais'. In Articles 28.2 and 29.4.1°, 'The executive power of the State shall ... be exercised by or on the authority of the Government' is expressed as 'is é an Rialtas a oibreos, nó is le húdarás an Rialtais a oibreofar, cumhacht chomhallach an Stáit'. 'On the authority of the Houses of the Oireachtas' is rendered as 'le húdarás Thithe an Oireachtais' in the new subsection 3 in Article 28.4.

Turning specifically to 'exercisable', in Article 13.9 'is cead don Uachtarán na cumhachtaí agus na feidhmeanna ... a oibriú is a chomhlíonadh' expresses 'The powers and functions ... shall be exercisable and performable by him', with 'Ní cead don Uachtarán aon chumhacht ná feidhm ... a oibriú ná a chomhlíonadh' expressing 'No power or function ... shall be exercisable or performable by him' in Article 13.11. 'In relation to the exercise and performance by him of such of his powers and functions as are by this Constitution expressed to be exercisable and performable' is expressed as 'maidir le hé d'oibriú is do chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a luaitear sa Bhunreacht seo a bheith inoibríthe is inchomhlíonta' in Article 31.1 and in Article 32, 'any of the powers or functions which are by this Constitution expressed to be exercisable or performable' is expressed as 'Cumhachtaí nó feidhmeanna ar bith a luaitear ina dtaobh sa Bhunreacht seo gur dleathach don Uachtarán iad a oibriú nó a chomhlíonadh'. Finally, in Article 49.1, 'All powers, ... whatsoever exercisable in ...' is expressed as 'Gach uile chumhacht ... a bhí inoibríthe í'.

'Oibrim' is translated as 'I operate' in *Téarmaí Dlí* whereas 'feidhmigh' usually translates 'exercise' in the Acts, as it does in one of the amendments to the Constitution –

see the commentary on Article 3. Turning to ‘exercisable’ in the Acts, ‘any other powers exercisable by the Minister’ is translated as ‘aon chumhachtaí eile is infheidhmithe ag an Aire’ in s8 of the Fuels (Control of Supplies) Act, 1971, for example. In s155(3)(c) of the Companies Act, 1963, ‘any shares held or power exercisable by any person ... shall be disregarded’ is translated as ‘tabharfar neamhaird ar aon scaireanna a bheidh ar seilbh, nó ar aon chumhacht is infheidhmithe, ag aon duine’. In s16(4) of the Medical Practitioners Act, 1978, ‘the said power may be exercisable only with such consent’ is translated as ‘ní bheidh an chumhacht sin infheidhmithe ach amháin leis an toiliú sin’. Finally, looking at earlier Acts, in s1(1) of the Local Authorities (Extension of Time) Act, 1923, ‘and such powers are ... exercisable only during a period of time’ is translated as ‘agus ... ná fuil na comhachtanna san infheidhmithe ach ar feadh tréimhse aimsire’. See further the commentary on Article 13.9.

Regarding ‘on the authority of’, in s3(3) of the Local Authorities (Indemnity) Act, 1923, ‘every payment by such trustee shall be deemed to have been made on the authority of the members of the local authority’ is translated as ‘gach íocaíocht a dhin an t-iontaobhaí sin tuigfar ... gur dineadh í le húdarás ballra an údaráis áitiúla’. In s1(2) of the Executive Authority (External Relations) Act, 1936, on the other hand, ‘The consular representatives of Saorstát Éireann in other countries shall be appointed by or on the authority of the Executive Council’ is translated as ‘Isé an Ard-Chomhairle dhéanfaidh no is ar údarás na hArd-Chomhairle déanfar ionadaithe consalta Shaorstáit Éireann i dtíortha eile do cheapadh’. In s12(3)(b)(i) of the Unit Trusts Act, 1972, ‘every untrue statement not purporting to be made on the authority of an expert’ is translated as ‘gach ráiteas bréagach nach n-airbheartóidh a bheidh déanta ar údarás saineolaí’. In s6 of Part I of the Second Schedule to the Defamation Act, 1961, however, ‘Any notice ... published by or on the authority of any court in the State’ is translated as ‘Aon fhógra ... a fhoilseoidh aon chúirt sa Stát ... nó a fhoilseofar lena n-údarás’. See further the commentary on Article 13.6 regarding ‘údarás’ and on Article 21.1.1<sup>o</sup> regarding ‘amháin’.

*sin* ‘Sin’ rather than ‘seo’ generally translates ‘these’ in the Acts – see, for example, s17 of Article V of the Third Schedule to the Diplomatic Relations and Immunities Act, 1967, where ‘these categories shall be communicated to the Governments of all Members’ is translated as ‘cuirfear na hearnálacha sin in iúl do Rialtais na gComhaltáí go léir’.

*is féidir* ‘Is féidir (go)’ is translated as ‘it is possible (that)’ in *Ó Dónaill*, who translates ‘an rud is, nach, féidir a dhéanamh’ as ‘what can, cannot, be done’. See DIL s.v. ‘étir, éter’, translated as ‘able; possible, feasible’, the earlier form of which is taken to be ‘sétir’, which is connected with ‘sétrech’, ‘strong, powerful’. Note that ‘nach féidir a oibriú’ expresses ‘shall not be capable of being exercised’ in Article 49.2.

*riala* See the commentary on the previous subsection.

*a oibriú* See the commentary on Article 3.

### Standardised Irish text

Is leis na horgain Stáit a chuirtear ar bun leis an mBunreacht seo, agus leo sin amháin nó lena n-údarás, is féidir na cumhachtaí rialach sin a oibriú.

### Direct translation

Is ag na horgáin<sup>1</sup> Stáit a bhunaítear leis an mBunreacht seo amháin, nó ar a n-údarás<sup>2</sup>, a bheidh na cumhachtaí rialtais sin infheidhmithe<sup>3</sup>.

### Variants

- 1 ‘horgain’
- 2 ‘lena n-údarás’
- 3 ‘is infheidhmithe na cumhachtaí rialtais sin’

## ARTICLE 7 AIRTEAGAL 7

### TÉACS GAELIGE

An bhratach trí dhath .i. uaine, bán, agus flannbhuí, an suaitheantas náisiúnta.

### LITERAL ENGLISH TRANSLATION

The flag of three colours i.e. green, white, and orange, (is) the national emblem/flag.

### ENGLISH TEXT

The national flag is the tricolour of green, white and orange.

### Divergences between the official texts

- 1 ‘The national flag’ is expressed as ‘an suaitheantas náisiúnta’ (‘the national emblem’) in the Irish text, ‘suaitheantas’ today being more associated with ‘emblem’ than ‘flag’; the harp being the national emblem, the Irish text might occasion some obscurity.
- 2 ‘Oráiste’ is the usual term which expresses ‘orange’ in the context of Northern Ireland rather than the term found in this Article, ‘flannbhuí’, which adjective, however, currently expresses ‘orange’ in general usage.
- 3 ‘The tricolour’ is expressed as ‘An bhratach trí dhath’ (‘the flag of three colours’) in the Irish text.
- 4 ‘Is’ in the English text is expressed by the syntax of the Irish text; this construction adds a stylistic terseness to the Irish text.
- 5 The English text has no comma after ‘white’ corresponding to the Irish text’s comma after ‘bán’.

### Commentary

*flannbhuí* Simply translated as ‘(Of colour) orange’ in *Ó Dónaill*, this compound of ‘flann’ and ‘bui’ does not appear to be given as a headword in *Dinneen*. ‘Flann-bhuí’ is cited as the translation of the colour ‘orange’ in Statutory Rules and Orders 47/1. ‘Orange RN’, the common name of one of the colours for foodstuffs, is translated as ‘flannbhuí RN (flannbhuí croicéine)’ in *Treaties establishing the European Communities* (1973, p. 1262).

'Flann' is translated as 'red', especially 'blood-red', in DIL, and is found in personal and proper names. 'Buide' is translated as 'yellow' in DIL, and glosses Latin 'flauus' in the ninth-century St Gall Glosses on Priscian. 'Oráiste', 'an orange', is a Romance loanword, cited in DIL only from Ó Cianáin's *Flight of the Earls*. While both *Dinneen* and *Ó Dónaill* give 'dath oráiste' (as 'dath óráiste' in the former case) as 'orange colour', *De Bhaldraithe* only gives 'flannbhuí' as the translation of the colour 'orange'. 'Orange' is translated as 'dearg-bhuidhe, buidhe, óráisdeach' in Daniel Foley's *English-Irish Dictionary* (1855), as 'dearg-bhuidhe, óráiste' in Edmund Fournier d'Albe's *English-Irish Dictionary* and as 'ruadh-bhuidhe' in *T. O'Neill Lane* (2nd edition). Note that 'dath' precedes 'oráiste' in *Ó Dónaill* and in *Dinneen*, i.e. 'oráiste' is not given as a colour adjective – like 'buí', for example – the genitive singular of 'oráiste' being used as an attributive adjective. *Dinneen* cites '*Fear Óráiste*, an Orangeman' (also 'fear láiste', perhaps from 'lóiste') and *Ó Dónaill* translates the adjective 'Oráisteach' as 'Orange', preceded by the abbreviation for 'Politics', with the noun 'Oráisteach' translated as 'Orangeman'. 'William of Orange' is referred to as 'Liam Oráiste' in Irish, with 'Orange Lodge' being translated as 'Áras Oráisteach' in *Foclóir Oifigiúil*. Professor Máirtín Ó Murchú remarks that 'fir bhúí' was the usual earlier Irish term for 'Orangemen'. *Dinneen* translates 'Seán Buidhe' as 'the English', referring the reader to the term 'John Bull', and includes the sense of 'a rake, one aggressively dissolute'. 'Buidhe', according to *Dinneen*, was used as 'a disparaging epithet, like ugly, dirty, bad', citing '*Domhnall Buidhe*, bad, bold Domhnall' and '*Tomás buidhe*, tawny Thomas'. In 1831 James Hardiman gave the following note with his edition and accompanying translation of 'Seághan Buidhe' in *Irish Minstrelsy*, vol. ii (p. 138):

The air of this song is more generally known than the origin of its name. Shane Bui, means, literally, Yellow or Orange Jack, (the John Bull of former days) there being no other word in Irish to express the latter colour. It was an appellation given by the Irish to the English followers of William III in Ireland. Hence the term Orangemen.

R.P.M. Lehmann writes as follows regarding the earlier citations of 'crón' in particular, in an article entitled 'Color Usage in Irish' (in *Studies in Language, Literature and Culture of the Middle Ages and Later* [The University of Texas at Austin, 1969, p. 77]):

More yellow, probably orange, with variation both in the direction of true yellow and also of rusty red, is *crón*. Sometimes it is translated "swarthy," but it may refer to what we call an "olive" complexion. *Crón*, but also *buide*, is used to translate "tan." Saffron, copper, and the yellow of age are *crón*. *Crón corcra* would probably be scarlet or vermilion. Applied to a horse, *crón* is translated "roan"; perhaps a sorrel roan is meant. The clear yellow of a buttercup and a blackbird's bill is *buide*. The same term is used for yellow hair, and like *crón*, for the complexion. The two words overlap in meaning, but if they are distinguished, *buide* is lighter, less red. *Buide* may be used of a cow, and when describing the earth seems to emphasize the fertility of ripened grain. *Buide* is of high brilliance and saturation. Paler hair is *finn* or *bán*.

'Crón' is translated as 'dark yellow, tan; swarthy colour' in

*Ó Dónaill*. Note that Risteárd Ó Foghludha replaced 'cróchda' (translated as 'saffron-coloured, orange' by *Dinneen*) with 'órdha' in an early draft of this Article – see Breandán Mac Giolla Choille, op. cit., p. 67.

*uaine* This headword is translated as '(vivid) green' in *Ó Dónaill*, as against 'glas', which is therein translated as (1) 'green', (2) 'grey' and (3) (*in earlier literature*) 'blue'. 'Uaine' is translated as 'green, verdant' in *Dinneen*, who translates 'glas' as 'green, verdant (as grass); grey (as a horse ...); bluish-grey, silvery, bright ...'. DIL translates 'uaine' as 'green, verdant' and s.v. 'glas', comments as follows: 'adjective descriptive of various shades of light green and blue, passing from grass-green to grey, opposed on the one hand to *uaine* "green", and on the other to *gorm* "blue"'.

Turning to the Acts, in the 'Definitions' in s1 of the Curragh of Kildare Act, 1961, "the Green Lands" means the portion of the Curragh that does not include the Camp or Blue Lands and is defined on the deposited map by being coloured green' is translated as 'ciallaíonn "na Tailte Uaine" an chuid den Churrach nach bhfuil an Campa ná na Tailte Gorma ar áireamh air agus a shonraítear ar an léarscáil thaiscthe le dath uaine'. 'A Green Paper', in Parliamentary usage, is styled 'Páipéar Uaine' – see the Dáil *Order Paper* of 7/10/92, for example, where 'Government Green Paper – Education for a Changing World' is styled 'Páipéar Uaine an Rialtais – Oideachas do Shaol atá ag Athrú'.

*suaitheantas* This headword is translated in *Ó Dónaill* as (1)(a) 'distinguishing mark; badge, emblem; decoration', citing '*suaitheantas cine*, emblem of race'; (b) 'device, crest (on seal)'; (c) 'standard, flag' ... (2) 'display, show, spectacle'. *Dinneen* cites '*bratach suaitheantais*, a flag or standard' and '*ard-shuaitheantas na Sasanach, .i. meirge Sain Seoirse*, i.e. St George's standard', translating 'suaitheantas' as 'remarkable or distinctive character, a distinguishing mark; ... a blazon, badge or escutcheon, a standard, flag or banner, a sign-post or land-mark; a demonstration, show or exhibit; ... a person wearing unusual or wretched attire, a "show"'. In the Romantic tale 'Sechrán na Banimpire' (*Ériu* v, 1911, pp. 184-5), Florens snatches a satin sleeve which was around Felicitá's arm, as she was taken from him against his will, saying: 'Cuirfeda an muinchille so ar cenn mo s[h]leighe ... mar bhratach s[h]uaitheantais mar mheirge cogaidh ...' ('I shall place this at the head of my spear as an emblazoned banner or standard of battle'). The earlier 'súaichentas/' 'súaithentas', based on 'súaichnid'/'súaithnid' (from \*su-aith-gnid) is translated as (a) 'distinguishing mark, emblem, blazon, badge' and (b) 'flag, battle-standard, ensign' in DIL.

*De Bhaldraithe*, for example, does not include 'suaitheantas' as a translation of 'flag', his entry reading as follows: (a) 'Brat, bratach'; (b) '*Nautical*: Bratach, meirge, an aimiréil', citing various phrases in both groups, none of which contain 'suaitheantas'. He translates 'emblem' as 'comhartha suaitheantais; *Heraldry*: samháltán' and 'ensign' as 'meirge, bratach'. *L. Mc Cionnaith* translates 'flag' (ensign) as 'brat; bratach [*Connacht, Ulster*]; dath an bhrait; dath an bhraitaigh [*Dinneen*], na brataighe [*Ulster*] ...', i.e. without reference to 'suaitheantas', translating 'flag' (ensign, banner) as 'meirge', again citing *Dinneen*.

In *Facts about Ireland*, published by the Department of Foreign Affairs (1995), an entry entitled 'Emblem' follows that entitled 'Flag' and reads:

The harp has been regarded as the official symbol or coat of arms of Ireland since medieval times. As such it is depicted alongside the coat of arms of a dozen or more medieval European kingdoms on a single folio of the Wijnbergen roll of arms compiled about 1270 .... The heraldic harp is invariably used by the Government, its agencies and its representatives at home and abroad. It is engraved on the seal matrix of the office of President as well as on the reverse of the coinage of the state. It is also emblazoned on the distinctive flag of the President ....

Turning to the Acts, in s2(1) of the Defence Act, 1954, we find the following 'Interpretations':

the word "decoration" means any medal, clasp, good-conduct badge or other decoration .... *ciallaíonn an focal "oirneas", aon bhonn, claspa, suaitheantas dea-iompair nó oirneas eile;*

the expression "flag officer" means an officer holding the commissioned naval rank of commodore .... *ciallaíonn an focal "brat-oifigeach" oifigeach ag a bhfuil céim choimisiúnta cheannasóra chabhlaigh.*

'An emblem' is translated as 'feathal' in s267(3)(f) of that Act. In s90(6)(b) of the Road Traffic Act, 1961, 'provisions for the issuing of official badges by the Commissioner to licensed parking attendants and the wearing of the badges by the attendants' is translated as 'forálacha chun an Coimisinéir d'eisiúint suaitheantas oifigiúla chun freastalaithe lochta ceadúnaithe agus chun na freastalaithe do chaitheamh na suaitheantas'. 'Badge' is translated as 'feathal', with 'suaitheantas' translating 'tab', in *Treaties establishing the European Communities* (1973, p. 1257), where 'Made up accessories for articles of apparel ...., excluding badges, tabs' is translated as 'Gabháltais chóirithe eile do bhaill éadaigh .... gan feathail, suaitheantais ... a áireamh'. *Ó Dónaill* cites the following senses of 'feathal' from earlier Irish literature: 'emblem, insignia; device, ornament; distinguishing feature'. 'Feathail' translates 'emblems' in Article 5 of the *Anglo-Irish Agreement* (1985, C).

Looking at the earlier Acts, in s151 of the Industrial and Commercial Property (Protection) Act, 1927, 'any badge, device, emblem, or flag, reserved by law for the use of ... the State' is translated as 'aon leabhrún, suaitheantas, comhartha, no bratach a bheidh curtha ar leithligh do réir dlí le haghaidh úsáide ... ag an Stát'. 'Supply of ordinary regimental badges' is translated as 'soláthar gnáth-leabhrún reisiminte' in s193 of the Defence Forces (Temporary Provisions) Act, 1923. 'Any badge of distinction' is translated as 'aon tsuaitheantas aitheantais' in s7(1) of the Eucharistic Congress (Miscellaneous Provisions) Act, 1932.

*bratach* *Ó Dónaill* cites '*bratach náisiúnta*, national flag' and '*bratach na hÉireann*, the flag of Ireland'. *Dinneen* translates 'bratach' as 'a standard, an ensign; a sail; ... also a robe, a garment' and includes 'a flag, a banner' as one set of the senses of 'brat' (principally 'a cloak, a mantle'). As the fourth set of senses of 'brat' *Ó Dónaill* gives '=Bratach'. 'Bratach' is based on 'brat', translated as 'cloak, mantle' in DIL s.v. 'bratt', where examples are also cited in the more general sense of 'covering, cover; cloth, etc.' – among them 'le brataibh' ('with flags'), from the works of the seventeenth-century poet Aogán Ó Rathile.

DIL translates 'brattach' as 'clothing; shield; banner, standard', translating 'bratacha' as 'flags' in the citation 'na bratacha snathcaine sreabanncaela sroil' from the Irish version of Lucan's *Pharsalia*, in *Cath Catharda*. See above s.v. 'suaitheantas' for 'bratach' translating 'flag' in s151 of the Industrial and Commercial Property (Protection) Act, 1927. 'An bhratach náisiúnta' translates 'the national flag' in s48(2) of the Fisheries Act, 1980, in which subsection 'that the flag so worn was not a flag distinctive of nationality' is translated as 'nár bhratach de shainghné náisiúntachta an bhratach a bhí ar foluain amhlaidh'.

*trí dhath* *Ó Dónaill* gives the headword 'trídhathach', translated as 'three-coloured, tricolour', and *De Bhaldraithe* translates 'tricolour' as (1) (*adjective*) 'trídhathach' and (2) (*substantive*) 'The Tricolour, *Bratach na dTrí Dhath*'. Note that the form in the enrolled text is 'An bhratach trí ndath'.

.i. DIL's entry s.v. '.i.' is as follows: 'Compendium for Latin *id est*, and in Irish usually representing "*ed ón*", that is to say, namely'. This Irish abbreviation is generally found in manuscripts rather than in later printed Irish texts. We would expect to find 'i.e.' in the English text corresponding to this Irish form of 'id est'.

### Direct translation

Is í bratach na dtrí dhath<sup>2</sup>, uaine, bán agus oráisteach<sup>3</sup>, an bhratach náisiúnta.

### Variants

- 1 'Is é'
- 2 'an bhratach thrídhathach'
- 3 'flambhuí'

## ARTICLE 8.1 AIRTEAGAL 8.1

### TÉACS GAELIGE

Ós í an Ghaeilge an teanga náisiúnta is í an phríomhtheanga oifigiúil í.

### LITERAL ENGLISH TRANSLATION

As/since (the) Irish (language) is / Irish being the national language it is the principal official language.

### ENGLISH TEXT

The Irish language as the national language is the first official language.

### Divergences between the official texts

- 1 'First' is expressed in the Irish text by the prefix generally expressing 'principal/main' – note that the following subsection refers to English as a '**second**' official language, following 'first' in this section, the Irish text having English as '**another**' ('eile') official language.
- 2 Irish being the national language is given more emphasis in the Irish text, 'as' being expressed as 'Ós í' ('since it is') in the Irish text.

Note that Article 4 of the 1922 Constitution commences as follows:

The National language of the Irish Free State (Saorstát Éireann) is the Irish language .... *Sí an Ghaedhilg teanga Náisiúnta Shaorstáit Éireann.*

On this Article in general see Tomás Ó Máille, *The Status of the Irish Language – A Legal Perspective* (1990). Commenting on Article 4 of the 1922 Constitution, Leo Kohn, *The Constitution of the Irish Free State*, pointed out that the linguistic arrangement provided for in that Article was unique among Commonwealth countries in giving prominence to a language other than the predominantly-used English – see Tomás Ó Máille, *op. cit.*, p. 3.

### Commentary

*Ós* The preposition ‘ó’ combining with ‘is’ of the copula – ‘ó’ in this capacity as conjunction being translated as ‘for the reason that, inasmuch as’ by *Ó Dónaill*, who cites ‘*ós teach nua é*, since it is a new house’ and ‘*ós agat atá an ceart*, as you are in the right’. *Dinneen* translates ‘ós’ as ‘since’ and cites ‘(of cause:) *ó taoi-se id’ shagart anois*, since you are now a priest’ and ‘*ós agat-sa atá na cosa*, since you have the legs (are a good walker)’. DIL’s entry s.v. ‘ó’ (ii) is as follows: ‘*As causal conjunction*, as, since, inasmuch as (*not in Glosses*); *especially common with copula*’. Among the examples cited therein are ‘*osa lim Albain cen fheill*’ (‘as I am ruler of Alba’) and the following ‘nature-friendly’ phrase from John of Gaddesden’s *Rosa Anglica*: ‘*osa cara don naduir an fuil*’ (‘since blood is the friend of nature’).

In *Treaties establishing the European Union* (1973, p. 173), ‘*Ós é a mianghas aontacht a ngeilleagar a neartú*’ translates ‘Anxious to strengthen the unity of their economies’ and in the Fourth Schedule to the Finance Act, 1973, ‘*Ós mian leo Prótacal a chur i gcrích*’ translates ‘Desiring to conclude a Protocol’.

‘Mar’ is regularly used to express ‘as’ in the sense of ‘in the character, capacity, of’ – see *Ó Dónaill* s.v. ‘mar’ (1)(b), where the following examples are cited: ‘*lena fáil mar bhean*, to get her as a wife’, ‘*bhí sé mar athair acu*, he acted as a father to them’, ‘*mar chomhartha síochána*, as a token of peace’ and ‘*mar dhuine againn féin*, as one of ourselves’. Note, however, that none of these examples have the definite article, which one might be uncomfortable with following ‘mar’ in this context. *Ó Dónaill*, however s.v. ‘mar’ (1)(d), ‘considering’, cites ‘*mar an gcéad uair a thug tú faoi*, considering it is the first time you tried it’ – *Dinneen* gives this as ‘mar an gcéad uair thugais fá n-a leithéid’. As examples of ‘mar’ (1)(a), ‘in the manner of’, the following are cited: ‘*mar an ngrian ag éirí*, like the sun rising’, ‘*mar an sneachta séidte*, like driven snow’ and, of course, ‘*mar an gcéanna*, likewise’. DIL s.v. ‘immar’, the earlier form of ‘mar’, cites ‘mar’, with article, in the sense of ‘like, as’, from Keating’s seventeenth-century *History of Ireland*: ‘mar an druing do mhair ré n-a linn féin’.

Turning to the Acts, in s2(3) of the Liability for Defective Products Act, 1991, ‘any person who supplied the product ... shall ... be liable, as the producer, for the damage’ is translated as ‘beidh aon duine a sholáthair an táirge ... faoi dhliteanas, mar an táirgeoir, i leith an damáiste’. Again, as regards ‘mar’ followed by the definite article, see s5 of

the Decimal Currency Act, 1970, where ‘so much of that amount as is in shillings or pence may be treated as the corresponding amount in the new currency’ is translated as ‘féadfar déileáil leis an oiread sin den tsuim sin is scillingí nó pingíní mar an tsuim chomhréire san airgead reatha nua’.

*an phríomhtheanga* In Articles 13.1.1° and 28.5.1°, ‘Prime Minister’ is expressed as ‘an Príomh-Aire’, with ‘the Chief Justice’ being styled ‘an Príomh-Bhreitheamh’ in Article 14.2.1°, for example. ‘The natural primary and fundamental unit group’ is expressed as ‘buíon-aonad príomha bunaidh’ in Article 41.1.1° with ‘the primary and natural educator of the child’ being expressed as ‘múinteoir príomha dúchasach don leanbh’ in Article 42.1. Finally, in Article 45.2.iv, ‘the constant and predominant aim’ is expressed as ‘is buanchuspóir agus is príomhchuspóir’.

On the other hand, ‘The first President shall ...’ is expressed as ‘Ní foláir don chéad Uachtarán’ in Article 12.7, with ‘to have vacated his first seat’ being expressed as ‘go bhfuil éirithe aige as an gcéad ionad’ in Article 15.14. ‘The date of its first meeting’ is expressed as ‘lá a céad-tionóil’ in Article 16.5, with ‘teacht le chéile ar chéad-tionól’ expressing ‘first meeting’ in Article 18.8. ‘Courts of First Instance’ are styled ‘Cúirteanna Céadchéime’ in Article 34.2, for example. ‘The day on which the Bill is first sent’ is expressed as ‘an lá a sheoltar an Bille ar dtús’ in Article 23.1.2° and as ‘an lá a sheoltar an Bille ... den chéad uair’ in Article 23.2.2°. ‘At the first meeting thereof’ is expressed as ‘an chéad uair a bheidh sé ar thionól den Chomhairle sin’ in Article 31.4.

The prefix ‘príomh-’ is translated as ‘prime, principal, chief, major, cardinal’ in *Ó Dónaill* and as ‘first, prime, chief, principal, great’ in *Dinneen*. It comes from Latin ‘primus’ and is translated as (a) ‘first (*in time*), primary’, and (b) ‘foremost, chief, principal, *and without comparison*, prime (*in quality*), eminent’ in DIL s.v. ‘prím-’, where examples are cited of ‘prím-’ compounded with ‘béla’ (Modern Irish ‘béarla’), translated therein as ‘primitive (original) language’. Hebrew is referred to in the first example of such a compound, from Micheál Ó Céirigh’s seventeenth-century recension of the *Leabhar Gabhála* (‘an primberla .i. Eabhra’), and Greek and Latin are included along with Hebrew in the second example, from the fourteenth-century *Leabhar Breac*: ‘isna primbelraib .i. Ébra 7 Grec 7 Latén’ (perhaps in sense (b) above, according to DIL). As an example of sense (b) we note in passing that Moses is referred to as ‘prímthoisech túaithi De’ in one text – this compound, rather like ‘Prime Minister’, is attested in *Saltair na Rann*, composed c. AD 1000. Professor Máirtín Ó Murchú draws attention to the following from the inscription on the gravestone over poet Eoghan Ó Caoimh (1656-1726): ‘ba fhile fóghlamtha, fir-eólach, agus cléireach clisde, caoin, a b-príomh-theangadh a dhúithche agus a shínnsear é’ – see O’Daly, *Poets and Poetry of Munster*, p. 38.

Note that ‘céad’ translates ‘first’ in the following phrases cited in *Téarmaí Dlí*: ‘on the first count, *ar an gcéad scór*’; ‘principal in the first degree, *príomhaí den chéad ghrád*’; ‘imprisonment in the first division, *príosúnacht sa chéad roinn*’; ‘court of first instance, *cúirt chéadchéime*’; ‘of the first part, *den chéad pháirt*’ and ‘first private sitting, *an chéad suí príobháideach*’. As we see above, ‘céad’ can also be prefixed and as a prefix is translated simply as



'first' in *Ó Dónaill* and as 'first, for the first time; fundamental' in *Dinneen*, who cites 'céid-rí, first king' and 'céid-riaghail, first rule'. See DIL s.v. 'cét-', (a) 'with nouns first and allied meanings (early, original, proto-, primary, primal, former, first-mentioned, aforesaid, foremost)', where 'is hé in cét sians didiu' ('this is the first meaning then') is cited from the ninth-century Milan Glosses on the Psalms.

Máirtín Ó Murchú points out that 'príomh-' connotes 'importance' while 'céad-' connotes order or sequence, i.e. sequence of time, movement, etc.

Finally, note that in s2 of the Adoption Act, 1974, 'the Board ... shall regard the welfare of the child as the first and paramount consideration' is translated as 'áireoidh an Bord gur ní ró-thábhachtach ag a bhfuil tosach airde leas an linbh'.

### Direct translation

Is í an Ghaeilge, mar an teanga náisiúnta, an chéad teanga' oifigiúil.

#### Variants

- 1 'an chéadteanga', 'an príomhtheanga'

## ARTICLE 8.2 AIRTEAGAL 8.2

### TÉACS GAEILGE

Glactar leis an Sacs-Bhéarla mar theanga oifigiúil eile.

### LITERAL ENGLISH TRANSLATION

The English tongue is accepted as another official language.

### ENGLISH TEXT

The English language is recognised as a second official language.

### Divergences between the official texts

- 1 'Is recognised' is expressed as 'Glactar leis' ('is accepted') in the Irish text.
- 2 'Second' in this section follows on 'first' in the English text of the previous section; the Irish text's 'other' follows 'príomh-' ('principal') in the Irish text of the previous section.
- 3 As in Article 4, 'an Sacs-Bhéarla' expresses 'the English language', this being translated simply as 'an Béarla' in the 1922 Constitution, as we see below.

Article 4 of the 1922 Constitution commences as follows:

The National language of the Irish Free State (Saorstát Éireann) is the Irish language, but the English language shall be equally recognised as an official language. *Sí an Ghaedhilg teanga Náisiúnta Shaorstáit Éireann, ach có-aithneofar an Béarla mar theanga oifigiúil.*

### Commentary

*Glactar leis* 'Admhaigh' rather than 'glac le' generally expresses 'recognise' in the Constitution. In Article 41.1.1°, 'The State recognises the Family as the natural primary

and fundamental unit group of Society' is expressed as 'Admhaíonn an Stát gurb é an Teaghlach is buíon-aonad príomha bunaidh don chomhdhaonnacht de réir nádúir'. Similarly in s2.1° of the same Article, 'the State recognises that ...' is expressed as 'admhaíonn an Stát go ...'. In Article 42.2 'in schools recognised or established by the State' is expressed as 'i scoileanna a admhaítear nó a bhunaítear ag an Stát'. In Article 43.2.1°, 'The State recognises, however, that the exercise of the rights ... ought ... to be regulated' is expressed as 'Ach admhaíonn an Stát gur cuí ... oibriú na gceart ... a rialú'. In Article 29.3, 'the generally recognised principles of international law' is expressed as 'bunrialacha gnáth-admhaithe an dlí idirnáisiúnta' – we also find this phrase in Article 29.7, the Amendment to the Constitution that followed the British-Irish Agreement of 10 April 1998.

'Glacaim le' is translated as 'I accept' in *Téarmaí Dlí* and in *Dinneen*. *Ó Dónaill* translates 'glacadh le rud' as 'to accept, admit, something', citing '*ghlac siad leis mar chomhairleoir*, they accepted him as counsellor', along with '*ní ghlacfaínn leis sin uaidh*, I wouldn't tolerate that from him'. The earlier form of this verb, 'glacaid', based on 'glac(c)' (translated as 'the fist half-opened, a hand [used of hand only, whereas "lám" frequently = "arm"]' in DIL), is of rare occurrence till late Middle and early Modern Irish, according to DIL, where two examples of 'glacaid' with 'le' (earlier 're') are cited: 'go nglacar linn mur gheall ar phais losa' (in O'Molloy's *Lucerna Fidelium*, 1676) and 'an t-aos óg do phósas nó do ghlacas re chéile' (in Donlevy's *Teagasg Críosduidhe*, 1742). See the commentary on Article 40.2.2° regarding 'glac' without accompanying 'le'.

Turning to the Acts, in s128(4)(c) of the Companies Act, 1963, perhaps echoing the Constitution, 'a religion recognised by the State' is translated as 'aicme creidimh atá admhaithe ag an Stát'. In the *New Ireland Forum Report* (1984, 3.16), 'in which the Irish Government recognised' is translated as 'inar admhaigh Rialtas na hÉireann'. In *Téarmaí Dlí*, however, 'admhaím' is translated as 'I acknowledge, I confess'. Although we find 'except for ... a purpose recognised by international law' translated as 'ach amháin ... chun críche a cheadaíonn an dlí idirnáisiúnta' in s5 of the Fisheries (Amendment) Act, 1978, 'aithin' generally translates 'recognise' in the Acts, as it does in Article 4 of the 1922 Constitution cited above, with 'aitheanta' generally translating 'recognised'. In s470 of the Income Tax Act, 1967, for example, "Local authority" ... includes any public body which is recognised as a local authority' is translated as 'Folaíonn "údarás áitiúil" ... aon chomhlacht poiblí atá aitheanta mar údarás áitiúil'. In s86(13) of the Patents Act, 1964, 'to refuse to recognise as agent in respect of any business under this Act any person' is translated as 'diúltú aon duine a aithint mar ghníomhaire i leith aon ghnó faoin Acht seo'. The Long Title of the Arbitration Act, 1980, commences as follows:

An Act to enable effect to be given to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done at New York on the 10th day of June, 1958 ... . *Acht dá chumasú éifeacht a thabhairt don Choinbhinsiún maidir le Dámhachtainí Eadrána Coigríche a Aithint agus a Fhorghníomhú a rinneadh i Nua-Eabhrac an 10ú lá de Mheitheamh, 1958.*

In s30(4)(a) of the Fisheries Act, 1980, 'with any recognised staff associations or trade unions' is translated as 'le haon

chomhlachais foirne nó ceardchumann aitheanta'. 'Recognised bodies' is translated as 'comhlachtaí aitheanta' in s7(1)(j)(iii) of the Wealth Tax Act, 1975. 'Any such person as the Revenue Commissioners recognise as carrying on the business of the builder of a ship', in s29(2) of the Mercantile Marine Act, 1955, is translated as 'aon duine a aithníos na Coimisinéirí Ioncaim mar dhuine a bhfuil gnó déantóra loinge á sheoladh aige'. Finally, 'The Council may ... determine the specialities which it shall recognise for the purpose of its functions under this Act' is translated as 'Féadfaidh an Chomhairle ... na speisialtachtaí a chinneadh dá dtabharfaidh sí aitheantas chun críche a feidhmeanna faoin Acht seo' in s31(1) of the Medical Practitioners Act, 1978.

Looking at earlier Acts, in s19 of the 'Clare County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'Admission on a certificate signed by three "recognised" persons' is translated as 'Daoine do leigint isteach ar theistias fé láimh thríúir "aitheanta"' and 'any body or organisation not functioning under the Constitution which is entitled to be recognised as being the government of the country' is translated as 'cólucht no có-ghléasadh ar bith ná fuil ag feidhmiú fén mBunreacht agus atá i dteideal go n-aithneofaí é mar riaghaltas ar an tír' in s2(b) of the Offences Against the State Act, 1939. We also find various forms of 'admhaigh', however: in s7 of the Indemnity Act, 1924, 'by the confirmation, continuance, or recognition of such authority by that Government' is translated as 'de bharr an Rialtas san do dhaingniú, do bhuanú no d'admháil an údaráis sin'; in s24 of the Agricultural Credit Act, 1927, 'The Minister may ... appoint such bank to be a recognised bank for the purposes of this Part of this Act' is translated as 'féadfaidh an tAire ... an banc san do cheapa chun bheith ina bhanc admhuithe chun crícheanna na Coda so den Acht so' and in s32(2) of the Veterinary Surgeons Act, 1931, 'The Council may recognise for the purposes of this section any country ... in which there is in force at the time of such recognition legislation' is translated as 'Féadfaidh an Chomhairle, chun crícheanna an ailt seo, aon tír ... d'admháil ina mbeidh i bhfeidhm, le linn na hadmhála san, reachtúchán'.

*eile* This headword is translated as 'other, another; next, more, else' in *Ó Dónaill*, who cites '*bealach eile*, another, an alternative, way,' and '*fáth eile*, another, an additional, reason'. *Dinneen* translates 'eile' as 'other, another, else, second, next'. DIL translates the earlier form 'aile' as 'other, one of two, second', citing 'nábat nacha arm aili' ('let it not be any other arms') from the eighth-century Würzburg Glosses on the Pauline Epistles, along with 'forsin triur aili' ('the other three') and 'céd eili d'uaislib' ('a hundred other nobles'), for example, from later sources.

The opposite to the situation encountered with 'mar an' in the commentary on the previous subsection occurs here regarding 'dara', 'second', as one normally finds the definite article with 'dara' – it is found in every citation in *Ó Dónaill*, for example – and 'mar dhara' might not appeal to one. (Historically, it is interesting that the definite article now generally precedes 'dara', as 'dara' is actually formed from the definite article itself – i.e. 'ind', the earlier form of the article before vowels – combined with 'ala', a form of 'aile', from which 'eile' comes.) *Dinneen*, however, cites '*mar dhara cúrsa bídh*, by way of a second course'. We

find 'dara' without the article in the term 'dara rogha', 'second preference', for example – see s58(1) of the Schedule to the European Assembly Elections Act, 1977, where 'which clearly indicates a second preference' is translated as 'a thaispeánann dara rogha go soiléir'. 'Triú', without article, is found in *Treaties establishing the European Communities* (1973), for example, particularly in translating 'third country/State' – see (also for example of lenition of an ordinal and for the plural following an ordinal) 'the new Member States shall amend their tariffs applicable to third countries' which is translated as 'déanfaidh na Ballstáit nua na taraifi dá gcuid is infheidhme ar thríú tíortha a leasú' (ibid, p. 924).

*Sacs-Bhéarla* See the commentary on Article 4.

### Direct translation

Déantar<sup>1</sup> an Béarla a aithint<sup>2</sup> mar dhara teanga oifigiúil<sup>3</sup>.<sup>4</sup>

#### Variants

- 1 'Déanfar'
- 2 'Tugtar aitheantas don Bhéarla', 'Aithnítear an Béarla', 'Tá an Béarla aitheanta'
- 3 'mar theanga oifigiúil eile' (*if príomhlí remains in Article 8.1*)
- 4 'Tá aitheantas mar theanga oifigiúil eile ag an mBéarla.'

## ARTICLE 8.3 AIRTEAGAL 8.3

### TÉACS GAEILGE

Ach féadfar socrú a dhéanamh le dlí d'fhonn ceachtar den dá theanga sin a bheith ina haonteanga le haghaidh aon ghnó nó gnóthaí oifigiúla ar fud an Stáit ar fad nó in aon chuid de.

### LITERAL ENGLISH TRANSLATION

But provision may be made by law for either of those two languages to be a single language for any official businesses or business throughout the whole State or in any part of it.

### ENGLISH TEXT

Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the State or in any part thereof.

### Divergences between the official texts

- 1 'For the exclusive use of either of the said languages' is expressed as 'd'fhonn ceachtar den dá theanga sin a bheith ina haonteanga' ('for either of those two languages to be a single language') in the Irish text.
- 2 'Purpose' is expressed in the Irish text by 'gnó', which term generally expresses 'business'.
- 3 'Oifigiúla', being the plural form of the adjective 'oifigiúil', only directly refers to the plural 'gnóthaí' and strictly speaking does not refer to the singular 'gnó', with 'for any one or more official purposes', therefore, being expressed as 'for any purpose or official purposes' in the Irish text.
- 4 The Irish text adds 'ar fad' ('all') to 'ar fud an Stáit'

(‘throughout the State’), ‘throughout the State’ being expressed, therefore, as ‘throughout the whole State’.

- 5 ‘However’ is expressed by ‘Ach’ (‘but’) in the Irish text, as it is in many other Articles, as we will see.

Note that Article 4 of the 1922 Constitution reads as follows:

Nothing in this Article shall prevent special provisions being made by the Parliament of the Irish Free State (otherwise called and herein generally referred to as the ‘Oireachtas’) for districts or areas in which only one language is in general use. *Ní choisfidh éinní san Airtíogal so ar an Oireachtas forálacha speisialta do dhéanamh do cheanntair no do líomatáistí ná fuil ach teanga amháin i ngnáth-úsáid ionta.*

### Commentary

*Gnó ... gnóthaí* ‘Gnó’ expresses ‘business’ in Article 28.12, with ‘gnóthaí’ expressing ‘interests’ in Article 18.7.1° and ‘a ngnóthaí féin’ expressing ‘its own affairs’ in Article 44.2.5°.

‘Purpose’ is generally expressed by ‘críoch’ in the Constitution as it is in the Acts. ‘For the purposes ...’ is expressed as ‘chun na gcríocha’ in Article 11 and as ‘chun críocha’ in Articles 13.8.2°, 26.2.2° and 47.2.2°, with ‘for local purposes’ being expressed as ‘chun críocha áitiúla’ in Article 22.1.2°, ‘for stated purposes’ as ‘chun críoch sonraithe’ in Article 29.7.3° and ‘for any purpose whatsoever’ as ‘chun críche ar bith’ in Article 15.6.2°. ‘For the purpose of’ is expressed as ‘chun críche’ in Articles 18.7.1°i and 47.1, ‘for all purposes’ being expressed as ‘chun gach críche’ in Article 28.6.2° and ‘for religious or charitable purposes’ as ‘chun críocha creidimh is carthanachta’ in Article 44.2.5°. ‘Unless the purpose of the appropriation shall have been recommended to Dáil Éireann by a message from the Government’ is expressed as ‘mura mbeidh teachtaireacht ag Dáil Éireann ón Rialtas ... ag moladh críche na leithghabhála dóibh’ in Article 17.2.

In Article 22.1.1°, however, ‘the imposition for the payment of debt or other financial purposes of charges on public moneys’ is expressed as ‘muirir a leagan ar airgidí poiblí chun fiacha a íoc nó chun cuspóirí eile airgeadais’. Article 29.4.2° provides a mixture of expressions of ‘purpose’: ‘the Government may ... avail of ... any organ ... used ... for the like purpose by the members ... for the purpose of international co-operation’ is expressed as ‘féadfaidh an Rialtas ... aon organ stáit ... a chur chun críche ... a chuirtear chun críche ... chun a leithéid sin de chuspóir ag na náisiúin is comhaltaí ... le haghaidh comhair idirnáisiúnta’. ‘For the purpose of this application’, in Article 23.2.2°, is expressed simply as ‘Chuirge sin’ in the Irish text, with ‘chuirge sin’ expressing ‘for that purpose’ in Article 25.5.3°. ‘Chun’ expresses ‘for the purpose of’ in Article 28.3.3°, this being expressed by ‘Tonas go’ in Article 29.4.2°. ‘Ina chomhair sin’ expresses ‘for that purpose’ in Article 30.3.

Returning to ‘gnó’, ‘áitreabh gnó’ and ‘ráiteas gnóthaí’ are translated respectively as ‘business premises’ and ‘statement of affairs’ in *Téarmaí Dlí*. ‘Gnó’ is translated as ‘business’ in *Ó Dónaill*, who cites (I) ‘(Of ordinary activity) (Often plural) *Do ghnó(thai) a dhéanamh*, to attend to one’s business, to one’s affairs’ and (II) ‘matter, concern, *gnóthaí léinn*, learned matters, *gnóthaí eachtracha*, foreign affairs, *gnóthaí an tsaoil seo*, mundane matters’. *Dinneen*

translates ‘gnó’ as ‘business, affair, commerce, occupation, duty, concern’, citing ‘*gnó sagairt*, a priest’s office or duty’ and ‘*gnó saighdiúra*, a soldier’s duty’. DIL translates ‘gnó’ as ‘business, matter, concern’ and, as one of only about a half-dozen examples of this word cited therein, cites the phrase ‘gunó (=gnó) Góidrisce’ (‘a profitless venture’) from the works of the seventeenth-century poet Dáibhí Ó Bruadair – ‘Góidrisce’, according to *Dinneen*, was the name of the pagan chief of Dún Briste (Mayo) who foolishly threatened Patrick (see *Nua-Dhuanaire 1* for references to ‘turas Ghóidrisce’). See further the commentary on Articles 18.7.1° and 44.2.5° where ‘gnó’ expresses respectively ‘interest’ and ‘affair’.

*Ó Dónaill* translates ‘rinne sé gnó dom’ as ‘it served my purpose’ and also cites ‘*d’aon ghnó*, on purpose’, as does *Dinneen*. ‘Gnóthaí teachlaigh’ translates ‘domestic purposes’ in *Treaties establishing the European Communities* (1973, p. 1211), ‘gnóthaí’ usually translating ‘affairs’ in the Acts – see, for example, s9(1) of the Consumer Information Act, 1978, where ‘the Director of Consumer Affairs’ is styled ‘an Stiúrthóir Gnóthaí Tomhaltóirí’, with ‘the Department of Foreign Affairs’ being styled ‘an Roinn Gnóthaí Eachtracha’.

Turning to ‘purpose’ in the Acts, note that in Article 37 of the 1922 Constitution, ‘unless the purpose of the appropriation has in the same session been recommended’ is translated as ‘mara ndéanfar sa tsíosón céanna intinn a churtha i leithreasa do mhola’. In s3 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, however, ‘This Act may be cited for all purposes as the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922’ is translated as ‘Chun gach críche féadfar an t-Acht um Bunreacht Shaor-stáit Éireann, 1922, do ghairm den Acht so’, ‘críoch’ being the general translation of ‘purpose’ in the Acts. In s14(c) of the Horse Industry Act, 1970, for example, ‘borrow money for capital or current purposes’ is translated as ‘airgead a fháil ar iasacht ... chun críocha caipitiúla nó críocha reatha’. In s6(2) of the Charities Act, 1973, ‘for such charitable purpose as may be so specified’ is translated as ‘chun cibé críche carthanúla a bheidh sonraithe amhlaidh’. Finally, note that ‘common purpose or design’ is translated as ‘comhchuspóir nó comhrún’ in *Téarmaí Dlí*.

Professor Máirtín Ó Murchú favours ‘gnó’ rather than ‘críoch’, remarking that ‘críoch’ expresses ‘purpose’ in the sense of ‘aim’, ‘object’. As the context of this Article involves speech, what is conveyed here is that in some speech situations English might be used, in others Irish might be used, that is, for that particular ‘purpose’/ ‘business’ (‘gnó’). Leo Kohn, *The Constitution of the Irish Free State* (London, 1932, p. 123) commented as follows on the corresponding provision of Article 4 of the 1922 Constitution:

An added proviso authorised Parliament to make special provisions for districts in which only one language was in general use. The object of this permissive clause, which allowed of the exclusive use of one language in districts where the other was not in use, was to provide for the contingency of the entry of Northern Ireland into the Free State and to preclude apprehensions of a bilingual fanaticism, which might impede that much desired consummation.

*aon ghnó nó gnóthaí oifigiúla ... nó in aon chuid de* Regarding ‘official purposes’ in the Acts, see s6(1) of

the Local Government (Toll Roads) Act, 1979, for example, where 'Vehicles belonging to and used for official purposes by the Defence Forces and the Garda Síochána' is translated as 'feithiclí de chuid Óglaigh na hÉireann agus feithiclí de chuid an Gharda Síochána a bheidh á n-úsáid chun críocha oifigiúla'. Regarding 'one or more' in the Acts, see s49(d) of the Finance Act, 1990, where 'Any tax assessable under one or more of the provisions of this section may be included' is translated as 'Féadfar aon cháin is inmheasúnaithe faoi aon fhoráil nó forálacha den alt seo a áireamh'. In s60 of the same Act, 'of one or more trustee savings bank' is translated as 'maidir le banc taisce iontaobhais amháin nó níos mó'. In s16 of the Courts Act, 1971, 'appoint one or more convenient places in every district court area' is translated as 'áit oiriúnach nó áiteanna oiriúnacha i ngach ceantar cúirte ... a cheapadh'. 'For any one or more of the following purposes' is translated as 'chun aon chríche nó críocha acu seo a leanas' in s54(1)(b) of the Agricultural Credit Act, 1978, and as 'chun aon chríche nó críocha de na críocha seo a leanas' in s26(1) of the Gas Act, 1976.

Professor Máirtín Ó Murchú notes, however, that the two examples of 'any' in the context of this section may have a specific sense – some authorities have suggested that the second example relates to a specific provision for Northern Ireland in the event of re-unification (see above) – and suggests translating 'any' as 'ar leith':

Féadfar socrú a dhéanamh le dlí, áfach, chun gurb aon teanga amháin den dá theanga sin a d'úsáidfi i ngnó oifigiúil ar leith, nó i ngnóthaí oifigiúla ar leith, ar fud an Stáit nó i gcuid ar leith de.

Regarding 'in aon chuid de', 'den Stát' is expressed here by the third personal singular of the prepositional pronoun 'de'. The noun would perhaps be repeated here in the Acts – see, for example, s33(1) of the Finance Act, 1990, where 'but excluding any payment or part thereof' is translated as 'ach gan aon íocaíocht nó cuid d'íocaíocht a áireamh'. Similarly, in s1(1) of the Performers' Protection Act, 1968, 'on which a performance of performers or part thereof is recorded' is translated as 'a bhfuil taibhiú, nó cuid de thaibhiú, ag taibheoirí taifeadta'. See further the commentary on Article 40.4.5°.

*socrú* 'To make provision' is generally expressed as 'socrú a dhéanamh' in the Constitution. 'Féadfar socrú a dhéanamh le dlí' expresses 'provision may be made by law' in Articles 10.3, 10.4, 15.2.2°, 19 and 40.4.7°, with 'provision shall be made by law' being expressed as 'ní foláir socrú a dhéanamh le dlí' in Article 16.6. 'Féadfar socrú a dhéanamh de réir dlí' expresses 'Provision may be made by law' in Article 40.6.1°ii. 'Save to the extent to which provision is made by this Constitution' is expressed as 'Ach amháin sa mhéid go ndéantar socrú leis an mBunreacht seo' in Article 49.2. In Article 14.4, 'The Council of State may ... make such provision as to them may seem meet' is expressed as 'Féadfaidh an Chomhairle Stáit ... cibé socrú is oircheas leo a dhéanamh', with 'The Oireachtas may make provision by law' being expressed as 'Tig leis an Oireachtas socrú a dhéanamh le dlí' in Article 15.15. Finally, in the amended Article 41.3.2°iii, 'such provision ... exists or will be made for the spouses' is rendered as 'go bhfuil cibé socrú ann, nó go ndéanfar cibé socrú ... le haghaidh na gceilí'.

On the other hand, 'provision(s)' without the accompanying verb 'make' is generally expressed not as 'socrú'/'socrúithe' but as 'foráil'/'forálacha' in the Constitution, as is the case in the Acts in general. 'The provisions of this Article' is expressed as 'forálacha an Airteagail seo' in Articles 12.5, 25.1 and 46.5; 'the provisions of this section' is expressed as 'forálacha an ailt seo' in Article 12.10.2°, with 'the provisions of section 1' being expressed as 'forálacha alt 1' in Article 46.5, 'the provisions of Article 19 hereof' being expressed as 'forálacha Airteagail 19 den Bhunreacht seo' in Article 18.7.2° and 'The provisions of Articles 34 and 35' being expressed as 'forálacha Airteagal 34 ná Airteagal 35' in Article 38.6. 'The provisions of this Constitution' is expressed as 'Na forálacha den Bhunreacht seo' in Article 14.5.1° and as 'forálacha an Bhunreacht seo' in Articles 28.1 and 28.2. 'Any provision of this Constitution' is expressed as 'foráil ar bith den Bhunreacht seo' in Article 46.1 and 'notwithstanding any other provision of this Constitution' is expressed as 'd'ainneoin aon fhorála eile den Bhunreacht seo' in Article 29.7.2°. 'Having regard to the provisions of this Constitution' is expressed as 'ag féachaint d'fhorálacha an Bhunreacht seo' in Articles 34.3.2°, 34.4.4° and 34.4.5°. 'Subject to the foregoing provisions of this Constitution' is expressed as 'Faoi chuimsiú na bhforálacha sin romhainn den Bhunreacht seo' in Article 36. 'Any of the provisions of this Constitution' is expressed as 'aon fhoráil d'fhorálacha an Bhunreacht seo' in Article 45 with 'any provision thereof' being expressed as 'aon fhoráil de' in Articles 27.4.2° and 48. 'Repugnant to any provision thereof' is expressed as 'in aghaidh aon fhorála de(n) Bhunreacht seo' in Articles 15.4.1°, 15.4.2°, 26.1.1°, 26.3.1° and 27.4.2°.

'Of the provisions of such law' is expressed as 'ar fhorálacha an dlí sin' in Article 25.4.5°. 'The validity of a law, or any provision of a law' is expressed as 'bailíocht dhlí nó fhorála ar bith de dhlí', and 'the validity of a provision of a law' as 'bailíocht fhorála de dhlí', in Article 34.3.3°, with 'the corresponding provision' being expressed therein as 'an fhoráil chomhréire'. 'Any provision or provisions of such Bill' is expressed as 'aon fhoráil nó aon fhorálacha áirithe de' in Article 26.1.1°, with 'any provision of a Bill' being expressed as 'aon fhoráil de' in Article 26.3.1° and 'the said provision' (of a Bill) as 'an fhoráil sin' in Article 27.4.2°. 'The provisions of the foregoing sub-section' is expressed as 'forálacha an fho-ailt sin romhainn' in Article 47.2.2°. 'The foregoing provisions of this Article' is expressed as 'na forálacha sin romhainn den Airteagal seo' in Articles 14.4 and 18.10.1°, with 'in the foregoing provisions' being expressed as 'sna forálacha sin romhainn' in Article 43.2.1°. 'Subject to the foregoing provisions of this Article' is expressed as 'Faoi chuimsiú na bhforálacha sin romhainn den Airteagal seo' in Articles 16.7 and 30.6, with 'in accordance with the foregoing provisions of this section' being expressed as 'de réir na bhforálacha sin romhainn den alt seo' in Article 27.5.2°. 'Subject to the subsequent provisions of this section' is expressed as 'faoi chuimsiú na bhforálacha inár ndiaidh den alt seo' in Articles 14.5.1° and 22.2.1°. Finally, 'provisions dealing with all ... of the following matters' is expressed as 'forálacha le haghaidh iomlán na n-ábhar seo a leanas' in Article 22.1.1°.

With 'provision(s)' referred to so frequently in the Constitution, the consistency with which 'socrú a dhéanamh' expresses 'to make provision' as against 'foráil' expressing

'provision' outside of this context is noteworthy. However, in Article 18.4.2°, 'Provision may be made by law' is expressed as 'Féadfar foráil a dhéanamh le dlí', this being followed by 'in the manner to be provided by law', expressed as 'ar an modh, a shocrófar le dlí'. In Article 29.4.5°, following the eleventh Amendment of the Constitution, 1992, 'No provisions of this Constitution (invalidates)' is rendered as 'Ní dhéanann aon fhoráileamh atá sa Bhunreacht seo ...', 'foráileamh' being the form of 'foráil' in the enrolled text. 'And comply with the provisions of the law relating to the election of members of Dáil Éireann' is expressed as 'agus a chomhlionann coinneollacha an dlí i dtaobh toghcháin comhaltai do Dháil Éireann' in Article 16.1.2° while, finally, in Article 45.2.i, 'the means of making reasonable provision for their domestic needs' is expressed as 'caoi chun soláthar réasúnta a dhéanamh do riachtanais a dteaghlach'.

Turning to 'socrú', this is the verbal noun of 'socraigh', the first person singular, present tense, of which, 'socraim', is translated as 'I settle' in *Tearmaí Dlí*, where 'cás i gcomhair comhairle (agus chun imeachtaí a shocrú)' is translated as 'case to advise (and settle proceedings)'. 'Socraigh' is translated as 'settle' in *Ó Dónaill*, also, with 'agree upon, arrange, decide' as one set of secondary senses of the verb, citing 'cás a shocrú, to settle a case', 'lá a shocrú, to fix a date', 'cleamhnas a shocrú, to arrange a marriage' and 'luach a shocrú, to agree a price'. *Ó Dónaill* cites s.v. 'socrú' ('settlement'), 'socrú dáta, coinne, arrangement of date, of tryst', 'socrú gnóthaí, arrangement of affairs' and 'socrú a dhéanamh le duine faoi rud, to reach an agreement with somebody about something'. *Dinneen* translates 'socrughadh' as 'act of levelling, evening, smoothing, planing, calming, quieting, comforting, settling, arranging, establishing, adjusting; agreement, arrangement, adjustment, settlement ...' and cites the saying 'socrughadh na cailliche mar do b'áil léi féin, the old lady's arrangement – to suit herself'. Only four examples of 'socrugud' are cited in DIL, where this verbal noun is translated as 'act of settling, establishing', with only two examples of the verb 'socraigid' ('settles, establishes, pacifies') being cited, neither of which is of great antiquity, this also being the case with the citations of 'socrugad'. 'Socraigid' is based on the adjective 'socair', translated as (a) 'smooth, even, level' and (b) 'easy, quiet, tranquil' in DIL, the first examples of both senses cited being taken from *Bethada Náem nÉirenn* (the Lives of the Irish Saints). See further the commentary on Article 42.4.

'Foráil' is translated as 'provision' in *Ó Dónaill*, following the abbreviation for 'Jurisprudence', with 'forálacha reachta, provisions of an enactment' being cited. In earlier literature, according to *Ó Dónaill*, it had the sense of (a) 'command, injunction' and (b) 'commendation, offer'. *Dinneen* translates 'foráil' as 'a command (for foráileamh), a gift, an offer (for ofráil)'. The forms 'eráil' and 'iráil' are found in sources from the Glosses of the eighth century onwards and are translated as (a) 'enjoining, urging, instigating', (b) 'requesting, a request' and (c) 'commanding, recommending, offering' in DIL, s. v. 'eráil'. The earlier form of 'foráil', 'foróil', also gave us 'foláil' (which is used negatively with the copula in the phrase 'ní foláil' ['it is necessary'], a phrase found many times in the Constitution) – see DIL s.v. 'foróil'. See further the commentary on Article 14.4.

As we have said above, 'foráil' translates 'provision' in

the Acts, but 'to make provision' – found in the Long Title of many Acts – is translated as 'socrú do dhéanamh' or 'socrú a dhéanamh'. See the Long Title of the Public Hospitals Act, 1933, for example, where 'and also to make provision for the general improvement of the facilities' is translated as 'agus fós chun socrú do dhéanamh chun na saoráidí ... d'fheabhsú ... go generalta'. Staying with early Acts, while we find 'An Act to make provision for the payment of the salary of the Governor-General of the Irish Free State', in the Long Title of the Governor-General's Salary and Establishment Act, 1923, translated as 'Acht chun soláthar do dhéanamh chun tuarastal Seanascail Shaorstáit Éireann d'íoc', we find the following in the Preamble: 'And whereas it is expedient that specific provision should be made for the payment .... *Agus de bhri go bhfuil sé oiriúnach socrú speisialta do dhéanamh chun go n-íocfaí ...*'. Regarding the word 'provision' itself, in s64(1) of the Electoral Act, 1923, 'All rules, regulations ... or provisions made or framed by the Minister for Finance' is translated as 'Gach riail, rialachán ... no foráil dá ndéanfaidh no dá gcúmfaidh an t-Aire Airgid', for example, and in s56 (2) of the Landlord and Tenant Act, 1931, 'notwithstanding any express provision to the contrary' is expressed as 'd'ainneoin aon fhorála adeir a mhalairt go follus'. See further the commentary on Article 15.2.2°.

*ina haonteanga* In Article 15.2.1°, 'The sole and exclusive power of making laws for the State is hereby vested in the Oireachtas' is expressed as 'Bheirtear don Oireachtas amháin leis seo an t-aon chumhacht chun dlíthe a dhéanamh don Stát'. In Article 15.6.1°, 'The right to raise and maintain military or armed forces is vested exclusively in the Oireachtas' is expressed as 'Is ag an Oireachtas amháin atá de cheart fórsaí míleata nó fórsaí armtha a bhunú agus a chothabháil' and 'The application of those principles in the making of laws shall be the care of the Oireachtas exclusively' is expressed as 'Is ar an Oireachtas amháin a bheidh sé de chúram na bunrialacha sin a fheidhmiú i ndéanamh dlíthe' in Article 45.

'Aonteangach' is given as a headword in *Ó Dónaill*, who translates this adjective as 'unilingual'. 'Aon-', i.e. 'aon' as a prefix, is translated as 'one, uni-, mono-' in *Ó Dónaill* and as 'one-, united, uni-, mono-' in *Dinneen*, who states that sometimes it has no special meaning. DIL s.v. 'oen', cites the following example of 'oen' compounded with the adjective 'bélrach' (formed from the noun 'béla' ['language', Modern Irish 'béarla']) from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century): 'dorath na n-ilbelra doib ... is iat oenbelraig có sin .i. Ebrai' (i.e. [he] gave them the gift of many languages ... they until then 'speaking [only] one language', i.e. Hebrew).

'Ina' in this phrase is made up of the preposition 'i' plus the feminine third person singular possessive pronoun. *Ó Dónaill* gives 'of arrangement, numbers, parts; after verbs of dividing, changing, etc.' as one of the senses of such constructions, citing 'tháinig siad ina mbeirteanna, ina nduine agus ina nduine, they came in twos, one by one' and 'ina iomláine, in its entirety'. *Dinneen* translates 'i' with 'tá' and 'possessive' as 'I am now a, am as a, have become', citing 'tá sé 'na fhear, he is (i.e. has become) a man'.

Turning specifically to 'exclusive', 'exclusive right' is

translated as ‘ceart eisiatlach’ in *Téarmaí Dlí*. In s3 of the Schedule to the Waterford Harbour Commissioners (Acquisition of Property) Act, 1964, ‘The Board shall have at all times the right to keep and to have exclusive use of the railway siding ... for all purposes’ is translated as ‘Beidh sé de cheart ag an mBord gach tráth an taobhach iarnróid ... a choimeád agus a úsáid eisiatlach a bheith acu chun na gcríocha uile ...’. In s22(b)(i) of the Trade Marks Act, 1963, ‘that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark’ is translated as ‘go séanfáidh an dílseánach aon cheart chun úsáide eisiatlaí aon pháirte den trádmharc’. Note that ‘eisiatlach’ is given as the standard form of ‘eisiatlach’ in *Ó Dónaill*. Note also above that Professor Máirtín Ó Murchú, rather than using ‘eisiatlach’, translates this phrase as ‘chun gurb aon teanga amháin den dá theanga sin’. See further the commentary on Articles 15.2.1<sup>o</sup> and 15.6.1<sup>o</sup>.

Turning to the translation of ‘use’ with an adjective, see s56(1)(a) of the Road Traffic Act, 1961, for example, where ‘some other person who would be liable for injury caused by the negligent use of the vehicle at that time by the user’ is translated as ‘duine éigin eile a bheadh faoi dhliteanas i leith díobhála a thiocthadh den úsáidire sin, d’úsáid na feithicle go faillíoch an t-am sin’. Finally, ‘provision for the use of the seal of the society’ is translated as ‘socrú i dtaobh séala an chumainn a úsáid’ in s10(1)(n) of the Building Societies Act, 1976, for example.

*ar fud ... ar fad* ‘Ar fud’ is translated as ‘throughout’ in *Ó Dónaill*, who cites ‘*ar fud na háite*, all over the place’ and ‘*chuaigh a chlú ar fud na tíre*, his fame spread throughout the land’. *Dinneen* translates ‘ar fuaid’ as ‘throughout, all over’, with ‘ar fud’ translated as ‘throughout, all over, through the length of, among, amongst’. ‘Ar fut’ is translated as ‘through, throughout (=for fut)’ in DIL s.v. ‘fot, fat’ (the earlier form of ‘fad’), where ‘ar fud Éirenn’ is cited from the eleventh-century *Cogadh Gaedhel re Gallaibh*.

‘Ar fad’ is translated as ‘in length; entirely, all along, always’ in *Ó Dónaill*, who cites ‘*an bealach ar fad*, the whole way’. *Dinneen* translates ‘ar fad’ as ‘altogether, lengthwise, in length’, citing ‘*troigh ar fad*, a foot altogether’. As we see above, ‘fad’ is a later form of ‘fot, fat’, probably cognate with Latin ‘uastus’, ‘vast’ (see DIL s.v. ‘fot, fat’), of which the form ‘fud’ was the old dative inflection: ‘ar fut’ and ‘for fut’ mean ‘through, throughout’.

*sin* This demonstrative pronoun sometimes translates ‘the said’ in the Acts also – see s39 of the Finance Act, 1990, for example, where ‘then in taxing the said trade for the chargeable period in which he commenced to carry on the said trade’ is translated as ‘ansin, le linn an trádáil sin a bheith á cur faoi cháin in aghaidh na tréimhse inmhuirthe a thosaigh sé ag seoladh na trádála sin’. We also find ‘a dúradh’ – see, for example s17(3)(b) of the Central Bank Act, 1971, where ‘A person who has in his power, possession or procurement any of the books or records aforesaid’ is translated as ‘Aon duine a bhfuil aon leabhar nó taifead acu sin a dúradh, ina chumhacht, ina sheilbh nó ar fáil aige’. See the commentary on Article 6.2 for ‘sin’ expressing ‘these’. ‘Sin’ also translates ‘such’ in the Acts, along with ‘den sórt sin’ – ‘comhalta den sórt sin’, for example, translates ‘such a member’ and ‘an comhalta sin’ translates ‘such member’.

## Direct translation

Féadfar socrú a dhéanamh le dlí, áfach, i dtaobh<sup>1</sup> ceachtar de na teangacha sin<sup>2</sup> a úsáid go heisiatlach<sup>3</sup> chun aon chríche oifigiúla amháin nó níos mó<sup>4</sup>, ar fud an Stáit nó in aon chuid den Stát<sup>5</sup>.

### Variants

- 1 ‘chun’
- 2 ‘a dúradh’
- 3 ‘go heisiatlach’
- 4 ‘chun aon chríche oifigiúla nó aon chríocha oifigiúla’, ‘chun aon chríche nó críocha oifigiúla’, ‘chun críche oifigiúla ar leith nó chun críocha oifigiúla ar leith’, ‘chun aon ghnó oifigiúil amháin nó níos mó’
- 5 ‘nó i gcuid ar leith de’

## ARTICLE 9.1.1<sup>o</sup> AIRTEAGAL 9.1.1<sup>o</sup>

### TÉACS GAELIGE

Ar theacht i ngníomh don Bhunreacht seo is saoránach d’Éirinn aon duine ba shaoránach de Shaorstát Éireann díreach roimh theacht i ngníomh don Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

On the coming into operation of this Constitution anybody who was a citizen of the Irish Free State immediately before the coming into operation of this Constitution is a citizen of Ireland.

### ENGLISH TEXT

On the coming into operation of this Constitution any person who was a citizen of Saorstát Éireann immediately before the coming into operation of this Constitution shall become and be a citizen of Ireland.

### Divergences between the official texts

- 1 ‘Shall become and be’ is expressed simply as ‘is’ (‘is’) in the Irish text.
- 2 Note that while ‘Saorstát Éireann’ is found in both the English and Irish texts, ‘Éire’ is expressed as ‘Ireland’ in the English text.

### Commentary

*is* This is the form of both the present and future affirmative of the copula – see *Ó Dónaill* s.v. ‘is’ and *An Caighdeán Oifigiúil* (1995, p. 80). *Ó Dónaill* cites ‘(Is) fear maith é, he is a good man’ and, with the copula following the predicate, along with the neutral pronoun ‘ea’, ‘fear maith is ea é, he is a good man’. Article 3 of the 1922 Constitution reads as follows:

Every person ... domiciled in the area of the jurisdiction of the Irish Free State ... is a citizen of the Irish Free State. *Saoránach de Shaorstát Éireann iseadh gach duine ... ar a bhfuil buan-chomhnuí i líomatáiste údaráis Shaorstáit Éireann.*

Regarding ‘shall become and be’ in the Acts, see s6 of the Third Schedule to the Health Act, 1970, where ‘In any action ... the body specified in the relevant order under

section 34 shall on the commencement become and be a party in the place of the dissolved body' is translated as 'Tiocfaidh an comhlacht a shonrófar san ordú iomchuí faoi alt 34 agus beidh sé, ar an tosach feidhme, ina pháirtí in ionad an chomhlachta in aon chéim'. In s26(2) of the National College of Art and Design Act, 1971, 'Every person ... who, immediately before the establishment day, was a member of the academic ... staff of the College ... shall become and be a member of the academic ... staff of the College' is translated as 'Gach duine ... a bhí, díreach roimh an lá bunaithe, ina chomhalta d'fhoireann acadúil ... an Choláiste ... tiocfaidh sé chun bheith agus beidh sé ina chomhalta d'fhoireann acadúil ... an Choláiste'. Similarly, in s3(2) of the Dublin and Blessington Steam Tramway (Abandonment) Act, 1932, 'each of such three persons shall become and be a member of the Committee' is translated as 'tiocfaidh gach duine den tríúr san chun bheith agus beidh sé ina bhall den Choiste'.

*Ar theacht i ngníomh* 'Gníomh' is translated as 'act' in *Téarmaí Dlí*, 'action' being given as one of this noun's senses in *Ó Dónaill*, who translates 'rud a chur i ngníomh' as 'to put something into action' and cites '*má chuireann tú mo chomhairle i ngníomh*, if you act on my advice'. *Dinneen* also cites '*cuirim i ngníomh*, I perform, practise, put into practice, execute' but, like *Ó Dónaill*, does not cite 'tar i ngníomh'. DIL, however s.v. 'gním', translates 'do-icc i ngním' as 'is carried into effect' and cites 'in fogail ... ni tainic a ngím' ('the injury ... did not take effect') from an early Irish law-tract. 'Gním', as verbal noun of 'gníid', is translated principally as 'doing, performing, executing' in DIL, where 'gním pectho' ('the commission of sin') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

While 'operation' is translated as 'oibriú' in *Téarmaí Dlí* and in the Acts in general today, 'come into operation' is generally translated as 'teacht i ngníomh', as it is in *Foclóir Oifigiúil*, for example. The stock phrase in the Acts, 'this Act shall come into operation on such day or days as ... may be fixed therefor' is translated as 'tiocfaidh an tAcht seo i ngníomh cibé lá nó laethanta a shocrófar ... chuige sin' in s1(4) of the Health Act, 1970, for example. In s2(2)(b) of the Local Elections Act, 1973, 'the terms of office of members of local authorities current when the order comes into operation shall stand extended' is translated as 'beidh téarmaí oifige comhaltaí d'údarais áitiúla, arb iad na téarmaí reatha iad ar theacht i ngníomh don ordú, arna síneadh'.

Looking at the earlier Acts, in Article 3 of the 1922 Constitution, 'at the time of the coming into operation of this Constitution' is translated as 'le linn an Bhun-reachta so do theacht i bhfeidhm'. In s20(2) of the Finance Act, 1929, however, 'This Part of this Act shall ... come into operation on the 6th day of April, 1930' is translated as 'Tiocfaidh an Chuid seo den Acht so i ngníomh an 6adh lá d'Abrán, 1930'.

*saoránach* This headword is translated as 'citizen' in *Ó Dónaill* and as 'freeman' in *Dinneen*, that being its literal meaning. 'Saer' in Old Irish usually glosses Latin 'liber', DIL citing 'eter sóir et dóir eter mug et coimidid' ('both free and unfree, both servant and lord') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'A citizen of the Irish Free State' is translated as

'Saoránach de Shaorstát Éireann' in Article 3 of the 1922 Constitution, as we have seen. In s11(4)(a) of the Air Navigation and Transport Act, 1973, 'the act is committed by a person who is a citizen of Ireland' is translated as 'más gníomh é ag duine is saoránach d'Éirinn'. 'Citizen of Ireland' is differentiated from 'Irish citizen' in s2 of the Irish Nationality and Citizenship Act, 1956, where "'Irish citizen" means a citizen of Ireland' is translated as 'ciallaíonn "saoránach Éireannach" saoránach d'Éirinn', with 'Every person who, immediately before the passing of this Act, was a citizen of Ireland shall remain an Irish citizen' being translated as 'Gach duine ba shaoránach d'Éirinn díreach roimh an Acht seo a rith, fanfaidh sé ina shaoránach Éireannach' in s5(2). In s20 of the Finance Act, 1990, however, 'or that being a citizen of Ireland he is not ordinarily resident in the State' is translated as 'nó gur saoránach Éireannach é ach nach sa Stát atá gnáthchónaí air'.

### Direct gender-proofed translation

Ar theacht i ngníomh don Bhunreacht seo tiocfaidh aon duine a bhí, díreach roimh theacht i ngníomh don Bhunreacht seo, ina shaoránach nó ina saoránach de Shaorstát Éireann,<sup>1</sup> chun bheith agus beidh sé nó sí ina shaoránach nó ina saoránach d'Éirinn<sup>2</sup>.

### Variants

- 1 'a bhí ina shaoránach nó ina saoránach de Shaorstát Éireann díreach roimh theacht i ngníomh don Bhunreacht seo,' 'ba shaoránach de Shaorstát Éireann díreach roimh theacht i ngníomh don Bhunreacht seo,'
- 2 'ina shaoránach nó ina saoránach Éireannach'

## ARTICLE 9.1.2<sup>o</sup> AIRTEAGAL 9.1.2<sup>o</sup>

### TÉACS GAELGE

Is de réir dlí a chinnefar fáil agus cailleadh náisiúntacht agus saoránacht Éireann feasta.

### LITERAL ENGLISH TRANSLATION

It is in accordance with law that (the) getting/receiving and (the) losing/loss (of) Irish nationality and citizenship will henceforth be determined.

### ENGLISH TEXT

The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law.

### Divergences between the official texts

- 1 The Irish text, both in bringing forward 'Is de réir dlí' and in using 'feasta', 'henceforth', might be interpreted as implying that, formerly, receiving and losing Irish citizenship was not decided in accordance with law, i.e. from now on it will be decided in accordance with law.
- 2 'Future acquisition' is expressed as 'fáil ... feasta' ('acquisition henceforth') in the Irish text.

Note that Article 3 of the 1922 Constitution concludes as follows:

... the conditions governing the future acquisition and termination of citizenship in the Irish Free State ... shall be determined by law. ... *socrófar le dlí na coiníollacha a rialóidh feasta saoránacht d'fháil agus do chríochnú i Saorstát Éireann.*

### Commentary

*fáil* The verbal noun of 'faigh', 'fáil', is translated as 'getting, finding' in *Ó Dónaill*, with 'fáil ruda' being translated as 'the procurement of something; the finding of something'. *Dinneen* translates 'fagháil' as 'act of finding, getting, receiving, obtaining, procuring; means of procuring, chance, opportunity; an income'. The earlier form 'faghál', verbal noun of 'fo-gaib', is translated in DIL as (a) 'finding, getting, obtaining, both of voluntary and involuntary acquisition' and (b) 'that which is obtained or gained'.

The Long Title of the Irish Nationality and Citizenship Act, 1956 ('Acht Náisiúntachta agus Saoránachta Éireann, 1956'), 'An Act to make provision for the acquisition and loss of Irish nationality and citizenship', is translated as 'Acht do dhéanamh socrúithe maidir le fáil agus cailliúint náisiúntacht agus saoránacht Éireann'. The Long Title of the 1935 Irish Nationality and Citizenship Act, 'An Act to provide for ... the acquisition by birth or otherwise of citizenship of Saorstát Éireann, and the forfeiture or loss of such citizenship', is translated as 'Acht chun socrúithe ... do dhéanamh ... maidir le saoránacht Shaorstáit Éireann d'fháil de bhíthin beirthe nó ar shli eile agus maidir leis an saoránacht san do dhul ar ceal no do chailliúint'. In s100(1) of the Housing Act, 1966, 'Where ... a cottage ... is acquired by the housing authority to whom, before the acquisition, the annuity was required to be paid' is translated as 'I gcás ... ina bhfaighidh an t-údarás tithíochta iostán ... agus gur dlíodh, roimh an bhfáil, blianacht a íoc leis an údarás tithíochta'.

*cailleadh* The verbal noun of 'caill', 'cailleadh', is translated as 'loss' in *Ó Dónaill*, who translates 'cailleadh airgid' as 'loss of money'. Note that 'cailleamhaint' is the form found in the enrolled text, the standard form of which, 'cailliúint' is given as a separate headword in *Ó Dónaill*, translated as 'loss', this form also being given as a variant verbal noun of 'caill'. *Dinneen* translates 'cailleamhain' as 'loss, damage, failure, neglect; act of losing; act of disappointing', giving 'cailleamhaint' as a variant form. 'Caill(ain)', late verbal noun of 'caillid', is translated as 'act of losing' in DIL. 'Caillid', 'loses', is a later development of 'coillid', 'damages, violates, destroys', based on 'coll', translated as (a) 'destruction, spoiling, injury; later loss', (b) 'castration', (c) 'deflowering' and (d) 'violation' in DIL, i.e. Modern Irish 'coill', verbal noun 'coilleadh' – Professor Máirtín Ó Murchú emphasises that 'caill'/'cailleadh' and 'coill'/'coilleadh' have different phonological forms in the spoken dialects.

Turning to the Acts, in s9(1) of the Social Welfare (Occupational Injuries) Act, 1966, 'if he suffers as a result of the accident from loss of physical or mental faculty' is translated as 'má fhulaingíonn sé cailleadh cumais choirp nó mheabhrach de dheasca na tionóisce'. 'In respect of loss of time' is translated as 'i leith cailleadh ama' in s2(a) of the Schedule to the Trade Union Act, 1975.

'Loss' is translated as 'cailteanas' in *Téarmaí Dlí*, where 'pecuniary loss' is translated as 'cailteanas airgid', with

'actual loss', 'consequential loss' and 'constructive loss' being translated respectively as 'cailteanas iarbhir', 'cailteanas iarmhartach' and 'cailteanas inchiallath'. See s307(1) of the Income Tax, 1967, for an example from the Acts of 'loss' in the financial sense, 'where in any year of assessment any person has sustained a loss in any trade' being translated as 'má tharlaíonn aon bhliain mheasúnachta gur bhain cailteanas do dhuine ar bith in aon trádáil'.

*náisiúntacht ... Éireann* 'Náisiúntacht' is translated by *Ó Dónaill* as (1) 'nationality' and (2) 'homeliness, naturalness, good nature'. *Dinneen* simply translates this headword as 'nationality', followed by the abbreviation for 'recent'.

As regards there being no definite article before 'Éireann', see the commentary on Article 12.8. *Ó Dónaill* cites '*plúr ban Éireann*, the flower of Irish womanhood' and '*dúshlán fhear Éireann, ar fhearaibh Éireann*, a challenge to the men of Ireland'. *Dinneen* notes s.v. 'Éire', 'generally with article in genitive'; he cites '*lucht cuarta Éireann*, tramps' and '*i bhfad Éireann*, for a very long time, a very long distance'. DIL cites 'cend fáithe nÉirenn' (i.e. head of the prophets of Ireland) from the ninth-century *Féilire Oengusso* ('Calendar of Oengus').

'The Irish Nationality and Citizenship Act, 1986' is cited in Irish as 'Acht Náisiúntachta agus Saoránachta Éireann, 1986', and in s3 thereof 'accepting Irish citizenship as post-nuptial citizenship' is translated as 'ag glacadh le saoránacht Éireann mar shaoránacht iarphósta'. This Act amends (and therefore adheres in language to) the Irish Nationality and Citizenship Act, 1956, where we find the following definition in s2:

'naturalised Irish citizen' means a person who acquires Irish citizenship by naturalisation .... *ciallaíonn 'saoránach Éireannach eadóirsithe' duine a fuair saoránacht Éireann trí eadóirsiú.*

Note, however, that 'his nationality (if not Irish)' is translated therein as 'a náisiúntacht (mura náisiúntacht Éireannach í)'. See the commentary on the preceding subsection regarding 'saoránach d'Éirinn' / 'saoránach Éireannach'. Note that in the *New Ireland Forum Report* (1984, 4.13), 'broadening the sense of Irish identity' is translated as 'fairsingiú a dhéanamh ar an mbrí atá le sainiúlacht Éireannach'. In s62 of the Finance Act, 1990, 'Irish equivalent profits' is translated as 'brabúis choibhéiseacha Éireannacha'.

*feasta* This adverb is translated as 'from now on, henceforth' in *Ó Dónaill*, who cites '*déan mo chomhairle feasta*, take my advice for the future'. *Dinneen* translates 'feasta' as 'now, from this on; at any moment; henceforth, ever more, ever again, in future ...'. Note that the future sense is not so pronounced in some of *Dinneen's* examples: '*bead-sa ag imtheacht feasta*, I am going now' and '*tá do dhóthain ráidhte agat feasta*, you have said enough'. 'Now, forthwith' is given as the first sense of 'festa' in DIL, followed by the sense 'from this time on, henceforth', with examples of this sense being cited from the twelfth-century *Book of Leinster* onwards. 'Festa' is rarely found with a past tense, according to DIL, 'a sgath festa fuarobhair' ('you have enjoyed the best [of the world] by now'), from a miscellaneous collection of Classical Irish religious poetry, *Dán Dé*, being one of only two such examples cited.



Turning to the Acts, in the Margin Title of s8 of the Labourers Act, 1936, we find 'Future acquisition of land for purposes of the Principal Act' translated as 'Talamh do gheobhfar feasta chun crícheanna na bPríomh-Achtanna'. In s93(4) of the Companies Act, 1963, 'the benefit of that provision may be given ... to all trustees of the deed, present and future' is translated as 'féadfar tairbhe na forála sin a thabhairt ... do gach duine is iontaobhaí faoin ngníomhas, faoi láthair agus feasta' and in s211(b) 'the estimated value of his liability to future calls as well as calls already made' is translated as 'luach measta a dhliteanas i leith glaochanna feasta, chomh maith le glaochanna a rinneadh cheana féin'. 'Feasta' more often translates 'hereinafter' in the Acts, the stock phrase 'hereinafter in this subsection referred to as' being translated as 'dá ngairtear ... anseo feasta san fho-alt seo' in s46 of the Finance Act, 1990, for example.

Turning specifically to 'future' in the Acts, in s24 of the 'Clare County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'In future only Nurses with Medical and Surgical training shall be admitted to the County Nursing Staff' is translated as 'Ní leigfar d'éinne feasta bheith ar Fhuirinn Bhanaltrais na Contae ach Banaltrai a múineadh i Leigheas agus i Máin-liaghas'. In subsection 3 of the preceding section, on the other hand, 'the salaries (in reference to future appointments)' is translated as 'na tuarastail (maidir le ceapanna a déanfar san am a thiocfidh)'. Turning to the modern Acts, 'Subject to and charged with the future payment of an annuity' is translated as 'faoi réir blianachta agus faoi mhuirear a híoctha sa todhchaí'. In s20(2)(g) of the Judicial Separation and Family Law Reform Act, 1989, 'the degree to which the future earning capacity of a spouse is impaired' is translated as 'a mhéid a dhéantar dochar do chumas tuillimh céile sa todhchaí', while in s17(2)(a) of the same Act, 'to provide for the future security of the spouse' is translated as 'chun soláthar d'urraíocht thodhchaíoch an chéile'.

Professor Máirtín Ó Murchú recommends expressing this Article as 'Feasta, is de réir dlí a dhéanfar fáil agus cailleadh náisiúntachta agus saoránachta Éireannaí a chinneadh' rather than using the phrase 'sa todhchaí'.

*saoránacht* Simply translated as 'citizenship' in *Ó Dónaill*, this term being cited above from Article 3 of the 1922 Constitution. See the commentary above on 'náisiúntacht' for citations from the Acts and see the commentary on the previous subsection s.v. 'saoránach'.

*cinn* 'Cinnim' is translated as 'I determine (issue, etc.); I find (as a fact, etc.)' in *Téarmaí Dlí* – see the commentary on Article 1.

*de réir* This prepositional phrase translates 'in accordance with' in *Téarmaí Dlí*. See the commentary on Article 1.

### Standardised Irish text

Is de réir dlí a chinnfear fáil agus cailleadh náisiúntacht agus shaoránacht Éireann feasta.

### Direct translation

Déanfar fáil agus cailleadh náisiúntachta agus saoránachta Éireannaí<sup>1,2</sup> sa todhchaí<sup>3</sup> a chinneadh de réir dlí.<sup>4</sup>

### Variants

- 1 'náisiúntacht agus shaoránacht Éireann'
- 2 'Déanfar náisiúntacht agus saoránacht Éireannach a gheobhar agus a chailfear'
- 3 'feasta'
- 4 'Feasta, is de réir dlí a dhéanfar fáil agus cailleadh náisiúntachta agus saoránachta Éireannaí a chinneadh.'

## ARTICLE 9.1.3<sup>o</sup> AIRTEAGAL 9.1.3<sup>o</sup>

### TÉACS GAELIGE

Ní cead náisiúntacht agus saoránacht Éireann a cheilt ar dhuine ar bith toisc gur fireann nó toisc gur baineann an duine sin.

### LITERAL ENGLISH TRANSLATION

It is not permitted to withhold Irish citizenship and nationality from any person because that person is male or female.

### ENGLISH TEXT

No person may be excluded from Irish nationality and citizenship by reason of the sex of such person.

### Divergences between the official texts

- 1 'Ní cead', 'it is not permitted', differs in tone from 'no (person) may be' of the English text; this Irish phrase expresses 'shall not' in many Articles.
- 2 The English text is concerned with the **exclusion** of a person from Irish nationality and citizenship, while the Irish text is concerned with nationality and citizenship being **withheld** from a person.
- 3 The Irish text spells out what is meant by 'by reason of the sex of such person', i.e. because that person is male or female.

### Commentary

*a cheilt Dinneen* translates 'ceilim rud ar' as 'I conceal something from, I refuse one something' and cites '*dá mbeadh airgead agam ní cheilfinn ort é*, if I had money I would not refuse it to you'. 'Ceilt bhreithe' is translated as 'concealment of birth' in *Téarmaí Dlí*, 'ceilt' being translated as 'concealment' in *Ó Dónaill* also, but with the secondary sense of 'withholding, denial', *Ó Dónaill* citing '*ceilt dí ar dhuine*, withholding of drink from someone'. 'Ceilt' is the verbal noun of 'ceil', *Ó Dónaill* citing '*cheil tú do chabhair orm*, you withheld your help from me'. DIL s.v. 'ceilid', gives examples of this verb in the sense of 'withholds, hoards, stints; suppresses, destroys' from the twelfth-century *Book of Leinster* onwards.

Turning to the Acts, in s293(1)(i) of the Companies Act, 1963, 'a dhéanfaidh ... aon leabhar nó páipéar ... a cheilt, a dhíothú, a lot nó a fhalsú, nó a bheidh ionpháirteach amhlaidh sa cheilt ... sin' translates 'conceals, destroys, mutilates, or falsifies or is privy to the concealment ... of any book or paper'. In s41(3)(a) of the Redundancy Payments Act, 1967, 'mar gheall ar aon fhíoras ábhartha a cheilt go toiliúil' translates 'by reason of the wilful concealment of any material fact'.

Regarding 'exclude' in the Acts, see s13(4) of the Sale of Goods and Supply of Services Act, 1980, where 'in a case in which the implied condition ... is either not incorporated in the contract or has been effectively excluded from the contract' is translated as 'i gcás nach cuid den chonradh nó gur coinníodh go héifeachtach as an gconradh ... an coinníoll intuigthe', while in s14(b) of the First Schedule to the National Institute for Higher Education, Limerick, Act, 1980, 'the conditions under which a student ... may be excluded from it' is translated as 'na coinníollacha faoina bhféadfar mac léinn ... a choinneáil amach as'. Note that in s73(1)(a) of the Building Societies Act, 1989, 'excluding the right to' is translated as 'an ceart a shéanadh chun' and, finally, that in s4 of the Erasmus Smith Schools Act, 1938, 'Provided always that ... no person of any Protestant denomination shall by reason of his religious beliefs be excluded from the benefits thereof' is translated as 'Ar choinníoll ná déanfar ... duine ar bith d'aon aicme Phrotastúnach do dhúnadh amach ó thairbhe an chéanna mar gheall ar a chreideamh'.

'I exclude' is translated as 'eisiaim' in *Téarmaí Dlí* and this term is accordingly employed in many modern Acts. In s5(1) of the First Schedule to the Capital Gains Tax Act, 1975, for example, 'there shall be excluded from the sums allowable as a deduction any expenditure' is translated as 'eisiafar ó na suimeanna in lamhála mar asbhaint ... aon chaiteachas'. In s47(1) of the Redundancy Payments Act, 1967, 'in respect of a class of employee excluded from the Act by section 4' is translated as 'i leith aicme fostaí atá eisiata ón Acht seo le halt 4'. 'And may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction' is translated as 'féadfaidh sí fógraí a fhoilsiú ag socrú lá nó laethanta ar laistigh de nó díobh a bheidh ar chreidiúnaithe nár cuireadh ar an liosta éileamh a dhéanamh chun iad a chur air amhlaidh nó a bheidh siad le heisiamh ón gceart chun agóid a dhéanamh in aghaidh an laghdaithe' in s73(2)(b) of the Companies Act, 1963. Finally, in s59(4) of the Fisheries Act, 1980, 'In case a fishery is by an order ... excluded from the application of subsections (1) and (2)' is translated as 'I gcás iascach a bheith eisiata ... ó fheidhm fho-ailt (1) agus (2)'.

*Ní cead* Literally 'it is not permitted'. Here 'ní cead ... a' expresses 'no ... may'. In Article 15.14, 'Ní cead d'aon duine' expresses 'No person may'; in Article 40.2.2°, 'Ní cead d'aon saoránach' expresses 'No ... may be ... by any citizen' and in Article 16.1.4°, 'Ní cead do thoghthóir' expresses 'No voter may'. 'Ní cead do' usually expresses 'shall not' in the Constitution – 'Ní cead don Uachtarán' expresses 'The President shall not' in Articles 12.6.3°, 12.9, 26.1.3° and 32, expressing 'No ... shall be ... by him' in Article 13.11. 'Ní cead don Stát' expresses 'The State shall not' in Articles 42.3.1° and 44.2.3° and 'shall not be ... by the State' in Article 40.2.1°. 'Ní cead don Oireachtas' expresses 'The Oireachtas shall not' in Articles 15.4.1° and 15.5. 'Ní cead d'aon duine' expresses 'No person shall' in Article 12.4.3° and, finally, 'Ní cead do cheachtar ... glacadh le' expresses 'No ... shall be adopted by either' in Article 12.10.4°.

'Is cead', on the other hand, expresses 'may' in Articles 26.1.1°, 27.1, 40.6.1°iii and 46.1 where we find, respectively, 'Is cead don Uachtarán' ('The President may'), 'Is cead do

thromlach' ('A majority ... may'), 'is cead dlíthe a achtú' ('Laws ... may be enacted') and 'Is cead foráil ... a leasú' ('Any provision ... may be amended'). In Article 13.9, however, 'is cead don Uachtarán ... a oibriú' expresses 'shall be exercisable ... by him' and in Article 21.1.1° 'shall be initiated in Dáil Éireann only' is expressed as 'Is i nDáil Éireann amháin is cead'.

Only in the current Article does 'ní cead ... a' (i.e. as against 'ní cead do') express 'no ... may', this phrase generally expressing either 'no ... shall' or 'shall not'. 'Ní cead aon ní ... a agairt' expresses 'Nothing ... shall be invoked' in Articles 18.4.3°, 28.3.3° and 40.4.6°, 'No law shall be enacted' being expressed as 'Ní cead aon dlí a achtú' in Articles 16.1.3° and 34.4.4° and as 'Ní cead dlí a achtú' in Article 16.2.6°. 'Ní cead ... a bheith' expresses '... shall not be' in Articles 12.6.1°, 16.2.2°, 30.4 and 33.3, with 'No judge shall be' being expressed as 'Ní cead aon bhreitheamh a bheith' in Article 35.3. 'Ní cead aon duine a thriail' expresses 'No person shall be tried' in Article 38.1, this clause being expressed as 'Ní cead duine a thriail' in Article 38.5, with 'ní cead é a thriail' expressing 'shall not be tried' in Article 38.4.2°. 'Ní cead tuairim ar bith eile ... a chraoladh' expresses 'no other opinion ... shall be pronounced' in Articles 26.2.2° and 34.4.5°, with 'ní cead a nochtadh' expressing 'nor shall ... be disclosed' in those same Articles. 'Ní cead aird a thabhairt' expresses 'shall not be entertained' in Article 12.10.3°, 'ní cead aon cheist ... a tharraing anuas' expressing 'no ... question shall be raised' in Article 34.3.2°. 'Ní cead laghdú a dhéanamh' expresses 'shall not be reduced' in Article 35.5 and 'shall not be diminished' in Article 12.11.3°. 'Ní cead aon idirdhealú' expresses 'shall contain no discrimination' in Article 40.6.2° and 'ní cead idirdhealú a dhéanamh inti' expresses 'shall not discriminate' in Article 44.2.4°. 'No ... shall be deprived of his ... liberty' is expressed as 'Ní cead a shaoirse ... a bhaint' in Article 40.4.1°, 'The property ... shall not be diverted' being expressed as 'Ní cead maoin a bhaint' in Article 44.2.6°. 'A judge ... shall not be' is expressed as 'Ní cead breitheamh a ...' in Article 35.4.1°, 'The Comptroller and Auditor General shall not be ...' being expressed as 'Ní cead an tArd-Reachtair Cuntas agus Ciste a ...' in Article 33.5.1°. In Article 46.4 'shall not contain any' is expressed as 'ní cead ... a bheith ann', with 'Ní cead níos mó ná ...' expressing 'Not more than ... shall be' in Article 18.7.2°. Finally, in Article 40.5, 'ní cead dul isteach ann' expresses 'shall not be ... entered'.

As we have stated in the introductory essay, in his monograph *Dúchas na Gaeilge* (1996, pp. 213ff.), Maolmhaoldhóg Ó Ruairc, a translator in Brussels with the European Union, highlights the various ways in which 'may' and 'shall' are 'translated' in the Constitution, stating that there are (as we have seen above) over twenty cases in which 'is cead/ní cead' (literally 'it is / is not permitted') is used to translate 'shall' (there being three cases where this phrase translates 'may' and one example of it translating 'not entitled'), while 'ní foláir' features in nineteen Articles (translating 'must' rather than 'shall' in some Articles, this being the more general usage of that phrase – see the commentary on Article 11) and 'ní dleathach' (literally 'it is not / shall not be lawful') is found in two Articles ('is dleathach' and 'ní dleathach' translate 'may' and 'may not' respectively in two Articles – see the commentary on Article 10.1).

Turning to the Acts, 'Ní cead do chomhaltaí an

Chomisiúin tairbhe a fháil iad féin de thoradh scoláir-eachtaí nó sparánachtaí taistil a sholáthraíonn Ciste Oideachasúil na hÉireann-Na Stáit Aontaithe' translates 'Members of the Commission may not themselves benefit by way of scholarships or travel bursaries provided by the Ireland-United States Educational Fund' in s7(2) of the Educational Exchange (Ireland and the United States of America) Act, 1991, and 'agus mura rud é, maidir leis na ceisteanna sin a chuirfear ar an gcompánach, gur freagra dearfach a thabharfar ..., ní cead don chompánach an páipéar ballóide a mharcáil' translates 'and unless such of those questions as are put to the companion are answered ... in the affirmative ..., the companion may not mark the ballot paper' in s103(4) of the Electoral Act, 1992. The more general translation of 'may not', 'ní fhéadfaidh', is found in s67 of the same Act, where 'no other person, except with the permission of the returning officer, may be present at the proceedings' is translated as 'ní fhéadfaidh aon duine eile ach amháin le cead ón gceann comhairimh, a bheith i láthair ag na himeachtaí'. In s29(5) of the Social Welfare Act, 1991, for example, 'the amount recovered by the Minister in any case may not exceed the amount of benefit' is translated as 'ní fhéadfaidh an méid a ghnóthóidh an tAire in aon chás a bheith níos mó ná méid an tochair'. Note that in Article 16 of the 1922 Constitution, for example, 'No person may be at the same time a member both of Dáil Éireann and Seanad Éireann' is translated as 'Ní fhéadfaidh éinne bheith 'na bhall de Dháil Éireann agus de Sheanad Éireann in aonacht'. 'May' is generally translated by 'féad', as we saw in Article 8.3, the future tense of the verb generally translating 'shall'.

In the *Treaty on European Union* (1992, p. 74), perhaps following the wording of the Constitution, 'Ní cead do chomhaltaí na Cúirte Iniúchóirí, le linn a dtéarma oifige, gabháil le haon slí bheatha eile, sochrach ná neamhshochrach' translates 'The members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not'. 'Ní cead' expresses 'shall not' in the following example for *Treaties establishing the European Communities* (1973, p. 204): '*Ach ní cead áis a bhaint as na toirmisc ná na srianta sin le haghaidh idirdhealú treallach*', 'Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination'.

'Cead' is basically translated as 'leave' in *Ó Dónaill*, who cites '*is cead liom é; tugaim a chead*, I permit it' and '*má tá cead agam labhairt*, if I have permission to speak'. 'Cead' is translated as 'leave, permission, licence' in *Dinneen*, who cites '*is cead dó*, let him'. Etymologically, 'cead' derives from the second syllable of the Latin 'licet' which, according to Professor Máirtín Ó Murchú, having been introduced into educated speech, was taken by speakers of Old Irish to represent a preposition 'li'/le' plus noun 'cet'/'cead'. Old Irish 'cet' is translated as 'permission, consent, will' in DIL, where reference is made to the following example of 'is cet' ('it is allowable') from a late Old Irish text (written some time in the 830s) on the traditions of the monastery of Tallaght:

Aithrus ind anmcharat dia bliadna beus mád hi céin beith. Cid mencui immurgo maith ind occus is cet. (*To consult his confessor once a year regularly, if he be at a distance; if he be nearer, however, it is allowable to consult him oftener*).

Note that *De Bhaldraithe* translates 'May I?' as 'Le do

chead?', translating 'May I come in?' as 'Bhfuil cead agam teacht isteach?' and 'May I go now?' as 'An bhféadfaidh mé imeacht anois?'. 'The judge may decide ...' is translated by *De Bhaldraithe* as 'ag an mbreitheamh atá sé le socrú'. See further the commentary on Article 12.6.1°.

*fireann ... baineann* See the commentary on Articles 16.1.1° and 45.4.2° regarding the expression of 'sex' in the Irish text of the Constitution.

'Oidhre fireann' is translated as 'male heir' in *Téarmaí Dlí*. The adjective 'fireann' is translated as (1) 'male' and (2)(a) 'manly, virile' and (b) 'real, thorough' in *Ó Dónaill*, who translates 'baineann' as (1) 'female' and (2) 'effeminate'. *Dinneen* s.v. 'fireann', gives 'male, masculine; active, manly, vigorous; thorough-paced', citing '*amadán (ropaire) fireann*, a thorough fool (ruffian)'. *Dinneen* translates 'baineann' as 'female, feminine, she', citing '*gamhain baineann*, a heifer calf' and '*mionnán baineann*, a she kid'. DIL refers the reader to 'fer' (Modern Irish 'fear') regarding the formation of 'fireann', which is translated as 'male (of animals)', all the examples cited referring to male animals. Similarly s.v. 'boineann' the reader is referred to 'ben' (Modern Irish 'bean') – 'dá bonend ar firenn' ('two females for every male') is cited from a list of evils to come, and 'arguin bhoininn' ('boinninn' here in the sense of 'weak or perhaps illogical', according to the glossary) is cited from O'Molloy's *Lucerna Fidelium*, 1676.

In Article 3 of the 1922 Constitution, 'Every person, without distinction of sex, ... is a citizen of the Irish Free State' is translated as 'Saoránach de Shaorstát Éireann iseadh gach duine idir fireann agus buineann ...'. Similarly, in s80 of the Courts of Justice Act, 1924, 'Children herein shall include young people of either sex' is translated as 'Áireofar mar leanbhaí anso daoine óga, fireann no baineann'. We find a more literal translation in s17(2) of the Employment Equality Act, 1977, however, where 'For the purposes of this section, the sex of a person shall be taken to be an occupational qualification for a post' is translated as 'Chun críocha an ailt seo, measfar gur cáilíocht ghairme le haghaidh poist gnéas duine' and 'a provision in which differences in rates of remuneration are based on or related to the sex of employees' is translated as 'foráil ina mbeidh éagsúlachtaí sna rátaí luach saothair bunaithe ar ghnéas na bhfostaithe nó bainteach leis'. In s67(3)(d)(ii) of the Pensions Act, 1990, 'which is not justifiable irrespective of the sex of the persons to which it applies' is translated as 'nach bhfuil inchosanta is cuma cad é gnéas na ndaoine lena mbaineann sé'. Note that the terminology of the Constitution is followed in the *Treaty on European Union* (1992, p. 200) in that 'equal pay without discrimination based on sex' is translated as 'pá comhionann, gan idirdhealú idir fir agus mná'.

'Innscin' was the early official term translating 'sex': 'confining an examination to members of a particular sex' is translated as 'chun scrúdú do chimeád ar leithligh d'innscin áirithe daoine' in s2(3) of the Civil Service Regulation (Amendment) Act, 1926, while in s3, 'that such person is fully qualified as to age, sex ... and ability for that situation' is translated as 'go bhfuil an duine sin lán-cháilithe i gcóir an phuist sin maidir le haois, innscin ... agus ábaltacht'. In s2 of the Censorship of Publications Act, 1929, we find the following 'Definition':

The word 'indecent' shall be construed as including suggestive of, or inciting to sexual immorality or

unnatural vice or likely in any other similar way to corrupt or deprave. *Léireofar an focal 'nea-náireach' mar fhocal a fholuionn rud a mheabhródh mí-mhóráiltacht inscine no dubháilceas mí-nádúrtha do dhuine no a ghríosfadh chuige é no is dócha a dhéanfadh in aon tslí eile den tsórt san duine do thruaillíú no do chorba.*

In *Téarmaí Dochtúireachta* (1942), 'sex' is translated as 'gné, geinghné', with 'homosexuality' being translated as 'saobhálgas cóimhghnéitheach', 'saobhálgas' translating 'perversion (sexual)' therein. We find 'gnéas' translating 'sex' in s21(1)(e) of the Local Government Act, 1941, where 'qualifications relating to sex' is translated as 'cáilíochta bhaineann le gnéas'.

*ar bith* 'Ar an mbith' literally means 'in the world', *Ó Dónaill* citing that phrase, along with '*ar bith cé*, in this world' and '*trí bhith síor*, for all eternity' from earlier Irish literature. The current phrase, 'ar bith', has the sense of 'any' or 'no' (with a negative), 'áit ar bith' being translated by *Ó Dónaill* as 'anywhere' and 'nowhere'. *Dinneen* translates 'bith' as 'the world; being, existence, life', translating the phrase 'ar bith' as 'any at all'. 'Isin biuthso' glosses the Latin 'in hoc mundo' in the eighth-century Würzburg Glosses on the Pauline Epistles, where we also find the phrases 'i ndiththrub in beotho' ('in the desert of Life') and 'is dered mbetho inso' ('this is the end of the world'). DIL translates the phrase 'isin bith', 'for (ar) bith', as 'in the world, in existence; hence developing to anywhere, at all; (following a noun) any, what(so)-ever', citing examples from the early twelfth-century *Leabhar na hUidhre* onwards. Modern Irish 'beatha', 'life', is not actually based on 'bith' but on 'béo', with original suffix '-tút-', i.e. Old Irish 'bethu', genitive 'bethad' – see Rudolf Thurneysen, *A Grammar of Old Irish* (1946, p. 165). See further the commentary on Article 15.6.2<sup>o</sup>.

### Direct translation

Ní fhéadfar aon duine a eisiamh ó náisiúntacht agus saoránacht Éireannach<sup>1</sup> mar gheall ar<sup>2</sup> ghnéas an duine sin.

#### Variants

- 1 'Éireann'
- 2 'de bhithin', 'de bharr'

## ARTICLE 9.2 AIRTEAGAL 9.2

### TÉACS GAELIGE

Is bundualgas polaitiúil ar gach saoránach bheith dílis don náisiún agus tairiseach don Stát.

### LITERAL ENGLISH TRANSLATION

It is a basic political duty on each/every citizen to be faithful/true to the nation and loyal/steadfast to the State.

### ENGLISH TEXT

Fidelity to the nation and loyalty to the State are fundamental political duties of all citizens.

### Divergences between the official texts

- 1 'Fundamental political duties' is expressed as 'bundualgas polaitiúil' ('a basic political duty') in the Irish text.
- 2 The abstract nouns 'fidelity' and 'loyalty' are expressed as adjectives in the Irish text, the Irish terms 'dílis' and 'tairiseach' both including 'faithful' and 'loyal' among their senses, 'dílis' conveying a sense of 'continuity' and 'tairiseach' a sense of 'steadfastness'.

### Commentary

*tairiseach* This adjective is translated as 'faithful, loyal; trustworthy, reliable; steadfast' in *Ó Dónaill*, who cites '*ní raibh siad tairiseach ina thimpeall*, they didn't stand firmly by him'. *Dinneen* translates 'tairiseach' as 'loyal, true, secure, loving', and cites s.v. 'tairise' ('loyalty, fidelity, security'), '*ag fagháil dílse agus tairise*, receiving fealty and friendship'. DIL gives two examples of 'tairisech', one from the manuscript *Egerton 88* in the British Museum ('na bi toirisech tuaithe', 'trusted by the "tuath"') and the other from Ó Bruadair's seventeenth-century poetry ('más tairisioch leatsa dealbh aoinmhic dé'). According to DIL 'tairisech = tairise', 'tairise' having the senses (in Old and Middle Irish) of (a) 'fitting, suitable, meet' and (b) 'trustworthy, faithful, worthy of confidence' – examples are cited in DIL from the Glosses of the eighth century onwards, one of which, 'is torisse dia' ('God is faithful'), in the Würzburg Glosses on the Pauline Epistles, glosses Latin 'fidelis est'. In Middle and Modern Irish 'tairise' had the general sense of 'faithful, trusty, constant, certain', according to DIL.

'Loyalty' is translated as 'dílseacht, tairise (do chara, do choróin, etc.)' in *De Bhaldraithe*. 'Fidelity' is also translated as 'dílseacht' by *De Bhaldraithe*. As we shall see in the commentary on that headword, 'dílis' is translated as 'loyal, faithful' in *Ó Dónaill* and 'dílseacht' is translated as 'loyalty, fidelity', with 'dílse' and 'dílseacht' also having the sense of 'loyalty'. *Ó Dónaill* translates 'tairise' as (1) 'confidence, trust' – this being the sense from earlier literature – and (2) 'faithfulness, loyalty; trustworthiness, reliability; steadfastness'. 'Tairise(ach)' would not have the same general currency today as 'dílis'/'dílseacht'.

Turning to the Acts, in the First Schedule to the Defence Forces Act, 1937 (which followed on the enactment of the Constitution), the 'Form of Commission to an Officer' begins as follows.

To (Name of Officer) ... Trusting in your fidelity to Ireland and loyalty to the Constitution. *Do (Ainm an Oifigigh) ... Le hiontaoibh as do dhílseacht d'Éirinn agus as do thairiseacht don Bhunreacht.*

Following the wording of the present Article 9.2, 'has made a declaration ... of fidelity to the nation and loyalty to the State' is translated as 'go ndearna sé ... dearbhú ... go mbeidh sé dílis don náisiún agus tairiseach don Stát' in s4 of the Irish Nationality and Citizenship Act, 1986, as in s15 of the Irish Nationality and Citizenship Act, 1956. In the Long Title of the Garda Síochána Act, 1937, on the other hand, 'declaration of loyalty' is translated as 'dearbhu dílse'. In the *New Ireland Forum Report* (1984), 'were locked into a system based on sectarian loyalties' is translated as 'gaibhnithe i gcóras nach raibh ach dílseachtaí seicteacha de bhonn leis' and in the *Treaty on European*

*Union* (1992, p. 124), 'The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity' is translated as 'Tacóidh na Ballstáit go gníomhach agus gan chuntar le beartas eachtrach agus slándála an Aontais de mheon dílseachta agus dlúthpháirtíochta i leith a chéile'.

While both 'tairiseach' and 'dílis' are translated as 'faithful, loyal' in *Ó Dónaill*, Professor Máirtín Ó Murchú stresses that they do not convey the same sense here, that 'dílis' has an aspect of 'continuity' attached to it and 'tairise' an aspect of 'firmness'.

*dílis* 'Loyal, faithful' is one of the senses of 'dílis' given in *Ó Dónaill*, who cites '*bheith dílis do rud*, to be loyal to something' and '*dílis go bás*, faithful unto death'. *Dinneen* cites '*bí díleas (dílis) dam*, be true to me'. The earlier form, 'díles', is a compound of 'dí-' and 'les', according to DIL, and literally means 'excluded from remedy'. DIL gives the following general senses of 'díles': (a) 'belonging, own, proper, appropriate', (b) 'permissible, lawful, prudent (?)', (c) (*of people*) 'faithful, loyal, true, trustworthy', (d) 'sure, confident, reliable' and (e) (*of objects*) '*perhaps* firm, strong'. 'Díles' and 'tairise' are linked together in two of the eleven examples cited in DIL of sense (c) above: 'nir uindes dáe ba dílse', in the poets' technical language, is glossed 'i. ní facas duine ba tairise' in one text cited therein while we get the phrase 'im beth díles tairise dib' in another. Finally, note that in Keating's seventeenth-century *Eochair-sgiath an Aifirinn*, 'dílse', in the phrase 'aithin dona daoinibh dílse iat', expresses Latin 'fidelis'.

In early Irish law-texts 'díles' has the senses of (a) 'forfeited to (*do*); given over (to), set apart (for); belonging by imprescriptible right, not subject to claim'; (b) (with *ó*) 'forfeited by, irrecoverable by' and (c) 'not liable to penalty, immune from legal consequences'. *Ó Dónaill* gives 'loyalty; fidelity, allegiance' as senses of both the nouns 'dílse' and 'dílseacht'. Note that 'fidelity', as well as 'truthfulness, sincerity' and 'genuineness', are given therein as senses of 'fire'.

Section 10 of the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924, reads as follows:

Every officer in the Forces shall ... take an oath ... of fidelity, in the following form:- 'I, ..., do solemnly and sincerely swear ... that I will bear true faith and allegiance to ... Saorstát Éireann'. *Déanfaidh gach oifigeach sna Fórsaí ... mionn dílse do thabhairt ... sa bhfuirm seo a leanas:- 'Dinim-se, ..., a mhionnú ... go solamanta agus go macánta go dtabharfad fíor-dhílseacht agus géillsine do Shaorstát Éireann'.*

In the Fifth Schedule to the Defence Act, 1954, 'Trusting in your fidelity to Ireland and loyalty to the Constitution', in the 'Form of Commission to an Officer', is translated as 'Le hiontaoibh as do dhílseacht d'Éirinn agus as do thairiseacht don Bhunreacht'. 'He has made ... a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State' is translated as 'go ndearna sé ... dearbhú sa tslí fhorordaithe go mbeidh sé dílis don náisiún agus tairiseach don Stát' in s15(f) of the Irish Nationality and Citizenship Act, 1956. In s15(1)(b) of the Local Government (Superannuation) Act, 1956, 'that in general he has served in such office with diligence and fidelity' is translated as 'gur fhónaigh sé i gcoitinne san oifig sin go dícheallach dílis'. Finally, in s39(1) of the Building Societies

Act, 1976, 'by way of fidelity guarantee insurance' is translated as 'i modh árachais ráthaíochta dílseachta'.

*bundualgas* A compound of 'bun' and 'dualgas'. 'Fundamental Rights' is expressed as 'Bunchearta' in the heading for Articles 40 to 44. In Article 41.1.1°, however, 'the natural primary and **fundamental** unit group of Society' is expressed as 'buíon-aonad príomha **bunaidh** don chomhdhaonnacht de réir nádúir'. 'Directive Principles of Social Policy', the heading for Article 45, is expressed as 'Buntreoracha do Bheartas Chomhdhaonnach'. In Article 45 itself, however, 'the principles of social policy' is expressed as 'na bunrialacha do bheartas chomhdhaonnach', and in Article 43.2.1° 'the principles of social justice' is expressed as 'bunrialacha an chirt chomhdhaonnaigh'. In Article 29.3, 'the generally recognised principles of international law' is expressed as 'bunrialacha gnáth-admhaithe an dlí idirnáisúinta'. Finally, 'bunoideachas' in Article 42.4 is the standard term for 'primary education' – this being in the special sense of the first stage in a scale from 'bun' to 'meán(ach)' to 'ard', as Máirtín Ó Murchú remarks.

'Bun-', as a prefix, is translated principally as 'basic, primary, elementary' in *Ó Dónaill* and as 'principal, basal, foot-; middling, fairly' in *Dinneen*. 'Dualgas' is translated as 'duty (of office, etc.)' in *Téarmaí Dlí*, where 'dualgas iomlán' and 'dualgas poiblí' are translated respectively as 'absolute duty' and 'public duty'. *Ó Dónaill* cites '*dualgas a bheith ort rud a dhéanamh*, to be in duty bound to do something', '*rud a bheith ar do dhualgas, de dhualgas ort*, to be required by duty to do something' and '*níor cheart duit dualgas mar sin a chur ort féin*, you shouldn't undertake such an obligation'. *Dinneen* translates 'dualgas' as 'duty, that which is due to or from; church duty, divine service; hire, wages, dues, just reward'. 'Dúalgas' is translated as (a) 'traditional right' and (b) 'custom, tribute or other obligation (due to someone)' in DIL. It is based on 'dúal', which headword is translated as (a) 'native, hereditary', (b) 'native, natural to, wanted', (c) 'belonging to by right or descent, right, possession' and (d) 'that which is natural, meet, fitting, right (for) ...' in DIL.

In the *New Ireland Forum Report* (1984, 2.4), 'the fundamental social bonds' is translated as 'na bunsnaidhmeanna sóisialta' and 'before there can be fundamental progress' is translated as 'sula bhféadfar dul chun cinn a dhéanamh ó bhun' (5.1(ii)). 'The fundamental defects', however, is translated as 'na laigí bunúsacha' (in 3.3), and this would be in line with the practice generally in the Acts – see, for example, the Fourth Protocol to the Diplomatic Relations and Immunities Act, 1967, where 'the Convention for the Protection of Human Rights and Fundamental Freedoms' is translated as '(den) Choinbhinsiún chun Cearta an Duine agus Saoirsí Bunúsacha a Chaomhnú'. In s7 of Schedule C to the Bretton Woods Agreements (Amendment) Act, 1977, 'fundamental disequilibrium' is translated as 'éagothroime bhunúsach'. We find both 'bun-' and 'bunúsach' translating 'fundamental' in *Treaties establishing the European Communities* (1973), but 'bunúsach' seems to have won out in the *Treaty on European Union* (1992). 'Bunúsach' also has the sense of 'basic'.

Professor Máirtín Ó Murchú remarks that 'bun-' has the advantage over 'bunúsach' of being attached to 'dualgas', that is, as against 'polaitiúil', the unit 'fundamental duty' being qualified by 'political'.

*ar gach saoránach* We see above s.v. 'bundualgas', how 'ar' is used with 'dualgas' in certain phrases. Translated completely literally 'duties of' would simply be 'dualgais' with the genitive of the following noun – see, for example, s21(5) of the Health Act, 1970, where 'he has become incapable of performing the duties of chief executive officer' is translated as 'go bhfuil sé neamhábalta ar dhualgais príomh-oifigigh fheidhmiúcháin a chomhlíonadh'.

To literally express 'all' rather than 'each', one would use either 'uile' or 'go léir'. See s14(6) of the Land Act, 1965, for example, where 'the interest so vested shall be a graft on the interest of all persons whom the nominee represents' is translated as 'beidh an leas a dhílseofar amhlaidh ina ghreamacht ar leas na ndaoine go léir a mbeidh an t-ainmnitheach ag feidhmiú ar a son' and s119(2) of the Finance Act, 1983, where 'to meet the claims of all depositors' is translated as 'chun freastal d'éileamh na dtaisceoirí go léir'.

*polaitiúil* Note that 'poiliticeach' is the form of this headword in the enrolled edition, which form *Dinneen* gives as a headword, translated there as 'political', with O'Reilly's *Irish-English Dictionary* given as source. The same source is cited therein for 'poiliticeamhail'. *Ó Dónaill* gives 'polaitiúil' as the form of this headword, simply translated as 'political'.

### Direct translation

Tá dílseacht don náisiún agus tairise don Stát<sup>1</sup> ar dhualgais bhunúsacha<sup>2</sup> pholaitiúla na saoránach go léir<sup>3</sup>.

#### Variants

- 1 'Tá an dílseacht don náisiún agus an tairise don Stát'
- 2 'bhundualgais'
- 3 'uile'

## ARTICLE 10.1 AIRTEAGAL 10.1

### TÉACS GAEILGE

Gach ábhar maoiné nádúrtha, mar aon leis an aer agus gach ábhar fuinnimh, dá bhfuil faoi dhlínse na Parlaiminte agus an Rialtais a bhunaítear leis an mBunreacht seo, maille le gach ríchíos agus díolúine dá bhfuil faoin dlínse sin, is leis an Stát iad uile, gan dochar do cibé eastáit agus leasanna is le haon duine nó le haon dream go dleathach in alt na huaire.

### LITERAL ENGLISH TRANSLATION

All potential natural wealth, along with the air and all potential energy, (of that) which is under the jurisdiction of the Parliament and the Government that is established by this Constitution, along with every royalty and exemption/franchise that is under that jurisdiction, they all belong to the State, without prejudice to whatever estates and interests that lawfully belong to any person or to any group at present.

### ENGLISH TEXT

All natural resources, including the air and all forms of potential energy, within the jurisdiction of the Parliament

and Government established by this Constitution and all royalties and franchises within that jurisdiction belong to the State subject to all estates and interests therein for the time being lawfully vested in any person or body.

### Divergences between the official texts

- 1 'Natural resources' is expressed as 'ábhar maoiné nádúrtha' ('potential natural wealth' or 'material of natural wealth') in the Irish text; 'acmhainní nádúrtha' is generally used today to express 'natural resources', 'ábhar maoiné' most likely being differently interpreted, 'ábhar' expressing 'potential' in this very section, in 'ábhar fuinnimh' ('potential energy').
- 2 'Lawfully vested in any person or body' is expressed as 'is le haon duine nó le haon dream go dleathach' ('which lawfully belong to any person or body') in the Irish text – i.e. the same construction as expresses 'belong to the State' earlier in the section; 'all estates and interests' is expressed as 'cibé eastáit agus leasanna' ('whatever estates and interests') in the Irish text.
- 3 The Irish term 'dream' might be considered a loose term expressing 'body', the Irish legal term for which is 'comhlacht'.
- 4 'Subject to (all estates and interests)' is expressed as 'gan dochar do' ('without prejudice to [all estates and interests]') in the Irish text.
- 5 'All forms of potential energy' is expressed simply as 'gach ábhar fuinnimh' ('all potential energy') in the Irish text.
- 6 'Including the air' is expressed as 'mar aon leis an aer' ('along with the air') in the Irish text.

Note that Article 11 of the 1922 Constitution commences as follows:

All the lands and waters, mines and minerals, within the territory of the Irish Free State (Saorstát Éireann) hitherto vested in the State, or any department thereof, or held for the public use or benefit, and also all the natural resources of the same territory (including the air and all forms of potential energy), and also all royalties and franchises within that territory shall, from and after the date of the coming into operation of this Constitution, belong to the Irish Free State (Saorstát Éireann), subject to any trusts, grants, leases or concessions then existing in respect thereof, or any valid private interest therein .... *Gach talamh agus uisce, gach mianach agus minearál, laistigh de chrich Shaorstáit Éireann dá raibh go dtí so i seilbh an Stáit, no i seilbh aon roinne dhe, no do bhí á chimeád chun úsáide no tairbhe puiblí, agus fós gach maoin nádúrtha den chrich chéanna (mar aon leis an aer agus le gach abhar gníomh-chomhachta), agus fós gach rí-chíos agus reacht-shaoirse laistigh den chrich sin, is le Saorstát Éireann iad ó dháta an Bhun-reachta so do theacht i bhfeidhm, gan dochar d'aon mhuinghin-eachas, bronntas, léas, ná cead 'na diaobh do bhí an uair sin ann, no d'aon cheart dlisteanach príobháideach 'na leith.*

### Commentary

*ábhar maoiné nádúrtha* 'Ábhar' is translated as 'matter; subject matter (i.e. of contract)' in *Téarmaí Dlí*. *Ó Dónaill* translates 'ábhar' ar (1) 'matter, material', citing '*ábhar*

*tógála*, building material' and 'ábhar tine, fuel'; (2) 'makings; potential qualities'; (3) 'cause, reason'; (4) 'subject, topic', citing 'ábhar léinn, scrúdaithe, educational, examination, subject'; (5) 'object', citing 'ábhar trua, déirce, an object of pity, of charity' ... *Dinneen* translates 'ábhar' as 'cause, reason; matter, stuff, material; subject matter to be shaped into form', with DIL translating the earlier form, 'adbar', as I(a) 'matter, material' and II (a) 'cause, ground, reason'.

Turning to the Acts, in s95(1)(b) of the Corporation Tax Act, 1976, '(má bhí) aon scaireanna den sórt sin ... ina n-ábhar déileála ar stocmargadh aitheanta' translates 'any such shares have ... been the subject of dealings on a recognised stock exchange', for example, and 'ábhar éisteachta agus ábhar féachana a taifeadadh' translates 'recorded aural and visual material' in s5 of the Broadcasting Authority (Amendment) Act, 1966.

'Maoin' is translated as 'property' in *Téarmaí Dlí*, where 'maoin phearsanta' is translated as 'personal property', for example. 'Maoin' is translated as 'property, wealth' in *Ó Dónaill*, where 'maoin shaolta' is translated as 'worldly goods' – see Article 43.1.1° for this phrase. *Dinneen* translates 'maoin' as 'wealth, riches, property, means, substance; benefit, gift ...'. The primary sense of 'main', according to DIL, is 'a gift, a benefit'; 'main', in the secondary sense of 'a valuable article or possession, a treasure; *in plural*, treasures, possessions, wealth', was sometimes used of 'cattle, stock' in early Irish laws and was often used figuratively in general literature. See further the commentary on Article 43.1.1°.

'Nádúrtha' is translated as 'natural' in *Ó Dónaill*, citing 'an dlí nádúrtha, the natural law', in the sense of 'conforming to nature', and 'fás nádúrtha, natural growth', in the sense of 'normal'. *Téarmaí Dlí* cites 'athair nádúrtha, natural father' and 'grá agus gean nádúrtha, natural love and affection'. *Dinneen* translates 'nádúrtha' as 'natural, good-natured; kindly (of persons), also kindly (of a soil)'. The *Passions and Homilies* from the *Leabhar Breac* (some of which come from the second half of the eleventh century) provide the earliest of the few citations of 'nádúrtha' given in DIL ('bisech nádúrda', 'natural [i.e. legitimate] profit'), this collection also being the source of the earliest citation of the noun on which this adjective is based, that is, the Romance loanword 'nádúir', found only in late Middle and Modern Irish, the principal sense of which is given in DIL as 'nature, natural constitution or disposition'. Professor Máirtín Ó Murchú notes that 'nádúr' may originally have been a learned loanword from Latin, later influenced by Anglo-Norman, drawing attention to the change in gender from feminine to masculine, '-úir' > '-úr'. See further the commentary on Article 42.1.

Turning to the Acts, note how 'nádúrtha' is replaced by 'aiceanta' in s1 of Article IX of the Eighth Schedule to the Income Tax Act, 1967, which otherwise adheres to the present section of the Constitution, with 'in respect of ... other extraction of natural resources' being translated as 'i leith ábhar maoin aiceanta a bhaint ar shlí eile'. In s2(1) of the Continental Shelf Act, 1968, however, 'and exploiting their natural resources' is translated as 'agus a n-ábhar mhaoine nádúrtha a shaothrú'. We return to 'aiceanta' in 1969, with 'local natural resources' being translated as 'acmhainní aiceanta áitiúla' in s40(2)(a) of the Industrial Development Act, 1969. We find both 'nádúrtha' and 'aiceanta' in the *Programme for a Partner-*

*ship Government*, 1993-'97, with 'our human and natural resources' being translated as 'ár n-acmhainní daonna agus nádúrtha' (p.1) but 'our natural resources' alone as 'ár n-acmhainní aiceanta'. 'Prudent and rational utilization of natural resources' is translated as 'acmhainní nádúrtha a úsáid go stuama réasúnach' in the *Treaty on European Union* (1992, p. 58). See the commentary on Article 45.2ii where 'gustail shaolta' expresses 'material resources'.

Going back to earlier Acts, we find 'the exploitation of water, power and other natural resources of Saorstát Éireann for the generation of electricity' translated as 'comhacht uisce agus maoin nádúrtha eile i Saorstát Éireann d'úsáid chun leictreachas do gheiniúint' in s27 of the Electricity (Supply) Act, 1927, 'resources' being translated as 'maoin' in Article 11 of the 1922 Constitution, cited above. In s23(2) of the Finance Act, 1940, however, 'property' (translated as 'maoin' in *Téarmaí Dlí*, for example) was used in association with 'resources', necessitating the introduction of the earlier form of 'acmhainn' – 'by any person who was at any time entitled to, or amongst whose resources, there was at any time included, any property derived from the deceased' is translated therein as 'ag duine ar bith do bhí uair ar bith i dteideal aon mhaoine, no gur chuid dá acfuinn uair ar bith aon mhaoin, do tháinig ón duine marbh'. In s17(b) of the Schedule to the Pier and Harbour Provisional Order Confirmation (No. 2) Act, 1940, 'as soon as the resources of the Commissioners will admit' is translated as 'chó luath agus is acfuinn do sna Coimisinéirí é'.

Regarding 'nature' itself, 'nature' in the sense of 'human nature' is translated as 'nádúir' in *Téarmaí Staire*, with 'nature' in the sense of 'external world' being translated as 'an dúlradh'; 'natural' is therein translated as 'aicionta' (as opposed to 'artificial', 'saordha'). The earlier form of 'aiceanta', 'aicnetae', in the sense of 'natural' (as opposed to 'artificial', 'contrived') is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles (i.e. 'delb aicnete' ['a natural image']). This adjective is based on 'aicned', translated principally as 'inherent quality, essence, nature' in DIL, citing 'combad aicned nindib a nolc' ('that their evil is not natural in them'), which glosses Latin 'naturalis' in the ninth-century Milan Glosses on the Commentary on the Psalms. This is the same word which gives us Modern Irish 'aigne', 'mind' – DIL gives examples of the sense of 'mind, spirit, feeling' from *In Cath Catharda* onwards. 'Aigeanta' today has the sense of 'spirited, cheerful' rather than the earlier sense of 'natural' – see *Ó Dónaill*. Note, finally, that while 'natural' is translated as 'aicionta' in the first of the Department of Education's collections of terms, *Foclóir Staire is Tír-eóluíochta* (1928), with 'natural wealth' being therein translated as 'maoin (rachmus, ionnmhus, saidhbhreas) aicionta', in the Department's *Tíreolaíocht agus Pleanáil* (1981 [1972]), 'natural resource' is translated as 'acmhainn nádúrtha'.

Two headwords, 'aiceanta' and 'aigeanta', are given in *Ó Dónaill*, the first being translated as 'natural', following the abbreviation for 'Mathematics', with 'aigeanta' given as the standard form of the secondary sense; 'aigeanta' is translated as 'natural', following the abbreviation for 'literary use; literature', with 'spirited, cheerful' given as the secondary sense. The following note kindly written for this study by Professor Máirtín Ó Murchú finally elucidates the problem of these two headwords:

Peadar Ua Laoghaire's *Notes on Irish words and usages* [1925]<sup>1</sup> contains the following entry (p. 2):

*Aicionta*, natural. *Namhaid a.*, a natural enemy; such for example, as the wolf-dog was to the wolf.

This note, and the text which it may have accompanied in the *Cork Weekly Examiner*, are probably the source of our modern *aiceanta* "natural".

D. O'M., in the preface to his edition, assumed that the notes "will all help us to a better understanding of the living speech of the people". While this assumption is in general valid, it needs to be recognized that Peadar Ua Laoghaire did not restrict himself to the "speech of the people". For example, of a total of 87 forms presented by D. O'M. under the letter A, eleven were either no longer current in everyday speech, or were no longer used in the sense assigned to them, or, in the case of *aicionta*, its identity with a contemporary form had not been recognized:

*adh*, fork  
*aicionta*, natural  
*airchinneach*, manager of a piece of church property  
*airfideacht*, musical performance  
*amhra*, remarkable  
*amhas*, mercenary  
*anacal*, quarter (in battle)  
*teach aoidheadh*, guest house  
*aragul*, private apartment  
*árdoireachtas*, monster meeting  
*argain*, ravage with fire and sword

It may be noted, even from this small sample, that Peadar Ua Laoghaire mixed forms from different periods; thus we find modern *oireachtas* for earlier *airechtas*, but earlier *airchinneach* and *airfideacht* for modern *oirchinneach* and *oirfideacht*.<sup>2</sup> Peadar Ua Laoghaire did not have an exact knowledge of the historical development of the language, nor of its evolving orthographical conventions, and for this reason also he sometimes misread earlier spellings. Thus, in his translation of the Euclid,<sup>3</sup> he proposes *froma* as the term for "proof, demonstration", and this form is a misreading of the earlier spelling *fromad* for later *fromha(dh)*. So, *aicionta* should in the modern spelling convention appear as *aigeanta*, and accordingly be recognized as a word which still has currency.<sup>4</sup>

It appears, therefore, that the modern *aiceanta* is an etymological doublet of *aigeanta*, derived from an earlier spelling and given currency by Peadar Ua Laoghaire in the specific sense of "natural" with reference to physical or intrinsic attributes, or as opposed to "artificial".

1 A selection of notes originally published in 1910-15 in the *Cork Weekly Examiner*, collected by Revd Richard Fleming, selected and edited by D. O'M. [=Domhnall Ó Mathghamhna (1872-1942), *Beathaisnéis* 5].

2 *Ó Dónaill* is not consistent here either.

3 See O'Rahilly (ed.), *Papers on Irish idiom* ([1922], 1929).

4 See *Ó Dónaill*.

*ríchíos* This headword is translated as 'royalty' in *Téarmaí Dlí* and in *Ó Dónaill* (which translation is preceded by 'of payment to patentee' in brackets). This compound of 'rí' with 'cíos' (rent/tax, tribute) does not appear to be given as a headword in *Dinneen*.

'Toncam ó ríchíosanna paitinne' translates 'income from

patent royalties' in s170(1) of the Corporation Tax Act, 1976, for example, and 'Féadfaidh an Coiste Taighde Thionscail ... pé bónais nó ríchíos a is cuibhe leis an gCoiste sin a íoc' translates 'The Industrial Research Committee may ... pay ... such bonuses or royalties as the said Committee may think proper' in s19(4) of the Industrial Research and Standards Act, 1946.

'Royalties' is translated as 'rí-chíos' in Article 11 of the 1922 Constitution also. Looking at the earlier Acts in general, note that 'cáin údair' translates 'royalty' in s40(1)(b)(iii) of the Industrial and Commercial Property (Protection) Act, 1927, 'reduce the royalties or other payments accruing to the patentee under any licence previously granted' being translated as 'na cánacha údair no na híocaíochtaí eile a thagann chun an phaitinní fé aon cheadúnas do deonadh roimhe sin do laigheadú' and again in s43(4)(a), 'to secure to the patentee the maximum royalty compatible with the licensee working the invention within Saorstát Éireann on a commercial scale and at a reasonable profit' being translated as 'i slí is go gcuirfar in áirithe don phaitinní an cháin údair mhaximum do bheith aige as an gceadúnaí d'oibriú na cumadóireachta laistigh de Shaorstát Éireann ar scála tráchtála agus le próifit réasúnta'.

*diólúine* This headword is translated as 'exemption', 'franchise' and 'immunity' in *Téarmaí Dlí* and as 'exemption, immunity; licence, liberty' in *Ó Dónaill*. 'Diolmhaine' is translated as 'non-liability; solvency; exemption (from taxation), grammatical or poetic licence' in *Dinneen*. DIL translates 'dilmaine' as (a) 'licence, liberty, freedom' and (b) 'freedom, detachment; exemption or immunity (from an obligation or impost)'. This headword is based on the adjective 'dilmain', which is formed from 'dí' + 'loman' ('leash'), the primary meaning appearing to be 'free from restraint (?), without attachment', according to DIL.

Turning to the Acts, in s48(h) of the Capital Gains Tax Act, 1975, 'copyright, franchises, rights and licences to use any copyright material' is translated as 'cóipcheart, diólúintí, cearta agus ceadúnais aon ábhar cóipchirt'. 'Franchise', in the context of the present Article, is commented on as follows in *A Dictionary of Irish Law*:

A liberty or privilege e.g. to hold fairs and markets. At common law a franchise was a royal privilege which not only authorised something to be done, but gave the owner the right to prevent others from interfering with the right.

'Franchise' is translated as 'reacht-shaoirse' in Article 11 of the 1922 Constitution and in s61(1) of the Electoral Act, 1923, where "The Franchise Resolutions adopted by the Provisional Parliament on the 19th day of September, 1922" is translated as 'na Rúin Reacht-shaoirse le n-ar ghlac an Pháirlimint Shealadach an 19ad lá de Mheadhon Fhogh-mhair, 1922', with 'The parent or guardian of a child shall not ... be deprived of any franchise, right, or privilege or be subjected to any disability' being translated as 'Ní chaillfidh tuismitheoir ná caomhnóir leibh aon reacht-shaoirse, ceart, ná príbhleíd ná ní cuirfear fé aon mhí-ábaltacht é' in s6 of the School Meals (Gaeltacht) Act, 1930.

'Franchise' is translated in *Téarmaí Staire* (1934) as (i) 'saoirse' and (ii) 'saoirsine, neimhtheas reachta' and 'ceart guthaidheachta'. 'Franchise' in this latter sense is expressed as 'toghchóras' in the Constitution: in Article 18.4.2°, 'Provision may be made by law for the election, on a



franchise and in the manner to be provided by law' is expressed as 'Féadfar foráil a dhéanamh le dlí chun go dtoghfar de réir toghchórais, agus ar an modh, a shocrófar le dlí'. 'On a franchise' is similarly expressed as 'de réir toghchórais' in s6 of the same Article.

*ábhar fuinnimh* 'Fuinneamh' is translated as 'energy; force, vigour; pep, spirit' in *Ó Dónaill*, where 'fuinneamh adamhach' is translated as 'atomic energy'. *Dinneen* translates 'fuinneamh' as 'momentum, force, energy, vigour', and DIL also translates 'fuinnem' as 'momentum, vigour, force', citing relatively modern examples – an earlier example of what may be the same word has been translated as 'a twisting wheel'/'a winnowing sieve' (see DIL s.v. 'fuinnem').

Turning to 'energy' in the Acts, 'An Bord Fuinnimh Núicléigh' was established by the Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971, and 'the European Atomic Energy Community' is cited as '(ag) an gComhphobal Eorpach do Fhuinneamh Adamhach' in s92(1) of the Finance Act, 1973, for example. Looking at earlier translations, 'energy' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'fuinneamh' in *Iris an Phoist* 6/1/1926. 'Neart', however, translates 'energy' in the early Acts: in the Fourth Schedule to the Sligo Lighting and Electric Power Act, 1924, for example, 'the expression "unit" shall mean the energy contained in a current of one thousand amperes flowing under an electro motive force of one volt during one hour' is translated as 'ciallóidh an focal "aontán" an neart atá i sruth míle ampéir ag rith fé fhórsa leictre-thiomána volta in uair a' chluig' and in s5 thereof 'producing, generating, using, supplying and distributing electrical energy or power' is translated as 'neart no comhacht leictriúil do dhéanamh, do gheiniúint, d'úsáid, do sholáthar agus do roinnt'. 'An neart leictriúil' translates 'the electric energy' in s1 of the Dublin United Tramways (Lucan Electric Railways) Act, 1927, also.

'All forms of potential energy' is translated as 'gach abhar gníomh-chomhachta' in Article 11 of the 1922 Constitution. 'Potential energy' is translated as 'fuinneamh tualaing' in *Tearmaí Eoluidheachta* (1928) and we find the expression 'potentially dangerous building' translated as 'foirgint tualangtha baoil' in the 'Definitions' in s1(1) of the Fire Brigade Act, 1940. Note that in the Department of Education's 1994 edition of *Foclóir Eolaíochta* 'potential energy' is translated as 'fuinneamh poitéinsiúil'. 'Potential flour mill' is translated as 'abhar muilinn phlúir' in s95 of the Agricultural Produce (Cereals) Act, 1933.

Turning specifically to 'all forms of', see s7(1) of the Capital Gains Tax Act, 1975, where 'All forms of property shall be assets for the purposes of this Act whether situated in the State or not' is translated as 'Is sócmhainní chun críocha an Achta seo gach cineál maoiné, cibé acu is sa Stát don mhaoín sin nó nach ea'. 'The U.N. Convention on ending all Forms of Discrimination' is cited as '(ar) Choinbhinsiún na Náisiún Aontaithe maidir le Deireadh a chur le hIdirdhealú de gach Cineál' in the *Programme for a Partnership Government*, 1993-97 (p. 35).

*in alt na huairé* This phrase expresses 'for the time being' also in Articles 25.5.3°, 41.3.3° and 46.2, expressing 'at the time' in Article 12.4.2°. 'In alt na huairé seo' is translated as 'at this juncture' in *Ó Dónaill*. *Dinneen* cites '*i n-alt na huairé sin*, at that very time' and DIL cites 'ra halt na

h-uairé sin' s.v. 'alt' III (a), 'juncture, point (of time, etc.)'. See the commentary on Article 12.4.2°.

'For the time being' is generally translated as 'de thuras na huairé' in the modern Acts – see, for example, s1 of the Local Government (Financial Provisions) Act, 1978, where 'the premises of a club for the time being registered under the Registration of Clubs (Ireland) Act, 1904' is translated as 'áitreabh club atá cláraithe de thuras na huairé faoin *Registration of Clubs (Ireland) Act, 1904*' and s4(3) of the Finance Act, 1971, where 'the amount for the time being of the said person's indebtedness to the lender' is translated as 'an méid a bheidh an duine sin i bhféichiúnas de thuras na huairé ag an iasachtóir'. See further the commentary on Articles 41.3.3° and 46.2.

Professor Máirtín Ó Murchú comments that there are two separate senses involved in 'for the time being': (1) 'for the moment, for a while' ("go fóill") and (2) 'of the moment, during that time' ("le linn an ama sin"), citing 'it will do for the time being' as an example of the first sense and 'those who, for the time being, are responsible' as an example of the second. While 'de thuras na huairé' conveys the first sense, Máirtín Ó Murchú feels that the second sense is what is needed in the current Article and suggests 'le ham na huairé sin' (which phrase is found in *Agallamh na Seanórach*, for example), or 'le linn na huairé sin', as a more formal phrase to express that sense.

*is leis an Stát* The copula with the preposition 'le' expresses 'belongs to'; *Ó Dónaill* cites s.v. 'is', '*An leat an teach? Is liom, agus ba le m'athair romham é*. Is the house yours? It is, and it was my father's before me'. Under 'le' 8(c), in the sense of 'property', *Ó Dónaill* cites '*tá leabhar leat agam*, I have a book of yours', '*maráidh bó leis*, a cow belonging to him was killed', '*an té ar leis an áit*, the person who owns the place' and '*is liom féin é*, it is my own'. *Dinneen* s.v. 'le', in the sense of 'ownership', cites '*b'fhéidir go bhfaighinn bó leat-sa i bpoll lá éigin*, perhaps I will find a cow of yours in a hole some day (i.e. find you in a fix)', and the famous judgement in regard to Colm Cille, '*leis gach boin a boinín agus leis gach leabhar a mhaic-leabhar*, to every cow belongs the calf, to every original its copy' (from Keating's seventeenth-century *History of Ireland*). DIL cites examples of the construction '*is la x y*', 'x owns, possesses y, y belongs to x', from the Glosses of the eighth century onwards.

Turning to the Acts, 'measfar ... gur leis an dá chéile mar chomhúinéirí é' translates 'shall ... belong to the spouses as joint owners' in s21 of the Family Law (Maintenance of Spouses and Children) Act, 1976, and 'an chuid sin de na brabúis is leis na sealbhóirí polasaithe' translates 'such part of those profits as belongs to ... policy holders' in s35(1)(a) of the Corporation Tax Act, 1976. 'Belong' and 'vest' are cited together in s3(1) of the Mountjoy Square, Dublin, Act, 1938, where 'all property ... which immediately prior to the date of the passing of this Act is vested in or belongs to ... the commissioners ... shall ... become or be vested in or the property of ... the corporation' is translated as 'an mhaoín uile ... a bhí, díreach roimh dháta an Achta so do rith, dílsithe sna coimisinéirí no dá gcuid féin acu ... tiocfaid chun bheith no beid ... dílsithe sa bhárdas no dá gcuid féin acu'.

Regarding 'vested in' in modern Acts, see the commentary on Article 13.4. In Article 11 of the 1922 Constitution, 'vested in the state' is translated as 'i seilbh an stáit', and

in Article 51 'vested in the King' is translated as 'sealbhuithe sa Rí'. In s2(4) of the District Justices (Temporary Provisions) Act, 1923, 'A District Justice shall ... have all the powers, authorities and duties which were immediately before the passing of this Act vested in or imposed on a Justice of the Peace' is translated as 'beidh ag Giúistís Dúithche gach comhacht, údarás agus dualgas a bhí, díreach roimh aimsir ríthe an Achta so, bronnta na curtha ar Ghiúistís Sióchána'. 'Bronn' also translates 'confer', however; both 'confer' and 'vest' are cited together in s7(2) of the Finance Act, 1923, where 'the Under-Sheriff shall (in addition to the rights, powers and duties conferred on him by this section) have all such rights, powers and duties as are for the time being vested in him by law' is translated as 'beidh ag an bhFo-Shirriamh (i dteanta na gceart, na gcomhacht agus na ndualgaisí a bronntar air leis an alt so) na ceartanna, na comhachtanna agus na dualgaisí uile sin a bheidh aige de thurus na huaire do réir dlí'. 'Dilsigh', the modern translation of 'vest', is also cited in the 1923 Acts; in s39 of the 'Tirconaill County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'As the ownership of Lifford Hospital appears to be vested in Trustees' is translated as 'Ó dheabhruíonn sé go bhfuil únaereacht Ospidéal Leithbhírr dílsithe in Iontaobhuithe' and in the Preamble to the Land Trust Powers Act, 1923, 'to vest in the Trust any land and other property which is under the said section to be transferred to the Trust' is translated as 'chun aon talamh agus maoin eile atá len' aistriú chun an Chóluchta fén alt san do dhílsíú sa Chólucht'. Finally, 'vesting orders' is translated as 'orduithé dílsíúcháin' in s24(1) of the Land Act, 1923.

*go dleathach* 'Dleathach' is translated as 'lawful' in *Téarmaí Dlí* and as 'lawful, legal' in *Ó Dónaill*. 'Lawful, legal, permissible' are among the senses of 'dleaghtach' in *Dinneen*. 'Dligthech' is used in Old Irish Glosses in the sense of 'accordant with reason or rule' (Latin 'rationabilis'), according to DIL, citing 'chech irnigde dongneid ... bed dlichthech' ('let every prayer that ye make ... be lawful [rationabile]') from the eighth-century Würzburg Glosses on the Pauline Epistles. Hence, according to DIL, we find the senses 'regular, accordant with rule, right, lawful, law-abiding', citing 'ní dligthech don aigne cin fis na n-earnuile so aige' ('it is not lawful for the advocate not to know these tracts') from a commentary on an early Irish law-tract. 'Dligthech' is based on 'dliged', Modern Irish 'dlí' ('law'), which frequently glosses or translates Latin 'ratio' in the Old Irish Glosses. According to D.A. Binchy, in the 'Legal Glossary' to *Críth Gablach* (p. 84), the adjective 'dligthech' can mean either 'lawful' or 'law-abiding' (i.e. fulfilling one's legal duties) in early Irish law. See further the commentary on Articles 12.4.4°, 14.3, 17.2 and 40.3.3°.

Turning to the modern Acts, in s14 of the Fisheries (Consolidation) Act, 1959, 'All things which by this Act are directed to be done ... may be lawfully done by or with relation to an agent' is translated as 'Gach ní a ordaítear leis an Acht seo a dhéanamh ... féadfar é a dhéanamh go dleathach ag gníomhaire'.

*mar aon leis an aer* In earlier editions of the Stationery Office text, 'mar aon' is given as one word, the standard spelling of this today being 'mar aon' – see *Ó Dónaill s.v. 'maraon'*: '= mar aon'. 'Mar aon le líonadh corríolúntas' expresses 'including the filling of casual vacancies' in

Article 16.7. In Article 30.6, however, 'including the remuneration' is expressed as 'maile leis an tuarastal' while 'agus orthu sin tuairimí léirmheasa ar bheartas an Rialtais' expresses 'including criticism of Government policy' in Article 40.6.1°i. 'Including County Boroughs' is expressed as 'agus Contae-Bhuirgí a áireamh' in Article 12.4.2°ii and in Article 18.7.1°v 'including voluntary social activities' is expressed as 'agus obair chomhdhaonnach dheonach a áireamh'. In Article 18.7.1°iv, however, 'Industry and Commerce, including banking' is expressed as 'Tionscal is Tráchtáil ar a n-áirítear baincéireacht'.

*Ó Dónaill* translates 'mar aon le' as 'in addition to'. *Dinneen* translates 'mar aon le' as 'along with, together with, in addition to, beside'. DIL translates the earlier form 'immaróen (maróen) fri (re, la)' as 'along with, together with', citing examples from *Leabhar na hUidhre* (completed by 1106) onwards. See further the commentary on Article 16.7.

Turning to modern legislation, 'mar aon le sonraí ar an asbhaint sin' translates 'together with the particulars of such deduction' in s20 of the Finance Act, 1990, for example, and 'mar aon le cosúlacht gur fearr a oibreoidh an phróis choigeartúcháin san am le teacht' translates 'as well as the likelihood of a better working of the adjustment process in the future' in s1(b) of Article XXIV of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1969. Turning to 'including', this is generally translated as 'lena n-áirítear' in the Acts today – see, for example s25(2) of the Dublin Cemeteries Committee Act, 1970, where 'Every debt and other liability (including unliquidated liabilities arising from torts or breaches of contract)' is translated as 'Gach fiach agus dliteanas eile (lena n-áirítear dliteanais neamhleachtaithe de dhroim tort nó sáraithe conartha)'. In s26(b) of the Value-Added Tax (Amendment) Act, 1978, 'sports and pleasure craft of all descriptions including yachts, cabin cruisers, dinghies, canoes, skiffs and racing boats' is translated as 'báid spóirt agus áineasa de gach cineál lena n-áirítear luamha, báid chábáin, báidíní calaithe, curaigh, coití agus báid rásaíochta'.

Turning to the earlier Acts, in s6 of the 'Roscommon County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'Athlone No. 2 (now including Ballinasloe No. 2)' is translated as 'Áth Luain, Uimh. 2 (maraon le Béal Átha na Slua, Uimh. 2)'. In s3(a) of the Second Schedule to the Electoral Act, 1923, 'such particulars including date of birth as show that such person is qualified to be an elector in that University' is translated as 'pé mion-innste a thespeánfaidh an duine sin do bheith cáilíochtuithe chun bheith ina thoghthóir sa Phríomh-scoil sin agus orra san dáta a bheireatais'. In s15(2) of the National Health Insurance Act, 1923, 'Every mention or reference contained in the Acts (including Section 4 of the Act of 1918)' is translated as 'Gach luadh no tagairt atá sna hAchtanna (ar a n-áirítear Alt 4 d'Acht 1918)'. Similarly, in s34(6) of the Local Government Act, 1925, 'do all such acts and things (including entering on land) as may be necessary for that purpose' is translated as 'gach gníomh agus ní (ar a n-áirítear dul isteach ar thalamh) is gá chuige sin do dhéanamh'. Both 'ar a n-áirítear' and 'lena n-áirítear' are included in *Foclóir Oifigiúil*, the latter being the current favourite, both phrases being found in the Finance Act, 1990, and in *Treaties establishing the European Union* (1973), with only 'lena n-áirítear' being cited in the *Treaty on European Union* (1992).

*maille le* 'Riarachán maille le huacht' is translated as 'administration with will annexed' in *Téarmaí Dlí*. 'Maille le' is translated as 'with, along with' in *Ó Dónaill*, who translates 'maille le míle eile acu' as 'together with a thousand more of them'. DIL cites examples of 'immalle' with 'fri (re)' or 'la', in the sense of 'with, along with', from the Glosses of the eighth century onwards.

Turning to modern legislation, 'maille le' is sometimes used in translation to express 'and' – see, for example, *Treaties on the European Union* (1973, pp. 20 and 275 respectively) where 'ach amúchadh a lamháil mar is gá maille le gnáthdheis chun brabach a shaothrú as caipiteal infheistithe' translates 'while allowing necessary amortization and normal return on invested capital' and 'ciallaíonn "pá" an gnáthphá ... maille le haon chomaoin eile' translates "'pay" means the ordinary basic ... wage and any other consideration'. 'Maille le' is also used in the Acts to translate 'with' – see, for example, s2 of Table A of the First Schedule to the Companies Act, 1963, where 'any share in the company may be issued with such preferred, deferred or other special rights' is translated as 'féadfar scair ar bith sa chuideachta a eisiúint maille le cibé cearta tosaíochta nó iarchurtha nó cibé cearta speisialta eile'.

*faoi dhlínse* See the commentary on Article 3 regarding 'dlínse', 'jurisdiction'. Note regarding 'within the jurisdiction', that in the *Treaty on European Union* (1992, p. 181), 'Disputes between the EMI, on the one hand, and its creditors ... on the other, shall fall within the jurisdiction of the competent national courts, save where jurisdiction has been conferred upon the Court of Justice' is translated as 'Is iad na cúirteanna náisiúnta inniúla a chinneadh díospóidí idir IEA, ar thaobh amháin, agus a creidiúnaithe ... ar an taobh eile, ach amháin nuair atá dlínse tugtha don Chúirt Bhreithiúnais'. In s12 of the Courts Act, 1981, 'the provisions of the order or direction would have been within the jurisdiction of that Court' is translated as '(go) mbeadh forálacha an ordaithe nó an ordacháin faoi réim dhlínse na Cúirte sin'. In s10(1) of the Maritime Jurisdiction Act, 1959, however, 'Every offence ... is an offence within the jurisdiction of the State' is translated as 'gach cion ... is cion laistigh de dhlínse an Stáit é' and 'in the area within the jurisdiction of the Corporation' is translated as 'sa liomatáiste laistigh de dhlighinse an Bhardais' in the Long Title of the Local Government (Galway) Act, 1937.

*dream* This headword is translated as 'body of people; group, tribe, set; some' in *Ó Dónaill*, who translates 'dream daoine' as 'group of people; set, class, tribe of people' and 'duine nó dream anaithnid' as 'person or persons unknown'. *Dinneen* translates 'dream' as 'a portion, a section, an additional period; crowd, party, people, tribe, class, adherents, a following'. DIL translates 'drem(m)' as an 'indefinite number of people, band, company', citing examples from *Fis Adamnáin* (in the twelfth-century *Leabhar na hUidhre*) onwards. Professor Máirtín Ó Murchú draws attention to the headword 'dramm' in DIL, stated therein to be a by-form of 'dremm'. According to Máirtín Ó Murchú, it is this by-form, i.e. /draum/, that is found in Munster Irish.

Turning to modern legislation, 'aon chomhlachas, eagrais nó dream eile' translates '(No) association, organisation or other combination' in s12(1) of the Restrictive Trade Practices (Building Materials) Order, 1955 (S.I. No. 187 of

1955). In *Treaties establishing the European Communities* (1973, p 1383), 'a áirithiú gurb iad an dream dar dáileadh an luaidhe airgeadmhar ... a dhéanfaidh minghlanadh uirthi iarbhír' translates 'to ensure that the argentiferous lead thus imported is in fact refined by those to whom it is allocated'. In the *Programme for a Partnership Government*, 1993-97 (p. 58), 'ní mór dúinn ... a nascadh le chéile ar bhealach níos feara ná mar a rinne aon dream againn cheana' translates 'we have to combine more successfully than any of us have done in the past'.

Turning specifically to 'body', 'body corporate' and 'public body' are translated respectively as 'comhlacht corpraithe' and 'comhlacht poiblí' in *Téarmaí Dlí* and 'body' is so translated as 'comhlacht' in the Acts in general. In s28 of the Finance Act, 1990, for example, 'any person who has been admitted a member of the body incorporated under the Companies Act, 1963' is translated as 'aon duine lenar glacadh mar chomhalta den chomhlacht a corpraíodh faoi Acht na gCuideachtaí, 1963'. In s14(3) of the Capital Gains Tax Act, 1975, 'the personal representatives shall for the purposes of this Act be treated as being a single and continuing body of persons' is translated as 'measfar chun críocha an Achta seo, gur comhlacht aonraic leanúnach daoine ... na hionadaithe pearsanta'.

Going back to earlier legislation, we find the Long Title of the Local Elections Postponement Act, 1942, 'An Act to postpone the elections to certain local bodies', translated as 'Acht chun na toghacháin chun cóluchtaí áitiúla áirithe ... do chur ar ath-ló'. In s47(2) of the Finance Act, 1925, 'the word "employer" includes any employer being a body of persons, corporate or unincorporate, as well as an employer who is an individual' is translated as 'foluáinn an focal "fostathóir" aon fhostathóir is cólucht daoine, ionchorpruithe no neamh-ionchorpruithe, chó maith le fostathóir is duine aonaránach'. We find 'dream' expressing 'body' (as it does in the present Article 10.1) in s33 of the Railways Act, 1924, where 'The amalgamated company or any representative body of traders' is translated as 'An chuideachta chó-nasctha no aon dream ionadathach de thrádálaithe'. See further the commentary on Article 37.1 where 'dream' expresses 'body of persons'. 'Dream' expresses 'group' in Article 19.

In general usage 'comhlacht' renders 'company' – *Ó Dónaill* translates this headword as 'body; company, firm'. *Dinneen* translates 'cómhlucht' as 'fellow-labourers; an associated band; a household; a company', citing '*cómhlucht oibre*, labourers together, partners, associates, allies'. DIL has only two citations of this compound based on 'lucht', one from Eugene O'Curry's law transcripts ('comlucht denma uilc', translated by O'Curry as 'accomplices') and the other from Keating's seventeenth-century poetry ('gan na dhíol dídean dá chómhluacht', 'cómhlucht' therein being translated in DIL as 'companions'). The principal sense of 'lucht' in DIL is 'contents, charge', this word also having the sense of 'people, class of persons, category', nearly always with defining genitive or clause, the earliest meaning being, according to DIL, 'those occupying, inhabiting (*and hence also*) possessing', DIL citing 'luct Corint' ('the people of C.') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Comhlacht' expresses 'body' in Article 13.8.2<sup>o</sup>.

*gan dochar do cibé eastáit agus leasanna* 'Gan dochar' is translated as 'without prejudice' in *Téarmaí Dlí*, where

'dibhim gan dochar' is translated as 'I dismiss without prejudice' – see the commentary on Article 3. See s38(2) of the Fisheries Act, 1980, as regards 'estates and interests', 'free from encumbrances and from all estates and interests therein' being translated as 'saor ó eirí agus ó gach eastát agus leas sa chéanna' and in s42(1) of the Agricultural Credit Act, 1978, 'the charge ... shall as against the land so charged be in priority to and shall override all estates and interests in ... the land' is translated as 'beidh tosaíocht agus sáraíocht, amhail i gcoinne na talún a bheidh muirearaithe amhlaidh, ag an muirear ... ar gach eastát agus leas sa talamh'.

### Direct translation

Na hacmhainní nádúrtha uile, lena n-áirítear an t-aer agus gach cineál ábhair fuinnimh<sup>1</sup>, faoi réim<sup>2</sup> dhlinse na Parlaiminte agus an Rialtais a bhunaítear leis an mBunreacht seo, maille leis na ríchiosanna agus na díolúintí uile faoi réim<sup>3</sup> na dlínse sin, is leis an Stát iad faoi réir gach eastáit agus leasa<sup>4</sup> sa chéanna atá dílsithe go dleathach d'aon duine nó comhlacht<sup>5</sup> de thuras na huair<sup>6,7</sup>.

### Variants

- 1 'agus ábhar fuinnimh de gach cineál'
- 2 'faoi réim'
- 3 'laistigh den'
- 4 'faoi réir na n-eastát agus na leasanna uile'
- 5 'nó d'aon chomhlacht'
- 6 'atá dílsithe go dleathach le ham na huair sin d'aon duine nó comhlacht', 'atá dílsithe go dleathach le linn na huair sin d'aon duine nó comhlacht'
- 7 'Is leis an Stát na hacmhainní nádúrtha uile, lena n-áirítear an t-aer agus gach cineál ábhair fuinnimh, faoi réim dhlinse na Parlaiminte agus an Rialtais a bhunaítear leis an mBunreacht seo, maille leis na ríchiosanna agus na díolúintí uile faoi réim na dlínse sin, faoi réir gach eastáit agus leasa sa chéanna atá dílsithe go dleathach d'aon duine nó comhlacht de thuras na huair.'

## ARTICLE 10.2 AIRTEAGAL 10.2

### TÉACS GAEILGE

Gach talamh agus gach mianach, mianra, agus uisce ba le Saorstát Éireann díreach roimh theacht i ngníomh don Bhunreacht seo is leis an Stát iad uile sa mhéid go mba le Saorstát Éireann an uair sin iad.

### LITERAL ENGLISH TRANSLATION

Every land and every mine, mineral, and water which belonged to the Irish Free State immediately before the coming into operation of this Constitution (they) all belong to the State to the extent that they belonged to the Irish Free State at that time.

### ENGLISH TEXT

All land and all mines, minerals and waters which belonged to Saorstát Éireann immediately before the coming into operation of this Constitution belong to the State to the same extent as they then belonged to Saorstát Éireann.

### Divergences between the official texts

- 1 'To the **same** extent as they then belonged' is expressed as 'sa mhéid go mba le ... an uair sin iad' ('to the

extent that / in so far as they belonged at that time') in the Irish text.

- 2 The expressions for 'mine', 'mineral' and 'water' are in the singular qualified by 'gach' in the Irish text; an assertion is then made about them collectively in the plural: 'every x, y, and z ... they all belong ...'.
- 3 Unlike 'minerals' in the English text, 'mianra' is followed by a comma, i.e. before 'agus', in the Irish text.

Note that Article 11 of the 1922 Constitution commences as follows:

All the lands and waters, mines and minerals, within the territory of the Irish Free State (Saorstát Éireann) hitherto vested in the State ... shall, from and after the date of the coming into operation of this Constitution, belong to the Irish Free State (Saorstát Éireann) .... *Gach talamh agus uisce, gach mianach agus minearál, laistigh de chrich Shaorstáit Éireann dá raibh go dtí so i seilbh an Stáit ... is le Saorstát Éireann iad ó dháta an Bhun-reachta so do theacht i bhfeidhm.*

### Commentary

*gach* The singular of the noun follows 'gach' in Irish, translating 'each'/'every' and singular of the noun in English, or 'all' with plural of the noun – see *Ó Dónaill*, who translates this headword as 'every, each' and cites '*gach duine, rud*, every person, thing', '*gach maith*, every good thing; everything that is good', '*as gach aird*, from all directions' and '*ar gach aon taobh*, on all sides'. *Dinneen* translates 'gach' as 'each, every, any'. DIL translates the earlier forms 'cach'/'cech' as 'each, every, all'. Old Irish had a plural form as we see from 'cecha dethidnea domundi' ('all worldly cares') in the eighth-century Würzburg Glosses on the Pauline Epistles. We actually find the phrase 'secech talmáin' ('beyond every [=sech cech] land' – 'gach talamh' being found in the present Article) in the ninth-century Milan Glosses on the Commentary on the Psalms.

Turning to the Acts, 'cait agus gach cat-ainmhí eile' translates 'cats and all other feline animals' in the First Schedule to the Diseases of Animals Act, 1966, where 'gach ainmhí athchogantach eile' translates 'all other ruminating animals'. 'Gach ceist a thiocfaidh nó a éireoidh os comhair an bhoird' translates 'all questions coming or arising before the board' in s28 of the Second Schedule to the Health Act, 1970. Both 'go léir' and 'uile' are also used in the Acts to translate 'all' and have the advantage that they can readily qualify both singular and plural nouns. In s13(3) of the Continental Shelf Act, 1968, for example, 'A member of the Garda Síochána shall in a designated area have all the powers, protection and privileges which he has in the State' is translated as 'Beidh ag comhalta den Gharda Síochána i limistéar ainmnithe na cumhachtaí, an chosaint agus na pribhléidí go léir atá aige sa Stát'. In s16(5) of the Schedule to the Local Government Provisional Order Confirmation Act, 1979, "agricultural land" includes all land which is entered as land in the valuation lists' is translated as 'folaíonn "talamh talmhaíochta" an talamh go léir atá taifeadta mar thalamh sna liostaí luachála'. Turning to 'uile', 'in respect of all salaries' is translated as 'i leith na mbrabús uile' in s19(a) of the Finance Act, 1990, for example.

*mianach* This headword is translated as ‘mine’ in *Téarmaí Dlí*, as 1(a) ‘ore’, (b) ‘mine’ in *Ó Dónaill*, and as ‘an ore or mineral, a mineral vein, a mine’ in *Dinneen*, who cites ‘*mianach óir*, a gold mine’. DIL translates ‘mianach’ as ‘ore, a vein of ore, a mine’, this word developing the figurative sense of ‘nature, disposition’ – *Ó Dónaill* gives the secondary sense of ‘stuff, material, substance, quality’ s.v. ‘mianach’, translating ‘mianach duine’ as ‘the inherent quality of a person’, and citing ‘*tá mianach an léinn ann*, he has an aptitude for learning’ and ‘*fear dá mhianach*, an man of his calibre’. ‘Mianach’ is based on ‘méin’, translated as ‘mineral, ore; metal (?)’ in DIL, where ‘claide mianna’ (‘delving mines’) is cited from an early Irish law-tract. ‘Méin’ also developed the sense of ‘bent, disposition, temperament; nature, quality’ – Modern Irish ‘méin’ is translated as (1) ‘mind, disposition’ by *Ó Dónaill*, who cites ‘*méin mhaith a bheith agat do dhuine*, to be well-disposed towards someone’ and ‘*an bhean is fearr méin*, the best natured woman’, and (2) ‘mien, bearing’, citing ‘*méin mhaorga*, noble mien’.

Turning to modern legislation in relation to the primary sense of ‘mianach’, in s53(1)(b)(ii) of the Income Tax Act, 1967, ‘mines of coal, tin, lead, copper, pyrites, iron and other mines’ is translated as ‘mianaigh ghuail, stáin, luaidhe, chopair, pírit, iarainn agus mianaigh eile’. ‘Mianach’ translates ‘mine’ in Article 11 of the 1922 Constitution and ‘but without the mines and minerals therein’ is translated as ‘ach d’éamais na mianach agus na minearál atá sa chéanna’ in s1(1)(a) of the State Land Act, 1924.

‘Mine’ is translated as ‘mianach’ in *Foclóir Staire is Tír-eóluíochta* (1928) with ‘mianadóir and ‘mianadóireacht’ respectively translating ‘miner’ and ‘mining’, ‘coal mine’ being translated as ‘mianach guail’ – incidentally, ‘silver mine’ is therein translated as ‘airgeadlach’. Note finally that ‘land mines’ is translated as ‘pléascáin talmhan’ in s8(3)(c) of the Public Safety (Emergency Powers) Act, 1923; this is currently expressed as ‘mianach talún’.

*mianra* This headword is translated as ‘mineral’ in *Téarmaí Dlí* and in *Ó Dónaill*. ‘Mianradh’ is the form found in the enrolled edition; neither form appears to be given as a headword in *Dinneen*, ‘mian’, upon which ‘mianra’ is based, being therein translated as ‘ore, a mine’. ‘Minerals’ (collective) is translated as ‘méinreadh’ in *Foclóir Staire is Tír-eóluíochta* (1928), with ‘mineral substance’ being translated as ‘mianrach’. ‘Mineral water’ is translated as ‘uisge mianraidhe’ in *Téarmaí Eoluidheachta* (c. 1940). *L. Mc Cionnaith* cites ‘Terms published by the Department of Education’ (such as *Foclóir Staire is Tír-eóluíochta* and *Téarmaí Eoluidheachta* above) as his source for ‘mianradh’ translating ‘mineral’.

Turning to early legislation, we find ‘minearál’ in Article 11 of the 1922 Constitution, and in s45(5) of the Land Act, 1923, ‘the ... right of mining and taking minerals and digging and searching for minerals on or under that land, including such mineral rights ...’ is translated as ‘an ceart chun mianadóireachta agus chun minearáil do thógaint agus chun tochailt agus cuardach do dhéanamh chun minearáil d’fháil ar an talamh san no fé, maraon le pé cirt minearáil ...’. In the Schedule to the Finance Act, 1923, ‘Mineral Rights Duty’ is translated as ‘Diúit Cearta Minearálta’. ‘Tidil mhianaigh’, however, is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘mineral rights’ in *Iris Oifigiúil*, No. 5 of 1924, and ‘uisce

mianaigh’ translates ‘mineral waters’ in the Dundalk Harbour and Port Act, 1925 (p. 125). ‘The Mines and Minerals Act, 1931’ is cited in Irish as ‘Acht na Mianach agus na Minearál, 1931’. As an example of the modern translation of ‘mineral’ see s39 of the Finance Act, 1990, where “exploring for scheduled minerals” means searching in the State for deposits of scheduled minerals’ is translated as ‘ciallaíonn “taiscéaladh mianraí sceidealta” cuardach a dhéanamh sa Stát ar lorg foslach mianraí sceidealta’.

*sa mhéid go* This phrase is translated as ‘inasmuch, in so far, as’ in *Ó Dónaill*, who translates ‘méid’ as ‘amount, quantity, extent, degree, number’. In Old Irish ‘méit’, translated as ‘greatness, magnitude’ in DIL, as a relative adverb introducing a subordinate clause, had the sense of ‘as much as, as far as, to the extent that’ – see DIL s.v. ‘méit’ III(c), where ‘in mét beta firién in doini, is in méit sin is téchtae doib dilgadche’ (‘in proportion as men are righteous, forgiveness is fitting for them’) is cited from the ninth-century Milan Glosses on the Commentary on the Psalms.

Turning to the Acts, ‘Na rialacháin uile atá ann fé láthair ... leanfid i bhfeidhm sa mhéid go leanfaidís agus leis an éifeacht a bheadh acu dá mba fén Acht so a déanfi iad’ translates ‘All existing regulations ... shall ... continue in force to the same extent and with the same effect as if they had been made under this Act’ in s7(2) of the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. In s55 of the First Schedule to the European Assembly Elections Act, 1977, ‘ach amháin sa mhéid go gcomhaontóidh sé féin agus na hiarrthóirí ar a mhalairt’ translates ‘except so far as he and the candidates otherwise agree’. ‘Forbairtí i gcoinníollacha iomaíochta ... sa mhéid go dtugann siad feabhsú ar chumas iomaíochta gnóthas’ translates ‘developments in conditions of competition ... in so far as they lead to an improvement in the competitive capacity of undertakings’ in *Treaties establishing the European Communities* (1973, p. 200).

Turning specifically to ‘to the same extent’, in s21(1) of the Capital Gains Tax Act, 1975, ‘(that) the gain shall be exempt from being a chargeable gain to the same extent only as income derived from the assets would be exempt’ is translated as ‘nach mbeidh an gnóchan díolmhaithe ó bheith ina ghnóchan inmhuirearaithe ach amháin a mhéid a bheadh ioncam as na sócmhainní díolmhaithe’. In the *Treaty on European Union* (1992, p. 170), ‘The central bank ... shall pay up its subscribed share ... to the same extent as the central banks of other Member States’ is translated as ‘Déanfaidh an banc ceannais ... a scair shuibscríofa ... a íoc go feadh an méid a bheidh íochta ag bainc cheannais eile’. Note that in s200 of the Income Tax Act, 1967, ‘A person not resident in the State ... shall be assessable and chargeable ... in like manner and to the like amount as such non-resident person’ is translated as ‘Beidh duine nach gcónaíonn sa Stát ... inmheasúnaithe agus inmhuirir ... sa tslí chéanna agus go feadh an méid chéanna ina ndéanfaí an duine neamhchónaitheach sin a mheasúnú agus a mhuirearú’.

Returning to ‘to the same extent’, in s310 of the Social Welfare (Consolidation) Act, 1981, ‘provided that the provisions of the repealed enactments shall continue to apply to benefit ... to the same extent that they would have applied thereto if this Act had not been passed’ is translated as ‘ar choinníoll go leanfaidh forálacha na

n-achtachán aisghairthe d'fheidhm a bheith acu maidir le sochar ... amhail mar a bheadh feidhm acu maidir leis na nithe sin dá mba rud é nár ritheadh an tAcht seo'. In s554(1) of the Income Tax Act, 1967, '(provided that) the provisions of the repealed enactments shall continue to apply to income tax and sur-tax for any such year to the same extent that they would have applied thereto if this Act had not been passed' is translated as 'go leanfaidh forálacha na n-achtachán aisghairthe d'fheidhm a bheith acu maidir le cáin ioncaim agus forcháin d'aon bhliain den sórt sin an méid céanna a bheadh feidhm acu maidir leo dá mba nár ritheadh an tAcht seo'. In s13(3) 'those regulations shall ... be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles' is translated as 'is iad na rialacháin sin ... rialacháin na cuideachta sa dóigh chéanna agus sa mhéid céanna is dá mbeidís in airteagail a cláraíodh go cuí' while in s25(1) thereof 'bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member' is translated as 'ina gceangal ar an gcuideachta agus ar a comhaltaí ionann is dá mbeidís faoi seach sínithe agus séalaithe ag gach comhalta'. See further the commentary on Article 15.4.2<sup>o</sup>.

### Standardised Irish text

Gach talamh agus gach mianach, mianra, agus uisce ba le Saorstát Éireann díreach roimh theacht i ngníomh don Bhunreacht seo is leis an Stát iad uile sa mhéid gur le Saorstát Éireann an uair sin iad.

### Direct translation

An talamh<sup>1</sup> agus na mianaigh, na mianraí agus na huisc go léir ba le Saorstát Éireann<sup>2</sup> díreach roimh theacht i ngníomh don Bhunreacht seo is leis an Stát iad go feadh an mhéid chéanna<sup>3</sup> ar<sup>4</sup> le Saorstát Éireann iad<sup>5</sup> an tráth sin.

### Variants

- 1 'An talamh uile'
- 2 '(go léir) ar le Saorstát Éireann iad'
- 3 '(iad) an méid céanna'
- 4 'sa mhéid céanna is ba'
- 5 'a oiread is ba le Saorstát Éireann iad'

## ARTICLE 10.3 AIRTEAGAL 10.3

### TÉACS GAEILGE

Féadfar socrú a dhéanamh le dlí chun bainistí a dhéanamh ar an maoin is leis an Stát de bhua an Airteagail seo, agus chun sannadh buan nó sannadh sealadach na maoin sin a rialú.

### LITERAL ENGLISH TRANSLATION

Provision may be made by law to manage / to undertake the management of the wealth/property that belongs to the State by virtue of this Article, and to regulate/control the permanent alienation/assignment or the temporary alienation/assignment of that wealth/property.

### ENGLISH TEXT

Provision may be made by law for the management of the property which belongs to the State by virtue of this Article and for the control of the alienation, whether temporary or permanent, of that property.

### Divergences between the official texts

- 1 'Alienation' is expressed as 'sannadh' ('assignment') in the Irish text, the Modern Irish legal term for 'alienation' being 'coimhthíú', 'sannadh' expressing 'alienation' in early Irish law-tracts, however.
- 2 'Management' is expressed as 'bainistí', which also has the sense of 'thrif'; similarly, as we have seen in Article 10.1, 'maoin' expresses both 'wealth' and 'property'.
- 3 'For the control of the alienation, whether temporary or permanent, of that property' is expressed as 'chun sannadh buan nó sannadh sealadach na maoin sin a rialú', 'for the control of the permanent alienation or the temporary alienation of that property', in the Irish text, the form which expresses 'control' ('a rialú') generally expressing 'regulate' in the Constitution, though it is the Irish legal term for 'control' (and 'rule').

### Commentary

*sannadh* This headword is translated as 'assignment' in *Téarmaí Dlí*, where 'sannaim' is translated as 'I assign', following the first, fourth, fifth and eighth Irish Legal Terms Orders. *Ó Dónaill* translates 'sannadh' as 'assignment, assignation' and cites '*maoin a shannadh*, to assign property' s.v. 'sann' ('assign'). This verbal noun does not seem to be given as a headword in *Dinneen* but the verb 'sannaí' is given in DIL, where the entry reads as follows: '*Legal* separates, alienates (*land*)'. 'Is mesiuich cach fear fine cunai a fintuid; naid inrean, naide sanna' (... he is not to sell it, or alienate it' – i.e. land belonging to the family) is cited in DIL from an early Irish law-tract. The verbal noun 'sannud' is also cited from early Irish law-tracts, 'ni tualaing roda selba sannad' from one such tract being translated as 'one who owns it (land) cannot alienate it', but perhaps reads as 'one cannot alienate possessions' – see DIL s.v. 'sannaí' and 'selb'.

Section 2(2)(c) of the Third Schedule to the Social Welfare (Consolidation) Act, 1981, illustrates the usage of 'sannadh'/'assignment' in modern Irish legislation:

*Sa mhír seo foláíonn 'sannadh' tiolacadh, aistriú, nó idirbheart eile d'aon chineál trína scarann duine le húinéireacht nó seilbh maoin. In this paragraph 'assignment' includes any form of conveyance, transfer or other transaction by which a person parts with the ownership or possession of property.*

'Is sannadh ar mhaoin arb é atá inti feirm thalún' translates 'which is an assignment of property consisting of a farm of land' in s2(a)(i) therein.

According to *Téarmaí Dlí*, following the first Irish Legal Terms Order (Statutory Rules and Orders No. 249 of 1947 – Terms relating to Landlord and Tenant Law, Conveyancing and the Law of Property), 'I alienate' is translated as 'coimhthím' and 'alienation' is translated as 'coimhthíú', with 'licence to alienate' and 'covenant against alienation' translated as 'ceadúnas coimhthithe' and 'cúnant i gcoinne

coimhthiú' respectively. In *A Dictionary of Irish Law* 'alienate' is defined as 'to exercise the power of disposing of or transferring property' whereas 'assign' is defined simply as 'to transfer property'.

Turning specifically to 'alienation' in the Acts, while the Margin Title of s56(1) of the Landlord and Tenant Act, 1931, 'Covenants against alienation', is translated as 'Cumhnanta i gcoinnibh aistrithe', the same English Margin Title of s66 of the Landlord and Tenant (Amendment) Act, 1980, is translated as 'Cúnaint i gcoinne coimhthiú', 'A covenant in a lease ... of a tenement absolutely prohibiting or restricting the alienation of the tenement' in subsection 1 of that section being translated as 'Aon chúnant i léas tionóntáin ... a chuireann toirmeasc nó srian go hiomlán le coimhthiú an tionóntáin'. 'Aistrigh' generally translates 'transfer' rather than 'alienate' (as above) and we find both terms together in s11(2) of the Fóir Teoranta Act, 1972, where 'a member of the Company ... shall not transfer or alienate his share in the Company' is translated as 'ní dhéanfaidh comhalta den Chuideachta ... a scair sa Chuideachta a aistriú ná a choimhthiú'. See the commentary on Article 1 for translations of 'alienate' in earlier Acts as 'aistrigh', 'a seilbh d'aistriú' and 'scarúint (le)'. 'The Pension Books (Prohibition of Alienation) Act, 1932' is cited in Irish as 'Acht na Leabhar Pinsean (Toirmeasc ar Aistriú), 1932', for example. We find 'coimhthigh' in the Sinn Féin Funds Act, 1947, s13(2) of which reads as follows:

Any moneys paid by the Board ... shall not be capable of being taken in execution or otherwise alienated by process of law for the payment of any liability or debts of that person. *Aon airgead a iocfas an Bord ... ní féadfar é a thógaint i bhforghníomhú ná é a choimhthiú ar shlí eile trí phróis dlí chun íoctha aon dliteanais nó fiacha a bheas ar an duine sin.*

*bainistí* 'Stiúrthóir bainistí' is translated as 'managing director' in *Téarmaí Dlí*. 'Bainistí' is translated as 'thriff' in *Ó Dónaill*, who translates 'bainistí a dhéanamh ar rud' as 'to economise on something'. *Ó Dónaill* cites '*stiúrthóir bainisteoireachta*, managing director', 'bainisteoireacht' being translated as '(act of) managing, management; managership'. *Dinneen*, who does not include 'bainisteoireacht' as a headword, translates 'bainistighe' (the form in the enrolled edition) as 'management, good management, economy, thrift', citing '*is minic síos droich-bhean tighle le droch-bhainistighe*, often a bad housekeeper fails through mismanagement' and '*dein bainistighe leis sin*, economise that'. In his entry s.v. 'bainisteoir', *Dinneen* gives the abbreviation for 'Anglo-Irish' ('implying that the word is borrowed from English') after the meaning 'a manager', also giving the meaning 'a good economist'.

Professor Máirtín Ó Murchú gives the origin of 'bainistí' as a compound of 'banas' and 'tighle' – Jim O'Donnell points out that 'economy' derives from Greek 'oikos', 'house'. 'Banas', based on 'ben', is translated in DIL as 'the condition of a woman; womanliness; woman's activities', citing the following 'Triads':

Tri fostai dagbanais: fosta thengad <sub>7</sub> gensa <sub>7</sub> airnberntais.  
Tri fóindil drochbanais: fóindil scél <sub>7</sub> ataid <sub>7</sub> airberntais.  
(*Three steadinesses of good womanhood: keeping a steady tongue, a steady chastity, and a steady housewifery. Three strayings of bad womanhood: letting her tongue, and ... and her housewifery go astray.*)

The compound 'banas' and 'tighle' originally had the sense of 'that which relates to the woman of the house', this developing to 'the management of the house' and later to 'management', according to Máirtín Ó Murchú, who contrasts this with the development of 'fearas tighle', which gave us Modern Irish 'fearaistí', 'implements, appliances'. 'Fearas' itself now has the sense of 'fearaistí', having the original sense of 'the condition of a man, hence conduct, activity, office' according to DIL. The following 'Triad' is cited there s.v. 'feras':

'Tréde faillsiges each ndagferas: dán, gaisced, crésine'.  
(*Three things that show every good man: a special gift, valour, piety.*)

Modern Irish 'fearas' is translated in *Ó Dónaill* as 'husbandry (which, as Máirtín Ó Murchú again points out, is related to 'house'), **management**, economy', with 'fearas tí' being translated as 'housekeeping' and 'fearaistí' being relegated to the position of 'variant' plural of 'fearas'. Finally, note that, while both 'bainistí' and 'bainis' are based on 'ben' ('woman'), 'bainistí' is not directly related to 'bainis' ('wedding'), the earlier form of which, 'banais' (translated as 'marriage-feast, wedding' and 'feast, banquet *in general*' in DIL), is a compound of 'ben' and 'feis' (originally 'spending the night, sleeping with', hence 'spousal', according to DIL).

We find both 'bainistí' and 'bainisteoireacht' in modern legislation translating 'management'. In s71 of the Fisheries Act, 1980, for example, 'a cheangal ar dhuine atá ag áitiú na talún sin ... nó a bhfuil páirt aige ina bainistí' translates 'require a person who is in occupation or is concerned in the management of such land'. In s41(4) of the Finance Act, 1968, 'The Minister may make provision ... generally for the management of the said special account' is translated as 'Féadfaidh an tAire socrú a dhéanamh ..., i gcoitinne, le haghaidh bainistí an chuntais speisialta sin' and 'regulations for the management of the bank' is translated as 'rialacháin chun an banc a bhainistí' in s2 of the Trustees Savings Bank Act, 1965. In s79(3)(c) of the Corporation Tax Act, 1976, on the other hand, 'and directs ... the management of (any public utility company)' is translated as 'agus a stiúran bainistíocht na cuideachta sin'. In the *Programme for a Partnership Government*, 1993-97 (p. 37), 'beidh ... ina chloch coirnéil ar an gcaoi a ndireoidimid ar bhainistí gheilleagar na hÉireann' translates 'will be a cornerstone of our approach to the management of the Irish economy', while in the *Treaty on the European Union* (1992, p. 160), 'an examination of the operational efficiency of the management of the ECB' is translated as 'scrúdú maidir le héifeachtúlacht oibriochtúil bhainistíocht BCE'.

Both terms are also found in the earlier Acts – 'bainisteoireacht' translates 'management' in Article 8 of the 1922 Constitution, where 'schools under the management of different religious denominations' is translated as 'scoileanna atá fe bhainisteoireacht lucht chreidimh dheifriúla', while in s3 of the National Health Insurance Act, 1923, 'the central body of the British Society may continue ... to exercise the like powers of control and management' is translated as 'féadfaidh príomh-chólucht an Chumainn Bhriotáinigh leanúint ... ag feidhmiú comhachtanna Smachta agus Bainistí'. 'A bhainistíú' has today replaced 'a bhainistí', however, in the Acts, the Long Title of the Courts Service Act, 1998, 'An Act to establish a

service to manage the Courts', being translated as 'Acht do bhunú seirbhíse chun na Cúirteanna a bhainistiú', for example. See further the commentary on Article 44.2.4° regarding 'faoi bhainistiú'.

*a rialú* 'Rialú' is the verbal noun of 'rialaiú', 'rialaim' being translated as 'I control, I rule' in *Téarmaí Dlí*. This verbal noun expresses 'for the control' in the next section also, and 'to control' in Articles 33.1, 40.4.6° and 40.6.1°iii, while 'rialú a dhéanamh an thionóil' expresses 'control meetings' in 40.6.1°ii. 'Urlámhas' also expresses 'control' in the Constitution: in Article 45.2.ii 'the ownership and control of the material resources of the community' is expressed as 'dilse agus urlámhas gustail shaolta an phobail'; in iii, 'the ownership or control of essential commodities' is expressed as 'an dilse nó an t-urlámhas ar earraí riachtanacha' and, in iv, 'in what pertains to the control of credit' is expressed as 'ina mbaineann le hurlámhas creidmheasa'.

'Rialaiú' is generally used to express 'regulate' in the Constitution, this being translated as 'rialáil' in the Acts today. In Article 22.1.1°, for example, 'the ... alternation or regulation of taxation' is expressed as 'cánachas ... a athrú nó a rialú'. 'To be regulated by the principles of social justice' is expressed as 'a rialú de réir bunrialacha an chirt chomhdhaonnaigh' in Article 43.2.1°. In Article 12.5, 'is le dlí a rialófar toghcháin' expresses 'elections shall be regulated by law', 'is le dlí a rialófar' expressing 'shall be regulated by law' also in Articles 13.5.1° and 47.4, with 'is de réir dlí a rialófar' expressing 'shall be regulated in accordance with law' in Articles 16.7, 28.12 and Article 36, and 'shall be regulated by law' in Articles 18.10.1° and 30.6.

Turning to 'a rialú' in the Acts, in s65 of the Health Act, 1947, 'the Minister may make regulations for the control of the advertisement or sale of medical preparations' is translated as 'Féadfaidh an t-Aire rialacháin a dhéanamh do rialú fógraíochta nó díola ullmhóidí leighis' and in s78(1) of the Health Act, 1970, 'The Minister may make regulations for the control of the possession of a substance to which this section applies' is translated as 'Féadfaidh an tAire rialacháin a dhéanamh chun seilbh substainte lena mbaineann an t-alt seo a rialú'. Note, however, that in s27(4) of the Fire Services Act, 1981, 'The Minister may by regulations provide ... for the control of any operations of a fire authority under section 25' is translated as 'Féadfaidh an tAire le rialacháin socrú a dhéanamh ... maidir le ceannas aon oibríochtaí de chuid údaráis dóiteáin faoi alt 25' and that the Long Title of the Local Government (Water Pollution) Act, 1977, 'An Act to provide for the control of water pollution', is translated as 'Acht do dhéanamh socrú chun truailliú a shrianadh'. See also the commentary on Articles 40.6.1°iii and 45.2.ii where 'stiúir' and 'urlámhas' respectively express 'control'.

*maoin* See the commentary on Article 10.1.

*socrú a dhéanamh* See the commentary on Article 8.3.

### Direct translation

Féadfar socrú a dhéanamh le dlí chun an mhaoín is leis an Stát<sup>1</sup> de bhua an Airteagail seo a bhainistiú<sup>2</sup> agus chun coimhthiú na maoine sin, cibé acu is coimhthiú sealadach nó buan,<sup>3</sup> a rialú<sup>4</sup>.

### Variants

- 1 'ar leis an Stát í'
- 2 'chun bainisteoireacht a dhéanamh ar an maoín is leis an Stát de bhua an Airteagail seo'
- 3 'cibé acu is coimhthiú sealadach nó buan é.'
- 4 'coimhthiú, sealadach nó buan, na maoine sin, a rialú'

## ARTICLE 10.4 AIRTEAGAL 10.4

### TÉACS GAELGE

Féadfar socrú a dhéanamh le dlí, fairis sin, chun bainistiú a dhéanamh ar thalamh, ar mhianaigh, ar mhianraí agus ar uiscí a thioctas i seilbh an Stáit d'éis teacht i ngníomh don Bhunreacht seo, agus chun sannadh buan nó sannadh sealadach na talún, na mianach, na mianraí agus na n-uiscí a thioctas ina sheilbh amhlaidh a rialú.

### LITERAL ENGLISH TRANSLATION

Provision may be made by law, moreover, to undertake the management of land, mines, minerals and waters which will come into the possession of the State after the coming into operation of this Constitution, and to regulate/control the permanent alienation/assignment or the temporary alienation/assignment of the land, the mines, the minerals and the waters which will thus come into its possession.

### ENGLISH TEXT

Provision may also be made by law for the management of land, mines, minerals and waters acquired by the State after the coming into operation of this Constitution and for the control of the alienation, whether temporary or permanent, of the land, mines, minerals and waters so acquired.

### Divergences between the official texts

- 1 'Acquired by the State' is expressed as 'a thioctas i seilbh an Stáit' ('which will come into the possession of the State') in the Irish text, the English text seeming to permit the State a more active role in the process than does the Irish text.
- 2 As in the previous section, 'alienation' is expressed in the Irish text by the legal term for 'assignment' – which term, however, expresses 'alienation' in early Irish law-tracts – with 'alienation, whether temporary or permanent' being expressed as 'sannadh buan nó sannadh sealadach' ('the permanent **alienation** or the temporary **alienation**'), the term expressing 'control' ('rialaiú') generally expressing 'regulate' in the Constitution, though it is the Irish legal term for 'control' (and 'rule').

### Commentary

*a thioctas i seilbh ... a thioctas ina sheilbh* For the special form of the relative, see the commentary on Article 6.1 – note that no relative particle precedes the initial 'thioctas' in the enrolled text.

'Seilbh' is translated as 'possession' in *Téarmaí Dlí*. Ó *Dónaill* translates 'seilbh' as 'occupancy, possession', translating 'teacht i seilbh ruda' as 'to come into possession of something' and citing '*Cé atá i seilbh na feirme anois?*'



Who occupies the farm now? *Dinneen* translates 'i seilbh' as 'in possession of, in a position to', citing '*cuirim mo chuid i seilbh mo chlainne*, I transfer my property to my children' and '*téighim i seilbh arm an tigh*, I obtain possession of the arms in the house'. 'I seilbh x' had the senses of 'in the possession of x' / 'in possession of x', along with 'under the protection of x' / 'protecting or watching over x', according to DIL, where 'críoch Bhanbha id sheilbh fa shéula' (i.e. Ireland sealed/assured in your possession) is cited from *Leabhar Cloinne Aodha Buidhe*.

Turning to the Acts, 'an duine a bheidh i bhfeighil nó i seilbh na maoin sin' translates 'the person having custody or possession of that property' in s27(2) of the Wealth Tax Act, 1975, and 'gach uile shonra ... a bhainfidh le ceannach agus diol earraí ag an gcuideachta agus a bheidh faoi rialú agus i seilbh an duine sin agus ar fáil aige' translates 'all such invoices ... whatsoever relating to purchase and sale of goods by the company as may be in such person's power, possession and procurement' in s413(1) of the Income Tax Act, 1967.

In *Téarmaí Dlí* s.v. 'acquire', 'after-acquired property' is translated as 'maoin iarfhaithe', the verb 'faigh' being translated principally as 'obtain, procure, acquire, gain, win' in *Ó Dónaill* and in the Acts in general. In s3(2) of the Capital Gains Tax (Amendment) Act, 1978, for example, 'it shall be assumed that an asset held by a person ... was sold and immediately re-acquired by him' is translated as 'toimhdeofar maidir le sócmhainn a bhí ar teachtadh ag duine ... gur dhíol an duine sin i agus go bhfuair sé ar ais láithreach í'. In s11 of the Finance Act, 1990, 'restriction of relief to individuals on loans applied in acquiring shares in companies' is translated as 'srian le faoiseamh do phearsana aonair i leith iasachtaí a caitheadh ag fáil scaireanna i gcuideachtaí'. In s7(1)(c) of the Capital Gains Tax Act, 1975, 'any form of property created by the person disposing of it, or otherwise becoming owned without being acquired' is translated as 'aon chineál maoin a bhunaigh duine a díscartha nó a tháinig ar úinéireacht ar shlí eile gan í a fháil'. Finally, in s5(2)(b)(v)II of the Fisheries Act, 1980, 'the owner of the fisheries or land acquired by that order' is translated as 'úinéir an iascaigh nó na talún a fuarthas leis an ordú sin'.

Looking at the earlier Acts, in Article 3 of the 1922 Constitution, 'the conditions governing the acquisition of citizenship' is translated as 'na coinníollacha a rialóidh saoránacht d'fháil'. 'To enable the said Trust to acquire and to hold land' is translated as 'chun a chur ar chumas an Chóluchta san talamh do sholáthar agus do shealbhú' in the Preamble to the Land Trust Powers Act, 1923. The Margin Title of s1 of the Civil Guard (Acquisition of Premises) Act, 1923, 'Power to Commissioners to examine and acquire premises', is translated as 'Comhacht dosna Coimisinéirí chun áitreabh do scrúdú agus do thógaint', even though the Act is cited in Irish as 'An tAcht Ghárda Síochána (Áitribh do Sholáthar), 1923'. 'Immediately upon the service on the former undertaker of the notice of acquisition' is translated as 'Direach ar sheirbheáil an fhógra thógaint ar an seana-ghnóthaire' in s39(5) of the Electricity (Supply) Act, 1927.

*d'éis* 'D'éis' is also found in Articles 18.8, 18.9, 22.2.4°, 33.5.3° and 35.4.3°, 'tar éis' being cited much more often, however – see Article 12.3.3°, for example, where 'within sixty days after such event' is expressed as 'taobh istigh

de sheasca lá tar éis an ní sin a tharlú'. Both 'd'éis' and 'tar éis' are given s.v. 'éis', translated as 'after', in the Glossary accompanying *An Caighdeán Oifigiúil* and both are cited in *Ó Dónaill* s.v. 'éis'. As regards the earlier history of these prepositional phrases, see Rudolf Thurneysen, *A Grammar of Old Irish* (1946), p. 537:

*éis*, 'track': *do, di éis* '(to remain on) after (someone)', *tar (dar) és(s)i* (acc. sg.) 'for, in place of'.

'Tar éis' is the form usually found in the Acts today and in official documents in general. We find 'd'éis' in s39(1)(c)(iii) of the Agricultural Credit Act, 1947, for example, where 'for an estate or estates in remainder or in expectancy after or in defeasance of the estate of such first-mentioned person' is translated as 'le haghaidh eastáit nó eastát fuill nó súilíochta d'éis nó do threascáirt eastáit an duine sin a céadluaitear', as against s47(b) of the Finance Act, 1990, where 'for the earliest accounting period which ends on or after a day which is twelve months after the end of the first-mentioned accounting period' is translated as 'don tréimhse chuntasaíochta is luaithe dar críoch lá, nó i ndiaidh lae, atá dhá mhí dhéag tar éis dheireadh na tréimhse cuntasaíochta céadluaithe'. 'Dá éis' is used particularly in the following construction in the Acts: 'and ends on or after that day', 'agus dar críoch an lá sin nó dá éis', from s44(2) of the Finance Act, 1990, for example.

*fairis sin* The preposition 'fara' is translated as 'along with' in *Ó Dónaill*, who cites '*is beag an mhaith fairis sin é*, it is little good otherwise'. *Dinneen* translates 'fairis' as 'with him, besides' and 'fairis sin' as 'in addition to or besides that, also'. DIL s.v. 'fare', translates 'fairis sin' in the citation from a late text therein ('céd cuach ... céd bruihne do dherg-ór farris sin anuas') as 'in addition to that'.

Turning to modern legislation, 'Fairis sin, thug na Lánchumhachtaigh agus an Chomhairle dá n-aire an Dearbhú seo a leanas' translates 'The Plenipotentiaries and the Council have also taken note of the following Declaration' in *Treaties establishing the European Communities* (1973, p. 1466), with 'chun críocha an Chonartha seo ... agus, fairis sin, chun críocha Airteagail 65 agus 66' translating 'For the purposes of this Treaty ... and also, for the purposes of Articles 65 and 66' (p. 92). 'In addition, with regard to workers not covered by paragraph 2, they shall ...' is translated as 'Fairis sin maidir leis na cineálacha oibríthe nach mbaineann mír 2 leo, déanfaidh siad' (ibid, p. 73), 'These equalisation payments may, moreover, be instituted as provided in Article 53' being translated as 'Féadfar, fairis sin, na híocaíochtaí cothromaíochta sin a thionscnamh mar a fhoráiltear in Airteagal 53' (p. 60) and 'Furthermore, if the parties concerned do not fulfil their obligations, the High Authority shall itself take steps ...' as 'Fairis sin, mura gcomhlionfaidh na páirtithe lena mbaineann a n-oibleagáidí, glacfaidh an tArd-Údarás é féin bearta' (p. 67). Finally, in the *Programme for a Partnership Government*, 1993-97 (p. 34), 'to make discrimination unlawful not only in the work place, but also in education' is translated as 'an t-idirdhealú a dhéanamh neamhdhleathach, ní amháin san ionad oibre, ach fairis sin, san oideachas'.

'Freisin' generally translates 'also' in the Acts – see, s7 of the Regulation of Banks (Remuneration and Conditions of Employment) (Temporary Provisions) Act, 1973, for

example, where ‘that person shall also be deemed to have committed the offence’ is translated as ‘measfar go ndearna an duine sin freisin an cion’ and in the Preamble to the Fourth Schedule to the Radiological Protection Act, 1991, ‘Stressing also the importance of’ is translated as ‘Á chur i bhfios dóibh freisin an tábhacht a bhaineann le’.

*Dinneen* translates ‘freisin’ as ‘along with that, as well’, citing ‘*bhí mise ann freisin*, I was there also’ from Connacht. Professor Máirtín Ó Murchú remarks that the ‘fr’ at the beginning of ‘freisin’ in Connacht is a broad ‘fr’ and that ‘froisin’ would be a more correct spelling. It is a version of the phrase ‘fa ris sin’, according to Máirtín Ó Murchú, who refers to Thomas F. O’Rahilly’s note on ‘fá ré’ (‘along with’) in the introduction to *Desiderius* (1941, p. xxxvi):

In Munster the first element of *fá ré* (*fa re*) has been stressed, resulting in *fara*; in Connacht the second, resulting in *frae*.

DIL gives two seventeenth-century citations of the adverb ‘fris sin’ (the preposition ‘fri’ [Modern Irish ‘le’, ‘with’] plus ‘sin’), translated there as ‘moreover, besides’. According to Máirtín Ó Murchú, this ‘fris (sin)’ is an earlier version of the ‘leis’ in Munster in the sense of ‘also’. ‘Fairis sin’ in Article 10.4 is a more literary form than ‘freisin’, according to Professor Ó Murchú.

*rialú* See the commentary on the previous section, this term regularly expressing ‘regulate’ in the Constitution, though ‘rialaim’ is translated as ‘I control, I rule’ in *Téarmaí Dlí*.

*bainistí* ‘Management’ is today generally translated as ‘bainistíocht’ or ‘bainistiú’ rather than ‘bainsití’ above, as we saw in the previous section.

*sannadh* See the commentary on the previous section.

*teacht i ngníomh* See the commentary on Article 9.1.1<sup>o</sup>.

*socrú* See the commentary on Article 8.3.

### Standardised Irish text

Féadfar socrú a dhéanamh le dlí, fairis sin, chun bainistí<sup>1</sup> a dhéanamh ar thalamh, ar mhianaigh, ar mhianraí agus ar uiscí a thioctaidh i seilbh an Stáit d’éis<sup>2</sup> teacht i ngníomh don Bhunreacht seo, agus chun sannadh buan nó sannadh sealadach na talún, na mianach, na mianraí agus na n-uiscí a thioctaidh ina sheilbh amhlaidh a rialú.

#### Variants

- 1 ‘bainistiú’
- 2 ‘tar éis’

### Direct translation

Féadfar socrú a dhéanamh le dlí freisin<sup>1</sup> chun talamh, mianaigh, mianraí agus uiscí a gheobhaidh an Stáit<sup>2</sup> tar éis teacht i ngníomh don Bhunreacht seo a bhainistiú<sup>3</sup> agus chun coimhthíú, sealadach nó buan, na talún, na mianach, na mianraí agus na n-uiscí a gheobhfar<sup>4</sup> amhlaidh a rialú.

#### Variants

- 1 ‘chomh maith’
- 2 ‘a bhfaighidh an Stát seilbh orthu’

3 ‘chun bainisteoireacht a dhéanamh ar thalamh, ar mhianaigh, ar mhianraí agus ar uiscí a gheobhaidh an Stát tar éis teacht i ngníomh don Bhunreacht seo’

4 ‘a bhfaighfear seilbh orthu’

## ARTICLE 11 AIRTEAGAL 11

### TÉACS GAELIGE

Ní foláir cíos uile an Stáit cibé bunadh atá leis, ach amháin an chuid sin de ar a ndéantar eisceacht le dlí, a chur in aon chiste amháin agus é a leithghabháil chun na gcricíocha agus ar an modh, a chinntear le dlí agus faoi chuimsiú na muirear agus na bhféichiúnas a ghearttar le dlí.

### LITERAL ENGLISH TRANSLATION

All the rent of the State whatever its origin, except that part of it of which an exception is made by law, must be put into one single fund and appropriated for the purposes and in the manner, that is decided by law and within the scope/constraint of the charges/burdens and the liabilities that are levied by law.

### ENGLISH TEXT

All revenues of the State 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 and in the manner and subject to the charges and liabilities determined and imposed by law.

### Divergences between the official texts

- 1 The Irish word expressing ‘revenue’, ‘cíos’, generally expresses ‘rent’ and is also the Irish legal term for ‘rent’; this term replaced ‘fagháltas’ following the Second Amendment of the Constitution Act, 1941.
- 2 ‘Subject to such exception as may be provided by law’ is expressed as ‘ach amháin an chuid sin de ar a ndéantar eisceacht le dlí’ (‘except that part of it which is made an exception of by law’) and ‘subject to the charges ... determined and imposed by law’ is expressed as ‘faoi chuimsiú na muirear agus ... a ghearttar le dlí’ (‘within the scope/constraint of the charges ... that are levied by law’) in the Irish text, ‘faoi chuimsiú’ expressing ‘subject to’ in many more Articles, as we shall see, this phrase being translated as ‘faoi réir’ in *Téarmaí Dlí*.
- 3 ‘Shall’ is expressed as ‘ní foláir’ (‘must’) in the Irish text, as we shall see in many more Articles.
- 4 The comma after ‘ar an modh’ interrupts the flow of the Irish text; in order to correspond exactly to this the English text would read as follows: ‘... shall be appropriated for the purposes and in the manner, determined by law and subject to the changes and liabilities imposed by law’. Note that a comma precedes the phrase ‘agus ar an modh’ in the enrolled text, giving sense to the comma following that phrase. Also note that a comma follows ‘in aon chiste amháin’ in the enrolled text, which is not found in the Stationery Office text.
- 5 While ‘féichiúnas’ is translated as ‘liability’ in *Ó Dónaill*, the Irish legal term for ‘liability’ is ‘dliteanas’.

- 6 'Form one fund' is expressed as 'a chur in aon chiste amháin' ('be put into one fund') in the Irish text.
- 7 'Determined by laws' qualifies 'for the purposes and in the manner' in the Irish text, with 'imposed by law' qualifying 'the charges and the liabilities'; the English text on the other hand reads 'for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law'.

Note that Article 61 of the 1922 Constitution reads as follows:

All revenues of the Irish Free State (Saorstát Éireann) 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 Éireann) in the manner and subject to the charges and liabilities imposed by law. *Déanfaidh ciste amháin d'fháltas uile Shaorstáit Éireann pé as é, gan dochar do pé eisceacht a socrófar le dlí, agus cuirfear i leithreas é chun úsáide Shaorstáit Éireann ar an gcuma agus fé sna muirir agus na fiachaisí ordófar le dlí.*

### Commentary

*cíos* 'Revenue' is expressed as 'stáitchíos' in Article 17.2. The substitution of '*cíos*' for 'fagháltas' was the very first emendation in the 1941 Amendment of the Constitution, no corresponding amendment being made to the English text. As we see above, 'revenue' is translated as 'fáltas' in Article 61 of the 1922 Constitution, 'fáltais' translating 'proceeds' and 'incomings' in *Tearmaí Dlí* and in the Acts in general today. Note that the title of the 23rd Occasional Paper of the National Prices Commission, 'Radio Telefís Éireann. Costs and Revenue', is cited in Irish as 'Radio Telefís Éireann. Costais agus Fáltais'. 'Fáltaisí ioncuim' translates 'revenue receipts' in *Imtheachta na Dála*, 1928, p. 3 (reference in the *Oireachtas Dictionary of Official Terms*; 'reibhniú' is cited therein as translating 'revenue' in *Iris an Phuist*, 1923, p. 242). 'For the salaries and expenses of the Inland Revenue Service' is translated as 'Chun tuarastail agus costaisí Seirbhís an Ioncaim Dhúchais' in the Schedule to the Appropriation Act, 1922. See the commentary on Article 17.1.1<sup>o</sup>, 'fáltas' expressing 'receipts' in that Article.

'*Cíos*' is translated as 'rent' in *Tearmaí Dlí*. *Ó Dónaill* translates this headword as (1) 'rent', (2) (*History; historical*) 'tax, tribute' and (3) 'price'. *Dinneen* translates '*cíos*' as 'rent, tax, tribute; reward, payment' and *DIL* translates '*cis*' as 'tax, tribute, cess, rent', citing 'ni rig ... do na tabar chis flatha' ('he is not a king ... to whom the rent of a king is not given') from an early Irish law-tract, as well as '*cíos* is cáin Éireann' and the compound '*cischáin*' ('tax and tribute'/'tribute-rent'), translated in *Dinneen* as 'a tax, cess; tribute' and as 'tribute' in *Ó Dónaill*.

'Ioncam', which is translated simply as 'income' in *Tearmaí Dlí*, generally translates 'revenue' in the Acts and is found in the title 'Na Coimisinéirí Ioncaim' ('the Revenue Commissioners'), so cited in the Finance Act, 1924, for example. In s51 of the Income Tax Act, 1967, 'the public revenue of the State' is translated as 'ioncam poiblí an Stáit' and in s34 of the State Property Act, 1954, 'the Woods, Forests and Land Revenues Account' is translated as '(do) Chuntas Ioncaim na gCoillte, na bhForaoiseacha agus na dTailte'. Note how 'fagháltas' is replaced by 'ioncam' rather

than '*cíos*' in s6(1) of the Constitution (Consequential Provisions) Act, 1937, which refers directly to this Article:

The fund mentioned in Article 11 of the Constitution as the one fund to be formed by the revenues of the State shall be called and known as the Central Fund ... *An ciste go luaidhítear in Airteagal 11 den Bhunreacht gurb é an t-aon chiste amháin é ina gcuirfear ioncum an Stáit bhéarfear an Prímh-Chiste mar ainm agus mar theideal air.*

Looking at earlier Acts, we find 'ioncum' in s5(2) of the Local Government (Dublin) Act, 1930, for example, where 'Every debt ... which is ... charged on a rate leviable by or on the revenues ... of any of the abolished bodies' is translated as 'Na fiacha go léir ... a bheidh ... ina muirear ar ráta is inghearrtha ag aon cheann de sna cóluchtaí díochurtha no ar ioncum ... an chéanna'. 'The public revenues of Saorstát Éireann' is translated as '(ar) ioncum phuiblí Shaorstáit Éireann' in s6 of the Schedule to the Tariff Commission Act, 1926, and '*cáin ioncuim*' translates 'income tax' in Article 74 of the 1922 Constitution.

Note incidentally that '*ioncás*', 'business, source of income', is given as a headword in *Ó Dónaill* and in *Dinneen*, the latter citing '*tá ioncás beag aice, she has a small business of her own*', which he attributes to the Ballyvourney District of Cork.

An unusually lengthy debate took place in the Seanad on the Committee Stage of this Amendment of the Constitution on 21 May 1941, with An Taoiseach Éamon de Valéra debating this substitution of '*cíos*' for 'fagháltas' very fully with the Senators. The complete text of the debate from the *Proceedings* of Seanad Éireann, 1941, cols. 1197-1206, is given below as an illustration of the considerations involved in the choice of a specific term, particularly as regards consistency within the text of the Constitution:

Micheál Ó h-Aodha: Cad ina thaobh go bhfuil '*cíos*' á chur isteach in áit 'fagháltas'? Nach ceart 'fagháltas' do chur isteach mar revenue? [*Why is 'cíos' being substituted for 'fagháltas'. Shouldn't 'fagháltas' be put in as revenue?*]

An Taoiseach: Ceapann siad go bhfuil ciall an fhocail 'fagháltas' go ró-leathan. [*They think that the meaning of the word 'fagháltas' is too broad.*]

Micheál Ó h-Aodha: Ach nach bhfuil 'revenue' arís in uimhir 17? [*But isn't 'revenue' again in number 17?*]

An Taoiseach: Níl fhios agam an bhfuil sé. Cén uimhir? [*I don't know if it is. What number?*]

Micheál Ó h-Aodha: Uimhir 17. [*Number 17.*]

An Taoiseach: Den Bhunreacht? [*Of the Constitution?*]

Micheál Ó h-Aodha: 'Seadh. Sub-section (2):

Dáil Éireann shall not pass any Vote or Resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys ...

Tá 'stáitchíos' annsan. Tá 'fagháltas' annseo. Sin 'receipts'. [*'Stáitchíos' is there. 'Fagháltas' is here. That's 'receipts.'*]

An Taoiseach: Ceapann siad gur fearr '*cíos*' do chur isteach, go bhfuil 'fagháltas' ró-leathan ar fad, os rud é go mbaineann sé le Appropriation-in-Aid agus chuile shórt mar sin. [*They think that it is better to insert 'cíos', that 'fagháltas' is much too broad, since it relates to Appropriation-in-Aid and everything like that.*]

Micheál Ó h-Aodha: Nach ceart é bheith sa Bhéarla? [*Shouldn't it be in the English?*]

An Taoiseach: Ceapann siad go bhfuil sé níos goire don rud atá ins na háiteacha eile. 'Stáitchíos' atá ins na háiteacha eile sin. [*They think that it is closer to what is in the other places. It is 'stáitchíos' that is in those other places.*]

Mr M. Hayes: What we had here is the substitution in the Constitution for an Irish word of another word of narrower meaning. The word is 'revenue' in English, and in Article 17 it appears to mean tax-revenue. I thought here it meant all kinds of revenue, but the Irish text certainly gives it a meaning which is narrower. The word 'stáitchíos' would appear to mean taxes.

The Taoiseach: The position is that there is a general principle that the revenue should be put into the Central Fund. However, there may be exceptions to that. The revenues are sent in to the Central Fund, but we have, for instance, as an example, the fees of the Veterinary College. These fees do not come in directly. They are treated as Appropriations-in-Aid, I think. The general principle is that the tax revenue goes into the Central Fund, but there are certain proceeds which come in from the activities of a number of Departments, and they are put in as a set-off to that Department before they go to the Central Fund. There is an example in the case of the Department of Agriculture. There is a sum voted for the Veterinary College, and there are set off against it the fees for students. There is another case in which all the revenue that comes in is not sent to the Central Fund. On the other hand, there are the fees from the Passport Office. That is not treated as an Appropriation-in-Aid to the Department of External Affairs, but as extra Exchequer receipts, and is sent in directly.

For example, suppose you have in one of the schools of the Department of Agriculture a certain amount of produce, which would be exhibited at some exhibition, and a certain sum of money might be secured for it. That sum of money does not, in practice, go directly to the Exchequer. It is used as an Appropriation-in-Aid for the use of the Department. The feeling is that the word 'fagháltas' has a wider meaning than the interpretation which has been given to the other. In practice, what happens is that the proceeds of customs and excise and taxes of that sort go into the Central Fund, but not every receipt goes in directly to the Central Fund. Portion of it is set off against Departmental expenditure, and in the Estimate it appears as an Appropriation-in-Aid. That is the only case where it really does not go into the Central Fund; in the other case it goes in as an extra Exchequer receipt. For example, the whole of the expenses of the Passport Office are borne by the Department, and then the fees from the Passport Office are treated as extra Exchequer receipts. The real intention here was to use a word that would be of narrow interpretation similar to the word 'revenue' in English. In the other cases, where the word 'stáitchíos' is used, it was felt to be better to give the narrower sense. I think, on the whole, it gives a word in Irish, which corresponds to the more or less restricted meaning we have used it for elsewhere.

Mr Fitzgerald: I wish to raise a question with regard to Article 17, sub-section (2). The entity referred to seems to be the same. I may have taken the thing wrongly. I presume that moneys coming in from the Veterinary College are covered by the form of words 'appropriation of revenue or other income'. It says 'all revenues of the State from whatever

source arising'. Is it a fact that Article 11 and Article 17, sub-section (2) relate to the same thing?

The Taoiseach: I do not know that we would be able to get complete agreement, because you have a general principle more or less with certain exceptions. The general principle is that the revenue of the State should be put into the Central Fund. The question is, are you to do that and insist that there should be no subtraction? It is really a question of book-keeping. If you want to insist on the principle that all moneys must come into the Central Fund you would have no such thing as Appropriations-in-Aid.

Mr M. Hayes: You would alter the system.

The Taoiseach: You can work on that system. That is the general system, but there are certain expenses which have in practice been treated as Appropriations-in-Aid. I think they have the same system in Britain, but I do not know very much about the system there. It is a matter of convenience in practice that some of these should be regarded as Departmental receipts, and that you should subtract these. It is a case of lessening the current amount of the Departmental expenses. For instance, take the case of an agricultural college. Say £10,000 came in and there was some £100,000 total expenses. There was £10,000 coming in as receipts. You have two ways in which that could be dealt with. You can get the £100,000 to appear in the Estimate as the expenses of the college and there would be no question of the receipts that come in. They would go into the Central Fund, but it would appear that the expenses of the college were £100,000, whereas if £10,000 came from the produce of the farm or something like that, they subtract that as an Appropriation-in-Aid, and you see only £90,000 appearing as the expenses of the college. Which is the better way of presenting it to the public in order to present a clear picture of the expenses? That is what we are dealing with. If we want to see the cost of the Department of External Affairs to the country we can subtract from the apparent expenses, salaries, etc., anything the Department gets in as a result of its activities such as passport fees, etc. That can be done, but it is not done.

The practice is to put down the expenses of the Department of External Affairs as so much and then you may see in some note that there is an anticipation that a certain amount will be received in passport fees. It is not there and then subtracted. It does not really matter which of the two methods is adopted, but a practice has grown up which has been found satisfactory and we do not propose to alter it. The only question is what words you will use. Take the word 'revenue' which has been used. The word 'revenue', if used in the broad sense, means everything that comes into the State, whether it be fees or the proceeds of a sale of agricultural produce. Are you going to take that as revenue? Apparently a narrower sense has been given to the word 'revenue', in some instances. In one case it means all that comes in and in the other case it means the net sum that comes in. This is necessary to make it accord with practice. It is merely an effort to make the English and the Irish meaning accord.

Mr Fitzgerald: I quite agree that if we take it that some things are subtracted, then the word 'revenue' normally refers only to the normal revenue of the State and does not include moneys received for lands or buildings. The word 'revenue' is used at

two points in the Constitution. At one point the Article says: 'All revenues of the State from whatever source arising'. If you are going to give a narrower meaning to the word 'revenues' – this is in the form of a query – it means money from whatever source arising, whether from income-tax or a tax on silk stockings. The Taoiseach has explained that as used in Article 11, the phrase, although it says: 'all revenues of the State from whatever source arising' excludes such things as money received from passport fees. In the other Article we have the phrase: 'The appropriation of revenue or other public money'. I understand the whole method of accounting in the Government, but if I take what the Taoiseach said then I shall read the English phrase 'Appropriation of revenues or other public moneys' to mean any money whatever coming into the State. If I take the Taoiseach's interpretation then 'all revenues of the State from whatever source arising' does not include a whole series of sums of money that come into the State. That is how I read the English. As to the meaning of 'fagháltas' and 'stát-chíos', I can see there is a difference. It may well be that the Taoiseach has indicated the difference in the Irish which is not indicated in English. If what he says is correct then I presume I am right in saying that as far as Article 11 is concerned, it only refers to what in the narrow sense can be described as revenue, or does it refer to something which in quantity, source and variety, would be different to what is referred to in Article 17?

The Taoiseach: I think the intention is the same in both.

Mr Fitzgerald: In that case I cannot agree with him.

The Taoiseach: I shall have to read both Articles again. This is going to be a slow business.

Mr Hayes: Perhaps I could convince Senator Fitzgerald if the Taoiseach will allow me.

The Taoiseach: Article 11 says: 'All revenues of the State from whatever source arising'. At first sight, you have the word 'revenue' corresponding to the Irish 'fagháltas'. Take revenue in the narrow sense. You can have revenues in the narrow sense from whatever source arising. There is no doubt you can use 'revenue' in Article 11 in the narrow sense. You then go on to Article 17, Section 2. Before I pass from Article 11, perhaps I should point out that there is the qualification 'subject to such exceptions as may be provided by law' so that it is quite clear you are not bound in the Constitution. You can by legislation change that. In Article 17, Section 2, it is set out: 'Dáil Éireann shall not pass any vote or resolution, and no law shall be enacted for the appropriation of revenue or other public moneys unless the purpose of the appropriation shall have been recommended to Dáil Éireann by a message from the Government signed by the Taoiseach'. Here it is 'appropriation of revenue or other public moneys'.

Mr Fitzgerald: It is distinguished there, but the form of words englobes two things. Suppose by what is meant in the narrow sense, revenue, we get £10,000,000 a year, and suppose from these other heterogeneous sums, we get another £2,000,000 or a total of £12,000,000, what I want to know is, does Article 11 refer only to the £10,000,000 and does Article 17 refer to the £12,000,000?

The Taoiseach: It seems to me it refers in both cases to the narrow sense. It is a question of the kind of accounting carried out in the Department of

Finance. I see no difficulty at all here in saying: 'Dáil Éireann shall not pass any vote or resolution for the appropriation of revenue or other public moneys'. That means the net amount that comes in, revenue in the narrow sense.

Mr Fitzgerald: If you carry on with the quotation you will see my point: 'the appropriation of revenue or other public moneys'.

The Taoiseach: The Senator's point is that if the word 'revenue' is consistent with public moneys, there is no use in bringing in the latter phrase. If we were using revenue in the broad sense, there would be no meaning in 'or other public moneys', because revenue would be the complete receipts of every kind.

Mr Fitzgerald: I am entirely at one with the Taoiseach, but if you go back to Article 11 it says: 'All revenue of the State from whatever source arising'. If the word 'revenue' only refers to moneys that come in in a certain way, to the whole of the £10,000,000 to which I have already referred, then that Article 11 cannot englobe, incorporate or relate to the extra £2,000,000 received from heterogeneous sources. The other Article says: 'the appropriation of revenue or other public moneys'.

That phrase adverts to other public moneys as well as revenue. Article 11 says 'revenue' and if it means revenue in the narrow sense, well and good. That only refers to the difference of source as between a tax on tea and income-tax or death duties. But if Article 11 is intended, by enlarging words 'of from whatever source arising', to refer to the total sum that I previously indicated as £12,000,000, then I think that the word 'revenue', as used in one Article, is in one sense and, as used in another, is in another sense. Does the total sum in any given year referred to in Article 11 amount to a different sum from that referred to in Article 17? If it does, then the thing is quite clear: if not, it is misleading.

The Taoiseach: It would seem that we are using the word 'narrow' for convenience.

Mr Fitzgerald: And also for convenience I use the two figures £12,000,000 and £10,000,000.

The Taoiseach: It seems to me that there is no confusion at all. In fact, by 17 (2) it seems to me that it was clearly borne in mind that 'revenue' was used in the narrow sense.

Mr Fitzgerald: I quite agree.

The Taoiseach: I am not going to say what the original intention was, but it is a fact now that they fit in quite clearly in the narrow sense. The only thing is that, in Article 11, the original intention was that it should be as broad as 'fagháltas' in Irish, but it brings the English words into closer contact and gives the same significance to the word in Article 11 and Article 17. If we use it in the narrow sense, therefore in Irish we should use it in the narrow sense. Therefore there is no confusion.

Mr Fitzgerald: I quite agree, but if the word 'revenue' in both cases refers to the narrow meaning, it is not enlarged and made a greater sum by those additional words 'from whatever source arising'. If revenue means the narrow thing, then no matter what source it arises from, it merely means the totality of that sum; it does not include the additional sums from the heterogeneous sources.

The Taoiseach: Yes, I find it very difficult to go back to the original but it is quite clear. When you read this first, it is quite possible for a person who does not know the accounting system in the State to read

this Article 11 and think that every single sum of money in any way owed to the State, or which becomes the property of the State, would be put into the Central Fund. But in fact that is not done, and, therefore, you cannot make this correspond with the practice if you use that wide meaning. But you can have a variety of revenues in the narrow sense too, and it means that these net sums that come into the Central Fund, no matter where they come from, will have to be appropriated by law so as to prevent the Executive from playing round with the sums they receive, or using them for purposes not already sanctioned by Parliament. I am not saying what was the original meaning, because I would have to admit that if I read it at first sight without knowing the accounting system of the State I would be inclined to use 'revenue' in the broad sense. 'From whatever source arising' gave the impression of a broad sense, whereas, we find in practice, the phrases are quite consistent, but there was one flaw, the word 'fagháltas' in Irish suggested the wider meaning of revenue, whereas, in fact, to be consistent, we would have to use the narrow word.

Mr Fitzgerald: Yes, providing it is recognised that Article 11 will be interpreted to refer to a different sum from Article 17.

Mr M. Hayes: The position is quite plain now, State revenue and State receipts are two different things. In this Constitution the word 'receipts' is translated 'fagháltas' and the translators availed of the amending Bill to keep the word 'fagháltas', including tax revenue, fees paid in veterinary colleges, and such things as money paid for State produce at shows, and they are using the word 'cíos' or 'stáitchíos' in the narrow meaning of revenue. I think it is a good idea.

As we see below, terms other than 'fagháltas'/'cíos' in this Article were the subject of comment in the courts as regards consistency.

*muirear* This headword is translated as 'charge' in *Téarmaí Dlí. Ó Dónaill* translates 'muirear' as (1) 'charge; encumbrance', (2) 'family' and (3) 'burden, load' and *Dinneen* as 'an encumbrance, a load, weight, burden; a troop, a throng; a household, a family'. DIL translates 'muirear' as (a) 'a burden, charge, *always* of the care (of providing for) or maintenance of a number of individuals (family, household, company, troop, etc.)' and (b) 'a number of individuals forming collectively a charge to be maintained; a family, household, company, retinue' and (c) 'rarely in physical sense "a burden, load"'. See further the commentary on Article 22.1.1°.

In s43 of the Finance Act, 1990, for example, 'allowance of charges on income' is translated as 'muirir ar ioncam a lamháil'. As we see above, 'muirir' translates 'charges' in the 1922 Constitution also. In s8(1)(b) of the Increase of Rent and Mortgage Interest (Restriction) Act, 1923, 'in respect of the rates chargeable ... on the occupier' is translated as 'mar gheall ar na rátaí atá ionchurtha mar mhuirear ar an sealbhóir'.

'Muirear' expresses 'charge' in Article 22.1.1° also, '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' being expressed as 'muirir a leagan ar airgidí poiblí chun fiacha a íoc nó chun cuspóirí eile airgeadais, nó a leithéidí sin de mhuirir a athrú nó a

aisghairm'. In Article 29.5.2°, however, 'costas', literally 'cost', expresses 'charge', with 'The State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Éireann' being expressed as 'Aon chonradh idirnáisiúnta a chuirfeadh costas ar an gciste poiblí ní bheidh sé ina cheangal ar an Stát mura dtoilí Dáil Éireann le téarmaí an chonartha'. This term was the subject of comment in the courts, as was 'ciste' ('fund'), which term is found in both Articles 11 and 29.5.2°, as J.M. Kelly, *op. cit.*, p. 205, reports:

In *The State (Gilliland) v Governor of Mountjoy Prison* ([1987] IR 201) Barrington J said that the 'one fund' or 'ciste' referred to [in] Article 11 was the same as the 'public funds' or 'ciste poiblí' referred to in Article 29.5.2. In *The State (McCaud) v Governor of Mountjoy Prison* ([1985] IR 68) Egan J said that there was 'some merit' in the applicant's suggestion that the word 'costas' (unlike the corresponding English expression 'charge') included expenses incurred in the incidental administration of an international agreement. Barrington J encountered the same problem in *Gilliland's* case, where he said that while the term 'costas' undoubtedly has the meaning 'expense', it is wide enough to include the meaning 'charge'. The phrase 'a charge upon public funds' is rendered in the Irish text as 'costas ar an gciste poiblí'. Literally this appears to mean 'a charge on (or a cost or expense to) the public fund'.

*ní foláir* This phrase, which occurs right throughout the Constitution, being one of the ways in which 'shall' of the English text is expressed, would generally be translated as 'must' and does in fact express 'must' in a few Articles. In Article 28.7.1° 'Ní foláir an Taoiseach agus an Tánaiste agus an comhalta sin den Rialtas a bheas i mbun an Roinn Airgeadais a bheith ina gcomhaltai de Dháil Éireann' expresses 'The Taoiseach, the Tánaiste and the member of the Government who is in charge of the Department of Finance must be members of Dáil Éireann', 'Ní foláir na comhaltai eile den Rialtas a bheith ina gcomhaltai ...' expressing 'The other members of the Government must be members ...' in the following subsection. In Article 13.7.3° 'ní foláir an Rialtas a bheith sásta roimh ré leis an teachtaireacht' expresses 'Every such message ... must ... have received the approval of the Government' and 'ní foláir é a bheith inghlactha ar chomhaltas Dháil Éireann' expresses '... must be eligible to become a member of Dáil Éireann' in Article 18.2. Finally, note that 'ní foláir lámh an Uachtaráin a bheith leis' expresses 'shall **require** the signature of the President' in Article 13.3.1°.

On the other hand, 'ní foláir ... a', followed by a verbal noun, expresses 'shall be' in Articles 12.3.3°, 14.5.2°, 16.2.3°, 16.3.1°, 16.6, 17.1.2°, 20.1, 20.2.1°, 21.1.2°, 21.2.1°, 24.1, 25.4.4°, 25.4.5°, 25.5.2°, 26.1.2°, 26.3.2°, 27.2, 27.3, 27.5.2°, 28.3.2°, 29.5.1° and 46.2, where, for example, 'Gach togra chun an Bunreacht seo a leasú ní foláir é a thionscnamh i nDáil Éireann ina Bhille' expresses 'Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill'. 'Ní foláir do x' expresses 'x shall' in Articles 12.1, 12.7, 12.10.5°, 13.1.3°, 13.3.2°, 15.7, 16.2.4°, 16.4.1°, 17.1.1°, 20.1, 22.2.1°, 22.2.3°, 22.2.4°, 25.1, 26.2.1°, 26.3.1°, 26.3.3°, 27.4.1°, 27.5.1°, 27.5.2°, 27.6, 28.4.4°, 28.5.2°, 28.6.1°, 28.6.2°, 28.9.3°, 28.10, 30.1, 30.5.4°, 31.4, 33.4, 33.5.2°, 33.5.3°, 34.5.1°, 34.5.2°, 35.4.2°, 35.4.3°, 40.4.2°, 40.4.3°, 40.4.5°, 42.3.2°, 42.4 and 42.5 where, for

example, 'ní foláir don Stát ... iarracht a dhéanamh le beart oiriúnach chun ionad na dtuistí a ghlacadh' expresses 'the State ... by appropriate means shall endeavour to supply the place of the parents'.

Ó Dónaill translates 'ní foláir' as 'it is necessary', citing '*ní foláir rud éigin a dhéanamh*, something must be done' and '*ní foláir dom imeacht*, I must go'. 'Ní foláir do' is translated as 'it is not superfluous for a person, it is necessary, one must, ought' in *Dinneen*, who translates 'ní foláir', without preposition, as 'it must'. 'Foláir' itself comes from 'foróil', which means 'abundance', 'excess', 'advantage'; in Middle Irish 'foróil' gives way to 'foráil' which in turn becomes 'furáil', by metathesis 'fuláir' – see DIL s.v. 'foróil'. 'Ní furáil (fuláir)' is translated therein as 'is necessary, incumbent', 'ní foróil dom' being translated as 'it is not too much for me; I need, have a right to; (*with verbal noun*) I may as well, I ought', and examples of this phrase are cited from the twelfth-century *Book of Leinster* onwards.

As stated in the commentary on 'ní cead' in Article 9.1.3<sup>o</sup>, in his monograph *Dúchas na Gaeilge* (pp. 213ff.), Maolmhaoldhóg Ó Ruairc highlights the various ways in which 'may' and 'shall' are 'translated' in the Constitution, and states that there are over 20 cases in which 'is cead / ní cead' (lit. it is / is not permitted) is used to translate 'shall' / 'shall not', with 'ní foláir' being used in 19 Articles and 'ní dleathach' (lit. it is not / shall not be lawful) in two. As stated in that commentary, in translating the Acts today, the simple future of the verbs themselves is very frequently used. Note how 'Ní foláir ... a chur in aon chiste amháin' is expressed as 'Déanfaidh ciste amháin (de)' in the 1922 Constitution. While 'déan' therein is not followed by a verbal noun (as regards this impersonal use of 'déan' see the commentary on Articles 15.14 and 25.4.1<sup>o</sup>), it is noteworthy how often the verb 'déan' followed by a verbal noun is invoked in the direct translations in this study, following the practice in the Acts, to replace 'ní foláir' and 'is cead' in rendering 'shall' in the Constitution, rather than the simple future tense of the verb concerned. Both 'déan' and 'ní foláir' allow the inclusion before the verb of a clause (or clauses) which relate to the verb and also allow the use of the simple verbal noun of the verb concerned rather than inflecting the verb in the future tense, for example. Ó Dónaill cites '*rinne sé an capall a cheansú*, he controlled the horse' and '*is beag nach ndearna siad mé a mharú*, they nearly killed, nearly went so far as to kill, me' as examples of 'déan' used periphrastically with a verbal noun. *Dinneen* cites '*rinne sé é féin do nigh*, he washed himself' and '*ar dheinis na ba do chrúdh?* did you milk the cows' as examples of the earlier form of 'déan', 'do-ghní', used as an auxiliary verb. As an example of 'do-gní' with a verbal noun or equivalent, 'as periphrasis for finite tense of verb', DIL cites 'Doberim dom bréthir ris ... nach dingnum comól cairdeamail choidhchi misi 7 Find' ('I pledge my word ... that I and Finn shall never again drink together in friendship') from the early fourteenth-century 'Chase of Slieve na mBan', examples of such usage being cited from the eighth-century Würzburg Glosses on the Pauline Epistles onwards. We find 'déan' followed by verbal noun in amendments to the Constitution and very frequently in the Acts.

Professor Máirtín Ó Murchú points out that, while 'déan' is a flexible syntactical device, it hardly deals with the problem related to translating the English modals to Irish. As a translation of 'The State shall provide for free primary

education', which is expressed as 'Ní foláir don Stát socrú a dhéanamh chun bunoidéachas a bheith ar fáil in aisce' in Article 42.4, 'Déanfaidh an Stát socrú chun bunoidéachas a bheith ar fáil saor in aisce' would be deficient, according to Professor Ó Murchú, without an adverbial qualification such as 'feasta' or 'i gcónaí' following 'socrú' – that is, it would be a future the accomplishment of which is unknown. 'Shall' is a declaration or affirmation in the present and Máirtín Ó Murchú notes in this context that the Irish version of the Constitution regularly has present tense forms – e.g. 'ní cead', 'ní foláir' – corresponding to 'shall' in the English version. See further the commentary on Article 15.1.2<sup>o</sup>.

Professor Máirtín Ó Murchú also remarks that 'shall' was rendered by the imperative in the seventeenth-century translation of the Commandments. It is interesting in that regard that An tAthair Peadar Ua Laoghaire cites the following as examples of idiomatic uses of 'déan':

*Ná déin guid*, Thou shalt not steel.

*Ná déin marú*, Thou shall not kill.

(Thomas F. O'Rahilly, op. cit., p. 27)

Turning to 'ní foláir' in the Acts, 'Ní foláir tarscaoileadh a bheith sainráite i gcónaí' translates 'Waiver must always be express' in s2 of Article 32 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, for example. 'Ní foláir ceadú an Aire ... a fháil le haon rialacha den sórt sin' translates 'Any such rules ... shall require the approval of the Minister' in s10(6)(b) of the Educational Exchange (Ireland and the United States of America) Act, 1991. 'Ní foláir' sometimes translates 'shall' in the Acts, also – in s140(1) of the Electoral Act, 1992, for example, 'Ní foláir ainm agus seoladh an chlóidóra ... a bheith ar éadan gach fógra' translates 'Every notice ... shall bear upon its face the name and address of the printer and the publisher thereof'. 'Caithfidh' is regularly used in the Acts to express 'must' – see Article 8 of the Schedule to the Air Navigation and Transport Act, 1965, for example, where 'Aon chaineán ar dhamáistí ... caithfeá i a thionscnamh ... os comhair cúirte' translates 'Any action for damages ... must be brought ... before a court'.

*bunadh* 'Bunadh' is translated in Ó Dónaill as (1) 'origin', based on examples from earlier literature, (2) 'stock, kind', (3) 'native inhabitants' and (4) '(genitive singular as attributive adjective) original, fundamental, basic, basal'. The genitive form of this noun as attributive adjective is found in 'dlínse bhunaidh' and '(doiciméad, etc.) bunaidh' in *Téarmaí Dlí*, translated respectively as 'original jurisdiction' and 'original (document etc.)'. *Dinneen* translates 'bunadh' as 'origin, stock, root, foundation; the stock of a farm; a family, people; the native population, the natural inhabitants of a place, a caste, etc.', translating 'bunadh re' as 'authority for'. DIL cites examples of 'bunad' in the senses of (a) 'origin, basis, source' and (b) '*Of families, etc.*, origin, stock, race', from the Glosses of the eighth century onwards, including 'do bhéar bunadh ris' ('I shall give authority for it') from the seventeenth-century 'Contention of the Bards'.

Turning to the Acts, in s11(2) of Part 1 of the Finance Act, 1976, 'the amount of income arising to her from each and every source' is translated as 'an méid ioncaim a d'eascair chuici ó gach uile bhunadh' and in s19(1)(a) of the Finance Act, 1983, 'the source from which those profits

or gains arose' is translated as 'an bunadh ónar eascair na brabúis nó na gnóchain'. 'Foinse' is cited in some Acts – see, for example, s18(5)(b) of the Capital Acquisitions Tax Act, 1976, where 'in so far as the donee ... has a right of reimbursement from any source' is translated as 'a mhéid atá ceart aisíoca ó aon fhoinsé ag an deontai'.

'Taobh' translates 'source' in early official translations. In s21 of the 'Clare County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, for example, 'or whether they are in receipt of a pension from any source' is translated as 'agus a bhfaghann sé pinsean ó aon taobh'. 'Labels obtained from a prescribed source' is translated as '(fé) dhuillíní ... a fuarthas ó áit orduithe' in s37(b) of the Dairy Produce Act, 1924. 'Bailiú agus caitheamh ioncumaí Shaorstáit Éireann pé as iad' translates 'the collection and expenditure of the revenues of Saorstát Éireann from whatever source arising' in s1 (ii) of the Ministers and Secretaries Act, 1924. In s10(i) of the Finance Act, 1929, 'income or profits chargeable under Case III ... shall, for all the purposes of ascertaining liability to income tax, be deemed to issue from a single source' is translated as 'tuigfar, chun na gcrícheanna uile a bhaineann le fiachas i gcáin ioncuim do dhéanamh amach, ioncum no proifití is ionchurtha fé cháin fé Chás III ... do theacht as bun aonair'.

Regarding 'arising' in early Acts, see s15(4) of the Land Act, 1923, where 'The dividends and income arising from the investments so transferred' is translated as 'Na dividenda agus an t-ioncum a thioctidh as na súncála a haistreofar amhlaidh'. 'Maidir le maoin atá suidhte agus le profit no le sochar ag eirge sa Bhreatain Mhóir no i dTuaisceart Éireann' translates 'In respect of property situate and profits or gains arising in Great Britain or Northern Ireland' in s1 of Part II of the First Schedule to the Finance Act, 1926.

*eisceacht* This headword is translated as 'exception' in *Téarmaí Dlí*, in *Dinneen* and in *Ó Dónaill*, who translates 'eisceacht a dhéanamh (de rud)' as 'to make an exception (of something)'. Note that *De Bhaldraithe* also gives 'déanam eisceacht de' s.v. 'except'. Exception seems to have been taken to 'eisceacht' in DIL, for s.v. 'escecht' the reader is referred to 'uisgecht' and s.v. 'uisgecht' the reader is informed that this is a later form of 'escecht' ('exception, act of excepting'), four examples being cited from Keating's seventeenth-century *Three Shafts of Death* and the reader being informed that the first edition has 'eisceacht' in the four passages cited!

'Subject to such exception as may be allowed in pursuance of this Act' is translated as 'Ach amháin mar a ceadófar do réir an Achta so' in s8(1) of the Prevention of Electoral Abuses Act, 1923, as 'Ach amháin mar a ceadúitear do réir an Achta so' in s18(2) of the same Act and as 'lasmuich d'aon eisceacht a ceadófar do réir an Achta so' in s34(4), this latter clause occurring within the section itself rather than at the commencement of a section as in the two former cases.

*a ghearrtar le dlí* *Ó Dónaill* gives 'levy' as one of the senses of the verb 'gearr', literally 'cut', and cites '*cáin, fineáil, a ghearradh ar dhuine, to levy a tax, a fine, on someone*' and '*gearradh punt orm, I was fined a pound*'. *Dinneen* includes 'I tax, levy, charge, fine' among the senses of 'gearraim' and cites '*gearraim an méid seo ort, I*

fine or tax you to this amount'. DIL gives three examples of the earlier 'gearrad' in the sense of 'a tax, a tribute' but no example of the verb 'gerraid' in this sense.

Turning to the Acts, in s23(2)(b) of the Finance Act, 1983, 'upon whom a fine or other penalty was otherwise imposed by a court' is translated as 'ar ar ghearr cúirt fineáil nó pionós eile thairis sin'. 'Forchuir' generally translates 'impose' in the modern Acts. In s9(1)(e) of the Fourth Schedule to the Capital Gains Tax Act, 1975, for example, 'notwithstanding the obligation as to secrecy imposed by the Income Tax Acts or any other Act' is translated as 'd'ainneoin na hoibleagáide maidir le rún a fhorchuirtear leis na hAchtanna Cánach Ioncaim nó le haon Acht eile'.

Looking at early Acts, in the Long Title of the Finance Act, 1923, 'An Act to Charge and Impose Certain Duties of Customs and Inland Revenue' is translated as 'Acht chun Diúitithe Áirithe Custum agus Ioncuim Dhúithche ... d'Éileamh agus do Ghearra'. In s14(1) of the Finance Act, 1924, however, 'The additional duties on dried fruits which were first imposed by section 8' is translated as 'Na diúitithe breise ar thorthaí tiormuithe a forchuireadh ar dtús le halt 8'. In s51(1) of the Court Offices Act, 1926, 'all fines, amerciements, penalties and forfeited recognisances imposed or levied by any court' is translated as 'gach fineáil, meirse agus pionós, agus gach banna geallbhruidte, a forchuirfar na a gearrfar ag aon chúirt'. See further the commentary on Article 22.1.1°.

*féichiúnas* *Ó Dónaill* translates 'féichiúnas' as 'indebtedness, liability' – 'féichiúnaí' is translated as 'debtor' in *Téarmaí Dlí*. *Dinneen* translates 'féicheamhnas' as 'liability; recrimination' and DIL translates 'féchemnas' as 'advocacy, pleading', citing examples from early Irish law-tracts. This abstract noun is based on 'féchem', 'one who possesses claims on or is under claims or obligations to another', hence 'a claimant, creditor or debtor'. 'Féchem' is related to 'fiach', 'an obligation, a payment due, debt', also 'legal due, fine, penalty' according to DIL. See further the commentary on Article 49.3.

Turning to the Acts, 'beidh méid iomlán an airgid atá ... ina lámha aige mar a dúradh de theorainn lena fhéichiúnas' translates 'his liability shall be limited to the total amount of the money which he has ... in his hands as aforesaid' in s7(1)(c) of the Housing Act, 1969. 'Féichiúnas' translates 'debt' in s20(4)(a) of the Finance Act, 1970, and 'indebtedness' in s5 of the Agricultural Produce (Meat) (Miscellaneous Provisions) Act, 1978, where 'certificate of indebtedness' is translated as 'deimhniú féichiúnais'. 'Liability' is translated as 'dliteanas' in *Téarmaí Dlí* and in the Acts in general – see, for example, s79(5)(a)(ii) of the Corporation Tax Act, 1976, where 'after the satisfaction of all the debts and liabilities of the company' is translated as 'tar éis fiacha agus dliteanais uile na cuideachta a ghlanadh'. As we see above, 'fiachas' translates 'liability' in Article 61 of the 1922 Constitution. 'For the purpose of defraying any liability incurred by such council' is translated as 'chun íoc do dhéanamh in aon fhiachas fé n-ar chuaidh an chomhairle sin' in s6(1)(b) of the Seed Supply Act, 1924.

*a chur* Literally 'to put'. As regards 'form', see s8(6) of the Capital Gains Tax Act, 1975, for example, where 'the full amount of the liability ... shall form part of the



consideration' is translated as 'beidh méid iomlán an dliteanais ... ina chuid den chomaoin'. In Article 1 of the 1922 Constitution, 'The Irish Free State ... is a co-equal member of the Community of Nations forming the British Commonwealth of Nations' is translated as 'Ball có-ionann iseadh Saorstát Éireann den Chuideachta Náisiún a dhineann suas an Có-chiníochas Briotáineach'.

*leithghabháil* Verbal noun of the verb 'leithghabh', translated as 'appropriate' in *Ó Dónaill*, 'leithghabháil' itself being translated as 'appropriation'. 'Appropriation ... of public money' is translated as 'airgead puiblí do chur i leithreas' in Article 35 of the 1922 Constitution. In s110(5) of the Dundalk Harbour and Port Act, 1925, 'If the Commissioners acquire or appropriate any house or houses for the purposes of this Act' is translated as 'Má thógann na Coimisinéirí aon tigh nó títhe chúcha féin no má dhinid a gcuid féin den chéanna chun crícheanna an Achta so'. Note that 'I appropriate' is translated as 'dilsím chugam' in *Téarmaí Dlí*. See the commentary on Article 17.2 regarding 'leithreas' and 'leithghabháil'.

*faoi chuimsiú* This prepositional phrase is translated as 'within the scope of' in the Glossary appended to *An Caighdeán Oifigiúil*. 'Subject to', on the other hand, is translated as 'faoi réir' in *Téarmaí Dlí*. See the commentary on Articles 12.5 and 40.3.3°.

*chun na gcríocha* According to the official standard one would have the genitive plural of 'críocha', i.e. 'chun na gcríoch', here – see, for example, s17 of the Finance Act, 1990, where 'for all purposes of ascertaining liability to income tax' is translated as 'chun na gcríoch uile a bhaineann le dliteanas i leith cánach ioncaim a fhionnadh'. See the commentary on Article 13.8.2° regarding 'críoch', 'purpose'.

*ciste* See the commentary on Article 29.5.2°.

### Standardised Irish text

Ní foláir cíos uile an Stáit cibé bunadh atá leis, ach amháin an chuid sin de ar a ndéantar eisceacht le dlí, a chur in aon chiste amháin agus é a leithghabháil chun na gcríoch agus ar an modh, a chinntear le dlí agus faoi chuimsiú na muirear agus na bhféichiúnas a ghearrtar le dlí.

### Direct translation

Faoi réir cibé eisceachta a shocrófar le dlí, ciste amháin<sup>1</sup> a bheidh in ioncam uile an Stáit, cibé bunadh óna n-eascaíonn sé, agus déanfar é a leithreasú chun na gcríoch agus ar an modh agus faoi réir na muirear agus na ndliteanas a chinnfear agus a fhorchuirfear le dlí.

### Variants

<sup>1</sup> 'aon chiste amháin'

# THE PRESIDENT AN tUACHTARÁN

## ARTICLE 12.1 AIRTEAGAL 12.1

### TÉACS GAELGE

Beidh Uachtarán ar Éirinn (i. Uachtarán na hÉireann), ar a dtugtar an tUachtarán sa Bhunreacht seo feasta; beidh tosach aige ar gach uile dhuine sa Stát, agus ní foláir dó na cumhachtaí agus na feidhmeanna a bheirtear don Uachtarán leis an mBunreacht seo agus le dlí a oibriú agus a chomhlíonadh.

### LITERAL ENGLISH TRANSLATION

Ireland will have a President / There will be a President of Ireland (i.e. the President of Ireland), who is called the President henceforth in this Constitution; he will have precedence over everybody in the State, and he must operate/exercise and perform the powers and the functions that are given to the President by this Constitution and by law.

### ENGLISH TEXT

There shall be a President of Ireland (Uachtarán na hÉireann), hereinafter called the President, who shall take precedence over all other persons in the State and who shall exercise and perform the powers and functions conferred on the President by this Constitution and by law.

### Divergences between the official texts

- 1 The fact that Ireland will have a President is a statement in itself in the Irish version – note the semi-colon after this statement in the Irish text alone. As J.M. Kelly (op. cit., p. 83) notes, ‘The creation of the office of President is one of the most conspicuous innovations of the 1937 Constitution by comparison with that of 1922’. In the English version emphasis is more on the attributes of the President, i.e. a President ‘who shall take precedence over all other persons in the State’ and ‘who shall exercise and perform the powers and functions ...’, rather than on the fact that Ireland will have a President.
- 2 Whereas the English version states that the President will **take** precedence over **all other persons** in the State, the Irish version states that the President will **have/take** precedence (‘beidh tosach aige’) over **everybody** (‘ar gach uile dhuine’) in the State.
- 3 ‘Shall’ is expressed as ‘ní foláir’ (‘must’) in the Irish text, as we have seen in the previous Article, and ‘exercise’ is expressed by the Irish legal term for ‘operate’ (‘oibrigh’), as we saw in Article 3.
- 4 ‘Hereinafter’ is expressed as ‘sa Bhunreacht seo feasta’ (‘henceforth/hereinafter in this Constitution’) in the Irish text.

### Commentary

*a bheirtear do* This expression is also found in Articles 13.9, 15.1.1°, 28.5.1° and 40.4.2°. In the Amendment to the Constitution contained in Article 29.7.2°, however, ‘conferred’ is rendered as ‘a thugtar’, the official standard Irish form of ‘a bheirtear’, and we also find ‘tugtar’, rather than ‘bheirtear’, later on in the very same sentence:

Any institution established by or under the Agreement may exercise the powers and functions thereby **conferred** on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution **conferring** a like power or function on any person or any organ of State ... . *Tig le haon institiúid a bhunófar leis an gComhaontú nó faoin gComhaontú na cumhachtaí agus na feidhmeanna a fheidhmiú a thugtar di dá chionn sin i leith oileán na hÉireann ar fad nó i leith aon chuid de d’ainneoin aon fhorála eile den Bhunreacht seo lena dtugtar cumhacht nó feidhm dá samhail d’aon duine ....*

‘A bheireann’ occurs in Articles 13.6, 13.8.1°, 22.2.5°, 26.2.2°, 27.5.1° and 28.1, with ‘a bhéarfaidh’ occurring in Article 16.1.2°, ‘bheirtear’ in Articles 12.8 and 15.1.1° and ‘bhéarfaidh’ in Article 44.1. According to the official standard these would be written respectively as ‘a thugann’, ‘a thabharfaidh’, ‘tugtar’ and ‘tabharfaidh’. Note that we find ‘tugtar’ in the second clause of the above Article 12.1.

The verb involved in the various forms above is not the simple verb ‘beir’ (‘bear, take, bring, carry’) but the compound verb ‘do-bheir’, or ‘do-beir’ in Old-Irish, prototonic form ‘tabair’, which gives us Modern Irish ‘tabhair’ (‘give’). ‘Do-bheirim’ (‘I give’) is the form of the first person singular, present indicative, of the verb in *Dinneen*, who states that ‘bheirim’ became the general form of ‘do-bheirim’ and was often replaced by ‘tugaim’ – ‘tuc’ was the form of the imperative and perfect of ‘do-beir’ and from this a new present, etc. was formed. While ‘bheirim’ and ‘bheir sé’, along with the present passive ‘bhe(i)rt(e)ar’, are the forms of the present tense in Ulster Irish (see Art Hughes in Kim McCone et al., *Stair na Gaeilge* [1994], p. 648), the stem ‘tug’ is the usual stem in the present tense in Connacht (although the form ‘bheireann’ is heard in phrases such as ‘bheirim do shláinte’ – see Ruairí Ó hUiginn, *ibid.*, p. 592). According to Professor Máirtín Ó Murchú, ‘tugaim’, ‘tugann’ are the usual forms in Kerry, with ‘bheirim’ being found in phrases such as ‘bheirim don diabhal’ (*Dinneen* translates ‘do-bheirim don diabhal thú’ as ‘I wish you to the dickens!’) and ‘bheirim m’fhocal’ (‘I give my word’) – see Seán Ua Súilleabháin (*ibid.*, p. 532), from whom one might understand that ‘bheireann’ was the usual form of ‘tugann’ in Munster and note that ‘tugann’ is the form of the verb given in Diarmuid Ó Sé, *An Teanga Bheo – Corca Dhuibhne* (1995).

'Tug', as stated above, is also the official standard Irish form and 'a bheirtear do' would be written as 'a thugtar do' in standard Irish. We thus find, for example, 'The powers conferred ... on a presiding officer', in s42(2) of the First Schedule to the European Assembly Elections Act, 1977, translated as 'Na cumhachtaí a thugtar ... d'oiúigeach ceannais'. See further the commentary on Article 26.2.2° and see the commentary on Article 13.6 regarding 'confer'.

*tosach ar Dinneen* cites '*gabhaim an tosach ar*, I take precedence over'. In s28 of the Courts of Justice Act, 1924, 'pé ball dá mbeidh i láthair agus teideal aige chun tosach a bheith aige ar na baill eile isé bheidh ina Uachtarán ar an gcúirt' translates 'the President of the court shall be such member present as shall be entitled to precedence over the other members'. In s9 of that same Act, 'The precedence between the judges shall be as follows' is translated as 'Mar leanas a bheidh tosaíocht na mbreithiún'. 'Beidh tosach aige ar gach Breitheamh Cuarda eile' translates 'shall take precedence over all other Circuit Judges' in s9(3) of the Courts of Justice Act, 1947. In s12(2) of the Courts-Martial Appeals Act, 1983, however, 'The President of the Court shall be such member present as shall be entitled to precedence over the other members' is translated as 'Is é a bheidh ina Uachtarán ar an gcúirt cibé comhalta a bheidh i láthair agus i dteideal tosaíocht a bheith aige ar na comhaltaí eile' and 'nothing in the lease ... concerned shall in any way invalidate or take precedence over any provision of this Act' is translated as 'ní chuirfidh aon ní a bheidh sa léas ... áirithe aon fhoráil den Acht seo ó bhail ar aon slí ná ní bheidh tosaíocht ag aon ní den sórt sin ar aon fhoráil den sórt sin' in s19(2) of the Abattoirs Act, 1988. 'Tosach' translates 'commencement' in *Téarmaí Dlí* and 'tosaíocht' would today generally be used in preference to 'tosach' to translate 'precedence' – see, for example, Article 14.2 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, where 'Except as concerns precedence and etiquette, there shall be no differentiation between heads of mission by reason of their class' is translated as 'Ach amháin a mhéid a bhaineann le tosaíocht agus nósmaireacht, ní dhéanfar aon idirdhealú idir cinn mhisiún mar gheall ar a n-aicme'.

*a chomhlíonadh* 'I perform' is translated as 'comhlíonaim' in *Téarmaí Dlí*, where 'comhlíonaim' is translated as 'I comply with', 'I conform with' and 'I perform'. *Dinneen* includes 'I perform (a duty)' among the senses of 'cóimhlíonaim', with *Ó Dónaill* translating 'comhlíon' basically as 'fulfil', with the principal sense of 'perform, observe'. DIL translates 'comlínáid' as 'fills up, completes, fulfils', this verb being based on the compound 'comlín', which is translated literally and principally as 'equal number, as many' in DIL, where 'i n-irgail chuimlin' ('in a fight of equal numbers') is cited from the ninth-century Milan Glosses on the Psalms. See the commentary on Article 3 s.v. 'oibriú', for other references to 'a chomhlíonadh' in the Constitution, this verb being cited in Articles 13.8.1°, 13.9, 13.11, 14.1, 14.4, 14.5.1°, 14.5.2°, 30.1, 31.1 and 32.

Turning to the early Acts, in s6(1) of the Adaptation of Enactments Act, 1922, 'Every, power, authority and duty

conferred or imposed by any British Statute on a Justice or on two or more Justices acting together shall as from the passing of this Act cease to be exercisable or to be performed by such Justice or Justices' is translated as 'Gach comhacht, údarás agus dualgas do bronnadh no do cuireadh le haon Reacht Briotáineach ar Ghiúistís no ar bheirt no níos mó Giúistísí ag gníomhú le chéile ní dhéanfaidh an Giúistís ná na Giúistísí sin iad d'fheidhmiú ná do chó-líona tar éis riththe an Achta so'. In s107 of the Electricity (Supply) Act, 1927, 'The Minister may by order confer and impose on the Board and upon such order being made the Board shall exercise and perform the powers, functions and duties relating to metres' is translated as 'Na comhachta, na feidhmeanna agus na dualgaisí a bhaineann le méadair ... féadfidh an tAire le hordú iad do bhronna agus do chur ar an mBord agus ar bheith déanta don ordú san feidhmeoidh agus cólionfidh an Bord iad'. Finally, taking a more modern Act, 'chun cumhachtaí agus dualgais bhainisteora a fheidhmiú agus a chomhlíonadh' translates 'to exercise and perform the powers and duties of a manager' in s31 of the Mines and Quarries Act, 1965. See further the commentary on Article 28.12.

*Uachtarán* Examples of 'úachtarán' in the sense of 'a head, a leader, a chief' are cited in DIL from the twelfth-century *Book of Leinster* onwards. 'Baio U. ... ós cionn Tire A ..., mar uachtarán' ('as a president') is cited from O'Donovan's *Genealogies, Tribes and Customs of Hy-Fiachrach* as an example of the later sense of 'a president or governor'. DIL also gives examples of 'úachtarán' in the sense of 'a religious superior'. *Dinneen* translates 'uachtarán' as 'a superior, a president, a leader', citing '*Uachtarán an Chonnartha Talmhan*, President of the Land League'. *Ó Dónaill* translates this headword principally as 'president; head, superior', citing '*uachtarán tíre*, the president of a country' and '*Uachtarán na hÉireann*, the President of Ireland'. This noun is based on 'uachtar', Old Irish 'óchtar', 'the upper part, top' – 'uachtar' also having the sense of 'cream' in Modern Irish. Note incidentally that 'uachtar na hÉireann' renders 'the south of Ireland' rather than the north of Ireland.

*gach uile dhuine* In order to translate 'all other persons' literally, one would need to add 'eile' to 'gach uile dhuine' – see Article 35.1, for example: 'The judges of the Supreme Court, the High Court and all other Courts', 'breithiúna na Cúirte Uachtaraí, na hArd-Chúirte agus an uile Chúirte eile'. See further the commentary on Article 16.1.2°.

*ar Éirinn* See *Ó Dónaill* s.v. ar<sup>2</sup> II 5(a), '*Bhí rí ar Éirinn*, there was a king of Ireland', 'Fadó, fadó, nuair a bhí rí ar Éirinn' being the opening phrase of many an Irish tale.

*a oibriú* See the commentary on Article 3. 'Exercise and perform' are combined in Articles 14, 30 and 32, where they are consistently expressed as in this Article.

.i. We would expect to find 'i.e.' or 'namely' in the English version corresponding to this traditional Irish form of 'id est' – see the commentary on Article 7.

*Ní foláir dó* See the commentary on Article 11.

### Standardised gender-proofed text

Beidh Uachtarán ar Éirinn (.i. Uachtarán na hÉireann), ar a dtugtar an tUachtarán sa Bhunreacht seo feasta; beidh tosach aige nó aici ar gach uile dhuine sa Stát, agus ní foláir dó nó di na cumhachtaí agus na feidhmeanna a thugtar don Uachtarán leis an mBunreacht seo agus le dlí a oibriú agus a chomhlíonadh.

### Direct gender-proofed translation

Beidh Uachtarán ar Éirinn (Uachtarán na hÉireann), ar a dtugtar an tUachtarán anseo ina dhiaidh seo, a mbeidh tosaíocht aige nó aici ar an uile dhuine eile sa Stát agus a dhéanfaidh na cumhachtaí agus na feidhmeanna a thugtar don Uachtarán leis an mBunreacht seo agus le dlí a fheidhmiú agus a chomhlíonadh.

## ARTICLE 12.2.1<sup>o</sup> AIRTEAGAL 12.2.1<sup>o</sup>

### TÉACS GAEILGE

Le vóta lomdíreach an phobail a thoghfár an tUachtarán.

### LITERAL ENGLISH TRANSLATION

(It is) by simple/unqualified direct vote of the people that the President will be elected.

### ENGLISH TEXT

The President shall be elected by direct vote of the people.

### Divergences between the official texts

- 1 The word 'direct' is intensified in the Irish text: it is not just 'vóta díreach' but 'vóta lomdíreach'.

### Commentary

*lomdíreach* We also find 'go lomdíreach' in Article 19. In the enrolled version a hyphen is inserted between 'lom' and 'díreach'. These two adjectives are not given as a compound, either in *Ó Dónaill* or in *Dinneen*, however. One would expect the 'd' of 'díreach' to be lenited if compounded with 'lom', as one finds, for example, in 'lomchaite' ('threadbare') and 'lomtharnocht' ('stark naked'). The basic meaning of 'lom' is 'bare' but, as *Ó Dónaill* states s.v. lom<sup>2</sup> 4, it is 'used intensively with other adjective or adverb', *Ó Dónaill* citing 'bheith lom dáiríre, to be in dead earnest'. The phrase 'lom díreach' is translated by *Ó Dónaill* as 'straight, direct; right away'. In current parliamentary usage 'direct' is translated simply as 'díreach' – 'direct elections' is translated as 'toghcháin dhíreacha', for example, in the Dáil *Order Papers* of 5/7/1977 and 7/3/1978. 'Dírhofa' translates 'directly elected' in subsection 2 of the Twentieth Amendment of the Constitution (No. 2) Bill, 1999.

*pobal* This word carries the sense of community – see *Ó Dónaill* s.v. 'pobal': 'Collective: People; community; *pobal Dé*, the people of God, the faithful. *Pobal Eabhrach*, Hebrew people; worshippers. *An pobal i gcoitinne*, the general public'. The word 'pobal' comes from the Latin 'populus' and we have examples of this word in Irish

from the Würzburg Glosses of the eighth century, where we find 'popuil gente' ('of the people of the Gentiles'), onwards – see DIL s.v. 'popul', translated as 'a people, tribe, nation, the inhabitants of a country (district, town) taken collectively'.

'Pobal' is used throughout the Constitution to express 'people', but 'muintir na hÉireann' expresses 'the people of Éire' in the Preamble and 'the people of Ireland' (should this read 'the people of Éire?') in the President's declaration in Article 12.8. Like 'pobal' the word 'muintir' also carries the sense of community; *Ó Dónaill* gives the senses of 'household, community, family; associates, adherents, followers; party, retinue' based on citations of the literary use of this word. Professor Máirtín Ó Murchú remarks that 'pobal' suggests organisation and therefore 'society', with 'muintir' suggesting a collectivity and, therefore, 'household, population', etc. 'Muintir' is a word of disputed derivation: according to one scholar it comes from Latin 'monasterium', while another suggests a native origin – see DIL s.v. 'muintir'.

'Daoine', the usual translation of 'people' in Irish, normally expresses 'persons' in the Constitution, with 'duine' normally expressing 'person'.

*Le vóta* The copula 'is', which we find at the beginning of subsection 3, is understood. 'Bhóta' is the form given in the enrolled text. *Dinneen* gives 'bóta' as the form of the headword, also citing 'bhóta', and concludes the entry with the abbreviation for 'Anglo-Irish' (implying that the word is borrowed from the English). The form 'vóta' is found in Article 22 of the 1922 Constitution, for example, 'vótanna' being given there as the plural form. 'If the votes credited to an elected candidate consist of original and transferred votes' is translated as 'Más bun-vótanna agus vótanna aistriithe ... na vótanna a cuireadh i leith iarthóra thofa' in s2(b) of the Third Schedule to the Electoral Act, 1923.

While 'vóta' ('bhóta') and 'vótáil' ('bhótáil') are found in other Articles of the current Constitution, the phrase 'by means of the single transferable vote' is expressed as 'ar mhodh an aonghutha inaistrithe' in Articles 12.2.3<sup>o</sup>, 16.2.5<sup>o</sup> and 18.5 – see the commentary on Article 12.2.3<sup>o</sup>. *De Bhaldráithe* translates '(individual) vote' as 'guth, vóta', citing 'popular vote, *guth an phobail* and translating 'vote' principally as 'vótáil, guthaíocht'. Edmund E. Fournier d'Albe, in his *English-Irish Dictionary* (1912) gives 'togha' along with 'guth' s.v. 'vote', Daniel Foley (1855) giving 'guth, aontughadh, toghadh, meas'. 'Guthóirí' was a common term in *Fáinne an Lae* (1898-1900), where 'toilidheacht' expresses 'voting' (see Caoilfhionn Nic Pháidín, *Fáinne an Lae [1898-1900]*, p. 102f.) – 'toilidheacht', based on 'toil' ('will'), is translated as 'willingness, consent, acquiescence' in *Dinneen*. *L. Mc Cionnaith* cites 'toilidheacht ós íseal, ós ard' from Munster s.v. 'voting', 'put it to the vote of the meeting, *cuir fá thoil an tionóla é* being cited there, also from Munster. Finally, *L. Mc Cionnaith* cites 'guth, ceart an ghotha, do thabhairt do na mnáibh' (i.e. to give a vote, the right to vote, to women) from the same province.

*a thoghfár* 'Elect' is the secondary sense of 'togh' in *Ó Dónaill*, who cites '*toghadh ina uachtarán é*, he was elected president', 'choose, select' being the principal sense therein. *Dinneen* translates 'toghaim' as 'I choose, select, elect, pick', citing '*thoghas dul abhaile*, I elected to go

home'. The simple verb 'togaid' is a later form of the compound verb 'do-goa', translated as 'chooses, elects, selects' in DIL, where examples are cited from the Glosses of the eighth century onwards, including 'ciade dogega' ('which of them I shall choose') from the Würzburg Glosses. 'Rogha' ('choice'), Old Irish 'rogu'/'roga', is also based on the same stem as 'do-goa'. We find the verb 'togh' in the Electoral Act, 1923, for example, 'tuigfear an t-iarrthóir sin do bheith tofa' translating 'that candidate shall be deemed to be elected' in s5 of the Third Schedule thereto. 'Toghchán' ('election') is a further development of 'togh', 'toghachán' being found in Article 14 of the 1922 Constitution. This word is not given as a headword in *Dinneen*, for example, who gives 'an election' as one of the senses of 'toghadh', citing '*an toghadh mór*, the general election' – this is currently generally expressed in Irish as 'olltoghchán'. Finally, 'choice, election (= *togha*') are given as senses of 'forgla' in *Dinneen*, who cites '*forgla fear Éireann*, the flower of the men of Ireland'. Professor Máirtín Ó Murchú notes that this term developed in sense from 'the best part' to 'the greater part', citing 'an dán do bhí dénta le forgla chéd bliadhna roimhe sin' – see DIL s.v. 'forglu'.

As regards 'togh le', in s6 of Schedule E to the Bretton Woods Agreements (Amendment) Act, 1977, 'the fifteenth may be elected by a simple majority of the remaining votes and shall be deemed to have been elected by all such votes' is translated as 'féadfar an cúigiú duine déag a thoghadh trí ghnáth-thromlach na vótaí a bheidh fágtha agus measfar é a bheith tofa leis na vótaí sin go léir'. In s7(6) of the Fourth Schedule to the Foyle Fisheries Act, 1952, 'one of those persons shall be elected by lot' is translated as 'toghfar duine de na daoine sin trí chrannchur'. Finally, 'that a majority of the members of the Council shall consist of representatives elected by the votes of persons resident in the State' is translated as 'go mbeidh tromlach comhaltaí na Comhairle ina n-ionadaithe a bheas tofa le vótaí daoine cláraithe a chónaíos sa Stát' in s5(4) of the Veterinary Surgeons Act, 1952.

### Standardised Irish text

Le vóta lom díreach an phobail a thoghfear an tUachtarán.

### Direct translation

Is le vóta díreach an phobail a thoghfear an tUachtarán.

## ARTICLE 12.2.2<sup>o</sup> AIRTEAGAL 12.2.2<sup>o</sup>

### TÉACS GAEILGE

Gach saoránach ag a bhfuil ceart vótála i dtoghchán do chomhaltaí de Dháil Éireann, beidh ceart vótála aige i dtoghchán don Uachtarán.

### LITERAL ENGLISH TRANSLATION

Every citizen who has a right to vote in an election for members of Dáil Éireann, (he) will have a right to vote in an election for the President.

### ENGLISH TEXT

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at an election for President.

### Divergences between the official texts

- 1 While 'ceart vótála' can be translated as 'the right to vote' – and 'the right to vote' is sometimes so translated – literally it translates 'a right to vote'.

Note that Article 47.3 reads as follows:

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at a Referendum. *Gach saoránach ag a bhfuil sé de cheart vótáil i dtoghchán do chomhaltaí de Dháil Éireann tá sé de cheart aige vótáil i Reifreann.*

### Commentary

*ceart vótála* This phrase, which we find twice in this subsection and again in Article 16.1.2<sup>o</sup>, expresses 'the right to vote'. The definite article, however, is not specifically included in the Irish phrase and might be translated more literally today as 'an ceart chun vótála' – we find both 'ceart vótála' and 'an ceart chun vótála' translating 'the right to vote' in the *Treaty on European Union* (1992, pp. 152 and 15 respectively), for example. 'Ach ní bheidh ceart vótála aige' translates 'but shall not have the right to vote' in s9 of the Second Schedule to the Industrial Relations Act, 1946, and 'ach ní bheidh ceart vótála aige ag aon chruinniú den tsórt sin' translates 'but he shall not have the right to vote at any such meeting' in s16 of the Industrial Research and Standards Act, 1946. Note that 'Not less than ten members having the right to vote at the meeting' is translated as 'líon comhaltaí nach lú ná deichniúr a bhfuil ceart vótáil acu ag an gcruinniú' in s55(1)(b) of the Building Societies Act, 1976.

We find 'ceart chun' in Article 40.6.1<sup>o</sup> (which deals with Personal Rights): 40.6.1<sup>o</sup>, ii and iii begin with 'Ceart na saoránach chun ...', expressing 'The right of the citizens to ...'. 'Without prejudice to the right to vote by proxy' is translated as 'gan dochar don cheart chun vótála trí leas-vótálaí' in s80(g) of the Pigs and Bacon Act, 1935.

In the *Standing Orders* of Dáil Éireann we find 'de cheart' in place of 'an ceart' – see, for example, s26(2): 'The Taoiseach shall have the right to determine the order in which Government business shall appear on the Order Paper', '*Beidh de cheart ag an Taoiseach a shocrú cad é an t-ord ina mbeidh gnó Rialtais ar Riar na hOibre*'. 'He has the right to ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tá sé de cheart aige ...' in the *Standing Orders* of Dáil Éireann, 1926, p. 19. This construction is found also in the 1922 Constitution, in Article 14 of which 'All citizens of the Irish Free State ... shall have the right to vote for members of Dáil Éireann' is translated as 'Beidh de cheart ag gach saoránach de Shaorstát Éireann ... vótáil le teachtaí de Dháil Éireann'. See above for an example from the current Constitution.

'Ceart' is the Irish legal term for 'right', 'aiseag chearta an phósta' translating 'restitution of conjugal rights' in *Téarmaí Dlí*, for example. Old Irish 'cert' comes from Latin 'certus', examples of the adjective 'cert', in the sense of 'correct, right, proper, fitting', being cited in DIL from

the ninth-century Milan Glosses onwards. As a noun, 'cert' also had the quasi-legal sense of 'right, claim, entitlement', *Lebor na Cert* (i.e. 'The Book of Rights') being the title of an early Irish tract on the rights and privileges of kings. See further the commentary on Article 43.2.1°, 'ceart' also expressing 'justice' in the Constitution.

*comhalta* We find the old dative plural ending, 'do chomhaltaibh', in the enrolled version. The primary sense of 'comhalta' in *Ó Dónaill* is 'foster-brother, foster-sister', with 'fellow, member' as secondary sense, *Ó Dónaill* citing '*comhalta d'ollscoil*, fellow of university' and '*comhalta cumainn*, member of a society'. *Dinneen* also includes 'a member (of a society, etc.)' s.v. 'cómhalta'. Professor Máirtín Ó Murchú comments that Modern Irish 'comhalta' in the sense of 'member (of organization, etc.)' represents a merger of two earlier words, both to varying degrees connected with the early Irish custom of fosterage: 'comhalta', 'fosterchild', from the verb 'con-aíl', 'rears together', and 'comhdhalta', 'foster-brother/sister' > 'fellow pupil', a compound of 'com' and 'dalta'. As regards fosterage in early Irish society, see Fergus Kelly, *A Guide to Early Irish Law* (1988, p. 86), who states that, unlike most Indo-European languages where the word for 'father' and 'mother' have intimate forms, used particularly in childhood, in Old Irish the intimate forms have been transferred to the fosterparents. One early Irish law text refers to 'a fosterbrother reared in the same cradle' ('comalta óencléib', *ibid.*, p. 86, n. 147). The wider connotation of 'comhalta' has a long history in the language: Christ is referred to as king Conchobur mac Nessa's 'comhalta' in one text, they both having been born on the same night according to Irish literary tradition.

'Members of Dáil Éireann' is translated as 'teachtaí de Dháil Éireann' in the 1922 Constitution, corresponding, of course, to the term 'Teachta Dála'. 'Teachta' comes from 'techt' (originally the same word as 'techt' meaning (1) 'act of going', (2) 'act of coming' [DIL]), translated as 'messenger, envoy, courier' in DIL, and we find an example of this word as early as the Milan Glosses of the ninth century on a Latin commentary on the Psalms, where it glosses 'nuntiorum'. 'Comhalta' may have been called on to satisfy a perceived need for a single term to refer to a member whether it be of the Dáil or the Seanad. Members of Seanad Éireann are referred to as 'baill de Sheanad Éireann' in Article 14 of the 1922 Constitution. 'Ball', literally 'limb, member, organ' of the body, is also found in the current Constitution; 'the Member States of the Communities' is rendered as 'Ballstáit na gComhphobal' in Article 29.4.6°, this being the current standard translation.

Finally, Professor Máirtín Ó Murchú remarks that 'comhaltaí de Dháil Éireann' expresses 'members of Dáil Éireann' after their election as such members but, as they are as yet to be elected in the present context, they might be referred to as 'comhaltaí do Dháil Éireann'. See 'toghchán do' below.

*toghchán do* We have both 'toghchán do chomhaltaí de Dháil Éireann' and 'toghchán don Uachtarán' in this subsection. 'Do(n)' seems a very literal expression of 'for' in 'election for', which can perhaps alternatively be expressed by having the noun following 'election' in the genitive case, i.e. 'toghchán comhaltaí de Dháil Éireann' and 'toghchán an Uachtaráin'. See Article 16.1.2° where

we find 'the law relating to the election of members of Dáil Éireann' expressed as 'an dlí i dtaobh toghcháin comhaltaí do Dháil Éireann', following the ninth Amendment of the Constitution, 1984, 'ta ceart bhótála aige i dtoghchán comhaltaí do Dháil Éireann' expressing 'shall have the right to vote at an election for members of Dáil Éireann' in the original Article 16.1.2°.

Turning to the Acts, 'díreach roimh a mbliain a chuirfear an toghchán don oifig sin ar siúl' translates 'Immediately preceding the year in which the election for such office takes place' in s5 of the Fisheries Amendment Act, 1962. In s4(3)(a) of the Age of Majority Act, 1985, however, 'The date on which a person attains the age of eighteen years shall ... be calculated for the purpose of determining whether a person has the right to vote at an election for members of Dáil Éireann' is translated as 'Déanfar an dáta a slánóidh duine ocht mbliana déag d'aois a ríomh ... ar an modh céanna a ríomhtar é d'fhonn a chinneadh an bhfuil ceart ag duine vótáil i dtoghchán comhaltaí do Dháil Éireann'. Finally, looking at earlier Acts, in s6(3)(c) of the Prevention of Electoral Abuses Act, 1923, 'voting at an election for any public office' is translated as 'vótáil i dtoghchán i gcóir aon oifige puiblí'. See further the commentary on Article 12.5.

*saoránach* This is the word currently used to express 'citizen' in Irish. It is a relatively modern term in Irish, simply translated as 'citizen' in *Ó Dónaill*, who gives no example of its usage. In *Dinneen* it is translated as 'a freeman', i.e. its literal sense. 'Saoránach ... de Shaorstát Éireann iseadh gach duine' translates 'Every person ... is a citizen of the Irish Free State' in Article 3 of the 1922 Constitution, 'saoránacht' translating 'citizenship' therein. 'Fórsa Cosanta na Saoránach' translates 'the Citizens' Defence Force' in s4(5) of the Superannuation and Pensions Act, 1923. 'The Irish Citizen Army', however, is translated as 'Arm Cathránach na hÉireann' in the Long Title of the Army Pensions Act, 1923 – note that *De Bhaldraithe* translates 'The Irish Citizen Army' as 'An tArm Cathartha'. 'Catharda', as a noun, is translated as 'citizen' in DIL, where examples are given of this usage of the word over centuries – 'athair na catharda' glosses Latin 'pater civium', which itself glosses 'Patricius', in a copy of 'Fiacc's Hymn' for St Patrick, for example. DIL also gives examples of the forms 'caithreóir' and 'cathraigtheóir', also expressing 'citizen', along with the form 'cathrar', which apparently comes from 'cathair' and 'fer'. 'Cathróir' was *De Bhaldraithe's* first preference, in 1959, followed by 'saoránach'.

### Gender-proofed Irish text

Gach saoránach ag a bhfuil ceart vótála i dtoghchán do chomhaltaí de Dháil Éireann, beidh ceart vótála aige nó aici i dtoghchán don Uachtarán.

### Direct gender-proofed translation

Gach saoránach a bhfuil de cheart aige nó aici<sup>1</sup> vótáil i dtoghchán comhaltaí do<sup>2</sup> Dháil Éireann beidh de cheart aige nó aici<sup>3</sup> vótáil i dtoghchán an Uachtaráin.

**Variants**

- 1 'ag a bhfuil de cheart', 'a bhfuil an ceart aige nó aici chun'
- 2 'de'
- 3 'beidh an ceart aige nó aici chun'

ARTICLE 12.2.3<sup>o</sup> AIRTEAGAL 12.2.3<sup>o</sup>**TÉACS GAELGE**

Is le rúnbhallóid agus de réir na hionadaíochta cionúire agus ar mhodh an aonghutha inaistrithe a dhéanfar an vótáil.

**LITERAL ENGLISH TRANSLATION**

It is by secret ballot and in accordance with proportional representation and by the method of the single transferable vote that the voting will be done.

**ENGLISH TEXT**

The voting shall be by secret ballot and on the system of proportional representation by means of the single transferable vote.

**Divergences between the official texts**

- 1 Whereas 'by means of the single transferable vote' qualifies 'the system of proportional representation' in the English text, the Irish version links this directly to the way the voting will be done; it is given as a third separate feature of the voting, the English version specifying only two features.
- 2 'System' is not specifically expressed in the Irish text, 'on the system of' being expressed as 'de réir' ('in accordance with').

**Commentary**

*ar mhodh an aonghutha inaistrithe* This phrase expresses 'by means of the single transferable vote' in Articles 16.2.5<sup>o</sup> and 18.5 also.

In the development of the sense of a 'vote', we see a progression of the basic sense of 'guth', 'voice'. We find this secondary sense in *Dinneen*, who cites '*guth na ndaoine, vox populi*'. *Ó Dónaill* gives the secondary meanings 'expressed opinion' (citing '*guth an phobail, the voice of the people*'); '*guth a thabhairt ar son, in aghaidh ruda, to voice an opinion in favour of, against, something*') and 'voice, vote' (citing '*guth a thabhairt do dhuine i rud, to give someone a voice in something*' and '*do ghuth a thabhairt, to vote*'). 'Vote' is given as a secondary sense of 'guthaíocht' also. 'Vote' would currently be translated directly as 'vóta' in the Acts and is so translated in *Téarmaí Dlí*, following the ninth Irish Legal Terms Order (S.I. No. 291 of 1950 – Terms relating to Company Law). 'Vóta' is found in the first subsection of this section and in other Articles – see the commentary on Article 12.2.1<sup>o</sup>.

'Aonghuth' is a concise way of expressing 'single vote'. Note, however, that 'd'aonghuth' means 'with one voice, unanimously' – 'unanimous vote' is translated as 'vóta d'aonghuth' in s17(3)(a) of the Credit Union Act, 1966, for example. 'Single' is usually translated as 'aon ... amháin',

'aonraic' or 'aonair' (which comes from 'aon' + 'fear') – the Single European Act, for example, is cited in Irish as 'An Ionstraim Eorpach Aonair' ('Ionstraim' following the French here).

Looking at the Acts as regards the phrase 'single transferable vote', in s37(2)(d) of the Seanad Electoral (Panel Members) Act, 1937, which Act is directly related to the 1937 Constitution, we find 'aon-vóta' replacing 'aon-ghuth':

... the electors shall be elected by the members of such council present at the said meeting ... voting by secret ballot on the system of proportional representation by means of the single transferable vote ... *toghfár na toghthóirí ag na comhaltaí den chomhairle sin a bheidh ar an gcruinniú san ... agus iad ag vótáil tré rún-bhallóid do réir na hionadaíochta cionmhaire agus ar mhodh an aon-vóta ionaistrithe.*

In s11 of the Seanad Electoral (Panel Members) Act, 1954, 'aon-vóta' becomes 'aon-ghuth', as in the Constitution, with 'voting on the system of proportional representation by means of the single transferable vote' being translated as 'ag vótáil do réir na hionadaíochta cionúire agus ar mhodh an aon-ghutha inaistrithe'. In the Appendix to the Referendum (Amendment) Act, 1959, 'members of Dáil Éireann are elected on a system of proportional representation for constituencies returning at least three members, each voter having a single transferable vote' is translated as 'déantar comhaltaí Dháil Éireann a thoghadh de réir na hionadaíochta cionúire do dháilcheantair a dtoghann gach dáilcheantar ar leith díobh triúr Teachta Dála ar a laghad, agus bíonn vóta inaistrithe amháin ag gach vótálaí'. This is followed by:

It is proposed in the Bill to abolish the system of proportional representation ... each voter having a single non-transferable vote. *Tá sé beartaithe sa Bhille deireadh a chur le córas na hionadaíochta cionúire ... agus vóta amháin nach mbeidh inaistrithe a bheith ag gach vótálaí.*

Whereas the wording of the Constitution was followed in s28(2) of the Údarás na Gaeltachta Act, 1979 – 'the poll shall be taken by secret ballot and on the principle of proportional representation by means of the single transferable vote' being translated as 'is le rúnbhallóid agus ar phrionsabal na hionadaíochta cionúire agus ar mhodh an aonghutha inaistrithe a thógfar an vótaíocht' – in s2(3) of the First Schedule to the Postal and Telecommunications Service Act, 1983, the official standard translation is found: 'Voting shall be by secret ballot and on the basis of proportional representation by means of a single transferable vote' is translated as 'Is le rúnbhallóid, agus ar bhonn na hionadaíochta cionúire trí vóta inaistrithe amháin, a dhéanfar an vótáil'. Finally, looking at earlier Acts, s35(3)(b) and (c) of the Local Government (Dublin) Act, 1930, reads as follows:

- (b) the voting shall be by secret ballot;
- (c) the voting shall be according to the principle of proportional representation and, in the case of voters having one vote only, every vote shall be a single transferable vote ...
- (b) *is le ballóid sheicréideach a déanfar an vótáil;*
- (c) *is do réir phrinsiobail na hionadaíochta cothromúla a déanfar an vótáil agus, i gcás vótálaithe go n-aon vóta amháin, beidh gach vóta ina aon vóta amháin ionaistrithe.*

'Ar mhodh' is translated as 'after or in the manner of' in *Dinneen*. 'Modh' is translated principally as 'mode, manner' in *Ó Dónaill*, who cites '*ar mhodh, i modh, nathrach*, in the manner of a serpent'. 'Procedure, method' is given as a secondary sense, *Ó Dónaill* citing '*modh iocaiochta*, method of payment'. This word comes from Old Irish 'mod', which comes from Latin 'modus', which word it glosses. 'By means of' is usually translated as 'trí bhithin' ('by means of, fit for, fit to be' and examples cited there include 'indéanta' ('practicable') and 'inléite' ('legible'). Both of these are also given as separate headwords, as is 'inaistrithe', which is translated as 'movable, removable, transferable; transposable; translatable'. 'Inaistritheacht' is also given as a headword and translated as 'transferability, translatability'. 'I transfer' is translated as 'aistrím' in *Téarmaí Dlí*, following the first Irish Legal Terms Order (R. & S.R., No. 249 of 1947).

Finally, regarding 'inaistrithe', this form is made up of the prefix 'in-' with the past participle of 'aistrigh', 'move, transfer, translate'. The prefix 'in-' is translated in *Ó Dónaill* as 'capable of, fit for, fit to be' and examples cited there include 'indéanta' ('practicable') and 'inléite' ('legible'). Both of these are also given as separate headwords, as is 'inaistrithe', which is translated as 'movable, removable, transferable; transposable; translatable'. 'Inaistritheacht' is also given as a headword and translated as 'transferability, translatability'. 'I transfer' is translated as 'aistrím' in *Téarmaí Dlí*, following the first Irish Legal Terms Order (R. & S.R., No. 249 of 1947).

*de réir na hionadaíochta cionúire* This phrase expresses 'on the system of proportional representation' in Articles 16.2.5° and 18.5 also. 'Ionadaíocht chionúire' is the current Irish term for 'proportional representation' – see, for example, s2(1) of the European Assembly Elections Act, 1977, where 'tógfar an vótaíocht de réir phrionsabal na hionadaíochta cionúire, agus beidh vóta inaistrithe amháin ag gach toghthóir' translates 'the poll shall be taken according to the principle of proportional representation, each elector having one transferable vote', referring to Assembly elections. See translations of 'proportional representation' in various Acts in the note above on 'ar mhodh an aonghutha inaistrithe'.

'Do réir na hionadaidheachta cionmhaire' is the form of this phrase in the original text. 'Cionmhar' is the form of the headword in *Ó Dónaill* and the genitive singular form 'cionmhaire' rather than 'cionúire' would seem to comply with the rules laid down in Rannóg an Aistriúcháin's *Gramadach na Gaeilge agus Litríú na Gaeilge: An Caighdeán Oifigiúil*. According to the first spelling 'Rule' therein, '(a)mha' > 'ú' (e.g. 'fearamhail' > 'fearúil' and 'geanamhail' > 'geanúil'); this rule does not apply to 'mh' in the suffix '-mhar' however – 'griannmhar' and 'líonmhar' remain unaltered, for example. The genitive form 'cionúire' above may have developed through the noun 'cionmhair', translated as 'share, portion, dividend, an elemental portion, an atom' in *Dinneen*, who continues s.v. 'cionmhair': '*also cionmhaireacht (pronounced cionúireacht); ceannmhaireacht, id.*' We find the headword 'cionúireacht', translated as 'proportion, portion', in the Glossary appended to *An Caighdeán Oifigiúil*. *Ó Dónaill* also contains this word as a headword and gives the form 'cionmhaire' as a variant. 'Cionmhar' is simply translated as 'proportional' in *Ó Dónaill*, who cites 'ionadaíocht chionmhar' ('proportional representation') s.v. 'ionadaíocht' ('representation'). 'Cionmhar' is based on the noun 'cion' ('share, amount').

In Articles 26 and 32 of the 1922 Constitution, 'proportional representation' is translated as 'ionaduíocht chothromúil', literally 'level/even representation' –

'cothrom' (which translates 'proportion' in the 1922 Constitution) being formed from 'comh' and 'trom', literally 'of the same weight'. 'Ionadaíocht' is based on 'ionadaí' (translated as 'representative; substitute, deputy, locum tenens' in *Ó Dónaill*), which in turn is based on 'ionad' ('place'). 'Ionad duine a dhéanamh' is translated as 'to take the place of someone' in *Ó Dónaill*, where we find 'ionadaíocht a dhéanamh do dhuine' translated 'to act in place of someone'. *Ó Dónaill* cites '*tá ionad sa Dáil aige*, he has a seat in the Dáil'.

Note that the Irish phrase above does not specifically include the word 'system'. The sense of the English is conveyed by the use of the definite article with the abstract noun (the standard practice in Irish, 'an pholaitíocht' expressing 'politics' for example) and 'de réir', 'in accordance with', being stronger than the English 'on the' in 'on the system of'. Similarly Article 26 of the 1922 Constitution does not translate 'principles': 'The members shall be elected upon principles of Proportional Representation' is translated simply as 'Is do réir Ionaduíochta Cothromúla a toghfar na teachtaí'. As we see above, however, in the European Assembly Elections Act, 1977, 'according to the principle of proportional representation' is translated as 'de réir phrionsabal na hionadaíochta cionúire'. See above for 'de réir córais ionadaíochta cionúire' translating 'on a system of proportional representation' in s11(1) of the Dentists Act, 1985.

*rúnbhallóid* This is a compound of 'rún' and 'ballóid' on the lines of 'rúnseirbhís', 'secret service', for example. Unlike the latter, however, 'rúnbhallóid' is not recognized as a headword in *Ó Dónaill*. This compound could equally be covered by 'ballóid rúnda' – *De Bhaldraithe*, for example, translates the verb 'ballot' as 'vótáilim (le ballóid rúnda)'. In Parliamentary usage, 'rún' translates 'resolution'. Nevertheless, the Constitution is followed in s2(3) of the European Assembly Elections Act, 1977, for example, where 'Voting at an Assembly election shall be by secret ballot' is translated as 'Is le rúnbhallóid a dhéanfar vótáil i dtoghchán Tionóil'.

'The Ballot Act, 1872' is cited in Irish as 'Acht na Ballóide, 1872' in the Tenth Schedule to the Electoral Act, 1923. In Article 14 of the 1922 Constitution, 'the voting shall be by secret ballot' (in relation to elections for members of Dáil Éireann and Seanad Éireann) is translated as 'is le ballóid shicréideach a déanfar an vótáil'. The official translation of the 'Secret Service' is in fact 'An tSeirbhís Sicréideach'. Two examples of 'sicréideach' from earlier literature are cited in *L. Mc Cionnaith*.

'Ballóid' is formed directly from 'ballot' and is given in *De Bhaldraithe*, who also gives 'crannchur' (following the abbreviation for 'Parliament') – this basically means 'casting of lots'. He gives 'cuirim ar chrainn' as a secondary translation of the verb 'ballot'. 'Ballot-paper' is therein translated as 'páipéar ballóide' and 'páipéar guthaíochta' – see the commentary on 'guth' above, regarding 'guthaíocht', along with the commentary on Article 12.2.1°.

### Direct translation

Is le rúnbhallóid, agus de réir chóras na hionadaíochta cionúire<sup>1</sup> ar<sup>2</sup> mhodh<sup>3</sup> an vóta inaistrithe aonair<sup>4</sup>, a dhéanfar an vótáil.



**Variants**

- 1 'cionmhaire'
- 2 'agus ar'
- 3 'tríd', 'trí bhithin'
- 4 'an aon vóta inaistrithe'

ARTICLE 12.3.1<sup>o</sup> AIRTEAGAL 12.3.1<sup>o</sup>**TÉACS GAELIGE**

Beidh an tUachtarán i seilbh oifige go ceann seacht mbliana ón lá a rachaidh i gcúram a oifige mura dtarlaí roimh dheireadh an téarma sin go n-éagfaidh nó go n-éireoidh as oifig nó go gcuirfeas ar oifig é, nó go ngabhfaidh míthreoir bhuan é agus go suifear sin go sásamh na Cúirte Uachtaraí agus í comhdhéanta de chúigear breitheamh ar a laghad.

**LITERAL ENGLISH TRANSLATION**

The President will hold office for seven years from the day (he) enters into (the responsibility of) / takes up (the duty of) his office unless it happens before the end of that term that (he) dies or (that he) relinquishes office or that he is put out of office, or that permanent disablement/derangement/misguidance seizes him and that (that) is established to the satisfaction of the Supreme Court while/being composed of at least five judges.

**ENGLISH TEXT**

The President shall hold office for seven years from the date upon which he enters upon his office, unless before the expiration of that period he dies, or resigns, or is removed from office, or becomes permanently incapacitated, such incapacity being established to the satisfaction of the Supreme Court consisting of not less than five judges.

**Divergences between the official texts**

- 1 The principal sense today of the Irish term 'míthreoir' (which expresses 'incapacity' above) is 'misguidance, derangement, mental distraction', although *Dinneen* places 'incapacity' first in his list of definitions; 'míthreoraím' is translated as 'I misdirect' in *Téarmaí Dlí*, with 'éagumasáim' translating 'I incapacitate' and 'permanent incapacity' being translated as 'éagumas buan'.
- 2 'Such incapacity being established' is expressed as 'agus go suifear sin' ('and that that is established') in the Irish text, not specifically linking the phrase to 'incapacity'.
- 3 'From the date' is expressed as 'ón lá' ('from the day') in the Irish text – as in many other Articles, as we shall see – though it could hardly be argued from the use of 'day' as against 'date' that the President would have to enter office in daylight.
- 4 'Enters upon his office' is expressed as 'rachaidh i gcúram a oifige' ('enters into the responsibility / takes up the duty of his office') in the Irish text.
- 5 'Period' is expressed as 'téarma' ('term') in the Irish text.

**Commentary**

*míthreoir* This term consistently expresses 'incapacity' in the Constitution. 'Incapacity' in relation to the President is referred to again in Articles 12.3.3<sup>o</sup> ('permanent incapacity', 'míthreoir bhuan ... dá ghabháil'), 12.7 ('permanent incapacity', 'go ngabhfaidh míthreoir bhuan é') and 14.1 ('his temporary incapacity, or his permanent incapacity', 'ar míthreoir go sealadach ... ar míthreoir go buan'). It is referred to in relation to the Taoiseach in Article 28.6.2<sup>o</sup> ('become permanently incapacitated', 'má ghabhann míthreoir bhuan é'), in relation to members of the Government in Article 28.12 ('incapacity', 'ar míthreoir'), in relation to members of the Council of State in Article 31.5 ('becomes permanently incapacitated', 'go ngeobhaidh míthreoir bhuan é'), in relation to the Comptroller and Auditor General in Article 33.5.1<sup>o</sup> ('for stated misbehaviour or incapacity', 'de dheasca mí-iompair nó míthreora a luafar') and, finally, in relation to judges of the Supreme Court or the High Court in Article 35.4.1<sup>o</sup> ('for stated misbehaviour or incapacity', 'de dheasca mí-iompair nó míthreora a luafar'). See further the commentary on Article 31.5.

'Míthreoir' is translated as 'incapacity' in *Dinneen* whose entry s.v. 'mí-threoir' is as follows:

*Mí-threoir*, incapacity, of body or mind, legal disability, etc., state of going wrong, want, weakness, faintness; *mí-threoir ort!* faintness seize you! *ar mí-threoir*, disabled from any cause, as lameness, drink, etc.; (*adjective*) *mí-threorach*, feeble, vigourless, gone wrong or astray.

'Míthreoir' is translated as 'weakness' in Edward O'Reilly, *Irish English Dictionary* (1821). 'Míthreorach' is translated as 'weak, inefficient' in DIL, 'míthreoir' not being given as a headword there. *Ó Dónaill's* entry s.v. 'míthreoir' would reflect the current understanding of the word:

*Míthreoir*: Misguidance; upset, confusion, shiftlessness, feebleness. *Bheith ar míthreoir*, to be confused; to be helpless, enfeebled. *Míthreorach*. 1. Bewildered, confused. 2. Helpless, feeble, puny. 3. Misleading.

This translation directly reflects the etymology of 'míthreoir': the pejorative prefix 'mí-' (translated as 'bad, ill, evil, dis-, mis-, un-' in *Ó Dónaill*), and 'treoir', translated as 'guidance, direction'. In s87 of the First Schedule to the European Assembly Elections Act, 1977, for example, 'a statement which is likely to mislead voters' is translated as 'ráiteas ar dóigh dó vótálaithe a chur ar míthreoir'. 'Míthreoraím' is translated as 'I misdirect', and 'míthreorú' as 'misdirection', in *Téarmaí Dlí*, following the fourth Irish Legal Terms Order (S.I. 68 of 1949, Terms relating to Practice, Evidence and Procedure).

'Míthreoir' translates 'disablement' in some Acts. In s1(1) of the Social Welfare (Occupational Injuries) Act, 1966, and in s36(1) of the Social Welfare (Consolidation) Act, 1981, for example, 'disablement gratuity' and 'disablement pension' are translated respectively as 'aisce mhíthreorach' and 'pinsean míthreorach', 'míthreorach' there being the genitive singular of 'míthreoir'. 'Disablement' is translated as 'míchumas' in *Téarmaí Dlí*, however, 'disablement benefit' being translated as 'sochar míchumais' – in s1(1) of the Social Welfare (Occupational Injuries) Act, 1966, however, we find 'sochar míthreorach' translating 'disablement benefit'. If one consults L. Mc Cionnaith's *English-*

*Irish Dictionary* – as no doubt the drafters of the Irish version of the Constitution did, that dictionary having just been published at the time (1935) – while ‘incapacity’ is given as ‘mí-ábaltacht’ (literally ‘dis-ability’) and ‘disablement benefit’ as ‘sochar dinirt’ (literally ‘lack of strength benefit’), s.v. ‘Incapacitate’ we get merely ‘v. disable’. In the entry s.v. ‘disable, -ment’, we read:

*Disable, knock out, &c.* Do chuir an buille sin an fear, do cuireadh an fear, 7c. dá threoir [*Munster, Connacht*], ar mithreoir [*Munster*]; tá sé ar mithreoir [*Munster*].

Significantly, the Irish version of the 1937 Constitution differs from the 1922 Constitution in its expression of ‘incapacity’, the term in the latter being ‘míchumas’. Article 53 of the 1922 Constitution deals with the President of the Executive Council and corresponds to Article 28.6.2° of the 1937 Constitution to the extent that it outlines the occasions when the Vice-President is to act in place of the President. In Article 53 of the 1922 Constitution ‘if the President shall die, resign, or be permanently incapacitated ...’ is translated as ‘ar an Uachtarán d’fháil bháis, do thabhairt suas no do thuiteam fé mhí-chumas bhuan’. Article 28.6.2° of the 1937 Constitution expresses ‘if the Taoiseach should die, or become permanently incapacitated’ as ‘Má éagann an Taoiseach nó má ghabhann mithreoir bhuan é’. In Articles 63 and 68 of the 1922 Constitution, which Articles deal respectively with the Comptroller and Auditor General and judges of the Supreme Court, the High Court and all other courts, ‘for stated misbehaviour or incapacity’ is translated as ‘mar gheall ar dhroch-iompar no mí-chumas a luadhfar’ and ‘mar gheall ar mhí-iompar no mhí-chumas a luadhfar’ respectively. As we have already seen, the same English phrase in relation to the Comptroller and Auditor General and the judges is expressed as ‘de dheasca mí-iompair nó mithreora a luafar’ and ‘de dheasca mí-iompair nó mithreorach a luafar’ in Articles 33.5.1° and 35.4.1° respectively of the current Constitution.

Why did the drafters of the Irish version of the 1937 Constitution depart from ‘mí-chumas’ and take on ‘mithreoir’ to express ‘incapacity’? The answer may lie in Article 15 of the 1922 Constitution and the corresponding Article 16.1.1° of the current Constitution, where the terms ‘disability’ and ‘incapacity’ are found in association. Article 15 of the 1922 Constitution reads as follows (we shall be returning to this in the commentary on Article 12.4.1°): ‘Every citizen ... who is not placed under disability or incapacity by the Constitution or by law shall be eligible to become a member of Dáil Éireann’. This is translated as: ‘Gach saoránach ... ná beidh curtha fé mhí-ábaltacht ná fé mhí-chumas ag an mBunreacht ná ag an ndlí beidh sé intoghtha chun bheith ‘na theachta de Dháil Éireann’. The drafters of the Irish version of Article 16.1.1° of the 1937 Constitution used ‘míchumas’, in place of 1922’s ‘mí-ábaltacht’, to express ‘disability’ and called in ‘mithreoir’ to express ‘incapacity’: ‘Every citizen ... who is not placed under disability or incapacity by this Constitution or by law, shall be eligible for membership of Dáil Éireann’ is expressed as ‘Gach saoránach ... nach gcuirtear faoi mhíchumas nó faoi mhithreoir leis an mBunreacht seo ná le dlí, tá sé intofa ar chomhaltas Dháil Éireann’. The two terms are combined again in Article 16.1.3°:

No law shall be enacted placing any citizen under disability or incapacity for membership of Dáil Éireann

on the ground of sex .... *Ní cead aon dlí a achtú a chuirfeadh saoránach ar bith, toisc gur fear nó toisc gur bean an saoránach sin, faoi mhíchumas nó faoi mhithreoir maidir lena bheith ina chomhalta de Dháil Éireann.*

Irish translators in the first half of the twentieth century seem to have had a real difficulty translating ‘disability’/ ‘disablement’ as we see if we follow its trail in the Army Pensions Acts. In s16 of the Army Pensions Act, 1923, ‘disablement’ is translated as ‘dith’ (basically ‘loss; deprivation; destruction’) but in the First Schedule to that Act, ‘Wounds of ... internal organs ... involving total permanent disablement’ is translated as ‘Créachta in orgáin inmheánacha ... a fhágann duine ina bhuan-mhairtíreach ar fad’ (‘mairtíreach’ being a development based on the Latin loanword ‘martyr(ium)’). ‘Wound pensions’ (translated as ‘pinsin chréachta’) in that Act (No. 26 of 1923), becomes ‘disability pensions’ in s9 of the Army Pensions Act, 1927, which, corresponding to the 1922 Constitution, is translated as ‘pinsin mhí-ábaltachta’. In the First Schedule to the Army Pensions Act, 1932, ‘Disablement Pension’ is translated as ‘Pinsean Dithe’, with ‘temporary incapacity of’ being translated as ‘fé mhí-chumas sealadach’ in s7 of the same Act. We return to ‘pinsean mí-ábaltachta’ translating ‘disability pension’ in the Army Pensions Acts, 1937, 1941 and 1943. In the Second Schedule to the Army Pensions Act, 1946, however, ‘Degree of Disablement’ is translated as ‘An Grád Éagumais’, while in the First Schedule to the Army Pensions Act, 1949, this phrase is translated as ‘An Grád Míchumais’. Finally, in s6 of the Army Pensions (Increase) Act, 1949, ‘pinsean mithreora’ translates ‘disability pension’.

The ‘disability’ involved in those examples above from various Army Pensions Acts is, of course, a physical disability. While *Dinneen* includes ‘legal disability’ in his entry s.v. ‘mí-threoir’, as we have seen, we also have seen from the examples given by *L. Mc Cionnaith* in 1935 that he understood it to mean a physical disability. The occurrences of ‘disability’ in the Constitution involve not a physical but a legal disqualification. In Henry Murdoch’s *Dictionary of Irish Law* (revised second edition, 1993), we find the following entry s.v. ‘disability’:

*disability, person under.* A person who lacks legal capacity e.g. a minor or a person of unsound mind.

The entry s.v. ‘incapacity’ is very similar to this:

*incapacity.* Lack of legal power or competence e.g. due to being a minor or being of unsound mind.

The *Shorter Oxford Dictionary* has as its secondary meaning of ‘incapacity’, ‘legal disqualification, disability’ and states, ‘an instance of this from 1648’.

Looking at the earlier Acts, in s4(3) of the Garda Síochána (Temporary Provisions) Act, 1923, ‘If and whenever the Commissioner is incapacitated by illness from performing his duties ... during such incapacity’ is translated as ‘Má bhíonn agus nuair a bheidh an Coimisinéir gan bheith in án a dhualgaisí do chó-líona toisc é do bheith breoite ... faid a leanfidh an mí-chumas ... san’ and in s17(3) of the Railways Act, 1924, ‘if any standing member of the railway tribunal is incapacitated by prolonged illness ... from attending meetings of the tribunal’ is translated as ‘má bhíonn aon bhall seasmhach den bhinse bhóthair iarainn, tré bhreiteacht fhada ...

gan bheith ábalta ar theacht go dtí cruinnithe den bhinse'. In s18 of the Agricultural Wages Act, 1936, '... is so affected by any physical injury ... that he is incapacitated from earning the minimum rate' is translated as '(go bhfuil an duine sin) de dheascaibh aon díobhála cuirp ... gan bheith inniúil ar an ráta minimum san do thuilleamh'. 'Beidh ag Leas-Bhainisteoir Ginearálta a bheas ceaptha faoin alt seo, faid a leanfas an tsaoire nó an t-éagumas ar dá dheascaibh a ceapadh é nó go dtí go dtarláí roimhe sin é a chur as oifig nó é d'éag nó d'éirí as oifig, cumhachta uile an Bhainisteora Ghinearálta' translates 'A Deputy General Manager appointed under this section shall, during the continuance of the vacation or incapacity on account of which he is appointed or until he is sooner removed or dies or resigns, have all the powers ... of the General Manager' in s40(3) of the Harbours Act, 1946.

In *Téarmaí Dlí*, following the third Irish Legal Terms Order (S.I. No. 47 of 1948, Terms relating to Compensation for Workers), 'incapacity' is translated as 'éagumas', 'permanent incapacity' as 'éagumas buan' and 'I incapacitate' as 'éagumasaim'. 'Cumas' means 'capability, power' according to *Ó Dónaill* and 'éagumas' would literally mean 'without capability' or 'without power'. 'Éagumas' would therefore cover both physical disability and legal disqualification. In s4 of the Finance Act, 1990, we find 'he was totally incapacitated by physical or mental infirmity' translated as 'go raibh sé ... faoi éagumas iomlán le héiglíocht choirp nó mheabhrach'. 'Incapacity' in a context similar to that of the Constitution is found in s7(3)(a) of the Electoral (Amendment) Act, 1969, in relation to the manager of a county borough, where 'a person duly appointed either as deputy for such manager or to act in the place of such manager during his absence or incapacity' is translated as 'duine arna cheapadh go cuí mar ionadaí don bhainisteoir sin nó chun gníomhú in áit an bhainisteora sin le linn é a bheith as láthair nó faoi éagumas'. Similarly, referring to Boards of Conservators in s33(1) of the Fisheries (Consolidation) Act, 1959, 'the seat of any elected member of the board becomes vacant by death, resignation, incapacity, or disqualification' is translated as 'ionad aon chomhalta thofa den bhord a bheith folamh trí bhás, éirí as oifig, éagumas nó dícháiliú'.

Looking at '(permanently) incapacitated' in the modern Acts, in s4 of the Finance Act, 1990, 'that ... he was totally incapacitated by physical or mental infirmity' is translated as 'go raibh sé faoi éagumas iomlán le héiglíocht choirp nó mheabhrach'. In Article 4(c) of Annex II to the Multilateral Investment Guarantee Agency Act, 1988, 'In case any arbitrator ... shall resign, die, or become incapacitated' is translated as 'I gcás aon eadránaí ... d'éirí as, d'fháil bháis nó d'éirí éagumasaithe'. On the other hand, 'who ... is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and had become so permanently incapacitated before he had attained the age of 21 years' is translated as 'atá ... buanéagumasaithe, mar gheall ar éiglíocht meabhrach nó coirp, ar é féin a chothabháil agus gur tháinig sé chun bheith buanéagumasaithe amhlaidh sula raibh 21 bliain d'aois slán aige' in s4 of the Finance Act, 1986. 'Má fhaigheann comhréiteoir nó eadránaí bás, nó má éiríonn sé míchumasach, nó má éiríonn sé as oifig' translates 'if a conciliator or an arbitrator should die, become incapacitated, or resign' in s1 of Article 56 of the Second Schedule to the Arbitration Act, 1980. In s33 of the Finance Act,

1979, 'a child ... who is permanently incapacitated by reason of mental or physical infirmity' is translated as 'leanbh ... atá éagumasaithe go buan de bhíthin éiglíocht coirp nó meabhrach' while in s10 of the Finance Act, 1969, 'a child ... who ... is permanently incapacitated by reason of mental or physical infirmity from maintaining himself and had become so permanently incapacitated before he had attained the age of 21 years' is translated as 'aon leanbh leis ... atá faoi bhuan-éagumas mar gheall ar éiglíocht mheabhrach nó choirp chun é féin a chothabháil agus gur tháinig an buan-éagumas sin air sula raibh 21 bliain d'aois slán aige'.

Finally, Professor Máirtín Ó Murchú suggests expressing 'or becomes permanently incapacitated, such incapacity being established to the satisfaction of the Supreme Court' simply as 'go dtarlóidh faoi bhuan-éagumas a shuífeair chun sástacht na Cúirte Uachtaraí'.

*i seilbh oifige* Literally 'in possession of office'. This is a standard translation of 'holds office' in the Acts. In s2(1) of the Censorship of Films Act, 1923, 'who shall hold office for such time and on such terms as the Minister shall ... appoint' is translated as 'a bheidh i seilbh oifige ar feadh pé aimsir agus ar pé téarmaí a cheapfidh an t-Aire'. In s55(2) of the Forestry Act, 1946, 'every such member shall hold office for five years from the date of his appointment but shall be eligible for re-appointment at the expiration of his term of office' is translated as 'beidh gach comhalta den tsórt sin i seilbh oifige go ceann cúig bliana ó dháta a cheaptha ach beidh sé inathcheaptha ar a théarma oifige a bheith caite'. 'A member of the Commission shall hold office on such terms and conditions as may be fixed' is translated as 'Beidh comhalta den Choimisiún i seilbh oifige ar cibé téarmaí agus coinníollacha a socraíodh' in s4(10) of the Imposition of Duties (Dumping and Subsidies) Act, 1968. Finally, in s10 of the Schedule to the Employment Equality Act, 1977, '(Each ordinary member) ... shall hold office for five years' is translated as 'sealbhóidh sé oifig go ceann cúig bliana'.

'Seilbh' is translated as 'possession' in *Téarmaí Dlí* and as 'occupancy, possession' in *Ó Dónaill*, who cites '*Cé atá i seilbh na feirme anois?* Who occupies the farm now?' and '*an té atá sa tseilbh*, the person in possession'. *Dinneen* translates 'i seilbh' as 'in possession of, in a position to', citing '*cuirim mo chuid i seilbh mo chlainne*, I transfer my property to my children', '*é bheith i seilbh coiméadta do dhéanamh dóibh*, it being in his power to keep guard for them' and '*táim-se i seilbh na cainnte*, I am speaking, "have the floor"'. 'Seilbh' is the dative singular of 'sealbh', which is translated by *Dinneen* principally as 'possession, heritage, portion, property', 'sealbh Chonnla' expressing 'the Promised Land'. 'Selb', in concrete sense, is translated principally as 'property, appurtenance, domain, possessions' and as 'possession, ownership', in abstract sense, in DIL. 'I seilb x' is translated therein as 'in (the) possession of x' and 'under the protection of x' or 'protecting x', 'co mbeth in sruth 'na sáer-s(h)eilb' ('that the river should be her freehold') being cited from the twelfth-century *Book of Leinster*, for example. See further the commentary on Article 30.6.

*ón lá* Literally 'from the day'. 'From the date' is again expressed as 'ón lá' in Article 27.5.1<sup>o</sup>, 'after the date' being expressed as 'tar éis an lae' in Articles 25.2.1<sup>o</sup> and 26.3.3<sup>o</sup>.

In Article 48, 'prior to the date of the coming into operation of this Constitution' and 'as on and from that date' are expressed respectively as 'roimh lá an Bunreacht seo a theacht i ngníomh' and 'an lá sin agus as sin amach', the former phrase being similarly expressed in Article 50.1. 'Ó lá a céad-tionóil' expresses 'from the date of its first meeting' in Article 16.5 and 'at the date of a dissolution of Dáil Éireann' is expressed as 'lá lánscotha Dháil Éireann' in Article 28.11.2°.

'Dáta' expresses 'date' when both 'day' and 'date' are found in association in the same sentence. 'Ninety days from the date of its enactment' is expressed as 'nócha lá ó dháta a achtaithe' in Article 24.3; 'on a date which is earlier than the fifth day after such date as aforesaid' is expressed as 'níos luaithe ná an cúigiú lá tar éis an dáta réamhráite' in Article 25.2.2°; 'lá nach déanaí ná ceithre lá tar éis an dáta' expresses 'not later than four days after the date' in Article 27.3 and 'lá nach déanaí ná deich lá tar éis an lae' expressing 'not later than ten days after the date' in Article 27.4.1°, with 'lá nach déanaí ná aon lá dhéag tar éis an lae' expressing 'not later than eleven days after the date' in Article 27.6. 'Not later than ten days after the date of his appointment or such later date ...' is expressed as 'ar dháta nach déanaí ná deich lá tar éis lae a cheaptha, nó dáta is déanaí ná sin' in Article 34.5.3°. In Article 12.3.3° 'not later than, and not earlier than the sixtieth day before, the date of the expiration of the term of office of every President' is expressed as 'lá nach déanaí ná dáta dheireadh théarma oifige gach Uachtarán ar leith agus nach luaithe ná an seascaidh lá roimh an dáta sin', 'lá nach déanaí ná an seachtú lá tar éis an dáta' expressing 'not later than the seventh day after the date' in Article 26.1.2° and 'lá nach déanaí ná seasca lá tar éis an cheist a chur faoina breith' expressing 'not later than sixty days after the date of such reference' in Article 26.2.1°. Finally, note that 'at the earliest practicable date' is expressed as 'chomh luath agus is féidir é' in Article 28.3.2° and 'at the date of their commission' is expressed as 'le linn a ndéanta' in Article 15.5.

'Date' is rendered literally, as 'dáta', in Amendments to the Constitution. Unlike the examples above, 'at the date of such enrolment' is rendered as 'ar dháta an chóip sin a chur isteach ina hiris amhlaidh' in Article 25.5.3°, which subsection was inserted by the Second Amendment of the Constitution Act, 1941. In the Amendment contained in Article 41.3.2°, 'ar dháta thionscnamh na n-imeachtaí' renders 'at the date of the institution of the proceedings'. Finally, in s3 of the new Article 28A proposed in the Twentieth Amendment of the Constitution (No. 2) Bill, 1999, 'not later than the end of the fifth year' is rendered as 'tráth nach déanaí ná deireadh an cúigiú bliain'.

The phrase 'from the date' is translated literally as 'ón dáta' in the modern Acts and in the *Standing Orders* of Dáil Éireann. 'Lá', however, while meaning 'daytime' and 'daylight', also has the sense of a 'twenty-four hour period' – see *Ó Dónaill* s.v. 'lá' 1(c). *De Bhaldraithe* translates 'at some later date' as 'lá is faide anonn', for example, and 'latest date' as both 'an dáta is déanaí' and 'an lá deireanach'.

Turning to the Acts, in s105(1) of the Finance Act, 1983, 'Simple interest ... shall be payable on tax from the date upon which it became due' is translated as 'Beidh ús simplí ... iníochta ar cháin ón dáta a mbeidh sí dlite'. 'Ar an dáta agus ón dáta ar a dtiocfaid chun bheith ina maoin den tsórt san' translates 'as on and from the date upon which they become such property' in s5(b) of the Minerals

Development Act, 1940. In s8(5) of the Housing (Building Facilities) Act, 1924, 'within a fortnight from the date of the passing of this Act' is translated as 'laistigh de choicíos o dháta rithite an Achta so'. Note that in s5 of the Schedule to the Pilotage Order Confirmation Act, 1927, 'lodged with the Secretary to the Authority not later than the day preceding the day of the meeting' is translated as 'do lóisteáil le Rúnaí an Údaráis an lá roimh lá an chruinnithe an tráth is déanaí dhe'. 'Not later than' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ar ... an tráth is déanaí dhe' and as 'ar thráth nach déanaí ná ...' respectively in the *Proceedings* of Dáil Éireann, 1927, p. 248 and 1928, p. 316.

*a rachaidh i gcúram oifige* Note that the enrolled text has no relative particle, i.e. 'ón lá rachaidh' as against 'ón lá a rachaidh' in the popular edition. 'Enters into the care/responsibility of office' or 'takes charge / takes up the duty of office' fully expresses 'enter into office'. 'Cúram' is translated as 'care, responsibility' in *Ó Dónaill*, who cites '*dul i gcúram ruda*, to take charge of something'. Like English 'charge', 'cúram' has the secondary sense of 'family'. *Dinneen* translates 'cúram' as 'care, thought, charge, provision, office, employment; concern, interest, business, responsibility', citing the phrase 'seacht gcúramaí an tsléibhe', literally 'the seven concerns of the mountain', translated by *Dinneen* as 'multifarious (unnecessary) responsibilities'. No early examples of this word are cited in DIL, where it is reported to have perhaps come from Latin 'curam'.

Looking at the Acts, in s5(3) of the Defence Forces Act, 1937, 'Until the first President enters upon his office' is translated as 'Go dtí go raghaidh an chéad Uachtarán i seilbh a oifige'. In s3(1) of the Presidential Seal Act, 1937, however, in accordance with the wording of the present Article, that same clause is translated as 'Go dtí go raghaidh an chéad Uachtarán i gcúram a oifige'. 'The head of a consular post shall not enter upon his duties until ...' is translated as 'ní rachaidh ceann poist chonsalachta i mbun a dhualgas go dtí go ...' in s3 of Article 12 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967. Regarding 'into office', in s3(e) of the Local Government (Dissolved Authorities) Act, 1935, 'the newly elected members of such local authority shall come into office on the day on which they would by law have come into office' is translated as 'tiocfaidh baill nua-thoghtha an údaráis áitiúla san in oifig an lá thiochfaidís in oifig do réir dli' and 'na dátaí ar a dtiocfaidh baill in oifig tar éis toghacháin chinn trí mbliain' translates 'the dates of the coming into office after a triennial election' in s45(4)(a) of the Local Government Act, 1941. In s16(a) of the Local Elections (Petitions and Disqualifications) Act, 1974, 'the persons elected at such election shall be deemed not to have come into office' is translated as 'measfar nár tháinig na daoine a toghadh sa toghchán sin in oifig'.

*mura dtarlaí* This is the present subjunctive of 'tarlaigh', 'happen, occur'. 'Muna dtárluighidh' is the form in the enrolled text. The third person singular, masculine, pronoun 'sé' is understood here, as it is after 'go n-éagfaidh' and 'go n-éireoidh' in 'go n-éagfaidh nó go n-éireoidh as oifig'.

The subjunctive is used in Classical Modern Irish in a conditional clause after the negative conjunctive particle

'muna' ('mura' being the standard Modern Irish form) – see Damian McManus in Kim McCone et al., op. cit., p. 421. *An Caighdeán Oifigiúil* allows the future tense to be used instead of the present subjunctive where it does not have an optative function. 'Go dté' (featuring as optative in the phrase 'go dté tú slán' ['safe home']) and 'mura dtarlaí' in 'nó go dté comharba an Uachtaráin a cheap é i gcúram a oifige, is é sin mura dtarlaí roimhe sin go n-éagfaidh an comhalta sin' ('until the successor of the President by whom he was appointed shall have entered upon his office ... unless he previously dies'), for example, in Article 31.5, would generally be written today as 'go rachaidh' and 'mura dtarlóidh'. The following other examples of the present subjunctive are found in the Constitution, with the corresponding future forms in the column on the right:

Article	Subjunctive	Future
12.3.1 <sup>o</sup>	mura dtarlaí	mura dtarlóidh
18.9	mura n-éaga nó mura n-éirí as	mura n-éagfaidh nó mura n-éireoidh as
18.9	mura ndícháilítear é	mura ndícháileofar é
22.2.6 <sup>o</sup>	mura gcuire an Coiste	mura gcuirfidh an Coiste
22.4.2 <sup>o</sup>	mura ndéana	mura ndéanfaidh
28.9.4 <sup>o</sup>	mura ndéana	mura ndéanfaidh
29.5.2 <sup>o</sup>	mura dtoilí	mura dtoileoidh
30.5.3 <sup>o</sup>	Mura ndéana	Mura ndéanfaidh
31.5	go dté ... mura dtarlaí	go rachaidh ... mura dtarlóidh
32	mura gcomóra	mura gcomórfaidh
33.5.1 <sup>o</sup>	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
34.5.3 <sup>o</sup>	sula dté	sula rachaidh
35.4.1 <sup>o</sup>	mura rithid Dáil Éireann agus Seanad Éireann	mura rithfidh Dáil Éireann agus Seanad Éireann
47.2.2 <sup>o</sup>	mura ndiúltaid dó	mura ndiúltóidh siad dó
50.2	mura n-achtaí	mura n-achtóidh

Looking at the Acts for similar constructions to that of Article 12.3.1<sup>o</sup>, 'Gach crónéir a cheapfar tar éis tosach feidhme an Achta seo, beidh sé, mura dtarlóidh roimhe sin go n-éagfaidh sé, go n-éireoidh sé as oifig nó go gcuirfear as oifig é, i seilbh oifige nó go slánóidh sé seachtó bliain d'aois' translates 'Every coroner appointed after the commencement of this Act shall, unless he sooner dies, resigns or is removed from office, hold office until he reaches the age of seventy years' in s11(1) of the Coroners Act, 1962. In s2 of the First Schedule to the Údarás na Gaeltachta Act, 1979, 'A member of an tÚdarás shall, unless he sooner dies, resigns becomes disqualified or is removed from office, hold office' is translated as 'Beidh comhalta den Údarás i seilbh oifige, mura tuisce a éagfaidh sé, a éireoidh sé as oifig, a thiocfaidh sé faoi dhícháilíocht nó a chuirfear as oifig é', while in s13(4)(a) of the Arts Act, 1973, 'every member appointed under subparagraph (i) of this paragraph shall, unless he sooner dies or resigns hold office' is translated as 'beidh gach comhalta a cheapfar faoi fhomhír (1) den mhír seo, mura n-éagfaidh sé nó mura n-éireoidh sé as oifig roimhe sin, i seilbh oifige' and in s5 of the Broadcasting Authority (Amendment) Act, 1976, 'An adviser under this section shall, unless he previously dies or resigns, continue as adviser' is translated as 'Leanfaidh comhairleoir faoin alt seo de bheith ina chomhairleoir ... mura n-éagfaidh sé nó mura n-éireoidh

sé as oifig roimhe sin'. 'The chairman appointed before the appointed day shall unless he sooner dies, resigns, becomes disqualified or is removed from office, hold office for a period of one year' is translated as 'Murab éag, éirí as, teacht faoi dhícháilíocht nó cur as oifig roimhe sin dó, beidh Cathaoirleach a bheidh arna cheapadh roimh an lá ceaptha i seilbh oifige go ceann tréimhse bliana' in s8 of the Pigs and Bacon (Amendment) Act, 1961.

Looking at earlier Acts, in s4(1) of the Medical Practitioners Act, 1927, 'every member of the Council shall, unless he sooner dies, resigns, or becomes disqualified, hold his office as such member for the term of five years' is translated as 'marab éag, eirghe as, no teacht fé dhícháilíocht roimhe sin do beidh gach ball den Chomhairle i seilbh a oifige mar bhall den tsórt san ar feadh téarma cúig mbliain' and in s14(1) of the Milk (Regulation of Supply and Price) Act, 1936, 'Every ordinary member ... of a board shall, unless he sooner dies, resigns or becomes disqualified, hold office' is translated as 'Marab éag no eirghe as no teacht fé dhícháilíocht roimhe sin dó, beidh gach gnáth-bhall de bhord ... i seilbh oifige'.

'Mura rud é' performs the role of 'tarlaigh' in s13(3) of the Local Government (Planning and Development) Act, 1990, where 'A notice under subsection (1) shall continue in force ... unless before the expiration of that period ...' is translated as 'Fanfaidh fógra faoi fho-alt (1) i bhfeidhm ... mura rud é, sula mbeidh an tréimhse sin caite ...'. Similarly in s4(3) of the Air Navigation and Transport Act, 1975, 'scaoilfear ansin é mura rud é roimh dheireadh na tréimhse sin go gcúiseofar é' translates 'shall then be released unless before the expiration of that period ... he is charged'.

*deireadh an téarma* Literally 'the end of the term'. In the Acts we find 'upon the expiration of (that) period' translated as 'ar éag don tréimhse sin', 'ar dhul in éag don tréimhse', 'ar bheith caite don tréimhse sin', 'ar thréimhse ... a bheith caite', etc. In *Téarmaí Dí* 'ar éag don léas' translates 'on the expiration of the lease'. In s23(3) of the Housing (Miscellaneous Provisions) Act, 1931, 'within six weeks after the expiration of that period' is translated as 'laistigh de shé sheachtaine tar éis deireadh na tréimhse sin', with 'the owner or owners of any building ... shall demolish that building ... before the expiration of six weeks from the date ...', in s8(1) of the same Act, being translated as 'déanfaidh únaer no únaerí aon fhoirginte ... an fhoirgint sin do leagadh ... fé cheann sé seachtaine ón dáta ...'. 'Roimh dheireadh na tréimhse sin' translates 'before the expiration of that period' in s11(4) of the Factories Act, 1955, in s29(1) of the Road Traffic Act, 1961, in s58(1)(b) of the Mines and Quarries Act, 1965 and in s19(a) of the Road Traffic Act, 1968, with 'sula mbeidh an tréimhse sin caite' translating this clause in s7(4) of the Solicitors (Amendment) Act, 1960. In s47(1)(b)(ii) of the Sale of Goods and Supply of Services Act, 1980, however, we find a more literal translation in 'gur thug an faighteoir fógra don seoltóir 30 lá ar a laghad roimh dhul in éag don tréimhse sin', which translates 'not less than 30 days before the expiration of that period the recipient gave notice to the sender'. 'The term of office ... shall ... terminate on the expiration of the period', in s34(3) of the Postal and Telecommunications Services Act, 1983, is translated as 'Críochnóidh téarma oifige ... ar dheireadh a bheith leis an tréimhse'.

Note, finally, that ‘i gceann tréimhse’ expresses ‘at the end of a period’ in Article 21.2.1<sup>o</sup>.

*go n-éagfaidh* ‘Éag’ is translated as ‘expiration’ in *Téarmaí Dlí*, where ‘ar éag don léas’ is translated as ‘on the expiration of the lease’, as we saw above. On the other hand, ‘dearbú i mbéal báis’ and ‘dleachtanna báis’ are translated as ‘dying declaration’ and ‘death duties’ respectively therein. The verb ‘éag’ is translated as ‘die, expire, die out, become extinct’ in *Ó Dónaill*. ‘Éag’ would today be regarded as a more poetic and older term for death than ‘bás’, even though we have many more earlier examples of ‘bás’, verbal noun of ‘báid’, than of ‘éc’, which is translated basically as ‘death’ in DIL. Note how ‘Is ionann an bás an t-éag is an bás’ is translated as ‘it is six of one and half a dozen of the other’ in *Ó Dónaill*. Note, however, how ‘d’fháil bháis’ replaces ‘d’éag’ of earlier Acts in the citation from the Multilateral Investment Act, 1988, above. See further the commentary on Article 28.6.2<sup>o</sup>.

*go ngabhfaidh* ‘Go ngeobhaidh’ is the form in the enrolled text, and we find this form in Article 31.5 of the popular edition. ‘Gabh’ in this context is translated as ‘be effected by’ in *Ó Dónaill*, who cites ‘*Ghabh tinneas, fiabhras, mé*, I took sick, a fever. *Ghabh tart, ocras, é*, he got thirsty, hungry. *Má ghabhann tionóisc sibh*, if you meet with an accident’. *Dinneen* cites ‘*ghabhann truaighe, fearg, scannradh, tinneas, confadh catha, me*, pity, anger, terror, illness, the rage of battle seizes me’. See further the commentary on Article 31.5.

*go sásamh* ‘To the satisfaction of’ would today be translated in the Acts as ‘chun sástacht’ – ‘Where ... it is shown to the satisfaction of the court’, in s169(9) of the Social Welfare (Consolidation) Act, 1981, for example, is translated as ‘Más rud é ... go suítear chun sástacht na cúirte’. Both ‘sásamh’ and ‘sástacht’ are translated as ‘satisfaction’ in *Ó Dónaill*, for example; the different shades of meaning can be seen in *Dinneen* whose entry s.v. ‘sásamh’ commences with ‘satisfying, pleasing; satisfaction, contentment, comfort, gratification’, whereas his entry s.v. ‘sástacht’ commences with ‘sufficiency, competence, comfort, satisfaction’.

*suítear* ‘Suím cúis’ is translated as ‘I show cause’ in *Téarmaí Dlí*. ‘Cúis, ceart, a shuí’ is translated as ‘to establish a cause, a right’ in *Ó Dónaill*. ‘I establish’ and ‘I prove’ are two of the secondary senses included in *Dinneen* s.v. ‘suidhim’, the primary meaning being, of course, ‘I sit’. See the commentary on Article 40.3.1<sup>o</sup> regarding ‘suigh’ in the Constitution.

*éirigh as* Literally ‘rise out of’. *Ó Dónaill* gives ‘give up, relinquish’ as secondary senses of ‘éirigh as’, citing ‘*éirí as obair*, to quit work’ and ‘*d’éirigh sé as a phost*, he resigned from his post’. *De Bhaldraithe* translates ‘resign’ as ‘éirim as (post)’ and ‘resignation’ as ‘éirí as’.

### Standardised gender-proofed Irish text

Beidh an tUachtarán i seilbh oifige go ceann seacht mbliana ón lá a rachaidh i gcúram a oifige nó a hoifige<sup>1</sup> mura dtarlóidh roimh dheireadh an téarma sin go n-éagfaidh nó go n-éireoidh as oifig<sup>2</sup> nó go gcuirfear as oifig é nó í,

nó go ngabhfaidh míthreoir bhuan é nó í agus go suítear sin go sásamh na Cúirte Uachtaraí agus í comhdhéanta de chúigear breitheamh ar a laghad.

### Variants

- 1 ‘i gcúram oifige’
- 2 ‘go n-éagfaidh an tUachtarán nó go n-éireoidh sé nó sí as oifig’

### Direct gender-proofed translation

Beidh an tUachtarán i seilbh oifige go ceann seacht mbliana ón dáta a rachaidh sé nó sí i gcúram oifige<sup>1</sup> mura rud é<sup>2</sup>, sula mbeidh an tréimhse sin caite<sup>3</sup>, go bhfaighidh an tUachtarán bás<sup>4</sup> nó go n-éireoidh<sup>5</sup> as<sup>6</sup> nó go gcuirfear as oifig é nó í, nó go dtiocfaidh sé nó sí chun bheith faoi éagumas buan<sup>7</sup> is éagumas<sup>8</sup> a shuífear chun sástacht na Cúirte Uachtaraí agus í comhdhéanta de chúigear breitheamh ar a laghad.

### Variants

- 1 ‘i mbun oifige’, ‘in oifig’
- 2 ‘mura dtarlóidh’, ‘murab amhlaidh’
- 3 ‘roimh dhul in éag don tréimhse sin’, ‘roimh dheireadh na tréimhse sin’
- 4 ‘go n-éagfaidh an tUachtarán’
- 5 ‘go n-éireoidh sé nó sí’
- 6 ‘as oifig’
- 7 ‘faoi bhuanéagumas’, ‘go n-éireoidh sé nó sí buan-éagumasaithe’, ‘go dtiocfaidh sé nó sí chun bheith buanéagumasaithe/buan-éagumasaithe’
- 8 ‘go dtarlóidh faoi bhuan-éagumas’

## ARTICLE 12.3.2<sup>o</sup> AIRTEAGAL 12.3.2<sup>o</sup>

### TÉACS GAEILGE

Duine atá nó a bhí ina Uachtarán, is intofa chun na hoifige sin é aon uair amháin eile, ach sin a mbeidh.

### LITERAL ENGLISH TRANSLATION

A person who is or who was a President, (he) is / shall be electible to that office one (single) other time, but that is all.

### ENGLISH TEXT

A person who holds, or who has held, office as President, shall be eligible for re-election to that office once, but only once.

### Divergences between the official texts

- 1 ‘(He) shall be eligible for re-election once’ is expressed as ‘is intofa chun na hoifige sin é aon uair amháin eile’ (‘He is / shall be electible to that office one (single) other time’) in the Irish text.
- 2 ‘A person who holds, or who has held, office as President’ is expressed as ‘Duine atá nó a bhí ina Uachtarán’ (‘A person who is or who was a President’) in the Irish text.

### Commentary

*intofa* This headword is translated as ‘eligible for election’ in *Ó Dónaill*. Following this, ‘eligible for re-election’ would

be 'in-atofa' (< 'in-ath-thofa'). 'Eligible' alone is translated as 'inainmnithe, intofa, i dteideal chun' in *De Bhaldraithe* – who, however, translates 'eligible for a position' as 'incheaptha do phost' – 'eligibility' being translated there as 'intofacht'. *Dinneen* translates 'ion-toghtha' ('iontoghtha' being the form in the enrolled version) as 'eligible, deserving to be chosen, fit to choose'. 'Intoga' is translated as 'acceptable' in DIL, only two citations of which are given, with 'permissible' being suggested as a possible translation of 'intoga' in the second citation. The verb 'do-goa', the earlier form of 'togaid', is translated as 'chooses, elects, selects' in DIL, where this verb is cited as glossing Latin 'eligere' in the eighth-century Würzburg Glosses on the Pauline Epistles. DIL gives 'act of electing, election' as a secondary sense of the verbal noun of 'do-goa', 'toga', citing 'Carulus ... do toga docom epocoi Ola Finn' from the *Annals of Connacht*, s.a. 1307. 'Intofa' is composed of the prefix 'in-', translated in DIL as 'capable of, fit for, worthy of', and the genitive of the verbal noun 'toghadh' and past participle of the verb 'togh', translated primarily as 'choose, select', with secondary sense of 'elect', in *Ó Dónaill*. 'Intofa' could therefore theoretically be translated as 'electible', 'selectible', 'eligible', 'eligible for election' or 'eligible for selection'. 'Beidh sé iontoghtha chun bheith 'na theachta de Dháil Éireann' translates '(he) shall be eligible to become a member of Dáil Éireann' in Article 15 of the 1922 Constitution, for example. Note also that 'A person shall not be eligible at any particular time for election to the office of conservator' is translated as 'Ní bheidh duine incheaptha aon tráth áirithe chun a thofa chun oifig choimeádaí' in s5 of the Fisheries Amendment Act, 1962.

Turning to the Acts as regards 'eligible for re-election', in s1 of Article 10 of the Second Schedule to the Arbitration Act, 1980, 'The Secretary-General ... shall be elected by the Administrative Council ... and shall be eligible for re-election' is translated as 'Toghfaidh an Chomhairle Riaracháin an tArd-Rúnaí ... agus féadfar iad a atoghadh'. In s14(3) of the Credit Union Act, 1966, 'a person shall not be eligible for re-election or appointment to the board of directors' is translated as 'ní bheidh duine inatofa ná incheaptha chun an bhoird stiúrthóirí'. Finally, 'Féadfar stiúrthóir a bheidh ag scor dá oifig a atoghadh' translates 'A retiring director shall be eligible for re-election' in s94 of the First Schedule to the Companies Act, 1963.

Looking at the earlier Acts, in s15(3) of the Currency Act, 1927, 'A Chairman retiring on the expiration by effluxion of time of his term of office shall be eligible for re-election or re-nomination' is translated as 'Aon Chathaoirleach a raghaidh as oifig ar bheith caithte dá théarma oifige le himeacht aimsire, beidh sé ion-aththoghtha no ion-athainmnithe'. Similarly, 'Gnáth-bhall a bheidh ag dul as oifig ar bheith caithte dá théarma oifige tré imeacht aimsire, beidh sé ion-aththoghtha' translates 'An ordinary member retiring on the expiration by effluxion of time of his term of office shall be eligible for re-election' in s14(2) of the Milk (Regulation of Supply and Price) Act, 1936. Finally, 'beidh sé inatofa' translates 'shall be eligible for re-election' in s6 of the fourth Schedule to the Transport Act, 1944. See further the commentary on Articles 12.4.1° and 16.1.1°.

*ina Uachtarán* Owing to the upper-case 'U', one could hardly argue that, on the grounds that the definite article

does not precede 'Uachtarán', this need not refer to the President of Ireland – Article 12.1 states that 'Uachtarán na hÉireann' will be called 'the President', 'an tUachtarán', in the Constitution.

The direct translation of 'who holds, or who has held, office as President' would be 'atá, nó a bhí, i seilbh oifige mar Uachtarán' – see Article 12.3.1° where 'The President shall hold office for seven years' is expressed as 'Beidh an tUachtarán i seilbh oifige go ceann seacht mbliana'. See the commentary on that subsection for examples from the Acts in general. The phrase 'i seilbh oifige mar' also has the advantage of not having to be gender-proofed.

*sin a mbeidh* 'Beidh sé i bhfeidhm ar feadh tréimhse nócha lá ó dháta a achtaithe, ach sin a mbeidh' expresses 'it shall remain in force for a period of ninety days from the date of its enactment and no longer' in Article 24.3. While the phrase 'sin a bhfuil' ('that is all') is very familiar, this version in the future tense hangs uncomfortably on to the end of the subsection. 'Sin an méid' might also be considered somewhat colloquial, 'ach ní bheidh ann ach an t-aon uair amháin eile sin' being considered perhaps somewhat wordy. As regards 'sin an méid', see s65(3) of the First Schedule to the European Assembly Elections Act, 1977, where 'one request (and not more) may be made by him' is translated as 'féadfaidh sé féin ... a iarraidh d'aisce uair amháin (agus sin an méid)'. This same English phrase is translated as 'féadfaidh sé féin ... iarraitas amháin (agus sin uile) a dhéanamh' in s62 of the Electoral Act, 1963. Professor Máirtín Ó Murchú refers to the phrase 'don aon uair amháin' and suggests translating 'shall be eligible for re-election to that office once, but only once' simply as 'féadfar ... a atoghadh chun na hoifige sin don aon uair amháin'.

*aon uair amháin eile* Regarding the use of both 'aon' and 'amháin' here, see *Ó Dónaill* s.v. 'amháin', who cites '(Aon) lá amháin tháinig sé isteach anseo, one day, on a certain day, he came in here'. Note that *De Bhaldraithe* gives 'aon uair amháin' as a translation of 'once', translating 'once more, once again' as 'aon uair amháin eile' and 'aris eile'.

*Duine* Note that 'aon' precedes 'duine' in Article 12.4.4°, for example: 'Tig le haon duine atá nó a bhí ina Uachtarán ...' ('Former or retiring Presidents may ...'). 'A person who ...' is often translated as 'Aon duine a ...' in the Acts, this phrase also translating 'Any person who ...'.

### Gender-proofed Irish text

Duine atá nó a bhí ina Uachtarán nó ina hUachtarán, is intofa chun na hoifige sin é nó í aon uair amháin eile, ach sin a mbeidh.

### Direct translation

Féadfar aon duine atá nó a bhí i seilbh oifige mar Uachtarán a atoghadh<sup>1</sup> chun na hoifige sin aon uair amháin<sup>2</sup>, ach sin uile<sup>3,4</sup>.

### Variants

- 1 'Aon duine atá nó a bhí i seilbh oifige mar Uachtarán, beidh sé nó sí in-atofa', 'Aon duine atá nó a bhí i seilbh oifige mar Uachtarán, beidh sé nó sí i dteideal go ndéanfar é nó í a atoghadh'

- 2 'chun na hoifige sin uair amháin'  
 3 'ach sin an méid', 'ach ní bheidh ann ach an t-aon uair amháin eile sin'  
 4 'a atoghadh chun na hoifige sin don aon uair amháin'

## ARTICLE 12.3.3<sup>o</sup> AIRTEAGAL 12.3.3<sup>o</sup>

### TÉACS GAELIGE

Ní foláir toghchán d'oifig an Uachtaráin a dhéanamh lá nach déanaí ná dáta dheireadh théarma oifige gach Uachtaráin ar leith agus nach luaithe ná an seacadú lá roimh an dáta sin, ach má chuirtear an tUachtarán as oifig, nó má tharlaíonn dó (roimh é a dhul i gcúram a oifige nó dá éis sin) é d'éag nó é d'éirí as nó míthreoir bhuan arna suíomh mar a dúradh dá ghabháil, ní foláir toghchán d'oifig an Uachtaráin a dhéanamh taobh istigh de sheasca lá tar éis an ní sin a tharlú.

### LITERAL ENGLISH TRANSLATION

An election for the office of (the) President must be held on a day not later than the date of the end of the term of office of each particular President and not earlier than the sixtieth day before that date, but if the President is put out of office, or if (before he enters into the responsibility / takes up the duty of his office or after that) he happens to die or resign or permanent disability/misguidance/derangement established as said seizes him, an election for the office of (the) President must be held within sixty days after that thing happens.

### ENGLISH TEXT

An election for the office of President shall be held not later than, and not earlier than the sixtieth day before, the date of the expiration of the term of office of every President, but in the event of the removal from office of the President or of his death, resignation, or permanent incapacity established as aforesaid (whether occurring before or after he enters upon his office), an election for the office of President shall be held within sixty days after such event.

### Divergences between the official texts

- 1 In the Irish text, the removal from office of the President comes before the list of 'events' or happenings within sixty days after which an election for the office of President is to be held, unlike the English text, where 'in the event' precedes the reference to the removal from office.
- 2 'Every President' is expressed as 'gach Uachtarán ar leith' ('each particular President') in the Irish text.
- 3 'Not later than' is expressed as 'lá nach déanaí ná' ('on a day not later than') in the Irish text.
- 4 'Whether occurring' is not specifically expressed in the Irish text.
- 5 'Shall be held' is expressed as 'ní foláir ... a dhéanamh' ('must be held') in the Irish text.
- 6 As we saw in the previous subsection, 'míthreoir', the Irish term expressing 'incapacity', today has the sense of 'misguidance, mental distraction, derangement'.

Note that the Irish version of this subsection was amended to a greater degree than the English version in the Second Amendment of the Constitution Act, 1941. The English text was amended by the insertion of the words and brackets "(whether occurring before or after he enters upon his office)" immediately after the words "as aforesaid". The amendment of the Irish text, however, involved the deletion of "nó má éagann, nó má éirgheann as, nó má ghabhann míthreoir bhuan é agus go suidhfear sin mar adubhradh" and the insertion in their place of the words and brackets "nó má thárluigheann dó (roimh é do dhul i gcúram a oifige nó dá éis sin) é d'éag nó é d'éirghe as nó míthreoir bhuan ar n-a suidheamh mar adubhradh dá ghabháil". If an Irish translation of "(whether occurring before or after he enters upon his office)" was simply added after "agus go suidhfear sin mar adubhradh" (literally 'and that is established as is said'), it is this clause – which, in the Irish text, unlike the English, is a clause in itself – which would be qualified by the words inserted in brackets, i.e. whether the establishment of the incapacity occurred before or after the President enters office. Note, however, that the clause on the establishment of the incapacity was itself also amended. The use of the phrase 'má thárluigheann' in this Amendment brings this subsection into conformity with Article 12.7.

### Commentary

*má tharlaíonn dó* 'Tarlaigh' is translated as 'happen, occur' in *Ó Dónaill*, who cites *'tharla dom a bheith i láthair, I happened to be present'*. 'Tarla' comes from \*to-ro-la-. The root 'la-' was used in Old Irish side by side with 'cuir-' in the subjunctive and preterite of the deponent verb 'do-cuirethar' ('put', 'invites'). The gloss 'anasirchríde ished doralad hitossuch' ('what is perishable has been put first') is found in the eighth-century Würzburg Glosses on the Pauline Epistles, for example. In later Middle Irish, according to DIL, 'doralá' or 'tarla' exists independently in the sense of 'met, happened'; 'doralá' survived as late as the seventeenth century, according to DIL, where 'doraláighset', '(they) happened to be', is cited from Ó Cianáin's *Flight of the Earls* – Professor Máirtín Ó Murchú remarks, however, that this relates to a deliberately archaic style.

'Tarlú', the verbal noun of this verb, occurs at the end of the subsection, just as 'event' is repeated at the end of the English text; unlike the English text, however, the reference to the President being removed from office occurs before reference is first made to 'tarlaigh' and therefore might be considered outside of the events cited in the English text which necessitate an election within 60 days. The Irish text, however, has the advantage of separating the clause 'in the event of the removal from office of the President' from the clause within brackets – 'whether occurring **before** or **after** he enters upon his office', the removal from office of the President only being possible after the President has entered office.

'In the event of' is generally translated as 'i gcás' in the Acts – 'in the event of the winding up or dissolution of the Society' is translated as 'i gcás an Cumann a fhoirceannadh nó a dhíscaoileadh' in s4(7) of the Dairy Produce (Miscellaneous Provisions) Act, 1973, for example. 'In the case of the death of a person' is translated as 'I gcás duine d'fháil bháis' in s15 of the Finance Act, 1990.



We also find the phrase ‘más rud é go ...’. See further the commentary on Article 30.5.3°.

Looking at the Acts for more specific parallels to the current subsection, ‘The chairman of a review board shall nominate another member of the board to be chairman for a particular sitting of the board in the event of the former being unable to act’ is translated as ‘Ainmneoidh cathaoirleach boird athbhreithnithe comhalta eile den bhord le bheith ina chathaoirleach ag suí áirithe den bhord mura mbeidh sé féin in ann gníomhú’ in s37(5) of the Health (Mental Services) Act, 1981. In s21(1)(b) of the Solicitors (Amendment) Act, 1960, ‘in the event of his death, insolvency or other disability’ is translated as ‘i gcás é d’fháil bháis, d’éirí dócmhainneach nó a theacht faoi dhícháilíocht eile’ while in s4(1) of the Court Officers Act, 1951, ‘In the event of the temporary absence or the temporary incapacity of any district court clerk or in the event of the office of district court clerk for any district court area being vacant, the Minister may ... appoint a deputy to execute the office of such district court clerk during such absence, incapacity or vacancy’ is translated as ‘I gcás aon chléireach cúirte dúiche a bheith as láthair go sealadach nó a bheith faoi éagumas sealadach nó i gcás oifig chléirigh chúirte dúiche d’aon cheantar cúirte dúiche a bheith folamh, féadfaidh an tAire ... ionadaí a cheapadh chun oifig an chléirigh chúirte dúiche sin a chomhlíonadh an fhaid a mhairfeas an neamhláithreach, an t-éagumas nó an folúntas sin’.

Looking at earlier Acts, ‘Má bhíonn Máistir na hArd-Chúirte ... seal as láthair no seal fé mhí-chumas de dheascaibh breoiteachta no má bhíonn oifig an Mháistir san folamh, féadfaidh an tAire fear ionaid do cheapa chun oifig an Mháistir ... san d’fheidmiú le linn na nealáithreachta, an mhí-chumais, no an fholúntais sin’ translates ‘In the event of the temporary absence or the temporary incapacity through illness of the Master of the High Court ... or in the event of the office of such Master ... being vacant the Minister may appoint a deputy to execute the office of such Master ... during such absence, incapacity, or vacancy’ in s27(1) of the Court Officers Act, 1926. ‘Má thárluionn’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘in the event of’ in early *Standing Orders* of Dáil Éireann.

*tar éis an ní sin a tharlú* This would generally be rendered today as ‘tar éis don ní sin tarlú’ – ‘within a reasonable time after the damage occurs’ is translated as ‘laistigh de thréimhse réasúnach tar éis don damáiste tarlú’ in s2(3) of the Liability for Defective Products Act, 1991, for example. ‘Ní’ is the indefinite pronoun, neuter, of ‘neach’, which has the sense of ‘thing, something’.

‘Event’ is generally translated as ‘teagmhas’ in the Acts. ‘Such event being’ is translated as ‘i gcás arb éard é an teagmhas sin’ in s27(b) of the Finance Act, 1981, for example, ‘on the happening of an event’ being translated as ‘ar theagmhas tarlú’ in s25(1) of the Capital Acquisitions Tax Act, 1976. In s27(1)(c) of the Agricultural Credit Act, 1978, ‘to impose on the mortgagor, in the event of any of the stock dying or being stolen ... the obligation to notify the mortgagee of such event within 7 days after it occurs’ is translated as ‘chun a chur d’oibleagáid ar an morgáisteoir, i gcás aon chuid den stoc d’fháil bháis ... an teagmhas sin a chur in iúl don mhorgáistí laistigh de 7 lá tar éis dó tarlú’ while ‘an ní sin a chur in iúl don mhorgáistí laistigh

de sheacht lá tar éis é a tharlachtaint’ translates ‘to notify the mortgagee of such event within seven days after it occurs’ in s25(1)(c) of the Agricultural Credit Act, 1947. Finally, in s2(1)(ii) of the Constitution (Consequential Provisions) Act, 1937, ‘in regard to ... so much of such event as occurs’ is translated as ‘i ndáil leis ... an méid sin den teagmhas san a thárlóidh’.

Looking at the earlier Acts, ‘event’ is translated as ‘tuitim-amach’ in s40(2) of the Finance Act, 1926, where ‘in respect of the same instrument, property, or event’ is translated as ‘i leith na hinstruimide, na maoinne, no an tuitim-amach chéanna’. ‘Cás’ is cited as translating ‘event’ in the *Oireachtas* (Payment of Members) Act, 1923, in the *Oireachtas Dictionary of Official Terms* (the reference given does not appear to be accurate, however).

DIL translates ‘tecmais’ as ‘chance, hap, accident’, citing ‘tre chuis no theagmais eigin’ from the *Rule of Tallaght*. This word is related to ‘tecmang’, verbal noun of ‘do-ecmaing’, DIL translating ‘d-an-ecmaing’ as ‘he happens to be (*in a place, condition, etc.*)’. ‘Do-ecmaing’ comes from \*to-in-com-icc, ‘do-icc’ (\*to-icc) having the sense of ‘comes to, approaches’.

*ar leith* This phrase involves the dative form of ‘leath’ following the preposition ‘ar’, as it follows the preposition ‘faoi’ in ‘faoi leith’, both phrases being translated as ‘apart, separate; several, distinct; remarkable, special’ in *Ó Dónaill*, who cites ‘gach ball ar leith, each individual member’, and ‘duine ar leith, a person apart; a remarkable person’. We find ‘gach olltoghchán ar leith’ expressing ‘every general election’ in Article 16.4.1° and ‘gach bliana ar leith’ and ‘gach cás ar leith’ expressing ‘each year’ and ‘each case’ respectively in Article 17.1.2°. ‘Gach’ without accompanying ‘ar leith’, however, usually expresses ‘each’ and ‘every’ in the Constitution, as the varying ways in which ‘each House’ is expressed illustrates. We find ‘each House of the Oireachtas’ expressed as ‘gach Teach ar leith den Oireachtas’ in Article 15.9.1°; ‘each House’ is expressed as ‘gach Teach ar leith’ in Articles 15.10 and 15.11.1°. We also find the genitive singular ‘gach Tí ar leith’ (‘of each House’) in Article 15.9.2°. ‘Ar leith’ is omitted, however, in Article 15.15, where we find ‘the members of each House’ expressed as ‘comhaltaí gach Tí’; ‘the Chairman of each House of the Oireachtas’ is expressed as ‘Cathaoirleach gach Tí den Oireachtas’ – without ‘ar leith’ – in Articles 24.1, 27.5.1° and 27.6, while ‘each of the Houses of the Oireachtas’, in Article 28.3.3°, is expressed as ‘gach Teach den Oireachtas’ and ‘in each House of the Oireachtas’, in Article 28.8, is expressed as ‘i ngach Teach den Oireachtas’. See further the commentary on Article 15.9.1° and see the commentary on Article 38.3.1° regarding ‘faoi leith’.

*roimh é a dhul i gcúram a oifige* See the commentary on Article 12.3.1° regarding ‘dul i gcúram oifige’. As regards ‘whether occurring’ in the Acts, see s7(8) of the Finance Act, 1968, for example, where ‘in any year of assessment whether occurring before or after the commencement of this Part’ is translated as ‘aon bhliain mheasúnachta cibé acu roimh thosach feidhme na Coda seo nó dá éis sin dó’. ‘Rectify any error or omission (whether occurring before, on or after the operative date) in the register’ is translated as ‘aon earráid nó easnamh sa chlár (cibé acu roimh an dáta feidhme nó air nó dá éis a tharla sé) a cheartú’ in

s122(5) of the Companies Act, 1963. Finally, note that ‘Díobhála don duine (ar n-a dtárlachtaint roimh an Acht so do rith no dá éis)’ translates ‘injuries to the person (whether occurring before or after the passing of this Act)’ in s9(1) of the Finance Act, 1942.

*arna suíomh* ‘Suíomh’ is given as a variant verbal noun of ‘suigh’ in *Ó Dónaill*, ‘sui’ being the standard form – *Ó Dónaill* cites ‘*cúis, ceart, a shuí*, to establish a case, a right’, for example. ‘Suíomh’ is the form found in the Acts, however, ‘to show cause to the contrary’ being translated as ‘*cúis dá mhalairt a shuíomh*’ in s49(3) of the Capital Acquisitions Tax Act, 1976, for example. Professor Máirtín Ó Murchú remarks that in Munster Irish it is the form ‘suíomh’ which has the sense of ‘establish, prove’, contrasting ‘*tá sé suite go deas ansan*’ with ‘*táim suite de*’, the standard form of which is ‘*táim suite de*’ (‘I’m convinced of it’). See the commentary on Article 12.3.1° regarding the verb ‘suigh’ in the present context.

*toghchán a dhéanamh* Literally ‘to make an election’. This is the standard translation of ‘hold an election’ – in s17(7) of the European Assembly Elections Act, 1977, for example, ‘if an election is due to be held’ is translated as ‘*má dhlítear toghchán a dhéanamh*’.

‘Toghchán a chomóradh’ expresses ‘to hold an election’ in the Cork City Management Act, 1929, with ‘following the borough election to be held under this Act next after the occurrence of such casual vacancy’ being translated as ‘*tar éis an chéad thoghacháin bhuirge a bheadh le comóra fén Acht so tar éis teacht an fhoth-fholúntais sin*’ in s4(2) and ‘until the day on which the borough election to be held under this Act next after the occurrence of the casual vacancy so filled is held’ being translated as ‘*go dtí lá comórtha an chéad thoghacháin bhuirge a comórfar fén Acht so tar éis teacht don fhoth-fholúntas a líonfar amhlaidh*’ in s4(5) thereof. In s13 of the Dundalk Harbour and Port Act, 1925, ‘the poll shall be held at the office of the Commissioners’ is translated as ‘*déanfar an vótaíocht in oifig na gCoimisinéirí*’. This alternation between ‘*déan*’ and ‘*comóir*’ expressing ‘hold’ is seen also in the phrases ‘*scrúdú a dhéanamh*’ and ‘*scrúdú a chomóradh*’. ‘An examination in dentistry or dental surgery held for the purpose of granting certificates of fitness to practice dentistry or dental surgery by any university’ is translated as ‘*scrúdú i bhfiacloireacht no i máinliaghacht fhiacal a dintar, chun deimhnithe do dheona go bhfuiltear oile chun fiacloireacht no máinliaghacht fhiacal do chleacta, ag aon phríomh-scoil*’ in s1 of the Dentists Act, 1928, with ‘Every university ... which is authorised by this Act to hold qualifying examinations in dentistry’ being translated as ‘*Gach príomh-scoil ... dá n-údarúitear leis an Acht so scrúduithe tástála i bhfiacloireacht ... do chomóra*’ in s41 thereof. Similarly ‘*fiosrúchán do dhéanamh*’ translates ‘to hold an inquiry’ in *Iris an Phuist*, 1922/23, while ‘*fiosrúchán do chomóradh*’ is cited in the *Oireachtas Dictionary of Official Terms* as translating this phrase in translations for the Department of Fisheries. Note that in s45(4) of the Electricity (Supply) Act, 1927, ‘cause a public inquiry to be held in regard to the making of the order’ is translated as ‘*a chur fé ndéar fiosrúchán puiblí do chur ar siúl i dtaobh an orduithe do dhéanamh*’.

The verb ‘*commóraid*’ is translated as ‘holds, engages in (of battle, feast, hunt, etc.)’, celebrates, convenes’ in

DIL, where examples are cited from the twelfth-century *Book of Leinster* onwards. *Dinneen* cites ‘*comóiram seilg*, I convene a hunt’ and *Ó Dónaill* cites ‘*aonach, cruinniú, a chomóradh*, to convene a fair, a gathering’, along with ‘*féile a chomóradh*, to celebrate a feast’. ‘*Commóraid*’ is based on ‘*móraid*’ (based on ‘*mór*’), examples of which in the sense of ‘makes great, magnifies, exalts, glorifies’ are cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles onwards. The development of sense would therefore be ‘celebrate’ > ‘organize’ > ‘hold’. See further the commentary on Articles 13.2.1° and 31.8.

*éirí as* Note that ‘In case of the death, resignation or disqualification of a member of Seanad Éireann’ is translated as ‘*I gcás ball de Sheanad Éireann d’fháil bháis, do thabhairt suas, nó do theacht fé mhí-cháilíocht*’ in Article 34 of the 1922 Constitution. See the commentary on Article 13.1.3°.

*taobh istigh de* See the commentary on Article 21.2.2°. Note that we generally find ‘*laistigh de*’ translating ‘within’ in the Acts. In s8(ii) of the First Schedule to the Port and Harbour Provisional Order Confirmation Act, 1929, ‘The first meeting of the Commissioners shall be held within one month after the commencement of this Order’ is translated as ‘*Comórfar céad chruinniú na gCoimisinéirí laistigh de mhí tar éis tosach feidhme an Orduithe seo*’. ‘An election for the purposes of this section shall be held within 12 months after the vesting day’, in s34(6) of the Postal and Telecommunications Services Act, 1983, is translated as ‘*Déanfar toghchán chun críocha an ailt seo laistigh de 12 mhí tar éis an lae dhílseacháin*’. See further the commentary on Article 16.4.2°.

*toghchán do* See the commentary on Article 12.2.2°. The preposition, however, suits better here, before ‘*oifig*’, as against directly before ‘*Uachtarán*’.

*lá nach déanaí ná* This would currently be translated as ‘*tráth nach déanaí ná*’ in the Acts – ‘not later than one month from that date’ is translated as ‘*tráth nach déanaí ná mí amháin ón dáta...*’ in s24 of the Finance Act, 1990, for example. For ‘*lá*’, see the commentary on Article 12.3.1°.

*deireadh* See the commentary on Article 12.3.1°. ‘*Istigh*’, as recommended by Professor Máirtín Ó Murchú, is perhaps more appropriate than ‘*caite*’ in the present context.

*é d’éag nó é d’éirí as* On ‘*a*’ replacing ‘*d(o)*’ here in standard Irish see the commentary on Article 15.8.2°.

*ní foláir* See the commentary on Article 11.

*míthreoir* See the commentary on Article 12.3.1°.

### Standardised gender-proofed Irish text

Ní foláir toghchán d’oifig an Uachtaráin a dhéanamh lá nach déanaí ná dáta dheireadh théarma oifige gach Uachtaráin ar leith agus nach luaithe ná an seascadú lá roimh an dáta sin, ach má chuirtear an tUachtarán as oifig, nó má tharlaíonn dó nó di<sup>1</sup> (roimh é nó í a dhul i gcúram a oifige nó a hoifige<sup>2</sup> nó dá éis sin) é nó í a éag nó a éirí

as<sup>3</sup> nó míthreoir bhuan arna suíomh mar a dúradh dá ghabháil nó dá gabháil, ní foláir toghchán d'oifig an Uachtaráin a dhéanamh taobh istigh de sheasca lá tar éis an ní sin a tharlú.

### Variants

- 1 'don Uachtarán'
- 2 'roimh an Uachtarán a dhul i gcúram oifige'
- 3 'd'éag nó d'éirí as', 'é no í a éag nó é nó í a éirí as'

### Direct gender-proofed translation

Déanfar toghchán d'oifig an Uachtaráin tráth nach déanai ná an dáta a mbeidh téarma oifige gach Uachtaráin ar leith istigh<sup>1</sup> agus nach luaithe ná an seacadú lá roimh an dáta sin, ach i gcás an tUachtaráin a<sup>2</sup> chur as oifig nó a fháil bháis nó a éirí as<sup>3</sup> nó i gcás bhuanéagumas<sup>4</sup> an Uachtaráin arna shuíomh<sup>5</sup> mar a dúradh (cibé acu roimh dhul i gcúram oifige dó nó di<sup>6</sup> nó dá éis sin<sup>7</sup>), déanfar toghchán d'oifig an Uachtaráin laistigh de sheasca lá tar éis an teagmhais sin<sup>8</sup>.

### Variants

- 1 'caite'
- 2 'do'
- 3 'nó d'fháil bháis nó d'éirí as'
- 4 'bhuan-éagumas', 'éagumas buan'
- 5 'arna shuí'
- 6 'roimh dó nó di dul i gcúram oifige'
- 7 'nó dá éis sin dó'
- 8 'laistigh de sheasca lá dá éis sin'

## ARTICLE 12.4.1<sup>o</sup> AIRTEAGAL 12.4.1<sup>o</sup>

### TÉACS GAELIGE

Gach saoránach ag a bhfuil cúig bliana triochad slán, is intofa chun oifig an Uachtaráin é.

### LITERAL ENGLISH TRANSLATION

Every citizen who has completed/reached thirty five years, (he) is electable to the office of (the) President.

### ENGLISH TEXT

Every citizen who has reached his thirty-fifth year of age is eligible for election to the office of President.

### Divergences between the official texts

- 1 While the English text requires a Presidential candidate to have 'reached his thirty-fifth year of age', which it has been noted the candidate would do on his thirty-fourth birthday, the Irish text requires him to have completed thirty five years.
- 2 'Eligible for election to' is expressed as 'intofa chun' ('electable to') in the Irish text.

### Commentary

*slán* In his commentary on Article 25.5, which Article deals with the text of the Constitution, J.M. Kelly (op. cit., p. 210) writes as follows:

The Constitution seems to contain some possible conflicts which have not yet surfaced in litigation. The most obvious seems to be in Article 12.4.1<sup>o</sup>, where the Irish text requires a Presidential candidate to have completed thirty-five years of age ('ag a bhfuil cúig bliana triochad slán'), while the English text require him only to have 'reached his thirty-fifth year of age', which he would do on his thirty-fourth birthday.

The *Report of the Constitution Review Group* (May 1996) commented as follows on this section:

There is an apparent discrepancy between the English and Irish versions. The Irish version has 'ag a bhfuil cúig bliana triochad slán' (that is, has completed thirty-five years), whereas the English version is 'who has reached his thirty-fifth year of age', which could mean has entered rather than completed that year.

The *First Progress Report of the All-Party Oireachtas Committee on the Constitution* (April 1997), following this, recommends (on p. 89) substituting the word 'completed' for 'reached' in the English text. The Twentieth Amendment of the Constitution Bill, 1999, which proposed to lower the age-limit for candidates for the Presidency, dealt with the noted inconsistency by proposing to substitute 'the age of eighteen years' for 'his thirty-fifth year of age' – i.e. rather than substituting 'his eighteenth year of age'.

We have examples of the word 'slán' in this context from as early as the mid-ninth century. A gloss to the *Carlsruhe Bede*, a Latin manuscript written in 848 and glossed in 850, reads as follows: 'ar ni tosceli argumint acht bliadni sláin' (translated by Whitley Stokes and John Strachan, *Thesaurus Palaeohibernicus* ii [1903, p. 18], as 'for the argument ascertains nought but a whole year', querying 'was *bliaidan slán* a technical term for a year without intercalation?') The second example cited in DIL is perhaps of more relevance, dealing with the age of Christ. In *Leabhar na hUidhre*, from the early twelfth century, we find the following: 'Trí bliadna trichat ropsat slána do Christ' (which is translated as 'three years and thirty were completed by Christ' in the edition published in *Revue Celtique* 25 [1904, pp. 238-9]). Finally, Keating's seventeenth-century *History of Ireland* contains the phrase 'bliadhain 7 trí fichid fá slán dó', which is translated as 'he had completed his 61st year' in Comyn and Dinneen's edition of that text. *Ó Dónaill* cites '*tá an bhliain slán aige*, he is a full year old' s.v. 'slán', and *Dinneen* cites '*tá bliadhain is slán dóibh ann*, they have spent a full year there' – Professor Máirtín Ó Murchú questions whether *Dinneen* is correct in this construction 'tá ... is'.

Article 16.1 also contains two examples of the word 'slán' in association with 'bliain'. Article 16.1.2<sup>o</sup>i reads as follows:

Gach uile shaoránach ... ag a bhfuil ocht mbliana déag slán ... tá ceart vótála acu i dtoghchán comhaltai do Dháil Éireann. *All citizens ... who have reached the age of eighteen years ... shall have the right to vote at an election for members of Dáil Éireann.*

Similarly we find in Article 16.1.1<sup>o</sup>:

Gach saoránach ... ag a bhfuil bliain agus fiche slán ... tá sé intofa ar chomhaltas Dháil Éireann. *Every citizen ... who has reached the age of twenty-one years ... shall be eligible for membership of Dáil Éireann.*

As J.M. Kelly (op. cit., p. 149) states, commenting on Article 16.1, that section 'reproduces in substance the provisions

of Articles 14 and 15 of the 1922 Constitution'. In these Articles, the Irish version of which is an acknowledged translation of the English, 'who have reached the age of twenty-one years' and 'who have reached the age of thirty years' are translated respectively as 'go mbeidh aois bhliana is fichead slán aige' and 'go mbeidh aois deich mblián fichead slán aige':

#### Article 14

All citizens of the Irish Free State (Saorstát Éireann) ... who have reached the age of twenty-one years ... shall have the right to vote for members of Dáil Éireann .... All citizens who ... have reached the age of thirty years ... shall have the right to vote for members of Seanad Éireann. *Beidh de cheart ag gach saoránach de Shaorstát Éireann ... go mbeidh aois bhliana is fichead slán aige ... vótáil le teachtaí de Dháil Éireann ... . Beidh de cheart ag gach saoránach ... go mbeidh aois deich mblián fichead slán aige ... vótáil le baill de Sheanad Éireann.*

#### Article 15

Every citizen who has reached the age of twenty-one years ... shall be eligible to become a member of Dáil Éireann. *Gach saoránach go mbeidh aois bhliana is fiche slán aige ... beidh sé iontoghtha chun bheith 'na theachta de Dháil Éireann.*

Based in part on the above, the All-Party Oireachtas Committee on the Constitution recommended, in their *Third Progress Report* (November 1998, p. 13), that the English text of Article 12.4.1° 'be improved by using the formulation set out in Article 16.1.1° – "who has reached the age of ..." – thus making the English text both unequivocal and consistent with the Irish text'. A possible development of this to bring the wording into line with the Age of Majority Act, 1985, would be substituting 'slánaithe' for 'slán' and re-introducing 'aois' in the Irish text of Articles 16.1 and 12.4.1°, and also substituting 'attained' for 'reached' in the English text of both those Articles. Section 2(1) of the Age of Majority Act, 1985, reads as follows:

Where a person has not attained the age of twenty-one years prior to the commencement of this Act, he shall, subject to section 4, attain full age – (a) on such commencement if he has attained the age of eighteen years .... *I gcás nach mbeidh bliain is fiche d'aois slánaithe ag duine roimh thosach feidhme an Acht seo, slánóidh sé aois iomlán faoi réir alt 4 – (a) ar an tosach feidhme sin má bhíonn ocht mbliana déag d'aois slánaithe aige.*

As regards 'slánaigh' in association with 'aois', see also s15(1) of the Electoral (Amendment) (No. 2) Act, 1986, where 'a citizen of Ireland who has reached the age of 18 years' is translated as 'saoránach d'Éirinn a bhfuil 18 mbliana d'aois slánaithe aige'. The verb 'slánaigh' is translated as 'attain a certain age' in *Ó Dónaill*, with 'slánuighim' being translated as 'I attain the age of' in *Dinneen*.

*cúig bliana tríochad* 'Tríochad' is the genitive singular form of 'tríocho'. 'Cúig bliana tríochad' could equally be expressed as 'cúig bliana is tríocha' – see *Ó Dónaill s.v. 'tríocho'*, who cites '*ceithre bliana tríochad, ceithre bliana is tríocha*, thirty-four years'. 'Bliana' today is the standard plural form of 'bliain' following most numerals. Note how the Twentieth Amendment of the Constitution Bill, 1999, proposes introducing the new spelling into the enrolled

text, 'bliadhain' being the spelling in the enrolled version of Article 16.1.

*intofa chun* See the commentary on Article 12.3.2° regarding 'intofa'. Note, as regards 'chun', that 'do' is found following 'intofa' in s30 of the Údarás na Gaeltachta Act, 1979, where 'A person shall not be eligible for election to an tÚdarás unless ... he has attained the age of eighteen years' is translated as 'Ní bheidh duine intofa don Údarás mura mbeidh aois ocht mbliana déag slánaithe aige'. 'Ní bheidh duine ar bith ... intofa d'oifig stiúrthóra ag aon chruinniú ginearálta' translates 'No person ... shall ... be eligible for election to the office of director at any general meeting' in s45 of the 'Articles of Association' appended to the Companies Act, 1963.

While Article 12.3.2°, 'A person who holds, or who has held, office as President, shall be eligible for re-election to that office once ...', can be literally translated as 'Féadfar aon duine atá nó a bhí i seilbh oifige mar Uachtarán a atoghadh chun na hoifige sin aon uair amháin ...', 'Féadfar gach saoránach ag a bhfuil cúig bliana tríochad d'aois slánaithe a thoghadh chun oifig an Uachtaráin' does not literally translate 'Every citizen who has reached his thirty-fifth year of age is eligible for election to the office of President'. As Professor Máirtín Ó Murchú points out, there is a 'possibility' involved in 'féadfar' that is not appropriate here, and he recommends 'Is féidir aon saoránach ag a bhfuil cúig bliana tríochad d'aois slánaithe a thoghadh chun oifig an Uachtaráin' or 'Féadtar gach saoránach ag a bhfuil cúig bliana tríochad d'aois slánaithe a thoghadh chun oifig an Uachtaráin' rather than the above. He stresses, however, that there is a close relationship between the two English words 'eligible' and 'elect' but that in so far as both words are involved here in 'eligible for election', two stages of a process are being expressed, whereas only one stage – and that itself conditional – is understood from the Irish 'féadfar ... a thoghadh' or the alternative originally proposed by the author as a direct translation below, 'Gach saoránach ag a bhfuil cúig bliana tríochad d'aois slánaithe, is intofa chun oifig an Uachtaráin é nó í'. The relationship between 'electable' and 'eligible' is paralleled in that between 'toghadh' and 'rogha', according to Professor Ó Murchú, who suggests translating the above as 'Beidh gach saoránach ag a bhfuil cúig bliana tríochad d'aois slánaithe inroghnaithe le toghadh chun oifig an Uachtaráin'.

Returning to the Acts in light of the above, we find that 'a person shall not be nominated as a replacement candidate unless he is eligible for election under the Principal Act to the Assembly' is translated as 'ní ainmneofar duine mar iarrthóir ionaid mura mbeidh sé cáilithe lena thoghadh faoin bPríomh-Acht don Tionól' is s3(3)(b) of the European Assembly Elections Act, 1984, and 'lionfaidh Dáil Éireann an folúntas trí dhuine a cheapadh atá cáilithe lena thoghadh faoin Acht seo don Tionól' translates 'the vacancy shall be filled by the appointment by Dáil Éireann of a person who is eligible for election under this Act to the Assembly' in s15(1)(a) of the European Assembly Elections Act, 1977. See further the commentary on Article 16.1.1°.

#### Gender-proofed Irish text

Gach saoránach ag a bhfuil cúig bliana tríochad slán, is intofa chun oifig an Uachtaráin é nó í.

**Direct gender-proofed translation**

Beidh gach saoránach ag a bhfuil cúig bliana tríochad<sup>1</sup> d'aois slánaithe<sup>2</sup> cáilithe lena thoghadh nó lena toghadh<sup>3</sup> chun oifig an Uachtaráin<sup>4</sup>.

**Variants**

- 1 'cúig bliana is tríocha'
- 2 'gach saoránach a bhfuil cúig bliana tríochad d'aois slánaithe aige nó aici'
- 3 'le toghadh'
- 4 'd'oifig an Uachtaráin'

ARTICLE 12.4.2<sup>o</sup> AIRTEAGAL 12.4.2<sup>o</sup>**TÉACS GAELIGE**

Gach iarrthóir d'oifig an Uachtaráin, seachas duine atá nó a bhí ina Uachtarán cheana, is uathu seo a leanas nach foláir a ainmniú a theacht:

- i fiche duine ar a laghad agus gach duine faoi leith díobh sin ina chomhalta, in alt na huaire, de Theach de Thithe an Oireachtais, nó
- ii Comhairlí ceithre Chontae riaracháin ar a laghad (agus Contae-Bhuirgí a áireamh) mar a mhínear le dli.

**LITERAL ENGLISH TRANSLATION**

Every candidate for the office of (the) President, other than a person who is or who was a President already, it is from the following that his nomination must come:

- i at least twenty people and each (individual) one/person of them a member, at the time, of a House / one of the Houses of the Oireachtas, or
- ii the Councils of at least four administrative Counties (including County Boroughs) as defined/expounded by law.

**ENGLISH TEXT**

Every candidate for election, not a former or retiring President, must be nominated either by:

- i not less than twenty persons, each of whom is at the time a member of one of the Houses of the Oireachtas, or
- ii by the Councils of not less than four administrative Counties (including County Boroughs) as defined by law.

**Divergences between the official texts**

- 1 'Candidate for election' is expressed as 'iarrthóir d'oifig an Uachtaráin' ('candidate for the office of (the) President') in the Irish text.
- 2 'Not a former or retiring President' is expressed as 'seachas duine atá nó a bhí ina Uachtarán cheana' ('other than a person who is or who was a President already') in the Irish text.
- 3 'Must be nominated either by' is expressed as 'is uathu seo a leanas nach foláir a ainmniú a theacht' ('it is from the following that his nomination must come') in the Irish text.
- 4 'Each one of whom' is expressed as 'gach duine faoi

leith díobh sin' ('each individual one/person of them') in the Irish text.

- 5 'Define' is expressed by a more general term meaning 'expound' in the Irish text, 'míneadh', which term generally translates 'define' in the Acts also.
- 6 'By' appears to be repeated unnecessarily at the beginning of paragraph ii in the English text.

**Commentary**

*iarrthóir d'oifig* 'Candidate for something' is translated as 'iarrthóir ar rud' in *De Bhaldraithe*, a noun usually following this phrase – 'iarrthóir ar phost' ('an applicant for a job'), for example, being in general usage, though the Irish legal term for 'applicant' is 'iarratasóir'. In the case of 'every candidate for election' the Irish text avoids directly expressing the verbal noun by reading as 'every candidate for the office of the President'.

'A candidate for election to either House of the Oireachtas' is translated as 'iarrthóir le toghadh chun ceachtar Teach den Oireachtas' both in s6(1) of the Imposition of Duties (Dumping and Subsidies) Act, 1968, and in s18(1) of the Fóir Teoranta Act, 1972, with 'iarrthóir le toghadh chun ceachtar Tí den Oireachtas' translating this clause in s11(1) of the Sugar Manufacture (Amendment) Act, 1973. In s10(1) of the Fourth Schedule to the Industrial Relations Act, 1990, 'Where the chairman ... is nominated ... as a candidate for election to either House of the Oireachtas' is translated as 'I gcás go ndéanfar an cathaoirleach ... a ainmniú ... mar iarrthóir lena thoghadh chun ceachtar Tí den Oireachtas'.

Looking at earlier Acts, in s2(1) of the Electoral (Amendment) (No. 2) Act, 1927, 'Every candidate for election to Dáil Éireann' is translated as 'gach iarrthóir toghacháin chun Dáil Éireann' and in s37(2)(a) of the Seanad Electoral (Panel Members) Act, 1937, 'every candidate for election as an elector shall be nominated in writing' is translated as 'gach duine fé leith a bheidh á iarraidh go dtoghfaí ina thoghthóir é caithe sé bheith ainmnithe i scríbhinn'.

*Ó Dónaill* gives 'candidate; entrant, examinee' as the secondary sense of 'iarrthóir', with 'petitioner, supplicant' being the primary sense. *Dinneen*, who does not appear to give 'iarratasóir' as a headword, translates 'iarrthóir' as 'one who asks or demands; an applicant, petitioner, beggar, candidate'. Neither source gives any examples of the use of this headword, which is based on 'iarr', 'ask', which itself derives from an earlier 'iarar'/'iarair', translated as 'a search; act of seeking, demanding, searching' in DIL, where 'ac iarair in domain' ('searching the world') is cited from the *Birth-Tale of Cú Chulainn*.

*cheana* This adverb is translated principally as 'already' in *Ó Dónaill*. 'Cheana' can qualify both 'atá ina Uachtarán' and 'a bhí ina Uachtarán', that is, 'who is already a President and who was already a President'. In the context of an election for President, the person who is already a President would seem to be 'a retiring President'. Note that 'cheana' is not found in the related Article 12.4.4<sup>o</sup>:

Tig le duine atá nó a bhí ina Uachtarán é féin a ainmniú d'oifig an Uachtaráin. *Former or retiring Presidents may become candidates on their own nomination.*

Note, also, that the wording of the present subsection was not followed in the Presidential Elections Act, 1937.

The Margin Title of s10 of that Act, 'Nominations by a former or the retiring president' is translated as 'Ainmniúcháin ó dhuine bhí ina uachtarán nó ón uachtarán a bheidh ag dul as oifig' and subsection 1 thereof reads as follows:

Every nomination of himself as a candidate which is made by a former or the retiring president ... signed by such former or retiring president. *Gach ainmniú dhéanfaidh duine bhí ina uachtarán nó an t-uachtarán a bheidh ag dul as oifig air féin mar iarrthóir ... agus beidh sé síghníthe ag an duine sin a bhí ina uachtarán nó ag an uachtarán san a bheidh ag dul as oifig.*

In the Second Schedule to that Act, 'Form of Nomination Paper for a Nomination of Himself by a Former President' is translated as 'Fuirm an Pháipéir Ainmniúcháin chun Duine bhí ina Uachtarán Tráth dá Ainmniú féin chun bheith ina Iarrthóir', with 'I ... a former President of Ireland hereby nominate myself to be a candidate at the above-mentioned election' being translated as 'Deinim-se ... do bhí im' Uachtarán ar Éirinn tráth, mé féin d'ainmniú leis seo chun bheith im' iarrthóir sa toghachán a luaidhtear thuas'. 'Form of Nomination Paper for a Nomination of Himself by a Retiring President' is translated there as 'Fuirm an Pháipéir Ainmniúcháin chun an Uachtarán a bheidh ag dul as Oifig dá ainmniú féin chun bheith ina Iarrthóir'.

Turning to 'former' in earlier Acts, in s39(6) of the Electricity (Supply) Act, 1927, 'Whenever the former undertaker is a local authority' is translated as 'I gcás gur údarás áitiúil an seana-ghnóthaire'. 'Certain Former Officers of Local Authorities' is translated as 'Daoine Áirithe a bhí ina nOifigigh tráth ag Údarás Áitiúla' in the Long Title of the Local Officers' Compensation (War Period) Act, 1924. 'To former judges of the Dáil Supreme Court' is translated as 'do dhaoine bhí ina mbreithiúin de Chúirt Uachtarach na Dála' in the Margin Title of s2 of the Dáil Supreme Court (Pensions) Act, 1925.

'Former President' would now generally be translated simply as 'iar-Uachtarán'. Note how this has superseded *De Bhaldraithe's* 'sean-' and 'ath-' as translations of 'former', the basic senses of which – 'old-' and 're-' respectively – being probably too strong and therefore unsuitable. As examples of 'iar-' we may cite 'iarchomhaltai saoil' in the Margin Title of s59 of the Fisheries Act, 1980, translating 'former life members'.

Regarding 'retire', in Article 34 of the 1922 Constitution, 'Any member of Seanad Éireann so chosen shall retire from office' is translated as 'Imeoidh aon bhall de Sheanad Éireann a toghfar mar sin as oifig'. In Article 68 'The age of retirement, the remuneration and the pension of such judges on retirement' is translated as 'aois oifige d'fhágaint, luach saothair agus pinsean a leithéidí de bhreithiúin ar oifig d'fhágaint dóibh'. 'Dul as feidhmanas' is cited from early *Proceedings* of Dáil Éireann in the *Oireachtas Dictionary of Official Terms*. The current term 'scor' is cited in s16(b) of the Garda Síochána Act, 1924, where 'the promotion, retirement ... of members of the Garda Síochána' is translated as 'baill den Ghárda Síochána d'árdú, do scur' – see further the commentary on Article 36i. 'Féadfar stiúthóir a bheidh ag scor dá oifig a atoghadh' translates 'A retiring director shall be eligible for re-election' in s94 of the First Schedule to the Companies Act, 1963, for example. In s53 of the same Schedule, 'the re-appointment of the retiring auditors' is translated as 'na hiniúcháirí

a bheidh ag scor a athcheapadh'. 'I retire' is translated as 'scoirim as oifig' in *Téarmaí Dlí*. In the *Treaty on European Union* (1992, p. 69), 'retiring members' is translated as 'comhaltai a bheidh ag scor'. *De Bhaldraithe* translates 'retiring' as '(Uachtarán) atá ag dul as oifig'.

*in alt na huairé* See the commentary on Article 10.1. This phrase expresses 'for the time being' in Articles 10.1, 25.5.3°, 41.3.3° and 46.2. 'In alt na huairé seo' is cited in *Ó Dónaill* and translated as 'at this juncture'. *Dinneen* cites 'i n-alt na h-uairé sin' and translates this phrase as 'at that very time'. *L. Mc Cionnaith* s.v. 'time', gives An tAthair Peadar's *Ceart na Gaedhilge* as the source of his translation of 'at that very time' as 'i n-alt na huairé sin'. 'Sin' or '-sea' is part of this phrase in the four examples cited in DIL s.v. 'alt' III(a) – the basic meaning of 'alt' being 'joint', 'as alt' translating 'out of joint', for example.

*De Bhaldraithe* translates 'I was absent at the time' as 'bhí mé as láthair san am' and 'at the time of his marriage' as 'le linn a phósta'. We find both 'san am' and 'an tráth sin' in the Acts. In s14 of the Finance Act, 1978, for example, 'having regard to values prevailing at the time' is translated as 'ag féachaint do na luachanna a bheidh i réim san am' and in s9(1)(b) of the Finance Act, 1983, 'at the time and place appointed' is translated as 'san am agus san áit a bheidh ceaptha'. While 'according to the best of the information available at the time' is translated as 'de réir an eolais is fear a bheidh ar fáil san am' in s364(4) of the Income Tax Act, 1976, in s168(2) of the Corporation Tax Act, 1976, this phrase is translated as 'de réir na faisnéise is fear a bheidh ar fáil an tráth sin' and in s19(1)(a) of the Army Pensions Act, 1932, 'in case such person is at the time in actual receipt of such pension' is translated as 'i gcás an duine sin do bheith ag fáil an phinsin sin an tráth san'.

*mar a mhínítear le dlí* 'Define' in general usage is usually translated as 'sainmhígh' (i.e. 'sain-', translated as 'special, particular, specific, characteristic' in *Ó Dónaill*, combined with 'mígh', the secondary sense of which is 'explain, expound, interpret' in *Ó Dónaill*) but, as we see below, 'mígh' translates 'define' in the Acts, with 'definition' being translated as 'míniú'. 'Mígh' is based on 'mín' ('smooth, level' [DIL]), and basically means 'makes level or smooth'. We have an example of 'míniú' (as 'mínigud') in the sense of 'interpreting, explaining' in the twelfth-century *Book of Leinster*, while in the *Book of Ballymote*, written around 1400, we find 'mínigh' glossing the Latin 'interpretatur' – see DIL, s.v. 'mínigud'. *Ó Dónaill* gives 'explain, expound, interpret' as a secondary sense of 'mígh', citing '*focal a mhíniú*, to explain a word'. 'Sainigh', derived from 'sain-', the first element of 'sainmhígh', is used to translate 'define' in Irish translations of European Community legislation – 'The Council may define those matters', for example, is translated as 'Féadfaidh an Chomhairle na hábhair sin a shainiú' in the *Treaty on European Union* (1992, p. 59). See the commentary on Article 22.1.2° s.v. 'míniú'.

Turning to the Acts, in s24(2)(g) of the Land Act, 1923, 'any "glebe" as defined by the Act of 38th and 39th Victoria' is translated as 'aon "tearmann", mar a mínítear é le hAcht an tSiosóin 38 agus 39 Victoria'. 'And such professional interests as may be defined by law for the purpose of this panel' is translated as 'agus pé gairmeanna mineofar le

dli chun críche an ainmliosta so' in s4(1) of the Seanad Electoral (Panel Members) Act, 1937; ten years later, however, in s3(1) of the Seanad Electoral (Panel Members) Act, 1947, this same clause is translated as 'agus pé garma a léireofar le dli chun críche an rolla seo'. In s33 of the Derelict Sites Act, 1990, 'in relation to ... historic monuments as defined by those Acts' is translated as 'i ndáil le ... séadchomharthaí stairiúla mar a mhínítear leis na hAchtanna sin' and 'mar a mhínítear le halt 95(1) den Acht Airgeadais, 1983' translates 'as defined by section 95(1) of the Finance Act, 1983' in s121 of the Finance Act, 1990.

Professor Máirtín Ó Murchú relates 'minigh' translating 'define' to the context of words being 'defined' in a dictionary.

*ar a laghad* Literally 'at least', 'not less than' being usually so translated in the Acts, where you also find 'nach lú ná'. See s9(2)(c) of the Second Schedule to the Medical Practitioners Act, 1978, for example, where 'by a resolution, for which not less than two-thirds of the members of the Council vote, and of the intention to propose which not less than seven days notice is given' is translated as 'le rún, dá vótáil dhá thrian ar a laghad de chomhaltai na Comhairle agus a ndéanfar fógra seacht lá ar a laghad go bhfuiltear chun é a mholadh a thabhairt'. See the commentary on Article 12.10.3° for an example from early Acts.

*agus ... a áireamh* This would be expressed as 'lena n-áirítear' in the Acts today – see, for example, s26(b) of the Value-Added Tax (Amendment) Act, 1978, where 'sports and pleasure craft of all descriptions including yachts' is translated as 'báid spóirt agus áineasa de gach cineál lena n-áirítear luamha'. In Article 18.7.1°iv, 'Industry and Commerce, including banking, finance ...' is expressed as 'Tionscal is Tráchtáil ar a n-áirítear baincéireacht, airgeadas ...'. See the commentary on Article 10.1.

*a leanas* Rather than have the list in 2°i and ii governed by the preposition 'ó' ('by'), the Irish makes this clause complete in itself, i.e. 'the nomination must come from the following' – 'uathu' being the 3rd person plural of the preposition 'ó', 'the following' refers to more than one person or thing. This practice is also sometimes found in the Acts, the alternative being to repeat the preposition at the head of every clause it qualifies, as is done below.

*seachas* This headword is translated as 'besides, other than, rather than; compared to' in *Ó Dónaill. Dinneen* s.v. 'seachas', gives the etymology of 'seachas' as 'seach' [*preposition*, 'by, beside, past, beyond, as compared with, in preference to, rather, more or better than, from'] combined with 'is'. See Rudolf Thurneysen, *A Grammar of Old Irish*, s883.

*Teach de Thithe an Oireachtais* Literally 'a House of the Houses of the Oireachtas'. Similarly, 'fear de na fir' translates 'one of the men' (alternatively, 'duine de na fir'), for example, and 'lá de na laethanta' translates 'one of the days' in *De Bhaldraithe*, s.v. 'one'. Professor Máirtín Ó Murchú comments that this was the regular way of expressing 'one of ...' before the development of the phrase 'ceann de ...'.

*fiche duine* This phrase could also be expressed as 'scór daoine', 'scór' being an English loanword ('score').

*nach foláir* Here we have 'foláir' in its general usage, expressing English 'must', as against 'shall' in the previous section and in many other Articles – see the commentary on Article 11.

*Comhairlí ceithre Chontae riaracháin* Note that 'chontae' has a lower-case 'c' in the enrolled text.

*Contae-Bhuirgí* 'Contaebhuirgí', without hyphen, is given as a headword in *Ó Dónaill* and simply translated as 'county borough'.

*faoi leith* See the commentary on Article 12.3.3°.

### Standardised gender-proofed Irish text

Gach iarrthóir d'oifig an Uachtaráin, seachas duine atá nó a bhí ina Uachtarán nó ina hUachtarán cheana, is uathu seo a leanas nach foláir a ainmniú nó a hainmniú a theacht:

- i fiche duine ar a laghad agus gach duine faoi leith díobh sin ina chomhalta nó ina comhalta, in alt na huairde, de Theach de Thithe an Oireachtais, nó
- ii Comhairlí ceithre Chontae riaracháin ar a laghad (agus Contaebhuirgí a áireamh) mar a mhínítear le dli.

### Direct gender-proofed translation

Gach iarrthóir lena thoghadh nó lena toghadh<sup>1</sup>, seachas iar-Uachtarán nó Uachtarán a bheidh ag scor<sup>2</sup> dá oifig nó dá hoifig<sup>3</sup>, ní foláir<sup>4</sup> é nó í a ainmniú:

- i ag fiche duine ar a laghad, ar comhalta de Theach de Thithe an Oireachtais gach duine díobh san am<sup>5</sup>, nó
- ii ag Comhairlí ceithre Chontae riaracháin ar a laghad (ar a n-áirítear<sup>5</sup> Contaebhuirgí) mar a mhínítear le dli.

### Variants

- 1 'le toghadh', 'a bheidh le toghadh', 'chun a thofa nó chun a tofa'
- 2 'atá le scor'
- 3 'ag scor as oifig'
- 4 'caithfeair', 'ní mór'
- 5 'an tráth sin'
- 6 'lena n-áirítear'

## ARTICLE 12.4.3° AIRTEAGAL 12.4.3°

### TÉACS GAELIGE

Ní cead d'aon duine ná d'aon Chomhairle díobh sin bheith páirteach in ainmniú breis is aon iarrthóir amháin d'oifig an Uachtaráin san aon-toghchán.

### LITERAL ENGLISH TRANSLATION

No person and no Council of them is permitted to participate in the nomination of more than a single candidate for the office of (the) President in the same election.

**ENGLISH TEXT**

No person and no such Council shall be entitled to subscribe to the nomination of more than one candidate in respect of the same election.

**Divergences between the official texts**

- 1 'Díobh sin' would appear to qualify both 'duine' ('person') and 'Comhairle' ('Council') in the Irish text, whereas the corresponding 'such' in the English qualifies 'Council' only.
- 2 'No person ... shall be entitled' is expressed as 'Ní cead d'aon duine' ('No person is / shall be permitted') in the Irish text.
- 3 'Subscribe to the nomination' is expressed as 'bheith páirteach in ainmniú' ('participate in the nomination') in the Irish text.
- 4 'Candidate' is expressed as 'iarrthóir ... d'oifig an Uachtaráin' ('candidate for the office of (the) President') in the Irish text.
- 5 'In respect of' is expressed simply as 'sa' ('in') in the Irish text.

**Commentary**

*bheith páirteach in* Literally 'to participate in'. In Articles 31.4 and 34.5.1° 'take/make and subscribe a declaration in the following form' is expressed as 'an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis', with 'a chuirfidh (a) lámh leis' expressing 'subscribed' in Article 34.5.2° and 'a lámh a chur leis' expressing 'subscribing' in Article 12.8. While the original sense of 'subscribe' is 'to write (one's name or mark) on, originally at the bottom of, a document, especially as a witness or consenting party' (*The Shorter Oxford Dictionary*), it also has the sense of 'to agree or be a party to a course of action or condition of things; to give approval, sanction or countenance to' (ibid), which sense is found in the present Article. See the commentary on Article 28.3.3°, where 'páirteach' expresses 'participant', and on Article 29.5.1° regarding 'páirteach' itself.

Looking at the Acts, in s105(6) of the Mines and Quarries Act, 1965, 'and shall subscribe their signatures thereto' is translated as 'agus cuirfidh siad a síniú léi' and in s311(9) of the Companies Act, 1963, 'the persons who subscribed the memorandum' is transcribed as 'na daoine a shínigh an meabhrán'. In s425(2) of the Income Tax Act, 1967, 'the oath shall be subscribed by the person by whom it is made' is translated as 'cuirfidh an duine a rachaidh faoin mionn a lámh leis'. On the other hand, in the Sixth Schedule to the Defence Act, 1954, 'that ... I will ... not ... subscribe to (any political organisation)' is translated as 'nach dtaobhód leis (an gcéanna)'. Note how 'páirt' is again involved in translating 'subscribe' in the translation of 'The Community delegation subscribes to your analysis' as 'Tá toscaireacht an Chomhphobail i bpáirt leis an taifeach a rinne tú' in a declaration accompanying the *Treaties establishing the European Community* (1973, p. 1489). Professor Máirtín Ó Murchú comments that 'i bpáirt le' would have the sense of 'sympathetic towards', which sense need not be contrary to that of the present Article. Professor Ó Murchú recommends the phrase 'gabh le' – see Ó Dónaill s.v. 'gabh le', who includes the sense

of 'take sides with', citing '*ghabh siad le Sinn Féin*, they sided with Sinn Féin'.

'Subscribe' in the financial sense is now simply translated as 'suibscriobh' – see s3(a) of the Schedule to the International Finance Corporation Act, 1958, for example, where 'Each original member shall subscribe to the number of shares of stock' is translated as 'Suibscriobhfaidh gach comhalta bunaidh i leith an méid scaireanna stoic'. Note how in s79(3)(b) of the Workmen's Compensation Act, 1934, 'for requiring employers to subscribe to the fund' is translated as 'chun a cheangal ar fhostóirí sintiúisí do thabhairt don chiste'.

Looking at the earlier Acts as regards 'subscribe' in general, 'Such oath shall be taken and subscribed by every member of the Oireachtas' is translated as 'tabharfaidh gach ball an mhóid sin agus cuirfe sé a ainm léi' in Article 17 of the 1922 Constitution. In s4 of the Appropriation Act, 1924, 'until he has subscribed such declaration ... before one of the persons ...' is translated as 'go dtí go ndéanfa sé pé faisnéis ... do shighniú i bhfianaise duine de sna daoine'. Finally, in the Fourth Schedule to the Police Forces Amalgamation Act, 1925, 'that I will not ... join, belong, or subscribe to any political society whatsoever' is translated as 'ná ceanglóid agus ná bainfad agus ná cabhród le haon chumann polaitíochta in aon chor'.

*Ní cead* 'Cead', which has the basic sense of 'permission', some scholars tracing its origin back to Latin 'licet', is employed many times in the Constitution expressing 'shall' and 'may', as we have seen in the commentary on Article 9.1.3°. The following is a translation of the comments on this matter made by Maolmhaoldhóg Ó Ruairc in his monograph referred to in that commentary:

There are over twenty cases in the Constitution where *is cead / ní cead* are used to translate the English's 'shall' and three cases where they are the same as 'may'. To make matters worse there is one other case in Article 12.4.3° where it would be difficult to find the exact English version from the Irish as it is: '*ní cead d'aon duine díobh sin bheith páirteach in ainmniú breis is aon iarrthóir amháin d'oifig an Uachtaráin san aon-toghchán*'. Has the English 'he may' or 'he shall'? Neither of them, indeed, but 'no person shall be entitled to subscribe to the nomination of more than one candidate in respect of the same election'. Perhaps *ní cead* is closer to the '*not entitled*' than to the 'shall'.

We have examples from at least the twelfth century onwards of 'cead' with the copula followed by 'do' in the sense of 'must' – see DIL s.v. 1'cet' II(b):

With following DO (2nd and 3rd persons only). Usually in sense *must, is to*.

'Is cet duit sin ... t-imtheachta ... do innisín' ('you must give an account of yourself') is cited in DIL from *Leabhar na hUídhre* (written before 1106). The only instances of 'cead' followed by the preposition 'do' cited in *Dinneen*, however, are '*gan chead do*, in spite of, notwithstanding, *pace; is cead dó*, let him; *i gcead duit*, by your leave; *cuirim i gcead dó*, I ask as an advice of ...'. Ó Dónaill only cites '*Má thugann tú a chead dúinn*, if you grant us permission for it' and '*I gcead duit*, by your leave, with due respect to you. *I gcead don chuideachta, dá chóta*, with all due respect to the company, to his cloth' and '*gan cead dom*, without consulting me'. We find s.v.



'ceadmhach', however, '*más ceadmhach dom labhairt leo*, if I may be permitted to speak to them'.

'Teideal' is generally involved in the translation of 'entitled' in the Acts. 'After the passing of this Act, no person shall be entitled to institute proceedings for restitution of conjugal rights' is translated as 'Tar éis an tAcht seo a rith, ní bheidh teideal ag aon duine imeachtaí dlí a thionscnamh chun cearta pósta a aiseag' in s1 of the Family Law Act, 1988 – which Act incidentally only contains two sections, the second of which merely gives its 'Short Title' and the first containing only the sentence just cited. In s23(2) of the Finance Act, 1940, 'by any person who was at any time entitled to ... any property derived from the deceased' is translated as 'ag duine ar bith do bhí uair ar bith i dteideal aon mhaoine ... do tháinig ón duine marbh'. 'Ní bheidh teideal ag éinne chun aon phinsean ... d'fháil' translates 'No person shall be entitled to receive any pension' in s5(3) of the Superannuation and Pensions Act, 1923.

*diobh sin* This can be read as qualifying both 'aon duine' and 'aon Chomhairle' – i.e. none of the twenty or more members of the Houses of the Oireachtas nor none of the Councils of the four or more administrative Counties referred to in the preceding subsection. In the English text only the Councils are so qualified, i.e. 'No person and no such Council'.

Looking at the Acts, 'táirge, toradh nó ábhar ... a ionú, a thriomú, a mheascadh, a shórtáil, a phacáistiú, a bhrandáil nó a thástáil, nó aon phróiseas eile dá samhail a fheidhmiú orthu, ... nó aon phróisis díobh sin i dteannta a chéile' translates 'purifying, drying, mixing, sorting, packaging, branding, testing or applying any other similar process to a product, produce or material ... or any combination of such processes' in s41(1)(c) of the Finance Act, 1990. 'Den sórt sin' or simply 'sin' generally translates 'such' in the Acts. In s11(1)(b) of the Air Navigation and Transport Act, 1973, for example, 'attempts to perform any such act' is translated as 'a thabharfaidh faoi ghníomh den sórt sin a dhéanamh' and in s15(1) of the Capital Acquisitions Tax Act, 1976, 'the market value of any property ... shall be estimated to be the price which ... such property would fetch' is translated as 'Measfar gurb é margadhluach aon mhaoine ... an praghas a gheofaí ... ar an maoin sin'. See further the commentary on Article 8.3.

Professor Máirtín Ó Murchú comments that 'such' in this context does not have the sense of 'a leithéid sin' ('that kind of'), etc., but '... áirithe sin' ('that particular').

*iarrthóir ... d'oifig an Uachtaráin* Here we see the Irish text's preference not just for 'candidate for the office of the President' as against 'candidate for election', as we saw in the preceding subsection, but as against 'candidate' on its own.

*ainmniú breis is aon iarrthóir amháin* 'Níos mó ná' would have the advantage over 'breis' following 'ainmniú', which should take the genitive case, as no question of inflection would arise – see, s58(2)(c) of the First Schedule to the European Assembly Elections Act, 1977, for example, where 'is set opposite the name of more than one candidate' is translated as 'os coinne ainm níos mó ná iarrthóir amháin'.

*san aon-toghchán* Literally 'in the one election', but by being compounded with the following noun, 'aon' achieves the sense of 'same'. *Dinneen* cites '*bhíomar araon ar aon-scoil*, we both attended the same school', commenting as follows s.v. 'aon':

*Aon* is sometimes stressed, and forms one word with the following nouns ... The accentuation of *aon* takes place when emphasis is to be laid on the singleness, unity, or identity of the idea conveyed by the following word; thus *ní'l aon bhrígh leis an bhfocal sain*, that word has no meaning, but *aoín-bhrígh is eadh an dá fhocal*, both words have one and the same meaning. In the first of those two sentences *aon* is not emphasised, and should not form one word with *bhrígh*. If the word *amháin* follow in the sentence it sometimes takes the emphasis off *aon*.

'Céanna' with preceding article and noun generally translates 'the same' today. The earlier form 'cétnae' had the sense of '(the) first' ('cét' > Modern Irish 'céad'), DIL citing 'isin chétnae tuiste' ('in the primal creation') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Cétnae' in the sense of 'same' is cited from the same collection of Glosses ('na precepta cétní' ['the same teachings']).

Professor Máirtín Ó Murchú comments that it is understood from the word 'céanna' that reference is being made to something already mentioned, e.g. 'ba sa toghchán céanna a scriosadh Clann na Poblachta' ('Clann na Poblachta were destroyed in the same election'), this sense not being involved in the present Article.

### Standardised Irish text

Ní cead d'aon duine ná d'aon Chomhairle díobh sin bheith páirteach in ainmniú breis is aon iarrthóir amháin d'oifig an Uachtaráin san aontoghchán.

### Direct translation

Ní bheidh aon duine ná ní bheidh aon chomhairle díobh sin i dteideal<sup>1</sup> gabháil le<sup>2</sup> níos mó ná iarrthóir amháin<sup>3</sup> a ainmniú<sup>4</sup> i leith an aon toghcháin amháin.

### Variants

- 1 'Ní bheidh aon duine, ná aon chomhairle den sórt sin, i dteideal'
- 2 'bheith i bpáirt le'
- 3 'aon iarrthóir amháin'
- 4 'gabháil le hainmniú níos mó ná iarrthóir amháin'

## ARTICLE 12.4.4<sup>o</sup> AIRTEAGAL 12.4.4<sup>o</sup>

### TÉACS GAEILGE

Tig le haon duine atá nó a bhí ina Uachtarán é féin a ainmniú d'oifig an Uachtaráin.

### LITERAL ENGLISH TRANSLATION

Any person who is or who was a President may nominate himself for the office of (the) President. / It is open to any person who is or who was a President to nominate himself for the office of (the) President.

**ENGLISH TEXT**

Former or retiring Presidents may become candidates on their own nomination.

**Divergences between the official texts**

- 1 According to the Irish text, if a President nominates himself or herself, there would be no question of an election. 'May become candidates on their own nomination' is expressed as 'Tig le ... é féin a ainmniú d'oifig an Uachtaráin' ('may nominate himself for the office of (the) President') in the Irish text, i.e. they may nominate themselves for the office of President rather than as candidates for the office of President or for election to the office of President.
- 2 Apart from the word 'President', the literal translation of the Irish above has only the conjunction 'or' in common with the official English version, 'retiring Presidents' being expressed as 'Aon duine atá ... ina Uachtarán' ('any person who is a President') in the Irish text, much like we have seen in Article 12.4.2°.

**Commentary**

*é féin a ainmniú d'oifig an Uachtaráin* Literally 'to nominate himself for the office of the President', the English text having 'become candidates on their own nomination'. Unlike Article 12.4.2° ('Every candidate for election ... must be nominated either by', '*Gach iarrthóir d'oifig an Uachtaráin, ... is uathu seo a leanas nach foláir a ainmniú a theacht*'), this subsection does not include the word 'iarrthóir' ('candidate'), and states not that former or retiring Presidents may nominate themselves as candidates for the office of President or that they may nominate themselves for election to the office of President, but simply that they may nominate themselves to the office of President. Note that 'iarrthóir' is included in the next subsection (Article 12.4.5°), which commences as follows: 'Where only one candidate is nominated for the office of President ...', '*Nuair nach n-ainmnítear d'oifig an Uachtaráin ach aon iarrthóir amháin*'. See the commentary on Article 41.3.2° regarding 'ainmnigh'.

Note that 'iarrthóir d'oifig an Uachtaráin' expresses 'candidate for election' in Article 12.4.2° and 'candidate' in Article 12.4.3°. 'Iarrthóir' alone would today be used to translate 'candidate' – see s18(3) of the First Schedule to the European Assembly Elections Act, 1977, where 'those candidates shall be regarded as a single candidate' is translated as 'measfar gurb aon iarrthóir amháin na hiarrthóirí sin'.

As regards 'become', 'The State may become a member of the European Coal and Steel Community' and 'and may become a member of that Union' are translated respectively as 'Tig leis an Stát a bheith ina chomhalta den Chomhphobal Eorpach do Ghual agus Cruach' and 'agus tig leis a bheith ina chomhalta den Aontas sin' in Articles 29.4.3° and 29.4.4° following Amendments of the Constitution. 'Become' is usually translated by the circumlocutious phrase 'teacht chun bheith' in the Acts today – see s7 of the Value-Added Tax (Amendment) Act, 1978, for example, where 'The Revenue Commissioners shall set up and maintain a register of persons who may become or who are taxable persons' is translated as 'Déanfaidh na Coimisinéirí Ioncaim clár a bhunú agus a chothabháil de

dhaoiné a d'fhéadfadh teacht chun bheith, nó atá, ina ndaoine inchánach'. In s8(1) of the Fisheries (Amendment) Act, 1991, 'Feadfaidh aon club duántachta ... teacht chun bheith ina chomhalta corpraithe de chumann' translates 'Any angling club ... may become a corporate member of a society' and in s10(3) of the Schedule to the Great Southern Railways Company (Superannuation Scheme) Act, 1947, 'A woman who is permanently employed ... may become a contributing member' is translated as 'Bean a bheas ar buan-fhostú ... féadfaidh sí teacht chun bheith ina comhalta ranniocach'.

Finally, 'nomination' is translated as 'ainmniú' or 'ainmniúchán' in the Acts – 'ní chuirfidh a bhás ó bhail a ainmniú' translates 'his death shall not invalidate his nomination' in s20(4)(a) of the First Schedule to the European Assembly Elections Act, 1977, for example, 'na tráthanna chun ainmniúcháin a ghlacadh' translating 'the times for receiving nominations' in s2(a) thereof. In s11(2)(c) of the Transport (Re-organisation of Córas Iompair Éireann) Act, 1986, 'the Chairman of the Board may ... be appointed on his own nomination to be chairman ... of the company' is translated as '(go) bhféadfar ... Cathaoirleach an Bhoird a cheapadh ar a ainmniúchán féin le bheith ina chathaoirleach ... ar an gcuideachta'. See further the commentary on Articles 13.1.1° and 30.2.

*aon duine atá nó a bhí ina Uachtarán* As we have seen, 'duine' generally expresses 'person' in the Constitution. 'Éinne' or 'aoinne' are colloquial forms of 'aon duine', reflecting its pronunciation. Note how 'aon' is not included in Article 12.4.2°, 'seachas duine atá nó a bhí ina Uachtarán cheana', and how 'cheana' is not included here in Article 12.4.4°. See the commentary on Article 12.4.2° regarding 'former or retiring' in the Acts.

*Tig le* 'The President may' is expressed as 'Tig leis an Uachtarán' in Articles 13.2.2°, 13.2.3°, 13.7.1°, 13.7.2°, 25.2.2°, 31.3, 31.7 and 31.8. In Article 26.1.1°, however, 'The President may' is expressed as 'Is cead don Uachtarán' while in Article 31.1 'all matters on which the President may consult the said Council' is expressed as 'gach ní dá gcuirfidh an tUachtarán ina gcomhairle', literally, 'all matters on which the President will consult them'. In Article 12.10.1°, 'The President may be impeached' is expressed as 'Féadfar an tUachtarán a tháinseamh'.

We also find 'tig le', 'is cead' agus 'féadfaidh' expressing 'may' in Articles not related to the President. In Article 28.7.2°, however, 'not more than two may be members of Seanad Éireann' is expressed as 'ní dleathach thar beirt acu a bheith ina gcomhaltaí de Sheanad Éireann', and in Article 14.3 'is dleathach' expresses 'may'. *Ó Dónaill* gives 'lawful, legal' as the basic sense of 'dleathach', *Dinneen* including 'just, fair ... , lawful, legal, permissible' s.v. 'dleaghtach'. 'Dleathach'/'dleaghtach' comes from Old Irish 'dligthech', which is based on 'dliged', Modern Irish 'dlí', 'law' – in a commentary on an early Irish law-text, we find, for example, 'ní dligthech don aigne cin fis na n-earnúile so aige', which is translated in DIL as 'it is not lawful for the advocate not to know [these tracts]'. (See further the commentary on Article 10.1). 'Cead' basically means 'permission' – see further the commentary on Article 9.1.3°. On the other hand both 'tig' and 'féad', as we see below, connote ability to do something ('the power to do something', according to Maolmhaoldhóg Ó Ruairc below).

*Dinneen* translates ‘féadaim’ as ‘I am able, can’ and cites ‘féadaim a rádh, I may say’. The verb ‘féatid’ (‘is able, can’) is a Middle Irish development of ‘-éta’, proto-tonic stem of the verb ‘ad-cota’, ‘gets, obtains’, according to DIL, and in Middle Irish is most frequently in negative conditional sentences. In one version of the *Táin* we get, for example, ‘ní féatim-se beith i n-écmais m’airm’ (‘I cannot be without my weapons’). A ‘positive’ example from *Leabhar na hUídhre*, written before 1106, would be ‘cach olc as mó ro féat ... iss ed dogniat’ (‘they do the worst they can’) – spoken of one of the groups of people doomed on the Day of Judgment! (Note in passing that the usual verb today to express ‘get, obtain’, i.e. ‘faigh’, can also be used to express ‘be able to’ – among the examples cited in *Ó Dónaill* s.v. ‘faigh’ III, are ‘ní bhfaighteá iad a shásamh, you couldn’t satisfy them’ and ‘gheobhainn an muineál a chasadh aige, I could wring his neck’). See the commentary on Article 40.3.3° regarding ‘féad’ in the Constitution.

‘Tig’ is originally the prototonic form of ‘do-icc’, ‘come’ – see DIL s.v. ‘do-icc’:

With ‘la’ (i.e. Modern Irish ‘le’); late Middle Irish ticc limm *I am able (to), succeed (in) ...* Common in Modern Irish.

In *Ó Dónaill* s.v. ‘tig’, we are referred to ‘tar’ (‘come’) where both ‘tagann’ and ‘tig’ are given as the present indicative of this verb. The form ‘tig’, however, is cited only under ‘tar le’ (4):

*Tagann le, tig le*, is able. *Thiocfadh liom cuidiú leat*, I could help you. *Tháinig liom comhairle a chur air*, I was able to influence him. *Ní thiocfadh liom a leithéid sin a dhéanamh*, I couldn’t do the like of that. *Ní thig liom*, I can’t.

*Dinneen*’s entry s.v. ‘tig’ refers to ‘tig’ as an ‘atrophied third singular of *tigim*, treated like *féidir* in *is tig liom é*, I can, am able’, citing s.v. ‘tigim (tagaim)’, ‘*tig liom*, I am able, succeed in’. *Dinneen* states that ‘tagaim’ is the ordinary Munster form, ‘thigim’ being the Ulster form.

Writing on the evolution of the dialects of Irish, Nicholas Williams states that ‘tig’ – the historic form of the third person present indicative of the standard Irish verb ‘tar’ (the imperative second person singular form ‘tar’ comes from the Old Irish verb ‘do-airicc’) – is found in Ulster and in Oriel where the initial consonant was often lenited (Nicholas Williams, ‘Na Canúintí a Theacht chun Solais’, in Kim McCone et al., op. cit., p. 457; see also Art Hughes, op. cit., p. 653, on ‘t(h)ig sé’ as the form of the third person, present indicative, in Ulster). The form ‘tag-’ gradually took the place of ‘tig’ in Munster (see Seán Ua Súilleabháin, op. cit., p. 531). ‘Tig le’ is, however, also found in Connacht – see Ruairí Ó hUiginn, op. cit., p. 594.

According to Maolmhaodhóg Ó Ruairc, in his monograph *Dúchas na Gaeilge*, the word ‘may’ is perhaps the most important word in any legal document. He focuses on Article 31.3:

The President may at any time ... appoint such other persons as, in his absolute discretion, he may think fit to be members of the Council of State.

The whole statement is, according to Maolmhaodhóg Ó Ruairc, subject to ‘in his absolute discretion’. Unlike the use of ‘may’ in ‘as he may think fit’, ability and power are involved in ‘may’ at the beginning of the statement.

Maolmhaodhóg Ó Ruairc poses the question: ‘Is there a distinction to be made between he has permission to do it if he wishes and he has the power to do it?’ (‘An bhfuil idirdhealú le déanamh idir *tá cead aige é a dhéanamh mäs mian leis nó tá an chumhacht aige chuige?*’). In this case, according to Maolmhaodhóg Ó Ruairc, the Irish text chooses the power version (‘Sa chás seo roghnaíonn an Ghaeilge leagan na cumhachta’), the Irish text of Article 31.3 reading as follows:

Tig leis an Uachtarán uair ar bith ... cibé daoine eile is oiriúnach leis, as a chomhairle féin, a cheapadh ... chun bheith ina gcomhaltaí den Chomhairle Stáit.

‘May’ is usually translated as ‘féadfaidh’ in the Acts – see, for example, ‘he may ... claim to ...’ in s26(1) of the Finance Act, 1990, which is translated as ‘féadfaidh sé a éileamh go ...’. ‘Tig le’ is also found in the Acts – see the Electoral (Amendment) Act, 1972, for example, where ‘the State may become a member’ is translated as ‘tig leis an Stát a bheith ina chomhalta’. Sometimes the simple future tense of the verb translates ‘may’ in the Acts – see s27 of the Health Act, 1970, for example, where ‘accounts shall be kept by a health board in such form ... as may be prescribed by the Minister’ is translated as ‘coimeádfaidh bord sláinte cuntais i cibé foirm ... a fhorordóidh an tAire’.

### Gender-proofed Irish text

Tig le haon duine atá nó a bhí ina Uachtarán nó ina hUachtarán é féin nó í féin a ainmniú d’oifig an Uachtaráin.

### Direct translation

Féadfaidh iar-Uachtaráin nó Uachtaráin a bheidh ag scor dá n-oifig teacht chun bheith ina n-iarrthóirí ar a n-ainmniúchán féin.

## ARTICLE 12.4.5° AIRTEAGAL 12.4.5°

### TÉACS GAELIGE

Nuair nach n-ainmnítear d’oifig an Uachtaráin ach aon iarrthóir amháin, ní gá vótáil chun é a thoghadh.

### LITERAL ENGLISH TRANSLATION

When only one candidate is nominated for the office of (the) President, it is not necessary to vote in order to elect him. / a ballot / voting to elect him is not a necessity.

### ENGLISH TEXT

Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for his election.

### Divergences between the official texts

- 1 ‘To proceed to a ballot’ is expressed simply as ‘vótáil’ (‘to vote’) in the Irish text.

### Commentary

*vótáil* 'Bhótáil' is the form in the enrolled text, this verbal noun having the sense of 'voting/ballot, to vote' – see the commentary on Article 12.2.1°. 'Tá sé de cheart aige vótáil' expresses 'shall have to right to vote' in Article 47.3. See the commentary on Article 12.2.3° regarding 'ballot'.

As regards 'proceed', in s38(3)(a) of the Nurses Act, 1985, 'the Committee shall proceed to hold the inquiry' is translated as 'rachaidh an Coiste ar aghaidh leis an bhfiosrúchán a sheoladh' and in s8(2) of the Companies (Amendment) Act, 1983, and 'the registrar ... may proceed to strike the name of the public limited company off the register' is translated as 'féadfaidh an cláraitheoir ... dul ar aghaidh le hainm na cuideachta poiblí teoranta a bhaint den chlár'. Finally, note that the phrase 'to proceed **with**' is also translated as 'dul ar aghaidh le' in the Acts – see, for example, s109(6)(a)(iv) of the Finance Act, 1983, where 'not to proceed with the appeal' is translated as 'gan dul ar aghaidh leis an achomharc'.

*Nuair* In Article 42.5 'where the parents ... fail in their duty towards their children' is expressed as 'nuair a tharlaíonn ... nach ndéanaid na tuistí a ndualgais dá gclainn'. 'Where necessary' is expressed as 'nuair is gá sin' in Article 45.3.1° and as 'nuair a bheas riachtanas leis' in Article 45.4.1°. In Article 42.4, 'when the public good requires it' is expressed as 'nuair is riachtanas chun leasa an phobail é'. 'Nuair a dhéanann duine ar bith gearán' expresses 'Upon complaint being made by ... any person' in Article 40.4.2° and 'nuair a ritear' expresses 'upon having been passed' in Article 46.2. In Article 25.4.4°, on the other hand, 'Where the President signs the text of a Bill' is expressed as 'I gcás an tUachtaráin do chur a lámhe le téacs Bille', 'I gcás' expressing 'Where' at the beginning of clauses in Articles 40.4.3° and 40.4.5°, while in Article 38.3.1° 'where it may be determined' is expressed as 'i gcásanna a gcinnefar'.

'Nuair' is usually translated as 'when', being an unstressed form of 'an uair', Old Irish 'úar' coming from Latin 'hora'. We find 'nuair' translating both 'when', 'where' and 'upon' in the Acts. In s33(2) of the Finance Act, 1990, for example, 'when applied' is translated as 'nuair a chuirtear i bhfeidhm é'; in s39(c) of the Fourth Schedule to the Fisheries Act, 1980, 'where the offender is apprehended under this section' is translated as 'nuair a ghabhtar an ciontóir faoin alt seo' and in s25 of the First Schedule to the European Elections Act, 1977, 'upon taxation of his accounts' is translated as 'nuair a bheidh a chuntais á bhfómhas'. 'Where' at the beginning of a sentence in the Acts is today generally translated as 'I gcás' – see s21 of the Finance Act, 1990, for example, where 'Where a person makes an election under subsection (4)' is translated as 'I gcás ina ndéanfaidh duine roghnú faoi fho-alt (4)'.

*aon ... amháin* 'One only' is the translation given in *Dinneen* of 'aon ... amháin' s.v. 'amháin'. In Article 12.3.2° 'A person ... shall be eligible for re-election to that office once, but only once' is expressed as '... is intofa chun na hoifige sin é aon uair amháin eile, ach sin a mbeidh'. 'Aon ... amháin' is used in negative clauses in Articles 16.1.4° ('No voter may exercise more than one vote at an election for Dáil Éireann', '*Ní cead do thoghthóir ar bith thar aon vóta amháin a thabhairt i dtoghchán do Dháil*

*Éireann*') and 12.4.3° ('No person and no such Council shall be entitled to subscribe to the nomination of more than one candidate', '*Ní cead d'aon duine ná d'aon Chomhairle díobh sin bheith páirteach in ainmniú breis is aon iarrthóir amháin*'). In Article 11 'form one fund' is expressed as 'a chur in aon chiste amháin'. Finally, in Article 16.4.1°, 'an t-aon lá amháin' expresses 'the same day'.

In the layout of the following two examples cited in *Ó Dónaill* s.v. 'aon', we see how 'amháin' need not add to the force of 'aon': '*aon duine (amháin) clainne*, one of a family' and '*in aon lá (amháin)*, in one day'. *Dinneen* s.v. 'amháin', has the abbreviation for 'Connacht' following the entry 'ceist amháin' (omitting 'aon'), 'one question'. In s15 of the Finance Act, 1990, we see how even 'only one' need not necessarily contain both 'aon' and 'amháin': 'if only one account was made' is translated there as 'mura ndearnadh ach cuntas amháin'. See further the commentary on Article 16.4.1°.

*ní gá* This phrase translates both 'it is not necessary' and 'it will not be necessary'. In s94 of the First Schedule to the European Assembly Elections Act, 1977, for example, 'it shall not be necessary to prove the signature of the returning officer' is translated as 'ní gá cruthúas ar shíniú an cheann comhairimh'. The future is more clearly marked in the translation of s24(7) of the Wealth Tax Act, 1975, where 'it shall not be necessary to prove' is translated as 'ní bheidh sé riachtanach cruthúas a thabhairt ar'. 'Gá' is translated as 'need, requirement' in *Ó Dónaill*, who cites '*ní gá a rá (go)*, needless to say (that)'. 'Riachtanach' is translated as 'necessary' but can be stronger than 'gá' as we see from the translation of the following two examples from *Ó Dónaill*: '*Tá sé riachtanach don tsláinte*, it is essential to health. *Níl sé riachtanach agat fanacht anseo*, you are not obliged to stay here'. 'Gá' developed from 'gád', translated as 'danger, stress, need' in DIL, no examples being cited from the earlier Irish sources. *Dinneen* translates 'gábhadh' (the form in the enrolled text) as 'want, need; distress, danger, peril, adventure'. Professor Máirtín Ó Murchú comments that 'gá(dh)' would be more precise than 'gábhadh', although both words have fallen together. He remarks, however, that *Ó Dónaill* has both 'gá' and 'gábh' as headwords. The principal sense of 'gábh' in *Ó Dónaill* is 'danger, peril', with 'gá' given as the standard form of the secondary sense. See the commentary on Article 41.1.2° where 'riachtanach' expresses 'necessary'.

### Gender-proofed Irish text

Nuair nach n-ainmnítear d'oifig an Uachtaráin ach aon iarrthóir amháin, ní gá vótáil chun é nó í a thoghadh.

### Direct translation

I gcás nach n-ainmneofar<sup>1</sup> ach iarrthóir amháin d'oifig an Uachtaráin, ní gá cur chun ballóide<sup>2</sup> chun an t-iarrthóir sin<sup>3</sup> a thoghadh.

### Variants

- 1 'nach n-ainmnítear'
- 2 'dul ar aghaidh le ballóid'
- 3 'chun an t-iarrthóir', 'chun é nó í'

## ARTICLE 12.5 AIRTEAGAL 12.5

## TÉACS GAEILGE

Faoi chuimsiú forálacha an Airteagail seo is le dli a rialófar toghcháin d'oifig an Uachtaráin.

## LITERAL ENGLISH TRANSLATION

Within the scope/constraint of the provisions of this Article it is by law that elections to the office of (the) President will be regulated/controlled.

## ENGLISH TEXT

Subject to the provisions of this Article, elections for the office of President shall be regulated by law.

## Divergences between the official texts

- 1 'Subject to' is expressed as 'faoi chuimsiú' ('within the scope/constraint of') in the Irish text, as in some other Articles.
- 2 The Irish 'rialú' may correspond variously to 'control', 'regulate' and 'rule' in the English text.
- 3 'Elections for the office' is expressed as 'toghcháin d'oifig' ('elections to [the] office') in the Irish text, though the Irish phrase can also be read as 'elections for the office'.

## Commentary

*Faoi chuimsiú forálacha an Airteagail seo* According to the official standard, 'forálacha' would be lenited here after the prepositional phrase 'faoi chuimsiú' – see *An Caighdeán Oifigiúil* (1979), p. 38, and the commentary on Article 1, regarding the (lenited) nominative in place of the genitive. Note that 'foráilí' is the form in the original text.

'Faoi chuimsiú' expresses 'subject to' in Articles 11, 12.10.2°, 13.10, 14.5.1°, 16.7, 18.7.2°, 18.10.1°, 22.2.1°, 28.2, 29.4.2°, 30.6, 33.6, 34.4.3°, 36, 40.3.3° and 50.1, with 'Subject as aforesaid' being expressed as 'Faoi chuimsiú na nithe réamhráite' in Article 47.4 – see further the commentary on Article 40.3.3°. 'Faoi chuimsiú' is translated as 'within the scope of' in the Glossary appended to *An Caighdeán Oifigiúil*. In *Téarmaí Dlí*, 'within the scope of the employment' is translated as 'faoi chuimsiú na fostaíochta', with 'subject to' being translated as 'faoi réir'. In s9(4) of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978, 'na foirgnimh faoi chuimsiú an léasa a aisiriú' translates 'to reinstate the buildings comprised in the lease'. 'Faoi chuimsiú' translates 'within', 'within the framework' and 'under' in the *Treaties establishing the European Communities* (1973): 'the principle of non-discrimination in liberalisation of trade within the Organisation for European Economic Cooperation' is translated as '(ar) chlásal an neamhidirdhealaithe sa léirscaoileadh trádála faoi chuimsiú na hEagraíochta um Chomhar Eacnamaíoch san Eoraip' (p. 122); 'Féachfaidh Institiúidí an Chomhphobail, faoi chuimsiú chomheagraíocht na margaí do tháirgí iascaigh, le réiteach sásúil a fháil' translates 'The institutions of the Community will seek, within the framework of the common organization of the market in fishery products, adequate solutions' (p. 1341) and 'faoi chuimsiú taraif-chuótaí' translates 'under tariff quotas' (p. 141).

'Cuimsiú' is translated as 'connotation, scope' and 'inclusion' in *Ó Dónaill*, this being the verbal noun of 'cuimsigh', translated there as 'comprehend; connote; comprise, include'. 'I comprehend, keep within bounds, moderate, control' is given as one of the senses of 'cuimsighim' in *Dinneen*, who translates this headword principally as 'I hit (as a mark); aim; fit, adapt, bring into relation, line or measure, with, enumerate', citing '*má chuimsighim ort, beidh a chuimhne agat*, if I turn all my attention to you, you will have cause to remember it'. DIL translates 'coimsigid' as 'arranges, disposes', citing 'go gcoimsighid an tiomlán' (= they comprehend) from Donlevy's *Irish Catechism*, 1742, 'a choimsiughadh' (= comprehend) being cited s.v. 'coimsiugad' (verbal noun of 'coimsigid') from a seventeenth-century translation of the Bible (*Eph.* iii 18). 'Coimsigid' is related to 'coimse' and 'commus', the former being a participle of 'con-midethar' is translated as 'suitable, fitting, appropriate, due' in DIL, the latter being the verbal noun of 'con-midethar' is translated principally as 'act of controlling, arranging, directing' in DIL, Modern Irish 'cumas' ('power, ability, capacity') coming from that form.

'Subject to' is generally translated as 'faoi réir' in the Acts, as in *Téarmaí Dlí*. 'Subject to and in accordance with regulations' is translated as 'faoi réir agus de réir rialachán' in s63(a) of the Finance Act, 1989, for example. 'The provisions applicable to Case 1 ... shall ... have effect subject to the subsequent provisions of this section' is translated as 'beidh éifeacht, faoi réir na bhforálacha ina dhiaidh seo den alt seo, leis na forálacha is infheidhme ar Chás 1' in s29(2)(a) of the Finance Act, 1981, and in s283(1) of the Companies Act, 1963, 'the value of such debts ... which may be subject to any contingency or which sound only in damages' is translated as 'luach na bhfiacha ... sin atá faoi réir aon teagmhais nó inchúitithe le damáistí amháin'.

We find 'faoi réir' translating 'subject to' even in early Acts. 'And subject to the provisions of this Act' is translated as 'agus fé réir forálacha an Achta so' in s1(2) of the Finance Act, 1923, for example. 'Faoi' alone translates 'subject to' in some early Acts – 'and every such force shall be subject to the control of the Oireachtas' is translated as 'agus beidh gach fórsa dá shórt fé smacht an Oireachtais' in Article 46 of the 1922 Constitution, 'fé cheadú ó' translating 'subject to the sanction of' in s10 of the 'Galway County Scheme' in the Local Government (Temporary Provisions) Act, 1923. 'Whose actions shall be subject to the approval of the County Board of Health', in s8 of the 'Kildare County Scheme' in that same Act, is translated as 'na mbeidh a ngníomhartha ag brath ar mhola Bhord Sláinte na Contae', with 'subject to the limitations hereafter specified' being translated as 'laistigh de sna teoranna a déarf ar ina dhiaidh seo' in that same section; 'subject to the approval of the Minister for Finance' is translated as 'fé mhola an Aire Airgid' in s6 of the Comptroller and Auditor-General Act, 1923. 'Tar éis pé atharuithe a ordófar leis na rialacháin sin a dhéanamh ortha' translates 'subject to such modifications as may be prescribed by such regulations' in s14(5) of the National Health Insurance Act, 1923 and, finally, 'subject to the approval of' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ach an ... do thoilú chuige' in *Iris Oifigiúil*, 1922/23.

Note finally that 'ach gan san a dhul chun dochair do' expresses 'subject to' in Article 44.2.1°.

*rialófar* The future passive of 'rialaiigh'. 'Rialaiigh' expresses 'regulate' in Articles 13.5.1°, 16.7, 18.10.1°, 22.1.1°, 28.12, 30.6, 36, 40.6.1°iii, 40.6.2°, 43.2.1° and 47.4 also. The verbal noun of 'rialaiigh' expresses 'for the control' in Articles 10.3 and 10.4, and 'to control' in Articles 33.1, 40.4.6° and 40.6.1°iii, while 'rialú a dhéanamh ar thionóil' expresses 'control meetings' in Article 40.6.1°ii. 'Gurb é leas an phobail uile is buanchuspóir agus is príomhchuspóir a rialós ina mbaineann le hurlámhas creidimheasa' expresses 'That in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole' in Article 45.2.iv. Note, finally, that 'riaghlóchar' is the form in the original text.

'Rialaim' – the first person singular, present indicative, of 'rialaiigh' – is translated as 'I control; I rule' in *Téarmaí Dlí. Ó Dónaill* gives 'regulate' as one of the senses of 'rialaiigh', and cites s.v. 'rialaiigh' (3), '*cíos a rialú*, to control rent' and '*clog a rialú*, to regulate a clock'. *Dinneen* includes 'I regulate' among the senses of 'riaghlúghim', along with 'I rule, reign, govern'. 'Rialáil', which is not given as a headword in *Ó Dónaill*, specifically translates 'regulate' in the Acts, though 'rialaiigh' is also found. In s19 of the Second Schedule to the Fisheries Act, 1980, for example, 'the Central Board shall regulate its procedures and business' is translated as 'rialóidh an Príomh-Bhord a nós imeachta agus a ghnó' and in s15(6) of the Irish Film Board Act, 1980, 'Subject to this Act, the Board shall regulate its procedure by rules or otherwise' is translated as 'Faoi réir an Achta seo, rialóidh an Bord a nós imeachta le rialacha nó ar shlí eile'. In s6(3) of the Medical Practitioners Act, 1978, on the other hand, 'The Council may ... regulate its own procedure' is translated as 'Féadfaidh an Chomhairle ... a nós imeachta féin a rialáil' and 'toirmeasc a chur nó rialáil a dhéanamh ar aon ola ... a scaoileadh amach' translates 'prohibiting or regulating the discharge ... of any oil' in s10(1) of the Sea Pollution Act, 1991.

Both 'rialaiigh' and 'rialáil' translate 'regulate' in the early Acts, with 'rialáil' gaining in popularity. 'Laws regulating the manner in which the right of forming associations ... may be exercised' is translated as 'Na dlíthe a rialóidh an tslí 'na bhféadfar ceart cumainn do bhunú ... do chur i bhfeidhm' in Article 9 of the 1922 Constitution, with 'rialú cánach' translating 'regulation of taxation' in Article 35. On the other hand, 'agus, leis na rialacha san, féadfa sé an cleachta agus an nós imeachta féin alt so ... do regleáil' translates 'and may by any such rules regulate the practice and procedure under this section' in s6(12) of the Dublin Reconstruction (Emergency Provisions) Act, 1924. 'Is leis na Rialacha atá sa Dara Sceideal ... a regleálfar co-dhéanamh ... bordanna sláinte' translates 'The constitution ... of boards of health ... shall be regulated by the Rules' in s12(2) of the Local Government Act, 1925. 'For regulating the practice of registration under this Act' is translated as 'chun an cleachta a bhaineann le clárú féin Acht so do rialáil' in s153(1)(a) of the Industrial and Commercial Property (Protection) Act, 1927. We find the phrase 'regulate by law' in s23(f) of the Slaughtered Animals (Compensation) Act, 1928, where 'which the Trustees think proper to regulate and prescribe by rules' is translated as 'agus is dó leis na hÍontaobhaithe is ceart do rialáil nó d'ordú le rialacha' and 'rialálfar áit agus stiúra na dtoghachán san le dlí' translates 'The place and conduct of such elections shall be regulated by law' in s2 of the

Constitution (Amendment No. 6) Act, 1928, and in s1 of the Constitution (Amendment No. 11) Act, 1929. See, also, the citation below from the Presidential Elections Act, 1937.

*toghcháin d'oifig an Uachtaráin* Note how in the Long Title of the Presidential Elections Act, 1937, which Act follows directly on the Articles of the Constitution dealing with the President, 'An Act to regulate ... elections for the office of President of Ireland' is translated as 'Acht chun rialála do dhéanamh ... ar thoghacháin chun oifige Uachtaráin na hÉireann'. Perhaps influenced by the wording of the Constitution, in the Long Title of the Electoral (Amendment) Act, 1985, 'the right to vote at elections for Dáil Éireann' is translated as 'an ceart vótála ... i dtoghcháin do Dháil Éireann'. See further the commentary on Article 12.2.2°.

### Standardised Irish text

Faoi chuimsiú fhorálacha an Airteagail seo is le dlí a rialófar toghcháin d'oifig an Uachtaráin.

### Direct translation

Faoi réir fhorálacha an Airteagail seo, is le dlí a dhéanfar toghcháin chun oifig<sup>1</sup> an Uachtaráin a rialáil<sup>2</sup>.

### Variants

- <sup>1</sup> 'd'oifig'
- <sup>2</sup> 'a dhéanfar rialáil ar thoghcháin chun oifig an Uachtaráin'

## ARTICLE 12.6.1° AIRTEAGAL 12.6.1°

### TÉACS GAEILGE

Ní cead an tUachtarán a bheith ina chomhalta de Dháil Éireann ná de Sheanad Éireann.

### LITERAL ENGLISH TRANSLATION

The President is not permitted to be a member of Dáil Éireann nor of Seanad Éireann.

### ENGLISH TEXT

The President shall not be a member of either House of the Oireachtas.

### Divergences between the official texts

- <sup>1</sup> 'Shall not be' is expressed as 'Ní cead ... a bheith' ('is not permitted to be') in the Irish text, 'ní cead' expressing 'shall not' in some other Articles also.
- <sup>2</sup> 'Of either House of the Oireachtas' is expressed as 'de Dháil Éireann ná de Sheanad Éireann' ('of Dáil Éireann or of Seanad Éireann') in the Irish text.

### Commentary

*bheith ina chomhalta de Dháil Éireann ná de Sheanad Éireann* The English text has simply '... be a member of either House of the Oireachtas'. The direct translation

of this would be 'bheith ina chomhalta de cheachtar Teach den Oireachtas' – in s14(5) of the Higher Education Authority Act, 1971, for example, 'Where a person who is either an officer or servant in the employment of An tÚdarás becomes a member of either House of the Oireachtas' is translated as 'I gcás duine is oifigeach nó seirbhíseach i bhfostaíocht faoin Údarás teacht chun bheith ina chomhalta de cheachtar Teach den Oireachtas'. We find 'de cheachtar' in the very next subsection: 'If a member of either House of the Oireachtas be elected ...' is expressed as 'Má thoghtar comhalta de cheachtar de Thithe an Oireachtas ...', in Article 12.6.2°. Unstressed pronominal forms are usually not lenited in Irish – see *Graiméar Gaeilge na mBráithre Críostaí* (p. 37), where 'tabhair é do **cibé** a thiofaidh' and 'ag déanamh ionadh mór de **cé** a rinne é' are cited as examples of this non-lenition – but this rule does not apply to 'ceachtar' which, according to Professor Máirtín Ó Murchú, is normally stressed. 'De cheachtar' in two subsections after each other may have been avoided for stylistic reasons. We find 'de cheachtar den dá Theach' in Article 15.11.3° and 'in the vicinity of either House of the Oireachtas' is expressed as 'i gcóngar do cheachtar de Thithe an Oireachtais' in Article 40.6.1°ii.

In the earlier language 'cechtar' had the sense of 'each (of), both (of)' – 'cach', 'cech' ('each, every, all') being an unstressed form of 'cách'. According to Rudolf Thurneysen's *Grammar of Old Irish* (p. 311), 'cechtar' is probably modelled on 'nechtar', for which see the commentary on Article 12.7. DIL cites 'cechtar inda leithe sin' ('each of those two parts') from the ninth-century St Gall Glosses on Priscian as an example of the sense of 'each (of), both (of)', citing 'nó gur bhás do cheachtar dhuinn' (from the *Transactions of the Ossianic Society*) as an example of the later sense.

*Ní cead* 'Permission' is the basic sense of 'cead', as we have seen in the commentary on Article 9.1.3°. In this subsection, as in Article 9.1.3°, where 'No person may be excluded from Irish nationality ...' is expressed as 'Ní cead náisiúntacht ... Éireann a cheilt ar dhuine ar bith', 'ní cead' is followed, not by the preposition 'do' as in Article 12.4.3°, but directly by the noun followed by the verbal noun. 'Shall not' is expressed as 'ní cead' plus noun (or pronoun) and verbal noun in Articles 12.10.3°, 12.11.3°, 16.2.2°, 30.4, 33.3, 33.5.1°, 35.4.1°, 35.5, 38.4.2°, 38.5, 44.2.4°, 44.2.6° and 46.4. 'No x shall' is expressed as 'ní cead x' plus verbal noun in Articles 16.1.3°, 16.2.6°, 26.2.2°, 34.3.2°, 34.4.5°, 35.3, 38.1, 38.5, 40.4.1° and 41.3.2°. 'Nothing shall ...' is expressed as 'Ní cead aon ní ...' plus verbal noun in Articles 18.4.3°, 28.3.3° and 40.4.6°. 'Ní cead níos mó ná ...' expresses 'Not more than ... shall' in Article 18.7.2° and 'Ní cead aon idirdhealú ... a bheith i ...' expresses '... shall contain no ... discrimination' in Article 40.6.2°. We have only three examples of 'cead' used without the negative: in Article 21.1.1°, 'Money Bills shall be initiated in Dáil Éireann only' is expressed as 'Is i nDáil Éireann amháin is cead Billí Airgid a thionscnamh'; in Article 40.6.1°iii, 'Laws ... may be enacted for ...' is expressed as 'is cead dlíthe a achtú chun ...' and in Article 46.1, 'Any provision of this Constitution may be amended' is expressed as 'Is cead foráil ar bith den Bhunreacht seo a leasú ...'. See the commentary on Article 9.1.3° for other ways in which 'shall' and 'may' are expressed in the Constitution.

Turning to the Acts, 'a person shall not be a member of the Institute' is translated simply as 'ní bheidh duine ina chomhalta den Fhoras' in s3(2) of the National Institute for Higher Education, Dublin, Act, 1980, for example. 'Ní bheidh comhalta den Bhord ina chomhalta d'údarás áitiúil' translates 'A member of the Board shall not be a member of a local authority' in s4(6) of the First Schedule to the Undeveloped Areas Act, 1952, and 'Ní bheidh sé 'na bhall den Oireachtas' translates 'He shall not be a member of the Oireachtas' in Article 63 of the 1922 Constitution.

### Gender-proofed Irish text

Ní cead an tUachtarán a bheith ina chomhalta nó ina comhalta de Dháil Éireann ná de Sheanad Éireann.

### Direct gender-proofed translation

Ní bheidh an tUachtarán ina chomhalta nó ina comhalta de cheachtar Teach den Oireachtas.<sup>1</sup>

### Variants

- <sup>1</sup> 'Ní comhalta de cheachtar Teach den Oireachtas an tUachtarán.'

## ARTICLE 12.6.2° AIRTEAGAL 12.6.2°

### TÉACS GAEILGE

Má thoghtar comhalta de cheachtar de Thithe an Oireachtais chun bheith ina Uachtarán, ní foláir a mheas go bhfuil scartha aige le comhaltas an Tí sin.

### LITERAL ENGLISH TRANSLATION

If a member of either of the Houses of the Oireachtas is elected to be/become President, it must be deemed that he has relinquished / parted with membership of that House.

### ENGLISH TEXT

If a member of either House of the Oireachtas be elected President, he shall be deemed to have vacated his seat in that House.

### Divergences between the official texts

- 1 'If a member ... be elected President' is expressed as 'Má thoghtar comhalta ... chun bheith ina Uachtarán' ('if a member is elected to be/become President') in the Irish text, perhaps indicating more clearly that it is immediately on having been deemed elected that the member must vacate his seat and that he cannot retain his seat during the period between the election and the assumption of the office of President.
- 2 'He shall be deemed to have vacated his seat in that House' is expressed as 'ní foláir a mheas go bhfuil scartha aige le comhaltas an Tí sin' ('it must be deemed that he has parted with membership of that House') in the Irish text, the English version being directed towards the member himself while the Irish is more impersonal; again 'shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen earlier.

### Commentary

*scartha aige le* ‘Scar’ is translated as ‘part, separate’ in *Ó Dónaill*, who translates ‘scar le’ as ‘separate from; part with, give up, relinquish’, citing ‘*scaradh le ceart*, to relinquish a right’ and ‘*scaradh le hoifig*, to vacate an office’. DIL cites ‘rosarsat fri hiriss’ (‘they have separated from [the] faith’) from the eighth-century Würzburg Glosses on the Pauline Epistles, along with the poetic line ‘in tan no scairiub frim chrí’ (*lit.* when I am separated from my body, i.e. when I die) from a later source, as examples of ‘scaraid’ in the sense of ‘relinquishes, gives up, is without, desists from’. See further the commentary on Article 34.5.4°.

‘Vacate’ is translated as ‘fágaim (post)’ in *De Bhaldraithe*, where ‘to vacate office’ is translated as ‘éirí as oifig, scaradh le hoifig’. *De Bhaldraithe* also gives ‘fágaim, éirim de (shuíochán)’, with ‘éirí de shuíochán’ being translated as ‘to rise from a seat’ in *Ó Dónaill*. Turning to the Acts, ‘When a judge of the Supreme Court ... vacates his office ... he shall be deemed ... to have vacated his office’, in s1 of the Courts (Supplemental Provisions) (Amendment) Act, 1968, is translated as ‘I gcás breitheamh den Chúirt Uachtarach ... do scaradh lena oifig ... measfar ... gur scar sé lena oifig’. In s8(7)(a) of the British & Irish Steam Packet Company Limited (Acquisition) Act, 1965, ‘Each director of the Company ... shall ... be deemed to have vacated his office as director’ is translated as ‘Gach stiúrthóir ar an gCuideachta ... measfar ... é a bheith tar éis scaradh lena oifig mar stiúrthóir’. ‘Tuigfear ... gur scar sé le n-a oifig mar gheall ar bhuan-laige’ translates ‘he shall be deemed ... to have vacated his office owing to permanent infirmity’ in s49(6) of the Courts of Justice Act, 1936. Looking at the early Acts, ‘tuigfear é bheith tar éis dul aisti’ translates ‘shall ... be deemed to have vacated (his office as such member)’ in s16(3) of the Railways Act, 1924, ‘tuigfar é bheith tar éis an oifig sin d’fhágaint’ translating ‘shall be deemed to have vacated his office (of judge or justice)’ in s99 of the Courts of Justice Act, 1924. Finally, in s34(4) of the Seanad Electoral (Panel Members) Act, 1937, ‘he shall be deemed to have vacated his membership of Seanad Éireann immediately after his said election thereto’ is translated as ‘tuigfear é d’eirge as bheith ina chomhalta de Sheanad Éireann díreach tar éis é thogha chuige’.

Turning specifically to vacating a seat, ‘he shall forthwith be deemed to have vacated his first seat’ is translated as ‘tuigfear feasta a chéad shuidheachán do bheith follamhuithe’ in Article 16 of the 1922 Constitution. In s8(4) of the Seanad Bye-Election Act, 1930, ‘shall ... be deemed to have been duly so elected and to vacate their seats’ is translated as ‘tuigfear iad do bheith toghtha go cuibhe amhlaidh agus iad d’fhágaint a suíochán’. Finally, ‘vacate seats of members’ is cited in *Foclóir Oifigiúil* as being translated as ‘comhaltá a chur as a suíochán’ in *Iris Oifigiúil*, 1922/23.

*Má thoghtar ... chun bheith* Note that this is not ‘Má thoghtar ina Uachtarán’, ‘If elected President’, but ‘Má thoghtar ... chun bheith ina Uachtarán’, i.e. ‘If elected to be (come) President’. See, for example, s5 of the *Standing Orders* of Dáil Éireann (1997) where ‘an comhalta a bheidh tofa ag Dáil Éireann chun bheith ina Chathaoirleach ...’ translates ‘the member elected by Dáil Éireann to be Chairman of Dáil Éireann’. *Ó Dónaill* cites ‘*toghadh ina uachtarán é*, he was elected president’ and *De Bhaldraithe*

translates ‘to elect someone (a) member’ as ‘duine a thoghadh ina bhall’.

*a mheas* The verb ‘meas’ is translated as ‘estimate, value, judge; deem, consider’ in *Ó Dónaill*. This verb is based on ‘mes(s)’, the verbal noun of ‘midithir’, originally ‘weighs, measures’, hence ‘judges’ – see DIL s.v. ‘midithir’, examples of the sense of ‘deems, thinks, supposes’ being cited there from the eighth-century Würzburg Glosses on the Pauline Epistles, glossing Latin ‘putare’ and ‘existimare’. See further the commentary on Articles 16.6 and 28.3.2°.

‘Meas’ generally translates ‘deem’ in the Acts today, ‘measfar gur cheannaigh an trádálaí an leas ar chomhain ab ionann agus a mhargadhluach’ translating ‘the trader shall be deemed to have purchased the interest for a consideration equal to its market value’ in s29(2)(a) of the Finance Act, 1981, for example, and ‘measfar é bheith fanta as láthair gan chead’ translating ‘he shall be deemed to have absented himself without leave’ in s28(2) of the Health (Mental Services) Act, 1981. ‘Tuig’ rather than ‘meas’ translated ‘deem’ in earlier legislation, although we have early examples of ‘meas’ in this sense – ‘do measadh é bheith oiriúnach’ translates ‘it has been deemed expedient’ in *Iris Oifigiúil*, 1926, p. 837, for example. On the other hand, see Article 38 of the 1922 Constitution, where ‘a Bill ... shall ... be deemed to be passed by both Houses’ is translated as ‘tuigfear ... gur rith an dá Thigh é’. ‘Deem’ was also expressed by various other phrases in early official translations. ‘In any way he may deem necessary’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated in *Iris Oifigiúil*, 1922/23, as ‘ar aon slí is dó leis is riachtanach’ as against ‘... shall be deemed guilty of an offence against ...’ being translated as ‘tuigfear ... do bheith ciontach i gcionta i gcoinnibh ...’ in *Iris Oifigiúil*, 1928, p. 1034. Finally, in Article 2(1) of the County Courts (Amendment) Act, 1923, ‘Any County Court Judge may deem any document to which this section applies to have been validly served’ is translated as ‘Féadfidh aon Bhreitheamh Cúirte Contae a thógaint gur seirbheáladh go dleathach aon scríbhinn le n-a mbaineann an t-alt so’, with ‘Féadfar seirbheáil billí sibhialta ... do thógaint mar sheirbheáil dleathach’ translating ‘Service of civil bills ... may be deemed good’ in the Margin Title of that section.

*comhaltas* The basic sense of this abstract noun, based on ‘comhalta’ (see the commentary on Article 12.2.2°), is ‘joint fosterage’ but here it has the sense of ‘membership’, which is given as the third set of senses s.v. ‘comhaltas’, in *Ó Dónaill*, following ‘joint fosterage’ and ‘body of persons, brotherhood’. It is in the sense of ‘membership’ that ‘comhaltas’ is most used today, and we see how recent this specific use is in the fact that *Dinneen* only cites the first two of *Ó Dónaill*’s three sets of senses. The second sense is enshrined in ‘Comhaltas Ceoltóirí Éireann’. See further the commentary on Article 12.10.4°.

*comhalta de cheachtar de Thithe an Oireachtais* See the commentary on Article 12.6.1°.

*Ní foláir* ‘It must be’ – see the commentary on Article 11.

### Gender-proofed Irish text

Má thoghtar comhalta de cheachtar de Thithe an Oireachtais<sup>1</sup> chun bheith ina Uachtarán nó ina hUachtarán,



ní foláir a mheas go bhfuil scartha aige nó aici le comhaltas an Tí sin.

### Variants

- 1 'Comhalta de cheachtar de Thithe an Oireachtais a thoghtar' – following the gender-proofed English text.

### Direct gender-proofed translation

Má thoghtar comhalta de cheachtar Teach den Oireachtas ina Uachtarán nó ina hUachtarán, measfar é nó í a bheith scartha<sup>2</sup> lena shuíochán nó lena suíochán sa Teach sin.

### Variants

- 1 'an comhalta sin'
- 2 'measfar go bhfuil scartha aige nó aici'

## ARTICLE 12.6.3<sup>o</sup> AIRTEAGAL 12.6.3<sup>o</sup>

### TÉACS GAELIGE

Ní cead don Uachtarán aon oifig ná post sochair a bheith aige seachas a oifig Uachtaráin.

### LITERAL ENGLISH TRANSLATION

The President is not permitted to have any office or post of emolument/benefit except his Presidential office.

### ENGLISH TEXT

The President shall not hold any other office or position of emolument.

### Divergences between the official texts

- 1 The Irish text specifies 'seachas a oifig Uachtaráin' ('other than his Presidential office') as against the English text's 'any other' (office or position of emolument).
- 2 Both Irish and English texts can perhaps be read as if 'sochair'/'of emolument' only qualified 'post'/'position' rather than reading as 'aon oifig sochair' / 'any (other) office of emolument' and 'aon phost sochair' / 'any (other) position of emolument'.
- 3 The term expressing 'emolument' in the Irish text, 'sochar', usually translates 'benefit' and is not the specific Irish term for 'emolument' in the later Acts.
- 4 'Shall not' is again expressed as 'ní cead' ('is not permitted to') in the Irish text.

### Commentary

*sochair* The genitive singular form of 'sochar'. The plural form, 'sochair', expresses 'emoluments' in Articles 12.11.2<sup>o</sup> and 12.11.3<sup>o</sup>, with 'and shall not hold any other office or position of emolument' being expressed as 'ná a bheith in aon oifig ná post sochair eile' in Article 33.3 and 'ná bheith in aon oifig ná post sochair eile' expressing 'or to hold any other office or position of emolument' in Article 35.3.

'Sochar' is translated in *Ó Dónaill*, from examples from earlier Irish literature, as 'privileges, dues; emoluments',

following the abbreviation for 'collective'. 'Benefit, profit; advantage, gain' is the current principal sense of this word, according to *Ó Dónaill*. In *Téarmaí Dlí* 'sochar an amhrais' is translated as 'benefit of the doubt' and 'sochar míchumais' is translated as 'disablement benefit'. *Dinneen* translates 'sochar' as 'profit or source of profit, benefit, advantage, emolument, appurtenance, wealth, asset, increase, produce, interest or commission, an accommodation, a present, loan, obliging act, etc., relief; comfort, ease, prosperity'. It is, as *Dinneen* points out, the opposite of 'dochar', translated as 'harm; hurt, injury; loss, distress' in *Ó Dónaill*. As stated in DIL, 'sochar' was an important legal term in early Irish law, having the sense of 'a good or valid contract'. It is composed of the prefix 'so' ('good') and 'cor' (literally 'putting, placing, setting up', *legal* 'contract' – 'Irish equivalent of the *stipulatis* of Roman Law, the solemn verbal contract' according to DIL). Fergus Kelly (op. cit., p. 307) translates 'sochar' as 'advantageous contract'. As regards the present context, see DIL s.v. 'sochar' (b), where examples of its use in the sense of 'privileges, rights, dues, revenues (of a chief)', as well as 'the emoluments of a poet', are given.

'Emolument' is translated as 'luach saothair; tuarastal' in *De Bhaldraithe*. Turning to the Acts, 'A judge shall not be eligible to sit in the Oireachtas, and shall not hold any other office or position of emolument' is translated as 'Ní bheidh breitheamh iontoghtha chun suidhe san Oireachtas, agus ní bheidh aon oifig ná ionad eile sochair aige' in Article 69 of the 1922 Constitution. 'Emolument', as a single term, is translated as 'sochar oifige' in the 'Definitions' in s2 of the Local Government (Superannuation) Act, 1948. In s15(b) of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973, 'Where a person held the office of Attorney General ... or held any position or office of emolument, other than membership of the Oireachtas' is translated as 'I gcás ina raibh duine i seilbh oifige an Ard-Aighne ... nó i seilbh aon phoist nó oifige sochair eile seachas comhaltas an Oireachtais'.

'Emolument' is defined in Henry Murdoch's *Dictionary of Irish Law* as (1) 'Some profit or advantage ... remuneration' and (2) 'Anything assessable to income tax under Schedule E: Income Tax Act 1967 s.124. It includes all payments of salaries, fees, wages, and perquisites, whether taxable directly under the main Schedule E charging section (ibid, s.110) or by virtue of any other provision in the Income Tax Acts which requires the particular payment to be taxed under Schedule E'. 'Díolaíochtaí' rather than 'sochair' translates 'emoluments' in s124 of that Act. In s9(1)(c) of the Capital Gains Tax Act, 1975, 'diminution of emoluments' is translated as 'laghdú díolaíochtaí' with 'díolaíochtaí' translating 'emoluments' in s1 of the Youth Employment Agency Act, 1981, also. In s5(e)(i) of the Courts (Supplemental Provisions) (Amendment) Act, 1991, 'in the case of a person ... who ... is appointed to an office or position of emolument' is translated as 'i gcás duine ... a cheaptar ... chun oifige nó poist díolaíochtaí'. See further the commentary on Article 12.11.2<sup>o</sup>.

Professor Máirtín Ó Murchú comments that 'post díolaíochtaí' might be understood as the person having the post being engaged in paying and he favours 'post sochair' as being both established and understandable. Professor Ó Murchú refers to 'post éadála' and 'post tuarastail' as possible alternatives. Note that 'emoluments'

is translated as 'éadálacha' in translations of European legislation, 'éadail' being translated as 'acquisition, find; gain, profit; salvage, spoil; wealth; riches' in *Ó Dónaill*.

*post* Under the headword 'post' *Dinneen* gives the senses of 'the (letter) post, a position or stand, a position or employment'. *Ó Dónaill* gives three headwords 'post': (1) '(timber) post, stake', (2) 'post, letter carrier' and (3) '*Military*: post ... (of *employment*) post'. He cites '*post muiníne*, position of trust' under the latter group of meanings. As DIL states, 'post', meaning 'a post, prop', is a Romance loanword, while 'posta', meaning 'post, courier or official conveyance', is an English or Romance loanword.

'To occupy, hold a position' is translated as 'post a bheith agat' in *De Bhaldráithe*. Turning to the Acts, in s63(1) of the Mental Treatment Act, 1945, 'a servant who is appointed to hold a position ... as a substitute servant' is translated as 'seirbhíseach a ceapfar chun bheith i seilbh poist ... mar sheirbhíseach ionaid'. In s10 of the Finance Act, 1978, 'in the case of an individual ... who held a position as a civil servant' is translated as 'i gcás pearsa aonair a raibh aige féin ... post mar státseirbhíseach'. In s7(8) of the Local Government (Planning and Development) Act, 1983, 'and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable' is translated as 'agus ní shealbhóidh sé, am ar bith i gcaitheamh a théarma oifige, aon oifig ná fostaíocht eile a mbeidh díolaíochtaí iníoctha ina leith'. Finally, 'Beidh an tUachtarán i seilbh oifige' expresses 'The President shall hold office' in Article 12.3.1<sup>o</sup> – see further the commentary on that Article.

*Ní cead don Uachtarán* Literally 'The President is not permitted' – see the commentary on Article 12.6.1<sup>o</sup>.

### Gender-proofed Irish text

Ní cead don Uachtarán aon oifig ná post sochair a bheith aige nó aici seachas a oifig nó a hoifig Uachtaráin.

### Direct translation

Ní bheidh aon oifig ná<sup>1</sup> post sochair<sup>2</sup> eile ag an Uachtarán.<sup>3</sup>

### Variants

- 1 'nó'
- 2 'díolaíochta', 'éadála'
- 3 'Ní shealbhóidh an tUachtarán aon oifig ná post sochair eile.', 'Ní bheidh an tUachtarán i seilbh aon oifige ná poist sochair eile.'

## ARTICLE 12.7 AIRTEAGAL 12.7

### TÉACS GAELIGE

Ní foláir don chéad Uachtarán dul i gcúram a oifige chomh luath agus is féidir é tar éis é a thoghadh, agus ní foláir do gach Uachtarán dá éis sin dul i gcúram a oifige an lá i ndiaidh deireadh théarma oifige a réamhtheachtaí nó chomh luath agus is féidir é dá éis sin nó, má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é nó go n-éagfaidh

nó go n-éireoidh as oifig nó neachtar acu go ngabhfaidh míthreoir bhuan é agus go suifear sin mar a shocraítear le halt 3 den Airteagal seo, chomh luath agus is féidir é tar éis an toghcháin.

### LITERAL ENGLISH TRANSLATION

The first President must enter into the responsibility of his office as soon as possible after he has been elected, and every President after that must enter into the responsibility of his office the day after the end of the term of office of his predecessor or as soon as possible after that or, if his predecessor (either) happens to be put out of office or dies or resigns from office or else that permanent (mental) disorder/misguidance/incapacity seizes him and that that is established as is provided by section 3 of this Article, as soon as possible after the election.

### ENGLISH TEXT

The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter or, in the event of his predecessor's removal from office, death, resignation, or permanent incapacity established as provided by section 3 hereof, as soon as may be after the election.

### Divergences between the official texts

- 1 'Or permanent incapacity established as provided by section 3 thereof' is expressed in the Irish text as 'nó neachtar acu go ngabhfaidh míthreoir bhuan é agus go suifear sin mar a shocraítear le halt 3 den Airteagal seo' ('or else that permanent (mental) disorder/incapacity seizes him and that that is established as is provided by section 3 of this Article') – i.e. the Irish text contains a qualifier and an extra clause.
- 2 'Incapacity' is again expressed in the Irish text by 'míthreoir', a term now generally understood as '(mental) disorder', 'misguidance'; 'enter upon his office' is again expressed as 'dul i gcúram a oifige' ('enter into the responsibility of his office') and 'shall' as 'ní foláir' ('must'), again as we have seen in other Articles.
- 3 'As soon as may be' is on three occasions expressed as 'chomh luath agus is féidir é' ('as soon as (it is) possible') in the Irish text, this Irish phrase expressing 'as soon as may be' in early Acts also.

### Commentary

*nó neachtar acu* The introduction of 'nó neachtar acu' to the Irish text breaks the repetition for the third time in succession of 'nó go' plus the verb and adds to the style of the Irish text. It may be noted, however, that not alone is this phrase not expressed in the English text but it is not included in the Irish text of Articles 12.3.1<sup>o</sup> and 12.3.3<sup>o</sup>, which contain the same list.

The pronoun 'neachtar' in this adverbial phrase is translated as 'or else' in *Ó Dónaill*, who cites '*nó neachtar acu fan sa bhaile*, or else stay at home'. *Dinneen's* entry s.v. 'neachtar', reads as follows:

... either, one of two (*Munster*), generally with *aca* (of them).

*Dinneen* cites the following two examples of ‘nó neachtar acu’: ‘*ragha tú ar scoil nó neachtar aca geobha*’ mé ort, either you go to school or I beat you’ and ‘*éirigh ar scoil nó neachtar aca fan*’ *’sa bhaile*, go to school or else stay at home (take your choice) – the last example probably being *Ó Dónaill’s* source. Following the first example we could translate ‘má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é nó go n-éagfaidh nó go n-éireoidh as oifig nó neachtar acu go ngeobhfaidh míthreoir bhuan é’ as ‘if it happens to his predecessor either that he is put out of office or that he dies or that he resigns or else that permanent incapacity seizes him’. See DIL, s.v. ‘nechtar’, ‘one of two, either (= Latin *alteruter*)’, where the following example of ‘nechtar’ as quasi-adverb, with the preposition ‘do’, is cited from the *Táir*: ‘láech aile for áth dó-som nó nechtar de longphort do gabail d’fearib Erend’ ([to send] another warrior to the ford to [fight] him or alternatively ...). ‘Nechtár’ with the preposition ‘oc’ (i.e. ‘ag’) is found in Classical Irish, according to DIL.

*chomh luath agus is féidir é* ‘Lena chinntiú go mbeidh cuidiú ar fáil chomh luath agus is féidir ag gach leanbh a bhfuil deacrachtaí foghlama nó iompair aige’ translates ‘to ensure that every child with learning or behavioural difficulties has access to help at the earliest stage’ in the *Programme for a Partnership Government, 1993-97* (p. 30). ‘As soon as may be’ is generally translated as ‘a luaithe is féidir’ in the Acts – see s3(5) of the Social Welfare (Consolidation) Act, 1981, for example, where ‘Regulations shall be laid before each House of the Oireachtas as soon as may be after they are made’ is translated as ‘Déanfar rialacháin ... a leagan faoi bhráid gach Tí den Oireachtas a luaithe is féidir tar éis a ndéanta’, and s11 of the Shannon Free Airport Development Company Limited (Amendment) Act, 1970, where ‘as soon as may be thereafter’ is translated as ‘a luaithe is féidir ina dhiaidh sin’. ‘Chó luath agus is féidir é tar éis é do bheith déanta leagfar fé bhráid gach Tighe den Oireachtas gach ordú a déanfar fén alt so’ translates ‘Every order made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made’ in s8(2) of the *Gárda Síochána (Temporary Provisions) Act, 1923*. ‘As soon as may be after any law has received the King’s assent’ is translated as ‘Chó luath agus féadfar tar éis d’aon dlí aontú an Rí d’fháil’ in Article 42 of the 1922 Constitution.

*réamhtheachtaí* Translated as ‘predecessor’ in *Téarmaí Dlí*, this headword is a compound of ‘réamh-’ (‘ante-, pre-, fore-’) and ‘teachtaí’ (‘comer’). DIL cites ‘Iohain Baptaist ... ba remthechtaid Crist’ (i.e. John the Baptist was Christ’s precursor) from *Saltair na Rann*, composed c. 1000. ‘From the expiration of the term of office of his predecessor’ is translated as ‘ó dheireadh théarma oifige a réamhtheachtaí’ in s2(4) of the Censorship of Publications Act, 1946, for example, this same English phrase being translated as ‘ón am a bheidh téarma oifige an té a bhí roimhe caithte’ in s4(1) of the Medical Practitioners Act, 1927, and as ‘ón am a bheidh téarma oifige an té bhí roimhe caithte’ in s10(3) of the Veterinary Surgeons Act, 1931.

*mar a shocraítear le halt 3* ‘Except as provided by section 162(2)’ is translated as ‘ach amháin mar a fhoráiltear le

halt 162(2)’ in s296(2)(b) of the Social Welfare (Consolidation) Act, 1981, and ‘ach amháin mar a foráiltear le halt 13 den Acht seo’ translates ‘except as provided by section 13 of this Act’ in s14 of the National Maternity Hospital, Dublin (Charter Amendment) Act, 1936. See the commentary on Article 8.3 regarding ‘socruí’, ‘socraigh’ and ‘foráil’ in the Acts and in the Constitution.

*dá éis sin* ‘Ina dhiaidh sin’ generally translates ‘subsequent’ in the Acts. ‘Every subsequent local financial year’ is translated as ‘gach bliain airgeadais áitiúil ina dhiaidh sin’ in s2(1) of the Agriculture (Amendment) Act, 1958, for example. ‘For the second and every subsequent such certificate’ is translated as ‘Ar an dara deimhniú den sórt sin agus gach deimhniú den sórt sin ina dhiaidh sin’ in the Seventh Schedule to the Finance Act, 1980.

*i ndiaidh deireadh théarma oifige a réamhtheachtaí* Note that ‘deireadh’ is lenited in ‘dáta dheireadh théarma oifige gach Uachtaráin ar leith’ (‘the date of the expiration of the term of office of every President’) in Article 12.3.3°. On ‘deireadh’, literally ‘end’, see the commentary on Article 12.3.1°.

*má tharlaíonn dá réamhtheachtaí* Literally ‘if it happens to his predecessor’ – see the commentary on Article 12.3.3°.

*dul i gcúram a oifige* ‘Enter into the responsibility of his office’ or ‘take charge of his office’ – see the commentary on Article 12.3.1°.

*Ní foláir don ... Uachtarán* Literally ‘The President must’ – see the commentary on Article 11.

*éirigh as* See the commentary on Article 12.3.1°.

*éag* See the commentary on Article 12.3.1°.

*míthreoir* See the commentary on Article 12.3.1°.

*suifear* See the commentary on Article 12.3.1°.

### Standardised gender-proofed Irish text

Ní foláir don chéad Uachtarán dul i gcúram a oifige nó a hoifige chomh luath agus is féidir é tar éis é nó í a thoghadh, agus ní foláir do gach Uachtarán dá éis sin dul i gcúram a oifige nó a hoifige an lá i ndiaidh dheireadh théarma oifige a réamhtheachtaí nó chomh luath agus is féidir é dá éis sin nó, má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é nó í nó go n-éagfaidh nó go n-éireoidh as oifig nó neachtar acu go ngabhfaidh míthreoir bhuan é nó í agus go suifear sin mar a shocraítear le halt 3 den Airteagal seo, chomh luath agus is féidir é tar éis an toghcháin.

### Direct gender-proofed translation

Rachaidh an chéad Uachtarán i gcúram oifige<sup>1</sup> a luaithe is féidir tar éis a tofa nó a tofa, agus rachaidh gach Uachtarán ina dhiaidh sin i gcúram oifige<sup>1</sup> an lá tar éis téarma oifige a réamhtheachtaí a bheith istigh<sup>2</sup> nó a luaithe is féidir ina dhiaidh sin, nó i gcás a réamhtheachtaí a<sup>3</sup> chur as oifig, a fháil bháis nó a éirí as<sup>4</sup>, nó i gcás bhuanéagumas<sup>5</sup> a

réamhtheachtaí arna shuíomh<sup>6</sup> mar a fhoráiltear le halt 3 den Airteagal seo, a luaithe is féidir tar éis an toghcháin.

### Variants

- 1 'i mbun oifige', 'in oifig'
- 2 'caite'
- 3 'do'
- 4 'd'fháil bháis nó d'éirí as'
- 5 'éagumas buan'
- 6 'arna shuí'

## ARTICLE 12.8 AIRTEAGAL 12.8

### TÉACS GAEILGE

Is é slí a rachaidh an tUachtarán i gcúram a oifige ná leis an dearbhú seo a leanas a dhéanamh go poiblí agus a lámh a chur leis i bhfianaise chomhaltaí den dá Theach den Oireachtas, agus breithiúna den Chúirt Uachtarach agus den Ard-Chúirt agus maithe poiblí eile:-

"I láthair Dia na nUilechumhacht, táimse, , á ghealladh agus á dhearbú go sollúnta is go firinneach bheith i mo thaca agus i mo dhídin do Bhunreacht Éireann, agus a dlíthe a chaomhnú, mo dhualgais a chomhlíonadh go dílis coinsiasach de réir an Bhunreacht is an dlí, agus mo lándícheall a dhéanamh ar son leasa is fónaimh mhuintir na hÉireann. Dia do mo stiúradh agus do mo chumhdach."

### LITERAL ENGLISH TRANSLATION

The way the President will enter into the responsibility of his office is by publicly making the following declaration and putting his hand to it in the presence of members of both Houses of the Oireachtas, and judges of the Supreme Court and of the High Court and other public gentry/dignitaries:-

"In the presence of God the Almighty, I, , am solemnly and truly promising and declaring to be a support and shelter to the Constitution of Ireland, and to preserve its laws, to fulfil my duties faithfully and conscientiously in accordance with the Constitution and the law, and to do my utmost for the welfare and service of the people of Ireland. God direct me and protect me."

### ENGLISH TEXT

The President shall enter upon his office by taking and subscribing publicly, in the presence of members of both Houses of the Oireachtas, of Judges of the Supreme Court and of the High Court, and other public personages, the following declaration:-

"In the presence of Almighty God I do solemnly and sincerely promise and declare that I will maintain the Constitution of Ireland and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the Constitution and the law, and that I will dedicate my abilities to the service and welfare of the people of Ireland. May God direct and sustain me."

### Divergences between the official texts

- 1 In the Irish text 'an dearbhú ... a dhéanamh' ('taking the declaration') is separated from 'a lámh a chur leis'

('subscribing the declaration') and can perhaps be read as the President after publicly making the declaration subscribes it in the presence of the members of the Houses of the Oireachtas, Judges and other public personages – i.e. on the one hand 'go poiblí' ('publicly') does not qualify 'a lámh a chur leis' ('subscribing') in the Irish text and on the other 'i bhfianaise chomhaltaí' ('in the presence of the members') does not necessarily qualify 'an dearbhú a dhéanamh' ('making the declaration').

- 2 'Taking the declaration' is expressed as 'an dearbhú a dhéanamh' ('making the declaration') in the Irish text and 'subscribing' is taken as 'signing', 'a lámh a chur leis', although the Irish legal term for 'sign', 'sínigh', is not used.
- 3 'That I will maintain the Constitution of Ireland' is expressed as 'bheith i mo thaca agus i mo dhídin do Bhunreacht Éireann', '(that I will) be a support and shelter to the Constitution of Ireland', in the Irish text.
- 4 'Sincerely' is expressed in the Irish text by the term generally rendering 'truthfully', 'go firinneach', which sense is inappropriate in this context.
- 5 'Uphold its laws' is expressed as 'a dlíthe a chaomhnú' ('preserve its laws') in the Irish text.
- 6 'That I will **dedicate my abilities** to the **service and welfare** of ...' is expressed in the Irish text as 'mo lándícheall a dhéanamh ar son leasa is fónaimh', '(that I will) **do my full best** for the **welfare and service** of ...'.
- 7 'The President shall enter upon his office' is expressed as 'Is é slí a rachaidh an tUachtarán i gcúram a oifige ná' ('The way the President shall enter upon his office is') in the Irish text, with 'enter upon his office' being expressed as 'rachaidh an tUachtarán i gcúram a oifige' ('enter into the responsibility of his office'), as we have seen earlier.
- 8 A comma precedes and follows the space for the President's name in the Irish text alone.
- 9 'Judges' has an initial capital, the corresponding 'breithiúna' having a lower-case 'b'.

### Commentary

*go firinneach* This adverb is translated as 'truthfully; really, truly' in *Ó Dónaill* and as 'really, truly' in *Dinneen*. DIL translates the phrase 'go firinnech' as 'truly', citing 'co firinnech' ('verily, in truth') from the *Leabhar Breac*, which manuscript was compiled in 1411 or earlier. 'Firinnech' is based on 'firinne', the usual sense of which in Old Irish is 'justice, righteousness' ('firinne' being an abstract noun based on 'firén', 'just, righteous'), with 'truth' being the usual sense in Middle and Modern Irish, this sense being already frequent in early Irish Glosses, 'firinne' translating Latin 'veritas' in the eighth-century Würzburg Glosses on the Pauline Epistles.

'Sincere' is translated as 'dílis, fireata, dáiríre' in *De Bhaldraithe*. 'Dílis' is found further on in the declaration expressing 'faithfully', while 'dáiríre' is translated as 'earnest, serious' in *Ó Dónaill*, who translates 'firéanta', the standard form of 'fireata', as (1) 'just, righteous' and (2) 'true, genuine; faithful, sincere'. 'Fireata' is translated as 'true, frank, sincere' in *Dinneen*, 'firéanta' being translated as 'just, righteous' in DIL, where no examples are cited from the earlier Irish sources. Colmán Ó hUallacháin also

translates 'sincere' as 'fireata' in his *Foclóir Fealsaimh*. This aspect of 'truth' is reflected also in *L. Mc Cionnaith*, who translates 'sincere friend' as 'fiorchara', 'fireacht' translating 'sincerity', along with 'diuideas' (*Ó Dónaill* gives 'sincere' as one of the senses of 'diúid') and 'dáirireacht', the reader also being referred to 'true, honest, heart'. 'Sincere' is defined as 'not falsified or perverted in any way; genuine, pure; veracious; exact' in the *Shorter Oxford Dictionary*, coming from Latin 'sincerus', 'clean, pure, sound' – as Jim O'Donnell remarks, this term literally means 'without wax', referring to pottery without cracks which have been sealed over. *Foley* (1855) translates 'sincerity' as 'slán, falláin, iomlán, dilis, ionnruic, glan, fior', 'dileas' also being given in *Edmund E. Fournier d'Albe* and *T. O'Neill Lane*, who gives 'fiordha' as a translation of 'sincerity' in the sense of 'true' and 'diongmhála' in the sense of 'free from hypocrisy'.

'Macánta' translates 'sincere' in the early Acts. While 'honest' is the general sense of this word today, note that *Ó Dónaill* cites 'go macánta cneasta, honestly and sincerely' and *Dinneen* translates 'go macánta' as 'honestly! sincerely!' – note that *Dinneen* also cites '*madradh macánta*, an approachable dog', with DIL citing 'samhradh fliuch macánta (a 'mild' wet summer) from the Irish *Corpus Astronomiae*. 'Macánta' is based on 'macán', a diminutive of 'mac' ('son'), this being a term of endearment, with the literal sense of 'a little son'. 'Childlike' is the basic sense of 'macánta'.

To return to the Acts, in s29(2) of the Electoral Act, 1923, 'I, A B, do solemnly, sincerely and truly declare and affirm' is translated as 'Dinimse, A.B., a dheimhniú agus a dhearbhu go sollamanta, go macánta agus go firinneach', with 'guarantees ... of the sincere intention of Saorstát Éireann to observe its international obligations' being translated as 'urraíochta ar é do bheith d'intinn mhacánta ag Saorstát Éireann a oblagáidí eadarnáisiúnta do chó-liona' in s1 of the League of Nations (Guarantee) Act, 1923. In s97 of the Defence Forces (Temporary Provisions) Act, 1923, 'if satisfied as to the sincerity of the objection' is translated as 'más deimhin léi go bhfuil an cur-i-gcoinnibh macánta'. In s99 of the Courts of Justice Act, 1924, the Declaration to be taken by Judges reads as follows:

'I ... do solemnly and sincerely before God promise and declare that I will duly and faithfully ... execute the office of Chief Justice of the Supreme Court of Saorstát Éireann.' *Dinim-se ... a gheallúint agus a fhaisnéis go solamanta agus go macánta i láthair Dé go bhfeidhmeod go cuibhe agus go dilis ... oifig Phrímh-Bhreitheamh Chúirt Uachtarach ... Shaorstáit Éireann.*

In the Second Schedule to the Garda Síochána Act, 1924, 'I ... do solemnly and sincerely before God declare' is translated as 'Dinim-se ... a fhaisnéis ... go solamanta agus go macánta i láthair Dé'. We also find 'go macánta' translating 'sincerely', with 'go firinneach' translating 'truly', in s30(2) of the Presidential Elections Act, 1937 – which Act relates directly to the Constitution – where 'I swear by Almighty God (or I, A B, do solemnly, sincerely and truly declare and affirm) ...' is translated as 'Bheirim-se Dia na nUile-chomhacht (no Deinim-se, A B, a dheimhniú agus a dhearbhu go solamanta, go macánta agus go firinneach)'. We find 'go dilis macánta' in the Schedule to the Statutory Declarations Act, 1938, where 'I ... do solemnly and sincerely declare that ...' is translated as 'Deinim-se ... a

dhearbhu go sollamanta agus go dilis macánta go'. 'Go fireata' appears in the Sixth Schedule to the Pawnbrokers Act, 1964, where 'Dearbhaimse ... go sollúnta agus go fireata gur liomsa an t-earra ... a thuaiscítear anseo thíos' translates 'I ... do solemnly and sincerely declare that that article ... described below is ... my property'. Note that 'go fireata' translates 'faithfully' and 'go firinneach' translates 'truly' in the form of declaration to be made by Special Commissioners in Part 1 of Schedule 17 to the Income Tax Act, 1967:

'I, A.B., do solemnly declare, that I will truly, faithfully, impartially and honestly ... execute the powers and authorities vested in me by the Acts relating to income tax'. *Dearbhaimse, A.B., go sollúnta, go ndéanfaidh mé go firinneach, go fireata, go cothrom agus go macánta ... na cumhachtaí agus na húdaráis a dhílsítear dom leis na hAchtanna a bhaineann le cáin ioncaim a fhorghníomhú.*

In a typescript dictionary of legal precedents, *Fasaigh Dlí-Théarmaí*, 'I do solemnly and sincerely declare' is translated as 'Dearbhaimse go sollúnta agus go fireata', followed by the reference 72/1962 (App K, F. 18). Note finally that in s39(2) of the European Assembly Elections Act, 1977, probably following the wording of the Constitution, '(I) do solemnly, sincerely and truly declare and affirm' is translated as 'Dearbhaim agus dearbhascam go sollúnta, go firinneach agus go hionraic'.

*táimse, ..., á ghealladh agus a dhearbhu* This can be translated as 'I, ..., promising (it) and declaring (it)', or as 'I, ... , promise and declare ...'. See the commentary on 'firinneach' above for 'Dinim-se' in place of 'táimse' in this context and 'dearbham agus dearbhascam go sollúnta' translating '(I) do solemnly declare and affirm'. As regards 'dearbhu', see the commentary below.

Note that 'dá gheallamhaint' is the form of the phrase 'á ghealladh' in the original text. 'Gealladh' is the standard Irish form of the verbal noun of 'geall', translated principally as 'pledge (one's word), promise' in *Ó Dónaill*. 'Geallaim' is translated as 'I promise, I undertake' and 'geallaim go' as 'I give an undertaking that' in *Téarmaí Dlí*. DIL s.v. 'gellaid', cites 'ni geallaimsi a n-ioc so' ('I do not promise to heal that') from the *Táin*. The noun 'geall' is generally used today in the sense of 'wager, bet', 'tigh gill' ('betting house') being cited from Munster by *L. Mc Cionnaith*, Professor Máirtín Ó Murchú referring to 'siopa gill'. DIL cites examples of 'gell' in the sense of 'a pledge, a surety' from the eighth-century Würzburg Glosses onwards. In early Irish law, 'gell' was used specifically 'of the pledge of some valuable personal belonging, given as earnest of payment from debtor to creditor who fasts on him', according to DIL – 'legal fasting', which was also recognised in early Indian law, was used to exert moral pressure on a more powerful adversary (see Fergus Kelly, op. cit., p. 182f., who distinguishes this from the 'hunger strike'). Early Irish law relied greatly on the use of pledges to ensure that legal obligations were carried out, according to Professor Kelly (ibid, p. 164). 'Gell' is from the same root as 'gíall' ('hostage'), there being a close connection in the Celtic languages between the ideas of 'pledge' and 'hostage' (ibid, p. 164).

'Geall' is also in general use today in the phrase 'mar gheall ar', 'in return for, on account of', the earliest citation of which in DIL is from the seventeenth century. 'Gealladh'

is also found in the phrase ‘tá gealladh faoi’, ‘he/it shows promise’.

*dearbhú* This is the Irish legal term for ‘declaration’ – see *Téarmaí Dlí*, s.v. ‘declaration’, where ‘dying declaration’, for example, is translated as ‘dearbhú i mbéal báis’. ‘Dearbhú’ is the verbal noun of ‘dearbhaigh’, which is translated as ‘declare, affirm; assure, confirm; alert, prove’ in *Ó Dónaill*, who cites ‘ní briathar a dhearbhaíonn ach gníomh, actions speak louder than words’. The Old Irish verb ‘derbaid’ is based on ‘derb’, ‘sure, certain, fixed, determinate’, Modern Irish ‘dearbh’. DIL s.v. ‘derbad’, verbal noun of ‘derbaid’, cites ‘a nderbad hua desimrechtaib’ (‘to certify them by examples’) from the ninth-century St. Gall Glosses on Priscian, where it glosses Latin ‘approbata’, along with ‘derbad n-inderb’ (‘inconclusive proof’), from the twelfth-century *Book of Leinster*. See further the commentary on Article 29.1 where ‘dearbhaigh’ expresses ‘affirms’.

‘It shall be lawful for a member of the Garda Síochána ... to take and receive a statutory declaration for the purpose of the making of an application for a grant’ is translated as ‘Is dleathach do chomhalta den Garda Síochána ... dearbhú reachtúil a ghlacadh agus a fháil chun go ndéanfar iarratas ar dheontas’ in s19 of the Housing (Miscellaneous Provisions) Act, 1979. In s1 of the Statutory Declarations Act, 1938, ‘It shall be lawful for any of the following persons ... to take and receive the declaration in writing of any person making the same before him’ is translated as ‘Is dleathach d’aon duine acu so leanas ... dearbhú scríobhtha dhuine ar bith, is dearbhú ar n-a dhéanamh ag an duine sin ina fhianaise ... do thógaint agus do ghlacadh’. In s2 of the Royal College of Surgeons in Ireland (Charter Amendment) Act, 1965, ‘in the Oath or Declaration to be taken by Licentiates’ is translated as ‘sa Mhionn nó sa Dearbhú a chaithfidh Ceadúnaigh a thabhairt’. Following the trail of the usage of this term in a specific phrase in the Acts, in s2 of the Defence Act, 1954, ‘an association ... the members of which are required by the regulations thereof to take or enter into ... an oath, affirmation, declaration or agreement not to disclose the proceedings of the association’ is translated as ‘comhlachas ... a bhfuil a chomhaltaí faoi cheangal do réir a rialachán ... mionn nó dearbhasc nó dearbhú nó comhaontú a thabhairt nach nochtfaid imeachta ... an chomhlachais’, this same text being translated as ‘comhlachas ... gur gá dá bhaill do réir a rialachán ... mionn do thabhairt no a dheimhniú no a dhearbhú nó a chó-aontú gan imeachta ... an chomhlachais ... do nochtadh’ in s16(2) of the Offences Against the State Act, 1939, and (without the reference to an ‘agreement’) as ‘comhlachas ... gur gá dá bhaill do réir a rialachán ... mionn do thabhairt no deimhniú no dearbhú do dhéanamh gan imeachta ... an chomhlachais ... do nochtá’ in s8(2) of the Treasonable Offences Act, 1925.

‘Faisnéis’, the term now used to translate ‘information’, translates ‘declaration’ in the Court of Justice Act, 1924, in s99 of which ‘Any judge or justice who declines or neglects to take the declaration aforesaid in the manner aforesaid’ is translated as ‘Aon bhreitheamh a eiteoidh no a leigfidh i bhfaillí an fhaisnéis roimhráite a dhéanamh ar an gcuma roimhráite’. In s35 of the Electoral Act, 1923, ‘and may take and receive any declaration authorised by this Act to be taken before the returning officer or magistrate’ is trans-

lated as ‘agus aon fhaisnéis a húdarúitear leis an Acht so a thabhairt i láthair an chinn chomhrimh no i láthair aon ghuíúistis, féadfaid í do ghlaca’.

Finally, as an illustration of the difference in Irish between ‘taking’ and ‘making’ a declaration, see s43(1) of the Defence Act, 1954, where ‘Gach duine a ceapfar ina oifigeach de na Buan-Óglaigh glacfaidh sé mionn nó déanfaidh dearbhú’ translates ‘Every person appointed to be an officer of the Permanent Defence Forces shall take an oath or make a declaration’. See further the commentary on Article 12.10.7° for ‘dearbhaigh’.

*i bhfianaise chomhaltaí* According to the official standard ‘comhaltaí’ would not be lenited after ‘i bhfianaise’, only a ‘definite’ noun (‘ainmfhocal cinnte’) and a proper noun being lenited after a prepositional phrase – see *An Caigndeán Oifigiúil*, p. 83.

*Dinneen* translates ‘i bhfiadhnaise’ (the form in the enrolled text) as ‘in the presence of, before’, citing ‘i bhfiadhnaise na tine, in front of the fire’. *Ó Dónaill* cites ‘i bhfianaise duine, in the presence of someone’ and ‘i bhfianaise Dé, before God, as God is my witness’. Old Irish ‘fiadhnaise’ is based on ‘fiada’, ‘a witness; one who bears testimony’, DIL citing ‘i fiadnaisi ind rig’ (‘before / in the presence of the king’) – the King here referring to God – from the edition of *Fis Adamnáin* (‘The Vision of Adamhnán’) contained in the early twelfth-century manuscript *Leabhar na hUidhre*. ‘Fianaise’ is translated as ‘evidence; testimony’ in *Téarmaí Dlí*, ‘witness’ being added to these two senses in *Ó Dónaill*, who gives ‘presence’ as a secondary sense. ‘In the constructive presence of’ is translated as ‘i láthair ... go hinchiallaithe’ in *Téarmaí Dlí*. Note that the declaration itself commences with the phrase ‘I láthair Dia na nUilechumhacht’ (‘In the presence of Almighty God’) rather than ‘I bhfianaise Dia na nUilechumhacht’, distinguishing the two ‘presences’, the first having the people as corporeal witnesses.

Both ‘am’ fhianaise’ and ‘am’ láthair’ are cited in the *Oireachtas Dictionary of Official Terms* as translating ‘in my presence’ in translations for ‘Oifig an Phuist’. ‘A mheá ar an droichead meáchain i bhfianaise an chomhalta’ translates ‘to be weighed on the weighbridge in the presence of the member’ in s3(1)(iv) of the Finance (Excise Duties) (Vehicles) (Amendment) Act, 1960. On the other hand, ‘To examine, either alone or in the presence of any other person’ is translated as ‘scrúdú a dhéanamh, ina aonar nó i láthair aon duine eile’ in s114(2)(c) of the Social Welfare (Consolidation) Act, 1981. In s20(2)(c) of the Dáil Éireann Courts (Winding-Up) Act, 1923, ‘guilty of contempt in the presence of the Commissioners’ is translated as ‘a bheith ciontach i ndí-mheas i láthair na gCoimisinéirí’ and in s6(1) of the Fourth Schedule to the Electoral Act, 1923, ‘The postal voters ballot boxes shall be opened by the returning officer, in the presence of the agents’ is translated as ‘Osclóidh an ceann comhairimh boscaí ballóide na bpost-vótáluithe i bhfianaise na ngníomhairí’.

*i mo thaca agus i mo dhídin* ‘Taca’ is translated principally as ‘prop, support’ in *Ó Dónaill*, who cites ‘taca, fear taca, supporter, mainstay; (boxing, etc.) second’ and ‘taca na bhfann, the supporter of the weak’. ‘Crann taca’ has the figurative sense of ‘pillar, champion’ and ‘cúl taca’ that of ‘backing; backer’. *Dinneen’s* entry is as follows:

a peg, pin or nail; an item of rigging, the forepart of a sail (*Aran*); a prop, a support of any kind, a fastening; aid, a helping hand, a foothold; security, bail, one who can be relied on to do a thing ...

This form is familiar also in the phrases '*um an dtaca seo*, about this time, by now' and '*i dtaca le*, as regards'. No examples of 'taca' are given in DIL from the earlier Irish sources, though the entry includes examples of the senses 'prop, support' and 'a supporter, helper, mainstay' along with 'a point in time'. *Dinneen* s.v. 'taca', refers the reader to English 'tack' as well as to '*aga*, time' and '*aice*, surety'.

'Dídin' is the dative singular form of 'dídean' after 'i mo' (more succinctly as 'im' in the original text). 'I mo dhídin' would generally be written today as 'i mo dhídean'. 'Dídean' is translated as 'cover, shelter; refuge, protection' in *Ó Dónaill* and as 'act of protecting, sheltering; protection, shelter, safety; refuge, abode' in *Dinneen*. 'Shelter' seems to be the original meaning of Old Irish 'dítiu', verbal noun of 'do-eim', according to DIL, where the following senses are given: 'covering, cover, shelter; hence in general covering, protecting, defence'. DIL cites 'bid dítiu láedhi is leabhor' ('a protection for songs and books') from a miscellaneous collection of early Irish texts.

Turning to 'maintain', which 'taca' and 'dídean' express in the current Article, 'maintenance order' is translated as 'ordú cothabhála' in *Téarmaí Dlí*. The third set of senses in *Ó Dónaill* s.v. 'cothaigh', includes 'maintain; hold fast, stay', 'cothabháil' being given only as a noun, translated as 'sustenance, maintenance', with 'cothú' rather than 'cothabháil' given there as the standard form of the verbal noun of 'cothaigh'. 'Cothuighim' is translated as 'I rear, feed, maintain, nourish, preserve; keep up ...' in *Dinneen*.

'Cothabháil' translates 'maintain' in a variety of contexts in the Acts. In s12(3) of the Minimum Notice and Terms of Employment Act, 1973, for example, 'Proceedings ... may be instituted and maintained on behalf of the employee by the Minister' is translated as 'Féadfaidh an tAire ... imeachtaí a thionscnamh agus a chothabháil thar ceann an fhostaí'. 'To establish and maintain the hospital known as the Leopardstown Park Hospital', in the Long Title of the Leopardstown Park Hospital (Trust Deed Amendment) Act, 1974, is translated as 'do bhunú agus do chothabháil an ospidéil ar a dtugtar Ospidéal Pháirc Bhaile na Lobhar'. 'Every person who is liable to maintain the beneficiary' is translated as 'gach duine a dhlífidh an tairbhí a chothabháil' in s17(1) of the Social Welfare (Supplementary Welfare Allowances) Act, 1975. In s3(b) of Article IV of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977, 'cooperative arrangements by which members maintain the value of their currencies in relation to the value of the currency ... of other members' is translated as 'comhshocráiochtaí comhair trína gcothabhálann comhaltáí luach a n-airgeadraí i ndáil le luach airgeadra ... comhaltáí eile'. See further the commentary on Article 44.2.5° where 'maintain institutions' is expressed as 'fundúireachtaí a chothabháil'.

Looking at earlier Acts, 'Liability of soldier to maintain wife and children', in the Margin Title of s141 of the Defence Forces (Temporary Provisions) Act, 1923, is translated as 'Oblagáid ar shaighdiúir chun a bhean agus a chlann do chothú'. In s7(1) of the Dáil Éireann Courts (Winding Up) Act, 1923, Amendment Act, 1924, 'for the purpose of asserting or maintaining any right or title to any property' is translated as 'chun aon cheart no teideal

chun aon mhaoine ... do dhearbhu no do chosaint'. In the Schedule to the Methodist Church in Ireland Act, 1928, 'that no minister ... shall preach maintain propagate or teach therein any doctrine or practice' is translated as 'ná déanfidh aon mhinistéir ... aon teagasc ná cleachta do shearmóin, do chraobhscaoile, do theagasc ná seasamh leis'. In the 'Appendix to Rules' in the Criminal Justice (Administration) Act, 1924, 'receive, comfort, harbour, assist and maintain the said H.C.' is translated as 'H.C. sin do ghlaca, do shólású, do chimeád fé n-a choimirce agus cabhair agus cothú do thabhairt do'. 'Maintain an armed force' is translated as 'fórsa armtha ... do chimeád ar bun' in s4(1)(b) of the Public Safety Act, 1927. 'Maintain public decency' and 'maintain public order' are translated respectively as 'caomhnaím an t-ómós poiblí' and 'coimeádam an t-ord poiblí' in *Foclóir Oifigiúil* (without reference), with 'cothaim' (dogma) and 'seasam le' also being given s.v. 'maintain'.

*De Bhaldraithe* translates 'I maintain my rights' as 'seasam mo chearta' and *Ó Dónaill* cites '*do cheart a sheasamh*, to stand up for one's rights' as an example of the sense of 'stand up for, keep hold of, defend' of Irish 'seas'. Professor Máirtín Ó Murchú remarks, against translating 'to maintain the Constitution of Ireland' as 'Bunreacht na hÉireann a sheasamh', that only words like 'ceart' and 'clú' are found with the Irish verb 'seas' in this construction, a possible development on its general usage with 'fód', i.e. '*an fód a sheasamh*, to stand one's ground'. 'Seas le' has the basic sense of 'stand by', *Ó Dónaill* citing '*seasamh le conradh*, to abide by a contract'. In *Treaties establishing the European Communities* (1973) we find 'caomhnaigh', 'coimeád (ar bun) / (i bhfeidhm)', 'coimigh (le) / (ar bun) / (ar fáil)', 'cothaigh', 'lean le', 'seas ar' and 'teannadh a choimeád le' – 'in the event of an equal division of votes and if the High Authority maintains its proposal after a second discussion', for example, being translated there (p. 32) as 'i gcás comhionannas vótaí agus má sheasann an tArd-Údarás ar a thogra tar éis é a phlé an dara huair'. 'Coimeád ar bun' consistently translates 'maintain' in the *Treaty on European Union* (1992) – 'Portugal is hereby authorized to maintain the facility afforded to the Autonomous Regions of the Azores and Madeira to benefit from an interest-free credit facility', for example, being translated there (p. 189) as 'Údaraítear leis seo don Phortaingéil an tsaoráid a choimeád ar bun a tugadh do Réigiúin Fhénrialaithe Oileáin Asóir agus Mhaidéara tairbhíú do shaoráid chreidmheasa saor ó ús'.

*ar son leasa is fónaimh* The nominative would replace the genitive here, with 'fónamh' being lenited, preceding the genitive 'na hÉireann', according to the official standard – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive.

'Leas' is translated as 'interest (i.e. beneficial, etc.)' in *Téarmaí Dlí*, now common in the Acts in the phrase 'leas sóisialach', 'social welfare'. This headword is translated as 'good, well-being, benefit, interest' in *Ó Dónaill*, who cites '*leas na tíre*, the good of the country' and '*leas an phobail*, the common good'. *Dinneen* translates 'leas' as 'benefit, advantage, profit, use, improvement, welfare, good luck ...' and translates 'leas na tíre' as 'the national well-being'. According to DIL s.v. 'les', the earliest sense, exemplified particularly in early Irish laws, seems to be 'relief, redress, remedy'. DIL cites 'is oc bar less ataat'

(‘they are benefiting you’) from the eighth-century Würzburg Glosses as an example of the secondary sense of ‘les’, ‘advantage, good, benefit, profit, interest’.

Turning to the Acts, ‘ensuring that, in what pertains to the control of credit, the constant and predominant aim shall be the welfare of the people as a whole’ is translated as ‘chun a áirithiú gurb é leas an phobail i gcoitinne is príomh-chuspóir buan ina mbaineann le hurlámhas creidiúnais’ in s6(1) (b) of the Central Bank Act, 1942. Both ‘leas’ and ‘maithe’ are cited in the *Oireachtas Dictionary of Official Terms* as translating ‘welfare’ in early official translations. ‘That the injury to the building has not materially prejudiced the economic welfare of the district’ is translated as ‘nár dhin an díobháil don fhoirgneamh aon dochar substainteach do staid chó-ionmhuis an cheanntair’ in s10(2) (b) of the Damage to Property (Compensation) Act, 1923.

‘Fónamh’, the verbal noun of ‘fóin’, is translated as ‘service; usefulness, benefit; validity’ in *Ó Dónaill*, this form being most frequently used today in the phrase ‘ar fónamh, fit, well; excellent’. *Dinneen* translates ‘fóghnamh’ as ‘act of serving, availing, doing good or being of use to; suiting, sufficing, satisfying, performing, service, ability, goodness, utility’, citing ‘*duine gan fhóghnamh*, a useless, idle person’. Old Irish ‘fognam’ is the verbal noun of ‘fogni’ and is translated as ‘service, rendering service’ in DIL, where ‘tri fognam innamball naile doib’ (‘through the service of the other members to them’) is cited from the eighth-century Würzburg Glosses on the Pauline Epistles. In his ‘Index of Irish Terms’ in *A Guide to Early Irish Law*, Fergus Kelly translates ‘fognam’ as ‘service to a lord’.

‘That I will faithfully serve as such’ is translated as ‘Go bhfónfad go dílis mar shaighdiúir den tsórt san’ in s9 of the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924. ‘Service’ is generally translated in the Acts, however, by the English or Romance loanword ‘seirbhís’. ‘That I will render good and true service and obedience to Saorstát Éireann and its constitution’ is translated as ‘go dtabharfad seirbhís agus go mbead umhal, go maith agus go dílis macánta, do Shaorstát Éireann agus dá bhunreacht’ in the Second Schedule to the Garda Síochána Act, 1924, for example. ‘Who is not required to devote substantially the whole of his time to the service of the company’ is translated as ‘nach bhfuil ceangal air a chuid ama go léir go substainteach a chaitheamh le seirbhís na cuideachta’ in s8(4) of the Finance Act, 1978, with the contrary, ‘who is required to devote substantially the whole of his time to the service of the company’, being translated as ‘a bhfuil air bunús a chuid ama go léir a chaitheamh ag déanamh seirbhíse don chuideachta’ in s26(6) (a) of the Capital Gains Tax Act, 1975. ‘Before his transfer by virtue of this section to the service of the Council’ is translated as ‘sular aistríodh é de bhua an ailt seo chun seirbhís na Comhairle’ in s13(3) of the National Council for Educational Awards Act, 1979. Finally, s1 of the Appropriation Act, 1981, reads as follows:

The Minister for Finance may issue out of the Central Fund and apply towards making good the supply granted for the service of the year ... the sum of ten pounds. *Féadfaidh an tAire Airgeadais suim deich bpunt a eisiúint as an bPríomh-Chiste agus a chur chun slánaithe an tsoláthair a deonaíodh le haghaidh seirbhíse na bliana ....*

*mo dhualgais* ‘Dualgas’ is translated as ‘duty (of office, etc.)’ in *Téarmaí Dlí*, this being the secondary sense of ‘dualgas’ in *Ó Dónaill*, who cites ‘*do dhualgas a dhéanamh, a chomhlíonadh*, to do, fulfil, one’s duty’. The principal sense of ‘dualgas’ in *Ó Dónaill* is ‘natural right, due; customary fee or reward’. *Dinneen* gives ‘duty, that which is due to or from’ as the principal sense of ‘dualgas’, giving ‘church duty, divine service’ as a secondary sense, citing ‘*tar éis dualgais na maidne do chóimhlíonadh*, after attending the morning service’. No examples of ‘dualgas’ are cited from the earlier Irish sources in DIL, the seventeenth-century works of Keating being the principal source there of the citations of the sense ‘custom, tribute or other obligation (due to someone)’. ‘Dualgas’ is based on ‘dual’, which is common in Modern Irish in the phrase ‘is dual do’, *Ó Dónaill* citing ‘*an rud is dual do dhuine a dhéanamh*, what is natural for one to do, what one may be expected to do’. See further the commentary on Articles 15.3.2° and 42.5.

*a chaomhnú* ‘Caomhnú’ is the verbal noun of ‘caomhnaigh’, which verb is translated as ‘cherish; preserve, conserve, protect’ in *Ó Dónaill*, ‘caomhnaim’ being translated as ‘I preserve, protect, help, maintain, cherish’ in *Dinneen*. No early examples of ‘caemnaid’, ‘protects, preserves, helps, maintains’, are given in DIL; this verb is based on ‘caemna’, ‘act of protecting, keeping’. The sense ‘cherish’ comes from the verb ‘caemaid’, based on ‘caem’, ‘dear, precious, beloved; belonging to the family’ (Modern Irish ‘caomh’).

In the declaration by the Ceann Comhairle (s8 of the *Standing Orders* of Dáil Éireann, 1997), ‘uphold the rights and privileges of members’ is translated as ‘cearta agus pribhléidí comhaltaí a chaomhnú’. ‘To uphold the law’ is translated as ‘an dlí a chumhdach, a chaomhnú’ in *De Bhaldraithe*. We find ‘seas le’ translating ‘uphold’ in this context in both current and early official translations. ‘That they will uphold the democratic wish ...’ is translated as ‘go seasfaidh siad le mian daonlathach ...’ in the *Joint Declaration* of 15 December 1993. ‘That I will uphold the Constitution of Saorstát Éireann’ is translated as ‘go seasód le Bunreacht Shaorstáit Éireann’ in the Declaration to be taken by Judges in s99 of the Court of Justice Act, 1924. Similarly, in s3(2) (c) of the Unit Trusts Act, 1972, ‘before deciding to uphold or overrule the proposal of the registrar’ is translated as ‘sula gcinnfidh sé ar sheasamh le beartú an chláraitheora nó rialú in aghaidh an bheartaithe sin’. We find a literal translation of ‘uphold’ in s5(s) of the Bank of Ireland Act, 1929, where ‘to take ... all such steps ... as may seem best calculated to uphold and support the credit of the Bank’ is translated as ‘gach céim do thabhairt ... a measfar is fear do raghadh chun creidiúint an Bhainc do chimeád suas agus do neartú’. Finally note that ‘uphold the democratic values enshrined in the Constitution’ is translated as ‘tacóidh sé leis an bhfiúchas daonlathach atá cumhdaithe sa Bhunreacht’ in s13 of the Broadcasting Authority (Amendment) Act, 1976, and ‘that those rights will be upheld and protected’ is translated as ‘go gloíofear leis na cearta sin agus go gcosnófar iad’ in the *Programme for a Partnership Government, 1993-97*.

*mo lándicheall a dhéanamh* ‘Lándicheall’ is translated as ‘utmost endeavour’ in *Ó Dónaill*, with ‘ar lán a dhíchill’ being translated as ‘at his best endeavour’ in *Dinneen*.



According to DIL, 'dichell' (translated there as 'effort, pains, utmost endeavour') is 'a late word common in Modern Irish'; DIL cites 'mesaim go bfuil do dhichell le dénam acat do chóta ... d'iomchur' ('I think you find it as much as you can do to carry your coat') from a miscellaneous collection of Irish prose.

*De Bhaldraithe* translates 'to dedicate your life to something' as 'do shaol a chaitheamh le rud'. 'Dedicate' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'bronna' in translations done for the Department of Local Government and Public Health. 'I dedicate' is translated as 'toirbhím' in *Téarmaí Dlí*. 'A State authority may ... dedicate such State land ... for use by the public' is translated as 'Féadfaidh údarás Stáit ... an talamh Stáit sin ... a thoirbheart chun úsáide an phobail' in s11(2) of the State Property Act, 1954. 'Toirbhir' is translated as 'hand over, deliver; give, present; dedicate' in *Ó Dónaill*, who cites '*thoirbhir siad a mbeatha do Dhia*, they devoted their lives to God', along with '*toirbhirt leabhair*, dedication of book'. The earlier form, 'tairbert', is the verbal noun of 'do-airbir' (from \*to-air-ber-, Modern Irish 'tabhair' coming from \*to-ber-), literally 'bends, bends down, lowers, inclines', but with the sense of 'yields, gives, hands over, surrenders' cited in DIL from the *Táin*, for example – 'co ndarairbert Cúchulaind dia araid' ('which Cúchulainn had handed over to his charioteer' [a mantle]).

Turning to 'ability' in the Acts, 'chó fada lem' chumas' translates 'to the utmost of my ability' in the form of declaration in the Second Schedule to the *Gárda Síochána (Temporary Provisions) Act, 1923*. 'To the best of his knowledge, ability, or belief' is translated as 'chó fada le n-a eolas, le n-a chumas no le n-a thuairim' in s7(1) of the *Statistics Act, 1926*, with 'as to age, sex, health, character, knowledge, and ability for that situation' being translated as 'maidir le haois, innscin, sláinte, carachtar, eolas, agus ábaltacht' in s3 of the *Civil Service Regulation (Amendment) Act, 1926*. Turning specifically to 'abilities' in the Acts, 'it shall be the duty of the patient or ... of every person liable to maintain him, to repay such amount to the authority according to their respective abilities' is translated as 'beidh sé de dhualgas ar an othar nó ... ar gach duine a dhlifeas é a chothabháil, an méid sin d'aisioc leis an údarás do réir acmhainne gach duine acu faoi seach' in s233(a) of the *Mental Treatment Act, 1945*, 'do réir a n-acfuinní fé seach' translating the final clause in s28(a) of the *Public Assistance Act, 1939*. No plural form of 'acmhainn' or 'cumas' is given in *Ó Dónaill*; unlike 'cumais', 'acmhainní' is in general use today in 'acmhainní nádúrtha', 'natural resources', for example. *Dinneen* cites '*ag féachaint mo chumais céille*, testing my mental abilities', this being the genitive singular form, following a verbal noun, rather than the plural. The plural is cited in DIL from *Saltair na Rann* (composed c. 1000), for example – 'fotrochess ot'mórchoimsib' ('who deprived thee of thy great powers'). Bearing 'lándicheall' in mind, one could perhaps express the English plural 'abilities' somewhat more literally than 'lándicheall' as 'lán mo chumais'.

*i láthair Dia na nUilechumhacht* According to the official standard, 'Dia' would be lenited here following the prepositional phrase 'i láthair' – see *An Caighdeán Oifigiúil*, p. 83, where 'i láthair bhean an tí' is cited. Normally 'Dia' would be in the genitive following 'i láthair'

(see 'i láthair Dé' in *Ó Dónaill*, for example) but, as it is followed by a 'definite' noun (i.e. in this case a noun preceded by the article), 'Dia' remains in the nominative and is lenited – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive. See the commentary on Article 38.4.2° regarding 'i láthair'.

'Uilechumhacht' is translated as 'omnipotence' in *Ó Dónaill*, where only the nominative and genitive singular forms are given. Here we have a variant genitive plural of 'cumhacht' – see *Ó Dónaill* s.v. 'cumhacht', standard plural form 'cumhachtaí'. *Dinneen* gives '*uile-chumhacht*, omnipotence' and '*uile-chumhachtach*, omnipotent (*Dia Uile-chumhachtach*, Almighty God), sometimes an *tUile-chumhachtach*, the Almighty'. DIL cites 'oen Dia uli-chumhachtach' from the *Passions and Homilies* from the *Leabhar Breac* (a manuscript compiled in 1411 or earlier). Note that in Mícheál Ó Griobhtha's draft of a version of this Article we find 'Dearbhúghim dar Dia Uilechumhachtach' – see Breandán Mac Giolla Choille, op. cit., p. 65. See further the commentary on Article 44.1.

*Bunreacht Éireann* 'Northern Ireland' is styled 'Tuaisceart Éireann' rather than 'Tuaisceart na hÉireann' in the Acts and in general usage – see the *Annals of the Four Masters* where Tadhg ua Baoighill is referred to as 'sonus, taccadh tuaiscirt Éireann' (cited in DIL s.v. 'taca'). The Constitution itself, however, is styled 'Bunreacht na hÉireann' rather than 'Bunreacht Éireann' on the title-page.

*go dílis* See the commentary on Article 9.2 regarding 'dílis'. Turning to the Acts for 'dílis' in this context, 'That I will faithfully serve as such' is translated as 'Go bhfónfad go dílis mar shaighdiúir den tsórt san' in s9 of the *Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924*, with 'that I will be faithful to the utmost of my ability' being translated as 'go mbead dílis chó fada lem' chumas' in the Second Schedule to the *Gárda Síochána Act, 1924*, for example. In the form of commission to an Officer, in the Fifth Schedule to the *Defence Act, 1954*, 'You will faithfully discharge your duty in the ... rank of ...' is translated as 'Comhlionfair go dílis do dhualgas i gcéim ...', with 'that he has faithfully, honestly and diligently served as such clerk' being translated as 'gur thug sé seirbhís dhílis, ionraic, dhúthachtach mar chléireach den tsórt sin' in s5(c) of the Second Schedule to the *Solicitors Act, 1954*. See the commentary on 'firinneach' above where 'go fireata' is also cited as translating 'faithfully'. Note finally that in the declaration made by the Ceann Comhairle in s8 of the *Standing Orders* of Dáil Éireann, 1997, 'I do solemnly declare that I will duly and faithfully ...' is translated as 'Dearbhaím go sollúnta go ndéanfaidh mé, go cuí agus go dílis ...'.

*coinsiasach* In the Schedule to the *Statutory Declarations Act, 1938*, 'I, A.B., do solemnly and sincerely declare that ... and I make this solemn declaration conscientiously believing the same to be true' is translated as 'Deinim-se, A.B., a dhearbhu go sollamanta agus go dílis macánta go ... agus deinim an dearbhú sollamanta so agus mé á chreidiúint go coinsiasach go bhfuil sé fíor'. In the Sixth Schedule to the *Pawnbrokers Act, 1964*, 'conscientiously believing the same to be true' is translated as 'á chreidiúint go coinsiasach é a bheith fíor'. 'Conscientiously believing' is cited in the *Oireachtas Dictionary of Official Terms* as

being translated as ‘a chreideann go macánta’ in translations done for the Department of Finance.

*Dia do mo stiúradh agus do mo chumhdach* The form of this phrase in the enrolled text is ‘Dia dom stiúradh agus dom chumhdach’, which is perhaps preferable in the declaration to the official standard form ‘do mo ...’ and perhaps also to a literal translation, ‘Go stiúraí agus go gcumhdaí Dia mé’. As regards the phrases ‘Dia do mo stiúradh’ and ‘Go stiúraí Dia mé’, see *Ó Dónaill* s.v. ‘sábháil’, where ‘*Dia ár sábháil! Go sábhála Dia sinn!* God save us!’ is cited. The official standard form would not be adhered to in the oral delivery of a formal declaration of this sort, the synthetic form of the verb replacing the analytic form, for example, and variant forms being used – the literal translation below might perhaps be spoken as follows:

“I láthair Dhia na hUilechumhachta, deininse, a ghealladh agus a dhearbhu go sollúnta fireata go gcaomhnód Bunreacht na hÉireann agus go seasód lena dlíthe, go gcomhlionfad mo dhualgais go dílis coinsiasach de réir an Bhunreacht is an dlí agus go ndéanfad mo chumas a thoirbhirt do sheirbhís agus do leas mhuintir na hÉireann. Dia dom stiúradh agus dom chumhdach.”

‘Stiúru’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘direct’ in translations for the Department of Local Government and Public Health, this being the first entry there s.v. ‘direct’. ‘Socrú’ follows ‘stiúru’ with ‘approve or direct’ being translated as ‘ceadú nó socrú’ in translations for the same Department, ‘díriú’ being cited there from translations for the Department of Justice. See the commentary on Articles 45.2 and 40.6.1<sup>iii</sup>, with ‘stiúir’ expressing ‘control’ in the latter.

‘Cumhdach’ is the verbal noun of ‘cumhdaigh’, the primary sense of which is ‘cover, protect’ according to *Ó Dónaill*, ‘keep, preserve’ being given as a secondary sense, *Ó Dónaill* citing ‘*Dia ár gcumhdach*, God protect us’ and ‘*go gcumhdaí Dia sibh*, may God keep you’. This verb goes back to Old Irish ‘con-utaing’, ‘builds, constructs’. Regarding ‘sustain’, ‘to achieve and sustain devolution’ is translated as ‘cineadh a bhaint amach agus a choimeád’ in the 1985 *Anglo-Irish Agreement*, for example. *Ó Dónaill* cites ‘*d’anam a choimeád*, to preserve one’s life’ s.v. ‘coimeád’. *Foley* translates ‘sustain’ as ‘iomchair, congghaigh suas, beathuigh, cothuigh’, *T. O’Neill Lane* also including ‘conggháil suas’ s.v. ‘sustain’, citing ‘d’aithin mise do bhaintreabhaigh annsoin do chonggháil suas’ (‘I have commanded a widow-woman there to sustain thee’) from the seventeenth-century translation of *1 Kings* 17.9. See further the commentary on Article 34.5.1<sup>o</sup>.

Turning to the Acts, ‘and there is a good and valid conviction to sustain the order or direction’ is translated as ‘agus má tá daora daingean dleathach ann mar thaca leis an ordú nó an treoir’ in s202(2) of the Defence Forces (Temporary Provisions) Act, 1923, the same English text (with ‘that’ preceding ‘there’) being translated as ‘agus go bhfuil ciontú maith bailí ann mar bhonn leis an ordú nó leis an treoir’ in s40(2) of the Defence Act, 1954. ‘From the date when evidence to sustain the prosecution came to the notice of the Attorney-General’ is translated as ‘ón dáta ar ar tharla fianaise chun neartuithe leis an gcúiseamh do theacht fé bhráid an Phríomh-Atúrnae’ in s35(1) of the Dangerous Drugs Act, 1934, ‘the date on which evidence

to sustain such prosecution came to the notice’ being translated as ‘an dáta ar a bhfuair sé fianaise chun an chúisimh sin do shuidheamh’ in s14(4) of Connaught Rangers (Pensions) Act, 1936.

*a lámh a chur leis* ‘Do lámh a chur le rud’ is translated as ‘to sign something’ and ‘to set one’s hand to something’ in *Ó Dónaill*. ‘A lámha a chur le’ is translated as ‘to set their hands to’ in *Tearmaí Dlí*, where ‘I sign’ is translated as ‘sínim’. *De Bhaldraithe* gives ‘cuirim m’ainm le, sínim (litir)’ s.v. ‘sign’, and, s.v. ‘subscribe’, we find (a) ‘sínim, cuirim (m’ainm) le (scribhinn)’, (b) ‘aontaím le (tuairim)’. For ‘subscribe’ in the Acts, see the commentary on Article 12.4.3<sup>o</sup>, where ‘to subscribe to the nomination’ is expressed as ‘bheith páirteach in ainmniú’. See the commentary on Article 12.10.3<sup>o</sup> regarding ‘faoi lámh’ expressing ‘signed by’.

*maithe* ‘Maithe’ is translated as ‘principal, important, people’ in *Ó Dónaill*, who cites ‘*maithe agus móruaisle na tíre*, the gentry and nobility of the country’. The noun ‘maith’ is, according to *Dinneen*, ‘sometimes a good man, a man of rank, a noble, a grandee (especially in plural)’. *Dinneen* cites ‘*maithe aeir*, the fairies’, ‘*maithe na dúithche*, the local magnates’ and ‘*maithe agus mór-uaisle Chorcaighe*, the burgesses and nobility of Cork’. Professor Máirtín Ó Murchú remarks that the phrase ‘na maithe’ was also a common phrase at one time, Tadhg Ó Cianáin in his *Flight of the Earls* frequently so referring to the ‘Earls’ and other gentry. *De Bhaldraithe* translates ‘personage’ as ‘duine mór le rá, ceannasach; plural maithe’. *L. Mc Cionnaith* s.v. ‘personage’, translates ‘important personage’ as ‘duine mór’, *Foley* (1855) translating ‘personage’ as ‘taoiseach, duine mór’.

*de réir an Bhunreacht* ‘Do réir an Bhunreacht’ is the form of this phrase in the original text, ‘an Bhunreacht’ rather than ‘an Bhunreacht’ being the standard Irish form of the genitive singular.

*Is é slí ... ná* Literally ‘it is how’ or ‘it is (the) way’, the absence of the definite article before ‘slí’ reminiscent of ‘is é ainm a bhí air ná Séadna’, in the opening line of An tAthair Peadar’s renowned novel.

*i gcúram a oifige* See the commentary on Article 12.3.1<sup>o</sup>.

### Standardised gender-proofed Irish text

Is é slí a rachaidh an tUachtarán i gcúram a oifige nó a hoifige ná leis an dearbhú seo a leanas a dhéanamh go poiblí agus a lámh a chur leis i bhfianaise comhaltá den dá Theach den Oireachtas, agus breithiúna den Chúirt Uachtarach agus den Ard-Chúirt agus maithe poiblí eile:-

“I láthair Dhia na hUilechumhachta, táimse, a ghealladh agus á dhearbhu go sollúnta is go firinneach bheith i mo thaca agus i mo dhídean do Bhunreacht na hÉireann, agus a dlíthe a chaomhnú, mo dhualgais a chomhlionadh go dílis coinsiasach de réir an Bhunreacht is an dlí, agus mo lándicheall a dhéanamh ar son leas is fhónamh mhuintir na hÉireann. Dia do mo stiúradh agus do mo chumhdach.”

**Direct translation**

Rachaidh an tUachtarán i gcúram<sup>1</sup> oifige tríd an dearbhú seo a leanas a thabhairt<sup>2</sup> agus a shíniú go poiblí, i láthair<sup>3</sup> comhaltaí de dhá Theach an Oireachtais, Breithiúna den Chúirt Uachtarach agus den Ard-Chúirt, maille le maithe poiblí eile:<sup>4</sup>

“I láthair Dhia na hUilechumhachta, déanamse, , a ghealladh agus a dhearbhu go sollúnta firéanta<sup>5</sup> go gcaomhnóidh mé Bunreacht na hÉireann<sup>6</sup> agus go seasfaidh mé lena dlíthe, go gcomhlionfaidh mé mo dhualgais go dilis coinsiasach de réir an Bhunreachta is an dlí agus go ndéanfaidh mé mo chumas<sup>7</sup> a thoirbhirt<sup>8</sup> do sheirbhís agus do leas mhuintir na hÉireann. Go stiúraí agus go gcumhdaí Dia mé.”

**Variants**

- 1 ‘i mbun’
- 2 ‘a ghlacadh’
- 3 ‘i bhfianaise’
- 4 ‘Is tríd an dearbhú seo a leanas a ghlacadh agus a shíniú go poiblí, i láthair comhaltaí de dhá Theach an Oireachtais, Breithiúna den Chúirt Uachtarach agus den Ard-Chúirt, maille le maithe poiblí eile, a rachaidh an tUachtarán i gcúram oifige:-’
- 5 ‘agus go fireata’
- 6 ‘go ndéanfaidh mé Bunreacht na hÉireann a chaomhnú’ / ‘a choimeád ar bun’ / ‘a chothabháil’
- 7 ‘m’acmhainní’, ‘lán mo chumais’
- 8 ‘go dtoirbhreoidh mé mo chumas’

**ARTICLE 12.9 AIRTEAGAL 12.9****TÉACS GAELIGE**

Ní cead don Uachtarán imeacht ón Stát le linn é a bheith in oifig, ach amháin le toil an Rialtais.

**LITERAL ENGLISH TRANSLATION**

The President is not permitted to leave the State while he is in office, except with the will of the Government.

**ENGLISH TEXT**

The President shall not leave the State during his term of office save with the consent of the Government.

**Divergences between the official texts**

- 1 The phrase expressing ‘with the consent of the Government’ in the Irish text, ‘le toil an Rialtais’, can be read as ‘with the will of the Government’; ‘toiliú’ rather than ‘toil’ is the Irish legal term for ‘consent’.
- 2 Note that the Irish text contains the verb ‘imigh’, basically ‘go, go away’, rather than ‘fág’, ‘leave’ in the sense of ‘quit, forsake’, which sense does not suit this context.
- 3 ‘During his term of office’ is expressed as ‘le linn é a bheith in oifig’ (‘while he is in office’) in the Irish text.
- 4 Again ‘The President shall not’ is expressed as ‘Ní cead don Uachtarán’ (‘The President is not permitted to’) in the Irish text.

**Commentary**

*toil* ‘Mura nglactar ... an togra ... le toil an phobail i Reifreann’ expresses ‘unless ... the proposal shall have

been approved ... by the people at a Referendum’ in Article 27.5.1°, ‘Cibé uair a dhéantar togra ... a ghlacadh le toil an phobail’ expressing ‘Whenever a proposal ... shall have been approved ... by the people’ in Article 27.5.2°. ‘Mura dtoilí Dáil Éireann le téarmaí an chonartha’ expresses ‘unless the terms of the agreement shall have been approved by Dáil Éireann’ in Article 29.5.2° and ‘ní foláir a mheas ... go dtoilíonn an pobal leis’ expresses ‘shall ... be held to have been approved by the people’ in Articles 47.1 and 47.2.2°. ‘With their own consent’, on the other hand, is expressed as ‘le réamhchead uatha féin’ in Article 18.3, ‘le réamhchead na ndaoine a ainmneofar’ expressing ‘with the prior consent of persons so nominated’ in Article 18.10.2°. Following current practice in translating the Acts (along with *Téarmaí Dlí*), however, ‘consent’ is rendered as ‘toiliú’ in the Amendment contained in Article 29.7.1°, ‘The State may consent to be bound by the British-Irish Agreement done at Belfast on the 10th day of April, 1998’ being translated as ‘Tig leis an Stát a thoiliú a bheith faoi cheangal ag Comhaontú na Breataine-na hÉireann, arna dhéanamh i mBéal Feirste an 10ú lá d’Aibreán, 1998’ and the new Article 3 inserted by the same Amendment reads ‘that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people’, ‘*gur trí mhodhanna síochánta amháin le toiliú throlach na ndaoine ... a dhéanfar Éire aontaithe a thabhairt i gcrích*’.

‘Toil’ is translated as ‘will; inclination, desire, wish’ in *Ó Dónaill*, who does however cite ‘*le toil duine*, with the consent of someone’. ‘Le do thoil’ is translated there as ‘(if you) please’, *Ó Dónaill* citing the expression ‘*ár dtoil a chur le toil Dé*, to accept the will of God’ s.v. ‘cuir le’. ‘Tionóntacht ar toil’ is translated as ‘tenancy at will’ in *Téarmaí Dlí*, where ‘le toiliú’ translates ‘by consent’, ‘toiliú feabhsúcháin’ translating ‘improvement consent’ and ‘toilim’ translating ‘I consent’. ‘Toiliú le rud’ is translated as ‘to consent to something; to accept something’ by *Ó Dónaill* s.v. ‘toiligh’ (‘will, consent, agree’), and ‘toiliú’ is translated there as ‘volition; consent’. ‘Toil’ is translated as ‘will, wish, desire, consent, willingness, leave, permission’ in *Dinneen* and ‘le toil’ as ‘with the consent of’. *Dinneen* translates ‘toilighim, -iughadh’ as ‘I will, assent, agree to’. DIL s.v. ‘tol’, cites ‘fritoil dée’ (‘against God’s will’) from the eighth-century Würzburg Glosses on the Pauline Epistles, translating ‘tol’ principally as ‘will’. ‘Tol’ also has the sense of ‘goodwill, affection, love’, ‘desire, appetite’ and ‘sexual desire, sexual intercourse’, ‘toil an chuirp’ being translated in DIL as ‘semen virile’, *Dinneen* citing ‘*Dia na Toile, Eros*’.

Turning to the Acts, ‘A payment shall not be made under subsection (1) save with the consent of the Minister for Finance’ is translated as ‘Ní dhéanfar iocaiocht faoi fho-alt (1) ach amháin le toiliú an Aire Airgeadais’ in s123(2) of the Social Welfare (Consolidation) Act, 1981, and ‘A health board shall not exercise its powers under subsection (3) ... save with the consent of the Minister’ is translated as ‘Ní fheidhmeoidh bord sláinte, ach amháin le toiliú an Aire, a chumhachtaí faoi fho-alt (3)’ in s38(4) of the Health Act, 1970. ‘With the consent of a majority of the people of Northern Ireland’ is translated as ‘le toiliú throlach mhuintir Thuaisceart Éireann’ in Article 1A of the *Anglo-Irish Agreement*, 1985.

Looking at the early Acts, in Article 24 of the 1922 Constitution, ‘Provided that the sessions of Seanad Éireann

shall not be concluded without its own consent' is translated as 'Ar choinníoll ná críochnófar siosóin Sheanaid Éireann gan a thoil féin'. In s11 of the Methodist Church in Ireland Act, 1928, 'A copy of any consent, approval, sanction, decision, resolution or special resolution of the Conference' is translated as 'cóip d'aon toiliú, aontú, ceadú, breith, rún nó rún speisialta ón gCódháil'. 'Consent form' and 'consent order' are cited in the *Oireachtas Dictionary of Official Terms* as having been translated respectively as 'foirm toiliúcháin' and 'ordú toiliúcháin' in early translations.

*imeacht ó Stát* While 'imigh ó' is translated as 'go away from, leave, be lost to' in *Ó Dónaill*, the examples cited there ('*imeacht ó do mhuintir*, to leave one's people', '*ag imeacht ón tréad*, leaving the fold') refer to leaving people, as against 'imigh as', 'go out of' ('*imeacht as áit*, to leave a place' being cited in *Ó Dónaill*), and would seem to favour expressing 'leave the State' as 'imeacht as an Stát'. Like *Ó Dónaill*, *Dinneen* has '*imthighim as*, I leave, depart from', citing '*ós duine ag imtheacht uaim thú*, since you are going from me'. Perhaps one could argue that 'State' refers to the people of the State. We may note that *De Bhaldraithe* translates 'leave' as 'imím ó (áit, dhuine), fágaim (áit, duine), scaraim le (duine)' but translates 'he has left Galway' as 'd'fhág sé Gaillimh; tá sé imithe as Gaillimh'.

Turning to the Acts, 'the accused has been free to leave the State during a continuous period of seven days' is translated as 'go raibh saoirse ag an gcúisí imeacht as an Stát i rith tréimhse leanúnach seacht lá' in s20(5)(b) of the Criminal Law (Jurisdiction) Act, 1976. In s39(2)(b) of the Extradition Act, 1965, however, 'where that person, having had an opportunity to leave the State' is translated as 'i gcás caoi a bheith ag an duine sin an Stát a fhágáil' and in s19(1) of the Exchange Control Act, 1954, 'a person ... who, on any occasion, is about to leave the State' is translated as '(beidh ar) dhuine ... a bheas, ar ócáid ar bith, ar tí an Stát d'fhágáil'. Finally, in s124 of the Bankruptcy Act, 1988, 'If any person ... leaves the State' is translated as 'Má dhéanann aon duine ... an Stát a fhágáil'.

*le linn é a bheith in oifig* We find this phrase again in Article 12.11.3° expressing 'during his term of office'. In Article 12.3.3°, however, 'the date of the expiration of the term of office of every President' is expressed as 'dáta dheireadh théarma oifige gach Uachtaráin ar leith' and in Article 12.7 'the day following the expiration of the term of office of his predecessor' is expressed as 'an lá i ndiaidh deireadh théarma oifige a réamhtheachtaí'. The literal translation of 'term of office', of course, is 'téarma oifige' and this phrase is so translated in the Acts. In s7 of the Schedule to the Wool Marketing Act, 1968, for example, 'A member of An Chomhairle whose term of office expires by effluxion of time shall be eligible for reappointment' is translated as 'Beidh comhalta den Chomhairle a n-éagfaidh a théarma oifige trí imeacht aimsire inathcheaptha'. In s7(8) of the Local Government (Planning and Development) Act, 1983, 'and shall not at any time during his term of office hold any other office or employment in respect of which emoluments are payable' is translated as 'agus ní shealbhóidh sé, am ar bith i gcaitheamh a théarma oifige, aon oifig ná fostaíocht eile a mbeidh díolaíochtaí iníochta ina leith'. In s14 of the *Standing Orders* of Dáil Éireann

(1997), 'The term of office of the Ceann Comhairle and of the Leas-Cheann Comhairle shall be the term of the Dáil existing at the time of their appointment' is translated as 'Is é téarma oifige a bheidh ag an gCeann Comhairle agus ag an Leas-Cheann Comhairle an téarma a bheidh le caitheamh ag an Dáil a bheidh ann tráth a gceaptha', 'term of office' being cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'téarma oifige' in *Standing Orders* of Dáil Éireann, 1926.

*Ní cead do* Literally, 'is not permitted' – see the commentary on Article 9.1.3°.

### Gender-proofed Irish text

Ní cead don Uachtarán imeacht ón Stát le linn é nó í a bheith in oifig, ach amháin le toil an Rialtais.

### Direct gender-proofed translation

Ní dhéanfaidh an tUachtarán an Stát a fhágáil<sup>1</sup> le linn<sup>2</sup> a théarma nó a téarma oifige ach amháin le toiliú an Rialtais.

### Variants

- 1 'Ní fhágfaidh an tUachtarán an Stát', 'Ní imeoidh an tUachtarán as an Stát'
- 2 'i gcaitheamh'

## ARTICLE 12.10.1° AIRTEAGAL 12.10.1°

### TÉACS GAEILGE

Féadfar an tUachtarán a tháinseamh as ucht mí-iompair a luafar.

### LITERAL ENGLISH TRANSLATION

The President may/can be impeached for / on account of misconduct/misbehaviour that will be cited/stated.

### ENGLISH TEXT

The President may be impeached for stated misbehaviour.

### Divergences between the official texts

- 1 The verb 'state' is expressed in the Irish text by the Irish legal term for 'cite', 'luaigh', this term also expressing 'express', 'specify', 'mention' and 'define' in the Constitution.

### Commentary

*a luafar* 'Within the stated period defined in the next following subsection' is expressed as 'taobh istigh den tréimhse áirithe a luaitear sa chéad fho-alt eile' in Article 23.1.3°, with 'tréimhse áirithe' expressing 'stated period' on two more occasions in that subsection, once in the following subsection and again in s2.2° of the same Article, 'ar thrátha áirithe' expressing 'at stated periods' in Article 33.4. 'Except for stated misbehaviour or incapacity' is expressed as 'de dheasca mí-iompair nó míthreora(ch) a luafar' in Articles 33.5.1° and 35.4.1°. 'I bhfoirm cháis riofa'

expresses 'by way of case stated' in Article 40.4.3°. In the Amendment on Cabinet confidentiality contained in Article 28.4.3°, 'to inquire into a matter stated by them to be of public importance' is rendered as 'chun fiosrú a dhéanamh faoi ní a luafaidh siad ina thaobh go bhfuil tábhacht phoiblí ann'. The more usual translation in the Acts is found in the new Article 3.2, added by the Amendment following the Belfast Agreement:

Institutions with executive powers ... may be established by their respective responsible authorities for stated purposes. *Féadfaidh údaráis fhreagracha faoi seach na ndlínsí sin institiúidí ag a mbeidh cumhachtaí ... feidhmiúcháin ... a bhunú chun críoch sonraithe.*

'Luaign' expresses 'express' in Articles 24.1, 25.1, 26, 27, 28.3.3°, 31.1, 32, 46.3 and 50.2, where we find the following two examples:

Laws enacted before, but expressed to come into force after, the coming into operation of this Constitution, shall, unless otherwise enacted by the Oireachtas, come into force in accordance with the terms thereof. *Dlíthe a bheas achtaithe roimh an mBunreacht seo a theacht i ngníomh agus a mbeidh luaite iontu iad do theacht i bhfeidhm dá éis sin, tiocfaid i bhfeidhm de réir mar a luaitear iontu mura n-achtaí an tOireachtas a mhalairt.*

'Luaign' expresses 'specify' in Articles 14.5.2°, 22.2.6°, 24.1, 24.2 and 24.3 and expresses 'mention' in Articles 18.4.2°i, 18.4.3° and 43.2.1°.

'Luaim' is translated as 'I cite' in *Téarmaí Dlí*, 'lua' being translated there as 'citation'. 'I state (a case)', is translated as 'sonraim (cás)' in *Téarmaí Dlí*, with 'stated case' being translated as 'cás sonraithe' – 'stated account' is, however, translated as 'cuntas ríofa'. 'Luaign' is translated as 'mention, cite' in *Ó Dónaill*. 'Luaidhte' is translated as 'moved, stirred up; mentioned, engaged to marry, chosen' in *Dinneen*. The earlier verb 'luid', 'moves', is found mostly in archaic passages, being replaced early by 'luaidid', according to DIL, where examples of this form in the sense of 'mentions, adverts to; utters, proclaims; discusses' are cited, including 'a molad maissiu máenib / luaidfidir láedib limmsa' ('his praise is more beautiful than treasures, it will be sung in lays by me'), from an eighth-century poem in praise of a Leinster prince, and 'tlás na leith ó luaidhfídhir' ('since he will be charged with weakness'), from the seventeenth-century 'Contention of the Bards'. See further the commentary on Article 31.1.

The verb 'state' is translated as 'luaim, dearbhaím, deirim, cuirim in iúl' in *De Bhaldraithe*, where 'on stated days' is translated as 'ar laethanta ainmnithe', however. Looking at the early Acts, 'The forms of process, summons, case stated, appeal or otherwise, and the conditions which a party who requires a case stated ... must comply with', in s91 of the Courts of Justice Act, 1924, is translated as 'na fuirmeacha próisis, gairme, cáis aithriste, athchomhairc no éinní eile, agus ar na coiníollacha ná foláir do pháirtí a iarrfidh aithris cáis ... a chó-líona' – note that 'cás sonraithe' now translates 'case stated', following *Téarmaí Dlí*. In s4 of the Erasmus Smith School Act, 1938, 'to attend the stated Services of their own Church' is translated as 'chun bheith i láthair ag Seirbhísi luaite a nEaglaise féin'. Finally, note that Article 63 of the 1922 Constitution commences as follows:

The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity on resolutions passed by Dáil Éireann and Seanad Éireann. *Ní cuirfear an t-Ard-Sgrúdaí as oifig ach mar gheall ar dhroch-iompar no mí-chumas a luadhfar agus ar rúin a rithfidh Dáil Éireann agus Seanad Éireann.*

'Gur mainníodh na fáthanna ar a bhfuil an dámhachtain bunaithe a lua inti' translates 'that the award has failed to state the reasons on which it is based' in s1(e) of Article 52 of the Second Schedule to the Arbitration Act, 1980, and 'go bhfuil suim a luafar dlíte' translates 'that a stated amount is due' in s15(4)(b) of the Social Welfare (Consolidation) Act, 1981. 'Sonraigh', however, generally translates 'state' in the modern Acts. 'The chairman may be removed from office by the Government ... if he has committed stated misbehaviour' is translated as 'Féadfaidh an Rialtas an Cathaoirleach a chur as oifig ... má rinne sé é féin a mhí-iompar mar a bheidh sonraithe' in s5(15) of the Local Government (Planning and Development) Act, 1983. In s7 of the Second Schedule to the Fisheries Act, 1980, 'who has committed stated misbehaviour' is translated as 'a mhí-iompair é féin mar a bheidh sonraithe'. 'But shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal', in s2(3)(b) of the Ombudsman Act, 1980, is translated as 'ach ní cuirfear as oifig é ach amháin mar gheall ar mhí-iompar sonraithe, éagumas nó féimheacht ná ansin féin ach tar éis do Dháil Éireann agus do Seanad Éireann rúin a rith ag éileamh é a chur as oifig'. In s3(1) of the First Schedule to the Adoption Act, 1952, 'The Government may remove a member from office for stated misbehaviour or incapacity' is translated as 'Féadfaidh an Rialtas comhalta a chur as oifig de dheasca mí-iompair a sonrófar nó de dheasca éagumais'. See further the commentary on Article 25.4.2°.

Note that 'during a stated period' is translated as 'i rith tréimhse a shonrófar' in s4 (Table) of the Finance Act, 1981, as against 'tréimhse áirithe' which we saw above expressing 'stated period' in the Constitution, as it does in s2 of the Constitution (Amendment No. 13) Act, 1928, for example. Looking at the verb 'state' in general, 'it shall order the court which made the determination to state and sign a case' is translated as 'ordóidh sí don chúirt a rinne an cinneadh cas a shonrú agus a shíniú' in s18(2)(c) of the Malicious Injuries Act, 1981, for example. Finally, note that 'to state in writing' is translated as 'a chur in iúl i scríbhinn' in s6(a) of the Fifth Schedule to the Fisheries Act, 1980.

*as ucht mí-iompair* 'Mí-iompar' is translated as 'misconduct, misbehaviour' in *Ó Dónaill*. *Dinneen* translates 'mí-iomchar' (the spelling in the original text) as 'misconduct, sexual immorality', citing '*clann mí-iomchair*, misbehaving progeny'. The adjective 'mí-iomprach' occurs in *Téarmaí Dlí* in the phrase '*ar meisce agus mí-iomprach*, drunk and disorderly'. 'Misbehaviour' is translated as 'mí-iompar, drochiompar' in *De Bhaldraithe*, who translates 'misconduct (of person)' as 'mí-iompar' also. DIL cites 'a dhrochiomchar leis féin' (translated as 'his misbehaviour') from earlier Irish literature s.v. 'imchor'. 'Imchor' is the verbal noun of 'imm-cuirethar' ('carries around, carries, brings, conveys') and, as an ordinary noun, has the con-

crete sense of ‘a charge, burden’, with the abstract senses of ‘bearing, deportment, behaviour’, along with ‘forbearance, suffering’, according to DIL.

As we saw above, in s7 of the Second Schedule to the Fisheries Act, 1980, ‘who has committed stated misbehaviour’ is translated as ‘a mhí-iompair é féin mar a bheidh sonraithe’ – this verbal form translating ‘misbehave’ in the Health Act, 1947, also – and ‘But shall not be removed from office except for stated misbehaviour’ is translated as ‘ach ní chuirfear as oifig é ach amháin mar gheall ar mhí-iompar sonraithe’ in s2(3) of the Ombudsman Act, 1980. In s3(1) of the First Schedule to the Adoption Act, 1952, ‘The Government may remove a member from office for stated misbehaviour or incapacity’ is translated as ‘Féadfaidh an Rialtas comhalta a chur as oifig de dheasca mí-iompair a sonrú nó de dheasca éagumais’. Turning to early Acts, ‘The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity’ is translated as ‘Ní cuirfear an t-Ard-Sgrúdaí as oifig ach mar gheall ar dhroch-iompar nó mí-chumas a luadhfar’ in Article 63 of the 1922 Constitution. ‘The offence of misbehaving or inducing others to misbehave before the enemy in such a way as to show cowardice’ is translated as ‘Mí-iompar os cóir an namhad ar shlí a thaisbeánfadh meacht, no daoine eile do mhealla chun an chionta san’ in s32(4) of the Defence Forces (Temporary Provisions) Act, 1923.

Regarding ‘as ucht’, this phrase is translated as ‘for the sake of, on account of, on behalf of, in return for’ in *Ó Dónaill*, who cites ‘*tá sé tuillte aige as ucht a ndearna sé dúinn*’, he deserves it for all he has done for us’. *Dinneen* translates ‘as ucht’ as ‘for the sake of, on account of, in payment for’. ‘A hucht’ was the earlier form of this phrase, which literally means ‘from the breast’, but has the senses of ‘from the middle of, out of, from’, ‘in the name of, representing, on behalf of’, ‘instead of, in place of’, ‘by means of’, ‘by the influence of’ and ‘for the sake of’, according to DIL, along with ‘because of, on account of’, DIL citing ‘*mé ó phurt ag taisdeal na dtonn / as a n-ucht ní haisdear liom (“I feel my course sure on account of them”) / mo sdiúir tar buinne an bhean mhall / crann siúil mo luinge an Fear fionn’* from a miscellaneous collection of religious poetry. The Irish preposition ‘as’ alone can translate ‘for’ in the sense of ‘on account of’ – ‘moladh iad as a gcineáltas’, for example, is translated as ‘they were praised for their kindness’ in *Ó Dónaill* s.v. ‘as’ (4), ‘reason, cause’.

*a tháinseamh* ‘Táinsim’ is translated as ‘I impeach’ and ‘táinseamh’ as ‘impeachment’ in *Téarmaí Dlí*. ‘Impeach’ is given as the secondary sense of ‘táinsigh’, after the abbreviation for ‘Jurisprudence’, in *Ó Dónaill*, where the primary sense is ‘reproach, censure, accuse’. ‘Táinsim’ is translated as ‘I traduce, censure, reproach’ in *Dinneen*. This verb goes back to ‘do-áinsea’, ‘disparages, condemns’, DIL citing ‘“Ced ara tánsi na firu?” or Ailill. “Nidá tánsam dam”, ol Medb’ (“Why do you belittle the men?” asked Ailill. “I am not belittling them”, said Medb’) from the version of the *Táin* in *Leabhar na hUidhre* (written before 1106). ‘Coirigh’, which is translated as ‘accuse, criminate’ in *Ó Dónaill*, translates ‘impeach’ in s3(3) of the County Courts (Amendment) Act, 1923, where ‘nor shall the verdict thereon be impeached or questioned on account of the return of such person as a juror’ is translated as ‘ná ní

déanfar breith an choiste sa triail sin do choiriú ná do chur in amhras mar gheall ar an duine sin do bheidh cláruithe mar choisteoir’. Note finally, in passing, that 2 Anne c.5, 1703, ‘An Act to make it High Treason in this Kingdom to impeach the Succession of the Crown, as limited by several Acts of Parliament’, was one of the Statutes repealed by the Statute Law Revision (Pre-Union Irish Statutes) Act, 1962.

*Féadfar* See the commentary on Article 12.4.4° regarding ‘féad’.

### Direct translation

Féadfar an tUachtarán a tháinseamh mar gheall ar mhí-iompar sonraithe<sup>1</sup>.

### Variants

- 1 ‘as ucht mí-iompair a shonrófar’, ‘as mí-iompar a shonrófar’, ‘as é féin nó i féin a mhí-iompair mar a bheidh sonraithe’

## ARTICLE 12.10.2° AIRTEAGAL 12.10.2°

### TÉACS GAEILGE

Ceachtar de Thithe an Oireachtais a dhéanfas an cúiseamh agus is faoi chuimsiú agus de réir forálacha an ailt seo a dhéanfar é.

### LITERAL ENGLISH TRANSLATION

(It is) either of the Houses of the Oireachtas that will make the charge/accusation and it is within the scope/constraint of and according to (the) provisions of this section that it will be made.

### ENGLISH TEXT

The charge shall be preferred by either of the Houses of the Oireachtas, subject to and in accordance with the provisions of this section.

### Divergences between the official texts

- 1 ‘Cúiseamh’, the term expressing ‘charge’ in the Irish text, also has the sense of ‘accusation’, being the Irish legal term for both ‘charge’ and ‘accusation’; in the next subsection, however, ‘cúis a thabhairt’, rather than ‘cúiseamh a dhéanamh’, following the wording of this subsection, expresses ‘to prefer a charge’.
- 2 As against the English text’s statement, followed by a comma and a qualifying clause, the Irish text contains two statements, repeating ‘a dhéanfar é’ (‘that will make/prefer it’), the conjunction ‘agus’ linking the statements.
- 3 ‘Subject to’ is again expressed as ‘faoi chuimsiú’ (‘within the scope/constraint of’) in the Irish text.

### Commentary

*cúiseamh* ‘Cúisiú’ is the form in the original text. ‘When a charge has been preferred by either House of the Oireachtas’ is expressed as ‘Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh’ in subsection 5°. In subsection 3°, however, ‘to prefer a charge against the

President' is expressed as 'cúis a thabhairt in aghaidh an Uachtaráin' and in subsection 7<sup>o</sup> 'an chúis a tugadh in aghaidh an Uachtaráin' expresses 'the charge preferred against the President'.

'Cúiseamh' is translated both as 'accusation' and 'charge' (i.e. criminal) in *Téarmaí Dlí* and as 'accusation, charge' in *Ó Dónaill*, who cites '*cúiseamh a dhéanamh (ar)*, to prefer a charge (against)'. This is the standard form of the verbal noun of 'cúisigh', which verb is translated as 'accuse; charge, prosecute' in *Ó Dónaill*, 'cúisim' and 'cúisighim' being translated as 'I accuse, charge, prosecute' in *Dinneen*. These forms are based on 'cúis', which comes from Latin 'causa', and is translated in DIL as (a) 'cause, reason', (b) 'cause, case; debate, dispute, controversy, *more specifically* law, law (case), suit, charge, etc.' and (c) 'matter, affair; business'. 'Cúis' is translated as 'cause' in *Téarmaí Dlí* but, as we see in DIL, *Dinneen* and *Ó Dónaill*, it has the secondary sense of 'case, charge', *Ó Dónaill* citing '*cúis dlí, lawsuit*'. 'Case' is translated as 'cás' in *Téarmaí Dlí*, where 'I bring proceedings' is translated as 'tionscnaím imeachtaí'. 'Cúis' is translated as 'a cause, case, ... charge, accusation; cause of quarrel; case in the courts' in *Dinneen*, who also cites '*cúis dlíghidh, lawsuit, legal process*'. See further the commentary on Articles 30.3 and 38.1.

In *Foclóir Oifigiúil*, as well as giving the examples above from the Constitution, 'cúis a chur i leith' is given, without source, s.v. 'prefer'. In *L. Mc Cionnaith*, we are referred to 'accuse' s.v. 'prefer (charge against)' and s.v. 'accuse (charge, implicate, &c.)', 'níor cheart Seán do chúiseamh, chúisiú' is cited from Munster. *De Bhaldrath* translates 'to prefer a charge' as 'cúisiú a dhéanamh'.

Looking at early Acts, 'to examine on oath into the truth of any charge or complaint of neglect or violation of duty preferred against any member of the Dublin Metropolitan Police' is translated as 'scrúdú fé mhionn do dhéanamh ar cé'ca fíor bréag aon chúiseamh no gearán a cuirfar i gcoinnibh aon bhaill de Phóilíneacht Chathrach Bhaile Átha Cliath i dtaobh faillí i ndiúité no sárú diúité' in s12(1) of the Dublin Police Act, 1924. 'Guilty of the offence ... charged in the indictment preferred against him' is translated as 'ciontach sa chion ... is ábhar don chúiseamh sa díotáil ina aghaidh' in s19(1) of the Juries Act, 1976. In s4(5) of the Criminal Justice Act, 1984, 'Where a member of the Garda Síochána has enough evidence to prefer a charge for an offence against a person detained in a Garda Síochána station' is translated as 'I gcás ina mbeidh dóthain fianaise ag comhalta den Gharda Síochána chun cúiseamh i leith ciona a chur in aghaidh duine atá á choinneáil i stáisiún Garda Síochána'.

*de réir forálacha an ailt seo* 'Forálacha' would be lenited here in official standard Irish after the prepositional phrase 'de réir' – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive.

*Ceachtar de Thithe* The copula is understood here before 'eachtar', i.e. 'Is eachtar'. See the commentary on Article 12.6.1<sup>o</sup> regarding 'eachtar'. The old form of the dative plural, 'de Thighthibh', is found in the original version.

*faoi chuimsiú* See the commentary on Article 12.5. 'Subject to and in accordance with regulations' is translated as 'faoi réir agus de réir rialachán' in s63(a) of the Finance Act, 1989, for example.

*a dhéanfas* See the commentary on Article 6.1 regarding the old special form of the relative of the verb.

### Standardised Irish text

Ceachtar de Thithe an Oireachtais a dhéanfaidh an cúiseamh agus is faoi chuimsiú agus de réir fhorálacha an ailt seo a dhéanfar é.

### Direct translation

Déanfaidh eachtar Teach den Oireachtas an cúiseamh, faoi réir agus de réir fhorálacha an ailt seo.

## ARTICLE 12.10.3<sup>o</sup> AIRTEAGAL 12.10.3<sup>o</sup>

### TÉACS GAELIGE

Má thairgtear do cheachtar de Thithe an Oireachtais cúis a thabhairt in aghaidh an Uachtaráin faoin alt seo ní cead aird a thabhairt ar an tairiscint sin ach amháin de bharr fógra tairisceana i scríbhinn faoi láimh tríocha comhalta ar a laghad den Teach sin.

### LITERAL ENGLISH TRANSLATION

If it is offered/proposed to either of the Houses of the Oireachtas to take/bring a case against the President under this section it is not permitted to heed that proposal/motion except as a result of a written notice of proposal/motion signed by / under the hand of at least thirty members of that House.

### ENGLISH TEXT

A proposal to either House of the Oireachtas to prefer a charge against the President under this section shall not be entertained unless upon a notice of motion in writing signed by not less than thirty members of that House.

### Divergences between the official texts

- 1 'To prefer a charge against' is expressed in the Irish text as 'cúis a thabhairt in aghaidh' ('to take/bring a case against'), this phrase differing from that in the preceding subsection, where we find the Irish legal term for 'charge', 'cúiseamh'.
- 2 'A proposal to either House' is expressed as 'Má thairgtear do cheachtar de Thithe' ('If it is proposed/offered to either House'), with 'proposal' referred to directly further on ('ní cead aird a thabhairt ar an tairiscint sin' ['it is not permitted to heed that proposal']); 'tairiscint' also expresses 'motion' in 'fógra tairisceana' ('notice of motion') in this subsection, this being the term for 'motion' in the *Standing Orders* of Dáil Éireann.
- 3 While attention has been drawn to the perhaps unnecessarily prohibitive tone of the Irish text's 'ní cead', 'it is not permitted', in other sections, expressing 'shall', in the phrase 'ní cead aird a thabhairt ar', 'it is not permitted to heed', the tone better matches the English text's 'shall not be entertained'.

### Commentary

*má thairgtear do ... tairiscint ... fógra tairisceana* 'Tairiscint', genitive singular 'tairisceana', is the verbal noun of 'tairg'. 'Togra' expresses 'proposal', in a Bill, in Articles 24.1, 25.1, 26, 27, 27.1, 27.5.1<sup>o</sup>, 27.5.2<sup>o</sup>, 27.6, 46.2, 46.4, 46.5, 47.1, 47.2.1<sup>o</sup> and 47.2.2<sup>o</sup> – 'Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill' is expressed as 'Gach togra chun an Bunreacht seo a leasú ní foláir é a thionscnamh i nDáil Éireann ina Bhille' in Article 46.2, for example.

'Tairgim' is translated as 'I offer' in *Tearmaí Dlí*, with *Ó Dónaill* citing '*rud a thairiscint do dhuine*, to offer something to some one' s.v. 'tairg'. 'Tairiscint' is translated principally as 'offer' in *Ó Dónaill*. 'Tairgin(t)' is translated as 'act of offering, bidding, trying, challenging; an offer, proposal, bid or challenge, proposition, motion, tender' in *Dinneen*. 'Tairiscint imshocraíochta' is translated as 'offer of composition' in *Tearmaí Dlí*, where '*tairiscint shásaimh*, tender of amends' is also cited. In the *Standing Orders* of Dáil Éireann (1997), 'tairiscint' translates 'motion', with 'proposal' being translated as 'moladh' – 'ach amháin i gcás go gcuirtear in aghaidh moladh den sórt sin' translates 'save where any such proposal is opposed' in s26(2) thereof, being preceded by 'and may propose, on motion made ...', '*agus féadfaidh sé nó sí, ar thairiscint a dhéanamh ...*'. The verb 'tairg' translates 'propose' in the *Standing Orders*; 'A member who has made a motion or proposed an amendment' is translated as 'Aon chomhalta a dhéanfaidh tairiscint nó a thairgfídh leasú' in s51. As 'tairiscint' is the verbal noun of 'tairg', we find 'the text ... of all motions, and amendments thereto, to be proposed' translated as 'téacs gach tairisceana a bheidh le déanamh, agus gach leasaithe ar a leithéid a bheidh le tairiscint' in s30. 'Notice of Motion' is translated as 'Fógra Tairisceana' in the *Standing Orders*. 'Proposal' in a Bill is translated there as 'togra' – see s108(4) where 'The matters which shall be dealt with by Bills shall include all proposals for legislation' is translated as 'Ar na nithe a ndéileálfar leo le Billí áirítear gach togra reachtaíochta'.

Looking at the early Acts, in Article 33 of the 1922 Constitution, 'The method of proposal and selection for nomination shall be decided by Dáil Éireann' is translated as 'Socróidh Dáil Éireann ... an tslí déanfar tairiscint agus togha chun ainmniúcháin'. 'Chun díospóireacht ... do dhéanamh ar intinn an Bhille' translates 'for the purpose of debating ... the proposals of the Bill' in Article 38 thereof. 'For his report on the general merits of the proposals contained in the petition' is translated as 'chun a thuarasgabháil d'fháil ar thréithe generálta na molta atá san achuinge' in s3(1) of the Arterial Drainage Act, 1925. In s20(2) of the Minerals Exploration and Development Company Act, 1941, 'A notice of a proposal to acquire an existing mining business given under paragraph (a)' is translated as 'Fógra do bhéarfáir fé mhír (a) ... i dtaobh é bheith beartuithe sean-ghnó mianadóireachta do thógaint'. 'Notice of proposal' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'fógra faoi é bheith beartuithe' in *Iris Oifigiúil* 31/24. 'On giving six months' notice in writing to the Corporation' is translated as 'tar éis fógra sé mhí do thabhairt i scríbhinn don Bhárda' in s5(3) of the Dublin Reconstruction (Emergency Provisions) Act, 1924.

'Notice of Motion' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'fógra tairiscint' in early *Standing Orders* of Dáil Éireann. 'Fógra tairisceana' translates 'notice of motions' in the Margin Title of s29 of the *Standing Orders* of Dáil Éireann (1997). In s11 of the Solicitors (Amendment) Act, 1960, 'the Society may ... apply by notice of motion ... to the High Court for an order striking off the roll the name of the solicitor' is translated as 'féadfaidh an Cumann ... iarratas tri fhógra foriarratais ... a dhéanamh chun na hArd-Chúirte ag iarraidh ordú ag scriosadh ainm an aturnae den rolla'. In s8(3) of the Waterford City Management Act, 1939, 'and no notice, whether by notice of motion or otherwise, shall be required for the transaction of any such business' is translated as 'agus ní bheidh fógra ar bith, i bhfuirm fógra tairiscint ná ar aon tslí eile, riachtanach chun aon ghnótha den tsórt san do dhéanamh', following s37(3) of the Local Government (Dublin) Act, 1930.

'Motion was declared carried accordingly' is translated as 'do faisnéiseadh dá réir sin go rabhthas tar éis glaca leis an dtairiscint' in the *Proceedings* of Dáil Éireann, 26/11/26. 'Tairiscint' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'motion' (=proposal) in early *Standing Orders* of Dáil Éireann. 'The Statistical Council shall meet whenever summoned by the Minister for Industry and Commerce on his own motion' is translated as 'Tiocfidh an Chomhairle Staitisticíochta le chéile aon uair a ghairmfídh an tAire Tionnscail agus Tráchtála chuige sin iad ar a chomhairle féin' in s4(4) of the Statistics Act, 1926, 'at the request of the under-sheriff or on his own motion' being translated as 'ar iarratas an fho-shirriaim no más maith leis féin é' in s4(3) of the Enforcement of Court Orders Act, 1926. In s20 of the Courts of Justice Act, 1928, 'unless the Court on the application of any party ... or on its own motion at the trial shall consider ...' is translated as 'maran dó leis an gCúirt, ar iarratas a dhéanfaidh aon pháirtí ..., nó uaithi féin ag an triail'.

Looking at modern Acts, 'A local authority shall not proceed with a proposal to designate land as a casual trading area' is translated as 'Ní rachaidh údarás áitiúil ar aghaidh le beartú chun talamh a ainmniú mar limistéar corr-thrádála' in s7(7) of the Casual Trading Act, 1980. 'Go gceadófar togra an aontaithe le rún speisialta ó gach cumann' translates 'a proposal to unite is approved by a special resolution of each society' in s25(1)(a) of the Building Societies Act, 1976, 'ach amháin togra chun an Cóiriú seo a athrú' translating 'except a proposal to alter this Constitution' in s10 of the Schedule to the Greyhound Industry Act, 1958. 'The decision on any proposal to disqualify a conciliator ... shall be taken by the other members of the Commission' is translated as 'Is iad na comhaltá eile den Choimisiún ... a dhéanfaidh an cinneadh maidir le haon togra chun comhréiteoir ... a dhícháiliú' in Article 58 of the Second Schedule to the Arbitration Act, 1980.

*faoi lámh* This phrase expresses 'signed by' also in Articles 17.2 and 27.2. The phrase 'faoina lámh agus faoina Shéala' expresses 'under his hand and Seal' in Articles 27.5.1<sup>o</sup>, 27.6, 31.3, 31.7, 33.5.3<sup>o</sup> and 35.4.3<sup>o</sup>. 'A lámh a chur le' expresses 'sign' in Articles 25.2.1<sup>o</sup>, 25.3, 25.4.1<sup>o</sup>, 25.4.2<sup>o</sup>, 25.4.3<sup>o</sup>, 25.5.2<sup>o</sup>, 27.6 and 46.5, 'the text of such law which was signed by the President' being expressed as 'an téacs den dlí sin lena mbeidh lámh an Uachtaráin' in Article 25.4.5<sup>o</sup>. The heading for Article 25, however, 'Signing and



Promulgation of Laws' is expressed as 'Dlíthe a Shíniú agus a Fhógairt', s3 of which reads as follows:

Every Bill the time for the consideration of which by Seanad Éireann shall have been abridged under Article 24 of this Constitution shall be signed by the President on the day on which such Bill is presented to him for signature and promulgation as a law. *Gach Bille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoi Airteagal 24 den Bhunreacht seo, ní foláir don Uachtarán a lámh a chur leis an lá a thairgtear an Bille sin dó chun é a shíniú agus chun é a fhógairt ina dhlí.*

'As soon as may be after the signature ... of a Bill' is expressed as 'Chomh luath agus is féidir é tar éis Bille a shíniú' in Article 25.4.5°, where 'an dá théacs sínithe' expresses 'both the signed texts'. 'The copy so signed' is expressed as 'An chóip a bheidh sínithe ... amhlaidh' in Article 25.5.1°. 'Signature' is expressed as 'síniú' throughout the text.

'Faoi mo lámh' is translated as 'signed by me' in *Ó Dónaill*, who cites '*gheall sé faoina lámh (go)*, he signed a promise (that)'. *Dinneen* translates 'fá lámh' as 'under the power or control of, signed by, at the command of', citing '*cuirim fá'm lámh é, I sign it*'. DIL cites the phrase 'fo lámh', in swearing, from the twelfth-century *Book of Leinster* ('gebatsa a luige fó lámh Chiaráin' – translated as 'by Ciarán').

In the Long Title of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, 'the Treaty between Great Britain and Ireland signed at London on the 6th day of December, 1921' is translated as 'an Conradh idir an Bhreatain Mhóir agus Éire do sghníodh i Lundain ar an 6adh lá de mhí na Nodlag, 1921'. In s11(3) of the Statistics Act, 1926, 'Any document produced by an officer of statistics ... and purporting on its face to be such appointment and to be duly signed in accordance with this section' is translated as 'Aon scríbhinn a thabharfidh oifigeach staitistíochta i láthair ... agus go dtuigfí le féachaint uirthi gurb í an ceapachán san í agus go bhfuil sí sghníthe go cuibhe do réir an ailt seo'. In s88(3) of the Electricity (Supply) Act, 1927, however, 'Every arbitrator appointed under this Act shall have power by notice in writing signed by him to summon witnesses' is translated as 'Beidh ag gach eadarascánaí a ceapfar fén Acht so comhacht, tré fhógra i scríbhinn fé n-a lámh, chun finnithe do ghairm'.

Looking at modern Acts, 'A certificate purporting to be signed by an officer of the company' is translated as 'Deimhniú a airbheartóidh a bheith sínithe ag oifigeach don chuideachta' in s92(2) of the Postal and Telecommunications Services Act, 1983. 'Foréileamh a bheidh sínithe ag seisear ar a laghad de chomhaltaí na Comhairle' translates 'a requisition signed by not less than six members of the Council' in s11 of the Second Schedule to the Medical Practitioners Act, 1978. 'Proposed amendments shall be in writing signed by a member' is translated as 'is i scríbhinn arna síniú ag comhalta a bheidh leasuithe a bheidh le tairiscint' in s113 of the *Standing Orders* of Dáil Éireann (1997). 'A statement in writing, signed by him' is translated as 'ráiteas i scríbhinn, agus é sínithe aige' in s15 of the Finance Act, 1979, and in s21(3) of the Plant Varieties (Proprietary Rights) Act, 1980, 'Unless otherwise directed by the court, the Controller, in lieu of appearing and being heard, may submit to the court a statement in writing

signed by him' is translated as 'Mura n-ordóidh an chúirt a mhalairt, féadfaidh an Rialaitheoir, in ionad láithriú agus éisteacht a fháil, ráiteas i scríbhinn agus é sínithe aige a chur os comhair na cúirte'.

We find both 'arna síniú ag comhalta' and 'faoi lámh chomhalta' in the *Standing Orders* of Dáil Éireann translating 'signed by a member'. 'All motions to be put on the Order Paper for any day, shall be in writing, signed by a member' is translated as 'Gach tairiscint a bheidh le cur ar Riar na hOibre le haghaidh lá ar bith, ní foláir í a bheith i scríbhinn, faoi lámh chomhalta' in s29, 'Proposed amendments shall be in writing signed by a member' being translated as 'is i scríbhinn arna síniú ag comhalta a bheidh leasuithe a bheidh le tairiscint' in s113. See further the commentary on Article 13.3.1°.

*aird a thabhairt ar* 'Aird bhreithiúnach' is translated as 'judicial notice' in *Téarmaí DLí*, while *Ó Dónaill* cites '*aird a thabhairt ar rud*, to pay attention to something' and '*ná tabhair aird air*, don't heed him'. *Dinneen* cites '*bheirim áird ar do chainnt*, I heed what you say'. In s10(2) of the Trade Union Act, 1975 'Ní thabharfar aird ar ghearán faoin alt seo' translates 'A complaint under this section ... shall not be entertained' and in s24(4) of the Wealth Tax Act, 1975, 'Ní rachaidh na Coimisinéirí Achomhairc ar aghaidh le hachomharc faoin alt seo i gcoinne measúnachta ná ní thabharfaidh siad aird air' translates 'An appeal under this section against an assessment shall not be proceeded with or entertained by the Appeal Commissioners'. On the other hand, in s39(3) of the Finance Act, 1970, 'to the satisfaction ... of the court entertaining the appeal' is translated as 'chun sástacht na cúirte a bhreithneoidh an t-achomharc'. Similarly 'the payment of such fee shall be a condition precedent to the entertainment of the application by the Minister' is translated as 'beidh íoc na táille sin mar roimh-choinioll a có-lionfar sara mbreithneoidh an tAire an t-iarratas' in s9(1) of the Agricultural Produce (Eggs) Act, 1924. 'And any such application which is received by the Seanad returning officer after that period shall not be entertained or examined by him' is translated as 'agus ní ghlacfaidh ná ní scrúdóidh ceann comhairimh an tSeanaid aon iarratas den tsórt sin a gheobhas sé tar éis na tréimhse sin' in the Schedule to the Seanad Electoral (Panel Members) Act, 1954. 'Glacadh le hiarratas' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to entertain an application' in *Iris an Phuist*, 29/2/28. 'To entertain (a complaint, etc.)' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'áird do thabhairt ar ...' in *Iris an Phuist*, 30/11/27, 'áird do thabhairt ar an iarratas' being cited as translating 'to entertain an application' in early translations for the Department of Local Government and Public Health.

*cúis a thabhairt* See the commentary on the previous subsection, 'The charge shall be preferred' being expressed there as 'a dhéanfas an cúiseamh', i.e. 'to prefer a charge' being expressed as 'cúiseamh a dhéanamh' rather than 'cúis a thabhairt', as in the present subsection. See also the commentary on Article 38.1.

*de bharr* This prepositional phrase is translated as 'as a result of, because of' in *Ó Dónaill*. In s127(1) of the *Standing Orders* of Dáil Éireann (1997), 'upon a Resolution restoring it to the Order Paper' is translated as 'má ritear Rún á chur ar ais ar Riar na hOibre'.

*ar a laghad* ‘The Commissioner may in the case of perishable goods not less than twelve hours ... after the seizure cause the goods to be sold’ is translated as ‘féadfídh an Coimisinéir a chur fé ndéar go ndíolfar na hearraí tar éis dhá uair dhéag a chluig ar a luíod o am a dtógtha más earraí meathtachta iad’ in s11(1) of the Street-Trading Act, 1926, for example. See the commentary on Article 12.4.2° for an example from modern Acts.

*ní cead* Literally ‘it is not permitted’ – see the commentary on Article 9.1.3.

### Direct translation

Ní bhreithneofar moladh<sup>1</sup> do<sup>2</sup> cheachtar Teach den Oireachtas go ndéanfaí cúiseamh<sup>3</sup> ar an Uachtarán faoin alt seo ach amháin ar fhógra<sup>4</sup> tairisceana i scríbhinn a bheidh sínithe<sup>5</sup> ag tríocha comhalta ar a laghad den Teach sin.

### Variants

- 1 ‘togra’
- 2 ‘a dhéanfar do’
- 3 ‘cúiseamh a dhéanamh’
- 4 ‘ach amháin má thugtar fógra’
- 5 ‘arna shiniú’

## ARTICLE 12.10.4° AIRTEAGAL 12.10.4°

### TÉACS GAEILGE

Ní cead do cheachtar de Thithe an Oireachtais glacadh le haon tairiscint den sórt sin ach amháin de bharr rúin ón Teach sin lena mbeidh tacaíocht dhá thrian ar a laghad dá lánchomhaltas.

### LITERAL ENGLISH TRANSLATION

Neither of the Houses of the Oireachtas is permitted to accept any such proposal/motion except as a result of a resolution from that House which will have the support of at least two-thirds of its full membership.

### ENGLISH TEXT

No such proposal shall be adopted by either of the Houses of the Oireachtas save upon a resolution of that House supported by not less than two-thirds of the total membership thereof.

### Divergences between the official texts

- 1 As in the previous subsection, ‘proposal’ is expressed by the term ‘tairiscint’ in the Irish text, which term translates ‘motion’ in the *Standing Orders* of Dáil Éireann and expresses ‘motion’ in the phrase ‘fógra tairisceana’ in the previous subsection; ‘tairiscint’ in the present subsection can therefore refer to the proposal to prefer a charge against the President and to the motion in writing signed by not less than thirty members of that House.
- 2 ‘No ... shall’ is expressed as ‘Ní cead’ (‘It is not permitted’) in the Irish text, as in some other Articles.

### Commentary

*glacadh le* ‘Laws enacted, acts done or measures adopted by the State’ is expressed as ‘aon dlíthe a d’achtaigh, gníomhartha a rinne nó bearta lenar ghlac an Stát’ in Article 29.4.7°. In Article 29.4.2° ‘avail of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group’ is expressed as ‘aon organ stáit nó sás nó nós imeachta a chur chun críche nó a ghlacadh a chuirtear chun críche nó a ghlactar chun a leithéid sin de chuspóir ag na náisiúin is comhaltaí d’aon bhuíon’, i.e. without the preposition ‘le’ following ‘glac’. ‘Do hereby adopt ... this Constitution’, in the *Preamble*, is expressed as ‘Atáimid leis seo ag gabháil an Bhunreachta seo chugainn’.

‘Glacadh le rud’ is translated as ‘to accept, admit, something’ in *Ó Dónaill*. This phrase translates ‘adopt’ in the present context in Parliamentary translations. In s54 of the *Standing Orders* of Dáil Éireann (1997), ‘within six months from the date of its (i.e. a resolution) adoption’ is translated as ‘go ceann sé mhí ón dáta a glacadh le haon Rún den sórt sin’. ‘Aon mhodhnú ar na tograí sin lenar glacadh ag aon cheann de na cruinnithe sin’ translates ‘any modification of those proposals adopted at any of those meetings’ in s19(b) of the Companies (Amendment) Act, 1990. In Article 6 of the Second Schedule to the Arbitration Act, 1980, ‘The decisions ... shall be adopted by a majority of two thirds of the members of the Administrative Council’ is translated as ‘Glacfar leis na cinntí ... le tromlach dhá thrian de chomhaltaí na Comhairle Riaracháin’. In s192(2)(b) of the Companies Act, 1963, ‘to have been made in accordance with any practice adopted ... by the company’ is translated as ‘gur tugadh í de réir aon chleachtais a mbeidh an chuideachta ... tar éis ... glacadh leis’. The heading of the Schedule to the League of Nations (Obligations of Membership) Act, 1935, ‘Proposals Adopted by the Co-ordination Committee’, is translated as ‘Na Tairiscintí le n-ar Ghlac an Coiste Co-ordúcháin’.

Looking at earlier translations, ‘The passing and adoption of this Constitution by the Constituent Assembly ... shall be announced’ is translated as ‘Fógrófar ... gur ghlac an Dáil Bhunaidh ... an Bun-reacht so’ in Article 83 of the 1922 Constitution. ‘The regulations governing Boarding-out are such as may be adopted by the Local Government Department’ is translated as ‘Siad rialacháin a bhainfidh le haltranas ná pé rialacháin a cheapfidh Roinn an Rialtais Áitiúla’ in s7 of the ‘Clare County Scheme’ in the First Schedule to the Local Government (Temporary Provisions) Act, 1923. ‘To adopt a procedure’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘leanúint’ in the *Proceedings* of the Public Accounts Committee, 1927. In s19(1) of the Local Authorities (Combined Purchasing) Act, 1939, ‘appointing the procedure to be adopted by local authorities in carrying this Act into effect’ is translated as ‘an nós imeachta do cheapadh a leanfaidh údaráis áitiúla agus iad ag cur an Achta so in éifeacht’, this same English sentence being translated as ‘an nós-imeachta do cheapa a leanfaidh údaráis áitiúla agus iad ag cur an Achta so in éifeacht’ in s12(1)(a) of the Local Authorities (Combined Purchasing) Act, 1925.

*lánchomhaltas* Literally ‘full membership’. ‘Total’ is translated both as ‘lán’ and ‘iomlán’ in *Téarmaí Dlí*, ‘constructive total loss’ being translated as ‘lánchailiteanas inchiallathé’

and 'total purchase price' being translated as 'praghas iomlán ceannaigh'.

In s58(4) of the Local Government (Dublin) Act, 1930, 'and the number of members voting for such resolution exceeds either half the total membership of the Council, or two-thirds of the members present and voting' is translated as 'agus gur mó an méid ball a vótálfaidh leis an rún san ná leath ballra iomlán na Comhairle, no dhá dtrian na mball a bheidh i láthair agus a vótálfaidh', the same initial English phrase being translated as 'agus go vótálfaidh níos mó ná leath ballra iomlán na Comhairle leis an rún san' in s9(4) of the Waterford City Management Act, 1939. In s17(6)(vi) of the Building Societies Act, 1976, 'any reference in that section to the total membership shall be construed accordingly' is translated as 'déanfar aon tagairt san alt sin don chomhaltas iomlán a fhorléiriú dá réir sin', this same phrase being translated as 'is dá réir sin a fhorléireofar aon tagairt san alt sin don chomhaltas iomlán' in s16(6)(f) of the Building Societies Act, 1989.

Looking at early translations of 'total', 'Uimhir lán-iomlán na bpáipéirí éifeachtacha go léir' translates 'the full total number of all valid papers' in s4 of the Third Schedule to the Electoral Act, 1923, with 'líon na vótanna go léir' translating 'the number of votes' in s12(8) thereof. 'For the purpose of calculating the total sum to be debited to any fund ... the total number of members ... shall be calculated' is translated as 'Chun an tsuim iomlán a bheidh le cur i gcoinnibh aon chiste ... d'áireamh, déanfar lán-uimhir na mball ... d'áireamh' in s1(3) of the National Health Insurance Act, 1927. 'Total area' is cited in the *Oireachtas Dictionary of Official Terms* as being translated both as 'achar iomlán' and 'lán-achar' in early translations for the Department of Local Government and Public Health.

Looking at early translations of 'membership', 'and who gives notice ... of his desire to terminate his membership' is translated as 'agus a thabharfaidh fógra ... gur mian leis deire do chur le n-a bhallaíocht' in s10 of the National Health Insurance Act, 1923. 'Ballraíocht an Oireachtais' translates 'membership of the Oireachtais' in the *Dáil Order Paper*, 1926, p. 400, 'ballra' translating 'membership' in the *Proceedings* of Dáil Éireann, 1925, p. 21. The Margin Title of s1 of the Constitution (Amendment No. 5) Act, 1927, 'Increase of membership of Executive Council', is translated as 'Méadú ar líon ball na hArd-Chomhairle' and in s9(1) of the Fisheries Act, 1925, 'Any elected member of a board of conservators may at anytime ... resign his membership of the board' is translated as 'Féadfidh aon bhall tofa de bhórd chimeádaithe aon uair ... eirghe as bheith ina bhall den bhord'.

*rún ón Teach sin* Literally 'resolution from that House'. 'Rún' is translated as 'resolution' in *Téarmaí Dlí*, in the Acts and in the *Standing Orders* of Dáil Éireann. 'Resolution of the European Council of 5 December 1978' is translated as 'Rún ó Chomhairle na hEorpa an 5 Nollaig, 1978' on a *Dáil Order Paper* (date not given in record). In s35 of the First Schedule to the Companies Act, 1963, for example from the Acts, 'any share ... may ... be forfeited by a resolution of the directors to that effect' is translated as 'féadfar aon scair ... a fhorghéilleadh ... le rún chuige sin ó na stiúrthóirí'. The phrase 'de chuid' fulfills the same role as the preposition 'ó' in s54 of the *Standing Orders* of Dáil Éireann (1997), where 'in the case of a Resolution

of the Committee' is translated as 'i gcás Rúin de chuid an Choiste'. Professor Máirtín Ó Murchú comments that the construction 'x dá chuid' is solely a Northern construction connoting 'possession' or 'relationship' rather than 'action' as is involved here.

'Rúin Airgid' translates 'Financial Resolutions' in Article 36 of the 1922 Constitution, and 'rún a rith an Tigh iniú' translates 'Resolution of the House of this day' in the *Proceedings* of Dáil Éireann, 1927, p. 659. 'Upon resolution of the Dáil' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ach an Dáil do bheartú an rud san le rún' in early *Standing Orders* of Dáil Éireann.

*tacaíocht* See the commentary on Article 28.10. 'Beidh tacaíocht trí cheathrú de na comhaltaí a bheidh i láthair agus a dhéanfaidh vótáil ag teastáil i gcomhair aon chinneadh a ghlacfaidh an Coiste' translates 'Any decision taken by the Committee ... shall require the support of three-quarters of the members present and voting' in s58(6) of the *Standing Orders* of Dáil Éireann (1997), for example. 'And such resolution is supported by not less than two-thirds of the members of the Committee' is translated as 'agus go gcuideoidh dhá thrian ar a laghad de chomhaltaí an Choiste ... leis an rún sin' in s5(2)(c) of the Dublin Cemeteries Committee Act, 1970. 'Má chailleann seisean tacuíocht mhór-áirimh i nDáil Éireann' translates 'should he cease to retain the support of a majority in Dáil Éireann' in Article 53 of the 1922 Constitution. 'Support (of a resolution, etc.)' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cabhrú' in early *Standing Orders* of Dáil Éireann, though 'tacaíocht' is also cited there as translating 'support' in the same *Standing Orders*. 'Ag cuidiú le hiarratas' translated 'supporting an application' in early translations for the Department of Justice. 'Éinní ná beidh an líon is gá i bhfabhar a bpléite' is cited as translating 'any matter which fails to obtain the requisite support' in the 1926 *Standing Orders*, as it does in s31(4) of the current *Standing Orders*.

*dhá thrian* Note that 'dhá dtrian' is the form in the original text, *Ó Dónaill* including both 'dhá thrian' and 'dhá dtrian', s.v. 'trian', where the sense of 'the major part' is given, along with the literal sense, 'two-thirds'. 'Dhá dtrian' is found in expressions such as 'bhí dhá dtrian meisce air, he was three parts drunk' and 'chait siad dhá dtrian den am ag breallaireacht, they spent the greater part of the time talking nonsense', cited by *Ó Dónaill*, 'dá dtrian cára (or córa) cumhachta, might makes two-thirds of right' and 'do-ghníonn na gothaidhe dá dtrian na h-oibre, the gestures ("show") are the main factor in every work' being cited by *Dinneen*. *Ó Dónaill* cites the adage 'dhá dtrian den damhsa an chosúlacht', literally, 'two-thirds of the dance is the appearance', translated by *Ó Dónaill* as 'appearances count' s.v. 'cosúlacht'. 'Dhá thrian' is the form found in *An Caighdeán Oifigiúil* (p. 44).

*ach amháin* Looking at early Acts, 'save that in the case of a holding subject to a judicial rent, the record filed ... shall be final and conclusive' is translated as 'ach amháin i gcás gabhátais fé chíos cúirte ná beidh dul thar an mbreachthachán a cuireadh i dtaisce' in s22(3) of the Land Act, 1923. 'I gcás connartha agus tort (lasmuich d'aicsein i gcúrsaí pósa agus comhráidh choiriúla)' translates 'in contract and tort (save matrimonial and criminal conver-

sation actions) in s48(ii) of the Courts of Justice Act, 1924. 'An order under this subsection shall not be made save upon request made by the council of the county of Wicklow by resolution' is translated as 'Ní dhéanfar ordú faoin bhfo-alt seo ach amháin ar chomhairle chontae Chill Mhantáin dá iarraidh sin le rún' in s2(6)(b) of the Health Authorities Act, 1960. In s11(4) of the Waterford City Management Act, 1939, 'The Minister shall not make or revoke an order under this section save upon the application of the Council made to the Minister in pursuance of a resolution passed by the Council' is translated as 'Ní dhéanfaidh ná ní cheiliúrfaidh an tAire ordú fén alt so ach ar a iarraidh sin ar an Aire don Chomhairle de bhun rúin do rith an Chomhairle'. See further the commentary on Article 49.2, where 'ach amháin' expresses 'save only'. 'Ach de réir dlí' expresses 'save in accordance with law' in Article 40.5.

*tairiscint* See the commentary on Article 12.10.4<sup>o</sup>.

### Direct translation

Ní ghlacfaidh ceachtar de Thithe an Oireachtais le moladh<sup>1</sup> den sórt sin ach amháin ar rún ón Teach sin a mbeidh dhá thrian ar a lghad dá chomhaltas iomlán<sup>2</sup> ina fhabhar.

### Variants

- 1 'togra'
- 2 'lánchomhaltas'

## ARTICLE 12.10.5<sup>o</sup> AIRTEAGAL 12.10.5<sup>o</sup>

### TÉACS GAEILGE

Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh faoin alt seo ní foláir don Teach eile an chúis a scrúdú nó an chúis a chur á scrúdú.

### LITERAL ENGLISH TRANSLATION

If either of the Houses of the Oireachtas makes a charge/accusation under this section the other House must examine the charge/case or have the charge/case examined.

### ENGLISH TEXT

When a charge has been preferred by either House of the Oireachtas, the other House shall investigate the charge, or cause the charge to be investigated.

### Divergences between the official texts

- 1 'Charge' is expressed by both 'cúiseamh' and 'cúis' in the Irish text, both terms being found in earlier subsections, the former being the Irish legal term for 'charge'.
- 2 'Investigate' is expressed by 'scrúdaigh' ('examine') in the Irish text.
- 3 'When a charge has been preferred by either House of the Oireachtas', which follows on directly from the previous subsections, is expressed in the Irish text as

'Má dhéanann ceachtar de Thithe an Oireachtais cúiseamh faoin alt seo' ('If either of the Houses of the Oireachtas prefers a charge under this section').

- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

### Commentary

*scrúdú* 'Scrúdú' expresses 'investigation' in the next two subsections, with 'scrúdaigh' again expressing 'investigate' in the latter of those subsections, and the verbal noun expressing 'investigation' in Article 13.8.2<sup>o</sup>. 'Scrúdaigh' and 'scrúdú' respectively are the Irish legal terms for 'examine' and 'examination', *scrúdaím*, 'I examine (documents, etc.)' and '*ordú scrúdaithe*, examination order' being cited in *Téarmaí Dlí*. 'Investigate' and 'investigation', on the other hand, are translated there as 'imscrúdaigh' and 'imscrúdú', 'I investigate, *imscrúdaím*' and 'investigation of title, *imscrúdú teidil*' being cited.

'Imscrúdaigh' is based on 'scrúdaigh', combined with the prefix 'im-'. *Ó Dónaill* gives two headwords 'im-', translated as 'about, around' and 'great', the latter being an intensive particle. *Ó Dónaill* translates 'imscrúdaigh' and 'imscrúdú' respectively as 'investigate' and 'investigation', translating 'scrúdaigh' and 'scrúdú' respectively as 'examine' and 'examination', the following examples being cited s.v. 'scrúdaigh': '*Abairt, teoiric, a scrúdú*, to examine a statement, a theory. *Do choinsias a scrúdú*, to examine one's conscience. *Aghaidh a scrúdú*, to scrutinize a face. *Spéir na hoíche a scrúdú*, to study the sky at night'. *Dinneen's* entry s.v. 'scrúduighim, -ughadh' is as follows: 'I search, examine, pry into, scrutinise, investigate; ponder, meditate', translating 'scrúduightheoir' as 'a searcher, an examiner, an investigator'. *Dinneen* has no headword 'i(o)imscrúdaigh' nor is this headword found in DIL. The Old Irish verb 'scrútaid' comes from Latin 'scrutor' and is translated in DIL as (a) 'examines, scrutinizes, investigates, searches' and (b) 'excogitates, devises, meditates, contemplates', citing 'noscrutainse ... dús in retarscar cairde ndae 7 aremcaissiu' ('I used to consider ... whether the covenant of God and His Providence had departed') from the ninth-century Milan Glosses on the Psalms. The verbal noun 'scrútaid' is translated there as (a) 'act of examining, investigating, meditating on' ('scrúdadh croide' being cited from the *Flight of the Earls*, in the published edition of which it is translated as 'self-examination') and (b) 'act of excogitating, pondering, contemplating'.

'Imscrúdaigh' and 'imscrúdú' respectively translate 'investigate' and 'investigation' in the modern Acts, following *Téarmaí Dlí*. In s7(1) of the Companies Act, 1990, 'The court may appoint one or more competent inspectors to investigate the affairs of a company in order to enquire into matters specified by the court' is translated as 'Féadfaidh an chúirt cigire inniúil amháin nó níos mó a cheapadh chun cúrsaí cuideachta a imscrúdú d'fhonn fiosrú a dhéanamh i dtaobh nithe a bheidh sonraithe ag an gcúirt'. 'Investigations' in the Title of that section is translated as 'Imscrúduithe'. In s227 of the Social Welfare (Consolidation) Act, 1981, 'Every such officer shall investigate into and report to the Minister upon any claim for ... a children's allowance' is translated as 'Déanfaidh gach oifigeach den sórt sin imscrúdú agus tabharfaidh sé tuarascáil don Aire i dtaobh aon éilimh ar liúntas leanaí', 'chun críche an imscrúdaithe agus na tuarascála sin'

translating 'for the purpose of such investigation and report'. 'Provided also that the Ombudsman may investigate the action notwithstanding that the investigation would contravene paragraph (f)' is translated as 'Ar choinníoll freisin go bhféadfadh an tOmbudsman an gníomh a imscrúdú d'ainneoin go ndéanfadh an t-imscrúdú sárú ar mhír (f)' in s5(1) of the Ombudsman Act, 1980, for example.

Looking at early Acts, 'coiste meastóirí, a ceapfar fén Acht so agus a bheidh cáilithe chun éilithe ar chúiteamh fén Acht so i marbha na n-ainmhithe sin do scrúdú' translates 'a committee of assessors appointed under this Act and qualified to investigate claims for compensation under this Act' in s14(1) of the Slaughtered Animals (Compensation) Act, 1928. 'When the charge is being investigated' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'le linn scrúdú na cúise do luadh' (with 'R.D./40' given as reference). In s4 of the 'Kerry County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'That the Committee of Management ... immediately undertake an investigation into the question of outdoor relief as at present dispensed in each Union' is translated as 'An Coiste Bainistí ... do dhéanamh scrúduithe láithreach ar an gcuma ina ndintear fóirithin allamuich i ngach Aontas fé leith fé láthair'. The heading of s84 of the Defence Forces (Temporary Provisions) Act, 1923, 'Investigation of Charges', on the other hand, is translated as 'Iniúcha Cúiseanna' and subsection 1 reads as follows:

A charge against an officer shall in the first instance be investigated by his Commanding Officer. *Is é a Oifigeach Ceannais a iniúchfaidh cúis i gcoinnibh oifigigh sa chéad dul síos.*

'Lorgaireacht' translates 'investigation' in s13(2)(e) of the Interpretation Act, 1923, where 'affect any investigation, legal proceeding, or remedy in respect of any such right' is translated as 'baint le haon lorgaireacht, imeacht dlí, ná leigheas i dtaobh aon chirt'. We find 'rannsócháin' in s6(2) of the Dublin Reconstruction (Emergency Provisions) Act, 1924, where 'the Judge may direct such inquiries and investigations as he thinks proper for the purpose of ascertaining the title to the ownership of the site and the values of the several estates and interests therein' is translated as 'féadfaidh an Breitheamh a ordú go ndéanfar pé fiosrúcháin agus rannsócháin is ceart, dar leis, chun an teideal chun únaereacht an ionaid agus luacha na n-estát agus na leasanna iomdha ann do dhéanamh amach'.

'Fiosrúcháin' is found in s3(3)(a) of the Arterial Drainage Act, 1925, where 'either approving of the proposals contained in the petition or declaring that such proposals require further investigation' is translated as 'á rá go bhfuilid sásta leis na molta atá san achuinge no á fhaisnéis nách mór tuille fiosrúcháin do dhéanamh ionta' – 'na molta san do scrúdú' translates 'to examine such proposals' in the following paragraph. Finally, 'Criminal Investigation Department' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'Roinn Taighde um Chuirpigh'.

*a chur* The verb 'cuir' with a verbal noun has the sense of 'set, cause, to do something', *Ó Dónaill* citing '*duine a chur a luí*, to put someone to bed', '*rud a chur á dhéanamh*, to arrange to get something done' and '*rud a chur ag gabháil*, *ag oibriú*, to set something going,

working'. *De Bhaldraithe* translates 'to cause someone to do something' as 'cur faoi deara do dhuine, tabhairt ar dhuine, rud a dhéanamh' and 'to cause something to be done' as 'rud a chur á dhéanamh; cur faoi deara rud a dhéanamh'. In the Acts also 'to cause something to be done' is generally translated as 'cur faoi deara rud a dhéanamh' – see, for example, s11(7) of the National Institute for Higher Education, Limerick, Act, 1980, where 'The Minister shall cause every scheme submitted and approved of under this section to be laid before each House of the Oireachtas' is translated as 'Cuirfidh an tAire faoi deara go ndéanfar gach scéim a chuirfear faoi bhráid an Aire agus a cheadófar faoin alt seo a leagan faoi bhráid gach Tí den Oireachtas'. Professor Máirtín Ó Murchú questions whether this phrase can be used without indirect object, i.e. 'cuir faoi deara **do dhuine**', etc.

'Féadfaidh Aire Feidhmiúcháin gabháil agus coinneáil do chur ar dhaoine áirithe' translates 'Executive Minister may cause arrest and detention of certain persons' in the Margin Title of s1 of the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924, with the section itself commencing as follows: 'It shall be lawful for an Executive Minister to cause the arrest ... of any person', '*Beidh sé dleathach d'Aire Feidhmiúcháin a chur fé ndéar go ngabhtar ... éinne*'. 'To cause a thing to be done' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'd'fhéachaint chuige go ...' in early *Standing Orders* of Dáil Éireann. See further the commentary on Articles 25.5.1° and 40.6.1°ii.

*cúiseamh* This headword is translated as 'accusation, charge' in *Téarmaí Dlí*; 'cúiseamh a dhéanamh (ar)' is translated as 'to prefer a charge (against)' in *Ó Dónaill* – see the commentary on Article 12.10.2°. 'The Justice shall cause the charge to be reduced into writing and read to the person charged' is translated as 'cuirfidh an Breitheamh faoi deara an cúiseamh a chur i scríbhinn agus a léamh don duine a cúisíodh' in s10 of the Defamation Act, 1961, for example.

*cúis* This headword is translated as 'cause' in *Téarmaí Dlí*, with 'case, charge' given as secondary senses, in *Ó Dónaill* – see the commentary on Article 12.10.3°.

*Má* 'When' is usually translated as 'nuair a ...' but is often translated as 'i gcás ...' in the Acts. See the commentary on Article 12.4.5° regarding 'nuair'.

*ní foláir* Literally 'must', but also translates 'shall' in many Articles – see the commentary on Article 11.

### Direct translation

Nuair a dhéanfaidh<sup>1</sup> ceachtar Teach den Oireachtas cúiseamh, déanfaidh an Teach eile an cúiseamh a imscrúdú, nó cuirfidh sé an cúiseamh á<sup>2</sup> imscrúdú.

### Variants

<sup>1</sup> 'I gcás ina ndéanfaidh'

<sup>2</sup> 'cuirfidh sé faoi deara an cúiseamh a'

ARTICLE 12.10.6<sup>o</sup> AIRTEAGAL 12.10.6<sup>o</sup>**TÉACS GAEILGE**

Beidh de cheart ag an Uachtarán bheith i láthair agus lucht tagartha a bheith aige ar an scrúdú sin.

**LITERAL ENGLISH TRANSLATION**

The President will have the right to be present and to have advocates/pleaders with him at that examination.

**ENGLISH TEXT**

The President shall have the right to appear and to be represented at the investigation of the charge.

**Divergences between the official texts**

- 1 'To be represented' is expressed as 'lucht tagartha a bheith aige' ('to have advocates/pleaders with him'), literally 'to have reference people', in the Irish text.
- 2 'To appear' is expressed as 'bheith i láthair' ('to be present') in the Irish text.
- 3 'At the investigation of the charge' is expressed as 'ar an scrúdú sin' ('at that examination') in the Irish text.

**Commentary**

*lucht tagartha* 'Tagartha' is the genitive singular of 'tagairt'. *Dinneen* states that 'tagairt' is a 'doublet with *tagra*', which headword he translates as 'act of pleading, disputation, argument, alluding to; argument, discussion'. *Ó Dónaill*, following the abbreviation for 'literary use; literature', translates 'tagra' as '(act of) pleading; plea; disputation, argument, lawsuit', giving 'tagairt' as the standard form of the secondary sense of 'tagra'. 'Tagairt' and 'tagra' come from 'tacara', verbal noun of 'do-accair', examples of which are cited in DIL from early Irish law-tracts in the technical legal sense of 'pleading, law-suit'. Examples are also given in DIL in the more general sense of 'a pleading for, on behalf of'.

'Tagairt' is translated as 'reference' in *Téarmaí Dlí* and as 'reference, allusion' in *Ó Dónaill*. The secondary sense of 'lucht' in *Ó Dónaill* is '(class, category, of) people', '*lucht freastail, imeartha*, attendants, players' being cited for example – see further the commentary on Article 45.4.2<sup>o</sup> where 'lucht oibre' expresses 'workers' and note also that 'lucht achainí' expresses 'petitioners' in Article 27.2. As well as the headword 'tagairt', translated as 'act of pleading, debating, telling, speaking, protecting, declaiming; referring or alluding to; a gloss, reference or allusion', *Dinneen* gives 'tagartha' itself as a headword, which he translates as 'discussed, mentioned; witty, responsive', and cites '*fear tagartha go maith is eadh é*, he is a quick fellow at repartee'. 'Tagarthach' is also given as a headword, being translated as 'witty, responsive, quick at repartee', as well as 'pert, saucy, impertinent, argumentative'. As a noun, however, 'tagarthach' is translated by *Dinneen* as 'a pleader or arguer', the headword 'tagarthóir' being translated as 'a pleader, a debater, an arguer'.

'I represent the plaintiff' is translated as 'feidhmím ar son an ghearánaí' in *Téarmaí Dlí*. 'Beidh an Bord ... i dteideal go bhfeidhmeofaí ar a son agus go bhfaighidís éisteacht ar aon achomharc faoin bhfo-alt seo' translates 'The Board ... shall be entitled to be represented and

heard on any appeal under this subsection' in s64(4)(c) of the Pensions Act, 1990. 'Féadfaidh ionadaí don Aire a bheith i láthair ag an éisteacht' translates 'the Minister may be represented at the hearing' in s13(2) of the Housing (Private Rented Dwellings) (Amendment) Act, 1983. In s7(2)(d) of the Local Elections (Petitions and Disqualifications) Act, 1974, 'the Attorney General may at any stage be represented at and take part in the trial as a party' is translated as 'féadfaidh an tArd-Aighne ionadaí uaidh a bheith ag an triail agus bheith páirteach inti mar pháirtí'. In s20(3) of the Credit Union Act, 1966, 'A group of persons which is a member of a credit union may be represented at the annual general meeting of the credit union by a member of that group' is translated as 'Maidir le grúpa daoine is comhalta de chomhair creidmheasa, féadfaidh comhalta den ghrúpa sin ionadú dó ag cruinniú ginearálta bliantúil an chomhair chreidmheasa'. In s20(18)(b) of the Road Traffic Act, 1961, 'if he does not exercise his right to be present at the examination, he shall have the right to be represented at it by another person selected by him' is translated as 'mura bhfeidhmeoidh sé a cheart chun bheith i láthair ag an scrúdú, beidh de cheart aige duine eile dá rogha féin a bheith mar ionadaí uaidh ag an scrúdú'. Finally, 'who shall be entitled to appear and be represented at the hearing' is translated as 'ag a mbeidh teideal láithriú agus go bhfeidhmeofaí ar a shon' in s21(1)(e) of the Rent Restrictions Act, 1960.

Professor Máirtín Ó Murchú remarks that the first sense of 'represent' in the *New Oxford Dictionary of English* is 'be entitled or appointed to act or speak for (someone), especially in an official capacity'. This is the sense involved in the present context. Máirtín Ó Murchú suggests, therefore, that 'agus ionadaithe a bheith aige nó aici' would not be correct, in particular as it would mean that the President 'himself' would not be present, which need not necessarily be the case. The same problem arises to some extent with 'feidhmigh' in the translation below, i.e. it gives to understand that the President 'himself' cannot 'act' or 'function', which sense is not involved here. Professor Ó Murchú therefore feels that 'lucht tagartha' very closely represents 'to be represented', but that Modern Irish has lost that particular sense of 'tagairt'. He therefore recommends substituting the phrase 'lucht abhcóidíochta' for 'lucht tagartha'.

Looking at the early Acts, 'a person who represents a shipping company' is translated as 'duine a ionaduinn cuideachta loingseoireachta' in s4(a) of the Schedule to the Pilotage Order, Confirmation Act, 1924. 'And to take part and vote in each election thereof of a pilot member to represent such group', in s2(3) of the Schedule to the Pilotage Order Confirmation Act, 1927, is translated as 'agus bheith páirteach agus vótáil i ngach toghachán ag an gcruinniú san chun ball píolóide do thogha chun an grúpa san d'ionadú'. 'Securing to every person tried by a special court the right to be represented at such trial by solicitor and counsel' is translated as 'ag cur in áirithe do gach éinne a trialfar ag cúirt speisialta an chirt chun atúrnae agus abhcóide do beith mar iondaithe aige ag an triail sin' in s27(1)(b) of the Public Safety Act, 1927. Finally, s34(3) of the Dentists Act, 1928, reads as follows:

The person whose conduct is the subject of an inquiry held under this section shall be entitled to be heard and adduce evidence and, if he so desires, to be represented by solicitor and counsel at such inquiry.

*An té go mbeidh a iompar fé scrúdú ag fiosrúchán a comórfar fén alt so beidh teideal aige chun éisteacht d'fháil agus chun fianaise do thabhairt i láthair, agus, má's mian leis é, chun ionadaíochta tré atúrnae agus tré abhcóide ag an bhfiosrúchán san.*

*bheith i láthair* Literally 'to be present'. See the commentary on Article 28.8, where this phrase expresses 'attend'. 'No person shall disclose information available to him through being present at an investigation held by the Examiner' is translated as 'Ní dhéanfaidh duine ar bith eolas a nochtadh a bheidh ar fáil aige trína bheith i láthair ag imscrúdú a dhéanfaidh an Scrúdaitheoir' in s16 of the Mergers, Take-overs and Monopolies (Control) Act, 1978. 'I appear (in Court)' is translated as 'láithrim' in *Téarmaí Díl*. 'The person shall be entitled to appear at the inquiry personally or by counsel or solicitor' is translated as 'beidh an duine i dteideal láithriú ag an bhfiosrúchán go pearsanta nó trí abhcóide nó atúrnae' in s29(3)(e) of the Horse Industry Act, 1970, for example. In s10(2) of the Malicious Injuries Act, 1981, 'Any ratepayer ... shall be entitled to appear at the hearing of an application for compensation' is translated as 'Beidh aon rátiócóir ... i dteideal láithriú tráth a bheidh iarratas ar chúiteamh ... á éisteacht'. 'And each such board shall ... be entitled to appear in Court and be heard on the hearing of the application' is translated as 'agus beidh teideal ag gach bord den sórt sin ... láithriú sa Chúirt agus éisteacht a fháil ar an iarratas a bheidh á éisteacht' in s54(1) of the Fourth Schedule to the Fisheries Act, 1980, following s14(1) of the Fisheries (Amendment) Act, 1962. Finally, 'the Minister may ... order that the manager for the local authority may appear separately at the inquiry' is translated as 'féadfaidh an tAire ... a ordú go bhféadfaidh an bainisteoir don údarás áitiúil láithriú ar leithligh ag an bhfiosrúchán' in s90(1) of the Local Government Act, 1946.

Looking at earlier Acts, 'beidh an duine sin i dteideal teacht i láthair ag an bhfiosrúchán san i bpearsain no tré abhcóide' translates 'such person shall be entitled to appear at such inquiry personally or by counsel' in s30(3)(c)(ii) of the Pigs and Bacon Act, 1935. In s6(9) of the Money-lenders Act, 1933, 'A superintendent of the Garda Síochána ... shall have the right to appear in court' is translated as 'Beidh sé de cheart ag ceannphort den Ghárda Síochána teacht os cóir na cúirte'. 'The following persons shall be entitled to appear and be heard (in person or by solicitor or counsel) ... at the inquiry', in s9(2) of the Arterial Drainage Act, 1925, is translated as 'Beidh teideal ag na daoine seo a leanas chun teacht i láthair agus éisteacht d'fháil (i bpearsain no tré atúrnae no tré abhcóide) ... ag an bhfiosrúchán'. 'Certificate of appearance' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'deimhniú ar fhógra teacht i láthair', and 'to enter an appearance' as 'fógra teacht-i-láthair d'iontráil', in the Office of Private Bills.

*scrúdú* See the commentary on the previous subsection regarding 'scrúdaigh' and 'scrúdú'.

*de cheart* See the commentary on Article 12.2.2°.

### Gender-proofed Irish text

Beidh de cheart ag an Uachtarán bheith i láthair agus lucht tagartha a bheidh aige nó aici ar an scrúdú sin.

### Direct gender-proofed translation

Beidh de cheart ag an Uachtarán láithriú, agus go bhfeidhmeofar ar a shon nó ar a son<sup>1</sup>, tráth a bheidh an cúiseamh á imscrúdú<sup>2</sup>.

### Variants

- 1 'agus lucht abhcóidíochta a bheidh aige nó aici', 'agus ionadaithe a bheidh aige nó aici'
- 2 'ag imscrúdú an chúisimh', 'ag an imscrúdú den chúiseamh', 'ar an gcúiseamh a bheidh á imscrúdú'

## ARTICLE 12.10.7° AIRTEAGAL 12.10.7°

### TÉACS GAELGE

Más é toradh an scrúdaithe sin go rithfear rún, le tacaíocht dhá thrian ar a laghad de lánchomhaltas an Tí den Oireachtas a scrúdaigh an chúis nó a chuir an chúis á scrúdú, á dhearbhu gur suíodh an chúis a tugadh in aghaidh an Uachtaráin agus, an mí-iompar ba shiocair don chúiseamh, gur mí-iompar é a bhfuil an tUachtarán neamhoiriúnach dá dheasca chun fanacht i seilbh oifige, is é is feidhm don rún sin an tUachtarán a chur as oifig.

### LITERAL ENGLISH TRANSLATION

If the result of that examination is that a resolution is passed, with the support of at least two-thirds of the full membership of the House of the Oireachtas that examined the case or had the case examined, declaring that the case that was brought against the President was established and, the misconduct/misbehaviour which caused the charge, that it is misbehaviour because of which the President is unsuitable to remain in (possession of) office, the function of that resolution is to put the President out of office.

### ENGLISH TEXT

If, as a result of the investigation, a resolution be passed supported by not less than two-thirds of the total membership of the House of the Oireachtas by which the charge was investigated, or caused to be investigated, declaring that the charge preferred against the President has been sustained and that the misbehaviour, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

### Divergences between the official texts

- 1 'Neamhoiriúnach', the term expressing 'unfit' (to continue in office) in the Irish text, can be interpreted as 'unsuitable', though 'unfit' is sometimes so translated in the Acts.
- 2 'Such resolution shall operate to remove the President from office' is expressed as 'is é is feidhm don rún sin an tUachtarán a chur as oifig' ('the function of that resolution is to remove the President from office') in the Irish text.
- 3 'The charge ... has been sustained' is expressed as 'suíodh an chúis' ('the case has been established') in the Irish text.
- 4 'If, as a result of the investigation' is expressed as

- 'Más é toradh an scrúdaithe' ('If the result of the examination is') in the Irish text.
- 5 'The subject of the charge' is expressed as 'ba shiocair don chúiseamh' ('which caused the charge') in the Irish text.
- 6 'Caused to be investigated' is expressed as 'a chuir an chúis á scrúdú' ('had the case investigated') in the Irish text.
- 7 As in the previous subsections, 'investigate' and 'investigation' are in the Irish text respectively expressed by 'scrúdaigh' ('examine') and 'scrúdú' ('examination') and 'charge' is expressed both by 'cúiseamh', the Irish legal term for 'charge', and 'cúis', the Irish legal term for 'cause'.

### Commentary

*neamhoiriúnach* This adjective is translated as 'unsuitable' in *Ó Dónaill* and 'unsuitable, inappropriate, inadequate, inconvenient' in *Dinneen* (s.v. 'neamh-oireamhach', the form in the original text). 'A d'fhéadfadh é a fhágáil neamhoiriúnach chun a áitithe mar áras teaghlaigh' translates 'may render it unsuitable for habitation as a family home' in s5(1) of the Family Home Protection Act, 1976, for example, 'the Community's existing arrangements for pigmeat will necessarily be inadequate or unsuited for the new situation' being translated as 'gur gá go mbeadh rialacha láithreacha an Chomhphobail i dtaobh muiceola neamhdhóthanach nó neamhoiriúnach don chor nua' in *Treaties establishing the European Communities* (1973, p. 1488). 'Mí-oiriúnach' is also translated as 'unsuitable, unsuited' in *Ó Dónaill* and in s9(1)(c) of the Merchant Shipping Act, 1992, 'go bhfuil an soitheach tar éis éirí mí-oiriúnach chun paisinéirí a iompar' translates 'the vessel has become unsuitable for the carriage of passengers'.

Both 'mí-oiriúnach' and 'neamhoiriúnach' also translate 'unfit' in the Acts. 'Or is found to be physically or mentally unfit for such employment as a result thereof' is translated as 'nó má fhaightear amach dá thoradh sin go bhfuil sé mí-oiriúnach ó thaobh coirp nó aigne don fhostaíocht sin' in s112 of the Mines and Quarries Act, 1965, for example, while 'it may declare either spouse to be unfit to have custody of any dependent child of the family' is translated as 'féadfaidh sí a dhearbhu gur céile neamhoiriúnach ceachtar céile chun aon leanbh cleithiúnach den teaghlach a bheith ina choimeád' in s41(1) of the Judicial Separation and Family Law Reform Act, 1989.

We also find negatives of 'inniúil' and 'feidhmiúil' translating 'unfit' in the Acts. In s26(1) of the Merchant Shipping Act, 1992, 'the vessel is unfit to proceed on any voyage' is translated as 'go bhfuil an soitheach ... neamhinniúil chun dul ar aon turas'. In s56(3)(b) of the Courts (Supplemental Provisions) Act, 1961, 'he satisfies the Committee that he is not suffering from any disability which would render him unfit to continue to discharge efficiently the duties of his office' is translated as '(ina) gruthóidh sé chun sástachta an Choiste nach bhfuil sé faoi aon mhíchumas a thabharfadh go mbeadh sé neamhinniúil chun leanúint de dhualgais a oifige a chomhlíonadh go héifeachtúil', the same English sentence being translated as 'é do chruthú chun sástachta an Choiste nach bhfuil sé faoi aon mhíchumas a bhéarfadh go mbeadh sé neamhoiriúnach chun leanúint de dhualgais a oifige a chomhlíonadh go héifeachtúil' in s2(2)(b) of the Courts

of Justice (District Court) Act, 1949. In s47(1) of the Courts of Justice Act, 1936, 'and that such justice is not suffering from any physical or mental ill-health or disability which would render him unfit to continue to discharge efficiently the duties of his office' is translated as 'agus ná fuil aon easláinte ná éalang chuirp ná aigne air do bhéarfadh ná beadh sé oiriúnach ar leanúint de dhualgais a oifige a chlíonadh go héifeachtúil'. In s9(1) of the Merchant Shipping (Certification of Seaman) Act, 1979, 'Where it appears to the Minister that the holder of a certificate ... is unfit to discharge his duties, whether because of incompetence or for any other reason' is translated as 'Más dealraitheach don Aire maidir le sealbhóir ar dheimhniú ... nach bhfuil sé in ann, mar gheall ar neamhinniúlacht nó ar aon chúis eile, a dhualgais a chomhlíonadh'.

For a person charged under section 50 of the Principal Act with being unfit to drive a mechanically propelled vehicle' is translated as 'do dhuine a gcuirfear de chúiseamh faoi alt 50 den Phríomh-Acht ina leith é a bheith neamhfheidhmiúil chun feithicil inneallghluaiste a thiomáint' in s34 of the Road Traffic Act, 1968. In s45(5)(b) of Part V of the Medical Practitioners Act, 1978, which Part deals with 'Fitness to Practise' ('Feidhmiúlacht chun Cleachtadh') and where reference is made to 'the Fitness to Practise Committee' ('an Coiste um Fheidhmiúlacht chun Cleachtadh'), 'unfit to engage in the practice of medicine because of physical or mental disability' is translated as 'neamhfheidhmiúil, mar gheall ar mhíchumas coirp nó meabhrach, míochaine a chleachtadh'. 'Neamhfheidhmiúil' is not given as a headword in *Ó Dónaill* or in *Dinneen*. *Ó Dónaill* translates 'neamh-infheidhme' as 'not fit for service', *De Bhaldraithe* translating 'unfit (for military position)' as 'neamhinfheidhme'. Note that 'The offence of injuring himself ... with the intention of rendering himself ... unfit for service' is translated as 'Díobháil do dhéanamh do féin ... le hintinn é féin ... do dhéanamh neamh-infheadhma' in s48(2) of the Defence Forces (Temporary Provisions) Act, 1923.

The negative of 'oiriúnach' is involved in the translation of 'unfit' in early official translations. 'That part only of any picture ... is unfit for exhibition in public' is translated as 'ná fuil ach cuid den phictiúir sin gan bheith oiriúnach le taisbeáint go puiblí' in s7(4) of the Censorship of Films Act, 1923. 'Unfit for the food of man' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'nách bhfuil oiriúnach mar bhiadh don duine' and 'atá mí-oiriúnach mar bhiadh don duine' in translations for the Department of Local Government and Public Health, and 'unfit (= unhealthy, tired, etc.)' is cited there as being translated as 'neamh-oiriúnach' in early translations for the Department of Lands and Agriculture. Finally, 'that such malady or injury was of such a nature as to render such person unfit to attend a course of instruction' is translated as 'go raibh an aicid no an lot san de shaghas d'fhág an duine sin neamh-iomchuibhe chun cursa theagaisc do fhreastal' in s92(1) of the Vocational Education Act, 1930, and 'a vessel laid up as unfit for sea service' is translated as 'áthach atá leagtha suas mar gheall ar í a bheith neamhchumasach chun seirbhís farraige' in s57(7)(a) of the Harbours Act, 1946.

*ba shiocair do(n)* The phrase 'is siocair do' expresses 'the subject of' also in Articles 25.2.2°, 27.5.1°, 27.5.2° and 27.6. 'Any Bill the subject of a reference to the Supreme



Court under this Article' is expressed as 'Bille ar bith a chuirtear faoi bhreith na Cúirte Uachtaraí faoin Airteagal seo' in Article 26.1.3°, 'I gcás aon Bhille a chuirtear faoi bhreith na Cúirte Uachtaraí faoin Airteagal seo' expressing 'In every case ... a Bill the subject of a reference to the Supreme Court under this Article' in Article 26.3.1°.

'Siocair' is translated as 'immediate cause, occasion, pretext, excuse' in *Ó Dónaill*, who cites '*siocair pheaca*, occasion of sin', along with '*an rud ba shiocair leis an achrann*, what gave rise to the quarrel' and '*Cad é is siocair leis?* What's the cause of it?' *Dinneen* translates 'siocair' as 'motive, cause, occasion, pretext', referring the reader to 'tucaid', translated as 'cause, reason' in DIL, an example of which is cited there followed by the preposition 'fri' (Modern Irish 'le'). No early examples are given in DIL s.v. 'siocair'. See further the commentary on Article 25.2.2°.

Turning to the Acts, 'the subject of' is usually translated therein as 'is ábhar do' – see, for example, s8(1) of the Larceny Act, 1990, where 'If it is proved that the person handled the property the subject of the charge' is translated as 'Más rud é ... go gcruthófar go ndearna an duine an mhaoin is ábhar don chúiseamh a láimhseáil'. In s9(b) of the Finance Act, 1983, 'if the person whose chargeability to tax is the subject of the case stated so desires' is translated as 'más mar sin a theastóidh ón duine arb é a inmhuirireacht i leith cánach is ábhar don chás'. 'Unless the house the subject of the grant complies with such regulations' is translated as 'mura gcomhlíonfaidh an teach is ábhar don deontas cibé coinníollacha' in s4(3) of the Housing (Miscellaneous Provisions) Act, 1979. 'Subject-matter (i.e. of contract)' is translated as 'ábhar' in *Téarmaí Dlí*.

Looking at earlier Acts, in s1 of the Double Taxation (Relief) Act, 1923, 'any tax is for the time being payable in respect of a subject of charge in respect of which a corresponding tax is payable in Saorstát Éireann' is translated as 'go mbeidh aon cháin iníochta de thuras na huairé i dtaobh fuilingidhe mhuirir go mbeidh cáin cho-réire iníochta 'na thaobh i Saorstát Éireann'. 'When ... the event which is the subject of the bet is a horse race' is translated as 'más rás capall an ní is abhar don gheall' in s24(1) of the Finance Act, 1926. 'The person whose conduct is the subject of an inquiry held under this section' is translated as 'An té go mbeidh a iompar fé scrúdú ag fiosrúchán a comórfar fén alt so' in s30(3) of the Medical Practitioners Act, 1927.

*feidhm* This headword is translated as 'function; use, service; work, office, duty' in *Ó Dónaill*, and as 'effort, act; service, use, office, function, duty; work, a task; employment; action; an action, a conflict; emergency; affluence, influence, power; need' in *Dinneen*, who cites '*caidé is feidhm dó?* what is its use (or function)?' and '*cread é is feidhm do'n uisce choisreagtha?* what is the virtue of holy water?' The primary sense of 'feidm', according to DIL, seems to be 'load, stress, strain', passing into the senses of 'utmost effort, effort, exertion; burden, service, function'. Under 'feidm' (b), translated as 'work, service, duty, function', DIL cites, 'ní feidm flatha nã firlaich duitsi aisc feicheamnis do thabhairt ...' ('it is not the act of a prince in thee ...') from O'Curry's edition of *Cath Maige Léana*, and under (d), translated as 'use; efficacy', is cited 'ní feidhm do an Ghaoidheilg do léaghadh ... gan a bfiós do

bheith aige do mheabhair' ('without having them by heart it is a vain effort for him to attempt [he will not be able for] the reading of Irish') from a miscellaneous collection of Irish literature. See the commentary on Article 45 regarding 'feidhmigh' (there expressing 'apply'), on Article 19 (where 'dream feidhme' expresses 'functional group'), on Articles 17.1.2° and 29.4.3° (where 'feidhm dlí' respectively expresses 'effect' and 'force of law'), and on Article 15.3.1° (where 'feidhmeannas' expresses 'functional').

'I operate' is translated as 'oibrim' in *Téarmaí Dlí* – see the commentary on Article 3. 'Nothing in this section shall operate to relieve from ... the additional excise duty' is translated as 'Ní oibreoidh aon ní san alt seo chun faoiseamh a thabhairt ón dleacht máil bhreise' in s28(4) of the Finance Act, 1970, for example. In s23(4) of the Nurses Act, 1950, 'an order under subsection (2) ... shall not operate to remove a member of the Committee from his office' is translated as 'ní oibreoidh ordú faoi fho-alt (2) ... chun comhalta den Choiste a chur as a oifig' and in s30(1) of the Central Bank Act, 1942, 'No disqualification of the Governor ... shall operate to remove him from his office until a resolution has been passed by the Board declaring him to be disqualified' is translated as 'Dí-cháiliú ar bith a bhainfidh don Ghobharnóir ... ní oibreoidh chun é chur as oifig go dtí go rithfidh an Bord rún á dhearbhu é bheith dí-cháilithe'. Finally, in s14 of the Illegitimate Children (Affiliation Orders) Act, 1930, 'Nothing in this Act shall operate to remove or diminish the liability of the mother of an illegitimate child to maintain such child' is translated as 'Ní oibreoidh éinní san Acht so chun freagarthacht mháthar leibh tabhartha i gcothú an leinbh sin do chur ar cheal ná do laigheadú'.

Looking at the earlier Acts, 'An occasional licence shall operate to exempt the person to whom the licence is granted ... from the provisions of this Act' is translated as 'Oibreoidh ceadúnas ócáideach chun an té dá ndeantar é do shaora ... o sna forálacha den Acht so' in s6(4) of the Intoxicating Liquor Act, 1927, and 'such floating charge shall not operate to prevent or restrict the alienation ... by the Board of ... any of such property' is translated as 'ní oibreoidh an muirear so-ghluaiste sin chun cosc no srian do chur leis an mBord d'aistriú aon choda den mhaoin sin uatha' in s16(1)(b) of the Electricity (Supply) Act, 1927.

*suíodh an chúis* 'Suim cúis' is translated as 'I show cause' in *Téarmaí Dlí*. 'Go suítear sin go sásamh na Cúirte Uachtaraí' expresses 'being established to the satisfaction of the Supreme Court' in Article 12.3.1° – see the commentary on that Article for other citations of 'suigh' in the sense of 'establish'. Note that 'proceeding shall not be sustained' is translated as 'ní bheidh imeachta ionsuite' in the Courts of Justice Act, 1936, according to *Foclóir Oifigiúil*. *De Bhaldraithe* translates 'to sustain an objection' (*of court*) as 'agóid a cheadú'.

In s38(5) of the Army Pensions Act, 1957, 'within six months after the date when evidence to sustain the prosecution came to the notice of the Minister' is translated as 'laistigh de shé mhí tar éis an dáta a chuir an tAire eolas ar fhianaise a bhéarfadh bonn don chúiseamh', the same text being translated as 'laistigh de shé mhí tar éis an dáta ar a bhfuighidh an tAire fianaise chun an chúisimh do shuidheamh' in s14(4) of the Connaught Rangers (Pensions) Act, 1936, and as 'laistigh de shé mhí tar éis an

dáta ar ar tharla fianaise chun neartuithe leis an gcúiseamh do theacht fé bhráid an Aire' in s50 of the Army Pensions Act, 1937. 'Agus go bhfuil ciontú maith bailí ann mar bhonn leis an ordú nó leis an treoir' translates 'and that there is a good and valid conviction to sustain the order or direction' in s40(2) of the Defence Act, 1954, the same text (without 'that') being translated as 'agus má tá daora daingean dleathach ann mar thaca leis an ordú no an treoir' in s202(2) of the Defence Forces (Temporary Provisions) Act, 1923. 'Sustain prosecutions against' is cited in the *Oireachtas Dictionary of Official Terms* as being translated simply as 'do chúiseamh' in the *Proceedings* of the Public Accounts Committee, 1928.

*Mas é toradh* The phrase 'de thoradh' translates 'as a result' in the Acts. In s79(3) of the Mines and Quarries Act, 1965, for example, 'if, as a result of the examination, it appears that any report was inadequate' is translated as 'más léir, de thoradh an scrúdaithe, go raibh aon tuarascáil neamhdhóthanach'. 'Which has not issued any of its shares as a result of a public invitation to subscribe for shares' is translated as 'nár eisigh aon scaireanna dá cuid de thoradh cuireadh don phobal suibscríobh le haghaidh scaireanna' in s35(4)(a)(ii) of the Capital Gains Tax Act, 1975, and in s5(4) of the Army Pensions Act, 1973, 'A pension granted to any person as a result of a re-assessment under this section' is translated as 'Pinsean a dheonófar do dhuine ar bith de thoradh athmheasta faoin alt seo'. We find 'de dhroim', 'de chionn', 'de bhithin', 'trí', 'ar lorg', 'mar gheall ar' and 'mar thoradh ar' translating 'as a result of' in translations of European legislation, 'de bharr' and 'de dheasca' also capable of translating this phrase.

'If, as a result of the relevant loss of faculty, the beneficiary is incapable of work' is translated as 'más rud é, mar gheall ar an gcailleadh cumais iomchuí, go bhfuil an tairbhí éagumasach chun oibre' in s45(1) of the Social Welfare (Consolidation) Act, 1981, following s12(1) of the Social Welfare (Occupational Injuries) Act, 1966. 'As a result of' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'de dheascaibh' in early *Standing Orders* of Dáil Éireann, 'result of inquiry' being cited therein as having been translated as 'tora an fhiosruithe' in translations for 'Oifig an Phuist'.

*an mí-iompar ... gur mí-iompar é* This phrase expresses 'and that misbehaviour ... was such'. See s20(2)(i) of the Judicial Separation and Family Law Reform Act, 1989, regarding 'such' in this context, where 'if that conduct is such that ... it would ... be repugnant to justice to disregard it' is translated as 'más iompar de chineál é nach mbeadh sé ... ag teacht le ceartas dá ndéanfaí neamhshuim de'. In s7(5)(b) of the Labour Services Act, 1987, 'any alteration in the conditions in regard to tenure of office of such member shall not be such as to render those conditions less favourable to him' is translated as 'aon athrú ar na coinníollacha maidir le seilbh oifige aon chomhalta den sórt sin ní athrú den chineál sin é a fhágfaidh gur lú fabhar dó na coinníollacha sin'. 'That the competence ... and probity of the manager and trustee are such as to render them suitable to act as manager and trustee' is translated as 'go bhfuil inniúlacht ... agus ionracas an iontaobhaí de chineál a thabharfadh go mbeidís oiriúnach chun gníomhú mar bhainisteoir agus mar iontaobhaí' in s3(1)(a) of the Unit Trusts Act, 1972. In Part IV of the Third Schedule to

the Insurance Act, 1936, 'Where the terms or conditions ... are such as to render the method ... inapplicable' is translated as 'Más rud é, mar gheall ar na téarmaí ..., ná fuil an modh ... infheidhmíthe'. The arrangements referred to in section 3 or 4 of this Act shall be such as to provide for' is translated as 'na comhshocraíochtaí dá dtagraítear in alt 3 nó 4 den Acht seo is comhshocraíochtaí den chineál sin iad a fhorálfaidh' in s6(2) of the Worker Participation (State Enterprises) Act, 1988, 'The accounting records of a society shall be such as to ... record', in s76(2) of the Building Societies Act, 1989, being translated as 'Na taifid chuntasaíochta a choimeádfaidh cumann, is de chineál iad'.

In s22(5) of the Electoral Act, 1963, 'A polling place appointed by a scheme under this section shall be an area ... but shall be such as to give the electors allocated to it reasonable facilities for voting' is translated as 'Aon áit vótaíochta a cheapfar le scéim faoin alt seo, is limistéar a bheidh ann ... ach beidh sé in áit a thabharfaidh saoráidí réasúnacha chun vótáil do na toghthóirí a dháilfear dó'. In s1(2)(b)(i) of the Finance (Excise Duties) (Vehicles) Act, 1952, 'a rate of duty so prescribed shall be such as to bear to the full annual duty no less than the period of the licence bears to the year' is translated as 'aon ráta dleachta a hordófar amhlaidh, beidh idir é agus an lán-dleacht bhliantúil coibhneas nach lú ná na coibhneas idir tréimhse an cheadúnais agus bliain'. 'Unless he proves that the remuneration received in respect of the employment was such as to provide a substantial contribution towards his means of livelihood' is translated as 'mura gcruthaí sé gur leor an luach saothair a fuair sé i leith na fostaíochta sin chun cion substainteach dá chostas maireachtála a íoc' in s14(1)(b) of the National Health Insurance Act, 1947. Finally, in s4 of the First Schedule to the Seanad Electoral (University Members) Act, 1937, 'The prescribed form of claim ... shall be such as to enable' is translated as 'An fhuirm orduithe éilimh ... beidh sí de shaghas a chuirfidh ar chumas'.

*dá dheasca* This phrase expresses 'so as to render'. In s8(2) of the Road Traffic Act, 1968, 'A person shall not alter a vehicle ... so as to render its condition such that the vehicle does not comply with the requirements' is translated as 'Ní athróidh duine feithicil ... ionas go mbeidh sí sa riocht sin nach gcomhlíonann an feithicil ceanglais'. In s37(1) of the Radiological Protection Act, 1991, 'render them immune from seizure' is translated as 'a fhágann díolmhaithe iad ó urghabháil'. 'If special circumstances appear to the Commission to render such course expedient' is translated as 'má chítar don Choimisiún gur oiriúnach an rud é' in the *Oireachtas Dictionary of Official Terms* (no reference being given, however). 'For the purpose of rendering effectual the trusts created by the said several gifts and conveyances' is translated as 'chun go dtabharfaí éifeacht do sna hiontaobhaisí a cruthnúidh leis na tabhartaisí agus na leithlithe sin uile agus fé seach' in the Preamble to the Methodist Church in Ireland Act, 1928. 'In such other circumstances as in the opinion of the said Court render it just and equitable that such indemnity should be enforced' is translated as 'i pé cás eile is dó leis an gCúirt sin a dhéanfadh é bheith cóir agus cothrom an slánú san do chur i bhfeidhm' in s4(2) of the Agricultural Credit Act, 1928, 'in ionad tighé eile do fágadh neamh-ionáitithe tré chósta-chreimhirt' translating 'for another

house which ... was rendered uninhabitable by coast erosion' in s3(3) of the Housing Act, 1929.

*a chur as oifig* See the commentary on Article 33.5.1°. In s15(2)(b) of the Local Government (Superannuation) Act, 1956, 'where the officer was removed from his office for a cause other than misconduct or unfitness' is translated as 'i gcás an t-oifigeach a chur as a oifig ar chúis seachas mí-iompar nó neamhoiriúnacht'. 'Until he shall vacate, or be removed from, his office or employment' is translated as 'go dtí go n-eireoidh sé as a oifig no a fhostaíocht no go gcuirfear aisti é' in s33 of the Galway Harbour Act, 1935. 'Gach uair a déanfar Coimisinéir a cheapa no a chur as oifig fén alt so foillseofar láithreach san *Iris Oifigiúil* an ceapa no an cur-as-oifig sin' translates 'Every appointment and every removal of a Commissioner under this section shall be published immediately in the *Iris Oifigiúil* in s3(5) of the Local Authorities (Officers and Employees) Act, 1926. 'The Comptroller and Auditor-General shall have full power ... to promote, suspend, or remove any of the officers' is translated as 'Beidh lán-chomhacht ag an Árd-Scrúdóir ... duine ar bith de sna hoifigigh ... d'árdú, do chur ar fionnraí no do bhrise' in s6 of the Comptroller and Auditor-General Act, 1923, while in s1(2) of the District Justices (Temporary Provisions) Act, 1923, 'Every person appointed to be a District Justice may be dismissed or removed at the pleasure of the Governor-General of the Irish Free State' is translated as 'Gach duine a ceapfar chun bheith na Ghiúistís Dúithche féadfar é do bhrise no do chur chun siúil ... aon uair is maith le Seanascal Shaorstáit Éireann é' in s1(2) of the District Justices (Temporary Provisions) Act, 1923. 'Cur as feidhmeannas' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to remove from office' in early *Standing Orders* of Dáil Éireann, along with 'do chur as oifig'.

*fanacht i seilbh oifige* 'Fanfidh an Tiarna Méara in oifig go dtí go mbeidh a chomharba toghtha ag an gruinníú cinn ráithe' translates 'The Lord Mayor shall continue in office until his successor shall have been elected at the quarterly meeting' in s6(3) of the Cork City Management Act, 1929. 'A person shall not be entitled to demand or continue to receive ... a supply of electricity' is translated as 'ní bheidh duine i dteideal soláthar leictreachais d'éileamh ná leanúint d'é d'fháil' in s90(1) of the Electricity (Supply) Act, 1927.

*á dhearbhu* 'Dearbhú' is the verbal noun of 'dearbhaigh' – see the commentary on Article 12.8 for the noun 'dearbhu', 'declaration', and on Article 29.1, where 'dearbhaigh' expresses 'affirms'. In s24(1)(a) of the Apprenticeship Act, 1959, 'An Chomhairle shall make rules declaring that employment in the trade of any specified class ... of persons ... shall constitute employment by way of apprenticeship in the trade' is translated as 'déanfaidh An Chomhairle rialacha á dhearbhu gur fostaíocht ar mhodh printiseachta leis an gceird aon aicme shonraithe ... daoine a bheith fostaithe leis an gceird' and 'ordú á dhearbhu go ndearnadh an feabhsúchán go cuí' translates 'an order declaring that the improvement was duly made' in s55(2) of the Landlord and Tenant (Amendment) Act, 1980.

Looking at early translations, 'declare' is cited in the

*Oireachtas Dictionary of Official Terms* as being translated as 'dearbhu', with 'Clerk of the Dáil, March 1928' given as reference. 'The Question was declared carried accordingly' is translated as 'do faisnéiseadh dá réir sin go rabhtas tar éis glaca leis an gCeist' in the *Proceedings* of Dáil Éireann, 1928, p. 255. 'Faisnéis' translates 'declaration' in s53(6) of the Defence Forces (Temporary Provisions) Act, 1923, where 'The offence of making any false declaration in any statement ...' is translated as 'Aon fhaisnéis bhréagach do dhéanamh in aon ráiteas'. 'The administering or taking in any form or manner of any oath, declaration, or engagement' is translated as 'mionn, dearbhú no geallúint do dhéanamh no do thabhairt in aon fhuirm no slí' in s9(1) of the Treasonable Offences Act, 1925. In s4(4) of the Local Elections Postponement Act, 1922, 'and shall have made the declaration accepting office' is translated as 'agus go dtí go ndéanfaidh a chomharba an deimhniú go nglacfa sé an oifig'. 'And it is hereby declared that the several provisions of the said Orders respectively shall have full force and effect' is translated as 'agus faisnítear leis seo go mbeidh lán-fheidhm agus lán-éifeacht ag forálacha uile agus fé leith na nOrduithe sin' in s1 of the Pilotage Orders Confirmation Act, 1924, and 'Chun deire do chur le hamhraistí faisnéistear agus achtuitear leis seo' translates 'To remove doubts it is hereby declared and enacted' in s4(1) of the Ministers and Secretaries (Amendment) Act, 1928. Finally, in s2(2) of the Seanad Electoral Act, 1928, 'to ascertain and declare the result thereof' is translated as 'a thora d'fháil amach agus d'fhógairt'. See further the commentary on Article 15.5.

*an chúis a chur á scrúdú* See the commentary on Article 12.10.5°.

### Direct translation

Más rud é, de thoradh an imscrúdaithe, go rithfear rún, lena dtacóidh dhá thrian de chomhaltas iomlán an Ti den Oireachtas a d'imscrúdaigh an cúiseamh, nó a chuir an cúiseamh á imscrúdú<sup>1</sup>, á dhearbhu go raibh an cúiseamh a tugadh ar an Uachtarán insuite agus gur mí-iompar de chineál<sup>2</sup> a fhágann an tUachtarán neamhfheidhmiúil<sup>3</sup> chun leanúint in oifig é an mí-iompar ab ábhar don imscrúdú, oibreoidh an rún sin chun<sup>4</sup> an tUachtarán a chur as oifig.

### Variants

- 1 'a chuir faoi deara an cúiseamh a imscrúdú'
- 2 'den chineál sin é'
- 3 'neamhoiriúnach'
- 4 'beidh d'fheidhm ag an rún sin'

## ARTICLE 12.11.1° AIRTEAGAL 12.11.1°

### TÉACS GAELGE

Beidh stát-áras ag an Uachtarán i gcathair Bhaile Átha Cliath nó ar a cóngar.

### LITERAL ENGLISH TRANSLATION

The President will have a state-home in Dublin city or near it.

**ENGLISH TEXT**

The President shall have an official residence in or near the City of Dublin.

**Divergences between the official texts**

- 1 'Official (residence)' is expressed as 'stát-áras' ('state [residence]') in the Irish text.
- 2 'Residence' is expressed by 'áras', which term expresses 'home' in modern Acts.
- 3 'City' has an upper case 'c' as against the lower-case 'c' of 'cathair' in the Irish text.

**Commentary**

*stát-áras* This compound would be written as 'státáras' today, without a hyphen. 'Áras' is translated as (1) 'habitation, abode' and (2) 'house, building' in *Ó Dónaill*, who does not give 'stát-áras' as a headword. Among the senses given in *Dinneen* s.v. 'árus' (the spelling in the original text) are 'a dwelling-house, a habitation, a room, an apartment; a compartment'. DIL s.v. 'árus', has 'abode, dwelling, residence'.

'Stát' is an English or Romance loanword, 'state'. The earliest examples cited in DIL s.v. 'stát(a)', are from Ó Cianáin's *Flight of the Earls*. 'Official' is translated as 'oifigiúil' in *Téarmaí Dlí*, where 'official receiver' is translated as 'glacadóir oifigiúil', for example.

Turning to the Acts, 'áras teaghlaigh' translates 'family home' in the Judicial Separation and Family Law Reform Act, 1989, in s16(a) of which 'to occupy the family home' is translated as 'áras an teaghlaigh a áitiú'. 'Áras an teaghlaigh' translates 'family home' in the Margin Title of s22 of the Family Law (Maintenance of Spouses and Children) Act, 1976. 'Residence', on the other hand, is generally translated as 'áit chónaithe', 'áit chónaí' or simply as 'cónaí' in the Acts. 'The deceased's residence, ordinary residence, and domicile at the date of death', in s14(3) of the Capital Gains Tax Act, 1975, for example, is translated as 'cónaí, gnáthchónaí agus sainchónaí an éagaigh ar dháta a bháis', while 'áit chónaí phríobháideach' translates 'private residence' in the Margin Title of s25, where, in s25(1), 'his only or main residence' is translated as 'a aon-áit nó a phríomh-áit chónaí'.

Following the present Article, 'in the official residence of the President' is translated as 'i stát-áras an Uachtaráin' in s1(a) of the National Gallery of Ireland Act, 1963, and 'stát-áras an ainmnitheora' translates 'the official residence of the nominator' in the Second Schedule to the Presidential Elections Act, 1937. In s67(1)(a) of the Local Government Act, 1955, 'every reference to a person's official residence shall be construed as a reference to his ordinary place of residence' is translated as 'déanfar gach tagairt d'áit chónaithe oifigiúil dhuine d'fhorléiriú mar thagairt dá ghnáth-áit chónaithe' and in s9(2)(a) of the Harbours Act, 1947, 'the official residence of a person who is a member of a harbour authority' is translated as 'is é áit chónaithe oifigiúil dhuine is comhalta d'údarás cuain'.

Looking at early Acts, in Article 60 of the 1922 Constitution, 'suitable provision shall be made out of those funds for the maintenance of his official residence and establishment', in relation to the Governor-General, is translated as 'déanfar soláthar oiriúnach as an gciste sin chun a áit

chomhnuithe oifigiúil agus a theaghlachas do choinneáil suas'. In the Preamble to the Governor-General's Salary and Establishment Act, 1923, however, 'the maintenance of his official residence and establishment pursuant to the said Article 60' is translated as 'costas a thigh comhnuithe agus a theaghlachas oifigiúil do choinneáil suas'. In s4(2)(b) of the Executive Powers (Consequential Provisions) Act, 1937, 'in relation to the maintenance of his official residence and the household staff thereof' is translated as 'maidir le n-a thigh comhnuithe oifigiúil agus le fuirinn an tigh sin do chothabháil'. Finally, note that 'Right of appeal on questions of domicile, residence, and ordinary residence', the Margin Title of s12 of the Finance Act, 1925, is translated as 'Ceart athchomhairc i dtaobh ceisteanna buan-chomhnaí, comhnaí, agus gnáth-chomhnaí'.

'Áit chónaithe' is translated as 'dwelling-place' in *Ó Dónaill*. 'Áras' is now enshrined in the title 'Áras an Uachtaráin' itself, along with 'Bus-Áras'.

*ar a cóngar* We find this phrase in Article 15.1.3° also, where 'The Houses of the Oireachtas shall sit in or near the City of Dublin' is expressed as 'Is i gcathair Bhaile Átha Cliath nó ar a cóngar ... a shuífid Tithe an Oireachtais'. 'I gcóngar do cheachtar de Thithe an Oireachtais' expresses 'in the vicinity of either House of the Oireachtas' in Article 40.6.1°ii. 'Cóngar' is translated principally as 'nearness, proximity' in *Ó Dónaill*, who cites '*bheith i gcóngar áite, duine*, to be near, close to, a place, a person' and '*dá mbeinn ina, ar a, cóngar*, if I were near him'. *Ó Dónaill* gives 'vicinity' as the secondary sense, translating 'ar na cóngair' as 'in the vicinity'. *Dinneen* translates 'cómhgar' ('comhgar' being the form in the original text) as 'nearness, convenience, proximity'. The earlier 'comgar' is based on 'gar' and translated literally as '(equally) near, ready' in DIL, with the secondary sense of 'proximity, nearness, shortness', no examples being cited from the earlier sources. See further the commentary on Article 40.6.1°ii.

Looking at the Acts, 'in aon áit iascaireachta nó ina chóngar' translates 'in or near any fishing place' in s42(2) of the Fourth Schedule to the Fisheries Act, 1980. 'In or near a public place' is translated as 'in áit phoiblí nó in aice le háit phoiblí' in the Long Title of the Litter Act, 1982, 'he may establish such sanatorium in or near that area' being translated as 'féadfaidh sé an sanatorium san do chur ar bun sa líomatáiste sin nó in aice leis' in s4(1) of the Tuberculosis (Establishment of Sanatoria) Act, 1945, for example. 'For the establishment of a new fever hospital in or near the city of Dublin' is translated as 'chun ospidéal fhiabhrais nua do bhunú i gCathair Bhaile Átha Cliath nó in aice léi' in the Long Title of the Dublin Fever Hospital Act, 1936.

**Standardised text**

Beidh státáras ag an Uachtarán i gcathair Bhaile Átha Cliath nó ar a cóngar.

**Direct translation**

Beidh áit chónaithe oifigiúil ag an Uachtarán i gCathair Bhaile Átha Cliath nó ina cóngar<sup>1</sup>.

**Variants**

- 1 'in aice léi', 'gar di'

ARTICLE 12.11.2<sup>o</sup> AIRTEAGAL 12.11.2<sup>o</sup>**TÉACS GAELIGE**

Gheobhaidh an tUachtarán sochair agus liúntais faoi mar a chinnfear le dlí.

**LITERAL ENGLISH TRANSLATION**

The President will get benefits/emoluments and allowances as will be determined by law.

**ENGLISH TEXT**

The President shall receive such emoluments and allowances as may be determined by law.

**Divergences between the official texts**

- 1 'Such', in 'such emoluments and allowances', is not specifically expressed in the Irish text, although 'as' is not expressed simply as 'mar' ('as') but as 'faoi mar'.
- 2 The term expressing 'emoluments' in the Irish text, 'sochair', usually translates 'benefits' and is not the specific Irish term for 'emoluments' in the later Acts, as noted earlier in relation to Article 12.6.3<sup>o</sup>.

**Commentary**

*liúntas* This headword is translated as 'allowance' in *Téarmaí Dlí* and in *Ó Dónaill*. *Dinneen* s.v. 'allúntas' (the form in the original text), gives 'allowance, dole, share (*Aran*)'. 'Liúntas' is based on English 'allowance' – see *DIL* s.v. 'liúntas', where this headword is translated as 'pension' with only the following citation: 'do cuireadh go Tor London e le liúntas no pinsion ceithre cced punta' (*Celtica* 1, 247.242). While *De Bhaldraithe* gives the form 'liúntas', according to Professor Máirtín Ó Murchú the form 'allúntas', as the more authentic form, was Tomás de Bhaldraithe's preferred form of this word.

'Liúntais áirithe il-ghnéitheacha déirciúla agus eile' translates 'certain miscellaneous charitable and other allowances' in the Schedule to the Appropriation Act, 1922, 'Leigheas-liúntas' translating 'Remedy Allowance' in the Second Schedule to the Currency Act, 1927. 'Lascaine' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'allowance' in *Iris an Phuist*, 26/6/27, 'allowance form books' being translated as 'leabhair d'fhuirmeacha liúntais' in *Iris an Phuist*, 27/10/26, and 'Allowance Order Book' as 'Leabhar d'Orduithe Liúntais' in *Iris an Phuist*, 26/9/28.

'The chairman of the Advisory Council ... shall be paid such remuneration and allowances as may be determined by the Minister' is translated as 'Íocfar le cathaoirleach na Comhairle Comhairlí ... cibé luach saothair agus liúntais a chinnfidh an tAire' in s49 of the Safety in Industry Act, 1980, 'Íocfar le comhalta den Bhinse cibé luach saothair ... agus liúntais a chinnfidh an tAire' translating 'A member of the Tribunal shall be paid such remuneration and allowances as may be determined by the Minister' in s39(10) of the Redundancy Payments Act, 1967.

*cinnfear* Note that 'cibé daoine eile sa Stát a cinnfear le dlí' renders 'such other persons in the State as may be determined by law' in Article 16.1.2<sup>o</sup>ii, following the Ninth

Amendment of the Constitution Act, 1984. 'Cinnim' is translated as 'I determine (issue, etc.)' and 'I find (as a fact, etc.)' in *Téarmaí Dlí*. 'Cinn' is translated as 'fix, determine, decree' in *Ó Dónaill* – see the commentary on Article 1. Note that the phrase in the original text is 'faoi mar cinnfear'.

Looking at the earlier Acts, 'pé suim bhliantúil no suim eile no pé suimeanna bliantúla no suimeanna eile a chinnfidh an t-Aire Airgid ó am go ham a bheith 'na soláthar oiriúnach' translates 'such yearly or other sum or sums as the Minister for Finance may from time to time determine to be suitable provision' in s2 of the Governor-General's Salary and Establishment Act, 1923. 'Ceap' translates 'determine' in s11 of the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, where 'shall be administered by the District Councils or otherwise as the County Council ... may determine' is translated as 'riarfar é ag na Comhairlí Ceanntair no ar aon chuma eile a cheapfidh an Chomhairle Chontae'. We find 'déanamh amach' in Form 1 of the Schedule to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, where 'The said increased rent is determined as follows' is translated as 'Mar seo leanas isea dinedh amach an cíos méadaithe sin'. In the Eighth Schedule to the Electoral Act, 1923, 'that doubt shall be determined by the Minister for Local Government' is translated as 'is é an t-Aire um Rialtas Áitiúil a chuirfidh an t-amhras san ar neamh-ní'. 'Chosen by a method to be determined by Dáil Éireann' is translated as 'a toghfar i slí a bheartóidh Dáil Éireann' in Article 55 of the 1922 Constitution. 'To hear and determine appeals' is translated as 'chun athchomhairc d'éisteacht agus do bhreithniú' in s3(2) of the Circuit Court Appeals Act, 1927, 'breith do thabhairt ar ath-chomharc' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'to determine an appeal' (followed by what appears to be an inaccurate reference to the National Health Insurance Act, 1925, in s4(a) of which 'such sums in respect of the year 1925 as the Irish Insurance Commissioners ... may determine to be payable to medical practitioners' is translated as 'pé suimeanna i gcóir na bliana 1925 a shocróidh Coimisinéirí Árachais na hÉireann ... a bheith iníoctha le dochtúirí leighis').

*sochair* See the commentary on Article 12.6.3<sup>o</sup>. The singular 'sochar' translates 'emoluments' in the earlier Acts. 'Ná ní bheidh aon oifig ná ionad eile sochair aige' translates 'nor shall he hold any other office or position of emolument' in Article 63 of the 1922 Constitution. 'Tuarastal agus sochar na hoifige do bhí aige cheana' translates 'the salary and emoluments of his previous office' in s11(i) of the Local Government (Temporary Provisions) Act, 1923. In s6(5) of the Superannuation and Pensions Act, 1923, 'regulations ... for determining ... the amount of the increase of pensionable emoluments of any pensioner' is translated as 'rialacháin ... chun a dhéanamh amach ... cá mhéid an méadú a déanfar ar oifig-shochar inphinsin aon phinsineura'. 'Geallbhruifidh an duine sin an oifig, an fhostaíocht, an áit, no an sochar oifige sin láithreach ar n-a chiontú amhlaidh' translates 'such person shall immediately on such conviction forfeit such office, employment, place, or emolument' in s34(1) of the Offences Against the State Act, 1939, this same English text being translated as 'geallbhruifidh an duine sin, láithreach ar dhéanamh an chiontuithe sin, an oifig, an fhostaíocht, an

t-ionad, no an sochar san' in s31(1) of the Constitution (Amendment No. 17) Act, 1931. Finally, note that 'teacht isteach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'emolument' in *Iris an Phuist*, 25/8/26.

As we saw in the commentary on Article 12.6.3°, 'diolaíocht' translates 'emolument' in the later Acts. In s5(1)(e)(i) of the Courts (Supplemental Provisions) Act, 1991, for example, 'is appointed to an office or position of emolument' is translated as '(duine) ... a cheapfar ... chun oifige nó poist diolaíochta', 'that no remuneration, emolument, gain or profit will accrue to the seller therefrom' being translated as 'nach bhfaibhreoidh aon luach saothair, diolaíocht, gnóchan ná brabús as chuig an díoltóir' in s2(g)(ii) of the Casual Trading Act, 1980.

*faoi mar* This phrase is translated as 'as if, as' in *Ó Dónaill*, who cites '*faoi mar a bheadh fearg air*, as if he were angry' and '*faoi mar ba ghnáth leis*, as was usual for him' s.v. 'faoi'. 'Faoi mar atáimid ag dul ar aghaidh' is translated as 'at the rate at which we are progressing', with 'faoi mar' translated as 'according as' s.v. 'mar'. Usually 'as' is left untranslated in the Acts in this context – e.g. 'such other functions as may be delegated to it by the appropriate health board', in s7(5)(b) of the Health Act, 1970, is translated as 'cibé feidhmeanna eile a tharmligfidh an bord sláinte iomchuí chuige'.

### Direct translation

Gheobhaidh an tUachtarán cibé diolaíochtaí agus liúntais a chinnfear le dlí.

## ARTICLE 12.11.3° AIRTEAGAL 12.11.3°

### TÉACS GAEILGE

Ní cead laghdú a dhéanamh ar shochair ná ar liúntais an Uachtaráin le linn é a bheith in oifig.

### LITERAL ENGLISH TRANSLATION

It is not permitted to reduce the benefits/emoluments nor the allowances of the President while he is in office.

### ENGLISH TEXT

The emoluments and allowances of the President shall not be diminished during his term of office.

### Divergences between the official texts

- 1 'Emoluments **and** allowances' is expressed as '(ar) sochair ná ... liúntais' ('emoluments (n) **or** allowances') in the Irish text, this being due to 'shall not' being again expressed as 'Ní cead' ('it is not permitted') in the Irish text.
- 2 As in the previous subsection, 'emoluments' is expressed in the Irish text by the term generally rendering 'benefits', 'sochair'.

### Commentary

*laghdú a dhéanamh ar* 'Laghdú' is translated as 'abatement (i.e. of legacies)' in *Téarmaí Dlí*. 'Laghdaigh' is translated as 'lessen, decrease, diminish; reduce' in *Ó Dónaill*, and 'laghdú' as 'decrease, diminution; reduction', with 'laghdú a dhéanamh ar rud' translated as 'to reduce something'. In s4(i) of the Redundancy Payments Act, 1971, 'the fact that the requirements of that business for employees ... have ceased or diminished' is translated as 'go bhfuil deireadh ... le riachtanas, nó ... go mbeidh laghdú ar riachtanas'. In s56(5)(b) of the Succession Act, 1965, 'that the exercise of that right is unlikely to diminish the value of the assets of the deceased' is translated as 'gurb éadóigh go dtabharfaidh feidhmiú an chirt sin laghdú ar luach sócmhainní an éagaigh'.

'Ní déanfar líomatáiste dlínse aon duine i seilbh oifig chróinéara a laghdú' translates 'the area of jurisdiction of any person holding the office of coroner shall not be diminished' in s9(1) of the Local Government Provisional Orders Confirmation Act, 1950, 'the obligations of the Board ... shall not be diminished' being translated as 'na hoblagáidí a bheidh ar an mBord ... ní laigheadófar iad' in s21 of the Dublin Port and Docks (Bridges) Act, 1929. In s86(4) of the Building Societies Act, 1989, 'that the sending of the statement would be likely to diminish substantially public confidence in the society' is translated as 'gur dóigh, dá gcuirfí amach an ráiteas, go laghdófaí go mór muinín an phobail as an gcumann'.

Looking at earlier Acts, 'Ní féadfar an luach saothair sin do luigheadú an fhaid a leanfaid in oifig' translates 'Such remuneration may not be diminished during their continuance in office' in Article 68 of the 1922 Constitution. 'That his security is seriously diminishing in value' is translated as 'go bhfuil luíodú nách beag ag dul ar luach a urrúis' in s9(ii) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, where 'to correspond to the diminution of the security' is translated as 'do bheith ar co-réir le luíodú an urrúis'.

*ar shochair ... ar liúntais* See the commentary on the previous subsection.

*le linn é a bheith in oifig* See the commentary on Article 12.9.

*ní cead* See the commentary on Article 9.1.3°.

### Gender-proofed Irish text

Ní cead laghdú a dhéanamh ar shochair ná ar liúntais an Uachtaráin le linn é nó í a bheith in oifig.

### Direct gender-proofed translation

Ní dhéanfar diolaíochtaí agus<sup>1</sup> liúntais an Uachtaráin a laghdú<sup>2</sup> le linn a théarma nó a téarma oifige.

### Variants

<sup>1</sup> 'ná'

<sup>2</sup> 'Ní dhéanfar/thabharfar laghdú ar dhíolaíochtaí agus ar liúntais an Uachtaráin', 'Ní laghdófar diolaíochtaí agus liúntais an Uachtaráin'

ARTICLE 13.1.1<sup>o</sup> AIRTEAGAL 13.1.1<sup>o</sup>**TÉACS GAELIGE**

Ceapfaidh an tUachtarán an Taoiseach .i. an Ceann Rialtais nó an Príomh-Aire, arna ainmniú sin ag Dáil Éireann.

**LITERAL ENGLISH TRANSLATION**

The President will appoint the Taoiseach i.e. the Head of Government or the Prime Minister, on his having been nominated by Dáil Éireann.

**ENGLISH TEXT**

The President shall, on the nomination of Dáil Éireann, appoint the Taoiseach, that is, the head of the Government or Prime Minister.

**Divergences between the official texts**

- 1 'Head' has a lower-case 'h' as against the capital 'c' of the corresponding 'Ceann' in the Irish text.
- 2 The definite article is repeated before 'Prime Minister' in the Irish text, this conforming to normal Irish syntax.

Note that 'The President of the Council shall be appointed on the nomination of Dáil Éireann' is translated as 'Ceapfar Uachtarán na hArd-Chomhairle ar ainmniú Dháil Éireann' in Article 53 of the 1922 Constitution. Note also that Article 28.5.1<sup>o</sup> of the 1937 Constitution contains the following:

The head of the Government, or Prime Minister, shall be called ... the Taoiseach. *An Taoiseach is teideal do cheann an Rialtais, .i. an Príomh-Aire.*

**Commentary**

*arna ainmniú sin* 'Arna', made up of the preposition 'ar' and the possessive adjective 'a', is used with the verbal noun to translate 'on his, her, its, their, having been ...' – see *Ó Dónaill* s.v. 'arna', and the commentary on Article 30.2. As regards gender-proofing, note that no distinction is made between number or gender in the case of 'sin', '*a mhac sin*, that man's son' and '*lena dtaobh sin*, as compared to them' being cited in *Ó Dónaill* s.v. 'sin' (e), 'with 3rd person possessive adjective and noun' – i.e. both third person masculine and feminine, singular and plural. The phrase 'muintir Chonamara sin' is cited in *Graiméar Gaelige na mBráithre Críostaí* (p. 50), where it is stated that 'sin' qualifies the feminine noun 'muintir'. See further the commentary on Article 30.2.

'Nominate' is the secondary sense of 'ainmniú' in *Ó Dónaill*, 'name' being the principal sense – see the commentary on Article 12.4.4<sup>o</sup>. 'The Government may, on the nomination of the Taoiseach, appoint not more than 15 persons ... to be Ministers of State ... and may at any time, on the recommendation of the Taoiseach, remove a Minister of State so appointed' is translated as 'Féadfaidh an Rialtas, ar ainmniú an Taoisigh, cúig dhuine dhéag ar a mhéid ... a cheapadh chun bheith ina nAíré Stáit ... agus féadfaidh sé tráth ar bith, ar mholadh an Taoisigh, Aire Stáit a cheapfar amhlaidh a chur as oifig' in s1 of the Table in s2 of the Ministers and Secretaries (Amendment) Act, 1980. 'Who shall be appointed by the Minister on the

nomination of such organisations as ...' is translated as 'a cheapfaidh an tAire ar ainmniú cibé eagraíochtaí a ...' in s6(3)(b) of the *Córas Beostoic agus Feola Act, 1979*.

Looking at earlier Acts, 'agus díobh san ainmneoidh Dáil Éireann dhá dtrian' translates 'of whom two-thirds shall be nominated by Dáil Éireann' in Article 33 of the 1922 Constitution, where 'The method of proposal and selection for nomination shall be decided by Dáil Éireann' is translated as 'Socróidh Dáil Éireann ... an tsli déanfar tairisint agus togha chun ainmniúcháin'. 'Appointed by the Representative of the Crown on the nomination of the President of the Executive Council' in Article 51 thereof is translated as 'ar n-a gceapa ag Ionadaí na Coróinneach ar ainmniú Uachtaráin na hArd-Chomhairle'.

*Príomh-Aire* The headword 'príomh-aire' is given in *Ó Dónaill* and simply translated as 'Prime minister'. General practice in translating is to mirror the capitals of the text being translated, hence 'Príomh-Aire' rather than 'Príomh-aire' would translate 'Prime Minister' – as noted above, however, 'Ceann' has an initial capital as against the lower-case 'h' of 'head'. Also, as the bound form '-aire' is an agent-suffix (in 'cócaire', for example), the hyphen and capital clearly distinguish the noun 'aire'. Note, in contrast to the form of this headword in *Ó Dónaill*, how 'Ard-Fheis' is given there with initial capitals on both elements of the compound.

'Prim-', the earlier form of the indeclinable prefix 'príomh-', comes from Latin 'primus'. DIL cites 'tri primaradu in rig' (i.e. the three principal charioteers of the king) from the old Irish saga *Togail Bruidne Da Derga*, this being a compound of 'prim-' with 'ara', 'charioteer'. Old Irish 'aire' had the general sense of 'noble, chief', 'aire no sainsamail' glossing Latin 'optimas' in the ninth-century St Gall Glosses on Priscian, where Latin 'primus' is glossed by 'airech no thoisecha' – the latter noun being the earlier form of 'taoiseach', associated with 'aire' in the present Article. In early Irish law-tracts 'aire' has a much wider meaning than in the non-legal literature, according to D.A. Binchy, who writes as follows in the 'Legal Glossary' to his edition of the early eighth-century law-tract *Críth Gablach*:

In the Laws *aire* ... is used to describe every freeman, 'commoner' as well as noble, who possesses an independent legal status, with an honour-price accruing to him in virtue of his own status. The *aire* is therefore *sui iuris*, as opposed to those persons, such as women and sons *in potestate*, whose honour-price is derived from the status of their 'superiors'. Occasionally however, *aire* is used in the more restricted sense of 'noble' (as opposed to 'commoner'), which is its usual meaning in the literature.

Note finally that s2 of the Second Article of the 1919 Constitution commences as follows:

Isé bheidh san Aireacht ná Príomh-Aireach ... agus ceathrar Aireach eile ....

See further the commentary on Article 28.5.1<sup>o</sup>.

*an Ceann Rialtais* 'Ceann an teaghlaigh' translates 'the head of the household' in s224(2)(c) of the Social Welfare (Consolidation) Act, 1981, following s24(1)(d) of the Social Welfare Act, 1970, for example. 'An Roinn Stáit gur ceann uirthi é' translates 'the Department of State of which he is

head' in s2(1) of the Ministers and Secretaries Act, 1924. 'Lucht ceannais brainsí' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'heads of branches' (followed by the abbreviation 'R. na G.'), where 'ceannmháighistreas' and 'máistreás cheannais' are both cited as translating 'head mistress' in early official translations, 'Árd-bhanaltra' translating 'Head Nurse' in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. See further the commentary on Article 28.5.1°.

Professor Máirtín Ó Murchú recommends 'Ceann an Rialtais', and remarks also that the article should precede 'Príomh-Aire' in the translation below.

*Ceapfaidh* 'Ceapaim' is translated as 'I appoint' in *Téarmaí Dlí*. This is one of the many senses of the verb 'ceap' which originated in the language as a loanword from Latin 'cippus' – see the commentary on Article 6.1. 'Ceapfaidh Dáil Éireann Ard-Sgrúdaí' translates 'Dáil Éireann shall appoint a Comptroller and Auditor-General' in Article 62 of the 1922 Constitution, for example, 'the Minister shall appoint the person nominated to fill the vacancy' being translated as 'ceapfaidh an tAire an duine a ainmneofar leis an bhfolúntas a líonadh' in s17 of the Schedule to the Employment Equality Act, 1977.

*Taoiseach* See the commentary on Article 28.5.1°.

### Standardised gender-proofed Irish text

Ceapfaidh an tUachtarán an Taoiseach, .i. an Ceann Rialtais nó an Príomh-Aire, arna ainmniú nó arna hainmniú sin ag Dáil Éireann.

### Direct translation

Déanfaidh an tUachtarán, ar ainmniú Dháil Éireann<sup>1</sup>, an Taoiseach, i.e. an ceann Rialtais<sup>2</sup> nó Príomh-Aire<sup>3</sup>, a cheapadh.<sup>4</sup>

### Variants

- 1 'arna ainmniú nó arna hainmniú sin ag Dáil Éireann'
- 2 'ceann an Rialtais'
- 3 'an Príomh-Aire'
- 4 'Déanfaidh an tUachtarán an Taoiseach, i.e. an ceann Rialtais nó Príomh-Aire, a cheapadh, ar ainmniú Dháil Éireann.', 'Ceapfaidh an tUachtarán an Taoiseach, i.e. an ceann Rialtais nó Príomh-Aire, ar ainmniú Dháil Éireann.'

## ARTICLE 13.1.2° AIRTEAGAL 13.1.2°

### TÉACS GAEILGE

Arna n-ainmniú ag an Taoiseach, le comhaontú Dháil Éireann roimh ré, ceapfaidh an tUachtarán na comhaltaí eile den Rialtas.

### LITERAL ENGLISH TRANSLATION

On their having been nominated by the Taoiseach, with the agreement of Dáil Éireann beforehand, the President will appoint the other members of the Government.

### ENGLISH TEXT

The President shall, on the nomination of the Taoiseach

with the previous approval of Dáil Éireann, appoint the other members of the Government.

### Divergences between the official texts

- 1 While no such comma is found in the Irish text in the latest Stationery Office edition, in the original Irish text a comma follows 'Arna n-ainmniú ag an Taoiseach' – i.e. the Irish text corresponding to 'on the nomination of the Taoiseach with the previous approval of Dáil Éireann' is interrupted by a comma after 'on the nomination of the Taoiseach' – both texts, however, appearing to be capable of being read as if the agreement/approval of Dáil Éireann preceded the nomination rather than the appointment.
- 2 'Approval' is expressed as 'comhaontú' ('agreement') in the Irish text, 'formheas' being the Irish legal term for 'approval'.
- 3 While each subsection of the English text of Article 13.1 commences with the phrase 'The President shall ...', no such correspondence is found in the Irish text.

### Commentary

*comhaontú* 'Glac' and 'glacadh' express 'approve' and 'approval' in Article 27.5.2°, 'mura nglactar, agus go dtí go nglactar, an togra' expressing 'unless and until the proposal shall have been approved' in Article 27.5.1°. Note, however, that we find 'glac' expressing 'accept' with 'aontú' expressing 'approval' in Article 40.2.2°: 'No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government' being expressed as 'Ní cead d'aon saoránach gairm uaisleachta ná gairm onóra a ghlacadh ach le haontú roimh ré ón Rialtas'. 'Unless the terms of the agreement shall have been approved by Dáil Éireann' is expressed as 'mura dtoilí Dáil Éireann le téarmaí an chonartha' in Article 29.5.2°. 'Every such message or address must, however, have received the approval of the Government' is expressed as 'Ach i ngach cás díobh sin ní foláir an Rialtas a bheith sásta roimh ré leis an teachtaireacht nó leis an aitheasc' in Article 13.7.3°. In line with current practice in the Acts, however, 'ceadú' renders 'approval' in the Amendment contained in Article 29.4.6°, where 'any such exercise shall be subject to the prior approval of both Houses of the Oireachtas' is rendered as 'ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais'.

'Comhaontú' is translated as 'agreement' in *Téarmaí Dlí*, following five of the ten Irish Legal Terms Orders, 'aontú' being translated as 'assent'. *Ó Dónaill* translates 'comhaontú' as 'union, unification' and 'agreement'. 'Cómhaontughadh' is translated as 'act of agreeing; assent' in *Dinneen* and 'comáentugud' is translated as 'act of agreeing, consenting (to); consent; agreement, compliance' in *DIL*. 'Comáentu' ('comhaontadh' being the form in the original text, i.e. 'com-' ['together'] and 'oentu' ['oneness', 'unity', 'association']) is translated principally as 'unity, concord, harmony, identity; compact, agreement, alliance' in *DIL*, with the secondary sense of '(physical) association; sexual union'.

'Approval' is translated as 'formheas' in *Téarmaí Dlí*. While this translation is followed in some Acts, 'ceadú' frequently translates 'approval' in the Acts, particularly in translating 'previous approval' as we see below. In s2(2)(d)



of the Consumer Information Act, 1978, 'implied by the approval of any person' is translated as 'is inchiailithe ó fhormheas aon duine'. In *Treaties establishing the European Communities* (1973), 'with the approval of the Council' is translated as 'le formheas na Comhairle'. On the other hand, 'Unless made with the previous approval of the Minister' is translated as 'mura ndéanfar é le ceadú roimh ré ón Aire' in s8 of the Irish Telecommunications Investments Limited Act, 1981. In s16 of the Air Companies Act, 1966, 'an alteration in the said memorandum or articles shall not be valid or effectual unless made with the previous approval of the Minister' is translated as 'ní bheidh aon athrú ar an meabhrán nó ar na hairteagail sin baili ná éifeachtúil gan ceadú a bheith faighte chuige roimh ré ón Aire', 'with the approval of the Minister signified in writing' being translated as 'le haontú i scríbhinn ón Aire' in s334(1) of the Companies Act, 1963. 'No alteration in the memorandum of association ... of the Company ... shall be valid or effectual unless made with the previous approval of the Minister for Finance' is translated as 'ní bheidh dleathacht ná éifeacht ag aon atharú ar mhemorandum chomhlachais ... na Cuideachtan a déanfar ... mara ndeinidh an tAire Airgid ... aontú roimh ré leis an atharú san do dhéanamh' in s85 of the Insurance Act, 1936. On the *Order Paper* of Dáil Éireann for 5/7/77, in line with the Constitution, 'Approval of Nominations by the Taoiseach of other Members of the Government' is translated as 'Comhaontú leis an Taoiseach d'ainmniú na gComhaltai eile den Rialtas'. On the other hand, on 12/10/77, 'that Dáil Éireann approves the terms ...' is translated as 'go gceadaíonn Dáil Éireann téarmaí an ...', this being the standard translation of that phrase. In s102(c) of the *Standing Orders* of Dáil Éireann (1997), 'subject to the approval of the Joint Broadcasting Committee' is translated as 'faoi réir cheadú an Chomhchoiste Craolacháin'.

'Mola' translates 'approval' in early Acts, but we also find 'ceadú' and 'aontú', with 'toiliú' being found in other official translations. 'Subject to the approval of the Minister for Finance' is translated as 'fé mhola an Aire Airgid' in s6 of the Comptroller and Auditor-General Act, 1923, 'any deputy for the time being approved by the Minister for Local Government' being translated as 'aon duine ionaid, a bheidh molta de thuras na huairé ag an Aire um Rialtas Áitiúil' in s10(1) of the Electoral Act, 1923. On the other hand, 'To become properly constituted and approved Irish Societies' is translated as 'Cumainn Éireannacha ceartbhunuithe ceaduithe ... do dhéanamh díobh féin' in s5(1)(a) of the National Health Insurance Act, 1923, and in s92(1) of the Dundalk Harbour and Port Act, 1925, 'they shall first submit for the reasonable approval of the railway company plans' is translated as 'déanfid ar dtús pleananna ... do chur fé bhráid na cuideachtan bóthair iarainn, chun a gceaduithe go réasúnta'. 'A copy of any consent, approval, sanction, decision, resolution or special resolution of the Conference' is translated as 'cóip d'aon toiliú, aontú, ceadú, breith, rún no rún speisialta ón gCódháil' in s11 of the Methodist Church in Ireland Act, 1928. 'Toiliú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'approval' in early translations for the Department of Local Government and Public Health, 'toil' translating 'approval' in *Iris Oifigiúil*, 1922/23. 'Deimhniú sástachta' translates 'Certificate of

approval' in early translations for the above-mentioned Department.

Note finally that 'formheas' is translated as 'approval' in *Ó Dónaill*. 'Ceadaim' is translated as 'I allow (a question, costs, etc.)' in *Téarmaí Dlí*. Professor Máirtín Ó Murchú comments that 'formheas' would not suit the context – nor would it be readily understood – either 'aontú' or 'comhaontú' being satisfactory in his opinion.

*roimh ré* 'Cíos iníoctha roimh ré' is translated as 'rent payable in advance' in *Téarmaí Dlí*, 'roimh ré' being translated as 'in advance, beforehand' in *Ó Dónaill*. 'Previous service' is translated as 'seirbhís roimh ré' in s3(a) of the Electricity (Supply) (Amendment) Act, 1970. In s1 of the Solicitors (Amendment) Act, 1947, 'the previous requisite search and inquiry' is translated as 'an réamhchuardach agus an réamhfhiosrú is gá'. In s4(4) of the Sixth Schedule to the Finance Act, 1990, 'and so on back through previous acquisitions' is translated as 'agus mar sin siar trí fháilleana roimhe sin'. 'Roimh ré' also translates 'prior', 'preliminary to' ('a ghabh roimh ré', 'a tabhaíodh roimh ré'), 'advance' ('advance payments of contributions', 'ranníoca d'íoc roimh ré') in the Acts and 'anticipated' ('the matter anticipated', 'an ní ar a dtráchtfar roimh ré') – '... anticipate the discussion' is translated as '(ní) thráchtfaidh sé roimh ré ar aon ní' in the *Standing Orders* of Dáil Éireann – along with 'in advance' and 'previously' in translations of European legislation, where 'breith a thabhairt roimh ré' translates 'prejudice'.

'Seirbhís roimh ré' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'previous service' in early translations for the Department of Justice. 'Such annulment shall not prejudice or invalidate any matter or thing previously done under such regulation' is translated as 'ní dhéanfidh an nea-mbriochaint sin dochar ná díth dleathachta d'aon rud ná d'éinní a dineadh fén rialachán san roimhe sin' in s4(3) of the Civil Service Regulation Act, 1923. 'Certain provisions of previous enactments', in the Margin Title of s71 of the Land Act, 1923, is translated as 'forálacha áirithe de shean-achtacháin' and 'being deemed to be a graft on such purchaser's previous interest' is translated as 'd'áireamh mar ghreamú ar roimh-leas an cheannuitheora san' in s2(1)(b) of the Agricultural Credit Act, 1928.

*arna n-ainmniú ag* See the commentary on the previous subsection. As noted above, in the original text (followed in earlier popular editions), a comma follows the phrase 'Ar n-a n-ainmniú ag an Taoiseach'.

### Direct translation

Déanfaidh an tUachtarán, ar ainmniú an Taoisigh le ceadú<sup>1</sup> Dháil Éireann roimh ré<sup>2</sup>, na comhaltai eile den Rialtas a cheapadh.<sup>3</sup>

### Variants

- 1 'formheas'
- 2 'roimhe sin'
- 3 'Ceapfaidh an tUachtarán na comhaltai eile den Rialtas, ar ainmniú an Taoisigh, le ceadú Dháil Éireann roimh ré.'

ARTICLE 13.1.3<sup>o</sup> AIRTEAGAL 13.1.3<sup>o</sup>**TÉACS GAEILGE**

Ar chomhairle an Taoisigh ní foláir don Uachtarán glacadh le haon chomhalta den Rialtas d'éirí as oifig, nó comhalta ar bith den Rialtas a chur as oifig.

**LITERAL ENGLISH TRANSLATION**

On the advice of the Taoiseach the President must accept any member of the Government giving up office, or any member of the Government being put out of office. / or put any member of the Government out of office.

**ENGLISH TEXT**

The President shall, on the advice of the Taoiseach, accept the resignation or terminate the appointment of any member of the Government.

**Divergences between the official texts**

- 1 The Irish text can perhaps be read as if both the resignation and the termination of the appointment were subject to their acceptance by the President, whereas in the English text it is not that the President will accept the termination but will actually be the terminator – the Irish text may also be read, however, as 'ní foláir don Uachtarán ... comhalta ar bith den Rialtas a chur as oifig' ('the President must ... put any member of the Government out of office') rather than 'ní foláir don Uachtarán glacadh le comhalta ar bith den Rialtas a chur as oifig' ('the President must accept any member of the Government being put out of office').
- 2 'Terminate the appointment' is expressed as 'a chur as oifig' ('put out of office') in the Irish text.
- 3 'Resignation' is expressed as a verbal noun in Irish, 'The President shall ... accept the resignation of any member' being expressed as 'ní foláir don Uachtarán glacadh le haon chomhalta ... d'éirí as oifig' ('The President must accept any member resigning from office') in the Irish text.
- 4 'Any member of the Government' is expressed twice in the Irish text.
- 5 'Shall' is again expressed as 'Ní foláir' ('must') in the Irish text.

**Commentary**

*a chur as oifig* Literally 'to put out of office'. In the *Proceedings* of Dáil Éireann for 6/5/1970, under the heading 'Ceapadh Comhaltaí den Rialtas a Fhoirceannadh' ('Termination of Appointment of Members of the Government'), 'terminate their appointments' is translated as 'a gceapacháin a fhoirceannadh':

D'fhógair an Taoiseach gur iarr sé ar an Teachta Niall Bléine agus ar an Teachta Cathal Ó hEochaidh éirí as oifig mar chomhaltaí den Rialtas agus ... go ndearna an tUachtarán, ar a chomhairleisean, a gceapacháin mar chomhaltaí den Rialtas a fhoirceannadh ... *The Taoiseach announced that he had requested Deputies Neil T. Blaney and Charles J Haughey to resign from office as members of the Government and that ... the President had, on his advice, terminated their appointments as members of the Government.*

'He shall terminate the appointment as soon as practicable' is translated as 'foirceannfaidh sé an ceapachán a luaithe is indéanta sin' in s11(3) of the Safety, Health and Welfare (Offshore Installations) Act, 1987, 'The Minister ... may at any time terminate the appointment of a deputy manager' being translated as 'Féadfaidh an tAire ... ceapadh leas-bhainisteora d'fhoirceannadh tráth ar bith' in s18(4) of the City and County Management (Amendment) Act, 1955, with 'The Minister may at any time terminate the appointment of a member of the Council who was appointed by him' being translated as 'Féadfaidh an tAire tráth ar bith ceapadh comhalta den Chomhairle a cheap sé féin a fhoirceannadh' in s3 of the Second Schedule of the Medical Practitioners Act, 1978. See further the commentary on Article 28.9.4<sup>o</sup>.

Looking at early Acts, 'the Guardians in each Union shall call a special meeting to terminate the appointment of all officials' is translated as 'gairmfidh Caomhnóirí gach Aontais fé leith cruinniú speisialta chun cur-ar-ceal do dhéanamh ar cheapa gach oifigigh' in s12 of the 'Sligo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. In s10 of the National Health Insurance Act, 1923, 'requiring the payment of a fee by a member of an Approved Society on terminating his membership' is translated as 'a orduíonn do bhall de Chumann Cheaduithe táille d'íoc nuair a cuirtear deire le n-a bhallraíocht'. 'The conditions governing the future acquisition and termination of citizenship in the Irish Free State', in Article 3 of the 1922 Constitution, is translated as 'na coiníollacha a rialóidh feasta saoránacht d'fháil agus do chríochnú i Saorstát Éireann'. 'Éinne go luíodófar no go stopfar a phinsean' translates 'any person whose pension is reduced or terminated' in s3(3) of the Old Age Pension Act, 1924, and 'the reputed proprietors ... of the ... lands ... proposed to be compulsorily acquired, restricted, terminated or otherwise interfered with or affected' is translated as 'na daoine atá in ainm bheith ina ndilseánaigh ... ar na tailte ... go moltar iad do thógaint go héigeanta, do shriana, do stad no cur isteach ortha no baint leo ar aon tslí eile' in s6(2)(e) of the Arterial Drainage Act, 1925.

Finally, regarding 'appointment', both 'ceapachán' and 'post' are cited in the *Oireachtas Dictionary of Official Terms* as translating 'appointment' in *Iris Oifigiúil*, 1922/23. 'Every appointment to any situation to which this Act applies shall be made by means of competitive examination' is translated as 'isé cuma ina ndéanfar gach ceapa chun aon phuist le n-a mbaineann an tAcht so ná tré scrúduithe comórtais' in s4(1) of the Civil Service Regulation Act, 1923. 'Appointment' is translated as 'ceapachán' in *Téarmaí Dlí*, which translation is followed in the modern Acts.

*d'éirí as oifig* 'Éirigh as' is translated as 'rise out of' and 'give up, relinquish' in *Ó Dónaill*, who cites 'éirí as obair, to quit work' and '*d'éirigh sé as a phost*, he resigned from his post' – see the commentary on Article 12.3.1<sup>o</sup>. 'Éirí' is the verbal noun of 'éirigh', 'd'éirí as' being 'to resign'. In *De Bhaldráithe*, for example, 'to tender one's resignation' is translated as 'tairiscint éirí as', i.e. 'to tender to resign'. 'To accept the resignation of N.' is translated as 'glacadh le A. d'éirí as' in *Foclóir Oifigiúil* (citing *Iris Oifigiúil*, 1924, p. 503, as source). 'Resignation of Members' is translated as 'Comhaltaí d'éirí as' in the *Standing Orders* of Dáil

Éireann (s159). See also the commentary on Article 28.9.1<sup>o</sup>.

We see the effort made to find a single term to express the noun 'resignation' in the Local Elections and Meetings (Post-Ponement) Act, 1931. The heading for s8, 'Remission of penalties for resignation', is translated as 'Pionóisi ghabhann le heirghe-as do mhaitheamh' and in the section itself the genitive is given in the phrase 'alos an eirthe-as san', translating 'on account of such resignation'. In the *Proceedings* of Dáil Éireann for 5 May 1970, under the heading 'Comhalta den Rialtas d'Éirí as Oifig' ('Resignation of Member of the Government') we read:

D'fhógair an Taoiseach go ndearna an Teachta Mícheál Ó Móráin a éirí-as-oifig mar chomhalta den Rialtas a chur in iúl dó chun an scéal a chur faoi bhráid an Uachtaráin agus gur ghlac an tUachtarán, ar a chomhairle sin, leis an éirí-as-oifig le héifeacht ó 5 Bealtaine, 1970. *The Taoiseach announced that Deputy Michael Moran had placed in his hands, for submission to the President, his resignation from office as a member of the Government and that the President, on his advice, had accepted the resignation with effect from 5th May, 1970.*

The following day, 'éirí as oifig' – in relation to Kevin Boland's resignation – is no longer hyphenated.

'Féadfaidh an tUachtarán glacadh le tairiscint oifigigh éirí as a choimisiún nó féadfaidh sé diúltú d'í a ghlacadh' translates 'The President may accept or refuse to accept the resignation of his commission tendered by an officer' in s49(2) of the Defence Act, 1954, 'An officer may ... tender to the President the resignation of his commission' being translated as 'Féadfaidh oifigeach a thairiscint don Uachtarán ... éirí as a choimisiún'. 'A vocational education committee may from time to time accept the resignation or revoke the appointment of a banking company as treasurer' is translated as 'Féadfaidh coiste oideachais ghairme beatha o am go ham glaca le cuideachtaí bhancaeareachta d'eirghe as bheith ina cisteoir nó a ceapa mar chisteoir do cheiliúra' in s47(2) of the Vocational Education Act, 1930. Note that 'requiring him to tender his resignation' is translated as 'á cheangal air a éirí as a thairiscint' in s9(2)(c)(iv)(III) of the Civil Service Regulation Act, 1956. Finally, 'and the resignation shall take effect at the commencement of the meeting of the Commission held next after the Commission has been informed by the Government of the resignation' is translated as 'agus glacfaidh an t-éirí as éifeacht an tráth a thosóidh an chéad chruinniú eile den Choimisiún a thionólfar tar éis don Rialtas an t-éirí-as a chur in iúl don Choimisiún' in s2(3) of the Schedule to the Radio and Television Act, 1988.

Looking at early Acts, in s2(1) of the Superannuation and Pensions Act, 1923, 'that any person resigned or was dismissed from the Civil Service of the Late United Kingdom of Great Britain and Ireland' is translated as 'gur thárla d'aon duine áirithe ... gur éirigh sé no gur briseadh é as Seirbhís Shíbhialta Ríocht Aontuithe na Breatain Móire agus na hÉireann a bhí ann le déanaí', 'the period between the date on which such person so resigned or was dismissed from the Civil Service of the United Kingdom aforesaid' being translated there as 'an tréimhse idir an dáta ar ar éirigh no ar ar briseadh an duine sin mar sin as Seirbhís Shíbhialta na Ríochta Aontuithe roimhráite' and 'that he so resigned or was dismissed as aforesaid solely for political reasons' is translated as 'toisc gur ar chúiseanna polaitíochta amháin a dhin sé eirghe-as no a briseadh é

mar adubhradh'. 'Tabhairt suas' translates 'resignation' in Article 29 of the 1922 Constitution where 'In case of death, resignation or disqualification of a member of Dáil Éireann' is translated as 'I gcás teachta de Dháil Éireann d'fháil bháis, do thabhairt suas no do theacht fé mhí-cháiliocht'. 'Tarraing siar' is included in the *Oireachtas Dictionary of Official Terms* where 'at the time of the resignaion of ...' is cited as being translated as 'ar an am gur tharraing ... siar' in early translations for the Department of Local Government and Public Health.

Note, finally, that 'a' would replace 'd(o)' in 'd'éirí as oifig' according to *Ó Dónaill* – see the commentary on Article 3 – and that the original 'do chur as oifig' is standardised to 'a chur as oifig' in the popular edition.

*comhairle* This headword is translated as 'advice' in *Téarmaí Dlí*. *Ó Dónaill* cites '*más ar mo chomhairle atá, if it is for one to advise*', '*bheith ar chomhairle duine, to be influenced, led, by someone*' and '*d'fhan sé ar chomhairle a athar, he let his father direct him*'. 'Ceapfar an Gobharnóir ag an Uachtarán ar chomhairle an Riaghaltais' translates 'The Governor shall be appointed by the President on the advice of the Government' in s19(1) of the Central Bank Act, 1942, 'féadfaidh an Chomhairle, ar chomhairle an choiste, rialacha den sórt sin a dhéanamh' translating 'An Chomhairle may, on the advice of the committee, make such rules' in s49(1)(d) of the Industrial Training Act, 1967. Looking at the early Acts, 'Ní féadfar Dáil Éireann do sgur aon uair ach ar chomhairle na hArd-Chomhairle' translates 'Dáil Éireann may not at any time be dissolved except on the advice of the Executive Council' in Article 28 of the 1922 Constitution. In Article 5, however, 'except with the approval or upon the advice of the Executive Council of the State' is translated as 'ach le cead no ar mhola Ard-Chomhairle an Stáit'.

Note finally in passing that 'Nóta Foláirimh' translates 'Advice Note' in s11 of the 'Kildare County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, where, 'That all payments when authorised shall be made by the County Board of Health by means of Advice Notes and Paying Orders' is translated as 'Bord Sláinte na Contae d'íoc gach íocaíochta le Nótaí Foláirimh agus le hOrduithe Íocaíochta tar éis an íocaíocht do bheith údaruithe'. 'Fuláreamh' translates 'advice' in *Iris an Phuist*, 24/3/26. 'Innsin-nóta' and 'innsin-tarrac' respectively are cited in the *Oireachtas Dictionary of Official Terms* as early translations of 'advice note' and 'advice draft'.

*glacadh le* 'Glacaim le' is translated as 'I accept' in *Téarmaí Dlí*. See the commentary on Article 28.9.3<sup>o</sup>. Note above that 'to accept resignation of (N)' is translated as 'glaca le (A) d'eirghe as' in *Iris Oifigiúil*, 1924, p. 503. '(May) draw accept and endorse Bills of Exchange' is translated as 'féadfid Billí Malairte ... do tharang, do ghlaca agus do chur fé chúl-scriobh' in s17 of the Sligo Lighting and Electric Power Act, 1924. Finally, note in passing that 'acceptances of trusts' is translated as 'aiceaptaí iontaobhaisí' in early *Standing Orders* of Dáil Éireann (see the *Oireachtas Dictionary of Official Terms*).

*comhalta ar bith* 'Any member'. Note that 'aon chomhalta' also expresses 'any member' in this subsection – the English text's 'any member' is expressed twice in the Irish text.

### Standardised Irish text

Ar chomhairle an Taoisigh ní foláir don Uachtarán glacadh le haon chomhalta den Rialtas a éirí as oifig, nó comhalta ar bith den Rialtas a chur as oifig.

### Direct translation

Ar chomhairle an Taoisigh, glacfaidh an tUachtarán le héirí-as<sup>1</sup> aon chomhalta den Rialtas nó déanfaidh an tUachtarán ceapachán aon chomhalta<sup>2</sup> den Rialtas a fhoirceannadh.

### Variants

- 1 'le héirí as oifig', 'le héirí as'
- 2 'comhalta ar bith'

## ARTICLE 13.2.1<sup>o</sup> AIRTEAGAL 13.2.1<sup>o</sup>

### TÉACS GAELIGE

Is é an tUachtarán, ar chomhairle an Taoisigh, a chomórfas agus a lánscoirfeas Dáil Éireann.

### LITERAL ENGLISH TRANSLATION

It is the President, on the advice of the Taoiseach, who will convene and dissolve Dáil Éireann.

### ENGLISH TEXT

Dáil Éireann shall be summoned and dissolved by the President on the advice of the Taoiseach.

### Divergences between the official texts

- 1 'Summon' is expressed by 'comóir' ('convene') in the Irish text, although the term 'comóir' does translate 'summon' in the Acts.
- 2 The Irish text places emphasis on it being the President who summons and dissolves the Dáil whereas the English text focuses on how the Dáil will be summoned and dissolved.

Note that 'The Oireachtas shall be summoned and dissolved by the Representative of the Crown' is translated as 'Déanfaidh Ionadaí na Coróinneach in ainm an Rí an t-Oireachtas do ghairm agus do sgur' in Article 24 of the 1922 Constitution.

### Commentary

*a chomórfas* 'Comóir' is translated as 'convene, assemble' in *Ó Dónaill*, who cites '*aonach, cruinniú, a chomóradh*, to convene a fair, a gathering'. *Dinneen* translates 'comóir' as 'I magnify, extol, convene (an assembly) ...'. See the commentary on Article 12.3.3<sup>o</sup> for the development of the senses of this verb and see the commentary on Article 6.1 regarding the special form of the relative in '-s'.

In s1(1) of the European Communities (Amendment) Act, 1973, 'déanfaidh an Ceann Comhairle Dáil Éireann a chomóradh chun cruinniú ar lá a shonróidh sé' translates 'the Ceann Comhairle shall summon Dáil Éireann to meet on a day named by him', 'oibreoidh sé chun an tOireachtas

... a chomóradh le hationól' translating '(the order) shall operate to summon the Oireachtas ... to reassemble' in s1(5) of the Electricity (Special Provisions) Act, 1966. In s24(1) of *Standing Orders* of Dáil Éireann (1997), 'the Ceann Comhairle may summon the Dáil' is translated as 'féadfaidh an Ceann Comhairle an Dáil a chomóradh', while in s86(1) 'the Clerk ... shall convene a meeting' is translated as 'déanfaidh an Cléireach ... cruinniú a chomóradh'. *L. Mc Cionnaith* translates 'summon Parliament' as 'Pairlimint do chomóradh', followed by the abbreviation for 'Terms published by Department Education (*Foclóir Staire, Téarmaí Gramadaighe, Téarmaí Eoluigheachta, Téarmaí Ceoil*)'.

'The Provisional Council shall convene a further General Meeting' is translated as 'déanfaidh an Chomhairle Shealadach Cruinniú Ginearálta eile a thoghairm' in s12(4) of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969. 'Fógra a d'Fhoilsigh an Ceann Comhairle ag Gairm na Dála Teacht le chéile an lá seo' translates 'Notice Published by the Ceann Comhairle Summoning the Dáil to meet on this Day' in the *Proceedings* of Dáil Éireann, 20/10/1971 – 'Dáil Éireann a chomóradh', however, translates 'summon Dáil Éireann' in the notice itself. In the *Proceedings* of 2/7/1969, 'I, Éamon de Valéra ... , summon and call together Dáil Éireann' is translated as 'déanaimse, Éamon de Valéra, ... Dáil Éireann ... a ghairm agus a chomóradh chun teacht le chéile ...'. In s9(2) of the Court-Martial Appeals Act, 1983, 'the Court shall be summoned in accordance with directions to be given by the Chief Justice' is translated as 'gairfear an Chúirt de réir ordúithe a thabharfaidh an Príomh-Bhreitheamh', 'the Court of Criminal Appeal shall be summoned in accordance with directions to be given by the Chief Justice' being translated as 'déanfar an Chúirt Achomhairc Choiriúil a chomóradh de réir ordúithe a thabharfaidh an Príomh-Bhreitheamh' in s3(2) of the Courts (Establishment and Constitution) Act, 1961. 'At the meeting of the county council or elective body concerned summoned for the purpose under this section' is translated as 'ag an gcruinniú, ar n-a ghairm chuige sin féin alt so, den chomhairle chontae no den chólucht toghaidhe le n-a mbainfidh' in s29(4) of the County Management Act, 1940, 'gairmfear cruinniú de sna seana-chomhaltaí den chomhairle sin' translating 'a meeting of the former members of such council shall be summoned' in s37(3)(c) of the Seanad Electoral (Panel Members) Act, 1937.

*Ó Dónaill* cites '*níor gaireadh chun an chruinnithe iad*, they were not summoned to the meeting' while 'gairm scoile' is translated as 'convocation', 'gairm slógaidh' as 'call to arms, mobilization' and 'gairm choiteann a thabhairt' as 'to give a general invitation; to issue a general proclamation'. *Dinneen* translates 'gairim' as 'I call, summon', and 'cuirim gairm ar' as 'I summon'. DIL translates 'gairid' (II) as 'calls, summons, invites' and translates 'gairm' as 'act of calling or summoning; a call, summons, cry', where 'gairm coitcheann do theacht o Roim', regarding the Papal Jubilee of 1300, is cited from the *Annals of Ulster*. 'Gairm' is the verbal noun of 'gair'. Note finally that *De Bhaldraithe* translates 'summon' as 'tionólaim (cruinniú)'.

*a lánscoirfeas* 'Lánscoir' is translated as '(of parliament) dissolve' in *Ó Dónaill*. This headword is a compound of 'lán' ('full') and 'scoir', the secondary sense of which is

'come to a halt, stop, rest', according to *Ó Dónaill*. The primary sense of the earlier verb 'scurid' is 'unyoke (horse, etc.)', according to DIL. In s127(1) of the *Standing Orders* of Dáil Éireann (1997), 'by reason of the dissolution of the Dáil' is translated as 'toisc an Dáil a lánscor'. In s7(2)(b) of the Electoral (Amendment) Act, 1969, 'in relation to any bye-election occurring before the dissolution of Dáil Éireann which next occurs after the passing of this Act' is translated as 'maidir le haon chorrthoghchán a tharlóidh roimh an lánscor ar Dháil Éireann is tuisce a tharlóidh tar éis an tAcht seo a rith'. Note above that the simple verb 'sgur' translates 'dissolves' in the 1922 Constitution; Professor Máirtín Ó Murchú remarks that a possible reason for using 'lánscor' is to differentiate between a 'break' for holidays and a 'dissolution'.

'Dissolve' is also translated as 'discaoil' in the Acts. 'Discaoilim comhpháirtíocht' translates 'dissolve (a) partnership' in *Téarmaí Dlí* while *Ó Dónaill* cites '*comhthionól a dhíscaoileadh*, to dissolve an assembly'. 'The Board may at any time dissolve a committee' is translated as 'Féadfaidh an Bord aon tráth coiste ... a dhíscaoileadh' in s25(5) of the Horse Industry Act, 1970, and in s26(2) of the Dublin Cemeteries Committee Act, 1970, 'by reason of the dissolution of the 1846 Committee' is translated as 'de dhroim discaoileadh Choiste 1846'. 'An Act ... to dissolve Iontaobhas Iascaigh Intíre Ioncorportha (The Inland Fisheries Trust Incorporated)', in the Long Title of the Fisheries Act, 1980, is translated as 'Acht ... do dhíscaoileadh an Iontaobhais Iascaigh Intíre Ioncorportha'. 'Scaoileadh' translates 'dissolution (i.e. of marriage)' in *Téarmaí Dlí*. See further the commentary on Articles 18.4.3<sup>o</sup> and 18.8 and see the commentary on Article 6.1 regarding the special form of the relative in '-eas'.

### Standardised gender-proofed Irish text

Is é nó is í an tUachtarán, ar chomhairle an Taoisigh, a chomórfaidh agus a lánscóirfidh Dáil Éireann.

### Direct translation

Déanfaidh an tUachtarán Dáil Éireann a ghairm<sup>1</sup> agus a lánscor<sup>2</sup> ar chomhairle an Taoisigh.<sup>3</sup>

### Variants

- 1 'a chomóradh'
- 2 'a scor', 'a dhíscaoileadh'
- 3 'Is é nó is í an tUachtarán, ar chomhairle an Taoisigh, a ghairfidh agus a scoirfidh Dáil Éireann.', 'Déanfar Dáil Éireann a ghairm agus a scor ag an Uachtarán ar chomhairle an Taoisigh.'

## ARTICLE 13.2.2<sup>o</sup> AIRTEAGAL 13.2.2<sup>o</sup>

### TÉACS GAELIGE

Tig leis an Uachtarán, as a chomhairle féin, diúltú do Dháil Éireann a lánscor ar chomhairle Taoisigh nach leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis.

### LITERAL ENGLISH TRANSLATION

The President can, in his own judgement, refuse to dissolve

Dáil Éireann on the advice of a Taoiseach of whom a majority in Dáil Éireann do not continue to be in support.

### ENGLISH TEXT

The President may in his absolute discretion refuse to dissolve Dáil Éireann on the advice of a Taoiseach who has ceased to retain the support of a majority in Dáil Éireann.

### Divergences between the official texts

- 1 'In his absolute discretion' is expressed as 'as a chomhairle féin' ('in his own judgement' [literally 'from his own counsel']) in the Irish text.
- 2 In the Irish text the Taoiseach is one with whom a majority do not continue to be in support – the majority being the agents – whereas in the English text the Taoiseach ceases to retain the support of the majority, i.e. the Taoiseach is the agent.

### Commentary

*as a chomhairle féin* *Dinneen* translates 'as mo chomhairle féin' as 'on my own initiative [which phrase is translated as 'ar/as a thionscnamh féin' in modern Acts], doing as I like' and 'as comhairle a chéile' as 'in concert'. *Ó Dónaill* cites '*tá siad ar a gcomhairle féin*, they do as they like'. 'Comhairle' is translated as 'advice' in *Téarmaí Dlí*. Old Irish 'comairle' is the verbal noun of 'con-airlethar', 'consults'.

'At the discretion of' is translated as 'faoi rogha' in *Téarmaí Dlí*, where 'judicial discretion' is translated as 'rogha bhreithiúnach' and 'I exercise discretion' is translated as 'déanaim rogha'. 'Absolute' is translated as 'iomlán' in *Téarmaí Dlí*, where 'absolute privilege', for example, is translated as 'pribhléid iomlán'. In s171(2) of the Social Welfare (Consolidation) Act, 1981, 'the person in charge ... may, in his absolute discretion, do either or both of the following' is translated as 'féadfaidh an duine is feighlí, ... dá rogha féin amháin, ceachtar ní nó an dá ní acu seo a leanas a dhéanamh', 'The licensee may at any time in his absolute discretion refuse to sell or serve intoxicating liquor to any person' being translated as 'Féadfaidh an ceadúnaí tráth ar bith dá roghain féin a dhiúltú deoch mheisciúil a dhíol le duine ar bith nó d'fhriotháil air' in s49(2) of the Tourist Traffic Act, 1952. In s6 of the Housing (Gaeltacht) (Amendment) Act, 1964, 'The Minister may, in his absolute discretion, refuse to make a building grant' is translated as 'Féadfaidh an tAire, dá rogha féin amháin, diúltú deontas tógála ... a thabhairt' and in s10(1) of the Air Navigation and Transport Act, 1965, 'The Minister may in his absolute discretion approve ... the fares' is translated as 'Féadfaidh an tAire, dá rogha féin amháin, na táillí ... a cheadú'. In s3 of Part II of the First Schedule to the Companies Act, 1963, 'The directors may, in their absolute discretion, and without assigning any reason therefor, decline to register any transfer of any share' is translated as 'Féadfaidh na stiúrthóirí, dá rogha féin go hiomlán agus gan aon chúis a thabhairt leis, diúltú clárú a dhéanamh ar aistriú aon scaire'. In s26(1) of the Land Act, 1936, 'such sum ... as such Lay Commissioners shall, in their absolute discretion, fix in that behalf' is translated as 'pé suim ... a dhéanfaidh na Coimisinéirí Tuaithe sin, as a gcomhairle féin amháin, a cheapadh chuige sin'. 'In exercising his

discretion under the immediately preceding sub-section' is translated as 'Le linn don Aire rogha a dhéanamh fén bhfo-alt deiridh sin roimhe seo' in s15(4) of the Tobacco Act, 1934. Finally, in s28 the *Standing Orders* of Seanad Éireann (1997), 'in the absolute discretion of the Cathaoirleach' is translated as 'faoi rogha an Chathaoirleach féin amháin'.

Looking at early Acts, 'The Commission may in its absolute discretion grant or refuse such application' is translated as 'féadfadh an Coimisiún más rogha leis féin é géille no diúltú do ghéille don iarratas san' in s40(1) of the Currency Act, 1927, 'no, más rogha leis é' translating 'or at his discretion' in s11(4) of the Wireless Telegraphy Act, 1926. 'Beidh costais an cheannasaí do réir mar is rogha leis an gcúirt' translates 'the costs of the controller shall be in the discretion of the court' in s144 of the Industrial and Commercial Property (Protection) Act, 1927, 'such portion ... as the Commissioners in their discretion may from time to time determine are not required' being translated as 'pé cuid de a shocróidh na Coimisinéirí o am go ham do réir mar is toil leo a bheith nea-riachtanach' in s100 of the Dundalk Harbour and Port Act, 1925, 'pé custuim réasúnta a cheapfid agus a shocróid do réir a dtuille féin' translating 'such reasonable tolls as the Commissioners shall from time to time in their discretion fix and determine' in s52. 'Or, at the discretion of the judge' is translated as 'no, más toil leis an mbreitheamh é' in s8(1) of the Companies (Re-construction of Records) Act, 1924. 'Beidh uimhir agus luach saothair na ndaoine sin fén bhFo-Shirriamh' translates 'the number and remuneration of such persons shall be at the discretion of the Under-Sheriff' in s2(4) of the Enforcement of Law (Occasional Powers) Act, 1923, and, finally, in s18 of the Slaughtered Animals (Compensation) Act, 1928, 'The Trustees may borrow money ... to such extent and on such terms as they in their discretion shall think proper' is translated as 'Féadfadh na hÍontaobhaithe airgead d'fháil ar iasacht ... chó fada le pé méid agus ar pé téarmaí a mheádhfid a bheith ceart'.

*diúltú do* 'Diúltaim' is translated as 'I refuse' in *Tearmaí Dlí*, where 'diúltaim don fhaisnéis' is translated as 'I refuse informations'. 'Diúltaigh' is translated as 'deny, refuse' in *Ó Dónaill*, with 'diúltaigh do' translated as (a) 'renounce, repudiate', (b) 'refuse, reject', (c) 'decline, shrink', (d) 'resist'. 'Diúltú rud a dhéanamh' (i.e. without 'do') is translated as 'to refuse to do something'. *Dinneen* translates 'diúltaighim' as 'I deny, refuse, oppose, renounce (with do)'. See further the commentary on Articles 34.5.4<sup>o</sup>, where 'diúltaigh' without the following preposition expresses 'decline', and 47.2.1<sup>o</sup>, where 'diúltaigh do' expresses 'veto'.

Looking at early Acts, 'Nuair a bheidh aon ordú (ar a n-áirítear diúltú do ghéille d'iarratas) á dhéanamh ag Breitheamh den Chúirt Dúithche fén alt so' translates 'A Justice of the District Court when making any order (including the refusal of an application) under this section' in s32(6) of the Local Government Act, 1925. 'Beidh sé dleathach don Choimisiún ... diúltú do sheachada aon bhuilleoin óir a tairgfar do fén alt so do ghlaca' translates 'it shall be lawful for the Commission ... to refuse to accept delivery of any gold bullion tendered to it under this section' in s47(3) of the Currency Act, 1927. We also find 'eiteach' and 'oba' translating 'refuse' in early Acts. 'Where any registration officer ... refuses, neglects, or fails without

reasonable cause to perform his duties in that behalf' is translated as 'Má dhineann aon oifigeach clárathachta ..., gan cúis réasúnta, có-líona na ndualgaisí sin a bheidh air d'oba no do leigint i bhfaillí no gan déanamh' in s63(1) of the Electoral Act, 1923. 'Whenever any person ... refuses or fails to produce such licence or produces such licence but fails or refuses to permit the officer ... to read ... such licence' is translated as 'Éinne ... a eiteoidh no ná déanfidh an ceadúnas san do thaisbeáint no a thaisbeánfidh an ceadúnas san ach ná déanfidh no a eiteoidh a leigint don oifigeach ... an ceadúnas san do léigheamh' in s18(2) of the Betting Act, 1926.

*leanúint de* 'Lean de' is translated as 'continue at; cling, adhere to; follow' in *Ó Dónaill*, who translates 'leanúint de rud' as 'to continue to do something; to cling to something'. 'Lean de' is translated as 'follow on, persevere' in *Dinneen*. See further the commentary on Article 28.10. Following the present subsection, 'on the advice under this section of a Taoiseach who has ceased to retain the support of a majority in Dáil Éireann' is translated as 'ar fháil comhairle dhó fén alt so o Thaoiseach ná leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis' in s2(2) of the General Elections (Emergency Provisions) Act, 1943. 'Provided, however, that the Oireachtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in Dáil Éireann' is translated as 'Ar choiníoll, ámh, ná sguirfean an t-Oireachtas ar chomhairle aon Ard-Chomhairle go mbeidh tacuíocht mhór-áirimh i nDáil Éireann caillte aici' in Article 53 of the 1922 Constitution.

'Scoil de' is the usual translation of 'cease' in the Acts. In s17(2) of the Finance Act, 1990, for example, 'In respect of a person who ... ceases to possess the whole of a single source of income' is translated as 'Maidir le duine a scoirfidh ... d'iomlán bunaidh amháin ioncaim a shealbhú'. "Landlord" means the person for the time being entitled to receive ... the rent ... and ... includes a person who has ceased to be so entitled by reason of the termination of his tenancy' is translated as 'ciallaíonn "tiarna talún" an té atá i dteideal de thuras na huairé an cíos ... a fháil ... agus ... folaíonn sé duine a scoir de bheith i dteideal amhlaidh toisc a thionóntacht a bheith foirceanta' in s3(1) of the Landlord and Tenant (Amendment) Act, 1980. 'Any transferred officer or servant who has ceased to be an officer or servant of the Bord' is translated as '(le) haon oifigeach no seirbhíseach aistrithe scuirfidh de bheith ina oifigeach no ina sheirbhíseach don Bhord' in s14(3)(c) of the Saint Laurence's Hospital Act, 1943. 'A person who has ceased to be a director or secretary of a company may ...' is translated as 'féadfaid duine a scoir de bheith ina stiúrthóir nó rúnaí ar chuideachta' in s55(8) of the Companies Act, 1990. In s3(2)(c)(ii) of the Children's Allowances Act, 1944, 'he shall cease to be so entitled' is translated as 'scurfe sé de bheith i dteideal amhlaidh'.

Looking at early Acts, 'That the present Boards of Guardians cease to function' is translated as 'Na Búird Chaomhnóirí atá ann fé láthair do scur de bheith ag feidhmiú' in s3 of the 'Cavan County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'upon his resigning or otherwise ceasing to be employed' being translated as 'ar eirghe as a fhostaíocht do no ar scur ar aon tslí eile de bheith ar fostú dho' in s21(1) of the Limerick Harbour Act, 1926. In s2 of the

'Roscommon County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'Poor Law Unions ... to cease to exist' is translated as 'Gan aontais fé Dhlí na mBocht ... do bheith a thuille', 'provided that such right shall as regards translations into the Irish language cease to exist' being translated as 'ach scuirfidh an ceart san de bheith ann maidir le haistrithe go Gaedhilg' in s154(2)(a) of the Industrial and Commercial Property (Protection) Act, 1927.

Professor Máirtín Ó Murchú raises two objections to 'ar chomhairle Taoisigh a scoirfidh de thacaíocht tromlaigh i nDáil Éireann a choimeád' as a translation below of 'on the advice of a Taoiseach who has ceased to retain the support of a majority in Dáil Éireann'. Firstly, as regards style, this would be following immediately on 'Dáil Éireann a lánscor' ('to dissolve Dáil Éireann'). Professor Ó Murchú feels that the phrase 'a scoirfidh de' has an active sense, i.e. that it is the Taoiseach who would be arranging this, when it is quite the opposite, i.e. a majority not supporting the Taoiseach, in spite of 'him'. Máirtín Ó Murchú recommends 'ar chomhairle Taoisigh a fhágfar gan tacaíocht tromlaigh i nDáil Éireann' or 'ar chomhairle Taoisigh a dteipfidh tacaíocht tromlaigh air nó uirthi', stating that the original Irish version has its merits in this context.

Regarding 'retain' in early Acts, 'he has ceased to retain ...' is translated as 'tá ... cailte aige' in *Iris Oifigiúil*, 1927, p. 697. In s24(2) of the Finance Act, 1926, 'the amount of a bet shall be the sum of money which ... the bookmaker will be entitled to receive, retain, or take credit for' is translated as 'is é is méid gill ann ná an tsum airgid go mbeidh teideal ag an ngeall-ghlacadóir ... chun é fháil, é choinneáil, nó é chur i gcreidiúint do féin'. Note that 'All such stockbrokers ... as shall from time to time be required to be retained to render occasional services' is translated as 'Gach brócaer stuic ... is gá a chur in áirithe o am go ham chun foth-sheirbhísí do dhéanamh' in s59(1) of the Court Officers Act, 1926. Finally, turning to modern Acts, the Margin Title of s9 of the Housing (Private Rented Dwellings) Act, 1982, 'Entitlement of tenants to retain possession', is translated as 'Teideal a bheith ag tionntaí seilbh a choimeád'. 'To retain such recordings for a period of 30 days' is translated as 'na taifeadtaí sin a choinneáil go ceann tréimhse 30 lá' in s4(8) of the Radio and Television Act, 1988.

*tromlach* See the commentary on Articles 14.4, 26.2.2° and 28.10. 'Mór-áireamh' translates 'majority' in early Acts. 'Provided, however, that the Oireachtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in Dáil Éireann', in Article 53 of the 1922 Constitution, is translated as 'Ar choinníoll, ámh, ná sguirfear an t-Oireachtas ar chomhairle aon Ard-Chomhairle go mbeidh tacaíocht mhór-áirimh i nDáil Éireann cailte aici'. In Article 22, 'All matters in each House shall ... be determined by a majority of the votes of the members present' is translated as 'Socrófar gach ceist i ngach Tigh ... le mór-áireamh de vótanna na mball atá láithreach'. 'Féadfidh an coróinéir glaca le breith-fhocal an mhóráirimh' translates 'the coroner may accept the verdict of the majority' in s7(1) of the Coroners (Amendment) Act, 1927. Finally, 'furmhór' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'majority' in early *Standing Orders* of Dáil Éireann.

*i dtacaíocht leis* 'Right of support' is translated as 'ceart tacaíochta' in *Téarmaí Dlí*. 'Rinne sé tacaíocht liom' is translated as 'he stood by me' in *Ó Dónaill*. *Dinneen* translates 'i dtacaidheacht' as 'by way of security, as guarantee'. 'Taca' is translated as 'prop, support' in DIL – see the commentary on Article 12.8. See also the commentary on Article 12.10.4°.

*Tig le* This is one of the phrases which expresses 'may' in the Constitution – see the commentary on Article 12.4.4°.

### Gender-proofed Irish text

Tig leis an Uachtarán, as a chomhairle nó as a chomhairle féin, diúltú do Dháil Éireann a lánscor ar chomhairle Taoisigh nach leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis nó léi.

### Direct translation

Féadfaidh an tUachtarán, dá rogha féin amháin<sup>1</sup>, diúltú Dáil Éireann a lánscor<sup>2</sup> ar chomhairle Taoisigh a scoirfidh<sup>3</sup> de thacaíocht tromlaigh i nDáil Éireann a choimeád<sup>4</sup>.

### Variants

- 1 'go hiomlán'
- 2 'a scor', 'a dhiscáoileadh'
- 3 'a scoireann', 'a scoir'
- 4 'a fhágfar gan tacaíocht tromlaigh i nDáil Éireann'

## ARTICLE 13.2.3° AIRTEAGAL 13.2.3°

### TÉACS GAELIGE

Tig leis an Uachtarán uair ar bith, tar éis comhairle a ghlacadh leis an gComhairle Stáit, ceachtar de Thithe an Oireachtais, nó iad araon, a chomóradh.

### LITERAL ENGLISH TRANSLATION

The President can at any time, after taking advice with the Council of State, convene either of the Houses of the Oireachtas, or both of them.

### ENGLISH TEXT

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

### Divergences between the official texts

- 1 'Convene a meeting of either ... of the Houses' is expressed as 'ceachtar de Thithe an Oireachtais ... a chomóradh' ('convene either ... of the Houses') in the Irish text, 'meeting' not being specifically expressed.
- 2 'Convene' is expressed in the Irish text by 'comóir', which term expresses 'summon' in Article 13.2.1°.

### Commentary

*comhairle a ghlacadh le* 'Comhairle a ghlacadh' is translated as 'to take advice' in *Ó Dónaill*, who translates 'dul i gcomhairle le duine' as 'to take counsel with someone'. 'Consultation' is translated as 'comhchomhairle'

in *Téarmaí Dlí*. ‘Comhairle’ translates ‘consultation’ in the heading of Part II of the Protection of Employment Act, 1977, where the Margin Title of s9, ‘Obligation on employer to consult employees’ representatives’, is translated as ‘Oibleagáid ar fhostóir dul i gcomhairle le hionadaithe fostaithe’, while in s9(1) ‘he shall initiate consultations with employees’ representatives’ is translated as ‘rachaidh sé ... i ndáil chomhairle le hionadaithe fostaithe’. In Article 1 of the Schedule to the Bretton Woods Agreement Act, 1957, ‘the machinery for consultation’ is translated as ‘an gléasra le haghaidh comhchomhairle’. ‘The Minister may ... by order ... and after consultation with the council of any urban district’ is translated as ‘féadfaidh an tAire le hordú ... agus tar éis dó dul i gcomhairle le comhairle an cheantair uirbigh’ in s155(1) of the Social Welfare (Consolidation) Act, 1981. Similarly, in s24(2) of the Veterinary Surgeons Act, 1931, ‘or such other date as the Minister, after consultation with the Council may think proper to specify in such notice’ is translated as ‘no ar pé dáta eile is oiriúnach leis an Aire a luadh sa bhfógra san tar éis do dul i gcomhairle leis an gComhairle’. In Article III of the Schedule to the International Development Association (Special Action Account) Act, 1978, ‘Consultation’ in the title is translated as ‘Comhchomhairleachan’. In *Treaties establishing the European Communities* (1973), ‘after consultation with’ is translated as ‘tar éis dul i gcomhairle le’ while ‘after consultations’ is translated as ‘tar éis dóibh a bheith i ndáil chomhairle’.

Looking at early Acts, in s11(1) of the Damage to Property (Compensation) Act, 1923, ‘in accordance with a scale to be prepared by the Minister for Finance in consultation with the Law Officer of Saorstát Éireann’ is translated as ‘do réir scála a ullmhófar ag an Aire Airgid i gcomhairle le Dlí-oifigeach Shaorstáit Éireann’. ‘Dul i gcomhairle le’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘consult’ in translations for ‘Oifig an Phuist’, ‘rialacháin do léigheamh’ translating ‘to consult regulations’ (cited from the same source). ‘After consultation (of books)’ is cited as being translated as ‘ar bheith réidh leo’ in translations for the Department of Education.

*a chomóradh* See the commentary on Articles 13.2.1° and 31.8. Note that the verb ‘comóir’ expresses ‘summon’ in the first subsection of this section. In s10(5) of the Fourth Schedule to the Foyle Fisheries Act, 1952, ‘The Commission may at any time convene a meeting of the Advisory Council’ is translated as ‘Féadfaidh an Coimisiún tráth ar bith cruinniú den Chomhairle Chomhairlitheach a chomóradh’, with ‘Féadfaidh Uachtarán ... na Comhairle cruinniú den Chomhairle a ghairm ar a thionscnamh féin’ translating ‘The President ... of the Council may convene a meeting of the Council on his own initiative’ in s11 of the Second Schedule to the Medical Practitioners Act, 1978. ‘Féadfaidh aon chúigear comhaltaí den Bhord ... cruinniú den Bhord a ghairm’ translates ‘any five members of the Board may ... convene a meeting of the Board’ in s12(2) of the Second Schedule to the Nurses Act, 1985. In s86(1) of the *Standing Orders* of Dáil Éireann (1997), ‘the Clerk ... shall convene a meeting for the subsequent day’ is translated as ‘déanfaidh an Cléireach ... cruinniú a chomóradh le haghaidh lae dá éis sin’.

See the commentary on Article 16.5 for ‘meeting’ in the Constitution. ‘Meeting’ is translated as ‘cruinniú’ in

*Téarmaí Dlí* – ‘cruinniú a chomóradh’ is translated as ‘to convene a gathering’ in *Ó Dónaill*. Looking at early Acts, ‘The number of members necessary to constitute a meeting of either House’ is translated as ‘an mó ball a dhéanfaidh cruinniú dleathach d’aon Tigh’ in Article 22 of the 1922 Constitution. ‘The first meeting of the Council shall be a quarterly meeting and shall be held at noon on the appointed day’ is translated as ‘Beidh céad-cruinniú na Comhairle ina chruinniú chinn ráithe agus comófar é um meán lae ar an lá ceaptha’ in s6(1) of the Cork City Management Act, 1929. In s19(1) of the Sligo Lighting and Electric Power Act, 1924, ‘the quorum of a General Meeting of shareholders shall consist of shareholders to the number of not less than ten present in person or by proxy’ is translated as ‘is é méid is quorum do Thionól Choitiann de scaireánaigh ná deichniúr scaireánach ar a luíod agus iad i láthair i bpearsain no tré leas-vótálaithe’, ‘in the case of an Extraordinary Meeting’ being translated as ‘i gcás Tionóil Nea-ghnáthaigh’. In s30(3) of the Electoral Act, 1923, ‘for the purpose of holding a public meeting in furtherance of his candidature’ is translated as ‘Chun cóthálán puiblí do chomóra ar mhaithe len’ iarrthóireacht féin’, ‘for the purposes of the meeting’ being translated as ‘chun crícheanna an chótháláin’. *Ó Dónaill* gives ‘comhthionól’ as the standard form of the headword ‘cothálán’, *Dinneen* translating ‘cóimhthionól’ principally as ‘assembly, meeting’ and DÍL citing ‘comhthionól’ (‘act of collecting together, assembling ..., assembly’) from the eighth-century Würzburg Glosses on the Pauline Epistles onwards, including ‘bátar Ulaid i comthinól i nEmuin Macha in tan brethae in mac’ (‘The men of Ulster were assembled in Emuin Macha when her son was born’) from the story of the Birth of Cú Chulainn in the early twelfth-century manuscript *Leabhar na hUidhre*.

Looking at ‘convene’ in early Acts, in Article 38 of the 1922 Constitution, ‘a Joint Sitting of the Members of both Houses may ... be convened’ is translated as ‘féadfar Co-shuidhe de Bhaill an dá Thighe do thabhairt le chéile’. ‘Every Local Court-Martial shall be convened by the Adjutant-General’ is translated as ‘Isé an tArd-Chongantóir ... a chó-ghairmfidh gach Arm-Chúirt Áitiúil’ in s92(1) of the Defence Forces (Temporary Provisions) Act, 1923, the ‘Convening Officer’ being styled ‘an tOifigeach Có-ghairme’ in subsection 4. ‘Gairm le chéile’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘convene’ in translations for the Department of Local Government and Public Health.

*uair ar bith* In s14 of the *Standing Orders* of Dáil Éireann (1997) ‘the Dáil may, at any time, ...’ is translated as ‘féadfaidh an Dáil, aon uair’. In s58(10)(b), ‘the Ceann Comhairle may at any time ...’ is translated as ‘féadfaidh an Ceann Comhairle am ar bith’ while in s116 ‘a Committee of the whole Dáil may at any time’ is translated as ‘féadfaidh Coiste den Dáil uile, tráth ar bith’. While one finds ‘aon tráth’ in Acts of the 1960s and 1970s, ‘tráth ar bith’ translates ‘at any time’ in the more recent Acts. See further the commentary on Article 13.7.2°, particularly for citations from early Acts.

Professor Máirtín Ó Murchú remarks that ‘tráth’ connotes a ‘period of time’ as against ‘uair’, ‘time’, which he feels better suits this context. Professor Ó Murchú feels that ‘tráth éigin’ is more open than ‘uair éigin’, for example, that ‘uair’ is more limited and more definite in that a point



of time is involved. 'Tráth éigin' would have the sense of 'when I get a chance, a period of time, to do it'. 'Tráth' has the secondary sense of 'meal', for example, the stretch of time involved in having a meal, 'tráth' also having the ecclesiastical sense of 'hour' in '*na trátha canónta*, the canonical hours', '*tráth easpartan*, the hour of vespers', etc. 'Tráth nóna' originally had the sense of 'canonical hour of none', but is used in the general sense of 'evening'. According to Rudolf Thurneysen, 'tri tráth' was originally 'from one hour to the second recurrence of the same, two full days and nights', but was later used for 'three full days' – see DIL s.v. 'tráth'.

*ceachtar de Thithe an Oireachtas, nó iad araon* In s101(3) of the *Standing Orders of Dáil Éireann* (1997), 'a member of either House' is translated as 'comhalta de cheachtar Teach'. In s101(1) 'proceedings of both Houses' is translated as 'imeachtaí an dá Theach'. Turning to the Acts, in s1 of the Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976, 'a committee appointed by either House of the Oireachtas or jointly by both Houses of the Oireachtas' is translated as 'coiste arna cheapadh ag ceachtar Teach den Oireachtas nó arna cheapadh ag dhá Theach an Oireachtais i gcomhar'. In s8 of the International Health Bodies (Corporate Status) Act, 1971, 'to be laid before both Houses of the Oireachtas' is translated as 'go leagfar faoi bhráid gach Ti den Oireachtas'. See further the commentary on Article 20.3.

*Tig le* This is one of the phrases which expresses 'may' in the Constitution – see the commentary on Article 12.4.4°.

### Direct translation

Féadfaidh an tUachtarán, tráth<sup>1</sup> ar bith, tar éis dul<sup>2</sup> i gcomhairle<sup>3</sup> leis an gComhairle Stáit, cruinniú a chomóradh de cheachtar de Thithe an Oireachtais nó díobh araon<sup>4</sup>.

### Variants

- 1 'uair'
- 2 'tar éis dó nó di dul'
- 3 'i ndáil chomhairle', 'i gcomhchomhairle'
- 4 'de cheachtar Teach nó de gach Teach den Oireachtas', 'de cheachtar Teach nó de dhá Theach an Oireachtais'

## ARTICLE 13.3.1° AIRTEAGAL 13.3.1°

### TÉACS GAELGE

Gach Bille a ritear nó a mheastar a ritheadh ag dhá Theach an Oireachtais ní foláir lámh an Uachtaráin a bheith leis chun é a achtú ina dhlí.

### LITERAL ENGLISH TRANSLATION

Each Bill that is passed or deemed to have been passed by the two Houses of the Oireachtas (it) must have the signature of the President to it (in order) to enact it into (a) law.

### ENGLISH TEXT

Every Bill passed or deemed to have been passed by

both Houses of the Oireachtas shall require the signature of the President for its enactment into law.

### Divergences between the official texts

- 1 'Every Bill ... shall require the signature of the President' is expressed as 'Gach Bille ... ní foláir lámh an Uachtaráin a bheith leis' ('every Bill ... (it) must have the signature of the President') in the Irish text.
- 2 'For its enactment into law' is expressed as 'chun é a achtú ina dhlí' ('to / in order to enact it into law') in the Irish text.

### Commentary

*a ritear* Note that we find no relative particle before 'rithear' – nor before 'achtú' – in the original text. Regarding 'rith', 'pass', see s153 of the *Standing Orders of Dáil Éireann* (1997) where 'Vouching of Bills passed by the Dáil' is translated as 'Billí a ritheadh ag an Dáil a dheimhniú', and the following section, where 'Such true copy of a Bill, passed as aforesaid ... shall be ...' is translated as 'Déanfar an chóip dhílis sin de Bhille a ritheadh mar a dúradh ...'. See the commentary on Article 17.2 regarding 'rith'.

'Rith' translates 'to pass', as regards legislation, in the very first Act of the Irish Free State, 'rithfidh Oireachtas agus Ard-Chomhairle Shaorstáit Éireann fé seach pé reachtúchán eile' translating 'the Parliament and the Executive Council of the Irish Free State shall respectively pass such further legislation' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. 'Any Bill passed or deemed to have been passed by both Houses may be suspended' is translated as 'Aon Bhille a bheidh no a tuigfear a bheith rithite ag an dá Thigh, féadfar é chur ar fionraoi' in Article 47 of the 1922 Constitution. In s9(1) of the Referendum Act, 1942, 'Whenever a Bill containing a proposal for the amendment of the Constitution shall have been passed, or deemed to have been passed, by both Houses of the Oireachtas, and Dáil Éireann is dissolved' is translated as 'Aon uair a bheidh Bille ina mbeidh togra chun an Bunreacht do leasú rithite no is tuigthe Bille den tsórt san do bheith rithite ag dhá Thigh an Oireachtais agus a scuirfear Dáil Éireann'. In s1(b) of the Referendum (Amendment) Act, 1959, however, we find 'the Bill containing such proposal passed or deemed to have been passed by both Houses of the Oireachtas' translated as '(tríd) an mBille ina mbeidh an togra sin agus a bheidh rite nó a mheasfar a bheith rite ag dhá Theach an Oireachtais', the same English sentence being translated as '(tríd) an mBille ina bhfuil an togra sin agus a ritheadh ag dhá Theach an Oireachtais' in s71(1)(b) of the Electoral Act, 1963. Note, finally, that 'agreement to pass into law' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'aontú go ndéanfaí dlí de' in early *Standing Orders* of Dáil Éireann. See the commentary on Article 12.6.2° as regards 'deem'.

*lámh* 'Do lámh a chur le rud' is translated as 'to sign something' in *Ó Dónaill*. 'Cuirim fá'm lámh é' is translated as 'I sign it' in *Dinneen*. 'I sign' is translated as 'sínim' in *Téarmaí Dlí*, with 'signature' translated as 'siniú'. In s9(2) of the Údarás na Gaeltachta Act, 1979, for example, 'The seal of an tÚdarás shall be authenticated by the signature

of the chairman of an tÚdarás' is translated as 'Fordheimhneofar séala an Údaráis le síniú chathaoirleach an Údaráis'. 'It shall not be necessary to prove the signature of such Registrar' is translated as 'ní gá síghniú an Chláraitheora san do chruthú' in s13(4) of the Enforcement of Law (Occasional Powers) Act, 1923. See the commentary on Articles 12.8 and 12.10.3°.

*ní foláir* This phrase has the sense of 'must' and is one of the ways of expressing the sense of 'shall' in the Constitution – see the commentary on Article 11. The verb 'ceangail' generally translates 'require' in the modern Acts. In s49 (Table) of the Finance Act, 1990, for example, 'A return for any period for which a return is required to be made under this section shall be made within nine months' is translated as 'Ní foláir tuairisceán d'aon tréimhse a gceanglaítear tuairisceán a thabhairt ina leith faoin alt seo a thabhairt laistigh de naoi mí'. In s5(1) of the First Schedule to the Capital Gains Tax Act, 1975, 'Paragraph 4 shall not require the exclusion ...' is translated as 'Ní cheanglóidh mír 4 go n-eisiafar ...'. In s117 of the First Schedule to the European Assembly Elections Act, 1977, 'the matter so required to be notified' is translated as '(ar) an ábhar a gceanglaítear é a fhógairt amhlaidh' and in s7 of the Merchant Shipping Act, 1992, 'if the vessel is required to be provided with a radiotelegraph' is translated as 'má cheanglaítear fearas raidió-theileagraif ... a bheith ar an soitheach'. Professor Máirtín Ó Murchú remarks that 'ceanglaítear' may not readily be understood in this context without an accompanying indirect object, i.e. 'ceanglaítear **orainn**, etc.'

The phrase 'ní mór' also translates 'require' in the Acts. 'And shall require the consent ... of the company to which the distribution is made' is translated as 'agus ní mór toiliú na cuideachta lena ndéanfar an dáileadh a fháil' in s47(3) of the Finance Act, 1983, and 'provided that ... any amendment modifying the loss-sharing arrangement ... shall require the affirmative vote of the Governor of each such member' is translated as 'ar choinnioll ... i gcás aon leasú a mhodhnóidh an chomhshocraíocht um páirtíú i gcaillteanas ... nach mór vóta dearfach ó Rialtóir gach baill den sórt sin' in Article 59(a) of the Schedule to the Multilateral Investment Guarantee Agency Act, 1988.

'Is gá', along with translating 'is necessary', sometimes translates 'require' in the Acts – see s29(1)(b) of the Medical Practitioners Act, 1978, for example, where 'a certificate of experience considered by the Council to be equivalent to that required for formal qualification' is translated as 'deimhniú taithí a mheasann an Chomhairle a bheith comhionann leis an gceann is gá le haghaidh cáilíochta foirmiúla'. 'Teastaigh' is sometimes used to translate 'require' – see s58(6) of the *Standing Orders* of Dáil Éireann (1997), for example, where 'Any decision taken by the Committee ... shall require the support of three-quarters of the members present' is translated as 'Beidh tacaíocht thrí cheathrú de na comhaltai a bheidh i láthair ... ag teastáil i gcomhair aon chinnidh a ghlacfaidh an Coiste'.

'Require' is a term occurring very frequently in the Acts and was translated in many different ways in early legislation. 'Aon fhógra nách foláir a sheirbheáil ar shealbhoir do réir an ailt seo' translates 'Any notice required by this section to be served on an occupier' in s2(4) of the Civic Guard (Acquisition of Premises) Act, 1923. In s1(1), 'Whenever the Minister for Home Affairs shall require

the Commissioners to provide accommodation' is translated as 'Aon uair a ordóidh an tAire um Ghnóthaí Dúithche do sna Coimisinéirí áit a sholáthar'. In Article 6 of the 1922 Constitution, 'and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so detained before such Court' is translated as 'agus féadfaid ordú do dhéanamh á chur d'fhiachaibh ar an nduine atá ag cimeád an duine sin corp an duine atá i gcimeád do thabhairt i láthair na Cúirte', while in s2(2) of the Adaptation of Enactments Act, 1922, 'where the context so admits or requires' is translated as 'nuair a cheaduinn no a éilíonn an co-théacs é'.

In s18(1) of the Finance Act, 1923, 'Every provision in any Act to which this section applies requiring a bond to be entered into' is translated as 'Gach foráil, a iarrann go raghfí fé bhanna agus atá in aon Acht le n-a mbaineann an t-alt so'. 'A theastuinn de dheascaibh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'required as a consequence of' in *Iris Oifigiúil*, 1925, p. 1143, and in Bill 43 of 1926. 'Subject to such conditions as in their ... opinion justice may require' is translated as 'fé sna coinníollacha san is dó leo-san ... is gá chun ceart do shásamh' in s25(6)(f) of the Agricultural Credit Act, 1927, 'fé mar is gá é' translating 'as occasion requires' in s7(1) of the Medical Practitioners Act, 1927. Finally, the modern term generally translating 'require' today, 'ceangail', occurs in s2(2) of the Seanad Electoral Act, 1928, where 'and to do such other matters and things in respect of such election as he is required by this Act to do' is translated as 'agus pé nithe agus rudaí eile do dhéanamh i dtaobh an toghacháin sin a cheanglann an tAcht so air do dhéanamh'.

*achtú ina dhlí* 'Achtáim' is translated as 'I enact' in *Téarmaí Dlí*. 'Dlí a achtú' is translated as 'to enact a law' in *Ó Dónaill*, who translates 'achtaigh' as 'enact, decree' – see further the commentary on Article 50.1. In s4 of the Local Government (Rateability of Rents) (Abolition) Act, 1971, 'in anticipation of the enactment of this Act' is translated as 'in oirichill an tAcht seo a achtú'. 'An Act to enact a Constitution for the Irish Free State', in the Long Title of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, is translated as 'Acht chun Bun-reacht do Shaorstát Éireann d'achtú', and 'decrees and enacts as follows', in the Preamble, is translated as 'dineann sí a reachtú agus a achtú mar leanas'. See further the commentary on Article 15.4.2°.

Regarding 'ina dhlí', see s154 of the *Standing Orders* of Dáil Éireann (1997) where '... the agreement of the Seanad to the passing of the Bill into law' is translated as '... go gcomhaontóidh an Seanad le dlí a dhéanamh den Bhille'. 'D'aon dlí a déanfar fé' translates 'of any law made thereunder' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. Note that 'the date of the passing of this Act and the date of the passing into law by the Parliament of the United Kingdom of Great Britain and Ireland of legislation to give statutory effect to the said Agreement' is translated as 'dáta riththe an Achta so agus an dáta ar a ndéanfaidh Párlimint Ríocht Aontuithé na Breataine Móire agus Thuaiscirt Éireann reachtúchán do rith mar dhlí chun éifeacht reachtúil do thabhairt don Chó-aontú san' in s2(1) of the Veterinary Surgeons Act, 1931.

**Direct translation**

Ní mór<sup>1</sup> síniú an Uachtaráin a bheith le gach Bille a ritheadh nó a mheastar a ritheadh ag dhá Theach an Oireachtais chun é a achtú<sup>2</sup> ina dhlí<sup>3</sup>.

**Variants**

- 1 'Ceanglaítear'
- 2 'lena achtú'
- 3 'chun dlí a dhéanamh de', 'chun é a achtú mar dhlí'

ARTICLE 13.3.2<sup>o</sup> AIRTEAGAL 13.3.2<sup>o</sup>**TÉACS GAELGE**

Gach dlí dá ndéanfaidh an tOireachtas ní foláir don Uachtarán é a fhógairt.

**LITERAL ENGLISH TRANSLATION**

Every law that / of those which the Oireachtas makes the President must promulgate it.

**ENGLISH TEXT**

The President shall promulgate every law made by the Oireachtas.

**Divergences between the official texts**

- 1 'Every law which the Oireachtas makes' is expressed as 'Gach dlí dá ndéanfaidh an tOireachtas' ('every law of those which the Oireachtas makes') in the Irish text.
- 2 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

**Commentary**

*a fhógairt* Note that the particle 'a' does not precede 'fhógairt' in the original text. Note also that we find 'promulgate' in Article 24.4.2<sup>o</sup>, following the Second Amendment of the Constitution Act, 1942, where 'shall be promulgated by him as a law' is rendered as 'ní foláir dó é a fhógairt ina dhlí'.

'Fógraím' is translated as 'I pronounce (i.e. judgment)' in *Téarmaí Dlí*. 'Fógair' is translated as 'call out, proclaim' in *Ó Dónaill*, who translates 'dlí a fhógairt' as 'to promulgate a law'. 'Declare, announce, make known' are some of the other senses of 'fógair' in *Ó Dónaill*, 'fógairt dlí' being translated as 'promulgation of law' there – see further the commentary on Article 25.1. *L. Mc Cionnaith* s.v. 'promulgate', refers the reader to 'announce, spread, advance'. 'Promulgate' is translated as 'foillsiú' in *Iris Oifigiúil*, 1924, p. 696, and is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'craoladh' in translations for the Department of Defence. *De Bhaldráithe* translates 'promulgate' as (1) 'fógraím (dlí)' and (2) 'craolaim, scaipim, leathnaím (nuacht, smaoiniamh)'.

The *Shorter Oxford English Dictionary's* entry s.v. 'promulgate', is as follows:

1530 [from Latin *promulgat-*, *promulgare* to expose to public view ...] To make known by public declaration; to publish; *esp.* to disseminate (some creed or belief), or to proclaim (some law, decree, or tidings).

As we see from this entry, the earliest known occurrence of the word 'promulgate' is in 1530. In DIL s.v. 'fúacair', the Old Irish form of 'fógair', examples of this verb in the sense of 'proclaims, announces, makes known, *generally of important or authoritative statements*' are cited from the Glosses of the eighth century onwards, including 'ropridchad dúib céssad Crist amal adcethe *vel* forócrad dúib amal bid fiadib nocrochthe' ('Christ's Passion hath been preached to you as though it were seen; or it has been announced to you as if He had been crucified before you') from the eighth-century Würzburg Glosses on the Pauline Epistles. The Modern Irish word 'fógra' encompasses the sense of advertisement in both newspaper, radio and television.

A different term, 'forus', is found in the *Annals of Ulster* for the year 783 recording the promulgation of the law of Patrick in Cruachu by Dub da Leithe (abbot of Armagh) and Tipraite son of Tadc (king of Connacht) – i.e. 'Forus Cano Patricii hi Cruachnibh' (see Fergus Kelly, *op. cit.*, pp. 22 and 196, n. 36). This word is also used of promulgation of judgements – see Fergus Kelly, *op. cit.*, p. 195:

The actual judgement is formulated by the judges, but it seems that it is promulgated by the dignitaries of the back-court i.e. the king (in secular matters), the bishop (in ecclesiastical matters) or the chief poet (in poetical matters).

In one early Irish law-tract the 'dignitaries of the back-court' are described as 'the cliff which is behind the courts for judgement and for promulgation' ('... fri breth 7 forus', *ibid.*, p. 195, n. 34). As 'forus' also means 'foundation, basis', Professor Kelly remarks that the announcement of the judgement 'may be accompanied by an exposition of the basis upon which the judgement had been decided' (*ibid.*, p. 196). According to DIL s.v. 'forus', the explanations of this word frequent in early Irish laws only show that the original meaning of the word was then unknown.

*dá ndéanfaidh* 'Dá' is made up of 'de' + 'a', and is translated as 'of those who(m), of that which' in *Ó Dónaill*, who cites '*iomlán dá mbaineann linn*, all (of those) who are connected with us' and '*gach pingin dá bhfuair sé*, every penny he got'. See s18(3) of the *Standing Orders* of Dáil Éireann (1997), where 'The Clerk shall cause to be made an official translation into English of every law enacted by the Oireachtas in Irish' is translated as 'Cuirfidh an Cléireach faoi deara go ndéanfar tiontú oifigiúil go Béarla ar gach dlí dá n-achtaíonn an tOireachtas sa Ghaeilge'. Note how 'dá' does not accompany 'gach' in s17(4) of the Juries Act, 1976, for example, where 'Every challenge of a juror shall be made' is translated as 'Gach agóid a dhéanfar in aghaidh giúróra déanfar é ...', or in s13 of the Merchandise Marks Act, 1970, where 'Every order made by the Minister under this Act shall be laid before each House of the Oireachtas' is translated as 'Gach ordú a dhéanfaidh an tAire faoin Acht seo leagfar é faoi bhráid gach Tí den Oireachtas'.

Professor Máirtín Ó Murchú comments that while 'gach a' = 'each' ('gach ceann ann féin' [each one in itself]) 'gach dá' = 'every' ('gach ceann agus iad ar fad san áireamh' [each one and they all included]). With 'gach dá', the President could, for example, promulgate a couple of laws together as against 'gach a', which would have the sense of 'each one separately'. Generally in the modern Acts, however, 'gach a' alone is found.

**Direct translation**

Fógróidh an tUachtarán gach dlí a dhéanfaidh<sup>1</sup> an tOireachtas.

**Variants**

1 'dá ndéanfaidh'

## ARTICLE 13.4 AIRTEAGAL 13.4

**TÉACS GAEILGE**

Leis seo cuirtear na Fórsaí Cosanta faoi ardcheannas an Uachtaráin.

**LITERAL ENGLISH TRANSLATION**

With this the Defence Forces are put under the high-command of the President.

**ENGLISH TEXT**

The supreme command of the Defence Forces is hereby vested in the President.

**Divergences between the official texts**

- 1 'The supreme command of the Defence Forces is vested in' is expressed as 'cuirtear na Fórsaí Cosanta faoi ardcheannas' ('the Defence Forces are put under the supreme command') in the Irish text, 'The supreme command' governing 'the Defence Forces' in the English text whereas 'ardcheannas' governs 'Uachtarán' in the Irish text, 'Uachtarán' rather than 'Fórsaí Cosanta' being in the genitive case.
- 2 'Supreme' is expressed as 'ard-' ('high') in the Irish text.
- 3 'The Defence Forces' are officially styled by the Army itself as 'Óglaigh na hÉireann' in Irish, as against 'na Fórsaí Cosanta'.

**Commentary**

*na Fórsaí Cosanta* While 'Defence Force Regulations' and 'Defence Force' are respectively translated as 'Rialacháin Fhórsaí Cosanta' and 'Fórsaí cosanta' in the *English-Irish Dictionary of Military and Related Terms*, published by the Training Section of the Army Headquarters, Department of Defence, 1969 (hereinafter referred to as *Téarmaí Mileata*), 'The Defence Forces' is translated therein as 'Óglaigh na hÉireann'. 'Armed forces' ('fórsaí armtha') is the term found in Article 46 of the 1922 Constitution. The Act of 3 August 1923, to make temporary provisions in relation to the defence of Saorstát Éireann, and which refers in its opening paragraph to the above Article 46, is cited as 'the Defence Forces (Temporary Provisions) Act, 1923', 'an tAcht Fórsaí Cosanta (Forálacha Sealadacha), 1923'. Section 4 of that Act, under the title 'Establishment of Defence Forces' ('Bunú Fórsaí Cosanta'), deals with 'Raising and number of Defence Forces', which Margin Title is translated as 'Tógáil agus uimhir na bhFórsaí Cosanta'. The section commences as follows:

It shall be lawful for the Executive Council to raise and maintain an armed force to be called Óglaigh na

hÉireann (hereinafter referred to as the Forces) ...  
*Beidh sé dleathach don Ard-Chomhairle fórsa armtha do thógáil agus do choinneáil suas, fórsa dá ngairmtear Óglaigh na hÉireann (dá ngairmtear na Fórsaí ina dhiaidh seo anso).*

'Beidh árd-cheannas na bhFórsaí ... dílsithe san Ard-Chomhairle' translates 'The command in chief of ... the Forces ... shall be vested in the Executive Council' in s5. 'A Defence Force List or Defence Force Gazette ... shall be evidence of the status and rank of the officers therein mentioned', in s196(5), is translated as 'Líost Fórsa Cosanta no Iris Fórsa Cosanta ... is fianaise é ar staid agus ar chéim na n-oifigeach a luadhann ann'. Section 16 of the Defence Act, 1954, reads as follows:

It shall be lawful for the Government to raise ... and maintain defence forces to be called and known as Óglaigh na hÉireann or (in English) the Defence Forces. *Is dleathach don Rialtas fórsaí cosanta dá ngairmtear agus ar a dtabharfar Óglaigh na hÉireann nó (i mBéarla) the Defence Forces a bhunú ... agus a chothabháil.*

'Óglaigh na hÉireann' translates 'the Defence Forces' in s4(f)(1) of the First Schedule to the Criminal Justice Act, 1990.

*Ó Dónaill* translates 'Óglaigh na hÉireann' as 'the Irish Volunteers', translating 'óglaigh' as (1) '*Literature*: (a) young man. (b) (young) warrior. (2) *Literature*: attendant, servant; vassal. (3) *Military*: volunteer'. *Téarmaí Mileata* also translates 'volunteer' as 'óglaigh'. *Dinneen* translates 'óglaigh na hÉireann' as 'the Irish Volunteers' and 'óglaigh armtha' (cf. 'Amhrán na bhFiann') as 'armed soldiers'. The Irish Republican Army today styles itself 'Óglaigh na hÉireann' in Irish. Earlier 'óclach', according to DIL, is a formation from 'óc', 'young', analogous to 'echlach', 'midlach', later analysed as 'óc' plus 'laech', 'warrior'. DIL translates 'óclach' as (a) 'a young man', (b) '*generally* a young warrior *and hence often* a warrior, soldier, in wide sense', citing 'Cuchulaind ... in t-ócláech a Murtemne' (i.e. Cú Chulaind, the warrior from Muirthemne), from the story on which Yeats based his play *The Only Jealousy of Emer*, i.e. *The Wasting Sickness of Cú Chulaind*.

Finally, 'na Fórsaí' is translated as 'the forces, troops' in *Ó Dónaill*, who does not cite 'na Fórsaí Cosanta'. *Ó Dónaill* does, however, cite 'arm cosanta', which phrase is translated as 'defence force', s.v. 'cosaint', 'defence, protection'.

*ardcheannas* 'Ardcheannas' is translated as (1) 'supremacy' and (2) '(*Military*) high command' in *Ó Dónaill*, being a compound of 'ard', 'high', and 'ceannas', translated as 'headship, sovereignty' and 'authority, command' in *Ó Dónaill*, who cites '*i gceannas airm*, in command of an army'. The difference in Irish terminology between 'high' and 'supreme' is exemplified in the Irish legal terms for 'the High-Court', 'an Ard-Chúirt', as against 'the Supreme Court', 'an Chúirt Uachtarach'. 'To enter into an Agreement for co-operation or reciprocal concession with any Government or Authorities supreme, municipal or otherwise' is translated as 'Comhaontú a dhéanamh le haghaidh comhoibrithe nó deonaíocht chomharaióchta le haon Rialtas nó le haon Údarás uachtaracha, bardasacha nó eile' in s17(g) of the Dublin Cemeteries Committee Act, 1970, for example. 'Uachtarach' is translated as (1) 'upper, top' and (2) 'higher, superior' in *Ó Dónaill*, who cites

'*Oifigeach Uachtarach*, superior officer'. Note, however, that 'ardchomhairle' is translated as 'supreme council' in *Ó Dónaill*, with 'ardchumhacht' being translated as 'supreme power' and 'high power'. On the *Dáil Order Paper* of 4/2/1969, 'Soviet of Nationalities of Supreme Soviet' is translated as 'Sóivéid Náisiún na hArdsoivéide'.

In *Téarmaí Mileata*, in accordance with the present Article, 'Supreme Command of the Forces' is translated as 'Ardcheannas na bhFórsaí'. 'Including the Regulation of the Supreme Command of the Defence Forces', in the Long Title of the Defence Forces Act, 1937 – following on the Constitution – is translated as 'agus ortha san Feidhmiú Ard-Cheannais na bhFórsaí Cosanta do Rialáil'. In s17(1) of the Defence Act, 1954, reference is made merely to 'the military command of the Defence Forces', 'ceannas míleata Óglaigh na hÉireann', and 'under the direction of the President', 'faoi threorú an Uachtaráin'. Section 14 of the Defence Forces (Temporary Provisions) Act, 1923, reads as follows:

The executive military command and inspection of the Forces ... may ... be vested in such officer ... of the Forces as may be appointed by the Executive Council. *Féadfar ... feidhm-cheannas míleata agus cigireacht na bhFórsaí ... do dhílsiú i pé oifigeach ... de sna Fórsaí a cheapfidh an Ard-Chomhairle.*

'Ceannasuíocht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'command' in translations for the Department of Defence.

Professor Máirtín Ó Murchú comments that as 'ardcheannas' is now established and recognised in the sense involved here, that it is preferable to 'ceannas uachtarach', with 'uachtarach' suiting better a case where a clear distinction is involved between it and lower ranks. Professor Ó Murchú remarks, as regards 'ceannas' without the following preposition 'ar' in the translation below, that 'ceannas Óglaigh na hÉireann' could be read as the command or authority which that force would have rather than the command of the force.

*cuirfeair faoi* 'Cuir faoi' is translated as 'put under' in *Ó Dónaill*; *Dinneen*, like *Ó Dónaill*, gives examples of 'cuir' with 'fá' ('faoi') and noun, in the sense of 'to bind', 'restrain' – '*cuirim fá smacht iad*, I reduce them to discipline' and '*cuirim duine fá choimirce*, I place one under the protection of'.

In *Téarmaí Dlí* 'I vest' is translated as 'dílsím'. In the Third Schedule to the Social Welfare (Consolidation) Act, 1981, 'a cottage ... vested in the person' is translated as 'iostán ... a dílsíodh don duine', for example, and in the First Schedule to the Companies Act, 1963, 'to delegate all or any of the powers, authorities and discretions vested in him' is translated as 'na cumhachtaí, na húdaráis agus na treoracha a dhílsítear dó a tharmligean'. In s12 of the Minerals Development Act, 1979, 'The exclusive right of working minerals is hereby vested in the Minister' is translated as 'Déantar leis seo an ceart eisiatach chun mianraí a oibriú a dhílsiú don Aire', 'Dílsítear leis seo don Bhanc Ceannais an tsócmhainn' translating 'The asset ... is hereby vested in the Central Bank' in s5(1) of the Bretton Woods Agreements (Amendment) Act, 1969, and 'Déantar leis seo an Currach a dhílsiú don Aire' translating 'The Currach ... is hereby vested in the Minister' in s2 of the Currach of Kildare Act, 1961.

Looking at early Acts, 'to vest in the Trust any land

and other property which is ... to be transferred to the Trust' is translated as 'chun aon talamh agus maoin eile atá len' aistriú chun an Chóluchta ... do dhílsiú sa Chólucht' in the Preamble to the Land Trust Powers Act, 1923. In s7(2)(a) of the Local Government (Temporary Provisions) Act, 1923, 'all the property of such Board ... shall pass to and vest in and be held in trust for the Council of the County' is translated as 'tíocfidh maoin uile an Bhúird ... i seilbh agus i ndílse agus i gcimeád ar iontaoibh do Chomhairle na Contae'. In s7(2) of the Finance Act, 1923, however, 'the Under-Sheriff shall ... have all such rights, powers and duties as are for the time being vested in him by law' is translated as 'beidh ag an bhFo-Shirriamh ... na ceartanna, na comhachtanna agus na dualgaisí uile sin a bheidh aige de thurus na huair do réir dlí', while in s2(4) of the District Justices (Temporary Provisions) Act, 1923, 'A District Justice shall ... have all the powers, authorities and duties which were immediately before the passing of this Act vested in or imposed on a Justice of the Peace' is translated as 'beidh ag Giúistís Dúithche gach comhacht, údarás agus dualgas a bhí, díreach roimh aimsir rithe an Achta so, bronnta no curtha ar Ghiúistís Síochána'. 'Atá agam' translates 'vested in me' in the *Proceedings* of Dáil Éireann, 1927, p. 569. Finally, as we saw in relation to Article 10.1, in Article 11 of the 1922 Constitution, 'All the lands ... hitherto vested in the State' is translated as 'Gach talamh ... dá raibh go dtí so i seilbh an Stáit' and in Article 51, 'The Executive Authority of the Irish Free State is hereby declared to be vested in the King' is translated as 'Fógartar leis seo Údarás Feidhmiúcháin Shaorstáit Éireann do bheith sealbhuithe sa Rí'.

### Direct translation

Déantar leis seo ceannas uachtarach<sup>1</sup> Óglaigh na hÉireann<sup>2</sup> a dhílsiú<sup>3</sup> don Uachtarán.

### Variants

- 1 'ardcheannas'
- 2 'an ceannas uachtarach ar Óglaigh na hÉireann'
- 3 'Dílsítear leis seo ceannas uachtarach Óglaigh na hÉireann'

## ARTICLE 13.5.1<sup>o</sup> AIRTEAGAL 13.5.1<sup>o</sup>

### TÉACS GAELGE

An t-ardcheannas ar na Fórsaí Cosanta is le dlí a rialófar an modh ar a n-oibreofar é.

### LITERAL ENGLISH TRANSLATION

The high-command over/of the Defence Forces it is by law that the manner in which it will be operated will be regulated/controlled.

### ENGLISH TEXT

The exercise of the supreme command of the Defence Forces shall be regulated by law.

### Divergences between the official texts

- 1 As in the previous section, 'ardcheannas' (lit. 'high-command') expresses 'supreme command' and 'the

Defence Forces' is expressed as 'na Fórsaí Cosanta', the Army's official Irish term being 'Óglaigh na hÉireann'.

- 2 'The exercise of ...' is expressed as 'an modh ar a n-oibreofar' ('the manner in which ... will be operated') in the Irish text, 'oibrigh' again expressing 'exercise'.
- 3 'Regulate' is again expressed by 'rialáigh', the Irish legal term for 'control'/'rule'.

### Commentary

*a n-oibreofar* The future passive of 'oibrigh', 'a n-oibreofar' being the form in the original text. 'Oibrim' is translated as 'I operate' in *Téarmaí Dlí* – see the commentary on Article 3 regarding 'feidhmigh' v. 'oibrigh'. 'That a right or the exercise of a right conferred by section 12 ... is restricted' is translated as 'go bhfuil ceart nó feidhmíú cirt a thugtar le halt 12 ... srianta' in s11(1) of the Sale of Foods and Supply of Services Act, 1980, for example. Looking at earlier Acts, 'chun feidhmíú do dhéanamh ar aon cheart fén Acht so' translates 'for the purpose of exercising any right under this Act' in s6(1) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. Finally, in s1 of the Indemnity (British Military) Act, 1923, 'in exercise or execution of any authority conferred on such person' is translated as 'i gcleachta nó i bhfeidhmíú aon údarais a bronnadh ... ar an duine sin'.

*an modh* 'Modh' is translated as 'mode, manner' in *Ó Dónaill*, who translates 'ar an modh sin' as 'in that way, thus'. In the Acts, 'ar mhodh' mainly translates 'by way of' (e.g. 'a íoc ar mhodh cúitimh', 'to pay by way of compensation', in s13(1) of the Merchant Shipping Act, 1992), 'in the nature of' (e.g. 'ar mhodh cíosa a fhaightear ó aon tailte', 'in the nature of a rent derived from any lands', in s17 (Table) of the Finance Act, 1990) and 'in a manner' (e.g. 'ar mhodh geografach', 'in a geographical manner', in s41(2) of the Schedule to the Companies (Amendment) Act, 1986).

*rialófar* The future passive of 'rialáigh', 'riaghlóchar' being the form in the original text. 'Rialáim' is translated as 'I control; I rule' in *Téarmaí Dlí*; 'rialáil' usually translating 'regulate' in the Acts – see the commentary on Article 12.5.

*ar* Literally 'on', but see *Ó Dónaill* s.v. 'ceannas', where 'i gceannas ar dhuine' is translated as 'in authority over someone'.

*na Fórsaí Cosanta* Literally 'the Defence Forces' – see the commentary on the previous section for 'Óglaigh na hÉireann' rendering 'the Defence Forces'.

*An t-ardcheannas* Literally 'the high-command' – see the commentary on the previous section.

### Direct translation

Déanfar feidhmíú cheannas uachtarach<sup>1</sup> Óglaigh na hÉireann<sup>2</sup> a rialáil le dlí.<sup>3</sup>

### Variants

- 1 'ardcheannas'
- 2 'an cheannais uachtaraigh ar Óglaigh na hÉireann'
- 3 'Rialálfar feidhmíú cheannas uachtarach Óglaigh na hÉireann le dlí.'

## ARTICLE 13.5.2<sup>o</sup> AIRTEAGAL 13.5.2<sup>o</sup>

### TÉACS GAELIGE

Is ón Uachtarán a bheidh a ghairm ag gach oifigeach gairme de na Fórsaí Cosanta.

### LITERAL ENGLISH TRANSLATION

It is from the President that every vocational/professional officer of the Defence Forces will have his calling/profession.

### ENGLISH TEXT

All commissioned officers of the Defence Forces shall hold their commissions from the President.

### Divergences between the official texts

- 1 'Gairm', the term in the Irish text expressing 'commissioned' and 'commission', is ambiguous and is neither the term used by the Defence Forces themselves nor the term in general use.
- 2 'Hold' is expressed as 'a bheidh' ('have') in the Irish text.
- 3 As in the previous subsection and section, 'the Defence Forces' are styled 'na Fórsaí Cosanta' as against 'Óglaigh na hÉireann'.

### Commentary

*gairm ... oifigeach gairme* 'Oifigeach gairme' is the form in the original text. 'Gairm' is the verbal noun of 'gair', 'call'. *Ó Dónaill* cites '*Military: An ghairm dheiridh*, the last post'. As an example of 'gairm' in the sense of 'summons', *Ó Dónaill* cites '*gairm slógaidh*, call to arms, mobilization' and as an example of 'gairm' in the sense of 'name, title; inaugural proclamation' he cites '*gairm rí, uaisleachta*, title of king, of nobility'. Another set of senses included in *Ó Dónaill* refers to 'calling': (a) 'divine call, vocation', with *Ó Dónaill* citing '*gairm chrábhaidh*, religious vocation'; (b) 'profession, occupation', with the citations '*do ghairm bheatha*, one's mission in life, one's occupation' and '*tá gairm dochtúra aige*, he is a doctor by profession'. 'Oifigeach gairme' is not cited in *Ó Dónaill* s.v. 'oifigeach', where 'oifigeach airm', 'army officer', is cited, as well as '*oifigeach coimisiúnta, neamhchoimisiúnta*, commissioned, non-commissioned, officer' and '*oifigeach ceannais*, commanding officer'.

'Gairm', genitive singular 'garma', as against *Ó Dónaill*'s 'gairme', is translated as 'act of calling, appealing to, naming, summoning; call, summons, name, title, praise, reputation, honour, fame; calling, avocation or condition of life, vocation' in *Dinneen* who, s.v. 'oifigeach', merely cites '*oifigeach airm*, military officer'. *DIL* s.v. 'gairm', includes (a) 'act of calling or summoning, a call, summons, cry'; (b) 'act of naming, calling'. (c) 'a name, title' – citing,

for example, 'na garma chleachtar anois, mar atá Barún' – and (d) 'a calling, employment, profession'. See further the commentary on Article 40.2.1<sup>o</sup> where 'gairm uaisleachta' expresses 'title of nobility'.

'Commission' is translated as 'coimisiún' in *Téarmaí Dlí*, following the ninth Irish Legal Terms Order (S.I. No. 291 of 1950 – Terms relating to Companies Law). In *Téarmaí Mileata* 'commission' is translated as 'coimisiún, údarú, barántas', but 'coimisiún' alone is given in all the examples cited, such as 'Short-service commission, *coimisiún gearrsheirbhíse*' and 'to relinquish a commission, *scarúint le coimisiún*'. 'Commissioned officer' is translated as 'oifigeach coimisiúnta' in *Téarmaí Mileata*. The third decree of the Irish Provisional Government, 1922, was 'A Decree to authorise the issue of Commissions in the Army of Saorstát Éireann', 'Reacht chun tabhairt Choimisiún in Arm Shaorstáit Éireann d'údarú'. In s3(5) of the Defence Forces (Temporary Provisions) Act, 1923, 'an officer commissioned or in pay as an officer of the Forces' is translated as 'oifigeach coimisiúnta no ar páigh mar oifigeach de sna Fórsaí', and in subsection (7), 'Non-Commissioned Officer' is translated as 'Oifigeach Nea-Choimisiúnta'. In s3(b) of the Defence Forces (Pensions) (Amendment) Act, 1968, 'non-commissioned officers' is translated as 'oifigeach neamhchoimisiúnta', while in s2(1)(b) of the Merchant Shipping Act, 1992, 'commissioned naval rank' is translated as 'céim choimisiúnta chabhlaigh'. 'A commissioned officer of the Defence Forces of the State' is translated as 'oifigeach coimisiúnta d'Fhórsaí Cosanta an Stáit' in s41(6)(a) of the Air Navigation and Transport Act, 1988, 'oifigeach coimisiúnta d'Fhórsaí Cosanta Shaorstáit Éireann' translating 'a commissioned officer of the Defence Forces of Saorstát Éireann' in s64(a) of the Air Navigation and Transport Act, 1936. In s7 of the Fourth Schedule to the Defence Act, 1954, 'the resignation of their commissions by officers' is translated as 'éirí oifigeach as a gcoimisiún'.

Looking further at the early Acts, 'The expression "the forces" means any armed force ... the members of which by the terms of their commission, agreement, enlistment, enrolment, contract or otherwise ...', in s16 of the Army Pensions Act, 1923, is translated as 'Cialluíonn an focal "na fórsaí" aon fhórsaí armtha ... 'na mbeadh a mbaill ... do réir téarmaí a gcoimisiúin, a margaidh, a liostála, a gcláruithe, a gconnartha no éinní eile'. In s3(5) of the Defence Forces (Temporary Provisions) Act, 1923, 'The expression "Officer" means any officer commissioned or in pay as an officer of the Forces' is translated as 'Cialluíonn an focal "Oifigeach" oifigeach coimisiúnta no ar páigh mar oifigeach de na Fórsaí' and in s3(7) thereof 'The expression "Non-Commissioned Officer" includes an acting non-commissioned officer' is translated as 'Foluíonn an focal "Oifigeach Nea-Choimisiúnta" oifigeach nea-choimisiúnta gníomhathach'. In s8(2) of the Ministers and Secretaries Act, 1924, 'and three military members being commissioned members of the said Defence Forces' is translated as 'agus triúr ball mileata, eadhon, baill choimisiúnta de sna Fórsaí Cosanta san'.

Note, finally, that *L. Mc Cionnaith* translates 'commissioned rank' as 'céim choimisiúnta', followed by the abbreviation for 'Terms from Staff of Dáil, *Foclóir Oifigeamhail*'.

*a bheidh* 'To hold office' and 'to hold the appointment

of Adjutant-General' are translated respectively as 'bheith i seilbh oifige' and 'ceapachán Ardaidiúnaigh a shealbhú' in *Téarmaí Mileata*. 'All Officers of the Forces shall hold their commissions during the pleasure of the Executive Council', in s15 of the Defence Forces (Temporary Provisions) Act, 1923, is translated as 'Sealbhóidh Oifigigh uile na bhFórsaí a gcoimisiúin faid is toil leis an Ard-Chomhairle'. 'And shall hold their employment on such terms and conditions as the board concerned shall ... determine' is translated as 'agus beidh siad i seilbh a bhfostaíochta ar cibé téarmaí agus coinníollacha a chinnefidh an bord áirithe' in s25(3) of the Fisheries Act, 1980, for example. In s5(1) of the Local Elections Postponement Act, 1922, 'shall hold office in all respects' is translated as 'sealbhóidh sé a oifig i ngach slí'. 'Beidh seilbh ag gach duine de bhaill mhíleata na Comhairle Cosanta ar an oifig sin an fhaid is toil leis an Ard-Chomhairle é' translates 'Each of the military members of the Council of Defence shall hold that office at the pleasure of the Executive Council'. Finally, 'comhacht ... chun talamh do bheith ar seilbh aige agus do chur dá lámh' translates 'power ... to hold and dispose of land' in s14(2) of the Currency Act, 1927.

Turning to modern Acts, in s13(4) of the Health Act, 1970, 'A chief executive shall hold his office on such terms ...' is translated as 'Sealbhóidh príomh-oifigeach feidhmiúcháin a oifig ar cibé téarmaí ...'. In s1(3)(b) of the Ministerial and Parliamentary Offices Act, 1972, 'the person ... had held the office of Deputy Chairman of Dáil Éireann' is translated as 'go raibh an duine ... i seilbh oifige mar Leas-Chathaoirleach Dháil Éireann'.

Professor Máirtín Ó Murchú recommends keeping 'a bheidh' and simply substituting 'coimisiún'/'coimisiúnta' and 'Óglaigh na hÉireann' to bring the original text into line with current terminology, i.e. to read 'Is ón Uachtarán a bheidh a gcoimisiún ag oifigigh choimisiúnta uile Óglaigh na hÉireann'.

### Gender-proofed Irish text

Is ón Uachtarán a bheidh a ghairm nó a gairm ag gach oifigeach gairme de na Fórsaí Cosanta.

### Direct translation

Déanfaidh oifigigh choimisiúnta uile Óglaigh na hÉireann a gcoimisiúin a shealbhú ón Uachtarán.<sup>1</sup>

### Variants

- <sup>1</sup> 'Sealbhóidh oifigigh choimisiúnta uile Óglaigh na hÉireann a gcoimisiúin ón Uachtarán.', 'Sealbhóidh gach oifigeach coimisiúnta d'Óglaigh na hÉireann a choimisiún nó a coimisiún ón Uachtarán.', 'Is ón Uachtarán a shealbhóidh oifigigh choimisiúnta uile Óglaigh na hÉireann a gcoimisiúin.'

## ARTICLE 13.6 AIRTEAGAL 13.6

### TÉACS GAELIGE

Bheirtear don Uachtarán leis seo ceart maithiúnais, agus cumhacht chun maolaithe nó loghtha pionóis a ghearrtar ar dhaoine in aon chúirt dlínse coire, ach, taobh amuigh de chásanna breithe báis, féadfar an chumhacht maolaithe nó loghtha sin a thabhairt le dlí d'údarais eile freisin.

**LITERAL ENGLISH TRANSLATION**

With this the President is given a right of pardon/absolving, and power to mitigate or to remit a punishment which is imposed on people in any court of criminal jurisdiction, but, apart from cases of death-sentence, that power of mitigation or remission may also be given by law to other authorities.

**ENGLISH TEXT**

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

**Divergences between the official texts**

- 1 'To commute punishment', that is, to substitute one punishment for another, is expressed as 'chun maolaithe pionóis' ('to mitigate punishment') in the Irish text, with 'commutation' expressed as 'maolú' ('mitigation'); the Irish legal terms for 'commute' and 'commutation' respectively are 'iomalartaigh' and 'iomalairt', whereas 'maolaigh' and 'maolú' are the Irish legal terms for 'mitigate' and 'mitigation' respectively.
- 2 **The** right of pardon and **the** power to commute' is expressed as 'ceart maithiúnais, agus cumhacht chun maolaithe' ('a right of pardon, and power to remit') in the Irish text.
- 3 'Capital cases' is expressed as 'cásanna breithe báis' ('cases of death sentence') in the Irish text.
- 4 'Imposed by any court **exercising** criminal jurisdiction' is expressed as 'a ghearrtar ar dhaoine in aon chúirt dlínse coire' ('imposed **on people** in any court of criminal jurisdiction') in the Irish text.
- 5 'Right' and 'power' are **given** ('bheirtear do') to the President in the Irish text whereas they are **vested** in the President in the English text, the Irish text using the same verb to express 'confer'.

**Commentary**

*maolaithe* The genitive singular form (after 'chun') of 'maolú', which verbal noun is translated as 'mitigation' in *Téarmaí Dlí*, 'maolaím' being translated as 'I mitigate'. 'Maolaigh' is translated principally as 'make, become, bare or bald' in *Ó Dónaill*, who includes the secondary sense of 'mitigate', following the abbreviation for 'Jurisprudence', and cites '*breith, pionós, a mhaolú*, to mitigate a judgment, a penalty'. This is just one of a set of meanings of 'maolaigh' included by *Ó Dónaill*, others being 'decrease, slacken, moderate', 'abate' and 'modify'.

Henry Murdoch, *A Dictionary of Irish Law*, defines 'commute' as 'to substitute one punishment for another'. 'I commute' is translated as 'iomalartaím' and 'commutation' is translated as 'iomalairt' in *Téarmaí Dlí*, which words are based on 'malairt', 'change'. 'Iomalartaigh' is translated as 'commute, exchange' in *Ó Dónaill*, who cites '*pianbhreith a iomlartú*, to commute a sentence'. 'The power ... to commute or remit a punishment' is translated as 'An chumhacht ... pionós a iomlartú nó a loghadh' in s5(1) of the Criminal Justice Act, 1990, following s23(1) of the

Criminal Justice Act, 1951, where 'the government may commute or remit ... any punishment imposed by a Court exercising criminal jurisdiction' is translated as 'féadfaidh an Rialtas aon pionós a bheas forchurtha ag Cúirt a fheidhmíos dlínse choiriúil d'iomalairtiú nó a loghadh'. 'Exercisable during the period for which the commutation or remission of his punishment is prohibited by subsection 1' is translated as 'infheidhmithe i gcaitheamh na tréimhse a mbeidh iomlartú nó loghadh a phionóis toirmiscthe le fo-alt (1)' in s5(3) of the Criminal Justice Act, 1990.

Looking at early Acts, in s21 of the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924, 'the prescribed officer may mitigate or remit such punishment or punishments or commute or reduce such award for any less punishment or punishments' is translated as 'féadfaidh an t-oifigeach orduithe an pionós no na pionóis sin do luíodú no do mhaitheamh no an gearra san d'atharú no d'isliú go dtí aon pionós nó pionóis is lú ná san'. 'Such annual sum by way of commutation as may be fixed by the Commissioners' is translated as 'pé suim bhliantúil, mar mhalairt íoca, a cheapfidh na Coimisinéirí' in s48 of the Dundalk Harbour and Port Act, 1925, the Margin Title of that section, 'Power to commute tonnage and quayage rates in respect of steam trawlers and fishing vessels' being translated as 'Comhacht chun suim bhliantúil do chur in ionad rátaí tonnáiste agus céibhe ar scór tráiléirí gaile agus ártach iascaigh'.

*cásanna breithe báis* 'Breith bháis' is translated in *Ó Dónaill* as 'sentence of death' s.v. 'breith', 'judgment, decision'. 'Sentence', however, is translated as 'pianbhreith' in *Téarmaí Dlí*, which headword is translated as 'sentence' in *Ó Dónaill* also. 'Capital offence' and 'capital punishment' are respectively translated as 'cion báis' and 'pionós báis' in *Téarmaí Dlí*. As we see above, in s23(1) of the Criminal Justice Act, 1951, 'Except in capital cases' is translated as 'Ach amháin i gcásanna lena ngabhann pionós báis', this same English phrase being translated, following this Article in part, as 'Lasmuich de chásanna breithe báis' in s33(1) of the Offences Against the State Act, 1939, and in s13(1) of the Constitution (Consequential Provisions) Act, 1937.

Professor Máirtín Ó Murchú comments that 'breith bháis' in 'cásanna breithe báis' would be the standard expression of 'capital' in 'capital cases', referring to the following line by the eighteenth/nineteenth-century poet Seán na Ráithíneach, 'díotáil bháis ó láimh gach n-aoin ort' (translated by Professor Ó Murchú as 'and capital indictment has been signed by all against you'). Máirtín Ó Murchú also refers to the use of the verb 'daor' in this context, the basic sense of which is 'enslave', but which has the secondary sense of 'convict, condemn', *Ó Dónaill* citing '*daoradh chun báis iad*, they were condemned to death'.

*aon chúirt dlínse coire* 'Cúirt dlínse achomaire' is translated as 'court of summary jurisdiction' in *Téarmaí Dlí*. 'Dlínse' is translated as 'jurisdiction' in *Ó Dónaill* and 'dlíghinse' is translated as 'authority, jurisdiction' in *Dinneen*, who cites 'dlínse' followed by the abbreviation for *Sean-chaint na nDéise*, by the Most Rev. Dr Michael Sheehan (1906) – see the commentary on Article 3.

'Coir' is the Irish legal term for 'crime', and is translated as 'crime, offence, fault, transgression' in *Ó Dónaill* and as 'sin, crime, accusation, trespass' in *Dinneen*. 'Criminal' is translated as 'coiriúil' in *Téarmaí Dlí*, where 'the Court



of Criminal Appeal' is translated as 'an Chúirt Achomhairc Choiriúil'. As we see above, in s23(1) of the Criminal Justice Act, 1951, 'a Court exercising criminal jurisdiction' is translated as 'Cúirt a fheidhmíós dlínse choiriúil'. 'The remission of any forfeiture or disqualification imposed by a Court exercising criminal jurisdiction' is translated as 'aon fhorghéilleadh nó dícháiliú a loghadh a d'fhorchuir Cúirt ag feidhmiú dlínse coiriúla di' in s5(e)(ii) of the Ombudsman Act, 1980.

Looking at earlier Acts regarding 'criminal', 'power to determine all matters and questions whether of law or fact, civil or criminal' is translated as 'comhacht chun socrúithe gach cúrsa agus gach ceiste bhaineas le dlí no le firinne, pe'ca sibhialta no coiriúil' in Article 64 of the 1922 Constitution. 'In all criminal cases before ... the Court of Criminal Appeal' is translated as 'i ngach cás coiriúil i láthair ... na Cúirte Athchomhairc Choiriúla' in s36(ii) of the Courts of Justice Act, 1924, 'suidheanna na Príomh-Chúirte Coiriúla do Bhaile Átha Cliath' translating 'the sittings of the Central Criminal Court for Dublin' in s36(iii). 'Criminal conversation' is translated as 'comhrá coiriúil' in s77A(ii) of the same Act. 'Cuirpe', genitive singular as attributive adjective, is found in the Schedule to the Appropriation Act, 1922, where 'For ... the maintenance of criminal lunatics confined in district lunatic asylums' is translated as 'chun cimeád suas na ngealt cuirpe a choinnítear i ngealtlanna ceantair' – 'gealt coiriúil' translates 'a criminal lunatic' in s9(6) of the Defence Forces (Temporary Provisions) Act, 1925. Finally, 'For the Expenses of Criminal Prosecutions' is translated as 'Chun Costaisí Coir-phróiseacht' in Schedule B to the Appropriation Act, 1926.

*ceart maithiúnais* 'Maithiúnas' is translated as 'forgiveness, pardon' in *Ó Dónaill*, who cites '*maithiúnas na bpeacaí*, the forgiveness of sins', and as 'forgiveness, pardon, remission, release' in *Dinneen*. 'Maitheamnas' is based on 'maithem', the verbal noun of 'maithid', the original sense of which may be 'grants, concedes', according to DIL, wherein 'maithid' is translated as (a) 'remits, excuses (an obligation, penalty)', (b) 'pardons, forgives (an offence)', (c) 'remits, i.e. abates, withholds' and (d) 'gives up (claim to); renounces'.

'In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve' is translated as 'Ní dhéanfar i gcás ar bith ceart achainí ag iarraidh maithiúnais nó iomalairte a bhaint de dhaoine a bheidh daortha chun báis' in Article 75 of the Fourth Schedule to the Geneva Conventions Act, 1962. 'Pardon of the offence by the Minister' is translated as 'An tAire do mhaitheamh an chionta dho' in s96(2) of the Defence Forces (Temporary Provisions) Act, 1923. 'Whenever ... the convicted person is granted a free pardon' is translated as 'Pé uair ... a deonfar saor-phardún don duine chiontuithe' in s19(4) of the Public Safety Act, 1927.

In *Téarmaí Oifigiúla* 'free pardon' is translated as 'saormhathúnas' (no source being given), and 'maitheamh' and 'maithiúnas a thabhairt do' are also cited without source. *De Bhaldraithe* gives 'pardún, maithiúnas' s.v. 'pardon' and, following the abbreviation for 'Jurisprudence', translates 'free pardon' as 'saormhathiúnas', 'to receive the King's pardon' as 'pardún a fháil ón rí' and 'general pardon' as 'pardún coiteann', translating 'I pardon' as 'maithim, tugaim pardún do'.

*loghtha* The genitive singular form (after 'chun') of 'loghadh', which is translated as 'remission (i.e. of a sentence)' in *Téarmaí Dlí*, 'loghaim' being translated as 'I remit (i.e. a sentence)'. *Ó Dónaill* translates 'logh' as 'remit, forgive' and cites '*peacaí, pionós, a loghadh*, to remit sins, a penalty'. 'Loghaim' is translated as 'I forgive, remit, pardon, indulge' in *Dinneen*. See further the commentary on Article 21.1.1°.

'The Executive Council may ... at any time freely pardon any person convicted by the Tribunal for any offence and wholly remit the punishment imposed by the Tribunal on such person' is translated as 'Féadfaidh an Ard-Chomhairle ... saor-mhathiúnas do thabhairt uair ar bith d'éinne bheidh ciontuithe i gcionta ar bith ag an mBínse agus an pionós do chuir an Bínse ar an duine sin do mhaitheamh ar fad' in s12(1) of the Constitution (Amendment No. 17) Act, 1931. 'Remission of sentence' is translated as 'loghadh pianbhreithe' in s5(1) of the Criminal Justice Act, 1990, 'Remission of punishment' being translated as 'Pionós ... a loghadh' in the Margin Title of s23 of the Criminal Justice Act, 1951.

'Any automatic forfeiture of pay ... may be remitted by the Minister' is translated as 'Féadfaidh an tAire maitheamh do thabhairt in aon phágh-chailiúint átom-aitigiúil' in s132 of the Defence Forces (Temporary Provisions) Act, 1923. 'The imposition, repeal, remission, alteration or regulation of taxation' is translated as 'leaga, ath-ghairm, maitheamh, atharú no rialú cánach' in Article 35 of the 1922 Constitution. 'Granting to bookmakers remissions or refunds (as the case may require) of betting duty' is translated as 'maitheamh no aisíoc (pe'ca aca is gá sa chás) sa gheall-diúité do dheona do gheall-ghlacadóir' in s25(1) of the Finance Act, 1926.

*a ghearrtar ar* 'Pionós a ghearradh ar dhuine' is translated as 'to impose a penalty on someone', and is cited in *Ó Dónaill* with '*gearradh príosún air*, he was sentenced to imprisonment' as examples of this use of the verb 'gearr' to express 'impose'. 'Gearr', basically 'cut', can also translate 'levy' as in '*cáin, fineáil a ghearradh ar dhuine*, to levy a tax, a fine, on someone'.

In s17(3)(a) of the Consumer Information Act, 1978, 'Where a court imposes a fine' is translated as 'I gcás a ngearrfaidh cúirt fineáil', and in Article 25 of the Protocol on the Statute of the Court of Justice of the European Atomic Energy Community 'the Court may impose pecuniary penalties' is translated as 'féadfaidh sí pionóis airgid a ghearradh'. In s23(1) of the Criminal Justice Act, 1951, however, 'any punishment imposed by a Court' is translated as 'aon phionós a bheas forchurtha ag Cúirt'. In s19(b) of the Value-Added Tax (Amendment) Act, 1978, 'any condition ... imposed by the Revenue Commissioners' is translated as 'aon choinníoll ... a d'fhorchuir na Coimisinéirí Ioncaim'.

'Gearra' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'impose (a punishment)' in *Iris Oifigiúil*, 1922/23. The Long Title of the Finance Act, 1923, 'An Act to charge and impose certain duties ...' is translated as 'Acht chun diúitéthe áirithe ... d'éileamh agus do ghearra', 'the said Military Forces are discharging with success the duty so imposed on them', in the Preamble to the Public Safety (Emergency Powers) Act, 1923, being translated as 'go bhfuil ag eirghe leis na Fórsaí Mileata san an dualgas a cuireadh ortha amhlaidh do chó-liona',

with 'to validate sentences imposed by military tribunals', in the Long Title of the Indemnity Act, 1923, being translated as 'chun dleathacht do thabhairt do bhreitheanna a thug Binsí Airm'. 'All ... duties as are for the time being vested in or imposed on an under-sheriff by law' is translated as 'gach dualgas a bheidh ag fo-shirriam, no air, de réir dlí de thuras na huairé' in s2(1) of the Local Government (Collection of Rates) Act, 1924. Finally, 'all ... penalties ... imposed or levied by any court' is translated as 'gach ... pionós ... a fhorchuirfar no a gearrfar ag aon chúirt' in s51(1) of the Court Officers Act, 1926.

*pionós* The genitive singular form of 'pionós', which is translated as 'penalty' in *Téarmaí Dlí*, where 'pionós báis', however, is translated as 'capital punishment'. 'Pionós' is translated as 'penalty, punishment' in *Ó Dónaill*, where the phrases 'pionós a ghearradh ar dhuine' and 'pionós a chur ar dhuine' are translated respectively as 'to impose a penalty on someone' and 'to penalize, punish, someone'. We have seen above that 'punishment' is translated as 'pionós' in the Criminal Justice Act, 1951, as it is in s209 of the Defence Act, 1954, for example. 'Pionósí mar gheall ar chiontú sa Sceideal' and 'Pionós i gcóir daoine 'na mbeidh maoin ghuidhe acu' respectively translate 'Punishments for offences in Schedule' and 'Punishment of persons having stolen property' in the Margin Titles of s5 and s9 of the Public Safety (Emergency Powers) Act, 1923.

*Dinneen* translates 'pionós' as 'penance; worry, anxiety' and 'pionósuighim' as 'I worry, punish'. Only two fairly recent examples of 'pionús', 'punishment', are given in DIL (see also 'péinis' [< 'pían'], 'a penalty'; 'pennas', 'pain, penalty' and 'pennait', from Latin 'poenitere' or 'poenitentia', 'penitence', 'penance' and 'penalty').

*a thabhairt le dlí* Regarding 'confer' in the Acts, in s7(a)(iii) of Schedule 5 to the Fisheries Act, 1980, 'in case the order is made under section 39 of this Act, be expressed and operate to confer ... on any person a right to pass ...' is translated as 'i gcás ar faoi alt 39 den Acht seo a dhéanfar an t-ordú, beidh sé sainráite ann agus oibreoidh sé chun go dtabharfar ... d'aon duine ceart gabhála ...'. In s112 of Schedule 1 to the Companies Act, 1963, 'The directors may entrust to and confer upon a managing director any of the powers ...' is translated as 'Féafaidh na stiúrthóirí aon chumhachtaí dá mbeidh infheidhmithe acu a chur ar iontaoibh stiúrthóra bainistíochta agus a thabhairt dó ...'. 'The final award shall operate and be expressed to charge, impose and confer on the county council the duty and the power' is translated as 'An dualgas agus an chomhacht ... oibreoidh an mola deiridh chun iad do mhuirearú, d'fhorchur, agus do bhronna ar an gcomhairle chontae agus déarfann ann go ndineann sé amhlaidh' in s12(1) of the River Owenmore Drainage Act, 1926. In s159(1) of the Industrial and Commercial Property (Protection) Act, 1927, 'as are or may be conferred by law' is translated as 'a bronntar no a bronnfann le dlí'.

*Bheirtear* 'Tugtar' would replace 'bheirtear' according to the official standard – see the commentary on Article 12.1. As regards 'dilsigh', 'to vest', see the commentary on Article 13.4, where 'The supreme command of the Defence Forces is hereby vested in the President' is expressed as 'Leis seo cuirtear na Fórsaí Cosanta faoi ardcheannas an Uachtaráin'.

*d'údaráis* Regarding 'authority' in early Acts, 'Acknowledging that all lawful authority comes from God to the people', in the Preamble to the 1922 Constitution, is translated as 'á admháil gur ó Dhia a thagann gach údarás dleathach'. 'The general lighthouse authority' is translated as '(ag) an údarás generálta a bheidh ann do thithe soluis' in s108(1) of the Dundalk Harbour and Port Act, 1925. See further the commentary on Article 6.2 regarding 'údarás'.

*leis seo* Literally 'with this', which phrase translates 'hereby' in the Acts. Note how 'Leis seo' is found at the beginning of Article 13.4, before the verb. It generally follows the verb in the Acts – see, for example, s1(1) of the Finance Act, 1990, where 'the Finance Act, 1980, is hereby, amended' is translated as 'leasaítear leis seo an tAcht Airgeadais, 1980'.

*cumhacht* See the commentary on Article 13.9 and note that 'Gach comhacht rialtais' translates 'all powers of government' in Article 2 of the 1922 Constitution.

### Standardised Irish text

Tugtar don Uachtarán leis seo ceart maithiúnais, agus cumhacht chun maolú nó loghadh pionós a ghearrtar ar dhaoine in aon chúirt dlínse coire, ach, taobh amuigh de chásanna breithe báis, féadfar an chumhacht mhaolaithe nó loghtha sin a thabhairt le dlí d'údaráis eile freisin.

### Direct translation

Dílsítear don Uachtarán leis seo an ceart chun maithiúnas a thabhairt agus an chumhacht chun pionós a ghearrfaidh<sup>1</sup> aon chúirt ag feidhmiú dlínse choiriúil di<sup>2</sup> a iomaltú nó a loghadh,<sup>3</sup> ach féadfar an chumhacht iomaltaithe nó loghtha sin a thabhairt le dlí d'údaráis eile freisin, ach amháin i gcásanna lena ngabhann pionós báis.

### Variants

- 1 'a fhorchuirfidh'
- 2 'a fheidhmeoidh dlínse choiriúil'
- 3 'Déantar leis seo an ceart chun maithiúnas a thabhairt agus an chumhacht chun pionós a ghearrfaidh aon chúirt ag feidhmiú dlínse choiriúil di a iomaltú nó a loghadh a dhílsíú don Uachtarán.'

## ARTICLE 13.7.1<sup>o</sup> AIRTEAGAL 13.7.1<sup>o</sup>

### TÉACS GAEILGE

Tig leis an Uachtarán, tar éis comhairle a ghlacadh leis an gComhairle Stáit, teachtaireacht nó aitheasc a chur faoi bhráid Tithe an Oireachtais i dtaobh aon ní a bhfuil tábhacht náisiúnta nó tábhacht phoiblí ann.

### LITERAL ENGLISH TRANSLATION

The President may, after taking advice with the Council of State, put a message or address before the Houses of the Oireachtas on any thing which has national importance or public importance.

### ENGLISH TEXT

The President may, after consultation with the Council of

State, communicate with the Houses of the Oireachtas by message or address on any matter of national or public importance.

### Divergences between the official texts

- 1 'Communicate with the Houses of the Oireachtas by message or address' is expressed as 'teachtaireacht nó aitheasc a chur faoi bhráid Tithe an Oireachtais' ('put a message or address before the Houses of the Oireachtas') in the Irish text. According to Maolmhaoldhóg Ó Ruairc, op. cit., p. 215f., based on the fact that the phraseology in the Irish text is identical to that of the next subsection, with reference to an address to the nation, 'aitheasc a chur faoi bhráid an Náisiúin' – the President being unable to present 'himself' before the nation – the Irish text of Article 13.7.1<sup>o</sup> would not allow the President to come before the Oireachtas to give an oration or address or to read out or proclaim a message to the audience.

### Commentary

*a chur faoi bhráid* 'Rud a chur faoi bhráid duine' is translated as 'to set something in front of someone; to submit, refer something to someone' in *Ó Dónaill*. *Dinneen*, who cites '*féar do chur fá bhrághaid na bó*, to set hay before the cow, as a feed', translates 'cuirim fá bhrághaid' as 'I recommend to, put under the protection of'. 'A chur faoi bhráid ...' literally means 'to put under the neck of ...' / 'at the breast of'. See the commentary on Article 17.1.1<sup>o</sup>.

In s149(4) of the *Standing Orders* of Dáil Éireann (1997), 'The Committee may ... in private communication, make such suggestion ...' is translated as 'féadfaidh an Coiste, i gcumarsáid rúnda, cibé moltaí ... a dhéanamh' and the Margin Title of s151, 'Communication between the Dáil and Seanad', is translated as 'Cumarsáid idir an Dáil agus an Seanad'. In s152(1), however, 'The Ceann Comhairle shall ... communicate any such message to the Dáil' is translated as 'Cuirfidh an Ceann Comhairle aon Teachtaireacht den sórt sin in iúl don Dáil'.

Turning to the Acts, in s6(1)(a) of the Prosecution of Offences Act, 1974, 'it shall not be lawful to communicate with the Attorney General' is translated as 'ní dleathach cumarsáid a dhéanamh leis an Ard-Aighne'. In s22(4) of the Juries Act, 1976, 'for the purpose of preventing undue communication with the jurors' is translated as 'do chur cosc le cumarsáid mhíchúí leis na giúróirí'. 'It shall not be lawful to communicate with a person referred to in section 6(1) ... for the purpose of influencing the making of a decision' is translated as 'ní bheidh sé dleathach cumarsáid a dhéanamh le duine dá dtagraítear in alt 6(1) ... d'fhonn tionchar a imirt ar chinneadh a dhéanamh' in s4(1)(a) of the Extradition (Amendment) Act, 1987. In s1(a) of Article 36 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, 'consular officers shall be free to communicate with nationals of the sending State and to have access to them' is translated as 'beidh saoirse ag oifigigh chonsalachta chun cumarsáid a dhéanamh le náisiúnaigh an Stáit shallchuir agus chun teacht a bheith acu orthu'.

Professor Máirtín Ó Murchú recommends 'dul i gcum-

arsáid le' rather than 'cumarsáid a dhéanamh le' but, as 'dul i gcomhairle le' precedes this in the translation below, that phrase does not suit the present context.

Looking at early Acts, in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'whenever the condition of any patient demands that ... the relatives of such patient should be sent for or communicated with' is translated as 'aon uair a iarrfidh cor aon othair fios do chur ar ... ghaolta an othair sin, no scéala do chur chucha'. In s2 of the Wireless Telegraphy Act, 1926, 'the expression "wireless telegraphy" means and includes any system of communicating messages ... by means of radiated electro-magnetic waves' is translated as 'cialluíonn agus foluíonn an focal "radio-thelegrafaíocht" aon mhodh chun teachtaireachtaí ... do chur in iúl le tontracha leictré-mhaighnéadacha leathta'. 'To this end he will communicate with the Government of the French Republic' (following 'Any ... Party shall be entitled to ... call for the assembling of a new international Conference') is translated as 'Chuirge sin cuirfe sé scéala go dtí Rialtas Phoblacht na Fraince' in Article 41 of the First Schedule to the Air Navigation and Transport Act, 1936.

*teachtaireacht* This headword is translated as 'message, errand' in *Ó Dónaill*, who translates 'teachtaireacht oifigiúil' as '(official) dispatch'. 'Teachtaireacht' is translated as 'a message, errand or commission, an enclosure in a letter, as money, etc.; ... an embassy' in *Dinneen*, who cites '*teachtaireacht teinntrighe*, a telegram' as a recent phrase. Both *Ó Dónaill* and *Dinneen* cite '*Teachtaireacht an Aingil*, the Annunciation', also 'the Angelus' according to *Dinneen*. 'Teachtairecht' is translated as 'message, errand, mission, embassy' in DIL, where examples are cited from the Glosses of the eighth century onwards. This word is based on 'techtair' ('messenger, courier, envoy'), which itself is based on 'techt' ('messenger, envoy, courier'), which originally was the same word as 'techt' (verbal noun of 'téit', 'act of going', 'act of coming'). Note that 'Mara ndéanfar sa tsíósón céanna intinn a churtha i leithreas do mhola trí theachtairacht ó Ionadaí na Coróinneach' translates 'unless the purpose of the appropriation has in the same session been recommended by a message from the Representative of the Crown' in Article 37 of the 1922 Constitution.

*aitheasc* This headword is translated as 'address (to Court, etc.)' in *Téarmaí Dlí*. *Ó Dónaill* translates 'aitheasc' as 'address, allocation', 'exhortation, homily' and, finally, following the abbreviation for 'Rhetoric', as 'apostrophe'. 'Aitheasc' is translated as 'advice, admonition, a lecture; reply, result; address; an oracle' in *Dinneen*. DIL translates 'aitheasc' as 'answer, reply', 'message, announcement, news' and 'utterance, speech in general', citing examples from the Glosses onwards. In the *Proceedings* of Dáil Éireann, 2/2/1995, 'Address by the President to the Houses of the Oireachtas' is translated as 'Aitheasc ón Uachtarán do Thithe an Oireachtais'.

Looking at early Acts, in s5(2) the Adaptation of Enactments Act, 1922, 'Every mention of or reference to the presentation of an address to his (or Her) Majesty by both or each or either of the Houses of Parliament contained in any British Statute' is translated as 'Gach luadh no tagairt do thairisgint dileagra dá Shoillse ó sna Tighthe Páirliminte

araon no ó gach ceann no aon cheann aca atá in aon Reacht Briotáineach'. 'Address (oration)' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'óráid' in the *Proceedings* of Seanad Éireann, 3/10/1923.

*aon ní* 'Ní' is translated as 'thing; something' in *Ó Dónaill*, 'nídh' being translated as 'a thing, item, matter or circumstance, ... something, anything ...' in *Dinneen*, who translates 'aon nídh' as 'anything, anything whatever'. See DIL s.v. 2 'ní' where it is stated that 'in late language the sense *anything* is rendered by the compound *aen- (én-) ní*'. In s32 of the *Standing Orders* of Dáil Éireann (1997), 'Provided that Questions relating to matters of urgent public importance may ... be asked on private notice' is translated as 'Ach féadfar ... Ceisteanna i dtaobh nithe a bhfuil deabhadh agus tábhacht phoiblí ag baint leo a chur tar éis fógra príobháideach ina dtaobh a thabhairt'. In s56, 'a member shall not be prevented from raising in the Dáil any matter of general public importance' is translated as 'ní choisfeair ar chomhalta aon ní a bhfuil tábhacht ghinearálta phoiblí ag baint leis a ardú sa Dáil'.

Looking at earlier Acts regarding 'matter', 'gach gnó, deighleáil, ní agus rud riamh a bhaineann le hairgead' translates 'every transaction, dealing, matter, and thing whatever relating to money' in s7 of the Coinage Act, 1926. In s40 of the First Schedule to the Electoral Act, 1923, 'the several acts, matters and things to be done' is translated as 'na gníomhartha, na rudaí agus na nithe iolartha a bheidh le déanamh' and in s5 of the Sligo Lighting and Electric Power Act, 1924, 'supply of such material and products matter and things' is translated as 'stuif agus tora saothair, abhar agus rudaí do sholáthar'. 'All matters in each House shall ... be determined' is translated as 'Socrófar gach ceist i ngach Tigh' in Article 22 of the 1922 Constitution and 'i ngach cás 'na dtiocfaidh cúrsaí den tsórt san i gceist' translates 'in all cases in which such matters come into question' in Article 65. See further the commentary on Article 34.3.1°.

*tábhacht* 'A matter stated by them to be of public importance' is rendered as 'ní a luafaidh siad ina thaobh go bhfuil tábhacht phoiblí ann' in Article 28.4.3°ii, following the Seventeenth Amendment of the Constitution.

'Tábhacht' is translated as 'importance; significance, substance' in *Ó Dónaill* and as 'value, validity, substance, substantiality, strength, importance' in *Dinneen*, who cites '*ní h-aon tábhacht liom é*, I consider it of no account', 'níl tábhacht agam ann' and 'mise i mbeag-thábhacht air' having the same meaning. 'Tadbacht' is translated as 'weight, importance, validity, substance' in DIL, where 'nach fuil tabhacht i seanchus Éireann' is cited from Keating's seventeenth-century *History of Ireland*.

'Literary manuscripts certified by the Director of the National Library as being of major national importance and of either cultural or artistic importance' is translated as 'lámhscríbhinní liteartha a mbeidh sé deimhnithe ag Stiúrthóir Leabharlann Náisiúnta na hÉireann gur lámhscríbhinní iad a bhfuil tábhacht mhór náisiúnta leo agus a bhfuil tábhacht leo ó thaobh an chultúir nó na healaíne de' in s63(a) of the Finance Act, 1989. 'Because he performs essential and urgent services of public importance' is translated as 'mar go ndéanann sé seirbhísí riachtanacha práinneacha lena ngabhann tábhacht phoiblí' in the First

Schedule to the Juries Act, 1976. 'Is required for use for purposes of public importance' is translated as 'ag teastáil chun é úsáid chun crícheanna le n-a mbaineann tácht phuiblí' in s22(1)(a) of the Air-Raid Precautions Act, 1939. 'The efficiency, extent, and relative importance of the industry in respect of which the application is made' is translated as 'Éifeachtúlacht, méid, agus tácht chomparáideach an cheárdais go bhfuil an t-iarratas á dhéanamh ina thaobh' in s1 of the Schedule to the Tariff Commission Act, 1926.

Note finally that 'poiblidhe' is unlenited following 'tábhacht' in the enrolled text.

*i dtaobh* This phrase is translated as 'about, concerning' in *Ó Dónaill*, who cites '*i dtaobh ruda*, concerning something', and as 'near, beside' and 'regarding, in reference to, about' in *Dinneen*. Examples from earlier literature of 'i dtaobh', in the sense of 'as regards, with respect to', are cited in DIL s.v. 'taeb'. See further the commentary on Article 49.1, where this prepositional phrase expresses 'in respect of'.

*comhairle a ghlacadh* 'To take advice'. The Irish legal term for 'consultation' is 'comhchomhairle' – see the commentary on Article 13.2.3°. 'The Minister may ... by regulations make provision after consultation with the Minister for Education for the attendance of unemployed persons at courses' is translated as 'Féadfaidh an tAire ... le rialacháin, socrú a dhéanamh tar éis dó dul i gcomhairle leis an Aire Oideachais, maidir le daoine difhostaithe do dhéanamh freastail ar chúrsaí' in s149 of the Social Welfare (Consolidation) Act, 1981, for example.

*Tig leis an Uachtarán* 'It is open to the President'. 'Tig le ...', literally '... can' is one of the ways of expressing '... may' in the Constitution – see the commentary on Article 12.4.4°.

*Tithe an Oireachtais* According to the official standard, the initial 'T' of the 'Tithe' would be lenited after the compound preposition 'faoi bhráid' – see the commentary on Article 1.

### Standardised Irish text

Tig leis an Uachtarán, tar éis comhairle a ghlacadh leis an gComhairle Stáit, teachtaireacht nó aitheasc a chur faoi bhráid Thithe an Oireachtais i dtaobh aon ní a bhfuil tábhacht náisiúnta nó tábhacht phoiblí ann.

### Direct translation

Féadfaidh an tUachtarán, tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit, cumarsáid a dhéanamh le Tithe an Oireachtais trí theachtaireacht nó trí aitheasc<sup>2</sup> ar aon ní a bhfuil tábhacht náisiúnta nó phoiblí ag baint leis.

### Variants

- 1 'i ndáil chomhairle', 'i gcomhchomhairle'
- 2 'le teachtaireacht nó le haitheasc'

ARTICLE 13.7.2<sup>o</sup> AIRTEAGAL 13.7.2<sup>o</sup>**TÉACS GAELIGE**

Tig leis an Uachtarán uair ar bith, tar éis comhairle a ghlacadh leis an gComhairle Stáit, aitheasc a chur faoi bhráid an Náisiúin i dtaobh aon ní den sórt sin.

**LITERAL ENGLISH TRANSLATION**

The President may at any time, after taking advice with the Council of State, put an address before the Nation regarding anything of that kind.

**ENGLISH TEXT**

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

**Divergences between the official texts**

- 1 'Address a **message** to the Nation' is expressed as 'aitheasc a chur faoi bhráid an Náisiúin' ('put an **address** before the Nation') in the Irish text.
- 2 The same phraseology is used in the Irish text as in the previous subsection: Article 13.7.1<sup>o</sup> reads 'aitheasc a chur faoi bhráid Tithe an Oireachtais' ('to put an address before the Houses of the Oireachtas') and the present Article reads 'aitheasc a chur faoi bhráid an Náisiúin' ('to put an address before the Nation'); the phraseology of the corresponding English text alters from one subsection to the next: 'communicate with the Houses of the Oireachtas by ... address', in Article 13.7.1<sup>o</sup>, and 'address a message to the Nation' in Article 13.7.2<sup>o</sup> above.

**Commentary**

*aitheasc a chur faoi bhráid* See the commentary on the previous subsection, where 'teachtaireacht' expresses 'message' and 'aitheasc' expresses the noun 'address'. In s151 of the *Standing Orders* of Dáil Éireann (1997), 'Messages from the Dáil to the Seanad shall be in writing ... and shall be addressed to the Clerk of the Seanad' is translated as 'Is i scríbhinn ... a chuirfear Teachtaireachtaí ón Dáil go dtí an Seanad, agus is chun Cléireach an tSeanad a dhíreofar iad'. In the *Treaty on European Union* (Maastricht, 1992, p. 176), 'the EMI shall address a report to the Council' is translated as 'díreoidh IEA tuarascáil chuig an gComhairle'. While both these examples concern written material, 'dirigh ar' literally translates 'direct at/to' or 'focus on' – see *Ó Dónaill*, who cites '*dirim m'achainn ort*, I direct my appeal to you'. Professor Máirtín Ó Murchú comments that 'díriú ar', in the translation below, connotes a sense of exclusiveness, i.e. that the message would be directed solely to the Nation and also that it would have a certain force. Professor Ó Murchú suggests 'teachtaireacht a thabhairt don Náisiúin'.

In *Téarmaí Dlí* 'I address (court, etc.)' is translated as 'aitheascaim' and, as we have seen, 'aitheasc' translates 'address (to Court, etc.)'. 'The right of the accused, if not represented by counsel or a solicitor, to address the court or jury ... on a matter on which, if he were so represented, his counsel or solicitor could address the court or jury on

his behalf' is translated as '(do) cheart an chúisí, mura mbeidh abhcóide nó aturnae ag feidhmiú ar a shon, an chúirt nó an giúiré a aitheasc ... i dtaobh aon ábhair ar ina thaobh a d'fhéadfadh a abhcóide nó a aturnae an chúirt nó an giúiré a aitheasc thar a cheann, dá mbeadh abhcóide nó aturnae aige' in s23(1)(a) of the Criminal Justice Act, 1984. 'The candidate or any agent of the candidate addressing therein electors' is translated as 'an t-iarrthóir no aon ghníomhaire don iarrthóir do thabhairt óráide ann' in s56 of the Prevention of Electoral Abuses Act, 1923.

*uair ar bith* 'Uair', 'hour', also has the sense of 'time, occasion' (see *Ó Dónaill*). 'Uair ar bith' is translated as '(at) any time, whenever (often with "go")' in *Dinneen*. 'At any time' is usually translated as 'tráth ar bith' in the modern Acts – see, for example, s35 of the Finance Act, 1990, where 'where there is, or was at any time ... a requirement' is translated as 'i gcás go bhfuil, nó go raibh tráth ar bith, ... ceanglas'. See the commentary on Article 13.2.3<sup>o</sup>.

Regarding early Acts, 'Féadfidh an tAire ordú fé fho-alt (1) den alt so do cheiliúra aon uair' translates 'An order under sub-section (1) of this section may be revoked at any time by the Minister' in s11(3) of the Gas Regulation Act, 1928, 'at all reasonable times' being translated as 'gach tráth réasúnta' in s10(1). In s1(1) of the Road Fund (Advances) Act, 1924, 'to meet all sums which are now or may at any time before the 1st day of April, 1925, be charged thereon' is translated as 'gach suim d'íoc atá anois, no a bheidh aon tráth roimh an 1adh lá d'Abrán, 1925, ina mhuirear air'. 'The members of the Committee shall be appointed ... at the times and in the manner in the Schedule hereto provided' is translated as 'Ar na tráthanna agus sa tslí a forálar sa Sceideal a ghabhann leis seo a déanfar baill an Choiste do cheapa' in s4(2) of the Schedule to the Pilotage Order Confirmation Act, 1927.

*den sórt sin* 'Sórt' is translated as 'sort; kind, variety' in *Ó Dónaill*, who cites '*rudai den sórt sin*, such things'. This is an English loanword, translated as 'a sort, kind, species' in DIL. 'Den sórt sin' frequently translates 'such' in the Acts – see, for example, s41(1) of the Finance Act, 1990, where 'in payment for such repair or maintenance' is translated as 'mar íocaíocht as deisiú nó as cothabháil den sórt sin'.

*an Náisiúin* 'Náisiún' is a late Romance loanword, according to DIL, s.v. 'náisiún', where *Ó Cianáin's Flight of the Earls* provides the only citations – see the commentary on Article 1.

*tar éis comhairle a ghlacadh* See the commentary on the previous subsection.

*Tig leis an Uachtarán* See the commentary on Article 12.4.4<sup>o</sup>.

*i dtaobh aon ní* See commentary on the previous subsection.

**Direct translation**

Féadfaidh an tUachtarán, tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit, teachtaireacht a dhíriú ar an Náisiún<sup>2</sup> tráth ar bith ar aon ní den sórt sin.

**Variants**

- 1 'i ndáil chomhairle', 'i gcomhchomhairle'
- 2 'a thabhairt don Náisiún', 'a chur faoi bhráid an Náisiúin'

ARTICLE 13.7.3<sup>o</sup> AIRTEAGAL 13.7.3<sup>o</sup>**TÉACS GAEILGE**

Ach i ngach cás díobh sin ní foláir an Rialtas a bheith sásta roimh ré leis an teachtaireacht nó leis an aitheasc.

**LITERAL ENGLISH TRANSLATION**

But in each of those cases the Government must be satisfied beforehand with the message or the address.

**ENGLISH TEXT**

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

**Divergences between the official texts**

- 1 'Must have received the approval of the Government' is expressed as 'ní foláir an Rialtas a bheith sásta roimh ré le' ('the Government must be satisfied beforehand with') in the Irish text.
- 2 The Irish text introduces 'i ngach cás díobh sin' ('in each of those cases') at the beginning of the subsection, the section concluding with 'an teachtaireacht nó (leis) an aitheasc' ('the message or the address'), both of which phrases are expressed in the English text by the single phrase 'every such message or address'.
- 3 'However' is expressed as 'Ach' ('but') in the Irish text, as in other Articles.

**Commentary**

*sásta le* This phrase translates 'satisfied with' in the Acts – see, for example s11(4) of the Fourth Schedule to the Capital Gains Tax Act, 1975, where 'where he [the inspector] is not satisfied with the account' is translated as 'i gcás nach mbeidh sé sásta leis an gcuntas'. 'Sásaím' is translated as 'I satisfy' in the *Téarmaí Dlí*. 'Sásta' is translated as 'satisfied, contented, pleased' in *Ó Dónaill*, who translates 'bheith sásta le rud' as 'to be satisfied with something'. *Dinneen* translates 'sásta' as 'satisfied, contented, comforted, willing, pleasing ...', and 'sásta le' as 'satisfied or pleased with'. Note, however, that he translates 'táim sásta leis sin' as 'I agree to that'. 'Sásta' is the participle of 'sásaid' ('satisfies [particularly with food], feeds; assuages, soothes', according to DIL), translated as 'satisfied, content' in DIL, citing four examples 'apparently in meaning "capable of giving satisfaction, satisfactory, agreeable, pleasant"' – note how the following example with meaning 'agreeable' cited there refers to food: 'luibi in talman ... nirbat sastai leo eside iar mbiadaib blasta Parthuis' ('they found them disagreeable', i.e. they did not find earthly foods agreeable after the tasty foods of Paradise). See further the commentary on Article 46.5 where 'ar mbeith sásta dó gur ...' expresses 'upon his being satisfied that'.

'Approval' is translated as 'formheas' in *Téarmaí Dlí* (following the first Irish Legal Terms Order, i.e. terms relating to Landlord and Tenant Law, Conveyancing and

Property Law) and 'I approve' is translated as 'formheasaim'. In s2(2)(d) of the Consumer Information Act, 1978, 'implied by the approval of any person' is translated as 'is inchiallaithe ó fhorhneas aon duine'. As we saw in the commentary on Article 13.1.2<sup>o</sup>, however, 'ceadú' often translates 'approval' in the Acts. In s3(b)(ii) of the Schedule to the Industrial Development Association (Special Action Account) Act, 1978, for example, 'taking account of the time necessary for parliamentary approval of the annual budgets' is translated as 'aird a thabhairt ar an am is gá chun ceadú parlaiminte a fháil do na buiséid bhliantúla'. 'Le toiliú nó le ceadú' generally translates the phrase 'with the consent or approval' in the Acts – see s7 of the Regulation of Banks (Remuneration and Conditions of Employment) (Temporary Provisions) Act, 1973, where 'with the consent or approval of ... any person' is translated as 'le toiliú nó le ceadú aon duine'. In the *Programme for a Partnership Government, 1993-97*, 'without approval by the Oireachtas' is translated as 'mura mbíonn ceadú ón Oireachtas faighte roimhe sin'. In s102(c) of the *Standing Orders* of Dáil Éireann (1997), 'that, subject to the approval of the Joint Broadcasting Committee ..., broadcasters be permitted ...' is translated as 'go gceadófar do chraoltóirí, faoi réir cheadú an Chomhchoiste Craolacháin ...'. In the *Treaty on European Union* (1992, p. 52), 'guidelines ... shall require the approval of the Member State concerned' is translated as 'is gá ceadú an Bhallstáit i drácht do threoirilinte'. Note that in the *Treaties establishing the European Communities* (1973, p. 150), 'Subject to the approval of the Government concerned' is translated as 'Ar an gcoinníoll go bhfaighfear tuairim fhábhach ón Rialtas lena mbaineann'. Professor Máirtín Ó Murchú remarks that, outside of a high legal context, 'formheas' would not readily be understood.

See the commentary on Article 13.1.2<sup>o</sup> regarding early translations of 'approval'. Note that 'Deimhniú sástachta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'Certificate of Approval' in translations for the Department of Local Government and Public Health and 'le n-a bhfuiltear sásta' is cited there as translating 'approved' in the *Standing Orders* of Dáil Éireann, 1926, p. 37. Finally, 'And whereas such resolution was published twice in each of the said newspapers, and has received the approval of the Minister' is translated as 'Agus de bhri gur foillsíodh an rún san fé dhó i ngach páipéar nuachta fé leith de sna páipéirí nuachta san agus go bhfuil an tAire ... tar éis aontú leis' in the Preamble to the Mountjoy Square, Dublin, Act, 1938.

*Ach* See the commentary on Article 15.2.2<sup>o</sup>.

**Direct translation**

Ní mór<sup>1</sup>, áfach, ceadú<sup>2</sup> an Rialtais a bheith faighte i leith gach teachtaireachta nó aithisc<sup>3</sup> den sórt sin.

**Variants**

- 1 'foláir'
- 2 'formheas'
- 3 'maidir le gach teachtaireacht nó aitheasc'

ARTICLE 13.8.1<sup>o</sup> AIRTEAGAL 13.8.1<sup>o</sup>

## TÉACS GAELIGE

Níl an tUachtarán freagrach d'aon Teach den Oireachtas ná d'aon chúirt in oibriú is i gcomhlíonadh cumhachtaí is feidhmeanna a oifige ná in aon ghníomh dá ndéanann sé nó a bheireann le tuiscint gur gníomh é a dhéanann sé in oibriú agus i gcomhlíonadh na gcumhachtaí is na bhfeidhmeanna sin.

## LITERAL ENGLISH TRANSLATION

The President is not answerable to any House of the Oireachtas nor to any court in the operation and in the fulfilment of the powers and functions of his office nor in any deed which he does or which gives to understand that it is a deed he does in the operation and in the fulfilment of those powers and functions.

## ENGLISH TEXT

The President shall not be answerable to either House of the Oireachtas or to any court for the exercise and performance of the powers and functions of his office or for any act done or purporting to be done by him in the exercise and performance of these powers and functions.

## Divergences between the official texts

- 1 'The President shall not' is expressed as 'Níl an tUachtarán' ('The President is not') in the Irish text, with 'any act **done** or purporting to be **done**' (by the President) expressed as 'aon ghníomh dá ndéanann sé nó a bheireann le tuiscint gur gníomh é a dhéanann sé' ('any act which he **does** or gives to understand that it is an act which he **does**').
- 2 'Freagrach' is translated as 'responsible' in *Téarmaí Dlí* and, though literally meaning 'answerable in', 'freagrach i' is translated as 'responsible for' and 'accountable for' respectively in *Dinneen* and *Ó Dónaill* – the latter does, however, translate 'bheith freagrach do dhuine i rud' as 'to be answerable to someone for something' and 'bheith freagrach i' is also found in Acts translating 'answerable for'.
- 3 'Either House' is expressed as 'aon Teach' ('any House') in the Irish text.
- 4 'Exercise' is expressed by the Irish legal term for 'operation', 'oibriú', as we saw earlier.

## Commentary

*freagrach do* 'Freagrach' is translated as 'responsible' in *Téarmaí Dlí* and as 'answerable, accountable' in *Ó Dónaill*, who cites '*bheith freagrach do dhuine i rud, as rud*, to be answerable to someone for something', '*freagrach san airgead*, accountable for the money' and '*tá sé freagrach san uile ní*, he bears responsibility for everything'. 'Freagarthach', the form in the enrolled text, is translated as 'answerable, suitable, responsible, responsive; ready' in *Dinneen*, who translates 'freagarthach i' as 'responsible for'. 'Freagarthach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'answerable' in early *Standing Orders* of Dáil Éireann. See further the commentary on Article 28.4.1<sup>o</sup> where this phrase expresses 'responsible to'.

'And the finance house and the seller shall ... be answerable to the buyer for breach of the contract of sale' is translated as 'agus beidh an teach airgeadais agus an díoltóir freagrach ... don cheannaitheoir mar gheall ar an gconradh díolacháin a shárú' in s14 of the Sale of Foods and Supply of Services Act, 1980. In s17(1)(a) of the Finance Act, 1970, and s21 of the Finance Act, 1976, 'to be answerable for the carrying out of such operations by others' is translated as '(a) bheith freagrach sna hoibriochtaí sin a dhéanamh ag daoine eile'. In s494(1) of the Income Tax Act, 1967, 'the owner ... of the profits thereof shall be answerable for the tax so charged' is translated as 'beidh úinéir ... na mbrabús freagrach sa cháin a mhuirearófar amhlaidh'. Finally, in the *Treaty on European Union* (1992, p. 244), 'military units answerable to WEV' is translated as 'aonaid mhíleata atá freagrach do AIE'.

On the other hand, 'freagrach' is involved in translating 'responsible' in s22(5)(b) of the Consumer Information Act, 1978, for example, where 'that he disclaimed by other means responsibility for the description' is translated as 'gur shéan sé ar dhóigh eile go raibh sé freagrach sa tuairisc'. In s2(1) of the Civil Liability Act, 1961, "wrong-doer" means a person who commits or is otherwise responsible for a wrong' is translated as 'ciallaíonn "éagóiritheoir" duine a rinne éagóir nó atá freagrach ar shlí eile in éagóir'. In s8(1) of the Companies Act, 1963, 'any director who was responsible for the doing by the company of such act' is translated as 'aon stiúrthóir ... a bhí freagrach sa chuideachta do dhéanamh an ghnímh'.

'Freagrach do' translates 'amenable to' in s1 of Article 43 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, with 'Consular officers ... shall not be amenable to the jurisdiction ... in respect of acts ...' being translated as 'Ní bheidh oifigigh chonsalachta ... freagrach do dhlinse ... i leith gníomhartha ...'. In the *Programme for a Partnership Government*, 1993-97 (p. 16), 'that the Government are fully accountable to the Dáil for their policies' is translated as 'go mbeidh an Rialtas freagrach go hiomlán don Dáil as a chuid beartas'.

*a bheireann le tuiscint* In Article 28.3.3<sup>o</sup> 'ná chun aon ghníomh dá ndéantar nó a bheireann le tuiscint gur gníomh é a dhéantar in aimsir chogaidh ... a chur ar neamhni' expresses 'or to nullify any act done or purporting to be done in time of war'. 'A bheireann le tuiscint' would be written as 'a thugann le tuiscint' according to the official standard – see the commentary on Article 12.1. 'Tuiscint' comes from 'tuisc', which is the Middle Irish verbal noun of 'do-uccí', the Old Irish verbal noun being 'tabairt' (2 'tabairt' in DIL, 'understanding'). 'Tabairt' is also the verbal noun of 'do-beir', 'gives, puts, brings, gets' (1 'tabairt' in DIL, 'giving, bestowing, etc.'). In the phrase 'tabhair le tuiscint', therefore, the two main words are developments from a single Old Irish verb – see DIL s.v. 'do-beir':

The perfective forms are supplied ... in the meaning *brings, gets* by \*to-ucc- ... The perfective \*to-ucc- (lit. *can bring*) also forms a complete paradigm without distinction of perfective and non-perfective forms, with the meaning *understands* (later *tuicid*) the verbal-noun being 2 *tabairt* later replaced by *tuisciu*.

DIL includes the senses of (a) 'comprehends, understands', (d) 'means, signifies', (e) 'In certain cases followed by preposition ... FRI (LE), understands (of), applies or refers

to (frequently in passive)' as the sixth set of senses of 'do-beir', in which set the forms of 'do-ucci' are given.

In the Acts '(tabhair) le tuiscint' has been called on to translate 'imply' and 'represent oneself' – in s7(1) of the Central Bank Act, 1971, for example, 'a person ... shall not ... carry on banking business or hold himself out or represent himself as a banker' is translated as 'ní dhéanfaidh duine ... gnó baincéireachta a sheoladh ná a thabhairt le tuiscint nó le fios gur baincér é'. In s2(4) of the Capital Gains Tax Act, 1975, '... shall not imply that any expenditure is incurred' is translated as 'ní bheidh sé le tuiscint aisti go bhfuil aon chaiteachas á thabhu ...'. The verb 'airbheartaigh' generally translates 'purport' in the Acts. In s37(1) of the Companies Act, 1963, for example, 'Any contract ... purporting to be entered into by a company' is translated as 'Aon chonradh ... a airbheartóidh a bheith déanta ag cuideachta'. In s15(4)(b) of the Social Welfare (Consolidation) Act, 1981, 'a certificate purporting to be signed by the Collector-General ...' is translated as '(beidh) deimhniú a airbheartaíonn a bheith sínithe ag an Ard-Bhailitheoir ...'. See further the commentary on Article 28.3.3°.

'Purport' was expressed in varying ways in the early Acts. In s1(2) of the Expiring Laws Continuance Act, 1922, 'so as to validate all acts and things purported to be done under such Acts respectively since that date' is translated as 'i dtreo go ndleathóidh sé gach gníomh agus gach ní a dineadh le hintinn a dhéanta fé sna hAchtanna san fé seach ón ndáta san i leith'. 'Má dineadh no gur tuigeadh gur dineadh an gníomh, rud no ní sin' translates 'provided such act, matter or thing was done or purported to be done' in s1(1) of the Indemnity Act, 1923, 'deimhniú ar na nithe sin agus a dheabhramh air gur sghníodh é ag an oifigeach san' translating 'a certificate purporting to have been signed by such officer' in s196(8) of the Defence Forces (Temporary Provisions) Act, 1923, and 'iontráil a thaisbeánfidh no a bheidh in ainm bheith á thaisbeaint go bhfuil aon tionónta i riaráiste i dtaobh aon tsuime' translating 'an entry showing or purporting to show any tenant as being in arrears in respect of any sum' in s15(2)(a) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. In s2(1) of the Deputy Registrar in Bankruptcy (Cork) Act, 1926, 'every act done ... by the Deputy Registrar in purported exercise of a power which the Judge had purported to delegate to him' is translated as 'gach gníomh ... do dhin an Leas-Chlárathóir ... i ndeabhramh a bheith i bhfeidhmiú comhachta do dheabhruigh an Breitheamh a leigint chuige' and, finally, 'A copy purporting to be a copy printed and published by or for the Council' is translated as 'cóip a thugann le tuisgint gur cóip í do clóbhuaileadh agus do foillsíodh ag an gComhairle no don Chomhairle' in s31(5) of the Medical Practitioners Act, 1927.

Professor Máirtín Ó Murchú recommends 'a dhealróidh' rather than 'a airbheartóidh' in the literal translation which follows as being more readily comprehensible.

*Níl* It is unusual to have the present tense here, as against the future 'ní bheidh', the English text having 'shall not be'. As against the many examples of 'ní bheidh' in the Constitution there is but one other example of 'níl', i.e. in Article 15.2.1° where 'no other legislative assembly has power to make laws for the State' is expressed as 'níl cumhacht ag údarás reachtaíochta ar bith eile chun dlíthe

a dhéanamh don Stát'. We find the present tense in the Irish text corresponding to the future tense in the English text in Article 14.2.1°, for example, with 'Is iad na daoine seo a leanas an Coimisiún' expressing 'The Commission shall consist of the following persons'.

*aon ghníomh* See the commentary on Article 15.5. Looking at early Acts, 'i dtaobh ná i leith ná a los aon ghnímh, ruda ná ní a dhin sé go cuibhe' translates 'for or on account of or in respect of any act, matter or thing duly done by him' in s27(1)(a) of the Dáil Éireann Courts (Winding-Up) Act, 1923, and 'Ní bheidh aon cheann de ghníomhartha ná d'imeachta an Choiste nea-dhleathach' translates 'No act or proceeding of the Committee shall be invalid' in s5(3) of the Schedule to the Pilotage Confirmation Act, 1924.

*cumhachtaí is feidhmeanna* See the commentary on Article 13.6 regarding 'cumhacht' and on Article 12.10.7° regarding 'feidhm'; both would be lenited according to the official standard. Note that 'i gcomhlíonadh cumhacht is feadhmanna' is the form of this phrase in the enrolled text.

*oibriú* This headword is translated as 'operation' in *Téarmaí Dlí* – see the commentary on Articles 3 and 13.5.1°.

*comhlíonadh* This headword is translated as 'performance' in *Téarmaí Dlí* – see the commentary on Article 12.1.

### Standardised gender-proofed Irish text

Níl an tUachtarán freagrach d'aon Teach den Oireachtas ná d'aon chúirt in oibriú is i gcomhlíonadh chumhachtaí is fheidhmeanna a oifige nó a hoifige<sup>1</sup> ná in aon ghníomh dá ndéanamh sé nó sí<sup>2</sup> nó a thugann le tuiscint gur gníomh é a dhéanamh sé nó sí in oibriú agus i gcomhlíonadh na gcumhachtaí is na bhfeidhmeanna sin.

#### Variants

- 1 'oifig an Uachtaráin'
- 2 'an tUachtarán'

### Direct gender-proofed translation

Ní bheidh an tUachtarán freagrach do cheachtar Teach den Oireachtas ná d'aon chúirt<sup>1</sup> i bhfeidhmiú agus i gcomhlíonadh chumhachtaí agus fheidhmeanna oifig an Uachtaráin ná in aon ghníomh a dhéanfaidh sé nó sí, nó a airbheartóidh<sup>2</sup> a bheith déanta aige nó aici, i bhfeidhmiú agus i gcomhlíonadh na gcumhachtaí agus na bhfeidhmeanna sin.

#### Variants

- 1 'do cheachtar Teach den Oireachtas, ná d'aon chúirt,' 'nó d'aon chúirt'
- 2 'a dhealróidh'

## ARTICLE 13.8.2° AIRTEAGAL 13.8.2°

### TÉACS GAELIGE

Ach féadfar iompar an Uachtaráin a chur faoi léirmheas i gceachtar de Thithe an Oireachtais chun críocha alt 10 d'Airteagal 12 den Bhunreacht seo, nó ag aon chúirt, binse nó comhlacht a cheapfar nó a ainmneofar ag ceachtar de



Thithe an Oireachtas chun cúis faoi alt 10 den Airteagal sin a scrúdú.

#### LITERAL ENGLISH TRANSLATION

But the conduct of the President can be put under review in either of the Houses of the Oireachtas for the purposes of section 10 of Article 12 of this Constitution, or by any court, tribunal or body which will be appointed or nominated by either of the Houses of the Oireachtas to examine a case under section 10 of that Article.

#### ENGLISH TEXT

The behaviour of the President may, however, be brought under review in either of the Houses of the Oireachtas for the purposes of section 10 of Article 12 of this Constitution, or by any court, tribunal or body appointed or designated by either of the Houses of the Oireachtas for the investigation of a charge under section 10 of the said Article.

#### Divergences between the official texts

- 1 'The investigation of a charge' is expressed as 'cúis a scrúdú' ('to examine a case') in the Irish text – see Article 12.10 for similar expressions of these terms, though 'charge' is expressed both as 'cúis' and 'cúiseamh' – the Irish legal term for 'charge' – in that section.
- 2 'Designated' is expressed as 'a ainmneofar' ('nominated') in the Irish text.

#### Commentary

*iompar* This headword is translated as 'behaviour' in *Téarmaí Dlí* where 'urbhac ar fhoras iompair' is translated as 'estoppel by conduct'. 'Bearing, conduct' is the ninth set of senses of 'iompar' in *Ó Dónaill*, who translates 'iompar duine i gcomhluadar' as 'a person's behaviour in company' and 'ní thaitníonn a n-iompar liom' as 'I don't like the way they go on'. *Dinneen* gives 'deportment, carriage, behaviour, conduct' as one set of senses of 'iompar', but follows 'conduct' with the remark 'generally in a good sense'. DIL gives 'bearing, deportment, behaviour' as one set of senses of 'imchor', verbal noun of 'imm-cuirethar', 'carries around, carries, brings, conveys'. See the commentary on Article 12.10.1° regarding 'mí-iompar'.

Turning to the Acts, 'On all matters relating to ethical conduct and behaviour' is translated as 'i dtaobh na n-ábhar ar fad a bhaineann le hiompar eiticiúil' in s69(2) of the Medical Practitioners Act, 1978, and in s51(2) of the Nurses Act, 1985. 'Is caused by another person's misconduct, skylarking or negligence ... or by the behaviour or presence of an animal', in relation to an accident, is translated as 'gurb é is cúis léi mí-iompar, ábhaillí nó faillí duine eile ... nó an chuma inar iompair ainmhí é féin nó ainmhí a bheith sa láthair' in s4(2)(b)(i) of the Social Welfare (Occupational Injuries) Act, 1966. 'Chun rialáil a dhéanamh i dtaobh iompair agus giúlain bádóirí, last-oibríthe, hablaerí, giúrnálaithe, stibheadóirí agus daoine eile a bhíos ar fostú sa chuan' translates 'For ... regulating the conduct and behaviour of boatmen, lumpers, hobbler, jobbers, stevedores and others employed at ... the harbour' in s15 of the Second Schedule to the Harbours Act, 1946. *Dinneen*

refers 'giúlán' to Antrim, translating that headword as 'act of behaving, behaviour, conduct'; *Ó Dónaill* translates 'giúlán' as '(act of) bearing, carrying; carriage, conduct', citing 'tú féin a ghiúlán go maith, to carry oneself well; to conduct oneself properly', along with 'tá sí ag giúlán, she is expecting a baby' – which sense 'iompar' also has also, *Ó Dónaill* citing 'bheith ag iompar (clainne, linbh), to be with child'.

*faoi léirmheas* 'Tuairimí léirmheasa ar bheartas an Rialtais' expresses 'criticism of Government policy' in Article 40.6.1°i. 'Léirmheas' is translated as 'critical consideration, complete assessment' and 'criticism, critique, review' in *Ó Dónaill* – the general usage today is in relation to book review. In *Dinneen* the sense of 'critical estimate, criticism' is followed by the abbreviation 'recent', 'léir-mheas' being translated as 'high esteem; a balancing, consideration, estimate, judgment, decision'. 'Léir-mhes' is translated as 'criticizing, calculating' in DIL, where two examples are cited from Keating's seventeenth-century *Three Shafts of Death*.

In the *Treaties establishing the European Union* (1973, p. 260), 'to keep under review the monetary and financial situation of the Member States' is translated as 'staid airgeadaíochta agus staid airgeadais na mBallstát ... a choimeád faoi léirmheas' and, on p. 300, 'The Court of Justice shall review the legality of acts of the Council' is translated as 'Déanfaidh an Chúirt Bhreithiúnais léirmheas ar dhlíthiúlacht ghníomhartha de chuid na Comhairle'. On p. 488, however, 'the need ... to keep this situation under careful review' is translated as '(ar) an ngá atá ann ... an cor sin ... a choinneáil faoi bhreithniú go cúramach', 'I review' being translated as 'athbhreithnim', and 'review' as 'athbhreithniú', in *Téarmaí Dlí*. In s4(1) of the Law Reform Commission Act, 1975, 'The Commission shall keep the law under review' is translated as 'Coimeádfaidh an Coimisiún an dlí faoi bhreithniú', and in s9(6)(a) of the Consumer Information Act, 1978, 'to keep under general review practices' is translated as 'cleachtas ... a choimeád faoi bhreithniú ginearálta'. In s3(e) of Article V of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, 'The Governing Committee shall keep the economic policies of the borrower ... under review' is translated as 'Coimeádfaidh an Coiste Rialaithe beartais eacnamaíochta an iasachtaí ... faoi bhreithniú'. 'The Board shall keep under review the working of the system of investigation ... of complaints' is translated as 'Coinneoidh an Bord oibriú an chórais imscrúdúcháin ... gearán faoi athbhreithniú' in s13(3) of the Garda Síochána (Complaints) Act, 1986. In s5(1)(a) of the Restrictive Practices Act, 1972, 'to hold a special review' is translated as 'léirbhreithniú speisialta a dhéanamh'. Professor Máirtín Ó Murchú recommends 'faoi bhreithniú' rather than 'faoi athbhreithniú' in the direct translation below; notwithstanding the English text's 'review', an investigation of the behaviour of the President on a previous occasion is not envisaged.

Looking at 'review' in early Acts, 'Aon deighleáil chothrom le haon obair chun stuidéir phriobháidigh, lorgaireachta, no léirmheasa, no chun achmaireacht do dhéanamh uirthi i bpáipeur nuachta' translates 'any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary' in s155(1)(i) of the Industrial and Commercial Property (Protection) Act, 1927 – 'léirmheas' including the senses

of ‘criticism’ and ‘review’ – ‘páipeur nuachta, irisleabhar léirmheasa, meaisín, no tréimhseachán den tsórt san’ translating ‘a newspaper, review, magazine, or similar periodical’ in s177(1). On the other hand, ‘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’ is translated as ‘Ní bheidh dul thar breith na Cúirte Uachtaraíge in aon chás, agus ní déanfar aith-bhreithniú ná ní féadfar aith-bhreithniú do dhéanamh ar an mbreith sin ag aon Chúirt’ in Article 66 of the 1922 Constitution, ‘agus chun socrú do dhéanamh chun na breitheanna san d’aith-bhreithniú’ translating ‘and to provide for the review of such sentences’ in the Long Title of the Indemnity Act, 1923. In s(2) of the ‘Clare County Scheme’ in the Schedule to the Local Government (Temporary Provisions) Act, 1923, however, ‘the County Board of Health, whose decisions shall be subject to review and sanction of the County Council’ is translated as ‘Bórd Sláinte na Contae ‘na mbeidh a bhreitheanna fé ath-fhéachaint agus fé chead na Comhairle Contae’. In s6(10) of the Dublin Reconstruction (Emergency Provisions) Act, 1924, ‘The Judge may review, rescind, or vary any order made under this section’ is translated as ‘Féadfaidh an Breitheamh aon ordú a dineadh féin alt so d’ath-scrúdú, do chur ar neamh-ní no d’atharú’. Note, finally, that in s44(1)(a) of the Control of Prices Act, 1937, ‘stating their intention to keep under review ... the prices charged’ is translated as ‘á rá go bhfuil ar intinn acu bheith ag faire ... ar na praghsanna bheidh á n-éileamh’.

*chun críocha* This phrase, which is found throughout the Acts translating ‘for the purposes of’, is not cited either in *Ó Dónaill* nor in *Dinneen* s.v. ‘críoch’, though *Dinneen* does give ‘purpose’ as one of the senses of ‘críoch’. DIL translates ‘crích’ as (a) ‘boundary, limit (of territory), end; aim, purpose, etc. (particularly in later language)’ and (b) ‘confines, territory, district, land’ – see the commentary on Article 2. Strictly speaking, this should read as ‘chun críoch’ (i.e. the genitive plural), according to the official standard, but the phrase is so established now that it is treated as a unit in itself. Note that ‘chun crícheanna’ is the form in the enrolled text.

Looking at early Acts, ‘Chun gach críche féadfar an t-Acht um Bun-reacht Shaorstáit Éireann, 1922, do ghairm den Acht so’ translates ‘This Act may be cited for all purposes as the Constitution of The Irish Free State (Saorstát Éireann) Act, 1922’ in s3 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. In Article 37 of that Constitution, ‘unless the purpose of the appropriation has in the same session been recommended’ is translated as ‘mara ndéanfar sa tsíósón céanna intinn a churtha i leithreas do mhola’.

*binse* This headword is translated as ‘tribunal’ in *Téarmaí Dlí*, where ‘barántas binse’ is translated as ‘bench warrant’. ‘Binse’ is translated as ‘bench’ in *Ó Dónaill* who cites ‘an Binse, the Bench, *binse breithimh*, judge’s bench; tribunal’, following the abbreviation for ‘Jurisprudence’. *Ó Dónaill* cites ‘idir barra is binse, in open court’. ‘Binse’ is translated as ‘a seat, a bench, bench in court’ in *Dinneen*. According to DIL s.v. ‘bein(n)se, béinse’, this may be an English loanword (although it has been claimed to be a French loanword). DIL translates this headword as ‘bench, table, the Judicial Bench’.

‘In aon changean, agra, ionchúiseamh nó imeacht eile a bhí ar feitheamh díreach roimh an lá ceaptha in aon chúirt nó binse’ translates ‘In any action, suit, prosecution or other proceeding which was pending immediately before the appointed day in any court or tribunal’ in s4 of the Second Schedule to the Údarás na Gaeltachta Act, 1979. ‘By any other Court, Tribunal or Authority whatsoever’ is translated as ‘ag aon Chúirt, Binse ná Údarás eile ar bith’ in Article 66 of the 1922 Constitution.

*comhlacht* This word translates ‘body’ in the Acts but in general usage renders ‘a company’ (‘cuideachta’ in *Téarmaí Dlí*). ‘Comhlacht’ is translated as ‘body; company, firm’ in *Ó Dónaill*, ‘cómhlucht’ being translated as ‘fellow-labourers; an associated band; a household; a company’ in *Dinneen*. ‘Comlucht’ is a compound with ‘lucht’, according to DIL, where two examples are cited, one of which is translated as ‘accomplices’, the other as ‘companions’. ‘Na toghacháin chun cóluchtaí áitiúla áirithe’ translates ‘the elections to certain local bodies’ in the Long Title of the Local Elections Postponement Act, 1922. ‘Aon fhostathóir is cólucht daoine’ translates ‘any employer being a body of persons’ in s47(2) of the Finance Act, 1925.

*a cheapfar ... a ainmneofar* See the commentary on Articles 12.4.4° and 13.1.1° regarding ‘ainmnigh’ and ‘nominate’; see the commentary on Article 6.1 regarding ‘ceap’ and ‘designate’ and see the commentary on Article 13.1.1° on ‘ceap’ as ‘appoint’. ‘Beidh ábhar achomhairc ann in aghaidh an chinnidh sin chun duine ... a cheapfaidh nó a ainmneoidh an tAire’ translates ‘an appeal shall lie against such determination to a person ... appointed or designated by the Minister’ in s205(1) of the Social Welfare (Consolidation) Act, 1981. ‘Ceapa’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘designate’ in translations for the Department of Fisheries, ‘designated to contain’ being cited as having been translated as ‘atá ceaptha chun ... do choinneáil’ in *Iris Oifigiúil*, 1922/23, and ‘designated by the numbers’ being translated in another source as ‘marcálta leis na huimhreacha’. ‘(Or shall) ... assume the name, designation or description of any ... member of the Garda Síochána’ is translated as ‘má dhineann sé ainm, teideal no comharthaí aon ... bhaill den Ghárda Síochána do thabhairt air féin’ in s17(1) of the Garda Síochána (Temporary Provisions) Act, 1923. ‘Comharthaí sóirt’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘designation’ in *Iris an Phuist*, 12/1/27, while ‘roinnt’ is cited as translating ‘designation (of areas)’ in translations for the Department of Justice.

*cúis* See the commentary on Article 12.10.3°. ‘Which relate to procedure upon investigation of a charge against an officer’, in s5 of the Defence Forces (Temporary Provisions) Act, 1925, is translated as ‘a bhaineas le nós-imeachta tar éis cúis i gcoinnibh oifigigh d’iniúcha’. ‘Upon the hearing of a charge against a proprietor’ is translated as ‘ar chúiseamh a éisteacht i gcoinne dílseánaigh’ in s9 of the Defamation Act, 1961.

*alt 10* Note that ‘alt’ is in the genitive singular in the enrolled text, ‘ailt’.

*a scrúdú* See the commentary on Article 12.10.5°.

**Direct translation**

Féadfar, áfach, iompar an Uachtarán a thabhairt faoi bhreithniú<sup>1</sup> i gceachtar de Thithe an Oireachtais chun críocha alt 10 d'Airteagal 12 den Bhunreacht seo, nó ag aon chúirt, binse nó comhlacht a cheapfaidh nó a ainmneoidh<sup>2</sup> ceachtar de Thithe an Oireachtais chun cúiseamh faoi alt 10 den Airteagal sin a imscrúdú.

**Variants**

- 1 'faoi athbhreithniú'
- 2 'a shaineoidh'

## ARTICLE 13.9 AIRTEAGAL 13.9

**TÉACS GAELGE**

Taobh amuigh de chás dá socraítear leis an mBunreacht seo go ngníomhóidh an tUachtarán as a chomhairle féin, nó tar éis comhairle a ghlacadh leis an gComhairle Stáit, nó go ngníomhóidh sé i dtaobh ní a bhaineas leis an gComhairle Stáit, nó ar chomhairle nó ainmniú aon duine nó aon dreama eile, nó ar aon scéala eile a fháil ó aon duine nó aon dream eile, is ar chomhairle an Rialtais amháin is cead don Uachtarán na cumhachtaí agus na feidhmeanna a bheirtear dó leis an mBunreacht seo a oibriú is a chomhlíonadh.

**LITERAL ENGLISH TRANSLATION**

Apart from a case where it is provided by this Constitution that the President will act from his own counsel, or after taking counsel with the Council of State, or that he will act upon something relating to the Council of State, or on the advice or nomination of any other group or person, or upon receipt of any other news from any other group or person, it is only on the advice of the Government (that) the President is permitted to operate and fulfil the powers and the functions that are given to him by this Constitution.

**ENGLISH TEXT**

The powers and functions conferred on the President by this Constitution shall be exercisable and performable by him only on the advice of the Government, save where it is provided by this Constitution that he shall act in his absolute discretion or after consultation with or in relation to the Council of State, or on the advice or nomination of, or on receipt of any other communication from, any other person or body.

**Divergences between the official texts**

- 1 'That he shall act ... after consultation with or in relation to the Council of State' is expressed as 'go ngníomhóidh an tUachtarán ... tar éis comhairle a ghlacadh leis an gComhairle Stáit, nó go ngníomhóidh sé i dtaobh ní a bhaineas leis an gComhairle Stáit' ('that the President will act ... after consultation with the Council of State, or that he will act upon something relating to the Council of State') in the Irish text.
- 2 As in Article 13.2.2°, 'in his absolute discretion' is expressed as 'as a chomhairle féin' (literally 'from his

- own counsel'), 'on his own initiative', in the Irish text.
- 3 'Communication' is expressed as 'scéala' ('news') in the Irish text.
- 4 Again, 'is cead' is prohibitive in tone and focuses the section on what the President 'is permitted' to do, whereas the English text focuses on when the powers and functions of the President are 'exercisable and performable' by him.
- 5 'Save where it is provided' is expressed as 'Taobh amuigh de chás dá socraítear' ('apart from a case where it is provided') in the Irish text.
- 6 'Body' is expressed in the Irish text as 'comhlacht' in the previous subsection but as 'dream' in this section, as in Article 10.1.

**Commentary**

*scéala* This headword is translated as 'news, tidings' in *Ó Dónaill*, with the secondary senses of 'word, message' and 'information, disclosure'. *Dinneen* states that 'scéala' is sometimes used as plural of 'scéal' but that it is probably a separate word, translating that headword as 'news, tidings, a message', citing '*tháinig aingeal le scéala chun Muire*, an angel came with a message to Mary'. See the commentary on Article 33.5.3°, along with the commentary on Article 33.5.2°, where 'scéala a thabhairt' expresses 'notify'.

See the commentary on Article 13.7.1° regarding 'communicate'. In s387 of the Companies Act, 1963, 'to disclose any privileged communication made to him otherwise than as such solicitor' is translated as 'aon chumarsáid faoi phribhléid a nochtadh a rinneadh leis ar dhóigh seachas ina cháil mar atur nae den sórt sin'. In s149(4) of the *Standing Orders* of Dáil Éireann (1997), 'The Committee may ... in private communication, make such suggestions to the Comptroller and Auditor General ... as they see fit' is translated as 'féadfaidh an Coiste, i gcumarsáid rúnda, cibé moltaí is cuí leo a dhéanamh leis an Ard-Reachtair Cuntas agus Ciste' and the Heading above s151, 'Communication between the Dáil and the Seanad', is translated as 'Cumarsáid idir an Dáil agus an Seanad'. Note that s151 reads as follows:

Messages from the Dáil to the Seanad shall be in writing ... *Is í scríbhinn ... a chuirfear Teachtaireachtaí ón Dáil go dtí an Seanad.*

In s7(7) of the Judicial Separation and Family Law Reform Act, 1989, 'Any oral or written communication between either spouse and any third party' is translated as 'Aon teagmháil ó bhéal nó i scríbhinn idir ceachtar céile agus aon tríú páirtí'. In s18(1) of the First Schedule to the European Assembly Elections Act, 1977, 'each candidate ... shall ... be entitled to send, free of any charge for postage, to each person ... one postal communication' is translated as 'beidh gach iarrthóir ... i dteideal aon phost-teachtairacht amháin ... a chur saor ó tháille phostais chuig gach duine'. Finally, in s52 of the Medical Practitioners Act, 1978, 'reports made by the Fitness to Practise Committee to the Council ... and any other communications between the Committee and the Council' is translated as 'tuarascálacha a thabharfaidh an Coiste um Fheidhmíúlacht chun Cleachtadh don Chomhairle ... agus aon teachtaireachtaí eile idir an Coiste agus an Chomhairle'.

Looking at early Acts, 'Every communication from the

Minister to an applicant' is translated as 'Gach teacht-aireacht ón Aire chun iarratasóra' in s4(7) of the Neutrality (War Damage to Property) Act, 1941. 'I dtuarasgabháil ... no i gconbharsáid eile ón gCoimisiún' translates 'in a report ... or other communication from the Commission' in s21(4)(a) of the Control of Prices Act, 1932, 'conbharsáid' translating 'communication' in the early Acts in general. 'Conbharsáid no có-fhreagarhas do bheith aige leis an namhaid' translates 'The offence of treacherously ... holding communication or correspondence with ... the enemy' in s32(3) of the Defence Forces (Temporary Provisions) Act, 1923, 'conbharsáidí ... idir Rialtas Shaorstáit Éireann agus Rialtas aon stáit ... eile' translating 'communications ... between the Government of Saorstát Éireann and the Government of any other state' in s1(xi) of the Ministers and Secretaries Act, 1924, and 'by affording an improved means of communication' being translated as 'tré shlí chonbharsáide fheabhsuithe do thabhairt dóibh' in s27(c) of the Arterial Drainage Act, 1925.

On the other hand, 'nothing in this Act shall make a husband compellable to disclose any communication made to him by his wife during the marriage' is translated as 'ní féadfar, de bharr éinní san Acht so, a chur fhiachaint ar fhear céile aon eolas a thug a bhean do le linn bheith pósta dhóibh do nochta' in s1(d) of the Criminal Justice (Evidence) Act, 1924. 'Scéal' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'communication' in early translations for the Department of Justice, 'comhrádh' being cited as translating 'communication' in *Iris an Phuist*, 4/1/1928, and 'oifigeach teangmhála' as translating 'officer of communication' in the *Proceedings* of Seanad Éireann, 3/10/23.

*a oibriú is a chomhlíonadh* See the commentary on Articles 3 and 13.5.1°. Regarding 'exercisable', see s8 of the Fuel (Control of Supplies) Act, 1921, where 'The powers conferred on the Minister by the Act shall be in addition to ... any other powers exercisable by the Minister' is translated as 'Na cumhachtaí a thugtar don Aire leis an Acht seo is cumhachtaí iad i dteannta ... aon chumhachtaí eile is infheidhmithe ag an Aire'. In s8 of the Air Companies Act, 1966, 'where a right or power is exercisable by attorney' is translated as 'i gcás ceart nó cumhacht is infheidhmithe trí aturnae'. Unfortunately, 'performable' is also translated as 'infheidhmithe' – see, for example, s16(1) of the Health Act, 1970, where 'The chief executive officer of a health board may delegate any function performable by him to another officer of the board' is translated as 'Féadfaidh príomh-oifigeach feidhmiúcháin boird sláinte aon fheidhm is infheidhmithe aige a tharmligean chun oifigeach eile de chuid an bhoird'. As we have seen, 'comhlíon' expresses 'perform' earlier on in the Constitution, and translates 'perform' in *Téarmaí Dlí*. In s36(1) of the same Health Act, we find an example of 'inchomhlíonta': 'subject to all trusts and equities affecting the same and then subsisting and capable of being performed' is translated as 'faoi réir na n-iontaobhas agus na gcothromas go léir a dhéanann difear don chéanna agus a bhí an tráth sin ann agus inchomhlíonta'.

'And those powers, duties and functions shall become exercisable and performable by those authorities' is translated as 'agus beidh na cumhachtaí, na dualgais agus na feidhmeanna sin infheidhmithe agus inchomhlíonta ag na húdaráis sin' in s10(1) of the Local Government

(Toll Roads) Act, 1979. In s45 of the Air-Raid Precautions Act, 1939, 'The powers and duties conferred or imposed on an essential undertaker ... shall be exercisable and performable by such essential undertaker notwithstanding ...' is translated as 'Na comhachta bronntar no bronnfar agus na dualgaisí forchuirtear no forchuirfear ar ghnóthaire riachtanach ... beid infheidhmithe agus ionchóilíonta ag an ngnóthaire riachtanach san d'ainneoin ...', 'na comhachta agus na dualgaisí do bheadh infheidhmithe agus ionchóilíonta ... ag an dochtúir oifigiúil sin' translating 'the powers and duties which would be exercisable and performable ... by such medical officer' in s8(2) of the Milk and Dairies Act, 1935. 'In the exercise or the performance by the Council ... of any of the powers ... of the Corporation which are exercisable or performable by them' is translated as 'i gcóilíonta do dhin an Chomhairle ... ar aon cheann de chomhachta ... an Bhárdais is infheidhmithe, no is ionchóilíonta acu-san' in s16(1) of the Cork City Management Act, 1929.

*a bhaineas* The special relative form of 'bain' – see the commentary on Article 6.1. 'Bain le' is translated by *Ó Dónaill* as (1) 'touch, interfere with' and (2) 'concern, relate to', the latter being its general usage in the Acts – see s9 of the Finance Act, 1990, for example, where 'provisions relating to relief' is translated as 'foráil a bhaineann le faoiseamh'.

'In relation to' is generally translated as 'i ndáil le' in the modern Acts. 'For the purpose of reading any prices displayed on, with or in relation to the goods' is translated as 'chun aon phraghsanna a bheidh ar taisealbhadh ar na hearraí nó leis na hearraí nó i ndáil leo a léamh' in s15(1)(a) of the Consumer Information Act, 1978, for example. Looking at earlier Acts, 'any document ... registered by him ... in relation to a company' is translated as 'aon scríbhinn ... a chláraigh sé ... maidir le cuideachta' in s11(1) of the Companies (Re-construction of Records) Act, 1924. 'Is attributable to manufacturing operations performed thereon or in relation thereto in Saorstát Éireann' is translated as 'gur obráidí déantóireachta a dineadh ortha no mar gheall ortha i Saorstát Éireann fé ndear é' in s6 of the Third Schedule to the Finance Act, 1926. Finally, 'I ... do solemnly swear that I will not disclose any information in relation to the business ... which may come to my knowledge' is translated as 'Mionnuím-se, ... go solamanta ná déanfad aon eolas a thiocfidh chugham ar ghnó' in s32(1) of the Currency Act, 1927.

Professor Máirtín Ó Murchú comments on the translation below that the sense of 'i ndáil le' is not very clear and recommends 'de gheall uirthi/orthu / ar an gComhairle Stáit'.

*Taobh amuigh de chás* Literally 'outside of a case'. See s26(3) of the Redundancy Payments Act, 1967, for example, regarding the translation of 'save where', 'Save where otherwise specifically provided' being translated as 'Ach amháin mar a bhforáiltear a mhalairt go sonrath'. 'Expenses ... shall, save where it is otherwise provided by order of the Minister ... be charged' is translated as 'Déanfar, ach amháin mar a foráiltear a mhalairt le hordú ón Aire ..., costais ... a mhuirearú' in s50 of the Local Government Act, 1955. In s1(2) of the Social Welfare (Pay-Related Benefit) Act, 1973, the standard phrase in the Acts, 'references in this Act to any enactment shall, save where

the context otherwise requires, be construed as references to that Act as amended by any subsequent enactment including this Act' is translated as 'Ach amháin mar a n-éilíonn an comhthéacs a mhalairt, déanfar tagairtí san Acht seo d'aon achtachán a fhorléiriú mar thagairtí don Acht sin arna leasú le haon achtachán iardain lena n-áirítear an tAcht seo'. See further the commentary on Article 34.4.4°.

*go ngníomhóidh* 'Gníomhaigh' is translated as 'act' in *Ó Dónaill*; *Dinneen* translates 'gníomhuighim' as 'I work, act, operate'. 'Gníomhaigid' is formed from 'gním', verbal noun of 'gníid', 'acts, does, makes', and is translated as (I) 'puts into operation, effects, practises' and (II) 'acts, takes effect' in DIL. 'Gníomhaigh' translates 'act' in general in the Acts – see, for example, s15(11) of the Capital Gains Tax Act, 1975, where 'in so far as they act separately' is translated as 'a mhéid a ghníomhaíonn siad ar leithligh'. See further the commentary on Articles 14.2.2° and 28.4.2°.

*as a chomhairle féin* See the commentary on Article 13.2.2°. 'The Resident Physician and Governor thereof may, in his absolute discretion, do either or both of the following' is translated as 'féadfaidh Lia Cónaitheach agus Gobharnóir an Phríomh-Ospidéal sin, dá rogha féin amháin, ceachtar ní nó an dá ní acu seo a leanas a dhéanamh' in s171(2) of the Social Welfare (Consolidation) Act, 1981, for example. Professor Máirtín Ó Murchú, commenting on the increase of the use of 'amháin' in the translation below as against the Irish text above, recommends 'dá lánrogha féin' here to avoid repetition of 'amháin'. For the same reason, Professor Ó Murchú recommends replacing 'ach amháin mar a bhforáiltear' with 'ach i gcás a bhforáiltear'. Máirtín Ó Murchú remarks that it is difficult to avoid repetition of 'comhairle' in the translation, with only this term corresponding to English 'advice-council-counsel'. He suggests substituting 'Faoi threoir an Rialtais' for 'Is ar chomhairle an Rialtais' in the opening clause.

*ainmniú* This headword is translated as 'nomination, denomination' in *Ó Dónaill* – see the commentary on Articles 12.4.4° and 13.1.1° regarding 'ainmnigh' expressing 'nominate'. In s20(2)(b) of the First Schedule to the European Assembly Elections Act, 1977, 'other than the nomination of the surviving candidates' is translated as 'ach amháin ainmniú na n-iarrthóirí atá fágtha', and in s20(2)(c) 'a fresh nomination' is translated as 'ainmniú úr'. 'Nomination papers', however, is translated as 'páipéar ainmniúcháin' in s21(b) of the same Schedule.

*dream* See the commentary on Article 10.1. 'Public body' and 'body corporate' are translated as 'comhlacht poiblí' and 'comhlacht corpraithe' respectively in *Téarmaí Dlí*.

*na cumhachtaí* See the commentary on Article 13.6. Regarding early Acts, 'all the powers conferred by the said section 1 shall be vested in and exercisable by such member of the Executive Council' is translated as 'gach comhacht dá mbronntar leis an alt 1 roimh-ráite tabharfar í don bhall san den Árd-Chomhairle agus beidh sí infheidhmithe aige' in s1(1) of the Enforcement of Law (Occasional Powers) Act, 1923. In s4(1) of the Industrial Trust Company of Ireland Limited (Acquisition of Capital)

Act, 1926, 'any of the rights and powers from time to time exercisable by the holder of such share capital' is translated as 'aon cheann de sna cearta agus de sna comhachta is infheidhmithe o am go ham ag sealbhóir scair-chaipitail den tsórt san' and 'where any of such rights or powers exercisable by attorney' is translated as 'sa chás ina bhfuil aon chirt no comhachta acu san infheidhmithe tré atúrnae'.

*dá socraítear* 'Socraigh', literally 'settle', has the sense of 'arrange' and is used in the Acts, with 'foráil', to translate 'provide' – see the commentary on Article 8.3.

### Standardised gender-proofed Irish text

Taobh amuigh de chás dá socraítear leis an mBunreacht seo go ngníomhóidh an tUachtarán as a chomhairle nó as a chomhairle féin, nó tar éis comhairle a ghlacadh leis an gComhairle Stáit, nó go ngníomhóidh sé nó sí<sup>1</sup> i dtaobh ní a bhaineann leis an gComhairle Stáit, nó ar chomhairle nó ainmniú aon duine nó aon dreama eile, nó ar aon scéala eile a fháil ó aon duine nó aon dream eile, is ar chomhairle an Rialtais amháin is cead don Uachtarán na cumhachtaí agus na feidhmeanna a thugtar dó nó di<sup>2</sup> leis an mBunreacht seo a oibriú is a chomhlíonadh.

### Variants

- 1 'an tUachtarán'
- 2 'don Uachtarán'

### Direct gender-proofed translation

Is ar chomhairle<sup>1</sup> an Rialtais amháin is infheidhmithe agus is in-chomhlíonta na cumhachtaí agus na feidhmeanna a thugtar don Uachtarán leis an mBunreacht seo, ach amháin mar a bhforáiltear<sup>2</sup> leis an mBunreacht seo go ngníomhóidh an tUachtarán dá rogha féin amháin<sup>3</sup> nó tar éis dul i gcomhairle<sup>4</sup> leis an gComhairle Stáit nó i ndáil leis an gComhairle Stáit<sup>5</sup>, nó ar chomhairle nó ainmniú aon duine nó comhlachta nó ar aon chumarsáid eile a fháil ó aon duine nó ó aon chomhlacht eile.

### Variants

- 1 'faoi threoir'
- 2 'ach i gcás a bhforáiltear'
- 3 'dá lánrogha féin', 'dá rogha féin go hiomlán'
- 4 'i gcomhchomhairle', 'i ndáil chomhairle'
- 5 'de gheall ar an gComhairle Stáit'

## ARTICLE 13.10 AIRTEAGAL 13.10

### TÉACS GAELGE

Faoi chuimsiú an Bhunreachta seo féadfar tuilleadh cumhachtaí agus feidhmeanna a thabhairt don Uachtarán le dlí.

### LITERAL ENGLISH TRANSLATION

Within the constraint/scope of this Constitution further powers and functions may be given to the President by law.

### ENGLISH TEXT

Subject to this Constitution, additional powers and functions may be conferred on the President by law.

**Divergences between the official texts**

- 1 'Subject to this Constitution' is expressed as 'Faoi chuimsiú an Bhunreachta seo' ('Within the constraint/scope of this Constitution') in the Irish text, which phrase is found in other Articles.

**Commentary**

*tuilleadh* 'Cúnant i leith tuilleadh forcinntithe' and 'fógra ag iarraidh tuilleadh eolais' respectively are translated as 'covenant for further assurance' and 'notice requiring further information' in *Téarmaí Dlí*, with 'tuilleadh faoisimh' being translated as 'further and other relief'. 'Tuilleadh' is translated as 'addition, increase; more' in *Ó Dónaill*, who cites '*tuilleadh, a thuilleadh, eolais*, additional information' and '*tuilleadh fiosrúcháin*, further inquiry'. *Dinneen* translates this headword as 'act of adding to or increasing; an increase, addition or extension, added measure' and cites '*tá tuilleadh airgid (or a thuilleadh airgead) uaim*, I want more money'.

Following *Téarmaí Dlí*, 'tuilleadh' usually translates 'further' in the Acts – see, for example, s1 of the Air Companies (Amendment) Act, 1978, where 'the Minister for Finance may subscribe for further shares' is translated as 'féadfaidh an tAire Airgeadais suibscriobh le haghaidh tuilleadh scaireanna' (though 'additional shares' is also translated as 'tuilleadh scaireanna' in s13(1) of the First Schedule to the Capital Gains Tax Act, 1975). Generally in the Acts 'additional' is translated by the genitive singular form of 'breis', 'breise' – see, for example, s1 of the International Development Association (Amendment) Act, 1971, where 'additional financial resources' is translated as 'sócmhainní breise airgeadais'. It is sometimes used also to translate 'further' – see, for example, s17(2)(a) of the Fisheries Act, 1980, where 'such board may ... extend the said period by such further period as the board thinks proper' is translated as 'féadfaidh an bord sin ... cibé tréimhse breise is cuí leis an mbord a chur mar fhadú leis an tréimhse sin'.

'Additional powers and functions of Bank' is translated as 'Cumhachtaí agus feidhmeanna breise an Bhainc' in the Margin Title of s12 of the Central Bank Act, 1989, and as 'Cumhachtaí agus feidhmeanna breise de chuid an Bhainc' in the Margin Title of s47 of the Central Bank Act, 1971. Looking at early Acts, 'No assessment or additional assessment to excess profits duty may be made' is translated as 'ní féadfar aon cháinnmheas ná cáinnmheas breise i gcóir diúití oll-shochair do dhéanamh' in s32(1) of the Finance Act, 1926. 'Additional and supplementary estimates' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'meastacháin nua agus breise' in the *Order Paper* of Dáil Éireann, 1927, p. 5. Finally, in Article 34 of the 1922 Constitution, 'the vacancy thus created shall be additional to the places to be filled under Article 32' is translated as 'cuirfear an follamhntas a tharlóidh mar sin i dteanta na n-ionad a bheidh le líona fé Airtíogal 32'.

*Faoi chuimsiú* See the commentary on Article 12.5. 'Subject to' is translated as 'faoi réir' in *Téarmaí Dlí*.

*a thabhairt* See the commentary on the next section regarding 'confer', which is expressed by the verb 'bronn'.

**Direct translation**

Faoi réir an Bhunreachta seo, féadfar cumhachtaí agus feidhmeanna breise<sup>1</sup> a thabhairt don Uachtarán le dlí.

**Variants**

- 1 'tuilleadh cumhachtaí agus feidhmeanna'

**ARTICLE 13.11 AIRTEAGAL 13.11****TÉACS GAEILGE**

Ní cead don Uachtarán aon chumhacht ná feidhm dá mbronnar air le dlí a oibriú ná a chomhlíonadh ach amháin ar chomhairle an Rialtais.

**LITERAL ENGLISH TRANSLATION**

The President is not permitted to operate nor to fulfil any power or function (of those) which are granted to him by law except on the advice of the Government.

**ENGLISH TEXT**

No power or function conferred on the President by law shall be exercisable or performable by him save only on the advice of the Government.

**Divergences between the official texts**

- 1 Like the previous section but one, Article 13.9, 'Ní cead' focuses the section on what the President 'is permitted' to do, whereas the English text focuses on when the power or function of the President is 'exercisable or performable'.
- 2 The Irish term expressing 'conferred' is 'tabhairt' in the previous section and 'bronn' in this section.

**Commentary**

*dá mbronnar* Note that in the previous section we have the verb 'tabhairt' in the same context as 'bronn' here. 'Bronn' is translated as 'grant, bestow' in *Ó Dónaill*, who translates 'rud a bhronnadh ar dhuine' as 'to bestow something on someone'. 'Bronnaim' is translated as 'I give, bestow, grant' in *Dinneen*. This verb is thought to be an extended application of 'bronnaid', the original sense of which seems to have been 'spends, consumes', along with 'injures, damages' – see DÍL s.v.v. '1 bronnaid' and '2 bronnaid'. In the glossary in the manuscript *Egerton 158*, 'bronn' is cited together with 'deonuigh', 'aontuigh' and 'tabhairt'. See further the commentary on Article 40.2.1° regarding 'bronn' and see the commentary on Article 12.1 regarding 'confer'. Note, for example, that 'when exercising or performing any power or function conferred on him by Regulation 3' is translated as 'le linn dó bheith ag feidhmiú nó ag comhlíonadh aon chumhacht nó aon fheidhm a thugtar dó le Rialachán 3' in s39(3)(b) of the Finance Act, 1980.

*a oibriú agus a chomhlíonadh* See the commentary on Article 13.9.

### Gender-proofed Irish text

Ní cead don Uachtarán aon chumhacht ná feidhm dá mbronntar ar an Uachtarán le dlí a oibriú ná a chomhlíonadh ach amháin ar chomhairle an Rialtais.

### Direct gender-proofed translation

Ní infheidhmithe ná ní in-chomhlíonta ag an Uachtarán aon chumhacht nó feidhm a thugtar dó nó di<sup>1</sup> le dlí ach amháin ar chomhairle an Rialtais.

### Variants

- 1 'a bhronntar air nó uirthi'

## ARTICLE 14.1 AIRTEAGAL 14.1

### TÉACS GAELIGE

Má bhíonn an tUachtarán as láthair nó má bhíonn ar míthreoir go sealadach, nó má bhíonn ar míthreoir go buan agus go suítear sin mar a shocraítear le halt 3 d'Airteagal 12 den Bhunreacht seo, nó má tharlaíonn é d'éag nó é d'éirí as oifig nó é a chur as oifig, nó má theipeann air cumhachtaí is feidhmeanna a oifige nó aon cheann díobh a oibriú is a chomhlíonadh, nó má bhíonn oifig an Uachtaráin folamh, is Coimisiún a bheas comhdhéanta mar a shocraítear in alt 2 den Airteagal seo a oibreos is a chomhlíonfas na cumhachtaí is na feidhmeanna a bhronntar ar an Uachtarán leis an mBunreacht seo nó faoi.

### LITERAL ENGLISH TRANSLATION

If the President is absent or if (he) is temporarily incapacitated/deranged, or if (he) is permanently incapacitated/deranged and that this is established as provided by section 3 of Article 12 of this Constitution, or if it happens that he dies or he gives up / relinquishes office or (he) is put out of office, or if he fails to operate and fulfil the powers and functions of his office or any one of them, or if the office of the President is vacant, it is a Commission which will be composed as provided in section 2 of this Article that will operate and fulfil the powers and the functions that are bestowed on the President by this Constitution or under it.

### ENGLISH TEXT

In the event of the absence of the President, or his temporary incapacity, or his permanent incapacity established as provided by section 3 of Article 12 hereof, or in the event of his death, resignation, removal from office, or failure to exercise and perform the powers and functions of his office or any of them, or at any time at which the office of President may be vacant, the powers and functions conferred on the President by or under this Constitution shall be exercised and performed by a Commission constituted as provided in section 2 of this Article.

### Divergences between the official texts

- 1 As noted in Article 12.3, 'incapacity' is expressed in the Irish text by a phrase ('ar míthreoir') which today has the sense of 'deranged'/'misguided'.

- 2 As already noted, 'In the event of ... his permanent incapacity established as provided by section 3' is expressed in the Irish text as 'má bhíonn ar míthreoir go buan agus go suítear sin mar a shocraítear le halt 3' ('If he is permanently incapacitated **and that** is established as provided by section 3'), i.e. another clause is added to the text.
- 3 The style of the English text, with repetition of 'in the event of', followed by 'or at any time at which', is not paralleled in the Irish text which has 'Má bhíonn', 'má tharlaíonn' and then 'nó má bhíonn'.
- 4 'At any time at which the office of the President may be vacant' is expressed simply as 'má bhíonn oifig an Uachtaráin folamh' ('if the office of the President is vacant') in the Irish text.

### Commentary

*má theipeann air* 'Teip' is translated as 'fail' in *Ó Dónaill*, who cites '*má theipeann ort, if you fail*' and '*theip orm é a dhéanamh, I failed to do it*'. *Dinneen* also cites '*má theibeann ort, if you fail*' (s.v. 'teibim'). Although not included in *De Bhaldrathe's Innéacs Nua-Ghaeilge*, this word is found in *DIL* s.v. 'do-eipen' ('excises, cuts' [to-ess-ben-]), where two examples with 'ar' are cited (the earliest being Keating's *History of Ireland*); *DIL* translates 'teibid orm' as 'I fail'.

'Mainnigh' specifically translates 'fail' in the Acts – see, for example, s5(1) of the Fuels (Control of Supplies) Act, 1971, where 'Where ... a person fails or refuses or wilfully neglects to comply with a provision in an order made by the Minister under this Act' is translated as 'Más rud é ... go mainneoidh nó go ndiúltóidh nó go bhfaileoidh duine go toiliúil, déanamh de réir forála in ordú ón Aire faoin Acht seo'. In s12(1) of the Wealth Tax Act, 1975, 'in any case where there is failure to disclose material facts' is translated as 'in aon chás ina mainneofar fíorais ábhartha a nochtadh'. In s23(4) of the Finance Act, 1990, 'Section 500 and 503 ... shall apply to a failure to deliver a return' is translated as 'Beidh feidhm ag ailt 500 agus 503 ... maidir le mainneachtain tuairisceán ... a sheachadadh'. 'Or the failure to exercise a right' is translated as 'nó a mhainniú ceart a fheidhmiú' and 'in the case of a disposition which consists of the failure to exercise a right or a power' is translated as 'i gcás diúscartha ar mainneachtain í ceart nó cumhacht a fheidhmiú' in s2 of the Capital Acquisitions Tax Act, 1976, 'by reason of the failure to exercise a power of revocation' being translated as 'mar gheall ar mhainneachtain cumhacht chúlghairme a fheidhmiú' in s21(2)(b). In s56(4) of the Finance Act, 1974, 'a person's abandonment of, or failure to exercise, such a right is to be treated for those purposes as an exercise of the option' is translated as 'measfar chun na gcrictha sin gur feidhmiú na rogha sin ag duine é do thréigean cirt den sórt sin nó é do mhainniú é a fheidhmiú'. See further the commentary on Article 42.5, where 'fail in' is expressed as 'nach ndéanann'.

Looking at early Acts, 'in aineoin aon teipe i gcó-líona aon reachta, riala no orduithe (pe'ca le gníomh no le faillí é)' translates 'notwithstanding any failure (whether by way of commission or omission) to comply with any statute, rule or order' in s9(2) of the District Justices (Temporary Provisions) Act, 1923. In s30 of the First Schedule to the Electoral Act, 1923, however, 'Any failure to publish a

document in accordance with these rules shall not invalidate the document' is translated as 'Ní bheidh aon scríbhinn nea-dhleathach de dheascaibh aon fhaill ar í d'fhoillsiú do réir na rialacha so'. 'If any registered proprietor ... fails to keep such register as is required by this section' is translated as 'Má ráiníonn d'aon únaer cláruithe ... gan an clár san a héilítear leis an alt so do chimeád' in s13(3) of the Agricultural Produce (Eggs) Act, 1924. Finally, 'Any of the following shall be a reasonable excuse for failure to comply with this section' is translated as 'Leathscéal réasúnta chun gan an t-alt so do chólíona ísea éinni acu so a leanas' in s4(1) of the School Attendance Act, 1926, and 'beidh an ní seo a leanas leis ina leathscéal réasúnta chun an t-alt so d'fhágaint gan cólíona' translates 'the following shall also be a reasonable excuse for failure to comply with this section' in subsection 3.

*Má bhíonn an tUachtarán* Literally 'if the President is ...'. 'In the event of ...' is usually translated as 'i gcás ...' in the Acts – see s4(7) of the Dairy Produce (Miscellaneous Provisions) Act, 1973, for example, where 'In the event of the winding up or dissolution of the Society' is translated as 'I gcás an Cumann a fhoirceannadh nó a dhíscaoileadh'. 'The chairman of a review board shall nominate another member of the board to be chairman for a particular sitting of the board in the event of the former being unable to act' is translated as 'Ainmneoidh cathaoirleach boird athbhreithnithe comhalta eile den bhord le bheith ina chathaoirleach ag suí áirithe den bhord mura mbeidh sé féin in ann gníomhú' in s37(5) of the Health (Mental Services) Act, 1981. 'Or insurance of the member's estate in the event of his death' is translated as 'nó árachas ar eastát an chomhalta i gcás a bháis' in s25(1)(a) of the Credit Union Act, 1966. In s21(8)(b) of the Solicitors (Amendment) Act, 1960, 'in the event of his death, insolvency or other disability' is translated as 'i gcás é d'fháil bháis, d'éirí dócmhainneach nó a theacht faoi dhícháilíocht eile'.

Looking at early Acts, 'Má bhíonn Máistir na hArd-Chúirte ... seal as láthair no seal fé mhí-chumas de dheascaibh breoiteachta no má bhíonn oifig an Mháistir ... san folamh, féadfídh an tAire fear ionaid do cheapa chun oifig an Mháistir ... san d'fheidhmiú le linn na nea-láithreachta, an mhí-chumais, no an fholúntais sin' translates 'In the event of the temporary absence or the temporary incapacity through illness of the Master of the High Court ... or in the event of the office of such Master ... being vacant the Minister may appoint a deputy to execute the office of such Master ... during such absence, incapacity, or vacancy' in s27(1) of the Court Officers Act, 1926. 'In the event of any vacancy among the appointed or elected members of the Committee arising otherwise than by effluxion of time' is translated as 'Má thagann aon fholúntas imeasc ball ceaptha no ball tofa an Choiste agus nách tré imeacht aimsire a thiocfa sé' in s3 of the Schedule to the Pilotage Order Confirmation Act, 1927. 'Má thárluionn' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'in event of' in early *Standing Orders* of Dáil Éireann.

*a bheas comhdhéanta* In s58 of the Finance Act, 1990, for example, 'a company which is constituted under any other Act' is translated as 'cuideachta arna comhdhéanamh faoi aon Acht eile'. In Part IV of the Fifth Schedule to the

Defence Act, 1954, 'We, the undersigned members of the Commission constituted as provided in section 2 of Article 14 of the Constitution to ...' is translated as 'Déanaimidne, na sínithe thíos, is comhaltaí den Choimisiún a bunaíodh mar forálar in alt 2 d'Airteagal 14 den Bhunreacht chun'. 'The joint committee shall, in lieu of being constituted as provided by subsection (2) ... consist of –' is translated as 'in ionad an comhchoiste a bheith cóirithe mar forálar le fo-alt (2) ... beidh sé comhdhéanta mar leanas –' in s4(1) of the Meath Hospital Act, 1951. 'Is leis na Rialacha atá sa Dara Sceideal ... a regeálfar có-dhéanamh ... bordanna sláinte' translates 'The constitution ... of boards of health ... shall be regulated by the Rules' in s12(2) of the Local Government Act, 1925. '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' is translated as 'Socróidh Buan-Orduithe gach Tighe an mó ball a dhéanfaidh cruinniú dleathach d'aon Tigh chun a chomachta do chur i bhfeidhm' in Article 22 of the 1922 Constitution.

*as láthair* 'Cé atá as láthair?' is cited in *Ó Dónaill s.v. 'as'*, where this question is translated as 'Who is absent?' 'Duine a chur as láthair' is translated as 'to displace someone' s.v. 'láthair'. *Dinneen* cites '*dul as a láthair*, to leave him' and '*tamall as láthair*, a little distance away' – see further the commentary on Article 28.6.3°. In s16 of the Schedule to the Employment Equality Act, 1977, 'The Minister shall appoint one of the ordinary members of the Agency to be vice-chairman of the Agency with the function of acting as chairman in the absence of the chairman' is translated as 'Ceapfaidh an tAire duine de ghnáthchomhaltaí na Gníomhaireachta le bheith ina leas-chathaoirleach ar an nGníomhaireacht agus é d'fheidhm aige gníomhú mar chathaoirleach nuair a bheidh an cathaoirleach as láthair'. In s7(3)(a) of the Electoral (Amendment) Act, 1969, 'during his absence or incapacity or during a vacancy in his office' is translated as 'le linn é a bheith as láthair nó faoi éagumas nó le linn a oifig a bheith folamh'.

Looking at early Acts, 'Gníomhóidh an Leas-Uachtarán tar ceann an Uachtaráin, leis, le linn eisean do bheith as láthair go sealadach' translates 'The Vice-President shall also act in place of the President during his temporary absence' in Article 53 of the 1922 Constitution. 'Caillfidh saighdiúir go hátomaitigiúil páigh in aghaidh gach lae ... a bheidh sé as láthair tar éis tréigean do gan cead' translates 'In the case of a soldier, pay shall be automatically forfeited for every day ... of absence on desertion or without leave' in s128 of the Defence Forces (Temporary Provisions) Act, 1923, 'Nea-láithreachta gan cead' translating 'Absence without leave' in the Margin Title of s45 of that Act, with 'Bheith as láthair gan cead' translating 'The offence of being absent without leave' in subsection 1. 'Dióláithreachta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'absence' in *Iris an Phuist*, 28/12/1927.

*ar míthreoir go sealadach* See the commentary on Article 12.3 regarding 'ar míthreoir'. Regarding 'temporary incapacity' in the Acts, 'during the temporary absence or temporary incapacity through illness of the acting district probate registrar' is translated as 'le linn an cláraitheoir probháide ceantair gníomhach a bheith as láthair go sealadach nó faoi éagumas go sealadach de dheasca



breioiteachta' in s131 of the Succession Act, 1965. In s4(1) of the Court Officers Act, 1951, 'In the event of the temporary absence or the temporary incapacity of any district court clerk or in the event of the office of district court clerk for any district court area being vacant, the Minister may ... appoint a deputy to execute the office of such district court clerk during such absence, incapacity or vacancy' is translated as 'I gcás aon chléireach cúirte dúiche a bheith as láthair go sealadach nó a bheith faoi éagumas sealadach nó i gcás oifig chléirigh chúirte dúiche d'aon cheantar cúirte dúiche a bheith folamh, féadfaidh an tAire ... ionadaí a cheapadh chun oifig an chléirigh chúirte dúiche sin a chomhlíonadh an fhad a mhairfeas an neamhláithreacht, an t-éagumas nó an folúntas sin'.

Turning specifically to 'go sealadach', 'áis sealadach' and 'éagumas sealadach' are translated respectively as 'temporary convenience' and 'temporary incapacity' in *Téarmaí Dlí*. 'Sealadach' is translated as 'temporary, provisional' in *Ó Dónaill* and as 'alternate, periodical, transitory, temporary, provisional' in *Dinneen*. This adjective derives from the noun 'sealad', earlier 'selat', which in turn is a derivation of 'sel', 'a turn', 'a while, a spell', 'a certain distance'. See further the commentary on Article 28.6.3°.

As well as 'sealadach', cited above from Article 53 of the 1922 Constitution, we also find 'diombuan' and 'nea-mbuan' translating 'temporary' in early Acts. 'In so far as they are in force in Saorstát Éireann and are temporary in their duration' is translated as 'sa mhéid go bhfuilid i bhfeidhm i Saorstát Éireann agus sa mhéid gur diombuan a ré' in the Preamble to the Expiring Laws Continuance Act, 1922, and 'd'aon oifigeach ... dar deonadh pinsean créachta (buan no nea-mbuan)' translates 'to any officer ... whom a wound pension (whether temporary or permanent) has been granted' in s5(1) of the Army Pension Act, 1923. In s30(1) of the Currency Act, 1927, 'during any temporary absence or any temporary incapacity through ill-health of the Chairman, and during such absence or inability' is translated as 'le linn an Cathaoirleach do bheith as láthair go sealadach aon uair no fé mhí-chumas go sealadach tré easláinte aon uair, agus le linn na nea-láithreachta no an mhí-chumais sin'. In s6(1) of the Army Pensions Act, 1927, 'Whenever the chairman ... of the Army Pensions Board is through ill-health or other sufficient cause temporarily incapacitated from performing his duties as such chairman' is translated as 'Pé uair a bheidh cathaoirleach Bhord na nArm-Phinsean ..., tré easláinte no ar leor-chúis eile, fé mhí-chumas dhiombuan ná leigfidh do a dhualgais mar chathaoirleach ... do chólíona'.

*go buan* 'Éagumas buan' is translated as 'permanent incapacity' in *Téarmaí Dlí*. 'Buan' is translated as 'enduring, permanent' in *Ó Dónaill*, who translates 'go buan' as 'constantly, always'. *Dinneen* translates 'go buan' (followed by the abbreviation for 'poetical, poetry') as 'always, constantly', translating 'buan' as 'lasting, enduring, long-lived, certain, fixed'. 'Go buan', in Donlevy's *Catechism*, 1742, is translated as 'constantly' in DIL s.v. 'búan'.

*folamh* 'His seat on such board, shall ... become and be vacant' is translated as 'tíocfaidh a ionad ar an mbord sin chun bheith, agus beidh sé, folamh' in s17(1) of the Fisheries Act, 1980. In s19(6) of the Harbours Act, 1946,

'the harbour authority shall forthwith declare his office to be vacant and it shall thereupon become vacant' is translated as 'dearbhóidh an t-údarás áitiúil láithreach a oifig a bheith folamh agus air sin beidh sí folamh'. 'Whenever during the term of office of any board of conservators the seat of any elected member of the board becomes vacant by death, resignation, incapacity, or disqualification' is translated as 'Más rud é, i rith téarma oifige aon bhúird chimeádaithe, go bhfolamhófar ionad aon bhaill thofa den bhord tré bhás, eirghe-as, mí-chumas, no dí-cháiliú' in s11(1) of the Fisheries Act, 1925. In s5(2) of the Local Authorities (Officers and Employees) Act, 1926, 'Whenever an office to which this Act applies becomes vacant' is translated as 'Má dintar oifig le n-a mbaineann an tAcht so d'fholmhú'.

*Coimisiún* As regards early citations, 'Ciallóidh "Coimisinéirí den Chuard Ard-Chúirte" pé breithimh no daoine eile a hainmnítí go dtí so i gCoimisiúin Ard-Shiosóin' translates "'Commissioners of the High Court Circuit" shall mean such judges or other persons as have been heretofore named in Commissions of Assize' in s3 of the Courts of Justice Act, 1924.

*é d'éag nó é d'éirí as oifig* See the commentary on Article 12.3.3° – note how we have 'éirí as oifig' here as against 'éirí as' in the above Article.

*go suifear sin* See the commentary on Article 12.3.1°.

*má tharlaíonn dó* See the commentary on Article 12.3.3°.

### Standardised gender-proofed Irish text

Má bhíonn an tUachtarán as láthair nó má bhíonn ar míthreoir go sealadach, nó má bhíonn ar míthreoir go buan agus go suifear sin mar a shocraítear le halt 3 d'Airteagal 12 den Bhunreacht seo, nó má tharlaíonn an tUachtarán a éag nó é nó í a éirí as oifig nó é nó í a chur as oifig, nó má theipeann ar an Uachtarán cumhachtaí is feidhmeanna oifig an Uachtaráin nó aon cheann díobh a oibriú is a chomhlíonadh, nó má bhíonn oifig an Uachtaráin folamh, is Coimisiún a bheidh comhdhéanta mar a shocraítear in alt 2 den Airteagal seo a oibreoidh is a chomhlíonfaidh na cumhachtaí is na feidhmeanna a bhronntar ar an Uachtarán leis an mBunreacht seo nó faoi.

### Direct gender-proofed translation

I gcás an tUachtarán a bheith as láthair, nó faoi éagumas sealadach, nó faoi éagumas buan arna shuíomh mar a fhoráiltear le halt 3 d'Airteagal 12 den Bhunreacht seo, nó i gcás an tUachtarán a fháil bháis<sup>1</sup>, a éirí as<sup>2</sup>, nó a chur as oifig<sup>3</sup>, nó má mhainníonn sé nó sí cumhachtaí agus feidhmeanna a oifige nó a hoifige, nó aon cheann díobh, a fheidhmiú agus a chomhlíonadh, nó tráth ar bith a bheidh oifig an Uachtaráin folamh, déanfaidh Coimisiún arna chomhdhéanamh mar a fhoráiltear in alt 2 den Airteagal seo na cumhachtaí agus na feidhmeanna a thugtar don Uachtarán leis an mBunreacht seo nó faoin mBunreacht seo<sup>4</sup> a fheidhmiú agus a chomhlíonadh.

**Variants**

- 1 'd'fháil bháis'
- 2 'd'éiri as', 'a éiri as oifig'
- 3 'do chur as oifig'
- 4 'nó faoi'

ARTICLE 14.2.1<sup>o</sup> AIRTEAGAL 14.2.1<sup>o</sup>**TÉACS GAEILGE**

Is iad na daoine seo a leanas an Coimisiún, .i. an Príomh-Bhreitheamh, Cathaoirleach Dháil Éireann (An Ceann Comhairle) agus Cathaoirleach Sheanad Éireann.

**LITERAL ENGLISH TRANSLATION**

The following people are the Commission, i.e. the Chief Justice, the Chairman of Dáil Éireann (The Ceann Comhairle) and the Chairman of Seanad Éireann.

**ENGLISH TEXT**

The Commission shall consist of the following persons, namely, the Chief Justice, the Chairman of Dáil Éireann (An Ceann Comhairle), and the Chairman of Seanad Éireann.

**Divergences between the official texts**

- 1 'The commission shall consist of the following persons' is expressed as 'Is iad na daoine seo a leanas an Coimisiún' ('The following people are the Commission') in the Irish text.
- 2 'Namely' is again expressed in the Irish text by the Irish abbreviation for Latin 'id est'.
- 3 A comma follows '(An Ceann Comhairle)' in the English text alone.

**Commentary**

*an Príomh-Bhreitheamh* This compound is translated as 'the Chief Justice' in *Téarmaí Dlí* and in *Ó Dónaill* – it does not appear to be given in *Dinneen*. 'Justice of the District Council' is translated as 'Breitheamh den Chúirt Dúiche' in *Téarmaí Dlí*. 'Breithem' is found in the Glosses of the eighth century, where it glosses Latin 'iudex' and 'arbiter' – see DIL s.v. 'breithem', 'literally, "maker of judgments", Latin *iuris consultus*, ... and in legal texts usually in the wider sense of *jurist* ("brehon" in the published *Ancient Laws of Ireland*), whose function could include that of adjudicating'. See further the commentary on Article 31.2.

'Agus, ina gceapacháin dóibh, gairmfar "Prímh-Bhreitheamh Shaorstát Éireann" dá n-uachtarán (dá ngairmtear "an Prímh-Bhreitheamh" ina dhiaidh seo anso)' translates 'of whom the president (who is hereinafter called "the Chief Justice") shall be styled in his appointment "Chief Justice of the Irish Free State"' in s5 of the Courts of Justice Act, 1924. Note that 'Ard-Bhreitheamh na Cúirte Uachtaraige' translates 'the Chief Justice of the Supreme Court' in s16(2) of the Electoral Act, 1923, and 'Tiarna Prímh-Ghiúistís na hÉireann' translates 'the Lord Chief Justice of Ireland' in s24(a) of the Court Officers Act, 1926.

The word 'giúistís' is not included in *Téarmaí Dlí*; *Ó Dónaill* translates that headword as (1) 'Historical:

Justiciar'; (2) 'Justice (of the peace), magistrate' and '(plural) Judiciary, judicature'. According to DIL s.v. 'giústís', this is a Romance loanword, perhaps through English. DIL translates 'giústís' as 'a justiciary, a magistrate' and states that it was used of the Irish Lord Deputy. Pontias Pilate is referred to as 'giústís' in one source. The form 'uistís' is also found, being translated as 'a Justice, justiciary' in DIL, where it is stated that this form is frequent in the annals in reference to 'the Lord Deputy or Lord Justice of Ireland'.

'Prím-' comes from Latin 'primus' and is translated as 'first (in time), primary' and 'foremost, chief, principal' in DIL.

*Is iad* See the commentary on Article 2 regarding 'consist'. Looking at early Acts, in Form 1 in the Schedule to the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, 'Expenditure during the year 1922 on reparation consisting of ...' is translated as 'Caithteachas sa bhliain 1922 le deisiúchán, eadhon ...'. In s19(2) of that same Act, 'The Rules Committee for the purposes of this Act shall consist of –' is translated as 'An Coiste Rialacha a bheidh ann chun crícheanna an Achta so, beidh sé co-dhéanta de –'. 'The Trustees shall consist of six persons' is translated as 'Seisear líon na nÍontaobhaithe' in s3(1) of the Slaughtered Animals (Compensation) Act, 1928.

*Cathaoirleach* 'Bonus do chathaoirleach Cheathrú Shiosóin' translates 'bonus to chairman of quarter sessions' in the Schedule to the Appropriation Act, 1922. 'Fear Ceannais' and 'Ceann Comhairle' are cited in the *Oireachtas Dictionary of Official Terms* as translating 'Chairman' in the *Standing Orders* of Dáil Éireann, 1926/1929. See further the commentary on Article 14.2.3<sup>o</sup>.

*.i.* See the commentary on Article 7. 'Namely' is simply translated as 'eadhon', without reference to any particular Act, in the *Oireachtas Dictionary of Official Terms*. In s2(2) of the Housing (Private Rented Dwellings) (Amendment) Act, 1983, 'The Tribunal shall consist of the following members, namely, a chairman' is translated as 'Ar an mBinse beidh na comhaltai seo a leanas, eadhon, cathaoirleach'. In s6(1) of the Schedule to the Pier and Harbour Provisional Order Confirmation Act, 1929, 'The First Commissioners shall be the following persons, namely...' is translated as 'Isiad na daoine seo a leanas a bheidh mar chéad Choimisinéirí, eadhon:-'.

We also see in the Constitution how 'namely' in this context is not specifically expressed in the Irish text; Professor Máirtín Ó Murchú remarks that 'eadhon' need not be included in the translation below.

**Gender-proofed Irish text**

Is iad na daoine seo a leanas an Coimisiún, .i. an Príomh-Bhreitheamh, an Ceann Comhairle agus Cathaoirleach Sheanad Éireann.<sup>1</sup>

**Note**

- 1 This follows the gender-proofed English text.

**Direct translation**

Is iad na daoine seo a leanas a bheidh ar an gCoimisiún,<sup>1</sup> eadhon, an Príomh-Bhreitheamh, Cathaoirleach Dháil

Éireann (An Ceann Comhairle), agus Cathaoirleach Sheanad Éireann.

### Variants

- 1 'Beidh an Coimisiún comhdhéanta de na daoine seo a leanas,'

## ARTICLE 14.2.2<sup>o</sup> AIRTEAGAL 14.2.2<sup>o</sup>

### TÉACS GAELGE

Gníomhóidh Uachtarán na hArd-Chúirte ina chomhalta den Choimisiún in ionad an Phríomh-Bhreithimh aon uair a bheas oifig an Phríomh-Bhreithimh folamh nó a bheas an Príomh-Bhreitheamh gan bheith i gcumas gníomhaithe.

### LITERAL ENGLISH TRANSLATION

The President of the High Court will act as a member of the Commission instead of the Chief Justice any time that the office of the Chief Justice is vacant or that the Chief Justice will not be / is not able to act.

### ENGLISH TEXT

The President of the High Court shall act as a member of the Commission in the place of the Chief Justice on any occasion on which the office of Chief Justice is vacant or on which the Chief Justice is unable to act.

### Divergences between the official texts

- 1 'On any occasion that ...' is expressed as 'aon uair a' ('any time that ...') in the Irish text.
- 2 'Unable to act' is expressed in the Irish text as 'gan bheith i gcumas gníomhaithe', literally 'not being in power to act', 'not having the capacity to act', though generally 'gan bheith i gcumas' would be understood as 'not being able to'.

### Commentary

*gan bheith i gcumas gníomhaithe* According to the official standard, the verbal noun 'gníomhú' would not be put into the genitive case coming immediately after this prepositional phrase – see *An Caighdeán Oifigiúil*, p. 96, where 'i riocht scríobh' is given as an example. 'Bheith i gcumas rud a dhéanamh' is translated as 'to be able, have the capacity, to do something' in *Ó Dónaill* s.v. 'cumas', which headword is translated as 'capability, power'. *Dinneen* translates 'cumas' as 'adjustment, control, requisite capability or power; ability; effort; disposition' and cites 'níl sé ar mo chumas, I am not able to do it, I have it not in my power or at my disposal; ar chumas (or gcumas) dom, im' chumas, idem.' *Ó Dónaill* also cites 'dá mbeadh sé ar, i, mo chumas, if it were in my power' and 'rud a chur ar chumas duine, ar a chumas do dhuine, i gcumas do dhuine, to enable someone to do something'. 'Commus' is the verbal noun of 'con-midethar' (which verb is translated as 'is competent, able; rules, governs, controls' in DIL), translated as (a) 'act of controlling, arranging, directing', (b) 'Usual meaning power, ability, capacity' in DIL – see further the commentary on Article 34.5.1<sup>o</sup>. We find the following in the seventh-century

*Cambrai Homily*: 'céin bes i comus coirp ocus anme' ('so long as he is in power of body and soul'). *De Bhaldraithe* translates 'I am unable to do it' as 'ní féidir liom, nílím i riocht, in ann, é a dhéanamh; níl sé ar mo chumas é a dhéanamh'. See further the commentary on Article 31.2 where 'ar cumas dó' expresses 'is able'.

In s18(2) of the Courts Act, 1981, 'If, during any period, the President of the High Court is unable owing to illness ... to transact the business of his office or the office of President of the High Court is vacant' is translated as 'Más rud é, le linn aon tréimhse, nach mbeidh Uachtarán na hArd-Chúirte in ann, de dheasca tinnis ... gnó a oifige a dhéanamh, nó go mbeidh oifig Uachtarán na hArd-Chúirte folamh'. In s10(7) of the Courts of Justice Act, 1947, 'If the President of the Circuit Court is unable to act during any period' is translated as 'Má bhíonn Uachtarán na Cúirte Cuarda éagumasach ar ghníomhú ar feadh aon tréimhse', 'If the President of the District Court is unable to act during any period' being translated as 'Mura féidir le hUachtarán na Cúirte Dúiche gníomhú ar feadh tréimhse ar bith' in s35(3) of the Courts (Supplemental Provisions) Act, 1961.

Professor Máirtín Ó Murchú recommends 'i gcumas' rather than 'in ann' in the translation below, 'in ann' being too dialectical ("róchanúnach") and of uncertain history.

*aon uair* *Ó Dónaill* cites '*aon uair is mian leat*, any time you like'. *Dinneen* translates '*aon uair diobh*' as 'on either of these occasions'. To avoid repeating '*aon uair*' the final clause is expressed as 'nó a bheas an Príomh-Bhreitheamh gan bheith i gcumas gníomhaithe', 'or (any time) that the Chief Justice will not be in power to act'.

'The maintenance debtor shall, on any occasion on which he becomes employed ... include in his notification ... particulars of his earnings' is translated as 'déanfaidh an féichiúnaí cothabhála, ar aon ócáid ar a rachaidh sé ar fostaíocht ... sonraí a thuillimh ... a chur san fhógra uaidh' in s14(b) of the Family Law (Maintenance of Spouses and Children) Act, 1976. In s22(2) of the Dairy Produce (Price Stabilisation) Act, 1935, 'Every person ... who fails, on any occasion on which such particulars are so required to be sent by him, to send such particulars' is translated as 'Gach duine ... go dteipfidh air, ar aon ócáid gur gá dho san do dhéanamh amhlaidh, na mion-innste sin do chur uaidh'.

'Fé mar is gá é' translates 'as occasion arises' in s6(1) of the Industrial and Commercial Property (Protection) Act, 1927, and 'as occasion requires' in s7(1) of the Dentists Act, 1928. 'Fé mar eireoidh ócáid chuige' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'as occasion permits' in *Iris an Phuist*, 22/2/28, 'fé mar a bhéas gá leis' being cited as translating 'as occasion may arise', with 'nuair a fheicfidh sé go bhfuil réasún leis' translating 'when he may see occasion', in translations for the Department of Local Government and Public Health.

*Gníomhóidh* 'Gníomhaigh' is translated as 'act' in *Ó Dónaill* – see the commentary on Article 28.4.2<sup>o</sup>. 'Gníomh' is translated as 'act' in *Téarmaí Dlí*. 'The appointment of a person to act as a member of a committee' is translated as 'ceapadh duine chun gníomhú mar chomhalta de choiste' in s16(3) of the Irish Film Board Act, 1980, for example. 'Acting as' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ag gníomhú mar' in early translations for the Department of Justice.

*in ionad* This phrase is translated as 'in place of, instead of' in *Ó Dónaill* s.v. 'ionad' ('place'), where '*in ionad a mhic*, instead of his son' is cited. *Dinneen* translates 'in ionad' as 'in proper place, with genitive, instead of, in the place for, in compensation for'. An early example from the *Annals of Ulster* is cited in DIL s.v. 'inad': 'coemchludh abad ... .i. Forindan i n-inad Dermota' (i.e. change of abbots). 'In ionad' also has the sense of 'in succession to', as well as 'in place of, instead of', according to DIL. 'The Minister may appoint a person to act in place of the Director during such inability' is translated as 'féadfaidh an tAire duine a cheapadh chun gníomhú in ionad an Stiúirthóra ar feadh tréimhse an éagumais sin' in s9(11)(a) of the Consumer Information Act, 1978, for example.

*a bheas* The special form of the relative, future, of the substantive verb – see the commentary on Article 6.1. This form is not recorded in the paradigm of 'Táim (B)' in *An Caighdeán Oifigiúil* and, while *Ó Dónaill* includes it in his paradigm s.v. 'bí', he cites '*Tá mé go maith, slán a bheidh tú*, I am well, thank you' s.v. 'slán', where one would have expected the form 'a bheas'.

*Uachtarán na hArd-Chúirte* This phrase translates 'the President of the High Court' in s1(1) of the Acquisition of Land (Reference Committee) Act, 1925.

*mar chomhalta de* See the commentary on Article 12.2.2°. This could also be expressed as 'mar bhall de'.

*folamh* See the commentary on Article 14.1.

### Standardised gender-proofed Irish text

Gníomhóidh Uachtarán na hArd-Chúirte ina chomhalta nó ina comhalta den Choimisiún in ionad an Phríomh-Bhreithimh aon uair a bheidh oifig an Phríomh-Bhreithimh folamh nó a bheidh an Príomh-Bhreitheamh gan bheith i gcumas gníomhú.

### Direct gender-proofed translation

Gníomhóidh Uachtarán na hArd-Chúirte mar chomhalta den Choimisiún in ionad an Phríomh-Bhreithimh ar aon ócáid a mbeidh oifig an Phríomh-Bhreithimh folamh nó ar aon ócáid nach mbeidh an Príomh-Bhreitheamh i gcumas<sup>1</sup> gníomhú.

#### Variants

1 'in ann'

ARTICLE 14.2.3° AIRTEAGAL 14.2.3°

#### TÉACS GAELIGE

Gníomhóidh Leas-Chathaoirleach Dháil Éireann ina chomhalta den Choimisiún in ionad Chathaoirleach Dháil Éireann aon uair a bheas oifig Chathaoirleach Dháil Éireann folamh nó a bheas an Cathaoirleach sin gan bheith i gcumas gníomhú.

#### LITERAL ENGLISH TRANSLATION

The Vice-Chairman of Dáil Éireann will act as a member of the Commission instead of the Chairman of Dáil Éireann any time that the office of the Chairman of Dáil Éireann is vacant or that that Chairman will not be / is not able to act.

#### ENGLISH TEXT

The Deputy Chairman of Dáil Éireann shall act as a member of the Commission in the place of the Chairman of Dáil Éireann on any occasion on which the office of Chairman of Dáil Éireann is vacant or on which the said Chairman is unable to act.

#### Divergences between the official texts

- 1 The terms 'Leas-Cheann Comhairle' and 'Ceann Comhairle' are the official terms for the 'Deputy Chairman of Dáil Éireann' and the 'Chairman of Dáil Éireann'; the substitution of the terms 'Ceann Comhairle' and 'Leas-Cheann Comhairle' for 'Chairman of Dáil Éireann' and 'Deputy Chairman' respectively in both the Irish and English texts is recommended in the gender-proofed edition of the Constitution contained in the *First Progress Report of the All-Party Oireachtas Committee on the Constitution* (p. 177).
- 2 Like the previous subsection, 'any occasion' is expressed as 'aon uair' ('any time') in the Irish text and 'unable to act' as 'gan bheith i gcumas gníomhú' ('not being in power to act').

#### Commentary

*in ionad Chathaoirleach Dháil Éireann* See note 1 above regarding 'Ceann Comhairle'. It is not customary to inflect 'ceann' in this phrase – 'an Ceann Comhairle' becomes 'an Cheann Comhairle' in the genitive singular whereas if the normal grammatical rules were followed, 'an ceann' would become 'an chinn' in the genitive. See Jim O'Donnell and Seán de Fréine, *Ciste Cúrsaí Reatha*, p. 251, who state (I translate):

Because 'ceann' has not a literal meaning here, no change is made to it in cases such as: 'A Cheann Comhairle' (when he is addressed); similarly, the title of his office is 'Oifig an Cheann Comhairle'. The form 'Cinn Comhairle' should never be used. The same practice is followed in the case of other words when a literal meaning is not involved. For example, 'stór' means wealth, but when used as a term of affection or love, literal use is not involved. Therefore, 'a stór' is said, as is done in the case of the Ceann Comhairle. 'A phobal' or 'A Phobal Dé' is the correct way to address people at Mass or at another religious ceremony.

Practical considerations may also have been involved as regards 'Ceann Comhairle'.

'Cathaoirleach' is translated as 'Chairman' in *Téarmaí Dlí*, following the ninth Irish Legal Terms Order, 1950 (S.I. No. 291 of 1950 – Terms relating to Company Law) and in *Ó Dónaill. Dinneen* s.v. 'cathaoirleach', has 'a chairman, a president (*recent*)'. This is given by Cathal Ó Háinle (in Kim McCone et al., op. cit., p. 766) as one of a very small handful of words which were given a new meaning or were composed during Dinneen's own time which he acknowledges in the first edition of his dictionary

– the other two examples, given by Ó Háinle, being ‘alt’ (“a written article”) and ‘rothar’.

‘Cathaoirleach’ has the advantage over ‘Chairman’ in that it can naturally refer to either a man or a woman: *De Bhaldraithe*, for example, translates ‘Mr Chairman, Madam Chairman’ simply as ‘a Chathaoirleach’. Incidentally, ‘raicleach’, translated as ‘brawling, obstreperous, woman; vixen, termagant’ in *Ó Dónaill* (and apparently not given as a headword in *Dinneen*), would be an example of a noun ending in ‘-leach’ referring to a woman – ‘raic’ is translated as ‘racket, ruction, riot, uproar’ in *Ó Dónaill*. According to DIL, the second headword ‘echlach’ (‘a prostitute’) therein is evidently a special use of the first headword ‘echlach’, translated as ‘messenger, courier; attendant’ (‘ech’ = Modern Irish ‘each’, ‘a horse’); *Dinneen*’s entry s.v. ‘eachlach’ is as follows: ‘a horseman, a courier, a cavalryman, hence a messenger, one to tell the tale (after a battle) ... *bain-echlach*, a woman courier’. This is followed by the headword ‘echlais’, ‘a lazy woman; a slattern (used also of a man)’.

*Leas-Chathaoirleach* ‘Leaschathaoirleach’ is translated as ‘vice-chairman’ in *Ó Dónaill*. The prefix ‘leas-’ is translated as (1) ‘vice-, deputy’, (2) ‘step-’ and (3) ‘by-’; an example of the second sense would be ‘leasathair’ (‘stepfather’), with ‘leasainm’ (‘by-name, nickname’) illustrating the third sense. Regarding the second sense, note that the Irish legal term for ‘of the half blood’ is ‘leasghaolmhar’. ‘Leas-ardeaglais’, ‘pro-cathedral’, would appear to be a development of *Ó Dónaill*’s first sense. *Dinneen* translates ‘leas-’ as ‘vice-, step-, bye-, acting-, sub-, under-, co-, pseudo-’ and gives the form ‘leis-’ before slender consonants – ‘leis-leanbh’, for example, which he translates as ‘a stepchild, an illegitimate child’. *Dinneen* translates ‘leas-uachtarán’ as ‘a vice- or acting- superior’; *Ó Dónaill* translates this term simply as ‘vice-president’. ‘Leascheannaire’ is translated as ‘lance-corporal’ in *Ó Dónaill*, ‘leasrí’ being translated as ‘regent’, ‘viceroy’. The only examples of ‘les-’ in DIL are with senses (2) and (3) of *Ó Dónaill*; this ‘les-’ is identical with ‘les’, ‘advantage, good, benefit, profit’ (Modern Irish ‘leas’), the earliest sense of which seems to be ‘relief, redress, remedy’ – see DIL s.v. ‘les’.

‘Déanfaidh gach Tigh a Cheann Comhairle agus a Leas-Cheann Comhairle féin do cheapa’ translates ‘Each House shall elect its own Chairman and Deputy Chairman’ in Article 21 of the 1922 Constitution. ‘Leas-ghníomhairí dá ngairmtear fo-ghníomhairí san Acht so’ translates ‘which deputy agents are in this Act referred to as sub-agents’ in s30(1) of the Prevention of Electoral Abuses Act, 1923. Finally, note that ‘The Paymaster General and Deputy Paymaster for Ireland’ is translated as ‘Págh-mháistir Generála agus Págh-mháistir Ionaid na hÉireann’ in the Schedule to the Ministers and Secretaries Act, 1924.

*gan bheith i gcumas gníomhaithe* See the commentary on the previous subsection.

*in ionad* See the commentary on the previous subsection.

*aon uair a bheas* See the commentary on the previous subsection.

### Standardised gender-proofed Irish text

Gníomhóidh Leas-Chathaoirleach Dháil Éireann<sup>1</sup> ina

chomhalta nó ina comhalta den Choimisiún in ionad Chathaoirleach Dháil Éireann<sup>2</sup> aon uair a bheidh oifig Chathaoirleach Dháil Éireann<sup>2</sup> folamh nó a bheidh an Cathaoirleach<sup>3</sup> sin gan bheith i gcumas gníomhú.

### Variants

- 1 ‘an Leas-Cheann Comhairle’
- 2 ‘an Cheann Comhairle’
- 3 ‘an Ceann Comhairle’

### Direct gender-proofed translation

Gníomhóidh Leas-Chathaoirleach Dháil Éireann mar chomhalta den Choimisiún in ionad Chathaoirleach Dháil Éireann ar aon ócáid a mbeidh oifig Chathaoirleach Dháil Éireann folamh nó ar aon ócáid nach mbeidh an Cathaoirleach sin i gcumas<sup>1</sup> gníomhú.

### Variants

- 1 ‘in ann’

## ARTICLE 14.2.4<sup>o</sup> AIRTEAGAL 14.2.4<sup>o</sup>

### TÉACS GAELIGE

Gníomhóidh Leas-Chathaoirleach Sheanad Éireann ina chomhalta den Choimisiún in ionad Chathaoirleach Sheanad Éireann aon uair a bheas oifig Chathaoirleach Sheanad Éireann folamh nó a bheas an Cathaoirleach sin gan bheith i gcumas gníomhaithe.

### LITERAL ENGLISH TRANSLATION

The Vice-Chairman of Seanad Éireann will act as a member of the Commission instead of the Chairman of Seanad Éireann any time that the office of the Chairman of Seanad Éireann is vacant or that that Chairman will not be / is not able to act.

### ENGLISH TEXT

The Deputy Chairman of Seanad Éireann shall act as a member of the Commission in the place of the Chairman of Seanad Éireann on any occasion on which the office of Chairman of Seanad Éireann is vacant or on which the said Chairman is unable to act.

### Divergences between the official texts

- 1 As in previous subsections, ‘any occasion’ and ‘unable to act’ are expressed as ‘aon uair’ (‘any time’) and ‘gan bheith i gcumas gníomhaithe’ (‘not being in power to act’) in the Irish text.

### Commentary

*Leas-Chathaoirleach* See the commentary on the previous subsection.

*gan bheith i gcumas gníomhaithe* See the commentary on Article 14.2.2<sup>o</sup>.

### Standardised gender-proofed Irish text

Gníomhóidh Leas-Chathaoirleach Sheanad Éireann ina chomhalta nó ina comhalta den Choimisiún in ionad

Chathaoirleach Sheanad Éireann aon uair a bheidh oifig Chathaoirleach Sheanad Éireann folamh nó a bheidh an Cathaoirleach sin gan bheith i gcumas gníomhú.

### Direct gender-proofed translation

Gníomhóidh Leas-Chathaoirleach Sheanad Éireann mar chomhalta den Choimisiún in ionad Chathaoirleach Sheanad Éireann ar aon ócáid a mbeidh oifig Chathaoirleach Sheanad Éireann folamh nó ar aon ócáid nach mbeidh an Cathaoirleach sin i gcumas<sup>1</sup> gníomhú.

### Variants

<sup>1</sup> 'in ann'

## ARTICLE 14.3 AIRTEAGAL 14.3

### TÉACS GAEILGE

Is dleathach don Choimisiún gníomhú trí bheirt ar bith dá líon agus gníomhú d'ainneoin folúntais ina gcomhaltas.

### LITERAL ENGLISH TRANSLATION

It is lawful for the Commission to act through any two of their number and to act despite a vacancy in their membership.

### ENGLISH TEXT

The Commission may act by any two of their number and may act notwithstanding a vacancy in their membership.

### Divergences between the official texts

- 1 'Is dleathach don Choimisiún gníomhú' (It is lawful for the Commission to act) in the Irish text differs greatly in tone from the English text's 'The Commission may act'.

### Commentary

*Is dleathach* This phrase and its negative, 'ní dleathach', are found in other Articles also. In Article 17.2 'Dáil Éireann shall not pass any vote or resolution, and no law shall be enacted' is expressed as 'Ní dleathach do Dháil Éireann vóta ná rún a rith, ná ní dleathach aon dlí a achtú'. In Article 28.3.1° 'War shall not be declared' is expressed as 'Ní dleathach cogadh a fhógairt'. Maolmhaodhóg Ó Ruairc (op. cit., p. 214) asks (I translate): 'Is it that to transgress those articles is a crime because it is said in both cases in the Irish *ní dleathach*?' In Article 28.7.2°, 'not more than two may be members of Seanad Éireann' is expressed as 'ní dleathach thar beirt acu a bheith ina gcomhaltaí de Sheanad Éireann'.

'Dleathach' is translated as 'lawful' in *Téarmaí Dlí* and as (1) 'lawful, legal', (2) 'valid, genuine' and (3) 'just, proper' in *Ó Dónaill* – Professor Máirtín Ó Murchú draws attention to this sense of 'proper' as regards 'dleathach' rather than the sense of English 'lawful'. *Dinneen* translates 'dleaghtach' in reverse order to *Ó Dónaill*: 'just, fair'; 'regular, uniform, genuine; normal; lawful, legal, per-

missible' and, apart from '*airgead dleaghtach*, genuine money', the only example cited is '*féach an bhfuil an bhó dleaghtach*, see whether the cow is normal (that is, in her udder, whether the paps give the milk with equal freedom and in equal quantity)'. Old Irish 'dligthech' is based on 'dliged', 'law' – see the commentary on Articles 10.1 and 17.2.

'Féadfaidh' – which expresses 'may' in the following section, for example – generally translates 'may' in this context in the Acts. 'The Board may act by any two of their number and notwithstanding a vacancy in their membership', in s3(1) of the First Schedule to the Undeveloped Areas Act, 1952, is translated as 'Féadfaidh an Bord gníomhú trí aon bheirt dá líon agus d'ainneoin folúntais ina gcomhaltas'. 'Féadfaidh an Príomh-Bhord gníomhú d'ainneoin folúntas i measc a chomhaltaí' translates 'the Central Board may act notwithstanding a vacancy among its members' in s18 of the Second Schedule to the Fisheries Act, 1980. 'The Board may act notwithstanding a vacancy in their membership', in s5(3) of the Censorship of Publications Act, 1929, is translated as 'Féadfidh an Bord gníomhú d'ainneoin folúntas do bheith ina mballraíocht'.

*d'ainneoin* Regarding early translations of 'notwithstanding' in the Acts, 'D'ainneoin éinní atá in aon Acht' translates 'Notwithstanding anything in any Act' in s11 of the Unemployment Insurance Act, 1923, 'in ainneoin éinní atá in alt 5' translating 'Notwithstanding anything contained in section 5' in s2(1) of the Finance Act, 1923. In s3(7) of the Censorship of Films Act, 1923, 'The Appeal Board may act for all purposes notwithstanding the existence of not more than two vacancies in its membership' is translated as 'Féadfidh an Bord Athchomhairc gníomhú chun gach críche faid is ná beidh thar dhá fholúntas ina bhallraíocht'. See the commentary on Article 37.1 where 'siúd is (nach)' expresses 'notwithstanding that'.

*ina gcomhaltas* The Long Title of the Constitution (Amendment No. 5) Act, 1927, 'An Act to amend the Constitution by increasing the maximum membership of the Executive Council from seven to twelve members', is translated as 'Acht chun an Bunreacht do leasú tríd an líon is mó dlightear don Ard-Chomhairle do mhéadú ó sheachtar go dtí dáreag ball', 'ball' translating 'member' in the 1922 Constitution – see the commentary on Article 12.10.4°.

*folúntais* 'Folúntas' is translated as 'vacancy; emptiness, void' in *Ó Dónaill*. *Dinneen* gives 'folamhas' ('folús' in *Ó Dónaill*), 'emptiness, vacuity, poverty', but does not seem to have the headword 'folúntas' (\*folamhantas), based on 'folamh', 'empty'.

*líon* This headword is translated as 'full number, complement' in *Ó Dónaill*, who cites '*líon gnó*, quorum' ('córam' in *Téarmaí Dlí*). 'Líon' is translated as 'fill, complement; full, requisite or due number; all...' in *Dinneen*. See DIL s.v. 'lín', 'full number, complement'. See the commentary on Articles 16.2.2° and 18.1.

### Direct translation

Féadfaidh an Coimisiún gníomhú trí aon bheirt dá líon agus féadfaidh siad gníomhú d'ainneoin folúntais ina gcomhaltas.

## ARTICLE 14.4 AIRTEAGAL 14.4

**TÉACS GAEILGE**

Féadfaidh an Chomhairle Stáit, le tromlach dá gcomhaltáí, cibé socrú is oircheas leo a dhéanamh chun na cumhachtaí agus na feidhmeanna a bhronntar ar an Uachtarán leis an mBunreacht seo nó faoi a oibriú is a chomhlíonadh in aon chás nach ndéantar socrú ina chomhair leis na forálacha sin romhainn den Airteagal seo.

**LITERAL ENGLISH TRANSLATION**

The Council of State will be able/may, by/with a majority of its members, to make whatever provision they deem fit/proper to operate and to fulfil the powers and the functions which are bestowed on the President by this Constitution or under it in any case where provision is not made for it by the preceding provisions of this Article.

**ENGLISH TEXT**

The Council of State may by a majority of its members make such provision as to them may seem meet for the exercise and performance of the powers and functions conferred on the President by or under this Constitution in any contingency which is not provided for by the foregoing provisions of this Article.

**Divergences between the official texts**

- 1 'In any contingency' is expressed as 'in aon chás' ('in any case') in the Irish text.
- 2 As in some earlier Articles, 'exercise' is expressed as 'oibriú' ('operate') in the Irish text.
- 3 The Irish text expresses 'by a majority of **its** members' as 'le tromlach dá gcomhaltáí' ('by a majority of **their** members'); note 'a vacancy in **their** membership' in the English text in the preceding section, referring to the Commission.
- 4 'Provision' is expressed as 'socrú' and 'foráil', as in the Acts; 'the preceding provisions' ('na **forálacha** sin romhainn') appear to be differentiated from 'provision' in 'such provision as to them may seem meet' ('cibé **socrú** is oircheas leo') and in 'which is not provided for' ('nach ndéantar **socrú** ina chomhair') in the Irish text.

Note that the original text read simply 'leis an mBunreacht seo', 'by this Constitution' – without 'nó faoi', 'or under'; both texts were amended by the Second Amendment of the Constitution Act, 1941.

**Commentary**

*in aon chás* 'Cás' is translated as 'case' in *Téarmaí Dlí* and in *Ó Dónaill*, who cites '*i gcás mar seo*, in a case like this', '*i gcás ... nach mbeimis ann*, in case we should not be there', '*sa chéad chás*, in the first instance' and '*sa chás céanna*, in like circumstances'. *Dinneen* translates '*i gcás go*' as 'so that' s.v. 'cás', 'a cause, a case'. 'Cás' is an English or Romance loanword, according to DIL, who translates this headword as 'case, matter, circumstance' and 'disadvantageous circumstance, plight, straits, predicament'. DIL translates '*i cás co*' as 'in the case that'. See further the commentary on Article 49.3.

'Contingent' is translated as 'teagmhasach' in *Téarmaí Dlí* in 'contingent claim/liability' ('éileamh/dliteanas teagmhasach'). *De Bhaldraithe's* entry s.v. 'contingency' is as follows:

- (a) *Philosophy*: Teagmhasacht. (b) Teagmhas, cúrsa gan choinne. *Should a contingency arise, in case of a contingency*, dá dtarlaiodh rud gan choinne. (b) *Commerce*: Contingencies, ilchostais teagmhais. *He is providing for contingencies*, Tá sé ag soláthar in aghaidh na timpiste.

'Whether or not the accrual of the benefits is dependent on any contingency' is translated as 'cibé acu atá nó nach bhfuil faibhriú na sochar sin ag brath ar aon teagmhas' in s18(1) of the Finance Act, 1972. In s283(1) of the Companies Act, 1963, 'the value of such debts ... which may be subject to any contingency or which sound only in damages' is translated as 'luach na bhfiacha ... sin atá faoi réir aon teagmhais nó inchúitithe le damáistí amháin'.

'An Ciste Teagmhais' translates 'the Contingency Fund' in Schedule (B) to the Appropriation Act, 1924, with 'any part of the contingent liability of a bookmaker' being translated as 'aon chuid den bhfiachas teagmhaiseach do bhí ar gheall-ghlacadóir' in s25(1)(e) of the Finance Act, 1926. In s63(4) of the Railways Act, 1924, 'The liability (whether present, future, or contingent) of the several councils of counties in which guaranteeing baronies are situate' is translated as 'An fiachas (atá, a bheidh nó a fhéadfadh teacht chun bheith) ar chomhairlí uile agus fé leith na gcontaethe ina luíonn urra-bharúntachtaí'.

Professor Máirtín Ó Murchú remarks on the translation below that the slightly 'unfamiliar' ("deoranta") term 'teagmhas' is perhaps not absolutely necessary in this case.

*is oircheas leo* 'As to them may seem meet' seems matched perfectly in tone and faintly old-fashioned style by 'is oircheas leo'. When used with the copula, *Ó Dónaill* translates 'oircheas' as 'meet, fit, proper', citing '*Is oircheas dom labhairt air*, it is right that I should speak about it' and '*B'oirchise duit d'urnaí a rá*, it would suit you better to say your prayers'. *Dinneen* also cites 'oircheas' followed by the preposition 'do' rather than 'le': '*gurbh oircheas dó*, that it would be to his advantage to, etc.', '*measaim gurab oircheas dúinn labhairt ar*, I deem it meet to speak of, etc.' and '*b'oircheas dóibh cómhaoantughadh le n'a chéile*, it behoved them to unite' – the first two examples being taken from Keating's seventeenth-century *Forus Feasa ar Éirinn*. The indeclinable adjective 'oirches' is translated as 'meet, fitting, right' in DIL, where again the phrase 'is oircheas dom' is translated as 'it is meet for me, I ought'.

In s5(1) of the Public Safety (Punishment of Offences) Temporary Act, 1924, 'may make such order in respect of such goods or money as may seem meet' is translated as 'féadfa sé pé ordú a chífar do bheith oiriúnach do dhéanamh i dtaobh na n-earraí no an airgid sin'. 'In such manner as to him may from time to time seem meet', in s124(1) of the Defence Forces (Temporary Provisions) Act, 1923, is translated as 'ar pé slí a chífar do o am go ham a bheith oiriúnach'.

*ina chomhair* According to *Ó Dónaill*, 'comhair' is only used in the prepositional phrases 'faoi chomhair' and 'i gcomhair', translated by *Ó Dónaill* as 'for, intended for; to

get', citing '*i gcomhair an turais*, for the journey'. He also cites '*is cosúil go raibh an bás sin ina chomhair*, it seems he was fated to die in that way'. *Dinneen* translates 'cómhair' as 'presence' and 'i gcómhair' as 'for, in provision or store for', citing '*im' chómhair*, for me'. 'Comair' is translated as 'in front of in DIL, where examples are given of its use in the sense of 'for (the purpose of), in preparation for, with a view to'.

*socrú* 'Socraim' is translated as 'I settle' in *Téarmaí Dlí*. See the commentary on Article 8.3 regarding 'socraigh' v. 'foráil' in the Constitution and in the Acts. 'I provide that' is translated as 'forálaim go' in *Téarmaí Dlí*, while 'foráil chaillroinnte' is translated as 'average clause'. The verb 'foráil', used in earlier literature in the sense of 'command, enjoin', is also translated as 'press, urge; commend, offer' in *Ó Dónaill*, as well as '*Jurisprudence: provide (go, that)*'. The verbal noun 'foráil' is also translated as '*Jurisprudence: provision*' in *Ó Dónaill*, who cites '*forálacha reachta*, provisions of an enactment'. *Dinneen* translates 'foráil' as 'a command (for *foráileamh*); a gift, an offer (for *ofráil*)', while he translates the verb 'forálaim' as 'I command, I offer (as a sacrifice)'. The verb 'foráilid' is translated as 'command' in DIL, and comes from 'eráilid', 'enjoins, urges, incites, instigates, induces' and in general 'commands, enjoins' according to DIL; in one early Irish law-tract cited, for example, we find 'is e sin in darna hinadh ... i n-urailéann dlígedh ar duine a fearand do reic' ('[that is the second place] where the law commands a person to sell his land'). Examples of the verbal noun 'eráil' are cited from the Glosses of the eighth century onwards in DIL, along with the senses of 'enjoining, urging, instigating' and 'commending, recommending, offering'.

*le tromlach dá gcomhaltai* 'The Council may, by a majority of its members exercising a majority of the total voting power, suspend its membership' is translated as 'féadfaidh an Chomhairle, le tromlach dá baill a fheidhmeoidh tromlach den chumhacht iomlán vótála, ballraíocht an bhaill sin a fhionraí' in Article 52(a) of the Multilateral Investment Guarantee Agency Act, 1988. See the commentary on Article 13.2.2° regarding early citations of 'majority', translated as 'mór-áireamh' in the early Acts, and note that 'The determination of any question before the railway tribunal shall be according to the opinion of the majority of the members ... of the railway tribunal hearing the case' is translated as 'An bhreith a tabharfar ar aon cheist a bheidh os cóir an bhínse bhóthair iarainn beidh sí do réir barúla an mhóráirimh de sna baill ... den bhínse bhóthair iarainn a éisteoidh an cás' in s21(1) of the Railways Act, 1924. See further the commentary on Articles 26.2.2° and 28.10. Professor Máirtín Ó Murchú remarks, regarding the translation below, that 'dá mbaill' / 'dá gcomhaltai', rather than 'dá baill' / 'dá comhaltai', is the more natural form in Irish in this context.

*na forálacha sin romhainn* See the commentary on Article 40.6.1°iii where 'réamhráite' expresses 'foregoing'. In s5(7) of the Rent Restrictions (Temporary Provisions) Act, 1981, 'otherwise than for a reason specified in the foregoing provisions of this section' is translated as 'ar chúis seachas na cúiseanna a shonraítear sna forálacha sin roimhe seo den alt seo'. 'Má ceannúitear an áirnéis sin fé sna forálacha san roimhe seo den alt' translates 'if the

said chattel is purchased under the foregoing provisions of this section' in s12(e) of the Neutrality (War Damage to Property) Act, 1941, and in s27(g) of the Second Schedule to the Electoral (Dublin Commercial) Act, 1930, 'he shall deal with such declaration and ballot paper envelope in accordance with the foregoing provisions of this rule' is translated as 'deighleálfá sé leis an dearbhú agus leis an gclúdach páipéir bhallóide sin de réir na bhforálacha san roimhe seo den riail seo'. See further the commentary on Article 18.10.1°.

Looking at early Acts, 'In the foregoing sub-section the word "Parliamentary" is to be construed as referring ...' is translated as 'Sa bhfo-alt roimhe seo ní foláir an focal "Pháirliminte" do léiriú mar thagairt' in s18(2) of the Adaptation of Enactments Act, 1922, and 'foregoing terms' is translated as 'téarmaí a luaidhtear anso roimhe seo' in *Iris an Phuist*, 23/2/1927. 'The foregoing provisions of this Part of this Act shall apply in the case of' is translated as 'Bainfidh na forálacha san thuas den Chuid seo den Acht so le cás' in s8 of the National Health Insurance Act, 1923, with 'téarmaí atá thuas-luaidhte' translating 'foregoing terms' in *Iris an Phuist*, 22/2/1928. Finally, 'any such provisional arrangement as is mentioned in the foregoing section' is translated as 'aon tsocrú sealadach den tsórt atá luaidhte san alt deireannach' in s2 of the Double Taxation (Relief) Act, 1923.

*a oibriú* See the commentary on Articles 3, 13.5.1° and 13.9. Again, Professor Máirtín Ó Murchú favours 'oibriú' in order to avoid 'feidhmiú ... feidhmeanna'.

### Direct translation

Féadfaidh an Chomhairle Stáit, le tromlach dá baill<sup>1</sup>, cibé socrú a fheicfead dóibh a bheith oiriúnach a dhéanamh maidir le feidhmiú<sup>2</sup> agus comhlíonadh na gcumhachtaí agus na bhfeidhmeanna a bhronntar ar an<sup>3</sup> Uachtarán leis an mBunreacht seo nó faoin mBunreacht seo in aon teagmhas<sup>4</sup> nach ndéantar socrú ina leith leis na forálacha<sup>5</sup> sin roimhe seo den Airteagal seo.

### Variants

- 1 'dá mbaill', 'dá comhaltai', 'dá gcomhaltai'
- 2 'le hoibriú'
- 3 'a thugtar don'
- 4 'in aon chás'
- 5 'nach bhfuil socrú ina leith sna forálacha'

## ARTICLE 14.5.1° AIRTEAGAL 14.5.1°

### TÉACS GAEILGE

Na forálacha den Bhunreacht seo a bhaineas leis an Uachtarán d'oibriú is do chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a bhronntar air leis an mBunreacht seo nó faoi bainfid, faoi chuimsiú na bhforálacha inár ndiaidh den alt seo, le hoibriú is le comhlíonadh na gcumhachtaí is na bhfeidhmeanna sin faoin Airteagal seo.

### LITERAL ENGLISH TRANSLATION

The provisions of this Constitution that relate to the President operating and fulfilling the powers and the functions that are conferred on him by this Constitution



or under it they will relate, within the scope/constraint of the following provisions of this section, to the operation and to the fulfilment of those powers and functions under this Article.

#### ENGLISH TEXT

The provisions of this Constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by or under this Constitution shall subject to the subsequent provisions of this section apply to the exercise and performance of the said powers and functions under this Article.

#### Divergences between the official texts

- 1 The term ‘bain le’ in the Irish text expresses both ‘relate to’ and ‘apply to’ of the English text.
- 2 As we saw earlier, ‘exercise’ is expressed as ‘oibriú’ (‘operation’) and ‘subject to’ as ‘faoi chuimsiú’ (‘within the scope/constraint of’) in the Irish text.

Note that both texts were amended to the same extent as the previous section by the Second Amendment of the Constitution Act, 1941.

#### Commentary

*a bhaineas le ... bainfid ... le* ‘Bain le’ is translated as (1) ‘touch, interfere with’ and (2) ‘concern, relate to’ in *Ó Dónaill*, who cites ‘ní bhaineann sé liom, (i) it doesn’t concern me, (ii) he is not connected with me’ and ‘an rud nach mbaineann leat ná bain leis, don’t interfere with what does not concern you’. *Dinneen* translates ‘bainim le’ as ‘I touch, meddle with, I am connected with’ and cites ‘gach n-aon a bhaineann linn, every one connected or related to, us’. DIL s.v. ‘benaíd’, ‘beats, strikes’, gives examples from the Old Irish Glosses onwards of this figurative use of ‘benaíd fri (la)’, ‘touches, affects; is concerned with, meddles with’.

‘A bhaineann le’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘which relate to or concern’ in the *Dáil Order Paper*, 1925, p. 6, and in translations for the Department of Local Government and Public Health. ‘So far as relates to the verification and stamping of bottles to which this Act applies’ is translated as ‘Chó fada is théigheann fíorú agus stampáil bhuideul le n-a mbaineann an tAcht so’ in s5(1) of the Weights and Measures Act, 1928.

‘A bhaineas’ is the special relative form – see the commentary on Article 6.1. ‘Bainfid’ is the third person plural, synthetic form, future tense, as against the analytic form, ‘bainfidh siad’. In the tables of verbs in *An Caighdeán Oifigiúil* the analytic forms alone are given for the third person plural of the future tense. The use of the analytic forms instead of the synthetic forms (‘tá mé’ and ‘thriall siad’ instead of ‘táim’ and ‘thrialladar’) was one of the aspects of ‘Revival Irish’ criticised by Richard Henebry in his series of articles in *The Leader*, 1908-9 (see Cathal Ó Háinle, op. cit., p. 760). *Dinneen*, in his tables of the forms of the irregular verbs in the 1927 edition of his dictionary, records the synthetic forms, except in the second person plural (leaving aside the past tense) and the third person singular (Cathal Ó Háinle, op. cit., p. 779). In *Gramadach na Gaeilge: Caighdeán Rannóg an Aistriúcháin* (1953), it is stated that the greatest difficulty regarding the verb was to choose between the synthetic

and analytic forms and both forms are recorded in the tables of verbs (see Cathal Ó Háinle, op. cit., p. 784), but in *An Caighdeán Oifigiúil*, published five years later, the synthetic forms (including that of the third person plural, future tense) were in most cases not acknowledged (see Cathal Ó Háinle, op. cit., p. 787f).

The development of analytic forms of the verb is an important development which began in late Middle Irish, with the third person singular being used with independent pronouns instead of a personal affix to indicate the persons (see Liam Breatnach, ‘An Mheán-Ghailge’, in Kim McCone et al., p. 272 – an example of the analytic form of the third person plural, future tense, in the twelfth-century *Book of Leinster* is recorded by Professor Breatnach). In Classical Irish synthetic and analytic forms are interchangeable (see Damian McManus, op. cit., p. 419f, who records that the third person plural, future tense, with the pronoun ‘siad’, was allowed in the *Bardic Syntactical Tracts*, e.g. ‘molfaid siad’). Nevertheless analytic forms of the verb are not the norm to this very day in Cork or Kerry (see Seán Ua Súilleabháin, op. cit., p. 515 – note, however, that both the synthetic forms of the third person plural, future, i.e. ‘-hid’, ‘-fid’, ‘-óid’, and the analytic forms, are found in those two counties). The analytic forms become more frequent as one goes north (see Art Hughes, op. cit., p. 637 – it is noted on p. 638 that the analytic forms of the verb are used throughout in Ulster Irish). The verb in Connacht Irish has analytic forms for the most part (see Ruairí Ó hUiginn, op. cit., p. 579 – it is noted here that Connacht Irish agrees for the most part with the system of *An Caighdeán Oifigiúil*, with synthetic forms in the first person singular of the present tense, the first and second person singular and third person plural of the imperfect and conditional).

*inár ndiaidh* Literally ‘after us’. ‘Subsequent’ is generally translated as ‘ina dhiaidh seo/sin’ in the Acts – see below s.v.v. ‘faoi chuimsiú’, for examples. As regards early translations, ‘laistigh den lá is fiche ‘na dhiaidh sin go suidhfidh an Tigh tar éis an t-Ordú san do leaga féna bhráid’ translates ‘within the next subsequent twenty-one days on which that House has sat after such Order is laid before it’ in s19 of the Adaptation of Enactments Act, 1922, ‘mar a leasúidh le reachtúchán ina dhiaidh sin é’ translating ‘as amended by subsequent legislation’ in s3 of the Local Elections Postponement Act, 1925. ‘Shall be deemed ... to have entered into a subsequent purchase agreement for the purchase of the holding’ is translated as ‘tuigfar ... é do bheith tar éis connra ceannaigh déanach do dhéanamh chun an gabháltas do cheannach’ in s28(1) of the Land Act, 1923. On the other hand, ‘ag aon chruinniú nua ina dhiaidh sin’ translates ‘at any subsequent meeting’ in s18 of the Dundalk Harbour and Port Act, 1925. ‘Within the next subsequent twenty-one days on which such House has sat after the regulation is laid before it’ is translated as ‘laistigh den lá is fiche a shuidhfidh an Tigh sin tar éis an rialachán do chur fé n-a bhráid’ in s36(3) of the Local Government Act, 1925. Finally, ‘iar-únaer’ translates ‘subsequent owner’ in s4(7) of the Local Government (Rates on Small Dwellings) Act, 1928. See further the commentary on Article 22.2.1°.

*oibriú ... c(h)omhlíonadh* See the commentary on Article 13.9. ‘But such temporary assignment shall be without

prejudice to the exercise and performance by him of the privileges' is translated as 'ach beidh an sannadh sealadach sin gan dochar d'é d'fheidhmiú agus do chomhlíonadh na bpríbhleáidí' in s3(1) of the Sixth Schedule to the Courts (Supplemental Provisions) Act, 1961. In s53(1) of the Dublin Port and Docks (Bridges) Act, 1929, 'for the purpose of the exercise and performance by the Minister ... of his powers and duties' is translated as 'chun an tAire ... d'fheidhmiú agus do chóilíona na gcomhacht agus na ndualgas atá aige'.

Professor Máirtín Ó Murchú recommends returning to 'oibriú' in order to avoid 'feidhmeanna ... a fheidhmiú' in the translation below. He also points out that there is a danger that the reader would read 'a fheidhmiú agus a chomhlíonadh' as part of the one clause with 'forálacha', i.e. 'na forálacha ... a fheidhmiú etc.' Also, 'Bunreacht' occurs four times in the translation below as against the two occurrences of 'Constitution' in the English text. Professor Ó Murchú recommends a version such as follows:

Is faoi réir na bhforálacha ina dhiaidh seo den Bhunreacht seo a bheidh feidhm ag na forálacha faoin Uachtarán a oibriú agus a chomhlíonadh na gcumhachtaí agus na bhfeidhmeanna atá á mbronnadh air nó uirthi / a bhronntar air nó uirthi leis an mBunreacht seo nó faoi, i dtaca le hoibriú agus comhlíonadh na gcumhachtaí agus na bhfeidhmeanna sin faoin Airteagal seo.

*faoi chuimsiú* See the commentary on Article 12.5. 'The provisions applicable to Case 1 ... shall ... have effect subject to the subsequent provisions of this section' is translated as 'beidh éifeacht, faoi réir na bhforálacha ina dhiaidh seo den alt seo, leis na forálacha is infheidhme ar Chás 1' in s29(2)(a) of the Finance Act, 1981, 'subject to the subsequent provisions of this section' being translated as 'fé réir na bhforálacha ina dhiaidh seo den alt so' in s77(5) of the Local Government (Dublin) Act, 1930.

### Standardised gender-proofed Irish text

Na forálacha den Bhunreacht seo a bhaineann leis an Uachtarán a oibriú is a chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a bhronntar air nó uirthi<sup>1</sup> leis an mBunreacht seo nó faoi bainfidh siad, faoi chuimsiú na bhforálacha inár ndiaidh den alt seo, le hoibriú is le comhlíonadh na gcumhachtaí is na bhfeidhmeanna sin faoin Airteagal seo.

#### Variants

- 1 'ar an Uachtarán'

### Direct gender-proofed translation

Faoi réir na bhforálacha ina dhiaidh seo den Bhunreacht seo, beidh feidhm ag na forálacha den Bhunreacht seo a bhaineann leis an Uachtarán a fheidhmiú<sup>1</sup> agus a chomhlíonadh<sup>2</sup> na gcumhachtaí agus na bhfeidhmeanna a bhronntar air nó uirthi<sup>3</sup> leis an mBunreacht seo nó faoin mBunreacht seo<sup>4</sup> i dtaca le feidhmiú agus comhlíonadh na gcumhachtaí agus na bhfeidhmeanna sin faoin Airteagal seo.<sup>5</sup>

#### Variants

- 1 'd'fheidhmiú', 'a oibriú'
- 2 'do chomhlíonadh'
- 3 'a thugtar dó nó di'
- 4 'nó faoi'
- 5 'Maidir leis na forálacha den Bhunreacht seo a bhaineann leis an Uachtarán a fheidhmiú agus a chomhlíonadh na gcumhachtaí agus na bhfeidhmeanna a bhronntar air nó uirthi leis an mBunreacht seo nó faoin mBunreacht seo, beidh feidhm acu, faoi réir na bhforálacha ina dhiaidh seo den Bhunreacht seo, i dtaca le feidhmiú agus comhlíonadh na gcumhachtaí agus na bhfeidhmeanna sin faoin Airteagal seo.'

## ARTICLE 14.5.2° AIRTEAGAL 14.5.2°

### TÉACS GAELIGE

Má theipeann ar an Uachtarán aon chumhacht nó feidhm a oibriú nó a chomhlíonadh nach foláir dó, de réir an Bhunreacht seo nó faoi, í a oibriú nó a chomhlíonadh faoi cheann aimsire a luaitear, ní foláir í a oibriú nó a chomhlíonadh faoin Airteagal seo chomh luath agus is feidir é tar éis na haimsire a luaitear amhlaidh.

### LITERAL ENGLISH TRANSLATION

If the President fails to operate or to fulfil any power or function that he must, according to this Constitution or under it, operate or fulfil by/within a stated time, it must be operated or fulfilled under this Article as soon as possible after the time so stated.

### ENGLISH TEXT

In the event of the failure of the President to exercise or perform any power or function which the President is by or under this Constitution required to exercise or perform within a specified time, the said power or function shall be exercised or performed under this Article, as soon as may be after the expiration of the time so specified.

### Divergences between the official texts

- 1 'Which the President is required to exercise' is expressed as 'nach foláir dó ... í a oibriú' ('which the President must exercise') in the Irish text.
- 2 'After the expiration of the time' is expressed simply as 'tar éis na haimsire' ('after the time') in the Irish text.
- 3 'Within a specified time' is expressed as 'faoi cheann aimsire a luaitear' ('by/within a stated time') in the Irish text.
- 4 The English text repeats 'power or function' whereas the Irish text expresses this phrase simply as 'í' ('it') on the second occasion.
- 5 As we have seen in other sections, 'In the event of' and 'exercise' are expressed as 'Má' ('If') and 'oibriú' ('operate') in the Irish text.
- 6 There is no comma in the Irish text after 'Airteagal seo' corresponding to that following 'this Article' in the English text.

Note that, like the preceding subsection and section, this subsection was also amended by the Second Amendment

of the Constitution Act, 1941, to include 'nó faoi', 'or under it', above.

### Commentary

*faoi cheann aimsire a luaitear* 'Faoi cheann' is translated as 'by, at, the end of' in *Ó Dónaill*, who cites '*faoi cheann míosa*, in a month's time'. 'Fá cheann' is translated as 'ere, in about, within (of time)' in *Dinneen*. In DIL 'fo chenn' is translated as '*of time*, within, during' where 'fo chenn aimsire giorra' is translated as 'at the end of a short time'. See the commentary on Article 12.10.1° regarding 'a luaitear', 'luaigh' expressing 'state' in that Article.

Turning to the Acts, 'unless certain repairs are carried out immediately or within a specified time' is translated as 'mura ndéanfar deisiúcháin áirithe láithreach nó laistigh de thréimhse shonraithe' in s32 of the Safety in Industry Act, 1980. In s53 of the Tobacco Act, 1934, 'without limit as to time or quantity or either of them or within a specified time or in a specified quantity' is translated as 'gan teora maidir le ham no le méid no maidir le ceachtar acu no go dteora áirithe maidir le ham no le méid'. 'To export within a specified time a specified quantity of scrap iron' is translated as 'easportáil do dhéanamh, laistigh d'aimsir áirithe, ar chandíocht áirithe de shean-iarann' in s4(1) of the Scrap Iron (Control of Export) Act, 1938. In s19(1) of the Electoral Act, 1923, 'and before the expiration of the time appointed for receiving nominations' is translated as 'agus roimh dheire na haimsire a bheidh ceaptha chun ainmniúcháin do ghlaca', 'at the expiration of one hour after the end of the time appointed for receiving nominations' being translated as 'I gceann uair a chluig tar éis deire na haimsire a bheidh ceaptha chun ainmniúcháin do ghlaca' in s19(2). In s6(1) of the Courts of Justice Act, 1928, 'the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal ... may be given' is translated as 'ní cuirfar an bhreith i bhfeidhm in aon chás go dtí tar éis deire na haimsire in ar féidir fógra athchomhairc ... do thabhairt'.

Focusing on 'specify' in the Acts, 'maidir le hearraí de mhíotál lómhar a bheidh sonraithe amhlaidh' translates 'to the articles of precious metal so specified' in s3(1) of the Hallmarking Act, 1981. 'Remaining upon such quays ... after the expiration of the time so specified' is translated as 'a bheas fágtha ar na céibheanna ... tar éis an t-am a bheas sonraithe amhlaidh a bheith caite' in s5(1) of the Harbours Act, 1947. Turning to the early Acts, in s8(2) of the Local Elections Postponement Act, 1922, 'féadfaidh an t-Aire le hordú an t-atharú a bheidh le déanamh ann do luadh' translates 'the Minister may by order specify the modification which is to be made therein', 'specify class of goods' being cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'din an saghas earraí do luadh' in translations for the Department of Justice and 'certain specified' being cited as being translated as 'luaidhte áirithe' in translations for the Department of Education. 'Confine any such competitive examination to persons belonging to a specified class or being in a particular employment' is translated as 'aon scrúdú comórtais den tsórt san do chimeád ar leithligh i gcóir daoine d'aon aicme áirithe no in aon fhostaíocht áirithe' in s4(3) of the Civil Service Regulation Act, 1924, 'to fill in or otherwise complete the document within a specified time' being

translated as 'an scríbhinn do líona no do chríochnú ar shlí eile laistigh d'aimsir áirithe' in s8(1) of the Statistics Act, 1926. Note that 'áireamhachtaí' translates 'specifications' in the Industrial and Commercial Property (Protection) Act, 1927, in s10(3) of which 'The controller may prepare ... indexes, abridgements of specifications, catalogues' is translated as 'Féadfidh an ceannasaí cláir innste, achmaireachtaí ar áireamhachtaí, catalóga ... d'ullamhú'. 'Áireamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'specify' in early *Standing Orders* of Dáil Éireann, 'ordú' also being cited as translating 'specify' in translations for the Department of Local Government and Public Health. Finally, in s8 of the Second Schedule to the Electoral Act, 1923, 'a notice specifying the mode in which ... claims and objections are to be made' is translated as 'fógra ina neosfar an tslí ina mbeidh ... éilithe agus agóidí le déanamh'. See further the commentary on Article 22.2.6°.

*Má theipeann ar* See the commentary on Article 14.1. In s85(a) of the Finance Act, 1983, 'the determination of an appeal through the failure of a person who has given notice of appeal to attend before the Appeal Commissioners at the time and place appointed' is translated as 'achomharc a chinneadh trí mhainneachtain ag duine a mbeidh fógra achomhairc tugtha aige láithriú os comhair na gCoimisinéirí Achomhairc ag an am agus san áit a ceapadh'. In s28(1)(b) of the Fisheries Act, 1939, 'and was facilitated by the failure of such owner or occupier to take reasonable precautions against the commission of such offence' is translated as 'agus gur hurasuío dhéanamh tré gan an t-únaer no an sealbhaire sin do ghlacadh réamhchúraim chun ná déanfaí an cionta'.

Professor Máirtín Ó Murchú remarks regarding the translation below that the verb 'mainnigh' is unusual, and also that it would appear to be intransitive, the preposition 'i' with eclipsis preceding the object, e.g. 'mhainnigh sé ina dhualgas'. Professor Ó Murchú therefore suggests retaining 'teip'.

*nach foláir dó* See the commentary on Articles 11 and 13.3.1° for 'ní foláir do'. 'Is required' is usually translated as 'ceanglaítear ar' in the Acts. In s16(2) of the Capital Acquisitions Tax Act, 1976, 'a person who may be required to exercise his voting powers on the directions of ... another person' is translated as 'duine ar féidir a cheangal air a chumhacht vótála a fheidhmiú ar ordúithe ó dhuine eile'. In s102(5) of the Corporation Tax Act, 1976, 'any rights or powers which another person ... may be required to exercise on his direction' is translated as 'aon chearta nó cumhachtaí ... a bheidh ar an duine eile sin a fheidhmiú ar ordú uaidh'. 'Such person by virtue of such appointment has all the powers and is required to exercise and perform all the functions and duties of the Dublin City Manager' is translated as 'de bhua a cheaptha amhlaidh, go mbeidh comhachta uile Bhainisteoir Cathrach ... Bhaile Átha Cliath ag an duine sin agus go mbeidh air feidhmeanna agus dualgaisí uile Bhainisteoir Cathrach ... Bhaile Átha Cliath d'fheidhmiú agus do chólíona' in s15 of the Electoral (Dublin Commercial) Act, 1930.

*de réir* This phrase is translated as 'in accordance with' in *Téarmaí Dlí* and as 'in accordance with, according to' in *Ó Dónaill*, who cites '*de réir dlí*, by law'. *Dinneen* s.v.

'riar', translates 'do réir' as 'agreeable to, according to, after, at the disposal of', and cites the following from the Blasket Islands: '*ag caitheamh Gaedhilge leis do réir nótaí a shinnsir*', speaking to him in Irish in the ancestral way'. DIL s.v. 'riar' (primarily 'will, wish, demand, request, decision'), cites examples of 'do réir' in the sense of 'at the will of, obedient to' from the eighth-century Glosses onwards; the examples in the sense of 'on the authority of, according to' are from a later period – DIL cites 'do réir léx 7 chanóine', for example. See further the commentary on Article 18.10.1° and on the Preamble.

### Gender-proofed Irish text

Má theipeann ar an Uachtarán aon chumhacht nó feidhm a oibriú nó a chomhlíonadh nach foláir dó nó di<sup>1</sup>, de réir an Bhunreacht seo nó faoi, í a oibriú nó a chomhlíonadh faoi cheann aimsire a luaitear, ní foláir í a oibriú nó a chomhlíonadh faoin Airteagal seo chomh luath agus is féidir é tar éis na haimsire a luaitear amhlaidh.

### Variants

- 1 'don Uachtarán'

### Direct gender-proofed translation

I gcás go mainneoidh an tUachtarán<sup>1</sup> aon chumhacht nó feidhm a fheidhmiú nó a chomhlíonadh a cheanglaítear ar an Uachtarán leis an mBunreacht seo nó faoin mBunreacht seo<sup>2</sup> í a fheidhmiú nó a chomhlíonadh laistigh d'am sonraithe<sup>3</sup>, déanfar an chumhacht nó an feidhm sin a fheidhmiú nó a chomhlíonadh faoin Airteagal seo, a luaithe is féidir tar éis dheireadh na tréimhse a shonraítear amhlaidh<sup>4</sup>.

### Variants

- 1 'I gcás go dteipfidh ar an Uachtarán'
- 2 'nó faoi'
- 3 'de thréimhse shonraithe', 'd'am a bheidh sonraithe'
- 4 'tar éis an tréimhse a shonraítear amhlaidh a bheith caite/istigh'

# THE NATIONAL PARLIAMENT AN PHARLAIMINT NÁISIÚNTA

ARTICLE 15.1.1<sup>o</sup> AIRTEAGAL 15.1.1<sup>o</sup>

## CONSTITUTION AND POWERS COMHDHÉANAMH AGUS CUMHACHTAÍ

### TÉACS GAELIGE

An tOireachtas is ainm don Pharlaimint Náisiúnta, agus sin é a bheirtear uirthi de ghnáth sa Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

The Oireachtas is the name of the National Parliament, and that is what it is usually called in this Constitution.

### ENGLISH TEXT

The National Parliament shall be called and known, and is in this Constitution generally referred to, as the Oireachtas.

### Divergences between the official texts

- 1 'The National Parliament shall be called and known as ... the Oireachtas' is expressed in the Irish text as 'An tOireachtas is ainm don Pharlaimint Náisiúnta' ('The Oireachtas is the name of the National Parliament').
- 2 'And is ... generally referred to as' is expressed as 'agus sin é a bheirtear uirthi de ghnáth' ('and that is what it is usually called') in the Irish text.

Note that Article 12 of the 1922 Constitution commences as follows:

A Legislature is hereby created, to be known as the Oireachtas. It shall consist of the King and two Houses, the Chamber of Deputies (otherwise called and herein generally referred to as "Dáil Éireann") and the Senate (otherwise called and herein generally referred to as "Seanad Éireann"). *Bunúitear leis seo Cóir Reacht-úcháin dá ngoirfean an tOireachtas. Beidh ann an Rí agus dhá Thigh, Dáil Éireann agus Seanad Éireann.*

### Commentary

*comhdhéanamh* Verbal noun of the compound 'comhdhéan' ('comh' + 'déan', 'make up, constitute'), translated as 'constitution, structure, composition' in *Ó Dónaill*. 'Comhdhéanamh' does not appear to be given as a headword in *Dinneen*. Only three examples are cited in DIL, the earliest of which comes from the ninth-century Milan Glosses on the Commentary on the Psalms: 'hi comdenum pectha friu' ('in doing sin equally with them').

Looking at the earlier Acts, 'Constitution of the Currency Commission', in the Margin Title of s14 of the Currency Act, 1927, is translated as 'Có-dhéanamh Choimisiún an Airgid Reatha'. 'Córú' was the earlier translation of this

term, 'The convening and constitution of Courts-Martial' being translated as 'Có-ghairm agus córú Arm-Chúirteanna' in s125(1)(b) of the Defence Forces (Temporary Provisions) Act, 1923, for example, 'Agus de bhrí gur dineadh Córú na hEaglaise Methodistighe in Éirinn do chur ar an rolla go cuibhe' translating 'And whereas the Constitution of the Methodist Church in Ireland has been duly enrolled' in the Preamble to the Methodist Church in Ireland Act, 1928. 'The constitution of local joint committees representing traders' is translated as 'bunú có-choistí áitiúla a bheidh ionadach do thrádálaithe' in s50(i) of the Railways Act, 1924. 'Any substance of the same chemical composition and constitution' is translated as 'aon tsubstaint ina bhfuil an có-mhianachas agus an có-dhéantús ceimiciúil céanna atá sa tsubstaint nua' in s55(1) of the Industrial and Commercial Property (Protection) Act, 1927. Finally, 'coimpleasc' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'constitution (physical)' in early translations for the Department of Justice.

Looking at later Acts, in s1(1) of the Prices (Amendment) Act, 1965, 'The Minister may from time to time by order provide for the establishment, constitution and powers of bodies of persons to advise him' is translated as 'Féadfaidh an tAire ó am go ham, le hordú, socrú a dhéanamh le haghaidh bunú, comhdhéanamh agus cumhachtaí daoine chun comhairle a thabhairt dó'. 'Do shainiú comhdhéanamh, cumhachtaí agus dualgais an Bhoird' translates 'to define the constitution, powers and duties of the Board' in the Long Title of the Bord na Gaeilge Act, 1978, and in s19 of the Dublin General Cemetery Company's Act, 1933, 'the constitution, operation, internal government and powers of the Company' is translated as '(ar) chó-dhéanamh, ar oibriú, ar rialú inmheánach ná ar chomhachta na Cuideachtan'. See further the commentary on Article 36iii and note that 'comhshuíomh' expresses 'constitution' in Article 41.1.2<sup>o</sup>.

*An tOireachtas* This term is translated as 'the Legislature' in *Téarmaí Dlí. Ó Dónaill*'s entry s.v. 'oireachtas' is as follows: (1)(a) 'Deliberative assembly. Jurisprudence: *An tOireachtas*, the Legislature ... (2) Gathering for business and pastime, festival. *Oireachtas na Gaeilge*, Gaelic League annual festival'. *Dinneen* translates 'oireachtas' as 'an assembly, a convocation, conference or synod; annual assembly and festival of the Gaelic League; the combined legislatures of *Dáil* and *Seanad*; a decision of a court or council, public business, any preoccupation, e.g. playing cards, etc.' The earlier form, 'airechtas', is translated in DIL as (a) 'assembly, gathering, meeting' and (b) 'sovereignty,

power'. It is based on 'airecht', defined in DIL as a 'name given to the public assembly of freemen and later of the more important families in the territory whose functions included the transaction of certain important legal business'; DIL cites many examples from early Irish law-tracts, some in the more general sense of 'gathering, assembly'. DIL also cites examples in the sense of a collective name for the leading nobles of a territory, as well as 'patrimony, territory' itself. 'Airecht' refers to the Roman Senate in one text and to the Jewish Sanhedrin in another, while 'Oireacht Mhaoise' is cited in DIL, where this phrase is translated as 'the children of Israel'. Finally note that 'Oireachtas' translates 'Parliament' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, where 'the Parliament and the Executive Council of the Irish Free State' is translated as 'Oireachtas agus Ard-Chomhairle Shaorstáit Éireann'.

*de ghnáth* This phrase translates 'usually', 'ordinarily' and 'commonly' in the Acts. In s1(6) of the Local Government (Financial Provisions) Act, 1978, for example, 'In case any building ... belonging to and usually enjoyed with a dwelling is a hereditament' is translated as 'I gcás ar oidhreachtán aon fhoirgneamh ... a bhaineann le teach cónaithe agus a theachtar de ghnáth in éineacht leis an teach cónaithe'. In s1(1) of the Liability for Defective Products Act, 1991, 'ordinarily intended for private use' is translated as 'a bheartaítear de ghnáth a úsáid go príobháideach' and 'commonly exposed for sale' is translated as 'ar taispeáint de ghnáth lena ndíol' in s26(d) of the Diseases of Animals Act, 1966.

'Generally' is usually translated as 'i gcoitinne' in the Acts – see, for example, s5(2) of the Criminal Justice Act, 1990, where 'whereby prisoners generally may earn remission of sentence' is translated as 'faoinar féidir le príosúnaigh i gcoitinne loghadh pianbhreithe a thuilleamh'. 'The functions of the Council shall be generally to encourage, facilitate, promote, co-ordinate and develop technical ... education' is translated as 'Is iad feidhmeanna na Comhairle i gcoitinne oideachas teicniúil ... a spreagadh, a éascú, a fhothú, a chomheagrú agus a fhorbairt' in s3(1) of the National Council for Educational Awards Act, 1979. 'Any person generally or specifically authorised by the Board for that purpose' is translated as 'aon duine ... a bheidh údaraithe go ginearálta nó go speisialta ag an mBord chuige sin' in s19 of the Irish Film Board Act, 1980. While 'na doiciméid is gnáth a chur i bhfios don chúis' translates 'the documents which are generally communicated to the accused' in Article 105 of the Third Schedule to the Geneva Conventions Act, 1962, in s15(1) of the Housing (Loans and Grants) Act, 1962, 'the appropriate rates of wages or conditions of labour generally recognised by trade unions' is translated as 'na rátaí pá nó na coinníollacha oibre a aithnítear i gcoitinne ag ceardchumainn'.

Note above that the phrase 'otherwise called and herein generally referred to as the "Oireachtas"' is not translated in the 1922 Constitution; note also how Article 4 reads:

Nothing in this Article shall prevent special provisions being made by the Parliament of the Irish Free State (otherwise called and herein generally referred to as the "Oireachtas") for districts or areas in which only one language is in general use. *Ní choiscfidh éinní san Airtíogal so ar an Oireachtas forálacha speisialta*

*do dhéanamh do cheanntair no do líomatáistí ná fuil ach teanga amháin i ngnáth-úsáid ionta.*

Looking at early Acts, 'in relation to customs duties generally' is translated as 'maidir le diuitéthe custum i gcoitinne' in s3(1) of the Provisional Collection of Taxes Act, 1927, for example.

*a bheirtear* According to the official standard this would be written as 'a thugtar' – see the commentary on Article 12.1. Note how we have 'ar a dtugtar' in the following subsection and that 'hereinafter called the President' is expressed as 'ar a dtugtar an tUachtarán sa Bhunreacht seo feasta' in Article 12.1. 'Tabhair ar' is translated as 'call, name' in *Ó Dónaill*, who translates 'tugadh Brian air' as 'he was called Brian' and 'thug sé amadán orm' as 'he called me a fool'.

Turning to the Acts, 'gair' (literally 'call') is generally used in the Acts to translate 'refer'. In s23(4) of the Finance Act, 1990, 'The return to which this subsection applies shall be identified and referred to as the "1990 Income Tax Return"' is translated as 'Gairfear "Tuairisceán Cánach Ioncaim 1990" den tuairisceán lena mbaineann an fo-alt seo agus is mar sin a shainaitheofar é'. In s5 of Part 1 thereof, 'hereinafter in this proviso referred to as "the exempt income"' is translated as 'dá ngairtear "an t-ioncam diolmhaithe" feasta sa choinníoll seo'. In s15(6) of the Value-Added Tax (Amendment) Act, 1978, 'in this section referred to as "a farmer credit note"' is translated as 'dá ngairtear "nóta sochair feirmeora" san alt seo'. Finally, in s15(1) of the Pensions Act, 1990, 'who shall be known, and is referred to in this Act, as ...' is translated as 'ar a dtabharfar, agus dá ngairtear san Acht seo'.

*ainm* 'Brian is ainm dó' is translated as 'his name is Brian' in *Ó Dónaill*, for example. In s43(2)(a) of the Local Government Act, 1991, 'A regional authority shall be called and known by such title as may be specified in the establishment order concerned' is translated as 'Gairfear d'údarás réigiúnach agus tabharfar air cibé teideal a shonrófar san ordú bunaithe lena mbaineann'. Section 3(5) of the Local Government Services (Corporate Bodies) Act, 1971, reads as follows:

A body established under the said subsection (1) shall be called and known by such title as may be specified in the establishment order. *Is é cibé teideal a shonrófar san ordú bunaithe a thabharfar ar chomhlacht, agus a ghairfear de chomhlacht, a bhunófar faoin bhfo-alt sin (1).*

In s2 of the Defence Act, 1954, 'the expression "the Permanent Defence Force" means the constituent part of the Defence Forces which is to be called and known by that name' is translated as 'ciallaíonn an abairt "na Buan-Óglaigh" an chomhchuid d'Óglaigh na hÉireann dá ngairmfear agus ar a dtabharfar an ainm sin'. In s3(3) of the International Health Bodies (Corporate Status) Act, 1971, 'A body to which a corporate status order relates shall ... be called and known by the title specified in the order ...' is translated as 'Aon chomhlacht lena mbaineann ordú um stádas corpraithe, tabharfar air agus gairfear de ... an teideal a shonrófar san ordú'. In s2(2) of the Ministers and Secretaries (Amendment) Act, 1966, 'The member of the Government who is in charge of the Department of Labour shall be styled and known as An tAire Saothair ...'

is translated as ‘An tAire Saothair ... a thabharfar mar theideal ar an gcomhalta den Rialtas a bheidh i mbun na Roinne Saothair agus a ghairfear de’. Finally, in s6(3) of the Road Transport Act, 1978, ‘Each of the following areas shall be known as a new area’ is translated as ‘Gairfear limistéar nua de gach limistéar díobh seo a leanas’.

Looking at earlier Acts, in s1(1) of the Adaptation of Enactments Act, 1922, ‘The Fund ... shall be called and known as “The Central Fund of Saorstát Éireann,” and may for brevity be referred to ... as “The Central Fund”’ is translated as ‘An Ciste ... glaofar “Prímh-Chiste Shaorstáit Éireann” air agus is mar sin aithneofar é, agus féadfar mar chomhgar “An Prímh-Chiste” do ghairm de’. Section 6(1) of the Constitution (Consequential Provision) Act, 1937, reads as follows:

The fund ... shall be called and known as the Central Fund and is in this section ... referred to ... as the Central Fund of Ireland. *An ciste ... bhéarfáir an Prímh-Chiste mar ainm agus mar theideal air agus, san alt so ... gairmtear Prímh-Chiste na hÉireann de.*

‘Dá ngairtear’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘called and known as’ in early translations for the Department of Fisheries.

*is* The form of the copula which denotes non-past tense, Professor Máirtín Ó Murchú commenting that ‘is’ = ‘non-past, immediate’ with ‘ba’ = ‘past, remote’.

### Standardised Irish text

An tOireachtas is ainm don Pharlaimint Náisiúnta, agus sin é a thugtar uirthi de ghnáth sa Bhunreacht seo.

### Direct translation

An tOireachtas a thabharfar ar an bParlaimint Náisiúnta agus a ghairfear di agus sa Bhunreacht seo i gcoitinne is é sin a ghairtear di<sup>1</sup>.

### Variants

- <sup>1</sup> ‘agus is é sin a ghairtear di i gcoitinne sa Bhunreacht seo’

## ARTICLE 15.1.2<sup>o</sup> AIRTEAGAL 15.1.2<sup>o</sup>

### TÉACS GAEILGE

An tUachtarán agus dhá Theach atá san Oireachtas: Teach Ionadóirí ar a dtugtar Dáil Éireann, agus Seanad ar a dtugtar Seanad Éireann.

### LITERAL ENGLISH TRANSLATION

The Oireachtas consists of the President and two Houses: a House of Representatives which is called Dáil Éireann, and a Senate which is called Seanad Éireann.

### ENGLISH TEXT

The Oireachtas shall consist of the President, and two Houses, viz.: a House of Representatives to be called Dáil Éireann and a Senate to be called Seanad Éireann.

### Divergences between the official texts

- ‘Shall’ is expressed as a simple present in the Irish text, as we have seen in the case of ‘ní cead’, ‘ní foláir’, etc. – ‘The Oireachtas shall consist of’ is expressed as ‘atá san Oireachtas’ (‘the Oireachtas consists of’) in the Irish text and ‘to be called’ is expressed as ‘ar a dtugtar’, ‘that is called’.
- ‘Viz.’ of the English text is not specifically expressed in the Irish text – one would perhaps have expected the abbreviation ‘i.’ found in other Articles.

### Commentary

*atá* See the commentary on Article 11 regarding both ‘ní foláir’ and ‘ní cead’ expressing ‘shall’. Professor Máirtín Ó Murchú remarks that while ‘shall’ relates to statements about the future, the future in the usual grammatical sense is not involved. Máirtín Ó Murchú refers to the *Grammar of Contemporary English* where this is termed ‘volitional’ mood, and three grades of usage are outlined (s3.46, p. 99):

- weak volition: ‘he shall get his money’ – restricted use;
- intermediate volition: ‘we shall let you know’ – normal British English use;
- strong volition: ‘you shall do as I say’ – restricted use ‘the vendor shall maintain the equipment’ – legal and quasi-legal use.

It is this latter usage which is involved in the Constitution, which is often expressed as ‘ní cead’, ‘ní foláir’, etc. in the Irish text.

*ionadóirí* ‘Ionadaí’ is translated as ‘representative’ in *Téarmaí Dlí*, where ‘representative capacity’ and ‘personal representative’ are translated respectively as ‘cáil ionadaí’ and ‘ionadaí pearsanta’. *Ó Dónaill* gives ‘ionadaí’ as the form of the headword, which he translates as ‘representative; substitute, deputy, locum tenens’. *Dinneen* does not appear to give either ‘ionadaí’ or ‘ionadóir’ as a headword. This agency noun is based on ‘ionad’, ‘place, position’, ‘ined’ being cited in the *Annals of Ulster*, s.a. AD 803. The verb ‘inadaid’/‘inaided’ is translated as ‘places, appoints’ in DIL where ‘is esside ro hinaided uait-siu’ (‘he has been appointed by you’) is cited from the *Leabhar Breac* (compiled in 1411 or earlier).

‘Ionadaithe dlí’ translates ‘legal representatives’ in s26(6) of the Pensions Act, 1990, for example, and ‘Teach na nIonadaithe’ translates the Belgian ‘House of Representatives’ on the Dáil *Order Paper* of 4/2/1969. Looking at early Acts, ‘Ionadaí na Coróinneach’ translates ‘the Representative of the Crown’ in Article 17 of the 1922 Constitution, with ‘teachta’ translating ‘representative’ in reference to the Dáil in Article 27, where ‘Each University ... shall be entitled to elect three representatives to Dáil Éireann’ is translated as ‘Beidh de cheart ag gach Príomh-sgoil i Saorstát Éireann ... trí teachtaí do thogha do Dháil Éireann’. ‘Ionadaithe consalta Shaorstáit Éireann’ translates ‘the consular representatives of Saorstát Éireann’ in s1(2) of the Executive Authority (External Relations) Act, 1936, ‘ionadaithe puiblí’ translating ‘public representatives’ in the Long Title of the Oireachtas (Allowances to Members) Act, 1938.

*Seanad* This headword is simply translated as ‘senate’ in *Ó Dónaill*. *Dinneen* s.v. ‘seanaid’, gives (1) ‘a senate, a

synod; Shanid (Limerick)'; (2) 'a record, a chronicle; an event, a happening' – (1) comes from 'senatus', according to *Dinneen*, and (2) perhaps comes from 'senatus consultum'. *Ó Dónaill* has a headword 'seanadh', examples of which come from earlier Irish literature and which is translated by *Ó Dónaill* as (1) 'synod' and (2) 'gathering, assembly'. 'Sionad' in *Ó Dónaill* is translated as '(Ecclesiastical) synod'. *Dinneen* translates 'seanadh' as 'a synod, a senate' and cites '*Ráith na Seanadh*, the Rath of Synods (a site at Tara)'. Old Irish 'senod' comes from Latin 'synodus', according to DIL s.v. 'senad', which is translated as (a) 'a synod' and (b) 'assembly, gathering', an example of sense (b) being cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

*viz.* 'Eadhon' generally translates 'viz.' in the Acts. See the Margin Title of s2 of the Appropriation Act, 1981, where 'Appropriation of sums voted for supply services, viz., £4,366,583,040' is translated as 'Suimeanna a vótádh le haghaidh seirbhísí soláthair, eadhon, £4,366,583,040, a leithreasú'. In the Schedule to the Appropriation Act, 1922, 'Schedule of Sums Granted ... during the year ending 31st day of March, 1923, viz.:-' is translated as 'Sceideal de Shuimeanna do Deonadh ... i rith na bliana a chríochnóidh ar an 31adh lá de Mhárta, 1923, eadhon:-'. *Dinneen* has the following entry:

*eadhon, eadhón*, to wit, namely, that is, i.e., viz, that is to say; commonly written i.; originally *eadh-ón, eadh* and *ón*, or, *són*, old neuter pronoun, literally it is it.

'Eadhón' is given as a variant form in *Ó Dónaill*, this being the more correct form according to Professor Máirtín Ó Murchú. However, as this form is long since gone from normal usage, Máirtín Ó Murchú recommends 'is é sin' or '.i.', this subsection to read 'Is é a bheidh san Oireachtas (ná) an tUachtarán agus dhá Theach, is é sin / .i. Teach Ionadaithe, etc.'

*atá san Oireachtas* 'Of inner parts, components, contents' is given by *Ó Dónaill* as one of the senses of the preposition 'i' with the substantive verb, citing '*tá ocsaigin san aer*, air contains oxygen', '*bhí líneáil bhog sa chóta*, the coat had a soft lining' and '*tá céad leathanach sa leabhar*'. 'Comhdhéanta de' generally translates 'consist of' in the Acts – see, for example, s39(2) of the Redundancy Payments Act, 1967, where 'The Tribunal shall consist of the following members' is translated as 'Beidh an Binse comhdhéanta de na comhaltaí seo a leanas'. Note that 'comhdhéanamh' is found in the heading of this Article. See the commentary on Articles 2 and 14.2.1° for other translations of 'consist of' in the Acts.

### Standardised Irish text

An tUachtarán agus dhá Theach atá san Oireachtas: Teach Ionadaithe ar a dtugtar Dáil Éireann, agus Seanad ar a dtugtar Seanad Éireann.

### Direct translation

Is é a bheidh san Oireachtas an tUachtarán agus dhá Theach<sup>1</sup>, eadhón<sup>2</sup>: Teach Ionadaithe ar a dtabharfar Dáil Éireann agus Seanad ar a dtabharfar Seanad Éireann.

### Variants

- 1 'An tUachtarán agus dhá Theach a bheidh san Oireachtas', 'Beidh an tOireachtas comhdhéanta den Uachtarán agus dhá Theach', 'Is éard é an tOireachtas an tUachtarán agus dha Theach'
- 2 'eadhon'

## ARTICLE 15.1.3° AIRTEAGAL 15.1.3°

### TÉACS GAELIGE

Is i gcathair Bhaile Átha Cliath nó ar a cóngar, nó cibé áit eile ar a gcinnfid ó am go ham, a shuífid Tithe an Oireachtais.

### LITERAL ENGLISH TRANSLATION

It is in the city of Dublin or in its vicinity, or wherever else they decide from time to time, that the Houses of the Oireachtas will sit.

### ENGLISH TEXT

The Houses of the Oireachtas shall sit in or near the City of Dublin or in such other place as they may from time to time determine.

### Divergences between the official texts

- 1 'City' has a capital 'C' in the English text as against a lower-case 'c' in 'cathair' in the Irish text (as in Article 12.11.1°).

Note that Article 13 of the 1922 Constitution reads as follows, with lower-case 'c' in both texts:

The Oireachtas shall sit in or near the city of Dublin or in such other place as from time to time it may determine. *Suidhfidh an t-Oireachtas i gcathair Bhaile Átha Cliath nó 'na haice nó i pé áit eile a shocróidh sé ó am go ham.*

### Commentary

*ar a gcinnfid ... a shuífid* The synthetic forms of the verbs, third person plural, future tense – these would generally be written today as 'ar a gcinnfidh siad' agus 'a shuífidh (siad)' – see the commentary on Article 14.5.1°. As regards 'cinn', see the commentary on Article 1; see also, for example, s101(2)(b) of the European Assembly Elections Act, 1977, where 'the trial shall be continued until its result is determined' is translated as 'leanfar leis an triail nó go gcinnefar a toradh'.

Regarding the verb 'suigh' with an inanimate subject, *Ó Dónaill* cites '*suidhfidh an chúirt go raibh an cás pléite*, the court will sit until the case has been considered'. *Dinneen* translates 'suidhim' as 'I sit, go into session, sit (as a court) ...' – illustrating the disadvantage of using the first person singular of the verb as the form of the headword! – citing '*suidhfe an chuideachta ar thubaist na tíre*, the council [translated as 'company'/'assembly' by Professor Máirtín Ó Murchú] will sit to take measures concerning the troubles of the country', from Merriman's *Midnight Court*, and '*sul do suidheadh an ríogh-dháil*, before the royal assembly sat', from Keating's seventeenth-century *History of Ireland*.



Turning to the early Acts, in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, 'Dáil Éireann sitting as a Constituent Assembly in this Provisional Parliament' is translated as 'Dáil Éireann 'na suidhe mar Dháil Bhunaidh sa Phárlimint Shealadach so'. 'Days when the Dáil would normally sit' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'laetheannta 'nar ghnáth leis an Dáil suidhe do bheith aice' in a translation of a 1928 Report of a Committee of the Houses of the Oireachtas. Note finally that in s146(1) of the *Standing Orders* of Dáil Éireann (1997), 'if the House sits until that hour' is translated as 'má bhíonn an Teach ina shuí go dtí an t-am sin', 'on the third ... occasion ... on which the Dáil shall sit' being translated as 'ar an tríú hócáid ... ar a suífidh an Dáil' in s61(2) thereof. See further the commentary on Article 15.7.

*cibé* 'Cibé áit a rachaimid' is translated as 'wherever we go' in *Ó Dónaill*, 'cibé' simply being translated as 'whoever, whatever' in *Dinneen*. As nasalisation generally follows the preposition 'i' there might have been a reluctance to use the phrase 'i cibé', although examples of that phrase are found in the Acts. In s3(11) of the Huguenot Cemetery Dublin (Peter Street) Act, 1966, 'in the place of re-interment of the remains or in such other place as the High Court may direct' is translated as 'san áit a athadhlacfar na taisí nó i cibé áit eile a ordóidh an Ard-Chúirt', 'nó i cibé áit eile le haghaidh siamsaíochta poiblí laistigh a bheidh sonraithe' translating 'or in such other place of indoor public entertainment as may be specified' in s2(2)(e) of the Tobacco (Health Promotion and Protection) Act, 1988. In s39(17)(c) of the Redundancy Payments Act, 1967, 'The Tribunal may ... require such person to attend at such time and place as is specified in the notice' is translated as 'féadfaidh an Binse ... a cheangal ar an duine sin freastal cibé tráth agus i cibé áit a shonrófar san fhógra'. See above for 'i pé áit' in the 1922 Constitution. 'I mBaile Átha Cliath nó i pé áit eile ar a gcomhaontóidh an Bord' translates 'in Dublin or in such other place as may be agreed upon by the Board' in s11(1) of the Second Schedule to the Sea Fisheries Act, 1952.

*ar a cóngar* See the commentary on Article 12.11.1°.

### Standardised Irish text

Is i gcathair Bhaile Átha Cliath nó ar a cóngar, nó cibé áit eile ar a gcinnfidh siad ó am go ham, a shuífidh Tithe an Oireachtais.

### Direct translation

Is i gCathair Bhaile Átha Cliath nó gar di<sup>1</sup>, nó cibé<sup>2</sup> áit eile a chinnfidh siad ó am go ham, a shuífidh Tithe an Oireachtais.<sup>3</sup>

### Variants

- 1 'ina cóngar'
- 2 'nó i cibé'
- 3 'Suífidh Tithe an Oireachtais i gCathair Bhaile Átha Cliath nó gar di nó cibé áit eile a chinnfidh siad ó am go ham.'

## ARTICLE 15.2.1° AIRTEAGAL 15.2.1°

### TÉACS GAELIGE

Bheirtear don Oireachtas amháin leis seo an t-aon chumhacht chun dlíthe a dhéanamh don Stát; níl cumhacht ag údarás reachtaíochta ar bith eile chun dlíthe a dhéanamh don Stát.

### LITERAL ENGLISH TRANSLATION

The only power to make laws for the State is hereby given to the Oireachtas alone; no other legislative authority whatsoever has power to make laws for the State.

### ENGLISH TEXT

The sole and exclusive power of making laws for the State is hereby vested in the Oireachtas; no other legislative authority has power to make laws for the State.

### Divergences between the official texts

- 1 'Sole and exclusive power' is expressed as 'an t-aon chumhacht' ('the only power') in the Irish text, with 'Oireachtas' being qualified by 'amháin' ('alone').
- 2 The Irish legal term for 'legislative' is 'reachtach', 'údarás reachtaíochta' literally being 'an authority of legislation', though a noun in the genitive singular functions as an attributive adjective in Irish.
- 3 'Vest' is expressed by 'bheir' ('give') in the Irish text, as in some other Articles.
- 4 'Power to make laws' and 'power of making laws' are expressed as 'cumhacht chun dlíthe a dhéanamh' ('power to make laws') in the Irish text.
- 5 The Irish 'ar bith eile' is stronger in tone than 'no other'.
- 6 The English text has a colon, while the Irish has a semi-colon.

Note that Article 12 of the 1922 Constitution concludes as follows:

The sole and exclusive power of making laws for the peace, order and good government of the Irish Free State (Saorstát Éireann) is vested in the Oireachtas. *Is ag an Oireachtas amháin a bheidh an t-aon-chomhacht chun dlíthe i dtaobh síochána, rialtacha agus dea-riartha Shaorstáit Éireann do dhéanamh.*

### Commentary

*an t-aon chumhacht* 'For the exclusive use of either of the said languages' is expressed as 'd'fhonn ceachtar den dá theanga sin a bheith ina haonteanga' in Article 8.3. 'Aonghuth' expresses 'single vote' in Articles 12.2.3°, 16.2.5° and 18.5, while 'aon-toghchán' expresses 'same election' in Article 12.4.3°.

*Ó Dónaill* gives 'one only' as one of the senses of 'aon', citing '*an t-aon iníon (amháin) atá acu*, the only daughter they have' and '*an t-aon lá (amháin) a bhí mé saor*, the only day on which I was free'. 'Sole corporation' is translated as 'corparáid aonair' in *Téarmaí Dlí*, where 'exclusive right' is translated as 'ceart eisiatach'; according to *Ó Dónaill* 'eisiach' is the standard form of 'eisiatach' – see the commentary on Article 8.3. In s5 of the Fisheries (Amendment) Act, 1978, for example, 'within the exclusive

fishery limits of the State' is translated as 'laistigh de theorainneacha iascaigh eisiatacha an Stáit'.

'Sole' is sometimes translated as 'aon' in the Acts – see, for example, s80(2) of the Pensions Act, 1990, where 'The sole or principal reason for the dismissal' is translated as 'An t-aon chúis nó an phríomhchúis a bhí leis an difhostú'. 'Aon-', compounded with the noun, more regularly translates 'sole' in the Acts – see, for example, s2(1)(a)(ii)(C) of the Insurance (Amendment) Act, 1978, where 'the said payment ... being the sole obligation of the person under the contract' is translated as 'arb é an t-íoc ... sin aon-oibleagáid an duine faoin gconradh' and s5 of Part 1 of the Finance Act, 1990, where 'the sole or main income of the individual' is translated as 'aon-ioncam nó príomh-ioncam na pearsan aonair'. In the *Treaties establishing the European Communities* (1973, p. 40), 'the Court shall have sole jurisdiction' is translated as 'is ag an gcúirt amháin a bheidh dlínse'.

Looking at the early Acts, 'The Oireachtas has the exclusive right to regulate ...' is translated as 'Is ag an Oireachtas amháin atá an t-aon cheart chun rialú do dhéanamh' in Article 46 of the 1922 Constitution. In s154(1) of the Industrial and Commercial Property (Protection) Act, 1927, "'Copyright" means the sole right to produce or reproduce the work' is translated as 'cialluíonn "cóip-cheart" an t-aon-cheart chun an obair ... do thabhairt amach no d'ath-thabhairt amach'. In s28(1) thereof, 'to confer on the person ... the full, sole and exclusive right, power and authority' is translated as 'chun an ceart, an comhacht agus an t-údarás iomlán, aonda agus ar leithligh do bhronna ar an té'. Finally, 'subject to the exclusive control of the Conference' is translated as 'fé réir smacht na Códhála amháin' in subsection (b) of the Schedule to the Methodist Church in Ireland Act, 1928. See further the commentary on Article 15.6.1°.

Note that while 'cumhacht chun ...' translates 'power of ...' in some Acts, we find 'Cumhachtaí an Aire truailliú a chosc' translating 'Powers of Minister to prevent pollution' in s26 of the Sea Pollution Act, 1991. 'Cumhacht cheapacháin ghinearálta' translates 'general power of appointment' in *Téarmaí Dlí*. Note finally that the first Article of the Constitution of Dáil Éireann, 1919, commences as follows:

Beidh iomlán comhachta chun dlighthé dheunamh ag Dáil Éireann ....

*reachtaíochta* 'Reachtaíocht' is translated as 'legislation' in *Ó Dónaill*. It does not appear to be given as a headword in *Dinneen* nor in DIL. 'Legislative' is translated as 'rechtach' in *Téarmaí Dlí*; 'rechtach' is translated as 'law-giving, legislative' in *Ó Dónaill* and as 'legal, lawful, constitutional' in *Dinneen*. DIL s.v. 'rechtach', translated as 'just, equitable, law-giving', cites this adjective only as a sobriquet in 'Fedelmed Rechtach' ('Fedelmed the Lawgiver'), cited from *Leabhar na hUidhre* (written before 1106). See the commentary on Article 20.1.

In s5 of the Higher Education Authority Act, 1971, 'the legislative measures required in relation to their establishment' is translated as 'na bearta reachtaíochta is gá maidir lena mbunú'. In s4 of Article 9 of the Bretton Woods Agreement Act, 1957, however, 'any other form of seizure by executive or legislative action' is translated as 'aon tsórt eile urghabhála trí ghníomhú feidhmiúcháin nó gníomhú rechtach'. 'All authority, legislative, executive,

and judicial' is translated as 'gach údarás reachtúcháin, feidhmiúcháin agus breithiúntais' in Article 2 of the 1922 Constitution, 'rechtúchán' translating 'legislation' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922.

*ar bith* This phrase is translated as 'any; (with negative) no' in *Ó Dónaill*, who cites '*níl ciall ar bith aige*, he has no sense' and '*níl baint ar bith agam leo*, I have nothing to do with them'. DIL cites 'na Ulltach eli for bith' ('or any Ultonian'). See the commentary on Article 9.1.3°.

*Bheirtear* This would generally be written as 'tugtar' today – see the commentary on Article 12.1. As regards 'vest', see the commentary on Articles 10.1 and 13.4.

*níl* See the commentary on Article 13.8.1°.

### Standardised Irish text

Tugtar don Oireachtas amháin leis seo an t-aon chumhacht chun dlíthe a dhéanamh don Stát; níl cumhacht ag údarás reachtaíochta ar bith eile chun dlíthe a dhéanamh don Stát.

### Direct translation

Dílsítear leis seo don Oireachtas an aonchumhacht<sup>1</sup> eisiatach<sup>2</sup> chun dlíthe a dhéanamh don Stát: níl cumhacht ag aon údarás rechtach eile chun dlíthe a dhéanamh don Stát.

### Variants

- 1 'an aon-chumhacht'
- 2 'eisiach'

## ARTICLE 15.2.2° AIRTEAGAL 15.2.2°

### TÉACS GAEILGE

Ach féadfar socrú a dhéanamh le dlí chun fo-reachtais a chur ar bun nó chun glactha leo, agus chun cumhachtaí agus feidhmeanna na bhfo-reachtas sin a leagan amach.

### LITERAL ENGLISH TRANSLATION

But provision may be made by law to set up or accept sub-legislatures, and to lay out the powers and functions of those sub-legislatures.

### ENGLISH TEXT

Provision may however be made by law for the creation or recognition of subordinate legislatures and for the powers and functions of these legislatures.

### Divergences between the official texts

- 1 The Irish text adds 'a leagan amach' ('to lay out') to the English text's 'for the powers and functions of these legislatures', i.e. as if the English text were to read 'for the laying out / prescription of the powers and functions of these legislatures'.
- 2 'Creation or recognition' is expressed as 'a chur ar bun nó (chun) glactha leo' ('establishment or accep-

tance') in the Irish text, the term expressing 'create' in the Irish text expressing 'establish' in the following section.

- 3 While the 'subordinate legislatures' are referred to simply as 'legislatures' at the end of the subsection in the English text, they are referred to as 'fo-reachtas' ('subordinate legislatures') throughout the Irish text.
- 4 'However' is expressed as 'Ach' ('but') in the Irish text, as in some other Articles.

Note that Article 44 of the 1922 Constitution reads as follows:

The Oireachtas may create subordinate legislatures with such powers as may be decided by law. *Féadfaidh an t-Oireachtas cóireanna íochtaracha reachtúcháin do bhunú agus pé comhachta a socrófar le dlí do thabhairt dóibh.*

### Commentary

*Ach* 'Ach', literally translated as 'but', expresses 'however' in Articles 8.3, 13.7.3°, 13.8.2°, 15.8.2°, 28.3.2°, 40.4.6°, 40.4.6°i, 40.4.6°iii, 42.3.2° and 43.2.1°. 'Ag féachaint go cuí, áfach, do chearta tuistí' expresses 'with due regard, however, for the rights of parents' in Article 42.4, 'áfach' being the specific general translation of 'however'. As regards the Acts, see, for example, s9 of Article 4 of the Schedule to the Bretton Woods Agreement Act, 1957, where 'It shall, however, be open to a member to declare ...' is translated as 'féadfaidh an comhalta, áfach, a fhógairt ...'. In the *Treaties establishing the European Communities* (1973, p. 683), 'It may, however, form two Chambers' is translated as 'Féadfaidh sí, áfach, eagar dhá Dhlisheomra a chur uirthi féin'.

*fo-reachtas* Note that 'fo-reachtas' is the form in the original text. 'Reachtas' is translated as 'legislature' in *Téarmaí Dlí. Ó Dónaill*, however, translates 'rechtas' as (1) 'administration, stewardship', (2) '*rechtas, talamh reachtais*, rented land (for dairying); conacre' and (3) '= oireachtas', which, as we have seen, is translated there as 'deliberative assembly', with 'An tOireachtas' translated as 'the Legislature'. *Dinneen* translates 'rechtas' as 'stewardship; legislation'. DIL translates 'rechtas' as (a) 'authority, administration', citing 'rechtus na Temrach' (i.e. (the) administration of Tara) among the examples, and (b) 'stewardship', citing just one example, from Keating's seventeenth-century *Three Shafts of Death*.

The prefix 'fo-' is translated as (1) 'under-, sub-, hypo-, secondary, subsidiary', (2) 'minor, lesser; light, trivial' and (3) 'odd, occasional' in *Ó Dónaill* and as 'under, below, sub-; occasional, odd, rare, few, slow, light' in *Dinneen*. 'Fodhualgais' translates 'subordinate duties' in s55(2)(d) of the Agricultural Credit Act, 1947, for example – note, however, that this is translated as 'iosdualgais' in s18(2)(d) of the Agricultural Credit Act, 1978. In Article 3 of the 1985 Anglo-Irish Agreement, 'in subordinate groups' is translated as 'i bhfo-bhuíonta'.

'Cóir reachtúcháin' was the earlier translation of 'Legislature'. In the Preamble to the Methodist Church in Ireland Act, 1928, 'And Whereas the Methodist Church in Ireland, being one united body with members and property throughout the whole of Ireland desires to have such purposes carried into effect by Acts of the respective

Legislatures having jurisdiction' is translated as 'Agus de bhri gur mian leis an Eaglais Mhethodistigh in Éirinn, agus í ina cólucht aontuithe amháin agus baill agus maoin aice ar fuaid na hÉireann uile, go gcuirfí na cricheanna san in éifeacht tré Achtanna de sna Cóireacha Reachtúcháin fé seach 'na bhfuil údarás aca'. Note that 'lucht reachtúcháin' translates 'the legislature' in s152(6) of the Industrial and Commercial Property (Protection) Act, 1927, where 'that the legislature of any British dominion, protectorate or territory has made satisfactory provision for ...' is translated as 'go bhfuil lucht reachtúcháin aon tiarnais Bhriotáinighe, tíre fé choimirce Briotáinighe no críche Briotáinighe tar éis socrú sásúil do dhéanamh chun...'. In s1 of the Second Schedule to the Defamation Act, 1961, in conformity with the Constitution, 'A fair and accurate report of any proceedings in public of a house of any legislature (including subordinate or federal legislatures) of any foreign sovereign State' is translated as 'Tuairisc chothrom chruinn ar aon imeachtaí poiblí ag teach aon reachtais (lena n-áirítear fo-reachtas nó reachtais chónaidhme) le haon Stát ceannasach iasachta'.

'Bunú focheart agus foleasanna agus a n-éifeacht' translates 'Creation and effect of subordinate rights and interests' in the Margin Title of s68 of the Registration of Title Act, 1964, 'mar aon le fo-ranna áirithe' translating 'including certain subordinate departments' in the Schedule to the Appropriation Act, 1922. We find 'mion-' along with 'íochtarach' (see above) translating 'subordinate' in the 1922 Constitution, 'subordinate matters incidental to those subjects' being translated as 'mion-chúrsaí ag baint leis na habhair seo' in Article 35 thereof.

*socrú* See the commentary on Article 8.3, regarding 'socrú', 'arrangement', with the sense of 'provision' in the Acts, 'foráil' also translating 'provision' in the Acts. The Long Title of many Acts begin with the phrase 'An Act to make provision for ...', which phrase is usually translated as 'Acht do dhéanamh socrú chun / le haghaidh / maidir le' – see, for example, the Telecommunications (Miscellaneous Provisions) Act, 1996:

An Act to make provision for the establishment of the office of Director of Telecommunications Regulation ... and to provide for related matters .... *Acht do dhéanamh socrú chun oifig Stiúirthóra Rialála Teileachumarsáide a bhunú ... agus do dhéanamh socrú i dtaobh nithe gaolmhara.*

Outside of this context we find 'foráil' – see, for example, s8(2) of the Capital Gains Tax Act, 1975, where 'Where the terms of the lease include provision for the determination of the lease by notice given by the lesser' is translated as 'I gcás foráil chun léas a fhoirceannadh trí fhógra ón léasóir a bheith ar théarmaí an léasa'. In s2(4) of the same Act, 'Any provision in this Act introducing the assumption that assets are sold' is translated as 'aon fhoráil san Acht a chuirfidh i gcás go bhfuil sócmhainní á ndíol'. In *Téarmaí Dlí* 'I provide that' is translated as 'foráilaim go'. In s32(2) of the Misuse of Drugs Act, 1977, 'Where regulations under section 14 ... provide that a substance ... is to be regarded ...' is translated as 'Nuair a fhoráilann rialacháin faoi alt 14 ... go bhfuil substaint ... le háireamh'; on the other hand, in s12(2) of the Value-Added Tax (Amendment) Act, 1978, 'Regulations may make provision for remitting ... the tax' is translated as 'féadfar a fhoráil le rialacháin go ndéanfar ... an cháin ... a loghadh'. In

s18(3) of the Merchant Shipping Act, 1992, '(Féadfar le rialacháin faoin alt seo) foráil a dhéanamh maidir le cibé ábhair iarmhartacha ... (a mheasfaidh an tAire is gá)' translates 'make provision for such consequential ... matters'.

In the present Article 15.2.2<sup>o</sup> both the verbal nouns 'the creation or recognition of' and the nouns 'powers and functions' are qualified by 'provision may be made for'. The drafters of the Irish version of this Article therefore introduced a new verbal noun in the final clause. However, we see from the above Long Title how, while we have 'Acht do dhéanamh socrú chun' plus verbal noun at the beginning of the title this alters to 'do dhéanamh socrú i dtaobh' at the end of the title, before 'related matters'.

*chun glactha leo* 'Glacaim le' is translated as 'I accept' in *Téarmaí Dlí* – see the commentary on Article 8.2. According to *An Caighdeán Oifigiúil*, 'glacadh', as verbal noun of 'glac', would not be put into the genitive case after 'chun' – see s5(a) of the chapter entitled 'The Form of the Nominative instead of the Genitive' ([I translate:] 'when it [i.e. the verbal noun] comes *immediately* after a preposition which takes the genitive'), 'chun dul abhaile' being cited as example. Note how 'glacadh leo' is not in the genitive case in the following subsection (Article 15.3.1<sup>o</sup>), even though this is also subject to 'chun'.

See the commentary on Article 8.2 regarding 'recognise'. Note that 'arrange for ... the recognition of certificates' is translated as 'socrú a dhéanamh ... chun aitheantas a thabhairt do theastais' in s15(3)(b) of the Fire Services Act, 1981, for example. 'Which provides for the recognition of passenger steamers' certificates' is translated as '(alt) le n-a ndeintear socrú chun deimhniú gáltán paisnéara ... d'aithint' in s21(2) of the Merchant Shipping (Safety and Load Line Conventions) Act, 1933.

*a leagan amach* 'Leag amach' is translated as (1) 'lay out, arrange' and (3) 'lay down, prescribe; allot, allocate' in *Ó Dónaill*, who cites '*obair, dualgas, a leagan amach do dhuine*, do allot work, a duty, to someone' and '*damáistí a leagan amach*, to prescribe damages'.

In Article 15.9.1<sup>o</sup>, 'and [each House of the Oireachtas] shall prescribe their powers and duties' is expressed as 'agus leagfaidh amach dóibh a gcumhachtaí agus a ndualgais'. In Article 29.4.6<sup>o</sup> (as amended) 'atá leagtha amach sa chonradh sin' renders 'set out in the said Treaty' and in Article 45 'atá leagtha amach san Airteagal seo' expresses 'set forth in this Article'. In Article 34.1, 'ar an modh atá leagtha amach sa Bhunreacht seo' expresses 'in the manner provided by this Constitution'. Neither *Dinneen* nor *DIL* appear to give examples of 'leag amach'. According to the late Professor David Greene, Old Norse 'leggja' is the source of Irish 'leag' – see *DIL* s.v. 'lecaid', translated as (a) 'lays out, sets, places; lowers, lets down; extends, stretches'.

*a chur ar bun* *Ó Dónaill* translates 'ar bun' as 'established', citing '*gnó, scoil, a chur ar bun*, to establish a business, a school'. *Dinneen* translates 'ar bun' as 'afoot, set up, established', citing '*Tá an teanga ar bun*, the language is alive', and translates 'cuirim ar bun' as 'I set up, found, set going'. Note how 'a chur ar bun' expresses 'establish' in the following section (Articles 15.3.1<sup>o</sup> and 15.3.2<sup>o</sup>), as it does in Article 6.2. In the Second Schedule

to the Ombudsman Act, 1980, 'Bodies set up under the Health (Corporate Bodies) Act, 1961' is translated as 'Comhlachtaí a cuireadh ar bun faoin Acht Sláinte (Comhlachtaí Corpraithe), 1961'. 'A chur ar bun' usually translates 'to set up' in translations of European legislation. However, 'the creation of a European Social Fund' is translated as 'Ciste Sóisialach Eorpach a chur ar bun' in the *Treaties establishing the European Communities* (1973, p. 180). On p. 749, 'have decided to create a Single Council and a Single Commission of the European Communities' is translated as 'tar éis cinneadh ar Chomhairle Aonair agus Coimisiún Aonair de na Comhphobail Eorpacha a bhunú'. 'Bunaigh' usually translates 'establish' in the Acts, but sometimes translates 'create' – see, for example, s7(1)(c) of the Capital Gains Tax Act, 1975, where 'any form of property created by the person disposing of it, or otherwise becoming owned without being acquired' is translated as 'aon chineál maoine a bhunaigh duine a diúscartha nó a tháinig ar úinéireacht ar shlí eile gan í a fháil'. 'To the creation of any option or consent or embargo affecting the disposition of any property or right' is translated as 'le haon rogha nó toiliú nó lánchosc a bhunú a dhéanann difear do dhiúscairt aon mhaoine nó aon chirt' in s29(3) of the Finance Act, 1981.

In Article 29.7.2<sup>o</sup>, introduced by the 19th Amendment of the Constitution Act, 1998, 'create' and 'establish' are found in association with each other, with 'cruthaigh' rendering 'create' in a relatively similar context to that in this Article 15.2.2<sup>o</sup>:

... notwithstanding any other provision of this Constitution conferring a like power or function on any person or any organ of State appointed under or created or established by or under this Constitution....  
*d'ainneoin aon fhorála eile den Bhunreacht seo lena dtugtar cumhacht nó feidhm dá samhail d'aon duine nó d'aon organ Stáit arna cheapadh faoin mBunreacht seo nó arna chruthú nó arna bhunú leis an mBunreacht seo nó faoin mBunreacht seo.*

In s10(1)(a) of the Fisheries Act, 1980, 'the Minister may by order create ... such regions (each of which is in this Act referred to as a "fisheries region") as appear to him to be appropriate' is translated as 'féadfaidh an tAire le hordú cibé réigiúin (a ngairtear "réigiúin iascaigh" de gach ceann díobh san Acht seo) is dóigh leis is iomchuí ... a chruthú'.

'Trí sna có-ghléasanna a bunófar do réir an Bhunreachta' translates 'through the organisations established by ... this Constitution' in Article 2 of the 1922 Constitution, for example. 'Cruthnaigh' was the form of 'cruthaigh' in earlier Acts. 'Unless the Land Commission certify that the creation of the tenancy was in the interests of the country' is translated as 'mara ndeimhneoidh Coimisiún na Talmhan gur chuaidh cruthnú na tionóntachta chun leasa don tír' in s73(2)(b) of the Land Act, 1923. In s6(2) of the Harbours Act, 1946, 'any other matters supplemental or ancillary to the creation of the new authority' is translated as 'aon nithe eile is nithe forlíontacha nó fo-ghabhálacha maidir le cruthnú an údaráis nua'.

### Standardised Irish text

Ach féadfar socrú a dhéanamh le dlí chun fo-reachtais a chur ar bun nó chun glacadh leo, agus chun cumhachtaí agus feidhmeanna na bhfo-reachtas sin a leagan amach.

**Direct translation**

Féadfar socrú a dhéanamh le dlí, áfach, chun fo-reachtais a chruthú nó chun aitheantas a thabhairt dóibh agus i dtaobh chumhachtaí agus feidhmeanna na reachtas sin.

ARTICLE 15.3.1<sup>o</sup> AIRTEAGAL 15.3.1<sup>o</sup>**TÉACS GAELGE**

Tig leis an Oireachtas socrú a dhéanamh chun comhairlí feidhmeannais is gairme beatha, a ionadaíos ranna de shaol chomhdhaonnach agus de shaol gheilleagrach an phobail, a chur ar bun nó glacadh leo.

**LITERAL ENGLISH TRANSLATION**

The Oireachtas can make provision for the establishment or acceptance of / to establish or accept executive and vocational councils, which represent sections of the social/societal life and of the economic life of the people.

**ENGLISH TEXT**

The Oireachtas may provide for the establishment or recognition of functional or vocational councils representing branches of the social and economic life of the people.

**Divergences between the official texts**

- 1 The English text refers to 'functional **or** vocational councils', the Irish text on the other hand refers to 'comhairlí feidhmeannais is gairme beatha' ('functional **and** vocational councils').
- 2 'Comhdhaonnach', the term expressing 'social' in the Irish text, has, in the meaning relevant here, been generally superseded today by 'sóisialta'/'sóisialach'.
- 3 'Branches of the social and economic life of the people' is expressed as 'ranna de shaol chomhdhaonnach agus de shaol gheilleagrach an phobail' ('sections/divisions of the social life and of the economic life of the people'), 'ranna' perhaps expressing more structured units than 'branches'.
- 4 As in the previous subsection, 'recognition' is expressed by 'glacadh le' ('acceptance') in the Irish text.

Note that Article 45 of the 1922 Constitution commences as follows:

The Oireachtas may provide for the establishment of Functional or Vocational Councils representing branches of the social and economic life of the Nation. *Féadfaidh an tOireachtas soláthar do dhéanamh chun Comhairlí Feidhme nó Gairm-bheatha do bhunú a ionadóidh brainsí de bheatha cho-mhuinteartha agus chó-ionmhasach an Náisiúin.*

**Commentary**

*a ionadaíos* For the special form of the relative, see the commentary on Article 6.1, and note that 'a ionadóidh' is the form of this phrase in the 1922 Constitution.

'Ionadaigh' is translated as (1) 'place, position', (2)(a) 'appoint as representative', (b) 'represent' and (3) 'substi-

tute' in *Ó Dónaill. Dinneen* translates 'ionadaim' merely as 'I occupy, also place, set, fix, situate'. DIL cites only two examples of the verb 'inadaid'/'inaidid', translated as 'places, appoints'. This verb is based on 'inad' (Modern Irish 'ionad'), basically 'place'. See the commentary on Article 15.1.2<sup>o</sup>.

Turning to the Acts regarding 'represent', in s7(1)(a)(i) of the Importation of Duties (Dumping and Subsidies) Act, 1968, 'by a trade association representing such producers' is translated as 'ó chomhlachas trádála a ionadaíonn táirgeoirí den sórt sin'. In s2 of Article 15 of the Schedule to the Bretton Woods Agreements Act, 1957, however, 'by a decision of the Board of Governors carried by a majority of the governors representing a majority of the total voting power' is translated as 'trí chinneadh ón mBórd Rialtóirí a rithfeas tromlach na rialtóirí a bheas ina n-ionadaithe do thromlach na cumhachta iomláine vótála'. On the other hand, in s4(2)(c) of the Health Act, 1970, 'appointments made on the nominations of bodies which ... are representative of the medical and ancillary professions or of particular branches thereof' is translated as 'daoine a cheapfar ar na n-ainmniú ag comhlachtaí atá ... ionadaitheach do ghairm agus do ghairmeacha coimhdeacha nó do bhrainsí áirithe den chéanna'. In s1 of the Worker Participation (State Enterprises) Act, 1977, 'negotiations between any ... other body of persons representative of employers on the one hand ...' is translated as 'caibidlí idir ... aon chomhlacht eile daoine atá ionadaitheach d'fhostóirí ar thaobh amháin'. Finally, in the *Treaties establishing the European Communities* (1973, p. 1002), 'the Economic and Social Committee shall be enlarged by the appointment of forty-two members representing the various categories of economic and social activity in the new Member States' is translated as 'comhlánófar an Coiste Eacnamaíoch agus Sóisialach trí daichead is dhá chomhalta a bheidh ionadaíoch do na hearnálacha éagsúla de ghníomhaíocht eacnamaíoch agus shóisialach na mBallstát nua'. See further the commentary on Article 16.2.1<sup>o</sup>.

Note that neither 'ionadaitheach' nor 'ionadaíoch' are given as a headword in *Ó Dónaill*, who translates 'ionadach' principally as 'substitute, vicarious', with the secondary sense of 'out of the way, inaccessible' (in relation to a place).

*comhairlí feidhmeannais* Note that 'aon chomhlacht nó comhairle feidhme nó gairme beatha' expresses 'any functional or vocational group or council' in Article 19 and that 'Comhairlí Feidhme' translates 'Vocational Councils' in the 1922 Constitution cited above.

'Feidhmeannas' is translated as 'function, service; office, capacity; position, employment' in *Ó Dónaill*. 'Feidhmeannas', the form in the original text, is translated as 'office, position, stewardship; superintendence, a commission; service, employment; a legacy' in *Dinneen*. DIL translates 'feidhmannas' as 'acting as agent or minister; office of an overseer, stewardship (in wide sense)', the first of four examples given there being 'sechain ... beth ic fédmándus don diabul' ('avoid being an agent of the devil'), from the *Passions and Homilies* from the *Leabhar Breac* (compiled in 1411 or earlier). A seventeenth-century example from Keating is followed by two examples from *Caithréim Thoirdealbhaigh* in the loose sense of 'employment', the first being 'do bi ... co tindesnagh ag indsaighe in

fhedhmannuis sin', translated as 'hasted to perform that duty'. Four examples of a late form of 'fedmannas', 'fedmantas', are also cited, including, from the *Annals of Ulster*, 'Iarla Cille Dara do thoighecht i nErinn ... 7 fedhmannus in righ do thabairt dó' ('i.e. office of judiciary').

Looking at 'functional' in the Acts, 'functional area', for example, is translated both as 'limistéar feidhmíúcháin' and 'limistéar feidhme' – see s13(1) of the Consumer Information Act, 1978, where 'if ... an officer of a council or of a county or corporation of a county or other borough in whose functional area the publisher has a place of business so requests' is translated as 'i gcás oifigeach do chomhairle contae nó do bhordas contae-bhuirge nó buirge eile a bhfuil áit ghnó ag an bhfoilsitheoir ina limistéar feidhmíúcháin á iarraidh sin'. In s9(3) of the Fire Services Act, 1981, on the other hand, 'The functional area of a fire authority shall be ... its administrative area' is translated as 'Is é an limistéar feidhme a bheidh ag údarás dóiteáin ... a limistéar riaracháin'. Note that 'Líomataíste feidhmíúcháin' is found in s2(6) of the Damage to Property (Compensation) Act, 1923.

Professor Máirtín Ó Murchú comments that 'feidhme' is preferable here as it connotes 'ranges of work' ("réimsí oibre"), 'feidhmíúchán' having the sense of what they themselves would be doing.

*gairme beatha* 'Gairm' is translated as 'call', with the secondary sense of 'calling', in *Ó Dónaill*; the latter sense is divided into (a) 'divine call, vocation', and (b) 'profession, occupation', *Ó Dónaill* citing 'do ghairm bheatha, one's mission in life, one's occupation' as an example of sense (b). Other examples cited are 'tá gairm dochtúra aige, he is a doctor by profession', 'na gairmeacha léannta, the learned professions' and 'do ghairm a chleachtadh, to follow one's trade'. *Dinneen* translates 'gairm' as 'act of calling, appealing to, naming, summoning; call, summons, name, title, praise, reputation, honour, fame; calling, avocation or condition of life, vocation', and then continues: 'gairm bheathadh, id.' DIL gives four examples of 'gairm' (verbal noun of 'gairid', 'call') in the sense of 'a calling, employment, profession', including 'd'fior do gharma' ('for one of your calling'), from the seventeenth-century 'Contention of the Bards'.

'Gairm' alone usually renders 'vocational' in the Acts and is generally compounded with the noun it qualifies. 'Vocational education committee', for example, is translated as 'coiste gairmoideachais' in s9(1)(e) of the Industrial Relations Act, 1969; this was translated as 'coiste oideachais ghairme beatha' in s2(2)(c) of the Local Government Act, 1941, for example. In s9(1)(f) of the above-mentioned Industrial Relations Act, 'in a national, secondary, vocational or comprehensive school or in any similar school' is translated as 'i scoil náisiúnta, i meánscoil, i scoil ghairmoideachais, i scoil chuimsitheach nó in aon scoil dá samhail'. In the *Programme for a Partnership Government* 1993-97, 'to provide 1 year of community vocational service' is translated as '1 bhliain a chaitheamh i mbun gairm-sheirbhíse pobail' (p. 29).

'Vocational training or retraining' is translated as 'oilíúint nó athoilíúint ghairmiúil' in the Schedule following s24 of the Value-Added Tax (Amendment) Act, 1978, and we also find 'maoiniú na hathoilíúna gairmiúla' translating 'the financing of vocational retraining' in the *Treaties*

*establishing the European Communities* (1973, p. 150). 'Gairmiúil' generally renders 'professional' and is so found in the Acts (see for example, 'guilty of professional misconduct', which is translated as 'ciontach i mí-iompar gairmiúil' in s5(a) of the Medical Practitioners Act, 1978). 'Vocational' is the primary sense of 'gairmiúil' in *Ó Dónaill*, however, who cites 'oideachas gairmiúil, vocational education'. Finally, we see above that 'gairm-bheatha' translates 'vocational' in the 1922 Constitution; 'tréineáil ghairme', however, translates 'vocational training' in s5(2) of the Army Pensions Act, 1923.

*de shaol chomhdhaonnach ... agus de shaol gheilleagrach* Neither of these adjectives would be lenited following the masculine noun 'saol' preceded by a preposition today – the dative form of the adjective following a masculine noun is the same as that of the nominative according to *An Caighdeán Oifigiúil* (p. 25) – see the commentary on Article 45. See the commentary on Article 1 as regards 'geilleagrach'.

'Comhdhaonnach' expresses 'social' in the Preamble and in Articles 18.7.1<sup>o</sup>v, 40.1, 41.1.2<sup>o</sup>, 43.2.1<sup>o</sup>, 45 and 45.1, with the genitive singular of 'comhdhaonnacht' with adjectival function, 'comhdhaonnachta', expressing 'social' in Articles 42.1 and 42.3.2<sup>o</sup>. 'An chomhdhaonnacht' expresses 'Society' in Article 41.1.1<sup>o</sup>. *Ó Dónaill* translates the compound adjective 'comhdhaonnach' as 'social, companionable', citing 'saol ceart comhdhaonnach, true social order'. *Dinneen* does not have this headword, translating 'cómhdaoine' as 'contemporaries, one's fellows'. The prefix 'comh-' is translated as (1) 'mutual, joint, common; co-', (2) 'fellow-', (3) 'equal', (4) 'close, near' and (5) 'full, complete, uniform' in *Ó Dónaill*. 'Daonna' is translated as 'human', 'humane', with 'daonnachas' translated as 'humanism'.

*L. Mc Cionnaith* translates 'social history' and 'social system' respectively as 'stair chomhdhaonnachta' and 'córás comhdhaonnach', and 'socialism' as 'comhdhaonnachas', all followed by the abbreviation for 'Terms published by the Department of Education'. *L. Mc Cionnaith* gives no citation of the term 'sóisialta' s.v. 'social'. *De Bhaldraithe*, on the other hand s.v. 'social', cites 'social problems, ceisteanna sóisialta', 'social reformer, leasaitheoir sóisialta' and 'social services, seirbhísí sóisialta'. *De Bhaldraithe* does, however, give 'comhdhaonnach' as a secondary translation of 'social' – which, incidentally, is followed by 'man is an essentially social animal', translated as 'ar scáth a chéile a mhaireas na daoine'. *Dinneen* does not appear to give 'sóisialta'/'sóisialach' as a headword.

Probably echoing the Constitution, 'economic and social discrimination' is translated as 'leithcheal eacnamaíoch agus comhdhaonnach' in Article 5 of the 1985 *Anglo-Irish Agreement*, with 'to promote the economic and social development ...' translated as 'chun dlús a chur le forbairt eacnamaíoch agus chomhdhaonnach' in Article 10. Similarly, in *Treaties establishing the European Communities* (1973, p. 250), 'aid having a social character' is translated as 'cabhair de chineál comhdhaonnach'.

In general usage, however, 'social' is rendered as 'sóisialta', with 'sóisialach' also being used in the Acts, these terms having almost completely superseded 'comhdhaonnach'. While 'public administration and social services, including voluntary social activities' is translated as 'riarachán poiblí agus seirbhísí comhdhaonnacha, agus

obair chomhdhaonnach dheontach d'áireamh' in s3(1) of the Seanad Electoral (Panel Members) Act, 1947 – almost exactly corresponding to Article 18.7.1<sup>v</sup> of the Constitution – in s5(1)(e) of the Institute for Advanced Studies Act, 1940, 'the study of Irish social history and of all branches of Irish history which require for their investigation a knowledge of the Irish language' is translated as 'staidéar do dhéanamh ar stair shóisialta na hÉireann agus fós ar gach brainse de stair na hÉireann gur gá eolas ar an nGaedhlig chun lorgaireachta ina thaobh' and in s5(1)(f) '(of) the cultural and social background of Celtic civilisation' is translated as 'ar chúlradh chultúrtha agus shóisialta na sibhialtachta Ceiltighe'. 'Sóisialta' translates 'social' in the *Official Report of Dáil Debates*, 29/5/23. We find 'sóisialta' in the *New Ireland Forum Report* (1984: 'these social realities' is translated as 'na réaltachtaí sóisialta seo' [4.14]), in the 1993 *Joint Declaration* ('the right to equal opportunity in all social and economic activity' being translated as 'an ceart ar chomhdhaiseanna i ngach gníomhaíocht shóisialta agus eacnamaíoch' [p. 4]), in the *Programme for a Partnership Government*, 1993-97 (the 'Social Partners' being translated as 'na Comhpháirtithe Sóisialta' [p. 6]) and in the *Treaty on European Union* (Maastricht, 1992, where 'a policy in the social sphere comprising a European Social Fund' is translated as 'beartas sa réimse sóisialta lena n-áirítear Ciste Sóisialta na hEorpa' [p. 12]).

Generally in the modern Acts, however, 'sóisialach' rather than 'sóisialta' translates 'social', although to differentiate from the general use of 'social welfare' we find "welfare" comprises the religious and moral, intellectual, physical and social welfare of the children', in s3(2)(b) of the Judicial Separation and Family Law Reform Act, 1989, translated as 'foilaíonn "leas" leas creidimh agus morálta na leanaí, mar aon lena leas intleachta, lena leas coirp agus lena leas sóisialta'. 'The Social Welfare Act, 1950' is cited in Irish as 'an tAcht Leasa Shóisialaigh, 1950', for example, the 'Minister for Social Welfare' being styled 'an tAire Leasa Shóisialaigh'. In s164(1)(a) of the Social Welfare (Consolidation) Act, 1981, 'the social welfare officer' is translated as 'an t-oifigeach leasa shóisialaigh'. 'The Revenue and Social Insurance (RSI) Number' is translated as 'An Uimhir Ioncaim agus Árachais Shóisialaigh (IAS)' in s22(1)(a3) of the Finance Act, 1983. In s5(f) of Article 5 of the Schedule to the Bretton Woods Agreement Act, 1957, 'because of the domestic social or political policies of the member proposing the change' is translated as 'mar gheall ar bheartais shóisialacha nó pholaitíochta intíre an chomhalta a mholfas an t-athrú'.

Finally, looking at early translations, we see above that 'co-mhuinteartha' translates 'social' in the 1922 Constitution. 'Vital, social and educational matters' is translated as 'cúrsaí buaine beatha, cúrsaí saoil na ndaoine, agus cúrsaí oideachais' in s2(b) of the Statistics Act, 1926. 'Social amenities' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'aoibhneas cuideachtanaí' in 'Dáil Reports (Oir. Accom.)'.

*ranna* Plural of 'roinn'. 'Príosúnacht sa chéad roinn, imprisonment in the first division' is cited in *Téarmaí Dlí*. 'Roinn' is translated as I(1) 'share, portion' and II(2) 'Administration: Department' in *Ó Dónaill*. Dinneen translates 'roinn(t)' as 'act of dividing, sharing, distributing, dealing out, having to do with, imparting to, assigning,

allotting; a portion, share, division (of soldiers, etc.), grant (of land), legacy; food, rations; a paragraph; a continent; in *pl.* legs, members, territories'. DIL translates 'rann' as 1(a) 'a part (of a whole)', with 'rann airegda inna anme' ('the superior part of the mind') glossing Latin 'spiritus' in the eighth-century Würzburg Glosses on the Pauline Epistles.

Looking at the Acts as regards 'branch', in s4(2)(c) of the Health Act, 1970, 'representative of the medical and ancillary professions or of particular branches thereof' is translated as 'ionadaitheach do ghairm an leighis agus do ghairmeacha coimhdeacha nó do bhraínsí áirithe den chéanna'. In s4(2)(a) of the Law Reform Commission Act, 1975, 'different branches of the law' is translated as 'braínsí éagsúla den dlí'. In *Treaties establishing the European Communities* (1973, p. 247), 'in the various branches of the economy' is translated as 'i gcás braínsí éagsúla an gheilleagair'. Finally, in the *Programme for a Partnership Government*, 1993-97, 'there will be intensive consultation with all branches of the industry' is translated as 'rachfar i gcomhairle go mion le gach brainse den tionscal' (p. 57).

Looking at the early Acts, in s1(iii) of the Ministers and Secretaries Act, 1924, 'the business, powers, duties and functions of the branches and officers of the public service' is translated as 'gnó, comhachta, dualgaisí agus feidhmeanna na mbraínsí agus na n-oifigeach den tseirbhís phoiblí', 'braínsí' translating 'branches' is the 1922 Constitution, as we see above. *Ó Dónaill* cites 'brainse léinn, branch of learning' and 'tá braínsí (eolais) aige, he is acquainted with a variety of subjects', while *Dinneen* includes 'a branch, as of education' s.v. 'brainse'. Finally, note incidentally that 'rannóg' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'branch' in *Iris an Phuist*, 25/8/27, 'brainsí-oifig' translating 'branch post-office' in *Iris an Phuist*, 1/2/28.

*Tig leis* This phrase is one of the ways in which 'may' is expressed in the Constitution – see the commentary on Article 12.4.4°.

*socrú a dhéanamh* See the commentary on Article 8.3.

*glacadh leo* See the commentary on Article 15.2.2°.

### Standardised Irish text

Tig leis an Oireachtas socrú a dhéanamh chun comhairlí feidhmeannais is gairme beatha, a ionadaíonn ranna de shaol comhdhaonnach agus de shaol geilleagrach an phobail, a chur ar bun nó glacadh leo.

### Direct translation

Féadfaidh an tOireachtas socrú a dhéanamh chun comhairlí feidhme<sup>1</sup> nó gairme<sup>2</sup> a bheidh ionadaitheach do bhraínsí<sup>3</sup> de shaol sóisialach<sup>4</sup> agus eacnamaíochta<sup>5</sup> an phobail a bhunú nó aitheantas a thabhairt dóibh.<sup>6</sup>

### Variants

- 1 'feidhmiúcháin'
- 2 'gairmchomhairlí', 'comhairlí gairmiúla'
- 3 'a ionadóidh brainsí'
- 4 'sóisialta'
- 5 'eacnamaíoch'

- 6 'Féadfaidh an tOireachtas socrú a dhéanamh chun comhairlí feidhme nó gairme a bhunú nó chun aitheantas a thabhairt dóibh ar comhairlí iad a bheidh ionadaitheach do bhraínsí de shaol sóisialach agus eacnamaíochta an phobail.'

## ARTICLE 15.3.2<sup>o</sup> AIRTEAGAL 15.3.2<sup>o</sup>

### TÉACS GAELIGE

Dlí ar bith lena gcuirtear comhairle den sórt sin ar bun nó faoina nglactar léi ní foláir léiriú a bheith ann ar chearta, ar chumhachtaí agus ar dhualgais na comhairle sin, agus fós ar a comhbhaint leis an Oireachtas agus leis an Rialtas.

### LITERAL ENGLISH TRANSLATION

Any law establishing such a council or under which it is accepted must have/contain an interpretation/clarification/illustration of the rights, the powers and the duties of that council, and moreover of its mutual relationship with the Oireachtas and with the Government.

### ENGLISH TEXT

A law establishing or recognising any such council shall determine its rights, powers and duties, and its relation to the Oireachtas and to the Government.

### Divergences between the official texts

- 1 'Determine' is expressed as 'léiriú a bheith ann' ('have/contain a clarification/specification of') in the Irish text.
- 2 'Fós' ('moreover') precedes 'comhbhaint' ('relation') in the Irish text alone.
- 3 As in the previous subsection, 'recognize' is expressed by 'glac le' ('accept') in the Irish text.
- 4 'A law' is expressed as 'Dlí ar bith' ('any law') in the Irish text.
- 5 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 45 of the 1922 Constitution concludes as follows:

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 Éireann). *Déanfaidh an dlí le n-a mbunófar Comhairle dá sórt a comhachta, a cearta agus a dualgaisí agus an bhaint a bheidh aice le rialtas Shaorstáit Éireann do shocrú.*

### Commentary

*fós* This adverb is translated as 'yet, still' in *Ó Dónaill*, who translates 'agus fós' as 'and moreover'. *Dinneen* cites '*agus féach leat fós*, and see, further'. 'Beus' was the form of this adverb in Old Irish, 'beos' glossing Latin 'adhuc' in the eighth-century Würzburg Glosses on the Pauline Epistles. DIL cites 'agus fós do budh eagal liom' from O'Curry's edition of the *Battle of Magh Léana*, Jackson translating 'fós, bheós' as 'also, yet, too' in his edition of that text. See further the commentary on Articles 29.2 and 40.3.1<sup>o</sup>.

As in the present Article, we find 'fós' in Article 15.10 with no corresponding adverb in the English text, 'agus fós é féin agus a chomhaltaí a dhéan ar aon duine' expressing 'and to protect itself and its members against any person'. 'Agus fós chun aon fheidhmeanna eile ... a chomhlíonadh' expresses 'and to exercise such other functions' in Article 31.1. 'Dearbhaíonn Éire fós' expresses 'Ireland affirms' in Article 29.2, 'Dearbhaíonn Éire' expressing 'Ireland affirms' in the preceding section. In repeating 'ráthaíonn', '[the State] guarantees', in Articles 40.3.1<sup>o</sup> and 40.3.3<sup>o</sup>, we find 'agus ráthaíonn fós' in the Irish text with no corresponding adverb in the English text. In Article 40.6.1<sup>o</sup>ii, on the other hand, 'and to prevent or control meetings' is expressed simply as 'agus fós ar thionóil' (*lit.* 'and meetings also'), the earlier occurrence of 'prevent or control' having been expressed as 'cosc a chur nó rialú a dhéanamh ar'.

We find a corresponding adverb in the English text of Article 38.4.1<sup>o</sup> where 'agus fós chun broic le heisith' expresses 'and also to deal with a state of war'. Note finally, that in Article 41.3.3<sup>o</sup> 'agus an pósadh sin, agus bail dlí air, a bheith fós ann faoin dlí a bheas i bhfeidhm in alt na huaire' expresses 'but is a subsisting valid marriage under the law for the time being in force'.

*léiriú* The verbal noun of 'léirigh' ('make clear, explain, illustrate'), 'léiriú', is translated as 'clarification, illustration; representation' in *Ó Dónaill* (with secondary senses of 'order, arrangement, preparation' and 'production'), who cites '*léiriú a thabhairt ar rud*, to clarify something' and '*léiriú grafach*, graphic illustration'. *Dinneen* translates 'léiriughadh' as 'act of explaining, making clear, an explanation ...'. DIL translates the verb 'léirigid(ir)' as 'is diligent about, tends, attends to; makes clear (?)', citing '*léirig do laego*, care for thy calves' from the commentary on the *Amra Choluimb Chille*, a poem in praise of Colm Cille written c. 597. This verb is based on 'léir', which is translated in DIL as 'assiduous, earnest, careful, zealous', but later much more commonly with meaning 'visible, perceptible'.

'Léiriú' translates 'interpretation' in particular in the Acts, which single term is found as a Margin Title in very many of the modern Acts – see s157 of the Social Welfare (Consolidation) Act, 1981, for example. 'Na conspóidí go léir de dhroim an Choinbhinsiúin seo a léiriú nó a chur chun feidhme' translates 'All differences arising out of the interpretation or application of the present Convention' in s32 of Article IX of the Fourth Schedule to the Diplomatic Relations and Immunities Act, 1967.

'I determine (issue, etc.)' is translated as 'cinnim' in *Téarmaí Dlí*, and 'determine' is generally translated as 'cinn' in the Acts. 'The Tribunal shall determine its procedure' is translated as 'cinnfidh an Binse a nós imeachta féin' in s4(e) of Annex II to the Multilateral Investment Guarantee Agency Act, 1988, for example. See the commentary on Article 1 regarding 'determine' in the Acts.

*comhbhaint* This word is not given as a headword either in *Ó Dónaill* or in *Dinneen*, but is readily understandable as a compound of 'comh-' (which prefix is translated by *Dinneen* s.v., 'cómh-', as 'accompaniment', 'equality', 'mutuality', 'correspondence' and 'intensity') and 'baint', which headword is translated as 'connection, relationship; relevance' in *Ó Dónaill*, who cites '*nil baint aige sin leis*,



that has nothing to do with it'. 'Comhbhaint' would therefore render 'mutual relationship'.

We see above that 'baint' expresses 'relation' in this context in the 1922 Constitution. 'Caidreamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'relation (between one country and another)' in early translations for the Department of Education. We find 'gaol', 'gaolmhaireacht' and 'coibhneas' in the Acts. 'But for the relationship of the person to whom it passes' is translated as 'mara mbeadh gaolmhaireacht an té gur thuit an mhaoin chuige' in s33 of the Finance Act, 1924. 'To create or imply the relation of master and servant' is translated as 'chun coibhneas máistir agus seirbhísigh ... a chruthnú' in s54(7)(a) of the Health Act, 1953. In s156(6)(d) of the Corporation Tax Act, 1976, 'Where one of the owners in a series owns a fraction of the ordinary share capital of the company to which it is directly related' is translated as 'Má tá ceann de na húinéirí i sraith ina úinéir ar chodán de ghnáth-scairchaipiteal na cuideachta a bhfuil gaol díreach aige léi'.

*dualgais* 'Dualgas' is translated as 'duty (of office, etc.)' in *Téarmaí Dlí* – see the commentary on Articles 12.8 and 42.5. Note in passing that the *Oireachtas Dictionary of Official Terms* cites 'obair tighis' as translating 'home duties' in early translations for the Department of Industry and Commerce, 'obair chléireachais' being cited as translating 'clerical duties' in early translations for the Department of Justice.

*ar bith* See the commentary on Article 15.2.1°.

### Direct translation

Déanfar cearta, cumhachtaí agus dualgais aon chomhairle den sórt sin, maille lena gaol leis an Oireachtas agus leis an Rialtas, a chinneadh le dlí lena mbunófar an chomhairle sin nó lena dtabharfar aitheantas di.<sup>2</sup>

### Variants

- 1 Professor Máirtín Ó Murchú remarks that 'leis an dlí' would be more natural here, though this diverges from the English text.
- 2 'Cinnfeadh le dlí lena mbunófar aon chomhairle den sórt sin nó lena dtabharfar aitheantas di cearta, cumhachtaí agus dualgais na comhairle sin, maille lena gaol leis an Oireachtas agus leis an Rialtas.'

## ARTICLE 15.4.1° AIRTEAGAL 15.4.1°

### TÉACS GAEILGE

Ní cead don Oireachtas aon dlí a achtú a bheadh ar aon chuma in aghaidh an Bhunreachta seo nó in aghaidh aon fhorála den Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

The Oireachtas is not permitted to enact any law which would be in any way against this Constitution or against any provision of this Constitution.

### ENGLISH TEXT

The Oireachtas shall not enact any law which is in any respect repugnant to this Constitution or any provision thereof.

### Divergences between the official texts

- 1 'Repugnant to' is expressed simply as 'in aghaidh' ('against') in the Irish text, 'aimhréireach (le)' translating 'repugnant (to)' in *Téarmaí Dlí*.
- 2 'In any respect' is expressed as 'ar aon chuma', which phrase is generally translated as 'at any rate'.
- 3 'Thereof' is expressed as 'den Bhunreacht seo' ('of this Constitution') in the Irish text.
- 4 Again, 'shall not' is expressed as 'Ní cead' ('it is not permitted') in the Irish text.

### Commentary

*ar aon chuma* In *Téarmaí Dlí* s.v. 'cuma', 'gan a chuma air cóir mhaireachtála a bheith aige' is translated as 'with no visible means of subsistence'. *Ó Dónaill* translates 'ar aon chuma, ar chuma ar bith' as 'at any rate', *Dinneen* translating 'ar aon chuma' as 'at any rate, in any case'. 'Foróenchummi' glosses Latin 'identidem' in the ninth-century St Gall Glosses on Priscian; Old Irish 'cummae' is the verbal noun of 'con-ben' and is translated in DIL as (1) 'act of cutting, carving, hacking, destroying', (2) 'act of shaping, fashioning, composing' and 'shape, form, appearance' – the principal sense of 'cuma' in Modern Irish. See the commentary on Article 26.2.1° where this phrase expresses 'at any rate'.

We see below that 'in aon tslí' translates 'in any respect' in the Preamble to the 1922 Constitution. 'The method and manner in all or any respects of testing eggs' is translated as 'an módh agus an chaoi chun uibhe do thástáil ar gach slí nó ar aon tslí' in s14(1) of the Agricultural Produce (Eggs) Act, 1924. *Ó Dónaill* translates 'ar gach slí' as 'in every way' and 'ar aon slí' as 'in any event', citing '*ar shlí go, i slí is go*, in such a way that'. *Dinneen* cites '*ar slighidh* (with genitive), in the way of, ready or open to, *i slighidh*, id.' The early history of 'slí' parallels that of 'cuma' – 'slige' is the verbal noun of 'sligid', 'cuts, fells, strikes down, clears', developing the sense of 'way'.

Turning to the modern Acts, in s16(1) of the Redundancy Payments Act, 1979, 'If in any respect any difficulty arises in bringing into operation this Act' is translated as 'Má éiríonn aon deacracht in aon slí i ndáil leis an Acht seo ... a chur i ngníomh'; 'Má tharlaíonn aon deacracht i slí ar bith agus an tAcht seo á chur i ngníomh' translates this phrase in s17(1) of the Social Welfare (Pay-Related Benefit) Act, 1973, with 'Má éiríonn, ar shlí ar bith, aon deacracht maidir leis an Acht so do chur i ngníomh' being found in s64(1) of the Widows' and Orphans' Pensions Act, 1935. In s21(1) of the Social Welfare (Amendment) Act, 1978, 'If in any respect any difficulty arises in the administration of this Act' is translated as 'Má tharlaíonn aon deacracht ar aon dóigh ag riaradh ... an Achta seo'.

*in aghaidh* Note that 'to the extent to which they are not inconsistent therewith' is expressed as 'sa mhéid nach bhfuilid ina choinne' in Article 50.1. 'In aghaidh' is translated as 'against' in *Ó Dónaill*, who cites '*ag cur in aghaidh duine, ruda*, opposing, contradicting someone, something' and '*tá sin in aghaidh an dlí*, that is against, an infringement of, the law'. *Dinneen* translates 'i n-aghaidh' as 'against, before'. DIL cites examples of 'agad'/'aged' with 'i' in the sense of 'against', from *Leabhar na hUidhre* (completed before 1106) onwards.

In *Téarmaí Dlí* 'repugnant (to)' is translated as

'aimhréireach (le)'; in *Ó Dónaill*, 'aimhréireach' is simply translated as 'repugnant', following the abbreviation for 'Jurisprudence'. This does not appear to be given as a headword in *Dinneen*. *De Bhaldraithe* translates 'repugnant' as 'in aghaidh (ruda); contrártha (to, le), aimhréireach (to, le)' – note that 'repugnant' is defined as 'contrary to, or inconsistent with' in *A Dictionary of Irish Law*. Professor Máirtín Ó Murchú remarks that the original sense of 'aimhréireach' is 'disobedient, rebellious' (see DIL s.v. 'aimríarach') and would therefore recommend 'contrártha' as a translation of 'repugnant'.

In s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, 'if any provision of the said Constitution ... 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' is translated as 'má bhíonn aon fhoráil den Bhun-reacht roimh-ráite ... ná d'aon dlí a déanfar fé buinisciann in aon tslí le aon cheann d'fhorálacha an Chonnartha Sgeidealta, beidh sé, i méid na buiniscionntachta san amháin, gan brí gan feidhm ar bith'. 'Buinisciann ... leis na tailte sin ... d'aistriú' translates 'repugnant to ... the transfer ... of such lands' in s112 of the Dundalk Harbour and Port Act, 1925. In s3 of the Courts of Justice Act, 1924, 'In the construction of this Act, unless there is anything in the subject or context repugnant, the several words and expressions hereinafter mentioned shall have or include the meanings following' is translated as 'I léiriú an Achta so, mara bhfuil éinní san abhar no sa chó-théacs ina choinnibh, beidh leis na focail agus leis na habairtí a luaidhtear ina dhiaidh seo anso, no folóid, na brionna so a leanas'. Finally, 'Every provision of the Merchant Shipping Acts ... which is inconsistent with or repugnant to the foregoing section of this Act is, to the extent of such inconsistency or repugnancy only, hereby repealed' is translated as 'Gach foráil de sna *Merchant Shipping Acts* ... atá buinisciann leis an alt san roimhe seo den Acht so ath-ghairmtear leis seo í sa mhéid go bhfuil sí buinisciann amhlaidh agus sa mhéid sin amháin' in s3 of the Merchant Shipping (Helm Orders) Act, 1932.

Looking at the modern Acts, in s20(2)(i) of the Judicial Separation and Family Law Reform Act, 1989, 'if that conduct is such that in the opinion of the court it would in all the circumstances be repugnant to justice to disregard it' is translated as 'más iompar de chineál é nach mbeadh sé, i dtuairim na cúirte, agus sna himthosca go léir, ag teacht le ceartas dá ndéanfaí neamhshuim de'. In s9(3) of the Fisheries (Consolidation) Act, 1959, 'No bye-law shall be made under this Act which is repugnant to any law in force in the State' is translated as 'ní dhéanfar faoin Acht seo aon fhodhlí a bheidh in aghaidh aon dlí atá i bhfeidhm sa Stát'. 'Aon ordachán a bhéarfai faoin alt seo ... ní bheidh sé i gcodarsnacht ná ar neamhréir le haon rialachán' translates 'A direction given under this section shall not ... be repugnant to or inconsistent with any regulation' in s67(2) of the Harbours Act, 1946.

*in aghaidh aon fhorála* Note that the original text has 'i n-aghaidh aon fhoráilte'.

*den Bhunreacht seo* See the commentary on Article 8.3 regarding 'thereof'.

### Direct translation

Ní dhéanfaidh an tOireachtas aon dlí a achtú<sup>1</sup> a bheidh in aon slí aimhréireach<sup>2</sup> leis an mBunreacht seo nó<sup>3</sup> le haon fhoráil de<sup>4</sup>.

### Variants

- 1 'Ní achtóidh an tOireachtas aon dlí'
- 2 'contrártha', 'nach mbeidh in aon slí ag teacht'
- 3 'ná'
- 4 'den chéanna'

## ARTICLE 15.4.2<sup>o</sup> AIRTEAGAL 15.4.2<sup>o</sup>

### TÉACS GAELIGE

I gcás aon dlí dá n-achtóidh an tOireachtas a bheidh ar aon chuma in aghaidh an Bhunreacht seo nó in aghaidh aon fhorála den Bhunreacht seo beidh sé gan bhail sa mhéid go mbeidh sé in aghaidh an Bhunreacht seo agus sa mhéid sin amháin.

### LITERAL ENGLISH TRANSLATION

In the case of any law (of those) which the Oireachtas enacts being in any way against this Constitution or against any provision of this Constitution it will be without validity to the extent that it will be against this Constitution and to that extent alone.

### ENGLISH TEXT

Every law enacted by the Oireachtas which is in any respect repugnant to this Constitution or to any provision thereof, shall, but to the extent only of such repugnancy, be invalid.

### Divergences between the official texts

- 1 'Such repugnancy' is expressed as 'go mbeidh sé in aghaidh an Bhunreacht seo' ('that it will be repugnant to this Constitution') in the Irish text, 'repugnant to' being expressed as 'in aghaidh' ('against'), as in the previous subsection.
- 2 'Every law enacted' is expressed as 'I gcás aon dlí dá n-achtóidh' ('In the case of any law of those enacted') in the Irish text.
- 3 The Irish legal term for 'invalid' is 'neamhbhailí', although the phrase above, 'gan bhail', also renders 'invalid'.
- 4 As in the previous subsection, the phrase expressing 'in any respect' in the Irish text, 'ar aon chuma', usually has a sense other than that here.

Note the following in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922:

If any provision of the said Constitution ... 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 ... *má bhíonn aon fhoráil den Bhun-reacht roimh-ráite ... ná d'aon dlí a déanfar fé buinisciann in aon tslí le aon cheann d'fhorálacha an Chonnartha Sgeidealta, beidh sé, i méid na buiniscionntachta san amháin, gan brí gan feidhm ar bith.*

J.M. Kelly, op. cit., p. 205, reports as follows on reference made to this subsection by the courts:

In *Murphy v Attorney General* ([1982] IR 241) Henchy J., in asserting that an unconstitutional measure was void from the moment of enactment and not merely voidable, said:

'In its dictionary literary or colloquial connotation in modern Irish, "gan bhail" means "worthless, void, ineffective" ... In this context "gan bhail" means "without legal effect", and not "voidable" or "liable to be deprived of legal effect".'

### Commentary

*gan bhail* 'Nothing in this Constitution shall operate to invalidate the exercise of ...' is expressed as '... ní bheidh an t-oiriú sin gan bhail dlí de bhíthin aon ní sa Bhunreacht seo' in Article 37.1. 'Nothing in this Constitution shall be invoked to invalidate any law enacted by the Oireachtas', however, is expressed as 'Ní cead aon ní dá bhfuil sa Bhunreacht seo a agairt chun aon dlí dá n-achtaíonn an tOireachtas a chur ó bhail' in Article 28.3.3° and 'No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State' is rendered as 'Ní dhéanann aon fhoráileamh atá sa Bhunreacht seo aon dlíthe a d'achtaigh, gníomhartha a rinne nó bearta lenar ghlac an Stát ... a chur ó bhail dlí' in Article 29.4.5° following the Eleventh Amendment of the Constitution, 1992. Similarly, in Article 37.2 of the Constitution, following the Sixth Amendment of the Constitution (Adoption) Act, 1979, 'invalid' is not rendered by the corresponding Irish legal term 'neamhbhailí', but by 'ó bhail dlí':

No adoption of a person ... was or shall be invalid ....  
*Ní raibh ná ní bheidh aon uchtáil ... ó bhail dlighidh.*

Note that in Article 40.4.3°, following the Second Amendment of the Constitution Act, 1941, 'but that such law is invalid having regard to the provisions of this Constitution' is expressed as 'ach an dlí sin a bheith neamhbhailí ag féachaint d'fhorálacha an Bhunreacht seo'.

'Bailí' is translated as 'valid' in *Téarmaí Dlí* and 'déanaim bailí' as 'I validate', with 'bailíocht' translated as 'validity'. *Ó Dónaill* translates 'gan bhail' as 'invalid, void'. *Dinneen* translates 'gan bhail' as 'void, ineffective (of a sacrament)', citing Donlevy's *Irish Catechism*, 1742. DIL s.v. 'bal', cites 'gan buil ná éifeachd do bheith san bhreith' (of the efficacy of a judgement) from Mac Aingil's *Scáthán Shacramuinte na hAithridhe* (1618), and translates 'gan bhail' (in 'bhar bhfreagra do-bhir gan bhail', from O'Rahilly's *Measgra Dánta*) as 'ineffective'.

'Invalid' is translated as 'neamhbhailí' in *Téarmaí Dlí* and is so translated in the modern Acts. In the Long Title of the Rent Restrictions (Temporary Provisions) Act, 1981, 'declaring certain provisions of the Rent Restrictions Act, 1960, to be invalid' is translated as 'á dhearbhuí forálacha áirithe den Acht Srianata Ciosa, 1960, a bheith neamhbhailí'. 'Ní bheidh aon ní a dhéanfaidh an Bord ... neamhbhailí dá bhíthin sin amháin' translates 'nothing done by ... the Board shall be invalid solely by reason of that fact' in s26(3)(b) of the National Agricultural Advisory, Education and Research Authority Act, 1977.

'Gan brí' and 'gan éifeacht' translates 'invalid' in early Acts. In s26(4) of the Electoral Act, 1923, 'At a Dáil or Seanad election any ballot paper ... shall be invalid and

not counted' is translated as 'Raghaidh gan brí gan comhreamh i dtoghchán Dála nó Seanaid aon pháipéar ballóide'. In s3(1) of the Third Schedule thereto, 'the returning officer shall, rejecting any that are invalid, cause the ballot papers to be arranged in parcels' is translated as 'déanfaidh an ceann comhrimh, tar éis diúltú d'aon chuid aca a bheidh gan éifeacht, féachaint chuige go ndéanfar beartanna de sna páipéirí ballóide'. In s30 of the First Schedule thereto, 'Any failure to publish a document in accordance with those rules shall not invalidate the document' is translated as 'Ní bheidh aon scríbhinn nea-dhleathach de dheascaibh aon fhaillí ar í d'fhoillsiú do réir na rialacha so' and 'shall not in anywise invalidate the act or thing done' is translated as 'ní bhainfidh san pioc ó dhleathacht an ghnímh nó an ní a déanfar' in s53 of the Fifth Schedule thereto. Finally, 'provided that annulment of any such rule ... shall not prejudice or invalidate anything done thereby' is translated as 'ach ní dhéanfaidh nea-mbriochaint na riala ... san díth éifeachta ná dochar d'éinní a déanfar triotha' in s64(1) of the same Electoral Act, 1923. 'Valid' is translated as 'éifeachtach', 'éifeachtúil' and 'dleathach' in Acts of 1923, with 'dlísteanach' translating 'valid' in Article 11 of the 1922 Constitution. The phrase 'le n-a bhfuil brí' translates 'valid' in some early official translations. See further the commentary on Articles 34.3.2° ('bail a bheith'), 37.2 ('ó bhail') and 41.3.3° ('bail dlí air').

*sa mhéid Ó Dónaill* translates 'sa mhéid sin' as 'to that extent' and 'sa mhéid go' as 'in as much, in so far, as'. DIL s.v. 'méit, mét', gives examples from the Old Irish Glosses onwards of 'méit' as a relative adverb introducing a subordinate clause, translated there as 'as much as, as far as, to the extent that', citing 'beith mar bhím a mhéad as meise mé féin' ('as long as I myself am me [i.e. alive]) from a miscellaneous collection of religious poetry (*Dán Dé*), along with examples from the later language of 'méit', with the article, followed by subordinate clause, translated as 'in so far as, in as much as, because'. See the commentary on Article 10.2.

'Subsections (1) and (2) ... shall apply to the business of an associated enterprise to the extent only that the information and returns ... are materially relevant' is translated as 'ní bheidh feidhm ag fo-ailt (1) agus (2) ... maidir le gnó fiontraíochta comhlachaithe ach amháin a mhéid a bheidh baint ábhartha ... ag an bhfaisnéis agus na tuairisceáin' in s37(3) of the Central Bank Act, 1989. We see above that 'i méid na' translates 'to the extent of' in the 1922 Constitution. 'Every provision of the Merchant Shipping Acts ... which is inconsistent with or repugnant to the foregoing section of this Act is, to the extent of such inconsistency or repugnancy only, hereby repealed' is translated as 'Gach foráil de sna *Merchant Shipping Acts* ... atá buiniscionn leis an alt san roimhe seo den Acht so ath-ghairmtear leis seo í sa mhéid go bhfuil sí buiniscionn amhlaidh agus sa mhéid sin amháin' in s3 of the Merchant Shipping (Helm Orders) Act, 1932. Looking at early Acts, 'To what extent, if at all, the competition ... is unfair' is translated as 'Maidir leis an gcomórtas ..., a mhéid atá sé, má tá sé, éagcórach' in s9 of the Schedule to the Tariff Commission Act, 1926. 'To an extent not exceeding one per cent.' is translated as 'i méid nach mó ná aon per cent.' in s17 of the Finance Act, 1926. 'Extent of Repeal' is translated as 'Méid na hAthghairme' in the Fourth Schedule to the Finance Act, 1924. Note finally in

passing that 'the extent or incidence of any authority' is translated as 'leithe no achar aon údaráis' in s3 of the Interpretation Act, 1923. See further the commentary on Article 49.2.

*aon dlí dá n-achtóidh* 'Taking effect ... under laws enacted by the Oireachtas' is rendered as 'do ghlac éifeacht ... faoi dhlighthe d'achtuigh an tOireachtas' in the original and enrolled version of Article 37.2, following the Sixth Amendment of the Constitution (Adoption) Act, 1979. 'Outside the area of application of the laws enacted by the Oireachtas' is translated as 'lasmuigh den limistéar ina bhfuil feidhm ag na dlíthe a d'achtaigh an tOireachtas' in s4 of the Firearms Act, 1971 – i.e. without 'dá'. See the commentary on Article 13.3.2<sup>o</sup> regarding 'dá' and on Articles 13.3.1<sup>o</sup> and 50.1 regarding 'achtaigh'.

*ar aon chuma* See the commentary on the previous subsection.

*in aghaidh* See the commentary on the previous subsection.

### Direct translation

Gach dlí a achtóidh<sup>1</sup> an tOireachtas a bheidh in aon slí aimhréireach<sup>2</sup> leis an mBunreacht seo nó le haon fhoráil de<sup>3</sup>, beidh sé neamhbhailí sa mhéid a bheidh sé aimhréireach amhlaidh agus sa mhéid sin amháin.

#### Variants

- 1 'dá n-achtóidh'
- 2 'nach mbeidh in aon slí ag teacht'
- 3 'den chéanna'

## ARTICLE 15.5 AIRTEAGAL 15.5

### TÉACS GAELIGE

Ní cead don Oireachtas a rá gur sárú dlí gníomhartha nár shárú dlí iad le linn a ndéanta.

### LITERAL ENGLISH TRANSLATION

The Oireachtas is not permitted to say that acts which were not an infringement of law while they were being done are an infringement of law.

### ENGLISH TEXT

The Oireachtas shall not declare acts to be infringements of the law which were not so at the date of their commission.

### Divergences between the official texts

- 1 'Declare' is expressed by 'abair' ('say') in the Irish text.
- 2 'At the date of their commission' is expressed as 'le linn a ndéanta' ('while they were being done') in the Irish text.
- 3 Again 'ní cead', 'is not permitted', in the Irish text, differs in tone from 'shall not'.

Note that Article 43 of the 1922 Constitution reads as follows:

The Oireachtas shall have no power to declare acts to be infringements of the law which were not so at the date of their commission. *Ní bheidh de chomhacht ag an Oireachtas a fhógairt gur brise dlí gníomhartha nár bhrise dlí iad le linn a ndéanta.*

### Commentary

*sárú* This headword is translated as 'breach', 'contravention, infringement' in *Téarmaí Dlí*. *Ó Dónaill* translates 'sárú dlí' as 'contravention of law' and 'dlí a shárú' as 'to transgress a law'. *Dinneen* translates 'sárughadh' as 'act of forcing, compelling, getting the better of, overtaking, excelling, subduing, attacking, offending, contradicting, taking precedence of, trespassing, violating, ravishing, rescuing (from legal seizure); trespass, transgression'. DIL translates 'sáraigid' as (1) 'violates, outrages, transgresses', citing 'in rect rósárichset' ('the Law which they have outraged') from the eighth-century Würzburg Glosses on the Pauline Epistles, with 'recht' (Modern Irish 'reacht', 'statute') in place of 'dlí' of the Constitution in that phrase. DIL cites the following example of the verbal noun 'sárugud' in reference to 'commands, ordinances, etc.' of the people of Ireland, from the early twelfth-century manuscript *Leabhar na hUídhre*: 'cech smacht ... 7 cech recht no ortaigtheá ó feraib Herend ... ní laimthea a sarugud' (i.e. they used not dare be transgressed). This verb and verbal noun are based on 'sár', having the senses of 'outrage, insult, humiliation', along with 'discomfiture, defeat'; used in composition, however, it has the sense of 'exceeding, excellent, very', 'sárpher' being 'a hero' and 'Mac Ragnaill' being referred to as a 'sárthoisech' (excellent leader, Modern Irish 'taoiseach') in the *Annals of Connacht*, s.a. 1384. It is this sense which survives today, 'sárduine' being, as *Ó Dónaill* states, an 'exceedingly good person'.

We see above that 'brise' expresses 'infringement' in the 1922 Constitution. 'I dtaobh a mbriste' translates 'for their (i.e. Rules and Standing Orders) infringement' in Article 20 also. We also find 'brise isteach ar' in early Acts. 'Any proceedings respecting the validity or infringement of a patent' is translated as 'aon imeachta i dtaobh dleathacht paitinne no brise isteach uirthé' in s1(3)(d) of the Indemnity Act, 1923. We find the above translated as 'Aon imeachta i dtaobh dleathacht no sarú paitinne' in s1(5)(d) of the Indemnity Act, 1924. 'Sarú sicreáchtá' translates 'Infringement of secrecy' in the Margin Title of s28 of the Electoral Act, 1923. Note that 'or any actual or anticipated infringement or violation of the same' (in relation to 'rights') is translated as 'no aon bhrise isteach no sárú a dineadh no a meastar a déanfar ar an gcéanna' in s6(7) of the Dublin Reconstruction (Emergency Provision) Act, 1924.

In s4(5) of the Plant Varieties (Proprietary Rights) Act, 1980, 'infringements of plant breeders' rights shall be actionable at the suit of the holder of the rights' is translated as 'beidh sárúithe ar chearta póraitheoirí plandaí inchaingne ar agra shealbhóir na gceart'. 'Gníomhartha ar sárúithe iad ar chóipchirt' translates 'acts constituting infringements of copyrights' in s3(3) of the Copyright Act, 1963, 'gur sárúithe cóipchirt iad' translating 'that they are infringements of copyright' in s183 of the Industrial and Commercial Property (Protection) Act, 1927.

*le linn a ndéanta* 'Lena linn sin' is translated in *Ó Dónaill* as 'during that time; at that point, thereupon', citing '*le linn na hoíche*, in the course of the night' and '*le linn a bháis dó*, when he was dying'. *Dinneen* translates 'le linn' as 'while, during the time, reign or lifetime of', citing '*le linn iad do bheith ag dul thar bhrághaid*, just as they were passing' and '*thug iomarca gradaim do'n dragan le linn fillte*, which brought much honour to the hero on his return'. DIL translates 'fri (re) linn' as 'during, in the lifetime or reign of' and as 'while' with verbal noun clause, citing 'ré linn Phápa do dhéanamh' from Keating's seventeenth-century *Three Shafts of Death*.

See the commentary of Article 12.3.1° regarding 'date' in the Constitution. In s119 of the Finance Act, 1990, 'the value of the shares redeemed at the date of their redemption' is translated as 'luach na scaireanna a fuaclaíodh ar dháta a bhfuascailte'. 'Ar dháta na diúscartha' translates 'at the date of the disposition' in s46(1) of the Finance Act, 1981. In s7 of the Emergency Powers (Continuance and Amendment) Act, 1942, however, 'the making of any amendment which would cause acts to be infringements of the law which were not so at the date of their commission' is translated as 'aon leasú do dhéanamh do bhéarfadh gur sárú dlí gníomhartha nár shárú dlí le linn a ndéanta'. Note, also, that in s2(2) of the Foyle Fisheries (Amendment) Act, 1976, 'Provided that nothing in this Act shall have the effect of making or declaring any acts to be unlawful which were not unlawful at the time of their commission' is translated as 'Ar choinníoll nach mbeidh d'éifeacht le haon ní san Acht seo aon ghníomhartha nach raibh neamhdhleathach tráth a ndéanta a dhéanamh neamhdhleathach ná a dhearbhu iad a bheith neamhdhleathach'.

Looking at early Acts regarding 'commission', in s7(1) of the Beet Sugar (Subsidy) Act, 1925, 'Every person who contravenes or commits a breach (whether of commission or omission) of any regulation' is translated as 'Gach éinne a dhéanfaidh sárú no aon bhrise (le gníomh no le failli) ar aon rialachán'. As regards 'déan' translating 'commit' note that 'in respect of offences done, committed, made or continued in or upon the public river' is translated as 'i dtaobh ciontaí a dineadh no dar leanadh in no ar an abhainn phuibli' in s82 of the Dundalk Harbour and Port Act, 1925.

*gníomh* This headword is translated as 'act' in *Téarmaí Dlí. Ó Dónaill* gives 'act, deed' as one set of senses of 'gníomh', citing '*gníomh nirt a dhéanamh*, to perform a feat of strength'. *Dinneen* translates 'gníomh' as 'act of doing deeds; an act, action or deed', and cites '*is mór an gníomh a dhein sé*, he has accomplished a great feat' and '*déanfaidh sé gníomh muna goisctear é*, he will do something terrible unless he is checked'. DIL translates 'gním' as (a) 'doing, performing, executing', (b) 'acting, action, activity, work ... a definite act, deed' – Fergus says of Cú Chulainn in the *Táin*: 'mac bec doringni in gním sin' ('a little boy who did that deed'), for example. See further the commentary on Article 40.4.6°. Professor Máirtín Ó Murchú remarks that 'gníomhartha' is a development of the old collective noun 'gníomhradh'. Regarding the phrase 'gníomh a dhéanamh' note that the verb 'déan' is from the same root as 'gní', 'act', verbal noun 'gníomh', its derivation being from 'do-gní'/di-gní', verbal noun 'dénum'/déanamh'. See further the commentary on Article 13.8.1°.

*a rá* See the commentary on Articles 12.8 and 12.10.7° regarding 'declare' in the Constitution. 'If any law ... shall declare acts committed by a prisoner of war to be punishable' is translated as 'Má dhearbhaíonn aon dlí ... go mbeidh gníomhartha a dhéanfaidh príosúnach inphionóis' in Article 82 of the Third Schedule to the Geneva Conventions Act, 1962, for example. In s5(4)(b) of the Safety, Health and Welfare (Offshore Installations) Act, 1987, 'Regulations under this Act ... may declare that contravention of a condition specified in the regulations shall be an offence' is translated as 'Féadfaidh rialacháin faoin Acht seo ... a dhearbhu gur cion é coinníoll a shonraítear sna rialacháin a shárú'. 'The Minister may by order declare that this Act shall apply to a specified class of employee' is translated as 'Féadfaidh an tAire a dhearbhu le hordú go mbainfidh an tAcht seo le haicme shonraithe fostaithe' in s7(3)(b) of the Protection of Employment Act, 1977. Note finally that the Long Title of the Coroners (Qualifications) Act, 1924, 'An Act to declare certain persons ... to be qualified to be appointed to be coroners' is translated as 'Acht chun faisnéis do dhéanamh ar dhaoine áirithe ... do bheith cáilithe chun a gceaptha ina gcoróinéirí'.

Professor Máirtín Ó Murchú remarks that this is a case where the simple future tense in Irish is not really satisfactory as a translation of English 'shall' as it involves the declaration of something which is not appropriate to do rather than of something which will not be done. Professor Ó Murchú recommends 'Ní cead/cuí/féidir don Oireachtas a dhearbhu gur sárú dlí aon ghníomhartha nárbh amhlaidh dóibh le linn a ndéanta'.

### Direct translation

Ní dhéanfaidh an tOireachtas a dhearbhu<sup>1</sup> gur sárúithe ar an dlí<sup>2</sup> gníomhartha nárbh amhlaidh dóibh<sup>3</sup> ar dháta<sup>4</sup> a ndéanta.

### Variants

- 1 'Ní cead don Oireachtas a dhearbhu'
- 2 'gur sárú dlí'
- 3 'nár shárú dlí iad'
- 4 'le linn', 'tráth'

## ARTICLE 15.6.1° AIRTEAGAL 15.6.1°

### TÉACS GAELIGE

Is ag an Oireachtas amháin atá de cheart fórsaí míleata nó fórsaí armtha a bhunú agus a chothabháil.

### LITERAL ENGLISH TRANSLATION

(It is) The Oireachtas alone (that) has the right to establish and maintain military forces or armed forces.

### ENGLISH TEXT

The right to raise and maintain military or armed forces is vested exclusively in the Oireachtas.

### Divergences between the official texts

- 1 'Exclusively' is expressed as 'amháin' ('alone') in the Irish text, the term for 'exclusive' being 'eisiatach' according to *Téarmaí Dlí*.

- 2 'To raise forces' is expressed as 'fórsaí a bhunú' ('to establish forces') in the Irish text.
- 3 The term expressing 'maintain' in the Irish text, 'chothabháil', is more generally used today in the sense of maintaining a car, engine, road, etc., although this is also the term given in *Téarmaí Míleata*, perhaps based on this Article; 'maintain' can also have the sense of 'keep', particularly in this context.
- 4 'Vested in' is expressed as 'is ag' ('has') in the Irish text.

Note that Article 46 of the 1922 Constitution reads as follows:

The 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 .... *Is ag an Oireachtas amháin atá an t-aon cheart chun rialú do dhéanamh i dtaobh tógaint agus cothú na bhfórsaí armtha san i gcríocha Shaorstáit Éireann atá luaithe sa Chonnradh Sgeidealta.*

### Commentary

*a chothabháil* 'Cothabháil' is translated as 'sustenance, maintenance' in *Ó Dónaill*, 'cothú' being given as the standard form of the secondary sense. 'Cothú' is the verbal noun of 'cothaigh', translated as 'feed, nourish, sustain' in *Ó Dónaill*, who cites '*duine, ainmhí, planda, a chothú*, to feed a person, an animal, a plant' and '*tine, inneall, a chothú*, to feed a fire, an engine'. *Dinneen* translates 'cothabháil' as 'act of supplying, feeding, maintaining'. 'Coth' is translated as 'food, sustenance' in DIL, with 'cothaigid' translated as (a) 'supports, sustains, preserves', (b) 'feeds, nourishes'. 'Cothaigid', and the verbal noun 'cohad'/'cothugad', are used frequently of battles – DIL cites 'co rochothaighis co calma fri Laitinaib' ('that they should bravely withstand ...') from *Imtheachta Aeniasa, The Irish Aeneid*, along with 'rochothaigset na curaid ... is in chath-lathair' ('... maintained the field') and 'ag cohad ar a cind is in cathgleo sin' ('pressing on the combat'), both these examples coming from the *Banquet of Dún na nGedh and the Battle of Magh Rath*.

As we see above, 'cothú' translates 'maintaining' in Article 46 of the 1922 Constitution. In s8(2) of the Ministers and Secretaries Act, 1924, however, 'control and maintenance of the Defence Forces' is translated as 'stiúru agus coinneáil-suas na bhFórsaí Cosanta'. In s2(1) of the Garda Síochána (Temporary Provisions) Act, 1923, 'to ... pay and maintain in Saorstát Éireann a force of police' is translated as 'fórsa póilinteachta ... d'íoc agus do choinneáil suas i Saorstát Éireann'. 'Fórsa armtha do chó-ghléasa no do chimeád ar bun' translates 'to organize or maintain an armed force' in s4(1)(b) of the Public Safety Act, 1927.

'Údarás chun Óglaigh na hÉireann a bhunú agus a chothabháil' translates 'Authority to raise and maintain the Defence Forces' in the Margin Title of s16 of the Defence Act, 1954, which section reads as follows:

It shall be lawful for the Government to raise ... and maintain defence forces to be called and known as Óglaigh na hÉireann or (in English) the Defence Forces. *Is dleathach don Rialtas fórsaí cosanta dá ngairmfear agus ar a dtabharfar Óglaigh na hÉireann nó (i mBéarla) the Defence Forces a bhunú ... agus a chothabháil.*

We find 'cothabháil' used in the Acts in the sense of maintaining a prosecution ('ionchúiseamh ... a chothabháil', in s16(3) of the European Assembly Elections Act, 1977, for example), maintaining an institution (see, for example, s7(2) of the Social Welfare Act, 1977: 'while he is an inmate of any institution maintained wholly or partly out of public moneys', '*le linn dó bheith ina iostaí in aon fhoras a chothabháiltear go hiomlán nó go páirteach as airgead poiblí*'), maintaining of accounts ('all accounts maintained by the person', '*na cuntais go léir a bhí á gcothabháil ag an duine sin*', in s18(2)(b)(ii) of the Finance Act, 1983), maintaining a fund ('to establish and maintain ... any contributory ... pension ... funds', '*aon chistí pinsean ... ranníocach a bhunú agus a chothabháil*', in s17(h) of the Dublin Cemeteries Committee, 1970), maintaining a person ('the beneficiary is living with or wholly ... maintaining his wife', '*[aon tréimhse a bheidh] an tairbhí in aontíos lena bhanchéile nó a chothabháil go hiomlán*', in s8 of the Social Welfare Act, 1970) and maintaining a building ('to build ... and maintain buildings', '*foirgnimh ... a fhoirgníú agus a chothabháil*' in s17(i) of the previous Act but one).

In s5(1) of the International Health Bodies (Corporate Status) Act, 1971, on the other hand, 'The Minister shall maintain a register of bodies to which corporate status orders relate' is translated as 'Coimeádfaidh an tAire clár de chomhlachtaí lena mbaineann orduithe um stádas corpraithe'. In Article 5(e) of the Second Schedule to the Radiological Protection Act, 1991, 'establish and maintain liaison with relevant international organizations' is translated as 'ceangal a bhunú agus a choinneáil ar bun le heagraíochtaí idirnáisiúnta iomchuí'. In the *Programme for a Partnership Government, 1993-97*, 'to maintain and improve the capacity of the Defence Forces' is translated as 'cumas na bhFórsaí Cosanta a choinneáil ar bun agus a fheabhsú'.

'To maintain forces' is translated as 'fórsaí a chothabháil' in *Téarmaí Míleata*, 'I maintain' being translated as 'cothabhálaim, cothaím, coinním, coimeádam'. *De Bhaldráithe* includes 'coinním (arm)' s.v. 'maintain'. Finally, note that the *Shorter Oxford Dictionary* gives as one set of senses of 'maintain': 'to pay or furnish the means for the keeping up of; to keep supplied or equipped (e.g. a ship, a garrison); to keep (a road, a building) in repair'.

Looking at 'maintain' in general in early Acts, 'Liability of soldier to maintain wife and children' is translated as 'Oblagáid ar shaighdiúir chun a bhean agus a chlann do chothú' in the Margin Title of s141 of the Defence Forces (Temporary Provisions) Act, 1923, where 'and also to the maintenance of any bastard child of which he may be proved to be the father' is translated as 'agus fós chun aon leanbh tabhartha do chothú na gruthófar gurb é a athair é'. 'Receive, harbour, assist and maintain the said H.C.' is translated as 'H.C. sin do ghlaca, do shólású, do chimeád fé n-a choimirce agus cabhair agus cothú do thabhairt do' in the 'Appendix to Rules' in the Criminal Justice (Administration) Act, 1924. 'Do choinneáil ar siúl' translates 'maintenance' in relation to 'works, machinery, plant' in s5 of the Sligo Lighting and Electric Power Act, 1924, with 'do choinneáil i dtreo' translating 'maintain' in relation to electric generating stations in s20(3) of the Electricity (Supply) Act, 1927.

*a bhunú* Literally 'to establish'. The term used in the

1922 Constitution was ‘tógáil’ (literally ‘raise’), as we see above. ‘It shall be lawful for the Executive Council to raise and maintain an armed force to be called Óglaigh na hÉireann’, in s4 of the Defence Forces (Temporary Provisions) Act, 1923, is translated as ‘Beidh sé dleathach don Ard-Chomhairle fórsa armtha do thógáil agus do choinneáil suas, fórsa dá ngairmtear Óglaigh na hÉireann’. ‘Tógáil’ is used in relation to ‘raising’ the Defence Forces in s8(2) of the Ministers and Secretaries Act, 1924. *De Bhaldraithe* also translates ‘to raise an army’ as ‘arm a thógáil’. In s2(1) of the Garda Síochána (Temporary Provisions) Act, 1923, on the other hand, ‘It shall be lawful for the Executive Council of Saorstát Éireann to raise ... and maintain in Saorstát Éireann a force of police to be called and known as “The Garda Síochána”’ is translated as ‘Beidh sé dleathach d’Ard-Chomhairle Shaorstáit Éireann fórsa póilíneachta dá ngairmfear “An Garda Síochána” do chruinniú ... agus do choinneáil suas i Saorstát Éireann’. This is the term used in relation to raising money – see, for example, s14(4) of the Health Tax Act, 1975, where ‘raising the amount of the tax’ is translated as ‘méid na cánach a chruinniú’. Note finally that in s19(1) of the Offences Against the State Act, 1939, ‘raises or attempts to raise or maintain a military or armed force in contravention of the Constitution’ is translated as ‘a dhéanfaidh no thriallfaidh fórsa armtha no míleata do chur le chéile no do chothabháil contrárdha don Bhunreacht’.

*amháin* See the commentary on Article 45. In the *Joint Declaration* of December 1993, ‘that from now on their differences can be negotiated and resolved exclusively by peaceful means’ is translated as ‘gur féidir na difríochtaí eatarthu a chaibidil agus a réiteach feasta trí mhodhanna polaitiúla síochánta amháin’. ‘Exclusively’ is usually translated as ‘go heisiatach’ in the Acts – see the commentary on Articles 8.3 and 15.2.1<sup>o</sup> regarding ‘eisiatach’ (standard form ‘eisiach’ according to *Ó Dónaill*) translating ‘exclusive’. In s73(b) of the Finance Act, 1973, for example, ‘a capital company whose objects are exclusively cultural, charitable or educational’ is translated as ‘cuideachta chaipitiúil ar cuspóirí cultúir, carthanais nó oideachais go heisiatach a cuspóirí’. ‘Machinery designed ... to be used exclusively or principally for the extraction of turf for fuel’ is translated as ‘innealra atá deartha ... lena úsáid go heisiatach nó go príomha chun móin a bhaint le haghaidh breosla’ in s8(1) of the Turf Development Act, 1981. In s12(4) of the Corporation Tax Act, 1976, ‘there may be deducted any sums disbursed by the company wholly, exclusively and necessarily as expenses of management’ is translated as ‘féadfar aon suimeanna a asbhaint a chaith an chuideachta go hiomlán, go heisiatach agus de riachtanas mar chaiteachas bainistí’. Note, finally, that ‘all members of any particular class of such citizens or such inhabitants are exclusively entitled to take advantage’ is translated as ‘ag gach duine d’aon aicme áirithe de sna cathrúitheoirí sin no de sna háititheoirí sin a bheidh an teideal ar fad chun tairbhe do bhaint asta’ in s28(2) of the Local Government (Dublin) Act, 1930.

Commenting on the translation below, Professor Máirtín Ó Murchú remarks that ‘eisiatach’ is a slightly strange/unfamiliar (“saghas deoranta”) term and recommends ‘Is don Oireachtas amháin a dhílsítear ...’ rather than ‘Dílsítear don Oireachtas go heisiatach ...’.

*armtha* *Ó Dónaill* gives this headword as a variant past participle of ‘armáil’ (‘arm’), citing ‘long armáilte, armed ship’, as against ‘long armtha’ s.v. ‘armáil’. *L. Mc Cionnaith* translates ‘armed men’ as ‘lucht airm; fir armtha [*Munster*], armáilte [*Connacht*]’. He cites ‘1,000 men armed and accoutred, míle fear i n-arm ’s i n-éideadh’ and ‘armed revolt, forces &c., éirghe amach, na fórsaí, 7c. armtha’, followed by the abbreviation for ‘Terms from Staff of Dáil, *Foclóir Oifigeamhail*’. *Dinneen* translates ‘armtha’ as ‘armed’. DIL gives ‘armtha(e)’ (‘armed’) as participle of ‘armaid’, and cites ‘ind armthi’ from the ninth-century Milan Glosses on the Commentary on the Psalms, where it glosses Latin ‘armati’. The verb ‘armaid’ is based on ‘arm’, which comes from the Latin ‘arma’.

In *Téarmaí Dlí* ‘armed rebellion’ is translated as ‘ceannairc faoi airm’ and we find ‘even in the case of armed conflict’ translated as ‘fiú amháin i gcás coinbhleacht faoi arm’ in s2 of Article 39 of the Schedule to the Diplomatic Relations and Immunities Act, 1967. In s3 of the Red Cross Act, 1954, ‘the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea’ is translated as ‘Coinbhinsiún na Geinébhe le Foirthin ar Chomhaltá Gonta, Tinne agus Longbhriste d’Fhórsaí Armtha ar Muir’. ‘By means of armed attacks on the Military Forces of Saorstát Éireann’ is translated as ‘tré fhoghna armtha do thabhairt fé Fhórsaí Míleata Shaorstáit Éireann’ in the Preamble to the Public Safety (Emergency Powers) Act, 1923, ‘An armed revolt against the Government of Saorstát Éireann’ being translated as ‘Éirghe Amach armtha i gcoinnibh Rialtais Shaorstáit Éireann’ in s1 of the Schedule thereto.

*fórsaí* ‘Fórsa’ is translated principally as ‘force’ in *Ó Dónaill*, who cites the secondary sense of ‘na fórsaí, the forces, troops’. *Dinneen* translates the plural form of ‘fórsa’ as ‘military forces, troops’. DIL does not appear to give this headword but cites ‘biocunt ... fórsalach’ (‘forceful, ruthless’) from the *Poems on the Butlers*.

Turning to the Acts, ‘in respect of any disability incurred in the armed forces of the State’ is translated as ‘i leith aon mhíchumais a bhain dó i bhfórsaí armtha an Stáit’ in s131(2) of the Social Welfare (Consolidation) Act, 1981, for example, and ‘chosen from the regular military forces ... of the Detaining Power’ is translated as ‘a thoghfar as fórsaí míleata rialta ... na Cumhachta Coinneála’ in Article 99 of the Fourth Schedule to the Geneva Conventions Act, 1962.

We see above that ‘fórsaí armtha’ translates ‘armed forces’ in the 1922 Constitution. Looking at ‘force’ in general in the early Acts, in s5 of the Prevention of Electoral Abuses Act, 1923, ‘Every person who shall ... make use of or threaten to make use of any force, violence, or restraint’ is translated as ‘Gach éinne a dhéanfaidh ... aon fhórsa, éigean, no cosc d’imirt no do bhagairt ar dhuine’. ‘To use force’ is translated as ‘foirneart do chur i bhfeidhm’ in the Industrial and Commercial Property (Protection) Act, 1927, ‘le lámh láidir’ translating ‘by force’ in the Preamble to the Public Safety (Emergency Powers) Act, 1923, ‘neart claidhimh’ translating ‘force of arms’ in the Treasonable Offences Act, 1925. ‘Le héigean nó le hainneoin’ translates ‘by force or duress’ in the latter Act, ‘le foirneart’ translating ‘forcibly’ in the 1922 Constitution. Finally, ‘foiréigean’ translates ‘force’ in s25 of the Enforcement of Court Orders Act, 1926, where ‘peaceably and without force’ is translated as ‘go síochánta agus gan foiréigean’.

*Is ag* As regards 'vest', see the commentary on Articles 10.1 and 13.4.

*de cheart* See the commentary on Article 12.2.2°.

### Direct translation

Dílsítear<sup>1</sup> go heisiatach<sup>2</sup> don Oireachtas an ceart chun fórsaí míleata nó armtha a thógáil agus a chothú<sup>3,4</sup>.

#### Variants

- 1 'Tugtar'
- 2 'go heisiach'
- 3 'a choinneáil', 'a chothabháil'
- 4 'Déantar an ceart chun fórsaí míleata nó armtha a thógáil agus a chothabháil a dhísiú go heisiatach don Oireachtas.'

## ARTICLE 15.6.2° AIRTEAGAL 15.6.2°

### TÉACS GAELIGE

Ní dleathach fórsa míleata ná fórsa armtha ar bith, seachas fórsa míleata nó fórsa armtha a bhunaítear agus a chothabháiltear ag an Oireachtas, a bhunú ná a chothabháil chun críche ar bith.

### LITERAL ENGLISH TRANSLATION

It is not / shall not be lawful to establish or maintain for any purpose any military force or armed force whatsoever, apart from a military force or an armed force which is established and which is maintained by the Oireachtas.

### ENGLISH TEXT

No military or armed force, other than a military or armed force raised and maintained by the Oireachtas, shall be raised or maintained for any purpose whatsoever.

### Divergences between the official texts

- 1 'No ... shall' is expressed as 'Ní dleathach' ('it shall not be lawful to') in the Irish text.
- 2 As we saw in the previous subsection, 'bunaigh' ('establish') expresses 'raise' in the Irish text.

### Commentary

*ar bith* See the commentary on Articles 9.1.3° and 15.2.1°. In s51 of the Income Tax Act, 1967, for example, 'the public revenue of any Government whatsoever' is translated as 'ioncam poiblí Rialtais ar bith'. 'Iasc a thógáil as iascach ar dhóigh ar bith' translates 'take fish from a fishery by any means whatsoever' in s18(1)(a) of the Fisheries Act, 1980. 'From funds provided by the Oireachtas for any purpose whatsoever' is translated as 'ó chistí a sholáthróidh an tOireachtas chun críche ar bith' in s153(5) of the Social Welfare (Consolidation) Act, 1981. In s16(1) of the Local Loans Fund Act, 1935, 'any money payable to such local authority by any Minister for any purpose whatsoever' is translated as 'aon airgead is infioctha ag aon Aire leis an údarás áitiúil sin chun críche ar bith', with 'agus ní húsáidfe sé iad chun aon chríche eile in aon

chor' translating '... and for no other purpose whatsoever' in s3(2) of the Finance (Customs and Stamp Duties) Act, 1929.

*Ní dleathach* See the commentary on Article 14.3. Commenting on the translation below, Professor Máirtín Ó Murchú remarks that the future in the Irish text does not succeed as an expression of the English text's 'shall' – the simple future being more in the nature of prophecy – and that it is difficult to avoid using a phrase such as 'ní dleathach' or 'ní cead' in this context.

*a bhunaítear agus a chothabháiltear* See the commentary on the previous subsection.

*fórsa míleata nó fórsa armtha* See the commentary on the previous subsection.

### Direct translation

Ní dhéanfar aon fhórsa míleata ná armtha, seachas fórsa míleata nó armtha arna thógáil agus arna chothú<sup>1</sup> ag an Oireachtas, a thógáil ná a chothú<sup>2</sup> chun críche ar bith.

#### Variants

- 1 'arna chothabháil', 'arna choinneáil'
- 2 'a chothabháil', 'a choinneáil'

## ARTICLE 15.7 AIRTEAGAL 15.7

### TÉACS GAELIGE

Ní foláir don Oireachtas suí uair sa bhliain ar a laghad.

### LITERAL ENGLISH TRANSLATION

The Oireachtas must sit at least once a year.

### ENGLISH TEXT

The Oireachtas shall hold at least one session every year.

### Divergences between the official texts

- 1 'To hold a session' is expressed as 'suí' ('to sit') in the Irish text.
- 2 Again the Irish text expresses 'shall' as 'Ní foláir' ('must').

See the *Report of the Constitution Review Group* (May 1996), p. 43:

The Irish version 'suí' appears to favour the interpretation of 'session' in the English version as 'sitting' but this hypothesis is negated by the differential use of the form 'sittings' in section 8. If a consecutive series of individual sittings is intended by the use of the word 'session', the Irish version should be amended as follows:

Ní foláir do Thithe an Oireachtais suí tréimhse amháin sa bhliain ar a laghad.

'Oireachtas' should be replaced by 'The Houses of the Oireachtas' in the English version.



Note that Article 24 of the 1922 Constitution commences as follows:

The Oireachtas shall hold at least one session each year. *Tionólfaidh an t-Oireachtas siosón amháin ar a luighead gach bliain.*

### Commentary

*suí* The verbal noun of 'suigh', 'sit' – see the commentary on Article 15.1.3°. *Ó Dónaill* cites '*suí ar choiste*, to sit on a committee' and '*suífidh an chúirt go raibh an cás pléite*, the court will sit until the case has been considered'. *Dinneen* cites 'gan rígh do shuidhe i dTeamhair' ('that no king should settle down in Tara') from Keating's seventeenth-century *History of Ireland*.

In s149(3) of the *Standing Orders* of Dáil Éireann (1997), 'enquiring into in public session' is translated as 'a fhiosrú i seisiún poiblí'. In the Preamble to the Dublin Cemeteries Act, 1970, 'Whereas by an Act passed in the Session of Parliament held in the ninth and tenth years of Queen Victoria' is translated as 'De bhri go ndearnadh le hAcht a ritheadh sa Seisiún Parlaiminte a tionóladh sa naoú agus sa deichiú bliain den Bhanríon Victoria'. In the *Programme for a Partnership Government*, 1993-97, 'it will meet in plenary session periodically' is translated as 'tionólfar seisiún iomlán den Fhóram ó am go chéile'. In *Treaties establishing the European Communities* (1973, p. 799), 'the Council shall hold its sessions in Luxembourg' is translated as 'is i Lucsamburg a bheidh a cruinnithe ag an gComhairle'. In the *Treaty on European Union* (Maastricht, 1992, p. 65) 'before the opening of the session of the European Parliament' is translated as 'roimh oscailt sheisiún Pharlaimint na hEorpa'.

'Is í an Chúirt féin amháin, ina suí i seisiún iomlánach di, a bheidh inniúil ar dhíolúine bhreithiúna a tharscaoileadh' translates 'The Court alone, sitting in plenary session, shall be competent to waive the immunity of judges' in Article 6 of the Fourth Protocol annexed to the Diplomatic Relations and Immunities Act, 1967, 'whether or not the assembly is itself in session at such time' being translated as 'cibé acu a bheidh nó nach mbeidh an Comhthionól féin ina shuí an tráth sin' in Article 3 of the First Protocol. See Article 24 of the 1922 Constitution above, 'na Cúirteanna Ceathrú Shiosóin' translating 'Courts of Quarter Sessions' in Article 75. 'Siosón agus Caibideal' translates 'Session and Chapter' in the Schedule to the Juries (Amendment) Act, 1924. Finally, note that 'Coiste Roghnathóireachta an tSiosóin' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'Sessional Committee of Selection' on the Dáil *Order Paper*, 1925 (p. 174).

*sa bhliain* *Ó Dónaill* translates '*sa bhliain, in aghaidh na bliana*' as 'per annum'. DIL cites three examples of 'bliain' with 'gach' s.v. 'bliadain', the earliest being from *Leabhar na hUidhre* (completed before 1106): 'oénach dognithe la Ultu cecha bliadna', translated as 'every year' in DIL (i.e. an assembly used be held every year by the Ultonians).

Looking specifically at 'every year', in *Treaties establishing the European Communities* (1973, p. 1354), 'This percentage is to be 3% in 1973 and shall increase each year by one point to reach 14% in 1984' is translated as '3% a bheidh sa chéatadán sin i 1973 agus méadófar é

pointe amháin gach bliain go sroichfidh sé 14% i 1984'. 'The accounts of the Council shall be audited at least once in every year by an auditor ...' is translated as 'Déanfar cuntais na Comhairle a iniúchadh uair ar a laghad gach bliain ag iniúcháir' in s21(1) of the Medical Practitioners Act, 1978. 'Regulations for the purposes of this section shall provide ... for the holding by the Society at least once in every year of ... a first examination in the Irish language' is translated as 'Forálfaidh rialacháin chun críoche an ailt seo ... go gcuirfidh an Cumann ar siúl uair amháin ar a laghad gach bliain ... an chéad scrúdú sa Ghaeilge' in s40(3) of the Solicitors Act, 1954.

*Ní foláir* See the commentary on Article 11 regarding 'ní foláir' ('must') expressing 'shall'. Again Professor Máirtín Ó Murchú remarks that the simple future in the translation below is not a completely satisfactory translation of 'shall'.

### Direct translation

Tionólfaidh an tOireachtas seisiún amháin ar a laghad gach bliain.<sup>1</sup>

### Variants

- 1 'Beidh seisiún amháin ar a laghad sa bhliain ag an Oireachtas.', 'Tionólfar seisiún amháin ar a laghad den Oireachtas gach bliain.'

## ARTICLE 15.8.1° AIRTEAGAL 15.8.1°

### TÉACS GAELIGE

Is go poiblí a shuifidh gach Teach den Oireachtas.

### LITERAL ENGLISH TRANSLATION

It is publicly that each House of the Oireachtas will sit. / Each House of the Oireachtas will sit publicly.

### ENGLISH TEXT

Sittings of each House of the Oireachtas shall be public.

### Divergences between the official texts

- 1 'Sittings ... shall be public' is expressed as 'Is go poiblí a shuifidh' ('It is publicly that ... will sit') in the Irish text.

Note that Article 25 of the 1922 Constitution commences as follows:

Sittings of each House of the Oireachtas shall be public.  
*Beidh suidheanna gach Tighe den Oireachtas go puiblí.*

### Commentary

*a shuifidh* See the commentary on the previous section regarding 'suigh', 'sit'. In the *Programme for a Partnership Government*, 1993-97 (p. 17), 'there will be Friday sittings to deal with Reports from Committees' is translated as 'suifear ar an Aoine chun déileáil le Tuarascálacha ó Choistí'. 'Sitting' is translated as 'suí' in *Téarmaí Dlí*, where, for example, 'Michaelmas Sittings' is translated as 'Suíonna

na Féile Michil'. In s3(1) of the School Attendance (Amendment) Act, 1967, 'to procure the attendance of the child at a sitting of the District Court at a time and place specified in the warrant' is translated as 'a chur faoi deara go mbeidh an leanbh i láthair ag suí den Chúirt Dúiche tráth agus in áit a shonrófar sa bharántas'. In the *Standing Orders* of Dáil Éireann (1997), the heading for s21, 'Sittings of the Dáil', is translated as 'Suíonna na Dála'. 'Late sittings' is translated as 'Suíonna déanacha' in s22 and 'authorised representatives of the Press may be present at sittings of the Dáil' is translated as 'féadfaidh ionadaithe údaraithe Nuachtán bheith i láthair ag suíonna na Dála'. 'The Commissioner ... shall hold the sittings otherwise than in public' is translated as 'tionólfaidh an Coimisinéir na suíonna seachas go poiblí' in s12(2) of the Criminal Law (Jurisdiction) Act, 1976. 'Suidheanna príobháideacha den Choimisiún' translates 'private sittings of the Commission' in s23(b) of the Control of Prices Act, 1932. 'The adjournment, dissolution and sittings of Courts-Martial' is translated as 'Arm-Chúirteanna do chur ar athló, a scur agus a suidheanna' in s125(1)(c) of the Defence Forces (Temporary Provisions) Act, 1923. See further the commentary on Article 22.2.2°.

Professor Máirtín Ó Murchú remarks in passing that 'suíochán' also has the sense of 'sitting', citing 'd'ólfadh sé fiche píunt in aon tsuíochán amháin' ('he would drink twenty pints at one sitting').

*go poiblí* 'Poiblí' translates 'public' in such terms as 'beartas poiblí' ('public policy'), 'ceart slí poiblí' ('public right of way') and 'údarás poiblí' ('public authority') in *Téarmaí Dlí*, but is also found in the terms 'an mhaitheas phoiblí' ('the common good') and 'bóthar poiblí' ('highway'). *Ó Dónaill* translates 'go poiblí' as 'publicly, openly' and *Dinneen* translates 'poiblidhe' as 'public, common, well-known'. DIL translates 'puiplide'/'puiblide' as 'pertaining to the people, public' and cites 'da cluinter na comraiti sea co puipligi', '... publicly' (i.e. if these conversations were heard publicly) from the *Yellow Book of Lecan*, part of which was written at the end of the fourteenth century. DIL also cites 'go poiplidhi' from Ó Cianáin's *Flight of the Earls*. See further the commentary on Articles 34.1 and 40.6.1°.

In s149(2)(b) of the *Standing Orders* of Dáil Éireann (1997), 'the Committee shall have power to take evidence in public' is translated as 'beidh an chumhacht ag an gCoiste fianaise a ghlacadh go poiblí'. In s149(3), 'The Committee shall refrain from enquiring into in public session ... confidential information' is translated as 'Staonfaidh an Coiste ó fhaisnéis rúnda ... a fhiosrú i seisiún poiblí'. In *Treaties establishing the European Communities* (1973, p. 688), 'The hearing in court shall be public' is translated as 'Is i gcúirt oscailte a éistfear cásanna'; the heading of that Article, 'Hearing to be public', is translated as 'Suíonna poiblí'.

'Courts-martial shall be public' is translated as 'is go poiblí a shuífeas armchúirteanna' in s194(1) of the Defence Act, 1954. Looking at early translations, 'public sitting' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'suidhe poiblí' in translations for the Department of Industry and Commerce. Note that 'for the purpose of holding a public meeting' is translated as 'Chun cóthlán poiblí do chomóra' in s30(3) of the Electoral Act, 1923; 'Bank Holidays and days declared by statute or

proclamation to be public holidays' is translated as 'Banc-shaoireanna agus laethanta a bheidh fógartha ina saoireanna poiblí le reacht no le fúrogra' in s60(2).

### Direct translation

Suíonna poiblí a bheidh i suíonna gach Tí den Oireachtas.<sup>1</sup>

### Variants

<sup>1</sup> 'Beidh suíonna gach Tí den Oireachtas poiblí.'

## ARTICLE 15.8.2° AIRTEAGAL 15.8.2°

### TÉACS GAEILGE

Ach i gcás práinn speisialta a bheith ann, tig le ceachtar den dá Theach suí go príobháideach ach dhá thrian de na comhaltai a bheas i láthair do thoiliú leis.

### LITERAL ENGLISH TRANSLATION

But in the case of there being a special exigency, either of the two Houses can sit privately provided that two thirds of the members (who will be / are) present consent to it.

### ENGLISH TEXT

In cases of special emergency, however, either House may hold a private sitting with the assent of two-thirds of the members present.

### Divergences between the official texts

- 1 While 'práinn speisialta' would be understood as 'emergency', 'práinn' usually renders 'urgency', with 'éigeandáil' rendering 'emergency'.
- 2 'In cases' is expressed as 'i gcás ... a bheith ann' ('in the case of there being') in the Irish text.
- 3 'Assent' is expressed by the term translated as 'consent' in *Téarmaí Dlí* ('toiliú'), 'assent' being translated there as 'aontú'.
- 4 'Hold a private sitting' is expressed as 'suí go príobháideach' ('sit privately') in the Irish text.
- 5 'Either House' is expressed as 'ceachtar den dá Theach' ('either of the two Houses') in the Irish text.
- 6 'However' is again expressed as 'Ach' ('but') in the Irish text.

Note that Article 25 of the 1922 Constitution concludes as follows:

In cases of special emergency either House may hold a private sitting with the assent of two-thirds of the members present. *Ar ócáidí de riachtanas speisialta féadfaidh aon Tigh suidhe príobháideach do bheith aige ach dhá thrian na mball a bheidh láithreach do thoiliú leis.*

### Commentary

*práinn* This headword is translated as 'hurry, rush; urgent need, exigency' in *Ó Dónaill*, who cites '*tá práinn leis*, it is urgent', '*má tá práinn ort*, if you are pressed for time'

and ‘*ar uair na práinne*, in an exigency, in a time of emergency’. *Dinneen* translates ‘práidhinn’ as ‘urgency, a difficulty, need; trepidation, hurry, flurry, rush ...’, citing ‘*tá gábhadh agam leis acht ní’l aon phráidhinn mar sin orm leis*, I want it but not in such a hurry as that’. DIL has ‘mod.’ in parenthesis after the headword ‘práidhinn’, where it is translated as ‘urgency, difficulty, strait’. See further the commentary on Article 24.1, where ‘práinn’ expresses ‘urgency’, and 28.3.3<sup>o</sup>, where ‘staid phráinne náisiúnta’ expresses ‘state of national emergency’.

In s21 of the European Assembly Elections Act, 1977, ‘in any case where it appears to him that there is an emergency or special difficulty’ is translated as ‘in aon chás inar dóigh leis go mbaineann práinn nó deacracht speisialta leis’. ‘Práinn’ specifically translates ‘urgency’ in the Acts, however – in s26(2) of the Health Act, 1953, for example, ‘Except in cases of urgent necessity’ is translated as ‘Ach amháin i gcásanna lena ngabhann práinn agus riachtanas’. ‘Liúntas leasa forlíontach a dheonú i gcásanna práinne’ translates ‘Grant of supplementary welfare allowance in cases of urgency’ in the Margin Title of s213 of the Social Welfare (Consolidation) Act, 1981. In *Treaties establishing the European Communities* (1973, p. 541), ‘In cases of urgency’ is translated as ‘I gcásanna práinne’ and in the *Treaty on European Union* (1992, p. 45) ‘in case of urgency’ is translated as ‘i gcás práinne’.

‘Éigeandáil’ is translated as ‘dangerous situation, emergency’ in *Ó Dónaill*, ‘éigean’ having the sense of ‘necessity, compulsion’ and ‘strait, difficulty; want, distress’. *Dinneen* translates ‘éigeandáil’ as ‘necessity, distress’. DIL translates the compound ‘éicendál’ as ‘a stiff encounter; a distressing position, dangerous strait’, citing an example from the *Táin* and from later sources. In s94 of the *Standing Orders* of Dáil Éireann (1997), which specifically refers to the present Article 15.8.2<sup>o</sup> of the Constitution, ‘In case of special emergency, a member of the Government may move ... that all visitors and Press representatives be excluded from the Chamber’ is translated as ‘I gcás éigeandáil speisialta a bheith ann, féadfaidh comhalta den Rialtas a thairiscint ... go ndúnfar gach cuairteoir agus ionadaí Nuachtán amach as an Seomra’. The title of the Second Schedule to the Radiological Protection Act, 1991, ‘Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency’, is translated as ‘An Coinbhinsiún um Chúnadh i gcás Taisme Núicléach nó Éigeandáil Raideolaíoch do Tharlú’. In s39(5) of the Social Welfare (Consolidation) Act, 1981, ‘in an actual or supposed emergency at those premises’ is translated as ‘in éigeandáil iarbhir nó cheaptha san áitreabh sin’. ‘Through circumstances attributable directly or indirectly to the national emergency’, in s17 of the First Schedule to the Corporation Tax Act, 1976, is translated as ‘de dhroim imthosca is inchurtha, go díreach nó go neamhdhíreach, i leith na héigeandála náisiúnta’.

*do thoiliú* ‘Toilim’ is translated as ‘I consent’ in *Téarmaí Dlí*, ‘toiliú’ being translated as ‘consent’. *Ó Dónaill* translates ‘toiligh’ as ‘will, consent, agree’, citing ‘*toiliú le rud*, to consent to something; to accept something’ and ‘*thoiligh siad le chéile*, they accepted each other, they agreed to marry’. *Dinneen* translates ‘toilighim’ as ‘I will, assent, agree to’. DIL translates ‘toiligid’ (which is based on Old Irish ‘tol’, ‘will’) as (a) ‘wills’ and (b) ‘consents, agrees’. See the commentary on Articles 12.9 and 46.5.

In s94 of the *Standing Orders* of Dáil Éireann (1997), which specifically refers to the present Article 15.8.2<sup>o</sup> of the Constitution, ‘this shall be done by direction of the Ceann Comhairle, with the assent of two-thirds of the members present’ is translated as ‘déanfar amhlaidh le hordú ón gCeann Comhairle, má thoilíonn dhá thrian de na comhaltaí a bheidh i láthair leis an tairiscint sin’. See, however, s10(4) of the Companies Act, 1963, for ‘toiligh’ translating ‘consent’: ‘Any person who has consented to or voted in favour of the alteration’, ‘*Aon duine a thoiligh nó a vótáil leis an athrú*. ‘Assent’ is translated as ‘aontú’ in *Téarmaí Dlí*, with ‘aontaím’ translating ‘I assent’. In Article 26.2.2<sup>o</sup> of the Constitution, ‘and no other opinion, whether assenting or dissenting, shall be pronounced’, is expressed as ‘agus ní cead tuairim ar bith eile, ag aontú nó ag easaontú leis an mbreith sin, a chraoladh’. We find ‘ag aontú nó ag easaontú’ again expressing ‘whether assenting or dissenting’ in Article 34.4.5<sup>o</sup>. In Article 28.3.1<sup>o</sup>, ‘save with the assent of Dáil Éireann’ is expressed as ‘ach amháin le haontú Dháil Éireann’ – see further the commentary thereon.

In s3(1) of the Succession Act, 1965, “conveyance” includes a mortgage, charge, lease, assent, transfer, disclaimer, release and every other assurance of property by any instrument except a will’ is translated as ‘folaíonn “tíolacas” morgáiste, muirear, léas, aontú, aistriú, séanadh, scaoileadh agus gach forcintú eile maoine le haon ionstraim seachas uacht’. In the *Treaty on European Union* (1992, p. 31), ‘the assent of the European Parliament shall be required’ is translated as ‘is gá do Pharlaimint na hEorpa aontú’, and on p. 62, ‘by giving its assent or delivering advisory opinions’ is translated as ‘trí aontuithe agus trí thuairimí comhairleacha a thabhairt’. In *Treaties establishing the European Communities* (1973, p. 151), ‘by decision of the High Authority with the assent of the Council’ is translated as ‘má thugann an tArd-Údarás cinneadh dá réir sin tar éis dó aontú na Comhairle a fháil’. On p. 32, ‘Wherever this Treaty requires a unanimous decision or unanimous assent, such decision or assent shall have been duly given if all the members of the Council vote in favour’ is translated as ‘In aon chás ina n-éilíonn an Conradh seo cinneadh d’aontoil nó aontú d’aontoil, beidh an cinneadh nó aontú sin arna thabhairt go cúí má vótálann comhaltaí uile na Comhairle ar a thaobh’.

Finally, regarding ‘do thoiliú’, while the preposition ‘do’ is so found in the Acts, connecting a ‘preceding noun or pronoun, which is virtual subject or object, with verbal noun’ – see, for example, s2(1) of the Criminal Law (Rape) Act, 1981, where ‘if ... he is reckless as to whether she does or does not consent to it’ is translated as ‘más cuma leis i do thoiliú nó gan toiliú leis’ – according to *Ó Dónaill* the standard form is ‘a’. See *Ó Dónaill* s.v. do<sup>3</sup>(7) and a<sup>4</sup>.

*Igcás* Literally ‘in a case’ – see, for example, s173(2)(b) of the Social Welfare (Consolidation) Act, 1981, where ‘other than, in a case where payment of the pension is resumed under paragraph (c)’ is translated as ‘ach amháin, i gcás ina n-atosófar faoi mhír (c) ar an bpinsean a íoc’. We have some examples in the Acts of ‘i gcás’ translating ‘in cases’, however – see, for example, s58(1) of the First Schedule to the European Assembly Elections Act, 1977, where ‘the candidate or candidates shall in cases of exclusion be excluded in the order in which their names are drawn, and, in cases of surplus, the surplus shall be

transferred ...' is translated as 'déanfar an t-iarrthóir nó na hiarrthóirí, i gcás eisiama h a bheith le déanamh, a eisiama h san ord ina dtarraingeofar a n-ainmneacha, agus i gcás barrachas, déanfar na barrachais a aistriú ...'. In s20 of the Finance Act, 1971, however, 'Interest on income tax and sur-tax in cases of fraud or neglect' is translated as 'Ús ar cháin ioncaim nó ar fhorcháin i gcásanna calaoise nó failli'. 'Provided that in cases of charge the notice of charge shall be duly served' is translated as 'Ar choinníoll i gcásanna muirir go ndéanfar an fógra muirir a sheirbheáil go cuí' in s537(2) of the Income Tax Act, 1967. 'Ireland may ... take the necessary measures in cases of extreme urgency' is translated as 'féadfaidh Éire ... na bearta is gá a ghlacadh í féin i gcás fíorphráinne' in *Treaties establishing the European Communities* (1973, p. 995). On p. 541 of the same work, 'In cases of urgency, the Commission shall issue a directive' is translated as 'I gcásanna práinne, eiseoidh an Coimisiún treoir ...'. 'I gcás' also translates 'where' and 'in the event of' in the Acts. See the commentary on Article 14.4 regarding 'cás'.

*go príobháideach* In *Téarmaí Dlí*, following the eighth Irish Legal Terms Order, 1950 (Terms relating to Bankruptcy), 'first private sitting' is translated as 'an chéad suí príobháideach'. 'Príobháideach' translates 'private' in 'ceart slí príobháideach' ('private right of way') and 'cuideachta phríobháideach' ('private company'), but is also found in 'faisnéisí príobháideach' ('common informer'), in *Téarmaí Dlí. Ó Dónaill* translates 'príobháideach' simply as 'private' but *Dinneen* adds 'secret' and 'of a person, secret-keeping, reliable'. DIL s.v. 'príobháideach' ('private, secret'), gives just two late citations, 'príobháid-' coming from English 'private'.

*ach* Followed by a verbal noun, 'ach' has the sense of 'if, provided that' – see *Ó Dónaill* s.v. 'ach' (3), who cites 'tá sé maith go leor ach gan fearg a chur air, he is all right if he is not angered'. See the commentary on Article 40.4.5° where 'with' is rendered as 'faoi réir'.

### Standardised Irish text

Ach i gcás práinn speisialta a bheith ann, tig le ceachtar den dá Theach suí go príobháideach ach dhá thrian de na comhaltaí a bheidh i láthair a thoilú leis.

### Direct translation

I gcás éigeandáil speisialta a bheith ann<sup>1</sup>, áfach, féadfaidh ceachtar Teach suí go príobháideach<sup>2</sup> le haontú dhá thrian de na comhaltaí a bheidh i láthair<sup>3</sup>.

### Variants

- 1 'I gcásanna éigeandála speisialta'
- 2 'féadfaidh ceachtar Teach suí príobháideach a thionól'
- 3 'má aontaíonn dhá thrian de na comhaltaí a bheidh i láthair leis sin' – Professor Máirtín Ó Murchú recommends 'ach dhá thrian de na comhaltaí a bheidh i láthair a aontú'

## ARTICLE 15.9.1° AIRTEAGAL 15.9.1°

### TÉACS GAEILGE

Toghfaidh gach Teach ar leith den Oireachtas a Chathaoirleach agus a Leas-Chathaoirleach féin as a chomhaltas

féin, agus leagfaidh amach dóibh a gcumhachtaí agus a ndualgais.

### LITERAL TRANSLATION

Each individual House of the Oireachtas will elect its own Chairman and Vice-Chairman from its own membership, and will lay out for them their powers and their duties.

### ENGLISH TEXT

Each House of the Oireachtas shall elect from its members its own Chairman and Deputy Chairman, and shall prescribe their powers and duties.

### Divergences between the official texts

- 1 The Irish text does not read simply as 'each House of the Oireachtas' but as 'gach Teach ar leith den Oireachtas' ('each individual/separate House of the Oireachtas').
- 2 'From its members' is expressed as 'as a chomhaltas féin' ('from its own membership') in the Irish text.
- 3 'Prescribe' is expressed as 'leag amach' ('lay out') in the Irish text.
- 4 The English text has no corresponding prepositional pronoun to the Irish text's 'dóibh' ('for them' – i.e. for the 'Cathaoirleach' and 'Leas-Chathaoirleach').

Note that Article 21 of the 1922 Constitution reads as follows:

Each House shall elect its own Chairman and Deputy Chairman, and shall prescribe their powers, duties, remuneration, and terms of office. *Déanfaidh gach Tigh a Cheann Comhairle agus a Leas-Cheann Comhairle féin do cheapa agus a gcomhachta, a ndualgaisí, a luach saothair, agus a dtéarmaí oifige do leaga amach.*

Article 3 of the 1919 Constitution commences as follows:

Ceann Comhairle toghtha ag an Dáil i naghaidh na bliadhna ... a bheidh i gceannas gach tionóil den Dáil.

### Commentary

*leagfaidh amach* The absence of the pronoun here makes for brevity and avoids having to render 'House' with a pronoun, 'House' being in the singular but with plural sense. We also find this omission of pronoun in other Articles but it would not generally be practised in the modern Acts.

'Leag amach' is translated literally as 'lay out, arrange' in *Ó Dónaill*, who gives the secondary sense of 'lay down, prescribe; allot, allocate', citing '*obair, dualgas, a leagan amach do dhuine*, to allot work, a duty, to someone' – see the commentary on Article 15.2.2°. 'Forordaigh' generally translates 'prescribe' in the Acts – see, for example, s27 of the Health Act, 1970, where 'Accounts shall be kept by a health board in such form ... as may be prescribed by the Minister' is translated as 'Coimeádfaidh bord sláinte cuntas i cibé foirm ... a fhorordóidh an tAire'. In s2 of the Agricultural Produce (Meat) (Miscellaneous Provisions) Act, 1978, 'requiring fresh meat ... to be classified according to prescribed systems of description and ... to have prescribed marks applied to such meat' is

translated as ‘á cheangal ... go ndéanfar í a aicmiú de réir chórais chaighdeánacha fhorordaithe tuairisce, agus ... go gcuirfear marcanna forordaithe ar an bhfeoil sin’. In s4 of the Social Welfare (Pay-Related Benefit) Act, 1973, ‘but does not exceed such limit as stands prescribed for the time being’ is translated as ‘ach nach dtéann thar an teorainn sin a bheidh forordaithe de thuras na huaire’.

In *Treaties establishing the European Communities* (1973) we find ‘ordaigh’ rather than ‘forordaigh’ – see, for example, p. 779, where ‘in a form prescribed by the Council’ is translated as ‘i bhfoirm a ordóidh an Chomhairle’. In s3(b) of Article II of Part II of the Schedule to the Bretton Woods Agreements Act, 1957, ‘The Bank shall prescribe rules laying down the conditions’ is translated as ‘Ordóidh an Banc rialacha a leagfas síos na coinníollacha’, with ‘Na rialacha a déanfar chun críocha an ailt seo ordóid na fátha ...’ translating ‘The rules made for the purpose of this section shall prescribe the causes’ in s45(3) of the Nurses Act, 1950.

Looking at the earlier Acts, we see above that ‘leag amach’ translates ‘prescribe’ in the corresponding Article in the 1922 Constitution also. ‘Each University ... shall be entitled to elect three representatives to Dáil Éireann upon a franchise and in a manner to be prescribed by law’, in Article 27 thereof, however, is translated as ‘Beidh de cheart ag gach Príomh-sgoil ... trí teachtaí do thogha do Dháil Éireann ar reacht-shaoirse agus ar nós a socrófar le dlí’. ‘He shall record such refusal in the prescribed manner’ is translated as ‘breaca sé síos an diúltú san ar an slí ordúithe’ in s7(5) of the Censorship of Films Act, 1923. ‘Chun fógraí do thabhairt, chun fuirmeacha do cheapa’ translates ‘to give notices, to prescribe forms’ in s11(3) of the Interpretation Act, 1923.

*as a chomhaltas féin* Literally, ‘from its own membership’. In order to use ‘comhaltai’ (‘members’), one could perhaps translate as ‘as measc a chomhaltai’, reading the English as ‘from among its members’ – see, for example, *The Treaty on European Union* (1992, p. 177), where ‘The President shall be selected from among persons of recognized standing and professional experience in monetary or banking matters’ is translated as ‘Roghnófar an tUachtarán as measc daoine a bhfuil gradam agus taithí ghairmiúil aitheanta acu i réimsí airgeadaíochta nó baincéireachta’. See s134(4) of the *Standing Orders of Dáil Éireann* (1997) where ‘The Standing Joint Committee shall elect from its members as Chairman a member of either House’ is translated as ‘Déanfaidh an Buan-Chomhchoiste comhalta de cheachtar Teach a thoghadh as a líon féin chun bheith ina Chathaoirleach nó ina Cathaoirleach’.

Turning to the Acts, in s8 of Article 20 of the Schedule to the International Common Fund for Commodities Act, 1982, ‘the Governing Council shall elect a Chairman from among the Governors’ is translated as ‘toghfaidh an Chomhairle Rialaithe Cathaoirleach as líon na Rialtóirí’. ‘The board of directors of a credit union shall elect by secret ballot from their number four persons who shall be ... chairman ...’ is translated as ‘déanfaidh bord stiúthóirí chomhar creidmheasa, trí rúnbhallóid, ceathrar as a líon a thoghadh mar chathaoirleach ...’ in s18(1) of the Credit Union Act, 1966. ‘Toghfaidh na toghthóirí a bheidh i láthair ag an gcuinníú duine dá líon ina chathaoirleach ar an gcuinníú’ translates ‘the electors present at the meeting shall elect from their number a

Chairman of the meeting’ in s27(4)(c) of the Fisheries (Consolidation) Act, 1959. ‘Toghfaidh an Comhlachas duine de chomhaltai an Choiste ina Chathaoirleach ar an gComhlachas’ translates ‘the Association shall elect from amongst the members of the Committee a person to be Chairman of the Association’ in s3(1) of the Second Schedule to the Sea Fisheries Act, 1952. ‘Toghfaidh an bord cathaoirleach ... as a mbaill’ translates ‘the board shall elect a chairman ... from among its members’ in s15 of the Public Assistance Act, 1939, with ‘The extraordinary members electorate shall ... elect from amongst its members seven extraordinary members’ being translated as ‘Déanfaidh lucht toghtha na mball nea-ghnáthach ... seacht mbaill nea-ghnáthacha do thoghadh as a mbaill féin’ in s12(2) of the Dublin Fever Hospital Act, 1936. Finally, ‘the members of the committee shall at every meeting elect from amongst their number the chairman for that meeting’, in s9(4) of the Local Authorities (Combined Purchasing) Act, 1925, is translated as ‘déanfaidh baill an choiste, ag gach cruinniú, cathaoirleach do thogha as a líon féin don chruinniú san’.

*ar leith* ‘Each House’ is expressed as ‘gach Teach ar leith’ in Articles 15.10 and 15.11.1° and ‘of each House’ is expressed as ‘gach Tí ar leith’ in Article 15.9.2°. ‘Ar leith’ is not found, however, in Article 15.15, where ‘the members of each House’ is expressed simply as ‘comhaltai gach Tí’ and in Articles 24.1, 27.5.1° and 27.6 ‘Cathaoirleach gach Tí den Oireachtas’ expresses ‘the Chairman of each House of the Oireachtas’. In Article 28.3.3° ‘gach Teach den Oireachtas’ expresses ‘each of the Houses of the Oireachtas’ and ‘i ngach Teach den Oireachtas’ expresses ‘in each House of the Oireachtas’ in Article 28.8. See the commentary on Article 12.3.3°.

‘Ar leith, faoi leith’ is translated as ‘apart, separate; several, distinct; remarkable, special’ in *Ó Dónaill*, who cites ‘gach ball ar leith, each individual member’. *Dinneen* translates ‘ar (or fá) leith’ as ‘apart, separately, severally’. DIL gives examples of ‘fo’ with ‘leith’ in the sense of ‘separately, severally, individually’ from the Old Irish Glosses onwards, citing ‘cách fo leith’ (‘every one severally’) from the eighth-century Würzburg Glosses on the Pauline Epistles, where this phrase glosses Latin ‘singuli’, and states that sometimes you get ‘leith’ with ‘for’ in this sense, citing ‘don oenfer for leith’ (‘for one man only’), from a document connected with the Monastery of Tallaght and the Church reform movement of the eighth/ninth century, along with ‘gach pearsa ar leith ‘na Dhia dhibh’, referring to each of the three Persons in the Trinity being a God, from a later collection of religious poetry. See the commentary on Article 38.3.1° regarding ‘faoi leith’.

### Gender-proofed Irish text

Toghfaidh gach Teach ar leith den Oireachtas a chathaoirleach agus a leaschathaoirleach féin as a chomhaltas féin, agus leagfaidh amach dóibh a gcumbachtaí agus a ndualgais; an Ceann Comhairle a ghairfear de chathaoirleach Dháil Éireann agus an Cathaoirleach a ghairfear de chathaoirleach Sheanad Éireann.<sup>1</sup>

### Note

<sup>1</sup> This follows the gender-proofed English text.

**Direct translation**

Déanfaidh gach Teach den Oireachtas a Chathaoirleach agus a Leas-Chathaoirleach féin a thoghadh<sup>1</sup> as líon a chomhaltai<sup>2</sup> agus déanfaidh sé a gcumhachtaí<sup>3</sup> agus a ndualgais a fhorordú<sup>4</sup>.

**Variants**

- 1 'Toghfaidh gach Teach den Oireachtas a Chathaoirleach agus a Leas-Chathaoirleach féin'
- 2 'as measc a chomhaltai', 'as a chomhaltas féin', 'as a líon féin'
- 3 'déanfaidh a gcumhachtaí'
- 4 'forordóidh (sé) a gcumhachtaí agus a ndualgais'

ARTICLE 15.9.2<sup>o</sup> AIRTEAGAL 15.9.2<sup>o</sup>**TÉACS GAELGE**

Is le dlí a chinnfear tuarastal Chathaoirleach is Leas-Chathaoirleach gach Tí ar leith.

**LITERAL ENGLISH TRANSLATION**

It is by law that the salary of the Chairman and Vice-Chairman of each separate House will be decided.

**ENGLISH TEXT**

The remuneration of the Chairman and Deputy Chairman of each House shall be determined by law.

**Divergences between the official texts**

- 1 'Remuneration' is translated as 'luach saothair', rather than 'tuarastal', in *Téarmaí Dlí* – 'luach saothair' is found in the corresponding Article in the 1922 Constitution.
- 2 As in the previous subsection, 'of each House' is expressed as 'gach Tí ar leith' ('of each separate House') in the Irish text.

Note that Article 21 of the 1922 Constitution reads as follows:

Each House shall elect its own Chairman and Deputy Chairman, and shall prescribe their powers, duties, remuneration, and terms of office. *Déanfaidh gach Tigh a Cheann Comhairle agus a Leas-Cheann Comhairle féin do cheapa agus a gcomhachta, a ndualgaisí, a luach saothair, agus a dtéarmaí oifige do leaga amach.*

**Commentary**

*tuarastal* The earlier form, 'tuarastal', is based on 'frestal' ('attending') and in early Irish laws had the primary sense of 'description of a crime, evidence of an eye-witness' and, collectively, 'witness' – see DIL s.v. 'tuarastal'. In some of the examples cited in DIL, it would appear to refer to evidence given voluntarily by an eye-witness, and for which payment is made. It had the secondary sense of 'stipend, retaining fee (paid by an overlord to a subordinate chief in return for tribute, military service, etc.)' and 'stipend, wages, reward, remuneration *in general*', an example of this latter sense being cited in DIL from the

*Táin*, along with the following example of 'tuarastal' as quasi verbal noun from the fifteenth-century poet Pilib Bocht Ó hUiginn: 'uirrim ó gach éanfhosdadh / mac Dé a-tá gá tuarastal' (which Professor Máirtín Ó Murchú translates as 'indulgence/mercy [is earned] from every single engagement, it is the son of God who is paying it').

Historically, according to *Ó Dónaill*, 'tuarastal' was the 'overlord's stipend to retainer; payment to subordinate'. The secondary ecclesiastical sense of the word is 'prebend', *Ó Dónaill* citing '*Canónach tuarastail*, prebendary'. The general sense of the word today is 'salary, wages', but it also has the sense of 'hire' according to *Ó Dónaill*. *Dinneen* translates 'tuarastal' as 'wages, salary, stipend, fee, gift, reward', citing '*fear tuarastail do thuilleamh*, a day-labourer' and '*ar tuarastal an riogh*, in the king's pay'.

As we see above, 'luach saothair' translates 'remuneration' in Article 21 of the 1922 Constitution. Turning to the Acts, in s22(4) of the Social Welfare Act, 1950, 'Where an officer or employee of the Society has remuneration comprising a scale of annual increments' is translated as 'I gcás luach saothair a bhfuil scála breisiócht bliantúla ar áireamh ann a bheith ag oifigeach nó fostaí don Chumann'. In s243(2) of the Social Welfare (Consolidation) Act, 1981, 'Where an insured person receives wages or other pecuniary remuneration from his employer' is translated as 'Má fhaigheann duine árachaithe pá nó luach saothair airgid eile óna fhostóir'. In the *Programme for a Partnership Government*, 1993-97, 'Chairpersons will be remunerated' is translated as 'iocfar luach saothair leis na Cathaoirligh'. We do, however, have the following cited from a Dáil *Order Paper*: 'Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value', '*Coinbhinsiún Uimh. 100 i dtaobh Tuarastal Comhionann d'Fhear-Oibrithe agus do Bhan-Oibrithe ar Obair le Luach Comhionann*'. Generally, however, 'tuarastal' translates 'salary' in the Acts – 'a salaried officer', for example, is translated as 'oifigeach tuarastail' in the Turf Development Act, 1946. In s20 of the Finance Act, 1990, 'The amount of the salary, fees, wages, perquisites, and profits of the year of assessment' is translated as 'Méid tuarastail, táillí, pá, peircisí, agus brabús na bliana measúnachta'.

*le dlí* 'Cibé daoine eile sa Stát a cinnfear le dligheadh' renders 'such other persons in the State as may be determined by law' in Article 16.1.2<sup>o</sup>, following the Ninth Amendment of the Constitution Act, 1984.

'Dlí' is translated as 'law' in *Téarmaí Dlí* and *Ó Dónaill* translates 'de réir dlí' as 'according to law, legally', neither source citing 'le dlí'. *Dinneen* translates 'dligheadh' as 'deserving, being entitled to; law, a law, a regulation, ordinance; a principle; ordinary practice; duty; dues, tribute', citing '*do réir dlighidh*, legal'. DIL cites examples of 'dliged' from the eighth-century Glosses onwards.

Turning to the Acts, 'or other matters determined by law as coming within the duties of the Controller' is translated as 'nó i leith nithe eile a gcinnfear le dlí iad a theacht faoi réim dhualgas an Cheannasaí' in s80(1) of the Patents Act, 1964. In s46 of the First Schedule to the Companies Act, 1963, 'in any manner and with and subject to any incident authorised, and consent required, by law' is translated as 'i slí ar bith agus i dteannta agus faoi réir aon teagmhais a údaraítear, agus aon toilithe a cheanglaítear, le dlí'. See, however, s26(7) of the Redundancy

Payments Act, 1967, where ‘in any securities in which trustees are for the time being by law empowered to invest trust funds’ is translated as ‘in aon urrúis a bhfuil cumhacht dlí de thuras na huairé ag iontaobhaithe cisti iontaobhais a infheistiú iontu’. In the *Programme for a Partnership Government, 1993-97*, ‘all Government Departments and State Agencies ... will be required by law to comply in general with the information procedures’ is translated as ‘beidh ceangal dlí ar na Ranna Rialtais agus ar na gníomhaireachtaí Stáit go léir ... na nósanna imeachta faisnéise ... a chomhlíonadh go ginearálta’. ‘Provisions laid down by law’ is translated as ‘forálacha reachtaíochta’ in *Treaties establishing the European Communities (1973)* – see, for example, p. 226, where ‘The provisions of this Chapter ... shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment of foreign nationals’ is translated as ‘Ní rachaidh forálacha na Caibidle seo ... chun dochair d’infheidhmeacht fhorálacha reachtaíochta nó rialúcháin nó riaracháin lena bhforáiltear cóir speisialta do náisiúnaigh choigríche’. ‘Principles laid down by law’ is translated as ‘prionsabail reachtaíochta’ in the *Treaty on European Union (1992)* – see, for example, p. 18, where ‘amendment of the existing principles laid down by law governing the professions’ is translated as ‘leasú a dhéanamh ar na prionsabail reachtaíochta atá ann cheana a bhaineann le córas rialú na ngairmeacha’.

See the commentary on Articles 1 and 12.11.2° for ‘determine’ in early Acts.

*tuarastal Chathaoirleach is Leas-Chathaoirleach gach Tí* Note that we find ‘tuarastal Chathaoirligh is Leas-Chathaoirligh gach Tighe’ in the original text. Unlike the many cases we have seen earlier, the rule of (lenited) nominative in place of the genitive has been applied here in the Stationery Office text.

*ar leith* See the commentary on the foregoing subsection.

### Standardised gender-proofed Irish text

Is le dlí a chinnfear tuarastal chathaoirleach is leas-chathaoirleach gach Tí ar leith.<sup>1</sup>

#### Note

- 1 This follows the gender-proofed English text as regards lower-case ‘c’ and ‘l’ in ‘cathaoirleach’ and ‘leaschathaoirleach’.

### Direct translation

Déanfar luach saothair Chathaoirleach agus Leas-Chathaoirleach gach Tí a chinneadh le dlí.

## ARTICLE 15.10 AIRTEAGAL 15.10

### TÉACS GAEILGE

Déanfaidh gach Teach ar leith a rialacha agus a bhuan-orduithe féin, agus beidh sé de chumhacht ag gach Teach acu pionós a cheapadh do lucht a sáráithe sin; beidh sé de chumhacht aige fairis sin sairse aighnis a chur in áirithe, agus a scríbhinní oifigiúla féin agus páipéir phríobh-

áideacha a chomhaltá a dhéan, agus fós é féin agus a chomhaltá a dhéan ar aon duine nó ar aon dream daoine a dhéanfadh cur isteach nó toirmeasc ar a chomhaltá nó a dhéanfadh iarracht ar iad a éilliú agus iad ag déanamh a ndualgas.

### LITERAL ENGLISH TRANSLATION

Each particular House will make its own standing orders and rules, and each House of them will have the power to fix a penalty for those who transgress them; it will have in addition to that the power to secure freedom of argument and to protect its own official writings/ documents and the private papers of its members, and moreover to protect itself and its members from any person or any group of people who would interfere with or inhibit its members or who would try to corrupt them while they are doing their duties.

### ENGLISH TEXT

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.

### Divergences between the official texts

- 1 The phrase expressing ‘interfere with’ in the Irish text, ‘cuir isteach ar’, is translated as ‘molest’ in *Téarmaí Dlí*, and the term expressing ‘molesting’, ‘toirmeasc’, is translated as ‘inhibition’ in *Téarmaí Dlí*, while the term expressing ‘to corrupt’, ‘a éilliú’, is translated as ‘to suborn’ in *Téarmaí Dlí*; the general usage of both ‘cur isteach ar’ and ‘a éilliú’, however, is that found in the corresponding English text; ‘toirmeasc’, on the other hand, is generally understood as ‘hinder, prohibit’ rather than ‘molest’, though the use of this noun with ‘déan’ rather than ‘cuir’ would alert the reader to a new usage being made of the word.
- 2 The word expressing ‘debate’ in the Irish text, ‘aighneas’, as well as having the sense of ‘argument, discussion’, has the sense of ‘trouble, contention’; ‘debate’ is translated directly as ‘díospóireacht’ in the *Standing Orders* of Dáil Éireann, for example.
- 3 ‘Documents’ is expressed as ‘scríbhinní’ (‘written documents’) in the Irish text.
- 4 The Irish text has a semicolon after ‘a sáráithe sin’ corresponding to the comma after ‘infringement’ in the English text and commences a new statement, while the English text runs on, linked with ‘and’.
- 5 The literal sense of the Irish term expressing ‘to protect’, ‘a dhéan’, is ‘to shelter’; Professor Máirtín Ó Murchú would, however, not include this as a divergence.
- 6 ‘With power to attach penalties for their infringement’ is expressed as ‘agus beidh sé de chumhacht ag gach Teach acu pionós a cheapadh do lucht a sáráithe sin’ (‘and each House will have (the) power to fix a penalty for those who transgress them’) in the Irish text.
- 7 As in the previous section, ‘each House’ is expressed as ‘gach Teach ar leith’ (‘each particular House’) in the Irish text.

- 8 'In the exercise of their duties' is expressed as 'agus iad ag déanamh a ndualgas' ('while doing their duties') in the Irish text.
- 9 'A chur in áirithe' usually expresses 'reserve' rather than 'ensure', which is usually translated as 'a áiritiú' in the Acts, although the sense in the context is clear.

Note that while the English text of Article 20 of the 1922 Constitution is (apart from initial capitals and commas) exactly the same as the current Article, the Irish text reads as follows:

Déanfaidh gach Tigh a rialacha agus a Bhuan-Orduithe féin agus beidh de chomhacht aige pionós do chur i bhfeidhm i dtaobh a mbriste agus beidh de chomhacht aige saoirse dhíospóireachta do chur in áirithe, a scríbhinní oifigiúla agus páipéirí príobháideacha a bhall do chosaint agus é féin agus a bhaill do chosaint ar aon duine nó daoine a bhainfidh le n-a bhaill no a chuirfidh isteach ortha no a thabharfaidh fé iad do bhreaba le linn dóibh a ndualgaisí do chó-líona.

### Commentary

*á éilliú* 'Éillim' is translated as 'I suborn' in *Téarmaí Dlí*, with 'eilliú' translated as 'subornation' and 'cleachtas éillitheacha' translated as 'corrupt practices'. 'Éilligh' is translated as 'corrupt; pollute, defile' in *Ó Dónaill*, with the secondary sense of 'suborn' in Jurisprudence. 'Éilnighim' is translated as 'I corrupt, contaminate, destroy, defile' in *Dinneen*. DIL cites two examples of the verb 'éilnigid', 'defiles, pollutes', the earliest being from the *Leabhar Breac* (written in 1411, or earlier), the other being 'gurub amhlaid ellnigher a n-ingina' ('their maidens are deflowered') from the *Gaelic abridgment of the book of Ser Marco Polo*. This verb is based on 'éilned', which is the verbal noun of earlier 'as-lena'; DIL gives examples of both 'as-lena' ('pollutes, defiles, violates') and 'éilned' ('pollution, corruption, defilement [physical or moral]') from the eighth-century Glosses onwards. In early Irish laws, this verb is used frequently of 'the besmirching of a man's honour and resulting cancellation of any legal privileges due to his position', according to DIL. In the ninth-century *Sanas Cormaic* we find another sense: 'arná héilnet a cairphtiu oc dul for cáí' ('that they may not dirty their chariots when going on a visit').

In the Margin Title of s158 of the Defence Act, 1954, 'Bribery, corruption and fraud' is translated as 'breabair-eacht, éilliú agus calaois'. The Margin Title of s95 of the First Schedule to the European Assembly Elections Act, 1977, 'Corrupt withdrawal of petition', is translated as 'Achainí a tharraingt siar go héillitheach'. In s2 of the Radiological Protection Act, 1991, 'Radioactive contamination of foodstuffs' is translated as 'Éilliú radaighníomhach ar earraí bia'.

'Suborn' is explained in the *Shorter Oxford Dictionary* as 'to bribe, induce, or procure (a person) by underhand or unlawful means to commit a misdeed'. Note above that in Article 20 of the 1922 Constitution, 'attempting to corrupt its members' is translated as 'a thabharfaidh fé iad do bhreaba', literally 'attempting to bribe them'. Note finally that 'corrupt practices' is translated as 'cleachtanna cuirpe' in s51(2)(d) of the Electoral Act, 1923.

*a dhídean* 'Dídean' is translated as 'cover, shelter; refuge,

protection' in *Ó Dónaill*, who cites '*duine a dhídean*, to shelter, protect, someone' and '*Dia ár ndídean*, God protect us' as examples of 'dídean' as a verbal noun. *Dinneen* translates 'dídean' as 'act of protecting, sheltering; protection, shelter, safety; refuge, abode'. The verb 'dítinid' is translated as 'shelters, protects' ('with accusative + ar [for]') in DIL. This verb is based on 'dítíu', verbal noun of 'do-eim', and is translated as 'covering, cover, shelter' in DIL, this seeming to be the original meaning, hence in general 'covering, protecting, defence'. DIL cites 'bid dídiu láedhi is leabhor' ('... a protection for songs and books'). Examples of the verb 'do-eim', translated as (a) 'covers, shelters, hides' and (b) 'protects, defends', are cited in DIL from the Old Irish Glosses onwards; we see how the two senses are closely connected in the following example from the *Táir*: 'a lám clé doet in sciath' (his left hand 'which the shield covered, i.e. protected'). 'Do-eim' glosses Latin 'defendere' in the eighth-century Würzburg Glosses on the Pauline Epistles. DIL also cites examples followed by 'ar', 'protects from, against'.

In s54(1) of the Health Act, 1953, 'shelter and maintenance in a county home' is translated as 'dídean agus cothabháil i dteaghlach contae'. 'Protect' is generally translated as 'cosain' in the Acts, however, as we find in Articles 28.3.2° and 41.3.1°, for example. In s9(6)(g) of the Consumer Information Act, 1978, 'the provisions of any legislation providing for the protection of consumers' is translated as '(ar) fhorálacha aon reachtaíochta a dhéanann socrú le tomhaltóirí a chosaint'. The Margin Title of s22 of the Succession Act, 1965, 'Protection of persons acting on probate or administration' is translated as 'Cosain daoine a ghníomhóidh ar phrobháid nó ar riarachán'. In s28(9)(d) of the Capital Gains Tax Act, 1975, 'to the protection or promotion of the interests of its members in the carrying out of their trade or profession' is translated as 'chun leasanna a chomhaltáí i mbun a dtrádála nó a ngairme dóibh a chosaint nó a chur ar aghaidh'. 'Cosain' is the verb found in the corresponding Article 20 of the 1922 Constitution, where we find 'a scríbhinní oifigiúla agus páipéirí príobháideacha a bhall do chosaint agus é féin agus a bhaill do chosaint ar aon duine ...'. Note finally that 'caomhnaigh' expresses 'protect' in Article 41.1.2°.

*cur isteach* Note that this phrase is hyphenated in the original text. 'Cuirim isteach ar' is translated as 'I molest' in *Téarmaí Dlí*. 'Cur isteach ar dhuine' is translated as 'to interfere with, to inconvenience, someone; to interrupt someone' in *Ó Dónaill*. *Dinneen* translates 'cuirim ar' as 'I impose as an injunction on, ascribe to, accost, challenge, play on, overbear, interrupt, annoy (*generally*, cuirim isteach ar)'.

In s75(4) of the First Schedule to the European Assembly Elections Act, 1977, 'A person shall be guilty of an offence if ... he ... interferes with ... a voter' is translated as 'Beidh duine ciontach i gcion más rud é ... go gcuirfidh sé isteach ar vótálaí'. In s54(17) of the Fisheries Act, 1980, 'where ... a person by trespass, fishing or otherwise interferes with anything done pursuant to an aquaculture licence' is translated as 'I gcás ... a ndéanfaidh duine trí fhoghail, iascaireacht nó eile, cur isteach ar ní a bheidh déanta de bhun ceadúnais do bharshaothraithe'. In s18(1)(e) of the same Act, 'dig, break or otherwise temporarily close, cross, extend, divert or otherwise interfere with or alter



any navigable waterway' is translated as 'aon uiscebhealach inseolta ... a thochailt, a bhriseadh nó a dhúnadh go sealadach ar aon slí eile, a thrasnú, a shíneadh, a chlaonadh nó baint leo nó iad a athrú ar aon slí eile'. This is also the phrase used in the corresponding Article 20 of the 1922 Constitution: 'agus é féin agus a bhaill do chosaint ar aon duine no daoine a bhainfidh le n-a bhaill'.

In Article 40.4.6°, 'to prohibit, control or interfere with' is expressed as 'a thoirmeasc, nó a rialú nó a bhac' and we find 'bac' translating 'interfere with' in many Acts. In s515(1) of the Income Tax Act, 1967, 'If any person ... obstructs, molests or hinders ... an officer' is translated as 'Má dhéanann duine ar bith ... cosc, cur isteach, nó bac ... ar oifigeach'. In s4(3) of the Fuels (Control of Supplies) Act, 1971, 'gives that other person any assistance with intent thereby to prevent, hinder, or interfere with the detection of that offence' is translated as 'aon chabhair a thabhairt don duine eile sin le hintinn fionnadh an chiona sin a chosc nó a bhac nó a thoirmeasc'. In s94(g) of the Finance Act, 1983, 'obstructs or interferes with any officer' is translated as 'go gcuirfidh sé bac nó treampán ar aon oifigeach'. In s15(1) of the Consumer Information Act, 1978, 'A person shall not ... prevent another person from, or interfere with, or obstruct another person who is ... entering a place ...' is translated as 'Ní dhéanfaidh duine ... cosc, bac, ná araoid a chur ar dhuine eile ... a bheidh ag dul isteach in áit ...'. In s1(7) of the Air Navigation (Eurocontrol) Act, 1971, 'A person who obstructs or interferes with an officer ... when he is exercising a power' is translated as 'Aon duine a choisfidh nó bhacfaidh oifigeach ... nuair a bheidh sé ag feidhmiú cumhachta'. See the commentary on Article 40.4.6° for early translations of 'interfere' in the Acts.

*toirmeasc* This headword is translated as 'inhibition' in *Téarmaí Dlí*, where 'ordú toirmisc' is translated as 'prohibition order' and 'toirmiscim' is translated as 'I prohibit'. *Ó Dónaill* translates 'toirmeasc' as 'prohibition; prevention, hindrance', citing 'níl aon duine ag cur toirmisc ort, nobody is stopping you' and 'an rud atá ag déanamh toirmisc dom, what is holding me back'. *Dinneen* translates 'toirmeasc' as 'act of hindering, prohibiting, forbidding; hindrance, prohibition, opposition, obstruction, dissension, mischief, row, mishap, set-back', citing 'do-ghníim toirmeasc, I cause mischief' and 'cuirim toirmeasc ar, I obstruct, challenge'. DIL s.v. 'tairmesc', 'hindering, restraining, preventing, prohibiting', cites 'guide dée cen nach tairmesc ó dethidin in betho .i. ó sétchi' ('to pray God without any interruption from the care of the world, that is, from a wife') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'Toirmeasc' translates 'prohibit(ion)' in the Acts. See, for example – noting how 'a chur' follows this noun, rather than 'a dhéanamh', which qualifies 'rialáil' – s10 of the Sea Pollution Act, 1991, where 'prohibiting or regulating the discharge anywhere at sea' is translated as 'toirmeasc a chur nó rialáil a dhéanamh ar aon ... a scaoileadh amach aon áit ar farraige'. The Margin Title of s10 of the Road Traffic (Amendment) Act, 1978, 'Prohibition on driving vehicle while under influence of intoxicant' is translated as 'Toirmeasc ar dhuine faoi bhrí meiscigh feithicil a thiomáint'.

'I molest' is translated as 'cuirim isteach ar' in *Téarmaí Dlí*. In s515(1) of the Income Tax Act, 1967, as we saw

above, 'If any person ... obstructs, molests or hinders ... an officer' is translated as 'Má dhéanann duine ar bith ... cosc, cur isteach, nó bac ... ar oifigeach'. In s90(6)(e) of the Road Traffic Act, 1961, 'provisions prohibiting persons from interfering with, obstructing or molesting a licensed parking attendant in the performance of his duties' is translated as 'forálacha á thoirmeasc ar dhaoine cur isteach ar fhreastalaí loctha ceadúnaithe nó é a bhac nó é a bhuaireamh agus é ag comhlíonadh a dhualgas'. Note that in the corresponding Article 20 of the 1922 Constitution, we find 'no a chuirfidh isteach ortha'. In s22(3) of the Family Law (Maintenance of Spouses and Children) Act, 1976, 'where a person ... molests or puts in fear his spouse' is translated as 'i gcás duine ... do chur ... araoid nó eagla ar a chéile'. Looking at early Acts, 'The offence of forcing, striking, or wilfully molesting any soldier acting as sentry' is translated as 'Aon tsaighdiúir atá ag gníomhú mar fhairtheoir d'fhórsáil no do bhuala, no toirmeasc do dhéanamh air go toiliúil' in s34(3) of the Defence Forces (Temporary Provisions) Act, 1923. 'If any person shall at any time obstruct, hinder or molest the Commissioners ... in the performance of their duty' is translated as 'Má dhineann éinne aon uair na Coimisinéirí ... do bhac, do chosc no do bhuaireamh agus iad ag có-líona a ndualgais' in s78 of the Dundalk Harbour and Port Act, 1925.

*a cheapadh* 'Ceapaim' is translated as 'I appoint' in *Téarmaí Dlí*. *Ó Dónaill* gives 'appoint, assign' as one of the senses of 'ceap', citing '*an lá a cheapadh*, (on) the appointed day'; '*ar an uair a bhí ceaptha*, at the appointed hour' and '*cheap sé aimsir chuige*, he fixed a time for it'. *Dinneen* cites '*do cheapas lá don chruinniughadh*, I fixed upon a day for the assembly'. DIL only cites five examples of the verb 'ceppaid', which is translated as 'shapes, forms, fashions' and 'confines, restricts'. See the commentary on Article 6.1.

Turning specifically to 'attach', 'I attach (for contempt, etc)' is translated as 'astaím' in *Téarmaí Dlí*. We find the following entry in *A Dictionary of Irish Law* s.v. 'attachment':

An order which directs that a person be brought before the court to answer the contempt in respect of which the order is issued e.g. the failure of a witness without lawful excuse to attend court having been served with a subpoena and having been paid or offered a reasonable sum for his expenses.

The *Shorter Oxford Dictionary* has the following entry s.v. 'attach':

*Law.* To place or take under control of a court; to arrest or seize by authority of a writ of attachment.

*Ó Dónaill* translates 'astaigh' as (1) (Jurisprudence) 'attach' and (2) '= fostaigh', which headword is translated as 'catch, hold fast, grip', with the secondary sense of 'engage ... , hire, employ'. *Dinneen* refers the reader to 'fostuighim', 'I stop, hold, moor, fasten ...' s.v. 'astuighim'. In s176(6)(c)(iv) of the Corporation Tax Act, 1976, 'the allowance shall attach or remain attached to that trade' is translated as 'rachaidh an liúntas in astú, nó fanfaidh sé in astú, sa trádáil sin'. In s28(1) of the Family Law (Maintenance of Spouses and Children) Act, 1976, 'the liability for the payment of such periodical sum shall attach to his estate as a civil debt' is translated as 'rachaidh dliteanas an tsuim

thréimhsiúil sin a íoc in astú dá eastát mar fhiach sibhialta'. In s26(4) of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978, 'any condition specified in the instrument ... shall attach to the fee simple' is translated as 'aon choinníoll a shonraítear san ionstraim ... rachaidh sé in astú san fheo simplí'. Note that 'A licensee who does not comply with a condition attached to the licence' is translated as 'Aon cheadúnaí nach ndéanfaidh de réir coinnill a bheidh i gceangal leis an gceadúnas' in s6(2) of the Free Ports Act, 1986.

In the corresponding Article 20 of the 1922 Constitution we find 'beidh de chomhacht aige pionós do chur i bhfeidhm i dtaobh a mbriste', literally, 'it will have the power to enforce a penalty for their breaking'. The Margin Title of s10 of the Damage to Property (Compensation) Act, 1923, 'Attachment of re-instatement conditions to decrees in respect of buildings', is translated as 'Coinníollacha ath-shuidhimh do chur le haitheanta i dtaobh foirgintí'. 'The Circuit Judges shall have powers of attachment, injunction, garnishee, interpleader' is translated as 'Beidh ag na Breithimh Chuarda comhachta ceangail, stop, garnisé, idirphléideála' in s57 of the Courts of Justice Act, 1924.

*saoirse aighnis* 'Aighneas' is translated as (1) 'argument, discussion', (2) 'submission (in argument, lawsuit)' with 'cead aighnis' translated as 'leave to speak (in course of argument)' in *Ó Dónaill*, where 'talkedness' and 'address' are given as two further secondary senses. *Dinneen* translates 'aighneas' as 'discussion, trouble, contention, argument, conversation'. 'Aignes' is translated as 'arguing, pleading; argument' in DIL, being based on 'aigne', 'one learned in law or in the practice of law; lawyer, advocate, pleader', found in the modern compound 'Ard-Aighne', 'Attorney General' – see the commentary on Article 30.1.

'Trade dispute' is translated as 'aighneas ceirde' in the Industrial Relations Act, 1946, and in subsequent Acts. In s5(4) of the Industrial Relations Act, 1969, 'If any dispute arises as to the claim of any person to ... any pension' is translated as 'Má éiríonn aon aighneas maidir le héileamh aon duine ag éileamh ... aon phinsin'. In s541 of the Income Tax Act, 1967, 'at the time when any matter in controversy in any such proceedings arose' is translated as 'an tráth a bhí aon ní faoi aighneas in aon imeachtaí den sórt sin'.

The sections headed 'Rules of Debate' in the current *Standing Orders* of Dáil Éireann are entitled 'Rialacha Díospóireachta', and 'debate' is translated as 'díospóireacht' in the sections themselves. The Margin Title of s48, 'Debating of motions and amendments', is translated as 'Díospóireacht ar thairiscintí agus ar leasuithe' and 'A motion or amendment shall not be debated until ...' is translated as 'Ní dhéanfar díospóireacht ar thairiscint ná ar leasú go dtí ...'. 'Díospóireacht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'debate' in the 1926 *Standing Orders*. Note how we find 'saoirse dhíospóireachta' in the corresponding Article 20 of the 1922 Constitution.

*scribhinní* We also find 'scribhinní' in the corresponding Article 20 of the 1922 Constitution, 'the custody of ... all public archives and records and of papers and documents of State' being translated as 'cimeád na n-annálacha agus na mbreacachán bpuiblí go léir agus cimeád páipéirí agus

scribhinní Stáit' in s1(i) of the Ministers and Secretaries Act, 1924. 'Scribhinn' is translated as 'script' in *Téarmaí Dlí*, where 'scribhinn na fianaise' is translated as 'transcript of evidence'. *Ó Dónaill* translates 'scribhinn' as 'writing, written document', *Dinneen* translating this headword as 'handwriting, screeving; a manuscript or document, a literary composition, evidence or authority in writing, a writ, bill or bond, superscription or inscription'. Old Irish 'scribend' comes from Latin 'scribendum' and is translated as (1) (*as verbal noun of 'scribaid'*), 'act of writing' and (2) 'of that which is written, (a) of books, manuscripts, etc.' in DIL, where 'scribinnd ind libuir so' ('[the day] of writing this book') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles. See further the commentary on Article 27.2.

'Document' is translated as 'doiciméad' in *Téarmaí Dlí*. In s89 of the First Schedule to the European Assembly Elections Act, 1977, 'Unauthorised inspection of documents' is translated as 'Iniúchadh neamhúdaraithé ar dhoiciméid'. In s22(4) of the Health Act, 1970, 'he shall forthwith hand over to the board all books, deeds, contracts, accounts, vouchers, maps, plans and other documents in his possession' is translated as 'seachadfaidh sé láithreach don bhord na leabhair, na gníomhais, na conarthaí, na cuntais, na deimhneithe, na léarscáileanna, na pleananna agus na doiciméid eile go léir a bheidh ina sheilbh'. In s42(1)(b) of the Succession Act, 1965, 'copies of all wills the originals of which are to be preserved in district probate registries' is translated as 'cóipeanna de gach uacht a mbeidh a scribhinn bhunaidh le caomhnú i gclárlanna probháide ceantair'. In s14(1)(b) of the Decimal Currency Act, 1970, 'wills, documents and all other writings of a formal legal kind' is translated as 'uachtanna, doiciméid agus gach scribhinn eile de ghné dhlíthiúil fhoirmiúil'. Note, finally, that 'páipéar' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'document' in *Iris Oifigiúil*, 1922/23.

*a chur in áirithe* We also find this phrase in the corresponding Article 20 of the 1922 Constitution (as 'do chur in áirithe'). 'In áirithe' is translated as 'reserved, engaged' in *Ó Dónaill*, who cites '*suíochán a chur in áirithe*, to book a seat' and '*culaith a chur in áirithe*, to bespeak a suit'. *Dinneen* translates 'cuirim i n-áirithe' as 'I engage, secure'. See the commentary on Article 28.3.3°.

In s5 of the Judicial Separation and Family Law Reform Act, 1989, 'safeguards to ensure applicants' awareness of alternatives to ...' is translated as 'cosaintí chun a áirithiú go bhfuil iarratasóir eolach ar roghanna seachas ...'. In s4(5) of the Charities Act, 1973, 'in such manner as the Board consider most effectual for ensuring publicity thereof' is translated as 'i cibé slí is fearr dar leis an mBord chun a phoibliú a áirithiú'. In s118(1) of the First Schedule to the European Assembly Elections Act, 1977, 'in order to ensure the smooth and efficient holding of the election and to secure uniformity of procedure in regard thereto' is translated as 'chun a áirithint go ndéanfar an toghchán a stiúradh go réidh agus go héifeachtach agus chun comhionannas a nós imeachta ina leith a chur in áirithe'.

*a dhéanfadh iarracht ar* See, for an example of this construction in the Acts, s75(1)(b) of the First Schedule to the European Assembly Elections Act, 1977, where 'if ... he attempts to ascertain ... the number on the back of

any ballot paper' is translated as 'má dhéanann sé ... iarracht chun a fháil amach ... cad é an uimhir atá ar chúl aon pháipéir bhallóide'. Note how this phrase is translated as 'a thabharfaidh faoi' in the corresponding Article 20 of the 1922 Constitution, 'tabhair faoi' being more usual in the Acts. Note finally that in s25(2)(a) of the Misuse of Drugs Act, 1977, for example, 'that an offence under this Act ... has been committed or attempted' is translated as 'go ndearnadh cion faoin Acht seo ... nó féachadh lena dhéanamh'.

*pionós* See the commentary on Article 13.6. This headword is translated as 'penalty' in *Téarmaí Dlí*, where '*pionós báis*, capital punishment' is cited. In the *Programme for a Partnership Government, 1993-97* (p. 7), for example, 'coupled with penalties for failure' is translated as 'agus san am céanna pionóis i gcás loiceadh'. Note that while we find 'pionós' in the 1922 Constitution both 'fineáil' and 'peannaid' were also used in early Acts to translate 'penalty'. 'Shall be liable to the penalty imposed by section 107' is translated as 'beidh sé i mbaol na fineála atá gearrtha amach le halt 107' in s6(4) of the Finance Act, 1923, with 'affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed' being translated as 'baint le haon pheannaid, cailliúint, ná pionós a tuilleadh mar gheall ar aon chionta a dineadh i gcoinnibh aon achtachán a hathghairmeadh amhlaidh' in s13(2)(d) of the Interpretation Act, 1923. Finally, 'i bpéin fineála' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'under a penalty of ...' in translations for the Department of Industry and Commerce.

*saoirse* This headword is translated as 'freedom' in *Ó Dónaill*, where 'saoirse cainte' is translated as 'freedom of speech' and 'saoirse coinsiasa' is translated as 'liberty of conscience'. The secondary sense of 'immunity, exemption' is also given in *Ó Dónaill*, who cites '*saoirse fónaimh*, exemption from service'. *Dinneen* translates 'saoirse' as 'freedom, liberty, independence, franchise, immunity, freedom from restriction, "rights" ...'. DIL translates 'sairse' as (a) 'freedom, liberty, the status of a freeman' and (b) 'exemption, immunity' – see the commentary on Article 40.4.1°.

*a bhuan-orduithe* 'Buanorduithe' is translated as 'standing orders' in *Ó Dónaill*, where this compound is unhyphenated. It does not seem to be given as a headword in *Dinneen*. Note that in Article 20 of the 1922 Constitution, this was given in initial capitals in the English text. 'Buanordaithe' is hyphenated in the title *Buan-Orduithe i dtaobh Gnó Phoiblí / Standing Orders relative to Public Business* (1997). Note how 'moltóir seasaimh' translates 'standing arbitrator' in the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924 (reference in the *Oireachtas Dictionary of Official Terms*), with 'buan-mholtóir' being found in s8(4) of the Railways (Existing Officers and Servants) Act, 1926.

*de chumhacht* See s11(3)(c) of the Health Act, 1970, for example, where 'the board shall have power to hold and dispose of land' is translated as 'beidh cumhacht ag an mbord talamh a shealbhú agus a dhíúscairt'. See further the commentary on Articles 13.6 and 13.9.

*do lucht a sáraithe* 'Sárú' is translated as 'breach', 'contravention' and 'infringement' in *Téarmaí Dlí*. See the commentary on Article 15.5.

### Standardised Irish text

Déanfaidh gach Teach ar leith a rialacha agus a bhuanorduithe féin, agus beidh sé de chumhacht ag gach Teach acu pionós a cheapadh do lucht a sáraithe sin; beidh sé de chumhacht aige fairis sin saoirse aighnis a chur in áirithe, agus a scribhinní oifigiúla féin agus páipéir phríobháideacha a chomhaltáí a dhéan, agus fós é féin agus a chomhaltáí a dhéan ar aon duine nó ar aon dream daoine a dhéanfadh cur isteach nó toirmeasc ar a chomhaltáí nó a dhéanfadh iarracht ar iad a éilliú agus iad ag déanamh a ndualgas.

### Direct translation

Déanfaidh gach Teach a rialacha agus a bhuanorduithe féin, le cumhacht<sup>1</sup> pionós a astú<sup>2</sup> i gcás<sup>3</sup> a sáraithe, agus beidh cumhacht aige<sup>4</sup> saoirse díospóireachta a áirithiú, a dhoiciméid oifigiúla agus páipéir phríobháideacha a chomhaltáí a chosaint, agus é féin agus a chomhaltáí a chosaint ar aon duine nó daoine a bhainfidh lena chomhaltáí<sup>5</sup> nó a chuirfidh isteach orthu nó a fhéachfaidh lena n-éilliú agus iad ag feidhmiú<sup>6</sup> a ndualgas<sup>7</sup>.

### Variants

- 1 'agus beidh de chumhacht aige/acu'
- 2 'a chur i bhfeidhm', 'a ghearradh'
- 3 'i leith'
- 4 'acu', 'beidh de chumhacht aige/acu'
- 5 'a ndoiciméid oifigiúla agus páipéir phríobháideacha a gcuid comhaltáí a chosaint agus iad féin agus a gcuid comhaltáí a chosaint ar aon duine nó daoine a bhainfeadh lena gcomhaltáí'
- 6 'i mbun'
- 7 'le linn dóibh a ndualgais a fheidhmiú'

## ARTICLE 15.11.1° AIRTEAGAL 15.11.1°

### TÉACS GAELGE

Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo is é slí a dtabharfar breith ar gach ceist i ngach Teach ar leith ná le formhór vótaí na gcomhaltáí a bheas i láthair agus a dhéanfas vótáil ach gan an Cathaoirleach nó an comhalta a bheas i gceannas a áireamh.

### LITERAL ENGLISH TRANSLATION

Apart from a case for which an alternative is provided for by this Constitution the way judgement will be given on each question in each particular House is by a majority of the votes of the members (who will be) present and voting but not including the Chairman or the member who will be / is in charge.

### ENGLISH TEXT

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

### Divergences between the official texts

- 1 'All questions shall be determined by a majority ...' is expressed in the Irish text as 'is é sli a dtabharfar breith ar gach ceist ná le formhór ...' ('the way each question will be judged/decided is by a majority'); 'I determine (issue, etc.)' is translated as 'cinnim' in *Téarmaí Dlí*.
- 2 'Other than the Chairman' is expressed as 'gan an Cathaoirleach ... a áireamh' ('not including the Chairman') in the Irish text.
- 3 As in some other sections, 'each House' is expressed as 'gach Teach ar leith' ('each particular House') in the Irish text.

Note how a great effort was made to adhere to the wording of the current Article, which is specifically referred to, in s72 of the *Standing Orders* of Dáil Éireann (1997), and yet 'foráiltear' is substituted for 'socráitear', 'cinnfear' is substituted for 'tabharfar breith' and 'tromlach' is substituted for 'formhór':

Questions in the Dáil or in a Committee of the whole Dáil, shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present and voting, other than the Ceann Comhairle, or presiding member, who shall have and exercise a casting vote in the case of an equality of votes [See Article 15.11 of the Constitution]. *Taobh amuigh de chás dá bhforáiltear a mhalairt leis an mBunreacht, is é sli ina gcinnfear ceisteanna sa Dáil nó i gCoiste den Dáil uile ná le tromlach vótaí na gcomhaltaí a bheidh i láthair agus a dhéanfaidh vótáil, ach gan an Ceann Comhairle, nó an comhalta a bheidh i gceannas, a áireamh, agus beidh vóta cinniúna aige nó aici sin nach foláir dó nó di a thabhairt más ionann líon na vótaí ar an dá thaobh [Féach Airteagal 15.11 den Bhunreacht].*

Note also that Article 22 of the 1922 Constitution commences as follows:

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 ... *Socrófar gach ceist i ngach Tigh, ach amháin mar a bhfuil a mhalairt de shocrú sa Bhun-reacht so, le mór-áireamh de vótanna na mball atá láithreach, lasmuich den Cheann Chomhairle no den bhall atá i gceannas.*

### Commentary

*Taobh amuigh de chás* Literally 'outside of a case'. For a translation of a version of this standard phrase in the Acts, see s1(4) of the Health Act, 1970, where 'Save as otherwise specifically provided for, this Act shall come into operation ...' is translated as 'Ach amháin mar a bhforáiltear go sonrach dá mhalairt, tiocfaidh an tAcht seo i ngníomh ...'. In s146(6) of the Mines and Quarries Act, 1965, 'Save as otherwise expressly provided by this Act' is translated as 'Ach amháin mar a fhoráiltear a mhalairt go sainráite leis an Acht seo'. In s498 of the Income Tax Act, 1967, 'Save as otherwise expressly provided by any provision of this Act' is translated as 'Acht amháin mar a bhforáiltear a mhalairt go sainráite le haon fhoráil den Acht seo'. We find '... mar a fhoráiltear' in *Treaties establishing the European Communities* (1973, p. 935); 'mar a bhforáiltear' is also cited in a translation of 'European' legislation. In the

*Treaty on European Union* (1992) 'mura bhforáiltear a mhalairt' translates 'save as otherwise provided'. See the commentary on Article 13.9 for early translations and note that 'in contract and tort (save matrimonial and criminal conversation actions)' is translated as 'i gcás connartha agus tort (lasmuich d'aicsein i gcúrsaí pósa agus comhráidh choiriúla)' in s48(ii) of the Courts of Justice Act, 1924.

*formhór* This headword is translated as 'greater part, majority' in *Ó Dónaill*, who cites '*formhór na ndaoine*, the majority of the people' and '*formhór an lae*, most of the day'. *Dinneen* translates 'urmhór' as 'very many, very much, majority or greater part', citing '*urmhór an airgid*, the greater part of the money'. The earlier form, 'airmór', based on 'mór' and translated as 'very great', 'most of' and 'the greater part of' in DIL, is cited in the ninth-century Milan Glosses on the Commentary on the Psalms.

We find 'formhór' translating 'the greater part' in s4(8)(a) of the Capital Gains Tax Act, 1975, where 'their value or the greater part of their value' is translated as 'a luach nó formhór a luacha'. 'Formhór' is mainly found in the Acts in the phrases 'd'aontoisc / go haonarach nó go formhór' and 'go hiomlán nó go formhór' translating 'solely or principally/mainly' and 'wholly or mainly' respectively. 'Tromlach' generally translates 'majority' in the Acts and replaces 'formhór' in the version of the current Article in the *Standing Orders* of Dáil Éireann. See the commentary on Articles 13.2.2° and 14.4 regarding 'majority' in the Acts.

*breith* This headword is translated as 'decision' in *Téarmaí Dlí* and as 'judgment, decision' in *Ó Dónaill*, who translates 'breith a thabhairt ar chás' as 'to decide a case' and 'is réidh agaibh breith a thabhairt orm' as 'it is easy for you to judge me'. *Dinneen* translates 'breith' as 'judgment, decision, sentence; doom, fate'. 'Act of judging, deciding; judgment, legal ruling, interpretation' is just one of the senses of Old Irish 'breith', the verbal noun of 'beirid', the others being 'act of carrying', 'act of bearing, birth', 'taking (with one)', 'winning', 'act of carrying off, away' and 'act of catching up on, overtaking' – see DIL s.v. 'breith'. 'Tabhairt' is the prototonic form of 'do-beir'; therefore, in 'breith a thabhairt' you have the verbal noun of 'beir' along with a form of 'do-beir'. Examples of 'breith' with the simple verb 'beirid' itself ('figura etymologica') are found in the Old Irish Glosses: in the eighth-century Würzburg Glosses on the Pauline Epistles, for example, we find 'berid cách brith for arele' ('each gives judgement on the other') glossing Latin 'suspicionem malae'. See further the commentary on Article 34.3.1°.

In s8(4) of the Dublin Cemeteries Committee Act, 1970, 'every question at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting' is translated as 'Déanfar gach ceist ag cruinniú den Choiste a chinneadh le tromlach vótaí na gcomhaltaí a bheidh i láthair agus a vótáilfaidh ar an gceist', the same text (with 'Board' replacing 'Committee') being translated as 'is le tromlach vótaí na gcomhaltaí a bheidh i láthair agus a vótáilfaidh a chinnfear gach ceist ag cruinniú den Bhord' in s15 of the Second Schedule to the Fisheries Act, 1980. 'Cinn' expresses 'determine' in Article 1.

*i gceannas* *Ó Dónaill* translates 'dul i gceannas' as 'to assume authority, command', translating 'i gceannas airm'

as ‘in command of an army’ and ‘i gceannas cruinnithe, ar chruinniú’ as ‘presiding at a meeting’. ‘Lucht ceannais’ is translated as ‘persons in authority’ and ‘an fear ceannais’ as ‘the man in charge’. *Dinneen* translates ‘ceannas’ as ‘headship, authority, power, superiority; importance’. DIL translates ‘cennas’, based on ‘cenn’ (‘head’) as ‘headship, leadership, superiority, precedence’.

‘Presiding officer’ is translated as ‘oifigeach ceannais’ in s1(e) of the Referendum (Amendment) Act, 1968, and in s16(7) of the First Schedule to the European Assembly Elections Act, 1977. ‘The presiding member of the Board may administer oaths’ is translated as ‘féadfaidh an comhalta den Bhord a bheidh i gceannas daoine a chur faoi mhionn’ in s27(1)(a) of the Midwives Act, 1944. ‘Exclusive of the Chairman or presiding member’ is translated as ‘gan an Ceann Comhairle nó an ball i gceannas d’áireamh’ in Part II of the Schedule to the Constitution (Amendment No. 24) Act, 1936. ‘The Chairman if present shall preside at every meeting’ is translated as ‘Beidh an Cathaoirleach i gceannas gach tionóil den Choiste má bhíonn sé i láthair’ in s6(1) of the Pilotage Orders Confirmation Act, 1924.

*a áireamh* ‘Áireamh’ is the verbal noun of ‘áirigh’, ‘count, reckon’; *Ó Dónaill* translates ‘rud ar bith is fiú a áireamh’ as ‘anything worth counting, including’. *Dinneen* translates ‘áirmhim’ as ‘I count, reckon, consider, record; I speak of, mention, take into account’, citing ‘ní fiú iad d’áireamh, they are not worth considering’. Old Irish ‘áram’, verbal noun of ‘ad-rími’, is translated as ‘act of counting, reckoning, estimating; number, numeral’ in DIL s.v. ‘áiream’. See further the commentary on Article 18.7.1<sup>iv</sup>.

In the Acts generally ‘a áireamh’ translates ‘including’, the negative translating ‘exclude’/ ‘disregard’ – see, for example, s49(d) of the Finance Act, 1990, where ‘Any tax ... may be included in one assessment’ is translated as ‘Féadfar aon cháin ... a áireamh in aon mheasúnacht amháin’ and s60(1) of the First Schedule to the European Assembly Elections Act, 1977, where ‘any fractional remainder being disregarded’ is translated as ‘gan aon fhuilleach codánach a áireamh’. On the other hand, in s34(2)(a) of the Finance Act, 1990, ‘an amount so specified or implied, other than a distribution’ is translated as ‘ar mhéid a bheidh sonraithe nó intuigthe amhlaidh, seachas dáileadh ...’. Professor Máirtín Ó Murchú, commenting on the translation below, favours ‘ach gan an Cathaoirleach ... a áireamh’ to ‘seachas an Cathaoirleach ...’.

*a dhéanfas vótáil* For the special form of the relative in ‘-s’, see the commentary on Article 6.1. ‘I vote’ is translated as ‘vótálaim’ in *Téarmaí Dlí*.

*ar leith* See the commentary on Articles 12.3.3<sup>o</sup> and 15.9.1<sup>o</sup>.

### Standardised gender-proofed Irish text

Taobh amuigh de chás dá socráitear a mhalairt leis an mBunreacht seo is é slí a dtabharfar breith ar gach ceist i ngach Teach ar leith ná le formhór vótaí na gcomhaltaí a bheidh i láthair agus a dhéanfaidh vótáil ach gan an cathaoirleach nó an comhalta a bheidh i gceannas a áireamh.

### Direct translation

Ach amháin mar a bhforáiltear a mhalairt leis an mBunreacht seo, is le tromlach vótaí na gcomhaltaí a bheidh i láthair agus a vótálfaidh, seachas an Cathaoirleach nó an comhalta ceannais, a chinnfear gach ceist i ngach Teach.

### ARTICLE 15.11.2<sup>o</sup> AIRTEAGAL 15.11.2<sup>o</sup>

#### TÉACS GAELGE

Más ionann líon na vótaí ar an dá thaobh beidh ag an gCathaoirleach, nó ag an gcomhalta a bheas i gceannas, vóta cinniúna nach foláir dó a thabhairt.

#### LITERAL ENGLISH TRANSLATION

If the number of votes on the two sides is the same the Chairman, or the member (who will be) in charge, will have a deciding vote which he must give.

#### ENGLISH TEXT

The Chairman or presiding member shall have and exercise a casting vote in the case of an equality of votes.

#### Divergences between the official texts

- 1 ‘A casting vote’ is expressed in the Irish text as ‘vóta cinniúna’, literally ‘a deciding vote’; ‘vóta réitigh’ translates ‘casting vote’ in *Téarmaí Dlí* and in the 1922 Constitution.
- 2 ‘In the case of an equality of votes’ is expressed as ‘Más ionann líon na vótaí ar an dá thaobh’ (‘If the number of votes on both sides is the same’) in the Irish text.
- 3 ‘(He) shall ... exercise a casting vote’ is expressed as ‘vóta cinniúna nach foláir dó a thabhairt’ (‘he must give a casting vote’) in the Irish text, with ‘shall’ again being expressed as ‘(nach) foláir’ (‘must’) in the Irish text, as we have seen in some other sections.

Note that Article 22 of the 1922 Constitution contains the following:

... other than the Chairman or presiding member, who shall have and exercise a casting vote in the case of an equality of votes .... *lasmuich den Cheann Chomhairle nó den bhall atá i gceannas, ag a mbeidh vóta réitigh agus ar a mbeidh é chaitheamh má’s ionann vótanna an dá thaobh.*

### Commentary

*ionann* This headword is translated as ‘same, identical; alike, equal’ in *Ó Dónaill*, who cites ‘*is ionann iad*, they are identical’. *Dinneen* translates ‘ionann’ as ‘the same, identical; equal, equivalent, similar, alike; uniform, even, level’. DIL cites examples from the Old Irish Glosses onwards, including the following from the eighth-century Würzburg Glosses on the Pauline Epistles: ‘ar is innon iress nodonfríanigedar’ (‘for it is the same faith that justifies us’). See further the commentary on Article 22.2.3<sup>o</sup>.

In s24(6) of the Health Act, 1970, 'in case of equality of votes on any question, the chairman shall have a second or casting vote' is translated as 'i gcás comhionannas vótaí ar aon cheist, beidh an dara vóta nó vóta cinniúna ag an gcathaoirleach'. In s17(4) of the Second Schedule to the same Act, 'Whenever ... there is an equality of votes for two or more persons' is translated as 'Aon uair a tharlóidh ... gur comhionann an uimhir vótaí do bheirt daoine nó níos mó'. In s61 of the First Schedule to the Companies Act, 1963, 'When there is an equality of votes' is again translated as 'I gcás comhionannas vótaí'. Note, finally, that 'in the case of an equality of votes' is translated as 'i gcás có-ionannas vótanna' in Article 35 of the 1922 Constitution.

*vóta cinniúna* Literally 'deciding vote', here expressing 'casting vote', which phrase is translated as 'vóta réitigh' (literally 'settling vote') in *Téarmaí Dlí*. Unlike the latter term, 'vóta cinniúna' does not seem to be cited in *Ó Dónaill*. 'Cinniúna' is the genitive singular of 'cinniúint'. *Ó Dónaill* gives 'fate' as the basic sense of 'cinniúint' but has 'cinneadh' as the standard form of the second headword 'cinniúint' therein, 'cinneadh' being the verbal noun of 'cinn', 'fix, determine, decree'. 'Cinnemain' is the late verbal noun of 'cinnid' (based on 'cenn', 'head'), translated as 'defines, fixes, settles; completes, finishes' and 'decides (on a course of action), makes a decision', in DIL.

We see above s.v. 'ionann', that 'vóta cinniúna' translates 'casting vote' in s24(6) of the Health Act, 1970, but in the above-mentioned s61 of the First Schedule to the Companies Act, 1963, 'the chairman of the meeting at which the show of hands takes place ... shall be entitled to a second or casting vote' is translated as 'beidh teideal ag cathaoirleach an chruinniúna, a ndéanfar an taispeáint lámh ... aige, chun an dara vóta nó vóta réitigh a thabhairt'. In s15 of the Second Schedule to the Fisheries Act, 1980, 'the chairman shall have a casting vote' is translated as 'beidh vóta réitigh ag an gcathaoirleach'. We also find 'an vóta réitigh' in the *Treaty on European Union* (1992, p. 153).

*vóta ... a thabhairt* *Ó Dónaill* cites 'do vóta a thabhairt do dhuine, to give one's vote to someone' and 'do vóta a chaitheamh, to record one's vote'. In s2(g) of Article XI of Part 2 of the Schedule to the Bretton Woods Agreements Act, 1957, 'all territories in respect of which they exercise a mandate' is translated as '(chun na) gcríoch uile a bhfuil mandáid á feidhmiú ag an rialtas sin ina leith'. In s74(d) of the First Schedule to the European Elections Act, 1977, 'to impede or prevent the free exercise of the franchise by any Assembly elector' is translated as 'saorchleachtadh an toghchórais ag aon toghthóir Tionóil a bhac nó a chosc'. 'The Governor may ... exercise a second or casting vote' is translated as 'féadfaidh an Gobharnóir ... vóta breise no réitigh do chaitheamh' in s32(4) of the Central Bank Act, 1942, 'exercise a casting vote' being translated as 'vóta réitigh do thabhairt uaidh' in s16(3) of the Agriculture Act, 1931. Note that 'The directors may exercise the voting powers' is translated as 'Féadfaidh na stiúrthóirí na cumhachtaí vótála ... a fheidhmiú' in s8 of Part II of the First Schedule to the Companies Act, 1963. See further the commentary on Article 16.1.4° and see the commentary on Article 3 regarding 'exercise' in the Acts. Note that 'vóta a thabhairt' expresses 'cast a vote' in Article 47.1.

*ag an gcomhalta a bheas i gceannas* See the commentary on the foregoing subsection s.v. 'i gceannas'.

*a bheas* On the special form of the relative in '-s', see the commentary on Article 6.1.

### Standardised gender-proofed Irish text

Más ionann líon na vótaí ar an dá thaobh beidh ag an gcathaoirleach, nó ag an gcomhalta a bheidh i gceannas, vóta cinniúna nach foláir dó nó di a thabhairt.

### Direct gender-proofed translation

I gcás comhionannas vótaí beidh vóta réitigh ag an gcathaoirleach nó ag an gcomhalta ceannais agus déanfaidh sé nó sí an vóta sin a chaitheamh<sup>1</sup>.

### Variants

1 'a fheidhmiú'

## ARTICLE 15.11.3° AIRTEAGAL 15.11.3°

### TÉACS GAELIGE

Is lena bhuan-orduithe a chinnfear cén méid comhalta a bheas riachtanach do thionól de cheachtar den dá Theach chun é a bheith i gcumas feidhme.

### LITERAL ENGLISH TRANSLATION

It is by its standing orders that it will be decided how many members are / will be necessary for an assembly of either of the two Houses in order that it have power to function.

### ENGLISH TEXT

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.

### Divergences between the official texts

- 1 'For the exercise of its powers' is expressed as 'chun é a bheith i gcumas feidhme' ('in order that it have power to function') in the Irish text.
- 2 'To constitute a meeting' is expressed as 'do thionól' ('for a meeting') in the Irish text.

Note that the English text above is translated as follows in Article 22 of the 1922 Constitution:

Socróidh Buan-Orduithe gach Tighe an mó ball a dhéanfaidh cruinniú dleathach d'aon Tigh chun a chomachta do chur i bhfeidhm.

### Commentary

*cén méid* *Ó Dónaill* s.v. 'méid', cites '*cad é an méid, cén méid, airgid a chaill tú?* How much money did you lose? See, however, s.v. 'méad', '*cá mhéad duine atá ann?* How many persons are there?' '*Cá mhéad míle a shiúil tú?* How many miles did you walk?' and '*Cá mhéad uair?* How many times?' Old Irish 'mét' is translated as 'greatness, magnitude' in DIL s.v. 'méit', where 'cia méit?' is translated as 'how much (many)', 'cia mmeeit' glossing Latin 'quanta'

and 'quantum' in the ninth-century Milan Glosses on the Commentary on the Psalms, while 'ce mét aimmser' ('how many times') is cited from the St Gall Glosses on Priscian. Note that 'cia an méid comhalta' is the form of this phrase in the original text.

In s78 of the *Standing Orders* of Dáil Éireann (1997), for example, 'Such motion shall ... fix the number of members to serve on it' (i.e. on a Committee) is translated as 'Sa tairiscint sin ... socrófar an líon comhaltaí atá le fónamh air'.

*do thionól* 'Tionól neamhdhleathach' is translated as 'unlawful assembly' in *Téarmaí Dlí. Ó Dónaill* translates 'tionól' as 'gathering, assembly', while *Dinneen* translates this headword as 'act of assembling, mobilising, convening, collecting; an assembly, a gathering, a crowd, an army, a gang; marriage gifts or goods'. DIL translates 'tinól' as (a) 'act of collecting, gathering', (b) 'an (armed) assembly; band, company' and (c) 'that part of the marriage contribution which consisted of cattle'. 'Tinól' is the verbal noun of 'do-inóla', translated in DIL as 'gathers, collects; (of armies) musters, assembles', citing 'do-thionóilsíod a n-oireachtas un an áird-righ' from the *Battle of Magh Leana* and 'is na h-aimsir rotineoilid in seanad i Constantin' from the Irish version of the *Historia Britonum* of Nennius. See further the commentary on Articles 18.8 and 40.6.1<sup>ii</sup>.

In s19 of the *Standing Orders* of Dáil Éireann (1997), for example, 'The quorum necessary to constitute a meeting of the Dáil shall be twenty members' is translated as 'Fiche comhalta an córam is gá chun tionól den Dáil a bheith ann'. 'In order to constitute a meeting of a committee' is translated as 'D'fhonn cruinniú coiste a bheith ann' in s5 of the Fifth Schedule to the Industrial Relations Act, 1990, with 'Chun cruinniú de choiste a bheith ann' in s5 of the Second Schedule to the Industrial Relations Act, 1946. See the commentary on Articles 13.2.3<sup>o</sup> and 16.5 regarding 'meeting' and on Article 14.1 regarding 'constitute'.

*i gcumas* *Ó Dónaill* translates 'bheith i gcumas rud a dhéanamh' as 'to be able, have the capacity, to do something'. *Dinneen* translates 'níl sé ar mo chumas' as 'I am not able to do it, I have it not in my power or at my disposal', with 'ar chumas dam, im' chumas' having the same sense. 'Commus', verbal noun of 'con-midethar', is translated in DIL as (a) 'act of controlling, arranging, directing' and (b) 'power, ability, capacity', this being the usual sense, according to DIL. See the commentary on Article 14.2.2<sup>o</sup>.

*a chinnfear* 'Cinnim' is translated as 'I determine (issue, etc.)' and 'I find', in *Téarmaí Dlí* – see the commentary on Article 1.

*lena bhuan-orduithe* See the commentary on Article 15.10.

*a bheas* For the special form of the relative is '-s', see the commentary on Article 6.1.

### Standardised Irish text

Is lena bhuanorduithe a chinnfear cá mhéad comhalta a bheidh riachtanach do thionól de cheachtar den dá Theach chun é a bheith i gcumas feidhme.

### Direct translation

Is lena bhuanorduithe a chinnfear an líon comhaltaí is gá chun tionól de cheachtar Teach a bheith ann chun a chumhachtaí a fheidhmiú<sup>1</sup>.

### Variants

- 1 'chun gur tionól a bheidh ann i gceachtar Teach chun a gcuid cumhachtaí a fheidhmiú', 'chun gur tionól ar mhaithe lena gcumhachtaí a fheidhmiú a bheidh i gceachtar Teach'

## ARTICLE 15.12 AIRTEAGAL 15.12

### TÉACS GAELIGE

Gach tuarascáil agus foilseachán oifigiúil ón Oireachtas agus ó gach Teach de, maille le caint ar bith dá ndéantar in aon Teach díobh, táid saor ar chúrsaí dlí cibé áit a bhfoilsítear.

### LITERAL ENGLISH TRANSLATION

Every official publication and report from the Oireachtas and from each of its Houses, along with any statement made in any of those Houses, they are free from matters of law wherever (they are) published.

### ENGLISH TEXT

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

### Divergences between the official texts

- 1 'Shall be privileged' is expressed as 'táid saor ar chúrsaí dlí' ('they are free from matters of law') in the Irish text.
- 2 'Utterances' is expressed as 'caint ar bith' ('any utterance') in the Irish text; the term 'caint' (lit. 'talk') renders 'utterance' in the Acts also.
- 3 The English is syntactically ambiguous, in that 'publications' may, or may not, be governed by 'official'; the Irish here is equally, though divergently, ambiguous in that 'tuarascáil' ('report') may, or may not, be governed by 'oifigiúil'.
- 4 'Of either House' is expressed as 'ó gach Teach' ('of each House') in the Irish text.
- 5 'Shall be' is expressed by the present tense 'táid' ('they are') in the Irish text.

Note that Article 19 of the 1922 Constitution reads as follows:

All official reports and publications of the Oireachtas or of either House thereof shall be privileged, and utterances made in either House wherever published shall be privileged. *Beidh gach tuairisc agus foillsiúchán oifigiúil den Oireachtas no d'aon Tigh de fé phribhléid agus beidh gach ní adéarfair in aon Tigh de fé phribhléid is cuma cá bhfoillseófar é.*

J.M. Kelly (op. cit., p. 206) reports as follows regarding reference to Article 15.12 in the courts:

In *Attorney General v Hamilton (No. 1)* ([1993] 2 IR 250; [1993] IRLM 81) McCarthy J referred to the Irish version of the concluding sentence of Article 15.12 (‘táid saor ar chúrsaí dlí’) and said that this emphasised that the word ‘privileged’ had the same connotation in the law of defamation. This view was not, however, accepted by the Supreme Court in *Attorney General v Hamilton (No. 2)* ([1993] IRLM 821) where Finlay CJ stressed that the literal translation of the phrase – táid saor ar chúrsaí dlí – was ‘free from legal proceedings’. This ‘very clearly indicate[d] that there are a great variety of legal proceedings which could follow upon the making of an utterance over and beyond a claim for damages for defamation, were it not for the privilege and immunity granted by Article 15.12’.

### Commentary

*saor ar chúrsaí dlí* ‘Saoraim’ is translated as ‘I exonerate’ in *Téarmaí Dlí*. *Ó Dónaill* translates ‘saor’ as ‘free’, giving as secondary senses ‘blameless, innocent (*ar, ó, of*)’, citing ‘*saor ar choir*; innocent of an offence’, ‘*saor ó locht*, free from fault’ and ‘*tá mise saor air*; I have nothing to do with it’, along with ‘immune, exempt (*ar, ó, from*)’, citing ‘*saor ar ghabháil*, free from arrest’, ‘*saor ó chíos*, free from rent’ and ‘*táimid saor ar an dream sin*, we are under no obligation to those people’. *Dinneen* includes ‘exempt’ among his list of senses of ‘saor’ and translates ‘saor ar’ as ‘free of, free from’, followed by ‘saor ó, *id.*’ DIL translates ‘saor ar/for’ as ‘independent (of), not bound (by)’, citing ‘is saor e ar a cinaid’ (‘he is free from responsibility for damage done by them’ [of cows]) and ‘is saer iat ar cinaid a mbid’ (‘exempt from the liability of [supplying] food’) from commentaries on early Irish law-tracts.

‘Privileged’ is translated as ‘faoi phribhléid’ in *Téarmaí Dlí*, as in Article 19 of the 1922 Constitution. ‘Faoi phribhléid’ replaces the phrase of the present section in s2(2) of the Committee of Public Accounts of Dáil Éireann (Privilege and Procedure) Act, 1970 and of the Committee of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976. Note how closely s2(2) of the Committee of Public Accounts of Dáil Éireann (Privilege and Procedure) Act, 1970, adheres to the present section of the Constitution in other respects:

... all official reports and publications of the committee, and (c) the utterances in the committee of the members ... of the committee, wherever published shall be privileged. ... *beidh tuarascálacha agus foilseacháin oifigiúla uile an choiste, agus (c) beidh cibé caint a dhéanfaidh comhaltaí ... sa choiste, cibé áit a bhfoilséofar an céanna, faoi phribhléid.*

In s2(1) of the Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976, the same English text (with ‘a committee’ replacing ‘the committee’ in the first two occasions above) is translated as follows:

Beidh ... gach tuarascáil oifigiúil agus gach foilseachán oifigiúil ó choiste agus (c) an chaint i gcoiste ... a dhéanfaidh ... comhaltaí an choiste, faoi phribhléid cibé áit a bhfoilséofar iad.

‘And such publication shall be privileged’ is translated as ‘agus beidh an foilseachán sin faoi phribhléid’ in s47(3) of the Building Societies Act, 1989.

*caint* This headword is translated as ‘speech, talk’ in *Ó Dónaill*, with secondary sense of ‘address, discourse’,

*Ó Dónaill* citing ‘*caint a dhéanamh ar, faoi, rud*, to speak about something’. *Dinneen* translates ‘cainnt’ as ‘talk, speech, conversation, style; an expression’. DIL s.v. ‘cainnt’, cites ‘*caint ard do denum*, to talk loudly’, from *Rosa Anglica*. ‘Cainnt’ is apparently the verbal noun of ‘canaid’ (‘sing’) – see DIL s.v. ‘cainnt’. DIL gives ‘speaks, tells, announces, utters’ as the secondary sense of ‘canaid’ (primarily ‘sings, chants, recites’), citing ‘ní chanuit gó tria bhithu’ (‘they never tell a lie’) from the *Gaelic abridgment of the book of Ser Marco Polo*. Note, incidentally, that the word ‘insce’ (the general meaning of ‘inscne’ today being ‘gender’), translated in DIL as ‘a saying, speech, statement, word (*in sense* the Word [of God, etc.]); a language’, is translated as ‘utterance’ in the following gloss from the eighth-century Würzburg Glosses on the Pauline Epistles: ‘is menand is dind insci rian lenid’ (‘that he adheres to the previous utterance’). ‘I utter (a forgery)’ is translated as ‘rithim (brionnú)’ in *Téarmaí Dlí*.

The Margin Title of s58 of the *Standing Orders* of Dáil Éireann (1997), ‘Privilege: utterances in the nature of being defamatory’, is translated as ‘Pribhléid: caint de chineál clúmhillteach’, ss(1) reading as follows:

A member shall not make an utterance in the nature of being defamatory. *Ní dhéanfaidh comhalta caint de chineál clúmhillteach.*

Note how ‘utterances made in either House’ is translated as ‘gach ní adéarfáir in aon Tigh den Oireachtas’ in Article 19 of the 1922 Constitution. ‘In respect of any utterance in either House’ is translated as ‘i dtaobh éinní dá ndéarfá sé in aon Tigh den dá Thigh’ in Article 18. Note further that Article 15.12 is very closely followed in the Committee of Public Accounts of Dáil Éireann (Privilege and Procedure) Act, 1970, and in the Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976, ‘cibé caint a dhéanfaidh comhaltaí’ translating ‘the utterances of the members’ in the former, and ‘an chaint ... a dhéanfaidh comhaltaí’ being found in the latter.

*táid* The more conservative synthetic third person plural, present tense, form of the substantive verb – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms (‘tá siad’ in this case) of the verb in the Constitution. As against the numerous instances of ‘beidh’, we find ‘tá’ only in the following Articles: 15.13, 16.1.1°, 16.1.2°, 28.4.1°, 28.8, 29.7.3° (Article 2 of the 1998 Amendment), 44.2.5°, 45.2.i, 47.3; where it occurs, ‘tá’ usually expresses ‘shall’, as it does in the present section.

*cúrsaí dlí* ‘Matter, affair; circumstance’ is given as a secondary sense of ‘cúrsa’ in *Ó Dónaill* who translates ‘cúrsaí dlí’ as ‘legal matters’, *Dinneen* translating ‘cúrsaí dlíghidh’ as ‘legal proceedings (*or* matters)’. ‘Cúrsa’ is originally an English loanword, translated simply as ‘course’ in DIL, but which has undergone many developments of sense in Irish. See Article 37.1 where ‘cúrsaí coireachta’ expresses ‘criminal matters’.

*cibé áit a bhfoilsítear* ‘Foilsím’ is translated as ‘I publish’ in *Téarmaí Dlí*, the secondary sense of ‘foilsigh’ in *Ó Dónaill*, its primary sense being ‘reveal, disclose, make manifest’. *Dinneen* translates ‘foillsighim’ as ‘I show, reveal, exhibit, publish, explain; illustrate, describe’. The verb ‘foillsigid’ is based on ‘follus’ (‘clear’, ‘manifest’) and



examples from the Glosses of the eighth century onwards are cited in DIL in the sense of ‘shows, reveals, discloses, makes manifest or known’.

### Standardised Irish text

Gach tuarascáil agus foilseachán oifigiúil ón Oireachtas agus ó gach Teach de, maille le caint ar bith dá ndéantar in aon Teach díobh, tá siad saor ar chúrsaí dlí cibé áit a bhfoilsítear.

### Direct translation

Beidh gach tuarascáil oifigiúil agus gach foilseachán oifigiúil ón Oireachtas<sup>1</sup> nó ó cheachtar Teach den Oireachtas, maille le cibé caint a dhéanfar<sup>2</sup> i gceachtar Teach, faoi phribhléid cibé áit a bhfoilsítear iad.

### Variants

- 1 ‘tuarascálacha agus foilseacháin oifigiúla uile an Oireachtais’
- 2 ‘maille lena ndéanfar’, ‘maille le cibé caint a déanfar’

## ARTICLE 15.13 AIRTEAGAL 15.13

### TÉACS GAELIGE

Tá comhaltaí gach Ti den Oireachtas saor ar ghabháil le linn bheith i dtéarmann ceachtar den dá Theach nó ag teacht chuige nó ag imeacht uaidh, ach amháin i gcás tréasa, mar a mhínear sa Bhunreacht seo é, nó i gcás feileonachta nó briseadh síochána agus cibé caint a dhéanfaidh comhalta in aon Teach díobh ní inchúisithe é mar gheall uirthi in aon chúirt ná ag údarás ar bith ach amháin an Teach féin.

### LITERAL ENGLISH TRANSLATION

The members of each House of the Oireachtas are free from arrest while in the sanctuary of either of the two Houses or (while) coming to it or going from it, except in the case of treason, as it is defined in this Constitution, or in the case of felony or breaking the peace and, whatever statement a member will make in any of those Houses, he is not chargeable because of it in any court or by any authority except the House itself.

### ENGLISH TEXT

The members of each House of the Oireachtas shall, except in case of treason as defined in this Constitution, 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 court or any authority other than the House itself.

### Divergences between the official texts

- 1 ‘Shall not be amenable to any court or any authority’ is expressed as ‘ní inchúisithe é mar gheall uirthi in aon chúirt ná ag údarás ar bith’ (‘is not chargeable/prosecutable because of it in any court or by any authority’) in the Irish text.

- 2 ‘Be privileged from arrest’ is expressed as ‘saor ar ghabháil’ (‘be exempt from arrest’) in the Irish text.
- 3 ‘Within the precincts of’ is expressed as ‘i dtéarmann’ (‘in the sanctuary of’) in the Irish text.
- 4 In the original Irish text a semicolon follows ‘briseadh síochána’, which semicolon is not found in the later editions of the Stationery Office text. After this semi-colon, the Irish text begins an independent clause, but has as subject the singular ‘comhalta’ (‘a member’) as against ‘comhaltaí’ (‘the members’) in the first half of the section; the English text has two co-ordinate clauses governed by a single subject, ‘The members’.
- 5 The Irish text has ‘i dtéarmann ceachtar den dá Theach nó ag teacht chuige nó ag imeacht uaidh’ (‘in the precincts of either House or coming to it or going from it’) while the English text has ‘in going to and returning from, and while within the precincts of, either House’.
- 6 ‘In respect of any utterance’ is expressed as ‘cibé caint a dhéanfaidh ... mar gheall uirthi’ (‘because of whatever statement a member makes’) in the Irish text.
- 7 We find ‘Tá comhaltaí’ (‘Members are’) in the Irish text, as against ‘The members shall be’ in the English text.

Note that Article 18 of the 1922 Constitution reads as follows:

Every member of the 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. *Beidh de phribhléid ag gach ball den Oireachtas, ach amháin i gcás tréasa, feileonachta nó brise síochána, go mbeidh sé saor ó thógaint le linn do bheith ag dul chun aon Tighe den dá Thigh nó ag teacht uaidh, nó le linn do bheith fé ia aon Tighe den dá Thigh, agus ní féadfar aon aicsean ná aon imeachta in aon Chúirt ach sa Tigh féin do thabhairt na choinne i dtaobh éinní dá ndéarfá sé in aon Tigh den dá Thigh.*

J.M. Kelly (op. cit., p. 206) reports as follows regarding reference to Article 15.13 in the courts:

In *Attorney General v Hamilton (No.2)* ([1993] ILRM 821) a case concerning the entitlement of a Dáil Deputy to refuse to disclose the source of the information on which utterances made by him in the Dáil Geoghegan J accepted that the Irish expression ‘amenable’ as used in Article 15.13 ‘inchúisithe’ connoted ‘something like “chargeable”’. This did not necessarily lead to a conflict between the Irish and English texts, since he did not consider that the expression was not necessarily confined to a criminal context:

‘It seems clear that when used in the Constitution it is not so confined having regard to the wide scope of the expression ‘any court or any authority other than the House itself.’ But the word probably does connote the rendering of a person to some liability or sanction ... If upon refusal at a Tribunal [of Inquiry] established [under the Tribunals of Inquiry Act 1921] to answer a question certain legal consequences can flow adverse to the person so refusing ... it follows that, in my view, that a member of the Dáil questioned about utterances made by him in the Dáil cannot be made subject to

those legal consequences. In the context of a Tribunal that is what is meant by 'inchúisithe' and that is what is meant by 'amenable'. As I have already indicated, therefore, I do not believe that there is any conflict between the English and Irish versions."

### Commentary

*inchúisithe* The prefix 'in-' plus the participle of the verb 'cúisigh'. 'Cúisim' is translated as 'I accuse; I charge (with a crime, etc.)' in *Téarmaí Dlí* and as 'I accuse, charge, prosecute' in *Dinneen*. 'Cúisigh' is translated as 'accuse; charge, prosecute' in *Ó Dónaill*. 'Cúis' comes from Latin 'causa' and examples of the secondary sense of 'cause, case; dispute, controversy' and more specifically 'law, (law) case, suit, charge', etc., are cited in DIL from the Glosses of the eighth century onwards. The prefix 'in-' has the sense of 'capable of, fit for, proper for, worthy of' according to DIL.

Note that 'ionchúisim' translates 'I prosecute' in *Téarmaí Dlí* and 'ionchúisitheoir' translates 'prosecutor', both terms also being found in *Ó Dónaill*. In the enrolled version of the Constitution, we find 'ní hionchúisighthe é' as against modern standard 'ní inchúisithe é' of the Stationery Office's text. The prefix 'in-' in the sense of 'capable of, fit for, fit to be' remains 'in-' before a broad vowel or consonant – see, for example, 'inphósta' in 'cailín inphósta' ('girl of marriageable age').

In s2(1) of the Committee of Public Accounts of Dáil Éireann (Privilege and Procedure) Act, 1970, 'The members of the committee shall not, in respect of any utterance in the committee, be amenable to any court or any authority other than Dáil Éireann' is translated as 'Cibé caint a dhéanfaidh comhaltaí an choiste sa choiste ní inchúisithe iad mar gheall uirthi in aon chúirt nó ag údarás ar bith ach amháin Dáil Éireann féin'. In s2(1) of the Committees of the Houses of the Oireachtas (Privilege and Procedure) Act, 1976, 'A member of either House of the Oireachtas shall not, in respect of any utterance in or before a committee, be amenable to any court or any authority other than the House or the Houses of the Oireachtas by which the committee was appointed' is translated as 'Ní bheidh comhalta de cheachtar Teach den Oireachtas inchúisithe, mar gheall ar aon chaint i goiste nó os comhair coiste, in aon chúirt ná ag údarás ar bith ach amháin an Teach nó na Tithe den Oireachtas a cheap an coiste'.

'Freagrach do' translates 'amenable to' in s1 of Article 43 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, where 'Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions' is translated as 'Ní bheidh oifigigh chonsalachta nó fostaithe consalachta freagrach do dhlínse údarás breithiúnach nó údarás riaracháin an Stáit ghlacaidh i leith gníomhartha acu i bhfeidhmiú feidhmeanna consalachta'. This literally renders 'answerable to'. 'Amenable', which comes from Latin 'minare' ('to drive cattle by minatory [threatening] shouts'), is defined in the *Shorter Oxford English Dictionary* as follows:

- (1) Liable to answer (*to a tribunal, etc., or absol.*); responsible: ... (3) *loosely*, liable (*to a charge, etc.*).

'Freagrach do' corresponds to sense (1) above and 'inchúisithe' corresponds to sense (3). We see from the

1922 Constitution that 'amenable to any action or proceeding' is intended here, this being translated as 'ní fhéadfar aon aiscean ná aon imeachta in aon Chúirt ... do thabhairt 'na choinne', i.e. literally, 'no action or proceeding can be taken against him in any Court'.

'Freagarthach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'amenable' in 'Miscellaneous' translations, with 'to make amenable to justice' being translated as 'do thabhairt chun breithiúntais' in translations for the Department of Justice. 'A citizen of the United States ... shall not be amenable to the jurisdiction of the judicial or administrative authorities of the State' is translated as 'Saoránach de na Stáit Aontaithe ... ní bheidh sé faoi réir dhlínse údaráis bhreithiúnacha nó riaracháin an Stáit' in s6(1) of the Air Navigation and Transport (Preinspection) Act, 1986.

*i dtearmann* 'Tearmann' is translated as 'protection' in *Téarmaí Dlí* and 'tearmannaí' as 'I harbour'. *Ó Dónaill* translates 'tearmann' as 'sanctuary, place of refuge' and 'refuge, protection', along with the historical sense of 'church land affording right of sanctuary'. *Dinneen* translates 'tearmann' as 'a termon or glebe, applied only to Church of Ireland glebes in Antrim, a refuge, sanctuary or asylum; protection or patronage', citing 'Tearmann Féichín' [Feicín], Termonfeckin, 'i.e. the glebe of St Feichin'. 'Termonn', from Latin 'terminus', was originally 'the lands of a church or monastic settlement within which rights of sanctuary prevailed', according to DIL, who gives 'sanctuary, refuge, safe place *in general*' as the secondary sense, citing 'go ndeachtar do chaithem a dtearmainn ... [go] Mag ... nEo' ('sought refuge in Mag nEo') from the late text *Cathréim Thoirdealbhaigh*.

In s60(1) of the *Standing Orders* of Dáil Éireann (1997), 'Members ordered to withdraw ... shall forthwith withdraw from the precincts of the Dáil' is translated as 'Comhaltáí a n-ordófar dóibh imeacht as an Dáil ..., imeoidh siad láithreach ó mhaighin na Dála'. 'Precinct' is one of the senses given by *Dinneen* s.v. 'maighean', 'a place; ground, precinct, messuage, curtilage', and he cites '*Maighean Teamhrach*, the curtilage of Tara'. 'In the house or houses or within the precincts thereof' is translated as 'sa teach nó ina mhaighean nó sna tithe nó ina maighne' in s26 of the Housing Act, 1988, while in s19(1) of the Housing Act, 1966, 'for the accommodation ... in the house or houses or within the precincts thereof, of persons providing welfare or caretaker services for elderly persons' is translated as 'mar chóiríocht ... sa teach nó ina mhaighne nó sna tithe nó ina maighne, do dhaoine a sholátraíonn seirbhísí leasa nó áirigh do dhaoine scothaosta'. In s6 of the Racing Board and Racecourses (Amendment) Act, 1975, 'Where an authorised officer of the Board observes that a person is engaged in or carrying on the business of bookmaker on any authorised racecourse or in the precincts thereof' is translated as 'Má fheiceann oifigeach údaraithe don Bhord gnó geall-ghlacadóra á dhéanamh nó ar siúl ag duine ar aon rás-chúrsa údaraithe nó ina mhaighean'. In *Ó Dónaill*, 'maighean', plural 'maighne', is glossed 'place, steading', and marked as no longer in current use.

Finally, note that 'so much of the buildings and premises commonly known as Dublin Castle and of the precincts thereof as shall for the time being be appropriated' is translated as 'na foirgintí agus an t-áitreabh dá ngairmtear

go coitianta Caisleán Bhaile Átha Cliath, agus a ngar-chomhursanacht san, oiread díobh agus cuirfar i leithreas de thurus na huairé in s98 of the Courts of Justice Act, 1924.

*tréasa* See the commentary on Article 39 regarding ‘tréas’, genitive singular ‘tréasa’, the established term in Irish for ‘treason’. ‘Tréas’ is translated as ‘treason’ in *Téarmaí Dlí*, where ‘folach tréasa’ is translated as ‘misprison of treason’. *Ó Dónaill* translates ‘tréas’ as ‘treason; disloyalty, rebellion’, while *Dinneen* translates ‘tréas’ as ‘treason, treachery, wrong-doing, a treacherous deed’. DIL only cites Ó Bruadair’s seventeenth-century poetry s.v. ‘traos’. It may have had an earlier form ‘tréis’ (DIL), with ‘tréas’ emerging through association with ‘treas’ (‘strife’) and the infrequent English loanword ‘treason’, according to Professor Máirtín Ó Murchú.

*feileonachta* ‘Feileonacht’, genitive singular ‘feileonachta’, is a straightforward equivalent of English ‘felony’, according to Professor Máirtín Ó Murchú. ‘Feileonacht’ is translated as ‘felony’ in *Téarmaí Dlí*, where ‘imshocráim feileonacht’ is translated as ‘I compound a felony’. *Ó Dónaill* simply translates ‘feileonacht’ as ‘felony’. This word does not seem to be given as a headword in *Dinneen*. DIL cites ‘filún’ (‘a felon’) from *Caithréim Thoirdealbhagh*. Note that ‘feileontacht’ is the form in the original text, as in the 1922 Constitution.

*teacht chuige* Literally ‘coming to it’. See s43(4) of the First Schedule to the European Assembly Elections Act, 1977, where ‘persons being prevented by violence from going to any polling station’ is translated as ‘daoine a choimeád le foréigean ó dhul isteach in aon stáisiún vótaíochta’.

*briseadh síochána* This phrase is translated in *Téarmaí Dlí* as ‘breach of the peace’. *Ó Dónaill* cites ‘an dlí, an tsíocháin, a bhriseadh’, to break the law, the peace’ and ‘briseadh conartha, síochána, breach of contract, of peace’. *Dinneen* translates ‘briseadh ar an síoth’ as ‘violation of the peace-compact’. Earlier ‘síthcháin’ is a compound of ‘síd’ and ‘cáin’, translated as ‘peace, a state of peace, a compact of peace’ in DIL. ‘Bris(ed)’ in the more abstract sense of ‘breaking/violating laws’, etc., is found in early Irish laws – see DIL s.v. ‘bris(s)ed’. See further the commentary on Article 40.6.1<sup>ii</sup>.

*ar ghabháil* Throughout the history of Irish, ‘arrest’ has been one of the established meanings of the verb ‘gabh’. ‘Gabháil’ is translated as ‘arrest’ in *Téarmaí Dlí*, with the verb ‘gabhaim’ translated as ‘I apprehend (i.e. a person), I arrest’. *Ó Dónaill* translates ‘gabháil’ as ‘catch, seizure, capture’, translating ‘gabháil duine’ as ‘capture, arrest, of person’ and ‘faoi ghabháil’ as ‘under arrest’. *Dinneen* includes ‘arrest’ among the senses of ‘gabhaim’. DIL cites ‘do leigthea gan lan-gabail’ (‘without being taken prisoner’), from the *Banquet of Dun na nGedh and the Battle of Magh Rath* s.v. ‘gabál’, verbal noun of ‘gaibid’, ‘lays hold of, grasps’.

*mar a mhínítear* ‘Mínigh’ regularly translates ‘define’ in the Acts – see, for example, s352(1)(a) of the Companies Act, 1963, where ‘or any other instrument constituting or

defining the constitution of the company’ is translated as ‘d’aon ionstraim eile lenar comhdhéanadh an chuideachta nó lena mínítear a comhdhéanamh’. ‘Míniú’ translates ‘definition’ in the Acts. See the commentary on Article 12.4.2<sup>o</sup>. ‘Has been delivered for registration to the registrar of companies as defined in this Act’ is translated as ‘a sheachadadh lena chlárú do chlárúitheoir na gcuideachtaí, mar a mhínítear san Acht seo’ in s364(1) of the above-mentioned Act.

*saor ar* See the commentary on the previous section. Note how we find ‘saor ó thógaint’ in the 1922 Constitution, but it is preceded by ‘Beidh de phribhléid ag gach ball den Oireachtas’ – both constructions are used in conjunction to express ‘shall be privileged from’.

*tá comhaltaí* To express the sense of English ‘shall’, as against the numerous instances of ‘beidh’, we find ‘tá’ here, as in the previous section, and in the following Articles: 16.1.1<sup>o</sup>, 16.1.2<sup>o</sup>, 28.4.1<sup>o</sup>, 28.8, 29.7.3<sup>o</sup> (Article 2 therein), 44.2.5<sup>o</sup>, 45.2.i, 47.3; we find the corresponding negative ‘níl’ in Article 13.8.1<sup>o</sup>.

*caint* See the commentary on the previous section.

### Gender-proofed Irish text

Tá comhaltaí gach Tí den Oireachtas saor ar ghabháil le linn bheith i dtearmann ceachtar den dá Theach nó ag teacht chuige nó ag imeacht uaidh, ach amháin i gcás tréasa, mar a mhínítear sa Bhunreacht seo é, nó i gcás feileonachta nó briseadh síochána; agus cibé caint a dhéanfaidh comhalta in aon Teach díobh ní inchúisithe é nó í mar gheall uirthi in aon chúirt ná ag údarás ar bith ach amháin an Teach féin.

### Direct translation

Beidh comhaltaí gach Tí den Oireachtas faoi phribhléid óna ngabháil<sup>1</sup> ag dul dóibh chuig ceachtar Teach agus ag fillleadh uaidh agus le linn dóibh bheith i maighean ceachtar Tí, ach amháin i gcás tréasa, mar a mhínítear sa Bhunreacht seo, i gcás feileonachta nó briseadh síochána<sup>2</sup>, agus ní bheidh siad, mar gheall ar aon chaint a dhéanfaidh siad i gceachtar Teach díobh, inchúisithe in aon chúirt ná ag údarás ar bith ach amháin ag an Teach féin<sup>3</sup>.

### Variants

- 1 ‘maidir lena ngabháil’, ‘saor ó ghabháil’
- 2 ‘Ach amháin i gcás tréasa, mar a mhínítear sa Bhunreacht seo, i gcás feileonachta nó briseadh síochána, beidh comhaltaí gach Tí den Oireachtas faoi phribhléid óna ngabháil ...’
- 3 ‘agus ní bheidh siad freagrach d’aon chúirt nó d’aon údarás seachas an Teach féin i leith aon chainte i gceachtar Teach’

## ARTICLE 15.14 AIRTEAGAL 15.14

### TÉACS GAELGE

Ní cead d’aon duine bheith ina chomhalta de dhá Theach an Oireachtas san am chéanna, agus aon duine a bheas ina chomhalta de Theach díobh agus go ndéanfar comhalta

den Teach eile de, ní foláir a mheas láithreach go bhfuil éirithe aige as an gcéad ionad.

#### LITERAL ENGLISH TRANSLATION

No person is permitted to be a member of (the) two Houses of the Oireachtas at the same time, and anybody who will be a member of one of those Houses and (who) will be made a member of the other House, it must be immediately deemed that he has given up the first place.

#### ENGLISH TEXT

No person may be at the same time a member of both Houses of the Oireachtas, and, if any person who is already a member of either House becomes a member of the other House, he shall forthwith be deemed to have vacated his first seat.

#### Divergences between the official texts

- 1 'No person may' is expressed as 'Ní cead d'aon duine' ('no person is permitted to') and 'he shall' is expressed as 'ní foláir do' ('he must') in the Irish text, as in some other Articles.
- 2 'To have vacated his first seat' is expressed as 'go bhfuil éirithe aige as an gcéad ionad' ('to have given up his first position') in the Irish text.
- 3 'Becomes a member' is expressed as 'go ndéanfar comhalta ... de' ('will be made a member') in the Irish text.
- 4 A comma follows 'and' with no corresponding comma in the Irish text.

Note that Article 16 of the 1922 Constitution reads as follows:

No person may be at the same time a member both of Dáil Éireann and of Seanad Éireann, and if any person who is already a member of either House is elected to be a member of the other House, he shall forthwith be deemed to have vacated his first seat. *Ní fhéadfaidh éinne bheith 'na bhall de Dháil Éireann agus de Sheanad Éireann in aonacht, agus má toghar aon duine atá 'na bhall cheana d'aon Tigh chun bheith 'na bhall den Tigh eile, tuigfear feasta a chéad shuidheachán do bheith follamhuithe.*

#### Commentary

*go ndéanfar comhalta de* Literally 'he is made a member'. See s14(5) of the Higher Education Act, 1971, where 'Where a person who is either an officer or servant in the employment of An tÚdarás becomes a member of either House of the Oireachtas' is translated as 'I gcás duine is oifigeach nó seirbhíseach i bhfostaíocht faoin Údarás teacht chun bheith ina chomhalta de cheachtar Teach den Oireachtas'. In s30(1) of the Industrial Development Act, 1969, the same text (with 'a servant' and 'the Authority' replacing 'servant' and 'An tÚdarás') is translated as 'Má thagann duine is oifigeach nó seirbhíseach i bhfostaíocht faoin Údarás chun bheith ina chomhalta de cheachtar Teach den Oireachtas'. See the commentary on Article 25.4.1<sup>o</sup> regarding 'déan de'.

*ionad* See Article 12.6.2<sup>o</sup> where 'he shall be deemed to

have vacated his seat in that House' is expressed as 'ní foláir a mheas go bhfuil scartha aige le comhaltas an Tí sin'.

'Ionad' is translated as 'place' in *Ó Dónaill*, with the secondary sense of 'station, rank, post', *Ó Dónaill* citing '*tá ionad sa Dáil aige*, he has a seat in the Dáil'. *Dinneen* translates 'ionad' as 'place, position, stead, room, station, site, location, berth ...'. DIL cites examples of 'inad', in the sense of 'position or office held by anyone', from earlier literature. Note that in Article 16 of the 1922 Constitution 'he shall forthwith be deemed to have vacated his first seat' is translated as 'tuigfear feasta a chéad shuidheachán do bheith follamhuithe'.

*éirithe aige as* Literally 'he (has) risen out of'. See the commentary on Article 12.6.2<sup>o</sup> and note how in Article 16 of the 1922 Constitution, as we have just seen, 'he shall forthwith be deemed to have vacated his first seat' is translated as 'tuigfear feasta a chéad shuidheachán do bheith follamhuithe'.

'Baill do chur as a suideacháin' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'vacate the seats of members' in *Iris Oifigiúil*, 1922/23, and 1927, p. 697. See the commentary on Article 12.6.2<sup>o</sup> for other early translations of 'vacate'. 'Be deemed to have been duly so elected and to vacate his seat immediately after the commencement of his term of office' is translated as 'tuigfear ... gur toghadh go cuibhe amhlaidh é agus gur fhág sé a shuidheachán díreach tar éis tosach a théarma oifige' in s9(2) of the Electoral (Dublin Commercial) Act, 1930. 'And has vacated his seat by death, resignation, or disqualification' is translated as 'agus gur fágadh a shuidheachán folamh tré n-a éag, a eirghe as no a dhí-cháiliú' in s3 of the Seanad Electoral (University Members) Act, 1937.

*san am céanna* For lenition of the adjective in the dative following a masculine noun, see the commentary on Article 45 – this would be written as 'san am céanna' in standard Irish. In s44 of the *Standing Orders* of Dáil Éireann (1997), for example, 'Should more than one member rise at the same time' is translated as 'Má éiríonn níos mó ná aon chomhalta amháin san am céanna'. Note that 'at the same time' is translated as 'in aonacht' in Article 16 of the 1922 Constitution. This would be written as 'in éineacht' in standard Irish today; this phrase is translated as 'at the same time, at once; together, altogether' in *Ó Dónaill*, who cites '*dhá rud a dhéanamh in éineacht*, to do two things simultaneously'. Professor Máirtín Ó Murchú remarks that he doubts whether 'céanna' can be used in this sense, preferring 'in éineacht' or 'in aon am'.

*a mheas* *Ó Dónaill* translates the verb 'meas' as 'estimate, value, judge; deem, consider', citing '*measaim go bhfuil an ceart agat*, I think you are right' and '*mheas mé go dtiocfá*, I concluded that you would come'. Old Irish 'mess', translated as (a) 'the act of judging; a judgement, opinion', (b) 'appraisal, estimate, valuation' and 'esteem, respect, regard' in DIL, is itself the verbal noun of 'midithir', which originally had the sense of 'weighs, measures', hence 'judges'. See the commentary on Article 12.6.2<sup>o</sup>.

*a bheas* The special relative form of the substantive verb, future tense – see the commentary on Article 6.1 for the relative in '-s'.

*Ní cead* Literally, 'it is not permitted', this phrase expressing 'may not' in some Articles – see the commentary on Article 9.1.3°.

*Ní foláir* Literally '(he) must', but expresses 'shall' in some Articles – see the commentary on Article 11.

*láithreach* See the commentary on Article 46.5.

### Standardised gender-proofed Irish text

Ní cead d'aon duine bheith ina chomhalta nó ina comhalta de dhá Theach an Oireachtais san am céanna, agus aon duine a bheidh ina chomhalta nó ina comhalta de Theach díobh agus go ndéanfar comhalta den Teach eile de nó di, ní foláir a mheas láithreach go bhfuil éirithe aige nó aici as an gcéad ionad.

### Direct gender-proofed translation

Ní fhéadfaidh aon duine bheith ina chomhalta nó ina comhalta de dhá Theach an Oireachtais in éineacht<sup>1</sup>, agus, má thagann aon duine is comhalta cheana<sup>2</sup> de cheachtar Teach chun bheith ina chomhalta nó ina comhalta den Teach eile, measfar láithreach an duine sin a bheith scartha<sup>3</sup> leis an gcéad suíochán<sup>4</sup>.

#### Variants

- 1 'in aon am'
- 2 'cheana féin'
- 3 'tar éis scarúint'
- 4 'lena chéad nó lena céad suíochán'

## ARTICLE 15.15 AIRTEAGAL 15.15

### TÉACS GAELIGE

Tig leis an Oireachtas socrú a dhéanamh le dlí chun liúntais a íoc le comhaltaí gach Tí de as ucht a ndualgas i gcáil ionadóirí poiblí, agus chun go ndeonfaí dóibh, maidir lena ndualgais, saoráid chun taisteal in aisce agus cibé saoráid eile a chinnfidh an tOireachtas, má chinneann.

### LITERAL ENGLISH TRANSLATION

The Oireachtas may make provision by law to pay allowances to (the) members of each of its Houses for their duties in the capacity of public representatives, and that they would be granted, as regards their duties, facility to travel gratis and whatever other facility the Oireachtas decides, if it decides.

### ENGLISH TEXT

The Oireachtas may make provision by law for the payment of allowances to the members of each House thereof in respect of their duties as public representatives and for the grant to them of free travelling and such other facilities (if any) in connection with those duties as the Oireachtas may determine.

### Divergences between the official texts

- 1 'For the grant to them of free travelling and such other facilities' is expressed in the Irish text as 'chun go

ndeonfaí dóibh ... saoráid chun taisteal in aisce agus cibé saoráid eile' ('that they would be granted facility to travel gratis and whatever other facility').

- 2 'Their duties as public representatives' is expressed in the Irish text as 'a ndualgas (*gen. pl.*) i gcáil ionadóirí poiblí' ('their duties in the capacity of public representatives').
- 3 The Irish text expresses more clearly perhaps than the English text, that 'maidir lena ndualgais' ('in connection with their duties') covers the free travelling as well as the other facilities, by bringing this before 'saoráid chun taisteal in aisce' ('free travelling').
- 4 'In connection with **those** duties' is expressed as 'maidir lena ndualgais' ('in connection with **their** duties') in the Irish text.
- 5 'Le comhaltaí gach Tí' could be read either as 'to members of each House' or as 'to the members of each House', since Irish syntax does not make the distinction.
- 6 'If any' is expressed in the Irish text as 'má chinneann', 'if they decide' – to grant any other facility.

Note that Article 23 of the 1922 Constitution reads as follows:

The Oireachtas shall make provision for the payment of its members, and may in addition provide them with free travelling facilities to any part of Ireland. *Déanfaidh an t-Oireachtas soláthar chun a bhaill do dhiol agus féadfaidh sé fós saor-thaisteal do sholáthar dóibh in aon pháirt d'Éirinn.*

Note also that the words 'fairis sin taisteal i n-aisce agus cibé áiseanna eile a bhaineas le n-a ndualgasaibh, mar' were deleted by the Second Amendment of the Constitution Act, 1941, and the words 'chun go ndeonfaí dhóibh, maidir le n-a ndualgasaibh, saoráid chun taisteal i n-aisce agus cibé saoráid eile a' inserted in their place, with no corresponding amendment being made to the English text.

### Commentary

*saoráid* This headword is translated as 'ease, facility' in *Ó Dónaill*, who cites '*saoráidí a bheith agat le rud a dhéanamh*, to have facilities for doing something' and '*gach áis agus saoráid*, every convenience and facility'. *Ó Dónaill* gives the secondary sense of 'ease, freedom from constraint'. *Dinneen* translates 'saoráid' as 'cheapness, ease, facility, fluency, easy route'.

In s2(c) of Article 1 of the Third Schedule to the Radiological Protection Act, 1991, 'radioactive waste management facility' is translated as 'saoráid bhainistíochta dramhaíola radaighníomhaí'. In s1(1) of the Consumer Information Act, 1978, "provide" in relation to a service or facility includes "render" is translated as 'foláionn "cur ar fáil", i ndáil le seirbhís nó saoráid, an tseirbhís nó an tsaoráid a thabhairt' and in s46(1) of the Diplomatic Relations and Immunities Act, 1967, 'A person who wilfully hinders, restricts or prevents the enjoyment or exercise of inviolability or an exemption, facility, immunity, privilege or right conferred by this Act' is translated as 'Aon duine a bhacfaidh, a shrianfaidh nó a choisfidh go toiliúil dosháraitheacht, sairseacht, saoráid, díolúine, pribhléid nó ceart a thugtar leis an Acht seo a theachtadh nó a fheidhmiú'.

The Long Title of the Oireachtas (Payment of Members) Act, 1923, reads as follows:

An Act to provide for the payment of allowances to Members of the Oireachtas and to authorise the provision of certain free travelling facilities for such Members. *Acht chun soláthar do dhéanamh chun liúntaisí d'íoc le baill den Oireachtas agus chun a údarú go soláthrófar saoráidí áirithe do sna baill sin chun taisteal do dhéanamh gan íoc as.*

'Free postal facilities' is translated as 'saoráidí poist in aisce' in s2(b) of the Oireachtas (Allowances to Members) Act, 1962. See further the commentary on Article 42.4 where 'facility' is expressed as 'áis'.

*taisteal in aisce* *Téarmaí Dlí* translates 'earbadh in aisce' as 'gratuitous bailment'. *Ó Dónaill* translates 'in aisce' as 'for nothing, gratis', citing '*rud a fháil, a thabhairt, in aisce*, to get, give, something for nothing'. *Dinneen* translates 'i n-aisce' as 'for nothing, gratis, as a free gift', also 'with no advantage, uselessly', along with 'unavenged, unrequited'. DIL cites examples of the phrase 'i n-aiscid', translated as 'without payment, gratis, for nothing', from commentaries on early Irish law-tracts and from later literature. 'Aiscid' is the verbal noun of 'ad-saig', and is translated as (a) 'act of seeking, requesting; request, boon, favour' and (b) 'gift, present' in DIL.

Note that we find 'saor-thaisteal' in Article 23 of the 1922 Constitution. 'Saorthaisteal' is given as a headword in *Ó Dónaill* and translated as 'free travel'.

*go ndeonfaí dóibh* 'Deonaim' is translated as 'I grant' in *Téarmaí Dlí*. *Ó Dónaill* translates 'deonaigh' as 'grant, consent; vouchsafe, condescend', citing '*rud a dheonú do dhuine*, to grant something to someone' and '*an phribhléid a deonaidh dúinn*, the privilege which was accorded to us'. *Dinneen* translates 'deonuighim' as 'I vouchsafe, permit, consent; condescend; I command, order, enjoin'. DIL gives one example from a commentary on an early Irish law-tract of 'deóinid', 'consent', and two examples of 'deónaid', 'grants, allows'; over ten examples are given of the verbal form 'deónaigid', 'grants, vouchsafes, permits (in later texts especially of Divine will)', including 'do dheónaigh Dia Gaoidhil do dhealughadh ré hard-fhlaitheas Éireann' ('God permitted that the Irish should be separated from the sovereignty of Ireland'), from Keating's seventeenth-century *Three Shafts of Death*. All these verbal forms are based on the noun 'deóin', translated as 'will, pleasure, consent' in DIL.

Turning to the Acts, in s3(b)(i) of the Capital Gains Tax Act, 1975, 'by way of consideration for the grant of the part of the sub-lease covered by the period ...' is translated as 'i modh comaoine as an gcuid den fholéas a dheonú lenar bhain an tréimhse'. In s1(1) of the Agricultural Produce (Cereals) (Amendment) Act, 1969, 'contributory schemes for the granting of pensions, gratuities and other allowances on retirement to ... such wholetime officers ...' is translated as 'scéimeanna ranníocacha chun pinsin, aiscí agus liúntais eile a dheonú do cibé oifighilán niamsire ...'.

*maidir lena ndualgais* *Téarmaí Dlí* translates the phrase 'maidir le' as 'in the matter of', translating 'dlinse maidir le pósadh' as 'matrimonial jurisdiction' and 'maidir le maoin'

as 'in the goods of'. *Ó Dónaill* translates 'maidir le' as 'as to, as for, about, regarding, considering; along with; like', citing '*maidir le culaith nua de*, since we are talking about a new suit'. DIL cites only one example of the phrase 'maidir le' s.v. 'maidir', followed by the abbreviation for 'modern', in sense of 'along with, as well as', referring the reader to *Ériu* ix, pp. 12-15, for the secondary meaning 'as for, as regards'.

We sometimes find 'maidir le' translating 'in respect of' in the Acts – see, for example, s61(6) of the First Schedule to the European Assembly Elections Act, 1977, where 'ascertained in respect of each candidate' is translated as 'a fuarthas amach maidir le gach iarrthóir'. This phrase is generally now translated as 'i leith' – see, for example, s39(4)(a) of the Finance Act, 1990, where 'so as to be within the charge to corporation tax in respect of that trade' is translated as 'sa chaoi go mbeidh sí laistigh den réim cánach corpraithe i leith na trádála sin'. 'In connection with' is now generally translated as 'i ndáil le' in the Acts. See the commentary on Article 29.4.1°.

*má chinneann* 'If any', in this context, is usually translated as 'más ann' in the modern Acts – see, for example, s25(1) of the Dublin Cemeteries Committee Act, 1970, where 'subject to all incumbrances, charges, superior interests and other rights (if any) affecting the same' is translated as 'faoi réir na n-iontaobhas, na muirear, na n-uasleasanna agus na gcearta eile (más ann) go léir a dhéanann difear don chéanna'. In s17 of the Value-Added Tax (Amendment) Act, 1978, 'the total amount of tax payable by the person was greater than the total amount of tax (if any) paid by him' is translated as 'gur mhó an méid iomlán cánach ab iníoctha ag an duine ná an méid iomlán cánach (más ann) a d'íoc sé'. See further the commentary on Article 29.4.2°.

Professor Máirtín Ó Murchú questions whether 'más ann' is comprehensible, in the translation below, without the phrase being in agreement with the syntax of the sentence, citing 'má tá punt aige, níl ann ach sin', for example. According to Professor Ó Murchú, in order to express the sense involved here, the verb is usually repeated – Máirtín Ó Murchú cites 'tháinig Seán, má tháinig aon duine' and 'tá an t-eolas aige, má tá ag aon duine' as examples. Hence the use of 'má chinneann' above.

*i gcáil ionadóirí* 'Cáil ionadaí' is translated as 'representative capacity' in *Téarmaí Dlí*. See the commentary on Article 15.1.2° regarding the variant form 'ionadóir'.

*Tig leis an Oireachtas* Literally 'the Oireachtas can' – for 'tig le' expressing 'may' in the Constitution, see the commentary on Article 14.4.2°.

### Standardised Irish text

Tig leis an Oireachtas socrú a dhéanamh le dlí chun liúntais a íoc le comhaltáí gach Tí de as ucht a ndualgas i gcáil ionadaithe poiblí, agus chun go ndeonófaí dóibh, maidir lena ndualgais, saoráid chun taisteal in aisce agus cibé saoráid eile a chinnfidh an tOireachtas, má chinneann.

### Direct translation

Féadfaidh an tOireachtas socrú a dhéanamh le dlí chun liúntais a íoc le comhaltáí gach Tí de i leith a ndualgas

mar ionadaithe poiblí agus chun saorhaisteal a dheonú dóibh maille le cibé saoráidí eile (más ann) i ndáil leis na dualgais sin<sup>1</sup> a chinnfidh an tOireachtas<sup>2</sup>.

### Variants

- 1 'i leith na ndualgas sin'
- 2 'cibé saoráidí eile a chinnfidh an tOireachtas i ndáil leis na dualgais sin, má chinneann'

## ARTICLE 16.1.1<sup>o</sup> AIRTEAGAL 16.1.1<sup>o</sup>

### DÁIL ÉIREANN

#### TÉACS GAELGE

Gach saoránach, cibé acu fear nó bean, ag a bhfuil bliain agus fiche slán agus nach gcuirtear faoi mhíchumas nó faoi mhíthreoir leis an mBunreacht seo ná le dlí, tá sé intofa ar chomhaltas Dháil Éireann.

#### LITERAL ENGLISH TRANSLATION

Every citizen, whether man or woman, who has completed/reached twenty-one years and who is not put under disability or incapacity/derangement by this Constitution nor by law, he is electable to (the) membership of Dáil Éireann.

#### ENGLISH TEXT

Every citizen without distinction of sex who has reached the age of twenty-one years, and who is not placed under disability or incapacity by this Constitution or by law, shall be eligible for membership of Dáil Éireann.

#### Divergences between the official texts

- 1 'Without distinction of sex' is expressed as 'cibé acu fear nó bean' ('whether man or woman') in the Irish text.
- 2 'Who has reached the age of twenty-one years' is expressed as 'ag a bhfuil bliain agus fiche slán' ('who has completed/reached twenty-one years') in the Irish text, the same phraseology being employed in Article 12.4.1<sup>o</sup> in expressing 'who has reached his thirty-fifth year of age'.
- 3 'Incapacity', as we first saw in Article 12.3.1<sup>o</sup>, is expressed by 'míthreoir' in the Irish text, a term which is now principally understood as 'misguidedness'/ 'derangement', 'éagumas' translating 'incapacity' in *Téarmaí Dlí*.
- 4 'Disability' is expressed in the Irish text by 'míchumas', which is translated as 'disablement' in *Téarmaí Dlí*; this term also translates 'incapacity' in some Acts.
- 5 'Eligible for membership' is expressed as 'intofa ar chomhaltas' ('electable to (the) membership') in the Irish text, the term 'intofa' expressing 'eligible for election' in Article 12.4.1<sup>o</sup>.
- 6 'Shall be' is expressed as 'tá sé' ('he is') in the Irish text.
- 7 'Or by law' is expressed as 'ná le dlí' ('nor by law') in the Irish text.

Note that Article 15 of the 1922 Constitution reads as follows:

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 Dáil Éireann. *Gach saoránach go mbeidh aois bhliana is fiche slán aige, agus ná beidh curtha fé mhí-ábaltacht ná fé mhí-chumas ag an mBunreacht ná ag an ndlí beidh sé iontoghtha chun bheith 'na theachta de Dháil Éireann.*

### Commentary

*cibé acu fear nó bean* Literally 'whether man or woman', 'cibé acu fir nó mná' expressing 'without distinction of sex' in subsection 2<sup>o</sup>, with 'toisc gur fear nó toisc gur bean an saoránach sin' expressing 'on the ground of sex' in subsection 3<sup>o</sup>. In Article 9, 'by reason of the sex of such person' is expressed as 'toisc gur fireann nó toisc gur baineann an duine sin', with 'unsuited to their sex' expressed as 'nach n-oireann dá ngné' in Article 45.4.2<sup>o</sup>. A form based on 'gné', i.e. 'gnéas', today generally translates 'sex'. See the commentary on Article 9.1.3<sup>o</sup> regarding 'sex' in the Constitution and in early Irish official documents.

DIL cites 'amal dombeir in ben airmitin féith don fiur' ('as the woman gives due respect to the man') from the eighth-century Würzburg Glosses on the Pauline Epistles. While *De Bhaldraithe* translates 'sex' as 'gnéas', note how 'sex appeal' is translated as 'mealladh fear, ban', with 'she has no sex-appeal' translated as 'is fada siar searc fir óig inti'.

Section 2(1) of the Local Government (Extension of Franchise) Act, 1935, reads as follows:

Every person (without distinction of sex) who ... is a citizen of Saorstát Éireann and who has attained the age of twenty-one years and is not subject to any legal incapacity shall be entitled to be registered in the register of electors .... *Gach duine (idir fhireann agus baineann) a bheidh ... ina shaoránach de Shaorstát Éireann agus bliain is fiche slán aige agus gan é fé aon mhí-chumas dlíthiúil beidh sé i dteideal a chlárúithe sa chlár de thoghthóirí.*

Note that Article 14 of the 1922 Constitution commences as follows:

All citizens of the Irish Free State (Saorstát Éireann) 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 Dáil Éireann .... *Beidh de cheart ag gach saoránach de Shaorstát Éireann idir fireann agus buineann go mbeidh aois bhliana is fiche slán aige agus a chó-líonfaidh forálacha uile dlíthe toghacháin na haimsire, vótáil le teachtaí de Dháil Éireann.*

Turning specifically to 'distinction', 'The vessels ... shall afford relief and assistance to the wounded, sick and shipwrecked without distinction of nationality' is translated as 'Tabharfaidh na háirtheáil ... fóirithint agus cabhair don lucht créachtaithe, breoite agus longbhriste gan idirdhealú ó thaobh náisiúntachta' in Article 30 of the Second Schedule to the Geneva Conventions Act, 1962. 'Where necessary for the making of any distinction required by this section in any account to be shown thereunder' is translated as 'I gcás ar gá é chun aon idirdhealú a dhéanamh a cheanglaítear leis an alt seo a dhéanamh in aon chuntas a

bheidh le taispeáint faoin alt seo' in s44(6) of the Building Societies Act, 1976.

Looking at earlier legislation, 'Laws regulating ... shall contain no political, religious or class distinction' is translated as 'Na dlíthe a rialóidh ... ní dhéanfaid aon leithreachas i dtaobh polaitíochta ná creideamh ná aicme' in Article 9 of the 1922 Constitution. 'Oiread de thuairisc gach iarrthóra dhiobh ... agus a dhéanfadh idirdhealú éifeachtúil eatorro' translates 'so much of the description of each of such candidates ... as will ... effectively distinguish such candidates' in Part III, 7, of the Fifth Schedule to the Electoral Act, 1923. 'Any other distinctive mark' is translated as 'aon mharc idirdhealuitheach eile' in s82(1)(e) of the Industrial and Commercial Property (Protection) Act, 1927, where 'except upon evidence of its distinctiveness' is translated as 'ach amháin de bharr fianaise ar a idirdhealuitheacht'.

Note regarding the present context that 'idirdhealú' is also the term used today in the Acts to translate 'discrimination', *Ó Dónaill* also giving 'discrimination' as one of the senses of 'idirdhealú', verbal noun of 'idirdhealaigh', 'differentiate, discriminate, distinguish'. 'Idirdhealú' expresses 'discrimination' in Article 44.2.3° where 'make any discrimination on the ground of religious profession, belief or status' is expressed as 'aon idirdhealú a dhéanamh mar gheall ar chreideamh nó admháil chreidimh nó céim i gcúrsaí creidimh'. *L. Mc Cionnaith* cites 'ní raibh idirdheal[bh]ú eatortha' from Connacht and Munster as a translation of the phrase 'no distinction between them, as equals'. DIL gives examples of 'deiligidir' ('separates') from the ninth-century St Gall Glosses on Priscian onwards, citing 'deliugad itir maith 7 olc' from the *Yellow Book of Lecan* as an example of the verbal noun 'deiliugad' in the sense of 'act of distinguishing'.

*faoi mhíchumas* 'Míchumas' is translated both as 'disability' and 'disablement' in *Téarmaí Dlí*, with 'sochar míchumais', for example, translated as 'disablement benefit'. See the commentary on Article 44.2.3°.

We see above that 'curtha fé mhí-ábaltacht' translates 'place under disability' in Article 15 of the 1922 Constitution. 'Or to maim, disfigure, or disable him' is translated as 'no é bhasca, no máchail do chur air, no é chur ar mí-chumas' in the 'Appendix to Rules' appended to the Criminal Justice (Administration) Act, 1924. Looking at modern Acts, 'Necessary party to deed, etc., under disability or failing to act' is translated as 'Páirtí riachtanach sa ghníomhas, etc., a bheith faoi mhíchumas nó é d'fhailli gníomhú' in the Margin Title of s76 the Landlord and Tenant (Amendment) Act, 1980, 'Daoine faoi mhíchumas nó daoine nár fionnadh' translating 'Persons under disability or unascertained' in the Margin Title of s6 of the Minerals Development Act, 1979. 'A person shall be entitled to disability benefit in respect of any day of incapacity for work' is translated as 'beidh duine i dteideal sochair mhíchumais maidir le haon lá éagumais chun oibre' in s18(1) of the Social Welfare (Consolidation) Act, 1981, this same text being translated as 'beidh teideal ag duine chun sochair mhíchumais in aghaidh aon lae éagumais chun oibre' in s15(1) of the Social Welfare Act, 1952. 'Go raibh páirtí sa chomhaontú eadrána ... faoi éagumas éigin' translates 'a party to the arbitration agreement was ... under some incapacity' in s9(2)(a) of the Arbitration Act, 1980, '(go raibh an páirtí sin) faoi éagumas dlíthiúil éigin'

translating 'was under some legal incapacity' in s56(2)(b) of the Arbitration Act, 1954.

We see above that 'mí-chumas' translates 'incapacity' in Article 15 of the 1922 Constitution. 'Ar aon chúis seachas mí-iompar, míchumas, no easláinte' translates 'for any reason other than misconduct, incapacity, or ill-health' in s63(5)(d) of the Court Officers Act, 1926, 'that any such summons-server has misconducted himself or displayed gross incapacity in the performance of his duties', however, in s44(3) thereof, being translated as 'gur dhin aon tseirbheálaí gairme den tsórt san é féin do mhí-iompar no ró-mhí-ábaltacht do thaisbeáint agus é ag cólíona a dhualgaisí'. Finally, 'If and whenever the Commissioner is incapacitated by illness from performing his duties' is translated as 'Má bhíonn agus nuair a bheidh an Coimisinéir gan bheith in án a dhualgaisí do chó-líona toisc é do bheith breoite' in s4(3) of the *Gárda Síochána* (Temporary Provisions) Act, 1923. See the commentary on Article 16.1.3° regarding early citations of 'incapacity for membership'.

*intofa ar chomhaltas* See the commentary on Articles 12.3.2° and 12.4.1° regarding 'intofa' and the commentary on Articles 12.6.2° and 12.10.4° regarding 'comhaltas'. 'A person shall not be eligible for membership of the Council' is translated as 'Ní bheidh duine i dteideal bheith ina chomhalta den Chomhairle' in s7 of the National Council for Educational Awards Act, 1979. In s4(4) of the Credit Union Act, 1966, 'the majority of the members of which are ... eligible for membership of a credit union' is translated as 'a bhfuil teideal ag tromlach a chomhaltaí ... chun comhaltas i gcomhar creidmheasa' in s4(4) of the Credit Union Act, 1966. 'There shall be eligible for membership of the Society such persons' is translated as 'Beidh cáilíocht chun bheith ina gcomhaltaí den Chumann ag na daoine sin' in s9 of the National Health Insurance Act, 1947. Finally, Article 31 of the 1922 Constitution reads as follows:

A person to be eligible for membership of Seanad Éireann must be a person eligible to become a member of Dáil Éireann .... *Chun go mbeidh saoránach iontoghtha chun bheith 'na bhall de Sheanad Éireann caithfe sé bheith 'na dhuine iontoghtha chun bheith 'na theachta de Dháil Éireann.*

We see above that 'beidh sé iontoghtha chun bheith 'na theachta' translates 'shall be eligible to become a member' in Article 15 of the 1922 Constitution. 'Eligible for', followed by verbal noun, is usually translated as 'in-', compounded with the past participle of the verb or the genitive of the verbal noun, 'ionchlárúithe' and 'incheaptha' respectively translating 'eligible for registration' and 'eligible for appointment' in Acts from 1924 and 1927. 'Every member of the Board shall ... be eligible for re-election or renomination' is translated as 'beidh gach ball den Bhord ion-aththoghtha no ion-athainmnithe' in s4(3) of the Dentists Act, 1928, 'agus beidh sé ion-aththofa' translating 'and be eligible for re-election' in s65 of the Courts of Justice Act, 1924. Note, however, that 'The members of the Appeal Board shall hold office for five years from the date of their appointment and shall, at the end of any such term of office, be eligible for re-appointment' is translated as 'beidh baill an Bhúird Athchomhairc in oifig go ceann chúig mbliain o dháta a gceaptha agus, i ndeire



aon téarma oifige den tsórt san, féadfar iad d'athcheapa' in s3(2) of the Censorship of Films Act, 1923.

'Eligible candidates' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'iarrthóirí ag a bhfuil cead dul i gcomórtas' in *Iris an Phuist*, 29/2/1928. Finally, in s8 of the 'Limerick County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'all other children eligible for Glin District School' is translated as 'gach leanbh eile atá san aois chun dul go Scoil Cheanntair Ghleann Chorbhraigh', with 'a list of such cases as are deemed eligible for admission' being translated as 'liost de pé cásanna a meastar is ceart a leigint isteach' in s21 of the 'Mayo County Scheme'.

Professor Máirtín Ó Murchú remarks that literally 'i dteideal a bheith ina chomhalta nó ina comhalta de Dháil Éireann', in the translation below, means that it is the right of everyone, without any process or other obstacle, to be a member of Dáil Éireann. Professor Ó Murchú recommends 'i dteideal a thofa nó a tofa' or simply 'intofa mar chomhalta', commenting that 'inroghnaithe mar iarrthóir ar a bheith ina chomhalta nó ina comhalta' (i.e. 'selectable as a candidate to become a member') is what is intended.

*slán* See the commentary on Article 12.4.1°, where 'Gach saoránach ag a bhfuil cúig bliana triochad slán' expresses 'Every citizen who has reached his thirty-fifth year of age'.

*faoi mhíthreoir* See the commentary on Article 12.3.1°.

### Gender-proofed Irish text

Gach saoránach ag a bhfuil bliain agus fiche slán agus nach gcuirtear faoi mhíchumas nó faoi mhíthreoir leis an mBunreacht seo ná le dlí, tá sé nó sí intofa ar chomhaltas Dháil Éireann.<sup>1</sup>

#### Note

1 This follows the gender-proofed English text.

### Direct gender-proofed translation

Beidh gach saoránach, gan idirdhealú ó thaobh<sup>1</sup> gnéis de, a bhfuil bliain is fiche d'aois slánaithe aige nó aici, agus nach gcuirtear faoi mhíchumas nó faoi éagumas leis an mBunreacht seo nó<sup>2</sup> le dlí, i dteideal a bheith ina chomhalta nó ina comhalta<sup>3</sup> de Dháil Éireann.

#### Variants

- 1 'ar bhonn'
- 2 'ná'
- 3 'intofa mar chomhalta'

## ARTICLE 16.1.2° AIRTEAGAL 16.1.2°

#### TÉACS GAELGE

i Gach uile shaoránach, agus  
ii cibé daoine eile sa Stát a cinnfear le dlí, cibé acu fir nó mná, ag a bhfuil ocht mbliana déag slán agus ná cuirtear faoi dhícháilíocht le dlí, agus a chomhlíonann coinníollacha an dlí i dtaobh toghcháin comhaltaí

do Dháil Éireann, tá ceart vótála acu i dtoghchán comhaltaí do Dháil Éireann.

#### LITERAL ENGLISH TRANSLATION

- i Every citizen, and
- ii whatever other people in the State that will be determined by law,

whether men or women, who have completed eighteen years and who are not put under disqualification by law, and who fulfil the conditions of (the) law regarding election of members to Dáil Éireann, they have a right to vote in an election of members to Dáil Éireann.

#### ENGLISH TEXT

- i All citizens, and
- ii such other persons in the State as may be determined by law,

without distinction of sex who have reached the age of eighteen years who are not disqualified by law and comply with the provisions of the law relating to the election of members of Dáil Éireann, shall have the right to vote at an election for members of Dáil Éireann.

Note that this subsection was introduced following the Ninth Amendment of the Constitution, 1984, and the original Article 16.1.2° read as follows:

Gach saoránach, cibé aca fear nó bean, ag a bhfuil bliadhain agus fiche slán agus ná cuirtear fá dhícháilídeacht le dlítheadh, agus a choimhlíonas coingheallacha an dlítheadh i dtaobh toghcháin comhaltaí do Dháil Éireann, tá ceart bhótála aige i dtoghchán comhaltaí do Dháil Éireann. *Every citizen without distinction of sex who has reached the age of twenty-one years who is not disqualified by law and complies with the provisions of the law relating to the election of members of Dáil Éireann, shall have the right to vote at an election for members of Dáil Éireann.*

### Divergences between the official texts

- 1 'All citizens' is expressed as 'Gach uile shaoránach' ('every citizen' / 'every last citizen') in the Irish text, thereby keeping as closely as possible to the original wording of the subsection, 'Gach saoránach' being amended only by the addition of 'uile', with the English version's 'Every citizen' being amended to 'All citizens'.
- 2 'Without distinction of sex' is expressed as 'cibé acu fir nó mná' ('whether men or women') in the Irish text, again adhering as closely as possible to the original 'cibé acu fear nó bean', this only being amended by putting that phrase into the plural, just as 'Every citizen' of the English text was amended to 'All citizens'.
- 3 'Who have reached the age of eighteen years' is expressed in the Irish text as 'ag a bhfuil ocht mbliana déag slán' ('who have completed/reached eighteen years'), as in the original text, in line with the construction in subsection 1°.
- 4 'Who are not disqualified' is expressed as 'agus ná cuirtear faoi dhícháilíocht' ('and who are not put under disqualification') in the Irish text, with a dialectical variant of the negative particle – i.e. 'ná' – replacing the original standard Irish negative particle of the earlier popular editions – i.e. 'nach' – which standard

- form is also found in the previous subsection.
- 5 'Provisions' is expressed as 'coinníollacha' ('conditions') in the Irish text; the special relative form of the original subsection, 'a chomhlionas' (literally, 'who fulfil', expressing 'comply with'), is brought into conformity with standard Irish, and a comma precedes 'agus a chomhlionann' ('and who fulfil / comply with') in the Irish text which is not found in the English text.
  - 6 'Relating to the election of members of Dáil Éireann' is expressed as 'i dtaobh toghcháin comhaltaí do Dháil Éireann' ('relating to an election of members to Dáil Éireann') in the Irish text, the noun 'toghchán' rather than the verbal noun 'toghadh' being employed in the Irish text; in the final clause, 'at an election for members of Dáil Éireann' is expressed as 'i dtoghchán comhaltaí do Dháil Éireann' ('in an election of members for Dáil Éireann').
  - 7 'The right to vote' is expressed as 'ceart vótála' ('a right to vote') in the Irish text.

Note that Article 14 of the 1922 Constitution commences as follows:

All citizens of the Irish Free State (Saorstát Éireann) 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 Dáil Éireann .... *Beidh de cheart ag gach saoránach de Shaorstát Éireann idir fireann agus buineann go mbeidh aois bhliana is fiche slán aige agus a chó-líonfaidh forálacha uile dlíthe toghcháin na haimsire, vótáil le teachtaí de Dháil Éireann.*

### Commentary

*Gach uile shaoránach* Note that 'Gach saoránach' expresses 'every citizen' in the previous subsection. 'Gach uile dhuine' is translated as 'everybody' by *Ó Dónaill*, who translates 'gach duine' as 'every person'. *Dinneen* translates 'an uile dhuine' and 'gach uile dhuine' as 'everyone'. DIL translates 'uile' as 'all, every, the whole', citing examples from the Old Irish Glosses onwards. 'Á huili duini .i. a cach duini' ('O all man, i.e. O everyman!'), glosses Latin 'o homo omnis' in the eighth-century Würzburg Glosses on the Pauline Epistles. DIL also cites 'do gach uili arm' from *Stair Ercuil ocus a Bhás*, the late fifteenth-century translation of Caxton's translation of Raoul Lefevre's *Recueil des Histoires de Troyes*. Note that *De Bhaldraithe* translates 'every single day' as 'an uile lá riamh' and 'every single inch of it' as 'gach uile mhíle orlach de'.

Turning to the Acts, 'The term "nationals" ... means ... all citizens of Ireland' is translated as 'Ciallaíonn an téarma "náisiúnaigh" ... gach saoránach d'Éirinn' in s2 of Article XXI of the Eighth Schedule to the Income Tax Act, 1967, and in s2 of Article XXI of the Second Schedule to the Finance Act, 1950. The Margin Title of s29 of the Irish Nationality and Citizenship Act, 1956, 'Extension to all citizens of statutory rights conferred on persons born in Ireland' is translated as 'Na cearta reachtúla a bronntar ar dhaoine a rugadh in Éirinn a thabhairt do gach saoránach'. 'Of which all citizens or all inhabitants of the City or all members of any particular class of such citizens or such inhabitants are exclusively entitled to take advantage' is translated as 'a bhfuil teideal eisiach ag caitheoirí uile nó

áitreafóirí uile na Cathrach nó ag comhaltaí uile aon aicme áirithe de na caitheoirí sin nó de na háitreafóirí sin chun leas a bhaint astu' in s11(1) of the First Schedule to the Local Government Provisional Orders Confirmation Act, 1950, the same English text, with the substitution of 'such district' for 'the City' being translated as 'gur ag cathruitheoirí uile no ag áititheoirí uile an cheanntair sin nó ag gach duine d'aon aicme áirithe de sna cathruitheoirí sin no de sna háititheoirí sin a bheidh an teideal ar fad chun tairbhe do bhaint asta' in s28(2) of the Local Government (Dublin) Act, 1930.

On the other hand, 'agus beidh sé ina cheangal ar an Stát agus ar gach uile dhuine' translates 'and shall be binding on the State and on all persons whatsoever' in s54(10)(e) of the Fisheries Act, 1980, 'a inseoidh an méid ioncam a d'eascair chuici ó gach uile bhunadh' translating 'setting out the amount of income arising to her from each and every source' in s11(2) of the Finance Act, 1976. Note that 'the Revenue Commissioners ... may ... do all such acts and things as they might have done' is translated as 'féadfaidh na Coimisinéirí Ioncaim ... gach uile bheart agus ní a dhéanamh ab fhéidir dóibh a dhéanamh' in s188(1) of the Income Tax Act, 1967. Note, finally, that 'The Vendors agree to sell ... ALL THAT AND THOSE' is translated as 'Có-aontuionn na Díoltóirí AN MÉID SEO UILE, eadhon, ... do dhíol' in the 'Form of Agreement' in the First Schedule to the Creamery Act, 1928.

*a cinnfear le dlí* One would expect lenition to follow 'a' here. 'All the powers of the Controller under this Act and as otherwise determined by law', in s78(6) of the Patents Act, 1964, for example, is translated as 'cumhachtaí uile an Cheannasaí faoin Acht seo agus mar a chinnfear ar dhóigh eile le dlí'. Note that 'sa mhéid agus fé réir aon choinníollacha cinnfear le dlí' translates 'to the extent and subject to any conditions which may be determined by law' in the Schedule to the Constitution (Amendment No. 27) Act, 1936.

*i dtaobh* 'Relating to' is generally translated as 'a bhaineann le' in the Acts. 'To amend the law relating to the election of such Members' is translated as 'do leasú an dlí a bhaineann le toghadh na gComhaltaí sin' in the Long Title of the Electoral (Amendment) Act, 1980, and of the Electoral (Amendment) Act, 1974, 'do leasú an dlí a bhaineas le toghadh na gComhaltaí sin' translating that Long Title in the Electoral (Amendment) Act, 1947. 'Every ... statute ... relating to the election of members of Dáil Éireann' is translated as 'gach reacht ... a bhainfidh le comhaltaí Dháil Éireann do thogha' in s1 of the General Elections (Emergency Provisions) Act, 1943. 'An Dlí Bhaineas le Baill de Dháil Éireann do Thoghadh' translates 'the Law Relating to the Election of Members of Dáil Éireann' in the Long Title of the Electoral (Revisions of Constituencies) Act, 1935.

'A bhaineann le' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'which relate to or concern' on the *Dáil Order Paper* of 1925, p. 6. Note finally that 'So far as relates to the verification and stamping of bottles' is translated as 'Chó fada is théigheann fiorú agus stampáil bhuideul' in s5(1) of the Weights and Measures Act, 1928.

*ná cuirtear* Note that we have 'nach cuirtear' in the popular edition of the original subsection, as in the

previous subsection, this being in conformity with the official standard. 'Ná', with neither lenition nor eclipsis of the following initial consonant, is found in Munster Irish as a negative relative, interrogative and imperative particle and also as a negative particle in indirect speech – see Seán Ua Súilleabháin, 'Gaeilge na Mumhan', in Kim McCone et al., op. cit., p. 527. 'Ná cuirtear fá dhícháilidheacht le dligheadh' is found in the original Article 16.1.2°, just as 'ná cuirtear fá mhíchumas ... le dligheadh' is found in the original Article 16.1.1°, this being written as 'nach cuirtear faoi mhíchumas ... le dlí' in the popular edition.

*faoi dhícháilíocht* Note that 'disqualifying any citizen' is expressed as 'a dhícháileadh saoránach ar bith' in the next subsection. 'Dícháilíocht' is translated as 'disqualification' in *Ó Dónaill*, 'dícháilim' being translated as 'I disqualify' in *Téarmaí Dlí*. *Dinneen* does not appear to give this compound of the negative prefix 'dí-' and 'cáilíocht', but includes 'qualification', along with 'a quality', among the senses of 'cáilidheacht'. DIL translates 'cáilidheacht' simply as 'quality, nature', no examples being cited from the earlier sources. 'Cáilidheacht'/'cáilíocht' is based on 'cáil', which come from Latin 'qualitas'.

'Being a person approved of by the Court and not disqualified by law' is translated as 'is duine a cheadóidh an Chúirt agus nach mbeidh dícháilíthe de réir dlí' in s34(1) of the Intoxicating Liquor Act, 1962. 'Any person who is disqualified by any such disqualification' is translated as 'aon duine a bheidh dícháilíthe mar gheall ar aon dícháilíocht den sórt sin' in s21(1) of the Worker Participation (State Enterprises) Act, 1977. 'Where a person is disqualified by this Act for holding any driving licence whatsoever' is translated as 'I gcás ina mbeidh duine dícháilíthe ag an Acht seo chun aon cheadúnas tiomána d'aon sórt a shealbhú' in s22(4)(a) of the Road Traffic Act, 1961. Finally, in s32(2) of the Road Traffic Act, 1933, 'authorise the person disqualified by such order to apply for a certificate' is translated as 'a údarú don té dhícháileofar leis an ordú san deimhniú ... d'iarraidh'.

'Murab éag, éirí as nó teacht faoi dhícháilíocht roimhe sin dó' translates 'unless he sooner dies, resigns or becomes disqualified' in s29 of the Fisheries (Consolidation) Act, 1959, with 'mura dtarlóidh roimhe sin é d'fháil bháis nó é d'éirí as oifig nó é d'éirí éagumasach nó a theacht faoi dhícháilíocht' translating 'unless he sooner dies, resigns or becomes incapable or disqualified' in s39(2)(b) thereof.

'To disqualify for appointments' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cur fé mhí-cháilíocht maidir le ceapanna' in the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923 (the reference does not appear to be correct, however), 'I gcás teachta de Dháil Éireann ... do theacht fé mhí-cháilíocht' translating 'In case of ... disqualification of a member of Dáil Éireann' in Article 29 of the 1922 Constitution. The Margin Title of s4 of the Juries (Amendment) Act, 1924, 'Disqualification of persons who are not electors', is translated as 'Nea-cháilíocht dhaoine ná choghthóirí', with 'In addition to the persons now disqualified for serving on juries' being translated as 'I dteanta na ndaoine atá gan cáilíocht anois chun fónamh ar choistí dháréag' in the section. In s1(2) thereof, 'bheith nea-cháilíthe chun fónamh amhlaidh' translates 'to be disqualified ... from so serving'. 'Dí-cháilíú' translates 'disqualification' in s19(4) of the Public Safety Act, 1927. 'Forálacha i dtaobh mí-

cháilíochanna' translates 'Provisions as to disqualifications' in the Margin Title of s4 of the Electoral Act, 1923, where 'Ní cuirtear éinne as teideal a chlárúithe' translates 'A person shall not be disqualified from being registered'. 'Beidh sé gan teideal chun dul i mbun a oifige mar bhreitheamh' translates '... shall be disqualified from entering on ... his office of judge' in s99 of the Courts of Justice Act, 1924.

*a chomhlíonann coinníollacha* 'Comhlíonaim' is translated as 'I comply with; I conform with; I perform' in *Téarmaí Dlí*, with 'coinníoll' being translated as 'condition; proviso; stipulation'. *Ó Dónaill* translates 'coinníoll a chomhlíonadh' as 'to comply with a condition', translating the verb 'comhlíon' as 'fulfil'. *Dinneen* translates 'cómhlíonaim' as 'I fulfil, finish, fill up; execute (a command); perform (a duty); observe (a law); perform (a penance, etc.); fulfil (a prophecy, promise, etc.)', translating the noun 'cómhlíon' as 'an equal number' and 'coingheall' as 'a condition, covenant, obligation; a pledge, bargain'. DIL cites examples of 'comlin' ('equal number, as many'; based on 'lín', principally 'full number, complement [in numbers]') from the ninth-century Milan Glosses onwards, *Togail na Tebe* (The Thebaid of Statius) providing the earliest citation of 'comlínaid', 'fills up, completes, fulfils' – see the commentary on Articles 12.1, 13.9 and 14.5.1°. 'Coingell' (Modern Irish 'coinníoll') is a compound of 'com' plus 'gell', and is translated principally as 'condition, stipulation, terms' in DIL, with no citations given from the earlier sources.

'Foráil' generally translates 'provision' in the Acts. 'Any corresponding provisions of the law of any other country' is translated as 'aon fhorálacha comhréire i ndlí aon tíre eile' in s19 of the Finance Act, 1981, for example. 'Under provisions of the law therein corresponding with section 41' is translated as 'faoi fhorálacha an dlí ansin atá i gcomhréir le halt 41' in s42(7) of the Corporation Tax Act, 1976. Finally, 'A mhéid is féidir é do réir forál dlí Cheanada i dtaobh cáin ... a bhaint' translates 'As far as may be in accordance with the provisions of the law of Canada regarding the deduction ... of tax' in s1 of Article XIII of the Finance Act, 1955. See the commentary on Article 8.3 s.v. 'socru'.

Note that 'coinníoll' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'provision' in *Iris Oifigiúil*, 1922/23, 'riail' also being cited as translating 'provision' in the same journal. Finally, 'All rules, regulations ... or provisions made or framed by the Minister for Finance' is translated as 'Gach riail, rialachán ... no foráil dá ndéanfaidh no dá gcúmfaidh an t-Aire Airgid' in s64(1) of the Electoral Act, 1923. See the commentary on Article 36ii where 'coinníoll' expresses 'term'.

*i dtoghchán comhaltá do Dháil Éireann* This phrase also expresses 'at an election for members of Dáil Éireann' in the next subsection. 'Whether a person has the right to vote at an election for members of Dáil Éireann' is translated as 'an bhfuil ceart ag duine vótáil i dtoghchán comhaltá do Dháil Éireann' in s4(3) of the Age of Majority Act, 1985, in agreement with the above. In s9(1) of the Electoral Act, 1963, 'The expression "General Election" shall mean a general election for members of the Dáil' is translated as 'Ciallóidh an abairt "Olltoghchán" olltoghchán do chomhaltá don Dáil' with 'the expression "general

election” means a general election for members of Dáil Éireann’ being translated as ‘cialluíonn an focal “olltoghchán” olltoghchán comhaltaí do Dháil Éireann’ in s1 of the General Election (Emergency Provisions) Act, 1943. ‘That it contested the then next preceding general election for members of Dáil Éireann as an organised party’ is translated as ‘go ndearna sé an t-olltoghchán deiridh roimhe sin do chomhaltaí de Dháil Éireann a chomhrac mar pháirtí comheagraithe’ in s12 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1960, following s9(1)(c) of the Ministerial and Parliamentary Offices Act, 1938, in subsection 2(b)(ii) of which ‘at general elections for members of Dáil Éireann’ is translated as ‘in olltoghchán do bhí ann roimh an olltoghchán deiridh roimhe sin do chomhaltaí de Dháil Éireann’. See the commentary on Article 12.2.2° for ‘toghchán do’.

*ag a bhfuil ocht mbliana déag slán* See the commentary on the previous subsection where ‘ag a bhfuil bliain agus fiche slán’ expresses ‘who has reached the age of twenty-one years’.

*cibé acu fir nó mná* See the commentary on the previous subsection, where ‘cibé acu fear nó bean’ expresses ‘without distinction of sex’.

*ceart vótála* See the commentary on Article 12.2.2°.

### Standardised Irish text

- i Gach uile shaoránach, agus
- ii cibé daoine eile sa Stát a chinnfear le dlí, cibé acu fir nó mná, ag a bhfuil ocht mbliana déag slán agus nach gcuirtear faoi dhícháilíocht le dlí, agus a chomhlíonann coinníollacha an dlí i dtaobh toghchán comhaltaí do Dháil Éireann, tá ceart vótála acu i dtoghchán comhaltaí do Dháil Éireann.

### Direct translation

- i Na saoránaigh uile<sup>1</sup>, agus
- ii cibé daoine eile sa Stát a chinnfear le dlí, gan idirdhealú ó thaobh gnéis de<sup>2</sup>, a bhfuil ocht mbliana déag d’aois slánaithe acu nach ndícháilítear le dlí agus a chomhlíonann forálacha an dlí a bhaineann le comhaltaí Dháil Éireann a thoghadh, beidh de cheart<sup>3</sup> acu vótáil i dtoghchán do chomhaltaí Dháil Éireann.<sup>4</sup>

### Variants

- 1 ‘go léir’, ‘Gach uile shaoránach’
  - 2 ‘ar bhonn gnéis’
  - 3 ‘an ceart’
  - 4 Beidh de cheart chun vótáil i dtoghchán do chomhaltaí Dháil Éireann
    - i ag na saoránaigh uile, agus
    - ii ag cibé daoine eile sa Stát a chinnfear le dlí, gan idirdhealú ó thaobh gnéis de, a bhfuil ocht mbliana déag d’aois slánaithe acu agus nach ndícháilítear le dlí agus a chomhlíonann forálacha an dlí a bhaineann le comhaltaí Dháil Éireann a thoghadh.
- ‘Beidh de cheart
- i ag na saoránaigh uile, agus
  - ii ag cibé daoine eile sa Stát a chinnfear le dlí,

gan idirdhealú ó thaobh gnéis de, a bhfuil ocht mbliana déag d’aois slánaithe acu agus nach ndícháilítear le dlí agus a chomhlíonann forálacha an dlí a bhaineann le comhaltaí Dháil Éireann a thoghadh, chun vótáil i dtoghchán do chomhaltaí Dháil Éireann.’

## ARTICLE 16.1.3° AIRTEAGAL 16.1.3°

### TÉACS GAEILGE

Ní cead aon dlí a achtú a chuirfeadh saoránach ar bith, toisc gur fear nó toisc gur bean an saoránach sin, faoi mhíchumas nó faoi mhithreoir maidir lena bheith ina chomhalta de Dháil Éireann nó a dhícháileadh saoránach ar bith nó duine ar bith eile, ar an bhforas céanna sin, ó bheith i dteideal vótála i dtoghchán comhaltaí do Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

It is not permitted to enact any law which would put any citizen, because that citizen is a man or a woman, under disability or incapacity/derangement as regards his being a member of Dáil Éireann or which would disqualify any citizen or any other person, or that same ground, from being entitled to vote in an election of members to Dáil Éireann.

### ENGLISH TEXT

No law shall be enacted placing any citizen under disability or incapacity for membership of Dáil Éireann on the ground of sex or disqualifying any citizen or other person from voting at an election for members of Dáil Éireann on that ground.

Note that ‘or other person’ was inserted in the English text by the Ninth Amendment of the Constitution Act, 1984, ‘a dhícháileadh saoránach ar bith nó duine ar bith eile, ar an bhforas céanna sin’ being inserted in the Irish text.

### Divergences between the official texts

- 1 As noted above, the clause ‘a dhícháileadh saoránach ar bith nó duine ar bith eile, ar an bhforas céanna sin’ has been added to the original subsection following the Ninth Amendment of the Constitution, 1984; the English text, however, was amended only by the addition of ‘or other person’. In the original text, ‘disqualifying’ was expressed simply as ‘ó bheith i dteideal’ (‘put from being entitled’); the verb ‘dícháiligh’ was added to the Irish text, which retained ‘ó bheith i dteideal’, hence ‘disqualifying ... from voting’ is expressed as ‘a dhícháileadh ... ó bheith i dteideal vótála’ (‘disqualifying ... from being entitled to vote’) in the Irish text.
- 2 ‘On the ground of sex’ is expressed as ‘toisc gur fear nó toisc gur bean an saoránach sin’ (‘because that citizen is a man or [is] a woman’) in the Irish text, this coming after ‘a chuirfeadh saoránach ar bith’ (‘placing any citizen’) in the Irish text rather than after the text expressing ‘membership of Dáil Éireann’ as in the English text.
- 3 As in the previous subsection, ‘under disability or

incapacity' is expressed by terms which can be read as 'under disablement or misguidance' in the Irish text, with 'for membership' being expressed following this in the present subsection as 'maidir lena bheith ina chomhalta' ('as regards his being a member') in the Irish text.

- 4 'On that ground' is expressed as 'ar an bhforas céanna sin' ('on that same ground') in the Irish text.
- 5 'Placing' is expressed as 'a chuirfeadh' ('which would put') in the Irish text.
- 6 'No ... shall be' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in some earlier Articles also.
- 7 'Other person' is expressed as 'duine ar bith eile' ('any other person') in the Irish text.
- 8 'At an election for members of Dáil Éireann' is expressed as 'i dtoghchán comhaltaí do Dháil Éireann' ('in an election of members for Dáil Éireann') in the Irish text, as in the previous subsection.

Note that Article 14 of the 1922 Constitution commences as follows:

All citizens of the Irish Free State (Saorstát Éireann) 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 Dáil Éireann .... *Beidh de cheart ag gach saoránach de Shaorstát Éireann idir fireann agus buineann go mbeidh aois bhliana is fiche slán aige agus a chó-lionfaidh forálacha uile dlíthe toghacháin na haimsire, vótáil le teachtaí de Dháil Éireann.*

### Commentary

*a dhícháileodh* Note that in subsection 2 of this section, 'who are not disqualified' is expressed as 'ná cuirtear faoi dhícháilíocht'. The clause 'nó a dhícháileodh saoránach ar bith nó duine ar bith eile' was added to the original subsection following the Ninth Amendment of the Constitution, 1984.

'Dícháilim' is translated as 'I disqualify' in *Téarmaí Dlí*, 'dícháiligh' being translated as 'disqualify' in *Ó Dónaill*. This verb does not appear to be given as a headword in *Dinneen* nor in *DIL* – see the commentary on the previous subsection regarding the composition of the compound 'dícháilíocht'. 'Dícháiligh' is generally followed by 'chun' before the verbal noun, rather than 'ó', in the Acts. 'Disqualify the person from holding such a certificate or licence' is translated as 'an duine sin a dhícháilíú chun deimhniú nó ceadúnas den sórt sin a shealbhú' in s75(1) of the Wildlife Act, 1976. 'The Court ... may disqualify him from keeping any animals' is translated as 'féadfaidh an Chúirt ... é a dhícháilíú chun ainmhithe ar bith ... a choimeád' in s26(2) of the Protection of Animals (Amendment) Act, 1965. 'Membership of Board not to disqualify Judge from hearing charity cases' is translated as 'Ní bheidh Breitheamh is comhalta den Bhord dícháilíthe chun cásanna carthanais a éisteacht' in the Margin Title of s13 of the Charities Act, 1961. Finally, 'the Board ... may ... disqualify such greyhounds from any one or more of the following' is translated as 'féadfaidh an Bord ... na coin sin a dhícháilíú i leith aon ní nó nithe acu seo a leanas' in s45(1) of the Greyhound Industry Act, 1958. See further the commentary on Article 18.9.

*faoi mhíchumas nó faoi mhíthreoir* See the commentary on subsection 1 of this section. Note that 'incapacity for membership' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'mí-chumas do bhallraíocht' in the *Proceedings* of Dáil Éireann, 1926, p. 275, with 'mí-chumas do bhallraíocht an Oireachtais' being cited as translating 'incapacity for membership of the Oireachtas' on the Dáil *Order Paper*, 1926, p. 400.

*i dteideal vótála* This would be written as 'i dteideal vótáil' according to the official standard, 'vótáil' being a verbal noun coming at the head of a prepositional phrase – see *An Caighdeán Oifigiúil*, 'Foirm an Ainmnigh in ionad an Ghinidigh', s5(b).

*toisc gur fear nó toisc gur bean* See the commentary on subsection 1 of this section, where 'cibé acu fear nó bean' expresses 'without distinction of sex'.

*ar an bhforas* See the commentary on Articles 40.4.2° and 18.4.2°. Note that 'on that ground' was not specifically expressed in the original text, 'ar an bhforas céanna sin' being added by the Ninth Amendment of the Constitution, 1984.

*Ní cead* Literally 'it is not permitted' – see the commentary on Article 9.1.3°.

### Standardised gender-proofed Irish text

Ní cead aon dlí a achtú a chuirfeadh saoránach ar bith, toisc gur fear nó toisc gur bean an saoránach sin, faoi mhíchumas nó faoi mhíthreoir maidir le bheith ina chomhalta nó ina comhalta de Dháil Éireann nó a dhícháileodh saoránach ar bith nó duine ar bith eile, ar an bhforas céanna sin, ó bheith i dteideal vótáil i dtoghchán comhaltaí do Dháil Éireann.

### Direct gender-proofed translation

Ní dhéanfar aon dlí a achtú lena gcuirfeadh aon saoránach faoi mhíchumas nó faoi éagumas maidir le comhaltas Dháil Éireann ar fhoras gnéis nó lena ndícháileofar aon saoránach nó aon duine eile chun vótáil i dtoghchán do chomhaltaí Dháil Éireann ar an bhforas sin.

## ARTICLE 16.1.4° AIRTEAGAL 16.1.4°

### TÉACS GAEILGE

Ní cead do thoghthóir ar bith thar aon vóta amháin a thabhairt i dtoghchán do Dháil Éireann, agus is le rúnballóid a dhéanfar an vótáil.

### LITERAL ENGLISH TRANSLATION

No elector (whatsoever) is permitted to give more than one vote in an election for Dáil Éireann, and it is by secret ballot that the voting will be done.

### ENGLISH TEXT

No voter may exercise more than one vote at an election for Dáil Éireann, and the voting shall be by secret ballot.

### Divergences between the official texts

- 1 'Voter' is expressed as 'toghthóir' ('elector') in the Irish text.
- 2 'Exercise (a) vote' is expressed as 'vóta ... a thabhairt' ('give (a) vote') in the Irish text.
- 3 'The voting shall be' is expressed as 'a dhéanfar an vótáil' ('the voting will be done') in the Irish text.
- 4 'Ní cead' ('It is not permitted') expresses 'No ... may' in the Irish text.

Note that we find the following in Article 14 of the 1922 Constitution:

No voter may exercise more than one vote at an election to either House, and the voting shall be by secret ballot. *Ní chaitheamh aon vótálaí níos mó ná aon vóta amháin i dtoghchán d'aon cheann den dá Thigh, agus is le ballóid shicréideach a déanfar an vótáil.*

Note also that s2 of the Constitution (Amendment No. 6) Act, 1928, contains the following:

The voting at such election shall be by secret ballot and no elector may exercise more than one vote thereat. *Is tré bhallóid sheicréideach a déanfar an vótáil ag na toghcháin sin agus ní féadfaidh aon toghthóir níos mó ná aon vóta amháin do thabhairt ionta.*

This same English text appears in s1 of the Constitution (Amendment No. 11) Act, 1929, with 'Is le ballóid shicréideach' replacing 'Is tré bhallóid sheicréideach'.

### Commentary

*do thoghthóir* 'Toghthóir' is translated as 'elector' in *Ó Dónaill*, 'toghadóir' being translated as 'a selector, a chooser, an elector' in *Dinneen*. 'Toghthóir' = 'toghth(a)' + 'óir', and 'toghadóir' = 'toghth(a)' + 'adóir', according to Professor Máirtín Ó Murchú, the Old Irish suffix '-tóir' coming originally from Latin '(a)tor' – see Rudolf Thurneysen, op. cit., s269(5), who cites 'senatóir' for example. Professor Ó Murchú remarks that one would expect 'toghadóir' < 'togh' + 'adóir', *Ó Dónaill* giving 'toghdóir' as an unstandardized form of the headword 'toghthóir'. See the commentary on Article 12.2.1° regarding 'togh'.

Turning to the Acts, in s2(1) of the Referendum (Amendment) Act, 1979, 'each voter at the poll shall record his vote in the constituency' is translated as 'déanfaidh gach vótálaí sa vótaíocht a vóta a thaifeadh sa dailcheantar', the same text being translated as 'déanfaidh gach vótálaí sa vótaíocht a vóta do chaitheamh sa dailcheantar' in s11(e) of the Referendum Act, 1942, and as 'déanfaidh gach vótálaí sa vótaíocht a vóta do thabhairt uaidh sa dailcheantar' in s20(e) of the Presidential Elections Act, 1937. 'Not less than one-twentieth of the voters' is translated as 'an fichiú cuid ar a luighead de sna vótáilithe' in Article 47 of the 1922 Constitution, 'liostaí vótáilithe' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'voters' lists' in the *Proceedings of Dáil Éireann*, 11/1/1924. 'An Clár de Thoghthóirí um Rialtas Áitiúil', on the other hand, translates 'the Register of Local Government Electors' in the Preamble to the Local Elections Postponement Act, 1922.

*vóta ... a thabhairt* See the commentary on Article

15.11.2°. 'Do vóta a thabhairt do dhuine' is cited by *Ó Dónaill* and translated as 'to give one's vote to someone', also citing '*do vóta a chaitheamh*, to record one's vote'. As we saw earlier on, *Dinneen* has 'bóta' as a headword, including 'bhóta' in his entry. *Dinneen* includes 'a vote' among the senses of 'guth'. *Ó Dónaill* gives 'expressed opinion' as one of the senses of 'guth', citing '*guth a thabhairt ar son ruda*, to voice an opinion in favour of something', with 'voice, vote' as another sense, citing '*do ghuth a thabhairt*, to vote'. See the commentary on Article 12.2.1°.

Turning to the Acts, 'The Governor may ... exercise a second or casting vote' is translated as 'féadfaidh an Gobharnóir ... vóta breise no réitigh do chaitheamh' in s32(4) of the Central Bank Act, 1942, 'caith' being used to translate 'exercise', in relation to a vote, in Article 14 of the 1922 Constitution. 'Féadfaidh an Cathaoirleach vóta réitigh do thabhairt uaidh' translates 'the Chairman may ... exercise a casting vote' in s3(4) of the Approved Investments Act, 1933. 'Who shall have and exercise a casting vote' is translated as 'ag a mbeidh vóta réitigh agus ar a mbeidh é chaitheamh' in Article 22 of the 1922 Constitution. See the commentary on Articles 3 and 13.5.1° regarding 'exercise' in general.

*Ní cead do* Literally 'it is not permitted to' – see the commentary on Article 9.1.3° regarding this phrase in the Constitution. Again Professor Máirtín Ó Murchú finds difficulty with the future 'ní chaitheamh' below, remarking that 'no voter will exercise ...' would not suffice in the English version – that many a voter 'has' and 'will'!

*rúnbhallóid* See the commentary on Article 12.2.3°.

### Direct translation

Ní chaitheamh<sup>1</sup> aon vótálaí níos mó ná<sup>2</sup> vóta amháin i dtoghchán do Dháil Éireann, agus is vótáil le rúnbhallóid a bheidh ann<sup>3</sup>.

### Variants

- 1 'Ní thabharfaidh', 'Ní fheidhmeoidh'
- 2 'thar'
- 3 'a bheidh sa vótáil'

## ARTICLE 16.2.1° AIRTEAGAL 16.2.1°

### TÉACS GAEILGE

Ionadóirí do dháilcheantair a shocraítear le dlí comhaltas Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

The membership of Dáil Éireann (is/comprises) representatives for constituencies that are provided/arranged by law.

### ENGLISH TEXT

Dáil Éireann shall be composed of members who represent constituencies determined by law.

### Divergences between the official texts

- 1 'Dáil Éireann shall be composed of members' is expressed in the Irish text as 'comhaltas Dháil Éireann' ('the membership of Dáil Éireann'), the copula 'is' ('is') in a regular Irish construction being omitted; the sentence might equally have had the form 'Is ionadóirí ...'.
- 2 'Who represent constituencies' is expressed as 'Ionadóirí do dháilcheantair' ('representatives for constituencies') in the Irish text.
- 3 'Determined by law' is expressed as 'a shocraítear le dlí' ('arranged/provided by law') in the Irish text, 'a cinnfear le dlí' rendering '(as) may be determined by law' in Article 16.1.2<sup>o</sup>ii, following its amendment, 'cinnim' translating 'I determine (issue, etc.)' in *Téarmaí Dlí*.

Note that Article 26 of the 1922 Constitution commences as follows:

Dáil Éireann shall be composed of members who represent constituencies determined by law. *Beidh i nDáil Éireann comhaltá agus iad ag ionadú dáilcheantar a socrófar le dlí.*

### Commentary

*Ionadóirí* See the commentary on Article 15.1.2<sup>o</sup>, where 'a House of Representatives' is expressed as 'Teach Ionadóirí'. 'Ionadaí' is the form found in *Téarmaí Dlí*. As regards the verb 'represent' in the Acts, 'He shall be deemed to have been elected to represent the constituency in which he received the greatest number of first preference votes' is translated as 'measfar gurb é an dáilcheantar ina bhfuair sé an líon is mó vótaí céadrogha is rogha leis a ionadú' in s35(1) of the Electoral Act, 1992, the same English text, with the substitution of 'first preferences' for 'first preference votes', being translated as follows in s55(1) of the Electoral Act, 1923: 'tuigfear gurb é an dáilcheantar ina bhfuair sé an uimhir is mó de chéad-roghanna is rogha leis a ionadú'. Following the wording of the Constitution, 'The members of Dáil Éireann shall ... represent the constituencies specified in the schedule' is translated as 'beidh comhaltá Dháil Éireann ina n-ionadóirí do na dáilcheantair a shonraítear sa Sceideal' in s3(1) of the Electoral (Amendment) Act, 1980, and in s3(1) of the Electoral (Amendment) Act, 1974, 'a sonraítear' in place of 'a shonraítear' being found in s3(1) of the Electoral (Amendment) Act, 1947. See further the commentary on Article 15.3.1<sup>o</sup>.

'Baill, ionadaithe don Dáil', is cited in the *Oireachtas Dictionary of Official Terms* as translating 'members representing the Dáil' on the *Dáil Order Paper*, 1926, p. 341. 'In aon áit 'na meastar nách leor an méid ionadaithe atá ann fé láthair' translates 'where it is considered the existing representation is inadequate' in s27 of the 'Laoighis County Scheme' in the Local Government (Temporary Provisions) Act, 1923, with 'beidh teideal aige ... chun ionadaíochta tré atúrnae' translating '(the person) shall be entitled ... to be represented by solicitor' in s34(3) of the Dentists Act, 1928. 'A person who represents a shipping company' is translated as 'duine a ionaduinn cuideachta loingséoireachta' in s4(a) of the Pilotage Orders Confirmation Act, 1924.

As regards 'compose' in the Acts, 'The Administrative Council shall be composed of one representative of each Contracting State' is translated as 'Ionadaí amháin ó gach Stát Conarthach a bheidh ar an gComhairle Riaracháin' in s1 of Article 4 of the Second Schedule to the Arbitration Act, 1980. 'The Governing Committee shall be composed of all members of the Fund, which shall be represented by senior financial officials' is translated as 'Beidh an Coiste Rialaithe comhdhéanta de chomhaltá uile an Chiste agus beidh oifigigh airgeadais sinsearacha mar ionadaithe acu' in s2(b) of Article XVI of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976. 'Coistí comhairleacha réigiún ... a bheidh comhdhéanta de tháirgeoirí bainne' translates 'regional advisory committees composed of milk producers' in s35(1) of the Dairy Produce Marketing Act, 1961. 'The yearly conference of the Church composed of representatives in accordance with the Constitution of the Church' is translated as 'códháil bhliantúil na hEaglaise agus í códhéanta d'ionaduithe do réir chóru na hEaglaise' in s1 of the Methodist Church in Ireland Act, 1928. Finally, note that 'the Medical Staff to be composed of the present M.D. of the Workhouse at Tullamore and the Surgeon of the County Infirmary' is translated as 'an Dochtúir Oifigiúil atá i dTigh Oibre na Tulaighe Móire fé láthair agus Máin-liaigh na hOtharlainne Contae do bheith ina bhFuirinn Leighis' in s14(a) of the 'Offaly County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923.

Commenting on the use of the future 'beidh' in the translation below, Professor Máirtín Ó Murchú remarks that, while it suffices, it is not very satisfactory as regards corresponding to English 'shall', that what is being declared is not what 'will be' in Dáil Éireann, in some time in the future, but what is being ordered for it. He would therefore prefer 'Is é atá ...', remarking that by leaving out the copula the drafters of the Irish text left the declaration free of tense.

*do dháilcheantair* The headword 'dáilcheantar', with lower case 'd', is translated as 'constituency' in *Ó Dónaill*, this compound of 'Dáil' and 'ceantar' ('district' in *Ó Dónaill* and in *Téarmaí Dlí*) not appearing as a headword in *Dinneen*, where 'Dáil Éireann, the representative assembly of Ireland' is followed by the abbreviation for 'recent'.

'Dáilcheantar' translates 'constituency' in the 1922 Constitution, as we see above, and in the Acts to this day, 'the constituency of Donegal South-West', for example, being translated as 'dáilcheantar Dhún na nGall Thiar Theas' in s5 of the Electoral (Amendment) Act, 1980. 'In the case of a borough constituency' is translated as 'I gcás dáilcheanntair bhuirge' in s23(1)(a) of the Electoral Act, 1923, 'I gcás dáilcheanntair chontae' translating 'In the case of a county constituency' in s23(1)(b), with 'dáilcheanntar Príomh-scoile' translating 'University Constituency' in s23(1). Note that the first section/article of the 1919 Constitution concludes as follows:

agus isé bheidh san Dáil ná teachtaí toghtha ag muintir na hÉireann ó sna dáilcheanntair atá san tír fé láthair.

'Toghlach' translates 'constituency' outside the context of the Dáil. 'Is toghlach chun críocha na Coda seo gach limistéar díobh seo a leanas' translates 'Each of the following areas shall be a constituency for the purpose of

this Part' in s29(1) of the Údarás na Gaeltachta Act, 1979, for example. In s25 of the First Schedule to the European Assembly Elections Act, 1977, 'Where any constituency comprises the whole or any part of any Dáil constituency' is translated as 'Nuair a chuimsítear in aon toghlach an t-iomlán nó aon chuid d'aon dáilcheantar'.

Note, finally, that 'Dáil Éireann sitting as a Constituent Assembly in this Provisional Parliament', in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, is translated as 'Dáil Éireann 'na suidhe mar Dháil Bhunaidh sa Pháirlimint Shealadach so'.

*a shocraítear* See the commentary on Article 8.3 regarding 'socraigh' as 'provide' and the commentary on Article 1 as regards 'cinn', 'determine'.

*comhaltas* See the commentary on Articles 12.6.2° and 12.10.4°. We find the reverse situation in Article 16.1.3°, where 'faoi mhíthreoir maidir lena bheith ina chomhalta de Dháil Éireann' expresses 'incapacity for membership of Dáil Éireann'.

### Standardised Irish text

Ionadaithe do dháilcheantair a shocraítear le dlí comhaltas Dháil Éireann.

### Direct translation

Is é a bheith i nDáil Éireann comhaltai<sup>1</sup> ar ionadaithe<sup>2</sup> iad ar dháilcheantair<sup>3</sup> a chinnefar le dlí.

### Variants

- 1 'Beidh Dáil Éireann comhdhéanta de chomhaltai'
- 2 'teachtaí'
- 3 'a ionadóidh dáilcheantair', 'a dhéanfaidh ionadaíocht ar'

## ARTICLE 16.2.2° AIRTEAGAL 16.2.2°

### TÉACS GAEILGE

Socrófar líon comhaltai Dháil Éireann le dlí ó am go ham ach ní cead a lánlíon a bheith faoi bhun comhalta in aghaidh gach tríocha míle den daonra, ná os cionn comhalta in aghaidh gach fiche míle den daonra.

### LITERAL ENGLISH TRANSLATION

The complement of members of Dáil Éireann will be arranged by law from time to time but their full complement is not permitted to be under a member for every thirty thousand of the population, nor over a member for every twenty thousand of the population.

### ENGLISH TEXT

The number of members shall from time to time be fixed by law, but the total number of members of Dáil Éireann 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.

### Divergences between the official texts

- 1 'The number of members' is expressed as 'líon comhaltai Dháil Éireann' ('the number of members of Dáil Éireann') in the Irish text, with 'the total number

of members of Dáil Éireann' then being expressed as 'a lánlíon' ('its/their full/total number/complement').

- 2 'Ní cead' ('it is not permitted') again expresses 'shall not', as we have seen in the previous section and in some earlier Articles, with 'shall not be fixed at' (which echoes the earlier 'be fixed by law') expressed in the Irish text as 'ní cead ... a bheith' ('it is not permitted to be').
- 3 'Be fixed by law' is expressed as 'socrófar le dlí' ('be arranged by law') in the Irish text, 'determined by law' in the previous subsection being similarly expressed.
- 4 'One member' is expressed as 'comhalta' ('a member') on two occasions in the Irish text.
- 5 'Less than' is expressed as 'faoi bhun' ('under'/'less than') and 'more than' as 'os cionn' ('over'/'more than') in the Irish text.
- 6 In accord with Irish syntax, 'or' is expressed as 'ná' ('nor') in the Irish text.

Note that Article 26 of the 1922 Constitution contains the following:

The number of members shall be fixed from time to time by the Oireachtas, but the total number of members of Dáil Éireann ... 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. *Socróidh an tOireachtas uimhir na dteachtaí ó am go ham, ach ní socrófar lán-uimhir theachtaí Dháil Éireann ... fé bhun teachta in agha gach deich míle fichead den líon tíre, ná os cionn teachta in agha gach fiche míle den líon tíre.*

### Commentary

*lánlíon* This headword is translated as 'full complement' in *Ó Dónaill*, who cites '*cathlán a thabhairt ar lánlíon*, to bring a battalion up to strength'. *Dinneen* does not seem to have this compound of 'lán' ('lán-', in compounds, being translated as 'full, perfect, complete, quite, wholly') and 'líon', translated in *Dinneen* as 'fill, complement; full, requisite or due number ...', citing '*líon na bhFiann*, all the Fianna'. 'Lánchleithiúnaí', 'lánghaolmhar' and 'lán-úinéir' are translated respectively as 'total dependant', 'of the whole blood' and 'full owner' in *Téarmaí Dlí*. 'Iomlán' usually translates 'total', 'míchumas iomlán' and 'praghas iomlán ceannaigh' respectively translating 'total disablement' and 'total purchase price' in *Téarmaí Dlí*. DIL translates 'imlán' as 'very full, whole, complete, perfect' as against 'lán', 'full, full (of), filled (with)'.<sup>1</sup>

'An application is made to the Registrar ... by not less than one-tenth of the total number of members of the society' is translated as 'go ndéanfaidh líon nach lú ná an deichiú cuid de líon iomlán comhaltai an chumainn, iarratas chun an Chláraitheora' in s29(1)(a) of the Building Societies Act, 1976. 'The members of the joint committee ... shall not exceed in number one-third of the total number of members of the joint committee' is translated as 'nach rachaidh líon na gcomhaltai den chomhchoiste ... thar trian méid iomlán comhaltai an chomhchoiste' in s110(2) of the Housing Act, 1966. 'Is é is córam do chomhbhord ná an ceathrú cuid de líon iomlán comhaltai an bhuird' translates 'The quorum of a joint board shall



be one-fourth of the total number of members of the board' in s13 of the Third Schedule to the Mental Treatment Act, 1945. 'Total number of members for Constituency' is translated as 'Uimhir iomlán ballra an Dáilcheantair' in the Eighth Schedule to the Electoral Act, 1923. In s4(a) of the Third Schedule thereto, 'If the surplus is less than the total number of transferable papers' is translated as 'Más lú an barrachas ná lán-uimhir na bpáipéirí ionaistrithe', with 'líon na vótanna go léir' translating 'the total number of the votes' in s12(8) thereof. See also the commentary on Article 12.10.4°.

*in aghaidh* This prepositional phrase, literally 'in face of', translated principally as 'against' by Ó Dónaill, has the secondary sense of 'per, for each', with '*in aghaidh an lae*, daily' cited by Ó Dónaill and '*ubh i n-aghaidh an lae*, an egg for each day' cited by Dinneen. DIL cites 'bliadhain i n-aghaidh na h-uaire a maireann an t-éiclips uirre féin' ('a year for every hour ...') from the Irish *Corpus Astronomiae*.

We may note here that 'agad' is not found either in the Old Irish Glosses or in the early Irish law-tracts (as against early commentaries on the laws), 'enech', the original sense of which was evidently 'brows' or 'cheeks' according to DIL, expressing 'face' in earlier sources. By transition of meaning, 'apparently connected with the tendency for feelings of shame to be reflected in the countenance', according to DIL, 'enech' comes to be used in the sense of 'honour, repute, good name', this being the principal sense of Modern Irish 'oíneach', the secondary sense being 'generosity, hospitality, bounty, favour', honour being maintained by 'open-handedness, bountifulness' – see DIL s.v. 'enech'. As D.A. Binchy states in his 'Legal Glossary' to *Críth Gablach* (1979, p. 84f.), 'From the original meaning "face, countenance" ... the technical legal meaning "honour, dignity" is a natural transition for which there are parallels in other languages' – in English, for example, the phrase 'to save face' comes to mind.

Turning to the Acts, 'for each one hundred pound of that security held by him' is translated as 'in aghaidh gach céad punt faoi leith den urrús sin a bhí ar seilbh aige' in s25(1)(a) of the Transport Act, 1950, for example. 'The sum of one penny for each two-thirds of a mile' is translated as 'pingin in aghaidh gach dhá dtrian de mhíle' in s3(d) of the Dublin United Tramways (Omnibus Services) Act, 1925.

*daonra* This term is translated as 'population' in Ó Dónaill; it does not appear to be given as a headword in Dinneen nor in DIL. The collective suffix '-ra' (earlier '-radh') is compounded with 'daon', earlier 'doén', a poetic term for 'human being' corresponding to 'duine', according to DIL, where it is cited in a number of compounds.

'Daonra ceantair uirbigh' translates 'the population of an urban district' in s156(2) of the Social Welfare (Consolidation) Act, 1981. We see above that 'líon tíre' translated 'population' in the 1922 Constitution. 'The size and populations vary' is translated as 'Tá ana-dhifríochtaí idir na ceantair, leis, maidir lena méid agus maidir le líon na ndaoine ionta' in s24 of the 'Offaly County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'ár gcuid-ne de sna tuarastail sin d'íoc do réir méid na líomatáistí agus do réir líon na ndaoine ionta' translating 'to pay on the area population basis our part of such salaries'. 'Is do réir "líomatáiste agus daoiniúlacht"

a áireófar an cion a bheidh len'íoc' translates 'the proportion payable ... is to be calculated on an "area and population" basis' in s86 of the 'Tirconail County Scheme'. 'Líonmhaireacht na ndaoine' translates the single term 'population' in s2(a) of the Statistics Act, 1926. Finally, 'population' is also translated as 'pobal' in the 1922 Constitution, 'the civilian population' being translated as '(chun) an phobail shibhialta' in Article 70.

*faoi bhun* This phrase is translated as 'beneath' in Ó Dónaill, who cites '*faoi bhun pingine*, under a penny'. Dinneen translates 'fá bhun' as 'under, less than', citing '*fá bhun scillinge*, under a shilling' and '*tríocha nó fá n-a bhun*, thirty or under'. 'In an establishment normally employing more than 20 and less than 50 employees' is translated as 'i mbunáocht a fhostaíonn de ghnáth líon is mó ná 20 agus is lú ná 50 fostaí' in s6(1)(a) of the Protection of Employment Act, 1977. 'If at the date of the appointment there are less than four judges permanently assigned to that circuit' is translated as 'más rud é ar dháta an cheaptha gur lú ná ceathrar an líon breithiúna a bheidh buansannta don chuaird sin' in s2(2)(a) of the Courts Act, 1977. 'Is set opposite the name of more than one candidate' is translated as 'curtha air os coinne ainm níos mó ná iarrthóir amháin' in s58(2)(c) of the First Schedule to the European Assembly Elections Act, 1977.

*os cionn* This phrase is translated as 'above' by Ó Dónaill, with the secondary sense of 'more than', translating 'os cionn céad' as 'more than a hundred'. Dinneen translates 'ós cionn' as 'over, on top of, above, exceeding, in front of'. 'Cionn' is the old dative singular of 'ceann', following the preposition 'os' ('over, above'), earlier 'ós'/'úas' glossing 'super' in the eighth-century Würzburg Glosses on the Pauline Epistles. We find 'os cionn' in a more or less literal sense in 'in tituil robóí huas ciunn Crist isin chroich' (i.e. the title which was 'over Christ's head' on the cross) from the ninth-century Milan Glosses on the Commentary on the Psalms.

*líon comhaltáí Dháil Éireann* 'Comhaltáí' would be lenited here, according to the official standard, with the lenited nominative form being in place of the genitive before 'Dáil Éireann' – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive. See the commentary on Article 14.3 regarding 'líon'.

'Number of members to be returned for a constituency', in the Margin Title to s4 of the Electoral (Amendment) Act, 1980, is translated as 'An líon comhaltáí a thoghfar do dháilcheantar', as in the Margin Title to s4 of the Electoral (Amendment) Acts, 1969 and 1947. 'The number of members to be elected ... for each electoral area ... shall ... be' is translated as 'Is é an líon comhaltáí a bheidh le toghadh ... do gach toghlimistéar' in s87(1) of the Electoral Act, 1963, and as 'Is í an uimhir de chomhaltáí bheas le toghadh ... do gach togh-liomatáiste fé leith' in s3(7) of the Local Government (Dublin) Act, 1945. Note, finally, that 'The Minister shall appoint such persons to be officers of the Official Censor ... subject to the sanction of the Minister for Finance as to number' is translated as 'Ceapfidh an t-Aire chun bheith ina n-oifigigh don Scrúdóir Oifigiúil ... pé daoine ... ach a líon do bheith fé mar a chheadóidh an t-Aire Airgid' in s4(2) of the Censorship of Films Act, 1923.

*Socrófar ... le dlí* Note that 'a shocráitear le dlí' expresses 'determined by law' in the previous subsection. On the other hand, 'for the election on a franchise and in the manner to be provided by law, ... of so many members of Seanad Éireann as may be fixed by law' is translated as 'chun go dtoghfar de réir toghchórais, agus ar an modh, a shocrófar le dlí, ... an líon sin comhaltaí de Sheanad Éireann a shocrófar le dlí' in Article 18.4.2°, following the Seventh Amendment of the Constitution, 1979.

We find 'ceap' and 'cinn', along with 'socraigh' and forms of 'socair', translating 'fix' in the Acts. 'An officer or servant (whether male or female) remunerated at a salary fixed at a rate per annum' is translated as 'oifigeach nó seirbhíseach (firinneach nó baineanach) lena n-íoctar tuarastal atá socair do réir ráta sa bhliain' in s2(1)(a) of the Schedule to the Great Southern Railways Company (Superannuation Scheme) Act, 1947. 'Until the date when such compensation is so fixed' is translated as 'go dtí dáta an chúitimh sin do cheapadh amhlaidh' in s15(1) of the Unemployment (Relief Works) Act, 1940.

'Socróidh an Chúirt Dúiche méid an rannioca' translates 'the District Court shall fix the amount of the contribution' in s215(4) of the Social Welfare (Consolidation) Act, 1981, 'cinnfidh an Chúirt méid an rannioca a bheas le déanamh aige' translating 'the Court shall fix the amount of the contribution to be made by him' in s232(c) of the Mental Treatment Act, 1945, 'ceapfaidh an Chúirt méid an rann-ioca bheidh le déanamh ag an duine dliteach' translating 'the Court shall fix the amount of the contribution to be made by the person liable' in s29(c) of the Public Assistance Act, 1939.

In s2 of the Criminal Justice (Community Service) Act, 1983, 'but does not apply where any such sentence is fixed by law' is translated as 'ach níl feidhm aige i gcás aon phianbhreith den sórt sin a bheidh socraithe le dlí'. 'During any time which is for the time being fixed by laws as the close time for eels', in s34 of the Fisheries Act, 1925, is translated as 'i rith aon aimsire a bheidh ceaptha de thuras na huaire do réir dlí mar aimsir choiscthe i gcóir eascon'. In Article 63 of the 1922 Constitution, 'The terms and conditions of his tenure of office shall be fixed by law' is translated as 'socrófar le dlí téarmaí agus coinníollacha sealbhuíochta a oifige'. 'The rent ... shall be fixed at such sum' is translated as 'An cíos ... socrófar iad do réir pé suim' in s3(2) of the University Education (Agriculture and Dairy Service) Act, 1926.

'Féadfaidh an tAire dáta, am agus áit an chéad chruinnithe den Bhord a shocrú' translates 'The Minister may fix the date, time and place of the first meeting of the Board' in s17(8) of the Nurses Act, 1950, 'Féadfaidh an tAire dáta, tráth agus ionad an chéad chruinnithe den Bhord a shocrú' being found in s17(8) of the Opticians Act, 1956, 'Féadfaidh an tAire dáta, am agus ionad chéad chruinnithe an Bhord a shocrú' being found in s12(2) of the Voluntary Health Insurance Act, 1957, with 'tráth' replacing 'am' and 'chéad-chruinnithe' replacing 'chéad chruinnithe' in s10(2) of the Schedule to the Agricultural Produce (Cereals) (Amendment) Act, 1958. We find 'Féadfaidh an tAire an dáta, an tráth agus an t-ionad do chéad chruinniú an Bhoird a shocrú' in s11(2) of the Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971, with 'Féadfaidh an tAire dáta, am agus ionad chéad chruinniú an Choimisiúin a shocrú' in s7(2) of the Schedule to the Radio and Television Act, 1988. See further the

commentary on Article 40.4.3°.

'Ceap' in particular translated 'fix' in early Acts. The Margin Title of s7 of the State Harbours Act, 1924, for example, 'Public Works Commissioners may fix amount of tolls, etc.' is translated as 'Féadfidh Coimisinéirí na nOibreacha Puiblí méid custum, etc., do cheapa'. 'Pé custuim réasúnta a cheapfid agus a shocróid do réir a dtuille féin ó am go ham' translates 'such reasonable tolls as the Commissioners shall from time to time in their discretion fix and determine' in s52 of the Dundalk Harbour and Port Act, 1925. Note, finally, that 'entertainment in dumb show the scenic arrangement or acting form of which is fixed in writing or otherwise' is translated as 'siamsa geáitsíochta go bhfuil riara na radharc no fuirm na haicteála ann socruithe i scríbhinn no ar aon tslí eile' in s177(1) of the Industrial and Commercial Property (Protection) Act, 1927.

### Direct translation

Déanfar líon na gcomhaltaí a shocrú<sup>1</sup> le dlí ó am go ham, ach ní shocrófar<sup>2</sup> líon iomlán na gcomhaltaí de Dháil Éireann ar shlí gur<sup>3</sup> lú ná comhalta amháin in aghaidh gach tríocha míle den daonra é, ná gur mó ná comhalta amháin in aghaidh gach fiche míle den daonra é.

### Variants

- 1 'a cheapadh', 'a chinneadh'
- 2 'ní cheapfar'
- 3 'le gur'

## ARTICLE 16.2.3° AIRTEAGAL 16.2.3°

### TÉACS GAEILGE

An chomhréir a bheas idir an líon comhaltaí a bheas le toghadh aon tráth le haghaidh gach dailcheantair ar leith agus daonra gach dailcheantair ar leith, de réir an daonáirimh is déanaí dá ndearnadh roimhe sin, ní foláir í a bheith ar cothrom, sa mhéid gur féidir é, ar fud na dúiche uile.

### LITERAL ENGLISH TRANSLATION

The proportion that there will be between the number of members who will be elected / for election at any time for each particular constituency and the population of each particular constituency, according to the latest census made before that, it must be in balance / at par, in as far as possible, throughout the whole region/district.

### ENGLISH TEXT

The ratio 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 it is practicable, be the same throughout the country.

### Divergences between the official texts

- 1 'Throughout the country' is expressed as 'ar fud na dúiche uile' ('throughout the whole region/district') in the Irish text.

- 2 'Ratio' is expressed as 'comhréir' ('proportion'/'congruity') in the Irish text.
- 3 'The same' is expressed as 'ar cothrom' ('in balance'/'at par') in the Irish text.
- 4 'As ascertained at the last preceding census' is expressed as 'de réir an daonáirimh is déanaí dá ndearnadh roimhe sin' ('in accordance with the latest census done before that') in the Irish text.
- 5 'Each constituency' is expressed as 'gach dailcheantar ar leith' ('each particular constituency') in the Irish text.
- 6 'So far as it is practicable' is expressed as 'sa mhéid gur féidir é' ('so far as it is possible') in the Irish text.
- 7 'Shall' is expressed as 'ní foláir' ('must be'), as we have seen in some other Articles.

J.M. Kelly (op. cit., p. 206) reports as follows on reference in the courts to this subsection:

In *O'Donovan v Attorney General* ([1961] IR 114; (1962) 96 ILTR 121) Budd J found "no material discordance" between "so far as it is practicable" and "sa mhéid gur féidir é"; the Supreme Court in *In re Article 26 and the Electoral (Amendment) Bill 1961* ([1961] IR 169) agreed with him. In the same case, the Supreme Court attached no importance to the fact that in the Irish phrase "de réir an daonáirimh is déanaí dá ndearnadh roimhe sin" there was no word directly representing the word "ascertained" in the corresponding English phrase "as ascertained at the last preceding census". The Court said:

"Daonáireamh" connotes not merely a census, but an ascertained census; the verb "dearnadh" strengthens this meaning."

Note that Article 26 of the 1922 Constitution contains the following:

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. *Ar choiníoll, gurb é an cothrom céanna chó fada agus is féidir, a bheidh ar fuaid na tíre idir uimhir na dteachtaí a bheidh le togha aon uair do gach dailcheantar agus líon tíre gach dailcheantair, ar n-a tháil sin amach sa chomhaireamh deireanach roimhe sin.*

### Commentary

*aon tráth* See the commentary on Article 31.2 regarding 'tráth'. In s166(1) of the Social Welfare (Consolidation) Act, 1981, 'An application may be made at any time' is translated as 'Féadfar iarratas a dhéanamh tráth ar bith', 'Féadfar an t-iarratas san do dhéanamh tráth ar bith' translating 'such application may be made at any time' in s5(1)(a) of the Flax Act, 1936. 'Gach suim d'íoc atá anois, no a bheidh aon tráth roimh an 1adh lá d'Abrán, 1925 ... iníochta as' translates 'to meet all sums which are now or may at any time before the 1st day of April, 1925, be ... payable thereout'. 'Más rud é go bhfuil, agus aon tráth a bhfuil, comhshocraíochtaí ar marthain' translates 'if, and at a time when, arrangements are in existence' in s64 of the Finance Act, 1990. 'Féadfaidh an Bord aon tráth coiste a ceapadh faoin alt seo a dhíscaoileadh' translates 'The Board may at any time dissolve a committee appointed under this section' in s25(5) of the Horse Industry Act, 1970.

Again, Professor Máirtín Ó Murchú, commenting on a draft of the translation below, remarks that 'tráth ar bith' would not be fully correct in this context as it gives to understand that an election at any time could be involved. Professor Ó Murchú recommends 'in aon tráth ar leith'.

*An chomhréir* 'Comhréir' is translated principally as 'accord, congruity' in *Ó Dónaill*, with 'proportion' given as the secondary sense (preceded by the abbreviation for 'Mathematics'), citing '*an chomhréir atá idir x agus y*, the proportion that x bears to y'. 'I gcomhréir le' is translated as 'consistent with' in *Téarmaí Dlí* and *Dinneen* translates 'cóimhréir' as 'congruity, construction, syntax, concord, analogy; uniformity'. The earlier form, 'comríar', based on 'riar' (translated principally as 'will, wish, demand, request; decision' in DIL), is translated as 'submission, control, attendance' in DIL, with no examples cited from the earlier sources.

'A ratio which is not less than a specified ratio' is translated as 'coibhneas nach lú ná coibhneas sonraithe' in s37(1)(b) of the Building Societies Act, 1976, 'do réir an choibhnis idir a shealúchais agus iomlán scaireanna neamhíochta an Bhainc' translating 'according to the ratio of its shareholding to the total outstanding shares of the Bank' in s5(g) of Article VI of Part II of the Schedule to the Bretton Woods Agreements Act, 1957. The heading 'Ratio Figure' in the Third Schedule to the Currency Act, 1927, is translated as 'Figúir an Ratio'. Finally, 'cóimheas' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'ratio' in translations for the Department of Education. Note that 'ratio' is translated as 'cóimheas' in *De Bhaldráithe*, 'cóimhmheas' being translated as 'act of comparing (with, *re*, *le*); comparison; rivalry; a judging between' in *Dinneen*.

*ar cothrom* This phrase, preceded by the abbreviation for 'Commerce', is translated as 'in balance' and, preceded by the abbreviation for 'Finance', as 'at par' by *Ó Dónaill*, who translates 'cothrom' principally as 'level; balance', citing '*rud a chur i gcothrom, ar a chothrom*, to set something even; to adjust the balance of something' and secondarily as 'equal, equable, measure'. This compound of 'comh' plus 'trom' is translated literally as 'an equal weight' in *Dinneen* s.v. 'comhthrom', where the following senses are also included: 'equity, justice, fair play; balance; standard; level; plane', with 'ar an gcomhthrom' translated as 'on the level' and 'ar mo chomhthrom' as 'at my ease, in a comfortable posture'. 'Comhthrom' is translated principally as 'of the same weight, equal, even, equivalent, par' in DIL.

'And such day shall be the same throughout the State' is translated as 'agus is é an lá céanna a bheas ann ar fud an Stáit' in s2 of the Electoral (Amendment) Act, 1946. 'The poll shall be taken on one day only and that day shall be the same throughout the State' is translated as 'ní bheidh aon vótaíocht ann ach aon lá amháin agus is ar an lá céanna a bheith sí ann ar fuaid an Stáit' in s11(a) of the Referendum Act, 1942. In s41(1) of the Electoral Act, 1923, 'Each General Election shall be held on one day only, and such day shall be the same throughout Saorstát Éireann' is translated as 'Comórfar gach Togachán Generálta fé leith an t-aon lá amháin agus an lá san amháin ar fuaid Shaorstáit Éireann'.

*dúiche* 'Ar fud na dúiche' is translated as 'throughout the area' in *Ó Dónaill*, with *Dinneen* translating 'ar fuaid na dúithche' as 'throughout the district, country, etc.', translating the nominative 'dúthaigh' as 'one's native land or locality; a country, a country-side, a district, estate, land ...'. 'The District Court' is styled 'an Chúirt Dúiche' in *Tearmaí Dlí*. 'Dúthaig', as a noun, is translated principally as 'hereditary land, patrimony' in DIL, with secondary senses of 'native district, native land' and 'region, land', the sense of 'land' in general being rare, according to DIL. 'Dúthaig', as an adjective followed by the preposition 'do', is translated as 'belonging to by virtue of descent or heredity' in DIL, where 'dian (= dianid) duthaig Liphe lígda' ('to whom lovely Liffey belongs') is cited from an eighth-century poem in praise of a Leinster prince.

A copy of the full text of the Bill can be inspected and purchased at all Post Offices throughout the country' is translated as 'Is féidir cóip de théacs iomlán an Bhille a iniúchadh agus a cheannach in aon Phost-Oifig sa tír' in the Appendix to s5 of the Referendum (Amendment) Act, 1959. In Articles 26 and 28 of the 1922 Constitution, 'throughout the country' is translated as 'ar fuaid na tíre', this same phrase being similarly translated in the Preamble to the Public Safety (Emergency Powers) Act, 1923. In Article 33 of the 1922 Constitution, however, 'arranging for the representation of important interests and institutions in the country' is translated as 'ionadúocht do sholáthar do leasanna agus d'fhundúireachtaí táchtacha sa dúthaigh'.

Professor Máirtín Ó Murchú remarks that 'dúthaigh'/'dúiche' has the sense of 'country, homeland' rather than 'area' (as in the translation from *Ó Dónaill* above), the question being why the Irish drafters did not use the term 'tír' here; as they did not, Professor Ó Murchú recommends translating 'dúiche' above as 'region'.

*de réir an daonáirimh* 'Daonáireamh' is translated as 'census of population' in *Ó Dónaill*, this compound of 'daon-' ('human; anthropo-' in *Dinneen*) and 'áireamh' ('act of counting, computing; taking account of a number, the sum total', *ibid*) not appearing to be given as a headword in *Dinneen* nor in DIL – see the commentary on the previous subsection regarding 'daon' and the commentary on Article 5 regarding 'daonlathas' < 'daon' + 'flaitheas', a calque on Greek 'dēmokratía' – cp. here 'dēmographia'.

'Do réir an daonáirimh dheiridh roimhe sin' translates 'according to the immediately preceding census of population' in s7(3) of the Finance Act, 1953, and in s16(5)(b) of the Finance Act, 1954. We see above that 'comhaireamh' translates 'census' in the 1922 Constitution. 'Of which the population, according to the latest census return, is at least 500' is translated as 'agus 500 duine ar a luíod ann de réir an áirimh is déanaí' in s6 of the First Schedule to the Housing Act, 1925, 'Áireamh Shaorstáit Éireann, 1926' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'Census of Irish Free State, 1926'. 'Mór-áireamh ar shaothrúchán' is cited as translating 'census of production' in the *Proceedings* of Dáil Éireann, 1926, p. 423, with 'mór-áireamh na ndaoine' translating 'census of population' on the Dáil *Order Paper*, 1928, p. 673. Finally, note that 'cúntas ar mhálaí puist' translates 'census of mail bags' in *Iris an Phuist*, 14/3/1928.

As regards 'as ascertained (at the last preceding census)', Professor Máirtín Ó Murchú, commenting on a draft

translation of that phrase below as 'arna fhionnadh (sa daonáireamh deireanach roimhe sin)', remarks that 'arna fhionnadh' is somewhat old-fashioned, and recommends 'á dheimhniú sa/ón daonáireamh ....'.

*sa mhéid gur féidir é* 'Sa mhéid go' is translated as 'inasmuch, in so far, as' in *Ó Dónaill*, who cites '*sa mhéid sin*, to that extent' and '*an méid is féidir liom*, all that I can'. DIL gives examples of 'méit' as an adverb from the Glosses of the ninth century onwards, 'in méit' being translated as 'so much, to such a degree' and 'méit' (as a relative adverb introducing a subordinate clause) being translated as 'as much as, as far as, to the extent that'. See further the commentary on Article 40.3.1<sup>o</sup>.

'A mhéid is féidir' translates 'in so far as it is practicable' in s77(3) of the Building Societies Act, 1989, where 'The directors of a society which has subsidiaries shall secure that, in so far as it is practicable, the financial year of each of its subsidiaries coincides with the society's own financial year' is translated as 'Déanfaidh stiúrthóirí cumainn a bhfuil fochuideachtaí aige a áirithiú go mbeidh, a mhéid is féidir, bliain airgeadais gach fochuideachta dá chuid comhthráthach le bliain airgeadais an chumainn féin'. 'Coimeádfar na páipéir bhallóide ar a mbéal in airde a mhéid is féidir sin' translates 'the ballot papers shall so far as it is practicable be kept face upwards' in s13 of the Second Schedule to the Seanad Electoral (Panel Members) Act, 1947, '*sa méid gur féidir é*' being found in the same context in s14 of the Second Schedule to the Seanad Electoral (Panel Members) Act, 1937. 'The Minister may erect ... cottages similar so far as may be practicable in structure ... to the cottages erected ...' is translated as 'féadfaidh an tAire bothóga do chur suas is cosúil, sa mhéid gur féidir é, ina ndéanamhacht ... leis na bothóga do bhí curtha suas' in s82(4) of the Electricity (Supply) Act, 1927. Note, finally, that 'on the ground that the improvement of the holdings is essential and practicable' is translated as 'mar gheall ar fheabhsú an ghabháltas a bheith riachtanach agus indéanta' in s28(6)(c) of the Land Act, 1923. See further the commentary on Article 40.3.1<sup>o</sup>.

*ar fud na dúiche uile* DIL cites 'for fúait na Greci uli' from the version of the *Destruction of Troy (Togail Troi)* contained in the twelfth-century *Book of Leinster*, translating 'for (ar) fúait' as 'throughout, through the extent of, all over'. *Ó Dónaill* cites '*chuaigh a chlú ar fud na tíre*, his fame spread throughout the land'. See above s.v. 'ar cothrom' for citations of 'ar fud' from the Acts.

*a bheas* The special relative form of the substantive verb, future tense – see the commentary on Article 6.1 regarding the special relative form of the verb in general.

*ní foláir* See the commentary on Article 11.

### Standardised Irish text

An chomhréir a bheidh idir an líon comhaltai a bheidh le toghadh aon tráth le haghaidh gach dailcheantair ar leith agus daonra gach dailcheantair ar leith, de réir an daonáirimh is déanaí dá ndearnadh roimhe sin, ní foláir í a bheith ar cothrom, sa mhéid gur féidir é, ar fud na dúiche uile.

**Direct translation**

A mhéid is féidir, is ionann coibhneas ar fud na tíre<sup>1,2</sup> idir líon na gcomhaltaí a bheidh le toghadh in aon tráth ar leith<sup>3</sup> do gach dailcheantar agus daonra gach dailcheantair, arna fhionnadh sa daonáireamh deireanach roimhe sin<sup>4</sup>.

**Variants**

- 1 'don tír uile'
- 2 'A mhéid is féidir, is mar a chéile ar fud na tíre a bheidh an coibhneas', 'Is é an coibhneas céanna a bheidh ann ar fud na tíre, a mhéid is féidir.'
- 3 'tráth ar bith'
- 4 'agus, á dheimhniú sa daonáireamh roimhe sin, daonra gach dailcheantair'

ARTICLE 16.2.4<sup>o</sup> AIRTEAGAL 16.2.4<sup>o</sup>**TÉACS GAELGE**

Ní foláir don Oireachtas na dailcheantair a athmheas uair ar a laghad sa dá bhliain déag ag féachaint go cuí d'aon athruithe ar shuíomh an daonra; ach athruithe ar bith dá ndéanfar ar na dailcheantair ní thiofáid i bhfeidhm i rith ré na Dála a bheas ina suí le linn an athmheasta sin.

**LITERAL ENGLISH TRANSLATION**

The Oireachtas must re-evaluate the constituencies at least once every twelve years having due regard to any changes in the position of the population; but any of the changes which will be made to the constituencies (they) will not come into force during the span of life of the Dáil which will be sitting during that re-evaluation.

**ENGLISH TEXT**

The Oireachtas shall revise the constituencies at least once in every twelve 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 Dáil Éireann sitting when such revision is made.

**Divergences between the official texts**

- 1 Corresponding to the English 'revise', the Irish 'athmheas' means rather 're-evaluate'/'re-estimate'.
- 2 'Distribution of the population' is expressed as 'suíomh an daonra' ('the situation/position of the population') in the Irish text.
- 3 'Any alterations in the constituencies' is expressed as 'athruithe ar bith dá ndéanfar ar na dailcheantair' ('any changes / any of the changes that will be made to the constituencies') in the Irish text.
- 4 'During the life of Dáil Éireann' is expressed as 'i rith ré na Dála' ('during the span/period/duration of the Dáil'), this phrase translating 'during the life' in the Acts also.
- 5 'Shall not take effect' is expressed as 'ní thiofáid i bhfeidhm' ('they will not come into force') in the Irish text.
- 6 'To changes' is expressed as 'd'aon athruithe' ('to any changes') in the Irish text.
- 7 'When such revision is made' is expressed as 'le linn

an athmheasta sin' ('during that re-evaluation') in the Irish text.

- 8 A comma follows 'years' in the English text, no corresponding comma being found in the Irish text.
- 9 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

Note that Article 26 of the 1922 Constitution concludes as follows:

The 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 Dáil Éireann sitting when such revision is made. *Déanfaidh an t-Oireachtas ath-chóiriú ar na dailcheantair uair amháin gach deich mbliana ar a luighead, gan sóinseáil in áireamh áitiúil an lín tíre do dhearmhad, ach ní thiofáidh aon atharú sna dailcheantair i bhfeidhm i rith téarma na Dála a bheidh ann le linn a leithéid d'ath-chóiriú do dhéanamh.*

**Commentary**

*a athmheas ... an athmheasta* This compound of the reiterative prefix 'ath-' and the verb 'meas' ('estimate'/'judge') does not seem to be given as a headword in either *Ó Dónaill* or *Dinneen* – note that DIL gives a headword 'aithmes', which apparently has the sense of 'decline', 'decay', being a compound of the earlier form of 'meas', 'mes(s)', with 'aith-' as a negative prefix. DIL cites 'ná bad dia mess' ('let it not be to judge him') from the eighth-century Würzburg Glosses on the Pauline Epistles as an example of 'mes(s)' in the sense of 'the act of judging', 'mes(s)' being the verbal noun of 'midithir', originally 'weighs, measures', hence 'judges', commonly translating Latin 'iudicare' in the Glosses of the eighth century onwards. Old Irish also had a verb 'ad-midethar', translated principally as 'aims at, essays' in DIL, with the secondary sense of 'evaluates, estimates'; the seventh-century text on kingship attributed to the mythical judge Morann, *Audacht Morainn*, an early example of the *Speculum Principum* or 'Mirror of Princes' (a literary genre consisting of advice to a king) contains a whole section beginning with 'admestar' ('Let him estimate', third singular, present subjunctive, of 'ad-midethar'), commencing with the following precept: 'Ad-mestar asa thoirthib talmain' ('Let him estimate the earth by its fruits') – see Fergus Kelly, ed., *Audacht Morainn* (1976, p. 12f.).

'Or, in the event of a revision of constituencies having taken place, for the revised constituency declared on such revision to correspond to such first-mentioned constituency' is translated as 'no, i gcás aith-bhreithniú do bheith déanta ar dhailcheantair, don dailcheantair aith-bhreithnithe do fógrúidh ar n-a n-aith-bhreithniú san do bheith ar aon dul leis an dailcheantair san do céad-luaidheadh' in s1 of the Constitution (Amendment No. 2) Act, 1927. Note that, in accordance with the 1937 Constitution, 'Acht do shocrú Líon Comhaltaí Dháil Éireann agus d'ATHmheas a nDailcheantair' translates 'An Act to fix the Number of Members of Dáil Éireann and to Revise their Constituencies' in the Long Title of the Electoral (Amendment) Act, 1947.

'Tarraingeoidh an Coimisiún suas cód ... agus féadfaidh

sé ó am go ham ... é a athmheas' translates 'The Commission shall draw up, and may from time to time ... revise a code' in s9(3) of the Radio and Television Act, 1988, and 'Ni mór do gach údarás dóiteáin a chothabhálann briogáid dóiteáin pleananna ... a ullmhú (agus, de réir mar is gá, a athmheas)' translates 'Each fire authority which maintains a fire brigade shall prepare (and, as occasion requires, revise) plans' in s26(1) of the Fire Services Act, 1981. On the other hand, 'direct two or more local authorities jointly to make, revise or replace a plan' is translated as 'a ordú do dhá údarás áitiúla nó níos mó plean ... a dhéanamh nó a athchóiriú, nó plean eile a chur ina ionad, i gcomhar' in s15(7)(c) of the Local Government (Water Pollution) Act, 1977 – see also the 1922 Constitution above – and 'déanfaidh an Chomhairle Shealadach idir an dá linn na dréacht-Fhodhlithe a athbheithniú' translates 'the Provisional Council shall in the meantime revise the draft Bye-laws' in s13(2) of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969.

Other terms translating 'revise' in early Acts were 'athfhéach' and 'athscrúdaigh'/'scrúdaigh'. In s12(1) of the Enforcement of Law (Occasional Powers) Act, 1923, 'The Minister may by order appoint and from time to time revise a scale of the fees' is translated as 'Féadfaidh an t-Aire le hordú scála do cheapa de sna táillí ... agus féadfaidh an t-Aire le hordú an scála san d'aith-fhéachaint ó am go ham', 'costaisí ath-fhéachana' translating 'expenses of revision' in the Schedule to the Appropriation Act, 1922. 'The Valuation (Postponement of Revision) Act, 1923' is cited in Irish as 'an tAcht Luachála (Ath-Scrúdú ar Athló), 1923'. 'The railway tribunal, at a date not later than three months after the passing of this Act, will review the existing charges' is translated as 'Ar dháta nách déanaí ná trí mhí tar éis rithite an Achta so, scrúdóidh an bínse bóthair iarainn na héilithe atá i bhfeidhm fé láthair' in s25 of the Railways Act, 1924. 'Scrúdú roimh ré' translating 'Preliminary review' in the Margin Title there. 'Where an order revising the rate has been so made' is translated as 'má dintar ... amhlaidh ordú ag ceartú an Ráta' in s169(3) of the Industrial and Commercial Property (Protection) Act, 1927, 'make such revision or modification in such schedule as he thinks proper' being translated as 'pé leasú no atharú is dó leis is ceart do dhéanamh ar an sceideal san' in s4(5) of the Railways (Road Motor Services) Act, 1927.

*ar shuíomh* 'Suíomh' is generally used today in the sense of 'site, location', *Ó Dónaill* citing '*suíomh foirgnimh*, site of building' and '*suíomh na talún*, the lie of the land'. *Ó Dónaill* also includes 'settlement, arrangement; establishment' among the senses of this word, citing '*caithfimid suíomh a chur ort*, we must fix you up'. *Dinneen* includes 'fixing, settling, locating, ... position, setting, construction, lay-out, array (of an army)' among the senses of 'suidheamh'. Keating's seventeenth-century *History of Ireland* is the earliest citation of 'suidem', in the sense of 'act of proving, proof', in DIL, with *Dinneen's Me Guidhir Fhearmanach* providing the only two examples cited there of the secondary sense of 'act of arranging, ordering; arrangement'. The earlier 'suidiugud' included both those senses, being the verbal noun of 'suidigidir', translated principally as 'places, puts, sets' in DIL, this being based on 'suide', verbal noun of 'saidid' (later 'suidid'), 'sits'.

In the distribution of the assets of a company being

wound up' is translated as 'le linn sócmhainní cuideachta atá á foirceannadh a bheith á ndáileadh' in s26(1) of the Youth Employment Agency Act, 1981. 'The need to maintain a reasonable balance in the distribution of the total number of students between the institutions of higher education' is translated as 'gur riachtanach an líon iomlán mac léinn a choimeád dáilte réasúnta cothrom idir na forais ard-oideachais' in s6(2) of the Higher Education Authority Act, 1971. 'To ensure the due supply and distribution of the essentials of life to the community' is translated as 'lena áirithiú go ndéanfar riachtanais na beatha a sholáthar agus a riaradh go cuí le haghaidh an phobail' in the Long Title of the Electricity (Temporary Provisions) Act, 1961. Looking at early Acts, 'the expression "distribution system" means and includes that portion of an undertaking used ... for the distribution and supply of electricity to consumers' is translated as 'cialluíonn agus foluíonn an focal "cóir roinneacháin" an chuid sin de ghnó a húsáidtear ... chun leictreachas do roinnt agus do sholáthar d'úsáidirí' in s1 of the Electricity (Supply) Act, 1927.

*ag féachaint go cuí (do)* This phrase, literally 'looking duly to', is the standard translation of 'having due regard to' in the Acts, 'ag féachaint go cuí do na rátaí a ioc ar iasachtaí a fuair an Ciste' translating 'having due regard to the rates paid on ... borrowings by the Fund' in s5 of Article XI of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, for example.

Looking at early Acts, in s48(2) of the Prevention of Electoral Abuses Act, 1923, 'due regard shall be had to the preferences recorded for that candidate' is translated as 'tabharfar aire chuibhe do sna roghna do breacadh don iarrthóir sin'. 'Ag cuimhneamh, imeasc nithe eile, ar an éileamh d'fhéadfadh teacht dá ndíoltí an earra phaitinnithe ní ba shaoire' translates 'regard being had amongst other circumstances, to the potential demand that might be evoked if the patented article were sold at a lower price' in s43(2)(c) of the Industrial and Commercial Property (Protection) Act, 1927. 'Regard shall first be had to the values credited to such candidates respectively' is translated as 'féachfar ar dtuís do sna héifeachtaí do bhí i leith na n-iarrthóirí sin fé seach' in s13(3)(a) of the Second Schedule to the Seanad Electoral Act, 1928, 'uniformly and without regard to distance' being translated as 'i ngach cás agus gan áird do thabhairt ar fhaid' in s1(1) of the Telegraph Act, 1928.

*i bhfeidhm* This phrase is translated as 'in force' in *Téarmaí Dlí*, where 'cuirim i bhfeidhm' is translated as 'I enforce'. *Ó Dónaill* translates 'teacht i bhfeidhm' as 'to come into operation', also citing '*ó tháinig an t-ordú i bhfeidhm*, since the order came into effect'. *Dinneen* translates 'i bhfeidhm' as 'in force, in use', translating 'téighim i bhfeidhm ar' as 'I take effect on'. The primary sense of 'feidm', according to DIL, seems to be 'load, stress, strain', passing into the senses of 'utmost effort, effort, exertion; burden, service, function'.

We see above that 'teacht i bhfeidhm' translates 'take effect' in the 1922 Constitution. In s20 of the Finance Act, 1923, 'shall come into operation and take effect from the date specified in such Order' is translated as 'tiocfa sé i ngníomh agus in éifeacht ón dáta adeirtear san Ordú san'.

'Beidh éifeacht le ráta a athrófar le rialacháin faoin bhfo-alt seo ag tosach na bliana ranníoca díreach i ndiaidh na bliana ina ndearnadh na rialacháin' translates 'A rate varied by regulations under this subsection shall take effect at the beginning of the contribution year following that in which the regulations were made' in s19(1)(b) of the Youth Employment Agency Act, 1981. 'Ní ghlacfaidh comhiomarcaíocht éifeacht roimh éag don tréimhse 30 lá' translates 'Collective redundancies shall not take effect before the expiry of the period of 30 days' in s14(1) of the Protection of Employment Act, 1977.

*ré* 'Period', with the sense of 'span of life, of career', is given as the secondary sense of 'ré' in *Ó Dónaill*, who cites '*i ré Iorua*, in the time of Herod', 'moon' being the principal sense of 'ré' therein. *Dinneen* also gives 'a month, a time, interval, space or period, duration, lifetime, respite' as the secondary sense of 'ré', citing '*ré fhada*, a long span of life', '*mo ré saoghail*, my span of life' and '*lem ré*, during my lifetime'. DIL gives 'a period, lapse of time' as the principal sense of 'ré', citing 'nicondrobae som ind rae sin' ('he had not that time') from the ninth-century Milan Glosses on the Commentary on the Psalms and 'coro gartigtis a ré' ('that they might cut short his life') from the version of the *Táin Bó Cuailnge* in the twelfth-century *Book of Leinster*.

'Tráth nach déanaí ná deireadh ré na sócmhainne cnaoiti' translates 'not later than the end of the life of the wasting asset' in s9(2) of Schedule 3 to the Capital Gains Tax Act, 1975. 'Chun fad a chur le ré an tí' translates 'to prolong the life of the house' in s23(2)(a) of the Housing Act, 1966. 'Provide for the payment of any annuity otherwise than for the life of the annuitant' is translated as '(nach) bhforálann go n-íocfar aon bhlianacht ar shlí seachas ar feadh saoil an bhlianachtóra' in s65 of the Finance Act, 1974.

'An annual allowance to be paid to him during his life' is translated as 'liúntas bliantúil a híocfar le n-a bheo leis' in s4 of the Railways (Existing Officers and Servants) Act, 1926. 'Le beo a mháthar' translating 'While mother is living' in the Second Schedule to the Army Pensions Act, 1923. Note, in passing, that 'in possession under a lease for lives or years renewable for ever' is translated as 'ar seilbh fé léas síor-ionathnuachainte ar feadh saolta no blianta' in s5(7) of the Dublin Reconstruction (Emergency Provisions) Act, 1924. Note also in passing that 'in the confidence that the National life and unity of Ireland shall thus be restored' is translated as 'agus muinghin aice gur mar seo a tabharfar thar n-ais beatha agus aontacht Náisiúnta na hÉireann' in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922.

Professor Máirtín Ó Murchú recommends the wording of the Irish text above rather than a very literal translation such as 'le linn shaol Dháil Éireann ag suí di agus an t-athmheas sin á dhéanamh'.

*ní thiochfaid* The synthetic form of the third person singular, future tense, of 'tar' – the analytic form, 'ní thiochfaidh siad', would be the general form in the Acts today. See the commentary on Article 14.5.1<sup>o</sup> regarding synthetic and analytic forms of the verb.

*a bheas* The special form of the relative, third person singular, future tense, of the substantive verb would

generally be written as 'a bheidh' in the Acts today. See the commentary on Article 6.1 regarding the special relative form of the verb.

*athruithe* Note above that 'gan sóinseáil in áireamh áitiúil an lín tíre do dhearmad' translates 'with due regard to changes in distribution of the population' in Article 26 of the 1922 Constitution. 'Atharúchán' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'alteration' in *Iris Oifigiúil*, 1922/23.

### Standardised Irish text

Ní foláir don Oireachtas na dáilcheantair a athmheas uair ar a laghad sa dá bhliain déag ag féachaint go cúí d'aon athruithe ar shuíomh an daonra; ach athruithe ar bith dá ndéanfar ar na dáilcheantair ní thiochfaidh siad i bhfeidhm i rith ré na Dála a bheidh ina suí le linn an athmheasta sin.

### Direct translation

Déanfaidh an tOireachtas na dáilcheantair a athmheas uair amháin ar a laghad gach dhá bhliain déag, ag féachaint go cúí d'athruithe ar dháileadh an daonra, ach ní bheidh éifeacht le haon athruithe ar na dáilcheantair i ré na Dála ina suí di le linn an athmheasta<sup>2</sup> sin<sup>3</sup>.

### Variants

- 1 'a athchóiriú'
- 2 'an athchóirithe'
- 3 'le linn shaol Dháil Éireann ag suí di agus an t-athmheas sin á dhéanamh'

## ARTICLE 16.2.5<sup>o</sup> AIRTEAGAL 16.2.5<sup>o</sup>

### TÉACS GAELGE

Is de réir na hionadaíochta cionúire agus ar mhodh an aonghutha inaistrithe a thoghfar na comhaltáí.

### LITERAL ENGLISH TRANSLATION

It is in accordance with proportional representation and in the manner of the single transferable vote that the members will be elected.

### ENGLISH TEXT

The members shall be elected on the system of proportional representation by means of the single transferable vote.

### Divergences between the official texts

- 1 As in Article 12.2.3<sup>o</sup>, 'on the system of proportional representation' is expressed as 'de réir na hionadaíochta cionúire' ('in accordance with proportional representation') in the Irish text.
- 2 Again as in Article 12.2.3<sup>o</sup>, 'by means of the single transferable vote' is expressed as 'ar mhodh an aonghutha inaistrithe' ('in the manner of the single transferable vote'), with 'vote' being expressed by

'guth' ('voice') rather than the direct translation of 'vote', 'vóta'.

Note that 'The members shall be elected upon principles of Proportional Representation' is translated as 'Is do réir Ionadaíochta Cothromúla a toghfar na teachtaí' in Article 26 of the 1922 Constitution.

### Commentary

*de réir na hionadaíochta cionúire* See the commentary on Article 12.2.3°.

*ar mhodh an aonghutha inaistrithe* See the commentary on Article 12.2.3°. Professor Máirtín Ó Murchú remarks regarding 'trí bhíthin' translating 'by means (of)' in a draft of the translation below, that this phrase usually has the sense of 'because (of)', 'on account (of)' rather than 'by means (of)' and recommends 'ar mhodh' / 'ar bhonn' / 'ar bhealach'.

### Direct translation

Déanfar na comhaltaí a thoghadh de réir chóras na hionadaíochta cionúire<sup>1</sup> ar mhodh<sup>2</sup> an vóta inaistrithe aonair.

#### Variants

- 1 'cionmhaire'
- 2 'tríd'

## ARTICLE 16.2.6° AIRTEAGAL 16.2.6°

### TÉACS GAELGE

Ní cead dlí a achtú a bhéarfadh faoi bhun triúir an líon comhaltaí a bheas le toghadh d'aon dailcheantar.

#### LITERAL ENGLISH TRANSLATION

It is not permitted to enact a law which would bring under three (people) the number of members that are to be elected for any constituency.

#### ENGLISH TEXT

No law shall be enacted whereby the number of members to be returned for any constituency shall be less than three.

### Divergences between the official texts

- 1 'To be returned' is expressed as 'le toghadh' ('to be elected') in the Irish text.
- 2 'Whereby the number ... shall be less than three' is expressed as 'a bhéarfadh faoi bhun triúir an líon' ('which would bring the number ... under three') in the Irish text.
- 3 'Ní cead' ('It is not permitted'), as we have seen in some earlier Articles, expresses the English text's 'no ... shall'.

### Commentary

*a bhéarfadh* Variant conditional, third person singular, of 'tabhair'; see the commentary on Article 12.1 regarding

the variant future form of this verb. 'A bhéarfadh' would be replaced by 'a thabharfadh' in the official standard. 'If provisions shall be enacted whereby the rates leviable by the Lord Mayor, Aldermen, and Burgesses of Cork are consolidated into a single municipal rate' is translated as 'má hachtuítear forálacha tré n-a ndéanfar na rátaí is inghearrtha ag Ard-Mhéara, Seanóirí, agus Buirgéisigh Chorcaighe do chó-dhlúthú in aon ráta chatharda amháin' in s2(f) of the Unemployment Assistance (Amendment) Act, 1940. In s10(3) of the Local Authorities (Combined Purchasing) Act, 1939, 'and every other enactment now in force or hereafter enacted whereby contracts are or may be varied' is translated as 'agus ag gach achtachán eile atá i bhfeidhm anois no a hachtófar ina dhiaidh seo agus le n-a n-atharúitear no le n-a n-atharófar connartha'.

Commenting on the translation below, Professor Máirtín Ó Murchú questions whether 'trinar' is clear enough and suggests perhaps returning to 'a bhéarfadh (go)'; this would be standardised to 'a thabharfadh (go)'.

*faoi bhun triúir* The genitive of the personal number 'triúir' after the prepositional phrase – *Ó Dónaill* cites the following example of the genitive: 'tá sáith triúir ann, it is enough for three people'. Note that 'trír' is the form of the genitive in the original text. *Dinneen* translates 'triúir' as 'three persons, a trio, three, of persons'. This word, the earlier form of which was 'tríar', is in origin a compound of 'trí' and 'fer' (literally 'three men'); see Rudolf Thurneysen, op. cit., p. 243, who points out that all the personal numbers from one to ten, except the word for 'two persons', are formed by compounding the cardinal with 'fer' ('man').

*le toghadh* Literally 'to be elected'. See the commentary on Article 12.2.1° regarding 'togh'. Note that *De Bhaldraithe* translates 'return', in the political sense, as 'toghann (vótálaithe teachta)'. 'I return for trial' is translated as 'cuirim chun a thrialach' in *Téarmaí Dlí*. 'Teachta do thogha' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'return (as a Teachta to the Dáil)' in the *Standing Orders of Dáil Éireann*, 1926, p. 5, 'tabhairt thar n-ais' being cited there from the *Proceedings of Seanad Éireann*, 1924, p. 45. Note that 'a court lawfully having cognisance of petitions complaining of undue return or undue election at a Seanad election' is translated as 'cúirt ag á mbeidh údarás go dleathach deighleáil le hachuingheacha ag gearán mar gheall ar thuairsciú nea-chuibhe no ar thogha nea-chuibhe i dtoghachán Seanaid' in s33 of the First Schedule to the Seanad Electoral Act, 1928.

*a bheas* The special form of the relative, third person singular, of the substantive verb; this would be replaced by 'a bheidh' in the official standard – see the commentary on Article 6.1 regarding the special form of the relative.

*Ní cead* See the commentary on Article 9.1.3°. Again, Professor Máirtín Ó Murchú questions the use of the future tense in the direct translation below.

### Standardised Irish text

Ní cead dlí a achtú a thabharfadh faoi bhun triúir an líon comhaltaí a bheidh le toghadh d'aon dailcheantar.



**Direct translation**

Ní dhéanfar aon dlí a achtú trínar<sup>1</sup> lú ná triúr líon na gcomhaltaí a bheidh le toghadh d'aon dáilcheantar.

**Variants**

<sup>1</sup> 'a thabharfadh gur'

ARTICLE 16.3.1<sup>o</sup> AIRTEAGAL 16.3.1<sup>o</sup>**TÉACS GAEILGE**

Ní foláir Dáil Éireann a chomóradh agus a lánscoir mar a shocraítear le halt 2 d'Airteagal 13 den Bhunreacht seo.

**LITERAL ENGLISH TRANSLATION**

Dáil Éireann must be convened and dissolved as arranged by section 2 of Article 13 of this Constitution.

**ENGLISH TEXT**

Dáil Éireann shall be summoned and dissolved as provided by section 2 of Article 13 of this Constitution.

**Divergences between the official texts**

- 1 'Summoned' is expressed as 'a chomóradh' ('convened') in the Irish text, as in Article 13.2.1<sup>o</sup>.
- 2 'Shall be' is expressed as 'ní foláir' ('must be') in the Irish text, as we have seen in some earlier Articles.

Note that Article 24 of the 1922 Constitution contains the following:

The Oireachtas shall be summoned and dissolved by the Representative of the Crown in the name of the King ... *Déanfaidh Ionadaí na Coróinneach in ainm an Rí an t-Oireachtas do ghairm agus do sguir.*

**Commentary**

*a chomóradh* See the commentary on Article 13.2.1<sup>o</sup>. Note that 'summons' is translated as 'toghairm' in *Téarmaí Dlí*, the verb 'toghair' being translated as 'call, summon; conjure, invoke' in *Ó Dónaill*. 'Summon' (a meeting) is translated as 'tionólaim (cruinniú)' in *De Bhaldraithe*.

*a lánscoir* See the commentary on Article 13.2.1<sup>o</sup>.

*Ní foláir* See the commentary on Article 11.

**Direct translation**

Déanfar Dáil Éireann a ghairm agus a lánscoir<sup>1</sup> mar a fhoráiltear le halt 2 d'Airteagal 13 den Bhunreacht seo.

**Variants**

<sup>1</sup> 'a scoir', 'a dhíscaoileadh'

ARTICLE 16.3.2<sup>o</sup> AIRTEAGAL 16.3.2<sup>o</sup>**TÉACS GAEILGE**

Ní foláir olltoghchán do chomhaltaí do Dháil Éireann a bheidh ann lá nach déanaí ná tríocha lá tar éis Dáil Éireann a lánscoir.

**LITERAL ENGLISH TRANSLATION**

There must be a general election for members for Dáil Éireann on a day not later than thirty days after dissolving Dáil Éireann.

**ENGLISH TEXT**

A general election for members of Dáil Éireann shall take place not later than thirty days after a dissolution of Dáil Éireann.

**Divergences between the official texts**

- 1 'Not later than' is expressed as 'lá nach déanaí ná' ('[on a] day not later than') in the Irish text, a phrase found in other Articles also.
- 2 'Take place' is expressed as 'a bheidh ann' ('there be') in the Irish text; the same meaning is expressed as 'a dhéanamh' in the next section.
- 3 'For members of Dáil Éireann' is expressed as 'do chomhaltaí do Dháil Éireann' ('for members for Dáil Éireann') in the Irish text.
- 4 'After a dissolution of Dáil Éireann' is expressed as 'tar éis Dáil Éireann a lánscoir' ('after dissolving Dáil Éireann') in the Irish text, the verbal noun being post positioned here as against the very similar Article 18.8 where we find 'after a dissolution of Dáil Éireann' expressed as 'd'éis lánscoir do Dháil Éireann'.
- 5 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

Note that Article 28 of the 1922 Constitution commences as follows:

At a General Election for Dáil Éireann 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 .... *Le linn Toghacháin Ghinearálta do Dháil Éireann déanfar an vótáil ... ar an lá céanna ar fuaid na tíre, agus ní bheidh an lá san thar deich lá fíthead tar éis dáta an sguirtha.*

**Commentary**

*a bheidh ann* The adverb 'ann' is translated as 'there' in *Ó Dónaill*, citing '*tá Dia ann*, God is', '*tá an saol ann*, the world exists' and '*tá an t-earrach ann*, it is spring', for example. *Dinneen* states that this pronoun compound with 'i', which he translates as 'in it, there', is used to express existence with 'atáim', translating 'atá Dia ann' as 'God exists, there is a God'. DIL cites 'ma beith nech and tra labrathar ilbéle' ('if there be anyone who speaks many languages'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the predicative use of the preposition 'i', plus pronoun, with the substantive verb, expressing existence.

Turning to the Acts, 'The nomination day for the first election shall be fixed so as to enable the election to take place as soon as may be after the establishment day' is translated as 'Déanfar an lá ainmníocháin don chéad toghchán a shocrú sa tslí go bhféadfar toghchán a bheith ann a luaithe is féidir tar éis an lae bhunaithe' in s3(1) of the Labour Services Act, 1987. 'Measfar nach raibh an toghchán sin ann agus beidh toghchán nua sa toghlimistéar sin' translates 'the election shall be deemed not to have taken place and a new election shall take place' in s17 of the Local Elections (Petitions and Disqualifications) Act, 1974. 'No election other than a new election shall take place in respect of a dissolved committee', however, is translated as 'ní dhéanfar aon toghchán seachas toghchán nua maidir le coiste díscailte' in s2 of the Vocational Education (Amendment) Act, 1970. 'Comórfar an chéad toghchán comhaltá do chathair na Gaillimhe pé lá ... a cheapfaidh an tAire chuige sin' translates 'The first election of Galway city members shall take place on such day ... as the Minister may fix for the purpose' in s7(1) of the Lough Corrib Navigation Act, 1945. 'Déanfar an chéad toghchán do bhaill chathrach pé lá cheapfaidh an tAire chuige sin' translating 'The first election of city members shall take place on such day ... as the Minister may appoint for the purpose' in s15(1) of the Cork Fever Hospital Act, 1935. Finally Article 81 of the 1922 Constitution concludes as follows:

... the first election for Dáil Éireann ... shall take place as soon as possible after the expiration of such period ... . *déanfar an chéad toghchán do Dháil Éireann ... ch'ó luath agus is féidir tar éis deire na tréimhse sin.*

*lá nach déanaí ná* See the commentary on Article 12.3.1<sup>o</sup> regarding 'lá' in this context.

*Ní foláir* See the commentary on Article 11. Professor Máirtín Ó Murchú remarks that the future 'déanfar' in the translation below is satisfactory as it is a promise by the State of something the State has control over.

### Direct translation

Déanfar olltoghchán do chomhaltá Dháil Éireann<sup>1</sup> tráth nach déanaí ná tríocha lá tar éis lánscoir do<sup>2</sup> Dháil Éireann.

#### Variants

- 1 'olltoghchán comhaltá do Dháil Éireann'
- 2 'scoir do', 'dhiscailteadh', 'Dáil Éireann a lánscoir'

## ARTICLE 16.4.1<sup>o</sup> AIRTEAGAL 16.4.1<sup>o</sup>

#### TÉACS GAEILGE

An vótáil do gach olltoghchán ar leith do Dháil Éireann ní foláir í a dhéanamh, sa mhéid gur féidir é, an t-aon lá amháin ar fud na dúiche uile.

#### LITERAL ENGLISH TRANSLATION

The voting for each particular general election for Dáil Éireann (it) must be done, in as far as it is possible, (on) the same day throughout the whole area.

#### ENGLISH TEXT

Polling at every general election for Dáil Éireann shall as far as practicable take place on the same day throughout the country.

#### Divergences between the official texts

- 1 'On the same day' is, in accord with correct usage, expressed as 'an t-aon lá amháin', '(on) the one day', in the Irish text.
- 2 'Throughout the country' is expressed as 'ar fud na dúiche uile' ('throughout the whole area') in the Irish text, as we have seen already in Article 16.2.3<sup>o</sup>, where also 'as far as practicable' is expressed as 'sa mhéid gur féidir é' ('in as far as it is possible'), as in the present subsection.
- 3 'Polling' is expressed as 'An vótáil' ('the voting') in the Irish text, with the preposition 'at' following this phrase expressed as 'do' ('for') in the Irish text.
- 4 'Every general election' is expressed as 'gach olltoghchán ar leith' ('each particular general election'), this phrase 'ar leith' occurring in other Articles also, as we have seen.

Note that Article 28 of the 1922 Constitution commences as follows:

At a General Election for Dáil Éireann 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 ... *Le linn Toghacháin Ghinearálta do Dháil Éireann déanfar an vótáil ... ar an lá céanna ar fuaid na tíre, agus ní bheidh an lá san thar deich lá fichead tar éis dáta an sgurtha.*

#### Commentary

*An vótáil* 'Vótáil' is translated as 'voting, polls' in *Ó Dónaill*, who cites '*páipéar, ionad, vótála*, voting-paper, polling-booth'.

Turning to 'polling' in the Acts, 'ceanntreacha vótaíochta' translates 'polling districts' in s3 of the First Schedule to the Electoral Act, 1923. 'An lá (dá ngairmtear an lá vótaíochta freisin san Acht so) a déanfar an vótaíocht sa reifreann do cheapadh le hordú' translates 'appoint by order the day (in this Act also referred to as the polling day) upon which the polling at such referendum shall take place' in s10(1) of the Referendum Act, 1942. 'An lá a bheas ceaptha ... mar an lá a déanfar an vótaíocht sa reifreann sin' translates 'the day appointed ... as the day on which polling at that referendum shall take place' in s8(2) of the Referendum (Amendment) Act, 1946. 'Constitute it as a polling district and appoint a polling place for it' is translated as 'ceantar vótaíochta a dhéanamh di agus áit vótaíochta a cheapadh di' in s7(1)(b) of the Electoral (Amendment) Act, 1980.

*an t-aon lá amháin* See the commentary on Article 12.4.5<sup>o</sup> regarding 'aon ... amháin'. 'Every member of a safety committee which is appointed under this section shall be appointed on the same day' is translated as 'Is ar an lá céanna a cheapfar gach comhalta de choiste sábháilteachta a cheapfar faoin alt seo' in s37(4)(b) of the Safety in Industry Act, 1980, 'Form of Ballot Paper when two or more Referenda are being taken on the same day'

being translated as ‘Foirm an Pháipéir Bhallóide i gcás dhá Reifreann nó níos mó a bheith á dtógáil an lá céanna’ in s7 of the Electoral (Amendment) Act, 1972, for example.

Professor Máirtín Ó Murchú comments that ‘céanna’ generally involves an aspect of referral back to something, citing ‘ar an Luan a bhí an vótáil anseo, agus ar an lá céanna i ngach oileán eile’ (‘voting took place here on Monday and on the same day in every other island’).

*sa mhéid gur féidir é* See the commentary on Article 16.2.3°, where this phrase expresses ‘so far as it is practicable’.

*ar fud na dúiche uile* See the commentary on Article 16.2.3°, where this phrase also expresses ‘throughout the country’.

*ní foláir* See the commentary on Article 11.

*ar leith* See the commentary on Articles 12.3.3° and 15.9.1°.

### Direct translation

A mhéid is féidir, déanfar an vótaíocht i ngach olltoghchán do Dháil Éireann ar aon lá amháin ar fud na tíre.

### Variants

1 ‘ar an lá céanna’

## ARTICLE 16.4.2° AIRTEAGAL 16.4.2°

### TÉACS GAELGE

Ní foláir do Dháil Éireann teacht le chéile taobh istigh de thríocha lá ón lá vótála sin.

### LITERAL ENGLISH TRANSLATION

Dáil Éireann must come together within thirty days from that voting day.

### ENGLISH TEXT

Dáil Éireann shall meet within thirty days from that polling day.

### Divergences between the official texts

- 1 ‘Meet’ is expressed as ‘teacht le chéile’ (‘come together’) in the Irish text, as it sometimes is in the Acts.
- 2 As we have seen in some earlier sections and Articles, ‘shall’ is expressed as ‘ní foláir’ (‘must’) in the Irish text and, as we saw in the previous subsection, ‘polling’ is expressed as ‘vótáil’ (‘voting’).

Note the following in Article 28 of the 1922 Constitution:

Dáil Éireann shall meet within one month of such day  
.... *Tiocfaidh Dáil Éireann le chéile fé cheann mí ón lá san.*

### Commentary

*teacht le chéile* Literally ‘come together’, with ‘teacht’ being the verbal noun of ‘tar’. *Dinneen* translates this

phrase as ‘meeting, agreement, concord, symmetry’, translating ‘ag teacht le chéile’ as ‘agreeing, in concord or symmetry’ and citing ‘*gach ball de ag teacht le chéile*, all his limbs harmonising’. *Ó Dónaill* also cites more figurative usages of ‘teacht le chéile’: ‘*níl an tuairisc sin ag teacht le chéile*, that report is not consistent’ and ‘*tá teacht maith le chéile iontu*, they get on well together’. DIL cites ‘go dtéidhe an t-anam araon / le chéile is an chalann’ (which Professor Máirtín Ó Murchú translates as ‘may the soul and body both be in harmony’) from a miscellaneous collection of Classical Irish religious poetry (*Dán Dè*).

Note that *De Bhaldraithe* translates ‘assemble’ (as an intransitive verb) as ‘tagann le chéile’ (also as ‘cruinníonn’, ‘bailíonn’), translating ‘assembly’ as ‘tionól’ and ‘comóradh’ (the verbal noun of ‘comóir’ expresses ‘summon’ in s3.1° of this Article). ‘To meet (together)’ is translated as ‘teacht le chéile, i gceann a chéile’ in *De Bhaldraithe*, where ‘when the committee meets’ is translated as ‘nuair a bheidh cruinniú ag an gcoiste’, ‘cruinniú’ translating ‘meeting’ in *Téarmaí Dlí*.

Looking at early Acts, we see above that ‘teacht le chéile’ translates ‘meet’ in this context in the 1922 Constitution. ‘Authorise any organisation, association, or other body of persons ... to meet together’ is translated as ‘a údarú d’aon chó-ghléasa, comhlachas no cólucht eile de dhaoine ... teacht le chéile’ in s7(2) of the Treasonable Offences Act, 1925.

‘Tiocfaidh an Chomhairle le chéile cibé tráth agus ionad a cheapfaidh an tAire’ translates ‘The Council shall meet at the time and place appointed by the Minister’ in s12(2) of the Medical Practitioners Act, 1978. ‘A committee under this section shall meet whenever summoned by the Authority’ is translated as ‘Tionólfaidh coiste faoin alt seo aon uair a ghairfidh an tÚdarás é’ in s5 of the Broadcasting Authority (Amendment) Act, 1976. ‘Beidh cruinniú ann de bhord stúirthóirí chomhar creidmheasa a mhinice is gá’ translates ‘The board of directors of a credit union shall meet as often as may be necessary’ in s13(3) of the Credit Union Act, 1966. In s21(1) of the *Standing Orders* of Dáil Éireann (1997) ‘the Dáil shall meet every Tuesday at 2.30 p.m.’ is translated as ‘tiocfaidh an Dáil le chéile gach Máirt ar 2.30 p.m.’ See further the commentary on Articles 13.2.3° and 15.11.3°.

*taobh istigh* Literally ‘within’. *Ó Dónaill* cites ‘*taobh istigh de bhliain*, within a year’, with *Dinneen* translating ‘taobh istigh (de)’ as ‘within (in), inside (of)’. DIL cites ‘taobh astigh do se bliadhnuibh deug’ (‘under sixteen years of age’) from O’Curry’s *Lectures on the Manuscript Materials of Ancient Irish History*. ‘Laistigh’ also translates ‘within’ in this context, *Ó Dónaill* citing ‘*laistigh de mhí*, within a month’ and *Dinneen* translating ‘leath ‘stigh’ as ‘within, inside, within doors, at less than, below’. ‘Within 30 days from the end of each such quarter’ is translated as ‘laistigh de 30 lá ó dheireadh gach ráithe den sórt sin’ in s109(2)(b) of the Finance Act, 1990, for example. See the commentary on Article 12.3.3° regarding ‘laistigh’ and ‘taobh istigh’.

*lá vótála* See the commentary on the previous subsection regarding ‘vótáil’.

*Ní foláir* Professor Máirtín Ó Murchú finds no difficulty with the simple future in the following translation on the same grounds as noted in the commentary on Article 16.3.2°.

**Direct translation**

Tionólfaidh Dáil Éireann<sup>1</sup> laistigh de thríocha lá ón lá vótaíochta sin.

**Variants**

- 1 'Beidh cruinniú ag Dáil Éireann', 'Tiocfaidh Dáil Éireann le chéile'

## ARTICLE 16.5 AIRTEAGAL 16.5

**TÉACS GAELGE**

Ní bheidh de ré ag aon Dáil Éireann ach seacht mbliana ó lá a céad-tionóil: féadfar ré is giorra ná sin a shocrú le dlí.

**LITERAL ENGLISH TRANSLATION**

Any Dáil Éireann will have a period of but seven years from the day of its first assembly: a period which is shorter than that can be provided by law.

**ENGLISH TEXT**

The same Dáil Éireann shall not continue for a longer period than seven years from the date of its first meeting: a shorter period may be fixed by law.

**Divergences between the official texts**

- 1 'The same Dáil Éireann' is expressed as 'aon Dáil Éireann' ('any Dáil Éireann') in the Irish text.
- 2 'Shall not continue for a longer period' is expressed as 'Ní bheidh de ré' ('shall have as period') in the Irish text, with 'period' being expressed by the term which expresses 'life' (of Dáil Éireann) in s2.4° of this Article; 'tréimhse' is the Irish legal term for 'period', 'ré' carrying the connotation of 'inevitable end' according to Professor Máirtín Ó Murchú.
- 3 'Of its first meeting' is expressed as 'a céad-tionóil' ('of its first assembly') in the Irish text, with 'from the **date** of its first meeting' being expressed as 'ó lá a céad-tionóil' ('from the **day** of its first meeting'), 'lá' ('day') expressing 'date' in this context in other Articles also.
- 4 'Fix' is expressed by the term generally expressing 'provide' ('socráigh') in the Irish text, this term also sometimes translating 'fix' in the Acts.
- 5 'A shorter period' is expressed as 'ré is giorra ná sin' ('a period / span of life which is shorter than that') in the Irish text.

Note the following in Article 28 of the 1922 Constitution:

... and shall, unless earlier dissolved, continue for four years from the date of its first meeting, and not longer ... *agus mara sguirfear níos túisce í, leanfa sí ar feadh cheithre mbliana ó dháta a céad chruinnithe, agus ní leanfa sí níos sia ná san.*

**Commentary**

*de ré* See the commentary on Article 16.2.4° as regards 'ré'. For examples of the preposition 'de', used mainly with the substantive verb and copula, to denote a feature of or what pertains to something, or to denote extent, see

*Ó Dónaill* s.v. 'de' 4, where 'bhí sé de nós acu, it was customary with them' and 'má tá sé de mhisneach agat, if you have the courage' are cited as examples.

'Extension of period' is translated as 'fadú tréimhse' in *Téarmaí Dlí*, where 'I extend the period' is translated as 'fadaím an tréimhse'. 'Fix a longer period than 4 months for the purposes of subsection (1)' is translated as 'tréimhse is faide ná 4 mhí a shocrú chun críocha fho-alt (1)' in s67(3) of the Building Societies Act, 1989, for example, as in s58(3) of the Building Societies Act, 1976. 'Ar chríochnú na tréimhse trí mbliana' translates 'at the conclusion of the three years period' in Article 34 of the 1922 Constitution, 'tréimhse fheidhme na gceadúnas san' translating 'the period during which such licences continue in force' in s6(1) of the Wireless Telegraphy Act, 1926. Note that 'and at such periods and times as shall from time to time be prescribed by law' is translated as 'agus ar na puntí aimsire agus na huair sin a leagfar amach le dlí' in s7(2) of the Comptroller and Auditor-General Act, 1923. Note, in passing, that 'period of pressure' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tréimhse na Nodlag' in *Iris an Phuist*, 30/11/27!

*ré is giorra ná sin* 'I gcás ar le tréimhse is giorra ná sin a bhaineann an ranníoc' translates 'where the contribution relates to a shorter period' in s11(6) of the Social Welfare (Consolidation) Act, 1981, for example. 'Until the next quinquennial appointment of ordinary members or for a shorter period' is translated as 'go dtí an chéad cheapadh cúig-bhliana eile gnáthchomhaltaí nó go ceann tréimhse is giorra ná sin' in s2 of the First Schedule to the Industrial Research and Standards Act, 1946. Note that the present/future relative of the copula is used here rather than the comparative adverb 'níos', which would be the more general structure, i.e. 'ré níos giorra ná sin'.

*lá a céad-tionóil* 'Céad', compounded with 'tionól', in the genitive case, following 'lá'. This would not be hyphenated today according to the official standard – see s24(II)(c) of the section entitled 'Na Rialacha' in *Gramadach na Gaeilge agus Litriú na Gaeilge: An Caighdeán Oifigiúil*.

'Every member of the Council of State shall at the first meeting thereof which he attends as a member' is expressed as 'Ní foláir do gach comhalta den Chomhairle Stáit, an chéad uair a bheidh sé ar thionól den Chomhairle sin ina chomhalta di' in Article 31.4 and 'The number of members necessary to constitute a meeting of either House ... shall be determined by its standing orders' is expressed as 'Is lena bhuan-orduithe a chinnfear cén méid comhaltaí a bheas riachtanach do thionól de cheachtar den dá Theach' in Article 15.11.3°. 'Comóir' alone expresses 'convene a meeting' in Articles 13.2.3°, 31.8 and 32, where, respectively, 'The President may ... convene a meeting of either ... of the Houses of the Oireachtas' is expressed as 'Tig leis an Uachtarán ... ceachtar de Thithe an Oireachtais ... a chomóradh', 'Meetings of the Council of State may be convened by the President' is expressed as 'Tig leis an Uachtarán an Chomhairle Stáit a chomóradh' and 'unless ... he shall have convened a meeting of the Council of State' is expressed as 'mura gomóra sé an Chomhairle Stáit'. In the Amendment on Cabinet confidentiality contained in Article 28.4.3°, however, in line with current usage, 'meeting' is rendered as 'cruinniú', 'rúndacht na bpléití ag cruinnithe den Rialtas' translating 'the confi-

dentiality of discussions at meetings of the Government’.

‘Tionól’ is translated as ‘gathering, assembly’ in *Ó Dónaill*, ‘tionól neamhdhleathach’ being translated as ‘unlawful assembly’ in *Téarmaí Dlí*. *Dinneen* translates ‘tionól’ as ‘act of assembling, mobilising, convening, collecting; an assembly, a gathering, a crowd, an army, a gang ...’, citing the poetic phrase ‘*lá an tionóil*, the Day of Judgment’. DIL translates ‘tinól’ as ‘act of collecting, gathering’, citing ‘do thinóol aetig impu et biith doib’ (‘in gathering raiment round them and food for them’) from the eighth-century Würzburg Glosses on the Pauline Epistles. ‘Tinól’ is the verbal noun of ‘do-inóla’, translated as ‘gathers, collects; (of armies) musters, assemblies’ in DIL, where ‘ara chind tinolsat dail’ (‘dail’ in Modern Irish) is cited from *Saltair na Rann*, an account in verse of the history of the world from the Creation to the Day of Judgment composed, it is thought, around the year 1000. See further the commentary on Article 15.11.3°.

‘The Minister shall fix the date, time and place of the first meeting of the Central Board’ is translated as ‘Socróidh an tAire dáta, am agus ionad chéad-chruinniú an Phríomh-Bhoird’ in s13 of the Second Schedule to the Fisheries Act, 1980, ‘Socróidh an tAire dáta, am agus ionad chéad chruinniú na Comhairle’ translating the same text with ‘Council’ substituted for ‘Central Board’ in s2(2) of the National Council for Educational Awards Act, 1979. ‘Féadfaidh an tAire dáta, tráth agus ionad an chéad chruinnithe a shocrú’ translates the same text above with ‘Board’ replacing ‘Central Board’.

See the commentary on the previous subsection, where ‘Ní foláir do Dháil Éireann teacht le chéile’ expresses ‘Dáil Éireann shall meet’, and see the commentary on Article 13.2.3° regarding ‘tionól’ and ‘cóthlán’ translating ‘meeting’ in Acts of 1923-4.

*aon Dáil Éireann* Professor Máirtín Ó Murchú remarks that ‘an Dáil Éireann chéanna’ would not be satisfactory as a translation of ‘the same Dáil Éireann’, recommending ‘aon Dáil Éireann ar leith’ as a variant of the present Irish text.

### Standardised Irish text

Ní bheidh de ré ag aon Dáil Éireann ach seacht mbliana ó lá a céadtionóil: féadfar ré is giorra ná sin a shocrú le dlí.

### Direct translation

Ní mhairfidh aon Dáil Éireann<sup>1</sup> ar feadh tréimhse níos faide ná seacht mbliana ó dháta a céad chruinnithe<sup>2</sup>; féadfar tréimhse níos giorra a shocrú le dlí.

### Variants

- 1 ‘aon Dáil Éireann ar leith’
- 2 ‘céad tionóil’

## ARTICLE 16.6 AIRTEAGAL 16.6

### TÉACS GAELIGE

An comhalta de Dháil Éireann a bheas ina Chathaoirleach díreach roimh lánscoir do Dháil Éireann ní foláir socrú a

dhéanamh le dlí chun go bhféadfar a mheas an comhalta sin a bheith tofa do Dháil Éireann sa chéad olltoghchán eile, gan é a dhul faoi thoghadh.

### LITERAL ENGLISH TRANSLATION

The member of Dáil Éireann who will be Chairman immediately before the dissolution of Dáil Éireann provision must be made by law so that it may be deemed that that member is elected to Dáil Éireann in the next general election, without his undergoing election.

### ENGLISH TEXT

Provision shall be made by law to enable the member of Dáil Éireann who is the Chairman immediately before a dissolution of Dáil Éireann to be deemed without any actual election to be elected a member of Dáil Éireann at the ensuing general election.

### Divergences between the official texts

- 1 ‘Without any actual election’ is expressed as ‘gan é a dhul faoi thoghadh’ (‘without him undergoing election’) in the Irish text.
- 2 ‘To enable the member of Dáil Éireann ... to be deemed to be elected’ is expressed as ‘chun go bhféadfar a mheas an comhalta sin a bheith tofa’ (‘so that it can/may be deemed (that) that member is elected’) in the Irish text.
- 3 ‘To be elected a member of Dáil Éireann’ is expressed as ‘a bheith tofa do Dháil Éireann’ (‘to be elected to/for Dáil Éireann’) in the Irish text; the Irish text commences with ‘An comhalta de Dháil Éireann’ (‘The member of Dáil Éireann’) and refers back to this in the clause ‘chun go bhféadfar a mheas an comhalta sin a bheith tofa’ (‘so that it can/may be deemed (that) that member is elected’), a repetition not found in the English text.
- 4 ‘Ensuing’ is expressed as ‘(an) chéad ... eile’ (‘next’) in the Irish text.
- 5 ‘Shall’ is again expressed as ‘ní foláir’ (‘must’) in the Irish text, as we have seen in some previous Articles.

Note that the following paragraph was inserted at the end of Article 21 of the 1922 Constitution by the Constitution (Amendment No. 2) Act, 1927:

The member of Dáil Éireann who is the Chairman of Dáil Éireann immediately before a dissolution of the Oireachtas shall ... be deemed without any actual election to be elected in accordance with this Constitution at the ensuing general election as a member of Dáil Éireann .... *An ball san de Dháil Éireann is Ceann Comhairle ar Dháil Éireann díreach roimh an Oireachtas do scur tuigfar, gan aon togha achtúil do dhéanamh, ... tuigfar é do bheith tofa do réir an Bhunreachtas so sa chéad thoghachán gheanáilta ina dhiaidh sin mar bhall de Dháil Éireann.*

### Commentary

*gan é a dhul faoi thoghadh* Literally ‘without his undergoing election’. *Ó Dónaill* cites ‘*faoi scrúdú, obráid*, undergoing an examination, an operation’ as examples of this use of the preposition ‘faoi’ in the sense of ‘under-

going, subjected to', citing '*rachaimid faoi do bhreith sa chás*, we will submit to your judgment in the case' as an example of 'téigh faoi'. *Dinneen* translates 'téighim fá' as 'I go under, shoulder (as a load), ... undergo, guarantee, "get at" s.v. téighim', citing '*téighid fár mbreith-ne*, they submit to our decision' s.v. 'fá'. DIL cites 'in tan diagmani fo baithis' ('when we undergo baptism') from the eighth-century Würzburg Glosses on the Pauline Epistles as an example of 'téit fo', 'submits to, undergoes; assumes'.

We see above that 'achtúil' translates 'actual' in this very context in the Constitution (Amendment No. 2) Act, 1927, 'an líon ball a bheidh le togha go hachtúil' translating 'the number of members actually to be elected' in s1 of the same Act. In s30(2) of the Industrial and Commercial Property (Protection) Act, 1927, 'before the actual date when such patent was granted' is translated as 'roimh an dáta achtúil ar ar deonadh an phaitinn sin', 'dáta cruinn' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'actual date' in *Iris an Phuist*, 13/7/27. 'I bhfeidhm-sheilbh tailte no tithe' translates 'in actual occupation of lands or houses' in s9(b) of the Dundalk Harbour and Port Act, 1925. 'Not in the actual custody of such person' is translated as 'ná fuil sé ina chimeád dáiríribh' in s1 of the School Attendance Act, 1926. Note finally that 'actual' is not specifically translated in many of the citations of this word in the *Oireachtas Dictionary of Official Terms* – 'from such member's actual place of residence', for example, is translated simply as 'ón áit ina mbeadh comhnaí air' in s3(1)(b) of the Oireachtas (Payment of Members) Act, 1923.

Following the wording of the present Article, 'he shall be deemed without any actual election to be elected' is translated as 'measfar, gan é a dhul faoi thoghadh, é a bheith tofa' in s14(1) of the Electoral Act, 1963. Note, however, that the Long Title of the Electoral (Chairman of Dáil Éireann) Act, 1937, reads as follows:

An Act to make provision ... enabling the member of Dáil Éireann who is the Chairman immediately before a dissolution of Dáil Éireann to be deemed without any actual election to be elected a Member of Dáil Éireann at the ensuing General Election. *Acht chun socruithe do dhéanamh ... d'fhonn go bhféadfar a thuisgint an Ball de Dháil Éireann is Ceann Comhairle díreach roimh scur Dháil Éireann do bheith toghtha, gan aon togha do dhéanamh, ina Bhall de Dháil Éireann sa toghchán gheinearálta ina dhiaidh sin.*

We find the following in s3(1) thereof:

... the outgoing Ceann Comhairle shall be deemed without any actual election to be elected at such general election as a member of Dáil Éireann .... *tuigfear an Ceann Comhairle bheidh ag dul as oifig do bheith toghtha gan aon togha achtúil do dhéanamh, sa toghchán gheinearálta san, mar bhall de Dháil Éireann.*

'Iarbhír' generally translates 'actual' in the modern Acts. 'The cost in the currency of the State of the actual moneys', for example, in s11(7)(c) of the Housing Finance Agency Act, 1981, is translated as '(do) chostas an airgid iarbhír in airgead reatha an Stáit'. 'Ciallaíonn "seilbh" seilbh iarbhír' translates "'possession" means actual possession' in s15(5)(b) of the Landlord and Tenant (Amendment) Act, 1980. See further the commentary on Article 28.3.2°. Professor Máirtín Ó Murchú remarks that 'gan aon toghchán a bheith ann chuige sin' would be the more

usual way of expressing 'without any actual election' rather than 'gan aon toghchán iarbhír', as in the translation below.

*sa chéad olltoghchán eile* 'In the next general election'. *Ó Dónaill* cites '*an chéad lá, duine, rud, eile*, the next day, person', with *Dinneen* citing '*an chéad uair eile*, the next time'. 'Until his successor has been elected at the next ensuing annual meeting ... of such council' is translated as 'go dtí go mbeidh a chomharba toghtha ag an gcéad chruinniú bliantúil ... a bheidh ina dhiaidh sin ag an gcomhairle' in s12(2) of the Local Elections Act, 1927. In s53(4) of the Currency Act, 1927, 'the same shall be the maximum limit for the ensuing triennial period' is translated as 'isí an teora san a bheidh mar theora mhaximum ar feadh na tréimhse trí mbliain ina dhiaidh sin', 'the maximum limit for the then ensuing triennial period shall be the same as the maximum limit for the then expiring triennial period' being translated as 'isí bheidh mar theora mhaximum ar feadh na tréimhse trí mbliain a bheidh le teacht an uair sin ná an teora mhaximum a bhí ann ar feadh na tréimhse trí mbliain a bheidh ag dul in éag an uair sin'.

*a mheas* See the commentary on Article 12.6.2°. The verbal noun of 'meas', which verb is translated as 'estimate, value, judge; deem, consider' in *Ó Dónaill*, 'measaim' being translated as 'I measure, calculate, assess, esteem; judge, consider, dwell upon, think, suppose ...' in *Dinneen*. The verb 'mes(s)aid', based on 'mes(s)', is translated principally as 'examines, judges, appraises' in DIL, where examples of the secondary senses of 'reckons, esteems, counts (as)' and 'deems, believes, supposes' are also cited.

*chun go bhféadfar* See s4(2)(b) of the Housing Finance Agency Act, 1981, for example, where 'to provide moneys to enable such loans to be made by housing authorities' is translated as 'airgead a sholáthar chun a chumasú d'údarás tithíochta iasachtaí den sórt sin a thabhairt'. The Long Title of the Arbitration Act, 1980, 'An Act to enable effect to be given to the Convention ...' is translated as 'Acht dá chumasú éifeacht a thabhairt don Choinbhinsiún'.

*a bheas* The special relative form of the substantive verb, future tense – see the commentary on Article 6.1 regarding the special relative form in general. This would be written as 'a bheidh' according to the official standard.

*lánscore de Dháil Éireann* See the commentary on Article 13.2.1° regarding 'lánscore'.

*ní foláir* See the commentary on Article 11.

### Standardised gender-proofed Irish text

An comhalta de Dháil Éireann a bheidh ina Chathaoirleach nó ina Cathaoirleach<sup>1</sup> díreach roimh lánscore do Dháil Éireann ní foláir socrú a dhéanamh le dlí chun go bhféadfar a mheas an comhalta sin a bheith tofa do Dháil Éireann sa chéad olltoghchán eile, gan é nó í a dhul faoi thoghadh.

### Variants

<sup>1</sup> 'ina Cheann Comhairle nó ina Ceann Comhairle' – following the gender-proofed English text.

**Direct gender-proofed translation**

Déanfar socrú le dlí chun a chumasú go measfar an comhalta de Dháil Éireann ar Cathaoirleach é nó í díreach roimh lánscoir<sup>2</sup> do Dháil Éireann<sup>3</sup> a bheith tofa mar chomhalta de Dháil Éireann san olltoghchán dá éis sin<sup>4</sup> gan aon toghchán iarbhir<sup>5</sup>.

**Variants**

- 1 'atá ina Chathaoirleach nó ina Cathaoirleach'
- 2 'scor', 'dhiscioileadh'
- 3 'lánscoir Dháil Éireann'
- 4 'ina dhiaidh sin'
- 5 'a bheith ann'

## ARTICLE 16.7 AIRTEAGAL 16.7

**TÉACS GAELGE**

Faoi chuimsiú na bhforálacha sin romhainn den Airteagal seo is de réir dlí a rialófar toghcháin do chomhaltas Dháil Éireann, mar aon le líonadh corrfholúntas.

**LITERAL ENGLISH TRANSLATION**

Within the scope/constraint of those provisions before us / the foregoing provisions of this Article it is in accordance with law that elections to membership of Dáil Éireann will be regulated, along with filling casual/occasional vacancies.

**ENGLISH TEXT**

Subject to the foregoing provisions of this Article, elections for membership of Dáil Éireann, including the filling of casual vacancies, shall be regulated in accordance with law.

**Divergences between the official texts**

- 1 'Including the filling of casual vacancies' is expressed as 'mar aon le líonadh corrfholúntas' ('along with filling casual/occasional vacancies') in the Irish text.
- 2 'Subject to' is expressed as 'Faoi chuimsiú' ('Within the scope/constraint of') in the Irish text, as we have seen in some earlier Articles, 'faoi réir' translating 'subject to' in *Téarmaí Dlí*.
- 3 'Shall be regulated' is expressed as 'rialófar' ('shall be ruled/controlled') in the Irish text, again as we have seen in some earlier Articles.
- 4 A comma follows 'this Article' in the English text, with no corresponding comma following '(den) Airteagal seo' in the Irish text, as in Article 18.10.1<sup>o</sup>, even though no comma is found in the English text of that Article.

**Commentary**

*mar aon le* This phrase expresses 'including' in Article 10.1 also. 'Maille le' expresses 'including' in Article 30.6, 'agus orthu sin' being found in Article 40.6.1<sup>o</sup>. 'Including' is generally translated in the modern Acts as 'lena n-áirítear', 'ar a n-áirítear' being found in early Acts – see the commentary on Article 10.1. 'Agus ... a áireamh' expresses

'including' in Articles 12.4.2<sup>o</sup> and 18.7.1<sup>o</sup>v, with 'ar a n-áirítear' being found in Article 18.7.1<sup>o</sup>iv.

'Mar aon le' is translated as 'in addition to' in *Ó Dónaill*. 'Mar aon le (or is)' is translated as 'along with, together with, in addition to, beside' in *Dinneen* who cites '*rug ri a cheann de mar aon is ríoghacht Éireann*, a king took his head and the crown of Ireland to boot'. 'Immaróen fri' was the earlier form of this prepositional phrase, translated in DIL as 'along with, together with', where 'nocha necin do neoch duine imaroen res ...' ('for a person is not obliged to have another along with him') is cited from a commentary on an early Irish law-tract. According to Osborn Bergin, 'immaróen' is a compound of the eclipsing reflexive and reciprocal preverb 'imma' and the noun 'róen' ('a way, path, route'), the compound later felt as 'mar oén' – see DIL s.v. 'immaróen'. Professor Máirtín Ó Murchú remarks that what is involved here is not the verbal prefix but 'imm' (preposition) + a<sup>n</sup> + 'róen'.

*corrfholúntas* See the commentary on Article 18.10.2<sup>o</sup>. 'Corrfholúntais' expresses 'casual vacancies' in Articles 18.10.2<sup>o</sup> and 18.10.3<sup>o</sup> also. 'The vacancy shall be filled by election in manner to be determined by law' is translated as 'lionfar a follamhantas le togha ar chuma a socrófar le dlí' in Article 29 of the 1922 Constitution, 'Casual vacancies shall be filled in manner provided by Article 34' being translated as 'Lionfar foth-fhollamhntaisí i slí a fhorálann Airtíogal 34' in Article 82(g). 'The period of office of persons appointed to fill such casual vacancies' is translated as 'tréimhse oifige na ndaoine a ceapfar chun na corrfholúntais sin a líonadh' in s4(7) of the Animal Remedies Act, 1956, for example. Note, finally, that 'fill an office' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'dul isteach i n-oifig' in a Report of the Public Accounts Committee, 1927.

*Faoi chuimsiú na bhforálacha sin romhainn* See the commentary on Article 18.10.1<sup>o</sup>. Note how a comma follows 'den Airteagal seo' after this phrase in that Article as against the present Article.

*de réir dlí* See the commentary on Article 18.10.1<sup>o</sup>.

*a rialófar* See the commentary on Article 18.10.1<sup>o</sup>.

**Direct translation**

Faoi réir na bhforálacha sin romhainn den Airteagal seo, déanfar toghcháin do chomhaltas Dháil Éireann, lena n-áirítear líonadh corrfholúntas, a rialáil de réir dlí.

ARTICLE 17.1.1<sup>o</sup> AIRTEAGAL 17.1.1<sup>o</sup>**TÉACS GAELGE**

Chomh luath agus is féidir é tar éis na Meastacháin ar fháltas an Stáit agus na Meastacháin ar chaitheamh airgid an Stáit i gcomhair aon bhliana airgeadais a chur faoi bhráid Dháil Éireann faoi Airteagal 28 den Bhunreacht seo, ní foláir do Dháil Éireann na Meastacháin sin a bhreithniú.

**LITERAL ENGLISH TRANSLATION**

As soon as (it is) possible after putting the Estimates on (the) receipts of the State and the Estimates on the State's expenditure for any financial year before Dáil Éireann under Article 28 of this Constitution, Dáil Éireann must consider those Estimates.

**ENGLISH TEXT**

As soon as possible after the presentation to Dáil Éireann under Article 28 of this Constitution of the Estimates of receipts and the Estimates of expenditure of the State for any financial year, Dáil Éireann shall consider such Estimates.

**Divergences between the official texts**

- 1 'Receipts' is expressed in the Irish text by the singular 'fáltas', the literal meaning of which might be taken as 'gain, acquisition'.
- 2 The Irish 'breithnigh' ('consider') is translated as 'adjudge' in *Téarmaí Dlí*, though this verb generally translates 'consider' in the Acts.
- 3 The qualifying phrase 'an Stáit' ('of the State') is repeated in the Irish text.
- 4 Corresponding to 'as soon as possible' the Irish text has literally 'as soon as it is possible' ('Chomh luath agus is féidir é').
- 5 'Presentation' is expressed as 'a chur faoi bhráid' ('putting before' / 'submission') in the Irish text.
- 6 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 36 of the 1922 Constitution commences as follows:

Dáil Éireann shall as soon as possible after the commencement of each financial year consider the Estimates of receipts and expenditure of the Irish Free State (Saorstát Éireann) for that year. *Breithneoidh Dáil Éireann, chó luath agus is féidir tar éis tosnuithe gach bliana airgid, meastacháin fháltais agus chaiteachais Shaorstáit Éireann i gcóir na bliana san.*

**Commentary**

*ar fháltas* 'Fáltas' is translated as 'income, profit; (plural) incomings, proceeds' in *Ó Dónaill*, the plural 'fáltais' being translated as above in *Téarmaí Dlí* also. 'Fagháltas' is translated as 'means, property; a gift, an endowment; profit, gain, advantage' in *Dinneen*. DIL cites only two late examples of 'fagháltas' (translating this headword as 'earnings, gain, profit'), the earliest being from the seventeenth-century *Annals of the Four Masters* (AFM v, 1692). 'Fagbál', on which 'fagháltas' is based, is the verbal noun of 'fo-gaib', 'finds, gets', examples of this verb being cited in DIL from the Glosses of the eighth century onwards. See the commentary on Article 11, 'cíos' replacing 'fagháltas' in that Article following the Second Amendment of the Constitution Act, 1942.

'A health board shall submit estimates of receipts and expenditure to the Minister in such form ... as he may direct' is translated as 'Déanfaidh bord sláinte meastacháin ar fháltais agus ar chaiteachas a chur faoi bhráid an Aire i cibé foirm ... a ordóidh an tAire' in s30 of the Health Act, 1970. 'Meastacháin ar fháltais agus caiteachas an Bhoird'

translates 'Estimates of receipts and expenditure of the Board' in the Margin Title of s61 of the Nurses Act, 1950, in subsection 1 of which 'The Board shall ... submit to the Minister estimates ... of expenditure and receipts of the Board' is translated as 'Cuirfidh an Bord faoi bhráid an Aire ... meastacháin ... ar chaiteachas agus fáltais an Bhoird'. 'Are treated as trading receipts of the company's trade for preceding accounting periods' is translated as 'a áireofar ... mar fháltais trádála de chuid thrádáil na cuideachta do thréimhsí cuntasaióchta roimhe sin' in s20(1) of the Finance Act, 1981. Note that 'the total revenue receipts of the company shall be increased' is translated as 'cuirfear le hiomlán fáltais ioncuim na cuideachtan' in s5(4) of the Railways (Valuation for Rating) Act, 1931.

Looking at early citations of 'receipts' in various senses, 'teacht-isteach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'receipt' in *Iris Oifigiúil*, 1922/23. 'A register ... of all purchases and receipts of salmon or trout for sale on such premises' is translated as 'clár ... de gach ceannach agus fáil bhradán no bhreac chun a ndíolta san áitreabh san' in s22(1) of the Fisheries Act, 1925. Finally, 'a chuid leabhra cuntais, cruthúnachtaí, admhálanna agus scríbhinní eile go léir' translates 'all his books of account, vouchers, receipts and other documents' in s73(1) of the Dundalk Harbour and Port Act, 1925.

*ar chaitheamh airgid* 'Caitheamh airgid' is translated as 'spending of money; waste of money' in *Ó Dónaill*, who also cites '*airgead a chaitheamh*, to spend money'. *Dinneen* cites '*caithim airgead*, I spend money'. 'Caithem', verbal noun of 'caithid', is translated as 'act of spending, consuming, using up' in DIL, examples of the verb 'caithid' being cited from the Glosses of the eighth century onwards. Note that *De Bhaldraithe* translates 'expenditure' principally as 'caitheamh (airgid); idiú stóir' and secondarily as 'caiteachas, costas', citing 'the national expenditure, *an caiteachas náisiúnta*'. 'Caitheamh airgid' expresses 'disbursement' in Article 33.1.

'The expenditure of the fund shall be apportioned' is translated as 'déanfar caiteachas an chiste a chionroinnt' in s4(3)(a) of the Fifth Schedule to the Finance Act, 1990, for example. 'To have been part of the normal expenditure of the deceased' is translated as 'gur chuid de ghnáthchaiteachas an duine mhairbh iad' in s27(b) of the Finance Act, 1938. 'Cuntaisí ar a fháltais agus ar a chaiteachais' translates 'accounts of the receipts and expenditure of the Minister' in s44 of the Dairy Produce (Price Stabilisation) Act, 1932. Note that 'The aggregate amount of the expenditure of the Corporation' is translated as 'An méid iomlán a chaithfidh an Bárdas' in s76(4) of the Local Government (Dublin) Act, 1930. Note, finally, that 'caitheamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'expenditure' in *Iris Oifigiúil*, 1925, p. 817.

*Meastacháin* 'Meastachán' is translated as 'estimate' in *Ó Dónaill*, who cites '*meastachán ar chaiteachas*, estimate of expenditure', '*meastachán tógála*, building estimate' and '*meastacháin bhliantúla*, annual estimates'. *Dinneen* does not appear to give 'meastachán' as a headword. It is based on 'meas', 'judging', 'evaluating'.

'Board to furnish estimates of cost of reconstruction or rebuilding Butt Bridge', the Margin Title of s13 of the Dublin Port and Docks (Bridges) Act, 1929, is translated as 'Tabharfidh an Bord meastacháin uatha ar chostas



ath-dhéanta no ath-thógála Dhroichead Bhutt'. 'Any moneys included in their estimates of expenses for services administered by them' is translated as 'aon airgead a bheidh ar áireamh ina meastachán caiteachas le haghaidh seirbhísi faoi riaradh' in s11(11)(a)(i) of the Health Authorities Act, 1960. In s11 of the 'Westmeath County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'the Union Estimates and Demands for the current financial year' is translated as 'Meastacháin agus Éilithe na nAontaisí ... i gcóir na bliana airgid reatha'. Finally, 'estimates for public services' is translated as 'meastacháin ar sheirbhísi puiblí' in the *Proceedings of Dáil Éireann*, 1925, p. 167.

*faoi bhráid* See the commentary on Article 13.7.1<sup>o</sup> where this phrase expresses 'communicate'. 'Rud a chur faoi bhráid duine' is translated as 'to set something in front of someone; to submit, refer, something to someone' in *Ó Dónaill*. 'Cuirim fá bhrághaid' is translated as 'I recommend to, put under the protection of' in *Dinneen*, who cites 'féar do chur fá bhrághaid na bó, to set hay before the cow, as a feed' earlier in his entry s.v. 'brágha'. Literally this phrase means 'put under the neck'/'at the breast (of)', the earlier form 'brága' glossing Latin 'ceruix' in the ninth-century St Gall Glosses on Priscian – see DIL s.v. 'brága', translated principally as 'neck, throat, gullet'.

'Presentation of Estimates' is translated as 'Meastacháin a thíolacadh' in the Margin Title of s145 of the *Standing Orders* of Dáil Éireann (1997), in which section 'The ordinary yearly Estimates for the Public Services shall be presented to the Dáil' is translated as 'Déanfar na gnáth-Mheastacháin i gcomhair na Seirbhísi Poiblí a thíolacadh don Dáil'. 'Chun Bille a thíolacadh' translates 'to present a Bill' in s106(3) thereof. 'Tar éis a dtíolacadh don Aire, cuirfidh faoi deara go ndéanfar cóipeanna de na cuntais ... a leagan faoi bhráid gach Ti den Oireachtas' translates 'Following their presentation to the Minister, he shall cause copies of the accounts ... to be laid before each House of the Oireachtas' in s15(b) of the Educational Exchange (Ireland and the United States of America) Act, 1991. 'The Registrar ... shall present to the Committee the evidence of alleged professional misconduct' is translated as 'tíolacfaidh an Clárathóir ... don Choiste an fhianaise ar an mí-iompar gairmiúil liomhnaíthe' in s45(3)(b) of the Medical Practitioners Act, 1978. Finally, 'and prepare a final report and programme for presentation to the Minister' is translated as 'agus ullmhóidh tuarascáil agus clár deiridh lena dtíolacadh don Aire' in s38(3) of the Industrial Research and Standards Act, 1946.

On the other hand, 'On presentation to the Revenue Commissioners of a certificate issued by the Minister under subsection (1)' is translated as 'Ar dheimhniú arna thabhairt ag an Aire faoi fho-alt (1) den alt seo a sheachadadh do na Coimisinéirí Ioncaim' in s2(2) of the Intoxicating Liquor Act, 1946. 'Upon presentation to such council ... by such public officer of certified quarterly accounts', in s17(3) of the Garda Síochána Act, 1924, is translated as 'nuair a chuirfidh an t-oifigeach puiblí sin os cóir na comhairle ... cuntaisí cinn ráithe'. Note that Article 54 of the 1922 Constitution contains the following:

The Executive Council shall prepare Estimates of the receipts and expenditure of the Irish Free State (Saorstát Éireann) for each financial year, and shall present them to Dáil Éireann before the close of the previous financial

year. *Ullmhóidh an Ard-Chomhairle Meastacháin d'fháltas agus de chaiteachas Shaorstáit Éireann i gcóir gach bliana airgid, agus cuirfidh ós cóir Dháil Éireann iad roimh dheire na bliana airgid roimhe sin.*

In s36(4)(f) of the Safety in Industry Act, 1980, 'shall ... present to the members of the committee the statement ...' is translated as 'tabharfaidh sé do chomhaltaí an choiste ... an ráiteas'.

Looking at early citations of 'tíolaic', 'A Bill ... 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' is translated as 'ní bheidh aon fheidhm aige mara ndéanfaidh agus go dtí go ndéanfaidh Ionadaí na Coróinneach, fé cheann bliana ón lá do tíolacadh d'Ionadaí na Coróinneach é chun Aontú an Rí d'fháil' in Article 41 of the 1922 Constitution. Earlier in that Article 'cuirfidh an Ard-Chomhairle ag triall ar Ionadaí na Coróinneach é' translates 'the Executive Council shall present the same to the Representative of the Crown'. 'Payable on demand, or at sight or on presentation' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'is in-íoctha ar éileamh, no ar teasbáint no ar tíolacadh' in translations for the Inland Revenue.

Regarding other terms, 'Every mention of or reference to the presentation of an address to His (or Her) Majesty by both or each or either of the Houses of Parliament' is translated as 'Gach luadh no tagairt do thairisgint dileagra dá Shoillese ó sna Tighthe Párliminte araon no ó gach ceann no aon cheann aca' in s5(2) of the Adaptation of Enactments Act, 1922. Finally, 'that the evidence of such person is material to the proper presentation of the case of the party proposing to call him as a witness' is translated as 'go bhfuil fianaise an duine sin riachtanach chun nochta ceart do dhéanamh ar chás an taoibh do thairg é do ghlaoch mar fhinné' in s12(1)(a) of the Damage to Property (Compensation) Act, 1923.

*a bhreithniú* The form of this phrase in the original text is 'do bhreathnú'. 'Breithniú' is the verbal noun of 'breithnigh', the first person singular of which, 'breithnim', is translated as 'I adjudge; I adjudicate; I decide' in *Téarmaí Dlí*, 'breithniú' being translated as 'adjudication'. *Ó Dónaill* gives 'adjudge' as the principal meaning of 'breithnigh', citing 'cás a bhreithniú, to adjudicate upon a case'. 'Breithnaigh' is given as the standard form of 'breithnigh' in its secondary sense in *Ó Dónaill*, who cites 'cás a bhreathnú, to look into, consider, a case' s.v. 'breithnaigh'. *Dinneen* gives 'breithnighim' as a variant of 'breithnuighim', which is translated as 'I discern, recognise, examine, judge; conceive, design; I look, appear; I behold, watch'. Both 'breithnigh' and 'breithnaigh' come from the earlier 'breithnaigid', translated principally as 'judges, decides, examines, determines' in DIL, this verb being based on 'breith' (Modern Irish 'breith'), examples of which noun in the sense of 'act of judging, deciding; judgment, legal ruling, interpretation' are cited in DIL from the Milan Glosses of the ninth century onwards.

'As soon as may be following the reassembly of the Dáil ... there shall be appointed a Select Committee ... to ... consider the annual draft Estimate for the Houses of the Oireachtas' is translated as 'Chomh luath agus is féidir i ndiaidh ationól na Dála ... ceapfar Roghchoiste ... chun an dréacht-Mheastachán bliantúil i gcomhair Thithe an Oireachtais a bhreithniú' in s91(1) of the *Standing Orders*

of Dáil Éireann (1997). 'Meastacháin agus Rúin Airgeadais le breithniú i gcoiste' translates 'Estimates and Financial Resolutions to be considered in committee' in the Margin Title of s140.

'In considering whether it is reasonable to attach a full re-instatement condition to his decree' is translated as 'Ag machtnamh do ar ce'ca bheadh sé do réir réasúin coiníoll lán-ath-shuidhimh do chur le n-a aithne' in s10(2)(d) of the Damage to Property (Compensation) Act, 1923. 'Agus é á bhreithniú ce'ca cheadóidh sé féin alt so líne bealaigh a bheidh beartuithe no ná ceadóidh' translates 'When considering whether he will or will not approve under this section of a proposed route' in s3(4) of the Railways (Road Motor Services) Act, 1927. 'Áird do thabhairt ar iarrthóir' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to consider an applicant' in translations for the Department of Justice. 'Breithneoidh an Chúirt an t-iarratas sin' translates 'the Court shall consider such application' in s38 of the Industrial Relations Act, 1946. 'The local pension committee shall ... consider the case and give their decision upon the claim or question' is translated as 'déanfaidh an coiste pinsin áitiúil ... an cás a bhreithniú agus tabharfaidh siad a gcinneadh ar an éileamh nó ar an gceist' in s164(1)(b) of the Social Welfare (Consolidation) Act, 1981. 'Any person ... may appeal against such decision to the local pension committee who shall consider the case and give their decision thereon', in s3(2) of the Old Age Pensions Act, 1928, is translated as 'Féadfadh éinne ... athchomharc i gcoinnibh na breithe sin do dhéanamh chun an phinsean-choiste áitiúla agus breithneoidh siad san an cás agus tabharfaid a mbreith air'. See further the commentary on Articles 20.1 and 28.4.3<sup>o</sup>.

*Chomh luath agus is féidir é* 'The Conciliation Commission ... shall be constituted as soon as possible after registration of a request' is translated as 'Bunófar an Coimisiún Comhréitigh ... a luaithe is féidir tar éis iarraidh a chlárú' in s1 of Article 29 of the Second Schedule to the Arbitration Act, 1980. 'Déanfaidh an ceann comhairimh a luaithe is féidir tar éis toradh an toghcháin a chinntiú, an freagra a sheachadadh do Chléireach Dháil Éireann' translates 'The returning officer shall as soon as possible after the ascertainment of the result of the election deliver the return to the Clerk of Dáil Éireann' in s12(4)(b) of the Electoral Act, 1963. 'As soon as possible after the expiration of such period', in Article 81 of the 1922 Constitution, is translated as 'chó luath agus is féidir tar éis deire na tréimhse sin'.

### Direct translation

A luaithe is féidir tar éis na Meastacháin ar fháltais agus na Meastacháin ar chaiteachas an Stáit d'aon bhliain airgeadais a thiolacadh do<sup>1</sup> Dháil Éireann faoi Airteagal 28 den Bhunreacht seo, déanfaidh Dáil Éireann na Meastacháin sin a bhreithniú<sup>2</sup>.

### Variants

- 1 'a chur faoi bhráid'
- 2 'a mheas', 'a bhreathnú'

## ARTICLE 17.1.2<sup>o</sup> AIRTEAGAL 17.1.2<sup>o</sup>

### TÉACS GAEILGE

An reachtaíocht a bheas riachtanach chun feidhm dlí a thabhairt do Rúin Airgeadais gach bliana ar leith ní foláir í a achtú an bhliain sin féin ach amháin sa mhéid go mbeidh a mhalairt socair i dtaobh gach cás ar leith in achtachán chuige sin.

### LITERAL ENGLISH TRANSLATION

The legislation which will be necessary to give legal effect to the Financial Resolutions of each particular year (it) must be enacted that very year except in so far as will otherwise be arranged in regard to each particular case in an enactment to that end.

### ENGLISH TEXT

Save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Financial Resolutions of each year shall be enacted within that year.

### Divergences between the official texts

- 1 'Effect' is expressed as 'feidhm dlí' ('force of law') in the Irish text.
- 2 'Save in so far as may be provided' is expressed as 'ach amháin sa mhéid go mbeidh a mhalairt socair' ('except in so far as will otherwise be settled') in the Irish text.
- 3 'Provided by specific enactment in each case' is expressed as 'socair i dtaobh gach cás ar leith in achtachán chuige sin' ('settled in regards to each particular case in an enactment to that end') in the Irish text.
- 4 'Within that year' is expressed as 'an bhliain sin féin' ('that very year') in the Irish text.
- 5 'Of each year' is expressed as 'gach bliana ar leith' ('of each particular year') in the Irish text.
- 6 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier sections and Articles.

Note that Article 36 of the 1922 Constitution concludes as follows:

... and, save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the Financial Resolutions of each year shall be enacted within that year ... *agus, ach sa méid go ndéanfaí achtú sonrach 'na thaobh i ngach cás, achtófar fé cheann na bliana an reachtúchán is gá chun Rúin Airgid gach bliana d'fheidhmiú.*

### Commentary

*feidhm dlí* 'Cosc a chur le dlíthe ... ó fheidhm dlí a bheith acu' renders 'prevents laws ... from having the force of law' in the original Article 29.4.3<sup>o</sup>, which subsection was added to the text of the Constitution by the Third Amendment of the Constitution Act, 1972. 'Feidhm dlí' seems uncited in either *Ó Dónaill* or *Dinneen*. See the commentary on Article 12.10.7<sup>o</sup> regarding 'feidhm'. 'Beidh feidhm dlí ... ag na comhshocraíochtaí' translates 'the

arrangements shall ... have the force of law' in s28(1) of the Health Tax Act, 1975, for example.

'The said assessment shall be amended as necessary so as to give effect to the election so made by the individual' is translated as 'leasófar an mheasúnacht sin de réir mar is gá chun éifeacht a thabhairt don roghnú a rinne an phearsa aonair amhlaidh' in s10 of the Finance Act, 1981. 'And generally shall do all acts and things required to give effect thereto' is translated as 'agus i gcoitinne déanfaidh siad gach uile ghníomh agus rud is gá chun éifeacht a thabhairt dóibh sin' in s131 of Part I of Table A of the Schedule to the Companies Act, 1963. 'To give effect to' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'do chur i ngníomh' in translations for the Executive Council.

*Rúin Airgeadais* 'Rún' is translated as 'resolution' in *Téarmaí Dlí, Ó Dónaill* giving '(formal) resolution' as a secondary sense of 'rún', citing '*rún buíochais, cáinte*, vote of thanks, of censure'. *Dinneen* gives 'a resolution or decision' as a 'recent' sense of 'rún', citing '*rún cómh-bhróin*, a vote of sympathy (*recent*)'. 'Rún' glosses Latin 'mysterium' in the eighth-century Würzburg Glosses on the Pauline Epistles, the usual sense in the Glosses being 'something hidden or occult, a mystery', with the secondary sense of 'secret'; 'secret thoughts or wishes, intention, purpose, design' was the general later Middle Irish sense, often without particular notion of secrecy, according to DIL, passing into the sense of 'full consciousness, knowledge', and in later poetry often a term of endearment.

'Acht do thabhairt éifeacht reachtúil do rúin airgeadais áirithe a ritheadh ar an 7ú lá de Bhealtaine, 1969, ag Dáil Éireann' translates 'An Act to give statutory effect to certain financial resolutions passed on the 7th day of May, 1969, by Dáil Éireann' in the Long Title of the Collection of Taxes (Confirmation) Act, 1969. 'Rún a rith an Tigh iniú' translates 'resolution of the House of this day' in the *Proceedings* of Dáil Éireann, 1927, p. 659.

See the commentary on Article 18.7.1°iv regarding 'airgeadas'.

*féin* As an adverb 'féin' is translated as 'even, only' and 'indeed, really, truly' in *Ó Dónaill*, who cites '*sin féin an fhirinne*, that is very true' and '*go deimhin féin*, in very truth'. DIL cites 'ni beith an dinite sin féin' ('even that dignity') from the opening section of Maghnas Ó Domhnaill's *Life of Colm Cille*, written in 1532.

'And the dog has not been claimed by its owner within that year' is translated as 'agus nach ndearna a úinéir an madra a éileamh laistigh den bhliain sin' in s13(3) of the Control of Dogs Act, 1986. 'On the full amount of that income arising with that year' is translated as 'ar mhéid iomlán an ioncain sin a d'eascair an bhliain sin' in s39(2)(iii) of the Finance Act, 1977. 'Pe'ca sa bhliain sin do híocadh iad no fé cheann pé tréimhse tar éis deireadh na bliana san a hordófar' translates 'Whether paid within that year or within such period after the expiration of that year as may be prescribed' in s72 of the Widows' and Orphans' Pensions Act, 1935.

Note regarding 'laistigh' v. 'taobh istigh' (see the commentary on Articles 12.3.3° and 16.4.2°) that 'within the next subsequent twenty-one days' is translated as 'laistigh den lá is fiche ... ina dhiaidh sin' in s5(3) of the Local Government (Temporary Provisions) Act, 1923.

*socair* This adjective is translated a 'quiet, still; calm, unruffled; easy, steady; settled, at rest' in *Ó Dónaill*, who cites '*tá an cás socair*, the case is settled' and '*scéal socair é*, it is a settled issue'. *Dinneen* includes 'decided, arranged, composed, adjusted, fixed' among the senses of 'socair'. DIL translates 'socair' as 'smooth, even, level' and 'easy, quiet, tranquil', citing 'ber mól socair sogluasta fud' ('have under thee a comfortable ... mule') from earlier Irish literature. 'Socraigh', 'settle', with secondary sense of 'arrange'/'provide', and the verbal noun, 'socrú', are based on 'socair'.

Note, incidentally, as an early citation regarding 'socrú' v. 'foráil' (see the commentary on Article 8.3), that 'An Act to provide for the Appointment of Commissioners' is translated as 'Acht chun forálacha do dhéanamh chun Coimisinéirí do cheapa' in the Long Title of the Dáil Éireann Courts (Winding-up) Act, 1923.

*i dtaobh gach cás ar leith* This would have the form 'i dtaobh gach cáis ar leith' in official standard Irish, 'cás' being in the genitive case following the compound preposition 'i dtaobh'. *Ó Dónaill* translates the prepositional phrase 'i dtaobh' as 'about, concerning', citing '*i dtaobh do litreach*, as regards your letter'. *Dinneen* translates 'i dtaobh' literally as 'near, beside', also giving the sense of 'regarding, in reference to, about'. DIL cites 'a los tnútha i dtaoibh eagnaigh' ('your jealousy of him as a sage', translated literally by Professor Máirtín Ó Murchú as 'because of envy of/towards a sage'), from the seventeenth-century 'Contention of the Bards', as an example of 'i dtaeb' in the sense of 'as regards, with respect to'.

'De réir bhri an Achta Léiriúcháin, 1937, i ngach cás' translates 'within the meaning in each case of the Interpretation Act, 1937' in s21(a)(i) of the Youth Employment Agency Act, 1981, for example. 'Shall be multiplied in each case by the number of calendar months' is translated as 'd'iolrú i ngach cás fé uimhir na míosa caileandair' in s2 of the First Schedule to the Moneylenders Act, 1933.

See the commentary on Articles 12.3.3° and 15.9.1° regarding 'ar leith' and the commentary on Article 14.4 regarding 'cás'.

*chuige sin* This phrase is translated as 'to that end' in *Ó Dónaill*. *Dinneen* cites '*chuige sin do scríobhas é*, for that purpose I wrote it', pointing out that this can also be translated as 'to him I wrote it', 'chuige' being the third person singular, masculine, of the preposition 'chun'/'go' – *Dinneen* translates 'chuige' as 'to, for him, it, ... for the purpose'. DIL gives 'to, towards' as the principal sense of 'dochum' (the earlier form of 'chun'), i.e. 'expressing motion'; the secondary sense, 'expressing purpose', is translated as 'in order to, with a view to'. See the commentary on Article 13.8.2° regarding 'purpose'.

As regards 'specific' in the Acts, 'without prejudice to any specific provision in this Act' is translated as 'Gan dochar d'aon fhoráil shonrach san Acht seo' in s21(2) of the Social Welfare (Supplementary Allowances) Act, 1975, and in s3(3) of the Social Welfare Act, 1952, for example, 'Nuair a cheadós uachtarán na harmchúirte é go sonrach' translates 'by specific leave of the court-martial' in s194(3) of the Defence Act, 1954. Looking at early alternatives, 'which by ordinary law must be prosecuted within a specific period of the date of commission of the offence' is translated as 'nach foláir do réir na gnáth-dhli é do

phróiseacht laistigh de thréimhse áirithe o dháta an chionta do dhéanamh' in s96(4) of the Defence Forces (Temporary Provisions) Act, 1923. 'And whereas it is expedient that specific provision should be made for the payments ...' is translated as 'Agus de bhrí go bhfuil sé oiriúnach socrú speisialta do dhéanamh chun go n-íocfaí' in the Preamble to the Governor-General's Salary and Establishment Act, 1923. 'Cinnté' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'specific' in a Report of the Public Accounts Committee, 1927.

*ach amháin sa mhéid go* 'Save in so far as may otherwise be agreed between the company and a person availing himself of any such service' is translated as 'ach amháin sa mhéid go gcomhaontóidh an chuideachta agus duine a bheidh ag baint úsáide as aon seirbhís den sórt sin thairis sin' in s70(1)(a)(i) of the Postal and Telecommunications Services Act, 1983. 'Ach amháin a mhéid is gá le haghaidh gnó an chomhair chreidmheasa sin a stiúradh go cuí' translates 'save in so far as may be necessary for the proper conduct of the business of that credit union' in s34 of the Credit Union Act, 1966, 'save in so far as may be necessary for its reasonable use as a public park or pleasure ground' being translated as 'ach amháin sa mhéid is gá chun a húsáidte mar pháirc no faiche shúgraidh phuiblí' in s6(1) of the Mountjoy Square, Dublin, Act, 1938.

'Save in so far as' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ach sa mhéid gur ...' in early *Standing Orders* of Dáil Éireann, with 'save as otherwise provided' being translated as 'ach amháin i gcás go bhforálar a mhalairt'. 'Save as otherwise expressly provided by this Act' is translated as 'Lasmuich de chásanna dá bhforálar a mhalairt go soiléir leis an Acht so' in s21 of the School Attendance Act, 1926.

*sa mhéid go* This phrase is translated as 'inasmuch as, in so far as' in *Ó Dónaill* – see the commentary on Article 16.2.3°.

*ní foláir* See the commentary on Article 11.

### Standardised Irish text

An reachtaíocht a bheidh riachtanach chun feidhm dlí a thabhairt do Rúin Airgeadais gach bliana ar leith ní foláir í a achtú an bhliain sin féin ach amháin sa mhéid go mbeidh a mhalairt socair i dtaobh gach cáis ar leith in achtachán chuige sin.

### Direct translation

Ach amháin sa mhéid go bhforálfar le hachtachán sonrach i ngach cás, déanfar an reachtaíocht is gá chun éifeacht a thabhairt do Rúin Airgeadais gach bliana a achtú laistigh den bhliain sin.

## ARTICLE 17.2 AIRTEAGAL 17.2

### TÉACS GAEILGE

Ní dleathach do Dháil Éireann vóta ná rún a rith, ná ní dleathach aon dlí a achtú, chun leithghabháil a dhéanamh ar státchíos ná ar airgead poiblí ar bith eile, mura mbeidh

teachtaireacht ag Dáil Éireann ón Rialtas faoi láimh an Taoisigh ag moladh críche na leithghabhála dóibh.

### LITERAL ENGLISH TRANSLATION

It is not lawful for Dáil Éireann to pass a vote or resolution, nor it is not lawful to enact any law, to appropriate the state rent nor any other public money (whatsoever), unless Dáil Éireann has a message from the Government under the hand of the Taoiseach recommending the purpose of the appropriation to them.

### ENGLISH TEXT

Dáil Éireann shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys unless the purpose of the appropriation shall have been recommended to Dáil Éireann by a message from the Government signed by the Taoiseach.

### Divergences between the official texts

- 'Revenue' is expressed as 'státchíos' ('state revenue') in the Irish text, 'cíos uile an Stáit' expressing 'all revenues of the State' in Article 11.
- 'Or other public moneys' is expressed as 'ná (ar) airgead poiblí ar bith eile' ('nor any other public money'), followed by a comma, in the Irish text, no corresponding comma being found in the English text.
- 'Recommended to Dáil Éireann' is expressed as 'ag moladh dóibh' ('recommending ... to them'), with 'unless the purpose of the appropriation shall have been recommended to Dáil Éireann by a message from the Government' being expressed as 'mura mbeidh teachtaireacht ag Dáil Éireann ón Rialtas faoi láimh an Taoisigh ag moladh críche na leithghabhála dóibh' ('unless Dáil Éireann will have a message from the Government recommending the purpose of the appropriation to them').
- 'Shall not' is expressed as 'ní dleathach do' ('it is not lawful for') in the Irish text.

Note that Article 37 of the 1922 Constitution reads as follows:

Moneys shall not be appropriated by vote, resolution or law, unless the purpose of the appropriation has in the same session been recommended by a message from the Representative of the Crown on the advice of the Executive Council. *Ní cuirfear airgead i leithreas le vóta, le rún ná le dlí, mara ndéanfar sa tsíon céanna intinn a churtha i leithreas do mhola trí theachtaireacht ó Ionadaí na Coróinneach ar chomhairle na hArd-Chomhairle.*

Note also that s142(2) of the *Standing Orders* of Dáil Éireann (1997), which refers directly to this section, contains the following:

... unless the purpose of the appropriation has been recommended to the Dáil by a Message from the Government .... *mura mbeidh Teachtaireacht ag an Dáil ón Rialtas ag moladh chuspóir an leithreasaithe di.*

### Commentary

*leithghabháil* This headword is a compound of 'leath-/leith-' ('side') and 'gabháil', verbal noun of 'gabh', 'take'. 'Leithghabháil' is translated as 'appropriation' in *Ó Dónaill*,

this being the verbal noun of 'leithghabh', 'to appropriate'. Note that 'leithreasaigh' is also translated as 'appropriate' in *Ó Dónaill*, with 'leithreasú' translated as 'appropriation'. In general use today 'leithreas' expresses 'privy, latrine'; *Dinneen* translates 'leithreas' as 'sequestration', citing '*áit i leithreas*, a secret place, as a privy, etc.' See the commentary on Article 11.

'The Appropriation Act, 1981', for example, is cited in Irish as 'an tAcht Leithreasa, 1981', 'and to appropriate to the proper supply services and purposes sums granted by ... this Act', in the Long Title of that Act, is translated as 'agus do leithreasú suimeanna ... a dheonaítear leis an Acht seo, chun na seirbhísí soláthair agus na gcriciocha cuí'. 'Deontais do Leithreasú' translates 'Appropriation of Grants' in Schedule B to the Appropriation Act, 1943, for example. 'The Appropriation Act, 1922' is cited in Irish as 'an t-Acht Leithreasa, 1922'. 'Leithreasáí-i-gCabhair' translates 'Appropriations-in-Aid' in Schedule (B) to the Appropriation Act, 1924. Note, finally, that 'If the Commissioners acquire or appropriate any house or houses' is translated as 'Má thógann na Coimisinéirí aon tigh no tithe chúcha féin no má dhinid a gcuid féin den chéanna' in s110(5) of the Dundalk Harbour and Port Act, 1925.

Professor Máirtín Ó Murchú voices the sentiments of the author when he remarks that perhaps 'leithghabháil' is preferable on account of the general sense of 'leithreas' today!

*státhíos* See the commentary on Article 11, where we find 'cíos uile an Stáit' rendering 'all revenues of the State', replacing the original 'fághaltais'. This compound of 'stát' and 'cíos' is not cited as a headword in *Ó Dónaill*, who cites '*státhiste*, exchequer', for example, '*Stát-fhiach*, State debt' being cited in *Téarmaí Dlí*. See the commentary on Article 11 regarding 'cíos'; 'Stát(a)' is an English or Romance loanword, the first example of which cited in DIL coming from Ó Cianáin's *Flight of the Earls* ('stát éxamail ... iad badhdén' [i.e. the Swiss]).

*ag moladh* 'Recommend' is given as the secondary sense of 'mol' in *Ó Dónaill*, who cites '*rud a mholadh do dhuine*, to recommend something to someone'. *Dinneen* gives 'advise, recommend (to, do)' as one of the senses of 'molaim', citing '*ní mholfadh an dochtúir aon fheoil dom*, the doctor advised me to abstain from meat'. DIL cites 'do mhol an coimhthínol uile do techt' (the whole assembly 'counselled him to go') from Maghnas Ó Domhnaill's *Life of Colm Cille* (written in 1532) as an example of this secondary sense of 'molaid', the primary sense being 'praises, extols', DIL citing 'ce non-molid ce non-airid' ('whether ye praise or blame us') from the eighth-century Würzburg Glosses on the Pauline Epistles.

In s12 of the 'Kerry County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'The following divisions for the Kerry County Home are recommended' is translated as 'Moltar Teaghlach Contae Chiarraí do roinnt mar seo'. Looking at modern legislation, 'he may recommend to the Department of State ... concerned ... that measures or specified measures be taken' is translated as 'féadfaidh sé a mholadh don Roinn Stáit ... lena mbaineann ... go ndéanfar bearta nó bearta sonraithe' in s6(3)(b) of the Ombudsman Act, 1980.

*dleathach* See the commentary on Articles 10.1 and 14.3.

This adjective is translated as 'lawful' in *Téarmaí Dlí* and as (1) 'lawful, legal', (2) 'valid, genuine' and (3) 'just, proper' in *Ó Dónaill*, with 'dleathúil' being given as a variant form and 'dlitheach' as a non-standard form. 'Dleaghthach', the form in the original text, is translated as 'just, fair; regular, uniform, genuine; normal; lawful, legal, permissible' in *Dinneen*. Note that *Ó Dónaill* also gives the headword 'dleachtach', translated as 'lawful, due, proper', as DIL translates 'dleachtach', giving only two miscellaneous examples. *Dinneen* gives 'dleachtach' as a separate headword from 'dleaghthach'; 'dleachtach' is translated as 'lawful, right, proper, due' in *Dinneen*, with 'dleacht' being given as a variant form of this adjective. *Dinneen* also gives 'dligheach' ('lawful, regular'), 'dligheach' ('lawful, law-abiding, rational') and 'dligheamhail' ('lawful, just; litigious') as headwords, 'dlithíoch' being translated as 'litigious', in *Ó Dónaill* – which sense is also given therein as the secondary sense of 'dlithiúil', the primary sense being 'legal, juridical, lawful'.

'Dlighech' is used in Old Irish Glosses of the eighth and ninth centuries in the sense of 'accordant with reason or rule' (Latin 'rationabilis'), according to DIL. In early Irish law, the adjective 'dlighech' can mean either 'lawful' or 'law-abiding' (i.e. fulfilling one's legal duties), according to D.A. Binchy in the 'Legal Glossary' to his edition of the early Irish law-tract *Críth Gablach* (1979, p. 84). DIL translates 'dlighech' as (a) 'regular, accordant with rule, right, lawful, law-abiding', (b) 'rational, endowed with reason' and (c) (of persons) 'reasonable, just, righteous', citing 'ní dlighech don aigne cin fis na n-earnuille so aige' ('it is not lawful for the advocate not to know this passage') from a commentary on an early Irish law-tract.

'Gach údarás dleathach' translates 'all lawful authority' in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, for example. 'It shall not be lawful for rules of court to contain ... any restriction' is translated as 'Ní bheidh sé dleathach do rialacha cúirte aon sriantacht a bheith iontu' in s18(6) of the Courts Act 1981, 'Ní dleathach d'aon duine seachas bord sláinte aon áitreabh a sheoladh le daoine a choinneáil' translating 'It shall not be lawful for any person other than a health board to operate any premises for the detention of persons' in s10(1) of the Health (Medical Services) Act, 1981. See the commentary on Article 11 regarding 'shall' in general in the Constitution.

*vóta ... a rith* 'A rith' is the verbal noun of the verb 'rith', 'run', in the sense of 'pass'. *Ó Dónaill* gives 'pass, enact' as one of the senses of 'rith', citing '*Bille, rún, a rith*, to pass a bill, a resolution'. *Ó Dónaill* cites '*vóta airgeadais, oideachais*, finance, education, vote' as examples of this secondary (Parliamentary) sense of 'vóta', also citing '*suim a vótáil*, to vote a sum' as the Parliamentary sense of 'vótáil'. DIL gives examples of the verb 'reithid' in the wide sense of 'runs, hastens, speeds', used not just of living beings, but of heavenly bodies, flowing water, etc., from the eighth century onwards, beginning with 'reithit huili et is oinfe gaibes buáid diib' ('all run, and it is one man of them that gets victory') from the eighth-century Würzburg Glosses on the Pauline Epistles. Finally, note the following specific sense of 'rith' in Modern Irish legal terminology – '*rithim (brionnú)*, I utter (a forgery)', cited in *Téarmaí Dlí*. See further the commentary on Article 46.2 and see the commentary on Article 13.3.1° on 'rith' in the Acts.

*airgead poiblí* 'Airgidí poiblí' expresses 'public moneys' in Article 22.1.1° – see the commentary thereon.

Turning to the early Acts, 'There shall be paid by the Minister for Finance out of moneys to be provided by the Oireachtas' is translated as 'Íocfaidh an t-Aire Airgid as airgead a sholáthróidh an t-Oireachtas' in s2 of the Governor-General's Salary and Establishment Act, 1923. 'Amach as airgead a sholáthróidh an tOireachtas iocfar le gach Rúnai Páirliminte' translates 'There shall be paid out of moneys provided by the Oireachtas to each Parliamentary Secretary' in s7(5) of the Ministers and Secretaries Act, 1924.

Turning to modern Acts, 'while he is an inmate of an institution maintained wholly or partly out of public moneys' is translated as 'le linn dó bheith ina iostaí i bhforas a chothabháiltear go hiomlán nó go páirteach as airgead poiblí' in s142(1)(c) of the Social Welfare (Consolidation) Act, 1981. 'San fho-alt seo ciallaíonn "airgead poiblí" airgead arna mhúirearú ar an bPríomh-Chiste' translates 'In this subsection "public moneys" means moneys charged on ... the Central Fund' in s547(1) of the Income Tax Act, 1967. Finally, 'iasachtaí áirithe do tugadh amach as airgead poiblí' translates 'certain loans made out of public moneys' in the Long Title of the Fisheries (Revision of Loans) Act, 1931.

*faoi láimh* See the commentary on Article 12.10.3°.

### Standardised Irish text

Ní dleathach do Dháil Éireann vóta ná rún a rith, ná ní dleathach aon dlí a achtú, chun leithghabháil a dhéanamh ar státchíos ná ar airgead poiblí ar bith eile, mura mbeidh teachtaireacht ag Dáil Éireann ón Rialtas faoi láimh an Taoisigh ag moladh chríoch na leithghabhála dóibh.

### Direct translation

Ní rithfidh Dáil Éireann aon vóta ná rún, agus ní achtófar aon dlí,<sup>1</sup> chun ioncam nó airgead poiblí eile a leithreasú mura mbeidh teachtaireacht ag Dáil Éireann ón Rialtas, arna síniú ag an Taoiseach, ag moladh chuspóir<sup>2</sup> an leithreasaithe di<sup>3</sup>.

### Variants

- 1 'Ní dhéanfaidh Dáil Éireann aon vóta nó rún a rith, agus ní dhéanfar aon dlí a achtú.'
- 2 'chríoch'
- 3 'mura mbeidh cuspóir an leithreasaithe molta do Dháil Éireann le teachtaireacht / i dteachtairacht ón Rialtas arna síniú ag an Taoiseach'

## ARTICLE 18.1 AIRTEAGAL 18.1

### SEANAD ÉIREANN

#### TÉACS GAEILGE

Seasca comhalta líon Sheanad Éireann, .i. aon duine dhéag a ainmneofar agus naonúr is daichead a thogfar.

#### LITERAL ENGLISH TRANSLATION

The complement of Seanad Éireann (is) sixty members,

i.e. eleven who will be nominated and forty-nine who will be elected.

#### ENGLISH TEXT

Seanad Éireann shall be composed of sixty members, of whom eleven shall be nominated members and forty-nine shall be elected members.

### Divergences between the official texts

- 1 'Shall be composed of' is expressed as 'líon' ('the complement of'), with omission of the copula 'is', in the Irish text.
- 2 'Of whom eleven shall be nominated members' is expressed as '.i. aon duine dhéag a ainmneofar' ('that is, eleven people who will be nominated'), with 'forty-nine shall be elected members' expressed as 'naonúr is daichead a thogfar' ('forty-nine who will be elected'), in the Irish text.
- 3 'Of whom' is expressed by the abbreviation '.i.', 'eadhón' ('that is'), in origin an abbreviation for Latin 'id est'.

Note that Articles 30 and 31 of the 1922 Constitution commence as follows:

Seanad Éireann shall be composed of citizens who shall be proposed on the grounds that they have done honour to the Nation .... *Beidh i Seanad Éireann saoránaigh a ainmneofar as ucht onóir do bheith déanta acu don Náisiún.*

The number of members of Seanad Éireann shall be sixty. *Sé uimhir bhall Sheanad Éireann trí fichid.*

### Commentary

*líon* This headword is translated as 'full number, complement' in *Ó Dónaill*, who cites '*líon a mhuintire*, the number of his people; his full following' and '*míle duine a líon*, they number a thousand persons'. *Dinneen* translates 'líon' as 'fill, complement; full, requisite or due number; all; supply, part, quantity, number; a rate', citing '*líon na bhFiann*, all the Fianna'. DIL, like *Ó Dónaill*, translates 'lín' as 'full number, complement', citing 'da er déc ba sed a lín-saide' (i.e. twelve men was what their complement was) from the version of the *Táin* in the twelfth-century *Book of Leinster*. See the commentary on Article 16.2.2° regarding 'composed of'. Professor Máirtín Ó Murchú regards 'comhdhéanta' in a draft of the translation below as being a bit clumsy ("tútach"), remarking that it is more appropriate before sub-categories, i.e. 'comhdhéanta de chomhaltaí ainmnithe', etc.; according to Professor Ó Murchú it is basically an imitation of a certain English style, where one has 'comprise, constitute, represent' used copulatively.

.i. Regarding 'of whom', 'The Committee shall co-opt three other members, who shall be women' is translated as 'Có-thoghfidh an Coiste trí baill eile, eadhon, triúr ban' in s2 of the 'Leitrim County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The ordinary members of the Council, of whom nine shall be nominated ..., shall be appointed by the Government' is translated as 'Is é an Rialtas a cheapfas gnáth-

chomhaltaí na Comhairle, agus beidh naonúr orthu sin a hainmneofar' in s5(7) of the Agriculture (An Foras Talúntais) Act, 1958. In s4(2) of the Animal Remedies Act, 1956, 'The Consultative Council shall consist of five members appointed from time to time by the Minister of whom one shall be nominated by the Minister for Health' is translated as 'Beidh ar an gCoiste Comhairleach cúigear comhaltaí a cheapfas an tAire ó am go ham agus a n-ainmneoidh an tAire Sláinte comhalta amháin díobh'.

*naonúr is daichead* According to *An Caighdeán Oifigiúil*, 'naoi' rather than 'naonúr' is written in rendering 'forty-nine people', that is, 'naoi nduine is daichead' rather than 'naonúr is daichead'. Note that 'naonbhar is dá fhichid' is the form in the original text.

### Direct translation

Is é líon Sheanad Éireann seasca comhalta<sup>1</sup>, ar comhaltaí ainmnithe aon duine dhéag díobh agus comhaltaí tofa naoi nduine is daichead díobh<sup>2</sup>.

### Variants

- 1 'Beidh Seanad Éireann comhdhéanta de sheasca comhalta', 'Beidh i Seanad Éireann seasca comhalta'
- 2 'a mbeidh aon duine dhéag díobh ina gcomhaltaí ainmnithe agus naoi nduine is daichead ina gcomhaltaí tofa'

## ARTICLE 18.2 AIRTEAGAL 18.2

### TÉACS GAEILGE

Ionas go mbeadh duine inghlactha ar chomhaltas Sheanad Éireann ní foláir é a bheith inghlactha ar chomhaltas Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

So that a person would be acceptable on the membership of Seanad Éireann he must be acceptable on the membership of Dáil Éireann.

### ENGLISH TEXT

A person to be eligible for membership of Seanad Éireann must be eligible to become a member of Dáil Éireann.

### Divergences between the official texts

- 1 'Eligible for membership' is expressed as 'inghlactha ar chomhaltas' ('acceptable on the membership') in the Irish text.
- 2 'Be eligible to become a member' is expressed as 'bheith inghlactha ar chomhaltas' ('be acceptable on the membership') in the Irish text.

Note that Article 31 of the 1922 Constitution includes the following:

A citizen to be eligible for membership of Seanad Éireann must be a person eligible to become a member of Dáil Éireann .... *Chun go mbeidh saoránach iontoghtha chun bheith 'na bhall de Sheanad Éireann caithfe sé bheith 'na dhuine iontoghtha chun bheith 'na theachta de Dháil Éireann.*

### Commentary

*inghlactha* This headword is translated as 'admissible (as evidence)' in *Téarmaí Dlí* and as 'acceptable, admissible' in *Ó Dónaill*. DIL translates 'inghlactha' as 'acceptable', the first example of which cited therein being 'aithnighid puisínigh an firéin cré is ionghlactha' ('the lips of the righteous know what is acceptable'), from the seventeenth-century translation of *Proverbs*, x. 32.

Regarding 'become' in early official translations, 'any local authority may become and be a member of a company' is translated as 'féadfadh aon údarás áitiúil ceangal mar bhall agus bheith mar bhall de chuideachtain' in s3(1) of the Local Authorities (Mutual Assurance) Act, 1926. 'Á impi nach ndéanfi dlí den Ordú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'praying that the order should not become law' in translations for the Department of Local Government and Public Health.

In s7(1) of the European Assembly Elections Act, 1977, 'A person who is not eligible to become a member of Dáil Éireann shall not be eligible for election under this Act to the Assembly' is translated as 'Duine nach bhfuil cáilithe le bheith ina chomhalta de Dháil Éireann, ní bheidh sé cáilithe lena thoghadh faoin Acht seo don Tionól'. 'Na daoine atá i dteideal bheith ina gComhaltaí den Choláiste' translates 'those eligible to become Members of the College' in the Margin Title of s12 of the Royal College of Physicians of Ireland (Charter and Letters Patent Amendment) Act, 1979. 'Oifigeach ... don Bhord is comhalta de scéim aoisliúntais láithreach ní bheidh sé i dteideal bheith ina chomhalta de scéim aoisliúntais' translates 'An officer ... of the Bord who is a member of an existing superannuation scheme shall not be eligible to become a member of a superannuation scheme' in s15(9) of the Great Northern Railway Act, 1958. Finally, note that 'Ní bheidh duine i dteideal bheith ina chomhalta den Chomhlacht Ceannais' translates 'A person shall not be eligible to be a member of the Governing Body' in s6(b) of the Schedule to the National Institute for Higher Education, Limerick, Act, 1980.

*Ionas go* *Ó Dónaill* translates 'ionas go' as 'so that', citing '*ionas go mbeidís slán*, so that they might be saved'. *Dinneen* translates 'ionnas go' as 'so, in order or insomuch that'. DIL also translates 'indas ... co' as 'so that', no example of this phrase being cited from the earlier sources; 'indas' followed by a relative clause, however, in the sense of 'as, how, so that', is cited from the eighth-century Würzburg Glosses on the Pauline Epistles: 'rofessursa indas nombiedsi' ('I shall know how ye are'). The original sense of Old Irish 'indas' may have been 'account', examples of the sense of 'manner, kind, nature, appearance, condition' being cited in DIL from the Glosses of the eighth century onwards. See further the commentary on Article 29.4.2°.

*ar chomhaltas* 'Body of persons, brotherhood' and 'membership' are the secondary senses of 'comhaltas' given in *Ó Dónaill*, the primary sense being 'joint fosterage' – see the commentary on Articles 12.6.2° and 12.10.4°. *Dinneen* translates 'comhaltas' as 'joint fosterage, brotherhood', giving 'a body of persons' as a secondary sense. 'Comaltas', based on 'comalta', is translated as 'foster-brotherhood, (intimate) friendship; co-fosterage' in DIL. Modern 'comhalta' represents a merger of earlier 'comalta' and 'comdalta'.

### Gender-proofed Irish text

Ionas go mbeadh duine inghlactha ar chomhaltas Sheanad Éireann ní foláir é nó í a bheith inghlactha ar chomhaltas Dháil Éireann.

### Direct translation

Ní mór do dhuine<sup>1</sup> bheith incheaptha mar chomhalta de Dháil Éireann le bheith incheaptha mar chomhalta de Sheanad Éireann.<sup>2</sup>

### Variants

- 1 'Caithfidh duine'
- 2 'Chun go mbeidh duine incheaptha mar chomhalta de Dháil Éireann caithfidh sé nó sí bheith incheaptha mar chomhalta de Sheanad Éireann.'

## ARTICLE 18.3 AIRTEAGAL 18.3

### TÉACS GAEILGE

Na comhaltaí a ainmneofar do Sheanad Éireann ainmneofar iad le réamhchead uathu féin ag an Taoiseach a cheapfar ar Dháil Éireann d'ationól i ndiaidh an lánscoir ar Dháil Éireann is siocair leis na comhaltaí sin a ainmniú.

### LITERAL ENGLISH TRANSLATION

The members who will be nominated for Seanad Éireann (they) will be nominated with prior-permission from themselves by the Taoiseach who will be appointed on the re-assembly of Dáil Éireann after the dissolution of Dáil Éireann which causes those members to be nominated.

### ENGLISH TEXT

The nominated members of Seanad Éireann shall be nominated, with their prior consent, by the Taoiseach who is appointed next after the re-assembly of Dáil Éireann following the dissolution thereof which occasions the nomination of the said members.

### Divergences between the official texts

- 1 'By the Taoiseach who is appointed next after the re-assembly of Dáil Éireann' is expressed in the Irish text as 'ag an Taoiseach a cheapfar ar Dháil Éireann d'ationól' ('by the Taoiseach who will be appointed on the re-assembly of Dáil Éireann'), 'next' not being specifically expressed in the Irish text and 'after' being expressed by 'ar' ('on') – 'after' and 'following', which occurs further on in the section, are usually similarly rendered in Irish, by 'i ndiaidh'.
- 2 'The nominated members of Seanad Éireann' is expressed as 'Na comhaltaí a ainmneofar do Sheanad Éireann' ('The members who will be nominated for Seanad Éireann') in the Irish text.

The original Article 18.3 read as follows:

The nominated members of Seanad Éireann shall be nominated by the Taoiseach with their prior consent. *Na comhaltaí ainmneofar do Sheanad Éireann is é an Taoiseach a ainmneochas iad le réamh-chead uatha féin.*

The section was amended by the Second Amendment of the Constitution Act, 1941, by the deletion of the words 'nominated by the Taoiseach with their prior consent', and the insertion in their place of the words 'nominated, with their prior consent, by the Taoiseach who is appointed next after the re-assembly of Dáil Éireann following the dissolution thereof which occasions the nomination of the said members', 'is é an Taoiseach a ainmneochas iad le réamh-chead uatha féin' being deleted from the Irish text, and 'ainmneochas iad le réamh-chead uatha féin ag an Taoiseach a cheapfar ar Dháil Éireann d'aithtionól i ndiaidh an lán-scoir ar Dháil Éireann is siocair leis na comhaltaí sin d'ainmniú' being inserted in place of those words.

### Commentary

*réamhchead* A compound of the prefix 'réamh-' and 'cead'. 'Réamh' is translated as 'preliminary' in *Téarmaí Dlí* but generally expresses 'ante-, pre-, fore-', as both *Ó Dónaill* and *Dinneen* translate this prefix (*Ó Dónaill* also including 'introductory, prefatory, preliminary', and *Dinneen* 'introductory'), neither of which seem to include 'réamhchead' as a headword. DIL gives headwords which are composed with the prefix 'rem-/remi-' from the Glosses of the eighth century onwards. DIL cites 'cet cet ol Máedóc' from the twelfth-century *Book of Leinster* as an example of 'cet' as an interjection or asseverative ('agreed, permission granted, yes'), the earliest example of 'cet' in the general sense of 'permission, consent, will' cited there coming from the poetry of Blathmac son of Cú Brettan (fl. 750-770). *Téarmaí Dlí* translates 'cead' as 'liberty (to apply, etc.)', 'leave' being its principal sense according to both *Ó Dónaill* and *Dinneen*.

'The Company shall not borrow except with the prior consent of the Minister given with the approval of the Minister for Finance' is translated as 'Ní bhfaighidh an Chuideachta airgead ar iasacht gan toiliú a fháil roimh ré ón Aire arna thabhairt le ceadú an Aire Airgeadais' in s6(11) of the Irish Telecommunications Investments Limited Act, 1981, 'ach amháin le toiliú roimh ré ón Aire' translating 'except with the prior consent of the Minister' in s2(3) of the Transport Act, 1974. 'A sending State may with the prior consent of a receiving State ... undertake the temporary protection of the interests of the third State' is translated as 'Féadfaidh Stát sallchuir, le toiliú roimh ré Stáit ghlacaidh ... caomhaint shealadach leasanna an tríú Stát ... a ghabháil air féin' in Article 46 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967. 'A deduction may be made by an employer from the wages of an employee with his prior consent' is translated as 'le hasbhaint arna déanamh ag fostóir as pá fostai le toiliú roimh ré i scríbhinn uaidh' in s5(f) of the Payment of Wages Act, 1991.

Looking at early Acts, 'A copy of any consent, approval, sanction' is translated as 'cóip d'aon toiliú, aontú, ceadú' in s11 of the Methodist Church in Ireland Act, 1928. 'Provided that the sessions of Seanad Éireann shall not be concluded without its own consent' is translated as 'Ar choinioll ná críochnófar siosóin Sheanad Éireann gan a thoil féin' in Article 24 of the 1922 Constitution. 'Prior' is translated by the prefix 'roimh-' in early Acts; in s17(2)(b) of the Electoral Act, 1923, for example, 'capable of being



transferred to the next choice when the vote is not required to give a prior choice the necessary quota of votes' is translated as 'is féidir d'aistriú don chéad rogha eile nuair nách gá an vóta chun an quota riachtach de vótaí do thabhairt do roimh-rogha'.

*d'ationól* The preposition 'do' before the verbal noun is generally replaced by 'a' today – see *Ó Dónaill* s.v. a<sup>4</sup>, '<de, do'. 'Ationól' comes from 'ath-thionól', the reiterative prefix 'ath-' (re-) and 'tionól', translated as 'assembly' in *Téarmaí Dlí*. 'Ationól' is given as a headword in *Ó Dónaill*, where it is translated as 'reassembly' – being the verbal noun of 'ationóil', translated there as 'reconvene'. DIL cites only one example of 'aithinóilaid', in the sense of soldiers re-assembling, from the *Book of Ballymote*, written c.1400, giving three examples of 'aithionól', 'act of reassembling'. See further the commentary on Article 28.10.

'Direct the re-assembly of the Court for the revision of the finding and sentence', in s115(1) of the Defence Forces (Temporary Provisions) Act, 1923, is translated as 'A ordú go dtiocfaidh an Chúirt le chéile arís chun an breithiúnas agus an daora ... d'ath-scrúdú'. In Article 24 of the 1922 Constitution, 'Dáil Éireann shall fix the date of re-assembly of the Oireachtas' is translated as 'ceapfaidh Dáil Éireann dáta aith-thionóil an Oireachtais'. See the commentary on Article 15.11.3<sup>o</sup> regarding 'tionól'. In s2(9) of the Interpretation Act, 1923, 'the expression "the Third Dáil Éireann" shall mean the assembly of members of Parliament' is translated as 'ciallaíonn an focal "an Tríú Dáil Éireann" an tionól de bhaill Pháirliminte'. 'The European Assembly Elections Act, 1977' is cited in Irish as 'an tAcht um Thoghcháin do Thionól na hEorpa, 1977'.

'Teacht le chéile arís' translates 're-assemble' in *Iris Oifigiúil*, 1926, p. 984, with 'teacht le chéile' translating 're-assembly' in the *Standing Orders* of Dáil Éireann, 1926, p. 13. 'The right to assemble peaceably and without arms' is translated as 'ceart teacht le chéile go siochánta gan airm' in Article 9 of the 1922 Constitution, 'have assembled or met together' being translated as 'a dhin ... teacht no cruinniú le chéile' in s7(3) of the Treasonable Offences Act, 1925. Finally, 'in riot or unlawful assembly' is translated as 'i gcúrsaí ciréibe no tionóil nea-dhleathaigh' in s77(B)(v) of the Courts of Justice Act, 1924.

*is siocair* See the commentary on Article 12.10.7<sup>o</sup>. 'Within seven days after the dissolution of Dáil Éireann which occasions the election' is translated as 'laistigh de sheacht lá i ndiaidh an lánscoir ar Dháil Éireann a dtiocfaidh an toghchán de' in s24(2)(a) of the Seanad Electoral (Panel Members) Act, 1947, 'mí tar éis an scuir sin ar Dháil Éireann dá dtiocfaidh an toghchán Seanad sin' translating 'one month after the dissolution of Dáil Éireann which occasions such Seanad election' in s37(1) of the Seanad Electoral (Panel Members) Act, 1937. 'The circumstances which led up to and occasioned ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'na nithe as ar lean agus as a dtáinig' in a Report of the Public Accounts Committee, 1927.

'After the dissolution which occasioned that Seanad general election' is translated as 'i ndiaidh an lánscoir ba chúis leis an olltoghchán sin don tSeanad' in the Schedule to the Seanad Electoral (Panel Members) Act, 1954. 'The non-payment of which occasioned the revocation' is translated as 'arb é a neamhíoc faoi deara an chúlghairm'

in s6(8) of the Agricultural Produce (Meat) (Miscellaneous Provisions) Act, 1978. 'For three years from the expiration of the term of office the expiration of which occasions his election' is translated as 'go ceann trí mbliain o bheith caithte don téarma oifige gurb é a bheith caithte fé ndéar a thogha' in s19(3) of the Currency Act, 1927, 'arbh é a neamh-íoc fé ndéar an nea-mbriochaint sin' translating 'the non-payment of which occasioned such cancellation' in s9(9) of the Agricultural Produce (Eggs) Act, 1924. Finally, in s49(6) of the Landlord and Tenant (Amendment) Act, 1980, 'in the notice by the authority which occasioned the work notice' is translated as 'san fhógra ag an údarás ba bhun leis an bhfógra oibre a thabhairt'.

*Na comhaltaí a ainmneofar* Literally 'the members who will be nominated'. In Article 82(b) of the 1922 Constitution, 'The thirty nominated members of Seanad Éireann shall be nominated by the President of the Executive Council' is translated as 'Is é Uachtarán na hArd-Chomhairle a ainmneoidh na deich mbaill fhichead de Sheanad Éireann atá le hainmniú', 'Is í Dáil Éireann a thoghfaidh ... na deich mbaill fhichead de Sheanad Éireann atá le togha' translating 'The thirty elected members of Seanad Éireann shall be elected by Dáil Éireann' in Article 82(c). 'Na baill ainmnithe den Bhord d'ainmniú' translates 'Nomination of the nominated members of the Board' in the Margin Title of s13 of the Dentists Act, 1928. 'On the date on which the eight nominated members of the Council are nominated by the Executive Council' is translated as 'an dáta ar a n-ainmneoidh an Ard-Chomhairle an t-ochtar baill ainmnithe den Chomhairle' in s5(1) of the Veterinary Surgeons Act, 1931. Finally, 'Two of the nominated members shall be practising barristers nominated by the General Council of the Bar of Ireland' is translated as 'Beidh beirt de na comhaltaí ainmnithe ina n-abhcóidí cleachtacha a ainmneos Comhairle Ghinearálta Abhcóidí na hÉireann' in s15(3) of the Courts of Justice Act, 1953.

*a cheapfar ar* Regarding 'next' in the Acts, 'at the beginning of the accounting period next after that period' is translated as 'i dtosach na chéad tréimhse cuntasaióchta eile i ndiaidh na tréimhse sin' in s9 of the Finance Act, 1990. 'And the resignation shall take effect at the commencement of the meeting of the Commission held next after the Commission has been informed by the Government of the resignation' is translated as 'agus glacfaidh an t-éirí as éifeacht an tráth a thosóidh an chéad chruinniú eile den Choimisiún a thionólfar tar éis don Rialtas an t-éirí-as a chur in iúl don Choimisiún' in s2(3) of the Schedule to the Radio and Television Act, 1988. 'Raghaidh gach eirge as den tsórt san in éifeacht i dtosach an chéad chruinnithe den Bhord a bheidh ann tar éis don Bhord an t-eirge-as san d'fháil' translates 'every such resignation shall take effect at the commencement of the meeting of the Board held next after the receipt of such resignation by the Board' in s21(4) of the Cork Fever Hospital Act, 1935. Finally, 'An Act to postpone the triennial elections to certain Local Authorities which are due to be held next after the passing of this Act' is translated as 'Acht chun na gcéad toghchán cinn trí mbliain eile chun Údarás n-Áitiúil áirithe dlighfear do chomóra tar éis an Achta so do rith do chur ar ath-ló' in the Long Title of the Local Elections and Meetings (Postponement) Act, 1931, 'the appeal under this section shall be brought before the 26th day of April

next after the decision of the registration officer is given' being translated as 'déanfar an t-athchomharc fén alt so roimh an 26ad lá den chéad Abrán tar éis don oifigeach clárachta a bhreith do thabhairt' in s5(2) of the Juries (Amendment) Act, 1924.

*i ndiaidh an lánscoir ar Dháil Éireann* Regarding 'den chéanna' translating 'thereof' in a draft of the translation below, Professor Máirtín Ó Murchú feels it is slightly affected ("beagán crochta"), 'thereof' being an old-fashioned expression of 'of it', i.e. 'di' below.

### Direct translation

Déanfar comhaltaí ainmnithe<sup>1</sup> Sheanad Éireann a ainmniú, le toiliú roimh ré uatha, ag an gcéad Taoiseach eile a cheapfar tar éis do Dháil Éireann ationól<sup>2</sup> i ndiaidh an lánscoir di<sup>3</sup> is cúis leis<sup>4</sup> na comhaltaí sin a ainmniú<sup>5</sup>.

### Variants

- 1 'na comhaltaí ainmnithe do'
- 2 'i ndiaidh Dáil Éireann a ationól'
- 3 'den chéanna'
- 4 'faoi deara'
- 5 'dá dtiocfaidh ainmniú na gcomhaltaí sin'

## ARTICLE 18.4.1<sup>o</sup> AIRTEAGAL 18.4.1<sup>o</sup>

### TÉACS GAELIGE

Na comhaltaí a thoghfar do Sheanad Éireann, is ar an gcuma seo a leanas a thoghfar iad:-

- i Toghfaidh Ollscoil na hÉireann triúr.
- ii Toghfaidh Ollscoil Bhaile Átha Cliath triúr.
- iii Toghfar triúr is daichead as rollaí d'iarthóirí a chóireofar ar an gcuma a shocraítear anseo inár ndiaidh.

### LITERAL ENGLISH TRANSLATION

The members who will be elected for Seanad Éireann, it is in the following manner they will be elected: -

- i The National University of Ireland will elect three.
- ii Dublin University will elect three.
- iii Forty-three (people) will be elected from rolls of candidates which will be arranged in the manner provided here following.

### ENGLISH TEXT

The elected members of Seanad Éireann shall be elected as follows:-

- i Three shall be elected by the National University of Ireland.
- ii Three shall be elected by the University of Dublin.
- iii Forty-three shall be elected from panels of candidates constituted as hereinafter provided.

### Divergences between the official texts

- 1 'Panels of candidates constituted as hereinafter provided' is expressed as 'rollaí d'iarthóirí a chóireofar ar an gcuma a shocraítear anseo inár ndiaidh' ('rolls

of candidates which will be arranged in the manner hereinafter provided') in the Irish text.

- 2 'As follows' is expressed as 'ar an gcuma seo a leanas' ('in the following manner') in the Irish text, with 'the elected members' being expressed as 'Na comhaltaí a thoghfar' ('the members who will be elected) - 'nominated members' is expressed as 'na comhaltaí a ainmneofar' ('the members who will be nominated') in the previous section.

Note that Article 32 of the 1922 Constitution commences as follows:

One-fourth of the members of Seanad Éireann shall be elected every three years from a panel constituted as hereinafter mentioned .... *Toghfar an ceathrú cuid de bhaill Sheanad Éireann gach trí bliana ó ainm-liost a déanfar ar chuma a luaidhtear 'na dhiaidh seo.*

Note also that the original Irish text of paragraph iii read as follows:

Toghfaidh an toghlucht a luaidhtear annso i n-ar ndiaidh triúr is dá fhichid as rollaibh d'iarthóiribh a cóireochar ar an gcuma a socruightheart annso i n-ar ndiaidh.

The words 'Toghfaidh an toghlucht a luaidhtear annso i n-ar ndiaidh' were deleted and the word 'Toghfar' inserted in their place, by the Second Amendment of the Constitution Act, 1941, no corresponding amendment being made to the English text.

### Commentary

*ar an gcuma seo a leanas* 'Ar chuma ruda' is translated as 'in the manner of, like, something' in *Ó Dónaill, Dinneen* translating 'ar an gcuma soin' as 'in that way'. '*Gan a chuma air cóir mhaireachtála a bheith aige*, with no visible means of subsistence' is cited in *Téarmaí Dlí*. The principal sense of 'cuma' in *Ó Dónaill* is 'shape, form; appearance, look, effect'. Old Irish 'cummae' is the verbal noun of 'con-ben' (a compound with the Old Irish verb 'benaid', 'beats, strikes, hews, cuts down, off' - Modern Irish 'bain'), and is translated as (1) 'act of cutting, carving, hacking, destroying', (2) 'act of shaping, fashioning, composing' and (3) 'shape, form, appearance' in DIL. 'Foróenchummi' ('in one way') glosses Latin 'identidem' in the ninth-century St Gall Glosses on Priscian.

'The directors to be elected by the American Republics ... shall be elected as follows:' is translated as 'Na stiúrthóirí a bheas le toghadh ag na Poblachtaí Meiriceánacha ..., toghfar iad mar leanas:' in s7 of Schedule C to the Bretton Woods Agreements Act, 1957. 'Na baill de bhord choganta phuibli bheidh le togha ag comhairle chontae is mar leanas a thoghfar iad:-' translates 'The members of a board of public assistance to be elected by a county council shall be elected as follows' in s2(1) of the Second Schedule to the Public Assistance Act, 1939. Finally, 'the members of the Board shall be nominated and elected as follows, that is to say:-' is translated as 'is mar leanas a hainmneofar agus a toghfar baill an Bhúird, sé sin le rá:-' in s1 of the Second Schedule to the Dentists Act, 1928, and 'Dáil Éireann ... decrees and enacts as follows:-' is translated as 'dineann sí a reachtú agus a achtú mar leanas:-' in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922.

*Ollscoil na hÉireann ... Ollscoil Bhaile Átha Cliath* ‘Ollscoil na hÉireann’, literally ‘the University of Ireland’, is the current official Irish version of ‘The National University of Ireland’. ‘The National University of Ireland Act, 1969’ is cited in Irish as ‘Acht Ollscoil na hÉireann, 1969’, for example. ‘Príomh-sgoil’ translates ‘University’ in the 1922 Constitution, with ‘exclusive of members for the Universities’ being translated as ‘lasmuich de theachtaí na bPríomh-sgoileanna’ in Article 26, for example. In Part III of the Eighth Schedule to the Electoral Act, 1923, ‘The National University of Ireland’ is cited as ‘Príomh-scoil Náisiúnta na hÉireann’, with ‘Príomh-scoileanna’ translating ‘Universities’ in the heading. ‘The University Education (Agriculture and Dairy Science) Act, 1926’ is cited in Irish as ‘Acht um Oideachas Príomh-Scoile (Talmhaíocht agus Eolaíocht Déiríochta), 1926’, with ‘University College, Galway, Act, 1929’ being cited as ‘Acht Choláiste Phríomh-Scoile na Gaillimhe, 1929’. Note that ‘University Degree, in Science’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘céim Ollscoile in Eolaíocht’ (followed by the abbreviation ‘A. Tal. 51’ [i.e. ‘translations for the Department of Lands and Agriculture’ (?)]).

Ó Dónaill cites both ‘Ollscoil na hÉireann, National University of Ireland’ and ‘Ollscoil Bhaile Átha Cliath, Dublin University’ s.v. ‘ollscoil, university’. Dinneen gives the form ‘iolscoil’ as a headword, with the abbreviation for ‘recent’ following the translation ‘a university’, L. Mc Cionnaith citing ‘fuair sé iolscoilidheacht, university education’ from Munster. The prefix here is noteworthy in that, in direct contrast to ‘University’, the prefix ‘iol-’ has the sense of ‘multi-; poly-’.

Turning to ‘Dublin University’, in Part III of the Electoral Act, 1923, ‘Dublin University’ is cited in Irish as ‘Príomh-scoil Bhaile Átha Cliath’. ‘An Coláiste Ollscoile, Baile Átha Cliath’ translates ‘University College Dublin’ in the Medical Practitioners Act, 1978. The new official title, ‘University College Dublin, National University of Ireland, Dublin’ is cited as ‘Coláiste na hOllscoile Baile Átha Cliath, Ollscoil an hÉireann, Baile Átha Cliath’ in Statutory Instrument No. 447 of 1998, and in *Iris Oifigiúil*, 1/12/98.

*rollaí* ‘Rolla an ghiúiré’ is translated as ‘jury panel’ in *Téarmaí Dlí*; ‘rolláim’, however, is translated as ‘I enrol’, ‘rolla’ literally meaning ‘roll’. ‘Rolla’ is a Romance loanword, translated as ‘a (written) roll of parchment, scroll (especially a list (?), record)’ in DIL, where ‘nára horm rabh na rolla-sum’ (from a poem by Gofraidh Ó Cléirigh in the *Book of Húi Maine*) is translated as ‘may it not be charged to me in His (judgement-) record!’, along with ‘a genealogical list; a pedigree’. Dinneen translates ‘cuirim i rolla’ as ‘I register, record or write’, also citing (from Keating) ‘Rolla na Ríogh, the Roll of the Kings, called also the Psalter of Tara’ and ‘Rolla na Teamhrach, the Roll of Tara’. Ó Dónaill also gives ‘official record, register, list’ as the secondary meaning of ‘rolla’. Note, finally, that ‘rolla’ expresses ‘register’ in Article 47.2.1°.

The ‘Irish Takeover Panel Act, 1997’ is cited in Irish as ‘an tAcht um Painéal Táthcheangail na hÉireann, 1997’. ‘The chairman shall replace him by an appropriate person from a panel of persons to be appointed by the Minister’ is translated as ‘cuirfidh an cathaoirleach duine iomchuí as rolla daoine a bheidh le ceapadh ag an Aire ina ionad’ in s37(4) of the Health (Mental Services) Act, 1981, in ss6

of which ‘a review board panel’ is translated as ‘rolla boird athbhreithnithe’. ‘A Panel of Conciliators and a Panel of Arbitrators’ is translated as ‘Rolla Comhréiteoirí agus Rolla Eadránaithe’ in Article 3 of Section 1 of the Second Schedule to the Arbitration Act, 1980. In s9(3) of the Misuse of Drugs Act, 1977, ‘he shall refer the case to an advisory panel constituted for the purpose’ is translated as ‘tarchuirfidh sé an cas chuig painéal comhairleach a bheidh comhdhéanta chun na críche’. In s76(1) of the Pigs and Bacon Act, 1935, ‘The Minister shall ... if there are any persons who were on such date large curers, prepare a panel (in this Part of this Act referred to as a panel of large curers) of the names of such persons’ is translated as ‘déanfaidh an tAire ... má bhíonn aon daoine ann do bhí in a mór-leasuitheoirí ar an dáta san, painéal (dá ngairmtear painéal de mhór-leasuitheoirí sa Chuid seo den Acht so), d’ainmneacha na ndaoine sin d’ullamhú’. ‘Painéal de réiteoirí do bhunú’ translates ‘Establishment of panel of referees’ in the Margin Title of s46 of the Widows’ and Orphans’ Pensions Act, 1935.

Note that ‘the Seanad Electoral (Panel Members) Act, 1937’ is cited in Irish as ‘Acht Toghacháin an tSeanad (Baill Ainmliosta), 1937’. In s4(1) we find ‘the word “panel” when used without qualification means a panel of candidates formed in pursuance of sub-section 1° of section 7 of Article 18 of the Constitution’ translated as ‘nuair a húsáidtear an focal “ainmliost” gan coinníoll cialluíonn sé rolla d’iarthóirí cóireofar do réir fo-ailt 1° d’alt 7 d’Airteagal 18 den Bhunreacht’. We see above that ‘ainm-liost’ translates ‘panel’ in the 1922 Constitution also.

‘Painéal de chathaoirleach shealadacha’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘panel of temporary chairmen’ in the ‘cover’ of the Official Report of the Dáil Debates, 18/3/25, with ‘painéal’ translating ‘panel’ in the *Standing Orders* of Dáil Éireann, 1926, p. 11. Finally ‘Establishment of panel of referees’ is translated as ‘Painéal de réiteoirí do bhunú’ in the Margin Title of s14 of the Live Stock Breeding Act, 1925.

*a chóireofar* ‘Cóireofar’ expresses ‘shall be formed’, again in relation to the panels of candidates for Seanad Elections, in Article 18.7.1°. ‘Cóirigh’ is translated as ‘arrange, dress’ in Ó Dónaill, who cites ‘cath a chóiriú, to array forces for battle’ and ‘bia a chóiriú, to dress, prepare, food’. Dinneen translates ‘cóirighim’ as ‘I arrange, fit up, prepare, dress out, mend, patch; set to rights’, citing ‘cóirighim leaba, I make or dress a bed’. DIL translates ‘córaigid’/‘cóirigid’ as ‘arranges, sets in order, sets up’, giving examples from early Irish law-tracts and from *Leabhar na hUidhre* (written c. 1100 in Clonmacnois) onwards. This verb is based on ‘cóir’, translated as ‘proper, correct, right; suitable, fitting, just’ in DIL, along with, in physical sense, ‘even, well proportioned, straight’. See further the commentary on Article 18.7.1° and see the commentary on Articles 14.1 and 18.1 regarding ‘constitute’ in the Acts.

*a shocraítear anseo inár ndiaidh* ‘Hereinafter referred to as “the Scheduled Treaty”’ is translated as ‘dá ngoirtfeasta “an Connradh Sgeidealta”’ in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. We see above that ‘ar chuma a luaidhtear’ na dhiaidh seo’ translates ‘as hereinafter mentioned’ in Article 32 of that Constitution. ‘Hereinafter referred to as’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘dá

ngairmtear ... anso ina dhiaidh seo' in translations for the Department of Local Government and Public Health, this being the general translation of that phrase in the Acts. 'Ach amháin mar a fhoráiltear anseo ina dhiaidh seo' translates 'save as hereinafter provided' in s274(1) of the Social Welfare (Consolidation) Act, 1981, for example.

*triúr is daichead* This would have the form 'trí dhuine is daichead' according to the official standard. See the commentary on Article 18.1.

### Direct translation

Déanfar comhaltai tofa<sup>1</sup> Sheanad Éireann a thoghadh mar a leanas:-

- i Toghfaidh Ollscoil na hÉireann triúr.
- ii Toghfaidh Ollscoil Bhaile Átha Cliath triúr.
- iii Toghfad tri dhuine is daichead as painéil d'iarrthóirí arna gcomhdhéanamh<sup>2</sup> mar a fhoráiltear anseo ina dhiaidh seo.

### Variants

- 1 'na comhaltai tofa do'
- 2 'arna mbunú', 'arna gceapadh'

## ARTICLE 18.4.2° AIRTEAGAL 18.4.2°

### TÉACS GAELGE

Féadfar foráil a dhéanamh le dlí chun go dtoghfar de réir toghchórais, agus ar an modh, a shocrófar le dlí, ag ceann amháin nó níos mó de na forais seo a leanas, eadhon:

- i na hOllscoileanna a luaitear i bhfo-alt 1° den alt seo,
  - ii aon fhorais eile ardoideachais sa Stát,
- an líon sin comhaltai de Sheanad Éireann a shocrófar le dlí in ionad líon comhionann de na comhaltai a bheas le toghadh de bhun míreanna i agus ii den fho-alt sin 1°.

Féadfar comhaltai nó comhaltai de Sheanad Éireann a thoghadh faoin bhfo-alt seo ag forais a bheas tiomsaithe le chéile nó ag foras aonair.

### LITERAL ENGLISH TRANSLATION

Provision may be made by law so that there will be elected in accordance with an electoral system, and in the manner, (that will be) provided by law, by one or more of the following institutions, that is / namely:

- i the Universities mentioned in subsection 1° of this section,
- ii any other institutions of higher-education in the State, that number of members of Seanad Éireann that will be provided for by law in place of an equal/equivalent number of the members who will be / are to be elected pursuant to paragraphs i and ii of that subsection 1°.

A member or members of Seanad Éireann may be elected under this subsection by institutions which will be collected together or by a single institution.

### ENGLISH TEXT

Provision may be made by law for the election, on a franchise and in the manner to be provided by law, by one or more of the following institutions, namely:

- i the universities mentioned in subsection 1° of this section,
- ii any other institutions of higher education in the State, of so many members of Seanad Éireann as may be fixed by law in substitution for an equal number of the members to be elected pursuant to paragraphs i and ii of the said subsection 1°.

A member or members of Seanad Éireann may be elected under this subsection by institutions grouped together or by a single institution.

Note that subsections 2 and 3 of Article 18.4 were added to the text following the Seventh Amendment of the Constitution, 1979; s4.1° was originally simply s4.

### Divergences between the official texts

- 1 'On a franchise' is expressed as 'de réir toghchórais' ('in accordance with an electoral system / franchise') in the Irish text.
- 2 'Ollscoileanna' has a capital 'O' as against lower-case 'u' in 'universities' in the English text.
- 3 Note that 'Provision may be made by law' is expressed as 'Féadfar foráil a dhéanamh le dlí' as against the usual 'Féadfar socrú a dhéanamh le dlí', with 'a shocrófar le dlí' expressing 'as may be fixed by law'; note also that 'institution' is expressed by 'foras', with 'fundúireacht' expressing 'institution' in Articles 42 and 44 (both, like this section, in relation to educational institutions).

Note that much of Article 19 corresponds to the above, but is not similarly expressed in the Irish text, Article 19 reading as follows:

Provision may be made by law for the direct election by any functional or vocational group or association or council of so many members of Seanad Éireann as may be fixed by such law in substitution for an equal number of the members to be elected from the corresponding panels of candidates constituted under Article 18 of this Constitution. *Féadfar socrú a dhéanamh le dlí ionas go bhféadfaid aon dream feidhme nó gairme beatha, nó aon chomhlacht nó comhairle feidhme nó gairme beatha, an oiread comhaltai do Sheanad Éireann a thoghadh go lomdíreach agus a chinnfear leis an dlí sin, in ionad an oiread chéanna de na comhaltai a thoghfar as na comhrollai d'iarrthóirí a chóireofar faoi Airteagal 18 den Bhunreacht seo.*

### Commentary

*foráil a dhéanamh* 'Socrú' rather than 'foráil' generally expresses 'provision' in this context – see the commentary on Articles 8.3 and 15.2.2°. 'A shocrófar le dlí' expresses both 'provided by law' and 'fixed by law' in the present Article. In Articles 8.3, 10.3, 10.4, 15.2.2°, 19 and 40.6.1°ii, 'provision may be made by law' is expressed as 'féadfar socrú a dhéanamh le dlí', with 'The Oireachtas may make provision by law' being expressed as 'Tig leis an Oireachtas socrú a dhéanamh le dlí' in Article 15.15, 'Provision shall be made by law' being expressed as 'ní foláir socrú a dhéanamh le dlí' in Article 16.6 and 'Provision may be made by law' being expressed as 'Féadfar socrú a dhéanamh de réir dlí' in Article 40.6.1°ii. 'Foráil' has the

sense of ‘provision’ in Jurisprudence (see *Ó Dónaill*) and, as noted above, is invoked here seeing that both ‘to be provided by law’ and ‘as may be fixed by law’, further on in this subsection, are expressed as ‘a shocrófar le dlí’.

*de réir toghchórais* ‘Toghchóras’ is translated as ‘franchise’ in *Ó Dónaill*, this being a compound of ‘togh’ (‘elect’) and ‘córas’ (‘system’) – see the commentary on Article 12.2.1° regarding ‘togh’. *Dinneen* does not appear to give ‘toghchóras’ as a headword. Note that ‘franchise’, in the sense of ‘a liberty or privilege’, is translated as ‘díolúine’ in *Tearmaí Dlí*, and is so expressed in Article 10.1 of the Constitution. ‘Reacht-shaoirse’ translates ‘franchise’ in that context in Article 11 of the 1922 Constitution. That compound translates ‘franchise’ in the electoral context in early Acts also, ‘Confirmation of Franchise Resolutions’ being translated as ‘Daingniú ar Rúin Reacht-shaoirse’ in the Margin Title of s61 of the Electoral Act, 1923. ‘The first Register prepared under this Act shall be completed in accordance with the said Franchise Resolutions’ is translated as ‘Déanfar an Chéad Chlár a hullamhófar fén Acht so do chríochnú do réir na Rúin Reacht-shaoirse roimh-ráite’ in s61(4) of that Act, paragraph (a) of which refers to ‘The registration of and voting by members of the Defence Force of Saorstát Éireann’ (‘Clárú agus Vótáil bhalla d’Fhórsa Cosanta Shaorstáit Éireann’). The ‘Local Government (Extension of Franchise) Act, 1935’ is cited in Irish as ‘an tAcht Rialtais Áitiúla (Reacht-Shaoirse do Leathnú), 1935’.

Turning to the modern Acts, ‘Franchise and registration’ is translated as ‘Toghchóras agus clárú’ in the Margin Title of s3 of the European Assembly Elections Act, 1977, for example, as in the Heading of Part II of the Electoral Act, 1963, ‘Togh-Chóras agus Clárú’ being in the Heading of Part II of the Seanad Electoral (University Members) Act, 1937.

*forais* ‘Foras’ expresses ‘institution’ in Article 45.1 also, where ‘all the institutions of the national life’ is expressed as ‘(ag rialú) gach forais a bhaineas leis an saol náisiúnta’, and in Article 41.1.1°, where ‘moral institution’ (regarding the family) is expressed as ‘foras morálta’. ‘Ord an phósta’, however, expresses ‘the institution of Marriage’ in Article 41.3.1°. ‘Any educational institution’ is expressed as ‘aon fhundúireachtaí oideachais’ in Article 44.2.6°, with ‘institutions for religious or charitable purposes’ being expressed as ‘fundúireachtaí chun críocha creidimh is carthanachta’ in Article 44.2.5°. In Article 42.4, ‘other educational facilities or institutions’ is expressed as ‘áiseanna nó fundúireachtaí eile oideachais’. Finally, in Article 29.4.3° (added by amendment of the Constitution), ‘institutions’ (of the Communities) is rendered as ‘institiúidí de na Comhphobail’.

‘Foras’ is translated as ‘ground (of application, etc.)’ in *Tearmaí Dlí*, with the secondary meaning of ‘foundation, institution’ being given in *Ó Dónaill*, who cites ‘*foras tionscail, talúntais*, industrial, agricultural, institute’, *Dinneen* also including ‘an institution’ among the senses of ‘foras’, citing ‘*foras tuatha*, a local institute, hospital, etc.’ In early Irish laws ‘forus’ was used especially of ‘a cattle-pound’ or other ‘place where distrained cattle might be detained, a place appointed for the delivery of animals according to a contract’, according to DIL, wherein this word in that secondary sense is translated as ‘a station,

resting place, dwelling’. Eoin Mac Néill took ‘foras tuaithe’ in the early Irish laws to be ‘a public infirmary’ – see DIL s.v. ‘forus’ II. Fergus Kelly, op. cit., p. 313, gives ‘resting place, station, appointed place’ as one of the senses of ‘forus’ in early Irish laws, ‘basis, foundation (of judgement), promulgation (of laws, judgement)’ being the main sense given in the ‘Index of Irish Terms’ accompanying his *Guide to Early Irish Law*. ‘Basis, foundation, bottom’ was apparently the original sense of this word, ‘that which is stable, stability’ being the sense found in older texts. See the commentary on Articles 40.4.2° (where ‘forais’ expresses ‘grounds’) and 41.1.1°.

‘Any educational institution’ is translated as ‘aon fhundúireacht oideachais’ in Article 8 of the 1922 Constitution. ‘As regards the question of Workhouse children, the Committee of Management shall be charged with the duty of boarding-out all, or as many as possible, of the institution children’ is translated as ‘Maidir le leanbhaí an Tighe Oibre, beidh sé de dhualgas ar an gCoiste Bainistí gach éinne, nó oiread is féidir, de sna leanbhaí fundúireachta do chur ar altranas’ in s17 of the ‘Leitrim County Scheme’ in the Schedule to the Local Government (Temporary Provisions) Act, 1923. ‘Contribute to the support, maintenance, and education of such child in an institution established and maintained for the care of such children’ is translated as ‘ranníoc a thabhairt le haghaidh a chothabhála agus a oidithe i bhfundúireachtaí a bheidh bunuithe agus á cothabháil chun leanbhaí den tsórt san d’aireachasú’ in s50 of the Public Assistance Act, 1939. Finally, ‘Corporate Members of the Institution of Civil Engineers of Ireland’ is translated as ‘Baill Chorporáideacha d’Fhondúireacht Innealtóirí Sibhialta na hÉireann’ in Part II of the First Schedule to the Juries Act, 1927 – the official Irish title of that Institution today is ‘Institiúid Innealtóirí Sibhialta na hÉireann’, ‘The Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969’ being cited in Irish as ‘an tAcht um Institiúid Innealtóirí Sibhialta na hÉireann (Cairt a Leasú), 1969’.

Looking at modern Acts, ‘in a hospital or similar institution’ is translated as ‘in ospidéal nó i bhforas dá shamhail’ in s46(2) of the Social Welfare (Consolidation) Act, 1981, for example. “‘Approved institution’ means a university, university college, or other institution of higher education’ is translated as ‘ciallaíonn “foras ceadaithe” ollscoil, coláiste ollscoile nó foras ardoideachais’ in s1(1) of the Local Authorities (Higher Education Grants) Act, 1978.

*líon comhionann* This would be in the genitive case after ‘in ionad’ according to the official standard. Note that we find ‘in ionad lín chomhionann de na comhaltaí’ in s1 of the Appendix to the Referendum (Amendment) Act, 1979, this subsection being added to the Constitution following that referendum.

‘Comhionann’, a compound of ‘comh’ and ‘ionann’, is translated as ‘equal, identical; congruent, uniform’ in *Ó Dónaill*, ‘cóimhionann’ being translated as ‘equal, co-equal, equivalent, uniform’ in *Dinneen*. Micheál Ó Cléirigh’s seventeenth-century recension of *Leabhar Gabhála* and Ó Cianáin’s *Flight of the Earls* are the sources of the two citations of the headword ‘coiminann’ in DIL, translated respectively as ‘identical’ and ‘in the same way’. DIL gives examples of ‘inunn’ in the sense of ‘the same’ from the eighth-century Würzburg Glosses on the Pauline Epistles onwards.

'By equal quarterly payments' is translated as 'in íocaíochanna co-ionannacha ráithiúla' in s1 of the Governor-General's Salary and Establishment Act, 1923. 'An equal number' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'có-oiread' in the *Proceedings of Dáil Éireann*, 24/1/24, with 'in equal numbers' being translated as 'leath ina leath' in translations for the Department of Industry and Commerce.

'Where two or more candidates are credited with an equal number of votes the Minister shall select one of them by lot' is translated as 'I gcás ina mbeidh an líon céanna vótaí creidiúnaithe do bheirt nó níos mó de na hiarthóirí roghnóidh an tAire duine díobh trí chrannadh' in s9 of the First Schedule to the Postal and Telecommunications Services Act, 1983. 'With an equal number of members chosen to represent persons insured ...' is translated as 'maraon leis an líon céanna de chomhaltáí a roghnófar chun daoine atá árachaithe ... d'ionadú' in s3 of the Sixth Schedule to the Social Welfare Act, 1952. In s2(4) of the Schedule to the Pilotage Order Confirmation Act, 1926, 'by reason of two or more persons having received an equal number of votes' is translated as 'toisc có-ionannas vótanna do bheith fachta ag beirt no níos mó'.

Note that 'an equal pay officer shall be known as an equality officer' is translated as 'oifigeach comhionannais a thabharfar ar oifigeach pá chomhionainn' in s18 of the Employment Equality Act, 1977. Finally, note that 'in the case of an equal division of votes' is translated as 'i gcás na vótaí a bheith roinnte go cothrom' in s7(5) of the Schedule to the Radio and Television Act, 1988.

*a bheas le toghadh* Literally, 'who will be to be elected'. For the special relative form of the verb, see the commentary on Article 6.1. 'Le' with a verbal noun can express expectation ('tá siad le pósadh, *they are to be married*') or possibility ('tá siad le feiceáil sa spéir, *they may be seen in the sky*'), according to *Ó Dónaill*.

*eadhon* This adverb is translated as 'namely' in *Ó Dónaill*, accompanied by the abbreviation indicating that it is not in current use. This term is found in the modern Acts, however, translating 'namely'. 'In any of the following, namely -' is translated as 'in aon cheann acu seo a leanas, eadhon -' in s65(1) of the Finance Act, 1990, for example. In Article 35 of the 1922 Constitution, 'provision dealing with all or any of the following subjects, namely, ...' is translated as 'forálacha i dtaobh gach abhair no aon abhair díobh so leanas, eadhon, ...'. 'Namely' is translated as 'eadhon' in the *Oireachtas Dictionary of Official Terms*, no source being cited. The more correct form would be 'eadhón' (= 'eadh ón') – see DIL s.v. 'ón' and see the commentary on Article 14.2.1°.

*de bhun míreanna i agus ii* 'Míreanna', before 'i agus ii', would be lenited in the Acts following the compound preposition 'de bhun'. 'De bhun' is translated as 'in pursuance of', 'on foot of', 'pursuant to' in *Téarmaí Dlí* and 'on foot of, in pursuance of' in *Ó Dónaill*. *Dinneen* gives 'do bhun, *in pursuance of*'. DIL cites 'de bhun an ghrádh' ('because of love') from a miscellaneous collection of Classical Irish poetry, along with 'do bhun t'impidhe' ('through beseeching you') from the poetry of Aonghus Fionn Ó Dálaigh (c. 1520-1570).

*tiomsaithe le chéile* 'Collect, assemble' and 'come together, assemble' are two of the senses of 'tiomsaigh' given by *Ó Dónaill*, the past participle of which, 'tiomsaighthe' ('tiomsaithe' above), is given as a headword in *Dinneen* and translated as 'pressed or brought together, accumulated, collected'. DIL cites 'ina treabaib ... timsaichti' ('gathered together' in tribes) from the *Leabhar Breac* (compiled in 1411 or earlier), 'timsaighthe' being the participle of the verb 'timsaigid'.

'That two or more parcels of untenanted lands ... shall be grouped together and deemed to form one estate' is translated as 'go ndéanfar dá cheann no níos mó de phaistí talmhan nea-thionóntuithé ... do ghrúpaíl le chéile agus go dtuigfar gurb aon stát amháin iad' in s26 of the Land Act, 1927. 'If any of the documents are grouped together as relating to a particular matter' is translated as 'má bhíonn aon chuid de na doiciméid grúpáilte le chéile mar dhoiciméid a bhaineann le hábhar áirithe' in s19(3)(b) of the Solicitors (Amendment) Act, 1960. 'The Tribunal shall be grouped as so directed' is translated as 'beidh an Binse ina ghrúpaí mar a bheidh orduithe amhlaidh' in s39(11) of the Redundancy Payments Act, 1967. 'That their graves are respected, grouped if possible according to the nationality of the deceased' is translated as 'go dtabharfar urraim dá n-uaigneanna, go mbeidh siad más féidir sin ina ngrúpaí de réir náisiúntacht na marbh' in Article 17 of the First Schedule to the Geneva Convention Act, 1962. Note, on the other hand, that 'the Court shall be grouped into ... a first division, consisting of the chairman' is translated as 'beidh an Chúirt ina ranna mar leanas - ... céadroinn, a bheidh comhdhéanta den chathaoirleach' in s3(a) of the Industrial Relations Act, 1969.

*aon fhorais eile ardoideachais* The familiar compound 'ardoideachas' is surprisingly not included as a headword in *Ó Dónaill*, 'árd-oide' being translated as 'chief professor' in *Dinneen*, who cites 'árd-oide Éireann re seanchus, chief professor of history in Ireland'. 'Higher clerical officer' and 'Higher Executive Officer' are cited in the *Oireachtas Dictionary of Official Terms* as being respectively translated as 'oifigeach cléireachais uachtarach' and 'Feidhm-Oifigeach Uachtarach' in 'Miscellaneous Translations', 18/12/25. The 'Local Authorities (Higher Education Grants) Act, 1978' is cited in Irish as 'an tAcht um Údaráis Áitiúla (Deontais Ardoideachais), 1978'.

*a luaitear* See the commentary on Articles 12.10.1° and 14.5.2°.

### Standardised Irish text

Féadfar foráil a dhéanamh le dlí chun go dtoghfar de réir toghchórais, agus ar an modh, a shocrófar le dlí, ag ceann amháin nó níos mó de na forais seo a leanas, eadhon:

i na hOllscoileanna a luaitear i bhfo-alt 1° den alt seo,

ii aon fhorais eile ardoideachais sa Stát,

an líon sin comhaltáí de Sheanad Éireann a shocrófar le dlí in ionad lín chomhionainn de na comhaltáí a bheidh le toghadh de bhun mhíreanna i agus ii den fho-alt sin 1°.

Féadfar comhalta nó comhaltáí de Sheanad Éireann a thoghadh faoin bhfo-alt seo ag forais a bheidh tiomsaithe le chéile nó ag foras aonair.

**Direct translation**

Féadfar socrú a dhéanamh le dlí maidir leis an oiread sin comhaltaí de Sheanad Éireann a thoghadh, faoi thoghchóras agus ar an modh a shocrófar le dlí, ag foras amháin nó níos mó de na forais seo a leanas, eadhón:

- i na hollscoileanna a luaitear i bhfo-alt 1<sup>o</sup> den alt seo,
- ii aon fhorais eile ardoideachais sa Stát,

in ionad lín chomhionann de na comhaltaí a bheidh le toghadh de bhun mhíreanna i agus ii den fho-alt sin 1<sup>o</sup>.

Féadfar comhalta nó comhaltaí de Sheanad Éireann a thoghadh ag forais a bheidh ina ngrúpa<sup>2</sup> le chéile nó ag foras aonair.<sup>3</sup>

**Variants**

- 1 'in ionad líon comhionann na gcomhaltaí'
- 2 'a bheidh grúpáilte', 'a bheidh tiomsaithe'
- 3 'Féadfaidh forais a bheidh tiomsaithe le chéile nó foras aonair comhalta nó comhaltaí de Sheanad Éireann a thoghadh faoin bhfo-alt seo.'

ARTICLE 18.4.3<sup>o</sup> AIRTEAGAL 18.4.3<sup>o</sup>**TÉACS GAELGE**

Ní cead aon ní dá bhfuil san Airteagal seo a agairt chun toirmeasc a chur le hOllscoil a luaitear i bhfo-alt 1<sup>o</sup> den alt seo a lánscore de réir dlí.

**LITERAL ENGLISH TRANSLATION**

It is not permitted to plead anything that is in this Article in order to prohibit a University which is mentioned in subsection 1<sup>o</sup> of this section being dissolved in accordance with law.

**ENGLISH TEXT**

Nothing in this Article shall be invoked to prohibit the dissolution by law of a university mentioned in subsection 1<sup>o</sup> of this section.

This subsection was added to the text following the Seventh Amendment of the Constitution, 1979.

**Divergences between the official texts**

- 1 'By law' is expressed as 'de réir dlí' ('in accordance with law') in the Irish text, 'de réir' being translated as 'in accordance with' in *Téarmaí Dlí* – note how 'by law' is expressed directly as 'le dlí' in Article 18.6, for example.
- 2 The Irish text has a capital 'o' in 'Ollscoil' while the English text has a lower-case 'u' in 'university', having a capital 'U' in Article 18.6.
- 3 While 'invoke' is translated as 'agair' in the Acts, as above, this is the Irish legal term for 'sue'.
- 4 As we have seen in some other Articles, 'Nothing shall ...' is expressed in the Irish text as 'ní cead' ('it is not permitted ...').

**Commentary**

*toirmeasc* This headword is translated as 'inhibition' in *Téarmaí Dlí*, with 'ordú toirmisc' translated as 'prohibition order' and the verb 'toirmiscim' translated as 'I prohibit'.

*Ó Dónaill* translates 'toirmeasc a chur ar dhuine (faoi) rud a dhéanamh' as 'to prohibit someone from doing something' and *Dinneen* translates 'cuirim toirmeasc ar' as 'I obstruct, challenge'. DIL translates 'tairmescc', verbal noun of 'do-airmesca', as 'hindering, restraining, preventing, prohibiting', citing 'guide dée cen nach tairmescc ó dethiden in betho' ('to pray God without any interruption from the care of the world') from the eighth-century Würzburg Glosses on the Pauline Epistles, and 'nár chuir in rí toirmesc orra fo gabáil triasan fFrainc' (i.e. the king did not hinder/prevent them from going through France) from Ó Cianáin's *Flight of the Earls*. See the commentary on Article 40.4.6<sup>o</sup>, where 'prohibit' is expressed by the verb 'toirmisc'.

'Toirmeasc a chur le' is used here rather than the simple verbal noun, 'a thoirmeasc', as we also have the verbal noun 'a lánscore' in the subsection – otherwise this would read as 'chun Ollscoil a luaitear i bhfo-alt 1<sup>o</sup> den alt seo a lánscore de réir dlí a thoirmeasc'; if 'dissolution' were not followed by 'by law', one could translate this as 'chun lánscore ollscoile a luaitear i bhfo-alt 1<sup>o</sup> den alt seo a thoirmeasc'.

Looking at early Acts, 'Prohibit the importation and exportation of all goods' is translated as 'Gach earra no aon tsaghas earra do chosc ar theacht isteach' in s13(1)(a) of the Adaptation of Enactments Act, 1922. In s7(1) of the School Attendance Act, 1926, however, 'prohibit or restrict the employment of such children in particular occupations' is translated as 'fostú leanbh den tsórt san do thoirmeasc no do shriana i ngnóthaí áirithe'. 'Prohibition of withdrawal or discontinuance of services' is translated as 'Toirmeasc ar sheirbhísí do tharrac siar no eirghe asta' in the Margin Title of s5 of the Railways (Road Motor Services) Act, 1927.

Looking at modern Acts, 'An Act to prohibit the inducing of persons to participate in pyramid selling schemes' is translated as 'Acht á thoirmeasc daoine a aslú chun bheith páirteach i scéimeanna stuaic-dhíola' in the Long Title of the Pyramid Selling Act, 1980. 'To prohibit the mortgager from selling ... the ownership or possession of any stock comprised therein' is translated as 'chun a thoirmeasc ar an morgáisteoir úinéireacht ... aon stoic a chuimsítear ann a dhíol' in s27(1)(a) of the Agricultural Credit Act, 1978.

*a lánscore* Looking at 'dissolution' in early Acts, 'on the death of his wife or the lawful annulment or dissolution of his marriage' is translated as 'ar fháil bháis dá mhnaoi no ar a phósa do chur ar neamh-ní no do bhrise go dleathach' in s2(2) of the Army Pensions Act, 1923. 'The lawful dissolution of the marriage' is translated as 'an pósa do scur go dleathach' in s22(1) of the Army Pensions Act, 1927. See the commentary on Article 13.2.1<sup>o</sup> regarding 'dissolution' in later Acts. See also the commentary on Article 18.8.

*a agairt* The verbal noun of 'agair', translated as 'plead, entreat' in *Ó Dónaill*, who cites the sense of 'sue' in Jurisprudence, 'agraim' being translated as 'I sue' in *Téarmaí Dlí*. *Dinneen* cites 'agraim congnamh, I invoke aid', also translating 'agraim' as 'I claim; I sue'. DIL gives examples of the compound verb 'ad-gair' in the sense of 'sues, prosecutes, impleads, accuses', from the eighth-century Würzburg Glosses onwards, citing 'dá ngéar-agra / an troigh 'san taobh' ('if Thou bringest against me the

wounding of Thy foot and side') from a miscellaneous collection of Classical Irish religious poems. 'Acrae' was the original verbal noun of 'ad-gair'; in his *Guide to Early Irish Law* (p. 190, n. 3), Fergus Kelly notes that 'acrae is verbal noun of *ad-gair* lit. "calls to" i.e. "sues, takes legal action"'. See further the commentary on Article 40.4.6°. *De Bhaldráithe* translates 'invoke' as 'agraim, impím, guím (Dia)'.

'To invoke or rely on any views expressed ... by the other party' is translated as 'aon bharúlacha a nocht an páirtí eile ... a agairt ná seasamh orthu' in Article 35 of the Second Schedule to the Arbitration Act, 1980. 'Members agree not to invoke the obligations of any engagements' is translated as 'Comhaontaíonn na comhaltaí nach ndéanfaid oblagáidí aon tsocruithe d'agairt' in s5 of Article VII of the Bretton Woods Agreements Act, 1957. See further the commentary on Article 40.4.6°.

Note that Article 28.3.3° of the Constitution commences as follows: '*Ní cead aon ní dá bhfuil sa Bhunreacht seo a agairt chun aon dlí dá n-achtaíonn an tOireachtas a chur ó bhail ....* Nothing in this Constitution shall be invoked to invalidate any law enacted by the Oireachtas'. 'Provided, however, that nothing in this Article contained shall be invoked to prohibit, control or interfere with any act' is translated as 'Ar choinníoll, ámh ... ná gairmfear éinní dá bhfuil san Airteagal so chun aon ghníomh ... do chosg, do smachtú ná do thoirmeasg' in Article 6 of the 1922 Constitution.

*Ní cead* See the commentary on Article 9.1.3°. Professor Máirtín Ó Murchú remarks, regarding the translation below, that the future is somewhat unsuitable as no one knows whether it **will** or **will not** ("an ndéanfar nó nach ndéanfar") be invoked. According to Professor Ó Murchú, 'shall' here is an order or an exhortation and he recommends 'ní cóir', 'ní cuí' or the imperative, 'ná déantar', as a translation of 'shall' in this context.

### Direct translation

Ní dhéanfar<sup>1</sup> aon ní san Airteagal seo a agairt chun toirmeasc a chur le hollscoil a luaitear i bhfo-alt 1° den alt seo a dhíscaoileadh<sup>2</sup> le dlí.

#### Variants

- 1 'Ná déantar'
- 2 'a scor'

## ARTICLE 18.5 AIRTEAGAL 18.5

### TÉACS GAEILGE

Gach toghchán dá mbeidh ann do na comhaltaí a thoghfad do Sheanad Éireann is de réir na hionadaíochta cionúire a dhéanfar é agus ar mhodh an aonghutha inaistrithe, le rúnbhallóid phoist.

#### LITERAL ENGLISH TRANSLATION

Every election that there will be for the members who will be elected to Seanad Éireann it is in accordance with proportional representation that it will be done and in the manner of the single transferable vote, by secret postal ballot.

### ENGLISH TEXT

Every election of the elected members of Seanad Éireann shall be held on the system of proportional representation by means of the single transferable vote, and by secret postal ballot.

### Divergences between the official texts

- 1 'On the system of proportional representation by means of the single transferable vote' is expressed as 'de réir na hionadaíochta cionúire ... agus ar mhodh an aonghutha inaistrithe' ('in accordance with proportional representation **and** by means of the single transferable vote') in the Irish text, as we have seen in Article 12.2.3°.
- 2 'Shall be held on the system of proportional representation' is expressed as 'is de réir na hionadaíochta cionúire a dhéanfar é' ('will be done in accordance with proportional representation'), with 'system' not being specifically expressed in the Irish text.
- 3 '**And** by secret postal ballot' is expressed as 'le rúnbhallóid phoist' ('by secret postal ballot') in the Irish text.
- 4 'Election of the elected members' is expressed as 'toghchán ... do na comhaltaí a thoghfad' ('election for the members who will be elected') in the Irish text.

### Commentary

*de réir na hionadaíochta cionúire* See the commentary on Article 12.2.3°.

*ar mhodh an aonghutha inaistrithe* See the commentary on Article 12.2.3°.

*le rúnbhallóid* See the commentary on Article 12.2.3°.

*dá mbeidh ann* See the commentary on Article 13.3.2° regarding 'dá'.

### Direct translation

Is de réir chóras na hionadaíochta cionúire ar mhodh an vóta aonair inaistrithe a dhéanfar gach toghchán de chomhaltaí tofa do<sup>1</sup> Sheanad Éireann, agus le rúnbhallóid phoist.<sup>2</sup>

#### Variants

- 1 'toghchán do na comhaltaí a thoghfad do', 'toghchán ar chomhaltaí tofa'
- 2 'Is de réir chóras na hionadaíochta cionúire ar mhodh an vóta aonair inaistrithe, agus le rúnbhallóid phoist, a dhéanfar gach toghchán de chomhaltaí tofa do Sheanad Éireann.'

## ARTICLE 18.6 AIRTEAGAL 18.6

### TÉACS GAEILGE

Na comhaltaí a thoghfad do Sheanad Éireann ag na hOllscoileanna is de réir toghchórais, agus ar an modh, a shocrófar le dlí a thoghfad iad.



**LITERAL ENGLISH TRANSLATION**

The members who will be elected for Seanad Éireann by the Universities it is in accordance with an electoral system, and in the manner, which will be provided by law that they will be elected.

**ENGLISH TEXT**

The members of Seanad Éireann to be elected by the Universities shall be elected on a franchise and in the manner to be provided by law.

**Divergences between the official texts**

- 1 'The members ... to be elected' is expressed as 'Na comhaltai a thoghfar' ('The members who will be elected') in the Irish text, 'The members of Seanad Éireann to be elected by the Universities' being expressed as 'Na comhaltai a thoghfar do Sheanad Éireann ag na hOllscoileanna' ('The members who will be elected to Seanad Éireann by the Universities').
- 2 As in Article 18.4.2°, 'on a franchise' is expressed as 'de réir toghchórais' ('in accordance with an electoral system / franchise') in the Irish text.

**Commentary**

*ar an modh, a shocrófar le dlí* 'To have a dispute determined in any other manner provided by law' is translated as 'díospóid a chur á cinneadh ar aon chaoi eile dá bhforáiltear faoin dlí' in s27(3) of the Central Bank Act, 1989. 'All other pledges may be sold by the pawnbroker by sale by public auction in the manner provided by law and not otherwise' is translated as 'féadfaidh an geallbhróicéir gach gealltán eile a dhíol ar cheant poiblí mar a fhoráiltear le dlí, agus ní fhéadfar ar aon dóigh eile' in s6(2)(b) of the Second Schedule to the Pawnbrokers Act, 1964. See the commentary on Article 18.4.2°. Note that we find 'ar an gcuma a shocrófar le dlí' in Article 18.7.1°. See further the commentary on Article 34.1.

*de réir toghchórais* See the commentary on Article 18.4.2°.

**Direct translation**

Na comhaltai de Sheanad Éireann a bheidh le toghadh ag na hOllscoileanna déanfar iad a thoghadh de réir toghchórais agus ar an gcaoi a bhforálfar<sup>1</sup> le dlí.

**Variants**

- 1 'ar an modh a fhorálfar'

**ARTICLE 18.7.1° AIRTEAGAL 18.7.1°****TÉACS GAELGE**

Roimh gach olltoghchán do na comhaltai do Sheanad Éireann a thoghfar as rollai d'iarrthóirí cóireofar ar an gcuma a shocrófar le dlí cúig rolla d'iarrthóirí ar a mbeidh ainmneacha daoine ag a mbeidh eolas agus cleachtadh ar na gnóthaí agus na seirbhísí seo a leanas faoi seach:-

**LITERAL ENGLISH TRANSLATION**

Before each general election for the members for Seanad Éireann who will be elected from rolls of candidates there will be arranged in the manner (that will be) provided by law five rolls of candidates on which will be names of people who will have knowledge and practice of the following affairs and services respectively:-

**ENGLISH TEXT**

Before each general election of the members of Seanad Éireann to be elected from panels of candidates, five panels of candidates shall be formed in the manner provided by law containing respectively the names of persons having knowledge and practical experience of the following interests and services, namely:-

**Divergences between the official texts**

- 1 'Interests' is expressed as 'gnóthaí' ('affairs', 'businesses') in the Irish text.
- 2 'Faoi seach' ('respectively') seems to qualify 'the following interests and services' in the Irish text, while 'respectively' appears to refer to 'the names of persons' in the English text.
- 3 'Namely' is not specifically expressed in the Irish text.
- 4 'Practical experience' is expressed by 'cleachtadh' ('practice') in the Irish text, though this term does have something of the sense of 'practical experience'.
- 5 'Formed' is expressed in the Irish text by the same term as expresses 'constituted' in the same context in Article 18.4.1°iii, i.e. 'cóirigh', which is generally translated as 'arrange'.
- 6 As in Article 18.4.1°iii, 'panel' is expressed by 'rolla' ('roll') in the Irish text.
- 7 'The members of Seanad Éireann' is expressed as 'na comhaltai do Sheanad Éireann' ('the members for Seanad Éireann') in the Irish text.
- 8 'To be elected' is again expressed as 'a thoghfar' ('who will be elected') in the Irish text.

**Commentary**

*cóireofar* See the commentary on Article 18.4.1°iii. 'By appointing not less than five persons ... to form such panel' is translated as 'tré chúigear ar a laighead ... do cheapadh ... chun bheith ina bpainéal den tsórt san' in s24(1) of the Horse Breeding Act, 1934. In s45(3) of the Juries Act, 1927, 'and thenceforth form part of the panel' is translated as 'agus beidh sé ina chuid den phainéal san as san amach'. In s3(1) of the County Courts (Amendment) Act, 1923, 'it is not possible to form a sufficient panel from such book' is translated as 'nách féidir ainmliost is leor do dhéanamh as an leabhar san'.

*ar a mbeidh* Note that 'the panel required by the said sub-section 1° to contain the names of persons having knowledge and practical experience of the following interests and services, namely ...' is translated as 'an rolla gur gá do réir an fho-ailt sin 1° ainmneacha daoine go n-eolas agus cleachtadh ar na gnóthaí agus na seirbhísí seo leanas do bheith air, eadhon' in s4(1) of the Seanad Electoral (Panel Members) Act, 1937. Note also that, as in that Act, 'namely' is specifically expressed as 'eadhon' in Article 18.4.2°.

*eolas* This headword is translated principally as 'knowledge' in *Ó Dónaill*, who cites '*tá eolas ar an obair aige*, he knows the work'. *Dinneen* includes 'practical or business knowledge, experience', along with 'knowledge, learning, skill, information' s.v. 'eolas' – 'information' being generally translated as 'faisnéis' rather than as 'eolas' in the modern Acts – translating '*tá eolas agam ar*' as 'I know'. DIL translates 'eólas' principally as 'knowledge, information, especially knowledge gained by experience or practice, acquaintance', citing examples from the Glosses of the ninth century onwards, the earliest cited example of 'eólas' with 'ar' being from Keating's seventeenth-century *Three Shafts of Death*. See further the commentary on Articles 28.5.2° and 40.3.3°.

'By reason of a practical, commercial or technical knowledge of agriculture or a special local knowledge of agricultural matters' is translated as 'mar gheall ar eolas praiticiúil, trádálach nó teicniúil ar an talmhaíocht nó eolas speisialta áitiúil ar chúrsaí talmhaíochta' in s26(1)(c) of the Agriculture (An Chomhairle Oilíúna Talmhaíochta) Act, 1979. See further the commentary on Article 34.5.1°.

*cleachtadh* 'Practice, experience' is the secondary sense of 'cleachtadh' in *Ó Dónaill*, who cites '*cleachtadh oibre, ceirde*, practical experience of work, of a trade' and '*tá cleachtadh fada ar an tiomáint aige*, he has long experience of driving'. *Dinneen* translates 'cleachtadh' as 'wont, habit, custom, ... practice, experience'. 'Cleachtad', verbal noun of 'clechtaid', is translated as (a) 'act of putting into practice' and (b) 'state of being accustomed to; usual practice' in DIL, with no examples of the verbal noun, or of the verb (or of 'clecht' ['custom, wont'] on which the verb is based), cited from the earlier sources. Professor Máirtín Ó Murchú recalls the lines 'nior chleacht sinn siobhal oidhche / ná imirt arm bhfaobhairthe' (*Dioghluim Dána*, 67.5) by Gofraidh Fionn Ó Dalaigh. Incidentally, 'cleachtaim' translates 'I practise' in *Tearmaí Dlí*, with 'cleachtas' translating 'practice' ('*cleachtais éillitheacha*, corrupt practices').

The knowledge and experience necessary for the efficient performance of those duties' is translated as '(ar) an eolas agus ar an taithí is gá chun na dualgaisí sin do chólíona' in s9 of the Local Authorities (Officers and Employers) Act, 1926. 'Experience and practical knowledge' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cleachta agus eolas' in a 'Miscellaneous Report', 1926.

Turning to the modern Acts, in the Schedule to the Liability for Defective Products Act, 1991, 'at the expiry of a period of sufficient length to gather practical experience on the effects of these derogations' is translated as 'ar thréimhse leorfhada a bheith caite chun taithí phraiticiúil a fháil ar éifeachtaí na maoluithe sin'. 'A person having practical experience or special knowledge of the matters relating to the functions of the Board' is translated as 'duine ag a bhfuil taithí phraiticiúil nó eolas speisialta ar na hábhair a bhaineann le feidhmeanna an Bhoird' in s42(1)(a) of the Medical Practitioners Act, 1978. 'Mar gheall ar eolas speisialta no taithí do bheith aige ar na nithe' translates 'by reason of his special knowledge or practical experience of the matters' in s10(1) of the Waterford City Management Act, 1939, 'de dhaoine go n-eolas speisialta no go dtaití phraiticiúil' translating 'of persons of special knowledge or practical experience' in s45(2) of the Town and Regional

Planning Act, 1934.

Note that *Dinneen* includes 'practical knowledge, experience' s.v. 'taithighe', translating '*tá taithighe agam ar*' as 'I am familiar with, have practical knowledge of'. *De Bhaldraithe* translates 'practical experience' as 'cleachtadh ar obair'.

*gnóthaí* 'Interests' is similarly expressed in paragraph ii of this subsection. Note, however, that 'professional interests' is expressed as 'gairmeacha' in paragraph i. 'Gnóthaí oifigiúla' expresses 'official purposes' in Article 8.3 and 'gnóthaí' expresses 'affairs' in Article 44.2.5°.

'Gnóthaí' is the plural of 'gnó', which is translated principally as 'business' in *Ó Dónaill*, with 'áitreabh gnó' and 'ráiteas gnó' being translated respectively as 'business premises' and 'statement of affairs' in *Tearmaí Dlí*. *Dinneen* translates 'gnó' as 'business, affair, commerce, occupation, duty, concern' – see the commentary on Article 8.3. The earliest example of 'gnó' cited in DIL comes from the twelfth-century manuscript, the *Book of Leinster*, where we find the following lines in a poem on Binbane, Co. Donegal: 'Co rothóed in bó-sin / dá lóeg ar in lúth-sin, / gnó garb, nárbu gnáth-sin' ('That cow dropped two calves by reason of her haste [a sore business, and a strange one]' – see Edward Gwynn, *The Metrical Dindsheanas*, Part iv, 1924, pp. 170-71).

'Any monument which in the opinion of the Land Commission is of archaeological interest' is translated as 'aon chomhartha cuimhne go mbeadh suim ag ársadóirí ann dar le Coimisiún na Talmhan' in s47 of the Land Act, 1923. In s46(7) of the same Act, 'on the application of the Land Commission or any person interested' is translated as 'ar iarratas a theacht o Choimisiún na Talmhan no o éinne le n-a mbaineann an scéal', with 'that it is to the advantage of the persons interested in the holding' translated as 'go raghadh sé chun tairbhe do sna daoine go bhfuil cál acu chun an ghabháiltais'. 'And shall be held by the said Council for the same estate, interest and purposes ... for which such property should be held by law' is translated as 'agus sealbhóidh an Chomhairle sin an mhaoin sin i gcóir an estáit, an leasa agus na gcrícheanna gcéanna san ... gur ina gcóir ... ba chóir an mhaoin sin do shealbhú' in s7(2)(a) of the Local Government (Temporary Provisions) Act, 1923. 'Any valid private interest therein' is translated as 'aon cheart dlísteanaigh príobháideach na leith' in Article 11 of the 1922 Constitution.

Turning to modern Acts, 'Material interests in offshore funds' is translated as 'Leasanna ábhartha i gcistí eischósta' in the Margin Title of s65 of the Finance Act, 1990. In s6(2)(i) of the Radio and Television Act, 1988, we find the following:

... the extent to which the service proposed ... serves recognisably local communities and is supported by the various interests in the Community, or ... serves communities of interest ... *a mhéid a dhéanann an tseirbhís bheartaithe ... freastal ar phobail is inaitheanta mar phobail áitiúla agus a mhéid atá tacaíocht aici ó na leasanna éagsúla sa phobal, nó ... freastal ar phobail chomhleasa.*

Finally, 'furthering by all legitimate means the interests of the said profession and of its members' is translated as 'leasanna na gairme sin agus a comhaltá a chur chun cinn ar gach bealach cóir' in s3(a) of the Institution of

Civil Engineers of Ireland (Charter Amendment) Act, 1969.

Note that in *Téarmaí Dlí* 'interest (i.e. beneficial, etc.)' is translated as 'leas'.

*seirbhísí* 'Obair agus seirbhísí a rinneadh' is translated as 'work done and services rendered' in *Téarmaí Dlí*, 'seirbhís' being translated principally as 'service' in *Ó Dónaill* and *Dinneen*. 'Seirbis' is an English or Romance loanword, according to DIL, where this headword is translated principally as 'the service (of God, of a ruler)', with secondary senses of 'service, ministration, piece of work; profit, advantage' and 'a church service'.

'Seirbhísí soláthair' translates 'supply services' in the Margin Title of s4 of the Appropriation Act, 1929, for example. 'For the provision of sound broadcasting services and a television programme service additional to the services provided by Radio Telefís Éireann' is translated as 'chun seirbhísí craolacháin fuaime agus seirbhís clár teilifíse de bhreis ar na seirbhísí a sholáthraíonn Radio Telefís Éireann a chur ar fáil' in the Long Title of the Radio and Television Act, 1988.

*faoi seach* See the commentary on Article 22.1.2°. In the translation below, Professor Máirtín Ó Murchú remarks that 'faoi seach'/'respectively' has no meaning in this position in the sentence, as against 'faoi seach' in the official Irish text above, and recommends substituting 'faoi seach' for 'eadhón' below.

*ar an gcuma* See the commentary on Article 18.4.1°iii and note that we find 'ar an modh a shocrófar le dlí' in the previous section.

*rollaí* See the commentary on Article 18.4.1°iii.

### Direct translation

Roimh gach olltoghchán do na comhaltaí de Sheanad Éireann a bheidh le toghadh ó na painéil d'iarthóirí, bunófar ar an gcaoi a bhforálfar<sup>1</sup> le dlí<sup>2</sup> cúig phainéal d'iarthóirí ina mbeidh, faoi seach, ainmneacha daoine a mbeidh eolas agus taithí phraiticiúil acu ar na leasanna agus na seirbhísí seo a leanas, eadhón:-

#### Variants

- 1 'ar an modh a fhorálfar'
- 2 'cuirfear cúig phainéal iarthóirí le chéile ar an gcaoi a bhforálfar le dlí'

## ARTICLE 18.7.1°i AIRTEAGAL 18.7.1°i

### TÉACS GAELGE

- i An Ghaeilge agus an tSaíocht Náisiúnta, Litríocht, Ealaíonacht, Oideachas agus cibé gairmeacha a léireofar le dlí chun críche an rolla seo;

### LITERAL ENGLISH TRANSLATION

- i Irish and the National Intellectual Tradition, Literature, Art, Education and whatever professions will be set out / defined by law for the purpose of this roll;

### ENGLISH TEXT

- i National Language and Culture, Literature, Art, Education and such professional interests as may be defined by law for the purpose of this panel;

### Divergences between the official texts

- 1 'Professional interests' is expressed as 'gairmeacha' ('professions') in the Irish text, 'interests' being expressed by 'gnóthaí' ('affairs') earlier in this subsection.
- 2 'Defined' is expressed as 'léiriú' in the Irish text, the meaning of which extends over the range 'clarify-illustrate-set out-arrange'.
- 3 'National Language' is expressed simply as 'An Ghaeilge' ('The Irish Language') in the Irish text, even though Article 8 commences as follows: 'The Irish language as the **national language** ...', '*Ós í an Ghaeilge an teanga náisiúnta*'. In the Irish text, the word 'saíocht' alone is qualified by 'Náisiúnta' ('National'), though syntactically 'National' in the English text could be taken as qualifying all subsequent nouns. The Irish 'saíocht' (see Old Irish 'suíthe'), 'learning, learned/intellectual tradition, intellectual mastery', has a more exclusive meaning than 'culture', and its use, according to Professor Máirtín Ó Murchú, shows that the Irish drafters took 'culture' to mean restrictively 'high culture', as in Article 1; 'cultúr' might have been used for 'culture' more generally.
- 4 'Art' is expressed by a term ('ealaíonacht') which means 'artistry', presumably here meant to express 'practising at a profession'; the primary sense 'art' is rendered by 'ealain' in contemporary Irish.

Note that Article 33 of the 1922 Constitution contains the following:

Before each election of members of Seanad Éireann a panel shall be formed consisting of .... The method of proposal and selection for nomination shall be decided by Dáil Éireann and Seanad Éireann respectively, with special reference to the necessity for arranging for the representation of important interests and institutions in the country .... *Roimh gach toghchán do bhaill Sheanad Éireann déanfar ainm-liost do chur le chéile 'na mbeidh .... Socróidh Dáil Éireann agus Seanad Éireann fé seach an tslí déanfar tairisgint agus togha chun ainmniúcháin, maille le aireachas speisialta do thabhairt don riachtanas atá le hionaduíoacht do sholáthar do leasanna agus d'fhundúireachtaí táchtacha sa dúthaigh.*

### Commentary

*Ealaíonacht* Cited as a variant of 'ealaíontacht' in *Ó Dónaill*, which headword is translated as (1) 'artistry, skilfulness' and (2) 'artfulness, trickery'. *Dinneen* translates 'ealadhantacht' as 'ingenuity, quickness, skill, dexterity, artistic beauty'. 'Ealaíonacht' is an abstract noun based on the earlier 'elada'/'elatha', which renders Latin 'ars', and is translated principally as 'art, science, acquired craft or skill (in general sense or of a specific branch)' in DIL, where the following is cited from the *Annals of Ulster*, s.a. 1498: 'lan do ecna in gach uile eladhain eter dlighedh 7 diaghacht, isigecht 7 ellsaime 7 ealadhain Gaeidhligi air

chena' ('full of knowledge in every science including law, divinity, physic, philosophy and the art of Gaelic [composition] in general').

This word does not appear to be cited from the earlier Irish sources, where 'dán' expresses 'art', with 'fiss', 'sous' and 'airchetul' as synonyms, along with 'elada'. DIL translates 'dán' as I 'a gift, bestowal, endowment, present' ('dán' translates Latin 'donum', 'donatio'); II 'skill in applying the principles of a special science; science; skill applied to the material or subject-matter of art; artistic faculty, art; especially the poetic faculty; the art of poetry' ('dán' also translates Latin 'ars'); III 'a poem, song, verse, rhyme' and IV 'an industrial pursuit of a skilled nature; a craft, trade, business, office, calling, profession' (it translates Latin 'professio'). DIL cites the following from the eighth-century Würzburg Glosses on the Pauline Epistles: 'ropsa airchinnech isin dán sin' ('I have been a leader in that science'). The general admiration for art or skill in early Irish society is expressed in the maxim 'ferr dán orbu' ('an art is better than an inheritance of land') in an early Irish wisdom-text, *Senbríathra Fithail* (see Fergus Kelly, op. cit., p. 3). 'Ferr fer a chiniud' ('a man is better than his birth') is the maxim quoted in an early Irish law-tract which states that elevation of rank may result from man's art ('dán') or husbandry or God-given talent (ibid, p. 12).

'For the salaries ... of the Institutions of Science and Art, Dublin' is translated as 'Chun tuarastail ... na bhFúndúireachtaí Eoluíochta agus Ealadhan i mBaile Átha Cliath' in the Schedule to the Appropriation Act, 1922. 'Ealadhantacht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'art' in the *Proceedings of Dáil Éireann*, 1926, p. 317. 'Ealaín' translates 'art' in modern Acts, with 'and education in art or design' being translated as 'mar aon le hoideachas in ealaín nó i ndearadh' in s3(1) of the National Council for Educational Awards Act, 1979, for example. The genitive plural is found in 'Forais Eolaíochta agus Ealaíon', translating 'Institutions of Science and Art', in the Schedule to the Appropriation Act, 1981, the 'Minister for Arts, Heritage, Gaeltacht and the Islands', for example, being cited in Irish as 'an tAire Ealaíon, Oidhreacht, Gaeltachta agus Oileán'.

*gairmeacha* The plural of 'gairm', which has the secondary sense of 'profession, occupation' in *Ó Dónaill*, who cites 'do ghairm bheatha, one's mission in life' and 'do ghairm a chleachtadh, to follow one's trade', 'call' being the principal and literal meaning of this verbal noun of 'gair'. *Dinneen* includes 'calling, avocation or condition of life, vocation' in his entry s.v. 'gairm', DIL also including 'a calling, employment, profession' as one of the later senses of 'gairm', with only four examples of this sense cited therein, 'act of calling or summoning; a call, summons, cry' being the principal sense. Note that 'garma' is the form in the original text.

'For business trade or professional purposes' is translated as 'chun crícheanna gnótha, céirde no gairme' in s17(1) of the Increase in Rent and Mortgage Interest (Restrictions) Act, 1923. 'Gairmiúil' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'professional' in translations for the Department of Local Government and Public Health. Looking at modern Acts, 'Payments in respect of professional services' is translated as 'íocaíochtaí i leith seirbhísí gairmiúla' in the Margin Title of s26 of the Finance Act, 1990, for example. 'Ciontach i mí-iompar

gairmiúil' translates 'guilty of professional misconduct' in s45(5)(a) of the Medical Practitioners Act, 1978.

See the commentary on 'gnóthaí' above regarding 'interests'.

*a léireofar le dlí* See the commentary on Article 15.3.2°. 'Léirigh' is translated as (1) 'make clear, explain, illustrate' in *Ó Donaill*, citing 'caint a léiriú, to elucidate speech', and (2) 'set in order, arrange', citing 'do chuid oibre, do ghnóthaí, a léiriú, to order one's work, affairs, properly'. *Dinneen* translates 'léirighim' as 'I give rise to, set, arrange; explain, make clear; study, attend to, tend; produce (as a play, *recent*)', citing 'léirigh sé amach fiche cúis, he produced twenty reasons'. DIL translates 'léirigid(ir)' as 'is diligent about, tends, attends to; makes clear (?)', with no examples being cited from the earlier sources, this verb being based on 'léir', of which we have examples in the sense of 'assiduous, earnest, careful, zealous' in the Glosses of the ninth century, this adjective later having the sense of 'visible, perceptible'.

Note that 'and such professional interests as may be defined by law' is translated as 'agus pé gairmeanna míneofar le dlí' in s4(1) of the Seanad Electoral (Panel Members) Act, 1937. 'As defined by section 95' is translated as 'mar a mhínítear le halt 95' in s121 of the Finance Act, 1990. 'In ... a capacity which constitutes such person as a skilled worker as defined by such order' is translated as 'i gcáil inar oibrí oilte mar a mhínítear leis an ordú sin an duine sin' in s233(1)(b) of the Social Welfare (Consolidation) Act, 1981.

*an tSaíocht Náisiúnta* See the commentary on Article 1. Note that 'Náisiúnta' has an initial lower-case 'n' in the original text.

### Direct translation

- i An Teanga agus an Cultúr Náisiúnta, an Litríocht, an Ealaín, an tOideachas agus cibé leasanna gairmiúla a mhíneofar<sup>1</sup> le dlí chun críche an phainéil seo;

### Variants

- 1 'a shainmhíneofar'

## ARTICLE 18.7.1<sup>o</sup>ii, iii

### AIRTEAGAL 18.7.1<sup>o</sup>ii, iii

#### TÉACS GAELIGE

- ii Talmhaíocht, maille le gnóthaí a bhaineas léi, agus Iascaireacht;  
iii Oibreachtas, cibé comheagraithe é nó nach ea;

#### LITERAL ENGLISH TRANSLATION

- ii Agriculture, along with affairs which are related to it, and Fishing;  
iii Labour, whether it is formally organised or not;

#### ENGLISH TEXT

- ii Agriculture and allied interests, and Fisheries;  
iii Labour, whether organised or unorganised;

### Divergences between the official texts

- 1 'And allied interests' is expressed as 'maille le gnóthaí a bhaineas léi' ('along with affairs that are related to it') in the Irish text, the same term being used here for 'interests' as in Article 18.7.1<sup>o</sup> rather than the term expressing 'professional interest' in the previous paragraph, 'maille le' ('together with') expressing 'and'.
- 2 'Fisheries' is expressed as a singular 'iascaireacht' ('occupation of fishing') in the Irish text.
- 3 'Comheagraithe', the term expressing 'organised' in the Irish text, literally means 'co-organised', but the prefix 'comh-' here may, according to Professor Máirtín Ó Murchú, be taken to have the force of 'fully, formally'; 'whether organised or unorganised' is expressed as 'cibé comheagraithe é nó nach ea' ('whether it is organised or not').

### Commentary

*Talmhaíocht* This headword is simply translated as 'agriculture' in *Ó Dónaill*, 'gabhaltas talmhaíochta' being translated as 'agricultural holding' in *Téarmaí Dlí*. *Dinneen* translates 'talmhaidheacht' as 'the tilling of land; also earthiness, steadiness, stoutness' (*Ó Dónaill* gives these other senses under a second headword 'talmhaíocht'). 'Earthiness, solidity, firmness' are the only senses of 'talmaidecht' cited in DIL (incidentally, a second headword 'talmaidecht' in DIL is translated as 'epilepsy' ['titimeas' and 'galar Póil' in Modern Irish]). 'Talmaidecht' is based on 'talmaide' (translated as 'terrestrial, of the world', 'earthy' and 'earthy, made of earth' in DIL), which in turn is based on 'talam', examples of which in the general sense of 'earth' are cited from the eighth-century Würzburg Glosses onwards in DIL.

'Expenses of the Ministry of Agriculture' is translated as 'costais na hAireachta um Thalmhuíocht' in the Schedule to the Appropriation Act, 1922. 'Agricultural workers' is translated as 'lucht oibre talmhan' in the *Dáil Order Paper*, 8/4/24. 'The Department of Agriculture and Food' is currently styled 'An Roinn Talmhaíochta agus Bia' in Irish.

*Iascaireacht* This headword is translated as '(trade, method, of) fishing; fishery' in *Ó Dónaill*, who translates 'iascach', verbal noun of 'iasc', as 'fishing; fishery'. 'Ceart iascaigh' is translated as 'fishery (i.e. right of)' in *Téarmaí Dlí*. 'Iascaireacht' is translated as 'fishing, the trade of fisherman' in *Dinneen*, who includes 'act or sport of fishing; begging, ransacking' s.v. 'iascach'. DIL gives examples of 'iascaireacht' ('fishing, act of fishing') from the *Leabhar Breac* ('oc iascairecht') – compiled in 1411 or earlier – onwards, giving examples of 'iascach' in the sense of 'fishing, act of fishing' from the *Tripartite Life of Patrick* ('ic iascuch') – composed at the end of the ninth or beginning of the tenth century – onwards. 'Íascaireacht' is based on 'iascaire' ('fisherman') which in turn, like 'iascach', is based on 'iasc' ('fish'), an example of which is cited in DIL from the ninth-century St Gall Glosses on Priscian.

'Sporting Rights and Fisheries' is translated as 'Cearta Spóirt agus Iascaigh' in s11(3)(a) of the Land Act, 1923. 'Pe'ca áit iascaigh phuiblí no áit iascaigh phriobháidigh é' translates 'whether the same be a public or a private fishery' in s6 of the Fisheries Act, 1924, which Act is cited in Irish

as 'an tAcht Iascaigh, 1924', the Long Title reading as follows:

An Act to amend the law relating to fisheries by prescribing new penalties for certain offences in relation to salmon, trout, and other fisheries, and for other purposes relating to the preservation of the fisheries of Saorstát Éireann. *Acht chun an dlí a bhaineas le hiascach do leasú tré phionóisí nua do leaga amach i gcóir ciontaí áirithe a bhaineas le hiascach bradán, breac, agus iascach eile, agus chun crícheanna eile a bhaineas le hiascach Shaorstáit Éireann do chosaint.*

'The Fisheries (Commissions) Act, 1997' is cited in Irish as 'an tAcht Iascaigh (Coimisiúin), 1997', for example. 'Iascaireacht' translates 'fishing' in the Acts – see s18(1) of the Finance Act, 1978, for example, where "fishery society" means a society ... that all ... of the society's members are persons who are mainly engaged in ... fishing' is translated as 'ciallaíonn "cumann iascaigh" cumann ... gur daoine atá ag gabháil go príomha d'iascaireacht ... comhaltaí uile an chumainn'.

Professor Máirtín Ó Murchú comments that 'iascaireacht' = occupation, while 'iascach' = activity.

*Oibreachas* This headword is translated as 'labour matters' in *Ó Dónaill*, who cites '*an Chúirt Oibreachais*, the Labour Court'. *Dinneen* does not appear to have this headword, which is a derivative of 'obair'.

'Trade, commerce, industry, and labour' is translated as 'trádáil, tráchtáil, tionnsca, agus oibreachas' in s1(viii) of the Ministers and Secretaries Act, 1924, 'Aire Oibreachais' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'Minister of Labour' and 'bureau oibreachais' translating 'labour exchange' (11/3/27). 'And for the labour of military or other prisoners' is translated as 'agus i dtaobh obair na bpríosúnach míleata no na bpríosúnach eile' in s137(2) of the Defence Forces (Temporary Provisions) Act, 1923. 'Hired to perform only subordinate duties or ordinary labour' is translated as 'a tógtar in aimsir chun fo-dhualgaisí amháin do chó-líona no chun gnáth-shaothar do dhéanamh' in s4 of the Schedule to the Civil Service Regulation Act, 1923.

'The Minister for Labour' is styled 'an tAire Saothair' in s146(1)(b)(xii) of the Social Welfare (Consolidation) Act, 1981. 'The Labour Court' is styled 'An Chúirt Oibreachais' in Part II of the First Schedule to the Ombudsman Act, 1980, where 'the Secretariat to the Employer-Labour Conference' is translated as 'An Rúnaíocht don Chomhdháil Fostóirí/Saothraithe'. 'The International Labour Organisation' is cited in Irish as 'An Eagraíocht Oibreachais Idirnáisiúnta' in s16(a) of the Diplomatic Relations and Immunities Act, 1967, and as 'An Eagraíocht Idirnáisiúnta Saothair' in *Maidir le do Littir* (Séamas Daltún, 1970, p. 77). Finally, 'the Labour Party' is styled 'Páirtí an Lucht Oibre' in Irish.

*gnóthaí a bhaineas léi* See the commentary above on 'gnóthaí'. Regarding the old relative in '-eas' in 'a bhaineas léi', see the commentary on Article 6.1, 'a bhaineann léi' being the form of this phrase in the Acts today, where it generally translates 'related'. 'In agricultural and allied sciences' is translated as 'san eolaíocht talmhaíochta agus in eolaíochtaí gaolmhara' in s13(1)(b) of the National Agricultural Advisory, Education and Research Authority Act, 1977. 'By members of professions allied to the medical

profession' is translated as 'ag comhaltai de ghairmeacha atá gaolmhar do ghairm na liachta' in s26(9)(e) of the Social Welfare (Occupational Injuries) Act, 1966.

*comheagraithe* This compound of the prefix 'comh-' (translated principally as 'mutual, joint, common; co-' in *Ó Dónaill*) and the participle of 'eagraigh' ('arrange, organize'), does not appear as a headword in *Ó Dónaill*. 'Cóimheagartha' is translated as 'arranged, set with (*de*)' in *Dinneen*, who translates 'cóimheagar' as 'arrangement, order, array; ornament'. *Ó Dónaill* translates 'comheagar' as 'co-ordination', citing '*comheagar a chur ar rudaí*, to co-ordinate things'. DIL cites two examples of 'comecraid' from the early Middle Irish translation of the *Thebaid* of Statius, *Togail na Tebe* (the form 'rocomecrad', translated as 'was arranged' by the editor, appearing twice within twelve lines of each other in this text, the second citation being 'rocomecrad ... teni'), and two examples of 'ecortha'/'ecairthe' in the sense of 'arranged, ranked' (the first being 'catha eagartha' from the *Battle of Magh Léana*). 'Ecor'/'ecar', verbal noun of 'in-cuirethar', is translated as I 'arranging, disposing, setting in order; arrangement, array (*of persons, places, things*)' and II 'inlaying, adorning; inlaid ornament, decoration' in DIL. In early Irish law, 'ecor' had the sense of 'a putting in, especially of putting or bringing into a territory the symbols of taking possession, making entry', according to DIL. Note that *Ó Dónaill* translates 'eagraigh' as 'arrange, organize', citing '*córas eagraithe*, organized system'. *De Bhaldraithe* translates 'I organize' as 'eagraim', with 'eagrai' translating 'organizer'. See further the commentary on Article 28.12.

'Co-ghléas' translates 'organize' in the early Acts. In s4(1)(b) of the Public Safety Act, 1927, for example, 'fórsa armtha do chó-ghléasa no do chimeád ar bun' translates 'to organize or maintain an armed force'. 'Through the organizations established by or under, and in accord with, this Constitution' is translated as 'trí sna có-ghléasanna a bunófar do réir an Bhun-reachta so no fé no leis' in Article 2 of the 1922 Constitution. Looking at modern Acts, "Fire brigade" means an organised body of persons' is translated as 'ciallaíonn "briogáid dóiteáin" comhlacht eagraithe daoine' in s2 of the Fire Services Act, 1981. 'As a party organised to contest an Assembly election' is translated as 'mar pháirtí atá eagraithe chun bheith san iomaidh i dtoghchán Tionóil' in s8(1) of the European Assembly Elections Act, 1977.

### Standardised Irish text

- ii Talmhaíocht, maille le gnóthaí a bhaineann léi, agus Iascaireacht;
- iii Oibreachas, cibé comheagraithe é nó nach ea;

### Direct translation

- ii An Talmhaíocht maille le leasanna gaolmhara, agus an tIascaich;
- iii Oibreachas, cibé acu Oibreachas eagraithe nó neamheagraithe é;

## ARTICLE 18.7.1<sup>o</sup>iv, v AIRTEAGAL 18.7.1<sup>o</sup>iv, v

### TÉACS GAEILGE

- iv Tionscal is Tráchtáil ar a n-áirítear baincfeireacht, airgeadas, cuntasaiocht, innealtóireacht agus foirgníocht;
- v Riarachán Poiblí agus seirbhísí comhdhaonnacha, agus obair chomhdhaonnach dheonach a áireamh.

### LITERAL ENGLISH TRANSLATION

- iv Industry and Commerce including banking, finance, accountancy, engineering and building-construction;
- v Public Administration and societal services, and including voluntary societal/social work.

### ENGLISH TEXT

- iv Industry and Commerce, including banking, finance, accountancy, engineering and architecture;
- v Public Administration and social services, including voluntary social activities.

### Divergences between the official versions

- 1 'Architecture' is expressed in the Irish text as 'foirgníocht', which Professor Máirtín Ó Murchú recommends translating as 'art of building'.
- 2 'Activities' is expressed as 'obair' ('work') in the Irish text.
- 3 'Voluntary' is expressed by 'deonach' in the Irish text, the term which expresses 'voluntary' in general usage; 'voluntary' is translated as 'saorálach' in *Téarmaí Dlí*, however, and is so translated in the Acts.
- 4 'Including' is expressed as 'ar a n-áirítear' in paragraph iv and as 'agus ... a áireamh' in paragraph v.
- 5 'Social' is expressed by the term 'comhdhaonnach' in the Irish text, as in other Articles; 'sóisialach' or 'sóisialta' are the terms currently used in Irish to express 'social'.
- 6 A comma follows 'Commerce' in the English text, which links 'Industry and Commerce' together, and ensures that it is this unit which is qualified by the sub-clause; there is no corresponding 'comma' in the Irish text.

### Commentary

*foirgníocht* 'Conradh foirgníochta', 'cumann foirgníochta' and 'léas foirgníochta' are translated respectively as 'building contract', 'building society' and 'building lease' in *Téarmaí Dlí*. 'Foirgníocht' is translated as '(art, trade, of) building' in *Ó Dónaill*. It does not appear to be given as a headword in *Dinneen* nor in DIL, the latter source, however, providing examples of 'fornem'/'fornam' (Modern Irish 'foirgneamh'), translated as 'the act of building, hence a building, structure', from the twelfth-century *Book of Leinster* onwards, translating '(mur) fear ... dheunta foirgnidh' (in O'Molloys *Lucerna Fidelium*, 1676) as 'an architect'. See further the introductory essay to this study on this term.

In contemporary Irish, the regular expression of 'architect', 'architecture' are the long-established 'aittire', 'aitli-

reacht', and these words also appear in modern legislation. In s1 of the Copyright (Amendment) Act, 1987, 'other than such a work relating to a work of architecture' is translated as 'seachas saothar den sórt sin a bhaineann le saothar ailtireachta'. 'A committee to advise on painting, sculpture and architecture' is translated as 'coiste a thabharfaidh comhairle maidir le péintéireacht, snoíodóireacht agus ailtireacht' in s11(1)(a) of the Arts Act, 1973, with 'péintéireacht, snoíodóireacht, ailtireacht' translating that same trio in s1 of the Arts Act, 1951. In s22(3) of the National Monuments Act, 1930, 'having practical experience or special knowledge of or interest in architecture' is translated as 'taithí agus cleachta no eolas speisialta do bheith aige ar ailtireacht'. The Margin Title of s162 of the Industrial and Commercial Property (Protection) Act, 1927, 'Restriction on remedies in the case of architecture', is translated as 'Srian le leighseanna i gcás ailtireachta'.

Note, finally, that 'foirgníocht' of the Constitution is followed in s4 of the Seanad Electoral (Panel Members) Act, 1937, and in s3(1) of the Seanad Electoral (Panel Members) Act, 1947.

*dheonach* 'Deonach' is translated as 'voluntary; agreeable, willing' in *Ó Dónaill*, who cites '*gníomh deonach*, voluntary act'. *Dinneen* adds 'content' to *Ó Dónaill*'s translations above, citing '*let thoil dheonaigh*, of your free will'. The *Gaelic abridgment of the book of Ser Marco Polo* provides the only example of 'deónach' cited in DIL, where it is translated as 'willing, voluntary' ('umla dheonach'). This adjective is based on 'deóin', translated as 'will, pleasure, consent' in DIL, where 'd'á ndeóin is fear an aicme' ('the tribe is best when acting of their own will') is cited from O'Donovan's *Genealogies, Tribes and Customs of Hy-Fiachrach* (1844).

'Persons from the voluntary sector supporting travelling people' is translated as 'daoine ón earnáil dheonach i dtacaíocht leis an lucht siúil' in the *Programme for a Partnership Government*, 1993-97, p. 36, 'an earnáil dheonach' being the established term for 'voluntary sector'. 'Voluntary' is translated as 'saorálach' in *Téarmaí Dlí*, however, where 'voluntary conveyance', 'voluntary payment' and 'voluntary settlement' are translated respectively as 'tíolacas saorálach', 'íocaíocht shaorálach' and 'socraíocht shaorálach'. 'Voluntary liquidation' and 'voluntary winding up', however, are translated respectively as 'leachtú toilteanach' and 'foirceannadh toilteanach', while 'voluntary waste' is translated as 'diomailt ghníomhach'. 'Saorálach' is translated as 'voluntary', following the abbreviation for 'Jurisprudence', in *Ó Dónaill*, with the secondary sense of 'free, unconstrained'. This word does not appear as a headword in *Dinneen*, but Professor Máirtín Ó Murchú points out that it is listed among compounds of 'saor-' in the form 'saor-dhálach'.

'Persons employed by voluntary organisations which are providing district nursing services' is translated as 'daoine ar fostú ag eagrais shaorálacha a sholáthraíonn seirbhísí altránais áitiúla' in s7(1)(j) of the Social Welfare (Consolidation) Act, 1981, for example, with 'daoine ar fostú in ospidéal shaorálacha' translating 'persons employed in voluntary hospitals' in s7(1)(i). 'Bainisti ospidéal saorálacha' translates 'the management of voluntary hospitals' in s41(c) of the Health Act, 1953. 'A body which represents or promotes the formation of co-operative groups or voluntary associations which have as an object the provision of

houses' is translated as 'comhlacht a dhéanann ionadaíocht do chomhar-ghrúpaí nó do chomhlachais shaorálacha ar cuspóir dóibh títhe a sholáthar nó a thionscnaíonn foirmiú na ngrúpaí nó na gcomhlachas sin' in s3(2) of the Housing (Miscellaneous Provisions) Act, 1979.

While 'voluntary contributions' is translated as 'ranníocaí saorálacha' in s2(3) of the Social Welfare (Consolidation) Act, 1981, for example, 'make a contribution towards the maintenance of any Trained Nurse in the District who is maintained from voluntary contributions' is translated as 'féadfaid cabhrú chun aon Bhanaltra Thréineálta sa Cheanntar do chimeád suas, Banaltra a cimeádar suas le bronntanaisí féile' in s87 of the 'Tirconaill County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. While 'authorise any voluntary aid society' is translated as 'a údarú d'aon chumann um chabhair dheontach' in s3 of the Red Cross Act, 1938, in Article 26 of the First Schedule to the Geneva Conventions Act, 1962, 'The staff ... of other voluntary aid societies' is translated as 'an fhoireann le cumainn chabhrach saorálaí eile'. Note, finally, that 'whether compulsory or voluntary' is translated as 'go héigeanta no go toilteanach' in s1(2)(b) of the Companies (Re-Construction of Records) Act, 1924, with 'obair in aisce' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'voluntary work' in a Report of the Public Accounts Committee, 1928.

*cuntasaíocht* This abstract noun is given as a variant of the headword 'cuntasóireacht' in *Ó Dónaill*, 'cuntasóireacht' being translated as (1) 'accountancy' and (2) 'book-keeping'. *Dinneen* does not appear to have either form as a headword, translating 'cunntasóir' as 'an accountant', followed by the abbreviation for 'recent'. 'Cuntas', on which 'cuntasaíocht'/'cuntasóir(eacht)' are based, comes from Anglo-Norman 'cuntes', and is translated as '(ac)count, reckoning, computation' in DIL, where 'ar chionn an chonntais', from a miscellaneous collection of Classical Irish poetry, is translated as 'when all is said and done' – Professor Máirtín Ó Murchú translates that phrase as 'the bottom line'!

'A recognised qualification in accountancy' is translated as 'cáilíocht aitheanta i gcuntasaíocht' in s17(3)(a) of the Central Bank Act, 1971, for example, with 'in accordance with good accountancy practice' being translated as 'de réir dea-chleachtais chuntasaíochta' in s12(f) of the Sixth Schedule to the Companies Act, 1963. In s11 of the 'Leitrim County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'after a qualifying examination at which Irish and Accountancy shall be obligatory subjects' is translated as 'tar éis scrúdú tástála do sheasamh ina mbeidh Gaedhilg agus Cúntasóireacht ina n-abhair oblagáideacha'. 'Cuntasaíocht' translates 'accountancy' in the *Proceedings* of Seanad Éireann, 28/11/23, though this generally translates 'accounting' in the early Acts, with 'i gcóir na tréimhse cuntasaíochta san' translating 'for such accounting period' in s35(7) of the Finance Act, 1924, for example.

*Tionscal* This headword is translated as 'industry' in *Ó Dónaill*, who cites '*tionscal agus tráchtáil*, industry and commerce'. 'Cumann tionscail agus coigiltis' and 'galar tionscail' are translated respectively in *Téarmaí Dlí* as 'industrial and provident society' and 'industrial disease'. 'Tionscail' is translated as 'initiation, plan, design, project,

instruction, industry, management, initiative' in *Dinneen*, who cites '*cailleach gan tionnscail*, an old woman without an idea'. The Old Irish verb 'do-inscanna' glosses Latin 'incipere' in the eighth-century Würzburg Glosses on the Pauline Epistles, and is translated as (a) 'begins', (b) 'attempts, devises, undertakes' in DIL, 'tinnscetal'/'tinnscna' being the verbal noun of this verb.

'The Minister for Industry and Commerce' is styled 'an tAire Tionscail agus Tráchtála' in s10(a)(ii) of the Finance Act, 1990, for example. 'It is engaged in an industrial activity (including any activity ancillary to industry)' is translated as 'go bhfuil sí ag gabháil do ghníomhaíocht tionscail (lena n-áirítear aon ghníomhaíocht atá coimhdeach do thionscal)' in s4(b)(i) of the Fóir Teoranta Act, 1972. The 'Safety in Industry Act, 1980' is cited in Irish as 'an tAcht um Shábháilteacht i dTionscal, 1980', with 'in respect of housing for employees in industry in the counties of Limerick, Clare ...' being translated as 'maidir le tithíocht d'fhostaithe i dtionscal i gContaetha Luimnigh, an Chláir' in s4(1) of the Shannon Free Airport Development Company Limited (Amendment) Act, 1970. Finally, 'of employers engaged in industry or commerce' is translated as 'd'fhostóirí bheidh ag gabháil do thionscal no do thráchtáil' in s16(3)(c) of the Local Authorities (Combined Purchasing) Act, 1939.

Looking at early official translations, along with 'tiuscal' (= 'tionscal'), there also occurred 'gnó', 'ceardas' and 'ceardasaíocht'. 'The Ministry of Industry and Commerce' is styled '(den) Aireacht um Thiúscal agus Thráchtáil' in the Schedule to the Appropriation Act, 1922, with the 'Industrial and Commercial Property Registration Office' being styled 'Oifig Chláirathachta Maoine Tionscail agus Tráchtála' in the Dáil *Order Paper*, 1928, p. 103. 'Ceardas' translates 'industry' in s2(h) of the Statistics Act, 1926, 'commerce' being translated as 'tráchtáil' in s2(i). 'With a view to aiding the Dairying Industry in Ireland' is translated as 'd'fhonn cabhrú le Gnó na Déiríochta in Éirinn' in the First Schedule to the Creamery Act, 1928. 'Ceardasaíocht' is cited in the *Oireachtas Dictionary of Official Terms* from a Report of the Public Accounts Committee, 1927. Finally, 'Boys on reaching the age of nine years may either be Boarded-out or placed in an Industrial School' is translated as 'Ar aois naoi mbliain do bheith slán acu féadfar garsúin do chur ar altranas no i Scoil Saothair' in s7 of the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923.

*Tráchtáil* This headword is translated as '(act of) tracking; trade, commerce' in *Ó Dónaill*, 'dlí tráchtála' being translated as 'mercantile law' in *Téarmaí Dlí*. 'Tráchtáil' is translated as 'trading, carrying cargoes, freighting (*Aran*), a negotiation, a trade' in *Dinneen*, who cites '*tráchtáil cheannaidheachta*, commerce, trading'. DIL cites 'trácht ceannaidheachta' from Keating's seventeenth-century *History of Ireland* s.v. 'trácht', this headword being translated as 'trade, intercourse; movement, travelling', with Keating's work being the first source cited in DIL of this sense of 'trácht'. According to DIL this may be a development of 'trácht' in the sense of 'discourse, account, mentioned'. 'Trácht' today in this sense is the Modern Irish form of 'tráchtad', verbal noun of 'tráchtaid', which comes from Latin 'tractare', the verbal noun being translated as 'act of discussing; commentary, interpretation' in DIL,

where examples are cited from the ninth-century Milan Glosses on the Commentary on the Psalter onwards.

For citations of 'tráchtáil' from the Acts, see above s.v. 'tionscal'. 'The Department of Industry and Commerce' is styled 'An Roinn Tionscail agus Tráchtála' in s1(vii) of the Ministers and Secretaries Act, 1924. 'A patentee who has commercially worked his invention in Saorstát Éireann' is translated as 'paitinní d'oibrigh a chumadóireacht ar nós tráchtála i Saorstát Éireann' in s56(2) of the Industrial and Commercial Property (Protection) Act, 1927. 'Trade, commerce, domestic economy' is translated as 'trádáil, ceannaíocht, tigheas' in s17(2) of the Local Government (Temporary Provisions) Act, 1923.

*ar a n-áirítear ... a áireamh* 'Áirigh', verbal noun 'áireamh', is translated as 'count, reckon' in *Ó Dónaill* – see the commentary on Articles 15.11.1° and 40.1. 'Áirem' is the verbal noun of 'ad-rími', translated as 'counts, numbers, computes' in DIL, where examples of the present passive, 'adrimther' (sg.) and 'adrimter' (pl.) – forerunners of the Modern Irish passive 'áirítear' – are cited from the ninth-century Milan Glosses on the Commentary on the Psalms. See the commentary on Article 10.1 regarding 'including' in the Acts. Note that 'ar a n-áirítear' is changed to 'le n-a n-áirmhítear' in s4(1) of the Seanad Electoral (Panel Members) Act, 1937, where 'industry and commerce, including banking, finance, accountancy, engineering, and architecture' is translated as 'tionscal agus tráchtáil, le n-a n-áirmhítear bancaeracht, airgeadas, cuntasaíocht, innealltóireacht agus foirgníocht', following Article 18.7.1° of the Constitution in every other respect.

*baincéireacht* 'Cuideachta bhaincéireachta' is translated as 'banking company' in *Téarmaí Dlí*, 'baincéireacht' being translated as '(act of) banking' in *Ó Dónaill*. This does not appear to be given as a headword in *Dinneen*, with 'bannc' being translated as 'a bank (for money); a bank of a stream; a bench, a seat; a bank, as of turf', *Dinneen* citing '*tá airgead sa bhannc aige*, he has money in the bank'.

'Banking or money-lending' is translated as 'baincéireacht nó iasachtóireacht airgid' in s10(4)(b) of the Finance Act, 1990, for example. 'To carry on the business of banking in all or any of its departments' is translated as 'gach roinn no aon roinn de ghnó na bancaereachta do dhéanamh' in s5(t) of the Bank of Ireland Act, 1929. 'From any bank or banking company' is translated as 'o aon bhanc no cuideachta bhancaereachta' in s67 of the Dundalk Harbour and Port Act, 1925.

*airgeadas* This headword is translated as 'finance' in *Ó Dónaill*, who cites '*bliain airgeadais*, financial year'. *Dinneen* does not appear to have this headword, which is based on 'airgead'. 'Airgead' expresses both 'silver' and 'money' in Irish, examples of 'argat' in the sense of the metal 'silver' and as an object of value, currency, being cited in DIL from the ninth-century Milan Glosses on the Psalms – 'cia duberat argat daitiu arasoirad' ('though they give Thee silver for their deliverance') – with 'argat' specifically in the sense of 'money' being cited from the *Annals of Connacht*, s.a. 1252 ('monad nua ... do denam ind Erin 7 trecad in arcit do bi inte air-sin', '*new coin ... to be struck in Ireland ... and the old money to be discarded*').



'The Finance Act, 1999' is cited in Irish as 'an tAcht Airgeadais, 1999', for example, the 'Department of Finance' being currently styled 'an Roinn Airgeadais'. In Article 52 of the 1922 Constitution, 'the Minister in charge of the Department of Finance' is translated as 'an t-Aire i gceannas Roinn an Airgid'. 'The Department of Finance' is styled 'An Roinn Airgid' in s1(ii) of the Ministers and Secretaries Act, 1924. 'Administration, Legal Proceedings and Finance' is translated as 'Riarachán, Imeachtaí Dlíthiúla agus Airgeadas' in the Heading for Chapter 17 of the Social Welfare (Consolidation) Act, 1981. 'Airgeadas' translates the heading 'Finance' in Part 1 of the Land Act, 1923. Note finally that 'as to the possible serious consequences which financial embarrassment may entail to the present and future prospect of the Civil Servant who allows himself to be placed in that position' is translated as 'maidir leis an díobháil mhóir is baolach a tharlódh fé láthair agus ina dhiaidh seo don Stáit-Sheirbhíseach a lomhálfidh do féin gan bheith ábalta ar a fhiacha d'íoc' in *Iris an Phuist*, 4/7/28.

*innealtóireacht* This headword is translated as 'engineering' in *Ó Dónaill* and in *Dinneen*, where it is followed by the abbreviation for 'recent', as is '*innealtóir*', 'an engineer'. 'Indilteoir' is cited in reference to Christ in the *Yellow Book of Lecan* (part of which was written c. 1392), in the sense of 'plotter, deceiver', the Jews so referring to Christ when addressing Pilate – see DIL s.v. 'indil(l)teoir'. While 'inneall' is generally used today in the sense of 'machine, engine', *Ó Dónaill* gives the primary sense of 'arrangement, adjustment, order, array', the earlier form 'indel(l)' being the verbal noun of 'in-lá', translated 'as (a) enters into (a compact), undertakes, arranges, stipulates' and (b) 'casts in, inlays (?)' in DIL, 'indell' having the sense of 'contrivance, device', hence 'snare' and metaphorically 'plot, treachery' among its many senses.

'Radio communications engineering' is translated as 'innealtóireacht chumarsáidí raidió' in s1(5) of the Schedule to the Radio and Television Act, 1988, for example. In s15(4) of the Defence Forces (Temporary Provisions) Act, 1923, 'not being a corps of infantry, cavalry, artillery or engineering' is translated as 'nach cór coisithe, marcraidhe, ordonáis, ná innealtóireachta'. 'Engineer' is translated as 'innleoir' in s41(1) of the Land Act, 1923, with 'sás-eolaí' being given without reference in the *Oireachtas Dictionary of Official Terms*. Note, finally and incidentally, that 'scruinge' translates 'engine' (of a train) in s16 of the Appendix to the Criminal Justice (Administration) Act, 1924, with 'Engine Drivers' and 'Enginemen' being translated respectively as 'Tiománaithe Scruinge' and 'Scruingirí' in the Eighth Schedule to the Railways Act, 1924.

*Riarachán Poiblí* 'Riarachán' is translated as 'administration' in *Téarmaí Dlí* and in *Ó Dónaill*. It does not seem to be given as a headword in *Dinneen*. The verb 'riar' is translated principally as 'administer, manage' in *Ó Dónaill*, with the verbal noun 'riar' being translated as 'administration, management'. The Modern Irish verb 'riar' ranges in sense from 'administer, manage' to 'serve, obey', 'toil Dé a riar' being translated as 'to serve God's will' in *Ó Dónaill*. The principal sense of Old Irish 'riar' is 'will, wish', DIL citing examples of this sense from the Würzburg Glosses of the eighth century onwards; the principal sense of the verb 'riaraid' in DIL is 'does the will of, serves', with the secondary senses of 'ministers to, entertains,

supplies' and 'subdues'. See further the commentary on Articles 28.4.2° and 44.2.5°.

In s7(4) of the Adaptation of Enactments Act, 1922, 'in relation to public administration' is translated as 'a bhaineann le riarra poiblí'. 'Costaisí riarachta' translates 'expenses of administration' in the Schedule to the Appropriation Act, 1922. 'The execution of functions of public administration or public service ... of a local character' is translated as 'feidhmeanna riaracháin phuiblí no seirbhíse poiblí ... de chineál áitiúil d'fheidhmiú' in s7(2)(b) of the Central Bank Act, 1942. Finally, 'for any purpose of public administration' is translated as 'chun aon chriche riaracháin phoiblí' in s34(5)(b) of the Local Government Act, 1991.

*obair* The Irish legal term for 'work' – see the commentary on Articles 3, 45.4.2° and 41.2.2°. Turning to 'activities', 'administration or social, cultural, educational or community activities' is translated as '(ar) riarachán nó ar ghníomhaíochtaí sóisialta, cultúir, oideachais nó pobail' in s1(5) of the Schedule to the Radio and Television Act, 1988, for example, with "Qualifying shipping activities" means activities carried on by a company in the course of a trade translated as 'ciallaíonn "gníomhaíochtaí loingseoireachta cáilitheacha" gníomhaíochtaí arna seoladh ag cuideachta i gcúrsa trádála' in s42(2) of the Finance Act, 1990. Note that in s23 of the 'Mayo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'the areas of whose activities and duties shall be defined later' is translated as 'na ndéanfar líomataístí oibre agus dualgais do leaga amach dóibh níos déanaí'. 'Mar gheall ar a ghníomhartha poiliticiúla' translates 'on account of his political activities' in s7(1) of the Local Government Act, 1933. 'Any matter affecting the general economic and other activities and conditions in Saorstát Éireann' is translated as 'éinní a bhaineann le gníomhachtaí agus cor an tsaoil go generalta i gcúrsaí eonomíochta agus eile i Saorstát Éireann' in s2 of the Statistics Act, 1926. Finally, 'Compensation in the event of injury to persons engaged in air-raid precautions activities' is translated as 'Cúiteamh i gcás díobhála do dhaoine ar bheith ag gabháil dóibh do ghníomhachtaí um réamhchúram in aghaidh aer-ruathar' in the Margin Title of s64 of the Air-Raid Precautions Act, 1939.

See the commentary on Article 15.3.1° regarding 'social' in the Acts, and note that 'economic and social progress in the less-developed countries' is translated as 'ascnamh geilleagrach agus ascnamh sóisialta sna tíortha is lú forbairt' in the Schedule to the International Development Association Act, 1960.

*c(h)omhdhaonnach(a)* See the commentary on Article 15.3.1°.

*seirbhísí comhdhaonnacha* See the commentary on Article 18.7.1°.

### Direct translation

- iv Tionscal agus Tráchtáil, lena n-áirítear<sup>1</sup> baincéireacht, airgeadas, cuntasóireacht, innealtóireacht agus ailtireacht;
- v Riarachán Poiblí agus seirbhísí sóisialacha, lena n-áirítear<sup>1</sup> gníomhaíochtaí sóisialacha saorálacha.

### Variants

- 1 'ar a n-áirítear'

ARTICLE 18.7.2<sup>o</sup> AIRTEAGAL 18.7.2<sup>o</sup>**TÉACS GAELIGE**

Ní cead níos mó ná aon duine dhéag ná, faoi chuimsiú forálacha Airteagail 19 den Bhunreacht seo, níos lú ná cúigear de chomhaltaí Sheanad Éireann a thoghadh as aon rolla áirithe.

**LITERAL ENGLISH TRANSLATION**

It is not permitted to elect more than eleven people nor, within the scope/constraint of the provisions of Article 19 of this Constitution, less than five of the members of Seanad Éireann from any particular roll.

**ENGLISH TEXT**

Not more than eleven and, subject to the provisions of Article 19 hereof, not less than five members of Seanad Éireann shall be elected from any one panel.

**Divergences between the official texts**

- 1 'Eleven (members)' is expressed as 'aon duine dhéag' ('eleven people') in the Irish text.
- 2 'Not ... shall be' is expressed as 'Ní cead' ('It is not permitted to') in the Irish text, as we have seen in some other Articles.
- 3 'And', in 'Not more than eleven and', is expressed as 'ná' ('nor') in the Irish text.
- 4 'Subject to' is expressed as 'faoi chuimsiú' ('within the scope/constraint of') in the Irish text, as in some other Articles, 'faoi réir' rather than 'faoi chuimsiú' translating 'subject to' in *Téarmaí Dlí*.
- 5 'Hereof' is expressed as 'den Bhunreacht seo' ('of this Constitution') in the Irish text.
- 6 As 'aon' expresses both 'any' and 'one' in Irish, 'from any one panel' is expressed as 'as aon rolla áirithe' ('from any particular panel/roll') in the Irish text; as we have already seen in this Article, 'rolla' ('roll') expresses 'panel' in the Irish text.
- 7 'Five members of Seanad Éireann' is expressed as 'cúigear de chomhaltaí Sheanad Éireann' ('five of the members of Seanad Éireann') in the Irish text.

**Commentary**

*áirithe* This adjective is translated as 'certain, particular' in *Ó Dónaill* who cites '*duine áirithe*, a certain person', '*áirithe*' being the participle of '*áirigh*', 'count, reckon'. *Dinneen* translates '*áirithe* (*áirighthe*, *áirmhithe*)' as 'definite, certain, special, particular'. *DIL* gives examples of '*áirithe*', in the sense of 'special, particular, a certain', from *Leabhar na hUidhre* (written in Clonmacnois c. 1100), onwards.

'All or any of the sums due from one person' is translated as 'gach suim nó aon suim a bheidh dlite de aon duine áirithe amháin' in s497(7) of the Income Tax Act, 1967. 'In respect of loss or damage which ... caused on any one occasion to persons or property on land or water by, or by a person in, or an article or person falling from, any one aircraft while in flight' is translated as 'mar gheall ar chailteanas no damáiste thárlóidh ... ar aon ócáid áirithe do dhaoine no do mhaoin ar talamh no ar uisce tré bhíthin

aon aer-árthaigh áirithe no tré bhíthin duine inti, no tré bhíthin earra no duine ag tuitim aisti, agus an t-aer-árthach san ag eiteall' in s24(1) of the Air Navigation and Transport Act, 1936. 'The remission in respect of the emoluments from any one source' is translated as 'an logha i leith na ndíolaíochtaí ó aon bhunadh' in s16(2)(b) of the Finance Act, 1976. 'But may not in any one round give more than one vote to any one candidate' is translated in s6 of the Fourth Schedule to the Currency Act, 1927, as 'ach ní fhéadfa sé níos mó ná aon vóta amháin do thabhairt d'aon iarrthóir aonair in aon chúrsa aonair'.

*faoi chuimsiú forálacha Airteagail 19* See the commentary on Article 12.5 regarding 'faoi chuimsiú' v. 'faoi réir'. According to the official standard, 'forálacha' would be lenited here, following the compound preposition, remaining in the nominative case rather than in the genitive – as is usual after a compound preposition – and 'Airteagal' would similarly remain in the nominative before the number 19. See s4(1) of the Plant Varieties (Proprietary Rights) Act, 1980, for example, where 'subject to the provisions of this Act' is translated as 'faoi réir fhorálacha an Achta seo'. We have seen in the commentary referred to above that 'subject to the provisions of this Act' was translated as 'fé réir forálacha an Achta so' in s1(2) of the Finance Act, 1923; interestingly, this is cited as 'subject to the provisions of –, fé réir fhorálacha –' in the *Oireachtas Dictionary of Official Terms*.

*níos mó ná ... níos lú ná* 'Where ... the number of members of which a safety committee is to be comprised of is ... not more than eight and not less than five' is translated as 'Más rud é ... gurb é an líon comhaltaí atá le bheith ar choiste sábháilteachta ... líon nach mó ná ochtar ná nach lú ná cúigear' in s36(1)(c) of the Safety in Industry Act, 1980, for example. 'And shall be not more than four hundred days and not less than three hundred and thirty days after the day on which the appointment is made' is translated as 'agus ní bheidh sé níos sia ná cheithre chéad lá ná níos gaire ná trí chéad agus tríocha lá i ndiaidh an lae a déanfar an ceapachán' in s22(5) of the Seanad Electoral (Panel Members) Act, 1947. In s91(3)(b) of the Defence Forces (Temporary Provisions) Act, 1923, 'Not more than seven and not less than three other officers' is translated as 'Seachtar oifigeach eile ar a mhéid no triúr oifigeach eile ar a luíod'.

*Ní cead* Literally 'it is not permitted', this phrase expressing 'may not'/'shall not' in other Articles also – see the commentary on Article 9.1.3<sup>o</sup>. Again Professor Máirtín Ó Murchú remarks that the future below is not entirely satisfactory, but not contrary to the sense.

*den Bhunreacht seo* Literally 'of this Constitution'. See the commentary on Article 13.6.

**Standardised Irish text**

Ní cead níos mó ná aon duine dhéag ná, faoi chuimsiú fhorálacha Airteagal 19 den Bhunreacht seo, níos lú ná cúigear de chomhaltaí Sheanad Éireann a thoghadh as aon rolla áirithe.

**Direct translation**

Ní dhéanfar níos mó ná aon chomhalta dhéag de Sheanad Éireann agus, faoi réir fhorálacha Airteagal 19 den Bhunreacht seo, níos lú ná cúigear<sup>1</sup> a thoghadh as aon phainéal amháin diobh<sup>2</sup>.

**Variants**

- 1 'cúigear comhaltaí'
- 2 'aon phainéal amháin'

## ARTICLE 18.8 AIRTEAGAL 18.8

**TÉACS GAELGE**

Ní foláir olltoghchán do Sheanad Éireann a bheith ann lá nach déanaí ná nócha lá d'éis lánscore do Dháil Éireann, agus ní foláir do Sheanad Éireann teacht le chéile ar chéad-tionól tar éis an olltoghcháin lá a chinnfidh an tUachtarán chuige ar chomhairle an Taoisigh.

**LITERAL ENGLISH TRANSLATION**

There must be a general election for Seanad Éireann on a day not later than ninety days after the dissolution of Dáil Éireann, and Seanad Éireann must come together for/on (its) first assembly after the general election (on a) day that the President will decide for that on the advice of the Taoiseach.

**ENGLISH TEXT**

A general election for Seanad Éireann shall take place not later than ninety days after a dissolution of Dáil Éireann, and the first meeting of Seanad Éireann after the general election shall take place on a day to be fixed by the President on the advice of the Taoiseach.

**Divergences between the official texts**

- 1 'The first meeting of Seanad Éireann after the general election shall take place' is expressed as 'ní foláir do Sheanad Éireann teacht le chéile ar chéad-tionól tar éis an olltoghcháin' ('Seanad Éireann must come together for (its) first assembly after the general election') in the Irish text.
- 2 The phrase 'shall take place' is repeated in the English text, this being expressed by two different phrases in the Irish text.
- 3 The term expressing 'fix', in 'on a day to be fixed', is expressed by 'cinn' in the Irish text, which verb is translated as 'determine, find' in *Téarmaí Dlí*.
- 4 'Not later than' is again expressed as 'lá nach déanaí ná' ('[on] a day not later than') in the Irish text.
- 5 'Shall' is again expressed as 'Ní foláir' ('must') in the Irish text, as we have seen in some other Articles.

**Commentary**

*lánscore* 'Scor (de)' is translated as 'discontinuance' in *Téarmaí Dlí*, where 'scoirim de' is translated as 'I discontinue' and 'scoirim as oifig' is translated as 'I retire'. *Lánscore* is translated as 'dissolution', following the phrase 'of parliament' in brackets, in *Ó Dónaill* with 'lánscoir' translated

as 'I dissolve'. 'Lán-scor' is cited in *Dinneen* but in the sense of 'a full company'; 'scor' is translated as 'act of unyoking, dismantling, taking asunder, breaking camp, moving, desisting, unfastening ... dissolving, divorcing; separation, freedom, divorce ...'. DIL cites 'scor ina oénaig' ('the [formal] dissolving of the fair'), from a poem on Carmun in the twelfth-century *Book of Leinster*, as an example of 'scor' in the sense of 'act of desisting from, ceasing, coming to an end', the principal sense being 'act of unyoking, unharnessing (horses)', this sense being cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles – 'stud, herd of horses' is given as one of the secondary senses in DIL. 'D'egla sguir d'ól dá n-aoidhigh' ('for fear the guest should cease drinking') is cited in DIL, from *Leabhar Cloinne Aodha Buide*, as an example of 'scor' followed by the preposition 'di'.

Note that the preposition 'do' follows 'lánscore' here as against the usual direct object. See the commentary on Articles 13.2.1° and 18.4.3°.

*ar chéad-tionól* See the commentary on Article 15.11.3° for citations of 'tionól' expressing 'meeting' in the Constitution. 'Tionól neamhdhleathach' is translated as 'unlawful assembly' in *Téarmaí Dlí*. 'Tionól' is translated as 'gathering, assembly' in *Ó Dónaill*, this being the verbal noun of 'tionóil', 'collect, gather; convene, assemble; muster' in *Ó Dónaill*, who cites '*cruinniú, dáil, a thionól*, to convene a meeting, an assembly'. *Dinneen* translates 'tionól' as 'act of assembling, mobilising, convening, collecting; an assembly, a gathering ...'. DIL translates 'tionól' principally as 'act of collecting, gathering', citing 'do thinóol aetig impu et biith doib' ('in gathering raiment round them and food for them') from the eighth-century Würzburg Glosses on the Pauline Epistles, 'lá an tionóil' being translated as 'the day of Judgment'.

*a bheith ann* Note that we find 'a dhéanamh' rather than 'a bheith ann' in Article 12.3.3°:

Ní foláir toghchán d'oifig an Uachtaráin a dhéanamh lá nach déanaí ná dáta dheireadh théarma oifige gach Uachtaráin .... *An election for the office of President shall be held not later than ... the date of the expiration of the term of office of every President.*

*d'éis* Both 'tar éis' and 'd'éis' are included in the Glossary accompanying *An Caighdeán Oifigiúil* and both are given in *Ó Dónaill* – see the commentary on Article 10.4.

*a chinnfidh* See the commentary on Articles 1 and 12.11.2°.

**Standardised Irish text**

Ní foláir olltoghchán do Sheanad Éireann a bheith ann lá nach déanaí ná nócha lá d'éis lánscore do Dháil Éireann, agus ní foláir do Sheanad Éireann teacht le chéile ar chéad-tionól tar éis an olltoghcháin lá a chinnfidh an tUachtarán chuige ar chomhairle an Taoisigh.

**Direct translation**

Beidh olltoghchán do Sheanad Éireann ann<sup>1</sup> tráth nach déanaí ná nócha lá tar éis Dáil Éireann a lánscore<sup>2</sup>, agus

tionólfar an chéad chruinniú de Sheanad Éireann tar éis an olltoghcháin<sup>3</sup> lá<sup>4</sup> a cheapfaidh an tUachtarán ar chomhairle an Taoisigh.

### Variants

- 1 'Déanfar olltoghchán do Sheanad Éireann'
- 2 'a dhíscaoileadh', 'a scor'
- 3 'beidh an chéad chruinniú de Sheanad Éireann tar éis an olltoghcháin ann'
- 4 'ar lá'

## ARTICLE 18.9 AIRTEAGAL 18.9

### TÉACS GAELGE

Leanfaidh gach comhalta de Sheanad Éireann dá oifig, mura n-éaga nó mura n-éirí as oifig nó mura ndícháilítear é, go dtí an lá roimh lá na vótála don olltoghchán is tuisce a bheas ann do Sheanad Éireann d'éis é a thoghadh nó é a ainmniú.

### LITERAL ENGLISH TRANSLATION

Each member of Seanad Éireann will continue in his office, unless (he) dies or unless (he) gives up office or unless he is disqualified, until the day before the voting day for the first general election that there will be for Seanad Éireann after electing him or after nominating him.

### ENGLISH TEXT

Every member of Seanad Éireann shall, unless he previously dies, resigns, or becomes disqualified, continue to hold office until the day before the polling day of the general election for Seanad Éireann next held after his election or nomination.

### Divergences between the official texts

- 1 'Previously' has no corresponding adverb in the Irish text.
- 2 'Becomes disqualified' is expressed as 'dícháilítear' ('is disqualified') in the Irish text.
- 3 'Shall continue to hold office' is expressed as 'Leanfaidh ... dá oifig' ('will continue in his office') in the Irish text.
- 4 'Unless he previously dies, resigns, or becomes disqualified' is expressed as 'mura n-éaga nó mura n-éirí as oifig nó mura ndícháilítear é' ('unless (he) dies or unless (he) resigns or unless he is disqualified') in the Irish text.

Note that Article 34 of the 1922 Constitution commences as follows:

In the case of the death, resignation or disqualification of a member of Seanad Éireann .... *I gcás ball de Sheanad Éireann d'fháil bháis, do thabhairt suas, no do theacht fé mhí-cháilíocht.*

### Commentary

*Leanfaidh ... dá oifig* 'Lean de' is translated as 'continue at; cling, adhere to; follow' in *Ó Dónaill*, who cites '*leanúint de rud*, to continue to do something; to cling to

something' and '*lean sé dá chúrsa*, he kept his course'. *Dinneen* translates 'lean de' as 'follow on, persevere', while DIL gives examples of 'lenaid de' ('clings to, adheres to, cleaves to, stays with, follows') from the ninth-century Milan Glosses on the Commentary on the Psalms (where 'ro leldar díb són' glosses Latin 'rotae axibus adhererunt') onwards, the figurative use being cited from the eighth-century Würzburg Glosses on the Pauline Epistles ('is menand is dind insci riam lenid' ['it is clear that he adheres to the previous utterance', '? continues on with, carries on with']).

See the commentary on Article 12.10.7° for early citations of 'continue to' in the Acts, including 'to continue in office' translated as 'd'fhanúint in oifig' in No. 1 of 1929. 'A person appointed to be a Minister of State shall continue to hold office so long only as he continues to be a member of a House of the Oireachtas' is translated as 'Duine a cheapfar chun bheith ina Aire Stáit ní fhanfaidh sé i seilbh oifige ach fad a fhanfaidh sé ina chomhalta de Theach den Oireachtas' in s1(2) of the Ministers and Secretaries (Amendment) (No. 2) Act, 1977. 'Shall, subject to any vacancies that may occur by reason of death, resignation or disqualification, continue to hold office as such members' is translated as 'leanfaid, faoi réir aon fholúntas a tharlós de dheasca báis, éirí as oifig nó dícháilíte, de bheith i seilbh oifige mar chomhaltá den tsórt sin' in s23(1)(a) of the Social Welfare Act, 1950. 'Each of two ... shall, unless he sooner dies, resigns, or becomes disqualified, continue to hold office' is translated as 'leanfaidh gach duine de bheirt díobh ... de bheith i seilbh oifige, murab éag nó éirí as nó teacht fá dhícháilíocht níos tuisce dó' in s3(2)(a) of the Fourth Schedule to the Transport Act, 1944. Note that 'unless he previously dies or resigns' is translated as 'mura n-éagfaidh sé nó mura n-éireoidh sé as oifig roimhe sin' in s5 of the Broadcasting Authority (Amendment) Act, 1976.

Note, finally, that 'The President shall hold office for seven years' is expressed as 'Beidh an tUachtarán i seilbh oifige go ceann seacht mbliana' in Article 12.3.1°.

*mura ndícháilítear é* 'Dícháilím' is translated as 'I disqualify' in *Téarmaí Dlí*, the verb 'dícháiligh' also being translated as 'disqualify' in *Ó Dónaill*, this verb being composed of the prefix 'dí-' plus 'cáiligh'. 'Cáiligh' is based on 'cáil', which comes from Latin 'qualitas'. See the commentary on Article 16.1.3°.

Looking at the early Acts, 'and is not subject to any of the disqualifications mentioned in this section' is translated as 'agus ná fuil fé aon mhí-cháilíocht dá luaidhtear san alt so' in s57(1) of the Electoral Act, 1923. 'Such person shall ... be disqualified for being elected' is translated as 'beidh an duine sin ... fé mhí-cháilíocht ná leigfidh é thogha' in s62(1) of the Local Government Act, 1925. 'A person shall not be disqualified from being registered, or from voting as a Dáil or Seanad elector' is translated as 'Ní cuirfear éinne as teideal a chlárúithe, ná as teideal chun vótáil mar thoghthóir Dála no Seanad' in s4(1) of the Electoral Act, 1923. 'Any judge or justice who declines or neglects to take the declaration aforesaid in the manner aforesaid shall be disqualified from entering on and shall be deemed to have vacated his office of judge or justice (as the case may be)' is translated as 'Aon bhreitheamh a eiteoidh no a leigfidh i bhfaill an fhaisnéis roimhráite a dhéanamh ar an gcuma roimhráite beidh sé gan teideal chun dul i mbun

a oifige mar bhreitheamh agus tuigfar é bheith tar éis an oifig sin d'fhágaint' in s99 of the Courts of Justice Act, 1924. Finally, 'disqualified' is translated as 'nea-cháilithe' in *Iris Oifigiúil*, 1924, p. 1005.

Looking at modern Acts, 'Every Director ... shall, unless he sooner dies, resigns or becomes disqualified, hold office for five years' is translated as 'Beidh gach Stiúrthóir ... i seilbh oifige, mura túsce a gheobhaidh sé bás, a éireoidh sé as nó a thiofadh sé chun bheith dícháilithe' in s14(1)(c) of the Central Bank Act, 1989. 'The term of office of a director of a company ... shall, unless he sooner dies, resigns ... becomes disqualified or is removed from office, terminate' is translated as 'críochnóidh téarma oifige stiúrthóra cuideachta ... mura n-éagfaidh sé, mura n-éireoidh sé as, ... mura dtiofadh sé faoi dhícháiliocht nó mura gcuirfear as oifig é roimhe sin' in s34(3) of the Postal and Telecommunications Services Act, 1983.

*lá na vótála* See the commentary on Article 16.4.1° regarding 'polling' in the Acts. 'Until the polling day of the next election' is translated as 'go dtí lá vótaíochta an chéad toghchán eile' in s2(b) of the First Schedule to the Údarás na Gaeltachta Act, 1979, for example. 'The polling day' is translated as 'an lá vótaíochta' in s4(2) of the Electoral (University Constituencies) Act, 1936, 'dáta an lae vótaíochta' translating 'the date of the polling day' in s3 of the First Schedule to the Presidential Elections Act, 1937.

*is túsce* 'Túsce' is translated as 'sooner, rather, first' in *Ó Dónaill*, who cites '*an té is túsce a labhair*, the person who spoke first'. *Dinneen* cites '*an focal is túsce chugham*, the first word that strikes me'. 'Toisegu, toisgiu' was the earlier form of the comparative of 'toisech', the following example of which is cited in DIL from the ninth-century Milan Glosses on the Commentary of the Psalms: 'amal as toisegiu grían indáas laithe ... sic is toisgiu gein maicc hua athair re cech dúil' ('for as the sun is prior to the day, ... so the birth of the Son from the Father is prior to every element'). DIL translates 'toisegu, toisgiu' as (a) 'prior, first in importance' and (b) 'first in point of time, sooner'.

'Until the meeting of the Council next held after receipt of the notice of resignation' is translated as 'go dtí an chéad chruinniú eile den Chomhairle a thionólfar tar éis an fógra faoin éirí-as a fháil' in s4 of the Second Schedule to the Medical Practitioners Act, 1978, for example. 'And after the holding of the election or appointment of members to such Local Authority next held after the passing of this Act', in s14(1) of the Local Government (Temporary Provisions) Act, 1923, is translated as 'agus tar éis na haimsire is túsce 'na ndéanfar, tar éis rithite an Achta so, na baill do thogha no do cheapa chun an Údarás Áitiúla san'.

*mura n-éaga* See the commentary on Article 12.3.1° regarding 'éag' and the present subjunctive.

*mura n-éirí as oifig* See the commentary on Article 12.3.1° regarding 'éirigh as oifig' and the present subjunctive.

*nó* Professor Máirtín Ó Murchú recommends retaining 'nó' before 'mura n-éireoidh sé nó sí as' in the direct translation below.

### Standardised gender-proofed Irish text

Leanfaidh gach comhalta de Sheanad Éireann dá oifig nó dá hoifig, mura n-éagfaidh nó mura n-éireoidh as oifig nó mura ndícháileofar é nó í, go dtí an lá roimh lá na vótála don olltoghchán is túsce a bheidh ann do Sheanad Éireann d'éis é nó í a thoghadh nó a ainmniú.

### Direct gender-proofed translation

Fanfaidh<sup>1</sup> gach comhalta de Sheanad Éireann i seilbh oifige, mura n-éagfaidh an comhalta, mura n-éireoidh sé nó sí as<sup>2</sup>, nó mura ndícháilítear é nó í,<sup>3</sup> go dtí an lá roimh an lá vótaíochta don olltoghchán is túsce a bheidh ann do Sheanad Éireann tar éis é nó í a thoghadh nó a ainmniú.

### Variants

- 1 'Leanfaidh'
- 2 'as oifig'
- 3 'nó mura n-éagfaidh, mura n-éireoidh as, nó mura ndícháilítear é nó í.'

## ARTICLE 18.10.1° AIRTEAGAL 18.10.1°

### TÉACS GAELGE

Faoi chuimsiú na bhforálacha sin romhainn den Airteagal seo, is de réir dlí a rialófar gach toghchán do na comhaltaí a thoghfar do Sheanad Éireann.

### LITERAL ENGLISH TRANSLATION

Within the scope/constraint of those foregoing provisions of this Article, it is in accordance with law that each election for the members who will be elected to Seanad Éireann will be regulated.

### ENGLISH TEXT

Subject to the foregoing provisions of this Article elections of the elected members of Seanad Éireann shall be regulated by law.

### Divergences between the official texts

- 1 'Elections of the elected members of Seanad Éireann' is expressed as 'gach toghchán do na comhaltaí a thoghfar do Sheanad Éireann' ('each election for the members that will be elected to Seanad Éireann') in the Irish text.
- 2 As in various other Articles, 'subject to' is expressed as 'faoi chuimsiú' ('within the scope/constraint of') in the Irish text.
- 3 Again as in various other Articles, 'regulate' is expressed by 'rialú', which in Irish legal documents more usually means 'rule'.
- 4 'By law' is expressed as 'de réir dlí' ('in accordance with law') in the Irish text, again as we have seen in other Articles.

### Commentary

*sin romhainn* Literally 'those before us'. *Ó Dónaill* cites '*an rann sin romhainn*, the foregoing stanza', giving

'preceding' as one of the senses of the preposition 'roimh' ('before'). *Dinneen* cites '*na ríonn seo rómhainn síos*, the following stanzas' and '*na ríonn sin rómhainn thuas*, the stanzas quoted above'. DIL cites 'amal ra scribsam remaind' (i.e. as we have written above/previously), from the version of the *Táin* contained in the twelfth-century *Book of Leinster*, as an example of the preposition 'ré'/ría' (Modern Irish 'roimh') used with a reflexive personal pronoun in adverbial sense, referring to a previous statement or passage. *De Bhaldraithe* translates 'foregoing' as 'deireanach, réamhráite, thuasluaite, roimhe seo'.

See the commentary on Article 14.4 for early citations from the Acts. 'Have effect subject to the foregoing provisions of this paragraph' is translated as 'beidh éifeacht leo faoi réir na bhforálacha sin roimhe seo den mhír seo' in s54(10)(h) of the Fisheries Act, 1980, for example, 'Faoi réir na bhforálacha sin roimhe sin den alt seo' translating 'Subject to the foregoing provisions of this section' in s14(6) of the Value-Added Tax (Amendment) Act, 1978.

*de réir dlí* 'De réir' is translated as 'in accordance with' in *Téarmaí Dlí* and in *Ó Dónaill* (who also translates this phrase as 'according to'); however, *Ó Dónaill* translates 'de réir dlí' simply as 'by law'. *Dinneen* translates 'do réir (also dréir, léir)' as 'agreeable to, according to, at the disposal of', translating 'do réir nádúire' as 'by nature, according to nature'. DIL cites 'masu du réir spirito atáith' ('if ye are subject to the Spirit') from the eighth-century Würzburg Glosses on the Pauline Epistles s.v. 'riar' ('will, wish'), translating 'do réir' as (a) 'at the will of, obedient to' and (b) 'on the authority of, according to', citing 'do réir léx, chanóine' (i.e. according to civil and canon law) from the *Passions and Homilies* from the *Leabhar Breac* (a manuscript compiled in 1411 or earlier). See the commentary on Articles 1 and 14.5.2°.

*Faoi chuimsiú* See the commentary on Articles 12.5 and 18.7.2°.

*a rialófar* See the commentary on Article 12.5.

### Direct translation

Faoi réir na bhforálacha sin thuas<sup>1</sup> den Airteagal seo, déanfar toghchán na gcomhaltáí tofa de Sheanad Éireann<sup>2</sup> a rialáil le dlí<sup>3</sup>.

### Variants

- 1 'romhainn'
- 2 'toghchán chomhaltáí tofa Sheanad Éireann'
- 3 'is le dlí a rialálfar toghchán na gcomhaltáí tofa de Sheanad Éireann'

## ARTICLE 18.10.2° AIRTEAGAL 18.10.2°

### TÉACS GAELIGE

Is le hainmniú ón Taoiseach a líonfar corrgholúntais i líon na gcomhaltáí a ainmnítear do Sheanad Éireann, le réamhchead na ndaoine a ainmneofar.

### LITERAL ENGLISH TRANSLATION

It is by nomination by the Taoiseach that casual vacancies in the number of the members who are nominated to

Seanad Éireann will be filled, with the prior permission of the people who will be nominated.

### ENGLISH TEXT

Casual vacancies in the number of the nominated members of Seanad Éireann shall be filled by nomination by the Taoiseach with the prior consent of persons so nominated.

### Divergences between the official texts

- 1 'Prior consent' is expressed as 'réamhchead' ('prior permission') in the Irish text, as we have seen already in Article 18.3, 'consent' being translated as 'toiliú' in *Téarmaí Dlí*.
- 2 'Of persons' is expressed as 'na ndaoine' ('of the people') in the Irish text.
- 3 'So nominated' is expressed simply as 'a ainmneofar' ('nominated' [literally, 'who will be nominated']) in the Irish text.
- 4 'Nominated members of Seanad Éireann' is expressed as 'na comhaltáí a ainmnítear do Sheanad Éireann' ('the members who are nominated to/for Seanad Éireann') in the Irish text.

### Commentary

*corrgholúntais* A compound noun, 'corrgholúntas' is composed of the prefix 'corr-', which is translated as 'odd, occasional ...' in *Ó Dónaill*, who translates 'folúntas' as 'vacancy; emptiness void', not giving 'corrgholúntas' itself as a headword. 'Corrghostaíocht' is translated as 'casual employment' in *Téarmaí Dlí*. *Dinneen* cites '*corr-uair*, occasionally' and '*corr-dhuine*, an occasional person'. DIL cites '*corr-fhocla*' ('occasional words') from Donlevy's *An Teagas Críosduidhe* (1742) as an example of 'corr' in the sense of 'odd' in a compound, 'corr' as a noun being translated as 'projecting part, end, corner, peak' – a special use of 'corr' is as the name of a bird, usually translated as 'heron, crane', and occasionally – and inaccurately, according to Professor Máirtín Ó Murchú – as 'stork'. 'Folúntas' traces its origins to 'folamh', 'empty' – see DIL s.v. 'folam', where examples are cited from the twelfth-century *Book of Leinster* onwards.

'Líonfar foth-fhollamhntaisí' translates 'Casual vacancies shall be filled' in Article 82(g) of the 1922 Constitution. 'Each member of the said committee shall hold office for five years and be eligible for re-election and casual vacancies shall be filled in accordance with the foregoing principle of selection' is translated as 'Beidh gach ball den choiste sin cúig bliana i seilbh oifige agus beidh sé ion-athtofa agus is le roghanaíocht ar an gcuma san thuas a líonfar foth-fholúntaisí' in s65 of the Courts of Justice Act, 1924. 'Corrgholúntais' translates 'casual vacancies' in the Margin Title of s5 of the First Schedule to the Údarás na Gaeltachta Act, 1979, for example. See also the commentary on Article 16.7.

*réamhchead* See the commentary on Article 18.3, where we find 'le réamhchead uatha féin' expressing 'with their prior consent', i.e. with the preposition 'ó' following 'réamhchead' as against 'le réamhchead na ndaoine' in the present subsection.

**Direct translation**

Is le hainmniú ón Taoiseach a líonfar corrfholúntais i líon na gcomhaltaí ainmnithe de Sheanad Éireann<sup>1</sup>, le toiliú roimh ré ó na daoine a ainmneofar amhlaidh.<sup>2</sup>

**Variants**

- 1 'líon chomhaltaí ainmnithe Sheanad Éireann'
- 2 'Déanfar corrfholúntais i líon na gcomhaltaí ainmnithe do Sheanad Éireann a líonadh le hainmniú ón Taoiseach le toiliú roimh ré ó na daoine a ainmneofar amhlaidh.'

ARTICLE 18.10.3<sup>o</sup> AIRTEAGAL 18.10.3<sup>o</sup>**TÉACS GAELGE**

Is ar an gcuma a shocraítear le dlí a líonfar corrfholúntais i líon na gcomhaltaí a thoghtar do Sheanad Éireann.

**LITERAL ENGLISH TRANSLATION**

It is in the manner which is provided by law that casual vacancies in the number of the members who are elected to Seanad Éireann will be filled.

**ENGLISH TEXT**

Casual vacancies in the number of the elected members of Seanad Éireann shall be filled in the manner provided by law.

**Divergences between the official texts**

- 1 'The number of the elected members of Seanad Éireann' is expressed as 'líon na gcomhaltaí a thoghtar do Sheanad Éireann' ('the number of the members who **are** elected to Seanad Éireann') in the Irish text, following the same pattern as we saw in the previous subsection; in the first subsection of this section, however, we find 'the elected members of Seanad Éireann' expressed as 'na comhaltaí a thoghtar do Sheanad Éireann' ('the members that **will be** elected to Seanad Éireann').

Note that Article 82(g) of the 1922 Constitution reads as follows:

Casual vacancies shall be filled in manner provided by Article 34 of this Constitution. *Líonfar foth-fhollamhntaisí i slí a fhorálann Airteagal 34 den Bhunreacht so.*

**Commentary**

*ar an gcuma* See the commentary on Article 18.4.1<sup>o</sup>. 'To have a dispute determined in any other manner provided by law' is translated as 'díospóid a chur á chinneadh ar aon chaoi eile dá bhforáiltear faoin dlí' in s27(3) of the Central Bank Act, 1989. 'Every insured person shall be insured in the manner provided by this Part against intermittent unemployment' is translated as 'Ní mór gach duine árachaithe bheith faoi árachas in aghaidh breac-dhífhostaíochta sa tslí a fhoráiltear leis an gCuid seo' in s239 of the Social Welfare Act, 1981. 'To limit his

liability in the manner provided by law' is translated as 'chun a dhliteanas a theorannú sa tslí a fhoráiltear le dlí' in s46(1)(a)(ii) of the Civil Liability Act, 1961. Finally, 'termination ... of those taxes and duties in the manner provided by law', in the Long Title of the Taxes and Duties (Special Circumstances) Act, 1942, is translated as 'foircennadh ... na gcánacha agus na ndiúitithe sin sa tslí foráiltear le dlí'.

Looking at early Acts regarding 'in the manner', 'The registration officer shall then prepare the register in the manner prescribed in the foregoing rules' is translated as 'Ullamhóidh an t-oifigeach clárachta an clár annsan ar an gcuma atá leagtha amach sna rialacha a théidheann roimhe seo' in s14 of the Second Schedule to the Electoral Act, 1923. 'As determined by analysis in manner directed by the Revenue Commissioners' is translated as 'mar a déanfar san amach tré dheighlteánacht a déanfar fé mar a ordóidh na Coimisinéirí Ioncuim' in the First Schedule to the Finance Act, 1925. 'The method and manner ... of packing butter' is translated as 'an módh agus an chaoi chun im do phacáil' in s27(1)(a) of the Dairy Produce Act, 1924. 'Dóigh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'manner' in translations for the Department of Local Government and Public Health. Finally, 'give public notice in the prescribed manner and form' is translated as 'tabharfa sé fógra puiblí sa tslí agus sa bhfuirm orduithe' in s17(4) of the Cork City Management Act, 1929.

*a shocraítear* See the commentary on Articles 8.3 and 15.2.2<sup>o</sup> regarding 'socraigh' and 'foráil' expressing 'provide'.

*corrfholúntais* See the commentary on the previous subsection.

*a thoghtar* Note that we find 'a thoghtar' in the first subsection of this section.

**Direct translation**

Déanfar corrfholúntais i líon na gcomhaltaí tofa do<sup>1</sup> Sheanad Éireann<sup>2</sup> a líonadh sa tslí<sup>3</sup> a fhorálfar le dlí.<sup>4</sup>

**Variants**

- 1 'de'
- 2 'líon chomhaltaí tofa Sheanad Éireann'
- 3 'ar an gcuma', 'mar a'
- 4 'Is sa tslí a fhorálfar le dlí a líonfar corrfholúntais i líon na gcomhaltaí tofa do Sheanad Éireann.'

## ARTICLE 19 AIRTEAGAL 19

**TÉACS GAELGE**

Féadfar socrú a dhéanamh le dlí ionas go bhféadfadh aon dream feidhme nó gairme beatha, nó aon chomhlacht nó comhairle feidhme nó gairme beatha, an oiread comhaltaí do Sheanad Éireann a thoghadh go lomidreach agus a chinnfear leis an dlí sin, in ionad an oiread chéanna de na comhaltaí a thoghtar as na comhrollaí d'iarthóirí a chóireofar faoi Airteagal 18 den Bhunreacht seo.

**LITERAL ENGLISH TRANSLATION**

Provision may be made / It will be possible to make provision by law so that any functional or vocational group, or any functional or vocational body or council, would be able to elect directly as many members to Seanad Éireann as will be determined by that law, in place of the same amount of the members who will be elected from the co-rolls of candidates which will be arranged under Article 18 of this Constitution.

**ENGLISH TEXT**

Provision may be made by law for the direct election by any functional or vocational group or association or council of so many members of Seanad Éireann as may be fixed by such law in substitution for an equal number of the members to be elected from the corresponding panels of candidates constituted under Article 18 of this Constitution.

**Divergences between the official texts**

- 1 'Association' is expressed as 'comhlacht' ('body') in the Irish text.
- 2 'Any functional or vocational group or association or council' is expressed in the Irish text as 'aon dream feidhme nó gairme beatha, nó aon chomhlacht nó comhairle feidhme nó gairme beatha' ('any functional or vocational group, or any functional or vocational body or council').
- 3 'Functional councils' is expressed as 'comhairlí feidhmeannais' in Article 15.3.1<sup>o</sup>, rather than the present 'comhairlí feidhme', which could perhaps also be read as 'functioning council'.
- 4 'Group' is expressed in the Irish text by a more general term ('dream') which, although it includes 'group' among its senses, would be superseded by the direct translation 'grúpa' today.
- 5 'For the direct election by any group' is expressed as 'ionas go bhféadfadh aon dream ... a thoghadh go lomdíreach' ('so that any group would be able directly to elect') in the Irish text.
- 6 'Corresponding panels' is expressed as 'comhrollaí' ('co-rolls') in the Irish text.
- 7 'Members of Seanad Éireann' is expressed as 'comhaltáí do Sheanad Éireann' ('Members for Seanad Éireann') in the Irish text.
- 8 'An equal number' is expressed as 'an oiread céanna' ('the same amount') in the Irish text.
- 9 'Direct' is expressed not by the adjective/adverb 'díreach' simply, but by 'lomdíreach', a phrase meaning 'absolutely direct', as we have seen in Article 12.2.1<sup>o</sup>.
- 10 'Fix' is expressed by the term translating both 'determine' and 'find' in *Téarmaí Dlí*, 'cinn', although 'fix' is included in *Ó Dónaill* as one of the senses of this verb.
- 11 'Constituted' is expressed as 'a chóireofar' ('arranged') in the Irish text, as we saw in Article 18.

**Commentary**

*dream feidhme* 'Comhairlí feidhmeannais is gairme beatha' expresses 'functional or vocational councils' in Article 15.3.1<sup>o</sup>. 'Dream' is translated as 'body of people; group, tribe, set; some' in *Ó Dónaill*, who cites '*an dream óg*, the young people' and '*dreamanna polaitíochta*,

political groups'. *Dinneen* translates 'dream' as 'a portion, a section, an additional period; crowd, party, people, tribe, class, adherents, a following', citing '*dream an Bhéarla*, English-speakers, the Anglo-Irish'. DIL translates 'drem(m)' as '(an) indefinite number of people, band, company', citing examples from *Leabhar na hUidhre* (written in Clonmacnois c. 1100) onwards, including 'dream an teagaisc' ('teachers') from a text published in the journal *Gadelica*.

'Lucht feidhme' is translated by *Ó Dónaill* as 'functionaries; agents, servants; servicemen, soldiers' and 'fear feidhme' as 'man of action; fighting man'. *Dinneen* translates 'fear feadhma' as 'a fighting man, officer, official' and 'lucht feadhma' as 'fighting men, officials, servants, helpers'. According to DIL, the primary sense of 'feidm' seems to be 'load, stress, strain', passing into the senses of 'utmost effort, effort, exertion; burden, service, function'. DIL translates 'aes, lucht fedma' as 'soldiery; servitors, attendants'.

'Dream' expresses 'body' in Articles 10 ('*is le haon duine nó dream*', 'vested in any person or body') and 13.9 ('*ainmniú aon duine nó aon dreama eile ... ó aon duine nó aon dream eile*', 'nomination of ... from, any other person or body'). 'Aon duine nó aon dream' expresses 'any person or body of persons' in Articles 37.1 and 37.2, with 'an duine nó an dream sin' expressing 'such person or body of persons' in both those sections. 'Any person or persons' is expressed as '(ar) aon duine nó ar aon dream daoine' in Article 15.10. 'Group', on the other hand, is expressed as 'buíon' in Articles 29.4.2<sup>o</sup> ('members of any group or league of nations', '*comhaltáí d'aon bhuíon nó d'aon chumann de náisiúin*') and 41.1.1<sup>o</sup> ('the natural primary and fundamental unit group of Society', '*(is) buíon-aonad príomha bunaidh don chomhdhaonnacht*').

Turning to the Acts 'any group, association or class of persons' is translated as '(d)aon ghrúpa, comhlachas nó aicme daoine' in s30(20) of the Land Act, 1950. In s11(2) of the Intoxicating Liquor Act, 1962, 'unless it is organised as a special function for the entertainment of the members of a particular association, organisation or other like group' is translated as 'mura mar dhálas speisialta le haghaidh siamsa do chomhaltáí comhlachais nó eagrais áirithe nó grúpa áirithe eile dá shamhail a eagrófar é'.

Looking at early Acts, 'representation for groups or parties not then adequately represented in Dáil Éireann' is translated as 'ionaduíocht do ghasraí no do pháirtithe ná beidh leor-ionaduíocht aca i nDáil Éireann an uair sin' in Article 82(b) of the 1922 Constitution, while in Article 17 'in virtue of ... her adherence to and membership of the group of nations forming the British Commonwealth of Nations' is translated as 'agus de bhri gur ball í agus go leanann sí den chó-chruinniú náisiún a dhineann suas an Có-chiníochas Briotáineach'. 'Any group of county councillors comprising the necessary number of such county councillors' is translated as 'aon scata de chomhairleoirí contae ar a mbeidh an lion riachtanach de sna comhairleoirí sin' in s2(b) of the Second Schedule to the Local Government Act, 1925. Finally, 'a parcel or a group of parcels of untenanted land' is translated as 'paiste no grúpa de phaistí talmhan nea-thionóntuithe' in s27 of the Land Act, 1927.

*dream gairme beatha* 'Do ghairm bheatha' is translated as 'one's mission in life; one's occupation' by *Ó Dónaill*,



with *Dinneen* including ‘calling, avocation or condition of life, vocation’ among the senses of ‘gairm’, ‘gairm bheathadh’ also having these senses. DIL gives ‘a calling, employment, profession’ as a secondary sense of ‘gairm’, verbal noun of ‘gairid’, ‘calls’. See the commentary on Article 15.3.1°.

*aon chomhlacht* ‘Comhlacht’ is translated as ‘body; company, firm’ in *Ó Dónaill*, who cites ‘*Ó Briain agus a Chomhlacht, Teoranta*, O’Brien and Company Limited’. *Dinneen* translates ‘cómhlucht’ as ‘fellow-labourers; an associated band; a household; a company’, citing ‘*cómhlucht oibre*, labourers together, partners, associates, allies’. DIL only cites two examples of ‘comlucht’, ‘cumlucht denma uilc’, translated as ‘accomplices’, from O’Curry’s law transcripts, translating ‘cómhlucht’ from Keating’s seventeenth-century poetry as ‘companions’. ‘Comlucht’ is a compound based on ‘lucht’ in the sense of ‘people, class of persons, category’. DIL refers the reader to ‘complacht’, ‘company, gang’, which may be a modification of ‘comlucht’, according to DIL.

‘Comhlacht’ translates ‘body’ in the Acts, ‘cuideachta’ being the Irish legal term for ‘company’. ‘Association’, on the other hand, is translated in *Tearmaí Dlí* as ‘comhlachas’, ‘articles of association’ and ‘memorandum of association’ being translated respectively as ‘airteagail chomhlachais’ and ‘meabhrán comhlachais’. Looking at modern Acts, ‘the International Development Association (Amendment) Act, 1980’, for example, is cited in Irish as ‘an tAcht um Chomhlachas Forbartha Idirnáisiúnta (Leasú), 1980’.

Looking at the early Acts, ‘payment to Associations under the Unemployment Insurance Acts’ is translated as ‘díoluíochta le Cumannacha fé sna hAchtanna um Árachas Díomhaointis’ in the Schedule to the Appropriation Act, 1922. In s2(1) of the Public Safety Act, 1927, ‘the word “association” includes any combination of persons whether the same is or is not known by any distinctive name’ is translated as ‘foluíonn an focal “comhlachas” aon chomhlúadar daoine pe’ca tugtar aon ainm fé leith air no ná tugtar’. Finally, ‘to pay a subscription for the association of county councils of Ireland’ is translated as ‘chun sintiús d’íoc i gcóir comhlachais chomhairlí contae na hÉireann’ in s78 of the Local Government Act, 1925.

*an oiread ... an oiread chéanna* ‘Oiread’ is translated as ‘amount, quantity, number’ by *Ó Dónaill*, who cites ‘*bhí an oiread airgid aige (go)*, he had so much money (that)’ and ‘*an oiread céanna*, the same amount’ as examples of this noun with the article, citing ‘*bhí a oiread deifre orainn leis an obair*, we were in such a hurry with the work’ as an example of ‘oiread’ with the masculine possessive adjective ‘a’ (which is often omitted). The word ‘oiread’ is an irregular form which, as Professor Máirtín Ó Murchú remarks, retains elements of an old neuter inflection: with the article in the nominative it is ‘an oiread’, but an attributive adjective is not lenited – ‘an oiread céanna’; an attributive adjective is, as here, lenited in the genitive, though ‘oiread’ itself is not inflected. Note, however, that the form in the original text is ‘an oirid chéanna’.

*Dinneen* gives ‘as much or as many as (with genitive, *le* or *agus*)’ as one of the senses of ‘oiread’. The earlier form ‘airet’, based on ‘fot’ (Modern Irish ‘fad’, ‘length’), is translated as ‘length, interval, space (*of time, less frequently of space*), later amount, quantity’ in DIL, where examples

are cited from the eighth-century Glosses onwards, with ‘in oiret cétna’ (‘as much again’) being cited from the *Gaelic Maundeville* and ‘uiread grádha ... 7 atá aige dhó féin’ (i.e. and how much he loves himself) being cited from Flaithrí Ó Maolchonaire’s *Desiderius*, an Irish version (published in Louvain in 1616) of the Spanish book *El Desseoso*.

In Article 18.4.2°, following the Seventh Amendment of the Constitution (Election of Members of Seanad Éireann by Institutions of Higher Education) Act, 1979, ‘Provision may be made by law for the election ... of so many members of Seanad Éireann as may be fixed by law in substitution for an equal number of the members to be elected’ is rendered as ‘Féadfar foráil a dhéanamh le dlí chun go dtoghfar ... an líon sin comhaltaí de Sheanad Éireann a shocrófar le dlí in ionad líon comhionann de na comhaltaí a bheas le toghadh’. ‘The validity of the election of so many electors as are so elected’ is translated as ‘(do) dhleathacht toghtha an mhéide sin toghthóirí toghfar amhlaidh’ in s37(4) of the Seanad Electoral (Panel Members) Act, 1937.

Finally, as regards ‘fix’, ‘but does not apply where any such sentence is fixed by law’ is translated as ‘ach níl feidhm aige i gcás aon phianbhreithe den sórt sin a bheith socraithe le dlí’ in s2 of the Criminal Justice (Community Service) Act, 1983 – see the commentary on Article 16.2.2° for early translations of ‘fix’ in the Acts.

*comhrollaí* A compound of the prefix ‘comh-’, translated principally as ‘mutual, joint, common, co-’ in *Ó Dónaill*, and ‘rolla’, literally ‘roll’ but, as we have seen in the previous Article, expressing ‘panel’ in the Constitution – see the commentary on Article 18.4.1°.

“Corresponding period” means the period of 12 months immediately preceding the basis period for the year 1990-91’ is translated as ‘ciallaíonn “tréimhse chomhréire” an tréimhse 12 mhí díreach roimh an mbonntréimhse don bhliain 1990-91’ in s16(1) of the Finance Act, 1990. ‘An application is made thereunder for a declaration that any accident was an occupational accident or for a corresponding declaration as to any such disease or injury’ is translated as ‘(ina) ndéanfar iarratas faoin gcéanna ar dhearbhú gur thionóisc cheirde aon tionóisc áirithe nó ar dhearbhú comhréireach i dtaobh aon ghalair nó díobhála den sórt sin’ in s40(1) of the Social Welfare (Consolidation) Act, 1981. ‘The corresponding provision of this Act’ is translated as ‘(don) fhoráil chomhréire den Acht seo’ in s7(3) of the National Agricultural Advisory, Education and Research Authority Act, 1977. See further the commentary on Article 34.3.3°, where ‘comhréire’ expresses ‘corresponding’.

Looking at early Acts, ‘reckoned from any day of one month to the corresponding day of the next month’ is translated as ‘agus é d’áireamh o aon lá de mhí go dtí a chó-lá san sa chéad mhí eile’ in s8(3) of the Local Government (Rates on Small Dwellings) Act, 1928. ‘Table of Corresponding Ranks’ is translated as ‘Tábla de Chéimeanna Có-réire’ in the Heading of the First Schedule to the Police Forces Amalgamation Act, 1925, ‘The Counterfoil is to have a number to correspond with that on the back of the Ballot Paper’ being translated as ‘Beidh ar an gCódhuille uimhir a bheidh ar có-réir léi sin ar chúl an Pháipéir Bhallóide’ in s6 of Part III of the Fifth Schedule to the Electoral Act, 1923, and ‘the number ... and a description of such animals corresponding to the number

and description thereof given by such owner' being translated as 'l'ion na n-ainmhithe sin ... agus tuairisc ortha do réir a lín agus a dtuairisce mar a thug an t-únaer sin iad' in s11(1)(a) of the Slaughtered Animals (Compensation) Act, 1928. 'Or a declaration as nearly corresponding thereto as circumstances permit' is translated as 'no dearbhú chó mór deabhramh leis agus is féidir sa chás' in s149(1) of the Industrial and Commercial Property (Protection) Act, 1927. 'Ball co-fhreagrais' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'corresponding member'. Finally, 'if a corresponding reduction is made in the rent' is translated as 'má dineadh a chothrom san de luíodú ar an gcíos' in s8(3) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923.

*in ionad* This phrase is translated as 'in place of, instead of' in *Ó Dónaill*, who cites '*in ionad a mhic*, instead of his son'. *Dinneen* adds 'in compensation for' to *Ó Dónaill's* senses, citing '*dualgas i n-ionad do dhuanta*, reward for your poems'. DIL adds 'in succession to' to *Ó Dónaill's* senses, citing 'coemchludh abad ... .i. Forindan i n-inad Dermota' (i.e. 'exchange of abbots, Forindan instead of Dermot'). 'Inad' is translated principally as 'place, spot' in DIL, with no citation being given there from the Old Irish Glosses, for example.

Looking at early Acts, 'The fees specified in any scale of fees appointed under this section shall be in lieu of and substitution for the fees now by law chargeable by ... Under-Sheriffs' is translated as 'Na táillí a luadhfar in aon scála táillí a ceapfar fén alt so beid in ionad na dtáillí agus mar mhalairt ar na táillí is inéilithe ag Fo-Shirriamh' in s12(2) of the Enforcement of Law (Occasional Powers) Act, 1923. In s6(14) of the Dublin Reconstruction (Emergency Provisions) Act, 1924, 'and the registration of an order in accordance with those regulations shall be in substitution for registration under any enactments' is translated as 'agus an clárú a déanfar ar ordú do réir na rialachán san beidh sé in ionad clárú fé aon achtacháin'. Finally, 'in áit' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'in substitution for' in translations for the Department of Lands and Agriculture.

Looking at modern Acts, 'and the requirements of this paragraph are in addition to and not in substitution for the requirements of paragraph (b) of this subsection' is translated as 'agus is ceanglais i dteannta, agus ní ceanglais in ionad, cheanglais mhír (b) den fho-alt seo ceanglais na míre seo' in s18(4)(c) of the Fisheries Act, 1980.

*a chóireofar* See the commentary on Article 18.4.1<sup>o</sup>iii. 'A company which is constituted under any other Act' is translated as 'cuideachta arna comhdhéanamh faoi aon Acht eile' in s58 of the Finance Act, 1990, for example.

*a chinnfear* 'Cinnim' is translated as 'I determine (issue, etc.); I find' in *Téarmaí Dlí* – see the commentary on Articles 1 and 12.11.2<sup>o</sup>.

*go lomdíreach* See the commentary on Article 12.2.1<sup>o</sup>.

### Standardised Irish text

Féadfar socrú a dhéanamh le dlí ionas go bhféadfadh aon dream feidhme nó gairme beatha, nó aon chomhlacht nó

comhairle feidhme nó gairme beatha, an oiread comhaltai do Sheanad Éireann a thoghadh go lom díreach agus a chinnfear leis an dlí sin, in ionad an oiread chéanna de na comhaltai a thoghfad as na comhrollai d'iarthóirí a chóireofar faoi Airteagal 18 den Bhunreacht seo.

### Direct translation

Féadfar socrú a dhéanamh le dlí chun go ndéanfaidh aon ghrúpa nó aon chomhlachas feidhme nó gairmiúil nó aon chomhairle fheidhme nó ghairmiúil an líon sin comhaltai de Sheanad Éireann a shocrófar leis an dlí sin a thoghadh go díreach in ionad lín chomhionann de na comhaltai a cheapfar ó na painéil chomhréire d'iarthóirí arna gcomhdhéanamh<sup>1</sup> faoi Airteagal 18 den Bhunreacht seo.

### Variants

<sup>1</sup> 'arna mbunú'

## ARTICLE 20.1 AIRTEAGAL 20.1

### LEGISLATION

### REACHTAÍOCHT

#### TÉACS GAEILGE

Ní foláir gach Bille a thionscnaítear i nDáil Éireann agus a ritear ag Dáil Éireann a chur go Seanad Éireann agus, mura Bille Airgid é, tig le Seanad Éireann é a leasú, agus ní foláir do Dháil Éireann aon leasú den sórt sin a bhreithniú.

#### LITERAL ENGLISH TRANSLATION

Every Bill which is initiated in Dáil Éireann and which is passed by Dáil Éireann must be sent to Seanad Éireann and, unless it is a Money Bill, Seanad Éireann can/may amend it, and Dáil Éireann must consider any amendment of that kind.

#### ENGLISH TEXT

Every Bill initiated in and passed by Dáil Éireann shall be sent to Seanad Éireann and may, unless it be a Money Bill, be amended in Seanad Éireann and Dáil Éireann shall consider any such amendment.

#### Divergences between the official texts

- 'May be amended in Seanad Éireann' is expressed as 'tig le Seanad Éireann é a leasú' ('can/may be amended by Seanad Éireann') in the Irish text.
- 'Consider' is expressed by the term translated in *Téarmaí Dlí* as 'adjudge, adjudicate, decide', 'a bhreithniú', the form in the enrolled edition ('do bhreathnú') being translated in *Ó Dónaill* as 'observe, examine'.
- 'Shall be' is expressed as 'ní foláir' ('must be') in the Irish text, as we have seen in some earlier Articles.

Note that the exact same English text is found in the beginning of Article 38 of the 1922 Constitution, where it is translated as follows:

Cuirfear chun Seanaid Éireann gach Bille do tionnscnuíodh i nDáil Éireann agus do ritheadh ag Dáil Éireann agus maran Bille Airgid é, féadfaidh Seanaid Éireann é do leasú agus breithneoidh Dáil Éireann aon leasú dá shórt.

### Commentary

*Reachtaíocht* An abstract noun developing from 'reacht', translated as 'statute' in *Téarmaí Dlí*, 'reacht' being found in the compound 'bunreacht' ('constitution'). *Ó Dónaill* translates 'reachtaíocht' as 'legislation'. *Dinneen* does not appear to give this word as a headword but gives the adjective 'reachtaidhe' ('reachtaíocht' coming from 'reachtaidheacht'), translated as 'constitutional, law-worthy, free', the noun of the same form being translated as 'a law-giver or legislator'. The adjective 'reachtaide', translated in DIL as 'legal, pertaining (or according) to the law', is found in the eighth-century Würzburg Glosses on the Pauline Epistles in the restricted sense of the Mosaic Law. We find 'reachtaid' in the sense of 'a judge, a lawgiver' in the early Irish 'wisdom-text' *Tecosca Cormaic*, where the following is stated: 'reachtaid cách co leibu' ('everyone is a lawgiver till it comes to children'). See further the commentary on Article 15.2.1°.

'The Parliament and the Executive Council of the Irish Free State (Saorstát Éireann) shall respectively pass such further legislation' is translated as 'agus rithfidh Oireachtas agus Ard-Chomhairle Shaorstáit Éireann fé seach pé reachtúchán eile' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. 'Dlí' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'legislation' in a Report from 1926. Looking at modern Acts, 'to enable legislation to be prepared and to be initiated in, considered and ... enacted by the Oireachtas' is translated as 'le go bhféadfar reachtaíocht a ullmhú agus a thionscnamh san Oireachtas agus a bhreithniú' in the Long Title of the Rent Restrictions (Temporary Provisions) Act, 1981, for example.

*a thionscnaítear* Passive, present indicative, of 'tionscain', translated as 'begin, originate; initiate; establish' in *Ó Dónaill* – see the commentary on Article 45.3.1°. 'Winding up or bankruptcy proceedings shall not be initiated in relation to the holder of the licence' is translated as 'ní thionscnofar imeachtaí foirceanta ná féimheachta i ndáil leis an sealbhóir ceadúnais' in s38(7)(a) of the Central Bank Act, 1989. See further the commentary on 'reachtaíocht' above.

Looking at early translations, 'le tionnscnamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to be initiated' in the 1926 *Standing Orders* of Dáil Éireann, 'tionnscnamh' translating 'initiation' in the *Proceedings* of Dáil Éireann, 1927, p. 504. 'No person in whom any such power is for the time being vested shall initiate the collection of any statistics' is translated as 'ní dhéanfidh éinne ina mbeidh aon chomhacht den tsórt san dílsithe de thuras na huairé bailiú aon staitistiche ... do thionnscain' in s18(2) of the Statistics Act, 1926. 'Tionnscnamh' translates 'Initiative' in Article 14 of the 1922 Constitution, where 'to take part in the Referendum and Initiative' is translated as 'páirt do thógaint sa Referendum agus sa Tionnscnamh'. Finally, note that 'the initiation and direction of research' is translated as 'lorgaireacht do thosnú agus do stiúra' in s18(c) of the Local Government Act, 1925.

*Bille Airgid* 'Airgid' here is the genitive singular of 'airgead' as an attributive adjective. *Ó Dónaill* translates 'bille airgid' as 'money-bill'. *Dinneen* gives 'recent' in brackets following the sense of 'a bill in Parliamentary procedure' s.v. 'bille'. 'Bille' is an English loanword, translated as 'bill; letter, note' in DIL, bills as voting papers being cited there from the Irish *Rule of S. Clare* ('bille in aghaidh gach Sethar ... do sgríobhadh'). Professor Máirtín Ó Murchú remarks that in *An Seanchaidhe Muimhneach* (s70), we find the phrase 'bille dhá phunt' in the sense of 'a postal order for £2', a sense not very unlike the use of 'bille' in the *Rule of S. Clare*. A 'Finance Bill' is styled 'Bille Airgeadais', 'airgeadas' (simply translated as 'finance' in *Ó Dónaill*) not appearing to be given as a headword in *Dinneen*. 'Money Bill' is translated as 'Bille Airgid' in Article 35 of the 1922 Constitution.

*a bhreithniú* See the commentary on Article 17.1.1°. 'Do bhreathnú' is found in the enrolled edition. 'Breithniú' is the verbal noun of 'breithnigh', translated principally as 'adjudge' in *Ó Dónaill*, who cites '*cás a bhreithniú*, to adjudicate upon a case'. The first person singular, present indicative, 'breithním', is translated as 'I adjudge; I adjudicate; I decide' in *Téarmaí Dlí*, where we find '*cúram geille a breithníodh ina gheilt ag ionchoisne nó le hordú na cúirte*', 'committee of a lunatic so found by inquisition or by order of the court'. *Dinneen* does not appear to give 'breithnigh' as a headword. 'Breathnaigh', however, is given as the standard form of 'breithnigh' in its secondary sense in *Ó Dónaill* (i.e. we find the following entry s.v. 'breithnigh': '2 = breathnaigh'). The headword 'breathnaigh' is translated principally as 'observe, examine' in *Ó Dónaill*, citing '*cás a bhreathnú*, to look into, consider, a case'. *Dinneen* translates 'breathnuighim' as 'I discern, recognise, examine, judge; conceive, design; I look, appear; I behold, watch', with 'breithnighim' cited as a variant form at the end of the entry. Both 'breathnaíonn' and 'breithníonn' come from the earlier form 'breithnaigid', translated as (a) 'judges, decides, examines, determines' and (c) 'observes, considers, meditates, reflects (with ar upon)' in DIL, this verb being based on 'breth' (Modern Irish 'breith'), 'act of judging; judgement' being one of the senses of that noun.

'Breithnigh' is the form found in the 1922 Constitution also, 'Dáil Éireann shall ... consider the Estimates of receipts and expenditure of the Irish Free State' being translated as 'Breithneoidh Dáil Éireann ... meastacháin fháltais agus chaiteachais Shaorstáit Éireann' in Article 36, for example. 'The Committee of Ministers shall consider the proposed amendment' is translated as 'Breithneoidh an Coiste Airí an leasú atá molta' in s4 of the First Schedule to the Data Protection Act, 1988, 'breithneoidh an tAire an leasú san' translating 'the Minister shall consider such amendment' in s5(2) of the Electricity (Supply) (Amendment) Act, 1945, agus 'breithneoidh an Coiste sin an céanna' translating 'the said Committee shall consider such revocation or such amendment' in s12(6) of the Unemployment Assistance Act, 1933. See further the commentary on Article 28.4.3°.

Neither 'breithnigh' nor 'breathnaigh' is given in *De Bhaldráithe* s.v. 'consider', who translates this verb as 1(a) 'machnaím (ceist); déanaím staidéar ar (cheist); meáim (seans)', citing 'considered opinion, *barúil mheasta*', and (b) 'measaim, scrúdaím (tairiscint; iarratas); cuirim (tairiscint, iarratas) san áireamh'.

*a rítear* Passive, present indicative, of ‘rith’ – see the commentary on Articles 13.3.1° and 17.2.

*Ní foláir* See the commentary on Article 11.

*tig le* See the commentary on Article 12.4.4°.

*a leasú* See the commentary on Article 46.1.

### Direct translation

Déanfar gach Bille a thionscnaítear i nDáil Éireann agus a rítear ag<sup>1</sup> Dáil Éireann a chur go Seanad Éireann agus, mura Bille Airgid é, féadfar é a leasú i Seanad Éireann agus déanfaidh Dáil Éireann aon leasú den sórt sin a bhreithniú<sup>2</sup>.

### Variants

- 1 ‘a rithfidh’
- 2 ‘a bhreathnú’, ‘a mheas’

## ARTICLE 20.2.1° AIRTEAGAL 20.2.1°

### TÉACS GAEILGE

Is dleathach Bille nach Bille Airgid é a thionscnamh i Seanad Éireann, agus má ritheann Seanad Éireann é ní foláir é a thabhairt isteach i nDáil Éireann.

### LITERAL ENGLISH TRANSLATION

It is lawful to initiate a Bill which is not a Money Bill in Seanad Éireann, and if Seanad Éireann pass(es) it it must be brought in in Dáil Éireann.

### ENGLISH TEXT

A Bill other than a Money Bill may be initiated in Seanad Éireann, and if passed by Seanad Éireann, shall be introduced in Dáil Éireann.

### Divergences between the official texts

- 1 ‘May be’ is expressed as ‘Is dleathach’ (‘It is lawful to’) in the Irish text.
- 2 ‘Shall be’ is expressed as ‘ní foláir’ (‘must be’) in the Irish text, as we have seen in some earlier Articles.

Note that Article 39 of the 1922 Constitution commences as follows:

A Bill may be initiated in Seanad Éireann and if passed by Seanad Éireann shall be introduced into Dáil Éireann. *Féadfar Bille do thionnsctamh i Seanad Éireann agus má ritheann Seanad Éireann é tabharfar isteach i nDáil Éireann é.*

### Commentary

*a thabhairt isteach* ‘Take, bring, in; introduce; import’ is the principal sense of ‘tabhair isteach’ in *Ó Dónaill*, who cites ‘*nós a tugadh isteach le gairid*, a custom that was recently introduced’. *Ó Dónaill* also gives the secondary sense, in Jurisprudence, of ‘present’, citing ‘*cáipéis a thabhairt isteach*, to bring in a document’.

‘C.I.E. will request the Minister for Transport and Power to introduce the necessary legislation’ is translated as ‘Iarrfaidh C.I.E. ar an Aire Iompair agus Cumhachta an reachtaíocht a thabhairt isteach is gá’ in s2 of the Second Schedule to the Transport (Miscellaneous Provisions) Act, 1971, for example. ‘If rejected by Dáil Éireann it [i.e. a Bill] shall not be introduced again in the same session’ is translated as ‘Má diúltaítear i nDáil Éireann é ní tabharfar isteach arís é sa tsíósón chéanna’ in Article 39 of the 1922 Constitution. ‘Bille do chur isteach’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘to introduce a Bill’ in a Bill of 18 January 1924. ‘Any proposal to introduce modifications in the Agreement’ is translated as ‘Aon mholadh chun modhnuithe a dhéanamh ar an gComhaontú seo’ in Article XXVIII(a) of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977.

*dleathach* Translated as ‘lawful’ in *Téarmaí Dlí* – see the commentary on Articles 14.3, 15.6.2° and 17.2.

*a thionscnamh* Verbal noun of ‘tionscain’ – see the commentary on the previous section.

*ní foláir* See the commentary on Article 11.

### Direct translation

Féadfar Bille seachas Bille Airgid a thionscnamh i Seanad Éireann, agus má ritheann Seanad Éireann é, déanfar é a thabhairt isteach i nDáil Éireann<sup>2</sup>.

### Variants

- 1 ‘má rítear ag’
- 2 ‘tabharfar isteach i nDáil Éireann é’

## ARTICLE 20.2.2° AIRTEAGAL 20.2.2°

### TÉACS GAEILGE

Má thionscnaítear Bille i Seanad Éireann agus go leasaíonn Dáil Éireann é, ní foláir a mheas é a bheith ina Bhille a thionscnaíodh i nDáil Éireann.

### LITERAL ENGLISH TRANSLATION

If a Bill is initiated in Seanad Éireann and Dáil Éireann amends it, it must be deemed to be a Bill which was initiated in Dáil Éireann.

### ENGLISH TEXT

A Bill initiated in Seanad Éireann if amended in Dáil Éireann shall be considered as a Bill initiated in Dáil Éireann.

### Divergences between the official texts

- 1 ‘A Bill initiated ... if amended’ is expressed as ‘Má thionscnaítear Bille ... agus go leasaíonn’ (‘If a Bill is initiated ... and is amended’) in the Irish text.
- 2 ‘Shall be’ is expressed as ‘ní foláir’ (‘it must be’) in the Irish text, preceded by a comma found in that text only.
- 3 The phrase in the Irish text expressing ‘as a Bill’, ‘ina

Bhille', can also be read in the Irish text as 'to be a Bill'.

- 4 'Considered' is expressed in the Irish text by the same verb as expresses 'deemed' in the next section, the verb 'meas' expressing both 'deem' and 'consider' in the modern Acts also.

Note that the words 'é bhreathnú mar breathnócháí Bille a tionnsnócháí i nDáil Éireann' were deleted by the Second Amendment of the Constitution Act, 1941, and the words 'a mheas é bheith ina Bhille a tionnsnadh i nDáil Éireann' were inserted in their place, no corresponding amendment being made to the English text.

Note also that Article 39 of the 1922 Constitution contains the following:

If amended by Dáil Éireann the Bill shall be considered as a Bill initiated in Dáil Éireann. *Má leasúitear i nDáil Éireann é breithneofar ar nós Bille do tionnsnuíodh i nDáil Éireann é.*

### Commentary

*a mheas* Verbal noun of 'meas', translated principally as 'estimate, value, judge; deem, consider' in *Ó Dónaill* – see the commentary on Articles 12.6.2°, 16.6 and 28.3.2°. 'Those States shall ... designate the State among them which ... shall be considered as the State of registration' is translated as 'déanfaidh na Stáit sin ... Stát as a líon a ainmniú a áireofar ... mar Stát cláraitheachta' in Article 18 of the First Schedule to the Air Navigation and Transport Act, 1973. 'An illegitimate child shall be considered as the legitimate child of his mother' is translated as 'measfar gur leanbh dlisteanach lena mháthair leanbh neamhdhlisteanach' in s44(2) of the Finance Act, 1972.

*ina Bhille* On this use of the preposition 'i' expressing 'as' see the commentary on Article 12.3.2°.

*ní foláir* See the commentary on Article 11.

### Direct translation

Déanfar Bille a thionscnófar<sup>1</sup> i Seanad Éireann a mheas mar Bhille a tionscnaíodh i nDáil Éireann má leasaítear i nDáil Éireann é.<sup>2</sup>

### Variants

- <sup>1</sup> 'a thionscnaítear'
- <sup>2</sup> 'Má dhéantar Bille a tionscnaíodh i Seanad Éireann a leasú i nDáil Éireann measfar é a bheith ina Bhille a tionscnaíodh i nDáil Éireann.', 'Aon Bhille a thionscnaítear i Seanad Éireann, agus a leasaítear i nDáil Éireann, déanfar é a mheas mar Bhille a tionscnaíodh i nDáil Éireann.'

## ARTICLE 20.3 AIRTEAGAL 20.3

### TÉACS GAELIGE

Bille a ritear ag ceachtar den dá Theach agus lena nglacann an Teach eile ní foláir a mheas gur ritheadh é ag an dá Theach.

### LITERAL ENGLISH TRANSLATION

A Bill which is passed by either of the two Houses and which the other House accepts (it) must be deemed that it was passed by the two Houses.

### ENGLISH TEXT

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

### Divergences between the official texts

- 1 'Either House' is expressed as 'ceachtar den dá Theach' ('either of the two Houses') in the Irish text.
- 2 'Deemed' is expressed in the Irish text by the same verb as expresses 'considered' in the previous section.
- 3 'Shall be' is again expressed as 'ní foláir' ('must be') in the Irish text.

Note that in Article 40 of the 1922 Constitution 'A Bill passed by either House and accepted by the other House shall be deemed to be passed by both Houses' is translated as 'Bille a rithfear ag Tigh agus a glacfar ag an dTigh eile tuigfear é bheith riththe ag an dá Thigh'.

### Commentary

*ceachtar* This pronoun is translated as 'either, one or other of two' in *Ó Dónaill*, who cites '*ceachtar den dá rud*, either of the two things'. *Dinneen* translates '*ceachtar*' as 'either, one or other, each, any', citing '*ní ceachtar sinn dár ainmnighis*, I am none of those you have named'. In the earlier language, '*cechtar*' had the sense of 'each (of two)' and was always substantival, Rudolf Thurneysen (op. cit., p. 311) citing '*cechtar in-da rann*' ('each of the two parts') from the ninth-century St Gall Glosses on Priscian, DIL citing '*cechtar indapopul*' ('each of the two peoples') from the ninth-century Milan Glosses on the Commentary on the Psalms and translating '*cechtar*' principally as 'each (of), both (of)'. See further the commentary on Article 13.2.3°.

*an dá Theach* Note that Article 38 of the 1922 Constitution contains the following:

... but a Bill passed by Dáil Éireann and considered by Seanad Éireann shall ... be deemed to be passed by both Houses in the form in which it was last passed by Dáil Éireann ... *ach Bille a rithfidh Dáil Éireann agus a bhreithneoidh Seanad Éireann, tuigfear ... gur rith an dá Thigh é sa bhfuirm is déanaí 'nar rith Dáil Éireann é.*

'Dá' is the form of 'dhá' used after the definite article. *Dinneen* gives the sense of 'both, the pair' of 'dá' with the article, citing '*an dá chapall*, both horses'. *De Bhaldraithe* translates 'on both sides' as 'ar an dá thaobh' and cites 'both of these stories must be told, *caithfear an dá scéal seo a insint*'.

*lena nglacann* 'Glacaim le' is translated as 'I accept' in *Téarmaí Dlí* – see the commentary on Article 13.1.3°.

*ní foláir* See the commentary on Article 11.

**Direct translation**

Bille a rithfidh ceachtar Teach agus a nglacfaidh an Teach eile leis<sup>1</sup> measfar é a bheith rite ag an dá Theach.

**Variants**

1 'agus lena nglacfaidh an Teach eile'

ARTICLE 21.1.1<sup>o</sup> AIRTEAGAL 21.1.1<sup>o</sup>

*Money Bills*

*Billí Airgid*

**TÉACS GAEILGE**

Is i nDáil Éireann amháin is cead Billí Airgid a thionscnamh.

**LITERAL ENGLISH TRANSLATION**

It is in Dáil Éireann alone that it is permitted to initiate Money Bills.

**ENGLISH TEXT**

Money Bills shall be initiated in Dáil Éireann only.

**Divergences between the official texts**

1 'Shall' is expressed as 'is cead' ('it is permitted') in the Irish text, as we have seen in some earlier Articles.

Note that Article 35 of the 1922 Constitution reads as follows:

Dáil Éireann shall in relation to the subject matter of Money Bills as hereinafter defined have legislative authority exclusive of Seanad Éireann. *Is ag Dáil Éireann amháin lasmuich de Sheanad Éireann a bheidh údarás reachtúcháin maidir le abhar Billí Airgid mar a mínítear 'na dhiaidh seo.*

**Commentary**

*amháin* 'Only' is given as the secondary sense of 'amháin' in *Ó Dónaill* ('one' being the principal sense), citing '*an lá sin amháin*, (on) that day only'. *Dinneen* translates 'amháin' as 'only, alone, merely; even'. 'Amáin' is the Middle Irish form of 'namhá'. 'Amháin' expresses 'only' in Article 6.2 also.

*is cead* See the commentary on Article 9.1.3<sup>o</sup>.

**Direct translation**

Is i nDáil Éireann amháin a dhéanfar Billí Airgid a thionscnamh.<sup>1</sup>

**Variants**

1 'Ni dhéanfar Billí Airgid a thionscnamh ach amháin i nDáil Éireann.'

ARTICLE 21.1.2<sup>o</sup> AIRTEAGAL 21.1.2<sup>o</sup>

**TÉACS GAEILGE**

Ní foláir gach Bille Airgid a ritear ag Dáil Éireann a chur go Seanad Éireann d'iarraidh a moltaí ina thaobh.

**LITERAL ENGLISH TRANSLATION**

Each Money Bill which is passed by Dáil Éireann must be sent to Seanad Éireann for their recommendations regarding it.

**ENGLISH TEXT**

Every Money Bill passed by Dáil Éireann shall be sent to Seanad Éireann for its recommendations.

**Divergences between the official texts**

- 1 'For its recommendations' is expressed in the Irish text as 'd'iarraidh a moltaí ina thaobh' ('for their recommendations regarding it'), with 'for' being expressed literally as 'to seek'.
- 2 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 38 of the 1922 Constitution includes the following:

Provided that every Money Bill shall be sent to Seanad Éireann for its recommendations .... *Ar choiníoll go gcuirfear gach Bille Airgid chun an tSeanad chun a mholta san d'fháil air.*

**Commentary**

*d'iarraidh* According to *Ó Dónaill* s.v. 'do', 'a' is the standard form of this preposition 'used to connect preceding noun or pronoun, which is virtual subject or object, with verbal noun'. *Ó Dónaill* s.v. 'a', cites '*Tháinig sé a iarraidh iasachta orm*, he came to ask me for a loan'. See the commentary on Article 15.8.2<sup>o</sup> regarding this use of 'do' in the Acts.

'Iarraidh' is the verbal noun of 'iarr', translated as 'ask' in *Ó Dónaill*, with the principal sense of 'request, demand', and secondary sense of 'attempt'. *Dinneen* translates 'iarraidh' as 'act of asking, seeking, desiring; a request, a petition ...', citing '*a d'iarraidh, ag iarraidh, d'iarraidh, trying to, seeking, fetching*'. DIL cites 'rainic A. 'san [dúnad] robí d'iarraighe' ('... which he was in quest of') s.v. 'iarraid', verbal noun of 'iarraid', translated principally as 'act of seeking, seeking (to get), searching, examining', no examples of either verb or verbal noun appearing to be cited from the Old Irish Glosses.

In s1 of the Constitution (Amendment No.12) Act, 1930, 'is sent by Dáil Éireann to Seanad Éireann for its recommendations' is translated as 'do chur go dtí Seanad Éireann ... chun a mholta san air d'fháil'. 'That the Bill is sent to the Seanad for its recommendations' is translated as 'go bhfuil an Bille á chur chun an tSeanad le haghaidh a mholtaí' in s154 of the *Standing Orders* of Dáil Éireann (1997).

*moltaí* Plural of 'moladh', verbal noun of 'mol'; 'recommendation, proposal' is given in *Ó Dónaill* as a secondary sense of this noun, along with 'appraisal, adjudication, award'. *Dinneen* includes 'recommending, adjudging,

reviewing, appraisal or review, a decision or recommendation' among the senses of 'moladh'. The principal sense of 'molad', verbal noun of 'molaid', is 'the act of praising, praise', according to DIL, citing 'in molad doinde' ('human praise') from the eighth-century Würzburg Glosses on the Pauline Epistles, 'do mholadh hÍ Néill' ('do mholadh' being translated as 'according to the decision of') cited from the *Annals of Loch Cé* as an example of the sense 'approbation, approval; decision'.

'Teachtaireacht mholta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'message of recommendation' in the *Proceedings* of Dáil Éireann, 1924, p. 396. 'Such applications ... to be forwarded with recommendations to the Committee of Management' is translated as '... iad do chur chun an Choiste Bhainistí maraon le molta ina dtaobh' in s5 of the 'Details ...' in the 'Leitrim County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. See further the commentary on Article 24.2.

Regarding 'a moltaí' in the Irish text above, as against 'a mholtaí' in a draft of the translation below, commenting on the use of the singular pronoun referring to 'Seanad Éireann' (and to 'Dáil Éireann' in a citation from the Acts above), Professor Máirtín Ó Murchú remarks that this is contrary to the usual practice in Irish and regards the plural pronoun as more natural. Professor Ó Murchú recommends 'chun a gcuid moltaí a fháil air' rather than 'le haghaidh a mholtaí'.

### Standardised Irish text

Ní foláir gach Bille Airgid a ritear ag Dáil Éireann a chur go Seanad Éireann a iarraidh a moltaí ina thaobh.

### Direct translation

Déanfar gach Bille Airgid a rithfidh Dáil Éireann a chur go Seanad Éireann chun a gcuid moltaí a fháil air<sup>1</sup>.

### Variants

- 1 'le haghaidh a moltaí', 'le haghaidh a mholtaí', 'le haghaidh mholtaí an tSeanad'

## ARTICLE 21.2.1<sup>o</sup> AIRTEAGAL 21.2.1<sup>o</sup>

### TÉACS GAELIGE

Gach Bille Airgid a chuirtear go Seanad Éireann d'iarraidh a moltaí ina thaobh, ní foláir é a chur ar ais go Dáil Éireann i gceann tréimhse nach sia ná lá agus fiche tar éis an Bille a chur go Seanad Éireann, agus tig le Dáil Éireann iomlán na moltaí ó Sheanad Éireann nó aon chuid díobh a ghlacadh nó a dhiúltú.

### LITERAL ENGLISH TRANSLATION

Each Money Bill which is sent to Seanad Éireann for their recommendations regarding it, it must be sent back to Dáil Éireann at the end of a period not longer than twenty-one days after sending the Bill to Seanad Éireann, and Dáil Éireann may accept or refuse/reject all the recommendations from Seanad Éireann or any part of them.

### ENGLISH TEXT

Every Money Bill sent to Seanad Éireann for its recommendations shall, at the expiration of a period not longer than twenty-one days after it shall have been sent to Seanad Éireann, be returned to Dáil Éireann, which may accept or reject all or any of the recommendations of Seanad Éireann.

### Divergences between the official texts

- 1 'Reject' is expressed in the Irish text by a form of the verb 'diúltaigh' which in the sense of 'reject' in other Articles takes an indirect object governed by the preposition 'do'.
- 2 'Dáil Éireann' is repeated in the Irish text alone.
- 3 'All or any of the recommendations of Seanad Éireann' is expressed as 'iomlán na moltaí ó Sheanad Éireann nó aon chuid díobh' ('all the recommendations from Seanad Éireann or any part of them') in the Irish text.
- 4 'After it shall have been sent' is expressed as 'tar éis an Bille a chur' ('after sending the Bill') in the Irish text.
- 5 'For its recommendations' is expressed as 'd'iarraidh a moltaí ina thaobh' ('to seek their recommendations regarding it') in the Irish text, as in the previous subsection.
- 6 'At the expiration of' is expressed as 'i gceann' ('at the end of') in the Irish text.
- 7 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 38 of the 1922 Constitution contains the following:

... and at a period not longer than twenty-one days after it shall have been sent to Seanad Éireann, it shall be returned to Dáil Éireann, which may pass it, accepting or rejecting all or any of the recommendations of Seanad Éireann .... *agus i gceann tréimhse nach sia ná lá is fiche tar éis é do chur chun an tSeanad, go gcuirfear thar n-ais é go dtí Dáil Éireann a fhéadfaidh é rith, agus molta uile Sheanad Éireann nó aon mhola aca do ghlaca no do dhiúlta.*

### Commentary

*i gceann* This phrase is translated principally as 'at the end of' in *Ó Dónaill*, who cites '*i gceann coicise*, in a fortnight's time'. *Dinneen* translates '*i gceann*' as 'at the end, head, in front of ...'. DIL cites 'a cceinn trí lá' from Flaithrí Ó Maolchonaire's *Desiderius* (published in Louvain in 1616) as an example of '*i ciunn*' ('[of time] at the end of'); the dative of 'cenn' without a preposition expresses 'at the end of' in Old Irish, DIL citing 'cinn rehe' ('at the end of a space' ['period'], i.e. 'after a time') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'On the expiration of the lease' is translated as 'ar éag don léas' in *Téarmaí Díl*, with 'expiration' being translated as 'éag'. *De Bhaldraithe* translates 'on the expiration of the lease' as 'nuair a bheadh (bhí, etc.) an léas caite'. 'At the expiration of a period of two months beginning with the date of making the assessment' is translated as '*i gceann dhá mhí dar tosach dáta na measúnachta a dhéanamh*' in s5(2) of the Capital Gains Tax Act, 1975. In s7(2) of the Cheques Act, 1959, 'This Act shall come into operation at

the expiration of a period of three months beginning with the day on which it is passed' is translated as 'Tíocfaidh an tAcht seo i ngníomh i ndeireadh tréimhse trí mhí dar tosach lá an Achta seo a rith'. Finally, 'at the expiration of a period of three years from the passing of this Act' is translated as 'i gceann tréimhse trí mbliain ó dháta an Achta seo a rith' in s40(7) of the Factories Act, 1955. See the commentary on Article 12.3.1<sup>o</sup> regarding other translations of 'at the expiration of' in the Acts.

*a dhiúltú* The verbal noun of 'diúltaigh' – see the commentary on Article 13.2.2<sup>o</sup> regarding 'diúltaigh do'. 'Diúltaigh' is translated as 'deny, refuse' in *Ó Dónaill*, who cites '*dhiúltaigh sé m'iaratas*, he refused my application'. 'Diúltaim' is translated as 'I refuse' in *Téarmaí Dlí* and 'diúltaighim' is translated as 'I deny, refuse, oppose, renounce (with *do*); I jilt' in *Dinneen*. DIL translates 'diúlta(ig)id' as 'refuses, rejects', citing '*dhiúltaigh na baintreabhacha óga*, refuse the young widows' from the seventeenth-century translation of *1 Timothy* v, 11. This verb is based on 'diúltad', which is the verbal noun of 'do-sluindi', which compound verb is translated in DIL as (a) 'denies (i.e. refuses to believe)' and (b) 'denies, i.e. rejects, renounces', citing 'an cloch do dhiúltadar na saoir' from the seventeenth-century translation of *Psalms* 118, 22, this being expressed as 'An chloch dar dhiúltaigh na saoir' in the current 'Maynooth' Bible (i.e. 'diúltaigh do').

'They shall be circulated by post to all members where addresses are known for acceptance or rejection *en bloc* by postal vote' is translated as 'cuirfear amach iad leis an bpost go dtí gach comhalta arb eol a sheoladh le glacadh leo nó le diúltú dóibh *en bloc* trí phostvótáil' in s12(3) of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969. In s63(6) of the Court Officers Act, 1926, 'accept such employment provisionally and postpone his final acceptance or rejection of such employment for any period' is translated as 'an fhostaíocht san do ghlaca go sealadach agus a glaca ar fad no diúlta ar fad di do chur ar athló go ceann aon tréimhse'. 'Rejecting any that are invalid' is translated as 'tar éis diúltú d'aon chuid aca a bheidh gan éifeacht' in s3(1) of the Third Schedule to the Electoral Act, 1923, with 'rejection objected to' translated as 'cuireadh i gcoinnibh an diúlta' in s7(1) of the Fourth Schedule.

*lá agus fiche* 'Capall is fiche' is the example given for '21' with a noun in *An Caighdeán Oifigiúil* (p. 39), '*trí leabhar is fiche*, twenty-three books' being cited in *Ó Dónaill*, who states that either the nominative singular 'fiche' with 'is', the dative singular with 'ar' (i.e. '*trí leabhar ar fhichid*') or the genitive singular (i.e. '*trí leabhar fichead*') is used after a noun preceded by a cardinal or ordinal number. 'Dhá bhliain is fiche' is cited in *Graiméar Gaeilge na mBráithre Críostaí*, s146(d). *Dinneen* cites '*a h-aon is fiche*, twenty-one'. DIL cites 'dá lebur fichet' ('twenty-two books') from the ninth-century Milan Glosses on the Commentary on the Psalms – see Rudolf Thurneysen, op. cit., s391, who states, regarding Old Irish, that 'in the combination of digits and tens the latter follow in the genitive', citing '*a ocht fichet* "28"' and '*di litir fichet*', 22 letters (of the alphabet)'.  
'Within the next twenty-one days on which that House has sat' is translated as 'laistigh den lá is fiche a shuifidh an Teach sin' in s14(3) of the Criminal Justice (Community

Service) Act, 1983, for example, 'laistigh den lá is fiche shuidhfidh an Tigh sin ina dhiaidh sin' translating the same sentence in s26(2) of the Agricultural Produce (Eggs) Act, 1930.

*iomlán* 'Iomlán' as a noun is translated as 'all, the whole; total, aggregate' in *Ó Dónaill*, who cites '*iomlán na ndaoine*, all of the people'. DIL translates 'iomlán' as 'the whole', citing 'dá mbeith iomlán an chreidimh agam' (Latin 'omnem fidem') from Keating's seventeenth-century *Three Shafts of Death*.

'Regulations ... may require that all or any of the statements made by the applicant in such form be verified' is translated as 'Féadfar le rialacháin ... a cheangal go ndéanfar na ráitis go léir, nó aon cheann díobh, a dhéanfaidh an t-iarratasóir san fhoirm sin, a fhióru' in s148(2) of the Social Welfare (Consolidation) Act, 1981. In s308(1), 'the Minister may by regulations vary all or any of the rates of benefit' is translated as 'féadfaidh an tAire aon cheann nó gach ceann de na rátaí sochair ... a athrú le rialacháin'. 'By reason only of the fact that it incorporates or otherwise includes all or any of the terms contained in an agreement' is translated as 'de bhithin amháin go gcorpraíonn sé nó go bhfolaíonn sé ar dhóigh eile gach ceann nó aon cheann de na téarmaí atá i gcomhaontú' in s8(2)(b) of the Payment of Wages Act, 1979. In s7(2) of the Finance Act, 1923, 'by seizing all or any of the goods, animals and other chattels' is translated as 'tré gabháil do dhéanamh ar gach cuid no aon chuid de sna hearraí, de sna hainmhithe agus den mhaoin eile'.

*sia* A comparative adjective, translated as 'longer, farther' in *Ó Dónaill*, citing '*tréimhse nach sia ná mí*, a period not exceeding a month'. *Dinneen* translates this 'irregular comparative and superlative form of "fada"' as 'longest, farthest; farther, longer (of time or space), more remote, more distant', citing '*lá is sia anonn 'ná an lá indiu*, at a much later date, later on'. Historically, 'sia' was a comparative form of the adjective 'sír' ('long, lasting, constant'), translated as 'longer, farther' in DIL, citing 'is sia 's is sia an óige uam' (i.e. youth is 'ever further' from me) from a miscellaneous collection of Classical Irish poetry. In Early Middle Irish the comparative and superlative of 'fota' (Modern Irish 'fada') seem to have been supplied from 'sír', DIL citing 'issia thiagait' from the *Book of Leinster* version of the *Táin*, which corresponds to 'as faide' in the *Stowe* version.

'The resolution may also be renewed, for a period not longer than that for which the authority is renewed' is translated as 'féadfar ... an rún a athnuachan freisin go ceann tréimhse nach faide ná an tréimhse dá n-athnuaitear an t-údarás' in s24(3) of the Companies (Amendment) Act, 1983, for example.

### Standardised Irish text

Gach Bille Airgid a chuirtear go Seanad Éireann a iarraidh a moltaí ina thaobh, ní foláir é a chur ar ais go Dáil Éireann i gceann tréimhse nach sia ná lá agus fiche tar éis an Bille a chur go Seanad Éireann, agus tig le Dáil Éireann iomlán na moltaí ó Sheanad Éireann nó aon chuid díobh a ghlacadh nó a dhiúltú.



**Direct translation**

Gach Bille Airgid a chuirfear go Seanad Éireann le haghaidh mholtaí an tSeanaid, déanfar, i gceann tréimhse nach faide ná lá is fiche tar éis é a bheith curtha go Seanad Éireann,<sup>1</sup> é a chur ar ais go Dáil Éireann, ar féidir léi<sup>2</sup> glacadh le moltaí uile Sheanad Éireann nó diúltú dóibh nó glacadh le haon cheann díobh nó diúltú dó<sup>3</sup>.

**Variants**

- 1 'déanfar, ar tréimhse nach faide ná lá is fiche tar éis é a bheith curtha go Seanad Éireann a bheith caite,'
- 2 'leo'
- 3 'ar féidir léi glacadh le moltaí uile Sheanad Éireann, nó le cuid éigin díobh, nó diúltú dóibh uile, nó le cuid éigin díobh'

ARTICLE 21.2.2<sup>o</sup> AIRTEAGAL 21.2.2<sup>o</sup>**TÉACS GAELIGE**

Mura gcuirtear an Bille Airgid sin ar ais ó Sheanad Éireann go Dáil Éireann taobh istigh den lá agus fiche sin, nó má chuirtear ar ais é taobh istigh den lá agus fiche sin mar aon le moltaí nach nglacann Dáil Éireann leo, ní foláir a mheas gur rith an dá Theach i gceann an lae agus fiche sin é.

**LITERAL ENGLISH TRANSLATION**

If that Money Bill is not sent back from Seanad Éireann to Dáil Éireann within those twenty-one days, or if it is sent back within those twenty-one days along with recommendations which Dáil Éireann does not accept, it must be deemed that the two Houses passed it at the end of those twenty-one days.

**ENGLISH TEXT**

If such Money Bill is not returned by Seanad Éireann to Dáil Éireann within such twenty-one days or is returned within such twenty-one days with recommendations which Dáil Éireann does not accept, it shall be deemed to have been passed by both Houses at the expiration of the said twenty-one days.

**Divergences between the official texts**

- 1 'Not returned by Seanad Éireann' is expressed as 'Mura gcuirtear ... ar ais ó Sheanad Éireann' ('not sent back from Seanad Éireann') in the Irish text.
- 2 'With recommendations' is expressed as 'mar aon le moltaí' ('along with recommendations') in the Irish text.
- 3 A comma precedes the clause 'nó má chuirtear ar ais é' ('or if it is returned') in the Irish text alone.
- 4 'At the expiration of' is again expressed as 'i gceann', 'at the end (of)', in the Irish text, as in some Acts and as we have seen in the previous subsection.
- 5 'It shall' is again expressed as 'ní foláir' ('it must') in the Irish text.

Note that Article 38 of the 1922 Constitution contains the following:

... if not returned within such period of twenty-one days shall be deemed to have been passed by both Houses .... *mara gcuirfear thar n-ais fé cheann an lae is fiche sin é tuigfear é bheith riththe ag an dá Thigh.*

**Commentary**

*taobh istigh* Ó Dónaill cites '*taobh istigh de bhliain*, within a year'. Dinneen translates '*taobh istigh (de)*' as '*within (in), inside (of)*', citing '*taobh istigh de chéad punt*, below £100'. DIL cites '*taobh a sdigh*' from Donlevy's *An Teagas Críosduidhe* (1742). '*Istech*' ('in', 'into') is a contracted form of '*isa tech*' ('into the house'), as opposed to '*immach*' ('into the plain'), while '*istig*' ('in') literally means '*in the house*', as opposed to '*immaig*' ('in the plain' [Modern Irish '*amuigh*']), '*tig*' and '*maig*' here being the dative singular forms, '*tech*' being originally a neuter noun having this form both in the nominative and accusative singular. See the commentary on Articles 12.3.3<sup>o</sup> and 16.4.2<sup>o</sup> regarding '*within*' in the Acts and see the commentary on Article 34.4.4<sup>o</sup> regarding '*taobh amuigh*'.

*sin* Sometimes expresses '*such*' in the Acts also – see the commentary on Article 12.4.3<sup>o</sup>. See the commentary on Article 8.3 regarding '*the said*'.

*mar aon le* See the commentary on Articles 10.1 and 16.7.

*ní foláir* See the commentary on Article 11.

**Direct translation**

Mura gcuireann Seanad Éireann an Bille Airgid sin ar ais go Dáil Éireann laistigh den lá is fiche sin nó má chuirtear ar ais é laistigh den lá is fiche sin le moltaí nach nglacfaidh Dáil Éireann leo, measfar gur rith an dá Theach é ag deireadh an lae is fiche sin.

ARTICLE 22.1.1<sup>o</sup> AIRTEAGAL 22.1.1<sup>o</sup>**TÉACS GAELIGE**

Is é is ciall do Bhille Airgid Bille nach mbíonn ann ach forálacha le haghaidh iomlán na n-ábhar seo a leanas nó aon chuid acu .i. cánachas a ghearradh, a aisghairm, a loghadh, a athrú nó a rialú; muirir a leagan ar airgidí poiblí chun fiacha a íoc nó chun cuspoirí eile airgeadais, nó a leithéidí sin de mhuirir a athrú nó a aisghairm; soláthar; airgead poiblí a leithghabháil, a ghlacadh, a choinneáil nó a eisiúint, nó cuntais air a iniúchadh; aon iasacht a chruinniú nó a ráthú nó a aisic; fo-ábhair a bhfuil baint acu leis na nithe sin nó le haon chuid acu.

**LITERAL ENGLISH TRANSLATION**

What is meant by a Money Bill is a Bill which contains only provisions for all of the following matters or any part of them i.e. imposing, repealing, remitting, changing or regulating taxation; laying charges on public moneys to pay debts or for other financial objectives, or changing or repealing such charges; provision/supply; appropriating, receiving, keeping or issuing public money, or scrutinizing accounts of it; collecting or guaranteeing or repaying any

loan; subsidiary matters which are connected with those things or with any part of them.

#### ENGLISH TEXT

A Money Bill means a Bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; 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; matters subordinate and incidental to these matters or any of them.

#### Divergences between the official texts

- 1 'Matters subordinate and incidental to these matters or any of them' is expressed as 'fo-ábhair a bhfuil baint acu leis na nithe sin nó le haon chuid acu' ('subordinate matters which are connected with those things or with any part of them') in the Irish text.
- 2 'Imposition' is expressed as 'a ghearradh' ('levying') in the Irish text in the case of 'the imposition ... of taxation' and as 'a leagan' ('laying') in the case of 'the imposition ... of charges'.
- 3 'Regulation' is expressed by the verbal noun of the verb 'rialáigh', translated as 'control; rule' in *Téarmaí Dlí*, this verb usually expressing 'regulate' in the Constitution.
- 4 'Purposes' is expressed as 'cuspóirí' ('objectives') in the Irish text, as against 'críocha' in many other Articles; 'cuspóirí' does, however, also have the sense of 'purposes'.
- 5 'Custody' is expressed in the Irish text by the term 'coinneáil'; in a legal context, this word may mean 'detention' – see *Téarmaí Dlí*.
- 6 'The appropriation, receipt, custody, issue or audit of accounts of public money' is expressed as 'airgead poiblí a leithghabháil, a ghlacadh, a choinneáil nó a eisiúint, nó cuntais air a iniúchadh' ('the appropriation, receipt, custody/detention or issue of public money, or the audit of accounts on it') in the Irish text.
- 7 'The raising or guarantee of any loan or the repayment thereof' is expressed as 'aon iasacht a chruinniú nó a ráthú nó a aisíoc' ('the raising or guarantee or repayment of any loan') in the Irish text, with 'raising' being expressed as 'a chruinniú' ('collecting, gathering').
- 8 'A Money Bill means' is expressed as 'Is é is ciall do Bhille Airgid' ('What is meant by a Money Bill' / 'What a Money Bill means [is]') in the Irish text.
- 9 'Dealing with' is expressed as 'le haghaidh' ('for') in the Irish text.
- 10 'All or any of the following matters' is expressed as 'iomlán na n-ábhar seo a leanas nó aon chuid acu' ('all the following matters or any part of them') in the Irish text, 'aon chuid acu' here replacing 'aon chuid díobh' of Article 21.2.1°.
- 11 'Debt' is expressed as 'fiacha' ('debts') in the Irish text.

Note that Article 35 of the 1922 Constitution contains the same English text, with 'subjects' in place of 'matters' and 'subordinate matters incidental to those objects' replacing 'matters subordinate and incidental to these matters' above; the Irish text of Article 35 is as follows:

Cialluíon Bille Airgid Bille ná fuil ann ach forálacha i dtaobh gach abhair no aon abhair díobh so leanas, eadhon, leaga, ath-ghairm, maitheamh, atharú no rialú cánach; muirir do leaga ar airgead phuiblí chun fiacha do dhíol no chun cúrsaí eile airgid; no a leithéidí sin de mhuirir d'atharú no d'ath-ghairm; soláthar; airgead puiblí do chur i leithreas, d'fháil, do chimeád, do thabhairt amach no a chuntais do scrúdú; tógaint no urús aon iasachta no a aisíoc; mion-chúrsaí ag baint leis na habhair seo no le haon cheann aca.

#### Commentary

*muirir* 'Muirear' is translated as 'charge' in *Téarmaí Dlí*, this noun being translated principally as 'charge; encumbrance' in *Ó Dónaill*, citing '*is mór an muirear air é*, it is a great burden on him'. *Dinneen* translates 'muirear' as 'an encumbrance, a load, weight, burthen; a troop, a throng; a household, a family' citing '*muirear cíosa agus clainne*, heavy rent and many children'. 'Muirear' is similar to 'cúram' (principally 'care, responsibility') in developing this secondary sense of 'family'. DIL translates 'muirear' principally as 'a burden, charge, *always* of the care (of providing for) or maintenance of a number of individuals (family, household, company, troop, etc.)', citing the following from the *Book of Rights* in the concrete sense of maintenance given, 'tribute', etc.: 'fichi cornn, fichi claidheamh ... is muirear'. See the commentary on Article 11.

*is ciall do* 'Meaning' is given as one of the secondary senses of 'ciall' in *Ó Dónaill* ('sense' being the primary meaning), citing '*ciall a bhaint as rud*, to find a meaning in something' and '*tá a chiall féin aige leis*, he knows what he means by it'. *Dinneen* translates '*caidé an chiall atá leis?*' as 'what is the point of it?', translating 'cad is ciall dó?' as 'what is its meaning?', citing '*is ionann ciall dóibh*, they have the same meaning'. 'Goidé is ciall duit?' is translated by *Dinneen* as 'what is the matter with you? what do you mean?' followed by the abbreviation for 'Donegal'. DIL cites 'issi inso síis a chiall' ('this below is the meaning of it'), from the ninth-century Milan Glosses on the Psalms, as an example of the sense of 'signification, meaning', of words, texts, etc., of 'ciall'.

"A broadcast" means a broadcast by wireless telegraphy of sound or visual images intended for general reception' is translated as 'ciallaíonn "craoladh" fuaim-iomhánna agus dearc-iomhánna a chraoltar trí raidiótheileagrafaíocht agus atá ceaptha lena nglacadh go ginearálta' in s7 of the Criminal Law (Rape) Act, 1981, for example. In s8(7) of the Military Service Pensions Act, 1934, 'In this Act the expressions "a report under this Act" means a report made by the Referee' is translated as 'San Acht so cialluíonn an abairt "tuarasgabháil fán Acht so" tuarasgabháil ar n-a tabhairt ag an Réiteoir'.

*le haghaidh ... aon chuid acu* The genitive generally follows the compound preposition 'le haghaidh'. In such constructions, the word 'cuid' is not normally inflected – *Ó Dónaill*, for example, citing '*gach lá ag baint a chuid féin asainn*, each day taking its toll of us'; Professor Máirtín Ó Murchú refers to *Graiméar Gaeilge na mBráithre Críostaí*, s168(b), where 'ag déanamh mo chuid oibre', 'bás cuid mhór acu' and 'os cionn an chuid eile den tír' are cited. As regards 'cuid' followed by the preposition 'ag', DIL cites 'ismaith achuit occa' ('good is His share in

it') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'The profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries' is translated as '(go) mbeidh an cuntas sochair agus dochair cumtha ina chuntas comhdhlúite sochair agus dochair a dhéileálann le gach ceann nó aon cheann d'fhochuideachtaí na cuideachta' in s3(2)(b) of the Companies (Amendment) Act, 1986, following s148(4)(b) of the Companies Act, 1963. 'In sending out, receiving and otherwise dealing with the ballot papers of postal voters' is translated as 'Ag cur amach agus ag fáil páipéiri ballóide post-vótáluithe dho, agus ag deighleáil leo ar shlite eile dho' in s21(5) of the Electoral Act, 1923.

*cánachas* This headword is translated as 'imposition, taxation' in *Ó Dónaill* and as 'custom, tribute' in *Dinneen*. DIL translates 'cánachas' as 'tribute, rent', most examples being in phrases with 'cis', 'cach cis 7 cach canacus oir 7 argid' being cited from the *Book of Ballymote*, for example. This noun is based on 'cáin', in the sense of 'legal due, tribute'.

'Taxation of Trustees Savings Banks' is translated as 'Cánachas ar Bhainc Thaisce Iontaobhais' in the Heading for Chapter VI of the Finance Act, 1990, with 'The Institute of Taxation in Ireland' being styled 'An Institiúid Cánachais in Éirinn' in s29. In No. 47 of the Schedule to the Appropriation Act, 1922, 'in respect of Local Taxation Grants' is translated as 'i dtaobh Deontaisí Cánach Áitiúla', 'taxation' being translated simply as 'cáin' in the 1922 Constitution also, as we see above. We find 'cánachas' in the Preamble to the Dublin Port and Docks (Bridges) Act, 1929, where 'area of taxation' is translated as 'líomatáiste cánachais'.

*leithéidí* 'Leithéid' is translated as 'like, counterpart, equal; such' in *Ó Dónaill*, who cites 'a leithéid de rud, de dhuine, such a thing, a person' and 'ní bheidh a leithéidí arís ann, we shall not look upon their like again'. *Dinneen* cites 'a leithéid sin de leabhar, such a book'. DIL cites 'biadh in baisteda 7 in biadh faire 7 a lethéti sin' ('the food of the baptism, and the food of the wake, and the like') from O'Davoren's *Glossary*.

Note that 'sin' alone sometimes expresses 'such' in the Constitution, this also being expressed as 'den sórt sin', both being found in the Acts also. 'For the repayment of any such benefit' is translated as 'go n-aisíocfar aon sochar den sórt sin' in s113(2)(b) of the Social Welfare (Consolidation) Act, 1981, for example. 'To carry out examinations of any such practices or proposed practices' is translated as 'scrúduithe a dhéanamh ar aon chleachtais nó cleachtais bheartaithe den sórt sin' in s55(1)(b) of the Sale of Foods and Supply of Services Act, 1980. 'For the enforcement of any such penalties' is translated as 'chun aon phionóis den tsórt sin a chur i bhfeidhm' in s80 of the Mercantile Marine Act, 1955.

*a ghearradh* See the commentary on Article 11. 'Gearradh' is the verbal noun of 'gear' ('cut'), in the sense of 'levy', *Ó Dónaill* citing 'cáin, fineáil, a ghearradh ar dhuine, to levy a tax, a fine, on someone'. *Dinneen* cites 'gearraim an méid seo ort, I fine or tax you to this amount'. DIL gives 'a tax, a tribute' as one of the senses of 'gerrad', verbal noun of 'gerraid', citing 'gan sreith gan gearradh ... do chor ar a nduthaigh' from the *Annals of the Four Masters*.

This verbal noun construction is used here, and in the case of this subsection in general, rather than having 'cánachas' in the genitive qualifying 'gearradh', i.e. 'gearradh cánachais', as the syntactically most economical mode of treating a list of such qualifiers, the alternative being 'gearradh cánachais, aisghairm chánachais, loghadh cánachais, athrú cánachais, nó rialú cánachais'.

Turning to the Acts, 'The Collector-General for the time being appointed under section 162 ... shall collect and levy resource tax from time to time charged in all assessments' is translated as 'Baileoidh agus toibheidh an t-Ard-Bhailitheoir a bheidh ceaptha de thuras na huair faoi alt 162 ... cáin acmhainne a mhuirearófar ó am go ham sna measúnachtaí go léir a dhéanfar' in s34(2) of the Finance Act, 1980. 'Nothing in this section shall authorise the imposition of taxation or the imposition of any form of compulsory military service' is translated as 'Ní údaróidh éinní san alt so cáin d'fhorchur ná aon tsórt seirbhíse míleata éigeanta' in s2(5) of the Emergency Powers Act, 1939. 'To demand, collect, recover and levy ... the tax' is translated as 'an cháin ... d'éileamh, do bhailiú, do bhaint amach agus do ghearradh' in s7(4) of the Finance Act, 1934. 'In respect of any poor-rate or other rate levied by any county council' is translated as 'mar gheall ar aon ráta do bhochta no aon ráta eile a ghearrann aon chomhairle chontae' in s11(3)(c) of the Damage to Property (Compensation) Act, 1923.

*a loghadh* 'Loghadh' is the verbal noun of 'logh', translated as 'remit, forgive' in *Ó Dónaill*, 'loghaim' being translated as 'I remit (i.e. a sentence)' in *Téarmaí Dlí* and as 'I forgive, remit, pardon, indulge' in *Dinneen*. 'Logaid' had the sense of 'concedes, remits' in early Irish law, DIL citing 'in ni logus neach uad ... o belai' ('... concedes by word of mouth') from a commentary on an early Irish law-tract. In the Old Irish Glosses, 'logaid' had the sense of 'obtains, acquires', 'ro-nd-logad' glossing Latin 'obtinere' in the ninth-century Milan Glosses on the Psalms. The verbal noun 'logad', as an ecclesiastical term, has the sense of 'indulgence; remission of punishment due for sin'.

'No reduction, remission, abatement or repayment of duty shall be allowed or made' is translated as 'Ní lamhálfar ná ní dhéanfar aon laghdú, logha, lacáiste ná aisíoc dleachta' in s77(6) of the Finance Act, 1980. In s9(4) of the Finance Act, 1942, 'the remission or repayment of the whole of those death duties' is translated as 'maitheamh no aisíoc na ndiúitithe báis sin go léir'. 'Luíodú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'remission (of excise duty)' in the *Dáil Order Paper*, 1926, p. 45. See further the commentary on Article 13.6.

*airgidí* 'Airgid' is given as the form of the nominative plural of 'airgead' in *Ó Dónaill*, 'airgeadaí' being given as a variant form of the plural. 'Airgid' and 'airgidí' are given in *Dinneen*. The singular 'airgead' expresses 'moneys' on the two other occasions the plural is found in the English text: 'other public moneys' is expressed as 'ar airgead poiblí ar bith eile' in Article 17.2, with 'chun iniúchadh a dhéanamh ar gach uile chuntas ar airgead a riartar ag an Oireachtas' expressing 'to audit all accounts of moneys administered by ... the Oireachtas' in Article 33.2. 'That he is entitled to recover moneys owing to the person' is translated as 'go bhfuil sé i dteideal airgead atá dlite don duine a ghnóthú' in s112(8)(b) of the Finance Act, 1990,

for example. See further the commentary on Article 17.2.

*soláthar* This headword is translated as 'collection, procurement; supply, provision' in *Ó Dónaill* and as 'act of contributing, providing, producing, ... gathering, ... provision' in *Dinneen*, who cites '*soláthar airgid*, a sum of money, a money provision'. DIL translates '*soláthar*' as 'act of gathering, collecting, procuring, providing', citing 'níor luigh ar leith a mháthar / do-ní seacha soláthar' ('he went not into his mother's territory, he provided for himself outside it'), from a miscellaneous collection of Classical Irish poetry, '*soláthar*' perhaps being a compound of 'so' and 'láthar' (translated principally as 'arrangement, disposition' in DIL, but also with the sense of 'place, position'). See the commentary on Article 45.2.i where '*soláthar a dhéanamh do*' expresses 'make provision for'.

'Supply Grants' is translated as 'Deontais Soláthair' in the Heading of the Schedule to the Appropriation Act, 1981, the same heading in the Schedule to the Appropriation Act, 1922, being translated as 'Deontais Soláthair'. 'Bórd Soláthair an Leictreachais' translates 'Electricity Supply Board' in the Margin Title of s48 of the Dublin Port and Docks (Bridges) Act, 1929, for example.

*a eisiúint* Verbal noun of 'eisigh', translated as 'issue' in *Ó Dónaill*, who cites '*rótaí a eisiúint*, to issue notes'. 'Eisim' is translated as 'I issue' in *Téarmaí Dlí*. This word does not appear to be given as a headword in *Dinneen*.

'Where the issue of the shares does not constitute a chargeable transaction for those purposes' is translated as 'i gcás nach idirbheart inmhuirearaithe chun na gcricoch sin eisiúint na scaireanna' in s119 of the Finance Act, 1990, for example. 'At any time within forty-eight hours after the issue of the search warrant' is translated as 'aon uair laistigh d'ocht n-uaire is dachad a' chluig tar éis tabhairt-amach an bharántais chuardaigh' in s10(2) of the Treasonable Offences Act, 1925, 'tabhairt-amach' translating 'issue' in the 1922 Constitution, as we see above. 'Including the audit of the accounts of the fund and the issue and management of securities issued under this Act on behalf of the fund' is translated as 'agus iniúchadh cuntaisí an chiste agus tabhairt-amach agus bainistí urrús do bhéarfar amach fén Acht so thar ceann an ciste d'áireamh' in s18(1) of the Local Loans Fund Act, 1935. In s4(2), 'No issue of money shall be made from the fund' is translated as 'Ní tabharfar aon airgead amach as an gciste'.

*a iniúchadh* Verbal noun of 'iniúch', translated as 'scrutinize, audit' in *Ó Dónaill*, who cites '*cuntais a iniúchadh*, to inspect, audit, accounts'. 'Iniúchaim' is translated as 'I audit' in *Téarmaí Dlí*, 'coiste iniúchta' being translated as 'committee of inspection'. 'Infiúchaim' is translated as 'I scrutinise, examine, look attentively at' in *Dinneen*.

'Ensuring that such persons have an adequate knowledge of the law and practice in the State relevant to the audit of accounts' is translated as 'a chinntiú go bhfuil eolas dóthanach ag na daoine sin ar an dlí agus ar chleachtas sa Stát is iomchuí d'iniúchadh cuntas' in s189(2)(b) of the Companies Act, 1990, for example. 'Audit of accounts of sweepstakes' is translated as 'Cuntaisí scuab-gheall d'iniúcha' in the Margin Title of s6 of the Public Charitable Hospitals (Temporary Provisions) Act,

1930, with 'Cuntais scéimeanna iontaobhais aonad a iniúchadh' translating 'Audit of accounts of unit trust schemes' in the Margin Title of s16 of the Unit Trusts Act, 1972.

We see above that 'scrúdú' translates 'audit' in the 1922 Constitution, 'Comptroller and Auditor-General' being styled 'Ard-Sgrúdaí' in Article 62. 'Roinn na hIniúcháir-eachta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'Audit Department' in a *Report* from 1926, with 'iniúcháireacht' translating 'audit' in the *Proceedings* of Dáil Éireann, 1926, p. 120. See further the commentary on Article 33.1.

*a choinneáil* Verbal noun of 'coinnigh', the first person singular, present indicative of which, 'coinnim', is translated as 'I detain' in *Téarmaí Dlí*, 'coinneáil' being translated as 'detention'. 'Custody' is translated as 'coimeád' in *Téarmaí Dlí*.

'Provision for the custody of the mortgage deeds and other securities belonging to the society' is translated as 'socrú chun na gníomhais mhorgáiste agus urrús eile de chuid an chumainn a choimeád' in s10(j) of the Building Societies Act, 1976, for example. 'The authorised person shall forthwith deliver him into the custody of a member of the Garda Síochána' is translated as 'seachadfaidh an duine údaraithe é láithreach i gcoimeád chomhalta den Gharda Síochána' in s39(c) of the Fourth Schedule to the Fisheries Act, 1980.

Looking at early Acts, 'All moneys, investments, and other property which immediately before the passing of this Act were vested in or were in the custody, possession, or control of the Dáil Éireann Trustees' is translated as 'Gach airgead, súncáil, agus maoin eile a bhí, díreach roimh rith an Achta so, dílsithe in Iontaobhaithe Dháil Éireann ... nó i gcimeád, ar seilbh nó fé smacht ag an gcéanna' in s2(1) of the Dáil Éireann Loans and Funds Act, 1924. 'Being a person over the age of sixteen years having the custody charge or care of C.D., a child' is translated as 'agus é ina dhuine os cionn sé mbliain déag d'aois ar a raibh cimeád, cúram no caomhaint C.D., leanbh' in the 'Forms of Indictment' appended to the Criminal Justice (Administration) Act, 1924.

*a chruinniú* Verbal noun of 'cruinnigh', the basic sense of which in *Ó Dónaill* is 'gather', with 'collect' as one of its senses, *Ó Dónaill* citing '*airgead a chruinniú*, to collect, acquire, money'. *Dinneen* translates 'cruinnigh' as 'I hoard, heap together, gather together; I assemble; I concentrate', citing '*cruinnigh do chainnt*, speak to the point'. DIL translates 'cruinnigid' as 'collects, gathers, assembles', citing 'don tí chruinnigheas toice' (translated by Professor Máirtín Ó Murchú as 'to the one who amasses wealth') from Keating's seventeenth-century *Three Shafts of Death*. This verb is based on the adjective 'cruinn', translated as 'round, globular, circular; compact, precise' in DIL; one of the senses of the abstract noun based on this adjective, 'cruinne', is 'thrift, hoarding, niggardliness', according to DIL. Note that *De Bhaldraithe* translates 'to raise a loan' ('of the State') as 'iasacht a chruinniú, a bhailliú', translating 'to raise money' as 'airgead a sholáthar' and 'to raise money on an estate' as 'iasacht airgid a fháil ar eastáil'.

Looking at early Acts, 'All moneys raised by securities issued under this Act' is translated as 'Aon airgead a gheobhar de bharr urúsanna a tabharfar amach fén Acht

so' in s2(3) of the Appropriation Act, 1923. In s14(2) of the Damage to Property (Compensation) Act, 1923, 'The sum required to be paid by the Council of a County ... shall be assessed and raised in the same manner as the amounts of decrees under the Criminal Injuries Acts' is translated as 'An tsuim nách foláir do Chomhairle Chontae ... d'íoc ..., measfar agus soláthrófar í ar an gcuma gcéanna ina meastar agus ina soláthruítear na méideanna a luaidhteair in aitheanta fé sna hAchtanna um Dhiobháil Choiriúil'. Finally, 'and also to raise the monies required for the purposes aforesaid' is translated as 'agus fós chun an t-airgead is gá i gcóir na gcrícheanna roimhráite do chruinniú' in the Preamble to the Limerick Harbour Act, 1926.

Looking at modern Acts, 'in the case of a harbour authority unable themselves to raise a loan' is translated as 'i gcás údarais chuain ná beidh ar a gcumas iasacht a chruinniú iad féin' in s133(1)(c) of the Harbours Act, 1946. In s69(2) of the Finance Act, 1985, 'Any security which the Minister for Finance has power to issue for the purpose of raising any money or loan' is translated as 'Aon urrús a bhfuil sé de chumhacht ag an Aire Airgeadais é a eisiúint chun aon airgead nó iasacht a chruinniú'.

*cuntais air* 'Cuntas' is translated as 'account' in *Téarmaí Dlí*, where '*tugaim cuntas*, I account' is cited, for example. See further the commentary on Article 33.1.

'And shall have access to the books, accounts and returns of the amalgamated company' is translated as 'agus beidh dul aige ar leabhair, ar chuntais agus ar áirimh na cuideachtan có-nasctha' in s69(3) of the Railways Act, 1924. 'All proper and usual accounts of all money received or expended by it' is translated as 'gach cuntas is cuí agus is gnách ar an airgead go léir a fuair sí nó a chaith sí' in s16(1) of the Agricultural Credit Act, 1978, 'gach cuntas is cuí agus is gnách ar an airgead go léir a gheobhaidh nó a chaithfidh (an Institiúid)' being found in s41(1) of the Industrial Research and Standards Act, 1961, and 'gach cuntas is cuibhe agus is gnách ar an airgead uile a gheobhaidh nó a chaithfidh' being found in s37(2) of the Industrial Research and Standards Act, 1946. Finally, 'to keep accounts of money received or expended by the Board' is translated as 'cuntais do choimeád ar airgead a gheibheann no chaitheann an Bord' in s17(1) of the Shannon Fisheries Act, 1935.

*a ráthú* Verbal noun of 'ráthaigh', translated as 'guarantee' in *Ó Dónaill*, 'ráthaim' being translated as 'I guarantee' in *Téarmaí Dlí* agus 'ráthuighim' as 'I guarantee, assure' in *Dinneen*. DIL cites but two doubtful examples of the verb 'ráthaigid', 'vouches for, guarantees', the first being from the twelfth-century *Book of Leinster*, the other being from a later source ('ro ráthaig Día fein in mbreith' ['God himself went surety for the birth (i.e. child)?]). This verb is based on 'ráth', translated in DIL as (a) 'a surety, guarantor', citing 'inna rath ... inna fecheman' ('of the securities ... of the creditors') from the ninth-century Milan Glosses on the Commentary on the Psalms, where it glosses Latin 'creditorum', and (b) 'suretyship: a guarantee, pledge', citing 'imnedach cach ráth' ('troublesome is every security') from the *Triads of Ireland*.

'A Sister of the Community at present engaged there would be a guarantee of satisfaction' is translated as 'dáma Siúr í sin den Chóthionól atá ag obair ann anois ba

dheimhniú é ar gach ní a bheith á dhéanamh sa cheart' in s25 of the 'Offaly County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'Securities guaranteed by the British Government' is translated as 'urrúsanna fé urraíocht an Rialtais Bhriotáinigh' in s2 of the Currency Act, 1927. 'Urraíocht a dhéanamh ar ...' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'guarantee ...' in a Report of the Public Accounts Committee, 1927. Finally, 'Guarantee of loans for industrial restructuring' is translated as 'iasachtaí le haghaidh athchóirithe tionscail a ráthú' in the Margin Title of s6 of the Industrial Development Act, 1981. See further the commentary on Article 40.3.1<sup>o</sup>.

*fo-ábhair* Plural of a compound of 'fo-', translated as (1) 'under-, sub-, ... secondary, subsidiary', (2) 'minor, lesser; light, trivial' and (3) 'odd, occasional' in *Ó Dónaill*, and 'ábhar', translated in *Téarmaí Dlí* as 'matter; subject matter (i.e. of contract)'. 'Fo-ábhar' does not appear to be given as a headword either in *Ó Dónaill* or in *Dinneen*. 'Fo-' is translated as 'under, below, sub-; occasional, odd, rare, few, small, slow, light' in *Dinneen*.

'For the salaries and expenses of the Ministry of Finance, including certain subordinate departments' is translated as 'Chun tuarastail agus costais na hAireachta um Airgead mar aon le fo-ranna áirithe' in the Schedule to the Appropriation Act, 1922. In Article 50 of the Fourth Schedule to the Geneva Conventions Act, 1962, 'It may not, in any case, change their personal status, nor enlist them in formations or organisations subordinate to it' is translated as 'Ní cead, i gcás ar bith, a stádas pearsanta a athrú, ná iad a liostáil in eagair ná in eagraíochtaí atá ina cleithiúnas'. In Article 96, 'The commandant shall keep an up-to-date list of the labour detachments subordinate to him' is translated as 'Coimeádfaidh an ceannfort liosta cothromle-dáta de na diormaí saothair faoina cheannas'. 'Who by reason of rank or appointment is subordinate to him' is translated as 'a bheas, de bhíthin a chéime nó a cheapacháin, ina iochtarán aige' in s140 of the Defence Act, 1954. Finally, note that 'the hiring of persons to perform subordinate duties' is translated as 'fostú daoine chun íosdualgais a dhéanamh' in s18(2)(d) of the Agricultural Credit Act, 1978.

*a bhfuil baint acu leis* 'Baint' is translated as 'connection, relationship; relevance' in *Ó Dónaill*, who cites '*níl baint aige sin leis*, that has nothing to do with it' and '*níl baint ná páirt agam leo*, I have no connection whatever with them'. *Dinneen* cites '*ní' aon bhaint agam leis*, I have nothing to do with him, it'. DIL cites 'ní lamad nech béin fria' ('... to touch her') from the *Passions and Homiles* from the *Leabhar Breac* s.v. 'béin', verbal noun of 'benaid' and 'boingid', translated in DIL as 'act of striking, beating; cutting, reaping; taking (away)' – 'béin' is perhaps a conflation of 'béim' (verbal noun of 'benaid') and 'búain' (verbal noun of 'boingid').

'Risk incidental to the employment' is translated as 'fiontar a ghabhas leis an bhfostaíocht' in *Téarmaí Dlí*. 'Any matter ancillary or incidental to any of the matters referred to in any of the preceding paragraphs' is translated as 'aon ní a bhaineann nó a ghabhann le haon ní dá dtagraítear in aon cheann de na míreanna roimhe seo' in s15(1)(g) of the Social Welfare (Consolidation) Act, 1981.

'Any personal expenses incurred by him on account

of or in connection with or incidental to such election' is translated as 'aon chostaisí pearsanta fé n-a ragha sé ar son no i dtaobh nó a' los an toghacháin sin' in s36(1) of the Prevention of Electoral Abuses Act, 1923. In s4(2) of the Drainage Maintenance Act, 1924, 'the cost of the execution of any works shall include all expenses incidental to the execution of such works' is translated as 'áireofar mar chuid de chostas aon oibreacha do dhéanamh gach fo-chostas a bhainfidh le déanamh na n-oibreacha sin'. Finally, 'and there do all such matters or things as in the opinion of the Minister or the Board (as the case may be) are necessary for or incidental to such maintenance' is translated as 'agus gach ní no rud do dhéanamh san áit sin is dó leis an Aire no leis an mBord (pe'aca aca é) do bheith riachtanach i gcóir an choinneáil-i-dtreo san no do bheith ag gabháil leis sin' in s84(2) of the Electricity Supply Act, 1927.

*a leithghabháil* Verbal noun of 'leithghabh', translated as 'appropriate' in *Ó Dónaill*, this verb not appearing to be given as a headword in *Dinneen* – see the commentary on Articles 11 and 17.2. The 'Appropriation Act, 1998' is cited in Irish as 'an tAcht Leithreasa, 1998', the 'Appropriation Act, 1922' being cited in Irish as 'an tAcht Leithreasa, 1922'.

*a leagan ar* Verbal noun of 'leag ar', translated basically as 'lay on' in *Ó Dónaill*, who also gives the sense of 'impose on', citing '*cáin a leagan ar rud*, to lay a tax on something'. See the commentary on Article 3 regarding the verb 'lecaid', which comes from Old Norse 'leggya'.

*cuspoírí* Plural of 'cuspoír', translated as 'object (i.e. of contract)' in *Téarmaí Dlí*, 'object; objective, purpose' being a secondary sense in *Ó Dónaill* – see the commentary on Article 45.2.iv.

*a ghlacadh* Verbal noun of 'glac', 'I receive' being one of the senses of 'glacaim' in *Téarmaí Dlí* – see the commentary on Articles 8.2, 12.10.4° and 13.1.3°.

*a rialú* Verbal noun of 'rialáigh' – see the commentary on Articles 10.3 and 12.5; 'rialáim' is translated as 'I control; I rule' in *Téarmaí Dlí*.

*iomlán* See the commentary on Article 21.2.1°.

*a aisghairm* See the commentary on Article 48.

### Direct translation

Ciallaíonn Bille Airgid Bille arb é amháin atá ann forálacha lena ndéileáiltear leis na hábhair uile seo a leanas nó le haon chuid<sup>1</sup> díobh, mar atá, cánachas a fhorchur, a aisghairm, a loghadh, a athrú nó a rialáil; muirir a fhorchur ar airgead poiblí le haghaidh<sup>2</sup> fiach a aisíoc nó chun críocho eile airgeadais nó aon mhuirir den sórt sin a athrú nó a aisghairm; soláthar; cuntais airgid phoiblí a leithreasú<sup>3</sup>, a ghlacadh, a choimeád, a eisiúint nó a iniúchadh; aon iasacht a chruinniú nó a ráthú nó a aisíoc<sup>4</sup>; ábhair atá faoi réir na nithe sin nó faoi réir aon chuid acu nó a ghabhann<sup>5</sup> leo nó le haon chuid acu<sup>6</sup>.

### Variants

- 1 'nó le haon cheann nó le haon chinn'
- 2 'd'fhonn'
- 3 'a leithghabháil'

4 'nó an céanna a aisíoc'

5 'acu, nó ábhair a ghabhann'

6 'nó aon cheann nó cinn acu nó a ghabhann leo nó le haon cheann nó cinn acu'

## ARTICLE 22.1.2° AIRTEAGAL 22.1.2°

### TÉACS GAELIGE

Sa mhíniú sin ní áirítear faoi na focail "cánachas", "airgead poiblí" agus "iasacht", faoi seach, aon chánachas, airgead ná iasacht a chruinnid údaráis nó comhlachtaí áitiúla chun críocho áitiúla.

### LITERAL ENGLISH TRANSLATION

In that explanation no taxation, money or loan which local bodies or authorities collect for local purposes are included under the words "taxation", "public money" and "loan", respectively.

### ENGLISH TEXT

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.

### Divergences between the official texts

- 1 'Definition' is expressed in the Irish text as 'míniú', the core sense of which is 'explanation'; 'míniú' translates 'definition' in the Acts also, but in general usage, a compound, i.e. 'sainmhíniú', renders 'definition'.
- 2 'Expressions' is expressed as 'focail' ('words') in the Irish text.
- 3 'The expressions ... do not include ...' is expressed as 'ní áirítear faoi na focail' ('... are not included under the words') in the Irish text.
- 4 The Irish phrase expressing 'respectively', 'faoi seach', is preceded and followed by a comma, no corresponding commas being found in the English text.
- 5 'Or loan' is expressed as 'ná iasacht' ('nor loan') in the Irish text, the expected usage.

Note that the above English text is translated in Article 35 of the 1922 Constitution as follows:

Sa mhíniú so ní fholuíoim na focail "cáin" "airgead poiblí" agus "iasacht" fé seach aon cháin, airgead ná iasacht a thógfaidh lucht údaráis áitiúla chun úsáide áitiúla.

### Commentary

*faoi seach* This phrase generally translates 'respectively' in the Acts. *Ó Dónaill* translates 'faoi seach' as (i) 'in turn; occasionally; respectively', citing '*cuir ina n-ionaid féin faoi seach iad*, put them in their respective places' and (ii) 'in confusion', citing '*chuaigh an saol faoi seach orm*, the world turned topsyturvy on me'. *Dinneen* translates "má (mu, fó or fá) seach" as 'in turn, respective(ly), separate(ly), alternate(ly), distinct(ly), occasional(ly), reversed, crossed, upside down', 'seach' itself being translated as 'a turn or spell, the quantity taken or amount

done at a time'. The earlier form of this phrase, 'immasech', is composed of the preposition 'imb' ('about, mutually'), 'a' followed by eclipsis (i.e., the possessive pronoun, third person plural) plus the preposition 'sech' ('past, beyond'), DIL translating 'immasech' as 'in turn, (each) in (his) turn, one by one', citing 'ní bhí an saoghal acht fa seach' ('this life lasts only its turn') from a miscellaneous collection of religious Classical Irish poetry (*Dán Dé*).

*focail* 'Focail chinnteachta, words of limitation' is cited in *Téarmaí Dlí*, 'focail' being the plural of 'focal', translated basically as 'word' in *Ó Dónaill*, who cites '*focail a chur ar rud*, to express something in words', giving 'phrase, remark, observation, saying' as the secondary sense, translating 'cúpla focal a rá' as 'to make a few remarks'. *Dinneen* translates 'focal' primarily as 'a word, a saying, a phrase'. DIL cites the nominative singular form, 'focull', from the ninth-century Milan Glosses on the Psalms, translating 'focal' principally as 'a word, a vocable', secondly, by extension, of connected speech, 'phrase', citing 'senfocul sein ... la cach sruith' ('an old saying, proverb...') from *Saltair na Rann*, composed c. 1000.

We find both 'focal' and 'abairt' expressing 'expression' in the Acts of 1922: in Article 74 of the 1922 Constitution, 'the expression "financial year" means ... the year of assessment' is translated as 'cialluíonn an focal "bliain airgid" ... bliain a gearrtha' and in s4(5) of the Local Elections Postponement Act, 1922, 'the expressions "annual meeting" and "quarterly meeting" respectively mean any annual meeting or quarterly meeting' is translated as 'sé a chialluíonn na habairtí "Cruinniú bliantúil" agus "Cruinniú ráithiúil" fé seach ná aon chruinniú bliantúil no chruinniú ráithiúil'.

In s2 of the Pigs and Bacon Act, 1937, 'the expressions "licensee", "licensed premises" and "registered minor curer" have the same meanings as in the Principal Act' is translated as 'tá leis na habairtí "ceadúnaí", "áitreabh ceadúnuithe" agus "mion-leasuitheoir clárúithe" na bríonna céanna atá leo sa Phríomh-Acht'. Finally, in s22(2) of the Moneylenders Act, 1933, 'the expressions "assigned" means assigned by an assignment *inter vivos* ... and the expressions "assignor" and "assignee" have corresponding meanings' is translated as 'cialluíonn an abairt "do shannadh" sannadh do dhéanamh le haon tsannadh *inter vivos* ... agus is bríonna có-réire atá leis na focail "sannóir" agus "sannaí"'.

Looking at modern Acts, 'section 13 shall apply as if the expressions "at any time" and "at that time" in subsection (1) thereof were references to the relevant date' is translated as 'beidh feidhm ag alt 13 amhail is dá mba thagairtí don dáta iomchuí na habairtí "tráth ar bith" agus "an tráth sin" i bhfo-alt (1) den alt sin' in s4(3) of the Landlord and Tenant (Amendment) Act, 1980. In s1 of the Fourth Schedule to the Fisheries Act, 1980, 'the expression "coarse fish" means any freshwater fish' is translated as 'ciallaíonn an abairt "garbhiasc" aon iasc fíoruise'. 'The definitions of the expressions "deleterious matter" and "waters" is translated as 'na mínithe ar na habairtí "ábhar díobhálach" agus "uisce"' in the Second Schedule to the Fisheries (Statute Law Revision) Act, 1956.

Professor Máirtín Ó Murchú remarks on the direct translation below that the current central sense of 'abairt' is a major syntactical unit ("móraonad comhréire") and that it creates confusion in having it refer to single words. Professor Ó Murchú recommends 'focail' or 'téarmaí'.

*sa mhíniú* 'Míniú' translates 'definition' in the Acts. *Ó Dónaill* translates 'míniú' as 'explanation, interpretation', citing '*focal mínithe*, explanatory word'. 'Sainmhíniú' is translated as 'definition' by *Ó Dónaill*. 'Expounding, explaining, an explanation, a gloss, a commentary' are among the senses included s.v. 'míniughadh' in *Dinneen*. DIL cites 'míniugud', in the sense of 'interpreting, explaining', from the twelfth-century *Book of Leinster*, 'míniugud' being the verbal noun of 'mínigid', translated as (a) 'makes level or smooth *in physical sense*', (b) 'assuages, tames, subdues' and (c) 'interprets, explains, expounds', 'mínighther' glossing Latin 'interpretatur' in the *Book of Ballymote*, written c. 1400. This verb is based on the adjective 'min', the principal sense of which is 'smooth, level, *of surfaces*', commonly of land, often approaching the sense of arable or fertile, according to DIL. See the commentary on Article 12.4.2° regarding 'mínigh'.

'In this definition "building" includes ... any pre-fabricated or like structure' is translated as 'sa mhíniú seo folaíonn "foirgneamh" ... aon déanamhas réamhdhéanta nó déanamhas dá shamhail' in s43 of the Finance Act, 1981. In s1 of the Pyramid Selling Act, 1980, 'in this definition "trading scheme" includes any arrangements made in connection with the carrying on of a business' is translated as 'sa mhíniú seo folaíonn "scéim thrádála" aon chomhshocraíochtaí a dhéanfar i ndáil le gnó a sheoladh'. Finally, in s16 of the Army Pensions Act, 1923, 'in this definition the word "enemy" includes all armed mutineers, armed rebels, armed rioters and pirates' is translated as 'agus sa mhíniú so foluíonn an focal "namhaid" gach cúlmutaire armtha, gach rebeliúnach armtha, gach bruigheanach armtha agus gach pioráid'. Note also that 'míniú' translates 'definition' in Article 35 of the 1922 Constitution above.

*áirítear* See the commentary on Article 12.4.2° regarding 'áirigh', 'include'. References in the preceding subsections to a surrendering company do not include references to a company carrying on life business' is translated as 'Ní fholáíonn tagairtí sna fo-ailt roimhe seo do chuideachta ghéillte tagairtí do chuideachta a sheolann gnó saoil' in s44(1) of the Finance Act, 1990. In s2(2) of the Oireachtas (Payment of Members) Act, 1923, 'The salary for the time being payable to a member of the Oireachtas ... shall be deemed to include the allowance payable to such member' is translated as 'An tuarastal a bheidh do bhall den Oireachtas de thuras na huairé ... tuigfeadh é do bheith ag folú an liúntais a bheidh le n' íoc leis an mball san'. Professor Máirtín Ó Murchú regards 'áirítear' as much clearer than 'foláíonn' in the direct translation below.

*chun críocha áitiúla* According to the official standard this would be written as 'chun críoch áitiúil'. However, the unstandardised form is well established in the Acts. 'Loans from public moneys to local authorities or for local purposes' is translated as 'iasachtaí as airgead puiblí d'údarais áitiúla nó chun crícheanna áitiúla' in the Long Title of the Local Loans Fund Act, 1935. 'Established for charitable purposes only' is translated as 'a bunaíodh chun críocha carthanúla agus chuige sin amháin' in s109(1) of the Finance Act, 1990.

*a chruinnid* The synthetic form of the third person plural, present tense, of 'cruinnigh' – this would generally be written today as 'a chruinníonn siad'. See the commentary

on Article 14.5.1° regarding the synthetic and analytic forms of the verb. See the commentary on the previous subsection as regards ‘raise’.

### Standardised Irish text

Sa mhíniú sin ní áirítear faoi na focail “cánachas”, “airgead poiblí” agus “iasacht”, faoi seach, aon chánachas, airgead ná iasacht a chruinníonn údaráis nó comhlachtaí áitiúla chun críocha áitiúla.

### Direct translation

Sa mhíniú sin ní fholáionn na habairtí<sup>1</sup> “cánachas”, “airgead poiblí” agus “iasacht” faoi seach aon chánachas, airgead nó iasacht a chruinneoidh comhlachtaí nó údaráis áitiúla chun críocha áitiúla.

### Variants

- 1 ‘focail’, ‘téarmaí’

## ARTICLE 22.2.1° AIRTEAGAL 22.2.1°

### TÉACS GAEILGE

Más é tuairim Chathaoirleach Dháil Éireann gur Bille Airgid aon Bhille faoi leith ní foláir dó a dheimhniú gur Bille Airgid é agus, faoi chuimsiú na bhforálacha inár ndiaidh den alt seo, ní bheidh dul thar an deimhniú sin.

### LITERAL ENGLISH TRANSLATION

If it is the opinion of the Chairman of Dáil Éireann that any particular Bill is a Money Bill he must certify that it is a Money Bill and, within the scope/constraint of the following provisions of this section, there will be no bypassing that certification.

### ENGLISH TEXT

The Chairman of Dáil Éireann shall certify any Bill which, in his opinion, is a Money Bill to be a Money Bill, and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.

### Divergences between the official texts

- 1 The Irish text commences with ‘Más é tuairim Chathaoirleach Dháil Éireann gur Bille Airgid aon Bhille faoi leith’ (‘If it is the opinion of the Chairman of Dáil Éireann that any particular Bill is a Money Bill’), rather than having this as a sub-clause, as in the English text, emphasizing that there might be doubt as to whether a Bill was a Money Bill or not, the main thrust of the English text being on the certification itself.
- 2 ‘Any Bill’ is expressed as ‘aon Bhille faoi leith’ (‘any particular Bill’) in the Irish text.
- 3 ‘His certificate’ is expressed as ‘an deimhniú sin’ (‘that certificate’) in the Irish text.
- 4 ‘His certificate shall ... be final and conclusive’ is expressed as ‘ní bheidh dul thar an deimhniú sin’ (‘there will be no surpassing that certificate’) in the Irish text.

- 5 ‘Subject to’ is expressed as ‘faoi chuimsiú’ (‘within the scope/constraint of’) in the Irish text; ‘subject to’ is translated as ‘faoi réir’ in *Téarmaí Dlí*.
- 6 ‘Shall’ is expressed as ‘ní foláir’ (‘must’) in the Irish text, as we have seen in the previous Article and in some other Articles.

Note that Article 35 of the 1922 Constitution contains the following:

The Chairman of Dáil Éireann shall certify any Bill which in his opinion is a Money Bill to be a Money Bill .... The decision of the Committee on the question shall be final and conclusive. *Deimhneoidh Ceann Comhairle Dháil Éireann gur Bille Airgid aon Bhille atá ‘na Bhille Airgid dar leis .... Ní bheidh aon dul thar breith an Choiste ar an gceist.*

Section 1 of the Constitution (Amendment No. 12) Act, 1930, contains the following:

The Chairman of Dáil Éireann shall certify any Bill which in his opinion is a Money Bill to be a Money Bill and such certificate shall be final and conclusive .... *Deimhneoidh Ceann Comhairle Dháil Éireann gur Bille Airgid aon Bhille is Bille Airgid dar leis agus ní bheidh aon dul thar an deimhniú san.*

### Commentary

*a dheimhniú ... deimhniú* ‘Deimhniú’ is the verbal noun of ‘deimhnigh’, which verb is translated as ‘certify; affirm, assure; check’ in *Ó Dónaill*, who translates ‘rud a dheimhniú’ as ‘to certify something; to confirm something’. ‘Deimhním’ is translated as ‘I certify; I vouch’ in *Téarmaí Dlí*, ‘deimhniú’ being translated as ‘certificate; voucher’. See the commentary on Article 1, where ‘deimhnigh’ expresses ‘affirm’.

‘The Minister for Finance may certify accordingly and the certificate shall be conclusive’ is translated as ‘féadfaidh an tAire Airgeadais é a dheimhniú dá réir sin, agus is deimhniú críochnaitheach an deimhniú’ in s69(3)(d)(ii) of the Finance Act, 1980. In s5 of the Eighth Schedule to the Defence Forces (Temporary Provisions) Act, 1923, ‘If the amount already paid by the Minister exceeds the amount specified in the certificate the County Court Judge shall certify the amount of the excess’ is translated as ‘Más mó ná an méid a luaidhtear sa deimhniú an méid a híoc an tAire cheana féin, deimhneoidh an Breitheamh Cúirte Contae méid na breise’. Note, finally, that we also find ‘teistear’ (literally ‘attestation’) translating ‘certificate’ in early Acts – in s35(b) of the First Schedule to the Electoral Act, 1923, for example, ‘require that person to produce a certificate of naturalisation or to make a statutory declaration that he is a citizen of Saorstát Éireann’ is translated as ‘a éileamh ar an duine sin teistear eadóirseachta do thespeáint no faisnéis reachtúil do dhéanamh ar é do bheith ina shaoránach de Shaorstát Éireann’. See further the commentary on Article 24.1.

*dul thar* ‘Téigh thar’, literally ‘go over’, also has the sense of ‘bypass’ or ‘surpass’, *Ó Dónaill* citing ‘ní féidir dul thairis, it can’t be surpassed’ – see the commentary on Article 34.4.6°. ‘And such certificate of such medical referee shall be final and conclusive’ is translated as ‘agus ní bheidh dul thar an deimhniú san an dochtúra réitigh’ in s76(1)(vi) of the Workmen’s Compensation Act, 1934. In s22(3) of



the Land Act, 1923, 'the record filed in the Land Commission shall be final and conclusive' is translated as 'ná beidh dul thar an mbreathachán a cuireadh i dtaise i gCoimisiún na Talmhan', with 'agus ní bheidh teacht aniar ná siar ar a bhreith' translating 'and his decision ... shall be final and conclusive' in s1(f) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. 'And every determination of the said Court shall be final, binding and conclusive to all intents and purposes' is translated as 'agus chun gach intinne agus críche gach socrú den tsórt san a dhéanfidh an Chúirt sin beidh sé gan aon dul thairis ach é ina cheangal agus ina shocrú deiridh' in s89 of the Dundalk Harbour and Port Act, 1925. Finally, 'The decision ... shall be final and conclusive' is translated as 'An bhreith ... beidh sí ... ina breith dheiridh gan aon dul tháirsi' in s15(6) of the Slaughtered Animals (Compensation) Act, 1928.

Looking at modern Acts, 'The decision of the local pension committee ... shall be final and conclusive' is translated as 'Is cinneadh críochnaitheach, dochloíte cinneadh an choiste phinsin áitiúil' in s164(2) of the Social Welfare (Consolidation) Act, 1981, and 'is breith chríochnaitheach, dhochloíte a bhreith sin ar an gcéanna' translates 'whose decision thereon shall be final and conclusive' in s10(5) of the Pensions (Increase) Act, 1959, for example.

*inár ndiaidh* See the commentary on Article 14.5.1°. 'Subject to the subsequent provisions of this section' is translated as 'faoi réir na bhforálacha ina dhiaidh seo den alt seo' in s29(2)(a) of the Finance Act, 1981, with 'fé réir na bhforálacha ina dhiaidh seo den alt so' translating the same phrase in s77(5) of the Local Government (Dublin) Act, 1930. Note that 'subsequent condition' is translated as 'iarchoinníoll' in *Téarmaí Dlí. De Bhaldraithe* translates 'subsequent' as '(caibidil, etc.) a leanas', translating 'at a subsequent meeting' as 'ag cruinniú ina dhiaidh sin, níos faide anonn'.

*tuairim* The Irish legal term for 'opinion', *Ó Dónaill* citing '*is é mo thuairim (go), I am of opinion (that)*' and '*i mo thuairim, de réir mo thuairime, in my opinion*'. DIL gives 'likelihood, promise, appearance, resemblance' as the principal sense of 'tuairim' with no examples cited from the earlier sources. See further the commentary on Article 40.6.1°i.

'The Minister may by order designate an institution which in his opinion is suitable for the medical treatment or the care of persons' is translated as 'féadfaidh an tAire, le hordú, foras a ainmniú ..., más dóigh leis é a bheith oiriúnach chun cóireáil liachta nó aireachas a chur ar fáil' in s28(10) of the Misuse of Drugs Act, 1977. 'The amount of each instalment, which, in his opinion, is likely to become payable' is translated as 'méid gach tráthchoda díobh, is dóigh a bheith iníoctha, dar leis' in s30(2)(b) of the Finance Act, 1976. 'That a person has committed on board the aircraft in flight anywhere an act which, in his opinion, is a serious offence' is translated as 'gníomh a bheith déanta ag duine ar bhord an aerárthaigh agus í ar eitilt in aon áit arb é a thuairim gur cion tromchúiseach é' in s7(1) of the Air Navigation and Transport Act, 1973. 'That a monument which in his opinion is a national monument is in danger of being or is actually being destroyed' is translated as 'séadchomhartha atá, dar leis, ina shéadchomhartha náisiúnta do bheith i mbaol a scriosta

... no do bheith á scriosa' in s8(1) of the National Monuments Act, 1930.

'Oipineon' translates 'opinion' in early Acts. 'The Minister if in his opinion it is necessary or expedient to do so may ...' is translated as 'Féadfaidh an tAire má's é a oipineon gur gá no gur oiriúnach san do dhéanamh' in s2(1) of the Local Elections Postponement Act, 1922. 'Whenever the Official Censor is of opinion that part only of any picture ... is unfit for exhibition in public' is translated as '... agus gur dó leis ná fuil ach cuid den phictiúr sin gan bheith oiriúnach le taisbeaint go puiblí' in s7(4) of the Censorship of Films Act, 1923. 'If the Justice shall be of opinion that the facts proved against the accused constitute a minor offence' is translated as 'má sé barúil an Bhreithimh gur mion-chionta is intrialta ar an slí achumair an méid a cruthuodh i gcoinnibh an duine chúisithe' in s77B of the Courts of Justice Act, 1924. Finally, 'opinion (of the Dáil) etc.' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tuairim' in the 1926 *Standing Orders* of Dáil Éireann. See further the commentary on Articles 24.1 and 30.1.

*tuairim Chathaoirleach Dháil Éireann* Note that it is recommended in the First Progress Report of the All-Party Oireachtas Committee on the Constitution to amend this phrase to 'tuairim an Cheann Comhairle'.

*faoi leith* See the commentary on Articles 12.3.3° and 15.9.1° for 'ar leith'.

*ní foláir dó* See the commentary on Article 11.

*faoi chuimsiú* See the commentary on Articles 12.5 and 18.7.2°.

### Gender-proofed Irish text

Más é tuairim an Cheann Comhairle<sup>1</sup> gur Bille Airgid aon Bhille faoi leith ní foláir dó nó di a dheimhniú gur Bille Airgid é agus, faoi chuimsiú na bhforálacha inár ndiaidh den alt seo, ní bheidh dul thar an deimhniú sin.

#### Note

- 1 Following the gender-proofed English text.

### Direct gender-proofed translation

Déanfaidh Cathaoirleach Dháil Éireann aon Bhille atá, dar leis nó léi, ina Bhille Airgid a dheimhniú é a bheith ina Bhille Airgid<sup>1</sup> agus faoi réir na bhforálacha seo a leanas den alt seo, deimhniú críochnaitheach dochloíte a bheidh ina dheimhniú nó ina deimhniú<sup>2</sup>.

#### Variants

- 1 'gur Bille Airgid é'
- 2 'a bheidh sa deimhniú sin', 'is deimhniú críochnaitheach dochloíte a bheidh ann'

## ARTICLE 22.2.2° AIRTEAGAL 22.2.2°

#### TÉACS GAELIGE

Tig le Seanad Éireann rún a rith i dtionól nach mbeidh níos lú ná tríocha comhalta i láthair ann, á iarraidh ar an Uachtarán ceist a chur faoi bhráid Choiste Pribhléidí féachaint cé acu Bille Airgid an Bille nó nach ea.

**LITERAL ENGLISH TRANSLATION**

Seanad Éireann can/may pass a resolution in an assembly in which not less than thirty members will be present, requesting the President to put a question before a Committee of Privileges to see whether the Bill is a Money Bill or is not.

**ENGLISH TEXT**

Seanad Éireann, by a resolution, passed at a sitting at which not less than thirty members are present, may request the President to refer the question whether the Bill is or is not a Money Bill to a Committee of Privileges.

**Divergences between the official texts**

- 1 The main thrust of the English text is that 'Seanad Éireann ... may request the President to refer the question', the Irish text making a clause of 'Tig le Seanad Éireann rún a rith' ('Seanad Éireann may pass a resolution ...'), with 'á iarraidh ar an Uachtarán' ('requesting the President') following this.
- 2 'At a sitting' is expressed as 'i dtionól' ('in an assembly') in the Irish text.
- 3 'Refer' is expressed as 'a chur faoi bhráid' ('put before') in the Irish text, the Irish phrase 'cuir faoi bhráid' having the sense of 'refer'; *Téarmaí Dlí* translates 'I refer' as 'tarchuirim', however.
- 4 'The question whether the Bill is or is not a Money Bill' is expressed as 'ceist ... féachaint cé acu Bille Airgid an Bille nó nach ea' ('a question ... to see whether the Bill is a Money Bill or is not') in the Irish text.

Note that Article 35 of the 1922 Constitution contains the following:

... the question whether the Bill is or is not a Money Bill shall be referred to a Committee of Privileges ...  
*déanfar an cheist i dtaobh ce'ca Bille Airgid no nach eadh an Bille d'fhágaint fé Choiste ar Phribhléidí.*

**Commentary**

*faoi bhráid Choiste Pribhléidí* According to the official standard there would be no lenition following 'faoi bhráid' here, only a 'definite' noun and a proper noun being lenited after a compound preposition which is followed by the genitive – see *An Caighdeán Oifigiúil*, s5 of the Chapter on 'Séimhiú agus Urú'.

*Ó Dónaill* gives 'before, in front of' as one of the senses of 'faoi bhráid', translating 'rud a chur faoi bhráid duine' as 'to set something in front of someone; to submit, refer, something to someone' – see the commentary on Articles 13.7.1° and 17.1.1° as regards 'faoi bhráid'. In Article 40.4.3°, following the Second Amendment of the Constitution Act, 1941, 'the High Court shall refer the question of the validity of such law to the Supreme Court' is rendered as 'ní foláir don Árd-Chúirt an cheist sin bail do bheith nó gan a bheith ar an dligheadh sin do chur fá bhreith na Cúirte Uachtaraíge'. 'I refer (a case to the County Registrar, etc.)' is translated as 'tarchuirim (cás chun an Chláraitheora Chontae, etc.)' in *Téarmaí Dlí*. 'He shall be entitled ... himself to refer the question to a deciding officer for determination' is translated as 'beidh sé féin i dteideal an cheist

a tharchur chuig oifigeach breithiúnachta lena cinneadh' in s255(4) of the Social Welfare (Consolidation) Act, 1981. In s40(5) of the Insurance (Intermittent Unemployment) Act, 1942, 'that person may require the insurance officer to refer the question to the umpire' is translated as 'féadfaidh an duine sin ... an cheist do chur fé bhráid an mholtóra'. See further the commentary on Article 40.4.3°.

Looking at early Acts, 'the said Minister may if he so thinks fit refer such application to the Commission' is translated as 'féadfidh an tAire sin an t-iarratas san do chur fé bhráid an Choimisiúin más oiriúnach leis é' in s2(1) of the Tariff Commission Act, 1926. In s140 of the Industrial and Commercial Property (Protection) Act, 1927, 'the Minister may if he thinks fit refer such appeal to the court' is translated as 'féadfidh an tAire, más oiriúnach leis é, an t-athchomharc san do chur chun na cúirte'.

Turning to 'Coiste Pribhléidí', 'pribhléid' is translated as 'privilege' in *Téarmaí Dlí*, in *Ó Dónaill* and in *Dinneen*. 'Pribiléid' is the form of the headword in DIL, where this word is cited from seventeenth-century sources such as Keating, Mac Aingil and Tadhg Ó Cianáin. According to Professor Máirtín Ó Murchú, this word, one of many Anglo-Norman loanwords, is probably long-established; Professor Ó Murchú remarks that one of the modern pronunciations, 'priléid', exhibits a long-standing phonological development and the semantic range of the word in current Irish shows some particular divergences. The ending '-éid', rather than the '-áiste' type, may be due to the influence of 'priobháid', to which it also shows some semantic attraction, according to Máirtín Ó Murchú, who also refers to 'discreíd', 'sícridéid', etc. DIL translates 'pribiléid' as 'a privilege, special favour'. This word developed the sense of 'special endowment, gift, talent (especially for conversation)', *Ó Dónaill* citing '*duine gan phribhléid*, dull, uninteresting, person', along with the sense of 'self-assurance, boldness (in speech)', *Dinneen* citing '*ní' mórán pribhléide i Nóra*, Nora is backward in manner'.

The Long Title of the Constitution (Amendment No. 12) Act, 1930, reads as follows:

An Act to amend the Constitution by deleting the provisions now contained therein as to the reference to a Committee of Privileges of the question whether certain Bills are or are not Money Bills and by making in lieu thereof other provision for the reference of such question to a Committee of Privileges. *Acht chun an Bunreacht do leasú tré sna forálacha do scriosa amach atá anois ann maidir leis an gceist i dtaobh ce'ca Billí Airgid no nach eadh Billí áirithe do chur fé bhráid Choiste ar Phribhléidí agus tré shocrú eile ina n-ionad san do dhéanamh chun an cheist sin do chur fé bhráid Choiste ar Phribhléidí.*

'Committee on Procedure and Privileges' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'Coiste um nós-imeachta agus pribhléidí' in the *Dáil Order Paper*, 1925, p. 216, with 'coiste ar phribhléidí' translating 'committee on privileges' on the *Dáil Order Paper*, 1928, p. 331. Note, finally, that 'shall ... enjoy the privileges and be subject to the obligations of such citizenship' is translated as 'beidh aige na pribhléidí agus tuitfidh air na hoibleagáidí a ghabhann leis an saoránacht san' in Article 3 of the 1922 Constitution.

*i dtionól* 'Tionól' is translated as 'assembly' in *Téarmaí Dlí* ('*tionól neamhdhleathach*, unlawful assembly') and

as 'gathering, assembly' in *Ó Dónaill*. See the commentary on Article 15.11.3°.

'If the accused is brought before a justice otherwise than at a sitting of the Court for the district ...' is translated as 'Má thugtar an cúisí os comhair breithimh ar dhóigh seachas ag suí den Chúirt don dúiche' in s33(3) of the Criminal Procedure Act, 1967. 'Ag suí den Dáil' translates 'At a sitting of the Dáil' in s28 of the *Standing Orders* of Dáil Éireann (1997). In s1(b) of the Constitution (Amendment No. 12) Act, 1930, 'a majority of the members of Seanad Éireann present and voting at a sitting of Seanad Éireann at which not less than thirty members are present' is translated as 'móráireamh de sna baill de Sheanad Éireann láithreach agus ag vótáil ag suidhe de Sheanad Éireann agus gan níos lú ná tríocha ball i láthair'. See further the commentary on Article 15.8.1°.

*ceist* See the commentary on Articles 34.3.1° and 40.4.3°. 'That the Committee of Management ... immediately undertake an investigation into the question of outdoor relief as at present dispensed in each Union' is translated as 'An Coiste Bainistí ... do dhéanamh scrúduithe láithreach ar an gcuma ina ndintear fóirithin allamuich i ngach Aontas fé leith fé láthair' in s4 of the 'Kerry County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'Provided that nothing in this subsection shall affect the determination ... of the question whether that deemed disposal is one to which this Chapter applies' is translated as 'Ar choinníoll nach ndéanfaidh aon ní san fho-alt seo difear do chinneadh a dhéanamh ... i dtaobh an diúscairt lena mbaianeann an Chaibidil seo an diúscairt mheasta sin' in s63(3) of the Finance Act, 1990. 'A claimant shall be entitled to have the question whether the relevant accident was an occupational accident deemed notwithstanding that his claim is disallowed on other grounds' is translated as 'beidh sé de theideal ag an éilitheoir go ndéanfaí cinneadh ar an gceist i dtaobh an tionóisc iomchuí a bheith ina tionóisc cheirde d'ainneoin go ndiúltofar ar fhorais eile dá éileamh' in s60(1) of the Social Welfare (Consolidation) Act, 1981.

*i láthair ann* 'In case of an equal division of votes at a meeting at which all the members are present and voting' is translated as 'I gcás comhionannas vótaí ag cruinniú ag a mbeidh na comhaltaí go léir i láthair agus ag a vótáil' in s13(3) of the Third Schedule to the Foyle Fisheries Act, 1952.

### Standardised Irish text

Tig le Seanad Éireann rún a rith i dtionól nach mbeidh níos lú ná tríocha comhalta i láthair ann, á iarraidh ar an Uachtarán ceist a chur faoi bhráid Coiste Pribhléidí féachaint cé acu Bille Airgid an Bille nó nach ea.

### Direct translation

Féadfaidh Seanad Éireann, le rún, arna rith ag suí a mbeidh tríocha comhalta ar a laghad i láthair ann, a iarraidh ar an Uachtarán an cheist cé acu an Bille Airgid an Bille nó nach ea a tharchur chun Coiste Pribhléidí.

## ARTICLE 22.2.3° AIRTEAGAL 22.2.3°

### TÉACS GAELGE

Má aontaíonn an tUachtarán leis an achainí tar éis comhairle a ghlacadh leis an gComhairle Stáit, ní foláir dó Coiste Pribhléidí a cheapadh. An líon céanna de chomhaltaí de Dháil Éireann agus de Sheanad Éireann a bheas ar an gCoiste sin, agus breitheamh den Chúirt Uachtarach ina Chathaoirleach orthu. Is tar éis comhairle a ghlacadh leis an gComhairle Stáit a dhéanfar na ceapacháin sin. Más ionann an líon vótaí ar an dá thaobh beidh vóta ag an gCathaoirleach, ach murab ionann ní bheidh.

### LITERAL ENGLISH TRANSLATION

If the President assents to the request after taking counsel with the Council of State, he must appoint a Committee of Privileges. (It is) The same number of members of Dáil Éireann and of Seanad Éireann (that) will be on that Committee, with a judge of the Supreme Court as Chairman over them. It is after taking counsel with the Council of State that those appointments will be made. If the number of votes on both sides is the same the Chairman will have a vote, but if it is not the same he will not.

### ENGLISH TEXT

If the President after consultation with the Council of State decides to accede to the request he shall appoint a Committee of Privileges consisting of an equal number of members of Dáil Éireann and of Seanad Éireann and a Chairman who shall be a Judge of the Supreme Court: these appointments shall be made after consultation with the Council of State. In the case of an equality of votes but not otherwise the Chairman shall be entitled to vote.

### Divergences between the official texts

- 'Decides to accede to' is expressed as 'aontaíonn le' ('assents to') in the Irish text.
- 'Request' is expressed by 'achainí', normally the Irish legal term for 'petition' – though 'achainí' has the sense of 'request' in general usage; 'request' is usually translated as 'iarraidh' in the modern Acts.
- The Irish text concludes the first sentence after 'ní foláir dó Coiste Pribhléidí a cheapadh' ('he shall appoint a Committee of Privileges'). Beginning a new sentence, 'consisting of an equal number' is expressed in the Irish text as 'An líon céanna ... a bheas ar an gCoiste sin' ('An equal number will be on that Committee').
- 'The Chairman shall be entitled to vote' is expressed as 'beidh vóta ag an gCathaoirleach' ('the Chairman will have a vote') in the Irish text.
- 'Consultation with' is expressed as 'comhairle a ghlacadh le' ('taking counsel with') in the Irish text, as we see in some other Articles also.
- 'And a Chairman who shall be a Judge of the Supreme Court' is expressed as 'agus breitheamh den Chúirt Uachtarach ina Chathaoirleach orthu' ('with/having a judge of the Supreme Court as Chairman over them') in the Irish text, preceded by a comma in the Irish text alone, with initial capital in the case of 'Judge' in the English text and no corresponding initial capital in the case of 'breitheamh'.

- 7 'These appointments shall be made after consultation with the Council of State' is a complete sentence in itself in the Irish text, as against a clause following a colon in the English text.
- 8 'In the case of an equality of votes' is expressed as 'Más ionann an líon vótaí ar an dá thaobh' ('If the number of votes on both sides is equal') in the Irish text.
- 9 'In the case of an equality of votes but not otherwise the Chairman shall be entitled to vote' is expressed as 'Más ionann an líon vótaí ar an dá thaobh beidh vóta ag an gCathaoirleach, ach murab ionann ní bheidh' ('If the number of votes on both sides is equal the Chairman will have a vote, but if (they) are not equal he will not') in the Irish text.
- 10 'Shall' is expressed as 'ní foláir' ('must'), as we have seen in the previous subsection and in some other Articles, this being preceded by a comma in the Irish text alone.

Note that Article 35 of the 1922 Constitution contains the following:

... (the question 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, but not otherwise, shall be entitled to vote .... (*déanfar an cheist ... d'fhágaint fé*) *Choiste ar Phríbhléidí ar a mbeidh trí baill a thoghfaidh gach Tigh agus mar Cheann Comhairle ortha an breitheamh is aoirde céim den Chúirt Uachtarach a bheidh ábalta agus toilteannach ar fheidhmiú, agus a bheidh, i gcás có-ionannas vótanna, agus sa chás san amháin, i dteideal vótála.*

### Commentary

*achainí* This headword is translated as 'petition' in *Téarmaí Dlí*, and as 'request, entreaty, petition' in *Ó Dónaill*, who cites '*achainí a iarraidh*, to make a request, a wish'. *Dinneen* translates 'athchuinghe' as 'request, petition, entreaty', citing '*iarraim d'athchuinghe ar*, I entreat'. Originally 'athchuingid' had the sense of 'act of asking again, asking back', this being the verbal noun of 'athchuing(id)' (\*ath-com-di-saig-), but it usually has the sense simply of 'act of asking, requesting (*in some examples perhaps* importunately); request, boon' according to DIL, citing 'ní téis féin do athchuingi' ('thou shalt not go thyself to solicit') from an early Irish text. No examples of the verb or verbal noun are cited from the Glosses; examples of 'cuingid' ('act of asking, requesting, seeking; request') are cited in DIL from the Glosses of the eighth century onwards.

'Iarraidh' and 'iarratas' are found in the Acts translating 'request'. 'There shall be issued to the person ... a request, to take the evidence of the witness' is translated as 'cuirfar amach chun an duine ... iarraidh, chun fianaise an fhinné ... do thógaint' in s12(2) of the Damage to Property (Compensation) Act, 1923. In s66 of the Railways Act, 1924, 'Any notice, application, request, or other document authorised or required by this Act to be sent to a railway company' is translated as 'Aon fhógra, iarratas, impí, no scríbhinn eile a húdarúitear no a héilítear, leis an Acht so, a chur ag triall ar chuideachta bhóthair iarainn'. In s3(1)(b) of the Adoption Act, 1988, 'the health board ... declines

to accede to the request' is translated as '(go) ndiúltoídh an bord sláinte ... géilleadh don iarraidh'. 'Reasons for their decision not to accede to the request' is translated as 'na fátha gur chinn siad gan géilleadh don iarratas' in s6(6) of the Restrictive Trade Practices (Amendment) Act, 1959. See further the commentary on Article 25.2.2°.

Professor Máirtín Ó Murchú, commenting on the translation below, favours 'iarratas' to 'iarraidh' where the sense 'attempt' is not involved, remarking that most of *Ó Dónaill's* examples of 'iarraidh' as a noun are more verbal noun than noun.

*ionann* This adjective is translated as 'same, identical; alike, equal' in *Ó Dónaill*, citing '*b'ionann aois dóibh*, they were of the same age'. *Dinneen* translates 'ionann' as 'the same, identical; equal, equivalent, similar, alike; uniform, even, level'. DIL translates 'inunn, in(n)onn' as 'alike, equal, the same, identical; the one', citing the following from the ninth-century Milan Glosses on the Psalms: 'is inunn cumachtae .i. is ed a cumachtae cétnae indí dáe rodamsorsa din galarsa 7 durat digail forsna assaru' ('it is the same power of God that delivered me from this disease, and that inflicted vengeance on the Assyrians'). See further the commentary on Article 15.11.2°.

Note that in Article 22 of the 1922 Constitution, 'who shall have ... a casting vote in the case of an equality of votes' is translated as 'ag a mbeidh vóta réitigh ... má's ionann vótanna an dá thaobh', with 'más ionan na vótanna don dá thaobh' translating 'in the case of equality of votes' in the 1926 *Standing Orders* of Dáil Éireann. In s102 of the Defence Forces (Temporary Provisions) Act, 1923, 'In case of equality of votes on the sentence' is translated as 'I gcás có-ionannas vótanna i dtaobh daor-bhreithe', with 'he shall also endeavour to secure equality of advantage among the several licensees' being translated as 'tabharfa sé fé n-a chur in áirithe leis, go mbeidh có-ionannas buntáiste imeasc na gceadúnaithe uile agus fé seach' in s40(1)(b)(iii) of the Industrial and Commercial Property (Protection) Act, 1927.

In s5(3)(ii) of the Fisheries Act, 1980, 'and in case there is an equality of votes the matter shall be determined by lot' is translated as 'agus i gcás comhionannas vótaí cinnfear an cheist trí chrannchur'. 'In case of an equality of votes in any election of Mayor' is translated as 'I gcás có-ionannais vótanna in aon toghachán Méara' in s19 of the Local Government (Galway) Act, 1938.

See the commentary on Article 34.3.2° regarding 'otherwise'.

*aontaíonn* 'Aontaím' is translated as 'I assent' in *Téarmaí Dlí*, 'assent, agree' being given as secondary senses of the verb 'aontaigh' in *Ó Dónaill*, who cites '*aontú le rud*, to assent to something' and '*aontú le duine faoi rud*, to agree with someone about something' – see the commentary on Articles 26.2.2°, 28.3.1° and 40.2.2°. *De Bhaldraithe* translates 'to accede to a request' as 'géilleadh d'iarratas', translating 'to accede to a treaty' as 'glacadh le conradh'.

'If in his opinion ... his acceding to such request would interfere with the proper discharge of his duties' is translated as 'más dó leis go ndéanfadh a ghéille don iarrthas san cur-isteach ar cheart-chóilona a dhualgaisí' in s24 of the Fifth Schedule to the Electoral Act, 1923. 'The Minister shall accede to every such application as soon as practicable' is translated as 'géillfidh an tAire do gach

iarratas den sórt sin a luaithe is féidir' in s3(3) of the Road Transport Act, 1978. 'If the Board in determining the appeal does not accede in substance to the appellant's grounds of appeal' is translated as 'mura dtabharfaidh an Bord, ag cinneadh an achomhairc dó, aontachas do bhrí fhoras achomhairc an achomharcóra' in s19(1)(b) of the Local Government (Planning and Development) Act, 1976.

*An líon céanna* Following the Seventh Amendment of the Constitution (Election of Members of Seanad Éireann by Institutions of Higher Education) Act, 1978, 'in substitution for an equal number of the members' is rendered as 'in ionad líon comhionann de na comhaltaí' in Article 18.4.2°, 'in ionad an oiread chéanna de na comhaltaí' expressing the same English phrase in Article 19.

*ach murab ionann* 'Shall ... be one moiety only of the fees which would otherwise have been payable' is translated as 'ní bheidh ionta ... ach leath amháin de sna táilli do bheadh iníoctha ina mhalairt sin de chás' in s40(1)(f) of the Industrial and Commercial Property (Protection) Act, 1927. In s10(1) of the Family Law (Protection of Spouses and Children) Act, 1981, 'An appeal from a barring order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order' is translated as 'Déanfaidh achomharc i gcoinne ordú urchoisc, má dhéanann an chúirt a rinne an t-ordú nó an chúirt a dtabharfar an t-achomharc os a comhair é sin a chinneadh (agus ní ar aon slí eile), oibriú an ordaithe a bhac'. 'At the request of the person so charged but not otherwise' is translated as 'ar iarratas ón duine a cúisíodh amhlaidh, agus ar an dóigh sin amháin' in s92 of the First Schedule to the European Assembly Elections Act, 1977.

*a bheas* The special form of the relative, future tense, of the substantive verb, this normally being written today as 'a bheidh' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'.

*comhairle a ghlacadh* See the commentary on Article 13.2.3°.

*ní foláir* See the commentary on Article 11.

### Standardised gender-proofed Irish text

Má aontaíonn an tUachtarán leis an achainí tar éis comhairle a ghlacadh leis an gComhairle Stáit, ní foláir dó nó di Coiste Pribhléidí a cheapadh. An líon céanna de chomhaltaí de Dháil Éireann agus de Sheanad Éireann a bheidh ar an gCoiste sin, agus breitheamh den Chúirt Uachtarach ina chathaoirleach nó ina cathaoirleach orthu. Is tar éis comhairle a ghlacadh leis an gComhairle Stáit a dhéanfar na ceapacháin sin. Más ionann an líon vótaí ar an dá thaobh beidh vóta ag an gcathaoirleach, ach murab ionann ní bheidh.

### Direct gender-proofed translation

Má chinneann an tUachtarán, tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit, ar ghéilleadh<sup>2</sup> don iarraidh<sup>3</sup>, ceapfaidh sé nó sí Coiste Pribhléidí ar a mbeidh líon comhionann<sup>4</sup>

comhaltaí de Dháil Éireann agus de Sheanad Éireann maille le Cathaoirleach is Breitheamh<sup>5</sup> den Chúirt Uachtarach: déanfar na ceapacháin sin tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit. I gcás comhionannais vótaí, agus sa chás sin amháin<sup>6</sup>, beidh an Cathaoirleach i dteideal vótáil<sup>7</sup>.

### Variants

- 1 'i gcomhchomhairle', 'i ndáil chomhairle'
- 2 ', géilleadh'
- 3 'iarratas'
- 4 'an líon céanna'
- 5 'a bheidh ina Bhreitheamh nó ina Breitheamh', 'ar Breitheamh den Chúirt Uachtarach é nó í'
- 6 ', ach ní ar aon slí eile'
- 7 'i dteideal vótála' – while this does not comply with the official standard, a verbal noun not being inflected immediately following a prepositional phrase, Professor Máirtín Ó Murchú remarks that the genitive is more natural here as 'vótáil' has no (indirect) object.

## ARTICLE 22.2.4° AIRTEAGAL 22.2.4°

### TÉACS GAELGE

Ní foláir don Uachtarán an cheist a chur faoi bhráid an Choiste Pribhléidí a cheapfar mar sin, agus ní foláir don Choiste a mbreith ar an gceist a chur chun an Uachtaráin taobh istigh de lá agus fiche d'éis an lae a cuireadh an Bille go Seanad Éireann.

### LITERAL ENGLISH TRANSLATION

The President must put the question before the Committee of Privileges that will be appointed in that way, and the Committee must send their judgement on the question to the President within twenty-one days after the day the Bill was sent to Seanad Éireann.

### ENGLISH TEXT

The President shall refer the question to the Committee of Privileges so appointed and the Committee shall report its decision thereon to the President within twenty-one days after the day on which the Bill was sent to Seanad Éireann.

### Divergences between the official texts

- 1 'Report its decision thereon to the President' is expressed as 'a mbreith ar an gceist a chur chun an Uachtaráin' ('send their decision on the question to the President') in the Irish text.
- 2 'Refer' is expressed as 'a chur faoi bhráid' ('put before') in the Irish text, as we saw in subsection 2 of this section.
- 3 'So appointed' is expressed as 'a cheapfar mar sin' ('appointed in that way / like that') in the Irish text, followed by a comma in that text alone; 'amhlaidh' generally translates 'so' in the Acts, although 'mar sin' does express this sense also.
- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

**Commentary**

*mar sin* Ó Dónaill cites '*ná labhair mar sin*, don't speak like that' and '*mar sin is fearr é*, it is better so'. Dinneen translates '*mar sin*' as 'like that, in that manner, in that direction, accordingly, so, then (= if so)'.

Turning to the Acts as regards 'so', 'The term of office of every member of a committee of agriculture so appointed shall commence at the termination of the meeting' is translated as 'Tosóidh téarma oifige gach comhalta de choiste talmhaíochta a cheapfar amhlaidh ag deireadh an chruinnithe' in s2(2) of the Agriculture (Amendment) Act, 1980. In s7(2) of the Schedule to the Pilotage Orders Confirmation Act, 1924, 'but a member of the Committee so appointed or elected shall hold office only until the next annual general appointment or election' is translated as 'ach ball den Choiste a ceapfar no a toghfar amhlaidh ní bheidh sé i seilbh oifige ach go dtí go mbeidh an chéad cheapa no togha bliantúil eile á dhéanamh'.

*a cuireadh* Note that we find the following in s1 of the Constitution (Amendment No. 12) Act, 1930:

Every such Committee of Privileges shall decide the question so referred to it and report its decision thereon to Dáil Éireann and Seanad Éireann within twenty-one days after the day on which the Bill the subject of such question was sent to Seanad Éireann ....  
*Déanfaidh gach Coiste ar Phribhléidí den tsórt san a bhreith do thabhairt ar an gceist a cuirfead fé n-a bhráid amhlaidh agus an bhreith sin do thuairisciú do Dháil Éireann agus do Sheanad Éireann laistigh de lá is fiche tar éis an lae do cuireadh an Bille do abhar don cheist sin go dtí Seanad Éireann.*

In s4 of the Second Schedule to the Electoral Act, 1923, 'on or before the 1st day of January next after the day on which such form of claim was sent to him' is translated as 'ar dháta nách déanaí ná an 1adh lá den chéad Eanáir tar éis an lá a cuireadh an fhuirm éilimh sin chuige'. Note, finally, that s150 of the *Standing Orders* of Dáil Éireann (1997) contains the following:

Immediately after a Bill, which in his or her opinion is a Money Bill, has passed the Dáil, and before it is sent to Seanad Éireann, the Ceann Comhairle shall issue his or her certificate that it is a Money Bill, and he or she shall announce that fact to the Dáil. *Chomh luath agus a bheidh Bille, arb é tuairim an Cheann Comhairle gur Bille Airgid é, rite ag an Dáil, agus sula cuirfead chun an tSeanad é, bhéarfaidh an Ceann Comhairle a dheimhniú nó a deimhniú gur Bille Airgid é agus craolfaidh sé nó sí don Dáil é sin a bheith déanta aige nó aici.*

*a mbreith* 'Breith' is translated as 'decision' in *Téarmaí Dlí*, 'judgement, decision' being given as the principal sense in *Ó Dónaill*. See the commentary on Article 15.11.1°.

*Ní foláir* See the commentary on Article 11.

*lá agus fiche* See the commentary on Article 21.2.1°.

*d'éis* See the commentary on Article 10.4.

**Direct translation**

Déanfaidh an tUachtarán an cheist a tharchur chun an Choiste Pribhléidí a cheapfar amhlaidh agus déanfaidh an Coiste a bhreith<sup>1</sup> uirthi<sup>2</sup> a thuairisciú don Uachtarán

laistigh de lá is fiche tar éis an lae a cuireadh<sup>3</sup> an Bille go Seanad Éireann.

**Variants**

- 1 'a mbreith'
- 2 'ar an gcéanna'
- 3 'a chuirfead'

## ARTICLE 22.2.5° AIRTEAGAL 22.2.5°

**TÉACS GAEILGE**

Ní bheidh dul thar breith an Choiste.

**LITERAL ENGLISH TRANSLATION**

There will be no bypassing the judgement of the Committee.

**ENGLISH TEXT**

The decision of the Committee shall be final and conclusive.

**Divergences between the official texts**

- 1 As in the first subsection of this section, 'final and conclusive' is expressed in the Irish text as 'Ní bheidh dul thar' ('no going over / bypassing').

**Commentary**

*dul thar breith an Choiste* See the commentary on subsection 1 of this section regarding 'dul thar'. 'Thar' generally lenites the following noun, according to the official standard. Commenting on the translation below, Professor Máirtín Ó Murchú refers to the clarity and neatness of the Irish text above.

**Standardised Irish text**

Ní bheidh dul thar bhreith an Choiste.

**Direct translation**

Breith chríochnaitheach dhochloíte a bheidh i mbreith an Choiste.

## ARTICLE 22.2.6° AIRTEAGAL 22.2.6°

**TÉACS GAEILGE**

Má dhiúltaíonn an tUachtarán d'achainí Sheanad Éireann tar éis comhairle a ghlacadh leis an gComhairle Stáit, nó mura gcuire an Coiste Pribhléidí a mbreith in iúl taobh istigh den tréimhse a luaitear anseo romhainn, seasfaidh deimhniú Chathaoirleach Dháil Éireann.

**LITERAL ENGLISH TRANSLATION**

If the President rejects Seanad Éireann's request after taking counsel with the Council of State, or if the Committee of Privileges do not express their judgement within the period

mentioned here before us, the certification of the Chairman of Dáil Éireann will stand.

#### ENGLISH TEXT

If the President after consultation with the Council of State decides not to accede to the request of Seanad Éireann, or if the Committee of Privileges fails to report within the time hereinbefore specified the certificate of the Chairman of Dáil Éireann shall stand confirmed.

#### Divergences between the official texts

- 1 'Decides not to accede to' is expressed simply by 'diúltaíonn' ('rejects') in the Irish text.
- 2 'Fails to report' is expressed as 'mura gcuire ... a mbreith in iúl' ('do not express their judgement') in the Irish text.
- 3 'Within the time hereinbefore specified' is expressed as 'taobh istigh den tréimhse a luaitear anseo romhainn' ('within the period mentioned here before us', i.e. 'within the aforementioned period') in the Irish text, followed by a comma in that text alone.
- 4 'The certificate ... shall stand confirmed' is expressed simply as 'seasfaidh deimhniú ...' ('the certificate will stand') in the Irish text.
- 5 'Request' is expressed in the Irish text by 'achainí', the Irish legal term for 'petition', as in subsection 3 of this section.

#### Commentary

*in iúl* 'Rud a chur in iúl do dhuine' is translated as 'to let someone know something; to give someone to understand something; to pretend something to someone' in *Ó Dónaill*, who cites '*chuir sé a bhuíochas in iúl dúinn*, he expressed his gratitude to us' and '*tú féin a chur in iúl*, to express oneself; to assert oneself'. See the commentary on Article 28.9.1°.

We find the following in s1 of the Constitution (Amendment No. 12) Act, 1930:

... but, if such Committee fails so to decide and report within such twenty-one days, the certificate of the Chairman of Dáil Éireann that such Bill is a Money Bill shall at the expiration of the said twenty-one days become and be final and conclusive .... *ach, má theipeann ar an gCoiste sin breith do thabhairt agus do thuairisciú amhlaidh laistigh den lá is fiche sin, tiocfaidh deimhniú Chinn Chomhairle Dháil Éireann gur Bille Airgid an Bille sin chun bheith agus beidh sé, i gcionn an lae is fiche sin, gan aon dul thairis.*

In s78 of the *Standing Orders* of Dáil Éireann (1997), 'and may appoint a date upon which the Committee shall report back to the Dáil' is translated as 'agus féadfar dáta a cheapadh don Choiste chun tuairisciú don Dáil'. In s89, 'each Select Committee shall review its procedures ... on an ongoing basis, and shall report to the Committee on Procedure and Privileges at least every six months on those matters' is translated as 'déanfaidh gach Roghchoiste a nósanna imeachta ... a athbhreithniú go leanúnach agus tabharfaidh siad tuarascáil faoi na nithe sin don Choiste um Nós Imeachta agus Pribhléidí uair amháin ar a laghad gach sé mhí'. In s39(6) of the Health (Medical Services) Act, 1981, 'Where an appeal is made to the Minister ... the Minister shall designate a medical officer ... to examine

the person and to report to him' is translated as 'I gcás ina ndéanfar achomharc chun an Aire ... ainmneoidh an tAire dochtúir oifigiúil ... chun an duine a scrúdú agus tuarascáil a thabhairt dó'. In s34(3)(d) of the County Management Act, 1940, 'to report to such council ... on any matter relating to such hospital on which such committee thinks it expedient so to report' is translated as 'tuairisc do thabhairt don chomhairle sin ... i dtaobh éinní, maidir leis an ospidéal san, 'na mbeidh sé oiriúnach dar leis an gcoiste sin tuairisc do thabhairt ina thaobh amhlaidh'.

Looking at the early Acts, 'Every account of expenditure ... shall be audited and reported on by him as an appropriation account' is translated as 'Gach cuntas caiteachais ... déanfaidh seisean é iniúcha agus tuarascabháil do thabhairt air mar chuntas leithreasa' in s3(2) of the Telephone Capital Act, 1924. 'An Act to provide for the establishment of a Commission to report to the Minister for Finance on proposals to ...' is translated as 'Acht chun socrú do dhéanamh chun Coimisiún do bhunú chun tuairisc do thabhairt don Aire Airgid maidir le tairisgintí chun ...'. Finally, 'report progress' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tuairisc do thabhairt ar a dineadh' in the 1926 *Standing Orders* of Dáil Éireann.

*seasfaidh* Future tense of the verb 'seas', translated basically as 'stand' in *Ó Dónaill*, 'last, keep, hold good, remain valid' being given as a secondary sense, citing '*seasfaidh na coinniollacha go raibh an obair déanta*, the conditions will stand until the work is finished'. *Dinneen* cites the proverb '*seasugheann an fhirinne nuair thuiteas gach uile rud*, the truth prevails when all things else fail'. DIL cites 'do sheasmhadur leo seal' ('they held out for a time') from *Cín Lae Ó Mealláin* as its only example of the sense of 'holds out, perseveres' of the verb 'sessmaid', which verb is based on 'sessam', the principal sense of which is given as 'the act of standing, standing posture' in DIL.

'The salary in question shall stand confirmed or increased in accordance with the determination' is translated as 'beidh an tuarastal a bheidh i gceist arna dhaingniú nó arna mhéadú de réir an chinnte' in s10(6) of the Coroners Act, 1962, following s4(6) of the Coroners (Amendment) Act, 1947, where 'a bheas' replaces 'a bheidh' above. Finally, note that 'the Dáil stands adjourned' is translated as 'tá an Dáil curtha ar ath-ló' in *Iris Oifigiúil*, 1926, p. 984, 'fanfaidh an Dáil ar athló' translating 'the Dáil shall stand adjourned' in the 1926 *Standing Orders* of Dáil Éireann.

Regarding 'confirm' in early Acts, 'any court which was constituted under, or which was confirmed in its functions, or which purported to act under the authority of Dáil Éireann' is translated as 'aon chúirt a bunúodh no gur daingníodh a feidhmeanna, no a bhí in ainm bheith ag gníomhú fé údarás Dháil Éireann' in s1(1) of the Dáil Éireann Courts (Winding Up) Act, 1923, Amendment Act, 1924. 'I confirm' is translated as 'daingnim' in *Téarmaí Dlí*.

*a luaitear* See the commentary on Article 12.10.1° regarding 'luaigh', which expresses 'state' in that Article, expressing 'specified' in Article 14.5.2°. 'Proceedings in relation to property not hereinbefore specified in this Schedule' is translated as 'Imeachtaí maidir le maoin nach

sonraítear anseo roimhe seo sa Sceideal seo' in No. 28 of the Third Schedule to the Courts (Supplemental Provisions) Act, 1961. In s24(4) of the National Health Insurance Act, 1929, 'in any year in which the total cost aforesaid does not at any time exceed the limit hereinbefore specified' is translated as 'aon bhliain a bheidh an costas iomlán roimhraithe gan dul uair ar bith thar an teorainn a luaidhtear anso roimhe seo'. 'Unless he does that thing within the time specified in the notice' is translated as 'mura ndéanfaidh sé an rud sin laistigh den tréimhse ama a bheidh sonraithe san fhógra' in s25(1)(b) of the Finance Act, 1990. 'Having considered any such representations within the time so specified' is translated as 'tar éis don Choimisinéir aon uirill den sórt sin a rinneadh laistigh den am a bheidh sonraithe amhlaidh a bhreithniú' in s6(3) of the Farm Tax Act, 1985, 'laistigh den am a bheas sonraithe amhlaidh' translating 'within the time so specified' in s51(3)(b) of the Local Government Act, 1946. See the commentary on Article 14.5.2° regarding 'specified' in early Acts.

*anseo romhainn* 'Whenever the issue to be tried is not one of the issues hereinbefore expressly provided for' is translated as 'Aon uair nach saincheist de na saincheisteanna dá bhforáiltear go sainráite anseo roimhe seo an tsaincheist a bheidh le triail' in s19(3) of the Juries Act, 1976. In s24(3) of the Land Act, 1923, 'any land wherever situated, hereinbefore excluded from the operation of this section' is translated as 'aon talamh áirithe pé áit a luíonn sé, a gearradh amach roimhe seo anso o oibriú an ailt seo air'. In s4(1) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, 'Provided that nothing hereinbefore contained shall be construed to ...' is translated as 'Ach ní léireofar éinní dá bhfuil sa méid sin roimh-ráite chun ...'.

*mura gcuire* The present subjunctive of 'cuir', this would generally be replaced today by 'mura gcuirfidh' – see the commentary on Article 12.3.1°.

Professor Máirtín Ó Murchú again prefers 'má theipeann ar an gCoiste' to 'má mhainníonn an Coiste' in the translation below, stating that 'mainnigh' is very unusual and there being no evidence that a direct object would follow it. See the commentary on Articles 14.1 and 14.5.2° on 'teip', 'fail'.

*Má dhiúltaíonn ... d(o)* See the commentary on Article 13.2.2° regarding 'diúltaigh do'.

*achainí* See the commentary on subsection 3 of this section.

*comhairle a ghlacadh le* See the commentary on Article 13.2.3°.

### Standardised gender-proofed Irish text

Má dhiúltaíonn an tUachtarán d'achainí Sheanad Éireann tar éis comhairle a ghlacadh leis an gComhairle Stáit, nó mura gcuirfidh an Coiste Pribhléidí a mbreith in iúl taobh istigh den tréimhse a luaitear anseo romhainn, seasfaidh deimhniú an Cheann Comhairle.

### Direct translation

Má chinneann an tUachtarán, tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit, gan géilleadh d'iarraidh<sup>2</sup> Sheanad

Éireann, nó má mhainníonn an Coiste Pribhléidí tuairisciú laistigh den tréimhse a sonraíodh anseo roimhe seo beidh deimhniú Chathaoirleach Dháil Éireann arna dhaingniú<sup>3</sup>.

### Variants

- 1 'i ndáil chomhairle', 'i gcomhchomhairle'
- 2 'd'iaratas'
- 3 'daingnithe'

## ARTICLE 23.1 AIRTEAGAL 23.1

### TÉACS GAEILGE

#### *Tréimhse chun Billí a Bhreithniú*

Baineann an tAirteagal seo le gach Bille a ritheann Dáil Éireann agus a sheoltar go Seanad Éireann, ach amháin Bille Airgid nó Bille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoi Airteagal 24 den Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

#### *Period to Consider Bills*

This Article relates to each Bill which Dáil Éireann passes and which is sent to Seanad Éireann, except a Money Bill or a Bill the period for the consideration of which by Seanad Éireann was shortened under Article 24 of this Constitution.

### ENGLISH TEXT

#### *Time for Consideration of Bills*

This Article applies to every Bill passed by Dáil Éireann and sent to Seanad Éireann other than a Money Bill or a Bill the time for the consideration of which by Seanad Éireann shall have been abridged under Article 24 of this Constitution.

### Divergences between the official texts

- 1 'Applies to' is expressed as 'Baineann ... le' ('relates to') in the Irish text, this phrase expressing 'applies to' particularly in the earlier Acts, which phrase is now generally translated in the Acts as 'beidh feidhm ag ... maidir le', although 'bain le' is also used.
- 2 'Send' is expressed by a term which differs from that expressing 'send' in s2.4° of the previous Article.
- 3 'Other than' is expressed as 'ach amháin' ('except') in the Irish text, preceded by a comma in that text alone.
- 4 'Consider' is again expressed by the Irish legal term translating 'adjudge', 'adjudicate' and 'decide', though this verb expresses 'consider' in the Acts also; 'breathnú' rather than 'breithniú' is found in the enrolled edition.
- 5 'Time' is again expressed as 'tréimhse' ('period') in the Irish text.
- 6 'Shall have been abridged' is expressed as 'a ndearnadh ... a ghiorrú' ('was shortened') in the Irish text.

### Commentary

*a sheoltar go* The verb 'seol', principally 'sail', has the secondary sense of 'send, dispatch; direct, guide' in *Ó Dónaill* – see the commentary on Article 33.5.2°. Note that we find 'cuir go' expressing 'send' in s2.3° of the previous Article, as in some other Articles.



'The message shall state ... that the Bill is sent to the Seanad for its recommendations' is translated as 'Déarfair sa Teachtaireacht go bhfuil an Bille á chur chun an tSeanad le haghaidh a mholtai' in s154 of the *Standing Orders* of Dáil Éireann (1997). In s30(1)(c) of the Companies (Amendment) Act, 1983, 'a copy of the report has been sent to the proposed allottee of the shares' is translated as 'go mbeidh cóip den tuarascáil curtha chuig leithroinntí beartaíthe na scaireanna'. See Article 38 of the 1922 Constitution, where 'Every Bill initiated in ... Dáil Éireann shall be sent to Seanad Éireann' is translated as 'Cuirfear chun Seanad Éireann gach Bille do tionnscnuíodh i nDáil Éireann'.

*Tréimhse* This headword is translated as 'period, term' in *Ó Dónaill*, citing '*sa tréimhse atá dlíte*, in the allotted time'. 'Fadaim an tréimhse' and 'fadú tréimhse' are translated respectively as 'I extend the period' and 'extension of period' in *Téarmaí Dlí*, where '*Reacht na dTréimhsí*, Statute of Limitations' and '*tréimhse mheabhreach*, lucid interval' are also cited. *Dinneen* translates 'tréimhse' as 'a space of time, a good while, a limit (time)', citing '*le tréimhse*, for some time past' and '*i ndeireadh na tréimhse*, at long last'. 'Tréimse', the form of the headword in DIL, is an old compound of 'trí' and 'mí' – see Rudolf Thurneyson, op. cit., s385, regarding earlier 'trimsi' from 'tri-' and 'mís-' ('month') – and originally had the sense of a 'period of three months, quarter'. DIL cites 'tréimse' in the sense of 'period of time *in general*' from the eighth-century Würzburg Glosses on the Pauline Epistles.

'Where the certifying doctor ... requires further information or further time for consideration before deciding' is translated as 'Má theastaíonn ón dochtúir deimhníochta ... tuilleadh eolais nó tuilleadh ama d'fháil chun an cás a bhreithniú sula gcinneadh sé' in s80(3) of the Factories Act, 1955. 'Where any such appeal or reference is pending or the time for so appealing has not expired' is translated as 'má bhíonn aon achomharc nó tarchur den sórt sin ar feitheamh nó murar caitheadh an tréimhse chun achomharc a dhéanamh amhlaidh' in s119(b) of the Social Welfare (Consolidation) Act, 1981. 'Time for payment of tax' is translated as 'Am le cáin a íoc' in the Margin Title of s477 of the Income Tax Act, 1967. The Margin Title of s52 of the Prevention of Electoral Abuses Act, 1923, 'Limitation of time for prosecution of offences' is translated as 'Teora leis an aimsir chun próiseacht i dtaobh cionta'. 'With such modifications as to the times within which such acts are to be done' is translated as 'tar éis pé atharuithe is dó leis an gcúirt is ceart do dhéanamh maidir leis na haimsearacha go ndéanfar gníomhartha laistigh díobh' in s2(1) of the Companies (Re-construction of Records) Act, 1924. The heading 'time in operation' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'an fhaid a bhí ag obair' in translations for the Department of Industry and Commerce.

Note finally that 'ré' expresses 'period' in Article 16.5.

*Baineann ... le* See the commentary on Article 3, this phrase expressing 'applies to' in the earlier Acts in particular. 'This sub-section shall apply to all costs' is translated as 'Bainfidh an fo-alt so le gach costas' in s1(3) of the Damage to Property (Compensation) Act, 1923. 'Article 77 of this Constitution shall apply as if such officers

were existing officers of the Provisional Government' is translated as 'beidh d'fheidhm ag Airtíogal 77 den Bhun-reacht so 'na dtaobh i leith is gur oifigigh den Rialtas Sealadach ... na hoifigigh sin' in Article 79 of the 1922 Constitution. In s296(2) of the Social Welfare (Consolidation) Act, 1981, 'This section applies to every question' is translated as 'Baineann an t-alt seo le gach ceist', with 'This section applies to every territory' being translated as 'Baineann an t-alt seo le gach críoch' in s163(2) of the Corporation Tax Act, 1976.

In s39(5)(b) of the Finance Act, 1990, 'Paragraph (b) ... shall apply to a company for as long as it is deemed ... to be carrying on a trade' is translated as 'Beidh feidhm ag mír (b) ... maidir le cuideachta fad a mheastar ... í a bheith ag seoladh trádála'. In s5(1) of that Act, on the other hand, 'This section applies to any payment which is made' is translated as 'Baineann an t-alt seo le haon íocaíocht a dhéanfar', with 'Provided that this section shall not apply in a case unless the income so arising ... is the sole or main income of the individual' being translated as 'Ar choinníoll nach mbeidh feidhm ag an alt seo in aon chás murab é atá san ioncam a eascróidh amhlaidh ... aon-ioncam ná príomhioncam na pearsan aonair' in s5(2).

In relation to the use of 'feidhm' in the translation below, account has been taken of Article 23.2.2°, where we find the phrase 'For the purpose of this application'.

*a ghortú* 'Ghortú' is the verbal noun of 'giorraigh', translated as 'to shorten' in *Ó Dónaill*, 'giorruighim' being translated as 'I shorten, abridge, contract' in *Dinneen*. *De Bhaldraithe* translates 'I abridge' as 'giorraim'.

In s2 of the Eighth Schedule to the Electoral Act, 1923, 'provided that any misnomer or inaccurate description of any of those areas shall not in any way prevent or abridge the operation of this Act with respect to the subject of the description' is translated as 'ach ní dhéanfaidh aon mhí-ainmniú ná aon tuairisc nea-chruinn ar aon cheann de sna líomataistí sin cosc ná ghortú in aon tslí ar oibriú an Achta so maidir leis an ní ar a dtugtar an tuairisc'. In s267 of the Fisheries (Consolidation) Act, 1959, 'no oyster fishery order shall take away or abridge any right of several fishery' is translated as 'ní dhéanfaidh aon ordú um iascach oisrí cealú ná cúngú ar aon cheart iascaigh eisiataigh'. 'Nothing in this Act shall take away or abridge any power to open or break up any street along or across which the railway is laid' is translated as 'Ní dhéanfaidh éinní atá san Acht so cealú ná laigheadú ar aon chomhacht chun sráide ar bith d'oscailt no do bhriseadh go mbeidh an bóthar iarainn curtha síos ar a feadh no trasna uirthi' in s18 of the Cork Milling Company Railway Act, 1935.

*a bhreithniú* Verbal noun of 'breithnigh', the first person singular, present indicative, of which is translated as 'I adjudge; I adjudicate; I decide' in *Téarmaí Dlí*. See the commentary on Articles 17.1.1° and 20.1.

### Direct translation

*Tréimhse chun Billí a Bhreithniú*

Beidh feidhm ag an Airteagal seo maidir<sup>2</sup> le gach Bille a rithfidh Dáil Éireann agus a chuirfear go Seanad Éireann seachas Bille Airgid nó Bille a mbeidh an tréimhse lena bhreithniú<sup>3</sup> ag Seanad Éireann giorraithe faoi Airteagal 24 den Bhunreacht seo.

**Variants**

- 1 'a Mheas', 'a Bhreathnú'
- 2 'Baineann an tAirteagal seo'
- 3 'chun é a mheas', 'lena bhreathnú'

ARTICLE 23.1.1<sup>o</sup> AIRTEAGAL 23.1.1<sup>o</sup>**TÉACS GAELIGE**

Má tharlaíonn, taobh istigh den tréimhse áirithe a luaitear sa chéad fho-alt eile, go ndiúltaíonn Seanad Éireann d'aon Bhille lena mbaineann an tAirteagal seo, nó go ritheann Seanad Éireann an Bille agus leasuithe air a ndiúltaíonn Dáil Éireann dóibh, nó mura ndéanann Seanad Éireann an Bille a rith (cibé acu leasaithe é nó gan leasú) nó diúltú dó taobh istigh den tréimhse áirithe, ansin má ritheann Dáil Éireann rún chuige sin taobh istigh de naoi bhfichid lá tar éis an tréimhse áirithe a bheith caite, ní foláir a mheas gur ritheadh an Bille sin ag dhá Theach an Oireachtais an lá a ritheadh an rún.

**LITERAL ENGLISH TRANSLATION**

If it happens, within the particular period (that is) mentioned in the next subsection, that Seanad Éireann rejects any Bill to which this Article relates, or that Seanad Éireann passes the Bill and amendments to it which Dáil Éireann rejects, or if Seanad Éireann does not pass the Bill (whether amended or without amendment/amending) or (does not) reject it within the particular period, then if Dáil Éireann passes a resolution to that end within one hundred and eighty days after the expiration of the particular period, it must be deemed that that Bill was passed by both Houses of the Oireachtas (on) the day (that) the resolution was passed.

**ENGLISH TEXT**

Whenever a Bill to which this Article applies is within the stated period defined in the next following sub-section either rejected by Seanad Éireann or passed by Seanad Éireann with amendments to which Dáil Éireann does not agree or is neither passed (with or without amendment) nor rejected by Seanad Éireann within the stated period, the Bill shall, if Dáil Éireann so resolves within one hundred and eighty days after the expiration of the stated period be deemed to have been passed by both Houses of the Oireachtas on the day on which the resolution is passed.

**Divergences between the official texts**

- 1 'Whenever a Bill ... is rejected by Seanad Éireann' is expressed as 'Má tharlaíonn ... go ndiúltaíonn Seanad Éireann d'aon Bhille' ('If it happens ... that Seanad Éireann rejects any Bill') in the Irish text.
- 2 'The stated period defined in' is expressed as '(an) tréimhse áirithe a luaitear (i)' ('the particular period mentioned in') in the Irish text, with 'stated period' on two other occasions being expressed as 'tréimhse áirithe' ('particular period') in the Irish text.
- 3 'Applies' is again expressed as 'baineann le' ('relates to' / 'concerns') in the Irish text.

- 4 'If Dáil Éireann so resolves' is expressed as 'ansin má ritheann Dáil Éireann rún chuige sin' ('then if Dáil Éireann passes a resolution to that end') in the Irish text.
- 5 'With amendments to which Dáil Éireann does not agree' is expressed as 'agus leasuithe air a ndiúltaíonn Dáil Éireann dóibh' ('and amendments to it that Dáil Éireann rejects') in the Irish text.
- 6 'With or without amendment' is expressed as 'cibé acu leasaithe é nó gan leasú' ('whether amended or without amending/amendment') in the Irish text.
- 7 'To have been passed ... is passed' is expressed as 'gur ritheadh ... a ritheadh' ('... was passed ... was passed') in the Irish text.
- 8 'The next following' is expressed as '(an) chéad ... eile' ('the next') in the Irish text.
- 9 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 40 of the 1922 Constitution reads as follows:

A Bill passed by either House and accepted by the other House shall be deemed to be passed by both Houses. *Bille a rithfead ag Tigh agus a glacfar ag an dTigh eile tuigfead é bheith riththe ag an dá Thigh.*

Note also that we find the following in s2 of the Constitution (Amendment No. 13) Act, 1928:

Whenever a Bill (not being a Money Bill) initiated in and passed by Dáil Éireann and sent to Seanad Éireann is within the stated period hereinafter defined either rejected by Seanad Éireann or passed by Seanad Éireann with amendments to which Dáil Éireann does not agree or is neither passed (with or without amendment) nor rejected by Seanad Éireann within the said stated period ... such Bill shall, if Dáil Éireann so resolves after the expiration of such sixty days or longer period aforesaid, be deemed to have been passed by both Houses of the Oireachtas at the expiration of the said sixty days .... *Pé uair a dhéanfidh Seanad Éireann, laistigh den tréimhse áirithe a mínítear anso ina dhiaidh seo, diúltú do Bhille (nách Bille Airgid) do tionnsnúodh i nDáil Éireann agus do ritheadh ag Dáil Éireann agus do cuireadh go dtí Seanad Éireann nó an Bille do rith tar éis leasuithe do dhéanamh air ná toileoidh Dáil Éireann leo, nó ná déanfidh Seanad Éireann é do rith (maille le leasú) ná diúltú dho laistigh den tréimhse áirithe sin, ... tuigfar, má bheartuionn Dáil Éireann amhlaidh le rún tar éis deire an trí fichid lá san nó na tréimhse sin roimhráite is sia ná san, an Bille sin do bheith riththe ag dhá Thigh an Oireachtais i gciann an trí fichid lá san.*

**Commentary**

*áirithe* This adjective is translated as 'certain, particular' in *Ó Dónaill*, who cites '*duine áirithe*, a certain person' and '*lá áirithe*, (on) a certain day'. *Dinneen* translates '*áirithe*' as 'definite, certain, special, particular'. DIL gives 'special, particular, a certain' as one of the senses of '*áirithe*', citing 'ticit laithi airigthi anuas for in magh' ('... on certain days') from the *Gaelic abridgment of the Book of Ser Marco Polo*.

In s4 (Table) of the Finance Act, 1981, 'and that it appears from them that, during a stated period, a stated

return ... was not received from the defendant' is translated as 'agus go ndealraíonn sé uathu nach bhfuarthas ón gcosantóir tuairisceán ... a shonrófar, i rith tréimhse a shonrófar'. 'And that it appears from them that, during a stated period, a stated statement was not furnished by the defendant' is translated as 'agus go bhfeictear uathu nach ndearna an cosantóir ráiteas sonraithe a thabhairt i rith tréimhse sonraithe' in s57(6)(a) of the Finance Act, 1963.

*ritheann ... rún chuige sin* 'Chuige sin' is translated as 'to that end' in *Ó Dónaill, Dinneen* giving 'for the purpose' as one of the senses of 'chuige', citing '*chuige sin do scríobhas é*, for that purpose I wrote it'.

'Beartú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'resolve' in the *Proceedings* of Dáil Éireann, 24/1/24. 'If the Dáil resolves the motion in the affirmative' is translated as 'má ritheann an Dáil an tairisint' in the 1926 *Standing Orders* of Dáil Éireann. In s72(2) of the Local Government (Dublin) Act, 1920, 'Any hereditament or tenement in the City ... shall, if the City Council so resolves, be deemed to be a small dwelling' is translated as 'Má bheartuáinn Comhairle na Cathrach amhlaidh tuigfear gur tigh comhnaithe beag ... aon ionoighreachta no tionóntachán sa Chathair'. See further the commentary on Article 24.1.

*caite* Past participle of 'caith', 'spend (of time)' being one of the senses of that verb given in *Ó Dónaill*, citing '*tá na blianta á gcaitheamh*, the years are passing'. *Dinneen* cites '*caithim mo shaoghal, lá, aimsear*, I pass my life, a day, time, etc.' DIL cites 'goro cathestar Moysi trian a aeisi i clemnus int sacairt' ('and Moses spent a third of his life-time as the priest's son-in-law') from the early twelfth-century prose version of *Saltair na Rann*. See the commentary on Articles 12.3.1° and 21.2.1° regarding 'expiration' in the Acts.

*naoi bhfichid lá* 'Trí fichid bliain' is translated as 'three score years' in *Ó Dónaill, Dinneen* citing '*dá fhichid (dathad), trí fichid, 7c.*, forty, sixty, etc.' along with '*a deich is ceithre fichid*, ninety'. DIL cites 'tri fichit' ('sixty') from *Saltair na Rann*, composed c. 1000.

*lena mbaineann* See the commentary on Article 3 regarding 'bain le', which has the sense of 'applies to' particularly in earlier Acts.

*tréimhse* See the commentary on Article 23.1. Note that we find 'tar éis na tréimhse áirithe bheith caithte' in the original text.

*go ndiúltaíonn* See the commentary on Article 13.2.2° regarding 'diúltaigh do'.

*ní foláir* See the commentary on Article 11.

### Direct translation

Má dhéanann Seanad Éireann, laistigh den tréimhse shonraithe a mhíneofar sa chéad fho-alt eile ina dhiaidh seo, diúltú do Bhille a mbeidh feidhm ag an Airteagal seo ina leith' nó é a rith mar aon le leasuithe nach n-aontaíonn Dáil Éireann leo, nó mura ndéanann Seanad Éireann é a rith (mar aon le leasú nó gan leasú) nó diúltú dó laistigh

den tréimhse shonraithe, measfar, má bheartaíonn Dáil Éireann amhlaidh laistigh de chéad lá is ochtó<sup>2</sup> tar éis dheireadh na tréimhse sonraithe<sup>3</sup>, go mbeidh an Bille rite ag dhá Theach an Oireachtais an lá a rithfear an rún.

### Variants

- 1 'a mbaineann an tAirteagal seo leis'
- 2 'de naoi scór lá', 'd'ochtó lá is céad', 'de naoi bhfichid lá'
- 3 'tar éis don tréimhse shonraithe a bheith caithe'

## ARTICLE 23.1.2° AIRTEAGAL 23.1.2°

### TÉACS GAEILGE

Nócha lá, nó aon tréimhse is sia ná sin a réitid dhá Theach an Oireachtais le chéile maidir leis an mBille, an tréimhse áirithe, agus is é an lá a sheoltar an Bille ar dtús ó Dháil Éireann go Seanad Éireann tosach na tréimhse.

### LITERAL ENGLISH TRANSLATION

Ninety days, or any period (which is) longer than that which both Houses of the Oireachtas settle together with regard to the Bill, (is) the particular period, and the commencement of the period is the day that the Bill is first sent from Dáil Éireann to Seanad Éireann.

### ENGLISH TEXT

The stated period is the period of ninety days commencing on the day on which the Bill is first sent by Dáil Éireann to Seanad Éireann or any longer period agreed upon in respect of the Bill by both Houses of the Oireachtas.

### Divergences between the official texts

- 1 'The stated period is the period of ninety days' is expressed as 'Nócha lá ... an tréimhse áirithe' ('Ninety days ... (is) the stated/particular period') in the Irish text, with 'stated period' again being expressed as 'tréimhse áirithe' ('particular period') as in the previous subsection.
- 2 'The period of ninety days commencing on the day on which the Bill is first sent by Dáil Éireann' is expressed in the Irish text as 'agus is é an lá a sheoltar an Bille ar dtús ó Dháil Éireann go Seanad Éireann tosach na tréimhse' ('and the commencement of the period is the day on which the Bill is first sent from Dáil Éireann'), this being a whole new clause, preceded by a comma found in the Irish text alone.
- 3 'Agreed upon ... by both Houses of the Oireachtas' is expressed as 'a réitid dhá Theach an Oireachtais le chéile' ('which both Houses of the Oireachtas settle/agree together') in the Irish text.

Note that s2 of the Constitution (Amendment No. 13) Act, 1928, contains the following:

The said stated period is the period commencing on the day on which the said Bill is first sent by Dáil Éireann to Seanad Éireann and ending at whichever of the following times is the earlier .... *Isé rud é an tréimhse áirithe sin ná an tréimhse dar tosach an lá a chuirfidh Dáil Éireann an Bille sin go dtí Seanad*

*Éireann den chéad uair agus dar críoch pé am acu so leanas is luaithe ann.*

### Commentary

*a réitid* The synthetic form of the third person plural, present indicative, of 'réitigh', this would generally be replaced today by 'a réitíonn (siad)'. See the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb. *Ó Dónaill* gives 'settle, agree (with)' as the sense of 'réitigh' with 'le', citing '*réiteach le duine*, to settle with someone; to make peace with someone' and '*is breá a réitíonn sibh le chéile*, you get on very well together'.

'I agree' is translated as 'comhaontaim' in *Téarmaí Dlí*. 'Provided that where ... an applicant has agreed in writing to assign a patent when granted to another party' is translated as 'Ach ... má chó-aontuigh iarratasóir i scribhinn paitinn do shanna do pháirtí eile ... nuair a deonfí í in s25(1) of the Industrial and Commercial Property (Protection) Act, 1927. 'Notwithstanding that the price has not been agreed upon or fixed' is translated as 'cé ná beifear tar éis a chó-aontú i dtaobh an phraghais no é do shocrú' in s30(1) of the Land Act, 1933. Finally, 'and shall take such measures as may be agreed upon' is translated as 'agus déanfaidh sé cibé bearta ar a gcomhaontófar' in s12 of the Fire Services Act, 1981.

*is sia* See the commentary on Article 21.2.1°.

*áirithe* See the commentary on the previous subsection.

*a sheoltar* See the commentary on Article 23.1.

### Standardised Irish text

Nócha lá, nó aon tréimhse is sia ná sin a réitíonn dhá Theach an Oireachtais le chéile maidir leis an mBille, an tréimhse áirithe, agus is é an lá a sheoltar an Bille ar dtús ó Dháil Éireann go Seanad Éireann tosach na tréimhse.

### Direct translation

Is í an tréimhse shonraithe an tréimhse nócha lá dar tosach an lá a chéadchuirfidh<sup>1</sup> Dáil Éireann an Bille go Seanad Éireann nó aon tréimhse is faide ná sin<sup>2</sup> ar a gcomhaontóidh dhá Theach an Oireachtais i leith an Bhille.

### Variants

- 1 'a chéadchuireann'
- 2 'is faide'

## ARTICLE 23.2.1° AIRTEAGAL 23.2.1°

### TÉACS GAEILGE

Baineann an t-alt sin romhainn den Airteagal seo le gach Bille a thionscnaítear i Seanad Éireann agus a ritear ag Seanad Éireann, agus a leasaítear ag Dáil Éireann, agus go meastar dá bhithin sin gur i nDáil Éireann a tionscnaíodh é.

### LITERAL ENGLISH TRANSLATION

That preceding section of this Article concerns each Bill which is initiated in Seanad Éireann and (which is) passed

by Seanad Éireann, and (which is) amended by Dáil Éireann, and that it is deemed for that reason that it was in Dáil Éireann it was initiated.

### ENGLISH TEXT

The preceding section of this Article shall apply to a Bill which is initiated in and passed by Seanad Éireann, amended by Dáil Éireann, and accordingly deemed to have been initiated in Dáil Éireann.

### Divergences between the official texts

- 1 'A Bill' is expressed as 'gach Bille' ('each Bill') in the Irish text.
- 2 'Shall apply to' is expressed as 'Baineann ... le' ('concerns') in the Irish text, this phrase also having the sense of 'apply' and is so used in particular in the earlier Acts.
- 3 'Accordingly' is expressed as 'dá bhithin sin' ('for that reason') in the Irish text, 'dá réir sin' generally expressing 'accordingly' in the Acts, with 'de réir' translating 'in accordance with' in *Téarmaí Dlí*.
- 4 'Amended by' is expressed as 'agus a leasaítear ag' ('and amended by') in the Irish text.

Note that we find the following in s2 of the Constitution (Amendment No. 13) Act, 1928:

When a Bill initiated in and passed by Seanad Éireann is amended by Dáil Éireann, such Bill shall be deemed to have been initiated in Dáil Éireann and this Article shall apply accordingly .... *Nuair a leasóidh Dáil Éireann Bille do tionscnuíodh i Seanad Éireann agus do ritheadh ag Seanad Éireann, tuigfar gur i nDáil Éireann do tionscnuíodh an Bille sin agus bainfidh an tAirtíogal so leis an mBille sin dá réir sin.*

### Commentary

*dá bhithin sin* See the commentary on Article 29.4.3°. 'The word "discharge" includes ceasing by any means to be a member of the Armed Forces aforesaid and cognate words shall be construed accordingly' is translated as 'foluionn an focal "scur" éirghe ar aon tslí as na Fórsaí Armtha roimh-ráite agus léireofar focail den chineál chéanna dá réir sin' in s25(2) of the National Health Insurance Act, 1923. 'The regulation shall be annulled accordingly' is translated as 'beidh an rialachán ar neamhni dá réir sin' in s112(7) of the Finance Act, 1990, for example from a modern Act. See further the commentary on Article 43.1.2° where 'uime sin' expresses 'accordingly'.

*a thionscnaítear ... a tionscnaíodh* See the commentary on Article 20.1 regarding the verb 'tionscain'.

*Baineann ... le* See the commentary on Article 3.

### Standardised Irish text

Baineann an t-alt sin romhainn den Airteagal seo le gach Bille a thionscnaítear i Seanad Éireann agus a ritear ag Seanad Éireann, agus a leasaítear ag Dáil Éireann, agus a mheastar dá bhithin sin gur i nDáil Éireann a tionscnaíodh é.

**Direct translation**

Beidh feidhm ag an alt<sup>1</sup> sin romhainn den Airteagal seo maidir le Bille a thionscnófar i Seanad Éireann agus a rithfidh<sup>2</sup> Seanad Éireann<sup>3</sup>, a leasóidh Dáil Éireann, agus a measfar é a bheith tionscanta i nDáil Éireann dá réir sin.

**Variants**

- 1 'Bainfidh an t-alt'
- 2 'agus a rithfear ag'
- 3 'a dhéanfar é a thionscnamh i Seanad Éireann agus a rith ag Seanad Éireann'

ARTICLE 23.2.2<sup>o</sup> AIRTEAGAL 23.2.2<sup>o</sup>**TÉACS GAEILGE**

Chuirge sin is é an lá a sheoltar an Bille go Seanad Éireann den chéad uair tar éis é a leasú ag Dáil Éireann a thosaíos an tréimhse áirithe i gcomhair an Bhille sin.

**LITERAL ENGLISH TRANSLATION**

To that end it is the day on which the Bill is sent to Seanad Éireann for the first time after its amendment by Dáil Éireann that the particular period for that Bill commences.

**ENGLISH TEXT**

For the purpose of this application the stated period shall in relation to such a Bill commence on the day on which the Bill is first sent to Seanad Éireann after having been amended by Dáil Éireann.

**Divergences between the official texts**

- 1 'For the purpose of this application' is expressed simply as 'Chuirge sin' ('To that end') in the Irish text, 'apply' having been expressed by the phrase 'bain le' in the preceding subsection and section.
- 2 'In relation to such a Bill' is expressed as 'i gcomhair an Bhille sin' ('for that Bill') in the Irish text.
- 3 'The stated period' is expressed as 'an tréimhse áirithe' ('the particular period'), as in the previous subsections.

Note that s2 of the Constitution (Amendment No. 13) Act, 1928, contains the following:

... and for the purpose of such application the said stated period shall in relation to such Bill commence on the day on which such Bill is first sent to Seanad Éireann after being so amended by Dáil Éireann ... *agus chun críche na bainte sin tosnóidh an tréimhse áirithe sin, maidir leis an mBille sin, an lá a cuirfar an Bille sin go dtí Seanad Éireann den chéad uair tar éis do Dháil Éireann é do leasú amhlaidh.*

**Commentary**

*Chuirge sin* See the commentary on Article 23.1.1<sup>o</sup> regarding 'chuirge sin' and see the commentary on Articles 8.3 and 13.8.2<sup>o</sup> regarding 'purpose' in the Constitution.

'Application of Act' is translated as 'Cad leis go mbainfidh an tAcht' in the *Oireachtas Dictionary of Official Terms* (followed, as reference, by 'general'). 'For the purposes of the application thereto of the provision of

Clause XLIII' is translated as 'maidir le forálacha Cláis XLIII ... do bhaint leo' in s5 of the Schedule to the Pier and Harbour Provisional Order Confirmation Act, 1937. 'Application of Act of 1967', on the other hand, is translated as 'Feidhm Acht 1967' in the Margin Title of s44 of the Landlord and Tenant (Amendment) Act, 1980. 'Assuming the application to the disposal of Part II of the Principal Act' is translated as 'á ghlacadh leis go bhfuil feidhm ag Cuid II den Phríomh-Acht maidir leis an diúscairt' in s63(7)(b) of the Finance Act, 1990.

*a thosaíos* Special form of the relative of the present indicative of 'tosaigh', this would generally today be replaced by 'a thosaíonn' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'. Note that a comma precedes 'a thosaíos' in the original text.

*i gcomhair* This prepositional phrase is translated as 'for, intended for; to get' in *Ó Dónaill* and as 'for, in provision or store for' in *Dinneen* – see the commentary on Article 14.4.

*a sheoltar* See the commentary on Article 23.1 regarding the verb 'seol'.

**Standardised Irish text**

Chuirge sin is é an lá a sheoltar an Bille go Seanad Éireann den chéad uair tar éis é a leasú ag Dáil Éireann a thosaíonn an tréimhse áirithe i gcomhair an Bhille sin.

**Direct translation**

Chun críche an fheidhmithe seo, tosóidh an tréimhse shonraithe i ndáil le Bille den sórt sin ar an lá a chéadchuirfear an Bille go Seanad Éireann tar éis do Dháil Éireann é a leasú<sup>1</sup>.

**Variants**

- 1 'tar éis a leasaithe ag Dáil Éireann', 'tar éis é a bheith leasaithe ag Dáil Éireann'

## ARTICLE 24.1 AIRTEAGAL 24.1

**TÉACS GAEILGE**

Má ritheann Dáil Éireann Bille, seachas Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht a leasú, agus go seolann an Taoiseach teachtaireachtaí scríofa chun an Uachtaráin agus chun Cathaoirleach gach Tí den Oireachtas, á dheimhniú dóibh gurb é tuairim an Rialtais go bhfuil práinn agus riachtanas leis an mBille sin láithreach chun síocháin agus slándáil an phobail a chosaint, nó go bhfuil práinn agus riachtanas leis láithreach toisc éigeandáil phoiblí inmheánach nó idirnáisiúnta a bheith ann, ansin má bheartaíonn Dáil Éireann amhlaidh le rún, agus go n-aontaíonn an tUachtarán leis an rún, tar éis comhairle a ghlacadh leis an gComhairle Stáit, ní foláir an tréimhse a fhágfar an Bille sin faoi bhreithniú Sheanad Éireann a ghiorrú agus a chur faoin teorainn a luaitear sa rún.

**LITERAL ENGLISH TRANSLATION**

If Dáil Éireann passes a Bill, other than a Bill which is mentioned as being a Bill which contains a proposal to amend the Constitution, and the Taoiseach sends written messages to the President and to the Chairman of each House of the Oireachtas, affirming to them that it is the opinion of the Government that there is an urgency and necessity (to have) the Bill immediately to protect the peace and security of the people, or that there is an urgency and necessity to have it immediately because of there being a public internal or international emergency, then if Dáil Éireann so determines by resolution, and the President assents to the resolution, after taking counsel with the Council of State, the period in which that Bill will be left under the consideration of Seanad Éireann must be shortened and put under the limit which is mentioned in the resolution.

**ENGLISH TEXT**

If and whenever on the passage by Dáil Éireann of any Bill, other than a Bill expressed to be a Bill containing a proposal to amend the Constitution, the Taoiseach certifies by messages in writing addressed to the President and to the Chairman of each House of the Oireachtas that, in the opinion of the Government, the Bill is urgent and immediately necessary for the preservation of the public peace and security, or by reason of the existence of a public emergency, whether domestic or international, the time for the consideration of such Bill by Seanad Éireann shall, if Dáil Éireann so resolves and if the President, after consultation with the Council of State, concurs, be abridged to such period as shall be specified in the resolution.

**Divergences between the official texts**

- 1 'If and whenever on the passage by Dáil Éireann of any Bill' is expressed simply as 'Má ritheann Dáil Éireann Bille' ('If Dáil Éireann passes a Bill') in the Irish text.
- 2 'Expressed' is again expressed as 'luaitear' ('mentioned') in the Irish text.
- 3 'The Taoiseach certifies by messages in writing addressed to the President ... that, in the opinion of the Government, the Bill is urgent' is expressed in the Irish text as 'agus go seolann an Taoiseach teachtaireachtaí scríofa chun an Uachtaráin ... á dheimhniú dóibh gurb é tuairim an Rialtais go bhfuil práinn ... leis an mBille sin', 'and the Taoiseach sends written messages to the President ..., affirming to them that it is the opinion of the Government that the Bill is urgent'.
- 4 'That ... the Bill is urgent and immediately necessary' is expressed in the Irish text as 'go bhfuil práinn agus riachtanas leis an mBille sin láithreach' ('that there is an urgency and necessity for / to have that Bill immediately') in the Irish text, this phrase (with 'leis' ['it'] replacing 'an Bille' ['the Bill']) being repeated in the Irish text alone.
- 5 'Preservation' is expressed by 'cosaint', the Irish legal term for 'defence', whereas 'preserve' is generally expressed today by 'caomhnaigh'.
- 6 'Public', in the phrase 'public peace and security', is expressed as 'an phobail' ('of the people/community') in the Irish text, as against the usual direct translation

of 'public', 'poiblí', which expresses 'public' in the phrase 'éigeandáil phoiblí' ('a public emergency'); we also find this genitive of 'pobal' translating 'public' in the Acts.

- 7 'A public emergency, whether domestic or international' is expressed as 'éigeandáil phoiblí inmheánach nó idirnáisiúnta' ('an international or an internal public emergency') in the Irish text.
- 8 'If Dáil Éireann so resolves' is expressed as 'ansin má bheartaíonn Dáil Éireann amhlaidh le rún' ('then if Dáil Éireann so determines by resolution') in the Irish text.
- 9 'And if the President ... concurs' is expressed as 'agus go n-aontaíonn an tUachtarán leis an rún' ('and [that] the President assents to the resolution') in the Irish text; note that no comma follows this phrase in the original Irish text, unlike the current popular edition, and corresponding to the comma in the English text.
- 10 'The time for the consideration of such Bill by Seanad Éireann' is expressed as 'an tréimhse a fhágfar an Bille sin faoi bhreithniú Sheanad Éireann' ('the period which that Bill will be left under the consideration of Seanad Éireann') in the Irish text.
- 11 'Shall be' is again expressed as 'ní foláir' ('must be') in the Irish text.
- 12 'Abridged to such period as shall be specified in the resolution' is expressed as 'a ghiorrú agus a chur faoin teorainn a luaitear sa rún' ('shortened and put under the limit which is mentioned in the resolution') in the Irish text.

**Commentary**

*a luaitear* 'Luaim' is translated as 'I cite' in *Téarmaí DLÍ*, 'luadhaim' being translated as 'I mention, speak of, tell' in *Dinneen* and 'luaigh' being translated as 'mention, cite' in *Ó Dónaill* – see the commentary on Articles 12.10.1°, 14.5.2° and 28.3.3°, where 'luaigh' expresses 'state', 'specify' and 'express', respectively.

Turning to 'express' in the early Acts, 'subject to such restrictions and conditions (which shall be expressed on the certificate)' is translated as 'fé pé cosca agus coiníollacha (adéarfai sa teistias)' in s7(3) of the Censorship of Films Act, 1923. 'At the date at which such notice is expressed to take effect' is translated as 'ar an dáta a bheidh luaidhte mar dháta éifeachta don bhfógra san' in s7(2) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. 'The memorandum and articles of association of the Corporation shall be so framed and expressed' is translated as 'Déanfar memorandum agus airtíogail chomhlachais na Corparáide do dhréachtú agus d'fhocalú i slí go' in s12(1) of the Agricultural Credit Act, 1927. Finally, 'the proclamation shall be expressed and shall operate to summon the Oireachtas' is translated as 'déarfadh agus déanfadh an fógra an tOireachtas ... do ghairm' in s1(3) of the Public Safety (Emergency Powers) Act, 1926.

Looking at modern Acts, 'in which the marriage of parents of the donee or successor was, at the date of the disposition, expressed to be the consideration' is translated as 'ar sainíodh gurbh é pósadh tuismitheoirí an deontáí nó an chomharba an chomaoín ar dháta na diúscartha' in s46(1) of the Finance Act, 1981. 'On any amount (whether expressed to be income or not ...)' is translated as 'i leith

aon mhéid (bíodh sé sainráite gur ioncam é nó nach ea ...)’ in s11(6) of the Corporation Tax Act, 1976. See further the commentary on Articles 46.3 and 50.2 (where ‘luaigh’ again expresses ‘express’) and on Article 37.2 (added to the original text by the Sixth Amendment of the Constitution) where ‘expressed’ is rendered as ‘sainráite’, ‘nocht’ expressing ‘express’ in Article 40.6.1<sup>i</sup>.

*á dheimhniú* ‘Deimhním’ is translated as ‘I certify; I vouch’ in *Téarmaí Dlí*, ‘deimhnighim’ being translated as ‘I affirm, prove, verify, emphasise’ in *Dinneen*, and ‘deimhnigh’ being translated as ‘certify; affirm, assure; check’ in *Ó Dónaill*, who cites ‘*dheimhnigh sé dom (go)*, he assured me (that)’. See the commentary on Articles 1 and 22.2.1<sup>o</sup> where ‘deimhnigh’ respectively expresses ‘affirm’ and ‘certify’.

‘As certified by medical certificate’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘ar a bhfuarthas deimhniú dochtúra’ in translations for the Department of Local Government and Public Health. ‘To certify in writing as to the cause of the detention’ is translated as ‘deimhniú do dhéanamh i scríbhinn i dtaobh cúise a choimeádtha’ in Article 6 of the 1922 Constitution. ‘The Minister shall ... certify by order the date of the publication of the result of such census’ is translated as ‘déanfaidh an tAire ... dáta foilsithe thoradh an daonáirimh sin a dheimhniú le hordú’ in s156(1) of the Social Welfare (Consolidation) Act, 1981. ‘Unless the purpose of the appropriation has been recommended to the Dáil by a Message from the Government’ is translated as ‘mura mbeidh Teachtaireacht ag an Dáil ón Rialtas ag moladh chuspóir an leithreasaithe di’ in s142(2) of the *Standing Orders* of Dáil Éireann (1997).

*go seolann* See the commentary on Article 23.1 regarding the verb ‘seol’, which expresses ‘send’ in that Article. Turning to ‘address’ in the early Acts, ‘Where the name of an occupier ... is not known to the Commissioners, such notice may be addressed to “the occupier” ... of the premises without naming him’ is translated as ‘Marab eol do sna Coimisinéirí cad is ainm do shealbhóir ... féadfar an fógra san do sheola go dtí “sealbhóir” an áitribh gan é d’ainmniú’ in s2(5) of the Civic Guard (Acquisition of Premises) Act, 1923. ‘To address ... to’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘do chur chun ...’ in early *Standing Orders* of Dáil Éireann. Note that ‘A member of the Board may at any time resign his office as such member by letter addressed and sent to the Board’ is translated as ‘Féadfidh ball den Bhord aon uair eirge as a oifig mar bhall den tsórt san tré leidir do dhíriú agus do chur chun an Bhúird’ in s5 of the Dentists Act, 1928. In Article 33 of the 1922 Constitution, ‘Such persons who have at any time been members of Seanad Éireann ... as signify by notice in writing addressed to the President of the Executive Council their desire to be included in the panel’ is translated as ‘Pé daoine do bhí aon uair ‘na mbaill de Sheanad Éireann ... a chuirfidh in úil d’Uachtarán na hArd-Chomhairle le fógra i scríbhinn gur mian leo a gcur ar an ainm-liost’.

Looking at modern Acts, ‘either party may request interpretation of the award by an application in writing addressed to the Secretary-General’ is translated as ‘féadfaidh aon pháirtí a iarraidh go léireofaí an dámhachtain trí iarratas i scríbhinn a sheoladh chuig an

Ard-Rúnaí’ in Article 50(1) of the Second Schedule to the Arbitration Act, 1980.

*a chosaint* The verbal noun of ‘cosain’ – see the commentary on Article 40.3.1<sup>o</sup>. Looking at ‘preservation’ in early Acts, in s3(2) of the Offences Against the State (Amendment) Act, 1940, ‘If and whenever and so often as the Government makes and publishes a proclamation declaring that the powers conferred by this Part of this Act are necessary to secure the preservation of public peace and order’ is translated as ‘Má dheineann agus má fhoillsíonn agus pé uair agus chó minic agus a dhéanfaidh agus a fhoilseoidh an Riaghaltas furógra á dhearbhu na comhachta bronntar leis an gcuid seo den Acht so do bheith ag teastáil chun a chur in áirithe go gcoimeádfar an tsíocháin agus an t-ord puiblí’. In Article 47 of the 1922 Constitution, ‘These provisions shall not apply to Money Bills or to such Bills as shall be declared by both Houses to be necessary for the immediate preservation of the public peace, health and safety’ is translated as ‘Ní bheidh feidhm ag na forálacha so maidir le Billí Airgid ná le pé Billí a fhógróidh an dá Thigh a bheith riachtanach láithreach chun an tsíocháin no an tsláinte no an tsábháiltacht phuibli do chosaint’.

‘Cosaint na puiblíochta’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘preservation of public safety’ in the *Dáil Order Paper*, 1926, p. 36, with ‘cimeád suas’ translating ‘preservation (of State)’ in the *Proceedings of Dáil Éireann*, 1927, p. 505, and ‘caomhnadh na sláinte puibli’ translating ‘preservation of public health’ in translations for the Department of Local Government and Public Health. ‘Bancánachtaí, etc., do chosaint’ translates ‘Preservation of embankments, etc.’ in the Margin Title of s44 of the Land Act, 1923. ‘That I will see and cause the peace to be kept and preserved’ is translated as ‘go bhféachfad chuige agus go n-abharód go ndéanfar an tsíocháin do chimeád agus do choinneáil’ in the First Schedule to the District Justices (Temporary Provisions) Act, 1923. ‘Preservation of powers of the Military Forces’ is translated as ‘Chun comhachta na bhFórsaí Mileata do chimeád slán’ in the Margin Title of s15 of the Public Safety (Emergency Powers) Act, 1923. ‘The Minister may by order do all such things and make all such regulations as in his opinion shall be necessary for the proper preservation and management of the property’ is translated as ‘Féadfidh an tAire, le hordú, gach ní agus gach rialachán do dhéanamh is dó leis is gá chun buan-chimeád agus bainistí cheart na maoiné’ in s8(5) of the Local Government Act, 1925. Note, finally, that ‘in or about the storing, impounding and preservation of such goods, animals and chattels’ is translated as ‘le linn no i dtaobh na hearraí, na hainmhithe agus an mhaoin sin do chimeád i stór, i bpóna agus i dtaisce’ in s7(3)(b) of the Enforcement of Law (Occasional Powers) Act, 1923, with ‘and also peels and fruits candied, crystallised and otherwise preserved with sugar’ being translated as ‘agus fós croicne agus torthaí atá crústaithe, criostalaithe no leasuithe ar aon tslí eile le síúicre’ in s15(3) of the Finance Act, 1924.

‘Lawfully engaged on duties relating to the preservation of peace and order’ is translated as ‘bheidh ag gabháil go dleathach do dhualgaisí bhainfidh le síocháin agus ordú do choimeád’ in s3 of the Treason Act, 1939. ‘In the maintenance or restoration of the public peace’ is translated as ‘chun an tsíocháin phoibli a chaomhaint nó d’athbhunú’

in s90(1) of the Defence Act, 1954. 'General power ... of the Commissioner ... to preserve order in public places' is translated as 'cumhacht ghinearálta ... an Choimisinéara ... ord a choimeád in áiteanna poiblí' in s126 of the Road Traffic Act, 1961, 'i dtaobh ordú do choimeád in áiteanna poiblí' translating 'to preserve order in public places' in s160 of the Road Traffic Act, 1933. 'To preserve the rights conferred on them by virtue of those enactments' is translated as 'chun na cearta a thugtar dóibh de bhua na n-achtachán sin a chaomhnú' in s133(1) of the Social Welfare (Consolidation) Act, 1981, 'chun a urlámhas ar an aerárthach a chaomhnú' translating 'to preserve his control of the aircraft' in s1 of Article 9 of the Second Schedule to the Air Navigation and Transport Act, 1973. See further the commentary on Articles 28.3.3° and 40.4.6°i where 'preserve' is expressed respectively by 'caomhnaigh' and 'coimeád'.

*práinn* See the commentary on Article 15.8.2° where this headword expresses 'emergency'. 'Práinn' is translated as 'hurry, rush; urgent need, exigency' in *Ó Dónaill*, who cites '*tá práinn leis, it is urgent*' and '*níl práinn orm leis, I am not in a hurry with it*'. *Dinneen* translates 'práidhinn' as 'urgency, a difficulty, need; trepidation, hurry, flurry, rush', citing '*tá práidhinn agam leis, I require it*'. *Stair Éamuinn Uí Chléire*, written by Seán Ó Neachtain (1655-1728), is the source of DIL's two citations of this word in the literature, DIL following the headword with the abbreviation for 'modern' and translating 'práidhinn' as 'urgency, difficulty, strait'.

'An emergency situation for the purpose of subsection (9) of this section shall be deemed to exist where, in the opinion of the manager, the works concerned are urgent and necessary (having regard to personal health, public health and safety considerations)' is translated as 'Measfar éigeandáil chun críche fho-alt (9) den alt seo a bheith ann i gcás, i dtuairim an bhainisteora, gur oibreacha iad na hoibreacha lena mbaineann atá práinneach agus riachtanach (ag féachaint do shláinte phearsanta, do shláinte an phobail agus do chúrsaí sábháilteachta)' in s27 of the Housing Act, 1988. In s22(14) of the Courts (Supplemental Provisions) Act, 1961, 'A judge of the Circuit Court may make out of court any orders which he may deem to be urgent' is translated as 'Féadfaidh breitheamh den Chúirt Chuarda aon orduithe a measfaidh sé práinn a bheith leo a dhéanamh taobh amuigh de chúirt'. In the Preamble to the Defence Forces (Temporary Provisions) Act, 1923, 'And whereas it is a matter of urgent necessity to provide a code of laws and regulations for the enforcement of military discipline' is translated as 'Agus de bhri go bhfuil práinn mhór le córus dlíthe agus rialachán do sholáthar chun smacht airm do chur i bhfeidhm ar na fórsaí armtha'. 'In cases of urgent and pressing necessity' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'i gcásanna go bhfuil práinn agus cruadhóg ag baint leo' in early *Standing Orders* of Dáil Éireann, 'urgent necessity' being translated as 'riachtanas nách foláir féachaint chuige láithreach' in *Iris Oifigiúil*, 1922/23, and 'matters of urgent public importance' being translated as 'nithe go bhfuil deabha agus tácht phuiblí ag baint leo' in the *Dáil Order Paper*, 1925, p. 437.

As regards 'immediately necessary', in s6(3) of the Defence (Amendment) Act, 1987, 'take ... any reasonable measures which he has reasonable grounds for believing

to be immediately necessary to protect the safety of the aircraft' is translated as 'aon bhearta réasúnacha a dhéanamh ... a mbeidh foras réasúnach aige lena chreidiúint gur gá iad a dhéanamh láithreach chun sábháilteacht an aerárthaigh ... a chosaint'. 'This paragraph shall not apply to the running of any omnibus by the Company for the purpose of meeting a public requirement of a temporary nature or an immediate necessity' is translated as 'Ní bhainfidh an mhír seo leis an gCuideachta do thiomáint aon omnibus i gcóir riachtanais phuiblí shealadaigh no i gcóir riachtanais láithrigh' in s3(a) of the Dublin United Tramways (Omnibus Services) Act, 1925. 'Pass such further legislation and do all such other things as may be necessary to implement the Scheduled Treaty' is translated as 'rithfidh ... pé reachtúchán eile agus gach ní eile a bheidh riachtanach chun an Conradh Sgeidealta do thabhairt chun críche' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. Finally, 'and there do all such matters or things as in the opinion of the Minister ... are necessary for or incidental to such maintenance' is translated as 'agus gach ní no rud do dhéanamh san áit sin is dó leis an Aire ... do bheith riachtanach i gcóir an choinneáil-i-dtreo san no do bheith ag gabháil leis sin' in s84(2) of the Electricity (Supply) Act, 1927.

*éigeandáil* 'A national emergency exists' is rendered as 'go bhfuil ann ... staid phráinne náisiúnta' in Article 28.3.3°, following the First Amendment of the Constitution Act, 1939; as J.M. Kelly, op. cit., p. 194, states in his commentary on the present Article, "This "public emergency, domestic or international" must include the "national emergency" of Article 28.3.3°, but the different wording implies that they are not coextensive'. Note that the Irish wording differs even more than the English, Article 28.3.3° following Article 15.8.2° where 'In cases of special emergency' is expressed as 'i gcás práinn speisialta a bheith ann'.

'Éigeandáil' is translated as 'dangerous situation, emergency' in *Ó Dónaill* and as 'necessity, distress' in *Dinneen*. This compound of 'éicen' ('necessity, compulsion') and 'dál' ('a meeting, conference, assembly' and 'a dispute, controversy' being but two sets of senses of this word in DIL) is translated as 'a stiff encounter; a distressing position, dangerous strait' in DIL, citing 'airc na éicen na écendál' from the version of the *Táin* contained in the twelfth-century *Book of Leinster*.

'Declaration by the Government of existence of a state of emergency' is translated as 'Dearbhú ón Rialtas go bhfuil staid éigeandála ann' in the Margin Title of s15 of the Prices Act, 1958. 'In case of any emergency' is translated as 'i gcás aon éigeandála poiblí' in s4 of the Office Premises Act, 1958, and s118(1) of the Factories Act, 1955.

Looking at early Acts, in Article 25 of the 1922 Constitution, 'in cases of special emergency' is translated as 'ar ócáidí de riachtanas speisialta'. 'That certain emergency powers should be given to Local Authorities' is translated as 'comhachtanna áirithe i gcóir éigeandála do thabhairt d'Údaráis Áitiúla' in the Preamble to the Local Government (Temporary Provisions) Act, 1923, 'comhacht ócáide' translating 'emergency power' in the *Proceedings* of Seanad Éireann, 1926, p. 178. 'Ócáid práinne' translates 'emergency' in the *Proceedings* of Dáil Éireann, 1926, p. 225, 'ócáid dainseura náisiúnta' translating 'national emergency' in the *Dáil Order Paper*, 1925, p. 363. 'Proclamation of national emergency' is translated as 'Furógra strus-ócáide'



in the Margin Title of s1 of the Public Safety (Emergency Powers) Act, 1926 [styled in Irish 'an tAcht chun Cosanta na Puibhíochta (Comhachta Ócáideacha), 1926'], with 'the Executive Council may by proclamation declare that a state of national emergency exists' being translated as 'féadfadh an Ard-Chomhairle a fhaisnéis le furógra go bhfuil strus-ócáid náisiúnta ann' in s1(1). 'The Executive Council may at any time or times by order under their hand declare that a state of emergency exists in Saorstát Éireann' is translated as 'Féadfadh an Ard-Chomhairle a fhaisnéis, aon uair no uaireanna, le hordú fé n-a láimh, go bhfuil staid práinne i Saorstát Éireann' in s180(1) of the Defence Forces (Temporary Provisions) Act, 1923.

*inmheánach* This adjective is translated as 'internal, interior' in *Ó Dónaill*, citing '*cogadh inmheánach*, internal war'. *Dinneen* translates 'inmheadhónach' as 'internal, inward; middle, moderate, mean, indifferent'. DIL translates 'inmedónach' as 'internal, inner, inward; medium, intermediate, mediocre', this word glossing Latin 'interior' in the ninth-century St Gall Glosses on Priscian, DIL citing 'ac denam cocaidh inmedhónaigh atraibh (ettraib, v.l.) féin' from *In Cath Cathardha (The Civil War of the Romans)*, the twelfth-century Irish version of Lucan's *Pharsalia*. See further the commentary on Article 29.6.

'When borrowing in domestic or international financial markets' is translated as 'Nuair a bheidh an Ciste ag fáil iasachtaí ar mhargaí intíre nó ar mhargaí idirnáisiúnta' in s6 of Article VII of the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, 'cloi le beartais eacnamaíochta iomchuí, intíre agus idirnáisiúnta' translating 'follow appropriate domestic and economic policies' in the Preamble to the Schedule. 'Irrespective of whether the aircraft is engaged in an international or domestic flight' is translated as 'is cuma cé acu ar eitilt idirnáisiúnta nó ar eitilt intíre don aerárthach' in s2 of Article 4 of the Air Navigation and Transport Act, 1975. 'It shall also apply to arbitral awards not considered as domestic awards in the State' is translated as 'Bainfidh sé freisin le dámhachtaintí eadrána nach meastar gur dámhachtaintí intíre iad sa Stát' in s1 of the First Schedule to the Arbitration Award, 1980. In the Long Title of the European Communities (Amendment) Act, 1979, 'An Act to amend the European Communities Act, 1972, so as to provide that the Treaty relating to ... shall be part of the domestic law of the State' is translated as 'Acht do leasú Acht na gComhphobal Eorpach, 1972, chun a fhoráil gur cuid de dhli baile an Stáit an Conradh maidir le ...'. Finally, in passing, note that 'a garage, conservatory, domestic office, or other out-office' is translated as 'aon gharáiste, tigh gloine, oifig thighis no mion-tigh eile' in s11(3) of the Local Government Act, 1927.

See further the commentary on Article 45.2.i where 'their domestic needs' is expressed as 'riachtanais a dteaghlach'.

*má bheartaíonn* 'Plan, contrive; consider' is a secondary sense of 'beartaigh' in *Ó Dónaill*, who cites '*scéim a bheartú*, to devise a scheme' and '*de réir mar a bhí beartaíthe*, according to plan'. 'Beartaigh' with the preposition 'ar' is translated as 'decide (upon)' by *Ó Dónaill*, who cites '*beartú ar rud a dhéanamh*, to determine to do something'. *Dinneen* translates 'beartaim' with 'ar' as 'I

fix upon', giving 'I say, pronounce an opinion; I think, suggest, estimate' as senses of 'beartaim'. 'Beartughadh' is translated by *Dinneen* as 'act of brandishing; act of conceiving; judging; thinking; planning; gathering; tucking up'. See further the commentary on Article 28.3.3°. Note that 'if Dáil Éireann so resolves' is expressed as 'Má ritheann Dáil Éireann rún chuige sin' in Article 23.1.1° – see the commentary on that Article for early translations of 'resolve'.

*faoi bhreithniú* See the commentary on Articles 17.1.1° and 20.1 regarding 'breithnigh' expressing 'consider'. 'Breithniú' is translated as 'adjudication' in *Téarmaí Dlí* and in *Ó Dónaill*. 'Breathnú', the form in the enrolled text, is translated as 'observation, examination' and 'consideration, judgement' in *Ó Dónaill*, who cites '*breathnú a dhéanamh ar chás*, to consider a case' and '*is é sin mo bhreathnú ar an scéal*, that is what I think of the matter'. *Dinneen* translates 'breathnughadh' as 'act of judging, perceiving, observing; judgement, reflection, examination ...', translating 'breathnughadh do dhéanamh ar' as 'to examine'. DIL cites 'fágaim fá breathnughadh an leightheora cia córa a mheas' ('I leave to the reader's judgement ...') from Keating's seventeenth-century *Eochair-sgiath an Aifrinn*.

'Ar ócáid seachas le linn Bille nó tairiscint ó chomhalta príobháideach a bheith faoi bhreithniú' translates 'other than while a private member's Bill or motion is under consideration' in s20 of the *Standing Orders* of Dáil Éireann (1997). 'To keep under general review practices ... in relation to the advertising of ... goods' is translated as 'cleachtas ... a choimeád faoi bhreithniú ginearálta i ndáil le hearraí ... a fhógairt' in s9(6)(a) of the Consumer Information Act, 1978. See further the commentary on the next section.

*Má ritheann* 'If and whenever' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'i gcás' in *Iris Oifigiúil*, 1922/23. In s23(2)(c) of the Local Government (Dublin) Act, 1930, 'if and whenever, on or after such cessor or the appointed day ... there is a coroner duly appointed for the Borough' is translated as 'má deintear agus pé uair a dhéanfar, ar scur do amhlaidh no dá éis sin no ar an lá ceaptha ... corónéir do cheapa go cuibhe don Bhuirg' in s23(2)(c) of the Local Government (Dublin) Act, 1930. 'If and whenever the Minister is satisfied that ...' is translated as 'Más deimhin, agus aon uair is deimhin, leis an Aire' in s24(1) of the Fisheries Act, 1980. 'If and whenever the Minister ... so provides by order' is translated as 'má dhéanann agus aon uair a dhéanfaidh an tAire ... sin a fhoráil le hordú' in s1(3)(a) of the Rates on Agricultural Land (Relief) Act, 1978.

Turning to 'passage', 'in relation to meters which are at the passing of this Act installed on the premises of consumers of gas' is translated as 'maidir le méadracha atá, le linn riththe an Achta seo, curtha suas in áitreabhacha geas-úsáidir' in s5(3) of the Gas Regulation Act, 1928. 'Motion for passage of Bill' is translated as 'Tairiscint chun Bille a rith' in the Margin Title of s124 of the *Standing Orders* of Dáil Éireann (1997), 'for a date not earlier than fourteen days after the passage of the resolution of concurrence' being translated as 'ar dháta nach luaithe ná ceithre lá dhéag tar éis an rún comhthoilithe a rith' in s133. 'If those provisions of the said Bill are rejected by

Dáil Éireann during the passage of the Bill through the Oireachtas' is translated as 'má dhiúltaíonn Dáil Éireann do na forálacha sin den Bhille sin le linn do Bhille a bheith ag gabháil tríd an Oireachtas' in s85(1)(b) of the Finance Act, 1974, 'le linn an Bhille sin do bheith ag gabháil tríd an Oireachtas' translating 'during the passage of such Bill through the Oireachtas' in s2(1)(c) of the Customs Duties (Provisional Imposition) Act, 1931.

See the commentary on Articles 13.3.1 and 17.2 regarding 'rith'.

*tuairim* See the commentary on Article 22.2.1<sup>o</sup> regarding 'opinion' in early Acts and note that 'the provisions relating to the statement of a case for the opinion of the High Court on a point of law' is translated as 'na forálacha a bhaineann le cás d'aithris chun barúil na hArd-Chúirte d'fháil ar phuínte dlí' in s4(3) of Part II of the First Schedule to the Finance Act, 1926. 'If, in the opinion of the Government, he has become incapable' is translated as 'más dóigh leis an Rialtas go bhfuil sé éirithe neamhinniúil' in s2(b) of the Data Protection Act, 1988. 'The part of the rate of such duty that, in the opinion of the Government, was the fiscal element therein' is translated as '(leis) an gcuid de ráta na dleachta sin arbh í, i dtuairim an Rialtais, an eilimint fhioscach a bhí inti' in s46 of the Finance Act, 1975.

*a ghiorrú* Note that in s17(2) of the Patents Act, 1964, 'The period ... shall be extended to such period ... as may be specified' is translated as 'Déanfar an tréimhse ... a fhadú go dtí cibé tréimhse ... a shonrófar'.

*riachtanas* This headword is translated as 'necessity, need' in *Ó Dónaill*, who translates 'má tá riachtanas leis' as 'if there is a need for it' – see the commentary on Articles 45.2.1<sup>o</sup> and 45.4.1<sup>o</sup>.

*slándáil* See the commentary on Articles 28.3.3<sup>o</sup> and 45.2.v.

*togra* See the commentary on Article 46.2.

*go n-aontaíonn* 'Aontaím' is translated as 'I assent' in *Téarmaí Dlí* – see the commentary on Article 22.2.3<sup>o</sup> where 'aontaigh' expresses 'accede', and see the commentary on Article 15.8.2<sup>o</sup> regarding 'assent', expressed there by 'toiligh'.

*comhairle a ghlacadh* See the commentary on Article 13.2.3<sup>o</sup>.

*ní foláir* See the commentary on Article 11.

*teorainn* See the commentary on Article 2.

### Gender-proofed Irish text

The only emendation involved here would be emending 'chun Cathaoirleach' to 'chun cathaoirleach', following the gender-proofed English text.

### Direct translation

Má dhéanann agus<sup>1</sup> aon uair a dhéanfaidh an Taoiseach, ar Dháil Éireann a<sup>2</sup> rith aon Bhille, seachas Bille a

shonraítear a bheith ina Bhille ina bhfuil togra chun an Bunreacht a leasú, a dheimhniú le teachtaireachtaí i scríbhinn arna gcur<sup>3</sup> chun an Uachtaráin agus chun Chathaoirleach gach Tí den Oireachtas, go bhfuil práinn leis an mBille agus go bhfuil gá leis láithreach chun an tsíocháin agus an tslándáil phoiblí a chaomhnú, nó de bhíthin éigeandáil phoiblí a bheith ann, cibé acu arb éigeandáil intíre<sup>4</sup> nó idirnáisiúnta í, má ritheann Dáil Éireann rún amhlaidh agus má chomhaontaíonn an tUachtarán, tar éis dul i gcomhairle<sup>5</sup> leis an gComhairle Stáit, déanfar an tréimhse<sup>6</sup> chun an Bille sin a bhreithniú<sup>7</sup> ag Seanad Éireann a ghiorrú go cibé tréimhse a shonrófar sa rún.

### Variants

1 'nó'

2 'do'

3 'arna ndírú', 'arna seoladh'

4 'bhaile'

5 'i ndáil chomhairle', 'i gcomhchomhairle'

6 'déanfar, má ritheann Dáil Éireann rún amhlaidh agus má chomhaontaíonn an tUachtarán, tar éis dul i gcomhairle leis an gComhairle Stáit, an tréimhse'

7 'a mheas', 'a bhreathnú'

## ARTICLE 24.2 AIRTEAGAL 24.2

### TÉACS GAEILGE

Bille ar bith a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoin Airteagal seo, má tharlaíonn,

- i gcás Bille nach Bille Airgid, go ndiúltaíonn Seanad Éireann dó nó go ritheann Seanad Éireann é maille le leasuithe dá ndiúltaíonn Dáil Éireann nó nach ndéanann Seanad Éireann é a rith ná diúltú dó, nó,
- i gcás Bille Airgid, go gcuireann Seanad Éireann ar ais go Dáil Éireann é maille le moltaí nach nglacann Dáil Éireann leo nó nach ndéanann Seanad Éireann é a chur ar ais go Dáil Éireann,

taobh istigh den tréimhse a luaitear sa rún, ní foláir a mheas gur ritheadh an Bille ag dhá Theach an Oireachtais i gceann na tréimhse sin.

### LITERAL ENGLISH TRANSLATION

Any Bill the period for the consideration of which by Seanad Éireann was shortened under this Article, if it happens,

- in the case of a Bill which is not a Money Bill, that Seanad Éireann rejects it or that Seanad Éireann passes it along with amendments which Dáil Éireann rejects or that Seanad Éireann does not pass nor reject it, or,
- in the case of a Money Bill, that Seanad Éireann sends it back to Dáil Éireann along with recommendations which Dáil Éireann does not accept or that Seanad Éireann does not send it back to Dáil Éireann,

within the period mentioned in the resolution, it must be deemed that the Bill was passed by both Houses of the Oireachtas at the end of that period.

### ENGLISH TEXT

Where a Bill, the time for the consideration of which by Seanad Éireann has been abridged under this Article,

- (a) is, in the case of a Bill which is not a Money Bill, rejected by Seanad Éireann or passed by Seanad Éireann with amendments to which Dáil Éireann does not agree or neither passed nor rejected by Seanad Éireann, or
- (b) is, in the case of a Money Bill, either returned by Seanad Éireann to Dáil Éireann with recommendations which Dáil Éireann does not accept or is not returned by Seanad Éireann to Dáil Éireann,

within the period specified in the resolution, the Bill shall be deemed to have been passed by both Houses of the Oireachtas at the expiration of that period.

### Divergences between the official texts

- 1 'Where a Bill ... is' is expressed as 'Bille ar bith ... má tharlaíonn' ('Any Bill ... if it happens') in the Irish text.
- 2 'Time' is again expressed as 'tréimhse' ('period') in the Irish text.
- 3 'Consideration' is again expressed by the term translated as 'adjudication' in *Téarmaí Dlí*, 'breithniú', though it has the sense of 'consideration' in the modern Acts.
- 4 'Amendments to which Dáil Éireann does not agree' is expressed as 'leasuithe dá ndiúltaíonn Dáil Éireann' ('amendments which Dáil Éireann rejects') in the Irish text.
- 5 'With recommendations' is expressed as 'maille le moltaí' ('along with recommendations') in the Irish text.
- 6 'Specified' is again expressed as 'luaitear' ('cited/'mentioned') in the Irish text.
- 7 'At the expiration of' is expressed as 'i gceann' ('at the end of') in the Irish text.
- 8 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text, with 'the Bill shall be deemed to have been passed' being expressed as 'ní foláir a mheas gur ritheadh an Bille' ('it must be deemed that the Bill was passed') in the Irish text.
- 9 A comma follows 'no' ('or'), before paragraph (b), in the Irish text, no corresponding comma being found in the English text.

Section 2 of this Article is a new section inserted in place of the original Article 24.2 by the Second Amendment of the Constitution Act, 1941. The original section read as follows:

Where a Bill the time for the consideration of which by Seanad Éireann has been abridged under this Article is within the period specified in the resolution either rejected by Seanad Éireann or passed by Seanad Éireann with amendments or recommendations to which Dáil Éireann does not agree or is neither passed (with or without amendments or recommendations) nor rejected by Seanad Éireann within the period so specified the Bill shall be deemed to have been passed by both Houses of the Oireachtas at the expiration of that period. *Bille ar bith go ndearnadh an tréimhse chun a bhreathnuighthe ag Seanad Éireann do ghiorrú fán Airteagal so, má thárluigheann taobh istigh den tréimhse a luaidhtear insan rún go ndiúltaigheann Seanad Éireann dó, nó go ritheann Seanad Éireann é maille le leasuithe nó le moltaibh dá ndiúltaigheann*

*Dáil Éireann, nó muna ndéanann Seanad Éireann é rith (maille le leasuithe nó le moltaibh nó dá n-éaghmuis) nó diúltaidh dhó taobh istigh den tréimhse luaidhtear amhlaidh, ní foláir a mheas gur ritheadh an Bille ag dhá Thigh an Oireachtais i gceann na tréimhse sin.*

### Commentary

*chun a bhreithnithe* Genitive singular of 'breithniú', verbal noun of 'breithnigh' – see the commentary on the previous section. In s1 of Article III of the Schedule to the International Development Association (Special Action Account) Act, 1978, 'programmes being prepared for consideration by the Executive Directors' is translated as 'cláir a bheith á n-ullmhú lena mbreithniú ag na Stiúrthóirí Feidhmiúcháin', with 'or that affairs call for consideration by a meeting of the members of the society' being translated as 'nó gur call go mbreithneofaí na gnóthaí ag cruinniú de chomhaltaí an chumainn' in s29(1)(b) of the Building Societies Act, 1976.

*moltaí* Plural of 'moladh', 'recommendation, proposal' being one of the secondary senses of that headword in *Ó Dónaill*, who cites '*moladh a dhéanamh faoi rud*, to make a recommendation about something'. *Dinneen* includes 'appraisal or review, a decision or recommendation' among the sense of 'moladh'. See the commentary on Article 21.1.2°. Note, for example, that in s17 of the 'Laoighis County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'Those applications when inspected by the Sub-Committee of the District to be forwarded with recommendations to the Hospitals and Homes Committee' is translated as 'Tar éis d'Fhó-Choiste an Cheanntair iad do scrúdú, na hiarrataisí sin do chur ag triall ar Choiste na nOspideul agus na dTeaghlach maraon le molta'.

*i gceann* See the commentary on Article 21.2.1°. 'At the expiration of that period' is translated as 'ar dheireadh a bheith leis an tréimhse sin' in s6 of the First Schedule to the Corporation Tax Act, 1976, following s241(1) of the Income Tax Act, 1976; as 'ag deireadh na tréimhse sin' in s38(3) of the Patents Act, 1964, and as 'i ndeireadh na tréimhse sin' in s24 of the Galway Harbour Act, 1935.

*má tharlaíonn* Literally 'if it happens'. 'Where (a Bill)' is often translated as 'I gcás (Bille)' in the Acts, but as 'in the case of a Bill' follows this in the English text of this section, a different expression of 'Where a Bill' had to be found. 'Má tharlaíonn go mbeidh oifig an Cheann Comhairle folamh' translates 'When a vacancy has occurred in the office of Ceann Comhairle' in s10 of the *Standing Orders* of Dáil Éireann (1997), for example. 'Má tharlaíonn agus cibé uair a tharlóidh ... gur dóigh leis an Aire ...' translates 'If and whenever ... the Minister is of opinion ...' in s2(3) of the Prisons Act, 1972.

*ní foláir a mheas* See the commentary on Article 11 regarding 'ní foláir' and on Articles 12.6.2° and 16.6 regarding 'meas', 'deem', which verb expresses 'consider' in Article 20.2.2°, for example. Commenting on the translation below, Professor Máirtín Ó Murchú remarks that, unlike 'ní foláir a mheas', 'measfar' below could have

the sense of 'suppose' and recommends 'áireofar' as an alternative.

*nach nglacann ... leo* See the commentary on Articles 8.2 and 13.1.3°, 'glacaim le' being translated as 'I accept' in *Téarmaí Dlí*.

*go ndiúltaíonn ... dó* See the commentary on Article 13.2.2°.

*maille le* See the commentary on Articles 2 and 10.1.

### Direct translation

An Bhille a ndearnadh an t-am lena bhreithniú ag Seanad Éireann a ghiorrú faoin Airteagal seo, más rud é,

(a) i gcás Bille nach Bille Airgid, go ndiúltaíonn Seanad Éireann dó nó go ritheann Seanad Éireann é le leasuithe nach gcomhaontaíonn Dáil Éireann leo nó nach ritheann ná nach ndiúltaíonn Seanad Éireann dó, nó

(b) i gcás Bille Airgid, go gcuireann Seanad Éireann ar ais go Dáil Éireann é le moltaí nach nglacann Dáil Éireann leo nó nach gcuireann Seanad Éireann ar ais go Dáil Éireann é,

laistigh den tréimhse a shonrófar sa rún, measfar<sup>1</sup> gur rith dhá Theach an Oireachtais an Bille ag deireadh na tréimhse sin.

### Variants

<sup>1</sup> 'áireofar'

## ARTICLE 24.3 AIRTEAGAL 24.3

### TÉACS GAEILGE

Ar dhéanamh dlí de Bhille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoin Airteagal seo, beidh sé i bhfeidhm ar feadh tréimhse nócha lá ó dháta a achtaithe, ach sin a mbeidh, mura n-aontaídh dhá Theach an Oireachtais roimh dheireadh na tréimhse sin an dlí sin a fhanacht i bhfeidhm ar feadh tréimhse is sia ná sin, agus go luaitear i rúin ón dá Theach an tréimhse a aontaítear amhlaidh.

### LITERAL ENGLISH TRANSLATION

On a Bill the period for the consideration of which by Seanad Éireann was shortened under this Article being made law, it will be in force for a period of ninety days from the date of its enactment, but that will be all, unless both Houses of the Oireachtas agree before the end of that period (that) that law remain in force for a period which is longer than that, and that the period that is so agreed is mentioned in resolutions by both Houses.

### ENGLISH TEXT

When a Bill the time for the consideration of which by Seanad Éireann has been abridged under this Article becomes law it shall remain in force for a period of ninety days from the date of its enactment and no longer unless, before the expiration of that period, both Houses shall have agreed that such law shall remain in force for a

longer period and the longer period so agreed upon shall have been specified in resolutions passed by both Houses.

### Divergences between the official texts

- 'Resolutions passed by both Houses' is expressed as 'rúin ón dá Theach' ('resolutions by both Houses') in the Irish text.
- 'When a Bill ... becomes law' is expressed as 'Ar dhéanamh dlí de Bhille' ('On a Bill's being made law') in the Irish text.
- 'It shall remain in force' is expressed as 'beidh sé i bhfeidhm' ('it shall be in force') in the Irish text, the verb 'fan' specifically expressing 'remain' later on in the section.
- 'And no longer' is expressed as 'ach sin a mbeidh' ('but that will be all') in the Irish text, this phrase being preceded and followed by commas in that text alone.
- 'Shall have agreed' is expressed simply as '(mura) n-aontaídh' ('[unless they / if they do not] agree') in the Irish text, 'aontaigh' being the Irish legal term for 'consent', though it generally means 'agree'.
- 'The expiration of that period' is expressed as 'deireadh na tréimhse sin' ('the end of that period') in the Irish text, a different phrase being used from that expressing the same English phrase in the previous section.
- 'Specified' is again expressed as 'luaitear' ('mentioned'/'cited') in the Irish text.
- 'Consideration' is again expressed by 'breithniú', which term is translated as 'adjudication' in *Téarmaí Dlí*.
- 'Time' is again expressed as 'tréimhse' ('period') in the Irish text.
- 'For a longer period' is expressed as 'ar feadh tréimhse is sia ná sin' ('for a period which is longer than that') in the Irish text.
- 'And the longer period so agreed upon' is expressed simply as 'an tréimhse a aontaítear amhlaidh' ('the period so agreed') in the Irish text.

### Commentary

*beidh sé i bhfeidhm ... a fhanacht i bhfeidhm* 'Fanacht' is the verbal noun of 'fan', 'stay, remain'; 'fanamhaint' is the form in the original text, and is given as a separate headword in *Dinneen*, who associates 'fanacht' with Connacht and Ulster Irish. 'While that Act remains in force' is translated as 'faid a leanfaidh an t-Acht san i bhfeidhm' in the Preamble to the Statutory Undertakings (Continuance of Charges) (No. 2) Act, 1923, 'It shall be lawful for each of the Canal Undertakings specified in the First Column ... to continue for so long as this section remains in force to charge the ... rates ...' being translated as 'Beidh sé dleathach do gach ceann de sna Toisceanna Canálach uile sin a luaidhtear sa Chéad Cholún ... leanúint, an fhaid a fhanfaidh an t-alt so i bhfeidhm, ar éileamh na rátaí' in s3(1). 'Leanfaidh an t-alt seo i bhfeidhm go dtí an lá a cheapfar faoi fho-alt (5) agus rachaidh sé in éag ansin' translates 'This section shall remain in force until the day appointed under subsection (5) and shall then expire' in s110(4) of the Social Welfare (Consolidation) Act, 1981. In s17(b) of the Finance Act, 1981, 'and any certificate so given shall ... remain in force until the 31st day of

December, 2000' is translated as 'agus aon deimhniú a thabharfar amhlaidh ... fanfaidh sé i bhfeidhm go dtí an 31ú lá de Nollaig, 2000'.

See further the commentary on Article 49.1 regarding 'i bhfeidhm'.

*is sia* See the commentary on Article 21.2.1°. Regarding the translation below, Professor Máirtín Ó Murchú recommends 'is faide' rather than 'fhada'; the practice in the Acts in general as regards the comparative degree in such contexts, however, is simply to use the general form of the adjective.

*mura n-aontaíd* The synthetic form of the present indicative of 'aontaíonn', this would generally be written today as 'mura n-aontaíonn (siad)' – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb.

*sin a mbeidh* The equivalent in the future tense of the more familiar phrase 'sin a bhfuil' – see the commentary on Article 12.3.2°.

*luaitear* See the commentary on Articles 12.10.1°, 14.5.2° and 24.1, where this verb expresses 'state', 'specify' and 'express' respectively.

*chun a bhreithnithe* Genitive singular of 'breithniú', verbal noun of 'breithnigh' – see the commentary on Articles 17.1.1° and 20.1.

*Ar dhéanamh dlí* See the commentary on Article 25.4.1° regarding 'déan de'.

### Standardised Irish text

Ar dhéanamh dlí de Bhille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoin Airteagal seo, beidh sé i bhfeidhm ar feadh tréimhse nócha lá ó dháta a achtaithe, ach sin a mbeidh, mura n-aontaíonn dhá Theach an Oireachtais roimh dheireadh na tréimhse sin an dlí sin a fhanacht i bhfeidhm ar feadh tréimhse is sia ná sin, agus go luaitear i rúin ón dá Theach an tréimhse a aontaítear amhlaidh.

### Direct translation

Nuair a thagann Bille a ndearnadh an tréimhse chun é a bhreithniú<sup>1</sup> ag Seanad Éireann a ghiorrú faoin Airteagal seo chun bheith ina dhlí fanfaidh sé i bhfeidhm ar feadh tréimhse nócha lá ó dháta a achtaithe agus ní fhanfaidh sé i bhfeidhm níos faide ná sin mura n-aontóidh dhá Theach an Oireachtais, roimh dheireadh na tréimhse sin<sup>2</sup>, go bhfanfaidh an dlí sin i bhfeidhm ar feadh tréimhse níos faide agus go mbeidh an tréimhse fhada ar a gcomhaontófar amhlaidh sonraithe i rúin arna rith ag an dá Theach.

### Variants

- 1 'a mheas', 'a bhreathnú'
- 2 'sula mbeidh an tréimhse sin istigh'

## ARTICLE 25.1 AIRTEAGAL 25.1

### TÉACS GAELGE

*Dlíthe a Shíniú agus a Fhógairt*

Chomh luath agus a ritear Bille, seachas Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht seo a leasú, nó a mheastar é a bheith rite ag dhá Theach an Oireachtais, ní foláir don Taoiseach an Bille sin a thairiscint don Uachtarán chun a lámh a chur leis agus chun é a fhógairt ina dhlí de réir forálacha an Airteagail seo.

### LITERAL ENGLISH TRANSLATION

*Signing and Promulgating Laws*

As soon as a Bill is passed, other than a Bill which is mentioned/stated to be a Bill in which there is a proposal to amend this Constitution, or is deemed to have been passed by both Houses of the Oireachtas, the Taoiseach must offer that Bill to the President to put his hand to it and to promulgate it as a law in accordance with the provisions of this Article.

### ENGLISH TEXT

*Signing and Promulgation of Laws*

As soon as any Bill, other than a Bill expressed to be a Bill containing a proposal for the amendment of this Constitution, shall have been passed or deemed to have been passed by both Houses of the Oireachtas, the Taoiseach shall present it to the President for his signature and for promulgation by him as law in accordance with the provisions of this Article.

### Divergences between the official texts

- 1 'Any Bill' is expressed simply as 'Bille' ('a Bill') in the Irish text.
- 2 'Expressed' is again expressed as 'a luaitear' ('mentioned'/'cited') in the Irish text.
- 3 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.
- 4 'Present' is expressed by 'tairiscint', the core meaning of which is 'offer', in the Irish text.
- 5 'É a fhógairt ina dhlí', ('Promulgation by him as a law'), can also be read as 'proclaim it a law'.
- 6 'For his signature' is expressed as 'to sign it' / 'to put his hand to it' in the Irish text, i.e. 'a lámh a chur leis', with 'a Shíniú' expressing 'Signing' in the heading of this Article and 'síniú' being the Irish legal term for 'signature'.

Note that Article 41 of the 1922 Constitution commences as follows:

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 .... *Chó luath agus a bheidh aon Bhille riththe no tuigte do bheith riththe ag an dá Thigh, cuirfidh an Ard-Chomhairle ag triall ar Ionadaí na Coróinneach é chun go gcuirfe sé síúd in úil, in ainm an Rí, aontú an Rí leis.*

### Commentary

*a thairiscint* The verbal noun of 'tairg', 'tairiscint', is translated basically as 'offer' in *Ó Dónaill*, who gives 'proffer, tender' as the principal sense, translating 'rud a thairiscint do dhuine' as 'to offer something to someone'. 'Tairgim' is translated as 'I offer' in *Téarmaí Dlí, Dinneen* translating 'tairgim' as 'I offer, proffer, bid, try, attempt'. The earlier form of this verb, 'do-fairget', is translated principally as 'offers, proffers' in DIL, citing 'tairg tri damu dóib' ('offer them three oxen') from the early Irish saga, *Togail Bruidne Da Derga*. See the commentary on Article 12.10.3<sup>o</sup>, 'tairiscint' expressing 'motion' in that Article.

See the commentary on Article 17.1.1<sup>o</sup> regarding 'present' in early Acts and note that 'Every mention of or reference to the presentation of an address to His (or Her) Majesty by both ... Houses of Parliament' is translated as 'Gach luadh no tagairt do thairisgint dileagra dá Shoillse ó sna Tighthe Páirliminte' in s5(2) of the Adaptation of Enactments Act, 1922, with 'the petition and report shall be deemed to have been duly presented and made under that Act' being translated as 'tuigfar gur tíolacadh agus gur dineadh an achuinghe agus an tuarascabháil go cuibhe fén Acht san' in s6(1) of the Arterial Drainage (Minor Schemes) Act, 1928. In s12 of the Mental Treatment Act, 1961, 'the person to whom the certificate is issued may present it to the member of the Garda Síochána in charge of any Garda Síochána station' is translated as 'féadfaidh an duine chun a n-eiseofar an deimhniú é a thíolacadh don chomhalta den Gharda Síochána a bheidh i bhfeighil aon stáisiúin Garda Síochána'.

*a fhógairt ina dhlí* See the commentary on Article 13.3.2<sup>o</sup>. 'Fógairt' is the verbal noun of 'fógair', translated basically as 'call out, proclaim' in *Ó Dónaill*, giving 'declare, announce, make known' as the principal sense, citing '*dlí a fhógairt*, to promulgate a law'. 'Fógraím' is translated as 'I pronounce (i.e. judgement)' in *Téarmaí Dlí, Dinneen* translating 'fógraím' as 'I warn, announce, proclaim, decree, advertise, give notice'. DIL translates 'fúacair' as 'proclaims, announces, makes known, *generally of important or authoritative statements*', this verb glossing Latin 'indicare' in the eighth-century Würzburg Glosses on the Pauline Epistles.

*De réir forálacha an Airteagail seo* In the official standard, this would have the form 'de réir fhorálacha an Airteagail seo', 'forálacha' remaining in the nominative case and being lenited instead of being put in the genitive – see the commentary on Article 1.

*a lámh a chur leis* See the commentary on Articles 12.8 and 13.3.1<sup>o</sup>, 'do lámh a chur le rud' being translated as 'to sign something' in *Ó Dónaill*.

*a luaitear* See the commentary on Article 24.1.

*togra* See the commentary on Article 46.2.

*ní foláir* See the commentary on Article 11.

### Standardised Irish text

Chomh luath agus a ritear Bille, seachas Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht seo a leasú, nó a mheastar é a bheith rite ag dhá Theach

an Oireachtais, ní foláir don Taoiseach an Bille sin a thairiscint don Uachtarán chun a lámh a chur leis agus chun é a fhógairt ina dhlí de réir fhorálacha an Airteagail seo.

### Direct gender-proofed translation

A luaithe a rithfear aon Bhille, seachas Bille a shonrófar a bheith ina Bhille ina bhfuil togra chun an Bunreacht seo a leasú, nó a mheastar é a bheith rite, ag dhá Theach an Oireachtais<sup>1</sup>, déanfaidh an Taoiseach é a thíolacadh don Uachtarán chun é a shíniú<sup>2</sup> agus chun go ndéanfaidh sé nó sí<sup>3</sup> é a fhógairt ina dhlí de réir fhorálacha an Airteagail seo.

### Variants

- 1 'A luaithe a bheidh aon Bhille, seachas Bille a shonrófar a bheith ina Bhille ina bhfuil togra chun an Bunreacht seo a leasú, rite nó a mheastar é a bheith rite ag dhá Theach an Oireachtais'
- 2 'dá shíniú nó dá síniú'
- 3 'an tUachtarán'

## ARTICLE 25.2.1<sup>o</sup> AIRTEAGAL 25.2.1<sup>o</sup>

### TÉACS GAEILGE

Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo, gach Bille a thairgtear don Uachtarán mar sin chun a lámh a chur leis agus chun é a fhógairt ina dhlí, ní foláir dó a lámh a chur leis lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae a thairgtear an Bille dó.

### LITERAL ENGLISH TRANSLATION

Apart from a case for which the contrary is provided by this Constitution, each Bill which is offered to the President in that way to put his hand to it and to promulgate it (as) law, he must put his hand to it on a day not earlier than the fifth day and not later than the seventh day after the day the Bill is offered to him.

### ENGLISH TEXT

Save as otherwise provided by this Constitution, every Bill so presented to the President for his signature and for promulgation by him as a law shall be signed by the President not earlier than the fifth and not later than the seventh day after the date on which the Bill shall have been presented to him.

### Divergences between the official texts

- 1 'Save as otherwise provided by this Constitution' is expressed as 'Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo' ('Apart from a case for which the contrary is provided by this Constitution') in the Irish text.
- 2 'So' is expressed as 'mar sin' ('like that' / 'in that way') in the Irish text.
- 3 'Present', 'for his signature' and 'promulgation as a law' are expressed in the Irish text by the same terms and phrases as in the foregoing section, 'present' being expressed by 'tairg' ('offer'), 'for his signature' as 'chun

a lámh a chur leis' ('to put his hand to it') and 'a fhógairt ina dhlí' ('promulgation as a law') capable of being read as 'to announce/proclaim it a law'.

- 4 'Not earlier than the fifth and not later than the seventh day after the date' is expressed as 'lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae' ('[on] a day not earlier than the fifth day and not later than the seventh day after the day') in the Irish text.
- 5 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

Note that the words 'cúig'/'five' and 'seacht'/'seven days' were deleted by the Second Amendment of the Constitution Act, 1941, and the words 'an cúigmheadh'/'the fifth' and 'an seachtmhadh'/'the seventh day' were respectively inserted in their place.

### Commentary

*tar éis an lae* See the commentary on Article 10.4 where 'd'éis' expresses 'after'. 'The tenant may, not earlier than the commencement of the agreement and not later than the expiration of 21 days beginning on the day on which the authority make a payment to the tenant' is translated as '(go) bhféadfaidh an tionónta, tráth nach luaithe ná tosach feidhme an chomhaontaithe agus nach déanaí ná deireadh na tréimhse 21 lá dar tosach an lá a thabharfaidh an t-údarás íocaíocht don tionónta' in s13(2)(e) of the Housing (Miscellaneous Provisions) Act, 1979. In s1(2)(b) of the Local Government Act, 1960, 'they may, on a day not earlier than sixty days, and not later than one hundred and eighty days, after the day of the passing of the resolution' is translated as 'féadfaidh siad, lá nach luaithe ná seasca lá agus nach déanaí ná céad agus ochtó lá, tar éis lá an rúin a rith'.

*taobh amuigh de chás* See the commentary on Article 15.11.1°. 'Save as otherwise provided by this Act' is translated as 'ach amháin mar a fhoráiltear a mhalairt leis an Acht seo' in s18 of the Finance Act, 1980, for example, 'lasmuich de chás dá bhforálar a mhalairt leis an alt so' translating 'Save as otherwise provided by this section' in s49(1) of the Agricultural Produce (Fresh Meat) Act, 1930.

*a lámh a chur leis* See the commentary on Article 13.1.1°. Commenting on 'déanfaidh an tUachtarán gach Bille a thíolacfar dó nó di amhlaidh dá shíniú nó dá síniú', in a draft of the direct translation below of '... every Bill so presented to the President for his signature', Professor Máirtín Ó Murchú doubts whether the preposition 'do' can be used in such a final clause, and recommends 'chun', 'd'fhonn' or 'le'.

*socraítear* See the commentary on Articles 8.3 and 15.2.2°.

*a thairgtear* See the commentary on the foregoing section.

*a fhógairt* See the commentary on the foregoing section.

*ní foláir* See the commentary on Article 11.

*mar sin* See the commentary on Article 22.2.4°.

### Gender-proofed Irish text

Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo, gach Bille a thairgtear don Uachtarán mar sin chun a lámh a chur leis agus chun é a fhógairt ina dhlí, ní foláir dó nó di a lámh a chur leis lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae a thairgtear an Bille dó nó di.

### Direct gender-proofed translation

Ach amháin má dhéantar a mhalairt a fhoráil leis an mBunreacht seo, sineoidh an tUachtarán gach Bille a thíolacfar amhlaidh dó nó di chun é a shíniú agus chun é a fhógairt ina dhlí<sup>1</sup> tráth nach luaithe ná an cúigiú lá<sup>2</sup> agus nach déanaí ná an seachtú lá tar éis an dáta ar a dtíolacfar an Bille dó nó di.

### Variants

- 1 'déanfaidh an tUachtarán gach Bille a thíolacfar amhlaidh dó nó di chun é a shíniú agus chun é a fhógairt ina dhlí a shíniú'
- 2 'an cúigiú'

## ARTICLE 25.2.2° AIRTEAGAL 25.2.2°

### TÉACS GAELIGE

Ar achainí an Rialtais, le comhthoil Sheanad Éireann roimh ré, tig leis an Uachtarán a lámh a chur le haon Bhille is siocair don achainí sin níos luaithe ná an cúigiú lá tar éis an dáta réamhráite.

### LITERAL ENGLISH TRANSLATION

On the petition/request of the Government, with the joint consent of Seanad Éireann beforehand, the President may put his hand to any Bill which gives rise to that petition/request earlier than the fifth day after the aforesaid date.

### ENGLISH TEXT

At the request of the Government, with the prior concurrence of Seanad Éireann, the President may sign any Bill the subject of such request on a date which is earlier than the fifth day after such date as aforesaid.

### Divergences between the official texts

- 1 'Lá' expresses 'date' in the foregoing subsection, to which word 'such date as aforesaid', here expressed as 'an dáta réamhráite', now refers.
- 2 'Concurrence' is expressed as 'comhthoil' ('joint consent') in the Irish text.
- 3 'The subject of such request' is expressed as 'is siocair don achainí sin' ('which gives rise to that/such request/petition') in the Irish text.
- 4 'Prior' is expressed as 'roimh ré' ('beforehand') in the Irish text.
- 5 'Request' is expressed by 'achainí', the Irish legal term for 'petition'.
- 6 'On a date which is earlier' is expressed simply as 'níos luaithe' ('earlier') in the Irish text.
- 7 'After such date as aforesaid' is expressed as 'tar éis an dáta réamhráite' ('after the aforesaid date') in the Irish text.

Note that the words ‘cúig’/‘five days’ were deleted by the Second Amendment of the Constitution Act, 1941, and the words ‘an cúigmheadh’/‘the fifth day’ inserted in their place.

### Commentary

*achainí* See the commentary on Article 22.2.3°. ‘The controller may, on request, grant a certificate’ is translated as ‘Féadfaidh an ceannasaí, ar a iarraidh san air, deimhniú do dheona’ in s117(2) of the Industrial and Commercial Property (Protection) Act, 1927. ‘Ar a iarraidh sin do’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘at the request of ...’ in the 1926 *Standing Orders* of Dáil Éireann, ‘ar éileamh uait-se’ translating ‘at your request’ in translations for the Department of Finance. See the commentary on Article 22.2.3° for early citations of ‘iarraidh’ and ‘impí’ – ‘iarratas’ also being cited in the *Oireachtas Dictionary of Official Terms* as translating ‘request’ in translations for the Department of Justice.

Turning to modern Acts, ‘the Minister may, at the request of a health board’ is translated as ‘féadfaidh an tAire, ar iarratas ó bhord sláinte’ in s9(1) of the Health (Mental Services) Act, 1981, for example. ‘The Council shall at the request of the Minister’ is translated as ‘ní mór don Chomhairle, ar an Aire á iarraidh sin’ in s16(2) of the Fire Services Act, 1981. ‘On his own motion or at the request of the Minister for Finance’ is translated as ‘uaidh féin nó ar iarratas ón Aire Airgeadais’ in s18(1) of the Údarás na Gaeltachta Act, 1979. Finally, ‘The Minister may, at the request of the Government of the parent country of a ship to which this section applies’ is translated as ‘Féadfaidh an tAire, ar Rialtas máthairthíre loinge lena mbaineann an t-alt seo á iarraidh’ in s13(2) of the Merchant Shipping (Load Lines) Act, 1968.

*comhthoil* ‘Cómhthoil’ is translated as ‘unanimity, mutual consent’ in *Dinneen*. This compound of ‘comh’ (translated as ‘mutual, joint, common; co-’ in *Ó Dónaill*) and ‘toil’ (basically translated as ‘will, inclination, desire, wish’ in *Ó Dónaill*) does not appear to be given as a headword in *Ó Dónaill*. DIL translates ‘comhthoil’ as ‘agreement, unanimity’, citing ‘le comtoil comhairle’ (‘by the consent of the council’) from an early Irish law-tract. ‘Tol’ is principally translated as ‘will’ in DIL, citing ‘tol dae do dénum’ (‘to do the will of God’) from the eighth-century Würzburg Glosses on the Pauline Epistles. The phrase ‘do-beir toil do’ is translated in DIL as ‘consents to’. ‘Consent’ is translated as ‘toiliú’ in *Téarmaí Dlí*, with ‘le toiliú’ translating ‘by consent’.

We find ‘toil’, ‘aontú’ agus ‘có-aontú’ translating ‘concurrence’ in early Acts. ‘In accordance with a scale to be prescribed by the Minister with the concurrence of the Minister for Finance’ is translated as ‘do réir scála a ordóidh an tAire le toil an Aire Airgid’ in s1(3) of the District Justices (Temporary Provisions) Act, 1923. In s16(3) of the Electoral Act, 1923, ‘the provisions of those sections as to the concurrence of, or certification by County Court judges’ is translated as ‘na forálacha atá sna haltanna san i dtaobh breithiúin Chúirteanna Contae ... do thabhairt toile no do dhéanamh teisteacha’. In s2(1) of the Criminal Justice (Administration) Act, 1924, ‘Rules made under this Act shall be made by and with the concurrence of the same persons ...’ is translated as ‘... siniaid na daoine a

dhéanfaidh agus ‘na ndéanfar le n-a gcó-aontú aon rialacha a déanfar fén Acht so’, ‘The Purchasing Society shall not require the concurrence of any person other than the Liquidator of the Company’ being translated as ‘Ní éileoidh an Cumann Ceannuitheach aontú o éinne ach amháin o Scaoilteoir na Cuideachtan’ in s12 of the First Schedule to the Creamery Act, 1928. Finally, in s17(5) of the Wildlife Act, 1976, ‘The Minister shall not include in a notice ... any reference to a species of fish or aquatic invertebrate animal without the prior concurrence of the Minister for Agriculture and Fisheries’ is translated as ‘Ní chuirfidh an tAire i bhfógra ... aon tagairt do speiceas éisc nó ainmhí inveirteabraigh uisci gan comhthoilú roimh ré ón Aire Talmhaíochta agus Iascaigh’.

*réamhráite* See the commentary on Article 40.6.1°iii where this headword expresses ‘foregoing’. ‘Such revivor and continuance should be retrospective to the date on which such Acts expired as aforesaid’ is translated as ‘(chun) an aith-bheochaint agus an bunú san do shíne siar go dtí an dáta d’eug na hAchtanna san mar roimh-ráite’ in the Preamble to the Expiring Laws Continuance Act, 1922. In s66(2) of the Court Offices Act, 1926, ‘other than the salaries aforesaid’ is translated as ‘seachas na tuarastail roimhráite’. In s14(1) of the Finance Act, 1980, ‘or on such other date as aforesaid’ is translated as ‘nó cibé dáta eile atá ráite’.

‘For which accounts have been made up as aforesaid’ is translated as ‘dá mbeidh cuntais déanta suas mar a dúradh’ in s23(1)(b) of the Finance Act, 1990. ‘After the date specified as aforesaid in such notice’ is translated as ‘tar éis an dáta bheidh luaidhte mar adubhradh san bhfógra san’ in s3(2) of the Trade Loans (Guarantee) (Amendment) Act, 1932. Professor Máirtín Ó Murchú, commenting on ‘tar éis cibé dáta mar a dúradh’ as a translation below of ‘after such date as aforesaid’, remarks that ‘mar’ is not intelligible in that phrase and recommends ‘cibé dáta a dúradh’, possibly with the addition of either ‘roimhe’ or ‘roimhe seo’.

*is siocair don* ‘Siocair’ is translated as ‘(immediate) cause, occasion; pretext, excuse’ in *Ó Dónaill*, who cites ‘an rud ba shiocair leis an achrann, what gave rise to the quarrel’ and ‘cad é is siocair leis? What’s the cause of it?’ *Dinneen* translates ‘siocair’ as ‘motive, cause, occasion, pretext’, citing ‘siocracha na bpeacaí, the causes or occasions of sins’. DIL translates ‘siocair’ as ‘cause, reason, occasion’, most of the citations coming from seventeenth-century sources, including the following from Pádraigín Haicéad: ‘tar gach siocair ar son Éamuinn’ (‘beyond every [other] reason for Éamon’s sake’). See the commentary on Article 12.10.7° regarding ‘the subject of’ in the Acts.

*roimh ré* This phrase is translated as ‘in advance, beforehand’ in *Ó Dónaill* and as ‘beforehand, previously, premature’ in *Dinneen*. See the commentary on Article 18.3 regarding ‘prior’.

*a lámh a chur le* See the commentary on Article 13.3.1°.

### Direct translation

Ar iarratas ón Rialtas, le réamh-chomhthoilú<sup>1</sup> Sheanad Éireann, féadfaidh an tUachtarán aon Bhille is ábhar don



iarraidh<sup>2</sup> sin a shíniú ar dháta is luaithe ná an cúigiú lá tar éis cibé dáta a dúradh roimhe sin<sup>3</sup>.

### Variants

- 1 'le comhthoiliú roimh ré ó'
- 2 'iarratas'
- 3 'tar éis an dáta réamhráite sin', 'tar éis cibé dáta mar a dúradh'

## ARTICLE 25.3 AIRTEAGAL 25.3

### TÉACS GAEILGE

Gach Bille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoi Airteagal 24 den Bhunreacht seo, ní foláir don Uachtarán a lámh a chur leis an lá a thairgtear an Bille sin dó chun é a shíniú agus chun é a fhógairt ina dhli.

### LITERAL ENGLISH TRANSLATION

Every Bill the period for the consideration of which by Seanad Éireann was shortened under Article 24 of this Constitution, the President must put his hand to it (on) the day that that Bill is offered to him to sign it and to promulgate it as law.

### ENGLISH TEXT

Every Bill the time for the consideration of which by Seanad Éireann shall have been abridged under Article 24 of this Constitution shall be signed by the President on the day on which such Bill is presented to him for signature and promulgation as a law.

### Divergences between the official texts

- 1 '(The Bill) shall be signed by the President' is expressed as 'ní foláir don Uachtarán a lámh a chur leis' ('the President shall/must put his hand to / sign it') in the Irish text, with 'for signature' being expressed as 'chun é a shíniú' ('to sign it'); 'shall' is again expressed as 'ní foláir' ('must') in the Irish text, this phrase being preceded by a comma in that text alone.
- 2 'Shall have been abridged' is expressed as 'a ndearnadh ... a ghiorrú' ('was abridged/shortened') in the Irish text.
- 3 'Consideration', 'period', 'present' and 'promulgation as a law' are expressed in the Irish text by the same terms and phrase respectively as we have seen in previous sections of this Article, with the same possible divergences attaching to them.

### Commentary

*a shíniú* 'Síniú' is the verbal noun of 'sínigh', translated principally as 'sign' in *Ó Dónaill*, who cites '*litir, conradh, a shíniú*, to sign a letter, a contract'. 'Sínim' is translated as 'I sign' in *Téarmaí Dlí*, 'sighnim' being translated as 'I sign, seal or mark, append my signature to' in *Dinneen*. DIL cites 'dá sine Seon / go bhfuighe fairbre san airtíogal nár líonadh fós' ('if he signs before he finds some flaw or other in the Article') from Dáibhí Ó Bruadair (c. 1630-1689), the first citation in DIL being in relation to making

the sign of the Cross ('signis M. airde na crochi in agaid na lasrach', from Hogan's *Latin Lives of the Saints*). This verb (along with the verb 'signigid' ['signifies, indicates']) is based on the noun 'sigen', which comes from Latin 'signum', and is translated principally as 'a sign, token, mark; an omen or portent' in DIL, where 'sigen na crochi' (i.e. the sign of the Cross) is cited from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century.

See the commentary on Article 12.10.3<sup>o</sup>, where the English phrase 'signed by' is expressed as 'faoi lámh', regarding the various ways 'sign' is expressed in the Irish text of the Constitution and in the Acts, and see further the commentary on Article 13.3.1<sup>o</sup> where 'sign' is expressed as 'lámh a chur le'.

*chun a bhreithnithe* 'Breithnithe' is the genitive of the verbal noun of 'breithnigh' – see the commentary on Articles 17.1.1<sup>o</sup> and 20.1.

*ní foláir* See the commentary on Article 11.

*a lámh a chur leis* See the commentary on Article 13.3.1<sup>o</sup>.

*a thairgtear* See the commentary on Articles 12.10.3<sup>o</sup> and 25.1.

*tréimhse* See the commentary on Article 23.1.

### Gender-proofed Irish text

Gach Bille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoi Airteagal 24 den Bhunreacht seo ní foláir don Uachtarán a lámh a chur leis an lá a thairgtear an Bille sin dó nó di chun é a shíniú agus chun é a fhógairt ina dhli.

### Direct gender-proofed translation

Déanfaidh an tUachtarán gach Bille a mbeidh an tréimhse lena bhreithniú giorraithe faoi Airteagal 24 den Bhunreacht seo a shíniú an lá a thíolacfar Bille den sórt sin dó nó di' le síniú agus le fógairt<sup>2</sup> ina dhli.

### Variants

- 1 'don Uachtarán'
- 2 'lena shíniú agus lena fhógairt'

## ARTICLE 25.4.1<sup>o</sup> AIRTEAGAL 25.4.1<sup>o</sup>

### TÉACS GAEILGE

Déanann dlí de gach Bille an lá a chuireann an tUachtarán a lámh leis faoin mBunreacht seo agus is dlí é an lá sin agus ón lá sin amach agus, mura léir a mhalairt d'intinn ina thaobh, is é an lá sin a thagann sé i ngníomh.

### LITERAL ENGLISH TRANSLATION

Every Bill becomes law the day the President puts his hand to it under this Constitution and it is a law (on) that day and from that day on and, unless it is clear that there is a contrary intention in regard to it, that is the day it comes into operation.

**ENGLISH TEXT**

Every Bill shall become and be law as on and from the day on which it is signed by the President under this Constitution, and shall, unless the contrary intention appears, come into operation on that day.

**Divergences between the official texts**

- 1 'Every Bill shall become and be law' is rendered as 'Déanann dlí de gach Bille ... agus is dlí é' ('Every Bill becomes law ... and it is a law') in the Irish text.
- 2 'As on and from the day' is rendered as 'an lá ... an lá sin agus ón lá sin' ('the day ... [on] that day and from that day on') in the Irish text.
- 3 'Unless the contrary intention appears' is rendered as 'mura léir a mhalairt d'intinn ina thaobh' ('unless it is clear that there is a contrary intention in regard to it') in the Irish text.
- 4 'Shall ... come into operation on that day' is rendered as 'is é an lá sin a thagann sé i ngníomh' ('that is the day it comes into operation') in the Irish text.
- 5 'Sign' is again rendered by the phrase '(a) lámh a chur le' ('put his hand to') as in previous sections.

Note that the original s4 was deleted by the Second Amendment of the Constitution Act, 1941, and a new section was inserted in its place. The original Articles 25.4.1° and 25.4.2° read as follows:

Every Bill signed by the President under this Constitution shall become and be law as on and from the day on which the Bill shall have been so signed. *Gach Bille a gcuireann an tUachtarán a lámh leis fán mBunreacht so déanann dligheadh dhe an lá a chuireann sé a lámh leis amhlaidh agus is dligheadh é an lá sin agus ón lá sin amach.*

Every Bill signed by the President shall come into operation on the day on which it is so signed unless the contrary intention appears. *Gach Bille a gcuireann an tUachtarán a lámh leis is é an lá a cuirtear lámh leis amhlaidh a thigeann sé i ngníomh muna léir a mhalairt d'intinn ina thaobh.*

**Commentary**

*Déanann dlí de* In Article 24.3 'Ar dhéanamh dlí de Bhille' expresses 'When a Bill ... becomes law'. 'Déan de' in impersonal use has the sense of 'become'; *Ó Dónaill* cites '*rinne bean dí*, she became a woman' and '*dhéanfadh síoc de*, it would turn to frost', also citing '*go ndéan criostal dá huisce*, so that its water turns to crystal' from the earlier literature (this being from the Gaelic *Maundeville*, cited in full in DIL). *Ó Dónaill* also gives 'become' as one of the many secondary senses of the verb 'déan', citing '*déan-faidh sé fear láidir*, he will make a strong man', '*rinne sé mí mhaith*, it turned out to be a good month' and '*ó rinne sé lá*, since it became day'. *Dinneen* s.v. 'do-ghnám', cites '*dhein crann de*, it became a tree', '*dhein ceo dá chnámhaibh*, his bones turned to dust' and '*dhein lochán timcheall air*, a lake formed around it', along with '*do rinne sliabh mór dí*, it became a great mountain' from Keating's *Three Shafts of Death* (completed on the second day of December 1631). A possible example of this impersonal use of the verb 'do-gni' with 'de' is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles: 'is bésad na mmuimne dogní deidbleán

di oc munud á dalti' ('it is the custom of the nurse to make a weakling of herself [teaching her pupil]). According to DIL, this is mainly a Middle Irish development of the construction 'dogní x de y', 'makes x of y = turns y into x' (DIL cites 'cindus fer dia ndenid-si deu?' ['of what kind of men do you make gods?'], from the eighth-century Würzburg Glosses, as an example of that construction), which comes to be used impersonally: 'dogní x de y = y is turned into, becomes x'. The final example of this construction cited in DIL is 'Muire don deilbh ar ndéanamh' ('when the statue had turned into Mary') from the poetry of Aonghus Fionn Ó Dálaigh (c. 1520-1570).

Article 41 of the 1922 Constitution was amended as follows by the Constitution (Amendment No. 27) Act, 1936 (as outlined in the Schedule to that Act):

The deletion of all words from the words "the Executive Council" to the end of the Article and the substitution therefor of the words "the Chairman of Dáil Éireann shall sign such bill and the same shall become and be law as on and from the date of such signature". *Na focail uile o sna focail "cuirfidh an Ard-Chomhairle" go deireadh an Airtíogail do scriosadh amach agus na focail "sighneoidh Ceann Comhairle Dháil Éireann an Bille sin agus tiocfaidh an céanna chun bheith agus beidh sé ina dhlí ar dháta agus ó dháta an tighnithe sin" do chur ina n-ionad.*

Note that 'may become and be a member' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'féadfadh ... ceangal mar bhall agus bheith mar bhall' in translations for the Department of Local Government and Public Health. See the commentary on Article 18.2 regarding 'become'.

*mura léir* The adjective 'léir' is translated as 'clear, lucid; distinct, explicit ...' in *Ó Dónaill*, who translates 'is léir go' as 'it is clear that' and cites '*is léir don saol (go)*, everybody knows (that)'. *Dinneen* translates 'léir' as 'visible, plain, clear, open, perceptible', translating 'is léir go' as 'it is plain that' and citing '*an fhaid is léir an boladh*, while the odour is perceived'. In Old Irish 'léir' was frequently used attributively with the sense of 'assiduous, earnest, careful, zealous', but later it became much more commonly used predicatively with the meaning 'visible, perceptible', DIL citing '*connárbo léir do neoch isin dúnud 7 corbo léir dóib-seom cách issin dúnud*' ('so that they were not visible to anyone in the camp, yet everyone in the camp was visible to them') from the version of the *Táin* in *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100).

'The following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them' is translated as 'mara mbeidh a mhalairt i dtuisgint beidh leis na focail seo a leanas na bríonna a cuirtear leo fé seach leis seo' in s2 of the Interpretation Act, 1923. In s3(1) of the Status of Children Act, 1987, 'the relationship between every person and his father and mother ... shall, unless the contrary intention appears, be determined' is translated as 'déanfar, mura léir gurb é a mhalairt atá beartaithe, an gaol atá idir gach duine agus a athair agus a mháthair ... a chinneadh'. In s36 of the Finance Act, 1977, 'For the purposes of the Tax Acts ..., unless the contrary intention appears' is translated as 'chun críocha na nAchtanna Cánach ..., mura léir a mhalairt d'intinn'.

*d'intinn* 'Intinn' is translated basically as 'mind' in *Ó Dónaill*, 'intention' being given as one of its secondary senses, citing '*rud a bheith ar intinn agat, to intend something*' and '*tháinig mé le hintinn labhairt leat, I come with the intention of speaking to you*'. 'Ar intinn calaais a dhéanamh ar' is translated in *Téarmaí Dlí* as 'with intent to defraud'. *Dinneen* translates 'intinn' as 'mind, intention, spirit, disposition; courage', citing '*ar an intinn sin, with that intention*'. 'In(n)tinn' may come from Latin 'intentio', and is translated as (a) 'mind, view, disposition, attention', (b) 'intention, will, purpose' and (c) 'high spirits, courage, exaltation of mind' in DIL. This headword is not cited in the earlier sources, DIL citing 'mailli ré hinntinn trés an olc sin, teachd go holc eile' ('with the intention ...') from Mac Aingil's *Scáthán Shacramuinte na hAithridhe* (1618) as an example of sense (b).

Looking at early translations, 'Every applicant who intends to apply under this section to have any such application as aforesaid re-opened and re-heard shall serve a notice of his intention so to do' is translated as 'Gach iarrthóir atá ar intinn a iarraidh féin alt so go ndéanfaí aon iarratas den tsórt roimh-ráite d'ath-oscailt agus d'ath-éisteacht seirbheálfa sé fógra i dtaobh na hintinne sin' in s2(2) of the Damage to Property (Compensation) Act, 1923. 'Fógra miosa go rabhas ar intinn ...' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'one month's notice of intention' in translations for the Department of Local Government and Public Health, with 'notice of my intention to ...' being translated as 'fógra á rá go bhfuil ... beartuithe agam'.

*a mhalairt* 'Change; alternative' is one of the senses of 'malairt' in *Ó Dónaill*, who cites '*tá a mhalairt de chúram orm, I have something else to attend to*' and '*tá sé ar mhalairt de scéal anois, now he has a different tale to tell*'. *Dinneen* cites '*a mhalairt is eadh dhein sé, he did the opposite*' and '*ní h-iarrfainn a mhalairt de bhíadh, I desire no better food*'. No Old Irish examples of the headword 'malart'/'malairt' appear to be cited in DIL, this word having the sense of 'damage, injury, destruction; maltreating, injuring' in Middle Irish (DIL cites 'dúthracair a malairt féin for na bráthrib' ['desired his own ruin for the sake of the brethren'] from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century, for example), the sense of 'change, changing' appearing in early Modern Irish, along with 'exchange, exchanging', hence, followed by genitive or equivalent, the sense 'an exchange for = a different, another', DIL citing 'malairt na duaine-sí' ('a different song from this') from Dáibhí Ó Bruadair (c. 1630-1689) and 'ar an adhbhar nach fuil a mhalairt do threóraidhe aca' ('because they have no other guide') from Keating's seventeenth-century *History of Ireland*. 'Contrary opinion' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'a mhalairt de thuairim' in the 1926 *Standing Orders* of Dáil Éireann.

### Direct translation

Tiocfaidh gach Bille chun bheith ina dhlí agus beidh sé ina dhlí ar an lá agus ón lá a shíneoidh an tUachtarán é faoin mBunreacht seo agus, mura léir go bhfuil a mhalairt d'intinn ann<sup>1</sup>, tiocfaidh sé i ngníomh ar an lá sin.

### Variants

- 1 'mura léir gurb é a mhalairt atá beartaithe', 'mura léir a mhalairt d'intinn'

## ARTICLE 25.4.2<sup>o</sup> AIRTEAGAL 25.4.2<sup>o</sup>

### TÉACS GAELIGE

Gach Bille a gcuireann an tUachtarán a lámh leis faoin mBunreacht seo ní foláir dó é a fhógairt ina dhlí le fógra san Iris Oifigiúil, faoi ordú uaidh, á rá go bhfuil an Bille ina dhlí.

### LITERAL ENGLISH TRANSLATION

Every Bill to which the President puts his hand under this Constitution he must promulgate it as law by a notice in the Official Journal, under an order from him, saying that the Bill is law.

### ENGLISH TEXT

Every Bill signed by the President under this Constitution shall be promulgated by him as a law by the publication by his direction of a notice in the Iris Oifigiúil stating that the Bill has become law.

### Divergences between the official texts

- 1 'By the publication ... of a notice in' is rendered simply as 'le fógra (san)' ('by a notice in') in the Irish text.
- 2 'By his direction' is rendered as 'faoi ordú uaidh' ('under an order from him') in the Irish text, 'ordú' being translated as 'order' in *Téarmaí Dlí*, 'direction' being translated as 'treorú'.
- 3 'Stating' is rendered as 'á rá' ('saying') in the Irish text, this term having the general sense of 'state', 'stated case', however, being translated as 'cás sonraithe' in *Téarmaí Dlí*.
- 4 'Sign' is again rendered by 'a lámh a chur le' ('puts his hand to') in the Irish text, as we saw in some earlier sections.
- 5 'É a fhógairt ina dhlí' ('promulgates it as a law') is also capable of being read as 'proclaim it a law' in the Irish text.
- 6 'Shall' is again rendered as 'ní foláir' ('must') in the Irish text.

Note that the original Article 25.4.3<sup>o</sup>, before Article 25.4 was amended by the Second Amendment of the Constitution Act, 1941, read as follows:

Every Bill so signed shall be promulgated by the President as a law by the publication by his direction of a notice in the *Iris Oifigiúil* stating that such Bill has become law. *Gach Bille le n-a gcuirtear lámh amhlaidh ní foláir don Uachtarán é fhógairt ina dhligheadh le fógra insan Iris Oifigiúil, fá ordú uaidh, dá rádh go bhfuil an Bille sin ina dhligheadh.*

### Commentary

*á rá* Literally 'saying it', the verbal noun of 'abair' ('say') preceded by the possessive adjective, third person singular. Looking at early official translations, 'the aggregate value

as stated in the drainage scheme' is translated as 'an méid suimithe adeirtar sa scéim dhréineála' in s9(1) of the Arterial Drainage (Minor Schemes) Act, 1928. 'Stating' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ag innsint' in early *Standing Orders*, 'stating the question' being translated as 'ag luadh na ceiste'.

Turning to modern Acts, in s11(2)(a)(i)(II) of the Plant Varieties (Proprietary Rights) Act, 1980, 'he has caused to be given in the prescribed manner a general notice stating that he has under consideration such revocation' is translated as '(mura mbeidh agus go dtí go mbeidh) curtha faoi deara aige fógra ginearálta a thabhairt ar an modh forordaithe á rá go bhfuil an chúlghairm sin á bhreithniú aige'. In s4(1) of the Local Government (Toll Roads) Act, 1979, 'a road authority shall publish in one or more newspapers ... a notice stating that a toll scheme has been made by the road authority' is translated as 'Déanfaidh údarás bóithre ... fógra a fhoilsiú i nuachtán nó i nuachtáin ... á rá go bhfuil dola-scéim déanta ag an údarás bóithre'. See further the commentary on Article 12.10.1° where 'state' is expressed by the verb 'luaigh'.

Commenting on a draft of the translation below, Professor Máirtín Ó Murchú recommended the use of 'á shonrú' (or 'á dhearbhu') as against 'ina sonrú' (given as a variant below) as this relative phrase and 'fógra' are, in his opinion, too far removed from each other to be clear.

*faoi ordú uaidh* 'Ordú' is translated as 'order' in *Téarmaí Dlí*, where 'cúnant faoi ordú sin na Cúirte' is translated as 'covenant under the said order of the Court'. 'Ordú' is translated as 'order, command' in the Glossary appended to *An Caighdeán Oifigiúil*. *Ó Dónaill* cites '*faoi ordú dochtúra*, under doctor's orders' and *Dinneen* cites '*ag obair fá riar agus ordughthe*, working under instructions and orders', including 'an order, decree or command' among the senses of 'ordughadh'. 'Órdughim' is translated as 'I order, ordain, decree, plan, dispose, direct, prescribe, arrange, wish, command' in *Dinneen*. The sense of 'an order, decree, ordinance' is a 'late' sense of 'ordugud', according to DIL, the first example of which sense cited there being 'tic ordugad on arsadiuc ... fon dis sin do chrochadh' ('an order comes ... to hang the two men') from Ó Cianáin's *Flight of the Earls*. 'Ordugud' is translated principally in DIL as 'arranging, settling, disposing; an arrangement, disposition', this being the verbal noun of the Old Irish deponent verb 'ord(d)aigidir', which is a denominative verb from 'ord', a learned loanword from Latin 'ordo', which word it translates in the eighth-century Würzburg Glosses on the Pauline Epistles.

'And generally to carry out all reasonable directions of the Medical Staff' is translated as 'agus, i gcoitinne, gach treoir réasúnta ón bhFuirinn Leighis do chur i bhfeidhm' in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The initiation and direction of research' is translated as 'lorgaireacht do thosnú agus do stiúra' in s18(c) of the Local Government Act, 1925. Finally, 'every direction to a juror to stand-by' is translated as 'gach ordú do choisteoir dul i leataobh' in s52(4) of the Juries Act, 1927.

In s43(3) of the Intoxicating Liquor Act, 1988, 'Every person who, by himself, or by any person in his employment or acting by his direction or with his consent, refuses or fails to admit any member of the Garda Síochána' is

translated as 'Gach duine a dhiúltóidh nó a mhainneoidh, cibé é féin nó trí aon duine a bheidh fostaithe aige nó a bheidh ag gníomhú faoina threoir nó le toiliú uaidh, aon chomhalta den Gharda Síochána ... a ligean isteach'. 'It shall be signed ... by the testator, or by some person in his presence and by his direction' is translated as 'Déanfaidh an tiomnóir, nó duine éigin ina láthair agus faoina threorú, í a shíniú' in s78(1) of the Succession Act, 1965.

Note, finally, that Professor Máirtín Ó Murchú recommends 'le hordú uaidh nó uaithe' in the translation below.

*fógra* See the commentary on Article 12.10.3°. This headword is translated as 'notice' in *Téarmaí Dlí* and in *Ó Dónaill*, the latter citing '*fógra a chur ar na páipéir*, to put a notice, an advertisement, in the papers'. *Dinneen* translates 'fógra' as 'act of announcing, proclaiming, decreeing, enjoining; ordering, excluding; expelling, banishing; warning; an ordinance, order, a proclamation, decree, command, an advertisement'. DIL cites the sense of 'a notice, announcement, summons, ordinance' of 'fógra' from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century ('in tan tucad in fuacra-sa'), this being the verbal noun of 'fo-ócair', the sense of 'proclaiming, announcing, making known, giving notice' of which is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles onwards.

'Notice of my intention to ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'fógra a rá go bhfuil ... beartuithe agam' in translations for the Department of Local Government and Public Health. 'Every applicant ... shall serve a notice of his intention so to do' is translated as 'Gach iarrthóir ... seirbheálfa sé fógra i dtaobh na hintinne sin' in s2(2) of the Damage to Property (Compensation) Act, 1923. Note, finally, as regards 'publish', 'Published by the Stationery Office' is translated as 'Foilsithe ag Oifig an tSoláthair' on the Title Page of the Acts for the year 1922.

In s45(2) of the Intoxicating Liquor Act, 1988, 'Subsection (1) of this section shall not apply to ... the publication of a notice inside the premises of the registered club in which the function is to be held' is translated as 'Ní bheidh feidhm ag fo-alt (1) den alt seo ... maidir le foilsiú fógra taobh istigh d'áitreabh an chlub chláráithe a mbeidh an dálás le seoladh ann'. 'The notice of seizure ... may ... be given by the publication of a notice of the seizure in *Iris Oifigiúil*' is translated as 'féadfar an fógra urghabhála ... a thabhairt ... trí fhógra i dtaobh na hurghabhála d'fhoilsiú san *Iris Oifigiúil*'.

*Iris Oifigiúil* Note that '*Iris Oifigiúil*' is italicised in an early edition of the Stationery Office text and in the original text. See the commentary on Article 25.4.5° regarding 'iris'.

*a gcuireann ... a lámh leis* See the commentary on Article 13.3.1°.

*ní foláir* See the commentary on Article 11.

*a fhógairt* Verbal noun of 'fógair' – see the commentary on Articles 13.3.2° and 25.1.

### Gender-proofed Irish text

Gach Bille a gcuireann an tUachtarán a lámh leis faoin mBunreacht seo ní foláir dó nó di é a fhógairt ina dhlí le fógra san Iris Oifigiúil, faoi ordú uaidh nó uaithi, á rá go bhfuil an Bille ina dhlí.

### Direct translation

Déanfaidh an tUachtarán gach Bille a shíneoidh sé nó sí faoin mBunreacht seo a fhógairt ina dhlí trí fhógra a fhoilsíú, faoina threorú nó faoina treorú<sup>1</sup>, san *Iris Oifigiúil* á shonrú<sup>2</sup> an Bille a bheith ina dhlí.

### Variants

- 1 'faoina threoir nó faoina treoir', 'le hordú uaidh nó uaithi'
- 2 'ina sonrúfar'

## ARTICLE 25.4.3<sup>o</sup> AIRTEAGAL 25.4.3<sup>o</sup>

### TÉACS GAELIGE

Is é téacs de Bhille a gcuirfidh an tUachtarán a lámh leis ná an téacs a ritheadh nó a mheastar a ritheadh ag dhá Theach an Oireachtas agus, má ritear Bille nó má mheastar é a bheith rite amhlaidh sa dá theanga oifigiúla, cuirfidh an tUachtarán a lámh le téacs Gaeilge agus le téacs Sacs-Bhéarla an Bhille.

### LITERAL ENGLISH TRANSLATION

The text of a Bill to which the President will put his hand is the text which was passed or is deemed to have been passed by both Houses of the Oireachtas and, if a Bill is passed or if it is deemed to have been so passed in the two official languages, the President will put his hand to the Irish text and to the English text of the Bill.

### ENGLISH TEXT

Every Bill shall be signed by the President in the text in which it was passed or deemed to have been passed by both Houses of the Oireachtas, and if a Bill is so passed or deemed to have been passed in both the official languages, the President shall sign the text of the Bill in each of those languages.

### Divergences between the official texts

- 1 'Every Bill shall be signed by the President in the text in which it was passed' is rendered in the Irish text as 'Is é téacs de Bhille a gcuirfidh an tUachtarán a lámh leis ná an téacs a ritheadh' ('The text of a Bill which the President will sign is the text passed').
- 2 'The President shall sign the text of the Bill in each of those languages' is rendered as 'cuirfidh an tUachtarán a lámh le téacs Gaeilge agus le téacs Sacs-Bhéarla an Bhille' ('the President will sign the Irish text and the English text of the Bill') in the Irish text.
- 3 'Is so passed or deemed to have been passed' is rendered as 'má ritear, ... nó má mheastar é a bheith rite amhlaidh' ('is passed or deemed to have been so passed') in the Irish text.

- 4 As we saw earlier, the Irish term rendering 'English' ('Sacs-Bhéarla') differs in resonance from the normal contemporary form, 'Béarla'.
- 5 'Sign' is again rendered by 'a lámh a chur le' ('put his hand to') in the Irish text.

Note that the original s4 was deleted by the Second Amendment of the Constitution Act, 1941, and a new section was inserted in its place; unlike the preceding subsections, this subsection had no corresponding subsection in the original text.

### Commentary

*téacs* This headword is translated principally as 'text' in *Ó Dónaill*, with 'téics' being translated as 'a text, a sentence, a quotation, a discourse or dissertation, a poem (poetic) ...' in *Dinneen*, who cites '*gach aiste agus téacs, every poem and verse, 'ag scaoileadh téicseasaí chugham i gcaitheamh na hoidhche, throwing out innuendoes to me through the night, talking to me' and 'ba chlú le téacsaibh, who was famous for his dicta'. 'Técs, técsa' is an English or Romance loanword, the earliest citation of which in the sense of 'work, version of a work' in DIL being 'ní mar do théx churthaoi gluais' ('your notes are not according to your text') from the seventeenth-century 'Contention of the Bards'. 'Text' is translated as 'teacs' in *Iris an Phoist*, 14/12/27. 'A copy of the full text of the Bill can be inspected' is translated as 'Is féidir cóip de théacs iomlán an Bhille a iniúchadh' in the Appendix to s5 of the Referendum (Amendment) Act, 1959, for example.*

Note the lack of the definite article here before 'téacs' – one recalls the opening of *Séadna*, 'is é ainm a bhí air ná Séadna'. According to s119 of *Graiméar Gaeilge na mBráithre Críostaí*, the article can be left out in copulative sentences where a clause qualifies the noun, but it does not have to be left out of such sentences, the following being among the examples cited: 'is é [an] rud a rinne sé an bhó a bhleán'.

*dhá Theach ... sa dá theanga* 'Dhá', which becomes 'dá' before the article, also has the sense of 'both' – see the commentary on Article 20.3.

*a gcuirfidh ... a lámh leis* See the commentary on Article 13.3.1<sup>o</sup>.

*Sacs-Bhéarla* See the commentary on Article 4.

### Direct translation

Síneoidh an tUachtarán gach Bille sa téacs inar rith nó ina meastar gur rith an dá Theach den Oireachtas é, agus má ritear Bille amhlaidh nó má mheastar gur ritheadh amhlaidh é sa dá theanga oifigiúla, síneoidh an tUachtarán téacs an Bhille i ngach ceann de na teangacha sin<sup>1</sup>.

### Variants

- 1 'i ngach teanga diobh'

ARTICLE 25.4.4<sup>o</sup> AIRTEAGAL 25.4.4<sup>o</sup>**TÉACS GAELIGE**

I gcás an tUachtarán do chur a lámhe le téacs Bille i dteanga de na teangacha oifigiúla agus sa teanga sin amháin, ní foláir tiontú oifigiúil a chur amach sa teanga oifigiúil eile.

**LITERAL ENGLISH TRANSLATION**

In the event of the President's putting his hand to the text of a Bill in one of the official languages and in that language only, an official translation must be brought out in the other official language.

**ENGLISH TEXT**

Where the President signs the text of a Bill in one only of the official languages, an official translation shall be issued in the other official language.

**Divergences between the official texts**

- 1 'Issue' is rendered in the Irish text as 'cuir amach', 'put out', a phrase which has the sense of 'issue'; 'I issue' is translated as 'eisím' in *Téarmaí Dlí*, however.
- 2 'In only one of the official languages' is rendered as 'i dteanga de na teangacha oifigiúla agus sa teanga sin amháin' ('in one of the official languages and in that language alone') in the Irish text, this being a more conservative construction for the expression of this meaning in Irish, Professor Máirtín Ó Murchú citing '*fear de na fearaibh*, one of the men'.
- 3 'Sign' is again rendered by the phrase 'a lámh a chur le' ('put his hand to') in the Irish text.
- 4 'Shall' is rendered as 'ní foláir' ('must') in the Irish text.

Note that the original ss4<sup>o</sup> was deleted by the Second Amendment of the Constitution Act, 1941; the original ss5<sup>o</sup> read as follows:

An official translation of every law enacted by the Oireachtas in the Irish language shall be issued in the English language and an official translation of every law enacted by the Oireachtas in the English language shall be issued in the Irish language. *Gach dligheadh dá n-achtuigheann an tOireachtas insan Ghaedhilg ní foláir tionntódh oifigeamhail air do chur amach insan Sacs-Bhéarla, agus gach dligheadh dá n-achtuigheann an tOireachtas insan Sacs-Bhéarla ní foláir tionntódh oifigeamhail air do chur amach insan Ghaedhilg.*

**Commentary**

*tiontú* 'Tiontú focal, translation of words' is cited in *Ó Dónaill*, 'tiontú' being the verbal noun of 'tiontaigh', translated basically as 'turn', but with the secondary sense of 'translate', *Ó Dónaill* citing '*leabhar a thiontú ón Laidin, go Gaeilge*, to translate a book from Latin, into Irish'. *Dinneen* translates 'tionntódh' as 'act of turning, reversing, translating, dissolving; a turn, a version, a conversion, a translation'. DIL cites 'tintúd' in the sense of 'act of translating; translation, version' from the eighth-century Würzburg Glosses on the Pauline Epistles, where we find

'tintúth béiri innaláil' ('translation of [one] language into another'). This is the verbal noun of 'do-intaí' (\*to-ind-so-), principally 'turns back, returns' (as against 'do-sóí', 'turns'), DIL citing 'ní brónach donintarráí (not in sorrow has he returned)' from the same collection of Glosses.

Note that the official translation section of the Houses of the Oireachtas is styled 'Rannóg an Aistriúcháin'. While *De Bhaldraithe* translates 'I translate' as 'aistrím, tiontaím', he cites 'book translated from (the) German, *leabhar a aistriódh ón nGearmáinis*' and translates 'translation' simply as 'aistriú (ó theanga eile)'. 'Translation' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'aistriú' on p. 2 of the Constitution of the Irish Free State (Soarstát Éireann) Act, 1922.

Following the present Article, 'Tá an tiontú oifigiúil ar an Acht i gcló thall' is given as a footnote accompanying 'An tAcht um Bord na Gaeilge, 1978'; the English version of that note, 'The official translation of this Act is printed opposite', normally accompanies the Acts, that version generally being the original text, 'An tiontú oifigiúil' generally following the title of each Act in the Irish version of the Act. 'The official translation of any such Act or instrument' is translated as 'an tiontú oifigiúil ar aon Acht nó ionstraim den sórt sin' in s3(2) of the Place-Names (Irish Forms) Act, 1973. In s8(c) of the Arbitration Act, 1980, 'in any case where the award of the arbitration agreement is in a language other than one of the official languages of the State, a translation of the award or the agreement ... certified by an official or sworn translator' is translated as 'in aon chás ina mbeidh an dámhachtain nó an comhaontú eadrána i dteanga seachas i gceann de theangacha oifigiúla an Stáit, tiontú ar an dámhachtain nó ar an gcomhaontú agus é deimhnithe ag aistritheoir oifigiúil', with 'Deimhneoidh aistritheoir oifigiúil ... an tiontú sin' translating 'The translation shall be certified by an official ... translator' in s2 of Article IV of the First Schedule to that Act. On the other hand, 'a name, title or descriptive expression containing the words "building society" or the words "cumann foirgníochta" or any translation, variant or derivative of those words' is translated as 'ainm, teideal ná abairt tuairisce ina mbeidh na focail "building society" nó na focail "cumann foirgníochta" ná aon aistriú, malairt nó diorthaíoch ó na focail sin' in s9(2) of the Building Societies Act, 1976.

*a chur amach* Verbal noun of 'cuir amach', 'produce' being one of the senses of this phrase in *Ó Dónaill*, who cites '*earraí a chur amach*, to produce goods' and '*tá an leabhar sin curtha amach go healaíonta*, that book has been artistically produced', translating 'cuir amach' principally as 'put out'. 'Issue' is given as another secondary sense of 'cuir amach' in *Ó Dónaill*, who cites '*litreacha a chur amach*, to send out letters' and '*barántas a chur amach*, to issue a warrant'.

'This Constitution shall come into operation on the issue of such Proclamation' is translated as 'tiocfaidh an Bun-reacht so i bhfeidhm ar fhoillsiú an Fhurógra san' in Article 83 of the 1922 Constitution. In s11(1) of the Public Safety Act, 1927, 'if in the opinion of the Executive Council any issue of a periodical printed outside Saorstát Éireann contains any seditious libel' is translated as 'Má sé tuairim na hArd-Chomhairle go bhfuil in aon chur-amach de thréimhseachán a clóbhuaitear nó a foillsítear lasmuich de Shaorstát Éireann aon chlu-mhille scríbhthe ceannair-

ceach'. 'The day of issue of ballot papers' is translated as 'lá tabhartha amach na bpáipéirí ballóide' in s3(2)(a) of the Seanad Electoral Act, 1928, with 'Tabharthóirí Stóranna' translating 'Stores Issuers' in the Fifth Schedule to the Railways Act, 1924.

Turning to modern Acts, in s1(j) of the Fourth Schedule to the Fisheries Act, 1980, 'such licence shall be issued in that district' is translated as 'eiseofar an ceadúnas sin sa cheantar sin'. 'The issue of reports of such analyses' is translated as 'tuarascálacha ar anailísí den sórt sin a eisiúint' in s7(2)(a) of the Road Traffic (Amendment) Act, 1978, with 'the issue of certificates' being translated as 'deimhnithe a eisiúint' in s7(2)(c).

*i dteanga de na teangacha* Literally 'in a language of the languages', i.e. 'in one of the languages'. Note that in s70(1) of the Defence Forces (Temporary Provisions) Act, 1923, 'may be sentenced by such Court-Martial to undergo one and only one of the punishments specified in the Scales A and B following' is translated as 'féadfa sí an duine sin do dhaora chun aon phionós amháin, agus ní chun a thuille, de sna pionóisí a háirítear i Scálaí A agus B a leanas é seo'.

*do chur* See the commentary on Article 15.8.2° regarding 'do' and 'a' before verbal nouns; because 'an tUachtarán' is followed by the verbal noun, it remains in the nominative rather than going into the genitive after the compound preposition 'i gcás'.

*ní foláir* See the commentary on Article 11.

### Direct translation

I gcás nach síneoidh<sup>1</sup> an tUachtarán téacs Bille ach i dteanga amháin de na teangacha oifigiúla<sup>1</sup>, déanfar aistriúchán oifigiúil a eisiúint sa teanga oifigiúil eile.

#### Variants

- <sup>1</sup> 'síniú'.
- <sup>1</sup> 'I gcás gur i dteanga amháin de na teangacha oifigiúla a shíneoidh an tUachtarán téacs Bille, agus sa teanga sin amháin', 'I gcás an tUachtarán a shíniú téacs Bille i dteanga amháin de na teangacha oifigiúla agus sa teanga sin amháin'.

## ARTICLE 25.4.5° AIRTEAGAL 25.4.5°

### TÉACS GAELIGE

Chomh luath agus is féidir é tar éis Bille a shíniú agus é a fhógairt ina dhlí, ní foláir an téacs den dlí sin lena mbeidh lámh an Uachtaráin nó, i gcás lámh an Uachtaráin a bheith le téacs Gaeilge agus le téacs Sacs-Bhéarla an dlí sin, an dá théacs sínithe sin a chur isteach ina iris nó ina n-iris in oifig Iriseoir na Cúirte Uachtaraí, agus is fianaise dhochloite ar fhorálacha an dlí sin an téacs a chuirfear isteach ina iris, nó an dá théacs a chuirfear isteach ina n-iris, amhlaidh.

### LITERAL ENGLISH TRANSLATION

As soon as is possible after signing a Bill and promulgating it as law, the text of that law on which will be the President's hand/signature or, in the case of the President's hand/signature being on the Irish text and on the English

text of that law, those two signed texts must be put into its journal or into their journal in the office of the Recorder of the Supreme Court, and the text that will be so put into its journal, or the two texts that will be so put into their journal, is/are irrefutable evidence of the provisions of that law.

### ENGLISH TEXT

As soon as may be after the signature and promulgation of a Bill as a law, the text of such law which was signed by the President or, where the President has signed the text of such law in each of the official languages, both the signed texts shall be enrolled for record in the office of the Registrar of the Supreme Court, and the text, or both the texts, so enrolled shall be conclusive evidence of the provisions of such law.

### Divergences between the official texts

- 'Enrol' is rendered by 'cuir isteach ina iris', which phrase literally translates as 'put into its journal/gazette', this phrase being cumbersome when more than one text is referred to, as this has to be expressed as 'cuir isteach ina n-iris' ('put into their journal/gazette'), this same phrase rendering both 'enrol for record' and 'enrol' in the Irish text; 'I enrol' is translated simply as 'rolláim' in *Téarmaí Dlí*, where 'iris' is translated as 'gazette'.
- 'Registrar', in line with the term for 'enrol', is rendered by 'Iriseoir', which in the contemporary language more usually means 'journalist'; on the other hand, 'registrar' is translated as 'cláráitheoir' in *Téarmaí Dlí*, where 'the Registrar of Wards of Court', for example, is styled 'Cláráitheoir na gCoimircithe Cúirte'.
- 'The signature ... of a Bill' is rendered in the Irish text as 'Bille a shíniú', 'síniú' being the verbal noun of the verb also found in 'an dá théacs sínithe', 'both the signed texts'; on the other hand, 'where the President has signed the text' is rendered as 'i gcás lámh an Uachtaráin a bheith le téacs' ('where the hand/signature of the President is on a text').
- 'The text of such law in each of the official languages' is rendered as 'téacs Gaeilge agus ... téacs Sacs-Bhéarla an dlí sin' ('the Irish text and the English text of that law') in the Irish text.
- 'English' is again rendered as 'Sacs-Bhéarla' rather than 'Béarla' in the Irish text.
- 'Promulgation as a law' is rendered in the Irish text by the same phrase we noted in earlier sections of this Article.
- 'Shall' is again rendered as 'ní foláir' ('must') in the Irish text.

Note that the original Article 25.4.4°, before Article 25.4 was amended by the Second Amendment of the Constitution Act, 1941, read as follows:

As soon as may be after the President has signed any Bill and promulgated it as a law, the signed text shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed text shall be conclusive evidence as to the provisions of such law. *Chomh luath agus is féidir é tar éis don Uachtarán a lámh do chur le Bille agus é fhógairt ina dhligheadh ní foláir an téacs sighthithe sin do chur isteach ina*

*iris i n-oifig Iriseoir na Cúirte Uachtaraíche agus is fiadhnaisé dho-chlaoidhte an téacs sionghnighthe sin ar fhoráiltibh an dlíghidh sin.*

Note also that Article 42 of the 1922 Constitution commences as follows:

As soon as may be after any law has received the King's assent, the clerk, or such officer as Dáil Éireann 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 Dáil Éireann may determine), and such copies shall be conclusive evidence as to the provisions of every such law ... *Chó luath agus féadfar tar éis d'aon dlí aontú an Rí d'fháil, cuirfidh an cléireach no pé oifigeach eile a cheapfaidh Dáil Éireann chuige sin dhá chóip chearta den dlí sin á dhéanamh, ceann aca i nGaedhilg agus an ceann eile i mBéarla (agus sionghneoidh Ionadaí na Coróinneach ceann de sna cóipeanna san chun é do chur ar rolla cuimhnte in oifig an oifigigh sin de Chúirt Uachtarach ar a gcinnfidh Dáil Éireann), agus beidh na cóipeanna san mar fhíneacht chríochnuithé ar fhorálacha gach dlí dá sórt.*

### Commentary

*a chur isteach ina iris nó ina n-iris* 'Iris' is translated as 'gazette' in *Téarmaí Dlí*, where 'irisim' translates 'I gazette'. *Ó Dónaill* gives 'journal, magazine, gazette' as senses of 'iris', citing '*iris oifigiúil*, official gazette'. *Dinneen* includes 'tidings, a record, chronicle or gazettee', followed by the abbreviation for 'recent', among the senses of 'iris', translating this headword principally as 'faith, belief, religion; justice, law'. The sense of 'belief, faith, religion' is given under a separate headword 'iris' in *Ó Dónaill*, who gives 'oideas' as the standard form of 'iris' in the sense of 'record, knowledge, of events; historical information, history', citing '*leabhar oiris*, chronicle, history book' – 'Leabar Oiris agus An[n]ála' is the title of a text published in the first volume of the journal *Ériu*. According to DIL, referring to 'iris-leabhar' (translated as 'a book of records or chronicles; a diary, a day-book, a journal, a magazine [*recent*]') in *Dinneen*, 'irisleabhar' being translated as 'journal, magazine' in *Ó Dónaill*, Modern Irish 'iris' seems to represent 'oideas', translated there as 'history, knowledge or record of events (*in loose sense, including oral tradition*)', the first citation therein coming from the seventeenth-century 'Contention of the Bards'.

Looking at early translations of 'enrol', 'The principal teacher of every national and other suitable school at which any children to whom this Act applies are enrolled or attending' is translated as 'príomh-oide gach scoile náisiúnta agus gach scoile oiriúnaí eile go mbeidh aon leanbháil le n-a mbaineann an tAcht so ar an rolla ionta no á bhfreastal' in s15(1) of the School Attendance Act, 1926. 'Cur ar rolla' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'enrolment' in the *Proceedings* of Dáil Éireann, 1928, p. 165. In s16 of the Army Pensions Act, 1926, 'any armed force ... the members of which by the terms of their commissions, agreement, enlistment, enrolment, contract or otherwise ...' is translated as 'aon fhórsaí armtha ... 'na mbeadh ar a mbaill ... do réir téarmaí a gcoimisiúin, a margaidh, a liostála, a gcláruithé, a gconnartha no éinní

eile', 'The provisions of this Act as to billeting shall ... apply to women who are enrolled for employment by the Ministers as they apply to soldiers' being translated as 'bainfidh na forálacha den Acht so i dtaobh billéadachta le mná a chlárúigh an tAire chun a bhfostuithe fé mar a bhainfid le saighdiúirí' in s173(7) of the Defence Forces (Temporary Provisions) Act, 1923. In s5(1) of the Garda Síochána (Temporary Provisions) Act, 1923, however, 'The men of the Garda Síochána shall be divided into the several ranks specified ... and shall be enrolled and appointed ... by the Commissioner' is translated as 'Roinnfáir fir an Ghárda Síochána do réir na gcéimeanna iolartha a luaidhtear ... agus déanfaidh an Coimisinéir iad do liostáil agus do cheapa'.

Following the wording of the present Article, 'All those parcels of land ... described and delineated by being coloured red on the plan which ... has, together with the text of this Act, been enrolled for record in the office of the Registrar of the Supreme Court' is translated as 'Na dáileachtaí talún sin uile ... atá tuairiscithe agus léirithe trína ndathú dearg ar an bplean ... a cuireadh isteach, maraon le téacs an Achta seo, ina iris in oifig Chláraitheoir na Cúirte Uachtaraí' in Part I of the Third Schedule of the Great Northern Railway Act, 1953. 'Arrange for the attendance at these courses ... of students enrolled in courses provided by the Authority' is translated as 'a shocrú go ndéanfaidh mic léinn freastal ar na cúrsaí sin ... is mic léinn atá ar na rollaí do chúrsaí a chuir an tÚdarás ar fáil' in s13(1)(b) of the National Agricultural Advisory, Education and Research Authority Act, 1977. Note, finally, that in an attempt to adhere to the wording of the Constitution and to *Téarmaí Dlí*, the notice of the latest enrolment of the Constitution, on 27/5/99, appeared as follows in *Iris Oifigiúil*, the Irish text following that of a previous notice:

A copy of the text of the Constitution as now in force embodying all amendments heretofore made therein, prepared under the supervision of the Taoiseach, was enrolled for record in the Office of the Registrar of the Supreme Court on the 27th May, 1999, in accordance with the provisions of Article 25.5.2° of the Constitution. *Rinneadh cóip de théacs an Bhunreachtá mar atá i bhfeidhm anois agus ina bhfuil na leasuithe uile atá déanta air go dtí seo, arna ullmhú faoi threorú an Taoisigh, a rollú ina hiris in Oifig Iriseoir na Cúirte Uachtaraí an 27 Bealtaine, 1999, de réir fhorálacha Airteagal 25.5.2° den Bhunreacht.*

'I enrol' is translated as 'rolláim' in *Téarmaí Dlí*, with 'enrolment' translated as 'rollú'. *De Bhaldraithe* translates 'I enrol(l)' as 'cláraim (scoláirí); cuirim ar rolla, liostálaim (earcaigh)', translating 'enrolment' as 'liostáil (saighdiúirí), clárú (scoláirí)'. *Ó Dónaill* gives 'official record, register, list' as the secondary sense of 'rolla', translating 'bheith ar an rolla' as 'to be on the roll, enrolled', and translating 'rollaigh' principally as 'enrol', citing '*gníomhas a rollú*, to enrol a deed'. 'Rolláim' is translated as 'I enrol' in the Glossary appended to *An Caighdeán Oifigiúil*. See the commentary on Article 18.4.1° regarding 'rolla', 'panel'.

Turning to the early Acts, in s15(5) of the Arterial Drainage Act, 1925, 'The Commissioners shall cause a true copy of the final award to be made ... and shall then enroll the final award in the Record and Writ Office of the High Court' is translated as 'Cuirfidh na Coimisinéirí fé ndéar fíor-chóip den mhola dheiridh do dhéanamh agus



... ansan cuirfid an mola deiridh ar an rolla in Oifig Breacachán agus Riteacha na hArd-Chúirte', a version of the same subsection being found in s12(5) of the Barrow Drainage Act, 1927. In s19(2) of the Arterial Drainage Act, 1945, however, 'and shall then enroll the Award in the Central Office of the High Court' is translated as 'agus déanfaid ansan an Moladh d'inrollú i bPríomh-Oifig na hArd-Chúirte'. 'Admission and enrolment', in the Margin Title of s10 of the Solicitors Act, 1954, is translated as 'Glacadh agus rollú', and in subsection (1) of the following section of that Act, 'on account of a defect ... in his admission and enrolment' is translated as 'toisc éalaing a bheith ... ina ghlacadh agus a rollú'.

We see above that 'enrol for record' is translated as 'cur ar rolla cuimhnte' in Article 42 of the 1922 Constitution. Looking at 'record' in general in early Acts, 'As Principal Executive Officer of the Hospital, he shall be responsible for all records, accounts and correspondence therewith' is translated as 'Mar Phríomh-oifigeach Feidhmiúcháin don Ospideul, beidh sé freagarthach i ngach breacachán, cuntas agus co-fhreagarthas a bhaineann leis an Ospideul' in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'the conviction shall be recorded on the licence of the licence holder so convicted' being translated as 'breacfar an ciontú ar cheadúnas an tsealbhora ceadúnais a ciontófar amhlaidh' in s12 of the Intoxicating Liquor (General) Act, 1924. 'The Public Record Office' is styled 'Oifig na nAnálacha Puiblí' in Schedule (B) to the Appropriation Act, 1923, "Plate" includes any stereotype or other plate ... or negative used ... for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are or are intended to be made' is translated as 'foluionn "pláta" aon chlóphláta no pláta eile ... no claonchló a húsáidtear ... chun cóipeanna d'aon obair do chlóbhuála no do dhéanamh, agus aon mhatrix no fearas eile le n-a ndintar recórdaí, rollaí pollta no gléasanna eile chun an obair do léiriú go fuaimiúil no 'na bhfuil sé ceaptha iad do dhéanamh leis' in s177(1) of the Industrial and Commercial Property (Protection) Act, 1927. Finally, 'except the duty on records and other means of reproducing music' is translated as 'lasmuich den diúité ar phlátaí ceoil agus ar gléasanna eile ath-sheinnte ceoil' in s13(1) of the Finance Act, 1924.

Turning finally to a modern Act, in s20(1) of the Social Welfare Act, 1989, "original record" means any document, record, or record of an entry in a document or record of information stored by means of any mechanical or electronic device, whether or not in a legible form' is translated as 'ciallaíonn "taifead bunaidh" aon doiciméad, taifead, nó taifead d'iontráil i ndoiciméad nó i dtaifead nó faisnéis a stóráiltear trí bhíthin aon fheiste mheicniúil nó leictreonach, cibé acu an bhfuil sé i bhfoirm sholéite nó nach bhfuil'.

*fianaise dhochloíte* 'Fianaise dochloíte' (without lenition of 'dochloíte') is translated as 'conclusive evidence' in *Téarmaí Dlí*, 'fianaise dhochloíte' being translated as 'irrefutable evidence' in *Ó Dónaill*. See the commentary on Article 1 regarding 'dochloíte'. 'Fianaise' is translated as 'evidence; testimony' in *Téarmaí Dlí*, where '*an fhianaise is fearr*, best evidence' is cited. *Ó Dónaill* translates 'fianaise' principally as 'witness, testimony, evidence',

citing '*i bhfianaise air sin*, as evidence of that; in witness thereof'. *Dinneen* translates 'fiadhnaise' as 'witness, presence; testimony, testament, evidence; a witness'. DIL cites 'fiadnisse' from the eighth-century Würzburg Glosses on the Pauline Epistles, translating the headword 'fiadhnaise' as 'witness, testimony' with the sense of 'evidence, attestation' in early Irish laws, this noun being based on 'fiada', 'a witness; one who bears testimony'. In his 'Legal Glossary' to the early Irish law-text, *Crith Gablach* (p. 90f.), D.A. Binchy comments as follows:

*fiadhnaise*, evidence of an eye-witness (cf. preposition *fiad* 'in the presence of'), independent testimony on the facts at issue, which must be distinguished from *teist*, general evidence as to character etc., and also from the so-called 'proof' by compurgation.

We see above that 'finéacht chríochnuithe' translates 'conclusive evidence' in Article 42 of the 1922 Constitution. In s4 of the Indemnity (British Military) Act, 1923, 'A statement in writing signed by any Secretary of State of the British Government certifying any of the matters mentioned in this section shall be conclusive evidence of the matters so certified' is translated as 'Aon fhaisnéis i scríbhinn a bheidh sighthithe ag aon Rúnaí Stáit de Rialtas na Breataine agus ag deimhniú éinní de sna nithe a luaidhtear san alt so, beidh sé ina fianaise dho-chlaoite ar na nithe a deimhneofar mar sin'. In s11(3)(b) of the Companies (Amendment) Act, 1983, 'the certificate shall be conclusive evidence of the fact that it is such a public limited company' is translated as 'is fianaise dhochloíte an deimhniú ar an bhfioras gur cuideachta phoiblí theoranta den sórt sin í'.

*Iriseoir* This headword is translated simply as 'journalist' in *Ó Dónaill*. *Dinneen* does not appear to give this as a headword – note that 'oiriseach' is translated as 'a narrator'. See the commentary above on 'iris', to which the suffix '-eoir', used in the formation of nouns of agency, is added; one of the forms in which the Latin suffix 'arius' appeared in Irish was as '-óir', Rudolf Thurneysen (op. cit., s269(4)(b)) citing 'caindleóir' ('candelarius', 'candle-bearer'), this formation being then followed with words which were not borrowings from Latin.

'Registrar' is translated as 'cláraitheoir' in *Téarmaí Dlí*, where 'the Registrar of Wards of Court', for example, is translated as 'Cláraitheoir na gCoiimircithe Cúirte'. In a publication entitled 'Titles (in Irish and English) of Civil Service Posts' (1938), 'registrar' is translated as 'cláráthóir', 'Registrar of Title', for example, being translated as 'Cláráthóir Teideal'. 'The Office of the Registrar of the Supreme Court' is translated as 'Oifig Chláráthóir na Cúirte Uachtaraí' in s3(1) of the Court Officers Act, 1926. 'The Registrar-General' is translated as '(don) Ard-Chláradóir' in the Schedule to the Appropriation Act, 1922, 'that he is in fact the Registrar of such County Court Judge' being translated as 'gurb é sin le firinne is Cláráthóir don Bhreitheamh Cúirte Contae' in s13(5) of the Enforcement of Law (Occasional Powers) Act, 1923. Finally, 'The Registrar of the Supreme Court' is translated as 'Cláraitheoir na Cúirte Uachtaraí' in s3(1) of the Central Bank Act, 1989, for example.

*Chomh luath agus is féidir é* 'Chomh luath is is féidir liom' is translated as 'as soon as I can' in *Ó Dónaill*, who translates 'is féidir (go)' as 'it is possible (that)'. 'The Bank

shall as soon as may be after the revocation of an approval of the rules of an exchange publish a notice of the revocation' is translated as 'déanfaidh an Banc, a luaithe is féidir tar éis ceadú malartáin a bheith cúlghairthe, fógra faoin gcúlghairm a fhoilsiú' in s106(5) of the Central Bank Act, 1989, for example.

*an dá théacs sinithe* According to the official standard, 'sinithe' would be lenited here, the adjective being lenited following the numbers two to nineteen – see the chapter on 'Uimhreacha' in *An Caighdeán Oifigiúil*.

*a fhógairt* See the commentary on Articles 13.3.2° and 25.1.

*ní foláir* See the commentary on Article 11.

*lena mbeidh lámh* See the commentary on Article 13.3.1°.

*Sacs-Bhéarla* See the commentary on Article 4.

### Standardised Irish text

Chomh luath agus is féidir é tar éis Bille a shíniú agus é a fhógairt ina dhlí, ní foláir an téacs den dlí sin lena mbeidh lámh an Uachtaráin nó, i gcás lámh an Uachtaráin a bheith le téacs Gaeilge agus le téacs Sacs-Bhéarla an dlí sin, an dá théacs shínithe sin a chur isteach ina iris nó ina n-iris in oifig Iriseoir na Cúirte Uachtaraí, agus is fianaise dhochloíte ar fhorálacha an dlí sin an téacs a chuirfear isteach ina iris, nó an dá théacs a chuirfear isteach ina n-iris, amhlaidh.

### Direct translation

A luaithe is féidir tar éis Bille a shíniú agus a fhógairt ina dhlí, déanfar téacs an dlí sin a shíniú ag an tUachtarán nó, i gcás téacs an dlí sin a bheith sinithe ag an Uachtarán i ngach ceann de na teangacha oifigiúla, an dá théacs shínithe, a rollú don taifead in oifig Chláraitheoir na Cúirte Uachtaraí, agus fianaise dhochloíte a bheidh sa téacs, nó sa dá théacs, a rollófar amhlaidh<sup>1</sup> ar fhorálacha an dlí sin.

### Variants

- 1 'beidh an téacs, nó an dá théacs, a rollófar amhlaidh mar fhianaise dhochloíte'

## ARTICLE 25.4.6° AIRTEAGAL 25.4.6°

### TÉACS GAEILGE

I gcás téacs Gaeilge agus téacs Sacs-Bhéarla de dhlí a chur isteach ina n-iris faoin alt seo agus gan an dá théacs sin a bheith de réir a chéile, is ag an téacs Gaeilge a bheidh an forlámhas.

### LITERAL ENGLISH TRANSLATION

In the event that the Irish text and the English text of a law are put into their journal under this section and those two texts are not in accord with one another, (it is) the Irish text which will have supremacy/dominance.

### ENGLISH TEXT

In case of conflict between the texts of a law enrolled under this section in both the official languages, the text in the national language shall prevail.

### Divergences between the official texts

- 1 'The text in the national language' is rendered as 'an téacs Gaeilge' ('the Irish text') in the Irish text, 'the national language' being expressed as 'an teanga náisiúnta' in Article 8.1.
- 2 'Conflict between the texts' is rendered as 'gan an dá théacs sin a bheith de réir a chéile' ('those two texts not being in accord with one another') in the Irish text.
- 3 'The texts of a law enrolled under this section in both the official languages' is rendered as 'téacs Gaeilge agus téacs Sacs-Bhéarla de dhlí a chur isteach ina n-iris' ('enrolling the Irish text and the English text of a law'), with 'enrol' being rendered as 'a chur isteach ina n-iris', ('put into their journal') in the Irish text, the same phrase that renders 'enrol for record' and 'enrol' in the previous subsection.
- 4 'Prevail' is rendered as 'ag ... a bheidh an forlámhas' ('have supremacy/dominance') in the Irish text.

Note that Article 42 of the 1922 Constitution concludes as follows:

... and in case of conflict between the two copies so deposited, that signed by the Representative of the Crown shall prevail .... *agus i gcás coinbhliocht idir an dá chóip a cuirfear i dtaisce mar sin, sé an ceann a bheidh síghnithe ag Ionadaí na Coróinneach a bhuaidhfídh.*

Note that the original s4 was deleted by the Second Amendment of the Constitution Act, 1941, and a new section was inserted in its place; unlike earlier subsections, no corresponding subsection to the above is found in the original section.

### Commentary

*forlámhas* This headword is translated as 'domination, supremacy; control, authority ...' in *Ó Dónaill* and as 'superiority, chiefship, supreme power or authority ...' in *Dinneen*. *De Bhaldraithe* translates 'to prevail over, against, someone, something' as 'an ceann is fearr a fháil ar dhuine, ar rud; buachan ar dhuine, ar rud', citing 'the law prevailed, bhí an lá ag an dlí'. 'A bhuaidhfídh' translates 'shall prevail' in Article 42 of the 1922 Constitution above, 'a sheasóidh' being found in s12(2) of the Finance Act, 1923, as we see below. 'The opinion of ... shall prevail' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'glacfar le oipíneon ...' in *Iris Oifigiúil* (exact date given questionable). 'Having regard to the prevailing standards of the Shareholding Banks' is translated as 'ag cuimhneamh do ar na staidaird a bheidh i bhfeidhm ag na Banc Scair-shealbhacha' in s18(3) of the Currency Act, 1927. Finally, in s2 of the Schedule to the Constitution (Amendment No. 17) Act, 1931, 'in the case of any inconsistency between this Article and the said Article 3 ..., this Article shall prevail' is translated as 'má bhíonn aon bhuinisciontacht idir an tAirtíogal seo agus an tAirtíogal san 3 ... isé an tAirtíogal so bhuaidhfídh'.

Following Article XIV in Part III of the First Schedule

to the Air Navigation and Transport Act, 1988, 'In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12th October 1929 was drawn up, shall prevail' is translated as 'I gcás aon neamhréire, is ag an téacs i bhFraincis, an téacs inar tarraingíodh suas Coinbhinsiún Vársá dar dháta 12 Deireadh Fómhair 1929, a bheidh an forlámhas', following Article XVIII of the Schedule to the Air Navigation and Transport Act, 1965, where 'In case of any inconsistency, the text in the French language ... shall prevail' is translated as 'I gcás aon neamhréire, is ag an téacs san Fhraincis ... a bheidh an forlámhas'.

*de réir a chéile* 'De réir' is translated as 'in accordance with' in *Téarmaí Dlí, Ó Dónaill* translating 'nil siad de réir a chéile' as 'they don't correspond'. *Dinneen* translates 'do réir a chéile' as 'homogeneous, uniform, agreeing, in due order'. 'Conflict of evidence' is translated as 'easaontacht fhianaise' in *Téarmaí Dlí, 'easaontas fianaise*, conflict of evidence' being cited in *Ó Dónaill*.

In s12(2) of the Finance Act, 1923, 'and in the event of any conflict between the provisions of the said sections 27 and 28 or either of them and the provisions of any such Order as aforesaid, the provisions of such Order shall prevail' is translated as 'agus, i gcás aon choimblichtha idir fhorálacha altanna 27 agus 28 san no aon ailt díobh agus forálacha aon Ordú den tsórt san roimh-ráite, is iad forálacha an Orduithe sin a sheasóidh'. In s31(2)(a)(ii) of the Central Bank Act, 1989, 'the Bank is of the opinion that the exemption would not conflict with the orderly and proper regulation of banking' is translated as 'gur dóigh leis an mBanc nach mbeadh an díolúine contrártha do rialáil ordúil chuí a dhéanamh ar an mbaincéireacht'. 'Including its rules on the conflict of laws' is translated as 'lena n-áirítear a rialacha ar easaontacht dlíthe' in s1 of Article 42 of the Second Schedule to the Arbitration Act, 1980, 'Easaontacht dlíthe' translating 'Conflict of laws' in the Margin Title of s36 of the Sale of Goods and Supply of Services Act, 1980. 'If ... that subsection would ... conflict with a constitutional right of any person' is translated as 'Más rud é ... go mbeadh an fo-alt sin ... i godarsna le ceart bunreachtúil de chuid aon duine' in s1(2) of the Garda Síochána Act, 1979. Finally, the Margin Title of s58 of the Pensions Act, 1990, 'Conflict between Part V and schemes', is translated as 'Easaontas idir Cuid V agus scéimeanna'.

*Sacs-Bhéarla* See the commentary on Article 4.

*a chur isteach ina n-iris* See the commentary on the previous subsection.

### Direct translation

I gcás easaontachta idir téacsanna dlí a rollófar faoin alt seo sa dá theanga oifigiúla, beidh an forlámhas ag an téacs sa teanga náisiúnta.

## ARTICLE 25.5.1<sup>o</sup> AIRTEAGAL 25.5.1<sup>o</sup>

### TÉACS GAELIGE

Is dleathach don Taoiseach a thabhairt, ó am go ham faoi mar a chífear dó gá a bheith leis, go ndéanfar téacs (sa

Ghaeilge agus sa Sacs-Bhéarla) den Bhunreacht seo, mar a bheidh i bhfeidhm an tráth sin agus ina mbeidh na leasuithe uile a bheidh déanta air go dtí sin, a ullmhú faoina threorú.

### LITERAL ENGLISH TRANSLATION

It is lawful for the Taoiseach to bring about, from time to time according as he sees that there is a need for it, that a text (in Irish and in English) of this Constitution, as it will be in force at that time and in which will be all the amendments which will have been made to it up to then, be prepared under his guidance.

### ENGLISH TEXT

It shall be lawful for the Taoiseach, from time to time as occasion appears to him to require, to cause to be prepared under his supervision a text (in both the official languages) of this Constitution as then in force embodying all amendments theretofore made therein.

### Divergences between the official texts

- 'Supervision' is rendered by 'treorú', the Irish legal term for 'direction'; 'supervision' is translated as 'stiúradh' in *Téarmaí Dlí*.
- 'In both the official languages' is rendered as 'sa Ghaeilge agus sa Sacs-Bhéarla' ('in Irish and in English') in the Irish text, 'Sacs-Bhéarla' rather than the general term 'Béarla' rendering 'English', as we have already seen.
- 'Embodying' is rendered as 'ina mbeidh' ('containing') in the Irish text, with 'as then in force embodying all amendments' being rendered as 'mar a bheidh i bhfeidhm an tráth sin agus ina mbeidh na leasuithe uile' ('as it will be in force at that time and in which there will be all the amendments'), this clause being preceded by a comma found only in the Irish text.
- 'As occasion appears to him to require' is rendered as 'faoi mar a chífear dó gá a bheith leis' ('according as he sees that there is a need for it') in the Irish text.

Note that Article 25.5 was added to the text by the Second Amendment of the Constitution Act, 1941.

### Commentary

*a thabhairt* Verbal noun of 'tabhair', one of the major secondary senses of which in *Ó Dónaill* is 'bring', with 'bring about, cause, compel' being one of the subsets of this sense, *Ó Dónaill* citing 'thug sé an áit a dhíol, he caused the place to be sold' and 'ná tabhair ár náire, don't shame us'. *Dinneen* cites 'do-bheirim é do dhéanamh, I get it done', 'do-bheirim ar dhuine rud do dhéanamh, I get a person to do a thing' and 'is é rud thug mé annso, the cause of my coming here is'. *DIL* cites 'ní heasbaidh eoluis ... tug don choirneach mo chrostáil' ('... that caused the tonsured friar to censure me') from *Dáibhí Ó Bruadair* (c. 1630-1689).

See the commentary on Article 12.10.5<sup>o</sup> where 'cuir á' expresses 'cause'. 'The Minister shall cause to be prepared maps showing ... the boundaries of each of the several fisheries regions in existence for the time being' is translated as 'Cuirfidh an tAire faoi deara go n-ullmhófar

léarscáileanna a thaispeánfaidh ... teorainneacha gach ceann ar leith de na réigiúin iascaigh a bheidh ann de thuras na huairé' in s10(12)(a) of the Fisheries Act, 1980, for example. In s6 of the First Schedule to the Electoral Act, 1923, 'It shall be the duty of the registration officer ... to prepare or cause to be prepared, lists ... of all persons appearing to be registered as Dáil or Seanad Electors' is translated as 'Beidh sé de dhualgas ar an oifigeach clárathachta ... liostaí d'ullmhú, no do chur á n-ullmhú, de gach duine a dheabhróidh a bheith i dteideal a chlárúithe ina Dháil-toghthóir no ina Sheanad-toghthóir'.

*faoina threorú* 'Treorú' is translated as 'direction (by judge)' in *Téarmaí Dlí*, 'guidance, direction' being given as the sense of this term, the verbal noun of 'treoraigh', in *Ó Dónaill*, which verb is translated as 'guide, lead, direct', *Ó Dónaill* citing '*an coiste a threorú*, to direct the jury'. *Dinneen* translates 'treorughadh' as 'the act of guiding, directing, preparing, arranging; example, guidance'. DIL cites 'treorugudh 7 eolus uaitsiu damsá co rius do agallaim Anaichis' ('guidance and direction from thee to me that I may come to have speech of Anchises') from the Irish *Aeneid*, translated some time before the year 1400.

In s1 of Article 30 of the First Schedule to the Air Navigation and Transport Act, 1936, 'in so far as that contract deals with such part of the carriage as is performed under his supervision' is translated as 'sa mhéid go mbaineann an connradh san leis an gcuid sin den iompar a deintear fé n-a mhaoirseacht', with 'and to his satisfaction and under his supervision' being translated as 'chun a shástachta agus fé n-a mhaoirseacht' in s14 of the Limerick Harbour Tramways Act, 1931. 'Under the supervision of the Bank' is translated as 'faoi mhaoirseacht an Bhainc' in s38 of the Central Bank Act, 1989. 'To carry out under the supervision of a veterinary examiner such examination of carcasses' is translated as 'cibé scrúdú, faoi mhaoirseacht scrúdaitheora tréidliachta a dhéanamh ar chonablaigh' in s7(4) of the Agricultural Produce (Meat) (Miscellaneous Provisions) Act, 1978. In s6(c) of Article XVI of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, 'The Advisory Body shall be responsible, under the supervision of the Governing Committee, for preparing the work of the Governing Committee' is translated as 'Beidh an Bord Comhairleach freagrach, faoi mhaoirsiú an Choiste Rialaithe, in obair an Choiste Rialaithe a ullmhú'. Note that 'winding up under supervision' is translated as 'foirceannadh faoi stiúradh' in *Téarmaí Dlí*.

Looking at early Acts, 'All bottles ... shall forthwith be destroyed in the prescribed manner by or under the supervision of a special inspector' is translated as 'Na buidéal uile ... ditheofar láithreach sa tslí ordúithe iad ag cigire speisialta nó fé n-a mhaoirseacht' in s7(4) of the Weights and Measures Act, 1928. 'Maoirsiú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'supervision' in *Iris Oifigiúil*, 1925, p. 103, 'stiúru' being cited from translations for the Department of Local Government and Public Health. 'Any person who is subject to the supervision of the police' is translated as 'éinne atá fé fhaire na póilíneachta' in s8(1)(f) of the Firearms Act, 1925. Finally, 'the office of the Supervisor of Taxes' is translated as 'oifig Forfheicire na gCánach' in s9(1) of the Dublin Police Act, 1924.

Commenting on the translation below, Professor Máirtín

Ó Murchú remarks that in general usage we find 'faoina threoir' and 'faoina stiúir' rather than 'faoina threorú' and 'faoina stiúradh', although the latter is also found.

*faoi mar* This phrase is translated as 'according as' in *Ó Dónaill*, who cites '*faoi mar atáimid ag dul ar aghaidh*, at the rate at which we are progressing'. *Dinneen* translates 'féibh mar, fé mar, fá mar' as 'just or exactly as', citing '*féibh mar léightear*, as we read'. 'Immar', from which 'mar' comes, is not found in Old Irish Glosses.

*De Bhaldraithe* translates 'as occasion requires' simply as 'de réir mar is gá'. 'Each fire authority which maintains a fire brigade shall prepare (and, as occasion requires, revise) plans for fire and emergency operations' is translated as 'Ní mór do gach údarás dóiteáin a chothabhálann briogáid dóiteáin pleananna le haghaidh oibríochtaí dóiteáin agus éigeandála a ullmhú (agus, de réir mar is gá, a athmheas)' in s26(1) of the Fire Services Act, 1981. 'The Minister may, from time to time as occasion requires, ... do either or both of the following things' is translated as 'Féadfaidh an tAire, ó am go ham de réir mar is gá ... ceachtar de na nithe seo a leanas, nó iad araon, a dhéanamh' in s11(2) of the Youth Employment Agency Act, 1981. In s12(1) of the Interpretation Act, 1923, 'the power may be exercised and the duty shall be performed from time to time as occasion requires' is translated as 'féadfar an chomhacht d'fheidhmiú agus déanfar an dualgas o am go ham fé mar is gá'.

'When any question which appears to the Minister to require the assistance of assessors is heard' is translated as 'nuair a bheidh aon cheist a fheicfear don Aire cúnámh measúnóirí a bheith ag teastáil chuici á héistéacht' in s298(12)(a) of the Social Welfare (Consolidation) Act, 1981. In s90(1) of the Defence Act, 1954, 'The Minister may, at any time when occasion appears to require, direct that ...' is translated as 'Féadfaidh an tAire, aon uair a dhealrós sé gur gá é, a threorú go'. In s4(3) of the Land Bond Act, 1925, 'the Judicial Commissioner may, in any particular case in which justice appears to him so to require, make such order' is translated as 'féadfidh an Coimisinéir Breithiúnais, in aon chás áirithe ina bhfeicfar do gur gá é do réir cirt, pé ordú is dó leis is ceart ... do dhéanamh'.

Professor Máirtín Ó Murchú recommends 'de réir mar is gá leis' rather than the variant given in the translation below.

*mar a chítear dó* 'Chí' is given as 'a variant present' of the verb 'feic' ('see') in *Ó Dónaill*, who under the headword 'feic' translates 'chonacthas dom (go)' as 'it appeared to me (that)', citing '*ní fheictear dom go bhfuil an fhírinn aige*, he doesn't seem to me to be stating the truth'. 'Do-chítear dam' is translated as 'it seems to me, I observe, notice, understand, infer' in *Dinneen*. DIL cites 'atchessa fiad lucht na netarnade comtis aige alta' ('they seemed to those lying in ambush to be wild deer'), from an old Irish hymn which is said to have rendered St Patrick and his monks invisible as such, as an example of the passive of 'ad-cí' ('sees') in the sense of 'appears, seems (do, to)', also citing 'do-connarcas damh trácht ar éiclipsigh na gréine' ('it seemed good to me to treat of eclipses of the sun') from the Irish *Corpus Astronomiae*.

*a ullmhú* Verbal noun of 'ullmhaigh', translated as 'make ready, prepare' in *Ó Dónaill*, citing '*ráiteas a ullmhú*, to

prepare a statement' and '*dráma a ullmhú don stáitse*, to get up a play for the stage'. 'Ullmhuighim' is translated as 'I prepare, get ready' in *Dinneen*, who cites '*ullmhuighim bia*, I dress, cook, food'. DIL cites 'co n-ullmaigend ... inad do dhiabul' ('is preparing a place for a devil') from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century; the verb 'ellmaigid' is based on 'ellam', translated principally as 'quick, prompt, speedy; soon, readily' in DIL, citing 'combad ellam no comallaitis aní asrochoilset' ('that they should speedily perform') from the ninth-century Milan Glosses on the Psalms.

'An accountable person shall ... prepare and deliver to the Commissioners ... a return of ... the names and addresses of all persons resident in the State' is translated as 'déanfaidh duine cuntasach ... tuairisceán ar na nithe seo a leanas a ullmhú agus a sheachadadh ar na Coimisinéirí ... ainm agus seoladh gach duine a chónaíonn sa Stát' in s109(7) of the Finance Act, 1990. In Article 54 of the 1922 Constitution, 'The Executive Council shall prepare Estimates of the receipts and expenditure of the Irish Free State' is translated as 'Ullmhóidh an Ard-Chomhairle Meastacháin d'fháltas agus de chaiteachas Shaorstáit Éireann'. Note that 'to prepare a translation' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'aistriú do dhéanamh' on p. 2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922.

*ina mbeidh* Literally 'in which there will be', this phrase generally expressing 'contain(ing)' in the Constitution – see the commentary on Article 18.7.1°. *De Bhaldráithe* translates the present sense of 'I embody' as 'cuirim isteach (alt i ndlí)', citing 'an article that embodies the following regulation, *alt a bhfuil an rial seo leanas ann*'. 'Shall ... be taken as references to ... a copy embodying a translation in English or Irish of the parts in a foreign language' is translated as 'measfar ... gur tagairtí iad ... do chóip ina bhfuil tiontú Béarla nó Gaeilge ar na Codanna atá i dteanga iasachta' in s47(1) of the Companies Act, 1963. In s94(4)(b)II of the Finance Act, 1982, 'instruments embodying alterations of the terms or conditions of any policy of insurance' is translated as 'ionstraimí ina ndéantar athruithe ar théarmaí nó coinníollacha aon pholasaí árachais'. In s45(3)(b) of the Medical Practitioners Act, 1978, 'on completion of the inquiry, the Council shall embody its findings in a report to the Council' is translated as 'nuair a bheidh an fiosrúchán críochnaithe, déanfaidh an Coiste a chinntí a chur i dtuarascáil chuig an gComhairle'.

In s4 of the Third Schedule to the Creamery Act, 1928, 'The Society doth hereby agree that it shall forthwith have a General Resolution passed by its members embodying and ratifying the terms of this Agreement' is translated as 'Co-aontuionn an Cumann leis seo go ndéanfidh a bhaill Rún Generálta do rith láithreach ina mbeidh agus le n-a ndaingneofar téarmaí an Chó-aontuithe seo'. Finally, 'embody' in the phrase 'to embody conditions in a licence' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cur isteach' in *Iris Oifigiúil*, 1926, p. 1068.

*dleathach* See the commentary on Articles 14.3, 15.6.2° and 17.2.

*Sacs-Bhéarla* See the commentary on Article 4.

*tráth* See the commentary on Article 16.2.3°.

### Standardised gender-proofed Irish text

Is dleathach don Taoiseach a thabhairt, ó am go ham faoi mar a fheicfead dó nó di gá a bheith leis, go ndéanfar téacs (sa Ghaeilge agus sa Sacs-Bhéarla) den Bhunreacht seo, mar a bheidh i bhfeidhm an tráth sin agus ina mbeidh na leasuithe uile a bheidh déanta air go dtí sin, a ullmhú faoina threorú nó faoina treorú.

### Direct translation

Is dleathach don Taoiseach, ó am go ham de réir mar is gá dar leis,<sup>1</sup> a chur faoi deara téacs den Bhunreacht seo (sa dá theanga oifigiúla), mar a bheidh i bhfeidhm san am agus ina mbeidh gach leasú a bheidh déanta air go dtí sin, a ullmhú faoina stiúradh<sup>2</sup>.

### Variants

- <sup>1</sup> 'de réir mar is gá dar leis san am,'
- <sup>2</sup> 'faoina mhaoirseacht/mhaoirsiú nó faoina maoirseacht/maoirsiú'

## ARTICLE 25.5.2° AIRTEAGAL 25.5.2°

### TÉACS GAELIGE

Gach téacs a ullmhófar amhlaidh ní foláir don Uachtarán a lámh a chur le cóip de ar bheith fíoraithe di le sínithe an Taoisigh agus an Phríomh-Bhreithimh, agus ní foláir an chóip sin a chur isteach ina hiris in oifig Iriseoir na Cúirte Uachtaraí.

### LITERAL ENGLISH TRANSLATION

Every text which will be so prepared the President must put his hand to a copy of it on its being verified by the signatures of the Taoiseach and the Chief Justice, and that copy must be put into its journal in the office of the Recorder of the Supreme Court.

### ENGLISH TEXT

A copy of every text so prepared, when authenticated by the signatures of the Taoiseach and the Chief Justice, shall be signed by the President and shall be enrolled for record in the office of the Registrar of the Supreme Court.

### Divergences between the official texts

- <sup>1</sup> 'Authenticate' is rendered by the Irish legal term for 'verify', 'fíoraigh', 'I authenticate' being translated in *Téarmaí Dlí* as 'fíordheimhním'.
- <sup>2</sup> 'Enrol for record' is again rendered by the phrase rendering both 'enrol for record' and 'enrol' in Article 25.4.5°, and 'Registrar' is also rendered by the same term as found in that subsection, this term having the current sense of 'journalist'.
- <sup>3</sup> 'A copy of every text ... shall be signed by the President ... and shall be enrolled' is rendered as 'Gach téacs ... ní foláir don Uachtarán a lámh a chur le cóip de ...

agus ní foláir an chóip sin a chur isteach ina hiris' (Every text ... the President must sign a copy of it ..., and that copy must be enrolled') in the Irish text, this text alone having a comma before that final clause.

- 4 'Sign' is again rendered by the phrase 'a lámh a chur le' ('put his hand to'), 'signature' being rendered by the more specific term 'siniú'.
- 5 'Shall' is twice rendered as 'ní foláir' ('must') in the Irish text.

Note that Article 25.5 was added to the text by the Second Amendment of the Constitution Act, 1941.

### Commentary

*fioraithe* Past participle of 'fioraigh', translated as 'verify' in *Ó Dónaill*, who cites '*ráiteas a fhíorú*, to confirm, bear out, a statement'. 'Fioraim' is translated as 'I verify' in *Téarmaí Dlí* and as 'I make true, verify, fulfil' in *Dinneen*, who cites '*fíoradh [an] tarngaire*, the prophecy was realised' and '*súil nár fíoradh*, a hope that was not realised'. DIL cites '*fégaid ocus fíraid*' (translated by Edward Gwynn as 'look ye and speak truth!' in *The Metrical Dindsenchas*), from the twelfth-century *Book of Leinster*, as an example of the sense 'confirms, proves' of 'fíraid', literally 'makes true' (based on 'fir', 'true'), principally translated as 'realizes, fulfils', DIL citing 'adgellat nad firat' ('they make promises they do not keep') from the early Irish 'wisdom-text', *Tecosca Cormaic*.

'Fioraigh' expresses 'verify' in Article 27.2. 'I authenticate' is translated as 'fíordheimhnm' in *Téarmaí Dlí*. 'Every legal tender note shall be ... numbered and authenticated in such manner as stood prescribed before the commencement of this section' is translated as 'Maidir le gach nóta dlíthairgthe, beidh sé ... uimhrithe agus fíordheimhniithe i cibé caoi, a bhí forordaithe roimh thosach feidhme an ailt seo' in s118(2) of the Central Bank Act, 1989. 'And such seal shall be authenticated by the signatures of two members of the Board' is translated as 'agus fíordheimhneofar an séala sin le sínithe bheirt chomhaltaí den Bhord' in s11(1) of the Scholarship Exchange (Ireland and the United States of America) Act, 1957.

In s6(4) of the Fourth Schedule to the Electoral Act, 1923, 'if the numbers agree and the declaration of identity is found to be duly signed and authenticated' is translated as 'Más mar a chéile an dá uimhir agus go bhfaighfear an fhaisnéis chéannacht bheith sighthithe agus dilse-dhearbhuithe mar is cuibhe'. 'Authenticate' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'd'fhíorú' in *Iris an Phuist*, 18/4/28. 'Sealed with the seal of the Trustees authenticated in accordance with this section' is translated as 'séaluith le séala na nÍontaobhaithe agus an séala san deimhniithe do réir an ailt seo' in s2(3) of the Slaughtered Animals (Compensation) Act, 1928. 'Presumption of authenticity of documents' is translated as 'Déanfar talamh slán de go bhfuil scríbhinní áirithe údarásach' in the Margin Title of s12 of the Statistics Act, 1926, 'the Minister shall cause an authentic Register of subscribers to the Internal Loan to be prepared' being translated as 'cuirfidh an tAire fé ndéar Clár údarásach shíntiúsairí don Iasacht Inmheánach d'ullamhú' in s4(1) of the Dáil Éireann Loans and Funds Act, 1924.

*a chur isteach ina hiris* See the commentary on Article 25.4.5° regarding the notice of latest enrolment.

### Direct translation

Déanfar cóip de gach téacs a ullmhófar amhlaidh, nuair a bheidh sí fíordheimhniithe<sup>1</sup> le sínithe an Taoisigh agus an Phríomh-Bhreithimh, a shíniú ag an Uachtarán agus a rollú don taifead in oifig Chláraitheoir na Cúirte Uachtaraí.

### Variants

- 1 'ar bheith fíordheimhniithe di'

## ARTICLE 25.5.3° AIRTEAGAL 25.5.3°

### TÉACS GAEILGE

An chóip a bheidh sínithe agus curtha isteach ina hiris amhlaidh agus arb í an téacs is deireanaí, arna ullmhú amhlaidh, in alt na huairé í, beidh sí, ar bheith curtha isteach ina hiris di amhlaidh, ina fianaise dhochloíte ar an mBunreacht seo mar a bheidh ar dháta an chóip sin a chur isteach ina hiris amhlaidh agus, chuige sin, gabhfaidh sí ionad na dtéacsanna uile den Bhunreacht seo a mbeidh cóipeanna díobh curtha isteach ina n-iris amhlaidh roimhe sin.

### LITERAL ENGLISH TRANSLATION

The copy which will be so signed and put into its journal and which is the latest text, having been so prepared, at the particular time, it will be, on being so put into its journal, irrefutable evidence of this Constitution as it will be on the date of that copy's being so put into its journal and, to that end, it will take the place of all the texts of this Constitution copies of which will have been so put into their journal before that.

### ENGLISH TEXT

The copy so signed and enrolled which is for the time being the latest text so prepared shall, upon such enrolment, be conclusive evidence of this Constitution as at the date of such enrolment and shall for that purpose supersede all texts of this Constitution of which copies were previously so enrolled.

### Divergences between the official texts

- 1 'Shall supersede' is rendered as 'gabhfaidh sí ionad' ('will take the place of') in the Irish text.
- 2 'Enrol' is rendered by the same phrase as expresses 'enrol for record' in the previous subsection.
- 3 'As at the date of such enrolment' is rendered as 'mar a bheidh ar dháta an chóip sin a chur isteach ina hiris amhlaidh' ('as it will be on the date of so enrolling that copy') in the Irish text.
- 4 'Upon such enrolment' is rendered as 'ar bheith curtha isteach ina hiris di amhlaidh' ('upon being so enrolled') in the Irish text.
- 5 'Which is ... the latest text so prepared' is rendered as 'agus arb í an téacs is deireanaí, arna ullmhú amhlaidh,' ('and which is the latest text, so prepared,') in the Irish text.
- 6 'Amhlaidh' ('So'), in 'a bheidh sínithe agus curtha isteach ina hiris amhlaidh' (rendering 'so signed and

- enrolled') in the opening clause, need only refer to 'curtha isteach ina hiris' ('enrolled') in the Irish text.
- 7 'For the time being' is rendered as 'in alt na huaire' ('at the particular time') in the Irish text.
  - 8 'For that purpose' is rendered as 'chuige sin' ('to that end') in the Irish text, preceded by and followed by a comma in that text alone.

Note that Article 25.5 was added to the text by the Second Amendment of the Constitution Act, 1941.

### Commentary

*is deireanaí* The superlative of the adjective 'deireanach', translated principally as 'last' in *Ó Dónaill*, citing '*an ceann deireanach*, the last one', with 'latter, recent' being given as a secondary sense, citing '*an scéala is deireanaí*, the latest news'. 'Deireanach' is translated as 'last, hindmost; final; late, latter; latest' in *Dinneen*. 'Deireanach, deirennach' is translated as 'last' in DIL, only citing two examples, the first being from the *Book of Lecan* (compiled c. 1400); this headword is '= deiredach', according to DIL, being influenced by 'déidenach'. 'Deiredach' is translated as 'coming to an end, latest, last' in DIL, citing 'rí is deiredacha díb' ('the last of those kings') from the *Irish Grammatical Tracts*. 'Deired', on which 'deiredach' is based, is translated as (a) 'remainder, residue' and (b) 'end, rear, conclusion' in DIL, citing 'is dered mbetho inso' ('this is the end of the world') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'A copy purporting to be a copy printed and published by or for the Board under this section of the dental register which is for the time being the latest dental register so printed and published shall be evidence in any court' is translated as 'Beidh cóip a thugann le tuisgint gur cóip í do clóbhuailleadh agus do foillsíodh ag an mBord no don Bhord fén alt so den chlár d'fhiaclóirí a bheidh de thurus na huaire ar an gclár d'fhiaclóirí is déanaí do clóbhuailleadh agus do foillsíodh amhlaidh, beidh an chóip sin ina fianaise in aon chúirt' in s35(5) of the Dentists Act, 1928.

*gabhfaidh sí ionad* 'Ionad' is translated basically as 'place' in *Ó Dónaill*, 'substitution, succession' being given as one of the senses, citing '*ionad duine, ruda, a dhéanamh*, to take the place of someone, something' and '*rud a chur in ionad ruda eile*, to substitute one thing for another'. *Ó Dónaill* cites '*áit duine a ghabháil*, to take someone's place' s.v. 'gabh', translated principally as 'take'. 'Ionad' with the genitive is translated as 'instead of, in the place for, in compensation for' in *Dinneen*. DIL cites 'do-ní éanmhac ionad cloinne' ('... takes the place of ...') from a miscellaneous collection of Classical Irish poetry s.v. 'inad', principally translated as 'place, spot; appointed place, position'.

'And those forms supersede in the case of a public limited company the forms of memorandum set out respectively in Tables B and D' is translated as 'agus, i gcás cuideachta poiblí teoranta, is iad na foirmeacha sin a úsáidfear in ionad na bhfoirmeacha meabhráin atá leagtha amach faoi seach i dTáblaí B agus D' in s4(3) of the Companies (Amendment) Act, 1983. In the Preamble to the Royal College of Physicians of Ireland (Charter and Letters Patent Amendment) Act, 1979, 'And whereas many of the said ... provisions have long since fallen into disuse

or been superseded' is translated as 'Agus de bhri go bhfuil a lán de na forálacha sin imithe as úsáid nó curtha as ionad le fada'. In s17(2) of the Air Navigation and Transport Act, 1936, 'and any such order shall, except in so far as it has been superseded by a subsequent order under this sub-section, be conclusive evidence of the matters so certified' is translated as 'agus, sa mhéid ná beidh sé curtha i leataoibh le hordú ina dhiaidh sin fén bhfo-alt so, beidh aon ordú den tsórt san ina fhianaise dho-chlaoite ar na nithe deimhneofar amhlaidh'. In s4(5) of the Broadcasting Act, 1990, 'A code drawn up under subsection (1) ... shall supersede any existing code under Section 18' is translated as 'Cód a tharraingeofar suas faoi fho-alt (1) ... glacfaidh sé ionad aon chóid láithrigh faoi alt 18'.

Looking at early Acts, in s52(ii) of the Courts of Justice Act, 1924, 'where matters of such kind have been heretofore heard by the courts superseded by the Circuit Court' is translated as 'ina ndintí roimhe seo nithe den tsórt san d'éisteacht sna cúirteanna go mbeidh an Chúirt Chuarda ina n-ionad'. 'Sections 59 to 65 ... shall cease to have effect and shall for the purposes of Section 59 of the Pilotage Act, 1913, be deemed to be superseded' is translated as 'Ní bheidh éifeacht feasta ag ailt 59 go 65 ... agus chun crícheanna alt 59 den *Pilotage Act*, 1913, tuigfar iad do bheith curtha i leataoibh' in s9 of the Schedule to the Pilotage Orders Confirmation Act, 1924. Finally, in s3(3) of the Police Forces Amalgamation (Amendment) Act, 1926, 'and in case of any of the first-mentioned regulations being so superseded, in part only such regulation shall, until wholly so superseded, continue in force subject to such supersession' is translated as 'agus más go leathrannach amháin a malairteofar amhlaidh aon cheann de sna rialacháin a céad-luaidhtear leanfidh an rialachán san i bhfeidhm fé réir an mhalairtithe leathrannaigh sin go dtí go malairteofar mar sin go hiomlán é'.

*De Bhaldraithe* translates 'supersede' as (a) 'cuirim (rud, duine eile) in ionad (ruda, duine)' and (b) 'téim in áit (duine); gabhaim ionad (duine)'.

*ar dháta an chóip sin* Note how 'lá' usually expresses 'date' in this context in the Constitution – see the commentary on Article 12.3.1° – remembering Article 25.5 was added to the text of the Constitution by the Second Amendment of the Constitution Act, 1941.

*mar a bheidh* 'As' in this context is often translated simply as 'amhail' in the Acts. Professor Máirtín Ó Murchú, commenting on the direct translation below, remarks that 'amhail' would not be understood in this context and recommends 'a bheith amhlaidh' or 'a bheith sa riocht sin'.

*curtha isteach ina hiris* See the commentary on Article 25.4.5°.

*in alt na huaire* See the commentary on Articles 10.1 and 12.4.2°.

*ina fianaise dhochloíte* See the commentary on Article 25.4.5°.

*chuige sin* See the commentary on Articles 17.1.2°, 23.1.1° and 23.2.2°.

**Direct translation**

An chóip a shíneofar agus a rollófar amhlaidh, arb í an téacs is deireanaí<sup>1</sup> a ullmhófar amhlaidh í, beidh sí, ar í a rollú mar sin, ina fianaise dhochloíte ar<sup>2</sup> an mBunreacht seo<sup>3</sup> amhail<sup>4</sup> ar dháta an rollaithe sin<sup>5</sup> agus chun na críche sin glacfaidh<sup>6</sup> sí ionad na dtéacsanna uile den Bhunreacht seo a ndearnadh cóipeanna díobh a rollú<sup>7</sup> amhlaidh roimhe sin.

**Variants**

- 1 'déanaí'
- 2 'maidir leis'
- 3 'i leith an Bhunreachta seo'
- 4 'a bheith amhlaidh', 'a bheith sa riocht sin'
- 5 'Fianaise dhochloíte maidir leis an mBunreacht seo amhail ar dháta an rollaithe sin a bheith sa chóip a dhéanfar a shiniú agus a rollú amhlaidh, arb é, de thuras na huaire, an téacs is deireanaí arna ullmhú amhlaidh í, ar an rollú sin'
- 6 'gabhfaidh'
- 7 'ar rollaíodh cóipeanna díobh'

ARTICLE 25.5.4<sup>o</sup> AIRTEAGAL 25.5.4<sup>o</sup>**TÉACS GAELIGE**

I gcás gan na téacsanna d'aon chóip áirithe den Bhunreacht seo a bheith curtha isteach ina hiris faoin alt seo a bheith de réir a chéile, is ag an téacs Gaeilge a bheith an forlámhas.

**LITERAL ENGLISH TRANSLATION**

In the event that the texts of any particular copy of this Constitution which will be put into its journal under this section are not in accord with one another, it is the Irish text which will have dominance/supremacy.

**ENGLISH TEXT**

In case of conflict between the texts of any copy of this Constitution enrolled under this section, the text in the national language shall prevail.

**Divergences between the official texts**

- 1 As in the case of the corresponding §4.6<sup>o</sup> of this Article, regarding the texts of a law, 'conflict' is rendered in the Irish text as 'gan ... a bheith de réir a chéile' ('not being in accord with one another'), and 'the text in the national language shall prevail' is expressed as 'is ag an téacs Gaeilge a bheith an forlámhas' ('it is the Irish text which will have dominance/supremacy').
- 2 'In case of conflict between the texts of a law enrolled under this section in both the official languages' is expressed as 'I gcás téacs Gaeilge agus téacs Sacs-Bhéarla de dhlí a chur isteach ina n-iris faoin alt seo agus gan an dá théacs sin a bheith de réir a chéile' in Article 25.4.6<sup>o</sup> as against 'I gcás gan na téacsanna d'aon chóip áirithe den Bhunreacht seo a bheith curtha isteach ina hiris faoin alt seo a bheith de réir a chéile' above, rendering the same English text, with 'any copy of this Constitution' replacing 'a law' of the earlier section and with the addition of 'in both the official languages' in the earlier section.
- 3 'Any copy' is rendered as 'aon chóip áirithe' ('any particular copy') in the Irish text.

- 4 'Enrol' is expressed in the Irish text by the same phrase which expresses both 'enrol for record' and 'enrol' in Article 25.4.5<sup>o</sup>.

Note that Article 25.5 was added to the text by the Second Amendment of the Constitution Act, 1941.

**Commentary**

*curtha isteach ina hiris* The 'h' before 'iris' indicates that this phrase is taken as referring to 'cóip' ('copy') rather than 'téacs' ('text') – see the commentary on Article 25.4.5<sup>o</sup> regarding this phrase, 'rollaigh' translating 'enrol' in *Tearmaí Dlí*.

*an forlámhas* See the commentary on Article 25.4.6<sup>o</sup>. Professor Máirtín Ó Murchú, commenting on 'tús áite' in a draft of the direct translation below, remarks that this has not the force of 'an forlámhas' and need not ensure that that text would be yielded to ("níor ghá go ndeimhneodh sé gur dó a ghéillfí").

*téacsanna* See the commentary on Article 25.4.3<sup>o</sup>.

*áirithe* See the commentary on Article 23.1.1<sup>o</sup>.

*de réir a chéile* See the commentary on Article 25.4.6<sup>o</sup>.

**Direct translation**

I gcás easaontachta idir na téacsanna d'aon chóip den Bhunreacht seo arna rollú faoin alt seo, beidh an forlámhas<sup>1</sup> ag an téacs sa teanga náisiúnta.

**Variants**

- 1 'tús áite'

## ARTICLE 26 AIRTEAGAL 26

**TÉACS GAELIGE***Billí a chur faoi bhreith na Cúirte Uachtaraí*

Baineann an tAirteagal seo le gach Bille a ritear nó a mheastar a ritheadh ag dhá Theach an Oireachtais, ach amháin Bille Airgid, nó Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht a leasú, nó Bille a ndearnadh an tréimhse chun a bhreithnithe ag Seanad Éireann a ghiorrú faoi Airteagal 24 den Bhunreacht seo.

**LITERAL ENGLISH TRANSLATION***Submitting Bills to the Supreme Court for determination*

This Article applies to every Bill which is passed or is deemed to have been passed by the two Houses of the Oireachtas, except a Money Bill, or a Bill which is stated to be a Bill which contains a proposal to amend the Constitution, or a Bill the period for the consideration of which by Seanad Éireann was shortened under Article 24 of this Constitution.

**ENGLISH TEXT***Reference of Bills to the Supreme Court*

This Article applies to any Bill passed or deemed to have been passed by both Houses of the Oireachtas other than a Money Bill, or a Bill expressed to be a Bill containing a



proposal to amend the Constitution, or a Bill the time for the consideration of which by Seanad Éireann shall have been abridged under Article 24 of this Constitution.

### Divergences between the official texts

- 1 'Any Bill' is expressed as 'gach Bille' ('every Bill') in the Irish text.
- 2 'Reference of Bills' is expressed by the phrase 'Billí a chur faoi bhreith' ('Submitting Bills ... for determination') in the Irish text, 'I refer' being translated as 'tarchuirim' in *Tearmaí Dlí*.
- 3 'Express' is expressed by 'luaigh', the Irish legal term for 'cite', as we have seen in some earlier Articles.
- 4 'Consideration' is expressed by 'breithniú', the Irish legal term for 'adjudication', as we have also seen in some earlier Articles.
- 5 'Time' is expressed by 'tréimhse', 'period', in the Irish text, as we have seen in some earlier Articles.
- 6 'Shall have been abridged' is again expressed as 'a ndearnadh ... a ghiorrú' ('was shortened') in the Irish text.
- 7 'Other than' is expressed as 'ach amháin', usually translated as 'except', in the Irish text; note that we find 'seachas' in the parallel Article 27.
- 8 'Applies to' is expressed as 'baineann le' ('relates to' / 'concerns') in the Irish text, this phrase also having the sense of 'applies to', particularly in the early Acts.

### Commentary

*a chur faoi bhreith* 'A chur faoi bhreith an phobail le Reifreann' expresses 'submitted by Referendum to the decision of the people' in Article 46.2. *Ó Dónaill* translates 'cás a chur faoi bhreith duine' as 'to submit a case to someone for determination'. DIL cites 'an maor do bhí ar gach mbaile / tug Brian fa bhreith a dtoile' ('... placed beneath the authority of its folk') and 'ní nár dhuit dol fár mbreith-ne' ('... to yield to our judgment') from the seventeenth-century 'Contention of the Bards'. See further the commentary on Article 40.4.3°.

'Reference of private member's Bill to Select or Special Committee' is translated as 'Bille comhalta phríobháidigh a chur chun Roghchoiste nó Coiste Speisialta' in the Margin Title of s104 of the *Standing Orders* of Dáil Éireann (1997), the section reading as follows:

Should a private member's Bill pass its second reading, it shall be referred to a Select or Special Committee.  
*Má ritheann Bille comhalta phríobháidigh an dara léamh, cuirfear chun Roghchoiste nó chun Coiste Speisialta é.*

The Margin Title of s132, 'Permissible amendment to motion concurring in reference to Joint Committee', is translated as 'Leasú a cheadaítear ar thairiscint chun comhthoilíú leis an mBille a chur faoi bhráid an Chomhchoiste', with '... shall ... be referred to a Standing Joint Committee' being translated as 'déanfar ... é a chur faoi bhráid Buan-Chomhchoiste' in the section itself.

In s5(s) of the Second Schedule to the Building Societies Act, 1989, 'whether disputes between the society and any of its members ... shall be settled by reference to the Circuit Court, arbitration or the Central Bank' is translated as 'cibé acu a dhéanfar díospóidí idir an cumann agus

aon chomhalta dá chuid ... a réiteach trina dtarchur chun na Cúirte Cuarda, chun éadrána nó chun an Bhainc Ceannais'. In s23(b)(ii) of the First Schedule to the Bankruptcy Act, 1988, 'the claims either disallowed by him or which he considers should not be admitted without reference to the Court' is translated as 'na héilimh a bheidh díchálithe aige nó ar dóigh leis nach cóir iad a admháil gan iad a tharchur chun na Cúirte', with 'He shall refer disputed debts to the Court for adjudication' being translated as 'Déanfaidh sé fiacha a bheidh faoi dhíospóid a tharchur chun na Cúirte chun a mbreithnithe' in s23(c).

Looking at early Acts, 'Reference of disputes to Court' is translated as 'Díospóidí a tharchur chun na Cúirte' in the Margin Title of s10 of the Dáil Éireann Courts (Winding-Up) Act, 1923, 'Reference of issue of fact to County or District Court' being translated as 'Ceist i dtaobh firinne scéil á chur chun Cúirte Contae no Dúithche'. In s133 of the Industrial and Commercial Property (Protection) Act, 1927, 'The law officer may examine witnesses on oath ... and may make rules regulating references and appeals to the law officer' is translated as 'Féadfaidh an dlí-oifigeach finnéithe do scrúdú fé mhionn ... agus féadfa sé rialacha do dhéanamh chun ceisteanna a curfar fé bhráid an dlí-oifigh agus athchomhairc a déanfar chuige ... do rialáil'. 'Iarratas ar chlárú do chur fé bhráid na Cúirte' translates 'Reference of application for registration to the Court' in the Margin Title of s55 of the Workmen's Compensation Act, 1934.

*Baineann ... le* See the commentary on Articles 3 and 14.5.1°.

*a luaitear* See the commentary on Article 24.1.

*togra* See the commentary on Article 46.2.

*chun a bhreithnithe* See the commentary on Articles 24.1 and 24.2.

*a ghiorrú* See commentary on Article 23.1.

### Direct translation

*Billí a tharchur chun na Cúirte Uachtaraí*

Baineann an tAirteagal seo le<sup>1</sup> haon Bhille a rithfear nó a mheasfar a bheith rite ag dhá Theach an Oireachtais seachas Bille Airgid, nó Bille a shonrófar a bheith ina Bhille ina bhfuil togra chun an Bunreacht a leasú, nó Bille a mbeidh an tréimhse ama<sup>2</sup> chun é a bhreithniú<sup>3</sup> ag Seanad Éireann ciorraithe faoi Airteagal 24 den Bhunreacht seo.

### Variants

- 1 'Beidh feidhm ag an Airteagal seo maidir le'
- 2 'an t-am', 'an tréimhse'
- 3 'chun a bhreithnithe'

## ARTICLE 26.1.1° AIRTEAGAL 26.1.1°

### TÉACS GAELGE

Is cead don Uachtarán, tar éis comhairle a ghlacadh leis an gComhairle Stáit, aon Bhille lena mbaineann an tAirteagal seo a chur faoi bhreith na Cúirte Uachtaraí

féachaint an bhfuil an Bille sin nó aon fhoráil nó aon fhorálacha áirithe de in aghaidh an Bhunreachta seo nó in aghaidh aon fhorála de.

#### LITERAL ENGLISH TRANSLATION

The President is permitted, after taking counsel with the Council of State, to submit any Bill to which this Article relates to the Supreme Court for determination whether that Bill or any (particular) provisions or provision of it are contrary to this Constitution or contrary to any provision of it.

#### ENGLISH TEXT

The President may, after consultation with the Council of State, refer any Bill to which this Article applies to the Supreme Court for a decision on the question as to whether such Bill or any specified provision or provisions of such Bill is or are repugnant to this Constitution or to any provision thereof.

#### Divergences between the official texts

- 1 'Refer any Bill ... to the Supreme Court for a decision as to whether' is expressed in the Irish text as 'aon Bhille ... a chur faoi bhreith na Cúirte Uachtaraí féachaint an bhfuil' ('submit any Bill ... to the Supreme Court for determination to see whether'), 'decision' being translated as 'breith' in *Téarmaí Dlí*.
- 2 'Specified' is expressed in the Irish text as 'áirithe', usually translated as 'particular'; 'I specify' is translated as 'sonraim' in *Téarmaí Dlí*.
- 3 'Repugnant to' is expressed as 'in aghaidh' ('contrary to', 'against') in the Irish text; this phrase is translated as 'aimhréireach le' in *Téarmaí Dlí*.
- 4 'May' is expressed as 'Is cead do' ('is permitted') in the Irish text, as we have seen in some earlier Articles.
- 5 'Applies' is expressed by 'bain le' ('concerns'/relates to) in the Irish text, this Irish phrase also having the sense of 'applies', particularly in the earlier Acts.

#### Commentary

*in aghaidh* This prepositional phrase is translated principally as 'against' in *Ó Dónaill*, citing '*tá sin in aghaidh an dlí*, that is against, an infringement of, the law'. *Dinneen* translates 'i n-aghaidh' as 'against, before'. DIL cites 'i n-agthib na srotha sain' ('against the current') from the version of the *Táin* contained in the twelfth-century *Book of Leinster*, 'agad, aigid' being principally translated as 'face' in DIL, this word not being found in Old Irish Glosses or in the early Irish law-tracts – see the commentary on Article 16.2.2°.

*aon fhoráil nó aon fhorálacha* Note that this is written as 'aon fhoráileamh nó aon fhoráilt' in the original text. See the commentary on Articles 8.3, 14.4 and 18.4.2° regarding 'foráil'.

*faoi bhreith* See the commentary on Article 26. Professor Máirtín Ó Murchú, commenting on the translation below, sees no advantage in 'a tharchur chun na Cúirte Uachtaraí le haghaidh breithe' over 'a chur faoi bhreith na Cúirte

Uachtaraí' of the original text and recommends merely the addition of 'faoin gceist'.

*Is cead do(n)* See the commentary on Articles 9.1.3°, 12.4.3° and 12.6.1°.

*comhairle a ghlacadh* See the commentary on Article 13.2.3°.

*lena mbaineann* See the commentary on Articles 3 and 14.5.1°.

*de* See the commentary on Articles 8.3 and 18.3 regarding 'thereof'.

#### Direct translation

Féadfaidh an tUachtarán, tar éis dul i gcomhairle<sup>1</sup> leis an gComhairle Stáit, aon Bhille lena mbaineann an tAirteagal seo a tharchur chun na Cúirte Uachtaraí le haghaidh breithe ar an gceist<sup>2</sup> an bhfuil an Bille sin nó aon fhoráil shonraithe nó aon fhorálacha sonraithe de<sup>3</sup> aimhréireach leis an mBunreacht seo nó le haon fhoráil de<sup>4</sup>.

#### Variants

- 1 'i ndáil chomhairle', 'i gcomhchomhairle'
- 2 'a chur faoi bhreith na Cúirte Uachtaraí faoin gceist'
- 3 'den Bhille sin', 'den chéanna'
- 4 'den chéanna', 'den Bhunreacht seo'

#### ARTICLE 26.1.2° AIRTEAGAL 26.1.2°

#### TÉACS GAEILGE

I ngach cás den sórt sin ní foláir an Bille a chur faoi bhreith na Cúirte lá nach déanaí ná an seachtú lá tar éis an dáta a thairgeann an Taoiseach an Bille don Uachtarán chun a lámh a chur leis.

#### LITERAL ENGLISH TRANSLATION

In every case of that kind the Bill must be submitted to the Court for determination (on) a day which is not later than the seventh day after the date on which the Taoiseach offers the Bill to the President to put his hand to it.

#### ENGLISH TEXT

Every such reference shall be made not later than the seventh day after the date on which such Bill shall have been presented by the Taoiseach to the President for his signature.

#### Divergences between the official texts

- 1 'Every such reference shall be made' is expressed as 'I ngach cás den sórt sin ní foláir an Bille a chur faoi bhreith na Cúirte' ('In every such case the Bill shall be referred to the Court') in the Irish text, 'refer' again being expressed as 'cuir faoi bhreith' ('submit for determination') and 'shall' as 'ní foláir' ('must'), as we have seen on many previous occasions.
- 2 'For his signature' is expressed as 'chun a lámh a chur leis' ('to put his hand to it / to sign it') in the Irish text.

- 3 'Not later than' is again expressed as 'lá nach déanaí ná' ('on a day not later than') in the Irish text.
- 4 'Such Bill' is expressed as 'an Bille' ('the Bill') in the Irish text.
- 5 'Present' is again expressed as 'tairg', 'offer', in the Irish text.

Note that the words 'cheithre'/'four days' and 'passed or deemed to have been passed by both Houses of the Oireachtas' / 'a rithtar an Bille nó a meastar a ritheadh é ag dhá Thigh an Oireachtais' were deleted by the Second Amendment of the Constitution Act, 1941, and the words 'an seachtmhadh'/'the seventh day' and 'presented by the Taoiseach to the President for his signature' / 'a thairgeann an Taoiseach an Bille don Uachtarán chun a lámh a chur leis' were inserted in their place.

### Commentary

*a thairgeann* See the commentary on Articles 12.10.3° and 25.1. Note, regarding 'tíolaic' (which verb generally translates 'present' in the modern Acts), that *Ó Dónaill* translates that verb as 1 'bestow' – citing '*dá mba ór an duille donn thíolaic Fionn é*, if the autumn leaves were gold Fionn would bestow them', and 2 'dedicate' – citing '*thíolaic sí a beatha do Dhia*, she dedicated her life to God', with '*maoin a thíolaicadh (do dhuine)*, to convey property (to someone)' being cited as an illustration of the third and final sense in *Ó Dónaill*, following the abbreviation for 'Jurisprudence'.

Following the present wording, 'the Taoiseach is, owing to enemy action, unable to present such Bill to the President for his signature' is translated as 'an Taoiseach do bheith ... éagcumasach, de dheascaibh gníomhuithe námhad, ar an mBille sin do thairsint don Uachtarán chun a lámh a chur leis' in s3(1) of the Taxes and Duties (Special Circumstances) Act, 1942. In s16(2) of the Cork City Management Act, 1929, 'The Lord Mayor may at any time direct by writing under his hand that every order made under the foregoing sub-section ... shall be submitted to him for his signature' is translated as 'Féadfidh an Tiarna Méara, aon uair, a ordú le scríbhinn fé n-a lámh go leagfí fé n-a bhráid chun a shighnithe gach ordú a déanfar fén bhfo-alt san roimhe seo'. In s22(2) of the Waterford City Management Act, 1939, 'The Council may at any time by resolution direct that every order ... be submitted to the Mayor ... for his signature' is translated as 'Féadfaidh an Chomhairle tráth ar bith, le rún, a dhírú maidir le gach ordú ... iad do chur fé bhráid an Mhéara ... chun go sighneoidh an Méara ... iad'.

*a chur faoi bhreith* See the commentary on Article 26. We see here the advantage of the use of the Irish legal term 'tarchuir' over the phrase 'cuir faoi bhreith'. The translation below would have to commence with a phrase such as 'Loirgeofar/larrfar breith na Cúirte Uachtaraí', as Professor Máirtín Ó Murchú states, rather than simply 'Déanfar gach tarchur den sórt sin', were 'cuir faoi bhreith' being retained as expressing 'submit'.

*den sórt sin* See the commentary on Article 13.7.2°.

*a lámh a chur le(is)* See the commentary on Article 13.3.1°.

### Direct translation

Déanfar gach tarchur den sórt sin tráth nach déanaí ná an seachtú lá tar éis an dáta ar a dtíolaicfaidh an Taoiseach an Bille sin don Uachtarán le síniú<sup>1</sup>.

### Variants

- 1 'dá shiniú nó dá síniú', 'lena shiniú nó lena síniú a chur air'

## ARTICLE 26.1.3° AIRTEAGAL 26.1.3°

### TÉACS GAELIGE

Bille ar bith a chuirtear faoi bhreith na Cúirte Uachtaraí faoin Airteagal seo, ní cead don Uachtarán a lámh a chur leis go dtí go dtugann an Chúirt a breith.

### LITERAL ENGLISH TRANSLATION

Any Bill which is submitted to the Supreme Court for determination under this Article, the President is not permitted to put his hand to it until the Court gives its decision.

### ENGLISH TEXT

The President shall not sign any Bill the subject of a reference to the Supreme Court under this Article pending the pronouncement of the decision of the Court.

### Divergences between the official texts

- 1 'Any Bill the subject of a reference to the Supreme Court' is expressed as 'Bille ar bith a chuirtear faoi bhreith na Cúirte Uachtaraí' ('any Bill which is referred to the Supreme Court') in the Irish text, with 'refer' again being expressed by the phrase 'cuir faoi bhreith' ('submit for determination').
- 2 'Pending the pronouncement of the decision of the Court' is expressed as 'go dtí go dtugann an Chúirt a breith' ('until the Court gives its decision') in the Irish text; 'I pronounce (judgement)' is translated as 'fógraím' in *Téarmaí Dlí*.
- 3 'Sign' is again expressed as 'a lámh a chur le' ('put his hand to') in the Irish text.
- 4 'Shall not' is expressed as 'ní cead' ('is not permitted') in the Irish text, as we have seen in some earlier Articles.

### Commentary

*go dtí go* Literally 'until'. Note that the adjective 'pending' is translated as 'ar feitheamh' in *Téarmaí Dlí*. *De Bhaldraithe* translates the preposition 'pending' as (a) 'pending the discussion, *le linn na díospóireachta*' and (b) 'pending his return, *go dtí go bhfillfidh, bhfillfeadh, sé*'.

'The rules of court relating to the winding up of companies shall, pending the making of rules of court for the purposes of this Part, apply' is translated as 'Go dtí go ndéanfar rialacha cúirte chun críocha na Coda seo beidh feidhm ... ag na rialacha cúirte a bhaineann le cuideachtaí a fhoirceannadh' in s52 of the Central Bank Act, 1989. In s17(2) of the Health (Mental Services) Act, 1981, 'Sub-

section (1) shall not prevent the admission of a person as a temporary arrangement pending his transfer to a designated centre' is translated as 'Ní choisfidh fo-alt (1) duine a ligean isteach mar shocrú sealadach fad a bheifear ag feitheamh lena aistriú go dtí lárionad ainmnithe', with 'go dtí go ndéanfar an t-achomharc' translating 'pending the appeal' in s31(5)(a). In s4 of the Land Act, 1923, 'no higher rate shall be due ... on account of any default or delay in payment of interest upon such mortgage, charge or incumbrance pending the completion of the sale' is translated as 'go dtí go gcríochnófar an díol ní bheidh aon ús is aoirdé ná san dlite ... mar gheall ar aon fhailli ná moill ar an ús d'íoc ar an morgáiste, an muirear no an ualach sin', the Margin Title of that section, 'Prohibition of penal interest on mortgages pending sale', being translated as 'Cosc ar ús pionósach ar mhorgáistí an fhaid a bheidh an díol gan críochnú'.

*a chuirtear faoi bhreith* See the commentary on Article 26. Professor Máirtín Ó Murchú, commenting on the direct translation below, remarks that were 'cuir faoi bhreith' being retained, this would read '... aon Bhille a bheidh curtha faoi bhreith na Cúirte Uachtaraí'.

*ní cead* See the commentary on Articles 9.1.3° and 12.6.1°.

*a lámh a chur le(is)* See the commentary on Article 13.3.1°.

*breith* Translated as 'decision' in *Téarmaí Dlí* – see the commentary on Article 15.11.1°.

### Direct translation

Ní dhéanfaidh an tUachtarán aon Bhille is ábhar do tharchur chun na Cúirte Uachtaraí faoin Airteagal seo a shíniú go dtí go bhfógrófar breith na Cúirte.

## ARTICLE 26.2.1° AIRTEAGAL 26.2.1°

### TÉACS GAEILGE

Ní foláir don Chúirt Uachtarach, cúirt ina mbeidh cúigear breitheamh ar a laghad, gach ceist dá gcuireann an tUachtarán faoina breith faoin Airteagal seo a bhreithniú agus, tar éis éisteacht le hargóintí ón Ard-Aighne nó thar a cheann agus ó abhcóidí a thoghfáir ag an gCúirt, ní foláir di a breith ar an gceist sin a thabhairt sa chúirt go poiblí chomh luath agus is féidir é agus, ar aon chuma, lá nach déanaí ná seasca lá tar éis an cheist a chur faoina breith.

### LITERAL ENGLISH TRANSLATION

The Supreme Court, a court in which there will be at least five judges, must consider every question which the President submits to it for determination under this Article and, after listening to arguments from the Attorney General or on his behalf and from barristers who will be chosen by the Court, it must give its decision on that question publicly in the court as soon as possible and, at any rate, (on) a day not later than sixty days after submitting the question to it for determination.

### ENGLISH TEXT

The Supreme Court consisting of not less than five judges shall consider every question referred to it by the President under this Article for a decision, and, having heard arguments by or on behalf of the Attorney General and by counsel assigned by the Court, shall pronounce its decision on such question in open court as soon as may be, and in any case not later than sixty days after the date of such reference.

### Divergences between the official texts

- 'Assigned by the Court' is expressed as 'a thoghfáir ag an gCúirt' ('chosen by the Court') in the Irish text, 'I assign' being translated as 'sannaim' in *Téarmaí Dlí*.
- 'In open court' is expressed as 'sa chúirt go poiblí' ('publicly in the court') in the Irish text, 'hearing in open court' being translated as 'éisteacht i gcúirt oscailte' in *Téarmaí Dlí*.
- 'After the date of such reference' is expressed in the Irish text as 'tar éis an cheist a chur faoina breith' ('after submitting the question to it for determination').
- 'Consisting of' is expressed as 'cúirt ina mbeidh' ('a court in which there will be') in the Irish text, preceded by a comma found in that text alone.
- 'Having heard arguments' is expressed as 'tar éis éisteacht le hargóintí' ('after listening to arguments') in the Irish text.
- 'Consider' is again expressed as 'breithniú', 'adjudge', 'breathnú' rather than 'breithniú' being the form in the enrolled edition.
- 'Refer ... for a decision' is again expressed by the phrase which usually simply expresses 'refer' in the Irish text, 'cuir faoi bhreith', this being literally translated here as 'submit for determination'.
- 'Not later than' is again expressed as 'lá nach déanaí ná', '(on) a day not later than', in the Irish text.
- 'Pronounce its decision' is again expressed as 'a breith ... a thabhairt' ('give its decision') in the Irish text, 'fógraím' translating 'I pronounce (judgement)' in *Téarmaí Dlí*.
- 'Shall' is twice expressed as 'ní foláir' ('must') in the Irish text.

### Commentary

*abhcóidí* 'Abhcóide' is translated as 'barrister; counsel' in *Téarmaí Dlí*, as 'advocate, counsel' in *Ó Dónaill* and as 'an advocate, a pleader' in *Dinneen*. O'Molloy's *Lucerna Fidelium* ('an tadhbhcoide ... an Sbiorad naomh'), 1676, is the first citation in DIL from the literature of the headword 'abcóit(e)', translated simply there as 'advocate', this being an English or Romance loanword.

'Save that such person shall not be entitled or permitted to be represented by solicitor or counsel at such trial' is translated as 'ach amháin ná beidh teideal ag an duine sin ná ná ceadófar do atúrnae ná abhcóide do bheith aige mar ionadaí sa trial sin' in s17(a) of the Public Safety Act, 1927. In s14(4) of the Courts-Martial Appeals Act, 1983, 'The Supreme Court shall assign counsel to argue in support of the decision' is translated as 'Sannfaidh an Chúirt Uachtarach abhcóide chun argóint a dhéanamh i bhfabhar na breithe'.

*a thoghfár* See the commentary on Article 12.2.1° on the verb 'togh'. Looking at early Acts as regards 'assign', in s2(5)(a) of the Damage to Property (Compensation) Act, 1923, 'the compensation awarded by such decree was assigned, mortgaged or charged before the 1st day of January, 1923' is translated as 'gur dineadh an cúiteamh a moladh leis an aithne sin do shanna no do chur fé mhorgáiste no fé mhuirear roimh an 1adh lá d'Eanáir, 1923'. 'It shall be lawful to assign two or more of the said Departments of State to a single person' is translated as 'Beidh sé dleathach dhá cheann no níos mó de sna Ranna Stáit sin do chur fé éinne amháin' in s3(2) of the Ministers and Secretaries Act, 1924.

In s9(4)(a) of the Courts (Supplemental Provisions) Act, 1961, 'The President of the High Court or such other Judge of the High Court as may be assigned by him under subsection (2) ... may ...' is translated as 'Féadfaidh Uachtarán na hArd-Chúirte nó cibé Breitheamh eile den Ard-Chúirt a bheidh sannta aige faoi fho-alt (2)'. In s11(6)(c) of the Fisheries Act, 1980, 'being functions additional to those assigned by this Act' is translated as 'ar feidhmeanna iad i dteannta na bhfeidhmeanna a shanntar leis an Acht seo'.

Professor Máirtín Ó Murchú recommends 'a bheidh ceaptha' in the direct translation below, remarking that if a technical term is necessary in the context he would recommend the phrase 'a bheidh sannta' as against 'arna sannadh'.

*sa chúirt go poiblí* In s4(1)(e) of the Irish Nationality and Citizenship Act, 1986, 'has made, either before a Justice of the District Court in open court ... a declaration' is translated as 'go ndearna sé, os comhair Breithimh den Chúirt Dúiche i gcúirt oscailte ... dearbhú'. 'And shall be deemed ... to have been authorised and required to be made and subscribed by the Chief Justice in open court in the presence of two or more of the ordinary judges of the Supreme Court' is translated as 'agus go dtuigfear ... é bheith údaruithe agus ceangailte an dearbhú san do dhéanamh agus do shighniú, ag an bPríomh-Bhreitheamh sa chúirt go hoscailte i bhfianaise beirte no níos mó de ghnáth-bhreithiúin na Cúirte Uachtaraighe' in s3(1) of the Executive Powers (Consequential Provisions) Act, 1937. 'The finding of acquittal ... shall not require confirmation or be subject to revision and ... shall be pronounced at once in open Court' is translated as 'Ní gá daingniú ná ní déanfar ath-scrúdú ar bhreithiúnas chun saora ... agus ... craolfar é láithreach i gcúirt oscailte' in s100(2) of the Defence Forces (Temporary Provisions) Act, 1923. Finally, in s10(1)(b) of the Phoenix Park Act, 1925, 'prescribing the times during which the Park ... shall be open to the public' is translated as 'na tráthanna d'ordú go mbeidh an Pháirc ... ar oscailt don phuiblíocht'.

*ar aon chuma* This phrase is translated as 'at any rate' in *Ó Dónaill* and 'at any rate, in any case' in *Dinneen* – see the commentary on Article 15.4.1°, where this phrase expresses 'in any respect'. *De Bhaldraithe* translates 'in any case' as 'ar aon chaoi, ar aon chuma'.

'To have a report of the results of the examination ... submitted to the occupier ... as soon as may be and in any case not later than twenty-eight days after the completion of the examination' is translated as 'tuarascáil ar thorthaí an scrúdaithe ... a chur á seachadadh don

áititheoir ... a luaithe is féidir agus in aon chás tráth nach déanaí ná ocht lá is fiche tar éis an scrúdú ... a chríochnú' in s10(1)(b) of the Safety in Industry Act, 1980. In s76(1) of the Defence Forces (Temporary Provisions) Act, 1923, 'as soon as practicable thereafter, and in any case not later than 24 hours thereafter' is translated as 'chó luath agus is féidir é ina dhiaidh sin no, pé scéal é, ar uair nách déanaí ná 24 huair ina dhiaidh sin'. Professor Máirtín Ó Murchú recommends 'ar aon chuma' in the direct translation below as being less dialectical than 'ar aon chaoi'.

*éisteacht le* 'Éisteacht' is the verbal noun of 'éist', translated, with 'le', as 'listen to' in *Ó Dónaill*, citing '*éisteacht le fuaim, le glór, le torann*, to listen to a sound, a voice, a noise'. 'Éist', not followed by 'le', is translated as 'hear' in *Ó Dónaill*, this also having the sense of 'give formal hearing to', *Ó Dónaill* citing '*cás a éisteacht*, to hear a case' and '*faoinstín a éisteacht*, to hear a confession'. 'Éistim' is translated as 'I hear' in *Téarmaí Dlí* and in *Dinneen*, who translates 'éist liom' as 'listen to me'. DIL cites 'estid ri haidid cach ir' ('list to the fate of each') from the twelfth-century *Book of Leinster*, 'éistid' being from the prototonic stem of the compound verb 'in-tuasi', 'listens (to)'. DIL citing 'éitset frisín precept' ('let them listen to the teaching') from the eighth-century Würzburg Glosses on the Pauline Epistles. See further the commentary on Article 32.

'Shall be entitled to appear and be heard (in person or by solicitor or council) and adduce evidence at such inquiry' is translated as 'beidh teideal aige chun teacht i láthair agus éisteacht d'fháil (i bpearsain no tré atúrnae no tré abhcóide) agus fianaise do chur ar nochta ag an bhfiosrúchán sin' in s9(2) of the River Owenmore Drainage Act, 1926. 'And may thereupon dismiss the application if satisfied that the allegations in the application have been adequately answered, unless any of the parties demands a hearing' is translated as 'féadfa sé an t-iarratas do chaitheamh amach más deimhin leis leor-fhreagra do bheith tugtha ar na nithe adeirtar san iarratas, mara n-iarraidh éinne de sna páirtithe éisteacht' in s43(10) of the Industrial and Commercial Property (Protection) Act, 1927. Finally, 'argóint' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'argument' in early *Standing Orders*.

In s431(1) of the Income Tax Act, 1967, 'When the Special Commissioners have entertained an appeal against an assessment for any year of assessment and, after hearing argument on the appeal' is translated as 'I gcás ina mbeidh aird tugtha ag na Coimisinéirí Speisialta ar achomharc i gcoinne measúnachta d'aon bhliain mheasúnachta agus, tar éis argóint ar an achomharc a éisteacht', with 'tar éis argóna ar an athchomharc san d'éisteacht' translating 'after hearing argument on such appeal' in s9(1) of the Finance Act, 1932. See further the commentary on Article 32.

*a thabhairt* In s40(2) of the Offences Against the State Act, 1939, 'Every decision of a Special Criminal Court shall be pronounced by such one member of Court as the Court shall determine, and no other member of the Court shall pronounce or indicate his concurrence in or dissent from such decision' is translated as 'Isé chraolfaidh gach breith o Chúirt Choiriúil Speisialta ná an ball áirithe sin den Chúirt a chinnefidh an Chúirt agus ní chraolfaidh aon bhall eile

den Chúirt an bhreith sin ná ní chuirfidh in iúl ce'ca aontuionn léi no ná haontuionn'. Following the wording of the present Article, 'The decision of the Board shall be pronounced by the Chairman ... and no other opinion, whether assenting or dissenting, shall be pronounced nor shall the existence of such an opinion be disclosed' is translated as 'Is é an Cathaoirleach ... a chraolfas cinneadh an Bhoird agus ní cead tuairim ar bith eile, ag aontú nó ag easaontú leis an gcinneadh sin, a chraoladh, ná ní cead a nochtadh tuairim den tsórt sin a bheith ann' in s7(4) of the First Schedule to the Adoption Act, 1952.

In s21(5)(b) of the Fire Services Act, 1981, '(until) ... if an appeal is taken and the notice is confirmed ... the date upon which the decision of the Court is pronounced' is translated as 'má dhéantar achomharc a shaothrú agus an fógra a dhaingniú, ... go dtí an dáta a bhfógrófar breith na Cúirte'. 'Non-obligation of Court to pronounce or record forfeiture where forfeiture falls as a statutory consequence of conviction' is translated as 'Gan a bheith d'oibleagáid ar an gCúirt forghéilleadh a fhógairt ná a thairfeadh i gcás forghéilleadh a theacht mar iarmairt reachtúil de dhroim ciontairthe' in the Margin Title of s316 of the Fisheries (Consolidation) Act, 1959. See further the commentary on Article 34.4.5°, where 'pronounce a decision' is expressed as 'breith a chraoladh'.

*Ní foláir* See the commentary on Article 11.

*dá gcuireann ... faoina breith* See the commentary on Article 26.

*a bhreithniú* See the commentary on Articles 17.1.1° and 20.1.

*Ard-Aighne* See the commentary on Article 30.

*a breith* 'Breith' is translated as 'decision' in *Téarmaí Dlí* – see the commentary on Article 15.11.1°.

### Gender-proofed Irish text

Ní foláir don Chúirt Uachtarach, cúirt ina mbeidh cúigear breitheamh ar a laghad, gach ceist dá gcuireann an tUachtarán faoina breith faoin Airteagal seo a bhreithniú agus, tar éis éisteacht le hargóintí ón Ard-Aighne nó thar ceann an Ard-Aighne agus ó ahbcóidí a thoghfar ag an gCúirt, ní foláir di a breith ar an gceist sin a thabhairt sa chúirt go poiblí chomh luath agus is féidir é agus, ar aon chuma, lá nach déanaí ná seasca lá tar éis an cheist a chur faoina breith.

### Direct translation

Déanfaidh an Chúirt Uachtarach, ar a mbeidh cúigear<sup>1</sup> breitheamh ar a laghad, gach ceist a tharchuirfidh an tUachtarán chucu<sup>2</sup> faoin Airteagal seo le haghaidh breithe<sup>3</sup> a bhreithniú<sup>4,5</sup> agus, tar éis dóibh<sup>6</sup> argóintí a éisteacht ón Ard-Aighne nó thar ceann an Ard-Aighne agus ó ahbcóidí arna sannadh<sup>7</sup> ag an gCúirt, fógróidh siad a gcinneadh<sup>8</sup> ar an gceist sin i gcúirt oscailte chomh luath agus is féidir, agus ar aon chuma<sup>9</sup> tráth nach déanaí ná seasca lá tar éis dháta an tarchuir sin.

### Variants

- 1 'cúirt ar a mbeidh cúigear', 'agus i comhdhéanta de chúigear'
- 2 'chuici'
- 3 'gach ceist a chuirfidh an tUachtarán faoina mbreith faoin Airteagal seo'

- 4 'a bhreathnú', 'a mheas'
- 5 'Breitheoidh an Chúirt Uachtarach, ar a mbeidh cúigear breitheamh ar a laghad, gach ceist a tharchuirfidh an tUachtarán chucu faoin Airteagal seo le haghaidh breithe.'
- 6 'di'
- 7 'a bheidh samnta'
- 8 'sí a cinneadh'
- 9 'chaoi'

## ARTICLE 26.2.2° AIRTEAGAL 26.2.2°

### TÉACS GAELIGE

An bhreith a bheireann an tromlach de bhreithiúna na Cúirte Uachtaraí, sin í breith na Cúirte chun críocha an Airteagail seo agus is é a chraolfas an bhreith sin ná an duine sin de na breithiúna sin a cheapfaidh an Chúirt chuige sin, agus ní cead tuairim ar bith eile, ag aontú nó ag easaontú leis an mbreith sin, a chraoladh ná ní cead a nochtadh tuairim ar bith eile den sórt sin a bheith ann.

### LITERAL ENGLISH TRANSLATION

The judgement which the majority of the judges of the Supreme Court give, that is the judgement of the Court for the purposes of this Article and he who will announce that judgement is that one of those judges whom the Court will appoint to that end, and it is not permitted to announce any other opinion, agreeing or disagreeing with that judgement, nor is it permitted to disclose that there is any other opinion of that kind.

### ENGLISH TEXT

The decision of the majority of the judges of the Supreme Court shall, for the purposes of this Article, be the decision of the Court and shall be pronounced by such one of those judges as the Court shall direct, and no other opinion, whether assenting or dissenting, shall be pronounced nor shall the existence of any such other opinion be disclosed.

### Divergences between the official texts

- 1 'Pronounce' is rendered by 'craol', 'announce', in the Irish text, 'craol' generally expressing 'broadcast' today; 'I pronounce (judgement)', on the other hand, is translated as 'fógraim' in *Téarmaí Dlí*.
- 2 'And shall be pronounced by such one of those judges as the Court shall direct' is rendered in the Irish text as 'agus is é a chraolfas an bhreith sin ná an duine sin de na breithiúna sin a cheapfaidh an Chúirt chuige sin' ('and he who will announce that judgement is that one of those judges whom the Court will appoint to that end') – 'ceapaim' is translated as 'I appoint' in *Téarmaí Dlí*, while 'I direct (jury)' is translated as 'teoraim'.
- 3 'The decision of the majority' is expressed as 'An bhreith a bheireann an tromlach' ('The decision that the majority gives') in the Irish text.
- 4 'The decision ... shall be the decision' is expressed as 'An bhreith..., sin í breith na ...' ('The decision ..., that is the decision') in the Irish text.
- 5 'No ... shall' is rendered as 'ní cead' ('it is not permitted') in the Irish text, as we have seen in some earlier Articles.

Note that the final part of this subsection, commencing 'and shall be pronounced' / 'agus isé chraolas', was added to the text by the Second Amendment of the Constitution Act, 1941. The parallel Article 34.4.5° was added to the Constitution by the same Act.

### Commentary

*a bheireann* This would generally be replaced today by 'a thugann' – see *Ó Dónaill* s.v. 'breith', where '*breith a thabhairt ar chás*, to decide a question' is cited, though '*tabhair, beir, do bhreith air*, say what you think of it' is also cited. 'A bheireann' is found in the enrolled edition. 'Beir' basically expresses 'bear, take' as against 'tabhair', 'give', *Ó Dónaill* giving 'voice, express; present, deliver; impart, administer' as a subset of senses of 'tabhair', citing '*barúil, breith, a thabhairt*, to give an opinion, a decision'. 'Tabhair' is a compound of 'do' and 'beir'. 'Bheirim' is generally found for 'do-bheirim', according to *Dinneen*. DIL cites both 'is ón spirít rouiccus brith' ('it is from the Spirit I have passed judgement') and 'berid cách brith for arele' ('each gives judgement on the other') from the eighth-century Würzburg Glosses. See the commentary on Article 12.1.

*an tromlach de* 'Tromlach' is translated as 'greater part, main body, majority' in *Ó Dónaill* and 'a weight, a burthen, the greater part of anything, the main body as of an army, etc.' in *Dinneen*, who cites '*tromlach na Féinne agus tromlach Gaillian*, the main part of the Fianna and of the Gaillians'. DIL cites 'tromlach mor marclaig' from the *Annals of Connacht* s.a. 1235, translating 'tromlach' as 'greater part, weight (*especially of an army*), host, large force', this noun being, as Professor Máirtín Ó Murchú notes, an old compound of 'trom', 'heavy', and 'slóg', 'host, group of people'. See the commentary on Articles 13.3.2°, 14.4 and 28.10.

In s12(2) of the Courts-Martial Appeals Act, 1983, 'and the determination of all questions before the Court shall be according to the majority of the members present but ... the judgement of the Court shall be pronounced by the President of the Court' is translated as 'agus is de réir na tuairime a bheidh ag tromlach na gcomhaltáí i láthair a chinnfear gach uile cheist a bheidh os comhair na Cúirte, ach ... is é Uachtarán na Cúirte ... a fhógróidh breithiúnas na Cúirte'. In s8(4) of the Civil Service (Transferred Officers) Compensation Act, 1929, 'The decision of the Board on any application, claim or question heard and determined by them under this Act shall be in accordance with the opinion of the majority of the members of the Board, but such decision shall be pronounced by the Chairman and no opinion assenting to, dissenting from, or commenting on such decision shall be pronounced by any other member of the Board' is translated as 'Is do réir bharúil an mhóráirimh de bhaill an Bhuird a bheidh breith an Bhuird ar aon iarratas, éileamh no ceist, éistfid agus a shocróid féin Acht so, ach isé an Cathaoirleach fhógróidh an bhreith sin agus ní fhógróidh aon bhall eile den Bhord aon bharúil ag aontú nó ag deifriú leis an mbreith sin ná ag tagairt di'.

*ag aontú* 'Aontaim' is translated as 'I assent' in *Téarmaí Dlí*. See the commentary on Articles 15.8.2° and 34.4.5° and see also the commentary on Article 22.2.3°, where

'aontaigh' expresses 'accede'. 'For the signification by him, in the King's name, of the King's assent' is translated as 'chun go gcuirfe sé siúd in iúl, in ainm an Rí, aontú an Rí leis' in Article 41 of the 1922 Constitution, 'either House may hold a private sitting with the assent of two-thirds of the members present' being translated as 'féadfaidh aon Tigh suidhe priobháideach do bheith aige ach dhá dtrian na mball a bheidh láithreach do thoiliú leis' in Article 25. 'Whether as proposer, seconder, or assenting elector' is translated as 'mar thairgtheoir, mar chuiditheoir no mar thoghthóir a thoilíonn' in s3 of Part I of the Fifth Schedule to the Electoral Act, 1923.

'And no other opinion, whether assenting or dissenting, shall be pronounced' is translated as 'agus ní craolfar aon tuairim eile, ag aontú nó ag easaontú leis an mbreith sin' in s20(4) of the Industrial Relations Act, 1946. In s6(7) of the Censorship of Publications Act, 1929, 'and either one or two members of the Board has or have not signified any opinion (whether assenting or dissenting) in regard to such proposed report' is translated as 'agus go mbeidh ball amháin no beirt bhall den Bhord gan aon tuairim (ag aontú léi no ina coinnibh) do chur in iúl i dtaobh na tuarasgabhála beartuithe sin'. In s52(3)(a) of the Companies (Amendment) Act, 1983, 'the prescribed form of assent to the company's being registered as unlimited' is translated as 'an fhoirm thoilithe fhorordaithe ag toiliú leis an gcuideachta a chlárú mar chuideachta neamhtheoranta'. 'An assent to the vesting of any estate or interest in unregistered land of a deceased person in favour of the person entitled thereto' is translated as 'Aon aontú a dhéanfar le heastát nó leas i dtalamh neamhchláraithe duine éagtha a dhísiú i bhfabhar an duine i dteideal chuiqe' in s53(1) of the Succession Act, 1965.

*ag easaontú* See the commentary on Article 34.4.5°. 'Breithiúnas easaontach' is translated as 'dissenting judgement' in *Téarmaí Dlí*. 'Provided always that no judge shall sit upon the hearing of an appeal in an action tried before him whether with or without a jury, or upon an appeal from a judgement or order made by him or to which he was a party whether concurring or dissenting' is translated as 'Ach mar sin féin ní shuidhfidh aon bhreitheamh ar éisteacht athchomhairc in aicsean a trialadh ina láthair, pe'ca i dteanta no d'éamais coiste dháréag é, ná ar éisteacht athchomhairc i gcoinnibh breith no ordú a dhin sé féin, no ina raibh sé páirteach pe'ca aontú no easaontú leis a dhin sé' in s24 of the Courts of Justice Act, 1924. 'Dissenting occupiers' is translated as 'sealbhairí easaontathacha' in s8(1) of the Arterial Drainage Act, 1925.

The Margin Title of s204 of the Companies Act, 1963, 'Power to acquire shares of shareholders dissenting from scheme or contract which has been approved by majority' is translated as 'cumhacht chun scaireanna a fháil ó scairshealbhóirí nár aontaigh le scéim nó conradh lenar aontaigh tromlach'. In s4 of Article 48 of the Second Schedule to the Arbitration Act, 1980, 'Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent' is translated as 'Féadfaidh aon chomhalta den Bhinse a thuairim féin, cibé acu atá sé ag easaontú leis an tromlach nó nach bhfuil, nó ráiteas á chur in iúl go bhfuil sé ag easaontú, a chur ag gabháil leis an dámhachtain'.

*a nochtadh* See the commentary on Article 40.6.1<sup>o</sup>, 'I disclose' being translated as 'nochtaim' in *Téarmaí Dlí*. 'The following are the requisite matters which must be disclosed for the purposes of subsection (6)' is translated as 'Is iad seo a leanas na nithe riachtanacha nach mór a nochtadh chun críocha fho-alt (6)' in s57(7) of the Building Societies Act, 1989, for example. The Margin Title of s13 of the Statistics Act, 1926, 'Information and returns not to be disclosed', is translated as 'Ní nochtfar eolas ná cuntaisí'. In s5 of the Double Taxation (Relief) Act, 1923, 'The obligation to secrecy ... shall not prevent the disclosure to any authorised officer of the British Government of such facts as may be necessary to enable relief to be duly given' is translated as 'An oblagáid shicréideachta ... ní choiscfe sé eolas do thabhairt d'aon oifigeach údaruithe den Rialtas Briotáineach ar pé dátáin a bheidh riachtanach chun a chumasú go dtabharfar faoiseamh go cuibhe'. Finally, 'fianaise d'innsint' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to disclose evidence' in translations for the Department of Justice.

*a chraolfas* The special form of the relative, future tense, of 'craol', this would generally be replaced today by 'a chraolfaidh' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'. 'Craol' is translated principally as 'announce, proclaim', *Ó Dónaill* citing '*rud a chraoladh ón altóir*, to announce something from the altar', with secondary sense of 'broadcast', this now being the usual sense of 'craol'. *Dinneen* translates 'craolaim' as 'I announce; especially from the altar or pulpit'. See the commentary on Article 34.4.5<sup>o</sup>.

*an bhreith* 'Breith' is translated as 'decision' in *Téarmaí Dlí* and principally as 'judgement, decision' in *Ó Dónaill* and as 'judgement, decision, sentence' in *Dinneen* – see the commentary on Article 15.11.1<sup>o</sup>.

*tuairim* See the commentary on Articles 22.2.1<sup>o</sup> and 24.1, 'tuairim' being translated as 'opinion' in *Téarmaí Dlí*.

*a cheapfaidh* See the commentary on Article 34.4.5<sup>o</sup>.

*ní cead* See the commentary on Article 9.1.3<sup>o</sup>.

### Standardised gender-proofed Irish text

An bhreith a thugann an tromlach de bhreithiúna na Cúirte Uachtaraí, sin í breith na Cúirte chun críocha an Airteagail seo agus is é nó is í a chraolfaidh an bhreith sin ná an duine sin de na breithiúna sin a cheapfaidh an Chúirt chuige sin, agus ní cead tuairim ar bith eile, ag aontú nó ag easaontú leis an mbreith sin, a chraoladh ná ní cead a nochtadh tuairim ar bith eile den sórt sin a bheith ann.

### Direct translation

Is í breith thromlach bhreithiúna na Cúirte Uachtaraí<sup>1</sup>, chun críocha an Airteagail seo,<sup>2</sup> breith na Cúirte agus déanfar í a fhógairt ag cibé duine de na breithiúna sin a threoróidh an Chúirt, agus ní fhógrófar aon tuairim eile, cibé acu ag aontú nó ag easaontú,<sup>3</sup> ná ní nochtfar a leithéid de thuairim a bheith ann.

### Variants

- 1 'breith thromlach na mbreithiúna den Chúirt Uachtarach', 'breith thromlach na mbreithiúna de chuid na Cúirte Uachtaraí'
- 2 'Chun críocha an Airteagail seo, is í breith thromlach bhreithiúna na Cúirte Uachtaraí.'
- 3 'ní dhéanfar aon tuairim eile, cibé acu ag aontú nó ag easaontú, a fhógairt.'

## ARTICLE 26.3.1<sup>o</sup> AIRTEAGAL 26.3.1<sup>o</sup>

### TÉACS GAELIGE

I gcás aon Bhille a chuirtear faoi bhreith na Cúirte Uachtaraí faoin Airteagal seo, más é breith na Cúirte go bhfuil aon fhoráil de in aghaidh an Bhunreachta seo nó in aghaidh aon fhorála de, ní foláir don Uachtarán diúltú dá lámh a chur leis an mBille sin.

### LITERAL ENGLISH TRANSLATION

In the case of any Bill which is submitted to the Supreme Court for determination under this Article, if it is the judgement of the Court that any provision of it is contrary to this Constitution or contrary to any provision of it, the President must decline to put his hand to that Bill.

### ENGLISH TEXT

In every case in which the Supreme Court decides that any provision of a Bill the subject of a reference to the Supreme Court under this Article is repugnant to this Constitution or to any provision thereof, the President shall decline to sign such Bill.

### Divergences between the official texts

- 1 'In every case in which the Supreme Court decides that any provision of a Bill the subject of a reference to the Supreme Court under this Article is' is expressed in the Irish text as 'I gcás aon Bhille a chuirtear faoi bhreith na Cúirte Uachtaraí faoin Airteagal seo, más é breith na Cúirte go bhfuil aon fhoráil de' ('In the case of any Bill which is referred to the Supreme Court under this Article, if it is the decision of the Court that any provision of it is'), with 'reference to the Supreme Court' being expressed as 'a chuirtear faoi bhreith na Cúirte Uachtaraí' ('submitted to the Supreme Court for determination'), as we have already seen.
- 2 'Is repugnant to' is again expressed simply as 'in aghaidh' ('is contrary to') in the Irish text; 'aimhréireach (le)' translates 'repugnant (to)' in *Téarmaí Dlí*.
- 3 'To sign' is again expressed as 'a lámh a chur le' ('to put his hand to') in the Irish text, that phrase, of course, having the sense of 'to sign', 'I sign' being translated simply as 'sínim' in *Téarmaí Dlí*.
- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

### Commentary

*breith* See the commentary on Article 15.11.1<sup>o</sup>. 'I decide' is translated as 'breithním' in *Téarmaí Dlí*, but we find 'cinn' also translating 'decide' in the modern Acts. 'Whenever the Central Bank decides to refuse to register a memorandum' is translated as 'Aon uair a chinneadh an Banc Ceannais diúltú meabhrán ... a chlárú' in s10(4) of the Building Societies Act, 1989. 'In case a court decides



... to impose a sentence of imprisonment under section 27' is translated as 'Má chinneann cúirt ... pianbhreith phríosúnachta a fhorchur faoi alt 27' in s28(9) of the Misuse of Drugs Act, 1977.

Looking at early Acts, in s62(3) of the Local Government Act, 1925, 'and on such appeal the Minister or the High Court decides the charge or surcharge was lawfully made' is translated as 'agus, ar dhéanamh an athchomhairc sin, gurb í breith an Aire no na hArd-Chúirte gur go dleathach a dineadh an muirearú no an formhuirearú san'. In Article 56 of the 1922 Constitution, 'these Ministers or any of them may, should the Oireachtas so decide, be members of ... such Councils' is translated as 'go bhféadfaidh na hAí seo no aon duine aca, má chinneann an t-Oireachtas amhlaidh, bheith 'na mbaill de sna Comhairlí sin'. In s25(3) of the National Health Insurance Act, 1923, 'Every question or dispute as to whether a person is or is not a soldier ... shall be decided by the Minister for Defence whose decision shall be final' is translated as 'Gach ceist no conspóid i dtaobh ce'ca tá duine ina shaighdiúir no ná fuil ... reiteoidh an t-Aire Cosanta iad agus ní bheidh dul thar a bhreith'. 'Socrú' is also cited in the *Oireachtas Dictionary of Official Terms* as translating 'decision'.

*diúltú dá lámh a chur leis* 'Diúltú' is the verbal noun of 'diúltaigh'. 'Diúltaigh do', is translated by *Ó Dónaill* as (a) 'renounce, repudiate', (b) 'refuse, reject', citing '*diúltú do bhia is do bheatha*, to reject food and sustenance' and (c) 'decline, shirk', citing '*diúltú do throid, do chuideachta*, to shun fight, company'. 'Diúltaigh', not followed by the preposition 'do', is translated as 'deny, refuse', *Ó Dónaill* translating 'diúltú rud a dhéanamh' as 'to refuse to do something', citing '*dhiúltaigh sé an cíos a íoc*, he refused to pay the rent'. *Dinneen* also translates 'diúltuighim do' as 'I renounce', translating 'diúltuighim' as 'I deny, refuse, oppose'. See the commentary on Article 13.2.2°, where 'diúltaigh do' expresses 'refuse', and on Article 34.5.4° where 'diúltaigh' (without following 'do') expresses 'decline'.

*De Bhaldráithe* translates 'decline' as (a) 'cuirim suas do (chuireadh, ghradam)' and (b) 'eitím, diúltaim (duine)', translating 'to decline to do something' as 'diúltú rud a dhéanamh'. *Ó Dónaill* translates 'eitigh' simply as 'refuse', citing '*duine a eiteach faoi rud*, to refuse something to someone'.

'The Minister ... may ... either approve of or decline to approve of the scheme by order' is translated as 'féadfaidh an tAire ... an scéim a cheadú, nó diúltú don scéim a cheadú, le hordú' in s33(1)(c) of the Central Bank Act, 1971. In s19 of the Statistics Act, 1926, 'that would entitle him to decline to give such information in a civil proceeding in a Court of Law' is translated as 'a thabharfadh teideal do chun diúltú don eolas san do thabhairt uaidh in imeacht shíbhialta i gCúirt Dí'.

*in aghaidh aon fhorála de* See the commentary on Article 26.1.1° regarding 'in aghaidh'; note that the form of this phrase in the original text is 'i n-aghaidh aon fhoráilte de'.

*a chuirtear faoi bhreith* See the commentary on Article 26.

*ní foláir* See the commentary on Article 11.

*lámh a chur le* See the commentary on Article 13.3.1°.

### Direct translation

I ngach cás a gcinneadh<sup>1</sup> an Chúirt Uachtarach go bhfuil aon fhoráil de Bille is ábhar do tharchur chun<sup>2</sup> na Cúirte Uachtaraí faoin Airteagal seo aimhréireach leis an mBunreacht seo nó le haon fhoráil de<sup>3</sup>, diúltóidh an tUachtarán don Bille sin á shíniú.

### Variants

- 1 'ina mbreithneoidh'
- 2 'a cuireadh faoi bhreith'
- 2 'den Bhunreacht seo'

## ARTICLE 26.3.2° AIRTEAGAL 26.3.2°

### TÉACS GAELGE

I gcás achainí a bheith curtha chun an Uachtaraí faoi Airteagal 27 den Bhunreacht seo i dtaobh Bille lena mbaineann an tAirteagal sin, ní foláir an tAirteagal sin a chomhlíonadh.

### LITERAL ENGLISH TRANSLATION

In the event of a request having been sent to the President under Article 27 of this Constitution with regard to a Bill to which that Article applies, that Article must be fulfilled.

### ENGLISH TEXT

If, in the case of a Bill to which Article 27 of this Constitution applies, a petition has been addressed to the President under that Article, that Article shall be complied with.

### Divergences between the official texts

- 1 'If, in the case of a Bill to which Article 27 of this Constitution applies, a petition has been addressed to the President under that Article' is rendered in the Irish text as 'I gcás achainí a bheith curtha chun an Uachtaraí faoi Airteagal 27 den Bhunreacht seo i dtaobh Bille lena mbaineann an tAirteagal sin' ('If a petition has been addressed to the President under Article 27 of this Constitution with regard to a Bill to which that Article applies'), 'addressed to' being rendered as 'curtha chun', 'sent to', and 'applies to' being rendered as 'lena mbaineann' ('relates to' / 'concerns'), this phrase also having the sense of 'applies'; the term rendering 'petition', 'achainí', is the Irish legal term for 'petition' but expresses 'request' in some earlier sections.
- 2 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that this subsection was added to the text by the Second Amendment of the Constitution Act, 1941.

### Commentary

*a chur chun* Verbal noun of 'cuir chun', this phrase being translated principally as 'put, send, to' in *Ó Dónaill*, who cites '*litir a chur chuig, chun, duine*, to send a letter to someone'. *Dinneen* translates 'cuirim chugham' as 'I appropriate, put in my breast, pocket', citing '*cuirim siopa*

*chugham*, I open a shop'. Note that 'seol' expresses 'send' in some earlier Articles. See the commentary on Article 23.1.

*a chomhlíonadh* Verbal noun of 'comhlíon', 'comhlíonaim' being translated as 'I comply with; I conform with; I perform' in *Téarmaí Dlí*. See the commentary on Articles 12.1, 13.9 and 14.5.1°.

*achainí* This is the Irish legal term for 'petition'. See the commentary on Articles 22.2.3° and 25.2.2° where this noun expresses 'request'.

*lena mbaineann* See the commentary on Articles 3 and 14.5.1°.

*ní foláir* See the commentary on Article 11.

### Direct translation

Más rud é, i gcás Bille lena mbaineann Airteagal 27 den Bhunreacht seo<sup>1</sup>, go ndíreofar<sup>2</sup> achainí chun an Uachtaráin<sup>3</sup> faoin Airteagal sin, déanfar an tAirteagal sin a chomhlíonadh.

### Variants

- 1 'a bhfuil feidhm ag Airteagal 27 den Bhunreacht seo ina leith'
- 2 'go ndírítear', 'go gcuirfear', 'go mbeidh achainí curtha/seolta/dírithé'
- 3 'chuig an Uachtarán'

## ARTICLE 26.3.3° AIRTEAGAL 26.3.3°

### TÉACS GAEILGE

I ngach cás eile ní foláir don Uachtarán a lámh a chur leis an mBille chomh luath agus is féidir é tar éis an lae a bheireann an Chúirt Uachtarach a breith.

### LITERAL ENGLISH TRANSLATION

In every other case the President must put his hand to the Bill as soon as possible after the day the Supreme Court gives its judgement.

### ENGLISH TEXT

In every other case the President shall sign the Bill as soon as may be after the date on which the decision of the Supreme Court shall have been pronounced.

### Divergences between the official texts

- 1 'After the date on which the decision of the Supreme Court shall have been pronounced' is expressed in the Irish text as 'tar éis an lae a bheireann an Chúirt Uachtarach a breith' ('after the day the Supreme Court gives its decision'); 'I pronounce (judgement)' is translated as 'fógraím' in *Téarmaí Dlí*.
- 2 'La', 'day', again expresses 'date', with 'after the date' expressed as 'tar éis an lae' ('after the day') in the Irish text.
- 3 'Sign' is again expressed as 'a lámh a chur le' ('put his hand to') in the Irish text.

- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

### Commentary

*a bheireann* This would generally be replaced by 'a thugann' today – see the commentary on subsection 2 of the previous section.

*breith* Translated as 'decision' in *Téarmaí Dlí*. See the commentary on Articles 15.11.1° and 26.3.1°.

*ní foláir* See the commentary on Article 11.

*a lámh a chur le* See the commentary on Article 13.3.1°.

### Standardised Irish text

I ngach cás eile ní foláir don Uachtarán a lámh a chur leis an mBille chomh luath agus is féidir é tar éis an lae a thugann an Chúirt Uachtarach a breith.

### Direct translation

I ngach cás eile déanfaidh an tUachtarán an Bille a shíniú a luaithe is féidir tar éis an dáta ar a bhfógrófar breith na Cúirte Uachtaraí.

## ARTICLE 27 AIRTEAGAL 27

### TÉACS GAEILGE

#### *Billí a chur faoi bhreith an Phobail*

Baineann an tAirteagal seo le gach Bille, seachas Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht seo a leasú, a mheastar, de bhua Airteagal 23 den Bhunreacht seo, a ritheadh ag dhá Theach an Oireachtais.

### LITERAL ENGLISH TRANSLATION

#### *Submitting Bills to the People for determination*

This Article applies to every Bill, other than a Bill which is stated/mentioned as being a Bill in which there is a proposal to amend this Constitution, which is deemed, by virtue of Article 23 of this Constitution, to have been passed by the two Houses of the Oireachtas.

### ENGLISH TEXT

#### *Reference of Bills to the People*

This Article applies to any Bill, other than a Bill expressed to be a Bill containing a proposal for the amendment of this Constitution, which shall have been deemed, by virtue of Article 23 hereof, to have been passed by both Houses of the Oireachtas.

### Divergences between the official texts

- 1 'Reference' is again expressed as 'a chur faoi bhreith' ('submitting for determination') in the Irish text, as in the foregoing Article.
- 2 'Any Bill' is expressed as 'gach Bille', 'every Bill', in the Irish text, as in Article 26.

- 3 'Express' is again expressed by 'luaigh', the Irish legal term for 'cite'.
- 4 'Hereof' is expressed as 'den Bhunreacht seo', 'of this Constitution', in the Irish text.

### Commentary

*de bhua* This phrase is translated as 'by virtue of' in *Téarmaí Dlí, Ó Dónaill* citing '*de bhua (ruda)*, by virtue of (something)'. Archaic Irish 'boid' glosses Latin '(ad) bravium' in the eighth-century Würzburg Glosses on the Pauline Epistles, 'victory, triumph' being the principal sense of Old Irish 'búaid', with the secondary sense of 'special quality or attribute, gift, virtue' according to DIL, where 'búaid precepte' ('the gift of preaching') is cited from the same collection of Glosses.

'Or is to be treated as permanently discontinued by virtue of section 59 or 71 of the Income Tax Act, 1967', for example, in s26(1)(b) of the Finance Act, 1990, is translated as 'nó ina measfar i a bheith buanscortha de bhua alt 59 nó 71 den Acht Cánach Ioncaim, 1967'. In the Preamble to the Adaptation of Enactments Act, 1922, 'And whereas all Acts passed by the British Parliament ... will by virtue of the said Article 73 have the force of law in Saorstát Éireann' is translated as 'Agus de bhri go mbeidh feidhm dlí i Saorstát Éireann de bhua an Airtioigail 73 roimh-ráite ag na hAchtanna uile do rith Párlimint na Breataine'. See further the commentary on Article 49.1 where 'de bhua an Bhunreachta' expresses 'by virtue of the Constitution'.

*a chur faoi bhreith* See the commentary on Article 26. Professor Máirtín Ó Murchú remarks that 'a chur faoi bhreith' is much clearer than 'a tharchur chun' in the direct translation below.

*den Bhunreacht seo* See the commentary on Article 35.1 regarding 'hereof'.

*Baineann ... le* See the commentary on Articles 3 and 14.5.1°.

*togra* See the commentary on Article 46.2.

### Direct translation

#### *Billí a tharchur chun' an Phobail*

Baineann an tAirteagal seo le haon Bhille, seachas Bille a shonrófar a bheith ina Bhille ina bhfuil togra chun an Bunreacht seo a leasú, a mheasfar, de bhua Airteagal 23 den Bhunreacht seo<sup>2</sup>, a bheith rite ag dhá Theach an Oireachtais.

#### **Variants**

- 1 'Billí a chur faoi bhreith'
- 2 'de seo'

## ARTICLE 27.1 AIRTEAGAL 27.1

### TÉACS GAELIGE

Is cead do thromlach de chomhaltaí Sheanad Éireann, i bhfochair trian ar a laghad de chomhaltaí Dháil Éireann, comhachainí a chur chun an Uachtaráin faoin Airteagal seo, á iarraidh air diúltú dá lámh a chur le haon Bhille

lena mbaineann an tAirteagal seo agus don Bhille sin a fhógairt ina dhlí, toisc togra a bheith ann ina bhfuil an oiread sin tábhacht náisiúnta gur chóir breith an phobail a fháil air.

### LITERAL ENGLISH TRANSLATION

A majority of the members of Seanad Éireann, along with at least a third of the members of Dáil Éireann, are permitted to send a joint-appeal to the President under this Article, asking him to decline to put his hand to any Bill to which this Article applies and (to decline) to promulgate that Bill as law, because of its having a proposal in which there is so much national importance that the judgement of the people on it should be obtained.

### ENGLISH TEXT

A majority of the members of Seanad Éireann and not less than one-third of the members of Dáil Éireann may by a joint petition addressed to the President by them under this Article request the President to decline to sign and promulgate as a law any Bill to which this Article applies on the ground that the Bill contains a proposal of such national importance that the will of the people thereon ought to be ascertained.

### Divergences between the official texts

- 1 'The will of the people' is expressed as 'breith an phobail' ('the decision/judgement of the people') in the Irish text.
- 2 'Ascertain' is expressed as 'fáil', 'obtain', 'get', in the Irish text, referring to 'breith an phobail' ('the judgement of the people').
- 3 'May by a joint petition addressed to the President by them under this Article request' is expressed in the Irish text as 'comhachainí a chur chun an Uachtaráin faoin Airteagal seo, á iarraidh air', '(may) send a joint petition to the President under this Article, asking him'.
- 4 'And not less than one-third' is expressed as 'i bhfochair trian' ('along with at least a third') in the Irish text, that clause being preceded by a comma in the Irish text alone.
- 5 'Request the President to decline to sign and promulgate as a law any Bill to which this Article applies' is expressed as 'á iarraidh air diúltú dá lámh a chur le haon Bhille lena mbaineann an tAirteagal seo agus don Bhille sin a fhógairt ina dhlí' ('asking him to decline to sign any Bill to which this Article applies and (to decline) to promulgate that Bill as a law') in the Irish text, a comma preceding the above in the Irish text alone, with 'a fhógairt ina dhlí' ('promulgate as a law') being capable of being read as 'pronounce it a law' in the Irish text, as we have seen earlier.
- 6 'On the ground that the Bill contains' is expressed simply as 'toisc ... a bheith ann' ('because it contains' / 'on account of it containing') in the Irish text, 'on ground of' being translated as 'ar fhoras' in *Téarmaí Dlí*.
- 7 'Sign' is again expressed as 'a lámh a chur le' ('put his hand to') in the Irish text and 'applies' by 'baineann le', 'relates to'/'concerns' – in the current Stationery Office text, 'article', in the phrase 'to which this article applies', has a lower-case 'a' as against capital A both

- in the original text and in the other references to 'Article' in the section and capital A in the Irish text.
- 8 'May' is expressed as 'Is cead do' ('It is permitted to ...' / 'are permitted to') in the Irish text.

### Commentary

*comhachainí* A compound of 'comh-', translated principally as 'mutual, joint, common; co-' in *Ó Dónaill*, and 'achainí', translated as 'petition' in *Téarmaí Dlí*, but earlier in the Constitution expressing 'request'. This compound does not appear to be given as a headword in *Ó Dónaill* or in *Dinneen*. See the commentary on Article 26.3.2° regarding 'achainí'. Note that Article 47 of the 1922 Constitution contains the following:

Such a Bill shall in accordance with regulations to be made by the Oireachtas be submitted by Referendum to the decision of the people if demanded before the expiration of the ninety days either by a resolution of Seanad Éireann assented to by three-fifths of the members of Seanad Éireann, or by a petition signed by not less than one-twentieth of the voters then on the register of voters .... *Déanfar Bille den tsórt san do chur, do réir rialacha a dhéanfaidh an t-Oireachtas, fé bhreith na ndaoine le Referendum, má iarrtar san do dhéanamh fé cheann deich lá is cheithre fichid pe'ca le rún de Sheanad Éireann le n-a n-aontóidh trí chúigiú de bhaill Sheanad Éireann, no le hachuiní a shíghneoidh an fichiú cuid ar a luighead de sna vótáluithe a bheidh an uair sin ar chlár na vótáluithe.*

*i bhfochair trian* One would expect 'trian' here, the genitive after the compound preposition. The prepositional phrase 'i bhfochair' is translated as 'along with, together with' in *Ó Dónaill*, citing '*bheith i bhfochair duine*, to be along with, in the company of, someone', 'fochair' being translated as 'nearness, proximity'. *Dinneen* translates 'i bhfochair' as 'with, along with, together with, in presence of, as compared with', this phrase being followed by the genitive. DIL cites 'biasu im fochairsi i Pardus indiu' from the *Leabhar Breac* (written c. 1400), this being found as 'gu mbiá tú am fochair a niú a bpáthras' in the seventeenth-century translation of *Luke* xxiii. 43, and as 'beidh tú in éineacht liom inniu i bparthas' (i.e. you will be with me today in Paradise) in the current 'Maynooth' Bible.

In s50(4) of the Social Welfare (Consolidation) Act, 1981, 'A widow shall be disqualified for receiving a pension under this section if and so long as she and any person are cohabiting as man and wife' is translated as 'Beidh baintreach dícháilithe chun pinsean a fháil faoin alt seo má bhíonn sí féin, agus fad a bheidh sí féin, agus aon duine ag maireachtáil i bhfochair a chéile mar lánúin phósta'.

Turning to 'trian', *Ó Dónaill* cites '*trian de rud*, a third part of something' along with '*bhí trian foirne againn*, we had one-third of the staff we needed'. DIL cites 'co triun int slóig' (i.e. with a third of the host) from the *Táin* and 'batir díbergaig trá trian fer Érenn' (i.e. one third of the men of Ireland were outlaws then) from the old Irish tale, *Togail Bruidne Da Derga*.

In s4 of Part II of the Second Schedule to the Railways Act, 1924, 'one-third of the total number of directors ... shall be deemed to have been elected' is translated as 'tuigfar trian líon iomlán na stiúrthóirí ... do bheith tofa'. In s1(1) of the European Communities (Amendment) Act,

1973, 'if ... at least one-third of the members of Dáil Éireann by notice in writing to the Ceann Comhairle require Dáil Éireann to be summoned' is translated as 'más rud é ... go n-iarrfaidh trian ar a laghad de chomhaltaí Dháil Éireann, trí fhógra i scríbhinn don Cheann Comhairle, go gcomórfaí Dáil Éireann'. In s13(6) of the Nurses Act, 1985, 'and at least one-third of the members of that committee shall be persons other than persons who have been appointed by election to the Board' is translated as 'agus is daoine seachas daoine a ceapadh trína dtoghadh chun an Bhoird a bheidh in aon trian ar a laghad de chomhaltaí an Choiste sin'.

*breith an phobail* 'Billí a chur faoi bhreith an Phobail' expresses 'Reference of Bills to the People' in the heading of this Article. 'Breith' is translated as 'decision' in *Téarmaí Dlí*, as 'judgement, decision' in *Ó Dónaill*, citing '*tabhair, beir, do bhreith air*, say what you think of it', and as 'judgement, decision, sentence' in *Dinneen*, citing '*a bhreith féin*, his own estimate or judgement'. See the commentary on Articles 15.11.1° and 26.3.1°. On the other hand, 'toil' is translated basically as 'will, inclination, desire, wish' in *Ó Dónaill*, who cites '*toil Dé a dhéanamh*, to do the will of God'. *De Bhaldraithe* cites 'such is our will and pleasure, *sin é is toil and is mian linn*'.

Following the wording of the present Article, in s10(1)(a) of the Referendum Act, 1942, 'Whenever ... the President informs the Taoiseach in accordance with Article 27 of the Constitution that he has decided that a bill to which that Article applies contains a proposal of such national importance that the will of the people thereon ought to be ascertained' is translated as 'Aon uair ... a chuirfidh an tUachtarán in iúl don Taoiseach de réir Airteagail 27 den Bhunreacht gurb é a bhreith go bhfuil i mbillé lena mbaineann an tAirteagal san togra ina bhfuil an oiread sin tábhacht náisiúnta gur cóir breith an phobail d'fháil air'. In s16(3), however, 'provided such paper is so marked as to indicate with reasonable certainty the will of the voter' is translated as 'má bhíonn an páipéar san marcálta i slí a thaisbéanfaidh go réasúnta cinnte cadé toil an vótáilidhe'.

In s27(2) of the Rent Restrictions Act, 1960, 'Every district court valuer shall hold office at the will of the Minister and may be removed from office by the Minister' is translated as 'Beidh gach luachálaí cúirte dúiche i seilbh oifige an fad is toil leis an Aire agus féadfaidh an tAire é a chur as oifig'. In s2 of the First Schedule to the Arbitration Act, 1954, 'The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place' is translated as 'Is do réir mar thóileas na páirtithe, agus do réir dlí na tíre arb ina críoch a déanfar an eadráin, a bheas an nós imeachta i gcás eadrána, lena n-áirítear comhdhéanamh an bhinse eadrána'. In s59(3) of the Defence Forces (Temporary Provisions) Act, 1923, 'to carry against the will of such person any greater weight than that he is required by the said provisions to carry' is translated as 'aon mheáchain d'iompar d'ainneoin an duine sin os cionn na meáchaine is ghá dho a iompar do réir na bhforálacha san', with 'or took place against the will of such owner' being translated as 'no gur i gcoinnibh toil an únaera san a dineadh é' in s2(2) of the Public Safety (Punishment of Offences) Temporary Act, 1924.

*a fháil* Verbal noun of ‘faigh’, ‘get’, also with the sense of ‘find’. *De Bhaldraithe* translates ‘ascertain’ as ‘fionnaim, faighim amach, cinntím (firinne an scéil)’.

‘And in case the member of the Garda Síochána decides that he is unable to ascertain such person’ is translated as ‘agus i gcás go gcinntídh an comhalta den Gharda Síochána nach féidir leis an duine sin a fhionnadh’ in s14(2)(b) of the Bankruptcy Act, 1988, ‘The functions of the Official Assignee are to get in and realise the property, to ascertain the debts and liabilities’ is translated as ‘Is iad feidhmeanna an tSannaí Oifigiúil an mhaoin a ghlacadh isteach agus a réadú, na fiacha agus na dliteanais a chinneadh’ in s61(2). In s18(1)(c) of the Fisheries Act, 1980, ‘keep under surveillance and from time to time to ascertain by any means the quality of water in a fishery’ is translated as ‘faireachas a dhéanamh ar cháilíocht an uisce in iascach agus an cháilíocht sin a chinntiú ó am go ham ar aon dóigh áirithe’. ‘The applicant has taken all reasonable steps to ascertain the identity or whereabouts of such person’ is translated as ‘go ndearna an t-iarratasóir gach beart réasúnach chun a fháil amach cé hé an duine sin nó cá bhfuil sé’, with ‘after taking steps to ascertain the views of the employer and workman’ being translated as ‘tar éis do beart do dhéanamh chun tuairimí an fhostóra agus an oibrí do dhéanamh amach’ in s62(1) of the Workmen’s Compensation Act, 1934. Finally, in s5(2) of the Finance Act, 1924, ‘the Revenue Commissioners shall be entitled to call for such evidence as they may deem necessary to enable them to ascertain the correctness of such particulars’ is translated as ‘beidh teideal ag na Coimisinéirí Ioncuim chun glaoch ar pé fianaise is dó leo is gá chun a chur ar a gcumas a fháil amach a bhfuil na mion-innste sin fíor’.

Professor Máirtín Ó Murchú, commenting on the draft translation below, remarks that ‘fionnadh’ is not regularly found today and ‘fáil’ is equally as clear in the context.

*an oiread sin tábhacht náisiúnta* One would expect ‘tábhacht’ to be in the genitive case following ‘oiread’, *Ó Dónaill* citing ‘bhí a oiread deifre orainn leis an obair, we were in such a hurry with the work’.

In s61 of the Courts of Justice Act, 1924, ‘that their decision involves a question of law or fact of such importance as to be fit to be the subject of an appeal to the Supreme Court’ is translated as ‘go bhfuil fighte ina mbreith ceist dlí no firinne atá táchtach a dóthain chun bheith ina habhar athchomhairc chun na Cúirte Uachtaráí’. In the Schedule to the Road Traffic Act, 1968, ‘or by the use of portable signs of such size, form and colour and having such significance as may be prescribed’ is translated as ‘nó trí shíneacha iniompair a úsáid de cibé méid, foirm agus dath a bheidh forordaithe agus lena mbeidh cibé brí a bheidh forordaithe’. In the Table in s20 of the Safety in Industry Act, 1980, ‘In every factory in which ... there is given off any dust ... of such a character and to such an extent as to be likely to be injurious ... to the person employed ... on the premises’ is translated as ‘I ngach monarcha ina mbeidh á chur amach ... an oiread sin agus an saghas sin deannaigh ... gur dócha go ndéanfaidh sé díobháil do na daoine a fostaítear ... san áitreabh’.

*a chur chun* See the commentary on Article 26.3.2°. Professor Máirtín Ó Murchú remarks on a draft of the direct translation below that ‘díriú’ is too sharp (“ró-ghrod”) for the context involved and recommends ‘chun’ as not needing any verb.

*toisc* Professor Máirtín Ó Murchú recommends ‘ar an mbonn’ rather than the more usual phrase in the Acts, ‘ar an bhforas’, as being more generally intelligible.

*ar a laghad* Note that the phrase ‘ar a laighead’ is both preceded and followed by a comma in the original text.

*gur chóir* Note that ‘gur cóir’ is the form of this phrase in the original text.

*do thromlach* See the commentary on Articles 13.2.2° and 14.4 regarding ‘tromlach’.

*lámh a chur le* See the commentary on Article 13.3.1°.

*lena mbaineann* See the commentary on Articles 3 and 14.5.1°.

*a fhógairt ina dhlí* See the commentary on Articles 13.3.2° and 25.1.

*togra* See the commentary on Article 46.2.

*breith* See the commentary on Article 15.11.1°.

*diúltú dá* See the commentary on Article 26.3.1°.

*Is cead do* See the commentary on Article 9.1.3°.

### Standardised gender-proofed Irish text

Is cead do thromlach de chomhaltaí Sheanad Éireann, i bhfochair trian<sup>1</sup> ar a laghad de chomhaltaí Dháil Éireann, comhachainí a chur chun an Uachtaráin faoin Airteagal seo, á iarraidh air nó uirthi diúltú dá lámh a chur le haon Bhille lena mbaineann an tAirteagal seo agus don Bhille sin a fhógairt ina dhlí, toisc togra a bheith ann ina bhfuil an oiread sin tábhachta náisiúnta gur chóir breith an phobail a fháil air.

### Variant

- 1 ‘trian’

### Direct translation

Féadfaidh tromlach de<sup>1</sup> chomhaltaí Sheanad Éireann agus trian de<sup>2</sup> chomhaltaí Dháil Éireann, le comhachainí chun an Uachtaráin<sup>3</sup> faoin Airteagal seo, a iarraidh ar an Uachtarán gan aon Bhille lena mbaineann an tAirteagal seo a shíniú agus a fhógairt ina dhlí ar an bhforas<sup>4</sup> go bhfuil togra sa Bhille a bhfuil a oiread tábhachta náisiúnta ag gabháil leis<sup>5</sup> gur chóir toil an phobail air a fhionnadh<sup>6</sup>.

### Variants

- 1 ‘an tromlach de’, ‘tromlach’
- 2 ‘trian’
- 3 ‘arna díriú acu ar an Uachtarán’, ‘arna seoladh/cur acu chuig an Uachtarán’
- 4 ‘ar an mbonn’
- 5 ‘atá chomh tábhachtach sin go náisiúnta / ó thaobh an náisiúin de’
- 5 ‘a fháil air’

## ARTICLE 27.2 AIRTEAGAL 27.2

### TÉACS GAELGE

Ní foláir gach achainí den sórt sin a bheith i scríbhinn

agus í a bheith faoi láimh an lucht achainí agus ní foláir a sinithe sin a bheith fíoraithe ar an modh a ordáitear le dlí.

#### LITERAL ENGLISH TRANSLATION

Every petition/appeal of that kind must be in writing and under the hand of the petitioners and their signatures must be verified in the manner ordered by law.

#### ENGLISH TEXT

Every such petition shall be in writing and shall be signed by the petitioners whose signatures shall be verified in the manner prescribed by law.

#### Divergences between the official texts

- 1 While 'the petitioners' is perfectly rendered in the Irish text, 'lucht achainí' literally translates as 'the people of the petition'; 'petitioner' is translated simply as 'achainíoch' in *Téarmaí Dlí*.
- 2 'Signed' is rendered as 'faoi láimh', 'under the hand of', which has the sense of 'sign'; 'I sign' is translated as 'sinim' in *Téarmaí Dlí*.
- 3 'Whose signatures' is rendered as 'agus ... a sinithe sin' ('and their signatures') in the Irish text.
- 4 'Prescribe' is rendered by 'ordaigh', 'order', in the Irish text.
- 5 'Shall' is twice rendered as 'ní foláir' ('must') in the Irish text.

Note that this section was added to the text by the Second Amendment of the Constitution Act, 1941. The original Article 27.2 commenced as follows:

Every such petition shall be in writing signed by the petitioners .... *Ní foláir gach athchuinghe den tsórt sin do bheith i scríbhinn fá láimh an lucht athchuinghe.*

#### Commentary

*a ordáitear* 'Ordáim' is translated as 'I order' in *Téarmaí Dlí* – see the commentary on Article 25.4.2°. *De Bhaldraithe* translates 'I prescribe' as 'leagam amach', translating 'prescribed task' as 'obair ordaithe; obair cheaptha' and 'in the prescribed time' as 'san am atá ceaptha'. See further the commentary on Article 34.1. 'Prescribe' is expressed as 'leag amach' in Article 15.9.1°.

In s9(2) of the Land Act, 1923, 'The purchase annuity shall be paid until the whole of the advance in respect of which it is payable is ascertained in manner prescribed by the Minister for Finance to have been repaid' is translated as 'Íocfar an bhlianacht cheannaigh go dtí go mbeidh déanta amach ar an gcuma a ordóidh an tAire Airgid go bhfuil aisíoc déanta in iomlán an roimh-ioca 'na raibh sé iníoctha mar gheall air'. In Article 27 of the 1922 Constitution, 'Each University ... shall be entitled to elect three representatives to Dáil Éireann upon a franchise and in a manner to be prescribed by law' is translated as 'Beidh de cheart ag gach Príomh-sgoil ... trí teachtaí do thogha do Dháil Éireann ar reacht-shaoirse agus ar nós a socrófar le dlí', with 'he shall record such refusal in the prescribed manner' being translated as 'breacfa sé síos an diúltú san ar an slí ordaithe' in s7(5) of the Censorship of Films Act, 1923. Finally, in s6(3) of the Finance Act, 1923,

'and proceedings for the recovery thereof may be taken in any manner prescribed by the Income Tax Act, 1918' is translated as 'ach chun an céanna d'fháil uaidh féadfar imeachta do bhunú ar aon tslí dá bhfuil leagtha amach san Acht Cánach Ioncuim, 1918'.

In the Table to s4 of the Finance Act, 1990, 'an individual who, in the manner prescribed by the Income Tax Acts, makes a claim in that behalf' is translated as 'aon phearsa aonair a dhéanfaidh, sa tslí a fhorordaítear leis na hAchtanna Cánach Ioncaim, éileamh chuige sin', this sentence being translated as 'Aon aonair a dhéanfaidh, sa tslí a fhorordaítear leis na hAchtanna Cánach Ioncaim, éileamh chuige sin' in s2(1) of the Finance Act, 1970, and as 'Aon phearsa a dhéanfas, sa tslí a hordaítear leis na hAchtanna Cánach Ioncaim, éileamh dá lorg sin' in s4(1)(c) of the Finance Act, 1951. See further the commentary on Article 34.4.3°.

Professor Máirtín Ó Murchú questions whether 'for-ordaigh' has any advantage over 'ordaigh' in the direct translation below. As a continuing situation is involved, apparently, rather than a series of actions, Professor Ó Murchú recommends translating 'in the manner prescribed by law' as 'sa tslí atá ordaithe le dlí'.

*i scríbhinn* 'Conradh i scríbhinn' is translated as 'contract in writing' in *Téarmaí Dlí*. 'Scribend', which comes from Latin 'scribendum', is translated principally as 'act of writing' in DIL, citing 'oenlitre dodénom díb hi scribunt' ('that single letters should be made of them in writing') from the ninth-century St Gall Glosses on Priscian. See the commentary on Article 15.10.

*an lucht achainí* 'Lucht' is translated as '(class, category, of) people' in *Ó Dónaill*, citing '*lucht oibre, ceirde*, workpeople, tradespeople', 'lucht' in this sense not being inflected in the genitive singular. See the commentary on Article 12.10.6° ('lucht tagartha') regarding 'lucht' and see the commentary on Article 26.3.2° regarding 'achainí'.

*fíoraithe* Past participle of 'fíoraigh', 'fíoraím' being translated as 'I verify' in *Téarmaí Dlí* – see the commentary on Article 25.5.2°, where 'fíoraithe' expresses 'authenticated'.

*Ní foláir* See the commentary on Article 11.

*faoi láimh* See the commentary on Article 12.10.3°.

*ar an modh* See the commentary on Article 18.6.

*a sinithe sin* See the commentary on Articles 6.2, 8.3 and 12.4.3° regarding 'sin'.

#### Direct translation

Beidh gach achainí den sórt sin i scríbhinn agus sinithe<sup>1</sup> ag na hachainígh a bhfíorófar a sinithe sa tslí a fhorordaítear<sup>2</sup> le dlí.

#### Variants

<sup>1</sup> 'arna síniú'

<sup>2</sup> 'sa tslí atá ordaithe le dlí'

## ARTICLE 27.3 AIRTEAGAL 27.3

**TÉACS GAELGE**

Ní foláir léirthuirisc a bheith i ngach achainí den sórt sin ar an ábhar nó ar na hábhair áirithe ar a bhfuil sí bunaithe, agus í a thairiscint don Uachtarán lá nach déanaí ná ceithre lá tar éis an dáta a meastar a ritheadh an Bille ag dhá Theach an Oireachtais.

**LITERAL ENGLISH TRANSLATION**

There must be a clear account in every petition of that kind of the particular matter or matters on which it is based, and (it must) be offered to the President on a day not later than four days after the date on which the Bill is deemed to have been passed by the two Houses of the Oireachtas.

**ENGLISH TEXT**

Every such petition shall contain a statement of the particular ground or grounds on which the request is based, and shall be presented to the President not later than four days after the date on which the Bill shall have been deemed to have been passed by both Houses of the Oireachtas.

**Divergences between the official texts**

- 1 'Ground' is expressed in the Irish text by 'ábhar', the Irish legal term for 'matter', with the Irish expression of 'the particular ground or grounds' ('ar an ábhar nó ar na hábhair áirithe') capable of interpretation as 'on the ground or particular grounds'; 'ground (of application, etc)' is translated as 'foras' in *Téarmaí Dlí*, with 'ground of appeal' translated as 'foras achomhairc'.
- 2 'Request' is expressed as 'achainí', 'petition', in the Irish text, or more specifically by the pronoun 'sí' referring back to 'achainí'.
- 3 'Statement of' is expressed as 'léirthuirisc' ('clear account of') in the Irish text; 'statement' is translated simply as 'ráiteas' in *Téarmaí Dlí*.
- 4 'Present' is again expressed by 'tairg', the Irish legal term for 'offer'.
- 5 'Not later than' is again expressed as 'lá nach déanaí ná' ('on a day not later than') in the Irish text.
- 6 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that the words 'shall be in writing signed by the petitioners' / 'gach athchuinghe den tsórt sin do bheith i scríbhinn fá láimh an lucht athchuinghe, agus léarthuirisc do bheith innti' were deleted from this section (originally s2) by the Second Amendment of the Constitution Act, 1941, and the words 'léarthuirisc do bheith i ngach athchuinghe den tsórt sin' were inserted in place of the deleted Irish words.

**Commentary**

*léirthuirisc* A compound of 'léir' agus 'tuairisc'; neither *Ó Dónaill* nor *Dinneen* appears to include this as a headword. *Dinneen* translates 'léir-, léar-', in compounds, as (1) 'all, full, complete'; (2) 'clear, distinct'; (3) 'diligent', citing '*léar-scrúdaim*, I closely examine' and '*léar-*

*smuaineadh*, deep consideration or thought', translating 'tuairisc' as 'information, account, description, report, notification ...'. 'Tuairisc' is translated as 'report' (i.e. of a case) in *Téarmaí Dlí* and principally as 'information, tidings; account of whereabouts' in *Ó Dónaill*, with 'account, report, statement' as a secondary sense, citing '*tuairisc a thabhairt ar rud*, to give an account of something' and '*tuairisc garda*, garda report'. The adjective 'léir' is translated as 'clear, lucid; distinct, explicit' in *Ó Dónaill*. In Old Irish 'léir' had the sense of 'assiduous, earnest, careful, zealous', later having the sense of 'visible, perceptible'. DIL cites 'léir' compounded with 'túarascbáil' ('account, description') from *Leabhar Breac* ('lertuarascbail na cined-sin do faisnes'), compiled in 1411 or earlier. One theory regarding the origin of 'túairisc' is that it is a back-formation from 'túarascbáil', 'túairisc' being found only in Modern Irish, according to DIL, where this headword is translated as 'account, description, information, tidings', citing 'a bhfuairis d'ulc ag troid fá iath do shean / do thuirisc shuthain tug mar Bhrianach beacht' ('all that you endured fighting for your ancestral land gave lasting witness of you that you were a genuine scion of the O'Briens') from the poetry of Pádraigín Haicéad (c. 1600-1654).

'Any ground of refusal mentioned in the written statement of grounds of refusal and no other ground may be advanced in opposition to the appeal' is translated as 'féadfar aon scór chun diúltuithe luaidhtear sa ráiteas scríbhte i dtaobh scóranna chun diúltuithe agus ní féadfar aon scór eile do chur i gcoinnibh an athchomhairc' in s13(5)(c) of the Betting Act, 1931. In s31(10) of the Building Societies Act, 1989, 'it shall include in any document or advertisement issued to the public ... a statement of the charges or the basis for the charges in respect of the services' is translated as 'cuirfidh sé ráiteas faoin muirir, nó faoin mbonn atá leis na muirir, i leith na seirbhísí, ar áireamh in aon doiciméad nó fógrán a eiseofar don phobal'. 'A statement of the charges against him', in s6(1)(a) of the Criminal Procedure Act, 1967, is translated as 'ráiteas ar na cúisimh ina choinne', 'a concise statement of the charges, defences, and counter-charges in support of which evidence was given' being translated as 'cuntas comair ar na cúisithe, ar na cosanta, agus ar na frith-chúisithe gur tugadh fianaise chun neartuithe leo' in s14(2)(c) of the Censorship of Publications Act, 1929. 'In the case of an application under subsection (2) ... the application shall contain a statement of the reasons why it is so made' is translated as 'I gcás iarratas faoi fho-alt (2) ... beidh ráiteas san iarratas maidir leis na fáthanna a bhfuil an t-iarratas á dhéanamh', 'A recommendation for reception shall ... contain a statement of the facts upon which the registered medical practitioner has formed his opinion' being translated as 'Maidir le moladh glactha ... déarf ar ann cad iad na fíoraí ar a bhfuil tuairim an liachleachtóra bunaithe' in s19(5). In s39(2) of the Prevention of Electoral Abuses Act, 1923, 'to deliver a statement of the particulars required to be contained in the return' is translated as 'ráiteas do sheachada ar na mion-innste is gá a bheith sa chuntas'.

Looking at other early translations of 'statement', in s4 of the Indemnity (British Military) Act, 1923, 'A statement in writing signed by any Secretary of State of the British Government certifying any of the matters mentioned in this section' is translated as 'Aon fhaisnéis i scríbhinn a bheidh sígnithe ag aon Rúnaí Stáit de Rialtas na Breataine

agus ag deimhniú éinní de sna nithe a luaidhtear san alt so'. 'That the statement of means lodged by the debtor is false' is translated as 'an cuntas acuinne a lóisteáil an féicheamh do bheith bréagach' in s20(2) of the Enforcement of Law (Occasional Powers) Act, 1924. Finally, 'where a felling notice contains a statement that a tree is being cut down or uprooted for a specified purpose' is translated as 'Má abartar i bhfógra leagtha crainn go bhfuil crann á ghearra anuas no á réaba as a phréamhacha chun criche áirithe' in s6(1) of the Forestry Act, 1928.

*ábhar* This headword is translated as 'matter; subject matter (i.e. of contract)' in *Téarmaí Dlí* – see the commentary on Article 10.1. See the commentary on Article 18.4.2° regarding 'foras', 'ground'. 'Where the ground or one of the grounds on which the petition is based is that corrupt practices prevailed extensively' is translated as 'másé is foras no is ceann d'fhorais na hachuinge ná gur tharla cleachtanna cuirpthe go fairsing' in s36(g) of the Referendum Act, 1942. In s54(2) of the Workmen's Compensation Act, 1934, 'Any objection based on any of the foregoing grounds is in this Part of this Act referred to as a statutory ground of objection' is translated as 'Gairmtear scór agóide reachtuil sa Chuid seo den Acht so d'agóid ar bith a bheidh bunuithé ar aon scór acu san roimhe seo', 'send a statement in writing to the Executive Council of his objection and of the specific grounds on which it is based' being translated as 'ráiteas i scríbhinn do chur chun na hArd-Chomhairle i dtaobh a agóide agus i dtaobh na bhforas áirithe ar a bhfuil sí bunuithé' in s17(5)(b) of the Control of Manufacturers Act, 1934. In s22(7) of the Derelict Sites Act, 1990, 'An appeal to the Tribunal shall contain a statement of the specific grounds for the appeal' is translated as 'Beidh, in achomharc chun an Bhinse, ráiteas i dtaobh na bhforas sonracha a bheidh leis an achomharc'. See also the commentary on the previous section.

Looking at early translations, 'or shall have reasonable grounds for believing that there were some such goods, animals or chattels therein' is translated as 'no go raibh cúis réasúnta aige chun a chreidiúint go raibh earraí, ainmhithe no maoin éigin den tsórt san ann' in s10 of the Enforcement of Law (Occasional Powers) Act, 1923. In s164(3) of the Defence Forces (Temporary Provisions) Act, 1923, 'Where a person claims his discharge on the ground that he has not been attested or re-engaged' is translated as 'Má éilíonn duine a scur ar an scór nár teistíodh no nár hath-fhostuío dh é'. The current term, 'foras', is found in s5 of the Dáil Éireann Courts (Winding Up) Act, 1923, Amendment Act, 1924, where 'after special leave to appeal has been granted by the Commissioners on a motion on notice stating the grounds of appeal' is translated as 'marar dhin na Coimisinéirí cead speisialta chun athchomhairc do dheona do bharr tairisginte gur tugadh fógra ina thaobh agus inar luadhach foraisí an athchomhairc'.

*a thairiscint* Verbal noun of 'tairg', 'tairgim' being translated as 'I offer' in *Téarmaí Dlí* – see the commentary on Articles 12.10.3°, 25.1 and 26.1.2°.

*Ní foláir* See the commentary on Article 11.

*achainí* See the commentary on Article 26.3.2°.

*den sórt sin* See the commentary on Article 13.7.2°.

### Direct translation

Beidh ráiteas i ngach achainí den sórt sin maidir leis an bhforas áirithe nó na forais áirithe ar a mbeidh an iarraidh bunaithe, agus déanfar í a thíolacadh don Uachtarán tráth nach déanaí ná ceithre lá tar éis an dáta a mheasfar an Bille a bheith rite ag dhá Theach an Oireachtais.

### ARTICLE 27.4.1° AIRTEAGAL 27.4.1°

#### TÉACS GAEILGE

Chomh luath agus a gheibheann an tUachtarán achainí faoin Airteagal seo ní foláir dó í a bhreithniú agus, tar éis comhairle a ghlacadh leis an gComhairle Stáit, a bhreith a thabhairt uirthi lá nach déanaí ná deich lá tar éis an lae a meastar a ritheadh, ag dhá Theach an Oireachtais, an Bille sin lena mbaineann an achainí.

#### LITERAL ENGLISH TRANSLATION

As soon as the President gets a petition under this Article he must consider it and, after taking counsel with the Council of State, give his judgement on it (on) a day not later than ten days after the day that that Bill to which the petition relates/applies is deemed to have been passed, by the two Houses of the Oireachtas.

#### ENGLISH TEXT

Upon receipt of a petition addressed to him under this Article, the President shall forthwith consider such petition and shall, after consultation with the Council of State, pronounce his decision thereon not later than ten days after the date on which the Bill to which such petition relates shall have been deemed to have been passed by both Houses of the Oireachtas.

### Divergences between the official texts

- 'Upon receipt of a petition addressed to him under this Article, the President shall forthwith ...' is expressed in the Irish text as 'Chomh luath agus a gheibheann an tUachtarán achainí faoin Airteagal seo ní foláir dó' ('As soon as the President gets a petition under this Article he must ...'); note that 'glacaim' translates 'I receive' in *Téarmaí Dlí* – where, however, 'money had and received to the use of another' is translated as 'airgead a fuarthas chun úsáide duine eile'.
- 'Consultation' is expressed as 'comhairle a ghlacadh' ('taking counsel') in the Irish text; 'comhchomhairle' translates 'consultation' in *Téarmaí Dlí*.
- 'Pronounce' is again expressed as 'a thabhairt' ('give') in the Irish text, 'I pronounce (judgement)' being translated as 'fógraim' in *Téarmaí Dlí*.
- 'Not later than' is again expressed as 'lá nach déanaí ná', '(on) a day not later than', in the Irish text.
- 'Consider' is again expressed by the Irish legal term for 'adjudge', 'adjudicate', 'decide' – 'breithnigh', however, also translating 'consider' in the Acts.
- 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.



### Commentary

*Chomh luath agus a gheibheann* Literally, 'as soon as ... gets'. 'A gheibheann' is a variant form of the present tense of 'faigh' and would generally be replaced today by 'a fhaigheann'. In s11(1) of the Fourth Schedule to the Fisheries Act, 1980, 'and upon receipt of such application such board may ... fix such licence duty' is translated as 'agus ar an iarratas sin a fháil, féadfaidh an bord sin ... an dleacht cheadúnais sin a shocrú'. In s7(2) of the Finance Act, 1923, 'Immediately upon receipt of any such certificate as is mentioned' is translated as 'Láithreach tar éis aon deimhniú d'fháil den tsórt a luaidhtear'. See the commentary on Articles 27.1 and 46.5, 'ar mbeith' expressing 'upon' in the latter Article.

*achainí* See the commentary on Article 26.3.2°.

*ní foláir* See the commentary on Article 11.

*a bhreithniú* See the commentary on Articles 17.1.1° and 20.1.

*comhairle a ghlacadh* See the commentary on Article 13.2.3°.

*a bhreith* See the commentary on Articles 15.11.1° and 26.3.1°.

*lena mbaineann* See the commentary on Article 14.5.1°.

### Standardised gender-proofed Irish text

Chomh luath agus a fhaigheann an tUachtarán achainí faoin Airteagal seo ní foláir dó nó di í a bhreithniú agus, tar éis comhairle a ghlacadh leis an gComhairle Stáit, a bhreith nó a breith a thabhairt uirthi lá nach déanaí ná deich lá tar éis an lae a meastar a ritheadh, ag dhá Theach an Oireachtais, an Bille sin lena mbaineann an achainí.

### Direct gender-proofed translation

Ar achainí a chuirfeadh<sup>1</sup> chuige nó chuici faoin Airteagal seo a fháil, déanfaidh an tUachtarán an achainí sin a bhreithniú<sup>2</sup> láithreach agus, déanfaidh sé nó sí, tar éis dul i gcomhairle<sup>3</sup> leis an gComhairle Stáit, a bhreith nó a breith ar an achainí<sup>4</sup> a fhógairt tráth nach déanaí ná deich lá tar éis an dáta a mheasfar an Bille lena mbainfidh an achainí sin a bheith rite ag dhá Theach an Oireachtais.

### Variants

- 1 'a bheidh dírithe'
- 2 'a bhreathnú', 'a mheas'
- 3 'i gcomhchomhairle', 'i ndáil chomhairle'
- 4 'ar an gcéanna', 'uirthi'

ARTICLE 27.4.2° AIRTEAGAL 27.4.2°

### TÉACS GAEILGE

I gcás an Bille nó aon fhoráil de a chur faoi bhreith na Cúirte Uachtaraí faoi Airteagal 26 den Bhunreacht seo ní bheidh ar an Uachtarán an achainí a bhreithniú mura

ndéana ná go dtí go ndéanfaidh an Chúirt Uachtarach, de dhroim an churtha faoi bhreith sin, breith a chraoladh á dhearbhu gan an Bille sin nó an fhoráil sin de a bheith in aghaidh an Bhunreacht seo ná in aghaidh aon fhorála de agus, i gcás an Chúirt Uachtarach do chraoladh breithe á dhearbhu sin, ní bheidh ar an Uachtarán a bhreith ar an achainí a chraoladh go ceann sé lá tar éis an lae a chraolfar breith na Cúirte Uachtaraí ag dearbhú mar a dúradh.

### LITERAL ENGLISH TRANSLATION

In the case of the Bill or of any provision of it being referred to the Supreme Court for determination under Article 26 of this Constitution the President will not have to consider the petition if the Supreme Court, in consequence of that submission for determination, does not announce or until the Supreme Court does announce a judgement declaring that that Bill or that provision of it is not contrary to this Constitution nor contrary to any provision of it and, in the case of the Supreme Court's announcing a judgement affirming that, the President will not have to announce his judgement on the petition for six days after the day the judgement of the Supreme Court will be announced affirming as stated.

### ENGLISH TEXT

If the Bill or any provision thereof is or has been referred to the Supreme Court under Article 26 of this Constitution, it shall not be obligatory on the President to consider the petition unless or until the Supreme Court has pronounced a decision on such reference to the effect that the said Bill or the said provision thereof is not repugnant to this Constitution or to any provision thereof, and, if a decision to that effect is pronounced by the Supreme Court, it shall not be obligatory on the President to pronounce his decision on the petition before the expiration of six days after the day on which the decision of the Supreme Court to the effect aforesaid is pronounced.

### Divergences between the official texts

- 1 'Pronounce' is again rendered by 'craol', 'announce', in the Irish text, with 'until the Supreme Court has pronounced a decision on such reference' being rendered as 'go dtí go ndéanfaidh an Chúirt Uachtarach, de dhroim an churtha faoi bhreith sin, breith a chraoladh' ('until the Supreme Court, on account of / arising out of that referral, announce a decision').
- 2 'It shall not be obligatory on the President' is twice rendered in the Irish text as 'ní bheidh ar an Uachtarán' ('the President will not have to'), the English clause alone being preceded by a comma.
- 3 'A decision ... to the effect that the said Bill ... is not repugnant to this Constitution' is rendered in the Irish text as 'breith ... á dhearbhu gan an Bille sin ... a bheith in aghaidh an Bhunreacht' ('a decision ... declaring that Bill ... not to be contrary to this Constitution'), with 'repugnant to' again being rendered simply as 'in aghaidh', and 'if a decision to that effect is pronounced by the Supreme Court' being rendered as 'i gcás an Chúirt Uachtarach do chraoladh breithe á dhearbhu sin' ('in the case of the Supreme Court's announcing / where the Supreme Court announces a decision declaring that'), with 'to the effect aforesaid'

being expressed as 'ag dearbhú mar a dúradh', 'declaring as said'.

- 4 'If the Bill ... is or has been referred' is rendered as 'I gcás an Bille ... a chur faoi bhreith' ('In the case of the Bill being referred') in the Irish text, with 'refer to the Supreme Court' being again rendered by 'cuir faoi bhreith na Cúirte Uachtaraí' ('submit to the Supreme Court for determination').
- 5 'Unless or until' is rendered as 'mura ... ná go dtí go', 'unless nor until', in the Irish text and 'or to any provision' as 'ná in aghaidh aon fhorála', 'nor to/against any provision'.
- 6 'Before the expiration of six days' is rendered as 'go ceann sé lá' ('for six days') in the Irish text.
- 7 'Consider' is again rendered by 'breithnigh', the Irish legal term for 'adjudge', 'adjudicate', 'decide'.

Note that Article 27.4.2<sup>o</sup> was added to the text of the Constitution by the Second Amendment of the Constitution Act, 1941.

### Commentary

*de dhroim* 'Tionóisc a tharla de dhroim agus i gcúrsa na fostaíochta' is translated in *Téarmaí Dlí* as 'accident arising out of and in the course of the employment'. *Ó Dónaill* cites '*de dhroim a ndearna sé*, because of what he did' and '*dá dhroim sin*, on that account'. *Dinneen* cites '*de dhroim an chunntais*, because of the account' and DIL cites 'do druim a doire' ('on account of her wrath') from the metrical *Dindshenchas* ('topography') contained in the twelfth-century *Book of Leinster*. 'Druim(m)', 'back', is cited in DIL from the ninth-century Milan Glosses on the Commentary on the Psalms.

'Shall be entitled also to appear and be heard at the hearing of an appeal against a decision on such application' is translated as 'beidh teideal freisin aige láithriú agus éisteacht a fháil tráth a bheidh achomharc in aghaidh breithe ar an iarratas sin á éisteacht' in s17(4) of the Malicious Injuries Act, 1981. 'And a decision on such application is not given until after the expiration of the registration' is translated as 'agus ná tabharfar breith ar an iarratas san go dtí tar éis dul in éag don chlárú' in s116(3) of the Mental Treatment Act, 1945.

*mura* This conjunction, translated as 'if not, unless' in *Ó Dónaill*, is used with the present subjunctive or future indicative to express future condition; *Ó Dónaill* cites '*mura mbaine, mbainfidh, taisme dó*, unless he meets with an accident' and '*mura n-ími, n-imeoidh, tú gan mhoill*, if you don't leave soon'. *Dinneen* translates 'muna' as 'unless, if not'. 'Mani' and 'mina' are cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles as forms of the conjunction 'má (ma)', 'if', with negative – 'mani-d-chreidid esséirge Crist ... nib-noibfea for n-ires' ('unless ye believe the resurrection of Christ ... your faith will not sanctify you') being among the examples cited from that collection of Glosses.

Looking at early translations of 'unless', we find the phrase 'fé bhun' in s1 of the Constitution (Amendment No. 2) Act, 1927, where 'The member of Dáil Éireann who is the Chairman of Dáil Éireann immediately before a dissolution of the Oireachtas shall, unless before such dissolution he announces to Dáil Éireann that he does not desire to continue to be a member thereof ... be

deemed without any actual election ...' is translated as 'An ball san de Dháil Éireann is Ceann Comhairle ar Dháil Éireann díreach roimh an Oireachtas do scur tuigfar, gan aon togha achtúil do dhéanamh, agus fé bhun é a chraola do Dháil Éireann roimh an scur san n-ach mian leis leanúint de bheith ina bhall de Dháil Éireann'.

Looking at modern Acts regarding the phrase 'unless or until', in s20(2)(b) of the Fire Services Act, 1981, 'prohibit the use of the building ... unless or until specified precautions are taken' is translated as 'a thoirmeasc an foirgneamh ... a úsáid ... mura ndéanfar nó go dtí go ndéanfar réamhchúraimí sonraithe'. 'Unless or until the contrary is proved' is translated as 'mura gcruthaítear agus go dtí go gcruthaítear a mhalairt' in s20(5) of the Finance Act, 1960. Finally, in s4 of the Licensing (Renewal of Licences) Act, 1923, 'Provided always that this Act shall not apply to any such licence as aforesaid unless or until all excise duties ... have been ... duly paid' is translated as 'Ar choiníoll i gcomhnaí ná bainfidh an tAcht so le haon cheadúnas den tsórt san roimhráite marar híocadh go cuibhe ná go dtí go n-íocfar go cuibhe ... gach diúite máil'.

*go ceann* 'For the duration of' is one of the senses of this phrase in *Ó Dónaill*, who cites '*fan go ceann seachtaine*, wait for a week', 'go ceann' also being translated as (1) 'to the top of' and (2) 'to the end of'. *Dinneen* translates 'ceann', preceded by the preposition 'go', as 'for (of time), till the end of'. DIL cites 'co cenn bliadnae' ('for a year') from 'Fiacc's Hymn' in the *Liber Hymnorum*, composed c. AD 800, translating 'co cenn' with noun indicating periods of time as 'till the end of, for the duration of'.

'If demanded before the expiration of ninety days' is translated as 'má iarrtar san do dhéanamh fé cheann deich lá is cheithre fichid' in Article 47 of the 1922 Constitution. In s16(6)(c) of the Packaged Goods (Quantity Control) Act, 1980, 'If a Peace Commissioner is satisfied that for any reason a direction given by him under this section should have effect before the expiration of seven days from the date of its making' is translated as 'Más deimhin le Feidhmeannach Síochána gur chóir ar chúis ar bith go mbeadh éifeacht le hordachán a thug sé faoin alt seo sula mbeadh seacht lá caite ó dháta a dhéanta'. In s37(5) of the Local Government (Planning and Development) Act, 1976, 'Any person may, before the expiration of twenty-one days next following the period stated ... appeal' is translated as 'Féadfaidh aon duine, sula mbeidh an lá is fiche díreach i ndiaidh na tréimhse a luafar ... caite, achomharc a dhéanamh'.

Professor Máirtín Ó Murchú favours 'go ceann' over 'sula mbeidh ... caite' as being clearer and more concise.

*ní bheidh ar an Uachtarán* One of the senses of the preposition 'ar' with the substantive verb relates to 'duties, obligations, rights, responsibilities', *Ó Dónaill* citing '*tá orm labhairt leis*, I must speak to him'. *Dinneen* cites '*bheadh sé air é dhéanamh*, he would have to do it'. *De Bhaldraithe* translates 'obligatory' as 'éigeantach', translating 'to make it obligatory (up)on someone to do something' as 'a chur d'iallach, de cheangal, ar dhuine rud a dhéanamh' and 'it is obligatory on us' as 'tá sé dlite againn; dlítear dinn'.

Looking at early Acts, 'Nothing in this Act shall render it obligatory for the Land Commission to acquire untenanted

land which is intermingled with woodland' is translated as 'Ní bheidh sé d'obligáid ar Choimisiún na Talmhan de bharr éinní san Acht so talamh nea-thionóntuithe do thógaint más talamh fé choill cuid de' in s24(7) of the Land Act, 1923. 'It shall not be obligatory upon any Under-Sheriff to employ any bailiff to assist him' is translated as 'ní bheidh ceangailte ar aon Fho-Shirriamh aon bháille d'fhostú chun cabhrúithe leis' in s2(1) of the Enforcement of Laws (Occasional Powers) Act, 1923. Finally, 'It shall not be obligatory for the names of candidates at a Seanad election to be printed on the ballot papers in one continuous column' is translated as 'Ní bheidh sé riachtanach ainmneacha na n-iarrthóirí i dtoghachán Seanad do chlóbhuála ar na páipéirí ballóide in aon cholún leanúnach amháin' in s3 of the Electoral (Seanad Elections) Act, 1925.

Looking at modern Acts, 'provided that it shall not be obligatory under this subsection to hold a fresh election if an Assembly election otherwise is due to be held in the State' is translated as 'ach ní bheidh sé d'oibleagáid faoin bhfo-alt seo toghchán úr a dhéanamh má dhlítear, ar dhóigh eile, toghchán Tionóil a dhéanamh sa Stát' in s17(7) of the European Assembly Elections Act, 1977, with 'save that it shall not be obligatory on the Commissioners to acquire any land' being translated as 'ach ní bheidh d'oibleagáid ar na Coimisinéirí aon talamh ... a ghlacadh chucu' in s13(1) of the Coast Protection Act, 1963.

*ag dearbhú mar a dúradh* Literally, 'declaring as was said'. 'Dearbhú' is the verbal noun of 'dearbhaigh', which verb is translated as 'declare, affirm; assure; attest, prove' in *Ó Dónaill*, 'dearbhaím' being translated as 'I declare' in *Téarmaí Dlí* – see the commentary on Article 12.10.7°. See the commentaries on Articles 16.2.4° and 25.2.2° respectively regarding 'effect' and 'aforesaid' in early Acts. 'Effect', in the present sense, is translated as 'brí, éirim (scéil)' in *De Bhaldraithe*, who translates 'I received a telegram to the same effect' as 'fuair mé féin sreangscéal ina raibh a leithéid chéanna de scéal' and 'that is what he said or words to that effect' as 'murab é sin é a dúirt sé, sin é éirim a chuid cainte'.

'The Registrar under that Act shall ... make an entry opposite the entry of the mortgage to the effect that the mortgage is satisfied' is translated as 'déanfaidh an Cláráitheoir faoin Acht sin ... iontráil a chur isteach os coinne iontráil an mhorgáiste á rá go bhfuil an morgáiste sáraithe' in s27(4) of the Building Societies Act, 1989. In s49(9) of the Companies (Amendment) Act, 1983, "unqualified report" in relation to any accounts of a company, means a report, without qualification, to the effect that in the opinion of the person making the report the accounts have been properly prepared' is translated as 'ciallaíonn "tuarascáil gan agús" i ndáil le haon chuntais de chuid cuideachta, tuarascáil, gan agús, á rá go bhfuil na cuntais ullmhaithe go cúí dar leis an duine atá ag tabhairt na tuarascála'. In s14(1) of the Trade Marks Act, 1963, 'Where, by a contract in writing ... a purchaser or owner of goods enters into an obligation to the effect that he will not do ... an act' is translated as 'I gcás ina rachaidh ceannaitheoir nó úinéir earraí, trí chonradh i scríbhinn ... faoi oibleagáid arb éifeacht di nach ndéanfaidh sé ... gníomh', while in s256(1) of the Companies Act, 1963, 'the majority of the directors may ... make a statutory declaration to the effect that they have made a full inquiry

into the affairs of the company' is translated as 'féadfaidh stiúthóirí na cuideachta ... dearbhú reachtúil a dhéanamh á rá go ndearna siad fiosrúchán iomlán faoi chúrsaí na cuideachta'. Finally, 'every provision in this section to the effect that a rate of wages ... is to remain unchanged' is translated as 'gach foráil san alt so, gurb é a ciall go bhfanfaidh ráta páigh ... gan atharú' in s51(3) of the Conditions of Employment Act, 1936.

Professor Máirtín Ó Murchú, commenting on 'arb éifeacht di' in the direct translation below, favours 'á dhearbhu' and recommends 'á dhearbhu sin' over 'arb in is éifeacht di'.

*a chraoladh* 'Craoladh' is the verbal noun of 'craol', translated principally as 'announce, proclaim' in *Ó Dónaill*, with the secondary sense of 'broadcast' – see the commentary on Article 34.4.5°.

*mura ndéana* The present subjunctive of 'déan', this would generally be expressed today by the future tense (i.e. 'mura ndéanfaidh') – see the commentary on Article 12.3.1°.

*den Bhunreacht seo* Note that a comma follows this phrase in the original text.

*a chur faoi bhreith* See the commentary on Article 26. Professor Máirtín Ó Murchú, commenting on the direct translation below, recommends 'cuir' rather than 'tarchuir' as being more intelligible.

*achainí* See the commentary on Article 26.3.2°.

*a bhreithniú* See the commentary on Articles 17.1.1° and 20.1.

### Standardised Irish text

I gcás an Bille nó aon fhoráil de a chur faoi bhreith na Cúirte Uachtaraí faoi Airteagal 26 den Bhunreacht seo ní bheidh ar an Uachtarán an achainí a bhreithniú mura ndéanfaidh ná go dtí go ndéanfaidh an Chúirt Uachtarach, de dhroim an churtha faoi bhreith sin, breith a chraoladh á dhearbhu gan an Bille sin nó an fhoráil sin de a bheith in aghaidh an Bhunreacht seo ná in aghaidh aon fhorála de agus, i gcás an Chúirt Uachtarach a chraoladh breithe á dhearbhu sin, ní bheidh ar an Uachtarán a bhreith nó a breith ar an achainí a chraoladh go ceann sé lá tar éis an lae a chraolfar breith na Cúirte Uachtaraí ag dearbhú mar a dúradh.

### Direct gender-proofed translation

Má tharchuirtear nó má tarchuireadh an Bille nó aon fhoráil de<sup>1</sup> chun na Cúirte Uachtaraí faoi Airteagal 26 den Bhunreacht seo, ní bheidh d'oibleagáid ar an Uachtarán an achainí a bhreithniú<sup>2</sup> mura bhfógróidh nó go dtí go bhfógróidh an Chúirt Uachtarach breith ar an tarchur sin arb éifeacht di<sup>3</sup> an Bille sin nó an fhoráil sin den Bhille gan a bheith aimhréireach leis an mBunreacht seo nó le haon fhoráil de<sup>4</sup>, agus, má fhógraíonn an Chúirt Uachtarach breith arb in is éifeacht di<sup>5</sup>, ní bheidh d'oibleagáid ar an Uachtarán a bhreith nó a breith a fhógairt ar an achainí sula mbeidh sé lá caite<sup>6</sup> tar éis an lae a fhógrófar breith na Cúirte Uachtaraí arb éifeacht di<sup>7</sup> mar a dúradh thuas.

**Variants**

- 1 'den Bhille', 'den chéanna'
- 2 'a bhreathnú', 'a mheas'
- 3 'á dhearbhu', 'á rá'
- 4 'den Bhunreacht', 'den chéanna'
- 5 'á dhearbhu sin'
- 6 'go ceann sé lá', 'roimh dheireadh sé lá'
- 7 'ag dearbhu'

ARTICLE 27.5.1<sup>o</sup> AIRTEAGAL 27.5.1<sup>o</sup>**TÉACS GAEILGE**

I gcás gach Bille is siocair d'achainí faoin Airteagal seo, más é breith an Uachtaráin go bhfuil togra ann ina bhfuil an oiread sin tábhacht náisiúnta gur chóir breith an phobail a fháil air, ní foláir dó scríbhinn faoina lámh agus faoina Shéala a chur go dtí an Taoiseach agus go dtí Cathaoirleach gach Tí den Oireachtas á chur sin in iúl dóibh, agus diúltú dá lámh a chur leis an mBille sin agus dá fhógairt ina dhli mura nglactar, agus go dtí go nglactar, an togra

**LITERAL ENGLISH TRANSLATION**

In the case of every Bill which is the ground for a petition under this Article, if it is the judgement of the President that it contains a proposal which is of such national importance that the judgement of the people should be obtained on it, he must send a written document under his hand and under his Seal to the Taoiseach and to the Chairman of each House of the Oireachtas informing them of that, and he must decline to put his hand to that Bill and to promulgate it (as) law unless the proposal is accepted, and until it is accepted

**ENGLISH TEXT**

In every case in which the President decides that a Bill the subject of a petition under this Article contains a proposal of such national importance that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal and shall decline to sign and promulgate such Bill as a law unless and until the proposal shall have been approved either

**Divergences between the official texts**

- 1 'In every case in which the President decides that a Bill the subject of a petition under this Article' is expressed as 'I gcás gach Bille is siocair d'achainí faoin Airteagal seo, más é breith an Uachtaráin' ('In the case of every Bill which is the cause of / gives rise to a petition under this Article, if it is the decision of the President') in the Irish text.
- 2 'That the will of the people thereon ought to be ascertained' is again expressed in the Irish text as 'gur chóir breith an phobail a fháil air' ('that the judgement of the people should be obtained on it'), as in Article 27.1.
- 3 'He shall inform the Taoiseach ... accordingly in writing' is expressed in the Irish text as 'ní foláir dó scríbhinn ... a chur go dtí an Taoiseach ... á chur sin in iúl dó[ibh]' ('he must send a written document ...

to the Taoiseach ... informing [him] of that'), this phrase being followed by a comma in the Irish text alone.

- 4 'Approve' is expressed by 'glac', the Irish legal term for 'receive', 'accept'; 'formheasaim' translates 'I approve' in *Téarmaí Dlí*.
- 5 'To sign' is again expressed as 'a lámh a chur le' ('put his hand to') and 'fógairt ina dhli' ('promulgate as a law') is again capable of interpretation as 'proclaim as a law' in the Irish text.

**Commentary**

*is siocair d(o) Ó Dónaill* cites '*An rud ba shiocair leis an achrann*, what gave rise to the quarrel' and '*cad é is siocair leis?* what's the cause of it?' – see the commentary on Articles 12.10.7<sup>o</sup> and 25.2.2<sup>o</sup>. In s1 of the Constitution (Amendment No. 12) Act, 1930, 'Every such Committee of Privileges shall decide the question so referred to it and report its decision thereon to Dáil Éireann and Seanad Éireann within twenty-one days after the day on which the Bill the subject of such question was sent to Seanad Éireann' is translated as 'Déanfidh gach Coiste ar Phríbhléidí den tsórt san a bhreith a thabhairt ar an gceist a cuirfeadh fé n-a bhráid amhlaidh agus an bhreith sin do thuairisciú do Dháil Éireann agus do Sheanad Éireann laistigh de lá is fiche tar éis an lae do cuireadh an Bille do abhar don cheist sin go dtí Seanad Éireann'.

*á chur ... in iúl* See the commentary on Articles 28.9.1<sup>o</sup> and 22.2.6<sup>o</sup>, 'cuir in iúl' expressing 'report' in the latter. 'Rud a chur in iúl do dhuine' is translated as 'to let someone know something; to give someone to understand something; to pretend something to someone' in *Ó Dónaill*. 'I have to inform you' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tá orm a chur in iúl duit' in translations for the Department of Industry and Commerce. In s11(1)(d) of the Safety, Health and Welfare (Offshore Installations) Act, 1987, 'the person by whom the appointment is made shall ... inform the Minister in writing of the appointment' is translated as 'cuirfidh an duine a dhéanfaidh an ceapachán ... an ceapachán in iúl don Aire i scríbhinn'. In s33(4) of the Health (Mental Services) Act, 1981, 'Where the application is refused the health board ... shall so inform the applicant in writing' is translated as 'I gcás ina ndiúltófar don iarratas cuirfidh an bord sláinte ... é sin in iúl i scríbhinn don iarratasóir'. Finally, 'the Commission shall inform the Minister in writing of such failure or non-attendance' is translated as 'cuirfidh an Coimisiún an teip no an nea-theacht san in iúl don Aire i scríbhinn' in s27(3) of the Currency Act, 1927.

*mura nglactar* See the commentary on Articles 8.3, 12.10.4<sup>o</sup> and 13.1.3<sup>o</sup> regarding 'glac'; 'glacaim' is translated as 'I admit (as evidence); I receive' in *Téarmaí Dlí*, where 'glacaim le' is translated as 'I accept'. See the commentary on Articles 13.1.2<sup>o</sup> and 13.7.3<sup>o</sup> for translations of 'approve'. 'Or fails to adhere to the scheme approved by the Court' is translated as 'nó má mhainníonn sé gníomhú de réir na scéime a cheadaigh an Chúirt' in s38(8)(c) of the Central Bank Act, 1989, for example. 'A proposal to unite is approved by a special resolution of each society' is translated as 'go gceadófar togra an aontaithe le rún speisialta ó gach cumann' in s25(1)(a) of the Building Societies Act, 1976.

*scribhinn* This headword is translated principally as 'writing; written document' in *Ó Dónaill* and as 'script' in *Téarmaí Dlí* where '*scribhinn na fianaise*, transcript of evidence' is cited – see the commentary on Article 15.10.

*togra* See the commentary on Article 46.2. Note that the final 'togra' is followed by a dash in the original text.

*achainí* See the commentary on Article 26.3.2°.

*breith* See the commentary on Articles 15.11.1° and 26.3.1°. Professor Máirtín Ó Murchú favours 'breith' to 'toil' in the direct translation below and recommends translating 'that the will of the people thereon ought to be ascertained' as 'gur chóir breith an phobail air a iarraidh'.

*an oiread sin tábhacht náisiúnta* See the commentary on Article 27.1.

*ní foláir dó* See the commentary on Article 11.

*faoina láimh* See the commentary on Article 12.10.3°.

*a chur* See the commentary on Article 26.3.2°.

*diúltú do* See the commentary on Article 26.3.1°.

*lámh a chur le* See the commentary on Article 13.3.1°.

*dá fhógairt* See the commentary on Articles 13.3.2° and 25.1.

### Standardised gender-proofed Irish text

I gcás gach Bille is siocair d'achainí faoin Airteagal seo, más é breith an Uachtaráin go bhfuil togra ann ina bhfuil an oiread sin tábhachta náisiúnta gur chóir breith an phobail a fháil air, ní foláir dó nó di scribhinn faoina láimh agus faoina Shéala nó faoina Séala a chur go dtí an Taoiseach agus go dtí cathaoirleach gach Ti den Oireachtas á chur sin in iúl dóibh, agus diúltú dá lámh a chur leis an mBille sin agus dá fhógairt ina dhlí mura nglactar, agus go dtí go nglactar, an togra

### Direct gender-proofed translation

I ngach cás a gcinnfidh an tUachtarán go bhfuil a oiread sin tábhachta náisiúnta i dtogra i mBille<sup>1</sup> is ábhar d'achainí faoin Airteagal seo<sup>2</sup> gur chóir toil an phobail air<sup>3</sup> a fhionnadh<sup>4</sup>, cuirfidh sé nó sí é sin in iúl dá réir sin don Taoiseach agus do Chathaoirleach gach Ti den Oireachtas i scribhinn faoina láimh agus faoina Shéala nó faoina Séala agus diúltóidh sé nó sí don Bhille sin a shíniú agus a fhógairt ina dhlí mura nglactar leis an togra nó go dtí go nglactar leis<sup>5</sup>

### Variants

- 1 'go bhfuil togra lena ngabhann a oiread sin tábhachta náisiúnta i mBille'
- 2 'arb ábhar achainí faoin Airteagal seo é'
- 3 'ar an gcéanna'
- 4 'gur chóir breith an phobail air a iarraidh'
- 5 'mura nglactar leis nó go dtí go nglactar leis an togra'

## ARTICLE 27.5.1<sup>oi</sup>, ii AIRTEAGAL 27.5.1<sup>oi</sup>, ii

### TÉACS GAEILGE

- i le toil an phobail i Reifreann de réir forálacha alt 2 d'Airteagal 47 den Bhunreacht seo, taobh istigh d'ocht mí dhéag ón lá a bheireann an tUachtarán a bhreith, nó
- ii le rún ó Dháil Éireann arna rith taobh istigh den tréimhse réamhráite i ndiaidh lánscoir agus ationól do Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

- i by the will of the people in a Referendum in accordance with the provisions of section 2 of Article 47 of this Constitution, within eighteen months from the day the President gives his decision, or
- ii by resolution by Dáil Éireann passed within the aforesaid period after Dáil Éireann has dissolved and re-assembled.

### ENGLISH TEXT

- i by the people at a Referendum in accordance with the provisions of section 2 of Article 47 of this Constitution within a period of eighteen months from the date of the President's decision, or
- ii by a resolution of Dáil Éireann passed within the said period after a dissolution and re-assembly of Dáil Éireann.

### Divergences between the official texts

- 1 'By the people' is expressed as 'le toil an phobail' ('by the will of the people') in the Irish text.
- 2 'Within a period of eighteen months' is expressed simply as 'taobh istigh d'ocht mí dhéag' ('within eighteen months') in the Irish text, a comma preceding that phrase in the Irish text alone; in paragraph ii, 'within the said period', which is expressed as 'taobh istigh den tréimhse réamhráite' ('within the aforesaid period') in the Irish text, refers to the 'period' specified in paragraph i.
- 3 'From the date of the President's decision' is expressed as 'ón lá a bheireann an tUachtarán a bhreith' ('from the day the President gives his decision'), with 'from the date' again being expressed as 'ón lá', 'from the day', in the Irish text.

### Commentary

*toil* See the commentary on Article 12.9 where 'toil' expresses 'consent'. Note that 'that the will of the people thereon ought to be ascertained' is expressed as 'gur chóir breith an phobail a fháil air' in Article 27.1 – Professor Máirtín Ó Murchú remarks that 'breith' is the more suitable term in most of these contexts. As regards the phrase 'by the People', 'for the purpose of the Constitution of Ireland lately enacted by the People' is translated as 'chun críche Bunreacht na hÉireann d'achtuigh an Pobal le déanaí' in the Long Title of the Electoral (Chairman of Dáil Éireann) Act, 1937. In Article 48 of the 1922 Constitution, 'The Oireachtas may provide for the Initiation by the people of proposals for laws or constitutional amendments' is translated as 'Féadfaidh an t-Oireachtas soláthar do

dhéanamh chun tairisgintí ó sna daoine do thionnsnamh i dtaobh dlíthe no i dtaobh leasuithe bun-reachta’.

*de réir forálacha alt 2* According to the official standard, this would have the form ‘de réir fhorálacha alt 2’ – see the commentary on Article 1 regarding the (lenited) nominative instead of the genitive.

*a bheireann* This would generally be written today as ‘a thugann’ – see the commentary on Article 12.1.

*a bhreith* See the commentary on Articles 15.11.1° and 26.3.1°.

*rún* See the commentary on Article 12.10.4°.

*réamhráite* See the commentary on Article 25.2.2°.

*lánscoir* See the commentary on Articles 13.2.1° and 18.8.

*ationól* See the commentary on Article 18.3.

*Reifreann* See the commentary on Article 47.1.

### Standardised gender-proofed Irish text

- i le toil an phobail i Reifreann de réir fhorálacha alt 2 d’Airteagal 47 den Bhunreacht seo, taobh istigh d’ocht mí dhéag ón lá a thugann an tUachtarán a bhreith nó a breith, nó
- ii le rún ó Dháil Éireann arna rith taobh istigh den tréimhse réamhráite i ndiaidh lánscoir agus ationól do Dháil Éireann.

### Direct translation

- i ag an bpobal i Reifreann de réir fhorálacha alt 2 d’Airteagal 47 den Bhunreacht seo laistigh de thréimhse ocht mí dhéag ó dháta bhreith an Uachtaráin, nó
- ii le rún ó Dháil Éireann arna rith laistigh den tréimhse chéanna tar éis Dáil Éireann a lánscoir<sup>1</sup> agus a ationól.

### Variants

- 1 ‘a scoir’

## ARTICLE 27.5.2° AIRTEAGAL 27.5.2°

### TÉACS GAELIGE

Cibé uair a dhéantar togra a bhíonn i mBille is siocair d’achainí faoin Airteagal seo a ghlacadh le toil an phobail nó le rún ó Dháil Éireann de réir na bhforálacha sin romhainn den alt seo, ní foláir an Bille sin a thairiscint don Uachtarán chomh luath agus is féidir é tar éis a ghlactha, chun a lámh a chur leis agus é a fhógairt ina dhlí, agus air sin ní foláir don Uachtarán a lámh a chur leis an mBille agus é a fhógairt go cuí ina dhlí.

### LITERAL ENGLISH TRANSLATION

Whenever a proposal (which is) in a Bill which is ground for a petition under this Article is accepted by the will of the people or by a resolution by Dáil Éireann in accordance

with the foregoing provisions of this section, that Bill must be offered to the President as soon as possible after its acceptance, in order to put his hand to it and to promulgate it as law, and thereupon the President must put his hand to the Bill and duly promulgate it as law.

### ENGLISH TEXT

Whenever a proposal contained in a Bill the subject of a petition under this Article shall have been approved either by the people or by a resolution of Dáil Éireann in accordance with the foregoing provisions of this section, such Bill shall as soon as may be after such approval be presented to the President for his signature and promulgation by him as a law and the President shall thereupon sign the Bill and duly promulgate it as a law.

### Divergences between the official texts

- 1 ‘The subject of a petition’ is again rendered as ‘siocair d’achainí’ (‘ground for a petition’) in the Irish text.
- 2 ‘Present’ is again expressed by ‘tairg’, ‘offer’, in the Irish text.
- 3 ‘Approve’ is twice expressed by ‘glac’, ‘accept’, in the Irish text, as in the foregoing subsection, and ‘by the people’ as ‘le toil an phobail’, ‘by the will of the people’.
- 4 ‘For his signature’ is again expressed as ‘chun a lámh a chur leis’ (‘to put his hand to it’) with ‘sign’ also being expressed by ‘a lámh a chur le’ (‘put his hand to’), in the Irish text; ‘promulgate as a law’ is expressed by the same phrase we have already seen and which is capable of being interpreted as ‘proclaim as a law’.
- 5 ‘And the President shall thereupon sign the Bill and ...’ is expressed as ‘agus air sin ní foláir don Uachtarán a lámh a chur leis an mBille agus’ (‘and thereupon the President shall sign the Bill and ...’) in the Irish text, in which text alone that phrase is preceded by a comma.
- 6 ‘Shall’ is twice expressed as ‘ní foláir’ (‘must’) in the Irish text.

Note that the original Article 27.5.2° was amended as follows by the Second Amendment of the Constitution Act, 1941: ‘Every such Bill which’ was deleted and the words ‘Whenever a proposal contained in a Bill the subject of a petition under this Article’ were inserted in their place, with ‘, such Bill’ being inserted immediately after the word ‘section’. As regards the Irish text, the words ‘Gach Bille dá shórt sin a glactar’ were deleted and the phrase ‘Cibé uair a déantar togra bhíonn i mBille is siocair d’athchuinghe fán Airteagal so do ghlacadh’ was inserted in their place, and ‘an Bille sin do’ was inserted in place of the word ‘é’ where it firstly occurred in the subsection.

### Commentary

*Cibé* This pronominal is translated as (1) ‘whoever’ and (2) ‘whatever, whichever’ in *Ó Dónaill*, translating ‘cibé duine, rud’ as ‘whatever person, thing’ and citing ‘*cibé áit a rachaimid*, wherever we go’. ‘Cá huair? cén uair?’ is translated as ‘when’. *De Bhaldraithe* cites ‘you may come whenever you like, *féadfaidh tú teacht am ar bith, cibé am, is mian leat*’.

Looking at early Acts, in s7(2) of the Censorship of Films Act, 1923, 'Whenever any such application as is mentioned in the foregoing sub-section is made to the Official Censor' is translated as 'Aon uair a cuirfar fé bhráid an Scrúdóra Oifigiúla aon iarratas den tsórt a luaidhtear sa bhfo-alt deiridh sin', 'Whenever the Official Censor is of opinion that part only of any picture in respect of which an application is made to him under this section is unfit for exhibition in public' being translated as 'Má dintar fén alt so iarratas do leaga fé bhráid an Scrúdóra Oifigiúla i dtaobh pictiúra agus gur dó leis ná fuil ach cuid den phictiúir sin gan bheith oiriúnach le taisbeáint go puiblí in s7(4).

Looking at modern Acts, 'Whenever a person holding an office in a society becomes ineligible by virtue of this section to hold office' is translated as 'Aon uair a thiocfaidh duine a shealbhaíonn oifig i gcumann chun bheith neamhcháilithe, de bhua an ailt seo, chun oifig a shealbhú' in s64(10) of the Building Societies Act, 1989. 'Whenever any member shall have been named by the Ceann Comhairle immediately after the commission of the offence of disregarding the authority of the chair' is translated as 'Má ainmníonn an Ceann Comhairle aon chomhalta díreach tar éis dó nó di neamhaird a thabhairt ar údarás na Cathaoireach' in s61(1) of the *Standing Orders* of Dáil Éireann (1997).

*air sin* Looking at early Acts, in Article 6 of the 1922 Constitution 'and such Court or judge shall thereupon order the release of such person' is translated as 'agus órdóidh an Chúirt no an breitheamh san an duine sin do sgaoile ansan'. 'Leis sin' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'thereupon' in the 1926 *Standing Orders* of Dáil Éireann; in the 1997 *Standing Orders* of Dáil Éireann, 'the interruption shall thereupon take place' is translated as 'déanfar an stopadh láithreach'. 'And shall thereupon cease to affect the said undertaking' is translated as 'agus leis sin scuirfid de dhifir do dhéanamh don ghnó san' in s5 of the Dublin United Tramways (Lucan Electric Railways) Act, 1927. In s15(1) of the Seanad Electoral (Panel Members) Act, 1947, 'the Clerk of Dáil Éireann shall ... inform the Seanad returning officer of that fact and the Seanad returning officer shall thereupon sign and publish in the *Iris Oifigiúil* the register of nominating bodies prepared by him' is translated as 'cuirfidh Cléireach Dháil Éireann sin in iúl do cheann comhairimh an tSeanaid ... agus air sin sineoidh ceann comhairimh an tSeanaid, agus foilseoidh san *Iris Oifigiúil*, an clár de chomhluchta ainmniúcháin d'ullmhaigh sé'.

*a ghlacadh* 'Glacadh' is the verbal noun of 'glac' – see the commentary on subsection 1. See the commentary on Articles 13.1.2° and 13.7.3° where 'approval' is expressed respectively by 'comhaontú' and 'sásta le'. 'I approve' is translated as 'formheasaim' in *Téarmaí Dlí*. Commenting on 'formheasta' in the direct translation below, Professor Máirtín Ó Murchú remarks that this is a newly-composed word which would be close in meaning to 'ardmheasta', or the like, although Professor Ó Murchú admits it is frequently found in legislation. He fears it may not be understood in the context and recommends 'faomhadh', 'faofa', which is correct as regards sense but old-fashioned. In contemporary Irish in general 'aontú', 'ceadú', 'moladh', 'toiliú', etc., would be used, according to Máirtín Ó Murchú.

*togra* See the commentary on Article 46.2.

*is siocair* See the commentary on Articles 12.10.7° and 25.2.2°.

*achainí* See the commentary on Article 26.3.2°.

*toil* See the commentary on Article 27.5.1°i.

*ní foláir* See the commentary on Article 11.

*a thairiscint* See the commentary on Articles 25.1 and 26.1.2°.

*a lámh a chur le* See the commentary on Article 13.3.1°.

*a fhógairt* Verbal noun of 'fógair'. See the commentary on Articles 13.3.2° and 25.1.

### Direct translation

Aon uair<sup>1</sup> a bheidh togra i mBille is ábhar d'achainí faoin Airteagal seo formheasta<sup>2</sup> ag an bpobal nó le rún ó Dháil Éireann de réir na bhforálacha sin romhainn den Airteagal seo, a luaithe is féidir tar éis an fhorheasta sin<sup>3</sup> déanfar an Bille sin a thíolacadh don Uachtarán chun é a shíniú agus chun é a fhógairt ina dhlí agus air sin<sup>4</sup> síneoidh an tUachtarán an Bille agus déanfaidh é a fhógairt go cuí ina dhlí.

### Variants

- 1 'Cibé uair'
- 2 'faofa'
- 3 'tar éis a bheith formheasta/faofa amhlaidh'
- 4 'leis sin'

## ARTICLE 27.6 AIRTEAGAL 27.6

### TÉACS GAELIGE

I gcás gach Bille is siocair d'achainí faoin Airteagal seo, más é breith an Uachtaráin nach bhfuil aon togra ann ina bhfuil an oiread sin tábhacht náisiúnta gur chóir breith an phobail a fháil air, ní foláir dó scríbhinn faoina lámh agus faoina Shéala a chur go dtí an Taoiseach agus go dtí Cathaoirleach gach Tí den Oireachtas á chur sin in iúl dóibh, agus a lámh a chur leis an mBille sin lá nach déanaí ná aon lá dhéag tar éis an lae a meastar a ritheadh an Bille sin ag dhá Theach an Oireachtais, agus é a fhógairt go cuí ina dhlí.

### LITERAL ENGLISH TRANSLATION

In the case of each Bill which is ground for a petition under this Article, if it is the judgement of the President that there is no proposal in it that is of such national importance that the judgement of the people on it should be obtained, he must send a written document under his hand and under his Seal to the Taoiseach and to the Chairman of each House of the Oireachtas informing them of that, and put his hand to that Bill on a day not later than eleven days after the day that that Bill is deemed to have been passed by the two Houses of the Oireachtas, and duly promulgate it as law.

### ENGLISH TEXT

In every case in which the President decides that a Bill the subject of a petition under this Article does not contain

a proposal of such national importance that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal, and such Bill shall be signed by the President not later than eleven days after the date on which the Bill shall have been deemed to have been passed by both Houses of the Oireachtas and shall be duly promulgated by him as law.

### Divergences between the official texts

- 1 The same divergences as were noted regarding Article 27.5.1°, down to ‘under his hand and Seal’ / ‘á chur sin in iúl dóibh’ in that subsection, apply here, the texts of that subsection and this section being identical except for ‘contains’ / ‘go bhfuil ... ann’ in the former and ‘does not contain’ / ‘nach bhfuil ann’ in the latter.
- 2 ‘Sign’ is again expressed as ‘put his hand to’ in the Irish text, ‘not later than’ as ‘(on) a day not later than’, ‘after the date’ as ‘after the day’ and ‘promulgate as a law’ capable of being read as ‘proclaim as a law’, as we have already seen in earlier sections of this Article.

### Commentary

*an oiread sin tábhacht náisiúnta* One would expect ‘tábhacht’ to be in the genitive singular, i.e. ‘tábhachta’ – see the commentary on Article 27.1.

*is siocair* See the commentary on Article 27.5.1°.

*achainí* See the commentary on Article 26.3.2°.

*breith* See the commentary on Article 27.5.1°.

*togra* See the commentary on Article 46.2.

*a fháil* See the commentary on Article 27.1.

*ní foláir* See the commentary on Article 11.

*scríbhinn* See the commentary on Article 27.5.1°.

*faona láimh* See the commentary on Article 12.10.3°.

*a chur* See the commentary on Article 26.3.2°.

*in iúl* See the commentary on Article 27.5.1°.

*lámh a chur le* See the commentary on Article 13.3.1°.

*a fhógairt* See the commentary on Articles 13.3.2° and 25.1.

*go cuí* See the commentary on Article 43.2.1°.

### Standardised gender-proofed Irish text

I gcás gach Bille is siocair d’achainí faoin Airteagal seo, más é breith an Uachtaráin nach bhfuil aon togra ann ina bhfuil an oiread sin tábhachta náisiúnta gur chóir breith an phobail a fháil air, ní foláir dó nó di scríbhinn faoina láimh agus faoina Shéala nó faoina Séala a chur go dtí an Taoiseach agus go dtí cathaoirleach gach Tí den Oireachtas á chur sin in iúl dóibh, agus a lámh a chur leis an mBille sin lá nach déanaí ná aon lá dhéag tar éis an lae a meastar a ritheadh an Bille sin ag dhá Theach an Oireachtais, agus é a fhógairt go cuí ina dhlí.

### Direct gender-proofed translation

I ngach cás a gcinnfidh an tUachtarán nach bhfuil togra a ngabhann a oiread sin tábhachta náisiúnta leis<sup>1</sup> i mBille is ábhar d’achainí faoin Airteagal seo<sup>2</sup> gur chóir toil an phobail air a fhionnadh<sup>3</sup>, cuirfidh sé nó sí é sin in iúl dá réir sin don Taoiseach agus do Chathaoirleach gach Tí den Oireachtas i scríbhinn faoina láimh agus faoina Shéala nó faoina Séala, agus déanfaidh an tUachtarán an Bille sin a shíniú tráth nach déanaí ná aon lá dhéag tar éis an dáta a mheasfar an Bille a bheith rite ag dhá Theach an Oireachtais agus déanfaidh sé nó sí é a fhógairt go cuí ina dhlí.

### Variants

1 ‘lena ngabhann a oiread sin tábhachta náisiúnta’

2 ‘arb ábhar achainí faoin Airteagal seo é’

3 ‘breith an phobail a fháil air’



# THE GOVERNMENT AN RIALTAS

## ARTICLE 28.1 AIRTEAGAL 28.1

### TÉACS GAELIGE

Mórsheisear ar a laghad, agus cúig dhuine dhéag ar a mhéid, líon comhaltaí an Rialtais, agus is é an tUachtarán a cheapfas na comhaltaí sin de réir forálacha an Bhunreachtá seo.

### LITERAL ENGLISH TRANSLATION

The complement of members of the Government is at least seven (people), and at most fifteen people, and it is the President who will appoint those members in accordance with the provisions of this Constitution.

### ENGLISH TEXT

The Government shall consist of not less than seven and not more than fifteen members who shall be appointed by the President in accordance with the provisions of this Constitution.

### Divergences between the official texts

- 1 'The Government shall consist of' is expressed as 'líon comhaltaí an Rialtais' ('the complement of members of the Government') in the Irish text, the copular meaning being expressed syntactically.
- 2 'Not less than seven' is expressed as 'Mórsheisear ar a laghad' ('at least seven [people]') in the Irish text, the obsolescent term 'mórsheisear' expressing the personal number 'seven', this term now limited in speech to parts of Munster.
- 3 'Not more than fifteen members' is expressed as 'cúig dhuine dhéag ar a mhéid' ('fifteen people at most') in the Irish text.
- 4 'Who shall be appointed by the President' is expressed as 'agus is é an tUachtarán a cheapfas na comhaltaí sin' ('and it is the President who will appoint those members') in the Irish text, the preceding clause being followed by a comma in that text alone.

Note that Article 51 of the 1922 Constitution concludes as follows:

The Executive Council shall be responsible to Dáil Éireann, and shall consist of not more than seven nor less than five Ministers appointed by the Representative of the Crown on the nomination of the President of the Executive Council. *Beidh an Ard-Chomhairle freagarthach do Dháil Éireann, agus is é a líon seachtar n-Airí ar an gcuid is mó dhe no cúigear Airí ar an gcuid is lú dhe ar n-a gceapa ag Ionadaí na Coróinneach ar ainmniú Uachtarán na hArd-Chomhairle.*

### Commentary

*Mórsheisear* Literally 'great six', 'mórsheisear' is translated as 'seven persons' in *Ó Dónaill*, who cites '*mórsheisear*

*fear, ban, seven men, women*'. *Dinneen* cites '*tá móirsheisear cloinne aca, they have seven children*', adding the following:

*Móir-sheisear* is in ordinary use in Munster, but though occurring in Ulster folk tales its place is taken by *seachtar* in Ulster and Connaught everyday speech.

See Seán Ua Súilleabháin, op. cit., p. 513, for the distribution of 'mórsheisear' in Munster Irish – usually pronounced 'muar(sh)(e)isear' from the Decies to Uíbh Ráthach, with 'múireisear' and 'mórsar' cited for Clare; in the Dingle Peninsula one finds 'seachtar', 'muarsheisear' seldom being heard.

'Mórsheisear' is a compound of 'mór' and 'seisear' – see DIL s.v. 'mórfeiser', 'a great hexad', i.e. 'a heptad, a group of seven persons (strictly of men)'. 'Fácab morfeser dia muintir' ('he left with him seven of his community') is cited from the *Tripartite Life of Patrick*, composed at the end of the ninth or beginning of the tenth century. This was the only way of expressing the personal number 'seven' in the earlier language – see Rudolf Thurneysen, op. cit., p. 244. According to David Greene, this formation is unparalleled in the Celtic languages – see s14.1.3.1.1 of Jadranka Gvozdanović, ed., *Indo-European Numerals* (1992), where Professor Green refers to Sanskrit 'mahāpañkti-', 'big five', meaning 'seven verse line'. Professor Eric P. Hamp reminds the author of 'a baker's dozen' and draws attention to the significance of 'seisear' as a half dozen in the development of 'mórfeiser'.

In s1(1) of the Schedule to the Radio and Television Act, 1988, 'The members of the Commission shall be appointed by the Government and shall be not less than seven nor more than ten in number' is translated as 'Is é an Rialtas a cheapfaidh comhaltaí an Choimisiúin agus ní lú ná seachtar ná ní mó ná deichniúr a líon'. In s3(6) of the Censorship of Films Act, 1923, 'the appeal shall be heard in the presence of not less than seven members of the Appeal Board' is translated as 'aith-éistfar an t-athchomharc i láthair seachtar ball ar a luíod den Bhord Athchomhairc'. 'Seachtar' alone is cited in the list of personal numbers in *An Caighdeán Oifigiúil* (p. 41).

*a cheapfas* The special form of the relative, third singular, future tense, of 'ceap' would be replaced by 'a cheapfaidh' according to the official standard – see the commentary on Article 6.1 regarding the special form of the relative and see the commentary on Articles 6.1, 13.1.1° and 13.8.2° regarding 'ceap'.

In s3(1) of the National Treasury Management Agency Act, 1990, 'There shall be a chairman of the Committee who shall be appointed by the Minister from amongst the members of the Committee' is translated as 'Beidh cathaoirleach ar an gCoiste a cheapfaidh an tAire as measc chomhaltaí an Choiste'. In s3(1) of the Military Service

Pensions Act, 1924, 'A board of assessors ... shall be constituted under this Act and shall consist of three members who shall be appointed by the Minister' is translated as 'Bunófar bord meastóirí ... fén Acht so agus beidh sé có-dhéanta de thríúr ball a cheapfídh an tAire'.

*líon comhaltaí an Rialtais* In accordance with the official standard (see the commentary on Article 1), one would expect a noun in the genitive, as 'comhaltaí' is above, to be lenited before the definite noun in the genitive ('an Rialtas'). See, however, '*líon suíochán an halla*, the seating capacity of the hall' in *Ó Dónaill*. See the commentary on Article 14.3 regarding 'líon'.

'The committee appointed under this section shall consist of not less than three or not more than five members' is translated as 'Líon nach lú na tríúr agus nach mó ná cúigear comhalta a bheidh sa choiste a cheapfar faoin alt seo' in s7(2) of the Turf Development Act, 1981, with 'Is iad a bheidh ar an bPríomh-Bhord líon nach lú ná ceathrar ná nach mó ná seisear comhaltaí arna gceapadh faoi Airteagal 5 den Chuid seo' translating 'The Central Board shall consist of not less than four or more than six members appointed under Article 5 of this Part' in s3(1) of the Second Schedule to the Fisheries Act, 1980. 'The Committee shall consist of not less than 5 nor more than 7 members ... who shall be appointed to be such members by the Minister' is translated as 'Is é a bheidh sa Choiste 5 comhalta ar a laghad agus 7 gcomhalta ar a mhéid ... a cheapfaidh an tAire chun bheith ina gcomhaltaí den sórt sin' in s1 of the Second Schedule to the National Treasury Management Agency Act, 1990.

*ar a mhéid* This phrase is translated as 'however great, long, etc., at most, at its biggest, of the biggest' in *Dinneen*, citing '*an talamh do chúm Dia i dtagadh an dias ar a mhéid ann*, the land God made where the ear of corn was at its biggest'. *Ó Dónaill* gives the form of this phrase as 'ar a mhéad' ('at the most'), which phrase is so cited in the Glossary accompanying *An Caihdeán Oifigiúil*.

*de réir forálacha an Bhunreacht seo* This would have the form 'de réir fhorálacha an Bhunreacht seo' in the official standard – see the commentary on Article 1.

### Standardised gender-proofed Irish text

Mórsheisear ar a laghad, agus cúig dhuine dhéag ar a mhéad, líon comhaltaí an Rialtais, agus is é nó is í an tUachtarán a cheapfaidh na comhaltaí sin de réir fhorálacha an Bhunreacht seo.

### Direct translation

Seachtar comhalta ar a laghad agus cúig chomhalta dhéag ar a mhéad, líon comhaltaí an Rialtais,<sup>1</sup> ar comhaltaí iad a cheapfaidh an tUachtarán de réir fhorálacha an Bhunreacht seo.<sup>2</sup>

### Variants

- 1 'Beidh an Rialtas comhdhéanta de sheachtar ar a laghad agus cúig chomhalta dhéag ar a mhéad.'
- 2 'Is é a bheidh sa Rialtas seachtar comhalta ar a laghad agus cúig chomhalta dhéag ar a mhéad, a cheapfaidh an tUachtarán de réir fhorálacha an Bhunreacht seo.' 'Is é a bheidh sa Rialtas

seachtar comhalta ar a laghad agus cúig chomhalta dhéag ar a mhéad, agus ceapfaidh an tUachtarán de réir fhorálacha an Bhunreacht seo iad.'

## ARTICLE 28.2 AIRTEAGAL 28.2

### TÉACS GAEILGE

Faoi chuimsiú forálacha an Bhunreacht seo, is é an Rialtas a oibreos, nó is le húdarás an Rialtais a oibreofar, cumhacht chomhallach an Stáit.

### LITERAL ENGLISH TRANSLATION

Within the constraint/scope of the provisions of this Constitution, it is the Government that will operate, or it is with the authority of the Government that will be operated, the implemental power of the State.

### ENGLISH TEXT

The executive power of the State shall, subject to the provisions of this Constitution, be exercised by or on the authority of the Government.

### Divergences between the official texts

- 1 'Executive' is expressed by a relatively unfamiliar term, an adjective formed from 'comhall', 'to fulfil, discharge, perform, implement'.
- 2 'Exercise' is expressed by 'oibrigh' ('operate') in the Irish text, as we have seen in some earlier Articles.
- 3 The forms corresponding to 'of the Government' and 'exercise' are repeated in the Irish text in order to express 'be exercised on the authority of the Government' – see the commentary on Article 6.2 regarding 'by or on the authority of'.
- 4 'Subject to' is expressed as 'faoi chuimsiú', 'within the constraint/scope of' in the Irish text, as we have seen in some earlier Articles.

### Commentary

*cumhacht chomhallach* See the commentary on Article 6.1 regarding the noun 'comhallacht'. The adjective 'comhallach' is translated as 'observant (*ar riail*, of a rule)' in *Ó Dónaill*, with *Dinneen* citing 'cómhallach' as a variant of 'cómhaltach', translated as 'fulfilling, fulfilled, keeping promises, contracts'. DIL cites 'combad chomaltach mo recht' ('that my rule might be exercised with its responsibilities'), from the twelfth-century *Book of Leinster*, as an example of 'comaltach', the earlier form of 'comhallach'. 'Comaltach' is based on 'comalnad', verbal noun of 'comalnaithir', translated as 'fulfils, discharges, performs (*a duty, undertaking*); carries into effect, brings to pass (*a promise, prophecy*); fulfils, observes (*a law, command*); satisfies' in DIL. 'Comall' is a late verbal noun of 'comalnaithir', translated as 'act of fulfilling, carrying out, discharging (*a duty, obligation*, etc.); fulfilment, observance' in DIL, where one example of the noun 'comallach' is cited from the *Metrical Dindsenchas* (translated there as 'guarantors').

As regards 'power', see Article 6.2 where 'These powers of government are exercisable only by or on the authority of the organs of State established by this Constitution' is expressed as 'Is leis na horgain Stáit a chuirtear ar bun

leis an mBunreacht seo, agus leo sin amháin nó lena n-údarás, is féidir na cumhachtaí riala a oibriú'. In Article 6.1, 'All powers of government, legislative, executive and judicial' is expressed as 'gach cumhacht riala, idir reachtaíocht is comhallacht is breithiúnas'. In the Long Title of the Republic of Ireland Act, 1948, 'to enable the President to exercise the executive power or any executive function of the State' is translated as 'dá chumasú don Uachtarán cumhacht chomhallach no aon fheidhm d'fheadhma comhallacha an Stáit d'oibriú'. The Long Title of the Constitution (Amendment No. 27) Act, 1936, is as follows:

An Act to amend certain amendments of the Constitution in relation to the executive authority and power and in relation to the performance of certain executive functions. *Acht chun leasúithe áirithe do dhéanamh ar an mBunreacht maidir leis an údarás agus leis an gcomhacht feidhmiúcháin agus maidir le feidhmeanna áirithe feidhmiúcháin do dhéanamh.*

Note that Article 51 of the 1922 Constitution commences as follows:

The Executive Authority of the Irish Free State (Saorstát Éireann) 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. *Fógartar leis seo Údarás Feidhmiúcháin Shaorstáit Éireann do bheith sealbhúithe sa Rí, agus go bhfeidhmeofar ag Ionadaí na Coróinneach é do réir an dlí an cleachta agus an úsáid bhunreachtúil a rialúíonn feidhmiú an údarás feidhmiúcháin i gcás Thiarnais Canada.*

Note, finally, that 'the executive military command and inspection of the Forces' is translated as 'feidhm-cheannas míleata agus cigireacht na bhFórsaí' in s14 of the Defence Forces (Temporary Provisions) Act, 1923.

*Faoi chuimsiú forálacha an Bhunreacht seo* See the commentary on Article 12.5 regarding 'faoi chuimsiú' v. 'faoi réir' (in *Téarmaí Dlí*). According to the official standard 'forálacha' would be lenited here after this prepositional phrase – see the commentary on Article 1.

*a oibreos* The special form of the relative, future tense, of 'oibrigh' – see the commentary on Article 6.1 regarding the special form of the relative. Regarding 'oibrigh', 'operate', see the commentary on Article 3. Regarding the direct translation below, Professor Máirtín Ó Murchú again draws attention to the repetition involved in 'cumhacht feidhmiúcháin ... a fheidhmiú', suggesting 'comhlíon' as well as 'oibrigh' as alternatives.

*a húdarás* See the commentary on Article 6.2.

### Standardised Irish text

Faoi chuimsiú fhorálacha an Bhunreacht seo, is é an Rialtas a oibreoidh, nó is le húdarás an Rialtais a oibreofar, cumhacht chomhallach an Stáit.

### Direct translation

Déanfar, faoi réir fhorálacha an Bhunreacht seo, cumhacht feidhmiúcháin<sup>1</sup> an Stáit a fheidhmiú ag an Rialtas nó ar údarás<sup>2</sup> an Rialtais.<sup>3</sup>

### Variants

- 1 'fheidhmeach'
- 2 'le húdarás'
- 3 'Faoi chuimsiú fhorálacha an Bhunreacht seo, déanfaidh an Rialtas cumhacht feidhmiúcháin an Stáit a fheidhmiú nó déanfar í a fheidhmiú ar údarás an Rialtais. / ar a (n-)údarás.'

## ARTICLE 28.3.1<sup>o</sup> AIRTEAGAL 28.3.1<sup>o</sup>

### TÉACS GAELIGE

Ní dleathach cogadh a fhógairt ná páirt a bheith ag an Stát in aon chogadh ach amháin le haontú Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

It is not lawful to declare war nor for the State to partake in any war except with the agreement of Dáil Éireann.

### ENGLISH TEXT

War shall not be declared and the State shall not participate in any war save with the assent of Dáil Éireann.

### Divergences between the official texts

- 1 'War shall not be declared' is expressed as 'Ní dleathach cogadh a fhógairt' ('It is not lawful to declare war') in the Irish text.
- 2 'Ní dleathach', 'It is not lawful', also qualifies 'páirt a bheith ag an Stát in aon chogadh' ('the State having a part in any war'), with 'and the State shall not participate in any war' being expressed in the Irish text as 'ná [ní dleathach] páirt a bheith ag an Stát in aon chogadh' ('nor [it is not lawful] for the State to participate in any war').

Note that Article 49 of the 1922 Constitution reads as follows:

Save in the case of actual invasion, the Irish Free State (Saorstát Éireann) shall not be committed to active participation in any war without the assent of the Oireachtas. *Ní cuirfear Saorstát Éireann fé oibleagáid páirt ghníomhach do thógaint in aon choga gan aontú an Oireachtais, ach amháin i gcás ionsuidhe do dhéanamh ar Éirinn.*

### Commentary

*le haontú* 'Aontú' is translated as 'assent' in *Téarmaí Dlí*, this being the verbal noun of 'aontaigh', the first person singular, present tense, of which is translated as 'I assent, agree' in the Glossary appended to *An Caighdeán Oifigiúil*. 'Aontú' is translated as 'assent, agreement' in *Ó Dónaill*; note, however, that although 'aontaigh' is translated there as 'assent, agree', along with '*aontú le rud*, to assent to something' and '*aontú le duine faoi rud*, to agree with someone about something', *Ó Dónaill* also cites '*aontú le peaca*, to consent to sin'. *Dinneen* likewise translates 'aontuighim' as 'I unite, assent to, consent, agree (with *le* or *ar*); or without preposition', citing '*ro aontuigh Sadhbh a marbadh*, Sadhbh consented to its being killed' from O'Grady's edition of the Fenian tale *Tóruigheacht Dhiarmuda agus Ghráinne*. DIL cites 'thug sí air aontughadh'

(‘caused him to yield’) from the seventeenth-century translation of *Proverbs* vii. 21, the only other example of ‘oentugad’ in the sense of ‘consenting, agreeing’ cited there being ‘do dhruim aontuighthe don olc’ from Keating’s seventeenth-century *Three Shafts of Death*. DIL s.v. ‘oentu’, cites ‘tug Naoise aonta leis’ (Naoise ‘consented to this’) from Keating’s *History of Ireland*, examples of ‘oentu’ in the sense of ‘consent, co-operation, participation’ being cited in DIL from the *Leabhar Breac* (compiled in 1411 or earlier) onwards, the primary sense of ‘oentu’ being ‘oneness, one’, glossing Latin ‘unio’ and ‘unitas’ in the ninth-century Milan Glosses on the Commentary on the Psalms, being based on ‘oen’, ‘one’.

See the commentary on Article 15.8.2°, where ‘assent’ is expressed as ‘toiliú’. Looking at early Acts, in s22(1)(b) of the Agricultural Produce (Eggs) Act, 1939, ‘the personal representative of the said deceased registered proprietor or, with the assent of such personal representative, any other person shall ... be entitled’ is translated as ‘beidh ionadaí pearsanta an dílseánaigh chlárúithe éagtha san no, le haontú an ionadaí phearsanta san, aon duine eile i dteideal’, ‘le toiliú’ replacing ‘le haontú’ in the translation of the same text in s40(1)(b) of the Tourist Traffic Act, 1939. In Article 53 of the 1922 Constitution, ‘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 Dáil Éireann’ is translated as ‘Is ar ainmniú an Uachtaráin le haontú na Dála, a ceapfar na hAíre eile atá chun bheith in oifig mar bhaill den Ard-Chomhairle’.

*cogadh a fhógairt* This phrase is translated in *Ó Dónaill* as ‘to declare war’, ‘declare formally’ being given as one of the senses of ‘fógair’, ‘d’fhógair siad síocháin, they proclaimed peace’ also being cited there. *Dinneen* cites ‘fógraim cath ar, I declare war or battle on’. DIL translates ‘fúacair cath (for nech)’ as ‘proclaims battle on, challenges (someone) to battle’, citing examples from *Leabhar na hUidhre*, written in Clonmacnois c. 1100, onwards. ‘Fúacair’ is based on ‘gair-’, ‘call’. ‘Cogadh’ is translated as ‘war’ in *Ó Dónaill* and as ‘war, battle; contention, strife’ in *Dinneen*. The earlier form ‘cocad’, a compound of ‘com’ and ‘cath’, is translated as ‘war, conflict; act of waging war’ in DIL, where examples are cited from the ninth-century Milan and St Gall Glosses onwards.

In Article 2 of the First Schedule to the Geneva Convention Act, 1962, ‘In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them’, is translated as ‘I dteannta na bhforálacha a chuirfear i gcrích in aimsir shíochána, beidh feidhm ag an gCoinbhinsiún seo i gcás cogaidh fhógartha nó i gcás aon choinbhleachta armtha eile a éireoidh idir dhá cheann nó níos mó de na hArdpháirtithe Conarthacha, fiú má bhíonn ceann acu gan an staid chogaidh a aithint’.

Note that ‘dearbhaigh’ is the usual translation of ‘declare’ in the Acts, and ‘declare’ is so expressed in the Constitution – see the commentary on Articles 12.8 and 12.10.7° – examples of ‘faisnéisigh’ translating ‘declare’ in early Acts are given in the latter commentary. In s2(2) of the Seanad Electoral Act, 1928, ‘to ascertain and declare the result

thereof’ is translated as ‘a thora d’fháil amach agus d’fhógairt’, with ‘roimh fhógairt toradh na vótaíochta’ translating ‘before the declaration of the poll’ in s11(1) of the Third Schedule to the Electoral Act, 1923.

*páirt a bheith ag* In s21(1) of the Building Societies Act, 1989, ‘a building society may ... develop or participate in developing land’ is translated as ‘féadfaidh cumann foirgníochta talamh ... a fhorbairt nó bheith páirteach ina fhorbairt’. In s3(j)(ii) of Article XII of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977, ‘A member making such an agreement shall not participate in the election of Executive Directors’ is translated as ‘Aon chomhalta a dhéanfaidh comhaontú den sórt sin ní bheidh sé páirteach i dtoghadh Stiúrthóirí Feidhmiúcháin’. ‘By reason only of the fact that the holder of the office or employment might (though he does not) participate in the scheme’ is translated as ‘de bhí amháin go bhféadfadh sealbhóir na hoifige nó na fostaíochta a bheith (cé nach bhfuil sé) páirteach sa scéim’ in s235(8) of the Income Tax Act, 1967. The Margin Title of s9 of the Agricultural Credit Act, 1978, ‘Participation in agricultural projects’, is translated as ‘Páirt a ghlacadh i dtionscadail talmhaíochta’, ‘participate in’ in s9(a) being translated as ‘bheith páirteach ann’. Finally, in s65(6)(c) of the Finance Act, 1990, ‘a right to participate in the assets on a winding up’ is translated as ‘ceart chun bheith rannpháirteach sna sócmhainní i gcás foirceannadh’. Note, finally, that ‘bheith rannpháirteach’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘participate’ in translations for the Department of Education.

*Ní dleathach* See the commentary on Article 17.2.

### Direct translation

Ní dhéanfar cogadh a fhógairt agus ní bheidh an Stát páirteach in aon chogadh ach amháin le haontú Dháil Éireann.

## ARTICLE 28.3.2° AIRTEAGAL 28.3.2°

### TÉACS GAEILGE

Ach féadfaidh an Rialtas, i gcás ionraidh, aon ní a dhéanamh a mheasfaid a bheith riachtanach chun an Stát a chosaint, agus mura mbeidh Dáil Éireann ina suí ní foláir í a thionól chomh luath agus is féidir é.

### LITERAL ENGLISH TRANSLATION

But the Government may, in the case of invasion, do anything that they consider necessary to defend the State, and if Dáil Éireann is not sitting it must be convened as soon as is possible.

### ENGLISH TEXT

In the case of actual invasion, however, the Government may take whatever steps they may consider necessary for the protection of the State, and Dáil Éireann if not sitting shall be summoned to meet at the earliest practicable date.

### Divergences between the official texts

- 1 'In the case of actual invasion' is expressed simply as 'i gcás ionraidh' ('in the case of invasion') in the Irish text.
- 2 'Take whatever steps they may consider necessary' is expressed as 'aon ní a dhéanamh a mheasfaid a bheith riachtanach' ('do anything they consider necessary') in the Irish text.
- 3 'Summoned to meet' is expressed as 'a thionól' ('convened') in the Irish text.
- 4 'At the earliest practicable date' is expressed as 'chomh luath agus is féidir é' ('as soon as is possible') in the Irish text.
- 5 'However' is expressed as 'Ach' ('but') in the Irish text, as we have seen in some earlier Articles.
- 6 'Ní foláir' ('must') in the Irish text expresses 'shall' of the English text, as we have already seen in many earlier Articles.

Note that Article 49 of the 1922 Constitution reads as follows:

Save in the case of actual invasion, the Irish Free State (Saorstát Éireann) shall not be committed to active participation in any war without the assent of the Oireachtas. *Ní cuirfear Saorstát Éireann fé oibleagáid páirt ghníomhach do thógaint in aon choga gan aontú an Oireachtais, ach amháin i gcás ionsuidhe do dhéanamh ar Éirinn.*

### Commentary

*i gcás ionraidh* 'Ionradh' is translated principally as 'incursion, invasion' and 'pillaging, plunder' in *Ó Dónaill*, 'ionnradh' being translated in *Dinneen* as 'an attack, invasion, incursion, destruction, ravage; act of destroying, ravaging; also a probe'. 'Invasion' is translated as 'ionradh' in *Téarmaí Mileata / Military Terms*. Irish 'indred' glosses Latin 'uastatio' in the ninth-century Milan Glosses on the Commentary on the Psalms, this headword being translated as (a) 'incursion, foray, act of invading, laying waste, devastating, spoiling' and (b) (in general) 'injury, wrong, disadvantage' in DIL.

'Even in invaded or occupied areas' is translated as 'fiú i limistéir faoi ionradh nó faoi fhorghabháil' in Article 18 of the First Schedule to the Geneva Conventions Act, 1962. Looking specifically at 'actual' in the Acts, 'without actual notice of the contravention' is translated as 'gan fógra iarbhír faoin sárú' in s56(4)(b) of the Building Societies Act, 1989, for example, 'such equivalent being calculated according to the cost in the currency of the State of the actual principal, the actual interest or the actual commission and incidental expenses' being translated as 'agus an cóimhéid sin a ríomh de réir chostas na príomhshuime iarbhír, an úis iarbhír nó an choimisiúin agus na gcaiteachas teagmhasach iarbhír ... in airgead reatha an Stáit' in s6(10)(i) of the Irish Telecommunications Investments Limited Act, 1981. 'In an actual or supposed emergency at those premises' is translated as 'in éigeandáil iarbhír nó cheaptha san áitreabh sin' in s4(5) of the Social Welfare (Occupational Injuries) Act, 1966. See the commentary on Article 16.6 for early translations of 'actual'.

*a mheasfaid* The synthetic form of the third person plural, future tense, of 'meas'; this would generally be replaced

today by 'a mheasfaidh siad' – see the commentary on Article 14.5.1<sup>o</sup> regarding the synthetic and analytic forms of the verb in the Constitution. Though less obvious in the synthetic form, note the use of a third person, plural, inflection in referring to the collective singular noun, 'an Rialtas'; according to Professor Máirtín Ó Murchú this accords with normal Irish usage.

*Ó Dónaill* translates the verb 'meas' as 'estimate, value, judge; deem, consider', *Dinneen* including '(I) judge, consider, dwell upon, think, suppose' among the senses of 'measaim' and DIL translating 'mes(s)aid' as 'examines, judges, appraises', with the secondary sense of 'reckons, esteem, counts (as)'. The noun 'mes(s)', upon which this verb is based, is translated principally as 'the act of judging; a judgement, opinion' in DIL, where '[is] é a mess limm' ('this is my opinion about it') is cited from the ninth-century St Gall Glosses on Priscian.

'The Minister may ... do all such things as he may consider necessary for carrying on such fishery as a commercial undertaking' is translated as 'Féadfaidh an tAire ... gach ní a dhéanamh a mheasfaidh sé is gá chun an t-iascach sin a sheoladh mar ghnóthas trádála' in s60(1) of the Fisheries Act, 1980, 'may engage such consultants or advisors as it may consider necessary for the performance of its functions' being translated as 'féadfaidh sé cibé sainchomhairleoirí nó comhairleoirí a fhrúiliú a mheasfaidh sé is gá lena fheidhmeanna a chomhlíonadh' in s14(f) of the First Schedule to the National Institute for Higher Education, Dublin, Act, 1980. In s4(1) of the Censorship of Films Act, 1923, 'The Minister shall appoint such persons to be officers of the Official Censor ... as he may consider necessary for the purposes of this Act' is translated as 'Ceapfidh an t-Aire chun bheith ina n-oifighigh don Scrúdóir Oifigiúil ... pé daoine is dó leis is gá chun crícheanna an Achta so'.

*a chosaint* 'Cosaint' is the verbal noun of 'cosain', translated as 'defend, protect' in *Ó Dónaill*, who cites '*an tír a chosaint*, to defend the country'. 'Cosnaim' is translated as 'I defend' in *Téarmaí Dlí* and *Dinneen* translates 'cosnaim' as 'I defend, protect from (ar)'. The earlier 'con-sní' is translated as 'contends; contests, strives for, wins, gains' in DIL, only later did it also have the sense of 'defends' and 'costs', the two main senses of 'cosain' today. See the commentary on Article 40.3.1<sup>o</sup> where this verb expresses 'defend'. Note that 'to protect patrol from surprise attack' is translated as 'patról a chaomhnú ar ionsaí gan choinne' in *Téarmaí Mileata*, 'protection in nuclear warfare' being translated as 'caomhnú i gcogaíocht eithneach'. 'Protected transaction' is translated as 'idirbheart tearmainn' in *Téarmaí Dlí*, with 'protection from process' being translated as 'tearmann ó phróis'.

'An order for the protection of the family home or any moneys realised from the conveyance of any interest in the family home' is translated as 'ordú chun caomhnú a dhéanamh ar áras an teaghlaigh nó ar aon airgead a réadaíodh as tiolacadh aon leasa san áras teaghlaigh' in s11(c) of the Judicial Separation and Family Law Reform Act, 1989. 'Under the terms of Article 59 of the Convention for the Protection of Human Rights and Fundamental Freedoms' is translated as 'faoi théarmaí Airteagal 59 den Choinbhinsiún chun Cearta an Duine agus Saoirsí Bunúsacha a Chaomhnú' in the Preamble to the Fourth Protocol in the Diplomatic Relations and Immunities Act,

1967, this Convention being styled ‘an Coinbhinsiún Eorpach chun Cearta an Duine agus Saoirsí Bunúsacha a Chosaint’ in s20(a) of the Finance Act, 1973, ‘The Convention on the Physical Protection of Nuclear Material’ being styled ‘an Coinbhinsiún um Chosaint Fhisiceach Ábhair Núicléach’ in the Long Title of the Radiological Protection Act, 1991. Finally, in s20(3) of the Sugar Manufacture Act, 1933, ‘require the Company to do all such things in relation to such works as he may think necessary for the protection of the public’ is translated as ‘a cheangal ar an gCuideachtain gach ní do dhéanamh maidir leis na hoibreacha san is dóich leis is gá chun cosanta na poblíochta’. Note that ‘the defence of the State’ is translated as ‘cosaint an Stáit’ in the Defence Act, 1954, which Act is cited in Irish as ‘an tAcht Cosanta, 1954’.

Looking at early Acts regarding ‘protect’, ‘to protect its official documents ... and to protect itself and its members against any person or persons interfering with ... its members in the exercise of their duties’ is translated as ‘a scribhinní oifigiúla ... do chosaint agus é féin agus a bhail do chosaint ar aon duine no daoine a bhainfidh le n-a baill ... le linn dóibh a ndualgaisí do chó-líona’ in Article 20 of the 1922 Constitution. In s1(3) of the Enforcement of Law (Occasional Powers) Act, 1923, ‘for the purposes of any and every power authority immunity and protection given by law to the Under-Sheriff’ is translated as ‘chun crícheanna aon cheann agus gach ceann de sna comhachtanna, údaráis, saoirsí agus caomhnaisí dá dtugann an dlí don bhFo-Shirriamh’, ‘assists, encourages, harbours or protects any person’ being translated as ‘cabhair, misneach, coimirce no caomhaint do thabhairt d’éinne’ in s3(b) of the Treasonable Offences Act, 1925, ‘na caomhaintí agus na saoirsí céanna’ translating ‘the like protections and immunities’ in s25(4) of the Public Safety Act, 1927. Finally, ‘a tree which is not necessary for the ornament or protection of the holding on which it stands’ is translated as ‘crann nach gá chun ornáidithe ná chun dídine an ghabháltais ar a bhfuil sé ina sheasamh’ in s7(5)(d) of the Forestry Act, 1928.

*a thionól* ‘Tionól’ is the verbal noun of ‘tionóil’, translated as ‘collect, gather; convene, assemble; muster’ in *Ó Dónaill*, who cites ‘*cruinniú, dáil, a thionól*, to convene a meeting, an assembly’. ‘Tionól neamhdhleathach’ is translated as ‘unlawful assembly’ in *Téarmaí Dlí. Dinneen* translates ‘tionólaím’ as ‘I gather, collect, assemble, convene’. ‘Do-inóla’ is translated as ‘gathers, collects; (of arms) musters, assembles’ in DIL, where ‘ara chind tinolsat dail’ (‘dail’ = Modern Irish ‘dail’) is cited from *Saltair na Rann*, composed around the year 1000. See the commentary on Articles 15.11.3° and 22.2.2°.

In s4(5) of the Defence Act, 1954, ‘If at the time an order is made under this section, either House of the Oireachtas stands adjourned, that House shall be summoned to meet as soon as conveniently may be’ is translated as ‘Más rud é, an tráth a déanfar ordú faoin alt seo, go mbeidh ceachtar Teach den Oireachtas curtha ar atráth, comórfar an Teach sin a luaithe is caothúil’. ‘As and from the day on which the Oireachtas is summoned to meet next after such general election’ is translated as ‘an lá agus ón lá gairmfear an tOireachtas chun teacht le chéile tar éis an toghacháin ghenerálta san’.

Commenting on the direct translation below, Professor Máirtín Ó Murchú finds ‘a thionól’ sufficient and remarks

on ‘a ghairm chun tionól’ in an earlier draft that as ‘tionól’ would be understood simply as a noun rather than a verbal noun, it would be in the genitive following ‘chun’, rather than uninflected as a verbal noun following ‘chun’.

*chomh luath agus is féidir é* ‘And shall be transmitted free of charge by the earliest practicable post’ is translated as ‘agus seolfar ar aghaidh é in aisce leis an bpost is luaithe is féidir’ in s28(3) of the First Schedule to the European Assembly Elections Act, 1977. In s1(b) of Article XVI in the Schedule to the Bretton Woods Agreements Act, 1957, ‘Simultaneously with any decision to suspend the operation of any of the foregoing provisions, the Executive Directors shall call a meeting of the Board of Governors for the earliest practicable date’ is translated as ‘Nuair a cinnfear aon cheann de na forála sin thuas d’fhionraí, déanfaidh na Stiúrthóirí Feidhmiúcháin, san am chéanna, cruinniú den Bhord Rialtóirí a ghairm le tionól, an dáta is luaithe is féidir’. Note, finally, that ‘at the earliest within two months’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘ar an gcuid is luaidhe dhe laistigh de dhá mhí’ in translations for the Department of Fisheries.

*ní foláir* See commentary on Article 11.

### Standardised Irish text

Ach féadfaidh an Rialtas, i gcás ionraidh, aon ní a dhéanamh a mheasfaidh siad a bheith riachtanach chun an Stát a chosaint, agus mura mbeidh Dáil Éireann ina suí ní foláir í a thionól chomh luath agus is féidir é.

### Direct translation

I gcás ionraidh iarbhír, áfach, féadfaidh an Rialtas cibé bearta a mheasfaidh siad is gá a dhéanamh chun an Stát a chosaint, agus déanfar Dáil Éireann, mura mbeidh sí ina suí, a ghairm chun tionóil<sup>1</sup> a luaithe is féidir.

### Variant

1 ‘tionól’

## ARTICLE 28.3.3° AIRTEAGAL 28.3.3°

### TÉACS GAEILGE

Ní cead aon ní dá bhfuil sa Bhunreacht seo a agairt chun aon dlí dá n-achtaíonn an tOireachtas a chur ó bhail má luaitear ann gur dlí é chun slándáil an phobail a chur in áirithe agus chun an Stát a chaomhnú in aimsir chogaidh nó ceannairce faoi arm, ná chun aon ghníomh dá ndéantar nó a bheireann le tuiscint gur gníomh é a dhéantar in aimsir chogaidh nó ceannairce faoi arm de bhun aon dlí den sórt sin, a chur ar neamhní. San fho-alt seo, foláíonn “aimsir chogaidh” tráth a bheidh coinbhleacht faoi arm ar siúl nach mbeidh an Stát páirteach ann ach go mbeidh beartaithe ag gach Teach den Oireachtas ina thaobh le rún go bhfuil ann, de dheasca na choinbhleachta sin faoi arm, staid phráinne náisiúnta a dhéanann difear do bhonn beatha an Stáit agus foláíonn “aimsir chogaidh nó ceannairce faoi arm” an tréimhse aimsire sin a bheidh idir

an tráth a chuirfear deireadh le haon chogadh, nó le haon choinbhleacht faoi arm den sórt sin réamhráite, nó le ceannairc faoi arm agus an tráth a bheartóidh gach Teach den Oireachtas le rún nach ann a thuilleadh don staid phráinne náisiúnta arbh é an cogadh sin, nó an coinbhleacht sin faoi arm, nó an cheannairc sin faoi arm deara é.

#### LITERAL ENGLISH TRANSLATION

It is not permitted to plead anything that is in this Constitution to invalidate any law which the Oireachtas enacts if it is stated in it that it is a law to ensure the security of the people and to preserve the State in time of war or armed revolt, nor to nullify any act which is done or which gives to understand that it is an act done in time of war or armed revolt in pursuance of any such law. In this subsection, “time of war” covers a time when armed conflict in which the State is not participating will be in progress but that each House of the Oireachtas will have decided by resolution in regards to it that, because of that armed conflict, a state of national emergency exists which makes a difference to the basis of the life of the State and “time of war or armed revolt” covers that period of time which there will be between the time any war, or any armed conflict of the aforementioned kind, or armed revolt is put to an end and the time that each House of the Oireachtas decides by resolution that the state of national emergency which that war, or that armed conflict, or that armed revolt caused, no longer exists.

#### ENGLISH TEXT

Nothing in this Constitution shall be invoked to invalidate any law enacted by the Oireachtas which is expressed to be for the purpose of securing the public safety and the preservation of the State in time of war or armed rebellion, or to nullify any act done or purporting to be done in time of war or armed rebellion in pursuance of any such law. In this sub-section “time of war” includes a time when there is taking place an armed conflict in which the State is not a participant but in respect of which each of the Houses of the Oireachtas shall have resolved that, arising out of such armed conflict, a national emergency exists affecting the vital interests of the State and “time of war or armed rebellion” includes such time after the termination of any war, or of any such armed conflict as aforesaid, or of an armed rebellion, as may elapse until each of the Houses of the Oireachtas shall have resolved that the national emergency occasioned by such war, armed conflict, or armed rebellion has ceased to exist.

#### Divergences between the official texts

- 1 ‘A national emergency’ is rendered in the Irish text as ‘staid phráinne náisiúnta’ (‘a national state of emergency’ or ‘a state of national emergency’), with ‘exigency’/ ‘urgency’ being the general sense of ‘práinn’, as against ‘éigeandáil’, which today generally translates ‘emergency’.
- 2 ‘The vital interests of the State’ is rendered as ‘bonn beatha an Stáit’ (‘the basis of the life of the State’) in the Irish text.
- 3 ‘The public safety’ is expressed as ‘slándáil an phobail’ (‘[the] security of the people’) in the Irish text.

- 4 ‘Time’ is variously rendered throughout the Irish text as ‘aimsir’, ‘tréimhse aimsire’ and ‘tráth’.
- 5 ‘Any law ... which is expressed to be for the purpose of’ is expressed as ‘aon dlí ... má luaitear ann gur dlí é chun’ (‘any law ... if it is expressed in it that it is a law for the purpose of’) in the Irish text.
- 6 ‘Termination’ is rendered by ‘deireadh a chur le’ (‘putting an end to’) in the Irish text, with ‘such time after the termination of any war ... as may elapse until each of the Houses of the Oireachtas shall have resolved’ being rendered as ‘an tréimhse aimsire sin a bheidh idir an tráth a chuirfear deireadh le haon chogadh ... agus an tráth a bheartóidh gach Teach den Oireachtas le rún’ (‘that period of time that will be between the time an end is put to any war ... and the time each House of the Oireachtas will decide by resolution’) in the Irish text, with a comma following ‘of an armed rebellion’ (before ‘as may elapse’) in the English text alone.
- 7 ‘Securing’ is expressed in the Irish text by ‘a chur in áirithe’, a phrase generally used today in the sense of ‘reserving’, as we have seen in some earlier Articles.
- 8 ‘Any act ... purporting to be done’ is expressed as ‘aon ghníomh ... a bheireann le tuiscint gur gníomh é a dhéantar’ (‘any act ... which gives to understand that it is an act which is done’) in the Irish text; ‘purport’ is translated as ‘airbheartaigh’ in *Téarmaí Dlí*.
- 9 ‘Resolve’ is rendered by ‘beartaigh le rún’ (‘decide by resolution’) in the Irish text.
- 10 ‘Arising out of’ is rendered as ‘de dheasca’ (‘because of’) in the Irish text.
- 11 ‘In which the State is not a participant’ is rendered as ‘nach mbeidh an Stát páirteach ann’ (‘in which the State is not / will not be participating’) in the Irish text.
- 12 ‘Affecting’ is rendered as ‘a dhéanann difear do’ (‘which makes a difference to’) in the Irish text.
- 13 ‘Nothing shall ...’ is expressed as ‘Ní cead’ (‘It is not permitted’) in the Irish text, a phrase we have seen in the Irish text of some earlier Articles.
- 14 ‘Has ceased to exist’ is rendered as ‘nach ann a thuilleadh’ (‘no longer there’ / ‘no longer exists’) in the Irish text.

Note that the original subsection did not even contain the whole of the first sentence above, the words ‘in aimsir chogaidh nó ceannairc fá arm’ and ‘in time of war or armed rebellion’ being inserted respectively before ‘do bhun aon dlíghidh’ and ‘in pursuance of any such law’ by the Second Amendment of the Constitution Act, 1941. The second sentence, down to ‘the vital interests of the State’, was added by the First Amendment of the Constitution Act, 1939. The corresponding Irish text, not having been prepared when this Amendment was passed, was added to the Constitution by the Second Amendment of the Constitution Act, 1941 – when the remainder of the subsection was added to both Irish and English texts. The published copy of the First Amendment of the Constitution Act, 1939, does, however, include the Irish text.

Note also that Article 6 of the 1922 Constitution concludes as follows:

Provided, however, that nothing in this Article shall be invoked to prohibit, control or interfere with any act of the military forces of the Irish Free State (Saorstát

Éireann) during the existence of a state of war or armed rebellion. *Ar choiníoll, ámh le linn chogaidh no rebiliúntachta armtha ná gairmfear éinní dá bhfuil san Airtíogal so chun aon ghníomh dá ndéanfaidh fórsaí armtha airm Shaorstáit Éireann do chosg, do smachtú ná do thoirmeasg.*

### Commentary

*a chur ó bhail* 'Validity' is given as one of the senses of 'bail' in *Ó Dónaill*, who translates 'gan bhail' as 'invalid, void'. *Dinneen* gives Donlevy's *Irish Catechism* (1742) as the source of his citation 'gan bhail, void, ineffective (of a sacrament)'. DIL cites 'bídh a bpósadh ar bhail' ('valid') from Ó Heoghusa's *An Teagasg Críosaíochta* (1611).

In s134(3) of the Central Bank Act, 1989, 'Provided that failure to comply with this subsection shall not invalidate a direction duly given ... under this section' is translated as 'Ar choinníoll nach gcuirfear ó bhail ordachán a thabharfar go cuí ... faoin alt seo, de bharr mainneachtana déanamh de réir an fho-ailt seo'. In s76 of the Land Act, 1923, 'but such annulments shall not prejudice or invalidate any matter or thing previously done under such Rules of Court' is translated as 'ach ní dhéanfaidh an nea-mbríochaint sin díth dleathachta ná dochar d'aon rud ná einní a dineadh roimhe sin fé sna Rialacha Cúirte sin'. In s2(2) of the Third Schedule to the Health Act, 1970, 'A dissolution under section 34 shall not invalidate or affect any paying order' is translated as 'Ní dhéanfaidh discaoileadh faoi alt 34 neamhbhailí aon ordú íoca ... ná ní dhéanfaidh sé difear d'aon ordú íoca', while in s13 of the Seanad Electoral (Panel Members) Act, 1954, 'the fact that a candidate has ... died or become disqualified for membership of Seanad Éireann shall not invalidate or prejudice the nomination of the candidate' is translated as 'má gheibheann iarrthóir bás nó má thagann faoi dhícháilíocht chun bheith ina chomhalta de Sheanad Éireann ... ní bheidh sin ina thrúig neamhbhailíochta ná dochair d'ainmniúchán an iarrthóra'. See further the commentary on Article 15.4.2<sup>o</sup> where 'gan bhail' expresses 'invalid'.

*slándáil* This headword is translated as 'security' in *Ó Dónaill*; it does not seem to be given as a headword in *Dinneen*, where 'safety, security, sanction, indemnity, guarantee, surety' are given as the principal senses of the noun 'slán', on which form 'slándáil' is based. 'Slánad', 'slánachas', 'sláinte', 'slánaigeacht' and 'sláint(ig)echt' are commonly used in the Middle and Early Modern Irish period for 'legal protection, guarantee, security', according to Fergus Kelly, op. cit., p. 141. The principal sense of the adjective 'slán' is 'whole, sound, unimpaired, healthy, safe' according to DIL, where 'am slán' ('I am whole') is cited from the ninth-century St Gall Glosses on Priscian. See further the commentary on Article 45.2.v.

In s4 of the Third Schedule to the Local Government (Planning and Development) Act, 1990, 'The proposed development would endanger public safety by reason of traffic hazard' is translated as 'Go gcuirfeadh an fhorbairt bheartaithe sábháilteacht an phobail i mbaol mar gheall ar chontúirt tráchta', with 'gan sábháilteacht an phobail ná an tsíocháin a chur i mbaol' translating 'without danger to the public safety or the peace' in s6(2) of the Firearms and Offensive Weapons Act, 1990. Following the current

Article, the Long Title of the Emergency Powers Act, 1976 ('An tAcht Cumhachtaí Práinne, 1976') reads as follows:

An Act for the purpose of securing the public safety and the preservation of the State in time of armed conflict in respect of which each of the Houses of the Oireachtas has adopted a resolution .... *Acht chun slándáil an phobail a chur in áirithe agus chun an Stát a chaomhnú in aimsir choinbhleachta faoi arm a ndearna gach Teach den Oireachtas rún a ghlacadh ina thaobh.*

'Chun an tsándáil phoiblí a chaomhaint' translates 'for securing the public safety' in the Margin Title of s276 of the Defence Act, 1954. 'The Public Safety (Emergency Powers) Act, 1923' is cited in Irish as 'an tAcht chun Cosanta na Puiblíochta (Comhachta Ócáideacha), 1923'. The Long Title reads as follows:

An Act to provide for the preservation of public safety and the protection of person and property and for matters connected therewith or arising out of the present emergency. *Acht chun forálacha do dhéanamh chun an phuiblíocht agus pearsa agus cuid na ndaoine do chosaint agus i gcóir nithe eile a bhaineas leis sin no a thioctfidh de bharr na hócáide atá ann fé láthair.*

In s15, 'securing the public safety and restoring order throughout the country' is translated as 'an tsábháilteacht phuiblí do chosaint agus ordathacht do thabhairt thar n-ais arís ar fuaid na tíre'. Finally, 'coinneáil ó bhaol' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'safety' in the *Proceedings* of Dáil Éireann, 1927, p. 505.

*a chur in áirithe* 'I n-áirithe' is translated as 'engaged, assured' in *Dinneen*, who translates 'cuirim i n-áirithe' as 'I engage, secure'. *Ó Dónaill* translates 'in áirithe' as 'reserved, engaged', citing 'suíochán a chur in áirithe, to book a seat' and 'culaith a chur in áirithe, to bespeak a suit', translating 'd'áirithe, in áirithe' as 'allotted, certain', citing 'níl a fhios ag duine cad é atá in áirithe dó, no man knows what is in store for him' and 'tá tú in áirithe do bhuaile, you are in for a hiding'. DIL cites 'go mbídh i n-áirithe a bhfuasgailte' ('so that they are assured of being released') from Keating's seventeenth-century *Three Shafts of Death*, the principal sense of the adjective 'áirithe' in DIL being 'certain, sure', with 'assurance, certainty, safe course' being the principal meaning of the noun. Note that *De Bhaldraithe* translates 'I secure' as 'cuirim ó bhaol, ar láimh shábhála', translating 'to secure someone from something' as 'duine a chaomhnú ar rud'. See also the commentary on Article 15.10, where 'cuir in áirithe' expresses 'ensure', and the commentary on Article 38.3.1<sup>o</sup> where 'secure' is expressed by the phrase 'cuir i bhfeidhm'.

'For the purpose of securing the safety of a vessel, aircraft or marine structure or of saving life' is translated as 'chun sábháilteacht soithigh, aerárthaigh nó muir-dhéanmhas a áirithiú nó chun beo daoine a shábháil' in s3(a) of Schedule Two of the Dumping at Sea Act, 1981, for example, with 'chun sábháilteacht na suiteála amach ón gcósta ... a áirithiú' translating 'for securing the safety of the offshore installation' in s35(3) of the Safety, Health and Welfare (Offshore Installations) Act, 1987.

Looking at 'secure' in early Acts, 'the mortgagee may apportion the principal money secured by the mortgage between such dwelling-houses and such other land' is translated as 'féadfadh an morgáistidhe colann an airgid a



cuireadh in áirithe leis an morgáiste do roinnt ar na tithe comhnaithe sin agus ar an talamh eile' in s3(8) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. In s7(1) of the Unemployment Insurance Act, 1923, 'pay ... such contributions ... as are necessary to secure that there shall be not less than twelve contributions to the credit of such person' is translated as 'pé sintiúisí is gá chun deimhin do dhéanamh de ná beidh fé bhun dhá shintiús déag curtha chun creidiúna don duine sin'. Finally, 'The said purchase price ... shall be secured by a first mortgage' is translated as 'Urrófar an praghas ceannuigh sin ... le céad-mhorgáiste' in s6 of the First Schedule of the Creamery Act, 1928.

Commenting on the direct translation below, Professor Máirtín Ó Murchú recommends 'a chosaint', 'a dhaingniú' or 'a dheimhniú'.

*a chaomhnú* 'Caomhnú' is the verbal noun of 'caomhnaigh', translated as 'cherish; preserve, conserve, protect' in *Ó Dónaill*, who cites '*d'anam a chaomhnú*, to preserve one's life, soul'. *Dinneen* translates 'caomhnaim' as 'I preserve, protect, keep, maintain, cherish'. 'Cáemnaid' is translated in DIL as 'protects, preserves, keeps, maintains', the first example of which cited there comes from Keating's seventeenth-century *Three Shafts of Death*, 'caomhantair glóir na nGaoidhiol' being cited from the seventeenth-century 'Contention of the Bards' and 'an taon Gh. ... as fear do chaomhain 7 do chosain a thír' being cited from the *Annals of the Four Masters*. 'Cáemnaid' is based on 'cáemna', which is translated as 'act of protecting, keeping' in DIL. See further the commentary on Article 41.1.2°.

'Committed in a manner prejudicial to the safety or preservation of the State' is translated as 'ar dhóigh ba dhochar do shlándáil nó caomhnú an Stáit' in s29(1)(e) of the Criminal Procedures Act, 1967, with the Title of Part III of the Official Secrets Act, 1963, 'Communication of information to the prejudice of the safety or preservation of the State' being translated as 'Eolas a pháirtíú chun dochair do shlándáil nó caomhnú an Stáit'. The Long Title of the Public Safety Act, 1927, reads as follows:

An Act to make further and better provision for the maintenance and preservation of the State and the public safety. *Acht chun a thuille socruithe agus chun socrú níos fearr do dhéanamh chun an Stát agus an phuiblíocht do chimeád suas agus do choinneáil ó bhaol.*

See the commentary on Articles 24.1 (where 'cosain' expresses 'preserve') and 38.3.1° for early translations of 'preserve'/'preservation', 'cimeád suas' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'preservation (of State)' in the *Proceedings* of Dáil Éireann, 1927, p. 505.

*in aimsir chogaidh nó ceannairce faoi arm* *Dinneen* s.v. 'aimsear', cites '*tá sé i n-aimsir codalta*, it is bed-time', *Ó Dónaill* citing '*in aimsir na bhFiann*, in the time of the Fianna' and '*in aimsir a bháis*, at the time of his death'. *De Bhaldraithe* translates 'sowing time' as 'aimsir na curadóireachta'. DIL cites 'robói isinchaithir isind aimsir sin' ('that was in the city at that time') from the eighteenth-century Würzburg Glosses on the Pauline Epistles s.v. 'aimser', translated principally as 'point of time', with 'period of time, span, spell', 'period, age, epoch' and

'season (*of year*), weather' being given as secondary senses.

'That genocide, whether committed in time of peace or in time of war, is a crime under international law' is translated as 'gur coir faoin dlí idirnáisiúnta cinedhióthú, cibé acu le linn síochána nó le linn cogaidh a dhéantar é' in Article 1 of the Schedule to the Genocide Act, 1973. In the Long Title of the Geneva Conventions Act, 1962, 'the protection of civilian persons in time of war' is translated as 'cosant daoine sibhialta in aimsir chogaidh', this phrase being translated as 'caomhaint daoine sibhialta le linn cogaidh' in the Long Title of the Prisoners of War and Enemy Aliens Act, 1956. 'The furnishing of volunteer aid to the sick and wounded of armies in time of war' is translated as 'cabhair shaoirseánach do thabhairt d'othair agus do chréachtaigh arm in aimsir chogaidh' in s4(a) of the Spanish Civil War (Non-Intervention) Act, 1937. Finally, in Article 70 of the 1922 Constitution, 'save in time of war or armed rebellion' is translated as 'ach in aimsir chogaidh no reibiliúntachta armtha', 'war period' being translated as 'tréimhse cogaidh' in the *Proceedings* of Dáil Éireann, 1924, p. 651.

'Ceannairc faoi arm' is translated as 'armed rebellion' in *Téarmaí Dlí*, where 'ceannairc' alone is translated as 'sedition', with 'ceannairceach' being translated as 'seditious'. *Ó Dónaill* translates 'ceannairc' as 'strife; mutiny, revolt', citing '*ag cumadh ceannairce*, plotting rebellion'. *Dinneen* translates 'ceannairc' as 'strife, division; a meeting; rebellion, conspiracy'. DIL cites 'fri cocad 7 cennairc' from *Leabhar Breac*, compiled in 1411 or earlier, with no examples of this headword 'cennairc(e)', translated there as 'strife, contention', being cited from the earlier sources. 'Cennairc' may be a compound of 'cenn' ('head') and 'airc' ('difficulty, strait'), according to DIL.

'Faoi arm' is translated as 'under arms' in *Ó Dónaill*, who cites '*faoi arm agus éide, in arm is in éide*, armed and equipped'. Note that 'armed conflict' is translated as 'coimhlint armtha' in *Téarmaí Mileata*, rather than 'coimbhleacht faoi arm', as in the present subsection. DIL cites 'ba bes lasna geinti a n-adnagal fo n-armaib' (i.e. it was customary for the pagans to bury them under arms/armed) from the *Tripartite Life of Patrick*, composed at the end of the ninth or beginning of the tenth century.

Looking at the early Acts, in Article 70 of the 1922 Constitution, 'save in time of war, or armed rebellion' is translated as 'ach in aimsir chogaidh no reibiliúntachta armtha'. 'And to this end have created a state of rebellion' is translated as 'agus chun na críche sin gur chruthuodar staid rebeliúntachta' in the Preamble to the Public Safety (Emergency Powers) Act, 1923, where 'for the purpose of suppressing such rebellion' is translated as 'chun deire do chur leis an rebeliúntacht san'. 'Armed rebels' is translated as '(gach) rebeliúnach armtha' in s3(16) of the Defence Forces (Temporary Provisions) Act, 1923. See further the commentary on Article 40.4.6°.

*a bheireann le tuiscint* 'A bheireann' is a variant form of the present tense, third person singular, of 'tabhair'; this would be replaced by 'a thugann' according to the official standard – see the commentary on Article 12.1. See the commentary on Article 13.8.1° regarding the phrase 'a bheireann le tuiscint'.

'Every act or thing ... done or purported to be done by one Revenue Commissioner' is translated as 'Gach

gníomh no ní ... do rinne no do tugadh le tuiscint do rinne Coimisinéir Ioncuim amháin' in s35(3) of the Finance Act, 1934. In s90(2) of the Building Societies Act, 1989, 'This section applies to any statement made to the auditors of a society (whether orally or in writing) which conveys, or purports to convey, any information or explanation' is translated as 'Baineann an t-alt seo le haon ráiteas a dhéanfar le hiniúchóirí cumainn (de bhéal nó i scríbhinn) agus a thugann, nó a airbheartaíonn go dtugann sé, aon fhaisnéis nó míniú'. See the commentary on Article 13.8.1<sup>o</sup> regarding 'purport' in early Acts and note that 'without proof of the signature or authority of the person by whom the same purports to have been issued' is translated as 'gan cruthúnas ar shighniú ná ar údarás an té a thabharfa sí le tuiscint a thug amach í' in s12(6) of the Arterial Drainage (Minor Schemes) Act, 1928. Professor Máirtín Ó Murchú favours 'a mhaifidh' or some such verb to 'a airbheartóidh' in the direct translation below.

*a chur ar neamhní* 'Ar neamhní' is translated as 'null; void (*adjective*)' in *Téarmaí Dlí*. 'Rud a chur ar neamhní' is translated as 'to bring something to nought; to nullify something' in *Ó Dónaill*. 'Cuirim ar neamh-nídh' is translated as 'I annihilate, cancel' in *Dinneen*. Old Irish 'nephní' is a compound of 'nem-' and 'ní' ('thing'), glossing Latin 'nihil' in the ninth-century St Gall Glosses on Priscian, 'ní du nephní' glossing 'non de nihilo' in the ninth-century Milan Glosses on the Commentary on the Psalms. DIL cites 'cuirithir for neimní', in the sense of 'brings to nought', from the twelfth-century *Book of Leinster* ('curid a nert ar nephní').

'I nullify' is translated as 'neamhním' in *Téarmaí Dlí*. 'Unless it is satisfied that the arbitration agreement is null and void' is translated as 'mura deimhin léi go bhfuil an comhaontú eadrána ar neamhní' in s5(1) of the Arbitration Act, 1980. In s5(1) of the Military Service Pensions Act, 1924, 'every agreement to assign or charge (any military service pension under this Act) shall ... be null and void' is translated as 'gach có-aontú chun é shanna no é chur fé mhúirear, beid gan brí gan éifeacht'. 'Such Rules of Court shall be annulled' is translated as 'beidh na Rialacha Cúirte sin ar nea-mbrí' in s76 of the Land Act, 1923, 'pass a resolution annulling such Rules of Court' being translated as 'rún do rith chun na Rialacha Cúirte sin do chur ar nea-mbrí'. Finally, 'declaration of nullity of marriage' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'faisnéis go raibh an pósa gan brí' in an early official report.

*coinbhleacht* This headword is translated as 'conflict' in *Ó Dónaill*, 'coinbhliocht' being cited as a variant. 'Coinbhliocht' is translated as 'conflict' in *Dinneen*. Whereas 'coinbhliocht' is masculine in *Dinneen*, 'coinbhleacht' is feminine in *Ó Dónaill*, i.e. nominative singular 'an choinbhleacht' and genitive singular 'na coinbhleachta' as against 'an coinbhleacht' and 'de dheasca an choinbhleachta' in the present subsection. 'Conblicht' comes from Latin 'conflictus' and is translated as 'conflict, battle, fight' in DIL, no example of which is cited from the earlier sources. Professor Máirtín Ó Murchú remarks that 'coinbhleacht' and the native 'coimhlint' (< 'coimhling') may have affected one another in grammar and meaning. Professor Ó Murchú also questions whether *Ó Dónaill* is mistaken as regards the gender of this word as, as far as

Máirtín Ó Murchú is aware, it is not found in the spoken language and it is masculine in the literary language.

'Armed conflict' is translated as 'coimhlint armtha' in *Téarmaí Mileata*. 'Coinbhliocht faoi airm', rather than 'faoi arm', is generally found in the Acts. 'An act of war or an armed conflict' is translated as 'gníomh cogaidh nó coinbhleacht faoi arm' in s3(c) of Article IV of Part IV of the First Schedule to the Air Navigation and Transport Act, 1988, with 'fiú amháin i gcás coinbhleacht faoi airm' translating 'even in case of armed conflict' in s2 of Article 39 of the Diplomatic Relations and Immunities Act, 1967. Finally, in s2 of the Public Hospitals (Amendment) (No. 2) Act, 1939, 'the expression "the present European war" means the armed conflict which at the passing of this Act, is being waged between certain European powers' is translated as 'cialluíonn an abairt "an cogadh so san Eoraip" an coinbhliocht fé airm atá, le linn an Acht so do rith, á thabhairt idir comhachta Eorpacha áirithe'.

*páirteach* This headword is translated as 'participating, sharing' in *Ó Dónaill*, citing '*bheith páirteach le duine i rud*, to participate, share with someone in something'. *Dinneen* translates 'bí páirteach (linn)' as 'join in, take a hand (with us), also be partial to us'. 'Páirtech', translated as 'participant, sharing' in DIL, is based on 'pairt', which comes from Latin 'pars, part-'. See the commentary on Article 12.4.3<sup>o</sup>, where this adjective expresses 'subscribe', and on Article 29.5.1<sup>o</sup>.

In s3(1) of the Pyramid Selling Act, 1980, 'If any person who is a participant in a scheme, or has applied or been invited to become a participant in a scheme' is translated as 'I gcás aon duine is rannpháirtí i scéim nó a rinne iarratas nó a fuair cuireadh chun bheith ina rannpháirtí i scéim'. In Article XXI(c) of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977, 'The Board of Governors shall decide whether a Governor appointed by a member that is not a participant shall be entitled to vote' is translated as 'Cinnfidh an Bord Rialtóirí an mbeidh Rialtóir a ceapadh ag comhalta nach rannpháirtí i dteideal vótáil'. 'A war in which the State is not a participant' is translated as 'cogadh nach bhfuil an Stát páirteach ann' in s1(2) of the Prisoners of War and Enemy Aliens Act, 1956.

*beartaithe* Past participle of 'beartaigh', one of the senses of which is given as 'plan, contrive; consider' in *Ó Dónaill*, 'decide' being another sense, with 'ar' ('upon'). *Dinneen* includes 'I say, pronounce an opinion; I think, suggest, estimate' among the senses of 'beartaim', with 'beartuighim' given as a variant. 'Brandishes, flourishes; shakes, tosses; makes quake' was the sense of the earlier 'bertaigid(ir)'/ 'bertaid' – the third person plural, perfect tense, 'ro bertaignset', glosses Latin '(tela) uibrauerunt' in the ninth-century Milan Glosses on the Commentary on the Psalms, and we find 'con crothsat 7 con bertsat in talmain' ('caused the ground to shake and quake'), along with 'ram-bertaign' ('he shook himself [in his pleasure]'), in the version of the *Táin* in the twelfth-century *Book of Leinster*, for example. '*Rud a bheartú i do lámh*, to poise something in one's hand for throwing', cited by *Ó Dónaill*, illustrates the development in sense from that found in Old Irish to the principal sense of 'beartaigh' in Modern Irish, 'plan, consider' and then 'decide'.

'A society, in order to ... undertake to fulfil the engagements of another society, must resolve to do so by a special resolution' is translated as 'Ni mór do chumann, d'fhonn

... a ghealladh gealltanais chumainn eile a chomhall, a shocrú sin a dhéanamh trí rún speisialta' in s96(2) of the Building Societies Act, 1989. In s268(2) of the Companies Act, 1963, 'The creditors may ... resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection' is translated as 'Féadfaidh na creidiúnaithe ... a chinneadh le rún nach ceart gach duine nó aon duine de na daoine a cheapfaidh an chuideachta amhlaidh bheith ar an gcoiste iniúchta'. In s5(2) of the Drainage Maintenance Act, 1924, 'the county council may resolve that such cost and moneys shall ... be levied as an urban charge' is translated as 'féadfidh an chomhairle contae rún do rith go ndéanfar ... an costas agus an t-airgead san do ghearra mar mhuirear baile'. Finally, looking at the *Standing Orders* of Dáil Éireann, 'Unless it shall otherwise resolve, the Dáil shall meet every Tuesday at 2.30 p.m.' is translated as 'Mura mbeartóidh sí a mhalairt le rún, tiocfaidh an Dáil le chéile gach Máirt ar 2.30 p.m.'

Professor Máirtín Ó Murchú remarks that 'beartú' relates to performing some deed, i.e. the primary meaning of English 'resolve', but that it has not this sense here, and recommends 'achtaigh', 'aontaigh' or 'cinn' in the direct translation below.

*staid phráinne náisiúnta* 'Práinn' is translated as 'hurry, rush; urgent need, exigency' in *Ó Dónaill*, who cites 'ar uair na práinne, in an exigency, in a time of emergency'. 'Práidhinn' is translated as 'urgency, a difficulty, need; trepidation, hurry, flurry, rush' in *Dinneen*. Though apparently long established as a borrowing of Old Norse 'bráðung', as Professor Máirtín Ó Murchú notes, instances in the literary record are relatively late, *Stair Éamuinn Uí Chléirigh* by Seán Ó Neachtain (1655-1728) providing the only two citations (apart from 'práidhinn, affliction' in the Glossary in the manuscript *Egerton* 158) given in DIL, where this headword is translated as 'urgency, difficulty, strait', a seventeenth-century translation of 1 *Samuel* xx. 28, providing the only citation of 'práidhinneach' (translated as 'urgent' in DIL), apart again from the Glossary in *Egerton* 158. See further the commentary on Article 15.8.2°.

Turning to 'staid', this headword is translated as 'state, condition' in *Ó Dónaill*, who cites '*staid na tíre*, the state of the country', with *Dinneen* translating 'staid' a 'state, status or condition'. The earlier 'stait' comes from Latin 'statio' and is translated principally as 'state, condition', 'i stait na nemurchoite' (i.e. in a state of innocence) being cited from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century.

In s4 of the Defence Act, 1954, 'The Government may ... declare that a state of emergency exists' is translated as 'Féadfaidh an Rialtas ... a dhearbhu éigeandáil a bheith ann'. In s1(1) of the Protection of the Community (Special Powers) Act, 1926, 'the Executive Council may by proclamation declare that a state of national emergency exists' is translated as 'féadfidh an Ard-Chomhairle a fhaisnéis le furógra go bhfuil staid phráinne náisiúnta ann', this English sentence being translated in s1(1) of the Public Safety (Emergency Powers) Act, 1926, as 'féadfidh an Ard-Chomhairle a fhaisnéis le furógra go bhfuil strus-ócáid náisiúnta ann'. We have seen in the commentary on Article 15.8.2° that 'ócáid dainseura náisiúnta' translates 'national emergency' in the Dáil *Order Paper*, 1926, p. 363, 'ócáid

dainseura náisiúnta' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'state of national emergency' in translations for the Executive. Note that 'the Public Safety (Emergency Powers) Act, 1923' is cited in Irish as 'an tAcht chun Cosanta na Puibhlochta (Comhachta Ócáideacha), 1923', 'de bharr na hócáide atá ann fé láthair' translating 'arising out of the present emergency' in the Long Title thereof; note also that 'the Enforcement of Law (Occasional Powers) Act, 1923' is cited in Irish as 'an t-Acht um Fheidhmiú Dlí (Comhacht Ócáideach), 1923'. Finally, 'arising out of the existence of a state of war or armed rebellion, whether local or general' is translated as 'de bharr staid cogaidh no rebeliúntachta armtha, áitiúil no generálta, a bheith ann' in s1(c) of the Public Safety (Emergency Powers) Act, 1923.

*a dhéanann difear do* Earlier 'deithbir', Modern Munster 'deifir', some modern forms and the standard spelling 'difear', as here, appear to have been influenced by the English 'differ', according to Professor Máirtín Ó Murchú. 'Difear' is translated as 'difference' in *Ó Dónaill* who cites '*is beag an difear é*, it makes little difference, it matters little'. *Dinneen* translates 'deifir' as 'a difference, a dispute; conflict', giving 'deifear' as a variant. Both 'difear' and 'deifir' (translated as 'hurry' in *Ó Dónaill*) come from 'deithbir', an example of which in the sense of 'distinction, difference' is cited in DIL from the twelfth-century *Book of Leinster*; no example, however, is found in Old Irish, according to DIL.

'A custody or access order or other order on any question affecting the welfare of an infant' is translated as 'ordú coimeáda nó ordú rochtana nó ordú eile ar aon cheist a fhearann ar leas nain' in s11(b) of the Judicial Separation and Family Law Reform Act, 1989. 'Any record or document affecting or relating to the property or affairs of the society' is translated as 'aon taifead nó doiciméad a dhéanann difear do mhaoin nó do ghnóthaí an chumainn nó a bhaineann leo' in s120(3)(a) of the Building Societies Act, 1989. In s1(3) of the Expiring Laws Continuance Act, 1922, 'Any unrepealed enactments amending or affecting the enactments continued by this Act' is translated as 'aon Achtanna gan aith-ghairm a dhineann leasú no éinní eile ar na hAchtanna a bhuanuítear leis an Acht so'. In Article 74 of the 1922 Constitution, 'Nothing in this Constitution shall affect any liability to pay any tax' is translated as 'Ní dhéanfaidh éinní sa Bhun-reacht so deifir d'aon fhiachas chun aon cháin ... do dhíol'. 'Nothing in this Act shall prejudice or affect any financial judgement given before the passing of this Act' is translated as 'Ní dhéanfaidh éinní san Acht so aon dochar ná cur isteach ar aon bhreithiúntas a tugadh roimh rith an Achta so' in s5 of the Indemnity (British Military) Act, 1923. Finally, in s2(2)(d) of the Barrow Drainage Act, 1927, 'the rated or other occupiers of the several lands ... proposed to be compulsorily acquired ... or otherwise interfered with or affected' is translated as 'na daoine atá ina sealbhairí rátuíthe no eile ar na tailte ..., uile agus fé seach, go moltar iad do thógaint ... no cur isteach ortha no baint leo ar aon tslí eile go héigeanta'. See the commentary on Article 44.2.4° where 'prejudicially affect' is expressed by the phrase 'dochar a dhéanamh do'.

*do bhonn beatha* 'Base, foundation' is one of the senses of 'bonn' included in *Ó Dónaill*, who cites '*ó bhonn*

(*aníos*), from the foundation, ground; radically' and '*an bonn a bhaint ó rud*, to undermine something', *Dinneen* citing '*bhain sé an bonn uaim*, he cut the ground from under my feet'. The principal sense of 'bonn' is 'sole', DIL citing 'co tarla a di bond bána fair' ('so that his two white soles were turned upward' [in death]) from *Leabhar na hUidhre*, written in Clonmacnois c. 1100. Finally, Old Irish 'bethu' is translated principally as 'life, existence' in DIL, where 'bethu suthin' (i.e. eternal life) is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

The 'Vital Statistics and Births, Deaths and Marriages Registration Act, 1952' is cited in Irish as 'an tAcht um Staidreamh Beatha agus um Chlárú Breitheanna, Bása agus Póstaí, 1952'. In s1(iv) of the Ministers and Secretaries Act, 1924, 'registration of births, deaths and marriages and vital statistics' is translated as 'clárú beireataisí, básanna agus póstaíochta, agus statistíocht bheatha'. In s2(b) of the Statistics Act, 1926, 'vital, social and educational matters' is translated as 'cúrsaí buaine beatha, cúrsaí saoil na ndaoine, agus cúrsaí oideachais'. 'Or the removal of the engine or other such vital part' is translated as 'nó an t-inneall nó cuid riachtanach eile dá shamhail sin a bheith tugtha aisti' in s3(2) of the Road Traffic Act, 1961.

Turning to 'interests', in s26(5)(b) of the Sea Pollution Act, 1991, "related interests" means the interests of the State and the health and well-being of its citizens' is translated as 'ciallaíonn "leasanna gaolmhara" leasanna an Stáit agus sláinte agus dea-bhail a chuid saoránach'. 'Whenever he is satisfied that the interests of the State or of the public so require' is translated as 'aon uair is deimhin leis gur gá é ar mhaithe le leasanna an Stáit nó an phobail' in s7 of the Air Navigation and Transport Act, 1988. In s2(a) of Article 9 of the First Schedule to the Data Protection Act, 1988, 'protecting State security, public safety, the monetary interests of the State' is translated as 'slándáil an Stáit, sábháilteacht nó leasanna airgeadaíochta an Stáit a chosaint'.

*faoi deara é* 'Tú féin faoi deara é' is translated as 'you are the cause of it yourself, you have brought it on yourself' in *Ó Dónaill*, whose entry, s.v. 'deara', deals exclusively with the phrase 'faoi deara'. *Dinneen* translates 'fá deara' principally as 'cause, caused', citing '*mo mháthair fé ndeár é*, my mother is the cause of it'. This phrase goes back to the Old Irish verb 'fo-fera', which had the general sense of 'prepares, provides, brings about', glossing Latin 'praeparare' in the eighth-century Würzburg Glosses on the Pauline Epistles, for example. In the sense 'causes', 'fo-fera' in relative clauses is commonly used with petrified infix 'd-' even when followed by the object, according to DIL, citing 'ined fodera bás domsa atimne sainemil sin?' ('is what causes death to me that excellent commandment?') from the same eighth-century collection of Glosses. In later language, 'fo-fera' becomes obsolete, only the form 'fodera' continuing in use, (a) 'as a verb in relative sentences with force either of present or preterite, which causes (caused)' or (b), 'the original significance of "fo-dera" (fa deara) being lost, it was regarded as a prepositional phrase and used with another verb' – e.g. 'tabhair faoi deara' ('notice', 'note') in Modern Irish. Finally note that 'é' in 'faoi deara é' refers to the feminine 'staid' (in 'staid phráinne náisiúnta').

'Any injury occasioned by such burning' is translated as 'aon díobháil a bhainfidh mar gheall ar an dó' in s39(5)

of the Wildlife Act, 1976, 'all injury occasioned by such burning to any wood' being translated as 'gach díobháil a thioctas den dó sin d'aon choill' in s61(4) of the Forestry Act, 1946, 'gach díobháil do dhin an dógha san d'aon choill' translating 'all injury occasioned by such burning to any wood' in s13(4) of the Forestry Act, 1928. We saw earlier how 'hold office for three years from the expiration of the term of office the expiration of which occasions his election' is translated as 'i seilbh oifige go ceann trí mbliain o bheith caithte don téarma oifige gurb é a bheith caithte fé ndeár a thogha' in s19(3) of the Currency Act, 1927. 'Not to fill the vacancy occasioned by such cessor' is translated as 'gan an folúntas a thioctaidh den scur san do líonadh' in s28(5) of the Central Bank Act, 1942. Finally, 'on account of loss, inconvenience or other injury occasioned by such application' is translated as 'mar gheall ar chailteanas, ar mhoill, ar cheataí no ar dhíobháil eile do tháinig as an iarratas san' in s31(6) of the Town and Regional Planning Act, 1934.

*má luaitear ann* See the commentary on Article 24.1. 'Luaigh' is translated as 'mention, cite' in *Ó Dónaill*, who cites '*rud a lua*, to mention something' and '*níor luaigh tú fianaise ar bith leis*, you haven't cited any evidence for it'. 'I mention, speak of, tell' are included in *Dinneen* among the sense of 'luadhaim'. The original sense of this verb was 'moves'; the verb 'luid' (translated as 'moves', [of birds 'flies'], in DIL), mostly found in archaic passages, was replaced early by 'lúaidid' which, while having the principal sense of 'moves', also has the sense of 'mentions, adverts to; utters, proclaims; discusses', examples of which sense are cited in DIL.

"Confidential" means that which is expressed to be confidential either as regards particular information' is translated as 'ciallaíonn "faoi rún" rud a deirtear a bheith faoi rún ó thaobh faisnéise áirithe' in s33(3) of the Forestry Act, 1988. In s22 of the Agricultural Wages Act, 1936, 'The Minister may by order make regulations in relation to any matter or thing which is expressed to be the subject of regulations under this Act' is translated as 'Féadfaidh an tAire, le hordú, rialachán do dhéanamh i dtaobh éinní no aon ruda adeirtear is abhar do rialachán féin Acht so'. On the other hand, in s64(6) of the Corporate Tax Act, 1976, 'Where a company makes a distribution which is not expressed to be for or in respect of a specified period' is translated as 'I gcás cuideachta do dhéanamh dáileadh nach bhfuil sé sainráite gur do thréimhse shonraithe ná ina leith é', and 'a dividend which is not expressed to be paid for any specified period' is translated as 'aon díbhinn nach mbeidh sainráite í a bheith á híoc in aghaidh tréimhse sonraithe' in s14(6) of the Finance Act, 1950.

See further the commentary on Articles 12.10.1° and 14.5.2° where 'luaigh' respectively expresses 'state' and 'specify'.

*nach ann a thuilleadh* 'Where the Court is of the opinion that the circumstances which gave rise to the direction have ceased to exist' is translated as 'más dóigh leis an gCúirt nach ann a thuilleadh do na himthosca ba bhun leis an treoir a dhéanamh' in s38(5)(e) of the Central Bank Act, 1989. 'And the Revenue Commissioners are satisfied that abnormal economic conditions have ceased to exist in respect of the commodity' is translated as 'agus gur deimhin leis na Coimisinéirí Ioncuim deireadh do bheith

le coinníollacha eacnamaíochta nea-ghnáthacha maidir leis an earra' in s3(6) of the Finance Act, 1942. In s2(1) of the Land Law (Commission) Act, 1923, 'whereby the office of Commissioner of the Irish Land Commission ceased to exist' is translated as 'tré n-ar scuir oifig Choimisinéir Choimisiún Talmhan na hÉireann de bheith ar bith'. 'Provided that such right shall as regards translations into the Irish language cease to exist' is translated as 'ach scuirfidh an ceart san de bheith ann maidir le haistriú go Gaedhilg' in s154(2)(a) of the Industrial and Commercial Property (Protection) Act, 1927, 'scur ó bheith ann' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'cease to exist' in translations for the Department of Local Government and Public Health.

*folaíonn* 'Folaím' is translated as 'I include' in *Téarmaí Dlí. Ó Dónaill* gives 'include' as a secondary sense of 'foláigh', citing '*foláíonn sé iad araon*, it includes both of them', the principal sense of 'foláigh' being 'hide, cover, conceal'. *Dinneen* translates 'foilighim' as 'I hide, cover, conceal'. The earlier form, 'fo-luigi', literally 'lays under', is translated principally as 'covers, hides, conceals' in DIL.

*de bhun* This phrase is translated as 'in pursuance of; on foot of; pursuant to' in *Téarmaí Dlí*. DIL cites 'de bhun an ghrádha' ('because of love') from a miscellaneous collection of Classical Irish poetry, *Dioghluim Dána*, agus 'do bhun t'impidhe' ('through beseeching thee') from the poetry of Aonghus Fionn Ó Dálaigh (c. 1520-1570).

*a agairt* 'Agairt' is the verbal noun of 'agair', translated principally by *Ó Dónaill* as 'plead, entreat', with the sense of 'sue' in Jurisprudence; 'agraim' is translated as 'I sue' in *Téarmaí Dlí*. See the commentary on Article 18.4.3°.

*Ní cead* Literally, 'it is not permitted' – see the commentary on Article 9.1.3°.

### Standardised Irish text

Ní cead aon ní dá bhfuil sa Bhunreacht seo a agairt chun aon dlí dá n-achtaíonn an tOireachtas a chur ó bhail má luaitear ann gur dlí é chun slándáil an phobail a chur in áirithe agus chun an Stát a chaomhnú in aimsir chogaidh nó ceannairce faoi arm, ná chun aon ghníomh dá ndéantar nó a thugann le tuiscint gur gníomh é a dhéantar in aimsir chogaidh nó ceannairce faoi arm de bhun aon dlí den sórt sin, a chur ar neamhni. San fho-alt seo, folaíonn "aimsir chogaidh" tráth a bheidh coinbhleacht faoi arm ar siúl nach mbeidh an Stát páirteach ann ach go mbeidh beartaithe ag gach Teach den Oireachtas ina thaobh le rún go bhfuil ann, de dheasca an choinbhleachta sin faoi arm, staid práinne náisiúnta a dhéanann difear do bhonn beatha an Stáit agus folaíonn "aimsir chogaidh nó ceannairce faoi arm" an tréimhse aimsire sin a bheidh idir an tráth a chuirfear deireadh le haon chogadh, nó le haon choinbhleacht faoi arm den sórt sin réamhráite, nó le ceannairce faoi arm agus an tráth a bheartóidh gach Teach den Oireachtas le rún nach ann a thuilleadh don staid práinne náisiúnta arbh é an cogadh sin, nó an coinbhleacht sin faoi arm, nó an cheannairce sin faoi arm faoi deara é.

### Direct translation

Ní dhéanfar aon ní sa Bhunreacht seo a agairt chun aon dlí a achtóidh an tOireachtas a chur ó bhail ar dlí é a mbeidh sé sainráite é a bheith chun críche an tsábháilteacht phoiblí a áirithiú<sup>1</sup> agus an Stát a chaomhnú le linn cogaidh<sup>2</sup> nó ceannairce faoi airm, nó chun aon ghníomh a dhéanfar nó a airbheartóidh<sup>3</sup> a bheith ina ghníomh a dhéanfar le linn cogaidh<sup>2</sup> nó ceannairce faoi airm de bhun aon dlí den sórt sin a chur ar neamhni. San fho-alt seo, folaíonn "le linn cogaidh"<sup>4</sup> am a mbeidh coinbhleacht faoi airm ar siúl nach rannpháirtí inti an Stát ach a mbeidh beartaithe ag gach Teach den Oireachtas ina leith, go bhfuil, de dhroim na coinbhleachta<sup>5</sup> sin faoi airm, éigeandáil náisiúnta ann a dhéanann difear do leasanna beatha an Stáit agus folaíonn "le linn cogaidh"<sup>6</sup> nó ceannairce faoi airm" cibé tréimhse a imeoidh thart tar éis aon chogadh, nó aon choinbhleacht faoi airm mar a dúradh, nó aon cheannairce faoi airm a fhoirceannadh go dtí go mbeidh beartaithe ag gach Teach den Oireachtas gur scoir an cogadh, an choinbhleacht<sup>7</sup> faoi airm, nó an cheannairce faoi airm sin de bheith ann.

### Variants

- 1 'a chosaint', 'a dhaingniú', 'a dheimhniú'
- 2 'in aimsir chogaidh'
- 3 'a mhaifidh'
- 4 "'aimsir chogaidh'"
- 5 'an choinbhleachta'
- 6 "'aimsir chogaidh'"
- 7 'an coinbhleacht'

## ARTICLE 28.4.1° AIRTEAGAL 28.4.1°

### TÉACS GAELIGE

Tá an Rialtas freagrach do Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

The Government is answerable to Dáil Éireann.

### ENGLISH TEXT

The Government shall be responsible to Dáil Éireann.

### Divergences between the official texts

- 1 'Shall' is expressed as 'tá' ('is') in the Irish text.

Note that Article 51 of the 1922 Constitution contains the following:

The Executive Council shall be responsible to Dáil Éireann .... *Beidh an Ard-Chomhairle freagarthach do Dháil Éireann.*

J.M. Kelly, op. cit., p. 207, reports as follows on reference to this section in the courts:

In *Attorney General v Hamilton (No. 1)* ([1993] 2 IR 250; [1993] ILMR 81) McCarthy J said that the word 'responsible' in Article 28.4.1 meant "answerable or accountable – a meaning borne out by the Irish text, 'freagrach'".

### Commentary

*freagrach do* 'Freagrach' is translated as 'responsible' in *Téarmaí Dlí* and as 'answerable, accountable' in *Ó Dónaill*, who translates 'bheith freagrach do dhuine i rud, as rud' as 'to be answerable to someone for something'. *Dinneen* translates 'freagarthach' as 'answerable, suitable, responsible, responsive; ready', DIL giving (a) 'responsive, quick to answer (*a question or challenge*)' and (b) 'corresponding (to), a counterpart' as the two senses of this headword, citing only two examples of each sense, none of which come from the earlier sources. 'Frearthach' is based on 'frecra', the verbal noun of 'fris-gair' ('answers, replies'). See the commentary on Article 13.8.1° where 'freagrach do' expresses 'answerable to'.

'But without derogating from the responsibility of the Minister for Defence to the Dáil for all the administration and business of the Department of Defence' is translated as 'gan baint, áfach, ón méid a bheidh an tAire Cosanta freagarthach don Dáil i riar agus i ngnó uile na Roinne Cosanta' in s8(1) of the Ministers and Secretaries Act, 1924. In s6(4) of the National Treasury Management Agency Act, 1990, 'The Chief Executive shall be directly responsible to the Minister for the performance of the functions of the Agency' is translated as 'Beidh an Príomhfheidhmeannach freagrach go díreach don Aire maidir le feidhmeanna na Gníomhaireachta a chomhlíonadh'.

### Direct translation

Beidh an Rialtas freagrach do Dháil Éireann.

ARTICLE 28.4.2° AIRTEAGAL 28.4.2°

### TÉACS GAEILGE

I gcomhúdarás a thiocfaidh an Rialtas le chéile agus a ghníomhóid, agus táid go léir le chéile freagrach sna Ranna Stáit a riarar ag comhaltai an Rialtais.

### LITERAL ENGLISH TRANSLATION

It is in joint authority that the Government will come together and will act, and they are all together responsible for the Departments of State that are administered by members of the Government.

### ENGLISH TEXT

The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government.

### Divergences between the official texts

- 'Collective authority' is expressed as 'comhúdarás' ('joint authority') in the Irish text, 'collective' being echoed by 'collectively' in the following clause in the English text – note, however, that 'le chéile' ('together'), in 'a thiocfaidh le chéile' ('will come together' [expressing 'meet']), is echoed by 'táid go léir le chéile' ('they are all together responsible' [expressing 'collectively responsible']) in the Irish text above.

- 'The Government shall meet and act as a collective authority' is expressed as 'I gcomhúdarás a thiocfaidh an Rialtas le chéile agus a ghníomhóid' ('the Government shall meet / come together and act in a collective/joint authority') in the Irish text.
- '**Shall** be collectively responsible' is expressed as 'táid go léir le chéile freagrach' ('they **are** all together responsible') in the Irish text.

Note that Article 54 of the 1922 Constitution concludes as follows:

The Executive Council shall meet and act as a collective authority. *Tiocfaidh an Ard-Chomhairle i gceann a chéile agus ghníomhóid in aonacht mar aon údarás.*

This Article commences as follows:

The Executive Council shall be collectively responsible for all matters concerning the Departments of State administered by Members of the Executive Council. *Beidh an Ard-Chomhairle freagarthach in aonacht i ngach cúrsa bhaineas leis na Ranna Stáit a bheidh á riar ag Baill den Ard-Chomhairle.*

### Commentary

*a ghníomhóid ... táid* The synthetic form of the verb 'gníomhaigh' and of the substantive verb – these would normally be replaced today by 'a ghníomhóidh siad' and 'tá siad'. See the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb in the Constitution.

*Ó Dónaill* translates 'gníomhaigh' as 'act', with *Dinneen* translating 'gníomhuighim' as 'I work, act, operate'. DIL translates 'gnímaigid' as I (*transitive*) 'puts into operation, effects, practises' and II (*intransitive*) 'acts, takes effect', only citing three examples of this use, including 'gnímhaidh an re ... isin fairgí' ('the moon acts on the sea') from an Irish astronomical tract, based on a Mediaeval Latin version of a work by Messahalal. 'Gnímaigid' is based on 'gním', verbal noun of 'gníid', 'acts, works'.

'Ag gníomhú mar' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'acting as' in translations for the Department of Justice. In s8(6) of the Ministers and Secretaries Act, 1924, 'The Council of Defence shall meet and act as a collective body and shall be collectively responsible to the Minister for Defence for all matters entrusted to it in its collective capacity' is translated as 'Tiocfaidh an Chomhairle Cosanta le chéile agus ghníomhóid in éineacht mar aon chólucht amháin agus beid freagarthach in éineacht don Aire Cosanta i ngach ní a cuirfar ina n-íocht mar chólucht aonair', with 'and shall meet and act as a collective authority' being translated as 'agus a thiocfaidh le chéile agus a ghníomhóidh mar aon údarás amháin' in the Preamble to that Act. 'The appointment of a person to act as a member of a committee' is translated as 'ceapadh duine chun gníomhú mar chomhalta de choiste' in s16(3) of the Irish Film Board Act, 1980, and in s35(2) of the Dairy Produce Marketing Act, 1961.

*I gcomhúdarás* 'Comhúdarás' is a compound of 'comh-' (translated principally as 'mutual, joint, common; co-' in *Ó Dónaill*) and 'údarás' ('authority') which does not appear to be given as a headword in *Ó Dónaill* or in *Dinneen*, with *Ó Dónaill* citing '*má tá údarás sa chás aige*, if he

has authority to deal with the case', and *Dinneen* citing 'do-ghnám rud as m'ughdarás féin, I do a thing on my own responsibility'. Old Irish 'augtartás' comes from Latin 'auctoritas' (as 'augtar', Modern Irish 'údar', comes from Latin 'auctor'), and is translated as 'authority, prescriptive right, authoritative source' in DIL, where 'ní im augtortás féin ramídar' ('not in my own authority have I judged him') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles, where it glosses Latin 'in nomine Domini nostri'. Note that *De Bhaldraithe* translates 'collective effort' as 'comhiarracht', translating 'collective' alone as 'cnuasaitheach, teaglamach; comhchoitianta'.

'Joint authority' is translated as 'comhúdarás' in s81(a) of the Health Act, 1970, for example. In s2(c) of Article XII of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, 'repayments of the borrowing by the Fund on the quota share of the member in a collective undertaking' is translated as 'na méideanna a aisiocadh de na hiasachtaí a fuair an Ciste ar chuóta-scair an chomhalta i gcomhghéalltanais', 'comhlua' translating 'collective citation' in the Acts in general. Note that 'collective agreement' is translated as 'comhaontú comhchoiteann' in s1(1) of the Anti-Discrimination (Pay) Act, 1974, that 'breithiúnas comhchoitianta' translates 'a collective judgement' in s1(b) of Article XXIV of the Schedule to the Bretton Woods (Agreement) Act, 1969, and that 'for the collective benefit and welfare of such members' is translated as 'ar mhaithe le tairbhe agus leas comhchoiteann na gcomhaltaí sin' in s157(a)(iv) of the Defence Act, 1954.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that only 'gníomhóidh' was qualified by 'mar chomhúdarás' in the (now) variant translation below.

*a riartar* 'Riaraim' is translated as 'I administer (estate, justice, etc.)' in *Téarmaí Dlí*, with 'administer, manage, rule' being among the senses of this headword in *Dinneen*, who cites '*riaraim an pobal*, I rule the people'. 'Riar' is translated principally as 'administer, manage' in *Ó Dónaill*. The principal sense of the earlier verb 'riaraid' contrasts with this, i.e. 'does the will of, serves', according to DIL, having the secondary senses of 'ministers to, entertains, supplies' and 'subdues'. 'Riar', on which this verb is based, is translated principally as 'will wish, often of expression of will, demand, request; decision' in DIL, where examples are cited from the Glosses of the eighth century onwards. See further the commentary on Article 44.2.5°.

In Article 11 of the 1922 Constitution '(All lands and waters ...) shall be controlled and administered by the Oireachtas' is translated as 'smachtóidh agus riarfaidh an t-Oireachtas iad'. 'Any income arising from a bonus under a scheme administered by the Minister for the Gaeltacht' is translated as 'aon ioncam ó bhónas faoi scéim a riarann Aire na Gaeltachta' in s146(1)(b)(vi) of the Social Welfare (Consolidation) Act, 1981, with 'in pursuance of an agricultural scheme administered by such committee' being translated as 'do réir scéime talmhaíochta do bhí á riar ag an gcoiste sin' in s34 of the Agricultural Act, 1931.

*a thiochfaidh an Rialtas le chéile* Literally 'that the Government will come together', the verb 'tar' with 'le chéile'. Note that *Ó Dónaill* cites '*níl an tuairisc sin ag*

*teacht le chéile*, that report is not consistent' and *Dinneen* cites '*gach ball de ag teacht le chéile*, all his limbs harmonising'. DIL cites examples of the adverbial phrase 'le chéile' in the sense of 'together, altogether, completely', but does not appear to cite any example with 'téit'. See the commentary on Article 16.4.2° regarding 'meet'.

### Standardised Irish text

I gcomhúdarás a thiochfaidh an Rialtas le chéile agus a ghníomhóidh siad, agus tá siad go léir le chéile freagrach sna Ranna Stáit a riartar ag comhaltaí an Rialtais.

### Direct translation

Is mar chomhúdarás a thiochfaidh an Rialtas le chéile agus a ghníomhóidh siad, agus is i dteannta a chéile a bheidh siad freagrach as na Ranna Stáit a bheidh á riaradh ag comhaltaí den Rialtas.<sup>1</sup>

### Variant

- 1 'Tiochfaidh an Rialtas le chéile agus gníomhóidh siad mar chomhúdarás, agus beidh an Rialtas freagrach i dteannta a chéile as na Ranna Stáit a riarfaidh na comhaltaí den Rialtas.'

## ARTICLE 28.4.3° AIRTEAGAL 28.4.3°

### TÉACS GAELIGE

Ní foláir don Rialtas Meastacháin ar Fháltas an Stáit agus Meastacháin ar Chaitheamh Airgid an Stáit a ullmhú i gcomhair gach bliana airgeadais, agus iad a chur os comhair Dháil Éireann chun a mbreithnithe.

### LITERAL ENGLISH TRANSLATION

The Government must prepare Estimates of the Income of the State and Estimates of the Expenditure of the State for each financial year, and put them before Dáil Éireann for their consideration.

### ENGLISH TEXT

The Government shall prepare Estimates of the Receipts and Estimates of the Expenditure of the State for each financial year, and shall present them to Dáil Éireann for consideration.

Note that this text is now Article 28.4.4°, the Amendment on Cabinet confidentiality (see Appendix 4) being the enrolled Article 28.4.3°.

### Divergences between the official texts

- 1 'For consideration' is expressed as 'chun a mbreithnithe', more literally 'for their adjudication', in the Irish text; 'chun a mbreathnuighthe' is the form in the enrolled text, 'breathnaigh' being translated as 'observe, examine' in *Ó Dónaill* as against 'breithnigh', 'adjudge', as we noted earlier.
- 2 'Present them to Dáil Éireann' is expressed as 'iad a chur os comhair Dháil Éireann' ('put them before Dáil

Éireann') in the Irish text; 'a chur faoi bhráid' rather than 'a chur os comhair' expresses 'present' in Article 17.1.1<sup>o</sup>, which refers to the same matters as the present Article.

- 3 As in Article 17.1.1<sup>o</sup>, 'receipts' is expressed by the singular noun 'fáltas', principally translated as 'income, profit' in *Ó Dónaill*, and 'expenditure' is now generally translated as 'caiteachas', rather than 'caitheamh airgid', with 'Estimates of the Receipts and Estimates of the Expenditure of the State' being expressed as 'Meastacháin ar Fháltas an Stáit agus Meastacháin ar Chaitheamh Airgid an Stáit' ('Estimates of the Receipts of the State and Estimates of the Expenditure of the State') in the Irish text.
- 4 'Shall' is expressed as 'ní foláir' ('must'), as we have seen in some earlier Articles.

Note that Article 54 of the 1922 Constitution contains the following:

The Executive Council shall prepare Estimates of the receipts and expenditure of the Irish Free State (Saorstát Éireann) for each financial year, and shall present them to Dáil Éireann before the close of the previous financial year. *Ullamhóidh an Ard-Chomhairle Meastacháin d'fháltas agus de chaiteachas Shaorstáit Éireann i gcóir gach bliana airgid, agus cuirfidh ós cóir Dháil Éireann iad roimh dheire na bliana airgid roimhe sin.*

### Commentary

*a chur os comhair* Note that 'present' is expressed as 'a chur faoi bhráid' in Article 17.1.1<sup>o</sup>, with 'tairg' expressing 'present' in Article 25.1. 'Leag os comhair' expresses 'lay before' in Article 29.5.1<sup>o</sup>. 'Os comhair' is translated as 'in front of, opposite' in *Ó Dónaill*, citing '*os comhair na cuideachta*, in front of, in the presence of, the company'. *Dinneen* cites '*ós cómhair breithimh*, before a judge', translating 'cómhair' as 'presence', this noun being used only in prepositional phrases in Modern Irish. DIL translates 'comair' as 'in front of', citing 'comair caich' ('before every one') from the eighth-century Glosses of the Second Epistle of St Peter in *Codex Taurinensis*, citing 'ós cómhair cháich' from Fenian literature published in the *Transactions of the Ossianic Society* (1854-60) and 'as do chomhair' ('before thee') from Ó Cianáin's *Flight of the Earls*. See the commentary on Article 17.1 regarding 'present'. Note that *De Bhaldraithe* translates 'to present a plan to a meeting' as 'plean a chur os comhair cruinnithe', translating 'to present a bill for payment' as 'bille a thairiscint chun a íochta'.

*chun a mbreithnithe* See the commentary on Article 17.1.1<sup>o</sup> regarding 'breithnigh'; here we have the genitive singular of the verbal noun of 'breithnigh', 'breithniú'. In Article 17.1.1<sup>o</sup>, 'Dáil Éireann shall consider such Estimates' is expressed as 'ní foláir do Dháil Éireann na Meastacháin sin a bhreithniú'.

In s24 of the 'Offaly County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'The re-adjustment of those is a matter for consideration at a later date' is translated as 'Rud nách mór a bhreithniú uair éigin eile isea conus ath-cheartú do dhéanamh ortha'. 'That the affairs of the society call for consideration by a meeting of the members of the society' is translated as 'gur call go mbreithneofaí gnóthaí an

chumainn ag cruinniú de chomhaltaí an chumainn' in s45(1)(b) of the Building Societies Act, 1989, 'programmes being prepared for consideration by the Executive Directors' being translated as 'cláir a bheidh á n-ullmhú lena mbreithniú ag na Stiúrthóirí Feidhmiúcháin' in s1 of Article III of the Schedule to the International Development Association (Special Action Account) Act, 1978.

*Meastacháin ar Fháltas an Stáit* See the commentary on Article 17.1.1<sup>o</sup>. Note that *De Bhaldraithe* translates 'receipts and expenses' as 'fáil agus caitheamh', translating 'receipt' (*Commerce*) as 'fáltas'.

*Meastacháin ar Chaitheamh Airgid* See the commentary on Article 17.1.1<sup>o</sup>.

*a ullmhú* See the commentary on Article 25.5.1<sup>o</sup>.

### Direct translation

Déanfaidh an Rialtas Meastacháin ar Fháltais agus Meastacháin ar Chaiteachas an Stáit a ullmhú i gcomhair gach bliana airgeadais, agus iad a thíolacadh do Dháil Éireann chun iad a bhreithniú<sup>1</sup>.

### Variants

- 1 'chun iad a bhreithniú', 'lena mbreithniú'

## ARTICLE 28.5.1<sup>o</sup> AIRTEAGAL 28.5.1<sup>o</sup>

### TÉACS GAEILGE

An Taoiseach is teideal do cheann an Rialtais, .i. an Príomh-Aire, agus sin é a bheirtear air sa Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

The Taoiseach is the title of the head of the Government, i.e. the Prime Minister, and that is what he is called in the Constitution.

### ENGLISH TEXT

The head of the Government, or Prime Minister, shall be called, and is in this Constitution referred to as, the Taoiseach.

### Divergences between the official texts

- 1 'The head of the Government ... shall be called ... the Taoiseach' is expressed as 'An Taoiseach is teideal do cheann an Rialtais' ('The Taoiseach is the title of the head of the Government') in the Irish text, i.e. 'shall be called' being expressed as 'is teideal', 'has as title'.
- 2 'Or Prime Minister' is expressed as '.i. an Príomh-Aire' ('i.e. the Prime Minister') in the Irish text, this showing clearly that 'Prime Minister' is a gloss and not an alternative title for the Taoiseach.
- 3 'And is in this Constitution referred to as' is expressed as 'agus sin é a bheirtear air sa Bhunreacht seo' ('and that is what he is called in this Constitution') in the Irish text; in Article 12.1, 'hereinafter called the



President' is expressed as 'ar a dtugtar an tUachtarán sa Bhunreacht seo feasta', 'a bheirtear' being a variant form of 'a thugtar'.

Note that Article 13.1.1<sup>o</sup> contains the following:

The President shall ... appoint the Taoiseach, that is, the head of the Government or Prime Minister.  
*Ceapfaidh an tUachtarán an Taoiseach .i. an Ceann Rialtais nó an Príomh-Aire.*

### Commentary

*An Taoiseach* This headword is translated as 'Prime minister' in *Ó Dónaill*, preceded by the abbreviation for 'Politics', with the historical sense of 'leader, chief; ruler' also being given. The sense 'Prime minister' is not included in *Dinneen* (1927), who translates this headword as 'a chief, head, leader or prince (*princeps*), a commander'. The adjective 'toisech' means 'first, former', according to DIL, citing 'isind epistil tóisich' ('in the first Epistle'), from the eighth-century Würzburg Glosses on the Pauline Epistles. Professor Máirtín Ó Murchú remarks that the comparative of the adjective is still current in the form 'túisce'. As a noun 'toisech' means in the first instance '(the) first, (the) foremost', Máirtín Ó Murchú citing 'is é an taoiseach orthu' (i.e. of the best in a class) for example. The meaning 'leader, chief' is found already in the Würzburg Glosses, where we get 'hore rombu thoiscech na fectae' ('because he had been the leader of the expedition'). Moses is referred to as a good 'taoiseach' in an early ninth-century hymn ascribed to Colmán, lector of Cork ('snáidsiunn Moysi degthóisech' ['May Moses the good leader protect us']) and rulers of peoples, or territories, native or foreign, are sometimes referred to as 'toisech' in the Annals – see DIL s.v. 'toisech'.

Note that while the word 'toisech' is found in early Irish law-tracts – see 'toisech cachá fine' ('taoiseach gach fine, *the head of every family group*' being cited in *Ó Dónaill*) in *Ancient Laws of Ireland*, vol. 5, p. 438, for example – 'flaith' is the usual term in the early Irish laws for 'political chief, ruler'. As D.A. Binchy states in the 'Legal Glossary' appended to his edition of the early Irish law-tract *Críth Gablach* (p. 91), 'flaith' is both absolute and concrete: 'authority, rule', and the person who exercises such authority or rule. Later a separate noun of agency, 'flaithem', is formed. According to Professor Binchy, 'flaith may be used of the king, of a noble, of a "lord" over clients, etc.' Fergus Kelly translates 'flaith' as 'ruler, king, lord' in his 'Index of Irish Terms' appended to *A Guide to Early Irish Law* (p. 312). The King of Ireland, 'rí Érenn', who figures so prominently in early Irish sagas, is rarely mentioned in the law-texts, according to Professor Kelly, who states (*ibid.*, p. 18):

Though the idea of a kingship of the whole island had already gained currency by the 7th century, no Irish king ever managed to make it a reality, and most law-texts do not even provide for such a possibility.

The provincial king ('rí cóicid') is, however, recognised in the law-tracts, as is the 'rí túaithe' (king of the 'túath' or small kingdom, the political and jurisdictional unit of ancient Ireland – see Binchy, *op. cit.*, p. 109), of whom there would probably have been at least 150 at any given date between the fifth and twelfth centuries, according to Professor Kelly (*op. cit.*, p. 17).

*Príomh-Aire* 'Príomh-aire' is translated as 'prime minister' in *Ó Dónaill*, this compound of 'príomh-' (translated as 'first, prime, chief, principal, great' in *Dinneen*) and 'Aire' ('a minister of state' being given as a 'recent' sense of this headword in *Dinneen*) apparently not being given as a headword in *Dinneen*. The principal sense of 'aire' in *Dinneen* is 'a nobleman; one privileged', *Ó Dónaill* giving 'aire' in the sense of 'nobleman, chief' (sense in earlier Irish literature) and 'aire' in the sense of 'Minister (of state)' as two separate headwords. In early Irish law-tracts, 'aire' is used to describe every freeman, 'commoner' as well as noble, who possess an independent legal status, according to D.A. Binchy – see the commentary on Article 13.1.1<sup>o</sup>. Occasionally, however, 'aire' is used in the law-tracts in the more restricted sense of 'noble' (as opposed to 'commoner'), which is its usual meaning in the literature, according to Binchy. DIL cites 'aire no sainsamail' ('principal or conspicuous'), from the ninth-century St Gall Glosses on Priscian (where 'aire' glosses Latin 'optimas'), as an example of 'aire' in the more general sense of 'noble, chief'. Note finally that s3 of the Second Article of the 1919 Constitution reads as follows:

Is éigean do gach Aireach bheith n-a Theachta san Dáil ....

*teideal* This headword is translated as 'title' in *Téarmaí Dlí* (along with 'caption') and in *Ó Dónaill*, who cites '*teideal uaisleachta, céimíochta*, title of nobility, of distinction'. *Dinneen* translates 'teideal' as 'a title, claim, right or authority, rank, fame', citing '*a theidil is a chéimeanna*, his due titles'. Old Irish 'titul' comes from Latin 'titulus', and is translated in DIL as (a) 'title, heading', citing 'is titul indí ar chiunn' ('it is the title of that which is ahead') from the eighth-century Würzburg Glosses on the Pauline Epistles, (b) 'epithet, title' and (c) 'prescriptive right'. Note that *De Bhaldraithe* translates 'entitle' as 'tugaim teideal do (leabhar)'. See further the commentary on Article 34.4.1<sup>o</sup>.

'Who shall be styled and are hereinafter referred to as court messengers' is translated as 'ar a dtabharfar, agus dá ngairmtear ina dhiaidh seo anso, teachtairí cúirt' in s4(1) of the Enforcement of Court Orders Act, 1926. In s6(b) of the Tourist Traffic Act, 1970, 'a register to be called and known and in this Act referred to as the register of approved holiday cottages' is translated as 'clár ar a dtabharfar agus dá ngairfear an clár d'íostáin saoire cheadaithe agus dá dtagraítear san Acht seo faoin teideal sin'.

*do cheann an Rialtais* 'A head, leader, chief' is one of the senses of 'ceann' in *Dinneen*, who cites '*an ceann*, the inspector, etc.', '*ceann cómhairle*, a chairman, president' and '*ceann oirir*, chief of a district, a local magnate', for example. Examples of 'ceann' ('head') in the sense of person cited by *Ó Dónaill* include '*ceann teaghlaigh*, head of household', '*ceann foirne*, chief-of-staff' and '*ceann comhairle*, leader in council; *Parliament*. speaker'. In early Irish law-tracts the head of the kin-group ('fine') is known as the 'cenn fine' – see Fergus Kelly, *op. cit.*, p. 13f. DIL gives 'chief, head person, leader' as one of the senses of 'cenn', the primary meaning being 'the human head, head of an animal'. See the commentary on Article 13.1.1<sup>o</sup>.

*a bheirtear* This would be replaced by ‘a thugtar’ in the current standard – see the commentary on Article 12.1. See the commentary on Article 15.1.1° regarding ‘a bheirtear (air)’.

### Standardised gender-proofed Irish text

An Taoiseach is teideal do cheann an Rialtais, .i. an Príomh-Aire, agus sin é a thugtar air nó uirthi sa Bhunreacht seo.

### Direct gender-proofed translation

An Taoiseach a thabharfar ar cheann an Rialtais, nó ar an bPríomh-Aire, agus tagrófar dó nó di amhlaidh<sup>1</sup> sa Bhunreacht seo.

### Variants

- 1 ‘faoin teideal sin’

## ARTICLE 28.5.2° AIRTEAGAL 28.5.2°

### TÉACS GAEILGE

Ní foláir don Taoiseach eolas i gcoitinne a thabhairt don Uachtarán ar nithe a bhaineas le beartas inmheánach agus le beartas idirnáisiúnta.

### LITERAL ENGLISH TRANSLATION

The Taoiseach must give information in general to the President on matters which relate to internal policy and to external policy.

### ENGLISH TEXT

The Taoiseach shall keep the President generally informed on matters of domestic and international policy.

### Divergences between the official texts

- 1 ‘Keep the President generally informed’ is expressed as ‘eolas i gcoitinne a thabhairt don Uachtarán’ (‘give information/knowledge in general to the President’) in the Irish text.
- 2 ‘Matters of domestic ... policy’ is expressed as ‘nithe a bhaineas le beartas inmheánach’ (‘matters which relate to internal policy’) in the Irish text.
- 3 Again we see ‘shall’ expressed as ‘ní foláir’ (‘must’) in the Irish text.

### Commentary

*eolas* Translated as ‘knowledge’ in *Ó Dónaill*, citing ‘*ár gcuid eolais (ar Dhia, ar an saol, orainn féin)*, what we know (of God, of life, of ourselves)’. *Dinneen* includes ‘knowledge, information’ among the senses of ‘eolas’. DIL translates ‘eolas’ principally as ‘knowledge, information, especially knowledge gained by experience or practice, acquaintance’, citing ‘maith a n-eolas’ (‘good their knowledge’) from the ninth-century Milan Glosses on the Commentary on the Psalms (where it glosses Latin ‘patres ... certae scientiae’) and ‘isse mac dian lia eolas i nErind’ (‘the best-informed youth in Ireland’). DIL cites ‘tabair eolas dam co hairm a fuilet mo mic’ (‘direct me to the place where my sons are’), from the early Middle Irish

translation of the *Thebiad of Statius*, as an example of ‘eólas’ in the sense of ‘knowledge of the way (place), guidance’. See further the commentary on Article 18.7.1°, where this headword expresses ‘knowledge’.

Looking at ‘information’ in early official translations, ‘bureau eolais’ translates ‘information bureau’ in *Irish Oifigiúil*, 1926, p. 679, ‘chun eolais duit’ being cited as translating ‘for your information’ in the *Oireachtas Dictionary of Official Terms*. ‘If satisfied by information on oath’ is translated as ‘más deimhin leis o scéala fé mhionn’ in s179(6) of the Defence Forces (Temporary Provisions) Act, 1923. In s4(2)(c) of the District Justices (Temporary Provisions) Act, 1923, ‘Administering oaths and taking declarations, affirmations and informations’ is translated as ‘Cur fé mhóid agus faisnéisí, deimhniúcháin agus finéachtaí do thógaint’.

Turning to modern Acts, ‘The Bank shall ... keep the Minister ... informed of the general principles which guide the Bank’ is translated as ‘Déanfaidh an Banc ... an tAire ... a choinneáil ar an eolas maidir leis na príonsabail ghinearálta a bhíonn mar threoir ag an mBanc’ in s66(2) of the Central Bank Act, 1989. ‘The Administrator shall keep the EEC informed of projects’ is translated as ‘coimeádfaidh an Riarthóir eolas le CEE faoi thionscadail’ in s1 of Article III of the Schedule to the International Development Association (Special Action Account) Act, 1978. ‘Keep itself informed of the courses available to students’ is translated as ‘é féin a choimeád ar an eolas maidir leis na cúrsaí atá ar fáil ag mic léinn’ in s13(1) of the National Agricultural Advisory, Education and Research Authority Act, 1977.

*beartas* ‘Beartas poiblí’ is translated as ‘public policy’ in *Téarmaí Dlí* and in *Ó Dónaill*, who translates ‘beartas’ as ‘policy’. This does not appear to be given as a headword in *Dinneen* nor in DIL – see the commentary on Article 28.3.3° regarding the development of senses of ‘beartaigh’.

‘Policies of insurance’ is translated as ‘polasaithe árachais’ in s11(2)(e) of the Damage to Property (Compensation) Act, 1923. ‘Otherwise than in the interest of the public generally and as a measure of public policy’ is translated as ‘ar aon tslí eile seachas chun leasa don phuiblíocht i gcoitinne agus mar ní a bhaineann le polasaí puiblí’ in s7 of the Private Bills Costs Act, 1924. ‘Polasíocht’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘policy’ in early *Standing Orders* of Dáil Éireann. Note that ‘home policy’ is translated as ‘beartas (fá ghnóthaí) intíre’ in the *Terms* issued by the Department of Education.

‘With particular reference to its proposed policy in relation to making of loans’ is translated as ‘ag tagairt go háirithe dá bheartas beartaithe i ndáil le hiasachtaí a thabhairt’ in s103(2)(c) of the Building Societies Act, 1989, for example. ‘The general policy of such committee in relation to continuation education’ is translated as ‘polasaí generálta an choiste sin i dtaobh oideachais leanúna’ in s31(1) of the Vocational Education Act, 1930.

Professor Máirtín Ó Murchú questions ‘cúrsaí beartais intíre’ in the direct translation below – as against ‘cúrsaí intíre’ or ‘cúrsaí beartais’ – and recommends ‘faoina mbaineann le beartais intíre agus le beartais idirnáisiúnta’.

*inmheánach* See the commentary on Article 24.1.

**Standardised Irish text**

Ní foláir don Taoiseach eolas i gcoitinne a thabhairt don Uachtarán ar nithe a bhaineann le beartas inmheánach agus le beartas idirnáisiúnta.

**Direct translation**

Coimeádfaidh an Taoiseach an tUachtarán ar an eolas i gcoitinne faoi chúrsaí beartais intíre<sup>1</sup> agus idirnáisiúnta<sup>2</sup>.

**Variants**

- 1 'bhaile', 'baile'
- 2 'agus beartais idirnáisiúnta', 'faoina mbaineann le beartais intíre agus le beartais idirnáisiúnta'

ARTICLE 28.6.1<sup>o</sup> AIRTEAGAL 28.6.1<sup>o</sup>**TÉACS GAELIGE**

Ní foláir don Taoiseach comhalta den Rialtas a ainmniú chun bheith ina Thánaiste.

**LITERAL ENGLISH TRANSLATION**

The Taoiseach must nominate a member of the Government to be Tánaiste.

**ENGLISH TEXT**

The Taoiseach shall nominate a member of the Government to be the Tánaiste.

**Divergences between the official texts**

- 1 Syntactically, Irish would not distinguish here between 'the Tánaiste' and 'a Tánaiste'; specifically to express 'the Tánaiste' would require a construction which would significantly diverge from the English text.
- 2 As we saw in the foregoing subsection, 'shall' is expressed as 'ní foláir' ('must') in the Irish text.

**Commentary**

*ina Thánaiste* 'Tánaiste', in the political sense, is translated as 'deputy prime minister' in *Ó Dónaill*, giving 'tanist, heir presumptive' as the sense of this headword in earlier literature. *Dinneen* (1927) translates the noun 'tánaiste' as 'a second thing or person, a substitute or *locum tenens*, heir presumptive or tanist, the next best thing; state of being second or next best'. The adjective 'tanisi' glosses Latin 'secunda' in the ninth-century Milan Glosses on the Commentary on the Psalms, while in the eighth-century Würzburg Glosses on the Pauline Epistles we find the phrase 'a rath tanise' ('the second grace'). DIL translates 'tánaise', the earlier form of 'tánaiste', as I(a) 'second', II(a) 'second, next *in excellence, number, etc.*', III 'second in rank or dignity, heir apparent, tanist', the first example of this final sense being cited from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century ('bid tanaise dam-se he i-m flaithius'). Compare 'taoiseach' for range of meanings (see the commentary on subsection 1 of the previous section).

*ina* The following examples of this use of the preposition 'i' with the possessive pronoun to express status, function, etc., are cited by *Ó Dónaill*: 'Tá sé *ina oide*, he is a teacher', '*chuaigh sé ina thoscaire ann*, he went there as a delegate', '*bhí sí ina máthair mhaith acu*, she was a good mother to them' and '*dá mbeifeá i do mháistir ar do cheird*, if you were a master of your trade'.

'Each local authority shall nominate to be members of the electorate such (if any) number of qualified persons' is translated as 'Déanfaidh gach údarás áitiúil ... daoine cáilithe d'ainmniú chun bheith ina mbaill den lucht toghtha pé méid daoine (más aon mhéid é)' in s11(4) of the National Health Insurance and Widows' and Orphans' Pensions Act, 1936. In s37(3) of the Health (Mental Services) Act, 1981, 'The Minister shall nominate a member of a review board to be the chairman of the board' is translated as 'Ainmneoidh an tAire comhalta de bhord athbhreithnithe le bheith ina chathaoirleach ar an mbord'.

The variants given in the direct translation below illustrate the awkwardness of expressions other than 'ina' in this context. 'Bheith mar', for example, would not be correct here; as Professor Máirtín Ó Murchú remarks, this would mean that it would not actually be the Tánaiste but somebody performing that duty for the time being, Professor Ó Murchú citing 'ní hathair dóibh an té a bheadh mar athair acu' for example.

*Ní foláir ... a ainmniú* Note that Article 53 of the 1922 Constitution commences as follows:

The President of the Council shall be appointed on the nomination of Dáil Éireann. He shall nominate a Vice-President of the Council .... *Ceapfar Uachtarán na hArd-Chomhairle ar ainmniú Dháil Éireann. Ainmneoidh sé sin Leas-Uachtarán den Ard-Chomhairle.*

**Gender-proofed Irish text**

Ní foláir don Taoiseach comhalta den Rialtas a ainmniú chun bheith ina Thánaiste nó ina Tánaiste.

**Direct gender-proofed translation**

Déanfaidh an Taoiseach comhalta den Rialtas a ainmniú chun bheith ina Thánaiste nó ina Tánaiste<sup>1</sup>.

**Variants**

- 1 'chun post an Tánaiste a ghabháil air féin nó uirthi féin', 'chun an Tánaiste a dhéanamh de nó di', 'agus is é nó is í an Tánaiste a bheidh sa chomhalta sin'

ARTICLE 28.6.2<sup>o</sup> AIRTEAGAL 28.6.2<sup>o</sup>**TÉACS GAELIGE**

Má éagann an Taoiseach nó má ghabhann míthreoir bhuan é, ní foláir don Tánaiste gníomhú chun gach críche in ionad an Taoisigh nó go gceaptar Taoiseach eile.

**LITERAL ENGLISH TRANSLATION**

If the Taoiseach dies or if he becomes permanently incapacitated/deranged/confused, the Tánaiste must act for every

purpose in place of the Taoiseach until another Taoiseach is appointed.

#### ENGLISH TEXT

The Tánaiste shall act for all purposes in the place of the Taoiseach if the Taoiseach should die, or become permanently incapacitated, until a new Taoiseach shall have been appointed.

#### Divergences between the official texts

- 1 As we have seen in earlier Articles, 'incapacitated' is expressed in the Irish text by 'míthreoir', a term which would generally today be understood to mean 'mental confusion', though 'incapacity' is the principal sense given in *Dinneen*.
- 2 'A new Taoiseach' is expressed as 'Taoiseach eile' ('another Taoiseach') in the Irish text.
- 3 'Shall have been appointed' is expressed as 'ceaptar' ('is appointed') in the Irish text.
- 4 'If the Taoiseach should die' is expressed as 'Má éagann an Taoiseach' ('If the Taoiseach dies') in the Irish text, the English clause being followed by a comma not found in the Irish text.
- 5 'If the Taoiseach should ... become permanently incapacitated' is expressed as 'má ghabhann míthreoir bhuan é' ('if permanent incapacity seizes him') in the Irish text.
- 6 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 53 of the 1922 Constitution contains the following:

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. *Ainmneoidh sé sin Leas-Uachtarán den Ard-Chomhairle, a ghníomhóidh chun gach críche in ionad an Uachtaráin ar an Uachtarán d'fháil bháis, do thabhairt suas no do thuíteam fé mhí-chumas bhuan, go dtí go dtoghfar Uachtarán nua den Ard-Chomhairle.*

#### Commentary

*nó go gceaptar* 'Nó go' (Middle Irish 'nó co') in the sense of 'until' was, according to Liam Breatnach (in Kim McCone et al., op. cit., p. 281), a Middle Irish innovation, all of Professor Breatnach's examples coming from the twelfth-century *Book of Leinster*. According to Holger Pedersen (*Vergleichende Grammatik der keltischen Sprachen* [1909-13], Vol. II, pp. 318-9, cited in DIL), however, 'no co' is a development of Old Irish 'na co' (followed by eclipsis), used with the subjunctive mood to join a conditional clause to a negative main clause, the original sense being 'unless', passing by degrees into that of 'until'. According to DIL, the development was probably influenced by the independent use of the conjunction 'co' (followed by eclipsis), 'until'. During the Middle Irish period, 'na co' ('no co', 'nó co') comes to mean simply 'until', according to DIL, 'and to be used with an affirmative main clause, and with the indicative mood (generally with a preterite to denote an actual fact which occurred at the end of a period indicated

in the main sentence)'. DIL cites the following example from 'Siaburcharpat Con Culaind', contained in *Leabhar na hUidhre* (written in Clonmacnois c. 1100): '(Asbert Loegaire fri Patraic noco chreitiubsa duitsiu nách do Dia) nó copo dusce Coin Culaind' (i.e. King Loegaire said to Saint Patrick, 'I will not believe in thee nor in God until thou awake Cú Chulainn'). Turning to Modern Irish, *Dinneen* cites '*nó go dtagaidh mé arís*, till I come again' and '*nó gur dhoirteamar le fánaidh tré fhairrge dá cárnadh*, till we had run down before the wind through a turbulent sea'. *Ó Dónaill* cites '*beidh tú ann nó go bhfása coincleach ort*, you will be there until you grow mouldy' as an example of 'nó' used pleonastically with the conjunction 'go' in the sense of 'until; so that'.

'Until further notice' is translated as 'go dtí go bhfógrófar mar gheall air arís' in *Iris an Phuist*, 23/3/27. In s2(a) of Article XII of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977, 'Each Governor and each Alternate shall serve until a new appointment is made' is translated as 'Fónfaidh gach Rialtóir agus gach Malartach go dtí go ndéanfar ceapachán nua'. 'Until a new seal has been provided' is translated as 'go dtí go soláthrófar séala nua' in s9(2) of the Contribution (Consequential Provision) Act, 1937. See Article 53 of the 1922 Constitution above.

*éagann* The verb 'éag' is translated as 'die; expire, die out, become extinct' in *Ó Dónaill*. 'Éagaim' is translated as 'I die, perish, expire, become quenched; I put to death (*poetic*); I lose my flavour, as snuff, etc.' in *Dinneen* – a good illustration of the disadvantage of using the first person singular as against the third person singular as the headwords of verbs in a dictionary! 'Écaid' ('dies') is the verbal form of 'éc' ('death'), especially 'a natural death' as opposed to 'aided', 'violent death', according to DIL. Unlike 'éc', we find many examples of 'bás' in the eighth- and ninth-century Glosses. See the commentary on Article 12.3.1<sup>o</sup>.

In s1 of Article 56 of the Second Schedule to the Arbitration Act, 1980, 'provided, however, that if a conciliator or arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of Section 2' is translated as 'ar choinníoll, áfach, má fhaigheann comhréiteoir nó eadránaí bás, nó má éiríonn sé míchumasach, nó má éiríonn sé as oifig, go líonfar an folúntas a tharlóidh dá thoradh sin de réir fhorálacha Roinn 2'.

*eile* This headword is translated as 'other, another; next, more, else' in *Ó Dónaill*, citing '*bealach eile*, another, an alternative way' and '*fáth eile*, another, an additional, reason'. *Dinneen* translates 'eile' as 'other, another, else, second, next'. Old Irish 'aile' is translated as 'other, second' in DIL, where examples are cited from the Glosses of the eighth century onwards.

In s14 of the Charities Act, 1973, 'Where for any reason the appointment of a new trustee or new trustees of any charity appears to the Board to be necessary' is translated as 'Más dóigh leis an mBord ar chúis ar bith gur gá iontaobhaí nua nó iontaobhaithe nua a cheapadh ar aon charthanas'. Note that *De Bhaldraithe* translates 'the new boys' as 'na scoláirí úra, nua' but translates 'the new guard' (military) as 'an garda (atá) ag dul ar faire'.

*chun gach críche* 'Críche' is the genitive singular of 'críoch' – see the commentary on Article 13.8.2<sup>o</sup>.

*má ghabhann míthreoir bhuan é* See the commentary on Article 12.3.1°.

*ní foláir* See the commentary on Article 11.

*gníomhú* The verbal noun of ‘gníomhaigh’ – see the commentary on Article 28.4.2°.

### Gender-proofed Irish text

Má éagann an Taoiseach nó má ghabhann míthreoir bhuan é nó í, ní foláir don Tánaiste gníomhú chun gach críche in ionad an Taoisigh nó go gceaptar Taoiseach eile.

### Direct gender-proofed translation

Gníomhóidh an Tánaiste chun gach críche in ionad an Taoisigh i gcás an Taoiseach a éag<sup>1</sup>, nó buan-éagumas é nó í a ghabháil<sup>2</sup>, go dtí go mbeidh Taoiseach nua ceaptha.

### Variants

- 1 ‘a fháil bháis’, ‘d’éag’
- 2 ‘dá ghabháil nó dá gabháil’

## ARTICLE 28.6.3° AIRTEAGAL 28.6.3°

### TÉACS GAELGE

Ní foláir don Tánaiste, fairis sin, gníomhú thar ceann nó in ionad an Taoisigh le linn eisean a bheith as láthair go sealadach.

### LITERAL ENGLISH TRANSLATION

The Tánaiste must, moreover, act on behalf of or in place of the Taoiseach while he is temporarily absent.

### ENGLISH TEXT

The Tánaiste shall also act for or in the place of the Taoiseach during the temporary absence of the Taoiseach.

### Divergences between the official texts

- 1 ‘For’ is expressed in the Irish text by ‘thar ceann’, which phrase is translated as ‘on behalf of’ in *Téarmaí Dlí*.
- 2 ‘During the temporary absence of the Taoiseach’ is expressed as ‘le linn eisean a bheith as láthair go sealadach’ (‘while he is temporarily absent’) in the Irish text.
- 3 ‘Shall’ is expressed as ‘ní foláir’ (‘must’) in the Irish text, as in earlier subsections.

Note that Article 53 of the 1922 Constitution contains the following:

The Vice-President shall also act in the place of the President during his temporary absence. *Gníomhóidh an Leas-Uachtarán thar ceann an Uachtaráin, leis, le linn eisean do bheith as láthair go sealadach.*

### Commentary

*as láthair* ‘Bheith as láthair (ó rud)’ is translated as ‘to be absent (from something)’ in *Ó Dónaill*, who translates ‘ní raibh sé aon lá as láthair’ as ‘he didn’t miss a day’. *Dinneen* cites ‘dul as a láthair, to leave him’ and ‘tamall

*as láthair*, a little distance away’. ‘Place, position’ is one of the senses of ‘láthair’ in DIL, the principal sense being ‘arrangement, disposition’. While DIL gives examples of the adverbial phrase ‘for (ar) láthair’, there appears to be no examples of ‘as láthair’ cited s.v. ‘láthair’. Note that *De Bhaldraithe* translates ‘he was sentenced in his absence’ as ‘teilgeadh é agus é as láthair’.

See the commentary on Article 14.1 for ‘absence’. ‘During the absence of the Chairman from any meeting of the Commission’ is translated as ‘Le linn don Chathaoirleach a bheith as láthair ó aon chruinniú den Choimisiún’ in s10(3) of the Educational Exchange (Ireland and the United States of America) Act, 1991, with ‘During the absence of the chairman of the Board from any meeting of the Board’ being translated as ‘Le linn cathaoirleach an Bhoird a bheith as láthair ó aon chruinniú den Bhord’ in s10(4) of the Scholarship Exchange (Ireland and the United States of America) Act, 1957. In s3(a) of the Second Schedule to the Garda Síochána (Complaints) Act, 1986, ‘The Board may appoint a member of the Board ... to be a member of a tribunal during the temporary absence of a member of the tribunal’ is translated as ‘Féadfaidh an Bord comhalta den Bhord ... a cheapadh chun bheith ina chomhalta den bhinse le linn do chomhalta den bhinse a bheith as láthair go sealadach’.

*thar ceann* This phrase is translated as ‘on behalf of’ in *Téarmaí Dlí* and as ‘on behalf of; for the sake of’ in *Ó Dónaill*, who cites ‘*thar do cheann a rinne mé é*, I did it on your account’ and ‘*thar ceann a oinigh*, for the sake of his honour’. *Dinneen* translates ‘thar ceann’ as ‘over and above, besides, beyond, excessive, for the sake of; instead of, in preference to; in spite of, notwithstanding, in opposition to’. DIL cites ‘dufiastar tara cenn-som’ (‘punishment will be inflicted for them’) from the ninth-century Milan Glosses on the Commentary on the Psalms as an example of ‘tar cenn’ in the sense of ‘on behalf of, for the sake of, in return for, in lieu of, because of, for, etc.’

‘The county manager for that county shall act for and on behalf of such council’ is translated as ‘gníomhóidh an contae-bhainisteoir don chontae sin thar ceann na comhairle sin’ in s32(1) of the County Management Act, 1940, for example. Professor Máirtín Ó Murchú, commenting on ‘Gníomhóidh an Tánaiste freisin don Taoiseach’ in a draft of the direct translation below, states that ‘do’ in such a context would mean ‘ar mhaithe le’ (‘for the sake of’ / ‘for the good of’), citing ‘dom féin a dheineas é’ for example.

*go sealadach* ‘Sealadach’ is based on ‘sealad’ (earlier ‘selat’, translated principally as ‘a while, a space of time; a turn’ in DIL), which in turn is based on ‘seal’, earlier ‘sel’; DIL cites ‘cach la sel dún for imrádud dé’ (‘at one time [translated by Professor Máirtín Ó Murchú as “every other time we are”] meditating on God’), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of ‘sel’ in the principal sense of ‘turn’, this headword having the secondary sense of ‘a while, a spell’ and ‘a certain distance’. See the commentary on Article 14.1.

*fairis sin* This phrase is translated as ‘in addition to or beside that, also’ in *Dinneen* – see the commentary on Article 10.4.

**Gender-proofed Irish text**

Ní foláir don Tánaiste, fairis sin, gníomhú thar ceann nó in ionad an Taoisigh le linn eisean nó ise a bheith as láthair go sealadach.

**Direct gender-proofed translation**

Gníomhóidh an Tánaiste chomh maith<sup>1</sup> thar ceann nó in ionad an Taoisigh le linn don Taoiseach bheith as láthair go sealadach.

**Variants**

1 'freisin'

ARTICLE 28.7.1<sup>o</sup> AIRTEAGAL 28.7.1<sup>o</sup>**TÉACS GAEILGE**

Ní foláir an Taoiseach agus an Tánaiste agus an comhalta sin den Rialtas a bheas i mbun an Roinn Airgeadais a bheith ina gcomhaltaí de Dháil Éireann.

**LITERAL ENGLISH TRANSLATION**

The Taoiseach and the Tánaiste and that member of the Government who will be in charge of the Department of Finance must be members of Dáil Éireann.

**ENGLISH TEXT**

The Taoiseach, the Tánaiste and the member of the Government who is in charge of the Department of Finance must be members of Dáil Éireann.

**Divergences between the official texts**

- 1 'The Taoiseach, the Tánaiste and the member ...' is expressed as 'an Taoiseach agus an Tánaiste agus an comhalta sin' ('The Taoiseach and the Tánaiste and that member') in the Irish text.
- 2 'The member of the Government who is in charge of' is expressed as 'an comhalta sin den Rialtas a bheas i mbun' ('that member of the Government who will be in charge of') in the Irish text.
- 3 'Ní foláir' is usually found in the Constitution followed by the preposition 'do', which phrase literally translates 'must' but frequently expresses 'shall' in the Constitution; here, 'ní foláir', without the preposition, expresses 'must'.

Note that Article 52 of the 1922 Constitution reads as follows:

Those Ministers who form the Executive Council shall all be members of Dáil Éireann and shall include the President of the Council, the Vice-President of the Council and the Minister in charge of the Department of Finance. *Beidh Airí uile na hArd-Chomhairle 'na dteachtaí de Dháil Éireann agus beidh ortha Uachtarán na hArd-Chomhairle, Leas-Uachtarán na hArd-Chomhairle agus an t-Aire i gceannas Roinn an Airgid.*

**Commentary**

*i mbun an Roinn Airgeadais* This phrase would have the form 'i mbun na Roinne Airgeadais' according to the official standard, the genitive case following the prepositional phrase 'i mbun'.

'I mbun' is translated as 'attending to, engaged in, abiding by' in Ó Dónaill, citing '*i mbun an tí, an linbh*, attending to the house, the child' and '*duine a chur i mbun ruda*, to put someone in charge of something'. Dinneen translates 'i mbun' as 'about, looking after, guarding', citing '*am madadh ruadh i mbun na gcearc*, the fox guarding the hens'. DIL cites 'i mbun na gabla' ('beside the fork') from *Leabhar na hUidhre* (written in Clonmacnois c. 1100), 'bun' being 'the thick end of anything, base, butt, foot', most of the examples of 'i mbun' in DIL (these being from a later period) being in the transferred sense of 'occupied with, adhering to, in charge of, devoted to'. Note that *De Bhaldraithe* translates 'to have charge, be in charge, of something' (*of official*) as 'a bheith os cionn, i gceannas, ruda' and 'he was put in charge' as 'cuireadh i gceannas é' – though, as Professor Máirtín Ó Murchú remarks, 'bun' and 'ceann' (whence 'ceannas') are semantically autonyms.

In s233(1) of the Social Welfare (Consolidation) Act, 1981, "local officer" means an officer who for the time being is in charge of a local office' is translated as 'ciallaíonn "oifigeach áitiúil" oifigeach atá, de thuras na huaire, i bhfeighil oifige áitiúla'. The member of the Government who is in charge of the Department of Economic Planning and Development shall be styled and known as ... the Minister for Economic Planning and Development' is translated as 'An tAire Pleanála agus Forbartha Eacnamaíochta ... a thabharfar ar an gcomhalta den Rialtas a bheidh i mbun na Roinne Pleanála agus Forbartha Eacnamaíochta agus a ghairfear de' in s2(3) of the Ministers and Secretaries (Amendment) Act, 1977. Section 1 of the Constitution (Amendment No. 15) Act, 1929, contains the following insertion in lieu of Article 52 of the 1922 Constitution:

The Ministers who form the Executive Council shall include the President of the Council, the Vice-President of the Council, and the Minister in charge of the Department of Finance. The President of the Council, the Vice-President of the Council, the Minister in charge of the Department of Finance, and the other members of the Executive Council shall be members of Dáil Éireann, save that one of such other members may be a member of Seanad Éireann. *Ar Airí na hArd-Chomhairle beidh Uachtarán na hArd-Chomhairle, Leas-Uachtarán na hArd-Chomhairle, agus an tAire a bheidh i gceannas na Roinne Airgid. Beidh Uachtarán na hArd-Chomhairle, Leas-Uachtarán na hArd-Chomhairle, an tAire a bheidh i gceannas na Roinne Airgid, agus na baill eile den Ard-Chomhairle ina mbaill de Dháil Éireann, ach amháin go bhféadfadh duine de sna baill eile sin bheith ina bhall de Sheanad Éireann.*

'I gceannas' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'in charge (of a Department, etc.)' in the *Proceedings* of Dáil Éireann, 1927, p. 581, 'to the sergeant in charge of the Garda Síochána station nearest to such tree' being translated as 'don tsáirsint i gceannas an stáisiúin Ghárda Síochána is goire don chrann san' in s5(1) of the Forestry Act, 1928.

*Ní foláir* See the commentary on Article 11. Note that we usually find ‘do’ following ‘ní foláir’. Regarding ‘ní mór’ in the variant direct translation below, which phrase is sometimes found in the Acts, Professor Máirtín Ó Murchú remarks that ‘ní mór’ is closer in meaning to ‘ought’.

### Standardised Irish text

Ní foláir an Taoiseach agus an Tánaiste agus an comhalta sin den Rialtas a bheidh i mbun na Roinne Airgeadais a bheith ina gcomhaltaí de Dháil Éireann.

### Direct translation

Ní foláir<sup>1</sup> don Taoiseach, don Tánaiste agus don chomhalta den Rialtas a bheidh<sup>2</sup> i mbun na Roinne Airgeadais a bheith ina gcomhaltaí de Dháil Éireann.

### Variants

- 1 ‘Ní mór’
- 2 ‘atá’

ARTICLE 28.7.2<sup>o</sup> AIRTEAGAL 28.7.2<sup>o</sup>

### TÉACS GAEILGE

Ní foláir na comhaltaí eile den Rialtas a bheith ina gcomhaltaí de Dháil Éireann nó de Sheanad Éireann ach ní dleathach thar beirt acu a bheith ina gcomhaltaí de Sheanad Éireann.

### LITERAL ENGLISH TRANSLATION

The other members of the Government must be members of Dáil Éireann or of Seanad Éireann but it is not lawful that more than two of them be members of Seanad Éireann.

### ENGLISH TEXT

The other members of the Government must be members of Dáil Éireann or Seanad Éireann, but not more than two may be members of Seanad Éireann.

### Divergences between the official texts

- 1 ‘But not more than two may be members’ is expressed as ‘ach ní dleathach thar beirt acu a bheith ina gcomhaltaí’ (‘but it is not lawful that more than two of them be members’) in the Irish text, with a comma following the preceding clause in the English text alone; note that the original Irish text also had a comma in that position.
- 2 As in the foregoing subsection, ‘ní foláir’, but without preposition, expresses ‘must’ in this subsection, with ‘ní foláir’ followed by the preposition ‘do’ being one of the ways ‘shall’ is expressed in the Irish text in many Articles.

### Commentary

*thar* According to the official standard, lenition follows ‘thar’, except in adverbial phrases, ‘ní raibh thar chúigear

acu ann’ being cited in s4(e) of the chapter on ‘Lenition and Eclipsis’ in *An Caighdeán Oifigiúil*. The preposition ‘thar’ is translated principally as ‘over’ by *Ó Dónaill*, with the secondary sense of ‘more than’, illustrated by examples such as ‘*bhain sé thar dhá lá asam*, it took me more than two days’ and ‘*tá sí thar na ceithre fichid*, she is over eighty’. *Dinneen* cites ‘*ní fiú thar pinginn é*, it is not worth more than a penny’. DIL cites ‘*nat sasai aena tar aile*’ (‘that one day should not be extended beyond two days’) from the *Ancient Laws of Ireland* (vol. 1, p. 120, l. 18).

In s9(1) of the Greyhound Industry Act, 1958, ‘The Minister shall ... appoint six persons (of whom three, but not more than three, shall be members of the Standing Committee of the Club) to be ordinary members of the Board’ is translated as ‘Déanfaidh an tAire ... seisear daoine (ar comhaltaí de Bhuan-Choiste an Chlub triúr, agus triúr ar a mhéid, díobh) a cheapadh chun bheith ‘na ngnáth-chomhaltaí den Bhord’. ‘Seating capacity for more than 6 but not more than 14 persons’ is translated as ‘cóiríocht shuite do bhreis is 6 dhuine, agus do 14 duine ar a mhéid’ in s3(b)(i) of the Schedule to the Finance (Excise Duties) (Vehicles) Act, 1952. ‘A Judge of the Circuit Court (but not more than two such Judges at any one time) may ... be temporarily assigned by the Minister’ is translated as ‘Féadfaidh an tAire ... Breitheamh den Chúirt Chuarda (ach ní níos mó ná beirt Bhreithiún den tsórt san aon uair áirithe) do cheapadh go sealadach d’aon Chuid’ in s9(2) of the Courts of Justice Act, 1928.

*Ní foláir* See the previous subsection.

*ní dleathach* See the commentary on Articles 14.3, 15.6.2<sup>o</sup> and 17.2.

### Standardised Irish text

Ní foláir na comhaltaí eile den Rialtas a bheith ina gcomhaltaí de Dháil Éireann nó de Sheanad Éireann ach ní dleathach thar bheirt acu a bheith ina gcomhaltaí de Sheanad Éireann.

### Direct translation

Ní foláir<sup>1</sup> do na comhaltaí eile den Rialtas a bheith ina gcomhaltaí de Dháil Éireann nó de Sheanad Éireann, ach ní fhéadfaidh thar bheirt acu a bheith ina gcomhaltaí de Sheanad Éireann.

### Variants

- 1 ‘Ní mór’

ARTICLE 28.8 AIRTEAGAL 28.8

### TÉACS GAEILGE

Tá sé de cheart ag gach comhalta den Rialtas bheith i láthair agus labhairt i ngach Teach den Oireachtas.

### LITERAL ENGLISH TRANSLATION

Every member of the Government has the right to be present and to speak in each House of the Oireachtas.

**ENGLISH TEXT**

Every member of the Government shall have the right to attend and be heard in each House of the Oireachtas.

**Divergences between the official texts**

- 1 '(To) be heard' is expressed as 'labhairt' ('to speak') in the Irish text.
- 2 'To attend' is expressed as 'bheith i láthair' ('to be present') in the Irish text.
- 3 The English text's future 'shall have' is expressed by the present tense in the Irish text.

Note that Article 57 of the 1922 Constitution reads as follows:

Every Minister shall have the right to attend and be heard in Seanad Éireann. *Beidh de cheart ag gach Aire bheith láithreach agus éisteacht d'fháil sa Seanad.*

**Commentary**

*i láthair* 'Bheith i láthair (ag rud)' is translated as 'to be present (at something)' in *Ó Dónaill*, who cites '*dul i láthair, do láthair, na cúirte*, to appear before the court'. *Dinneen* translates 'i láthair' as 'beside, in the presence of, present, before ...', citing '*i láthair Dé*, before God, in God's presence (*a common asseveration*)' and '*bhíos i láthair an chómhraídh sin*, I was present at that conversation'. DIL gives a few examples from earlier literature (though not from the earliest sources) of 'i láthair' in the sense of 'in (to) the presence of', including 'táinig ... i láthair Sholaimh' from the poetry of Tadhg Dall Ó Huiginn (fl. 1550-1591). See the commentary on Article 28.6.3<sup>o</sup> regarding 'as láthair'. 'I láthair' expresses 'in the presence of' in Article 12.8 and 'bheith i láthair' expresses 'appear' in Article 12.10.6<sup>o</sup>.

'I attend' is translated as 'freastalaím' in *Téarmaí DLÍ*, 'attendance' being translated as 'freastal'. The Margin Title of s88 of the Building Societies Act, 1989, 'Auditors' report, right of access to books and to attend general meeting', is translated as 'Tuarascáil na n-iniúcháirí, a gceart chun fáil a bheith acu ar leabhair agus chun freastal ar chruinniú ginearálta' – see below for an earlier version of this text. 'Any member of a society entitled to attend and vote at a meeting of the society' is translated as 'Aon chomhalta de chumann atá i dteideal freastal agus vótáil ag cruinniú den chumann' in s54(1) of the Building Societies Act, 1976. 'The Manager shall have the same right to attend meetings of the Council ... as if he were a member of the Council' is translated as 'Beidh ag an mBainisteoir an ceart céanna do bheadh aige dá mba bhall den Chomhairle é chun bheith i láthair ag cruinnithe den Chomhairle' in s13 of the Cork City Management Act, 1929. 'Whose name was included in a panel of jurors for attendance in any court on or after the 1st day of September, 1926' is translated as 'agus go raibh a ainm i bpainéal de choisteoirí chun teacht i láthair in aon chúirt ar an 1adh lá de Mheán Fhómhair, 1926' in s21(3) of the Juries Act, 1927, with 'and every person so appointed may attend such qualifying examination' being translated as 'agus féadfadh gach éinne a ceapfar amhlaidh bheith i láthair ag an scrúdú tástála san' in s42(2) of the Dentists Act, 1928.

*labhairt* The Margin Title of s163 of the Companies Act, 1963, 'Auditors' Report and right of access to books and

to attend and be heard at general meetings', is translated as 'Tuarascáil na n-iniúcháirí agus a gceart chun fáil a bheith acu ar leabhair agus chun bheith i láthair agus éisteacht a fháil ag cruinnithe ginearálta'. In s8(1) of the Ministers and Secretaries (Amendment) Act, 1939, 'A parliamentary secretary who is a member of Dáil Éireann shall have the right to attend and be heard in Seanad Éireann' is translated as 'Beidh ceart ag rúnaí páirliminte is comhalta de Dháil Éireann chun bheith i láthair agus éisteacht d'fháil i Seanad Éireann'. 'Shall be entitled to appear and be heard ... at such inquiry' is translated as 'beidh teideal aige chun teacht i láthair agus éisteacht d'fháil ... ag an bhfiosrúchán san' in s9(2) of the River Owenmore Drainage Act, 1926. See the commentary on Article 26.2.1<sup>o</sup> where 'éist le' expresses 'hear'.

*Tá sé de cheart* See the commentary on Article 12.2.2<sup>o</sup>.

**Direct translation**

Beidh de cheart ag gach comhalta den Rialtas freastal ar gach Teach<sup>1</sup> den Oireachtas agus éisteacht a fháil ann<sup>2</sup>.

**Variants**

- 1 'bheith i láthair i ngach Teach'
- 2 'freastal agus éisteacht a fháil i ngach Teach den Oireachtas'

ARTICLE 28.9.1<sup>o</sup> AIRTEAGAL 28.9.1<sup>o</sup>

**TÉACS GAEILGE**

Tig leis an Taoiseach éirí as oifig uair ar bith trína chur sin in iúl don Uachtarán.

**LITERAL ENGLISH TRANSLATION**

The Taoiseach may give up office at any time by informing the President of that.

**ENGLISH TEXT**

The Taoiseach may resign from office at any time by placing his resignation in the hands of the President.

**Divergences between the official texts**

- 1 'By placing his resignation in the hands of the President' is expressed as 'trína chur sin in iúl don Uachtarán' ('by informing the President of that') in the Irish text, with 'sin' ('that') referring to the resignation from office.
- 2 'May' is expressed as 'tig le' ('it is open to') in the Irish text, as it sometimes is in the Acts.

**Commentary**

*trína chur sin in iúl* 'Cuir in iúl' expresses 'report' and 'inform' respectively in Articles 22.2.6<sup>o</sup> and 27.5.1<sup>o</sup>. 'Rud a chur in iúl do dhuine' is translated in *Ó Dónaill* as 'to let someone know something; to give someone to understand something; to pretend something to someone'. *Ó Dónaill* cites '*chuir sé a bhuíochas in iúl dúinn*, he expressed his gratitude to us' and '*tú féin a chur in iúl*, to express oneself,



to assert oneself'. *Dinneen* translates 'cuirim i n-iúl do' as 'I inform, give to understand', stating that 'iúl' is a bye-form of 'eol', which according to *Dinneen* originally meant 'home'. The principal sense of 'eól' in DIL is 'knowledge (of a person or thing); acquaintance (with person or thing); experience (in), skill', DIL also giving examples of the sense 'that which is known or familiar, especially of places, accustomed surroundings, home', citing 're huaman a himana ... da hiul agus da hoirrsleibtib firaicinti féin' ('from fear of being driven from her familiar place and her own kindly mountain pastures' [of a cow]) from the *Yellow Book of Lecan*, part of which manuscript was written c. 1392; DIL also cites 'ag imsoi dia eol (i. agh impos ina eol conicce in baile asa tuccad hi)', ('A cow which returns by its knowledge, i.e. a cow which returns by her own knowledge to the place from which she has been brought'), of a cow which strays back to its former home, from an early Irish law-tract. Two other senses of 'eól' are given in DIL, 'lore, history' and 'information, direction, guidance, right way'. While it would appear that no example of 'eól' is found in the Glosses of the eighth and ninth centuries, 'is eulach' glosses Latin 'expertus' in the ninth-century Milan Glosses on the Commentary on the Psalms, the adjective 'eólach'/'éulach' being translated in DIL as 'knowing, learned, skilled (in), acquainted with', and 'maith a n-eulas' glosses '*patres ... certae scientiae*' in the same collection of Glosses, 'eólas'/'eulas' being translated in DIL principally as 'knowledge, information, especially knowledge gained by experience or practice, acquaintance'. 'Iúl' is the dative singular form of 'eól' and the frequent use of this form is attested by the fact that the nominative form was sometimes taken to be 'iúl'. No examples of 'cuir i iúl' are cited in DIL s.v. 'eól', however. A separate headword 'umail' (later 'umhail'), 'notice, attention', is given in DIL, under which 'cuirid i n-umail' is translated as 'considers, notices', the first example of which cited there being 'agus nach cuireann tú a numhail an tsail' ('but considerest not the beam'), from a seventeenth-century translation of *Matthew* vii. 3. Most of the examples of this phrase cited in DIL come from Donlevy's *Teagasg Críosduidhe* (1742), the earliest citation being the following from the sixteenth-century manuscript *Leabhar Chlainne Suibhne*: 'nir chuir a numhail hé' ('it [i.e. the animal] took no heed of him'). Though the standard written form in Modern Irish is 'in iúl', common pronunciation probably derives from 'in umhail', according to Professor Máirtín Ó Murchú.

Turning to direct translations of 'in the hands of', 'notwithstanding that there is an execution order in the hands of a sheriff' is translated as 'd'ainneoin ordú forghníomhaithe a bheith ar lámh sirriam' in s89(1) of the Bankruptcy Act, 1988. 'Where the majority of the voting powers or shares is in the hands of those persons' is translated as 'i gcás tromlach na cumhachta vótála nó na scaireanna a bheith i lámha na ndaoine sin' in s35(4)(b) of the Capital Gains Tax Act, 1975. In s141(3)(a) of the Defence Forces (Temporary Provisions) Act, 1923, 'and such service shall not be valid unless there be left therewith, in the hands of the Commanding Officer, a sum of money' is translated as 'agus ní bheidh an tseirbheáil sin dleathach mara bhfágtar i lámhaibh an Oifigigh Cheannais in éineacht leis an bpróiseas, suim airgid'. 'Place in the hands of ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cur i lámha ...' in

translations for the Department of Lands and Agriculture. Finally, in a typescript collection of legal terms, *Fasaigh Dlí-Théarmaí*, 'which has come to my hands' is translated as 'a tháinig faoi mo lámh', with 'has come to the hands, possession, or knowledge, or under the control of me, this deponent' being translated as 'a theacht chun bheith ar lámh, ar seilbh, ar eolas nó faoi urlámh agamsa, an teisteoir seo'.

See the commentary on Articles 12.3.1° and 13.1.3° regarding 'resign'. As regards early translations, note that 'on the ground that he resigned or was dismissed as aforesaid solely for political reasons' is translated as 'toisc gur ar chúiseanna polaitíochta amháin a dhin sé eirghe-as nó a briseadh é mar adubhradh' in s2(1) of the Superannuation and Pensions Act, 1923, 'eirghe-as' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'resignation' in the *Proceedings of Seanad Éireann*, 28/11/23.

Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, states that not alone is 'trína éirí-as nó trína h-éirí-as a chur i lámha an Uachtaráin' clumsy ("beagán ceatach") but probably does not make sense; whatever about 'resignation', 'éirí-as' is not something you can place in anyone's hands. He suggests 'ach eolas/nóta/ráiteas/scríbhinn faoi sin (or "dearbhú/deimhniú air sin") a chur i lámha an Uachtaráin'.

*Tig le* See the commentary on Article 12.4.4°.

*éirí as oifig* See the commentary on Article 12.3.1°.

*uair ar bith* See the commentary on Article 13.2.3°.

### Direct gender-proofed translation

Féadfaidh an Taoiseach<sup>1</sup> éirí as oifig uair<sup>2</sup> ar bith ach<sup>3</sup> dearbhú<sup>4</sup> air sin<sup>5</sup> a chur i lámha an Uachtaráin.

### Variants

- 1 'Tig leis an Taoiseach'
- 2 'am', 'tráth'
- 3 'trí' (dhearbhú)
- 4 'deimhniú'
- 5 'trína éirí-as nó trína héirí-as'

## ARTICLE 28.9.2° AIRTEAGAL 28.9.2°

### TÉACS GAEILGE

Tig le haon chomhalta eile den Rialtas éirí as oifig trína chur sin in iúl don Taoiseach chun an scéal a chur faoi bhráid an Uachtaráin.

### LITERAL ENGLISH TRANSLATION

Any other member of the Government may give up office by informing the Taoiseach of that in order to put the matter before the President.

### ENGLISH TEXT

Any other member of the Government may resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

### Divergences between the official texts

- 1 'For submission (i.e. 'his resignation') to the President'

is expressed as 'chun an scéal a chur faoi bhráid an Uachtaráin' ('in order to put the matter before the President') in the Irish text.

- 2 'By placing his resignation in the hands of the Taoiseach' is expressed in the Irish text as 'trína chur sin in iúl don Taoiseach' ('by informing the Taoiseach of that'), the same expression as we saw in the foregoing subsection.
- 3 'May' is expressed as 'tig le' ('it is open to') in the Irish text, as in the previous subsection.

### Commentary

*an scéal* 'State of affairs, matter, circumstance' is given by *Ó Dónaill* as one of the senses of 'scéal', particularly preceded by the definite article, citing '*seo mar atá an scéal*, this is how the matter stands' and '*ba mhór an scéal a bhás*, his death was a tragic matter'. 'Piece of news, report' is another sense of 'scéal' given in *Ó Dónaill*, 'story' being the primary sense. *Dinneen* includes 'a piece of news, tidings, intelligence, message; an event or matter' among the senses of 'scéal', citing '*is olc an scéal é*, it is an unfortunate thing', '*ní fios cad é an scéal é*, it is not known what it is about, what is the matter' and '*oighear an scéil*, the most unpleasant part of the matter'. DIL cites 'nicon chloor act for cáinseál' ('may I hear nothing but good of you'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of 'scél' in the sense of 'information, account, statement' and translates 'imcomaircith scela di', from a later source, as 'ask her to give an account of herself'. The principal sense of Old Irish 'scél' is 'story, narration, tale', the plural 'inna scél togaitacha' glossing Latin 'fabulas' in the ninth-century Milan Glosses on the Commentary on the Psalms. 'Attaat scela linn' ('we have tidings'), from the eighth-century Würzburg Glosses, is an early example of 'scél' in the sense of 'news, tidings'.

In s42(1) of the Industrial Relations Act, 1990, 'The Commission shall prepare draft codes of practice concerning industrial relations for submission to the Minister' is translated as 'Ullmhóidh an Coimisiún dréachtchóid chleachtais i dtaobh caidrimh thionscail lena gcur faoi bhráid an Aire'. 'The person ... shall prepare and submit to the Central Bank a report on the conduct of the election' is translated as 'Déanfaidh an duine ... tuarascáil i dtaobh stiúradh an toghcháin a ullmhú agus a chur faoi bhráid an Bhainc Ceannais' in s51(5)(a) of the Building Societies Act, 1989. 'Until a comprehensive reorganization of the whole law of Local Government in Saorstát Éireann can be prepared and submitted to the Oireachtas' is translated as 'go dtí go bhféadfar ath-ghléasa fórléathan ar iomlán an dlí um Rialtas Áitiúil i Saorstát Éireann d'ullmhú agus do leaga fé bhráid an Oireachtais' in the Preamble to the Local Government (Temporary Provisions) Act, 1923. 'To initiate proposals and schemes for submission to the Minister' is translated as 'tograí agus scéimeanna a thionscain, lena gcur faoi bhráid an Aire' in s3(i) of the Industrial Development Authority Act, 1950. Finally, in s12(1) of the Institute for Advanced Studies Act, 1940, 'Any member of the Council, may, at any time, resign his office as such member by letter sent ... to the Taoiseach for submission to the President' is translated as 'Féadfaidh aon bhall den Chomhairle ... eirghe as a oifig mar bhall den tsórt san, tráth ar bith, tré leitir ar n-a cur ... go dtí an Taoiseach chun i chur fé bhráid an Uachtaráin'.

*a chur faoi bhráid* See the commentary on Article 17.1.1°.

*Tig le* See the commentary on Article 12.4.4°.

*éirí as oifig* See the commentary on Article 12.3.1°.

*trína chur sin in iúl do* See the commentary on the foregoing subsection.

### Direct translation

Féadfaidh aon chomhalta eile den Rialtas éirí as oifig ach dearbhú<sup>1</sup> air sin<sup>2</sup> a chur i lámha an Taoisigh lena<sup>3</sup> chur faoi bhráid an Uachtaráin<sup>4</sup>.

### Variants

- 1 'deimhniú'
- 2 'trína éirí-as nó trína héirí-as'
- 3 'le'
- 4 'lena thabhairt don Uachtarán'

## ARTICLE 28.9.3° AIRTEAGAL 28.9.3°

### TÉACS GAEILGE

Ní foláir don Uachtarán glacadh le haon chomhalta den Rialtas, seachas an Taoiseach, d'éirí as oifig má chomhairlíonn an Taoiseach é sin dó.

### LITERAL ENGLISH TRANSLATION

The President must accept any member of the Government, other than the Taoiseach, giving up office if the Taoiseach recommends that to him.

### ENGLISH TEXT

The President shall accept the resignation of a member of the Government, other than the Taoiseach, if so advised by the Taoiseach.

### Divergences between the official texts

- 1 'If so advised by the Taoiseach' is expressed as 'má chomhairlíonn an Taoiseach é sin dó' ('if the Taoiseach recommends that to him') in the Irish text, though it can also be read as 'if the Taoiseach so advises him'; this clause is preceded by a comma in the English text alone.
- 2 'Accept the resignation of a member of the Government' is expressed as 'glacadh le haon chomhalta den Rialtas ... d'éirí as oifig' ('accept **any** member of the Government resigning **from office**') in the Irish text.
- 3 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have also seen in some other Articles.

### Commentary

*glacadh le* 'Glacadh' is the verbal noun of 'glac'. 'Glacaim le' is translated as 'I accept' in *Téarmaí Dlí* and in *Dinneen*. 'Glacadh le rud' is translated as 'to accept, admit, something' in *Ó Dónaill*, who cites '*glacadh le fianaise, le fórógra, le masla*, to accept evidence, a proclamation, an insult'. See the commentary on Article 8.2.

'The President may accept or refuse to accept the resignation of his commission tendered by an officer' is translated as 'Féadfaidh an tUachtarán glacadh le tairiscint oifigigh éirí as a choimisiún nó féadfaidh sé diúltú d'í a ghlacadh' in s49(2) of the Defence Act, 1954, with 'The President ... may accept or refuse to accept the tender by an officer of the resignation of his commission' being translated as 'Féadfaidh an tUachtarán ... glacadh le tairiscint a dhéanfaidh oifigeach chun eirge as a choimisiún nó diúltú dhi' in s9(2) of the Defence Forces Act, 1937. In s47(2) of the Vocational Education Act, 1930, 'A vocational education committee may from time to time accept the resignation or revoke the appointment of a banking company as treasurer' is translated as 'Féadfaidh coiste oideachais ghairme beatha o am go ham glaca le cuideachtain bhancraechna d'eirighe as bheith ina cisteoir nó a ceapa mar chisteoir do cheiliúra'. 'Glacadh le (A) d'eirge as' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to accept resignation of (N)' in *Iris Oifigiúil*, 1924, p. 503 – see further the commentary on Article 13.1.3<sup>o</sup>.

*má chomhairlionn* 'Comhairlim' is translated as 'I advise' in *Téarmaí Dlí*, with 'cómhairlighim' being translated as 'I counsel, advise, consult, recommend, resolve' in *Dinneen*. 'Comhairligh' is translated as 'advise, counsel' in *Ó Dónaill*, who cites '*rud a chomhairliú do dhuine, comhairliú do dhuine rud a dhéanamh*, to advise someone to do something; to recommend something to someone'. DIL cites 'comhairligh do chairde féin' ('give advice to your own friends') from the seventeenth-century 'Contention of the Bards' as an example of 'comairligid' in the sense of 'advices, counsels; admonishes'. 'Comairligid', translated principally in DIL as 'consults, takes counsel (concerning)', is based on 'comairle', examples of which in its primary sense of 'advice, counsel, admonition ...' are cited from the Glosses of the eighth century onwards. 'Comairle' is the verbal noun of 'con-airlethar', which is based on 'airlithir', 'advices, counsels'.

In s7(1) of the Prosecution of Offences Act, 1974, 'The Attorney General shall ensure that barristers retained by him in his official capacity to act or advise on his behalf ... are chosen, from amongst those barristers who have indicated their willingness to so act or advise' is translated as 'Cinnteoídh an tArd-Aighne go ndéanfar na habhcóidí a áiritheoidh sé ina cháil oifigiúil chun gníomhú nó comhairle a thabhairt thar a cheann ... a roghnú, as líon na n-abhcóidí sin a mbeidh curtha in iúl acu go bhfuil siad toilteanach gníomhú nó comhairle a thabhairt amhlaidh'. 'A society proposing to convert into a company shall ... advise the Central Bank of the intention to do so' is translated as 'Aon chumann a bheartóidh comhshó a dhéanamh go cuideachta déanfaidh sé ... scéala a chur chuig an mBanc Ceannais á rá leis go bhfuil sé i gceist é sin a dhéanamh' in s101(4) of the Central Bank Act, 1989. In s10 of the Agriculture (An Chomhairle Oilíúna Talmhaíochta) Act, 1979, 'An Chomhairle shall advise the Minister on any matter relating to agricultural training or advice on which its views are requested by the Minister' is translated as 'Tabharfaidh an Chomhairle comhairle don Aire i dtaobh aon ábhar i ndáil le hoiliúint nó comhairle talmhaíochta a n-iarrfaidh an tAire tuairimí na Comhairle ina thaobh'.

'I advise' is translated as 'comhairlim' in *Téarmaí Dlí*.

'Comhairliú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'advise' in *Iris Oifigiúil*, 1927, p. 697.

*Ní foláir do* See the commentary on Article 11.

*éirí as oifig* See the commentary on Article 12.3.1<sup>o</sup>.

### Standardised gender-proofed Irish text

Ní foláir don Uachtarán glacadh le haon chomhalta den Rialtas, seachas an Taoiseach, a éirí as oifig má chomhairlionn an Taoiseach é sin dó nó di.

### Direct gender-proofed translation

Glacfaidh an tUachtarán le comhalta den Rialtas, seachas an Taoiseach, a éirí as<sup>1</sup> más amhlaidh a chomhairleoidh an Taoiseach dó nó di<sup>2</sup>.

### Variants

- 1 'le héirí-as comhalta den Rialtas, seachas an Taoiseach'
- 2 'má chomhairlionn an Taoiseach amhlaidh dó nó di', 'má mholann an Taoiseach sin dó nó di'

## ARTICLE 28.9.4<sup>o</sup> AIRTEAGAL 28.9.4<sup>o</sup>

### TÉACS GAELGE

Tig leis an Taoiseach uair ar bith, ar ábhair is leor leis féin, a iarraidh ar chomhalta den Rialtas éirí as oifig; mura ndéana an comhalta sin de réir na hachainí sin, ní foláir don Uachtarán an comhalta sin a chur as oifig má chomhairlionn an Taoiseach dó é.

### LITERAL ENGLISH TRANSLATION

The Taoiseach may at any time, for reasons which he himself considers sufficient, ask a member of the Government to give up office; if that member does not act in accordance with that request, the President must put that member out of office if the Taoiseach so advises.

### ENGLISH TEXT

The Taoiseach may at any time, for reasons which to him seem sufficient, request a member of the Government to resign; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Taoiseach so advises.

### Divergences between the official texts

- 1 'His appointment shall be terminated by the President' is expressed as 'ní foláir don Uachtarán an comhalta sin a chur as oifig' ('the President must put that member out of office') in the Irish text.
- 2 'Request' is expressed by 'achainí', a term translated as 'petition' in *Téarmaí Dlí*, though it has this sense of 'request' in general usage.
- 3 'Should **the** member **concerned** fail to comply with **the** request' is expressed as 'mura ndéana an comhalta sin de réir na hachainí sin' ('if **that** member does not act in accordance with **that** request') in the Irish text.
- 4 'If the Taoiseach so advises' is expressed as 'má chomhairlionn an Taoiseach dó é' ('if the Taoiseach

so advises him') – note that 'é sin' in the previous subsection is replaced by 'é' alone here.

- 5 'For reasons which to him seem sufficient' is expressed as 'ar ábhair is leor leis féin' ('for reasons which he himself considers sufficient') in the Irish text.
- 6 'Resign' is expressed as 'éirí as oifig' ('give up office') in the Irish text, as in the foregoing subsection.
- 7 'May' is expressed as 'tig le' ('it is open to') in the Irish text, as we saw also in the first two subsections of this section, and 'shall' is expressed as 'ní foláir' ('must').

### Commentary

*ar ábhair* 'Cause, reason' is one of the senses of 'ábhar' given in *Ó Dónaill*, who cites '*tá a ábhar aige*, he has cause, reason, for it', '*ar an ábhar sin*, for that reason' and '*ar an ábhar go*, for the reason that'. 'Cause, reason' is the principal sense of 'adhbhar' in *Dinneen*, followed by 'matter, stuff, material', which is the principal sense of 'ábhar' in *Ó Dónaill*. 'Ábhar' is translated as 'matter; subject matter' in *Téarmaí Dlí*. DIL cites 'ciadcobrinne moidim do dénum ní bóí adbar híc' ('though I should have desired to boast, there was no cause *híc*'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of 'adbar' in the sense of 'cause, ground, reason', also citing 'ar adhbharaibh aile' ('for other reasons') from the *Annals of the Four Masters*. The principal sense of 'adbar' there is 'material, matter'.

In s3(5) of the National Lottery Act, 1986, 'The Minister may at any time, for reasons that seem to him to be sufficient and are stated in a notice in writing given to the licensee, revoke a licence' is translated as 'Féadfaidh an tAire tráth ar bith, ar chúiseanna is dóigh leis is leor agus a bheidh sonraithe i bhfógra i scríbhinn a thabharfar don cheadúnaí, ceadúnas a chúlghairm'. In s10(3) of the Censorship of Publications Act, 1929, 'The Minister may if he thinks fit for reasons which appear to him sufficient grant to any person a permit in writing' is translated as 'Féadfaidh an tAire más oiriúnach leis é, ar réasúin is dó leis is leor, cead i scríbhinn do dheona d'éinne'. Finally, in s89(3) of the Defence Forces (Temporary Provisions) Act, 1923, 'Provided always that the Adjutant-General may ..., for reasons which to him seem sufficient, direct such person to be tried by Court-Martial' is translated as 'Ach mar sin féin, ... féadfaidh an Ard-Chongantóir, ar réasúin is leor dar leis féin, a ordú go dtí rialfídh Arm-Chúirt an duine sin'.

*is leor leis féin* 'Is leor liom é' is translated by *Ó Dónaill* as 'I think it is enough', citing '*ba leor liom a leath*, half of it would do me' – but, more exactly, 'I would consider half of it sufficient', according to Professor Máirtín Ó Murchú. *Dinneen* translates 'is leor liom é' as 'I think it is enough, I am satisfied with it, it will do me'. DIL cites 'lour leu gníma recto dia firianugud' ('the works of the Law they deem enough to justify them'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the construction '*is lór la x*, x considers to be enough, to be competent', with 'lór' being translated as 'enough, sufficient'.

'On account of his having seized ... more or less goods ... than would or might be sufficient to meet the full amount of the debt' is translated as 'mar gheall gur dhin sé ... níos mó nó níos lú earraí ... do ghabháil ... ná mar

do bheadh no d'fhéadfadh a bheith dóthanach chun íoc do dhéanamh i lán-mhéid na bhfiacha' in s11 of the Enforcement of Law (Occasional Powers) Act, 1923.

Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, considers 'is dóigh leis nó léi is leor' to be repetitious without any benefit as regards the sense, 'is leor leis nó léi' sufficing.

*mura ndéana* The present subjunctive of 'déan' – this would generally be replaced by 'mura ndéanfaidh' today – see the commentary on Article 12.3.1°. According to the official standard, the form of the future tense can be used in place of the present subjunctive when it does not have an optative function – see the initial page of the chapter on the 'Verb' in *An Caighdeán Oifigiúil* (p. 46 of the 1995 edition). *Ó Dónaill* cites '*mura mbaine, mbainfidh, taisme dó*, unless he meets with an accident' and '*mura n-íní, n-imeoidh, tú gan mhoill*, if you don't leave soon' as examples of the conjunction 'mura' with present subjunctive or future indicative to express future condition. *Dinneen* gives 'mura' as a variant of 'muna', translated there as 'unless, if not'. DIL cites 'mini' from the eighth-century Würzburg Glosses on the Pauline Epistles as an example of the conjunction 'má' with negative, 'mani' being the standard Old Irish form, with 'mane', 'mana', 'maine' 'meni', 'min-e, -a' and 'mun-i, -a' being found in Middle Irish. 'Mura' is the standard Modern Irish form, being included in the Glossary appended to *An Caighdeán Oifigiúil*.

In s4(b)(ii) of the Finance Act, 1981, 'such person continues ... to fail to comply with the provision' is translated as 'go leanfaidh an duine sin ... ag mainneachtain an fhoráil a chomhlíonadh'. In s3(3) of the Licensing (Renewal of Licences) Act, 1923, 'Any person who shall fail to comply with an order of a District Court' is translated as 'Éinne ná có-líonfídh ordú a dhéanfaidh Cúirt Dúitche'. 'And if the Controller is satisfied that a holder has failed to comply with a request under this subsection' is translated as 'agus más deimhin leis an Rialaitheoir gur mhainnigh sealbhóir iarraidh faoin bhfo-alt seo a chomhlíonadh' in s16(3) of the Plant Varieties (Proprietary Rights) Act, 1980. 'If the Court is satisfied that the patentee has without reasonable cause failed to comply with the request of the Minister to make, use, exercise or vend the patented invention for the service of the State' is translated as 'más deimhin leis an gCúirt gur loic an paitinní, gan chúis réasúnach, déanamh de réir iarraidh an Aire an t-áireagán paitinnithe a dhéanamh, a úsáid, a fheidhmiú nó a dhíol le haghaidh seirbhís an Stáit' in s34(2) of the Patents Act, 1964.

Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, remarks that 'mainnigh' = 'neglect' and therefore does not suit the sense here, and recommends 'mura ndéanfaidh an comhalta sin mar a iarrfar air nó uirthi'. Commenting on the direct translation of the similar Article 30.5.3°, Professor Ó Murchú remarks that 'mainnigh' is not a very common word and, insofar as literary convention goes, 'ag' or 'faoi' would be used to link it with a substantive phrase as indirect object, i.e. 'mainneachtain ag déanamh' or 'mainneachtain faoi dhéanamh'.

*de réir na hachainí* 'Achainí' is translated as 'petition' in *Téarmaí Dlí*, and as 'request, entreaty, petition' in *Ó Dónaill*,

'athchuinge' being translated as 'request, petition, entreaty' in *Dinneen* – see the commentary on Article 22.2.3°. 'De réir' is translated as 'in accordance with' in *Téarmaí Dlí*, and as 'in accordance with, according to' in *Ó Dónaill*, who translates 'déanamh de réir ruda' as 'to act in accordance with, to comply with, something' – see the commentary on Article 1.

*a chur as oifig* See the commentary on Article 13.1.3° where this phrase also expresses 'terminate the appointment'. 'The Minister may ... suspend the Acting Chief Executive from office or terminate his appointment as Acting Chief Executive' is translated as 'Féadfaidh an tAire ... an Príomhfheidhmeannach Gníomhach a fhionraí óna oifig nó a cheapachán mar Phríomhfheidhmeannach Gníomhach a fhoirceannadh' in s6(7)(d) of the National Treasury Management Agency Act, 1990. In s9(5)(a) of the Prosecution of Offences Act, 1974, 'The Taoiseach may terminate an appointment under this section at any time' is translated as 'Féadfaidh an Taoiseach ceapachán faoin alt seo a fhoirceannadh tráth ar bith'. In s9(5) of the Local Authorities (Combined Purchasing) Act, 1939, 'but such revocation shall not terminate or affect any other appointment of such official contractor' is translated as 'ach ní chuirfidh an ceiliúradh san deireadh le haon cheapadh eile ná ní dhéanfaidh deifir d'aon cheapadh eile ag ceapadh an chonnrathóra oifigiúil sin'. Finally, in s13 of the 'Sligo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'The following offices and employments are, under this section, terminated' is translated as 'Cuirtar ar ceal fén alt so na hoifigí agus na fostaíochta so leanas'.

Professor Máirtín Ó Murchú, commenting on the direct translation below, regards 'foirceannadh' as too final for this context and recommends 'scor'.

*éirí as oifig* Professor Máirtín Ó Murchú remarks that 'éirí as', without 'oifig', in the direct translation below, would also have the sense of 'desist'.

### Standardised gender-proofed Irish text

Tig leis an Taoiseach uair ar bith, ar ábhair is leor leis féin nó léi féin, a iarraidh ar chomhalta den Rialtas éirí as oifig; mura ndéanfaidh an comhalta sin de réir na hachainí sin, ní foláir don Uachtarán an comhalta sin a chur as oifig má chomhairlíonn an Taoiseach dó nó di é.

### Direct gender-proofed translation

Féadfaidh an Taoiseach, tráth ar bith, ar chúiseanna is leor leis nó léi<sup>1</sup>, iarraidh ar chomhalta den Rialtas éirí as<sup>2</sup>; más rud é go mainneoidh an comhalta lena mbaineann an iarraidh a chomhlíonadh<sup>3</sup>, déanfaidh an tUachtarán a cheapachán nó a ceapachán<sup>4</sup> a fhoirceannadh<sup>5</sup> má chomhairlíonn an Taoiseach amhlaidh<sup>6</sup>.

### Variants

- 1 'is dóigh leis nó léi is leor', 'leis féin nó léi féin'
- 2 'éirí as oifig'
- 3 'déanamh de réir na hiarrata', 'mura ndéanfaidh an comhalta sin mar a iarfar air nó uirthi'
- 4 'an ceapachán'
- 5 'a scor'
- 6 'más é sin / más amhlaidh sin a mholfaidh/chomhairleoidh an Taoiseach dó nó di'

## ARTICLE 28.10 AIRTEAGAL 28.10

### TÉACS GAEILGE

Aon uair nach leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis an Taoiseach, ní foláir dósan éirí as oifig mura lánscoireann an tUachtarán Dáil Éireann ar chomhairle an Taoisigh agus go n-éiríonn leis an Taoiseach tacaíocht tromlaigh i nDáil Éireann a fháil ar ationól do Dháil Éireann i ndiaidh an lánscoir.

### LITERAL ENGLISH TRANSLATION

Any time that a majority in Dáil Éireann does not continue to be in support of the Taoiseach, he must give up office unless the President dissolves Dáil Éireann on the advice of the Taoiseach and the Taoiseach succeeds in getting the support of a majority in Dáil Éireann on the reassembly of Dáil Éireann after the dissolution.

### ENGLISH TEXT

The Taoiseach shall resign from office upon his ceasing to retain the support of a majority in Dáil Éireann unless on his advice the President dissolves Dáil Éireann and on the reassembly of Dáil Éireann after the dissolution the Taoiseach secures the support of a majority in Dáil Éireann.

### Divergences between the official texts

- 1 'Unless on his advice the President dissolves Dáil Éireann' is expressed in the Irish text as 'mura lánscoireann an tUachtarán Dáil Éireann ar chomhairle an Taoisigh' ('unless the President dissolves Dáil Éireann on the Taoiseach's advice'); this may also be read as 'if the President does not dissolve Dáil Éireann on the Taoiseach's advice'; note that a comma follows this clause in the original Irish text.
- 2 'Upon his ceasing to retain the support of a majority' is expressed as 'Aon uair nach leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis an Taoiseach' ('Any time that a majority does not continue to be in support of the Taoiseach') in the Irish text, much as we have seen in Article 13.2.2°.
- 3 'The Taoiseach secures the support of a majority' is expressed as '(go) n-éiríonn leis an Taoiseach tacaíocht tromlaigh ... a fháil' ('the Taoiseach succeeds in getting the support of a majority') in the Irish text.
- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some other Articles.

Note that Article 53 of the 1922 Constitution concludes as follows:

... and he and the Ministers nominated by him shall retire from office should he cease to retain the support of a majority in Dáil Éireann .... Provided, however, that the Oireachtas shall not be dissolved on the advice of an Executive Council which has ceased to retain the support of a majority in Dáil Éireann .... agus imeoidh an t-Uachtarán agus na hAíri a ainmneoidh sé as oifig má chailleann seisean tacaíocht mhór-áirimh i nDáil Éireann .... Ar choiníoll, ámh, ná sguirfean an t-Oireachtas ar chomhairle aon Ard-Chomhairle go mbeidh tacaíocht mhór-áirimh i nDáil Éireann cailte aici.

### Commentary

*tromlach* This headword expresses 'majority' in current usage, particularly in a political context. *Ó Dónaill* translates 'tromlach' as 'greater part, main body, majority' – see the commentary on Article 26.2.2°. Only a few examples of this noun are cited in DIL, none of which comes from the earlier sources, but 'trom', on which 'tromlach' is based, is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles ('nipsa tróm for nech' ['I was not burthensome to any one']) and from the ninth-century Milan Glosses on the Commentary on the Psalms, where we find 'in toimseo truím' ('of the heavy measure') glossing Latin 'multi ponderis'. See further the commentary on Article 13.2.2°.

*i dtacaíocht* 'Support, backing' is the main current sense of this noun, particularly in political usage, *Ó Dónaill* also giving 'security, guarantee' as senses of this headword, citing 'tacaíocht a thabhairt do dhuine, to support, uphold, someone', 'rinne sé tacaíocht liom, he stood by me' and 'dul i dtacaíocht ar dhuine, to offer support to someone; to go security for someone'. 'Ceart tacaíochta' and 'ordú i dtacaíocht' are translated respectively as 'right of support' and 'order in aid' in *Téarmaí Dlí. Dinneen* translates 'tacaíocht' as 'support, security; a confirmed bargain', translating 'i dtacaíocht' as 'by way of security, as guarantee'. 'Taca', on which 'tacaíocht' is based, while being given as a headword in DIL, where it is translated principally as 'prop, support', is not cited from the earlier sources.

In s2(2)(f) of the Oireachtas (Payment of Members) Act, 1923, 'Any office the tenure of which is dependent on the President of the Executive Council retaining the support of a majority in Dáil Éireann' is translated as 'Aon oifig go bhfuil a sealbhíocht ag brath ar an mór-áireamh i nDáil Éireann d'fhanúint ina dtaca le hUachtarán na hArd-Chomhairle'. See further the commentary on Article 12.10.4°.

*ationól* Verbal noun of 'ationóil', which verb is translated as 'reconvene' in *Ó Dónaill*, 'ationól' as a noun being translated as 'reassembly'. 'Ationól' is a compound of the prefix 'ath-', translated principally as 're-, second' in *Ó Dónaill*, and 'tionól', with 'ath+ t-' > 'at-'. See further the commentary on Article 18.3 and see the commentary on Article 15.11.3° regarding 'tionól'.

In Article 18.3, following the Second Amendment of the Constitution Act, 1941, 'by the Taoiseach who is appointed next after the re-assembly of Dáil Éireann' is rendered as 'ag an Taoiseach a cheapfar ar Dháil Éireann d'ationól'. In Article 24 of the 1922 Constitution, 'Dáil Éireann shall fix the date of re-assembly of the Oireachtas' is translated as 'ceapfaidh Dáil Éireann dáta aith-thionól an Oireachtas'. 'Direct the re-assembly of the Court' is translated as 'A ordú go dtiocfadh an Chúirt le chéile arís' in s115(1) of the Defence Forces (Temporary Provisions) Act, 1923.

*nach leanann ... de* 'Lean de' is translated as 'continue at; cling, adhere to; follow' in *Ó Dónaill*, who translates 'leanúint de rud' as 'to continue to do something; to cling to something' and cites '*lean siad den chomhrá*, they continued the conversation'. *Dinneen* translates 'lean de' as 'follow on, persevere' and states that, when not

transitive, 'lean' generally takes the preposition 'de', but also 'ar' and sometimes 'le', translating 'lean leat, lean ort, lean díot' as 'continue on, proceed'. DIL cites 'is menand is dind insci riam lenid' ('it is clear that he adheres to the previous utterance' ['? continues with, carries on with']) from the eighth-century Würzburg Glosses on the Pauline Epistles, translating 'lenaid di' as 'clings to, adheres to, cleaves to, stays with, follows'.

'Every direct representative ... shall upon his ceasing to be a registered medical practitioner' is translated as 'Gach gar-ionadaí ... beidh sé, ar scur do de bheith ina dhochtúir leighis cláruithe' in s5(2) of the Medical Practitioners Act, 1927. In s56(1) of the Local Government Act, 1925, 'such officer shall upon his ceasing ... for any reason other than misconduct or incapacity to perform the duties aforesaid, be entitled' is translated as 'ar scur don oifigeach san ... ar aon chúis nách mí-iompar ná mí-chumas de sna dualgais roimhráite do chó-líona beidh sé i dteideal' in s56(1) of the Local Government Act, 1925.

'He has ceased to retain ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tá ... caillte aige' in *Iris Oifigiúil*, 1927, p. 697. 'The company ceases to retain the leasehold interest acquired by it' is translated as 'go scoirfidh an chuideachta leas léasachta a fuair sí a choinneáil' in s150(2)(a) of the Corporation Tax Act, 1976, with 'go scoirfidh an díoltóir den leas léasach a fuair sé ón gceannaitheoir a choimeád' translating 'the vender ceases to retain the leasehold interest acquired by him from the purchaser' in s23(3)(a) of the Finance (Miscellaneous Provisions) Act, 1968. 'Ceases to retain at least 75 per cent. of the issued share capital of the transferor company concerned' is translated as 'tar éis scor de 75 faoin gcéad ar a laghad de scairchaipiteal eisithe na cuideachta aistreora lena mbaineann a choimeád' in s72(4)(a) of the Finance Act, 1973. See further the commentary on Articles 13.2.2° and 28.11.1°.

Again Professor Máirtín Ó Murchú rejects the direct translation below, 'ar scor dó nó di tacaíocht tromlaigh i nDáil Éireann a choimeád', in that it is understood from 'scor' that the Taoiseach himself or herself would wish this when the opposite is the case. The alternatives recommended by Professor Ó Murchú are given as variants below.

*go n-éiríonn leis* 'For the purpose of securing sufficient support for a building erected or intended to be erected on such land' is translated as 'd'fhonn leor-thacaíocht d'áirithiú d'fhoirgint a bheidh tógtha no le tógáil ar an talamh san' in s42(1) of the Minerals Development Act, 1940, with 'as may be necessary to secure adequate support to the buildings or works or to prevent or minimise damage thereto' being translated as 'fé mar is gá chun a chur in áirithe leor-thaca do bheith leis na foirgintí no leis na hoibreacha no chun damáiste dhóibh do chosc no do laigheadú' in s30(3) of the Mines and Minerals Act, 1931. 'In consideration of or to secure a sum not more than the amount of such compensation' is translated as 'i gcomaoine suime nár mhó ná méid an chúitimh sin, no chun an tsuim sin d'fháil' in s2(6)(c) of the Damage to Property (Compensation) Act, 1923.

*ní foláir* See the commentary on Article 11.

*éirí as oifig* See the commentary on Article 12.3.1°.

*lánscoireann* See the commentary on Articles 13.2.1° and 18.8.

### Gender-proofed Irish text

Aon uair nach leanann tromlach i nDáil Éireann de bheith i dtacaíocht leis an Taoiseach, ní foláir dósan nó dise éirí as oifig mura lánscoireann an tUachtarán Dáil Éireann ar chomhairle an Taoisigh agus go n-éiríonn leis an Taoiseach tacaíocht tromlaigh i nDáil Éireann a fháil ar ationól do Dháil Éireann i ndiaidh an lánscoir.

### Direct gender-proofed translation

Éireoidh an Taoiseach as oifig ar scor dó nó di tacaíocht tromlaigh i nDáil Éireann a choimeád<sup>1</sup> mura rud é, ar chomhairle an Taoisigh, go lánscoirfidh<sup>2</sup> an tUachtarán Dáil Éireann agus go ngnóthóidh<sup>3</sup> an Taoiseach tacaíocht tromlaigh i nDáil Éireann ar ationól Dháil Éireann.

### Variants

- 1 'ar é nó í a fhágáil gan tacaíocht tromlaigh i nDáil Éireann', 'i gcás go staonfaidh tromlach i nDáil Éireann ó thacú leis nó léi', 'i gcás go stadfaidh tromlach i nDáil Éireann de thacú leis nó léi', 'i gcás go dteipfidh tacaíocht tromlaigh i nDáil Éireann air nó uirthi'
- 2 'go scoirfidh', 'go ndiscaoilfidh'
- 3 'go ngnóthaíonn'

## ARTICLE 28.11.1° AIRTEAGAL 28.11.1°

### TÉACS GAELIGE

Má éiríonn an Taoiseach as oifig tráth ar bith, ní foláir a mheas go n-éiríonn an chuid eile de chomhaltaí an Rialtais as oifig fairis sin; ach leanfaidh an Taoiseach agus an chuid eile de chomhaltaí an Rialtais dá ndualgais nó go gceaptar a gcomharbaí.

### LITERAL ENGLISH TRANSLATION

If the Taoiseach gives up office at any time, it must be considered that the rest of the members of the Government give up office also; but the Taoiseach and the rest of the members of the Government will continue with their duties until their successors are appointed.

### ENGLISH TEXT

If the Taoiseach at any time resigns from office the other members of the Government shall be deemed also to have resigned from office, but the Taoiseach and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

### Divergences between the official texts

- 1 'The other members of the Government' is expressed as 'an chuid eile de chomhaltaí an Rialtais' ('the rest / the other part of the members of the Government') in the Irish text.
- 2 'Shall continue to carry on their duties' is expressed in the Irish text as 'leanfaidh (siad) dá ndualgais' ('will continue with their duties' / 'will continue to do their duties').

- 3 'Shall have been appointed' is expressed as '(go) gceaptar' ('is appointed') in the Irish text.
- 4 'Shall' is again expressed as 'ní foláir' ('must') in the Irish text.

Note that Article 53 of the 1922 Constitution contains the following:

... but the President and such Ministers shall continue to carry on their duties until their successors shall have been appointed .... *ach leanfaidh an t-Uachtarán agus na hAirí sin ag déanamh a ndualgaisí go dtí go gceapfar a gcomharbaí.*

### Commentary

*a gcomharbaí* 'Comharba i dteideal' is translated as 'successor in title' in *Téarmaí Dlí*, 'successor (to office, or dignity)' and 'inheritor of property, heir' being given as senses of 'comharba' in *Ó Dónaill*. The entry in *Dinneen* s.v. 'cómharba', gives the history of the term as follows:

The term 'cómharba' ('corbe', 'coarb') was mainly used of the successor to an abbacy or ecclesiastical benefice and by extension to the lay hereditary farmer of the property assigned to the foundation and further to any successor even of a civil personage.

*Dinneen* cites '*cómharba Pheadair*, the Pope', '*cómharba Phádraig*, the primate, archbishop of Armagh, *also* the archbishop of Cashel (Patrick founded both sees)' and states that 'the term was applied even to females, as *ban-chómharba Brighde*, the abbess of Kildare'. As Fergus Kelly states in his *Guide to Early Irish Law* (p. 41), 'the abbot – whether in orders or not – is often referred to as the *comarbae* "heir" of the founder of the monastery, which term was later anglicized "coarb"'.<sup>7</sup>

Old Irish 'comarb(b)ae', translated in DIL as 'heir, successor', is a compound of 'com' and 'orbbae' (translated as 'a patrimony, heritage [of land], real estate' in DIL – 'orbbae' translates Latin 'possessio' in the ninth-century Milan Glosses on the Commentary on the Psalms) and glosses Latin 'heredes' in the eighth-century Würzburg Glosses on the Pauline Epistles ('it sib ata chomarpí Abracham' ['it is ye that are Abracham's heirs']). Writing on inheritance of land in early Irish law, Fergus Kelly states that 'To ensure fairness in the division of an inheritance (*orbae*), the division is made by the youngest inheritor (*comarbae*), but the eldest gets the first choice, the second eldest the second choice, and so on'. Hence the legal maxim 'rannaid ósar 7 dogoa sinser' ('the youngest divides and the eldest chooses'). 'The youngest gets the last choice, so it is in his interest to divide the property into equally valuable portions', according to Professor Kelly. In exceptional circumstances lots were used in the division of land between heirs, 'berae cocrann for comranna iter comarbaib' ('cast lots for division between heirs') being cited by Fergus Kelly (op. cit., p. 209) from an early Irish law-tract.

See the commentary on Article 49.3 for citations from the Acts.

*an chuid eile* 'Cuid eile agaibh, den teaghlach' is translated as 'others of you, of the family' in *Ó Dónaill*, who also cites '*an chuid eile den scéal*, the rest of the story'. *Dinneen* translates 'an chuid eile (againn, agaibh, 7c.)' as 'the rest (of us, you, etc.)', translating 'cuid eile' as 'others' and 'cuid ... cuid eile' as 'some ... others'. DIL cites 'ro mebaid ar in cuid ele' ('the others' were defeated)

from the fifteenth-century translation of the English version of the *Queste del Saint Graal*. As regards the noun ‘cuit’, translated as ‘share, part, portion’, DIL cites ‘ismaith achuit occa’ (‘good is His share in it’) from the eighth-century Würzburg Glosses on the Pauline Epistles.

*leanfaidh ... de* See the commentary on the foregoing section. In s1(3) of the Ministers and Secretaries (Amendment) (No. 2) Act, 1977, ‘If the Taoiseach at any time resigns from office, a Minister of State shall be deemed also to have resigned from office, but shall continue to carry on his duties until the successor of the Taoiseach shall have been appointed’ is translated as ‘Má éiríonn an Taoiseach as oifig tráth ar bith, measfar Aire Stáit a bheith éirithe as oifig freisin, ach fanfaidh sé i mbun a dhualgas go dtí go gceapfar comharba an Taoisigh’. In s11(1) of the Electoral Act, 1923, ‘with respect to the arrangements to be made by the registration officer for carrying out his duties as to registration’ is translated as ‘i dtaobh na socrúithe a bheidh le déanamh ag an oifigeach clárathachta chun a dhualgaisí clárathachta do chó-líona’.

‘Seol’ usually translates ‘carry on’ in the modern Acts, ‘carry on activities which are outside the powers of the society’ being translated as ‘gníomhaíochtaí a sheoladh atá lasmuigh de chumhachtaí an chumainn’ in s28(2)(a)(i) of the Building Societies Act, 1989, for example, ‘chun aon ghníomhaíochta ... a sheoladh’ translating ‘to carry on any activities’ in s13(1)(g) of the Transport Act, 1950.

*a mheas* See the commentary on Articles 12.6.2°, 16.6 and 24.2.

*fairis sin* See the commentary on Article 10.4.

*ní foláir* See the commentary on Article 11.

### Direct translation

Má éiríonn an Taoiseach as oifig tráth ar bith measfar go mbeidh éirithe as oifig ag comhaltáí eile an Rialtais chomh maith<sup>1</sup>, ach leanfaidh an Taoiseach agus na comhaltáí eile den Rialtas orthu i mbun a ndualgas go dtí go mbeidh a gcomharbaí ceaptha<sup>2</sup>.

#### Variants

- 1 ‘freisin’
- 2 ‘go dtí go gceapfar a gcomharbaí’

ARTICLE 28.11.2° AIRTEAGAL 28.11.2°

#### TÉACS GAELGE

Na comhaltáí den Rialtas a bheas in oifig lá lánscotha Dháil Éireann, leanfaid dá n-oifig nó go gceapfar a gcomharbaí.

#### LITERAL ENGLISH TRANSLATION

The members of the Government who will be in office on the day of a dissolution of Dáil Éireann, they will continue in their office until their successors are appointed.

#### ENGLISH TEXT

The members of the Government in office at the date of a dissolution of Dáil Éireann shall continue to hold office until their successors shall have been appointed.

### Divergences between the official texts

- 1 ‘(The members) ... shall continue to hold office’ is expressed as ‘leanfaid dá n-oifig’ (‘they shall continue in their office’) in the Irish text, the same phrase expressing ‘shall continue to carry on’ in the previous section; a new clause is created in the Irish text, a comma following the first clause in that text alone (no such comma being found in the original text), ‘leanfaid dá n-oifig’ referring back to ‘Na comhaltáí den Rialtas’ (‘The members of the Government’) in the Irish text.
- 2 ‘At the date of the dissolution of Dáil Éireann’ is expressed as ‘lá lánscotha Dháil Éireann’ (‘[on the] day of the dissolution of Dáil Éireann’), ‘lá’ expressing ‘date’ as we have seen in some other Articles.
- 3 ‘The members ... in office’ is expressed as ‘Na comhaltáí ... a bheas in oifig’ (‘the members ... who will be in office’) in the Irish text.
- 4 ‘Shall have been appointed’ is expressed as ‘(go) gceapfar’ (‘are appointed’) in the Irish text, as in the previous subsection.

Note that Article 53 of the 1922 Constitution contains the following:

... but the President and such Ministers shall continue to carry on their duties until their successors shall have been appointed .... *ach leanfaidh an t-Uachtarán agus na hAíre sin ag déanamh a ndualgaisí go dtí go gceapfar a gcomharbaí.*

Article 56 contains the following:

... but he shall continue in office until his successor shall have been appointed .... *ach leanfa sé in oifig no go gceapfar a chomharba.*

Note that s1(2) of the Ministers and Secretaries (Amendment) (No. 2) Act, 1977, reads as follows:

A person appointed to be a Minister of State shall continue to hold office so long only as he continues to be a member of a House of the Oireachtas, but a Minister of State in office at the date of a dissolution of Dáil Éireann shall continue to hold office until the successor of the Taoiseach who was in office on such date shall have been appointed. *Duine a cheapfar chun bheith ina Aire Stáit ní fhanfaidh sé i seilbh oifige ach fad a fhanfaidh sé ina chomhalta de Theach den Oireachtas, ach Aire Stáit a bheidh in oifig ar dháta Dháil Éireann a lánscoir fanfaidh sé i seilbh oifige go dtí go mbeidh comharba an Taoisigh a bhí in oifig ar an dáta sin ceaptha.*

### Commentary

*a bheas* The special form of the relative, future tense, of the substantive verb – this would be replaced by ‘a bheidh’ in the Acts today. See the commentary on Article 6.1.

*leanfaid* The synthetic form of the third person plural, future tense, of the verb ‘lean’ – the analytic form, ‘leanfaidh siad’, would be used in the Acts today. See the commentary on Article 14.5.1°. See the commentary on the previous subsection regarding ‘lean do’.



**Standardised Irish text**

Na comhaltaí den Rialtas a bheidh in oifig lá lánscoirthe Dháil Éireann, leanfaidh siad dá n-oifig nó go gceaptar a gcomharbaí.

**Direct translation**

Leanfaidh na comhaltaí den Rialtas a bheidh in oifig ar dháta lánscoirthe<sup>1</sup> Dháil Éireann i seilbh a n-oifige go dtí go mbeidh a gcomharbaí ceaptha<sup>2</sup>.

**Variants**

- 1 'scortha', 'discaoilte', 'tráth a lánscoirfear'
- 2 'go dtí go gceapfar a gcomharbaí'

## ARTICLE 28.12 AIRTEAGAL 28.12

**TÉACS GAELIGE**

Is de réir dlí a rialófar na nithe seo a leanas .i. Ranna Stáit a chomheagrú agus gnó a roinnt orthu, comhaltaí den Rialtas a cheapadh chun bheith ina nAiri i mbun na Ranna sin, na feidhmeanna a bhaineas le hoifig chomhalta den Rialtas a chomhlíonadh le linn an comhalta sin a bheith tamall as láthair nó ar míthreoir, agus tuarastal comhalta an Rialtais.

**LITERAL ENGLISH TRANSLATION**

The following matters will be regulated in accordance with law i.e. the organization of Departments of State and the division of business between them, the appointment of members of the Government to be Ministers in charge of those Departments, the fulfilling of the functions relating to the office of a member of the Government while that member is absent for a period or (mentally) incapacitated, and the salary of members of the Government.

**ENGLISH TEXT**

The following matters shall be regulated in accordance with law, namely, the organization of, and distribution of business amongst Departments of State, the designation of members of the Government to be the Ministers in charge of the said Departments, the discharge of the functions of the office of a member of the Government during his temporary absence or incapacity, and the remuneration of the members of the Government.

**Divergences between the official texts**

- 1 'The designation of members of the Government' is expressed as 'comhaltaí den Rialtas a cheapadh' ('the appointment of members of the Government') in the Irish text.
- 2 'Temporary' is expressed by 'tamall' ('a while') in the Irish text, 'sealadach' translating 'temporary' in *Téarmaí Dlí* and expressing 'temporary' in Article 28.6.3<sup>o</sup>, for example.
- 3 'Incapacity' is expressed in the Irish text by 'míthreoir', a term which would seem primarily to connote mental incapacity, as we have seen earlier.

- 4 'The functions of the office' is expressed as 'na feidhmeanna a bhaineas le hoifig' ('the functions relating to the office') in the Irish text.
- 5 'The Ministers in charge' is expressed as '(ina) nAiri i mbun' ('Ministers in charge') in the Irish text.
- 6 'Discharge' is expressed as 'comhlíonadh', 'fulfilling', in the Irish text.
- 7 'Remuneration' is expressed as 'tuarastal', usually translated as 'salary', 'wages', in the Irish text, as we have seen earlier.
- 8 'During his temporary absence' is expressed as 'le linn an comhalta sin a bheith tamall as láthair' ('while that member is absent a while') in the Irish text.
- 9 'Namely' is expressed by '.i.', the contraction for 'id est', 'that is', in the Irish text, as we have seen earlier.

**Commentary**

a *chomheagrú* 'Comheagrú' is the verbal noun of a compound verb 'comheagraigh', which verb is not cited in *Ó Dónaill* or in *Dinneen*. 'Comheagar', which is the corresponding noun, is translated as 'co-ordination' in *Ó Dónaill*, who cites '*comheagar a chur ar rudaí*, to co-ordinate things'. *Dinneen* translates 'cómheagar' as 'arrangement, order, array; ornament' citing '*cath cóimheagair*, a squadron in array', and giving the adjective 'cómheagartha' as a separate headword, translated as 'arranged, set with (*dé*)'. DIL gives an example of 'comecartha' from the twelfth-century *Book of Leinster*, translating this adjective as 'well-arranged'. 'Comecar', as a noun, is translated as 'array, ornament, proper arrangement' in DIL, and as 'act of arraying, adorning' as a verbal noun, with citations from the twelfth-century *Book of Leinster* onwards. 'Ecor'/'ecar' is the verbal noun of 'in-cuirethar' and is translated principally as 'arranging, disposing, setting in order; arrangement, array' in DIL. Modern Irish 'cuir in eagar' ('edit') is a development of this sense. See further the commentary on Articles 18.7.1<sup>o</sup>iii and 36iii, 'comheagraíocht' expressing 'organization' in the latter Article.

The 'Organisation of Working Time Act, 1997' is cited in Irish as 'an tAcht um Eagrú Ama Oibre, 1997', for example, 'seirbhísí dóiteáin a eagrú' translating 'the organisation of fire services' in the Long Title of the Fire Services Act, 1981. The Long Title of the Ministers and Secretaries (Amendment) Act, 1928, 'An Act to make certain changes in the organisation of the Department of Lands and Agriculture', is translated as 'Acht chun atharuithe áirithe do dhéanamh ar chó-ghléasa na Roinne Tailte agus Talmhaíochta', 'the organisation of the Society' being translated as 'có-ghléasadh an Chumainn' in s1(2)(b) of the Red Cross Act, 1938, for example. 'That such person was ... a member of an organisation' is translated as 'go raibh an duine sin ... ina bhall de chó-ghléasa' in s4(1)(a) of the Superannuation and Pensions Act, 1923.

*tamall* This headword is translated principally as 'space of time, while, spell' in *Ó Dónaill*, who cites '*bhí mé ann tamall*, I was there for a while'. *Dinneen* translates 'tamall' as 'a space, especially of time, a while, a time, a turn ...', translating 'tamall' as an adverb as 'for a time'. 'Tamall' is not attested in older records, DIL's first and apparently earliest citation coming from Pilib Bocht Ó hUiginn (†1487) ('do thamall', 'for a time'). See the commentary on Article 28.6.3<sup>o</sup> regarding 'temporary'.

*a roinnt orthu* ‘Rud a roinnt ar dhaoine’ is translated as ‘to divide something among people’ in *Ó Dónaill*, ‘share, apportion’ being one of the senses of ‘roinn’, ‘divide’, *Ó Dónaill* citing ‘*roinn sí na milseáin orthu*, she shared out the sweets among them’, along with ‘*roinnimis an obair eadrainn*, let us share the work between us’. *Dinneen* includes ‘(I) assign, allot, or impart to (*ar*)’ and ‘distribute (*idir, ar*)’ among the senses of ‘roinnim’, citing ‘*roinnim mo chuid ar mo chlainn*, I divide my means amongst my children’. Among the examples of ‘rannaid’ with the preposition ‘fri’ (Modern Irish ‘le’), in the sense of ‘divides with, shares’, passing later into the sense of ‘apportions to, bestows’, cited in DIL is ‘*coro rannam á orpe fri Crist*’ (‘that we may be partakers of Christ’s heritage’) from the eighth-century Würzburg Glosses on the Pauline Epistles. This verb is based on ‘rann’, translated principally as ‘a part (of a whole)’ in DIL.

‘I distribute’ is translated as ‘dailim’ in *Téarmaí DLi*, where ‘Statutes of distribution’ is translated as ‘Reachtanna an dáilte’. ‘Distribution of business among Divisions’ is translated as ‘Gnó a roinnt idir na Ranna’ in the Margin Title of s10 of the Courts of Justice (District Court) Act, 1946. ‘To arrange the distribution and allocation of the business of the High Court’ is translated as ‘gnó na hArd-Chúirte a roinnt agus a dháileadh’ in s10(3) of the Courts (Supplemental Provisions) Act, 1961. ‘With the object of facilitating the allotment and distribution of the business and undertakings of the said two Companies to and among selected Co-operative Creamery Societies’ is translated as ‘chun a chur in usacht gnó agus cúraimí an dá Chuideachtan san do riar agus do roinnt ar Chomhar-Chumainn Uachtarlainne toghtha’ in the Preamble to the First Schedule to the Creamery Act, 1928. ‘Roinnt amach’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘distribution’ in *Iris an Phuist*, 28/12/27. Article 67 of the 1922 Constitution commences as follows:

The number of judges, the constitution and organisation of, and distribution of business among, the said Courts and judges ... shall be as prescribed by the laws ....  
*De réir na ndlíthe ... iseadh bheidh uimhir na mbreithiún, bunú agus có-ghléasa agus roint ghnótha agus údaráis imeasg na gCúirteanna agus na mbreithiún roimh-ráite.*

‘To arrange the distribution of the business of the Board among its members’ is translated as ‘a shocrú go ndéanfar gnó an Bhoird a dháileadh ar a chomhaltáí’ in s6(1)(b) of the Local Government (Planning and Development) Act, 1983. See further the commentary on Article 45.3.2° where ‘imdháil’ expresses ‘distribute’. Note finally that a comma follows ‘amongst’ in the original text.

*a cheapadh* ‘The person who has been designated to be in command of a service aircraft shall be regarded as being the captain of the aircraft’ is translated as ‘measfar gurb é an duine a bheidh ainmnithe chun bheith i gceannas ar aerárthach seirbhíse captaen an aerárthaigh’ in s6(5) of the Defence (Amendment) Act, 1987, for example. See the commentary on Articles 6.1 (where ‘ceap’ expresses ‘designate’), 13.1.1° (where ‘ceap’ expresses ‘appoint’) and 15.10 (where ‘ceap’ expresses ‘attach’). Commenting on the direct translation below, Professor Máirtín Ó Murchú recommends ‘ceap’, stating that none of the essential sense of the English is lost in the translation ‘a cheapadh chun a bheith ina nAirí ar na Ranna sin’.

*a chomhlionadh* See the commentary on Articles 12.1, 13.9 and 14.5.1° regarding the verb ‘comhlíon’. ‘To ensure that the persons appointed are persons who have the knowledge and experience to discharge the functions of those offices’ is translated as ‘chun a áirithiú go bhfuil an t-eolas agus an taithí is gá chun feidhmeanna na n-oifigí sin a chomhall ag na daoine a cheapfar’ in s42(3) of the Building Societies Act, 1989. In s13(e) of the Schedule to the Public Safety (Emergency Powers) (No. 2) Act, 1923, ‘the visiting of persons detained therein by reasonable persons to be appointed by the Minister who shall discharge the functions aforesaid without remuneration’ is translated as ‘fiosrú na ndaoine i gcoinneáil ionta ag daoine freagarthacha a cheapfar ag an Aire agus a fheidhmeoidh na bhfeidhmeanna roimh-ráite in aisce’. In the First Schedule of the District Justices (Temporary Provisions) Act, 1923, ‘I will to the best of my skill and knowledge discharge all the duties thereof’ is translated as ‘go ndéanfad mo dhícheall, do réir mo thuisgiona agus m’eolais, ... ar dhualgaisí uile na hoifige do chó-líona’.

*tuarastal comhaltáí an Rialtais* This would have the form ‘tuarastal chomhaltáí an Rialtais’ in the official standard, ‘comhaltáí’ being lenited and in the nominative case rather than in the genitive case – see the commentary on Article 1. As regards ‘tuarastal’, see the commentary on Article 15.9.2°. Commenting on the direct translation below, Professor Máirtín Ó Murchú argues that ‘tuarastal’ rather than the Irish legal term ‘luach saothair’ might be more appropriate here as a general sum, formally agreed on, is involved.

*a bhaineas* The special form of the relative in ‘-s’ – this would have the form ‘a bhaineann’ in the Acts today. See the commentary on Article 1. Commenting on the direct translation below, Professor Máirtín Ó Murchú recommends avoiding the use of the phrase ‘de chuid’, particularly as it adds to the obscurity here, and favours retaining ‘a bhaineann le’, i.e. ‘feidhmeanna a bhaineann le hoifig comhalta den Rialtas’.

.i. See the commentary on Articles 7 and 14.2.1°.

*a rialófar* See the commentary on Articles 10.3 and 12.5.

*as láthair* See the commentary on Articles 14.1 and 28.6.3°.

*ar míthreoir* See the commentary on Article 12.3.1°.

*i mbun* See the commentary on Article 28.7.1°.

### Standardised Irish text

Is de réir dlí a rialófar na nithe seo a leanas .i. Ranna Stáit a chomheagrú agus gnó a roinnt orthu, comhaltáí den Rialtas a cheapadh chun bheith ina nAirí i mbun na Ranna sin, na feidhmeanna a bhaineann le hoifig chomhalta den Rialtas a chomhlíonadh le linn an comhalta sin a bheith tamall as láthair nó ar míthreoir, agus tuarastal chomhaltáí an Rialtais.

### Direct gender-proofed translation

Déanfar na nithe seo a leanas a rialáil de réir dlí, eadhón<sup>1</sup>, gnó a eagrú agus a dháileadh ar Ranna Stáit, comhaltáí

den Rialtas a ainmniú<sup>2</sup> chun bheith ina nAirí i mbun<sup>3</sup> na Ranna sin, feidhmeanna a bhaineann le hoifig chomhalta den Rialtas<sup>4</sup> a chomhall<sup>5</sup> le linn don chomhalta sin a bheith go sealadach as láthair nó faoi éagumas, agus luach saothair<sup>6</sup> chomhaltai an Rialtais.

**Variants**

- 1 'mar atá', 'eadhon'
- 2 'a cheapadh'
- 3 'ar'
- 4 'feidhmeanna oifige de chuid comhalta den Rialtas'
- 5 'a chomhlíonadh'
- 6 'tuarastal'

# INTERNATIONAL RELATIONS CAIDREAMH IDIRNÁISIÚNTA

## ARTICLE 29.1 AIRTEAGAL 29.1

### TÉACS GAEILGE

Dearbhaíonn Éire gur mian léi síocháin agus comhar, de réir an chothroim idirnáisiúnta agus na moráltachta idirnáisiúnta, a bheith ar bun idir náisiúin an domhain.

### LITERAL ENGLISH TRANSLATION

Ireland affirms that she wishes peace and co-operation, in accordance with international equity and international morality, to be established between the nations of the world.

### ENGLISH TEXT

Ireland affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

### Divergences between the official texts

- 1 'Its devotion to' is expressed as 'gur mian léi (a bheith ar bun)' ('that she wishes [to be established]') in the Irish text, this same phrase expressing 'its adherence to' in the next section.
- 2 'Peace and friendly co-operation amongst nations' is expressed as 'síocháin agus comhar... a bheith ar bun idir náisiúin an domhain' ('peace and co-operation being established amongst the nations of the world') in the Irish text.
- 3 'Founded on international justice and morality' is expressed as 'de réir an chothroim idirnáisiúnta agus na moráltachta idirnáisiúnta' ('in accordance with international equity and international morality') in the Irish text, the Irish term 'cothrom' literally expressing 'equity, fair play'.
- 4 'The ideal of peace and friendly co-operation' is expressed simply as 'síocháin agus comhar' ('peace and co-operation') in the Irish text, 'comhar' however, being a term specifically encompassing this feature of reciprocity and mutual assistance in Irish life over centuries.
- 5 'Affirms' is expressed here by 'dearbhaigh', which is a different term to that which expresses 'affirms' in Article 1, 'deimhnigh', the English term here echoing that of the first Article.

### Commentary

*Dearbhaíonn* 'Dearbhaím' is translated as 'I declare' in *Téarmaí Dlí*, *Dinneen* translating 'dearbhuighim' as 'I affirm, attest, swear, prove, certify'. 'Dearbhaigh' is translated as 'declare, affirm; assure, confirm; attest, prove' in *Ó Dónaill*, who translates 'rud a dhearbhu' as 'to

affirm something'. DIL gives one citation from Keating's seventeenth-century *Three Shafts of Death* of 'derbaigid' in the sense of 'asserts, affirms', the main sense being 'makes certain, proves, verifies'. 'Derbaid' was the earlier form of the verb, DIL citing 'a n-nonderbid' ('when ye prove') from the eighth-century Würzburg Glosses on the Pauline Epistles (glossing Latin 'probantes'), along with 'derbaid ní' ('it certifies something'), from the ninth-century St Gall Glosses on Priscian, translating 'derbaid' principally as 'certifies, proves, confirms, attests'. This verb is based on 'derb' (translated as 'sure, certain, fixed, determinate' in DIL), 'ar derb' glossing Latin 'pro certo' in the ninth-century Milan Glosses on the Commentary on the Psalms. See the commentary on Article 12.8 where the verbal noun 'dearbhu' expresses 'declaration'.

'I affirm (decree, etc.)' is translated as 'daingnim' in *Téarmaí Dlí*, 'I affirm (as an unsworn witness)' being translated as 'dearbhascaim' – see the commentary on Article 1. 'Where a court imposes a fine or affirms or varies a fine imposed by another court' is translated as 'I gcás a ngearrfaidh cúirt fineáil nó a ndaingneoidh nó a n-athróidh sí fineáil a ghearr cúirt eile' in s52(1)(a) of the Fisheries Act, 1980, for example, with 'such Judge shall, if he affirms such conviction, confirm the consequential disqualification order' being translated as 'déanfaidh an Breitheamh san, má dhaingníonn an ciontú san, daingniú ar an ordú dí-cháilíochta iarmartach' in s30(5) of the Road Traffic Act, 1933. See the commentary on Article 1, where 'deimhnigh' expresses 'affirms' for early translations of 'affirms'.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that 'daingnigh' has no sense in the context of this Article and favours 'dearbhaíonn Éire' as a direct translation of 'Ireland affirms', adding that 'Dearbhaíonn muintir na hÉireann' would be more natural in Irish.

*gur mian léi* 'An rud is mian le duine' is translated by *Ó Dónaill* as 'what one wishes', citing '*ba mhian liom fanacht*, I would like to stay'. *Dinneen* translates 'is mian liom' as 'I desire, intend', citing '*pé rud is mian leat*, whatever you like' and '*más mian leat*, if you wish'. DIL gives citations of the phrase 'is mian limm' ('I like, desire') from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century) onwards, translating 'mian' as 'desire, inclination; object of desire', citing 'ba mian n-ingen ocus ban' ('the darling of girls and women') from an old Irish poem in the Milan Codex.

In the Preamble to the Griffith Settlement Act, 1923, 'moved by the lifelong self-sacrifice and devotion of the late President Arthur Griffith to the people of Ireland' is translated as 'ag cuimhneamh dóibh ar an gcuma in ar

dhin an t-Uachtarán, Art Ó Griobhtha, a fuair bás le déanaí, a shaol go léir do thabhairt suas le díograis ar mhaithe le muintir na hÉireann'. 'Devotion to duty' is translated as 'dúthrachtacht' in *Iris an Phuist*, 15/8/28.

*De Bhaldraithe* translates 'devotion' as 'dúthracht, dílseacht', citing 'devotion to work, *dúthracht chun oibre*'. Professor Máirtín Ó Murchú regards 'tiomantas' in a draft of the direct translation below as being too unfamiliar when one has 'dílseacht' and recommends 'dúthracht' here if it is necessary to differentiate from 'dílseacht' expressing 'adherence' in the next section.

*síocháin* 'An tsíocháin a choimeád, to keep the peace' and 'síocháin Dé inár measc, may the peace of God be among us' are cited in *Ó Dónaill*, with 'I bind to the peace' being translated as 'cuirim bannaí síochána ar' in *Téarmaí Dlí*. 'Síocháin' is translated as 'peace, state of peace, concord' in *Dinneen*. 'Síthcháin' is a compound of 'síth' ('peace') and 'cáin' (in the sense of 'law, regulation, rule') and is translated as 'peace, a state of peace, a compact of peace' in DIL. No citations of 'síthcháin' are found in the earlier sources, unlike the base form 'síth'/'síth', which is cited in the eighth-century Würzburg Glosses on the Pauline Epistles ('airde síde et cáinchomricc' ['a sign of peace and good will']).

'Having in mind ... the maintenance of international peace and security and the promotion of friendly relations among nations' is translated as 'Ag cuimhneamh dóibh ... ar an tsíocháin agus an tslándáil idirnáisiúnta a chohabháil agus ar chaidreamh cairdiúil a chur ar aghaidh idir náisiúin' in the Preamble to the First Schedule to the Diplomatic Relations and Immunities Act, 1967. 'That I will see and cause the peace to be kept and preserved' is translated as 'go gcuirfead fé ndéar go gcoimeádfar agus go gcosnófar an tsíocháin' in the 'Form of Declaration' in the Second Schedule to the Garda Síochána Act, 1924.

*comhar* The prefix 'comh-', translated principally as 'mutual, joint, common; co-' in *Ó Dónaill*, combines with 'ar', translated as 'act of ploughing, tilling, cultivating; husbandry' in DIL, to form this compound which continues to express a distinctive feature of rural Irish life, that of partnership and co-operation in seasonal tasks. Welsh 'cyfar' is cognate with Irish 'comar', Welsh law-texts containing detailed descriptions of co-operative ploughing (see Fergus Kelly's *Guide to Early Irish Law*, p. 241). *Dinneen* translates 'cómhar na gcómharsan' as 'system of reciprocal labour among neighbours', translating the headword 'cómhar' as 'co-operation, especially in tillage, mutually borrowed labour; alliance, reciprocity; society, companionship'. 'Comhar na gcómharsan' is translated as 'neighbourly co-operation' in *Ó Dónaill*, 'comhar' being translated as 'combined work, mutual assistance; co-operation, partnership', *Ó Dónaill* citing '*dul i gcomhar le duine i rud*, to combine, co-operate with someone in something' and '*an comhar a dhiol le duine*, to return a service to someone, repay someone for what he has done for one'.

'The promotion of friendly relations among nations' is translated as '(ar) chaidreamh cairdiúil a chur ar aghaidh idir náisiúin' in the Preamble to the First Schedule to the Diplomatic Relations and Immunities Act, 1967, as we have seen above. 'The Registrar of Friendly Societies' is translated as 'Clárathóir na gCara-Chumann' in the First

Part of the Schedule to the Ministers and Secretaries Act, 1924, and as 'Cláraitheoir na gCara-Chumann' in the First Part of the First Schedule to the Ombudsman Act, 1980.

'Co-operation between fire authorities' is translated as 'comhoibriú idir údaráis dóiteáin' in the Margin Title of s14 of the Fire Services Act, 1981, with 'Co-operation between committees' being translated as 'Comhar idir coistí' in the Margin Title of s29 of the Agriculture Act, 1931. 'With military co-operation' is translated as 'le có-oibriú míleata' in the Preamble to the Public Safety (Emergency Powers) Act, 1923. In s13(1)(b) of the Acquisition of Land (Allotments) Act, 1926, 'to a number of people working on a co-operative system approved by the Minister' is translated as 'chun roinnt daoine a bheidh ag obair do réir mhodha chomhair a cheadóidh an tAire'.

*de réir an chothroim* 'Fair play; fairness, equity' is one of the secondary senses of 'cothrom' in *Ó Dónaill*, who cites '*an cothrom a dhéanamh le duine*, to deal fairly with someone', '*cothrom na Féinne a thabhairt, a dhéanamh, do dhuine*, to give, stand, someone fair play' and '*cothrom dlí a fháil*, to get even-handed justice, a fair trial'. 'Equity, justice, fair play' are included in *Dinneen* among the senses of 'comhthrom', citing '*comhthrom do thabhairt do dhuine*, to treat a person fairly, "on the level"'. The same prefix 'com-' ('comh-') which we saw in 'comhar' above, this time combines with 'trom' ('heavy') to form 'comhthrom', which as a noun has the literal and principal sense of 'equal weight or amount, equivalent', DIL citing '(co ruc) a chomhthrom de argut' ('its weight in silver') from the twelfth-century *Book of Leinster*. 'Justice, equity, fair treatment' is a secondary sense of this noun, DIL citing 'rannsa i gcomhthrom do chomhrádh' ('give me a fair share of your attention') from the seventeenth-century 'Contention of the Bards'.

'Natural justice' is translated as 'ceartas aiceanta' in *Téarmaí Dlí*, where 'miscarriage of justice' is translated as 'iomrall ceartais'. 'The President of the Permanent Court of International Justice', for example, is styled 'Uachtarán na Buan-Chúirte um Cheartas Idirnáisiúnta' in Article XVIII(c) of the Schedule to the Bretton Woods Agreements Act, 1957. 'And justice administered in the public Courts' is translated as 'Is i sna Cúirteanna puiblí ... a riarfar ceart' in Article 64 of the 1922 Constitution, 'any judge or justice' being translated as 'aon bhreitheamh no giúistís' in Article 75. 'The Department of Justice' is styled 'An Roinn Dlí agus Cirt' in s1(iii) of the Ministers and Secretaries Act, 1924, where 'public services in connection with law, justice, public order and police' is translated as 'seirbhísí puiblí a bhaineann le dlí, ceart, ordú puiblí agus póilíneacht'. See further the commentary on Articles 34.1 and 43.2.1° where 'justice' is expressed as 'ceart'.

Professor Máirtín Ó Murchú remarks that 'cóir' is the term which would be used naturally in Irish in this sense, citing Ó Néill: 'cébé duine nach biaidh leinn agus nach gcaithfe ar son na córa'.

*de réir ... na moráltachta* 'Moráltacht' is translated as 'morality; morals' in *Ó Dónaill*, with 'moráltacht' being translated as 'morality' in *Dinneen*. DIL cites only one example of 'moráltacht' ('docum moraltachta na diagachta', from the manuscript *Egerton 88* in the British Museum), the adjective 'morálda'/'morálta' being cited from the *Passions and Homilies* from the *Leabhar Breac*, composed

in the second half of the eleventh century ('etargna moralla' [= Latin 'moralis sensis']), the noun 'moráil', translated as 'morality, the moral interpretation', coming from Latin 'moralis'.

'Subject to public order and morality' is expressed as 'gan san a dhul chun dochair don ord phoiblí ná don mhoráltacht phoiblí' in Article 44.2.1°. 'Contrary to public order or morality' is translated as 'contrártha don ord poiblí nó don mhoráltacht phoiblí' in s15(1)(b) of the Patents Act, 1964. In Article 8 of the 1922 Constitution, 'subject to public order and morality' is translated as 'ach gan dochar don rialtacht ná don mhoráltacht phuiblí'. 'Which relates to inventions, etc., contrary to law or morality' is translated as '(alt) a bhaineann le cumadóireachtaí, etc., contrárdha don dlí nó don mhorálas' in s116(1) of the Industrial and Commercial Property (Protection) Act, 1927. See further the commentary on Article 40.6.1°.

*de réir* This phrase is translated as 'in accordance with' in *Téarmaí Dlí* – see the commentary on Articles 14.5.2° and 18.10.1°. Note that this phrase expresses 'on the system of' in Article 12.2.3°. As regards 'founded', the English text appears ambiguous as to whether this refers to 'the ideal of peace and friendly co-operation' or to 'peace and friendly co-operation'; this ambiguity renders a literal translation difficult.

'The indictment against him may include ... any counts founded on any of the documents ... and exhibits considered by the justice at the preliminary examination' is translated as 'féadfár ... aon scóir a chur sa díotáil ina choinne ar scóir iad a bheidh bunaithe ar aon cheann de na doiciméid ... agus de na foilseáin a bhreithnigh an breitheamh ag an réamhscrúdú' in s18 of the Criminal Procedure Act, 1967. In Article 3 of the First Schedule to the Jurisdiction of Courts and Enforcement of Judgement (European Communities) Act, 1988, 'the rules which enable jurisdiction to be founded on the document instituting the proceedings' is translated as 'na rialacha á chumasú dlínse a bhunú ar dhoiciméad tionscanta na n-imeachtaí'.

Looking at earlier Acts, in s5(3) of the Indemnity Act, 1924, 'the committee ... shall not take into consideration any loss or damage ... founded on the loss of mere pleasure or amenity' is translated as 'ní áireoidh an coiste aon chailliúint ná diobháil ... ná raibh inti ach cailliúint phléisiúir no nómhaireachta'. 'Any civil proceedings founded on negligence' is translated as 'aon imeachta sibhialta mar gheall ar fhaillí' in s1(3)(c) of the Indemnity Act, 1923.

*ar bun* This phrase is translated as 'established' in *Ó Dónaill*, citing '*gnó a chur ar bun*, to establish a business' and '*cad é atá ar bun?*' what's going on?' *Dinneen* translates 'ar bun' as 'afoot, set up, established', citing '*tá an teanga ar bun*, the language is alive'. DIL cites 'in sid do beth ar bun' from the *Leabhar Breac*, a manuscript compiled in 1411 or earlier, this phrase corresponding almost exactly to 'síocháin ... a bheith ar bun' in the present Article 29.1.

### Direct translation

Dearbhaíonn<sup>1</sup> Éire a dúthracht<sup>2</sup> d'idéal na síochána agus an chomhair chairdiúil idir náisiúin á mbunú<sup>3</sup> ar an gceartas<sup>4</sup> agus ar an moráltacht idirnáisiúnta.<sup>5</sup>

### Variants

- 1 'Daingníonn'
- 2 'dílseacht', 'tiomantas'
- 3 'bunaithe', 'arna mbunú'
- 4 'ar an gcóir', 'ar an gceartas idirnáisiúnta'
- 5 'Dearbhaíonn Éire a dúthracht d'idéal na síochána agus an chomhair chairdiúil, á mbunú ar an gceartas agus ar an moráltacht idirnáisiúnta, idir náisiúin.'

## ARTICLE 29.2 AIRTEAGAL 29.2

### TÉACS GAEILGE

Dearbhaíonn Éire fós gur mian léi go ndéanfaí gach achran idir náisiúin a réiteach go síochánta le headráin idirnáisiúnta nó le cinneadh breithiúnach.

### LITERAL ENGLISH TRANSLATION

Ireland further affirms that she wishes that all strife between nations should be settled peacefully by international arbitration or by judicial decision.

### ENGLISH TEXT

Ireland affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination.

### Divergences between the official texts

- 1 'The principle of the pacific settlement of international disputes' is expressed as 'go ndéanfaí gach achran idir náisiúin a réiteach go síochánta' ('that all strife between nations should be settled peacefully') in the Irish text.
- 2 'Its adherence to' is expressed as 'gur mian léi' ('that she wishes') in the Irish text, the same phrase as expresses 'its devotion to' in the foregoing section.
- 3 'Ireland affirms' is expressed as 'Dearbhaíonn Éire fós' ('Ireland further affirms') in the Irish text, the term expressing 'affirms' being the same as that in the previous section.

### Commentary

*achran* '(Act of) quarrelling, strife' is the secondary sense of this headword in *Ó Dónaill*, who cites '*ag achran is ag bruíon*, bickering and quarrelling', the principal sense being 'tangled growth; tangle, entanglement'. *Dinneen* gives 'entanglement, confusion, strife, knot' as the principal sense of 'achran'. The original sense of 'achran' was 'thicket, tangled undergrowth', according to DIL, most of the examples of this sense and the sense of 'strife, dissension' which are cited in DIL coming from Tadhg Ó Conaill's translation of *La Trompette du Ciel, Trompa na bhFlaitheas*, c. 1755. DIL cites 'an uile achran ... a réigteach' (to settle 'every dispute') – almost the exact equivalent of 'gach achran ... a réiteach' in the present Article 29.2 – from the poetry of Aogán Ó Rathaille (1670-1726).

'Dispute' is translated as 'díospóid' in *Téarmaí Dlí*, where 'trade dispute' is translated as 'díospóid trádála'. The Margin Title of s91 of the Building Societies Act, 1989, 'Settlement of disputes', is translated as 'Díospóidí a

réiteach', for example, 'socrú díospóidí' translating 'settlement of disputes' in s23(1)(d) of the Finance (Miscellaneous Provisions) Act, 1956, and 'Diospóidí a shocrú' translating the Heading of Article IX of the Fourth Schedule to the Diplomatic Relations and Immunities Act, 1967.

Looking at earlier Acts, in s8(2) of the Local Elections Postponement Act, 1922, 'If any doubt, dispute, or question shall arise' is translated as 'Má tharlúionn aon amhras, achrann no cheist', with 'to inquire into ... allegations, charges, disputes or differences in respect of elections generally' being translated as 'chun curtha i leith, cúisithe, imreasáin no difríochtaí i dtaobh toghachán i gcoitinne ... d'iniúcha' in s56 of the Prevention of Electoral Abuses Act, 1923. 'Every question or dispute as to whether a person is or is not a soldier' is translated as 'Gach ceist no conspóid i dtaobh ce'ca tá duine ina shaighdiúir no ná fuil' in s25(3) of the National Health Insurance Act, 1923. In s130(2) of the Industrial and Commercial Property (Protection) Act, 1927, 'In case of any dispute as to the making ... of an invention' is translated as 'Má bhíonn aon aighneas ann i dtaobh cumadóireacht do dhéanamh'.

*eadráin* This headword is translated as 'arbitration' in *Téarmaí Dlí*, as 'separation of combatants; intervention in dispute; mediation, conciliation' in *Ó Dónaill* and as 'intervention or interposition, peace-making; act of separating combatants, coming between' in *Dinneen*, who cites '*ní raibh cumas a eadrána aige féin*, he himself had no power to prevent him (behaving in this fashion)'. This compound of the preposition 'eter' with the verbal noun 'áin' ('act of driving') is translated principally as 'interference with, meddling with, intervening between (persons quarrelling)' in DIL, where 'ná tath [*leg. táet?*] duini dom hétran' ('let none come to meddle with me' [i.e. my body]) is cited from *Saltair na Rann* (written c. 1000) and 'in fer etrana coitchend' ('an impartial person who interposes' [in a fight]) is cited from a commentary on an early Irish law-tract.

'Refer the question for arbitration' is translated as 'an cheist a tharchur le haghaidh eadrána' in s74(9)(b) of the Building Societies Act, 1989, where 'the rules shall be deemed to be an arbitration agreement within the meaning of the Arbitration Acts, 1954 and 1980' is translated as 'measfar gur comhaontú eadrána na rialacha, de réir bhri na nAchtanna Eadrána, 1954 agus 1980'. In s173(b) of the Defence Forces (Temporary Provisions) Act, 1923, 'the amount of such compensation shall in the event of disagreement be determined by arbitration' is translated as 'cheal réitigh socrófar ar mhéid an chúitimh sin le headarghabháil'. 'Terms to be settled by arbitration' is translated as 'Socrófar na téarmaí le headarascán' in the Schedule (no. 6) to the State Lands Act, 1924. 'Require the matter to be referred to arbitration' is translated as 'a éileamh go gcuirfar an scéal fé mholtóireacht' in s22(6) of the Dairy Produce Act, 1924, with the Margin Title of s6 of the Dáil Éireann Courts (Winding Up) Act, 1923, Amendment Act, 1924, 'Dáil Land Court decrees may be deemed to be arbitration awards' being translated as 'Féadfar a ordú go dtuigfar gur molta eadrascáin aitheanta Dáil-Chúirte Talmhan'.

*cinneadh* This headword is translated as 'determination (of issue, etc.), finding (of fact, etc.)' in *Téarmaí Dlí*, with

'cineadh dáta' agus 'cinneadh coiste' being translated respectively as 'fixing of date' and 'the findings of a committee' in *Ó Dónaill*. 'Act of appointing, deciding, determining, resolving on' are among the senses of 'cinneadh' in *Dinneen*. 'Cinniud' is the verbal noun of 'cinnid' and is translated principally as 'act of fixing, defining, deciding' in DIL, where the phrase 'cinniud persine' ('defining [grammatical] person') is cited from the ninth-century St Gall Glosses on Priscian, where it glosses Latin 'demonstratio'. DIL gives examples of 'cinniud' in the sense of 'decision, limit, agreement' from the twelfth-century *Book of Leinster* onwards.

'Bringing the proposed application to the notice of persons whose interests may be affected by the determination of the Court thereon' is translated as 'chun an t-iarratas beartaithe a chur ar a n-iúl do dhaoine a bhféadfadh cinneadh na Cúirte ar an iarratas sin difear a dhéanamh dá leasanna' in s32(4)(a) of the Air Navigation and Transport Act, 1988. 'If the amount of the determination is altered by the determination of the judge' is translated as 'má athraíonn breith an bhreithimh an mheasúnacht' in the Table in s69 of the Finance Act, 1974. The Margin Title of s48 of the Building Societies Act, 1976, 'Determination of disputes by arbitration', is translated as 'Diospóidí a chinneadh trí eadráin'. The Margin Title of s8 of the Public Services (Temporary Economics) Act, 1933, 'Determination of disputes, etc.', is translated as 'Aighnis, etc., do shocrú'. In s8(4) of the Finance Act, 1924, 'Any person who is aggrieved by the determination of the Revenue Commissioners' is translated as 'Éinne ar a ngoillfidh an bhreith a thabharfaidh na Coimisinéirí Incuim'. 'Any question which may arise ... shall be determined by the Minister' is translated as 'Réiteoidh an t-Aire ... aon cheist éireoidh' in s7(e) of the Schedule to the Electoral Act, 1923.

*breithiúnach* 'Aird bhreithiúnach' and 'rogha bhreithiúnach' are translated respectively as 'judicial notice' and 'judicial discretion' in *Téarmaí Dlí*. 'Judicial' is the principal sense of this headword in *Ó Dónaill*, who also gives the senses 'judicious, discerning' and 'severe, critical', *Dinneen* also giving the senses 'judicious, judicial, critical'. 'Brithemandu' glosses both 'iudiciali' and 'iudice' in the ninth-century Milan Glosses on the Commentary on the Psalms, DIL translating 'brithemandae' as 'judicial; pertaining to judgement', that headword being based on Old Irish 'brithem', Modern Irish 'breitheamh', 'judge'.

'The Judicial Separation and Family Law Reform Act, 1989' is cited in Irish as 'an tAcht um Idirscaradh Breithiúnach agus Athchóiriú an Dlí Teaghlaigh, 1989', with 'the Public Authorities (Judicial Proceedings) Act, 1954' being cited as 'Acht na nÚdarás Poibli (Imeachta Breithiúnacha), 1954'. In Article 65 of the 1922 Constitution, 'The judicial power of the High Court' is translated as 'comhacht bhreithiúntais na hArd-Chúirte'. Note that 'judicial functions' is expressed as 'feidhmeanna breithimh' in Article 35.2.

*gur mian léi* See the commentary on the previous section, where this phrase expresses 'its devotion to'. As regards 'adherence to' in the Acts, 'If the Minister is satisfied that in order to maintain ... general adherence to the National Agreements it is necessary for him to do so' is translated as 'Más deimhin leis an Aire gur gá dó sin a dhéanamh

ionas go leanfai i gcoitinne ... de na Comhaontuithe Náisiúnta' in s1(1) of the Regulation of Banks (Remuneration and Conditions of Employment) (Temporary Provisions) Act, 1975. In Article 17 of the 1922 Constitution, 'and (by virtue of) her adherence to and membership of the group of nations forming the British Commonwealth of Nations' is translated as '(de bhí) go leanann sí den chó-chruinniú náisiún a dhineann suas an Có-chinióchas Briotáineach'. In s4(c) of the Licensing (Renewal of Licences) Act, 1923, 'solely on account of his adherence to political principles' is translated as 'agus ná raibh de chúis aige leis sin ach é do bheith ag claoi le prionsabail pholaitigiúla'. 'Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention amended by this Protocol' is translated as 'Má ghabhann an Stát nach Páirtí sa Choinbhinsiún leis an bPrótocol seo is é a éifeacht sin gabháil leis an gCoinbhinsiún arna leasú leis an bPrótocol seo' in s2 of Article XXIII of the Schedule to the Air Navigation and Transport Act, 1959. 'Adherence after entry into force' is translated as 'Aontú tar éis don Chomhaontú a theacht i bhfeidhm' in the Heading of s3 of Article XXIII of the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976.

*fós* 'Again, in addition; moreover, furthermore' is a secondary sense of this adverb, according to *Ó Dónaill*, who cites '*deir sé fós (go)*, he states further (that)' and '*agus fós*, and moreover', with 'yet, still' being the basic sense of '*fós*'. *Dinneen's* entry s.v. '*fós*', commences with the senses 'also, too, moreover', *Dinneen* stating that '*fós* is used for *still* and *yet*'. 'As yet' and 'further, besides' are other senses included by *Dinneen*. DIL translates '*fós*' as (a) '*of time still, up to the present*' and (b) '*still (more, longer), further, also, in addition, likewise*', citing '*Orduighem fós ...*' ('Likewise we ordaine') from the seventeenth-century translation of the *Rule of S. Clare*. The earlier form, 'beus'/'beos', is cited in DIL, in the sense of 'further; moreover, again; besides, also, in addition to', from the eighth-century Würzburg Glosses on the Pauline Epistles ('do irgairiu na sainte beos' ['also to forbid greed']). See the commentary on Article 15.3.2°.

*Dearbhaíonn* See the commentary on the previous section.

### Direct translation

Dearbhaíonn<sup>1</sup> Éire a dílseacht do phrionsabal an réitigh shíochánta ar dhíospóidí idirnáisiúnta le headráin idirnáisiúnta nó le cinneadh<sup>2</sup> breithiúnach.

#### Variants

- 1 'Daingníonn'
- 2 'nó cinneadh'

## ARTICLE 29.3 AIRTEAGAL 29.3

### TÉACS GAELGE

Glacann Éire le bunrialacha gnáth-admhaithe an dlí idirnáisiúnta le bheith ina dtreoir d'Éirinn ina caidreamh le Stáit eile.

### LITERAL ENGLISH TRANSLATION

Ireland accepts the generally acknowledged fundamental rules of international law to be a guide for Ireland in its relations with other States.

### ENGLISH TEXT

Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.

### Divergences between the official texts

- 1 'Rule of conduct' is expressed as 'treoir' ('guide') in the Irish text, with 'as its rule of conduct' being expressed as 'le bheith ina dtreoir d'Éirinn' ('to be a guide for Ireland').
- 2 'Generally recognised' is expressed as 'gnáth-admhaithe' ('generally acknowledged') in the Irish text.
- 3 'Principles' is expressed as 'bunrialacha' ('fundamental rules') in the Irish text.

J.M. Kelly, op. cit., p. 207, reports as follows on reference to this section in the courts:

In *The State (Sumers Jennings) v Furlong* ([1966] IR 183) Henchy J said that the Irish version 'makes clear' that Ireland accepts the generally recognised principles of international law 'as a guide (ina dtreoir) in its relations with other states' – i.e. merely as a guide, not as a rule operating to restrict the powers of the Oireachtas.

### Commentary

*ina dtreoir* 'Treoir' is translated as 'guidance, direction' in *Ó Dónaill* and as 'a guide, a helm, direction, tendency, ideal, progress of events, conduct, guidance, help ...' in *Dinneen*. DIL cites examples of 'treoir' in the sense of 'guidance, direction, course' from *Saltair na Rann* (written c.1000) onwards, citing 'ceannas feadhna Mhaoise 7 a threoir go Tir Tairngire' ('Moses' leadership and guidance to the Promised Land') from Keating's seventeenth-century *Three Shafts of Death*. See further the commentary on Article 45 where 'buntreoir' and 'gnáth-threoir' respectively express 'directive principle' and 'general guidance'.

In s14 of the Schedule to the Public Safety (Emergency Powers) Act, 1923, 'The Minister for Home Affairs may make rules for the conduct of proceedings' is translated as 'Féadfidh an tAire um Ghnóthaí Dúithche rialacha do dhéanamh chun imeachta do stiúra'. In s14(a) of the Courts Act, 1981, 'Rules of Court shall provide for the conduct of proceedings in the Circuit Court under the said Act in a summary manner' is translated as 'Beidh foráil sna Rialacha Cúirte go ndéanfar imeachtaí sa Chúirt Chuarda faoin Acht sin a stiúradh ar bhealach achomair'. 'Rules governing conduct of candidates at competitions, etc.' is translated as 'Rialacha i dtaobh iompair iarrthóirí ag comórtais, etc.' in the Margin Title of s30 of the Civil Service Commissioners Act, 1956. 'Rules for Conduct of Seanad General Elections' is translated as 'Rialacha chun Olltoghcháin don tSeanad a Stiúru' in the Heading of the First Schedule to the Seanad Electoral (Panel Members) Act, 1947. 'Rialacha nós-imeachta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'rules of procedure' in translations for the Department of Defence.



*gnáth-admhaithe* This adjective would be written without the hyphen today – see, for example, ‘gnáth-eolas’ (‘ordinary knowledge, experience’) in *Dinneen*, which is cited as ‘gnátheolas’ in *Ó Dónaill*. Neither *Ó Dónaill* nor *Dinneen* appear to give ‘gnáthadmhaithe’ as a headword, this being a compound of the prefix ‘gnáth-’ (translated principally as ‘usual, customary, ordinary; vulgar, common; standard’ in *Ó Dónaill* and as ‘usual, general, average, continual; standing, characteristic’ in *Dinneen*) and the past participle of ‘admhaigh’, the first person singular, present tense, of which, ‘admhaím’, is translated as ‘I acknowledge; I confess’ in *Téarmaí Dlí*, ‘admhuighim’ being translated as ‘I confess, admit, acknowledge’, along with ‘I say, state, proclaim’, in *Dinneen*. ‘Acknowledge’ is given as the principal sense of ‘admhaigh’ in *Ó Dónaill*, citing ‘*admhaíonn an saol (go)*, everybody admits, agrees (that)’ and ‘*admhaigh amach é*, admit it openly’, along with ‘*bean nach n-adhmhódh a fear féin*, a woman who would not acknowledge her own husband’. DIL gives examples of the verb ‘ad-daim’ in the sense of ‘acknowledge, admits, concedes, confesses’ from the ninth-century St Gall Glosses on Priscian onwards. See further the commentary on Article 43.1.2<sup>o</sup> regarding the prefix ‘gnáth-’.

In s1(f) of Article 6 of the Schedule to the International Carriage of Goods by Road Act, 1990, ‘their generally recognised description’ is translated as ‘an tuairisc orthu a aithnítear go coitianta’. ‘On conditions less favourable ... than those generally recognised in that district by good employers’ is translated as ‘faoi choinníollacha is neamhfhabhraí ... ná iad sin a aithníonn fostóirí maithe go ginearálta sa cheantar sin’ in s34(5)(c) of the Social Welfare (Consolidation) Act, 1981. ‘Works generally recognised as having cultural or artistic merit’ is translated as ‘saothair dá dtugtar aitheantas coitianta go bhfuil fiúntas cultúir nó ealaíona ... iontu’ in s2(2)(a)(ii)II of the Finance Act, 1969. In s45(1) of the Housing (Amendment) Act, 1948, ‘as advantageous to the persons employed in such erection as the appropriate rates of wages or conditions of labour generally recognised by trade unions’ is translated as ‘chomh tairbheach do na daoine a bhí ar fostú á thógáil leis na rátaí páighe nó na coinníollacha oibre iomchuí a bhí ar aithint ag ceardchumainn i gcoitinne’, this being translated as ‘chó tairbheach ... do sna daoine a bhí ar fostú sa tógáil sin agus a bheadh na rátaí oiriúnacha tuarastail no na coinníolla oiriúnacha oibre le n-ar ghlac cumainn chéirde go generalta’ in s8(3) of the Housing (Financial and Miscellaneous Provisions) Act, 1932.

Looking at ‘recognised’ in early Acts, ‘Admission on a certificate signed by three “recognised” persons’ is translated as ‘Daoine do leigint isteach ar theistias fé lámh thriúir “aitheanta”’ in s19 of the ‘Clare County Scheme’ in the Schedule to the Local Government (Temporary Provisions) Act, 1923. ‘Recognised banks’ is translated as ‘Bainc admhuithe’ in the Margin Title of s24 of the Agricultural Credit Act, 1927. In early *Standing Orders* of Dáil Éireann, ‘recognised University’ is translated as ‘Príomh-Scoil údarásach’.

Professor Máirtín Ó Murchú, commenting on the variant direct translation below, remarks that ‘gnáth-’ (in ‘gnáth-aitheanta’) is possibly more accurate (“cruinn”) for the sense here that ‘i gcoitinne’.

*caidreamh* ‘Caidreamh idirnáisiúnta’ and ‘caidreamh taidhleoireachta’ are translated respectively as ‘international

relations’ and ‘diplomatic relations’ in *Ó Dónaill*, following the abbreviation for ‘Politics’, with ‘caidreamh poiblí’ being translated as ‘public relations’. ‘Intercourse, intimacy’ is the principal sense of this noun in *Ó Dónaill*, ‘caidreamh’ being the verbal noun of ‘caidrígh’, ‘speak to, be on friendly terms with’. ‘Caidreamh collaí’ is translated in *Ó Dónaill* as ‘sexual intercourse’, this Irish phrase being translated as ‘criminal conversation’ in *Téarmaí Dlí*. ‘Company, fellowship; intercourse; acquaintance; association; familiarity; partnership in trade; act of caressing; cohabitation’ are the senses of ‘caidreamh’ given by *Dinneen*. The earlier form, ‘coitreb’, is a compound of the prefix ‘com-’ (Modern Irish ‘comh-’, ‘mutual, co-’) and ‘treb’, translated principally as ‘house, farm, holding’ in DIL – the verb ‘trebaid’ being translated principally as ‘cultivates, tills, ploughs’, also having the sense of ‘inhabits, dwells in’. ‘Coitreb’ is the verbal noun of ‘con-treba’, which verb is based on ‘trebaid’ and is translated as ‘inhabits, frequents’ in DIL, where only two examples are cited, the earliest being from the twelfth-century *Book of Leinster*. In later language, ‘coitreb’ had the sense of ‘fellowship, company, association’, according to DIL, citing ‘caidreamh do dhéanamh ria’ (= deale with her’) from the seventeenth-century translation of the *Rule of S. Clare*.

‘In its relations with members, the Fund shall recognize that the post-war transitional period will be one of change and adjustment’ is translated as ‘Bhéarfaidh an Ciste d’aitheantas, ina chaidreamh leis na comhaltaí, gur tréimhse athrúcháin agus choigeartuithe an tréimhse tar éis an chogaidh’ in s5 of Article XIV of the Schedule to the Bretton Woods Agreements Act, 1957. See further the commentary on Article 1.

*bunrialacha* Plural of ‘bunriail’, translated as ‘fundamental rule’ in *Ó Dónaill*, this headword being a compound of the prefix ‘bun-’ (translated principally as ‘basic, primary, elementary’ in *Ó Dónaill*, and as ‘principal’ in *Dinneen*) and ‘riail’ (‘rule’). See the commentary on Article 43.2.1<sup>o</sup>.

### Standardised Irish text

Glacann Éire le bunrialacha gnáthadmhaithe an dlí idirnáisiúnta le bheith ina dtreoir d’Éirinn ina caidreamh le Stáit eile.

### Direct translation

Glacann Éire le príonsabail an dlí idirnáisiúnta, mar a aithnítear i gcoitinne iad,<sup>1</sup> mar a riail iompair ina caidreamh le Stáit eile.

### Variants

- <sup>1</sup> ‘le príonsabail ghnáthaitheanta an dlí idirnáisiúnta.’

## ARTICLE 29.4.1<sup>o</sup> AIRTEAGAL 29.4.1<sup>o</sup>

### TÉACS GAELGE

De réir Airteagal 28 den Bhunreacht seo is é an Rialtas a oibreos, nó is le húdarás an Rialtais a oibreofar, cumhacht chomhallach an Stáit maidir lena chaidreamh eachtrach.

**LITERAL ENGLISH TRANSLATION**

In accordance with Article 28 of this Constitution it is the Government which will operate, or it is with the authority of the Government that will be operated, the discharging power of the State as regards its external relations.

**ENGLISH TEXT**

The executive power of the State in or in connection with its external relations shall in accordance with Article 28 of this Constitution be exercised by or on the authority of the Government.

**Divergences between the official texts**

- 1 'In or in connection with its external relations' is expressed simply as 'maidir lena chaidreamh eachtrach' ('as regards its external relations') in the Irish text.
- 2 As in Article 28.2, 'executive', in 'executive power', is expressed by 'comhallach', an unfamiliar adjective that would be interpreted today as 'fulfilling'/'discharging'.
- 3 'Exercise' is expressed as 'oibrigh' ('operate') in the Irish text, as we have seen also in some earlier Articles, with '(shall) be exercised by or on the authority of the Government' being expressed as 'is é an Rialtas a oibreos, nó is le húdarás an Rialtais a oibreofar' ('it is the Government which will exercise/operate, or it is on the authority of the Government that will be exercised/operated') in the Irish text.

**Commentary**

*eachtrach* This adjective is translated as 'extern, external' in *Ó Dónaill*, citing '*An Roinn Gnóthaí Eachtracha*, the Department of Foreign Affairs' and '*scrúdaitheoir eachtrach*, extern examiner'. *Dinneen* does not appear to give 'eachtrach' as a headword but, like *Ó Dónaill*, has the adjective 'eachtrannach' as a headword, which he translates as 'foreign, exotic, alien', giving 'eachtranda' as a variant. DIL gives both 'echtranda' and 'echtrannach' as headwords, the former being translated as 'extern, foreign', with only one example of this adjective being cited (from an early Irish law-tract), the latter being translated as 'extern, external', again with only one example of this adjective being cited ('tes eachtrannach' ['external heat'] from the manuscript 23 K 42 in the Royal Irish Academy). As a noun, 'echtrannach' is translated in DIL as 'foreigner, alien, stranger'. 'Echtrann', on which the above headwords are based, glosses Latin 'externus' and 'alienus' in the ninth-century Milan Glosses on the Commentary on the Psalms, and is translated as 'strange, foreign' (as adjective) and 'stranger, foreigner, alien' (as noun) in DIL, who cites 'a mbéla n-echtrann' ('the foreign language') from the eighth-century Würzburg Glosses on the Pauline Epistles.

The Long Title of the Republic of Ireland Act, 1948, contains both the earlier and later official translations of the phrase 'external relations', reading as follows:

An Act to repeal the Executive Authority (External Relations) Act, 1936, ... and to enable the President to exercise the executive power or any executive function of the State in or in connection with its external relations. *Acht d'athghairm an Achta Údaráis Feidhmíúcháin (Caidreamh Coigríche), 1936, ... agus dá chumasú don Uachtarán cumhacht chomhallach*

*nó aon fheidhm d'fheadhma comhallacha an Stáit maidir lena chaidreamh eachtrach d'oibríú.*

'Representatives of External Governments' is translated as 'Ionadaithe do Rialtais Eachtracha' in the Second Schedule to the Appropriation Act, 1981', this phrase being translated as 'Ionadaithe Rialtais Coigríche' in Schedule B of the Appropriation Act, 1929. In the Schedule to the Appropriation Act, 1922, 'For the salaries and expenses of the Ministry of External Affairs' is translated as 'Chun tuarastail agus costais na hAireachta um Ghnóthaí Coigríche'. We find 'Aireach Gnóthaí Coigríoch' in s2 of the Second Article of the 1919 Constitution.

*maidir le* See the commentary on Article 15.15, where this phrase expresses 'in connection with'. 'Any costs or expenses incurred by it, or in connection with, any proceedings' is translated as 'aon chostais nó caiteachais a thabhaigh sé in aon imeachtaí, nó i ndáil le haon imeachtaí' in s47(7) of the Building Societies Act, 1989. In s4 of the Beet Sugar (Subsidy) Act, 1925, 'the persons employed by him in or in connection with the manufacture of the sugar' is translated as 'na daoine a bheidh ar fostú aige ag déanamh an tsiúicre, no in éinní a bhaineann le déanamh an tsiúicre'. In s14(1)(b) of the Railways Act, 1933, 'assets used in or in connection with such business' is translated as 'sócmhainní a bhíonn á n-úsáid sa ghnó san no maidir leis'.

Looking at earlier Acts, 'for the adjustment of the expenses of and in connection with the inquests of the bodies removed' is translated as 'go gcothromófar costais agus fo-chostais na gcoistí a dineadh ar na cuirp do haistríodh' in s8 of the Coroners (Amendment) Act, 1927. 'For the purpose of widening ... or otherwise improving streets in the City of Dublin in connection with the reconstruction of areas' is translated as 'chun sráideanna i gCathair Bhaile Átha Cliath do leathanú ... no d'fheabhsú ar aon tslí eile, i dteangmháil le hath-dhéanamh líomatáistí' in s1(1) of the Dublin Reconstruction (Emergency Provisions) Act, 1924.

Professor Máirtín Ó Murchú, commenting on the translation below, remarks that he favours 'maidir le' or 'i dtaca le' to 'i ndáil le', stating that outside of the legislation he sees no very certain authority for 'i ndáil le' and that it might not be understood in the direct translation below.

*a oibreos* Special form of the relative, future tense, of 'oibrigh' – see the commentary on Article 6.1. Note that 'oibreochas', without relative particle, is found in the original text; see the commentary on Articles 3 and 13.5.1<sup>o</sup> regarding 'oibrigh'.

*maidir lena chaidreamh* Note that no lenition follows 'lena' in the original text. See the commentary on the previous section regarding 'caidreamh'.

*cumhacht chomhallach* See the commentary on Article 28.2.

**Standardised Irish text**

De réir Airteagal 28 den Bhunreacht seo is é an Rialtas a oibreoidh, nó is le húdarás an Rialtais a oibreofar, cumhacht chomhallach an Stáit maidir lena chaidreamh eachtrach.

**Direct translation**

De réir Airteagal 28 den Bhunreacht seo, déanfaidh an Rialtas, nó is ar údarás an Rialtais a dhéanfar, cumhacht fheidhmiúcháin an Stáit ina chaidreamh eachtrach nó i ndáil lena<sup>1</sup> chaidreamh eachtrach a fheidhmiú.<sup>2</sup>

**Variants**

- 1 'maidir lena', 'i dtaca lena'
- 2 'De réir Airteagal 28 den Bhunreacht seo, feidhmeoidh an Rialtas, nó is ar údarás an Rialtais a fheidhmeofar, / is é an Rialtas a fheidhmeoidh, nó is ar údarás an Rialtais a fheidhmeofar, cumhacht fheidhmiúcháin an Stáit ina chaidreamh eachtrach nó i ndáil lena chaidreamh eachtrach.'

ARTICLE 29.4.2<sup>o</sup> AIRTEAGAL 29.4.2<sup>o</sup>**TÉACS GAELGE**

Ionas go bhféadfar aon fheidhm chomhallach leis an Stát a oibriú maidir lena chaidreamh eachtrach féadfaidh an Rialtas, sa mhéid go gcinnear le dlí agus faoi chuimsiú cibé coinníollacha a chinnear le dlí, má chinntear, aon organ stáit nó sás nó nós imeachta a chur chun críche nó a ghlacadh a chuirtear chun críche nó a ghlactar chun a leithéid sin de chuspóir ag na náisiúin is comhaltaí d'aon bhuíon nó d'aon chumann de náisiúin a bhfuil nó a mbeidh an Stát i gcomhlachas leo le haghaidh comhair idirnáisiúnta i gcúrsaí a bhaineas leo uile.

**LITERAL ENGLISH TRANSLATION**

So that any discharging function of the State can be operated as regards its external relations the Government will be able, to the extent that will be decided by law and within the constraint/scope of whatever conditions will be decided by law, if it is decided, to utilise or accept any organ of state or instrument or procedure which is utilized or accepted for such a purpose by the nations which are members of any group or any association of nations with which the State is or will be in coalition/alignment for international co-operation in affairs which concern them all.

**ENGLISH TEXT**

For the purpose of the exercise of any executive function of the State in or in connection with its external relations, the Government may to such extent and subject to such conditions, if any, as may be determined by law, avail of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group or league of nations with which the State is or becomes associated for the purpose of international co-operation in matters of common concern.

**Divergences between the official texts**

- 1 'Organ' is expressed as 'organ stáit' ('organ of state') in the Irish text.
- 2 'The members of any group or league of nations' is expressed as 'na náisiúin is comhaltaí d'aon bhuíon nó d'aon chumann de náisiúin' ('the nations which are members of any group/league or of any society/association of nations') in the Irish text.
- 3 'Avail of' is expressed by 'cuir chun críche' ('utilise')

in the Irish text, this phrase also expressing 'used' further on in the subsection.

- 4 'Instrument' is translated as 'ionstraim' in *Téarmaí Dlí*; the term expressing 'instrument' in the Irish text, 'sás', has the sense of 'instrument', however, along with that of 'device, contrivance'.
- 5 'Method of procedure' is expressed simply as 'nós imeachta', 'procedure', in the Irish text.
- 6 'Any ... function of the State' is expressed in the Irish text as 'aon fheidhm ... leis an Stát', which phrase can also be translated as 'any function with the State'.
- 7 'Exercise' is expressed as 'oibrigh' ('operate') in the Irish text, as we have seen in some other Articles also.
- 8 As in the previous subsection, 'executive' is expressed by a term which is unfamiliar today, and which would possibly be interpreted as 'fulfilling' or 'discharging'.
- 9 'In or in connection with' is expressed simply as 'maidir le' ('as regards') in the Irish text, as in the foregoing subsection.
- 10 'For the purpose of' is expressed as 'Ionas go' ('so that') in the Irish text, with 'For the purpose of the exercise of any ... function' being expressed as 'Ionas go bhféadfar aon fheidhm ... a oibriú' ('So that any function may be operated/exercised').
- 11 'Subject to' is expressed as 'faoi chuimsiú' ('within the constraint/scope of') in the Irish text, as we have seen in some earlier Articles.
- 12 'For the like purpose' is expressed as 'chun a leithéid sin de chuspóir' ('for such a purpose') in the Irish text.
- 13 'With which the State is or becomes associated' is expressed as 'a bhfuil nó a mbeidh an Stát i gcomhlachas leo' ('with which the State is or will be in association') in the Irish text.
- 14 'In matters of common concern' is expressed as 'i gcúrsaí a bhaineas leo uile' ('in matters/affairs which concern them all') in the Irish text.
- 15 'Any organ, instrument, or method of procedure' is expressed as 'aon organ stáit nó sás nó nós imeachta' ('any organ **or** instrument **or** method of procedure') in the Irish text.

**Commentary**

*a bhaineas leo* The special form of the relative is '-s'; this phrase would have the form 'a bhaineann leo' today in official documents – see the commentary on Article 6.1. Regarding 'bain le', *Ó Dónaill* gives 'concern, relate to' as the secondary sense of this phrase, citing '*gach duine a bhaineann leat*, all connected with, related to, you'. DIL cites 'is béss didu ind liacc benir ilbeim fris' ('it is the manner, then, of the stone that many blows are given to it'), from the eighth-century Würzburg Glosses on the Pauline Epistles s.v. 'benaid' (principally 'beats, strikes') – see further the commentary on Article 3.

Turning to 'concern', 'are of direct concern to members of the trade union resident in the State of Northern Ireland and do not affect members not so resident' is translated as 'a bhaineann go díreach le comhaltaí den cheard-chumann a chónaíonn sa Stát nó i dTuaisceart Éireann agus nach mbaineann le comhaltaí nach gcónaíonn sa Stát ná i dTuaisceart Éireann' in s17(2) of the Trade Union Act, 1975, with 'na sainghnéithe uile den scéim a bhaineann leis' translating 'all essential features of the scheme which

concern him' in s15(2)(b) of the Finance Act, 1972. In s76 of the Land Act, 1923, 'Provided always that any Rules of Court made to carry out the provisions of this Act, in so far as they concern the relief of congestion' is translated as 'Ar choinníoll i gcomhnaí go leagfar fé bhráid gach Tighe den Oireachtas, sa mhéid go mbainid le leigheas cumhangrachta'. Note, as regards early official translations of 'common', that 'The Common Seal of the Company' is translated as 'Séala Coitiann na Cuideachtan' in the Second Schedule to the Companies (Re-Constitution of Records) Act, 1924, with 'có-shéala' translating 'common seal' in s12(1) of the Local Government Act, 1925.

In *Treaties establishing the European Communities* (1973, p. 259), 'Member States shall regard their conjunctural policies as a matter of common concern' is translated as 'Áireoidh na Ballstáit mar ábhar comhchúraim dóibh a mbeartas in alt na huaire', with 'Féachfaidh gach Ballstát ar a bheartas maidir le rátaí malairte mar ábhar comhchúraim dóibh' translating 'Each Member State shall treat its policy with regard to rates of exchange as a matter of common concern' (ibid, p. 261). In the *Treaty on European Union* (1992, p. 25), 'Member States shall regard their economic policies as a matter of common concern' is translated as 'measfaidh na Ballstáit gur ábhar leasa choitinn a mbeartais eacnamaíocha'.

Professor Máirtín Ó Murchú suggests the phrase 'i bpaírt' or 'le chéile' in the direct translation of 'common' below; 'i gcoitinne' here would be understood to mean 'in general'.

*má chinntear* As regards 'if any', 'The register shall be kept at such place as the Minister shall direct and, subject to such conditions (if any) as may be prescribed, shall be available for inspection during office hours' is translated as 'Coimeádfar an clár cibé áit a ordóidh an tAire agus, faoi réir cibé coinníollacha (más ann) a fhorordófar, beidh sé ar fáil lena iniúchadh le linn uaire oifige' in s20(2) of the Plant Varieties (Proprietary Rights) Act, 1980. 'He may by order authorise such local authority, subject to such conditions (if any) as may be specified in such order, to carry on that business in connection with such aerodrome' is translated as 'féadfaidh, le hordú, a údarú don údarás áitiúil sin, fé réir pé coinníollacha (más aon cheann é) a luadhfar san ordú san, an gnó san do bheith ar siúl acu maidir leis an aerodróm san' in s38(1) of the Air Navigation and Transport Act, 1936. See further the commentary on Article 15.15.

*Ionas go* This phrase is translated as 'so that' in *Ó Dónaill*, with *Dinneen* translating 'ionnas go' as 'so, in order or insomuch that' – see the commentary on Article 18.2. 'Ionas go' usually translates 'so as to', 'so that' in the Acts – see s39(2) of the Finance Act, 1990, where 'so that all allowances ... shall be given effect' is translated as 'ionas go dtabharfar éifeacht do na liúntais sin'.

Turning to 'for the purpose of', 'such information as the authority may request for the purpose of the exercise of its powers and functions under this section' is translated as 'cibé faisnéis a iarfaidh an t-údarás chun a chumhachtaí agus a fheidhmeanna faoin alt seo a fheidhmiú' in s5(7) of the Casual Trading Act, 1980. 'For the purpose of the exercise of jurisdiction' is translated as 'chun dlínse a fheidhmiú' in s38(4) of the Extradition Act, 1965, with 'For the purpose of the exercise of the powers conferred on the Board by a transport works order' being translated

as 'Chun na cumhachta do bhéarfad don Bhord le hordú oibreacha iompair d'fheidhmiú' in s30(2) of the Electricity (Supply) (Amendment) Act, 1945, and 'for the purpose of the exercise of any of the powers ... conferred or imposed on it by this Act' being translated as 'chun feidhmithe aon chomhachta ... dá mbronntar no dá gcuirtar air leis an Acht so' in s45(1) of the Electricity (Supply) Act, 1927.

*sás* 'Device, contrivance; instrument, apparatus; means' are secondary senses of 'sás' in *Ó Dónaill*, who cites '*sás le ballaí a leagan*, apparatus for knocking down walls', with 'snare, trap, noose' being the principal sense. *Dinneen* translates 'sás' as 'a contrivance, apparatus, appliance or machine, or an engine of war, etc., means, method, accessory ...', citing '*sás dighe do bheith go buan*, a way of eking out drink' along with the maxim '*sás a dhéanta chuimhnigh air*, one capable of doing it it was who thought of it'. *Dinneen* refers to confusion of 'sós' (translated as 'science, ingenuity, experience') and 'sáthas' ('sáith') ('sufficiency') at the end of his entry s.v. 'sás', DIL also referring to 'sáith' s.v. 'sás', translated as (a) 'snare, trap (particularly for birds)', (b) 'implement, instrument, engine (of war)', (c) 'means, device, way (of doing something), something fit to, cause of' and (d) 'one fit or competent to (*of persons*)'. The earliest citation of this term seems to be 'Is é in immo n-iada sás' ('he is a bird round which a trap closes'), the opening line of an old Irish poem in the *Codex S. Pauli* attributed to St Moling – according to the version in the twelfth-century *Book of Leinster*; however, the verses were uttered by the Devil in reply to the Saint!

'Instrument' is translated as 'ionstraim' in *Téarmaí Dlí*, where 'negotiable instrument' is translated as 'ionstraim soshannta'. "'Lease" means an instrument in writing' is translated as 'ciallaíonn "léas" ionstraim i scríbhinn' in s3(1) of the Landlord and Tenant (Amendment) Act, 1980. 'Any provision of this Act or statutory instrument under it' is translated as 'aon fhoráil den Acht seo nó ionstraim reachtúil faoi' in s91(1)(a) of the Building Societies Act, 1989, with 'in any statute or statutory instrument' being translated as 'in aon reacht no ionstraim reachtúil' in s6(2) of the Constitution (Consequential Provisions) Act, 1937.

Looking at the early Acts, 'the instrument creating any mortgage, charge or incumbrance' is translated as 'an úrlis le n-ar bunúidh aon mhorgáiste, muirear, no ualach' in s4 of the Land Act, 1923. 'Bank or government notes, negotiable instruments and stamps' is translated as 'nótaí bainc, instruimí ionmhalaruithe agus stampaí' in s16 of the Public Safety (Emergency Powers) Act, 1923. 'Instruimídí meceaniciúla ceoil' translates 'mechanical musical instruments' in the Margin Title of s169 of the Industrial and Commercial Property (Protection) Act, 1927, 'gléasa ceoil' translating 'musical instruments' in the Schedule to the Dundalk Harbour and Ports Act, 1925. Finally, 'while armed with any offensive weapon or instrument' is translated as 'agus é armtha le haon arm no inneal troda' in s6 of Part II of the Schedule to the Public Safety (Emergency Powers) Act, 1923.

*nós imeachta* This phrase is translated as 'procedure' in *Téarmaí Dlí* and in *Ó Dónaill*, 'nós' being translated as 'custom' in *Téarmaí Dlí* and as 'custom; manner, style' in *Ó Dónaill*. 'Imeachta' is the genitive singular of 'imeacht', the verbal noun of 'imigh' ('go'), with 'proceeding, trans-action' being one of the secondary senses of 'imeacht' in

*Ó Dónaill*, who cites *'imeachtaí na Dála*, the Dáil proceedings'; *'imeachtaí'* is translated as 'proceedings' in *Téarmaí Dlí* also. *Dinneen* cites *'nós na h-Eaglaise*, rites of the Church', also giving 'ceremony' and 'practice' as senses of 'nós', and cites *'imtheachta na tromdháimhe*, the proceedings of the unwieldy assembly', the title of an infamous work of prose. 'Nós' is a British loanword, DIL referring us to Welsh 'naws', 'nature, disposition'. DIL gives the general sense of 'nós' as 'custom, tradition, precedent', having the sense in early Irish law-tracts of 'regulations established by usage or authority'. DIL cites 'ni fiu leamsa in nos a leitheit sin' ('I do not deem such a proceeding becoming me' [i.e. refusal to do a menial service]) from the *Lives of the Saints from the Book of Lismore* (a manuscript compiled in the second half of the fifteenth century from older manuscripts) as an example of the sense of 'procedure, course of action, wont'.

Looking at early Acts, 'the procedure of the Trustees at the meetings, including the method of determination at such meetings of matters required to be determined thereat' is translated as 'nós-imeachta na nÍontaobhaithe ag a gcruinnithe, maraon leis an modh ar a socrófar ag na cruinnithe sin nithe is gá a shocrú ag na cruinnithe sin' in s23(b) of the Slaughtered Animals (Compensation) Act, 1928. The Margin Title of s125 of the Defence Forces (Temporary Provisions) Act, 1923, 'Power of Minister to make rules of procedure', is translated as 'Comhacht don Aire chun rialacha nós-imeachta do dhéanamh'. Note that in s1(b) of Article 6 of the Second Schedule to the Arbitration Act, 1980, 'adopt the rules of procedure for the institution of conciliation and arbitration proceedings' is translated as 'glacfaidh si leis na rialacha nós imeachta chun imeachtaí comhréitigh agus eadrána a thionscnamh'. In s21 of the Courts of Justice Act, 1924, 'so far as relates to the manner of procedure such proceedings or any of them may be continued' is translated as 'chó fada is bhaineann le nós-imeachta leanfar de sna himeachta san'.

In s8 of the 'Kerry County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'and the procedure provided by Article 45 ... be adapted for the purpose' is translated as 'agus an tslí a forálar le hAirtíogal 45 ... do chur in oiriúint chun na críche sin'. 'Or to carry out any other preliminary procedure before obtaining a supply of any commodity' is translated as 'no gabháil tré aon roimh-chúrsa eile sara bhfagháis soláthar d'aon earra' in s5(2) of the Local Authorities (Combined Purchasing) Act, 1925.

Finally, 'Regulations may provide for any matters of procedure in relation to appeals' is translated as 'Féadfaidh foráil a bheith i rialacháin faoi aon ábhair a bhaineann le nós imeachta i ndáil le hachomhairc' in s42(a) of the Local Development (Planning and Development) Act, 1976. See further the commentary on Article 36.iii.

*a chur chun críche* 'Cuirim rud chun críche' is translated as 'I utilise a thing, turn it to a definite use' in *Dinneen*. 'Ag teacht chun críche' is translated as 'coming to an end; coming to pass' in *Ó Dónaill*, who cites *'tháinig sé chun críche*, it came to pass'. DIL cites 'chuige sin ... do thabhairt chun críche' from the seventeenth-century *Párlaimint na mBan* as an example of phrases with 'crích' meaning 'act of completing, fulfilling', with 'end; aim, purpose' being one of the principal senses of 'crích' – see the commentary on Article 2.

'A fire authority may ... provide services for or avail of the services of any body' is translated as 'Féadfaidh údarás dóiteáin ... seirbhísi a sholáthar d'aon chomhlacht ... nó féadfaidh sé leas a bhaint as a seirbhísi siúd' in s10(5)(a) of the Fire Services Act, 1981. 'Notice of intention to avail of paragraph (a) of this subsection' is translated as 'fógra go bhfuiltear ar intinn leas a bhaint as mír (a) den fho-alt seo' in s45(4) of the Industrial Relations Act, 1946. In s28(2) of the Central Bank Act, 1971, 'An act of bankruptcy ... may be availed of ... by any creditor ... for the purpose of having the judgment debtor adjudicated bankrupt' is translated as 'I gcás aon ghníomh féimheachta ... féadfaidh aon chreidiúnaí ... é a ghlacadh de dheis ... lena chur faoi deara an féichiúnaí breithiúnais a bhreithniú ina fhéimheach'.

'Avail of' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'd'úsáid' in the *Proceedings of Dáil Éireann, 1927*, p. 615, with 'to avail of (the provisions of an Act)' cited as being translated as 'buntáiste do bhaint as' in translations for the Department of Local Government and Public Health.

*de chuspóir* 'Cuspóir' is translated as 'object (i.e. of contract)' in *Téarmaí Dlí*, with 'comhchuspóir nó comhrún' being translated as 'common purpose or design'. 'Object; objective, purpose' are secondary senses of 'cuspóir' in *Ó Dónaill*, the primary sense being 'thing aimed at, target'. *Dinneen* gives the senses of 'cuspóir' as 'an object, a target, a model, a theme; an ideal ... an aim'. 'Cuspóir' comes from Latin 'cuspis' and is translated as 'target, purpose, aim, object' in DIL, the earliest citation of which is 'co rabi fed cusboir etorro' (i.e. so that there was the 'distance of a bow shot' between them) from the eleventh-century *Cogadh Gaedhel re Gallaibh*, DIL also citing 'cuspóir curata' ('knightly purpose') from the seventeenth-century poetry of Dáibhí Ó Bruadair.

'Or any other act has been done for the like purpose' is translated as 'nó go mbeidh aon bheart eile déanta chun na críche céanna' in s137(3) of the Corporation Tax Act, 1976, with 'and also of other persons upon trial for the like purpose' being translated as 'agus fós chun daoine eile do ghlaca isteach ar a dtriail chun na críche céanna' in the Preamble to the Methodist Church in Ireland Act, 1928. Regarding 'like' in early Acts, 'the word "barge" includes a lighter or like vessel' is translated as 'foluionn an focal "báirse" lictéir no ártach dá shamhail' in s1 of the Oil in Navigable Waters Act, 1926. 'The issue of like securities' is translated as 'go dtabharfar amach urrúis den tsaghas chéanna' in the Long Title of the Damage to Property (Compensation) (Amendment) Act, 1926.

*d'aon chumann* 'Cumann' is translated as 'society' in *Téarmaí Dlí*, 'association; club, society' being one of the secondary senses ('of organised body') of 'cumann' in *Ó Dónaill*, who cites *'cumann sóisialta, polaitíochta*, social, political, club'. *Dinneen* includes 'society, club' among the senses of 'cumann', citing *'cumann na naomh*, the "Communion of Saints", the principal sense of 'cumann' being given as 'affection, love', citing *'cumann mí-mhéine*, an illicit attachment'. 'Communn' comes from Latin 'commentum' and is translated as 'alliance, pact, union, friendship (in some examples pejoratively); company, band', with 'love, affection' being a later sense. DIL cites 'roboi commant n-etarru du denam uilc frimmaccu

Israhel' ('there was a covenant between them to do evil to the Children of Israel') from the ninth-century Milan Glosses on the Commentary on the Psalms.

Turning to 'league', 'Secretary-General of the League of Nations' is styled 'Ard-Rúnaí Chumainn na Náisiún' in s25(1) of the Dangerous Drugs Act, 1936, and 'Ard-Rúnaí Chumann na Náisiún' in s1 of the First Schedule to the Arbitration Act, 1954. 'The League of Nations' is styled 'Cumann na Náisiún' in s20(2) of the Misuse of Drugs Act, 1977, with 'the League of Nations (Guarantee) Act, 1923' being cited in Irish as 'an tAcht Cumann Náisiún (Urraíochta), 1923', and 'required by Article 1 of the Covenant of the League of Nations' being translated as 'do réir Airtíogail 1 de Chumhant Chumann na Náisiún' in the Preamble to that Act. Note that *De Bhaldraithe* translates 'The League of Nations' as 'Conradh na Náisiún', which title is found in *Ó Dónaill*.

The 'Irish League of Credit Unions' is officially styled 'Comhchumann na gComhar Creidmheasa in Éirinn' in Irish. 'Associated or combined or in league with the person or persons by whom the injury was committed for the committal of that injury' is translated as 'i gcoidreamh no i gcombáidh no i gcumann leis an duine no na daoine a dhin an díobháil agus gur chun an díobháil sin ... do dhéanamh do mhaoín do bhí sé amhlaidh' in s9(a) of the Damage to Property (Compensation) Act, 1923.

Commenting on the direct translation below, Professor Máirtín Ó Murchú notes that while 'léig' is established in *Téarmaí Staire*, etc., it is not found in *Ó Dónaill* or in any other source for the general reader.

*i gcomhlachas leo* 'Comhlachas' is simply translated as 'association' in *Ó Dónaill*, 'airteagail chomhlachais' and 'meabhrán comhlachais' being translated respectively as 'articles of association' and 'memorandum of association'. This word does not appear to be given as a headword in *Dinneen*.

'In determining for the purposes of this section the assets and liabilities of a society with which another body corporate is associated' is translated as 'Le linn sócmhainní agus dliteanais cumainn, a bhfuil comhlacht corpraithe eile i gcomhlachas leis, a bheith á chinneadh' in s39(8) of the Building Societies Act, 1989. In s3(1) of the Executive Authority (External Relations) Act, 1936, 'so long as Saorstát Éireann is associated with the following nations' is translated as 'fáid a bheidh Saorstát Éireann i gcomhlachas leis na náisiúin seo leanas'.

*d'aon bhuíon* 'Buíon' is translated as 'band, company' in *Ó Dónaill*, who cites principally '*buíon saighdiúirí*, band, troop, of soldiers' and '*buíon cheoil*, band of musicians'. *Dinneen* translates 'buidhean' as 'a crowd, multitude, a retinue, a troop, a company', DIL translating 'buiden' as 'band, group, collection of persons; of warriors troop, company', citing 'ho buidnib' (i.e. from troops/companies) from the ninth-century Milan Glosses on the Commentary on the Psalms, where this phrase glosses Latin 'copis'. See the commentary on Article 19 regarding 'group', expressed as 'dream' in that Article.

*a ghlacadh* 'Glacadh le' expresses 'adopt' in Article 12.10.4°, with 'Atáimid leis seo ag gabháil an Bhunreachta seo chugainn' expressing 'Do hereby adopt ... this Constitution' in the Preamble.

*leis an Stát* The preposition 'le' can express 'belonging to' – *Ó Dónaill* cites '*tá leabhar leat agam*, I have a book of yours', '*maraíodh bó leis*, a cow belonging to him was killed' and '*an té ar leis an áit*, the person who owns the place', for example. See the commentary on Article 10.1, where 'le' expresses 'vested in'.

*a oibriú* See the commentary on Articles 3 and 13.5.1°. The use of 'aon fheidhm fheidhmiúcháin ... a fheidhmiú' would be avoided in the direct translation below by retaining 'oibrigh'.

*faoi chuimsiú* See the commentary on Article 12.5.

*organ* See the commentary on Article 6.2.

*comhair* See the commentary on Article 29.1.

*maidir le* See the commentary on Article 29.4.1°.

*chomhallach* See the commentary on Article 28.2.

### Standardised Irish text

Ionas go bhféadfar aon fheidhm chomhallach leis an Stát a oibriú maidir lena chaidreamh eachtrach féadfaidh an Rialtas, sa mhéid go gcinnear le dlí agus faoi chuimsiú cibé coinníollacha a chinnear le dlí, má chinntear, aon organ stáit nó sás nó nós imeachta a chur chun críche nó a ghlacadh a chuirtear chun críche nó a ghlactar chun a leithéid sin de chuspóir ag na náisiúin is comhaltai d'aon bhuíon nó d'aon chumann de náisiúin a bhfuil nó a mbeidh an Stát i gcomhlachas leo le haghaidh comhair idirnáisiúnta i gcúrsaí a bhaineann leo uile.

### Direct translation

Chun críche aon fheidhm fheidhmiúcháin leis an Stát<sup>1</sup> a fheidhmiú<sup>2</sup> ina chaidreamh eachtrach nó i ndáil<sup>3</sup> lena chaidreamh eachtrach,<sup>4</sup> féadfaidh an Stát, sa mhéid agus faoi réir cibé coinníollacha, más ann, a chinnear le dlí, aon orgán, ionstraim, nó modh nóis imeachta a úsáid nó a ghlacadh a úsáidtear nó a ghlactar chun na críche céanna ag comhaltai aon ghrúpa nó aon léige náisiúin a bhfuil nó a dtiocfaidh an Stát i gcomhlachas leo chun críche an chomhair idirnáisiúnta in ábhair a bhaineann leo i bpáirt<sup>5</sup>.

### Variants

- 1 'den Stát'
- 2 'a oibriú'
- 3 'i dtaca'
- 4 'Chun críche aon fheidhm fheidhmiúcháin leis an Stát ina chaidreamh eachtrach nó i ndáil lena chaidreamh eachtrach a fheidhmiú.'
- 5 'le chéile'

### ARTICLE 29.4.3° AIRTEAGAL 29.4.3°

#### TÉACS GAELIGE

Tig leis an Stát a bheith ina chomhalta den Chomhphobal Eorpach do Ghual agus Cruach (a bunaíodh le Conradh a síníodh i bPáras an 18ú lá d'Aibreán, 1951), de Chomhphobal Eacnamaíochta na hEorpa (a bunaíodh le

Conradh a síníodh sa Róimh an 25ú lá de Mhárta, 1957) agus den Chomhphobal Eorpach do Fhuinneamh Adamhach (a bunaíodh le Conradh a síníodh sa Róimh an 25ú lá de Mhárta, 1957). Tig leis an Stát an Ionstraim Eorpach Aonair (a síníodh thar ceann Bhallstáit na gComhphobal i Lucsamburg an 17ú lá d'Fheabhra, 1986, agus sa Háig an 28ú lá d'Fheabhra, 1986) a dhaingniú. Ní dhéanann aon fhoráil atá sa Bhunreacht seo aon dlíthe a d'achtaigh, gníomhartha a rinne nó bearta lenar ghlac an Stát, de bhíthin riachtanais na n-oibleagáidí mar chomhalta de na Comhphobail, a chur ó bhail dlí ná cosc a chur le dlíthe a d'achtaigh, gníomhartha a rinne nó bearta lenar ghlac na Comhphobail, nó institiúidí de na Comhphobail, ó fheidhm dlí a bheith acu sa Stát.

#### LITERAL ENGLISH TRANSLATION

The State may be a member of the European Coal and Steel Community (which was established by a Treaty signed in Paris on the 18th day of April, 1951), of the European Economic Community (which was established by a Treaty which was signed in Rome on the 25th day of March, 1957) and of the European Atomic Energy Community (which was established by a Treaty which was signed in Rome on the 25th day of March, 1957). The State may ratify the Single European Instrument (which was signed on behalf of the Member States of the Communities in Luxembourg on the 17th day of February, 1986, and in the Hague on the 28th day of February, 1986). No provision which is in this Constitution deprives of legal validity any laws enacted, acts done or actions which the State accepted, because of the necessities of the obligations as a member of the Communities, nor prohibits laws enacted, acts done or actions accepted by the Communities, or institutions of the Communities, from having legal force in the State.

#### ENGLISH TEXT

The State may become a member of the European Coal and Steel Community (established by Treaty signed at Paris on the 18th day of April, 1951), the European Economic Community (established by Treaty signed at Rome on the 25th day of March, 1957) and the European Atomic Energy Community (established by Treaty signed at Rome on the 25th day of March, 1957). The State may ratify the Single European Act (signed on behalf of the Member States of the Communities at Luxembourg on the 17th day of February, 1986, and at the Hague on the 28th day of February, 1986). No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State necessitated by the obligations of membership of the Communities or prevents laws enacted, acts done or measures adopted by the Communities, or institutions thereof, from having the force of law in the State.

Note that the enrolled text is that of the amended subsection – the Stationery Office text commented on here and given above is the text published prior to the amendment of the subsection – see Appendix 4.

#### Divergences between the official texts

- 1 'May become' is rendered as 'Tig leis ... a bheith' ('may be') in the Irish text, 'may' being rendered by

- 'tig' in the Irish text, as in some other Articles and sometimes in the Acts.
- 2 'Or institutions thereof' is rendered as 'nó institiúidí de na Comhphobail' ('or institutes/institutions of the Communities') in the Irish text, 'foras' rather than 'institiúid' expressing 'institution' in Articles 18.4.2°, 41.1.1° and 45.1 in particular, 'fundúireacht' expressing 'institution' in Articles 42.4 and 44.2.5°.
- 3 'Treaty' is rendered by 'Conradh', which is translated simply as 'contract' in *Téarmaí Dlí*, this term rendering 'agreement' in the next section; this term is also used in the Acts for 'treaty'.
- 4 'Invalidates laws' is rendered as 'aon dlíthe a chur ó bhail dlí' ('deprives any laws of legal validity') in the Irish text.
- 5 'Member' is rendered as 'comhalta', with 'Member States' being rendered as 'Ballstáit' ('ball' combined with 'stát').
- 6 'Necessitated by the obligations of membership' is rendered as 'de bhíthin riachtanais na n-oibleagáidí mar chomhalta' ('because of the necessities of the obligations as a member') in the Irish text, this clause being preceded by a comma in the Irish text alone.

This is a new subsection, the original text containing no Article 29.4.3°. The first and the third of the three sentences in this subsection were added to the text by the Third Amendment of the Constitution Act, 1972, the third sentence been subsequently struck out by the Eleventh Amendment of the Constitution Act, 1992. The second sentence was added to the text by the Tenth Amendment of the Constitution Act, 1987. See Appendix 4 on this subsection and on further subsections added to this section by the Eleventh Amendment of the Constitution Act, 1992.

#### Commentary

*Conradh* This headword is translated as 'contract' in *Téarmaí Dlí* and in the Glossary appended to *An Caighdeán Oifigiúil*. 'Conradh' is translated principally as 'agreement, contract; treaty' in *Ó Dónaill*, who translates 'conradh a dhéanamh' as 'to enter into an agreement, make a contract', citing '*conradh síochána*, peace treaty'. *Dinneen* translates 'conradh' as 'an agreement, a covenant; a bargain; a condition', citing '*Connradh na Gaedhilge*, the "Gaelic League"' – note that 'agreement' is translated as 'comhaontú' in *Téarmaí Dlí*, following five of the ten Irish Legal Terms Orders made between 1947 and 1956. DIL translates 'cundrad' as (a) '(act of) trading, buying and selling; trade, commerce', citing 'lucht in chundartha' (= mercatores') from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century), and (b) 'bargain, pact, covenant, contract, terms'. In his *Guide to Early Irish Law* (p. 158, n. 1), Fergus Kelly states that 'cundrad' seems to be used particularly of commercial agreements, 'cundrad' serving to explain Latin 'merx' ('merchandise') in the ninth-century Milan Glosses on the Commentary on the Psalms and the compound 'i cundrath-tig' translating Latin 'in macello' ('in the food-market') in the eighth-century Würzburg Glosses on the Pauline Epistles.

'Cor' was another common Old Irish term for 'contract', this sense of the word continuing to a degree today in the compounds 'sochar' and 'dochar', while earlier had the sense of 'a good or valid contract' and an 'unfair or

disadvantageous contract' respectively. Professor Kelly (ibid, p. 158) writes as follows:

The commonest legal act in early Irish society was no doubt the verbal contract or *cor bél* (lit. 'putting of lips' [translated by Professor Máirtín Ó Murchú as 'spoken undertaking']) often referred to simply as *cor*. The term covers all commercial undertakings as well as agreements to marry, to foster, to engage in co-operative farming, to enter clientship, etc.

In his recent edition of the eighth-century Irish law-tract, 'Di Astud Chor' ('On the Binding of Contracts'), under the title *Early Irish Contract Law* (p. 205f.), Neil McLeod comments as follows on the phrase 'cor cundartha' ('of contracts [and] bargains') in the law-tract:

This phrase recognises a distinction between *cor* 'contract', and *cundrad*, 'bargain'. According to DIL, *cundrad* may be from \**com-di-rath* which would suggest an instantaneous exchange of considerations (lit. 'joint-from-grant'). Such a word might well be restricted, in its primary sense at least, to contracts of trade and commerce as indicated in DIL. The term *cor*, on the other hand, would appear to have the wider sense of 'binding promise'. As such it applies to service contracts, promissory gifts, and all kinds of executory contracts as well as the mainly executed contracts covered by the narrower term *cundrad*.

Turning to the Acts, 'the Articles of Agreement for a Treaty between Great Britain and Ireland' is translated as 'na hAirtíogail Chó-aontuithe do Chonradh idir an Bhreatain Mhóir agus Éire' in s2 of the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922. 'Treaty for the Renunciation of War' is translated as 'Connra chun Diúltú do Choga' in the *Proceedings* of Dáil Éireann, 1929, p. 20. 'The Treaty (Confirmation of Amending Agreement) Act, 1925' is cited in Irish as 'Acht an Chonnartha (Daingniú ar an gCó-aontú Leasathach), 1925'. "'The EEC Treaty" means the Treaty establishing the European Economic Community' is translated as 'ciallaíonn "Conradh CEE" an Conradh ag bunú Chomhphobal Eacnamaíochta na hEorpa' in s17(b) of the Finance Act, 1981, for example.

*an Ionstraim Eorpach Aonair* In styling this an 'Instrument', Irish follows the French title rather than the English 'Single European Act'. 'Ionstraim' is translated as 'instrument' in *Téarmaí Dlí*, where 'ionstraim soshannta' is translated as 'negotiable instrument'. 'Ionstraim' is simply translated as 'instrument' in *Ó Dónaill*, with *Dinneen* following this translation with 'especially a musical instrument', citing '*ionstraim órdha*, a golden instrument' from his own edition of the poems of Piaras Ferriter (c. 1610–1653), and giving 'ionstruimint' as a variant. DIL gives but one citation of 'instrúim' ('instrument'), i.e. 'gach instrúim ceóil' (from a work published in *Timthridh Chroidhe Neamhtha Íosa*, 1911- ) but cites examples of various forms of the headword 'in(n)struimint', from Latin 'instrumentum', from Maghnas Ó Domhnaill's *Life of Colm Cille* (written in 1532) onwards, translating this headword as 'instrument, utensil, implement; (*figurative*) means'.

'Article 2 ... and Title III of the Single European Act signed in Luxembourg on 17 February 1986 and in The Hague on 28 February 1986 are hereby repealed' is translated as 'Aisghairtear leis seo Airteagal 2 ... agus Teideal III den Ionstraim Eorpach Aonair arna shíniú i Lucsamburg

ar an 17 Feabhra 1986 agus sa Háig ar an 28 Feabhra 1986' in the *Treaty on European Union* (1992, p. 138).

*den Chomhphobal* 'Comhphobal' is a compound of the prefix 'comh-' ('mutual, joint, common; co-') and 'pobal', translated principally as 'people, community' in *Ó Dónaill* – see the commentary on Article 12.2.1° regarding 'pobal'. *Ó Dónaill* gives 'comhphobal' as a headword, simply translated as 'community'. Note that *De Bhaldraithe* translates 'the community' as 'an Stát, an pobal', citing 'all classes of the community, *gach uile aicme den phobal*'. 'The Protection of the Community (Special Powers) Act, 1926', is cited in Irish as 'Acht Caomhanta na nDaoine (Comhachta Speisialta), 1926'.

In s17(b) of the Finance Act, 1981, for example, "'the EEC Treaty" means the Treaty establishing the European Economic Community, signed at Rome on the 25th day of March, 1957' is translated as 'ciallaíonn "Conradh CEE" an Conradh ag bunú Chomhphobal Eacnamaíochta na hEorpa, a síníodh sa Róimh an 25ú lá de Mhárta, 1957'. In s1(1) of the European Communities Act, 1972, "'the European Communities" means the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community' is translated as 'ciallaíonn "na Comhphobail Eorpacha" Comhphobal Eacnamaíochta na hEorpa, an Comhphobal Eorpach do Ghual agus Cruach agus an Comhphobal Eorpach do Fluinneamh Adamhach'.

*thar ceann Bhallstáit na gComhphobal Eorpach* Note here how 'Ballstáit' is lenited and in the nominative plural, this following the official standard, as against the general practice in the Constitution of normal genitive after the prepositional phrase – see the commentary on Article 1.

Regarding 'Ballstáit' itself, this would appear to be a relatively recent compound of 'ball' ('member') and 'stát' ('state'), currently used specifically in reference to the European Communities/Union – it is not given as a headword even in *Ó Dónaill* (1977), where '*ball de chumann*, a member of a society' is cited. 'Member-state' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ball-stát' in translations for the Department of External Affairs. In Article 9 of the Second Schedule to the Arbitration Act, 1954, 'The present Convention may be denounced on behalf of any Member of the League or non-Member State' is translated as 'Féadfar an Coinbhinsiún seo a shéanadh thar ceann aon Chomhalta de Chumann na Náisiún nó aon Stáit nach Comhalta'. 'If required by the member state whether he was or was not actually using the vehicle at the material time' is translated as 'má cheanglaíonn an comhalta air é, cé acu a bhí nó nach raibh sé ag úsáid na feithicle iarbhir an tráth ábhartha' in s107(4) of the Road Traffic Act, 1961. In s72(5) of the Finance Act, 1973, 'only where the effective centre of management ... of the transferor company concerned is in a Member State' is translated as 'ach amháin i gcás gur i mBallstát atá lárionad éifeachtach bainistí ... na cuideachta aistreora lena mbaineann'. Finally, in s3 of Article 18 of the Schedule to the Data Protection Act, 1988, 'invite any non-member State of the Council of Europe ... to be represented by an observer at a given meeting' is translated as 'a iarraidh ar aon Stát nach Ballstát de Chomhairle na hEorpa ... breathnadóir a bheith aige mar ionadaí ag cruinniú áirithe'.



*a dhaingniú* Verbal noun of 'daingnigh', the first person singular, present tense, of which, 'daingnim', is translated as 'I affirm (decree, etc.); I confirm; I make absolute (a conditional order); I ratify' in *Téarmaí Dlí. Ó Dónaill* cites '*conradh a dhaingniú*, to ratify an agreement', translating 'daingnigh' as 'fortify; strengthen, secure; make fast, fix; confirm, consolidate'. 'Daingnighim' is translated as 'I make firm, I fortify, strengthen, repair, establish; I fence, make enclosures' in *Dinneen*, who cites '*daingnighim an doras*, I make fast the door'. Examples of 'daingnidir' in the metaphorical sense of 'strengthens, confirms, fortifies, binds, fixes' are cited in DIL from the ninth-century Milan Glosses on the Commentary on the Psalms (where 'conundaingnigese' [that Thou mayest fortify me] glosses Latin 'communias'). The primary sense of this verb is 'makes fast, fixes', based on 'daingen', 'firm, fast, strong, solid'.

'Any appointment which is not ratified by the County Council' is translated as 'Aon cheapa ná daingneoidh an Chomhairle Chontae' in s10 of the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. The Margin Title of s33 of the Land Act, 1939, 'power to ratify exchanges of portions of holdings', is translated as 'Comhacht chun malairtithe déanfar ar choda de ghabhálaí do dhaingniú', with 'the right to ratify a contract or other transaction' being translated as 'an ceart chun daingniú a dhéanamh ar chonradh nó idirbheart eile' in s45(1)(f) of the Land Act, 1965.

*de bhíthin* The earlier form of this phrase, 'fo bith', literally means 'under the stroke of', 'bith' being an old verbal noun of 'benaid' ('béim' being the later one), translated as 'act of striking; wounding' in DIL, citing 'fo bar mbid-si' ('on account of you') from the eighth-century Würzburg Glosses on the Pauline Epistles. In later language we find 'ar', 'do' and 'tre' with 'bithin', translated as 'because of, on account of, for the sake of' (as preposition) and as 'because, for, since' (as causal conjunction) in DIL. *Dinneen* cites '*dá bhíthin, dá bhíthin sin*, on that account' and *Ó Dónaill* cites '*dá bhíthin sin*, for that reason'.

'And which necessitates an alteration in any part of any transmission system' is translated as 'agus gur gá dá dhruim atharú do dhéanamh ar aon pháirt d'aon chóir iompair' in s100 of the Electricity (Supply) Act, 1927. 'All members of the Defence Forces shall be instructed in giving and receiving in the Irish language such commands and directions as are necessitated by the routine duties of their ranks and appointments' is translated as 'Bhéarfar do gach comhalta d'Óglaigh na hÉireann teagasc ar na horduithe agus na treora is gá le haghaidh gnáth-dhualgas a chéime agus a cheapacháin a thabhairt agus a ghlacadh i nGaeilge' in s28(2) of the Defence Act, 1954. In the Schedule to the Imposition of Duties (Confirmation of Orders) Act, 1972, 'Miscellaneous technical changes in the customs tariff necessitated by amendments in the Brussels Tariff Nomenclature' is translated as 'Athruithe teicniúla ilghnéitheacha ar an gcáinliosta custam atá riachtanach mar gheall ar leasuithe in Ainmníocht Tharaife na Bruiséile'. See further the commentary on Article 37.2 where 'de bhíthin amháin' renders 'by reason only (of the fact)'.

*na n-oibleagáidí* 'Oibleagáid' is translated as 'obligation' in *Ó Dónaill*, who cites '*tá sé d'oibleagáid orm (é a*

*dhéanamh)*, I am obliged to do it' and '*d'oibleagáidí a chomhlíonadh*, to fulfil one's obligations'. *Dinneen* translates 'oibleagáid' as 'an injunction, an obligation; an injunction in the legal sense'. Only two examples of the late Romance loanword 'oibleagáid' ('obligation') are cited in DIL, both from Fr Antaine Gearnon's *Parthas an Anna*, printed in Louvain in 1645 – '(ar son an lochta) do chuir oibliogáid speisialta orm' (= who rendered me special service', according to DIL) and 'sgrúdaim ... m'oibleagáidí'.

'And be subject to the obligations of such citizenship' is translated as 'agus tuitfidh air na hoibleagáidí a ghabhann leis an saoránacht san' in Article 3 of the 1922 Constitution. 'Humbly acknowledging our obligations to our Divine Lord' is translated as 'ag admháil go huiriseal a mhéid atáimid faoi chomaoín ag Íosa Críost' in the Preamble to the 1937 Constitution. 'The obligations of the federal Government shall to this extent be the same' is translated as 'is iad na hoibleagáidí céanna a bheidh ar an Rialtas cónaidhme ina leith sin' in Article XI(a) of the First Schedule to the Arbitration Act, 1980, for example.

*ó fheidhm dlí* See the commentary on Article 17.1.2°, where 'feidhm dlí' expresses 'effect'. Note that *Ó Dónaill* cites '*duine a chosc ar rud a dhéanamh*, to prevent someone from doing something'. 'Nothing in this Article shall prevent special provisions being made by the Parliament' is translated as 'Ní choiscfidh éinní san Airtíogal so ar an Oireachtas forálacha speisialta do dhéanamh' in Article 4 of the 1922 Constitution. 'Interfering with or preventing ... the lawful occupation, use or enjoyment of any land or premises' is translated as 'Cuir-isteach no cosc do dhéanamh ... ar aon talamh no áitreabh do shealbhú no d'úsáid go dleathach no ar thairfe do bhaint as go dleathach' in s9 of Part II of the Schedule to the Public Safety (Emergency Provisions) Act, 1923. 'Impede or prevent the free exercise of the franchise by any elector' is translated as 'aon toghthóir do chosc no do thoirmeasc ar feidhm do bhaint as an reacht-shaoirse' in s5 of the Prevention of Electoral Abuses Act, 1923, with 'if the working of the invention ... is being prevented or hindered' being translated as 'má bhíonn oibriú na cumadóireachta ... á chosc no á thoirmeasc' in s43(2)(b) of the Industrial and Commercial Property (Protection) Act, 1927.

Looking at modern Acts, 'If any person ... conceals or prevents ... any person from appearing before ... a person' is translated as 'Duine ar bith ... a dhéanfaidh aon duine a cheilt nó a chosc ... ar láithriú os comhair duine' in s114(4) of the Social Welfare (Consolidation) Act, 1981. In s11(4) of the Holidays (Employees) Act, 1973, 'If any person ... prevents ... any person from appearing before ... an inspector' is translated as 'Aon duine ... a chuirfidh cosc ... le haon duine ó láithriú os comhair ... cigire'.

*bearta* See the commentary on Article 42.5 regarding 'bearta', expressing 'means' in that Article. Measures adopted for' is cited in the *Oireachtas Dictionary of Official Terms* as having been translated as 'na slite a ceapadh chun' and 'na rudaí a dineadh chun' in translations for the Department of Local Government and Public Health. 'To secure the preparation, effective carrying out, and co-ordination of measures conducive to the health of the people' is translated as 'chun a chur in áirithe go n-ullamhófar, go gcuirfar i bhfeidhm go héifeachtúil, agus go gcuirfar i gcó-ordú le n-a chéile seifteanna a raghadh

chun maítheasa do shláinte na ndaoine' in s18 of the Local Government Act, 1925. In s7(2)(c) of the Unfair Dismissals Act, 1977, 'the measures (if any) adopted by the employee' is translated as 'na bearta (más aon bhearta iad) a rinne an fostai'. 'And of the administrative measures adopted to ensure its application' is translated as 'agus ar na bearta riaracháin chun é a chur i bhfeidhm' in Article 99 of the Fourth Schedule to the Geneva Conventions Act, 1962.

*den Chomhphobal Eorpach do Fhuinneamh Adamhach* Generally 'do' would become *d'* before a lenited 'f' – note, for example, how 'de Fheabhra' becomes 'd'Fheabhra' in the present subsection. 'The International Atomic Agency' is styled 'an Ghníomhaireacht Idirnáisiúnta do Fhuinneamh Adamhach' on the *Dáil Order Paper*, 21/5/69. See the commentary on Article 10.1 regarding 'fuinneamh'.

*institiúidí* 'Institiúid' is translated as 'institute' in *Ó Dónaill, Dinneen* not appearing to give this word as a headword. See the commentary on Article 18.4.2° where 'foras' expresses 'institution'. Professor Máirtín Ó Murchú remarks that 'foras' has too material a sense ("brí ró-ábhartha") for what is involved here, i.e. 'established official organization'. He remarks that 'institiúid' is not perfect either, in that it is merely a more elegant modern word ("focal níos galánta nua-aimseartha") for what is expressed by 'foras' or 'fondúireacht'. Professor Ó Murchú notes that *De Bhaldraithe* avoids using 'institiúid' in the sense involved here, but as the phrase 'institiúid an phósta' is sometimes heard and as it is in the original text, Máirtín Ó Murchú recommends retaining it in the direct translation below.

*Tig leis an Stát a bheith* See the commentary on Article 12.4.4° regarding 'tig le'. Professor Máirtín Ó Murchú remarks that 'teacht chun bheith', given below as a variant direct translation, is very unnatural and also remarks on how 'tig le' was used in the original text rather than 'féadfaidh'.

*a chur ó bhail dlí* See the commentary on Article 28.3.3°. Note that 'invalid' is translated as 'neamhbhailí' in *Téarmaí Dlí*.

*de Chomhphobal Eacnamaíochta* See the commentary on Article 1 regarding 'eacnamaíocht'.

*ina chomhalta* See the commentary on Article 12.2.2°.

### Direct translation

Tig leis an Stát a bheith<sup>1</sup> ina bhall den Chomhphobal Eorpach do Ghual agus Cruach (a bunaíodh<sup>2</sup> le Conradh a síníodh<sup>3</sup> i bPáras an 18ú lá d'Aibreán, 1951), de Chomhphobal Eacnamaíochta na hEorpa (a bunaíodh<sup>2</sup> le Conradh a síníodh<sup>3</sup> sa Róimh an 25ú lá de Mhárta, 1957) agus den Chomhphobal Eorpach do Fhuinneamh Adamhach (a bunaíodh<sup>2</sup> le Conradh a síníodh<sup>3</sup> sa Róimh an 25ú lá de Mhárta, 1957). Féadfaidh an Stát an Ionstraim Eorpach Aonair (a síníodh<sup>3</sup> thar ceann Bhallstáit na gComhphobal i Lucsamburg an 17ú lá d'Fheabhra, 1986, agus sa Háig an 28ú lá d'Fheabhra, 1986) a dhaingniú. Ní dhéanann aon fhoráil den Bhunreacht seo dlíthe a d'achtaigh, gníomhartha a rinne nó bearta a ghlac an Stát

ba ghá mar gheall ar oibleagáidí na ballraíochta de na Comhphobail<sup>4</sup> ná dlíthe a d'achtaigh, gníomhartha a rinne ná bearta a ghlac na Comhphobail, nó institiúidí<sup>5</sup> den chéanna, a chosc ó fheidhm dlí a bheith acu sa Stát.

### Variants

- 1 'Féadfaidh an Stát teacht chun bheith'
- 2 'arna bhunú'
- 3 'arna shiniú'
- 4 'mar gheall ar oibleagáidí a bhain le ballraíocht sna Comhphobail'
- 5 'forais'

## ARTICLE 29.5.1° AIRTEAGAL 29.5.1°

### TÉACS GAEILGE

Ní foláir gach Conradh idirnáisiúnta ina mbeidh an Stát páirteach a leagan os comhair Dháil Éireann.

### LITERAL ENGLISH TRANSLATION

Every international treaty in which the State will be participative must be laid before Dáil Éireann.

### ENGLISH TEXT

Every international agreement to which the State becomes a party shall be laid before Dáil Éireann.

### Divergences between the official texts

- 1 'Agreement' is expressed in the Irish text by the term which expresses 'treaty' in Article 29.4.3°, i.e. 'conradh'; 'agreement' is translated as 'comhaontú' in *Téarmaí Dlí*, following five of the ten Irish Legal Terms Orders, though 'conradh' also has the sense of 'agreement', as well as that of 'treaty'; we find both 'conarthaí' and 'comhaontuithe' together in subsection 3 of this section.
- 2 'Becomes' is expressed as '(ina) mbeidh' ('will be') in the Irish text.
- 3 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

J.M. Kelly, op. cit., p. 207, reports as follows regarding reference to Article 29.5 in the courts:

In *The State (Duggan) v Tapley* ([1952] IR 62; (1951) 85 ILTR 22) Gavan Duffy P pointed to the Irish text as putting beyond doubt that only future international agreements were within the section's contemplation.

### Commentary

*os comhair* See the commentary on Article 28.4.3° where 'cuir os comhair' expresses 'present'. 'Every Order made by the Executive Council under this Act shall be laid before each House of the Oireachtas forthwith' is translated as 'Gach Ordú a dhéanfaidh an Árd-Chomhairle fén Acht so déanfar é do leaga fé bhráid gach Tighe den Oireachtas láithreach' in s19 of the Adaptation of Enactments Act, 1922. 'Do leaga os cóir' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to lay ... before' in the *Proceedings* of Dáil Éireann, 11/1/24. In s47(3) of the Building Societies Act, 1989, 'The Minister may lay the

report under subsection (1) before each House of the Oireachtas' is translated as 'Féadfaidh an tAire an tuarascáil faoi fho-alt (1) a leagan faoi bhráid gach Tí den Oireachtas'.

*páirteach* See the commentary on Articles 12.4.3° and 28.3.3°. *Ó Dónaill* cites '*bhí sé páirteach sa choir*, he was a party to the offence'. DIL cites 'pairtech 'na rúinibh' from the seventeenth-century 'Contention of the Bards', translating 'pairtech' as 'participant, sharing'. 'Páirtí' translates 'party' in *Téarmaí Dlí*.

*Ní foláir* See the commentary on Article 11.

*conradh* See the commentary on Article 29.4.3°.

### Direct translation

Déanfar gach comhaontú idirnáisiúnta a dtiocfaidh an Stát chun bheith ina pháirtí ann<sup>1</sup> a leagan faoi bhráid Dháil Éireann.

### Variants

- 1 'i bpáirtíocht ann'

## ARTICLE 29.5.2° AIRTEAGAL 29.5.2°

### TÉACS GAELGE

Aon chonradh idirnáisiúnta a chuirfeadh costas ar an gciste poiblí ní bheidh sé ina cheangal ar an Stát mura dtoilí Dáil Éireann le téarmaí an chonartha.

### LITERAL ENGLISH TRANSLATION

Any international treaty which would incur an expense to the public fund (it) will not be binding on the State unless Dáil Éireann consents to the terms of the treaty.

### ENGLISH TEXT

The State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Éireann.

### Divergences between the official texts

- 1 'Involving a charge upon public funds' is expressed as 'a chuirfeadh costas ar an gciste poiblí' ('which would incur an expense on the public fund') in the Irish text, 'charge' being translated as 'muirear' in *Téarmaí Dlí* rather than 'costas'.
- 2 'The State shall not be bound by any international agreement' is expressed as 'Aon chonradh idirnáisiúnta ... ní bheidh sé ina cheangal ar an Stát' ('Any international agreement ... it shall not be a bind on the State') in the Irish text.
- 3 'Unless ... shall have been approved by Dáil Éireann' is expressed as 'mura dtoilí Dáil Éireann le' ('unless Dáil Éireann consents to ...') in the Irish text, 'toilím' being translated as 'I consent' in *Téarmaí Dlí*, with 'I approve' being translated as 'formheasaim'.
- 4 As in the foregoing subsection, 'agreement' is expressed by the same term which expresses 'treaty' in Article 29.4.3°.

### Commentary

*a chuirfeadh costas ar* 'Muirear' expresses 'charge' in Article 11, this being the Irish legal term for 'charge' – which fact was the subject of comment in the courts, as we saw in the commentary on Article 11. 'Land improvement charge', for example, is translated as 'muirear feabhsaithe talún' in *Téarmaí Dlí*.

'Costas a chur ar dhuine' is translated as 'to put someone to expense' in *Ó Dónaill*, 'ar mo chostas féin' being translated as 'at my own expense' and 'costas' being translated as 'cost, expense'. '*Ar chostas Sheáin*, at John's expense' is cited in *Dinneen* s.v. 'costas', the senses of 'cost, expense, cost of maintenance' being included under this headword. The plural 'costais' is translated as 'costs' in *Téarmaí Dlí*. 'Costus' comes from English 'costs' and is translated as (a) 'provisions, provender' and (b) 'wealth; cost' in DIL, citing 'coláiste ... ar costus rígh na Spáinne' (a college 'financed by the king of Spain') from *Ó Cianáin's Flight of the Earls*.

Regarding 'involve' in early legislation, 'not including cases which involve questions as to the validity of any law' is translated as 'lasmuich d'aon chás do thabharfadh ceist dlisteanachta aon dlí anuas' in Article 66 of the 1922 Constitution. 'These changes will involve:-' is translated as 'De bharr na n-atharuithe sin ní foláir' in s8 of the 'Laoighis County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. In s207 of the Defence Forces (Temporary Provisions) Act, 1923, 'Any regulations of the Minister under this Act which involve a charge on public funds' is translated as 'Aon rialacháin a dhéanfidh an tAire féin Acht so agus as a leanfidh muirear a chur ar chistí phuiblí'. 'Where the exercise of any of the powers conferred by subsection (1) of this section involve a charge on public funds' is translated as 'I gcás feidhmiú aon chumhachta dá dtugtar le fo-alt (1) den alt seo do chur muirir ar chistí poiblí' in s30(2) of the Defence Act, 1954. 'Regulations under this Act involving a direct or indirect charge on or a payment into public funds' is translated as 'rialacháin faoin Acht seo a bhéarfás muirear go díreach nó go neamhdhíreach ar chistí poiblí nó íocaíocht isteach iontu' in s9 of the Prisoners of War and Enemy Aliens Act, 1956.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'muirear' does not especially relate to 'financial cost' ('costas airgid'); it is a charge or care ('cúram') which might involve a financial cost. Máirtín Ó Murchú therefore recommends 'a mbainfidh costas ar an gciste poiblí leis' in the direct translation below.

*ina cheangal* 'Bond, obligation' is given as a secondary sense of 'ceangal' in *Ó Dónaill*, citing '*níl ceangal orm a leithéid a dhéanamh*, I am not obliged to do any such thing'. *Dinneen* cites '*tá sé de cheangal orm go*, I am under the obligation of'. 'Cengal' comes from Latin 'cingulum' and is translated as (a) 'bond, tie, binding, fetter, fastening' and (b) 'act of binding, tying, fixing, contracting' in DIL, where examples are cited from the twelfth-century manuscript, the *Book of Leinster*, onwards, including 'Uair ní dhligh ri Temhra agrai no cengal for a ngiallaibh-seom' ('For the King of Tara has no right to put bond (?) or fetter upon their hostages') from *Cóir Anmann*, compiled perhaps as early as the eleventh century.

'And every such determination of the said Court shall

be final, binding and conclusive to all intents and purposes' is translated as 'agus chun gach intinne agus críche gach socrú den tsórt san a dhéanfaidh an Chúirt sin beidh sé gan aon dul thairis ach é ina cheangal agus ina shocrú deiridh' in s89 of the Dundalk Harbour and Port Act, 1925. 'The Certificate ... shall be binding and conclusive on all parties' is translated as 'Beidh an deimhniú ... ina cheangal ar na páirtithe go léir agus ní bheidh aon dul thairis' in s32 of the Land Act, 1927, with 'whose decision shall be final and binding on all parties' being translated as 'agus ní bheidh dul thar a bhreith agus beidh ar gach n-aon géille don bhreith sin' in s15(3) of the Adaptation of Enactments Act, 1922.

Turning to modern Acts, in s213(1) of the Social Welfare (Consolidation) Act, 1981, 'the health board shall not be bound by anything contained in sections 206 to 210' is translated as 'ní bheidh an bord sláinte faoi cheangal ag aon ní atá in ailt 206 go 210'. 'But the defendant shall not be bound by such apportionment' is translated as 'ach ní bheidh an cosantóir faoi cheangal ag an gcionroinnt sin' in s38(11) of the Civil Liability Act, 1961.

*ar an gciste poiblí* 'Ciste' is translated as 'fund' in *Téarmaí Dlí*, with '*ciste (an) stáit*, treasury, state funds' being cited by *Ó Dónaill*. 'Ciste' is translated as 'a chest; a cist; a store; treasure ...' in *Dinneen*. Anglo-Saxon 'ciste' is the source of Irish 'ciste', this headword being translated as 'chest, treasure, riches' in DIL, citing 'i ciste choitchend na sruthí' ('the Corbona') from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century). See Article 11 where 'a chur in aon chiste amháin' expresses 'form one fund'. See above for an example from the Acts of 'a charge on public funds', translated as '(muirear) ar chistí poiblí'. Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, remarks that the English plural should not be imitated here in Irish.

*mura dtoilí* The present subjunctive of 'toiligh' after 'mura'; the future today has replaced the present subjunctive after 'mura' generally – see the commentary on Article 28.9.4°. 'Toilim' is translated as 'I consent' in *Téarmaí Dlí*, 'toilighim' being translated as 'I will, assent, agree to' in *Dinneen*, 'toiligh' being translated as 'will, consent, agree' in *Ó Dónaill* – see the commentary on Article 15.8.2°. See the commentary on Article 13.1.2° regarding 'approve' and the frequent use of 'ceadaigh' rather than 'formheas'; Professor Máirtín Ó Murchú favours 'ceadaithe' or 'faofa' to 'formheasta' in the direct translation below.

### Standardised Irish text

Aon chonradh idirnáisiúnta a chuirfeadh costas ar an gciste poiblí ní bheidh sé ina cheangal ar an Stát mura dtoileoidh Dáil Éireann le téarmaí an chonartha.

### Direct translation

Ní bheidh an Stát faoi cheangal ag aon chomhaontú idirnáisiúnta a mbainfidh muirear<sup>1</sup> ar an gciste<sup>2</sup> poiblí leis<sup>3</sup> mura mbeidh téarmaí an chomhaontaithe formheasta<sup>4</sup> ag Dáil Éireann.

### Variants

- 1 'costas'
- 2 'ar chistí'
- 3 'lena mbainfidh muirear ar an gciste poiblí'
- 4 'ceadaithe', 'faofa'

## ARTICLE 29.5.3° AIRTEAGAL 29.5.3°

### TÉACS GAELIGE

Ní bhaineann an t-alt seo le conarthaí ná le comhaontuithe ar chúrsaí teicnice agus riaracháin.

### LITERAL ENGLISH TRANSLATION

This section does not concern treaties nor agreements on technical and administrative matters.

### ENGLISH TEXT

This section shall not apply to agreements or conventions of a technical and administrative character.

### Divergences between the official texts

- 1 'Conventions' is expressed in the Irish text as 'comhaontuithe', the plural form of the Irish legal term for 'agreement'; 'agreements', on the other hand, is expressed, as in the two previous subsections, by the plural form of the Irish legal term for 'contract'.
- 2 'Agreements ... of a technical and administrative character' is expressed as 'comhaontuithe ar chúrsaí teicnice agus riaracháin' ('agreements on technical and administrative matters') in the Irish text.
- 3 'Technical' is expressed in the Irish text by 'teicnice', the genitive singular of the noun translated as 'technics' in *Ó Dónaill*.
- 4 The future 'shall not' is expressed in the present tense in the Irish text.

### Commentary

*ar chúrsaí teicnice* 'Teicnic' is translated as 'technics' in *Ó Dónaill*. This headword does not appear to be given in *Dinneen*, who adds the abbreviation for 'recent' after the entry '*teicneamhail*, technical'.

As regards 'character' in early Acts, 'Whenever the Revenue Commissioners are satisfied that any cinematograph film ... is of an educational character' is translated as 'Más deimhin leis na Coimisinéirí Ioncuim gur cabhair chun oideachais aon scannán cinematografach áirithe' in s11(2) of the Finance Act, 1926. 'Making on his farm improvements of a permanent character' is translated as 'buan-fheabhsuithe do dhéanamh ar a fheirm' in s12(1)(a) of the Agricultural Credit Act, 1927. Turning to 'technical', 'administered by the Department of Agriculture and Technical Instruction' is translated as 'atá fé riar na Roinne um Thalmhuíocht agus Theagasc Teicniceach' in the Schedule to the Appropriation Act, 1922. 'Vocational and technical training' is translated as 'tréineáil chun gairme agus tréineáil teicniúil' in s1(v) of the Ministers and Secretaries Act, 1924, 'téarmaí teicniúla' translating 'technical terms' in s4(3) of the Criminal Justice (Administration) Act, 1924, and 'ceard-oideachas' translating 'technical

education' in the *Proceedings* of Dáil Éireann, 1923, p. 317.

In s14(3)(c) of the Censorship of Publications Act, 1929, and in s3(7)(c) of the Illegitimate Children (Affiliation Orders) Act, 1930, 'in any publication of a technical character *bona fide* intended for circulation among members of the legal profession' is translated as 'in aon fhoillseachán de shaghas teicniúil a bheidh ceaptha *bona fide* chun a chúrsuithe imeasc dligheadóirí'.

*comhaontuithe* In the Amendment following the Belfast Agreement, 'Comhaontú na Breataine-na hÉireann' renders 'the British-Irish Agreement' in Article 29.7. 'Comhaontú' is translated as 'agreement' in *Téarmaí Dlí*. 'Under a treaty or international convention to which the State or the Government is a party' is translated as 'faoi chonradh nó coinbhinsiún idirnáisiúnta inar páirtí an Stát nó an Rialtas' in s2(1)(c) of the Hallmark Act, 1981. In s1(1)(d) of the European Communities Act, 1972, 'the Convention on certain Institutions common to the European Communities, signed at Rome on the 25th day of March, 1957' is translated as 'an Coinbhinsiún ar Institiúidí áirithe is coiteann do na Comhphobail Eorpacha, a síníodh sa Róimh an 25ú lá de Mhárta, 1957'. In s9(1)(i) of the Wireless Telegraphy Act, 1926, 'securing compliance with the provisions ... of any convention in relation to wireless telegraphy entered into by the Government of Saorstát Éireann' is translated as 'chun a chur in áirithe go ngéillfar d'fhorálacha aon chonvensiún idirnáisiúnta i dtaobh radio-theleagraíochta ina mbeidh Rialtas Shaorstáit Éireann páirteach'.

*riaracháin* Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that 'de chineál ... riaracháin' would have the sense of 'a kind of administration' and recommends 'riarthach' (translated as 'administrative; dispensing, distributive' in *Ó Dónaill*) as an adjective which would match 'teicniúil'.

*ná* Professor Máirtín Ó Murchú comments that 'ná' is preferable to 'nó', in the direct translation below, in the case of two separate things being involved.

*Ní bhaineann ... le* 'Bain le' is translated as 'concern, relate to' in *Ó Dónaill* – see the commentary on Article 3.

### Direct translation

Ní bhainfidh an t-alt seo le<sup>1</sup> comhaontuithe nó<sup>2</sup> le coinbhinsiúin de chineál teicniúil agus de chineál riarthach<sup>3</sup>.

#### Variants

- 1 'Ní bheidh feidhm ag an alt seo maidir le'
- 2 'ná'
- 3 'de chineál teicniúil riarthach'

## ARTICLE 29.6 AIRTEAGAL 29.6

### TÉACS GAEILGE

Ní bheidh aon chonradh idirnáisiúnta ina chuid de dhlí inmheánach an Stáit ach mar a chinnfidh an tOireachtas.

### LITERAL ENGLISH TRANSLATION

No international treaty will be part of the internal law of the State except as the Oireachtas/Legislature determines.

### ENGLISH TEXT

No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.

### Divergences between the official texts

- 1 'Domestic' is expressed as 'inmheánach', 'internal', in the Irish text.
- 2 'Agreement' is again expressed in the Irish text as 'conradh', which has meanings in the range 'contract'/'treaty'/'agreement', as in s5 of this Article.

### Commentary

*ina chuid de* See *Ó Dónaill* s.v. 'i' for the use of this preposition with the possessive pronoun to express 'parts', along with 'arrangement' and 'numbers' – *Ó Dónaill* cites '*tá sé briste ina dhá chuid, ina smidiríní*, it is broken in two parts, in smithereens', as against '*ina iomláine*, in its entirety'. See the commentary on Article 15.1.2°.

'Real estate included ... in a residuary gift ... shall be deemed to be a part of the residue of his estate' is translated as 'eastát réadach a bheidh ar áireamh ... i mbronntanas iarmhartach ... measfar gur cuid é d'iarmhar a eastáit' in s450(1)(c) of the Income Tax Act, 1967, this same English text being translated as 'estát réalta bheidh ... ina chuid de thabhartas iarmhartach ... tuigfear gur cuid é d'iarmhar a eastáit' in s8(1)(c) of the Finance Act, 1938.

*inmheánach* *Dinneen* translates 'inmheadhónach', the form in the original text, principally as 'internal, inward', citing '*an bheatha inmheadhónach*, the interior life'. DIL cites 'ond rainn inmedonich hisin ind airebthado' ('from that internal part of the possessor') from the ninth-century St Gall Glosses on Priscian. The noun 'inmedón' is cited only from Classical and Modern Irish in DIL; 'medón', however, is cited from the ninth-century St Gall Glosses on Priscian and from Old and Middle Irish sources. See the commentary on Article 24.1, where 'inmheánach' again expresses 'domestic'.

### Direct translation

Ní bheidh aon chomhaontú idirnáisiúnta ina<sup>1</sup> chuid de dhlí intíre<sup>2</sup> an Stáit ach mar a chinnfidh an tOireachtas<sup>3</sup>.

#### Variants

- 1 'mar'
- 2 'baile'
- 3 'ach mar a chinnfear ag an Oireachtas'

# THE ATTORNEY GENERAL AN tARD-AIGHNE

## ARTICLE 30.1 AIRTEAGAL 30.1

### TÉACS GAEILGE

Beidh Ard-Aighne ann, agus is é is comhairleach don Rialtas i gcúrsaí dlí agus tuairimí dlí, agus ní foláir dó gach cumhacht, gach feidhm agus gach dualgas dá mbronntar nó dá gcuirtear air leis an mBunreacht seo nó le dlí a oibriú agus a chomhlíonadh.

### LITERAL ENGLISH TRANSLATION

There will be an Attorney General, and it is he who is adviser to the Government in matters of law and legal opinions, and he must operate and fulfil every power, every function and every duty which is conferred or imposed on him by this Constitution or by law.

### ENGLISH TEXT

There shall be an Attorney General who shall be the adviser of the Government in matters of law and legal opinion, and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this Constitution or by law.

Note that s6(1) of the Ministers and Secretaries Act, 1924, which section deals specifically with the Attorney General, reads as follows:

There shall be vested in the Attorney-General of Saorstát Éireann (who shall be styled in Irish *Príomh-Atúrnae Shaorstáit Éireann* and shall be appointed by the Governor-General on the nomination of the Executive Council) the business, powers, authorities, duties and functions formerly vested in or exercised by the Attorney-General for Ireland, ... the Law Adviser to the Lord Lieutenant of Ireland ... together with the duty of advising the Executive Council and the several Ministers in matters of law and of legal opinion. *Dílseofar i bPríomh-Atúrnae Shaorstáit Éireann (a ceapfar ag an Seanascal ar ainmniú ón Ard-Chomhairle) an gnó, na comhachta, na húdaráis, na dualgaisí agus na feidhmeanna a bhí dílsithe roimhe seo i bPríomh-Atúrnae na hÉireann, ... sa Chomhairleach Dlí do Lord Lieutenant na hÉireann, ... maraon le n-a bheith de dhualgas air an Ard-Chomhairle agus gach duine de sna hAíre do chomhairliú i gcúrsaí dlí agus oipineoin dlí.*

### Divergences between the official texts

- 1 'Beidh Ard-Aighne ann', expressing 'There shall be an Attorney General', is made a statement in itself in the Irish text, followed by a comma not found in the English text.
- 2 'Who shall be the adviser of the Government' is expressed as 'agus is é is comhairleach don Rialtas' ('and it is he who is / shall be the adviser to the Government') in the Irish text.

- 3 'Legal opinion' is expressed in the plural in the Irish text.
- 4 'All such powers, functions and duties' is expressed as 'gach cumhacht, gach feidhm agus gach dualgas' ('all powers, all functions and all duties' / 'every power, every function and every duty') in the Irish text.
- 5 'Exercise and perform' is expressed by 'oibrigh agus comhlíon' ('operate and fulfil/perform') in the Irish text, as we have seen in some earlier Articles.
- 6 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

### Commentary

*Ard-Aighne* Translated as 'Attorney-General' in *Téarmaí Dlí* and in *Ó Dónaill*, this compound does not appear to be given as a headword in *Dinneen*, who translates 'aighne' as 'a pleader', giving the seventeenth-century 'Contention of the Bards' as source. *Ó Dónaill* translates 'aighne' as 'pleader, advocate'. According to Fergus Kelly (op. cit., p. 56, n. 137), the etymology of Old Irish 'aigne' is obscure, early Irish law-texts distinguishing two types of professional lawyer, the 'brithem' and the 'aigne', these being assigned to separate parts of the court. Professor Kelly writes as follows (p. 56):

If the *brithem* fulfils some of the functions of a modern judge, the *aigne* can be equated with the modern barrister or advocate. His job is to plead the case of his client in court, and – if successful – he is entitled to one third of his client's award.

D.A. Binchy suggested that the original function of the 'aigne' may have been 'to steer the claimant through the shoals and quicksands of the law of distraint' (op. cit., p. 185). DIL translates 'aigne' as 'one learned in law or in the practice of law, lawyer, advocate, pleader'. 'Aignes' ('arguing, pleading; argument'), Modern Irish 'aighneas' (in '*aighneas a chur ar dhuine*, to accost someone; to start an argument with someone'), is based on 'aigne', as is 'aighneacht' ('submission' in *Téarmaí Dlí*, not given as a headword in *Ó Dónaill*).

'The Attorney General' was styled in Irish 'an tÁrd-Atúrnae', 'an Príomh-Atúrnae' and 'an tArd-Aighne' in turn. For the salaries and expenses of the Office of the Attorney General' is translated as 'le haghaidh tuarastail agus costais Oifig an Ard-Aighne' in the Second Schedule to the Appropriation Act, 1981, for example, with 'For the Salaries and Expenses of the Office of the Attorney-General' being translated as 'Chun Tuarastail agus Costaisí Oifig an Phríomh-Atúrnae' in Schedule B of the Appropriation Act, 1934. The Margin Title of s44 of the Prevention of Electoral Abuses Act, 1923, 'Inquiry by Attorney-General into alleged corrupt or illegal practices', is translated as 'An tArd-Atúrnae

do dhéanamh fiosrúchán i gcleachtanna cuirpthe no nea-dhleathacha adéarfara a bhí ar siúl'. In the Long Title of the Ministers and Secretaries Act, 1924, 'declaring the functions and powers of the Attorney-General' is translated as 'feidhmeanna agus comhachta an Phríomh-Atúrnae d'fhaisnéis'. The 'Attorney-General of Saorstát Éireann' is styled 'Príomh-Atúrnae Shaorstáit Éireann' in the Long Title of the Erasmus Smith Schools Act, 1938, 'An Act to make provision for regulating the salaries of ... the Attorney-General' being translated as 'Acht chun socruithe do dhéanamh i dtaobh tuarastal ... an Ard-Aighne ... do rialáil' in the Long Title of the Ministerial and Parliamentary Offices Act, 1938.

*comhairleach* 'Cómhairleach' is translated as 'an adviser, a counsellor, a mentor' in *Dinneen*, who cites '*is olc an comhairleach air tú*, you are a bad mentor to him'. *Dinneen* gives 'cómhairleoir' as a separate headword, translated as 'a counsellor, an adviser, member of a council', citing '*cómhairleoir cathrach*, a city councillor'. *Ó Dónaill* gives 'comhairleoir' as the standard form of the noun 'comhairleach', translating 'comhairleoir' as (1) 'adviser, counsellor', citing '*comhairleoir dlí*, legal adviser' and (2) 'councillor', citing '*comhairleoir contae*, county councillor'. DIL gives but one citation of 'comairlightheóir' ('counsellor, adviser') – 'comhairlightheóir Herean' being cited from the *Annals of Inisfallen*, s.a. 1281. The noun 'comairlech', translated as 'adviser, counsellor' in DIL, is cited there from the ninth-century wisdom-text, *Tecosca Cormaic*, also citing 'is tu ... bus comairlech ... doib'. 'Comairlech' is based on 'comairle', verbal noun of 'con-airlethar' ('consults, takes counsel, advises').

'Any fees due to a consultant or adviser engaged pursuant to this section shall be paid by an tÚdarás out of moneys at its disposal' is translated as 'ioclfaidh an tÚdarás as airgead a bheidh faoina réir aige aon táill a bheidh dlite do shainchomhairleoir nó do chomhairleoir a fostaíodh de bhun an ailt seo' in s13(1) of the Údarás na Gaeltachta Act, 1979. In s107(3) of the Defence Forces (Temporary Provisions) Act, 1923, 'A Courts-Martial may ... cause a legal adviser to be removed from the Court' is translated as 'Féadfidh Arm-Chúirt ... a chur fé ndéar comhairleach dlí do chur amach as an gCúirt'. We find 'comhairleoir' in the Electricity (Supply) Act, 1927, s26(1) of which commences as follows:

The Board may from time to time employ such technical or other advisers as it thinks fit to advise it in regard to any matter or thing .... *Féadfidh an Bord ó am go ham pé comhairleoirí teicniúla no comhairleoirí eile is oiriúnach leis d'fhostú chun comhairle do thabhairt do i dtaobh éinní no aon ruda.*

'The Chief Engineering Adviser of the Department of the Environment' is styled 'Príomh-Chomhairleoir Innealtóireachta na Roinne Comhshaoil' in 25(2)(e) of the Local Government (Planning and Development) Act, 1983.

*dá gcuirtear air* 'Imposes on, subject to' is given in *Ó Dónaill* as one of the senses of 'cuir ar' (literally 'place on'), citing '*cúram, dualgas, a chur ar dhuine*, to place a responsibility, a duty, on someone'. *Dinneen* translates 'cuirim ar' as 'I impose as an injunction on, ascribe to ...'. From an early Irish law-tract, DIL s.v. 'fo-ceird', cites 'turfochruic flathu foceird for doim' ('which he grants to

an indigent person [i.e. one of the seven bestowals not recoverable by law]).

'All or any of the powers and duties conferred on the Registrar of Titles by this Part may be exercised and performed by such of his officers as the Minister may authorise in that behalf' is translated as 'Féadfaidh cibé oifigeach de chuid Chláraitheoir na dTeideal a bheidh údaraithe chuige sin ag an Aire gach ceann nó aon cheann de na cumhachtaí agus de na dualgais a bhronntar nó a chuirtear ar Chláraitheoir na dTeideal leis an gCuid seo a chomhlíonadh' in s25 of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978. In s7(3) of the Adaptation of Enactments Act, 1922, 'bodies whose or any of whose jurisdictions, powers or duties are by such Order conferred or imposed on such Board' is translated as 'na cóluchtaí eile go ndineann an t-Ordú san a n-údaráis, a gcomhachtanna no a ndualgais no aon cheann aca do bhronna no do chur ar an mBórd san'. 'Any undertaking, duties or powers, established, imposed or exercised under any order having the force of an Act of Parliament' is translated as 'aon toisc, dualgaisí no comhachtanna a bheadh bunuithe, nasctha no á bhfeidhmiú fé aon ordú 'na mbeadh feidhm Achta Pháirliminte aige' in s1(j) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923.

*tuairimí dlí* In s6 of the Ministers and Secretaries Act, 1924, 'in matters of law and legal opinion' is translated as 'i gcúrsaí dlí agus oipineoin dlí', as we saw above. 'Legal opinion (high)' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tuairim árd-bharánta dhlí' in a Report of the Public Accounts Committee, 1928. 'To meet the cost of obtaining second medical opinions' is translated as 'chun íoc do dhéanamh i gcostas athbharúla leagha d'fháil' in s2(a) of the National Health Insurance Act, 1928. In s30 of the Third Schedule to the Diplomatic Relations and Immunities Act, 1967, 'a request shall be made for an advisory opinion on any legal matter involved' is translated as 'iarrfar tuairim chomhairleach ar aon cheist dlí a bheidh ann'. See the commentary on Articles 22.2.1° and 24.1 as regards 'tuairim'.

*gach ... dá* See the commentary on Article 13.3.2°. Looking at the Acts as regards 'all such', 'The Supreme Court shall have all such powers as are conferred by this Part on the Court' is translated as 'Beidh ag an gCúirt Uachtarach na cumhachta uile a bheirtear don Chúirt leis an gCuid seo' in s53 of the Arbitration Act, 1954, for example. Commenting on the direct translation below, Professor Máirtín Ó Murchú recommends translating 'and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this Constitution or by law' more naturally as 'feidhmeoidh agus comhlíonfaidh sé nó sí a dtabharfar dó nó di, nó a gcuirfeair air nó uirthi, leis an mBunreacht seo nó le dlí de chumhachtaí, d'fheidhmeanna, agus de dhualgais'.

*ní foláir do* See the commentary on Article 11.

*a oibriú agus a chomhlíonadh* See the commentary on Articles 3 and 12.1.

*dá mbronntar air* See the commentary on Article 13.1.

**Gender-proofed Irish text**

Beidh Ard-Aighne ann, agus is é nó is í is comhairleach don Rialtas i gcúrsaí dlí agus tuairimí dlí, agus ní foláir dó nó di gach cumhacht, gach feidhm agus gach dualgas dá mbronntar nó dá gcuirtear air nó uirthi leis an mBunreacht seo nó le dlí a oibriú agus a chomhlíonadh.

**Direct gender-proofed translation**

Beidh Ard-Aighne ann ar comhairleoir an Rialtais i gcúrsaí dlí agus tuairimí dlí é nó í,<sup>1</sup> agus déanfaidh sé nó sí na cumhachtaí, na feidhmeanna agus na dualgais sin uile<sup>2</sup> a thabharfar dó nó di, nó a chuirfear<sup>3</sup> air nó uirthi, leis an mBunreacht seo nó le dlí, a fheidhmiú agus a chomhlíonadh<sup>4</sup>.

**Variants**

- 1 'Beidh Ard-Aighne ar comhairleoir an Rialtais i gcúrsaí dlí agus tuairimí dlí é nó í ann,' 'Beidh Ard-Aighne ann a bheidh mar chomhairleoir / ina chomhairleoir nó ina comhairleoir don Rialtas i gcúrsaí dlí agus tuairimí dlí.'
- 2 'go léir'
- 3 'a fhorchuirfear'
- 4 'feidhmeoidh agus comhlíonfaidh sé nó sí a dtabharfar dó nó di, nó a gcuirfear air nó uirthi, leis an mBunreacht seo nó le dlí de chumhachtaí, d'fheidhmeanna, agus de dhualgais'

## ARTICLE 30.2 AIRTEAGAL 30.2

**TÉACS GAELIGE**

Is ag an Uachtarán a cheapfar an tArd-Aighne arna ainmniú sin ag an Taoiseach.

**LITERAL ENGLISH TRANSLATION**

It is by the President that the Attorney General will be appointed on his having been nominated by the Taoiseach.

**ENGLISH TEXT**

The Attorney General shall be appointed by the President on the nomination of the Taoiseach.

**Divergences between the official texts**

- 1 'On the nomination of the Taoiseach' is expressed as 'arna ainmniú sin ag an Taoiseach' ('on his having been nominated by the Taoiseach') in the Irish text.

Note that 'There shall be vested in the Attorney-General of Saorstát Éireann (who shall be styled in Irish *Príomh-Atúrnae Shaorstáit Éireann* and shall be appointed by the Governor-General on the nomination of the Executive Council)' is translated as 'Dilseofar i bPríomh-Atúrnae Shaorstáit Éireann (a cheapfar ag an Seanascal ar ainmniú ón Ard-Chomhairle)' in s6(1) of the Ministers and Secretaries Act, 1924.

**Commentary**

*arna ainmniú sin* See the commentary on Article 13.1.1°. 'Arna' is a compound of the preposition 'ar' and the possessive adjective 'a', and is used with the verbal noun

to express 'on his, its, having been ...' – Ó *Dónaill* cites '*arna chríochnú dom*, when I had completed it' and '*arna fhoilsiú ag*, published by'. Turning to 'sin', Ó *Dónaill* cites '*a mhac sin*, that man's son' and '*lena dtaobh sin*, as compared to those' as examples of 'sin' with the third person possessive adjective followed by a noun. DIL cites 'a fíus sin' ('knowledge of that') from the eighth-century Würzburg Glosses on the Pauline Epistles. In the present instance, according to Professor Máirtín Ó Murchú, the exact nuance would be expressed in English by stressing 'his'.

In s6(3)(b) of the Córas Beostoic agus Feola Act, 1979, 'three persons who shall represent the producers of bovine animals and sheep who shall be appointed by the Minister on the nomination of such organisations as the Minister considers to be representative of such producers' is translated as 'triúr a bheidh ionadaitheach do tháirgeoirí bó-ainmhithe agus caorach agus a cheapfaidh an tAire ar ainmniú cibé eagraíochtaí a mheasfaidh an tAire a bheidh ionadaitheach do na táirgeoirí sin'.

**Gender-proofed Irish text**

Is ag an Uachtarán a cheapfar an tArd-Aighne arna ainmniú nó arna hainmniú sin ag an Taoiseach.

**Direct translation**

Déanfaidh an tUachtarán an tArd-Aighne a cheapadh<sup>1</sup> ar ainmniú an Taoisigh<sup>2</sup>.

**Variants**

- 1 'An tUachtarán a cheapfaidh an tArd-Aighne', 'Ceapfaidh an tUachtarán an tArd-Aighne'
- 2 'ar an Ard-Aighne a ainmniú ag an Taoiseach', 'ar ainmniú ón Taoiseach'

## ARTICLE 30.3 AIRTEAGAL 30.3

**TÉACS GAELIGE**

I gcás gach coir agus cion dá dtugtar in aon chúirt a bhunaítear faoi Airteagal 34 den Bhunreacht seo, ach amháin cúirt dlínse achomaire, is in ainm an Phobail agus ar agra an Ard-Aighne, nó ar agra dhuine éigin eile a údaraítear ina chomhair sin de réir dlí, a dhéanfar an cúiseamh.

**LITERAL ENGLISH TRANSLATION**

In the case of every crime and offence that is brought in any court which is established under Article 34 of this Constitution, except a court of summary jurisdiction, it is in the name of the People and at the suit of the Attorney General, or at the suit of some other person who is authorised for that in accordance with law, that the charge will be made.

**ENGLISH TEXT**

All crimes and offences prosecuted in any court constituted under Article 34 of this Constitution other than a court of summary jurisdiction shall be prosecuted in the name of the People and at the suit of the Attorney General or



some other person authorised in accordance with law to act for that purpose.

### Divergences between the official texts

- 1 'Prosecuted' is expressed as '(dá) dtugtar', '(that is) brought', in the Irish text; 'I prosecute' is translated as 'tugaim ar aghaidh' in *Téarmaí Dlí*.
- 2 'Shall be prosecuted in the name of the People' is expressed as 'is in ainm an Phobail ... a dhéanfar an cúiseamh' ('it is in the name of the People that the charge will be made') in the Irish text.
- 3 'Authorised in accordance with law to act for that purpose' is expressed as 'a údaraítear ina chomhair sin de réir dlí' ('authorised for that in accordance with law') in the Irish text.
- 4 'All crimes and offences' is expressed as 'I gcás gach coir agus cion' ('In the case of every crime and offence') in the Irish text.
- 5 'Constituted' is expressed as 'a bhunaítear', 'established', in the Irish text.

J.M. Kelly (op. cit., p. 207) reports as follows on reference made to this section in the courts:

In *The State (Ennis) v Farrell* ([1966] IR 107), where what was in issue was the question whether the right of a common informer had survived the constitutional provision restricting the bringing of prosecutions to the Attorney General 'or some other person authorised in accordance with law to act for that purpose', Ó Dálaigh CJ (with whom the rest of the Supreme Court agreed) pointed out that the Irish counterpart of 'authorised', namely 'a údaraítear' was:

'quite express as a present autonomous form in negating the idea of the authorisation required being such only as might be made in the future.'

He contrasted Article 34.4.3 (on the right of appeal to the Supreme Court from High Court decisions), where the clear future form of the Irish verb 'ordófar' put the future sense of the phrase 'as may be prescribed' beyond doubt. On the word 'prosecuted' in the same section, he said this was to be understood in its widest sense; this was confirmed by the Irish text, where the equivalent used was 'tugtar' = 'brought'.

J.M. Kelly comments on the above as follows:

It must be seriously doubted whether the Constitution will stand up to such minute linguistic exegesis, or whether one's sense of reality – bearing in mind the history of the Irish version – can remain suspended in the face of it. If the words of Ó Dálaigh CJ mean, as they seem to, that the use of the present form imports a situation existing in 1937, it suggests – to remain with Article 30 – that the regulation of the Attorney General's office was to be contained in post-1937 legislation ('is de réir dlí a rialófar oifig an Ard-Aighne'), whereas the basic legislation on the office is contained in s6 of the Ministers and Secretaries Act 1924. Another instance is Article 16.5: while the Irish version says, in regard to fixing a shorter period than seven years for the maximum duration of a Dáil, 'féadfar ré is giorra ná sin a shocrú le dlí,' the actual five-year term observed from 1937 until the enactment of s10 of the Electoral Act 1963, was that prescribed by s7 of the Electoral (Amendment) Act 1927. These examples could be much extended.

### Commentary

*Igcás gach coir agus cion* One would expect the genitive to follow the prepositional phrase 'i gcás', i.e. 'i gcás gach coire agus ciona', but in such a sequence of nouns avoidance of inflection is unexceptionable, according to Professor Máirtín Ó Murchú.

'Coir' is translated as 'crime' in *Téarmaí Dlí*, as 'crime, offence; fault, transgression' in *Ó Dónaill*, and as 'sin, crime, accusation, trespass' in *Dinneen*. 'Caire' is translated as 'crime, fault, sin' in DIL, where 'in cairi' is cited from the ninth-century Milan Glosses on the Commentary on the Psalms, glossing Latin 'notam iniquitatis puplicae'.

'Cion' is translated as 'offence' in *Téarmaí Dlí*, as 'offence, transgression; blame' in *Ó Dónaill* and as 'sin, transgression, a fault, guilt; passion, desire' in *Dinneen*, who cites '*catha na gcean sríanach*, the hosts of restrained desires' from the poetry of Pádraigín Haicéad (c. 1600-1654). DIL cites 'ní nach cin aile' ('it is not any other fault') from the eighth-century Würzburg Glosses on the Pauline Epistles, translating 'cin' as 'guilt, fault, crime' and, in legal contexts, 'offence, crime, etc. for which the doer is answerable at law, hence with meaning liability, guilt, incurred penalty'. In his 'Index of Irish Terms' appended to *A Guide to Early Irish Law*, Fergus Kelly cites '*cin comocuís*, the crime of a kinsman', '*cin súilo*, the crime of an eye (i.e. culpable onlooking)', '*sensmúr cinad*, the old embers of an offence', '*duinechin*, human offence' and '*ropchin*, animal offence', along with the maxim 'marbaid cach marb a chinta' ('every dead man kills his offences') – i.e. liability for a man's personal offences does not pass on to his heirs after his death (ibid, p. 157). See further the commentary on Article 38.1.

Turning to the Acts, 'promotes, encourages, or advocates the commission of crimes or offences' is translated as 'go gcuireann sé ar aghaidh, go misníonn sé, no go molann sé coirthe no ciontaí do dhéanamh' in s4(1)(e) of the Public Safety Act, 1927. 'Genocide and the other acts enumerated in article III shall not be considered as political crimes for the purpose of extradition' is translated as 'Ní mheasfar gur coireanna polaitiúla chun críche eiseachadta cinédhíothú ná na gníomhartha eile a áirítear in airteagal III' in Article VII of the Genocide Act, 1973.

Looking at 'offence' in association with 'prosecute', 'nothing in this section ... shall operate to affect the power of any person ... to prosecute in respect of any offences under the Principal Act' is translated as 'ní oibreoidh éinní san Alt so ... chun deifir do dhéanamh do chomhacht aon duine ... chun cúisimh do dhéanamh maidir le haon chiontaí féin bPríomh-Acht' in s31(4) of the Merchandise Marks Act, 1931. 'Without prejudice to the powers or functions of any other prosecuting authority, to bring or prosecute proceedings in relation to offences under the Acts' is translated as 'gan dochar do chumhachtaí ná d'fheidhmeanna aon údaráis ionchúisimh eile, imeachtaí a thionscnamh nó a thabhairt ar aghaidh i ndáil le ciontaí faoi na hAchtanna' in s9(6)(h) of the Consumer Information Act, 1978. In s1(4) of the Courts (No. 3) Act, 1986, 'any person authorised by or under statute to prosecute the offence' is translated as 'aon duine a bheidh údaraithe le reacht nó faoi reacht chun cion a ionchúiseamh'. In the Table accompanying s72 of the Fisheries Act, 1980, 'An offence under any provision of this Act, may, if prosecuted summarily, be prosecuted by the Minister' is translated as

'Féadfaidh an tAire cion faoi aon fhoráil den Acht seo a ionchúiseamh más go hachomair a ionchúiseofar é'. Finally, 'An offence under this Act may be prosecuted by the Minister' is translated as 'Féadfaidh an tAire cion faoin Acht seo a ionchúiseamh' in s11 of the Milk (Miscellaneous Provisions) Act, 1979, with 'Féadfaidh an Cumann inchúiseamh a dhéanamh i leith ciona faoin Acht seo' translating 'An offence under this Act may be prosecuted by the Society' in s77(1) of the Solicitors Act, 1954.

Note that 'coir' translates 'offence' in Article 71 of the 1922 Constitution, where 'shall not be tried by any Court Martial ... for an offence cognisable by the Civil Courts' is translated as 'ní thrialfaidh aon Chúirt Airm ... é in aon choir intrialta ag sna Cúirteanna Síbhialta'. In s13(2) of the Adaptation of Enactments Act, 1922, however, 'he shall be guilty of an offence under the Customs Act' is translated as 'beidh sé ciontach i gcionnta fé Achtanna na gCustum'.

*dá dtugtar* 'Tugaim ar aghaidh' is translated as 'I prosecute (appeal, proceedings, etc.)' in *Téarmaí Dlí*. 'Give', 'take' and 'bring' are the three principal senses of 'tabhair' in *Ó Dónaill*.

'Local authority's power to prosecute' is translated as 'Cumhacht ag údarás áitiúil ionchúiseamh a thionscnamh' in the Margin Title of s31 of the Local Government (Water Pollution) Act, 1977, which section reads as follows:

Where under this Act a local authority may prosecute for an offence, the authority may so prosecute whether or not the offence occurred in ... the authority's ... functional area. *I gcás a bhféadfaidh údarás áitiúil faoin Acht seo ionchúiseamh i gcion a thionscnamh, féadfaidh an t-údarás an t-ionchúiseamh a thionscnamh amhlaidh cibé acu i limistéar feidhmiúcháin an údaráis ... nó nach ea a tharla an cion.*

In s17(3) of the Electricity (Supply) Act, 1927, 'the Board may sue or prosecute and be sued or prosecuted as the owner of the said works' is translated as 'féadfidh an Bord dul chun dlí nó dlí do chur ar dhuine agus féadfar dul chun dlí leis an mBord no dlí do chur air mar únaer ar na hoibreacha san'.

Looking at early Acts, 'Provided that nothing in this Act shall be construed to prevent any person from instituting or prosecuting any proceedings under the Indemnity Act, 1920' is translated as 'Ach ní léireofar éinní san Acht so chun éinne do chosc ar aon imeachta do bhunú no do chur ar aghaidh fén Acht Slánuíochta, 1920' in s1 of the Indemnity (British Military) Act, 1923. 'Fails to prosecute any proceedings with due diligence and effect' is translated as 'do dhéanamh faillí ar aon imeachta do phróiseacht le dícheall agus le héifeacht chuibhe' in s41(1)(c) of the Land Act, 1923. 'In case the action is one fit to be prosecuted in the High Court' is translated as 'más aicsean é is oiriúnach le plé san Ard-Chúirt' in s48 of the Courts of Justice Act, 1924. Finally, 'The Prosecuting Officer' is styled in Irish 'An tOifigeach Cúisimh' in s93(3) of the Defence Forces (Temporary Provisions) Act, 1923.

Professor Máirtín Ó Murchú remarks, regarding the direct translation below, that the phrase 'a thabharfar ar aghaidh' is very awkward to handle in the whole syntax ('an-aimlithe le láimhseáil sa chomhréir iomlán') and therefore almost unintelligible, this however being the phrase given in *Téarmaí Dlí*. Although admitting that 'cúiseamh' is not the precise corresponding term, Professor Ó Murchú suggests translating the clause here as 'a

dhéanfar cúiseamh ar gach coir agus cion dá ndéanfar cúiseamh orthu in aon chúirt'.

*cúirt dlínse achomair* This phrase is translated as 'court of summary jurisdiction' in *Téarmaí Dlí*, 'dlínse achomair' (translated as 'summary jurisdiction') being in the genitive case following 'cúirt'. See the commentary on Article 3 regarding 'dlínse'. 'Athchomair' is translated as 'near, approximate; concise, compendious, quick, sudden' in *Dinneen*. DIL translates 'athchumair' as 'concise, brief', no examples being cited from the earlier sources; 'cum-mair', to which a prefix has been added in 'athchumair', is a compound of 'com' and 'berr' ('short'), and is cited in DIL from the *Tripartite Life of Patrick*, composed at the end of the ninth or beginning of the tenth century. See further the commentary on Article 38.2.

'Summary jurisdiction' is translated as 'dlínse achomair' in the Margin Title of s12 of the Criminal Law (Rape) Act, 1981, s12(1) reading as follows:

A justice of the District Court shall have jurisdiction to try summarily an offence to which section 10 or 11 relates .... *Beidh dlínse ag breitheamh den Chúirt Dúiche cion lena mbaineann alt 10 nó 11 a thriail go hachomair.*

'Courts of Summary Jurisdiction' is translated as 'Cúirteanna Údaráis Achmair' in Article 75 of the 1922 Constitution, 'the Summary Jurisdiction Acts' being translated as 'na hAchtanna Údaráis Achmair' in s4(6) of the Interpretation Act, 1923. 'All penalties costs and expenses under bye-laws may be recovered by the Board before a Court of summary jurisdiction' is translated as 'féadfidh an Bord gach fineáil, costas, agus caitheachas fé fho-dhlithe do bhaint amach i láthair Cúirte dlíghinse achmair' in s37(2)(ii) of the Dublin Port and Docks (Bridges) Act, 1929. See the commentary on Article 13.6 regarding 'cúirt dlínse coire', 'court of criminal jurisdiction'.

*ar agra dhuine éigin* According to the official standard, 'duine' would be unlenited following a verbal noun preceded by a preposition – see s6(I) of the chapter headed 'Séimhiú agus Urú' in *An Caighdeán Oifigiúil*, where 'ar thógáil cathrach' is cited.

'Agra' is translated as 'suit' in *Téarmaí Dlí*, where 'ar agra' is translated as 'at the suit of'. 'Agra dlí' is translated as 'lawsuit' in *Ó Dónaill*. 'Agradh' agus 'agra', along with 'agairt' agus 'agar', are given as forms of the verbal noun of 'agraim' in *Dinneen*, 'I sue' being given as one of the senses of 'agraim', citing '*agraim é san chion*, I sue him for the crime'. As Fergus Kelly (op. cit., p. 190, n. 3) states, 'Old Irish "acrae" is the verbal noun of "ad-gair", literally "calls to", i.e. "sues, takes legal action"'. DIL translates 'acra(e)' as 'act of suing, prosecuting, bringing an action, urging a claim; action, suit, process', citing 'ní bethe fria acre' ('ye should not be seeking redress for it') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'In this Act "the prosecutor", in relation to an offence, means the person by whom the offence is prosecuted, being the Attorney General, a person prosecuting at the suit of the Attorney General or a person authorised by law to prosecute' is translated as 'San Acht seo ciallaíonn "an t-ionchúisitheoir", maidir le cion, an duine atá ag ionchúiseamh an chiona, arb é an tArd-Aighne é, duine ag ionchúiseamh ar agra an Ard-Aighne nó duine atá údaraithe le dlí ionchúiseamh a dhéanamh' in s4 of the

Criminal Procedure Act, 1967. In s59 of the Juries Act, 1927, 'The following provisions shall have effect in every trial of a criminal issue which is tried with a jury and is prosecuted at the suit of the Attorney-General of Saorstát Éireann' is translated as 'Beidh éifeacht ag na forálacha so a leanas i ngach triail cheiste coiriúla a trialfar le giúiré agus gur ar agra Phríomh-Atúrnae Shaorstáit Éireann a beifear á cur ar aghaidh'. In s9(1) of the Criminal Justice (Administration) Act, 1924, 'All criminal charges prosecuted upon indictment in any court shall be prosecuted at the suit of the Attorney-General of Saorstát Éireann' is translated as 'Is ar agra Phríomh-Atúrnae Shaorstáit Éireann a cuirfar ar aghaidh gach cúiseamh coiriúil a cuirfar ar aghaidh ar dhíotáil in aon chúirt'. 'In proceedings at the suit of the State or any Minister' is translated as 'in imeachta a bhunóidh an Stát no aon Aire' in s48(vii) of the Courts of Justice Act, 1924. 'In all suits, matters and proceedings to which the Congested Districts Board is a party' is translated as 'i ngach cúis dlí, ní agus imeacht go bhfuil Bord na gCeanntar gCumhang ina pháirtí ionta' in s10 of the Land Law (Commission) Act, 1923, 'the suit' being translated as 'an t-agra' in s1 of the Courts of Justice Act, 1928. Finally, 'the offence shall be taken to be prosecuted at the suit of the convening authority' is translated as 'measfar an cion a bheith á inchúiseamh ar agra an údarás chomórtha' in s188 of the Defence Act, 1954.

*cúiseamh Dinneen* translates 'cúisim' as 'I accuse, charge, prosecute', giving 'cúisighim' as a variant, 'cúisiughadh' being given as the verbal noun. DIL only gives one example of the verbal noun of 'cúisigid' ('cuid do gnimartaib na corp nádurda nach eider do cuiisgiud o na duilib' ['Some actions ... which cannot be traced to the elements']), from the Catalogue of Gaelic Manuscripts in the Advocates Library, Edinburgh, translating the verb 'cúisigid' as 'causes, induces'. This verb is based on 'cúis', which comes from Latin 'causa', DIL giving 'cause, case; debate, controversy' and more specifically 'law, (law) case, suit, charge' as a secondary sense of 'cúis', citing examples of the general sense from the eighth-century Würzburg Glosses on the Pauline Epistles onwards. See the commentary on Articles 12.10.2° and 38.1.

*ina chomhair sin* The prepositional phrases 'faoi chomhair' and 'i gcomhair' are translated by *Ó Dónaill* as 'for, intended for; to get', citing '*i gcomhair an turais*, for the journey'. See the commentary on Article 14.4.

*a bhunaítear* See the commentary on Article 14.1 where 'comhdhéan' expresses 'constitute', along with the commentary on Articles 18.1 and 18.4.1°, 'cóirigh' expressing 'constitute' in the latter.

### Standardised Irish text

I gcás gach coire agus ciona dá dtugtar in aon chúirt a bhunaítear faoi Airteagal 34 den Bhunreacht seo, ach amháin cúirt dlínse achomaire, is in ainm an Phobail agus ar agra an Ard-Aighne, nó ar agra duine éigin eile a údaraítear ina chomhair sin de réir dlí, a dhéanfar an cúiseamh.

### Direct translation

Is in ainm an Phobail agus ar agra an Ard-Aighne nó ar agra duine éigin eile a údarófar de réir dlí chun gníomhú chun na críche sin<sup>1</sup> a dhéanfar gach coir agus cion a thabharfar ar aghaidh<sup>2</sup> in aon chúirt a bheidh bunaithe<sup>3</sup> faoi Airteagal 34 den Bhunreacht seo, seachas cúirt dlínse achomaire, a thabhairt ar aghaidh.<sup>4</sup>

### Variants

- 1 'chuige sin'
- 2 'a dhéanfar cúiseamh ar gach coir agus cion dá ndéanfar cúiseamh orthu'
- 3 'arna bunú', 'ama comhdhéanamh'
- 4 'Déanfar gach coir agus cion a thabharfar ar aghaidh in aon chúirt a bheidh bunaithe faoi Airteagal 34 den Bhunreacht seo, seachas cúirt dlínse achomaire, a thabhairt ar aghaidh in ainm an Phobail agus ar agra an Ard-Aighne nó ar agra duine éigin eile a údarófar de réir dlí chun gníomhú chun na críche sin.'

## ARTICLE 30.4 AIRTEAGAL 30.4

### TÉACS GAELIGE

Ní cead an tArd-Aighne a bheith ina chomhalta den Rialtas.

### LITERAL ENGLISH TRANSLATION

The Attorney General's being a member of the Government is not permitted.

### ENGLISH TEXT

The Attorney General shall not be a member of the Government.

### Divergences between the official texts

- 1 'Shall not' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in some earlier Articles.

Note that Article 63 of the 1922 Constitution contains the following:

He shall not be a member of the Oireachtas .... *Ní bheidh sé 'na bhall den Oireachtas.*

### Commentary

*Ní cead* See the commentary on Article 9.1.3°; DIL cites 'is cet' ('it is allowable') from earlier literature. Note that s6(2) of the Ministers and Secretaries Act, 1924, contains the following:

The Attorney-General may be or become a member of Dáil Éireann, and if he is a member of Dáil Éireann at the time of his appointment he shall not be under any obligation to resign his seat or to submit himself for re-election. *Féadfaidh an Príomh-Atúrnae bheith no teacht chun bheith ina bhall de Dháil Éireann, agus más ball de Dháil Éireann é le linn a cheaptha ní bheidh sé fé aon oblagáid a shuíochán do thabhairt suas ná dul fé aththogha.*

Professor Máirtín Ó Murchú suggests translating this section simply as ‘Ní comhalta den Rialtas an tArd-Aighne’, thereby avoiding gender-proofing and also being as exact a translation of ‘shall not’ as ‘ní bheidh’ in the direct translation below.

### Gender-proofed Irish text

Ní cead an tArd-Aighne a bheith ina chomhalta nó ina comhalta den Rialtas.

### Direct gender-proofed translation

Ní bheidh an tArd-Aighne ina chomhalta nó ina comhalta den Rialtas.<sup>1</sup>

#### Variant

1 ‘Ní comhalta den Rialtas an tArd-Aighne.’

## ARTICLE 30.5.1<sup>o</sup> AIRTEAGAL 30.5.1<sup>o</sup>

#### TÉACS GAEILGE

Tig leis an Ard-Aighne éirí as oifig uair ar bith trína chur sin in iúl don Taoiseach chun an scéal a chur faoi bhráid an Uachtaráin.

#### LITERAL ENGLISH TRANSLATION

The Attorney General may give up office at any time by informing the Taoiseach of that in order to put the matter before the President.

#### ENGLISH TEXT

The Attorney General may at any time resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

### Divergences between the official texts

The same divergences as noted as regards Articles 28.9.1<sup>o</sup> and 28.9.2<sup>o</sup> apply here.

#### Commentary

See the commentary on Articles 28.9.1<sup>o</sup> and 28.9.2<sup>o</sup>.

#### Direct translation

Féadfaidh an tArd-Aighne uair<sup>1</sup> ar bith éirí as oifig ach dearbhú<sup>2</sup> air sin<sup>3</sup> a chur i lámha an Taoisigh lena chur<sup>4</sup> faoi bhráid an Uachtaráin.

#### Variants

- 1 ‘tráth’
- 2 ‘deimhniú’
- 3 ‘trína éirí-as nó trína héirí-as’
- 4 ‘le cur’

## ARTICLE 30.5.2<sup>o</sup> AIRTEAGAL 30.5.2<sup>o</sup>

#### TÉACS GAEILGE

Tig leis an Taoiseach, ar ábhair is leor leis féin, a iarraidh ar an Ard-Aighne éirí as oifig.

#### LITERAL ENGLISH TRANSLATION

The Taoiseach may, for reasons which he himself considers sufficient, ask the Attorney General to give up office.

#### ENGLISH TEXT

The Taoiseach may, for reasons which to him seem sufficient, request the resignation of the Attorney General.

### Divergences between the official texts

The same divergences as noted regarding the first half of Article 28.9.4<sup>o</sup> apply here.

#### Commentary

See the commentary on Article 28.9.4<sup>o</sup>.

### Gender-proofed Irish text

Tig leis an Taoiseach, ar ábhair is leor leis féin nó léi féin, a iarraidh ar an Ard-Aighne éirí as oifig.

### Direct gender-proofed translation

Féadfaidh an Taoiseach, ar chúiseanna is leor leis féin nó léi féin<sup>1</sup>, iarraidh ar an Ard-Aighne éirí as<sup>2</sup>.

#### Variants

- 1 ‘ar chúiseanna is leor leis nó léi’
- 2 ‘éirí as oifig’

## ARTICLE 30.5.3<sup>o</sup> AIRTEAGAL 30.5.3<sup>o</sup>

#### TÉACS GAEILGE

Mura ndéana an tArd-Aighne de réir na hachainí sin ní foláir don Uachtarán é a chur as oifig má chomhairlionn an Taoiseach dó é.

#### LITERAL ENGLISH TRANSLATION

If the Attorney General does not act in accordance with that request the President must put him out of office if the Taoiseach recommends it to him.

#### ENGLISH TEXT

In the event of failure to comply with the request, the appointment of the Attorney General shall be terminated by the President if the Taoiseach so advises.

### Divergences between the official texts

- 1 ‘In the event of failure to comply with the request’ is expressed in the Irish text as ‘Mura ndéana an tArd-Aighne de réir na hachainí sin’ (‘If the Attorney General does not act in accordance with that request’), the

English text being followed by a comma, which we do not find in the Irish text. The comma is found in this position in the very similar Article 28.9.4°, where the same Irish text (with ‘an comhalta sin’ replacing ‘an tArd-Aighne’) expresses ‘should the member concerned fail to comply with the request’.

- 2 ‘The appointment of the Attorney General shall be terminated by the President’ is expressed in the Irish text as ‘ní foláir don Uachtarán é a chur as oifig’ (‘the President must put him out of office’), a phrase we have already seen in Article 28.9.4°.
- 3 ‘If the Taoiseach so advises’ is expressed as ‘má chomhairlions an Taoiseach dó é’ (‘if the Taoiseach recommends it to him’) in the Irish text, as also in Article 28.9.4°.

### Commentary

See the commentary on Article 28.9.4°. As regards ‘In the event of’ in the Acts see the commentary on Article 12.3.3°, where we find the phrase ‘má tharlaíonn’. ‘Or, in the event of failure to deliver such statement or return’ is translated as ‘nó, i gcás mainneachtain ráiteas nó tuairisceán den sórt sin a sheachadadh’ in s18(2)(ii) of the Finance Act, 1983. ‘An order for the revocation of a patent under this section may be made so as to take effect either unconditionally, or in the event of failure to comply, within such reasonable period as may be specified in the order’ is translated as ‘Féadfar ordú ag cúlghairm paitinne faoin alt seo a dhéanamh ar dhóigh go mbeidh éifeacht leis gan choinníoll, nó i gcás nach gcomhlionfar, laistigh de cibé tréimhse réasúnach a shonrófar san ordú’ in s43(2) of the Patents Act, 1964. ‘And in the event of failure so to do will repay to the Minister’ is translated as ‘agus, má theipeann air san do dhéanamh, go n-aisíocfaidh leis an Aire’ in s113(2) of the Vocational Education Act, 1930.

### Standardised gender-proofed Irish text

Mura ndéanfaidh an tArd-Aighne de réir na hachainí sin ní foláir don Uachtarán é nó í a chur as oifig má chomhairlions an Taoiseach dó nó di é.

### Direct gender-proofed translation

I gcás mainneachtana ar dhéanamh<sup>1</sup> de réir na hiarrata<sup>2</sup>, déanfaidh an tUachtarán ceapachán an Ard-Aighne a fhoirceannadh<sup>4</sup> má chomhairlions an Taoiseach amhlaidh<sup>5</sup>.

### Variants

- 1 ‘mainneachtain déanamh’
- 2 ‘ar an iarraidh a chomhlíonadh’, ‘ar ghéilleadh don iarraidh’
- 3 ‘I gcás mainneachtana faoi ghéilleadh don iarraidh.’
- 4 ‘a scor’, ‘scoirfidh an tUachtarán ceapachán an Ard-Aighne’
- 5 ‘más é sin / más amhlaidh a mholfaidh/chomhairleoidh an Taoiseach dó nó di’

## ARTICLE 30.5.4° AIRTEAGAL 30.5.4°

### TÉACS GAELIGE

Ní foláir don Ard-Aighne dul as oifig ar éirí as oifig don Taoiseach, ach tig leis leanúint dá dhualgais nó go gceaptar comharba an Taoisigh.

### LITERAL ENGLISH TRANSLATION

The Attorney General must leave office on the Taoiseach’s giving up office, but he may continue with his duties until the Taoiseach’s successor is appointed.

### ENGLISH TEXT

The Attorney General shall retire from office upon the resignation of the Taoiseach, but may continue to carry on his duties until the successor to the Taoiseach shall have been appointed.

### Divergences between the official texts

- 1 ‘Retire from office’ is expressed as ‘dul as oifig’ (‘leave office’) in the Irish text; ‘I retire’ is translated as ‘scoirim as oifig’ in *Téarmaí Dlí*.
- 2 ‘Upon the resignation of the Taoiseach’ is expressed as ‘ar éirí as oifig don Taoiseach’ (‘upon the Taoiseach giving up office’) in the Irish text, as we have already seen in Article 28.11.1°.
- 3 ‘May’ is expressed as ‘tig le’ (‘can’), as we have also seen in earlier sections of this Article, ‘shall’ being expressed as ‘ní foláir’ (‘must’) in the Irish text, as we have seen in many earlier Articles.
- 4 As we have already seen in Article 28.11.1°, ‘continue to carry on his duties’ is expressed as ‘leanúint dá dhualgais’ (‘continue with his duties’) and ‘shall have been appointed’ is expressed as ‘(go) gceaptar’ (‘is appointed’) in the Irish text.

### Commentary

*dul as oifig* Note that we find ‘éirí as oifig’ in the very similar Article 28.11.1°. *Ó Dónaill* cites ‘dul, éirí, as oifig, to leave, retire from, office’, also citing ‘dul as baile, to leave home’ and ‘ná téigh as láthair, don’t absent yourself’. *DIL* cites ‘Annas 7 Coefas ... bliadain no bitis ina n-oifig’, from the *Leabhar Breac* (compiled in 1411 or earlier) as the first of two examples of ‘oifig’ in the sense of ‘tenure of office’, the other citation coming from the seventeenth-century *Annals of the Four Masters* (‘an ccein baóí D. i n-oificc’). ‘Oifig’ comes from Latin ‘officium’. *Téarmaí Dlí* translates ‘scoirim as oifig’ as ‘I retire’ – Professor Máirtín Ó Murchú remarks that this phrase would seem to have a transitive sense, i.e. ‘scoirfeair an bainisteoir as oifig’, for example.

‘He shall retire from office at the first annual general meeting of the society’ is translated as ‘scoirfidh sé dá oifig ag an gcéad chruinniú bliantúil den chumann’ in s124(13) of the Building Societies Act, 1989. ‘At the first annual general meeting of the company all the directors shall retire from office’ is translated as ‘Ag an gcéad chruinniú ginearálta bliantúil den chuideachta scoirfidh na stiúrthóirí go léir dá n-oifig’ in s92 of Table A in the Schedule to the Companies Act, 1963. In Article 53 of the 1922 Constitution, ‘the Ministers nominated by him shall retire from office should he cease to retain the support of a majority in Dáil Éireann’ is translated as ‘imeoidh ... na hAirí a ainmneoidh sé as oifig má chailleann seisean tacúocht mhór-áirimh i nDáil Éireann’. ‘The age of retirement’ is translated as ‘aois oifige d’fhágaint’ in Article 68. In s3(1) of the Comptroller and Auditor-General Act, 1923, ‘The Comptroller and Auditor-General shall retire

from office upon attaining the age of seventy years' is translated as 'Imeoidh an t-Árd-Scrúdaí as oifig ar shlánú a dheich mbliain is trí fichid do'. Finally, 'eirighe as oifig' translates 'retire from office' in *Iris Oifigiúil*, 1927, p. 781, 'dul as feadhmanas' being cited in the *Oireachtas Dictionary of Official Terms* from early *Proceedings of Dáil Éireann* (exact reference unclear).

*éirí as oifig* See the commentary on Article 12.3.1°. See the commentary on Article 12.4.2° regarding 'retire'.

*tig leis* See the commentary on Article 12.4.4°.

*Ní foláir do* See the commentary on Article 11.

*leanúint dá dhualgais* See the commentary on Article 28.11.1°.

*nó go gceaptar comharba* See the commentary on Article 28.11.1°.

### Gender-proofed Irish text

Ní foláir don Ard-Aighne dul as oifig ar éirí as oifig don Taoiseach, ach tig leis nó léi leanúint dá dhualgais nó dá dualgais nó go gceaptar comharba an Taoisigh.

### Direct gender-proofed translation

Scoirfidh an tArd-Aighne dá oifig nó dá hoifig<sup>1</sup> ar éirí as don Taoiseach, ach féadfaidh sé nó sí leanúint air nó uirthi i mbun a dhualgas nó a dualgas<sup>2</sup> go dtí go mbeidh an comharba<sup>3</sup> ar an Taoiseach ceaptha.

#### Variants

- 1 'd'oifig an Ard-Aighne'
- 2 'leanúint air nó uirthi lena dhualgais nó lena dualgais', 'ag seoladh a dhualgas nó a dualgas'
- 3 'go mbeidh comharba'

## ARTICLE 30.6 AIRTEAGAL 30.6

### TÉACS GAEILGE

Faoi chuimsiú na bhforálacha sin romhainn den Airteagal seo is de réir dlí a rialófar oifig an Ard-Aighne, maille leis an tuarastal is iníochta leis an té a bheas i seilbh na hoifige sin.

### LITERAL ENGLISH TRANSLATION

Within the constraint of the foregoing provisions of this Article it is in accordance with law that the office of the Attorney General will be regulated, along with the salary which is payable to the person who will hold that office.

### ENGLISH TEXT

Subject to the foregoing provisions of this Article, the office of Attorney General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

### Divergences between the official texts

- 1 'The office of Attorney General' is expressed in the Irish text as 'oifig an Ard-Aighne' ('the office of **the** Attorney General'), in line with normal Irish syntax.

- 2 'Including' is expressed as 'maille le' ('along with') in the Irish text.
- 3 'Remuneration' is expressed as 'tuarastal' ('salary') in the Irish text, as we saw earlier – 'remuneration' being translated as 'luach saothair' in *Téarmaí Dlí*.
- 4 'To be paid' is expressed as 'is iníochta' ('which is payable') in the Irish text.
- 5 'The holder of **the** office' is expressed as 'an té a bheas i seilbh na hoifige sin' ('the one/person who will hold **that** office') in the Irish text.
- 6 A comma follows 'Article' in the English text, no corresponding comma being found in the Irish text.
- 7 'By law' is expressed as 'de réir dlí' ('in accordance with law') in the Irish text.

### Commentary

*i seilbh na hoifige sin* 'I seilbh' is translated as 'in possession of, in a position to' in *Dinneen* s.v. 'sealbh', 'seilbh' being given as the dative of 'sealbh', this form often being used as the nominative. *Ó Dónaill* translates 'rud a bheith i do sheilbh agat' as 'to possess something'. DIL cites examples of 'i seilbh' in the sense of 'in the possession of' from the Glossary of Cormac mac Cuilleáin († 908) (i.e. 'i seilbh charat Cairpri') onwards. 'Selb' is translated as follows in DIL: I(a) (in concrete sense) 'property, appurtenance, domain, possessions', (b) 'a flock, a herd', (c) (in abstract sense) 'possession, ownership', and II (in early Irish law) (a) 'property, estate', (b) 'ownership, possession'. In his *Guide to Early Irish Law* (p. 89, n. 176), Fergus Kelly refers to 'mac-shealbh' ('son-property'), the term expressing the donation of cattle and other goods a fosterchild received from his parents and fosterparents. Professor Kelly quotes Campion, writing in the sixteenth century, as follows:

They (the Irish) love tenderly their fosterchildren and bequeathe to them a child's portion whereby they nourish sure friendship, so beneficial every way, that commonly five hundredth kyne and better are given in reward to winne a nobleman's childe to foster.

See further the commentary on Article 12.3.1°.

The Margin Title of s2 of the Court Officers (Temporary Appointments) Act, 1924, 'Person appointed under this Act to have powers of holder of office', is translated as 'Duine a ceapfar fén Acht so beidh comhachta sealbhóir na hoifige aige'. 'Or in respect of the death of any subsequent holder who had been the registered holder of such security' is translated as 'no i dtaobh báis aon tsealbhóra 'na dhiaidh sin a bhí 'na shealbhóir cláruithe ar an urrús san' in s13(6) of the Damage to Property (Compensation) Act, 1923. 'For the payment to the last holder of the Office of Governor-General' is translated as 'Chun na híocaíochta leis an duine ba dhéanaí bhí i seilbh Oifige mar Sheanascair' in Schedule (B) of the Appropriation Act, 1937. 'There shall be paid to the holder of the office of Ombudsman the same remuneration and allowances for expenses as are paid to a judge of the High Court' is translated as 'Íocfar le sealbhóir oifig an Ombudsman an luach saothair céanna agus na liúntais chéanna i leith caiteachas a íoctar le breitheamh den Ard-Chúirt' in s3(1) of the Ombudsman Act, 1980.

*an té* The indefinite personal pronoun 'té', used with the article, is translated as 'the person (who)' in *Ó Dónaill*,

citing ‘*an té a dúirt é*, the person who said it’. *Dinneen* translates ‘*an té*’ as ‘he who, the one who, whosoever’, citing the maxim ‘*an té bhrathas is é mharbhas*, he who betrays slays’ and ‘*an Té is feárr*, the Best, God’. ‘*An té*’ developed from ‘*int-í*’, the article combined with the demonstrative particle ‘*í*’ used substantively; on the analogy of ‘*é*’ and ‘*sé*’, ‘*int-í*’ became ‘*int-é*’, this form appearing as early as *Saltair na Rann* (composed c. AD 1000), according to DIL, where ‘*intii labrathar ilbéire*’ (‘he who speaks many languages’) is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

*oifig an Ard-Aighne* ‘The office of Attorney General’ is translated as ‘*oifig an Ard-Aighne*’ in s15(a) of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act, 1973, and in s3(7)(c) of the Oireachtas (Allowances to Members) Act, 1938. ‘For the salaries and expenses of the Office of the Attorney General’ is translated as ‘*Le haghaidh tuarastail agus costais Oifig an Ard-Aighne*’ in the Second Schedule to the Appropriation Act, 1981, and as ‘*Chun Tuarastail agus Costaisí Oifig an Phríomh-Atúrnae*’ in Schedule (B) of the Appropriation Act, 1934. Note that ‘The Office of the Registrar of the Supreme Court’ is styled ‘*Oifig Chláraitheoir na Cúirte Uachtaraí*’ in s3(1) of the Court Officers Act, 1926, and ‘*Oifig Chláraitheora na Cúirte Uachtaraí*’ in *Iris Oifigiúil*, 1926, p. 781. Note also that while ‘*oifig an phoist*’ generally translates ‘post office’, ‘that post office’ would be translated as ‘*an oifig phoist sin*’.

*Faoi chuimsiú* This phrase is translated as ‘within the scope of’ in the Glossary accompanying *An Caighdeán Oifigiúil*, and generally expresses ‘subject to’ in the Constitution; ‘subject to’ is translated as ‘*faoi réir*’ in *Téarmaí Dlí*. See the commentary on Articles 12.5 and 18.7.2°.

*a rialófar* Literally ‘will be ruled’/‘controlled’, this phrase generally expressing ‘will be regulated’ in the Constitution, ‘*rialáil*’ rather than ‘*rialaigh*’ generally translating that verb in the Acts. See the commentary on Articles 10.3 and 12.5.

*a bheas* The special form of the relative, future tense, of the substantive verb, would generally be replaced by ‘*a bheidh*’ today – see the commentary on Article 6.1 regarding the special form of the relative in ‘-s’.

*tuarastal* See the commentary on Article 15.9.2°. Again Professor Máirtín Ó Murchú favours ‘*tuarastal*’ to *Téarmaí Dlí*’s ‘*luach saothair*’.

*maille leis* See the commentary on Articles 2 and 10.1.

### Standardised Irish text

Faoi chuimsiú na bhforálacha sin romhainn den Airteagal seo is de réir dlí a rialófar oifig an Ard-Aighne, maille leis an tuarastal is iníoctha leis an té a bheidh i seilbh na hoifige sin.

### Direct translation

Faoi réir na bhforálacha sin romhainn den Airteagal seo, déanfar oifig an Ard-Aighne<sup>1</sup>, ar a n-áirítear<sup>2</sup> an luach saothair a bheidh le híoc<sup>3</sup> le sealbhóir na hoifige, a rialáil le dlí.

### Variants

- 1 ‘*an oifig Ard-Aighne*’
- 2 ‘*lena n-áirítear*’
- 3 ‘*a iocfar*’

# THE COUNCIL OF STATE AN CHOMHAIRLE STÁIT

## ARTICLE 31.1 AIRTEAGAL 31.1

### TÉACS GAEILGE

Beidh Comhairle Stáit ann chun cabhair is comhairle a thabhairt don Uachtarán i dtaobh gach ní dá gcuirfidh an tUachtarán ina gcomhairle, maidir le hé d'oibriú is do chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a luaitear sa Bhunreacht seo a bheith inoibrithe is inchomhlíonta aige tar éis comhairle a ghlacadh leis an gComhairle Stáit, agus fós chun aon fheidhmeanna eile a bhromtar ar an gComhairle sin leis an mBunreacht seo a chomhlíonadh.

### LITERAL ENGLISH TRANSLATION

There will be a Council of State to give help and advice to the President concerning every matter which the President will seek their counsel on, as regards his operating and fulfilling the powers and the functions which are stated in this Constitution are to be operated and fulfilled by him after taking counsel with the Council of State, and moreover to perform any other functions which are conferred on that Council by this Constitution.

### ENGLISH TEXT

There shall be a Council of State to aid and counsel the President on all matters on which the President may consult the said Council in relation to the exercise and performance by him of such of his powers and functions as are by this Constitution expressed to be exercisable and performable after consultation with the Council of State, and to exercise such other functions as are conferred on the said Council by this Constitution.

### Divergences between the official texts

- 1 While the first occurrence of 'exercise' is expressed by a term which is translated as 'operate' in *Téarmaí Dlí*, 'oibriú', as we have seen in some earlier Articles, with 'exercisable' being expressed as 'inoibrithe ... aige' ('workable, operable... by him'), 'to exercise' in the final clause is expressed by the verbal noun 'comhlíonadh', which earlier in the section expresses 'performance', and is so translated in *Téarmaí Dlí*.
- 2 'And to exercise such other functions' is expressed as 'agus fós chun aon fheidhmeanna eile ... a chomhlíonadh' ('and moreover to perform/exercise any other functions') in the Irish text.
- 3 'Such of his powers ... as are by this Constitution expressed' is expressed as 'na cumhachtaí ... a luaitear sa Bhunreacht seo' ('the powers ... which are stated in this Constitution') in the Irish text.
- 4 'On all matters on which the President may consult the said Council' is expressed as 'i dtaobh gach ní dá gcuirfidh an tUachtarán ina gcomhairle' ('on every matter that the President will seek their counsel on')

in the Irish text, with 'after consultation' being expressed as 'tar éis comhairle a ghlacadh' ('after taking counsel'); while no comma follows 'the said Council' in the English text, we find a comma after 'ina gcomhairle' in the Irish text.

- 5 'To aid and counsel the President' is expressed as 'chun cabhair is comhairle a thabhairt don Uachtarán' ('to give aid/help and counsel/advice to the President') in the Irish text.

### Commentary

*Dá gcuirfidh ... ina gcomhairle* 'Rud a chur i gcomhairle duine' is translated as 'to ask someone's advice about something' in *Ó Dónaill*, with *Dinneen* citing '*cuirim an scéal 'na chomhairle*, I take his advice on the matter'. DIL cites 'dá gcuireadh im chomhairle' ('were [he] to ask my advice') from a miscellaneous collection of Classical Irish poetry. See the commentary on Article 13.1.3<sup>o</sup> regarding 'comhairle'; 'consultation' is translated as 'comhchomhairle' in *Téarmaí Dlí*.

Provided however that if immediate action by the Bank is called for it shall not be necessary for the Bank to consult as aforesaid' is translated as 'Ar choinníoll áfach, má bhíonn gá le gníomhaíocht láithreach ón mBanc, nach gá don Bhanc dul i gcomhairle mar a dúradh' in s34(5) of the Central Bank Act, 1989. Section 11(1) of the Defence Act, 1954, reads as follows:

There shall stand established a body to be called the Council of Defence ... to aid and counsel the Minister on all matters in relation to the business of the Department of Defence on which the Minister may consult the Council. *Beidh comhlucht arna bhunú ar a dtabharfar an Chomhairle Chosanta ... chun cabhair agus comhairle a thabhairt don Aire i ngach ní maidir le gnó na Roinne Cosanta a n-iarrfaidh an tAire a gcomhairle faoi.*

*comhairle a thabhairt* See the commentary on Article 13.1.3<sup>o</sup> regarding 'comhairle'. 'Aiding, abetting, counselling or procuring the commission of the offence of personation' is translated as 'cabhrú, sprioca no comhairliú chun cionta na pearsanála do dhéanamh, no an cionta san do chur á dhéanamh' in s1(3)(a) of the Prevention of Electoral Abuses Act, 1923. 'Such owner shall be deemed to aid, abet, counsel, or procure the commission of an offence' is translated as 'tuigfear an t-únaer san do chabhrú no do neartú le cionta do dhéanamh no do chomhairliú cionta do dhéanamh no do chur cionta á dhéanamh' in s54(1) of the Road Traffic Act, 1933. In s115(1)(c) of the Social Welfare (Consolidation) Act, 1981, 'Where a person aids, abets, counsels or procures an employee of his to commit any offence' is translated as 'Má chabhraíonn nó má



neartaíonn duine le fostaí dá chuid, nó má chomhairlíonn dó nó má thugann air, aon chion ... a dhéanamh’.

*inoibrithe is inchomhlíonta* See the commentary on Articles 3, 12.1 and 13.9 regarding the verbs ‘oibrigh’ and ‘comhlíon’ expressing ‘exercise’ and ‘fulfil’ almost completely consistently in the Constitution, ‘oibrím’ being translated as ‘I operate’ in *Téarmaí Dlí*, while ‘comhlíonaim’ is translated as ‘I perform’ in *Téarmaí Dlí*, also being translated there as ‘I comply with’ and ‘I conform with’, having the general (and literal) sense of ‘I fulfil’. *Ó Dónaill* translates ‘inoibrithe’ as ‘workable, practicable’ but appears not to give ‘inchomhlíonta’ – note that ‘*in-chomhbhrúite*, compressible’, ‘*in-chomhshóite*, convertible’ and ‘*in-chomhthomhaiste*, commensurable’ are all hyphenated, the rule being that a hyphen is usually inserted between two prefixes (see *An Caighdeán Oifigiúil*, ‘Na Rialacha’, s24(c) (iii)). *Dinneen* gives many examples of the separable prefix ‘ion-, in-’ with the genitive of verbal nouns, ‘denoting fitness, aptitude, worthiness, and *sometimes* possibility and probability’, but does not appear to cite ‘inoibrithe’ or ‘inchomhlíonta’. See the commentary on Article 12.3.2° regarding ‘intofa’ in DIL.

‘And those powers, duties and functions shall become exercisable and performable by those authorities ... in accordance with the agreement’ is translated as ‘agus beidh na cumhachtaí, na dualgais agus na feidhmeanna sin infheidhmithe agus inchomhlíonta ag na húdaráis sin ... de réir an chomhaontaithe’ in s10(1) of the Local Government (Toll Roads) Act, 1979. In s45 of the Air-Raid Precautions Act, 1939, ‘The powers and duties conferred or imposed on an essential undertaker by or under this Act ... shall be exercisable and performable by such essential undertaker’ is translated as ‘Na comhachta bronntar no bronntar agus na dualgaisí forchuirtear no forchuirfear ar ghnóthaire riachtanach leis an Acht so no fé ... beid infheidhmithe agus ionchóilíonta ag an ngnóthaire riachtanach san’. Finally, ‘na comhachta agus na dualgaisí do bheadh infheidhmithe agus ionchóilíonta’ translates ‘the powers and duties which would be exercisable and performable’ in s8(2) of the Milk and Dairies Act, 1935.

*maidir le hé d’oibriú* This would be an unfamiliar construction today, possibly written as ‘maidir leis-sean d’oibriú’ or with repetition of the noun, i.e. ‘maidir leis an Uachtarán d’oibriú’. ‘Maidir le’ is translated as ‘as for, as regards’ in *Ó Dónaill* and as ‘as to, as for, about, regarding, considering ...’ in *Dinneen*, who cites ‘*maidir le Seán*, as to John’. See the commentary on Articles 15.15 and 29.4.1°. As regards ‘a’ replacing ‘d(o)’ see the commentary on Article 15.8.2°.

*cabhair* This headword is translated as ‘help, assistance’ in *Ó Dónaill*, who translates ‘cabhair a thabhairt do dhuine’ as ‘to give help to someone’. DIL cites ‘ropo chobair dond Éirinn / tichtu Patraicc’ (‘A help to Ireland was Patrick’s coming’) from Fiacc’s hymn on St Patrick, composed c. AD 800, as an example of ‘cobair’, translated as ‘help, assistance’, with the preposition ‘do’; DIL also cites ‘lase dombeir dia cobrith n-occo’ (‘when God gives help therein’) from the eighth-century Würzburg Glosses on the Pauline Epistles. ‘I aid and abet’ is translated as ‘cabhraim agus neartaím le’ in *Téarmaí Dlí*.

‘Every person who shall make or cause to be made or

aid or assist in making any signal or warning to any person engaged in fishing illegally of the approach of any bailiff’ is translated as ‘Gach éinne a thabharfidh no a chuirfidh fé ndéar go dtabharfar no a chuideoidh no a chabhróidh chun go dtabharfar aon chomhartha no foláramh d’éinne atá ag iascach go nea-dhlíthiúil go bhfuil aon bháille ... ag teacht’ in s33 of the Fisheries Act, 1925. ‘Knowingly aiding, abetting, assisting in, or encouraging the commission of, or conspiring to commit, any of the offences’ is translated as ‘Cabhrú le héinne, é ghríosú, cuidiú leis no é mhisniú, no cogar do dhéanamh, chun aon chionta ... do dhéanamh, ... agus san go feasach’ in s13 of the Schedule to the Public Safety (Emergency Powers) Act, 1926.

*a luaitear* ‘Luaigh’ expresses ‘state’, ‘specify’ and ‘express’ respectively in Articles 12.10.1°, 14.5.2° and 24.1 – see the commentary on Article 12.10.1°. ‘Luaim’ is translated as ‘I cite’ in *Téarmaí Dlí*, *Dinneen* including the senses ‘I mention, speak of, tell’ s.v. ‘luadhaim’. The principal sense of ‘lúaidid’ is ‘moves across, traverses, goes along’, DIL citing ‘intan luaithfidir a chaingen som’ (‘when his case shall be agitated’), from the ninth-century Milan Glosses on the Commentary of the Psalms, as an example of the sense of ‘sets in motion, brings about, initiates, instigates’. ‘Lúaidid’ is based on ‘lúad’, which itself is the verbal noun of ‘luid’, ‘moves’.

The adjective ‘express’ is translated as ‘sainráite’ in *Téarmaí Dlí*, with ‘expressly’ translated as ‘go sainráite’. See the commentary on Article 24.1. Regarding the phrase qualified here, Professor Máirtín Ó Murchú suggests the variant translation given below, ‘a chomhlíonadh na coda sin dá chumhachtaí ... a bhfuil sé sainráite ...’.

*d’oibriú is do chomhlíonadh* See the commentary on Articles 3, 12.1 and 13.9 regarding ‘oibrigh’ and ‘comhlíon’.

*tar éis comhairle a ghlacadh* See the commentary on Article 13.2.3°.

*fós* See the commentary on Articles 15.3.2° and 29.2.

*a bhronntar* See the commentary on Article 13.11.

### Standardised gender-proofed Irish text

Beidh Comhairle Stáit ann chun cabhair is comhairle a thabhairt don Uachtarán i dtaobh gach ní dá gcuirfidh an tUachtarán ina gcomhairle, maidir leis an Uachtarán a oibriú is a chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a luaitear sa Bhunreacht seo a bheith inoibrithe is in-chomhlíonta aige ní aici tar éis comhairle a ghlacadh leis an gComhairle Stáit, agus fós chun aon feidhmeanna eile a bhronntar ar an gComhairle sin leis an mBunreacht seo a chomhlíonadh.

### Direct gender-proofed translation

Beidh Comhairle Stáit ann chun cabhrú leis an Uachtarán agus chun an tUachtarán a chomhairliú maidir le<sup>1</sup> gach ní a bhféadfaidh an tUachtarán dul i gcomhairle<sup>2</sup> leis an gComhairle sin ina leith i ndáil leis<sup>3</sup> an Uachtarán a fheidhmiú agus a chomhlíonadh na gcumhachtaí sin agus na bhfeidhmeanna sin<sup>4</sup> dá chuid nó dá cuid<sup>5</sup> a bhfuil sé sainráite sa Bhunreacht seo go bhfuil siad infheidhmithe

agus in-chomhlionta tar éis dul i gcomhairle<sup>2</sup> leis an gComhairle Stáit, agus chun cibé feidhmeanna eile a bhronntar ar an gComhairle<sup>6</sup> sin leis an mBunreacht seo a fheidhmiú.

### Variants

- 1 'i dtaobh'
- 2 'i gcomhchomhairle', 'i ndáil chomhairle'
- 3 'maidir leis'
- 4 'na gcumhachtaí agus na bhfeidhmeanna sin'
- 5 'leis nó léi', 'a chomhlíonadh na coda sin dá chumhachtaí agus dá fheidhmeanna, nó dá cumhachtaí agus dá feidhmeanna.'
- 6 'a thugtar don Chomhairle'

## ARTICLE 31.2 AIRTEAGAL 31.2

### TÉACS GAELIGE

Is iad na daoine seo a leanas a bheas ina gcomhaltaí den Chomhairle Stáit:

- i De bhua oifige: an Taoiseach, an Tánaiste, an Príomh-Bhreitheamh, Uachtarán na hArd-Chúirte, Cathaoirleach Dháil Éireann, Cathaoirleach Sheanad Éireann, agus an tArd-Aighne.
- ii Gach duine ar cumas dó agus ar fonn leis gníomhú ina chomhalta den Chomhairle Stáit, agus a bhí tráth ina Uachtarán nó ina Thaoiseach nó ina Phríomh-Bhreitheamh, nó ina Uachtarán ar Ard-Chomhairle Shaorstát Éireann.
- iii Aon daoine eile a cheapfar ag an Uachtarán faoin Airteagal seo, má cheapfar aon duine, chun bheith ina gcomhaltaí den Chomhairle Stáit.

### LITERAL ENGLISH TRANSLATION

It is the following people who will be members of the Council of State:

- i By virtue of office: the Taoiseach, the Tánaiste, the Chief-Justice, the President of the High-Court, the Chairman of Dáil Éireann, the Chairman of Seanad Éireann, and the Attorney General.
- ii Every person who has the capability and who wishes to act as a member of the Council of State, and who was at one time (a) President or (a) Taoiseach or (a) Chief-Justice, or (a) President of the Executive Council of the Irish Free State.
- iii Any other people who will be appointed by the President under this Article, if any person is appointed, to be members of the Council of State.

### ENGLISH TEXT

The Council of State shall consist of the following members:

- i As *ex-officio* members: the Taoiseach, the Tánaiste, the Chief Justice, the President of the High Court, the Chairman of Dáil Éireann, the Chairman of Seanad Éireann, and the Attorney General.
- ii Every person able and willing to act as a member of the Council of State who shall have held the office of President, or the office of Taoiseach, or the office of Chief Justice, or the office of President of the Executive Council of Saorstát Éireann.
- iii Such other persons, if any, as may be appointed by the President under this Article to be members of the Council of State.

### Divergences between the official texts

- 1 'As *ex officio* members' is expressed as 'De bhua oifige' ('By virtue of office') in the Irish text.
- 2 'Willing' is expressed as 'ar fonn leis' ('who wishes') in the Irish text.
- 3 'Who shall have held the office of President' is expressed as 'agus a bhí tráth ina Uachtarán' ('and who was once [a] President') in the Irish text, the latter text alone being preceded by a comma, with 'the office of Taoiseach', 'the office of Chief Justice' and 'the office of President of the Executive Council' being expressed simply as 'ina Thaoiseach' ('[a] Taoiseach'), 'ina Phríomh-Bhreitheamh' ('[a] Chief Justice') and 'ina Uachtarán ar Ard-Chomhairle Shaorstát Éireann' ('[a] President of the Supreme/High Council of the Irish Free State').
- 4 'Such other persons' is expressed as 'Aon daoine eile' ('any other persons/people') in the Irish text.
- 5 'The Council of State shall consist of the following members' is expressed as 'Is iad na daoine seo a leanas a bheas ina gcomhaltaí den Chomhairle Stáit' ('The following people will be members of the Council of State') in the Irish text.

### Commentary

*de bua oifige* 'De bhua' is translated as 'by virtue of' in *Téarmaí Dlí*, 'de bhua tuillteanais' being translated as 'on the merits'. *Ó Dónaill* also translates 'de bhua (ruda)' as 'by virtue of (something)', giving 'virtue, merit' as one of the secondary senses of 'bua'. *Dinneen* translates 'buaidh' as 'victory; conquest; success; virtue, excellence, an attribute'. DIL cites examples of 'búaid' in the sense of (a) 'victory, triumph' and (b) 'special quality or attribute, gift, virtue ...' from the eighth-century Würzburg Glosses on the Pauline Epistles (where we find 'búaid precepte' ['the gift of teaching'], for example) onwards.

'Ex officio' is generally simply italicised in the Irish version of the Acts. 'To enable *ex officio* members of the Council to be appointed' is translated as 'cumas a thabhairt comhaltaí *ex officio* den Chomhairle a cheapadh' in the Preamble to the Institute of Chartered Accountants in Ireland (Charter Amendment) Act, 1966. 'The Advisory Council shall consist of the Keeper of Irish Antiquities in the National Museum and an officer of the Commissioners nominated for the purpose from time to time by the Minister as *ex-officio* members' is translated as 'Isiad a bheidh ar an gComhairle Chomhairleach ná Cimeádaí Sean-seod Éireann sa Mhúsaeum Náisiúnta agus oifigeach do sna Coimisinéirí ainmneoidh an tAire chuige sin o am go ham, mar bhail *ex-officio*' in s21(2) of the National Monuments Act, 1930. In s7 of the 'Longford County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'with Chairman and Vice-Chairman as *ex-officio* Members of Committee' is translated as 'maraon leis an gCathaoirleach agus an Leas-chathaoirleach a bheidh ina mBaill *ex officio* den Choiste'.

*an Príomh-Bhreitheamh* See the commentary on Article 14.2.1°. 'Príomh-Bhreitheamh' is translated as 'the Chief Justice' in *Téarmaí Dlí*, 'príomh-bhreitheamh' being translated as 'chief justice' in *Ó Dónaill*. This compound

of ‘príomh-’ (translated as ‘first, prime, chief, principal, great’ in *Dinneen*) and ‘breitheamh’ (translated as ‘a judge, a brehon; an arbiter; a judge of assize; a lawgiver’) does not appear to be given as a headword in *Dinneen*. Old Irish ‘brithem’ is a noun of agency, literally ‘maker of judgements’, the suffix ‘-em’ being added to ‘breth’ (‘judgement’) – like ‘flaithem’ (‘a ruler’) from ‘flaith’ (‘lordship’) – see Rudolf Thurneysen, op. cit., p. 172. According to D.A. Binchy, in his ‘Legal Glossary’ to the early Irish law-tract *Críth Gablach* (p. 79), the ‘brithem’ resembles the Roman ‘iuris consultus’ rather than the modern judge. Professor Binchy writes:

He is a man ‘learned in the law’ (which he has studied in one of the law schools) who, while as a rule holding no official authority, functions as arbitrator in cases which the parties agree to submit to him. On the other hand in every *túath* (‘territory’, ‘petty kingdom’) the king appoints a special *brithem* to deal with cases of what we now call public law.

‘Brithem’ glosses Latin ‘iudex’ and ‘arbiter’ in the eighth-century Würzburg Glosses on the Pauline Epistles. In his *Guide to Early Irish Law* (p. 53), Fergus Kelly quotes the following explanatory aside on Irish law found in Conell Mageoghagan’s 1627 translation of the *Annals of Clonmacnois*:

The brehons of Ireland were divided into several tribes and families, as the McKiegans, O’Deorans, O’Brisleams, & McTholies, every contry had his peculiar brehan dwelling within itself, that had power to decide the cases of that contry & to maintaine their controversies against their neibor-contries; by which they held their lands of the lord of the contry where they dwelt; this was before the lawes of England were of full force in this contry or land, and before the kingdome was divided into shires.

Finally, note that the term expressing ‘chief judge’ in the earlier language was ‘ollam br(e)ithemen’ – in the *Annals of the Four Masters*, s.a. 1378, for example, Tadhg mac Aedhagáin is described as ‘ollam breitheman Íochtair Connacht’ (‘chief judge of Lower Connacht’) – see Fergus Kelly, op. cit., p. 254, n.63.

*ar cumas dó* ‘Gan bheith i gcumas’ expresses ‘is unable’ in Article 14.2.2°. ‘Gan ar gcumas dó’ is translated as ‘not in his power’ in *Dinneen*, who translates ‘níl sé ar mo chumas’ as ‘I am not able to do it, I have it not in my power or at my disposal’, stating that ‘ar chumas (or gcumas) dom, im’ chumas’ has the very same meaning. Note that *Dinneen* cites ‘*dá mbeith ar chumas do chách*, if it suited the general convenience’ from Keating’s seventeenth-century *History of Ireland*. *Ó Dónaill* cites ‘*dá mbeadh sé ar, i, mo chumas*, if it were in my power’ and ‘*rud a chur ar chumas duine, ar a chumas do dhuine, i gcumas do dhuine*, to enable someone to do something’. The usual sense of the earlier ‘commus’, according to DIL, is ‘power, ability, capacity’, ‘comus’ glossing Latin ‘potentia’ in the ninth-century *Codex Latinus Monacensis*. DIL cites ‘a-tá ar comus don choimhdhigh (gan m’éra)’ (‘it is in the Lord’s power ...’) from the *Bardic Syntactical Tracts*. ‘Commus’ is in the verbal noun of ‘con-midethar’, translated as (a) ‘is competent, able; rules, governs, controls’ and (b) ‘adjudges, estimates, appoints’ in DIL. See further the commentary on Articles 14.2.2° and 34.5.1°.

‘And there are no trustees of such share able and willing to act’ is translated as ‘agus nach mbeidh aon iontaobhaithe i leith na scaire sin ábalta agus toilteanach gníomhú’ in s57(1) of the Succession Act, 1965. In s3(2) of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1960, ‘Provided always that if at any time the number of Past-Presidents able and willing to act as members of the Council shall be less than four’ is translated as ‘Ar choinníoll i gcónaí, más lú ná ceathrar aon tráth an lion Iar-Uachtarán a bheidh ábalta agus toilteanach ar ghníomhú mar chomhaltaí den Chomhairle’. In s1 of the Constitution (Amendment No. 12) Act, 1930, ‘and a Chairman who shall be the senior judge of the Supreme Court able and willing to act’ is translated as ‘agus mar Chathaoirleach ortha an Breitheamh is aoirde céim den Chúirt Uachtarach a bheidh ábalta agus toilteanach ar fheidhmiú’, this English text (with ‘with’ replacing ‘and’ in the opening) being translated as ‘agus mar Cheann Comhairle ortha an breitheamh is aoirde céim den Chúirt Uachtarach a bheidh ábalta agus toilteanach ar fheidhmiú’ in Article 35 of the 1922 Constitution.

*ar fonn leis* ‘Más fonn leat é’ is translated as ‘if you wish’ in *Ó Dónaill*, where ‘fonn a bheith ort rud a dhéanamh’ is translated as ‘to be eager to do something’, ‘fonn’ being translated as ‘desire, wish, inclination, urge’ – among *Ó Dónaill*’s citations with ‘ar’, rather than ‘le’, and substantive rather than copula, are the following (note the varying translations): ‘*tá fonn cainte orthu*, they are in humour for talking’, ‘*bhí fonn troda air*, he was looking for a fight’, ‘*má tá fonn siúil ort*, if you are in a mood for walking’ and ‘*bhí fonn caointe uirthi*, she wanted to cry’. *Dinneen* translates ‘fonn’ as ‘longing desire, fancy, liking, pleasure, delight’, citing examples followed by the preposition ‘le’. According to DIL, ‘fonn’, translated as ‘desire, fondness, pleasure (in something)’, seems confined to comparatively late Middle Irish and Modern Irish texts. ‘Fonn’ in the sense of ‘melody, song’ is perhaps a later development of ‘fonn’, ‘desire’. Certain scholars have claimed ‘fonn’ to be the origin of English ‘fun’ – see DIL s.v. ‘fonn’.

‘Wilful’ is translated as ‘toiliúil’ in *Téarmaí Dlí*, ‘wilfully’ being translated as ‘go toiliúil’. ‘A list of persons willing to act as proxy’ is translated as ‘liosta de na daoine a thoiligh gníomhú mar sheachvótálaí’ in s54(6) of the Building Societies Act, 1976. ‘The Minister shall ... nominate that number ... of persons willing to act as ordinary members’ is translated as ‘ainmneoidh an tAire ... an méid sin ... de dhaoine bheidh toilteanach chun gníomhú mar ghnáth-bhaill’ in s80(m) of the Pigs and Bacon Act, 1936. ‘The expression “market value” means the price which the property might be expected to fetch if sold by a willing seller at the price prevailing in a free market for such property at the time of the award’ is translated as ‘cialluíonn an focal “marga-luach” an praghas ba dhó le duine a gheofí ar an maoin dá mba dhíoltóir toilteanach do dhíolfadh í agus gur ar an bpraghas do bheadh ag imeacht i gcóir maoine den tsórt san aimsir an mhola do dhéanamh do dhíolfadh sé í’ in s10(13) of the Damage to Property (Compensation) Act, 1923.

*tráth* ‘Na cairde a bhí againn tráth’, the friends we once had’ and ‘*ba mhór an ceannaire é tráth*, he was a great leader once upon a time’ are cited by *Ó Dónaill* as

examples of 'tráth' as an adverb, *Dinneen* also translating 'tráth', as an adverb, as 'once'. DIL translates 'tráth' as 1(a) 'period of time; hour, point of time', (b) 'day' and (d) 'canonical hour', citing 'celebrad tratha' ('celebration of the canonical hour'), from the eighth-century Würzburg Glosses in the Pauline Epistles, as an example of the latter sense.

Looking at 'who shall have' in the Acts, 'each party shall appoint its Assessor (who shall have expressed his willingness to act as such)' is translated as 'ceapfaidh gach páirtí a Mheasúnóir (a bheas tar éis a chur in iúl é a bheith toilteanach gníomhú amhlaidh)' in s3 of the Second Schedule to the Agreement in the Erne Drainage and Development Act, 1950. 'Shall be paid by the vendor or other person who shall have received the dividends on the land bonds' is translated as 'íocfaidh an díoltóir é no an duine eile bheidh tar éis na ndíbhinní d'fháil ar na bannaí talmhan' in s10(2)(d)(iii) of the Land Act, 1939. 'And in lieu thereof it is hereby enacted that no person who shall have taken out a licence for a rod for a calendar year in any district shall be entitled to angle with a rod for salmon in any other district' is translated as 'agus achtuítear ina ionad leis seo ná beidh ag éinne, 'na mbeidh ceadúnas slaithe tógtha amach aige i gcóir bliana caileandair in aon cheanntar, teideal chun bradáin d'iascach le slait in aon cheanntar eile' in s12(4) of the Fisheries Act, 1925. See further the commentary on Article 16.2.3° where 'aon tráth' expresses 'at any time'.

*Ard-Chomhairle* 'Ardchomhairle' is translated as 'supreme council' in *Ó Dónaill*, 'ard-chomhairle' being translated as 'a supreme council or parliament' in *Dinneen*, as well as 'an excellent advice'. Besides its use in literal sense, 'ard' in compounds often indicates pre-eminence in rank or excellency over others of the same designation, according to DIL, where 'ardlathi' (i.e. 'ard' + 'flaith', 'chief princes') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles. Note that 'the Supreme Court' is styled 'an Chúirt Uachtarach' in Irish – see the commentary on Article 13.4, where 'ardcheannas' expresses 'supreme command'.

Article 51 of the 1922 Constitution contains the following:

There shall be a Council to aid and advise in the government of the Irish Free State (Saorstát Éireann) to be styled the Executive Council. *Beidh Comhairle ann dá ngoirfean ar Ard-Chomhairle chun cabhrúithe agus comhairlithe i rialú Shaorstáit Éireann.*

Section 3(1) of the Constitution (Consequential Provisions) Act, 1937, reads as follows:

From and after the coming into operation of the Constitution, the Department of the President of the Executive Council shall be styled and known as the Department of the Taoiseach and the Taoiseach shall be the Minister who is head of that Department. *Ó dháta an Bhunreacht do theacht i ngníomh agus dá éis sin, isé bheidh mar ainm agus mar theideal ar Roinn Uachtarán na hArd-Chomhairle ná Roinn an Taoisigh agus isé an Taoiseach an tAire is ceann ar an Roinn sin.*

The functions, powers and duties conferred or imposed on the Government under sections 7 ... and 15 of the Merchandise Marks Act, 1931, are hereby transferred to the Minister and, accordingly, references in those sections

to the Executive Council ... shall be construed as references to the Minister' is translated as 'Aistrítear leis seo chun an Aire na feidhmeanna, na cumhachtaí agus na dualgais a bhronntar nó a fhorchuirtear ar an Rialtas faoi ailt 7 ... agus 15 den Acht Marcanna Earraí Ceannaíochta, 1931, agus, dá réir sin, déanfar tagairtí sna hailt sin don Ard-Chomhairle ... a fhorléiriú mar thagairtí don Aire' in s7 of the Merchandise Marks Act, 1970.

'The President of the Executive Council of the Irish Congress of Trade Unions' is styled 'Uachtarán Chomhairle Feidhmiúcháin Chomhar Ceardchumann na hÉireann' in s5(2)(f) of the Local Government (Planning and Development) Act, 1983. Note that 'The Executive Authority of the Irish Free State' is translated as 'Údarás Feidhmiúcháin Shaorstáit Éireann' in Article 51 of the 1922 Constitution. Finally, 'the National Executive' is styled 'an Coiste Náisiúnta' in s13(1) of the Slaughtered Animals (Compensation) Act, 1928.

*aon daoine eile* 'The exchange shall ... notify the Bank and such other persons (if any) as the Bank indicates are to be notified of the measures being taken' is translated as 'déanfaidh an malartán ... scéala a chur chuig an mBanc agus chuig cibé daoine eile (más ann) a déarfáidh an Banc leis scéala a chur chucu' in s106(3)(b) of the Central Bank Act, 1989. 'And to such other persons (if any) as may be prescribed' is translated as 'agus chun cibé daoine eile (más ann) a fhorordófar' in s121(3) of the Registration of Title Act, 1964. In s12 of the First Schedule to the Seanad Electoral Act, 1928, 'and such other persons (if any) as the Seanad returning officer may permit to be present' is translated as 'agus pé daoine eile (más ann dóibh) dá gceadóidh ceann comhrimh an tSeanaid bheith i láthair amhlaidh'. Finally, 'and other expenses (if any) necessary to maintain the dwelling-house in its actual state' is translated as 'agus costaisí eile (dá mb'ann dóibh) ba ghá chun an tigh do chimeád ar an staid ina bhfuighfí é' in s3(6) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923.

*Is iad ...* Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, remarks that 'Beidh na comhaltaí seo a leanas ar an gComhairle Stáit' does not express that that is their full complement. He recommends either of the following: 'is iad seo a leanas na comhaltaí a bheidh ar an gComhairle Stáit' or 'Beidh mar bhallraíocht ar an gComhairle Stáit na comhaltaí seo a leanas'.

*a bheas* The special form of the relative, future tense, of the substantive verb (see the commentary on Article 6.1 regarding the special form of the relative in '-s') – this would normally be replaced by 'a bheidh' in the Acts today.

*má cheaptar aon duine* See the commentary on Articles 15.15 and 29.4.2°.

*ina gcomhaltaí* See the commentary on Article 28.6.1°.

### Standardised gender-proofed Irish text

Is iad na daoine seo a leanas a bheidh ina gcomhaltaí den Chomhairle Stáit:

- i De bhua oifige: an Taoiseach, an Tánaiste, an Príomh-Bhreitheamh, Uachtarán na hArd-Chúirte, Cathaoirleach Dháil Éireann<sup>1</sup>, Cathaoirleach Sheanad Éireann, agus an tArd-Aighne.
- ii Gach duine ar cumas dó nó di agus ar fonn leis nó léi gníomhú mar chomhalta den Chomhairle Stáit, agus a bhí tráth i seilbh oifige mar Uachtarán nó mar Thaoiseach nó mar Phríomh-Bhreitheamh, nó mar Uachtarán ar Ard-Chomhairle Shaorstát Éireann.
- iii Aon daoine eile a cheapfar ag an Uachtarán faoin Airteagal seo, má cheapfar aon duine, chun bheith ina gcomhaltaí den Chomhairle Stáit.

#### Variant

- 1 'an Ceann Comhairle' – following the gender-proofed English text.

#### Direct gender-proofed translation

Is iad seo a leanas na comhaltaí a bheidh ar an gComhairle Stáit:<sup>1</sup>

- i Mar chomhaltaí *ex-officio*: an Taoiseach, an Tánaiste, an Príomh-Bhreitheamh, Uachtarán na hArd-Chúirte, Cathaoirleach Dháil Éireann<sup>2</sup>, Cathaoirleach Sheanad Éireann, agus an tArd-Aighne.
- ii Gach duine a bheidh ábalta<sup>3</sup> agus toilteanach gníomhú mar chomhalta den Chomhairle Stáit agus ar duine é nó í<sup>4</sup> a bhí i seilbh oifige an Uachtaráin nó oifige an Taoisigh, nó oifige an Phríomh-Bhreithimh, nó oifige Uachtarán Ard-Chomhairle Shaorstát Éireann.
- iii Cibé daoine eile a cheapfaidh an tUachtarán faoin Airteagal seo, má cheapann, chun bheith ina gcomhaltaí den Chomhairle Stáit.

#### Variants

- 1 'Beidh na comhaltaí seo a leanas ar an gComhairle Stáit.', 'Beidh an Chomhairle Stáit comhdhéanta de na comhaltaí seo a leanas.'
- 2 'an Ceann Comhairle'
- 3 'cumasach'
- 4 'is duine'

## ARTICLE 31.3 AIRTEAGAL 31.3

#### TÉACS GAELGE

Tig leis an Uachtarán uair ar bith agus ó am go ham cibé daoine eile is oiriúnach leis, as a chomhairle féin, a cheapadh le barántas faoina láimh is faoina Shéala chun bheith ina gcomhaltaí den Chomhairle Stáit, ach ní dleathach thar mórshéisear a cheapfar ar an gcuma sin a bheith ina gcomhaltaí den Chomhairle Stáit san am chéanna.

#### LITERAL ENGLISH TRANSLATION

The President may at any time and from time to time appoint whatever other people he deems suitable, / are deemed suitable by him, from his own counsel, by warrant under his hand and under his Seal to be members of the Council of State, but it is not lawful that there be more than seven people who are appointed in that way as members of the Council of State at the same time.

#### ENGLISH TEXT

The President may at any time and from time to time by warrant under his hand and Seal appoint such other

persons as, in his absolute discretion, he may think fit, to be members of the Council of State, but not more than seven persons so appointed shall be members of the Council of State at the same time.

#### Divergences between the official texts

- 1 'Not more than seven person ... shall be' is expressed as 'ní dleathach thar mórshéisear ... a bheith' ('it is not lawful that more than seven members be') in the Irish text.
- 2 'As ... he may think fit' is expressed in the Irish text as 'is oiriúnach leis', '(whom) he deems suitable'.
- 3 'In his absolute discretion' is expressed as 'as a chomhairle féin' ('from his own counsel') in the Irish text, as we have seen in some earlier Articles.
- 4 'So appointed' is expressed as 'a cheapfar ar an gcuma sin' ('that are appointed in that way') in the Irish text.

#### Commentary

*is oiriúnach leis* The preposition 'le' is sometimes used to express 'state of mind, opinion', *Ó Dónaill* citing '*b'fhada leo an lá*, they thought the day was long' and '*ní maith liom é*, I don't like it', for example. *Dinneen* cites '*is fada liom an oidhche*, I find the night long' and '*is cáis liom é*, I think it is sad' as examples of this use of 'le' with adjectives and nouns denoting 'a judgement or mental attitude'. DIL cites 'ished *aperficere* lesson' ('[to do] this he deems *perficere*') from the eighth-century Würzburg Glosses on the Pauline Epistles and 'is peccad diabul lesom' ('he considers it a double sin'), along with 'robu maith leu' ('they would have liked'), from the ninth-century Milan Glosses on the Commentary on the Psalms, as examples of 'la' with copula in the sense of 'according to, in the opinion of'. DIL states that this construction is very common at all periods to indicate possession of opinion, notion, feeling, desire, impulse, etc.

Both *Ó Dónaill* and *Dinneen* cite '*oiriúnach (oireamhnach) le baint*, ready for cutting', *Ó Dónaill* also citing '*oiriúnach le caitheamh*, ready to wear' and *Dinneen* translating 'oireamhnach le' as 'ready to or for', with verbal noun. *Ó Dónaill* translates 'oiriúnach' principally as 'suitable, fitting', citing '*má tá sé oiriúnach duit*, if it suits you', *Dinneen* translating 'oireamhnach do' as 'suitable to, fitting', neither sources citing 'oiriúnach' in the 'is ... le' construction. The seventeenth-century works of Keating are the principal source of DIL's citations of 'oireamhnach', translated as 'agreeing (with), adapted (to), suitable, convenient', this adjective being based on 'oiremain', verbal noun of the intransitive verb 'oirid', 'is suited (to), corresponds (to), is in keeping with', no examples of which are cited from the earlier sources.

'The Minister may by order assign to the Authority such of his functions as he may think fit in relation to Council Directive No. 72/159/EEC' is translated as 'Féadfaidh an tAire le hordú ... cibé feidhmeanna dá chuid is oiriúnach leis i ndáil le Treoir Uimh. 72/159/CEE ... a shannadh don Údarás' in s20 of the National Agricultural Advisory, Education and Research Authority Act, 1977. 'Subject to such conditions as he may think fit' is translated as 'faoi réir cibé coinníollacha is cuí leis' in s46(2) of the Building Societies Act, 1976, 'cuí' currently translating 'fit' in the modern Acts. 'Or in such other manner as he may

think fit' is translated as 'no i pé slí eile is oiriúnach leis' in s57(b) of the Conditions of Employment Act, 1936. Finally, in s41(3) of the Land Act, 1923, 'and appoint such other person or persons as he may think fit in the place of the person so removed' is translated as 'agus pé duine no daoine is oiriúnach leis do cheapa in áit an duine a cuireadh chun siúil mar sin' in s41(3) of the Land Act, 1923.

*san am chéanna* This would be replaced by 'san am céanna' following the official standard, 'am' being a masculine noun – see the commentary on Article 45. 'Not more than three committees shall stand established under this section at the same time' is translated as 'Ní bheidh thar trí choiste arna mbunú faoin bhfo-alt seo i gcomhthráth' in s10(1)(c) of the Health Authorities Act, 1960, 'not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship' being translated as 'ní bheidh teideal ag lion is mó ná seasca is ceithre pearsa chun a gcláruithe i gcomhthráth mar únaerí aonloing áirithe' in s24(b) of the Mercantile Marine Act, 1955. In s109(3) of the Central Bank Act, 1989, 'a person shall not, at the same time be the holder of a licence ... and a person to whom a subsisting authorisation ... relates' is translated as 'ní cead do dhuine bheith, an tráth céanna, ina shealbhóir ceadúnais ... agus ina dhuine lena mbaineann údarú marthanach'. In Article 16 of the 1922 Constitution, 'No person may be at the same time a member both of Dáil Éireann and Seanad Éireann' is translated as 'Ní fhéadfaidh éinne bheith 'na bhall de Dháil Éireann agus de Sheanad Éireann in aonacht'.

*barántas* This headword is translated as 'warrant' in *Téarmaí Dlí* and in *Ó Dónaill*, who also gives 'warranty, authority' as a secondary sense, citing '*gan bharántas*, unwarranted'. *Dinneen* translates 'barántas' as 'a warrant; authority; protection; leadership; a mock warrant generally written in poetry' – poems in this genre that flourished mainly in Munster in the eighteenth and nineteenth centuries have been collected and edited by Pádraig Ó Fiannachta in *An Barántas* (1978). 'Barántas', translated as 'authority, command' in DIL, is based on 'baránta', this being either a French or English loanword according to DIL, where 'baránta' is translated as 'warrant, authority, guarantee', with examples cited from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century) onwards.

In s22 of the Whale Fisheries Act, 1937, 'The Minister may by warrant under his seal of office appoint such and so many persons as he thinks fit as his agents' is translated as 'Féadfaidh an tAire, le barántas fé n-a shéala oifige, pé daoine agus pé méid daoine is oiriúnach leis do cheapadh o am go ham mar ghníomhairí dhó'. In s4(1) of the District Justices (Temporary Provisions) Act, 1923, 'The Minister may from time to time by warrant under his hand appoint and remove such and so many fit and proper persons as he shall think expedient in each County to be called "Peace Commissioners"' is translated as 'Féadfaidh an tAire ó am go ham le barántas fé na láimh pé daoine cearta oiriúnacha agus pé méid diobh is oiriúnach leis, daoine ar a nglaofar "Coimisinéirí Síochána", do cheapa i ngach Contae'.

*faoina láimh* The dative singular of 'láimh' after the preposition 'faoi'; the words 'bos, bróg, cluas, cos, lámh'

are mentioned in particular in *An Caighdeán Oifigiúil* as a group of words of the second declension which always have the special form of the dative singular, the nominative singular generally replacing the special slenderised dative form in this declension. See the commentary on Article 12.10.3<sup>o</sup> regarding 'faoi lámh' expressing 'signed by'.

*thar mórshéar* 'Mórshéar' means literally 'a big six' – see the commentary on Article 28.1. Note that 'thar' usually lenites in qualified or particularised references – see *Ó Dónaill* and note 'ní raibh thar chúigear acu ann' in *An Caighdeán Oifigiúil*, chapter entitled 'Séimhiú agus Urú', s4(e).

*as a chomhairle féin* See the commentary on Article 13.2.2<sup>o</sup>; *Dinneen* translates 'as mo chomhairle féin' as 'on my own initiative, doing as I like'.

*ní dleathach* See the commentary on Articles 10.1, 14.3, 15.6.2<sup>o</sup>, 17.2 and 25.5.1<sup>o</sup>; 'dleathach' is translated as 'lawful' in *Téarmaí Dlí*.

### Standardised gender-proofed Irish text

Tig leis an Uachtarán uair ar bith agus ó am go ham cibé daoine eile is oiriúnach leis nó léi, as a chomhairle nó as a chomhairle féin, a cheapadh le barántas faoina láimh is faoina Shéala nó faoina Séala chun bheith ina gcomhaltá den Chomhairle Stáit, ach ní dleathach thar mhórshéar a cheaptar ar an gcuma sin a bheith ina gcomhaltá den Chomhairle Stáit san am céanna.

### Direct gender-proofed translation

Féadfaidh an tUachtarán tráth ar bith agus ó am go ham le barántas faoina láimh agus faoina Shéala nó faoina Séala cibé daoine eile is cuí leis nó léi, dá rogha féin amháin<sup>1</sup>, a cheapadh ina gcomhaltá den Chomhairle Stáit, ach ní bheidh thar sheachtar a cheapfar<sup>2</sup> amhlaidh ina gcomhaltá den Chomhairle Stáit in éineacht<sup>3</sup>.

### Variants

- 1 'dá rogha iomlán féin'
- 2 'arna gcheapadh'
- 3 'in aon am'

## ARTICLE 31.4 AIRTEAGAL 31.4

### TÉACS GAEILGE

Ní foláir do gach comhalta den Chomhairle Stáit, an chéad uair a bheidh sé ar thionól den Chomhairle sin ina chomhalta di, an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis:

"I láthair Dia na nUilechumhacht, táimse, , á ghealladh agus á dhearbú go sollúnta agus go fírinneach mo dhualgais i mo chomhalta den Chomhairle Stáit a chomhlionadh go dílis coinsiasach."

### LITERAL ENGLISH TRANSLATION

Each member of the Council of State, the first time he will be at an assembly of that Council as a member of it, must make the following declaration and put his hand to it:

“In the presence of God the Almighty, I , am promising and declaring solemnly and truthfully to fulfil my duties as a member of the Council of State faithfully (and) conscientiously.”

#### ENGLISH TEXT

Every member of the Council of State shall at the first meeting thereof which he attends as a member take and subscribe a declaration in the following form:

“In the presence of Almighty God I, , do solemnly and sincerely promise and declare that I will faithfully and conscientiously fulfil my duties as a member of the Council of State.”

#### Divergences between the official texts

- 1 ‘Take and subscribe a declaration in the following form’ is expressed as ‘an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis’ (‘make the following declaration and put his hand to it’) in the Irish text, this same Irish text expressing ‘taking and subscribing ... the following declaration’ in Article 12.8.
- 2 ‘Sincerely’ is expressed in the Irish text by ‘firinneach’, a term generally translating ‘truthfully’, as we have seen in the commentary on Article 12.8.
- 3 ‘Fulfil’ is expressed by the term ‘comhlíon’, which generally expresses ‘perform’ in the Constitution, ‘fulfil’ being the literal meaning, while ‘perform’ is one of the senses given in *Téarmaí Díl*.
- 4 ‘At the first meeting thereof which he attends as a member’ is expressed as ‘an chéad uair a bheidh sé ar thionól den Chomhairle sin ina chomhalta di’ (‘the first time he will be at an assembly of that Council as a member of it’) in the Irish text.
- 5 ‘That I will ... fulfil’ is expressed as ‘a chomhlíonadh’, ‘to fulfil’, in the Irish text.
- 6 ‘Shall’ is expressed as ‘Ní foláir’ (‘must’) as we have seen in many earlier Articles.

#### Commentary

*ina chomhalta ... i mo chomhalta* Here we have the preposition ‘i’ with the possessive pronoun to express ‘status, function’, *Ó Dónaill* citing ‘*chuaigh sé ina thoscaire ann*, he went there as a delegate’, *Dinneen* citing ‘*imtheochad im’ chuaichín ar fuaid an tsaoghail*, I will go through the world a disappointed girl’ and ‘*i n-a n-aon-mhnáibh*, as women unescorted’ as examples of ‘i’ with possessive pronoun to express ‘state or condition’. Among the examples DIL gives of nouns in apposition preceded by ‘i’ plus possessive pronoun is ‘úair is áes comhchotaig dúinni ‘nar nUltaib’ (‘for they are allies of us Ulstermen’), this being said by Fergus to Medb early on in the version of the *Táin Bó Cúailgne* contained in the manuscript *Leabhar na hÚidhre* (written in Clonmacnois c. 1100). This construction is a development of the older use of the dative without preposition – DIL cites ‘ro bámarni .xu. feraib 7 ar cúic súilí déc desa do chaechad dó’ (‘we fifteen men were being blinded by him in our fifteen right eyes’) from the version of the tale *Togail Bruidne Da Derga* in the *Yellow Book of Lecan*, this version having been compiled in the eleventh century, according to Rudolf Thurneysen.

‘A person who is not of full age ... may be admitted as a member of a society’ is translated as ‘Féadfar duine nach bhfuil aois iomlán aige ... a ghlacadh mar chomhalta de chumann’ in s16(5) of the Building Societies Act, 1989, with ‘shall not be regarded as a member of the society’ being translated as ‘ní mheasfar gur comhalta den chumann’ in s16(6)(e), and ‘any dispute between a building society and a member of the society in his capacity as a member’ being translated as ‘(le) haon diospóid idir cumann foirgníochta agus comhalta den chumann ina cháil mar chomhalta’ in s91(1)(a). ‘A person shall not ... disclose any information obtained by him while performing duties as a member, officer or servant of ... the Board’ is translated as ‘Ní nochtfaidh aon duine ... aon eolas a fuair sé agus é ag comhlíonadh dualgas mar chomhalta den Bhord nó mar oifigeach nó seirbhíseach ... don Bhord’ in s20(1) of the Gas Act, 1976. ‘To hold office on terms and conditions ... not least favourable than those on which he held office as a member of the panel aforesaid’ is translated as ‘i seilbh oifige ar théarmaí agus coinníollacha ... nach neamhfhabharaí ná iad sin ar ar shealbhaigh sé oifig mar chomhalta den phainéal réamhraite’ in s2(4) of the Property Values (Arbitrations and Appeals) Act, 1960. Finally, ‘in the course of his duty as a member of the forces’ is translated as ‘agus é i mbun a dhualgais mar bhall de sna fórsaí’ in s15(1)(a) of the Army Pensions Act, 1927.

Note finally that no comma follows ‘ina chomhalta di’ in the original text.

*I láthair Dia na nUilechumhacht* See the commentary on Article 12.8. Note that no comma follows this phrase in the original text.

*a chomhlíonadh* See the commentary on Articles 12.1 and 13.9.

*go dílis coinsiasach* See the commentary on Article 12.8.

*Ní foláir do* See the commentary on Article 11.

*dearbhu* See the commentary on Article 12.8.

*a lámh a chur leis* See the commentary on Article 12.8.

#### Standardised gender-proofed Irish text

Ní foláir do gach comhalta den Chomhairle Stáit, an chéad uair a bheidh sé nó sí ar thionól den Chomhairle sin ina chomhalta nó ina comhalta di, an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis:

“I láthair Dhia na hUilechumhachta, táimse, , á ghealladh agus á dhearbhu go sollúnta agus go firinneach mo dhualgais i mo chomhalta den Chomhairle Stáit a chomhlíonadh go dílis coinsiasach.”

#### Direct gender-proofed translation

Déanfaidh gach comhalta den Chomhairle Stáit dearbhú san fhoirm seo a leanas a thabhairt<sup>1</sup> agus a shíniú ag an gcéad chruinniú den Chomhairle Stáit a bhfreastalóidh sé nó sí mar chomhalta air<sup>2</sup>:

“I láthair Dhia na hUilechumhachta, táimse, , á ghealladh agus á dhearbhu go sollúnta firéanta go gcomhlíonfaidh mé mo chuid dualgas<sup>3</sup> mar chomhalta den Chomhairle Stáit go dílis coinsiasach.”

**Variants**

- 1 'a ghlacadh'
- 2 'ar a bhfreastalóidh sé nó sí mar chomhalta'
- 3 'mo dhualgais'

## ARTICLE 31.5 AIRTEAGAL 31.5

**TÉACS GAELIGE**

Gach comhalta den Chomhairle Stáit a cheapfar ag an Uachtarán beidh sé i seilbh oifige nó go dté comharba an Uachtaráin a cheap é i gcúram a oifige, is é sin mura dtarlaí roimhe sin go n-éagfaidh an comhalta sin, nó go n-éireoidh as oifig, nó go ngeobhaidh míthreoir bhuan é, nó go gcuirfear as oifig é.

**LITERAL ENGLISH TRANSLATION**

Every member of the Council of State who will be appointed by the President (he) will hold office until the successor of the President who appointed him takes up his office, that is unless it happens before that that that member dies, or gives up office, or that permanent mental incapacity befalls him, or that he is put out of office.

**ENGLISH TEXT**

Every member of the Council of State appointed by the President, unless he previously dies, resigns, becomes permanently incapacitated, or is removed from office, shall hold office until the successor of the President by whom he was appointed shall have entered upon his office.

**Divergences between the official texts**

- 1 'Becomes permanently incapacitated' is expressed as '(go) ngeobhaidh míthreoir bhuan é' ('permanent mental incapacity befalls him'); as we have already stated in regard to some earlier Articles, 'míthreoir' today does not appear to have the sense of 'physical incapacity', its primary sense in *Dinneen*; unlike the phrase accompanying two earlier citations of 'míthreoir', the official standard future tense of 'gabh', 'gabhfaidh', is not found here.
- 2 'Unless he previously dies' is expressed as 'mura dtarlaí roimhe sin go n-éagfaidh an comhalta sin' ('that is unless it happens before that that that member dies') in the Irish text, this whole clause being taken to the end of the section in the Irish text.
- 3 'Shall have entered upon his office' is expressed as '(go) dté ... i gcúram a oifige' ('takes up the responsibility of his office') in the Irish text.
- 4 'Resigns' is expressed by 'éirigh as oifig' ('resigns from / gives up office') in the Irish text, as we have seen in some earlier Articles.

**Commentary**

*go ngeobhaidh míthreoir ... é* See the commentary on Article 12.3.1° regarding 'míthreoir'. The verb 'gabh' is found in association with 'míthreoir' on four occasions in the Constitution. 'Or becomes permanently incapacitated' is expressed as 'nó go ngabhfaidh míthreoir bhuan é' in Article 12.3.1° and as 'nó má ghabhann míthreoir bhuan

é' in Article 28.6.2°. In Article 12.3.3°, 'but in the event of ... permanent incapacity established as aforesaid' is expressed as '(nó) má tharlaíonn dó ... míthreoir bhuan arna suíomh mar a dúradh dá ghabháil' and 'in the event of ... permanent incapacity' is expressed as '(má tharlaíonn) ... go ngabhfaidh míthreoir bhuan é' in Article 12.7°. We find 'míthreoir' without 'gabh' in Articles 33.5.1° and 35.4.1°, where 'except for stated misbehaviour or incapacity' is expressed as 'ach amháin de dheasca mí-iompair nó míthreora(ch) a luafar'. In Article 14.1, '(In the event of ...) his temporary incapacity, or his permanent incapacity' is expressed as 'má bhíonn ar míthreoir go sealadach, nó má bhíonn ar míthreoir go buan' and in Article 28.12, 'during his temporary absence or incapacity' is expressed as 'le linn an comhalta sin a bheith tamall as láthair nó ar míthreoir'. 'Who is not placed under disability or incapacity' is expressed as 'nach gcuirtear faoi mhíchumas nó faoi mhíthreoir' in Article 16.1.1° and 'placing any citizen under disability or incapacity' is expressed as 'a chuirfeadh saoránach ar bith ... faoi mhíchumas nó faoi mhíthreoir' in Article 16.1.3°.

'Geobhaidh' is the earlier form of the third person singular, future tense, of 'gabh', the later and standard Irish form of which is 'gabhfaidh', cited above from Articles 12.3.1° and 12.7, in association with 'míthreoir'. *Dinneen* cites '*Cá ngeobhfáir leo?* Where will they go? what will become of them?' and '*geobhfáir ort*, you will be flogged', *Ó Dónaill* citing '*gabhfáidh drochbhail, droch-chríoch, orthu*, they will be left in a bad way, come to a bad end'. The form 'geobhaidh' might today be confused with 'gheobhaidh', the form of the future tense of 'faigh', although this changes to 'go bhfaighidh'.

*nó go dté* 'Go dté' is the present subjunctive of 'téigh' ('to go'), with the preposition 'go'. According to the official standard (*An Caighdeán Oifigiúil*, chapter headed 'An Briathar'), the future tense can be used in place of the present subjunctive except when it has an optative function, as in '*go dté tú an céad*, may you live to a hundred', cited in *Ó Dónaill*, or '*go dtéighidh tú slán*, safe home, success attend you' in *Dinneen*. 'Nó go dté ... i gcúram a oifige' would today be replaced by 'nó go rachaidh ... i gcúram a oifige'. See the commentary on Article 12.3.1°.

*i seilbh oifige* See the commentary on Article 12.3.1°.

*i gcúram a oifige* See the commentary on Article 12.3.1°.

*mura dtarlaí* See the commentary on Article 12.3.1°.

**Standardised gender-proofed Irish text**

Gach comhalta den Chomhairle Stáit a cheapfar ag an Uachtarán beidh sé nó sí i seilbh oifige nó go rachaidh comharba an Uachtaráin a cheap é nó í i gcúram a oifige nó a hoifige, is é sin mura dtarlóidh roimhe sin go n-éagfaidh an comhalta sin, nó go n-éireoidh as oifig, nó go ngabhfaidh míthreoir bhuan é nó í, nó go gcuirfear as oifig é nó í.

**Direct gender-proofed translation**

Mura n-éagfaidh sé nó sí, mura n-éireoidh sé nó sí as, mura dtiocfaidh sé nó sí chun bheith faoi bhuan-éagumas<sup>1</sup>,



nó mura gcuirfeadh as oifig é nó í roimhe sin, beidh gach comhalta den Chomhairle Stáit a cheapfaidh an tUachtarán<sup>2</sup> i seilbh oifige go dtí go rachaidh comharba an Uachtaráin a cheap é nó í<sup>3</sup> i mbun oifige<sup>4,5</sup>.

### Variants

- 1 'faoi éagumas buan'
- 2 'arna cheapadh nó arna ceapadh ag an Uachtarán', 'Beidh gach comhalta den Chomhairle Stáit a cheapfaidh an tUachtarán, mura n-éagfaidh sé nó sí, / an comhalta sin, mura n-éireoidh sé nó sí as, mura dtiocfaidh sé nó sí chun bheith faoi bhuan-éagumas, nó mura gcuirfeadh as oifig é nó í roimhe sin'
- 3 'an comhalta sin'
- 4 'a oifige nó a hoifige'
- 5 'Gach comhalta den Chomhairle Stáit a cheapfaidh an tUachtarán, mura n-éagfaidh sé nó sí, mura n-éireoidh sé nó sí as, mura dtiocfaidh sé nó sí chun bheith faoi bhuan-éagumas, nó mura gcuirfeadh as oifig é nó í roimhe sin, beidh sé nó sí i seilbh oifige go dtí go rachaidh comharba an Uachtaráin a cheap é nó í i mbun oifige.'

## ARTICLE 31.6 AIRTEAGAL 31.6

### TÉACS GAELGE

Aon chomhalta den Chomhairle Stáit dá gceapfaidh an tUachtarán tig leis éirí as oifig trína chur sin in iúl don Uachtarán.

### LITERAL ENGLISH TRANSLATION

Any member of the Council of State of those whom the President will appoint (he) may give up office by informing the President of that.

### ENGLISH TEXT

Any member of the Council of State appointed by the President may resign from office by placing his resignation in the hands of the President.

### Divergences between the official texts

- 1 'By placing his resignation in the hands of the President' is expressed as 'trína chur sin in iúl don Uachtarán' ('by informing the President of that') in the Irish text, as we have already seen in Article 28.9.1°.

### Commentary

*tig leis* See the commentary on Article 12.4.4°.

*dá gceapfaidh* See the commentary on Article 13.3.2° regarding 'dá' and on Articles 6.1 and 13.1.1° regarding 'ceap'.

*éirí as oifig* See the commentary on Article 12.3.1°.

*trína chur sin in iúl* See the commentary on Article 28.9.1°.

### Gender-proofed Irish text

Aon chomhalta den Chomhairle Stáit dá gceapfaidh an tUachtarán tig leis nó léi éirí as oifig trína chur sin in iúl don Uachtarán.

### Direct gender-proofed translation

Féadfaidh aon chomhalta den Chomhairle Stáit a cheapfaidh an tUachtarán<sup>1</sup> éirí as oifig trí<sup>2</sup> dhearbhu<sup>3</sup> air sin<sup>4</sup> as a chur i lámha an Uachtaráin.

### Variants

- 1 'arna cheapadh nó arna ceapadh ag an Uachtarán'
- 2 'ach' (dearbhu)
- 3 'dheimhniú'
- 4 'trína éirí-as nó trína héirí-as'

## ARTICLE 31.7 AIRTEAGAL 31.7

### TÉACS GAELGE

Tig leis an Uachtarán, ar ábhair is leor leis féin, duine ar bith dár cheap sé don Chomhairle Stáit a chur as oifig le hordú faoina láimh agus faoina Shéala.

### LITERAL ENGLISH TRANSLATION

The President may, for reasons/grounds which are sufficient to himself, put any person of those whom he appointed to the Council of State out of office by an order under his hand and under his Seal.

### ENGLISH TEXT

The President may, for reasons which to him seem sufficient, by an order under his hand and Seal, terminate the appointment of any member of the Council of State appointed by him.

### Divergences between the official texts

- 1 'Terminate the appointment of any member of the Council of State appointed by him' is expressed as 'duine ar bith dár cheap sé don Chomhairle Stáit a chur as oifig' ('put any person [of those whom] he appointed to the Council of State out of office') in the Irish text, this same phraseology being found in Articles 13.1.3° and 28.9.4°.
- 2 'For reasons which to him seem sufficient' is expressed as 'ar ábhair is leor leis féin' ('for reasons which are sufficient to himself') in the Irish text, again as we have seen earlier.

### Commentary

*Tig leis* See the commentary on Article 12.4.4°.

*ar ábhair is leor leis féin* See the commentary on Article 28.9.4°.

*faoina láimh* See the commentary on Articles 12.10.3° and 31.3.

### Gender-proofed Irish text

Tig leis an Uachtarán, ar ábhair is leor leis féin nó léi féin, duine ar bith dár cheap sé nó sí don Chomhairle Stáit a chur as oifig le hordú faoina láimh agus faoina Shéala nó faoina Séala.

### Direct gender-proofed translation

Féadfaidh an tUachtarán, ar chúiseanna is leor leis féin nó léi féin, ceapachán aon chomhalta den Chomhairle Stáit a bheidh ceaptha aige nó aici a fhoirceannadh<sup>1</sup> le hordú faoina láimh agus faoina Shéala nó faoina Séala.

#### Variants

- 1 Professor Máirtín Ó Murchú remarks that ‘ceapachán ... ceaptha’ is a bit unsightly (“beagán mishlachtmhar”) and that ‘foirceannadh’ is too different (“ró-éagsúil”) in such a context as this; Professor Ó Murchú therefore recommends the following less direct translation: ‘... aon chomhalta den Chomhairle Stáit a bheidh ceaptha / dá mbeidh ceaptha aige nó aici a chur as oifig’.

## ARTICLE 31.8 AIRTEAGAL 31.8

### TÉACS GAEILGE

Tig leis an Uachtarán an Chomhairle Stáit a chomóradh cibé áit agus am a shocróidh sé chuige.

### LITERAL ENGLISH TRANSLATION

The President may convene the Council of State (in) whatever place and time he will arrange for it.

### ENGLISH TEXT

Meetings of the Council of State may be convened by the President at such times and places as he shall determine.

### Divergences between the official texts

- 1 ‘Meetings of the Council of State may be convened by the President’ is expressed as ‘Tig leis an Uachtarán an Chomhairle Stáit a chomóradh’ (‘The President may convene the Council of State’) in the Irish text.
- 2 ‘At such times and places as he shall determine’ is expressed as ‘cibé áit agus am a shocróidh sé chuige’, ‘(in) whatever place and time he will arrange for it’, in the Irish text; the verb ‘socráim’, however, is translated as ‘I settle’ in *Téarmaí Díl*.

### Commentary

*a chomóradh* ‘Comóradh’ is the verbal noun of ‘comóir’, translated as ‘convene, assemble’ in *Ó Dónaill*, who cites ‘*cruinniú a chomóradh*, to convene a gathering’. *Dinneen* gives ‘convene (an assembly)’ as one of the senses of ‘comóiraim’, citing ‘*comóiraim aonach*, I convene an assembly’. *DIL* cites ‘sealg ... do commórad la Find’ (‘a chase [hunt] was held by Finn’) from the opening of the Fenian tale, ‘*The Chase of Slieve na mBan and the Death of Finn*’, contained in the manuscript *Egerton 1782* (written in Carlow in 1419), the earliest of but a few citations in *DIL* being from the twelfth-century *Book of Leinster*. ‘Commóraid’ is based on ‘móraid’, the primary sense of which is ‘makes great, magnifies, exalts, glorifies’, this verb also having the sense of ‘assembles, musters, invokes’, *DIL* citing ‘ro morad aenach Tailtean la Daire’ (i.e. the assembly/fair of Tailtiu was held/celebrated by Daire) from the *Book of Ballymote* (written around 1400). See further the commentary on Article 12.3.3°.

‘Unless ... he shall have convened a meeting of the Council of State’ is expressed as ‘mura gcomóra sé an Chomhairle Stáit’ in Article 32. See the commentary on Article 13.2.3°, where ‘The President may at any time ... convene a meeting of either or both of the Houses of the Oireachtas’ is expressed as ‘Tig leis an Uachtarán uair ar bith ... ceachtar de Thithe an Oireachtais, nó iad araon, a chomóradh’.

Turning to the Acts, ‘the directors of the society shall ... proceed duly to convene a general meeting of the society for a day not more than 18 days after such service’ is translated as ‘déanfaidh stiúrthóirí an chumainn ... cruinniú ginearálta den chumann a thionól go cúil le haghaidh lá nach mó ná 28 lá i ndiaidh na seirbhéala sin’ in s86(2) of the Building Societies Act, 1989. ‘The President ... of the Council may convene a meeting of the Council on his own initiative’ is translated as ‘Féadfaidh Uachtarán ... na Comhairle cruinniú den Chomhairle a ghairm ar a thionscnamh féin’ in s11 of the Second Schedule to the Medical Practitioners Act, 1978. In s12(4) of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969, ‘the Provisional Council shall convene a further General Meeting to consider objections’ is translated as ‘déanfaidh an Chomhairle Shealadach Cruinniú Ginearálta eile a thoghairm d’fhonn agóidí ... a bhreithniú’. ‘Cruinniú a chomóradh iad féin’ translates ‘may themselves convene a meeting’ in s132(3) of the Companies Act, 1963. Finally, in s30(4) of the Electoral Act, 1923, ‘by the person by whom or on whose behalf the meeting is convened’ is translated as ‘pé duine do dhin, no gur dineadh thar a cheann, an cóthlán do chomóra’. See further the commentary on Articles 13.2.1° and 13.2.3° regarding ‘comóir’ and on Article 16.5 regarding ‘meeting’.

*cibé áit agus am* ‘The registration authority shall arrange for the provision of application forms at such times and places as are specified in a notice’ is translated as ‘Déanfaidh an t-údarás clárúcháin socrú maidir le foirmeacha iarratais a chur ar fáil ag cibé tráthanna agus i cibé ionaid a bheidh sonraithe i bhfógra’ in s7 of the Electoral (Amendment) (No. 2) Act, 1986. In s162(2) of the Fisheries (Consolidation) Act, 1959, ‘Lists of persons holding Part x licences shall be published at such times and places and in such manner and form as the Minister may from time to time direct’ is translated as ‘Déanfar liostaí de na daoine a bhfuil ceadúnais faoi Chuid x acu a fhoilsiú cibé tráthanna agus i cibé áiteanna agus i cibé slí agus foirm a ordóidh an tAire ó am go ham’. Finally, in s7(b) of the First Schedule to Electoral Act, 1923, ‘to attend and furnish such information as may be required at the revision of claims and objections under these rules at such times and places as may be ordered by the registration officer’ is translated as ‘bheith i láthair ag an ath-fhéachaint ar éilithe agus ar agóidí fé sna rialacha so sna háiteanna agus na haimseara san a ordóidh an t-oifigeach clárathachta agus aon eolas is gá do thabhairt uaidh’.

‘Delivery at such time and place as aforesaid’, in s180(4) of the Defence Forces (Temporary Provisions) Act, 1923, is translated as ‘(aon charráiste no capall den tsórt san roimhráite) do sheachada an uair sin agus san áit sin roimhráite’. Finally, ‘An appeals officer may ... require the person to attend at such time and place as is specified’ is translated as ‘Féadfaidh oifigeach achomhairc ... a cheangal ar an duine teacht i láthair cibé tráth agus i cibé

áit a bheidh sonraithe' in s298(8) of the Social Welfare (Consolidation) Act, 1981.

Professor Máirtín Ó Murchú agrees with the author in avoiding prepositions with 'cé', 'cibé', etc., examples of which are given in a variant direct translation below.

*a shocróidh* See the commentary on Articles 8.3 and 15.2.º regarding 'socraigh' and on Article 1 regarding 'determine', there expressed by 'cinn'. Professor Máirtín Ó Murchú finds the direct translation below unfinished as a sentence without the addition of 'chucu' – or of either 'dóibh' or 'chucu' in the case of 'socraigh' replacing 'ceap', i.e. '... a shocróidh sé nó sí dóibh/chucu'.

### Gender-proofed Irish text

Tig leis an Uachtarán an Chomhairle Stáit a chomóradh cibé áit agus am a shocróidh sé nó sí chuige.

### Direct gender-proofed translation

Féadfaidh an tUachtarán cruinnithe den Chomhairle Stáit a chomóradh cibé tráthanna agus cibé ionaid<sup>1</sup> a cheapfaidh<sup>2</sup> sé nó sí<sup>3</sup>.

### Variants

- 1 'ag cibé tráthanna agus i cibé ionaid'
- 2 'a chinnfidh', 'a shocróidh'
- 3 'sé nó sí chucu'

## ARTICLE 32 AIRTEAGAL 32

### TÉACS GAELGE

Cumhachtaí nó feidhmeanna ar bith a luaitear ina dtaobh sa Bhunreacht seo gur dleathach don Uachtarán iad a oibriú nó a chomhlíonadh tar éis comhairle a ghlacadh leis an gComhairle Stáit, ní cead don Uachtarán aon chumhacht ná feidhm díobh a oibriú ná a chomhlíonadh mura gcomóra sé an Chomhairle Stáit i ngach cás roimh ré, agus éisteacht leis na comhaltaí den Chomhairle sin a bheas i láthair.

### LITERAL ENGLISH TRANSLATION

Any powers or functions which it is mentioned concerning them in this Constitution that it is lawful for the President to operate or to fulfil them after taking counsel from the Council of State, the President is not permitted to operate or fulfil any power or function of them unless he convenes the Council of State in every case beforehand, and listens to the members of that Council who will be present.

### ENGLISH TEXT

The President shall not exercise or perform any of the powers or functions which are by this Constitution expressed to be exercisable or performable by him after consultation with the Council of State unless, and on every occasion before so doing, he shall have convened a meeting of the Council of State and the members present at such meeting shall have been heard by him.

### Divergences between the official texts

- 1 'To be exercisable or performable by him after consultation with the Council of State' is expressed in the Irish text as 'gur dleathach don Uachtarán iad a oibriú nó a chomhlíonadh tar éis comhairle a ghlacadh leis an gComhairle Stáit' ('that it is lawful for the President to operate or fulfil them after taking counsel with the Council of State').
- 2 'And the members present at such meeting shall have been heard by him' is expressed in the Irish text as 'agus éisteacht leis na comhaltaí den Chomhairle sin a bheas i láthair' ('and listens to the members of that Council who will be present').
- 3 'Unless, and on every occasion before so doing, he shall have convened' is expressed as 'mura gcomóra sé ... i ngach cás roimh ré' ('unless he convenes ... in every case beforehand') in the Irish text.
- 4 'He shall have convened a meeting of the Council of State' is expressed as 'mura gcomóra sé an Chomhairle Stáit' ('unless he convenes the Council of State') in the Irish text, much as we have seen in the foregoing section.
- 5 'Expressed' is expressed as 'luaitear', 'mentioned', in the Irish text, as we have already seen in earlier Articles.
- 6 'Exercise' is expressed by 'oibrigh' ('operate') in the Irish text, as we have seen in some earlier Articles.
- 7 'Shall not' is expressed as 'ní cead' ('it is not permitted to') in the Irish text, again as we have seen in some earlier Articles.

### Commentary

*éisteacht* Verbal noun of 'éist', which verb with the preposition 'le' is translated as 'listen to' in *Ó Dónaill*, who translates 'éisteacht le duine' as 'to listen, pay attention, to someone; to heed someone' and 'ní éistfeadh siad liom' as 'they would not hear me, let me speak'. *Dinneen* translates 'éist liom' as 'listen to me'. The earlier form, 'éitsecht', is the verbal noun of 'in-túaisi' (DIL gives one example of 'túaisid', 'is silent' ['tóe' translating 'silence']) – see the commentary on Article 26.2.1º.

'As to the costs of the parties to or persons heard by the court in proceedings relating to an application' is translated as 'i dtaobh costas na bpáirtithe, nó na ndaoine a fhaigheann éisteacht sa chúirt, in imeachtaí' in s7(3)(b) of the Local Government (Water Pollution) (Amendment) Act, 1990. 'An order under subsection (1) shall not be made without the person proposing to be named in the order being given an opportunity of being heard by the District Court' is translated as 'Ní dhéanfar ordú faoi fho-alt (1) gan caoi a thabhairt don duine atá le hainmniú san ordú éisteacht a fháil sa Chúirt Dúiche' in s10(3) of the Local Government (Water Pollution) Act, 1977. Finally, in s10(12) of the Damage to Property (Compensation) Act, 1923, 'the Judge may ... allow any local authority to appear and be heard by solicitor' is translated as 'féadfidh an Breitheamh ... leigint d'aon údarás áitiúil teacht i láthair agus éisteacht d'fháil tré atúrnae'. See further the commentary on Article 26.2.1º.

*mura gcomóra sé* The present subjunctive, third person singular, of 'comóir' – see the commentary on the foregoing section regarding this verb. 'Mura' is used with the present

subjunctive or future indicative to express future condition, according to *Ó Dónaill*, who cites '*mura mbaine, mbainfidh, taisme dó*, unless he meets with an accident' and '*mura n-imí, n-imeoidh, tú gan mhoill*, if you don't leave soon'. As we have seen already, the future tense can be used in place of the present subjunctive when it does not have an optative function and this is the current practice in the Acts, with phrases such as '*mura gcomóra sé*' being replaced by '*mura gcomórfaidh sé*' – see the commentary on Article 12.3.1°.

*a bheas* The special relative form of the future tense of the substantive verb, this now generally replaced by 'a bheidh' in the Acts – see the commentary on Article 6.1 for the special form of the relative in '-s'.

*roimh ré i ngach cás* Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú recommends '*roimh ré i ngach cás*', as against the more literal variant given below.

*a luaitear* See the commentary on Articles 12.10.1° and 24.1.

*gur dleathach* See the commentary on Articles 14.3 and 15.6.2°.

*a oibriú* See the commentary on Articles 3 and 13.5.1°.

*a chomhlíonadh* See the commentary on Articles 12.1 and 13.9.

*comhairle a ghlacadh* See the commentary on Article 13.2.3°.

*ní cead* See the commentary on Article 9.1.3°.

### Standardised gender-proofed Irish text

Cumhachtaí nó feidhmeanna ar bith a luaitear ina dtaobh sa Bhunreacht seo gur dleathach don Uachtarán iad a oibriú nó a chomhlíonadh tar éis comhairle a ghlacadh leis an gComhairle Stáit, ní cead don Uachtarán aon chumhacht ná feidhm díobh a oibriú ná a chomhlíonadh mura gcomórfaidh sé nó sí an Chomhairle Stáit i ngach cás roimh ré, agus éisteacht leis na comhaltaí den Chomhairle sin a bheidh i láthair.

### Direct gender-proofed translation

Ní fheidhmeoidh ná ní chomhlíonfaidh an tUachtarán aon cheann de na cumhachtaí nó feidhmeanna<sup>1</sup> a bhfuil sé sainráite leis an mBunreacht seo gur tar éis dul i gcomhairle<sup>2</sup> leis an gComhairle Stáit atá siad infheidhmithe nó in-chomhlíonta aige nó aici<sup>3</sup> mura mbeidh, roimh ré i ngach cás,<sup>4</sup> cruinniú den Chomhairle Stáit comórtha aige nó aici agus go mbeidh éisteacht tugtha aige nó aici do na comhaltaí<sup>5</sup> a bheidh i láthair ag an gcrúinniú sin<sup>6</sup>.

### Variants

- 1 'aon cheann de na cumhachtaí nó de na feidhmeanna', 'aon chumhacht nó feidhm de na cumhachtaí agus feidhmeanna'
- 2 'i gcomhchomhairle', 'i ndáil chomhairle'
- 3 'Ní dhéanfaidh an tUachtarán aon cheann de na cumhachtaí nó feidhmeanna a fheidhmiú nó a chomhlíonadh a bhfuil sé sainráite leis an mBunreacht seo go bhfuil siad infheidhmithe nó in-chomhlíonta aige nó aici tar éis dul i gcomhairle leis an gComhairle Stáit'
- 4 'agus ar gach ócáid sula ndéanfaidh sé nó sí amhlaidh,'
- 5 'agus éisteacht tugtha do na comhaltaí'
- 6 'áirithe sin'

# THE COMPTROLLER AND AUDITOR GENERAL AN tARD-REACHTAIRE CUNTAS AGUS CISTE

## ARTICLE 33.1 AIRTEAGAL 33.1

### TÉACS GAELGE

Beidh Ard-Reachtaire Cuntas agus Ciste ann chun gach caitheamh airgid a rialú thar ceann an Stáit, agus chun iniúchadh a dhéanamh ar gach uile chuntas ar airgead a riartar ag an Oireachtas nó faoi údarás an Oireachtais.

### LITERAL ENGLISH TRANSLATION

There will be a Comptroller and Auditor General to regulate all expenditure on behalf of the State, and to make an audit of every account of money which is administered by the Oireachtas or under the authority of the Oireachtas.

### ENGLISH TEXT

There shall be a Comptroller and Auditor General to control on behalf of the State all disbursements and to audit all accounts of moneys administered by or under the authority of the Oireachtas.

### Divergences between the official texts

- 1 'Rialaigh', the term expressing 'control' in the Irish text, generally expresses 'regulate' in the Constitution, this verb, however, being translated as 'control' (and 'rule') in *Téarmaí Dlí*; 'to control on behalf of the State all disbursements' is expressed as 'chun gach caitheamh airgid a rialú thar ceann an Stáit' ('to control all disbursements on behalf of the State') in the Irish text.
- 2 'Disbursements' is expressed by 'caitheamh airgid', which term expresses 'expenditure' earlier in the Constitution.
- 3 'All accounts of moneys' is expressed as 'gach uile chuntas ar airgead' ('every account of money') in the Irish text.
- 4 The Irish text has a comma after the first clause, no corresponding comma being found in the English text.

Note that Article 62 of the 1922 Constitution contains the following:

Dáil Éireann shall appoint a Comptroller and Auditor-General to act on behalf of the Irish Free State (Saorstát Éireann). He shall control all disbursements and shall audit all accounts of moneys administered by or under the authority of the Oireachtas .... *Ceapfaidh Dáil Éireann Ard-Sgrúdaí chun gníomhuíthe ar son Shaorstáit Éireann. Smachtóidh sé díoluíocht agus scrúdaíocht cuntas gach airgid a riartar ar ordú no fé údarás an Oireachtais.*

### Commentary

*Ard-Reachtaire Cuntas agus Ciste* The current official phrase expressing 'Comptroller and Auditor General' in Irish. This compound of 'ard' and 'reachtaire' does not

appear to be given as a separate headword in *Ó Dónaill* nor in *Dinneen*, the latter having a headword 'áird-reacht', translated as 'supreme law'. Besides its use in the literal sense, 'ard' often indicates pre-eminence in rank or excellency over others of the same designation, according to DIL, citing 'ardlathí' ('chief princes', i.e. 'ard' + plural of 'flaith') from the eighth-century Würzburg Glosses on the Pauline Epistles. *Ó Dónaill*, for the word 'reachtaire', includes the senses from earlier literature of 'controller (of royal household); administrator, steward' and 'dairy-farmer renting land and stock' in his entry, also including the ecclesiastical sense of 'rector' and the sense (in schools) of 'auditor', citing 'reachtaire (*cumainn*), auditor (of society)'. *Dinneen's* entry on 'reachtaire' elaborates in particular on the earlier senses above; regarding the sense of 'dairyman', for example, *Dinneen* says, 'that is, a small farmer or farm-labourer who rents a number of milch-cows, with grazing, house, facilities for crops, pig-raising, etc., from a big farmer, the letting being called a "dairy"'. *Dinneen* also gives the following senses of 'reachtaire': 'a lawgiver or administrator, a steward, manager, comptroller or agent, a beadle, rector or court official, an auditor or president of a society (*recent*)'. In his *Guide to Early Irish Law* (p. 65), Fergus Kelly refers to the 'reachtaire' ('steward, agent') as the most important functionary in the household of a king or lord, being described in one text as 'the man who arranges seating, lying [i.e. sleeping accommodation] and food for all', also being responsible for collecting the rent. DIL translates 'reachtaire' as 'a steward, bailiff, administrator' stating that in Irish heroic literature the 'reachtaire' was 'the major-domo of a king or chief, who directed his household and whose duties sometimes included collecting food-dues or tributes'. Lindgadan is called 'primreachtaire fer nHerend' (i.e. principal 'reachtaire' of the men of Ireland) in the twelfth-century *Book of Leinster*, for example. 'Reachtaire' is also used of deputies or governors appointed by a ruler over a city or province. DIL cites 'rectire in rí' from the eighth-century Würzburg Glosses on the Pauline Epistles, where it glosses Latin 'praepositus regis'. The noun 'recht(a)ire' is formed from 'recht' ('law' – as in 'bun-reacht', 'constitution') with the suffix '(a)ire', one of the two forms in which the Latin suffix '-arius' appears in Irish, the other being as '-óir' ('candleóir' ['candelarius', 'candlebearer'], for example) – see Rudolf Thurneysen, op. cit., s269.

Turning to 'cuntas', this headword is translated as 'account' in *Téarmaí Dlí*, this also being one of the two main senses in *Ó Dónaill*, 'count' being the primary sense. *Ó Dónaill* cites 'cuntas a choinneáil ar rud, to keep an account of something'. 'Cunntas' is translated as 'an account, a bill; a count, a computation; check, limit; a description, information, news; act of counting' in *Dinneen*. Anglo-Norman 'cuntes' is the source of Irish 'cuntas', translated

as '(ac)count, reckoning, computation' in DIL, Maghnas Ó Dómhnaill's *Life of Colmcille*, written in 1532, being the source of the first citation of this headword in DIL. See further the commentary on Article 22.1.1°.

'Ciste', as we saw in relation to earlier Articles, is translated as 'fund' in *Téarmaí Dlí*, with '*ciste (an) stáit*, treasury, state funds' being cited in *Ó Dónaill*. This word comes from Anglo-Saxon 'ciste' and is translated as 'chest, treasure, riches' in DIL – see further the commentary on Article 29.5.2°.

Literally, therefore, 'Ard-Reachtaire Cuntas agus Ciste' would be 'the Chief Comptroller of Accounts and Fund'. We see above that 'Árd-Sgrúdaí' translates 'Comptroller and Auditor-General' in the 1922 Constitution, 'the Comptroller and Auditor-General Act, 1923' being cited in Irish as 'Acht an Árd-Scrúdóra, 1923'. Section 1 of that Act reads as follows:

From and after the passing of this Act, it shall be lawful for Dáil Éireann from time to time by resolution carried by a majority of the members present and voting, to appoint a Comptroller-General of the Receipt and Issue of the Exchequer of Saorstát Éireann and Auditor-General of Public Accounts who shall be styled and known as the Comptroller and Auditor-General (Árd-Scrúdóir) and who shall act on behalf of Saorstát Éireann .... *Ó aimsir riththe an Achta so agus tar a héis beidh sé dleathach do Dháil Éireann duine a bheidh in' Árd-Smachtóir ar Fháiltas agus Caiteachas Stát-Chiste Shaorstáit Éireann agus in' Árd-Scrúdóir ar Chuntaisí Puiblí do cheapa ó am go ham le rún a rithfidh mór-áireamh de sna baill a bheidh láithreach agus ag vótáil agus an t-Árd-Scrúdóir a bheidh mar theideal air sin agus is mar sin aithneofar é agus gníomhóidh sé thar ceann Shaorstáit Éireann.*

Note that we find the following in the Fourth Article of the 1919 Constitution:

Scrúdaidhe nó Scrúdaidhthe toghtha ag an Dáil a dheunfaidh an mionscrúdadh.

'The Comptroller and Auditor General (Amendment) Act, 1944', is cited in Irish as 'Acht an Árd-Reachtaire Cuntas agus Ciste (Leasú), 1944', 'Chun Tuarastail agus Costaisí Oifig an Ard-Reachtaire Cuntas agus Ciste' translating 'For the Salaries and Expenses of the Office of the Comptroller and Auditor General' in Schedule (B) of the Appropriation Act, 1938, following the 1937 Constitution, as against 'Chun Tuarastail agus Costaisí Oifig an Ard-Scrúdóra' in the Appropriation Act of the previous year. In s19(2) of the Central Bank Act, 1989, 'The Comptroller and Auditor General shall audit, certify, and report upon every statement of accounts transmitted to him by the Bank' is translated as 'Déanfaidh an tArd-Reachtaire Cuntas agus Ciste gach ráiteas cuntas a chuir an Bank chuige ... a iniúchadh agus a dheimhniú agus tabharfaidh sé tuarascáil air'.

'Comptroller of industrial and commercial property' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ceannasaí maoinne tionnscail agus tráchtála' on the Dáil *Order Paper*, 1926, p. 375, with 'auditor' being translated as 'iniúcháir' in translations for the Department of Local Government and Public Health.

*iniúchadh* See the commentary on Article 22.1.1°. This headword is translated as 'audit' in *Téarmaí Dlí*, 'iniúchadh cuntas' being translated as 'audit of accounts' in *Ó Dónaill*.

The sense of 'auditing (accounts)' is followed by the abbreviation for 'recent' in *Dinneen*, who translates 'infiúchadh' as 'act of looking closely and attentively at, viewing, prying, closely examining; choosing, selecting'. This word does not appear to be given as a headword in DIL.

Looking at the Acts, 'the appropriation, ... issue or audit of accounts of public money' is translated as 'airgead puiblí do chur i leithreas, ... do thabhairt amach no a chuntaisí do scrúdú' in Article 35 of the 1922 Constitution. 'Iniúcha' is cited in the *Oireachtas Dictionary of Official Terms* as translating the verb 'audit' in translations for the Department of Local Government and Public Health.

'Audit of accounts of committees of agriculture' is translated as 'Cuntais coistí talmhaíochta a iniúchadh' in the Margin Title of s71 of the National Agricultural Advisory, Education and Research Authority Act, 1977, 'in relation to the auditing of accounts of local authorities' being translated as 'i ndáil le hiniúchadh cuntas údarás áitiúil' in that section. In s3(1)(c) of the Friendly Societies (Amendment) Act, 1977, 'provide that a person shall not audit the accounts of a registered society' is translated as 'a fhoráil nach ndéanfaidh duine cuntais cumainn chláráithe ... a iniúchadh'.

*caitheamh arigid* See the commentary on Article 17.1.1° where this phrase expresses 'expenditure'. Note that *De Bhaldraithe* translates 'disbursement' as 'iocaíocht, díolaíocht, caitheamh (airgid)'. We see above that 'díolaíocht' translates 'disbursement' in the 1922 Constitution. 'To disburse moneys for or on behalf of the local authority' is translated as 'airgead do chaitheamh don údarás áitiúil nó ar a shon' in *Iris Oifigiúil*, 1924, p. 107. In s21(1) of the Slaughtered Animals (Compensation) Act, 1928, 'The Trustees shall ... prepare an account showing all payments into and disbursements from the compensation fund' is translated as 'ullamhóidh na hÍontabhairthe cuntas a thaisbeánfidh gach iocaíocht a cuireadh isteach sa chiste chúitimh agus gach iocaíocht a tugadh amach as'. 'Master's disbursements, including disbursements made by skippers' is translated as 'eisiocaíochtaí Máistir, lena n-áirítear eisiocaíochtaí a rinne seoladóirí' in s1(n) of Article 1 of the First Schedule to the Jurisdiction of Courts (Maritime Conventions) Act, 1989. In s4 of Article 1 of the Schedule to the International Development Association (Special Action Account) Act, 1978, 'in order to meet disbursements of Special Action Credits' is translated as 'chun eisiocaíochtaí Creidmheasaí Gníomhaíochta Speisialta a íoc'.

*a rialú* 'Rialú' is the verbal noun of 'rialáigh', 'rialáim' being translated as 'I control; I rule' in *Téarmaí Dlí* – see the commentary on Articles 10.3 and 12.5. 'It shall be the duty of the Comptroller and Auditor-General to control all disbursements' is translated as 'Beidh sé de dhualgas ar an Árd-Scrúdóir smachtú do dhéanamh ar dhíolaíocht ... gach airgid' in s7(1) of the Comptroller and Auditor-General Act, 1923. In s6(1) of the National Institute for Higher Education, Limerick, Act, 1980, 'the Governing Body shall manage and control all the affairs and property of the Institute' is translated as 'déanfaidh an Comhlacht Ceannais gnóthaí agus maoin uile an Fhorais a bhainisti agus a rialú'.

**Direct translation**

Beidh Ard-Reachtair Cuntas agus Ciste ann chun rialú a dhéanamh thar ceann an Stáit ar gach eisíocaíocht<sup>1</sup> agus chun na cuntais go léir i leith airgid a riartar<sup>2</sup> ag an Oireachtas nó faoi údarás an Oireachtais a iniúchadh<sup>3</sup>.

**Variants**

- 1 'chun gach eisíocaíocht a rialú thar ceann an Stáit'
- 2 'atá á riaradh', 'a bheidh á riaradh'
- 3 'chun iniúchadh a dhéanamh ar na cuntais go léir i leith airgid a riartar ag an Oireachtas nó faoi údarás an Oireachtais'

## ARTICLE 33.2 AIRTEAGAL 33.2

**TÉACS GAEILGE**

Is ag an Uachtarán a cheapfar an tArd-Reachtair Cuntas agus Ciste, arna ainmniú sin ag Dáil Éireann.

**LITERAL ENGLISH TRANSLATION**

It is by the President that the Comptroller and Auditor General will be appointed, on being nominated by Dáil Éireann.

**ENGLISH TEXT**

The Comptroller and Auditor General shall be appointed by the President on the nomination of Dáil Éireann.

**Divergences between the official texts**

- 1 'On the nomination of Dáil Éireann' is expressed as 'arna ainmniú sin ag Dáil Éireann' ('on being nominated by Dáil Éireann') in the Irish text, the same construction as we see in Article 30.2, but here preceded by a comma, no corresponding comma being found in the English text.

**Commentary**

*arna ainmniú sin* See the commentary on Article 30.2

**Gender-proofed Irish text**

Is ag an Uachtarán a cheapfar an tArd-Reachtair Cuntas agus Ciste, arna ainmniú nó arna hainmniú sin ag Dáil Éireann.

**Direct translation**

Déanfaidh an tUachtarán an tArd-Reachtair Cuntas agus Ciste a cheapadh<sup>1</sup> ar ainmniú Dháil Éireann<sup>2</sup>.

**Variants**

- 1 'Is é nó is í an tUachtarán a cheapfaidh an tArd-Reachtair Cuntas agus Ciste'
- 2 'ar ainmniú ó Dháil Éireann', 'ar é nó í a ainmniú ag Dáil Éireann'

## ARTICLE 33.3 AIRTEAGAL 33.3

**TÉACS GAEILGE**

Ní cead an tArd-Reachtair Cuntas agus Ciste a bheith ina

chomhalta de cheachtar de Thithe an Oireachtais, ná a bheith in aon oifig ná post sochair eile.

**LITERAL ENGLISH TRANSLATION**

The Comptroller and Auditor General is not permitted to be a member of either of the Houses of the Oireachtas, nor to be in any other beneficial post or office.

**ENGLISH TEXT**

The Comptroller and Auditor General shall not be a member of either House of the Oireachtas and shall not hold any other office or position of emolument.

**Divergences between the official texts**

- 1 'Any other office or position of emolument' is expressed as 'aon oifig ná post sochair eile' ('any other beneficial position or office') in the Irish text, the word expressing 'emolument', 'sochar', having this sense of 'emoluments' only in earlier Irish writings; while both texts raise a doubt as to whether 'emoluments'/'sochar' is qualified by both 'office' and 'position', as 'eile'/'other' clearly qualifies both these nouns, 'sochar' would also appear to qualify both nouns.
- 2 'And shall not hold any other office' is expressed as 'ná a bheith in aon oifig ... eile' ('nor to be in any other office') in the Irish text; note that 'Ní cead don Uachtarán aon oifig ná post sochair a bheith aige seachas a oifig Uachtaráin' expresses 'The President shall not hold any other office or position of emolument' in Article 12.6.3<sup>o</sup> and that we find 'ná bheith in aon oifig ná post sochair eile' in Article 35.3, as against 'ná a bheith ...' in the present Article.
- 3 'Shall not' is expressed as 'Ní cead', 'It is not permitted', in the Irish text, as we have seen in some earlier Articles.
- 4 'Of either House of the Oireachtas' is expressed as 'de cheachtar de Thithe an Oireachtais' ('of either of the Houses of the Oireachtas') in the Irish text.
- 5 A comma precedes the final clause in the Irish text, no corresponding comma being found in the English text.

Note that Article 63 of the 1922 Constitution contains the following:

He shall not be a member of the Oireachtas, nor shall he hold any other office or position of emolument. *Ní bheidh sé 'na bhall den Oireachtas ná ní bheidh aon oifig ná ionad eile sochair aige.*

Section 3(2) of the Comptroller and Auditor-General Act, 1923, reads as follows:

The Comptroller and Auditor-General shall not, while holding his office, be capable of holding any other office or position of emolument, or of being elected to or of being a member of either House of the Oireachtas. *Le linn é do bheith i seilbh a oifige, ní bheidh ar chumas an Ard-Scrúdóra aon oifig nó aon bheart eile sochair a bheith ar sheilbh aige, ná bheith iontoghtha ná bheith 'na bhall d'aon Tigh den Oireachtas.*

**Commentary**

*aon oifig ná post sochair* See the commentary on Article 12.6.3<sup>o</sup>. Note that 'i bpost' is translated as 'in office' in *Ó Dónaill*.

*Ní cead* See the commentary on Article 9.1.3°.

### Gender-proofed Irish text

Ní cead an tArd-Reachtair Cuntas agus Ciste a bheith ina chomhalta nó ina comhalta de cheachtar de Thithe an Oireachtais, ná a bheith in aon oifig ná post sochair eile.

### Direct gender-proofed translation

Ní bheidh an tArd-Reachtair Cuntas agus Ciste ina chomhalta nó ina comhalta de cheachtar Teach den Oireachtas agus ní bheidh aon oifig ná post sochair<sup>2</sup> eile aige nó aici<sup>3</sup>.

### Variants

- 1 'nó'
- 2 'diolaíochta', 'éadála'
- 3 'ní bheidh sé nó sí i seilbh aon oifige nó poist sochair eile', 'ní shealbhóidh sé nó sí aon oifig ná post sochair eile'

## ARTICLE 33.4 AIRTEAGAL 33.4

### TÉACS GAEILGE

Ní foláir don Ard-Reachtair Cuntas agus Ciste tuarascálacha a chur os comhair Dháil Éireann ar thrátha áirithe mar a chinnfear le dlí.

### LITERAL ENGLISH TRANSLATION

The Comptroller and Auditor General must put reports before Dáil Éireann at certain times as (will be) determined/decided by law.

### ENGLISH TEXT

The Comptroller and Auditor General shall report to Dáil Éireann at stated periods as determined by law.

### Divergences between the official texts

- 1 'Report to Dáil Éireann' is expressed as 'tuarascálacha a chur os comhair Dháil Éireann' ('put reports before Dáil Éireann') in the Irish text.
- 2 'At stated periods' is expressed as 'ar thrátha áirithe' ('at certain times') in the Irish text.
- 3 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in many earlier Articles.

Note that Article 62 of the 1922 Constitution concludes as follows:

... and shall report to Dáil Éireann at stated periods to be determined by law .... *agus tabharfa sé tuairisc uaidh do Dháil Éireann ar uairibh áirithe a socrófar le dlí.*

### Commentary

*tuarascálacha* 'Tuarascáil' is translated as 'account, report, description' in *Ó Dónaill* and as 'act of describing; description, report, history, repute, character, rumour' in *Donneen*, who cites '*tuarascbháil chailín an tuarastail*

*ghránna ná faghann mar phádh acht caidhp 'san ráithe*, report of the servant girl with the wretched wages, she only gets a new cap every three months'. The earlier form, 'tuarascbáil', is the verbal noun of 'do-fúarascáib', 'discloses, reveals, describes, makes known', the third person singular, present indicative, of which verb is found in 'imbas forosnai', the name applied to the rite practised by the seer and which originally applied to the inspired wisdom of the seer, according to T.F. O'Rahilly, *Early Irish History and Mythology* (1976 [1946], p. 339), who writes as follows (p. 323):

One of the ways in which divination was practised in pagan Ireland is described by Cormac [mac Cuileannáin, King-Bishop of Cashel, who died in 908] in a well-known article in his Glossary. The *fili* chewed a piece of the raw flesh of a pig, dog, or cat, and then chanted an incantation over it, and offered it to the gods, whom he invoked. He then slept, and in his sleep the knowledge that he sought was revealed to him. Cormac's name for this rite is *imbas forosnai*.

In *Pagan Past and Christian Present in Early Irish Literature* (1990, p. 168), Kim McCone translates 'imbis for-osnai' as 'a great knowledge that lights up' and states (p. 169) that 'poetic understanding is not only itself "cooked" for human ingestion but also transforms its recipient by a kind of culinary process, as is implied by its very name *imbis for-osnai* "great knowledge which lights up, kindles"'.<sup>1</sup>

DIL translates 'tuarascbáil' as (a) 'art of giving an account of, describing' and (b) 'account, description', giving 'news, report; trace, vestige' as a sense of this noun in Modern Irish, citing 'ar n-a cloistin sin d'Ua Néill 7 d'a t-sluagh, do fhilleat fó tuarascbáil na crech sin' ('... at the tidings of those plunders') from the *Annals of Ulster*.

Turning to the Acts, 'Every account of expenditure prepared pursuant to this section shall be transmitted to the Comptroller and Auditor-General, and shall be audited and reported on by him as an appropriation account' is translated as 'Gach cuntas caiteachais a hullamhófar do réir an ailt seo cuirfar chun an Ard-Scrúdóra é agus déanfaidh seisean é iniúcha agus tuarascbháil do thabhairt air mar chuntas leithreasa' in s3(2) of the Telephone Capital Act, 1924. 'The Comptroller and Auditor General shall audit, certify, and report upon every statement of accounts transmitted to him by the Bank' is translated as 'Déanfaidh an tArd-Reachtair Cuntas agus Ciste gach ráiteas cuntas a chuir an Banc chuige faoin alt seo a iniúchadh agus a dheimhniú agus tabharfaidh sé tuarascáil air' in s19(2) of the Central Bank Act, 1989. 'He shall report to the Board of Governors' is translated as 'tabharfaidh sé tuairisc don Bhord Rialtóirí' in s2(c) of Article XVIII of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977. The Margin Title of s89 of the *Standing Orders* of Dáil Éireann (1997), 'Select Committees to report to the Committee on Procedure and Privileges', is translated as 'Roghchoistí do thuairiscíú don Choiste um Nós Imeachta agus Pribhléidí', the section itself reading as follows:

... each Select Committee shall review its procedures ... and shall report to the Committee on Procedure and Privileges at least every six months on these matters ... *deanfaidh gach Roghchoiste a nósanna imeachta ... a athbheithniú ... agus tabharfaidh siad tuarascáil faoi na nithe sin don Choiste um Nós Imeachta agus Pribhléidí uair amháin ar a laghad gach sé mhí.*



*ar thrátha áirithe* ‘*Ar thráthanna áirithe*, at certain times’ is cited in *Ó Dónaill*, who gives ‘tráthanna’ as the general form of the plural of ‘tráth’, the form ‘trátha’ being used as the nominative plural ‘in certain phrases’ – *Ó Dónaill* cites ‘*na trátha canónta*, the canonical hours’ and ‘*i dtrátha na Nollag*, around Christmas’. ‘Tráthanna’ is given as the form of the plural of ‘tráth’ (‘time’) in the Glossary appended to *An Caighdeán Oifigiúil*, followed by ‘*i dtrátha (a sé, etc.)*’. *Dinneen* gives ‘trátha’, ‘tráta’, ‘tráite’ and ‘tráthanna’ as forms of the plural. See the commentary on Article 31.2 regarding ‘tráth’, the commentary on Article 12.3.1° regarding ‘period’ and on Articles 12.10.1° and 25.4.2° regarding ‘stated’.

In s57(1)(b)(i) of the Intoxicating Liquor Act, 1927, ‘at any time except during stated period or periods not exceeding in the whole seven hours’ is translated as ‘aon uair ach i rith pé tréimhse no tréimhsí nách sia ar fad ná seacht n-uair a’ chluig’. ‘But different periods may be stated for different components of any goods’ is translated as ‘ach féadfar tréimhsí éagsúla a dhearbhu le haghaidh comhphárteanna éagsúla d’aon earraí’ in s16(3) of the Sale of Goods and Supply of Services Act, 1980. ‘The term “life annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time’ is translated as ‘Ciallaíonn an téarma “blianacht saoil” suim áirithe is iníoctha go tréimhsiúil ag tráthanna áirithe, ar feadh saoil nó ar feadh tréimhse sonraithe nó tréimhse infhionnta’ in s3 of Article XII of the Second Schedule to the Finance Act, 1950. Finally, ‘a copy of the proposed plan ... may be inspected at a stated place and at stated times during a stated period’ is translated as ‘(go) bhféadfar cóip den phlean beartaithe ... a iniúchadh in ionad a bheidh luaite agus ag tráthanna a bheidh luaite le linn tréimhse a bheidh luaite’ in s48(2)(a) of the Air Pollution Act, 1976.

*a chinnfear* See the commentary on Articles 1 and 12.11.2°.

### Standardised Irish text

Ní foláir don Ard-Reachtair Cuntas agus Ciste tuarascálacha a chur os comhair Dháil Éireann ar thráthanna áirithe mar a chinnfear le dlí.

### Direct translation

Tuairisceoidh an tArd-Reachtair Cuntas agus Ciste<sup>1</sup> do Dháil Éireann ag tréimhsí<sup>2</sup> sainráite<sup>3</sup> mar a chinnfear le dlí.

### Variants

- 1 ‘Tabharfaidh an tArd-Reachtair Cuntas agus Ciste tuarascáil’
- 2 ‘ar thráthanna’
- 3 ‘a bheidh sainráite’

## ARTICLE 33.5.1° AIRTEAGAL 33.5.1°

### TÉACS GAELIGE

Ní cead an tArd-Reachtair Cuntas agus Ciste a chur as oifig ach amháin de dheasca mí-iompair nó mithreora a luafar, ná an uair sin féin mura rithid Dáil Éireann agus Seanad Éireann rúin á éileamh é a chur as oifig.

### LITERAL ENGLISH TRANSLATION

It is not permitted to put the Comptroller and Auditor General out of office except as a result of misbehaviour or mental incapacity which will be cited, nor even then unless Dáil Éireann and Seanad Éireann pass resolutions demanding that he be put out of office.

### ENGLISH TEXT

The Comptroller and Auditor General shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal.

### Divergences between the official texts

- 1 ‘Incapacity’, as we have seen earlier, is expressed in the Irish text by a term (‘míthreoir’) which does not appear to have quite this sense today, although this is the primary sense of the word in *Dinneen* and consistently expresses ‘incapacity’ in the Constitution.
- 2 ‘Calling for his removal’ is expressed as ‘á éileamh é a chur as oifig’ (‘demanding he be put out of office’) in the Irish text, ‘removed from office’ being expressed earlier in the subsection as ‘a chur as oifig’ (‘put out of office’) also.
- 3 ‘And then only upon resolutions passed by Dáil Éireann and Seanad Éireann’ is expressed as ‘ná an uair sin féin mura rithid Dáil Éireann agus Seanad Éireann rúin’ (‘nor even at that time unless Dáil Éireann and Seanad Éireann pass resolutions’) in the Irish text.
- 4 ‘Shall not’ is expressed as ‘Ní cead’ (‘It is not permitted’) in the Irish text, as we have seen in s3 and in some earlier Articles.

Note that Article 63 of the 1922 Constitution commences as follows:

The Comptroller and Auditor-General shall not be removed except for stated misbehaviour or incapacity on resolutions passed by Dáil Éireann and Seanad Éireann. *Ní cuirfear an t-Ard-Sgrúdaí as oifig ach mar gheall ar dhroch-iompar no mí-chumas a luadhfar agus ar rúin a rithfidh Dáil Éireann agus Seanad Éireann.*

### Commentary

*a chur as oifig* ‘Duine a chur as obair, as a phost’ is translated by *Ó Dónaill* as ‘to put someone out of work, out of his job’. ‘Scoilim as oifig’ is translated as ‘I retire’ in *Téarmaí Dlí*, with *Dinneen* translating ‘cuirim as ionad, áit’ as ‘I dislocate, displace’. DIL cites ‘ro curthea gai a Herind re lind ...’ (‘spears were banished’ from Ireland during ...) from the twelfth-century *Book of Leinster* and ‘conacca ... dorralla inna huili fiadmila asin fidbaid’ (‘... that all the wild animals had come out of the wood’) from the eleventh-century version of the *Táin* contained in the *Yellow Book of Lecan*.

See the commentary on Article 12.10.7° for ‘do chur as oifig’ translating ‘remove from office’ in early official translations, along with ‘cur as feidhmanas’, ‘brise’ and ‘cur chun siúil’. ‘An officer or representative of the Central Bank ... shall not be removed from office without the consent of the Bank’ is translated as ‘Ní dhéanfar oifigeach nó ionadaí don Bhanc Ceannais ... a chur as oifig gan toiliú an Bhainc’ in s109(12) of the Central Bank Act, 1989. ‘A person appointed to be the Ombudsman ... may be

removed from office by the President but shall not be removed from office except for stated misbehaviour, incapacity or bankruptcy and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal' is translated as 'Aon duine a bheidh ceaptha le bheith ina Ombudsman ... féadfaidh an tUachtarán é a chur as oifig ach ní chuirfear as oifig é ach amháin mar gheall ar mhí-iompar sonraithe, éagumas nó féimheacht ná ansin féin ach tar éis do Dháil Éireann agus do Sheanad Éireann rúin a rith ag éileamh é a chur as oifig' in s2(3) of the Ombudsman Act, 1980.

*an uair sin féin* This phrase is translated by *Ó Dónaill* as 'even at that time' and cited as an example of the use of 'féin' as an adverb to express 'even, only', *Dinneen* stating that 'féin' is regularly translated in English by the adverbs 'even, truly', citing '*agus gurbh' inimtheachta aiste an uair sin féin*, and that they should have left it even then' from a version of *Oidhe Chloinne Uisnigh* (the story of Deirdre of the Sorrows). DIL cites 'na cnuic fen' ('even those hills') from Maghnas Ó Domhnaill's *Life of Colmcille* (written in 1532), and 'aniu féin' ('even now') from the seventeenth-century 'Contention of the Bards', as examples of this sense of 'even'. DIL gives examples of 'fadéin, féin' as emphasizing pronoun or adjective – '(my, thy, etc.) -self' – from the Glosses onwards, including 'in tain ronicub féin' ('when I myself shall come') from the eighth-century Würzburg Glosses on the Pauline Epistles.

As we saw above, 'and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal' is translated as 'ná ansin féin ach tar éis do Dháil Éireann agus do Sheanad Éireann rúin a rith ag éileamh é a chur as oifig'. Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú favours the original 'an uair sin' to 'ansin' as being clearer and more precise.

*a éileamh* 'Éilim' is translated as 'I claim; I demand' in *Téarmaí Dlí*, 'éilighim' being translated as 'I look for, demand, call to account, sue for; I make a friendly quest for; I visit; pursue' in *Dinneen*. As in *Téarmaí Dlí*, 'éiligh' is translated primarily as 'claim, demand' in *Ó Dónaill*, who cites '*éileamh ar dhuine rud a dhéanamh*, to require someone to do something'. DIL translates 'éiligid' as (I) 'accuses, charges, sues, impeaches' and (II) 'impugns, refutes, contradicts', with seventeenth-century works by Keating providing the only two examples there of the verbal noun 'éiligud' in the sense of 'claiming; demanding; a claim' ('ag éiliughadh a raibhe ó Shliabh E. go Luimneach' from Keating's *History of Ireland* and 'éiliughadh an éaga ar gach aon' from his *Three Shafts of Death*).

'Or be called upon by a resolution of the Conference to resign the office of trustee' is translated as 'no nuair a hiarrfar air, le rún ón gCódháil, eirghe as a oifig mar iontaobhaí' in the Schedule to the Methodist Church in Ireland Act, 1928. In s2 of the Broadcasting Authority (Amendment) Act, 1976, 'A member of the Authority may be removed by the Government from office for stated reasons, if, and only if, resolutions are passed by both Houses of the Oireachtas calling for his removal' is translated as 'Féadfaidh an Rialtas comhalta den Údarás a chur as oifig ar chúiseanna sonraithe, má ritheann, agus amháin má ritheann, dhá Theach an Oireachtais rúin á iarraidh é a chur as oifig'.

*mura rithid* The third person plural, synthetic form, of the present subjunctive (also the form of present indicative) of 'rith', this would currently be written as 'mura rithfidh (siad)' in the Acts – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb and on Article 12.3.1° regarding the use of the future for the present subjunctive.

*Ní cead* See the commentary on Article 9.1.3°.

*de dheasca mí-iompair ... a luafar* See the commentary on Article 12.10.1°.

*míthreoir* See the commentary on Article 12.3.1°.

### Standardised gender-proofed Irish text

Ní cead an tArd-Reachtair Cuntas agus Ciste a chur as oifig ach amháin de dheasca mí-iompair nó míthreorach a luafar, ná an uair sin féin mura rithfidh Dáil Éireann agus Seanad Éireann rúin á éileamh é nó í a chur as oifig.

### Direct gender-proofed translation

Ní chuirfear an tArd-Reachtair Cuntas agus Ciste as oifig ach amháin de dheasca mí-iompair nó éagumas shonraithe<sup>1</sup>, ná an uair sin<sup>2</sup> féin ach tar éis do Dháil Éireann agus do Sheanad Éireann rúin a rith á iarraidh<sup>3</sup> é nó í a chur as oifig.

### Variants

- 1 'mar gheall ar mhí-iompar nó éagumas sonraithe'
- 2 'ansin'
- 3 'ag éileamh'

## ARTICLE 33.5.2° AIRTEAGAL 33.5.2°

### TÉACS GAEILGE

Rúin ar bith den sórt sin a rithfid Dáil Éireann agus Seanad Éireann ní foláir don Taoiseach scéala a thabhairt don Uachtarán ina dtaobh go cuí, agus cóip de gach rún den tsamhail sin a sheoladh chuige faoi theastas Chathaoirleach an Tí den Oireachtas a rith é.

### LITERAL ENGLISH TRANSLATION

Any resolutions of that kind which Dáil Éireann and Seanad Éireann will pass the Taoiseach must duly give an account of them / information on them to the President, and send him a copy of every resolution of that kind under the certification of the Chairman of the House of the Oireachtas which passed it.

### ENGLISH TRANSLATION

The Taoiseach shall duly notify the President of any such resolutions as aforesaid passed by Dáil Éireann and by Seanad Éireann and shall send him a copy of each such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

### Divergences between the official texts

- 1 'Notify the President' is expressed as 'scéala a thabhairt don Uachtarán ina dtaobh' ('give an account/

- information concerning them to the President') in the Irish text.
- 2 'Certified by' is expressed as 'faoi theastas' ('under the certification of') in the Irish text, 'deimhním' translating 'I certify' in *Téarmaí Dlí*, with 'deimhniú' rather than 'teastas' translating 'certificate' therein.
  - 3 'Any such resolutions as aforesaid' is expressed as 'Rúin ar bith den sórt sin' ('Any resolutions of that kind') in the Irish text; 'such' appears further on in the English text and is expressed by 'den tsamhail sin' rather than the usual 'den sórt sin' in the Irish text.
  - 4 'Shall have passed' is expressed simply as 'a rith' ('passed') in the Irish text.
  - 5 No comma is found in the English text corresponding to the one in the Irish text before the final clause.
  - 6 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in s4 and in many earlier Articles.

### Commentary

*faoi theastas* 'Teastas' is translated as 'testimonial, certificate' in *Ó Dónaill*, who cites '*teastas pósta, báis, marriage, death, certificate*', along with '*teastais aitheantais, credentials*'. *Dinneen* translates 'teastas' as 'a proof, testimony, certificate, attestation, character, report, fame'. The principal sense of 'testas' in DIL is 'testimony, witness', 'do thabirt testassa airibsi' ('to give evidence for you') being cited from the eighth-century Würzburg Glosses on the Pauline Epistles. Fergus Kelly, op. cit., p. 208, refers to 'gúthestas', 'false testimony', in early Irish law-tracts. 'Praise, fame, reputation' is the secondary sense of 'testas' in DIL, this word being based on 'teist', which comes from Latin 'testis'; according to DIL, 'a witness, one capable of giving evidence' (the meaning of Latin 'testis') is presumably the original sense of 'teist', the more usual sense being that of Latin 'testimonium', 'evidence'.

'Boyle Branch Hospital Committee to furnish the County Home Committee with monthly bills or accounts of all expenditure incurred by them, duly certified' is translated as 'Coiste Brains-óspideul Mhainistir na Búille do thabhairt billí no cuntaisí míosúla cuibhe-dheimhniithe do Choiste an Teaghlaigh Chontae ar a gcaitheachas go léir' in s10 of the 'Roscommon County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'As certified by medical certificate' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ar a bhfuarthas deimhniú dochtúra' in translations for the Department of Local Government and Public Health.

'A Bill the purpose of which as expressed in the Long Title is to consolidate existing Statute Law on a particular matter, and is so certified by the Attorney General in a certificate which shall accompany the Bill on introduction' is translated as 'Bille a mbeidh sé ráite sa Teideal Fada gurb é is cuspóir dó an Dlí Reachtúil maidir le hábhar áirithe a chomhdhlúthú, agus a mbeidh sin deimhniithe ina thaobh ag an Ard-Aighne i ndeimhniú a bheidh ag gabháil leis an mBille ar é a thabhairt isteach' in s129(1) of the *Standing Orders* of Dáil Éireann (1997). 'Copies of every such resolution, certified by the President and the Secretary of the Conference for the time being' is translated as '(Déanfar) cóipeanna de gach rún den tsórt san, agus iad deimhniithe ag Uachtarán agus ag Rúnaí na Códhála de thurus na huairé' in s4 of the Methodist Church in Ireland Act, 1928. Finally, in s6(3)(c) of the Designated

Investment Funds Act, 1985, 'have attached thereto a copy of the resolution, certified by the proper officer of such company' is translated as 'beidh ag gabháil leis cóip den rún, arna dheimhniú ag oifigeach cuí na cuideachta sin'.

*scéala* See the commentary on Article 33.5.3°, along with that on Article 13.9, where this term expresses 'communication'. 'Notify' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cur in iúil' in the 1926 *Standing Orders* of Dáil Éireann and as 'cur in iúl' in *Iris Oifigiúil, 1922/23*. 'Fógra do thabhairt ina dtaobh' is cited as translating 'notify (to notify diseases)' in translations for the Department of Local Government and Public Health.

Looking at modern Acts, 'he shall duly notify the holder of the licence of his proposal' is translated as 'cuirfidh sé in iúl go cuí do shealbhóir an cheadúnais go bhfuil sin beartaithe aige' in s5(1) of the Employment Agency Act, 1971. 'A rights commissioner shall notify the Tribunal of any recommendation he makes under this section' is translated as 'Tabharfaidh coimisinéir cirt fógra don Bhinse faoi aon mholadh a dhéanfaidh sé faoin alt seo' in s8(7) of the Unfair Dismissals Act, 1977. 'Which shall notify all signatory and acceding States of the deposit of any such instruments' is translated as 'a chuirfidh taisceadh aon ionstraimí den sórt sin in iúl do na Stáit shínitheacha agus aontacha go léir' in Article II of the Second Schedule to the Jurisdiction of Courts (Maritime Conventions) Act, 1989.

Professor Máirtín Ó Murchú remarks on the direct translation below that the nominative and accusative following each other is confusing ('Cuirfidh an Taoiseach an tUachtarán ar an eolas go cuí') and suggests the variant given below to avoid this.

*a sheoladh* 'Seoladh' is the verbal noun of 'seol', translated as 1. 'sail', 2. 'send, dispatch; direct, guide' and 3. 'address' in *Ó Dónaill*, who cites '*litir a sheoladh chuig duine*, to address a letter to someone'. 'I sail, send, steer' are the three principal senses of 'seolaim' in *Dinneen*. DIL gives examples of 'séolaid' in the sense of 'sails, steers' from the twelfth-century *Book of Leinster* onwards, this verb being based on 'séol' ('sail') which comes from Old English 'segel', 'séol' glossing Latin 'uelum' and 'carbasus' in the ninth-century St Gall Glosses on Priscian.

'The directors of a society shall send a copy of the annual accounts for the last financial year to the Central Bank' is translated as 'Cuirfidh stiúrthóirí cumainn cóip de na cuntaisí bhliantúla don bhliain airgeadais deiridh chuig an mBanc Ceannais' in s82(2) of the Building Societies Act, 1989. See further the commentary on Article 23.1 and note that 'seol' expresses 'address' in Article 24.1, while 'cuir go' expresses 'send' in Article 22.2.4°.

*den tsamhail sin* *Ó Dónaill* cites '*nó rud den tsamhail sin*, or some such thing', with *Dinneen* citing '*de'n tsamhail seo*, of this kind'. DIL cites 'don tsamhuil sin' ('of that kind') from Donlevy's *An Teagasg Críosduidhe* (1742), 'samail' being translated principally as 'likeness, similarity', citing 'far samail-si fri talmain' ('your likening to earth') from the eighth-century Würzburg Glosses on the Pauline Epistles. See the commentary on Article 13.7.2° regarding 'den sórt sin'.

*a rithfid* The third person plural, synthetic form, of the

future of ‘rith’; this would generally be replaced by ‘rithfidh (siad)’ today – see the commentary on Article 14.5.1°.

*go cuí* See the commentary on Article 43.2.1°.

### Standardised gender-proofed Irish text

Rúin ar bith den sórt sin a rithfidh Dáil Éireann agus Seanad Éireann ní foláir don Taoiseach scéala a thabhairt don Uachtarán ina dtaobh go cuí, agus cóip de gach rún den tsamhail sin a sheoladh chuig an Uachtarán faoi theastas chathaoirleach an Tí den Oireachtas a rith é.

### Direct gender-proofed translation

Cuirfidh an Taoiseach an tUachtarán ar an eolas go cuí<sup>1</sup> i dtaobh aon rún den sórt sin a dúradh<sup>2</sup> a rithfidh Dáil Éireann agus Seanad Éireann agus seolfaidh sé nó sí cóip de gach rún den sórt sin chuige nó chuici arna dheimhniú<sup>3</sup> ag Cathaoirleach an Tí den Oireachtas a mbeidh sé rite aige.

#### Variants

- 1 ‘Tabharfaidh an Taoiseach eolas cuí don Uachtarán’
- 2 ‘mar a dúradh’
- 3 ‘arna deimhniú’

ARTICLE 33.5.3° AIRTEAGAL 33.5.3°

#### TÉACS GAEILGE

Láithreach d’éis na scéala sin agus cóipeanna de na rúin sin a fháil don Uachtarán ní foláir dó, le hordú faoina láimh is faoina Shéala, an tArd-Reachtaire Cuntas agus Ciste a chur as oifig.

#### LITERAL ENGLISH TRANSLATION

Immediately after the President receives that report and copies of those resolutions he must, by order under his hand and under his Seal, put the Comptroller and Auditor General out of office.

#### ENGLISH TEXT

Upon receipt of such notification and of copies of such resolutions, the President shall forthwith, by an order under his hand and Seal, remove the Comptroller and Auditor General from office.

### Divergences between the official texts

- 1 ‘Upon receipt of ..., the President shall forthwith’ is expressed as ‘Láithreach d’éis ... a fháil don Uachtarán ní foláir dó’ (‘Immediately after the President receives ... he must’) in the Irish text, ‘shall’ being again expressed as ‘ní foláir’ (‘must’) as we have seen in previous subsections and in many earlier Articles.
- 2 ‘Notification’ is expressed in the Irish text as ‘scéala’, the meaning of which is ‘tidings, message, information’; ‘notify’ is expressed as ‘scéala a thabhairt ina dtaobh’ (‘give news regarding them’) in the previous subsection.

- 3 ‘Remove from office’ is expressed as ‘a chur as oifig’ (‘put out of office’) as we have already seen in subsection 1.

### Commentary

*scéala* This form is given as a separate headword in *Ó Dónaill*; in origin a plural form of ‘scéal’, in the specific sense of ‘tidings, message, information’ the form has long been treated as a separate word and frequently even as a singular, as Professor Máirtín Ó Murchú remarks. *Dinneen* also gives ‘scéala’ as a separate headword, stating that it is sometimes used as plural of ‘scéal’, but that it is properly a separate word. DIL cites ‘attaat scela linn’ (‘we have tidings’) from the eighth-century Würzburg Glosses on the Pauline Epistles, also citing the singular formation ‘an sgéala’. See the commentary on Articles 13.9 and 33.5.2°.

Turning to ‘notification’ in the Acts, ‘after notification to the county council concerned’ is translated as ‘tar éis fógra thabhairt don chomhairle contae sin’ in s3(5) of the Local Government (Rates on Agricultural Land) Act, 1924. ‘Fógrán’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘notification’ in translations for the Department of Fisheries. ‘And, on receipt of such notification, the said registering authority shall cause ...’ is translated as ‘agus, ar an bhfógra sin d’fháil, cuirfidh an t-údarás cláráitheachta sin faoi ndear’ in s30(18) of the Land Act, 1950.

Professor Máirtín Ó Murchú remarks regarding the direct translation below that as ‘eolas’ is used earlier in the direct translation in this context, ‘eolas’ should be retained here and suggests the variant translation given below.

*a chur as oifig* See the commentary on s5.1° above.

*d’éis* See the commentary on Article 10.4.

*ní foláir* See the commentary on Article 11.

*faoina láimh* See the commentary on Articles 12.10.3° and 31.3.

### Standardised gender-proofed Irish text

Láithreach d’éis an scéala sin agus cóipeanna de na rúin sin a fháil don Uachtarán ní foláir dó nó di, le hordú faoina láimh is faoina Shéala nó faoina Séala, an tArd-Reachtaire Cuntas agus Ciste a chur as oifig.

### Direct gender-proofed translation

Ar fhógra den sórt sin agus cóipeanna de rúin den sórt sin<sup>1</sup> a fháil,<sup>2</sup> déanfaidh an tUachtarán láithreach,<sup>3</sup> le hordú faoina láimh agus faoina Shéala nó faoina Séala, an tArd-Reachtaire Cuntas agus Ciste a chur as oifig.

#### Variants

- 1 ‘de na rúin sin’
- 2 ‘Ar an eolas sin a fháil, i dteannta cóipeanna de na rúin sin,’
- 3 ‘, láithreach,’

## ARTICLE 33.6 AIRTEAGAL 33.6

**TÉACS GAELGE**

Faoi chuimsiú na nithe sin romhainn, is le dlí a chinnfear coinníollacha agus cúinsí oifig an Ard-Reachtair Cuntas agus Ciste.

**LITERAL ENGLISH TRANSLATION**

Within the constraint/scope of the foregoing, it is by law that the conditions and circumstances of the office of the Comptroller and Auditor General will be determined.

**ENGLISH TEXT**

Subject to the foregoing, the terms and conditions of the office of Comptroller and Auditor General shall be determined by law.

**Divergences between the official texts**

- 1 'Terms and conditions' is expressed as 'coinníollacha agus cúinsí' ('conditions and circumstances') in the Irish text; 'term' is translated as 'téarma' in *Téarmaí Dlí*, where 'condition' is translated as 'coinníoll'.
- 2 'Subject to' is expressed as 'Faoi chuimsiú' ('Within the constraint/scope of'), as we have seen in many earlier Articles.

Note that Article 63 of the 1922 Constitution contains the following:

Subject to this provision, the terms and conditions of his tenure of office shall be fixed by law. *Gan dochar don bhforáil seo socrófar le dlí téarmaí agus coinníollacha sealbhúochta a oifige.*

**Commentary**

*cúinsí* 'Pretext, condition' is one of the senses of 'cúinse' in *Ó Dónaill*, who cites '*ar aon chúinse*, in any, under no, circumstances', with 'show, circumstance; (*plural*) affairs' also being given as a sense of this headword, *Ó Dónaill* citing '*bhí sé ag cur cúinsí orainn*, he was enquiring about our circumstances'. *Dinneen* includes 'a condition; an understanding; agreed terms' among the senses of 'cúinse',

citing '*beidh cealla 'gus úird gan chúinse ag Papists*, Papists will have churches and clergy unconditionally'. DIL translates 'cuin(n)síu' as 'face, countenance, aspect', citing this term from the *Táin*, for example – Professor Máirtín Ó Murchú questions whether 'cuin(n)síu' has any connection with Modern Irish 'cúinse'.

Turning to the Acts, 'The term of office of all existing Councillors, Commissioners and members of any council' is translated as 'Téarma oifige na gComhairleoirí, na gCoimisinéirí agus na mball sealbhacha d'aon Chomhairle' in s3 of the Local Elections Postponement Act, 1923. 'To supply electricity to those premises upon such terms and subject to such conditions as the Board shall think fit to prescribe' is translated as 'leictreachas do sholáthar don áitreabh san ar pé téarmaí agus fé réir pé coinníollacha is oiriúnach leis an mBord d'ordú' in s69(1) of the Electricity (Supply) Act, 1927. In Article 3 of the 1922 Constitution, 'and the conditions governing the future acquisition and termination of citizenship in the Irish Free State ... shall be determined by law' is translated as 'agus socrófar le dlí na coinníollacha a rialóidh feasta saoránacht d'fháil agus do chríochnú i Saorstát Éireann'. Finally, the Margin Title of s1 of the Second Schedule to the Restrictive Practices Act, 1972, 'Terms and conditions of office', is translated as 'Téarmaí agus coinníollacha oifige'.

*coinníollacha* See the commentary on Articles 16.1.2°, where 'coinníoll' expresses 'provision', and 36ii, where this headword again expresses 'term'.

*Faoi chuimsiú* See the commentary on Articles 12.5 and 18.7.2°, 'faoi chuimsiú na fostaíochta' being translated as 'within the scope of the employment' in *Téarmaí Dlí*.

*na nithe sin romhainn* See the commentary on Articles 14.4 and 18.10.1°.

*a chinnfear* See the commentary on Articles 1 and 12.11.2°.

**Direct translation**

Faoi réir na nithe sin romhainn, déanfar téarmaí agus coinníollacha oifig an Ard-Reachtair Cuntas agus Ciste a chinneadh le dlí.

# THE COURTS NA CÚIRTEANNA

## ARTICLE 34.1 AIRTEAGAL 34.1

### TÉACS GAEILGE

Is i gcúirteanna a bhunaítear le dlí agus ag breithiúna a cheaptar ar an modh atá leagtha amach sa Bhunreacht seo a riarfar ceart, agus is go poiblí a dhéanfar sin ach amháin sna cásanna speisialta teoranta sin a ordófar le dlí.

### LITERAL ENGLISH TRANSLATION

It is in courts which are established by law and by judges who are appointed in the manner that is set out in this Constitution that justice will be administered, and it is publicly that that will be done except in those special limited cases that will be enjoined by law.

### ENGLISH TEXT

Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public.

### Divergences between the official texts

- 1 'Justice' is rendered as 'ceart' in the Irish text, the traditional term, usually in this sense with the article, though 'ceartas' translates 'justice' in *Téarmaí Dlí*.
- 2 'Justice shall be administered in courts established by law by judges appointed ...' is rendered as 'Is i gcúirteanna a bhunaítear le dlí agus ag breithiúna a cheaptar ...' ('Justice shall be administered in courts established by law **and** by judges appointed ...') in the Irish text, introducing a further clause to the text.
- 3 'Sna cásanna speisialta teoranta sin' ('in such special and limited cases') can be read as 'in those special limited cases' in the Irish text, though 'and' is regularly unexpressed between adjectives in Irish and 'such' is often translated by 'sin' ('that') in the Acts, for example.
- 4 'As may be prescribed by law' is rendered as 'a ordófar le dlí' ('as will be enjoined by law') in the Irish text.
- 5 'Provided by this Constitution' is rendered as 'leagtha amach sa Bhunreacht seo' ('set out in this Constitution') in the Irish text.

Note that Article 34.1 of the 1937 Constitution was inserted by the Second Amendment of the Constitution Act, 1941, the original section reading as follows:

Justice shall be administered in public courts established by law by judges appointed in the manner provided by this Constitution. *Is i gcúirteannaibh go poiblidhe a bunuighthear le dligheadh, agus ag breitheamhnaibh a ceaptar ar an modh atá leagtha amach sa Bhunreacht so, a riarfar Ceart.*

Note also that Article 64 of the 1922 Constitution commences as follows:

The judicial power of the Irish Free State (Saorstát Éireann) shall be exercised and justice administered in the public Courts established by the Oireachtas by judges appointed in the manner hereinafter provided. *Is i sna Cúirteanna puiblí a bhunóidh an t-Oireachtas a cuirfead comhacht bhreithiúntais Shaorstáit Éireann i bhfeidhm agus a riarfar ceart le breithiúin a ceapfar i slí a fhorálar 'na dhiaidh seo.*

### Commentary

*Na cúirteanna* Plural of 'cúirt', translated simply as 'court' in *Téarmaí Dlí*, this being the principal sense in *Ó Dónaill*, with *Dinneen* giving the senses of 'a court, a palace, a royal residence; a mansion; a law-court; a yard'. DIL cites 'cúirt', originally written as 'coirt', from the ninth-century St Gall Glosses on Priscian, where it glosses Latin 'curta', Low-Latin 'cortis' being the source of the Irish, according to the editors of the Glosses. Latin 'cōrti, cohorti' has also been claimed as the source of 'cúirt'. Later, in Classical Irish verse, according to DIL, 'cúirt' is a separate Romance loanword from Anglo-Norman 'curt'. DIL translates 'cúirt' as 'court, manor, palace; court of law', and cites 'Piláit ... i tig na cuirti' from the *Passions and Homilies* from the *Leabhar Breac*, composed in the second half of the eleventh century.

'Airecht' expressed 'court' in early Irish law-tracts. D.A. Binchy has the following entry s.v. 'airecht', in his 'Legal Glossary' appended to *Crith Gablach*, p. 73:

... the public assembly of freemen whose functions include the transaction of certain important legal business; hence the word is often used in the more specialized sense of 'court'.

In a chapter on 'Procedure' in his *Guide to Early Irish Law* (pp. 192-3) Fergus Kelly writes on the fourth stage of a law-case as follows:

The pleading (*tacrae*) takes place in a court (*airecht*) before one or more judges .... The judge's house is the most probable location for the hearing of minor cases, but cases involving large numbers of witnesses, supporters, etc. would presumably be held in the open air at a regular site. Later English sources refer to the hearing of law-cases by brehons on hill-tops, and this may have also been common practice in the Old Irish period.

The seating arrangement of the various persons in a law-court is described in an Old Irish law-text, edited by Professor Kelly in *Peritia 5* (1986), pp. 74-106. At the back of the court ('*cúl-airecht*') sit the provincial king, the bishop and the chief poet, while in the side-court

(‘táeb-airecht’) are historians (‘because the court relies upon the traditional lore [*senchas*] and clarification of the historians [*senchaid*]’), overkings, hostages, *ráth*-sureties and *aitire*-sureties. In the waiting court (*airecht airnaide*) sit the plaintiff and defendant with their advocates, while *naidm*-sureties, *ráth*-sureties, witnesses, and sureties to contracts sit in ‘the court apart’ (*airecht fo leith*). Finally, the judges sit in ‘the court itself’ (*airecht fodesin*) – see Fergus Kelly, *A Guide to Early Irish Law*, pp. 193f. The word ‘oireachtas’ comes from ‘airechtas’ which is based directly on ‘airecht’; DIL states that ‘airecht’ was sometimes used with ‘dáil’, the distinction between them not being clear.

‘The Courts Act, 1979’, for example, is cited in Irish as ‘Acht na gCúirteanna, 1979’. ‘The Dáil Éireann Courts (Winding-up) Act, 1923’ is cited in Irish as ‘Acht Cúirteanna Dháil Éireann (Criochnú a nGnótha), 1923’.

*go poiblí* This phrase is translated as ‘publicly, openly’, in *Ó Dónaill*, where ‘trial phoiblí’ is translated as ‘public trial’ – see the commentary on Article 15.8.1°. Most of DIL’s examples of ‘puiplide’ (‘pertaining to the people, public’) come from seventeenth-century texts. DIL cites only one example of ‘poplach’ (‘pertaining to the people, public’), this being based directly on ‘popul’, which comes from Latin ‘populus’. In O’Reilly’s *Irish-English Dictionary* (1821), ‘poiblidheacht’ is translated as ‘a republic’, giving the lie to Lloyd George’s assertion that Irish had no term for ‘republic’ (currently rendered as ‘poblacht’).

‘In public’ is translated as ‘go poiblí, os comhair an tsaoil’ in *De Bhaldraithe*, ‘publicly’ being similarly translated. ‘The whole or any part of proceedings under this section may be heard otherwise than in public’ is translated as ‘féadfar na himeachtaí go léir nó aon chuid d’imeachtaí faoin dlí seo a éisteacht ar shlí seachas go poiblí’ in s40(6) of the Building Societies Act, 1989. In s13 of the Censorship of Films Act, 1923, ‘The expression “in public” means at any exhibition, show or entertainment to which the public are admitted’ is translated as ‘Cialluíonn an focal “go poiblí” ar aon taisbeántas, seo no siamsa ‘na leigfar an phuiblíocht isteach chuige’.

*teoranta* This adjective is translated as ‘limited, restricted’ in *Ó Dónaill* and as ‘definite, limited, bounded’ in *Dinneen*. ‘Teoranta’ is based on ‘teorainn’ (‘boundary, limit; border, frontier’), Old Irish ‘tórann’ being the verbal noun of ‘do-foirndea’, the common meaning of which in Middle Irish was ‘traces, marks out, [delimits]’ – see the commentary on Article 2.

In s4 of the ‘Mayo County Scheme’ in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, ‘Portion of the Hospital ... to be set aside as a District Hospital for a limited number of cases only’ is translated as ‘Cuid den Ospideul ... do choinneáil mar Ospideul Ceanntair do roinnt áirithe cásanna amháin’. ‘Notwithstanding any rule of law by which the scope of the defendant’s duty is limited to cases where the plaintiff has not been guilty of contributory negligence’ is translated as ‘d’ainneoin aon riail dlí lena ndéantar réim dualgais an chosantóra a theorannú chun nach mbainfeadh sé ach le cásanna nach raibh an gearánaí ciontach i bhfaillí rannphárteach iontu’ in s34(2)(e) of the Civil Liability Act, 1961. Finally, ‘Limited certificates of competency for special cases’ is translated as ‘Deimhnithe inniúlachta teoranta le

haghaidh cásanna speisialta’ in the Margin Title of s22 of the Road Traffic Act, 1968.

*ar an modh atá leagtha amach* See the commentary on Article 18.6. ‘Every insured person shall be insured in the manner provided by this Part against intermittent unemployment’ is translated as ‘Ní mór gach duine árachaithe bheith faoi árachas in aghaidh breac-dhífhostaíochta sa tslí a fhoráiltear leis an gCuid seo’ in s239 of the Social Welfare (Consolidation) Act, 1981. ‘Unless he has been nominated in the manner provided by this Act’ is translated as ‘mura mbeidh sé ainmnithe mar a fhoráiltear leis an Acht seo’ in s4(1) of the First Schedule to the European Assembly Elections Act, 1977. ‘Amhail is dá mba ar an modh a fhorálas an tAcht seo a cláraíodh iad’ translates ‘as if they were registered in the manner provided by this Act’ in s17(1) of the Mercantile Marine Act, 1955.

*a ordófar* See the commentary on Articles 25.4.2° and 27.2. The Tenth Amendment of the Constitution Bill, 1986, proposed that Article 41.3.2° would read as follows:

Where, and only where, such court established under this Constitution as may be prescribed by law is satisfied that .... *Igcás gur deimhin le cibé cúirt do bunuigheadh faoin mBunreacht so agus a ordóchar le dligheadh, agus sa chás san amháin.*

In Article 66 of the 1922 Constitution, ‘and subject to such regulations as may be prescribed by law’ is translated as ‘Gan dochar do pé rialacha agus maille le pé eisceachtaí a cinnfear le dlí’. See the commentary on Article 15.9.1°, where ‘prescribe’ is expressed by ‘leag amach’, for other translations of ‘prescribed’ in the Acts.

*ceart* See the commentary on Articles 12.2.2°, 38.3.1° and 43.2.1° regarding ‘ceart’ and on Article 29.1 regarding ‘justice’, expressed there as ‘cothrom’. Note that Old Irish ‘cert’ is translated as ‘justice’ by Fergus Kelly, *op. cit.*, p. 191. Professor Máirtín Ó Murchú recalls Merriman’s lines: ‘Caithfidh an neart gan cheart seo striocadh / Is caithfidh an ceart ina cheart bheith suite’.

### Direct translation

Déanfar an ceartas a riar i gcúirteanna a bhunófar le dlí ag breithiúna a cheapfar sa tslí a fhoráiltear<sup>1</sup> leis an mBunreacht seo, agus, ach amháin sna cásanna speisialta teoranta sin a fhorordófar le dlí, déanfar é a riar go poiblí<sup>2</sup>.

### Variants

- 1 ‘atá á foráil’
- 2 ‘agus déanfar é a riar go poiblí ach amháin sna cásanna speisialta teoranta sin a fhorordófar le dlí’, ‘agus is go poiblí a riarfar é, ach amháin sna cásanna speisialta teoranta sin a fhorordófar le dlí’

## ARTICLE 34.2 AIRTEAGAL 34.2

### TÉACS GAELGE

Beidh ar na cúirteanna sin Cúirteanna Céadchéime agus Cúirt Achomhairc Dheiridh.

**LITERAL ENGLISH TRANSLATION**

Those courts will include Courts of First Instance and a Court of Final Appeal.

**ENGLISH TEXT**

The Courts shall comprise Courts of First Instance and a Court of Final Appeal.

**Divergences between the official texts**

- 1 'The Courts shall comprise' is expressed as 'Beidh ar na cúirteanna sin' ('Among those courts will be / Those courts will include') in the Irish text; the Irish text has lower-case 'c' in 'cúirteanna', the English text having an initial capital 'C' in 'Courts'.

Note that Article 64 of the 1922 Constitution contains the following:

The Courts shall comprise Courts of First Instance and a Court of Final Appeal to be called the Supreme Court. *Beidh ar na Cúirteanna so Cúirteanna Céad-Chéime agus Cúirt Aith-éisteachta Deire dá ngairmfear an Chúirt Uachtarach.*

**Commentary**

*Cúirteanna Céadchéime* 'Cúirt chéadchéime' is translated as 'court of first instance' in *Téarmaí Dlí* and in *Ó Dónaill*. This compound of 'céad' ('first') and 'céim' ('step') does not appear to be given as a headword in *Dinneen*. DIL cites 'céim' in the literal sense of 'stage in a process' from the *Passions and Homilies* from the *Leabhar Breac* (composed in the second half of the eleventh century [na céimenda as i ndéantar in t-adaltras .i. silled 7 comrad]) and Professor Máirtín Ó Murchú cites the metaphorical phrase by Eochaidh Ó hEoghusa 'is mé go haoinchéim ar ndul sa dréimire' (i.e. with only one stage of his training course remaining). 'Céim' is the verbal noun of 'cingid', 'steps, paces, proceeds, goes'.

Section 2(1) of the Courts (Establishment and Constitution) Act, 1961, reads as follows:

On the commencement of this Act, the Court of First Instance referred to in Article 34 of the Constitution as An Ard-Chúirt (The High Court) shall stand established. *I dtosach feidhme an Achta seo, beidh an Chúirt Chéadchéime ar a dtugtar an Ard-Chúirt (The High Court) in Airteagal 34 den Bhunreacht seo arna bunú.*

In s1(4) of the Damage to Property (Compensation) Act, 1923, 'as well as to proceedings in and decrees of a court of first instance' is translated as 'chó maith le himeachta agus le haitheanta aon chúirte chéad-chéime'. Note, finally, that 'instance' is translated both as 'cás' and 'iarratas' in early official translations, with 'in the first instance' being translated as 'sa chéad dul-sios', 'i dtosach bára' and 'ar dtúis', and 'instances of wrongful usage have been detected' cited in the *Oireachtas Dictionary of Official Terms* as having been translated as 'fuarthas amach samplaí d'úsáid eagrach' in a 1929 *Report* of the Public Accounts Committee.

*Cúirt Achomhairc Dheiridh* This phrase is translated as 'court of final appeal' in *Téarmaí Dlí*, 'cúirt achomhairc' being translated as 'court of appeal' in *Ó Dónaill* and

'achomharc' being translated as 'appeal' both in *Téarmaí Dlí* and in *Ó Dónaill*. 'Athchomarc' is translated as 'act of asking, enquiry; request, question' in DIL, citing 'arrufoitea epistli uaidib som co n-aidchomarcaib cucisiom' ('for letters had been sent from them with questions to him') from the eighth-century Würzburg Glosses on the Pauline Epistles, glossing Latin 'questionibus'. In one early Irish law-tract, 'cóir n-athchomairc' ('proper enquiry') is included as one of the five 'paths' along which a case must be pursued – see Fergus Kelly, op. cit., p. 191.

Section 1(1) of the Courts (Establishment and Constitution) Act, 1961, reads as follows:

On the commencement of this Act, the Court of Final Appeal, which in pursuance of Article 34 of the Constitution is to be called An Chúirt Uachtarach (The Supreme Court), shall stand established. *I dtosach feidhme an Achta seo, beidh an Chúirt Achomhairc Dheiridh, dar teideal de bhun Airteagal 34 den Bhunreacht An Chúirt Uachtarach (The Supreme Court), arna bunú.*

We see above that 'Cúirt Aith-éisteachta Deire' translates 'Court of Final Appeal' in the 1922 Constitution. 'No appeal shall lie from the decision of the Court of Appeal' is translated as 'ní luighfidh aon ath-chomharc i dtaobh breithe na Cúirte Aith-éisteachta' in s16(4) of the Electoral Act, 1923. In s24(8) of the Land Act, 1923, however, 'may appeal from such decision to the Court of Appeal' is translated as 'féadfa sé athchomharc a dhéanamh chun na Cúirte Athchomhairc i gcoinnibh na breithe sin'. See further the commentary on Article 34.4.3°.

As regards 'final' in early Acts, note that 'Every action or proceeding for the recovery of money ... and in which no final judgement shall have been given before the passing of this Act' is translated as 'Gach aicsean no imeacht chun airgead d'fháil thar n-ais ... agus nár tugadh crích-bhreith ann roimh rith an Achta so' in s2(2) of the Gaming Act, 1923, with 'any proceedings for enforcing ... any final judgement given by any Court in Saorstát Éireann' being translated as 'aon imeachta chun aon bhreith bhartha a thug aon Chúirt i Saorstát Éireann' in s1(3)(f) of the Indemnity Act, 1923.

*ar na cúirteanna sin* 'Among' is one of the senses expressed by the preposition 'ar', *Ó Dónaill* citing '*ar an triúr a tháinig aréir*, among the three who came last night' and *Dinneen* citing '*tá sé ar na fearaibh is fearr*, he is one of (among) the best men'. *De Bhaldraithe* translates 'comprise' as 'cuimsíonn; áirítear (ar, i)', citing 'the house comprises nine bedrooms, *tá naoi seomra codlata sa teach*'.

'The following district electoral divisions shall comprise the Gaeltacht for the purposes of this Chapter' is translated as 'Is é a bheidh sa Ghaeltacht chun críche na Caibidle seo na toghranna ceantair seo a leanas' in s288 of the Social Welfare (Consolidation) Act, 1981. 'Unless ... the spirits comprise a blend of two or more distillates' is translated as 'mura cumasc de dhá dhriogáit nó níos mó an bhíotáille' in s1(2)(a) of the Irish Whiskey Act, 1980. 'References to the trade shall apply also to any other trade of which the activities comprise the activities of the first-mentioned trade' is translated as 'beidh feidhm freisin ag tagairtí don trádáil maidir le haon trádáil eile a gcuimsítear gníomhaíochtaí na trádála chéadluaite ina gníomhaíochtaí' in s20(1) of the Corporation Tax Act, 1976.



Looking at early Acts, 'The Committee shall be comprised as follows' is translated as 'Beidh an Coiste co-dhéanta dhiobh so a leanas' in s6 of the 'Mayo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The Department of the President of the Executive Council which shall comprise the business, powers, authorities, duties and functions by the Constitution ... conferred on ... the Minister' is translated as 'Roinn Uachtarán na hArd-Chomhairle 'na mbeidh ag gabháil léi an gnó, na comhachta, na húdarais, na dualgaisí agus na feidhmeanna 'na ndintar leis an mBunreacht ... iad do bhronna ... don Aire' in s1(i) of the Ministers and Secretaries Act, 1924. Finally, 'by forming a joint board under the name of the Cork Port Sanitary Authority consisting of twenty representative members of the several component authorities therein specified' is translated as 'tré chó-bhord do bhunú fé ainm Údarás Sláintíochta Puir Chorcaighe ar a mbeadh fiche ball ionadathach o sna húdarais có-pháirteacha uile agus fé seach atá luaidhte san ordú san'.

Professor Máirtín Ó Murchú finds fault with the original text in that one has to read it through to be sure it is not a phrase of necessity ("frása riachtanais") – *Ó Dónaill* cites '*tá orm labhairt leis*, I must speak to him', for example. Máirtín Ó Murchú faults the direct translation below in that it is not clear from it that two distinct classes of courts are involved.

### Direct translation

Ar na Cúirteanna beidh! Cúirteanna Céadchéime agus Cúirt Achomhairc Dheiridh.

### Variants

1 'Is é a bheidh sna Cúirteanna'

ARTICLE 34.3.1<sup>o</sup> AIRTEAGAL 34.3.1<sup>o</sup>

### TÉACS GAELGE

Beidh ar na Cúirteanna Céadchéime sin Ard-Chúirt ag a mbeidh lándlínse bhunaidh, agus cumhacht chun breith a thabhairt, i ngach ní agus ceist dlí nó fíorais cibé sibhialta nó coiriúil iad.

### LITERAL ENGLISH TRANSLATION

Those Courts of First Instance will include a High-Court which will have full fundamental jurisdiction, and power to give a judgement, in every matter and question of law or fact whether they are civil or criminal.

### ENGLISH TEXT

The Courts of First Instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal.

### Divergences between the original texts

1 'All matters and questions whether of law or fact, civil or criminal' is expressed in the Irish text as '(i) ngach

ní agus ceist dlí nó fíorais cibé sibhialta nó coiriúil iad' ('every matter and question of law or fact whether they are civil or criminal'); the Irish text reads as if 'gach' ní' ('every matter') was not qualified by 'dlí nó fíorais' ('of law or fact'), this phrase only qualifying 'ceist', 'question'.

- 2 'To determine' is expressed as 'chun breith a thabhairt' ('to give a judgement') in the Irish text, which makes a separate clause, enclosed within commas, of the equivalent of 'and power to determine' ('agus cumhacht chun breith a thabhairt'), no corresponding commas being found in the English text.
- 3 'Invested with' is expressed simply as 'ag a mbeidh' ('which will have') in the Irish text.
- 4 'Shall include' is expressed in the Irish text by the same phrase as expresses 'shall comprise' in the foregoing section, i.e. 'Beidh ar'.

Note that Article 64 of the 1922 Constitution contains the following:

The Courts of First Instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal .... *Ar na Cúirteanna Céad-Chéime beidh Ard-Chúirt, ag a mbeidh lán-údarás bunaidh agus comhacht chun socruithe gach cúrsa agus gach ceiste bhaineas le dlí no le firinne, pe'ca sibhialta no coiriúil.*

J.M. Kelly (op. cit., p. 207) reports as follows on reference made to this subsection in the courts:

In *The People (Attorney General) v Conmey* ([1975] IR 341) O'Higgins CJ rejected a submission based on a supposed distinction between a 'determination' of the Supreme Court (in the sense of its 'power to determine' in Article 34.3.1) and a 'decision' of the High Court (in the sense of its 'decisions' in Article 34.4.3); he observed that the Irish text uses the word 'breith' in both equivalent phrases, and said it followed 'that no distinction or difference is indicated' between the functions envisaged by those two subsections.

### Commentary

*sibhialta* This adjective is translated as 'civil' in *Téarmaí Dlí* and in *Ó Dónaill*, with *Dinneen* translating 'sibhialta' as 'civil, polite, affable, gracious, obliging, courteous, complaisant, civilised', the latter sense followed by the abbreviation for 'recent'. 'Sibialta' is based on English or Romance, according to DIL, where this headword is translated as 'civil, pertaining to the state', the 'long title' of the Irish version of Lucan's *Pharsalia*, 'In Cath Catharda', providing the earliest of but three citations in DIL, i.e. 'Do chogadh siualta na Romhanach, dia ngoireid Gaoidheil in Cath Cathardha'. See further the commentary on Article 43.2.1<sup>o</sup>.

In defending proceedings, whether civil or criminal' is translated as 'ag cosaint imeachtaí, sibhialta nó coiriúil' in s114(2) of the Building Societies Act, 1989. In s26(2) of the Prevention of Electoral Abuses Act, 1923, 'No action or proceeding, civil or criminal, shall lie against any returning officer' is translated as 'Ní luighfidh aon aicsean ná imeacht eile, sibhialta ná coiriúil, i goinnibh aon chinn chomhrimh'. 'Every issue, whether civil or criminal, which is triable with a jury by the High Court' is translated as 'Gach saincheist, sibhialta nó coiriúil, is intrialte le giúiré

ag an Ard-Chúirt' in s2(1) of the Juries Act, 1961, with 'Every issue, whether civil or criminal, which is triable with a jury by a Judge of the High-Court' being translated as 'Gach cúis, sibhialta no coiriúil, is intrialta le coiste dhá réag ag Breitheamh den Ard-Chúirt' in s3(3) of the Juries (Dublin) Act, 1926.

Regarding early official translations of 'civil', note that 'the Civil Service of Saorstát Éireann' is translated as 'Seirbhís Sibhialta Shaorstáit Éireann' in s57(3)(c) of the Electoral Act, 1923, the current Irish term for 'Civil Service' being found in s51(1) of the Local Government Act, 1925, where 'the Civil Service of the Government of Saorstát Éireann' is translated as 'Stát-Sheirbhís Rialtais Shaorstáit Éireann'. 'Civil Prison' is translated as 'Príosún Stáit' in *Iris Oifigiúil*, 1924, p. 706. 'For the purpose of providing soldiers ... with ... benefits ... after their return to civil life' is translated as 'Chun sochair ... do sholáthar do shaighdiúirí ... tar éis fillte thar n-ais dóibh ar a ngnáth-shaol' in s20(1) of the National Health Insurance Act, 1923. Finally, 'in consequence of civil strife in the years 1922, or 1923' is translated as 'de bharr imris chathardha sa bhliain 1922 no 1923' in s4(b) of the Railways (Existing Officers and Servants) Act, 1926. See further the commentary on Article 38.4.2°.

*ingach ní* See the commentary on Article 13.7.1° regarding 'ní'. 'Matter' is translated as 'ábhar' in *Téarmaí Dlí*. 'All matters and questions relating to any relief so measured' is translated as 'gach ábhar agus ceist a bhaineann le haon fhaoiseamh atá tomhaiste amhlaidh' in s432(1)(c)(ii) of the Income Tax Act, 1967. '(The Circuit Court) ... shall have power and exclusive jurisdiction to hear and determine all matters and questions arising on or incidental to any such claim' is translated as '(agus) is aici amháin a bheidh dlíghinse chun gach ní agus ceist eireoidh as aon éileamh den tsórt san no bhaineann leis d'éisteacht agus chun breithe do thabhairt ortha' in s36(1) of the Workmen's Compensation Act, 1934.

See the commentary on Article 13.7.1° regarding 'matter' in early Acts. Note that 'ceist' sometimes translates 'matter', 'All matters in each House shall ... be determined' being translated as 'Socrófar gach ceist i ngach Tigh' in Article 22 of the 1922 Constitution, for example. Note, finally, in passing, that 'matter of fact' is translated as 'dátán' in s24(4) of the Fisheries Act, 1925, where 'which certificate shall be conclusive evidence in every court of all such matters of fact as aforesaid stated therein' is translated as 'agus beidh an deimhniú san ina fhianaise dho-chlaoite i ngach cúirt i gcúrsaí gach dátáin den tsórt roimhráite a luaidhtear ann'.

*Ard-Chúirt* 'An Ard-Chúirt' is translated as 'the High Court' in *Téarmaí Dlí*, 'ardchúirt' being translated as 'high court' in *Ó Dónaill* – the hyphen is used in titles such as 'an Príomh-Bhreitheamh' and 'an tArd-Aighne' according to *An Caighdeán Oifigiúil* (s24(d) of 'Litriú na Gaeilge'), the hyphen being found in *Ó Dónaill* in terms such as 'Ard-Fheis' and 'Ard-Aifreann' ('High Mass').

Section 11(1) of the Courts (Supplemental Provisions) Act, 1961, reads as follows:

The High Court exercising the criminal jurisdiction with which it is invested shall be known as An Príomh-Chúirt Choiriúil (The Central Criminal Court) and is in this Act referred to as the Central Criminal Court. *An*

*Príomh-Chúirt Choiriúil (The Central Criminal Court) a ghairfear den Ard-Chúirt agus í ag oibriú na dlínse coiriúla a dhílsítear di agus san Acht seo tugtar an Príomh-Chúirt Choiriúil uirthi.*

'The High Court' is styled 'an Ard-Chúirt' in Article 6 of the 1922 Constitution also.

*lándlínse bhunaidh* 'Lándlínse' is a compound of 'lán' ('full') and 'dlínse' ('jurisdiction') – see the commentary on Article 3 regarding 'dlínse'. 'Dlínse bhunaidh' is translated as 'original jurisdiction' in *Téarmaí Dlí* and in *Ó Dónaill*. *Dinneen* gives 'bunaidh' as a headword, this being the genitive singular of 'bunadh' functioning as an adjective, translated as 'original, primitive, own', with *Ó Dónaill* giving 'original, fundamental; basic, basal' as the sense of the genitive singular of 'bunadh' as an attributive adjective. *Téarmaí Dlí* also cites '(doiciméad, etc.) bunaidh, original (document, etc.)'. DIL cites 'amal ind cláinn bunid' ('like the original clan') from the eighth-century Würzburg Glosses on the Pauline Epistles as an example of this 'very frequent' use of 'bunad', principally translated as 'origin, base, source', this word being based on 'bun', 'the thick end of anything, base, butt, foot'.

In s17 of the Courts of Justice Act, 1924, 'The High Court shall be a superior court of record with such original jurisdiction as is prescribed by the Constitution' is translated as 'Beidh an Ard-Chúirt ina cúirt breacacháin árd-chéime agus pé údarás bunaidh aici a horduítear leis an mBunreacht', this same English text (with 'and other' following 'original') being translated as 'Is uaschúirt taifid an Chúirt Uachtarach agus beidh dlínse achomhairc agus dlínse eile aici mar a ordáitear leis an mBunreacht' in s8(1) of the Courts (Supplemental Provisions) Act, 1961. 'The Council as at present constituted shall have full power and jurisdiction in the management of the affairs of the Institution' is translated as 'beidh ag an gComhairle, mar atá sí comhdhéanta faoi láthair, lán-chumhacht agus lán-dlínse chun gnóthaí na hInstitiúide a bhainistí' in s5 of the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1960.

We also find 'bun' as a prefix translating 'original' in early official translations. Parts II. and III. of this Act shall apply to every re-hearing under this section as they would have applied thereto if such re-hearing had been an original hearing commenced after the passing of this Act' is translated as 'Bainfidh Cuideanna II. and III. den Acht so le gach ath-éisteacht féin alt so chó hiomlán is do bhainfidís léi dá mba bun-éisteacht a tosnuíodh tar éis riththe an Achta so an ath-éisteacht san' in s2(4) of the Damage to Property (Compensation) Act, 1923. 'And diverted the original course or channel of the said river' is translated as 'agus gur chasadar céad-chúrsa no céad-chainéal na habhann san' in the Preamble to the Dundalk Harbour and Port Act, 1925. Finally, 'seana-riocht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'original condition' in the *Proceedings of Dáil Éireann*, 1926, p. 226.

*breith a thabhairt* 'Breith' is translated as 'decision' in *Téarmaí Dlí*, 'judgement' being translated as 'breithiúnas'. *Ó Dónaill* translates 'breith' as 'judgement, decision', citing '*tabhair do bhreith ar*, say what you think of it' and '*is réidh agaibh breith a thabhairt orm*, it is easy for you to judge me'. *Dinneen* translates 'breith' principally as 'judge-

ment, decision, sentence'. 'Breth' is the verbal noun of 'beirid', translated principally as 'act of carrying, bearing' in DIL, but with the sense of 'act of judging, deciding; judgement, legal ruling, interpretation' found in the Glosses, DIL citing 'is ón spirut rouiccus brith' ('it is from the Spirit I have passed judgement') from the eighth-century Würzburg Glosses on the Pauline Epistles, this being an example of 'figura etymologica', the verb here also being based on 'beirid'. See further the commentary on Article 15.11.1°.

'I determine' is translated as 'cinnim' in *Téarmaí Dlí*, which verb expresses 'determine' in Article 1. 'The Circuit Court may hear and determine a dispute under this section' is translated as 'féadfaidh an Chúirt Chuarda díospóid faoin alt seo a éisteacht agus a chinneadh' in s91(2) of the Building Societies Act, 1989. 'The Circuit Court shall ... have jurisdiction to hear and determine proceedings under section 6' is translated as 'Beidh dlínse ag an gCúirt Chuarda ... chun imeachtaí faoi alt 6 ... a éisteacht agus a chinneadh' in s8(1) of the Family Law Act, 1981. 'To determine all matters relating to the appointment and distribution of any monies lodged with the court' is translated as 'chun gach ní a chinneadh a bhaineann le ceapadh agus le dáileadh aon airgead a taisceadh leis an gcúirt' in s10(e) of the Oil Pollution of the Sea (Civil Liability and Compensation) Act, 1988. 'To hear and determine all matters and questions arising on any such claim' is translated as 'chun gach ní agus ceist eireoidh as aon éileamh den tsórt san ... d'éisteacht agus chun breithe do thabhairt ortha' in s36(1) of the Workmen's Compensation Act, 1934.

Professor Máirtín Ó Murchú recommends 'breith a thabhairt ar' in the direct translation below, suggesting 'cinneadh a dhéanamh faoi' as an alternative in that context.

*ceist dlí nó fíoras* 'Ceist dlí' is translated as 'question of law' and 'ceist fíoras' as 'question of fact' in *Téarmaí Dlí*, the headword 'fíoras' being translated as 'fact'. *Ó Dónaill* translates 'ceist dlí' as 'a question, a point, of law', giving 'point, problem' as a secondary sense of 'ceist', with 'fíoras' being translated as 'fact'. 'Fíoras' (the genitive singular form 'fíris' being found in the original text) does not appear to be given as a headword in *Dinneen*, who translates 'ceist' as 'a question, a problem, a difficulty, anxiety; shyness, regard'. 'Ceist' comes from Latin 'quaestio', 'inna cestae sin' glossing 'questioni' in the ninth-century Milan Glosses on the Commentary on the Psalms, DIL translating 'ceist' as 'question, problem, enquiry' – see the commentary on Article 22.2.2°. 'Fíoras' is based on 'fíor', Old Irish 'fír', translated as 'true, veracious' in DIL, where 'is fáss dúnni a pridchimme manid fír' ('void for us is what we preach unless it is true') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

In s18(1) of the Railways Act, 1924, 'to hear and determine all matters, whether of law or fact' is translated as 'chun gach ní, i ndlí no i bhfírinne, ... d'éisteacht agus do shocrú', the same English text being translated as 'chun éisteacht do dhéanamh agus breith do thabhairt ar gach ní, pe'ca le dlí no le fírinne a bhaineann sé' in s20(1) of the Dáil Éireann Courts (Winding-up) Act, 1923. "Security" includes any loan stock or similar security whether of any government or of any public or local authority or of any company and whether secured or insecured' is translated as 'folaíonn "urrús" aon stoc iasachta nó urrús dá shamhail de chuid aon rialtais nó aon údarais phoiblí nó údarais

áitiúil nó de chuid aon chuideachta, cibé acu urraithe nó neamhurratithe don chéanna' in s3(2) of the Second Schedule to the Capital Gains Tax Act, 1975. 'To do any act (whether of commission or omission) which is contrary to this Act' is translated as 'aon ní a dhéanamh (trí ghníomh ná trí neamhghníomh) atá contrártha don Acht seo' in s118(3) of the First Schedule to the European Elections Act, 1977, with 'penalties for acts (whether of commission or omission) in relation to income tax' being translated as 'pionóisí, mar gheall ar ghníomhartha (a dineadh no a fágadh gan déanamh) maidir le cáin ioncuim' in s10(5) of the Finance Act, 1925.

'Ní' being masculine and 'ceist' being feminine affects the nouns and adjectives qualifying these nouns and perhaps dictates the form of the Irish text here.

*coiríúil* This adjective is translated as 'criminal' in *Téarmaí Dlí* and in *Ó Dónaill*, 'coireamhail' being translated as 'guilty' in *Dinneen*, 'coir' (upon which the adjective is based) being translated as 'sin, crime, accusation, trespass', as against 'crime' alone in *Téarmaí Dlí*. Note that 'coireach' is the form in the original text, which adjective is translated as 'wicked' in *Dinneen* (to which *Ó Dónaill* adds 'sinful' and 'guilty'). We also find the form 'coirtheach', which is given as a headword in both *Dinneen* and *Ó Dónaill*, the reader being referred to 'coireach'. DIL translates 'caire' as 'crime, fault, sin', citing 'in cairi' from the ninth-century Milan Glosses on the Commentary on the Psalms, where it glosses Latin 'notam iniquitatis publicae'. DIL gives two relatively late examples of the adjective 'cairech', 'criminal, guilty; sinful'. See the commentary on Article 30.3 regarding 'coir'. Note that 'criminal matters' is expressed as 'cúrsaí coireachta' in Article 37.1.

*Beidh ar* See the commentary on the previous section regarding the preposition 'ar' in this context. 'Every summary financial statement shall include a statement of the auditor's opinion' is translated as 'Beidh i ngach ráiteas airgeadais achomair ráiteas faoi thuairim na n-iniúcháirí' in s79(5) of the Building Societies Act, 1989. 'Such arrangements shall include a provision for giving ... credit in respect of such knowledge' is translated as 'beidh sna comhshocraíochtaí sin foráil go dtabharfar ... creidiúint i leith an eolais sin' in s18(1) of the Agricultural Credit Act, 1978. In s24(4)(c) of the Industrial Training Act, 1967, 'provide that the ordinary members shall include a specified number of workers' members' is translated as 'a fhoráil go mbeidh ar lion na ngnáth-chomhaltaí lion sonraithe comhaltaí oibrithe'. 'Their duties shall include' is translated as 'beidh ar a ndualgaisí' in the *Oireachtas Dictionary of Official Terms*, citing 'go bhfuil ar a dhualgaisí cinn a mbaineann le' as translating 'whose duties might include or relate to' in translations for the Department of Local Government and Public Health.

Regarding 'áireofar' expressing 'include' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that this term was not very precise referring to a permanent categorical state ("staid seasta chatagóireach").

*ag a mbeidh* In s1 of the Oil in Navigable Waters Act, 1926, 'being proprietors of or entrusted with the duty or invested with the power of constructing ... a harbour' is translated as 'atá ina ndílseánaigh ar chuan, no go bhfuil sé de dhualgas orthu cuan do dhéanamh, ... no go bhfuil

comhacht dílsithe ionta chuige sin'. 'The persons to be invested, as officers, with military command over the Defence Forces' is translated as 'na daoine dá dtabharfar, mar oifigigh, ceannas míleata ar Óglaigh na hÉireann' in s17(3) of the Defence Act, 1954. 'The High Court exercising the criminal jurisdiction with which it is invested' is translated as '(den) Ard-Chúirt agus í ag oibriú na dlínse coiriúla a dhílsítear di' in s11(1) of the Courts (Supplemental Provisions) Act, 1961. Note, incidentally, that 'invest', in the financial sense, is translated as 'súncáil' in early Acts, 'investments' being translated as 'súncálanna'.

### Direct translation

Ar na Cúirteanna Céadchéime beidh Ard-Chúirt dá ndilseofar<sup>1</sup> lándlínse bhunaidh agus cumhacht chun cinneadh a dhéanamh faoi<sup>2</sup> gach ábhar agus faoi<sup>3</sup> gach ceist, cibé acu a bhaineann siad le dlí nó le fíoras, cibé acu sibhialta nó coiriúil dóibh.<sup>4</sup>

### Variants

- 1 'dá dtabharfar'
- 2 'breith a thabhairt ar'
- 3 'ar'
- 4 'Ar na Cúirteanna Céadchéime beidh Ard-Chúirt dá ndilseofar lándlínse bhunaidh i ngach ábhar agus ceist cibé acu is ábhar nó ceist dlí nó fíorais, sibhialta nó coiriúil, atá ann agus cumhacht chun iad a chinneadh.'

## ARTICLE 34.3.2<sup>o</sup> AIRTEAGAL 34.3.2<sup>o</sup>

### TÉACS GAEILGE

Taobh amuigh de chás dá socraítear a mhalairt leis an Airteagal seo, beidh dlínse ag an Ard-Chúirt maidir leis an gceist sin bail a bheith nó gan a bheith ar aon dlí áirithe ag féachaint d'fhorálacha an Bhunreacht seo, agus ní cead aon cheist den sórt sin a tharraingt anuas (trí phléadail ná argóint ná eile) i gCúirt ar bith, arna bunú faoin Airteagal seo nó faoi aon Airteagal eile den Bhunreacht seo, seachas an Ard-Chúirt nó an Chúirt Uachtarach.

### LITERAL ENGLISH TRANSLATION

Apart from a case for which the contrary is provided by this Article, the High Court will have jurisdiction as regards that question of any particular law having or not having validity having regard to the provisions of this Constitution, and no question of that kind is permitted to be raised (through pleading or argument or otherwise) in any Court, established under this Article or under any other Article of this Constitution, except the High Court or the Supreme Court.

### ENGLISH TEXT

Save as otherwise provided by this Article, the jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this Constitution, and no such question shall be raised (whether by pleading, argument or otherwise) in any Court established under this or any other Article of this Constitution other than the High Court or the Supreme Court.

### Divergences between the official texts

- 1 'The jurisdiction of the High Court shall extend to the question' is rendered as 'beidh dlínse ag an Ard-Chúirt maidir leis an gceist sin' ('the High Court will have jurisdiction as regards that question') in the Irish text.
- 2 'The validity of any law' is rendered as 'bail a bheith nó gan a bheith ar aon dlí áirithe' ('any particular law having or not having legal validity') in the Irish text, 'bail' rather than 'bailíocht' being found here, unlike the following subsection.
- 3 'Save as otherwise provided by this Article' is rendered as 'Taobh amuigh de chás dá socraítear a mhalairt leis an Airteagal seo' ('Apart from a case for which the contrary is provided by this Article') in the Irish text.
- 4 'Under this or any other Article' is rendered as 'faoin Airteagal seo nó faoi aon Airteagal eile' ('under this Article or under any other Article') in the Irish text.
- 5 'No ... shall be' is rendered as 'ní cead' ('it is not permitted') in the Irish text, as we have seen in some earlier Articles.

Note that both this subsection and ss3<sup>o</sup> were inserted following the Second Amendment of the Constitution Act, 1941, replacing the original subsection which read as follows:

The jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this Constitution, and in all cases in which any such matter shall come into question the High Court alone shall exercise original jurisdiction. *Beidh dlíghinse ag an Ard-Chúirt maidir leis an gceist sin bail do bheith nó gan a bheith ar aon dlíghleadh, ag féachaint d'fhoráiltibh an Bhunreacht seo, agus i ngach cás ina mbeidh ní den tsórt sin i gceist is í an Ard-Chúirt amháin oibreochas dlíghinse bhunaidh.*

Note also that Article 65 of the 1922 Constitution reads as follows:

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. *Raghaidh comhacht bhreithiúntais na hArd-Chúirte chó fada le ceist dlisteanachta aon dlí maidir le forálacha an Bhunreacht. Is í an Ard-Chúirt amháin a chuirfidh údarás bunaidh i bhfeidhm i ngach cás 'na dtiocfaidh cúrsaí den tsórt san i gceist.*

### Commentary

*bail a bheith nó gan a bheith* See the commentary on Article 15.4.2<sup>o</sup> where 'invalid' is expressed as 'gan bhail'. Following the wording of the present Article, 'or a question of the validity of any law having regard to the provisions of the Constitution' is translated as 'ná ceist i dtaobh bail a bheith nó gan a bheith ar aon dlí áirithe ag féachaint d'fhorálacha an Bhunreacht' in s7(4) of the Courts (Supplemental Provisions) Act, 1961. In s42(a) of the Local Government (Planning and Development) Act, 1976, 'A person shall not ... question the validity of ... a decision of the Minister on any appeal' is translated as 'Ní dhéanfaidh duine ... bailíocht chinneadh an Aire ar aon achomharc a cheistiú'. In s22(3) of the Prosecution of Offences Act, 1974, 'Nothing in this section shall affect the functions of the Attorney General in relation to any

question as to the validity of any law having regard to the provisions of the Constitution' is translated as 'Ní dhéanfaidh aon ní san alt seo difear d'fheidhmeanna an Ard-Aighne maidir le haon cheist i dtaobh bailiocht aon dlí ag féachaint d'fhorálacha an Bhunreachta'. 'Such company shall not be entitled to question the validity of the policy' is translated as 'ní bheidh an chuideachta san i dteideal dleathacht an pholasaí ... do chonspóid' in s61(5)(a) of the Insurance Act, 1936, with 'ní fheidhmeoidh aon rún den tsórt san chun dochair do dhleathacht éinní a déanfar roimis sin fén Ordú san' translating 'no such resolution shall operate to prejudice the validity of anything previously done under such Order' in s19 of the Adaptation of Enactments Act, 1922. 'Validity of purchases from Under Sheriff' is translated as 'Éifeachtúlacht ceannuochtanna ó Fho-Shirriamh' in the Margin Title of s8 of the Enforcement of Law (Occasional Powers) Act, 1923. Note, finally, that 'or any valid private interest therein' is translated as 'no d'aon cheart dlísteanaigh príobháideach 'na leith' in Article 11 of the 1922 Constitution. See further the commentary on Article 44.4.3<sup>o</sup>.

*a tharraingt anuas* 'Tarraingt' is the verbal noun of 'tarring', *Ó Dónaill* translating 'tarring anuas' as (1) 'pull, draw, down' and (2) 'introduce, bring forward', citing '*scéal a tharraingt anuas*, to introduce a subject'. *Dinneen* translates 'tarringim anuas' as 'I pull down, introduce or mention'. The simple verb 'tarring' comes from 'do-srenga', 'draws, drags, pulls', this being based on 'sreng' ('string, cord', Modern Irish 'sreang'), which itself comes from Old Norse 'strengr'. DIL cites 'co motairngend suas ... in lia sain co na drolaibh' ('draws up ...') from the *Book of Ballymote*, written c. 1400. Professor Máirtín Ó Murchú remarks that 'a tharraingt anuas' is the equivalent expression in Irish of 'raise' here, citing 'tharraing sé ceist eile anuas'.

'Where a person other than the Seanad returning officer proposes to raise a question at the completion of the panels' is translated as 'Má bheartaíonn duine seachas ceann comhairimh an tSeanad ceist a tharraingt anuas le linn comhlánú na rollaí' in s39(2) of the Seanad Electoral (Panel Members) Act, 1947. 'An auditor ... may ... raise any such question as is mentioned in the foregoing sub-section' is translated as 'Féadfaidh iniúchóir ... aon cheist den tsórt a luaidhtear sa bhfo-alt san roimhe seo ... do tharrac anuas' in s12(2) of the Local Services (Temporary Economies) Act, 1934. 'Any such question may be raised' is translated as 'Féadfar aon cheist den sórt sin a thógáil' in s166(3) of the Social Welfare (Consolidation) Act, 1981, with 'Where a question is raised as to the disqualification of a person to receive old age pension' being translated as 'I gcás ina dtógfar ceist i dtaobh duine a dhícháiliú chun pinsean seanaoise a fháil' in the following subsection. 'No question as to its correctness shall be raised on the hearing of an appeal' is translated as 'ní chuirfeá a chirt faoi cheist le linn éisteacht ... a bheith á thabhairt d'achomharc' in s73(2) of the Income Tax Act, 1967. Note, finally, that 'to raise a question' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ceist do thógaint' in translations for the Department of Agriculture.

*trí phléadáil* 'Pléadail' is translated as 'plea' in *Téarmaí Dlí*, this being the verbal noun of 'pléadail', translated as

'plead' in *Ó Dónaill*, who also gives the sense of 'disputation, wrangle'. *Dinneen* translates 'pléidéal' as 'act of disputing, wrangling, jibing, pleading', being followed by the abbreviation for 'Ulster'. DIL gives but two citations of 'pléidéal', 'pleading (a suit)', both from O'Molloy's *Lucerna Fidelium* (1676), this word perhaps being a formation from English 'plead', according to DIL, with 'plé' ('pleading [a suit], arguing, disputing') almost certainly coming from 'plea', according to Professor Máirtín Ó Murchú.

'Without amendment of any writ, pleading, or other document' is translated as 'gan aon eascaire, pléadail nó doiciméad eile a leasú' in s107(2)(h) of the Building Societies Act, 1989. 'The repeal of any enactment by this Act shall not ... affect any established jurisdiction, form or course of pleading, practice or procedure derived from the repealed enactment' is translated as 'Ní dhéanfaidh aisghairm aon achtacháin leis an Acht seo ... difear d'aon dlínse, foirm nó cúrsa pléadála, cleachtas nó nós imeachta atá bunaithe agus a tháinig ón achtachán aisghairthe' in s9(5) of the Succession Act, 1965.

Looking at early Acts, 'but nothing in this Act shall prevent any registered decree being pleaded and given in evidence by way of defence or set off in any proceeding' is translated as 'ach ní choisfidh éinní san Acht so aon aithne chlárúithe do phléidéal agus do thabhairt mar fhianaise chun cosanta no mar chur in aghaidh ní eile in aon imeachta' in s5(5) of the Dáil Éireann Courts (Winding-Up) Act, 1923. Note that 'pléidéal' also translates 'plea', with 'In any such action tender of amends before the action was commenced may, in lieu of or in addition to any other plea, be pleaded' being translated as 'In ionad no i dteanta aon phléidéal eile féadfar a phléidéal in aon aicsean den tsórt san gur tairgeadh sásamh sarar tosnuíodh an t-aicsean' in s200(2) of the Defence Forces (Temporary Provisions) Act, 1923.

*argóint* This headword is translated as 'argument' in *Téarmaí Dlí*, citing '*argóint dhlíthiúil*, legal argument'. *Ó Dónaill* gives 'argóint' as a verbal noun of 'argóin', the noun 'argóint' being translated simply as 'argument'. 'Argóint' is the form of the headword in *Dinneen* ('argóint' given as a variant), translated as 'act of arguing', *Dinneen* also giving '*argúinteacht*, argumentation'.

'After hearing argument on the appeal' is translated as 'tar éis argóint ar an achomharc a éisteacht' in s431(1) of the Income Tax Act, 1967, with 'tar éis argóna ar an athchomharc san d'éisteacht' translating 'after hearing argument on such appeal' in s9(1) of the Finance Act, 1932.

*Taobh amuigh de chás dá socraítear a mhalairt* 'Save as otherwise provided by this Act' is translated as 'Ach amháin mar a fhoráiltear a mhalairt leis an Acht seo' in s3(2)(b) of the Criminal Justice Act, 1990, this same English phrase being translated as 'Ach amháin sa chás dá bhforálar a mhalairt san Acht so' in s157(1) of the Defence Forces (Temporary Provisions) Act, 1923. See further the commentary on Articles 13.9, 15.11.1<sup>o</sup> and 25.2.1<sup>o</sup>.

*beidh dlínse* 'The jurisdiction under section 685 of the Merchant Shipping Act, 1894, shall not extend to an application for compensation under this Act' is translated as 'Ní shroichfidh an dlínse faoi alt 685 den *Merchant*

*Shipping Act*, 1894, chun iarratas ar chúiteamh faoin Acht seo' in s24 of the Malicious Injuries Act, 1981. In s1 of Article 24 of the Second Schedule to the Arbitration Act, 1980, 'The jurisdiction of the centre shall extend to any legal dispute arising directly out of an investment' is translated as 'Sroichfidh dlínse an Lárionaid chuig aon díospóid dhlíthiúil a eascróidh go díreach ó infheistíocht'. Finally, in s69(3) of the Land Act, 1923, 'the jurisdiction of the County Court shall extend to any such proceedings' is translated as 'leathfidh údarás na Cúirte Contae chun na n-imeachta san', with 'Provided that the liability of a Clerk of the Crown and Peace ... shall not extend to any such increase in salary' being translated as 'Ach an ceangal a bheidh ar Chléireach Coróinneach agus Síochána ... ní shroisfe sé aon mhéadú tuarastail den tsórt san' in s14 of the Electoral Act, 1923.

Commenting on the direct translation below, Professor Máirtín Ó Murchú favours the variant 'bainfidh dlínse na hArd-Chúirte le' as being more intelligible than 'sroichfidh dlínse na hArd-Chúirte chun'.

*ná eile* 'To recover any sum not exceeding £2,500 due to or recoverable by or on behalf of the State whether by way of penalty, debt or otherwise' is translated as 'chun aon suim a ghnóthú nach mó ná £2,500 atá dlite don Stát nó inghnóthaithe ag an Stát nó thar a cheann, cibé acu ar mhodh pionóis, féich nó eile' in s6(a)(iii) of the Courts Act, 1981. 'In relation to an order under this section creating a fisheries region (whether by union, subdivision or otherwise)' is translated as 'i ndáil le hordú faoin alt seo ag cruthú réigiúin iascaigh (trí nascadh, foroinnt nó ar dhóigh eile)' in s10(13) of the Fisheries Act, 1980.

Looking at 'otherwise' in early Acts, 'shall be administered by the District Councils or otherwise as the County Council ... may determine' is translated as 'riarfár é ag na Comhairlí Ceanntair no ar aon chuma eile a cheapfidh an Chomhairle Chontae' in s12 of the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'The Accounts of the Committee shall be audited half-yearly by the Auditor of the Local Government Department, or otherwise in accordance with such Orders or Regulations as may be made by that Department' being translated as 'Iniúchfar Cuntaisí an Choiste uair sa leath-bhliain ag Iniúchóir Roinn an Rialtais Áitiúla no, neachtar acu, do réir pé Orduithe no Rialacháin a dhéanfaidh an Roinn sin' in s15. 'And otherwise to enable the Trust to carry out the purposes of the said section' is translated as 'agus chun a chur ar chumas an Chóluchta ar shlite eile crícheanna an ailt sin do thabhairt chun críche' in the Preamble to the Land Trust Powers Act, 1923. Finally, 'an authorised undertaker shall not divest himself, by transfer or otherwise, of any such power ... as is mentioned' is translated as 'ní scarfidh gnóthaire údaruithe, tré aistriú ná eile, le haon chomhacht ... a luaidhtear' in 70(2) of the Electricity (Supply) Act, 1927.

*dá socraítear* See the commentary on Articles 8.3 and 15.5.2° regarding 'socraigh'; 'dá' is a compound of the preposition 'do' and the relative particle 'a'.

*ag féachaint d(o)* See the commentary on Article 16.2.4°.

*ní cead* See the commentary on Article 9.1.3°.

## Direct translation

Ach amháin mar a fhoráiltear<sup>1</sup> a mhalairt leis an Airteagal seo, sroichfidh dlínse na hArd-Chúirte chun<sup>2</sup> ceist bhailíocht aon dlí ag féachaint d'fhorálacha an Bhunreacht seo, agus ní ardófar aon cheist den sórt sin (cibé acu trí phléadáil, trí argóint nó eile) in aon Chúirt arna bunú faoin Airteagal seo nó faoi aon Airteagal eile seachas san Ard-Chúirt nó sa Chúirt Uachtarach<sup>3</sup>.

## Variants

- 1 'mar a bhforáiltear'
- 2 'bainfidh dlínse na hArd-Chúirte le'
- 3 'seachas an Ard-Chúirt nó an Chúirt Uachtarach'

## ARTICLE 34.3.3° AIRTEAGAL 34.3.3°

### TÉACS GAEILGE

Ní bheidh dlínse ag Cúirt ar bith chun bailíocht dhlí nó fhorála ar bith de dhlí a chur in amhras is dlí a ndearna an tUachtarán an Bille lena aghaidh a chur faoi bhreith na Cúirte Uachtaraí faoi Airteagal 26 den Bhunreacht seo, ná chun bailíocht fhorála de dhlí a chur in amhras má rinne an tUachtarán an fhoráil chomhréire sa Bhille le haghaidh an dlí sin a chur faoi bhreith na Cúirte Uachtaraí faoin Airteagal sin 26.

### LITERAL ENGLISH TRANSLATION

No Court will have jurisdiction to put in doubt the validity of a law or of any provision of a law which is a law that the President submitted the Bill for it to the Supreme Court for decision under Article 26 of this Constitution, nor to put in doubt the validity of a provision of a law if the President submitted the corresponding provision in the Bill for that law to the Supreme Court for decision under that Article 26.

### ENGLISH TEXT

No Court whatever shall have jurisdiction to question the validity of a law, or any provision of a law, the Bill for which shall have been referred to the Supreme Court by the President under Article 26 of this Constitution, or to question the validity of a provision of a law where the corresponding provision in the Bill for such law shall have been referred to the Supreme Court by the President under the said Article 26.

### Divergences between the official texts

- 1 'To question' is twice rendered as 'a chur in amhras' ('to put in doubt') in the Irish text.
- 2 'Referred to the Supreme Court' is twice rendered as 'a chur faoi bhreith na Cúirte Uachtaraí' ('submitted to the Supreme Court for determination/decision') in the Irish text, as we have seen earlier.

Note that this is a new subsection inserted by the Second Amendment of the Constitution Act, 1941.

### Commentary

*bailíocht dhlí nó fhorála ar bith de dhlí* According to the official standard, 'dlí' would not be lenited here in the

genitive case following ‘bailíocht’ – *d, t, s* are usually not lenited after *d, n, t, l, s*, according to s6(I) of the chapter entitled ‘Séimhiú agus Urú’ in *An Caighdeán Oifigiúil*, ‘cúirt dúiche’ being the relevant example cited there. One could also argue that ‘forála’, being qualified by ‘ar bith’, should also remain unlenited, the rule being that if followed by an adjective (and ‘ar bith’ here functions as an adjectival phrase) the noun in the genitive case following a feminine noun remains unlenited (see s6(I)(c), *ibid*, where ‘scian coise duibhe’ is given as an example).

Note that ‘the question of the validity of any law’ is rendered as ‘(maidir leis) an gceist sin bail a bheith nó gan a bheith ar aon dlí áirithe’ in the previous subsection – see the commentary on Article 34.3.2°.

*a chur in amhras* ‘Amhras a chur i rud, to cast doubt on something’ is cited in *Ó Dónaill*, who translates ‘amhras’ primarily as ‘doubt’, with the secondary sense of ‘suspicion’, citing ‘amhras a tharraingt, a chaitheamh ar dhuine, to draw, cast, suspicion on someone’. *Dinneen* translates ‘amhras’ as ‘doubt, suspicion, anxiety, distrust’, with ‘sochar an amhrais’ being translated as ‘benefit of the doubt’ in *Téarmaí Dlí*. The earlier form ‘am(a)ires’, literally ‘unbelief’, is composed of the negative particle ‘am-’ and ‘iress’ (‘faith’), and in Old Irish had the (theological) sense of ‘lack of faith’ (with the sense ‘religious doubt’ in later religious contexts), with the general sense of ‘doubt, disbelief, incredulity’. DIL cites ‘arna tarta amiris ... don lobur hiressach’ (‘lest he bring unfaith ... to the weak believer’) from the eighth-century Würzburg Glosses on the Pauline Epistles.

‘If any person aggrieved by a compulsory purchase order ... desires to question its validity’ is translated as ‘Aon duine arb éagóir leis ordú ceannaigh éigeantaigh ... agus ar mian leis a bhailíocht a chur i gceist’ in s78(2) of the Housing Act, 1966. ‘To question the validity of such election of such person’ is translated as ‘chun dleathacht an toghacháin sin an duine sin do chonspóid’ in s4(1) of the Local Authorities (Miscellaneous Provisions) Act, 1936. In s17(3) of the Housing (Miscellaneous Provisions) Act, 1931, ‘If any person aggrieved by an order desires to question its validity’ is translated as ‘Más mian le héinne ar a ngoillfidh ordú amhras do chaitheamh ar dhleathacht an ordúithe sin’. ‘Nor shall the verdict thereon be impeached or questioned on account of the return of such person as a juror’ is translated as ‘ná ní déanfar breith an choiste sa triail sin do choiriú ná do chur in amhras mar gheall ar an duine sin do bheith cláruithe mar choisteoir’ in s3(3) of the County Courts (Amendment) Act, 1923. Finally, ‘Certificate of validity questioned’ is translated as ‘Deimhniú ar dhleathacht do theacht i gceist’ in the Margin Title of s132 of the Industrial and Commercial Property (Protection) Act, 1927, with ‘that the validity of any claim in the specification of the patent came in question’ being translated as ‘go dtáinig dleathacht aon éilimh in áireamhacht na paitinne i gceist’ in s132(1).

*an fhoráil chomhréire* ‘Comhréire’ is the genitive singular of ‘comhréir’ as attributive adjective. *Ó Dónaill* translates ‘comhréir’ as (1) ‘accord, congruity’, (2) ‘proportion’ – translating ‘i gcomhréir (le)’ as ‘proportioned (to)’ – and (3) ‘syntax’. ‘I gcomhréir le’ is translated as ‘consistent with’ in *Téarmaí Dlí*. ‘Cómhréir’ is translated as ‘congruity, construction, syntax, concord, analogy; uniformity’ in

*Dinneen*, while DIL translates ‘comríar’ as ‘submission, control, attendance’, this headword being based on ‘ríar’, translated principally as ‘will, wish, demand, request, decision’ in DIL.

‘As a reference to the corresponding provision of this Act’ is translated as ‘mar thagairt don fhoráil chomhréire den Acht seo’ in s124(4) of the Building Societies Act, 1989, as in s97(5) of the Building Societies Act, 1976. ‘A reference to the corresponding provision’ is translated as ‘tagairt don fhoráil chomhréireach’ in s24(1)(b) of the Finance (Miscellaneous Provisions) Act, 1968, with ‘there shall be substituted a reference to the corresponding provision contained in Part II’ being translated as ‘cuirfar tagairt don fhoráil chó-réire atá i gCuid II’ in the Third Schedule to the Finance Act, 1929. See the commentary on Article 19.1, where ‘comhrollaí’ expresses ‘corresponding panels’, for early citations from the Acts.

*a chur faoi bhreith* ‘Cás a chur faoi bhreith duine’ is translated as ‘to submit a case to someone for determination’ in *Ó Dónaill*. DIL cites ‘ní nár dhuit dol fár mbreithne’ (‘... to yield to our judgment’) from the seventeenth-century ‘Contention of the Bards’. See the commentary on Articles 15.11.1°, 26.3.1° and 34.3.1° regarding ‘breith’ and the commentary on Article 26 regarding ‘a chur faoi bhreith’.

### Standardised Irish text

Ní bheidh dlínse ag Cúirt ar bith chun bailíocht dlí nó forála ar bith de dhlí a chur in amhras is dlí a ndearna an tUachtarán an Bille lena aghaidh a chur faoi bhreith na Cúirte Uachtaraí faoi Airteagal 26 den Bhunreacht seo, ná chun bailíocht fhorála de dhlí a chur in amhras má rinne an tUachtarán an fhoráil chomhréire sa Bhille le haghaidh an dlí sin a chur faoi bhreith na Cúirte Uachtaraí faoin Airteagal sin 26.

### Direct translation

Ní bheidh dlínse ag Cúirt ar bith chun bailíocht dlí, nó aon fhorála de dhlí, a cheistiú, a mbeidh an Bille lena aghaidh tarchurtha<sup>1</sup> chun na Cúirte Uachtaraí ag an Uachtarán faoi Airteagal 26 den Bhunreacht seo, nó chun bailíocht forála dlí<sup>2</sup> a cheistiú a mbeidh an fhoráil chomhréire sa Bhille le haghaidh an dlí sin tarchurtha<sup>1</sup> chun na Cúirte Uachtaraí ag an Uachtarán faoin Airteagal 26 a dúradh<sup>3</sup>.

### Variants

- 1 ‘curtha’
- 2 ‘forála de dhlí’
- 3 ‘faoin Airteagal sin 26’

## ARTICLE 34.3.4° AIRTEAGAL 34.3.4°

### TÉACS GAEILGE

Beidh ar na Cúirteanna Céadchéime, fairis sin, Cúirteanna ag a mbeidh dlínse theoranta áitiúil maille le ceart achomhairc ina n-aghaidh faoi mar a chinnfear le dlí.

### LITERAL ENGLISH TRANSLATION

Among the Courts of First Instance, moreover, will be

Courts which will have limited local jurisdiction along with a right of appeal against them as will be determined by law.

#### ENGLISH TEXT

The Courts of First Instance shall also include Courts of local and limited jurisdiction with a right of appeal as determined by law.

Note that Article 34.3.4° was originally Article 34.3.3° before the Second Amendment of the Constitution Act, 1941.

#### Divergences between the official texts

- 1 'With a right of appeal' is expressed as 'maille le ceart achomhairc ina n-aghaidh' ('along with a right of appeal against them') in the Irish text.
- 2 'Courts of local and limited jurisdiction' is expressed as 'Cúirteanna ag a mbeidh dlínse teoranta áitiúil' ('Courts which will have limited local jurisdiction') in the Irish text, though this can also be read as 'Courts which will have limited and local jurisdiction', the conjunction 'agus' sometimes not being written between two qualifying adjectives.
- 3 'The Courts ... shall include' is expressed as 'Beidh ar na Cúirteanna' ('Among the Courts will be') in the Irish text, as we saw in Articles 34.2 and 34.3.
- 4 'Also' is expressed as 'fairis sin', 'along with that', as we have seen in some earlier Articles; this phrase is preceded and followed by commas in the Irish text alone.

Note that Article 64 of the 1922 Constitution contains the following:

The Courts of First Instance shall include a High Court ..., and also Courts of local and limited jurisdiction, with a right of appeal as determined by law. *Ar na Cúirteanna Céad-Chéime beidh Ard-Chúirt, ... agus fós Cúirteanna go mbeidh a n-údarás go háitiúil agus go teoranta maille le ceart aith-éisteachta mar a cinnfear le dlí.*

#### Commentary

*faoi mar* 'Faoi mar' is translated as 'according as' by *Ó Dónaill* s.v. 'mar', citing '*faoi mar atáimid ag dul ar aghaidh*, at the rate at which we are progressing', with the conjunction 'mar' being translated as 'as'. *Ó Dónaill* s.v. 'faoi', translates 'faoi mar' as 'as if, as', citing '*faoi mar a bheadh fearg air*, as if he were angry' and '*faoi mar ba ghnáth leis*, as was usual for him'. *Dinneen* gives 'féibh mar', 'fé mar' and 'fá mar' as 'strengthened forms' of 'mar', translating these forms as 'just or exactly as', citing '*féibh mar léighear*, as we read'. The original sense of 'feb' may be 'way, manner, kind', the meaning implicit in the adverbial use, according to DIL, the only form in the Glosses being the dative singular 'feib'/'fíb' (with force of a relative adverb), which Thurneysen regards as the dative singular of 'fui' ('quality, worth'). DIL cites the following from the ninth-century St Gall Glosses on Priscian as an example of the dative in the sense of 'as, according as, in like manner as': 'feib fondúair som la auctora' ('as he has found it in authors'). 'Mar' comes from 'immar', which is not found in the Old Irish Glosses, DIL citing examples of 'mar' as a conjunction in the sense of 'as, like as' ('express-

ing manner or implying a comparison') from *Leabhar na hUídhre* (written in Clonmacnois c. 1100) onwards.

Turning to the Acts, in s208(1) of the Social Welfare (Consolidation) Act, 1981, 'In the case of a person who has no means as determined by this Chapter' is translated as 'I gcás duine gan acmhainn mar a bheidh cinnte leis an gCaibidil seo'. 'Order him to pay ... a sum not exceeding the full value of the article as determined by the court' is translated as 'a ordú dó suim nach lú ná luach iomlán an earra, mar a chinnfidh an chúirt é, a íoc' in s25(2) of the Pawnbrokers Act, 1964. Finally, 'to pay in respect of the dwelling a rent equal to the lawful rent of the dwelling as determined by the said order' is translated as 'cíos a íoc i leith na teaghaise is comhionann le cíos dleathach na teaghaise mar a cinneadh sin leis an ordú sin' in s23(1)(c)(iii) of the Rent Restrictions Act, 1960. See Article 64 of the 1922 Constitution above.

*áitiúil* This adjective is translated as 'local' in *Ó Dónaill*, 'áiteamhail' being similarly translated in *Dinneen*. 'Áitiúil' is based on 'áit', 'átt' being perhaps the original form of this word, DIL translating 'áitt' as 'place, situation, position, dwelling', citing 'co cach inchruth a thige inna átaib córaib' ('with all the furniture of the house in its proper position') from the law-text *Críth Gablach*, compiled in the opening years of the eighth century. Note, in passing, that 'locally' is translated as 'ina cheantar féin' in *Iris an Phoist*, 14/3/28, with 'locally' in the sense of 'from local office' being translated as 'ón oifig áitiúil' in *Iris an Phoist*, 28/4/26. 'If work is done locally' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'má dintear an obair cois baile' in translations for the Department of Finance.

*maille le* This phrase is translated as 'with, along with' in *Ó Dónaill*, as 'together with, along with, by means of, because' in *Dinneen* – see the commentary on Articles 23 and 10.1.

*Beidh ar* See the commentary on Article 34.2.

*fairis sin* See the commentary on Article 10.4.

*dlínse* See the commentary on Articles 3 and 34.3.2°.

*teoranta* See the commentary on Article 34.1.

#### Direct translation

Ar na Cúirteanna Céadchéime beidh<sup>1</sup> Cúirteanna dlínse áitiúla teoranta<sup>2</sup> chomh maith<sup>3</sup> a mbeidh ceart achomhairc acu mar a chinnfear le dlí.

#### Variants

- 1 'Áireofar ar na Cúirteanna Céadchéime'
- 2 'Cúirteanna dlínse áitiúla agus teoranta'
- 3 'chomh maith, 'freisin'

## ARTICLE 34.4 AIRTEAGAL 34.4

#### TÉACS GAEILGE

1° An Chúirt Uachtarach is teideal don Chúirt Achomhairc Dheiridh.



- 2° An Príomh-Bhreitheamh is teideal d'uachtarán na Cúirte Uachtaraí.

#### LITERAL ENGLISH TRANSLATION

- 1° It is the Supreme Court which is the title of the Court of Final Appeal. / The Supreme Court is the title of the Court of Final Appeal.  
2° It is the Chief Justice which is the title of the president of the Supreme Court. / The Chief Justice is the title of the president of the Supreme Court.

#### ENGLISH TEXT

- 1° The Court of Final Appeal shall be called the Supreme Court.  
2° The president of the Supreme Court shall be called the Chief Justice.

#### Divergences between the official texts

- 1 'Shall be called' is expressed as 'is teideal do', 'is the title of', in the Irish text.

Note that Article 64 of the 1922 Constitution contains the following:

These Courts shall comprise Courts of First Instance and a Court of Final Appeal to be called the Supreme Court. *Beidh ar na Cúirteanna so Cúirteanna Céad-Chéime agus Cúirt Aith-éisteachta Deire dá ngairmfear an Chúirt Uachtarach.*

#### Commentary

*is teideal do* 'Teideal' is translated as 'title' in *Ó Dónaill* and in *Téarmaí Dlí* – see the commentary on Article 28.5.1°. 'Titul' is translated in DIL as (a) 'title, heading', (b) 'epithet, title', citing 'gairm 7 teidiol Chríost' from Keating's seventeenth-century *Eochair-sgiath an Aifrinn*, and (c) 'prescriptive right, title (in legal sense)'. The phrase 'is teideal do' parallels the common 'is ainm do'.

In s2(1) of the Sixth Amendment of the Constitution (Adoption) Act, 1979, for example, following earlier Acts amending the Constitution, 'The amendment of the Constitution effected by this Act shall be called the Sixth Amendment of the Constitution' is translated as 'An Séú Leasú ar an mBunreacht a bhéarf ar an leasú a dhéantar ar an mBunreacht leis an Acht seo'. 'A body established under the said subsection (1) shall be called and known by such title as may be specified in the establishment order' is translated as 'Is é cibé teideal a shonrófar san ordú bunaithe a thabharfar ar chomhlacht, agus a ghairfear de chomhlacht, a bhunófar faoin bhfo-alt sin (1)' in s3(5) of the Local Government Services (Corporate Bodies) Act, 1971. In s13(1) of the Health Act, 1970, 'There shall be appointed ... a person who shall be called and shall act as the chief executive officer of the board' is translated as 'Ceapfar ... duine ar a dtabharfar príomh-oifigeach feidhmiúcháin an bhoird agus a ghníomhóidh mar phríomh-oifigeach feidhmiúcháin don bhord'. Finally, 'The central office shall be under the management and control of an officer who shall be called the Registrar of Titles' is translated as 'Beidh an phríomhoifig faoi bhainistíocht agus urlámhas oifigigh dá ngairfear Cláraitheoir na dTeideal' in s9(1) of the Registration of Title Act, 1964.

*An Príomh-Bhreitheamh* See the commentary on Articles 14.2.1° and 31.2.

#### Direct translation

- 1° An Chúirt Uachtarach a thabharfar ar an gCúirt Achomhairc Dheiridh.  
2° An Príomh-Bhreitheamh a thabharfar ar uachtarán na Cúirte Uachtaraí.

#### ARTICLE 34.4.3° AIRTEAGAL 34.4.3°

#### TÉACS GAEILGE

Taobh amuigh de cibé eisceachtaí agus faoi chuimsiú cibé rialacha a ordófar le dlí, beidh dlínse achomhairc ag an gCúirt Uachtarach ar bhreitheanna uile na hArd-Chúirte agus, fairis sin, ar na breitheanna sin ó chúirteanna eile a ordófar le dlí.

#### LITERAL ENGLISH TRANSLATION

Apart from whatever exceptions and within the constraint/scope of whatever rules that will be enjoined by law, the Supreme Court will have appellate jurisdiction on all the judgements of the High Court and, moreover, on those judgements by other courts that will be enjoined by law.

#### ENGLISH TEXT

The Supreme Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other courts as may be prescribed by law.

#### Divergences between the official texts

- 'Regulations' is expressed as 'rialacha', 'rules', in the Irish text.
- 'Appellate jurisdiction from' is expressed as 'dlínse achomhairc ... ar' ('appellate jurisdiction on') in the Irish text, with 'appellate jurisdiction' being repeated in the English text alone.
- 'As may be prescribed by law' is twice expressed as 'a ordófar le dlí' ('as will be enjoined by law') in the Irish text, as we have seen earlier.
- 'With such exceptions' is expressed as 'Taobh amuigh de cibé eisceachtaí' ('apart from whatever exceptions') in the Irish text, 'such regulations' being expressed as 'cibé rialacha' ('whatever rules').
- 'And shall also' is expressed as 'agus, fairis sin,' ('and, moreover,') in the Irish text, the comma preceding the 'and' in the English text, no comma following 'also'.
- 'Subject to' is expressed as 'faoi chuimsiú' ('within the constraint/scope of') in the Irish text, as we have seen in many earlier Articles.

Note that Article 66 of the 1922 Constitution commences as follows:

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. *Gan dochar do pé rialacha agus maille le pé eisceachtaí a cinnfear le dlí (lasmuich d'aon chás do thabharfadh ceist dlísteacht aon dlí anuas) beidh údarás aith-éisteachta ag Cúirt Uachtarach Shaorstáit Éireann ar gach breith den Ard-Chúirt.*

### Commentary

*dlínse achomhairc* This phrase is translated as 'appellate jurisdiction' in *Tearmaí Dlí* and in *Ó Dónaill*, 'achomhairc' ('appeal') as an attributive genitive – see the commentary on Article 34.2 regarding 'achomharc'. 'With such appellate jurisdiction as is prescribed by the Constitution' is translated as 'agus pé údarás achomhairc aici a horduítear leis an mBunreacht' in s18 of the Courts of Justice Act, 1924. 'Whether in a court of first instance or a court having appellate jurisdiction in respect of such proceedings' is translated as 'pé'ca i gcúirt chéad-chéime é no i gcúirt go ndlínse athchomharcach maidir leis na himeachta san' in s2(3) of the Electricity (Supply) (Amendment) Act, 1935. 'No appeal from any order made under subsection (5) shall be brought after the expiration of one month from the date of perfection of the order' is translated as 'Ní thionscnófar aon achomharc i gcoinne aon ordaithe faoi fho-alt (5) tar éis mí a bheith caite ón dáta ar cuireadh an t-ordú i gcrích' in s105(7) of the Building Societies Act, 1989. 'An order made by a court on appeal from another court shall be treated as if it had been made by that other court' is translated as 'déileálfar le hordú a rinne cúirt ar achomharc ó chúirt eile ionann is dá mba í an chúirt eile sin a rinne é' in s1(2) of the Family Law (Protection of Spouses and Children) Act, 1981.

*a ordófar* See the commentary on Article 27.2. 'Such court established under this Constitution as may be established by law' is rendered as 'cibé cúirt do bunuighthead faoin mBunreacht so agus a ordóchar le dligthead' in the new subsection 2° of Article 41.3 proposed by the Tenth Amendment of the Constitution Bill, 1986 [as outlined in s1 of Part II of the Electoral (Amendment) Act, 1986] to be substituted for Article 41.3.2°. 'Or such other sum as may be prescribed by the Central Bank in regulations' is translated as 'nó cibé suim eile a fhorordóidh an Banc Ceannais i rialacháin' in s17(10) of the Building Societies Act, 1989. 'Within such period as may be prescribed by regulations under this section' is translated as 'laistigh de cibé tréimhse a fhorordófar le rialacháin faoin alt seo' in s11(1) of the Maternity Protection of Employees Act, 1981.

*eisceachtaí* The plural form of 'eisceacht', translated as 'exception' in *Tearmaí Dlí*, *Ó Dónaill* and *Dinneen*, DIL giving examples of 'uisgeacht' from Keating's seventeenth-century *Three Shafts of Death*, stating that the first edition of that work had 'eisceacht'. See the commentary on Article 11.

*rialacha* See the commentary on Article 6.1 regarding 'riail' and see the commentary on Article 12.5 regarding 'rialáigh', 'regulate'. 'Rialachán' translates 'regulation' in

the modern Acts. Note that *De Bhaldraithe*, while translating this sense of 'regulation' as 'rialachán', cites 'hospital regulations, *rialacha ospidéil*'.

*faoi chuimsiú* See the commentary on Articles 12.5 and 18.7.2°.

*fairis sin* See the commentary on Article 10.4.

### Direct translation

Beidh ag an gCúirt Uachtarach, leis na heisceachtaí sin agus faoi réir na rialachán sin<sup>1</sup> a fhorordófar le dlí, dlínse achomhairc ó chinntí uile na hArd-Chúirte, agus beidh dlínse achomhairc aici chomh maith<sup>2</sup> ó na cinntí sin<sup>3</sup> le<sup>4</sup> cúirteanna eile a fhorordófar le dlí.

### Variants

- 1 'le cibé eisceachtaí agus faoi réir cibé rialachán'
- 2 'freisin'
- 3 'ó cibé cinntí'
- 4 'de chuid'

## ARTICLE 34.4.4° AIRTEAGAL 34.4.4°

### TÉACS GAELIGE

Ní cead aon dlí a achtú a chuirfeadh ar an taobh amuigh de dhlinse achomhairc na Cúirte Uachtaraí cásanna ina mbeadh ceisteanna le réiteach i dtaobh bail a bheith nó gan a bheith ar aon dlí, ag féachaint d'fhorálacha an Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

It is not permitted to enact any law which would put beyond the appellate jurisdiction of the Supreme Court cases in which questions needed to be settled regarding any law's having validity or not, having regard to the provisions of this Constitution.

### ENGLISH TEXT

No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this Constitution.

### Divergences between the official texts

- 1 'Cases which involve questions' is expressed as 'cásanna ina mbeadh ceisteanna le réiteach' ('cases in which questions needed to be settled') in the Irish text.
- 2 'Excepting from the ... jurisdiction' is expressed as 'a chuirfeadh ar an taobh amuigh de dhlinse ...' ('which would put on the outside of the ... jurisdiction') in the Irish text.
- 3 'Questions as to the validity of any law' is expressed as 'ceisteanna ... i dtaobh bail a bheith nó gan a bheith ar aon dlí' ('questions regarding any law having or not having validity') in the Irish text, this Irish expression being also found earlier.

- 4 'No ... shall be' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in some earlier Articles.

### Commentary

*ar an taobh amuigh de* 'Taobh amuigh de' is generally used, without preceding article, in the sense of 'outside of', 'apart from', as we have seen in the previous subsection – 'Taobh amuigh de cibé eisceachtaí', literally 'Apart from such exceptions'. *Ó Dónaill* cites '*taobh amuigh den gheata*, outside the gate' and '*taobh amuigh de sin*, apart from that', translating 'ar an taobh amuigh de' as 'at most'. *Ó Dónaill* translates 'an taobh amuigh' as 'the outside, the exterior', citing '*bíodh an taobh amuigh agat*, get out'. 'Ar an dtaobh amuigh de' is translated as 'on the outside, at most' in *Dinneen*, who cites '*taobh amuigh de sin*, not counting that'. DIL cites 'ataid don taobh amuigh don Eaglais' from *Parrhas an Anma* (1645). See the commentary on Articles 12.3.3° and 13.9 regarding 'taobh amuigh/istigh'. Modern Irish 'amuigh' comes from Middle Irish 'ammaig', earlier 'immaig', literally 'in the plain' ('mag', Modern Irish 'maigh'/'má' ('plain') as in 'Maigh Nuad', 'Maynooth') – in early Irish laws, 'in fer amuigh' (literally, 'the man outside') refers to the 'plaintiff'. See the commentary on Articles 21.2.2° and 48 respectively regarding 'istigh' and 'amach'.

*De Bhaldraithe* translates 'except' as 'eiscim, déanaim eisceacht de, fágaim amach, fágaim as', translating 'present company excepted' as 'ach amháin a bhfuil láithreach'. 'Power of High Court ... to except innocent act from being illegal practice' is translated as 'Comhacht ag an Ard-Chúirt ... gníomh nea-chiontach d'eisceacht o bheith ina chleacht nea-dhleathach' in the Margin Title of s28 of the Prevention of Electoral Abuses Act, 1923. 'This Act applies to every company which ... is not excepted from this Act by the next sub-section' is translated as 'Baineann an tAcht so le gach cuideachtain ... ná dintar í eisceacht ón Acht so leis an gcéad fho-alt eile' in s1(1) of the Companies (Re-Constitution of Records) Act, 1924.

Looking at modern Acts, 'the regulations may provide ... for excepting from the obligation to pay levy any specified class or classes of persons' is translated as 'féadfaidh na rialacháin foráil a dhéanamh ... maidir le haon aicme nó aicmí sonraithe daoine ... a eisiamh ón oibleagáid tobhach a íoc' in s12(6) of the Bord Glas Act, 1990. In s56(1) of the Copyright Act, 1963, 'make regulations excepting from the provisions of this subsection ... publications wholly or partly in the nature of trade advertisements' is translated as 'rialacháin a dhéanamh ag eisceadh foilseachán ó fhorálacha an fho-ailt seo ... is foilseacháin arb éard iad ar fad nó go formhór cineál fógraí trádála'.

*Ní cead* See the commentary on Article 9.1.3°.

*de dhlínse achomhairc* See the commentary on the previous subsection.

*réiteach* See the commentary on Article 23.1.2°.

*bail a bheith nó gan a bheith* See the commentary on Articles 15.4.2° and 34.3.2°.

*ag féachaint d(o)* See the commentary on Article 16.4.2°.

### Direct translation

Ní dhéanfar aon dlí a achtú<sup>1</sup> a dhéanfadh cásanna lena ngabhann ceisteanna i dtaobh bhailíocht<sup>2</sup> aon dlí ag féachaint d'fhorálacha an Bhunreacht seo a eisiamh<sup>3</sup> ó dhlínse achomhairc na Cúirte Uachtaraí.<sup>4</sup>

### Variants

- 1 'Ní achtófar aon dlí'
- 2 'bailíochta'
- 3 'eisceadh'
- 4 'Ní dhéanfar aon dlí a achtú a dhéanfadh eisceacht, maidir le dhlínse achomhairc na Cúirte Uachtaraí, de chásanna lena ngabhann ceisteanna i dtaobh bhailíocht aon dlí ag féachaint d'fhorálacha an Bhunreacht seo.'

## ARTICLE 34.4.5° AIRTEAGAL 34.4.5°

### TÉACS GAELIGE

Is é a chraolfas breith na Cúirte Uachtaraí ar cheist i dtaobh bail a bheith nó gan a bheith ar dhlí ag féachaint d'fhorálacha an Bhunreacht seo ná an duine sin de bhreithiúna na Cúirte sin a cheapfaidh an Chúirt sin chuige sin, agus ní cead tuairim ar bith eile ar an gceist sin, ag aontú nó ag easaontú leis an mbreith sin, a chraoladh ná ní cead a nochtadh tuairim ar bith eile den sórt sin a bheith ann.

### LITERAL ENGLISH TRANSLATION

He who will announce the judgement of the Supreme Court on a question regarding a law's having validity or not having regard to the provisions of this Constitution is that one of the judges of that Court which that Court will appoint for that (purpose), and it is not permitted to announce any other opinion on that question, agreeing or disagreeing with that decision, nor is it permitted to disclose there being any other opinion of that kind.

### ENGLISH TEXT

The decision of the Supreme Court on a question as to the validity of a law having regard to the provisions of this Constitution shall be pronounced by such one of the judges of that Court as that Court shall direct, and no other opinion on such question, whether assenting or dissenting, shall be pronounced, nor shall the existence of any such other opinion be disclosed.

### Divergences between the official texts

- 1 'Pronounce' is rendered by 'craol', the term generally used today to translate 'broadcast'; 'craol' also has the sense of 'announce, proclaim'; 'I pronounce (judgement)' is translated as 'fógraím' in *Téarmaí Dlí*.
- 2 'As that Court shall direct' is rendered in the Irish text as 'a cheapfaidh an Chúirt sin chuige sin', 'which that Court shall appoint for that (purpose)'.
- 3 'A question as to the validity of a law' is rendered in the Irish text as 'ceist i dtaobh bail a bheith nó gan a bheith ar dhlí' ('a question regarding a law having validity or not'), the same phraseology as in the previous section.
- 4 'No ... shall' is again rendered as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in the previous subsection and in some earlier Articles.

Note that this subsection was inserted into the text following the Second Amendment of the Constitution Act, 1941.

### Commentary

*a chraolfas* The special relative form of the future tense of 'craol' – see the commentary on Article 6.1 regarding the special relative in '-s'. *Ó Dónaill* translates 'craol' as 'announce, proclaim', citing '*rud a chraoladh ón altóir*, to announce something from the altar', with secondary ('wireless telephony and telegraphy') sense of 'broadcast', this being the usual current usage of 'craol'. *Dinneen* translates 'craolaim' as 'I announce, especially from the altar or pulpit', followed by the abbreviation for 'Waterford' and referring the reader to 'creidhill', 'a knell', 'creidhill báis' being translated as 'the death-knell; death, news of death'; 'a proclamation' is also given as a sense of 'creidhill', *Dinneen* referring to '*do chrael (chraol) sé ón altóir é*, he announced it from the altar', giving Most Rev. Dr Michael Sheehan, *Sean-chaint na nDéise* (1906) as source. DIL does not appear to give the verb 'craol' as a headword, and gives English 'knell' as the source of 'creidil'; DIL also has a headword 'craidail', translated as 'proclamation, announcement', referring the reader to English 'cry' as a possible source.

Professor Máirtín Ó Murchú has kindly written the following note (which is translated here) on 'craol':

Apparently this is another unhistorical form (see the note on 'aiceanta' in the commentary on Article 10.1). It would appear that it is from *Dinneen* that the drafters and others of that generation took the word. *Dinneen* got it from Mícheál Ó Sióthcháin, but 'craol' is the form he had in *Sean-Chaint na nDéise*, and *Sean-Chaint na nDéise II* shows that it was pronounced 'craeil' /kre:l'/; that was also the form of the verbal noun.

As recognised by DIL, it probably contains some trace of English 'cry', in the sense of 'proclaim publicly' ('fógairt os ard'). Conchobhar Ó Sióthcháin has a clear illustration of that range of sense and terminology in his account of his first trip to Skibbereen:

'A Mhuire! arsa mise 'godé a chuir an bhéic as?' 'Arú', arsa duine de sna fearaibh, 'sin é an craidhire, agus gach uair a bhuaifidh an clog geobhaidh sé thríd an sráid ag callaireacht ar an gcuma san, go maidean gheal amáireach ...'.

Of the two words, 'craidhire' (< 'cry' + (a)ire) and 'callaire(acht)' (< 'call' + aire), the first one has received little formal recognition, though the second one is fully recognised. Most likely it is following the diversification of the sense of 'callaire' that 'craidhire' was introduced in the particular sense and, therefore, also that it appeared to lexicographers of this time that 'callaire' was more native ('níos tíorachasúla'). 'Craobh-scaoileadh' is the older term in this range of sense – 'go bhfuil an reacht go foirleathan arna chraobh-scaoileadh 7 arna fhógra' (*TBGB*, l. 3488-9); 'cryer'/'creidher' is found in the same clause with 'craobh-scaoileadh' in *Pairlement Chloinne Tomás* ('tugsad rena gcaobhscaoileadh don chreidher', ll. 1561-2, Williams) – and perhaps some trace of this, in sense and form, is found in the Decies 'craeil'. It is clear, at any rate, that Mícheál Ó Sióthcháin, and perhaps his informants, recognised some connection between the two words.

Turning to the Acts, 'as security for the satisfaction of

any judgement which may eventually be pronounced by a Court having jurisdiction so to decide' is translated as 'mar urrús chun aon bhreithiúnas a shásamh a fhógróidh Cúirt faoi dheoidh ag a mbeidh dlínse cinneadh a dhéanamh amhlaidh' in s2 of Article 7 of the First Schedule to the Jurisdiction of Courts (Maritime Conventions) Act, 1989. 'Until ... the date upon which the decision of the Court is pronounced' is translated as 'go dtí an dáta a bhfógrófar breith na Cúirte' in s21(5)(b) of the Fire Services Act, 1981. See further the commentary on Article 26.2.1<sup>o</sup> where 'breith a thabhairt' expresses 'pronounce a decision'; see the commentary on Articles 13.3.2<sup>o</sup> and 25.1 regarding 'fógair'.

*ag aontú nó ag easaontú* See the commentary on Article 26.2.2<sup>o</sup>. 'Aontú' is the verbal noun of 'aontaigh', 'easaontú' being the verbal noun of 'easaontaigh', the latter verb being composed of the negative prefix 'eas-' (generally indicating 'a ceasing to be what the second element implies', according to *Dinneen*, as distinguished from the prefixes 'an-', 'éa-' or 'dí-') combined with 'aontaigh'. 'Aontaím' is translated as 'I assent' in *Téarmaí Díl*, 'aontuighim' being translated as 'I unite, assent to, consent, agree' in *Dinneen*, who translates the verbal noun 'easaontughadh' as 'act of disagreeing', giving 'schism' as the sense of the noun 'easaontughadh'. *Ó Dónaill* translates 'easaontaigh' with the preposition 'le' as 'disagree (with), dissent (from)', citing '*easaontú le duine*, to disagree with someone' and '*easaontú le teagasc*, to dissent from a doctrine'. 'Aontaigh' followed by 'le' is translated as 'assent, agree' by *Ó Dónaill*. The earlier 'oentaigid', based on 'oen' ('one'), is translated principally as 'unites, joins with, consorts with, makes one' in DIL, 'aentochmaid le', from one early source, being translated as 'we shall be one with thee'. DIL cites only one example of the verb 'esóentaigid' ('disagrees, opposes'): 'ro chinnsat a comairli 7 nir easaentaig in t-ardflaith 'na n-agaid sein' ('... did not dissent from them)', from the *Banquet of Dún na nGedh and the Battle of Magh Rath*.

'The decision of the Court shall be pronounced by the chairman or such other member as the chairman shall authorise for the purpose, and no other opinion, whether assenting or dissenting, shall be pronounced nor shall the existence of any such other opinion be disclosed' is translated as 'Is é an cathaoirleach nó pé comhalta eile a údarós an cathaoirleach chuige sin a chraolfas breith na Cúirte, agus ní craolfar aon tuairim eile, ag aontú nó ag easaontú leis an mbreith sin, ná ní nochtfar tuairim ar bith eile den tsórt sin a bheith ann' in s20(4) of the Industrial Relations Act, 1946. Note in passing from the early Acts that 'and the verdict of such nine members or upwards shall be taken and recorded as the verdict of the jury, without disclosure of dissentients, if any such there be' is translated as 'agus déanfar breith-fhocal an naonúir sin no níos mó do thógaint agus do chur ar breaca mar bhreith-fhocal ón gcoiste, gan scéith ar an méid nár aontuigh léi, má bhí a leithéidí ann' in s95 of the Courts of Justice Act, 1924. 'And every person having such turbary rights shall have the like rights of making objections to and of expressing assent to or dissent from the scheme as are conferred on such occupiers by virtue of this Act' is translated as 'agus gach duine ag á mbeidh cirt mhóna den tsórt san beidh aige na cirt chéanna a bronntar ar na sealbhairí sin de bhua an Achta so chun cur i gcoinnbh

na scéime no chun a rá ce'ca aontúid leis an scéim no ná haontúid' in s18(c) of the Arterial Drainage (Minor Schemes) Act, 1928, with 'for the purpose of determining whether the number of dissents from the scheme is or is not sufficient to prevent the confirmation of the scheme' being translated as 'chun a dhéanamh amach ce'ca is leor no nách leor chun cosc do chur le daingniú na scéime an líon daoine ná haontóidh leis an scéim' in s18(d).

*a cheapfaidh* 'The amendment must be directed to' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ní foláir an leasú do bheith ceaptha chun' in the 1926 *Standing Orders* of Dáil Éireann, with 'the amendment must be directed to omitting words' being translated as 'caithfidh an leasú bheith ar intinn focail do leigeant ar lár'. 'I am directed by ... to acknowledge receipt of your letter' is cited as being translated as 'dubhairt ... liom a rádh leat go bhfuair sé do litir' in translations for the Department of Industry and Commerce. 'I direct (jury)' is translated as 'treoraím' in *Téarmaí Dlí*.

Looking at modern Acts, 'under the control of such other person ... as the court shall direct' is translated as 'faoi urlámh cibé duine eile ... a ordóidh an chúirt' in s40(1)(b) of the Status of Children Act, 1987. 'Such notice of an application under this section as the High Court shall direct' is translated as 'cibé fógra i dtaobh iarratas faoin alt seo a ordóidh an Ard-Chúirt' in s21(3) of the Plant Varieties (Proprietary Rights) Act, 1980.

See the commentary on Articles 6.1, 13.1.1° and 15.10 where 'ceap' respectively expresses 'designate', 'appoint' and 'attach'. Note that 'stiúir' expresses 'direct' in Article 12.8 and 'ordaigh' renders direct in Article 40.4.4° – see the commentary on that Article for further examples of official translations of 'direct'.

*nochtadh* See the commentary on Articles 26.2.2° and 40.6.1°i and note that 'nochtaim' is translated as 'I disclose' in *Téarmaí Dlí*.

*tuairim* See the commentary on Article 40.6.1°i.

### Gender-proofed Irish text

Is é nó is í a chraolfaidh breith na Cúirte Uachtaraí ar cheist i dtaobh bail a bheith nó gan a bheith ar dhlí ag féachaint d'fhorálacha an Bhunreacht seo ná an duine sin de bhreithiúna na Cúirte sin a cheapfaidh an Chúirt sin chuige sin, agus ní cead tuairim ar bith eile ar an gceist sin, ag aontú nó ag easaontú leis an mbreith sin, a chraoladh ná ní cead a nochtadh tuairim ar bith eile den sórt sin a bheith ann.

### Direct translation

Déanfaidh cibé duine de bhreithiúna na Cúirte Uachtaraí a ordóidh an Chúirt sin breith na Cúirte sin a fhógairt ar cheist maidir le bailíocht<sup>1</sup> dlí ag féachaint d'fhorálacha an Bhunreacht seo,<sup>2</sup> agus ní fhógrófar aon tuairim eile ar an gceist sin, cibé acu ag aontú nó ag easaontú,<sup>3</sup> ná ní nochtfaí aon tuairim eile den sórt sin<sup>4</sup> a bheith ann.

### Variants

- 1 'faoi bhailíocht'
- 2 'Déanfaidh cibé duine de bhreithiúna na Cúirte Uachtaraí a ordóidh an Chúirt sin breith na Cúirte sin ar cheist maidir le

bailíocht dlí, ag féachaint d'fhorálacha an Bhunreacht seo, a fhógairt.'

3 'cibé acu ag aontú nó ag easaontú leis an tuairim sin.'

4 'a leithéid sin eile de thuairim'

## ARTICLE 34.4.6<sup>O</sup> AIRTEAGAL 34.4.6<sup>O</sup>

### TÉACS GAELGE

Ní bheidh dul thar breith na Cúirte Uachtaraí i gcás ar bith.

### LITERAL ENGLISH TRANSLATION

There will be no passing over / bypassing the judgement of the Supreme Court in any case.

### ENGLISH TEXT

The decision of the Supreme Court shall in all cases be final and conclusive.

### Divergences between the official texts

- 1 'The decision ... shall be final and conclusive' is expressed as 'Ní bheidh dul thar breith' ('there will be no passing over / bypassing the judgement') in the Irish text.
- 2 'In all cases' is expressed as 'i gcás ar bith', 'in any case', in the Irish text.

Note that Article 66 of the 1922 Constitution contains the following:

The decision of the Supreme Court shall in all cases be final and conclusive .... *Ní bheidh dul thar breith na Cúirte Uachtaraíge in aon chás.*

### Commentary

*dul thar breith na Cúirte* 'Breith' would be lenited here according to the official standard, 'thar' leniting except in the case of adverbial phrases like 'thar bráid, thar sáile', etc. – see *An Caighdeán Oifigiúil*, s4(e) of the chapter entitled 'Séimhiú agus Urú'. According to *Ó Dónaill*, 'thar' lenites in qualified or particularised references, citing '*dul thar dhuine sa tsráid*, to pass someone on the street'.

'Dul' is the verbal noun of 'téigh'. *Ó Dónaill* translates 'téigh thar' principally (literally) as 'go, pass, over', giving 'exceed' and 'surpass' as secondary senses, citing '*ná téigh thar ceart*, don't go beyond what is right' and '*ní féidir dul thairis*, it can't be surpassed' respectively – Professor Máirtín Ó Murchú remarks that this latter sense is not the sense involved in the present Article 34.4.6°. *Ó Dónaill* also cites '*níl dul thairis agat*, you can't evade it' s.v. 'thar'. *Dinneen* cites '*ní raghainn thársta*, I would not ask any better than these'. DIL gives 'exceeds, surpasses' as a secondary sense of 'téit tar', citing 'ní thét a ccu dar cona' ('their Hound outstrips hounds no more') from the *Wasting Sickness of Cú Chulainn in Leabhar na hUídhre* (written in Clonmacnois c. 1100), giving examples of the senses 'goes over, across, past' and 'transgresses, violates (a law, etc.)' from the Glosses of the eighth and ninth centuries onwards.

'Conclusive evidence' and 'conclusive presumption' are translated respectively as 'fianaise dochloíte' and 'toimhde dochloíte' in *Téarmaí Dlí*, with 'final order' being translated as 'ordú críochnaitheach'. 'The decision of the local pension committee ... shall be final and conclusive' is translated as 'Is cinneadh críochnaitheach, dochloíte cinneadh an choiste phinsin áitiúil' in s164(2) of the Social Welfare (Consolidation) Act, 1981, for example. See further the commentary on Article 22.2.1°.

### Standardised Irish text

Ní bheidh dul thar bhreith na Cúirte Uachtaraí i gcás ar bith.

### Direct translation

Cinneadh críochnaitheach, dochloíte<sup>1</sup> a bheidh i gcinneadh na Cúirte Uachtaraí i ngach cás.<sup>2</sup>

### Variants

- 1 'críochnaitheach dochloíte'
- 2 'Is cinneadh críochnaitheach, dochloíte cinneadh na Cúirte Uachtaraí i ngach cás.'

## ARTICLE 34.5.1° AIRTEAGAL 34.5.1°

### TÉACS GAEILGE

Gach duine a cheapfar chun bheith ina bhreitheamh faoin mBunreacht seo ní foláir dó an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis:

"I láthair Dia na nUilechumhacht táimse, , á ghealladh agus á dhearbhu go sollúnta agus go firinneach go gcomhlíonfad go cuí agus go dílis, chomh maith agus is eol agus is cumas dom, oifig an Phríomh-Bhreithimh (*nó de réir mar a oireas*) gan eagla gan claonadh, gan bá gan drochaigne chun duine ar bith, agus go gcumhdód Bunreacht agus dlíthe Éireann. Dia do mo stiúradh agus do mo chumhdach."

### LITERAL ENGLISH TRANSLATION

Every person who will be appointed to be a judge under this Constitution (he) must make the following declaration and put his hand to it:

"In the presence of God the Almighty I, , (am) promising and declaring solemnly and truthfully that I will duly and faithfully perform, to the best of my knowledge and ability, the office of Chief-Justice (*or according as suits*) without fear or bias, without partiality or malevolence/ill-will to anyone, and that I will uphold the Constitution and laws of Ireland. God direct and protect me."

### ENGLISH TEXT

Every person appointed a judge under this Constitution shall make and subscribe the following declaration:

"In the presence of Almighty God I, do solemnly and sincerely promise and declare that I will duly and

faithfully and to the best of my knowledge and power execute the office of Chief Justice (*or as the case may be*) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me."

### Divergences between the official texts

- 1 'Affection' is expressed as 'bá, 'partiality, friendship', in the Irish text, whereas 'gean' translates 'affection' in *Téarmaí Dlí*.
- 2 'Favour' is expressed as 'claonadh', 'bias', in the Irish text.
- 3 'The Constitution and the law' is expressed as 'Bunreacht agus dlíthe Éireann' ('the Constitution and laws of Ireland') in the Irish text.
- 4 'Execute the office' is expressed by 'oifig a chomhlíonadh' ('perform/fulfil the office') in the Irish text.
- 5 'Sincerely' is expressed by 'go firinneach', more usually 'truthfully', in the Irish text, again as we already saw in Article 12.8.
- 7 'Subscribe' is expressed as 'a lámh a chur le' ('put his hand to') in the Irish text, as we have already seen in Article 12.8.
- 8 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.
- 9 'Any man' is expressed as 'duine ar bith' ('any person') in the Irish text.
- 10 'As the case may be' is expressed as 'nó de réir mar a oireas' ('or according as suits') in the Irish text.

Note that s99 of the Courts of Justice Act, 1924, reads as follows:

The Declaration to be taken on appointment by every Judge of the Supreme Court, the High Court and the Circuit Court and by every Justice of the District Court shall be as follows:-

I do solemnly and sincerely before God promise and declare that I will duly and faithfully and to the best of my skill and power execute the office of Chief Justice of the Supreme Court (*or President of the High Court ... or Justice of the District Court as the case may be*) of Saorstát Éireann without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution of Saorstát Éireann as by law established.

*Mar leanas a bheidh an Fhaisnéis a dhéanfidh gach Breitheamh den Chúirt Uachtaraigh, den Ard-Chúirt, agus den Chúirt Chuarda, agus gach Breitheamh den Chúirt Dúithche, tar éis a gceaptha:-*

*Dinim-se a gheallúint agus a fhaisnéis go solamanta agus go macánta i láthair Dé go bhfeidhmeod go cuibhe agus do dílis agus chó fada lem' éirim agus lem' chomhacht oifig Phríomh-Breitheamh Chúirt Uachtarach (no Uachtarán Ard-Chúirt ... no Breitheamh de Chúirt Dúithche, pe'ca aca é) Shaorstáit Éireann gan faitios ná fabhar, gan grá ná fuath d'éinne, agus go seasód le Bunreacht Shaorstáit Éireann mar atá sé bunuithe do réir dlí.*

### Commentary

*gan claonadh* The preposition 'gan' lenites a following single word unless it begins with *d*, *t*, *s* or *f*, according to

An *Caighdeán Oifigiúil* (s4(c) of the chapter headed 'Séimhiú agus Urú), where 'gan chuid, gan chiall' are cited. Ó Dónaill cites 'gan chaint gan chomhrá, without talk or conversation', along with 'gan tús gan deireadh, without beginning or end, in utter confusion', these also being examples of the repetition of 'gan' in the sense of 'without ... or'. Dinneen cites 'gan aithne, gan urlabhra, unconscious and speechless'. As 'claonadh' and 'bá' here are linked with 'gan duine ar bith' they would remain unlenited here, according to Ó Dónaill, who cites 'gan cúis chóir, without just cause', for example.

'Claonadh' is translated as 'inclination; tendency, trend' in Ó Dónaill, who cites 'claonadh chun na trócaire, leaning toward mercy'. 'Claonadh' is the verbal noun of 'claon', Dinneen translating 'claonaim' as 'I incline, slant, diverge; bend, pervert, turn away; am inclined', citing 'ó chlaonais le Lútar, since you turned over to Luther'. The earlier form, 'cláenad', verbal noun of 'cláenaid', is translated principally as 'act of bending, bringing low, inclining; inclination' in DIL, where 'clointa cinn sòn' ('of bending the head') is cited from the ninth-century Milan Glosses on the Commentary on the Psalms, glossing Latin 'hoc gestu'. The adjective 'cláen', upon which the verb 'cláenaid' is based, is translated in DIL as 'uneven, crooked, sloping; aslant, bending, stooped; curving, curved', with the moral sense of 'iniquitous, perverse, unjust, biased'.

The following Declaration is found in the First Schedule to the District Justices (Temporary Provisions) Act, 1923:

"I ..... do swear that I will well and truly serve the Irish Free State (Saorstát Éireann) in the office of District Justice without favour or affection, malice or ill-will; that I will see and cause the peace to be preserved; that I will prevent to the best of my power all offences against the same; that while I shall continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof in the execution of Warrants and otherwise faithfully according to law ... So help me God." "*Bheirimse ..... mo mhóid go dtabharfad seirbhís mhaith mhacánta uaim do Shaorstát Éireann in oifig Ghiúistís Dúithche gan fabhar ná páirt, gan maílís ná droch-aigne; go bhféachfad chuige agus go ndéanfar an tsíocháin do chimeád agus do choinneáil; go gcoiscfead chó fada lem' chumas gach cionta i gcoinnibh an chéanna; go ndéanfad mo dhícheall, do réir mo thuisgiona agus m'eolais, an fhaid a bhead i seilbh na hoifige roimh-ráite, ar dhualgaisí uile na hoifige do chó-líona go macánta do réir dlí maidir le feidhmiú Barántas agus gach ní eile ... A Dhia dem' neartú."*

The 'Form of Declaration' in the Second Schedule to the Gárda Síochána Act, 1924, commences as follows:

"I ..... do solemnly and sincerely before God declare and affirm and my word and honour pledge that I will be faithful to the utmost of my ability in my employment by the Executive Council of Saorstát Éireann in the office of ... in the Gárda Síochána and that I will render good and true service and obedience to Saorstát Éireann and its constitution and government as by law established without favour or affection, fear, malice or ill-will, and that I will see and cause the peace to be kept and preserved, and that I will prevent to the best of my power all offences against the same, and that while I shall continue to hold the said office, I will to the best of my knowledge discharge all the duties thereof faithfully according to law ...". "*Dinim-se ..... a fhaisnéis agus a dheimhniú agus m'fhocal agus*

*m'onóir do thabhairt, go solamanta agus go macánta i láthair Dé, go mbead dílis chó fada lem' chumas sa bhfostaíocht ina bhfuil Ard-Chomhairle Shaorstáit Éireann am chur in oifig ... sa Ghárda Síochána agus go dtabharfad seirbhís agus go mbead umhal, go maith agus go dílis macánta, do Shaorstát Éireann agus dá bhunreacht agus dá rialtas fé mar a buníodh do réir dlí, gan báidh ná páirt, gan eagla, mailís ná droch-aigne, agus go bhféachfad chuige agus go gcuirfad fé ndéar go gcimeádfar agus go gcosnófar an tsíocháin, agus chó fada lem' dhícheall go gcoiscfead gach cionta in aghaidh an chéanna, agus an fhaid a bheadh an oifig sin agam go ndéanfad chó fada lem' eolas gach dualgas a bhaineann leis do chó-líona go dílis do réir dlí ..."*

Finally, 'performing their duty according to their oath without fear or favour' is translated as 'a ndualgas do chó-líona do réir a mionna gan fabhar gan faitcheas' in s7(5) of the Juries (Protection) Act, 1929.

*gan bá* See the commentary on 'gan claonadh' above regarding lenition after 'gan'. Ó Dónaill translates 'bá' as 'sympathy, liking', citing 'tá bá agam leis, I like him'. Dinneen cites 'tá báidh agam leat, I have a feeling of friendship for you', translating 'báidh' as 'love, friendship, hospitality; leniency; humanity'. DIL translates 'báid' as 'affection, fondness, attachment, partiality', with the object of affection expressed by the genitive or the preposition 'fri' ('la', Modern Irish 'le'), 'i' or 'im(m)'. DIL cites the phrase 'breith le báidh' ('partial judgement') from the seventeenth-century 'Contention of the Bards'. Originally, according to DIL, 'báid' may not have been distinct from 'bág', 'boast, threat, promise, undertaking, declaration'.

In the 'Form of Declaration to be made by a Commissioner for Offices' in Schedule 17 of the Income Tax Act, 1967, 'that I will judge and determine upon all matters and things which shall be brought before me under the said Acts without favour, affection or malice' is translated as 'agus go ndéanfaidh mé breithiúnas agus cinneadh gan fabhar, dáimh ná mailís ar gach uile ábhar agus ní a thabharfar os mo chomhair faoi na hAchtanna sin', with 'gan fabhar ná dáimh' translating 'without favour or affection' in another such 'Form of Declaration' in the same Schedule. 'Natural love and affection' is translated as 'grá agus gean nádúrtha' in *Téarmaí Dlí*.

*gan drochaigne* This compound of 'droch' and 'aigne' is translated as 'evil disposition, evil mind; ill-will, malevolence' in Ó Dónaill, 'droch-aigne' being translated as 'malevolence; malice, evil disposition, ill-will' in Dinneen, who cites 'ag bailiughadh droch-aigne chum, cherishing ill-will towards' and 'corp droch-aigne, sheer spite'. 'Aigne' comes from the earlier form 'aicned', the primary sense of which is 'inherent quality, essence, nature', DIL citing 'combad aicned nindib a nolc' ('that the evil is natural to them'), from the ninth-century Milan Glosses on the Commentary on the Psalms, where it glosses Latin 'naturalis'. The first citation in DIL of the sense 'mind, spirit, feeling' is from the Irish version of Lucan's *Pharsalia*, where it is linked with 'ergna' ('understanding, discrimination, discernment') and 'intlucht' ('intellect') – see further the commentary on Article 10.1.

*do mo stiúradh ... do mo chumhdach* See the commentary on Article 12.8. Note that Ó Dónaill cites 'Dia ár gcumhdach, God protects us' and 'Go gcumhdai Dia sibh,

may God help you' as examples of the sense 'keep, preserve' s.v. 'cumhdaigh', and '*an dlí a chumhdach*, to uphold the law' as an example of the sense of 'uphold'. DIL cites 'Dia mór romc[h]umhdaighfeá' as an example of the sense 'protects, preserves' of 'con-utaincc' in later language, the principal sense being 'builds, constructs'.

*go gcomhlionfad ... go gcumhdód* The synthetic forms, first person singular, future tense, of 'comhlíon' and 'cumhdaigh' respectively – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb, the commentary on Articles 12.1 and 13.9 regarding the verb 'comhlíon' (generally expressing 'perform' in the Constitution), and on Article 12.8 regarding 'cumhdaigh'.

'There shall be paid to any person who shall have executed the office of Comptroller and Auditor-General' is translated as 'aon duine a bheidh tar éis oifig an Árd-Scrúdóra do chó-líona díolfar leis ...' in s2(2) of the Comptroller and Auditor-General Act, 1923. In s5 of the Ministers and Secretaries (Amendment) Act, 1980, 'to execute the office of a Minister of the Government having charge of a Department of State' is translated as 'chun oifig Aire Rialtais i gceannas ar Roinn Stáit a fheidhmiú'. 'That I will truly, faithfully, impartially and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me as a Commissioner for Offices' is translated as 'go ndéanfaidh mé go firinneach, go fireata, go cothrom agus go macánta, feadh iomlán mo chumais agus m'eolais, na cumhachtaí agus na húdaráis a dhílsítear dom mar Choimisinéir d'Oifigí ... a fhorghníomhú' in Schedule 17 of the Income Tax Act, 1967.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that he recognises no sense in 'oifig ... a fhorghníomhú' and that *De Bhaldraithe* associates 'forghníomhú' with 'order'. However deficient, according to Máirtín Ó Murchú, the original verb 'comhlíon' is the best available.

*is eol* 'Is eol dom (go)' is translated as 'I know (that)' in *Ó Dónaill*, who cites '*déan é mar is eol duit*, do it as best you know'. *Dinneen* translates 'mar is eol dom' as 'as best I know how to'. 'Eól' is translated as 'knowledge (of a person or thing); acquaintance (with person or thing); experience in, skill' in DIL, where the phrase 'is eol dom' is translated as 'I know, am experienced; skilled', with 'in eól dúib a dindshenchas?' ('know ye its legend?') being cited from the twelfth-century *Book of Leinster*.

Regarding early citations of 'knowledge' and 'ability', 'unless it is proved that the copies were to his knowledge pirated copies' is translated as 'mara gcruthúitear gur chóipeanna píoráidithe na cóipeanna go bhfios do' in s184(1) of the Industrial and Commercial Property (Protection) Act, 1927. 'Shall to the best of his knowledge, ability, or belief (as the case may require) duly and correctly fill up or otherwise complete such document' is translated as 'déanfa sé, chó fada le n-a eolas, le n-a chumas no le n-a thuairim (pe'ca aca é), an scribhinn sin do líona no do chríochnú ar an slí eile sin go cuibhe agus go cóir' in s7(1) of the Statistics Act, 1926. 'That such person is fully qualified as to age, sex, health, character, knowledge, and ability for that situation' is translated as 'go bhfuil an duine sin lán-cháilithe i gcóir an phoist sin maidir le haois, innsin, sláinte, carachtar, eolas, agus ábaltacht' in s3 of

the Civil Service Regulations (Amendment) Act, 1926. 'That ... I will in all respects act diligently and honestly, and without favour or affection, to the best of my knowledge and belief' is translated as 'go ndéanfaidh mé ... gníomhú i ngach slí go dícheallach agus go macánta gan fabhar ná dáimh de réir mar is fearr is eol dom agus mar a chreidim' in a 'Form of Declaration' in Schedule 17 of the Income Tax Act, 1967, with 'that I will diligently and faithfully execute the office of clerk according to the Acts relating to income tax, to be best of my knowledge and judgement' being translated as 'go ndéanfaidh mé go dícheallach agus go fireata oifig chléirigh a fhorghníomhú de réir na nAchtanna a bhaineann le cáin ioncain, feadh m'eolais agus mo bhreithiúnais' in another such 'Form of Declaration' in that Schedule.

*is cumas* 'Cumas' is translated as 'capability, power' in *Ó Dónaill*, who cites '*rud a chur ar chumas duine, ar a chumas do dhuine, i gcumas do dhuine*, to enable someone to do something', along with '*de réir a chumais*, as far as he is able, according to his means'. *Ó Dónaill* also cites '*chomh maith agus a bhí ar a chumas*, to the best of his ability' s.v. 'chomh'. *Dinneen* cites '*ní'l sé ar mo chumas, ar chumas (or gcumas) dam, im' chumas*, I am not able to do it, I have it not in my power or at my disposal', translating 'do réir a chumais' as 'all things considered in regard to him'. 'Commus' is the verbal noun of 'con-midethar' ('is competent, able; rules, governs, controls'), and is translated as (a) 'act of controlling, arranging, directing' and (b) 'power, ability, capacity' in DIL, the latter senses being the usual senses according to DIL. David Greene (in his edition of *Fingal Rónáin and Other Stories* [1955, p. 42]) translates 'Ad coimse mo chrod dot chainmacniu' as 'you are capable (of taking) my cattle for your fair sons' in a rhetorical passage in the Old Irish story 'Esnada Tige Buchet'. See further the commentary on Articles 14.2.2° and 31.2.

*a oireas* The special form of the relative, present tense, of 'oir' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'. *Ó Dónaill* translates 'oir' as 'suit, fit, become', citing '*oireann sé don chás*, it suits the case'. The intransitive verb 'oirid' is translated as 'is suited or adapted (to), corresponds (to), is in keeping (with)' in DIL, the first of but a few relatively late examples cited there being 'don droing oirios annró' ('the gang whose just lot might be misery') from O'Grady's *Catalogue of Irish Manuscripts in the British Museum*. In Article 45.4.2° 'nach n-oireann dá ngné' expresses 'unsuited to their sex'. As regards 'as the case may be' in the Acts, 'At the end of the accounting period or, as the case may be, at the beginning of an immediately succeeding accounting period' is translated as 'i ndeireadh tréimhse cuntasaióchta nó, de réir mar a bheidh, i dtosach tréimhse cuntasaióchta díreach ina dhiaidh sin' in s9(c) of the Finance Act, 1990, for example.

*I láthair Dia na nUilechumhacht* See the commentary on Article 12.8° and note that this phrase is followed by a comma in that Article, as in Article 31.4, unlike the present Article.

*go cuí* 'I gcúrsa cuí' is translated as 'in due course', for example, in *Téarmaí Dlí* – see the commentary on Article 43.2.1°.



*de réir* This phrase is translated as ‘in accordance with’ in *Téarmaí Dlí* – see the commentary on Article 1.

*dearbhú* See the commentary on Article 12.8°.

*a lámh a chur leis* See the commentary on Article 12.8°.

*go sollúnta agus go fireannach* See the commentary on Article 12.8.

*go dílis* See the commentary on Article 31.4.

*Bunreacht Éireann* See the commentary on Article 12.8.

### Standardised gender-proofed Irish text

Gach duine a cheapfar chun bheith ina bhreitheamh nó ina breitheamh faoin mBunreacht seo ní foláir dó nó di an dearbhú seo a leanas a dhéanamh agus a lámh a chur leis:

“I láthair Dhia na hUilechumhachta táimse, , á ghealladh agus á dhearbhú go sollúnta agus go firinneach go gcomhlíonfaidh mé go cúí agus go dílis, chomh maith agus is eol agus is cumas dom, oifig an Phríomh-Bhreithimh (*nó de réir mar a oireann*) gan eagla gan claonadh, gan bá gan drochaigne chun duine ar bith, agus go gcumhdóidh mé Bunreacht agus dlíthe na hÉireann. Dia do mo stiúradh agus do mo chumhdach.”

### Direct gender-proofed translation

Gach duine a cheapfar ina bhreitheamh nó ina breitheamh faoin mBunreacht seo déanfaidh agus síneoidh sé nó sí an dearbhú seo a leanas:<sup>1</sup>

“I láthair Dhia na hUilechumhachta, táimse, á ghealladh agus á dhearbhú go sollúnta fireata go ndéanfaidh mé<sup>2</sup> oifig an Phríomh-Bhreithimh (*nó de réir mar a bheidh*) a fheidhmí<sup>3</sup> go cúí agus go dílis agus ar feadh m’eolais agus mo chumais, gan eagla ná fabhar, gean ná drochaigne<sup>4</sup> i leith aon duine,<sup>5</sup> agus go gcumhdóidh mé an Bunreacht agus na dlíthe. Go stiúraí agus go gcumhdaí Dia mé.”

### Variants

- 1 ‘Déanfar an dearbhú seo a leanas agus síneofar é ag gach duine a cheapfar ina bhreitheamh nó ina breitheamh faoin mBunreacht seo.’
- 2 ‘déanaimse, a ghealladh agus a dhearbhú go sollúnta fireata’
- 3 ‘a chomhlíonadh’, ‘a fhorghníomhú’
- 4 ‘eagla nó fabhar, gean nó drochaigne’
- 5 ‘gan eagla gan fabhar, gan gean gan drochaigne chun duine ar bith.’

## ARTICLE 34.5.2° AIRTEAGAL 34.5.2°

### TÉACS GAELGE

Is i láthair an Uachtaráin a dhéanfaidh an Príomh-Breitheamh an dearbhú sin agus a chuirfidh a lámh leis, agus is sa chúirt go poiblí agus i láthair an Phríomh-Bhreithimh nó an bhreithimh den Chúirt Uachtarach is sinsearaí dá mbeidh ar fáil a dhéanfaidh gach breitheamh eile den Chúirt Uachtarach agus gach breitheamh den Ard-Chúirt agus de gach Cúirt eile an dearbhú sin agus a chuirfidh lámh leis.

### LITERAL ENGLISH TRANSLATION

It is in the presence of the President that the Chief Justice will make that declaration and put his hand to it, and it is in the court publicly and in the presence of the Chief Justice or of the most senior judge of the Supreme Court who will be available that every other judge of the Supreme Court and every judge of the High Court and of every other Court will make that declaration and put his hand to it.

### ENGLISH TEXT

This declaration shall be made and subscribed by the Chief Justice in the presence of the President, and by each of the other judges of the Supreme Court, the judges of the High Court and the judges of every other Court in the presence of the Chief Justice or the senior available judge of the Supreme Court in open court.

### Divergences between the official texts

- 1 ‘In open court’ is expressed as ‘sa chúirt go poiblí’ (‘in the court publicly’) in the Irish text, ‘i gcúirt oscailte’ translating ‘in open court’ in *Téarmaí Dlí*.
- 2 ‘The senior available judge of the Supreme Court’ is expressed by ‘an breitheamh den Chúirt Uachtarach is sinsearaí dá mbeidh ar fáil’ (‘the most senior judge of the Supreme Court who will be available’) in the Irish text.
- 3 ‘Each of the other judges of the Supreme Court, the judges of the High Court and the judges of every other Court’ is rendered as ‘gach breitheamh eile den Chúirt Uachtarach agus gach breitheamh den Ard-Chúirt agus de gach Cúirt eile’ (‘every other judge of the Supreme Court **and** every judge of the High Court and of every other Court’) in the Irish text.
- 4 The phrase expressing ‘This declaration shall be made and subscribed’ is repeated in the Irish text alone, ‘subscribe’ being expressed as ‘a chuirfidh (a) lámh leis’ (‘put [his] hand to’).

Note that the words ‘den Chúirt Uachtaraigh is sinsearaigh dá mbeidh ar fagháil a dhéanfaidh gach breitheamh eile den Chúirt Uachtaraigh agus’ were inserted following the Second Amendment of the Constitution Act, 1941, replacing ‘is neasa sinsearach dó a bheas ar fagháil de bhreitheamhnaibh na Cúirte Uachtaraigh a dhéanfaidh’, no corresponding amendment being made to the English text.

Note also that s99 of the Courts of Justice Act, 1924, contains the following:

Such declaration shall be made and subscribed by the Chief Justice in the presence of the Governor-General and by each of the other judges and justices in the presence of the Chief Justice in open court. *Déanfar agus síghneofar an thaisnéis sin ag an bPrímh-Breitheamh i bhfianaise an tSeanascail agus ag gach duine de sna breithimh roimhráite i bhfianaise an Phrímh-Bhreithimh sa chúirt go hoscailte.*

### Commentary

*is sinsearaí* The superlative of the adjective ‘sinsearach’, which adjective is translated as (a) ‘senior’ and (b)

'ancestral' in *Ó Dónaill*. While *Dinneen* gives two headwords 'sóisear', 'junior', as both adjective and noun, he does not appear to give an adjectival form of 'sinsear' as a headword. DIL s.v. 'sinserda', gives one (late) example of the senses (a) 'ancestral' and (b) 'olden, of yore', this adjective being based on 'sinser', 'the elder, the eldest, a senior; *in plural* elders, ancestors, forefathers'. The opposite of this, 'ósar', has the same ending as 'sinser' combined with 'óa', the comparative of 'oac'/'óc', Modern Irish 'óg', 'young' – as Professor Máirtín Ó Murchú remarks, 'ósar' later became 'sósar' and eventually 'sóisear'.

'All proofs ... shall be held by or at the order and disposal of the judge or the senior of the judges by or before whom such suit or matter is heard' is translated as 'Gach cruthúnas ... cimeádfar iad i seilbh no fé ordú agus fé dheighleáil an bhreithimh no sinsir na mbreithiún ag á mbeidh no gur ina láthair a bheidh an chúis no an ní sin á éisteacht' in s65(3) of the Court Officers Act, 1926. 'By the senior ordinary Judge of the Supreme Court' is translated as 'isé gnáth-Bhreitheamh sinsearach na Cúirte Uachtaraí a dhéanfaidh san' in s2 of the Courts of Justice Act, 1928. 'With a Chairman who shall be the senior judge of the Supreme Court able and willing to act' is translated as 'agus mar Cheann Comhairle ortha an breitheamh is aoirde céim den Chúirt Uachtarach a bheidh ábalta agus toilteannach ar fheidhmiú' in Article 35 of the 1922 Constitution. Finally, 'All jurisdictions, powers, authorities and functions for the time being vested in him ... shall be exercised or performed by the senior ordinary judge of the High Court who is for the time being available' is translated as 'déanfaidh an gnáth-bhreitheamh den Ard-Chúirt is sinsearaí a bheidh ar fáil de thuras na huairé na dlínsí, na cumhachtaí, na húdaráis agus na feidhmeanna go léir a bheidh dílsithe dó de thuras na huairé ... a fheidhmiú nó a chomhlíonadh' in s18(2) of the Courts Act, 1981. See further the commentary on Article 40.4.4°.

*a chuirfidh a lámh leis* See the commentary on Articles 12.8 and 13.3.1° and note that we find 'a chuirfidh lámh leis' at the end of this subsection.

*go poiblí* See the commentary on Article 26.2.1°. 'Hearing in open court' is translated as 'éisteacht i gcúirt oscailte' in *Téarmaí Dlí*.

*an dearbhú* See the commentary on Article 12.8.

*sin* See the commentary on Articles 6.2 and 13.1.1°.

### Direct translation

Déanfar an dearbhú seo agus síneofar é<sup>1</sup> ag an bPríomh-Bhreitheamh<sup>2</sup> i láthair an Uachtaraín, agus ag gach duine de na breithiúna eile den Chúirt Uachtarach, ag breithiúna na hArd-Chúirte agus ag breithiúna gach Cúirte eile i gcúirt oscailte i láthair an Phríomh-Bhreithimh nó i láthair an bhreithimh is sinsearaí<sup>3</sup> den Chúirt Uachtarach a bheidh ar fáil.

### Variants

- 1 'Déanfar agus síneofar an dearbhú seo'
- 2 'Déanfaidh agus síneoidh an Príomh-Bhreitheamh an dearbhú seo'
- 3 'an bhreithimh sinsir'

## ARTICLE 34.5.3° AIRTEAGAL 34.5.3°

### TÉACS GAELIGE

Ní foláir do gach breitheamh an dearbhú a dhéanamh agus a lámh a chur leis sula dté i gcúram dualgas a oifige, agus cibé scéal é, ar dháta nach déanaí ná deich lá tar éis lae a cheaptha, nó dáta is déanaí ná sin mar a chinnefidh an tUachtarán.

### LITERAL ENGLISH TRANSLATION

Every judge must make the declaration and put his hand to it before (he) takes up the responsibilities of the duties of his office, and at any rate, on a date not later than ten days after the day of his appointment, or a date which is later than that as the President will decide.

### ENGLISH TEXT

The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than ten days after the date of his appointment or such later date as may be determined by the President.

### Divergences between the official texts

- 1 'Before entering upon his duties as such judge' is expressed as 'sula dté i gcúram dualgas a oifige' ('before he takes up responsibility of the duties of his office') in the Irish text.
- 2 'Not later than ten days after the date of his appointment' is expressed as 'ar dháta nach déanaí ná deich lá tar éis lae a cheaptha' ('on a date not later than ten days after the day of his appointment') in the Irish text, 'lá' ('day') expressing 'date' as we have seen in some earlier Articles.
- 3 'Subscribe' is expressed as 'a lámh a chur leis' ('put his hand to') as we have seen in the two previous subsections.
- 4 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in some earlier Articles.

### Commentary

*cibé scéal é* This phrase is translated as 'anyhow' in *Ó Dónaill*, who similarly translates 'pé scéal é'. *Dinneen* translates 'pé scéal é' as 'anyhow, at any rate, in any case'. The earlier form of 'cibé', 'cia bé', is cited in DIL in 'cia bé a mmet' ('however great it may be') from the ninth-century Milan Glosses on the Commentary on the Psalms. Note, incidentally, that 'cip' with 'cruth' had the sense of 'however it be, at all events', DIL citing 'cipcruth bíid páx libsí' ('however it be, let there be *pax* with you') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'The landlord shall, as soon as may be, and in any case not later than six months after the expiration of such fourteen days, execute and complete ... the improvement mentioned therein' is translated as 'déanfaidh agus críochnóidh an tiarna talún an feabhsúchán a luaitear sa gheallúint feabhsúcháin sin chomh luath agus is féidir é, agus in aon chás tráth nach déanaí ná sé mhí tar éis na ceithre lá dhéag sin a bheith caite' in s51(2) of the Landlord and Tenant (Amendment) Act, 1980. In s7(2) of the Transport Act, 1958, 'to conduct its undertaking so that,

as soon as may be, and in any case not later than the 31st day of March, 1964' is translated as 'a ghnóthas a stiúradh ar chuma go dtarlóidh, a thúsce is féidir, agus ar aon chor ar dháta nach déanaí ná an 31ú lá de Mhárta, 1964'. 'As soon as may be after, and in any case not later than the second week day after, whichever of the following events first occurs' is translated as 'chó luath agus is féidir tar éis pé trátha aca so leanas is túsce agus ar aon chuma uair nach déanaighe ná an dara lá seachtaine tar éis an trátha san' in s3(2)(b) of the General Elections (Emergency Provisions) Act, 1943.

*i gcúram dualgas a oifige* According to the official standard, 'dualgas' would be lenited and remain in the nominative (plural) rather than the genitive (plural), as above, after the prepositional phrase 'i gcúram', 'oifig' (as it is preceded by a possessive pronoun) being a definite noun – see the commentary on Article 1 regarding the nominative in place of the genitive. See the commentary on Article 12.3.1<sup>o</sup>, where 'enter office' is expressed by 'dul i gcúram oifige', regarding 'i gcúram'.

'He possesses the requisite knowledge and ability to enter on the discharge of his duties in that situation' is translated as 'go bhfuil an t-eolas agus an ábaltacht san aige is gá dho a bheith aige chun dul i mbun a dhualgais sa phost san' in s3(2)(d) of the Civil Service Regulation Act, 1923. In s13(2) of the Veterinary Surgeons Act, 1931, 'The Council shall meet at the time and place appointed under this section for their meeting and shall thereupon enter upon their duties under this Act' is translated as 'Tiocfaidh an Chomhairle le chéile san am agus san áit a ceapfar fén alt so dá gcrúinniú agus leis sin tosnóid ar a ndualgais fén Acht so do chóilónadh'. 'Internees so elected shall enter upon their duties after their election has been approved by the detaining authorities' is translated as 'Rachaidh na himtheorannaithe a thoghfáir amhlaidh i mbun a ndualgas tar éis na húdaráis choinneála a ghlacadh lena dtoghadh' in Article 102 of the Fourth Schedule to the Geneva Conventions Act, 1962. 'The head of a consular post shall not enter upon his duties until he has received an *exequatur*' is translated as 'ní rachaidh ceann poist chonsalachta i mbun a dhualgas go dtí go mbeidh *exequatur* faighte aige' in s3 of Article 12 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967.

Regarding 'as such judge' following 'entering upon his duties' in the English text, Professor Máirtín Ó Murchú questions the meaning of this phrase, which is unexpressed in the Irish text. Máirtín Ó Murchú recommends a translation such as the following in place of the direct translation given below: '... sula rachaidh an breitheamh sin i mbun a dhualgas nó a dualgas'.

*a chinnfidh* See the commentary on Article 1; 'cinnim' is translated as 'I determine (issue etc.), I find (as a fact, etc.)' in *Téarmaí Dlí*. 'And the scheme as so amended shall have effect from such date as may be determined by the Minister' is translated as 'agus beidh éifeacht ag an scéim agus i leasuithe amhlaidh ón dáta a cheapfaidh an tAire' in s4(2) of the National Health Insurance Act, 1942. 'Or on such earlier date as may be determined by the Council at its discretion' is translated as 'nó ar pé dáta is luaithe ná sin a chinnfeas an Chomhairle dá rogha féin' in s5(3) of the Medical Practitioners Act, 1955.

*sula dté* The present subjunctive of 'téigh', the future tense now usually expressing the present subjunctive except in the case of the optative (e.g. 'go dté tú slán, safe home') – see the commentary on Article 12.3.1<sup>o</sup>.

*tar éis lae a cheaptha* As above, this would read as 'tar éis lá a cheaptha' according to the official standard, 'lá' remaining in the nominative case in place of the genitive, but unlike 'dualgas' above no lenition is shown in the case of 'lá'.

### Standardised gender-proofed Irish text

Ní foláir do gach breitheamh an dearbhú a dhéanamh agus a lámh a chur leis sula rachaidh i gcúram dhualgais a oifige nó a hoifige, agus cibé scéal é, ar dháta nach déanaí ná deich lá tar éis lá a cheaptha nó a ceaptha, nó dáta is déanaí ná sin mar a chinnfidh an tUachtarán.

### Direct gender-proofed translation

Déanfaidh agus sineoidh gach breitheamh an dearbhú' sula rachaidh sé nó sí i mbun a dhualgas nó a dualgas mar bhreitheamh den sórt sin,<sup>2</sup> agus in aon chás tráth nach déanaí ná deich lá tar éis dháta a cheaptha nó a ceaptha nó cibé dáta is déanaí a chinnfidh<sup>3</sup> an tUachtarán.

### Variants

- 1 'Déanfaidh gach breitheamh an dearbhú agus sineoidh sé nó sí é', 'Déanfar agus sineofar an dearbhú ag gach breitheamh'
- 2 'sula rachaidh an breitheamh sin i mbun a dhualgas nó a dualgas,'
- 3 'mar a chinnfidh'

## ARTICLE 34.5.4<sup>o</sup> AIRTEAGAL 34.5.4<sup>o</sup>

### TÉACS GAELGE

Aon bhreitheamh a dhiúltós nó a fhailleos an dearbhú réamhráite a dhéanamh ní foláir a mheas go bhfuil scartha aige lena oifig.

### LITERAL ENGLISH TRANSLATION

Any judge who will refuse or neglect to make the aforesaid declaration (it) must be deemed that he has relinquished his office.

### ENGLISH TEXT

Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have vacated his office.

### Divergences between the official texts

- 1 'To make such declaration as aforesaid' is expressed as 'an dearbhú réamhráite a dhéanamh' ('to make the aforesaid declaration') in the Irish text.
- 2 'Declines to' is expressed as 'a dhiúltós' ('refuses to') in the Irish text.
- 3 'To have vacated his office' is expressed as 'go bhfuil scartha aige lena oifig' ('to have relinquished his office') in the Irish text.

- 4 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we have seen in the previous subsection and in many earlier Articles.

Note that s99 of the Courts of Justice Act, 1924, concludes as follows:

Any judge or justice who declines or neglects to take the declaration aforesaid in the manner aforesaid shall be disqualified from entering on and shall be deemed to have vacated his office of judge or justice (as the case may be). *Aon bhreitheamh a eiteoidh no a leigfidh i bhfaillí an fhaisnéis roimhráite a dhéanamh ar an gcuma roimhráite beidh sé gan teideal chun dul i mbun an oifige mar bhreitheamh agus tuigfar é bheith tar éis an oifig sin d'fhágaint.*

### Commentary

*a dhiúltós nó a fhailleos* The special form of the relative, future tense, of 'diúltaigh' and 'failligh' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'.

'Diúltaim' is translated as 'I refuse' in *Téarmaí Dlí*, 'diúltuighim' being translated as 'I deny, refuse, oppose' in *Dinneen*. *Ó Dónaill* translates 'diúltaigh' principally as 'deny, refuse', translating 'diúltú rud a dhéanamh' as 'to refuse to do something'. DIL translates 'diúlta(ig)id' as 'refuses, rejects', this verb being based on the verbal noun of the earlier compound verb 'do-sluindi', which verb has the sense of 'denies' (i.e. 'refuses to believe'), glossing Latin 'negare' in the ninth-century Milan Glosses on the Commentary on the Psalms, DIL also citing 'is ed insin dorosloinn ic n-erum-sa, ised insin dorosluind cainchomrac ar mu chnamaib-se' ('that denied healing to me ... that denied peace to my bones'), from the same collection of Glosses, as an example of the sense of 'refuses (a request, gift, etc.)'. See the commentary on Article 26.3.1° where 'diúltaigh do' expresses 'decline'.

'Any officer of the Forces who declines or neglects to take an oath or make the declaration aforesaid in the manner aforesaid, shall be deemed to have resigned his commission and appointment as an officer in the Forces' is translated as 'Aon oifigeach de sna Fórsaí dhiúltóidh no fhailleoidh an mionn roimhráite do thabhairt no an dearbhú roimhráite do dhéanamh sa tslí roimhráite, tuigfear é d'eirghe as a choimisiún agus a cheapachán mar oifigeach sna Fórsaí' in s6(3) of the Defence Forces Act, 1937. 'This paragraph shall not have effect if the Minister declines to reappoint him because of stated misconduct or incapacity' is translated as 'Ní bheidh éifeacht ag an mír seo má éarann an tAire é d'athcheapadh de dheasca mí-iompair nó éagumais shonraithe' in s4(b) of the Schedule to the Industrial Development Authority Act, 1950. In s4 of Article 12 of the First Schedule to the Air Navigation and Transport Act, 1936, 'if the consignee declines to accept the consignment note or the goods' is translated as 'má dhiúltaíonn an consighní an nóta consighneachta no na hearraí do ghlacadh'. Finally, 'where the person has declined to retain one of the sealed containers' is translated as 'i gcás ar dhiúltaigh an duine ceann de na coimeádáin shéalaithe a choimeád' in s20(3) of the Road Traffic (Amendment) Act, 1978.

'Failligh' is translated as 'neglect; omit, delay' in *Ó Dónaill*, who cites '*rud a fhaillíú*, to neglect something'.

*Dinneen* translates 'faillighim' as 'I fail, neglect, delay', citing '*ná failligh do dhinnéar go háirthid*, do not neglect your dinner anyway' from Inis Meáin. DIL cites 'arna follaigdis gudi nDae' ('they should not neglect to pray to God') from the ninth-century Milan Glosses on the Commentary on the Psalms, translating 'follaigid'/'fallaigid' as 'neglects, omits, fails (to do)'. In early Irish laws, this verb is used in the sense of 'omission, evasion', DIL citing the following from an early Irish law-tract: 'cuic seoit hi lobud cachá hathgabala ... noch fil tri seota cachá tratha ro follaighther' ('five "seds" for neglecting [to redeem] every distress ... and there are three "seds" for every day that it is neglected [to be redeemed]'). In his *Guide to Early Irish Law* (p. 152), Fergus Kelly states that the early Irish law-texts employ a number of terms to cover various forms of negligence, 'most commonly *étged*, *anfot*, *anfaitches*, and *díchell*', the phrase 'aithgein cach étged' ('every negligence requires restitution') being quoted in a number of texts – Professor Kelly explains this phrase as 'an offence against property through negligence requires merely the replacement of the object damaged or destroyed'. See the commentary on Article 41.2.2° regarding 'faillí'.

'Where any registration officer ... refuses, neglects, or fails without reasonable cause to perform his duties in that behalf' is translated as 'Má dhineann aon oifigeach clárathachta ..., gan cúis réasúnta, có-líona na ndualgaisí sin a bheidh air d'oba no do leigint i bhfaillí no gan déanamh' in s63(1) of the Electoral Act, 1923. 'Unlawfully inducing ... any officer of the Government of Saorstát Éireann to refuse, neglect or omit to discharge his duty as such officer' is translated as 'Aon oifigeach do Rialtas Shaorstáit Éireann do mhealla ..., go nea-dhleathach, chun có-líona a dhualgais mar oifigeach den tsórt san do dhiúltú no chun é leigint i bhfuair no i bhfaillí' in s2 of the Schedule to the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. In s141(1)(b) of the Social Welfare (Consolidation) Act, 1981, 'if he fails or neglects to comply with the provisions of paragraph (a)' is translated as 'má mhainníonn sé nó má fhaillíonn sé forálacha mhír (a) a chomhlíonadh'.

*scartha ... le* 'Scartha' is the past participle of 'scar', 'scaraim le' being translated as 'I relinquish' in *Téarmaí Dlí* and as 'I part with, leave, give up, go away from, escape' in *Dinneen*, who cites '*scaraim le céill*, I take leave of my senses', translating 'scartha le' as 'separated from, parted from, through with, done with, devoid of', citing '*táim scartha le céird*, I have given up my trade'. DIL cites 'in corp marbde frissa roscar-som' ('the mortal body from which He has parted'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the sense of 'relinquishes, gives up, is without, desists from' of 'scaraid', the principal sense being 'separates, parts'. See further the commentary on Article 12.6.2° and note that 'vacate' is expressed by 'éirigh as' in Article 15.14.

'The office of any judge of the High Court ... may be vacated by resignation in writing under his hand' is translated as 'Féadfar oifig aon bhreithimh den Ard-Chúirt ... d'fholamhú tríd an mbreitheamh féin d'eirghe aisti le scribhinn uaidh fé n-a láimh' in s11 of the Courts of Justice Act, 1924, with 'Every Circuit Judge who resigns or otherwise for any cause vacates his office' being translated as 'Gach Breitheamh Cuarda a imeoidh as oifig no a fhágfidh a oifig ar aon tslí eile ar chúis ar bith' in s41. 'Ag

imeacht as oifig' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'vacating office' in *Iris Oifigiúil*, 1922/23. Finally, 'he shall thereupon vacate his office and give notice in writing to the society concerned ... that he has vacated his office by reason of such disqualification' is translated as 'scarfaidh sé air sin lena oifig agus tabharfaidh sé fógra i scríbhinn don chumann lena mbaineann ... go bhfuil scartha aige lena oifig mar gheall ar an dicháilocht sin' in s87(3) of the Building Societies Act, 1989.

### Standardised gender-proofed Irish text

Aon bhreitheamh a dhiúltóidh nó a fhailleoidh an dearbhú réamhráite a dhéanamh ní foláir a mheas go bhfuil scartha ag an mbreitheamh sin lena oifig nó lena hoifig.

### Direct gender-proofed translation

Aon bhreitheamh a dhiúltóidh nó a fhailleoidh dearbhú den sórt sin a dhéanamh mar a dúradh measfar go mbeidh scartha aige nó aici lena oifig nó lena hoifig.

### Variants

1 'go bhfuil'

## ARTICLE 35.1 AIRTEAGAL 35.1

### TÉACS GAELGE

Is ag an Uachtarán a cheapfar breithiúna na Cúirte Uachtaraí, na hArd-Chúirte agus an uile Chúirte eile a bhunaítear de bhun Airteagal 34 den Bhunreacht seo.

### LITERAL ENGLISH TRANSLATION

It is by the President that the judges of the Supreme Court, the High Court and every other Court which is established in pursuance of Article 34 of this Constitution will be appointed.

### ENGLISH TEXT

The judges of the Supreme Court, the High Court and all other Courts established in pursuance of Article 34 hereof shall be appointed by the President.

### Divergences between the official texts

1 'Article 34 hereof' is expressed as 'Airteagal 34 den Bhunreacht seo' ('Article 34 of this Constitution') in the Irish text, the more natural construction in the language.

Note that Article 68 of the 1922 Constitution commences as follows:

The judges of the Supreme Court and of the High Court and 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. *Is é Ionadaí na Coróinneach a cheapfaidh ar chomhairle na hArd-Chomhairle breithiúin na Cúirte Uachtaraige agus na hArd-Chúirte agus na gCúirteanna eile go léir a bunófar do réir an Bhun-reachta so.*

### Commentary

*breithiúna ... an uile Chúirte eile* This would generally be written today as 'breithiúna ... na huile Chúirte eile', *Ó Dónaill* citing '*tobar na huile mhaitheasa*, the fount of all goodness' and '*aiséirí na n-uile mharbh*, the resurrection of the dead', with *Dinneen* citing '*thugadar rátha na n-uile dúl*, they cited all the elements as surities'. *Ó Dónaill* translates 'uile' as 'all, every', translating 'an uile ní' as 'all things'. *Dinneen* translates 'uile' as 'all, whole', translating 'an uile/'gach uile' as 'every, each', and 'an uile nidh' as 'everything'. DIL translates 'uile' as 'every, the whole', citing 'esseirge inna nuile marb' from the eighth-century Würzburg Glosses on the Pauline Epistles, the very phrase *Ó Dónaill* cites in Modern Irish.

'For the purposes of this paragraph and for the purposes of all other provisions of this Act' is translated as 'Chun críocha na míre seo agus chun críocha gach forála eile den Acht seo' in s3(2) of the First Schedule to the Capital Gains Tax Act, 1975, for example, with 'chun críocha gach ailt eile den Acht sin' translating 'for the purposes of all other sections of that Act' in s2(3) of the Diseases of Animals (Bovine Tuberculosis) Act, 1957.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'uile' can be omitted if one wishes, having only a reinforcing sense ("bri threisithe") in this context.

*den Bhunreacht seo* 'On the date hereof' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ar an dáta atá air seo' in translations for the Department of Local Government and Public Health. 'Subject to subsection (2) hereof' is translated as 'Faoi réir fho-alt (2) den alt seo' in s27(1) of the Fisheries Act, 1980, for example, as in s22(1) of the Wildlife Act, 1976. 'Provided that on the happening of any of the events specified in Paragraph 5 hereof' is translated as 'Ach ar tharla d'éinní dá luaidhtear i Mír 5 de seo' in s6 of the Second Schedule to the Creamery Act, 1928.

Professor Máirtín Ó Murchú, commenting on the direct translation below, remarks that 'den Bhunreacht seo' is perhaps clearer but 'de seo' is as correct and as clear as the English text's 'hereof'.

*de bhun* This phrase is translated as 'in pursuance of; on foot of; pursuant to' in *Téarmaí Dlí* – see the commentary on Article 28.3.3°. Note that we find the genitive singular 'Airteagail' following this phrase in the original text.

### Standardised Irish text

Is ag an Uachtarán a cheapfar breithiúna na Cúirte Uachtaraí, na hArd-Chúirte agus na huile Chúirte eile a bhunaítear de bhun Airteagal 34 den Bhunreacht seo.

### Direct translation

Déanfaidh an tUachtarán breithiúna na Cúirte Uachtaraí, na hArd-Chúirte agus gach uile Chúirte<sup>1</sup> eile a bhunófar de bhun Airteagal 34 de seo<sup>2</sup> a cheapadh.<sup>3</sup>

### Variants

- 1 'gach Cúirte'
- 2 'den Bhunreacht seo'
- 3 'Is é nó is í an / An tUachtarán a cheapfaidh breithiúna na Cúirte Uachtaraí, na hArd-Chúirte agus gach uile Chúirte eile a bhunófar de bhun Airteagal 34 de seo.'

## ARTICLE 35.2 AIRTEAGAL 35.2

## TÉACS GAEILGE

Beidh gach breitheamh saor neamhspleách maidir lena fheidhmeanna breithimh a oibriú, gan de smacht air ach an Bunreacht seo agus an dlí.

## LITERAL ENGLISH TRANSLATION

Every judge will be free (and) independent as regards the operation of his judicial functions, with no restriction on him except this Constitution and the law.

## ENGLISH TEXT

All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law.

## Divergences between the official texts

- 1 'Independent' is expressed as 'saor neamhspleách', 'free (and) independent', in the Irish text.
- 2 'Subject only to' is expressed as 'gan de smacht air ach' ('with no restriction/control on him except') in the Irish text, 'subject to' being translated as 'faoi réir' in *Téarmaí Dlí*.
- 3 'In the exercise of' is expressed as 'maidir le ... a oibriú' ('as regards exercising/operating'), the verb 'oibrigh' being translated as 'operate' in *Téarmaí Dlí* but here expressing 'exercise', as we have seen in some earlier Articles.
- 4 'Judicial' is expressed by the attributive genitive singular of 'breitheamh' ('judge'), 'judicial' being translated as 'breithiúnach' in *Téarmaí Dlí*.
- 5 'All judges ... their' is expressed as 'gach breitheamh ... a [plus lenition]' ('each judge ... his') in the Irish text.

Note that Article 69 of the 1922 Constitution commences as follows:

All judges shall be independent in the exercise of their functions, and subject only to the Constitution and the law. *Le linn feidhmíthe dhóibh beidh na breithiúin uile nea-spleách agus fé riail an Bhun-reachta agus an dlí amháin.*

## Commentary

*gan de smacht air* The preposition 'de', used mainly with the substantive verb and copula, expresses 'extent', *Ó Dónaill* citing 'ní raibh de chiall aige ach seasamh, he had no more sense than to stand'. *Dinneen* cites 'tá sé de bhuidh, de chéill, de chéird, agam, I have the virtue of, the good senses to, the art of' as examples of 'de' in appositions in the sense of 'as, by way of'. Turning to 'smacht', *Dinneen* cites 'tá smacht orm-sa, I am not my own master' and 'beidh siad le smacht ar dhaoine, they will be rulers of men', translating 'smacht' as 'control (often parental control), restraint, authority, sway, institute, discipline, chastisement, oppression'. *Ó Dónaill* translates 'smacht' as 'rule, dominion, sway; subjection' and 'control, restraint, discipline', citing 'smacht a bheith agat ort féin, to be able to control oneself'. *DIL* translates 'smacht' principally as 'rule, ordinance, regulation, command, stipulation', citing 'tect fo smachtu rechtó' ('to go under the rules of the

Law') from the eighth-century Würzburg Glosses on the Pauline Epistles. In early Irish laws, 'smacht' had the sense of 'penalty, fine for breach of law, trespass, non-payment of debt, etc.' (*DIL*) – according to one law-tract, for example, if an advocate changes from one 'path' to another when pleading a case, he must pay a 'smacht' of one cow (see Fergus Kelly, op. cit., p. 192).

'Subject to' is translated as 'faoi réir' in *Téarmaí Dlí*. 'Except upon the terms of making that person ... if the Court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date' is translated as 'ach amháin ar théarmaí lena guirfear an duine sin ... más cuí leis an gCúirt é, faoi réir na ndliteanas agus na n-oibleagáidí céanna sin amháin a mbeadh an duine sin faoina réir dá sannfaí an léas dó ar an dáta sin' in s56(8) of the Bankruptcy Act, 1988. 'The decision of the returning officer ... shall be final, subject only to reversal on a petition questioning the Assembly election' is translated as 'Is cinneadh críochnaitheach cinneadh an cheann comhairimh ... agus ní fhéadfar é a fhreaschur ach amháin le hachainí ag tabhairt an toghcháin Tionóil faoi cheist' in s67 of the First Schedule to the European Assembly Elections Act, 1977. 'The allowance or disallowance by the Seanad returning officer of any application ... shall be final and conclusive, subject only to such appeal as is provided for by this Act' is translated as 'Nuair a lamhálfas nó a dhílamhálfas ceann comhairimh an tSeanaid don iarratas ... is breith chriochnaitheach dosháruithe an lamháil nó an dílamháil sin, agus ní féadfar achomharc a dhéanamh ina coinne ach amháin mar forálfar leis an Acht seo' in s11(8) of the Seanad Electoral (Panel Members) Act, 1947. Finally, 'subject only to the proviso that the action taken by the Central Bank shall not be such as to render compliance with the conditions of the licence more onerous' is translated as 'faoi réir an choinníll, agus faoina réir sin amháin, nach ndéanfaidh an Banc Ceannais gníomh a fhágfaidh go mbeidh sé níos dochraidí coinníollacha an cheadúnais a chomhlíonadh' in s12(3)(d) of the Trustee Savings Bank Act, 1989.

Commenting on a draft of the direct translation below, where the final clause was translated as 'agus ní bheidh siad ach faoi réir an Bhunreachta agus an dlí amháin', Professor Máirtín Ó Murchú remarked that this would correspond to an English text which read 'they will be just subject to the Constitution and the law'. Commenting on the variant 'agus gan iad faoi réir ach ag an mBunreacht seo agus ag an dlí amháin', Professor Ó Murchú remarked that the syntax requires that 'faoi réir' have a headword, e.g. 'faoi réir aon ní'. Máirtín Ó Murchú notes the merits of the syntax involving 'gan' in the neat original text and suggests 'gan de threoir/smacht/d'fhorlámhas/d'údarás orthu ach an Bunreacht seo agus an dlí'.

*saor neamhspleách* As regards 'neamhspleách', see the commentary on Article 5, 'Ireland is a sovereign, independent, democratic state' being expressed in that Article as 'Is Stát ceannasach, neamhspleách, daonlathach Éire'. 'Conraitheoir neamhspleách' is translated as 'independent contractor' in *Téarmaí Dlí*, for example. The adjective 'saor' is translated primarily as 'free' in *Ó Dónaill*, who cites 'na tíortha, na ciníocha, atá saor; the countries, the races, that are free' as an example of the sense of 'independent'. *Dinneen* cites 'saor slán, safe and sound'.

'The Board shall be independent in the exercise of its

functions' is translated as 'Beidh an Bord neamhspleách ag feidhmiú a fheidhmeanna' in s1(2) of the First Schedule to the Garda Síochána (Complaints) Act, 1986, for example. Regarding 'in the exercise of', note that 'Where this Act, or the Central Bank in the exercise of its functions under this Act, requires' is translated as 'I gcás ina gceanglaíonn an tAcht seo, nó an Banc Ceannais i bhfeidhmiú a fheidhmeanna faoin Acht seo' in s36(16) of the Building Societies Act, 1989.

*lena fheidhmeanna breithimh* 'Breithimh' is the genitive singular of 'breitheamh' as an attributive adjective. Note that *Téarmaí Dlí* gives 'breithiúnach' as an adjectival form of 'breitheamh', citing '*aird bhreithiúnach*, judicial notice' and '*rogha bhreithiúnach*, judicial discretion', for example, *Ó Dónaill* also having this headword. *Dinneen* gives 'breitheamhdha' as a headword, translating that adjective as 'judicial, judge-like'. See the commentary on Article 29.2, where 'judicial determination' is expressed as 'cinneadh breithiúnach', regarding 'judicial'.

'Judicial functions' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'feidhmeanna breithiúntais' in a 1928 Report of the Public Accounts Committee. 'The Judicial Separation and Family Law Reform Act, 1989', is cited in Irish as 'an tAcht um Idirscaradh Breithiúnach agus Athchóiriú an Dlí Teaghlaigh, 1989', for example, with the 'Public Authorities (Judicial Proceedings) Act, 1954' being cited as 'Acht na nÚdarás Poiblí (Imeachta Breithiúnacha), 1954'. 'For so long as he continues to hold the judicial office held by him' is translated as 'fad a shealbhóidh sé an oifig bhreithiúnach a shealbháigh sé' in s2 of the Courts (No. 2) Act, 1981, with 'in the said judicial office' being translated as 'san oifig bhreithiúntais sin' in s17(b) of the Courts of Justice Act, 1936.

*a oibriú* See the commentary on Articles 3 and 13.5.1<sup>o</sup>; again Professor Máirtín Ó Murchú, commenting on the direct translation below, recommends using 'oibrigh' in order to avoid 'feidhmeanna ... a fheidhmiú'.

### Gender-proofed Irish text

Beidh gach breitheamh saor neamhspleách maidir lena fheidhmeanna, nó lena feidhmeanna, breithimh a oibriú, gan de smacht air nó uirthi ach an Bunreacht seo agus an dlí.

### Direct gender-proofed translation

Beidh na breithiúna go léir<sup>1</sup> neamhspleách le linn a bhfeidhmeanna<sup>2</sup> breithiúnacha a fheidhmiú<sup>3</sup> agus iad faoi réir an Bhunreacht seo agus an dlí amháin<sup>4</sup>.

### Variants

- 1 'uile'
- 2 'Beidh gach breitheamh neamhspleách le linn a fheidhmeanna nó a feidhmeanna'
- 3 'a oibriú', 'Beidh na breithiúna go léir neamhspleách ag feidhmiú / i bhfeidhmiú a bhfeidhmeanna breithiúnacha'
- 4 'agus gan iad faoi réir ach ag an mBunreacht seo agus ag an dlí amháin', 'agus gan de threoir/smacht/d'fhorlámhas/d'údarás orthu ach an Bunreacht seo agus an dlí'

## ARTICLE 35.3 AIRTEAGAL 35.3

### TÉACS GAELIGE

Ní cead aon bhreitheamh a bheith ina chomhalta de cheachtar de Thithe an Oireachtais, ná bheith in aon oifig ná post sochair eile.

### LITERAL ENGLISH TRANSLATION

It is not permitted that any judge be a member of either of the Houses of the Oireachtas, nor be in any other gainful post or office.

### ENGLISH TEXT

No judge shall be eligible to be a member of either House of the Oireachtas or to hold any other office or position of emolument.

### Divergences between the official texts

- 1 'Eligible to be a member' and '(eligible) to hold' are expressed in the Irish text simply as 'a bheith ina chomhalta' ('to be a member') and 'bheith in' ('to be in'), these same Irish phrases expressing 'be a member' and '(to) hold' rather than 'eligible to be a member' and '(eligible) to hold' in Article 33.3.
- 2 'Or to hold any other office' is expressed as 'ná bheith in aon oifig ... eile' ('nor to be in any other office') in the Irish text, this being preceded by a comma not found in the English text.
- 3 See the divergences noted in the commentary on Article 33.3 regarding 'any other office or position of emolument' and 'No ... shall'.

J.M. Kelly, op. cit., p. 211, writing on 'Conflicts which have not yet surfaced' between the texts of the Constitution, remarks:

Another discordance appears to exist in Article 35.3, where the English text makes a judge "ineligible" to be a member of the Oireachtas (i.e. arguably, debarred from standing for election) while the Irish text merely says he may not be a member ("bheith ina chomhalta").

See the Report of the Constitution Review Group (May 1996, p. 182):

It seems to the Review group that the English phrase more accurately reflects the underlying purpose of this section, in that a serving judge would be simply debarred from standing for election. The Irish text should be brought into conformity by substituting "intofa mar chomhalta" for "ina chomhalta".

Note that Article 69 of the 1922 Constitution concludes as follows:

A judge shall not be eligible to sit in the Oireachtas and shall not hold any other office or position of emolument. *Ní bheidh breitheamh iontoghtha chun suidhe san Oireachtas, agus ní bheidh aon oifig ná ionad eile sochair aige.*

### Commentary

*a bheith* See the commentary on Articles 12.3.2<sup>o</sup> and 12.4.1<sup>o</sup> respectively, where 'intofa' expresses 'eligible for

re-election' and 'eligible for election'. 'Inghlactha' expresses 'eligible' (to become) in Article 18.2. 'A person shall not be eligible to be a member of the Governing Body' is translated as 'Ní bheidh duine i dteideal bheith ina chomhalta den Chomhlacht Ceannais' in s6(b) of the First Schedule to the National Institute for Higher Education, Limerick, Act, 1980, for example. Regarding 'hold', 'Where a pensionable officer of a local authority ceases to hold any office under them' is translated as 'Má scoireann oifigeach inphinsin d'údarás áitiúil d'aon oifig a shealbhú fúthu' in s9 of the Local Government Superannuation Act, 1956. 'I seilbh oifige' expresses 'hold office' in Article 12.3.1°, with 'hold' expressed simply by 'ina' in the following subsection. See also the commentary on Article 13.5.2° regarding 'hold'.

As 'eligible' occurs only once in the English text, Professor Máirtín Ó Murchú recommends 'i dteideal ar' in the direct translation below, with the repetition of 'ar' in the final clause, i.e. 'Ní bheidh aon bhreitheamh i dteideal ar a bheith ina chomhalta ... ná ar aon oifig ... eile a ghlacadh'.

*post sochair* The genitive singular of 'sochar' as an attributive adjective, 'sochar an amhrais' and 'sochar míchumais' being translated respectively in *Téarmaí Dlí* as 'benefit of the doubt' and 'disablement benefit' – see the commentary on Article 33.3.

*ná* While the English text has 'or', Professor Máirtín Ó Murchú remarks that 'ná' ('nor') is essential in the Irish text when two separate things are involved.

*ná bheith in aon oifig* Note that we find 'ná a bheith in aon oifig' in Article 33.3, which agrees substantially with the present Article.

*Ní cead* See the commentary on Article 9.1.3°.

### Standardised gender-proofed Irish text

Ní cead aon bhreitheamh a bheith ina chomhalta nó ina comhalta de cheachtar de Thithe an Oireachtais, ná a bheith in aon oifig ná post sochair eile.

### Direct gender-proofed translation

Ní bheidh aon bhreitheamh i dteideal<sup>1</sup> bheith ina chomhalta nó ina comhalta de cheachtar Teach den Oireachtas ná<sup>2</sup> i dteideal aon<sup>3</sup> oifig nó post sochair<sup>4</sup> eile a bheith aige nó aici<sup>5</sup>.

### Variants

- 1 'i dteideal ar'
- 2 'nó'
- 3 'ná ar aon', 'ná aon'
- 4 'díolaíochta'
- 5 'bheith i seilbh aon oifige nó poist sochair eile', 'aon oifig nó post sochair eile a shealbhú'

ARTICLE 35.4.1° AIRTEAGAL 35.4.1°

### TÉACS GAELIGE

Ní cead breitheamh den Chúirt Uachtarach ná den Ard-Chúirt a chur as oifig ach amháin de dheasca mí-iompair nó míthreorach a luafar, ná an uair sin féin

mura rithid Dáil Éireann agus Seanad Éireann rúin á éileamh é a chur as oifig.

### LITERAL ENGLISH TRANSLATION

It is not permitted to put a judge of the Supreme Court nor of the High Court out of office except because of misconduct or mental disability which will be mentioned, nor even at that time unless Dáil Éireann and Seanad Éireann pass resolutions demanding he be put out of office.

### ENGLISH TEXT

A judge of the Supreme Court or the High Court shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Éireann and by Seanad Éireann calling for his removal.

### Divergences between the official texts

- 1 'Disability', as in previous Articles, is expressed in the Irish text by 'míthreoir', a term which would today be interpreted more as '(mental) disability/incapacity' though 'disability' is the primary sense of the term in *Dinneen*.
- 2 'Be removed from office' and 'calling for his removal' are expressed respectively as 'a chur as oifig' ('be put out of office') and 'á éileamh é a chur as oifig' ('demanding he be put out of office') in the Irish text, as we have already seen in Article 33.5.1°, which is substantially the same as the present Article.
- 3 Again as in Article 33.5.1°, 'and then only upon resolutions passed by Dáil Éireann and Seanad Éireann' is expressed as 'ná an uair sin féin mura rithid Dáil Éireann agus Seanad Éireann rúin' ('nor even at that time unless Dáil Éireann and Seanad Éireann pass resolutions') in the Irish text.
- 4 'Shall not' is expressed as 'Ní cead' ('It is not permitted'), as we have seen in the previous section and in some earlier Articles, with the following 'or' then being expressed as 'ná', 'nor', in the Irish text.

Note that Article 68 of the 1922 Constitution contains the following:

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 Dáil Éireann and Seanad Éireann. *Ní cuirfear breithiúin na Cúirte Uachtaraige ná na hArd-Chúirte as oifig ach mar gheall ar mhí-iompar no mhí-chumas a luadhfar, agus ansan féin le rúin a rithfead ag Dáil Éireann agus Seanad Éireann araon.*

### Commentary

*de dheasca ... míthreorach* Note that we find 'de dheasca ... míthreora' in Article 33.5.1° (which is substantially the same as this Article); 'treorach' is given as the form of the genitive singular of 'treoir' in *An Caighdeán Oifigiúil* (chapter headed 'An tAinmfhocal', section on 'An Cúigiú Díochlaonadh'), 'míthreoir' being listed in the Glossary appended to *An Caighdeán Oifigiúil* as being a noun of the fifth declension, the genitive of such nouns ending in a broad consonant (-ch, -d, (n)n or -r). *Ó Dónaill* also gives 'míthreorach' as the form of the genitive, *Dinneen*



giving ‘treora’, ‘treoire’ and ‘treorach’ as forms of the genitive singular of ‘treoir’. DIL cites examples of both ‘treora’ and ‘treorach’ as forms of the genitive of ‘treoir’, both forms being found in the Irish Lives of the Saints, for example (‘aingéal Dé ag deanamh tréora dhó’ and ‘inraic treorach do Caoimgin’ [‘excellent of guidance to Coemgen’]).

*Ní cead breitheamh* Note that we find ‘Ní cead aon bhreitheamh’ in the previous section; Professor Máirtín Ó Murchú remarks that the more emphatic expression with ‘aon’ was possibly suggested by the English form ‘no judge’.

See further the commentary on Article 33.5.1° for this subsection in general.

### Standardised gender-proofed Irish text

Ní cead breitheamh den Chúirt Uachtarach ná den Ard-Chúirt a chur as oifig ach amháin de dheasca mí-iompair nó míthreorach a luafar, ná an uair sin féin mura ritheann Dáil Éireann agus Seanad Éireann rúin á éileamh é nó í a chur as oifig.

### Direct gender-proofed translation

Ní chuirfear breitheamh den Chúirt Uachtarach nó den Ard-Chúirt as oifig ach amháin de dheasca mí-iompair nó éagumais shonraithe<sup>1</sup>, ná an uair sin<sup>2</sup> féin ach tar éis do Dháil Éireann agus do Sheanad Éireann rúin a rith á iarraidh<sup>3</sup> é nó í a chur as oifig.

#### Variants

- 1 ‘mar gheall ar mhí-iompar nó éagumas sonraithe’
- 2 ‘ansin’
- 3 ‘ag éileamh’

ARTICLE 35.4.2° AIRTEAGAL 35.4.2°

#### TÉACS GAEILGE

Rúin ar bith den sórt sin a rithfidh Dáil Éireann agus Seanad Éireann ní foláir don Taoiseach scéala a thabhairt don Uachtarán ina dtaobh go cuí agus cóip de gach rún díobh a sheoladh chuige faoi theastas Chathaoirleach an Tí den Oireachtas a rith é.

#### LITERAL ENGLISH TRANSLATION

Any resolutions of that kind which Dáil Éireann and Seanad Éireann will pass the Taoiseach must duly give account of them to the President and send a copy of each of those resolutions to him under the certification of the Chairman of the House of the Oireachtas that passed it.

#### ENGLISH TEXT

The Taoiseach shall duly notify the President of any such resolutions passed by Dáil Éireann and by Seanad Éireann, and shall send him a copy of every such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

### Divergences between the official texts

- 1 This subsection is substantially the same as Article 33.5.2°. Note, however, that we do not find ‘as aforesaid’ in the English text here, as we did in Article 33.5.2°; that phrae was not specifically expressed in the Irish text, the initial clause of which corresponds directly to the initial clause of the Irish text of the present subsection. Whereas there is no comma in the English text of Article 33.5.2° corresponding to that before the final clause in the Irish text, the reverse situation occurs in the present Article 35.4.2°. ‘Each such resolution’ in the former Article appears as ‘every such resolution’ in the English text above; the Irish text’s ‘gach rún den tsamhail sin’ in the former Article appears as ‘gach rún díobh’ above.
- 2 Apart from the above, the same divergences noted as regards Article 33.5.2° also apply in regard to the present Article.

### Commentary

See the commentary on Article 33.5.2°.

### Standardised gender-proofed Irish text

Rúin ar bith den sórt sin a rithfidh Dáil Éireann agus Seanad Éireann ní foláir don Taoiseach scéala a thabhairt don Uachtarán ina dtaobh go cuí agus cóip de gach rún díobh a sheoladh chuige nó chuici faoi theastas chathaoirleach an Tí den Oireachtas a rith é.

### Direct gender-proofed translation

Cuirfidh an Taoiseach an tUachtarán ar an eolas go cuí<sup>1</sup> i dtaobh aon rún den sórt sin a rithfidh Dáil Éireann agus Seanad Éireann, agus seolfaidh sé nó sí cóip de gach rún den sórt sin chuige nó cuici arna dheimhniú ag Cathaoirleach an Tí den Oireachtas a mbeidh sé rite aige.

#### Variants

- 1 ‘Tabharfaidh an Taoiseach eolas cuí don Uachtarán’

ARTICLE 35.4.3° AIRTEAGAL 35.4.3°

#### TÉACS GAEILGE

Láithreach d’éis na scéala sin agus cóipeanna de na rúin sin a fháil don Uachtarán ní foláir dó, le hordú faoina láimh is faoina Shéala, an breitheamh lena mbainid a chur as oifig.

#### LITERAL ENGLISH TRANSLATION

Immediately after the President receives that account and copies of those resolutions he must, by order under his hand and under his Seal, put the judge to whom they relate out of office.

#### ENGLISH TEXT

Upon receipt of such notification and of copies of such resolutions, the President shall forthwith, by an order under his hand and Seal, remove from office the judge to whom they relate.

**Divergences between the official texts**

- 1 The Irish text is substantially the same as that of Article 33.5.3°, with ‘an breitheamh lena mbainid’ replacing ‘an tArd-Reachtaire Cuntas agus Ciste’, and ‘remove from office the judge to whom they relate’ replacing ‘remove the Comptroller and Auditor General from office’ in the English text. Otherwise the same divergences as noted regarding Article 33.5.3° also apply to the present Article 35.4.3°.

**Commentary**

*lena mbainid* The third person plural, synthetic form, of the present indicative of ‘bain’ – see the commentary on Article 14.5.1° as regards the synthetic and analytic forms in the Constitution.

**Standardised gender-proofed Irish text**

Láithreach d’éis an scéala sin agus cóipeanna de na rúin sin a fháil don Uachtarán ní foláir dó nó di, le hordú faoina láimh is faoina Shéala nó faoina Séala, an breitheamh lena mbaineann siad a chur as oifig.

**Direct gender-proofed translation**

Ar fhógra den sórt sin agus cóipeanna de rúin den sórt sin<sup>1</sup> a fháil,<sup>2</sup> déanfaidh an tUachtarán láithreach,<sup>3</sup> le hordú faoina láimh agus faoina Shéala nó faoina Séala, an breitheamh lena mbaineann siad a chur as oifig.

**Variants**

- 1 ‘de na rúin sin’
- 2 ‘Ar an eolas sin a fháil, i dteannta cóipeanna de na rúin sin,’
- 3 ‘, láithreach.’

## ARTICLE 35.5 AIRTEAGAL 35.5

**TÉACS GAEILGE**

Ní cead laghdú a dhéanamh ar thuarastal breithimh an fad is bheidh in oifig.

**LITERAL ENGLISH TRANSLATION**

It is not permitted to reduce the salary of a judge while (he) is in office.

**ENGLISH TEXT**

The remuneration of a judge shall not be reduced during his continuance in office.

**Divergences between the official texts**

- 1 ‘Remuneration’ is again expressed as ‘tuarastal’ (‘salary’) in the Irish text, ‘luach saothair’ translating ‘remuneration’ in *Téarmaí Dlí*.
- 2 ‘During his continuance in office’ is expressed as ‘an fad is bheidh in oifig’ (‘while [he] is in office’) in the Irish text.
- 3 ‘Shall not’ is again expressed as ‘Ní cead’, ‘it is not permitted’, in the Irish text.

Note that Article 68 of the 1922 Constitution contains the following:

Such remuneration may not be diminished during their continuance in office. *Ní féadfar an luach saothair sin do luigheadú an fhaid a leanfaid in oifig.*

**Commentary**

*an fad is bheidh in oifig* The third person singular personal pronoun is understood, this allowing for ‘sé’ or ‘sí’ referring to the judge. Regarding ‘an fad is bheidh’, this phrase would generally be written today as ‘fad a bheidh’ or ‘fad is a bheidh’. *Ó Dónaill* gives ‘fad (is), a fhad (is)’, translating that phrase as ‘as long as’, citing ‘*fad is a bhí mé ann*, while I was there’. *Dinneen* cites ‘*an fhaid is bheidh airgead agat*, while you have money’, translating ‘fad’, as an adverb, as ‘while, as long as’, with ‘fad is (or an fad)’ having the same sense, *Dinneen* citing ‘*fad do bhí sé ann*, while (as long as) he was there’, giving ‘faid, an fhaid’ as variants. DIL cites ‘figlis fut baí’ (‘[he kept vigil] as long as he existed’) from *Leabhar na hUidhre* (written in Clonmacnois c. 1100) as an example of ‘fot’/‘fat’ as a relative adverb.

‘Whether during his continuance in office or afterwards’ is translated as ‘cibé acu le linn dó bheith fós i seilbh oifige nó dá éis sin’ in s4(2) of the Courts (Supplemental Provisions) (Amendment) Act, 1991. ‘Every order ... which ... regulates the continuance in office of holders of any office’ is translated as ‘Gach ordú ... le n-a rialálar i dtaobh sealbhóirí aon oifige áirithe do leanúint in oifig’ in s14 of the Local Government Act, 1941.

Note that ‘fanacht i seilbh oifige’ expresses ‘continue in office’ in Article 12.10.7°, with ‘lean dá oifig’ expressing ‘continue to hold office’ in Article 18.9.

*tuarastal* See the commentary on Article 15.9.2°. Again Professor Máirtín Ó Murchú remarks that he sees no reason why ‘tuarastal’ should not be used when it is a set general figure (“suim sheasta choiteann”) which is involved.

**Standardised Irish text**

Ní cead laghdú a dhéanamh ar thuarastal breithimh an fad a bheidh in oifig.

**Direct gender-proofed translation**

Ní laghdófar luach saothair<sup>1</sup> breithimh<sup>2</sup> le linn dó nó di bheith<sup>3</sup> fós i seilbh oifige<sup>4</sup>.

**Variants**

- 1 ‘tuarastal’
- 2 ‘Ní dhéanfar luach saothair breithimh a laghdú’, ‘Ní dhéanfar laghdú ar luach saothair breithimh’
- 3 ‘fad a bheidh sé nó sí’
- 4 ‘in oifig’, ‘i mbun oifige’, ‘fad a leanfaidh sé nó sí in oifig’

## ARTICLE 36 AIRTEAGAL 36

**TÉACS GAEILGE**

Faoi chuimsiú na bhforálacha sin romhainn den Bhunreacht seo a bhaineas leis na Cúirteanna is de réir dlí a rialófar na nithe seo a leanas .i.

- i líon breithiúna na Cúirte Uachtaraí, agus na hArd-Chúirte, tuarastal, aois scortha agus pinsin na mbreithiúna sin,
- ii líon breithiúna gach Cúirte eile, agus na coinníollacha faoina gceaptar iad, agus
- iii comhdhéanamh agus comheagraíocht na gCúirteanna sin, roinnt na dlínse agus na hoibre ar na Cúirteanna sin agus ar na breithiúna sin, agus gach ní a bhaineas le nós imeachta.

#### LITERAL ENGLISH TRANSLATION

Within the constraint/scope of the foregoing provisions of this Constitution which relate to the Courts it is in accordance with law(s) that the following matters will be regulated i.e.

- i the number of judges of the Supreme Court, and of the High Court, the salary, age of retirement and pensions of those judges,
- ii the number of judges of every other Court, and the conditions under which they are appointed, and
- iii the constitution and the co-ordination of those Courts, the division of jurisdiction and work among those Courts and among those judges, and everything that relates to procedure.

#### ENGLISH TEXT

Subject to the foregoing provisions of this Constitution relating to the Courts, the following matters shall be regulated in accordance with law, that is to say:-

- i the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges,
- ii the number of the judges of all other Courts, and their terms of appointment, and
- iii the constitution and organization of the said Courts, the distribution of jurisdiction and business among the said Courts and judges, and all matters of procedure.

#### Divergences between the official texts

- 1 'Their terms of appointment' is expressed as 'na coinníollacha faoina gceaptar iad' ('the conditions under which they are appointed') in the Irish text.
- 2 'Organization' is expressed by the compound 'comh' + 'eagraíocht', the force of the prefix 'comh-' in a context such as this where a single entity is concerned being normally intensive, according to Professor Máirtín Ó Murchú, i.e. 'fully, in every detail'; 'comheagraíocht' is the abstract noun, i.e. 'the activity of organizing fully' – the verbal noun 'comheagrú' is found in Article 28.12 in the expression of the English 'organization'.
- 3 'Business' is expressed by 'obair' in the Irish text, which term is translated as 'work' in *Téarmaí Dlí*, where 'gnó' translates 'business'.
- 4 'All matters of procedure' is expressed as 'gach ní a bhaineas le nós imeachta' ('everything that relates to procedure') in the Irish text.
- 5 'Of all other Courts' is expressed as 'gach Cúirte eile' ('of every other Court') in the Irish text.
- 6 'Remuneration' is again expressed as 'tuarastal', 'salary', in the Irish text.

- 7 'That is to say' is expressed by the native abbreviation for Latin 'id est' ('that is') in the Irish text, no comma preceding the abbreviation corresponding to the comma in the English text.
- 8 'Regulate' is expressed by 'rialaiú', the term for 'rule'/'control' in *Téarmaí Dlí*, as seen in many earlier Articles.
- 9 'Matters' is expressed in the Irish text by 'nithe', 'things'; 'matter' is translated as 'ábhar' rather than 'ní' in *Téarmaí Dlí*, however.
- 10 'Subject to' is expressed as 'Faoi chuimsiú' ('within the scope/constraint of') in the Irish text, as we have seen in some earlier Articles, this phrase being translated as 'faoi réir' in *Téarmaí Dlí*.
- 11 A comma follows 'Courts' in the English text, no corresponding comma being found in the Irish text.

J.M. Kelly, op. cit., p. 208, reports as follows on reference made to Article 36iii in the courts:

In *The State (Walshe) v Murphy* ([1981] IR 275) Finlay P used the Irish equivalent "comhdhéanamh" in order to construe the English word "constitution" (of the courts), so as to make it include (via "comhdhéanamh" = "I make up") the determination of qualifications for judicial appointment.

Note that Article 67 of the 1922 Constitution reads as follows:

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. *De réir na ndlíthe bheidh i bhfeidhm de thuras na huairé agus do réir na rialacha a déanfar fútha iseadh bheidh uimhir na mbreithiún, bunú agus có-ghléasa agus roinnt ghnótha agus údarais imeasg na gCúirteanna agus na mbreithiún roimh-ráite, agus gach ní bhaineas le nós imeachta.*

Article 68 contains the following:

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 .... The terms of appointment of the judges of such other courts as may be created shall be prescribed by law. *Socrófar le dlí aois oifige d'fhágaint, luach saothair agus pinsean a leithéid de bhreithiún ar oifig d'fhágaint dóibh agus an dearbtha a thabharfaid uatha le linn a gceaptha .... Socrófar le dlí téarmaí ceaptha breithiún aon chúirteanna eile a bunófar.*

#### Commentary

*líon breithiúna na Cúirte ... gach Cúirte* According to the official standard one would expect 'breithiúna' to be lenited here, the nominative replacing the genitive, as 'Cúirt' is a definite noun – see the commentary on Article 1. Note, however, that *Ó Dónaill* cites '*líon suíochán an halla*, the seating capacity of the hall', 'suíochán' being the genitive plural, 'líon suíochán' being taken as a unit.

Notwithstanding the increase made by this section in the number of the judges of the Supreme Court' is translated as 'D'ainneoin an mhéaduithe deintear leis an alt so ar líon breithiún na Cúirte Uachtaraighe' in s4(3) of the Courts of Justice Act, 1936, with 'So much of section 37 ...

as limits the number of the Judges of the Circuit Court' being translated as 'An méid d'alt 37 ... a chuireann teora le líon Breithiún na Cúirte Cuarda' in s9(1) of the Courts of Justice Act, 1928. 'It shall be necessary ... that the number of the members of the planning authority voting in favour of the resolution exceeds one-third of the total number of the members of the planning authority' is translated as 'Is gá ... gur mó ná trian de líon iomlán comhaltaí an údaráis phleanála a vótálfaidh i bhfabhar an rúin' in s39(d) of the Local Government (Planning and Development) Act, 1976. Note that 'The number of the directors of the Agency shall be eleven' is translated as 'Aon duine dhéag is líon do stiúthóirí na gníomhaireachta' in s7(1) of the Youth Employment Agency Act, 1981. See further the commentary on Articles 14.3 and 16.2.2°.

*aois scortha* 'Scortha' is the past participle and adjectival form of the verb 'scoir'; 'scoir' is the genitive or attributive form of the noun, or verbal noun, 'scor'. Both forms may function interchangeably as attributes, e.g. 'am scoir' or 'am scortha', the second possibly giving slightly more emphasis to the action, according to Professor Máirtín Ó Murchú. *Ó Dónaill* gives the following examples of usage: '*ordú scoir*, retirement order', '*cead scoir*, permission to leave off work' and '*am scoir*, leaving off time'. *Dinneen*, in addition to 'scoir' ('scur') and 'scortha', the latter being given a separate entry, lists 'scora' as a variant genitive/attributive inflection of the noun 'scor', and gives the following examples of usage: '*gan dáil scuir*, for ever' and '*in am scora nó gabhála an iarainn*, when removing or fixing the coulters'.

'Scoirim as oifig' is translated as 'I retire from office' in *Téarmaí Dlí*, where '*scor as oifig de réir oird*' is translated as 'retirement by rotation'. *Ó Dónaill* gives 'release, dismiss' as one of the senses of 'scoir', citing '*duine a scor as a phost*, to retire someone from his post', with '*scor éigeantach*, compulsory retirement' being cited s.v. 'scor'. This specific sense of 'retire' is not found in *Dinneen*, who cites '*tá siad ag scor indiu*, they are removing their furniture, breaking up camp, etc., to-day', the principal sense of 'scoraim' there being 'I unyoke or unharness, unloose, unbind'. *Dinneen* gives 'freed from duty' as one of the senses of the participial adjective 'scortha', along with 'separated, divorced', citing '*an bhlonagach mhná so bhfullim scortha go fáilteach as a cúram*, this obese woman from whose care I am, I am glad to say, set free' – Professor Máirtín Ó Murchú remarks that 'responsibility for whom', rather than 'from whose care', is what is involved here. 'Scor' is translated principally as 'act of unyoking, unharnessing (horses)' in DIL, where 'cosmulius tuib arataat ilsenman do suidiu ... is sain fri cath sain fri scor' ('a similitude of a trumpet: for it hath many sounds ... it is different for battle, different for unyoking') is cited from the eighteenth-century Würzburg Glosses on the Pauline Epistles. DIL cites 'mo nert do scor ó nirt mná' ('to let loose my strength [that my strength should vanish(?) on account of the strength of a woman]', from the version of the *Wasting-Sickness of Cú Chulainn* contained in *Leabhar na hUidhre* (written in Clonmacnois c. 1100), as an example of the sense of 'act of desisting from, ceasing, coming to an end', with 'nir scuir dind fhognam' ('she ceased not from the service') being cited from a later text.

Looking at early Acts, 'The ordinary day of retirement of county councillors shall be the seventh day after the

ordinary day of election of such councillors' is translated as 'Is é a bheidh mar ghnáth-lá do chomhairleoirí contae chun dul as oifig ná an seachtú lá tar éis an ghnáth-lae thoghacháin do chomhairleoirí den tsórt san' in s7(1) of the Local Elections Act, 1927. 'Continuance in office, retirement, and election of certain members of the Board' is translated as 'Baill áirithe den Bhord do leanúint in oifig, d'fhágáil oifige, agus a dtogha' in the Margin Title of s6 of the Dublin Port and Docks Act, 1925, with 'to a county registrar on retirement' being translated as 'do chláirathóir chontae ... ar imeacht as oifig do' in s35(5) of the Court Officers Act, 1926. The current term, 'scur', is found in s16(b) of the Garda Síochána Act, 1924, where 'the promotion, retirement, degradation, dismissal, and punishment of members of the Garda Síochána' is translated as 'baill den Ghárda Síochána d'árdú, do scur, d'isliú, do bhriose, agus do chur fé phionós'. 'Eirighe as' translates 'retirement' in *Iris Oifigiúil*, 1928, p. 575.

'The age of retirement of a judge of the Circuit Court shall be seventy years' is translated as 'Seachtó bliain an aois scortha do bhreitheamh den Chúirt Cuarda' in s18(1) of the Courts (Supplemental Provisions) Act, 1961. 'But that age of retirement may ... be extended by the Minister for Justice' is translated as 'ach féadfaidh an tAire Dlí agus Cirt ... an aois scortha sin a fhadú' in s9(7) of the Registration of Title Act, 1964. See further the commentary on Article 12.4.2°.

*nós imeachta* See the commentary on Article 29.4.2°. 'Regulations may provide for any matters of procedure in relation to appeals to the Minister' is translated as 'Féadfaidh foráil a bheith i rialacháin faoi aon ábhair a bhaineann le nós imeachta i ndáil le hachomhairc' in s42(a) of the Local Government (Planning and Development) Act, 1976, for example. In s24(5) of the Housing (Miscellaneous Provisions) Act, 1992, 'Regulations ... may make provision in relation to matters of procedure and administration' is translated as 'Féadfar, le rialacháin ..., foráil a dhéanamh i ndáil le nithe a bhaineann le nós imeachta agus riarachán'. 'Regulating any matters of procedure' is translated as 'ag rialáil aon ábhar maidir le nós imeachta' in s31(3)(b) of the Solicitors (Amendment) Act, 1960. Finally, 'divers matters of procedure' is translated as 'cúrsaí áirithe nós imeachta' in the Margin Title of s195 of the Defence Act, 1954.

Commenting on a draft of the direct translation below containing the phrase 'gach ábhar nós imeachta', Professor Máirtín Ó Murchú remarked that this type of arrangement ("comhghléas"), i.e. Noun<sup>1</sup> + indefinite Noun<sup>2</sup> + indefinite Noun<sup>3</sup>, was very unusual and on the border as regards grammar ("ar imeall na gramadúlachta"). Professor Ó Murchú states that, while *Dinneen* has 'fear mine cáirde' and *Ó Dónaill* has 'arán mine cruithneachta', usually one would find, even from the best speakers in Munster, 'arán min choirce' (cf. the form from 1954 above). Whatever about Noun<sup>2</sup> being in the genitive, Máirtín Ó Murchú doubts whether the construction would be found except in old established phrases and remarks that, at any rate, Noun<sup>1</sup> and Noun<sup>2</sup> must be grammatical ("gramadúil") in themselves, or in agreement with the whole sense. Professor Ó Murchú maintains that 'ábhar nós' is not what is involved here but 'ábhar a bhaineann le nós', and recommends 'na nithe uile a bhaineann le nós imeachta' as a direct translation of the final clause.

*comheagraíocht* See the commentary on Article 28.12 regarding ‘a chomheagru’ expressing ‘organization’. This compound of ‘comh’ and ‘eagraíocht’ does not appear to be given as a headword either in *Ó Dónaill* or in *Dinneen*, the former having a headword ‘comheagar’, translated as ‘co-ordination’, citing ‘comheagar a chur ar rudaí, to co-ordinate things’, the latter translating ‘cómheagar’ as ‘arrangement, order, array; ornament’, citing ‘cath cóimheagair, a squadron in array’, also giving the indeclinable adjective ‘cómheagartha’ as a headword, translated as ‘arranged, set with (*de*)’. ‘Eagraíocht’ is translated as ‘organization’ in *Ó Dónaill*, ‘eagras’ being cited as a variant, and ‘eagrú’ being the verbal noun of ‘eagraigh’ (‘arrange, organize’), translated as ‘arrangement, organization’. ‘Eagraim’ is translated as ‘I set in order; digest, ordain, regulate, I edit (as a book, etc.); I set with (as jewels)’ in *Dinneen*, ‘eagairt’ and ‘eagar’ being given as forms of the verbal noun. The earlier form of ‘eagar’, ‘ecor’/‘ecar’, is the verbal noun of ‘in-cuirethar’ and is translated principally as ‘arranging, disposing, setting in order; arrangement, array (*of persons, places, things*)’ in DIL, where ‘a n-ecor<sub>7</sub> a corugud’ (‘their array’ [of the host of Heaven]) is cited from *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100).

*comhdhéanamh* This headword is translated as ‘constitution, structure, composition’ in *Ó Dónaill*, being the verbal noun of the compound verb ‘comhdhéan’, ‘make up, constitute’ – see the commentary on Article 15.1.1°. ‘The convening and constitution of Courts Martial’ is translated as ‘Có-ghairm agus córú Arm-Chúirteanna’ in s125(1)(b) of the Defence Forces (Temporary Provisions) Act, 1923. ‘In regard to its constitution, membership, employers, organisation and activities’ is translated as ‘maidir le cóiriú, comhaltas, fostaithe, eagraíocht agus gníomhaíocht an chumainn’ in s38(1)(a) of the Adoption Act, 1952. ‘Constitution and Organisation of the Defence Forces’ is translated as ‘Comhdhéanamh agus Eagraíocht Óglaigh na hÉireann’ in the Heading of Part III of the Defence Act, 1954.

*roinnt ... na hoibre* ‘Obair’ is translated as ‘work’ in *Téarmaí Dlí*, while ‘business premises’ is translated as ‘áitreabh gnótha’ – ‘ráiteas gnóthaí’, however, is translated there as ‘statement of affairs’. ‘Opar’ (‘opair’) comes from Latin ‘opera’, the dative plural ‘oiprib’ being cited from the eighth-century Würzburg Glosses on the Pauline Epistles in DIL, where this headword is translated principally as ‘work, activity, employment, occupation’. See the commentary on Article 3 regarding ‘oibrigh’.

*na coinniollacha* See the commentary on Article 16.1.2°, where ‘coinnioll’ expresses ‘provision’, and on Article 33.6 where ‘coinnioll’ expresses ‘term’, as in the present Article. ‘The remuneration, terms of appointment and conditions of service of the Chairman ... may be fixed by contracts’, for example, is translated as ‘Féadfar luach saothair, téarmaí ceapacháin agus coinniollacha seirbhíse an Chathaoirleach ... a shocrú trí chonarthaí’ in s24 of the Industrial Development Act, 1969, following s4(5) of the Industrial Development Authority Act, 1950.

*a bhaineas ... a leanas* The special form of the relative, present indicative, of ‘bain’ and ‘lean’ respectively, the

latter form being always used in this phrase – see the commentary on Article 6.1 regarding the special form of the relative.

*roinnt ... ar* See the commentary on Article 28.12, where ‘gnó a roinnt orthu’ expresses ‘distribution of business amongst Departments of State’.

*na hArd-Chúirte* Note that a semi-colon follows this phrase in the first paragraph in the original Irish text.

*de réir* This phrase is translated as ‘in accordance with’ in *Téarmaí Dlí* – see the commentary on Article 1.

*Faoi chuimsiú* See the commentary on Articles 12.5 and 18.7.2°.

*a rialófar* See the commentary on Articles 10.3 and 12.5.

.i. See the commentary on Article 7.

### Standardised Irish text

Faoi chuimsiú na bhforálacha sin romhainn den Bhunreacht seo a bhaineann leis na Cúirteanna is de réir dlí a rialófar na nithe seo a leanas, .i.

- i líon breithiúna na Cúirte Uachtaraí, agus na hArd-Chúirte, tuarastal, aois scortha agus pinsin na mbreithiúna sin,
- ii líon breithiúna gach Cúirte eile, agus na coinniollacha faoina gceaptar iad, agus
- iii comhdhéanamh agus comheagraíocht na gCúirteanna sin, roinnt na dlínse agus na hoibre ar na Cúirteanna sin agus ar na breithiúna sin, agus gach ní a bhaineann le nós imeachta.

### Direct translation

Faoi réir na bhforálacha sin romhainn den Bhunreacht seo a bhaineann leis na Cúirteanna, déanfar na hábhair seo a leanas a rialáil de réir dlí, is é sin le rá:-

- i líon bhreithiúna<sup>1</sup> na Cúirte Uachtaraí, agus na hArd-Chúirte, luach saothair<sup>2</sup>, aois scoir agus pinsin na mbreithiúna sin,
- ii líon bhreithiúna<sup>1</sup> na gCúirteanna eile go léir, agus téarmaí a gceapacháin, agus
- iii comhdhéanamh agus eagrú na gCúirteanna sin, dáileadh dlínse agus gnó ar na Cúirteanna sin agus ar na breithiúna sin, agus gach ábhar<sup>3</sup> a bhaineann le nós imeachta.

### Variants

- 1 ‘breithiúna’
- 2 ‘tuarastal’
- 3 ‘na nithe uile’

## ARTICLE 37.1 AIRTEAGAL 37.1

### TÉACS GAELGE

Aon duine nó aon dream a n-údaraitear go cuí dóibh le dlí feidhmeanna agus cumhachtaí teoranta breithiúnais a oibriú i gcúrsaí nach cúrsaí coireachta, má oibríid na

feidhmeanna agus na cumhachtaí sin ní bheidh an t-oibriú sin gan bhail dlí de bhithin aon ní sa Bhunreacht seo, siúd is nach breitheamh ná cúirt a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt faoin mBunreacht seo an duine nó an dream sin.

#### LITERAL ENGLISH TRANSLATION

Any person or any group who are duly authorized by law to operate limited functions and powers of judgement in matters that are not criminal matters, if they operate those functions and powers that operation will not be without legal validity by reason of anything in this Constitution, even though that person or group is not a judge or a court which was appointed or established as a judge or as a court under this Constitution.

#### ENGLISH TEXT

Nothing in this Constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature, in matters other than criminal matters, by any person or body of persons duly authorised by law to exercise such functions and powers, notwithstanding that such person or such body of persons is not a judge or a court appointed or established as such under this Constitution.

#### Divergences between the official texts

- 1 'Nothing in this Constitution shall operate to invalidate the exercise of such functions and powers' is expressed as 'má oibrí na feidhmeanna agus na cumhachtaí sin ní bheidh an t-oibriú sin gan bhail dlí de bhithin aon ní sa Bhunreacht seo' ('if they operate those functions and powers that operation will not be without legal validity by reason of anything in this Constitution') in the Irish text, 'exercise' being expressed by 'oibrigh', which term is translated as 'operate' in *Téarmaí Dlí*, as we have seen in some earlier Articles.
- 2 'Functions and powers of a judicial nature' is expressed simply as 'feidhmeanna agus ... cumhachtaí ... breithiúnais' ('judicial functions and powers') in the Irish text.
- 3 'In matters other than criminal matters' is expressed in the Irish text as 'i gcúrsaí nach cúrsaí coireachta' ('in matters that are not criminal matters'), with 'coireacht', the term expressing 'criminal', being the abstract noun generally translated as 'wickedness, guiltiness', 'coiriúil' translating 'criminal' in *Téarmaí Dlí*; this phrase is preceded by a comma in the English text alone.
- 4 'Body of persons' is expressed by 'dream', the same term that expresses 'group' in earlier Articles; *Ó Dónaill* translates 'dream' principally as 'body of people', however.
- 5 'Notwithstanding that' is expressed as 'siúd is (nach)', 'even though', in the Irish text, 'notwithstanding that' being translated as 'd'ainneoin go' in *Téarmaí Dlí*.
- 6 'Appointed or established as such' is expressed as 'a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt' ('appointed or established as a judge or as a court') in the Irish text.

#### Commentary

*siúd is nach* 'Siúd is go' is translated as 'even though' in *Ó Dónaill*, who cites '*siúd is go raibh an ceart agat*, granted that you were right' and '*siúd is nach bhfaca mé iad*, even though I didn't see them'. *Dinneen* translates 'siúd is go (nach)' as 'granted that (not), although (not), even if (not)', citing '*siúd is ná beadh sé uaithe*, even if she did not want it', stating that 'siúd = biodh siúd'. DIL cites 'sud 7 nach mbiadh sé air ar gcumas' ('what if it should not be in our power') from Donlevy's *An Teagasc Críosduidhe* (1742).

'Notwithstanding that' is translated as 'd'ainneoin go' in *Téarmaí Dlí*. 'Notwithstanding the existence of the patent or registration' is translated as 'd'ainneoin an phaitinn no an clárú do bheith ann' in s130(1) of the Industrial and Commercial Property (Protection) Act, 1927, for example. 'To drive during the Congress period ... any motor car of that class notwithstanding that such person is not the holder of a driving licence' is translated as 'gluaisteán ar bith den tsaghas san do thiomáint le linn tréimhse an Chomórtha, d'ainneoin gan ceadúnas tiomána do bheith ag an duine sin' in s6(2) of the Eucharistic Congress (Miscellaneous Provisions) Act, 1932. 'Such certificate ... may be given in respect of a person notwithstanding that such person ... has retired' is translated as 'Féadfar an deimhniú san ... do thabhairt alos duine d'ainneoin gur tharla ... an duine sin d'éirge as' in s8(2) of the Superannuation Act, 1936. See further the commentary on Article 14.3 where 'd'ainneoin' expresses 'notwithstanding'.

*dream* See the commentary on Article 10.1, where this term expresses 'body', and on Article 19 where 'dream' expresses 'group'. Note that *Ó Dónaill* translates 'dream' principally as 'body of people'. 'Comhlacht' expresses 'body' in Article 13.8.2°. 'The word "employer" includes any employer being a body of persons, corporate or unincorporate, as well as an employer who is an individual' is translated as 'foluionn an focal "fostathóir" aon fhostathóir is cólucht daoine, ionchorpruithe no neamh-ionchorpruithe, chó maith le fostathóir is duine aonaránach' in s47(2) of the Finance Act, 1925. 'It shall be unlawful for any person or body of persons ... to carry on business as the promoter of a trading stamp scheme' is translated as 'Ní dleathach d'aon duine ná d'aon chomhlacht daoine ... gnó a sheoladh mar thionscnóir scéime stampaí trádála' in s2(1) of the Trading Stamps Act, 1980.

*feidhmeanna ... breithiúnais* 'Breithiúnais' is the genitive singular of 'breithiúnas' used attributively. 'Breithiúnas' is translated as 'judgment' in *Téarmaí Dlí* (where 'Cúirt Bheithiúnais' is translated as 'Court of Justice') and in *Ó Dónaill*. 'Breitheamhas' is translated as 'a decision, a judgment; the office of a brehon' in *Dinneen*, Old Irish 'brithemnas', based on 'breithem' ('judge'), being translated as 'adjudication, judgment; jurisdiction' in DIL. The nineteenth-century story 'The Conversion of Loígure' refers to 'brithem fri brithemnas ar roscadaib 7 fasaigib' ('a judge for judgement based on *roscaids* [legal verses] and *fasachs* [maxims] – see Fergus Kelly, op. cit., p. 196, n. 39). See the commentary on Article 29.2 regarding 'judicial', expressed in that Article by 'breithiúnach; 'breithimh' expresses 'judicial' in Article 35.2.

In s5(b) of the Prohibition of Incitement to Hatred Act, 1989, 'proceedings publicly heard before a court, or a tribunal exercising functions or powers of a judicial nature' is translated as 'imeachtaí a éisteadh go poiblí os comhair cúirte nó binse a bheidh ag feidhmiú feidhmeanna nó cumhachtaí de chineál breithiúnach'. As regards other examples of 'nature' in this context, 'other assets of a financial nature', for example, is translated as 'sócshainní eile de chineál airgeadais' in s4(2) of the Fifth Schedule to the Finance Act, 1990. 'Five shall form a quorum for any business which, in the opinion of the Chairman of the Committee, may be considered of a special nature' is translated as 'cúigear is quorum i gcóir aon ghnótha is gnó speisialta dar le Cathaoirleach an Choiste' in s6 of the 'Mayo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. The Long Title of the Treasonable Offences Act, 1925, 'An Act to declare divers acts of a treasonable nature ... to be offences', is translated as 'Acht chun a fhaisnéis gur ciontaí gníomhartha áirithe de shaghas tréasúnta'.

*cúrsaí coireachta* 'Matter, affair; circumstance' is given by *Ó Dónaill* as a secondary sense of 'cúrsa' (primarily 'course'), citing '*cúrsaí dlí, creidimh*, legal, religious matters'. *Dinneen* also gives 'affair, matter, event' as one of the senses of 'cúrsaí', translating '*cúrsaí dlíghidh*' as 'legal proceedings (or matters)' – see the commentary on Article 15.12.

'Coireacht' is translated as 'wickedness, guiltiness' in *Ó Dónaill* and simply as 'guiltiness' in *Dinneen*, 'coireamhlacht' being similarly translated, and *Ó Dónaill* translating 'coiriúlacht' as 'criminality, guiltiness'. 'Coireach', on which 'coireacht' is based, is translated as 'offender, transgressor', as noun, and as 'wicked, sinful; guilty' as an adjective, in *Ó Dónaill*. 'Coir' is translated as 'crime, offence; fault, transgression' in *Ó Dónaill* – see the commentary on Article 30.3. See also the commentary on Article 34.3.1° where 'criminal' is expressed as 'coiriúil'.

The adjective 'criminal' is translated as 'coiriúil' in *Téarmaí Dlí*. In the Long Title of the Criminal Justice Bill, 1997, '... to amend the law relating to proceedings in criminal matters', is translated as '... do leasú an dlí a bhaineann le himeachtaí in ábhair choiriúla', with 'mutual assistance in criminal matters' being translated as 'cúnamh frithpháirteach in ábhair choiriúla' in s2 of Article 11 of the Air Navigation and Transport Act, 1975. In s4 of the Courts of Justice Act, 1926, 'The Central Criminal Court shall have and may exercise every jurisdiction in criminal matters for the time being vested in the High Court' is translated as 'Beidh ag an bPríomh-Chúirt Choiriúil gach údarás a bheidh ag an Ard-Chúirt de thuras na huairé i gcúrsaí coiriúla'.

*a oibríú ... má oibríú* See the commentary on Article 3 regarding 'oibrigh' and on Article 14.5.1° regarding the synthetic ('oibríú') and analytic ('oibríonn siad') form of the verb.

*a n-údaraitear* See the commentary on Article 37.2.

*teoranta* See the commentary on Article 31.1.

*gan bhail dlí* See the commentary on Articles 15.4.2° and 34.3.2°.

*de bhíthin* See the commentary on Article 23.2.1°.

### Standardised Irish text

Aon duine nó aon dream a n-údaraitear go cuí dóibh le dlí feidhmeanna agus cumhachtaí teoranta breithiúnais a oibríú i gcúrsaí nach cúrsaí coireachta, má oibríonn siad na feidhmeanna agus na cumhachtaí sin ní bheidh an t-oibríú sin gan bail dlí de bhíthin aon ní sa Bhunreacht seo, siúd is nach breitheamh ná cúirt a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt faoin mBunreacht seo an duine nó an dream sin.

### Direct translation

Ní oibreoidh aon ní sa Bhunreacht seo chun feidhmiú<sup>1</sup> feidhmeanna agus cumhachtaí teoranta de chineál breithiúnach, in ábhair seachas ábhair choiriúla, ag aon duine nó ag aon chomhlacht daoine a bheidh údaraithe go cuí le dlí chun na feidhmeanna agus na cumhachtaí sin a fheidhmiú, a chur ó bhail, d'ainneoin nach breitheamh ná<sup>2</sup> cúirt a bheidh ceaptha nó bunaithe mar sin<sup>3</sup> faoin mBunreacht seo a bheidh sa duine nó sa chomhlacht daoine sin.

### Variants

- 1 'oibríú'
- 2 'nó'
- 3 'nach breitheamh a bheidh ceaptha mar bhreitheamh nó cúirt a bheidh bunaithe mar chúirt'

## ARTICLE 37.2 AIRTEAGAL 37.2

### TÉACS GAELGE

Ní raibh ná ní bheidh aon uchtáil ar dhuine a ghlac éifeacht nó a bhfuil sé sainráite gur ghlac sí éifeacht aon tráth tar éis don Bhunreacht seo a theacht i ngníomh faoi dlíthe a d'achtaigh an tOireachtas agus is uchtáil de bhun ordú a rinne nó údarú a thug aon duine nó aon dream a bhí sonraithe leis na dlíthe sin chun na feidhmeanna agus na cumhachtaí sin a oibríú ó bhail dlí de bhíthin amháin nár bhreitheamh ná cúirt a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt faoin mBunreacht seo an duine nó an dream sin.

### LITERAL ENGLISH TRANSLATION

No adoption of a person which took effect or which is expressed to have taken effect at any time after the coming into operation of this Constitution under laws which the Oireachtas enacted and which is an adoption in pursuance of an order made by or an authorisation given by any person or any group which was specified by those laws to operate those functions and powers did not nor will not lack legal validity for the sole reason that that person or that group was not a judge or a court which was appointed or established as a judge or a court under this Constitution.

### ENGLISH TEXT

No adoption of a person taking effect or expressed to take effect at any time after the coming into operation of this Constitution under laws enacted by the Oireachtas and being an adoption pursuant to an order made or an authorisation given by any person or body of persons

designated by those laws to exercise such functions and powers was or shall be invalid by reason only of the fact that such person or body of persons was not a judge or a court appointed or established as such under this Constitution.

### Divergences between the official texts

- 1 'Taking effect or expressed to take effect' is rendered as 'a ghlac éifeacht nó a bhfuil sé sainráite gur ghlac sí éifeacht' ('which took effect or which is expressed to have taken effect') in the Irish text.
- 2 'Body of persons' is rendered as 'dream', 'group', as in the previous section.
- 3 'Designated' is rendered as 'sonraithe' ('specified') in the Irish text, 'sonraim' being translated as 'I specify' in *Téarmaí Dlí*.
- 4 'Exercise' is rendered in the Irish text by 'oibrigh', which term is translated as 'operate' in *Téarmaí Dlí*, as we have seen in some earlier Articles.
- 5 'Invalid' is rendered as 'ó bhail dlí' ('lacking legal validity'); 'invalid' is translated as 'neamhbhailí' in *Téarmaí Dlí*; note that 'invalidate' is expressed as 'gan bhail dlí' in the previous section.
- 6 'By reason only of the fact that' is rendered simply as 'de bhithin amháin' ('for the sole reason that') in the Irish text.
- 7 'Appointed or established as such' is rendered as 'a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt' ('appointed or established as a judge or as a court') in the Irish text, as we saw in the previous section.

Note that this section was added to the text following the Sixth Amendment of the Constitution Act, 1979.

### Commentary

*sainráite* The past participle of a compound of 'sain-' ('special, particular, specified, characteristic') and 'abair' ('say'), as a participial adjective, is translated as 'express' in *Téarmaí Dlí* and in *Ó Dónaill*, where '*barántas sainráite*, express warranty' and '*coinníoll sainráite*, express condition' are cited, for example. This compound does not appear to be given as a headword in *Dinneen*. The prefixed adjectival 'sain-' as an independent adjective is translated as 'different, distinct, separate' in DIL, where 'sain dán cáich' ('different [is] every one's gift') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles, with 'ní nomsainmesca ó mac Dé' ('whatever sunders me from the Son of God') being cited from a later source as an example of 'sain' compounded with a verb ('mescaid', also here with the preverb 'no' and infix pronoun).

'As from the said date from which the certificate is expressed to take effect' is translated as 'ón dáta san o n-a deirtar sa deimhniú go bhfuil an deimhniú le bheith in éifeacht' in s62(2) of the Court Officers Act, 1926, this same English text (without 'said') being translated as 'amhail ón dáta a mbeidh sainráite sa deimhniú éifeacht a bheith aige uaidh' in s3(2)(b) of the Court Officers Act, 1951. 'The expiration of a period of four months from the date on which the resolution is expressed to take effect'

is translated as 'tréimhse ceithre mhí a bheith caite ón dáta a déarfadh an rún a bheidh sé le teacht in éifeacht' in s85(1) of the Finance Act, 1974. See further the commentary on Article 24.1.

'Luaign' consistently expresses 'express' in the original text of the Constitution: 'a Bill expressed to be a Bill containing a proposal to amend the Constitution' is expressed as 'Bille a luaitear a bheith ina Bhille a bhfuil togra ann chun an Bunreacht a leasú' in Articles 24.1, 25.1, 26 and 27, 'má luaitear ann' expressing 'which is expressed to be' in Article 28.3.3°, 'a luaitear sa Bhunreacht a bheith' expressing 'as are by this Constitution expressed' in Article 31.1, 'a luaitear ina dtaobh sa Bhunreacht seo' expressing 'which are by this Constitution expressed' in Article 32, 'Every Bill shall be expressed to be' being expressed as 'Ní foláir a lua i ngach Bille' in Article 46.3 and, finally, 'Dlíthe ... a mbeidh luaite iontu' expressing 'Laws ... expressed to' in Article 50.2. Note also how 'democratically expressed', in the new Article 3 contained in Article 29.7, is rendered as 'á chur in iúl go daonlathach'.

*de bhun ordú ... nó údarú* The genitive would normally follow the prepositional phrase 'de bhun', but as 'ordú' and 'údarú' are both verbal nouns following directly after the compound preposition they are not inflected – see *An Caighdeán Oifigiúil*, chapter headed 'Form of the Nominative in place of the Genitive', s5(b), where 'tá an lá ag dul chun síneadh' is cited as example. Professor Máirtín Ó Murchú comments, regarding a draft of the direct translation below, that the genitive inflection is unnecessary.

Looking at 'authorisation' in early Acts, 'Where any person duly authorised by a sanitary authority has reasonable cause to suppose' is translated as 'Má bhíonn ag éinne dar thug údarás sláintíochta údarás cuibhe cúis réasúnta chun a cheapa' in s20(3) of the Local Government Act, 1925. 'Authorisation of contracts in reference to road motor services' is translated as 'Údarú connartha bhaineann le seirbhísi gluaisteáin ar bhóithre' in the Margin Title of s7 of the Railways (Road Motor Service) Act, 1927. In s60(4) of the Pigs and Bacon Act, 1935, 'The Minister may at any time revoke an authorisation given under this section' is translated as 'Féadfaidh an tAire, uair ar bith, údarú do tugadh fén alt so ... do cheiliúradh'.

Looking at modern Acts, in s3 of the Tea (Purchase and Importation) (Amendment) Act, 1966, 'imports it under and in accordance with an authorisation given by the Minister' is translated as 'é a allmhairiú faoi réim agus de réir údaráis ón Aire'. Finally, in s6(7) of the Animals Act, 1985, 'on foot of an authorisation given in a notice' is translated as 'de dhroim údarú a tugadh i bhfógra'.

*uchtáil* This headword is translated as 'adoption' in *Téarmaí Dlí*, 'uchtú' being given as the standard form in *Ó Dónaill*. '*Leanbh a uchtú*, to adopt a child' is cited by *Ó Dónaill* as an example of 'uchtú' as a verbal noun, 'uchtú' as a noun being translated as 'adoption'. In a list of additional headwords appended to the Glossary in *An Caighdeán Oifigiúil*, however, we find 'uchtáil' as the verbal noun of 'uchtáigh'. *Dinneen* does not give either verbal noun or verb as a separate headword, but s.v. 'ucht-', i.e. 'breast-', in compounds, he includes the following: '*ucht-mhac*, an adopted son', '*uchtcach*, adoptive', '*uchtcacht (uchtcandacht)*, adoption', '*uchtcadh*, adopting' and '*uchtcaim*, I adopt as a son'. *Dinneen* refers to the glossary



appended to the second edition of Bedell's Irish Bible, 1690, as his source, where we find 'athargadh, ochdmhacadh' – this is cited in DIL s.v. 'ucht', 'breast, bosom', where the compound 'uchtmacadh' is translated as 'adoption', with '*uchtmhacadh*, the adoption of a son' being cited from the transcript of Peter O'Connell's *Irish-English Dictionary* in the Royal Irish Academy.

In early Irish law 'mac fáesma' expressed 'adopted son', one of the senses of 'fáes(s)am' in DIL being 'taking into protection, adopting'. In his 'Index of Irish Terms' in *A Guide to Early Irish Law*, Fergus Kelly translates the earlier form 'fóesam', verbal noun of 'fo-sisedar' ('stands under, acknowledges, protects'), as 'legal protection, adoption into kin' and states (*ibid.*, p.105):

Rights of inheritance may be acquired by a person adopted into a kin-group, either through payment of an adoption fee (*lóg fóesma*) or through invitation .... His adoption (*fóesam* lit. 'taking into protection') is a contract which must be bound by sureties, and ratified by the head of the kin .... a man may disinherit a son who fails to carry out his filial duties (*goire*) and adopt another person in his stead.

In s9 of the Status of Children Act, 1987, 'any order made or decree granted outside the State, providing for the adoption of a person' is translated as 'aon ordú arna dhéanamh, nó foraithe arna deonú, lasmuigh den Stát, lena ndéantar socrú maidir le huchtáil duine'. In s1 of the Adoption Act, 1991, "'foreign adoption" means an adoption of a child who ... was under the age of 21 years' is translated as 'ciallaíonn "uchtáil choigríche" uchtáil linbh a bhí ... faoi bhun 21 bliain d'aois'.

*ó bhail dlí* 'Validity' is given as one of the senses of 'bail', principally translated as 'prosperity' in *Ó Dónaill*, who cites '*ionas go mbeadh bail ar a fhaoistin*, so that his confession might be valid', translating 'gan bhail' as 'invalid, void'. 'Invalid' is translated as 'neamhbhailí' in *Téarmaí Dlí*, where 'bailí' is translated as 'valid' and 'I validate' is translated as 'déanaim bailí'. *Dinneen* translates 'gan bhail' as 'void, ineffective (of a sacrament)', giving Donlevy's *Irish Catechism* (1742) as source; *Dinneen* does not appear to give 'bailí' as a headword. DIL cites 'bidh buil ar an bpósadh gan fhios, gan fhiadhain' ('a clandestine marriage is valid'), from *Parrthas an Anma* (Gearnon, 1645), as an example of the sense 'of the efficacy of a sacrament or judgement' of 'bal', also citing 'bidh a bpósadh ar bhail' ('valid') from Ó Heoghusa's *An Teagasg Críostaidhe* (1611). See further the commentary on Article 40.4.3°.

In Article 28.3.3°, 'Nothing in this Constitution shall be invoked to invalidate any law enacted by the Oireachtas' is expressed as 'Ní cead aon ní dá bhfuil sa Bhunreacht seo a agairt chun aon dlí dá n-achtaíonn an tOireachtas a chur ó bhail', with 'No provision of this Constitution invalidates laws enacted' being rendered as 'Ní dhéanann aon fhoráileamh atá sa Bhunreacht seo aon dlíthe a d'achtaigh ... a chur ó bhail dlí' in Article 29.4.7°. 'Gan bhail' expresses 'invalid' in Articles 15.4.2°, 'gan bhail dlí' expressing 'invalidate' in Article 37.1. In Article 40.4.3°, however, following the Second Amendment of the Constitution Act, 1941, 'but that such law is invalid' is rendered as 'ach an dlí sin a bheith neamhbhailí'.

Turning to the Acts, 'No such resolution shall be invalid or, in the case of any such resolution passed before the passing of this Act, ever have been invalid by reason only

of the failure to give such notice' is translated as 'ní bheidh aon rún den tsórt san nea-mbailidhe no, i gcás aon rún den tsórt san do ritheadh roimh an Acht so do rith, ní tuigfear é bheith nea-mbailidhe riamh de bhíthin gan an fógra san do thabhairt' in s6 of the Town and Regional Planning (Amendment) Act, 1939. Finally, in s6(6) of the Schedule to the Pilotage Order Confirmation Act, 1927, 'No act or proceeding of the Committee shall be invalid on account of any vacancy in their body' is translated as 'Ní bheidh aon ghníomh ná imeacht de chuid an Choiste nea-dhleathach de dheascaibh aon fholúntais ar a measc'. See further the commentary on Article 15.4.2°.

*de bhíthin amháin* See the commentary on Article 29.4.3° where 'de bhíthin' renders 'necessitated by'. 'A notice of appeal ... shall not be invalid by reason only of the fact that an appeal town ... did not stand specified' is translated as 'Fógra achomhairc ... ní bheidh sé neamhbhailí toisc amháin nach raibh baile achomhairc ... sonraithe' in s1(2)(b) of the Courts Act, 1986. In s6(1) of the Local Government (Planning and Development) Act, 1982, 'A permission or approval granted on appeal ... shall not be, and shall not be regarded as ever having been, invalid by reason only of the fact that the development concerned contravened, or would contravene, materially the development plan' is translated as 'Aon chead nó ceadú a bheidh tugtha ar achomharc ... ní bheidh sé, agus ní mheasfar go raibh sé riamh, neamhbhailí de bhíthin amháin gur sháraigh, nó go sáródh an fhorbairt áirithe, ar mhodh ábhartha, an plean forbartha'.

### Standardised Irish text

Ní raibh ná ní bheidh aon uchtáil ar dhuine a ghlac éifeacht nó a bhfuil sé sainráite gur ghlac sí éifeacht aon tráth tar éis don Bhunreacht seo a theacht i ngníomh faoi dhlíthe a d'achtaigh an tOireachtas agus is uchtáil de bhun ordaithe a rinne nó údaraithe a thug aon duine nó aon dream a bhí sonraithe leis na dlíthe sin chun na feidhmeanna agus na cumhachtaí sin a oibriú ó bhail dlí de bhíthin amháin nár bhreitheamh ná cúirt a ceapadh nó a bunaíodh mar bhreitheamh nó mar chúirt faoin mBunreacht seo an duine nó an dream sin.

### Direct translation

Ní raibh ná ní bheidh aon uchtáil ar dhuine a ghlacfaidh éifeacht nó a bhfuil sé sainráite go nglacfaidh sí éifeacht tráth ar bith tar éis don Bhunreacht seo teacht i bhfeidhm faoi dhlíthe arna n-achtú ag an Oireachtas agus is uchtáil de bhun ordú<sup>1</sup> a rinne nó údarú<sup>2</sup> a thug aon duine nó comhlacht daoine a bheidh ceaptha ag na dlíthe sin chun na feidhmeanna agus na cumhachtaí sin a oibriú<sup>3</sup> neamhbhailí toisc amháin gurbh amhlaidh nár bhreitheamh ná nár chúirt a bhí ceaptha nó bunaithe mar sin faoin mBunreacht seo an duine sin nó an comhlacht daoine sin.

### Variants

- 1 'ordaithe'
- 2 'údaraithe'
- 3 As Professor Máirtín Ó Murchú remarks, some punctuation would be an addition to the easier reading of the above text, a comma here following 'a oibriú', for example.

# TRIAL OF OFFENCES TRIAIL I gCIONTA

## ARTICLE 38.1 AIRTEAGAL 38.1

### TÉACS GAELGE

#### TRIAIL I gCIONTA

Ní cead aon duine a thriail in aon chúis choiriúil ach mar is cuí de réir dlí.

### LITERAL ENGLISH TRANSLATION

#### TRIAL IN OFFENCES

It is not permitted to try any person in any criminal case/prosecution except as is proper according to law.

### ENGLISH TEXT

#### TRIAL OF OFFENCES

No person shall be tried on any criminal charge save in due course of law.

### Divergences between the official texts

- 1 The title 'Trial of Offences' is expressed as 'Triail i gCionta' ('Trial in Offences') in the Irish text, the same preposition 'i' following 'triail' expressing 'on' in the section itself ('a thriail in aon chúis', 'tried on any ... charge'); note that we find 'cionta a thriail' expressing 'trial of offences' in s3.1° of this Article.
- 2 While the Irish term expressing 'charge', 'cúis', has this sense, this term also renders 'case' ('lawsuit'), and is translated simply as 'cause' in *Téarmaí Dlí*, where 'charge (i.e. criminal)' is translated as 'cúiseamh' rather than 'cúis'.
- 3 'In due course of law' is expressed as 'mar is cuí de réir dlí' ('as is proper/due according to law') in the Irish text.
- 4 'No ... shall' is expressed as 'Ní cead' ('It is not permitted to') in the Irish text, as we have seen in many earlier Articles.

Note that Article 70 of the 1922 Constitution commences as follows:

No one shall be tried save in due course of law .... *Ní trialfar éinne ach do réir chúrsaí cuibhe na dlí.*

Article 72 commences as follows:

No person shall be tried on any criminal charge without a jury .... *Ní trialfar aon duine in aon chúis choiriúil gan choiste.*

### Commentary

*Triail ... a thriail* 'Triail' is translated as 'trial' and 'trialaim' as 'I try (i.e., a case)' in *Téarmaí Dlí*. 'Triailim' is translated as 'I try juridically, test, put to ordeal, prove myself ...' in *Dinneen*, who translates 'triail' as 'act of trying, judging, testing, venturing; a trial (juridical), a test or ordeal ...'. *Ó Dónaill* cites '*cás a thriail*, to try a case' and '*triaileadh*

*os comhair coiste é*, he was tried before a jury' as examples of the sense of 'triail', 'try, test', in Jurisprudence, 'triail' being the verbal noun of 'triail'. DIL does not appear to cite any examples of either verb or verbal noun 'triail' which, being borrowed from English is, according to *Dinneen*, influenced by the Irish word 'triail' – 'attempts, endeavours' is one of the senses of the verb 'triailaid' in DIL.

Note that *De Bhaldraithe*, while translating 'try' as 'trialaim (cúis, príosúnach)' cites 'He was tried for theft, *cuireadh cúirt as gadaíocht air*'. The Margin Title of s231 of the Defence Forces (Temporary Provisions) Act, 1923, 'Trial of offences', is translated as 'Ciontaí do thriail', 'Triail chiontaí' being found in the Margin Title of s73 of the Foyle Fisheries Act, 1952, and 'Cionta a thriail' in the Margin Title of s21 of the Fisheries (Statute Law Revision) Act, 1956, as in the Margin Title of s49 of the Fisheries Act, 1980.

*igcionta* 'Cion' is translated as 'offence' in *Téarmaí Dlí* – see the commentary on Article 30.3. *Ó Dónaill* cites '*cion sa chion*, as an eye for an eye' and *Dinneen* cites '*cion san chion*, trespass for trespass (part of the *lex talionis*)'. DIL cites 'brithemnacht forsin cin-sa' ('judgment on this crime') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Do bhreitheamhnus for na huile chin doní gach cintach' ('On judgement on every crime which an offender commits') is the late title of a fragmentary early Irish law-text which deals mainly with the liability of relatives for a person's crimes – see Fergus Kelly, op. cit., p. 273. See further the commentary on Article 47.2.1°.

*aon chúis* 'Case, charge' is a secondary sense of 'cúis', primarily 'cause', in *Ó Dónaill*, who cites '*cúis dlí*, lawsuit' along with '*cúis a bheith agat ar dhuine*, to have a case against someone' and '*cúis a chur in aghaidh duine*, to lay a charge against someone'. 'Cúis' is translated simply as 'cause' in *Téarmaí Dlí*. *Dinneen* gives 'case in the courts' as a sense of 'cúis', also giving 'charge, accusation; cause of quarrel', citing '*cúis dlíghidh*, lawsuit, legal process' and '*do glaodhadh an chúis*, the case was called'. DIL gives 'cause, case; debate, dispute, controversy' as one of the senses of 'cúis' (which comes from Latin 'causa'), citing 'doracartmar cois caích' ('we have argued the cause of every one') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Dia fis cíá is breitheamh i ngach cúis' ('To find out who is a judge for every case') is the late title of an early Irish law-text on the duties of a judge – see Fergus Kelly, op. cit., p. 267. See the commentary on Article 12.10.2°.

*de réir dlí* See the commentary on Article 1 regarding 'de réir'. 'Or otherwise to allow to be paid out of his assets in due course of law (any money due from the

bankrupt) is translated as ‘nó chun a cheadú ar dhóigh eile go n-íofar é as a eastát i gcúrsa cuí an dlí’ in s211(a) of the Companies Act, 1963, with ‘until discharged or delivered over in due course of law’ being translated as ‘go dtí go scaoilfear nó go seachadfar anonn iad i gcúrsa cuí an dlí’ in s231(1) of the Defence Act, 1954. Finally, in s9(2) of the Finance Act, 1927, ‘that the whole or any part of the amount of such uncollected tax shall be deemed to have been discharged in due course of law’ is translated as ‘go dtuigfar méid iomlán no aon chuid de mhéid iomlán na cánach nea-bhailithe sin do bheith glanta go cuibhe do réir dlí’.

*aon chúis choiriúil* The adjective ‘coiriúil’ is translated as ‘criminal’ in *Tearmaí Dlí* and in *Ó Dónaill*, who cites ‘cúis choiriúil, criminal charge’. *Dinneen* translates ‘coireamhail’ as ‘guilty’. This adjective is based on ‘coir’, ‘crime’ – see the commentary on Article 34.3.1°.

*Ní cead* See the commentary on Article 9.1.3°.

*cuí* See the commentary on Article 43.2.1°.

### Direct translation

#### CIONTA A THRIAIL

Ní dhéanfar aon duine a thriail ar aon chúiseamh coiriúil ach i gcúrsa cuí an dlí.

## ARTICLE 38.2 AIRTEAGAL 38.2

#### TÉACS GAELGE

Féadfar mionchionta a thriail ag cúirteanna dlínse achomaire.

#### LITERAL ENGLISH TRANSLATION

Minor offences may be tried at courts of summary jurisdiction.

#### ENGLISH TEXT

Minor offences may be tried by courts of summary jurisdiction.

### Divergences between the official texts

- 1 There appears to be no divergences between these two texts, though ‘ag cúirteanna’ can also be read as ‘at courts’ rather than ‘by courts’.

Note that Article 72 of the 1922 Constitution commences as follows:

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 .... *Ní trialfar aon duine in aon chúis choiriúil gan choiste ach i gcás cúiseanna timpeal mion-choirthe atá intrialta le dlí i láthair Chúirt Udaráis Achmair.*

### Commentary

*mionchionta* ‘Mionchion’ is translated as ‘minor offence’ in *Tearmaí Dlí* and in *Ó Dónaill*, this being a compound

of the prefix ‘mion’, translated as ‘small, minute; minor, petty; micro-’ in *Ó Dónaill*, and ‘cion’, translated as ‘offence’ in *Tearmaí Dlí* – see the commentary on the previous section. DIL translates ‘min’ as ‘small (*of size and quantity*), minute, fine; petty, trivial’, ‘minpeccad’ (‘a venial sin’) being given as an example of a compound with ‘min’, the accusative plural of which, ‘minpeccthu’, is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

‘If ... the Justice shall be of opinion that the facts proved against the accused constitute a minor offence fit to be tried summarily’ is translated as ‘má sé barúil an Bhreithimh gur mion-chionta is intrialta ar an sli achmair an méid a cruthúidh i gcoinnibh an duine chúisithe’ in s77B of the Courts of Justice Act, 1924. ‘If the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily’ is translated as ‘má é tuairim an Bhreithimh gur mionchion is intrialta go hachomair na fíorais a cruthaíodh nó a líomhnaíodh i gcoinne chosantóir a bheidh cúisithe i gcion den sórt sin’ in s8(2)(a) of the Dumping at Sea Act, 1981.

*cúirteanna dlínse achomaire* ‘Cúirt dlínse achomaire’ is translated as ‘court of summary jurisdiction’ in *Tearmaí Dlí*, ‘dlínse achomair’ being translated as ‘summary jurisdiction’ and the adjective ‘achomair’ as ‘summary’ – see the commentary on Article 30.3. *Ó Dónaill* gives ‘summary’ as a secondary sense of ‘achomair’, translated principally as ‘concise, brief’, ‘athchomair’ being translated in *Dinneen* as ‘near, approximate; concise, compendious; quick, sudden’. Note that ‘achoirme’ rather than ‘achomaire’ is the form of the genitive singular in *Ó Dónaill*. ‘Athchummair’ is translated as ‘concise, brief’ in DIL; this headword is a compound of the prefix ‘ath-’, usually with the sense of ‘second, a further’ when combined with nouns, and ‘cumair’ (‘short, brief’), which is itself a compound of ‘com’ plus ‘berr’ (‘short’, ‘berraid’ being translated as ‘shears, clips; shaves’).

In s4(5) of the Interpretation Act, 1923, ‘the expression “court of summary jurisdiction” shall mean a District Court’ is translated as ‘ciallóidh an focal “cúirt údaráis achmair” Cúirt Dúithche’. ‘All the penalties under this Act may be recovered and enforced in manner directed by the Summary Jurisdiction Acts before a Court of Summary Jurisdiction’ is translated as ‘Féadfar na pionóisí uile fén Acht so do bhaint amach agus d’fhoirfheidhmiú, sa tslí a horduitear leis na hAchtanna Dlíghinse Achmair, os cóir Cúirte Dlíghinse Achmair’ in s27 of the Cork Milling Company Railway Act, 1935, with ‘os cóir cúirte dlínse achomaire’ translating ‘before a court of summary jurisdiction’ in s38(2) of the Defence Forces (Temporary Provisions) (No. 2) Act, 1940.

*ag* The principal sense of this preposition is ‘at’, *Ó Dónaill* citing ‘*ag baile*, at home’ and ‘*ag Bealach an Doirín*, at, when at, Ballaghadereen’, these being examples of this preposition not being followed by the definite article. ‘Ag’ is also used in the sense of ‘agent or instrument’, *Ó Dónaill* citing ‘*tá sé briste agat*, you have broken it’ and ‘*caite ag an aois*, worn out by age’. *Dinneen* states that this preposition ‘denotes the agent of actions going on or finished’, citing ‘*tá sé scríobhtha agam*, I have written it’ and ‘*cad tá agat dá scríobhadh?* what are you writing’. *Dinneen* adds the following:

[Ag] is not used of agent generally except after past participle constructions or the verbal corresponding to the present participle in English. When the tense of the verb expressing the action is simply stated with a past participle or a verbal corresponding to the English present participle *ag* is not used. Thus we do not say *ithtear agam é*, it is being eaten by me.

DIL gives examples of 'oc', 'almost in sense of agent', stating:

Strictly, *oc* indicates, not the agent, but the quarter, group of individuals, etc., in which the action takes place or has its origin. With passive often employed instead of *do* where that preposition is needed in another sense. (In Modern Irish *ag* is commonly used to denote the agent after a participle in periphrasis for perfect tense: *atá an litir scríobhtha agam*, I have written.)

From earlier literature, DIL cites 'co torchair acu iarsin iar cur a n-áir' ('he fell at their hands after slaying many of them') and 'cia coa [*recte* oca?] ndernad in chet-long?' ('by whom was the first ship made?') Professor Máirtín Ó Murchú cites 'ní maith do gabhadh an creidiomh sin ag Tomás' from *Pairlement Chloinne Tomáis* (Bergin, l. 40).

'Such person may be tried by any class of court-martial' is translated as 'féadfaidh aon chineál armchúirte ... an duine sin a thriail' in s121(a) of the Defence Act, 1954, with 'féadfar é a thriail ag ceachtar acu' translating '(A person) may be tried by either of them' in s243(4).

### Direct translation

Féadfar mionchionta a thriail ag cúirteanna dlínse achomaire.<sup>1</sup>

### Variants

- 1 'Féadfaidh cúirteanna dlínse achomaire mionchionta a thriail.'

## ARTICLE 38.3.1<sup>o</sup> AIRTEAGAL 38.3.1<sup>o</sup>

### TÉACS GAEILGE

Féadfar cúirteanna faoi leith a bhunú le dlí chun cionta a thriail i gcásanna a gcinneadh ina dtaobh, de réir an dlí sin, nach leor na gnáthchúirteanna chun riaradh cirt a chur i bhfeidhm le héifeacht agus chun síocháin agus ord poiblí a chaomhnú.

### LITERAL ENGLISH TRANSLATION

Specific courts may be established by law to try offences in cases regarding which it will be determined, in accordance with that law, that the ordinary courts are not adequate to enforce effectively the administration of justice and to preserve public order and peace.

### ENGLISH TEXT

Special courts may be established by law for the trial of offences in cases where it may be determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice, and the preservation of public peace and order.

### Divergences between the official texts

- 'Faoi leith' in the Irish text is usually taken to mean 'specific', 'separate', 'distinct'; 'special' is translated simply as 'speisialta' in *Téarmaí Dlí*.
- 'Where it may be determined' is expressed as 'a gcinneadh ina dtaobh' ('regarding which it will be determined') in the Irish text.
- 'Are inadequate' is expressed as 'nach leor' ('are not adequate') in the Irish text, 'leor' generally expressing 'enough, sufficient', whereas 'inadequate' is translated as 'neamhleor' in *Téarmaí Dlí*.
- 'To secure the effective administration of justice' is expressed as 'chun riaradh cirt a chur i bhfeidhm le héifeacht' ('to enforce [the] administration of justice effectively') in the Irish text, 'secure' being expressed by 'cuir i bhfeidhm' ('enforce'), and 'le héifeacht' ('effectively') qualifying 'a chur i bhfeidhm' rather than 'riaradh cirt' ('the administration of justice'), as in the English text.
- 'Public' qualifies both 'peace' and 'order' in the English text (though one might perhaps read the text as if only 'peace' was so qualified), but as 'poiblí' in the Irish syntax cannot be regarded as qualifying 'síocháin' ('poiblí' being unlenited), it necessarily qualifies 'ord' only, i.e. the Irish means 'peace and public order'.
- 'Justice' is expressed by 'ceart', which term is translated simply as 'right' in *Téarmaí Dlí*, though it has the sense of 'justice' in general usage, while 'justice' is specifically translated as 'ceartas' in *Téarmaí Dlí*.
- 'De réir an dlí sin' ('in accordance with such law') is preceded and followed by a comma in the Irish text, no corresponding commas being found in the English text, which text alone has a comma following 'justice', before the final clause.

### Commentary

*faoi leith* See the commentary on Articles 12.3.3<sup>o</sup> and 15.9.1<sup>o</sup> regarding 'ar leith'. *Ó Dónaill* translates 'ar leith, faoi leith' as 'apart, separate; several, distinct; remarkable, special', citing '*cás ar leith*, separate, exceptional, case' and '*aire ar leith*, special care'. *Dinneen* translates 'ar leith' as 'apart, separately, severally', citing '*do rónsadh sluaigh ar leith díobh féin*, they formed themselves into a distinct host'. DIL cites 'gnáe far leth' from the ninth-century St Gall Glosses on Priscian (where this phrase glosses Latin 'separatim'), as an example of the quasi-adjectival use of 'leth' with 'for' in the sense of 'apart, separate, different, special'.

Turning specifically to 'special', 'special agent' is translated as 'gníomhaire speisialta' in *Téarmaí Dlí*, where 'the Special Criminal Court' is styled 'an Chúirt Choiriúil Speisialta' and 'special sitting' is translated as 'suí speisialta'. Looking at early Acts regarding 'special', 'unless the Court on any special ground shall otherwise order' is translated as 'mara n-ordóidh an Chúirt a mhalairt mar gheall ar aon chúis fé leith' in s18(1) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923. In Schedule (B) of the Appropriation Act, 1923, however, 'For the salaries and other expenses of Temporary Commissions, Committees and Special Inquiries' is translated as 'chun tuarastail agus costais eile Coimisiún Sealadach, Coistí agus Fiosrúcháin Speisialta'. The title of Part III of the Public Safety Act,

1927, 'Proclamation Authorising Special Courts' is translated as 'Furógra Ag Údarú Cúirteanna Speisialta'.

*riarach cirt* 'Riaradh' is given as a variant of 'riar', verbal noun of the verb 'riar', in *Ó Dónaill*, citing '*riar cirt*, administration of justice'. 'Riaraim' is translated as 'I administer (estate, justice, etc.)' in *Téarmaí Dlí*. *Dinneen* gives both 'riar' and 'riarach' as forms of the verbal noun of this headword, 'act of administering' being given as one of the senses of a separate headword 'riarach'. The earlier 'riarad', verbal noun of 'riaraid', is translated in DIL as (a) 'serving' and (b) 'ministering to, attending on, supplying', the verb being based on 'riar', translated principally as 'will, wish, *often of expression of will*, demand, request, decision' in DIL, where 'mad mo riar-sa dogneithe' ('if it were my will that ye did') is cited from the eighteenth-century Würzburg Glosses on the Pauline Epistles. 'Uraicecht na Ríar' ('the Primer of the Stipulations') is the title of an early Irish law-tract which deals with the qualifications of the various grades of poet – see the 1987 edition and translation by Liam Breatnach.

See the commentary on Articles 34.1 and 43.2.1° regarding 'ceart' (genitive singular 'cirt'), translated as 'right' in *Téarmaí Dlí*, where 'ceartas' translates 'justice'. Following this subsection, however, 'ar mhaithe le riaradh cirt ag Cúirt' renders 'in the interests of the administration of justice by a Court' in Article 28.4.3°, which subsection was added to the text by the Seventeenth Amendment of the Constitution Act, 1997. 'Proceedings before the High Court ... shall be as informal as is practicable and consistent with the administration of justice' is translated as 'Beidh imeachtaí os comhair na hArd-Chúirte ... chomh neamh-ghoimíúil agus is féidir agus i gcomhréir le riaradh ceartais' in s29(4) of the Child Care Act, 1991. 'Persons concerned with administration of justice' is translated as 'Daoine a bhfuil baint acu le riaradh ceartais' in the heading in Schedule 1 of the Juries Act, 1976. In s48(a) of the Offences Against the State Act, 1939, 'that the ordinary Courts are ... inadequate to secure the effective administration of justice and the preservation of public peace and order' is translated as 'nach leor na gnáth-chúirteanna chun a chur in áirithe go riarfaí ceart go héifeachtúil agus go gcoimeádfai an tsíocháin agus an t-ord puiblí'. The Long Title of the Courts of Justice Act, 1936, 'An Act to make further and better provision in relation to the administration of justice', is translated as 'Acht chun socrúithe bhreise agus fheabhsa do dhéanamh maidir le riaradh cirt', with 'for purposes relating to the better administration of justice' being translated as 'chun crícheanna a bhaineas le feabhsú riaradh cirt' in the Long Title of the Courts of Justice Act, 1924. 'Whenever the Executive Council is of opinion that it is necessary in order to secure the due administration of justice and the sure punishment of crime' is translated as 'Pé uair gurb é tuairim na hArd-Chomhairle, chun a chur in áirithe go riarfar ceart go cuibhe agus go bpionósar coirthe go siúrála' in s20(1) of the Public Safety Act, 1927. Note finally that 'justice' is expressed as 'cothrom' in Article 29.1.

*a chur i bhfeidhm* 'I bhfeidhm' is translated as 'in force' in *Téarmaí Dlí*, where 'cuirim i bhfeidhm' is translated as 'I enforce', this phrase being translated as 'I carry out (as an order), use (as a tool), make operative (as an Act of Parliament)' in *Dinneen*. 'Rud a chur i bhfeidhm' is trans-

lated as 'to put something into operation' in *Ó Dónaill*, who cites '*caithfean an dlí a chur i bhfeidhm*, the law must be enforced'. The primary meaning of 'feidhm' seems to be 'load, stress, strain', passing into the senses of 'utmost effort, effort, exertion, burden, service, function' according to DIL.

See the commentary on Article 28.3.3° regarding 'secure' (expressed in that Article by 'cuir in áirithe') and note above s.v. 'riarach cirt', how this is translated as 'a chur in áirithe' in the present context in s20(1) of the Public Safety Act, 1927. 'To facilitate the proper administration of justice, secure the observance of police regulations' is translated as 'chun cuí-riarach an cheartais a urasú, chun a áirithiú go gcomhallfar rialacháin phóilíneachta' in s21 of the Third Schedule to the Diplomatic Relations and Immunities Act, 1967.

Regarding the direct translation below, Professor Máirtín Ó Murchú comments that he would prefer 'a dheimhniú', or even 'a chinntiú', to 'a áirithiú'.

*le héifeacht* 'Rud a dhéanamh le héifeacht' is translated as 'to do something competently, effectively' in *Ó Dónaill*, who cites '*labhair sé le héifeacht*, he spoke strongly, to good effect'. *Dinneen* translates 'éifeacht' as 'force, point, substance; avail; sense, wisdom; maturity', citing '*cé file tú le héifeacht*, though you are a poet composing with sense', concluding his entry, s.v. 'éifeacht' with '*cf. effect*'. DIL translates 'éifeacht' as 'efficacy, vigour, substance, meaning, purport', seventeenth-century texts being the source of most of DIL's citations.

Looking at early translations of 'effective', 'A person shall not receive any part of a grant which may be made in pursuance of this Act for non-effective services' is translated as 'Ní bhfaghaidh neach aon chuid de dheontas a déanfar ar aon seirbhísí neamh-fheidhmiúla do réir an Achta so' in s4 of the Appropriation Act, 1922. 'Every act, matter and thing done ... shall ... be as valid and effective as if the same had been regularly done by a Magistrate' is translated as 'Gach gníomh, rud agus ní dineadh ... beidh chó stóinsithe agus chó héifeachtach is dá ndintí an céanna go rialta ag Máistreoir' in s9(2) of the District Justices (Temporary Provisions) Act, 1923.

Turning to the modern Acts, 'local facilities and services for the proper and effective administration of the assistance' is translated as 'saoráidí agus seirbhísí logánta chun an cúnamh a riar ar bhealach íomchuí agus éifeachtach' in s(b) of Article 3 of the Second Schedule to the Radiological Protection Act, 1991, for example. 'And generally for the effective administration of the Scheme' is translated as 'agus, i gcoitinne, chun an Scéim a riaradh go héifeachtúil' in s5 of the Employment Premium Act, 1975.

*a chaomhnú* See the commentary on Article 28.3.3°. *Ó Dónaill* cites '*nós, teanga, a chaomhnú*, to preserve a custom, a language'. The verb 'cáemnaid' is based on 'cáemna', translated primarily as 'act of protecting, keeping' in DIL, where 'sírchóemna m'anmasa' is cited from *Leabhar na hUídhre*, compiled in Clonmacnois c. 1100.

See the commentary on Article 24.1 as regards 'preservation'. Note that 'that in the interests of the preservation of public peace and order it is expedient that the sale of intoxicating liquor in any town or village should immediately cease' is translated as 'go bhfuil sé oiriúnach, chun síocháin agus ordú puiblí do chimeád, stad do chur

láithreach le deocha meisciúla do dhíol in aon bhaile no sráidbhaile' in s2 of the Intoxicating Liquor Act, 1924. 'Lawfully engaged on duties relating to the preservation of peace and order' is translated as 'bheidh ag gabháil go dleathach do dhualgaisí bhainfidh le síocháin agus ordú do choimeád' in s3 of the Treason Act, 1939, with 'a chó-líonann, go dleathach, dualgaisí a bhaineann le síocháin agus ordú do chimeád' translating the above in s2 of the Treasonable Offences Act, 1925. 'That I will see and cause the peace to be kept and preserved' is translated as 'go bhféachfad chuige agus go gcuirfad fé ndéar go gcimeádfar agus go gcosnófar an tsíocháin' in the 'Form of Declaration' in the Fourth Schedule to the Police Forces Amalgamation Act, 1925. Note finally that 'cosain' expresses 'preserve' in Article 24.1.

*ord poiblí* 'Ord' is translated basically as 'order' in *Ó Dónaill*, who does not cite this phrase. *Dinneen* translates 'órd' as 'order, arrangement, series; custom, law, practice, procedure; ordo, ritual, office, liturgy ...'. Old Irish 'ord(d)' is a learned loanword from Latin 'ordo', translated as 'order, sequence' in DIL, where examples are cited from the eighth-century Glosses onwards – see the commentary on Article 40.6.1°.

'Subject to public order and morality' is translated as 'gan dochar don rialtacht ná don mhoráltacht phuiblí' in Article 8 of the 1922 Constitution. 'The officer so appointed shall keep order at his station' is translated as 'déanfaidh an t-oifigeach a ceapfar amhlaidh órdathacht do chimeád ina stáisiún' in s19 of the Fifth Schedule to the Electoral Act, 1923. 'Any message or communication subversive of public order' is translated as 'aon teachtaireacht no conbharsáid a bheadh díobhálach don ordú phuiblí' in s11(1)(b) of the Wireless Telegraphy Act, 1926. 'The Criminal Justice (Public Order) Act, 1994' is cited in Irish as 'an tAcht um Cheartas Coiriúil (Ord Poiblí), 1994'. 'In the interests of public order or security or safety' is translated as 'ar mhaithe le dea-ord poiblí nó slándáil nó sábháilteacht' in s10(1) of the Air Navigation and Transport Act, 1988. 'To aid the civil power in the preservation of public order' is translated as 'chun cabhrú leis an gcumhacht sibhialta chun an t-ord poiblí a choimeád' in s273(9) of the Mental Treatment Act, 1945. See further the commentary on Article 40.6.1°.

*nach leor* 'Is leor sin' is translated as 'that is enough' in *Ó Dónaill*, who cites '*Is leor a rá (go), suffice it to say (that)*'. *Dinneen* cites '*an leor sain?* is that enough? *is leor sain, enough*'. DIL translate 'lór' as 'enough, sufficient; also adequate, competent', citing 'am loor fri each reit' (I am 'competent to deal with any eventuality') from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Inadequate consideration' is translated as 'comaoin neamhleor' in *Téarmaí Dlí*.

'If it appears to the Minister for Justice that the provisions of this section are inadequate to prevent the negligent or fraudulent handling of money for a client' is translated as 'Más dealraitheach don Aire Dlí agus cirt nach leor forálacha an ailt seo chun cosc a chur le failli agus calaais ag láimhsiú airgid do chliant' in s5(9)(a) of the Auctioneers and House Agents Act, 1967. 'If and wherever and so often as the Government is satisfied that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public

peace and order' is translated as 'Más deimhin agus pé uair agus chó minic agus is deimhin leis an Riaghaltas nach leor na gnáth-chúirteanna chun a chur in áirithe go riarfar ceart go héifeachtúil agus go gcoimeádfar an tsíocháin agus an t-ord poiblí' in s35(2) of the Offences Against the State Act, 1939.

*a gcinnfear* See the commentary on Articles 1 and 12.11.2°.

### Direct translation

Féadfar cúirteanna speisialta a bhunú<sup>1</sup> le dlí chun cionta a thriail i gcásanna ina gcinnfear de réir an dlí sin nach leor<sup>2</sup> na gnáthchúirteanna chun riaradh<sup>3</sup> éifeachtach ceartais a áirithiú<sup>4</sup>, agus síocháin phoiblí agus ord poiblí a chaomhnú.

### Variants

- 1 'a chur ar bun'
- 2 'gur neamhleor'
- 3 'riar'
- 4 'a dheimhniú', 'a chinntiú'

## ARTICLE 38.3.2° AIRTEAGAL 38.3.2°

### TÉACS GAEILGE

Is le dlí a shocrófar comhdhéanamh, cumhachtaí, dlínse agus nós imeachta na gcúirteanna faoi leith sin.

### LITERAL ENGLISH TRANSLATION

It is by law that the constitution, powers, jurisdiction and procedure of those specific courts will be arranged.

### ENGLISH TEXT

The constitution, powers, jurisdiction and procedure of such special courts shall be prescribed by law.

### Divergences between the official texts

- 1 'Prescribe' is expressed by 'socraigh', which term is translated as 'settle' in *Téarmaí Dlí*.
- 2 'Special' is expressed by 'faoi leith', 'specific', as in the previous subsection, with 'speisialta' translating 'special' in *Téarmaí Dlí*, as we have seen.

### Commentary

*a shocrófar* See the commentary on Articles 27.2 and 34.4.3°, where 'prescribe' is expressed by 'ordaigh'. Again Professor Máirtín Ó Murchú, commenting on the direct translation below, favours 'ordaigh' to the term generally used in the modern Acts, 'forordaigh', remarking that 'for-' adds nothing but affectation of expression ("forcamás friotail") to that version.

*nós imeachta* See the commentary on Articles 29.4.2° and 36iii.

*faoi leith* See the commentary on the previous subsection.

*comhdhéanamh* See the commentary on Article 36iii.

*dlínse* See the commentary on Article 3.

**Direct translation**

Déanfar comhdhéanamh, cumhachtaí, dlínse agus nós imeachta na gcúirteanna speisialta sin a fhorordú<sup>1</sup> le dlí.

**Variant**

<sup>1</sup> 'a ordú'

ARTICLE 38.4.1<sup>o</sup> AIRTEAGAL 38.4.1<sup>o</sup>

**TÉACS GAELGE**

Féadfar binsí míleata a bhunú chun daoine a thriail i gcionta in aghaidh dlí mhíleata a deirtear a rinneadar le linn a mbeith faoi dhlí mhíleata, agus fós chun broic le heisith nó le ceannairc faoi arm.

**LITERAL ENGLISH TRANSLATION**

Military benches may be established to try people in offences against military law which it is said they did while they were under military law, and moreover to cope with unrest or with armed rebellion.

**ENGLISH TEXT**

Military tribunals may be established for the trial of offences against military law alleged to have been committed by persons while subject to military law and also to deal with a state of war or armed rebellion.

**Divergences between the official texts**

- 1 'For the trial of offences ... committed by persons' is expressed as 'chun daoine a thriail i gcionta ... a rinneadar' ('to try people in offences ... they committed/did') in the Irish text, whereas 'chun cionta a thriail' expresses 'for the trial of offences' in s3.1<sup>o</sup> of this Article.
- 2 'Offences ... alleged to have been committed' is expressed as 'cionta ... a deirtear a rinneadar' ('offences ... said to have been committed [by them]') in the Irish text; 'I allege' is translated as 'líomhnaím' in *Téarmaí Dlí*.
- 3 'Subject to military law' is expressed as 'faoi dhlí mhíleata' ('under military law') in the Irish text, 'subject to' being translated as 'faoi réir' in *Téarmaí Dlí*.
- 4 The phrase expressing 'military law' in the Irish text, 'dlí míleata', can also be read as 'martial law'.
- 5 'To deal with' is expressed in the Irish text by a phrase generally understood to be 'to tolerate', 'broic le', having the earlier sense of 'to meddle with'.
- 6 'State of war' is expressed by 'eisith', a term literally meaning 'non-peace' and, while it is translated by *Dinneen* as 'state of war', in *Ó Dónaill* it is translated as 'lack of peace; dissension, strife, quarrel'.
- 7 The final clause is preceded by a comma in the Irish text, no corresponding comma being found in the English text.

Note that Article 70 of the 1922 Constitution contains the following:

... extra-ordinary military 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 or armed rebellion .... *ní bunófar cúirteanna nea-choitianta, ach amháin pé Binsi Airm a údarófar le dlí chun lucht airm a bhrisfidh dlí airm a thriail. Ní shroichfidh údarás na mBinsi Airm chun an phobail shibhialta ná ní cuirfear i bhfeidhm ortha é ach in aimsir chogaidh no rebiliúntachta armtha agus mar gheall ar ghníomhartha a déanfar in aimsir chogaidh no rebiliúntachta armtha.*

**Commentary**

*binsí* 'Binse' is translated as 'tribunal' in *Téarmaí Dlí*, where 'barántas binse' is translated as 'bench warrant'. *Ó Dónaill* gives the following senses of 'binse' in Jurisprudence: 'An Binse, the Bench', '*binse breithimh*, judge's bench; tribunal', citing '*idir barra is binse*, in open court'. 'Binse' is translated as 'a seat, a bench; bench in court' in *Dinneen* and 'bein(n)se'/'béinse' is translated as 'bench, table; the Judicial Bench' in DIL, this word being either a French or an English loanword. DIL cites 'do Justis beinnsi an rígh' ('King's bench') from the *Annals of the Four Masters*.

'Binse Airm' translates 'Military Tribunal' in the 1922 Constitution and in the Long Title of the Indemnity Act, 1923, which commences as follows:

An Act to restrict the taking of legal proceedings in respect of certain acts and matters done during the suppression of the state of armed rebellion created by the attempt to overthrow by force the lawfully established Government of Saorstát Éireann, and to validate sentences imposed by military tribunals established in the course of the suppression of the state of armed rebellion aforesaid .... *Acht chun teora do chur le himeachta dlí do bhunú i dtaobh gníomhartha agus nithe áirithe a dineadh le linn cur-ar-ceal do bheith á dhéanamh ar an staid rebiliúntachta armtha a tháinig as an iarracht a tugadh fén Rialtas a bunúidh go dleathach do Shaorstát Éireann do threascairt, agus chun dleathacht do thabhairt do bhreitheanna a thug binsí airm a bunúidh le linn an staid rebiliúntachta armtha san do bheith á chur ar ceal.*

'The Minister, if he so thinks fit, may direct in writing that the charge shall be dealt with by a military tribunal' is translated as 'féadfaidh an tAire, más oiriúnach leis é, a ordú i scríbhinn gur binse míleata a thriailfeas an cúiseamh' in s7(1) of the Prisoners of War and Enemy Aliens Act, 1956. As regards 'tribunal' alone, the 'Tribunals of Inquiry (Evidence) (Amendment) Act, 1979' is cited in Irish as 'an tAcht um Binsí Fiosrúcháin (Fianaise) (Leasú), 1979', for example.

*faoi dhlí mhíleata* On the lenition of the adjective in the dative case, following a masculine noun, see the commentary on Article 45. 'Míleata' is translated as 'military; soldierly, martial' in *Ó Dónaill*, who cites '*seirbhís mhíleata*, military service' and '*iompar míleata*, soldierly bearing', citing '*dlí míleata*, martial law' s.v. 'dlí'. *Dinneen* translates 'míleata' as 'knightly, valorous, military'. DIL translates 'míleata' as 'pertaining to or befitting a warrior, martial', citing 'co barrúachtar a dondfúathróci donddergí míleata' ('[reaching] to the top of his dark apron, dark-red,

soldierly') from the description of Cú Chulainn in the version of the *Táin in Leabhar na hUidhre* (compiled in Clonmacnois c. 1100). This adjective is based on 'mil' ('a soldier'), which is an early loanword from Latin 'miles', the dative plural form, 'do míledaib', being cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles. We find 'mílid' as the form of the nominative singular in Middle Irish, this being the form of the accusative singular in Old Irish. 'Mílid Espáine' ('soldier of Spain') was the name given to Golam son of Bile, 'mythical ancestor of the Góidil', i.e. the Gaels or the Milesian stock in Ireland and Scotland. Dr Dáithí Ó hÓgáin writes as follows in his encyclopaedia of the Irish folk tradition, *Myth, Legend & Romance* (1990, p. 296) s.v. 'Mil':

Fictional ancestor of the Irish people. His full name is given as Mil Easpáine and is an invention of the historians, patterned on the Latin term 'miles Hispaniae' (soldier of Spain). Though it is possible that there was a character called Mil in genuine Celtic mythology, the idea of such a Spanish ancestor developed from the fanciful derivation of the Latin word for Ireland, Hibernia, from Ibēria or Hibēria.

The expression 'meic (clann, etc.) Míled' (= 'Gaels, Irishmen') is common in poetry – see DIL s.v. 'mil'.

Looking at early official translations, we see above in 'Binse Airm' translating 'Military Tribunal' that the genitive singular of 'arm' acted as an attributive adjective to translate 'military'. We find other phrases similarly translated, such as 'military districts' ('ceanntair airm') and 'military reward' ('duais airm') in Acts of 1923. Note that 'in occupation of the military' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'i seilbh an airm' in a 'Cover' of an Official Report of Dáil Debates, 17/1/24. Note, finally, that 'martial court' is translated as 'armchúirt' in *Téarmaí Dlí*.

'Forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a place wholly or partly occupied by the enemy' is translated as 'ina chuid d'fhórsa atá ag oibriú i gcoinnibh an namhad no atá ag déanamh oibre cogaidh in áit atá fé ghabháil go hiomlán no go leathrannach ag an namhaid' in s16 of the Army Pensions Act, 1923. The form 'mileata' – a historically inaccurate form, as Professor Máirtín Ó Murchú remarks – is found in the 1923 Acts, with 'the Irish Military College' styled 'An Coláiste Mileata' in s23(2) of the Defence Forces (Temporary Provisions) Act, 1923, and 'Ceannas Mileata in aimsir cogaidh' translating 'Military Command in time of war' in the Margin Title of s27, for example. As regards more modern Acts, 'the Military Service Pensions (Increase) Act, 1962' is cited in Irish as 'Acht na bPinsean Seirbhíse Mileata (Méadú), 1962', for example.

*broic le* 'Broic' is the verbal noun of the verb 'broic' which, with the preposition 'le', is translated as 'bear, tolerate' in *Ó Dónaill*, who cites '*bheith ag broic le rud*, to put up with something'. 'Broicim (le)' is translated as 'I tolerate, endure' in the 'additional words' added to the Glossary appended to *An Caighdeán Oifigiúil*. Professor Máirtín Ó Murchú remarks that 'broic' implies a sense of 'struggle', and has more explicitly that meaning in the poetry of Dáibhí Ó Bruadair (1625-1698): 'sagart súgach mé gan Laidin / lé ní bhroicim', where the editor (not very accurately, according to Máirtín Ó Murchú) translated 'ní bhroicim' as 'I don't bother with it', and 'broic re rámhain

i n-aois úcaidh', where the editor (equally inaccurately, according to Professor Ó Murchú) translated 'broic' as 'meddling' ('meddling with a spade ...'); as a consequence these meanings are given for 'broic' in *Dinneen* and DIL.

'Déileáil' generally translates 'deal (with)' today, and is found in s21(5) of the Electoral Act, 1923, where 'in sending out, receiving and otherwise dealing with the ballot papers of postal voters' is translated as 'Ag cur amach agus ag fáil páipéirí ballóide post-vótáluithe dho, agus ag deighleáil leo ar shlite eile dho'. 'To assist in the planning and implementation of measures to deal with radiological emergencies' is translated as 'cabhrú chun bearta le déileáil le héigeandálaí raideolaíocha a phleanáil agus a chur i gcrích' in s7(1)(e) of the Radiological Protection Act, 1991, for example. Note, finally, as we saw above, that 'The Minister, if he so thinks fit, may direct in writing that the charge shall be dealt with by a military tribunal' is translated as 'féadfaidh an tAire, más oiriúnach leis é, a ordú i scríbhinn gur binse míleata a thriailfeas an cúiseamh' in s7(1) of the Prisoners of War and Enemy Aliens Act, 1956.

*a deirtear* The passive, present indicative, of 'abair', 'say'. *Ó Dónaill* gives the sense of 'state, allege' as one of the senses of 'abair', citing '*deir sé go bhfuil ocraas air*, he says he is hungry' and '*sin é a deir na húdair*, that is what the authorities state'. DIL translates 'as-beir' simply as 'says, speaks'. See the commentary on Article 40.4.2° where 'á rá' expresses 'alleging'.

'I allege' is translated as 'líomhnaim' in *Téarmaí Dlí*, 'líomhnaim' being translated by *Dinneen* as 'I impute (a crime, etc., to ar), inculcate, ascribe to', as well as 'I woo, have carnal intercourse with (ar)' – Keating's seventeenth-century *History of Ireland* being cited as source of the latter sense. *Dinneen* also cites '*ní féidir coir im' leith do líomhnadh, ní dheárnas goid ná broid ná bruighneas*, no crime can be imputed to me, I have not robbed, plundered nor quarrelled' from the eighteenth-century Clare poet, Andrew MacCurtin. *Ó Dónaill* translates 'líomhain' principally as 'allege, impute'. The verb 'líamnaid' is translated as 'charges, accuses' in DIL, citing 'file ... do bhí ag Conchubhar ... do liamhnadh ar Mhaghain bean Chonchubhair' ('... he was accused of carrying on an intrigue with ...'). 'Líamnaid' is based on 'líamain', which is translated in DIL as (a) 'reproach, fault' and (b) 'act of imputing, slandering', frequently of accusation of sexual misdemeanour, according to DIL, citing 'oc liamain a fir for mnaí aile' from the twelfth-century *Book of Leinster*. 'Líamain' itself is a late verbal noun of the verb 'líid', translated as 'charges, accuses, imputes to' in DIL, where 'liimse forrusom díltud esséirge Crist' ('I accuse them of denying Christ's resurrection') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

'Deir' translates 'allege' in early Acts. In s1(3)(b) of the Indemnity Act, 1923, 'any proceedings in respect of any alleged rights under, or breaches of, any contract' is translated as 'aon imeachta i dtaobh aon chearta adeirtar atá ann fé aon chonrra no i dtaobh aon bhriseanna ar aon chonrra'. 'An alleged invention' is translated as 'rud go ndeirtear gur cumadóireacht é' in s3 of the Industrial and Commercial Property (Protection) Act, 1927, with 'satisfies him that such allegation is untrue' being translated as 'a chur ina luighe air nách fíor an rud san adubhradh' in s6(1) of the Public Safety (Punishment of Offences) Temporary Act, 1924. 'Whether the allegations made by



the person making the claim are or are not true' is translated as 'ce'ca fíor nó bréagach na ráitísí a dhin an té a bheas ag déanamh an éilimh' in s6(2) of the Indemnity Act, 1924. In s9(1) of the Oil in Navigable Waters Act, 1926, 'Where any offence under this Act is alleged to have been committed by the master of a vessel' is translated as 'Má deirtar aon chionta fén Acht so do bheith déanta ag máistir áirthaigh'. Note that 'Alleged personation' is translated as 'Pearsanú do chur i leith duine' in the Margin Title of s25 of the Fifth Schedule to the Electoral Act, 1923. Finally, to give an example from modern Acts, 'in relation to an offence alleged to have been committed by a person acting on behalf of a trade union' is translated as 'maidir le cion a líomhnaítear a rinne duine ag gníomhú dó thar ceann ceardchumainn' in s9(6) of the Electricity (Special Provisions) Act, 1966. See further the commentary on Article 40.4.2°.

*le linn a mbeith* This phrase would generally be replaced by 'le linn dóibh bheith' today. *Dinneen* cites '*le linn iad do bheith ag dul thar brághaid*, just as they were passing'. 'Where imported goods ... are supplied while warehoused' is translated as 'I gcás ina ndéanfar earraí allmharaithe ... a sholáthar le linn dóibh bheith i stóras' in s12(4) of the Value-Added Tax (Amendment) Act, 1978, for example, with 'a fuair bás le linn dó a bheith ag fónamh sna fórsaí' translating 'died while serving in the forces' in s11(1)(b) of the Army Pension Act, 1973.

*a rinneadar* The synthetic form of the third person plural, perfect tense, of 'déan' – see the commentary on Article 14.5.1° regarding the synthetic and analytic (i.e., 'a rinne siad') forms of the verb.

*le heisíth* See the commentary on Article 40.4.6°, 'eisíth' being translated as 'lack of peace; dissension, strife, quarrel' in *Ó Dónaill* and 'eisíoth' being translated as 'state of war' in *Dinneen*.

*ceannairc faoi arm* See the commentary on Articles 28.3.3° and 40.4.6°, 'ceannairc faoi airm' being translated as 'armed rebellion' in *Téarmaí Dlí*.

*fós* See the commentary on Articles 15.3.2° and 29.2. Professor Máirtín Ó Murchú favours 'fós' to 'freisin' in the direct translation below.

### Standardised Irish text

Féadfar binsí míleata a bhunú chun daoine a thriail i gcionta in aghaidh dlí mhíleata a deirtear a rinne siad le linn iad a bheith faoi dhlí míleata, agus fós chun broic le heisíth nó le ceannairc faoi arm.

### Direct translation

Féadfar binsí míleata a bhunú chun cionta in aghaidh dlí mhíleata a thriail ar cionta iad a líomhnaítear a rinne daoine le linn dóibh a bheith faoi réir dlí mhíleata agus fós<sup>1</sup> chun déileáil le staid chogaidh nó ceannairc faoi airm.

### Variant

<sup>1</sup> 'freisin'

## ARTICLE 38.4.2° AIRTEAGAL 38.4.2°

### TÉACS GAELIGE

Duine de na Fórsaí Cosanta nach bhfuil ar fianas ní cead é a thriail i láthair aon armchúirte ná binse míleata eile i gcion is intrialte sna cúirteanna sibhialta, mura cion é atá faoi dhlinse aon armchúirte nó binse míleata eile faoi aon dlí chun smacht míleata a chur i bhfeidhm.

### LITERAL ENGLISH TRANSLATION

A person of the Defence Forces who is not on (military) service it is not permitted to try him before any army court or other military bench in an offence that can be tried in the civil courts, unless it is a crime which is under the jurisdiction of any army court or other military bench under any law to enforce military discipline.

### ENGLISH TEXT

A member of the Defence Forces not on active service shall not be tried by any courtmartial or other military tribunal for an offence cognisable by the civil courts unless such offence is within the jurisdiction of any courtmartial or other military tribunal under any law for the enforcement of military discipline.

### Divergences between the official texts

- 'A member' is expressed as 'Duine', 'A person' / 'One', in the Irish text.
- The Irish phrase expressing 'on active service', 'ar fianas', can be read as 'on a military expedition' or simply as 'on service'; it is a term which carries echoes of early Irish history and society.
- 'Tried by any court martial' is expressed as 'a thriail i láthair aon armchúirte' ('tried before any court martial') in the Irish text.
- 'The Defence Forces' are styled 'Óglaigh na hÉireann' in the Acts, rather than the literal translation, 'na Fórsaí Cosanta', as here.
- 'Tried ... for an offence' is expressed as 'a thriail ... i gcion' ('tried ... in an offence') in the Irish text, the phrase we find in the heading of this Article, for example.
- As in the Acts, 'cognisable by the civil courts' is expressed as 'is intrialte sna cúirteanna sibhialta' ('that can be tried in the civil courts') in the Irish text, this being followed by a comma in that text alone.
- 'Any court martial **or** other military tribunal' is expressed as 'aon armchúirte ná binse míleata eile' ('any court martial **nor** other military tribunal') in the Irish text.
- 'Within the jurisdiction' is expressed as 'faoi dhlinse ...' ('under the jurisdiction') in the Irish text.
- 'Shall not' is expressed as 'ní cead' ('it is not permitted to') in the Irish text, as we have seen in many earlier Articles.

Note that Article 71 of the 1922 Constitution reads as follows:

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 or other Military Tribunal

for an offence cognisable by the Civil Courts, unless such offence shall have been brought expressly within the jurisdiction of Courts Martial or other Military Tribunal by any code of laws or regulations for the enforcement of military discipline which may be hereafter approved by the Oireachtas. *Aon duine d'fhórsaí armtha Shaorstáit Éireann ná beidh ar seirbhís chogúil ní thrialfaidh aon Chúirt Airm ná aon Bhinse eile Airm é in aon choir intrialta ag sna Cúirteanna Sibhialta mara dtabharfar an choir sin go speisialta laistigh d'údarás Chúirteanna Airm, no aon Bhinse eile Airm, le haon chórus dlíthe no rialacha chun smacht airm do chur i bhfeidhm a mholfaidh an t-Oireachtas 'na dhiaidh seo.*

### Commentary

*ar fianas* 'Fiannas' is given as the standard form of 'fianas' in *Ó Dónaill*, who translates 'ar fiannas' as 'on a military expedition'. The principal sense of 'fiannas' in *Ó Dónaill* is 'the profession of a warrior, of a soldier', being preceded by the abbreviation indicating that this use is found only in earlier literary sources. 'Active service' is given as the secondary sense of 'fiannas', preceded by the abbreviation for 'Military'. *Dinneen* translates 'ar fiannas' as 'with the Fiann, on service, on the warpath'. DIL translates 'fianas' as 'the profession of a roving hunter and warrior; military service in a "fian"; warfare as a calling (*especially of roving, of irregular warfare*)', citing 'doluid Creidne ... for fiannas' ('Creidne entered upon *fiannas*') from the twelfth-century manuscript *Rawlinson B 502*. This term is based on 'fian', explained in DIL as follows:

A band of roving men whose principal occupations were hunting and war, also a troop of professional fighting-men under a leader. In later application especially the warrior-bands under Finn son of Cumall, who are described as constituting a military caste.

See also Dáithí Ó hÓgáin, op. cit., p. 203:

The word 'fianna' was used in early times for young hunter-warriors. Such groups of young men were a social reality in many early societies, as it was part of a warrior's training to live for a period in the wilderness in order to learn how to hunt and fight. The singular of 'fianna' was 'fian', a cognate of the Latin 'venatio' ('hunting') and of the word which appears in English as 'win'. Originally, it had no connection with the name 'Fionn', but when the Leinsterman used Fionn as a symbol of their efforts in the 5th-6th centuries to regain the Boyne valley from their Uí Néill foes, it is apparent that a Leinster version of the hunter-warrior cult got especially connected with Fionn. Thus in narrative Fionn came to be regarded as a great 'feinnidh', or leader of a troop of fianna.

'Comhaltáir ar fiannas' translates 'Members on active service' in the Margin Title of s4 of the Defence (Amendment) Act, 1990, with 'a member who is on active service' being translated as '(do) chomhalta atá ar fiannas' in that section. 'Unless such offence was committed while such person was on active service' is translated as 'mura le linn don duine sin a bheith ar fianas a rinneadh an cion sin' in s5(3) of the Genocide Act, 1973. 'If he commits such offence not on active service and is an officer, dismissal with ignomy from the Defence Forces' is translated as 'murab ar fianas a dhéanfas sé an cion sin agus más oifigeach é, é a dhífhostú faoi aithis as Óglaigh na hÉireann'

in s126(2)(ii) of the Defence Act, 1954, with 'and if the offence was committed not on active service, dismissal with ignomy' being translated as 'agus ná raibh sé ar seirbhís chogúil agus é ag déanamh an chionta, féadfar é do chur as an arm fé aithis' in s38(1) of the Defence Forces (Temporary Provisions) Act, 1923. In the Sixth Schedule to the Defence Forces (Temporary Provisions) (No. 2) Act, 1940, we find the following:

If committed on active service, death. If committed when not on active service, penal servitude. *I gcás an cionta do dhéanamh le linn seirbhíse cogúla – an bás. I gcás an cionta do dhéanamh tráth ar bith eile – pian-tseirbhís.*

'Seirbhís chogaidh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'active service' in translations for the Department of Defence.

*smacht* 'References to military discipline shall be construed as references to naval discipline' is translated as 'déanfar tagairtí do smacht míleata a léiriú mar thagairtí do smacht cabhlaigh' in s8(1)(a)(v) of the Defence Forces (Temporary Provisions) Act, 1947. Looking at early Acts regarding 'discipline', 'She shall exercise supervision over discipline in the Institution' is translated as 'Déanfa sí maoirseacht ar an smachtúchán sa bhFúndúireacht' in the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'and to maintain proper order and discipline in the sick wards in her charge' being translated as 'agus í do chimeád rialtacha agus disciplín mar is cóir sna haireagail a bheidh féna cúram' in the same Schedule.

*i láthair aon armchúirte* 'Dul i láthair na cúirte' is translated as 'to appear before the court' in *Ó Dónaill*, with '*dul i láthair an bhreithimh (na cúirte)*, to appear before the judge (court)' being cited by *Dinneen*. DIL s.v. 'láthair', translates 'i láthair' as 'in(to) the presence of' – see the commentary on Article 28.8. 'Armchúirt' is translated as 'court martial' in *Téarmaí Dlí* and in *Ó Dónaill*, with '*cúirt airm*, court-martial' being cited in the latter s.v. 'cúirt'. This compound of 'arm' and 'cúirt' does not appear to be given as a headword in *Dinneen*.

'The Courts-Martial Appeals Act, 1983' is cited in Irish as 'an tAcht um Achomhairc Armchúirteanna, 1983'. 'Proceedings before a court (including a courtmartial) exercising jurisdiction under the law of any legislature' is translated as 'imeachtaí os comhair cúirte (lena n-áirítear armchúirt) a mbeidh dlínse á hoibriú aici faoi dhlí aon reachtais' in s4 of the Second Schedule to the Defamation Act, 1961. 'He shall remand the accused for trial by General Court-martial' is translated as 'déanfa sé an duine cúisithe do chur siar chun go dtrialfaidh Arm-Chúirt Ghinearálta é' in s5 of the Defence Forces (Temporary Provisions) Act, 1925.

*sibhialta* See the commentary on Article 34.3.1°. 'Civil proceedings' is translated as 'imeachtaí sibhialta' in *Téarmaí Dlí*, with 'ordinary civil process' being translated as 'gnáthphróis sibhialta'. 'The expression "Civil Court" means with respect to any crime or offence, a Court of ordinary criminal jurisdiction' is translated as 'Cialluíonn an focal "Cúirt Sibhialta", maidir le haon choir no cionta, Cúirt ghnáth-udaráis choiriúla' in s3(18) of the Defence Forces (Temporary Provisions) Act, 1923. 'Unless the

existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces' is translated as 'mura rud é go gceadaíonn dlíthe na Cumhachta Coinneála faoi láthair do na cúirteanna sibhialta duine d'fhórsaí armtha na Cumhachta Coinneála a thriail' in Article 84 of the Third Schedule to the Geneva Conventions Act, 1962, for example.

*intrialte* This compound of the separable prefix 'in-' with the genitive, 'denoting fitness, aptitude, worthiness', according to *Dinneen*, and the genitive of 'trial' ('try'), is not given as a headword either in *Téarmaí Dlí* or in *Ó Dónaill*. In s9(2) of the Courts-Martial Appeals Act, 1983, 'For the purpose of hearing and determining any particular appeal cognisable by the Court' is translated as 'Chun aon achomharc ar leith is intrialte ag an gCúirt a éisteacht agus a chinneadh'. 'To sit on the hearing of any appeal to or other matter cognisable by the Supreme Court' is translated as 'suí le linn éisteacht aon achomhairc chun na Cúirte Uachtaraí nó aon ábhair eile is intrialte ag an gCúirt Uachtarach' in s1(4) of the Courts (Establishment and Constitution) Act, 1961. 'Any appeal to or other matter cognisable by the Supreme Court may be heard and determined by such number' is translated as 'féadfaidh líon ... (de sna breithiúin) aon athchomharc chun na Cúirte Uachtaraíge no ní eile is intrialta ag an gCúirt Uachtaraigh d'éisteacht agus breith do thabhairt air' in s4(3) of the Courts of Justice Act, 1936. In the Preamble to the Defence Forces (Temporary Provisions) Act, 1923, 'a member of the armed forces of Saorstát Éireann not on active service shall not be tried by any court-martial or military tribunal for an offence cognisable by the Civil Courts', following Article 71 of the 1922 Constitution, is translated as 'ná déanfidh aon arm-chúirt ná aon bhínse eile airm aon duine d'fhórsaí armtha Shaorstáit Éireann ná beidh ar seirbhís chogúil do thriail in aon choir intrialta ag na Cúirteanna Sibhialta'.

Note that 'except by Order of the Dáil or of a tribunal having cognizance of petitions complaining of undue returns or undue elections' is translated as 'ach le hOrdú ón Dáil no ó bhínse atá in aitheantas ar achuingíocha a ghearánann i dtaobh tortha nea-chuibhe no i dtaobh toghachána nea-chuibhe' in s39 of the Fifth Schedule to the Electoral Act, 1923. 'The expression "election tribunal" means a court lawfully having cognizance of petitions complaining of undue return or undue election at a Seanad election' is translated as 'cialluíonn an focal "binse toghacháin" cúirt ag á mbeidh údarás go dleathach deighleáil le hachuingheacha ag gearán mar gheall ar thuairisciú nea-chuibhe no ar thogha nea-chuibhe i dtoghchán Seanad' in s33 of the First Schedule to the Seanad Electoral Act, 1928.

*binse míleata eile* In both cases of its usage here this phrase is in the genitive, following the prepositional phrases 'i láthair' and 'faoi dhlínse'. In both the Glossary accompanying *An Caighdeán Oifigiúil* and in *Ó Dónaill*, 'binse' is given as a masculine noun, and the adjective qualifying it in the genitive singular would therefore be lenited. 'Binse' is given as feminine in *Dinneen*, however. DIL gives the earlier 'bein(n)se'/'béinse' as masculine – see the commentary on the previous subsection regarding this term.

*a chur i bhfeidhm* 'Cuir i bhfeidhm' expresses 'secure' in Article 38.3.1°. Looking at 'enforce' in early Acts, 'A contract ... shall not be enforceable against a candidate at such election' is translated as 'ní féadfar é do chur i bhfeidhm i gcoinnibh iarrthóra sa toghachán sin' in s32(2) of the Prevention of Electoral Abuses Act, 1923. 'The Enforcement of Law (Occasional Powers), Act, 1923' is cited in Irish as 'an t-Acht um Fheidhmiú Dlí (Comhacht Ócáideach), 1923', with 'to provide for the better enforcement of law' being translated as 'chun soláthair do dhéanamh d'fheabhas-fheidhmiú an dlí' in the Long Title. Note, finally, that 'for enforcing the attendance of witnesses' is translated as 'chun a chur fhiachaint ar fhínnithe teacht i láthair' in s5(1) of the Tariff Commission Act, 1926.

Turning to the modern Acts, 'Subject to the law relating to bankruptcy and to the enforcement of judgments and orders' is translated as 'faoi réir an dlí a bhaineann le féimheacht agus le breithiúnais agus orduithe a chur i bhfeidhm' in s121(b) of the Social Welfare (Consolidation) Act, 1981. 'Any reference in this part to the enforcement of an award' is translated as 'aon tagairt sa Chuid seo d'fhorghníomhú dámhachtana' in s7(2) of the Arbitration Act, 1980. 'An Act to make provision in relation to the reciprocal recognition and enforcement of maintenance orders as between the State and Northern Ireland ...' is translated as 'Acht do dhéanamh socrú maidir le horduithe cothabhála a aithint agus a fheidhmiú go cómhálartach idir an Stát agus Tuaisceart Éireann' in the Long Title of the Maintenance Order Act, 1974.

*na Fórsaí Cosanta* See the commentary on Article 13.4.

### Standardised gender-proofed Irish text

Duine de na Fórsaí Cosanta nach bhfuil ar fiannas ní cead é nó í a thriail i láthair aon armchúirte ná binse mhíleata eile i gcion is intrialte sna cúirteanna sibhialta, mura cion é atá faoi dhlínse aon armchúirte nó binse mhíleata eile faoi aon dlí chun smacht míleata a chur i bhfeidhm.

### Direct gender-proofed translation

Ní dhéanfar comhalta d'Óglaigh na hÉireann nach bhfuil ar seirbhís ghníomhach<sup>1</sup> a thriail ag aon armchúirt nó binse míleata eile i leith ciona atá intrialte ag na cúirteanna sibhialta mura bhfuil an cion sin laistigh de dhlínse aon armchúirte nó binse mhíleata eile faoi aon dlí chun smacht míleata a chur i bhfeidhm.

### Variants

- <sup>1</sup> 'ar fiannas', 'ar seirbhís chogaidh'

## ARTICLE 38.5 AIRTEAGAL 38.5

### TÉACS GAELGE

Ní cead duine a thriail in aon chúis choiriúil ach i láthair choiste tiomanta, ach amháin i gcás cionta a thriail faoi alt 2, alt 3 nó alt 4 den Airteagal seo.

### LITERAL ENGLISH TRANSLATION

It is not permitted to try a person in any criminal charge/prosecution except in the presence of a sworn committee,

except in the case of trial of offences under section 2, section 3 or section 4 of this Article.

#### ENGLISH TEXT

Save in the case of the trial of offences under section 2, section 3 or section 4 of this Article no person shall be tried on any criminal charge without a jury.

#### Divergences between the official texts

- 1 'Without a jury' is expressed as 'ach i láthair choiste tiomanta' ('except in the presence of a sworn committee') in the Irish text; while 'coiste' has the sense of 'jury', the latter term is translated as 'giúiré' in *Téarmaí Dlí*.
- 2 'Charge' is expressed by 'cúis', which term, although it can have this sense in general usage, is translated simply as 'cause' in *Téarmaí Dlí*, 'cúiseamh' translating 'charge'.
- 3 As we have seen earlier, 'tried on' is expressed as 'a thriail in', 'tried in', in the Irish text.
- 4 The order of the clauses is reversed in the two texts.
- 5 'No ... shall' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in many earlier Articles.

J.M. Kelly, op. cit., p. 208, reports as follows on reference made to this Article in the courts:

In *The People (Attorney General) v Conmey* ([1975] IR 341) Walsh J emphasised that the result of a trial on indictment was not a conviction or acquittal "by" the jury, but by the court; the wording of Article 38.5 referred not to trial "by" jury but to trial "with" a jury; this interpretation, he said, was "borne out by reference to the Irish language text of the Constitution" ("i láthair choiste tiomanta"). In *In re Haughey* ([1971] IR 217) Ó Dálaigh CJ cited the Irish text of the section to reinforce the obviously mandatory meaning of the English text.

Note that Article 72 of the 1922 Constitution reads as follows:

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 or other Military Tribunal. *Ní trialfar aon duine in aon chúis choiriúil gan choiste ach i gcás cúiseanna timpeal mion-choirthe atá intrialta le dlí i láthair Chúirt Údarás Achmair agus i gcás cúiseanna timpeall coirthe i gcoinnibh dlí airm atá intrialta ag Chúirt Airm no Binse eile Airm.*

#### Commentary

*i láthair choiste tiomanta* According to the official standard, 'coiste' would not be lenited following the prepositional phrase 'i láthair', lenition following a compound preposition only in the case of a definite noun and a proper noun – see s5 of the chapter headed 'Séimhiú agus Urú' in *An Caighdeán Oifigiúil*. On the other hand, 'tiomanta', being a participial adjective qualifying the masculine noun 'coiste' in the genitive case, would be lenited, according to the official standard. Note, however,

that while 'coiste' is given as being masculine in *Ó Dónaill* and in the Glossary accompanying *An Caighdeán Oifigiúil*, according to *Dinneen*, 'coiste' is sometimes feminine. 'Coiste' is given as masculine in DIL, this word coming from English 'quest(e)', according to Douglas Hyde, DIL translating this headword as 'jury', citing 'do Philip féin / fá coisde' ('being tried by jury') from the collection of bardic poems to the O'Reillys (edited by James Carney, 1950).

*Dinneen* translates 'coiste' as 'a deliberative body, especially a jury, a quest; a committee', citing '*coiste mór*, grand jury'. 'Coiste' is translated primarily as 'jury' in *Ó Dónaill*, who cites '*coiste crónéara*, coroner's jury; coroner's inquest' and '*coiste dháréag, cúirte*, common, court, jury', also citing '*coiste mór*, grand jury'. 'Committee' is the secondary sense of 'coiste' given by *Ó Dónaill*, citing '*coiste iniúchta, stiúrtha*, inspection, steering-, committee'. This is the general sense today of 'coiste', and 'coiste' is translated solely as 'committee' in the Glossary appended to *An Caighdeán Oifigiúil* and in *Téarmaí Dlí*, where '*coiste iniúchta*, committee of inspection' is cited, with 'jury' being translated as 'giúiré'.

'Tiomanta' is the past participle of 'tiomain' and is translated as 'sworn; set, determined' in *Ó Dónaill*, who cites '*tá sé tiomanta é a dhéanamh*, he is sworn, determined, to do it' and the asseveration '*diabhal thiomanta duine acu*, devil a one of them'. 'Tiomanta' is translated as 'bequeathed, assigned, consigned, dedicated, devoted (to, *chum*), sworn to or resolved on (*ar*); extreme' in *Dinneen*, who cites '*tiomanta chum oibre*, devoted to work' and '*tiomanta chum óil*, addicted to drink'. The earlier form of the verb 'tiomain' was 'do-im(m)na', which had 'timna' as verbal noun, one of the senses of which is 'act of bequeathing; will, testament', this being in general usage today particularly in 'an Tiomna Nua' ('the New Testament') and 'an Sean-Tiomna' ('the Old Testament').

Looking at early Acts, 'The Grand Jury (Ireland) Act, 1836' is cited in Irish as 'An t-Acht um Ard-Choisti (Éirinn), 1836' in the Second Schedule to the Damage to Property (Compensation) Act, 1923. 'Coiste dáréag' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'jury' in a Bill, 13/3/24. 'Power to hold inquest without a jury in certain cases' is translated as 'Comhacht chun coiste do dhéanamh gan giúiré i gcásanna áirithe' in the Margin Title of s3 of the Coroners (Amendment) Act, 1927, which Act is cited in Irish as 'an tAcht Coróiníri (Leasú), 1927', with 'the Juries Act, 1927' being cited in Irish as 'Acht na nGiúirithe, 1927', and 'sa ghiúiré-bhosca' translating 'in the jury box' in s47(5). 'And the trial is being or to be held without a jury' is translated as 'agus go mbeidh an triail á seoladh nó le seoladh gan giúiré' in s1(1) of the Criminal Justice (Verdicts) Act, 1976. 'Any action under that Act may ... be heard ... by a judge without a jury' is translated as 'féadfaidh breitheamh gan giúiré aon aicsean fén Acht san d'éisteacht' in s83(1) of the Courts of Justice Act, 1936.

*Ní cead* See the commentary on Article 9.1.3°.

*aon chúis choiriúil* See the commentary on Article 38.1.

#### Standardised Irish text

Ní cead duine a thriail in aon chúis choiriúil ach i láthair coiste thiomanta, ach amháin i gcás cionta a thriail faoi alt 2, alt 3 nó alt 4 den Airteagal seo.

**Direct translation**

Ach amháin i gcás cionta a thriail faoi alt 2, alt 3 nó alt 4 den Airteagal seo ní dhéanfar aon duine a thriail in aon chúiseamh coiriúil gan ghiúiré.

## ARTICLE 38.6 AIRTEAGAL 38.6

**TÉACS GAEILGE**

Ní bhainfidh forálacha Airteagal 34 ná Airteagal 35 den Bhunreacht seo le haon chúirt ná le haon bhinse a bhunófar faoi alt 3 nó alt 4 den Airteagal seo.

**LITERAL ENGLISH TRANSLATION**

The provisions of Article 34 nor of Article 35 of this Constitution will not concern any court nor any bench which will be established under section 3 or section 4 of this Article.

**ENGLISH TEXT**

The provisions of Articles 34 and 35 of this Constitution shall not apply to any court or tribunal set up under section 3 or section 4 of this Article.

**Divergences between the official texts**

- 1 'Of Article 34 and 35' is expressed as 'Airteagal 34 ná Airteagal 35', '(of) Article 34 nor (of) Article 35', in the Irish text – with repetition of 'Airteagal' – and 'to any court or tribunal' is expressed as 'le haon chúirt ná le haon bhinse' ('to any court nor to any tribunal').
- 2 'Shall not apply to' is expressed as 'Ní bhainfidh ... le' ('will not concern') in the Irish text, this phrase also translating 'apply to' in the Acts.

**Commentary**

*ná le haon bhinse* Professor Máirtín Ó Murchú recommends 'ná' here in the direct translation below in the case of two separate things being involved, that being the understanding of the drafters of the Irish text.

*Ní bhainfidh ... le* See the commentary on Article 3.

**Direct translation**

Ní bheidh feidhm ag forálacha Airteagal 34 agus 35 den Bhunreacht seo maidir<sup>1</sup> le haon chúirt nó<sup>2</sup> le haon bhinse a bhunófar faoi alt 3 nó alt 4 den Airteagal seo.

**Variants**

- 1 'Ní bhainfidh forálacha Airteagal 34 agus 35'
- 2 'ná'

## ARTICLE 39 AIRTEAGAL 39

**TÉACS GAEILGE**

Is é amháin is tréas ann cogadh a chur ar an Stát, nó cabhrú le stát nó le duine ar bith, nó saighdeadh faoi duine, nó bheith i gcomhcheilg le duine, chun cogadh a

chur ar an Stát, nó iarracht a dhéanamh le harm nó ar mhodh fhoréigneach eile ar na horgain rialtais a bhunaítear leis an mBunreacht seo a threascairt, nó páirt nó baint a bheith ag neach lena leithéid sin d'iarracht, nó aon duine a shaighdeadh nó bheith i gcomhcheilg leis chun a déanta nó chun páirt nó baint a bheith aige léi.

**LITERAL ENGLISH TRANSLATION**

What treason is solely is to undertake war against the State, or to assist any state or person whatever, or to incite a person, or to be in conspiracy with a person, to undertake war against the State, or to make an attempt with arms or in another violent manner to overthrow the organs of government which are established by this Constitution, or someone to have a part (in) or connection with such an attempt, or to incite any person or to be in conspiracy with him in order to do it or in order that he have a part (in) or connection with it.

**ENGLISH TEXT**

Treason shall consist only in levying war against the State, or assisting any State or person or inciting or conspiring with any person to levy war against the State, or attempting by force of arms or other violent means to overthrow the organs of government established by this Constitution, or taking part or being concerned in or inciting or conspiring with any person to make or to take part or be concerned in any such attempt.

**Divergences between the official texts**

- 1 The Irish phrase involved in expressing 'taking part or being concerned in ... any such attempt', 'páirt nó baint a bheith ag x le y', can be read simply as 'x having something to do with y', this complete English text being expressed as 'páirt nó baint a bheith ag neach lena leithéid sin d'iarracht' ('a person / one having a part [in] or connection with such an attempt') in the Irish text, 'páirt a ghlacadh i rud' usually rendering 'to take part in something'.
- 2 Although 'saighdeadh faoi' and 'a shaighdeadh' have the sense of 'inciting', 'I incite' is translated as 'gríosaim' in *Téarmaí Dlí*.
- 3 'Any person', in the first part of the Article, is twice expressed as 'a person' ('faoi dhuine', 'le duine') in the Irish text.
- 4 'By force of arms' is expressed as 'le harm', 'with arms', in the Irish text.
- 5 'State' has a capital 'S' in 'assisting any State', a lower-case 's' corresponding to this in the Irish text.

Note that s1(1) of the Treasonable Offences Act, 1925, reads as follows:

Every person who commits in Saorstát Éireann any of the following acts, that is to say:-

- (a) levies war against Saorstát Éireann, or
- (b) assists any state or person engaged in levying war against Saorstát Éireann, or
- (c) conspires with any person (other than his or her wife or husband) or incites any person to levy war against Saorstát Éireann, or
- (d) attempts or takes part or is concerned in an attempt to overthrow by force of arms or other violent means the Government of Saorstát Éireann

- as established by or under the Constitution, or  
(e) conspires with any person (other than his or her wife or husband) or incites any person to make or to take part or be concerned in any such attempt,

shall be guilty of treason and shall be liable on conviction thereof to suffer death.

*Gach éinne a dhéanfidh i Saorstát Éireann aon ghníomh acu so a leanas, sé sin le rá:-*

- (a) *coga do dhéanamh i gcoinnibh Shaorstáit Éireann, no*  
(b) *cabhrú le haon stát no duine a bheidh ag déanamh cogaidh i gcoinnibh Shaorstáit Éireann, no*  
(c) *cogar do dhéanamh le héinne (seachas a bhean no a fear) no éinne do ghríosú chun coga do dhéanamh i gcoinnibh Shaorstáit Éireann, no*  
(d) *iarracht do dhéanamh no páirt a thógaint in iarracht no baint a bheith aige le hiarracht chun Rialtas Shaorstáit Éireann, mar atá sé bunuithe leis an mBunreacht no fé, do bhrise le neart claidhimh no le fóiréigean eile, no*  
(e) *cogar do dhéanamh le héinne (seachas a bhean no a fear) no éinne do ghríosú chun aon iarracht den tsórt san do dhéanamh no chun páirt a thógaint inti no chun baint a bheith aige léi, beidh sé ciontach i dtréasún agus ar a chiontú ann féadfar é chur chun báis.*

### Commentary

*cogadh a chur ar* This phrase is translated as 'to make war on' in *Ó Dónaill*, who gives 'engage in, challenge to' as one of the senses of 'cuir ar', citing '*chuir sé troid orm*, he challenged me to fight'. *Dinneen* translates 'cuirim cogadh ar' as 'I declare war on, am aggressive towards', citing '*chuirfeadh sé cogadh ar an aonach*, he would attack a whole crowd'. 'Cocad', which is a compound of 'com' (Modern Irish 'comh') and 'cath', glosses Latin 'bellum' in the ninth-century Milan Glosses on the Commentary on the Psalms. The verb 'cuirid' replaced earlier 'fo-ceird' and 'do-cuirethar'; DIL cites examples of 'fo-ceird' with 'cath', etc., in the sense of 'performs, executes, wages', from *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100) and the twelfth-century *Book of Leinster* onwards, including the following from the latter manuscript: 'In cath il-Luchut rolá / ... for Connachta' ('The battle at Luchut he fought / ... against Connacht'). *De Bhaldraithe* translates 'to levy war on someone' as 'cogadh a chur ar dhuine'. 'I levy' is translated as 'toibhím' in *Téarmaí Dlí*, this being used in the sense of levying taxes, rent, etc. Note that 'cogadh do dhéanamh i gcoinnibh Shaorstáit Éireann' translates 'levies war against Saorstát Éireann' in s1(1) of the Treasonable Offences Act, 1925, above.

Note, finally, that the clause 'chun cogadh do chur ar an Stát' is followed by a semi-colon in the original text.

*saighdeadh faoi dhuine ... a shaighdeadh* 'Saighdeadh' is the verbal noun of 'saighid', translated as 'incite, provoke' in *Ó Dónaill*, who cites '*duine a shaighdeadh (le rud a dhéanamh)*, to incite someone (to do something)' and '*saighdeadh faoi dhuine*, to provoke, aggravate, someone'. *Dinneen* translates 'saighdim' as 'I egg on, abet, incite, provoke, thrust, push, shoot, rout'. *Ó Dónaill* gives 'incitation' as a secondary sense of 'saighdeadh', citing '*chuir*

*sé saighdeadh den mhadra iontu*, he set the dog at them'. The principal sense of 'saighdeadh' is 'arrow', the earlier form 'saiget' coming from Latin 'sagitta', which term it glosses in the ninth-century Milan Glosses on the Commentary on the Psalms. 'Saigteóir', Modern Irish 'saighdiúir' ('soldier'), is based on 'saiget' and originally had the sense of 'archer, Bowman', the sense 'soldier' in general probably influenced by English 'soldier', according to DIL.

'I incite' is translated as 'gríosaim' in *Téarmaí Dlí* with 'incitement' translated as 'gríosú'. Note that 'gríosáigh' is the verb found in s1(1)(c) of the Treasonable Offences Act, 1925, above. 'Inciting to commit crime' is translated as 'Duine do ghriosa chun coir a dhéanamh' in the Third Schedule to the Defence Forces (Temporary Provisions) Act, 1923. 'Inciting persons to engage in an attempt to overthrow by violence the established form of Government of Saorstát Éireann or organising or otherwise assisting or encouraging any such attempt' is translated as 'Daoine do ghríosú chun tabhairt fé fhuirm bhunuithe Rialtas Shaorstáit Éireann do bhrise le fóiréigean no aon iarracht den tsórt san d'ullamhú no, ar aon tsli eile, cabhair no misneach do thabhairt dá leithéid d'iarracht' in s1 of the Schedule to the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. 'Attempting, conspiring or inciting another person to commit an offence there specified' is translated as 'iarracht a thabhairt ar chion a shonraítear ansin a dhéanamh, nó comhcheilg a dhéanamh nó duine eile a ghríosú le cion a shonraítear ansin a dhéanamh' in s3(1)(b) of the Criminal Law (Jurisdiction) Act, 1976. 'Whether by inciting or encouraging them to do so' is translated as 'cibé acu trína ngríosadh nó trína spreagadh chun déanamh amhlaidh' in s3(1)(a)(i) of the Video Recordings Act, 1989.

*tréas* This headword is translated as 'treason' in *Téarmaí Dlí* and as 'treason; disloyalty, rebellion' in *Ó Dónaill*, who cites '*tréas a dhéanamh*, to commit treason' and '*dul i dtréas ar Dhia*, to rebel against God'. *Dinneen* translates 'tréas' as 'treason, treachery, wrong-doing, a treacherous deed', citing '*an tréas*, treason' and '*Ábsolom d'imthigh i dtréas*, Absolom who became a traitor'. Dáibhí Ó Bruadair (1625-1698) is the source of DIL's two citations of 'traos', translated simply as 'treason' – see the commentary on Article 15.13.

'Tréasún isea gníomhartha áirithe feasta' translates 'Certain acts to be treason' in the Margin Title of s1 of the Treasonable Offences Act, 1925, which Act is cited in Irish as 'an tAcht um Chiontaí Tréasúnta, 1925'. 'Except in case of treason' is translated as 'ach amháin i gcás tréasúin' in Article 18 of the 1922 Constitution. 'If he is convicted of treason' is translated as 'Má fachtar ciontach i dtréasán é' in s69(1) of the Defence Forces (Temporary Provisions) Act, 1923. 'Save in the case of persons charged with ... high treason, treason felony, or treasonable conspiracy' is translated as 'ach amháin i gcás daoine a cúiseofar ... in árd-thréasún, i bhfeleontacht thréasúin, no i gcogar tréasúnta' in s49 of the Courts of Justice Act, 1924. 'In respect of sedition, treason or treason felony' is translated as 'mar gheall ar cheannairc, ar thréasán no ar fheleontacht tréasain' in s2(2)(b) of the Military Service Pensions Act, 1934. Following the 1937 Constitution, 'the Treason Act, 1939' is cited in Irish as 'an tAcht Tréasa, 1939'. Finally, 'evidence relating to the commission or intended commission of treason' is translated as 'fianaise a bhaineann

le tréas a dhéanamh nó lena bheith beartaithe é a dhéanamh' in s5 of the Criminal Law Act, 1976.

*i gcomhcheilg le duine* 'Comhcheilg' is translated as 'conspiracy' in *Téarmaí Dlí* and in *Ó Dónaill*, 'cómhchealg' being similarly translated in *Dinneen*. This is a compound of the prefix 'comh-' ('mutual, joint, common, co-') and 'cealg', translated in *Ó Dónaill* as 'guile, deceit; treachery', with *Dinneen* translating this headword as 'a sting; a plot, deceit, treachery, guile', citing '*i gceilg*, treacherously', with 'ceilg' being the form of the dative singular. DIL translates 'celg' principally as 'deceit, treachery, guile, stratagem', citing 'do denam sida céici fris dia tarrachtain' (i.e. making 'false peace') from *Leabhar na hUídhre*, compiled in Clonmacnois c. 1100, and 'mo chealg bháis chruaidh ghuit' ('o bitter piercing sting of death to me'), from the poems of Aogán Ó Rathaille (1675-1728), as an example of the later sense of 'sting'.

We see above that 'cogar do dhéanamh le héinne' translates 'conspires with any person' in s1(1) of the Treasonable Offences Act, 1925. 'Knowingly aiding, abetting, assisting in, or encouraging the commission of, or conspiring to commit, any of the offences mentioned in this schedule' is translated as 'cabhrú le héinne, é ghríosú, cuidiú leis no é mhisniú, no cogar do dhéanamh, chun aon chionta dá luaidhtear sa sceideal so do dhéanamh' in s13 of the Schedule to the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. 'Acting in the name of or on behalf of any combination or conspiracy for the overthrow of the late Provisional Government of Ireland' is translated as 'ag gníomhú in ainm no thar ceann aon chur-le-chéile no cogair chun Rialtas Sealadach na hÉireann do bhí ann le déanaí ... do threascairt' in s15(9)(d)(i) of the Damage to Property (Compensation) Act, 1923. Note, finally, that 'uisce faoi thalamh' is a colloquial expression for 'conspiracy' in Irish.

Turning to modern Acts, 'proceedings are instituted against another person charging him with the offence of aiding, abetting or assisting the principal offender or of conspiring with the principal offender to commit the principal offence' is translated as 'imeachta a thionscnamh i gcoinne duine eile á chúiseamh i gcion faoi gur chabhraigh, gur neartaigh, gur chuidigh nó gur chomhcheilg sé leis an bpríomh-chiontóir chun an príomh-chion a dhéanamh' in s3(3)(b) of the Customs Act, 1956, the same English text (with 'another person' replacing 'the principal offender') being translated as 'imeachta do bhunú i gcoinne duine eile á chúiseamh sa chionta san, cabhrú, neartú, nó cuidiú nó comhcheilg do dhéanamh le duine eile chun an príomh-chionta do dhéanamh' in s3(9)(b) of the Customs (Temporary Provisions) Act, 1945.

*le harm* See the commentary on Article 28.3.3°, in which Article we find 'ceannairc faoi arm', this phrase being given in *Téarmaí Dlí* as 'ceannairc faoi airm', i.e. the plural form of 'arm'. *Ó Dónaill* cites '*le tine is le harm*, with fire and sword' and '*faoi arm*, under arms', the latter as an example of the collective sense of Irish 'arm', 'arms'. *Dinneen* cites '*gléasta i n-arm is i n-éide*, under arms and in armour'. DIL cites 'bat armatura dei bess lib nábat nacha arm aile' ('let *armatura Dei* be with you; let it not be any other arms') from the eighth-century Würzburg Glosses on the Pauline Epistles.

Note that 'le neart claidhimh' translates 'by force of

arms' in s1(1) of the Treasonable Offences Act, 1925, cited above. 'Every person who prevents or obstructs, or attempts or is concerned in an attempt to prevent or obstruct, by force of arms or other violent means ... the carrying on of the government of the State' is translated as 'Gach duine chuirfidh cosc no bac no bhéarfaidh fé chosc no bac do chur no go mbeidh baint aige le tabhairt fé chosc no bac do chur, tré neart airm no tré fhoiréigin eile ... le riaghaltas an Stáit ... do choimeád ar siúl' in s7(1) of the Offences Against the State Act, 1939.

*ar mhodh fhoréigneach* See the commentary on Article 45 regarding the lenition of the adjective following a masculine noun in the dative singular. 'Foréigneach' is translated as 'violent' in *Téarmaí Dlí*, and as 'violent, forcible' in *Ó Dónaill*, 'foréigean' being translated as 'violence' in the former source and as 'violence, force, compulsion' in the latter. *Dinneen* translates 'foiréigneach' as 'extremely violent, vehement, rapid', translating 'foiréigean' as 'great violence, oppression; extortion; great speed'. 'Foréicneach' is translated as 'violent, forcible, oppressive' in DIL, citing 'bás foiréigneach' ('death by violence') from Keating's seventeenth-century *History of Ireland*. The noun 'foréicen' ('violence, compulsion') is composed of the prefix 'for-' (translated as 'super-, over-, hyper-, great, extreme' in *Dinneen*) and 'éicen', which word glosses Latin 'violentia' in the ninth-century St Gall Glosses on Priscian.

Note that '(by) other violent means' is translated as 'le foiréigean eile' in s1(1) of the Treasonable Offences Act, 1925, above. 'By force of arms or other violent means' is translated as 'tré neart airm no tré fhoiréigin eile' in s7(1) of the Offences Against the State Act, 1939.

*páirt nó baint* *Ó Dónaill* cites '*ná biodh baint ná páirt agat leo*, have nothing to do with them' and '*níl baint ná páirt agam leo*, I have no connection whatever with them'. *Dinneen* cites '*níl aon bhaint agam leis*, I have nothing to do with him', '*mo cheangal is mo pháirt leis do bhriseadh*, to disrupt our mutual obligation and friendly relations' and '*tá páirt agam leat*, I like you'. 'Páirt', which comes from Latin 'pars, part-', has the sense of 'part' as in 'side, party ... hence association, alliance, fellowship', according to DIL, citing 'aderit an páirt do bí acu aran saegul curab ecin dóib a beith acu thall' (= that they must needs be united after death as in life) from the Gaelic Maundeville. See the commentary on Article 3 regarding 'bain le'.

'And generally take part in the hearing of every application under the Criminal Injuries Act' is translated as 'agus bheith páirteach go generálta in éisteacht gach iarratais fé na hAchtanna um Dhíobháil Choiriúil' in s5 of the Damage to Property (Compensation) Act, 1923. *De Bhaldraithe* translates 'to be concerned in, with, something' as 'bheith i gcúram, i mbun, ruda; bheith ag plé le rud; bheith páirteach i (ngnó)'. Note that 'takes part or is concerned in an attempt' is translated as 'páirt a thógaint in iarracht no baint a bheith aige le hiarracht' in s1(1) of the Treasonable Offences Act, 1925, cited above, with 'protects any person engaged or taking part or concerned in any such attempt as aforesaid' being translated as 'caomhaint do thabhairt d'éinne a bheidh ag déanamh aon iarrachta den tsórt san roimhráite no ag tógaint páirte inti no i mbaint léi' in s3(1)(b).

'That he ... has acted as director of, or taken part or been concerned in the management of a company' is translated as 'gur ghníomhaigh sé ... mar stiúrthóir ar chuideachta, nó go raibh baint nó páirt aige lena bainistí' in s183(2) of the Companies Act, 1963, with '(if any person) ... directly or indirectly takes part in or is concerned in the promotion ... of any company' being translated as 'má bhíonn baint nó páirt aige go díreach nó go neamhdhíreach le tionscnamh ... aon chuideachta' in s169 of the Companies Act, 1990. 'Every collector or agent of such company who takes part or is concerned in such failure' is translated as 'gach bailitheoir no gníomhaire don chuideachta sin go mbeidh baint aige leis an teip sin no bheidh páirteach ann' in s61(3) of the Insurance Act, 1935. Finally, 'every person who shall hold or take part in or be concerned in the holding of a public meeting' is translated as 'gach duine chomórfaidh cruinniú puiblí no bheidh páirteach i gcruinniú puiblí do chomóradh no 'na mbeidh baint aige le cruinniú puiblí do chomóradh' in s24(3) of the Constitution (Amendment No. 17) Act, 1931.

*a threascairt* The verbal noun of 'treascair', translated as 'knock down; overthrow, vanquish; lay low, prostrate' in *Ó Dónaill*, citing '*tír a threascairt*, to overthrow a country'. *Dinneen* translates 'treascraim' as 'I overthrow, knock down, lay low, defeat'. This verb comes from the compound verb 'do-scara', translated as 'overthrow, knocks down, lays low' in DIL, citing 'toscara Cú sessiur díb and' ('there Cú Chulainn overthrew six of them') from the version of the *Táin* in *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100).

'For the overthrow of the ... Provisional Government of Ireland' is translated as 'chun Rialtas Sealadach na hÉireann ... do threascairt' in s15(9)(d)(i) of the Damage to Property (Compensation) Act, 1923. 'Inciting persons to engage in an attempt to overthrow by violence the established form of Government of Saorstát Éireann' is translated as 'Daoine do ghríosú chun tabhairt fé fhuirm bhunuithe Rialtas Shaorstáit Éireann do bhrise le fóiréigean' in s1 of the Schedule to the Public Safety (Emergency Powers) Act, 1926.

Note, finally, that 'do threascairt' is followed by a semi-colon in the original text.

*na horgain* See the commentary on Article 6.2, 'orgán' rather than 'organ' being given in *Ó Dónaill*, for example.

*Is é amháin is tréas ann* Note that this clause is followed by a colon in the original text.

*neach* See the commentary on Article 40.4.2°.

### Standardised gender-proofed Irish text

Is é amháin is tréas ann cogadh a chur ar an Stát, nó cabhrú le stát nó le duine ar bith, nó saighdeadh faoi dhuine, nó bheith i gcomhcheilg le duine, chun cogadh a chur ar an Stát, nó iarracht a dhéanamh le harm nó ar mhodh foréigneach eile ar na horgain rialtais a bhunaítear leis an mBunreacht seo a threascairt, nó páirt nó baint a bheith ag neach lena leithéid sin d'iarracht, nó aon duine a shaighdeadh nó bheith i gcomhcheilg leis nó léi chun a déanta nó chun páirt nó baint a bheith aige nó aici léi.

### Direct translation

Is é<sup>1</sup> amháin is tréas ann cogadh a chur ar an Stát, nó cuidiú le haon Stát nó le haon duine nó aon duine a ghríosú nó bheith i gcomhcheilg le haon duine chun cogadh a chur ar an Stát, nó iarracht a dhéanamh le fórsa airm nó ar mhodh foréigneach eile ar na horgain<sup>2</sup> rialtais a bhunaítear leis an mBunreacht seo a threascairt, nó bheith páirteach in aon iarracht dá leithéid nó bainteach léi<sup>3</sup> nó aon duine a ghríosú nó bheith i gcomhcheilg le haon duine in aon iarracht dá leithéid nó bheith páirteach inti nó bainteach léi<sup>4</sup>.

### Variants

- 1 'éard'
- 2 'orgain'
- 3 'nó páirt nó baint a bheith ag duine le haon iarracht dá leithéid'
- 4 'nó páirt nó baint a bheith ag duine léi'



# FUNDAMENTAL RIGHTS

## BUNCHEARTA

### ARTICLE 40.1 AIRTEAGAL 40.1

#### TÉACS GAEILGE

##### BUNCHEARTA Cearta Pearsanta

Áirítear gurb ionann ina bpearsain daonna na saoránaigh uile i láthair an dlí.

Ach ní intuigthe as sin nach bhféachfaidh an Stát go cuí, ina chuid achtachán, don difríocht atá idir daoine ina mbuanna corpartha agus ina mbuanna morálta agus ina bhfeidhm chomhdhaonnach.

#### LITERAL ENGLISH TRANSLATION

##### BASIC RIGHTS Personal Rights

It is reckoned that all the citizens are equal as human persons in the presence of the law.

But it is not to be understood from that that the State will not duly, in its enactments, have regard to the difference there is between people in their physical attributes and in their moral attributes and in their societal function.

#### ENGLISH TEXT

##### FUNDAMENTAL RIGHTS Personal Rights

All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

#### Divergences between the official texts

- 1 'Differences of capacity' is expressed in the Irish text as '(an) difríocht atá idir daoine ina mbuanna' ('the difference which there is between people in their gifts/attributes/accomplishments').
- 2 'Ina bpearsain daonna', expressing 'as human persons', might not so readily be understood today; as well as being a variant plural of 'pearsa' (the standard plural being 'pearsana'), 'pearsain' is also the dative singular and following 'ina' might be read literally as 'in their human person(ality)'.  
3 'Shall ... be held equal' is expressed as 'Áirítear gurb ionann' ('it is reckoned that they are equal') in the Irish text.
- 4 'Before the law' is expressed as 'i láthair an dlí' ('in the presence of the law') in the Irish text.
- 5 'Held' of the first paragraph is echoed in the second paragraph of the English text alone.

J.M. Kelly, op. cit., p. 208, reports as follows on reference made to this Article in the courts:

In *In re Walker, decd; O'B. v S* ([1984] IR 316; [1985] ILMR 86) Walsh J referred to the Irish version of the proviso to Article 40.1 and said this made it clear that:

"the proviso refers to the difference of capacity, physical and moral, and of the social function of the citizens for whom, or in respect of whom, the State in its enactments has seen fit to have "due regard" to their differences under these headings."

#### Commentary

*ina bpearsain daonna* 'Caomhnóir ar an bpearsa' and 'foghail ar an bpearsa' are translated respectively as 'guardian of the person' and 'trespass to the person' in *Téarmaí Dlí. Ó Dónaill* translates 'pearsa' as 'person', citing '*pearsa den daonnacht*, human being' and '*a pearsa is a méin*, her form and disposition'. *Dinneen* translates 'pearsa' as 'a person or individual, ... a body, figure, form, features ...', citing '*táithe id' phearsain*, near akin to thee' (from Dáibhí Ó Bruadair's seventeenth-century poetry) and '*is ait an phearsa bhíonn ar na caoirigh adharcacha*, horned sheep have a curious appearance'. Old Irish 'persa', which comes from Latin 'persona', is translated as 'a person, an individual' in DIL, where 'a (i) persain', followed by the genitive, is translated as 'in the person (character, quality) of'. We have examples of this dative singular of 'persa' both in the ninth-century Milan Glosses on the Commentary on the Psalms, where we find 'labraid in spíurt noib tri giun Daid inso. i. a persainn rí inna rigsuidiu ocaldaim amuntairae' ('the Holy Spirit speaks this through the mouth of David, namely, in the character of a king upon his throne addressing his [people]') and in the St Gall Glosses on Priscian, where we find 'in tan labratar ind fílid a persin inna ndea' ('when the poets speak in the person of the gods'). Going to Modern Irish, according to the official standard (*An Caighdeán Oifigiúil*), the form of the dative is identical to that of the nominative (except for the Second Declension, 'pearsa' being of the Fifth Declension according to *An Caighdeán Oifigiúil*); therefore, 'i bpearsain' today would be replaced by 'i bpearsa'. The old dative form is also a variant plural form – see *Dinneen* who gives both 'pearsain' and the standard plural form today, 'pearsana'. See further the commentary on Article 45.2ii where 'pearsana' expresses 'individuals'.

As regards 'ina' in this context, *Ó Dónaill* cites '*chuaigh sé ina thoscaire ann*, he went there as a delegate' as an example of the use of the preposition 'i' with a possessive pronoun in the sense of 'status, function, etc.' *Dinneen* cites '*chuaidh sé na thoscaire go dtí an tír sin*, he went as an ambassador to that country', '*imtheochad im' chuaichín ar fuaid an tsaoghail*, I will go through the world a disappointed girl' and '*i n-a n-aon-mhnáibh*, as women unescorted'. See DIL s.v. 'i' (4):

A noun in apposition may be preceded by the preposition 'i n-' (governing dative) + possessive pronoun. This was a development of the older use of the dative without preposition.

Examples are cited in DIL from *Leabhar na hUidhre* (completed before 1106) onwards, including 'dobudh nár dhúinn ionur thríar Ulltach' (i.e. it was a shame 'to us three Ultonians') and 'ní iomdha dhúinn i n-ar ndaoibh' ('not many of us men').

Turning to 'daonna', 'dlí daonna' is translated as 'positive law' in *Téarmaí Dlí*, 'daonna' generally being translated as 'human', as in *Ó Dónaill*, who cites '*an cine daonna*, the human race' and '*neach daonna*, human being', giving 'humane, kind' as a secondary sense. *Dinneen* translates 'daonna' as 'human; mortal; liberal, civil, hospitable, charitable'. Old Irish 'doind(a)e' is based on 'doén', which is a poetic term for 'human being', the general term being 'duine', on which 'doén' is based – see DIL s.v.v. 'doén' and 'doénda'.

*Áirítear* 'Áirigh' is translated as 'count, reckon' in *Ó Dónaill*, who cites '*duine a áireamh mar chara*, to reckon someone as a friend' and '*áirim gur fíor é*, I reckon that it is true'. *Dinneen* translates 'áirmhim' as 'I count, reckon, consider, record; I speak of, mention, take into account'. DIL only cites one example of the verb 'áirmigid' ('counts'): 'áirmhighthear sruth Tanais ar aibhnibh na Scitia' (i.e. the river T. 'is reckoned among the rivers of S.'). from Keating's seventeenth-century *History of Ireland*. This verb is based on 'áirem', itself the verbal noun of earlier 'ad-rimi', translated as (a) 'counts, numbers, computes', (b) 'records, recounts, mentions', 1(c) 'takes into account' and (d) 'counts as, regards; considers to be', examples of which are cited from the Glosses of the eighth century onwards – see further the commentary on Article 18.7.1<sup>iv</sup>.

In s2(c) of the Radiological Protection Act, 1991, '(a requesting State shall) hold the assisting party ... harmless in respect of legal proceedings and claims' is translated as 'glacfaidh sé leis go bhfuil an páirtí cúnta ... neamh-urchóideach maidir le himeachtaí dlí'. In Article 63 of the Treaty establishing the European Coal and Steel Community, 'undertakings shall be held responsible for infringements of their obligations by their direct agents' is translated simply as '(go) mbeidh na gnóthais freagrach as sárú aon oibleagáide faoina rachfar amhlaidh ag gníomhairí díreacha na ngnóthas'. 'Every person who holds himself out or represents himself to be a bookmaker' is translated as 'gach éinne a thabharfidh le tuisgint no a chuirfidh in úil gur geall-ghlacadóir ... é' in s2(1) of the Betting Act, 1926. See further the commentary on Article 47.1, where 'ní foláir a mheas' expresses 'shall be held'.

*intuigthe* This headword is translated as 'implied' in *Téarmaí Dlí*, where 'is intuigthe as' is translated as 'it implies'. *Ó Dónaill* translates 'intuigthe' as 'understandable, intelligible; implied, implicit', translating 'is (é rud atá) intuigthe as sin (go)' as 'that implies, would lead one to understand (that)'. DIL cites two examples of 'intuicthe', 'to be understood', the first of which comes from Keating's seventeenth-century *Three Shafts of Death*.

Turning to the Acts, in s67 of the European Assembly Elections Act, 1977, 'is cinneadh críochnaitheach cinneadh an cheann comhairimh, cibé acu sainráite dó nó intuigthe as a ghníomhartha' translates 'The decision of the returning

officer, whether expressed or implied by his acts, ... shall be final'. Regarding 'hold to be' in the Acts, 'Waiver of immunity from jurisdiction in respect of civil or administrative proceedings shall not be held to imply waiver of immunity in respect of the execution of the judgment' is translated as 'Ní ghlacfar go n-urchiallaíonn tarscaoileadh diolúine ó dhlínse i leith imeachtaí sibhialta nó imeachtaí riaracháin tarscaoileadh diolúine i leith an bhreithiúnas a fhorghníomhú' in Article 32(4) of the First Schedule to the Diplomatic Relations and Immunities Act, 1967. 'Document of any kind whatsoever containing expressions which might reasonably be held to imply that he carried on banking business' is translated as 'scribhinn d'aon chineál ar bith, ina mbeidh abairtí go bhféadfaí go réasúnta a rá go dtugaid le tuiscint go mbíonn gnó bancaerachta á dhéanamh aige' in s8 of the Moneylenders Act, 1933.

Commenting on the direct translation below, Professor Máirtín Ó Murchú greatly favours 'ní intuigthe as sin' to 'ní ghlacfar leis go gciallaíonn sé sin', suggesting 'níl le tuiscint as sin' as an alternative.

*buanna* Bua is translated as (1) 'victory, triumph', (2) 'gift, talent', (3) 'virtue, merit', (4) 'special quality' and (5) 'lot, destiny' in *Ó Dónaill*. As examples of sense (2) are cited '*bua cainte, ceoil*, gift of speech, music' and of (3) '*is mór an bua do dhuine an tsláinte*, it is a great advantage to have one's health'. *Dinneen* translates 'buidh' as 'victory; conquest; success; virtue, excellence, an attribute' and as 'occult mysterious property of a person or object as for heating, etc.'. DIL cites examples of 'búaid' in the sense of 'special quality or attribute, gift, virtue' from the Glosses of the eighth century onwards, including the following from the *Táin*: 'itáat trí búada formsa .i. búaid roisc, 7 indtliuchta 7 airdmesa' (i.e. I have three accomplishments, the accomplishment of sight, intellect and estimating). See further the commentary on Article 43.1.1<sup>o</sup>.

In the Radio and Television Act, 1988, 'Éireannaigh a bhfuil buanna acu sa cheol' translates 'Irish talent in music'. On the other hand, 'testamentary capacity' and 'capacity to contract' are translated respectively as 'inniúlacht tiomnaithe' and 'inniúlacht chonraithe' in *Téarmaí Dlí*, 'cáil' translating the headword 'capacity' and 'in a fiduciary capacity' being translated as 'i gcáil mhúineach'. In s55(8) of the Succession Act, 1965, 'if ... there is no trustee of a settled share, and no person of full age and capacity entitled to the income thereof' is translated as 'Más rud é ... nach bhfuil aon iontaobhaí ar scair shocraithe ann, agus nach bhfuil aon duine lánaoise agus inniúlachta i dteideal an ioncaim aisti'. In Article 5(b) of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, 'the interests of minors and other persons lacking full capacity' is translated as 'leasanna mionaoiseach agus daoine eile ar easpa inniúlachta iomláine'.

Looking at early translations of 'capacity', 'cumas' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'capacity' in translations for various Departments. 'Patients admitted to the District Hospitals shall be obliged to pay for maintenance and attendance according to capacity' is translated as 'Beidh ar othair a leigfar isteach sna hOspidéal Cheanntair beidh ortha íoc do réir a n-acfuinne as a gcimeád suas agus as freastal ortha' in s22 of the 'Mayo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'Employed by the Local Authority in a temporary capacity' is translated

as ‘ar fostú i bhfeadhmannas diombuan ag an Údarás Áitiúil’ in s11(6) of the same Act. Finally, ‘and shall be collectively responsible to the Minister for Defence for all matters entrusted to it in its collective capacity’ is translated as ‘agus beid freagarthach in éineacht don Aire Cosanta i ngach ní a cuirfar ina n-íocht mar chólucht aonair’ in s8(6) of the Ministers and Secretaries Act, 1924.

*ionann* This headword is translated as ‘same, identical; alike, equal’ in *Ó Dónaill*, who cites ‘*is ionann iad*, they are identical’. *Dinneen* translates ‘ionann’ as ‘the same, identical; equal, equivalent, similar, alike’. See the commentary on Article 15.11.2°.

In s1(b) of Part 1 of the Finance Act, 1990, ‘and proves that it does not exceed a sum equal to twice the specified amount’ is translated as ‘go gcruthóidh sé nach mó é ná suim is ionann agus dhá oiread an mhéid shonraithe’. We generally find ‘comhionann’ in this context in the Acts. In s8 of the Value-Added Tax (Amendment) Act, 1978, for example, ‘if the consideration consisted entirely of an amount of money equal to the open market price’ is translated as ‘dá mba é a bhí go huile sa chomaoin suim airgid is comhionann leis an margadh-phraghas oscailte’ and in s25 of the Wealth Tax Act, 1975, ‘be deemed to be property to which the minor children of the marriage are beneficially entitled to possession in equal shares’ is translated as ‘measfar gur maoin í a bhfuil teideal tairbhiúil seilbhe chuici i scaireanna comhionanna ag leaná mionaoiseacha an phósta’. In s2(b) of the Sugar Manufacture (Amendment) Act, 1973, ‘The reference to principal ... shall be taken as referring to the equivalent in currency of the State of the actual principal’ is translated as ‘An tagairt do phríomhshuim ... measfar gur tagairt í do mhéid is comhionann in airgead reatha an Stáit leis an bpríomhshuim iarbhir’. ‘Equal pay officers’ are styled ‘Oifigigh pá chomhionainn’ in the Anti-Discrimination (Pay) Act, 1974. In s66 of the Pensions Act, 1990, ‘the principle of equal treatment’ is termed ‘an príonsabal um dhéileáil chomhionann’. Note that in Article 18 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, ‘The procedure to be observed in each State for the reception of heads of mission shall be uniform in respect of each class’ is translated as ‘An nós imeachta a leanfar i ngach Stát chun cinn mhisiún a ghlacadh is nós imeachta comhionann a bheidh ann maidir le gach aicme’. ‘Comh-’ itself as a prefix has the sense of ‘equal’ – see *Ó Dónaill*, for example, and the following from the *Programme for a Partnership Government*, 1993-97 (p. 34): ‘people with a disability are equal citizens of Ireland’, ‘*comhshaoránaigh de chuid na hÉireann is ea na daoine a bhfuil míchumas orthu*’.

*nach bhféachfaidh ... do* *Ó Dónaill* translates ‘féach do’ as ‘have regard to’, citing ‘*ní fhéachann an t-éag do neach*, death is no respecter of persons’ and ‘*ní fhéachaim do na gnóthaí sin*, I pay no attention to those matters’. *Dinneen* translates ‘féachaim do’ as ‘I look to, differentiate in regard to, sympathise with’. Finally, DIL translates ‘féagaid do’ as ‘looks to, heeds, has regard to, takes into account’, citing ‘*mana fechainn d’onoir dom athair*’ (‘had I not regard for the honour due to my father’), from the Irish version of *Fierabras*.

In *Treaties establishing the European Communities* (1973, p. 927), ‘The Commission shall, before 1 April 1973

and with due regard for the provisions in force, ... determine the methods’ is translated as ‘Socróidh an Coimisiún, roimh an 1 Aibreán 1973, ag féachaint go cuí do na forálacha atá i bhfeidhm, ... na modhanna’. On p. 318, we find ‘with due regard for the provisions of this Treaty’ translated as ‘agus aird chuí aici ar fhorálacha an Chonartha seo’. Similarly, in the *Programme for a Partnership Government*, 1993-97 (p. 45), ‘with due regard to environmental considerations’ is translated as ‘ag féachaint go cuí do chúrsaí comhshaoil’ while in the *Joint Declaration* of 15 December 1993, ‘such an examination would of course have due regard to the desire to preserve those inherited values’ is translated as ‘thabharfaí aird chuí, ar ndóigh, sa scrúdú sin, ar an mian atá ann comhaontú a dhéanamh ar na luachanna sin a fuarthas le hoidhreacht’ (p. 4). ‘The Board and the companies shall have due regard to the Board’s social role’ is translated as ‘Tabharfaidh an Bord agus na cuideachtaí aird chuí ar ról sóisialta an Bhoird’ in s8(10) of the Transport (Re-organisation of Córas Iompair Éireann) Act, 1986, with ‘the Land Commission shall have due regard to the reasonable requirements of the owner’ being translated as ‘tabharfaidh Coimisiún na Talmhan aire chuibhe do riachtanaisí réasúnta an únaera’ in s37 of the Land Act, 1923.

*corpartha* This adjective is translated as ‘corporal; corporeal’ in *Ó Dónaill*, ‘corpardha’ being translated as ‘bodily, corporal; large, bulky; material as opposed to spiritual’ in *Dinneen*. ‘Corporda’ is translated as ‘corporeal, bodily, physical, actual’ in DIL, being based on Latin ‘corporeus’. See further the commentary on Article 42.5.

‘Physical’ is generally translated in the Acts by the genitive singular form of ‘corp’ as an attributive adjective – see, for example, s3(2)(b) of the Judicial Separation and Family Law Reform Act, 1989, where “welfare” comprises the religious and moral, intellectual, physical and social welfare of the children’ is translated as ‘folaíonn “leas” leas creidimh agus morálta na leaná, mar aon lena leas intleachta, lena leas coirp agus lena leas sóisialta’. In s43(3)(a) of the Social Welfare (Consolidation) Act, 1981, ‘having regard to his physical and mental condition’ is translated as ‘ag féachaint dá staid choirp agus mheabhrach’.

*Ó Dónaill* gives ‘fisiceach’ as a headword, simply translated as ‘physical’, with the form ‘fisiciúil’ being given as a variant.

*i láthair an dli* ‘I láthair Dé’ and ‘i láthair duine’ are translated respectively as ‘before God, as God is my witness’ and ‘in the presence of someone’ in *Ó Dónaill*, with ‘presence’ being a secondary sense of ‘láthair’, principally translated as ‘place, spot; site, location’. ‘Dul i láthair na cúirte’ is translated as ‘to appear before the court’ in *Ó Dónaill*. *Dinneen* cites ‘*dul i láthair an bhreithimh (na cúirte)*, to appear before the judge (court)’. See further the commentary on Article 28.8.

‘Os comhair’ usually translates ‘before’ in the present sense in the modern Acts. In s28 of the Second Schedule to the Health Act, 1970, ‘all questions coming or arising before the board may be ... decided by the majority of such members’ is translated as ‘féadfar gach ceist a thiocfaidh nó a éireoidh os comhair an bhoird a chinneadh ... ag tromlach na gcomhaltai sin den bhord’. In s24(b) of the same Act, ‘Any question arising before a committee’ is translated as ‘aon cheist a éireoidh os comhair coiste’.

In s14(4)(a)(iii) of the Criminal Law (Jurisdiction) Act, 1976, 'he shall be brought before a judge or justice of any court' is translated as 'tabharfar é os comhair breithimh aon chúirte'. 'I láthair' would generally translate 'in the presence of' – see, for example, s14(2) of the Criminal Procedure Act, 1967, where 'The deposition shall be taken in the presence of a justice of the District Court and of the accused' is translated as 'Tógfar an teistíocht i láthair breitheamh den Chúirt Dúiche agus an chúisí'. Finally, 'on conviction before a District Justice' is translated as 'ar a chiontú i láthair Breithimh Dhúithche' in s80 of the Dundalk Harbour and Port Act, 1925.

*go cuí* 'Comaoin chúí' is translated as 'good consideration' in *Tearmaí Dlí*, where 'mionnscribhinn fhorghníomhaithe chúí' and 'sealbhóir i gcúrsa cuí' are translated respectively as 'affidavit of due execution' and 'holder in due course'. 'Cuí' currently translates 'appropriate', 'proper' and 'fit' in the Acts. See further the commentary on the *Preamble*.

*Bunchearta* See the commentary on Article 9.2 regarding the prefix 'bun-' expressing 'fundamental' in the Constitution. Note that 'Bun-chirt' is the form in the original text.

*chomhdhaonnach* 'Comhdhaonnach' expresses 'social' in the Constitution – see the commentary on Article 15.3.1°.

*idir daoine* Note that lenition follows *idir* in the original text.

### Standardised Irish text

#### BUNCHEARTA

##### Cearta Pearsanta

Áirítear gurb ionann ina bpearsa dhaonna na saoránaigh uile i láthair an dlí.

Ach ní intuigthe as sin nach bhféachfaidh an Stát go cuí, ina chuid achtachán, don dhifríocht atá idir dhaoine ina mbuanna corpartha agus ina mbuanna morálta agus ina bhfeidhm chomhdhaonnach.

### Direct translation

#### CEARTA BUNÚSACHA

##### Cearta Pearsanta

Áireofar gur<sup>1</sup> comhionann na saoránaigh uile<sup>2</sup>, mar dhaoine daonna, os comhair<sup>3</sup> an dlí.<sup>4</sup>

Ach ní ghlacfar leis go gciallaíonn sé sin<sup>5</sup> nach bhféachfaidh an Stát go cuí ina chuid achtachán do dhifríochtaí<sup>6</sup> ó thaobh inniúlachta<sup>7</sup> coirp agus morálta, agus ó thaobh feidhme<sup>8</sup> sóisialta<sup>9</sup>.

#### Variants

1 'Is', 'Tuigfear gur', 'Glacfar leis gur'

2 'go léir'

3 'i láthair'

4 'Glacfar leis go bhfuil na saoránaigh uile, mar dhaoine daonna, comhionann os comhair an dlí.', 'Is comhshaoránaigh / saoránaigh chomhionanna iad na saoránaigh go léir, mar dhaoine daonna, os comhair an dlí.'

5 'níl le tuiscint as sin', 'ní intuigthe as sin'

6 'nach dtabharfaidh an Stát aird chuí ina chuid achtachán ar dhifríochtaí'

7 'do dhifríochtaí inniúlachta'

8 'agus feidhme'

9 'sóisialaí'

## ARTICLE 40.2.1° AIRTEAGAL 40.2.1°

### TÉACS GAEILGE

Ní cead don Stát gairm uaisleachta a bhronnadh ar aon duine.

### LITERAL ENGLISH TRANSLATION

The State is not permitted to confer a title of nobility on any person.

### ENGLISH TEXT

Titles of nobility shall not be conferred by the State.

### Divergences between the official texts

- 1 The Irish text contains the phrase 'ar aon duine', 'on any person', in addition to the English text.
- 2 'Titles of nobility' is expressed as 'gairm uaisleachta' ('a title of nobility') in the Irish text.
- 3 Again, the term 'Ní cead', 'Is not permitted', differs in tone from 'shall not'.

Note that Article 5 of the 1922 Constitution reads as follows:

No title of honour in respect of any services rendered in or in relation to the Irish Free State (Saorstát Éireann) may be conferred on any citizen of the Irish Free State (Saorstát Éireann) .... *Ní bronnfar ar aon tsaoránach de Shaorstát Éireann aon teideal onóra i dtaobh aon tseirbhísí do thabhairt uaidh i Saorstát Éireann no 'na thaobh.*

### Commentary

*gairm uaisleachta* See the commentary on Article 13.5.2° regarding 'gairm', there expressing 'commission'. *Ó Dónaill* translates 'gairm uaisleachta' as 'title of nobility'. *Dinneen* translates 'gairm ríogh' as 'a king's title', citing '*thugas mo rath ar mhnaoi is gairm ríogh agam le fagháil*, I left good fortune and a crown for a woman's sake'. DIL gives examples of 'gairm ríogh' ('title of king'), along with 'gairm ollaimh' (i.e. title of professor), from the earlier literature.

*Ó Dónaill* s.v. 'teideal', cites '*teideal uaisleachta*, title of nobility', translating 'uaisleacht' as 'nobility, gentility'. *Dinneen* translates 'uaisleacht' as 'nobility, gentility, generosity, refinement; finery', citing '*ná satail orm im' uaisleacht*, don't walk on me, I am all dressed up!' 'Uaisleacht' is translated as 'nobility, honour, greatness' in DIL, where examples are cited from the twelfth-century *Book of Leinster* onwards; it is based on 'úaisle', 'nobility, dignity' – DIL cites 'cu ro pinnit fo uaisli in graidh' ('in proportion to the dignity of the grade'), from a commentary on an early Irish law-tract. This form is in turn based on 'úasal', 'high, lofty' and, metaphorically, 'noble, honourable' – DIL cites 'Germán martir úasal' and 'athir Iohain uasail Baptaist' from *Féilire Oengusso Céili Dé* and *Saltair na Rann*, respectively, this form being still in use today in

formal address. See further the commentary on the *Preamble* where ‘uaisleacht’ translates ‘dignity’.

‘Title’ is translated as ‘teideal’ in *Téarmaí Dlí*, this being in relation to Property Law in particular. We find this term in a relatively similar context to that in the present Article in s38(2) of the Medical Practitioners Act, 1978, where ‘The council may, from time to time specify, in relation to each speciality recognised by it, the titles and designations of qualifications in specialised medicine granted in the State’ is translated as ‘Féadfaidh an Chomhairle a shonrú, ó am go ham, i ndáil le gach speisialtacht dá dtugann sí aitheantas, teidil agus ainmiúcháin na gcáilíochtaí sa sainleigheas a dheonaítear sa Stát’. ‘Gairm’, on the other hand, is sometimes used in the Acts to translate ‘profession’ – see, for example, s21 of the Finance Act, 1990, where ‘for the purposes of a trade or profession’ is translated as ‘chun críocha trádála nó gairme’. ‘Occupational Pension Schemes’ is translated as ‘scéimeanna pinsean gairme’ in the Finance Act, 1972, for example.

Looking at early Acts, ‘in relation to the respective titles of the Chief Justice and of each of the other judges’ is translated as ‘bhaineann le teidil fé seach an Phrímh-Bhreithimh agus gach breithimh fé leith de sna breithiúin eile’ in s4(2) of the Courts of Justice Act, 1936, with ‘changes in the styles and titles of the Ministers and Departments of State affected by such redistribution’ being translated as ‘atharuithe do dhéanamh ar theidil na nAirí agus na Ranna Stáit le n-a mbainfidh an ath-roinnt sin’ in s4(2) of the Ministers and Secretaries (Amendment) Act, 1928. See the following subsection regarding ‘titles of honour’.

*a bhronnadh Ó Dónaill* translates ‘bronn’ as ‘grant, bestow’, translating ‘rud a bhronnadh ar dhuine’ as ‘to bestow something on someone’ and citing ‘*bronnadh céim air*, a degree was conferred on him’. The original sense of ‘bronnadh’ seems to have been ‘spends, consumes’, and the sense ‘give, bestow’ is thought to have been an extended application of the secondary sense of ‘bronnadh’, ‘injures, damages’ – see the commentary on Article 13.11. As we have seen (see the commentary on Article 12.1), ‘confer’ is usually translated as ‘tabhair do’ in the Acts. One cannot include the preposition which usually accompanies both ‘bronn’ and ‘tabhair’ – ‘ar’ and ‘do’ respectively – without adding ‘aon duine’, as the drafters of the Irish version of Article 40.2.1<sup>o</sup> did. Either verb rests uneasy at the end of the subsection without an accompanying indirect object.

*Ní cead* See the commentary on Article 9.1.3<sup>o</sup>.

### Direct translation

Ní dhéanfaidh an Stát teidil<sup>1</sup> uaisleachta a thabhairt<sup>2, 3</sup>.

### Variants

- 1 ‘gairmeacha’
- 2 ‘a bhronnadh’
- 3 ‘Ní dhéanfar teidil uaisleachta a thabhairt ag an Stát.’

## ARTICLE 40.2.2<sup>o</sup> AIRTEAGAL 40.2.2<sup>o</sup>

### TÉACS GAEILGE

Ní cead d’aon saoránach gairm uaisleachta ná gairm onóra a ghlacadh ach le haontú roimh ré ón Rialtas.

### LITERAL ENGLISH TRANSLATION

No citizen is permitted to accept a title of nobility nor a title of honour except with the assent beforehand of the Government.

### ENGLISH TEXT

No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government.

### Divergences between the official texts

- 1 ‘Approval’ is expressed as ‘aontú’, which is translated as ‘assent’ in *Téarmaí Dlí*, though ‘aontú’ also has the sense of ‘approval’ in current Irish usage.
- 2 ‘Accept’ is expressed as ‘a ghlacadh’, translated as ‘receive’ in *Téarmaí Dlí*, where ‘accept’ is translated as ‘glac le’; in general usage ‘glac’ renders both ‘receive’ and ‘accept’.
- 3 ‘Ní cead’ differs in tone from ‘No ... may’.

Note that Article 5 of the 1922 Constitution reads as follows:

No title of honour in respect of any services rendered in or in relation to the Irish Free State (Saorstát Éireann) may be conferred on any citizen of the Irish Free State (Saorstát Éireann) except with the approval or upon the advice of the Executive Council of the State. *Ní bronnfáir ar aon tsaoránach de Shaorstát Éireann aon teideal onóra i dtaobh aon tseirbhísí do thabhairt uaidh i Saorstát Éireann no ina thaobh ach le cead no ar mhola Ard-Chomhairle an Stáit.*

### Commentary

*a ghlacadh* ‘Glacaim’ is translated as ‘I admit (as evidence)’; ‘I receive’, in *Téarmaí Dlí*, where ‘glacaim maoin ghoidte’ is translated as ‘I receive stolen property’, with ‘glacaim le’ being translated as ‘I accept’. ‘Glac’ is translated as ‘take, accept’ in *Ó Dónaill*, where ‘bronnantas, síntiús, breab, a ghlacadh’ is translated as ‘to accept a present, a subscription, a bribe’. ‘Glacaim’ is translated as ‘I grasp, take, receive, accept, seize, take hold of, catch (disease, etc.), conceive, undertake’ in *Dinneen*. The verb ‘glacaid’, which is not widely attested before late Middle and early Modern Irish, is translated as (a) ‘seizes, lays hold of, takes, hires, touches’, (b) ‘receives, accepts, adopts’ and (c) ‘forms, conceives (a feeling)’ in DIL. It is based on ‘glac(c)’, ‘the fist half-opened; a hand’ (DIL). See the commentary on Article 8.2 regarding ‘glac le’.

‘May ... draw accept and endorse Bills of Exchange or other negotiable instruments’ is translated as ‘féadfid Billí Malairte nó instruimidí ionmhalartuithe eile do tarang, do ghlaca agus do chur fé chúl-scriobh’ in s17 of the Sligo Lighting and Electric Power Act, 1924. In s4(1)(f) of the National Archives Act, 1986, ‘in relation to such purchase, donation, bequest or loan as may be accepted by the Director’ is translated as ‘a bhaineann le ceannach, bronntanas, tiomnacht nó iasacht den sórt sin lena nglacfaidh an Stiúrthóir’.

*gairm onóra* ‘Onóir’ is translated as ‘honour’ in *Ó Dónaill*, and as ‘honour; pride, haughtiness; reverence, respect; thrift’ in *Dinneen*. It is an early Middle Irish loanword from Latin ‘honorem’ and is translated as ‘honour, respect,

dignity' in DIL. We have an example of its use as a term of address in Ó Cianáin's *Flight of the Earls*: 'adeir bhar n-onoir-si na briathra sin'.

'Nothing in this Act shall affect the succession to any dignity or title of honour' is translated as 'Ní dhéanfaidh éinní san Acht so deifir don chomharbas in aon dighnit no teideal onóra' in s10(1) of the Legitimacy Act, 1931. In s8(1) of the Broadcasting Act, 1990, 'which constituted an attack on that person's honour or reputation' is translated as 'ar ionsaí a bhí iontu ar onóir nó dea-chlú an duine sin'.

*le haontú* 'Aontú' is translated as 'assent' in *Téarmaí Dlí* and as 'assent, agreement' in *Ó Dónaill*. 'Aontughadh' is translated as 'act of assenting; consent, agreement' in *Dinneen*. 'Oentugad' is translated as (a) 'uniting (with), joining, adhering to', (b) 'conceding, granting', (c) 'consenting, agreeing' in DIL – see the commentary on Article 28.3.1° where this noun expresses 'assent'.

Regarding 'approval', see the commentary on Article 13.1.2° where 'le comhaontú ... roimh ré' expresses 'with the previous approval'. Note that in Article 70 of the Treaty establishing the European Coal and Steel Community, 'the application of special internal rates ... shall require the prior agreement of the High Authority' is translated as 'Chun rátaí ... inmheánacha speisialta a fheidhmiú ... ní foláir aontú a fháil roimh ré ón Ard-Údarás. 'Formheas' is the term given in *Téarmaí Dlí* for 'approval', with 'I approve' being translated as 'formheasaim'. See the commentary on Articles 13.1.2° and 13.7.3° (where 'a bheith sásta roimh sé' expresses 'have received the approval') and note how 'ceadú' regularly translates 'approval' in the Acts cited in that commentary. Professor Máirtín Ó Murchú remarks that 'formheas' would not have the appropriate sense in the direct translation below.

*ach* 'Except' is sometimes translated as 'ach amháin' in the Acts – see, for example, s4(a) of the Schedule to the Holidays (Employees) Act, 1973, where 'the 8th day of December, except when falling on a Sunday' is translated as 'an 8ú lá de Nollaig, ach amháin nuair is Domhnach é'.

### Direct translation

Ní fhéadfaidh aon saoránach glacadh le teideal<sup>1</sup> uaisleachta nó onóra ach amháin le ceadú<sup>2</sup> roimh ré ón Rialtas<sup>3</sup>.

#### Variants

- 1 'gairm'
- 2 'formheas'
- 3 'le ceadú an Rialtais roimh ré', 'le réamhcheadú an Rialtais'

## ARTICLE 40.3.1° AIRTEAGAL 40.3.1°

#### TÉACS GAEILGE

Ráthaíonn an Stát gan cur isteach lena dhlíthe ar chearta pearsanta aon saoránaigh, agus ráthaíonn fós na cearta sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur feidir é.

#### LITERAL ENGLISH TRANSLATION

The State guarantees not to interfere by its laws with the

personal rights of any citizen, and it further guarantees to defend and assert those rights with its laws in so far as it is possible.

#### ENGLISH TEXT

The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

#### Divergences between the official texts

- 1 'To respect' is expressed as 'gan cur isteach ar' ('not to interfere with') in the Irish text.
- 2 'The State guarantees in its laws to respect ...' is expressed as 'Ráthaíonn an Stát gan cur isteach lena dhlíthe ar' ('The State guarantees not to interfere by its laws, with ...') in the Irish text, the same preposition as required by Irish usage preceding 'dlíthe', 'laws', as that found expressing 'by its laws' further on in the subsection.
- 3 'As far as practicable' is expressed as 'sa mhéid gur féidir é' ('in so far as it is possible') in the Irish text.
- 4 'The citizen' is expressed as 'aon saoránach' ('any citizen') in the Irish text.
- 5 'Vindicate' is expressed as 'suíomh' ('establish') in the Irish text.
- 6 The Irish text repeats the verb 'ráthaíonn', 'guarantees', having 'ráthaíonn fós na cearta sin' ('it guarantees further ... those rights') in addition to the English text.

J.M. Kelly, op. cit., p. 208, reports as follows on reference made to this Article in the courts:

In *McGee v Attorney General* ([1974] IR 284) Griffin J pointed out that the Irish version: "Ráthaíonn an Stát gan cur isteach lena dhlíthe ar cheartaibh pearsanta aon tsaoaránaigh" was a guarantee *not to interfere with* citizens' personal rights (thus adding depth to the guarantee to "respect" them in the English version). In the same case Walsh J used the Irish "féidir" so as to treat the English "practicable" as amounting to "possible". In *Pine Valley Developments Ltd. v Minister for Environment* ([1987] IR 23) Henchy J referred to the Irish version of Article 40.3.2 ("chomh fada lena chumas" = "as best it may") in order to stress that the State's duty to respect and vindicate the citizens' constitutional rights was not an unqualified one.

#### Commentary

*cur isteach* 'Cuirim isteach ar' is translated as 'I molest' in *Téarmaí Dlí*, 'cur isteach ar dhuine' being translated as 'to interfere with, to inconvenience, someone; to interrupt someone' in *Ó Dónaill* – see the commentary on Article 15.10.

As regards 'respect', in the *Joint Declaration* of 15 December 1993, 'and must respect the civil rights and religious liberties of both communities' is translated as 'agus go gcaithfear urraim a thabhairt ann do chearta sibhialta agus do shaoirsí creidimh an dá phobal', with 'to create structures which, while respecting the diversity of the people of Ireland, would enable them to work together' being translated as 'struchtúir a chruthú a dhéanfaidh, agus urraim á tabhairt acu d'ilghnéitheacht mhuintir na hÉireann, iad a chumasú chun oibriú as lámha a chéile'. In s4.14 of the *New Ireland Forum Report*, 'which fully respects both traditions' is translated as 'ina seastar leis an dá thraidisiún'.

In the *Programme for a Partnership Government*, 1993-97 (p. 13), 'and respects the individual preferences of employees' is translated as 'agus a thabharfaidh aird an rogha aonair fostaithe'. In *Treaties establishing the European Communities* (1973, p. 701), 'When taking up their duties, they shall give a solemn undertaking that ... they will respect the obligations arising therefrom' is translated as 'Nuair a rachaidh siad i mbun a ndualgas, tabharfaidh siad gealltanas sollúnta go n-urramóidh siad ... na hoibleagáidí a bheidh orthu de bharr na hoifige sin'. We also find 'each Member State undertakes to respect this principle' translated as 'gabhann gach Ballstát air féin urraim a thabhairt don phrionsabal seo' (p. 755). In the *Treaty on European Union* (1992, p. 60), 'respecting human rights' is translated as 'cearta an duine a urramú', with 'to respect this principle' being translated as 'an prionsabal sin a urramú' (p. 31). See the commentary on Articles 42.1 and 44.1 for citations from the Acts.

Commenting on the direct translation below, Professor Máirtín Ó Murchú questions whether the term 'urraim' is what is involved here. He remarks that 'respect' has as part of its range of meaning 'avoid harming or interfering with', citing 'to respect the environment', for example. This was the interpretation of the Irish drafters and Máirtín Ó Murchú agrees with that interpretation, noting that 'urraim' need not have any practical benefit.

*sa mhéid gur féidir é* This phrase expresses 'so far as practicable' in Article 16.2.3° also. 'Sa mhéid go' is translated as 'inasmuch, in so far, as' in *Ó Dónaill*. DIL cites examples from the Glosses of the eighth century onwards of 'méit' as a relative adverb introducing a subordinate clause in the sense of 'as much as, as far as, to the extent that' – see, for example, 'meit atan echtrainn' ('and as far as they are foreigners'), glossing Latin 'quanto externi sunt', in the ninth-century Milan Glosses on the Commentary on the Psalms, and 'meit as sochmacht' ('as much as it well can') from the ninth-century Carlsruhe Glosses on S. Augustine's *Soliloquia*. 'Is féidir (é)' is translated as 'it is possible' in *Ó Dónaill*. DIL cites examples of 'étir'/'éter' ('able; possible, feasible') from *Leabhar na hUidhre* (completed by 1106), but most examples are from a later period, with no citations from the Glosses, for example. 'Séitir', translated as 'vigour, energy; competency (?)' in DIL, and connected with 'séitrech' ('strong, powerful'), has been taken to be the earlier form of 'étir' (later with prothetic *f*).

Turning to the Acts, in s46(a) of the Finance Act, 1990, 'unless the company proves that it has, as far as possible, ... advanced to borrowers relevant principal' is translated as 'mura gruthóidh an chuideachta go ndearna sí, a mhéid ab fhéidir é, ... príomhshuim iomchuí a airleacan, d'iasachtaithe'. In the *Treaty on European Union* (1992, p. 156), 'The ECB shall respect as far as possible existing practices' is translated as 'Urramóidh BCE a mhéad is féidir cleachtais atá ann cheana'. 'Oiread agus is féidir' translates 'as far as possible' in *Treaties establishing the European Communities*.

Turning specifically to 'practicable', 'Tax deduction cards shall be prepared, with a view to securing that, so far as may be practicable ...', in s127(3)(a) of the Income Tax Act, 1967, is translated as 'Ullmhófar cártaí asbhainte cánach chun a áirithiú, an oiread agus is inoibrithe sin ...'. In the *Programme for a Partnership Government*,

1993-97 (p. 25) 'as far as practicable' is translated as 'a mhéid is indéanta'. In s8(2) of the Wireless Telegraphy Act, 1972, 'as soon as practicable he shall cause notice of that fact to be published' is translated as 'cuirfidh sé faoi deara a luaithe is féidir fógra ina thaobh sin a fhoilsiú'. See further the commentary on Article 16.2.3°.

*a shuíomh* In Articles 12.3.1°, 12.10.7° and 14.1 'go suítear' expresses 'is established', and in Article 12.3.3° 'arna suíomh' expresses 'established'. 'Suím cúis' is translated as 'I show cause' in *Téarmaí Dlí. Ó Dónaill* translates 'cúis, ceart, a shuí' as 'to establish a case, a right', 'suíomh' being given as a variant verbal noun of 'suigh' by *Ó Dónaill*. *Dinneen* translates 'suidhighim' as 'I set, plant, arrange, dispose; prove, certify, establish, station (as guards)'. DIL cites examples of 'suidigidir', in the sense of 'establishes, founds, sets up, institutes', as well as 'fixes, assesses, imposes (of laws, fines, etc.)', from the eighth-century Glosses onwards.

Following this Article, in the *Proceedings* of Dáil Éireann of 15 December, 1994, we find, in the terms of reference of a sub-Committee of the Select Committee on Legislation and Security, 'to the extent that the sub-Committee is of the opinion that such cross-examination is necessary to defend and vindicate the Constitutional rights of such witnesses' is translated as 'a mhéid a bheidh an Fochoiste den tuairim gur gá croscheistiú den sórt sin chun cearta bunreachtúla finnétithe den sórt sin a chosaint agus a shuíomh'.

*Chambers English Dictionary* (7th. ed., 1988) has the following entry s.v. 'vindicate':

to justify; to clear from criticism, etc.; to defend with success; to make good a claim to; to lay claim to; to maintain; to avenge (*obsolete*); to free (*obsolete*).

According to the *Oxford Shorter English Dictionary* this verb comes from Latin 'vindicat-, vindicare', 'to claim, set free, punish', from 'vim', acc. sing. of 'vis', 'force' and 'dic-, dicere', 'to say'. Daniel Foley's *English Irish Dictionary* (1855) translates 'vindicate' as 'ceartuigh, congbaigh, saoradh', translating 'vindication' as 'cosnamh, ceartughadh, díolgasuigh'. T. O'Neill Lane's *English-Irish Dictionary* (2nd. ed.) translates 'vindicate' as (1) 'to defend with success, *cosnaim, -namh*' and (2) 'to clear of a charge, *glanaim ó choir*', translating 'vindication' ('the act of defending with success') as '*cosnamh*'. 'I vindicate' is translated as 'cosnaim, dearbhaim, seasaim ceart do' in *Téarmaí Oifigiúla*, followed by the abbreviation for 'Leabhráin Choiste na dTéarmaí', the terms published by the Department of Education. In one such booklet of terms, the 1934 edition of *Téarmaí Staire*, we find 'I vindicate' translated as 'cosnaim, dearbhughim, seasaim ceart do'. *L. Mc Cionnaith* s.v. 'vindicate', refers the reader to 'defend', the literal translation of which is the first term given in *Téarmaí Oifigiúla* above. The second term, 'dearbham', is translated as 'I declare' in *Téarmaí Dlí*. As regards the third term, note that *De Bhaldraithe* translates 'to vindicate one's rights' as 'do chearta a sheasamh' and also cites 'seasaim ceart do (dhuine)' s.v. 'vindicate'. *Ó Dónaill* translates 'an ceart a sheasamh do dhuine' as 'to see justice done to someone' and 'níor sheas tú ceart dom' as 'you did not stand up for me', translating 'do cheart a sheasamh' as 'to stand up for one's rights' s.v. 'seas'. *Dinneen* translates 'seasuighim mo cheart' as 'I

maintain my right' and 'níl seasamh a chirt ann' as 'he cannot uphold his rights'.

Note that we have 'vindicate' in the following subsection, here with more than 'rights' involved: 'vindicate the life, person, good name, and property rights of every citizen'. Perhaps neither of the opposites 'seas' or 'suí' alone are suitable here; 'seas do', however, has the sense of 'stand up for' and this might be more appropriate – see *Ó Dónaill* who cites '*sheas siad go dílis dá dtír*, they stood loyally by their country' and '*sheas sé suas dom*, he stood up for me'.

*Rathaíonn* 'Rathaim' is translated as 'I guarantee' in *Téarmaí Dlí*, with 'ráthaíocht' translated as 'guarantee'. *Ó Dónaill* translates 'ráthaigh' simply as 'guarantee', whereas *Dinneen* translates 'ráthuighim' as 'I guarantee, assure'. See the commentary on Article 22.1.1°. Note that in the *Treaty on European Union* (1992, p. 9), 'the Union shall respect fundamental rights as guaranteed by the European Convention' is translated as 'urramóidh an tAontas ... na cearta bunúsacha mar atá siad áirithithe ag an gCoinbhinsiún Eorpach'.

*a chosaint* 'Cosnaim' is translated as 'I defend' in *Téarmaí Dlí*, with the noun 'cosaint' translated as 'defence'. *Ó Dónaill* translates 'cosain' as 'defend, protect (*ar, ó*, against)', citing '*duine a chosaint ar rud*, to defend someone against something', '*an tír a chosaint*, to defend the country' and '*do chlú a chosaint*, to defend one's reputation'. *Dinneen* translates 'cosnaim' as 'I defend, protect from (*ar*); champion, seek to gain or hold, maintain'. The simple verb 'cosnaid' is a later form of the compound 'con-sní', 'contends; contests, strives for, wins, gains', later also 'defends, costs' (DIL). See the commentary on Article 24.1 (where this verb expresses 'preserve') and 28.3.2° (where 'cosain' expresses 'protect').

*fós* This headword is translated as 'yet, still' in *Ó Dónaill*, with the secondary sense of 'again, in addition, moreover, furthermore', citing '*deir sé fós (go)*, he states further (that)'. *Dinneen* translates 'fós' as 'also, too, moreover, yet, as yet, still, further, besides'. DIL gives examples of 'fós' in the sense of 'still (more, longer), further, also, in addition; likewise'. See the commentary on Article 15.3.2° and 29.2.

### Direct translation

Ráthaíonn an Stát ina dhlíthe urraim a thabhairt do chearta pearsanta an tsaoirnáigh' agus iad a chosaint agus seasamh dóibh lena dhlíthe a mhéid is féidir<sup>2</sup>.

### Variants

- 1 'cearta pearsanta an tsaoirnáigh a urramú', 'gan cur isteach ar chearta pearsanta an tsaoirnáigh ina dhlíthe'
- 2 'agus, a mhéid is féidir, iad a chosaint agus a sheasamh lena dhlíthe'

ARTICLE 40.3.2° AIRTEAGAL 40.3.2°

### TÉACS GAEILGE

Déanfaidh an Stát, go sonrach, lena dhlíthe, beatha agus pearsa agus dea-chlú agus maoinchearta an uile

shaoránaigh a chosaint ar ionsaí éagórach chomh fada lena chumas, agus iad a shuíomh i gcás éagóra.

### LITERAL ENGLISH TRANSLATION

The State will, in particular, by its laws, protect the life and person and good reputation and property rights of every citizen from unjust attack to the extent of its power, and assert them in a case of injustice.

### ENGLISH TEXT

The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.

### Divergences between the official texts

- 1 The text corresponding to 'and, in the case of injustice done, vindicate', in the middle of the English subsection, is found at the end of the Irish subsection, where this text is expressed as 'agus iad a shuíomh i gcás éagóra' ('and vindicate them in [a] case of injustice'), with 'beatha agus pearsa agus dea-chlú agus maoinchearta an uile shaoránaigh' ('the life and person and good name and property rights of every citizen') preceding this clause in the Irish text and being referred to as 'iad' ('them') in 'agus iad a shuíomh' ('and vindicate them').
- 2 As in the previous subsection, 'vindicate' is expressed as 'a shuíomh' ('assert') in the Irish text.
- 3 'As best it may' is expressed as 'chomh fada lena chumas' ('to the extent of its power') in the Irish text.
- 4 'In particular' is expressed as 'go sonrach' ('specifically') in the Irish text, 'in particular' generally being rendered as 'go háirithe' in Irish.

### Commentary

*éagórach ... éagóra* 'Éagóir' is translated as 'wrong', with 'éagórach' translated as 'wrongful', in *Téarmaí Dlí*, citing 'wrongful dismissal, *dífhostú éagórach*'. *Ó Dónaill* translates 'éagóir' as 'injustice, wrong; unfairness, inequity', citing '*éagóir a dhéanamh ar dhuine*, to do an injustice to someone, to wrong someone'. 'Éagórach' is translated in *Ó Dónaill* as 'unjust, inequitable; wrong'. *Dinneen* translates 'éagóir' as 'a crime; wrong, injustice, iniquity, unrighteousness, a foul (in athletics, etc.)', translating 'éagórach' as 'unjust, wrong-doing, oppressive; strange, unusual, wrong, awry'. The adjective 'éccóir', the negative of 'cóir', is translated as 'incongruous, wrong, inaccurate, improper, unjust, unfitting' in DIL, while the noun 'éccóir' is translated as 'wrong, impropriety, injustice', examples of both adjective and noun being cited from the Old Irish Glosses onwards. Only two late examples of the adjective 'éccóir' are cited in DIL, one of which comes from Keating's seventeenth-century *Three Shafts of Death*.

Turning to the Acts, in s3(1) of the Civil Liability Act, 1941, "wrong" means a tort, breach of contract or breach of trust', is translated as 'ciallaíonn "éagóir" tort, sárú cúnaint nó sárú iontaobhais' and "wrongdoer" means a person who commits or is otherwise responsible for a wrong' is translated as 'ciallaíonn "éagóiritheoir" duine a rinne éagóir nó atá freagrach ar shlí eile in éagóir'. In



Article 11 of the First Schedule to the Air Navigation and Transport Act, 1973, 'an act of interference, seizure, or other wrongful exercise of control of an aircraft in flight' is translated as 'gníomh toirmisc, urghabhála nó feidhmiú éagórach ar urlámhas aerárthaigh agus i ar eitilt'. 'Éagóir' is also used in translating 'aggrieved' – see for example, s7(2) of the Third Schedule to the Fisheries (Consolidation Act), 1959, where 'Any person who is aggrieved by any disallowance' is translated as 'Aon duine arb éagóir leis aon dícheadú'.

'Éagcóir' translates 'injustice' in early Acts. 'Unless it appears that injustice has been done to the person charged by reason of such contravention' is translated as 'maran rud é go ndeabhróidh sé gur dineadh éagcóir ar an duine cúisithe de dheascaibh na buniscionntachta san' in s68 of the Defence Forces (Temporary Provisions) Act, 1923, with 'unless the required amendments cannot in the opinion of the court be made without injustice' being translated as 'maran rud é nách féidir, dar leis an gcúirt, na leasuithe riachtanacha do dhéanamh gan éagcóir do dhéanamh' in s6(1) of the Criminal Justice (Administration) Act, 1924. We sometimes find 'éagóir' translating 'injustice' in modern Acts also – 'provided such error or mistake may be rectified without injustice to any person' is translated as 'ar choinníoll go bhféadfar an earráid nó an dearmad sin a cheartú gan éagóir a dhéanamh ar aon duine' in s18(5)(a) of the Derelict Sites Act, 1990, with 'that the applicant is likely to suffer injustice if the direction is not given' being translated as 'gur dóigh go ndéanfar éagóir ar an iarratasóir mura dtabharfar an t-ordachán' in s7(5)(b) of the Criminal Law (Rape) Act, 1981.

We also find 'éigeartas' translating 'injustice'. In s23(2) of the Social Welfare (Consolidation) Act, 1981, 'for the purpose of preventing inequalities or preventing injustice' is translated as 'chun éagothromais a chosc nó chun éigeartas a chosc'. 'Éigeartas' is translated as 'injustice' in *Ó Dónaill*, preceded by the abbreviation for 'Philosophy'. The adjective 'éigeart' is translated as 'wrong, incorrect, unjust' in *Ó Dónaill*, 'éigceart' being translated simply as 'unjust' in *Dinneen*. 'Unjust' is translated as 'éigeart' in *Téarmaí Oifigiúla*, citing Seathrún Céitinn. DIL gives two citations from the works of Keating s.v. 'éccert' ('wrong, unjust'), one from his *History of Ireland* ('ré linn breitheamhnais éigceirt do dhéanamh') and the other from his *Three Shafts of Death*: 'don duine éigceart' = 'homini iniusto'. DIL gives one earlier and one later citation (the earlier from *Togail na Tebe* [*The Thebaid of Statius*]) and also cites 'éccertach' ('unjust') in the names 'Egcertach mac Anchertaigh' and 'Maol Dúin Ua hEiccertaigh'. DIL translates the noun 'éccert' as 'wrong, injustice', giving a citation from an early Irish law-tract. Etymologically, 'éigeart' renders 'wrong' and 'éagóir' renders 'unjust', but as we have seen, 'éagórach' translates 'wrongful' in *Téarmaí Dlí*.

*L. Mc Cionnaith* translates 'unjust person, deed' as 'duine, gníomh, éagórach', cited in Connacht, Ulster and Munster, but also gives 'duine, gníomh éigceart', referring to *Dinneen*. 'Unjust towards him, bringing an unjust charge against him' is translated as 'tá tú san éagcóir air', again with reference to Munster (which also has 'chuíge', as well as 'air', in the phrase just cited), Ulster and Connacht. *L. Mc Cionnaith* s.v. 'injustice', translates 'treated with injustice' as 'tá an tír fá aincheart', cited from Munster, while 'injustice' is rendered as 'aindhligheadh' in Connacht

and Ulster, 'éagcóir do dhéanamh orthu' being found in the three dialects, rendering 'inflict injustice on', with 'éagcóir d'imirt ortha' also being cited from Munster. *De Bhaldraithe* translates 'unjust' as 'éagórach, aincheart, leatromach' and 'unjustly' as 'go héagórach', translating 'he was treated unjustly' as 'rinneadh éagóir air'. 'Injustice' is translated as 'éigeart, leatrom, éagóir' with 'you do him an injustice' translated as 'tá tú san éagóir dó, ag déanamh éagóra air'. See further the commentary on Article 45.3.2° where 'éagórach' again expresses 'unjust'.

*i gcás éagóra* As regards 'done' not specifically being expressed in the Irish, see, for example, s1(4) of the Prohibition of Forcible Entry and Occupation Act, 1971, where 'Nothing in this Act shall affect the law relating to acts done in contemplation or furtherance of a trade dispute' is translated as 'Ní dhéanfaidh aon ní san Acht seo difear don dlí a bhaineann le gníomhartha d'intinn nó de chabhair le díospóid trádála a chur ar aghaidh'. Note that in *Téarmaí Dlí* s.v. 'done', 'work done and services rendered' is translated as 'obair agus seirbhísí a rinneadh'. In s54(17)(a) of the Fisheries Act, 1980, 'Where ... a person by trespass, fishing or otherwise interferes with anything done pursuant to an aquaculture licence' is translated as 'I gcás ... a ndéanfaidh duine trí fhoghail, iascaireacht nó eile, cur isteach ar ní a bheidh déanta de bhun ceadúnais do bharshaothraithe'. In Article 53 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, 'Done at Vienna, this eighteenth day of April one thousand nine hundred and sixty-one', in relation to the Vienna Convention on Diplomatic Relations, is translated as 'Arna dhéanamh i Vín an t-ochtú lá déag seo d'Aibreán míle naoi gcéad seasca is a haon'.

Finally, as regards 'i gcás', in s15 of the Finance Act, 1990, for example, 'In the case of the death of a person who ... would ... have become chargeable to income tax' is translated as 'I gcás duine d'fháil bháis a thioctadh ... chun bheith inmhuirir i leith cánach ioncaim'.

*go sonrach* 'Go sonrach' expresses 'in particular' in Articles 41.2.1° and 45.2 also. This phrase expresses 'especially' in Article 45.2.iii and 'cosaint sonrach' expresses 'special care' in Article 45.4.1°. On the other hand, in Article 27.3, 'the particular ground or grounds' is expressed as '(ar) an ábhar nó ar na hábhair áirithe'; in Article 28.4.3° 'a particular matter' is expressed as 'ní áirithe'; in Article 40.4.4°, 'any particular case' is expressed as 'aon chás áirithe' and in Article 42.3.1° 'any particular type of school' is expressed as 'aon chineál áirithe scoile'.

'Bronntanas sonrach' and 'leagáid shonrach' are translated respectively as 'specific gift' and 'specific legacy' in *Téarmaí Dlí*. *Ó Dónaill* translates 'sonrach' as 'particular, specific', translating 'go sonrach' as 'particularly, notably'. *Dinneen* translates 'sonrach' as 'special, particular, etc.', referring the reader to 'sonnradhach', translated as 'special, specific, particular', with 'go sonnradhach' translated as 'to come to details, also chiefly, very'. DIL cites examples of 'sainredach', in the senses of 'peculiar or belonging to (an individual), characteristic of; particular, special, set apart', along with 'specific, definite', from the Old Irish Glosses onwards, citing an example of 'co sunradach' from a commentary on an early Irish law-tract, and translating a citation of 'go sunradach' as 'especially'. 'Sainredach' is based on 'sainred' ('peculiar property or

characteristic, *distinguishing an individual from others*), which in turn is based on 'sain' ('different, distinct, separate'). See further the commentary on Article 42.5.

Turning to the Acts, in s5(2) of the Industrial Development Authority Act, 1950, 'which would involve the divulging of secret manufacturing processes or recipes or of methods peculiar to the particular undertaking of such witness' is translated as 'a bhéarfadh go scaoilfí eolas ar aon phróiseanna nó sain-oidis rúnda déantóireachta nó ar aon mhodhanna a bhaineas go sonrach le gnóthas áirithe an fhinné sin'. In general 'go sonrach' translates 'specifically' in the Acts – see, for example, 'save or otherwise specifically provided for', in s1(4) of the Health Act, 1970, which is translated as 'Ach amháin mar a bhforáiltear go sonrach dá mhalairt'. 'In particular', on the other hand, is generally translated as 'go háirithe' – see, for example, s3(1) of the Sea Pollution Act, 1991, where '(fauna) includes in particular wild birds' is translated as 'folaíonn sé go háirithe éin fhiáine' and s8(2)(a) of the Capital Gains Tax Act, 1975, where 'this paragraph applies in particular to' is translated as 'baineann an mhír seo go háirithe (le)'. See the commentary on Article 42.5 for early translations.

*dea-chlú* *Ó Dónaill* translates 'dea-chlú' as 'good reputation; good name, honour', citing '*is mór ag duine a dheachlú*, one's good name is to be cherished'. *Dinneen* translates 'deagh-chlú' as 'good repute'. DIL gives citations of 'deg-clú' ('a good reputation, good fame') from an early Irish law-tract. 'Clú' is translated as 'reputation' in *Téarmaí Dlí*.

Following the text of the Constitution, in the Long Title of the Defamation Bill, 1995 (introduced in the Dáil on 14 February 1995), 'to provide in accordance with the common good protection for the good name of persons' is translated as 'do thabhairt cosanta de réir na maitheasa poiblí do dheachlú daoine'. In s8(1) of the Broadcasting Act, 1990, 'which constituted an attack on that person's honour or reputation' is translated as 'ar ionsaí a bhí iontu ar onóir nó deachlú an duine sin'.

Note that *Ó Dónaill* includes the headword 'dea-ainm', translated as 'good name', citing '*dea-ainm an duine*, a person's good name'. *Dinneen* also has 'deagh-ainm' as a headword, which he translates as 'a good name'. DIL gives one citation of 'deg-ainm', from the *Book of Ballymote*, written around 1400.

*a chosaint ar* 'Cosnaim' is translated as 'I defend' in *Téarmaí Dlí*, with 'cosaint' translated as 'defence'. 'Protected transaction' is translated therein as 'idirbheart tearmainn', with 'protection from process' translated as 'tearmann ó phróis'. *Ó Dónaill* translates 'cosain' as 'defend, protect (*ar*; *ó*, against)', citing '*duine a chosaint ar rud*, to defend someone against something' and '*sinn a chosaint ó bhaol, ar olc*, to protect us from harm, from evil'. *Dinneen* translates 'cosnaim' as 'I defend, protect from (*ar*)'. See the commentary on the foregoing subsection.

'Cosain' translates 'protects' in the Acts also – in s9(5)(g) of the Consumer Information Act, 1978, for example, 'legislation providing for the protection of consumers' is translated as '(ar) fhorálacha aon reachtaíochta a dhéanann socrú le tomhaltóirí a chosaint'. See, for example of 'cosain ó', the following from the Dáil *Order Paper* of 24/3/1977: 'Declaration on the Protection of all Persons from being Subjected to Torture and other Cruel, Inhuman or

Degrading Treatment or Punishment', '*Dearbhú maidir le Cosaint gach uile Dhuine óna Chéasadh agus ó Íde nó Pionós eile a fháil atá Cruálach, Mídhaoanna nó Táirchéimeachí*. See the commentary on Article 45.3.2° where 'cosain ar' expresses 'protect against'.

Professor Máirtín Ó Murchú remarks that there is the same difference between 'cosain ó' and 'cosain ar' as there is between English 'defend from' and 'defend against'.

*maoinchearta* 'Maoin' is translated as 'property' in *Téarmaí Dlí*, the compound 'maoincheart' (unlike, for example, the compound 'móincheart', which is translated as 'right of turbary, turbary') not being given. Neither *Ó Dónaill* nor *Dinneen* cite this headword (unlike, for example, 'maoinchiste', translated as 'treasury-chest' in *Ó Dónaill* and simply as 'treasury' in *Dinneen*). See the commentary on Article 10.1 regarding 'maoin'. 'Voting rights', 'human rights', 'conjugal rights', 'drawing rights' and 'fishing rights' are translated respectively as 'cearta vótála', 'cearta an duine', 'cearta an phósta', 'cearta tarraingthe' and 'cearta iascaireachta' in the Acts. Regarding 'property' in the early Acts, we find 'maoin' translating 'property' in Article 8 of the 1922 Constitution, this now being the Irish legal term for 'property'. While '(ar) an maoin eile is le A.G. Williamson anois' translates 'other property now owned by A.G. Williamson' in s93 of the Dundalk Harbour and Port Act, 1925, in ss1, 'and shall when erected vest in her and be her property' (of a boundary wall) is translated as 'agus ar bheith tógtha dho dilseoidh sé inti agus beidh sé dá cuid féin aici'. Note finally that 'the property in such tree shall vest in the person by whom such notice was served' is translated as 'dilseoidh únaereacht an chrainn sin sa té a sheirbheáil an fógra san' in s34(4)(e) of the Local Government Act, 1925.

*chomh fada lena chumas* *Ó Dónaill* s.v., 'cumas' ('capability; power'), translates 'de réir a chumais' as 'as far as he is able; according to his means' and s.v. 'fada', translates 'chomh fada leis sin de' and 'chomh fada is nach ndéanfaidh sé aon dochar dó' respectively as 'as far as that is concerned' and 'provided he does not harm it'. *Dinneen* translates 'chómh fada le' as 'as long as, as far as, to, as regards', translating 'cumas' as 'adjustment' control, requisite capability or power; ability; effort; disposition' and 'do réir a chumais' as 'all things considered in regard to him'. As regards 'cumas', earlier 'commus' ('power, ability, capacity'), see the commentary on Articles 14.2.2° and 31.2. DIL translates 'do réir ... chumais na háite' as 'according to the possibility of the place' s.v. 'commus'.

In s69(3)(d) of the Building Societies Act, 1976, 'in his opinion and to the best of his information' is translated as 'de réir a thuairime agus chomh fada agus is eol dó'. In s10(5)(a) of the First Schedule to the Corporation Tax Act of the same year, 'to the best of his judgement' is translated as 'go feadh a bhreithiúnais'. In s19 of the Mines and Quarries Act, 1965, 'to the best of his ability' is translated as 'go feadh a chumais' while in s20(4)(b) of the Finance Act, 1983, 'to the best of his knowledge, information and belief' is translated as 'de réir mar is fearr is eol agus is feasach dó agus mar a chreideann sé'. Turning to the *Programme for a Partnership Government*, 1993-97 (p. 43), 'to the maximum possible extent consistent with

the needs of the service they must provide' is translated as 'chomh fada agus is féidir gan dochar do riachtanais na seirbhíse a chaithfidh siad a chur ar fáil', with 'the elimination as far as possible of social disadvantage' being translated as 'deireadh a chur chomh fada agus is féidir le míbhuntáiste sóisialta' (p. 2).

*ionsaí* This headword is translated as 'assault' in *Téarmaí Dlí* and principally as 'advance, approach, attack' in *Ó Dónaill*. 'Ionnsaighe' is translated as 'approach, assault, attack, invasion, enterprise' in *Dinneen*. 'Índsaigid', verbal noun of 'ind-saig' ('approaches, goes to; reaches, advances [upon], attacks'), is translated principally as 'act of approaching, attacking; an attack' in DIL.

Turning to the Acts, following *Téarmaí Dlí*, we find 'aggravated sexual assault' translated as 'tromionsaí gnéasach' in the Schedule to the Bretton Woods Agreements Act, 1957. In s8(1) of the Broadcasting Act, 1990, 'which constituted an attack on that person's honour or good reputation' is translated as 'ar ionsaí a bhí iontu ar onóir nó dea-chlú an duine sin'. See further the commentary on Article 41.3.1°. *De Bhaldraithe* translates 'attack' as 'ionsaí, fogha', translating 'to attack someone's rights' as 'cur isteach ar cheart duine'.

*pearsa* 'Caomhnóir ar an bpearsa' and 'foghail ar an bpearsa' are translated respectively as 'guardian of the person' and 'trespass to the person' in *Téarmaí Dlí* – see the commentary on Articles 40.1 and 45.2.ii. Turning to the Acts, in Article 29 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, for example, 'The person of a diplomatic agent shall be inviolable' is translated as 'Beidh pearsa gníomhaire taidhleoireachta dosháraithe'.

### Direct translation

Déanfaidh an Stát, go háirithe, lena dhlíthe, beatha, pearsa, dea-ainm<sup>1</sup>, agus cearta maoine gach saoránaigh a chosaint chomh fada agus is féidir leis ar<sup>2</sup> ionsaí éigeart<sup>3</sup> agus seasfaidh sé dóibh i gcás éigeartais<sup>4</sup>.

### Variants

- 1 'dea-chlú'
- 2 'ó'
- 3 'éagórach'
- 4 'éagóra', 'i gcás éigeartas/éagóir a dhéanamh orthu'

## ARTICLE 40.3.3° AIRTEAGAL 40.3.3°

### TÉACS GAELGE

Admhaíonn an Stát ceart na mbeo gan breith chun a mbeatha agus, ag féachaint go cuí do chomhcheart na máthar chun a beatha, ráthaíonn sé gan cur isteach lena dhlíthe ar an gceart sin agus ráthaíonn fós an ceart sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.

### LITERAL ENGLISH TRANSLATION

The State acknowledges the right of the unborn to their life and, having due regard to the equal right of the mother to her life, it guarantees not to interfere through its laws

with that right and it guarantees further to protect and assert that right with its laws in so far as it is possible.

### ENGLISH TEXT

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

### Divergences between the official texts

- 1 This subsection was added to the Constitution by the Eighth Amendment of the Constitution Act, 1983; being an Amendment of the Constitution, while this text would have been translated literally, it would adhere to the terminology already in the Constitution as far as possible. Much of the wording of this section is identical with that of Article 40.3.1°; therefore, as in 40.3.1°:
  - i) 'the State ... guarantees **in its laws to respect**' is rendered as 'ráthaíonn sé gan cur isteach lena dhlíthe' ('it guarantees not to **interfere through** its laws'),
  - ii) 'vindicate' is rendered as 'a shuíomh' ('assert'), and
  - iii) 'as far as practicable' is rendered as 'sa mhéid gur féidir é' ('in so far as it is possible').

The phrase 'féach go cuí' ('have due regard') is also found in Article 40.1.

### Commentary

*Admhaíonn* 'Admhaím' is translated as 'I acknowledge, I confess' in *Téarmaí Dlí*. *Ó Dónaill* translates 'admhaigh' as (1) 'acknowledge' and (2) 'confess', dividing the examples of the first sense into (a) 'admit', citing '*d'admhaigh sé go raibh an ceart agam*, he admitted that I was right' and '*admhaíonn an saol (go)*, everybody admits, agrees (that)', (b) 'own to be', citing '*bean nach n-admhódh a fear féin*, a woman who would not acknowledge her own husband' and (c) 'acknowledge receipt of', citing '*níor admhaigh tú mo litir*, you did not acknowledge my letter'. *Dinneen* translates 'admhuighim' as 'I confess, admit, acknowledge; I say, state, proclaim'. See further the commentary on the *Preamble*.

In the *Joint Declaration* of December 1993, 'the Taoiseach also acknowledges the presence in the Constitution of the Republic of elements which are deeply resented by Northern Unionists' is translated as 'admhaíonn an Taoiseach freisin go bhfuil gnéithe de Bhunreacht na Poblachta a nglacann Aontachtaithe an Tuaiscirt olc domhain leo' and 'when the genuine feelings of all traditions in the North must be recognised and acknowledged' is translated as 'nuair nach mór braistintí macánta na dtraidisiún go léir sa Tuaisceart a aithint agus a admháil'. In the *Treaty on European Union* (1992, p. 238) 'The Conference acknowledges that the outermost regions of the Community ... suffer from major structural backwardness' is translated as 'Aithníonn an Chomhdháil go bhfuil cúlmaireacht mhór struchtúrach ar na réigiúin is forimeallaí den Chomhphobal'. See the commentary on Article 42.1 for citations from the Acts.

*ceart na mbeo gan breith chun a mbeatha* 'Beo' is translated principally as 'living being', with the secondary sense of 'life', in *Ó Dónaill*, who translates 'an beo' as 'the living', citing '*ag guí ar son na mbeo agus na marbh*, praying for the living and the dead'. *Dinneen* gives 'na beodha' as the plural form of 'beo', 'a living person; the living ...', citing '*ní nádúrtha an beo 'ná an marbh*, life is not more natural than death' and '*guidhim ar bheodhaibh is ar mharbhaibh*, I pray for the living and the dead'. We have an example of the genitive plural of 'beo' from the eighth-century Würzburg Glosses on the Pauline Epistles, 'inna nóib in dithhrub in beotho oc ascnam tíre tairngiri inna mbéo' ('[of] the saints in the desert of Life, journeying to the Land of Promise of the Living'). DIL also cites 'ragaid do beo no do marb' ('you shall go dead or alive'), from the version of the *Táin* in the twelfth-century manuscript, the *Book of Leinster*.

One would perhaps expect 'gan bhreith' here, as one finds in *De Bhaldraithe* s.v. 'unborn'; *Ó Dónaill* cites '*bheith gan chlann*, to be without children, childless', as well as examples with verbal nouns, such as '*gan bhaint*, unsown' and '*gan bhriseadh*, unbroken'. 'Gan' does not lenite with a dependent clause or phrase – see, for example, '*Tá mé gan phingin*, I am without a penny, penniless', but '*gan pingin ina phóca*, without a penny in his pocket' (both cited in *Ó Dónaill*). *Dinneen* cites '*gan breith ar a anáil aige*, he not being able to draw his breath'. By leaving 'breith' unlenited, one anticipates a following phrase, instead of the finality of 'gan bhreith'. We have an example of the phrase 'buih cenchlaind' ('to be without children') in the ninth-century Milan Glosses on the Commentary on the Psalms. 'Bean ... atá gan phósadh' translates 'a woman who is unmarried' in s8(1) of the Social Welfare Act, 1973, for example, 'unmarried mothers' being translated as 'máithreacha neamhphósta' in the heading.

'Beatha' is translated as (1) 'life', (2) 'living, livelihood', and (3) 'food, sustenance' in *Ó Dónaill* and 'life, existence; food; crops; harvest; means of livelihood; property, estate' in *Dinneen*. 'Ceilt bhreithe' is translated as 'concealment of birth' in *Téarmaí Dlí*.

*comhcheart* 'Comhcheart iascaigh' is translated as 'common of fishery' in *Téarmaí Dlí*, 'ceart iascaigh' translating 'fishery (i.e. right of)'. This compound of 'comh' and 'ceart' does not appear to be given as a headword either in *Ó Dónaill* or in *Dinneen*, but is given in DIL, where we find a citation of the adjective 'comchert' from the twelfth-century *Book of Leinster*, 'in comainm comchert', translated as 'the appropriate name' in Edward Gwynn's *Metrical Dindshenchas*, iv, p. 339.

As we have seen in the commentary on Articles 18.4.2° (where 'lion comhionann' expresses 'equal number') and 40.1 (where 'ionann' expresses 'equal'), 'comhionann' is often used in the Acts to translate 'equal' – in s7(1) of the Anti-Discrimination (Pay) Act, 1974, for example, 'equal pay clause' is translated as 'clásal pá chomhionann', with the heading of the section, 'Investigation by equal pay officers', translated as 'Imscrúdú ag oifigigh pá chomhionann'. 'In equal shares' is translated as 'i scaireanna comhionanna' in s5(2)(c) of the Wealth Tax Act, 1975. The heading of Part VII of the Pensions Act, 1990, 'Equal Treatment for Men and Women' is translated as 'Déileáil go Comhionann le Fir agus Mná'. 'Equal validity' is translated as 'seasamh comhionann' in the *New Ireland*

*Forum Report* (1984, 1.2). Finally, the 'Equal Pay Commission' is styled 'An Coimisiún um Pá Comhionann' in Irish.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that he finds no fault with 'comhcheart' here.

See the commentary on Article 40.3.1° regarding 'cur isteach ar', 'suíomh' and 'sa mhéid gur féidir é' and see the commentary on Article 40.1 regarding 'féach do'.

### Direct translation

Admhaíonn an Stát ceart na mbeo gan bhreith chun a mbeatha agus, ag féachaint go cuí do<sup>1</sup> cheart comhionann<sup>2</sup> na máthar chun a beatha, ráthaíonn sé ina dhlíthe an ceart sin a urramú, agus, a mhéid is féidir, é a chosaint agus seasamh dó<sup>3</sup> lena dhlíthe.

### Variants

- 1 'le háird chuí ar'
- 2 'do chomhcheart'
- 3 'agus a shuíomh'

## ARTICLE 40.3.3° (cont'd)

### AIRTEAGAL 40.3.3° (ar lean.)

#### TÉACS GAEILGE

Ní theorannóidh an fo-alt seo saoirse chun taisteal idir an Stát agus stát eile.

Ní theorannóidh an fo-alt seo saoirse chun faisnéis a fháil nó a chur ar fáil sa Stát maidir le seirbhísí atá ar fáil go dleathach i stát eile ach sin faoi chuimsiú cibé coinníollacha a fhéadfar a leagan síos le dlí.

#### LITERAL ENGLISH TRANSLATION

This subsection will not limit freedom to travel between the State and another state.

This subsection will not limit freedom to get information or to make information available in the State as regards services which are lawfully available in another state but that (is) within the scope/constraint of whatever conditions that may be laid down by law.

#### ENGLISH TEXT

This subsection shall not limit freedom to travel between the State and another state.

This subsection shall not limit freedom to obtain or make available, in the State, subject to such conditions as may be laid down by law, information relating to services lawfully available in another state.

#### Divergences between the official texts

- 1 The above text was added to the Constitution by the Thirteenth and Fourteenth Amendments of the Constitution, 1992, the Irish text being a very literal translation of the English text. However, 'subject to' is rendered as 'ach sin faoi chuimsiú', literally 'but that within the constraint/scope of', 'subject to' being

expressed as ‘faoi chuimsiú’ generally in the Constitution, rather than as ‘faoi réir’, as this phrase is translated in *Téarmaí Dlí*.

### Commentary

*ach sin faoi chuimsiú* This phrase, having the literal sense of ‘but that within the constraint of’, renders ‘subject to’. ‘Ach sin’ here would have been based on both Articles 44.2.1°, where ‘subject to public order and morality’ is expressed as ‘ach gan san a dhul chun dochair don ord phoiblí ná don mhoráltacht phoiblí’, and 40.6.1°, where ‘The State guarantees liberty for the exercise of the following rights, subject to public order and morality’ is expressed as ‘Ráthaíonn an Stát saoirse chun na cearta seo a leanas a oibriú ach sin a bheith faoi réir oird is moráltachta poiblí’. While ‘subject to’ is expressed as ‘faoi réir’ in the latter example, this phrase is expressed as ‘faoi chuimsiú’ in Articles 11, 12.5, 12.10.2°, 13.10, 14.5.1°, 16.7, 18.7.2°, 18.10.1°, 22.2.1°, 28.2, 29.4.2°, 30.6, 33.6, 34.4.3°, 36 and 50.1 – see further the commentary on Article 12.5.

We find ‘subject to such conditions’ in Article 24.4.2° also, where ‘the Government may to such extent and subject to such conditions, if any, as may be determined by law’ is expressed as ‘féadfaidh an Rialtas, sa mhéid go gcinnfear le dlí agus faoi chuimsiú cibé coinníollacha a chinnfear le dlí má chinntear’. In the Amendment contained in Article 40.4.3°, however, ‘on such bail and subject to such conditions’ is rendered as ‘faoi réir na mbannaí agus na gcoinníollacha sin’. ‘Subject to’ is translated as ‘faoi réir’ in *Téarmaí Dlí* and, as we saw above, in Article 40.6.1°, ‘subject to’ is so expressed. In the Amendment contained in Article 29.4.6°, ‘subject to the prior approval of both Houses of the Oireachtas’ is rendered as ‘faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais’.

Note that in Article 10.1, ‘subject to all estates and interests therein for the time being lawfully vested in any person or body’ is expressed as ‘gan dochar do cibé eastáit agus leasanna is le haon duine nó le haon dream go dleathach in alt na huairé’. In Article 11, ‘subject to such exception as may be provided by law’ is expressed as ‘ach amháin an chuid sin de ar a ndéantar eisceacht le dlí’. Finally, ‘while subject to military law’ is expressed as ‘le linn a bheith faoi dhlí mhíleata’ in Article 38.4.1°.

*Ní teorannóidh* ‘Teorannaím’ is translated as ‘I limit’ in *Téarmaí Dlí*. *Ó Dónaill* translates ‘teorannaigh’ as (1) ‘delimit’ and (2) ‘limit, restrict’. While *Dinneen* gives ‘teora’ and nouns and adjectives based on this, he does not appear to give ‘teorannaigh’ as a headword. DIL just cites one example of ‘tórannaidh’, in the sense of ‘borders on, marches with’. ‘Tórann’, on which this verb is based, is itself the verbal noun of ‘do-foirndea’ (\*to-fo-rind- [DIL cites one example of the verb ‘do-rinda’, ‘marks out’]), the usual sense of which in Old Irish is ‘expresses, signifies’, but the common meaning in Middle Irish was ‘traces, marks out, delimitates (a design, site, etc.)’ – examples of the former sense are cited in DIL from the Old Irish Glosses onwards, and we can observe the transition in sense in some of the examples from the Glosses. See the commentary on Article 2, where ‘(a) fharraigí teorann’ expresses ‘(the) territorial seas’ and the commentary on Article 34.1 where ‘teoranta’ expresses ‘limited’.

Turning to the Acts, in s51 of the Redundancy Payments

Act, 1967, ‘in so far as it purports to exclude or limit the operation of any provision of this Act’ is translated as ‘a mhéid a airbheartaíonn sí oibriú aon fhorála den Acht seo a eisiámh nó a theorainniú’. In s10 of the Liability for Defective Products Act, 1991, ‘The liability of a producer arising by virtue of this Act to an injured person shall not be limited or excluded by any term of contract’ is translated as ‘Ní dhéanfaidh aon téarma conartha ... dliteanas táirgeora de bua an Achta seo i leith duine dhíobháilte a theorannú ná a eisiámh’. Note that in s5(2)(a) of the Companies Act, 1963, ‘a company having the liability of its members limited by the memorandum to the amount ...’ is translated as ‘cuideachta a mbeidh dliteanas a comhaltaí curtha, leis an meabhrán, faoi theorainn an mhéid ...’. Note also that in *Treaties establishing the European Communities* (1973, p. 735), ‘Anxious to limit the number of institutions responsible for carrying out similar tasks’ is translated as ‘Ós é a miangas teorainn a chur le líon na n-institiúidí atá freagrach i gcúraimí comhchosúla a chur i gcrích’.

Looking at ‘limit’ in early Acts, ‘notwithstanding any provision in any Act now in force in relation to the fixing, limiting, restricting, compounding, or commuting of any tolls’ is translated as ‘d’ainneoin aon fhorála in aon Acht atá i bhfeidhm anois i dtaobh aon chustaim ... den tsórt san do cheapa, do theoranú, do shriana, do chó-réiteach no do luíodú’ in s7 of the State Harbours Act, 1924. ‘Whereas the Acts ... are limited to expire as respects the Acts mentioned in the First Schedule to this Act on the 31st day of December 1922’ is translated as ‘De bhí go bhfuil na hAchtanna ... fuinte chun dul in eug an chuid aca atá luaidhte sa Chéad Sceideal a ghabhann leis an Acht so ar an 31adh lá de Mhí na Nodlag 1922’ in the Preamble to the Expiring Laws Continuance Act, 1922, with ‘go bhfuilid le dul in eug an 31adh lá de Mhí na Nodlag’ translating ‘are limited to expire on the 31st day of December’ in the Preamble to the Expiring Laws Act, 1926. ‘Notwithstanding anything in any enactment limiting the granting thereof to certain classes of persons’ is translated as ‘in ainneoin éinní in aon achtachán ná leigeann fóirithin do dheonú ach d’aicmí áirithe daoine’ in s10 of the Local Government (Temporary Provisions) Act, 1923, with ‘The admission of cases to the District Hospitals shall be strictly limited to urgent surgical and urgent medical cases’ being translated as ‘Ní leigfear isteach in aon chor sna hOspidéal Cheanntair ach deabha-chásanna chun máin-liaghais agus deabha-chásanna chun leighis’ in s21 of the ‘Mayo County Scheme’ in the First Schedule to that Act.

*faisnéis* This headword is translated as ‘information (sworn)’ in *Téarmaí Dlí* and generally translates ‘information’ in the modern Acts. *Ó Dónaill* translates ‘faisnéis’ as ‘information; intelligence, report’, citing ‘*faisnéis a thabhairt faoi rud*, to give information about something’ and ‘*níl fios ná faisnéis agam orthu*, I know nothing about them, have neither tale nor tidings of them’. *Dinneen* translated ‘faisnéis’ as ‘a narrative, statement, account, rehearsal, intelligence; act of publishing, relating, commemoration, narrating, making known; a clue; a hint; act of seeking a clue or hint’. The Old Irish form was ‘aisndís’, verbal noun of ‘as-indet’, which verb is translated as ‘declares, tells, relates’ in DIL, where examples are cited from the eighth-century Glosses onwards. In the early

Irish laws, 'aisnéis' had the sense of 'act of giving information, informing (against)' – see Fergus Kelly, *op. cit.*, p. 206, who cites the following example of 'aisnéis' in the sense of 'evidence' from an early Irish law-tract: 'faisneis fir omhna aidhus ég, ní fil ní na gella tar cenn anma' ('the evidence of a frightened man who fears death: there is nothing which he may not promise for the sake of his life').

'Eolas' is translated as 'knowledge, information, especially knowledge gained by experience or practice, acquaintance' and especially 'knowledge of the way (place), guidance' in DIL, where examples are cited from the eighth-century Glosses onwards. In *Téarmaí Dlí* 'notice requiring further information' is translated as 'fógra ag iarraidh tuilleadh eolais'. See the commentary on Article 28.5.2° where 'eolas a thabhairt' expresses 'keep informed'. 'Fis' is translated in DIL as 'the act of finding out or ascertaining; knowledge, information' and 'that which is known, knowledge', where again examples are cited from the eighth century onwards.

Turning to the Acts, in s75(4)(a) of the First Schedule to the European Assembly Elections Act, 1977, 'attempts to obtain in a polling station information as to the candidate for whom any voter in the station is about to vote' is translated as 'go bhféachfaidh sé le faisnéis a fháil, i stáisiún vótaíochta i dtaobh an iarrthóra dá mbeidh vóta le tabhairt ... ag aon vótálaí sa stáisiún'. We also find 'eolas', particularly in the earlier Acts – see, for example s2 of the Statistics (Amendment) Act, 1946, where 'statistical information' is translated as 'eolas staidrimh'. In s22(8) of the Imposition of Duties (Dumping and Subsidies) Act, 1968, '... shall furnish to the Minister such information in his possession or procurement as the Minister may require for the purpose of ascertaining ... the fair market price of the goods' is translated as 'tabharfaidh sé don Aire cibé eolas a bheidh ina sheilbh nó ar fáil aige agus a bheidh ag teastáil ón Aire d'fhonn praghas margaidh cothrom na n-earraí a fháil amach', and in s71(1) of the Health Act, 1970, 'The Minister may make arrangements for the dissemination of information and advice on matters relating to health and health services' is translated as 'Féadfaidh an tAire comhshocraíochtaí a dhéanamh chun eolas agus comhairle a leathadh i dtaobh ábhair a bhaineann le sláinte agus le seirbhísí sláinte'. 'Eolas' translates 'knowledge' in s244(1) of the Income Tax Act, 1967, where 'any activities in the fields of natural or applied science for the extension of knowledge' is translated as 'aon ghníomhaíochtaí i réim na heolaíochta nádúrtha nó feidhmiúla d'fhonn eolas a mhéadú'. In the Preamble to the Institution of Civil Engineers of Ireland (Charter Amendment) Act, 1969, 'promoting the acquisition of knowledge' is translated as 'foghlaim an eolais a chur chun cinn'.

We also find 'fios' translating 'knowledge' in the Acts. In s5(1) of the Broadcasting (Offences) Act, 1968, 'conditions as to knowledge or belief' is translated as 'coinníollacha maidir le fios agus creidiúint', 'knowledge' here referring to, for example, 'knowing, or having cause to believe, ... that broadcasts are made' in s5(3)(f), which is translated as 'a fhios a bheith aige, nó cúis réasúnach a bheith aige chun a chreidiúint ... go ndéantar craoladh aisti'. Finally, 'guilty knowledge' is translated as 'fios ciontach' in *Téarmaí Dlí*. See further the commentary on Article 28.5.2° regarding early official translations of 'information'.

*a leagan síos* *Ó Dónaill* does not seem to cite the phrase 'leag síos', although he gives both 'leag anuas', translated as 'lay down', citing '*curach a leagan anuas*, to carry a curach down to the sea', and 'leag suas', citing '*bheith leagtha suas*, to be laid up', as headwords. *Dinneen* translates 'leagaim síos' as 'I prostrate'.

In s8 of the *Standing Orders* of Dáil Éireann (1997), 'apply the rules as laid down by this House in an impartial and fair manner' is translated as 'na rialacha mar atá siad leagtha síos ag an Teach seo a chur i bhfeidhm go cothrom neamhchlaonta'. 'In accordance with the principles laid down in this Act', in s99(3) of the First Schedule to the European Assembly Elections Act, 1977, is translated as 'de réir na bprionsabal atá leagtha síos san Acht seo'. In *Treaties establishing the European Communities* (1973, p. 762), 'The regulations shall lay down detailed rules for each institution' is translated as 'Leagfaidh na rialacháin síos rialacha mionchruinne do gach institiúid'. Note, however, the various alternative ways 'lay down' is translated in those Treaties. 'Periods of grace based on considerations of distance shall be laid down in the rules of procedure' is translated as 'Cinnfear leis na rialacha níos imeachta tréimhsí breise a bhunófar ar an bhfad ó láthair' (p. 692). While 'under conditions laid down in rules drawn up by the Court' is translated as 'faoi choinníollacha a bheidh sonraithe i rialacha a leag an Chúirt síos' (p. 689), on p. 887, 'under the conditions laid down in those Treaties and in this Act' is translated as 'faoi na coinníollacha dá bhforáiltear sna Conarthaí sin agus san Ionstraim seo'. On p. 21, 'laying down general objectives' is translated as 'aidhmeanna ginearálta a shainiú'. While 'Notwithstanding the provisions of Article 15(1) ... laying down general rules for the grant of export refunds for sugar' is translated as 'De mhaolú ar na forálacha atá leagtha síos in Airteagal 15(1) ... ag bunú rialacha ginearálta i dtaobh aisíocaíochtaí ar onnmhairí siúcra' (p. 1395), on p. 928, 'The Commission shall ... lay down the provisions applicable to trade' is translated as 'socróidh an Coimisiún ... na forálacha is infheidhme ar an trádáil'. Finally, on p. 963, 'the provisions relating to the test laid down for animals traded within the Community' is translated as 'na forálacha maidir leis an tástáil atá ceaptha d'ainmhithe is ábhar trádála idir na Comhphobail'. We see, therefore, the many ways 'lay down' can be rendered as against being literally translated as 'leag síos', as is done in this Amendment.

*a féadfar a leagan síos le dlí* This is a very literal translation of 'as may be laid down by law'. Going here through the text of the Constitution, we see from the following citations that 'féad' is not always used to express 'may', the simple future of the verb it qualifies sometimes expressing 'may' (see also the commentary on Article 12.4.4°); we also see how 'provide', 'determine' and 'fix', along with 'as', are expressed in various ways in different Articles – note in particular that while in Articles 10.3 and 19, 'Provision may be made by law' is expressed as 'féadfar socrú a dhéanamh le dlí', in Article 18.4.2°, this phrase is expressed as 'féadfar foráil a dhéanamh le dlí'. In Article 16.5, 'a shorter period may be fixed by law' is expressed as 'féadfar ré is giorra ná sin a shocrú le dlí'.

In Article 11, 'subject to such exception as may be provided by law' is expressed as 'ach amháin an chuid sin de ar a ndéantar eisceacht le dlí'. In Article 12.11.2°, 'The President shall receive such emoluments and

allowances as may be determined by law' is expressed as 'Gheobhaidh an tUachtarán sochair agus liúntais faoi mar a chinnfear le dlí'. In Article 16.1.2<sup>o</sup>ii (following the Ninth Amendment of the Constitution, 1984), 'such other persons in the State as may be determined by law' is rendered as 'cibé daoine eile sa Stát a chinnfear le dlí'. In Article 17.1.2<sup>o</sup>, 'Save in so far as may be provided by specific enactment in each case' is expressed as 'ach amháin sa mhéid go mbeidh a mhalairt socair i dtaobh gach cás ar leith in achtachán chuige sin'. In Article 18.4.2<sup>o</sup>, 'so many members of Seanad Éireann as may be fixed by law' is expressed as 'an líon sin comhaltaí de Sheanad Éireann a shocrófar le dlí'. 'In the manner provided by law', in Article 18.7.1<sup>o</sup>, is expressed as 'ar an gcuma a shocrófar le dlí', with 'as may be fixed by such law' being expressed as 'a chinnfear leis an dlí sin' in Article 19. In Article 29.4.2<sup>o</sup> 'the Government may to such extent and subject to such conditions, if any, as may be determined by law' is expressed as 'féadfaidh an Rialtas, sa mhéid go gcinnefear le dlí agus faoi chuimsiú cibé coinníollacha a chinnfear le dlí, má chinntear'. In Article 29.6, 'save as may be determined by the Oireachtas' is expressed as 'ach mar a chinnfidh an tOireachtas'. In Article 29.7.5<sup>o</sup> (the Amendment following the Good Friday Agreement), 'or such longer period as may be determined by law' is rendered as 'nó cibé tréimhse is faide ná sin a shocrófar le dlí'. In Article 31.2.iii, 'Such other persons, if any, as may be appointed by the President' is expressed as 'Aon daoine eile a cheapfar ag an Uachtarán faoin Airteagal seo, má cheaptar aon duine'. In Article 34.1, 'save in such special and limited cases as may be prescribed by law' is expressed as 'ach amháin sna cásanna speisialta teoranta sin a ordófar le dlí'. In Article 34.4.3<sup>o</sup>, 'subject to such regulations as may be prescribed by law' and 'such decisions of other courts as may be prescribed by law' are expressed respectively as 'faoi chuimsiú cibé forálacha a ordófar le dlí' and 'na breitheanna sin ó chúirteanna eile a ordófar le dlí'.

In Article 34.5.1<sup>o</sup>, 'as the case may be' is expressed as 'de réir mar a oireas'. In Article 34.5.3<sup>o</sup>, 'such later date as may be determined by the President' is expressed as 'dáta is déanaí ná sin mar a chinnfidh an tUachtarán'. In Article 38.3.1<sup>o</sup>, 'Special courts may be established by law for the trial of offences in cases where it may be determined in accordance with such law that ...' is expressed as 'Féadfar cúirteanna faoi leith a bhunú le dlí chun cionta a thriail i gcásanna a gcinnefear ina dtaobh, de réir an dlí sin ...'. In Article 45.2.ii, 'That the ownership ... may be so distributed ... as best to ...' is expressed as 'go roinnefear dílse ... sa chuma is fearr a ...' and, finally, in 45.2.v 'That there may be established' is expressed simply as 'go mbunófar'.

Similarly in the Acts, 'as may be' is sometimes rendered by the future of the following verb. 'In such manner and subject to such conditions as may be laid down by regulations' is translated as 'i cibé slí agus faoi réir cibé coinníollacha a leagfar síos le rialacháin' in s170(2) of the Social Welfare (Consolidation) Act, 1981, for example. 'Such other conditions, as may be laid down by the Minister for Finance' is translated as 'cibé coinníollacha eile a bheidh leagtha síos ag an Aire Airgeadais' in s9(a)(iii) of the Finance Act, 1989, with 'on such terms and conditions, if any, as may be laid down by the court' being translated as 'ar cibé téarmaí agus coinníollacha, más ann, a bheidh leagtha síos ag an gcúirt' in s177(2) of the Companies Act, 1990. In s10(3) of the Sea Pollution Act, 1991, 'subject to

such conditions and such exemptions as may be prescribed' is translated as 'faoi réir cibé coinníollacha agus cibé díolúintí a bheidh forordaithe'. In s15(b) of the Value-Added Tax (Amendment) Act, 1978, 'and in such form and containing such other particulars as may be specified by regulations' is translated as 'i cibé foirm agus cibé sonraí eile ann a shonrófar le rialacháin'. Similarly, in the *Treaty on European Union* (1992, p. 160), 'The capital may be increased by such amounts as may be decided by the Governing Council' is translated as 'Féadfar an caipiteal a mhéadú pé méid a chinnfidh an Chomhairle Rialaithe'.

*taisteal* The verbal noun of 'taistil', 'travel'. *Ó Dónaill* cites '*bíonn siad ag taisteal ar an oileán go fóill*, they still make journeys to the island'. *Dinneen* translates 'taistealaim' as 'I travel, journey, traverse, reach, arrive, assemble (as a crowd), frequent (with *í*), descend from (with *ó*)'. 'Taistlid' is translated as 'travels, traverses' in DIL, where 'mé ag siobhal ... / sódh ar a dtaisdil mo thriail / ba mó n-aisdir dom anmoin' ('the soft path my foot travelled made my soul's journey longer') is cited from a miscellaneous collection of religious poetry, *Dán Dé*, and 'má thaistil i liubhraibh Scuit' ('if he be versed in Scottic books') is cited from *Dáibhí Ó Bruadair's* seventeenth-century poetry.

We find 'taisteal' also in Article 15.15, 'saoráid chun taisteal in aisce' expressing 'free travelling'. Turning to the Acts, in s12(1) of the Courts of Justice Act, 1953, for example, 'at any time before a judge begins to travel a High Court Circuit for the purpose of holding therein any half-yearly sittings of the High Court on Circuit' is translated as 'aon uair sara dtosnóidh breitheamh ag taisteal Cuarda Ard-Chúirte chun aon tsuíonna leathbhliantúla den Ard-Chúirt ar Cuaird a thionól ar an gcuaird sin'.

*maidir le* In the Amendment contained in Article 29.4.8<sup>o</sup>, 'the Agreement relating to Community Patents' is rendered as 'an Comhaontú maidir le Paitinní Comhphobail'. Note that in Article 16.1.2<sup>o</sup>, 'the law relating to the election of members' is expressed as 'an dlí i dtaobh toghcháin comhaltaí' with 'in accordance with the law for the time being in force relating to the Referendum' being expressed as 'de réir an dlí a bheas i bhfeidhm i dtaobh an Reifrinn in alt na huairé' in Article 46.2. In Article 36, on the other hand, 'Subject to the foregoing provisions of this Constitution relating to the Courts' is expressed as 'Faoi chuimsiú na bhforálacha sin romhainn den Bhunreacht seo a bhaineas leis na Cúirteanna'.

Turning to the Acts, we find 'i dtaobh' translating 'relating to' in the following example from s9(2) of the Merchant Shipping (Load Lines) Act, 1968: 'there shall be endorsed on the certificate such information relating to – (a) periodical inspection of the ship', '*formhuineofar ar an deimhniú cibé eolas i dtaobh – (a) iniúchadh tréimhsiúil ar an long*'. Generally, however, 'relating to' is translated as 'a bhaineann le' or 'a bhainfidh le' in the Acts – see, for example, s25(1) of the Dublin Cemeteries Committee Act, 1970, where 'all rights, powers, and privileges relating to or connected with such property' is translated as 'na cearta, na cumhachtaí, agus na pribhléidí go léir a bhaineann nó a ghabhann le haon mhaoin den sórt sin' and note that in s9 of the Finance Act, 1990, 'provision relating to relief in respect of increase in stock values' is translated as 'foráil a bhaineann le faoiseamh maidir le méadú ar luachanna stoic'. See the commentary

on Article 14.5.1° regarding 'bain le' expressing 'relate to'.

We find 'maidir le' translating 'relating to' in *Treaties establishing the European Communities* (1973, p. 302), where 'in disputes relating to compensation for damage' is translated as 'i ndiospóidí maidir leis an gcúiteamh i ndamáiste'. 'Maidir le' is translated as 'in the matter of' in *Tearmaí Dlí*, but is used in a wide variety of contexts in the Acts, translating 'to' in 'shall apply to', for example, generally translating 'as to' and 'as regards' and sometimes translating 'regarding' and 'in respect of'. See the commentary on Articles 15.15 (where this phrase expresses 'in connection with') and 29.4.1°. Professor Máirtín Ó Murchú remarks that 'maidir le' is as exact a rendering of English 'relating to' as possible.

*go dleathach* 'Dleathach' is translated as 'lawful' in *Tearmaí Dlí*, where 'teasargaim as coimeád dleathach' is translated as 'I rescue from lawful custody'. *Ó Dónaill* translates 'dleathach' as 'lawful, legal', citing '*seachadadh dleathach*, legal tender'. 'Legal' is translated as 'dlíthiúil' in *Tearmaí Dlí*, where 'legal tender' is translated as 'dlíthairiscint'; *Ó Dónaill* translates 'dlíthiúil' as 'legal, juridical, lawful'. *Dinneen* also gives 'lawful' and 'legal' as translations of 'dleagthach', along with 'permissible'. 'Dligthech' is used in the Old Irish Glosses in the sense of 'accordant with reason or rule', Latin 'rationabilis', according to DIL, where 'dligthech' is translated as (a) 'regular, accordant with rule, right, lawful, law-abiding' and (b) 'rational, endowed with reason'. Fergus Kelly, op. cit, p. 309, translates 'dligthech' as 'lawful, legally recognised'. Only two examples of 'dligthemail' ('lawful, just') are cited in DIL, from O'Molloy's *Lucerna Fidelium* (1676) and Keating's seventeenth-century *Eochair-sgiath an Aifrinn*. Both 'dligthech' and 'dligthemail' are based on 'dliged', Modern Irish 'dlí', 'law'. See the commentary on Article 10.1.

*a chur ar fáil* 'Ar fáil' is translated as 'extant, available' in *Ó Dónaill*, who translates 'rud a chur ar fáil' as 'to provide something'. *Dinneen* translates 'cuirim ar fagháil' as 'I make available'. 'Fagbál', verbal noun of 'fo-gaib', does not occur in the Old Irish Glosses; DIL translates 'fagbál' as 'finding, getting, obtaining', citing 'd'fhail eoluis'.

'I obtain by false pretences' is translated as 'faighim le dúmas bréige' in *Tearmaí Dlí*. In s75(4)(a) of the First Schedule to the European Assembly Elections Act, 1977, 'obtains or attempts to obtain information' is translated as 'go bhfaighidh sé faisnéis, nó go bhféachfaidh sé le faisnéis a fháil'. Finally, in s3(1) of the Fourth Schedule to the Capital Gains Tax Act, 1975, 'the making of anything available for inspection' is translated as 'aon ní a chur ar fáil lena iniúchadh'.

*ar fáil* In Article 34.5.2°, 'the senior available judge of the Supreme Court' is expressed as 'an breitheamh den Chúirt Uachtarach is sinsearaí dá mbeidh ar fáil', and in Article 40.4.4°, 'or, if he is not available, the senior judge of that Court who is available' is expressed as 'nó, mura mbeidh seisean ar fáil, an breitheamh is sinsearaí den Chúirt sin dá mbeidh ar fáil'. 'Available act of bankruptcy' is translated as 'gníomh féimheachta atá ar fáil' in *Tearmaí Dlí*. In s42(1) of the Dangerous Substances Act, 1972, 'if he is not readily available' is translated as 'mura bhfuil fáil go héasca (ar an gceadúnaí)'.

## Direct translation

Ní theorannóidh an fo-alt seo saoirse chun taisteal idir an Stát agus stát eile.

Ní theorannóidh an fo-alt seo saoirse chun faisnéis i dtaobh seirbhíse atá ar fáil go dleathach i stát eile a fháil nó a chur ar fáil, sa Stát, faoi réir cibé coinníollacha a leagfar síos le dlí.

## Variants

1 'a bhainfidh le', 'maidir le'

## ARTICLE 40.4.1° AIRTEAGAL 40.4.1°

### TÉACS GAEILGE

Ní cead a shaoirse phearsanta a bhaint d'aon saoránach ach amháin de réir dlí.

### LITERAL ENGLISH TRANSLATION

It is not permitted to take his personal freedom from any citizen except in accordance with law.

### ENGLISH TEXT

No citizen shall be deprived of his personal liberty save in accordance with law.

### Divergences between the official texts

1 As in some earlier Articles, 'Ní cead', literally, 'it is not permitted', expresses 'no ... shall' in the Irish text.

Note that Article 6 of the 1922 Constitution commences as follows:

The liberty of the person is inviolable, and no person shall be deprived of his liberty except in accordance with law. *Is slán saoirse an duine, agus ní bainfear a shaoirse d'aon duine ach do réir na dlí.*

## Commentary

*a shaoirse* 'Saoirse' is translated as 'freedom' in *Ó Dónaill*, who gives 'liberty, independence' as one set of senses, translating 'saoirse an duine' as 'human freedom'. 'Saoirse choitcheann' is translated as 'general immunity (as enjoyed by the estates of ollamhs)' in *Dinneen*, who translates 'saoirse a sinnsir' as 'their ancestral rights' and cites '*is do na bochtaibh ceapadh na flaithis mar shaoirse*, heaven was designed to be the poor man's inheritance'. DIL translates 'sairse' as (a) 'freedom, liberty, the status of a freeman' and (b) 'exemption, immunity'. This word is similar in meaning to 'saíre', translated in DIL as I(a) 'freedom, liberty', (b) 'nobility (of race, character, etc.)', II(a) 'legal, privileges, immunity, etc., enjoyed by members of the free classes, etc.', (b) 'exemption, period of exemption', III 'holy day, saint's day, church festival, holiday', examples of I(a) being cited from the Old Irish Glosses onwards, including 'do chumtúth a sóere' ('to preserve (?) their freedom'), which glosses Latin 'pro libertate' in the ninth-century St Gall Glosses on Priscian, and examples of senses II(a) and (b) being cited from early Irish law-tracts. Fergus



Kelly, op. cit., p. 321, translates 'soíre' as 'independent legal status, immunity from claim'. 'Soíre' is based on 'saer', in Old Irish usually glossing Latin 'liber', and translated as 'free, freeman' in DIL; in early Irish law-tracts this word has the sense of an enfranchised person possessing legal status and a corresponding honour-price – see Fergus Kelly, op. cit., p. 9:

Three law-texts dealing with rank in early Irish society have survived .... In practice, the most important social distinctions seem to be 1) between those who are *nemed* "privileged", and those who are not *nemed*, and 2) between those who are *sóer* "free" and those who are *dóer* "unfree".

Turning to the Acts, in s8(2) of the Foyle Fisheries Act, 1952, 'freed and discharged from all estates, titles, interests, incumbrances, rights, liberties and privileges whatsoever by whomsoever held, used, exercised or enjoyed' is translated as 'saortha agus urscaoilte ó gach eastát, teideal, leas, eire, ceart, saoirse agus pribhléid d'aon tsórt, pé duine ag a bhfuil teachtadh, úsáid, feidhmiú nó sealúchas an chéanna'. 'Civil and religious liberties' is translated as 'saoirsí sibhialta agus creidimh' in the *New Ireland Forum Report* (1984, 4.13). Finally, note that 'liberty (to apply, etc.)' is translated as 'cead' in *Téarmaí Dlí*. See further the commentary on Article 15.10.

*a bhaint de Ó Dónaill* translates 'bain de' principally as 'take off, remove', with 'take away from' and 'deprive of' among the secondary senses, citing as an example of the latter sense, '*bhain tú Dia díom*, you came between me and God'. DIL cites examples of 'benaid de' in the sense of 'takes from'.

In the *Treaty on European Union* (1992, p. 74), 'A member of the Court of Auditors may not be deprived of his office or of his right to a pension or other benefits in its stead' is translated as 'Ní fhéadfar a oifig ná a cheart chun pinsin nó sochar eile ina ionad sin a bhaint de chomhalta den Chúirt Iniúcháirí'. We also find 'bain de' translating 'deprive' in *Treaties establishing the European Communities* (1973). Turning to the Acts, in s7 of the Old Age Pensions Act, 1932, 'No person to whom payment was made before the commencement of this Act in respect of an old age pension shall be deprived of such pension' is translated as 'Aon duine le n-ar híocadh íocaíocht ar bith alos pinsin tsean-aoise roimh thosach feidhme an Achta seo ní bainfeair an pinsean san de' and 'if he would not have been liable to suffer such deprivation', further on in the same section, is translated as 'más rud é ná beadh sé i mbaol an pinsean san do bhaint de'. In s4(4) of the National Health Insurance Act, 1942, however, 'and may provide for the reduction, suspension or deprivation of the same additional benefits' is translated as 'agus féadfaidh a fhoráil go ndéanfar na sochair bhreise sin do laghdú no do chur ar fionnraige no do chur ar neamh-ní'. In s6(4) of the Local Government (Roads and Motorways) Act, 1974, 'In any case where the closing ... of any means of access ... results in the owner of any land being deprived of the only means of access from that land to any public road' is translated as 'In aon chás ina dtiocfadh d'aon bhealach rochtana a dhúnadh ... úinéir aon talún a bheith fágtha gan aon bhealach rochtana ón talamh sin go dtí aon bhóthar poiblí'. In s146(1)(d) of the Social Welfare (Consolidation) Act, 1961, 'all income ... which he has

directly or indirectly deprived himself in order to qualify himself for the receipt of unemployment assistance' is translated as 'an t-ioncam go léir ... a cheil sé air féin go díreach nó go neamhdhíreach le cáiliú chun cúnaimh dífhostaíochta a fháil'. 'Wrongfully depriving the plaintiff of goods' is translated as 'earraí a choinneáil go héagórach ar an ngearánaí' in *Fasaigh Dlí-Théarmaí* (based on forms relating to Rules of the High Court, with reference 72/1962 App B Pt. II).

Looking at early Acts, note that s2 of the Griffith Settlement Act, 1923, reads as follows:

The Trustees shall hold the Widow's Share upon trust to pay the same as and when received by the Trustees to the said Mrs. Maud Griffith for her separate use and so that she shall not have power to deprive herself thereof by anticipation. *Cimeádfaidh na hIon-taobhuithe Cuid na Baintrí ar iontaoibh chun an céanna d'íoc fé mar a gheobhaidh agus nuair a gheobhaidh na hIon-taobhuithe é le Maedhbh Uí Ghriobhtha roimh-ráite chun a húsáide féin ar leithligh agus i dtreo ná beidh de chomhacht aice í féin d'fhágaint 'na éaghmuis tri bhaint leis roimh-ré.*

'Deprivation of acting rank' is translated as 'A chéim ghníomhachta do chailliúint' in s81(3) of the Defence Forces (Temporary Provisions) Act, 1923.

*De Bhaldraithe* translates 'deprive' as 'bainim (rud) de (dhuine); téim i mbarr (ruda) ar (dhuine); coinnim (rud) ó (dhuine)'. *L. Mc Cionnaith* s.v. 'deprive', cites 'to deprive of his ... a shaoirse 7 c. do bhaint de'. *Ó Dónaill* gives 'deprive of' as one of the senses of 'bain ar' from earlier literature, citing '*baineadh a radharc air*, he lost his sight'. '*Baineadh clog air*, a bell was rung against him' has the sense of 'he was excommunicated'. 'Cuir as' is translated as 'put out of; deprive of by *Ó Dónaill*; 'cuir ó' is translated as 'put from, prevent, deprive of' and 'fág gan' is translated as 'leave without, deprive of', with 'd'fhág siad gan mo chuid leabhar mé' translated as 'they deprived me of my books'. Along with the sense 'to dispossess', 'deprive' has the sense of 'to keep out of enjoyment', according to *Chambers English Dictionary*. This latter sense is perhaps better rendered in Irish by 'ceil' rather than 'bain de'.

*de réir* This phrase is translated as 'in accordance with' in *Téarmaí Dlí*.

*Ní cead* See the commentary on Article 9.1.3°.

### Gender-proofed Irish text

Ní cead a shaoirse phearsanta nó a saoirse phearsanta a bhaint d'aon saoránach ach amháin de réir dlí.

### Direct gender-proofed translation

Ní bhainfeair a shaoirse phearsanta nó a saoirse phearsanta d'aon saoránach<sup>1</sup> ach amháin de réir dlí.

### Variants

- <sup>1</sup> 'Ní cheilfeair a shaoirse phearsanta nó a saoirse phearsanta ar aon saoránach', 'Ní choinneofar a shaoirse phearsanta nó a saoirse phearsanta ó aon saoránach'

## ARTICLE 40.4.2° AIRTEAGAL 40.4.2°

**TÉACS GAELIGE**

Nuair a dhéanann duine ar bith gearán, nó a dhéantar gearán thar ceann duine ar bith, leis an Ard-Chúirt nó le breitheamh ar bith di á rá go bhfuil an duine sin á choinneáil ina bhrá go haindleathach, ní foláir don Ard-Chúirt agus d'aon bhreitheamh agus do gach breitheamh di chun a ndéanfar an gearán sin fiosrú a dhéanamh láithreach i dtaobh an ghearáin sin agus féadfaidh a ordú do neach coinnithe an duine sin ina bhrá an duine sin a thabhairt ina phearsain i láthair na hArd-Chúirte lá a ainmnítear agus a dheimhniú i scríbhinn cad is forais dá bhraighdeanas, agus ní foláir don Ard-Chúirt, nuair a bheirtear an duine sin ina phearsain i láthair na Cúirte sin agus tar éis caoi a thabhairt do neach a choinnithe ina bhrá ar a chruthú gur braighdeanas cóir an braighdeanas, a ordú an duine sin a scaoileadh as an mbraighdeanas sin mura deimhin leis an gCúirt sin gur de réir an dlí atáthar á choinneáil.

**LITERAL ENGLISH TRANSLATION**

When any person makes a complaint, or a complaint is made on behalf of any person, to the High-Court or to any judge of it stating that that person is being kept a prisoner unlawfully, the High Court and any judge and every judge of it to whom that complaint is made must inquire immediately concerning that complaint and may order the one keeping that person a prisoner to bring that person personally before the High Court (on a) day that is named and to certify in writing what the grounds for his imprisonment are, and the High Court must, when that person is brought personally before that Court and after giving an opportunity to the one keeping him a prisoner to prove that the imprisonment is a just imprisonment, order that that person be released from that imprisonment if that Court does not consider it certain that it is in accordance with the law that he is being held.

**ENGLISH TEXT**

Upon complaint being made by or on behalf of any person to the High Court or any judge thereof alleging that such person is being unlawfully detained, the High Court and any and every judge thereof to whom such complaint is made shall forthwith enquire into the said complaint and may order the person in whose custody such person is detained to produce the body of such person before the High Court on a named day and to certify in writing the grounds of his detention, and the High Court shall, upon the body of such person being produced before that Court and after giving the person in whose custody he is detained an opportunity of justifying the detention, order the release of such person from such detention unless satisfied that he is being detained in accordance with the law.

**Divergences between the official texts**

- 1 'Alleging' is rendered as 'á rá', 'stating', in the Irish text.
- 2 'Is being unlawfully detained' is rendered as 'á choinneáil ina bhrá go haindleathach' ('is being unlawfully kept a prisoner') in the Irish text, 'I detain'

- 3 being translated simply as 'coinním' in *Téarmaí Dlí*.
- 3 The Irish term rendering 'unlawful', 'aindleathach', is translated [not very accurately, according to Professor Máirtín Ó Murchú] as 'illicit' in *Téarmaí Dlí*, 'unlawful' being translated as 'neamhdhleathach' there.
- 4 'The person in whose custody such person is detained' is rendered as 'neach coinnithe an duine sin ina bhrá' ('the one/person keeping that person a prisoner') in the Irish text.
- 5 'To produce the body of such person' and 'upon the body of such person being produced' are rendered in the Irish text as 'an duine sin a thabhairt ina phearsain' ('to bring that person personally') and 'nuair a bheirtear an duine sin ina phearsain' ('when that person is brought personally') respectively.
- 6 'The grounds of his detention' is rendered as 'forais dá bhraighdeanas' ('the grounds for his imprisonment') in the Irish text.
- 7 'Justifying the detention' is rendered in the Irish text as 'a chruthú gur braighdeanas cóir an braighdeanas' ('to prove that the imprisonment is a just imprisonment').
- 8 As in some other Articles, 'shall' is on two occasions rendered as 'ní foláir' ('must') in the Irish text.

Note that the original Article 40.4.2° was deleted by the Second Amendment of the Constitution Act, 1941, and four new subsections were added in its place. The original subsection 2 read as follows:

Upon complaint being made by or on behalf of any person that he is being unlawfully detained, the High Court 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 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. *Nuair dhéanann duine ar bith gearán, nó nuair déantar gearán thar ceann duine ar bith, go bhfuiltear dá choinneáil ina bhráighe go haindleaghthach, ní foláir don Ard-Chúirt agus d'aon bhreitheamh agus do gach uile bhreitheamh den chúirt sin fiosrú do dhéanamh láithreach i dtaobh an ghearáin sin, agus féadfaidh ordú do dhéanamh dá cheangal ar an té ag a bhfuil an bráighe i láimh an bráighe sin do thabhairt ina phearsain i láthair na cúirte nó an bhreithimh sin gan mhoill, agus fáth a bhraighdeanais d'innsint le teastas scríobhtha: agus air sin ní foláir don Chúirt nó don bhreitheamh sin ordú a thabhairt chun an bráighe sin do scaoileadh muna deimhin leo gur do réir dlíghidh atáthar dá choinneáil.*

Note also that Article 6 of the 1922 Constitution contains the following:

Upon complaint made by or on behalf of any person that he is being unlawfully detained, the High Court 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 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 .... *Ar aon duine do dhéanamh ghearáin no ar ghearán do dhéanamh ar a shon go bhfuiltear á chimeád go nea-dhleathach, fiosróidh an Ard-Chúirt agus aon bhreitheamh agus gach breitheamh di an gearán san láithreach agus féadfaid ordú do dhéanamh á chur d'fhiachaibh ar an nduine atá ag cimeád an duine sin corp an duine atá i gcimeád do thabhairt i láthair na Cúirte no an bhreithimh gan mhoill agus deimhniú do dhéanamh i scríbhinn i dtaobh cúise a chimeáidh agus ordóidh an Chúirt no an breitheamh san an duine sin do sgaoile ansan mara mbeifar sásta go bhfuiltear á chimeád do réir na dlí.*

### Commentary

*gearán* This headword is translated as 'complaint' in *Téarmaí Dlí*. Ó Dónaill translates 'gearán a dhéanamh (le duine)' as 'to complain (to someone)', citing 'bhí sé ina shuí ansin ag déanamh a ghearáin leis féin, he sat there feeling sorry for himself'. Dinneen translates 'gearán' as 'act of bewailing; a complaint; an accusation; a remonstrance; a grievance; supplication; a cry, a sob, a groan, a distemper, ailment' and cites the proverb 'an té nach truagh leis do chás ná déan do ghearán leis, do not make complaint to one not in sympathy with you', i.e. don't look for sympathy where there's none. The earliest examples of 'gerán' ('complaint, wailing, accusation') cited in DIL seem only to go back as far as the twelfth-century *Book of Leinster*.

Turning to the Acts, in s49 of the Fisheries Act, 1980, 'an offence under any provision of the Fisheries Acts ... may be heard ... by a District Justice upon the complaint, verbal or otherwise, of a member of the Garda Síochána' is translated as 'féadfaidh Breitheamh Dúiche, ar chomhalta den Gharda Síochána ... do dhéanamh gearáin de bhriathra béil nó ar shlí eile cion faoi aon fhoráil de na hAchtanna Iascaigh ... a éisteacht'. In s10 of the Trade Union Act, 1975, the heading 'Complaints to Registrar regarding resolutions' is translated as 'Gearáin chun an Chláraitheora maidir le rúin' and ss1 begins as follows: 'A member of a trade union ... may complain to the Registrar on one or more than one of the following grounds', 'Aon chomhalta de cheardchumann ... féadfaidh sé gearán a dhéanamh chun an Chláraitheora ar fhoras amháin nó níos mó díobh seo a leanas'.

*ina bhrá* 'Brá' is not given as a headword in *Téarmaí Dlí*. It is translated as 'captive, hostage' in Ó Dónaill, who cites 'tá sé ina bhrá acu, they have caught, arrested, him; they are holding him prisoner'. Dinneen translates 'braighe' as 'a captive, prisoner, hostage, pledge'. DIL translates 'brága' as 'captive, prisoner, hostage', citing 'ag so brágha dheit a Dhé' ('I surrender, God, to Thee') from a miscellaneous collection of religious poetry, *Dán Dé*. As Fergus Kelly, op. cit., p. 174, states, the annals contain numerous references to hostages, 'usually *giall*, but also *aitire*, and later *brágae*, hostages usually being taken 'to ensure the continued submission of a territory over which a king claimed sovereignty'. 'Brága' is a development of the earlier 'brág(a)e', 'neck, throat, gullet', an example of which is cited in DIL from the ninth-century St Gall Glosses on Priscian; the development in sense can be seen in the phrase 'gaibid for (ar) brágait', takes prisoner, or captive, literally, by the neck.

Regarding 'detain' in early Acts, 'Every person who is now detained in military custody or held as a military prisoner or captive ... may be detained in custody' is translated as 'Gach duine atá i gcimeád mileata anois no atá á choinneáil mar phríosúnach no cime mileata ... féadfar ... é do choinneáil i gcoimeád' in s3(1) of the Public Safety (Emergency Powers) Act, 1923.

*braighdeanas* This term is not given as a headword in *Téarmaí Dlí*. Ó Dónaill translates 'braighdeanas' as 'captivity, bondage', translating 'bheith i mbraighdeanas' as 'to be in captivity, in custody' and 'tír a thabhairt i mbraighdeanas' as 'to reduce a country to slavery'. Dinneen translates 'braighdeanas' as 'captivity, imprisonment, slavery'. DIL cites five examples of 'bráigdenas' ('hostageship, captivity') from Irish literature, this word being based on 'brága', i.e. 'brá' in this Article.

'Custody' is translated as 'coimeád' in *Téarmaí Dlí*, where 'I rescue from lawful custody' is translated as 'teasargaim as coimeád dleathach' and 'I take into custody' is translated as 'glacaim i gcoimeád'. 'I detain' is translated simply as 'coinnim' in *Téarmaí Dlí*. In s247 of the Companies Act, 1963, 'the court ... may cause the contributory to be arrested, and his books ... seized and him and them to be detained until such time as the court may order' is translated as 'Féadfaidh an chúirt ... a chur faoi deara an ranníocóir a ghabháil, agus a leabhair ... a urghabháil agus é féin agus iadsan a choinneáil go ceann cibé tréimhse a ordóidh an chúirt'. In s231(1)(e) of the Fisheries (Consolidation) Act, 1959, 'to take, remove, and detain in his custody any sea-fish' is translated as 'aon iasc mara ... a thógáil, a aistriú, agus a choinneáil faoina choimeád.'

*fiosrú* 'Fiosraim' is translated as 'I inquire' in *Téarmaí Dlí* and in Ó Dónaill, who translates 'rud a fhiosrú' as 'to inquire about, into, something'. Dinneen translates 'fiosruighim' as 'I ask, I inquire, I visit'. DIL translates 'físráid' as (a) 'inquires' and (b) 'visits', this last sense being rare, except in translations. The verbal noun 'físrugud' is translated as (a) 'inquiring; investigating' and (b) 'visiting', with only three examples of 'físrugud' in sense (a) being cited, the first being translated as 'to test', the second 'to seek them' and the third, 'lucht físráighí', 'scouts', none of them being of any great antiquity. 'Físráid' is based on 'fis', 'the act of finding out or ascertaining; knowledge, information' (DIL).

'Fiosrúchán' is translated as 'inquiry' in *Téarmaí Dlí*, where 'fiosrúcháin i dtaobh eirí' is translated as 'inquiries as to incumbrances'. 'Fiosrú', the verbal noun of 'fiosraigh', is translated as 'inquiry' in Ó Dónaill, citing 'coiste físráithe, committee of inquiry', and as 'visitation'. 'Fiosrúchán' is translated as 'act of inquiring, inquisition', with 'fiosrúchán a chur, a dhéanamh, ar rud' being translated as 'to investigate, hold, an inquiry into something', 'cúirt físrúcháin' being translated as 'court of inquiry'. Dinneen, who does not seem to cite 'fiosrúchán', translates 'fiosrughadh' as 'act of inquiring, visiting; summons, visitation'.

Turning to the Acts, the form of an oath to be administered to jurors is given as follows in s19(2) of the Juries Act, 1976: "I will well and diligently inquire whether ....., the prisoner at the bar, be insane or not", "go bhfiosróidh mé go maith agus go dícheallach cibé acu is gealt nó nach gealt ..., an príosúnach ag an mbarra". In the Dáil Order Paper of 1/3/79, 'that it is expedient that a tribunal be

established for inquiry into the following definite matters of urgent public importance' is translated as 'go bhfuil sé oiriúnach binse a bhunú chun na nithe áirithe seo a leanas a mbaineann deabhadh agus tábhacht phoiblí leo a fhiosrú'. We find the very same Irish text in the *Proceedings* of Dáil Éireann of 17/12/69. Note how it was felt that 'fiosraigh' was not strong enough and 'scrúdaigh' was used in the following (from the Dáil *Order Paper* of 11/12/75): '... the Report of the Tribunal appointed on the 4th July, 1975, to inquire into allegations made by two Members against the Minister for Local Government in the Dáil', 'an Tuarascáil ón mBinse a ceapadh an 4 Iúil, 1975, chun liomhaintí a rinne dhá Chomhalta in aghaidh an Aire Rialtais Áitiúil sa Dáil a scrúdú'. In *Treaties establishing the European Communities* (1973, p. 559), 'The Commission shall inquire into any request made by a Member State' is translated as 'Beidh ar an gCoimisiún fiosrú a dhéanamh faoi aon iarratas a dhéanfaidh Ballstát'.

*go haindleathach* 'Driogadh aindleathach' is translated as 'illicit distillation' in *Téarmaí Dlí*. Ó Dónaill translates 'aindleathach' as 'illegal' – which is translated as 'neamhdhleathach' in *Téarmaí Dlí*, this word in turn being translated as 'unlawful, illegal' in Ó Dónaill. Dinneen translates 'aindleathach' as 'unlawful, illegal, unfair, irregular, base (as a coin)'. Ó Dónaill cites 'aindlitheach' as a variant of 'aindleathach', Dinneen giving 'aindlitheach' as a separate headword, which he translates as 'unlawful, illegal, exlex'. DIL translates 'aindlitheach' as 'unlawful, unjust', giving three examples of the adverbial usage, 'go haindlitheach', from the sixteenth and seventeenth centuries.

'Unlawful assembly' is translated as 'tionól neamhdhleathach' in *Téarmaí Dlí*, where 'unlawful carnal knowledge' is translated as 'fios collaí neamhdhleathach'. In s3(1) of the Air Navigation and Transport Act, 1975, for example, 'a person shall be guilty of an offence if anywhere he unlawfully and intentionally ... commits on board an aircraft in flight any act of violence' is translated as 'beidh duine ciontach i gcion má dhéanann sé in áit ar bith go neamhdhleathach agus d'aonghnó ... aon gníomh foréigin ar bord aerárthaigh agus í ar eitilt'. Finally, 'fish unlawfully captured' is translated as 'iasc a gabhadh go neamhdhleathach' in s53(a) of the Fisheries Act, 1980.

*neach* This headword is translated as 'being' in Ó Dónaill, who gives 'person, one' as one subset of senses, citing 'ní fhaca aon neach é, no one saw him' and 'má tá aon neach ann, if there is any one there'. Dinneen translates 'neach' as 'a being, a person, one, oneself, anyone, whoever; a thing, whatever'. DIL cites examples of the indefinite pronoun 'neach' from the ninth-century Milan Glosses onwards; in Middle Irish it comes to be used as a noun in the sense of 'a person', 'often equivalent to "duine"', according to DIL. See the commentary on Article 40.3.2° regarding 'pearsa' expressing 'person'.

*a scaoileadh as an mbraighdeanas* In *Téarmaí Dlí* 'I release' is translated as 'scaoilim'. As regards the Acts, see s483(2) of the Income Tax Act, 1967, where 'the Special Commissioners shall issue their warrant to the governor of the prison in which any defaulter is detained under their warrant, directing the liberation of the defaulter, and, on receipt thereof, the governor shall forthwith release

and discharge him out of custody, if he is under detention for no other cause than as set forth in the warrant of commitment' is translated as 'eiseoidh na Coimisinéirí Speisialta a mbarántas chun rialtóir an phríosúin ina mbeidh aon mhainnitheoir á choinneáil faoina mbarántas, á ordú an mainnitheoir a scaoileadh saor, agus, ar sin a fháil dó, déanfaidh an rialtóir láithreach é a scaoileadh saor ó choimeád, mura mbeidh sé faoi choinneáil ar aon chúis eile seachas í sin a bheidh sonraithe sa bharántas cimithe'. In s5(3) of the Criminal Justice Act, 1990, 'to release temporarily a person serving a sentence of imprisonment' is translated as 'duine a mbeidh pianbhreith príosúnachta á cur isteach aige a scaoileadh saor go sealadach'. Note finally that the official Irish title of 'The Release of Prisoners Commission', established in 1998, is 'An Coimisiún um Scaoileadh Saor Príosúnach'.

*deimhin* This headword is translated as 'sure, certain' in Ó Dónaill, who cites 'is deimhin liom go bhfuil an ceart agat, I am quite sure you are right'. Dinneen translates 'deimhin' as 'certain, sure, true'. DIL translates 'is demin lim' as 'I am sure (of, that)', citing the following from the ninth-century Milan Glosses: 'is demniu liunn a n-adchiam ... oldaas an rochluinemmar' ('we regard what we see with the eyes as more certain than what we hear with the ears'). See further the commentary on Article 40.4.2° where 'i slí gur deimhin go' expresses 'as to ensure'.

Turning to the Acts, in s65(1) of the First Schedule to the European Assembly Elections Act, 1977, 'in any case in which he is not satisfied as to the accuracy of any count' is translated as 'in aon chás nach deimhin leis cruinneas aon chomhairimh'. In s103(1) of the same Schedule, 'and in giving leave the court shall be satisfied that the notice ... was reasonable' is translated as 'agus nuair a bheidh an cead sin á thabhairt ag an gcúirt déanfaidh sé deimhin de go raibh réasún leis an bhfógra'. In s28 of the Finance Act, 1990, 'where they are satisfied that such permission should be given' is translated as 'i gcás ar deimhin leo gur chóir an cead sin a thabhairt'. In s1 of Article 6 of the Second Schedule to the Air Navigation and Transport Act, 1973, 'Upon being satisfied that the circumstances so warrant, any Contracting State ... shall take him into custody' is translated as 'Ar a bheith deimhin d'aon Stát Conarthach, ... tógfaidh sé an duine sin i gcoimeád'.

We also find phrases with 'sásta' or forms of 'sásta' translating 'satisfied'. 'Unless the Court is satisfied' is translated as 'mura gcruthaítear chun sástachta na Cúirte' in s43 of the Health Act, 1947, while 'until the court is satisfied to the contrary' is translated as 'go dtí gur deimhin leis an gcúirt a mhalairt' in s19(2) of the Misuse of Drugs Act, 1977. In s16(4) of the Finance Act, 1976, 'subject to the Revenue Commissioners being satisfied that tax ... has been paid' is translated as 'faoi réir na Coimisinéirí Ioncaim a bheith sásta gur íocadh cáin'. See further the commentary on Article 46.5 where 'upon his being satisfied that' is expressed as 'ar mbeith sásta dó gur'.

*forais* 'Foras' is translated as 'ground (of application, etc.)' in *Téarmaí Dlí*, this being given as a secondary sense of 'foras' (in Jurisprudence) in Ó Dónaill, who cites 'ar an bhforas go, on the ground that'. The original meaning of 'forus', examples of which are cited in DIL from the Glosses of the eighth century onwards, is thought to have been

'basis, foundation, bottom', which senses are included with 'that which is stable, stability', along with 'established or fundamental principles of knowledge or science, axioms', 'the principle or enactments of a law' and 'a station, resting-place, dwelling' in DIL.

Turning to the Acts, see, for example, s5 of the Local Elections (Petitions and Disqualifications) Act, 1974, headed 'Grounds for petition', 'Forais achainí', where 'a local election may be questioned on the grounds of want of qualification' is translated as 'féadfar toghchán áitiúil a thabhairt faoi cheist ar fhoras díth cáilíochta'. See the commentary on Article 27.3, where 'ábhar' expresses 'ground'.

Note that 'foras' also expresses 'institution' – see the commentary on Article 18.4.2°. Professor Máirtín Ó Murchú questions the need for the unfamiliar ("deoranta") use of 'forais' in the present Article and recommends expressing 'the ground for his detention' in the direct translation below as 'na cúiseanna lena choinneáil'.

*caoi* Ó Dónaill translates 'caoi a thabhairt do dhuine (ar rud a dhéanamh)' as 'to give someone the means, an opportunity (to do something)'. *Dinneen* translates 'níl aon chaoi agam air' as 'I have no means of doing it, of obtaining it', including 'opportunity, means' among the senses of 'caoi'. 'Way, path' may have been the original meaning of the earlier 'cáe', which was also the name of 'a social institution according to which a member of the noble grades had the right to bring a party with him on a night's coshering visit to each of his servile clients' – see DIL s.v. 'cáe', and Fergus Kelly, op. cit., s.v. 'cóe', 'winter hospitality to lord'. DIL also cites examples of 'cáe' in the sense of 'way, manner, course, means'. This is the same word 'caoi' found in the Connacht greeting, '*Cén chaoi a bhfuil tú?* (How are you?)'.

Turning to the Acts, see, for example, s111(2) of the Schedule to the European Assembly Elections Act, 1977, where 'the court may, after giving the person or persons an opportunity of being heard to show cause ...' is translated as 'féadfaidh an chúirt, tar éis caoi éisteachta a thabhairt don duine nó do na daoine sin chun cúis a shuíomh...'. In s10(4) of the Trade Union Act, 1975, referred to above s.v. 'gearán', 'after giving the complainant and the trade union concerned an opportunity of being heard' is translated as 'tar éis deis éisteachta a thabhairt don ghearánach agus don cheardchumann lena mbainfidh'. In s20(2)(g) of the Judicial Separation and Family Law Reform Act, 1989, 'by reason of having relinquished or foregone the opportunity of remunerative activity' is translated as 'de bhíthin an deis ar ghníomhaíocht le haghaidh luach saothair a thabhairt suas nó a ligean uaidh'. In s3(d) of the Higher Education Authority Act, 1971, 'promoting the attainment of equality of opportunity in higher education' is translated as 'dlús a chur le comhdheiseanna a bheith ann ar ard-oideachas'. Both 'caoi' and 'deis' are found translating 'opportunity' in *Treaties establishing the European Communities* and in the *Treaty on European Union* also. 'Deis' sometimes translates 'device'/'contrivance' in the Acts with 'caoi' translating 'means' in 'means of escape from rooms', 'caoi éalaithe ó sheomraí', in s97 of the Mines and Quarries Act, 1965, for example.

*á rá* See the commentary on Article 38.4.1° where 'cionta

a deirtear a rinneadar' expresses 'offences alleged to have been committed (by persons)'. Ó Dónaill gives 'state, allege' as one of the senses of 'abair', citing '*deir sé go bhfuil ocrais air*, he says he is hungry' and '*tú féin a dúirt é*, it was you who said it'. In s3(3) of the Local Authorities (Traffic Wardens) Act, 1975, 'he may affix to the vehicle a notice in the prescribed form stating ... that the offence is alleged to have been committed' is translated as 'féadfaidh sé fógra san fhoirm fhorordaithe a ghreamú den fheithicil á rá ... go líomhnaítear go ndearnadh an cion'. In s2(a) of Article XX in the Schedule to the Bretton Woods Agreements Act, 1957, 'Each government ... shall deposit with the Government of the United States of America an instrument setting forth that it has accepted this Agreement' is translated as 'Gach rialtas ... taiscfidh sé le Rialtas Stát Aontaithe Mheiriceá ionstraim á rá go bhfuil glactha aige leis an gComhaontú seo...'. Finally, in s18(2)(a) of the Fisheries Act, 1980, 'without giving the occupier thereof one month's previous notice in writing of its intention so to do' is translated as 'gan fógra i scríbhinn a thabhairt don áitheoir mí roimh ré á rá go bhfuil ar intinn aige sin a dhéanamh'.

'I allege' is translated as 'líomhnaím' in *Téarmaí Dlí*, with 'líomhain' translating 'allegation'. In s231(1)(e) of the Companies Act, 1963, for example, 'to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim present or future' is translated as 'aon chomhréiteach nó comhshocraíocht a dhéanamh le creidiúnaithe nó le daoine a bheidh á éileamh gur creidiúnaithe iad, nó a bhfuil, nó a líomhnóidh go bhfuil, aon éileamh acu, láithreach nó todhcháí...'. In s166(5) of the Social Welfare (Consolidation) Act, 1981, 'in a case where he alleges that he is entitled to receive a pension at a higher rate' is translated as 'i gcás ina líomhnóidh sé go bhfuil sé i dteideal pinsean de réir ráta is airde a fháil'.

*a thabhairt ... i láthair* Literally 'to bring into place'. 'That there are reasonable grounds for believing that a person specified in the information can produce the child named in the application' is translated as 'go mbeidh cúiseanna réasúnacha ann lena chreidiúint gur féidir le duine a bheidh sonraithe san fhaisnéis an leanbh a ainmítear san iarratas a thabhairt i láthair' in s46(3) of the Child Care Act, 1991, with 'an leanbh do thabhairt i láthair na cúirte am áirithe agus in áit áirithe' translating 'to produce such child before the court at a specified time and place' in s18(1) of the School Attendance Act, 1926. 'Produce the body of the person' is translated as 'corp an duine a thabhairt i láthair' in *Téarmaí Oifigiúla* (with no reference given).

'I produce (documents, etc.)' is translated as 'tugaim ar aird' in *Téarmaí Dlí*. In s39(17)(c) of the Redundancy Payments Act, 1967, 'The Tribunal may ... require such person ... to produce any documents in his possession' is translated as 'Féadfaidh an Binse ... a cheangal ar an duine sin ... aon doiciméid a thabhairt ar aird a bheidh ina sheilbh ...'. Note that 'Whenever the registrar shall be required to produce for inspection in his office ... any document' is translated as 'Aon uair a héileofar ar an gclárathóir aon scríbhinn ... a thaisbeaint chun go n-íniúchfar í ina oifig' in s11(1) of the Companies (Re-constitution of Records) Act, 1924.

In s92 of the Schedule to the European Assembly Elec-

tions Act, 1977, 'and ... such personation agent ... fails to appear before the court' is translated as 'agus ... go mainneoidh an gníomhaire pearsanaíochta sin ... láithriú os comhair na cúirte'. Section 12 of the Diplomatic Relations and Immunities Act, 1967, is headed 'General immunities of advocates appearing before Court', '*Díolúintí ginearálta d'aighní a láithreoidh os comhair na Cúirte*' and reads as follows: 'Persons ... engaged in appearing before the Court as representatives of a government', '*Na daoine ... a bheidh fruilithe ag láithriú os comhair na Cúirte mar ionadaithe do Rialtas*'. In *Treaties establishing the European Communities* (1973, p. 61), 'to bring an action before the Court' is translated as 'caingean a thabhairt os comhair na Cúirte.'

*a chruthú gur braighdeanas cóir an braighdeanas* Regarding 'justify', see s5(3) of the Criminal Justice Act, 1990, where 'such limited duration as is justified by those reasons' is translated as 'cibé fad teoranta a bheidh cóir ag féachaint do na cúiseanna sin'. In *Treaties establishing the European Communities* (1973, p. 252), 'the Council, may ... decide that aid which that State is granting ... shall be considered to be compatible with the common market, ... if such a decision is justified by exceptional circumstances' is translated as 'Féadfaidh an Chomhairle ... a chinneadh go measfar cabhair atá á tabhairt ... ag an Stát sin a bheidh ag luí leis an gcómhargadh, ... má fhágann imthosca eisceachtúla gur cinneadh cóir é sin'. In s10(5) of the Trade Union Act, 1975, 'Where the Registrar finds a complaint under this section to be justified' is translated as 'I gcás ina gcinneadh an Cláráitheoir ceart a bheidh le gearán faoin alt seo'.

We find forms based on 'fí(o)r' ('true') translating 'justify' in some sources. In s5(3)(b) of the Wealth Tax Act, 1975, 'or for any other analogous reason which, in the opinion of the Commissioners, is sufficient to justify the benefits conferred by this subsection' is translated as 'nó ar aon chúis eile den tsamhail chéanna is leor, i dtuairim na gCoimisinéirí, chun na sochair a thugtar leis an bhfo-alt seo a fhírénánu'. The verb 'fírénánu' is based on 'fírén', translated as 'just, righteous, true, genuine' in *Ó Dónaill*, who does not give that verb as a headword. *Dinneen*, however, has 'fírénánuighim', 'I justify', and 'justifiable' is translated as 'infhírénánuithe' in *Téarmaí Oifigiúla*. Professor Máirtín Ó Murchú remarks that 'make righteous in the sight of God' is one of the senses of 'justify' and that that is what is rendered by 'fírénánuigh'. 'Justification (i.e. of defamatory statement)' is translated as 'firinníú' in *Téarmaí Dlí*, while 'justifiable homicide' is translated as 'dúnbhású dlíthiúil'. In the *Treaty on European Union* (1992, p. 19), 'to take measures which are justified on grounds of public policy or public security' is translated as 'bearta a ghlacadh a dhlítear ar fhorais an bheartais phoiblí nó na slándála poiblí'.

We also find 'call' translating 'justify'. In *Treaties establishing the European Communities* (1973, p. 554), 'it may be extended if the situation which justified its granting continues' is translated as 'féadfar é a fhadú má mhaireann na cúrsaí ba chall lena dheonú'. On p. 20, 'with no protection against competing industries that is not justified by improper action on their part' is translated as 'faoi choinníollacha a choisceann aon chosaint in aghaidh tionscal iomaíoch mura bhfuil call lena leithéid mar gheall ar ghníomh midhleathach ag na tionscail'. In s166(1)(b)

of the Social Welfare (Consolidation) Act, 1981, 'when a person has been at any time ... in receipt of old age pension at a certain rate when his means exceeded the amount which justified the payment of a pension at that rate' is translated as 'an raibh duine, tráth ar bith ..., ag fáil pinsin seanaoise de réir ráta áirithe nuair ba mhó a acmhainn ná an méid ar chall pinsean a ioc de réir an ráta sin'. Following that, one might translate 'justifying the detention' as 'a léiriú go raibh call leis an gcoinneáil'.

*L. Mc Cionnaith* s.v. 'justify', in the sense of 'justify position, attitude, policy', refers the reader to 'defend', and 'cosain' has been used in some documents to translate 'justify'. 'He said, in justification of his attitude' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'dubhairt sé, á chosaint féin' in a 1928 Report of the Public Accounts Committee, with 'níor cheart airgead do chaitheamh air' being cited as translating 'the expenditure was not justified' in a Report from the previous year, and 'such as to justify expectation' being translated as 'de shaghas go mbeidh súil réasúnta le' in *Iris on Phuist*, 29/2/28. Regarding 'justify' in the sense of 'justified in doing', *L. Mc Cionnaith* refers the reader to 'right, proper', and we have seen above how 'ceart' and 'cóir' has been used to render 'justify'. Finally, note that *De Bhaldraithe* translates 'justify' as 'tugaim údar maith le (gníomh)'.

*ina phearsain* See the commentary on Article 40.1. Commenting on the direct translation below, and noting the examples of the use of 'corp' above, including in the 1922 Constitution, Professor Máirtín Ó Murchú remarks that 'a dead body' is what an Irish speaker would understand by 'corp' and this is probably why the drafters of the 1937 Constitution departed from 'corp', Professor Ó Murchú regarding 'i bpearsain' as being completely satisfactory and cites 'do bhí breágha a bpearsain, gur thaitnigh mar mhnaoi ris' from *Beatha Chríost*, l. 124.

*i dtaobh* This phrase is translated as 'about, concerning' in *Ó Dónaill* and as 'regarding, in reference to, about' in *Dinneen*. Note that a comma follows the phrase 'i dtaobh an ghearáin sin' in the original Amendment.

*a bheirtear* According to the official standard, this would be rendered as 'a thugtar' – see the commentary on Article 12.1.

*a dheimhniú* 'Deimhním' is translated as 'I certify' – see the commentary on Article 1.

*de réir an dlí* Note 'de réir dlí' in the previous subsection.

*i láthair* See the commentary on Article 40.1.

### Standardised gender-proofed Irish text

Nuair a dhéanann duine ar bith gearán, nó nuair a dhéantar gearán thar ceann duine ar bith, leis an Ard-Chúirt nó le breitheamh ar bith di á rá go bhfuil an duine sin á choinneáil ina bhrá nó á coinneáil ina brá go haindleathach, ní foláir don Ard-Chúirt agus d'aon bhreitheamh agus do gach breitheamh di chun a ndéanfar an gearán sin fiosrú a dhéanamh láithreach i dtaobh an ghearáin sin agus féadfaidh a ordú do neach coinnithe an duine sin ina bhrá nó ina brá an duine sin a thabhairt ina

phearsa nó ina pearsa i láthair na hArd-Chúirte lá a ainmnítear agus a dheimhniú i scríbhinn cad is forais dá bhraighdeanas nó dá braighdeanas, agus ní foláir don Ard-Chúirt, nuair a thugtar an duine sin ina phearsa nó ina pearsa i láthair na Cúirte sin agus tar éis caoi a thabhairt do neach a choinnithe ina bhrá nó a coinnithe ina brá ar a chruthú gur braighdeanas cóir an braighdeanas, a ordú an duine sin a scaoileadh as an mbraighdeanas sin mura deimhin leis an gCúirt sin gur de réir an dlí atáthar á choinneáil nó á coinneáil.

### Direct gender-proofed translation

Ar aon duine a dhéanamh gearáin nó ar ghearán a dhéanamh thar ceann aon duine chun na hArd-Chúirte nó chun aon bhreithimh den Ard-Chúirt á liomhain go bhfuil an duine sin á choinneáil nó á coinneáil go neamhdhleathach, déanfaidh an Ard-Chúirt agus aon bhreitheamh agus gach breitheamh den Ard-Chúirt a ndéanfar an gearán sin chuige nó chuici an gearán sin a fhiosrú<sup>1</sup> agus féadfaidh sé nó sí a ordú don duine a bhfuil an duine sin á choinneáil nó á coinneáil faoina choimeád nó faoina coimeád corp an duine sin a thabhairt i láthair<sup>2</sup> na hArd-Chúirte lá a ainmneofar agus forais a choinneála nó a coinneála<sup>3</sup> a dheimhniú i scríbhinn, agus déanfaidh an Ard-Chúirt, ar chorp an duine sin a thabhairt i láthair<sup>4</sup> na Cúirte agus tar éis caoi<sup>5</sup> a thabhairt don duine a bhfuil sé nó sí á choinneáil nó á coinneáil faoina choimeád nó faoina coimeád an choinneáil a chosaint, a ordú an duine sin a scaoileadh saor ón gcoinneáil sin mura deimhin léi<sup>6</sup> go bhfuiltear á choinneáil nó á coinneáil de réir an dlí.

### Variants

- 1 'fiosrú faoin ngearán sin'
- 2 'i láthair os comhair', '... faoina coimeád an duine sin a thabhairt i láthair i bpearsain'
- 3 'na cúiseanna lena choinneáil nó lena coinneáil', 'forais na coinneála sin'
- 4 'i láthair os comhair', 'ar an duine sin a thabhairt i láthair i bpearsain'
- 5 'deis'
- 6 'mura deimhin leis an gCúirt'

## ARTICLE 40.4.3<sup>o</sup> AIRTEAGAL 40.4.3<sup>o</sup>

### TÉACS GAEILGE

I gcás duine a deirtear a bheith á choinneáil ina bhrá go haindleathach a thabhairt ina phearsain i láthair na hArd-Chúirte de bhun ordaithe chuige sin arna dhéanamh faoin alt seo agus gur deimhin leis an gCúirt sin an duine sin a bheith á choinneáil ina bhrá de réir dlí áirithe ach an dlí sin a bheith neamhbhailí ag féachaint d'fhorálacha an Bhunreacht seo, ní foláir don Ard-Chúirt an cheist sin bail a bheith nó gan a bheith ar an dlí sin a chur faoi bhreith na Cúirte Uachtaraí i bhfoirm cháis ríofa agus féadfaidh, le linn an cheist sin a chur faoi bhreith amhlaidh nó tráth ar bith ina dhiaidh sin, ligean don duine sin a shaoirse a bheith aige, faoi réir na mbannaí agus na gcoinníollacha sin a cheapfaidh an Ard-Chúirt go dtí go dtabharfaidh an Chúirt Uachtarach breith ar an gceist a chuirfear faoina breith amhlaidh.

### LITERAL ENGLISH TRANSLATION

In a case of a person who is said to be being unlawfully kept a prisoner's being brought in person before the High Court in pursuance of an order to that effect being made under this section and that the Court is certain that that person is being kept a prisoner in accordance with a particular law but that that law is invalid having regard to the provisions of this Constitution, the High Court must submit that question of whether that law is or is not valid to the Supreme Court for judgement in the form of a stated case and (it) can, while that question is being so submitted for judgement or at any time after that, allow that person to have his freedom, subject to those bonds and conditions that the High Court will appoint until the Supreme Court will give a judgement on the question which will be thus submitted for its judgement.

### ENGLISH TEXT

Where the body of a person alleged to be unlawfully detained is produced before the High Court in pursuance of an order in that behalf made under this section and that Court is satisfied that such person is being detained in accordance with a law but that such law is invalid having regard to the provisions of this Constitution, the High Court shall refer the question of the validity of such law to the Supreme Court by way of case stated and may, at the time of such reference or at any time thereafter, allow the said person to be at liberty on such bail and subject to such conditions as the High Court shall fix until the Supreme Court has determined the question so referred to it.

### Divergences between the official texts

- 1 As in the preceding section, 'body of a person is ... produced' is rendered as 'duine ... a thabhairt ina phearsain' ('a person is brought in person') in the Irish text, 'alleged' is rendered as 'a deirtear' ('stated') and 'unlawfully detained' is rendered as 'á choinneáil ina bhrá go haindleathach' ('unlawfully kept a prisoner').
- 2 'Refer to the Supreme Court' is rendered as 'a chur faoi bhreith na Cúirte Uachtaraí' ('submit to the Supreme Court for determination') in the Irish text.
- 3 'Case stated' is rendered as 'cás ríofa' in the Irish text, 'cás sonraithe' translating 'case stated' in *Téarmaí Dlí*; 'by way of (case stated)' is rendered as 'i bhfoirm (cháis ríofa)', 'in the form of (case stated)', in the Irish text.
- 4 'Until the Supreme Court has determined the question' is rendered as 'go dtí go dtabharfaidh an Chúirt Uachtarach breith ar an gceist' ('until the Supreme Court will give a judgement on the question') in the Irish text.
- 5 'In accordance with a law' is rendered as 'de réir dlí áirithe' ('in accordance with a certain law') in the Irish text.
- 6 'On such bail and subject to such conditions' is rendered as 'faoi réir na mbannaí agus na gcoinníollacha sin' ('subject to such bail and conditions') in the Irish text.
- 7 'The question of the validity of such law' is rendered as 'an cheist sin bail a bheith nó gan a bheith ar an dlí sin' ('that question whether that law is valid or is not valid') in the Irish text.

- 8 Again 'shall' (in 'shall refer') is rendered as 'ní foláir' ('must') in the Irish text.

Note that this subsection was inserted by the Second Amendment of the Constitution Act, 1941 – see the commentary on Article 40.4.2°.

### Commentary

*i bhfoirm cháis ríofa* On two counts, according to the official standard, 'cháis' would remain unlenited here; firstly, after the prepositional phrase, an indefinite noun remains unlenited (see *An Caighdeán Oifigiúil*, p. 83, s5), and secondly, 'ríofa' functions adjectivally here and therefore 'cás' in the genitive following the noun 'foirm' would be treated like 'gaoth' and 'cos' in the examples 'oíche gaoithe móire' and 'scian coise duibhe' cited in *An Caighdeán Oifigiúil* (p. 84, s6(I)(c)).

'Cuntas ríofa' is translated as 'account stated' in *Téarmaí Dlí*, the verb 'ríomhaim' being translated as 'I compute'. 'Ríofa' is the genitive singular of the verbal noun of the verb 'ríomh', which verb is translated as (1) 'count, enumerate; reckon, calculate, compute' and (2) 'recount, narrate' in *Ó Dónaill*. 'Ríomhtha' is translated as 'reckoned, accounted, narrated' in *Dinneen*, who cites '*réime ríomhtha ríoghradh is réacsa*, the developed lists of kings and monarchs'. DIL translates 'rimid' as (a) 'counts, reckons, estimates' and (b) 'recounts, relates', giving examples from the twelfth-century *Book of Leinster* and from later sources.

In s10 of the Finance Act, 1944, 'case stated' is translated as 'cás ríofa'. 'Case stated' is translated as 'cás sonraithe' in *Téarmaí Dlí*, however, following the Fourth Irish Legal Terms Order of 1949. In s9(v) of the Finance Act, 1983, 'and any case stated by a judge pursuant to the said s428 shall set forth the facts, the determination of the Appeal Commissioners and the determination of the judge' is translated as 'agus in aon chás a shonróidh breitheamh de bhun an ailt sin 428 leagfar amach na fíorais, cinneadh na gCoimisinéirí Achomhairc agus cinneadh an bhreithimh'. 'The case stated' and 'notice requiring a case stated' are translated respectively as 'an chás sonraithe' and 'fógra á iarraidh cás a shonrú' in *Fasaigh Dlí-Théarmaí* (the references given being 431/47 F.A 10 and F.A 6 respectively). 'Foras ríofa' translates 'basis of calculation' in s10(1)(c) of the Decimal Currency Act, 1970.

As regards 'i bhfoirm', 'comhaontú i bhfoirm chomhréitigh' is translated as 'agreement by way of compromise' in *Téarmaí Dlí*. Literally this phrase translates 'in (the) form of' – 'probate in common form', for example, is translated as 'probháid i bhfoirm choiteann' in *Téarmaí Dlí*. 'Ar mhodh' regularly translates 'by way of' in the Acts – see, for example, s109(a)(vii) of the Finance Act, 1983, where 'where action by way of court proceedings has been taken' is translated as 'i gcás caingean ar mhodh imeachtaí cúirte a bheith tionscanta'. 'By way of distraint' is translated as 'ar mhodh tochsail' in s151(8)(c) of the Corporation Tax Act, 1976, and in s18 of the Criminal Law (Jurisdiction Act) of the same year 'by way of sworn deposition' is translated as 'ar mhodh teistíochta faoi mhíon'. We also find 'i modh', 'mar' and 'trí'.

*a chur faoi bhreith* *Ó Dónaill* translates 'cuir faoi' literally as 'put under', giving 'submit to' as a secondary sense,

citing '*cuir faoi do choimirce iad*, place them under your protection' and '*cuireadh faoi ghúí an phobail é*, the prayers of the congregation were asked for him'. *Ó Dónaill* also cites '*cuireadh an taibhse faoi chónaí*, the ghost was laid'. *Ó Dónaill* s.v. 'breith', translates 'cás a chur faoi bhreith duine' as 'to submit a case to someone for determination'. *Dinneen* translates 'cuirim' with 'fá' and noun as 'I bind, restrain, etc.' and cites '*cuirim fá bhreitheamhnas aithrige*, I enjoin as a penance upon'. In Statutory Instrument 48/111, 'submission by deed' is translated as 'cur faoi bhreith trí ghníomhas'. See the commentary on Articles 26 and 46.2.

Turning to 'refer', see the commentary on Article 22.2.2° where 'refer' is expressed as 'cuir faoi bhráid'. 'I refer (a case to the County Registrar, etc.)' is translated as 'tarchuirim (cás chun an Chláraitheora Chontae, etc.)' in *Téarmaí Dlí*. In s15 of the Electricity (Supply) (Amendment) Act, 1949, 'which section relates to the reference of disputes to the Tribunal established pursuant to that Act' is translated as 'alt a bhaineas le díospóidí a tharchur chun an Bhinse a bunaíodh de bhun an Achta sin'. In s9(11)(B)(f) of the Finance Act, 1983, to refer his application to the Appeal Commissioners' is translated as 'a iarratas a tharchur chun na gCoimisinéirí Ioncaim'. In the *Treaty on European Union* (1992, p. 68), 'The Court of First Instance shall not be competent to hear and determine questions referred for a preliminary ruling under Article 177' is translated as 'Ní bheidh an Chúirt Chéadchéime inniúil ceisteanna a tharchuirtear chun réamhrialú de bhun Airteagal 177 a éisteacht agus a chinneadh'. In *Treaties establishing the European Communities* (1973, p. 726), 'the decision of the court or tribunal of a Member State which suspends its proceedings and refers a case to the Court' is translated as 'nuair a chinnfidh cúirt nó binse de chuid Ballstáit ar a himeachtaí a fhionraí agus cás a tharchur chun na Cúirte'. As regards 'reference' towards the end of the section, see, for example 'reference order' in *Téarmaí Dlí*, translated as 'ordú tarchurtha', 'barántas tarchuir' translating 'transmit warrant'.

*an cheist sin* See, for example, s12 of the Liability for Defective Products Act, 1991, where 'Section 1 of the Courts Act, 1988, shall apply to ... a question of fact or an issue arising in such an action' is translated as 'Beidh feidhm ag alt 1 d'Acht na gCúirteanna, 1988, maidir le ... ceist fíorais nó saincheist a éireoidh i gcaingean den sórt sin'. In s10(c) of the Finance Act, 1990, 'Provided that ... the question of whether a trade is being carried on shall be determined without regard to this subsection' is translated as 'Ar choinnioll go ndéanfar ... an cheist i dtaobh trádáil a bheith á seoladh a chinneadh gan féachaint don alt seo'. In *Treaties establishing the European Communities* (1973, p. 1476), 'The question of exports of sugar from India to the Community ... must be settled by the Community' is translated as 'Déanfaidh an Comhphobal an cheist i dtaobh onnmhairí siúcra ón India chun an Chomhphobail ... a rialú ...'. See further the commentary on Article 22.2.2°.

*a cheapfaidh* 'Ceapaim' is translated as 'I appoint' in *Téarmaí Dlí*. Among the senses given in *Ó Dónaill* are 'fashion, shape, invent' and 'appoint, assign', with 'cheap sé aimsir chuige' translated as 'he fixed a time for it', while *Dinneen* includes 'resolve, determine on' s.v. 'ceapaim', citing '*do cheapas lá don chruinniughadh*, I fixed upon a



day for the assembly'. See the commentary on Articles 6.1, 13.1.1°, 15.10 and 34.4.5°, where this verb expresses respectively 'designate', 'appoint', 'attach' and 'direct', and see the commentary on Article 16.2.2° where 'fix' is expressed as 'socráigh'.

In s23(2) of the *Standing Orders* of Dáil Éireann (1997), 'Such motion shall fix the period of suspension' is translated as 'Ceapfar tréimhse na fionraíochta leis an tairiscint sin'. In s78, however, 'such motion shall ... fix the number of members to serve on it' is translated as 'sa tairiscint sin ... socrófar an líon comhaltaí atá le fónamh air' and the heading above s125, 'Orders fixing date for next Stage of Bills', is translated as 'Orduithe ag socrú dáta don chéad chéim eile de Bhilí'. The standard phrase in the Acts, 'This Act shall come into operation on such day or days as may be fixed therefore by any order or orders of the Minister', in s2 of the Road Traffic Act, 1961, for example, is translated as 'Tiocfaidh an tAcht seo i ngníomh cibé lá nó laethanta a shocrófar chuige sin le hordú nó le horduithe ón Aire'. Note that in Article 40.4.5°, '(in ionad) an lae a socraíodh i dtosach' expresses 'the day originally fixed' and 'ceapfaidh an Ard-Chúirt lá' expresses 'the High Court shall appoint a day'.

Note, finally, that a comma follows the phrase 'a cheapfaidh an Ard-Chúirt' in the original Amendment.

*le linn (an)* This phrase usually translates 'in' in the sense of 'in the course of, while' in the Acts – see, for example, s26(5) of the Capital Gains Tax Act, 1975, where 'in the course of dissolving or winding up the company' is translated as 'le linn an chuideachta a bheith á díoscaoileadh nó á foirceannadh'. In the *Treaty on European Union* (1992, p. 37), 'during the second stage' is translated as 'le linn an dara céim' – on p. 210, however, 'at the time of signature of these texts' is translated as 'tráth sinithe na dtéacsanna sin'. In s316 of the Fisheries (Consolidation) Act, 1959, 'it shall not be necessary for the said Justice ... to pronounce the fact of such forfeiture at the time of adjudication' is translated as 'ní gá don Bhreitheamh sin ... an forghéilleadh sin a fhógairt tráth an bhreithnithe'. See the commentary on Articles 12.9 (where this phrase expresses 'during') and 15.5 (where 'le linn' expresses 'at the date of').

*ligean don duine sin a shaoirse a bheith aige* Literally 'to allow that person to have his liberty/freedom'. See the commentary on Article 45.2.iii regarding 'lig do'. In s1(c) of the Public Safety (Emergency Powers) Act, 1923, 'that he is satisfied that the public safety is endangered by such person being allowed to remain at liberty' is translated as 'gur deimhin leis an tsábháiltacht phuiblí do bheith i gcontúirt de bharr leigint don duine sin a shaoirse do bheith aige'. 'That the public safety would be endangered by such person being set at liberty' is translated as 'gur chontúirt don tsábháiltacht phuiblí an duine sin do leigint chun siúil' in s3(1)(b) of the Public Safety (Emergency Powers) Act, 1923. 'To allow him to be at liberty on such bail' is translated as 'leigint dó bheith saor fé sna bannaí sin' in s45(3) of the Offences Against the State Act, 1939. See *De Bhaldraithe* who translates 'at liberty' as 'saor' and 'to set someone at liberty' as 'duine a scaoileadh saor; cead a chinn a thabhairt do dhuine'. See further the commentary on Article 40.6.1°.

*faoi réir na mbannaí* 'I admit to bail' and 'I go bail for' are translated respectively as 'ligim faoi bhannaí' and 'téim faoi bhannaí' in *Téarmaí Dlí*, with 'on bail' translated as 'faoi bhannaí'. In the Fisheries (Amendment) Act, 1978, 'the release on bail' is translated as 'a scaoileadh amach ar bannaí'.

*go dtí go dtabharfaidh an Chúirt Uachtarach breith* Literally, 'until the High Court will give a judgement'. See the commentary on Article 15.11.1° where 'determine' is expressed as 'breith a thabhairt'. 'I determine (issue, etc.)' is translated as 'cinnim' in *Téarmaí Dlí*. See, for example, s9(d) of the Fourth Schedule to the Capital Gains Tax Act, 1975, where 'enabling any such person to have the matter determined by the tribunal having jurisdiction to determine that matter if arising on an appeal against an assessment' is translated as 'a chumasóidh d'aon duine den sórt sin an t-ábhar a chur á chinneadh ag an mbinse ag a mbeidh dlínse an t-ábhar sin a chinneadh má bhíonn an t-ábhar sin ann de bharr achomharc in aghaidh measúnachta'. See the commentary on Article 1 where 'determine' is expressed by 'cinn'.

*bail* 'Maidir leis an gceist sin bail a bheith nó gan a bheith ar aon dlí áirithe' expresses 'the question of the validity of any law' in Article 34.3.2°. 'Validity' is given as the final sense of 'bail' in *Ó Dónaill*, who cites '*ionas go mbeadh bail ar a fhaoistin*, so that his confession might be valid' – see the commentary on Articles 15.4.2° and 37.2. DIL gives the principal sense of 'bal' as 'state (of affairs), condition, situation', with the secondary sense of 'prosperity, good luck, good effect'.

'Validity' is translated as 'bailíocht' in *Téarmaí Dlí*. In s10(1) of the European Assembly Elections Act, 1977, 'The returning officer shall rule on the validity of each nomination paper within one hour after its delivery to him and may rule that it is invalid ...' is translated as 'Tabharfaidh an ceann comhairimh rialú ar bhailíocht gach páipéar ainmniúcháin laistigh d'uair a chloig tar éis a sheachadta dó, agus féadfaidh sé a rialú go bhfuil sé neamhbhailí...'. 'Bailíocht' is cited as translating 'validity' in s14(2) of the National Health Insurance Act, 1942. In *Treaties establishing the European Communities* (1973, p. 40), 'The Court shall have sole jurisdiction to give preliminary rulings on the validity of acts of the High Authority and of the Council where such validity is in issue in proceedings brought before a national court or tribunal' is translated as 'Is ag an gCúirt amháin a bheidh dlínse chun réamhrialú a thabhairt ar bhailíocht ghníomhartha an Ard-Údaráis agus na Comhairle i gcás an bhailíocht sin a bheith i saincheist in imeachtaí a thabharfar os comhair cúirte nó binse náisiúnta'.

*neamhbhailí* This compound is translated as 'invalid' in *Téarmaí Dlí* and in *Ó Dónaill*. See the commentary on Articles 15.4.2° and 37.2 where 'invalid' is expressed respectively as 'gan bhail' and 'ó bhail'.

*a deirtear* See the commentary on the previous subsection and note that in s8(2) of the Larceny Act, 1990, 'handling property alleged to have been stolen' is translated as 'láimhseáil maoine a líomhnaítear a bheith goidte'.

*go haindleathach* See the commentary on the previous subsection.

*a thabhairt ina phearsain i láthair* See the commentary on the previous subsection.

*á choinneáil ina bhrá* See the commentary on the previous subsection.

### Standardised gender-proofed Irish text

I gcás duine a deirtear a bheith á choinneáil ina bhrá nó á coinneáil ina brá go haindeleathach a thabhairt ina phearsa nó ina pearsa i láthair na hArd-Chúirte de bhun ordaithe chuige sin arna dhéanamh faoin alt seo agus gur deimhin leis an gCúirt sin an duine sin a bheith á choinneáil ina bhrá nó á coinneáil ina brá de réir dlí áirithe ach an dlí sin a bheith neamhbhailí ag féachaint d'fhorálacha an Bhunreachta seo, ní foláir don Ard-Chúirt an cheist sin bail a bheith nó gan a bheith ar an dlí sin a chur faoi bhreith na Cúirte Uachtaraí i bhfoirm cáis riofa agus féadfaidh, le linn an cheist sin a chur faoi bhreith amhlaidh nó tráth ar bith ina dhiaidh sin, ligean don duine sin a shaoirse a bheith aige nó a saoirse a bheith aici, faoi réir na mbannaí agus na gcoinníollacha sin a cheapfaidh an Ard-Chúirt go dtí go dtabharfaidh an Chúirt Uachtarach breith ar an gceist a chuirfear faoina breith amhlaidh.

### Direct gender-proofed translation

I gcás corp duine a líomhnaítear a bheith á choinneáil nó á coinneáil go neamhdhleathach a thabhairt i láthair<sup>1</sup> na hArd-Chúirte de bhun ordaithe chuige sin arna dhéanamh faoin alt seo agus gur deimhin leis an gCúirt go bhfuil an duine sin á choinneáil nó á coinneáil de réir dlí ach go bhfuil an dlí sin neamhbhailí ag féachaint d'fhorálacha an Bhunreachta seo, déanfaidh an Ard-Chúirt an cheist i dtaobh bhailíocht an dlí sin a tharchur chun na Cúirte Uachtaraí ar mhodh cáis shonraithe agus féadfaidh an Ard-Chúirt, tráth an tarchurtha sin nó tráth ar bith ina dhiaidh sin, saoirse a thabhairt don duine sin<sup>2</sup>, ar cibé bannaí agus faoi réir cibé coinníollacha a shocróidh<sup>3</sup> an Ard-Chúirt go dtí go ndéanfaidh an Chúirt Uachtarach cinneadh faoin gceist<sup>4</sup> a tharchuirfear chuici amhlaidh<sup>5</sup>.

#### Variants

- 1 'i láthair os comhair', 'I gcás duine a líomhnaítear a bheith á choinneáil nó á coinneáil go neamhdhleathach a thabhairt i láthair i bpearsain'
- 2 'ligean don duine sin a shaoirse a bheith aige, nó a saoirse a bheith aici', 'an duine sin a scaoileadh saor', 'ligean don duine sin a bheith saor'
- 3 'a cheapfaidh'
- 4 'go dtí go dtabharfaidh an Chúirt Uachtarach breith ar an gceist', 'go dtí go gcinnfidh an Chúirt Uachtarach an cheist'
- 5 'go dtí go ndéanfaidh an Chúirt Uachtarach an cheist a tharchuirfear chuici amhlaidh a chinneadh'

## ARTICLE 40.4.4<sup>o</sup> AIRTEAGAL 40.4.4<sup>o</sup>

### TÉACS GAEILGE

Is triúr breitheamh is Ard-Chúirt in aon chás áirithe, ina ndéantar duine a deirtear a bheith á choinneáil ina bhrá go haindeleathach a thabhairt ina phearsain i láthair na hArd-Chúirte de bhun ordaithe chuige sin arna dhéanamh faoin alt seo, má dhéanann Uachtarán na hArd-Chúirte

nó, mura mbeidh seisean ar fáil, an breitheamh is sinsearaí den Chúirt sin dá mbeidh ar fáil a ordú, i dtaobh an cháis sin, an líon sin a bheith inti agus is breitheamh amháin is Ard-Chúirt i ngach cás eile den sórt sin.

### LITERAL ENGLISH TRANSLATION

Three judges constitute a High Court in any particular case, in which a person who is said to be being kept a prisoner unlawfully is brought in person before the High Court in pursuance of an order to that effect made under this section, if the President of the High Court or, if he is not available, the most senior judge of that Court who is / will be available orders, as regards that case, that it have that complement and one judge constitutes a High Court in every other case of that kind.

### ENGLISH TEXT

The High Court before which the body of a person alleged to be unlawfully detained is to be produced in pursuance of an order in that behalf made under this section shall, if the President of the High Court or, if he is not available, the senior judge of that Court who is available so directs in respect of any particular case, consist of three judges and shall, in every other case, consist of one judge only.

### Divergences between the official texts

- 1 'The High Court ... shall, if the President of the High Court ... so directs in respect of any particular case, consist of three judges and shall, in every other case, consist of one judge only' is rendered in the Irish text as 'Is triúr breitheamh is Ard-Chúirt in aon chás áirithe ... má dhéanann Uachtarán na hArd-Chúirte ... a ordú, i dtaobh an cháis sin, an líon sin a bheith inti agus is breitheamh amháin is Ard-Chúirt i ngach cás eile den sórt sin' ('The High Court consists of three judges / Three judges constitute a High Court in any particular case if the President of the High Court directs/orders, as regards that case, that it have that complement and the High Court consists of one judge / one judge constitutes a High Court in every other case of that kind').
- 2 'The senior judge' is rendered as 'an breitheamh is sinsearaí' ('the most senior judge') in the Irish text and 'in every other case' is rendered as 'i ngach cás eile den sórt sin', 'in every other case of that kind'.
- 3 As in the two previous subsections, 'a deirtear' ('stated') renders 'alleged' in the Irish text, 'a bheith á choinneáil ina bhrá go haindeleathach' ('unlawfully kept a prisoner') renders 'unlawfully detained' and 'a thabhairt ina phearsain' ('being brought in person') renders 'the body is to be produced'.

Note that this subsection was added to the text by the Second Amendment of the Constitution Act, 1941 – see the commentary on Article 40.4.2<sup>o</sup>.

### Commentary

*a ordú* 'Ordaim' is translated as 'I order' in *Téarmaí Dlí* and 'orduighim' is translated as 'I order, ordain, appoint, decree, plan, dispose, direct, prescribe, arrange, wish, command ...' in *Dinneen*. 'Ordaigh' is translated as 'order'

in *Ó Dónaill*. The Old Irish deponent verb 'ord(d)aigidir' is based on the noun 'ord', a learned loanword from Latin 'ordo', and is translated as 'orders, ordains, institutes', 'appoints (to an office)' and 'assigns, allots' in DIL, where examples are cited from the eighth-century Glosses onwards. See the commentary on Article 25.4.2°.

Moving on to today, in *Fasaigh Dlí-Théarmaí*, 'It is hereby ordered and directed' is translated as 'ordaítear leis seo' and 'the payments directed to be made' is translated as 'na híocáíochtaí a ordáíodh'. See the commentary on Article 34.4.5° where 'direct' is rendered by 'ceap'. In s328(2) of the Fisheries (Consolidation) Act, 1959, 'All things which by this Act are directed to be done by ... any person' is translated as 'Gach ní a ordáítear leis an Acht seo a dhéanamh ag aon duine'. 'I direct (jury)' is translated as 'treoraím' in *Téarmaí Dlí* with 'direction (by judge)' translated as 'treorú'. In s79(1)(b) of the Pensions Act, 1990, 'the Court may by order direct the person' is translated as 'féadfaidh an Chúirt le hordú a threorú don duine...'. In Form 4 in the Schedule of Forms to Statutory Instrument No. 96 of 1976 (District Court [Family Law (Maintenance of Spouses and Children) Act, 1976] Rules, 1976), 'The Court Directs that the payments aforesaid be made to the District Court Clerk' is translated as 'Treoraíonn an Chúirt go n-íocfar na híocáíochtaí réamhráite leis an gCléireach Cúirte Dúiche'. Preceding this we find 'The Court Hereby Orders ...' translated as 'Ordaíonn an Chúirt leis seo'.

*an breitheamh is sinsearaí* Literally, 'the most senior judge'. 'Senior counsel' is translated as 'abhcóide sinsir' in *Téarmaí Dlí* – in s15(2) of the Courts of Justice Act, 1953, for example, 'of whom one shall be of the Senior Bar' is translated as 'agus duine díobh sin ina Abhcóide Sinsir'. In *Titles (in Irish and English) of Civil Service Posts* (1938), however, 'senior' is consistently rendered as 'sinsearach', from 'Senior Architectural Draughtsman' ('Línitheoir Sinnsearach Ailtireachta') to 'Senior Court Clerk' ('Cléireach Cúirte Sinnsearach') to 'Senior Legal Clerk' ('Cléireach Dlíghídh Sinnsearach') to 'Senior Translator' ('Aistrightheoir Sinnsearach'). In the Third Schedule to the Defence Act, 1954, 'Senior Chief Petty Officer' is styled in Irish 'Ard-Mhion-Oifigeach Sinsearach'. See the commentary on Article 34.5.2° where 'i láthair ... an bhreithimh den Chúirt Uachtarach is sinsearaí dá mbeidh ar fáil' expresses 'in the presence of ... the senior available judge of the Supreme Court'.

*Is ... is* See the commentary on Article 2 regarding 'consist' in the Acts. Note for example that 'Aon teagmhas ar diúscairt sócmhainne a bheadh ann ar leith ó mhír 2 ... is diúscairt den sórt sin í d'fhonn a chinneadh ...' translates 'An event which, apart from paragraph 2 ... would constitute a disposal of an asset shall constitute such a disposal for the purpose of determining ...' in s64(5) of the Finance Act, 1990. Note also that a comma follows the phrase 'is breitheamh amháin' in the original text.

*Ard-Chúirt* Unlike the previous subsection, there is no 'sineadh fada' on the 'A' in 'Ard-Chúirt', either in this or in the following subsection, in the text as published in the Second Amendment of the Constitution Act, 1941.

*a deirtear* See the commentary on Article 40.4.2°.

*á choinneáil ina bhrá* See the commentary on Article 40.4.2°.

*go haindleathach* See the commentary on Article 40.4.2°.

*a thabhairt ina phearsain* See the commentary on Article 40.4.2°.

### Standardised gender-proofed Irish text

Is tríúr breitheamh is Ard-Chúirt in aon chás áirithe, ina ndéantar duine a deirtear a bheith á choinneáil ina bhrá nó á coinneáil ina brá go haindleathach a thabhairt ina phearsa nó ina pearsa i láthair na hArd-Chúirte de bhun ordaithe chuige sin arna dhéanamh faoin alt seo, má dhéanann Uachtarán na hArd-Chúirte nó, mura mbeidh seisean nó sise ar fáil, an breitheamh is sinsearaí den Chúirt sin dá mbeidh ar fáil a ordú, i dtaobh an cháis sin, an líon sin a bheith inti agus is breitheamh amháin is Ard-Chúirt i ngach cás eile den sórt sin.

### Direct gender-proofed translation

Tríúr Breitheamh a bheidh san Ard-Chúirt a ndéanfar corp duine a líomhnaítear a bheith á choinneáil nó á coinneáil go neamhdhleathach a thabhairt ina láthair<sup>1</sup> de bhun ordaithe chuige sin arna dhéanamh faoin alt seo, más rud é go dtreoróidh<sup>2</sup> Uachtarán na hArd-Chúirte nó, mura mbeidh seisean nó sise ar fáil, an breitheamh is sinsearaí<sup>3</sup> den Chúirt a bheidh ar fáil, amhlaidh i leith aon cháis ar leith agus ní bheidh ach breitheamh amháin inti i ngach cás eile.

### Variants

- <sup>1</sup> 'i láthair os a comhair', 'a ndéanfar duine a líomhnaítear a bheith á choinneáil nó á coinneáil go neamhdhleathach a thabhairt ina láthair i bpearsain / a thabhairt i bpearsain ina láthair'
- <sup>2</sup> 'go n-ordóidh'
- <sup>3</sup> 'cibé breitheamh sinsearach'

## ARTICLE 40.4.5° AIRTEAGAL 40.4.5°

### TÉACS GAELIGE

I gcás an Ard-Chúirt nó breitheamh di do dhéanamh ordaithe faoin alt seo á ordú duine faoi bhreith bháis a thabhairt i láthair ina phearsain, ní foláir don Ard-Chúirt nó don bhreitheamh sin di a ordú freisin feidhmiú na breithe báis sin a mhoilliú go dtí go dtabharfar an duine sin ina phearsain i láthair na hArd-Chúirte agus go gcinnefar an dleathach an duine sin a choinneáil ina bhrá nó nach dleathach agus má chinntear, tar éis an fheidhmithe sin a mhoilliú, gur dleathach an duine sin a choinneáil ina bhrá, ceapfaidh an Ard-Chúirt lá chun an bhreith bháis sin a fheidhmiú agus beidh éifeacht ag an mbreith bháis sin faoi réir an lá a cheapfar amhlaidh a chur in ionad an lae a socraíodh i dtosach chun an bhreith bháis sin a fheidhmiú.

### LITERAL ENGLISH TRANSLATION

In the case of the High Court or a judge of it making an order under this section ordering a person under sentence of death to be brought before (it) in person, the High Court or that judge of it must also order that the exercise

of that death sentence be delayed until that person is brought in person before the High Court and it is determined whether it is lawful to keep that person a prisoner or it is not lawful and if it is determined, after delaying that implementation, that it is lawful to keep that person a prisoner, the High Court will appoint a day to implement that death sentence and that death sentence will have effect subject to the day so appointed being put in place of the day which was first arranged to implement that death sentence.

#### ENGLISH TEXT

Where an order is made under this section by the High Court or a judge thereof for the production of the body of a person who is under sentence of death, the High Court or such judge thereof shall further order that the execution of the said sentence of death shall be deferred until after the body of such person has been produced before the High Court and the lawfulness of his detention has been determined and if, after such deferment, the detention of such person is determined to be lawful, the High Court shall appoint a day for the execution of the said sentence of death and that sentence shall have effect with the substitution of the day so appointed for the day originally fixed for the execution thereof.

#### Divergences between the official texts

- 1 'Until **after** the body of such person has been produced' is rendered in the Irish text as 'go dtí go dtabharfar an duine sin ina phearsain i láthair', 'until the (body of) such person is produced'.
- 2 'Be deferred' is rendered as 'a mhoilliú' ('be delayed') in the Irish text, and 'after such deferment' as 'tar éis an fheidhmithe sin a mhoilliú', 'after that implementation has been delayed'.
- 3 'Execution of the ... sentence' is rendered as 'an bhreith ... a fheidhmiú' ('implementation of ... the sentence'), the term translating 'execution' in *Téarmaí Dlí* being 'forghníomhú'.
- 4 'That sentence' is twice rendered as 'an bhreith bháis sin' ('that death sentence') in the Irish text.
- 5 'The lawfulness of his detention' is rendered as 'an dleathach an duine sin a choinneáil ina bhrá nó nach dleathach' ('whether it is lawful to keep that person a prisoner or not [*lit.* or it is not lawful]) in the Irish text.
- 6 'Sentence of death' is rendered in the Irish text more literally as 'breith bháis' ('judgement of death'), 'sentence' being translated by the compound 'pianbhreith' rather than the component 'breith' in *Téarmaí Dlí*, although *Ó Dónaill* also cites 'breith bháis' (along with 'breithiúnas báis') as 'death sentence' and we find this phrase 'breith bháis' in some earlier Acts.
- 7 'The production of the body of a person' is rendered as 'duine a thabhairt i láthair ina phearsain' ('the production of a body in person') in the Irish text, based on the previous subsection.
- 8 'Originally' is rendered as 'i dtosach' ('at first') in the Irish text.
- 9 'Where an order is made ... for ...' is rendered in the Irish text as 'I gcás ... do dhéanamh ordaithe ... á ordú' ('Where an order is made ... ordering').
- 10 'Freisin' ('Also') renders 'further' in the Irish text.

- 11 'With the substitution' is rendered as 'faoi réir ... a chur in ionad' ('subject to the substitution') in the Irish text.
- 12 'Shall' is rendered as 'ní foláir' ('must') in the Irish text, as we have seen in other Articles also.

Note that this subsection was added to the text by the Second Amendment of the Constitution Act, 1941 – see the commentary on Article 40.4.2°.

#### Commentary

*faoi bhreith bháis* 'Cion báis' and 'pionós báis' are translated respectively as 'capital offence' and 'capital punishment' in *Téarmaí Dlí*, with 'dearbhu i mbéal báis' being translated as 'dying declaration' and 'dleachtanna báis' being translated as 'death duties'. 'Breith' is translated simply as 'decision' in *Téarmaí Dlí*. *Ó Dónaill* translates 'breith' as 'judgement, decision' and translates both 'breith bháis' and 'breithiúnas báis' as 'sentence of death'. *Dinneen* translates 'breith' as 'judgment, decision, sentence; doom, fate'. DIL gives 'act of judging, deciding; judgment, legal ruling, interpretation' as one of the senses of 'breith' – another of which is 'birth', this being the verbal noun of 'beirid' – citing examples of this sense from the Glosses of the eighth century onwards.

'Cur faoi bhreith trí ghníomhas' translates 'submission by deed' in Statutory Instrument 48/111. In *Téarmaí Dlí* 'I sentence' is translated as 'cuirim pianbhreith ar', with 'sentence' translated as 'pianbhreith' and 'the sentences to run concurrently (consecutively)' as 'na pianbhreitheanna le rith i gcomhthráth (as a chéile)'. In s3(1)(c) of the Criminal Law (Jurisdiction) Act, 1976, for example, 'while serving a sentence imposed on his conviction for that offence' is translated as 'le linn dó a bheith ag cur isteach pianbhreithe a tugadh air ar é a chiontú sa chion sin'. In s14 of the Fisheries (Amendment) Act, 1978, 'Where a person is sent forward for trial or for sentence by a District Justice to a court other than the District Court' is translated as 'I gcás Breitheamh Dúiche do chur duine ar aghaidh chun a thrialach nó le go dtabharfaí pianbhreith air chuig cúirt seachas an Chúirt Dúiche'. In s4(6) of the Second Schedule to the Restrictive Practices Act, 1972, 'or is sentenced by a court of competent jurisdiction to suffer imprisonment or penal servitude' is translated as 'nó má chuireann cúirt dlínse inniúla pianbhreith príosúnachta nó pianseirbhíse air'.

'Death sentence' is translated as 'breith bháis' in the Margin Title of s103 of the Defence Forces (Temporary Provisions) Act, 1923, which section reads as follows:

Sentence of death shall not be awarded save with the concurrence of three-fourths, or more, of the members of the Court. *Ní gearrfar breith bháis ach le toil trí cheathrú cuid, nó breis, de bhaill na Cúirte.*

In s53 of the Court Officers Act, 1926, the title 'Execution of death sentences' is translated as 'Feidhmiú breitheanna báis' and 'It shall not henceforth be the duty of any under-sheriff to carry into effect sentences of death imposed by courts of justice' is translated as 'Ní bheidh sé de dhualgas feasta ar aon fho-shirriam breitheanna báis do thug cúirteanna breithiúnais do chur in éifeacht'. In s6(1) of the Courts of Justice Act, 1928, 'In the case of a sentence of death or corporal punishment' is translated

as ‘I gcás breithe báis nó breithe pionóis chuirp’ and in s6(2) ‘in the case of a conviction involving sentence of death’ is translated as ‘i gcás ciontú as a leanfadh breith bháis.’ ‘Sentence of death’ in the heading for s227 of the Defence Act, 1954, is translated as ‘Pianbhreith bháis’ and subsection (1), ‘A sentence of death passed by a court-martial and confirmed shall not be carried out unless and until the execution of the sentence has been approved by the Government’ is translated as ‘Ní cuirfear pianbhreith bháis a bhéarfais armchúirt, agus a daingneofar, i bhfeidhm mura gceadaí ná go dtí go gceadóidh an Rialtas an phianbhreith a chur i bhfeidhm’. Finally, ‘Postponement of execution of sentence of death’ is translated as ‘Forghníomhú pianbhreithe báis a iarchur’ in the Margin Title of s21 of the Courts-Martial Appeals Act, 1983, the section commencing as follows:

In the case of a sentence of death passed by a court-martial .... *I gcás pianbhreith bháis arna gearradh ag armchúirt.*

*i dtosach* ‘Tosach’ is translated as ‘commencement’ in *Téarmaí Dlí*. In s54(5)(a) of the Fisheries Act, 1980, ‘he may make such an order in the form originally proposed’ is translated as ‘féadfaidh sé ordú den sórt sin a dhéanamh san fhoirm a beartaíodh i dtosach’ and in s41(1) of the Finance Act, 1990, ‘where such equipment or subassemblies were originally manufactured by that company’ is translated as ‘i gcás go mba í an chuideachta sin ... a mhonaraigh an trealamh nó na fo-dhiolamaí sin i dtosach’. In s3(9)(c) of the Companies Act, 1963, however, ‘either as originally contained in that Section or as altered in pursuance of section 71 of that Act’ is translated as ‘mar a bhí i gcéadúair sa Sceideal sin nó mar a athraíodh é de bhun alt 71 den Acht sin’ and in s8(2) of the Income Tax Act, 1967, ‘as if it were a debt due from the person as against whom the deduction could originally have been made if the Act imposing tax for the year had been in force’ is translated as ‘ionann agus dá mba fhiach í a bhí dlite den duine ar ina choinne a fhéadfaí an asbhaint a dhéanamh i gcéadúair dá mbeadh an tAcht a d’fhorchuir an cháin don bhliain i bhfeidhm’. ‘I gcéadúair’ also translates ‘first’ in the Acts. Note, finally, that in s11 of the Unemployment Insurance Act, 1923, ‘under clause (a) of sub-section (1) of the said section 17 as originally enacted’ is translated as ‘fé chlás (a) d’fho-alt (1) den alt san 17 mar a achtuódh ar dtús é’.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that, while ‘i gcéadúair’ is fine as a translation of ‘originally’, it often has the sense of ‘immediately’ (“láithreach”) – see *Dinneen* s.v. ‘céadóir’, *Ó Dónaill*, id. Neither gives evidence of the sense of ‘originally’. Professor Ó Murchú recommends ‘ar dtús’ as an alternative.

*a ordú freisin* Literally ‘to order also’. Note how ‘further order’ is translated as ‘ordú eile’ in s18(4) of the Finance Act, 1983. While ‘thairis sin’ translates ‘otherwise’ in the Acts, it is translated as ‘moreover’ in *Ó Dónaill* and we find ‘but not further manufactured’, ‘but not further prepared’ and ‘but not further worked’ translated respectively as ‘gan monarú thairis sin air’, ‘ach gan ullmhú thairis sin air’ and ‘ach gan oibriú thairis sin orthu’ in *Treaties establishing the European Communities* (1973, pp. 1348, 1247 and 658), ‘thairis sin’ translating ‘furthermore’ on

p. 955. See also *De Bhaldraithe* s.v. ‘further’ 1(d), where he translates this adverb as ‘fós, thairis sin’, translating ‘and further, I think it right that ...’ as ‘agus thairis sin, is dóigh liom go mba cheart go ...’.

*feidhmiú ... an fheidhmithe* According to the official standard, ‘feidhmiú’ would not become ‘an fheidhmithe sin’ when followed by the verbal noun, but would read as ‘tar éis an feidhmiú sin a mhoilliú’ – see s2.2 of the chapter headed ‘Form of the Nominative instead of the Genitive’ in *An Caighdeán Oifigiúil* (p. 94 [translated by the author]): ‘When a noun or a nominal phrase is joined by the preposition *a* (<do) to a following verbal noun the noun is left in the nominative following a word or form which takes the genitive’.

‘Cuirim i bhfeidhm’ is translated as ‘I enforce’ in *Téarmaí Dlí* and ‘i bhfeidhm’ as ‘in force’. ‘Feidhmiú’, verbal noun of ‘feidhmigh’, is translated as ‘act of functioning, execution, enforcement, operation, application’, with ‘feidhmiú dlí’ translated as ‘law enforcement’ and ‘feidhmiú cumhachta’ as ‘exercise of authority’, in *Ó Dónaill*. ‘Feidhm-iughadh’ is translated as ‘act of accomplishing, putting into force, carry out’ in *Dinneen*. The verb ‘feidhmigh’ is based on ‘feidm’, the primary sense of which, according to DIL, seems to be ‘load, stress, strain’, passing into the senses of ‘utmost effort, effort, extension; burden, service, function’ – see the commentary on Article 45.

In s6(2) of the Courts of Justice Act, 1928, ‘the Court shall fix a day for the execution of the sentence’ is translated as ‘ceapfidh an Chúirt lá chun an bhreith do chur i bhfeidhm’ and ‘the sentence pronounced at the trial shall have effect as if, for the day therein mentioned, the day fixed in pursuance of this sub-section were substituted’ is translated as ‘agus beidh éifeacht ag an mbreith a tugadh ag an triail fé is dá ndintí an lá a ceapfar do réir an fho-ailt seo do chur in ionad an lae do luadhadh sa bhreith sin’. In s53 of the Court Officers Act, 1926, ‘It shall not henceforth be the duty of any under-sherriff to carry into effect sentences of death imposed by courts of justice’ is translated as ‘Ní bheidh sé de dhualgas feasta ar aon fho-shirriam breitheanna báis do thug cúirteanna breithiúnas do chur in éifeacht’. Chapter VIII of the Defence Act, 1954, is entitled ‘Execution of Sentences’, translated as ‘Pianbhreitheanna a chur i bhfeidhm’ and s227(2) reads as follows:

the confirming authority – (a) shall be responsible for the execution of the sentence, and (b) shall direct the manner in which it is to be carried out .... *is é an t-údarás daingniúcháin – (a) a bheas freagrach sa phianbhreith a chur i bhfeidhm, agus (b) a threorós an modh ar a gcuirfear i bhfeidhm í.*

‘A chur i bhfeidhm’ expresses ‘to secure’ in Article 38.3.1° and ‘enforcement’ in Article 38.4.2°. ‘A fheidhmiú’ renders ‘to exercise’ in the Amendment contained in Articles 29.4.6° and 29.7.2° along with the new Article 3 contained in Article 29.7, but expresses ‘the application of’ in Article 45.

Looking at ‘execution’ in general in early Acts, ‘provided such act, matter or thing was done or in good faith purported to be done in execution of the duty of the person doing the same’ is translated as ‘má dineadh no gur tuigeadh go macánta gur dineadh an gníomh no an rud no an ní sin i bhfeidhmiú dualgais an té a dhin é’ in s1 of the Indemnity (British Military) Act, 1923, with ‘requiring that the wages to be paid ... shall be such as are

required in the execution of contracts with a State Department' being translated as 'éileamh gur fé mar is gá i bhfeidhmiú conracha le Roinn Stáit a bheidh an págh a íocfidh ...' in s12(1)(g) of the Local Authorities (Combined Purchasing) Act, 1925.

'I execute (i.e. an order, deed, etc.)' is translated as 'forghníomhaim' in *Téarmaí Dlí*, where 'execution order' is translated as 'ordú forghníomhaithe', with 'affidavit of due execution' being translated as 'mionnscríbhinn fhorghníomhaithe chuí'. In ss(iii) of the Second Schedule to the Finance Act, 1976, 'the carriage of goods in the State by or on behalf of a person in execution of a contract to transfer the goods to or from a place outside the State' is translated as 'iompar earraí sa Stát ag duine nó thar ceann duine i bhforghníomhú conartha chun na hearraí a aistriú go dtí áit nó ó áit lasmuigh den Stát'. In s81 of the Succession Act, 1965, 'a person who attests the execution of a will' is translated as 'duine a fhianóidh forghníomhú uachta'.

*a mhoilliú* Ó Dónaill translates 'moilligh' as 'delay' and *Dinneen* translates 'moillighim' as 'I delay, procrastinate, retard'. DIL translates 'mallaigid' as 'makes slow, retards', this verb being based on 'mall', which translates Latin 'tardus' in the Glosses. Note incidentally that while 'malla' is a plural noun referring to animals used as beasts of burden (DIL), 'mall' itself can also be used of women or young persons, in complimentary sense, implying dignity, gentleness or modesty of demeanour – see DIL s.v. 'mall' (e).

Turning to the Acts, in s3(d) of the Second Schedule to the Air Navigation and Transport Act, 1936, 'deferred rights' is translated as 'cearta moillithe'. 'Deferred telegraph' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'telegraf moillithe' in translations for Oifig an Phuist, with 'telegram moille' translating 'deferred telegram' in *Iris an Phuist*, 22/6/1927. Usually, however, 'moill' translates 'delay' in the Acts – see, for example, s2 of Article 10 of the Schedule to the Air Navigation and Transport Act, 1975, where 'When ... a flight has been delayed or interrupted' is translated as 'Nuair a tharlóidh moill nó briseadh d'eitilt'.

'Deferred share' is translated as 'scair iarchurtha' in *Téarmaí Dlí*. In s6(2) of the Grass Meal (Production) Act, 1953, 'any preferential, deferred, qualified or special rights, privileges or conditions' is translated as 'aon chearta, pribhléidí nó coinníollacha, tosaíochta nó iarchurtha nó cáilithe nó speisialta'. 'Blianachtaí iarchurtha' translates 'deferred annuities' in s20 of the Capital Gains Tax Act, 1975. In s2(5) of the Local Government (Financial Provisions) Act, 1978, 'and which enables a temporary reduction or deferment of a revision of or an increase in a valuation to be made' is translated as 'agus faoinar féidir luacháil a laghdú go sealadach nó athscrúdú luachála a chur siar nó luacháil a mhéadú'. In s3 of the Turf Development Act, 1968, 'Deferment of repayment of advances to Board' is translated as 'Aisíoc airleacan chun an Bhoird a chur siar'. 'Do chur siar' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'defer' in early *Standing Orders* of Dáil Éireann.

'A chur siar' consistently translates 'to defer' in *Treaties establishing the European Communities* (1973) – see, for example, p. 982, where 'for a period of five years after accession, defer the liberalization ...' is translated as

'léirscaoileadh a chur siar, ar feadh tréimhse chúig bliana tar éis an aontachais'. On p. 973, 'The Council may ... decide to defer the date laid down in paragraph 1' is translated as 'Féadfaidh an Chomhairle ... cinneadh ar an dáta dá bhforáiltear i mír 1 a chur siar'.

*an dleathach ... nó nach dleathach* 'Dleathach' is translated as 'lawful' in *Téarmaí Dlí*. 'Dleathacht' is given in *Téarmaí Oifigiúla* as the translation of 'lawfulness' (without reference), this being given as a variant of 'dleathaíocht' in *Ó Dónaill*, that headword being translated as 'legality; justice, propriety'. *Ó Dónaill* translates 'dlíthiúlacht' as 'legality, lawfulness', this merely translating 'legality' in *Téarmaí Dlí*. Note that 'dleathacht' translates 'validity' in s36(3) of the Local Government Act, 1925, this being translated as 'bailíocht' in *Téarmaí Dlí*.

*a thabhairt i láthair ... go dtí go dtabharfar ...* See the commentary on Article 40.4.2° and note incidentally that *Dinneen* cites 'tig i láthair, come up, approach'. Regarding 'until after the body ... has been produced', see s21(7) of the *Standing Orders* of Dáil Éireann, where 'the interruption shall not take place until after the decision has been declared from the Chair' is translated as 'ní dhéanfar an stopadh go dtí go mbeidh an cinneadh fógartha ón gCathaoir', as against s85 where 'such division ... shall be postponed until after the conclusion of the division in the Dáil' is translated as 'go ndéanfar an vótáil sin ... a chur siar go dtí tar éis chríochnú na vótála sa Dáil'.

*breitheamh di* We see both 'de' alone and 'de' with repetition of the noun translating 'thereof' in the following from s56(1) of the Corporation Tax Act, 1976:

"pigmeat product" means bacon and cuts thereof including ham, pork carcasses and pork sides and cuts thereof .... *ciallaíonn "táirge muiceola" bagún agus slisní bagúin lena n-áirítear liamhás, conablaigh mhúiceola agus taobhanna muiceola agus slisní díobh....*

'Den chéanna' sometimes translates 'thereof' in the Acts – see, for example, s3(1) of the Sea Pollution Act, 1991, where "'garbage" means all kinds of victual, domestic and operational waste (excluding fresh fish and parts thereof)' is translated as 'ciallaíonn "trufalais" dramháil bhia, dramháil tís agus dramháil oibríochta de gach cineál (gan iasc úr agus codanna den chéanna a áireamh)'. Professor Máirtín Ó Murchú, commenting on drafts of direct translations in this study, advises against the use of 'den chéanna'. See further the commentary on Article 8.3.

*faoi réir* This phrase is translated as 'subject to' in the Acts. 'Ach' is sometimes used to express 'with' in the present context in the Acts – see, for example, s50(11)(b) of the Finance Act, 1983, where 'with the omission of the proviso' is translated as 'ach an coinníoll a fhágáil ar lár'. 'Ach dhá thrian ... do thoiliú leis' expresses 'with the assent of two-thirds' in Article 15.8.2°. 'Agus' is also used to express 'with' – see, for example, s54 of the Finance Act, 1990, where 'a return of ... the profits of the company ... specifying the income taken into account in computing those profits, with the amount from each source' is translated as 'tuairisceán ... ar bhrabúis na cuideachta ... ina sonrú ar an t-ioncam a cuireadh i gcuntas le linn na

mbrabús sin a bheith á ríomh agus an méid ó gach bunadh’.

*beidh éifeacht ag* In the *Treaty on European Union* (1992, p. 192) ‘Articles 44 to 48 of the Statute shall have effect ... subject to the following amendments’ is translated as ‘Beidh éifeacht ag ... Airteagail 44 go 48 ... faoi réir na leasuithe seo a leanas’. On p. 191, however, ‘Paragraphs 3 to 9 shall have effect if ...’ is translated as ‘Beidh éifeacht le míreanna 3 go 9 má ...’. ‘Éifeacht le’ is the phrase generally used in the Acts also – see, for example, s36 of the Finance Act, 1990, where ‘The First Schedule shall have effect for the purpose of supplementing subsection (1)’ is translated as ‘Beidh éifeacht leis an gCéad Scedeal chun fo-alt (1) a fhorlónadh’. See the commentary on Article 3 regarding ‘éifeacht’.

*do dhéanamh ordaithe ... á ordú* In s3(1)(i) of the Family Law (Maintenance of Spouses and Children) Act, 1976, ‘an order for payment of alimony pending suit’ is translated as ‘ordú ag ordú ailiúntas a íoc go dtí go ndéanfar agra’. See also, however, s16(f) of the Judicial Separation and Family Law Reform Act, 1989, where ‘an order for partition of property’ is translated as ‘ordú chun maoin a pháirtíú’. See the commentary on Article 25.4.2° regarding ‘ordú’ (there expressing ‘direction’) and the commentary on Articles 27.2 and 40.4.4° regarding ‘ordaigh’, expressing respectively ‘prescribe’ and ‘direct’.

*I gcás ...* See, for example from the Acts, s7 of the Regulation of Banks (Remuneration and Conditions of Employment) (Temporary Provisions) Act, 1973, where ‘Where an offence under this Act is committed by a body corporate...’ is translated as ‘I gcás cion a dhéanamh faoin Acht seo ag comhlacht corpraithe’. See the commentary on Articles 12.4.5° and 24.2 respectively where ‘where’ is expressed as ‘nuair’ and ‘má tharlaíonn’.

*go gcinnefar ... má chinntear* ‘Cinnim’ is translated as ‘I determine (issue, etc.)’ and ‘I find (as a fact)’ in *Téarmaí Díl* – see the commentary on Articles 1 and 12.11.2°.

*Ard-Chúirt* Unlike Article 40.4.2°, there is no ‘sineadh fada’ on the initial capital ‘A’ in the original text of this Amendment in the first two citations of ‘Ard-Chúirt’ in this subsection.

*ceapfaidh* See the commentary on Article 40.3°.

### Standardised gender-proofed Irish text

I gcás an Ard-Chúirt nó breitheamh di a dhéanamh ordaithe faoin alt seo á ordú duine faoi bhreith bháis a thabhairt i láthair ina phearsa nó ina pearsa, ní foláir don Ard-Chúirt nó don bhreitheamh sin di a ordú freisin feidhmiú na breithe báis sin a mhoilliú go dtí go dtabharfar an duine sin ina phearsa nó ina pearsa i láthair na hArd-Chúirte agus go gcinnefar an dleathach an duine sin a choinneáil ina bhrá nó ina brá nó nach dleathach agus má chinntear, tar éis an feidhmiú sin a mhoilliú, gur dleathach an duine sin a choinneáil ina bhrá nó ina brá, ceapfaidh an Ard-Chúirt lá chun an bhreith bháis sin a fheidhmiú agus beidh éifeacht ag an mbreith bháis sin faoi réir an lá a

cheapfar amhlaidh a chur in ionad an lae a socraíodh i dtosach chun an bhreith bháis sin a fheidhmiú.

### Direct gender-proofed translation

I gcás ordú a dhéanamh faoin alt seo ag an Ard-Chúirt nó ag breitheamh di<sup>1</sup> chun corp duine atá faoi phianbhreith bháis a thabhairt i láthair<sup>2</sup>, déanfaidh an Ard-Chúirt nó an breitheamh sin di a ordú thairis sin forghníomhú<sup>3</sup> na pianbhreithe báis sin a chur siar go dtí tar éis corp an duine sin a thabhairt i láthair<sup>4</sup> na hArd-Chúirte agus dleathach a choinneála nó a choinneála a chinneadh agus más rud é, tar éis an iarchuir sin, go gcinnefar gur dleathach an duine sin a choinneáil, ceapfaidh an Ard-Chúirt lá chun an phianbhreith bháis sin a fhorghníomhú<sup>5</sup> agus beidh éifeacht leis an bpiambhreith sin ach an lá a chinnefar amhlaidh a chur<sup>6</sup> in ionad an lae a socraíodh i gcéaduaire<sup>7</sup> d’fhorghníomhú an chéanna<sup>8</sup>.

### Variants

- 1 ‘den Ard-Chúirt’
- 2 ‘chun duine atá faoi phianbhreith bháis a thabhairt i láthair i bpearsain’
- 3 ‘cur i bhfeidhm’
- 4 ‘i láthair os comhair’, ‘tar éis an duine sin a thabhairt i láthair i bpearsain’
- 5 ‘a chur i bhfeidhm’
- 6 ‘a bheith’
- 7 ‘i dtosach’, ‘ar dtús’
- 8 ‘don chéanna a chur i bhfeidhm’, ‘d’fhorghníomhú na pianbhreithe sin’

## ARTICLE 40.4.6° AIRTEAGAL 40.4.6°

### TÉACS GAELGE

Ach aon ghníomh de ghníomhartha na bhFórsaí Cosanta le linn eisithe nó ceannairce faoi arm, ní cead aon ní dá bhfuil san alt seo a agairt chun an gníomh sin a thoirmeasc nó a rialú nó a bhac.

### LITERAL ENGLISH TRANSLATION

But any one of the acts of the Defence Forces during unrest or armed rebellion, it is not permitted to plead anything that is in this section to prohibit or regulate or hinder that act.

### ENGLISH TEXT

Nothing in this section, however, shall be invoked to prohibit, control, or interfere with any act of the Defence Forces during the existence of a state of war or armed rebellion.

### Divergences between the official texts

- 1 ‘During the existence of a state of war’ is expressed in the Irish text as ‘le linn eisithe’, ‘during unrest/non-peace’ (note, however, that *Dinneen* translates ‘eisíoth’ as ‘state of war’).
- 2 ‘Interfere with’ is expressed by ‘bac’, the Irish legal term for ‘stay’, a term generally understood as ‘hinder’/‘prevent’.
- 3 ‘Óglaigh na hÉireann’ as against ‘na Fórsaí Cosanta’ is the official Irish title of ‘the Defence Forces’, in the

- Acts and in the Army's own *Téarmaí Mileata*.
- 4 'Any act' is expressed in the Irish text as 'aon ghníomh de ghníomhartha' ('any act of the acts'), a regular construction meaning 'any one of the acts', with 'an gníomh sin' ('that act') added further on.
  - 5 'Agair', the term expressing 'invoke' in the Irish text, is the Irish legal term for 'sue', the sense 'plead, entreat' being found in the Acts also.
  - 6 As we have seen in other Articles, 'ní cead' ('it is not permitted') expresses 'nothing ... shall' of the English text, and 'Ach' ('But') expresses 'however'.
  - 7 'To prohibit, control, or interfere with' is expressed in the Irish text as 'a thoirmeasc nó a rialú nó a bhac' ('to prohibit or to control or to interfere with').

Note that Article 6 of the 1922 Constitution concludes as follows:

Provided, however, that nothing in this Article contained shall be invoked to prohibit, control or interfere with any act of the military forces of the Irish Free State (Saorstát Éireann) during the existence of a state of war or armed rebellion. *Ar choinioll, ámh le linn chogaidh no rebiliúntachta armtha ná gairmfear éinní dá bhfuil san Airtíogal so chun aon ghníomh dá ndéanfaidh fórsaí airm Shaorstáit Éireann do chosg, do smachtú ná do thoirmeasg.*

### Commentary

*a bhac* 'Bacaim' is translated as 'I stay (e.g. proceedings)' in *Téarmaí Dlí*, where 'bac ar fhorghníomhú' translates 'stay of execution'. *Ó Dónaill* translates 'bac' as 'balk, hinder', while *Dinneen* translates 'bacaim' as 'I hack, I lame; I hinder, prevent, meddle with'. This verb is based on the noun 'bac', originally 'angle, bend, corner', frequently in the commentaries on the early Irish law-tracts in the phrase 'bac n-achaid', apparently '(an enclosed) corner or angle of a field (used as a shelter for horses or cattle)' and hence later 'hindrance, act of hindering'. We find an example of 'bac' in the ninth-century St Gall Glosses on Priscian where it refers to a sickle, 'bac' being applied to various hooked or angled tools or other articles, and translated as 'mattock, grub-hoe, bill-hook' in DIL. 'Baccach', 'lame', 'lame person', is also based on 'bacc'. DIL translates the verb 'baccaid' as 'hinders, prevents, impairs', given one example of the sense 'lames'.

Turning to the Acts, in s1(7) of the Air Navigation (Eurocontrol) Act, 1971, 'A person who obstructs or interferes with an officer of the Organisation' is translated as 'aon duine a choisfidh nó bhacfaidh oifigeach don Eagraíocht'. In s15(1) of the Consumer Information Act, 1978, 'A person shall not ... prevent another person from, or interfere with or obstruct another person' is translated as 'Ní dhéanfaidh duine ... cosc, bac ná araoid a chur ar dhuine eile'. See further the commentary on Article 15.10 where 'cur isteach a dhéanamh ar' expresses 'interfere with'.

'Bac' generally translates 'impede' and 'hinder' along with 'stay' in the Acts. See, for example, s3(1)(b) of the Criminal Law (Jurisdiction) Act, 1976, where 'with intent to impede the apprehension or prosecution of a person' is translated as 'le hintinn gabháil nó ionchúiseamh duine a bhac'. In s46(1) of the Diplomatic Relations and Immunities Act, 1967, 'A person who wilfully hinders, restricts or

prevents the enjoyment or exercise of inviolability or an exemption, facility, immunity, privilege or right conferred by this Act' is translated as 'Aon duine a bhacfaidh, a shrianfaidh nó a choisfidh go toiliúil dosháraitheacht, saoirseacht, saoráid, díolúine, pribhléid nó ceart a thugtar leis an Acht seo a theachtadh nó a fheidhmiú'. In s7(2) of the Maintenance Orders Act, 1974, 'The Court may ... stay the proceedings' is translated as 'Féadfaidh an Chúirt ... na himeachtaí a bhac'.

See the commentary on Article 15.10 regarding other translations of 'interfere' in the Acts. Looking at early Acts, 'opens, or otherwise interferes with any ballot box' is translated as 'aon bhosca ballóide d'oscailt no baint leis in aon tslí eile' in s46(2)(f) of the Prevention of Electoral Abuses Act, 1923. 'Interfering with or preventing ... the lawful occupation, use or enjoyment of any land or premises' is translated as 'Cuir-isteach no cosc a dhéanamh ... ar aon talamh no áitreabh do shealbhú no d'úsáid go dleathach no ar tairfe do bhaint as go dleathach' in s9 of the Schedule to the Public Safety (Emergency Powers) Act, 1923.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that 'a bhac' is a perfect expression of 'interfere with' in the sense of 'prevent (a process or activity) continuing or being carried out properly'; 'a chur isteach air' would not be as precise as 'a bhac' and 'chun baint leis' would be rather weak. Professor Ó Murchú also remarks that 'ná' is more appropriate than 'nó' here, as different types of 'act' are involved rather than different explanatory words for the one single act.

*le linn eisithe* 'Eisith' expresses 'state of war' in Article 38.4.1° also – see the commentary on that Article. *Ó Dónaill* translates 'eisith' as 'lack of peace; dissension, strife, quarrel', translating 'bheith in eisith le duine' as 'to be in conflict with someone'. *Dinneen* translates 'eisíoth' as 'state of war', translating 'i n-eisith le' as 'at war with'. DIL gives examples of 'essid' from the Glosses of the eighth century onwards, translating that headword as 'unpeace, strife, dissension; hostility; destruction', also in concrete sense 'a hostile act, outrage', 'essid' being composed of 'síd' ('peace') with a negative prefix.

'State of war' is translated as 'staid chogaidh' in *Foclóir Oifigiúil*, followed by the abbreviation for the 'Department of Defence'. 'State of rebellion' is translated as 'staid rebiliúntachta' in the Preamble to the Public Safety (Emergency Powers) Act, 1923, with 'arising out of the existence of a state of war or armed rebellion, whether local or general', in s1(b), being translated as 'de bharr staid cogaidh no rebiliúntachta armtha, áitiúil no generalta, a bheith ann'. This same English phrase is translated as 'a tháinig as staid cogaidh no rebiliúntachta armtha, áitiúil nó generalta, do bheith ann' in s3(1)(a) of the Schedule to the Public Safety (Emergency Powers) (No. 2) Act, 1923. 'State of emergency/war' is translated as 'staid éigeandála/chogaidh' in *Téarmaí Mileata*. Finally, regarding lenition after 'staid', note that 'physical and mental condition' is translated as 'staid choirp agus mheabhrach' in s9(3)(c) of the Social Welfare (Occupational Injuries) Act, 1966.

*ceannairc faoi arm* See the commentary on Article 28.3.3°. In s2 of Article 39 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, 'even in



case of armed conflict' is translated as 'fiú amháin i gcás coinbhleacht faoi airm'. 'Armed conflict' is translated as 'coimhlint armtha' in *Téarmaí Míleata*, however. 'Foghna armtha' and 'éirí amach armtha' translates 'armed attacks' and 'armed revolt' respectively in the Preamble and in s1 of Part 1 of the Schedule to the Public Safety (Emergency Powers) Act, 1923; in s1(b) of that Act, as we have seen, 'arising out of the existence of a state of war or armed rebellion' is translated as 'de bharr staid cogaidh no rebeliúntachta armtha ... a bheith ann'. Note, finally, that in Article 70 of the 1922 Constitution 'save in time of war, or armed rebellion' is translated as 'ach in aimsir chogaidh no rebeliúntachta armtha'.

*a agairt* 'Agraím' is translated as 'I sue' in *Téarmaí Dlí*. *Ó Dónaill* translates 'agair' principally as 'plead, entreat', translating 'cás a agairt le duine' as 'to plead a case with someone'. *Dinneen* translates 'agraim' as 'I retribute, revenge, dispute, challenge, ... I pray, beg, beseech' and 'I claim; I sue' – see the commentary on Article 18.4.3°. DIL translates the earlier compound 'ad-gair' as 'sues, prosecutes, impleads, accuses', citing the following example in the sense of 'forbids, prevents' from the eighth-century Würzburg Glosses on the Pauline Epistles: 'rafatarsa as peccad comaccobor hore adrograd' ('I know that concupiscence is sin because it has been forbidden') – this glosses 'nam concupiscentiam nesciebam nisi lex diceret: non concupisces' (*Rom.*, vii. 7).

We see 'agair' in the sense of 'sue' in the Acts in s36 of the Companies Act, 1963, where 'every person who is a member of the company ... and may be severally sued therefor' is translated as 'beidh gach duine is comhalta den chuideachta ... agus féadfar é a agairt go leithleach ina leith'. In s5 of Article VII of the Schedule to the Bretton Woods Agreements Act, 1957, 'Members agree not to invoke the obligations of any engagements entered into with other members prior to this Agreement in such a manner as will prevent the operation of the provisions of this Article' is translated as 'comhaontaíonn na comhaltaí nach ndéanfaid oblagáidí aon tsocrúithe a rinneadh le comhaltaí eile roimh an gComhaontú seo d'agairt ar shlí a choisfeair oibriú forál an Airteagail seo'. In s3 of Article 45 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967, 'shall preclude him from invoking immunity from jurisdiction in respect of any counter claim directly connected with the principal claim' is translated as 'dúnfaidh sin amach é ó dhíolúine a agairt ó dhlínse i leith aon fhrithéileamh a bhaineann go díreach leis an bpríomh-éileamh'. Note, however, that 'agair' was not invoked in translating Article V of the Schedule to the Air Navigation and Transport Act, 1965, where 'unless it is proved that he acted in a manner which, under the Warsaw Convention, prevents the limits of liability from being invoked' is translated as 'mura gcruthófar gur ghníomhaigh sé ar dhóigh a fhágann, faoi Choinbhinsiún Warsaw, nach féidir feidhm a bhaint as na teorainneacha dlíleanais'.

We find both 'a agairt' and 'leas a bhaint as' translating 'invoke' in *Treaties establishing the European Communities* (1973) – see, p. 304, for example, where, 'any party may, in proceedings ... plead the ground specified ... in order to invoke before the Court of Justice the inapplicability of that regulation' is translated as 'féadfaidh páirtí ar bith, i gcás imeachtaí ... na forais a phléadail a shonraítear ...

d'fhonn neamhfheidhmeacht an rialacháin sin a agairt os comhair na Cúirte Breithiúnais'. On p. 572, however, 'The provisions of this Treaty shall not be invoked so as to prevent the implementation of agreements' is translated as 'Ní bhainfeair leas as forálacha an Chonartha seo chun cosc a chur le comhaontuithe'. 'Leas a bhaint as' translates 'avail' in the Acts and in *Treaties establishing the European Communities*, where it also translates '(to have) recourse (to)' and 'employ'. In the *Treaty on European Union* (1992), 'This Title shall not provide a basis for the introduction by the Community of any measure' is translated as 'Ní féidir leis an gComhphobal leas a bhaint as an Teideal seo chun aon bheart a thabhairt isteach'.

*gníomh* This headword is translated as 'act' in *Téarmaí Dlí*, where 'gníomh Stáit', for example, is translated as 'act of State', while 'cúlpháirtí i ndiaidh an ghnímh' is translated as 'accessory after the fact'. *Ó Dónaill* gives 'action' and 'act, deed' as senses of 'gníomh'. *Dinneen* includes 'an act, action or deed', along with 'an act of prayer' and 'an act of unlawful indulgence' among the senses of 'gníomh'. 'Gním' is the verbal noun of 'gníid' and has the senses of 'doing, performing, executing', along with 'acting, action, activity, work', glossing Latin 'actio', for example, in the ninth-century Milan Glosses on the Commentary on the Psalms. See further the commentary on Article 15.5.

Turning to the Acts, in s11(1)(b) of the Air Navigation and Transport Act, 1973, for example, 'attempts to perform any such act or aids or abets a person who performs or attempts to perform any such act or counsels or procures the performance of any such act' is translated as 'a thabharfaidh faoi ghníomh den sórt sin a dhéanamh nó a chabhróidh nó a neartóidh le duine a bheidh ag déanamh aon ghnímh den sórt sin nó ag tabhairt faoina dhéanamh, nó a chomhairleoidh nó a thabharfaidh chun críche go ndéanfar aon ghníomh den sórt sin'. Note, however, s118(3) of the First Schedule to the European Assembly Elections Act, 1977, where 'No returning officer ... shall be required ... to do any act (whether of commission or omission) which is contrary to this Act' is translated as 'Ní bheidh de cheangal ar aon cheann comhairimh ... aon ní a dhéanamh (trí ghníomh ná trí neamhghníomh) atá contrártha don Acht seo'.

*a thoirmeasc* 'Toirmiscim' is translated as 'I prohibit' in *Téarmaí Dlí*, where 'toirmeasc' is translated as 'inhibition'. The verb 'toirmisc' is translated as 'prohibit; prevent, hinder' in *Ó Dónaill*, where '*toradh toirmiscithe*, forbidden fruit' is cited. *Dinneen* translates 'toirmeascaim' as 'I hinder, prevent, prohibit, interrupt'. The compound verb 'do-airmesca' is translated as 'hinders, obstructs, restrains, checks, forbids' in DIL, citing 'cur toirmisc Medb in gním siu do dénum' (i.e. so that Meadhbh prohibited that deed's being done). Turning to the Acts, in s11(1) of the Merchandise Marks Act, 1970, 'in the case of any goods the importation of which is prohibited by or under this Act' is translated as 'i gcás earraí a bhfuil a n-allmhairiú toirmiscithe leis an Acht seo nó faoi'. See the commentary on Article 18.4.3° where 'toirmeasc a chur' expresses 'to prohibit'.

*aon ní dá bhfuil san alt seo* Literally 'nothing of what is in this section'. See the commentary on Article 13.3.2° regarding 'dá'. See, for an example of non-use of 'dá',

s35(4) of the Extradition Act, 1965, where ‘Nothing in this section shall prejudice ...’ is translated as ‘Ní dhéanfaidh aon ní san alt seo dochar (do) ...’, a phrase found in many of the Acts.

*a rialú* ‘Rialáim’ is translated as ‘I control; I rule’ in *Téarmaí Dlí* – see the commentary on Article 10.3. See, for example from the Acts, the heading of Part II of the Disease and Animals Act, 1966, where ‘Control and Eradication of Disease’ is translated as ‘Galar a Rialú agus a Scriosadh’.

*na Fórsaí Cosanta* See the commentary on Article 13.4.

### Direct translation

Ní dhéanfar aon ní san alt seo a agairt,<sup>1</sup> áfach, chun aon ghníomh a dhéanfaidh Óglaigh na hÉireann le linn staid chogaidh nó ceannairce faoi airm a thoirmeasc, a rialú, ná a bhac<sup>2</sup>.

### Variants

- 1 ‘Ní bhainfear leas as aon ní san alt seo,’
- 2 ‘ná cur isteach air’

## ARTICLE 40.5 AIRTEAGAL 40.5

### TÉACS GAELIGE

Is slán do gach saoránach a ionad cónaithe, agus ní cead dul isteach ann go foréigneach ach de réir dlí.

### LITERAL ENGLISH TRANSLATION

His place of residence is secure for every citizen, and it is not permitted to go into it forcibly except in accordance with law.

### ENGLISH TEXT

The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

### Divergences between the official texts

- 1 ‘Dwelling’ is expressed as ‘ionad cónaithe’, ‘dwelling-place / place of residence’, in the Irish text.
- 2 ‘Inviolable’ is expressed in the Irish text as ‘slán do’, ‘safe to (him)’, with ‘The dwelling of every citizen is inviolable’ being expressed as ‘is slán do gach saoránach a ionad cónaithe’ (‘his dwelling is secure for every citizen’); this term ‘slán’ in early Irish law meant ‘free from liability’ as well as ‘whole, safe’ – in Modern Irish its range of meanings includes ‘sound, secure, intact, inviolate’.
- 3 ‘Forcibly’ is expressed as ‘go foréigneach’ (‘violently’) in the Irish text, ‘foréigneach’ being the Irish legal term for ‘violent’, while ‘go forneartach’ is the Irish legal term for ‘forcibly’.

Note that Article 7 of the 1922 Constitution reads as follows:

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

*slán do gach saoránach a árus comhnuithe agus ní raghfáir isteach ann le fóirneart ach do réir dlí.*

### Commentary

*slán do Ó Dónaill* translates ‘slán’ as ‘sound, healthy, safe’, citing ‘*faoina bheith slán dom*, if I am spared’ as an example of this principal sense, with ‘whole, complete; intact, perfect’ being a secondary sense. *Dinneen* cites ‘*tá bliadhain is slán dóibh ann*, they have spent a full year there’ and ‘*go mbadh codladh slán dúinn*, may our sleep be wholesome’. DIL translates ‘slán’ as (a) ‘whole, sound, unimpaired, healthy, safe’, giving examples from the eighth-century Glosses onwards, including ‘ná rab slán d’feasóig an fir’ (‘bad health to the fellow’s beard’) from the sixteenth-century poet Tadhg Dall Ó Huiginn. In early Irish law-tracts, ‘slán’ had the sense of ‘exempt, non-liable, safe’; DIL cites ‘is iat daine is slán don eclais do leagan as’ (‘the persons whom it is safe for the church to let escape’) and ‘is slán doib uile’ (‘they are all exempt’) from two early Irish law-tracts, and Fergus Kelly, op. cit., p. 156, n. 244, cites ‘slán cách mairnes mígním’ (‘anyone who betrays an evil deed is free from liability’). In his ‘Index of Irish Terms’ Professor Kelly translates ‘slán’ as ‘whole, safe, free from liability’.

Turning to the Acts, in s8 of the Consular Conventions Act, 1954, ‘The archives kept at a consulate ... shall be inviolable’ is translated as ‘Beidh slánadh ag na cairteacha a bheas ar coimeád i gconsalach’. ‘Dosháraithe’, however, seems to have been the preferred term in the Acts. In s5 of Article IX of the Schedule to the Bretton Woods Agreements Act, 1957, ‘The archives of the Fund shall be inviolable’ is translated as ‘Beidh cartlanna an Chiste dosháraithe’. In Article 24 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967, ‘The archives and documents of the mission shall be inviolable at any time and wherever they may be’ is translated as ‘Beidh cartlann agus doiciméid an mhisiúin dosháraithe aon tráth agus cibé áit ina mbeidh siad’. In Article 29 of the same Schedule, ‘The person of a diplomatic agent shall be inviolable’ is translated as ‘Beidh pearsa gníomhaire taidhleoireachta dosháraithe’. In *Treaties establishing the European Communities* (1973, p. 777) ‘The premises and buildings of the Communities shall be inviolable’ is translated as ‘Beidh áitribh agus foirgnimh na gComhphobal dosháraithe’. *De Bhaldraithe* also translates ‘inviolable’ as ‘dosháraithe’, the adverb being translated as ‘go dosháraithe’ and ‘gan sárú’.

*go foréigneach* ‘Foréigneach’ is translated as ‘violent’ in *Téarmaí Dlí*, with ‘foréigeán’ translated as ‘violence’ and ‘le foréigeán’ as ‘violently’. *Ó Dónaill* translates ‘foréigneach’ as ‘violent, forcible’, translating ‘le foréigeán’ as ‘by force; violently’. *Dinneen* translates ‘foréigneach’ as ‘extremely violent, vehement, rapid’, translating ‘ar foiréigeán’ as ‘at full speed’. DIL translates ‘foréicnech’ as ‘violent, forcible, oppressive’, based on ‘foréicen’, which itself is based on ‘éicen’, which glosses Latin ‘violentia’ in the ninth-century St Gall Glosses on Priscian.

Turning to the Acts, in s241(2) of the Fisheries (Consolidation) Act, 1959, ‘If any person resists or forcibly obstructs any other person exercising any right conferred by subsection (1)’ is translated as ‘Má chuireann duine ar bith in aghaidh aon duine eile nó má choiceann go

foréigneach é agus é ag feidhmiú aon chirt dá dtugtar le fo-alt (1). ‘Forcibly’ is translated as ‘go forneartach’ in *Téarmaí Dlí*, with ‘forcible’ translated as ‘forneartach’. ‘The Prohibition of Forcible Entry and Occupation Act, 1971’ is cited in Irish as ‘an tAcht chun Iontráil agus Áitiú le Forneart a Thoirmeasc, 1971’. In s2, ‘A person who forcibly enters land or a vehicle shall be guilty of an offence’ is translated as ‘Aon duine a iontrálfaidh nó a áiteoidh talamh nó feithicil le forneart beidh sé ciontach i gcion’.

*ionad cónaithe* ‘Teach cónaithe’ is translated as ‘dwelling-house’ in *Téarmaí Dlí*, where ‘duine gan áit chónaithe sheasta’ is translated as ‘person of no fixed abode’. ‘Ionad’ is translated as ‘place’ in *Ó Dónaill*, who translates ‘cónaí’ as ‘dwelling, residence’, translating ‘áit chónaithe’ as ‘place of residence’. *Dinneen* translates ‘áit chómhnaidhthe’ as ‘place of abode, domicile’, followed by ‘ionad cómhnaidhthe, *id.*’ DIL translates ‘comnaide’ (which according to Thurneysen’s *Grammar of Old Irish*, s846, comes from the prefix ‘com-’, with the preposition ‘ní’ [‘down’] and ‘suide’ [Modern Irish ‘suí’, ‘sit’]), as ‘act of abiding, remaining, staying; living in, inhabiting; dwelling, habitation’, citing ‘as a corpionadh ... comnaidhe’ – ‘ionad’ (in a compound with ‘corp’) followed by the genitive singular ‘comnaidhe’ – from a version of the *Táin*, as well as ‘a áit chomhnuidhe’ (‘his habitation’) from a later source.

‘Teach cónaithe’ translates ‘dwelling’ in s1(6) of the Local Government (Financial Provisions) Act, 1978, where ‘In case any building ... belonging to and usually enjoyed with a dwelling is a hereditament’ is translated as ‘I gcás ar oidhreachtán aon fhoirgneamh ... a bhaineann le teach cónaithe agus a theachtar de ghnáth in éineacht leis an teach cónaithe’. In the ‘Definitions’ contained in s3 of the Landlord and Tenant (Ground Rents) (No. 2) Act of the same year, we find separate entries for ‘dwelling’ and ‘dwelling house’ (‘teach cónaithe’), with “‘dwelling’ does not include a separate and self-contained flat in premises divided into two or more flats’ translated as ‘ní fholaíonn “teaghais” árasán leithleach lánscartha in áitreabh atá roinnte in dhá árasán nó níos mó den sórt sin’. In s21 of the Finance Act, 1990, ‘on the construction of farm buildings (excluding a building or part of a building used as a dwelling)’ is translated as ‘ag déanamh foirgneamh feirme (seachas foirgneamh nó cuid d’fhoirgneamh a úsáidtear mar theaghais)’. In s13(2) of the Housing Act, 1970, ‘If, in a case in which there is no tenancy in a dwelling provided by a housing authority under this Act, a person makes an entry into the dwelling’ is translated as ‘Má tharlaíonn, i gcás nach mbeidh tionóntacht i dteaghais a sholáthraigh údarás áitiúil faoin Acht seo, go ndéanfaidh duine iontráil isteach sa teaghais’, with ‘a person who ... was ordinarily resident in the dwelling’ being translated as ‘duine a raibh ... gnáthchónaí air sa teaghais’. In s11(1) of the Housing (Amendment) Act, 1948, ‘a person shall not permit premises to be used as a multiple dwelling’ is translated as ‘ní cheadóidh duine ar bith áitreabh d’úsáid mar ilteaghas’. In the Long Title of that Act, however, ‘the Small Dwellings Acquisition Acts, 1899 to 1931’ is translated as ‘(do leasú) ... na nAcht um Thithe Beaga Cónaithe d’Fháil, 1899 go 1931’, with ‘the Small Dwellings Acquisition Act, 1957’ cited in Irish accordingly as ‘an tAcht um Thithe Beaga Cónaithe d’Fháil, 1957’.

*dul isteach ann* In s4(3)(a) of the Merchandise Marks Act, 1970, ‘at all reasonable times enter premises’ is

translated as ‘dul isteach gach tráth réasúnach in áitreabh’. In s18(7)(a) of the Fisheries Act, 1980, ‘Nothing in this section shall be construed as conferring on any person a power to enter a dwellinghouse’ is translated as ‘Ní fhorléireofar aon ní san alt seo mar ní a thugann cumhacht d’aon duine dul isteach i dteach cónaithe’. Note, finally, that ‘No action to lie against Under-Sheriff for entering or breaking premises’ is translated as ‘Ní féadfar aon aicsean do thabhairt i gcoinnibh an Fho-Shirriamh i dtaobh dul isteach in áitreabh ná i dtaobh é do bhriseadh’ in the Margin Title of s10 of the Enforcement of Law (Occasional Powers) Act, 1923.

In *Téarmaí Dlí*, ‘I break and enter’ is translated as ‘brisim agus iontráilim’. As we have seen above s.v. ‘go foréigneach’, in s2 of the Prohibition of Forcible Entry and Occupation Act, 1971 (‘An tAcht chun Iontráil agus Áitiú le Forneart a Thoirmeasc, 1971’), ‘A person who forcibly enters land or a vehicle’ is translated as ‘Aon duine a iontrálfaidh nó a áiteoidh talamh nó feithicil le forneart’. In s13(2) of the Housing Act, 1970, ‘If ... a person makes an entry into the dwelling’ is translated as ‘Má tharlaíonn ... go ndéanfaidh duine iontráil isteach sa teaghais’. In s27(1) of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978, ‘a covenant giving the lessor a right to re-enter and take possession of the premises’ is translated as ‘cúnant a thugann ceart don léasóir athiontráil isteach san áitreabh agus seilbh a ghlacadh air’.

*ach* ‘Save’ is generally translated as ‘ach amháin’ in the Acts, as we find in Article 12.10.4°. See, for example, s2(1) of the Smelting Act, 1968, where ‘The smelting of ore ... is hereby prohibited save under and in accordance with a smelting licence’ is translated as ‘Toirmeascstar leis seo amh-mhianraí ... a bhruithniú ... ach amháin faoi réim agus de réir ceadúnais bhruithniúcháin’.

### Gender-proofed Irish text

Is slán do gach saoránach a ionad nó a hionad cónaithe, agus ní cead dul isteach ann go foréigneach ach de réir dlí.

### Direct translation

Tá teaghais gach saoránaigh dosháraithe agus ní iontrálfar é<sup>1</sup> le forneart<sup>2</sup> ach amháin de réir dlí.

### Variants

- 1 ‘ní rachfar isteach ann’
- 2 ‘go forneartach’

## ARTICLE 40.6.1<sup>o</sup> AIRTEAGAL 40.6.1<sup>o</sup>

### TÉACS GAELGE

Ráthaíonn an Stát saoirse chun na cearta seo a leanas a oibriú ach sin a bheith faoi réir oird is moráltachta poiblí:-

### LITERAL ENGLISH TRANSLATION

The State guarantees freedom to operate the following rights but that being subject to public morality and order:-

**ENGLISH TEXT**

The State guarantees liberty for the exercise of the following rights, subject to public order and morality:-

**Divergences between the official texts**

- 1 Technically 'poiblí' ('public') only refers to 'moráltacht' ('morality'); to be linked directly with 'oid' ('order') 'poiblí' would have to be repeated, the lenited form being used with 'oid'.
- 2 'Subject to' is expressed in the Irish text as 'ach sin a bheith faoi réir' ('but that being subject to'), having no comma preceding it corresponding to that of the English text.
- 3 'Exercise' is expressed as 'oibriú' ('operate') in the Irish text, as we have seen in some earlier Articles.

**Commentary**

*faoi réir oid* 'Scor as oifig de réir oid' is translated as 'retirement by rotation' in *Téarmaí Dlí*. Ó Dónaill translates 'ord' as 'order', including 'ordered manner, rule' among the senses of this word in the earlier literature, citing '*ord ar mbeatha*, the ordering of our lives' and '*ba hord san am sin (go)*, it was the rule at that time that'. Ó Dónaill gives 'ordú' as the standard form of 'ord' in some usages – as in the sense of 'normal state, proper condition', citing '*rudá a chur in ordú*, to put things in order, in a proper state'. Among the senses of 'órd' given by *Dinneen* are 'order, arrangement, series; custom, law, practice, procedure', citing '*órd ar mbeathadh*, the ordering of our lives', '*do réir úird*, according to order or rank, in sequence' and '*iar n-órd dligtheach*, in proper or legal order'. DIL gives examples of the senses (a) 'order, sequence', (b) 'order, arrangement, state, way, course, procedure' and (c) 'order, degree, rank' from the Glosses of the eighth century onwards.

In *Treaties establishing the European Communities* (1973, p. 330), 'in the event of serious internal disturbances affecting the maintenance of law and order' is translated as 'i gcás suaitheadh tromchúiseach inmheánach a dhul i gcion ar an ord poiblí'. Similarly, in the *Treaty on European Union* (1992, p. 23), 'with regard to the maintenance of law and order' is translated as 'maidir leis an ord poiblí a chaomhnú'. 'Law and order' is translated as 'dlí agus riail' in the *New Ireland Forum Report* (1984, 44), 'law and order functions', however, being translated as 'feidhmeanna dlí agus ordúlachta' (in 7.4), with 'subject only to public order' being translated as 'faoi réir riar agus reacht poiblí' (in 4.13). In the *Programme for a Partnership Government*, 1993-97, 'where particular law and order problems are being experienced' is translated as 'mar a bhfuil fadhbanna sonracha dlí agus oid ann faoi láthair' (p. 39).

'An invention the publication or exploitation of which would be contrary to public order or morality' is translated as '(i leith) aireagáin a mbeadh a fhoilsiú nó a shaothrú contrártha don ord poiblí nó don mhoráltacht poiblí' in s10(a) of the Patents Act, 1992, following on s15(1)(b) of the Patents Act, 1964. In s9(1)(a) of the Fisheries (Consolidation) Act, 1959, 'the regulation of the fisheries of the State and the preservation of good order amongst the

persons engaged therein' is translated as 'iascaigh an Stáit a rialú agus dea-ordúlacht a choimeád i measc na ndaoine a bhíonn ag gabháil dóibh'. In s1(b) of Article 6 of the First Schedule to the Air Navigation and Transport Act, 1973, 'to maintain good order and discipline on board' is translated as 'chun dea-ord agus araíonacht a choimeád ar bord'. See further the commentary on Article 38.3.1°.

Note that *T. O'Neill Lane* translates 'order' in the sense of 'conformity with the law of decorum' as 'órdughadh', citing '*déantar na huile neithe go deaghmhaiseach agus do réir órdughthe*' ('let all things be done decently and in order') from 1 *Cor.* xiv, 40. 'Public order' is translated as 'an t-ord poiblí' in *Téarmaí Oifigiúla*.

*poiblí* 'An mhaitheas poiblí' is translated as 'the common good' in *Téarmaí Dlí*, where 'dualgas poiblí' and 'núis poiblí', for example, are translated respectively as 'public duty' and 'public nuisance'. Ó Dónaill translates 'poiblí' simply as 'public' and *Dinneen* translates 'poiblidhe' as 'public, common, well-known', citing '*droch-theist phoiblidhe*, public disrepute'. Ó Cianáin's *Flight of the Earls* provides the first example of the word 'puiplidhe' cited in DIL, this headword being translated as 'pertaining to the people, public'. Note, as we saw above, that 'subject to public order and morality' is translated as 'ach gan dochar don rialtacht ná don mhoráltacht phuiblí' in Article 8 of the 1922 Constitution. See further the commentary on Article 40.6.1°.

*saoirse* See the commentary on Article 40.4.3°. Note also that 'liberty (to apply, etc.)' is translated as 'cead' in *Téarmaí Dlí*. In s32(2)(b) of the Industrial Training Act, 1967, 'require the employer to afford to the person time and liberty to attend ... the whole of the course' is translated as 'a cheangal ar an bhfostóir am agus saorchead a thabhairt don duine freastal ar an gcúrsa go léir'.

*moráltachta* See the commentary on Article 29.1. Ó Dónaill translates 'moráltacht' as 'morality; morals'. In *Treaties establishing the European Communities* (1973, p. 204), 'justified on grounds of public morality' is translated as 'más gá a leithéid ar mhaithe leis an moráltacht poiblí'.

*ach sin a bheith faoi réir* Literally 'but that being subject to'. See the commentary on Article 40.3.3°. 'Faoi réir' is translated as 'subject to' in *Téarmaí Dlí*.

*a oibriú* Literally 'to operate', but generally expresses 'exercise' in the Constitution – see the commentary on Articles 3, 13.5.1°, 13.9 and 14.5.1°.

**Direct translation**

Ráthaíonn an Stát saoirse chun na cearta seo a leanas a fheidhmiú,<sup>1</sup> faoi réir an oid poiblí agus na moráltachta poiblí:-

**Variant**

<sup>1</sup> 'saoirse maidir le feidhmiú na gcearta seo a leanas.'

ARTICLE 40.6.1<sup>o</sup>i AIRTEAGAL 40.6.1<sup>o</sup>i

## TÉACS GAELIGE

Ceart na saoránach chun a ndeimhní is a dtuairimí a nochtadh gan bac.

## LITERAL ENGLISH TRANSLATION

The right of the citizens to reveal their certitudes and their opinions without hindrance.

## ENGLISH TEXT

The right of the citizens to express freely their convictions and opinions.

## Divergences between the official texts

- 1 'To express freely' is expressed as 'a nochtadh gan bac' ('to reveal without hindrance') in the Irish text.
- 2 'Convictions' is expressed as 'deimhní', a plural form not cited in standard dictionaries, the singular form of which would generally be read as 'certainty'.

Note that Article 9 of the 1922 Constitution commences as follows:

The right of free expression of opinion ... is guaranteed  
.... *Is slán ceart oipíneon do chur in úil gan chosg.*

## Commentary

*a ndeimhní* 'Deimhin' is translated as 'certainty, assurance, proof' in *Ó Dónaill* and 'deimhne' as 'sureness, certainty', with no plural form given for either of the nouns, 'deimhne' being the plural of the adjective 'deimhin', 'sure, certain'. *Dinneen* translates 'deimhne' as *Ó Dónaill* translates 'deimhin' above, 'a reality' being found in place of *Ó Dónaill's* 'proof' in his translation of 'deimhin'. DIL gives examples of the Old Irish adjective 'demin' from the Glosses onwards.

'Their religious convictions and practices' is translated as '(dá) ndeimhní agus dá gcleachtais reiligiúin' in Article 27 of the Fourth Schedule to the Geneva Conventions Act, 1962. 'Religious convictions' is translated as 'creideamh' in *Téarmaí Oifigiúla*, where 'deimhin-tuairimí' is also given, without reference, as a translation of 'convictions'. 'Conviction' in the sense of 'verdict of guilty' is translated as 'ciontú' in *Téarmaí DLí*. *De Bhaldraithe* translates 'conviction' in the sense of 'belief' as 'creideamh, áitiús', translating 'it is my conviction that ...' as 'is é mo thuairim láidir go ..., is é mo chreideamh go ...'. 'Conviction' is translated as 'áitiús' in *Foclóir Fealsaimh* also – *Ó Dónaill* translates 'áitiús' (pl. 'áitiúis') as 'conviction', preceded by the abbreviation for 'Philosophy'. In the *Treaty on European Union* (1992, p. 203), '(The High Contracting Parties) ... reaffirm their conviction that the structural funds should continue to play an important part in ...' is translated as 'athdhaingníonn siad a n-áitiús gur chóir go leanfadh na cistí struchtúracha de pháirt thábhachtach a imirt i ...'.

Commenting on 'áitiús' in the direct translation below, Professor Máirtín Ó Murchú queries whether one should be so careful regarding the exact sense of 'convictions' in this context and suggests 'barúil' as an alternative.

*gan bac* The preposition 'gan', in general reference, lenites 'b', 'c', 'g', 'm' and 'p', according to *Ó Dónaill*, who cites 'gan bhaint', 'gan chlann', 'gan gharda', 'gan mhaith' and 'gan phingin' as examples. *De Bhaldraithe* translates 'unhindered' as 'gan bhac' and in *Treaties establishing the European Communities* (1973, p. 612) 'The Commission may freely make use of any amounts ...' is translated as 'Féadfaidh an Coimisiún aon suimeanna ... a úsáid gan bhac'. See the commentary on Article 40.4.6<sup>o</sup> regarding 'bac'.

*De Bhaldraithe* translates 'freely' as (1) 'go saor, etc., gan bhac' and (2) '(labhraim) go hoscailte, go neamhbhalbh, gan eagla'. In the *New Ireland Forum Report* (1984, 5.2(3)), 'freely negotiated' is translated as 'a chaibidil go hoscailte' and 'all cultural, political and religious belief can be freely expressed and practised' is translated as 'a mbarrshamhla saíochta, polaitíochta agus creidimh a chur os ard agus a chleachtadh'. Along with 'gan bhac' we also find 'go héasca' and 'faoi shaoirse' translating 'freely' in *Treaties establishing the European Communities*, with 'the right ... to move freely within the territory of Member States' being translated as 'an ceart ... chun gluaiseacht faoi shaoirse laistigh de chríoch na mBallstát' (p. 221). In the *Treaty on European Union* (1992, p. 15), 'Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States' is translated as 'Beidh an ceart ag gach saoránach den Aontas gluaiseacht agus cónaí faoi shaoirse ar chríoch na mBallstát'.

'Any other freely available and effectively usable currency' is translated as 'aon airgeadra eile atá ar fáil go héasca agus inúsáidte go héifeachtach' in Article 3(e) of the Multilateral Investment Guarantee Agency Act, 1988. 'Only be kept in a cage which is of sufficient dimensions to enable it to move and exercise freely' is translated as 'ní choimeádfar é ach i gcaighean a bheidh fairsing go leor chun go bhféadfaidh sé gluaiseacht agus aclaíocht a dhéanamh go héasca' in s35(5)(b) of the Wildlife Act, 1976. 'To exercise freely their ministry among prisoners of war of the same religion' is translated as 'a ministreacha a chleachtadh gan bhac i measc príosúnach cogaidh dá gcomhchreideamh' in Article 35 of the Third Schedule to the Geneva Conventions Act, 1962. Finally, 'discourage such witnesses from giving their evidence freely' is translated as 'mi-mhisneach do chur ar na finithe sin a bhfianaise do thabhairt uatha gan chosc' in s7(5) of the Juries (Protection) Act, 1929.

Looking at earlier translations of 'freely', in the oath to be taken by soldiers contained in s9 of the Defence Forces (Temporary Provisions) Act, 1923 (Continuance and Amendment) Act, 1924, 'that I have this day freely and voluntarily enlisted as a soldier in Óglaigh na hÉireann' is translated as 'gur liostálas iniú, dem' dheoin agus dem' shaor-thoil féin, mar shaighdiúir in Óglaigh na hÉireann'. 'Go saoráideach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'freely' in translations for the Department of Lands and Agriculture.

Professor Máirtín Ó Murchú remarks that perhaps 'gan bhac' better expresses what is involved here than the direct translation below, 'go saor'.

*a dtuairimí* 'Tuairim' is translated as 'opinion' in *Téarmaí DLí*, that being the primary sense of this headword in both *Ó Dónaill* and *Dinneen*, the latter citing '*bíonn na daoine ag imtheacht do réir amhrais agus tuairime acht*

*tagann an scéal bun ós cionn i gcómhnaidhe*, people are ever suspecting and guessing, but the true facts always assert themselves'. 'Opinion' does not feature in the senses of 'túaraim' in DIL, where this headword is translated as (a) 'likelihood, promise, appearance, resemblance', (b) '(with numerals) about, approximately', (c) in phrase '*fá thúairim*, towards, in the direction of'. No examples of 'túaraim' are cited from the earlier sources, the first citation being from the collection of Classical poetry, *Diogluim Dána*. DIL refers to 'réim' ('course') as a possible basis of 'túaraim'.

In s11(2) of the Extradition Act, 1965, 'on account of his race, religion, nationality or political opinion' is translated as 'mar gheall ar a chine, a chreideamh, a náisiúntacht nó a thúairimí polaitíochta'. Looking at earlier translations, 'rún opineoin' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'expression of opinion (in Dáil, etc.)' in early *Standing Orders* of Dáil Éireann, 'tuairim' being also cited for 'opinion (of the Dáil) etc.' from the 1926 *Standing Orders*. See further the commentary on Articles 22.2.1°, 24.1 and 30.1. Note that 'aigne an phobail' expresses 'public opinion' further on in this paragraph – see the next commentary.

*nochtadh* 'Nochtaim' is translated as 'I disclose' in *Téarmaí Dlí*, where 'nochtadh mígheanasach' is translated as 'indecent exposure' – note that 'nocht' expresses 'disclose' in Article 26.2.2°. 'Make known, reveal, disclose' is given as one of the senses of 'nocht' in *Ó Dónaill*, who cites '*rún a nochtadh*, to reveal a secret' and '*níor nocht sé a intinn ar an scéal*, he didn't disclose his mind on the matter' – followed, incidentally, by '*rón a nochtadh*, to skin a seal', cited as an example of 'nochtadh' in the sense of 'skin'. *Dinneen* translates 'nochtaim' as 'I make bare, strip, uncover, unsheath, declare, tell, make manifest, explain, disclose, show, reveal ...'. DIL cites 'do nochtais t'aigne' ('you revealed your mind') from the seventeenth-century 'Contention of the Bards' as an example of this figurative use of 'nochtadh' found in late literature generally. 'Nochta(e)', 'nakedness (want of clothing)', is found in the eighth-century Würzburg Glosses on the Pauline Epistles.

Turning to the Acts, based upon the present Article, in s18(3)(b) of the Radio and Television Act, 1988, 'uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression' is translated as 'tacóidh siad leis an bhfiúchas daonlathach atá cumhdaithe sa Bhunreacht, go háirithe mar a bhaineann leis an tsaoirse chun tuairimí a nochtadh'. The adjective 'express' is translated as 'sainráite' in *Téarmaí Dlí*, where 'express condition', for example, is translated as 'coinníoll sainráite' and 'expressly' is translated as 'go sainráite'. In s67 of the First Schedule to the European Assembly Elections Act, 1977, 'The decision of the returning officer, whether expressed or implied by his acts, on any question ... shall be final' is translated as 'Is cinneadh críochnaitheach cinneadh an cheann comhairimh, cibé acu sainráite dó nó intuighe as a ghníomhartha, ar aon cheist'. In the *New Ireland Forum Report* (1984, 4.13), 'as we saw above, 'all cultural, political and religious belief can be freely expressed and practised' is translated as 'saorhead a bheith acu a mbarrshamhla saíochta, polaitíochta agus creidimh a chur os ard agus a chleachtadh'. In 4.10, 'demand for political expression of their nationalist identity'

is translated as 'an t-éileamh atá ag náisiúnaithe ar ghníomhaíocht pholaitíochta lena bhféiniúlacht náisiúnaíoch a chur in iúl' and in 4.3 'expressing its aspirations' is translated as 'a dtoilmhianta a chur in iúl'. In s34(3) of the Finance Act, 1978, 'unless the Revenue Commissioners have been required to express their opinion thereon' is translated as 'mura mbeidh iarrtha ar na Coimisinéirí Ioncaim a dtuairim ina leith a chur in iúl'. Note that the phrase 'cuir in iúl' sometimes also translates 'notify', 'indicate' and 'denote' in the Acts, though these English terms are not exclusively translated by 'cuir in iúl'.

Looking at early translations, 'express or manifest political opinions' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'tuairimí polaitíochta do luadh no do nochta' in translations for the Department of Justice, and 'have already expressed dissatisfaction at ...' is cited as being translated as 'tá ... tar éis a chur in iúl cheana ná fuilid sásta le ...' in a Report by the Public Accounts Committee, 1929. Finally, note that 'the word "statistics" includes information not expressible numerically' is translated as 'foluinn an focal "staitistíocht" eolas nách féidir a shloinne in uimhreacha' in s1 of the Statistics Act, 1926. See further the commentary on Article 24.1 where 'luaigh' expresses 'express', along with the next commentary.

Professor Máirtín Ó Murchú suggests, in particular in the context of translating 'convictions' as 'barúlacha' in the direct translation below, translating 'express' as 'a thabhairt' or 'friotal a chur ar'.

### Standardised Irish text

Ceart na saoránach chun a ndeimhni is a dtuairimí a nochtadh gan bhac.

### Direct translation

Ceart na saoránach chun a n-áitiúis<sup>1</sup> agus a dtuairimí a chur in iúl<sup>2</sup> go saor<sup>3</sup>.

### Variants

- 1 'a mbarúlacha'
- 2 'a nochtadh', 'a chur os ard', 'a thabhairt'
- 3 'faoi shaoirse', 'gan bhac', 'chun friotal a chur go saor ar a n-áitiúis agus a dtuairimí'

## ARTICLE 40.6.1<sup>oi</sup> (cont'd)

### AIRTEAGAL 40.6.1<sup>oi</sup> (ar lean.)

#### TÉACS GAELIGE

Ach toisc oiliúint aigne an phobail a bheith chomh tábhachtach sin do leas an phobail, féachfaidh an Stát lena chur in áirithe nach ndéanfar orgain aigne an phobail, mar shampla, an raidió is an preas is an cineama, a úsáid chun an t-ord nó an mhoráltacht phoiblí nó údarás an Stáit a bhonn-bhriseadh. San am chéanna coimeádfaidh na horgain sin an tsaoirse is dleacht dóibh chun tuairimí a nochtadh agus orthu sin tuairimí léirmheasa ar bheartas an Rialtais.

**LITERAL ENGLISH TRANSLATION**

But because the training of the mind of the people is of such importance to the welfare of the people, the State will endeavour to ensure that the organs of the public mind, for example, the radio and the press and the cinema, will not be used to break the basis of the public morality or order or the authority of the State. At the same time those organs will keep the freedom which is their right to declare opinions and including opinions evaluative of Government policy.

**ENGLISH TEXT**

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

**Divergences between the official texts**

- 1 The Irish text has two separate sentences here corresponding to but one in the English text, adding 'San am chéanna ... na horgain sin' ('At the same time ... those organs') to the contents of the English text, which has this sentence as a sub-clause introduced by 'while', preceded by a comma.
- 2 'Rightful liberty of expression' is expressed as 'an tsaoirse is dleacht dóibh chun tuairimí a nochtadh' ('the freedom which is their right to reveal/express opinions') in the Irish text, with 'criticism of' expressed as 'tuairimí léirmheasa' ('evaluative opinions of'), the term 'léirmheas' being more familiar today in the context of book-reviews than of 'criticism' in general.
- 3 'Undermine' is expressed by an unfamiliar compound of 'bonn' ('basis') and 'bris' ('break').
- 4 'Education' is expressed in the Irish text as 'oiliúint', a term more associated with 'training', and 'public opinion' is expressed as 'aigne an phobail' ('the mind of the people').
- 5 'To ensure' is expressed by the phrase usually used to render 'to reserve', 'cuir in áirithe', as in some other Articles.
- 6 'The common good' is translated as 'an mhaitheas phoiblí' rather than 'leas an phobail', as in *Téarmaí Dlí*.
- 7 'Of such grave import' is expressed as 'chomh tábhachtach sin' ('of such importance') in the Irish text.
- 8 'However' is again expressed by 'Ach' ('But') in the Irish text.
- 9 'Such as' is expressed as 'mar shampla' ('for example') in the Irish text.
- 10 'The radio, the press, the cinema' is expressed as 'an raidió is an preas is an cineama' ('the radio and the press and the cinema') in the Irish text.

**Commentary**

*oiliúint* Ó Dónaill gives 'training, coaching' as one of the senses of 'oiliúint', citing '*oiliúint choirp agus intinne*, physical and mental training'. *Dinneen* includes 'education, especially home-education, upbringing, fosterage, culture'

among the senses of 'oileamhain(t)', and cites '*is fearr an oileamhain(t) 'ná an t-oideachas*, upbringing counts for more than education' and '*is treise dúthchas 'ná oileamhain(t)*, instinct overcomes upbringing'. 'Ailemain' is translated as 'act of rearing, fostering; fosterage, education' in DIL, citing examples from the twelfth century or so onwards of this late verbal noun of 'ailid', the earlier verbal noun being 'altram'.

'Oiliúint' generally translates 'training' in the Acts – see, for example, s8(1)(e)(i) of the Fisheries Act, 1980, where 'facilities for training or otherwise instructing persons in any matter' is translated as 'saoráidí chun daoine a oiliúint nó a theagasc ar shlí eile ... in aon ábhar'. While 'oideachas' translates 'education' generally, 'oiliúint' is perhaps called on in this context as it is a verbal noun (of the verb 'oil', translated as 'nourish, rear, foster, train, educate' in *Ó Dónaill*). In s2(3) of the Army Pensions Act, 1923, for example, 'may ... be ... applied for the maintenance, education or benefit of his child' is translated as 'féadfar é ... do chur chun cimeád suas no oiliúint no tairfe a dhuine cloinne'. 'Being educated' is translated as 'ag fáil oideachais' in Article 14 of the 1922 Constitution and 'the expenses of the Department of National Education' is translated 'costaisí na Roinne um Oideachas Náisiúnta' in the Schedule to the Appropriation Act, 1922.

*T. O'Neill Lane* translates 'educate' as (1) 'múinim', (2) 'oilim', giving 'foghlaim', 'múineadh', 'oileamhain', 'tabhairt suas' and 'oideas', before 'oideachas', in his entry s.v. 'education'. *De Bhaldraithe* translates 'educate' as 1(a) 'oilim, tugaim oideachas do (dhuine)', (b)(i) 'múinim (páiste)', (ii) 'cuirim (páiste) ar scoil', 2. 'múnlaím (aigne duine)' – the verbal noun of the latter verb being used in the Constitution to express 'formation', 'aigne' being used in the present paragraph of the Constitution to express 'opinion'. On the *Dáil Order Paper* of 8/3/82, 'The Advisory Committee on the Education of Physically Handicapped Children' is translated as 'An Coiste Comhairleach um Oideachas Leanaí Corpéilínneacha' and on the 22/10/75 'European Agreement on the Instruction and Education of Nurses' is cited as 'Comhaontú Eorpach ar Theagasc agus Oideachas Altraí'. 'Oideachasú' is cited s.v. 'educate', in *Téarmaí Oifigiúla* (without reference), this allowing 'oideachas' to function as a verbal noun.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú doubted whether the word 'oideachasú' could be used with 'tuairimí' and recommended retaining 'oiliúint aigne an phobail'.

*a bhonn-bhriseadh* 'An bonn a bhaint ó rud' is translated as 'to undermine something' in *Ó Dónaill* who does not give this compound of 'bonn' (translated as (1) 'sole', (2) 'footing, foothold' and (3) 'base, foundation') and 'bris' ('break') as a headword. *Ó Dónaill* cites '*thug mé ó bhonn dó é*, I beat, scolded, him thoroughly' and '*bhris sé bonn*, he broke ground, fled'. *Dinneen* does not have 'bonn-bhris(eadh)' as a headword either, but cites '*cuirim (bainim) dá bhonnaibh é*, I upset or undermine him' s.v. 'bonn'. 'Brisim agus iontráim' is translated as 'I break and enter' in *Téarmaí Dlí*. The verb 'bris(s)id' may be based on 'bres' ('fight, blow, effort'), according to DIL, 'bonn' being translated as 'sole of the foot, foot'.

*L. Mc Cionnaith* gives the following entry s.v. 'undermine':

*tá an bonn bainte ón tigh ag an uisce* (Munster); he undermined me, deprived me of influence, with the landlord, *bhain sé an bonn uaim leis an tighearnna talmhan* (An t-Ath. Seóirse Mac Clúin, *Réiltíní Óir* [1922]).

*De Bhaldraithe* translates 'to undermine someone's faith' as 'bonn a bhaint ó chreideamh duine'. In the *New Ireland Forum Report* (1984), 'for fear of undermining the Unionist system' and 'undermining constitutional politics' are translated respectively as 'ar eagla go mbainfí bonn ó chóras na n-aontachtaithe' and 'tá bonn á bhaint ó pholaitíocht bhunreachtúil' (3.10 and 4.3 respectively). We also find 'lagaigh' translating 'undermine' in the same document (see 4.11: 'undermine all efforts', '*lagú ar na hiarrachtaí go léir*'), as it does in the *Treaty on European Union* (1992, p. 223: 'that changes in Community legislation cannot undermine the derogations granted to Spain', '*nach féidir le hathruithe i reachtaíocht an Chomhphobail na méaduithe a lagú arna ndeonú don Spáinn*') and in the Schedule to the Air Navigation and Transport Act, 1975 ('undermine the confidence of the peoples of the world in the safety of civil aviation', '*muinín phobail an domhain i sábháilteacht na heitlíochta sibhialta a lagú*'). In s9(1)(d) of the Radio and Television Act, 1988, however, 'that anything which may reasonably be regarded as ... tending to undermine the authority of the State, is not broadcast by him' is translated as 'nach gcráolfaidh sé aon ní a bhféadfaí a mheas le réasún gur ... de ghné é a dhéanfaidh dochar d'údarás an Stáit'.

*féachfaidh an Stát le* 'Féach le' is translated as 'try to; try, attempt' in *Ó Dónaill*, with *Dinneen* translating 'féachaim le' as 'I strive to, look after'. According to DIL s.v. 'fégaid', there may have been an Old Irish verb 'fégaid', 'scrutinizes', which became confused with 'do-écci' ('looks at'); most of DIL's examples of 'fégaid' come from the post twelfth-century period.

Turning to the Acts, in s1(a) of Article XXIV of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1969, 'the Fund shall seek to meet the long-term global need' is translated as 'féachfaidh an Ciste le freastal don riachtanas domhanda a bheidh ann'. In *Treaties establishing the European Communities* (1973, p. 937), 'The United Kingdom shall ... endeavour to abolish these subsidies' is translated as 'Féachfaidh an Ríocht Aontaithe ... leis na fóirdheontais a dhíothú'. In the *Treaty on European Union* (1992, p. 37), 'Member States shall endeavour to avoid excessive government deficits' is translated as 'féachfaidh Ballstáit le heasnamh rialtais iomarcacha a sheachaint'. See further the commentary on Article 42.4 where 'endeavour' is expressed as 'iarracht a dhéanamh'.

*coimeádfaidh* 'Coimeád' is the literal translation of 'keep' – 'coimeádam deisithe', for example, is translated as 'I keep in repair' in *Téarmaí Dlí*. *Ó Dónaill* gives 'retain' as one of the senses of 'coimeád', citing '*do ghreim a choimeád*, to keep one's grip'. *Dinneen* translates 'coimheadaim'/coimeádam' as 'I hold, keep, guard, watch, detain, delay, I keep (the Law, the Sabbath, etc.)'. The verb 'coiméatad' is based on 'coimét', which is the verbal noun of 'con-eim', which is translated as 'protects, preserves, guards, keeps' in DIL, where examples are cited from the Old Irish Glosses onwards.

Turning to the Acts, we see, for example, how in s7(3)

of the Credit Union Act, 1966, 'Every record required to be kept under this section shall be preserved by the credit union for a period of six years' is translated as 'Gach taifead is gá a choimeád faoin alt seo déanfaidh an comhar creidmheasa é a shlánchoimeád go ceann tréimhse sé bliana'. In s122(2) of the Mines and Quarries Act, 1965, 'Every entry made in any such book ... shall be preserved for three years, ... shall be kept at the office at the mine' is translated as 'Déanfar gach taifead a chuirfear in aon leabhar den sórt sin ... a choimeád slán go ceann trí bliana ... agus déanfar ... é a choimeád san oifig ag an mianach'. 'The preservation of continuing contracts' is translated as 'conarthaí leanúnacha a bhuanchóimeád' in s5(2)(b) of the Local Government Services (Corporate Bodies) Act, 1971, and as 'conarthaí leanúnacha ... a choimeád ar marthain' in s42(2)(b) of the Health Act, 1970.

'Caomhnaigh', however, is becoming more general as a direct translation of 'preserve' – see, for example, s26(8)(h) of the Agricultural Credit Act, 1978, where 'the general preservation of the secrecy of the registers' is translated as 'rúndacht na gclár a chaomhnú i gcoitinne' as against s24(8)(h) of the Agricultural Credit Act, 1947, where 'the general preservation of the secrecy of such registers' is translated as 'lánas na gclár sin go ginearálta a choimeád ina rún'. In s3(1)(b) of the First Schedule to the Capital Gains Tax Act, 1975, 'in establishing, preserving or defending his title to ... the asset' is translated as 'ag bunú, ag caomhnú nó ag cosaint a theidil chun na sócmhainne'. 'To preserve peace', for example, is translated as 'an tsíocháin a chaomhnú' in the *Treaty on European Union* (1992, p. 123). See further the commentary on Articles 24.1 and 28.3.3<sup>o</sup>, where 'cosain' and 'caomhnaigh' respectively express 'preserve'.

*an cineama* *Ó Dónaill* gives 'cineama' as a headword, simply translating it as 'cinema', also giving 'cineamascóp', 'cineamatagraf' and 'cinecheamara' as headwords, translated respectively as 'cinema-scope', 'cinematograph' and 'cine-camera'. *Dinneen* does not appear to give 'cineama' as a headword. *De Bhaldraithe* gives 'cineama; scannánaíocht' as Irish terms for 'cinema' (*familiar*), with 'cinema' in the sense of the building being translated as 'pictiúrlann, cineama, teach pictiúr'. *Ó Dónaill* translates 'pictiúrlann' as 'picture-house, cinema', also citing '*teach pictiúr*, picture-house, cinema' and translates 'scannánaíocht' as (1) '(the) cinema', (2) '(act of) filming'. 'Pictiúrlann' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'cinema' in *Iris an Phuist*, 28/7/26. 'Taispeántas cineama' is cited as translating 'cinema exhibition' in the Health Act, 1947 (p. 147, ref. in *Téarmaí Oifigiúla*, where 'cinema projector' is translated as 'teilgeoir scannán'). *L. Mc Cionnaith* gives 'Terms from Staff of Dáil, *Foclóir Oifigeamhail*', as the source of his translation of 'cinema' as 'cineama'.

In s41(1) of the Finance Act, 1990, 'a film which is produced ... wholly or principally for exhibition to the public in cinema' is translated as 'scannán a thairgtear ... go hiomlán nó go príomha lena thaispeáint don phobal i bpictiúrlanna'. 'Cineama' is cited as translating 'cinema' in Statutory Instrument No. 249 of 1985 and in *Treaties establishing the European Communities* (1973, p. 1106), while the 'International Catholic Cinema Office' is cited in Irish as 'Oifig Chaitliceach Idirnáisiúnta an Chineama'.

*is dleacht dóibh* 'Dleacht' is translated as 'duty' in *Téarmaí*



*Dlí*, 'dleachtanna báis' translating 'death duties', for example. *Ó Dónaill* translates 'dleacht' as (1) 'due', (a) 'lawful right', citing '*is é mo dhleacht é*, it is my lawful right, it is due to me' and (3) '(Used as adjective with copula) *Is dom is dleacht é*, it is my due, it is my lawful duty; it is proper for me, *An onóir is dleacht dó*, the honour to which he is lawfully entitled'. *Dinneen* translates 'dleacht' as 'law or right, customs, due, toll, property; as adjective, lawful, due'. *DIL* translates 'dleacht' as 'lawful, due, rightful, permitted', translating 'dleacht do' as 'due to, right for', citing examples of this phrase from about 1400 onwards. 'Dleacht', in origin, is related to 'dliged', 'law'.

Note that, in s18(3)(b) of the Radio and Television Act, 1988 (as in s13 of the Broadcasting (Amendment) Act, 1976), 'is dleacht dóibh' was emended following 'their rightful' of the text of the Constitution being replaced in those Acts by 'rightful', reading as follows:

uphold the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression .... *tacóidh sí leis an bhfiúchas daonlathach atá cumhdaithe sa Bhunreacht, go háirithe mar a bhaineann leis an tsaoirse cheart tuairimí a nochtadh.*

In s262(2) of the Social Welfare (Consolidated) Act, 1981, 'that he is the rightful holder of a particular supplementary unemployment book' is translated as 'gurb é is sealbhóir dlisteanach ar leabhar difhostaíochta forliontach áirithe', this same text being translated as 'gurb é sealbhóir dleathach leabhair áirithe díomhaointis fhoirliontaigh' in s43(2) of the Insurance (Intermittent Unemployment) Act, 1942. 'Dleathach', however, is translated as 'lawful' in *Téarmaí Dlí*. 'The District Justice may order such goods or money to be delivered to the rightful owner thereof' is translated as 'féadfidh an Giúistís Dúithe a ordú go dtíolacfar na hearraí no an t-airgead san don té gur leis iad le ceart'. *De Bhaldraithe* translates 'rightful heir' as 'oighre dlisteanach' and gives 'dlisteanach, cóir' as translations of 'rightful' in the sense of 'rightful claim' – 'dlisteanach', however, is translated as 'legitimate' and 'cóir' (in 'cóir-chíos') as 'fair' in *Téarmaí Dlí*. *De Bhaldraithe* gives 'ceart' as a translation of 'rightful' in the sense of 'rightful conduct'. *L. Mc Cionnaith* refers the reader to 'lawful', 'legitimate' s.v. 'rightful', while *T. O'Neill Lane* translates 'rightful', in the sense of 'upright, just', as (1) 'dlisteanach', (2) 'dligheach' and (3) 'dleaghthach'.

*tuairimí léirmheasa* 'Tuairim' is translated as 'opinion' in *Téarmaí Dlí* – see the foregoing commentary. *Ó Dónaill* translates 'léirmheas' as (1) 'critical consideration, complete assessment' and (2) 'criticism, critique, review', this latter sense being the sense most commonly encountered today. *Dinneen* translates 'léir-mheas' as 'high esteem; a balancing consideration, estimate, judgment, decision; critical estimate, criticism', the latter word followed by the abbreviation for 'recent'. *DIL* gives two examples of the compound 'léirmes', s.v. 'léir' (translated as (a) 'assiduous, earnest, careful, zealous', (c) 'visible, perceptible', with 'mes(s)' being translated as 'the act of judging'), both of which come from Keating's seventeenth-century *Three Shafts of Death*, in the glossary to which 'léir-mes' is translated as 'act of closely considering, estimating', with *DIL* translating the compound as 'criticizing, calculating'.

Turning to current Parliamentary usage, the fourth report of the National Economic and Social Council,

'Regional Policy in Ireland: A Review', is styled 'Beartas Réigiúnach in Éirinn: Léirmheas' in Irish, while on the *Dáil Order Paper*, 5/7/77, 'Economic Review and Outlook' is cited as 'Léirmheas agus Ionchas an Gheilleagair'. In *Treaties establishing the European Communities* (1973, p. 260), 'to keep under review the monetary and financial situations of the Member States' is translated as 'staid airgeadaíochta agus staid airgeadais na mBallstát ... a choimeád faoi léirmheas' while, in the *Treaty on European Union* (1992, p. 70), 'The Court of Justice shall review the legality of facts adopted jointly by the European Parliament and the Council' is translated as 'Déanfaidh an Chúirt Bhreithiúnais léirmheas ar dhlíthiúlacht ghníomhartha Pharlaimint na hEorpa agus na Comhairle arna nglacadh go comhpháirteach', with 'Judicial Control' being translated as 'Léirmheas breithiúnach' (p. 181).

Regarding 'criticism', 'it has been the subject of much expert criticism' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'do scrúduigh lucht eolais go maith é' in a Report of a Committee of the Houses of the Oireachtas. 'Criticism', in the sense of 'review', is cited as being translated as 'léirmheas' in the Industrial and Commercial Property (Protection) Act, 1927 (p. 181). 'Criticise' is translated both as 'inchreachadh' in *Téarmaí Oifigiúla* (MIS xii being given as source) and as 'léir-mheasaim' (no source being cited), while 'destructive criticism' is translated both as 'inchreachadh' and 'liobairt', with the booklets of terms issued by the Department of Education cited as source – *Ó Dónaill* translates 'inchreach' as 'reprove, rebuke, object to, criticize', followed by the abbreviation indicating that this word is cited only in earlier Irish literature. *L. Mc Cionnaith* translates 'criticise', in the sense of 'find fault', as 'bhí sé ag fagháil locht orm, ar an leabhar', 'bhí sé gham lochtú', indicating these phrases being current in Munster Irish. In the *Proceedings* of Dáil Éireann, 9/12/69, 'Privilege (Criticism of Ceann Comhairle)' is translated as 'Pribhléid (Lochtú ar an gCeann Comhairle)', while in the *Proceedings* of 12/3/70, 'Report of the Committee of Procedure and Privileges on a Magazine Item containing criticism of the Ceann Comhairle' is translated as 'tuarascáil ón gCoiste um Nós Imeachta agus Pribhléidí ar Mhír in Irisleabhar inar Cáineadh an Ceann Comhairle'.

Commenting on 'cáineadh' (literally 'censure') translating 'criticism' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that 'criticism' has a fairly broad range of senses, including 'censure', but as we do not know exactly what 'criticism' in the context of the English text of the Constitution means and, as the drafters of the Irish text understood it to mean 'review' rather than 'censure', Professor Ó Murchú recommends translating 'criticism of' as 'a léirmheas'.

*chomh tábhachtach sin* Literally 'so important'. 'Matter of great import' is translated as 'cúrsa an-tábhachtach' in *De Bhaldraithe*. 'Matter' in this context is regularly translated as 'ábhar' in the Acts – see, for example, the Schedule to the Air Navigation and Transport Act, 1975, where 'Considering that the occurrence of such acts is a matter of grave concern' is translated as 'Á Bhreithniú Dóibh gurb ábhar mór inní é gníomhartha den sórt sin tarlú'. In the *Treaty on European Union* (1992, p. 44), 'each Member State shall treat its exchange-rate policy as a matter of common interest' is translated as 'déanfaidh gach Ballstát ... a bheartas rátaí malairte a bhreithniú mar

ábhar leasa choitinn' and, on p. 248, 'the Member States agree to examine as a matter of priority the drafts submitted to them' is translated as 'comhaontaíonn na Ballstáit na dréachtaí a chuirfear faoina mbráid a scrúdú mar ábhar tosaíochta'.

'Grave' is also translated as 'tromaí' and 'tromchúiseach' in the Acts. In s13(1) of the Criminal Procedure Act, 1967, for example, 'piracy or a grave breach such as is referred to in section 3(1)(i) of the Geneva Conventions Act, 1962' is translated as 'píoráideacht nó sárú tromchúiseach den sórt dá dtagraítear in alt 3(1)(i) den Acht um Choinbhinsiúin na Ginéive, 1962'. In s5(3) of the Criminal Justice Act, 1990, 'for grave reasons of a humanitarian nature' is translated as 'ar chúiseanna tromaí de chineál daonchairdiúil'.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'a matter of such' has no substantial sense and need not be followed closely in the translation. Professor Ó Murchú recommends translating the initial clause as 'Toisc a thábhachtaí thromchúisí don mhaitheas phoiblí atá ...'.

*a nochtadh* See the foregoing commentary. *T. O'Neill Lane* translates 'expression' in the sense of 'the act of declaring, signifying or uttering', as (a) 'labhairt', (b) 'rádh'. *De Bhaldraithe* translates 'expression' as 'cur (smaoineamh) i bhfocal', translating 'to give expression to his gratitude' as 'a bhuíochas a chur in iúl'. Note that 'expression' in the present context in the Constitution may refer not just to 'opinion' in 'organs of public opinion' but to 'convictions' in the opening sentence: 'The right of the citizens to express freely their **convictions** and **opinions**'. Colmán Ó Huallacháin, in his *Dictionary of Philosophy (Foclóir Fealsaimh, 1958)* translates 'expression' as 'léiriú', his entry s.v. 'léiriú', being as follows:

Fáltas a thabhairt i láthair a chuirfeadh eolas in iúl i dtaobh réaltachta ceilte (m. sh. cuma ar an aghaidh a thaispeánfadh staid chomhfheasa).

'Nationalist self-expression' is translated as 'féinléiriú náisiúnaíoch' in the *New Ireland Forum Report* (1984, 4.8). In the *Programme for a Partnership Government* (1993-97, p. 20), 'that both must have equally satisfactory, secure and durable, political, administrative and symbolic expression and protection' is translated as 'nach foláir go mbeadh siad araon in ann iad féin a léiriú agus cosaint a fháil i gcúrsaí polaitíochta agus riaracháin agus ar mhodh siombalach, ar bhealach chomh sásúil, chomh seasta agus chomh buan céanna'. In the *Joint Declaration*, December 1993, 'the right of freedom and expression of religion' is translated as 'an ceart ar shaoirse agus ar léiriú creidimh'.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'léiriú' is now generally understood as presenting something ("ábhar a chur i láthair"), that is, the manner it is made available rather than the substance. Professor Ó Murchú recommends translating this clause as 'a gcaomhnófaí dóibh i gcónaí an tsaoirse faisnéise is dleacht dóibh'.

*aigne an phobail* *L. Mc Cionnaith's* entry s.v. 'opinion', commences as follows: 'of opinion, view, *bhíos ar an aigne sin, bhíos-sa ar an aigne chéadna, táim ar aon aigne leat san méid sin; tá sé ar lánaigne leat*' – all of which phrases are cited from Munster and Connacht Irish. Further on he returns to 'opinion' in the sense of 'view'

and cites the following: '*is é mo thuairim go ...*', '*is é tuairim na ndaoine go ...*', the latter expression being cited from the three main dialects, with '*is é tuairimidheacht na ndaoine go ...*' being cited from the Rev. Seóirse Mac Clúin's *Réilthíní Óir* (1922). We find (on p. 244 of the second part of that work), s.v. 'tuairimíocht': '*Sé tuairimíocht na ndaoine anso go leanfaidh an tsíocháin = tuairimí a bhíonn ag imeacht is á ndéanamh is á gcaitheamh*'. *Dinneen* translates 'tuairimidheacht' as 'opinion, act of guessing, expressing an opinion about' while *Ó Dónaill* translates 'tuairimíocht' simply as '(act of) guessing, guess-work, speculation'. *De Bhaldraithe*, perhaps following the Constitution, translates 'public opinion' as 'aigne an phobail'. 'Opinion' is translated as 'tuairim' in *Téarmaí Dlí. T. O'Neill Lane* (2nd ed.) translates 'it is the general opinion' as 'do réir gach tuairime', translating 'I am of the same opinion as yourself' as (i) 'táim ar an aigne chéadna leat féin' and (ii) 'táim ar aon intinn leat-sa'.

*Ó Dónaill* translates 'aigne an duine' as 'man's mind, way of thinking'. *Dinneen* translates 'aigne' as 'the heart, the mind; intention, desire, spirit, courage, resolution'. 'Aicned', in the sense of 'inherent quality, essence, nature', is cited in DIL from the eighth-century Würzburg Glosses onwards, the secondary senses of 'mind, spirit, feeling' and 'mind, attention, thought' are later in date. 'Aigne' translates 'mind' in the Acts – 'infirmité of mind or body', in s5(3)(a) of the Electricity (Supply) (Amendment) Act, 1970, for example, being translated as 'éiglíocht aigne nó choirp'. In s112 of the Mines and Quarries Act, 1965, 'physically or mentally unfit for such employment' is translated as 'mí-oiriúnach ó thaobh coirp nó aigne don fhostaíocht sin'.

Turning to 'opinion' in the Acts, in s11(2) of the Extradition Act, 1965, 'an account of his race, religion, nationality or political opinion' is translated as 'mar gheall ar a chine, a chreideamh, a náisiúntacht nó a thuairimí polaitíochta'. In the *New Ireland Forum Report* (1984, 1.7), 'a wide range of opinion' is translated as 'éagsúlacht mhór ag baint lena dtuairimí'. See the foregoing commentary regarding early citations of 'tuairim', 'oipineon' and 'barúil'.

*toisc* This headword is translated as 'because, on account of' in *Ó Dónaill* – see the commentary on Article 42.3.2°. In the *Proceedings* of Dáil Éireann, 2/12/70, 'A quorum not being present after an interval of not less than three minutes, the Dáil resumed' is translated as 'Ós rud é go rabhthas fós gan chóram i gceann seal nár lú ná trí nóiméad d'athchrom an Dáil ar a gnó'.

*Jena chur in áirithe* See the commentary on Article 15.10; 'in áirithe' usually translates 'engaged, reserved', 'áiritim' being translated as 'I retain (council)' in *Téarmaí Dlí*. Professor Máirtín Ó Murchú recommends 'deimhniú' rather than 'áiritiú' in the direct translation below.

*San am chéanna* According to the official standard, the 'c' would not be lenited here, being an adjective qualifying a masculine noun in the dative singular – see the commentary on Article 45.

*orgain* See the commentary on Article 6.2. Note that 'human organs' is translated as 'baill bheatha dhaonna' in s24(x) of the Value Added Tax (Amendment) Act, 1978.

*an t-ord* See the commentary on Article 40.6.1°.

*leas an phobail* See the commentary on Article 12.8.

### Standardised Irish text

Ach toisc oiliúint aigne an phobail a bheith chomh tábhachtach sin do leas an phobail, féachfaidh an Stát lena chur in áirithe nach ndéanfar orgain aigne an phobail, mar shampla, an raidió is an preas is an cineama, a úsáid chun an t-ord nó an mhoráltacht phoiblí nó údarás an Stáit a bhonnbhrieadh. San am céanna coimeádfaidh na horgain sin an tsaoirse is dleacht dóibh chun tuairimí a nochtadh agus orthu sin tuairimí léirmheasa ar bheartas an Rialtais.

### Direct translation

Toisc gurb ábhar lena mbaineann an oiread sin tábhachta tromai<sup>1</sup> don mhaitheas phoiblí é<sup>2</sup> múnú<sup>3</sup> thuairimí<sup>4</sup> an phobail,<sup>5</sup> áfach, féachfaidh an Stát lena áiritiú<sup>6</sup> nach n-úsáidfear orgáin thuairimí an phobail, ar nós an raidió, an phreasa, an chineama, le linn dóibh a gceartsaoirse<sup>7</sup> léirithe<sup>8</sup> a chaomhnú, lena n-áirítear beartas an Rialtais a léirmheas<sup>9</sup>, chun an bonn a bhaint ón ord poiblí ná ón moráltacht phoiblí ná ó údarás an Stáit<sup>10,11</sup>.

### Variants

- 1 'an oiread sin mórthábhachta'
- 2 'Toisc a thábhachtaí thromchúisi don mhaitheas phoiblí atá'
- 3 'oilíúint', 'oideachasú'
- 4 'aigne', 'thuairimíocht'
- 5 'Toisc múnú thuairimí an phobail a bheith ina ábhar atá chomh tábhachtach sin don mhaitheas phoiblí.'
- 6 'lena dheimhniú'
- 7 'a saoirse cheart'
- 8 'a gceartsaoirse chun tuairimí a chur in iúl'
- 9 'a cháineadh'
- 10 'chun an t-ord poiblí nó an mhoráltacht phoiblí nó údarás an Stáit a lagú', 'chun dochar a dhéanamh don ord poiblí nó don mhoráltacht phoiblí nó d'údarás an Stáit'
- 11 The following is the complete translation recommended by Professor Máirtín Ó Murchú: 'Toisc a thábhachtaí thromchúisi don mhaitheas phoiblí atá oiliúint aigne an phobail, féachfaidh an Stát lena dheimhniú nach mbainfear leas/úsáid as orgáin na tuairimíochta poiblí, mar atá an raidió, an preas agus an cineama, a gcaomhnófar dóibh i gcónaí an tsaoirse faisnéise is dleacht dóibh, ar a n-áireofar beartas an Rialtais a léirmheas, chun an bonn a bhaint ón ord poiblí, ná ón moráltacht phoiblí, ná ó údarás an Stáit.'

## ARTICLE 40.6.1°i (contd.)

## AIRTEAGAL 40.6.1°i (ar lean.)

### TÉACS GAEILGE

Aon ní diamhaslach nó ceannairceach nó graosta a fhoilsiú nó a aithris is cion inphionóis é de réir dlí.

### LITERAL ENGLISH TRANSLATION

The publication or recitation of anything blasphemous or rebellious or obscene is a punishable crime in accordance with law.

### ENGLISH TEXT

The publication or utterance of blasphemous, seditious, or indecent matter is an offence which shall be punishable in accordance with law.

### Divergences between the official texts

- 1 'Utterance' is expressed in the Irish text by 'aithris', which verb generally has the sense of 'recite (publicly declaim)'; qualified by the preposition 'ar' it means 'imitate'.
- 2 'Indecent' is expressed in the Irish text by the Irish legal term for 'obscene' ('graosta'), 'indecent' being translated as 'migheanasach' in *Tearmaí Dlí*.
- 3 'Seditious' is expressed as 'ceannairceach', the adjectival form of the term expressing 'rebellion' in Article 40.4.6°, this however being in accord with *Tearmaí Dlí* in both cases.
- 4 'Matter' is expressed as 'aon ní' ('anything') in the Irish text.
- 5 'Blasphemous, seditious, or indecent' is expressed in the Irish text as 'diamhaslach nó ceannairceach nó graosta', 'blasphemous or seditious or indecent'.

### Commentary

*a aithris* In Article 15.12, 'and utterances made in either House' is expressed as 'maille le caint ar bith dá ndéantar in aon Teach díobh', while in the following section, 'and shall not, in respect of any utterance in either House, be amenable to any court' is expressed as 'agus cibé caint a dhéanfaidh comhalta in aon Teach díobh ní inchúisithe é mar gheall uirthi in aon chúirt'.

The verb 'aithris' is translated as (1) 'narrate, recite', (2) 'imitate' and (3) 'mimic' in *Ó Dónaill*. 'Aithrisim' is translated as 'I tell, narrate, report, repeat, recite, imitate, copy, mimic, ridicule' in *Dinneen*. DIL translates 'aithrisid' as (a) 'repeats, tells' and (b) 'imitates', this verb being based on 'aithris', translated as (a) 'act of telling, relating, relation, account' and (b) 'act of imitating, copying; imitation; example'. No examples of 'aithris' are cited from the early sources, this word being perhaps, according to DIL, a compound of 'aith-' ('re-') and 'aires' ('[fore-] knowledge') or 'aires' ('history, knowledge or record of events').

Turning to the Acts, 'úsáid a bhaint as aon uirlis nó fearas ... leictreach nó eile, chun glaonna éan nó glaonna mamach fiáin, a ligean nó a aithris' translates 'use an electrical or other instrument or appliance ... emitting or imitating bird-calls or the calls of wild mammals' in s35(1)(d) of the Wildlife Act, 1976, while 'Déanfar in ordú a bhaineann le comhaontú um eiseachadadh ... tearmaí an chomhaontaithe ... a aithris nó a chorprú' translates 'An order relating to an extradition agreement ... shall recite or embody the terms of the agreement' in s8(3) of the Extradition Act, 1965. 'Aithris ... ar fhógrán sonraithe' translates 'repetitions of a specified advertisement' in s42(2)(c) of the Building Societies Act, 1989, while 'aithris dhealraitheach' translates 'colourable imitation' in *Tearmaí Dlí*.

'I utter (a forgery)' is translated as 'rithim (brionnú)' in *Tearmaí Dlí* – see, for example, s39 of the Office Premises Act, 1958, where 'If any person ... knowingly utters or makes use of any such certificate so forged ... as aforesaid' is translated as 'Duine ar bith ... a rithfeas nó a úsáidfear

go feasach aon deimhniú den tsaghas sin a bheas brionnaithe ... mar adúradh', with 'if any person ... willingly connives at any such forging, ... uttering ... as aforesaid' being translated as 'Duine ar bith a chúlcheadóis go toiliúil aon bhrionnú, ... rith ... mar adúradh'. In Article 18 of the 1922 Constitution, 'in respect of any utterance in either House' is translated as 'i dtaobh éinní dá ndéarfa sé in aon Tigh den dá Thigh'.

Commenting on the direct translation below, Professor Máirtín Ó Murchú questions whether 'a rá' can be used with 'ábhar' (i.e. literally 'to say material') – note above how we have 'éinní dá ndéarfa sé' in the 1922 Constitution, however. Professor Ó Murchú finds no fault with 'aithris', remarking that it is only with the preposition 'ar' that it has the sense of 'imitate'. Máirtín Ó Murchú also suggests using 'a aitheasc'.

*inphionóis* This term is translated as 'punishable' in *Téarmaí Dlí*. In s3(1) of the Genocide Act, 1973, 'No offence which, if committed in the State, would be punishable as genocide ... shall be regarded as a political offence' is translated as 'Ní mheasfar gur cion polaitiúil ... aon chion ab inphionóis, dá mba sa Stát a rinneadh é, mar chinedhióthú'. In s120(4) of the Succession Act, 1965, 'A person who has been found guilty of an offence against the deceased ... punishable by imprisonment for a maximum period of at least two years' is translated as 'Duine a fuarthas ciontach i gcion in aghaidh an éagaigh ... is inphionóis le príosúnacht ar feadh uastréimhse dhá bhliain ar a laghad'. In s10(1) of the Extradition Act, 1965, 'extradition shall be granted only in respect of an offence which is punishable under the laws of the requesting country ... by imprisonment' is translated as 'ní dheonófar eiseachadadh ach amháin i leith ciona atá inphionóis faoi dhlíthe na tíre iarrthaí ... le príosúnacht', while in s20(1) of the Misuse of Drugs Act, 1977, 'Any person who aids, abets, counsels or induces the commission in a place outside the State of an offence punishable under a corresponding law in force in that place' is translated as 'Aon duine a chabhróidh nó a neartóidh le duine, nó a chomhairleoidh dó nó a thabharfaidh air, cion a dhéanamh, in áit lasmuigh den Stát, atá inphionósaithe faoi dhlí comhréire a bheidh i bhfeidhim san áit sin'.

*diamhaslach* This headword is translated as 'blasphemous' in *Téarmaí Dlí* and in *Ó Dónaill*, 'diamhasla', literally 'god-insulting', being translated as 'blasphemy' in both sources. *Dinneen* translates 'dia-mhaslach' as 'blasphemous, impious'. 'Maslach' is translated as 'abusive, insolent' in DIL, with only one example being cited, 'masla'/'maslad' ('insult, opprobrium, disgrace'), on which it is based, not being cited in any of the early sources.

In s3(2) of the Censorship of Films (Amendment) Act, 1925, 'by reason of its being indecent, obscene, or blasphemous, or because the display thereof in public would convey suggestions contrary to public morality or would be otherwise subversive of public morality' is translated as 'toisc é bheith nea-náireach, draosta, no naomhaithiseach no toisc go gcuirfí smaointe in úil a bheadh contrárdha don mhóráltacht phuiblí no go millfí an mhóráltacht phuiblí ar aon chuma eile dá nochtfí go puiblí é'. 'Naomh-aithiseach' is translated as 'blasphemous, profane' in *Dinneen*, 'naomhaithiseach' being similarly translated in *Ó Dónaill*.

*ceannairceach* This headword is translated as 'seditious' in *Téarmaí Dlí*, with 'ceannairc' translating 'sedition' and 'ceannairc faoi airm' translating 'armed rebellion'. See the commentary on Article 40.4.6° regarding 'ceannairc', on which this adjective is based. *Ó Dónaill* translates 'ceannairceach' as 'mutinous, rebellious'. While *Dinneen* gives 'ceannairc' as a headword, translated as 'strife, division; a meeting; rebellion, conspiracy', he does not appear to give 'ceannairceach' as a headword. DIL translates 'cennaircech' as 'contentious, quarrelsome', giving examples from the fifteenth century (this headword being translated as 'cantankerous' by the editor of *Caitheáim Thoirdealbhaigh*) onwards.

Turning to the Acts, in s15(9)(d)(ii) of the Damage to Property (Compensation) Act, 1923, '(persons) belonging to ... any unlawful or seditious association' is translated as '(daoine) do bhain le haon chumann nea-dhleathach no ceannairceach' and 'treasonable or seditious documents' is translated as 'scríbhinní tréasúnta no ceannairceacha' in s2(1) of the Public Safety Act, 1927.

*graosta* This adjective is translated as 'obscene' in *Téarmaí Dlí*. *Ó Dónaill* translates 'graosta' as 'lewd, obscene, filthy', translating 'caint ghraosta', 'scéal graosta' and 'amhrán graosta' respectively as 'bawdy talk', 'smutty story' and 'ribald song'. *Dinneen* gives *Ó Dónaill's* translation of 'graosta' in reverse order. DIL translates 'graosda' as 'obscene, lewd, licentious', giving but one example, from Ó Heoghusa's *An Teagasg Críosaíde* (1611) (with 'comhrádh', 'conversation'), referring to two citations in Donlevy's *An Teagasg Críosaíde* (1742). DIL also gives two examples of the headword 'gróesda' (translated as 'gross, obscene'), both with the plural of 'briathar' ('word'), from Aodh Mac Aingil's *Scáthán Shacramuinte na hAithridhe* (1618) and Flaithrí Ó Maolchonaire's *Desiderius, nó Scáthán an Chrábhaidh* (1616). Note that 'draosta' is the form of this headword in the original text. *Ó Dónaill* refers to 'graosta' as the standard form under that headword, *Dinneen* giving a separate entry, translating 'draosta' as 'obscene, smutty'.

'Indecent' is translated as 'míghéanasach' in *Téarmaí Dlí*, where 'indecent assault' and 'indecent exposure' are translated respectively as 'ionsaí míghéanasach' and 'nochtheadh míghéanasach'. 'Indecent' is translated as 'míghéanasach; míchuibheasach' in *De Bhaldraithe*. Note that in s9(1)(d) of the Radio and Television Act, 1988, '(that) anything which may reasonably be regarded as offending against good taste or decency' is translated as '(nach gcráolfadh sé) aon ní a bhféadfaí a mheas le réasún gur ní é a ghoileann ar chaoibhéasa nó ar chuibheas'. In s2 of the Censorship of Publications Act, 1929, we find the following 'Definition':

The word 'indecent' shall be construed as including suggestive of, or inciting to sexual immorality or unnatural vice or likely in any similar way to corrupt or deprave. *Léireofar an focal 'nea-náireach' mar fhocal a fholuionn rud a mheabhródh mí-mhóráltacht inscine no dubháilceas mí-nádúrtha do dhuine no a ghriósadh chuige é no is dócha a dhéanfadh in aon tslí eile den tsórt san duine do thruailliú no do chorbha.*

The same English text (commencing with 'the word "indecent" includes' and 'other' inserted before 'similar') is translated as follows in s1 of the Censorship of Publications Act, 1946:

folaíonn rud a bheith ‘míghéanasach’ é bheith ina rud a mheabhródh mí-mhoráltacht chollaí nó duáilceas mí-nádúrtha do dhuine nó a chorródh chuige sin é nó is dócha a dhéanfadh in aon tslí eile den tsórt sin duine a thruailliú nó a chorbhadh.

‘That a book is indecent or obscene’ is translated as ‘go bhfuil leabhar míghéanasach nó draosta’ in s2(1) of the Censorship of Publications Act, 1967.

Returning to the early Acts, ‘Indecent Assault on Males or Females’ is translated as ‘Ionnsuidhe Mí-mhorálta ar Fhíreannaigh no ar Bhaineannacha’ in the Third Schedule to the Defence Forces (Temporary Provisions) Act, 1923 (where, incidentally, ‘Blasphemy’ is translated as ‘Diamhasla’), while in the Wireless Telegraphy Act, 1926, ‘any message or communication of an indecent, obscene, or offensive character’ is translated as ‘aon teachtaireacht no conbharsáid de shaghas náireach no draosta no maslathach’.

*aon ní* Literally ‘any thing’. In s11(2) of the Minimum Notice and Terms of Employment Act, 1973, ‘The decision of the Tribunal on any matter referred to it under this section shall be final and conclusive’ is translated as ‘Is cinneadh críochnaitheach dochloíte a bheidh i gcinneadh an Bhinse ar aon ní a tharchuirfear chuige faoin alt seo’. Usually, however, ‘aon ní’ translates ‘anything’ and, in the negative, ‘nothing’, in the Acts – see s3(1) of the Fourth Schedule to the Capital Gains Tax Act, 1975, for example, where ‘the making of anything available for inspection’ is translated as ‘aon ní a chur ar fáil lena iniúchadh’. See also the commentary on Article 13.7.1<sup>o</sup>. ‘Matter’ is translated as ‘ábhar’ in *Téarmaí Dlí* and is generally translated accordingly in the Acts – see s48(h) of the above-mentioned Capital Gains Tax Act, 1975, for example, where ‘licences to use any copyright material’ is translated as ‘ceadúnais aon ábhar cóipchirt ... a úsáid’.

### Direct translation

Is cion inphionóis<sup>1</sup> de réir dlí ábhar diamhaslach, ceannaireach, nó míghéanasach a fhoilsiú nó a rá<sup>2</sup>.

### Variants

- 1 ‘Is cion inphionóis é, ‘a bheidh inphionósaithe’, ‘a bheidh inphionóis’
- 2 ‘a aithris’, ‘a aitheasc’

## ARTICLE 40.6.1<sup>o</sup>ii AIRTEAGAL 40.6.1<sup>o</sup>ii

### TÉACS GAEILGE

Ceart na saoránach chun teacht ar tionól go sítheoilte gan arm.

Féadfar socrú a dhéanamh de réir dlí chun cosc a chur nó rialú a dhéanamh ar thionóil a gcinnfear de réir dlí gur baol briseadh síochána a theacht díobh nó gur contúirt nó cránas don phobal i gcoitinne iad, agus fós ar thionóil i gcóngar do cheachtar de Thithe an Oireachtas.

### LITERAL ENGLISH TRANSLATION

The right of the citizens to come on assembly peacefully unarmed.

Provision may be made in accordance with law to prevent or regulate assemblies from which it is determined in accordance with law that there is a danger that breach of peace will come or that they are a danger or an annoyance to the people in general, and moreover assemblies near either of the Houses of the Oireachtas.

### ENGLISH TEXT

The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of the peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

### Divergences between the official texts

- 1 ‘Meetings which are determined ... to be calculated to cause a breach of the peace’ is expressed as ‘tionóil a gcinnfear ... gur baol briseadh síochána a theacht díobh’ (‘meetings which are determined that there is a danger that a breach of peace will come from them’) in the Irish text.
- 2 ‘To assemble’ is expressed as ‘teacht ar tionól’ (‘to come on assembly’) in the Irish text.
- 3 ‘Peaceably and without arms’ is expressed as ‘go sítheoilte gan arm’ (‘peacefully unarmed’) in the Irish text.
- 4 The Irish term used to express ‘assemble’ (‘tionól’) is also used to express ‘meeting’, the latter term being translated as ‘cruinniú’ in *Téarmaí Dlí*.
- 5 ‘By law’ and ‘in accordance with law’ are both expressed as ‘de réir dlí’ in the Irish text, ‘de réir’ being translated as ‘in accordance with’ in *Téarmaí Dlí* – where, however, ‘scor as oifig de réir oird’ is translated as ‘retirement by rotation’.
- 6 ‘Nuisance’ is expressed as ‘cránas’ (‘annoyance’) in the Irish text, ‘núis’ translating ‘nuisance’ in *Téarmaí Dlí*.
- 7 ‘To prevent or control’ is repeated in the English text, the latter citation being expressed simply by ‘fós’ (‘moreover’) in the Irish text.

Note that Article 9 of the 1922 Constitution reads as follows:

The right of free expression of opinion as well as the right to assemble peaceably and without arms, and to form associations 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. *Is slán ceart oipíneon do chur in uil gan chosg agus ceart teacht le chéile go síochánta gan airm, agus ceart cumainn no aontaisí do bhunú ar aon toisg ná fuil i gcoinne mhoráltacht phuiblí. Na dlithe a rialóidh an tslí ‘na bhféadfar ceart cumainn do bhunú agus ceart saor-theacht le chéile do chur i bhfeidhm, ní dhéanfaid aon leithreachas i dtaobh polaitíochta ná aicme.*

This Article was amended as follows in s24(1) of the Constitution (Amendment No. 17) Act, 1931:

Whenever it appears to the Executive Council that the holding of public meetings in or in the vicinity of any particular building or any particular road or street is likely to lead to a breach of the peace or to be prejudicial to the maintenance of law and order... *Pé uair do chítear don Ard-Chomhairle gur deallrathach gurb é thiocthadh as cruinnithe puiblí do chomóradh in aon thoirgint áirithe no ar aon bhóthar no shráid áirithe no in aice leo ná go mbrisfí an tsíocháin no go ndéanfaí dochar do dhlí agus d'ordú do choimeád.*

### Commentary

*teacht ar tionól ... ar thionól* 'After the re-assembly of Dáil Éireann' is expressed as 'ar Dháil Éireann d'ationól' in Article 18.3, with 'after a dissolution and re-assembly of Dáil Éireann' being expressed as 'I ndiaidh lánscoir agus ationól do Dáil Éireann' in Article 27.5.ii and 'on the reassembly of Dáil Éireann' being expressed as 'ar ationól do Dháil Éireann' in Article 28.10. 'The right of free assembly' is expressed as '(modh oibríthe) ... an chirt chun teacht le chéile ar saorthionól' in Article 40.6.2°. 'Tionól neamhdhleathach' is translated as 'unlawful assembly' in *Téarmaí Dlí*.

'Tionól' is translated as 'gathering, assembly' in *Ó Dónaill* – see the commentary on Articles 15.11.3° and 18.8. DIL translates 'tinól' as (a) 'act of collecting, gathering' and (b) 'an (armed) assembly; band, company', citing examples of sense (a) from the Glosses of the eighth century onwards. In the early Irish law-tracts, 'tinól' also had the sense of 'that part of the marriage contribution which consisted of cattle' – see DIL s.v. 'tinól' (c).

'Tionól na Dála tar éis Olltoghcháin' translates 'meeting of Dáil subsequent to General Election' in the very first heading in the *Standing Orders* of Dáil Éireann, with s19 reading as follows:

*Fiche comhalta an córam is gá chun tionól den Dáil a bheith ann.* The quorum necessary to constitute a meeting of the Dáil shall be twenty members.

'The Assembly of the European Communities' is styled 'Tionól na gComhphobal Eorpach' in s1 of the European Assembly Elections Act, 1977 ('An tAcht um Thoghcháin do Thionól na hEorpa, 1977').

Turning to 'assemble', in the *Proceedings* of Dáil Éireann, 2/7/69, 'The Dáil assembled at 3 p.m.' is translated as 'Tháinig an Dáil le chéile ar 3 p.m.' In the text of the Final Act in *Treaties establishing the European Communities* (1973, p. 1461), 'The Plenipotentiaries of ... assembled at Brussels on the twenty-second day of January one thousand nine hundred and seventy-two' is translated as 'Tá na Lánchumhachtaigh ... Ar theacht le chéile dóibh sa Bhruiséil, an dóú lá is fiche d'Eanáir míle naoi gcéad seachtó a dó'. 'Teacht le chéile' translates 'assemble' in Article 9 of the 1922 Constitution and in s7(3) of the Treasonable Offences Act, 1925, 'If any person is present at ... an assembly of persons who ... have assembled or met together' is translated as 'Má bhíonn éinne láithreach ... i dtionól daoine ... a dhin ... teacht no cruinniú le chéile'.

'Meeting' is translated as 'cruinniú' in *Téarmaí Dlí* where 'annual general meeting' is translated as 'cruinniú ginearálta bliantúil'.

*go sítheoilte* 'Picéadú sítheoilte' is translated as 'peaceful picketing' in *Téarmaí Dlí*. According to *Ó Dónaill*,

'síthóilte' is the standard form of this adjective, translated as 'settled, peaceful'. *Dinneen* translates 'sítheoilte' as 'peaceful, polite, affable, refined' and s.v. 'sítheoilteacht', quotes the following from Pádraig Feiritéir of New York, formerly of the Ballyferriter district of Kerry: 'ar chumha ná ar chleas ní ghlacfaid sítheoilteacht' ('on no consideration will they be satisfied with mild measures'). DIL cites examples of the adverbial usage s.v. 'síthóilte' ('sítháilte'), mainly from the seventeenth century, the first example being 'an mbítear sunn go sítháilte' ('are men at peace [with me] here?'), from a miscellaneous collection of religious poetry, *Dán Dé*. 'Síthóilte'/'sítháilte' has been translated as 'peaceful joy', that is, as a compound of 'síd' and 'fáilte', but according to DIL it is a participle of the verb 'síthlaid' ('strains, filters, sifts'), meaning 'purified, clear' and hence 'settled, tranquil (?)'. 'Síthlaid' is based on 'síthal', 'a vessel for drawing water, a bucket', which comes from the Latin 'situla'.

Turning to 'peaceable' in the Acts, in s2(b) of the Prohibition of Forcible Entry and Occupation Act, 1971, '(unless) he does so with all reasonable speed and in a peaceable manner' is translated as 'mura ndéanfaidh sé sin a luaithe ariamh is réasúnach agus go síochánta'. In s10 of the Enforcement of Law (Occasional Powers) Act, 1923, 'Provided always that before breaking into any dwelling house ... the Under-Sheriff shall have made reasonable efforts to enter peaceably and without violence' is translated as 'Más rud é gur dhin an Fo-Shirriamh sarar bhris sé isteach in aon tigh comhnuithe ... iarrachtaí réasúnta ar dhul isteach go síochánta agus gan foiréigean'.

*baol* This headword is translated as 'danger' in *Ó Dónaill*, who cites '*is baol liom, I fear*' and '*ní baol duit titim, you are in no danger of falling, you need not fear that you will fall*'. *Dinneen* translates 'baoghal' as 'danger; a point open to attack; apprehension', citing '*baol báis, danger of death*', for example. DIL translates 'báegul' as 'unguarded condition, danger, hazard, vulnerability; chance, opportunity (of taking by surprise, inflicting an injury)', giving examples from the eighth-century Glosses onwards. In early Irish law-tracts, 'báegul' had the sense of 'making a mistake (in judgement), etc.' (DIL). Fergus Kelly, op. cit., p. 304, translates 'báegul' as 'legal error, procedural mistake', citing the often repeated maxim in the law-tracts, 'cach brithemoin a báegul' ('to every judge his error', i.e. 'every judge must bear the responsibility for any mistakes he makes', *ibid*, p. 54).

Turning to the Acts, 'go mba dhóigh baol báis do bhaint le haon mhoill ag fáil an bharántais' translates 'that the delay in obtaining a warrant would be likely to endanger life' in s40(1)(c) of the Dangerous Substances Act, 1972, with 'gur léir an long a bheith neamhoiriúnach le dul chun farraige gan bheith ina baol báis do dhaoine' translating 'that the ship is manifestly unfit to proceed to sea without danger to human life' in s18(4) of the Merchant Shipping (Load Lines) Act, 1968, and 'chun go n-íoslaghdófaí an baol' translating 'to minimise the risk' in s3(2)7(c) of the Local Government (Multi-Storey Buildings) Act, 1988.

Turning to 'to be calculated to' in the Acts, in s11(3) of the Building Societies Act, 1976, 'that the name of the proposed society ... so resembles the name of another society ... as to be calculated to deceive' is translated as 'gur ainm é atá chomh cosúil sin le hainm cumainn eile

... gur dóigh dó meabhlú' and in s140(1) of the Mines and Quarries Act, 1965, 'a document so closely resembling any such certificate as to be calculated to deceive' is translated as 'doiciméad a bheidh chomh cosúil le haon deimhniú den sórt sin gur dóigh dó daoine a mheabhlú'. In s6(1)(a) of the Firearms (Proofing) Act, 1968, 'a mark so nearly resembling such a mark as to be calculated to deceive' is translated as 'marc chomh gar i gcosúlacht le marc den sórt sin gur chúis mheabhlaithe é', while in s14(2) of the Road Traffic Act, 1968, 'or a mark so nearly resembling it as to be calculated to deceive' is translated as 'Nó marc chomh garchosúil leis go rachadh sé chun meabhlaitheacht a dhéanamh ar dhuine'. In s55(1) of the Central Bank Act, 1942, 'or so nearly resembling as to be calculated to deceive' is translated as 'no bheidh chó cosúil sin le ceachtar aca san gur deallrathach go meallfaí duine léi'.

In s15(1) of the Capital Acquisitions Tax Act, 1976, 'subject to such conditions as might reasonably be calculated to obtain for him the best price for the property' is translated as 'faoi réir cibé coinníollacha ba dhóigh, le réasún, a tharraingeodh an praghas ab fhearr ar an maoin don díoltóir'. We find 'dóigh' again in s5(2)(c) of the Tourist Traffic Act, 1952, where 'which appear to the Board to be calculated to improve tourist traffic' is translated as 'is dóigh leis an mBord d'fheabhsódh an trácht cuartaíochta'. In s31(2)(a) of the Electricity (Supply) (Amendment) Act, 1945, on the other hand, 'and in such other manner as shall appear to the Minister to be calculated to bring his said attention to the knowledge of persons concerned' is translated as 'agus i pé slí eile chífear don Aire a bhéarfais le fios do dhaoine lena mbainfidh an scéal go bhfuil sé ar an intinn sin'. Finally, in s2 of the Agricultural Products (Regulation of Export) (Amendment) Act, 1935, 'as appears to him to be calculated to secure ...' is translated as 'chífear do is deallrathach a chuirfidh in áirithe'.

'He calculated she would come' is cited in *Foclóir Oifigiúil* as being translated as 'bhí sé ag leagan amach go dtiocfadh sí' in *L. Mc Cionnaith. De Bhaldraithe* translates 'news calculated to astonish him' as 'scéal a chuirfeadh iontas air' and 'words calculated to reassure us' as 'caint ar dhóigh di misneach a thabhairt dúinn'.

*cránas* *Ó Dónaill* translates 'cránas' as 'affliction; vexation, annoyance', citing '*cránas a thabhairt do dhuine*, to cause affliction to someone, to annoy someone' and '*cránas a thabhairt do do cholainn*, to mortify one's body'. *Dinneen* translates 'crádhnas' as 'annoyance, mortification, torture'. DIL cites only one example of 'craidenus' – '(frie) huatbas 7 craidenus' ('horror and affliction') – this word being based on 'crád', 'torment, anguish, misery; act of tormenting, persecuting, etc.'

'Nuisance' is translated as 'núis' in *Téarmaí Dlí*, where 'private nuisance' and 'public nuisance' are translated respectively as 'núis phríobháideach' and 'núis phoiblí'. In s125 of the Road Traffic Act, 1961, 'Nothing in this Act shall authorise any person to use in a public place a vehicle so constructed or used as to cause a public or private nuisance' is translated as 'Ní údaróidh aon ní san Acht seo d'aon duine feithicil a úsáid in áit phoiblí a bheidh deartha nó a úsáidfear i slí a dhéanfaidh núis phoiblí nó príobháideach'. In s24(2) of the Air Pollution Act, 1987, 'The occupier of any premises shall not cause or permit an emission from such premises in such a quantity, or in

such a manner, as to be a nuisance' is translated as 'Ní chuirfidh áititheoir aon áitribh faoi deara ná ní cheadóidh sé astaíocht a theacht as an áitreabh sin i gcainníocht a d'fhágfadh nó ar shlí a d'fhágfadh gur núis í' and in s32(1) of the Local Government (Sanitary Services) Act, 1948, 'If a temporary dwelling is in such a state as to be a nuisance' is translated as 'Má bhíonn teaghas sealadach sa riocht sin gur núis é'. In s39(4)(b) of the Housing (Miscellaneous Provisions) Act, 1931, however, we find 'or is likely to become in such a state as to be a nuisance' translated as 'no is dócha thiofadh chun bheith sa riocht san go bhfuil no go mbeidh sé ina chráiteas'. Similarly, in s20(1) of the Local Government Act, 1925, 'which is in such a state as to be a nuisance' is translated as 'agus é ar a leithéid sin de staid gur cráiteas é'. Finally, 'guilty of conduct which is a nuisance or annoyance to adjoining occupiers' is translated as 'ciontach in iompar is cráiteas no is ciapa ar shealbhóirí teoranta' in s4(1)(b) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923.

Note that *L. Mc Cionnaith* cites 'ba mhór an crádh é' from Connacht and Munster s.v. 'nuisance', in the sense of 'worrying thing, person', with 'is mór an núis na páistí do bheith ag déanamh torainn' ('it is a nuisance that the children are so noisy') from Connacht.

*cosc a chun .... ar* 'Cosc' is translated as 'obstruction' in *Téarmaí Dlí*, where 'I obstruct' is translated as 'coiscim'. 'Cosc' is translated as 'check, restraint, prevention, prohibition' in *Ó Dónaill*, where 'cosc a chur ar dhuine' is translated as 'to check, restrain, someone' and 'cosc a chur le rud' is translated as 'to put a stop to something'. *Dinneen* translates 'cosc' as 'act of restraining, restraint; preventing, hindering, intercepting; reprimanding; correcting; a cessation; a brake; a giving up; impediment, hindrance, restriction, prohibition, stop', with 'cuirim cosc le (or ar)' translated as 'I prevent, hinder, stop'. DIL gives examples of the phrase 'do-beir (cuirid) cosc for' from the ninth-century Milan Glosses on the Commentary on the Psalms – 'nirbuchosc coir dorratsat forru són' ('it was not a proper correction that they had inflicted upon them') glossing Latin 'correptionis' – and from later sources. 'Cosc', verbal noun of 'con-secha', is translated as (a) 'act of reproving, admonishing; correcting, reproof, correction' and (b) 'act of hindering, preventing; staunching (of wounds)' in DIL.

In the *Programme for a Partnership Government*, 1993-97 (p. 28), 'chun cosc a chur ar iarratas ó chéile an céile eile a chur isteach dá (h)ainneoin' translates 'to prohibit applications for involuntary admissions made by a spouse'. 'Prevents, or attempts to prevent, any person from appearing before or being questioned by an inspector' is translated as 'chuirfidh cosc, nó a fhéachfaidh le cosc a chur, le haon duine ó láithriú os comhair nó óna cheistiú ag cigire' in s11(4)(d) of the Holidays (Employment) Act, 1973. In s26 of the Sea Pollution Act, 1991, 'Powers of Minister to prevent, mitigate or eliminate pollution' is translated as 'Cumhachtaí an Aire chun truailliú a chosc, a mhaolú nó a chealú'. 'Cosc a chur ar' translates 'obstruct' in s147 of the Electoral Act, 1922.

*rialú a dhéanamh ar* 'Rialú' is translated as 'ruling' in *Téarmaí Dlí*, where the verb 'rialaim' is translated as 'I control, I rule'. 'Rialú' is translated as 'rule, regulation; control, government' in *Ó Dónaill*. 'Riaghlughadh' is

translated as 'the act of ruling, government, discipline, management' in *Dinneen*, where the following proverb is cited: 'is dual riaghlughadh do réir oideachais' ('the ruler is according to the upbringing he has received'). Old Irish 'riagol', on which 'riaglaid' is based, comes from Latin 'rēgula'. DIL gives examples of both 'riaglad' ('regulating, ruling, controlling'), verbal noun of 'riaglaid' ('regulates, orders, arranges') and 'riaghlughadh' ('regulates, orders, arranges'), verbal noun of the later verb 'riaglaigid', '= riaglaid').

In s3 of the Article VI of the Schedule to the Bretton Woods Agreements Act, 1957, entitled 'Control of capital transfers' ('Aistrithe caipitil a rialú'), 'Members may exercise such controls as are necessary to regulate international capital movements' is translated as 'Féadfaidh na comhaltáí pé rialú a dhéanamh is gá chun gluaiseachtaí idirnáisiúnta caipitil a rialáil' and in the *Programme for a Partnership Government*, 1993-97, 'we will continue to press for the development of a Community industrial policy that can control State aids' is translated as 'leanfaimid de bheith ag iarraidh beartas tionscail Comhphobail a fhorbairt faoinar féidir rialú a dhéanamh ar chúnamh Stát'. See the commentary on Articles 10.3 and 45.2.ii, where 'rialáigh' and 'urlámhas' respectively express 'control'.

Note that we find 'smachtaigh' translating 'control' in the following contexts: in s12(1) of the Local Government (Water Pollution) Act, 1977, 'where it appears to a local authority that it is necessary to do so in order to prevent or control pollution of waters' is translated as 'I gcás ar dealraitheach d'údarás áitiúil gur gá beart a dhéanamh chun truailliú uisce a chosc nó a shrianadh' and in s13 of the Fifth Schedule to the Local Government (Planning and Development) Act, 1963, 'and the provision of such arrangements for heating and cooking as are calculated to prevent or control so far as practicable the emission of smoke or nauseous gases' is translated as 'agus cibé socrúithe a chur ar fáil chun téimh agus cócaireachta a mheasfar a choiscfidh nó a shrianfaidh an oiread agus is féidir, deatach nó gásanna díobhálacha ó a bheith ag sceitheadh amach'.

*gan arm* 'Le harm' expresses 'by force of arms' in Article 39 and 'ceannairc faoi arm' expresses 'armed rebellion' in Article 28.3.3<sup>o</sup>, for example, with 'coinbhleacht faoi arm' expressing 'armed conflict'. 'Armed rebellion' is translated as 'ceannairc faoi airm' in *Téarmaí Dlí*, however. *Ó Dónaill* gives 'arms (collective)' as a secondary sense of the Irish 'arm', citing 'faoi arm, under arms', the principal sense being (a) 'weapon' and (b) 'implement, tool'. *Dinneen* translates 'arm teineadh' as 'fire-arms'. 'Arm' comes from Latin 'arma' – see DIL s.v. 'arm', where the plural is cited (in the sense of 'weapon') after 'cen' (Modern Irish 'gan') in 'cen armu, cen fáebru' (i.e. without weapons, without sharp-edged weapons – see DIL s.v. 'fáebar') from the tale *Mesca Ulad*, in the twelfth-century *Book of Leinster*. Note that we find 'gan airm' expressing 'without arms' in Article 9 of the 1922 Constitution and finally that 'by an unarmed person' is translated as 'ag duine neamharmtha' in s2(1) of the Wildlife Act, 1976.

Regarding not having 'agus' expressing 'and' before 'arms', note that Irish regularly drops the conjunction between two adjectives.

*a theacht díobh* Literally 'to come from them'. 'Cause' is translated as 'cúis' in *Téarmaí Dlí* where 'cause of action' and 'reasonable cause' are translated respectively as 'cúis

chaingne' and 'cúis réasúnach'. In s18 of the Imposition of Duties (Dumping and Subsidies) Act, 1968, 'the importation is such as to cause or threaten to cause material injury to an industry' is translated as 'gurb allmhairiú é de shórt ba chúis nó ba bhaol a bheith ina chúis le díobháil ábhartha a dhéanamh do thionscal'. In s3(1) of the Criminal Law (Rape) (Amendment) Act, 1990, 'such as to cause injury, humiliation or degradation' is translated as 'atá ina chúis le gortú, le huirisliú nó le táireadh'. See the commentary on Articles 12.10.5<sup>o</sup> and 25.5.1<sup>o</sup> where 'cúir á' and 'tabhair' respectively express 'cause'.

Regarding 'a chur faoi deara' translating 'cause' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that this Connacht phrase is not generally used without an indirect object – e.g. 'é a chur faoi deara duit'. Professor Ó Murchú recommends either 'a tharraingt' or 'gur dóigh go mba thrúig leis an tsíocháin a bhriseadh iad', or retaining the phrase of the original text.

*contúirt* 'Contúirt' is translated as 'danger' in *Téarmaí Dlí*, with 'contúirt neamhfholas' translating 'hidden danger'. In s13(2) of the Sale of Goods and Supply of Services Act, 1980, for example, 'free from any defect which would render it a danger to the public' is translated as 'saor ó aon locht a thabharfadh gur chontúirt í don phobal' and in s20(10)(b) of the Road Traffic Act, 1961, 'there was not a defect affecting the vehicle which was such that the vehicle was, when in use, a danger to the public' is translated as 'nach raibh ... locht ar an bhfeithicil a d'fhág gur chontúirt don phobal an fheithicil nuair a bheadh sí á húsáid'. 'To the extent to which such substance ... is ... a danger to the life or health of a person coming into contact therewith' is translated as 'don mhéid ... is contúirt an tsubstaint ... sin do bheo nó do shláinte duine a theagmhaíonn leis' in s6 of the Nuclear Energy (An Bord Fuinnimh Núicléigh) Act, 1971.

*i gcóngar do* See the commentary on Article 12.11.1<sup>o</sup> where 'ar a cóngar' expresses 'near (it)'. *Ó Dónaill* cites '*bheith i gcóngar áite*, to the near, close to, a place' along with '*bhí an bás i gcóngar dó*, death was drawing near him'. *Dinneen* translates 'i gcómhgar' as 'near at hand', citing '*ní'l sé i n-aon chómhgar dó*, it is not all near it, there is no comparison'. 'Comgar', based on 'gar' ('short [of time or space]', 'near'), is translated as '(equally) near, ready' in DIL, citing 'i gcomhghar dhuibh', from a miscellaneous collection of Classical Irish poetry, as an example of 'comgar' in prepositional phrases with the preposition 'do', or genitive, in the sense of 'near (to)'.  
Turning to the Acts, 'which may be the area in the vicinity of the court' is translated as 'a bhféadfaidh gurb é an limistéar i gcomharsanacht na cúirte é' in s14(2) of the Juries Act, 1976. In s14(1)(c)(ii) of the Intoxicating Liquor Act, 1960, 'that they are located, either, partly on that site or in the immediate vicinity' is translated as 'gur ar an láithreán sin atá cuid de nó gur ina gharchomharsanacht atá sé'. Note that in s24(1) of the Constitution (Amendment No. 17) Act, 1931, we find 'the holding of public meetings in or in vicinity of any particular building ...' translated as 'cruinnithe puiblí do chomóradh in aon fhoirgint áirithe ... no in aice leo'.

Commenting on 'i gcomharsanacht' in a draft of the direct translation below, Professor Máirtín Ó Murchú



remarks that the sense of this word might be too broad for this context, i.e. outside of the gates. He therefore recommends retaining the phrase of the original text.

*briseadh síochána* This phrase is translated as 'breach of the peace' in *Téarmaí Dlí*. In s17(1)(a) of the Offences Against the State Act, 1939, 'to commit or to plan, contrive, promote, assist or conceal the commission of any crime or any breach of the peace' is translated as 'aon choir no aon bhriseadh síochána dhéanamh no san do bheartú, do thabhairt chun críche, no do chur ar aghaidh no cabhrú leis nó é cheilt'. See the commentary on Article 15.13.

### Standardised Irish text

Ceart na saoránach chun teacht ar tionól go síothóilte gan arm.

Féadfar socrú a dhéanamh de réir dlí chun cosc a chur nó rialú a dhéanamh ar thionóil a gcinnfear de réir dlí gur baol briseadh síochána a theacht díobh nó gur contúirt nó cránas don phobal i gcoitinne iad, agus fós ar thionóil i gcóngar do cheachtar de Thithe an Oireachtais.

### Direct translation

Ceart na saoránach chun tionól go síochánta agus gan arm.

Féadfar socrú a dhéanamh le dlí chun cruinnithe a chosc nó a rialú a gcinnfear de réir dlí gur dóigh dóibh briseadh síochána a tharraingt<sup>1</sup> nó bheith ina gcontúirt nó ina núis don phobal i gcoitinne agus chun cruinnithe i gcóngar<sup>2</sup> ceachtar Tí den Oireachtas a chosc nó a rialú.

### Variants

- 1 'a chur faoi deara'
- 2 'i gcomharsanacht'

## ARTICLE 40.6.1<sup>oiii</sup> AIRTEAGAL 40.6.1<sup>oiii</sup>

### TÉACS GAEILGE

Ceart na saoránach chun comhlachais agus cumainn a bhunú.

Ach is cead dlíthe a achtú chun oibriú an chirt réamhráite a rialú agus a stiúradh ar mhaithe leis an bpobal.

### LITERAL ENGLISH TRANSLATION

The right of the citizens to establish associations and societies.

But it is permitted to enact laws to regulate and direct the operation of the aforesaid right for the good of the people.

### ENGLISH TEXT

The right of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

### Divergences between the official texts

- 1 'Unions' is expressed as 'cumainn' in the Irish text, which is the plural form of the term translated as 'society' in *Téarmaí Dlí*, although 'trade union' is translated there as 'ceardchumann', the general Irish term for 'trade union'.
- 2 'To form' is expressed as 'a bhunú' ('to establish') in the Irish text.
- 3 'Exercise' is again expressed by 'oibriú', which is the Irish legal term for 'operate'.
- 4 'Regulation' is expressed as 'rialú', the verbal noun of the verb translated as 'control'/'rule' in *Téarmaí Dlí*.
- 5 'The foregoing' is expressed as 'réamhráite' ('aforesaid'/'aforementioned') in the Irish text.
- 6 'However' is again expressed as 'Ach' ('But') in the Irish text.
- 7 'Is cead' ('it is permitted') again expresses 'may' in the Irish text.

Note that 'The right ... to form associations and unions' is translated as 'ceart cumainn nó aontaisí do bhunú' in Article 9 of the 1922 Constitution.

### Commentary

*cumann* 'Cumann' is translated as 'society' in *Téarmaí Dlí*, where 'cara-chumann' is translated as 'friendly society' and 'comharchumann' as 'co-operative society', with 'trade union' being translated as 'ceardchumann'. 'Association; club, society' is one of the senses of 'cumann' ('of organised body') given in *Ó Dónaill*, who refers to 'Cumann Lúthchleas Gael' ('the Gaelic Athletic Association'), as well as 'cumann liteartha' ('literary society'), 'cumann polaitíochta' ('political club') and 'cumann lucht tráchtála' ('chamber of commerce'). 'Society, club' are among the senses of 'cumann' given by *Dinneen*, who cites 'cumann na naomh' (the 'Communion of Saints') from Donlevy's *Irish Catechism*, 1742. 'Cumann' comes from Latin 'commentum', and examples of this word from the Old Irish Glosses of the eighth century onwards are given in DIL, including the following from the ninth-century Milan Glosses on a Latin commentary on the Psalms: 'robói commant n-etarru du denam uilc frimmaccu Israhel' ('there was a covenant between them to do evil to the Children of Israel'), which glosses Latin 'ex professo'. DIL translates 'commant' as 'alliance, pact, union, friendship; company, band; later love, affection'. As an example of the sense of 'union' above, the following is cited in DIL from a poem edited under the title 'Address to David O'Keeffe': 'aigneadh dúnta 'gun rígh ruind / ó da s(h)ín cúpla ar ccomuind' ('seeing that the king's heart has been barred against me since he strained the couplings of our union').

Turning to the modern Acts, in s30(4)(a) of the Fisheries Act, 1980, 'following consultation with any recognised staff associations or trade unions concerned' is translated as 'tar éis comhairle a ghlacadh le haon chomhlachais foirne nó ceardchumann aitheanta lena mbaineann' and in s33(3) of the Capital Gains Tax Act, 1975, 'members of an association of persons for whose benefit the gift was made' is translated as 'comhaltai de chomhlachas daoine ar chun tairbhe dóibh a tugadh an bronntanas'.

We see above that 'cumann' translates 'association' in the 1922 Constitution. We sometimes find 'cumann' instead of the usual 'comhlachas' in titles of organisations –

'Cumann Dochtúirí na hÉireann' ('Irish Medical Association'), as against 'Comhlachas Ban Tí na hÉireann' ('Irish Housewives Association'), for example. 'Cumann' generally translates 'society' in the Acts – 'ciallaíonn "baincéir" duine a sheolann gnó baincéireachta sa Stát agus folaíonn sé cara-chumann, cumann tionscail agus soláthair, cumann foirgníochta ...' translates "'banker" means a person who carries on banking business in the State and includes a friendly society, an industrial and provident society, a building society' in s61(1) of the Finance Act, 1973, for example. 'Cumann' also translates 'union', particularly in relation to a trade union – in s1(1) of the Trade Union Act, 1975 ('An tAcht Ceardchumann, 1975'), for example, 'ciallaíonn "na cumainn chónascacháin" agus "an cumann cónasctha", faoi seach, maidir le cónascadh atá beartaithe, na ceardchumainn a bheartaíonn cónascadh agus an ceardchumann a leanfaidh as an gcónascadh atá beartaithe' translates "'the amalgamating union" and "the amalgamated union", in relation to a proposed amalgamation, mean respectively the trade unions proposing to amalgamate and the trade union which is to result from the proposed amalgamation'. In s2(1) of the Postal and Telecommunications Services Act, 1983, "'recognised unions and associations" means unions and associations recognised by the postal company' is translated as 'ciallaíonn "cumainn agus comhlachais aitheanta" cumainn agus comhlachais atá aitheanta ag an gcuideachta poist', this being defined separately from 'recognised trade unions and staff associations' ('ceardchumainn agus comhlachais foirne aitheanta'). 'Aontas' also translates 'union', 'Treaty on European Union', for example, being styled 'Conradh ar an Aontas Eorpach' in Irish, with 'The Teachers Union of Ireland' being styled 'Aontas Múinteoirí na hÉireann', and 'Allied Irish Bank' being styled 'Banc-Aontas Éireann'.

'Aontas' translates 'union' in early Acts. In s84 of the 'Tirconaill County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'Where a Union formerly comprised portions of two or more Counties' is translated as 'i gcás cuideanna de dhá Chontae no breis do bheith in aontas go dtí so' and in s2(1) of the Local Government (Rates on Agricultural Land) Act, 1924, 'for county-at-large, union, or district charges' is translated as 'i gcóir muirearacha contae iomláine, aontais no ceantair'. 'The Board of Guardians of the Dublin Union' is translated as 'Bord Caomhnóirí Aontais Bhaile Átha Cliath' in s2(1) of the Local Government (Dublin) (Amendment) Act, 1931.

*réamhráite* This headword is translated as 'aforesaid, aforementioned' in *Ó Dónaill*. 'Réamh-ráidhte' is translated as 'aforesaid, forecited, foretold' in *Dinneen*. DIL translates 'remráite' as 'aforesaid, above-mentioned', giving among other citations one from the twelfth-century *Book of Leinster*. Note incidentally that 'réamhráiteas' is translated as 'premises (i.e. part of deed preceding habendum)' in *Téarmaí Dlí*.

*De Bhaldraithe* translates 'foregoing' as 'deireanach, réamhráite, thuasluaite, roimhe seo', and 'the foregoing' as 'a bhfuil roimhe seo'. We find 'parts of the foregoing vehicles' translated as 'páirteanna de na feithiclí réamhráite' in *Treaties establishing the European Communities* (1973, p. 1215). Generally, however, in that source, this term translates 'aforesaid', with 'aforesaid benefits' being translated as 'liúntais réamhráite' (p. 1259), for

example. 'Déanta chun na críche réamhráite' translates 'constructed for the purpose aforesaid' in s10(3) of the Value-Added Tax (Amendment) Act, 1978. 'Sin roimhe seo' generally translates 'foregoing' in the Acts – see, for example, s49(d) of the Finance Act, 1990, where 'in the foregoing provisions of this section' is translated as 'sna forálacha sin roimhe seo den alt seo'.

Professor Máirtín Ó Murchú, commenting on a draft of the direct translation below, remarks that 'roimhe seo' would not be understood in this context and recommends retaining 'réamhráite'. See further the commentary on Article 14.4 where 'the foregoing provisions' is expressed as 'na forálacha sin romhainn'.

*comhlachais* 'Airteagail chomhlachais' and 'meabhrán comhlachais' are translated respectively as 'articles of association' and 'memorandum of association' in *Téarmaí Dlí*. 'Comhlachas' is translated as 'association' in *Ó Dónaill*. *Dinneen* does not appear to give this headword. Following the Constitution, s18 of the Offences Against the State Act, 1939, reads as follows:

In order to regulate and control in the public interest the exercise of the constitutional right of citizens to form associations .... *Chun stiúradh agus rialú do dhéanamh ar mhaithe leis an bpuiblíocht ar fheidhmiú an chirt atá ag saoránaigh fén mbunreacht chun comhlachaisí do bhunú.*

In s65(1)(b) of the Railways Act, 1924, 'any chamber of commerce or association representative of shipping' is translated as 'aon chomhlachas tráchtála no comhlachas atá ionadach do loingseoireacht' and in s2(1) of the Public Safety Act, 1927, 'the word "association" includes any combination of persons' is translated as 'foluionn an focal "comhlachas" aon chomhluadar daoine'.

See the commentary on 'cumainn' above regarding 'aontas' translating 'union' in the Acts. Professor Máirtín Ó Murchú remarks, however, that 'aontas' is associated in Irish with large organisations, such as 'Aontas na hEorpa' ('the European Union') and 'Aontas na Sóibhéide' ('the Soviet Union'). Professor Ó Murchú therefore recommends 'cumann' in the direct translation below.

*a bhunú* 'Bunaigh' is translated as 'found, establish' in *Ó Dónaill*, who cites '*teaghlach, comhlacht, a bhunú*, to found a family, a company' – note that 'bunaigh' expresses 'establish' in Article 3, for example. 'Bunúighim' is translated as 'I fix, rest, dwell; I found, begin, establish ...' in *Dinneen*. This verb does not appear to be given as a headword in DIL, where examples are given of 'bunad', 'origin, base, source', from the Old Irish Glosses onwards, and 'bun', on which this is based, is translated as 'the thick end of anything, base, butt, foot'.

Turning to the Acts, 'Every person who shall ... form, organise, promote, or maintain any secret society' is translated as 'Gach éinne ... a bhunóidh, a chó-ghléasfidh, a chuirfidh ar aghaidh, no a choinneoidh suas aon chumann sicréideach' in s8(1) of the Treasonable Offences Act, 1925. In s2(1)(b)(i) of the Credit Union Act, 1966, 'other than for the purpose of forming or conducting a credit union' is translated as 'seachas chun comhar creidmheasa a bhunú nó a stiúradh'. On the other hand, in s12(2) of the Finance (Miscellaneous Provisions) Act, 1968, 'a company or body of persons ... formed or estab-

lished in the State' is translated as 'cuideachta nó comhlacht daoine ... a foirmíodh nó a bunaíodh sa Stát' and in s29(6) of the Finance Act, 1990, 'as if ... references to a partnership agreement were references to the contract forming or providing for the formation of a grouping' is translated as 'ionann is dá mba thagairtí don chonradh ag foirmiú grúpála, nó ag foráil dá foirmiú, tagairtí do chomhaontú comhpháirtíochta'. 'To form a body corporate' is translated as 'comhlacht corpraithe a fhoirmiú' in s8(6)(a) of the Údarás na Gaeltachta Act, 1979. Note that in s36(7)(c) of the Safety in Industry Act, 1980, 'the number of members of the safety committee attending such a meeting shall be at least such as is required to form a quorum' is translated as 'is é an líon de chomhaltaí an choiste sábháilteachta a fhreastalóidh ar chruinniú den sórt sin a oiread ar a laghad is gá chun córam a dhéanamh'. In s2(1)(c) of the Second Schedule to the Health Act, 1970, 'the number of councillors necessary to form a group for the purposes of this rule' is translated as 'an líon comhairleoirí is gá chun bheith ina ngrúpa chun críocha na rialach seo', this being translated as 'an líon comhairleoirí is gá chun grúpa a dhéanamh chun críocha na rialach seo' in s2(1)(d) of the First Schedule to the Health Authorities Act, 1960.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that he much prefers 'a bhunú' to 'a fhoirmiú' there. See further the commentary on Articles 11 and 18.7.1° where 'form' is expressed respectively by 'cuir i' and 'cóirigh'.

*a stiúradh* 'For the control of' is expressed as 'chun ... a rialú' in Articles 10.3 and 10.4, with 'to control' being expressed as 'a rialú' in Articles 33.1 and 40.4.6°, and 'rialú a dhéanamh ar' expressing 'to control' in Article 40.6.1°ii.

'Stiúradh' is the verbal noun of 'stiúir'. 'Stiúraim' is translated as 'I conduct (case, etc.)' in *Téarmaí Dlí*, where 'foirceannadh faoi stiúradh' is translated as 'winding up under supervision', with 'stiúrthóir' being translated as 'director'. The verb 'stiúir' is translated as (1) 'steer' and (2) 'guide, direct, control' in *Ó Dónaill*, who cites '*fir oibre a stiúradh*, to direct workmen' and '*gnó a stiúradh*, to conduct a business'. *Dinneen* translates 'stiúruighim' as 'I direct, guide, steer, chastise; introduce, initiate, cause'. DIL translates 'stiúraid' as 'steers, guides, directs', this verb being based on 'stiúir', translated as (a) 'rudder, helm'; (b) 'guidance, control, government' and (c) 'guide, controller' in DIL, 'stiúir' coming from Old Norse, 'styri' – one of many Irish nautical terms which come from Old Norse.

'Stiúir' generally translates 'conduct' and 'direct' in the Acts, 'seol' also translating 'conduct'. In s4(1) of the Criminal Justice (Legal Aid) Act, 1962, for example, 'beidh an duine sin i dteideal cúnaimh dlíthiúil in aisce a fháil chun achomharc a ullmhú agus a stiúradh' translates 'the person shall be entitled to free legal aid in the preparation and conduct of an appeal'. 'Agus a stiúran bainistíocht na cuideachta sin' translates 'and directs ... the management of (any public utility) company' in s79(3)(c) of the Corporation Tax Act, 1976, for example. We find 'stiúir', however, translating the verb 'control' in the earlier Acts. In s9 of the Civil Service Regulation Act, 1923, for example, 'The Minister for Finance may from time to time make regulations for controlling the Civil Service of the Government of Saorstát Éireann' is translated as 'Féadfaidh an tAire Airgid rialacháin do dhéanamh o am go ham

chun Seirbhís Shíbhialta Rialtais Shaorstáit Éireann do stiúra' and 'Control of Forces' is translated as 'Stiúra na bhFórsaí' in the Margin Title of s5 of the Defence Forces (Temporary Provisions) Act, 1923.

In Article 6 of the 1922 Constitution, 'to prohibit control or interfere with any act of the military forces of the Irish Free State' is translated as 'aon ghníomh dá ndéanfaidh fórsaí airm Shaorstáit Éireann do chosg, do smachtú ná do thoirmeasg'. 'Control of staff' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'rialú' in a Report of the Public Accounts Committee, 1928. 'I control' is translated as 'rialáim' in *Téarmaí Dlí* and is generally so translated in the modern Acts. In s10 of the Road Traffic (Amendment) Act, 1978, for example, 'while he is under the influence of an intoxicant to such an extent as to be incapable of having proper control of the vehicle' is translated as 'agus é an oiread sin faoi bhri meiscigh nach féidir leis an fheithicil a rialú i gceart'. See further the commentary on Articles 10.3 and 45.2.ii, where 'rialáigh' and 'urlámhas' respectively express 'control'. In the present Article, however, 'rialáigh' expresses 'regulate', as it does in general in the Constitution. Professor Máirtín Ó Murchú, commenting on the direct translation below, recommends substituting 'a stiúradh' for 'a rialáil' to avoid 'a rialáil agus a rialú', particularly for stylistic reasons.

*ar mhaithe leis an bpobal* 'Gur chuí scrúduithe den sórt sin a dhéanamh ar mhaithe leis an bpobal' translates 'that, in the public interest, such examinations are proper' in s9(6)(b) of the Consumer Information Act, 1978. 'Ar mhaithe le' generally translates 'in the interests of' in the Acts – in s14(1) of the Criminal Procedure Act, 1967, for example, 'ar mhaithe leis an gceartas' translates 'in the interests of justice'. Note that in s37(5) of the Fisheries Act, 1980, 'that ... it is in the public interest that the fishery should be so acquired' is translated as 'gur le leas an phobail é an t-iascach a fháil amhlaidh'.

*a rialú* 'Rialáim' is translated as 'I control' and 'I rule' in *Téarmaí Dlí* – see the commentary on Article 10.3.

*oibriú* 'Oibrím' is translated as 'I operate' in *Téarmaí Dlí* – see the commentary on Articles 3 and 13.5.1°.

### Direct translation

Ceart na saoránach chun comhlachais agus aontais<sup>1</sup> a fhoirmiú<sup>2</sup>.

Féadfar, áfach, dlíthe a achtú chun feidhmiú an chirt réamhráite<sup>3</sup> a rialáil agus a rialú<sup>4</sup> ar mhaithe leis an bpobal.

### Variants

- 1 'cumainn'
- 2 'a bhunú', 'chun bheith ina gcomhlachais agus ina n-aontais'
- 3 'sin romhainn', 'sin roimhe seo'
- 4 'a stiúradh'

## ARTICLE 40.6.2° AIRTEAGAL 40.6.2°

### TÉACS GAEILGE

Ní cead aon idirdhealú, maidir le polaitíocht nó creideamh nó aicmí, a bheith i ndlíthe a rialaíos modh oibrithe an

chirt chun comhlachais agus cumainn a bhunú agus an chirt chun teacht le chéile ar saorthionól.

#### LITERAL ENGLISH TRANSLATION

No distinction, with regard to politics or religion or class, is permitted in laws which will regulate the method of operating the right to establish associations and societies and the right to come together in free-assembly.

#### ENGLISH TEXT

Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

#### Divergences between the official texts

- 1 The emphasis in the English text is on the laws not containing discrimination, the Irish text focusing on discrimination, with no discrimination being allowed in such laws; again we find the phrase 'Ní cead' ('It is not permitted') in the Irish text expressing 'no ... shall', with 'Laws ... shall contain ... no discrimination' being expressed as 'Ní cead aon idirdhealú ... a bheith i ndlíthe' ('It is not permitted to have any discrimination ... in laws').
- 2 'Political, religious or class discrimination' is expressed as 'idirdhealú, maidir le polaitíocht nó creideamh nó aicmí' ('discrimination, as regards politics or religion or classes') in the Irish text.
- 3 As in many earlier Articles, 'regulating' is expressed in the Irish text by 'rialú', which term is translated as 'ruling'/'controlling' in *Téarmaí Dlí*, and 'exercise' is expressed by 'oibriú', which term is translated as 'operate' in *Téarmaí Dlí* – 'laws regulating the manner in which the right ... may be exercised' is expressed as 'dlíthe a rialaíos modh oibríthe an chirt' ('laws regulating the manner of operating the right') in the Irish text.
- 4 'Class' is expressed as 'aicmí' (*lit.* 'classes'), a plural in Irish sometimes rendering a singular in English.
- 5 As earlier, 'union' is expressed by 'cumann', which term is translated as 'society' in *Téarmaí Dlí*, and 'free assembly' is expressed as 'teacht le chéile ar saorthionól' ('come together in free assembly'), in the Irish text.

Note that Article 9 of the 1922 Constitution concludes as follows:

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. *Na dlíthe a rialóidh an tsí 'na bhféadfar ceart cumainn do bhunú agus ceart saor-theacht le chéile do chur i bhfeidhm, ní dhéanfaid aon leithreachas i dtaobh polaitíochta ná creidimh ná aicme.*

#### Commentary

*idirdhealú* This headword is translated as 'differentiation, discrimination, distinction' in *Ó Dónaill*, where 'idirdhealú a dhéanamh (ar)' is translated as 'to differentiate, make a

distinction (between)'. *Dinneen* translates 'idirdhealughadh' as 'act of separating or breaking apart, discriminating; distinction, separation, difference, analysis, divorce'. DIL includes 'ga itirdeliugad no itirdethbireagad do nach du gradaib feni ... acht du na gradaib flatha' ('making the distinction that is not for the Féne grades ...'), from a commentary on an early Irish law-tract, among the examples cited of 'eterdeligid' in the sense of 'distinction, distinguishing, differentiating, dividing between', this being the verbal noun of 'eterdeligid', a compound of 'eter' ('between') and 'deligid' ('separates').

'Idirdhealú' translates 'discrimination' in particular in the Acts, with 'nach ndéanfar aon idirdhealú ar bhonn gnéis' translating 'there shall be no discrimination on the basis of sex' in s67(1) of the Pensions Act, 1990, for example. We also find 'idirdhealú' translating 'distinction' – in s12(2) of the Capital Gains Tax Act, 1975, for example, 'na forálacha go léir den Acht seo a dhéanann idirdhealú idir gnóchain inmhuirearaithe agus gnóchain nach inmhuirearaithe' translates 'all the provisions of this Act which distinguish gains which are chargeable gains from those which are not'.

In Article 8 of the 1922 Constitution, 'make any discrimination as respects State aid' is translated as 'aon deifríocht do dhéanamh i dtaobh cabhrach Stáit'. 'Eadardhealuíocht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'discrimination' in the *Proceedings of Dáil Éireann, 27/6/39. L. Mc Cionnaith* refers the reader to 'distinguish, difference', s.v. 'discriminate', and cites the following s.v. 'distinction (between)': '*an bhfuil idirdheal/bhjú eatortha* (Munster [M], Connacht [C]), *ní féidir leat idirdheal/bhjú do dhéanamh eatortha* (M,C), no distinction between them, treated as equals, *ní raibh idirdheal/bhjú eatortha* (C,M), distinction, *déanfad idirdheal/bhjú idir mo dhaoine agus do dhaoine-sa* (C,M)'. Note, finally, that a comma follows 'idirdhealú' in the original text and in a recent popular edition, no such comma being found in the 1997 popular edition.

*aicmí* The plural form of 'aicme', which headword is translated as (1) 'genus; class', (2) 'family, tribe', (3) 'set, clique' in *Ó Dónaill* and as 'a sort or kind, a class, a family, race, a tribe' in *Dinneen*. DIL translates 'aicme' as 'race, family, tribe; genus, class', citing 'aicme insin di flistinib' ('that [is] a tribe of the Philistines') from the ninth-century Milan Glosses on the Psalms.

Turning to the Acts, 'a thoghadh ag aicmí nó ag cibé aicmí toghthóirí a shonrófar amhlaidh' translates '(shall) be elected by a class or by such classes of electorate as may be so specified' in s10(4)(a)(i) of the Fisheries Act, 1980, for example, and in s5(3)(b) of Part II of the Second Schedule to that Act, 'ag vótaíocht toghlacha d'aicme áirithe' translates 'at a poll of an electorate of a particular class'. In s19 of the 'Clare County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, we find the following regarding 'Admission to Public Health Institutions':

The persons whose signatures to the declaration will be 'recognised' are Clergymen, Medical Practitioners, Brehons, County Councillors, and Rural and Urban Councillors, the three signatures being of different classes. *Siad daoine 'na dtabharfar 'aithint' dá sighthíthe ar an bhfaisnéis ná an Chléir, Dochúirí, Breithimh, Comhairleoirí Contae, Comhairleoirí*

*Tuath-cheanntair agus Comhairleoirí Baile-cheanntair, agus ní foláir na sionnitheoirí do bheith ina dtriúr de thrí haicmí fé leith.*

See further the commentary on Articles 44.2.4° and 45.4.1°.

*modh oibrithe* ‘Oibriú’ is translated as ‘operation’ in *Téarmaí Dlí*, being the verbal noun of ‘oibrigh’, the first person singular of which, ‘oibrím’, is translated as ‘I operate’. ‘Modh oibrithe’ is directly descended from Latin ‘modus operandi’ in that the earlier form of ‘obair’ (‘work’), on which the verb ‘oibrigh’ is based, i.e. ‘opair’ (‘opair’), comes from Latin ‘opera’ and ‘modh’, earlier ‘mod’, comes from Latin ‘modus’ and translates ‘modus’ in the Glosses of the eighth century onwards.

Regarding ‘modh’ in the Acts, in s11(2) of the Health Act, 1970, for example, ‘Féadfaidh ordú faoin alt seo sócrú a bheith ann i dtaobh an mhodha a n-íocfar na caiteachais’ translates ‘An order under this section may provide for the manner in which expenses ... are to be met’. ‘Modh’ expresses ‘manner’ in Articles 18.6 and 34.1. See the commentary on Article 12.2.3° where ‘ar mhodh’ expresses ‘by means of’ and see further the commentary on Articles 13.5.1°, 18.6 and 34.1 regarding ‘modh’.

*saorthionól* This compound does not appear to be cited as a headword in *Ó Dónaill* nor in *Dinneen*. See the commentary on Article 40.6.1°iii, where ‘The right of the citizens to assemble peaceably’ is expressed as ‘Ceart na saoránach chun teacht ar tionól go sítheoilte’. ‘Tionól’ is the standard form of the verbal noun of ‘tionóil’.

*a bheith* Regarding ‘contain’ in the Acts, see s99(3) of the First Schedule to European Assembly Elections Act, 1977, where ‘by reason of a non-compliance with any provision contained in this Act’ is translated simply as ‘mar gheall ar neamhchomhionadh aon fhorála san Acht seo’. In s24 of the Finance Act, 1990, ‘tax contained in an assessment for any year of assessment’ is translated as ‘aon cháin a bheidh ar áireamh i measúnacht d’aon bhliain mheasúnachta’. See further the commentary on Article 46.4.

*a rialaíos* For the special form of the relative, see the commentary on Article 6.1. ‘Rialaim’ is translated as ‘I control, I rule’ in *Téarmaí Dlí* – see the commentary on Article 12.5.

### Standardised Irish text

Ní cead aon idirdhealú, maidir le polaitíocht nó creideamh nó aicmí, a bheith i ndlíthe a rialaíonn modh oibrithe an chirt chun comhlachais agus cumainn a bhunú agus an chirt chun teacht le chéile ar saorthionól.

### Direct translation

Ní bheidh aon idirdhealú polaitiúil, creidimh ná aicme i ndlíthe a rialálfaidh an modh a bhfeidhmeofar an ceart chun comhlachais agus aontais<sup>1</sup> a fhoirmiú<sup>2</sup> agus an ceart chun saorthionól<sup>3</sup>.

### Variants

- 1 ‘cumainn’
- 2 ‘a bhunú’
- 3 ‘saorthionól’

## ARTICLE 41.1.1° AIRTEAGAL 41.1.1°

### THE FAMILY AN TEAGHLACH

#### TÉACS GAELIGE

Admhaíonn an Stát gurb é an Teaghlach is buíon-aonad príomha bunaidh don chomhdhaonnacht de réir nádúir, agus gur foras morálta é ag a bhfuil cearta doshannta dochloíte is ársa agus is airde ná aon reacht daonna.

#### LITERAL ENGLISH TRANSLATION

The State acknowledges that the Family is the basic primary group-unit of/for society according to nature, and that it is a moral institution which has inalienable invincible rights which are more ancient and higher than any human statute.

#### ENGLISH TEXT

The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

#### Divergences between the official texts

- 1 ‘The State recognises the Family as ...’ is expressed as ‘Admhaíonn an Stát gurb é an Teaghlach is’ (‘The State recognises that it is the Family which is ...’) in the Irish text.
- 2 ‘Society’ is expressed by a term now infrequently used, ‘comhdhaonnacht’, only the adjectival form of which is cited in the main Modern Irish dictionary, this term being found in other Articles of the Constitution; ‘sochaí’ is the term in current usage rendering ‘society’. Note that ‘society’ in the English text has an initial capital as against the lower case ‘c’ of ‘comhdhaonnacht’.
- 3 ‘Unit group’ is expressed by an ad hoc compound, ‘buíon-aonad’, literally ‘group unit’; following the usual order of Irish compounds ‘unit group’ would be ‘aonadbhuíon’.
- 4 ‘Fundamental’ is expressed by the genitive singular of ‘bunadh’ as attributive, this term translating ‘original’ in *Téarmaí Dlí*, the sense ‘fundamental’ also being recorded in dictionaries.
- 5 ‘All positive law’ is expressed as ‘aon reacht daonna’ (‘any human statute/law’) in the Irish text – note, however, that ‘daonna’ is used in *Téarmaí Dlí* to express ‘positive’, ‘dlí’ replacing ‘reacht’ in the translation of ‘positive law’ in *Téarmaí Dlí* (i.e. ‘dlí daonna’).
- 6 ‘Dochloíte’ expresses ‘indefeasible’ in Article 1, this term being translated as ‘conclusive’ in *Téarmaí Dlí*, where ‘imprescriptible rights’ is translated as ‘cearta dochealaithe’.
- 7 ‘Inalienable’ is expressed as ‘doshannta’ in the Irish text, a term which is based on ‘sann’, ‘assign’ (‘sannaim’, ‘I assign’, in *Téarmaí Dlí*) rather than ‘alienate’ (‘coimhthím’, ‘I alienate’, in *Téarmaí Dlí*); *Ó Dónaill* lists ‘inalienable’ among the meanings of ‘doshannta’, however.
- 8 ‘Natural’ is expressed as ‘de réir nádúir’ (‘according to nature’) in the Irish text.

- 9 'Antecedent' is expressed as 'is ársa' ('more ancient') in the Irish text.
- 10 'Superior' is expressed as 'is airde' ('higher') in the Irish text.

Writing on 'Conflicts which have not yet surfaced' between the texts of the Constitution, J.M. Kelly, *op. cit.*, p. 210f., remarks:

There may be another instance [i.e. of conflict] in Article 41.1, in which the rights of the family are called in English "imprescriptible", defined by Kenny J in *Ryan v Attorney General* ([1965] IR 294) as "that which cannot be lost by the passage of time or abandoned by non-exercise". The corresponding Irish expression, "dochloíte", does not have this meaning, and conveys only something like "irrepressible", "indomitable" (in Article 1 it is used as the equivalent of "indefeasible", and in Articles 25.4.5, 25.5.3 and 63 as the equivalent of "conclusive" in the context of evidence).

### Commentary

*Teaghlach* 'Comhshocraíocht teaghlach' is translated as 'family arrangement' in *Téarmaí Dlí*. 'Teaghlach' is translated as 'household, family' in *Ó Dónaill*, and as 'a family or household, familia or monastic family, an ethnic family or group, followers, escort; a house' in *Dinneen*, who cites the following from a traditional song: 'is deimhin go dtógfainn teaghlach nódh duit is chuirfinn cóir air 'dir shlinn is chloich' ('sure I would build you a new house and build it right of stone and slate'). 'Teglach' is translated as 'inmates of a house, household, family, following' in DIL, where 'óis teglig' ('folk of [His] family') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles. 'Teglach' also had the sense of 'household troops, following, supporters, army' – see the version of the *Táin* in *Leabhar na hUídhre* (completed before 1106), for example – 'teglach' being an ancient compound of 'teg' ('house') and 'slog' ('troop') according to Rudolf Thurneysen (*A Grammar of Old Irish*, s130.1(a)).

Looking at early translations of 'family', 'When the proprietor sub-divides his holding for a limited period by way of family arrangement' is translated as 'Sa chás ina ndéanfidh an t-únaer a gabháltas d'fho-roinnt ar feadh tréimhse teoranta mar oiriúnaíocht dá theaghlach' in s65(3) of the Land Act, 1923. 'To inquire into the circumstances of the persons and families in receipt of outdoor relief' is translated as 'Féachaint cad is cás do sna daoine agus do sna muirineacha atá ag fáil fóirithinte allamuich' in s4 of the 'Kerry County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The necessary wearing apparel and bedding of a person against whom an execution shall be levied, and the necessary wearing apparel and bedding of his family ... shall be exempt from liability to seizure' is translated as 'maidir le cuid éadaigh agus cóir leapan riachtanach an té go ndéanfar feidhmiúchán ina choinnibh agus cuid éadaigh agus cóir leapan riachtanach a chúraim... ní féadfar gabháil do dhéanamh ortha' in s5 of the Enforcement of Law (Occasional Powers) Act, 1924. 'Without employing others except members of their own family' is translated as 'gan daoine eile ar fostú acu ach daoine dá líntighe féin' in s110(11) of the Dundalk Harbour and Port Act, 1925. Finally, 'family vault' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'boghtaine clainne'

in translations for the Department of Local Government and Public Health.

*buíon-aonad* 'Buíon' is translated as 'band, company' in *Ó Dónaill*. *Dinneen* translates 'buidhean-tsluagh' as 'a company' and 'd'aon bhuidhin' as 'of one accord, of the same opinion'. DIL translates 'buiden' as 'band, group, collection of persons ...' – see the commentary on Article 29.4.2<sup>o</sup>, where 'buíon' expresses 'group'.

'Aonad' is translated as 'unit' in *Ó Dónaill*. It does not appear to be given as a headword in *Dinneen*. 'The company or unit trust scheme was a non-qualifying offshore fund' is translated as 'go mba chiste eischósta neamhcháilitheach an chuideachta nó an scéim iontaobhais aonad' in s63(1)(b) of the Finance Act, 1990, with 'iontaobhas aonad' translating 'unit trusts' in the Margin Title of s37 of the Finance Act, 1979. 'To accommodate women internees who are not members of a family unit in the same place of internment as men' is translated as 'ban-imtheorannaithe nach mbaineann le teaghlach áirithe a lonnú san áit imtheorannaithe chéanna le fir' in Article 85 of the Fourth Schedule to the Geneva Conventions Act, 1962. 'Any military unit (being a staff, unit or other element organised under section 22)' is translated as 'aon chomhlucht míleata (is foireann, aonad nó feadhán eile a bheas eagraithe faoi alt 22)' in s23 of the Defence Act, 1954. 'For a registration unit in a constituency' is translated as 'le haghaidh aonaid chláráitheachta i ndáilcheantar' in s6(1) of the Electoral (Amendment) Act, 1947.

'Aontán' translates 'unit' in the very early Acts, with 'each ward shall be treated as a separate registration unit' being translated as 'glacfar gach bárd díobh in' aontán clárathachta fé leith' in s1(a) of the First Schedule to the Electoral Act, 1923, for example. 'The expression "unit" shall mean the energy contained in a current of one thousand amperes flowing under an electro motive force of one volt during one hour' is translated as 'ciallóidh an focal "aontán" an neart atá i sruth míle ampéir ag rith fé fhórsa leictre-thiomána volta in uair a' chluig' in the Fourth Schedule to the Sligo Lighting and Electric Power Act, 1924. Finally, 'unit of horse power' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'aontán an each-nirt' in translations for the Department of Local Government and Public Health.

*príomha* 'Fianaise phríomha' and 'ordú príomha' are translated respectively as 'primary evidence' and 'primary order' in *Téarmaí Dlí*. *Ó Dónaill* translates 'príomha' as 'prime, primary'. *Dinneen* translates 'príomhdha' as 'primitive, chief, primary'. 'Prímda(e)' is translated as 'foremost, principal, pre-eminent' in DIL. The Irish adjective 'prím-', later 'príomh-', is a borrowing of the Latin 'primus'; like 'dea-', 'droch-', 'sean-', as Professor Máirtín Ó Murchú remarks, its normal use is in prefixed position; used predicatively, it had the form 'prímdae', later 'príomhdha', and is now 'príomha'.

'The "primary fund"' is translated as 'an "ciste príomha"' in s6(1)(a) of the Fifth Schedule to the Finance Act, 1990. 'By the substitution of "primary" for "sole"' is translated as 'tri "príomh" a chur in ionad "aon"' in s3 of the Insurance Act, 1981, with 'being the primary obligation of the person under the contract' being translated as 'arb é ... príomh-oibleagáid an duine faoin gconradh'. 'Or the primary liability of the County Council' is translated as 'ná do

phriomh-fhiachas na Comhairle Contae' in s9(c) of the Pier and Harbour Provisional Order Confirmation Act, 1929. See further the commentary on Article 42.1.

*recht* This headword is translated as 'statute' in *Téarmaí Dlí*, where 'Reacht na dTréimhsí' translates 'Statute of Limitations'. 'Reacht' is principally translated as 'law' in *Ó Dónaill*, citing '*recht Dé*, the law of God' and '*riail agus recht*, law and order', secondly as 'statute' and thirdly as 'accepted rule', citing '*tá sé ag éirí ina recht*, it is becoming the recognised rule'. 'Reacht' is translated as 'a law, decree, statute or ordinance; power, authority; régime or dispensation; a right, a principle' in *Dinneen*, citing '*an recht ársata*, the Old Law, the ancient order of things', '*bunrecht*, constitution'. DIL cites examples of 'recht' from the Old Irish Glosses onwards, including the following from the eighth-century Würzburg Glosses on the Pauline Epistles: 'rom-soir-sa rect spirto di rect pectho' ('the law of the spirit has delivered me from the law of sin'), glossing Latin 'lex spiritus ... a lege peccati'. 'Recht' is translated as 'law, in wide sense of a collective system of prescripts, whether traditional or codified or inherent'; in the Glosses it renders Latin 'lex', later superseded by 'dliged', according to DIL. Fergus Kelly, op. cit., p. 319, translates 'recht' as 'law, rule; law-abiding person, person of legal status'. Latin 'rectum' ('right'), 'rego' ('rule') and English 'right' come from the same root ('reg') as 'recht' – see Alexander Macbain, op. cit., s.v. 'reachd'.

See the commentary on Article 43.1.1° regarding 'is ársa ... ná aon recht daonna'. 'Ársa' is translated as (1) 'ancient, antique' and (2) 'aged, veteran' in *Ó Dónaill* and as 'old, aged, ancient, antique, venerable, stable' in *Dinneen*. DIL cites examples of 'arsaid', 'old, ancient, aged', from the Glosses onwards, including the following from the eighth-century Würzburg Glosses Latin on the Pauline Epistles: 'ni sin chomairbirt arsid' ('not in the old way of life').

*bunaidh* 'Fundamental political duties' is expressed as 'bundualgas polaitiúil' in Article 9.2, 'Bunchearta' expressing 'Fundamental Rights' is the heading for Articles 40-44. 'Bunaidh' is the genitive singular of 'bunadh' as attributive. 'Dlínse bhunaidh' and '(doiciméad, etc.) bunaidh' are translated respectively as 'original jurisdiction' and 'original (document, etc.)' in *Téarmaí Dlí*. 'Bunaidh' is translated as 'original, fundamental; basic, basal' in *Ó Dónaill* and as 'original, primitive, own' in *Dinneen*, who translates 'béarla bunaidh' and 'bíodhbha bunaidh' respectively as 'native speech' and 'an inveterate enemy'. DIL quotes 'amal ind cláinn bunid' ('like the original clan'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the genitive singular of 'bunad' as attributive adjective, which has the senses of 'original, fundamental; native, hereditary; inherent, own, proper; basic, established, certain, veritable, real', according to DIL. 'Bunad' is based on 'bun'.

*L. Mc Cionnaith* translates 'fundamental mistake, matters, &c.' as 'dearmhad, &c. neithe ṛc., bunaidh (*Connacht, Munster*)', translating 'fundamental tenets of F.' as 'bunailt an chreidimh (*Connacht*)' and 'fundamental custom &c.' as 'nós, ṛc. bunadhasach (*Connacht*)' – the standard form of the latter being 'bunúsach'. 'Fundamental discord' is translated as 'dí-chuibhdheas bunaidh' in *Téarmaí Ceoil* (1933).

Turning to the Acts, 'bunaidh', following *Téarmaí Dlí*, usually translates 'original', with 'aon athrú nó athfhoirgníú ar na foirgnimh a bhainfeadh a sainghnéithe bunaidh díobh' translating 'any alteration or reconstruction of the buildings so that they lose their original identity' in s9(2) of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978, for example. 'The Community Charter of the Fundamental Social Rights of Workers' is, however, cited in Rannóg an Aistrúcháin as being translated as 'Cairt Chomhphobail um Chearta Sóisialta Bunaidh le haghaidh Oibríthe' (1992). Turning to 'fundamental' in the Acts, this is usually translated as 'bunúsach'. 'There has been a serious departure from a fundamental rule of procedure' is translated as 'gur tréigeadh, ar mhodh tromchúiseach, riail bhunúsach nós imeachta' in Article 52(1)(d) of the Second Schedule to the Arbitration Act, 1980, for example. In s20(a) of the Finance Act, 1973, 'the European Convention for the Protection of Human Rights and Fundamental Freedoms' is translated as 'an Coinbhinsiún Eorpach chun Cearta an Duine agus Saoirsí Bunúsacha a Chosaint'. 'For everyone's rights and fundamental freedom' is translated as 'le haghaidh ceart agus saoirsí bunúsacha do chách' in the Preamble to the Schedule to the Data Protection Act, 1988, with 'the fundamental values of the respect for privacy' being translated as 'na luachanna bunúsacha a bhaineann le hurraim don phríobháideacht'. 'Involving changes in the fundamental structure of the economic organization of members' is translated as 'a bhaineas le hathruithe bunúsacha ar eagraíocht gheilleagar chomhlachtaí' in s8 of Article XII of the Schedule to the Bretton Woods Agreements Act, 1957. Note, finally, that 'accepted as fundamental' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'glactar mar bhun-riail' in a 1927 Report from the Public Accounts Committee.

*is airde ná* As regards 'superior to' in the Acts, 'any person entitled to an interest in the land held by the lessee or tenant superior to the interest of the person from whom the lessee or tenant hold the land' is translated as 'aon duine ag a bhfuil teideal chun leasa sa talamh a theachtann an léasaí nó an tionónta níos uasta ná léas an duine óna dteachtann an léasaí nó an tionónta an talamh' in s2 of the Landlord and Tenant (Ground Rates) Act, 1967. 'Any estate or interest therein superior to the leasehold interest therein' is translated as 'aon eástát no leas ann is uachtaraighe ná an leas léas-seilbhe ann' in s10 of the Creameries (Acquisition) Act, 1943. In s39 of the Land Act, 1923, 'and all interests superior to them' is translated as 'ar gach leas is aoirde ná iad', with 'whenever such bullion is of a fineness superior or inferior to the standard fineness' being translated as 'pé uair a bheidh fineáltacht an bhuilleoin sin níos aoirde nó níos ísle ná an riail-fhíneáltacht' in s5(2) of the Currency Act, 1927. Finally, note that 'uachtarach' generally translates 'superior' in the earlier Acts, with 'the owner or any superior landlord of the land' being translated as 'únaer an tailimh no aon tiarna uachtarach ar an talamh' in s34(4)(a) of the Local Government Act, 1925, for example.

Professor Máirtín Ó Murchú, commenting on 'níos uasta' in a draft of the direct translation below, remarks that as 'highest, maximum' is the sense of the relatively unfamiliar adjective 'uasta' it does not agree very well with qualifying 'níos'. He finds no fault with 'airde'.

*de réir nádúir* Regarding ‘natural’ in the Acts, ‘the natural or legal person’ is translated as ‘an duine nádúrtha nó dlítheanach’ in Article 2(d) of the First Schedule to the Data Protection Act, 1988. “Fallen wool” means wool which has been removed from sheep who have died from natural causes’ is translated as ‘ciallaíonn “olann tite” olann a baineadh de chaora a fuair bás nádúrtha’ in s1(1) of the Wool Marketing Act, 1968. ‘The applicant ... is the mother, natural father or a relative of the child’ is translated as ‘gurb í máthair nó gurb é athair nádúrtha an linbh, nó gur gaol don leanbh an t-iarratasóir’ in s3(1)(b) of the Adoption Act, 1964. In s27(2) of the Intoxicating Liquor (General) Act, 1924, ‘any cave or underground place, whether natural or artificial’ is translated as ‘aon uaimh nó áit eile fé thalamh, nádúrtha nó déanta’. Finally, ‘any substance natural or artificial’ is translated as ‘aon tsubstaint, saordha no aiceanta’ in s3 of the Industrial and Commercial Property (Protection) Act, 1927 – see the commentary on Article 10.1 regarding ‘aiceanta’.

*foras* This headword is translated as ‘ground (of application, etc.)’ in *Téarmaí Dlí. Ó Dónaill* gives this sense as the fourth set of senses under that headword and *Dinneen* translates ‘foras’ as ‘basis, foundation, substance, depth; a principle; an institution ...’. DIL translates ‘foras’ as I(a) ‘that which is stable; stability; basis, foundation, bottom’, this being the original sense according to one scholar; (b) ‘established or fundamental principles of knowledge or science ...’ and II ‘a station, resting-place, dwelling’. See the commentary on Articles 18.4.2° and 40.4.2°.

*don chomhdhaonnacht* *Ó Dónaill* translates ‘comhdhaonnacht’ as ‘social, companionable’, which adjective is found earlier in the Constitution, expressing ‘social’ – see the commentary on Article 15.3.1°. *Ó Dónaill* does not, however, give ‘comhdhaonnacht’ as a headword. *L. Mc Cionnaith* translates ‘social history’ as ‘stair chomhdhaonnachta’ giving *Téarmaí Staire* as source. Note, incidentally, that ‘society’, in the sense of ‘building society’, ‘co-operative society’, is translated as ‘cumann’ with ‘cumann foirgníochta’ and ‘comharchumann’ respectively translating ‘building society’ and ‘co-operative society’, in *Téarmaí Dlí*.

*ag a bhfuil* ‘Or any other person possessing appropriate qualifications or experience’ is translated as ‘nó aon duine eile ag a bhfuil na cáilíochtaí cuí nó an taithí chuí’ in s41(1) of the Building Societies Act, 1989. In s4(3) of the Civil Service Regulation Act, 1923, ‘only persons possessing such special qualifications shall be admitted thereto’ is translated as ‘ní leigfar d’éinne dul fé ach daoine na bhfuil na cáilíochta san fé leith acu’.

*Admhaíonn* See the commentary on Article 40.3.3°, ‘acknowledges’ rather than ‘recognises’, as here, being expressed in that Article by ‘admhaíonn’.

*dochloíte* See the commentary on Article 42.5. Note that ‘imprescriptible rights’ is translated as ‘cearta dochealaithe’ in *Téarmaí Dlí*.

*is ársa ná* See the commentary on Article 43.1.1°.

*doshannta* See the commentary on Articles 1 and 42.1.

### Standardised Irish text

Admhaíonn an Stát gurb é an Teaghlach is buíonaonad príomha bunaidh don chomhdhaonnacht de réir nádúir, agus gur foras morálta é ag a bhfuil cearta doshannta dochloíte is ársa agus is airde ná aon reacht daonna.

### Direct translation

Aithníonn an Stát an Teaghlach mar aonadghrúpa nádúrtha príomha bunúsach na Sochaí, agus mar fhoras morálta a bhfuil cearta dochoimhthithe dochealaithe aige<sup>1</sup>, is tuisce agus is uasta<sup>2</sup> ná gach reacht daonna<sup>3</sup>.

### Variants

- 1 ‘ag a bhfuil cearta dochoimhthithe dochealaithe’
- 2 ‘airde’, ‘uachtaraí’
- 3 ‘a ghabhann roimh gach dlí daonna agus atá níos uasta ná gach dlí daonna’

## ARTICLE 41.1.2° AIRTEAGAL 41.1.2°

### TÉACS GAELIGE

Ós é an Teaghlach is fotha riachtanach don ord chomhdhaonnach agus ós éigeantach é do leas an Náisiúin agus an Stáit, ráthaíonn an Stát comhshuíomh agus údarás an Teaghlaigh a chaomhnú.

### LITERAL ENGLISH TRANSLATION

Since it is the Family which is the necessary foundation for the societal order and since it is imperative for the welfare of the Nation and of the State, the State guarantees to preserve the composition and authority of the Family.

### ENGLISH TEXT

The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

### Divergences between the official texts

- 1 Subsection 2 of the English text follows directly from ss1, with ss2 commencing with ‘The State, therefore, guarantees ...’; in the Irish text, however, there is no syntactic link with the previous section, and the Irish text commences with ‘Ós é an Teaghlach’ (‘Since it is the Family ...’).
- 2 ‘... the Family ... as the necessary basis of social order and as indispensable to the welfare ...’ is expressed as ‘Ós é an Teaghlach is fotha riachtanach don ord chomhdhaonnach agus ós éigeantach é do leas’, ‘Since it is the Family that is the necessary basis for social order and since it is indispensable for the welfare ...’, in the Irish text.
- 3 ‘Indispensable’ is expressed in the Irish text as ‘éigeantach’, usually translated as ‘compulsory’.
- 4 ‘To protect the Family in its constitution and authority’ is expressed as ‘comhshuíomh agus údarás an Teaghlaigh a chaomhnú’ (‘to protect the constitution and authority of the Family’) in the Irish text.



- 5 'To protect' is expressed as 'a chaomhnú', 'to cherish' / 'to preserve', in the Irish text.  
 6 'Constitution' is expressed as 'comhshuíomh' ('composition') in the Irish text.

### Commentary

*fotha* This headword is translated as 'base, foundation; origins, source; cause, reason' in *Ó Dónaill*, being followed by the abbreviation indicating that these senses are cited from the earlier literature only. Professor Máirtín Ó Murchú remarks that this is not entirely correct, 'foth' /fu/ being found in Kerry in the sense of 'base', 'basic structure', and cites 'nil ann ach an foth' (i.e. nothing remains except the base). 'Fotha' is translated as 'foundation, vestige, basis, cause' in *Dinneen*, who cites '*fotha sealbh*, basis of possession' from the *Ancient Laws of Ireland*, '*fothaí na haibhéise*, the foundations of the abyss' and '*dar fotha (foth) Dia*, zounds! by heavens!' According to Rudolf Thurneysen, this word comes from \*fo-suide ('subsidiium') and hence has the sense of 'foundation, basis, bottom', examples of which are cited in DIL from the Glosses of the eighth century onwards, along with examples generally from later sources of the figurative senses of (1) 'foundation, origin, source' and (2) 'cause, ground, reason'. As an example of this first figurative sense, followed by the preposition 'di', we get the following from the *Leabhar Breac*, compiled in 1411 or earlier: 'is iat sin [viz. firta Crist] is fotha 7 is bunad di cech soscela' (i.e. Christ's miracles are the foundation and basis of every Gospel).

'Bása' translates 'basis' in the very early Acts, with 'and should pass a resolution granting to such officials a superannuation ... on the basis laid down by this Article' being translated as 'agus ba chóir dóibh rún do rith chun aois-liúntas ... do dheona do gach oifigeach den tsórt san ar an mbása atá leagtha amach leis an Airtíogal so' in s9 of the 'Cavan County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, for example. 'Déanamh seasmhach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to place on a permanent basis' in *Iris an Phuist*, 14/3/28. Turning to modern Acts, 'where the price paid or payable by the purchaser is taken as the basis for valuation' is translated as 'i gcás gurb é an praghas a d'íoc an ceannaitheoir nó is iníochta aige, an praghas lena nglactar mar bhonn luachála' in s10(4)(i) of the Free Ports Act, 1986. 'If that rent had been adopted as the basis of the assessment' is translated as 'dá nglacfaí leis an gcíos sin mar fhoras na measúnachta' in s13(1) of the Income Tax Act, 1967.

*éigeantach* 'Ceannach éigeantach' is translated as 'compulsory purchase' in *Téarmaí Dlí*. *Ó Dónaill* translates 'éigeantach' as (1) 'enforced, compulsory' and (2) 'needy, distressed', *Dinneen* translating this headword as 'necessary; hard; distressful; mournful; compulsory'. This term is generally known in this century in association with 'Gaeilge' (i.e. 'compulsory Irish' in school). DIL translates 'éicentach' as 'compulsory, necessary, involuntary', citing examples mainly from the works of the seventeenth-century author Geoffrey Keating (Seathrún Céitinn). 'Éicentach' is based on 'éicen' ('necessity, compulsion').

'Impose on the undertakings concerned terms which are not indispensable to the attainment of those objectives' is translated as '(nach) bhforchuireann ar na gnóthais atá

i gceist téarmaí nach bhfuil fíor-riachtanach chun na haidhmeanna sin a ghnóthú' in s4(2)(i) of the Competition Act, 1991. In s1(d) of Article 3 of the First Schedule to the Geneva Conventions Act, 1962, 'all the judicial guarantees which are recognised as indispensable by civilised peoples' is translated as 'gach ráthaíocht bhreithiúnach a n-aithníonn pobail shibhialta gur den riachtanas í', with 'Personnel whose retention is not indispensable' being translated as 'An pearsanra nach mbeidh fíor-riachtanas lena gcoimeád' in Article 30.

Professor Máirtín Ó Murchú, commenting on 'fíor-riachtanach' and 'riachtanach' together in the direct translation below, recommends translating the final clause as 'agus nach beite do leas an Náisiúin agus an Stáit bheith dá uireasa'.

*comhshuíomh* This compound is translated as 'composition' in *Ó Dónaill*, where 'dlí an chomhshuímh' is translated as 'law of constant composition' and 'i gcomhshuíomh' is translated as (i) 'properly arranged' and (ii) (*typography*) 'in register'. *Dinneen* simply translates 'cómhshuidhiughadh' as 'composition'. 'Comsuidigud', verbal noun of 'con-suidigther' ('con-suidi' literally meaning 'places together'), is translated as 'act of compounding, mixing, placing (together); composition' in DIL, where examples are cited from the Old Irish Glosses in particular, some of the later examples having less precise usages.

See the commentary on Article 15.1.1° for 'constitution' in the Acts, generally translated as 'comhdhéanamh', as in that Article. 'Subsection (1) shall not apply to any company having provisions in its constitution that would entitle it to rank as a private company if it had been registered in the State' is translated as 'Ní bhainfidh fo-alt (1) le haon chuideachta a mbeidh forálacha ina comhdhéanamh a thabharfadh teideal di í a áireamh mar chuideachta phríobháideach dá mba sa Stát a cláraíodh í' in s354(4) of the Companies Act, 1963. In s56(4) of the Companies (Amendment) Act, 1983, however, the same text (with 'which has' replacing 'having' and 'public limited' replacing 'private') is translated as 'Ní bheidh feidhm ag fo-alt (1) maidir le haon chuideachta a bhfuil forálacha ina bunreacht a thabharfadh teideal di bheith ina cuideachta phoiblí theoranta dá mba sa Stát a cláraíodh í'.

*a chaomhnú* See the commentary on Article 28.3.3°. 'Cairde a chaomhnú' is translated as 'to cherish friends' and 'nós, teanga, a chaomhnú' is translated as 'to preserve a custom, a language' in *Ó Dónaill*. Among the earlier examples in DIL of the verb 'cáemaid' ('treats kindly, is gracious towards, cherishes') is the following from an Old Irish verse in the *St Gall Priscian*, the infixed pronoun and alliteration contributing to its beautiful brevity: 'nomchoimmediu cóima' ('may the Lord be kind to me'). 'Cáem', on which this verb is based, is translated principally as 'dear, precious, beloved; belonging to the family' in DIL. See the commentary on Article 28.3.2° regarding 'protects' (expressed as 'cosain' in that Article) and note how 'caomhaint do thabhairt d'éinne' translates 'protects any person' in s3(1)(b) of the Treasonable Offences Act, 1925, with the usual term today, 'cosain', cited in Article 20 of the 1922 Constitution, 'to protect ... the private papers of its members' being translated as 'páipéirí príobháideacha a bhall do chosaint'.

*riachtanach* 'Riachtanach' is translated as 'necessary' in *Ó Dónaill*, who translates 'tá sé riachtanach don tsláinte' as 'it is essential to health'. *Dinneen* translates 'riachtanach' as 'necessary, needful; needy, necessitous; compulsory, incumbent (on, *ag*)', citing '*Gaedhealg riachtanach*, compulsory Irish'. 'Slí riachtanais' and 'riachtanais' are translated respectively as 'way of necessity' and 'necessaries' in *Téarmaí Dlí*. Seventeenth-century translations of *Psalms* lxxxii. 4 and *Proverbs* xxxi. 9 provide the only two examples of 'riachtanach' cited in DIL, which headword is translated as 'necessitous, needy' and followed by 'late' in brackets. This adjective seems to have been based on 'riachtanas', which according to DIL is an abstract from 'riachtain', used in the expression 'riachtain a les(s)', a petrified abstract from the phrase 'ro-icc les(s)', 'needs (it)', meaning 'need, necessity' ('less' = Modern Irish 'leas', 'welfare'). 'Riachtain' itself is a Middle Irish variant form of 'ríchtu', verbal noun of 'ro-icc' ('comes'). See further the commentary on Articles 45.2.i (where 'riachtanais' expresses 'needs') and 12.4.5° (where 'gá' expresses 'necessary').

*Ós é...* As regards 'therefore' in the Acts, 'Be it therefore enacted by the Oireachtas of Saorstát Éireann as follows' is translated as 'Achtuightheadh Oireachtas Shaortsáit Éireann ar an ábhar san mar leanas' in the Preamble to the Adaptation of Enactments Act, 1922, with 'Be it therefore enacted by the Oireachtas as follows' being translated as 'Achtaitear ar an ábhar sin ag an Oireachtas mar a leanas' in the Preamble to the Royal College of Physicians of Ireland (Charter and Letters Patent Amendment) Act, 1979. 'And shall therefore not be bound to apply the minimum penalty prescribed' is translated as 'agus mar sin ní bheidh de cheangal orthu an bun-phionós a ordaitear a chur i bhfeidhm' in Article 87 of the Third Schedule to the Geneva Conventions Act, 1962.

Professor Máirtín Ó Murchú, commenting on the direct translation below of 'as' as 'mar', remarks that the drafters of the Irish text understood 'as' to mean 'since it is' ('ós é ...') and recommends translating that phrase as 'ós é is bonn riachtanach don ord sóisialach'.

*don ord chomhdhaonnach* See the commentary on Articles 38.3.1° and 40.6.1° regarding 'ord', on Article 15.3.1° regarding 'comhdhaonnach' and on Article 45 regarding lenition of the adjective in the dative singular qualifying a masculine noun.

### Standardised Irish text

Ós é an Teaghlach is fotha riachtanach don ord comhdhaonnach agus ós éigeantach é do leas an Náisiúin agus an Stáit, ráthaíonn an Stát comhshuíomh agus údarás an Teaghlaigh a chaomhnú.

### Direct translation

Ráthaíonn an Stát, ar an ábhar sin, an Teaghlach a chosaint ina chomhdhéanamh agus ina údarás, mar bhonn riachtanach an oird shóisialaigh<sup>1</sup> agus mar fhíor-riachtanas do leas an Náisiúin agus an Stáit<sup>2</sup>.

### Variants

- 1 'mar bhonn riachtanach don ord sóisialach', 'ós é is bonn riachtanach don ord sóisialach'
- 2 'agus nach beite do leas an Náisiúin agus an Stáit bheith dá uireasa'

## ARTICLE 41.2.1° AIRTEAGAL 41.2.1°

### TÉACS GAELIGE

Go sonrach, admhaíonn an Stát go dtugann an bhean don Stát, trína saol sa teaghlach, cúnamh nach bhféadfai leas an phobail a ghnóthú dá éagmais.

### LITERAL ENGLISH TRANSLATION

Specifically, the State acknowledges that the woman gives the State, through her life in the family household, assistance/support without which the welfare of the people could not be achieved.

### ENGLISH TEXT

In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

### Divergences between the official texts

- 1 'Teaghlach' expresses 'home' ('family household') in this subsection, expressing 'family' in the previous section and in the heading for this Article.
- 2 'A support' is expressed in the Irish text as 'cúnamh', normally translated as 'assistance', but with the nuance of 'contributive action' according to Professor Máirtín Ó Murchú; 'support' is translated as 'tacaíocht' in *Téarmaí Dlí*.
- 3 'Recognises' is expressed as 'admhaíonn' in the Irish text, this being the same term as expresses 'acknowledges' in Article 40.3.3°, for example.
- 4 As in other Articles, 'the common good' is expressed in the Irish text as 'leas an phobail', this phrase being also found in the Acts; 'an mhaitheas phoiblí' is the translation given in *Téarmaí Dlí*, however.
- 5 'In particular' is expressed as 'go sonrach' ('specifically') in the Irish text.
- 6 'Cannot be achieved' is expressed as 'nach bhféadfai a ghnóthú' ('could not be achieved') in the Irish text.

### Commentary

*saol* 'Árachas saoil' and 'léas saoil (saolta)' are translated respectively as 'life assurance' and 'lease for life (lives)' in *Téarmaí Dlí*. *Ó Dónaill* translates 'saol' as 'life, time, world', giving 'way or sphere of life' as one of its senses, citing '*saol na cathrach, na tuaithe*, city, country, life' and '*saol mná tí*, housewife's life', along with '*tá saol an mhadra bháin aige*, he has a cosy life'. *Dinneen* translates 'saoghal' as 'an age, life, length or circumstances of life ...; a world, the world, circumstances, "things"; living, subsistence, material wealth; everything, everybody'. Old Irish 'saegul', which comes from Latin 'saeculum', is translated as (a) 'period of life, a human lifetime', (b) 'end of life', (c) 'an age, period of time, duration', (d) 'the world' and (e) 'worldly goods, pelf' in DIL, where examples are cited from the Glosses of the eighth century onwards, including 'is garait ar saigul' ('our life is short') from the ninth-century Milan Glosses on the Psalms. See the commentary on Article 16.2.4° (where 'ré' expresses 'life') for early terms for 'life' in the Acts.

*cúnamh* This headword is translated as ‘help’ in *Ó Dónaill*, where ‘cúnamh difhostaíochta, teaghlaigh’ is translated as ‘unemployment, home, assistance’, citing ‘*tá a chúnamh imithe uaidh*, his family have left him’. ‘Congnamh’ is translated as ‘help, succour; act of helping, co-operating with (*le*)’ in *Dinneen*. ‘Congnam’ is the verbal noun of ‘con-gní’ (\*com-gní-, literally ‘do together’), and is translated as ‘act of helping, aiding, assisting; help, aid’ in DIL.

‘Support’ today is generally translated as ‘tacaíocht’, ‘right of support’ being translated as ‘ceart tacaíochta’ in *Téarmaí Dlí*. See the commentary on Articles 12.10.4° and 28.10 regarding ‘support’ (expressed as ‘tacaíocht’ in both those Articles) and note that ‘tacaíocht’ is found in Article 53 of the 1922 Constitution. ‘Cabhrú’ translates ‘support’ in early *Standing Orders* of Dáil Éireann, according to the *Oireachtas Dictionary of Official Terms*.

*a ghnóthú* ‘Gnóthaím’ is translated as ‘I recover (damages)’ in *Téarmaí Dlí*. *Ó Dónaill* translates ‘gnóthaigh’ as (1) ‘work, labour’, (2) ‘win, gain; earn, achieve’, citing ‘*duais, geall a ghnóthú*, to win a prize, a wager’ and ‘*is beag a ghnóthaigh mé air*, I gained little by it; it availed me little’. *Dinneen* translates ‘gnóthuighim’ as ‘I get, win, obtain, attain, profit; I win (a game); I make prosperous; I appoint, ordain’, citing the following curse: ‘*nár ghnídh tú do leas; agus nár ghnóthaidh sibhse!* evil attend you; and may ye not succeed!’

‘That the purposes for which an order may be made ... could not be achieved’ is translated as ‘nach bhféadfaí na críocha chun ar féidir ordú a dhéanamh ... a ghnóthú’ in s43(1)(b) of the Patents Act, 1964. ‘Where another transaction would not have been undertaken or arranged to achieve the results ... achieved’ is translated as ‘i gcás nach ndéanfaí idirbheart eile a ghabháil de láimh nó a shocrú chun na torthaí ... a bhaint amach a baineadh amach’ in s86(1) of the Finance Act, 1989.

*an bhean* Professor Máirtín Ó Murchú remarks that ‘woman’ without indefinite article in English has the sense of ‘type’ (“cinéal”) and therefore is appropriately expressed in the Irish text as ‘an bhean’ (*lit.* ‘the woman’).

*sa teaghlach* See the commentary on the preceding section regarding ‘teaghlach’ and the commentary on Article 42.2 regarding ‘home’.

*admhaíonn* See the commentary on Article 40.3.3° and 41.1.1°.

### Direct translation

Admhaíonn an Stát go háirithe go dtugann an bhean<sup>1</sup>, trína saol sa bhaile, tacaíocht nach féidir an mhaitheas phoiblí a ghnóthú<sup>2</sup> dá héagmais.

### Variants

- 1 ‘mná’
- 2 ‘a bhaint amach’

## ARTICLE 41.2.2° AIRTEAGAL 41.2.2°

### TÉACS GAELIGE

Uime sin, féachfaidh an Stát lena chur in áirithe nach mbeidh ar mháithreacha clainne, de dheasca uireasa, dul le saothar agus failli a thabhairt dá chionn sin ina ndualgais sa teaghlach.

### LITERAL ENGLISH TRANSLATION

For that reason, the State will endeavour to ensure that mothers of a family, because of want, will not have to engage in work and neglect their duties in the household because of that.

### ENGLISH TEXT

The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

### Divergences between the official texts

- 1 ‘By economic necessity’ is expressed as ‘de dheasca uireasa’, ‘because of want’, which phrase is preceded and followed by a comma, in the Irish text.
- 2 ‘Mothers’ is expressed as ‘máithreacha clainne’ (‘mothers of a family’) in the Irish text.
- 3 As in the previous subsection, ‘home’ is expressed as ‘teaghlach’ in the Irish text, the same term which expresses ‘family’ in this Article in general.
- 4 ‘To the neglect of’ is expressed as ‘agus failli a thabhairt dá chionn sin’ (‘and for that reason to neglect’) in the Irish text.
- 5 Again, as in some earlier Articles, ‘to ensure’ is expressed as ‘a chur in áirithe’ in the Irish text, this phrase being generally used today in relation to ‘reserve’.

### Commentary

*dul le* *Ó Dónaill* gives ‘take to, engage in’ as one of the senses of ‘téigh le’, citing ‘*dul le polaitíocht*, to engage in politics’ and ‘*ní rachadh an mac le feirmeoireacht dó*, the son wouldn’t take up farming for him’. *Dinneen* translates ‘téighim le’ as ‘I go with, bring, side with, consort with, cultivate or follow (as an art) ...’. DIL translates ‘téit le’ as ‘devotes oneself to, adopts, takes a certain course’, citing ‘*docotar iterum fri tola in betho*’ (‘they have given themselves over again to worldly desires’) from the eighth-century Würzburg Glosses on the Pauline Epistles.

Regarding ‘engage in’ in early Acts, ‘such of the officers engaged in the administration of those services’ is translated as ‘an méid sin de sna hoifigigh ag obair i riar na seirbhísí sin’ in Article 79 of the 1922 Constitution. ‘Any person engaged in the business of carrying goods for reward’ is translated as ‘éinne i mbun gnó earraí d’iompar ar luach saothair’ in s4(1)(c) of the Agricultural Produce (Eggs) Act, 1924. ‘A county medical officer of health shall not engage in private practice’ is translated as ‘Ní bheidh aon chleachta príobháideach ar siúl ag dochtúir oifigiúil sláinte’ in s21(7) of the Local Government Act, 1925. ‘By reason of his having been engaged in light agricultural work for his parent on his parent’s land’ is translated as ‘de dheascaibh é bheith ag gabháil d’obair éadtrom

thalmhaíochta dá thuismitheoir ar thalamh a thuismitheora' in s4(3) of the School Attendance Act, 1926. Finally, from the modern Acts, 'to engage in research in such fields as the Governing Body may deem appropriate' is translated as 'gabháil do thaighde i cibé réimsí a mheasfaidh an Comhlacht Ceannais a bheith cuí' in s4(1)(b) of the National Institute for Higher Education, Limerick, Act, 1980.

*ar mháithreacha clainne* 'Máthair clainne, teaghlach' is translated as 'the mother of a family' in *Ó Dónaill*. *Dinneen* translates 'máthair' as 'a mother, a dam, a producer; matter, beginning, origin, source, cause'. DIL gives examples of 'máthair' from the eighth-century Glosses onwards.

'Services for Mothers and Children' is translated as 'Seirbhísí do Mháithreacha agus Leanai' in the heading for Chapter IV of the Health Act, 1970, for example. 'Affords asylum to expectant mothers or to mothers of children under the age of five years' is translated as 'tearmann do thabhairt do mhná ag iompar cloinne no do mháithreacha leanbhaí atá fé bhun cúig mbliain d'aois' in s1(a)(iv) of the Hospitals Act, 1939.

*saothar* 'Luach saothair' is translated as 'remuneration' in *Téarmaí Dlí*, 'saothar' being translated as 'work, labour; toil, exertion; stress, effort' in *Ó Dónaill*. 'Saothar' is translated as 'labour, toil, work, effort, exertion, trouble taken in doing a thing, stress, agony, panting or heavy breathing (from hard work or illness); care; an office or task' in *Dinneen*. DIL cites 'saithar ho lámaib' ('labour with hands') from the eighth-century Würzburg Glosses on the Pauline Epistles, where it glosses Latin 'operantes manibus nostris', translating 'saethar' principally as 'work, labour, toil', 'saeth' being translated as 'trouble, hardship, distress, tribulation, disease, illness', this word also being cited from the Würzburg Glosses. See the commentary on Article 18.7.1<sup>iii</sup> regarding 'labour' (expressed there as 'oibreachas').

*faillí* This headword is translated as 'negligence' in *Téarmaí Dlí*, where 'mórfhaillí' is translated as 'gross negligence'. *Ó Dónaill* translates 'faillí a dhéanamh, a thabhairt, i rud' as 'to neglect something', with *Dinneen* also translating 'faillighe do thabhairt (nó do dhéanamh) i or ar' as 'to neglect'. DIL's earliest example of 'faillige' ('negligence, remissness'), 'ó obair 7 ó faillighe' ('commission and omission', in relation to sin), is from Keating's seventeenth-century *Eochair-sgiath an Aifrinn*. Only one example of 'faillith' ('neglect') is cited in DIL, from another work by Keating, but the headword 'faill' ('neglect, negligence') is cited from earlier literature. See the commentary on Article 34.5.4<sup>o</sup> regarding the verb 'neglect', expressed by 'failligh'. 'And such decrease was occasioned by the neglect of the participant' is translated as 'agus gur de bharr faillí an rannpháirtí a tharla an laghdú sin' in s4(2)(a) of the Pyramid Selling Act, 1980, for example.

*uireasa* This headword is translated as 'lack, want, absence, deficiency' in *Ó Dónaill*, where 'nil easpa ná uireasa orainn' is translated as 'we want for nothing'. 'Uireasbhaidh' ('uireasbha' being the form in the original text) is translated as 'deficiency, need, want, poverty' in *Dinneen*, where 'uireasbhaidh do-ghní cumha' is translated as 'indigence begets melancholy'. DIL translates 'airesbaid' as 'lack,

deficiency', citing examples mainly from the period after the twelfth century. The prepositional prefix 'air-', with intensive force, is combined in this word with 'esbaid', 'lack, loss, deficiency, defect'; 'esbaid' itself is made up of 'ess' + 'both, buith', the verbal noun of the substantive verb, according to DIL. See further the commentary on Article 45.4.2<sup>o</sup>, where we again find the phrase 'de dheasca uireasa'.

See the commentary on Article 1 regarding 'economic'. 'For the purpose of meeting a public requirement of a temporary nature or an immediate necessity' is translated as 'i gcóir riachtanais phuiblí shealadaigh no i gcóir riachtanais láithrigh' in s3(a) of the Dublin United Tramways (Omnibus Services) Act, 1925. 'Attention of ... is directed to the necessity for compliance with the rules' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'cuirtear in úil do ... a ghátaraí [atá] sé na rialacha do chó-líona' in *Iris an Phuist*, 11/8/26. 'Where, however, such change of residence is made suddenly by necessity arising from an unforeseen emergency' is translated as 'Má tharlaíonn, áfach, go n-athrófar áit chónaithe mar sin go hobann de riachtanas mar gheall ar éigeandáil gan choinne' in s2(5)(b) of the Children (Amendment) Act, 1957. 'Not justified by military necessity' is translated as 'nuair nach bhfuil riachtanas míleata leis' in Article 50 of the First Schedule to the Geneva Conventions Act, 1962.

*uime sin* *Ó Dónaill* gives 'about, concerning, in regard to, on account of' as one of the senses of 'um', this sense being cited from earlier Irish literature, with 'is uime thug Dia chugainn é' translated as 'that is why God brought him to us'. *Dinneen* translates 'uime sin' as 'for that reason'. DIL gives examples of 'imm' in the abstract sense, translated as 'concerning, as regards, in the matter of, on account of, for the sake of', from the Glosses of the eighth century onwards. Note how the English text simply repeats 'therefore', as in ss2 of Article 41.1, here. See the commentary on that subsection regarding 'therefore'. See further the commentary on Article 43.1.2<sup>o</sup> where 'uime sin' expresses 'accordingly'.

*de dheasca* This prepositional phrase is translated as 'in consequence of' in *Ó Dónaill*. See *Dinneen* s.v. 'deascadh' for the contrast between this phrase and 'de bharr':

*de dheascadh*, as a result, but generally in plural, *de dheascaibh*, especially of a bad result, cf. *de bharr*; of a good result.

DIL translates 'descad' as (a) 'dregs, lees, sediment', referring to Modern Irish '*de dheascaibh*, on account of', and (b) 'ferment, leaven, barm, yeast', examples of which senses being given from the Old Irish Glosses onwards.

*dá chionn sin* 'De chionn go' is translated as 'because' in *Ó Dónaill*, while *Dinneen* translates 'do chionn' as 'by reason of', translating 'de chionn' as 'with a view to, for the purpose of'. DIL translates 'de chiunn' / 'do chiunn' as 'in return for, for the sake of, instead of, on condition of, because of, for'. Professor Máirtín Ó Murchú refers to 'mar gheall air sin' and 'dá thoradh sin' as possible alternatives in the direct translation below.

*féachfaidh ... le* See the commentary on Article 40.6.1<sup>i</sup>.

*in áirithe* See the commentary on Articles 15.10 and 28.3.3<sup>o</sup>.

**Direct translation**

Féachfaidh an Stát, ar an ábhar sin, lena áirithiú nach gceanglófar ar mháithreacha, de dheasca riachtanais eacnamaíochta, dul i mbun saothair agus mar gheall air sin<sup>1</sup> failli a dhéanamh ina ndualgais sa bhaile.

**Variants**

- 1 'dá chionn sin', 'dá thoradh sin'

ARTICLE 41.3.1<sup>o</sup> AIRTEAGAL 41.3.1<sup>o</sup>**TÉACS GAEILGE**

Ós ar an bPósadh atá an Teaghlach bunaithe gabhann an Stát air féin coimirce faoi leith a dhéanamh ar ord an phósta agus é a chosaint ar ionsaí.

**LITERAL ENGLISH TRANSLATION**

Since it is on Marriage that the Family is founded the State takes it upon itself to give special protection to the order of marriage and to defend it from attack.

**ENGLISH TEXT**

The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

**Divergences between the official texts**

- 1 'The institution of Marriage' is expressed as 'ord an phósta' ('the order of marriage') in the Irish text – technically this could be read as the marriage service, although we have an early example of the sense of 'the institution of marriage'.
- 2 'The State pledges' is expressed as 'gabhann an Stát air féin' ('the State takes upon itself / undertakes') in the Irish text.
- 3 As one sometimes finds in translations, the Irish text opens with the qualifying clause, 'Ós ar an bPósadh atá an Teaghlach bunaithe' ('Since it is on Marriage that the Family is founded'), whereas the English text states directly 'The State pledges itself ...', with 'on which the Family is founded' simply qualifying 'the institution of Marriage'.
- 4 'To guard with special care' is expressed as 'coimirce faoi leith a dhéanamh ar' ('to give special protection to') in the Irish text.
- 5 'Pósadh' in the first clause has a capital 'P' corresponding to the capital 'M' in 'Marriage' in the English text, but has no capital in 'ord an phósta' ('the order of marriage'); the English text has only one reference to 'marriage' in this section.

**Commentary**

*coimirce* 'Coimirce' is translated as 'protection, guardianship; patronage' in *Ó Dónaill*, where 'coimirce a thabhairt do dhuine' is translated as 'to grant protection to someone' and 'faoi choimirce an stáit' is translated as 'under the aegis, auspices, of the state'. 'Coimircí' is translated as 'ward' in *Téarmaí Dlí*, with 'coimircíocht' translated as

'wardship'. *Dinneen* translates 'coimirce' as 'protection, patronage, safeguard', translating 'coimirce Dé orm' as 'may God protect me!' and 'coimirce Dé chughainn!' as 'God be merciful to us!' DIL translates 'commairge' as 'protection, security, refuge; sanctuary; act of protecting, etc.' See Fergus Kelly, *op. cit.*, p.140f., regarding 'protection' in early Irish law:

An important principle of Irish law is the right of a freeman to provide legal protection (*snáduid*, also *turtugud*) for a certain period of time to another person of equal or lower rank .... The idea of protection is also prominent in the sagas, where it is usually called *commairce* or *fóesam*.

Professor Kelly gives the following note on the term 'commairce' (*ibid*, p. 141):

This term (angl. *comrick*) is used with the meaning 'legal protection' in official English documents. The provision of protection was clearly regarded as one of the central features of the Irish way of life, and many attempts were made to suppress it. For example, in an agreement of 28 August 1583 with the Lord Deputy, Sir John O'Reilly of Breifne undertook 'not to use any iraghtes (= Ir. *airecht*) or parleys upon hills to the intent to do any unlawful act to any of her majesty's subjects, not to make any distresses upon amenable persons other than for rent or duties without the special permission of the state, not to keep Irish brehons or suffer Brehon Law, not to take ericks (= Ir. *éraig*) but proceed by indictment for murder, and not to give comrick (= Ir. *commairce*) to any lords or their children or brethren that shall be offenders, but bring them to punishment'. Another group of terms ... are *slánad*, *slánachus*, *sláinte* (angl. *slantie*), *slánaigeacht* (angl. *slanyacht*), *slaint(ig)echt* (angl. *slantyeght*), which are commonly used in the Mid. and Early Mod. Ir. period for 'legal protection, guarantee, security'. The last term is used in a treaty in the English language made on 18 August 1560 between O'Rourke and O'Reilly which places both under the protection of the Earl of Kildare. They agree that if either of them break the Earl's *slantyeght* by killing, robbing or burning in the other's territory, he will pay 1,000 cattle to the Earl.

'To take all reasonable measures to guard against the outbreak of fire on such premises' is translated as 'gach beart réasúnach a dhéanamh le bheith san airdeall ar dhóiteán tarlú san áitreabh sin' in s18(2) of the Fire Services Act, 1981. 'Who negligently or wilfully allows to escape any person ... whom it is his duty to guard or keep in custody' is translated as 'a ligfear go faillitheach nó go toiliúil d'aon duine éaló ... nuair a bheidh sé de dhualgas air é a ghardáil nó é a bheith faoi choimeád aige' in s145(b) of the Defence Act, 1954, with 'any person whom it is his duty to keep or guard' being translated as 'Éinne 'na bhfuil sé de dhualgas air é do chimeád no do ghárdáil' in s50 of the Defence Forces (Temporary Provisions) Act, 1923. 'Providing for the efficient management, sanitation, control and guarding of such places other than prisons' is translated as 'chun na háiteanna san nách príosún do bhainisti, do chimeád sláintiúil, do stiúra agus do ghárdáil go héifeacht-úil' in s8(b) of the Public Safety (Emergency Powers) Act, 1926.

*pósadh* 'Scaoilim pósadh' is translated as 'I dissolve a marriage' in *Téarmaí Dlí*, where 'dlínse maidir le pósadh' and 'aiseag chearta an phósta' are translated respectively

as 'matrimonial jurisdiction' and 'restitution of conjugal rights'. 'Pósadh' is translated as '(state, ceremony, of) marriage' in *Ó Dónaill* and as 'act of marrying, joining in marriage; marriage, married life or state; a wedding feast' in *Dinneen*. 'Pósad' is translated as 'the act of marrying or espousing, marriage' in DIL; it is the verbal noun of 'pósaid', a Romance loanword which comes from Latin 'spons-are'; examples cited in DIL date from the later Middle Irish period onwards, 'ord an phósta' being cited from the *Passions and Homilies* from the *Leabhar Breac*, a manuscript compiled in 1411 or earlier. The sense of 'marriage' is cited in the eighth-century Würzburg Glosses and in later sources for the term 'lánamnas', translated as 'partnership, social and/or legal relationship between two parties'. See Fergus Kelly op. cit., p. 70, regarding marriage in early Irish law:

Most legal references to women relate to marriage, and this is the subject of a special text *Cáin Lánamna*. Nine forms of sexual union (*lánamnas*) are distinguished. At the top of the list the author places the 'union of joint property' (*lánamnas comthinchuir*) into which both partners contribute movable goods (*tínchor*). The woman in such a union is called a 'wife of joint authority' (*bé cuitchernsa*). Next come the 'union of a woman on man-property' (*lánamnas mná for ferthinchur*) into which the woman contributes little or nothing, and the 'union of a man on woman-property' (*lánamnas fir for bantinchur*) into which the man contributes little or nothing. The fourth category is the 'union of a man visiting' (*lánamnas fir thathigtheo*) – a less formal union in which the man visits the woman at her home with her kin's consent. In the fifth union, the woman goes away openly with the man, but is not given by her kin. In the sixth union she allows herself to be abducted (*lánamnas foxail*) and in the seventh she is secretly visited (*lánamnas táidi*) – in both cases without her kin's consent. The eighth and ninth unions can in no sense be described as marriage, as they are union by rape and the union of two insane persons.

The word 'bainis' ('wedding; wedding-feast', *Ó Dónaill*), earlier form 'banais', comes from 'ben' + 'feis' and glosses Latin 'nuptias' in the Glosses in the ninth- or tenth-century manuscript *Parker 279* in Corpus Christi College, Cambridge.

'Because of her marriage' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'mar gheall ar gur pósadh í' in translations for the Department of Local Government and Public Health, 'liúntas pósa' translating 'marriage allowance' in *Iris an Phoist* and 'réiteach cleamhnais' translating 'marriage settlement' in a Report from the Department of Industry and Commerce. 'There is a child of the marriage' is translated as '(go) mbeidh leanbh ann de bharr an phósta' in s28(a) of the Widows and Orphans' Pensions Act, 1935. 'A marriage portion' is translated as 'coibhche' in s63(b) of the Succession Act, 1965, where 'advancement by way of portion or settlement' is translated as 'réamhshocrú i modh clannchoda nó socraíochta'. 'The Marriages Act, 1972' is cited in Irish as 'Acht na bPóstaí, 1972'.

*ord* 'Ord an phósta' is translated as 'the order of marriage' in *Ó Dónaill*, this being cited as an example of 'ord' in the ecclesiastical sense of 'prescribed form of service'. *Dinneen* translates 'ord an phósta' as 'the order of marriage, marriage

ceremony'. DIL, however, cites 'is e ord in phósta ord Dé' from the *Passions and Homilies* from the *Leabhar Breac*, compiled in 1411 or earlier, as an example of 'ord' in the sense 'rule, regulation, ordinance, institution'. See the commentary on Articles 38.3.1° and 40.6.1° regarding 'ord poiblí' ('public order').

'The British and Irish Governments will seek to create institutions and structures which would enable them to work together' is translated as 'féachfaidh Rialtais na Breataine agus na hÉireann le hinstiúidí agus struchtúir a chruthú a dhéanfaidh iad a chumasú chun oibriú as lámha a chéile' in the December 1993 *Joint Declaration* (p. 6), with 'needs of our National Cultural Institutions' being translated as 'riachtanas ár bhForas Cúlurtha Náisiúnta' in the *Programme for a Partnership Government*, 1993-97 (p. 56). See further the commentary on Article 18.4.2° where 'institution' is expressed as 'foras'.

*gabhan an Stát air féin* 'Assume, undertake' are given as secondary senses of the phrase 'gab ar' in *Ó Dónaill*, who cites '*ghabh sé air féin an obair a dhéanamh*, he undertook to do the work'. *Dinneen* translates 'gabhair orm' as 'I take on myself, take up a challenge'. DIL cites examples of 'gaibid for', with reflexive pronoun, in the sense of 'takes (a burden, responsibility, on one's self, undertakes)', from the *Táin* and from later sources, including 'gabuid sin ortha féin' ('they undertook to do that') from a collection of the Lives of the Irish Saints.

'Pledge' is translated as 'gealltán' in *Téarmaí Dlí*, where 'I pledge credit' is translated as 'cuirim creidmheas i ngeall'. *De Bhaldráithe* translates 'pledge' as (1) 'cuirim (rud) i ngeall' and (2) 'tugaim (m'fhocal, gealltanais)', translating 'to be pledged to do something' as 'bheith faoi ghealltanais rud a dhéanamh'. See the commentary on Article 45.4.1° regarding 'pledge' in the Acts.

*a chosaint ar* 'Cosnaim' is translated as 'I defend' in *Téarmaí Dlí*; *Dinneen* translates 'cosnaim' as 'I defend, protect from (*ar*); champion, seek to gain or hold, maintain'. *Ó Dónaill* translates 'cosain' as 'defend, protect (*ar*, ó against)', citing '*duine a chosaint ar rud*, to defend someone against something', '*sinn a chosaint ó bhaol, ar oic*, to protect us from harm, from evil'. DIL translates 'con-sní' as 'contends; contests, strives for, wins, gains; later also defends; costs', citing 'cumhacht ... lé coisneadh é féin ar bhás' (power that he 'might protect himself from death') from Ó Heoghusa's *An Teagasg Criosdaidhe*, 1611. See the commentary on Article 28.3.2°.

'And the order shall operate to protect against execution save as provided by this section' is translated as 'agus oibreoidh an t-ordú chun cosaint a thabhairt ar fhorghníomhú ach amháin mar a fhoráiltear leis an alt seo' in s89(1) of the Bankruptcy Act, 1988. 'By reason of the applicant's failure to take reasonable care to protect against the disease in question the animals ... which are the subject of the application' is translated as 'i ngeall ar gur mhainnigh an t-iarratasóir cúram réasúnach a ghlacadh chun na hainmhithe ... is ábhar don iarratas a chosaint ar an ngalar a bheidh i gceist' in s58(6) of the Diseases of Animals Act, 1966. See further the commentary on Articles 15.10 and 41.1.2° where 'protect' is expressed respectively by 'didean' and 'caomhnaigh'.

*faoi leith* See the commentary on Article 38.3.1°. As

regards 'special care' in the Acts, 'where an establishment or institution is confined ... to persons of one sex requiring special care, supervision or treatment' is translated as 'i gcás ar daoine de ghnéas amháin ... atá i mbunachas nó in institiúid is daoine ar gá aire, maoirseacht nó cóireáil an leith lena n-aghaidh' in s17(2)(c) of the Employment Equality Act, 1977, with 'not to require special care and treatment in a fully equipped mental hospital' being translated as 'nach gá dóibh aireachas agus cóireáil speisialta in óspidéal meabhair-ghalar lánfheistithe' in s22(1) of the Mental Treatment Act, 1945. 'D'aireachasú' is cited in the *Oireachtas Dictionary of Official Terms* as translating the verb 'care' in *Iris an Phuist*, 5/9/28, 'care (in performance of duties)' being translated as 'aireachas' in *Iris an Phuist*, 28/9/27. See the commentary on Article 38.3.1° as regard 'special' in the Acts.

*ionsaí* This headword is translated as 'assault' in *Téarmaí Dlí*, where 'mionionsaí' and 'tromionsaí' are translated respectively as 'common assault' and 'aggravated assault'. *Ó Dónaill* translates 'ionsaí' as 'advance, approach, attack', citing '*ionsaí a dhéanamh ar áit*, to advance upon, attack, a place' – see the commentary on Article 40.3.2°. Looking at early translations, 'With the object of protecting pictures in the National Gallery of Ireland from injury by attack from the air' is translated as 'D'fhonn pictiúirí i nGaileirí Náisiúnta na hÉireann do chosaint ar dhiobháil tré ionnsaighe ón aer' in s65 of the Air-Raid Precautions Act, 1939. 'Have created a state of rebellion which has been carried on by means of armed attack on the Military Forces of Saorstát Éireann' is translated as 'gur chruthuódar staid rebeliúntachta a cimeádh ar siúl tré fhoghna armtha do thabhairt fé Fhórsaí Mileata Shaorstáit Éireann' in the Preamble to the Public Safety (Emergency Powers) Act, 1923, with 'fogha' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'attack' in a 1927 Report of the Public Accounts Committee.

*bunaithe* 'Such intention is founded on the existence of sufficient evidence' is translated as 'go bhfuil an rún sin bunaithe ar fhianaise leordhóthanach a bheidh ann' in s2(1)(a) of the Extradition (Amendment) Act, 1987. 'The claim is founded on any fraud or fraudulent breach of trust' is translated as '(ina) mbeidh an t-éileamh bunaithe ar aon chalaouis nó sárú calaouis iontaobhais' in s44(a) of the Statute of Limitations, 1957, with 'under the judgement, order, or decree on which his claim is founded' being translated as 'fén mbreith, fén ordú nó fén aithne ar a mbeidh a éileamh bunaithe' in s6(2) of the Indemnity Act, 1924.

### Direct translation

Tugann an Stát gealltanais institiúid an Phósta, ar a bhfuil an Teaghlach bunaithe, a ghardáil le haireachas<sup>1</sup> ar leith, agus é a chosaint ar ionsaí.

### Variant

<sup>1</sup> 'le haire'

## ARTICLE 41.3.2° (before amendment)

### AIRTEAGAL 41.3.2° (roimh leasú)

#### TÉACS GAELGE

Ní cead dlí ar bith a achtú a bhéarfadh cumhacht chun pósadh a scaoileadh.

#### LITERAL ENGLISH TRANSLATION

It is not permitted to enact any law which would give power to dissolve a marriage.

#### ENGLISH TEXT

No law shall be enacted providing for the grant of a dissolution of marriage.

A new subsection was substituted for this subsection by the Fifteenth Amendment of the Constitution, 1995, which text is given and commented on following this below.

### Divergences between the official texts

- 1 'Providing for the grant of a dissolution of marriage' is expressed as 'a bhéarfadh cumhacht chun pósadh a scaoileadh' ('which would give power to dissolve a marriage') in the Irish text.
- 2 Again, as in some earlier Articles, 'Ní cead' ('It is not permitted') expresses 'No ... shall' of the English text.

### Commentary

*a scaoileadh* 'Scaoilim pósadh' is translated as 'I dissolve a marriage' in *Téarmaí Dlí*, where 'dissolution (i.e. of marriage)' is translated as 'scaoileadh'. 'Scaoil' is translated as 'loose(n), release, discharge' in *Ó Dónaill*, who cites '*páirtíocht, pósadh, a scaoileadh*, to dissolve a partnership, a marriage'. *Dinneen* also gives 'I dissolve' as one of the senses of 'scaoilim'. 'Bursts, scatters, spreads' is the principal sense of 'scaillid' given in DIL. Note that in the amended ss2, 'A Court ... may grant a dissolution of marriage' is rendered as 'Féadfaidh cúirt ... scaoileadh ar phósadh a thabhairt' – see the commentary on the amended subsection below.

In s2(2) of the Army Pensions Act, 1923, 'on the death of his wife or the lawful annulment or dissolution of his marriage' is translated as 'ar fháil bháis dá mhnaoi no ar a phósa do chur ar neamh-ní no do bhrise go dleathach'. 'An pósa do scur go dleathach' translates 'the lawful dissolution of the marriage' in s22(1) of the Army Pensions Act, 1927. 'In consideration or in consequence of the dissolution or annulment of a marriage' is translated as 'i gcomaoin nó de dhroim scaoileadh nó neamhniú pósta' in s3(1)(a)(i) of the Finance Act, 1983.

*cumhacht* Literally 'power'. 'I grant' is translated as 'deonaím' in *Téarmaí Dlí*. 'Such justice may, as he thinks proper, grant or refuse to grant such annulment' is translated as 'féadfaidh an Breitheamh san an t-ordú diúltuithe sin do chur ar nea-mbrí no diúltú d'é chur ar nea-mbrí, fé mar a mheasfaidh is ceart' in s35(3) of the Trade Union Act, 1941. 'An Act to grant and appropriate certain sums' is translated as 'Acht chun suimeanna áirithe

do dheonú agus do chur i leithreas' in the Long Title of the Appropriation Act, 1922, with 'a permit granted under this section' being translated as 'cead a deonfar fén alt so' in s37(6) of the Electricity (Supply) Act, 1927. Commenting on the direct translation below, Professor Máirtín Ó Murchú suggests 'a lamháil', 'a cheadú' or 'a aontú' as possible alternatives to 'a dheonú'.

See the commentary on Article 8.3 regarding 'provide' in the Acts. Note, for example, that 'to be a law providing for the control or regulation in that country of the manufacture ... of dangerous or otherwise harmful drugs' is translated as 'gur dlí é a fhoráilann rialú sa tír sin ar mhonarú ... drugaí atá contúirteach nó atá diobhálach ar dhóigh eile' in s20(2) of Misuse of Drugs Act, 1977, with 'to be a law providing for the control and regulation in that country of the manufacture ... of drugs' being translated as 'is dlí dheineann socrú chun déanamh ... druganna do stiúradh agus do rialáil sa tír sin' in s3(1) of the Dangerous Drugs Act, 1934.

*a bhéarfadh* This would be replaced by 'a thabharfadh' in the official standard – see the commentary on Article 12.1.

*Ní cead* See the commentary on Article 9.1.3°.

### Standardised Irish text

Ní cead dlí ar bith a achtú a thabharfadh cumhacht chun phósadh a scaoileadh.

### Direct translation

Ní achtófar aon dlí lena ndéanfar socrú chun scaoileadh ar phósadh a dheonú<sup>1</sup>.

### Variants

<sup>1</sup> 'a thabhairt', 'a lamháil'

ARTICLE 41.3.2° (as amended)

AIRTEAGAL 41.3.2° (arna leasú)

### TÉACS GAEILGE

Féadfaidh Cúirt a bheidh ainmnithe le dlí scaoileadh ar phósadh a thabhairt sa chás, ach sa chás amháin, gur deimhin léi –

- i go raibh, ar dháta thionscnamh na n-imeachtaí, tréimhse ceithre bliana ar a laghad, nó tréimhsí ceithre bliana ar a laghad san iomlán, caite ag na céilí ina gcónaí ar leithligh óna chéile le linn na gcúig bliana roimhe sin,
- ii nach bhfuil ionchas réasúnach ar bith ann go mbeidh comhréiteach idir na céilí,
- iii go bhfuil cibé socrú ann, nó go ndéanfar cibé socrú, is dóigh leis an gCúirt a bheith cuí ag féachaint do na himthosca, le haghaidh na gcéilí, le haghaidh aon leanaí le ceachtar acu nó leis an mbeirt acu agus le haghaidh aon duine eile a bheidh forordaithe le dlí, agus
- iv go gcomhlíontar aon choinníollacha breise a bheidh forordaithe le dlí.

### LITERAL ENGLISH TRANSLATION

A Court which will be specified by law may give a dissolution of marriage in the case, but only in the case, that it has ascertained –

- i that, on the date of the initiation of the proceedings, the spouses had spent a period of at least four years, or periods of at least four years in total, living apart from each other during the previous five years,
- ii that no reasonable expectation exists that there will be a compromise between the spouses,
- iii that such an arrangement exists, or that such an arrangement will be made, that the Court thinks proper having regard to the circumstances, for the spouses, for any children of either of them or of both of them and for any other person prescribed by law, and
- iv that any further conditions prescribed by law are fulfilled.

### ENGLISH TEXT

A Court designated by law may grant a dissolution of marriage where, but only where, it is satisfied that –

- i at the date of the institution of the proceedings, the spouses have lived apart from one another for a period of, or periods amounting to, at least four years during the previous five years,
- ii there is no reasonable prospect of a reconciliation between the spouses,
- iii such provision as the Court considers proper having regard to the circumstances exists or will be made for the spouses, any children of either or both of them and any other person prescribed by law, and
- iv any further conditions prescribed by law are complied with.

This text was substituted for the original subsection following the Fifteenth Amendment of the Constitution, 1995.

### Divergences between the official texts

- 1 'Reconciliation' is rendered as 'comhréiteach' in the Irish text, which term is translated as 'compromise' in *Téarmaí Dlí*.
- 2 'Designated' is rendered as 'ainmnithe' ('named'/'specified') in the Irish text.
- 3 In the original subsection 2, 'providing for the grant of a dissolution of marriage' is expressed as 'a bhéarfadh cumhacht chun pósadh a scaoileadh' while in this subsection 'A Court ... may grant a dissolution of marriage' is rendered as 'Féadfaidh Cúirt ... scaoileadh ar phósadh a thabhairt'.
- 4 'For a period of, or periods amounting to, at least four years' is rendered as 'tréimhse ceithre bliana ar a laghad, nó tréimhsí ceithre bliana ar a laghad san iomlán' ('a period of at least four years, or periods of at least four years in all'), with 'the spouses having lived apart ... for a period ...' rendered as 'go raibh ... tréimhse ... caite ag na céilí ina gcónaí ar leithligh' ('that the spouses had spent a period ... living apart'), in the Irish text.



### Commentary

*comhréiteach* This compound is translated as ‘compromise’ in *Téarmaí Dlí*, following four of the ten Irish Legal Terms Orders, with ‘comhréítim’ translated as ‘I compromise (i.e. an action or claim)’. ‘Comhréiteach’, verbal noun of ‘comhréítigh’ (‘compromise, settle; agree’ in *Ó Dónaill*), is translated as ‘compromise, settlement; agreement, harmonization’ in *Ó Dónaill*, who cites ‘*comhréiteach aighnis*, settlement of dispute’. This compound of ‘comh’ (‘mutual, joint, common’) with ‘réiteach’ does not appear to be given as a headword in *Dinneen* nor in DIL. ‘Réiteach’ has the sense of ‘solution, settlement; adjustment, agreement’, *Ó Dónaill* citing ‘*réiteach a dhéanamh idir dhaoine*, to settle matters between people’, ‘*teacht chun réitigh le duine*, to come to an agreement with someone’ and ‘*chuaigh an chúis ó réiteach orainn*, we failed to decide the issue, to come to terms’, along with ‘*bord réitigh*, conciliation board’ and ‘*ráiteas réitigh*, reconciliation statement’.

*Dinneen* gives ‘a reconciliation, peace, concord, settlement’ as one of the senses of ‘réidhteach’, translating ‘*dúdog réidhtigh*’ as ‘a friendly pipe, a pipe of peace’. DIL gives ‘settling, adjusting (*a dispute, transaction*); making terms (with)’ as a secondary sense of ‘réidtech’, citing ‘[nir] fed in t-imper reiteach eturra’ (i.e. the emperor was unable to ‘make peace between them’). ‘Réidtech’ is the verbal noun of ‘réidid’, translated as ‘levels, smooths, makes easy, clears (*land etc.*)’ in DIL. The verb ‘réidigid’ is also given as a headword in DIL, this being a deponent verb in Old Irish – DIL cites ‘ní redigedar’ (‘it does not make plain’) from the early ninth-century Milan Glosses on a Latin Commentary on the Psalms, and gives ‘settles, adjusts (*a quarrel, transaction*)’ as a later sense of this verb, citing ‘*má dho réidhightheadh eadruinn 7 Dia*’ (‘if we have been reconciled to God’) from the seventeenth-century translation of *Romans* v. 10. Both these verbs are based on ‘réidh’, primarily ‘level, smooth’, but with sense (e) in DIL of ‘at peace, reconciled’, ‘nach beinn-si reidh 7 Fionn’, from *Duanaire Finn*, being translated as ‘reconciled to Fionn’.

In s8(2) of the Judicial Separation and Family Law Reform Act, 1989, ‘and such order of rescission shall be made by the court upon it being satisfied that a reconciliation has taken place between the applicant and the respondent’ is translated as ‘agus déanfaidh an chúirt an t-ordú cealaithe sin ar í a bheith deimhin de go bhfuil an t-iarratasóir agus an freagróir tar éis teacht ar chomhréiteach’, with ‘to facilitate reconciliation between estranged spouses’ being translated as ‘d’éascú comhréitigh idir céilí coimhthithe’ in the Long Title of that Act. In Article 43.2.2°, ‘with a view to reconciling their exercise with the exigencies of the common good’ is expressed as ‘d’fhonn an t-oibriú sin agus leas an phobail a thabhairt le chéile’. ‘To reconcile difference of calculation’ and ‘reconciliation of balances’ are cited in the *Oireachtas Dictionary of Official Terms* as being translated respectively as ‘deifriocht do thabhairt dá chéile’ and ‘réiteach iarmhéideanna’ in early official translations. *De Bhaldráithe* gives ‘réiteach’ and ‘athmhuintearas’ as translations of ‘reconciliation’, the latter term being given as a headword in *Ó Dónaill* and simply translated as ‘reconciliation’.

*ainmnithe* ‘Nominate’ and ‘specify’ are two of the secondary senses of ‘ainmnigh’ (principally ‘name’) given

by *Ó Dónaill*, who cites ‘*duine a ainmniú do phost, ina iarrthóir*, to nominate someone to a post, as a candidate’ and ‘*lá, ionad, coinneollacha, a ainmniú*, to specify a day, a place, conditions’. *Dinneen* includes ‘I name, assign; I nominate, mention, specify’ among the senses of ‘ainmnighim’. DIL gives examples of ‘ainmnigidir’ from the Glosses of the eighth century onwards, this verb being based on ‘ainmm’. Incidentally, it is thought that ‘anm’, found in Ogam inscriptions, which date from the fourth century onwards, may mean ‘inscription’ or ‘mortal remains’ – see DIL s.v. ‘ainmm’. See the commentary on Articles 6.1 and 13.8.2° regarding ‘designate’, expressed respectively by ‘ceap’ and ‘ainmnigh’.

*ar dháta thionscnamh na n-imeachtaí* ‘Tionscnamh imeachtaí’ is translated as ‘institution of proceedings’ in *Téarmaí Dlí*, where ‘toghairm thionscnaimh’ is translated as ‘originating summons’ and ‘tionscnaím imeachtaí’ is translated as ‘I bring proceedings’. Unlike some other verbal nouns, ‘tionscnaimh’ alone is given as the genitive singular of ‘tionscnamh’ in *Ó Dónaill* (translating ‘tionscnamh’ as ‘beginning, origin; introduction, initiation; institution, establishment’); one might perhaps have expected the form ‘tionscanta’ as genitive singular of the verbal noun with ‘tionscnaimh’ as the genitive singular of the noun – see, ‘filleadh’, for example, in *Ó Dónaill*, with ‘fillidh’ and ‘fillte’ being cited as the two forms of the genitive singular – and subsequently one would have ‘ar dháta tionscanta na n-imeachtaí’, like the form ‘Bord Soláthair an Leictreachais’, for example. DIL cites examples of the genitive form ‘tindsanta’ from the *Yellow Book of Lecan* (‘cuis tindsanta na raed n-anaithnich’) onwards. ‘Tionscna(m)’ is the Middle Irish verbal noun of ‘do-inscanna’, ‘begins’ (‘tinnscetal’ being the earlier verbal noun), examples of this verb being cited in DIL from the Glosses of the eighth century onwards, the following final example being cited from Keating’s seventeenth-century *Three Shafts of Death*: ‘tionnsgnaidh an chríoch’ (= ‘finis incipit’). See further the commentary on Article 45.3.1° where ‘tionscnamh’ expresses ‘initiative’.

Commenting on the direct translation below, with ‘tionscanta’ given as a variant, Professor Máirtín Ó Murchú remarks that a Munsterman would say ‘ar dháta na n-imeachtaí a thionscnamh’ in that sense, which is not the same as ‘dáta tionscanta na n-imeachtaí’, but that one would prefer ‘an dáta ar tionscnaíodh na himeachtaí’ in that second sense.

*céilí* ‘Céile’ is translated as ‘companion, spouse’ in *Ó Dónaill* and as ‘a fellow, companion, mate’ in *Dinneen*, who cites ‘*céile na Beithínighe*, the spouse of Beithineach river, i.e. he who owned the land on the river’. ‘Husband’ is given as one of the meanings of ‘céile’ in DIL, where examples are cited from the Old Irish Glosses, with the sense ‘wife’ being rarely cited, and apparently not attested in the Glosses. The main senses of ‘céile’ as a noun, according to DIL, are ‘servant’ and ‘fellow’, the term always implying a relationship. Examples of the sense ‘fellow, companion, “opposite number”, other one, neighbour (in New Testament sense)’ are cited in DIL from the Glosses of the eighth century onwards. Fergus Kelly, op. cit., p. 306, translates ‘céile’ as ‘client’, this word being cognate with Welsh ‘cilydd’ (‘fellow, companion’). In early Irish law the rights and duties of a lord (‘flaith’) related mainly

to his clients, according to Professor Kelly (op. cit., pp. 26-7), as it was the possession of clients which made him a lord, the lowest grade of lord having five free clients and five base clients according to the early Irish law-tract *Crith Gablach*. In another such tract, the relationship between a lord and his base client is classified as being similar to that between a husband and his wife, a teacher and his pupil, or the Church and its monks, while in a certain Old Irish poem, God is compared to a lord whose clients are the Jewish people (ibid., p. 27). In Modern Irish, the regular terms for 'husband' and 'wife' are 'fear céile' and 'bean chéile'.

*ionchas* This headword is translated as 'expectation, prospect' in *Ó Dónaill*, who translates 'ionchas saoil' as 'life expectancy' and 'ionchais na bliana' as 'the prospects for the year'. *Dinneen* translates 'ionchas' as 'likelihood, expectation, prospect', translating 'le hionchas go' as 'in the hope that'.

*imthosca* 'Imthoisic' is translated as 'circumstance' in *Téarmaí Dlí*, where 'imthosca ionchoirtheacha' and 'imthosca maolaitheacha' are translated respectively as 'incriminating circumstances' and 'extenuating circumstances'. *Ó Dónaill* gives the form 'imthosca' (translated as 'circumstances') as the headword, followed by the abbreviations for 'substantive plural' and 'Jurisprudence'. See the commentary on Article 45.2.v as regards 'circumstances' in the Acts.

*forordaithe* 'Forordai' is translated as 'pre-ordain, predestine' in *Ó Dónaill*, with 'forordú' translated as 'fore-ordering, predestination'. *Dinneen* translates 'forórdughim' as 'I predestine, order beforehand', translating 'forórdughadh' as 'predestination, act of predestining; a previous order'. 'Prescription' is translated as 'rúradh' in *Téarmaí Dlí*, 'rúrach' translation 'prescriptive'. The glossators of the early Irish laws took 'rudrad' to be from 'ro' ('great, excessive') plus 'dúrad' ('duration'), this being the correct derivation of the word according to Fergus Kelly, op. cit., p. 109. See the commentary on Articles 15.9.1° and 27.2 where 'prescribe' is expressed respectively by 'leag amach' and 'ordaigh'.

*san iomlán* This phrase is translated as 'in all, all told' in *Ó Dónaill*. Looking at 'amount' in early Acts, 'and so much thereof as consisted of rent exceeds the sum to which compounded arrears of rent would have otherwise amounted' is translated as 'agus gur mó an méid ba chíos de ná an tsuim a dhéanfadh riaráiste cíosa socruithe mara mbeadh san' in s19(5)(a) of the Land Act, 1923. 'All sums granted out of the Central Fund towards making good the supply granted, amounting ... in the aggregate to the sum of thirty-two million, two hundred and twelve thousand, eight hundred and ninety-three pounds' is translated as 'Na suimeanna uile a deontar as an bPrímh-Chiste sin ... chun an soláthar a deonadh do dhéanamh iomlán agus 'na ndineann a n-iomlán ... suim dhá mhilleon déag ar fhichid, dhá chéad is dhá mhíle dhéag, ocht gcéad nócha a trí de phúint' in s3 of the Appropriation Act, 1924.

*scaoileadh ar phósadh* Note that *Téarmaí Dlí* simply has 'scaoileadh, dissolution (i.e. of marriage); release', without preposition, and translates 'I dissolve a marriage' as

'scaoilim pósadh'. We have seen in the original subsection 2 how 'providing for the dissolution of a marriage' was expressed as 'a bhéarfadh cumhacht chun pósadh a scaoileadh' and in subsection 3 '(No) person whose marriage has been dissolved' is expressed as 'I gcás pósadh duine ar bith a scaoileadh'. *Ó Dónaill* cites 'scaoileadh ó choinníoll, ó oibleagáid, release from condition, from obligation'.

*ar leithligh* This phrase as translated as 'apart, aside, by oneself, in particular' in *Ó Dónaill* and as 'separate, by oneself, by itself' in *Dinneen*. 'Oc leithlig' and 'do leithlig' were earlier forms of this phrase, translated as 'apart, aside' in DIL.

### Standardised Irish text

'Tionscnamh', as a verbal noun, rather than be lenited, might perhaps be put in the genitive singular, 'tionscnaimh'.

### Direct translation

Féadfaidh Cúirt a bheidh ainmnithe le dlí scaoileadh ar phósadh a dheonú<sup>1</sup> sa chás, agus sa chás sin amháin, gur deimhin léi –

- i go raibh, ar dháta tionscnaimh<sup>2</sup> na n-imeachtaí, tréimhse ceithre bliana ar a laghad, nó tréimhse ceithre bliana ar a laghad san iomlán, caite ag na céilí ina gcónaí ar leithligh óna chéile le linn na gcúig bliana roimhe sin,
- ii nach bhfuil aon ionchas réasúnach ann go mbeidh athmhuintearas idir na céilí,
- iii go bhfuil cibé socrú ann is cuí leis an gCúirt ag féachaint do na himthosca nó go ndéanfar socrú den sórt sin le haghaidh na gcéilí, le haghaidh aon leanaí le ceachtar acu nó leis an mbeirt acu agus le haghaidh aon duine eile a bheidh forordaithe le dlí, agus
- iv go gcomhlíonfar aon choinníollacha breise a bheidh forordaithe le dlí.

### Variants

- 1 'a thabhairt'
- 2 'tionscanta', 'thionscnamh'

## ARTICLE 41.3.3° AIRTEAGAL 41.3.3°

### TÉACS GAEILGE

I gcás pósadh duine ar bith a scaoileadh faoi dhlí shibhialta aon Stáit eile agus an pósadh sin, agus bail dlí air, a bheidh ann fós faoin dlí a bheas i bhfeidhm in alt na huaire taobh istigh de dhlínse an Rialtais agus na Parlaiminte a bhunaítear leis an mBunreacht seo, ní fhéadfaidh an duine sin pósadh ar a mbeadh bail dlí a dhéanamh taobh istigh den dlínse sin an fad is beo don duine eile a bhí sa chuing phósta a scaoileadh amhlaidh.

### LITERAL ENGLISH TRANSLATION

In the case of the marriage of anybody dissolved under the civil law of any other State and that marriage, being legally valid, (and) still existing under the law which will

be in force at the time within the jurisdiction of the Government and the Parliament which is established under this Constitution, that person cannot enter a marriage which would have legal validity within that jurisdiction while the other person who was in the bond of marriage that was thus dissolved is alive.

#### ENGLISH TEXT

No person whose marriage has been dissolved under the civil law of any other State but is a subsisting valid marriage under the law for the time being in force within the jurisdiction of the Government and Parliament established by this Constitution shall be capable of contracting a valid marriage within that jurisdiction during the lifetime of the other party to the marriage so dissolved.

#### Divergences between the official texts

- 1 'But is a subsisting valid marriage' is expressed in the Irish text as 'agus an pósadh sin, agus bail dlí air, a bheith ann fós', 'and that marriage, and it legally valid, and still existing'.
- 2 'Shall not be capable of' is expressed as 'ní fhéadfaidh' ('will not be able') in the Irish text.
- 3 'Contracting a valid marriage' is expressed in the Irish text as 'pósadh ar a mbeadh bail dlí a dhéanamh', 'entering (making) a marriage which would have legal validity'.
- 4 'During the lifetime of the other party to the marriage' is expressed as 'an fad is beo don duine eile a bhí sa chuing phósta' ('while the other person who was in the marriage bond is alive') in the Irish text.

#### Commentary

*a bheith ann fós* Literally 'still existing'. Looking at early Acts, 'The Minister may ... alter the boundaries of any fishery district or electoral division subsisting at the date of the order' is translated as 'Féadfidh an tAire ... teoranta aon cheanntair no togh-roinne iascaigh a bheidh ann ar dháta an ordaithe d'atharú' in s27(1) of the Finance Act, 1925. 'Comprised in a subsisting licence granted under this Act' is translated as '(ná) fuil i gceadúnas atá i bhfeidhm agus a deonadh féin Acht so' in s43(2) of the Dairy Produce Act, 1924.

'Subsisting' is translated as 'ar marthain' in *Téarmaí Dlí*, which phrase is cited in the Acts from 1927: 'And had no reasonable ground for suspecting that copyright subsisted in the work' is translated as 'agus gan aon chúis réasúnta aige chun bheith amhrusach go raibh cóipcheart ar marthain san obair' in s161 of the Industrial and Commercial Property (Protection) Act, 1927. "Subsisting marriage" shall be construed as including a voidable marriage' is translated as 'déanfar "pósadh atá ar marthain" a fhorléiriú mar abairt a fholaíonn pósadh in-neamhnithe' in s46(4) of the Status of Children Act, 1987, with 'a person whose parents are or have been married to each other but between whom there has been no subsisting marriage at any time during the period of ten months before the person's birth' being translated as '(do) dhuine a bhfuil nó a raibh a thuismitheoirí pósta ar a chéile ach nach raibh aon phósth ar marthain eatarthu tráth ar bith le linn na tréimhse deich mí sular rugadh an duine' in s4(a).

In s75(1) of the Landlord and Tenant (Amendment) Act, 1980, 'and there is a subsisting undertaking ... that the house would not be sold' is translated as 'agus a bhfuil geallúint ar marthain ... nach ndíolfaí an teach'. Finally note that 'An alteration of the memorandum or rules shall not affect any subsisting right or obligation of a society' is translated as 'Ní dhéanfaidh athrú ar mheabhrán ná ar rialacha difear d'aon cheart marthanach nó oibleagáid mharthanach de chuid cumainn' in s14(6) of the Building Societies Act, 1989.

*bail dlí air* 'Validity' is given as one of the senses of 'bail' in *Ó Dónaill*, who cites '*ionas go mbeadh bail ar a fhaoistin*, so that his confession might be valid' and '*gan bhail*, invalid, void'. *Dinneen* translates 'bail' as 'success, prosperity; form, effect, issue, condition'. DIL s.v. 'bal', in the sense of the efficacy of a sacrament or judgement, cites 'bidh buil ar an bpósadh gan fhios, gan fhiadhain' ('a clandestine marriage is valid') from *Parrthas an Anna* (Gearnon, 1645) and also cites 'bidh a bpósadh ar bhail' ('valid'), from Ó Heoghusa's *An Teagasg Críosaíochta*, 1611 – see the commentary on Articles 15.4.2° and 28.3.3°.

Looking at 'valid' in the early Acts, 'or any valid private interest therein' is translated as 'no d'aon cheart dlísteanach príobháideach 'na leith' in Article 11 of the 1922 Constitution. 'Íocaíochta éifeachtacha íocaíochta an Cheathrú Sceidil' translates 'Payments in Fourth Schedule declared valid' in the Margin Title of s19 of the Local Government (Temporary Provisions) Act, 1923, with 'Any County Court Judge may deem any document to which this section applies to have been validly served' being translated as 'féadfidh aon Bhreitheamh Cúirte Contae a thógaint gur seirbheáladh go dleathach aon scríbhinn le n-a mbaianeann an t-alt so' in s2(1) of the County Courts (Amendment) Act, 1923.

Turning to modern Acts, with 'valid' being translated as 'bail' in *Téarmaí Dlí*, 'Where a marriage would not be regarded as valid in law' is translated as 'I gcás nach measfaí pósadh a bheith ina phósadh bailí faoin dlí' in s1(7) of the Marriages Act, 1972. 'That the father reasonably believed that the ceremony of marriage ... resulted in a valid marriage' is translated as 'gur chreid an t-athair le réasún go raibh pósadh bailí de thoradh an tsearmanais phósta' in s9 of the Status of Children Act, 1987.

*pósadh a dhéanamh* This phrase is translated as 'to marry; to officiate at a marriage ceremony' in *Ó Dónaill*. DIL cites 'co rinne [Dia] pósad er tús iter Adam 7 Eua' (i.e. God made marriage first between Adam and Eve) from the *Passions and Homilies* from the *Leabhar Breac*, a manuscript compiled in or before 1411. 'Such children are the children of a marriage contracted before his discharge from the forces' is translated as 'gur clann iad do rugadh do lannhain a pósadh roimh an duine sin do scur as na fórsaí' in s25(2) of the Army Pensions Act, 1932, with 'being the child of a marriage contracted before his discharge from the forces' being translated as 'leanbh de phósth a rinneadh sular urscaoileadh é as na fórsaí' in s4(1)(e)(ii) of the Army Pensions Act, 1959. Note that 'I contract' is translated as 'conraím' in *Téarmaí Dlí*; 'until the purchase monies hereinbefore contracted to be paid ... shall have been paid to the Vendors' is translated as 'go dtí go mbeidh an t-airgead ceannuigh do connruíodh anso roimhe seo d'íoc ... leis na Díoltóirí' in s7 of the Second Schedule to the Creamery Act, 1928.

*faoi dhli sibhialta* According to the official standard there would be no lenition of the adjective here following a masculine noun in the dative singular – see the commentary on Article 45. The Margin Title of s195 of the Defence Forces (Temporary Provisions) Act, 1923, ‘Adjustment of military and civil law’, is translated as ‘Ceartú idir dhli airm agus dlí sibhialta’. ‘That the plaintiff is in breach of the civil or criminal law’ is translated as ‘go bhfuil sárú ar an dlí sibhialta nó ar an dlí coiriúil déanta ag an ngearánaí’ in s57(1) of the Civil Liability Act, 1961. See the commentary on Article 43.2.1<sup>o</sup> regarding ‘sibhialta’.

*sa chuing phósta* Ó Dónaill translates ‘cuing an phósta’ as ‘the marriage yoke, wedlock’, translating ‘faoi chuing rúin’ as ‘under a bond of secrecy’ and ‘tá sé faoi chuing na cleithe acu’ as ‘he is completely in their power’, ‘cuing’ being translated as ‘yoke’. Dinneen translates ‘cuing phósta’ as ‘marriage bond’, translating ‘cuing’ as ‘a yoke; a bond, duty or obligation; entreaty; a condition ...’. DIL cites ‘cuing phósta’ from the late seventeenth-century *Parlaimint na mBan*, citing ‘fa chuing creidimh’ from a miscellaneous collection of poetry as an example of the phrase ‘cuing chrábaid (chreitim, etc.)’, ‘religious life, observance’.

*Ní fhéadfaidh* Regarding ‘capable of’ in the Acts, ‘no person shall be capable of being appointed as auditor of the Company without the approval of such appointment by the Minister’ is translated as ‘nach mbeidh aon duine incheaptha mar iniúchóir ar an gCuideachta gan ceadú an Aire leis an gceapachán sin’ in s10(e) of the Industrial Alcohol (Amendment) Act, 1980, with ‘every chattel mortgage shall be capable of being registered within one month ...’ being translated as ‘beidh gach airnéis-mhorgáiste incláraithe laistigh de mhí’ in s26(2) of the Agricultural Credit Act, 1978. ‘Provided, however, that a register kept in non-legible form shall be capable of being reproduced in legible form’ is translated as ‘ar choinníoll, áfach, gur féidir clár a choimeádfar i bhfoirm neamhlinéite a atáirgeadh i bhfoirm inléite’ in s4(2) of the Companies (Amendment) Act, 1977. ‘No person appointed to be an officer ... shall be capable of holding that office ... until he shall have made and subscribed ... a declaration’ is translated as ‘Éinne a ceapfar ... chun bheith ina oifigeach ... ní fhéadfa sé bheith i seilbh na hoifige sin ... go dtí go ndéanfidh agus go soghneoidh sé ... dearbhú’ in s11(2) of the Police Forces Amalgamation Act, 1925. ‘Capable of being applied’ is cited in the *Oireachtas Dictionary of Official Terms* as being translated as ‘is féidir do chur i mbaint’ in *Iris Oifigiúil*, 1925, p. 573.

*a scaoileadh* See the commentary on the foregoing subsection. ‘If the pensioner’s wife dies or the marriage is lawfully annulled or dissolved’ is translated as ‘má gheibheann bean chéile an phinsinéara bás nó má déantar an pósadh a chur ar neamhbhrí nó a scaoileadh go dleathach’ in the First Schedule to the Army Pensions Act, 1946. ‘Being a marriage which has not been dissolved or annulled’ is translated as ‘is pósadh nach mbeidh scaoilte ná neamhnithe’ in s4(1) of the Finance Act, 1983.

*fad is beo* ‘And may specify the period during the lifetime of the person applying for the order’ is translated as ‘agus féadfar an tréimhse, le linn beo don duine a d’iarr an

t-ordú, a shonrú ann’ in the Table to s17(b) of the Status of Children Act, 1987. ‘For such period during the lifetime of the applicant spouse’ is translated as ‘go ceann cibé tréimhse le linn don chéile iarthach a bheith beo’ in s5(1)(a) of the Family Law (Maintenance of Spouses and Children) Act, 1976. ‘If the valuation date occurs during the lifetime of the surviving party to the marriage’ is translated as ‘más dáta i rith saol an pháirtí mharthanaigh sa phósadh an dáta luachála’ in s5(2)(b) of the Wealth Tax Act, 1975. Finally, ‘shall be granted by way of weekly pension during the lifetime of the employee’ is translated as ‘is i bhfuirm pinsin sheachtainiúil le saol an fhostaí a deonfar é’ in s5 of the Limerick Corporation Gas Undertaking (Pensions) Act, 1929.

*in alt na huaire* See the commentary on Articles 10.1, 12.4.2<sup>o</sup> and 46.2. ‘Under the law for the time being in force in Northern Ireland’ is translated as ‘faoin dlí a bheidh i bhfeidhm de thuras na huaire i dTuaisceart Éireann’ in s2(1) of the Foyle Fisheries (Amendment) Act, 1976. ‘By or under the law for the time being in force in relation to elections of members of councils of county boroughs’ is translated as ‘do réir no fé réim an dlí bheidh i bhfeidhm de thuras na huaire maidir le toghacháin bhall comhairlí contae-bhuirgí’ in s5(5) of the Waterford City Management Act, 1939, with ‘do réir na dlí nó féin dlí bheidh i bhfeidhm de thuras na huaire maidir le toghacháin bhall de chomhairlí contae-bhuirgí’ being found in s7(5) of the Limerick City Management Act, 1934, and ‘maidir le toghacháin do bhaill de chomhairle contae-bhuirgí’ replacing the final clause in s32(5) of the Local Government (Dublin) Act, 1930. Professor Máirtín Ó Murchú again recommends ‘in am’, ‘in alt’ or ‘le linn’ rather than ‘de thuras’ (found generally in the Acts) in the direct translation below.

### Standardised Irish text

I gcás pósadh duine ar bith a scaoileadh faoi dhli sibhialta aon Stáit eile agus an pósadh sin, agus bail dlí air, a bheith ann fós faoin dlí a bheidh i bhfeidhm in alt na huaire taobh istigh de dhlinse an Rialtais agus na Parlaiminte a bhunaítear leis an mBunreacht seo, ní fhéadfaidh an duine sin pósadh ar a mbeadh bail dlí a dhéanamh taobh istigh den dlínse sin an fad is beo don duine eile a bhí sa chuing phósta a scaoileadh amhlaidh.

### Direct gender-proofed translation

Aon duine ar scaoileadh a phósadh nó a pósadh faoi dhli sibhialta aon Stáit eile ach ar pósadh bailí ar marthain é faoin dlí atá i bhfeidhm de thuras<sup>1</sup> na huaire laistigh de dhlinse an Rialtais agus na Parlaiminte a bhunaítear<sup>2</sup> leis an mBunreacht seo ní fhéadfaidh sé nó sí pósadh bailí a dhéanamh<sup>3</sup> laistigh den dlínse sin le linn don pháirtí eile sa phósadh a scaoileadh amhlaidh a bheith beo<sup>4</sup>.

### Variants

- 1 ‘in am’, ‘in alt’, ‘le linn’
- 2 ‘atá á bhunú’
- 3 ‘a chonrú’
- 4 ‘le linn beo don pháirtí eile sa phósadh a scaoileadh amhlaidh’

## ARTICLE 42.1 AIRTEAGAL 42.1

## EDUCATION OIDEACHAS

## TÉACS GAELGE

Admhaíonn an Stát gurb é an Teaghlach is múinteoir príomha dúchasach don leanbh, agus ráthaíonn gan cur isteach ar cheart doshannta ná ar dhualgas doshannta tuisti chun oideachas de réir a n-acmhainne a chur ar fáil dá gclainn i gcúrsaí creidimh, moráltachta, intleachta, coirp agus comhdhaonnachta.

## LITERAL ENGLISH TRANSLATION

The State acknowledges that the Family is the primary connate teacher for the child, and (it) guarantees not to interfere with the inalienable right nor with the inalienable obligation of parents to provide education according to their means for their family in matters of religion, morality, intellect, body and sociality.

## ENGLISH TEXT

The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

## Divergences between the official texts

- 1 'To provide ... for the religious ... education of their children' is expressed as 'chun oideachas ... a chur ar fáil dá gclainn i gcúrsaí creidimh' ('to provide education for their children in religious affairs') in the Irish text.
- 2 While 'leanbh' expresses 'child' in the Irish text, which term translates 'child' in *Téarmaí Dlí*, 'children' is expressed not by the plural 'leanaí' but as 'clann', i.e. 'children' seen as a collective family unit.
- 3 'To respect' is expressed as 'gan cur isteach ar' ('not to interfere with') in the Irish text, as in Article 40.3.1°, 'cur isteach ar' being translated as 'to molest' in *Téarmaí Dlí*.
- 4 'Natural' is expressed as 'dúchasach' ('connate'/'native'/'hereditary') in the Irish text.
- 5 'Educator' is expressed as 'múinteoir' ('teacher') in the Irish text.
- 6 'Social' is expressed by the genitive singular of the now infrequently used term 'comhdhaonnacht' in the Irish text, 'sóisialach' being the general legal term and 'sóisialta' being the general modern term in ordinary usage rendering 'social'.
- 7 There is a comma in the Irish text before the clause beginning 'agus ráthaíonn' ('and guarantees'), no corresponding comma being found in the English text, and a comma in the English text alone before and after the phrase 'according to their means'.

## Commentary

*oideachas* Dinneen's entry under this headword is as follows: 'advice, instruction, teaching, education (*recent in this sense*)'. Ó Dónaill cites '*oideachas bunscoile*,

*ollscoile*, primary school, university education' and '*córas oideachais*, educational system'. DIL translates 'oidecht' and 'oides' respectively as 'teaching, training' and 'teaching, instruction', both being based on 'oide', the later form of 'aite', translated as (a) 'foster-father' and (b) 'tutor, teacher', in DIL, this secondary sense being cited from the ninth-century Milan Glosses on the Commentary on the Psalms, where we find 'ar danimmart á aite' ('for the authority of his tutors restrained him').

'For the payment of a periodical sum exceeding £30 per week for the maintenance and education of a child' is translated as 'chun suim thréimhsiúil is mó ná £30 sa tseachtain a íoc le cothabháil agus oideachas linbh' in s14(b) of the Courts Act, 1981, with 'for the payment of a weekly sum exceeding £15 for the maintenance and education of a child' being translated as 'chun suim sheachtainiúil is mó ná £15 a íoc le haghaidh cothabháil agus oideachas linbh' in s28(3) of the Family Law (Maintenance of Spouses and Children) Act, 1976. 'Payments made for the education of a child to a standard higher than that provided by the deceased for any other or others of his children' is translated as 'íocaíochtaí a rinneadh chun oideachas a thabhairt do leanbh de chaighdeán is airde ná mar a sholáthraigh an t-éagach d'aon leanbh nó leanaí eile leis' in s63(6) of the Succession Act, 1965. 'Whether or not the premises are also used to provide education at any level other than secondary school level' is translated as 'cibé acu a úsáidtear nó nach n-úsáidtear an t-áitreabh freisin chun oideachas a chur ar fáil ar aon leibhéal seachas ar leibhéal meánscoile' in s1 of the Local Government (Financial Provisions) Act, 1978. 'The principles on which such committee is required by or under this Act to provide continuation education and technical education' is translated as 'na prinsiobail gur dá réir is gá don choiste sin, do réir an Achta so no fé, oideachas leanúna agus ceárd-oideachas do sholáthar' in s29(3) of the Vocational Education Act, 1930. Note finally that 'the proper working of all institutions devoted to the care and education of children' is translated as 'ceart-oibriú gach institiúide atá ag gabháil d'aireachasú agus teagasc leanaí' in Article 50 of the Fourth Schedule to the Geneva Conventions Act, 1962.

*admhaíonn* See the commentary on Article 40.3.3° and on the *Preamble*. 'I acknowledge' is translated as 'admhaím' in *Téarmaí Dlí*. 'The Taoiseach ... and the Prime Minister ... acknowledge that the most urgent and important issue facing the people of Ireland' is translated as 'Admhaíonn an Taoiseach ... agus an Príomh-Aire gurb í an tsaincheist is práinní agus is tábhachtaí atá os comhair mhuintir na hÉireann' in the December 1993 *Joint Declaration* (p. 1). 'In the event of its failing to acknowledge receipt of remittance' is translated as 'más rud é ná faghfar admháil ón gcoiste ar airgead an ticéid' in s7(4) of the Public Charitable Hospitals (Temporary Provisions) Act, 1930. 'When a person receives a report under this section he shall as soon as may be acknowledge the receipt thereof' is translated as 'I gcás ina bhfaighidh duine tuarascáil faoin alt seo tabharfaidh sé admháil, a luaithe is féidir, go bhfuair sé í' in s254(3) of the Social Welfare (Consolidation) Act, 1981. 'Where ... the person in possession of the land acknowledges the title of the person to whom the right of action has accrued' is translated as 'I gcás ... go n-admhóidh an duine i seilbh na talún teideal an duine chun a mbeidh

an ceart caingin tar éis faibhriú' in s51(1) of the Statute of Limitations, 1957.

Looking at early Acts, in the Preamble to the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, 'Dáil Éireann sitting as a Constituent Assembly in this Provisional Parliament, acknowledging that all lawful authority comes from God to the people' is translated as 'Dáil Éireann 'na suidhe mar Dháil Bhunaídh sa Phárlimint Shealadach so, á admháil gur ó Dhia a thagann gach údarás dleathach chun na ndaoine', with 'and acknowledging it to be the duty of Saorstát Éireann to make suitable provision for his widow Mrs Maud Griffith' being translated as 'agus fós á admháil dóibh go bhfuil sé de dhualgas ar Shaorstát Éireann soláthar oiriúnach do dhéanamh dá bhaintrigh Meadhbh Uí Ghriobhtha' in the Preamble to the Griffith Settlement Act, 1923.

*príomha* See the commentary on Article 41.1.1°. 'The primary fund's share of that interest shall be treated as an additional asset of the primary fund' is translated as 'déanfar sciar an chiste phríomha den leas sin a áireamh mar shócmhainn bhreise de chuid an chiste phríomha' in s7 of the Finance Act, 1990. 'The primary allowance' is translated as 'an lamháltas príomha' in s4(1) of the Rates on Agricultural Land (Relief) Act, 1967, and as '(den) liúntas phríomhdha' in s14(1) of the Rates on Agricultural Land (Relief) (No. 2) Act, 1935. 'For the Expenses of Primary Education' is translated as 'Chun Costaisí Bun-Oideachais' in the Schedule to the Appropriation Act, 1925, with 'a secondary, vocational or other post-primary school' being translated as 'meánscoil, gairmscoil nó scoil eile iarbhuoideachais' in s29(5) of the First Schedule to the European Assembly Elections Act, 1977.

*a chur ar fáil* This phrase expresses 'to provide', rather than 'to provide for', in the next section. 'Regulations under this section shall provide for payment ... of such amount as may be determined by the Minister' is translated as 'Forálfar le rialacháin faoin alt seo go dtabharfar íocaíocht ... a mbeidh cibé méid inti a chinneadh an tAire' in s61(2) of the Social Welfare (Consolidation) Act, 1981, with 'Beidh foráil i rialacháin faoin alt seo chun íocaíocht a thabhairt ... a mbeidh cibé méid inti a chinneadh an tAire' being found in s31(2) of the Social Welfare (Occupational Injuries) Act, 1966. 'In so far as they provide for payment of an amount' is translated as 'a mhéid a fhoráilann siad go n-íocfaí méid' in the Table to s52 of the Finance Act, 1980. Finally, 'to provide for payment to the Vendors of the instalment falling due in that year' is translated as 'chun soláthar do dhéanamh chun an tráthchuid a bheidh dlíte an bhliain sin d'íoc leis na Dioltóirí' in s7 of the First Schedule to the Creamery Act, 1928. See the commentary on Article 42.4 regarding 'The State shall provide for free primary education' being expressed as 'Ní foláir don Stát socrú a dhéanamh chun bunoidéachas a bheith ar fáil in aisce' and the reference to this in the courts.

*dúchasach* This adjective is translated as 'hereditary, ancestral; inherited, inherent; innate, instinctive; native, indigenous' in *Ó Dónaill*, with 'inheritable' also given, following the abbreviation for 'Jurisprudence'. *Dinneen* translates 'dúthchasach' as 'of or belonging to one's country; inherent, inherited'. DIL only gives one example of 'dúthchasach' as an adjective, from O'Donovan's *Tribes*

and *Customs of Hy-Many*, translating the noun 'dúthchasach' principally as 'hereditary proprietor'. 'Dúthchas' is translated principally as 'hereditary right, claim by descent, birthright', being based on 'dúthaig', as an adjective translated as 'belonging to by virtue of descent or hereditary' and, as a noun, 'hereditary land, patrimony', in DIL – see the commentary on Article 1.

Note how 'natural rights of the child', in Article 42.5, is expressed as '(do) chearta nádúrtha ... an linbh'. Professor Máirtín Ó Murchú wonders if a difference of meaning was understood and accepted here, commenting on 'nádúrtha' in the direct translation below, and favours maintaining 'dúchasach' on that ground. 'Natural child' and 'natural father' are translated respectively as 'leanbh nádúrtha' and 'athair nádúrtha' in *Téarmaí Dlí*, while 'natural justice' and 'natural law' are respectively translated as 'ceartas aiceanta' and 'dlí aiceanta' and 'natural water-course' as 'sruthchúrsa aiceanta', with 'natural love and affection' translated as 'grá agus gean nádúrtha'. 'Nádúrtha' has the secondary sense of 'good-natured, kindly' according to *Ó Dónaill*, who translates 'duine nádúrtha' as 'good-natured, kindly, person; easy-mannered person'. DIL cites the following example of 'nádúrda' in the sense of 'native, indigenous': 'Michel O Cleirigh ... do bhraithribh nádúrtha Conuente Dhúin na nGall'. 'Nádúir' is a Romance loanword, according to DIL – see the commentary on Article 10.1, however. Professor Máirtín Ó Murchú remarks that this word was available too early to be a Romance loanword and that it would probably have the form 'natúr' if it was from Anglo-Norman. Both Irish 'nádúr' and Welsh 'natur' come from Latin 'natura', according to Alexander Macbain's *Etymological Dictionary of the Gaelic Language*.

"National of another Contracting State" means ... any natural person who had the nationality of a Contracting State' is translated as 'Ciallaíonn "náisiúnach de chuid Stáit Chonarthaigh eile" ... aon duine nádúrtha ag a raibh náisiúnacht de chuid Stáit Chonarthaigh' in s2 of Article 25 of the Second Schedule to the Arbitration Act, 1980. 'Its outstanding natural beauty' is translated as 'a shár-áilleacht nádúrtha' in s40(a) of the Local Government (Planning and Development) Act, 1976. Note, finally, that 'whether he is or is not a natural-born British subject' is translated as 'pe'ca géilliúnach Briotáineach do réir dhúthchais é ... no nách eadh' in s2(1) of the Legitimacy Act, 1931.

*cur isteach ar* 'Cuirim isteach air' is translated as 'I molest' in *Téarmaí Dlí* – see the commentary on Article 15.10. Turning to the verb 'respect' in the Acts, 'all beneficiaries enjoying such privileges and immunities under this Article have a duty to respect the laws and regulations of the requesting State' is translated as 'beidh de dhualgas ar gach tairbhí a theachtfaidh na pribhléidí agus na diolúintí sin faoin Airteagal seo dlíthe agus rialacháin an Stáit iarrthaigh a urramú' in s7 of Article 8 of the Second Schedule to the Radiological Protection Act, 1991. 'It is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State' is translated as 'is é dualgas na ndaoine go léir a theachtann pribhléidí agus diolúintí den sórt sin dlíthe agus rialacháin an Stáit ghlacaidh a urramú' in s1 of Article 41 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967. Note finally that 'while respecting the individual preferences of every prisoner' is

translated as ‘ach tabharfar aird ar rogha phearsanta gach aon phríosúnaigh’ in Article 38 of the Third Schedule to the Geneva Conventions Act, 1962. See further the commentary on Articles 40.3.1° and 44.1.

Again Professor Máirtín Ó Murchú, commenting on the direct translation below, remarks that the English text has the sense of ‘not to interfere with’ and prefers ‘gan cur isteach ar’ to ‘a urramú’. He also remarks that ‘a urramú’ is too far away from the object, ‘ceart ... dualgas’, and that there is a danger of reading the text as ‘le haghaidh oideachas ... a urramú’.

*tuistí* ‘Tuismitheoir’, ‘parent’, is given as a headword in the Glossary appended to *An Caighdeán Oifigiúil*. *Ó Dónaill* gives ‘tuiste’ as a variant of ‘tuismitheoir’ (‘parent’). *Dinneen* gives both ‘tuismitheoir’ and ‘tuistidhe’ as headwords and translates them respectively as ‘a generator, a parent’ and ‘a parent, a parent case’. DIL gives examples of ‘tuistid’ (‘parent’) from the Old Irish Glosses onwards, including ‘fo chumachte a tuistide’ (‘under their parents’ power’) from the eighth-century Würzburg Glosses on the Pauline Epistles. ‘Tuistid’ is based on ‘tuiste’, the participle of ‘do-fuissim’, translated as (a) ‘begets, generates’, (b) ‘conceives’ and (c) ‘bears, brings forth (offspring)’ in DIL, as well as ‘creates, fashions’, ‘founds, establishes’ and ‘produces, engenders (fig.), causes’. Examples of these senses are cited in DIL from the Glosses of the eighth century as well as examples of the verbal noun ‘tuistiú’, with ‘tuismid’ being the Middle and Modern Irish form of the verbal noun. The verb ‘tuismigid’ is based on ‘do-fuissim’ and on ‘tuismid’, and it is on this later form of the verb that ‘tuismitheoir’ is based, with the examples cited in DIL generally coming from seventeenth-century sources.

*de réir a n-acmhainne* ‘Ráiteas acmhainne’ is translated as ‘statement of means’ in *Téarmaí Dlí*. *Ó Dónaill* gives ‘means, resources’ as the secondary sense of ‘acmhainn’ (the primary sense being ‘capacity, endurance’), and translates ‘de réir a acmhainne’ as ‘according to his means’, *Dinneen* similarly translating ‘do réir a acfuinne’. DIL cites ‘do réir acmuinne in othuir’ (= *secundum divitias patientis*), from *Rosa Anglica*, as an example of ‘acmaing’ in the sense of ‘abundance, wealth’, ‘acmaing’ being the verbal noun of ‘ad-cumaing’ (\*ad-com-icc), ‘reaches, extends to, attains to’.

In s11 of the ‘Details’ in the ‘Leitrim County Scheme’ in the Schedule to the Local Government (Temporary Provisions) Act, 1923, ‘All patients must contribute towards their maintenance according to their means’ is translated as ‘Caithfidh gach othar cabhrú do réir a acfuinne chun a chimeáda suas’, with ‘or according to his means’ being translated as ‘no do reir a acfuinne’ in s21(b) of the ‘Clare County Scheme’. See the commentary on Articles 42.5 and 45.2.i where ‘means’ is expressed by ‘beart’ and ‘caoi’ respectively.

*dá gclainn* The special dative singular form of ‘clann’, this form being cited in *An Caighdeán Oifigiúil* (p. 10, 8th ed., 1995) as optional, the form identical to that of the nominative singular being allowed also in the dative singular and now being in general usage rather than the special dative form. ‘Clann’ is translated principally as ‘children, offspring’ in *Ó Dónaill* and as ‘race, children’ in

*Dinneen*, who states that ‘clann’ comes from Latin ‘planta’, which word in a later borrowing produced ‘plannda’, ‘plant, scion, offspring’. DIL translates ‘clann’ as (a) ‘plant, planting; off-shoot, produce’, (b) ‘*Figuratively of the growth of the hair*; springing locks, tresses’ and (c) ‘children, family, offspring; a single child; descendants, race, clan’, citing examples from the Old Irish Glosses onwards of the latter sense, including ‘tuistiú claindde’ (‘the bearing of children’) from the eighth-century Würzburg Glosses on the Pauline Epistles. Note, finally, that ‘clannchuid’ is translated as ‘portion (in equity)’ in *Téarmaí Dlí*.

*múinteoir* This headword is translated as ‘teacher’ in *Ó Dónaill* and in *Dinneen*. The form ‘múintid’ is found in the eighth-century Würzburg Glosses on the Pauline Epistles, glossing Latin ‘eruditorem’ – this is the only example of this headword cited in DIL, where it is translated as ‘a teacher, instructor’. DIL also cites examples of the verb ‘múinid’, ‘teaches, gives instruction (in)’, from the same collection of Glosses.

‘Oideachasóir’ is translated as ‘educationalist’ in *Ó Dónaill*. Professor Máirtín Ó Murchú, commenting on that term translating ‘educator’ in a draft of the direct translation below, recommends the term ‘oide’, which one finds in *De Bhaldraithe* translating ‘educator’.

*i gcúrsaí coirp* ‘To ... school-related physical education activities’ is translated as ‘chuid gníomhaíochtaí corp-oideachais a bhaineann leis an scoil’ in s33(2)(g) of the Finance Act, 1985. ‘Facilities for taking part in sporting and physical education activities’ is translated as ‘saoráidí le páirt a ghlacadh i ngníomhaíochtaí spóirt agus corp-oiliúna’ in s24 of the Value-Added Tax (Amendment) Act, 1978, with ‘tréineáil chuirp’ translating ‘physical training’ in s4(1) of the Vocational Education Act, 1930. ‘Éiglocht mheabhach nó choirp’ translates ‘mental or physical infirmity’ in s5(1)(a) of the Finance Act, 1990.

‘Physical protection of nuclear material’ is translated as ‘cosaint fhisiceach ábhair núicléach’ in s8(a) of the Radiological Protection Act, 1991, with ‘the act of erecting a physical obstacle to an entry to or means of exit from land or a vehicle’ being translated as ‘constaic nithiúil a thógáil i mbealach isteach chun talún nó isteach i bhfeithicil nó i mbealach amach ó thalamh nó as feithicil’ in s3(2)(b) of the Prohibition of Forcible Entry and Occupation Act, 1971.

*i gcúrsaí intleachta* ‘The Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners’ is translated as ‘Spreagfaidh an Chumhacht Choinneála na príosúnaigh chun cúrsaí intleachtúla agus oideachasúla, caitheamh aimsire, spóirt agus cluichí, a ghabháil chucu’ in Article 38 of the Third Schedule to the Geneva Conventions Act, 1962. ‘Or other industrial or intellectual property rights’ is translated as ‘nó cearta maoinne intleachta nó tionscail eile’ in s10(3)(g) of the National Development Corporation Act, 1986.

*i gcúsaí moráltachta* See the commentary on Articles 29.1 and 40.6.1°. ‘The religious and moral, intellectual, physical and social welfare of the infant’ is translated as ‘leas creidimh, leas morálta, leas intleachta, leas coirp agus leas sóisialta an naíin’ in s9 of the Status of Children Act,

1987, as in s2 of the Guardianship of Infants Act, 1964 (apart from 'sóisialta' replacing 'sóisialach' of the earlier Act).

*igcúrsaí creidimh* 'Power of court as to infant's religious education' is translated as 'Cumhacht na cúirte maidir le hoideachas creidimh naí' in the Margin Title of s17 of the Guardianship of Infants Act, 1964, for example. See the commentary on Article 44.2.3°.

*an Teaghlach* See the commentary on Article 41.1.1°. Commenting on 'Teaghlach' in the direct translation below, Professor Máirtín Ó Murchú feels it is too 'unfriendly' as a word ("ró-neamh-mhuinteartha d'fhocal") and recommends the term 'muintir'.

*ráthaíonn* The pronoun 'sé', referring to 'Stát', in accord with common literary usage, is not expressed. We see this feature in other Articles also.

*leanbh* 'Leanbh nádúrtha' is translated as 'natural child' in *Téarmaí Dlí*, with 'the Children's Court' translated as 'an Chúirt Leanáí'.

*doshannta* See the commentary on Article 1.

*comhdhaonnachta* See the commentary on Article 41.1.1°.

### Standardised Irish text

Admhaíonn an Stát gurb é an Teaghlach is múinteoir príomha dúchasach don leanbh, agus ráthaíonn gan cur isteach ar cheart doshannta ná ar dhualgas doshannta tuismitheoirí chun oideachas de réir a n-acmhainne a chur ar fáil dá gclann i gcúrsaí creidimh, moráltachta, intleachta, coirp agus comhdhaonnachta.

### Direct translation

Admhaíonn an Stát gurb é an Teaghlach<sup>1</sup> oide príomha nádúrtha an linbh<sup>2</sup> agus ráthaíonn sé ceart dochoimhthithe agus dualgas dochoimhthithe<sup>3</sup> na dtuismitheoirí chun socrú<sup>4</sup> a dhéanamh, de réir a n-acmhainne, le haghaidh oideachas creidimh agus moráltachta, intleachta, coirp agus sóisialach a leanáí, a urramú.<sup>5</sup>

### Variants

- 1 'gurb iad an Mhuintir'
- 2 'is oide príomha dúchasach don leanbh'
- 3 'ceart agus dualgas dochoimhthithe'
- 4 'soláthar'
- 5 The following is Professor Máirtín Ó Murchú's recommended translation: 'Admhaíonn an Stát gur iad an Mhuintir / gurb é an Teaghlach is oide príomha dúchasach don leanbh agus ráthaíonn gan cur isteach ar cheart dochoimhthithe agus dualgas dochoimhthithe na dtuismitheoirí chun, de réir a n-acmhainne, oideachas creidimh agus moráltachta, intleachta, coirp agus sóisialach a chur ar fáil dá gclann.'

## ARTICLE 42.2 AIRTEAGAL 42.2

### TÉACS GAELGE

Tig le tuistí an t-oideachas sin a chur ar fáil dá gclainn ag baile nó i scoileanna príobháideacha nó i scoileanna a admhaítear nó a bhunaítear ag an Stát.

### LITERAL ENGLISH TRANSLATION

Parents can provide that education for their family at home or in private schools or in schools which are acknowledged or which are established by the State.

### ENGLISH TEXT

Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.

### Divergences between the official texts

- 1 'Parents shall be free to' is expressed as 'tig le tuistí' ('parents can/may') in the Irish text.
- 2 'To provide this education' is expressed in the Irish text as 'an t-oideachas sin a chur ar fáil dá gclainn' ('to provide this education **for their family**').
- 3 'In their homes' is expressed as 'ag baile' ('at home') in the Irish text.
- 4 'Recognised' is expressed in the Irish text by the same term as expresses 'acknowledges' in the previous section, 'admhaigh'.

### Commentary

*ag baile* Ó Dónaill translates 'sa bhaile, ag baile' as 'at home', also citing '*faoi bhaile*, at home, around' and translating 'tá sé sa bhaile' (*of deceased*) as 'he is gone to his last abode'. *Dinneen* translates 'ag baile, 'san mbaile' as 'at home'. 'Baile' is translated principally as 'place; piece of land (*belonging to one family, group or individual*), homestead, farmstead' in DIL. Ó Dónaill gives 'home' as the principal meaning of 'baile', citing '*a bhaile féin a bheith ag duine*, to have one's own home', and gives 'place, township' as the secondary meaning, translating 'an baile seo againne' as 'our town(land)'.<sup>1</sup>

Looking at 'home' in early Acts, 'imported rum may ... be delivered for home consumption if it has been warehoused for a period of at least three years' is translated as 'féadfar rum iomportáil do sheachada chun é chaitheamh sa bhaile má bhí sé i stóras ar feadh tréimhse trí mbliain ar a laighead' in s2(1) of the Immature Spirits (Restriction) Act, 1926, with 'upon delivery for home consumption' being translated as 'ar a sheachada chun a ólta i Saorstát Éireann' in s10(3) of the Finance Act, 1926. 'They should ... be given an idea of the advantages of home life as compared with life in an institution' is translated as 'ba cheart tuisgint do thabhairt dóibh ... sna buntáistí a bhaineann le saol an teinteáin teolaí seachas mar a bhaineann le saol na fúndúireachta' in s8 of the 'Details' in the 'Leitrim County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'Home Assistance' is translated as 'Cabhair Theinteáin' in s2(e) of the 'Clare County Scheme', with 'the County Cavan Home' being translated as 'Teaghlach Chontae an Chabháin' in s1 of the 'Cavan County Scheme', and 'such Home to provide accommodation for the aged and infirm homeless poor' being translated as 'slí do thabhairt sa Teaghlach san do sheandaoine bochta laga gan tigh gan áitreabh' in s2 of the 'Kerry County Scheme'.<sup>2</sup>

The requiring of adult persons to remain in their homes or the parents of children to keep the children in their homes' is translated as 'Ceangal a chur ar dhaoine éatacha



fanúint sa bhaile nó ar thuistí leanaí na leanaí a choimeád sa bhaile' in s4 of the Second Schedule to the Health Act, 1947. In s11 of the 'Laoighis County Scheme' in the Schedule to the Local Government (Temporary Provision) Act, 1923, 'Help to be given to the needy or medical attention to the sick in their homes in all possible cases' is translated as 'Tabharfar cúnamh do dhaoine gátaracha no aire leighis do bhreiteacháin ina dtithe féin i ngach cás in ar féidir é', with 'In all possible cases help to be given to people in their homes' being translated as 'I ngach cás in ar féidir é, is ina n-áruis féin a thabharfar cabhair do dhaoine' in s7 of the 'Offaly County Scheme'.

*Tig le* One of the phrases which expresses 'may' in the Constitution – see the commentary on Article 12.4.4°. As regards 'free to' in the Acts, 'Carriers shall be free to agree among themselves on provisions' is translated as 'Beidh cead ag iompróirí aontú eatarthu féin maidir le forálacha' in Article 40 of the Schedule to the International Carriage of Goods by Road Act, 1990. 'The Fund shall be free to dispose of commodity stocks forfeited to it' is translated as 'Beidh saorhead ag an gCiste diúscairt a dhéanamh ar stoic tráchtarraí atá arna bhforghéilleadh chuige' in s15 of Article 17 of the Schedule to the International Common Fund for Commodities Act, 1982. 'Consular officers shall be free to communicate with nationals of the sending State' is translated as 'beidh saoirse ag oifigh chonsalachta chun cumarsáid a dhéanamh le náisiúnaigh an Stáit shallchuir' in s1(a) of Article 36 of the Second Schedule to the Diplomatic Relations and Immunities Act, 1967. Finally, 'They shall be free to correspond, subject to censorship, on matters concerning their religious duties' is translated as 'Beidh cead acu comhfhreagras a dhéanamh, faoi réir cinsireachta, ar chúrsaí a bhaineann lena ndualgais reiligiúin' in Article 35 of the Third Schedule to the Geneva Conventions Act, 1962.

*a admhaítear* Note that 'admhaítear' expresses 'acknowledges' in the previous section – see the commentary on Article 8.2 regarding 'glac le' expressing 'recognize'. 'Persons employed as teachers in secondary schools recognised by the Minister for Education' is translated as 'daoine ar fostú mar mhúinteoirí i meánscoileanna atá aitheanta ag an Aire Oideachais' in s7(1)(f) of the Social Welfare (Consolidation) Act, 1981, as in s3(1) of the Social Welfare (No. 3) Act, 1974, and s12(1)(d) of the Social Welfare Act, 1952 (with 'meán-scoileanna' rather than 'meánscoileanna').

*tuistí* See the commentary on the previous subsection.

*dá gclainn* See the commentary on the previous subsection.

*a chur ar fáil* Note how this phrase expresses 'provide for' in the previous subsection.

### Standardised Irish text

Tig le tuismitheoirí an t-oideachas sin a chur ar fáil dá gclann ag baile nó i scoileanna príobháideacha nó i scoileanna a admhaítear nó a bhunaítear ag an Stát.

### Direct translation

Beidh cead ag tuismitheoirí an t-oideachas sin a sholáthar<sup>1</sup>

ina mbaile<sup>2</sup> féin nó i scoileanna príobháideacha nó i scoileanna atá aitheanta nó bunaithe ag an Stát.

### Variants

- 1 'a chur ar fáil'
- 2 'ina mbaillte'

## ARTICLE 42.3.1<sup>o</sup> AIRTEAGAL 42.3.1<sup>o</sup>

### TÉACS GAELIGE

Ní cead don Stát a chur d'fhiacha ar thuistí, in aghaidh a gcoinsiasa nó a rogha dleathaí, a gclann a chur ar scoileanna a bhunaítear ag an Stát nó ar aon chineál áirithe scoile a ainmnítear ag an Stát.

### LITERAL ENGLISH TRANSLATION

The State is not permitted to compel parents, against their conscience or their lawful choice, to send their family to schools (which are) established by the State or to any particular type of school (which is) named by the State.

### ENGLISH TEXT

The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

### Divergences between the official texts

- 1 'In violation of their conscience **and** lawful **preference**' is expressed as 'in aghaidh a gcoinsiasa nó a rogha dleathaí' ('against their conscience **or** their lawful **choice**') in the Irish text.
- 2 'Designate' is again expressed by 'ainmnigh' ('name') in the Irish text, as it sometimes is in the Acts.
- 3 'Shall not' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as we have seen in many earlier Articles.
- 4 A comma follows 'established by the State' in the English text, with no corresponding comma in the Irish text, which however puts the clause 'in aghaidh a gcoinsiasa nó a rogha dleathaí' ('in violation of their conscience and lawful preference') between commas.

### Commentary

*a chur d'fhiacha ar* 'Fiach' is translated as 'debt' in *Téarmaí Dlí. Ó Dónaill* gives 'debt' as the primary meaning of 'fiach', but gives 'obligation' as one of its secondary meanings, translating 'chuir sé d'fhiacha orm é a dhéanamh' as 'he forced me to do it'. *Dinneen* translates 'cuirim d'fhiachaibh ar' as 'I oblige, compel, insist on'. DIL cites 'dlegtir féich dúib' ('debts are owed by you') from the eighth-century Würzburg Glosses on the Pauline Epistles, s.v. 'fiach', translated as (a) 'an obligation, a payment due, debt, *also* legal due, fine, penalty' and (b) 'a duty, obligation (*especially in plural*)'. DIL translates the expression 'cuirim d'fhiachaibh ar ...', which preserves the older meaning of 'fiach' as 'obligation', as 'I compel ... to', citing examples of this phrase from the poetry of

Tadhg Dall Ó hUiginn (1550-1591) onwards.

Looking at ‘oblige’ in the Acts, ‘and oblige the transport undertaker to make ... charges for the carriage of merchandise of the applicant’ is translated as ‘agus ceanglóidh air éilithe ... d’éileamh ... ar iompar marsantais de chuid an iarratasóra’ in s102(4) of the Transport Act, 1944. In s58(7) of the Defence Forces (Temporary Provisions) Act, 1923, ‘The offence of using or offering any menace to or compulsion or any person tending to oblige him to receive, without his consent, any person or horse not duly billeted upon him’ is translated as ‘Aon bhagairt no fórsáil do dhéanamh ar aon duine a raghadh chun a chur fhiachaint ar an duine sin aon duine no capall do ghlaca dá ainneoin agus gur duine no capall é nár cuireadh ar billéad air go cuibhe’.

*in aghaidh a gcoinsiasa* As regards ‘violation’ in the Acts, ‘concerning any alleged violation of the Convention’ is translated as ‘faoi aon sárú a líomhnófar a rinneadh ar an gCoinbhinsiún’ in Article 52 of the First Schedule to the Geneva Conventions Act, 1962. ‘Or otherwise in violation of the common law’ is translated as ‘nó ar shlí eile ina shárú ar an dlí coiteann’ in s98 of the Fisheries (Consolidation) Act, 1959. ‘Contrártha d’fhorála an ordúithe sin’ translates ‘in violation of the provisions of such order’ in s44(3) of the Local Government (Sanitary Services) Act, 1948, with ‘má dintar aon chrann den tsórt san do ghearra anuas no do statha contrárdha don choinioll so’ translating ‘if any such tree is cut down or uprooted in violation of this condition’ in s3(3) of the Land Act, 1927. In s6(8) of the Dublin Reconstruction (Emergency Provisions) Act, 1924, ‘with respect to any of the easements or rights, or any actual or anticipated infringement or violation of the same’ is translated as ‘i dtaobh aon cheann de sna faoisimh no na cirt, no aon bhrise isteach no sárú a dineadh no a meastar a déanfar ar an gcéanna’. Finally, in *Treaties establishing the European Communities* (1973, p. 555), ‘Pricing practices designed to secure a privileged position for certain users in violation of the principle of equal access’ is translated as ‘cleachtais phraghsála a bhfuil d’aidhm acu pribhléid a ghnóthú d’úsáidirí áirithe de shárú ar an bprionsabal comhrochtana’.

*a rogha dleathaí* ‘Dleathach’ is translated as ‘lawful’ in *Téarmaí Dlí* and as ‘lawful, legal’ in *Ó Dónaill* – see the commentary on Articles 10.1 and 40.3.3°. ‘Rogha’ is translated as ‘option’ in *Téarmaí Dlí*, with ‘rogha bhreithiúnach’, ‘déanaim rogha’ and ‘faoi rogha’ translated respectively as ‘judicial discretion’, ‘I exercise discretion’ and ‘at the discretion of’. ‘Preference’, on the other hand, is translated as ‘tosaíocht’ in *Téarmaí Dlí*, in accordance with the eighth Irish Legal Terms Order (S.I. No. 290 of 1950, ‘Terms relating to the Law of Bankruptcy’), with ‘fraudulent preference’ translated as ‘tosaíocht chalaíseach’ and ‘preference share’ translated as ‘scair tosaíochta’.

‘Shall not give any undue or unreasonable preference or advantage to any person’ is translated as ‘ní thabharfaidh sé aon tosaíocht ná buntáiste neamhchuí nó neamhréasúnach do dhuine ar bith’ in s100(3) of the Harbours Act, 1946. In s73 of the ‘Tirconail County Scheme’ in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, ‘When boarding out children the Central Home Committee shall give preference to foster parents residing in country districts’ is translated as ‘Ag cur leanbhá

ar altranas dóibh, déanfidh Coiste an Teaghlaigh Mheán-suidhte rogha de lucht altroma a chomhnuíonn i gceantair thuatha’. ‘According to the next available preferences recorded thereon’ is translated as ‘do réir na gcéad roghna infheadhma eile a breacadh orra’ in s6(1) of the Third Schedule to the Electoral Act, 1923, with ‘the constituency in which he received the greatest number of first preferences’ being translated as ‘an dailcheantair ina bhfuair sé an uimhir is mó de chéad-roghanna’ in s55(1) of that Act. ‘Give any preference’ is translated as ‘aon bhontáiste do thabhairt’ in Article 8 of the 1922 Constitution. We find ‘tosaíocht’ in s38(5) of the Railways Act, 1924, where ‘For the purposes of determining any question of an alleged undue or unreasonable preference or advantage’ is translated as ‘Chun aon cheist do shocrú i dtaobh tosaíochta no buntáiste nea-chuibhe no mí-réasúnta adubhradh a tugadh’.

Commenting on a draft of the direct translation below, where ‘in violation of their ... lawful preference’ was translated as ‘in aghaidh a dtosaíochta dleathaí’, Professor Máirtín Ó Murchú remarked that ‘preference’ has two principal senses, i.e. ‘greater liking for one alternative over another’ and ‘a prior right or precedence, especially in connection with the payment of debts’. ‘Tosaíocht’ translates the second sense but it is the first sense that is involved here. Professor Ó Murchú regards ‘rogha’ as the best Irish translation of ‘preference’ in that sense.

*a ainmnítear* “Designated securities” means securities which have been designated by the Minister’ is translated as ‘ciallaíonn “urrúis ainmnithe” urrúis a bheidh ainmnithe ag an Aire’ in s139(2)(a) of the Central Bank Act, 1989. ‘All such stock shall be designated by the Board as “Dublin Bridge Stock”’ is translated as “Droichead-Stoc Bhaile Átha Cliath” a bheidh mar ainm ag an mBord ar gach stoc den tsórt san’ in s18(5) of the Dublin Port and Docks (Bridges) Act, 1928. See also the commentary on Articles 6.1 and 13.8.2° where ‘designate’ is expressed respectively by ‘ceap’ and ‘ainmnigh’.

### Standardised Irish text

Ní cead don Stát a chur d’fhiacha ar thuismitheoirí, in aghaidh a gcoinsiasa nó a rogha dleathaí, a gclann a chur ar scoileanna a bhunaítear ag an Stát nó ar aon chineál áirithe scoile a ainmnítear ag an Stát.

### Direct translation

Ní cheanglóidh an Stát ar thuismitheoirí, in aghaidh a gcoinsiasa agus a rogha dleathaí, a leanáí a chur ar scoileanna a bhunaítear ag an Stát, nó ar aon chineál áirithe scoile a ainmnítear ag an Stát.

## ARTICLE 42.3.2° AIRTEAGAL 42.3.2°

### TÉACS GAELIGE

Ach ós é an Stát caomhnóir leasa an phobail ní foláir dó, toisc cor an lae, é a dhéanamh éigeantach minimum áirithe oideachais a thabhairt do na leanáí i gcúrsaí moráltachta, intleachta agus comhdhaonnachta.

**LITERAL ENGLISH TRANSLATION**

But since the State is the guardian of the welfare of the people it must, because of the circumstances of the day, make it compulsory to give a certain minimum education to the children in moral, intellectual and societal affairs.

**ENGLISH TEXT**

The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

**Divergences between the official texts**

- 1 The Irish text commences with a qualifying clause, expressing 'however' as 'Ach', 'But', as we have seen in other Articles, and 'as guardian of the common good' as 'ós é an Stát caomhnóir leasa an phobail', 'since the State is guardian of the common good'.
- 2 'The State shall ... require' is expressed in the Irish text as 'ní foláir dó ... é a dhéanamh éigeantach', 'it (the State) must make it compulsory'.
- 3 'That the children receive a certain minimum education' is expressed as 'minimum áirithe oideachais a thabhairt do na leanaí' ('that a certain minimum education be given to the children') in the Irish text.
- 4 'A certain minimum education, moral, intellectual and social' is expressed as 'minimum áirithe oideachais ... i gcúrsaí moráltachta, inleachta agus comhdhaonnachta' ('a certain minimum education in moral, intellectual and social matters') in the Irish text.
- 5 'In view of actual circumstances' is expressed as 'toisc cor an lae' ('because of the circumstances of the day') in the Irish text.
- 6 As we have seen in other Articles, 'the common good' is expressed as 'leas an phobail' in the Irish text, 'the common good' being translated as 'an mhaitheas phoiblí' in *Téarmaí Dlí*; 'social' is expressed by the now infrequent term 'comhdhaonnach', 'sóisialach' and 'sóisialta' being much more familiar today, and 'shall' is expressed as 'ní foláir' ('must').

**Commentary**

*caomhnóir* This headword is translated as 'guardian' in *Téarmaí Dlí*, where 'caomhnóir ar an bpearsa' and 'caomhnóir ar an eastát' are translated respectively as 'guardian of the person' and 'guardian of the estate'. *Ó Dónaill* translates 'caomhnóir' as 'guardian, protector; patron' and *Dinneen* translates 'caomhnuightheoir' as 'a protector, a patron, a cherisher'. This form does not appear to be given as a headword in DIL, but goes back to the verb 'cáemnaid', which itself is based on 'cáemna', translated principally as 'act of protecting, keeping' in DIL – see the commentary on Article 28.3.3° regarding the verb 'caomhnaigh', 'preserve'. Note that 'caomhnaidhe' is the form in the original text, 'caomhnóir' being given as the standard form of the secondary sense of 'caomhnaí' in *Ó Dónaill*, 'companion' being given as the primary sense. *Dinneen* translates 'caomhnaidhe' as 'a companion, an attendant, a friend, a protector'.

In the original Article 44.1.2°, prior to the Fifth Amendment of the Constitution Act, 1972, 'The State

recognises the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith possessed by the great majority of the citizens' is expressed as 'Admhuigheann an Stát an chéim fá leith atá ag an Naomh-Eaglais Chatoiliceach Aspalda Rómhánach ós í is caomhnaidhe don Chreideamh atá ag árd-urmhór na saoránach'. 'The State, as guardian of the common good, should supply the place of the parents' is translated as 'gur cóir don Stát, ós é caomhnóir leas an phobail é, ionad na dtuismitheoirí a líonadh' in s3(1)(D) of the Adoption Act, 1988, which section relates to Article 42.5 of the Constitution. 'A parent or guardian of that person' is translated as 'tuismitheoir nó caomhnóir an duine sin' in s15(2)(a) of the Health (Mental Services) Act, 1981.

Looking at early Acts, in s4(1) of the Griffith Settlement Act, 1923, 'the guardian of the said Ita Griffith' is translated as 'caomhnóir Ide Ní Ghriobhtha roimh-ráite'. 'A County Scheme may provide for the abolition of any Board of Guardians' is translated as 'Féadfaidh Scéim Chontae a fhoráil go gcuirfead deire le haon Bhórd um Chaomhna na mBocht' in s7(1) of the Local Government (Temporary Provisions) Act, 1923, with 'When the Board of Guardians of any Union is abolished by any County Scheme' being translated as 'Nuair a dhéanfidh aon Scéim Chontae deire do chur le Bórd Caomhnóirí aon Aontais' in s9.

*caomhnóir leasa an phobail* According to the official standard, 'leas' would remain in the nominative case here, followed as it is by a noun preceded by the article, i.e. 'caomhnóir leas an phobail' – see the commentary on Article 1. As regards 'leas an phobail' expressing 'the common good', see the commentary on Article 6.1. 'Where the Bank considers it necessary for the common good' is translated as 'i gcás inar dóigh leis an mBanc gur gá é ar mhaithe le leas an phobail' in s44(2)(d) of the Building Societies Act, 1989. 'That ... the common good requires that the working of any particular deposit of minerals should be controlled by the State' is translated as 'gur gá, mar mhaithe leis an bpobal, oibriú an fhoslaigh áirithe mianraí do bheith fé urláimh an Stáit' in s18(a) of the Minerals Exploration and Development Company Act, 1941. See further the commentary on Article 45.2.ii.

Commenting on a draft of the direct translation below, where 'as guardian of the common good' was translated as 'mar chaomhnóir na maitheasa poiblí', Professor Máirtín Ó Murchú remarked that he felt this contravened some specific rule where the construction 'Noun + Article + Noun (in the genitive) cannot be joined to 'mar', as an indefinite noun or categorical noun should follow 'mar' in that sense and 'Noun is a specific noun above. As regards the emended direct translation below, see the citations from *Téarmaí Dlí* above where 'ar' follows 'caomhnóir'.

*toisc cor an lae* The genitive case follows 'toisc', it being a noun; however, according to the official standard, while 'cor', being followed by a noun preceded by the article, would remain in the nominative case, it would be lenited – see the commentary on Article 1. The form here can be read as the genitive plural (see 'leasa' above in 'caomhnóir leasa an phobail', as genitive singular, and 'conditions' in the English text) rather than nominative singular.

'Toisc, de thoisc' is translated as 'because, on account of' in *Ó Dónaill*, who cites '*toisc na cainte go léir*, because

of all the talk'. In earlier Irish literature 'toisc' had the sense of 'expedition, journey; quest, errand; business, purpose', according to *Ó Dónaill*, who cites '*d'imigh gach neach díobh lena thoisc féin*, each of them went about his own business' and '*toisc lae go n-oíche*, a journey of a day and a night'. *Ó Dónaill* also gives the secondary sense of 'state, circumstance', citing '*tosca an cháis*, the circumstances of the case', this also being one of the secondary senses of 'cor' – *Ó Dónaill* s.v. 'cor', cites '*is ionann cor dúinn*, our circumstances are alike' and '*cora (crua) an tsaoil*, the vicissitudes of life', for example. The principal sense of 'cor' in *Ó Dónaill* is 'turn' – we see the link between this sense and the secondary sense above very graphically in phrases such as '*is iomaí cor a chuir an saol de ó shin*, time have changed very much since then' and '*tháinig sé de chor sa saol go ...*, it came to pass that ...'. *Dinneen* translates 'cor' as 'a throw, a cast; ... a plait, a twist or coil (as of a rope); ... a turn, a move, a stir, a start, a leap; ... a tune, bar of a tune; vicissitude, circumstance, plight'. 'Toisc' is translated by *Dinneen* as 'report or tidings, intention, object or purpose, will or desire; amount done at a time, what can be carried at a time; a proceeding, circumstance or affair, work, business; a journey or expedition', translating 'de thoisc' / 'toisc' as 'on account or on the score of', and citing '*is ait é toisc an tsaoghail*, the world's way is strange'. Three of the examples of 'do thoisc' ('on account of') cited in DIL come from works of the seventeenth-century writer, Geoffrey Keating (Seathrún Céitinn). DIL translates 'toisc' as follows: (a) 'need, necessity' (citing the following from the eighteenth-century Würzburg Glosses on the Pauline Epistles: 'conderna cech ball anas toisc dialoilu' [so that every member may do what the other desires]), (b) 'wish, desire', (c) '(in phrase) *óin-toisc, d'óen-toisc* 'purposely', (d) 'quest, errand, business', (e) 'military expedition', (f) 'journey', (g) 'occurrence, occasion', (h) 'condition, state'. 'Cor' is the verbal noun of 'fo-ceird', this verb being translated principally as 'sets, puts, places' in DIL, citing 'fuchertat a laim iarna cúl' ('who put their hand behind their back') from the ninth-century Milan Glosses on the Commentary on the Psalms. 'Cur' is also a later form of 'cor', which is translated principally as 'act of putting, placing; setting up' in DIL, with 'act of throwing, casting', 'twist', 'tune, melody' and 'contract' included among its many senses, as well as 'state, condition, plight', citing 'dia do chor' ('awful calamity') from the fifteenth-century poet, Pilib Bocht Ó hUiginn, as the first of only a few late examples of this sense. Note incidentally that, according to DIL, the adverbial phrase 'car(a) in cháemlaí(-laithi)', 'all day long, the livelong day', was very frequent in the later language, the form 'cor' itself seldom being used in this phrase.

Turning to 'in view of' in the Acts, 'in view of current economic conditions' is translated as 'ag féachaint do na dálaí eacnamaíochta faoi láthair' in the Preamble to the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976. 'In view of the wants and circumstances of the persons' is translated as 'mar gheall ar ghátar agus ar staid na ndaoine' in s42(1) of the Land Act, 1927. Note that 'toisc go bhfultear chun atharuithe do dhéanamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'in view of the forthcoming changes' in *Iris an Phuist*, 25/1/28.

Regarding 'condition' in early Acts, 'a report as to the

state of repair and general condition of the drainage works' is translated as 'tuarasgabháil ar staid deisiúcháin agus ar chor ghenerálta na n-oibreacha dréineála' in s26 of the Arterial Drainage Act, 1925, with 'any matter affecting the general economic and other activities and conditions in Saorstát Éireann' being translated as 'éinni a bhaineann le gníomhaíochtaí agus cor an tsaoil go generálta i gcúrsaí eaconomaíochta agus eile i Saorstát Éireann' in s2 of the Statistics Act, 1926. 'The cost, efficiency, conditions of labour, and rates of wages in Saorstát Éireann in the industry' is translated as 'An costas, an éifeachtúlacht, staid an lucht oibre agus na rátaí páigh i Saorstát Éireann sa cheárdas' in s2 of the Schedule to the Tariff Commission Act, 1926. 'The price of the premises in the condition in which they were immediately before the injury or destruction' is translated as '(ar) an bpraghas do bheadh ar an árus agus é sa riocht ina raibh sé díreach sarar dineadh an díobháil no an mille' in s10(4) of the Damage to Property (Compensation) Act, 1923, with 'In every case in which a full re-instatement condition is attached to the decree' being translated as 'I ngach cás ina gcuirfar coiníoll lán-ath-shuidhimh leis an aithne' in the opening clause of that subsection.

'Condition' is translated as 'coiníoll' in *Tearmaí Dlí*, where 'bond with special conditions' and 'express condition' are translated respectively as 'banna faoi choinniollacha speisialta' and 'coiníoll sainráite'; 'affidavit of plight and condition', however, is translated as 'mionnscribhinn staide agus riochta'. Regarding 'actual', 'actual delivery' is translated as 'seachadadh iarbhír' in *Tearmaí Dlí*, with 'actual bodily harm' translated simply as 'díobháil choirp'. *Ó Dónaill* gives 'iarbhír', 'genitive singular as attributive adjective', as a headword, translated as 'actual', followed by the abbreviation for Jurisprudence, and citing 'mailís, caillteanas, iarbhír, *actual malice, loss*'. See the commentary on Articles 16.6 and 28.3.2°.

*minimum* 'Íosta' is translated as 'minimum' in the Glossary accompanying *An Caighdeán Oifigiúil*, that adjective being translated as 'minimum, minimal' in *Ó Dónaill*. This word does not appear to be given as a headword either in *Dinneen* or in DIL.

Looking at 'minimum' in the early Acts, 'the amount or the maximum or minimum limit of such grant' is translated as 'méid no teora méide no luighid an deontais' in s9 of the Adaptation of Enactments Act, 1922. 'Rátaí is lú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'minimum rates' in *Iris Oifigiúil*, 1922/23, with 'táille le beith fé' translating 'minimum fee of'. 'If after the commencement of the trial the President dies ... and the Court is not reduced below the legal minimum' is translated as 'Más rud é, tar éis tosach na trialach go bhfaighidh an tUachtarán bás ... agus ná beidh líon na Cúirte fé bhun an mhínum dhleathaigh' in s105(2) of the Defence Forces (Temporary Provisions) Act, 1923. 'Prohibition of export of carcases within certain minimum limits of weight' is translated as 'Toirmeasc ar chonablaigh d'easportáil laistigh de theoranta áirithe minimum meáchainne' in the Margin Title of s41 of the Agricultural Produce (Fresh Meat) Act, 1930. 'If a court-martial after the commencement of the trial is, by death or otherwise, reduced below the legal minimum, it shall be dissolved' is translated as 'Má tharlaíonn, tar éis tosnú na trialach, go dtitfidh líon comhaltáí armchúirte, de dheasca báis nó eile, faoi bhun an íoslín

dlíthiúil, discaoilfear an armchúirt' in s193(1) of the Defence Act, 1954. 'The Council shall ensure that the requirement relating to education and training in specialised medicine in the State shall satisfy the minimum standards specified in the Directive' is translated as 'Cinnteoídh an Chomhairle go mbeidh na ceanglais i ndáil le hoideachas agus oiliúint sa sainleigheas sa Stát de réir na gcaighdeán íosta a bheidh sonraithe in aon Treoir' in s36(2) of the Medical Practitioners Act, 1978.

*éigeantach* See the commentary on Article 41.1.2° where this adjective expresses 'indispensable'. See the commentary on Articles 13.3.1° and 13.5.2° regarding 'require'.

*comhdhaonnachta* See the commentary on Article 41.1.1°.

### Standardised Irish text

Ach ós é an Stát caomhnóir leas an phobail ní foláir dó, toisc chor<sup>1</sup> an lae, é a dhéanamh éigeantach minimum áirithe oideachais a thabhairt do na leanaí i gcúrsaí moráltachta, intleachta agus comhdhaonnachta.

#### Variant

- 1 'chora'

### Direct translation

Déanfaidh an Stát, áfach, mar chaomhnóir ar an maitheas phoiblí<sup>1</sup>, ag féachaint do choinniollacha iarbhir, a cheangal go bhfaighidh na leanaí oideachas íosta áirithe morálta, intleachtach agus sóisialach<sup>2</sup>.

#### Variants

- 1 'ós é caomhnóir na maitheasa poiblí é'
- 2 'sóisialta', 'oideachas morálta, intleachtach agus sóisialach íosta áirithe'

## ARTICLE 42.4 AIRTEAGAL 42.4

### TÉACS GAELGE

Ní foláir don Stát socrú a dhéanamh chun bunoidreachas a bheith ar fáil in aisce, agus iarracht a dhéanamh chun cabhrú go réasúnta agus chun cur le tionscnamh oideachais idir phríobháideach agus chumannnta agus, nuair is riachtanas chun leasa an phobail é, áiseanna nó fundúireachtaí eile oideachais a chur ar fáil, ag féachaint go cuí, áfach, do chearta tuistí, go mór mór maidir le múnú na haigne i gcúrsaí creidimh is moráltachta.

### LITERAL ENGLISH TRANSLATION

The State must make provision for primary education to be available free, and make an effort to help reasonably and to augment (any) educational initiative both private and communal and, when it is a requirement for the welfare of the people, to provide other educational facilities or foundations, having due regard, however, for the rights of parents, especially as regards the formation of the mind in religious and moral affairs.

### ENGLISH TEXT

The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid

to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

### Divergences between the official texts

- 1 'Corporate' is expressed in the Irish text by 'cumannnta', 'communal'.
- 2 'In the matter of religious and moral formation' is expressed as 'maidir le múnú na haigne i gcúrsaí creidimh is moráltachta' ('as regards the formation of the mind in religious and moral affairs') in the Irish text.
- 3 'Endeavour' is expressed in the Irish text as 'iarracht a dhéanamh', 'make an effort'.
- 4 'To supplement and give reasonable aid to' is expressed as 'cabhrú go réasúnta agus ... cur le' ('to help reasonably and to add to / augment') in the Irish text.
- 5 'Institutions' is expressed as 'fundúireachtaí', 'foundations', in the Irish text.
- 6 'Provide for free primary education' is expressed as 'socrú a dhéanamh chun bunoidreachas a bheith ar fáil in aisce' ('to make provision for primary education to be available free') in the Irish text, followed by a comma which has no corresponding comma in the English text; the English text has a comma after 'initiative', further on, with no corresponding comma in the Irish text.
- 7 'When the public good requires it' is expressed as 'nuair is riachtanas chun leasa an phobail é' ('when it is a necessity for the welfare of the people'), 'the public good' being translated as 'an mhaitheas phoiblí' in *Téarmaí Dlí*.
- 8 Again 'Ní foláir' ('must') expresses 'shall' in the English text.

J.M. Kelly, op. cit., p. 208f., reports as follows on reference made to this Article in the courts:

In *Crowley v Ireland* ([1980] IR 102) Kenny J, speaking for the Supreme Court majority, pointed out that the Irish version "ní foláir don Stát socrú do dhéanamh chun bunoidreachas do bheith ar fáil in aisce" brought out more clearly than the English the distinction between the duty to "provide for" free primary education, and a duty (alleged by the plaintiffs) actually to "provide" it.

Note that Article 10 of the 1922 Constitution commences as follows:

All citizens of the Irish Free State (Saorstát Éireann) have the right to free elementary education. *Tá de cheart ag gach saoránach de Shaorstát Éireann bun-oideachas d'fháil in aisce.*

### Commentary

*chumannnta* 'Cumann' is translated as 'society' in *Téarmaí Dlí*. 'Cumannnta' is not given as a headword in *Ó Dónaill*, where 'cumannaí' is translated as 'communist' (with the variant form 'cumannach' also cited) and 'cumannaíoch' is translated as 'communistic'. 'Cumannnta' is translated as

'common' in *Dinneen*, followed by the abbreviation for Rathlin Island, off the coast of Antrim. 'Cumann' comes from Latin 'commentum' and is translated as 'alliance, pact, union, friendship; company, band; later love, affection' in DIL. Professor Máirtín Ó Murchú remarks that the word-formation here was probably devised ad hoc by the Irish drafters to express a meaning 'syndical', 'corporate'. Professor Ó Murchú recommends 'corpráideach' rather than 'corpraithe' in the direct translation below, in that what seems to have been in mind here at the time was a group, the orders, etc.

'Corporate body' is translated as 'comhlacht corpraithe' in *Téarmaí Dlí*, 'cuideachta chorpraithe', however, being translated as 'incorporated company'. 'Cuntasóir corpraithe' is translated as 'incorporated accountant', as it is in *Ó Dónaill*, who gives 'corparáideach', translated as ('corporate'), as a headword. 'Relief for Investment in Corporate Trades' is translated as 'Faoiseamh i leith Infheistíocht i dTrádálacha Corpraithe' in the Margin Title of s10 of the Finance Act, 1990, with 'in respect of certain transactions between bodies corporate' being translated as 'i gcás idirbhearta áirithe idir chomhlachtaí corpraithe' in the Margin Title of s116. In s1(2) of the Interpretation Act, 1923, 'the word "person" shall, unless the contrary intention appears, include a body corporate' is translated as 'folóidh an focal "duine", cólucht corpruithe mara mbeidh a mhalairt i dtuisgint'.

*cur le* *Ó Dónaill* gives 'add to' and 'support' as secondary senses of 'cuir le', citing respectively '*cur le ciste, le scéal, le clú duine*, to add to a fund, to a story, to someone's reputation' and '*cur le chéile*, to give mutual support'. Professor Máirtín Ó Murchú adds 'augment' to *Ó Dónaill*'s translations. *Dinneen* includes 'I add to, ... prop up, cooperate with' among the senses of 'cuirim le'. DIL cites 'ós liom chuirfeas' ('since he will take my part'), from the works of the seventeenth-century poet, Dáibhí Ó Bruadair, as an example of 'cuirid' with the proposition 'la'. 'Cur le' translated 'supplement' in translations for the Department of Local Government and Public Health, 1925, with 'fóirliona' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'supplement' in 'Dáil Div. 24/215' – see the commentary on Article 45.3.1°. 'Supplemental' is translated as 'forliontach' in *Téarmaí Dlí*, where 'supplemental deed' is translated as 'gníomhas forliontach'. Professor Máirtín Ó Murchú recommends 'neartú ar' rather than 'a fhorlíonadh' in the direct translation below.

*tionscnamh* 'Tionscnamh imeachtaí' and 'toghairm thionscnaimh' are translated respectively as 'institution of proceedings' and 'originating summons' in *Téarmaí Dlí*, where 'ar thionscnamh' is translated as 'at the instance of'. 'Tionscnamh' is translated as 'beginning, origin; introduction, initiation; institution, establishment' in *Ó Dónaill* and 'tionnsnamh' is translated as 'act of beginning, initiation, planning; inception, a design or project, an arrangement or device, a preface' in *Dinneen*, who cites '*thug i dtionnsnamh mná é*, who left it to a woman's devices'. 'Tinnscna(m)' is the Middle Irish verbal noun of 'do-innscanna', and is translated as (a) 'act of beginning' and (b) 'act of devising; design, project' in DIL, where the earlier verbal noun, 'tinnscetal', is translated as (a) 'act of beginning' and (b) 'undertaking, task, attempt'. See the

commentary on Article 45.3.1° for citations from the Acts. Note that 'tionscnamh' expresses 'institution' in Article 41.3.2°.

Professor Máirtín Ó Murchú remarks that as 'initiative' in 'to supplement educational initiative' is not qualified by any kind of article, the syntax of the English clearly shows that 'initiative' here has an abstract meaning, i.e. 'the power or opportunity to act or take charge before others do'. Irish 'tionscnamh' does not translate this. Commenting on a draft translation of 'to supplement ... private and corporate educational initiative' as 'tionscnamh oideachais príobháideach agus corpraithe a fhorlíonadh', Professor Ó Murchú remarks that in this context, according to the Irish syntax, 'tionscnamh' would mean 'some single initiative' ('tionscnamh amháin éigin'). Máirtín Ó Murchú comments that it is unlikely that the State wanted to promise support in the case of every initiative, and promising support to some single initiative would make no sense. Professor Ó Murchú therefore recommends an abstract noun such as 'tionscantacht' (which is unattested in dictionaries).

*áiseanna* 'Áis sealadach' is translated as 'temporary convenience' in *Téarmaí Dlí*, where 'ligeam mar áis sealadach' is translated as 'letting for temporary convenience'. 'Áis' is translated as (1) 'convenience' and (2)(a) 'device' in *Ó Dónaill*, with 'áiseanna amhairc' ('visual aids') and 'áiseanna cócaireachta' ('cooking facilities') being cited as examples of the third sense. *Dinneen* gives two headwords 'áis', the first being translated as 'will, consent; ease', citing '*ar t-áis*, at your ease', and the second being translated as 'dependence, reliance', citing '*is air atá m'áis*, it is on him I rely'. 'Áis' is translated as 'free-will, consent' in DIL – this giving Modern Irish 'ais' – with 'ceni thaisid ar ois daregaid ar ecin' ('unless ye go thus willingly, ye shall come perforce') being cited from the ninth-century Milan Glosses on the Commentary on the Psalms. See further the commentary on Article 44.2.6°, where 'áis' expresses 'utility'.

See the commentary on Article 15.15 regarding 'facility', expressed as 'saoráid' in that Article. 'The Society may ... provide educational facilities' is translated as 'Féadfaidh an Cumann ... saoráidí oideachais a sholáthar' in s40(1) of the Solicitors Act, 1954, with 'the provision or improvement of cultural or educational facilities' being translated as 'saoráidí saíochta nó oideachais a chur ar fáil nó d'fheabhsú' in s8(3)(a)(ii) of the Seanad Electoral (Panel Members) Act, 1947. "'Relevant facilities", in relation to an undertaking, means ... the marketing in the State of the units of the undertaking' is translated as 'ciallaíonn "saoráidí iomchuí", i ndáil le gnóthas ... aonaid an ghnóthais a mhargú sa Stát' in s109(1) of the Finance Act, 1990.

Looking at early translations, in Article 23 of the 1922 Constitution, 'provide them with free travelling facilities' is translated as 'saor-thaisteal do sholáthar dóibh', with the Margin Title of s46 of the Land Act, 1923, 'Facilities for exchange of holdings', being translated as 'Saoráidí chun gabháilais do mhalairtíú'. 'Shall be given facilities by the Home Committee to apply for National Benefit' is translated as 'tabharfaidh Coiste an Teaghlaigh caoi dhóibh ar Thairbhe Náisiúnta d'iarraidh' in s31 of the 'Tirconail County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'in such a manner

as to give to all electors in the county ... such reasonable facilities for voting as are practicable in the circumstances' being translated as 'ar chuma a thabharfaidh do gach toghthóir sa chontae ... pé cothrom réasúnta chun vótála is féidir a thabhairt sa chás' in s42(1) of the Electoral Act, 1923. 'Socúlacht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'facility' in *Iris an Phuist*, 1923, p. 246.

Note, finally, that 'The making by Radio Telefís Éireann by means of its own facilities of a cinematograph film' is translated as 'Radio Telefís Éireann do dhéanamh scannáin chineamatagrafaigh lena áiseanna féin' in s3(3) of the Performers' Protection Act, 1968.

*fundúireachtaí* Note that 'fundúireachta' is the form in the original text. 'Fundúireacht' is translated as '(of institution) foundation' in *Ó Dónaill*, 'fundúir' being given as a headword which is translated as 'founder (of community, of institution)', the variant 'fondaire' being cited. *Dinneen* translates 'fondaire' as 'a freeholder', giving *Coney's Irish-English Dictionary* (1849) as the source, but follows this by 'cf. perhaps founder'. 'Fundúir' comes from Old-French 'fondeor', according to DIL, where examples are cited from the later Annals in particular. 'Fundúire' is given as a separate headword in DIL, where it is translated as 'an original owner, a freeholder'. See further the commentary on Article 44.2.5° and see the commentary on Article 18.4.2° regarding 'institution', expressed as 'foras' there, with 'ord' expressing 'institution' (of marriage) in Article 41.3.1°.

*go mór mór* This phrase is translated as 'especially' in *Ó Dónaill* and as 'especially, much more' in *Dinneen*. DIL cites the following example of the comparative form of this adverb from the *Passions and Homilies* from the *Leabhar Breac* (a manuscript compiled in 1411 or earlier): 'cid mor dlíges cech sollamain a herdach ... is in mormo dlíges in sollamain-sí' ('though all feasts fully deserve their celebration, much more does this festival').

*múnlú na haigne* *Ó Dónaill* translates 'múnlú aigne' as 'formation of mind', translating 'múnlú' in general as 'moulding, casting, shaping'. *Dinneen* translates 'múnláil' as 'act of moulding, as a candle, etc.', citing 'as an *múnla*, well-formed (of a person or thing)' s.v. 'múnla' ('a mould').

'Formation, registration and incorporation' is translated as 'Foirmiú, clárú agus corprú' in the Margin Title of s10 of the Building Societies Act, 1989. 'Have regard to the need for the formation of public awareness and understanding of the values and traditions of countries other than the State' is translated as 'beidh aird aige ar a riachtanaí atá sé an pobal a dhéanamh eolach tuiscianach ar fhiúchais agus ar thraidisiún tíortha seachas an Stát' in s13 of the Broadcasting Authority (Amendment) Act, 1976.

*iarracht a dhéanamh* 'Iarracht ar ghinmhilleadh a thabhairt chun críche' is translated as 'attempt to procure an abortion' in *Téarmaí Dlí*. 'Iarracht a dhéanamh' is translated as 'to make an effort' in *Ó Dónaill*. 'An attempt or effort' is given as one of the senses of 'iarracht' in *Dinneen*. The earliest examples of 'iarracht' (translated as 'an attempt, an attempt to reach') cited in DIL come from Keating's seventeenth-century poetry. We have seen earlier how 'iarracht do thabhairt' translates 'endeavour' in early

translations for the Department of Justice. Note, incidentally, that 'the offence of not using his utmost endeavours to prevent any mutiny' is translated as 'gan a chruadhcheall do dhéanamh chun aon chúlmhuitaireacht ... do chosc' in s36(b) of the Defence Forces (Temporary Provisions) Act, 1923.

'The Controller shall endeavour to secure that the relevant plant variety is maintained in quality' is translated as 'féachfaidh an Rialaitheoir lena áirithiú go ndéanfar an cineál planda iomchuí a chothabháil ó thaobh cáilíochta' in s8(4) of the Plant Varieties (Proprietary Rights) Act, 1980, with 'agus féachfaidh si le cabhrú leis na haidhmeanna sin a chur i gcrích' translating 'and shall endeavour to promote the attainment of those aims' in s3(4) of the National Council for Educational Awards Act, 1979. In s27(1) of the Apprenticeship Act, 1931, 'and shall endeavour to effect a settlement of any dispute so investigated' is translated as 'agus féachfaidh le haon aighneas go ndéanfar fiosrúchán ina thaobh amhlaidh do shocrú', with 'féachfaidh an Chúirt leis an díospóid a shocrú trí oifigeach caidrimh thionscail' translating 'it [the Court] shall endeavour to settle the dispute through an industrial relations officer of the Court' in s19(2) of the Employment Equality Act, 1977. See further the commentary on Article 40.6.1°i where 'endeavour' is expressed by 'féach le'.

*bunoideachas* This headword is translated simply as 'primary education' in *Ó Dónaill*. This compound is not found as a headword in *Dinneen*, 'oideachas' in the sense of 'education' itself being cited as 'recent' there. 'Primary education' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'bun-oideachas' on the *Dáil Order Paper*, 1926, p. 104, with 'bunscóil' translating 'primary school' in translations for the Department of Education.

*socrú a dhéanamh* See the commentary on Articles 8.3 and 15.2.2°. 'The rules of a building society shall provide for the following' is translated as 'Déanfar foráil i rialacha cumainn foirgníochta maidir leis na nithe seo a leanas' in s5 of the Second Schedule to the Building Societies Act, 1989. In s61(2) of the Social Welfare (Consolidation) Act, 1981, 'Regulations under this section shall provide for payment to any person attending for medical examination ... of such amount as may be determined by the Minister' is translated as 'Forálfar le rialacháin faoin alt seo go dtabharfar íocaíocht d'aon duine a thiocfaidh i láthair le haghaidh scrúdú dochtúra ... a mbeidh cibé méid inti a chinntídh an tAire', with 'Beidh foráil i rialacháin faoin alt seo chun íocaíocht a thabhairt d'aon duine a thiocfaidh i láthair le haghaidh scrúdú ...' being found in s31(2) of the Social Welfare (Occupational Injuries) Act, 1966. Finally, in s1(3) of the Land Act, 1923, 'such regulations shall provide for the immediate redemption of Bonds' is translated as 'socrófar leis na rialacháin sin i dtaobh fuascailt do dhéanamh láithreach ar Bhannaí'.

*maidir le* See the commentary on Articles 15.15, 29.4.1° and 40.3.3° regarding 'maidir le', expressing 'in connection with' and 'relating to' in the initial and final Article respectively. As regards 'in the matter of' in the Acts, 'Representatives and their substitutes shall, in the matter of customs and exchange control, be accorded ...' is translated as 'Tabharfar d'ionadaithe agus dá n-ionadaiagh,

maidir le rialú custam agus iomlaoidé' in Article 13 of the Fifth Schedule to the Diplomatic Relations and Immunities Act, 1967. 'And for prescribing the liability of the owner or consignor or consignee of any such animals ... in the matter of the expenses connected with the seizure, detention or disposal thereof' is translated as 'agus chun dlíteanas úinéir, coinsineoir nó coinsíní aon ainmhithe ... den sórt sin a fhorordú i ndáil leis na caiteachais a bhainfidh lena gceapadh, lena gcoinneáil nó lena ndíúscairt' in s7 of the Second Schedule to the Diseases of Animals Act, 1966. 'I dtaobh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'in the matter of' in translations for the Department of Justice.

*ag féachaint go cuí* In Article 26 of the 1922 Constitution, 'with due regard to changes in distribution of the population' is translated as 'gan sóinseáil in áireamh áitiúil an lín tíre do dhearmad'. 'With due regard to the provisions of this Chapter' is translated as 'ag féachaint go cuí d'fhorálacha na Caibidle seo' in s154(1) of the Social Welfare (Consolidation) Act, 1981.

*moráltachta* See the commentary on Articles 29.1 and 40.6.1<sup>o</sup>. Commenting on 'morálta' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that 'moráltachta' suited better as regards having the syntax on equal footing (i.e. 'creidimh agus moráltachta').

*chun leasa an phobail* See the commentary on the foregoing subsection regarding 'the common good requires'.

### Standardised Irish text

Ní foláir don Stát socrú a dhéanamh chun bunoidéachas a bheith ar fáil in aisce, agus iarracht a dhéanamh chun cabhrú go réasúnta agus chun cur le tionscnamh oideachais idir phríobháideach agus chumannnta agus, nuair is riachtanas chun leas an phobail é, áiseanna nó fondúireachtaí eile oideachais a chur ar fáil, ag féachaint go cuí, áfach, do chearta tuismitheoirí, go mór mór maidir le múnlú na haigne i gcúrsaí creidimh is moráltachta.

### Direct translation

Déanfaidh an Stát socrú le haghaidh saor-bhunoideachais agus féachfaidh sé le<sup>1</sup> tionscantacht phríobháideach agus chorpráideach<sup>2</sup> san oideachas a fhorlíonadh<sup>3</sup> agus le<sup>4</sup> cúnaimh réasúnta a thabhairt di, agus, nuair is gá ar mhaithe leis an maitheas phoiblí, áiseanna nó forais eile oideachais a sholáthar, ag féachaint go cuí, áfach, do chearta tuismitheoirí, go speisialta maidir le foirmiú creidimh agus morálachta<sup>5</sup>.

### Variants

- 1 'féachfaidh le'
- 2 'chorpraithe'
- 3 'féachfaidh sé le neartú ar thionscantacht phríobháideach agus chorpráideach san oideachas'
- 4 'maílle le'
- 5 'morálta'

## ARTICLE 42.5 AIRTEAGAL 42.5

### TÉACS GAEILGE

I gcásanna neamhchoiteanna nuair a tharlaíonn, ar chúiseanna corpartha nó ar chúiseanna morálta, nach ndéanaid na tuistí a ndualgais dá gclainn, ní foláir don Stát, ós é an Stát caomhnóir leasa an phobail, iarracht a dhéanamh le beart oiriúnach chun ionad na dtuistí a ghlacadh, ag féachaint go cuí i gcónaí, áfach, do chearta nádúrtha dochloite an linbh.

### LITERAL ENGLISH TRANSLATION

In uncommon cases when it happens, for corporal reasons or for moral reasons, that the parents do not do their duties to their children, the State must, since the State is the guardian of the welfare of the people, make an effort through appropriate action to take the place of the parents, always having due regard, however, for the natural invincible rights of the child.

### ENGLISH TEXT

In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

### Divergences between the official texts

- 1 'To supply the place of the parents' is expressed in the Irish text as 'chun ionad na dtuistí a ghlacadh', 'to take the place of the parents'.
- 2 'In exceptional cases' is expressed as 'I gcásanna neamhchoiteanna' ('in uncommon cases') in the Irish text.
- 3 'Where the parents ... **fail in their duty**' is expressed as 'nuair a tharlaíonn ... nach ndéanaid na tuistí a ndualgais' ('where it happens that the parents **do not do their duties**') in the Irish text.
- 4 'By appropriate means' is expressed as 'le beart oiriúnach' ('by suitable action') in the Irish text.
- 5 'Imprescriptible rights' is expressed as 'cearta dochloíte' ('invincible/indefatigable rights') in the Irish text, 'imprescriptible rights' being translated as 'cearta dochealaithe' in *Tearmaí Dlí*.
- 6 As in s1 of this Article, 'the State as guardian of the common good' is expressed as 'ós é an Stát caomhnóir leasa an phobail' ('since the State is the guardian of the welfare of the people') in the Irish text and, as in s4, 'endeavour' is expressed as 'iarracht a dhéanamh' ('make an effort'), with 'shall' again being expressed as 'ní foláir' ('must'), as we have seen in many other Articles.
- 7 We note here the direct opposite of what we have seen in some earlier Articles, i.e. 'but' being expressed as 'áfach', 'however', in the Irish text.

Note that the Long Title of the Adoption Act, 1988, reads as follows:

An Act to provide, in exceptional cases, where the parents for physical or moral reasons have failed in their duty towards their children, for the supplying, by the adoption of the children, of the place of the parents



... Acht do dhéanamh socrú, i ndálaí eisceachtúla, i gcás na tuismitheoirí a bheith, ar chúiseanna fisiciúla nó morálta, tar éis mainneachtain ina ndualgas i leith an linbh ar chúiseanna fisiciúla nó morálta in s3(1)(I)(A) of that Act, with 'the State, as guardian of the common good, should supply the place of the parents' being translated as 'gur cóir don Stát, ós é caomhnóir leas an phobail é, ionad na dtuismitheoirí a ghlacadh' in s3(1)(I)(D).

The parents of the child ..., for physical or moral reasons, have failed in their duty towards the child' is translated as 'go bhfuil ... tuismitheoirí an linbh ... tar éis mainneachtain ina ndualgas i leith an linbh ar chúiseanna fisiciúla nó morálta' in s3(1)(I)(A) of that Act, with 'the State, as guardian of the common good, should supply the place of the parents' being translated as 'gur cóir don Stát, ós é caomhnóir leas an phobail é, ionad na dtuismitheoirí a ghlacadh' in s3(1)(I)(D).

### Commentary

*neamhchoiteanna* 'Neamhchoiteann' is given as a variant form of 'neamhchoitianta' in *Ó Dónaill*, this headword being translated as 'uncommon, unusual'. 'Neamhchoitianta' is translated simply as 'uncommon' in the Glossary appended to *An Caighdeán Oifigiúil*. 'Neamhchoitcheann' is translated as 'uncommon, distinguished' in *Dinneen*, who cites '*feair breágh neamh-choitcheann*, a fine *distingué* man', with reference made to 'neamhchoitcheanta' as being similar in meaning to 'neamhchoitcheann'. DIL cites examples of 'coitcheann', in the sense of 'common, general; usual, ordinary', from the Glosses of the ninth century onwards, including 'de phurt choitcheant' ('from a common part') from the Glosses on Psalm cxviii in S. Caimín's Psalter, Franciscan Monastery, Dublin, formerly in the Irish College at Rome.

In exceptional cases' is translated as 'i ndálaí eisceachtúla' in the Long Title of the Adoption Act, 1988, above. We find 'i gcásanna eisceachtúla' in the Preamble in the Schedule to the Organisation for Economic Co-operation and Development (Financial Support Fund) (Agreement) Act, 1976, 'i gcásanna neamhghnáthacha' in s24 of the Schedule to the Great Southern Railways Company (Superannuation Scheme) Act, 1947, and 'i gcásanna nea-ghnáthacha' in s34(5) of the Industrial and Commercial Property (Protection) Act, 1927. 'Gátar nea-choitianta' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'exceptional distress' in translations for the Department of Local Government and Public Health, with 'costas nea-choitianta' translating 'exceptional expense' in translations for the Department of Justice. 'Cásanna ar leithligh' translates 'exceptional cases' in *Iris an Phuist*, 1923, p. 273, with 'i gcásanna fé leith' translating 'exceptionally' in *Iris an Phuist*, 23/6/26.

Note regarding the direct translation below that the opening phrase is followed by 'i gcás na tuismitheoirí ...', 'i ndálaí' being chosen therefore for stylistic reasons.

*corpartha* This headword is translated as 'corporal; corporeal' in *Ó Dónaill*, who cites '*pionós corpartha*, corporal punishment' and '*pian chorpartha*, bodily pain'. 'Corporda' is equal in meaning to 'corpthae', translated as 'corporeal, bodily, physical, actual' in DIL, where examples are cited from the ninth-century Milan Glosses on the Commentary on the Psalms onwards. See further the commentary on Article 40.1.

For physical or moral reasons' is translated as 'ar chúiseanna fisiciúla nó morálta' in s3(b)(I)(A) of the

Adoption Act, 1988, as in the Long Title of that Act above. As regards 'physical' in early translations, 'any article ... intended to be worn because of ... any physical ailment or defect' is translated as 'aon earra ... atá ceaptha chun é chaitheamh mar gheall ar aon bhreiteacht no easba chorpardha' in s16(2)(d) of the Finance Act, 1925, with 'the treatment of physical and mental defects' being translated as 'cóir leighis d'ainmhe cuirp agus aigne' in s18(b) of the Local Government Act, 1925. Finally, 'eoluíocht fhisiceach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'physical science' in translations for the Department of Education. Note that 'fhisiceach' rather than 'fisiciúil' is given as the standard form of this headword. See the commentary on Article 42.1 where 'physical' is expressed by 'corp'.

*nach ndéanaid* The synthetic form of the third person plural, present indicative, of 'déan' – see the commentary on Article 14.5.1<sup>o</sup> regarding synthetic and analytic forms of the verb. As regards 'fail' with 'duty' in the Acts, 'that the person to whom it was granted has, by any overt act, shown himself to have failed in his duty of fidelity to the nation' is translated as 'go ndearna an duine dar deonadh é aon ghníomh follas a chruthaigh gur loic sé ina dhualgas bheith dílis don náisiún' in s19(1)(b) of the Irish Nationality and Citizenship Act, 1956. 'That the testator has failed in his moral duty to make proper provision for the child in accordance with his means' is translated as 'gur loic an tiomnóir ina dhualgas morálta soláthar cuí a dhéanamh don leanbh de réir a acmhainne' in s117(1) of the Succession Act, 1965. See the commentary on Article 14.1 ('teip' expressing 'fail' therein) for other citations of 'fail' in modern Acts, plus the Long Title of the Adoption Act, 1988, above. As regards the verb in the negative rendering 'fail', see s25(1) of the Finance Act, 1926, for example, where 'Every person who contravenes or fails to comply with a regulation made under this section' is translated as 'Gach éinne a sháróidh no ná comhlíonfidh rialachán a bheidh déanta fén alt so'.

*a ndualgais* 'Dualgas' is translated as 'duty' (of office, etc.) in *Téarmaí Dlí*. 'Duty' is given as the secondary sense of 'dualgas' in *Ó Dónaill*, the primary sense being 'natural right; due; customary fee or reward', *Ó Dónaill* citing '*do dhualgas a dhéanamh*, a *chomhlíonadh*, to do, fulfil, one's duty' and '*do dhualgas do Dhia*, one's duty to God'. 'Dualgas' is translated principally as 'traditional right', with secondary sense of 'custom, tribute', in DIL, where 'dualgas do thuamadh óm aithribh' ('it is my ancestral duty to celebrate thy tomb') is cited from the works of the seventeenth-century poet, Dáibhí Ó Bruadair, this being one of the examples of the various meanings of 'dualgas' in Modern Irish cited in DIL. 'Dúal', from which this word originates, is translated principally as 'native, hereditary' in DIL. See the commentary on Articles 12.8 and 15.3.2<sup>o</sup>.

*le beart oiriúnach* 'Oiriúnach' is translated as 'suitable, fitting' in *Ó Dónaill*, 'oireamhnach' being translated as 'fitting, suitable, neat, proper, expedient, harmonious, proportionate, accommodated' in *Dinneen*, who cites '*beartughadh oireamhnach*, an appropriate movement'. DIL translates 'oiremnach' as 'agreeing (with), adapted (to), suitable, convenient', with most examples cited coming from seventeenth-century sources.

'Beart' is translated as (1) 'cast, move (in a game)', (2) 'shift, plan' ('beart cliste' being translated as 'clever manoeuvre') and (3) 'proceeding, action, transaction' in *Ó Dónaill*, who translates 'beart a dhéanamh de réir do bhriathair' as 'to fit your actions to your words'. *Dinneen* translates 'beart' as 'an act, a deed; behaviour; a game or trick (at cards), a move in a game; a task, an appointment, a situation; a prank; plan; a matter; a fact'. 'Burden, load; bundle' seems to have been the earlier of the three major senses of 'bert' cited in DIL, this word being related to 'beirid' ('carries'); 'clothing, covering, clothes, attire, apparel; accoutrement' is also given as one of the senses of 'bert' as is 'deed, exploit; feat, trick; effort, task; action, behaviour', with the examples of this sense coming from later sources. Note that 'bearta' expresses 'measures' in Article 29.4.3°.

'The Contracting States ... shall, by appropriate means, designate for each aircraft the State among them which shall exercise the jurisdiction' is translated as 'Na Stáit Chonarhacha ... ainmneoidh siad, ar mhodh cuí, i ndáil le gach aerárthach, an Stát díobh a fheidhmeoidh dlínse' in Article 9 of the Schedule to the Air Navigation and Transport Act, 1975, with 'ar mhodh cuí' again translating 'by appropriate means' in Article 5 of the Second Schedule to the Air Navigation and Transport Act, 1973. See the commentary on Article 45.2.i where 'caoi' expresses 'means'.

Looking at early translations of 'appropriate', 'the receipt of the appropriate officer of the Post Office' is translated as 'admháil ón oifigeach ceart in Oifig an Phuist' in s6(1)(b) of the Local Government (Collection of Rates) Act, 1924. 'From the beginning of the appropriate triennial anniversary of that day' is translated as 'o thosach lá cóir cinn trí mbliain an lae sin' in s1 of the Constitution (Amendment No. 1) Act, 1925, with 'by means of appropriate maps' being translated as 'le mapai ... oiriúnacha' in s6(2) of the Arterial Drainage Act, 1925. 'Táille chuibhe' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'appropriate fee' in translations for the Department of Finance and 'suim chothromach' translates 'appropriate amount' in *Iris an Phuist*, 14/9/27.

*ag féachaint go cuí* 'The Court may, if it so thinks fit and is satisfied, having had due regard for the rights ... of the persons concerned (including the natural and imprescriptible rights of the child)' is translated as 'féadfaidh an Chúirt, más cuí léi agus más deimhin léi, ag féachaint go cuí do chearta na ndaoine lena mbaineann ... (lena n-áirítear cearta nádúrtha dochloíte an linbh)' in s3(1) of the Adoption Act, 1988. See the commentary on the foregoing section.

*ionad na dtuistí a ghlacadh* 'Áit duine a ghlacadh' is translated as 'to take someone's place' in *Ó Dónaill* who, however, cites '*ionad duine, ruda, a dhéanamh*, to take the place of someone, something', this agreeing with 'do-ní éanmhac ionad cloinne' ('takes the place of'), cited in DIL from the miscellaneous collection of Classical Irish poetry, *Aithdioghlaim Dána*.

*nádúrtha* Note how 'the primary and natural educator of the child' is expressed as 'múinteoir príomha dúchasach don leanbh' in Article 42.1.

*do chearta ... dochloíte* Note that 'imprescriptible rights' is translated as 'cearta dochealaithe' in *Téarmaí DLí*.

*dá gclainn* See the commentary on Article 42.1 regarding this special form of the dative singular.

*caomhnóir leasa an phobail* See the commentary on Article 42.3.2°.

### Standardised Irish text

I gcásanna neamhchoiteanna nuair a tharlaíonn, ar chúiseanna corpartha nó ar chúiseanna morálta, nach déanann na tuismitheoirí a ndualgais dá gclann, ní foláir don Stát, ós é an Stát caomhnóir leas an phobail, iarracht a dhéanamh le beart oiriúnach chun ionad na dtuismitheoirí a ghlacadh, ag féachaint go cuí i gcónaí, áfach, do chearta nádúrtha dochloíte an linbh.

### Direct translation

I ndálaí<sup>1</sup> eisceachtúla, i gcás na tuismitheoirí<sup>2</sup> a bheith, ar chúiseanna fisiceacha nó morálta, tar éis mainneachtain ina ndualgas i leith a leanaí, féachfaidh an Stát, mar chaomhnóir ar an maitheas phoiblí<sup>3</sup>, ar mhodh<sup>4</sup> cuí, le hionad na dtuismitheoirí a líonadh, ach i gcónaí le haird chuí ar chearta nádúrtha dochealaithe an linbh.

### Variants

- 1 'I gcásanna'
- 2 'na dtuismitheoirí' – Professor Máirtín Ó Murchú remarks that the initial mutation would not be denied here in the case of a verbal noun phrase such as this in Munster.
- 3 'ós é caomhnóir na maitheasa poiblí é'
- 4 'le modhanna'

ARTICLE 43.1.1° AIRTEAGAL 43.1.1°

## PRIVATE PROPERTY

### MAOIN PHRÍOBHÁIDEACH

#### TÉACS GAEILGE

Maoin Phríobháideach

Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha aige maoin shaolta a bheith aige dá chuid féin go príobháideach, ceart is ársa ná reacht daonna.

#### LITERAL ENGLISH TRANSLATION

Private Property/Assets

The State acknowledges, because man has the gift of reason, that he has a natural right to have worldly assets of his own privately, a right which is more ancient than human statute.

#### ENGLISH TEXT

Private Property

The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

### Divergences between the official texts

- 1 'The private ownership of external goods' is expressed in the Irish text as 'maoin shaolta a bheith aige dá chuid féin go príobháideach', 'to have worldly goods of his own privately', with the term expressing 'goods' being the term which expresses 'property' in the heading of this Article, i.e. 'maoin', 'goods' being translated as 'earraí' in *Téarmaí Dlí*.
- 2 'Man, in virtue of his rational being' is expressed as 'toisc bua an réasúin a bheith ag an duine' ('because man has the gift of reason') in the Irish text.
- 3 'Positive law' is expressed as 'reacht daonna' ('human statute') in the Irish text – note, however, that 'daonna' is also found in the translation of 'positive law' in *Téarmaí Dlí*, 'dlí daonna'.
- 4 'Antecedent to' is expressed in the Irish text as 'ceart is ársa ná', 'a right which is more ancient than'.

J.M. Kelly, op. cit., p. 209, reports as follows on reference made to this Article in the courts:

In *Central Dublin Development Association Ltd. v Attorney General* (1975) 109 ILTR 69) Kenny J said, in regard to both Article 43.1.1 and Article 43.2.2, that "while there may not be a conflict" between the Irish and English versions, the English version seemed to him "to be a most unhappy attempt to reproduce the meaning of that in Irish":

"The phrase "de cheart nádúrtha aige maoin shaolta a bheith aige dá chuid féin go príobháideach" ... means, I think, "a natural right to his own private share of worldly wealth" and not "the natural right to the private ownership of external goods"... Another source of confusion in the English text is the use in Article 43.2.2 of the word "delimit". The Irish phrase is "teorainn a chur" which would, I think, be more accurately translated as "restrict". In Professor de Bhaldráithe's standard English-Irish dictionary, the Irish equivalent of "restrict" is given as "cuirim teorainn le".

J.M. Kelly remarks on the reference above to the English version being an attempt to reproduce the Irish that 'in view of the history of the Irish version, this phrase of Kenny J seems to be a mere judicial politeness'.

### Commentary

*is ársa ná* Literally 'more ancient than'. We find this phrase earlier in Article 41.1.1°. Regarding 'antecedent' in the Acts, in s67(2)(b)(iv) of the Fisheries Act, 1939, 'any circumstances antecedent to the transition period which may have affected the earning power of the fishery' is translated as 'aon chúrsaí bhí ann roimh an idir-thréimhse agus dob fhéidir do rinne deifir do chumas tuillimh an iascaigh'. The heading above s293 of the Companies Act, 1963, 'Offences antecedent to or in the course of Winding Up', is translated simply as 'Cionta roimh an bhFoirceannadh nó i gcúrsa an Fhoirceanta'. 'Antecedent order' is translated as 'réamh-ordú' in s3(1) of the Family Law (Maintenance of Spouses and Children) Act, 1976. 'Liability of persons conducting negotiations antecedent to hire-purchase agreements' is translated as 'Dliteanas daoine a sheolann caibidlí roimh chomhaontuithe fruilcheannaigh' in the Margin Title of s32 of the Sale of Goods and Supply

of Services Act, 1980. 'That the provisions of this Act relating to matters antecedent to such application have been complied with' is translated as 'go bhfuiltear ... tar éis déanamh do réir na bhforálacha den Acht so bhaineann le cúrsaí ba thúisce ná an t-iarratas san' in s7 of the Public Assistance (Acquisition of Land) Act, 1934. 'Any circumstances antecedent to the transition period' is translated as '(maidir le) haon toscaí roimh an idir-thréimhse' in s194(2)(b)(iv) of the Fisheries (Consolidation) Act, 1959, and as 'aon chúrsaí bhí ann roimh an idir-thréimhse' in s67(2)(b)(iv) of the Fisheries Act, 1939. *De Bhaldráithe* translates 'matters antecedent to ...' as 'nithe ba thúisce ná ...'.

*bua Ó Dónaill* gives 'gift, talent' and 'virtue, merit' as two of the secondary senses of 'bua' (the primary sense being 'victory, triumph'), citing respectively '*bua cainte, ceoil*, gift of speech, music' and '*is mór an bua do dhuine an tsláinte*, it is a great advantage to have one's health'. *Dinneen* includes 'virtue, excellence, an attribute' among the senses of 'buaidh'. DIL cites 'búaid precepte' ('the gift of preaching') from the eighth-century Würzburg Glosses as an example of this secondary sense of 'búaid' ('special quality or attribute, gift, virtue, pre-eminence, excellence; prerogative'), the primary sense of 'victory, triumph' also being cited from the same Glosses (in the archaic form 'boid'). See further the commentary on Article 40.1.

The *Shorter Oxford Dictionary* has the following entry s.v. 'virtue':

II As a quality of things. 1. In the prepositional phrases *in* or *by* (also *through* or *with*) *virtute of*, by the power or efficacy of; hence, in later use, by the authority of, in reliance upon, in consequence of, because of.

The phrase 'by virtue of' is translated as 'de bhua' in *Téarmaí Dlí* and is so translated in the Acts, the phrase 'by virtue of this Act', 'de bhua an Achta seo', being of regular occurrence in the Acts. 'All ... functions for the time being vested in him in virtue of his office' is translated as 'na feidhmeanna uile a bheidh dílsithe don Phríomh-Bhreitheamh de thuras na huairde de bhua a oifige' in s10(2) of the Courts (Supplemental Provisions) Act, 1961, with 'de bhua a oifige' translating 'in virtue of his office' in s2 of the Courts of Justice Act, 1928. Note, incidentally, that 'in full force and virtue' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'i lán-fheidhm agus i lán-bhrí' in translations for the Department of Local Government and Public Health.

*bua an réasúin* The principal meaning of 'réasún' in *Ó Dónaill* is 'reason, reasoning faculty; reasonableness, sense', citing '*bíodh réasún ionat*, be reasonable', '*duine gan réasún*, unreasoning, unreasonable person' and '*ní féidir réasún a chur ann*, he won't listen to reason'. Note incidentally that *Ó Dónaill* gives a second headword 'réasún', translated as 'winkers', *Dinneen* including 'the winkers of a horse', along with 'a reason or argument, meaning, reasonableness, moderation in conduct, sobriety; a reasonable price' among the senses of 'réasún'. 'Réasún' ('reason') is a Romance loanword, according to DIL, citing 'da mbeth resun agat' (said to a lifeless object) as an example of the sense of 'the reasoning faculty'.

'Reasonable cause' is translated as 'cúis réasúnach' in *Téarmaí Dlí*. 'Conservation of fish stocks and rational

exploitation of fisheries' is translated as 'Stoic éisc a chaomhnú agus leas réasúnach a bhaint as iascaigh' in the Margin Title of the Fisheries (Amendment) Act, 1962, for example. 'Réasúnach' is translated as 'rational' in Colmán Ó Huallacháin, *Foclóir Fealsaimh* (1958), 'reasonable' being translated as 'réasúnta' in the same *Dictionary of Philosophy*. 'Beith', the verbal noun of the substantive verb, translates 'being' in that work. 'Beith' is translated as 'being, entity', followed by the abbreviation for Philosophy, in *Ó Dónaill*, who also cites the headword 'eiseach', 'existing thing, being'.

Professor Máirtín Ó Murchú, commenting on 'de bhua bheith réasúnach an duine' in a draft of the direct translation below, remarks that this would not be understood, particularly as 'beith' is lenited. Professor Ó Murchú recommends translating this phrase as 'de bhua an duine a bheith réasúnach'.

*maoin shaolta* 'Maoin' is translated as 'property' in *Téarmaí Dlí*, where 'maoin phearsanta' is translated as 'personal property'. *Ó Dónaill* translates 'maoin' as 'property, wealth', translating 'maoin shaolta' as 'worldly goods'. *Dinneen* also translates 'maoin an tsoghail' / 'maoin tsoghailta' as 'worldly goods', translating 'maoin' itself as 'wealth, riches, property, means, substance; benefit, gift; love, a term of endearment'. The primary sense of Old Irish 'main' is 'a benefit', according to DIL, citing the following example (with the prefix 'dag') from the eighth-century Würzburg Glosses on the Pauline Epistles: 'is éicrichnichthe don-indnig-som a dagmoini' ('without limit he bestows his benefits'), the sense of 'gift' being frequently implied in Middle Irish. The secondary sense of 'main', according to DIL, was 'a valuable article or possession, a treasure; in plural treasures, possessions, wealth' and in the early Irish law-tracts 'main' is sometimes used of cattle, stock – cattle being the most common form of currency in the period of those tracts – see Fergus Kelly, p. 113 ff. DIL cites 'do shomhaoine saoghailta' ('somain' = 'so' + 'main', 'profit, benefit'), from the *Annals of the Four Masters*, s.v. 'saegulta' ('belonging to this world, mundane, secular').

'Maoin' translates 'property' in the Acts – see, for example, s2 of the Malicious Injuries Act, 1981, where "property" includes wild animals in captivity and incorporeal hereditaments' is translated as 'folaíonn "maoin" ainmhithe fiaine i mbraighdeanas agus oidhreachtáin neamhchorpracha' and s2 of the Capital Acquisitions Tax Act, 1976, where "personal property" means any property other than real property', "property" includes rights and interests of any description' and "real property" means real and chattel real property' are translated respectively as 'ciallaíonn "maoin phearsanta" aon mhaoin seachas maoin réadach', 'folaíonn "maoin" cearta agus leasanna d'aon chineál' and 'ciallaíonn "maoin réadach" maoin réadach agus maoin airnéise réadaí'. 'The real and personal property ... shall be regarded as private property' is translated as 'Áireofar mar mhaoin phríobháideach an mhaoin' in Article 34 of the First Schedule to the Geneva Conventions Act, 1962. In s7 of the Private Bill Costs Act, 1924, 'or which interferes with the private property of any person' is translated as 'no le n-a gcuirtear isteach ar mhaoin phríobháideach éinne'.

'Maitheasa saolta' is cited in *Foclóir Oifigiúil* s.v. 'goods' (with reference to *Tobar Fíorghlan Gaeilge*, 97). *T. O'Neill*

*Lane* gives 'maoin' as his secondary translation of 'goods', citing 'that he did not put his hand to his neighbour's goods, *nár chuir seisean a láimh i maoin chomharsaí*' (*Ex. xxii. 11*). His principal translation, however, 'earradh, -aidh', is that found in *Téarmaí Dlí*, where 'goods' is translated as 'earraí', with 'I pass off goods as those of another' translated as 'tairim earraí i leith is gur earraí duine eile iad' and 'property in the goods', 'slander of goods' and 'trespass to goods' are translated respectively as 'dílseánacht sna hearraí', 'clúmhillleadh earraí' and 'foghail ar earraí'. Note, however, that 'in the goods of' is translated in *Téarmaí Dlí* as 'maidir le maoin'. 'Earraí' generally translates 'goods' in the Acts – see, for example s39 of the Finance Act, 1980, where 'In this Chapter "goods" means goods manufactured within the State' is translated as 'Sa Chaibidil seo ciallaíonn "earraí" earraí a mhonaradh an chuideachta sa Stát'.

'Gustail shaolta' expresses 'material resources' in Article 45.2.ii – see the commentary thereon regarding 'saolta'. 'Saolta' translates 'temporal' in the European Assembly Elections Act, 1977, for example, in s74 of which 'any temporal or spiritual injury or loss' is translated as 'aon diobháil nó dochar, saolta nó spioradálta'. 'External' is translated as 'eachtrach' and 'seachtrach' in the Acts – 'external tax' is translated as 'cáin eachtrach' in s35(1) of the Finance Act, 1968, for example, but as 'cáin sheachtrach' in s163(c) of the Corporation Tax Act, 1976. 'External income tax' is translated as 'cáin ioncain eachtrach' in s365(1)(b) of the Income Tax Act, 1967. 'Seachtrach' is cited as translating 'outer', 'outside' and 'exterior' in the Acts, also.

'Eachtrach' also translates 'foreign', the most conspicuous example, perhaps, being 'An Roinn Gnóthaí Eachtracha', 'The Department of Foreign Affairs'. In s1(xi) of the Ministers and Secretaries Act, 1924, 'the Department of External Affairs' is cited as 'An Roinn Gnóthaí Coigríche'. This was changed to 'An Roinn Gnóthaí Eachtracha' by the Ministers and Secretaries (Amendment) Act, 1939, s6(1) of which reads as follows:

It shall be lawful for the Government ... to alter in such way as they think proper the name (whether in the Irish language or the English language or in both those languages) of any Department of State.

Professor Máirtín Ó Murchú questions the meaning of 'external' in this Article and remarks that it seems to be the philosophical sense of 'derived from a source outside the subject affected, outside the conscious subject'. If that is the sense here, then Professor Ó Murchú recommends 'seachtrach' rather than 'eachtrach'.

*a bheith aige* Literally 'to have'. 'A bheith dá gcuid féin acu' expresses 'to own' in Article 44.2.5°. 'Ownership' is translated as 'úinéireacht' in *Téarmaí Dlí*. 'Or have before importation been in private ownership for a substantial period' is translated as 'no bhí ar únaeracht phríobháideach ar feadh tamaill mhaith sarar hiomportáladh iad' in s15(b) of the First Schedule to the Finance Act, 1932. In *Treaties establishing the European Communities* (1973, p. 518), for example, 'exercise the right of ownership conferred upon it with respect to special fissile materials' is translated as 'an ceart úinéireachta a fheidhmiú a thugtar dó i ndáil le hábhair inscoilte speisialta'. In s33(1) of the Finance Act, 1990, 'the risks and benefits associated with ownership

of the qualifying premises' is translated as 'na fiontair agus na tairbhí a bhaineann le húinéireacht an áitribh cháilithigh'. In s27 of the Corporation Tax Act, 1976, the heading 'Change in ownership of company' is translated as 'athrú ar úinéireacht cuideachta', which also translates 'a change in the ownership of a company' within the section. 'The owner of the group' is translated as 'úinéir an chnuasaigh' in s16(1) of the Capital Acquisitions Tax Act of the same year, while in s3(2) of the Local Government (Financial Provisions) Act, 1978, 'the authority are the owner of a dwelling' is translated as '(gurb) é an t-údarás is úinéir ar theach cónaithe'. See further the commentary on Article 44.2.5<sup>o</sup>, particularly for citations from early Acts. Note that 'dílse' expresses 'ownership' in Article 45.2.ii – see the commentary thereon for further translations of 'own'/'ownership'.

Regarding the direct translation below, we have noted already (see the commentary on Article 12.2.2<sup>o</sup>) how 'an ceart ar' is sometimes used instead of 'an ceart chun' – in the *Joint Declaration* of December, 1993, for example, 'the right of free political thought, the right of freedom and expression of religion' is translated as 'an ceart ar shaorsmaoineamh polaitiúil, an ceart ar shaoirse agus ar léiriú creidimh' – this allows one avoid the genitive case which follows 'chun'. Commenting on the direct translation below of 'to the private ownership of external goods' as 'ar úinéireacht phríobháideach earraí seachtracha', Professor Máirtín Ó Murchú remarks that 'úinéireacht' cannot have a qualifying genitive of this type – note the examples from the Acts above, however. Professor Ó Murchú recommends translating this phrase as 'ar sheilbh phríobháideach in earraí seachtracha'.

*recht daonna* See the commentary on Article 41.1.1<sup>o</sup>. 'Reacht' is translated as 'statute' in *Téarmaí Dlí*, where 'positive law' is translated as 'dlí daonna'. Note how the definite article precedes 'dlí idirnáisiúnta' (translated as 'international law' in *Téarmaí Dlí*) in 'chun críche a cheadaíonn an dlí idirnáisiúnta', translating '(for) a purpose recognised by international law' in s5 of the Fisheries (Amendment) Act, 1978. As regards 'positive', note that in s7(1) of the Companies (Re-Constitution of Records) Act, 1924, 'but of whose dissolution he is unable to adduce positive evidence' is translated as 'ach nách féidir do fianaise dheimhniú do thabhairt ar a scur'.

### Gender-proofed Irish text

Maoin Phríobháideach

Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha aige nó aici maoin shaolta a bheith aige dá chuid féin, nó aici dá cuid féin, go príobháideach, ceart is ársa ná reacht daonna.

### Direct gender-proofed translation

Maoin Phríobháideach

Aithníonn an Stát, de bhua an réasúin a bheith sa duine<sup>1</sup>, go bhfuil aige nó aici<sup>2</sup> an ceart nádúrtha, is túisce ná<sup>3</sup> an dlí daonna, ar úinéireacht phríobháideach earraí seachtracha<sup>4</sup>.

### Variants

- 1 'de bhua an duine a bheith réasúnach', 'de bhua bheith réasúnach an duine', 'de bhua an duine a bheith ina bheith nó ina beith réasúnach'

<sup>2</sup> 'ag an duine'

<sup>3</sup> 'a bhí ann roimh'

<sup>4</sup> 'chun úinéireachta príobháidí earraí seachtracha/eachtracha', 'ar sheilbh phríobháideach in earraí seachtracha', 'bheith ina úinéir príobháideach nó ina húinéir príobháideach ar earraí seachtracha/eachtracha'

## ARTICLE 43.1.2<sup>o</sup> AIRTEAGAL 43.1.2<sup>o</sup>

### TÉACS GAELIGE

Uime sin, ráthaíonn an Stát gan aon dlí a achtú d'irraidh an ceart sin, ná gnáthcheart an duine chun maoin a shannadh agus a thiomnú agus a ghlacadh ina hoidhreach, a chur ar ceal.

### LITERAL ENGLISH TRANSLATION

For that reason, the State guarantees not to enact any law attempting to set aside that right, nor the ordinary right of man to assign and to bequeath and to receive assets/property as an inheritance.

### ENGLISH TEXT

The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath, and inherit property.

### Divergences between the official texts

- 1 'The right of private ownership' is expressed as 'an ceart sin', 'that right', in the Irish text, referring back to the previous subsection.
- 2 The Irish term 'cur ar ceal', expressing 'abolish', is translated as 'set aside' in *Téarmaí Dlí*.
- 3 'The general right' is expressed as 'gnáthcheart an duine' ('the ordinary/usual right of man') in the Irish text, with 'ginearálta' rather than 'gnáth' translating 'general' in *Téarmaí Dlí*.
- 4 'To transfer' is expressed in the Irish text by 'sann', which term is translated as 'assign' in *Téarmaí Dlí*, 'I transfer' being translated as 'aistrim'.
- 5 'To inherit' is expressed as 'a ghlacadh ina hoidhreach' ('to receive as an inheritance') in the Irish text.
- 6 'To transfer, bequeath, and inherit' is expressed as 'a shannadh agus a thiomnú agus a ghlacadh ina hoidhreach', 'to transfer **and** to bequeath and to inherit', in the Irish text.
- 7 'Accordingly' is expressed as 'Uime sin', 'for that reason', in the Irish text.

### Commentary

*a chur ar ceal* 'Cuirim ar ceal' is translated as 'I set aside' in *Téarmaí Dlí*. 'Rud a chur ar ceal' is translated as 'to abolish something' in *Ó Dónaill*, who translates 'cuireadh an rún, an reacht, ar ceal' as 'the motion, enactment, was set aside, rescinded'. *Dinneen* translates 'cuir ar ceal' as 'put off, lay aside'. DIL translates 'cel' as 'concealment (?), dissolution, extinction, death', citing 'an tí chuireas ar ceal toradh' (= 'qui ... distulit') from Keating's seventeenth-century *Three Shafts of Death*.

'Custum do chur ar ceal' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'to abolish

Customs duties' in translations for the Department of Finance. In the 'Waterford County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, the Heading 'Abolish outdoor Relief' is translated as 'Deire le Fóirithin Allamuich', with 'Oifigí ar lár fén Scéim Seo' translating the heading 'Offices Abolished under this Scheme' in the 'Galway County Scheme'. 'Every abolition order shall operate to abolish the licence the subject of the order' is translated as 'Oibreoidh gach ordú scríosa chun deire do chur leis an gceadúnas is abhar don ordú' in s41(3) of the Intoxicating Liquor Act, 1927. Finally, the Long Title of the Family Law Act, 1981, 'An Act to abolish actions for criminal conversation, enticement and harbouring of a spouse' is translated as 'Acht do chur deireadh le caingne maidir le caidreamh collaí, mealladh agus tearmannú céile'.

*d'iarraidh an ceart sin* In 'd'iarraidh' we have the preposition 'do' with vowel elided, before the verbal noun 'iarraidh', corresponding to the now standard 'ag'. See Seán Ua Súilleabháin, op. cit., p. 525, regarding 'ag'/'do' before 'iarraidh' in South Munster (I translate):

In Desmond *id* is heard where *ig* or *d'* would be expected before *iarraig*, 'iarraidh', e.g. *id iara(ig) uisce* (H. Wagner, *Linguistic Atlas and Survey of Irish Dialects II* [Munster] [1964], 44). This is a combined form with the vowel of *ig* and the consonant of *do*. (*I nDeasmhumhain cloistear id mar a mbeifí ag súil le ig nó d' roimh iarraig ... 'iarraidh', m.sh. id iara(ig) uisce* (LASID, II, 44). *Foirm chumaiscthe é seo le guta ig agus consan do*).

In Article 20 of the 1922 Constitution, 'persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties' is translated as 'daoine a bhainfidh le n-a bhaill no a chuirfidh isteach ortha no a thabharfaidh fé iad do bhreaba le linn dóibh a ndualgaisí do chó-líona'. Note that 'Inciting people to engage in an attempt to overthrow by violence the established form of Government of Saorstát Éireann' is translated as 'Daoine do ghriósú chun tabhairt fé fhuirm bhnuithie Rialtas Shaorstáit Éireann do bhrise le fóiréigean' in s1 of the Schedule to the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. 'In respect of a prisoner attempting to escape' is translated as 'maidir le príosúnach do bheadh ad' iarraidh éaluithé' in s10(2)(f) of the Constitution (Amendment No. 17) Act, 1931. Finally, 'within three hours after so driving or attempting to drive' is translated as 'laistigh de thrí huairé a chloig tar éis dó tiomáint, nó iarracht a thabhairt ar thiomáint' in s10 of the Road Traffic (Amendment) Act, 1978.

*gnáthcheart* 'Gnáth' in compounds is translated as 'common', 'ordinary', 'plain' and 'fair' in *Téarmaí Dlí*, where 'gnáthbhanna airgid', 'Gnáthbhille Sibhialta', 'gnáthchaitheamh agus gnáthchumailt' agus 'gnáthchóip' are translated respectively as 'common money bond', 'Ordinary Civil Bill', 'fair wear and tear' and 'plain copy', with 'gnáthstoc' being translated as 'common (ordinary) stock'. 'Gnáth-' is translated as (1) 'usual, customary, ordinary; vulgar, common; standard' and (2) 'constant, unremittant' in *Ó Dónaill* and as 'usual, general, average, continual; standing, characteristic' in *Dinneen*. DIL cites examples of the adjective 'gnáth', 'customary, usual, familiar, well-known', from the ninth-century Milan Glosses

onwards. See further the commentary on 'gnáth-admhaithe', 'generally recognised', in Article 29.3.

'General agent' and 'general power of appointment', for example, are translated respectively as 'gníomhaire ginearálta' and 'cumhacht cheapacháin ghinearálta' in *Téarmaí Dlí*. The Margin Title of s5 of the Sligo Lighting and Electric Power Act, 1924, 'Extension of general purposes and power of Company', is translated as 'Leathanú ar chrícheanna agus ar chomhachta ginearálta na Cuideachtan'. Note that 'general conversation' is cited in the *Oireachtas Dictionary of Official Terms*, as being translated as 'gnáth-chomhrá' in translations for the Department of Education, with 'general domestic servant' being translated as 'gnáth-sheirbhíseach tighé' in translations for the Department of Industry and Commerce.

*ina hoidhreacht* 'Oidhreacht' is translated as 'inheritance' in *Téarmaí Dlí*, where 'tagaim in oidhreacht (mhaoine)' is translated as 'I inherit (property)', 'oidhre' being translated as 'heir'. 'Oidhreacht' is translated as 'inheritance, heredity; heritage, patrimony' in *Ó Dónaill*, who translates 'rud a fháil le hoidhreacht, teacht in oidhreacht ruda' as 'to inherit something', 'oidhreacht ár sinsear' being translated as 'our ancestral heritage, patrimony'. *Dinneen* translates 'oidhreacht' as 'an inheritance, heirloom, birthright, patrimony', citing '*thánag i n-oidhreacht an airgid do bhí ag m'athair*, I inherited my father's money'. 'Eigrecht'/'oigrecht' is based on 'eigre', the earliest recorded dateable example of which is in a thirteenth-century poem – see DIL s.v. 'eigre'. DIL translates 'eigrecht' as 'inheritance, heritage, patrimony, (*inherited*) possession', citing 'do glac sé oighrecht a shenathar cuigi .i. iarlacht o Berbuic'.

'Where a person to whom real estate is devised for an estate tail or an estate in quasi entail dies in the lifetime of the testator leaving issue who could inherit under the entail' is translated as 'I gcás duine dá réadtiomnófar eastát réadach le haghaidh eastáit shainoidhrithe nó eastáit i samhail-sainoidhreacht d'fháil bháis le linn bheo an tiomnóra agus an duine sin d'fhágáil sleachta a d'fhéadfadh teacht in oidhreacht faoin sianordú' in s97 of the Succession Act, 1965.

*a shannadh* 'Sannaim' is translated as 'I assign' in *Téarmaí Dlí*. *Ó Dónaill* also translates 'sann' as 'assign', citing '*maoin a shannadh*, to assign property'. DIL translates 'sannaid' as '(Legal) separates, alienates (*land*)', citing 'naid inrean, naide sanna' ('he is not to sell it, or alienate it', i.e. land belonging to the family) from an early Irish law-tract. See further the commentary on Article 10.3 where 'sannadh' expresses 'alienation'.

'I transfer' is translated as 'aistrim' in *Téarmaí Dlí*. 'The right to transfer property to or withdraw it from the fund' is translated as 'an ceart chun maoin a aistriú isteach sa chiste nó a thógáil amach as' in s46(4)(b) of the Charities Act, 1961. The Heading of Part III of the Ninth Schedule to the Finance Act, 1990, 'Conveyance or Transfer on Sale of other Property' is translated as 'Tíolacadh nó Aistriú ar Dhiol Maoine eile'. Finally, in s10(1) of the Schedule to the Public Safety (Emergency Powers) (No. 2) Act, 1923, 'order the transfer of such property, in so far as it consists of land, to the Irish Land Commission' is translated as 'ordóidh sé an mhaoin sin d'aistriú an méid is talamh de chun Coimisiún Talmhan na hÉireann'.

*a thiomnú* 'Tiomnaím' is translated as 'I bequeath' in *Téarmaí Dlí*. 'May ... by deed or will convey, devise or bequeath such national monument' is translated as 'an séadchomhartha náisiúnta san do leithliú no do thiomna le dintiúir no le huacht' in s10 of the National Monuments Act, 1930. 'In relation to any property devised or bequeathed by the testator' is translated as 'i ndáil le haon mhaoín a réadthiomnaigh nó a thiomnaigh an tiomnóir' in s33(2)(a) of the Capital Acquisitions Tax Act, 1976. In the Preamble to the Methodist Church in Ireland Act, 1928, 'real ... property which has been or may be ... subscribed or bequeathed' is translated as 'maidir le maoin réalta a dinedh ... a shanna no a fhágaint le huadhacht'.

*Uime sin* *Ó Dónaill* gives 'about, concerning, in regard to, on account of' as one of the senses of 'um' from earlier Irish literature, citing '*mhaigh a ghean gáire air uime*, he broke into a laugh over it' – see the commentary on Article 41.2.2°. 'Accordingly' is generally translated as 'dá réir sin' in the Acts – see s25(2) of the National Health Insurance Act, 1923, for example, where 'and cognate works shall be construed accordingly' is translated as 'agus léireofar focail den chineál chéanna dá réir sin'. See further the commentary on Article 23.2.1° where we find 'dá bhíthin sin' expressing 'accordingly'.

*a ghlacadh* 'Glacaim' is translated as 'I admit (as evidence); I receive' in *Téarmaí Dlí*. See the commentary on Articles 8.2, 12.10.4°, 13.1.3° and 27.5.1° where this verb is used respectively in expressing 'recognise', 'adopt', 'accept' and 'approve'.

### Standardised Irish text

Uime sin, ráthaíonn an Stát gan aon dlí a achtú a iarraidh an ceart sin, ná gnáthcheart an duine chun maoin a shannadh agus a thiomnú agus a ghlacadh ina hoidhreacht, a chur ar ceal.

### Direct translation

Ráthaíonn an Stát dá réir sin gan dlí ar bith a achtú lena ndéanfar iarracht ar dheireadh a chur leis an gceart ar úinéireacht<sup>1</sup> phriobháideach nó leis an gceart ginearálta ar mhaoín a aistriú agus a thíolacadh, agus ar theacht in oidhreacht mhaoine<sup>2</sup>.

### Variants

- 1 'ar sheilbh'
- 2 'ar mhaoín a aistriú, a thíolacadh, agus teacht ina hoidhreacht'

## ARTICLE 43.2.1° AIRTEAGAL 43.2.1°

### TÉACS GAELIGE

Ach admhaíonn an Stát gur cuí, sa chomhdhaonnacht shibhialta, oibriú na gceart atá luaite sna forálacha sin romhainn den Airteagal seo a rialú de réir bunrialacha an chirt chomhdhaonnaigh.

### LITERAL ENGLISH TRANSLATION

But the State acknowledges that it is fitting, in civil society, to regulate the operation of the rights which are mentioned

in the foregoing provisions of this Article in accordance with the basic rules of the societal justice.

### ENGLISH TEXT

The State recognises, however, that the exercise of the rights mentioned in the foregoing provisions of this Article ought, in civil society, to be regulated by the principles of social justice.

### Divergences between the official texts

- 1 'By the principles of social justice' is expressed as 'de réir bunrialacha an chirt chomhdhaonnaigh' ('in accordance with the basic rules of societal justice') in the Irish text; the term expressing 'social', 'comhdhaonnach', is now less commonly used, and ordinarily 'social' is expressed in Irish by 'sóisialta'/'sóisialach', as we have already seen.
- 2 'Ought' is expressed in the Irish text as 'gur cuí, 'it is fitting'.
- 3 'Regulate' is again expressed by 'rialaigh', which term is translated as 'rule' and 'control' in *Téarmaí Dlí*.
- 4 'Exercise' is again expressed by the verbal noun of the term translating 'operate' in *Téarmaí Dlí*, 'oibrigh'.
- 5 'Recognises' is again expressed in the Irish text by the same term which expresses 'acknowledges' in the previous section.
- 6 'However' is again expressed as 'Ach', 'But', in the Irish text.

### Commentary

*de réir bunrialacha an chirt chomhdhaonnaigh* According to the official standard, 'bunrialacha' would be lenited, the form of the nominative being in place of the genitive (after the prepositional phrase 'de réir') before the definite noun 'ceart' (preceded by the article) – see the commentary on Article 1. As regards 'chomhdhaonnaigh' see the commentary on 'chomhdhaonnacht' below.

'Bunriail' is translated as 'fundamental rule' in *Ó Dónaill*, being a compound of 'bun' and 'riail', the prefix 'bun-' being translated primarily as 'basic, primary, elementary' in *Ó Dónaill* and 'riail' as 'rule'. *Ó Dónaill*'s entry s.v. 'riail', reads as follows:

Rule. 1. Regulation, principle ... *De réir na rialacha*, in accordance with the rules.

'Bun-' is translated as 'principal, basal, foot-; middling, fairly' in *Dinneen*, who translates 'riaghail' as 'a rule, law or regulation; rule, government, direction or jurisdiction; a religious rule, discipline, a religion; a system or dispensation', citing '*ba riaghail ag flaithibh bheith, .c.*, it was the custom of nobles to be, etc.' Old Irish 'riagal' is translated as 'a rule (whether prescription, law, tradition or custom)' in *DIL*, 'riagal' being used in a less definite and legal sense than 'dliged' (Modern Irish 'dlí') – see further the commentary on Article 6.1. 'Bunriail' expressing 'principle' echoes 'bunreacht' ('constitution'), literally 'basic statute'.

Turning to 'principle', 'bunphrionsabal' is translated as 'first principle' in *Ó Dónaill*, whose entry s.v. 'prionsabal', is as follows:

Principle. 1. Fundamental truth, general law ... 2. Moral principles.

While *Dinneen* cites the adjective 'prionnsapálta' ('principal') from Donlevy's *Irish Catechism*, 1742, he does not appear to have the headword 'prionsabal'. 'Prinsipail' is an English loanword, according to DIL, where it is translated as (a) 'principal, capital sum (*of money*)' and (b) 'principle, rule of conduct' citing 'as d'ar gceudphrinsiopaluibh, nach eidir ...' from Molloy's *Lucerna Fidelium*, 1676. Note that 'Directive Principles' is expressed as 'Buntreoracha' in the heading for Article 45 – see the commentary on that Article regarding translations of 'principle'.

'Ceart' is translated as 'right' in *Téarmaí Dlí*, where 'ceartas aiceanta' and 'iomrall ceartais' are translated respectively as 'natural justice' and 'miscarriage of justice'. *Ó Dónaill's* entry s.v. 'ceart', is as follows:

Right. 1(a) What is morally just. *Ceart agus éigeart*, right and wrong ... *Má tá ceart le fáil*, if there is justice in the world; if one might expect justice. *I láthair an chirt*, where justice is meted out; in a court of justice.

'Ceartas' is translated in *Ó Dónaill* as 'justice', following the abbreviation for 'Philosophy'. 'Ceart' is translated as 'right, justice, equity; claim; correct manner, the proper thing; a charge or duty; due or usual amount of anything' in *Dinneen*, who cites '*deinim ceart dó*, I see that justice is done to'. 'Ceartas' is translated as 'equity, justice, law; what is right, what is justly due', in *Dinneen*, who cites '*dár cheartas rioghacht Mumhan*, to whom the throne of Munster justly belonged', from the poetry of Aodhagán Ua Rathaille (1670-1726). The earliest example of 'certus' cited in DIL comes from the *Martyrology of Úa Gormáin*, composed within the period 1166-1174, this headword being translated as 'justice, propriety; exactitude, accuracy' in DIL. It is based on 'cert', which itself comes from Latin 'certus', examples of the adjective in the sense of 'correct, right, proper, fitting' being cited in DIL from the Milan Glosses of the ninth century onwards. DIL translates 'cert', as a noun, as 'the right, what is proper, correctness', but also gives examples of the quasi-legal sense of 'right, claim, entitlement' ('Lebor na Cert' being the title of a Middle Irish tract on rights and privileges of kings), along with examples of the sense of 'justice, fair dealing'. Fergus Kelly, op. cit., p. 306, translates 'cert' as 'justice, right, entitlement', citing 'ar dofet a cert certaib' ('for the rights [of the insane] take precedence over other rights') from an early Irish law-tract. 'Di Astud Chirt 7 Dligid' ('On the Confirmation of Right and Law') is the late title of a long early Irish legal text containing a wide variety of legal matter. Note that 'the Department of Justice' is styled 'an Roinn Dlí agus Cirt' in Irish. See the commentary on Articles 29.1 (where 'justice' is expressed as 'cothrom') and 38.3.1° regarding 'justice'.

Regarding 'social justice' in the Acts, 'and for regulating in accordance with the principles of social justice the exercise of private rights in respect of minerals' is translated as 'agus chun feidhmiú ceart príobháideach i ndáil le mianraí a rialáil de réir prionsabal ceartais sóisialaigh' in the Long Title of the Minerals Development Act, 1979. In s(k) of the Third Schedule to the Restrictive Practices Act, 1972, 'in any other respect operate against the common good or are not in accordance with the principles of social justice' is translated as 'atá in aon slí eile in aghaidh leasa an phobail nó ar neamhréir le prionsabail an cheartais shóisialaigh', this same English text being translated as 'atá, in aon tslí eile, in aghaidh leasa an phobail nó ar

neamhréir le buntreora an cheartais chomhdhaonnaigh' in s(k) of the Second Schedule to the Restrictive Trade Practices Act, 1953.

*sa chomhdhaonnacht shibhialta* See the commentary on Article 41.1.1° regarding 'comhdhaonnacht' in the Constitution, 'comhdhaonnacht' being translated as 'social, companionable' in *Ó Dónaill*, who does not appear to give 'comhdhaonnacht', *Dinneen* citing neither adjective nor noun – see further the commentary on Article 15.3.1°. The definite article is regularly used with abstract nouns in Irish where no such article exists in English – e.g., 'in politics', 'sa pholaitíocht'.

'Sibhialta' is translated as 'civil' in *Téarmaí Dlí* and in *Ó Dónaill*; DIL gives two citations of 'sibialta' from *O'Molloy's Lucerna Fidelium*, 1676 – see the commentary on Articles 34.3.1° and 38.4.2°. Note incidentally that 'sibhialta' translates both 'civil' and 'civilized'. 'And condemned by the civilized world' is translated as 'agus go bhfuil sé daortha ag an saol sibhialta' in the Preamble to the Genocide Act, 1973, with 'affording all the judicial guarantees which are recognised as indispensable by civilised peoples' being translated as 'maille le gach ráthaíocht bhreithiúnach a n-aithníonn pobail shibhialta gur den riachtanas í' in s1(d) of Article 3 of the First Schedule to the Geneva Conventions Act, 1963.

*gur cuí* 'Mionnscribhinn fhorghníomhaithe chuí' agus 'sealbhóir i gcúrsa cuí' are translated respectively as 'affidavit of due execution' and 'holder in due course' in *Téarmaí Dlí*, where 'comaoin chuí' is translated as 'good consideration'. *Ó Dónaill* translates 'cuí' as 'fitting, proper', citing '*is cuí agus is cóir sin*, it is right and proper'. *Dinneen* translates 'cuibhe' as 'proper, becoming, fit, seemly', citing '*mar is cuibhe*, as is becoming'. DIL cites 'cobaid' from the early ninth-century Milan Glosses on the Commentary on the Psalms s.v. 'cubaid', which headword is translated as (a) 'harmonious, in accord, agreeing' and (b) 'fitting, meet, becoming; proper, right', citing 'ro bud cubuidh ...' ('would be meet') from an early Irish law-tract. According to Rudolf Thurneysen, *Grammar of Old Irish* (pp. 81, 219 and 503), 'cubaid' ('rhyming, harmonious') is a compound of 'com' ('with') + 'fid' ('letter [of the alphabet]'). See further the commentary on the *Preamble* and see the commentary on Articles 42.4 and 42.5 for examples of 'cuí' expressing 'due'.

*oibriú* See the commentary on Article 3; 'oibrím' is translated as 'I operate' in *Téarmaí Dlí*, but usually expresses 'exercise' in the Constitution, that verb being translated as 'feidhmigh' in *Téarmaí Dlí*.

*a rialú* See the commentary on Articles 10.3 and 12.5; 'rialáim' is translated as 'I control, I rule' in *Téarmaí Dlí* but regularly expresses 'regulate' in the Constitution, that verb being generally translated as 'rialáil' in the Acts.

### Standardised Irish text

Ach admhaíonn an Stát gur cuí, sa chomhdhaonnacht shibhialta, oibriú na gceart atá luaite sna forálacha sin romhainn den Airteagal seo a rialú de réir bhunrialacha an chirt chomhdhaonnaigh.



**Direct translation**

Aithníonn an Stát, áfach, gur chóir, sa tsochaí shibhialta, feidhmiú<sup>1</sup> na gceart atá luaite sna forálacha sin roimhe seo den Airteagal seo a rialáil le prionsabail<sup>2</sup> an cheartais shóisialaigh.

**Variants**

- 1 'go ndéanfaí feidhmiú'
- 2 'de réir phrionsabail'

ARTICLE 43.2.2<sup>o</sup> AIRTEAGAL 43.2.2<sup>o</sup>**TÉACS GAEILGE**

Uime sin, tig leis an Stát, de réir mar a bheas riachtanach, teorainn a chur le hoibriú na gceart réamhráite d'fhonn an t-oibriú sin agus leas an phobail a thabhairt dá chéile.

**LITERAL ENGLISH TRANSLATION**

For that reason, the State may, as will be necessary, put a limit to the operation of the aforementioned rights in order to bring together that operation and the welfare of the people.

**ENGLISH TEXT**

The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

**Divergences between the official texts**

- 1 'By law', in 'delimit by law', is not specifically expressed in the Irish text, where 'delimit by law' is expressed simply as 'teorainn a chur le' ('put a limit to').
- 2 'The exigencies of the common good' is expressed as 'leas an phobail' ('the welfare of the people') in the Irish text, the phrase 'leas an phobail' consistently expressing 'the common good' in the Constitution, which phrase is translated as 'an mhaitheas phoiblí' in *Téarmaí Dlí*.
- 3 'Of the said rights' is expressed as 'na gceart réamhráite' ('of the aforementioned rights') in the Irish text.
- 4 'Their exercise' is expressed as 'an t-oibriú sin', 'that exercise', in the Irish text.
- 5 'May' is expressed as 'tig le' ('can') in the Irish text, as we have seen in some other Articles.
- 6 'Accordingly' is expressed in the Irish text as 'Uime sin', 'For that reason', as in the foregoing section.

As we saw in the commentary on Article 43.1.1<sup>o</sup>, J.M. Kelly, *op. cit.*, p. 209, reports as follows on reference made to this Article in the courts:

In *Central Dublin Development Association Ltd. v Attorney General* ([1975] 109 ILTR 69) Kenny J said, in regard to both Article 43.1.1 and Article 43.2.2, that "while there may not be a conflict" between the Irish and English versions, the English version seemed to him "to be a most unhappy attempt to reproduce the meaning of that in Irish":

"The phrase "de cheart nádúrtha aige maoin shaolta

a bheith aige dá chuid féin go príobháideach" ... means, I think, "a natural right to his own private share of worldly wealth" and not "the natural right to the private ownership of external goods"... Another source of confusion in the English text is the use in Article 43.2.2 of the word "delimit". The Irish phrase is "teorainn a chur" which would, I think, be more accurately translated as "restrict". In Professor de Bhaldráithe's standard English-Irish dictionary, the Irish equivalent of "restrict" is given as "cuirim teorainn le".

As we saw, J.M. Kelly remarks on the reference above to the English version being an attempt to reproduce the Irish that 'in view of the history of the Irish version, this phrase of Kenny J seems to be a mere judicial politeness'.

**Commentary**

*teorainn* This headword is translated as 'limit' in *Téarmaí Dlí*, where the verb 'teorainnim', 'I limit', is also given as a headword. *Ó Dónaill* translates 'teorainn a chur le' as 'to demarcate (*tailte*, lands); to limit, restrict (*rud*, something)' and *Dinneen* translates 'cuirim teorainn le' as 'I bound, limit, restrict'. DIL cites examples of 'tórann', verbal noun of 'do-foirndea' (\*to-fo-rind-), from the Milan Glosses of the ninth century onwards, translating that headword as 1(a) 'act of marking out, delimiting', (b) 'share, division', (c) 'boundary, limit', (d) 'confines, territory', II (a) 'act of representing, denoting, signifying', (b) 'sign, figure' – see the commentary on Article 2 where 'farráigi teorann' expresses 'territorial seas'.

'When prescribing the persons or classes of persons by whom returns are to be made ... the Minister may define or delimit such persons or classes of persons' is translated as 'Nuair a bheidh an tAire á ordú cadriad na daoine no na haicmí daoine a thabharfidh cuntaisí no eolas uathu féin Acht so, féadfa sé na daoine no na haicmí daoine sin do luadh no do dheighilt amach' in s16(2) of the Statistics Act, 1926. In s47(2) of the Court Officers Act, 1926, 'the District Court shall be held for the purpose of transacting for such district court area the business for the transaction of which such area was delimited' is translated as '(ar a) ndéanfar an Chúirt Dúithche do chomóra chun an gnó dar teorannuoidh an liomataíte cúirte dúithche sin do dhéanamh don liomataíte sin'. 'Define the functions of such joint committee and, where appropriate, delimit the respective functions of such joint committee' is translated as 'míneofar feidhmeanna an chó-choiste sin agus, i ngach cás ina mbeidh san oiriúnach, leagfar amach feidhmeanna fé seach an chó-choiste sin' in s12(2)(b) of the Public Assistance Act, 1939, the same English text (with 'the' replacing 'such') being translated as 'míneo sé feadhma an chomhúdaráis agus, más cuibhe, leagfaidh amach feadhma an chomhúdaráis' in s98(2)(b) of the Mental Treatment Act, 1945. 'Situate in such area as the Board thinks proper and specifies or delimits in or by such rules' is translated as 'agus a bheidh sa liomataíte sin is dóich leis an mBord is ceart agus a luadhfaid no go luadhfaid a theoranta sna rialacha san' in s46(2)(b)(ii) of the Shops (Conditions of Employment) Act, 1938. In s41(2) of the Companies (Amendment) Act, 1986, "market" means a market delimited in a geographical manner' is translated as 'ciallaíonn "margadh" margadh a bhfuil a theorainneacha socraithe ar mhodh geografach'.

*a thabhairt dá chéile* Ó Dónaill cites ‘*Nil an tuairisc sin ag teacht le chéile*, that report is not consistent’ s.v. ‘tar’, and ‘*Ní théann an dá rud le chéile go rómhaith*, the two things don’t agree very well’ s.v. ‘téigh’, with *Dinneen*, s.v. ‘céile’, translating ‘bheirim dá rud dá chéile’ as ‘I reconcile two things’. We have seen in the commentary on the amended Article 41.3.2° (where ‘comhréiteach’ renders ‘reconciliation’) how ‘deifríocht a thabhairt dá chéile’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘to reconcile difference of calculation’ in translations for *Oifig an Phuist*.

For regulating in accordance with the principles of social justice the exercise of private rights in respect of minerals with a view to reconciling their exercise with the exigencies of the common good’ is translated as ‘chun feidhmiú ceart príobháideach i ndáil le mianraí a rialáil de réir prionsabal ceartais sóisialaigh d’fhonn a bhfeidhmiú a chur ar comhréir le riachtanais an leasa choitinn’ in the Long Title of the Minerals Development Act, 1979. ‘Recognising that it is necessary to reconcile the fundamental values of the respect for privacy and the free flow of information between peoples’ is translated as ‘Á aithint dóibh gur gá comhréiteach a dhéanamh idir na luachanna bunúsacha a bhaineann le hurraim don phríobháideacht agus an saorshreabhadh faisnéise idir daoine’ in the Preamble to the First Schedule to the Data Protection Act, 1988.

Commenting on ‘a chur ar comhréir le chéile’ in the direct translation below, Professor Máirtín Ó Murchú recommends ‘a thabhairt i gcomhréir le chéile’.

*a bheas riachtanach* ‘Bheas’ is the special form of the relative of the substantive verb, future tense – see the commentary on Article 6.1 regarding the special form of the relative in ‘-s’. See the commentary on Article 41.1.2° regarding ‘riachtanach’. As regards ‘as occasion requires’, ‘The Official Censor may, as occasion requires, amend or delete an entry in the register’ is translated as ‘Féadfaidh an Scrúdóir Oifigiúil, de réir riachtanais na hócáide, iontráil sa chlár a leasú nó a scriosadh’ in s14(2) of the Video Recordings Act, 1989, with ‘de réir riachtanais na hócáide’ translating ‘as occasion requires’ in s14(4) of the Transport (Re-organisation of Córas Iompair Éireann) Act, 1986. Finally, in s12(1) of the Interpretation Act, 1923, ‘and the duty shall be performed from time to time as occasion requires’ is translated as ‘agus déanfar an dualgas o am go ham fé mar is gá’.

*leas an phobail* See the commentary on Article 6.1. ‘And is satisfied that the exigencies of the common good so warrant’ is translated as ‘agus gur deimhin léi gur gá sin ar mhaithe le leas an phobail’ in s24(5) of the Data Protection Act, 1988. ‘That the Government are of opinion that the exigencies of the common good necessitate the control by the Minister on behalf of the State of the supply and distribution of fuels’ is translated as ‘gur dóigh leis an Rialtas gur gá, ar mhaithe le leas an phobail, go rialóidh an tAire thar ceann na Stáit soláthar agus imdháil breoslaí’ in s2(4)(a) of the Fuels (Control of Supplies) Act, 1971. In s92(4)(a) of the Defence Forces (Temporary Provisions) Act, 1923, ‘having due regard to the military exigencies and the public service’ is translated as ‘má tugtar aire chuibhe do riachtanaisí míleata agus don tseirbhís phuiblí’, with ‘riachtanaisí an cháis’ translating ‘exigencies of the

case’ in the Seanad *Order Paper* of 1925, p. 101. Finally, ‘gá’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘exigencies’ in a 1928 Report of the Public Accounts Committee.

*tig leis* Literally ‘can’, one of the ways ‘may’ of the English text is expressed in the Irish text – see the commentary on Article 12.4.4°.

*le hoibriú ... an t-oibriú* See the commentary on the foregoing subsection.

### Standardised Irish text

Uime sin, tig leis an Stát, de réir mar a bheidh riachtanach, teorainn a chur le hoibriú na gceart réamhráite d’fhonn an t-oibriú sin agus leas an phobail a thabhairt dá chéile.

### Direct translation

Féadfaidh an Stát, dá réir sin, de réir riachtanais na hócáide, feidhmiú na gceart a dúradh a theorannú le dlí d’fhonn a bhfeidhmiú agus riachtanais na maitheasa poiblí<sup>1</sup> a chur ar comhréir le chéile<sup>2</sup>.

### Variants

<sup>1</sup> ‘leas an phobail’

<sup>2</sup> ‘a thabhairt i gcomhréir le chéile’, ‘d’fhonn comhréiteach a dhéanamh idir a bhfeidhmiú agus riachtanais na maitheasa poiblí’

## ARTICLE 44.1 AIRTEAGAL 44.1

### RELIGION CREIDEAMH

#### TÉACS GAEILGE

##### Creideamh

Admhaíonn an Stát go bhfuil ag dul do Dhia na nUilechumhacht é a adhradh le hómós go poiblí. Beidh urraim ag an Stát dá ainm, agus bhéarfaidh oirmhidin agus onóir do Chreideamh.

#### LITERAL ENGLISH TRANSLATION

##### Faith/Religion

The State acknowledges that to be publicly adored with homage is due to God the Almighty. The State will have veneration for his name, and will give reverence and honour to Religion.

#### ENGLISH TEXT

##### Religion

The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence, and shall respect and honour religion.

### Divergences between the official texts

- 1 ‘It shall hold His Name in reverence’ is expressed as ‘Beidh urraim ag an Stát dá ainm’ (‘The State will have reverence for his name’) in the Irish text.
- 2 ‘Shall respect and honour religion’ is expressed as

'bhéarfaidh oirmhidin agus onóir do Chreideamh' ('will give reverence and honour to Religion') in the Irish text.

- 3 While the Irish text – following orthographic convention, according to Professor Máirtín Ó Murchú – does not have initial capitals corresponding to 'His Name' of the English text, 'Creideamh' ('religion') is given an initial capital in the Irish text only in the section itself.
- 4 'The homage of public worship' is expressed in the Irish text as 'é a adhradh le hómós go poiblí', 'he be worshipped with homage publicly'.

Note that subsections 2° and 3° of Article 44.1 of the Constitution were deleted by the Fifth Amendment of the Constitution Act, 1972, Article 41.1 originally being Article 41.1.1°. These subsections read as follows:

2° The State recognises the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the Faith professed by the great majority of the citizens. *Admhuigheann an Stát an chéim fá leith atá ag an Naomh-Eaglais Chatoiliceach Aspalda Rómhánach ós í is caomhnaidhe don Chreideamh atá ag árd-urmhór na saoránach.*

3° The State also recognises the Church of Ireland, the Presbyterian Church in Ireland, the Methodist Church in Ireland, the Religious Society of Friends in Ireland, as well as the Jewish Congregations and the other religious denominations existing in Ireland at the date of the coming into operation of this Constitution. *Admhuigheann an Stát, fairis sin, Eaglais na hÉireann, an Eaglais Phresbitéarach i nÉirinn, an Eaglais Mhetoidisteach i nÉirinn, Creideamh-Chumann na gCarad i nÉirinn, mar aon leis na Pobail Iúdacha agus na haicmí eile creidimh atá i nÉirinn lá an Bunreacht so do theacht i ngníomh.*

### Commentary

*do Chreideamh* 'Creideamh' is translated as 'belief, faith, religion, creed' in *Ó Dónaill*, citing '*duine a thabhairt chun creidimh*, to bring someone to the faith; to bring someone round to one's point of view' and '*saoirse chreidimh*, religious freedom'. *Dinneen* translates 'creideamh' as 'faith, belief, religion, creed; act of believing'. Old Irish 'creitem' is the verbal noun of 'creitid', which verb is translated as 'believes, trusts; gives allegiance, homage', and absolutely as 'accepts the faith, is converted', in DIL. 'Inchretem' glosses Latin 'fides' in the ninth-century Milan Glosses on the Commentary on the Psalms. DIL translates 'creitem' as (a) 'act of believing, act of coming to believe; being converted' and (b) 'belief, faith (Christian) religion'. Note that Old Irish 'credo'/'crédo'(?), 'creed', comes from Latin 'credo' – see DIL s.v. 'créda' – with both Irish 'creitid' and Latin 'credo' coming from the same Indo-European root, meaning originally 'of the heart'.

We also find 'reiligiún' in the Acts, particularly if 'faith' and 'religion' occur together. 'According to the rights of the religion to which they belonged' is translated as 'de réir deasghnátha a reiligiúin' in Article 17 of the First Schedule to the Geneva Conventions Act, 1962, with 'the religion of the deceased' being translated as 'reiligiún an mhairbh'. In s1 of Article 3 of the Third Schedule, 'without any adverse distinction founded on race, colour, religion

or faith' is translated as 'gan aon idirdhealú leatromach mar gheall ar chine, dath, reiligiún nó creideamh'. Finally, in s23(5)(b) of the Street and House to House Collections Act, 1962, 'held in accordance with the laws, canons and ordinances of the religion concerned' is translated as 'a sheolfar de réir dlíthe, canónacha agus deasghnátha an chóras creidimh lena mbaineann'.

Commenting on 'don Chreideamh' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that 'an creideamh' means a particular type of religion, e.g. 'an creideamh Caitliceach', etc., with 'níor chaill sé riamh an creideamh' referring to a particular religion. Professor Ó Murchú does admit, however, that 'do Chreideamh' is somewhat unnatural.

*ag dul do Ó Dónaill* gives 'be due to, deserve' as a secondary sense of 'téigh do', citing '*an tsuim atá ag dul dom*, the sum that is due to me' and '*tá an méid sin ar a laghad ag dul duit*, you are entitled to that much at least'. DIL cites 'is d'ollamhain ... téid a ghuala' ('an ollam [chief poet / professor] has the right to sit by the king's side'), from a miscellaneous collection of Classical Irish poetry, as an example of the phrase 'téit do' in the sense of 'is given to'.

'Without payment of any sum which is due to the Minister' is translated as 'gan aon suim a íoc a bheidh dlite don Aire' in s174(4) of the Social Welfare (Consolidation) Act, 1981, with 'annual leave is due to him in respect of the current leave year' being translated as 'saoire bhliantúil a bheidh dlite dó i leith na bliana saoire reatha' in s5(1)(b) of the Holidays (Employees) Act, 1973. In s19(1)(a) of the Enforcement of Law (Occasional Powers) Act, 1924, 'that any debt is due to the creditor under a judgement of a competent court' is translated as 'ar aon fhiacha bheidh dlite don bhfiach-éilitheoir fé bhreithiúntas a thug cúirt inniúil'.

*na nUilechumhacht* The standard Irish form of the plural of 'cumhacht' is 'cumhachtaí'. *Ó Dónaill* translates 'uilechumhacht' as 'omnipotence', giving no plural form of this noun, citing '*Dia Uilechumhachtach*, God Almighty' s.v. 'dia' – see the commentary on Article 12.8. DIL cites 'oen Dia uli-chumachtach' and 'uli-cumachtaig in talmhan' from the *Passions and Homilies* from the *Leabhar Breac* (a manuscript compiled in 1411 or earlier), as examples of 'uile-chumactach' ('omnipotent') as both adjective and noun.

'I swear by Almighty God' is translated as 'Bheirim Dia Uilechumhachtach' in s39(2) of the First Schedule to the European Assembly Elections Act, 1977, for example, with 'Bheirim-se Dia na nUile-chomhacht' being found in s21(2) of the Referendum Act, 1942, and 'Bheirim-se Dia Uile-chomhachtach' being found in s29(2) of the Electoral Act, 1923.

*a adhradh* 'Adhradh' is the verbal noun of 'adhair', translated as 'adore, worship' in *Ó Dónaill*, who cites '*Dia a adhradh*, to adore God' and '*d'adhair siad íola*, they worshipped idols'. *Dinneen* translates 'adhraim' as 'I adore, venerate, reverence'. 'Adraid' comes from Latin 'adorare' and in Old Irish is generally treated as a compound verb, 'ad-or' (with short *o*), but sometimes as a simple verb, according to DIL, translating that headword as 'adores, worships' and citing 'adrat Dia' ('let them worship God'),

from the eighth-century Würzburg Glosses on the Pauline Epistles, along with the following lines from Fiacc's Hymn in honour of St Patrick, written c. AD 800: 'túatha adortaís side / ní creitset in fírdeacht' ('the peoples used to worship side: / they believed not the true Godhead').

'In so far as it requires the church not to be used as a place of public worship' is translated as 'a mhéid a cheanglaíonn sé nach n-úsáidfean an eaglais mar áit adhartha poiblí' in s3 of the Holycross Abbey (County Tipperary) Act, 1969. In s9(c) of the Finance Act, 1923, 'any building used solely for the purpose of divine worship' is translated as '(ar) fhoirgneamh ná húsáidtear ach chun Dia d'adhra ann', with 'that the premises are in close proximity to a place of worship' being translated as 'go bhfuil an t-áitreabh ana-chomhgarach d'áit adhartha Dé' in s8(c) of the Betting Act, 1926.

*urraim* This headword is translated as 'respect, esteem; deferential regard' in *Ó Dónaill*, who cites '*urraim a bheith agat duit féin*, to have respect for oneself' and '*tá urraim mhór dó*, he is held in high esteem'. *Dinneen* translates 'urraim' as 'honour, respect, homage, veneration, regard, indulgence', citing '*tabhair urraim do'n aois*, honour old age' and '*le h-urraim do*, through veneration for'. 'Airraim' is a compound of 'air' + 'réim', according to DIL, where this headword is translated as 'deference, respect'.

*De Bhaldraithe* translates 'to hold someone in reverence' as 'modh agus urraim a thabhairt do dhuine', this Irish phrase being translated as 'to honour and respect someone' in *Ó Dónaill*, 'modh' itself being translated as 'honour, respect'. Note that 'respect' occurs in the following clause in the present Article and is expressed as 'oirmhidin', which headword is generally translated as 'reverence', as well as 'respect' – see below. *De Bhaldraithe*, for example, translates 'he is held in great honour' as 'tá urraim mhór dó', using the same noun 'urraim' as he does in translating 'held in reverence'. 'Carefully search for and remove with all due reverence ... all human Remains found in the Peter Street Huguenot Cemetery' is translated as 'Cuardach cúramach a dhéanamh do na Taisí daonna go léir a gheofar i Reilig na nÚgóineach i Sráid Pheadair agus iad a aistriú leis an urraim uile is cuí' in s4(b) of the Schedule to the Huguenot Cemetery Dublin (Peter Street) Act, 1966.

*oirmhidin* This headword is translated as 'honour, respect, reverence' in *Ó Dónaill*, following the abbreviation for senses found in earlier Irish literature, with 'oirmhidin Dé' translated as 'the reverence due to God'. 'Oirmhinneach' is used as an ecclesiastical title or form of address, and translates English 'Reverend'. 'Oirmhidin' is translated as 'dignity, respectability, honour, veneration, reverence' in *Dinneen*, who cites '*dlighidh eagna oirmhidin*, wisdom demands respect'. DIL cites 'ní tartisset airmitin Dé' ('they have not shown the reverence due to God') from the eighth-century Würzburg Glosses on the Pauline Epistles, along with 'co n-onóir. co n-airmitin' from a text probably composed in the eleventh century, 'Scéal Láí Brátha' ('Tidings of Doomsday'), which is found in the manuscript *Leabhar na hUidhre*, written in Clonmacnois c. 1100 and now in the Royal Irish Academy, Dublin.

See the commentary on Articles 40.3.1° and 42.1 regarding 'respect'. 'Each member of the Agency shall respect the international character of this duty' is translated as 'Tabharfaidh gach ball den Ghníomhaireacht d'aitheantas

gur dualgas idirnáisiúnta an dualgas sin' in Article 33(c) of the Schedule to the Multilateral Investment Guarantee Agency Act, 1988. In s3(b) of Article IV of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977, 'These principles shall respect the domestic, social and political policies of members' is translated as 'Tabharfaidh na prionsabail sin aird ar bheartais shóisialta agus pholaitiúla baile comhaltaí'. 'The civilian population shall respect the wounded and sick' is translated as 'Tabharfaidh an pobal sibhialta urraim dá lucht créachtaithe agus breoite sin' in Article 18 of the First Schedule to the Geneva Conventions Act, 1962.

*onóir* This headword is translated as 'honour' in *Ó Dónaill*, who cites '*onóir a thabhairt do dhuine*, to honour, do honour to, someone', citing '*duine a onóru*, to honour someone' and '*na féilte a onóru*, to honour, observe, the festivals', s.v. 'onóraigh'. *Dinneen* translates 'onóir' as 'honour, pride, haughtiness; reverence, respect; thrift', translating 'onóirim' as 'I honour, worship, respect, revere, reverence'. 'Onóir' is an early Middle Irish loanword from Latin 'honorem', translated as 'honour, respect (*generally of the outward manifestations thereof*), dignity' in DIL, where 'dobertsat onóir 7 airmhidin dó' is cited from the *Annals of the Four Masters*. 'To pay, do, honour to someone' is translated as 'onóir a thabhairt do dhuine' in *De Bhaldraithe*, who translates the verb 'honour' as 'onóiraim, tugaim onóir do'. Note that in Article 30 of the 1922 Constitution, 'on the grounds that they have done honour to the Nation' is translated as 'as ucht onóir do bheith déanta acu don Náisiún'.

*le hómós* 'Ómós' is translated as 'homage; reverence, respect' in *Ó Dónaill*, who cites '*ómós a thabhairt do dhuine*, to do homage to someone; to pay respect to someone'. 'Ómós' is translated as 'homage, respect, obedience' in *Dinneen*, who cites '*réir agus ómós ríogh aige dá fthagáil*, enjoying the service and homage due to a monarch'. 'Fomós' was an earlier form of this noun, which comes from Middle-English 'omage', all the examples of which headword cited in DIL coming from the writings of the seventeenth-century Geoffrey Keating (Séathrún Céitinn). DIL translates 'fomós' as 'homage, obedience'.

*bhéarfaidh* According to the official standard, this would be written as 'tabharfaidh' – see the commentary on Article 12.1. The personal pronoun would generally accompany the verb here in the Acts today, i.e. 'tabharfaidh sé' (i.e. 'an Stát').

### Standardised gender-proofed Irish text

Creideamh

Admhaíonn an Stát go bhfuil adhradh le hómós go poiblí ag dul do Dhia na hUilechumhachta. Beidh urraim ag an Stát d'Ainm Dé, agus tabharfaidh oirmhidin agus onóir do Chreideamh.

### Direct gender-proofed translation

Greideamh

Admhaíonn an Stát go bhfuil ómós an adhartha phoiblí dlite do Dhia Uilechumhachtach. Beidh oirmhidin<sup>1</sup> ag an

Stát d'Ainm Dé, agus tabharfaidh sé urraim agus onóir do chreideamh<sup>2</sup>.

### Variants

- 1 'modh agus urraim'
- 2 'don chreideamh', 'déanfaidh sé creideamh a urramú agus a onóirú'

## ARTICLE 44.2.1<sup>o</sup> AIRTEAGAL 44.2.1<sup>o</sup>

### TÉACS GAELGE

Ráthaítear do gach saoránach saoirse choinsiasa is saorchead admhála is cleachta creidimh, ach gan san a dhul chun dochair don ord phoiblí ná don mhoráltacht phoiblí.

### LITERAL ENGLISH TRANSLATION

Freedom of conscience and free licence/liberty to profess and practise religion is guaranteed to every citizen, provided that not be to the detriment of public order nor to public morality.

### ENGLISH TEXT

Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

### Divergences between the official texts

- 1 'Free profession and practice of religion' is expressed as 'saorchead admhála is cleachta creidimh' ('free licence to profess and to practise religion') in the Irish text.
- 2 'Subject to public order and morality' is expressed as 'ach gan san a dhul chun dochair don ord phoiblí ná don mhoráltacht phoiblí' ('provided that not be to the detriment of public order nor to public morality') in the Irish text.

Note that Article 8 of the 1922 Constitution reads as follows:

Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen .... *Is slán do gach saoránach saoirse choinsiasa agus saor-chleachta agus admháil phuiblí chreidimh, ach gan dochar don rialtacht ná don mhoráltacht phuiblí.*

### Commentary

*saorchead* This compound is translated as 'full permission' in *Ó Dónaill*, who cites '*saorchead a bheith agat le rud a dhéanamh*, to be quite at liberty to do something' and '*saorchead isteach*, free admission'. *Dinneen* also translates 'saor-chead' as 'full permission'.

'Any inspector shall be entitled at all reasonable times to enter upon and have free access to the interior of ... any premises' is translated as 'Beidh teideal ag aon chigire ar gach tráth réasúnta chun dul isteach agus chun saorchead a bheith aige istigh ... in aon áitreabh' in s4(1) of the Agricultural Produce (Eggs) Act, 1924, with 'and

shall at all times have free access either collectively or individually to every part of such prison' being translated as 'agus beidh saor-chead acu chun dul isteach gach am i ngach páirt den phríosún san le chéile no go haonarach' in s3(2) of the Prisons (Visiting Committees) Act, 1925. Note that 'and the works and operations of the Commissioners shall be so constructed as to permit of full and free access to and from the yards' is translated as 'agus déanfar oibreacha agus obráidí na gCoimisinéirí i slí is go mbeidh slí iomlán shaor aon uair ina dhiaidh seo chun clósanna' in s94(2) of the Dundalk Harbour and Port Act, 1925. Note also that 'free speech' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'saoirse cainte' in a Report by the Dáil, 'saor-chleachta' translating 'free exercise' (reference appears to be inaccurate).

*a dhul chun dochair* *Ó Dónaill* cites '*rachaidh sé chun dochair don tír*, it will bring harm on the country'. *Dinneen* translates 'dochar' as 'misfortune, hardship, damage, harm, hurt, loss, mischief; debit'. *DIL* cites 'do mharbhus duine óg chum mo dhochair féin' ('I have slain a young man to my hurt') from a seventeenth-century translation of *Genesis* iv. 23, translating 'dochar' as 'disadvantage, hurt, loss, injury, misery', 'dochar' being a compound of the prefix 'do-' + 'cor'. 'Dochar' had the sense of 'unfair or disadvantageous contract' in early Irish laws – see Fergus Kelly, *op. cit.*, p. 307. 'Gan dochar' is translated as 'without prejudice' in *Téarmaí Dlí*.

'Subject to' is translated as 'faoi réir' in *Téarmaí Dlí* – see the commentary on Article 12.5, where 'faoi chuimsiú' expresses 'subject to', as it does in the Constitution in general. Note that 'all royalties ... , subject to any trusts ... then existing in respect thereof' is translated as 'gach rí-chíos ... gan dochar d'aon mhuinighneachas ... do bhí an uair sin ann' in Article 11 of the 1922 Constitution, with 'subject as hereinafter provided' being translated as 'gan dochar dá bhforálar 'na dhiaidh seo' in s1(2) of the Summer Time Act, 1924.

Regarding 'public morality' in the Acts, 'would be for the benefit of an object which is unlawful or contrary to public morality' is translated as 'ag dul chun tairbhe do chuspóir atá neamhdhleathach nó atá contrártha don mhoráltacht phoiblí' in s9(b) of the Street and House to House Collection Act, 1962. In s7(3) of the Censorship of Films Act, 1923, 'to prevent the exhibition of the picture in public being subversive of public morality' is translated as 'chun taisbeáint an phictiúra don phuibhlocht do chosc ar an moráltacht phuiblí do mhille'.

*saoirse choinsiasa* 'Saoirse coinsiasa' is translated as 'liberty of conscience' in *Ó Dónaill*, who also cites '*saoirse cainte*, freedom of speech'. See the commentary on Articles 15.10 and 40.4.1<sup>o</sup> regarding 'saoirse'. 'Coinsias' is an English loanword, the earliest example of which is found in *Desiderius* (Flaithrí Ó Maolchonaire's version of the Spanish book *El Desseoso*), published in Louvain in 1616. Professor Máirtín Ó Murchú remarks that, on the evidence of the pronunciation of this word in Munster, it existed in Irish long before the seventeenth century.

In s97(2) of the Defence Forces (Temporary Provisions) Act, 1923, 'that the oath has no binding effect upon the conscience of such person' is translated as 'ná cuirfeadh an mionn aon cheangal ar choinsias an duine sin'. 'Was vested in or capable of being exercised by the Court of

Conscience' is translated as 'a bhí dilsithe no infheidhmithe ... sa Chúirt Choinsias no aici' in s78 of the Courts of Justice Act, 1924. 'As they result from the usages established among civilised peoples, from the laws of humanity and the dictates of the public conscience' is translated as 'mar a leanann siad as an ngnáthamh atá bunaithe i measc pobal sibhialta agus as dlíthe na daonnachta agus mar is dual de réir choinsias an phobail' in Article 158 of the Fourth Schedule to the Geneva Conventions Act, 1962, with 'in accordance with their religious conscience' being translated as 'de réir a gcoinsiasa creidimh' in Article 35 of the Third Schedule.

*admhála* 'Admháil' is translated as 'acknowledgement', 'confession' and 'receipt (*i.e.* for money, etc.)' in *Téarmaí Dlí*, where 'fógra ag iarraidh fíorais (doiciméid, etc.) a admháil' is translated as 'notice to admit facts (documents, etc.)' and 'admhaím' is translated as 'I acknowledge; I confess'. 'Admháil' is translated as 'acknowledgement, admission' in *Ó Donaill*, who translates 'admháil creidimh' as 'profession of faith', citing '*admhaím mo chreideamh*, I confess, profess, my faith' s.v. 'admhaigh'. 'Admháil' is translated as 'act of confessing, admitting; acknowledgement, confession; receipt for payment' in *Dinneen*, who translates 'admhuighim' as 'I confess, admit, acknowledge'. DIL translates 'atmáil', late verbal noun of 'ad-daim', as 'act of confessing, admitting, acknowledging; confession, admission'. DIL gives examples of 'ad-daim' ('acknowledges, admits, concedes, confesses') from the ninth-century St Gall Glosses on Priscian onwards, citing 'gach duine ... admhuigheas ... teagasg ... Íosa Críost' from Donlevy's *An Teagasg Críostduidhe*, 1742, where we find 'admhaigh' in the sense of 'profess'. See further the commentary on the *Preamble*.

*De Bhaldraithe* translates 'profess' as 'admhaím (mo chreideamh, etc.), dearbhaím', translating 'profession of faith' as 'admháil chreidimh'. 'A person who does not profess the creed of the religious denomination to which such child belongs' is translated as 'duine ná géileann do chreideamh na haicme creidimh dar díobh an leanbh san' in s51(1)(a) of the Public Assistance Act, 1939. 'Members of regular armed forces who profess allegiance to a Government' is translated as 'Comhaltáí d'fhórsaí armtha rialta a dhearbhaíonn go bhfuil siad faoi ghéillsine ag Rialtas' in s3 of Article 13 of the First Schedule to the Geneva Conventions Act, 1962. Note, finally, that 'has amongst its professed objects, or advocates or encourages, or professes to encourage the overthrow by force of the Government of Saorstát Éireann' is translated as 'go bhfuil ar a chuspóirí admhuithe no go molann sé no go misníonn sé no go ndeir sé go misníonn sé Rialtas Shaorstáit Éireann do threascairt le láimh láidir' in s4(1) of the Public Safety Act, 1927.

*don ord phoiblí* Regarding the lenition of the adjective following a masculine noun in the dative singular, see the commentary on Article 45. 'If he is satisfied that it is in the interests of public order or security or safety to do so' is translated as 'más deimhin leis an Aire gur chóir déanamh amhlaidh ar mhaithe le dea-ord poiblí nó slándáil nó sábháilteacht' in s10(1) of the Air Navigation and Transport Act, 1988. See further the commentary on Article 38.3.1°.

### Standardised Irish text

Ráthaítear do gach saoránach saoirse coinsiasa is saorhead admhála is cleachta creidimh, ach gan sin a dhul chun dochair don ord poiblí ná don mhoráltacht phoiblí.

### Direct translation

Déantar, faoi réir an oird phoiblí agus na moráltachta poiblí, saoirse coinsiasa agus saoradhmáil agus saorchleachtadh creidimh<sup>1</sup> a ráthú do gach saoránach.

### Variants

- 1 'saoirse admhála agus cleachta creidimh'

## ARTICLE 44.2.2° AIRTEAGAL 44.2.2°

### TÉACS GAEILGE

Ráthaíonn an Stát gan aon chóras creidimh a mhaoiniú.

### LITERAL ENGLISH TRANSLATION

The State guarantees not to endow any system of faith/religion.

### ENGLISH TEXT

The State guarantees not to endow any religion.

### Divergences between the official texts

- 1 'Any religion' is expressed as 'aon chóras creidimh' ('any system of faith/religion') in the Irish text.

Note the following in Article 8 of the 1922 Constitution:

... and no law may be made either directly or indirectly to endow any religion .... *agus ní déantar aon dlí go díreach ná go mí-dhireach chun maoin do bhronna ar aon chreideamh.*

### Commentary

*aon chóras creidimh* 'Córas' is translated as 'system' in *Ó Donaill*, where 'córas craolacháin' and 'córas oideachais' are translated respectively as 'broadcasting system' and 'educational system'. *Dinneen* translates 'córas' as 'legal or customary system; policy; organisation', citing '*córas béascna*, social system' and '*córas eaglasta*, ecclesiastical system'. 'Córus' is based on 'cóir' and literally means 'justness, rightness, proper arrangement, propriety', according to DIL, with the sense of 'prescribed arrangement, regulation(s), rightness, law, due' in legal contexts. Fergus Kelly translates 'córús' as 'regulation' in his *Guide to Early Irish Law*, translating the title of an early Irish law-tract dealing mainly with the mutual obligations of clergy and laity, 'Córús Béscnaí', as 'the regulation of proper behaviour' (p. 267) and translates 'Córús Aithní', the title of a short Old Irish text on deposits, as 'regulation of deposit' (p. 278). DIL cites 'cin fis corusa creitme' ('... religious rite, system') from a commentary on an early Irish law-tract, along with 'inda lemm, romba sí córus na

creitme' ([I thought] that that was an integral part of the faith'), said by Oengus to St Patrick when injured by the saint's crozier during his baptism, from the *Tripartite Life of Patrick*, composed at the end of the ninth or beginning of the tenth century.

*a mhaoiniú* 'Maoinigh' is translated as 'finance, endow' in *Ó Dónaill*, who cites '*ospidéal a mhaoiniú*, to endow a hospital'. *Dinneen* translates 'maoinighim' as 'I make rich, improve, finance, give gifts to'. The meaning of the earlier 'mainigid' is uncertain, according to DIL, where it is translated as '*perhaps* treats as a "main", treasures, hence keeps, conserves, takes care of, maintains?' Professor Máirtín Ó Murchú refers to a note on this term by Damian McManus in *Ériu* xxxvi (1985).

'Endowment policy' is translated as 'polasaí dearlaice' in *Téarmaí Dlí. De Bhaldraithe* translates 'endow' as 'bronnaim (*someone with something*, rud ar dhuine), dearlacaim', translating 'he was endowed with great talents' as 'bhronn Dia buanna móra air'. The verb 'dearlaic' is translated as 'grant, bestow' in *Ó Dónaill*, the noun 'dearlaic' being translated as 'endowment'.

'Establish and endow ... chairs and lectureships in any university' is translated as 'cathaoireacha agus léachtóireachtaí a bhunú agus a dhearlacadh in aon ollscoil' in s8(a) of the Turf Development Act, 1990, with 'cathaoireacha agus léachtóireachtaí a bhunú agus a mhaoiniú' being found in s1 of the Turf Development Act, 1958. Note that 'endowed schools' is translated as 'scoileanna fé bhronntanas' in s1(v) of the Ministers and Secretaries Act, 1924, with 'the Office of the Commissioners for managing certain School Endowments in Ireland' being translated as 'Oifig na gCoimisinéirí chun Brontanaisí áirithe Scoile in Éirinn do bhainisti' in Schedule B (No. 54) to the Appropriation Act, 1923.

Commenting on 'a dhearlacadh' translating 'to endow' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that 'dearlaic' is not a very common word but on the evidence it means 'grant, bestow', as we see in *Ó Dónaill* above. Professor Ó Murchú refers to 'dearlaig dod shearbhfhoghantaibh an tsíothcháin' from *Parrthas an Anma* (l. 4170), printed in 1645. 'Aon chreideamh a dhearlacadh' would have the same sense as 'aon chreideamh a bhronnadh', according to Professor Ó Murchú, who recommends maintaining 'a mhaoiniú' in the direct translation below.

### Direct translation

Ráthaíonn an Stát gan aon chreideamh a mhaoiniú<sup>1</sup>.

### Variant

<sup>1</sup> 'a dhearlacadh'

ARTICLE 44.2.3<sup>o</sup> AIRTEAGAL 44.2.3<sup>o</sup>

### TÉACS GAEILGE

Ní cead don Stát neach a chur faoi mhíchumas ar bith ná aon idirdhealú a dhéanamh mar gheall ar chreideamh nó admháil chreidimh nó céim i gcúrsaí creidimh.

### LITERAL ENGLISH TRANSLATION

The State is not permitted to put a person under any disability nor to make any distinction because of faith/religion or profession of faith or standing in matters of faith.

### ENGLISH TEXT

The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

### Divergences between the official texts

- 'Religious profession, belief or status' is expressed as 'creideamh nó admháil chreidimh nó céim i gcúrsaí creidimh' (religion/faith or profession of faith or standing in matters of faith) in the Irish text, 'creideamh' expressing both 'belief' and, in the genitive singular, 'religious'.
- 'Impose any disabilities' is expressed in the Irish text as 'neach a chur faoi mhíchumas', 'put a person under disability'.
- 'Shall not' is expressed as 'Ní cead' ('It is not permitted') in the Irish text, as in some other Articles.

J.M. Kelly, op. cit., p. 209, reports as follows on reference made to this Article in the courts:

In *Quinn's Supermarket Ltd. v Attorney General* ([1972] IR 1) Walsh J said it was quite clear from the Irish text ("ní cead don Stát neach a chur faoi mhíchumas ar bith...") that this provision was "aimed at preventing the imposition of a personal, or perhaps even a corporate, disability". It was argued in this case that the discrimination forbidden by the sub-section should be construed as if it read "discrimination against", but Walsh J rejected this submission, pointing to the general formulation of the Irish version "ná aon idirdhealú a dhéanamh" in confirmation of his view. In the High Court McLoughlin J had cited the Irish text for the same purpose. In *M. v An Bord Uchtála* ([1975] IR 81; (1975) 109 ILTR 62) Pringle J cited from Walsh J in the *Quinn's Supermarket* case the passages just referred to. In *Mulloy v Minister for Education* ([1975] IR 88), where the plaintiff objected to a regulation which excluded him from an increment benefit because the service concerned had been given while he was not a layman (but a priest), Butler J considered the word "céim" in order to elucidate the word "status", and, in concluding that "status" was "something other than a question of religious profession or religious belief", observed that this difference is even more clearly stressed in the Irish text where the disjunctive "nó" is repeated, viz. "... ná aon idirdhealú do dhéanamh mar gheall ar chreideamh nó admháil chreidimh nó céim i gcúrsaibh creidimh".

Note that Article 8 of the 1922 Constitution contains the following:

... or impose any disability on account of religious belief or religious status .... *ná aon mhí-ábaltacht do chur air mar gheall ar a thuairim ná a chéim a gcúrsaí creidimh.*

### Commentary

*faoi mhíchumas* 'Míchumas' is translated as 'disability' and 'disablement' in *Téarmaí Dlí*, with the verb 'mí-

chumasaim' translated as 'I disable'. *Ó Dónaill* gives 'disability' as the secondary sense of 'míchumas', preceded by the abbreviation for 'Jurisprudence', the primary sense being 'inability, incapacity; disablement'. *Dinneen* translates 'mí-chumas' as 'incapacity, inability'. It is a compound of 'cumas' and the perjorative particle 'mí-', this particle possibly originally a comparative 'mis' ('less'), akin to the second syllable of Latin 'nimis' – see DIL s.v. 'mí-'.

See the commentary on Articles 16.1.1° and 16.1.3° where 'míchumas' expresses 'disability', as in the current Article. We see above that 'mí-ábaltacht' translates 'disability' in the 1922 Constitution, with 'Grád na mí-ábaltachta do mheas' translating 'Assessment of degree of disability' in the Margin Title of s8 of the Army Pensions Act, 1927. 'The said Governing Body shall in respect of the executive of such authorised race-course take such disciplinary action and impose such disabilities and penalties as they consider proper' is translated as 'déanfaidh an Comhlucht Rialúcháin sin maidir le feadhmannach an rás-chúrsa údaraithe sin pé gníomh smachta do chur i bhfeidhm agus pé éagumais agus pionóis d'fhorchur is dóigh leo is ceart' in s40(4) of the Racing Board and Racecourses Act, 1945. 'The Executive Committee of the Club may take or authorise the taking of disciplinary action, including the imposition of disabilities in relation to participating in greyhound breeding' is translated as 'Féadfaidh Coiste Feidhmiúcháin an Chlub gníomh araíonachta a dhéanamh, nó a údarú go ndéanfar gníomh araíonachta, ar a n-áirítear míchumais a fhorchur, maidir le bheith páirteach i siolrú' in s15 of the Schedule to the Greyhound Industry Act, 1958. Finally, 'and the cemetery shall be held by the Company freed and discharged from all ecclesiastical, charitable and other Trusts, uses, purposes, obligations, disabilities, and restrictions whatsoever' is translated as 'agus teachtfaidh an Chuideachta an reilig saor agus urscaoilte ó gach Iontaobhas, úsáid, críoch, oibleagáid, míchumas, agus srian ar bith, eaglasta, carthanúil agus eile' in s4 of the Huguenot Cemetery Dublin (Peter Street) Act, 1966.

Commenting on the direct translation below of 'The State shall not impose any disabilities' as 'Ní dhéanfaidh an Stát aon mhíchumais a fhorchur', Professor Máirtín Ó Murchú remarks that 'forchur' is not sufficiently rooted (*Ó Dónaill* does not have it as a headword, for example) that it can be so readily used. Professor Ó Murchú recommends returning to 'aon mhíchumas a chur ar neach' or 'míchumas a chur ar aon duine'.

*mar gheall ar chreideamh* See the commentary on Articles 27.3 and 40.4.2° where 'ábhar' and 'foras' respectively express 'ground'. 'On ground of hardship' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'mar gheall ar cruatan' in translations for the Department of Justice, with 'de dheascaibh droch-shláinte' translating 'on the grounds of ill-health' in *Iris Oifigiúil*, 1924, p. 918. 'And to which the parent of the child does not object on religious grounds to send the child' is translated as 'agus ná fuil tuismitheoir an leinbh, ar chúiseanna creidimh, i gcoinnibh an leanbh do chur chúichi' in s4(2)(c) of the School Attendance Act, 1926. Finally, as regards 'religious' in early Acts, 'any solemn declaration which under this Act may be made by any person who states he has no religious belief' is translated

as 'aon fhaisnéis sholamanta a fhéadfadh éinne adeir ná fuil aon chreideamh aige a dhéanamh fén Acht so' in s3(28) of the Defence Forces (Temporary Provisions) Act, 1923.

'On ground of' is translated as 'ar fhoras' in *Téarmaí Dlí*. 'On the ground that he has no religious belief or that the taking of an oath is contrary to his religious belief' is translated as 'ar an bhforas nach bhfuil aon chreideamh aige nó go bhfuil sé in aghaidh a chreidimh mionn a ghlacadh' in s39(2) of the First Schedule to the European Assembly Elections Act, 1977. Looking specifically at 'religious', 'would be contrary to his religious beliefs or principles' is translated as 'dá mbeadh sé contrártha do chreideamh nó do phrionsabail creidimh an duine sin' in s2(4) of the Meath (Homes for Incapacitated Persons) Act, 1964. 'A juror who states that he has a religious belief but that he is neither a Christian or a Jew' is translated as 'coisteoir adeir go bhfuil creideamh aige ach nách Críostaí ná Giúdach é' in s53(4) of the Juries Act, 1927. Finally, 'Protection of the religious creed of children' is translated as 'Creideamh leanbhaí do chaomhadh' in the Margin Title of s51 of the Public Assistance Act, 1939.

Commenting on 'ar fhoras admhála creidimh' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that, like 'forchuir' above, this use of 'foras' in the sense of 'cúis' is not sufficiently known to enable one to readily make sense of this phrase; *Ó Dónaill* only recognises it in the structure 'ar an bhforas go'. Again Máirtín Ó Murchú recommends returning to 'mar gheall ar' or using 'ar bhonn' as an alternative. Professor Ó Murchú recommends 'ar bhonn creidimh, nó creideamh a admháil, nó ar bhonn stádais creidimh' as a translation of the final clause.

*céim i gcúrsaí creidimh* 'Degree' and 'rank' are two of the secondary senses of 'céim' in *Ó Dónaill*, the principal one being 'step'. In the sense of 'rank', *Ó Dónaill* cites '*do chéim sa saol*, one's station in life'. *Dinneen* includes 'grade; degree (in education, physics, navigation, etc.); ... position, dignity, fame, rank' among the senses of 'céim'. 'Céim', verbal noun of 'cingid', is cited by DIL in the sense of 'dignity, rank, degree' in the ninth-century Milan Glosses on the Commentary on the Psalms, where 'hí céim' glosses Latin 'in gradum dignitatis'.

We see above how 'céim' translates 'status' in this context in the 1922 Constitution, with 'céim' translating 'status' in *Iris an Phuist*, 2/11/27, also. In s48 of the Local Government Act, 1925, 'shall not be deemed ... to deprive him of the status of a pensionable officer' is translated as 'Ní tuigfear ... status oifigigh inphinsin do bheith bainte d'oifigeach', with 'professional status or qualification' being translated as 'status no cáilíocht ghairme do bheith aige'. 'Where a person is treated, by reference to his marital or family status, less favourably than a person of the other sex with the same status' is translated as 'má dhéileáiltear le duine faoi threoir a stádais phósta nó teaghlai, le níos lú fabhair ná mar a dhéileáiltear le duine den ghnéas eile a bhfuil an stádas céanna aige' in s67(3)(b) of the Pensions Act, 1990, for example. 'Any body of persons having consultative status with the United Nations Organisation' is translated as '(maidir le) haon chomhlacht daoine ag a bhfuil stádas comhairleach le hEagraíocht na Náisiún Aontaithe' in s20 of the Finance Act, 1973. The 'International Health Bodies (Corporate Status) Act, 1971' is cited in Irish as 'an tAcht um Chomhlachtaí Idirnáisiúnta



Sláinte (Stádas Corpraithe), 1971', with 'the Married Women's Status Act, 1957' being cited in Irish as 'an tAcht um Stádas Ban Pósta, 1957'. Finally, 'to imperil the neutral status of the State' is translated as 'is trúig baoil do neodracht an Stáit' in the Sixth Schedule to the Defence Forces (Temporary Provisions) (No. 2) Act, 1940.

Note finally that 'stádas sibhialta' is cited in *Ó Dónaill*, where it is translated as 'civil status'.

*creidimh* Regarding 'belief' in the Acts, 'That no minister ... shall preach maintain propagate or teach therein any doctrine or practice contrary to the statement of belief contained in the constitution for the time being' is translated as 'ná déanfaidh aon mhinistéir ... aon teagasc ná cleachta do sheanmóin, do chraobhscaoile, do theagasc ná seasamh leis a bheidh contrártha don ráiteas creidimh a bheidh sa chóru de thurus na huairé' in the Preamble to the Methodist Church in Ireland Act, 1928. See the commentary on Articles 42.1 and 44.1 regarding 'creideamh'.

*ní cead* One of the ways 'shall not' is expressed in the Constitution – see the commentary on Article 9.1.3°.

*neach* See the commentary on Article 40.4.2°.

*idirdealú* See the commentary on Article 40.6.2°.

### Direct translation

Ní dhéanfaidh an Stát aon mhíchumais<sup>1</sup> a fhorchur<sup>2</sup> ná ní dhéanfaidh sé aon idirdhealú ar fhoras creidimh, admhála creidimh nó stádais creidimh<sup>3</sup>.

### Variants

- 1 'aon mhíchumas'
- 2 'Ní fhorchuirfidh an Stát aon mhíchumais', 'Ní dhéanfaidh an Stát aon mhíchumais a chur ar neach / ar aon duine'
- 3 'ar bhonn creidimh, nó creideamh a admháil, nó ar bhonn stádais creidimh', 'ar fhoras admhála creidimh, creidimh nó stádais creidimh'

## ARTICLE 44.2.4° AIRTEAGAL 44.2.4°

### TÉACS GAEILGE

Reachtaíocht lena gcuirtear cúnaimh Stáit ar fáil do scoileanna ní cead idirdhealú a dhéanamh inti idir scoileanna atá faoi bhainistí aicmí creidimh seachas a chéile ná í do dhéanamh dochair do cheart aon linbh chun scoil a gheibheann airgead poiblí a fhreastal gan teagasc creidimh sa scoil sin a fhreastal.

### LITERAL ENGLISH TRANSLATION

Legislation by which State aid is provided for schools it is not permitted to discriminate in it between schools which are under the management of some religious classes rather than others / one or other religious group or for it to do harm to the right of any child to attend a school which gets public money and not attend religious instruction in that school.

### ENGLISH TEXT

Legislation providing State aid for schools shall not discriminate between schools under the management of

different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

### Divergences between the official texts

- 1 'Different religious denominations' is expressed as 'aicmí creidimh seachas a chéile' ('some religious classes rather than others') in the Irish text.
- 2 'Legislation .. shall not discriminate' is expressed in the Irish text as 'ní cead idirdhealú a dhéanamh inti', 'it is not permitted to discriminate in it (legislation)', with 'shall not' being expressed as 'ní cead' ('it is not permitted'), as in the previous subsection.
- 3 '(Legislation ... shall not) ... be such as to affect prejudicially' is expressed as 'í do dhéanamh dochair do', '(Legislation ... shall not) ... do harm to', in the Irish text.

Note that Article 8 of the 1922 Constitution contains the following:

... or 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 .... *ná baint go díobhálach ó cheart aon linbh dul chun scoile atá ag fáil airgid phuiblí i dtaobh gan é bheith láithreach ag an dteagasc creidimh sa scoil sin, ná chun aon deifríocht do dhéanamh i dtaobh cabhrach Stáit idir scoileanna fé bhainisteoireacht lucht chreidimh dheifrúla.*

### Commentary

*aicmí creidimh* 'Aicme' is translated as 'genus, class', 'family, tribe' and 'set, clique' in *Ó Dónaill*, as 'a sort or kind, a class, a family, a race, a tribe; in a deprecating sense, a gang; a battalion' in *Dinneen* and as 'race, family, tribe; genus, class' in *DIL* – see the commentary on Article 40.6.2°. 'Denominaton', on the other hand, is translated as 'ainmniúchán' in *Téarmaí Dlí*. 'Roinn (creidimh)' is cited in the *Oireachtas Dictionary of Official Terms* as translating '(religious) denomination' in translations for the Department of Industry and Commerce. 'A person in Holy Orders or a regular minister of any religious denomination or community' is translated as '(do) dhuine in Ord Beannaithe nó do mhinister rialta de chuid aon sainaicme nó cuallacht crábhaidh' in s19 of the Housing (Miscellaneous Provisions) Act, 1979. 'A person who does not profess the creed of the religious denomination to which such child belongs' is translated as 'duine ná géilleann do chreideamh na haicme creidimh dar díobh an leanbh san' in s51(1)(a) of the Public Assistance Act, 1939, with 'duine ar bith d'aon aicme Phrotastúnach' translating 'no person of any Protestant denomination' in s4 of the Erasmus Smith Schools Act, 1938. We find 'an aicme creidimh' translating 'the religious denomination' in s6 of the Marriages Act, 1972, for example. 'Sainaicme creidimh' would appear to have been introduced by the Local Elections (Petitions and Disqualifications) Act, 1974, in s24(a) of which 'a minister of any religious denomination' is translated as 'ministir d'aon sainaicme creidimh'.

*seachas a chéile* Ó Dónaill cites 'ní mholaim aon cheann acu seachas a chéile, I don't recommend any one of them more than another' and Dinneen cites 'is deacair ceann do thoghadh seachas a chéile, it is hard to choose between them'.

Looking at 'different' in early Acts, 'Separate orders may be made at different times under this section for the postponement of the statutory elections to different classes of councils or other local bodies and different dates may be prescribed for the holding of such postponed elections' is translated as 'Féadfar ordúithe ar leithligh do dhéanamh ar uairibh éagsúla fén alt so chun na toghacháin reachtúla chun saghasanna éagsúla comhairlí no cóluchtaí áitiúla eile do chur ar ath-ló agus féadfar dátaí éagsúla do cheapa chun comóra na dtoghachán san a cuirfear ar ath-ló' in s2(2) of the Local Elections (Postponement) Act, 1922. 'Separate ballot papers of different and distinctive colours' is translated as 'páipéirí ballóide fé leith agus dath so-aitheanta fé leith ortha' in s5 of the Seventh Schedule to the Electoral Act, 1923, with 'Voting in different districts' being translated as 'Vótáil i gceanntair dheifriúla' in the Margin Title of s23 of the First Schedule.

*cúnamh Stáit* 'Cúnamh' is translated as 'help' in Ó Dónaill, who cites 'cúnamh airgid, financial help' and 'cúnamh difhostaíochta, unemployment assistance'. 'Congnamh airgid' is translated as 'subsidy' in Dinneen, who translates 'congnamh dlíghidh' as 'legal assistance'. 'Congnam' is the verbal noun of 'con-gní', and is translated as 'act of helping, aiding, assisting; help, aid' in DIL, where 'cunum béil 7 láimhe' ('help in word and deed') is cited. Examples of the verb 'con-gní' ('helps, assists') are cited in DIL from the eighth-century Würzburg Glosses onwards.

'Cabhair agus cognamh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'aid and assistance' in translations for the Revenue Commissioners, with 'Every person who shall ... aid or assist in making any signal' being translated as 'Gach éinne ... a chuideoidh no a chabharóidh chun go dtabharfar aon chomhartha' in s33 of the Fisheries Act, 1925. 'The basic legislative framework to ensure that state aid and trade policy is fair and equitable' is translated as 'gréasán bunaidh, reachtaíochta, a áiritheoidh go mbeidh beartas chúnamh stáit agus trádála cóir, cothrom ar fáil' in the *Programme for a Partnership Government, 1993-97*, p. 7.

*faoi bhainistí* See the commentary on Article 10.3 regarding 'bainistí'. 'In the case of a harbour under the management of Iarnród Éireann-Irish Rail' is translated as 'i gcás cuain faoi bhainisteoireacht Iarnród Éireann-Irish Rail' in s3(1)(e) of the Oil Pollution of the Sea (Civil Liability and Compensation) Act, 1988. 'The Office of the Registrar to the Chief Justice shall be under the management of the Registrar to the Chief Justice' is translated as 'Beidh Oifig an Chláirathóra don Phrímh-Bhreitheamh fé bhainistí an Chláirathóra don Phrímh-Bhreitheamh' in s19 of the Court Officers Act, 1926.

*do dhéanamh dochair* See the commentary on Article 44.2.1<sup>o</sup> regarding 'dochar'. Ó Dónaill translates 'dochar a dhéanamh do dhuine, do rud' as 'to harm someone, something'. DIL cites 'bean do ní mo dhochor' ('woman who causes my misery') s.v. 'dochar'. 'A dhineann dochar do ...' is cited in the *Oireachtas Dictionary of Official*

*Terms* as translating 'affecting injuriously' in translations for the Department of Local Government and Public Health. See the commentary on Article 28.3.3<sup>o</sup> regarding 'affect', expressed in that Article by the phrase 'dífear a dhéanamh do'. 'No action, prosecution ... shall abate or be discontinued, annulled or prejudicially affected by the repeal of the Act of 1855' is translated as 'Ní dhéanfidh athghairm Acht 1855 maolú, scur, nea-mbríochaint, ná oibriú docharach ar aon aicsean, cúiseamh ...' in s24 of the Dundalk Harbour and Port Act, 1925. In s3(b) of the Foreshore (Amendment) Act, 1992, 'has affected or is likely to affect prejudicially any flora or fauna of such area' is translated as 'go ndearna nó gur dócha go ndéanfaidh ... dochar d'aon flora nó fauna de chuid an limistéir nó na limistéir sin'. 'An appropriation shall not be made under this section so as to affect prejudicially any specific devise or bequest' is translated as 'ní dhéanfar leithreasú faoin alt seo ar dhóigh ba dhochar d'aon réadtiomnú nó tiomnú sonrach' in s55(2) of the Succession Act, 1965. 'Has affected or is likely to affect prejudicially any public rights' is translated as 'go ndearna san no gur dócha go ndéanfaidh dochar do chearta puiblí ar bith' in s6(2) of the Foreshore Act, 1933. Commenting on a draft of the direct translation below, where 'affect prejudicially' was translated as 'a dhéanfaidh difear docharach do', Professor Máirtín Ó Murchú recommended the more straightforward phrase 'a rachaidh chun dochair do'.

*a fhreastal* 'Freastalaím' is translated as 'I attend' in *Téarmaí Dlí*, where 'freastal' is translated as 'attendance'. Ó Dónaill cites 'an scoil a fhreastal, to attend school' and 'freastal ar léachtaí, to attend lectures' as examples of 'freastail', 'attend', in the sense of 'be present at'. Dinneen gives 'I attend, as at a class, etc.' as one of the senses of 'freastalaím'. This sense does not appear to be cited in DIL s.v. 'frestlaid', translated as (a) 'attends on, ministers to; entertains' and (b) 'transferred of receiving or encountering an attack, enemy'. 'Frestal', upon which this verb is based, is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles in the sense of 'receiving (as a guest), greeting, welcoming'.

*teagasc creidimh* 'Teagasc' is translated as 'instructions' in *Téarmaí Dlí*, where 'faoi theagasc' is translated as 'instructed by' and 'teagascáim' is translated as 'I instruct (counsel, etc.)'. 'Teagasc' is translated as 'teaching, instruction' by Ó Dónaill, who cites 'teagasc ábhair, teaching of a subject', and as 'body of teaching; doctrine, precept', citing 'teagasc na hEaglaise, the teaching of the Church' and 'An Teagasc Críostaí, Christian doctrine; catechism'. Dinneen also cites 'An Teagasc Críostaidhe, the Christian Doctrine, the Catechism', translating 'teagasc' as 'act of teaching or instructing, directing; teaching, doctrine, moral teaching, counsel, direction ...'. DIL refers to Ó Heoghusa's *An Teagasc Críostaidhe* ('The Christian Doctrine, Catechism'), published in 1611, s.v. 'teosc', a verbal noun formation from 'to-in-com-sech'.

'Teagasc' translates 'instruction' in *Iris an Phoist, 1923*, p. 263. 'Teagasc chreidimh' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'religious instruction' in translations for the Department of Education. 'Provided also that in each of the said Schools reasonable opportunities shall be afforded during the time allocated to religious instruction to enable every pupil to receive

such religious instruction as may be provided by the Church to which he belongs' is translated as 'Ar choinníoll fós go dtabharfar caoi réasúnta i ngach Scoil fé leith acu san i rith an ama bheidh ceaptha i gcóir teagaisc chreidimh chun a chur ar chumas gach mic léighinn an teagasc creidimh san d'fháil a bheidh curtha ar fáil ag an Eaglais le n-a mbaineann sé' in s4 of the Erasmus Smith Schools Act, 1938, with 'including instructing in Protestant doctrine' being translated as 'le n-a n-áirmhítear múineadh teagaisc Phrotastúnaigh'.

*a gheibheann* This is a variant form of the third person singular, present tense, of 'faigheann', the official standard form being 'a fhaigheann'.

*idirdhealú* See the commentary on Article 40.6.2°.

### Standardised Irish text

Reachtaíocht lena gcuirtear cúnaimh Stáit ar fáil do scoileanna ní cead idirdhealú a dhéanamh inti idir scoileanna atá faoi bhainistí aicmí creidimh seachas a chéile ná í a dhéanamh dochair do cheart aon linbh chun scoil a flaigheann airgead poiblí a fhreastal gan teagasc creidimh sa scoil sin a fhreastal.

### Direct translation

Ní dhéanfaidh reachtaíocht lena gcuirtear cúnaimh Stáit ar fáil do scoileanna idirdhealú idir scoileanna faoi bhainisteoireacht sainaicmí éagsúla creidimh,<sup>1</sup> ná ní reachtaíocht í de chineál<sup>2</sup> a rachaidh chun dochair<sup>3</sup> do cheart aon linbh scoil a mbeidh airgead poiblí á fháil aici a fhreastal gan freastal ar theagasc creidimh sa scoil sin.

### Variants

- 1 'Ní dhéanfar idirdhealú idir scoileanna faoi bhainisteoireacht sainaicmí creidimh éagsúla le reachtaíocht lena gcuirtear cúnaimh ar fáil do scoileanna.'
- 2 'ní hí an cineál í, 'den chineál', 'ní bheidh sí ina reachtaíocht de chineál', 'ní reachtaíocht a bheidh inti de chineál'
- 3 'a dhéanfaidh dochair', 'a dhéanfaidh difear dochrach'

## ARTICLE 44.2.5° AIRTEAGAL 44.2.5°

### TÉACS GAELGE

Tá sé de cheart ag gach aicme chreidimh a ngnóthaí féin a bhainistí, agus maoin, idir sho-aistrithe agus do-aistrithe, a bheith dá gcuid féin acu, agus í a fháil agus a riaradh, agus fundúireachtaí chun críocha creidimh is carthanachta a chothabháil.

### LITERAL ENGLISH TRANSLATION

Every religious grouping has the right to manage its own affairs, and to have property, both movable and immovable, of its own, and to get it and administer it, and to maintain foundations for religious and charitable purposes.

### ENGLISH TEXT

Every religious denomination shall have the right to manage its own affairs, own, acquire and administer

property, movable and immovable, and maintain institutions for religious or charitable purposes.

### Divergences between the official texts

- 1 'For religious **or** charitable purposes' is expressed in the Irish text as 'chun críocha creidimh is carthanachta', 'for religious **and** charitable purposes'.
- 2 'To own property' is expressed as 'maoin ... a bheith dá gcuid féin acu' ('to have property of their own') in the Irish text.
- 3 'Shall have' is expressed as 'Tá ...', 'Has', in the Irish text.
- 4 'Its own affairs' is expressed as 'a ngnóthaí féin' ('their own affairs') in the Irish text, following general Irish usage of the plural in referring to a group noun.
- 5 'Property, movable and immovable' is expressed as 'maoin, idir sho-aistrithe agus do-aistrithe' ('property, both movable and immovable').
- 6 'Institutions' is expressed as 'fundúireachtaí' ('foundations') in the Irish text, as we saw earlier.
- 7 As in the foregoing subsection, 'religious denomination' is expressed as 'aicme chreidimh' ('religious grouping') in the Irish text.

### Commentary

*a bheith dá gcuid féin acu* 'A bheith aige dá chuid féin' expresses 'the private ownership of' in Article 43.1.1°. Looking at 'own' in early translations, 'Along the quays at present owned or occupied by the Commissioners' is translated as 'fan na gcéibheanna atá dá gcuid féin no ar seilbh ag na Coimisinéirí fé láthair' in s93(2) of the Dundalk Harbour and Port Act, 1925, with 'other property now owned by A.G. Williamson' being translated as '(ar) an maoin eile is le A.G. Williamson anois' in s93. 'Cur ar a gcumas ... do bheith dá gcuid féin acu' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'entitling them to own' in the *Proceedings* of Dáil Éireann, 1927, p. 162.

'And in exercise of the powers by the said Acts ... conferred has constructed owns maintains and works tramways' is translated as 'agus, i bhfeidhmiú na gcomhacht a bronntar leis na hAchtanna ... sin, gur dhin sí, go bhfuil dá cuid féin aice, go gcimeádann sí i dtreo agus go n-oibríonn sí trambhealaí' in the Preamble to the Dublin United Tramways (Lucan Electric Railways) Act, 1927. In s46 of the Schedule to the Corporation Tax Act, 1976, 'if the seller had continued to own the property' is translated as 'dá leanadh an díoltóir de bheith ina úinéir ar an maoin'. See further the commentary on Article 43.1.1° and on 45.2.ii where 'dilse' expresses 'ownership'.

*a ngnóthaí féin* 'Áitreabh gnó' and 'ráiteas gnóthaí' are translated respectively as 'business premises' and 'statement of affairs' in *Téarmaí Dlí*. *Ó Dónaill* translates 'do ghnó(thaí) a dhéanamh' as 'to attend to one's business, to one's affairs', also citing '*déan do ghnó(thaí) duit féin*, mind your own business' – see the commentary on Articles 8.3 and 18.7.1° where this headword expresses respectively 'purpose' and 'interest'.

Looking at early translations, 'the liquidation of his affairs by arrangement' is translated as 'glana-suas a

ghnótha tré shocrú' in s7(5) of the Intoxicating Liquor (General) Act, 1924. 'Cúrsaí' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'affairs' in a Cover of an Official Report of a Dáil Debate. 'Where a solicitor becomes of unsound mind or incapable of managing his own affairs' is translated as 'I gcás atur nae d'éirí mí-mheabhrach nó neamhinniúil ar a ghnó féin a bhainistí' in s61(2) of the Solicitors Act, 1954. Note that 'Statement of company's affairs to be filed in court' is translated as 'Ráiteas ar chúrsaí na cuideachta a bheith le comhdú sa chúirt' in the Margin Title of s224 of the Companies Act, 1963.

*idir sho-aistrithe agus do-aistrithe* 'Idir bheag is mhór' is cited in *An Caighdeán Oifigiúil* as an illustration of lenition of nouns after 'idir' when 'counting' is involved (see s4(c) of the chapter headed 'Séimhiú and Urú' [Lenition and Eclipsis]).

'So-aistrithe' is translated as 'easy to move; easy to transfer, to translate' in *Ó Dónaill*, who translates 'do-aistrithe' as 'immovable, untransferable; untranslatable; inalienable'. 'Do-aistrithe' is translated as 'immovable' in *Dinneen*. 'Or any other property of any nature or kind, moveable or immovable, public or private, including standing trees and crops' is translated as 'no d'aon mhaoin d'aon tsórt no saghas so-aistrithe no do-aistrithe, puiblí no príobháideach, maraon le crainn agus barraí ag fás' in s9 of the Schedule to the Public Safety (Powers of Arrest and Detention) Temporary Act, 1924. 'To sell on a wheeled and movable stall, barrow, cart' is translated as 'do dhíol, ar stalla, ar bharr, ar chart, no ar fheithicil eile, atá ar rothaí agus inaistír' in s4(2)(a) of the Street-Trading Act, 1926, with 'the fixed and moveable machinery, plant, equipment, furniture and other chattels of the said premises' being translated as 'an mheaisinteacht, an gléasra, na córacha, an troscán agus an áirnéis eile, do-ghluaiste agus so-ghluaiste' in s2 of the Schedule to the Creamery Act, 1928. Finally, 'The same applies if movable and immovable property are covered by the same insurance policy' is translated as 'Is é an dála céanna é má chumhdaítear maoin shochorraithe agus maoin dhochorraithe leis an bpolasaí céanna árachais' in Article 9 of the First Schedule to the Jurisdiction of Courts and Enforcement of Judgements (European Communities) Act, 1988.

*a chothabháil* 'Ordú cothabhála' is translated as 'maintenance order' in *Téarmaí Dlí*. 'Cothabháil' is translated as 'sustenance, maintenance' in *Ó Dónaill*, who refers the reader to 'cothú', verbal noun of 'cothaigh', for the standard form of the secondary sense of 'cothabháil'. 'Cothaigh' has the sense of 'maintain; hold fast, stay', along with the primary sense of 'feed; nourish, sustain', according to *Ó Dónaill*, who cites '*an cath a chothú go hoíche*, to keep up the battle until nightfall'. 'Cothabháil' is translated as 'act of supplying, feeding, maintaining' in *Dinneen*. 'Cothaigid' is based on 'coth', 'food, sustenance', according to DIL, where this verb is translated as (a) 'supports, sustains, maintains, preserves' and (b) 'feeds, nourishes'.

'Authorising the Board to construct, maintain and operate, for the purposes of the performance by the Board of any of its functions ... the transport works' is translated as 'á údarú don Bhord na hoibreacha iompair a luafar

ann do dhéanamh, do chothabháil agus d'oibriú chun an Bord do chomhlíonadh aon choda dá fheadhmanna' in s31(1)(a) of the Electricity (Supply) (Amendment) Act, 1945. 'A mental hospital authority shall provide and maintain such other institutions and accommodations ...' is translated as 'cuirfidh údarás óspidéil mheabhair-ghalair ar fáil agus cothabháil pé forais agus cóiríocht' in s26 of the Mental Treatment Act, 1945. See further the commentary on Article 12.8 where 'bheith i mo thaca agus i mo dhídin' expresses 'maintain'.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'a chothú' is more recognisable, particularly in the sense here.

*a riaradh* 'Riaradh' is given as a variant form of 'riar', verbal noun of the verb 'riar', 'to administer, manage', according to *Ó Dónaill*, who cites '*gnó a riar*, to manage a business'. 'Riaraim' is translated as 'I administer (estate, justice, etc.)' in *Téarmaí Dlí* and as 'I serve, entertain, distribute, allot, divide (amongst, ar), allocate, administer, manage, rule, dispose, reduce to submission, please or comply with (do); submit to, obey' in *Dinneen*. 'Riaraid' is translated as (a) 'does the will of, serves' and (b) 'ministers to, entertains, supplies' in DIL, this latter sense being the general sense in late literature. See the commentary on Article 28.4.2°.

*chun críocha carthanachta* 'If the gain is applicable and applied for charitable purposes' is translated as 'más chun críocha carthanúla is inchaite agus a chaitear é' in s67(5)(a) of the Finance Act, 1990, with 'chun crícheanna déirciúla amháin' translating 'to charitable purposes only' in s9(b) of the Finance Act, 1923.

*fundúireachtaí* See the commentary on Article 42.4. Note that 'in close proximity to a place of worship, a religious institution, a school' is translated as 'ana-chomhgarach d'áit adhartha Dé, d'fhundúireacht chreidimh, do scoil' in s8(c) of the Betting Act, 1926.

### Standardised Irish text

Tá sé de cheart ag gach aicme chreidimh a ngnóthaí féin a bhainistí, agus maoin, idir sho-aistrithe agus dho-aistrithe, a bheith dá gcuid féin acu, agus í a fháil agus a riar, agus fondúireachtaí chun críocha creidimh is carthanachta a chothabháil.

### Direct translation

Beidh sé de cheart ag gach sainaicme creidimh a ngnóthaí féin a bhainistíú, maoin sho-aistrithe agus maoin dho-aistrithe<sup>2</sup> a bheith ar úinéireacht acu<sup>3</sup>, a fháil agus a riar, agus forais chun críocha creidimh agus carthanachta a chothabháil<sup>4</sup>.

### Variants

- 1 'a gnóthaí'
- 2 'maoin shochorraithe agus dhochorraithe'
- 3 'aici'
- 4 'a chothú'

ARTICLE 44.2.6<sup>o</sup> AIRTEAGAL 44.2.6<sup>o</sup>

## TÉACS GAEILGE

Ní cead maoin aon aicme creidimh ná aon fhundúireachtaí oideachais a bhaint díobh ach amháin le haghaidh oibreacha riachtanacha chun áise poiblí, agus sin tar éis cúiteamh a íoc leo.

## LITERAL ENGLISH TRANSLATION

It is not permitted to take the property of any religious grouping or any educational foundations from them except for necessary works for public utility, and that after paying them compensation.

## ENGLISH TEXT

The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.

## Divergences between the official texts

- 1 'The property ... shall not be diverted' is expressed in the Irish text as 'Ní cead maoin ... a bhaint díobh', 'The property shall not be taken from them'.
- 2 'And on payment of compensation' is expressed as 'agus sin tar éis cúiteamh a íoc leo' ('and that after paying them compensation') in the Irish text, which clause is preceded by a comma in that text alone.
- 3 'Institution' is expressed as 'fundúireachtaí' ('foundations') and, as in previous subsections, 'denomination' is expressed as 'aicme' ('class'/grouping), in the Irish text.
- 4 The Irish text again expresses 'shall not' by 'ní cead' ('it is not permitted').

The Attorney General's Committee on the Constitution (1968) commented as follows on this subsection (see the *Report of the Constitution Review Group*, May 1996, p. 376):

The word 'diverted' is a euphemism, and is neither a suitable word nor a good translation of the Irish 'a bhaint díobh', which is accurate and straightforward. 'Diversion' appears wider than 'taking from'. The two texts are not seriously inconsistent, however, and conflict could arise only if the property was clearly 'diverted for a necessary work of public utility', but not 'taken from' the institutions concerned. It is difficult to visualise any practical example of this conflict arising.

The Review Group agreed with the view expressed above to the effect that the word 'diverted' in the English language version did not correspond with the words 'a bhaint díobh' in the Irish language version, adding that 'in any event, the use of the word "diverted" in this context is euphemistic and unsuitable'. The Review Group accordingly recommended that 'diverted' be replaced by 'compulsorily acquired', stating that there was 'no need for a change in the Irish language version'.

Note that Article 8 of the 1922 Constitution concludes as follows:

... or divert from any religious denomination or any educational institution any of its property except for the purpose of roads, railways, lighting, water or

drainage works or other works of public utility, and on payment of compensation .... *ná chun aon chuid dá maoin do thógaint ó aon lucht creidimh ná ó aon fhundúireacht oideachais ach amháin chun bóithre, bóithre iarainn, oibreacha soluis, uisce no draeneála, no chun oibreacha eile d'úsáid phuibli, agus ar chúiteamh do dhíol.*

## Commentary

*a bhaint díobh* 'Take away from' and 'deprive of' are two of the secondary senses of 'bain de' given in *Ó Dónaill* (the primary sense being 'take off, remove'), citing respectively '*bain an scian den leanbh*, take the knife from the child' and '*an tine, an solas, an ghrian, a bhaint de dhuine*, to get between someone and the fire, the light, the sun'. *Dinneen* translates 'bainim de' as 'I remove, take away from' and DIL translates 'benaid de' as 'takes from', citing 'bensat a chroicend de' ('stripped his skin from him') from the *Passions and Homilies* from the *Leabhar Breac*, a manuscript compiled in 1411 or earlier.

'Make certain, by appropriate supervision, that nuclear materials are not diverted to purposes other than those for which they are intended' is translated as 'a dheimhniú, trí mhaoirseacht iomchuí, nach gcuirfear ábhair núicléacha chun críocha seachas na críocha atá ceaptha dóibh' in *Treaties establishing the European Communities* (1973, p. 517), with 'either not effected or diverted from their proper use' being translated as 'agus nach ndearnadh amhlaidh ina thaobh nó nár cuireadh chun úsáide mar ba chuí' (p. 57), and 'special fissile materials are not diverted from their intended uses' being translated as '(nach ndéanfar) ... ábhair inscoilte speisialta a chlaonadh ó na húsáidí a ceapadh dóibh' (p. 559). 'Dig, break or otherwise temporarily close, cross, extend, divert or otherwise interfere with or alter any navigable waterway' is translated as 'aon uiscebhealach inseolta ... a thochailt, a bhriseadh nó a dhúnadh go sealadach ar aon slí eile, a thrasnú, a shineadh, a chlaonadh nó baint leo nó iad a athrú ar aon slí eile' in s18(1)(e) of the Fisheries Act, 1980. In s11(d) of the Arterial Drainage Act, 1925, 'and to divert, remove or otherwise interfere with any roads or bridges' is translated as 'agus chun bóithre no droichid do chasa no d'aistriú, no cur isteach ortha ar aon tslí eile'. Finally, 'Roads, sewers, watercourses, etc., may be stopped up, diverted or extended, etc.' is translated as 'Féadfar bóithre, camraí, cúrsaí uisce, etc., do stopa, do chlaona no do mhéadú, etc.' in the Margin Title of s38 of the Dundalk Harbour and Port Act, 1925.

Commenting on 'a chlaonadh' translating 'divert' in the direct translation below, Professor Máirtín Ó Murchú remarks that 'divert' here means 'reallocate (especially money or resources)' and he doubts that would be understood from 'claonadh'. Professor Ó Murchú recommends 'a ghabháil uathu' or 'a shealbhú' as alternatives to 'a bhaint díobh', which would also suffice here.

*chun áise poiblí* 'Áis sealadach' is translated as 'temporary convenience' in *Téarmaí Dlí*. 'Áis' is translated principally as 'convenience' in *Ó Dónaill* also, with 'device' being given as a secondary sense. *Dinneen* translates 'áis' as 'the middle prominent wicker-layer of a basket; what is convenient or can be held by the hand; a convenience, a useful article; *in particular* a trap', citing '*is mór an áis an bosca soin*, that box is a very convenient article of furniture'

and ‘*áis mo chéille*, the use of my senses’. See further the commentary on Article 42.4 where ‘*áis*’ expresses ‘facility’.

‘An Act to make provision for the execution by Local Authorities of works of public utility’ is translated as ‘Acht chun socrúithe do dhéanamh chun údaráis áitiúla do dhéanamh oibreacha fónais phuiblí’ in the Long Title of the Unemployment (Relief Works) Act, 1940. ‘Powers of executing public utility have been conferred ... on certain Local Authorities’ is translated as ‘gur bronnadh comhachta-anna ar Údaráis Áitiúla áirithe ... chun oibreacha úsáide puiblí do dhéanamh’ in the Preamble to the Local Authorities (Extension of Time) Act, 1923. ‘Not being a building society and not being a public utility society in existence at the commencement of this section’ is translated as ‘nach cumann foirgníochta agus nach cumann fónais phoiblí a bheidh ar marthain ar thosach feidhme an ailt seo’ in s13(2) of the Building Societies Act, 1989. ‘Public utility society’ is translated as ‘cumann maitheasa puiblí’ in s1 of the Housing Act, 1925. ‘Where electricity supplied by the Company to any person (other than an authorised undertaker or a public utility undertaker)’ is translated as ‘I gcás leictreachas a sholáthruíonn an Chuideachta d’éinne (nách gnóthaire údaruithe ná gnóthaire áisiúlachta puiblí)’ in s24(2) of the Dublin United Tramways (Lucan Electric Railways) Act, 1927. ‘Úsáid’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘utility’ in early *Standing Orders* (Private Business).

Commenting on the compact nature of ‘oibreacha riachtanacha fónais phoiblí’ in the direct translation below, Professor Máirtín Ó Murchú recommends ‘oibreacha riachtanacha le fónamh don phobal’ as an alternative.

*tar éis cúiteamh a íoc* ‘Without payment of compensation’ is translated as ‘gan cúiteamh a íoc’ in s55(6) of the Building Societies Act, 1989, with ‘for saving money for the payment of compensation for criminal injury’ being translated as ‘chun airgead do sholáthar chun cúiteamh i ndíobháil choiriúil d’íoc’ in s20 of the Damage to Property (Com-

pensation) Act, 1923. Finally, ‘the compensation shall be a lump sum’ is translated as ‘cnap-shuim a bheidh mar chúiteamh’ in s4 of the Railways (Existing Officers and Servants) Act, 1926.

*oibreacha riachtanacha* ‘And other necessary works’ is translated as ‘agus oibreacha riachtanacha eile’ in s11(a) of the Industrial Alcohol Act, 1938, with ‘requiring the execution of all necessary works thereon’ being translated as ‘á éileamh go ndéanfar gach obair is gá ortha’ in s13(1)(a) of the Housing (Miscellaneous Provisions) Act, 1931.

*aon fhundúireachtaí* Note that the form in the original text is ‘aon fhundúireachta’; while ‘fundúireachta’ expresses the nominative plural in the previous subsection, for example, it can also represent the genitive singular, and in fact would be the official standard form of the genitive singular today.

### Standardised Irish text

Ní cead maoin aon aicme creidimh ná aon fhundúireachtaí oideachais a bhaint díobh ach amháin le haghaidh oibreacha riachtanacha chun áise poiblí, agus sin tar éis cúiteamh a íoc leo.

### Direct translation

Ní dhéanfar maoin aon sainaicme creidimh nó aon fhorais oideachais a chlaonadh<sup>1</sup> ach amháin i gcomhair oibreacha riachtanacha fónais phoiblí<sup>2</sup> agus tar éis cúiteamh a íoc.

### Variants

- 1 ‘a bhaint díobh’, ‘a ghabháil uathu’, ‘a shealbhú’
- 2 ‘oibreacha riachtanacha le fónamh don phobal’

# DIRECTIVE PRINCIPLES OF SOCIAL POLICY BUNTREORACHA DO BHEARTAS CHOMHDHAONNACH

## ARTICLE 45 AIRTEAGAL 45

### TÉACS GAEILGE

BUNTREORACHA DO BHEARTAS CHOMHDHAONNACH  
Is mar ghnáth-threoir don Oireachtas a ceapadh na bunrialacha do bheartas chomhdhaonnach atá leagtha amach san Airteagal seo. Is ar an Oireachtas amháin a bheidh sé de chúram na bunrialacha sin a fheidhmiú i ndéanamh dlíthe, agus ní intrialte ag Cúirt ar bith ceist i dtaobh an fheidhmithe sin faoi aon fhoráil d'fhorálacha an Bhunreachtá seo.

### LITERAL ENGLISH TRANSLATION

#### BASIC DIRECTIONS FOR A SOCIETAL POLICY

It is as a general guide for the Oireachtas that the basic rules for a societal policy that are laid out in this Article were intended. The responsibility for applying those basic rules in making laws will be on the Oireachtas alone, and a question concerning that application cannot be tried by any Court under any one of the provisions of this Constitution.

### ENGLISH TEXT

#### DIRECTIVE PRINCIPLES OF SOCIAL POLICY

The principles of social policy set forth in this Article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any Court under any of the provisions of this Constitution.

#### Divergences between the official texts

- 1 'Directive Principles' is expressed as 'Buntreoracha', 'Basic Directions', in the heading of the Irish text, with 'principles' being expressed as 'bunrialacha', 'basic rules', in the Article itself.
- 2 'And shall not be cognisable by any Court' is expressed as 'agus ní intrialte ag Cúirt ar bith ceist i dtaobh an fheidhmithe sin' ('and a question regarding that application cannot be tried by any Court') in the Irish text, 'intrialte' translating 'cognisable' in the Acts also.
- 3 'Are intended for the general guidance of the Oireachtas' is expressed as 'mar ghnáth-threoir don Oireachtas a ceapadh' ('were intended as a general guide for the Oireachtas') in the Irish text.
- 4 'Exclusive' is expressed as 'amháin', 'alone'/'only', in the Irish text, 'eisiatach' translating 'exclusive' in *Téarmaí Dlí*.
- 5 'Of Social Policy' is expressed as 'do Bheartas Chomhdhaonnach' ('For Social Policy') in the Irish text; the compound expressing 'social', as we have seen in some earlier Articles, is a now of less frequent use and literally might be translated as '(relating to)

human interaction', 'communal', with 'social' now generally being translated as 'sóisialach' or 'sóisialta'.

J.M. Kelly, op. cit., p. 209f., reports as follows on reference made to this Article in the courts:

In *McGee v Attorney General* ([1974] IR 284; [1975] 109 ILTR 29) O'Keeffe P said, in regard to the words "agus ní hintrialte ag cúirt ar bith ceist i dtaobh an fheidhmithe sin fá aon fhoráileamh d'fhoráiltibh an Bhunreachtá so", that this formulation:

"appears to exclude from the cognisance of the courts only questions as to the attempts of the Oireachtas to have regard to the principles laid down in the course of framing legislation, and it may be argued that it does not preclude the consideration of these principles by the courts when a statute of the Oireachtas is not under review."

### Commentary

*buntreoracha ... mar ghnáth-threoir* Neither of these compounds with 'treoir' appear to be given as headwords either in *Ó Dónaill* or in *Dinneen*. 'Treoir' is translated principally as 'guidance, direction' in *Ó Dónaill* and as 'a guide, a helm, direction, tendency, ideal, progress of events, conduct, guidance, help ...' in *Dinneen*, who cites '*narbh' íseal treoir*, whose ideals were high'. DIL translates 'treoir' principally as 'guidance, direction, course', citing 'inraic treorach do Caoimgin' ('excellent of guidance to Coemgen') from the Irish *Lives of the Saints*. The prefix 'bun-' is translated principally as 'basic, primary, elementary' in *Ó Dónaill* and as 'principal, basal, foot-' in *Dinneen*, with 'gnáth-' being translated primarily as 'usual, customary, ordinary, vulgar, common; standard' in the former source and as 'usual, general, average, continual' in the latter. Note that *Ó Dónaill* translates the adjective 'treorach' as 'guiding, directive', citing '*rialacha treoracha*, guiding rules'. Note also that 'basic rent' is translated as 'cíos bunúsach' in *Téarmaí Dlí*.

'Bunriail' expresses 'principle' in Articles 29.3 and 43.2.1°, for which term see the commentary on the latter Article, 'treoir' expressing 'rule' in the former Article. Looking at the early Acts regarding 'principle', 'The Judge shall fix the sum ... on the same principles as the compensation for an injury' is translated as 'Déanfaidh an Breitheamh an tsuim ... do shocrú de réir na bprinsiobal gcéanna a bhaineann le socrú an chúitimh ... i gcás díobhála' in s15(4) of the Damage to Property (Compensation) Act, 1923. 'The Special Commissioners shall thereupon hear and determine the appeal in accordance with the principles to be followed by the Revenue Commissioners' is translated as 'Leis sin déanfaidh na Coimisinéirí Speisialta an t-athchomharc d'éisteacht agus

breith do thabhairt air do réir na bprinsiobal is inleanta ag na Coimisinéirí Ioncuim' in s8(5) of the Finance Act, 1924. 'Casual vacancies shall be filled in accordance with the foregoing principle of selection' is translated as 'is le roghanaíocht ar an gcuma san thuas a líonfar foth-fholúntaisí' in s65 of the Courts of Justice Act, 1924. Finally, 'The voting at a Seanad election shall be on the principle of proportional representation' is translated as 'Is do réir ionadúíochta cothromúla a déanfar an vótáil i dtoghachán Seanad' in s9(1) of the Seanad Electoral Act, 1928. Turning to modern Acts, 'The Bank shall ... keep the Minister ... informed of the general principles which guide the Bank' is translated as 'Déanfaidh an Banc ... an tAire ... a choinneáil ar an eolas maidir leis na prionsabail ghinearálta a bhíonn mar threoir ag an mBanc' in s66(2) of the Central Bank Act, 1989.

The noun 'directive' is translated as 'treoir' in the Acts – see s2(1) of the National Agricultural Advisory, Education and Research Authority Act, 1977, for example, where 'whether for the purpose of implementing any directive of the European Economic Community or otherwise' is translated as 'chun aon treoir ó Chomhphobal Eacnamaíochta na hEorpa nó eile a chur i bhfeidhm'. Note that 'imthreorán' is given in *Foclóir Oifigiúil*, without source.

Commenting on a draft of the direct translation below, where 'Directive Principles of Social Policy' was translated simply as 'Prionsabail Threoracha Bheartais Shóisialaigh', Professor Máirtín Ó Murchú questioned the grammatical correctness of this phrase, recalling the earlier 'ábhair nóis imeachta'. Professor Ó Murchú recommends 'Prionsabail Threoracha faoi Bheartas Sóisialach'.

*a ceapadh* 'Mean, intend' is given as one of the senses of 'ceap' in *Ó Dónaill*, citing '*sin é a bhí ceaptha acu a dhéanamh*, that is what they intended to do'. *Dinneen* includes 'intended' among the senses of 'ceapúighthe', the past participle of his headword 'ceapaim', translated in *Tearmaí Dlí* solely as 'I appoint'. See the commentary on Articles 6.1, 13.1.1°, 15.10 and 34.4.5° regarding 'ceap', respectively expressing 'designate', 'appoint', 'attach' and 'direct'. While the Irish verb 'ceap' may mean 'design, conceive' (Professor Máirtín Ó Murchú cites 'seift a cheapadh' as an example of that sense), and could be interpreted as having that meaning in the present instance in the literal English translation above of 'bunrialacha a cheapadh', as Professor Ó Murchú remarks, the English text makes clear that 'ceap' must here be taken to have the meaning 'intend' (Máirtín Ó Murchú citing '*sin é a cheap sé a dhéanamh*' as an example of that sense).

Looking at 'intended' in the early Acts, 'any warehouse or other premises of any person engaged in the business of warehousing goods intended for export' is translated as 'aon stóras no áitreabh eile le héinne i mbun gnó stórála earraí le heasportáil' in s4(1)(d) of the Agricultural Produce (Eggs) Act, 1924. 'Any particular class of goods intended for human food or drink offered for sale on stall-traders ... stands' is translated as 'aon tsaghas áirithe earraí a bheidh ceaptha mar bhia no mar dhigh do dhaoine agus a tairgfáir le díol ... ar sheasáin stalla-thrádáláir' in s6(1)(f) of the Street-Trading Act, 1926, with 'all expenses incurred in the seizure, removal, storage, and any intended or attempted sale of the goods' being translated as 'gach costas a bhain leis na hearraí do thógaint, d'aistriú agus

do stóráil agus le haon bheartú nó iarracht ar iad do dhíol' in s11(3). Finally, 'Whenever the Commissioners intend to acquire any occupied premises' is translated as 'Aon uair a bheidh na Coimisinéirí ar aigne aon áitreabh i seilbh do thógaint' in s2(1) of the Civic Guard (Acquisition of Premises) Act, 1923, with 'one month's notice in writing of their intention so to acquire such premises' being translated as 'fógra míosa go bhfuilid ar aigne an t-áitreabh san do thógaint amhlaidh'.

Turning to the modern Acts, 'Whether or not such fish or fishery products are intended for human consumption' is translated as 'bíodh nó ná bíodh an t-iasc nó na táirgí iascaigh sin beartaithe lena gcaitheamh ag daoine' in s32(1)(d)(iv) of the Radiological Protection Act, 1991. 'Words descriptive of any enactment are intended for convenience of reference only' is translated as 'is mar áis tagartha amháin na focail a dhéanann tuairisciú ar aon achtachán' in s155(8) of the Corporation Tax Act, 1976. 'It shows, to the satisfaction of the Revenue Commissioners that the goods in question are intended for the use of blind persons' is translated as 'go gcruthóidh sé do na Coimisinéirí Ioncaim gur le haghaidh úsáid daoine dallá na hearraí sin atá i gceist' in s20(2)(b) of the Value-Added Tax Act, 1972.

See further the commentary on Article 25.4.1° where 'a mhalairt d'intinn' expresses 'a contrary intention'.

*amháin* 'Only' is given as a secondary sense of 'amháin' (primary sense 'one') in *Ó Dónaill*, who cites '*sinn féin amháin*, ourselves only, alone'. *Dinneen* translates 'amháin' as 'only, alone, merely; even', citing '*é féin amháin*, he alone'. 'Amáin' is the Middle Irish form of 'nammá', DIL translating this adjective 'following a noun and limiting it in sense' as 'only, and no more, and nothing else', citing examples from *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100) onwards, including 'an ruibér sin amháin eidirdealaiges etorra' ('nothing except the river divides them') from Ó Cianáin's *Flight of the Earls*. 'Nammá', according to DIL, is a petrified phrase '= negative + má', comparative of 'mór, már', literally 'not more' – DIL cites 'a mbecc sin nammá dogniú di maithe' ('that little good I do') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'Exclusive right' is translated as 'ceart eisiatach' in *Tearmaí Dlí*, 'eisiach' being given as the standard form of 'eisiatach' in *Ó Dónaill* – see the commentary on Articles 8.3 and 15.2.1°, 'aon' expressing 'exclusive' therein. 'And which, while used for the purposes of the trade, is wholly and exclusively so used' is translated as 'agus atá, fad a úsáidfear chun críocha na trádála é, in úsáid go hiomlán agus go heisiach amhlaidh' in s70 of the Finance Act, 1990. In s29(3) of the Land Act, 1923, 'the powers of the Court ... shall be exercised exclusively by the Judicial Commissioner' is translated as 'déanfidh an Coimisinéir Breithiúntais amháin na cumhachta atá ag an gCúirt ... d'fheidhmiú'. See further the commentary on Article 15.6.1° where, as in the present Article, 'amháin' expresses 'exclusive'.

*de chúram* The preposition 'de' can denote a feature of something, 'what pertains to something'. *Ó Dónaill* citing '*tá sé de chlú air (go)*, he has the reputation (of)' and '*ná biodh sé de leithscéal agat*, don't have it as an excuse', for example. *Dinneen* cites '*tá sé de bhuaidh, de chéill, de*



*chéird, agam*, I have the virtue of, the good sense to, the art of. *Ó Dónaill* translates ‘cúram’ principally as ‘care, responsibility’, citing ‘*cúram ruda a bheith ort*, to have the care of something’, giving ‘charge, task, duty’ as a secondary sense. *Dinneen* translates ‘cúram’ as ‘care, thought, responsibility; concern, interest, business ...’ – see the commentary on Article 12.3.1°.

‘The duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners’ is translated as ‘Cuirtar fé chúram agus fé bhainistí na gCoimisinéirí Ioncuim leis seo na diúitithe a forchuirtar leis an Acht so’ in s3 of the Finance (No. 2) Act, 1927. ‘That ... he has employed a person for the purpose of having the care of the person ... who is so incapacitated’ is translated as ‘go raibh duine ar fostú aige ... chun aire a thabhairt don duine ... a bhí faoi éagumas amhlaidh’ in s1(b) of the Table accompanying s4 of the Finance Act, 1990. ‘As to the wardship of infants or the care of infants’ estates’ is translated as ‘maidir le coimircíocht naíonna nó cúram eastát naíonna’ in s15(1)(a) of the Courts Act, 1981. ‘In any cemetery or burial ground under the care of the Committee’ is translated as ‘in aon reilig nó talamh adhlactha faoi chúram an Choiste’ in s29(1)(c) of the Dublin Cemeteries Committee Act, 1970.

*a fheidhmiú* ‘Feidhmiú’ is the verbal noun of ‘feidhmigh’, translated in *Ó Dónaill* as (1) ‘function; act, officiate’ and (2) ‘execute, enforce, apply’, citing ‘*an dlí a fheidhmiú*, to enforce the law’. *Dinneen* translates both ‘feidhmighim’ and ‘feidhmim’ as ‘I accomplish’, translating the verbal noun ‘feidhmiughadh’ as ‘act of accomplishing, putting into force, carrying out’. ‘Feidhmim ar son an ghearánaí’ is translated as ‘I represent the plaintiff’ in *Téarmaí Dlí*. This verb is based on ‘feidhm’, regarding which see the commentary on Article 12.10.7°; see the commentary on Article 40.4.5° regarding ‘feidhmiú’ expressing ‘execution’.

Looking at ‘application’ in early Acts, ‘to authorise the industrial application of the design’ is translated as ‘chun a údarú go n-úsáidí an pátrún i gcúrsaí ceárdair’ in s180(2)(b) of the Industrial and Commercial Property (Protection) Act, 1927. ‘Application of Part VI of this Act to artistic work defining a design’ is translated as ‘Baint Cuid VI den Acht so le hobair ealadhanta a mhíononn pátrún’ in the Margin Title of that section, with ‘For the purpose of the application under this section of Part VI of this Act to an artistic work defining a design, “copy-right” shall include the sole right ...’ being translated as ‘chun na críche a bhaineann le Cuid VI den Acht so do chur i mbaint, fén alt so, le hobair ealadhanta a mhíononn pátrún, folóidh “cóipcheart” an t-aon-cheart’ in s180(2).

Turning to more modern Acts, ‘The investigation of the mathematical principles of natural philosophy and the application of those principles to the physical and chemical group of sciences’ is translated as ‘prinsiobail mhata-maiticeacha na feallsúnachta nádúrtha do scrúdú agus na prinsiobail sin do chur i bhfeidhm ar an ngrúpa fisiceach agus ceimiceach de sna heolaíochta’ in s5(2)(a) of the Institute for Advanced Studies Act, 1940. ‘Apart from the application of the provisions of this subsection to the distribution’ is translated as ‘ar leith ó fheidhmiú fhorálacha an fho-ailt seo maidir leis an dáileadh’ in s34(3) of the Finance Act, 1990. ‘The application of the Local Government (Superannuation) Act, 1956, or any scheme or regulations ... to the body’ is translated as ‘an tAcht Rialtais

Áitiúil (Aoisliúntas), 1956, nó aon scéim nó rialacháin ... a chur i bhfeidhm maidir leis an gcomhlacht’ in s1(b) of the Table in s7 of the Local Government (Superannuation) Act, 1989, for example.

*do bheartas chomhdhaonnach* According to the official standard, a qualifying adjective is lenited in the dative singular only following a feminine noun, ‘don bhean mhór’ being cited as an example – see *An Caighdeán Oifigiúil*, chapter headed ‘Séimhiú agus Urú’, s1(a) of the sections headed ‘Séimhiú ar Aidiachtaí’.

In Old Irish, as both *o*-stems (masculine nouns) and *a*-stems (feminine nouns) ended in a vowel in the dative singular, the following adjective was lenited in every gender, Kim McCone citing ‘don chéiliu chumachtuch’ (Modern Irish ‘don chéile cumhachtach’) and ‘úan chluich thruimb’ (‘ón gloch throm’) – see Kim McCone et al., op. cit., p. 120. Lenition of the adjective qualifying an article and noun in the dative singular masculine still continues in Ulster Irish, Art Hughes citing ‘don fhear mhór’, ‘as an teach bheag’ and ‘ar an uan bhocht’ (ibid, p. 633). We also find lenition of the masculine adjective in the dative case in North Connacht. In Conamara, however, we find this lenition of masculine adjectives only in phrases such as ‘faoi Sheán Mhór’ (as against ‘le Seán Mór’) and ‘ina chogadh dhearg’, non-lenition being the practice in every other case – see Ruairí Ó hUiginn, ibid, p. 605. Generally one does not find lenition of the adjective in the dative case in Munster Irish, though one often finds such lenition in Muskerry, Seán Ua Súilleabháin citing ‘fén gcrann mhuar’ (ibid, p. 499).

See the commentary on Article 28.5.2° regarding ‘beartas’ and on Article 15.3.1° regarding ‘comhdhaonnach’.

*bunrialacha* See the commentary on Article 43.2.1°, ‘bunriail’ being translated as ‘fundamental rule’ in *Ó Dónaill*.

*leagtha amach* See the commentary on Article 15.2.2°.

*intrialte* See the commentary on Article 38.4.2°.

### Standardised Irish text

BUNTREORACHA DO BHEARTAS COMHDHAONNACH  
Is mar ghnáth-threoir don Oireachtas a ceapadh na bunrialacha do bheartas comhdhaonnach atá leagtha amach san Airteagal seo. Is ar an Oireachtas amháin a bheidh sé de chúram na bunrialacha sin a fheidhmiú i ndéanamh dlíthe, agus ní intrialte ag Cúirt ar bith ceist i dtaobh an fheidhmithe sin faoi aon fhoráil d’fhorálacha an Bhunreacht seo.

### Direct translation

PRIONSABAIL THREORACHA<sup>1</sup> FAOI BHEARTAS SÓISIALACH<sup>2</sup>  
Tá na prionsabail faoi bheartas sóisialach<sup>2</sup> atá leagtha amach san Airteagal seo ceaptha mar threoir ghinearálta don Oireachtas<sup>3</sup>. Is é cúram an Oireachtais go heisiatach<sup>4</sup> é na prionsabail sin a fheidhmiú<sup>5</sup> le linn dlíthe a dhéanamh, agus ní intrialte an feidhmiú sin ag aon Chúirt faoi aon fhoráil<sup>6</sup> d’fhorálacha an Bhunreacht<sup>7</sup> seo.

### Variants

- 1 ‘Treoirphrionsabail’
- 2 ‘do bheartas sóisialach’

- 3 'chun an tOireachtas a threorú go ginearálta', 'chun treoir ghinearálta a thabhairt don Oireachtas'
- 4 'go heisiach', 'amháin'
- 5 'cúram eisiatach an Oireachtais é feidhmiú na bprionsabal sin', 'cur i bhfeidhm na bprionsabal sin'
- 6 'aon cheann'
- 7 'aon fhoráil den Bhunreacht'

## ARTICLE 45.1 AIRTEAGAL 45.1

### TÉACS GAEILGE

Déanfaidh an Stát a dhícheall chun leas an phobail uile a chur chun cinn trí ord chomhdhaonnach, ina mbeidh ceart agus carthanacht ag rialú gach forais a bhaineas leis an saol náisiúnta, a chur in áirithe agus a chaomhnú chomh fada lena chumas.

### LITERAL ENGLISH TRANSLATION

The State will do its utmost to advance the welfare of all the people through ensuring and preserving as far as it is able a societal order, in which justice and charity will rule every institution which relates to the national life.

### ENGLISH TEXT

The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

### Divergences between the official texts

- 1 'Inform' is expressed in the Irish text by 'rialaiú', which verb is translated in *Téarmaí Dlí* as 'rule'/ 'control', this term usually expressing 'regulate' in the Constitution.
- 2 'All the institutions of the national life' is expressed as 'gach foras a bhaineas leis an saol náisiúnta' ('every institution which relates to the national life') in the Irish text.
- 3 'Securing' is expressed by the phrase generally expressing 'ensuring' in the Constitution, 'a chur in áirithe', this term in general usage rendering 'reserving'.
- 4 'Protecting' is expressed by the term usually expressing 'preserving', 'a chaomhnú', 'cosain' generally rendering 'protect'.
- 5 'As effectively as it may' is expressed as 'chomh fada lena chumas' ('as far as it is able') in the Irish text.
- 6 'Social' is expressed by the term found in the heading of this Article, 'comhdhaonnach', which, as we have said, occurs but infrequently today.
- 7 'Justice' is expressed in the Irish text by 'ceart', which term is translated as 'right' in *Téarmaí Dlí*, as we have seen in some earlier Articles.

### Commentary

*carthanacht* This abstract noun is translated as (1) 'love, charity' and (2) 'friendliness, friendship' in *Ó Dónaill*, with 'carthannacht' being translated as 'charity, kindness, friendliness, gentleness' in *Dinneen*. DIL only gives four citations of 'carthanacht', translated as 'charity, kindness; friendship', the first being from the *Annals of the Four Masters* ('sidh caradradh, carthanacht'). This abstract noun

is based on the adjective 'carthanach', cited in DIL from *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100), which is based on 'carthain', the later verbal noun of 'caraid', 'loves', which verb is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles – 'serc', Modern Irish 'searc', 'love', was the earlier verbal noun. See further the commentary on the *Preamble*.

'All matters connected with outdoor relief, medical charities, etc.' is translated as 'gach ní a bhaineann le fóirithin allamuich, déarcais leighis, etc.' in s3 of the 'Cavan County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'déarcas' translating 'charity' in the Preamble to the Methodist Church in Ireland Act, 1928.

*a dhícheall* 'Dícheall' is translated as 'best endeavour' in *Ó Dónaill*, who cites '*do dhícheall a dhéanamh*, to do one's best'. *Dinneen* translates 'dícheall' as 'effort, endeavour; one's best', translating 'déan do dhícheall' as 'do your best or worst (according to context), I defy you'. According to DIL, 'dícheall' ('effort, pains, utmost endeavour') is 'a late word common in Modern Irish', citing 'mesaim co bfuil do dhícheall le déanam acat do chóta ... d'iomchur' ('I think you find it as much as you can do' [to carry your coat]) from Standish H. O'Grady's collection of Irish texts, *Silva Gadelica. De Bhaldaithe* gives 'do dhícheall a dhéanamh (le) rud a dhéanamh' as a translation of 'to strive to do something', also giving the phrases 'bheith ag dréim le ...' and 'féachaint go cruá le ...'. Both 'righe le' and 'dréim le' are cited in *Foclóir Oifigiúil* as translating 'strive to' in early Irish texts.

In line with the wording of this section, 'it being understood that the Community will strive to pursue a commercial policy which does not run counter to this progress' is translated as 'ar an mbonn tuisceana go ndéanfaidh an Comhphobal dícheall chun beartas tráchtála a shaothrú nach mbeidh bunoscionn leis na hiarrachtaí sin' in *Treaties establishing the European Communities* (1973, p. 1401).

*a chur chun cinn* *Ó Dónaill* cites '*chuir sé é féin chun cinn*, he advanced himself, translating 'cuir chun cinn' as 'advance, promote', also citing '*ag iarraidh cúis a chur chun cinn*, trying to advance a cause'. *Dinneen* translates 'chun cinn' as 'ahead, forward'. See the commentary on Articles 1 and 12.8 regarding 'promote' and 'welfare' respectively.

'It shall be a function of every health board to promote the welfare of children in its area who are not receiving adequate care and protection' is translated as 'Is feidhm de chuid gach bord sláinte leas leanaí nach bhfuil ag fáil dóthain cúraim agus cosanta a chur chun cinn ina limistéar' in s3(1) of the Child Care Act, 1991. 'To establish ... conveniences calculated to promote the welfare of its employees' is translated as 'áiseanna a bhunú ... a meastar a raghadh chun leasa a fhostaithe' in s13(1)(n) of the Transport Act, 1950, with the Margin Title of s46 of the Transport Act, 1944, 'Establishment of associations, etc., calculated to promote the welfare of employees' being translated as 'Comhlachais, etc., do bhunú do raghadh chun leasa d'fhostaithe'. Note that in s10(2)(b) of the Damage to Property Act, 1923, 'that the injury to the building has not materially prejudiced the economic welfare of the district' is translated as 'nar dhin an díobháil

don fhoirgneamh aon dochar substainteach do staid chó-ionmhuis an cheanntair', with 'Every person who shall ... form, organise, promote, or maintain any secret society' being translated as 'gach éinne ... a bhunóidh, a chó-ghléasfidh, a chuirfidh ar aghaidh ... aon chumann sicréideach' in s8(1) of the Treasonable Offences Act, 1925.

*ag rialú* See the commentary on Articles 10.3 and 12.5 regarding 'rialáigh'. For translations of 'inform' in the Acts, see s47(1) of the Building Societies Act, 1989, where 'but he may at any time in the course of the investigation ... inform the Bank on matters coming to his knowledge' is translated as 'ach féadfaidh sé tráth ar bith le linn an imscrúdaithe ... scéala a thabhairt don Bhanc i dtaobh nithe atá taghta ar a iúl', with 'cuirfidh sé é sin in iúl don Aire' translating 'he shall inform the Minister accordingly' in s3 of the First Schedule to the Restrictive Practices Act, 1972. Finally, note that 'inform' is translated as 'foirmiú' in *Foclóir Fealsaimh*, referring the reader to *Dinneen*.

*chomh fada lena chumas* See the commentary on Article 40.3.2° where this phrase expresses 'as best it may'. Regarding 'effectively' in the Acts, 'which if the society had been empowered to do the same would have been lawfully and effectively done' is translated as 'agus a bheadh déanta go dlíthiúil agus go héifeachtúil dá mbeadh an chumhacht tugtha don chumann é a dhéanamh' in s12(1) of the Building Societies Act, 1989, for example. In s7 of the Fifth Schedule to the Electoral Act, 1923, 'so much of the description of each of such candidates ... as will ... effectively distinguish such candidate' is translated as 'oiread de thuairisc gach iarrthóra dhíobh ... oiread agus a dhéanfidh idirdhealú éifeachtúil eatorra'. Note that 'effectively obliterated stamps' is translated as 'stampáí curtha ar neamhbhrí go bunúsach' in *Iris an Phuist*, 8/8/23.

*uile* 'In case the reversionary lease would be a lease of the whole of the land' is translated as 'i gcás inar léas ar iomlán na talún an léas frithdhílse' in s33(2) of the Landlord and Tenant (Amendment) Act, 1980, for example, with 'maidir le hiomlán na trádála nó an ghnó a sheolann sí' translating 'in respect of the whole of the trade or business carried on by it' in s79(3)(a) of the Corporation Tax Act, 1976. See further the commentary on Article 2 (where 'go huile' expresses 'whole') and on Article 45.2.iv (where 'uile' expresses 'as a whole').

*trí ord chomhdhaonnach* See the commentary on Article 45 regarding the lenition of the adjective following a masculine noun in the dative – following the official standard the phrase here would be replaced by 'trí ord comhdhaonnach'. See the commentary on Articles 38.3.1°, 40.6.1° and 44.2.1° regarding 'ord' and on Article 15.3.1° regarding 'comhdhaonnach'.

*an saol náisiúnta* 'In the confidence that the National Life and unity of Ireland shall thus be restored' is translated as 'agus muinghin aice gur mar seo a tabharfar thar n-aís beatha agus aontacht Náisiúnta na hÉireann' in the Preamble to the 1922 Constitution.

*a bhaineas* The special form of the relative, present indicative, of 'bain' – this would generally be written today

as 'a bhaineann'. See the commentary on Article 6.1 regarding the special form of the relative in '-s'.

*a chaomhnú* The verbal noun of 'caomhnaigh' – see the commentary on Articles 28.3.3° and 41.1.2°.

*a chur in áirithe* See the commentary on Article 15.10.

*foras* See the commentary on Article 18.4.2°.

*ceart* See the commentary on Articles 34.1, 38.3.1° and 43.2.1°.

### Standardised Irish text

Déanfaidh an Stát a dhícheall chun leas an phobail uile a chur chun cinn trí ord comhdhaonnach, ina mbeidh ceart agus carthanacht ag rialú gach forais a bhaineann leis an saol náisiúnta, a chur in áirithe agus a chaomhnú chomh fada lena chumas.

### Direct translation

Déanfaidh an Stát a dhícheall chun leas an phobail uile a chur chun cinn trí ord sóisialach ina mbeidh an ceartas agus an charthanacht mar bhonn le forais uile an tsaoil náisiúnta a áirithiú agus a chosaint chomh héifeachtúil agus is féidir leis.

### Variant

1 'mar bhonn fhorais uile an tsaoil'

## ARTICLE 45.2

### AIRTEAGAL 45.2

#### TÉACS GAELGE

Déanfaidh an Stát, go sonrach, a bheartas a stiúradh i slí go gcuirfeair in áirithe:-

i Go bhfaighidh na saoránaigh (agus tá ceart acu uile, idir fhear is bean, chun leorshlí bheatha), trína ngairmeacha beatha, caoi chun soláthar réasúnta a dhéanamh do riachtanais a dteaghlach.

#### LITERAL ENGLISH TRANSLATION

The State will, specifically, direct its policy in a way that will ensure:-

i That the citizens (and all of them, both men and women, have a right to a sufficient livelihood) will obtain, through their occupations, the means of making reasonable provision for the needs of their households.

#### ENGLISH TEXT

The State shall, in particular, direct its policy towards securing:-

i That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs.

### Divergences between the official texts

- 1 'Men and women equally' is expressed in the Irish text by the familiar idiom, 'idir fhear is bean' ('both men and women').
- 2 'Adequate means of livelihood' is expressed as 'leorshlí bheatha' ('sufficient means of livelihood') in the Irish text.
- 3 'Their domestic needs' is expressed as 'riachtanais a dteaghlach' ('the needs of their households') in the Irish text.
- 4 'In particular' is expressed as 'go sonrach' ('specifically') in the Irish text, perhaps to avoid repetition of 'áirithe', which is used in expressing 'securing' ('in áirithe') – 'particular' is generally translated as 'go háirithe'; 'in áirithe' now generally renders 'reserve', but usually expresses 'ensure' in the Constitution.
- 5 'Toward securing' is expressed in the Irish text as 'i slí go gcuirfear in áirithe', 'in a way that will secure/ensure'.

J.M. Kelly, op. cit., p. 210, reports as follows on reference to this Article in the courts:

In *Murtagh Property v Cleary* ([1972] IR 330) Kenny J used the Irish text to support his giving its full meaning to the provision that speaks of "men and women equally" having "the right to an adequate means of livelihood":

"The phrase "all of whom, men and women equally" shows that the right is one conferred equally on men and women. The Irish text ("agus tá ceart acu uile, idir fhear is bean"), though it does not refer to "equally", also stresses that the right is one inherent in men and women. In Professor de Bhaldraithe's English-Irish dictionary the phrase "both women and children" is translated as "idir mhná is pháistí". If those who wrote the Constitution intended to refer to the right to an adequate means of livelihood only, it is impossible to understand why the phrase "all of whom, men and women equally" should have been inserted. Its purpose was to emphasise that [so far as that right was concerned] men and women were to be regarded as equal."

### Commentary

*leorshlí bheatha ... trína ngairmeacha beatha* 'Slí bheatha' is translated as 'means of livelihood' in *Ó Dónaill*, who cites '*slí bheatha a bhaint amach*, to earn a livelihood'. *Dinneen* translates 'slighe bheathadh' as 'means, livelihood'. 'Slige' is originally the verbal noun of 'sligid', and is translated as 'act of felling, smiting, a slaughter' in DIL, where 'slige Assar' ('slaughter of the Assyrians') is cited from the ninth-century Milan Glosses on the Commentary on the Psalms; from that sense came the sense of what is cleared or cut out, that is, 'road, way, path', later 'way, means' in general. 'Leorshlí' does not appear to be cited as a headword either in *Ó Dónaill* or in *Dinneen*, who translates the prefix 'leor-' as 'full, sufficient, atoning', citing '*leor-chongnamh*, suitable assistance', '*leor-dhóthain*, full sufficiency' and '*leor-ghrása*, sufficient grace'.

'Profession, occupation' is given as a secondary sense of 'gairm' in *Ó Dónaill*, who cites '*do ghairm bheatha*, one's mission in life; one's occupation'. *Dinneen* translates 'gairm bheathadh' as 'calling, avocation or condition of

life, vocation'. Old Irish 'bethu' is translated principally as 'life, existence' in DIL, citing 'is bronach a bethu' ('his life is ... sad') from the ninth-century Milan Glosses on the Commentary on the Psalms.

Returning to 'adequate', 'it is adequate' is translated as 'is leor é' in *De Bhaldraithe*, who gives 'imleor' as the translation of 'adequate', followed by the abbreviation for 'Philosophy'. 'Adequate recompense' and 'adequate help' are translated respectively as 'cúiteamh cóir' and 'cuidiú fóna'. Looking at 'adequate means' in the Acts, 'the absence of adequate means of egress from the building' is translated as 'gan leorchóir imeachta a bheith ar fáil as an bhfoirgneamh' in s19(1)(e) of the Fire Services Act, 1981, with 'the absence of adequate means of exit therefrom' being translated as 'toisc nach leor an tslí amach as' in s1(1)(v) of the Fire Brigade Act, 1940. 'If such dependants are without adequate means of support' is translated as 'mura bhfuil leoracmhainn a gothabháilte féin ag na cleithiúnaithe' in Article 81 of the Fourth Schedule to the Geneva Conventions Act, 1962.

Looking at 'adequate' alone, 'to direct and manage the affairs of the society with prudence, integrity and adequate professional skills' is translated as 'gnóthaí an chumainn a stiúradh agus a bhainistí go críonna agus go hionraic agus leis na scileanna gairmiúla leordhóthanacha' in s17(4)(a)(iii) of the Building Societies Act, 1989, with 'a society no longer possesses or is not maintaining ... adequate capital resources' being translated as 'nach bhfuil acmhainní caiptiúla leordhóthanacha ag cumann a thuilleadh nó nach bhfuil acmhainní den sórt sin á gothabháil aige' in s40(2)(j). 'Dóthanach' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'adequate (arrangements)' in translations for the Department of Local Government and Public Health. 'He has an adequate knowledge of Irish' is cited as being translated as 'tá a dhóthain Gaedhilge aige' in translations for the Department of Justice, with 'Provided that at least two members of the committee shall be certified by the Minister for Home Affairs as possessing an adequate knowledge of the Irish language' being translated as 'Ach deimhneoidh an tAire um Ghnóthaí Dúithche leor-eolas a bheith ag beirt bhall ar a luíod den choiste ar an nGaedhilg' in s65 of the Courts of Justice Act, 1924.

Turning to 'means of livelihood', 'and not as the principal means of livelihood' is translated as 'agus nach mar phríomh-shlí bheatha' in s4 of Part II of the First Schedule to the Social Welfare (Consolidation) Act, 1981. 'Maritime ... activities, constituting an essential means of livelihood for persons concerned' is translated as 'gníomh-aíochtaí muirí ... is deis riachtanach mhaireachtála do dhaoine áirithe' in s2(6)(a)(i) of the Oil Pollution of the Sea (Amendment) Act, 1977. 'Damages for any wrong or injury suffered by him in his person, property, reputation or means of livelihood' is translated as 'damáistí mar gheall ar aon éagóir nó díobháil a d'fhulaing sé ina phearsa, ina mhaoin, ina chlú nó ina shlí bheatha' in s58(1)(a) of the Capital Acquisitions Tax Act, 1976. 'That his principal means of livelihood during the whole period of ten years immediately preceding the passing of this Act was the practice of dentistry in Saorstát Éireann' is translated as 'gur fiacloireacht do chleachta i Saorstát Éireann ba phríomh-shlí maireachtana dho ar feadh na tréimhse iomláine de dheich mbliana díreach roimh rith an Achta so' in s28(1)(b) of the Dentists Act, 1928. Note that 'means

of occupation' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'rudaí a chimeáda gnóthach é' in translations for the Department of Justice.

As regards 'occupation' in the Acts, 'it ought to be treated ... as a risk to their occupations and not as a risk common to all persons' is translated as 'gur chóir a áireamh ... gur fiontar é nó í a ghabhann lena slí bheatha agus nach fiontar é nó í a bhaineann i gcoitinne le gach uile dhuine' in s54(2)(a) of the Social Welfare (Consolidation) Act, 1981. 'Having regard to other occupations which are insurable employments' is translated as 'ag féachaint do ghairmeacha eile is fostaíochtaí inárachaithe' in s2(1) of the Social Welfare (No. 3) Act, 1974. 'Together with their ages, sex, occupations and conditions of health' is translated as 'mar aon lena n-aoiseanna, a ngnéas, a slíte beatha agus bail a sláinte' in s61(1)(a) of the Housing Act, 1966. 'Turning to early Acts, 'prohibit or restrict the employment of such children in particular occupations or during particular hours' is translated as 'fostú leanbh den tsórt san do thoirmeasc no do shriana i ngnóthaí áirithe no i rith uaireanta áirithe' in s7(1) of the School Attendance Act, 1926. 'Or carries on any profession, business or occupation' is translated as 'no ina mbíonn aon ghairm, gnó no ceárd ar siúl aige' in s52(vi) of the Courts of Justice Act, 1924. 'Other persons who teach or preach in any religious congregation and do not follow any secular occupation' is translated as 'daoine eile a mhúineann no a sheanmóineann in aon phobal creidimh agus ná leanann aon tslí bheatha shaolta' in Part 1 of the First Schedule to the Juries Act, 1927.

Finally, commenting on a draft of the direct translation below, where 'adequate means of livelihood' was translated as 'slí bheatha leordhóthanach', Professor Máirtín Ó Murchú remarked that 'leordhóthanach' would mean something like 'thoroughly sated' and recommended translating this phrase as 'riar a gcáis de shlí bheatha'.

*go sonrach* This adverbial phrase is translated as 'particularly, notably' in *Ó Dónaill*, with *Dinneen* translating 'go sonradach' as 'to come to details, also chiefly, very' – see the commentary on Article 40.3.2°. DIL cites 'in druth as sundradach' from a commentary on an early Irish law-tract, 'sainredach' being the earlier form of this adjective, which glosses 'peculiaris' in the ninth-century St Gall Glosses on Priscian; DIL cites 'ainm do dorus sainredach in hIerusalem' ('the name of a particular door in Jerusalem'), from the ninth-century Milan Glosses on the Commentary on the Psalms, as an example of the sense 'specific, definite'. This adjective is based on 'sainred', translated in DIL as 'peculiar property or characteristic', citing 'attáa lemsa a sainred-sa' ('I have this peculiarity') from the eighth-century Würzburg Glosses on the Pauline Epistles.

Looking at early Acts, 'preventing nuisances in the Park and in particular preventing the obstruction of the roads and paths in the Park' is translated as 'cráitísí sa Pháirc do chosc agus go sonnrách cosc na mbóthar agus na gcosán sa Pháirc do chosc' in s10(1)(g) of the Phoenix Park Act, 1925, with 'prescribing the times during which the Park or any particular portion thereof shall be open to the public' being translated as 'na tráthanna d'ordú go mbeidh an Pháirc no aon chuid áirithe dhi ar oscailt don phuiblíocht' in ss1(b). The former example above is cited in the *Oireachtas Dictionary of Official Terms*, where 'go

mór-mhór' is given as translating 'in particular' in *Iris an Phoist*.

*a stiúradh* Verbal noun of the verb 'stiúir', 'stiúraim' being translated as 'I conduct (case, etc.)' in *Téarmaí Dlí*, 'stiúruighim' being translated as 'I direct, guide, steer ...' in *Dinneen*, who cites '*go stiúruighidh Dia thú*, may God direct you'. *Ó Dónaill* gives 'guide, direct, control' as the secondary sense of 'stiúir' (principally 'steer') – see the commentary on Article 40.6.1<sup>iii</sup>, where this verb expresses 'control'. Note that 'ceap' and 'ordaigh' express 'direct' in Articles 34.4.5° and 40.4.4° respectively.

'Stiúir', 'socrú' and 'diríú' are all cited in the *Oireachtas Dictionary of Official Terms* as translating 'direct' in translations done for various Departments. 'Each member shall ... endeavour to direct its economic and financial policies towards the objective of fostering orderly economic growth' is translated as 'déanfaidh gach comhalta ... iarracht chun a bheartais geilleagair agus airgeadais a dhírú i dtreo fás geilleagair ordúil' in s1(i) of Article IV of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977. 'The Director shall ... control and direct the activities of the Institute and shall control and direct the staff of the Institute in the implementation of such activities' is translated as 'Déanfaidh an Stiúirthóir ... gníomhaíochtaí an Fhorais a rialú agus a stiúradh agus foireann an Fhorais a rialú agus a stiúradh ag comhalladh na ngníomhaíochtaí sin dóibh' in s1 of the Second Schedule to the National Institute for Higher Education, Limerick, Act, 1980.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú recommended 'a dhírú ar a dheimhniú' rather than 'a dhírú i dtreo a áirithiú'.

*idir fhear is bean* See the commentary on Article 16.1.1° for 'men and women' in the Constitution. Note that the form of this phrase in the original text is 'idir fear is bean'. According to the official standard, the preposition 'idir' lenites both nouns qualified by it in the phrase 'idir x agus y', which phrase *Ó Dónaill* translates as 'both ... and ...', citing '*idir fhir agus mhná*, both men and women' – see *An Caighdeán Oifigiúil*, s4(d) of the chapter headed 'Séimhiú agus Urú'. *Dinneen*, however, cites '*idir fear is bean*, men and women alike, all', also citing '*idir beag agus mór*, both great and little' as against 'idir bheag is mhór' in *An Caighdeán Oifigiúil*. DIL cites 'etir maith et saich' ('both good and bad') from the eighth-century Würzburg Glosses on the Pauline Epistles, along with 'a tairbirt uili ... eter mnaí is fer' from *Saltair na Rann*, composed c. 1000, and 'etir fer 7 mnaí' from the twelfth-century *Book of Leinster*.

'In the case of both men and women ... 1s. 2d. a week' is translated as 'I gcás fear agus ban ... 1s. 2d. sa tseachtain' in the Table to s87(1) of the Social Welfare Act, 1952. 'An Act to ensure equal treatment, in relation to certain terms and conditions of employment, between men and women employed on like work' is translated as 'Acht á áirithiú gurb ionann an chóir a chuirfear, maidir le téarmaí agus coinníollacha áirithe fostaíochta, ar fhir agus ar mhná a fhostaítear ar an obair chéanna' in the Long Title of the Anti-Discrimination (Pay) Act, 1974.

As regards 'equally', 'and the costs incurred in such application shall be defrayed equally by the applicant and the persons ...' is translated as 'agus na costais a tabhaíodh

san iarratas sin iocfar iad, go cothrom, ag an iarratasóir agus ag na daoine' in s26(3) of the Building Societies Act, 1989. 'The charge shall be spread equally over a number of years of assessment' is translated as 'roinnfear an muirear go cothrom thar uimhir blianta measúnachta' in s288(1)(b) of the Income Tax Act, 1967. In s49 of the Electoral Abuses Act, 1923, 'if such permission is ... given equally to all persons alike who are at the time in his employment' is translated as 'má tugtar an cead san ... do gach éinne, mar a chéile, a bheidh ar fostú aige an uair sin'. 'Bheith ina dhá leath cothroma' is cited as a translation of 'equally divided' in the *Oireachtas Dictionary of Official Terms*, no source being given, however.

*caoi* 'Means, opportunity' is given as a secondary sense of 'caoi' in *Ó Dónaill*, who cites '*caoi a thabhairt do dhuine (ar rud a dhéanamh)*, to give someone the means, an opportunity (to do something)'. *Dinneen* also includes 'opportunity, means' among the senses of 'caoi'. 'Way, manner, course, means' is given as a secondary sense of 'cáe' in DIL – see the commentary on Article 40.4.2° where 'caoi' expresses 'opportunity'.

Looking at early Acts, 'All patients must contribute towards their maintenance according to their means' is translated as 'Caithfidh gach othar cabhrú do réir a acfuinne chun a chimeáda suas' in s11 of the 'Details' in the 'Leitrim County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The yearly means of the claimant' is translated as 'acfuinn bhliantúil an éilitheora' in the First Schedule to the Old Age Pensions Act, 1924. 'If the District Justice is satisfied on the evidence adduced on the examination as to means that the statement lodged by the debtor is false' is translated as 'Más deimhin leis an nGiúistís Dúithche, ón bhfianaise a tabharfar sa scrúdú i dtaobh acfuinne, an cuntas acfuinne a lóisteáil an féicheamh do bheith bréagach' in s20(2) of the Enforcement of Law (Occasional Powers) Act, 1924. Note that 'means' is expressed as 'acmhainn' in Article 42.1.

*soláthar* 'Soláthar a dhéanamh do rud' is translated as 'to make provision for something' in *Ó Dónaill*, with 'act of contributing, providing, producing, provision' being included among the senses of 'soláthar' in *Dinneen*. DIL cites 'atá d'fhiachaibh air an bhfear soláthar do dheanamh d'á theaghlach' from Donlevy's *An Teagasg Críosduidhe* (1742), this compound of 'so' and 'láthar' (translated as 'arrangement, disposition' and 'place, position', in particular, in DIL) being translated as 'act of gathering, collecting, procuring, providing'. See the commentary on Article 22.1.1° where this headword expresses 'supply'.

'Provision to meet expenditure' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'soláthairt i gcóir caiteachais' in translations for the Department of Fisheries. 'Any other enactment making provision for the protection of consumers' is translated as 'aon achtachán eile a dhéanann socrú le tomhaltóirí a chosaint' in s9(7) of the Consumer Information Act, 1978, for example, with 'do dhéanamh forála i leith ainmhithe agus éanlaithe atá galraithe nó faoi amhras galar a bheith orthu' translating 'making provision for animals or poultry affected or suspected of being affected with disease' in s26(e) of the Disease of Animals Act, 1966. 'After making provision for reserves' is translated as 'tar éis soláthar a dhéanamh le haghaidh cúltacaí' in s14(a) of Article V of

the Bretton Woods Agreements Act, 1957.

See the commentary on Article 8.3 for 'socrú' expressing 'provision'.

*riachtanais a dteaghlach* Plural of 'riachtanas', this form being translated as 'necessaries' in *Téarmaí Dlí*, with 'riachtanais na beatha' being translated as 'the necessities of life' in *Ó Dónaill*. 'Riachtanas' is translated as 'necessity, need, want, exigence, indispensable duty' in *Dinneen*. According to DIL, as we have seen, 'riachtanas' is an abstract noun from 'riachtain' ('the act of arriving, or of reaching' [the Middle Irish form of the verbal noun of 'ro-icc']) used in the expression 'riachtanas a les(s)', a petrified abstract from the phrase 'ro-icc les(s)', 'needs (it)', meaning 'need, necessity', with 'riachtanas' later being used alone in the same sense. DIL cites 'co mbetis uli i riachtanas a les Josep' ('... in need of Joseph') from the *Leabhar Breac* (compiled in 1411 or earlier), for example. See the commentary on Article 41.1.2° regarding 'riachtanach'.

Regarding 'domestic' in the present sense in the Acts, 'she engages in any occupation other than domestic duties in her own household' is translated as 'go ngabhfaidh sí ... d'aon sli bheatha seachas dualgais tís dá líon tí féin' in s27(a) of the Social Welfare (Consolidation) Act, 1981, with 'solely for the purposes of igniting gas for domestic use' being translated as 'gur d'aontoisc a rinneadh é chun gás a adhaint chun úsáide tís' in s75(2)(b) of the Finance Act, 1980. 'For certain domestic expenses', in relation to the Office of Public Works, is translated as 'le haghaidh costais intíre áirithe' in the Second Schedule to the Appropriation Act, 1981. See the commentary on Article 24.1 where 'whether domestic or international' is expressed as 'inmheánach nó idirnáisiúnta'.

### Standardised Irish text

Déanfaidh an Stát, go sonrach, a bheartas a stiúradh i slí go gcuirfear in áirithe:-

- i Go bhfaighidh na saoránaigh (agus tá ceart acu uile, idir fhear is bhean, chun leorshlí bheatha), trína ngairmeacha beatha, caoi chun soláthar réasúnta a dhéanamh do riachtanais a dteaghlach.

### Direct translation

Déanfaidh an Stát, go háirithe, a bheartas a dhiriú ar<sup>1</sup> a áiritiú<sup>2</sup>:-

- i Go bhfaighidh na saoránaigh (a bhfuil an ceart acu uile, idir fhir agus mhná go comhionann, ar riar a gcáis de shli bheatha<sup>3</sup>) trína ngairmeacha beatha an acmhainn<sup>4</sup> chun soláthar réasúnta a dhéanamh dá riachtanais tís<sup>5</sup>.

### Variants

- 1 'i dtreo'
- 2 'a dheimhniú'
- 3 'ar shli bheatha leordhóthanach'
- 4 'trína ngairmeacha beatha acmhainn'
- 5 'tí'

## ARTICLE 45.2.ii AIRTEAGAL 45.2.ii

**TÉACS GAEILGE**

Go roinnfear dílse agus urlámhas gustail shaolta an phobail ar phearsana príobháideacha agus ar na haicmí éagsúla sa chuma is fearr a rachas chun leasa an phobail.

**LITERAL ENGLISH TRANSLATION**

That (the) proprietary right and control of (the) worldly wealth of the people will be divided among private persons and among the various classes in the way that will best contribute towards the welfare of the people.

**ENGLISH TEXT**

That the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good.

**Divergences between the official texts**

- 1 'Material resources' is expressed in the Irish text as 'gustail shaolta', 'worldly wealth'/ 'riches', the term 'acmhainní' being the familiar term today translating 'resources', and 'maoin' being the Irish legal term for 'property', and generally expressing 'wealth', with 'ábhartha' being the Irish legal term for 'material', 'saolta' generally being used to express 'material/worldly' in a religious/spiritual context.
- 2 'Control' is expressed in the Irish text by 'urlámhas', a term which historically also has the sense of 'possession', 'I control' being translated as 'rialáim' in *Téarmaí Dlí*, which term usually expresses 'regulate' in the Constitution, but is also found expressing 'control'.
- 3 'Individuals' is expressed as 'pearsana' ('persons') in the Irish text, though this term is sometimes so found in the Acts; there may have been a reluctance to express this as 'daoine aonair' as the clause is qualified by an adjective, and the natural order would be 'daoine príobháideacha aonair', which is a weak expression of the intended meaning. 'Daoine' alone expresses 'individuals' in the next paragraph.
- 4 'Subserve the common good' is expressed in the Irish text as 'rachas chun leasa an phobail', 'contribute towards the welfare of the people', the phrase 'leas an phobail' expressing 'the common good' in other Articles also, that phrase being translated in *Téarmaí Dlí* as 'an mhaitheas phoiblí'.

**Commentary**

*dílse* This headword is translated as 'proprietary right; ownership, property' in *Ó Dónaill*, who cites '*tugadh dílse a gcríche dóibh*, they were given the right to own their territory'. *Dinneen* includes 'inherent right' and 'forfeiture, appropriation, ownership' among its senses. 'Dílse' is an abstract noun, based on 'díles', and literally means 'that which is proper to, inherent in, due or belonging to' according to DIL, where this headword is translated principally as 'propriety (i.e. fitness, peculiar applicability, to), *passing into notion of* appropriation; ownership, possession (of), right over', with examples of this word

being cited from the ninth-century St Gall Glosses on Priscian onwards. 'Dílis' is a compound of 'dí-' and 'les', DIL citing 'ni pa díless duit aní hitái' ('that in which thou art will not belong to thee'), from the eighth-century Würzburg Glosses on the Pauline Epistles, as an example of the general sense of this adjective, 'belonging, own, proper, appropriate', the substantive use of which is translated principally as 'private property, possession' in DIL, no examples of which use are cited from the Glosses. D.A. Binchy, *op. cit.*, p. 83f., comments as follows on 'díles' in early Irish law:

*díles*, lit. 'excluded from remedy' (*dí + les*), may be used of any situation incapable of being altered by legal process, where 'no action lies'. It has two very different meanings, therefore, according as the exclusion of legal proceedings operates to the advantage or the detriment of the person concerned. In the former case *díles* means 'indefeasibly entitled, held in absolute ownership', when it refers to proprietary rights, and 'immune, free from liability' when it refers to acts or omissions .... On the other hand, where the exclusion of legal process or remedy operates to the detriment of the person concerned, e.g. where property that was once his has passed irretrievably into the ownership of others without any action for its recovery remaining open to him, *díles* is best translated 'forfeit'.

According to Fergus Kelly, *op. cit.*, p. 100, most farmland was 'fintiu' ('kin-land'); when kin-land was being divided each heir got a share which he farmed as an individual, but he could not sell his share of the kin-land without the permission of the rest of the kin.

'Private ownership' is expressed as 'a bheith aige dá chuid féin' in Article 43.1.1°, with 'own' expressed as 'bheith dá gcuid féin acu' in Article 44.2.5° – see the commentary on both Articles regarding 'own'/'ownership'. Looking at the early Acts, 'articles of personal ornament kept by the owner otherwise than as part of his stock-in-trade' is translated as 'earraí ornáide pearsan a bhíonn ag an únaer ar aon tslí eile seachas mar chuid dá stoc trádála' in s7(2)(i) of the Damage to Property (Compensation) Act, 1923. 'Unaereacht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'ownership' in the *Proceedings of Dáil Éireann, 1927*, p. 103, with 'úinéireacht' translating 'ownership' in *Téarmaí Dlí*. In s58(1) of the Land Act, 1923, 'Where the registration of the ownership of the land ... had not been effected' is translated as 'Sa chás nár dineadh clárú ar únaereacht tailimh'.

Turning to modern Acts, 'where there is a change in the ownership of the company' is translated as 'i gcás go raibh nó go mbeidh athrú ar úinéireacht na cuideachta' in s39(4)(b) of the Finance Act, 1990. 'For the purpose of enabling the ownership of the relevant plant breeders' rights to be ascertained' is translated as 'd'fhonn go bhféadfar úinéireacht na gceart póraitheoirí plandaí iomchuí a fhionnadh' in s3(a) of the Second Schedule to the Plant Varieties (Proprietary Rights) Act, 1980.

*urlámhas* This headword is translated as 'control; jurisdiction, authority' in *Ó Dónaill* and as 'control, custody, authority, possession, sequestration' in *Dinneen*. 'Airlámas' is translated as 'custody, possession' in DIL, citing 'cor ghobhadar ... urlámhus in fhearaind' from the *Miscellany of the Celtic Society*. This abstract noun is based on 'airlám',

translated as 'custody, possession' in DIL, that noun being based on 'lám', 'hand'.

'I control' is translated as 'rialáim' in *Téarmaí Dlí*, the verbal noun, 'rialú', generally translating 'control' in the Acts. 'The systems of control which are to be established ... are systems for the control of the conduct of its business ... and for the control of the accounting and other records of its business' is translated as 'Na córais rialaithe atá le bunú ... is córais iad chun rialú a dhéanamh ar sheoladh ghnó an chumainn ... agus chun taifid chuntasaíochta agus taifid eile ghnó an chumainn a rialú' in s76(5) of the Building Societies Act, 1989.

'Rialú' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'control (of staffs)' in a 1928 Report of the Committee on Public Accounts. In Article 46 of the 1922 Constitution, 'and every such force shall be subject to the control of the Oireachtas' is translated as 'beidh gach fórsa dá shórt fé smacht an Oireachtais'. 'Control of Forces' is translated as 'Stiúra na bhFórsaí' in the Margin Title of the Defence Forces (Temporary Provisions) Act, 1923. See further the commentary on Articles 10.3 and 40.6.1<sup>ii</sup>, where 'control' is expressed by 'rialáigh', and note that 'stiúir' expresses 'control' in Article 40.6.1<sup>iii</sup>.

*urlámhas gustail shaolta* 'Gustail' is the genitive singular form of 'gustal', translated as (1) 'belongings, chattels' and (2) 'means, resources, wealth' in *Ó Dónaill* and as 'wealth; a load, a burden; means, ability' in *Dinneen*. 'Gustal' is translated as 'chattels, utensils, belongings' in DIL, with 'gach gustal trom dá raibhe aca do mhalairt ar ghréithibh geanamhla' being cited from Keating's seventeenth-century *Three Shafts of Death*.

'Resource' is expressed by 'ábhar maoiné' in Article 10.1. 'All the natural resources' is translated as 'gach maoin nádúrtha' in Article 11 of the 1922 Constitution, with 'the exploitation of water power and other natural resources of Saorstát Éireann for the generation of electricity' being translated as 'comhacht uisce agus maoin nádúrtha eile i Saorstát Éireann d'úsáid chun leictreachas do gheiniúint' in s27 of the Electricity (Supply) Act, 1927.

'Saolta', literally 'worldly', is translated principally as 'earthly, mundane, temporal' in *Ó Dónaill*, who cites '*nithe, rudaí, saolta*, mundane matters; material things'. *Dinneen* translates 'saoghalta' as 'mundane, sublunary, earthly, secular ...', citing '*maoin tsaoghalta*, worldly possessions'. DIL translates 'saegulta' as 'belonging to this world, mundane, secular', this adjective being based on 'saegul' (Modern Irish 'saol') which comes from Latin 'saeculum', DIL citing 'is garait ar saigul' ('our life is short') from the ninth-century Milan Glosses on the Commentary on the Psalms. See the commentary on Article 43.1.1<sup>o</sup> where 'maoin shaolta' expresses 'external goods'.

'Material welfare' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'leas cuirp' in translations for the Department of Justice. 'In relation to the measures taken by it and the human and material resources employed by it for the purpose of safeguarding aviation against acts of unlawful interference' is translated as 'i ndáil leis na bearta a bheidh glactha aici agus leis na hacmhainní daonna agus ábhartha a bheidh á n-úsáid aici chun eitlíocht shibhialta a chosaint in aghaidh toirmisc neamhdhleathaigh' in s7(1)(d) of the Irish Aviation Authority Act, 1993.

*ar phearsana* 'Pearsana' is the plural form of 'pearsa', 'person', *Téarmaí Dlí* translating 'caomhnóir ar an bpearsa' and 'foghail ar an bpearsa' respectively as 'guardian of the person' and 'trespass to the person'. *Ó Dónaill* cites '*tá trí phearsa i nDia*, there are three persons in God' and DIL cites 'cindas persine attotchomnicc' ('what sort of person art thou?') from the eighth-century Würzburg Glosses on the Pauline Epistle – see the commentary on Articles 40.1 and 40.3.2<sup>o</sup> (where 'pearsa' expresses 'person').

'Individual' is variously translated as 'éinne amháin', 'duine amháin' and 'duine' in early Acts. 'The Minister may at any time alter or cancel the registration of any premises under this Act upon the application of the registered proprietor, or in the case of an individual, the personal representative, or, in the case of an incorporated body, the liquidator, of the registered proprietor' is translated as 'Féadfadh an tAire aon uair clárú aon áitribh féin Acht seo d'atharú no do chur ar nea-mbrí ar iarratas an únaera chlárúithe no, más éinne amháin an t-únaer clárúithe, ar iarratas a ionadaí phearsanta no, más cólucht ionchorprúithe é, ar iarratas an té is socrathóir do' in s10(1) of the Agricultural Produce (Eggs) Act, 1924, with 'that the registered proprietor, if an individual, has died, or if an incorporated body, has been dissolved' being translated as 'más duine amháin an t-únaer gur éag sé no, más cólucht ionchorprúithe é, gur scuireadh é' in s10(3)(c). 'Without naming any individual' is translated as 'gan ainm éinne fé leith do luadh' in s6(2) of the Criminal Justice (Administration) Act, 1924. Finally, 'a company or firm of which any director or manager or any partner ... is an individual whom the controller could refuse to recognise as an agent' is translated as 'má tá ar an gcuideachtain no ar an tigh ghnótha san aon stiúirthóir no bainisteoir no aon pháirtneir ... is duine go bhféadfadh an ceannasaí diúltú d'é d'admháil mar ghníomhaire' in s137(3) of the Industrial and Commercial Property (Protection) Act, 1927.

Turning to modern Acts, 'from public service organisations, institutions or private individuals' is translated as 'ó eagraíochtaí seirbhíse poiblí, ó fhorais nó ó dhaoine príobháideacha' in s2(1)(a) of the National Archives Act, 1986, with 'whether they are constitutionally responsible rulers, public officials or private individuals' being translated as 'cibé acu is rialtóirí iad ar a bhfuil freagracht bhunreachtúil, oifigigh phoiblí nó daoine príobháideacha' in Article IV of the Schedule of the Genocide Act, 1973. In Article 53 of the First Schedule to the Geneva Conventions Act, 1962, however, 'the use by private individuals, societies or firms, of the arms of the Swiss Confederation ... shall be prohibited at all times' is translated as 'toirmisclear i gcónaí ar dhaoine aonair, ar chumainn nó gnólachtaí, úsáid a dhéanamh d'armas Chónaidhm na hEilvéise'. 'And which he could do if he were a private individual and the owner of such fishery' is translated as 'agus a d'fhéadfadh sé a dhéanamh dá mba phearsa aonair phríobháideach é agus é ina úinéir ar an iascach sin' in s60(1) of the Fisheries Act, 1980.

Commenting on 'daoine príobháideacha aonair' in a draft of the direct translation below, Professor Máirtín Ó Murchú suggests substituting 'ar leith' for 'aonair' here.

*a rachas* The special form of the relative, future tense, of 'téigh', this would generally be written as 'a rachaidh' in the Acts today – see the commentary on Article 6.1 regarding the special form of the relative in '-s'. 'Téigh



chun' is translated literally as 'go, proceed, to' in *Ó Dónaill*, this phrase also having the sense of 'develop, become', *Ó Dónaill* citing '*rachaidh sé chun tairbhe duit*, it will benefit you' and '*chuaigh an fliuchadh chun fiabhrais dó*, the wetting he got brought on a fever'. *Dinneen* cites '*chuaidh an galar chun gadhscail air*, the disease became chronic with him'. Earlier 'téit dochum' also had the sense of 'marriage', 'sexual union', according to DIL, citing 'intí immurgu téte a dochumsí' ('those who visit her' [a harlot]) from the eighth-century Würzburg Glosses on the Pauline Epistles, also citing 'racha dochum n-écca ind' ('thou wilt die therein') from a later source.

'Subserve' is translated as 'cabhraím, cuidim, le (cúis, etc.)' in *De Bhaldráithe*, who translates 'to make something subservient to something' as 'rud a chur chun sochair do rud'. *L. Mc Cionnaith* translates 'to do it in subservience to' as 'é do dhéanamh mar spleadh dóibh', and 'subservient' as 'bhí sé chomh spleadhach leo', citing 'nach mé an Jumper agat!' from Connamara as a translation of 'do you think I have no will of my own, am subservient to you'.

*chun leasa an phobail* According to the official standard this would be replaced by 'chun leas an phobail', the nominative case taking the place of the genitive, in the case of 'leas', as it is followed by a definite noun – see the commentary on Article 1. As regards 'the common good', this is translated as 'an mhaitheas phoiblí' in *Téarmaí Dlí* – see the commentary on Articles 6.1 and 42.3.2°. 'De réir riachtanais leasa an phobail' translates 'in accordance with the exigencies of the common good' in the Long Title of the Rent Restrictions (Temporary Provisions) Act, 1981. 'An Act to make provision, in the interests of the common good' is translated as 'Acht do dhéanamh socrú, chun tairbhe don mhaitheas phoiblí' in the Long Title of the Local Government (Planning and Development) Act, 1963.

*na haicmí* See the commentary on Articles 40.6.2° and 44.2.4° where 'aicme' respectively expresses 'class' and 'denomination'.

*an phobail* See the commentary on Article 12.2.1°.

*roinnfear ... ar* See the commentary on Article 28.12 where 'roinnt' expresses 'distribution'.

### Standardised Irish text

Go roinnfear dílse agus urlámhas ghustal saolta an phobail ar phearsana príobháideacha agus ar na haicmí éagsúla sa chuma is fearr a rachaidh chun leas an phobail.

### Direct translation

Go ndéanfar úinéireacht agus rialú acmhainní ábhartha an phobail a dháileadh i measc daoine príobháideacha<sup>1</sup> agus i measc na n-aicmí éagsúla sa tslí is fearr a chuideoidh leis an maitheas phoiblí<sup>2</sup>.

### Variants

- <sup>1</sup> 'pearsana príobháideacha', 'daoine príobháideacha aonair / ar leith'
- <sup>2</sup> 'le leas an phobail'

## ARTICLE 45.2.iii AIRTEAGAL 45.2.iii

### TÉACS GAELIGE

Go sonrath, nach ligfear d'oibriú na saoriomaíochta dul chun cinn i slí go dtiocfadh de an dílse nó an t-urlámhas ar earraí riachtanacha a bheith ina lámha féin ag beagán daoine chun dochair don phobal.

### LITERAL ENGLISH TRANSLATION

Specifically, that the operation of free competition will not be allowed to advance in a way that there would result from it that a small number of people had in their own hands the ownership or the control of essential goods to the detriment of the community.

### ENGLISH TEXT

That, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment.

### Divergences between the official texts

- 'The concentration of the ownership ... in a few individuals' is expressed as 'an dílse ... a bheith ina lámha féin ag beagán daoine' ('a small number of people having the ownership in their own hands') in the Irish text, 'individuals' being expressed by 'pearsana' in the foregoing paragraph as against 'daoine' here.
- The Irish phrase expressing 'to the common detriment' parallels the phrase expressing 'to subserve the common good' in the previous paragraph, 'chun dochair don phobal' literally meaning 'to the disadvantage of the community/people'.
- While 'lig do' has the sense of 'allow', 'I allow' is translated as 'ceadaím' in *Téarmaí Dlí*.
- 'Operation' is expressed by 'oibriú', the term usually expressing 'exercise' in the Constitution, this being the term for 'operation' in *Téarmaí Dlí*.
- 'Especially' is expressed by 'go sonrath', the same adverbial phrase as expresses 'in particular' in the opening sentence of this section.
- 'Dul chun cinn' expresses 'develop', the general term today expressing 'develop' being 'forbairt', with 'cur ar aghaidh' being found in Article 1.

### Commentary

*d'oibriú na saoriomaíochta* This compound of 'saor' and 'iomaíocht' does not appear to be given as a headword either in *Ó Dónaill* or in *Dinneen*, the latter translating 'saor-', in compounds, as 'free, noble' and 'iomaidheacht' as 'competition, rivalry'. *Ó Dónaill* translates 'iomaíocht' as '(act of) competing, vying; competition, rivalry; emulation'. This noun is based on 'iomaidh', translated as 'rivalry, competition' in *Ó Dónaill*. The earlier form, 'immad', 'immaid' (which may come from 'imbuith', the verbal noun of 'imm-tá', according to DIL), is translated as 'the act of contending; envy, jealousy, rivalry, strife' in DIL, where 'Niall Ó Néill is fear fromhtha / is léir ar a fhear n-íomtha' ('Niall Ó Néill is a proved warrior – this is shown by the state of his foe') is cited from a miscellaneous collection of Classical Irish poetry.

Looking at early translations, 'in respect of competitive traffic' is translated as 'maidir le trácht comórtasúil' in s29(1) of the Railways Act, 1924, with 'dul isteach ar chomórtas' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'compete' in *Iris an Phoist*, 8/2/28. 'Iomathóir' is cited as translating 'competitor' in translations for the Department of Education.

Turning to more modern translations, 'their opinion as to whether such prices are influenced by any agreement or combination for interfering with free competition' is translated as 'an é a dtuairim go bhfuil aon bhaint leis na praghsanna san ag aon chó-aontú no cur-le chéile chun cur isteach ar shaor-iomaíocht' in s42(1)(d) of the Control of Prices Act, 1932. In s(a) of the Second Schedule to the Restrictive Trade Practices Act, 1953, and of the Third Schedule to the Restrictive Practices Act, 1972, 'having ... the effect of unreasonably limiting or restraining free and fair competition' is translated as 'a bhfuil d'éifeacht acu ... tórainn nó srian neamhréasúnach a chur le saoirse chóir iomaíochta'.

*earraí* The plural of 'earra', this form being translated as 'goods' in *Téarmaí Dlí*, where '*dilseánacht sna hearraí*, property in the goods' is cited. 'Earra', in the collective sense, is translated as 'goods; ware, merchandise' in *Ó Dónaill*, who cites '*earra, earraí, a cheannach, a dhíol*, to buy, sell, goods'. *Dinneen* translates 'earradh' as 'property, goods, ware, furniture, articles, materials ...'. DIL translates 'errad' as 'furniture, chattels, ware, merchandise', citing 'do theilgeadar an earradh do bhí san loing annsa bhfairge' (= wares) from the seventeenth-century translation of *Jonah* i. 5, this being expressed as 'theilg siad amach san fharrage a raibh ar bord' in the modern 'Maynooth Bible'.

'Commodity' is translated as 'earra', 'tráchtearra' and 'ball earra' in *De Bhaldraithe*. "Commodities" means tangible assets which are dealt with on a commodity exchange in any part of the world other than currency, securities, debts or other assets of a financial nature' is translated as 'ciallaíonn "tráchtearraí" sócmhainní inlámhsithe a ndéileáiltear iontu ar mhalartáin tráchtearraí áit ar bith ar domhan, seachas airgead reatha, urrúis, fiacha nó sócmhainní eile de chineál airgeadais' in s4(2) of Schedule Five to the Finance Act, 1990. 'Commodities or articles for use in catching fish' is translated as 'tráchtearraí nó cóngair a úsáidtear chun iasc a ghabháil' in s1 of Part II of the Second Schedule to the Finance Act, 1978. 'When carrying commodities' is translated as 'nuair a bheidh earraí á n-iompar' in s2(i) of the Road Transport Act, 1971. 'For the transport of any commodities whatsoever upon any canal' is translated as 'chun aon tsaghas earraí d'iompar ar aon chanáil' in s180(2) of the Defence Forces (Temporary Provisions) Act, 1923. Note that 'earraí' translates 'goods' and 'gréithre' translates 'commodities' in s1(ii) of the Ministers and Secretaries Act, 1924, where 'the supervision and control of all purchases made for or on behalf of and all supplies of commodities and goods held by the Department of State and the disposal thereof' is translated as 'maoirseacht agus cúram gach ceannaigh a déanfar d'aon Roinn Stáit no thar a ceann agus maoirseacht agus cúram gach soláthar gréithre agus earraí atá aici agus riar na rudaí sin'.

*ina lámha* 'In the hand(s) of, at the disposal of' are

included among the senses of 'i lámh' in *Dinneen*, who cites '*suigheadh a iomaire féin i lámh gach aon díobh*, each one was entrusted with a particular ridge'. 'I lámh' also has the sense of 'captive', 'subservient (to)', DIL citing 'i lámh atú i talmhain' from a collection of Classical Irish religious poetry. Old Irish 'lám', 'hand', is itself cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles, where we find 'gnúis et láma et cossa' ('face and hands and feet').

Turning to 'concentration', 'the determination, in respect of such specimens, of the concentration of alcohol in the blood' is translated as 'cinneadh a dhéanamh maidir leis na samplaí sin ar an gcion alcóil san fhuil' in s7(1)(b) of the Road Traffic (Amendment) Act, 1978. "Concentrate of poppy straw" means the material produced when poppy straw has entered into a process for the concentration of its alkaloids' is translated as 'ciallaíonn "tiubhachán de thuí phoipín" an t-ábhar a tháirgtear tar éis tuí phoipín a dhul faoi phróiseas le haghaidh tiubhú a halcalóidí' in s6 of the Schedule to the Misuse of Drugs Act, 1977. Finally, 'articles which contain as an ingredient thereof coffee or chicory or any such extract, essence or concentration as is mentioned in the foregoing paragraph (a)' is translated as 'earraí ina mbeidh mar tháthchuid díobh caifé no ciocóire no aon eastóscán, úscra, no có-neartú den tsaghas a luaidhtear sa mhír sin (a) roimhe sin' in the First Schedule to the Finance Act, 1939.

*De Bhaldraithe* translates 'concentrate' as 'cruinním (le chéile); comhchruinním (smaointe, saighdiúirí)', citing 'they concentrated the fire of the battery, *chomhchruinníodar lámhach an bhataire*' and translating 'concentration' in the military sense as 'comhchruinniú (gunnaí)'.

Commenting on a draft of the direct translation below, where 'the concentration of the ownership ... of ... commodities in a few individuals' was translated as 'go gcomhchruinneofaí úinéireacht ... earraí riachtanacha i roinnt daoine', Professor Máirtín Ó Murchú expressed doubt regarding such a construction and recommended 'go mbeidh ... úinéireacht earraí riachtanacha ar a lámh ag beagán daoine' or, if it was felt necessary to give recognition to the sense of 'concentration', 'go mbeidh ... rialú earraí riachtanacha comhchruinnithe chucu féin ag beagán daoine'.

*chun dochair don phobal* See the commentary on Article 3 regarding 'gan dochar', which phrase is translated as 'without prejudice' in *Téarmaí Dlí*. *Ó Dónaill* cites '*rachaidh sé chun dochair don tír*, it will bring harm on the country' – see the commentary on Article 44.2.1° regarding 'dul chun dochair' and note that 'dochar a dhéanamh do' expresses 'affect prejudicially' in Article 44.2.4°.

'In a manner which is to the detriment of a person' is translated as 'ar dhóigh a rachaidh chun dochair do dhuine' in s6(1)(b) of the Local Government (Superannuation) Act, 1980, with '(shall not) be reduced or be otherwise altered to the detriment of such person' being translated as 'do laigheadú ná d'atharú ar shlí eile chun dochair don duine sin' in s51(1)(a) of the Conditions of Employment Act, 1936. In s13(1)(c) of the Local Government (Superannuation) Act, 1956, 'his position has been materially altered to his detriment' is translated as 'go ndearnadh a phost d'athrú go hábhartha chun dochair dó'. Finally, 'without substantial detriment to the works' is translated

as ‘gan dochar mór do theacht as do sna hoibreacha’ in s16 of the Shannon Electricity Act, 1925.

*ligfear* See the commentary on Article 40.4.3<sup>o</sup> regarding ‘lig’, ‘ligim’ being translated as ‘I let’ in *Téarmaí Dlí*, with ‘lig do’ being translated as ‘allow, permit’ in *Ó Dónaill*, who cites ‘*ligean do dhuine rud a dhéanamh*, to let someone do something’. *Dinneen* includes ‘I concede or allow to, permit a thing’ among the senses of ‘leigim do’, citing ‘*leigim dí imtheacht uirthi*, I allow her to depart’. DIL cites ‘ní relic dia doib orcuin nDuaid’ (‘God did not let them slay David’), from the ninth-century Milan Glosses on the Commentary on the Psalms, as an example of the sense of ‘allows, permits (to do, have, etc.)’ of ‘léicid do’, literally, ‘leaves to or for, hands over to, entrusts to’.

*beagán daoine* ‘Beagán’ is translated as ‘little’ in *Ó Dónaill*, ‘a few’ being given as the secondary sense, citing ‘*beagán dár muintir*, a few of our people’. *Dinneen* cites ‘*beagán buidhne*, a small force’ and DIL cites ‘in becan sa dib’ (‘these few of them’ [at end of list]) from *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100), as an example of the sense of ‘a few, a small number’, ‘becán’ being translated as ‘a little, small quantity’, glossing Latin ‘pauillum’ in the ninth-century St Gall Glosses on Priscian. See the previous commentary regarding ‘individual’.

Commenting on ‘roinnt daoine’ in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that it is not as good in the context here as ‘beagán’.

*dul chun cinn* See the commentary on Article 1 regarding ‘develop’, expressed in that Article as ‘a chur ar aghaidh’. Commenting on the direct translation below of ‘the operation of free competition shall not be allowed so to develop’ as ‘nach gceadófar d’oibriú na saoríomaíochta forbairt ar shlí go’, Professor Máirtín Ó Murchú recalls David Greene’s objections to ‘forbairt’ noted in the commentary on Article 1 and remarks that the traditional sense of ‘for-fen’ etc. is not suitable here; Professor Ó Murchú recommends ‘nach gceadófar forás d’oibriú na saoríomaíochta ar shlí go’ as an alternative translation.

*Go sonrach* See the commentary on Article 45.2. Note that in the Preamble to the Local Government (Temporary Provisions) Act, 1923, ‘and in particular the existing law relating to the relief of the poor’ is translated as ‘agus, go sonnrách, an dlí atá ann fé láthair i dtaobh fóirithin na mbocht’. Note also that the form in the original text is ‘go sonnradhach’; *Dinneen* translates ‘go sonnradhach’ as ‘to come to details, also chiefly, very’, giving ‘sonnrach’ as a separate headword, translated as ‘special, particular, etc.’, and under which the reader is referred to ‘sonnradhach’. *Ó Dónaill* gives ‘sonraíoch’ as a separate headword, translated as ‘noticeable, remarkable; peculiar, extraordinary; abnormal, grotesque’.

*d’oibriú* See the commentary on Articles 3 and 13.5.1<sup>o</sup> regarding ‘oibriú’, which usually expresses ‘exercise’ in the Constitution, ‘oibrím’, however, being translated as ‘I operate’ in *Téarmaí Dlí*.

*an dilse nó an t-urlámhas ar* See the commentary on the previous paragraph regarding ‘dilse’ and ‘urlámhas’, there directly qualifying the following noun and not linked to it by a preposition, as in this paragraph (i.e. ‘ar’).

### Direct translation

Go háirithe<sup>1</sup>, nach gceadófar d’oibriú na saoríomaíochta forbairt<sup>2</sup> ar shlí<sup>3</sup> go mbeidh dá dheasca úinéireacht nó rialú earraí riachtanacha comhchruinnithe chucu féin<sup>4</sup> ag beagán daoine chun dochair don phobal<sup>5</sup>.

### Variants

- 1 ‘Go speisialta’
- 2 ‘nach gceadófar forás d’oibriú na saoríomaíochta’
- 3 ‘i slí’, ‘sa tsli’
- 4 ‘ar a láimh’
- 5 ‘agus go mbeadh an pobal i gcoitinne thíos leis sin’

## ARTICLE 45.2.iv AIRTEAGAL 45.2.iv

### TÉACS GAELGE

Gurb é leas an phobail uile is buanchuspóir agus is príomhchuspóir a rialós ina mbaineann le hurlámhas creidmheasa.

### LITERAL ENGLISH TRANSLATION

That the welfare of the whole community is the permanent and principal objective which will govern in all that concerns the control of credit.

### ENGLISH TEXT

That in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole.

### Divergences between the official texts

- 1 ‘In what pertains to the control of credit’ is expressed as ‘a rialós ina mbaineann le hurlámhas creidmheasa’ (‘which will control/govern/dominate all that concerns the control of credit’) in the Irish text, the phrase ‘a rialós’ adding further emphasis to what appears in the English text.
- 2 ‘Constant and predominant aim’ is expressed in the Irish text by repetition of compounds based on ‘cuspóir’ which, although it has the sense of ‘aim’, usually expresses ‘object’, the terms expressing ‘constant’ and ‘predominant’, ‘buan-’ and ‘príomh-’, usually expressing ‘permanent’ and ‘principal’ respectively.
- 3 As in the foregoing paragraphs, ‘control’ is expressed by the term ‘urlámhas’, which also has senses other than ‘control’, ‘I control’ being translated as ‘rialáim’ in *Téarmaí Dlí*.
- 4 ‘The people as a whole’ is expressed in the Irish text as ‘an pobal uile’, ‘all the people’ / ‘the whole community’.

### Commentary

*le hurlámhas creidmheasa* ‘Creidmheasa’ is the genitive singular form of ‘creidmheas’, translated as ‘credit’ in *Téarmaí Dlí* and in *Ó Dónaill*, and as ‘credit, trust, confidence’ in *Dinneen*. ‘Cairde’ is, and has been, perhaps the more colloquial term for ‘credit’, *Ó Dónaill* citing ‘*rud a fháil, a thabhairt, ar cairde*, to get, give, something on

credit', *Dinneen* giving 'tick' as one of its senses. In the Glosses of the eighth and ninth centuries 'cairde' glosses Latin 'pactum' and in early Irish law expressed 'peaceful relations or pact either within a particular territory or between two or more territories', according to DIL, where the sense 'local peace, as opposed to *cáin*, the general law' is given. D.A. Binchy, op. cit., p. 80, comments as follows:

*cairde*, lit. 'friendship', a solemn compact concluded on behalf of two or more *túaths* (small kingdoms, a 'tuath' being] the political and jurisdictional unit of ancient Ireland) by their respective kings, each of whom pledges his subjects to it at an *aonach*. There are varying degrees of *cairde*, from a simple armistice to far-reaching arrangements for mutual recognition and enforcement of legal claims.

See Fergus Kelly, op. cit., p. 279, regarding a law-text on the subject of 'cairde'. 'Cara', on which 'cairde' is based, is cited in DIL from the eighth-century Würzburg Glosses on the Pauline Epistles, where we find 'coscc carat' ('a friend's advice').

The Agricultural Credit Corporation Limited' is styled 'Corparáid an Cháirde Talmhaíochta, Teoranta' in s4(1) of the Agricultural Credit Act, 1927, with 'Agricultural Credit Societies' being translated as 'Cumainn Chreidiúna Talmhaíochta' on the Dáil *Order Paper*, 1925, p. 216. 'On the credit of the said sum' is translated as 'Ar chreidiúint na suime sin' in s2(1) of the Appropriation Act, 1923. 'The Bank's activities in respect of the protection of the integrity of the currency or the control of credit' is translated as '(i dtaobh) ghníomhaíochtaí an Bhainc chun sláine an airgeadra a chosaint nó chun creidmheas a rialú' in s16(1)(b) of the Central Bank Act, 1989.

*buanchuspóir... príomhchuspóir* Compounds of 'cuspóir', which noun is translated as 'object' in *Téarmaí Dlí*, with 'object; objective, purpose' being given as a secondary sense in *Ó Dónaill*, the principal sense being 'thing aimed at, target'. *Dinneen* translates 'cuspóir' as 'an object, a target, a model, a theme ...'. This word comes from Latin 'cuspis' and is translated as 'target, purpose, aim, object' in DIL, citing 'co rabi fed cusboir etorro' ('fed cusboir' being translated as 'distance of a bow-shot') from Todd's edition of the eleventh-century *Cogadh Gaedhel re Gallaibh*.

*Ó Dónaill* translates the prefix 'buan' as 'permanent, perpetual; fixed', citing '*do chara buan*, your constant friend' and '*go buan*, constantly, always', the latter phrase being similarly translated by *Dinneen*, who translates 'buan' as 'lasting, continual'. The adjective 'búan' is translated as 'lasting, enduring; constant, firm, persevering' in DIL, citing examples from Blathmac (fl. 750-770) onwards. Note incidentally that 'the constancy of the supply of water to it' is translated as 'buaine an tsoláthair uisce a thagann chuige' in s6(3) of the River Owenmore Drainage Act, 1926.

*Ó Dónaill* translates 'príomh-' as 'prime, principal, chief, major, cardinal', with *Dinneen* translating this prefix as 'first, prime, chief, principal, great'. 'Prím-' comes from Latin 'primus' and is translated as (a) 'first (in time), primary' and (b) 'foremost, chief, principal, prime, eminent' in DIL. *De Bhaldraithe* translates 'predominant' as 'ardcheannasach', translating 'constant' as 'daingean, seasmhach, buan, buanseasmhach'.

'Cuspóir' is repeated here as having 'buan' qualify the compound 'cuspóir' would lead to the phrase being read as 'permanent constant aim'; note that there are many instances in the Constitution of two adjectives linked by 'and' being expressed by the adjectives immediately following each other with no conjunction in the Irish text, this being in line with Irish usage in general.

*ina mbaineann le* See the commentary on Article 3 regarding 'bain le'. *De Bhaldraithe* translates 'pertain' as 'baineann (to something, le rud)', translating 'this does not pertain to my office' as 'ní haon chuid de mo chúramsa é seo'. 'Ensuring that, in what pertains to the control of credit, the constant and predominant aim shall be the welfare of the people as a whole' is translated as 'chun a áirithiú gurb é leas an phobail i gcoitinne is príomhchuspóir buan ina mbaineann le hurlámhas creidiúnais' in s6(1) of the Central Bank Act, 1942. 'Any question whether a matter pertains to both Departments' is translated as 'aon cheist i dtaobh baint a bheith ag ábhar leis an dá Roinn' in s(a)(iii) of Article XXI of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977.

*uile* This headword is translated as 'all, whole', after a noun, in *Ó Dónaill*, who cites '*an scéal uile*, the whole story' and '*dár muintir uile*, to all our people'. *Dinneen* also translates 'uile' as 'all, whole', citing '*cách uile*, everyone'. See the commentary on Articles 2 and 45.1.

Having regard to the interests of the members as a whole' is translated as 'ag féachaint do leasanna na gcomhaltá i gcoitinne' in s65(4)(a) of the Building Societies Act, 1989, with 'any particular question affecting the company as a whole' being translated as 'aon cheist áirithe a bhain leis an gcuideachta i gcoitinne' in s16(b)(i) of the Capital Acquisition Tax Act, 1976. Finally, 'the net annual value of the undertaking of the Great Southern Railways as a whole' is translated as 'luach bliantúil glan gnótha uile Mhórbhóithre Iarainn an Deiscirt' in s4 of the Schedule to the Railways (Valuation for Rating) Act, 1931. 'In iomlán' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'as a whole' in a 1928 Report of the Public Accounts' Committee, with 'le chéile' being cited from early *Standing Orders* of Dáil Éireann.

'As a whole' is translated as 'ina iomláine' in *De Bhaldraithe*, this phrase being translated as 'in its entirety' in *Ó Dónaill*, 'iomláine' being translated as 'integrity; fullness; total' in *Dinneen*.

*a rialós* Special form of the relative, future tense, of 'rialáigh', translated as 'rule' in *Téarmaí Dlí* but generally expressing 'regulate' in the Constitution – see the commentary on Articles 10.3 and 12.5.

*le hurlámhas* See the commentary on Article 45.2.ii.

### Standardised Irish text

Gurb é leas an phobail uile is buanchuspóir agus is príomhchuspóir a rialóidh ina mbaineann le hurlámhas creidmheasa.

### Direct translation

Ina mbaineann le<sup>1</sup> rialú creidmheasa, gurb é leas an phobail i gcoitinne an phríomhaidhm bhuan<sup>2,3</sup>.

**Variants**

- 1 'Maidir le'
- 2 'an príomhchuspóir buan'
- 3 'Gurb é leas an phobail i gcoitinne an príomhaidhm bhuan ina mbaineann le rialú creidmheasa.'

## ARTICLE 45.2.V AIRTEAGAL 45.2.V

**TÉACS GAELGE**

Go mbunófar ar an talamh faoi shlándáil gheilleagrach an oiread teaghlach agus is féidir de réir chor an tsaoil.

**LITERAL ENGLISH TRANSLATION**

That as many households as possible in accordance with the circumstances of life will be established on the land in economic security.

**ENGLISH TEXT**

That there may be established on the land in economic security as many families as in the circumstances shall be practicable.

**Divergences between the official texts**

- 1 'In the circumstances' is expressed in the Irish text as 'de réir chor an tsaoil', 'in accordance with the circumstances of life'.
- 2 'As ... shall be practicable' is expressed as 'agus is féidir' ('as is possible') in the Irish text, this phrase being generally so translated in Irish.
- 3 'May' (i.e. 'may be established') is expressed as 'will' (i.e. 'go mbunófar'), as in some of the earlier paragraphs in this section.

**Commentary**

*faoi shlándáil gheilleagrach* See the commentary on Article 1 s.v. 'geilleagar', regarding 'geilleagrach', and on Article 28.3.3<sup>o</sup> regarding 'slándáil'. *Ó Dónaill* cites '*slándáil shóisialta*, social security' and '*fórsaí slándála*, security forces'. 'Slán', the first element of the compound, is translated principally as 'whole, sound, unimpaired, healthy, safe' in DIL, citing 'mad slaán in ball iarna galar' ('if the member be whole after its sickness') from the eighth-century Würzburg Glosses on the Pauline Epistles. In early Irish law, 'slán' had the sense of 'exempt, non-liable, safe', Fergus Kelly (op. cit., p. 156 n. 244) citing 'slán cách mairnes mígním' ('anyone who betrays an evil deed is free from liability') from an early Irish law-tract. The second element 'dáil' has the sense of 'state, condition' in such compounds, according to Professor Máirtín Ó Murchú.

'Faoi' can be used with an abstract noun to denote a state, *Ó Dónaill* citing '*faoi mheas, onóir*, held in esteem, in honour', '*faoi smacht*, under control' and '*faoi shíocháin*, in peace'.

'Social security schemes' is translated as 'scéimeanna slándála sóisialaí' in s10(7)(g) of the Social Welfare (Consolidation) Act, 1981, for example. 'If the action relates to ... national security or military activity' is translated as 'má bhaineann an gníomh le slándáil náisiúnta nó le gníomhaíocht mhíleata' in s5(1)(b) of the Ombudsman

Act, 1980. In s33 of the Fifth Schedule to the Electoral Act, 1923, 'and shall otherwise take proper precautions for the security of such papers and documents' is translated as 'agus tabharfa sé gach aon aireachas eile is cóir chun na páipéirí agus na scríbhinní sin do chur ar láimh shábhála'. 'Seasmhacht' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'security' in *Iris Oifigiúil*, 1922/23. 'And any temporary works necessary for its reconstruction shall be so designed and executed as not to lessen or interfere with the stability or security of the Railway Bridge' is translated as 'agus ceapfar agus déanfar aon oibreacha sealadacha is gá chun a dhéanta, i slí is ná déanfar laigheadú ná cur isteach ar sheasmhacht ná ar dhaingneacht Dhroichead an Bhóthair Iarainn' in s52(2) of the Dublin Port and Docks (Bridges) Act, 1929. Finally, 'chun cosanta an ioncuim' translates 'for the security of the revenue' in s3(1) of the Finance (Customs and Stamp Duties) Act, 1929.

*de réir chor an tsaoil* According to the official standard, taking 'cor' to be the genitive plural here, this would read as 'de réir chora an tsaoil', 'cora' being the nominative plural in place of the genitive plural, lenited, as it is followed by a definite noun in the genitive – see the commentary on Article 1. 'Cora (crua) an tsaoil' is translated as 'the vicissitudes of life' in *Ó Dónaill*, who cites '*tháinig sé de chor sa saol go*, it came to pass that', 'cor' being translated principally as 'turn, turning movement'. *Dinneen* gives 'vicissitude, circumstance, plight' as one of the senses of 'cor', also citing '*coraí an tsaoghail*, vicissitudes of life'. DIL cites 'dia do chor' ('awful calamity'), from Pilib Bocht Ó hUiginn (†1487), as the first of but five citations of this sense of 'state, condition, plight', 'cor' being the verbal noun of 'fo-ceird' and being principally translated in DIL as 'act of putting, placing; setting up'. See the commentary on Article 29.4.3<sup>o</sup> regarding 'cor' in the sense of 'contract' in early Irish law.

Looking at 'circumstances' in early Acts, 'An Act to interpret and to adapt to the circumstances of Saorstát Éireann certain Acts of the British Parliament' is translated as 'Acht chun Achtanna áirithe de Pháirlimint na Breataine ... do léiriú agus do chur in oiriúint do chúrsaí Shaorstáit Éireann' in the Long Title of the Adaptation of Enactments Act, 1922. 'And whereas the circumstances which rendered the several Orders and Authorisations aforesaid necessary and proper still continue to exist' is translated as 'Agus de bhri go bhfuilid ann fós na cúiseanna ba bhun leis na hOrduithe agus na hÚdaruithe uile sin roimh-ráite do bheith riachtanach agus cóir' in the Preamble to the Statutory Undertakings (Continuance of Charges) Act, 1923, with 'Persons in Class (b) who refuse to enter such Institutions as may be selected shall not be allowed under any circumstances to become chargeable to the public rates' being translated as 'Daoine d'Aicme (b) a dhiúltóidh do dhul isteach sna Fundúireachtaí a toghfar amach ní leigfar dóibh bheith ina muirear ar na rátaí puiblí ar aon tsaghas cúinse' in s4 of the 'Galway County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923. 'The Local Authority has been prevented by circumstances beyond their control from executing the works aforesaid' is translated as 'coisceadh na hÚdaráis Áitiúla le nithe a bhí lasmuich dá smacht ar na hoibreacha roimh-ráite do dhéanamh' in the Preamble to the Local Authorities (Extension of Time) Act, 1923. 'Or a declaration

as nearly corresponding thereto as circumstances permit' is translated as 'no dearbhú chó mór deabhramh leis agus is féidir sa chás' in s149(1) of the Industrial and Commercial Property Act, 1927, with 'and consolidated so far as circumstances admit with the existing purchase annuities' being translated as 'agus déanfar iad do chomhdhlúthú sa mhéid gur féidir é leis na blianachtaí ceannaigh atá ann cheana' in s55(2) of the Land Act, 1922. 'Make an order either decreasing or increasing that rate to such an extent as in the circumstances may seem just' is translated as 'ordú do dhéanamh ag laigheadú no ag méadú an ráta san oiread agus a dheabhróidh bheith cóir sa chás' in s169(3) of the Industrial and Commercial Property (Protection) Act, 1927. Finally, to give a modern example, 'suspend the operation of the notice for such period as in the circumstances of the case he considers appropriate' is translated as 'oibriú an fhógra a fhionraí ar feadh cibé tréimhse a mheasfaidh sé is iomchuí in imthosca an cháis' in s11(5)(b) of the Safety in Industry Act, 1980. See further the commentary on the amended Article 41.3.2° where 'imthosca' expresses 'circumstances'.

*an oiread ... agus is féidir* 'I n-oiread sliogthe agus is féidir' is translated as 'in as many different ways as possible' in *Dinneen*, giving An tAth. Seóirse Mac Cúin's *Réilthíní Óir* (1922) as source. 'Chomh luath is is féidir liom' is translated by *Ó Dónaill* as 'as soon as I can', with 'is féidir (go)' being translated as 'it is possible (that)'. DIL cites 'uiread gráda ... 7 atá aige dhó féin' from *Desiderius* (1616) as the first of but a couple of examples of 'airet' with 'ocus' and relative clause. DIL translates 'étir, éter' as 'able; possible, feasible'. See the commentary on Article 6.2.

'All other currencies in proportion, so far as may be practicable, to the quotas of the members' is translated as 'gach airgeadra eile i gcomhréir, an oiread agus is féidir, le cuótaí na gcomhaltáí' in s1(c) of Article K of the Bretton Woods Agreement (Amendment) Act, 1977. *De Bhaldraithe* translates 'practicable' as 'indéanta'. Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'is féidir' is more intelligible than 'is indéanta'.

### Direct translation

Go ndéanfar a oiread teaghlach agus is indéanta<sup>1</sup> sna himthosca a bhunú ar an talamh faoi shlándáil eacnamaíochta.

### Variant

1 'is féidir'

ARTICLE 45.3.1° AIRTEAGAL 45.3.1°

### TÉACS GAEILGE

Féachfaidh an Stát le fonn ar thionscnamh phríobháideach i gcúrsaí tionscail is tráchtála agus cuirfidh leis nuair is gá sin.

### LITERAL ENGLISH TRANSLATION

The State will look eagerly at private initiative in industrial and commercial affairs and will augment/support it when that is necessary.

### ENGLISH TEXT

The State shall favour and, where necessary, supplement private initiative in industry and commerce.

### Divergences between the official texts

- 1 'Favour' is expressed by 'féach le fonn ar', 'look eagerly at', in the Irish text.
- 2 'Supplement' is expressed by 'cuir le' ('augment' / 'support') in the Irish text.
- 3 'In industry and commerce' is expressed in the Irish text as 'i gcúrsaí tionscail is tráchtála', 'in industrial and commercial affairs'.

### Commentary

*ar thionscnamh príobháideach* According to the official standard the adjective would not be lenited here following a masculine noun in the dative singular – see the commentary on Article 45.

'Initiative' is given as one of the senses of 'tionscnamh' in the Glossary accompanying *An Caighdeán Oifigiúil*, this being the verbal noun of 'tionscain', the first person singular, present indicative, of which is translated as 'I institute', as it is in *Téarmaí Dlí*, where '*tionscainm imeachtaí*, I bring proceedings' and '*tionscnamh imeachtaí*, institution of proceedings' are cited – note that 'ar thionscnamh' is translated as 'at the instance of' in *Téarmaí Dlí*. The verb 'tionscain' is translated as 'begin, originate; initiate; establish' in *Ó Dónaill*, 'tionscnamh' being translated as 'beginning, origin; introduction, initiation; institution, establishment'. *Dinneen* translates 'tionscnamh' principally as 'act of beginning, initiating, planning'. 'Tinnscna', 'tinnscnam', translated as (a) 'act of beginning' and (b) 'act of devising; design, project' in DIL, is the Middle Irish verbal noun of 'do-innscanna', translated as 'begins' in DIL, this verb glossing Latin 'incipere' in the eighth-century Würzburg Glosses on the Pauline Epistles. 'Tinnscetal' (Modern Irish 'tionscadal') was the form of the earlier verbal noun.

See the commentary on Article 20.1 for early translations of 'initiative', 'tionscain' expressing 'initiate' in that Article. 'To promote private and entrepreneurial initiative in the Central and Eastern European countries' is translated as 'tionscnamh príobháideach agus fiontraíoch a chur chun cinn i dtíortha Lár agus Oirthear na hEorpa' in Article 1 of the Schedule to the European Bank for Reconstruction and Development Act, 1991. 'The President ... may convene a meeting of the Council of his own initiative' is translated as 'Féadfaidh Uachtarán ... (na Comhairle) cruinniú den Chomhairle a ghairm ar a thionscnamh féin' in s11 of the Second Schedule to the Medical Practitioners Act, 1978, with 'the Minister may, on his own initiative ... by order fix ... the charges' being translated as 'féadfaidh an tAire, uaidh féin ... na héilithe ... do cheapadh' in s102(4) of the Transport Act, 1944.

*le fonn* 'Rud a dhéanamh le fonn' is translated as 'to do something eagerly, gladly' in *Ó Dónaill*, who translates 'fonn' as 'desire, wish, inclination, urge'. *Dinneen* translates 'le fonn' as 'intensely, eagerly', citing '*le fonn na fóla*, with the intensity of animal passion'. According to DIL, 'fonn' seems confined to comparatively late Middle Irish

and Modern Irish texts, DIL translating this headword as 'desire, fondness, pleasure'.

*De Bhaldraithe* translates 'favour' as 'taobhaím le, táim i bhfabhar, ar thaobh (scéime)', also giving 'cuidím le'. 'They do not favour their (the services) abandonment' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'níor gheall leo go n-éireofaí asta' in a 1926 Report of the Public Accounts Committee, with 'A. would be favoured by the presence of B' being cited as having been translated as 'ba mhaith le A. go dtiocfadh B.' in translations for the Department of Justice. 'Through the operation of the most-favoured-nation clause' is translated as 'as oibríú an chláis úd i dtaobh barr fábhair do náisiún ar leith' in Proposal V(a) in the League of Nations (Obligations of Membership) Act, 1935. 'Except where ... an aggregate majority of all the votes cast, favours such strike or other industrial action' is translated as 'ach amháin ... má bhíonn tromlach comhiomlán na vótaí go léir a caitheadh i bhfabhar na stailce nó an ghnímh tionscail eile sin' in s14(2)(e) of the Industrial Relations Act, 1990.

*cuirfidh leis* The pronoun 'sé', referring to 'an Stát', is understood here, i.e. 'cuirfidh sé leis'. See the commentary on Article 42.4 where 'cuir le' earlier expresses 'supplement'. *Ó Dónaill* cites '*má chuireann sé linn is fearde sinn é*, it will be to our advantage if he supports us'. *Dinneen* includes '(I) prop up, co-operate with' among the senses of 'cuirim le'. 'Cur le' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'supplement' in 1925 translations for the Department of Local Government and Public Health. *De Bhaldraithe* translates 'supplement' as 'cuirim le, cuirim breis le, forlíonaim (leabhar, etc.)', citing 'he supplemented his income by journalism, *chuir sé lena theacht isteach le hiriseoireacht*'.

'Supplemental' is translated as 'forlíontach' in *Téarmaí Dlí*, with 'supplemental deed' translated as 'gníomhas forlíontach'. 'Fóirlíona' is cited in the *Oireachtas Dictionary of Official Terms* from 'Dáil Div. 24/215'. In the Preamble to the Schedule to the Treaty (Confirmation of Supplemental Agreement) Act, 1924, 'Agreement supplementing Article Twelve of the Articles of Agreement for a Treaty between Great Britain and Ireland' is translated as 'Có-aontú le n-a bhfóirlíontar Airtíogal a Dó-Dhéag de sna hAirtíogail Chó-aontuithe do Chonnra idir an Bhreatain Mhóir agus Éire'. 'A weekly payment of supplementary welfare allowance may be made ... to supplement that person's other income' is translated as 'féadfar íocaíocht liúntais leasa fhorlíontaigh a íoc in aghaidh na seachtaine ... d'fhorlíonadh ar ioncam eile an duine sin' in s209(1)(b) of the Social Welfare (Consolidation) Act, 1981. 'That there is a global need to supplement reserves' is translated as 'go bhfuil riachtanas domhanda ann cúltaí a fhorlíonadh' in s1(b) of Article XVIII of the Schedule to the Bretton Woods Agreements (Amendment) Act, 1977.

Commenting on a draft of the direct translation below, where '(The State shall) supplement (private initiative)' was translated as 'déanfaidh sé é a fhorlíonadh', Professor Máirtín Ó Murchú remarked that he doubted whether 'forlíonadh' could be used in that sense, 'forlíonadh' having the sense of 'to fill more' or 'to put more than its fill in'. Professor Ó Murchú recommends translating this clause as 'neartóidh sé leis', 'ádoigh sé air' or 'cuirfidh sé leis' – as in the original text.

*i gcúrsaí tráchtála* 'Tráchtála' is the genitive singular / attributive form of 'tráchtáil', 'dlí tráchtála' being translated as 'mercantile law', and 'tráchtáil' being translated as '(act of) trading; trade, commerce' in *Ó Dónaill*. See the commentary on Article 18.7.1<sup>iv</sup>. While 'sa tráchtáil' would be the usual translation of 'in commerce', being treated as an abstract noun preceded by the definite article (as 'an pholaitíocht' renders 'politics'), 'sa tionscal' would be read as 'in the industry' and this perhaps occasioned the introduction of 'i gcúrsaí' here, so that both 'tionscal' and 'tráchtáil' would be similarly qualifying 'i gcúrsaí'.

### Standardised Irish text

Féachfaidh an Stát le fonn ar thionscnamh príobháideach i gcúrsaí tionscail is tráchtála agus cuirfidh leis nuair is gá sin.

### Direct translation

Beidh an Stát i bhfabhar an tionscnaimh phríobháidigh i dtionscail agus sa tráchtáil agus, nuair is gá, neartóidh sé leis<sup>1</sup>.

### Variant

<sup>1</sup> 'cuirfidh sé leis', 'ádoigh sé air'

## ARTICLE 45.3.2<sup>o</sup> AIRTEAGAL 45.3.2<sup>o</sup>

### TÉACS GAELGE

Déanfaidh an Stát iarracht chun a chur in áirithe go stiúfar fiontraíocht phríobháideach i slí gur deimhin go ndéanfar earraí a tháirgeadh agus a imdháil le hinniúlacht réasúnta agus go gcosnófar an pobal ar bhrabús éagórach.

### LITERAL ENGLISH TRANSLATION

The State will endeavour to ensure that private enterprise is / will be conducted so that it is certain that goods will be produced and distributed with reasonable competency and that the community will be protected from unjust profit.

### ENGLISH TEXT

The State shall endeavour to secure that private enterprise shall be so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.

### Divergences between the official texts

- 'Exploitation' is expressed in the Irish text as 'brabús', the core meaning of which is 'profit', but which has in addition some nuance of the sense of financial exploitation; 'brabús' is translated merely as 'profit' in *Téarmaí Dlí*.
- 'Efficiency' is expressed as 'inniúlacht', 'competency', in the Irish text.
- 'Reasonable efficiency in the production and distribution of goods' is expressed as 'go ndéanfar earraí a tháirgeadh agus a imdháil le hinniúlacht réasúnta' ('that goods will be produced and distributed with reasonable competency') in the Irish text.

- 4 'To secure' is expressed in the Irish text by 'a chur in áirithe', an expression more generally translated as 'to reserve', but also used in the Constitution to express 'to ensure'.

### Commentary

*le hinniúlacht* 'Inniúlacht' is translated as 'competency' in *Téarmaí Dlí*, where 'inniúlacht chonraithe' agus 'inniúlacht tiomnaithe' are translated respectively as 'capacity to contract' and 'testamentary capacity'. *Ó Dónaill* translates 'inniúlacht' as 'ability, competence, capacity', this being an abstract noun based on the adjective 'inniúil'. *Dinneen* translates 'inneamhail' as 'able, capable, earnest, eager, willing', giving no abstract noun based directly on this as a headword. 'Inneamh', on which the adjective is based, is translated as 'wealth, prosperity, power, profit, addition, help'. DIL translates 'inemail' as 'capable', Keating's seventeenth-century works being the principal source of the few examples cited there. 'Indeb' is translated as 'gain, increase, wealth' in DIL, where 'co mbetis i n-indiub fochricce domsa' ('so that they might be in gain of [the] reward to me') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles.

In s1 of Article VII of the Schedule to the Air Navigation and Transport (Preinspection) Act, 1986, 'to carry out with reasonable speed and efficiency preinspection for eligible flights of carriers' is translated as 'chun réamhniúchadh a dhéanamh, le luas agus éifeachtacht réasúnach, ar eitleí cáilithe ag iompróirí'. 'For the purpose of facilitating arrangements by which greater efficiency or economy can be effected' is translated as 'chun gurbh fhusaíde comhshocraíochtaí a dhéanamh lenar féidir éifeacht nó tíos níos feara a chur i gcrích' in s1 of the Local Government (Superannuation) Act, 1980. 'Ensure that the functions of the Authority are effectively carried out and performed with due efficiency' is translated as 'a chinntiú go ndéanfar feidhmeanna an Údaráis a chur i gcrích go héifeachtach agus a fheidhmiú le heifeacht chuí' in s30(1)(b) of the National Agricultural Advisory, Education and Research Authority Act, 1977. In s18(d) of the *Gárda Síochána* (Temporary Provisions) Act, 1923, 'the maintenance, training, discipline, and efficiency of the *Gárda Síochána*' is translated as 'coinneáil-suas, tréineáil, smacht, agus éifeachtúlacht an *Ghárdá Síochána*'.

Note that 'inniúil' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'efficient' in translations for the Department of Justice. 'With a view to devising a more economic and more efficient system' is translated as 'd'fhonn slí níos bailighe agus níos slachtmhaire do cheapa' in s7 of the 'Cavan County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, with 'the duty and power of maintaining the drainage works ... in good repair and condition and proper and efficient working order' being translated as 'An dualgas agus an chomhacht chun an hoibreacha dréineála ... do choinneáil dea-dheisithe agus i dtreo mhaith agus in ordú ceart éifeachtúil chun oibre' in s19(1) of the Arterial Drainage Act, 1925.

*De Bhaldráithe* translates 'efficiency' as 'éifeachtacht (leighis, rialtais, etc.)', with 'efficiency (of persons)' being translated as 'cumas; feabhas, inniúlacht (chun gnó)'. 'Efficaciousness, efficacy' is translated as 'éifeachtúlacht'.

*fiontraíocht* This abstract noun today usually renders 'enterprise', and is translated as '(act of) venturing; riskiness; speculation, enterprise' in *Ó Dónaill*. *Dinneen* does not appear to give this headword, but translates the adjective 'fionntrach' as 'venturesome, dangerous, unsafe', this word being based on 'fiontar', as is 'fiontraíocht'. *Ó Dónaill* translates 'fiontar' as 'venture, risk; enterprise', the 'Department of Enterprise and Employment' being styled in Irish 'an Roinn Fiontar agus Fostaíochta'. 'Fiontar' is translated as 'risk' in *Téarmaí Dlí*, citing '*fiontar a ghabhas leis an bhfostaíocht*, risk incidental to the employment'. *Dinneen* translates 'fionntar' as 'risk, jeopardy, struggle (used somewhat like *venture*)'. This word does not appear to be given as a headword in DIL.

'To further economic development by encouraging the growth of productive private enterprise in member countries' is translated as 'forbairt gheilleagrach a chur ar aghaidh trí fhás fiontraíochta príobháidí a ghríosadh i gcomhalta-thíortha' in Article 1 of the Schedule to the International Finance Corporation Act, 1958. 'That any activities of the Society bring the Society into competition with private enterprise' is translated as 'go gcuireann aon ghníomhaíochtaí de chuid an Chumainn ag iomaíocht le fiontraíocht phríobháideach' in s6(1) of the Red Cross Act, 1954. 'That ... a product ... is not being manufactured in the State by means of private enterprise' is translated as 'nach bhfuil táirge ... á mhonarú sa Stát trí fhiontraíocht phríobháideach' in s12(2)(a) of the Grass Meal (Production) Act, 1953, with 'that ... a particular chemical product ... is not being manufactured in the State by means of private enterprise' being translated as 'maidir le haon táirge ceimiceach áirithe ... ná fuil sé á dhéanamh sa Stát trí ghnóthas príobháideach' in s7(1) of the Industrial Alcohol (Amendment) Act, 1947. Finally, 'any person who is not engaged ... in agriculture or in a business or enterprise of any agricultural character' is translated simply as 'éinne ná fuil ag gabháil ... do thalmhaíocht nó do ghnó a bhaineann le talmhaíocht' in the Agricultural Credit Act, 1927.

*go stiúrfar* The future, passive, of 'stiúir', 'stiúraim' being translated as 'I conduct (a case, etc.)' in *Téarmaí Dlí* – see the commentary on Articles 12.8 and 40.6.1<sup>iii</sup>, where this verb respectively expresses 'direct' and 'control'. 'Conduct of public inquiries' is translated as 'Conas a stiúrófar fiosrúcháin phuiblí' in the Margin Title of s28 of the Arterial Drainage Act, 1925, with 'stiúra' being cited in the *Oireachtas Dictionary of Official Terms* as translating 'conduct (of an office)' in the *Proceedings* of Seanad Éireann, 1924. 'Such matters as appear to the Commission to be necessary or expedient for the proper conduct of its business' is translated as 'pé nithe is dó leis an gCoimisiún is gá no is oiriúnach chun a ngnó do dhéanamh sa cheart' in s3(f) of the Tariff Commission Act, 1926. We find the current official term, 'seol', translating the verb 'conduct' as early as 1923, with 'The Comptroller and Auditor-General shall have full power to make from time to time orders and rules for the conduct of the internal business of this Department' being translated as 'Beidh lán-chomhacht ag an Árd-Scrúdóir órduithe agus rialacha do dhéanamh ó am go ham chun gach gnó laistig dá Roinn do sheola' in s6 of the Comptroller and Auditor General Act, 1923. 'The systems of control ... must be such as to secure that the society's business is so conducted ... that



... the information necessary ... is sufficiently accurate' is translated as 'ní mór na córais rialaithe ... a bheith de chineál a áiritheoidh go seolfar gnó na cuideachta ... ar chaoi a fhágfaidh ... go mbeidh an fhaisnéis is gá ... sách cruinn' in s76(7) of the Building Societies Act, 1989. In s2(2)(a)(ii) of the Insurance (No. 2) Act, 1983, '(that) the business of the insurer is being or has been so conducted as to jeopardise or prejudice the rights and interests of persons arising under policies issued by the insurer' is translated as 'go bhfuil nó go raibh gnó an árachóra á sheoladh ar shlí gur bhaol nó gur dhochar é do chearta agus leasanna daoine faoi pholasaithe a d'eisigh an t-árachóir'.

*ar bhrabús* 'Brabús' is translated as 'profit' in *Téarmaí Dlí* and in *Ó Dónaill*, who gives 'advantage' as the secondary sense. *Dinneen* translates 'brabús' as 'gain, profit, advantage, especially an unfair advantage, a weak point, a "catch", an opportunity'. 'Brabach' is also given as a headword in *Ó Dónaill* and in *Dinneen*, translated as (1) 'gain, profit', (2) 'benefit, advantage' and (3) 'surplus' in the former source, and as 'gain, profit, advantage; something over' in the latter. This term, unlike 'brabús', is also given as a headword in DIL, only two citations being given: 'glacadh áointighe do chum brabaigh' ('= to receive any house to hire') from the *Rule of S. Clare*, and 'brabach, advantage or benefit gained by anything' from the transcript of Peter O'Connell's *Irish-English Dictionary* in the Royal Irish Academy. *De Bhaldraithe* gives 'beirim brabús ar (dhuine)' and 'tagaim i dtír ar (dhuine)' as 'familiar' translations of 'I exploit', giving 'brabúsaí', along with 'saothraí' agus 'dúshaothraí', as translations of 'exploiter'. The abstract noun 'exploitation' is translated as 'saothrú' and 'dúshaothrú (lucht oibre)' by *De Bhaldraithe*.

'A patent shall not be granted in respect of ... an invention the publication or exploitation of which would be contrary to public order or morality' is translated as 'Ní dheonófar paitinn ... i leith aireagáin a mbeadh a fhoilsíú nó a shaothrú contrártha don ord poiblí nó don mhórlacht phoiblí' in s10 of the Patents Act, 1992. 'To advance the exploitation of water power in Saorstát Éireann' is translated as 'chun úsáid chomhachta uisce do chur ar aghaidh i Saorstát Éireann' in s28(2) of the Electricity (Supply) Act, 1927. Finally, we find the following 'Definition' in s1 of the Censorship of Films (Amendment) Act, 1925:

The expression "exploitation sheet" means the document commonly known by that name amongst persons engaged in the trade of exhibiting pictures by means of a cinematograph or other similar apparatus ... *cialluíonn an focal "leathán tuairisce" an scríbhinn ar a dtugtar an ainm sin do ghnáth imeasc daoine gurb é a ngnó pictiúirí do thaisbeáint le cinematagraf no le hinneal eile dá shamhail.*

Commenting on 'dúshaothrú' in the direct translation below, Professor Máirtín Ó Murchú remarks that, as we see in *De Bhaldraithe* above, the range of reference of this term is limited solely to work, i.e. to get too much work from people. This is not the sense involved in this subsection but charging people too much. Professor Ó Murchú is of the opinion therefore that one must use either the original phrase 'brabús', suggesting 'róbhrabús' as an alternative.

*a tháirgeadh agus a imdháil* 'Táirgeadh' is the verbal noun of 'táirg', translated as 'produce, manufacture' in *Ó Dónaill*, who cites '*earraí a tháirgeadh*, to produce goods'. 'Táirgim' is translated as 'I cause, effect, produce' in *Dinneen*. This simple verb comes from the compound verb 'do-áirci', translated principally as 'causes, effects, induces, brings about, brings (a result, etc.)' in DIL, where 'doáirci bethid dúnni tri chretim in Ísu Crist' ('it causes life to us through belief in Jesus Christ') is cited from the eighth-century Würzburg Glosses on the Pauline Epistles, 'produces, brings forth' and 'procures, gains, provides, supplies' being later senses.

'Saothrúchán' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'production' in the *Proceedings of Dáil Éireann*, 1926, p. 423. 'Or other requisites of agricultural production or marketing' is translated as 'no riachtanaisí eile i saothrú no i margáil tora thalmhaíochta' in s12(1)(a) of the Agricultural Credit Act, 1927, with 'any cinematograph production' being translated as 'aon tabhairt-amach chinematografach' in s177(1) of the Industrial and Commercial Property (Protection) Act, 1927.

'Imdháileadh' is given as the verbal noun of 'imdháil', 'distribute', in *Ó Dónaill*, 'dáileadh' being given in the Glossary appended to *An Caighdeán Oifigiúil* as the form of the verbal noun of 'dailim' ('I distribute'), the prefix 'im-' ('about, around') being compounded with 'dail' in 'imdháil'. 'Imdháil' does not appear to be given as a headword either in *Dinneen* or in DIL, the former giving both 'dail' and 'dáileadh' as forms of the verbal noun of 'dailim', 'I dispense' being one of the senses of that verb. 'Dáilid' is translated as (i) 'portions out, pours out' and (ii) 'portions out, i.e. bestows, assigns, allots' in DIL, no examples appearing to be cited from the Old Irish Glosses. 'Dail' is the form of the verbal noun of 'dailid'. See the commentary on Article 28.12 regarding 'distribute'/'distribution', 'roinnt' expressing 'distribution' in that Article.

The Long Title of the Irish Medicines Board Act, 1995, 'An Act to make further provision in relation to the regulation of the manufacture, production ... and distribution of medicinal and cosmetic products', is translated as 'Acht do dhéanamh socrú breise i ndáil le rialáil a dhéanamh ar mhonarú, táirgeadh ... agus dáileadh táirgí leigheasacha agus cosmaideacha'. 'Relating to ... technical efficiency, increased production, efficient distribution of products and access to markets' is translated as 'a bhaineann ... le héifeacht teicniúil, le breis táirgíochta, le dáileadh éifeachtach ar tháirgí agus le cóir rochtana ar mhargaí' in s(f) of the Schedule to the Mergers, Take-overs and Monopolies (Control) Act, 1978. In s5 of the Sligo Lighting and Electric Powers Act, 1924, 'the production, generation, ... distribution and supply of electrical energy or power' is translated as 'neart no comhacht leictiriciúil do dhéanamh, do gheiniúint, ... do roinnt agus do sholáthar'.

*Déanfaidh an Stát iarracht* 'Iarracht do thabhairt' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'endeavour' in translations for the Department of Justice. 'The Controller shall endeavour to secure that the relevant plant variety is maintained in quality' is translated as 'féachfaidh an Rialaitheoir lena áirithiú go ndéanfar an cineál planda iomchuí a chothabháil ó thaobh cáilíochta' in s8(4) of the Plant Varieties (Proprietary Rights) Act, 1980, with 'the Controller ... shall endeavour to secure

equality of advantage among the several licences' being translated as 'féachfaidh an Ceannasaí le comhionannas buntáiste a áirithiú i measc na gceadúnaithe ar leithligh' in s37(3)(b) of the Patents Act, 1964. 'He shall also endeavour to secure equality of advantage amongst several licences' is translated as 'tabharfa sé fé n-a chur in áirithe leis, go mbeidh có-ionannas buntáiste imeasc na gceadúnaithe uile agus fé seach' in s40(1)(b)(iii) of the Industrial and Commercial Property (Protection) Act, 1927.

*éagórach* See the commentary on Article 40.3.2°. 'That it would be unjust and inequitable not to make the order' is translated as 'nach mbeadh sé ceart ná cóir gan an t-ordú a dhéanamh' in s5(d) of the Fifth Schedule to the Building Societies Act, 1989. 'Impose unjust or unreasonable conditions in regard to the supply or distribution of goods' is translated as 'a fhorchuireann coinníollacha míchóra nó míréasúnacha maidir le soláthar nó imdháil earraí' in s(h) of the Third Schedule to the Restrictive Practices Act, 1972, with 'a fhorchuireas coinníollacha míchóra nó neamh-réasúnacha maidir le soláthar no imdháil earraí' being found in s(h) of the Second Schedule to the Restrictive Trade Practices Act, 1953.

*go gcosnófar ... ar* See the commentary on Articles 15.10 and 40.3.2° regarding 'protect'. 'All practicable measures shall be taken to protect those persons against inhalation of the dust or fume or other impurity' is translated as 'déanfar gach beart is féidir chun na daoine sin a chosaint ar an deannach nó an múch nó an eisionacht eile a anáil isteach' in the Table to s20 of the Safety in Industry Act, 1980. In Article 20 of the 1922 Constitution, 'to protect itself and its members against any person or persons interfering with ... its members' is translated as 'é féin agus a bhaill do chosaint ar aon duine no daoine a bhainfidh le n-a bhaill'.

*gur deimhin* The adjective 'deimhin' is translated as 'sure, certain' in *Ó Dónaill*, who translates 'is deimhin (go)' as 'it is certain (that)' – see the commentary on Article 40.4.2°, where 'mura deimhin le' expresses 'unless satisfied'. DIL s.v. 'deimin', cites 'amal bid Dia farid gellad ... bad demnithir sin' ('let it be as sure as if God had declared it') from the ninth-century Milan Glosses on the Commentary on the Psalter. Note that the phrase usually expressing 'ensure', 'a chur in áirithe', is used in this subsection to express 'to secure'.

*a chur in áirithe* See the commentary on Article 15.10 regarding this phrase expressing 'ensure' and see the commentary on Article 28.3.3° regarding this same phrase earlier expressing 'secure', which is expressed by 'cuir i bhfeidhm' in Article 38.3.1°.

### Standardised Irish text

Déanfaidh an Stát iarracht chun a chur in áirithe go stiúrfar fiontraíocht phríobháideach i slí gur deimhin go ndéanfar earraí a tháirgeadh agus a imdháileadh le hinniúlacht réasúnta agus go gcosnófar an pobal ar bhrabús éagórach.

### Direct translation

Féachfaidh an Stát lena áirithiú go seolfar an fhiontraíocht phríobháideach ar shlí a áiritheoidh<sup>1</sup> go mbainfidh

éifeachtacht réasúnta le táirgeadh agus dáileadh earraí agus go gcosnófar an pobal ar róbhrabús<sup>2</sup> éagórach.

### Variants

- 1 'a dheimhneoidh'
- 2 'ar bhrabús', 'ar dhúshaothrú'

## ARTICLE 45.4.1° AIRTEAGAL 45.4.1°

### TÉACS GAEILGE

Gabhann an Stát air féin cosaint sonrach a dhéanamh ar leas gheilleagrach na n-aicmí is lú cumhacht den phobal agus, nuair a bheas riachtanas leis, cabhair maireachtála a thabhairt don easlán, don bhaintreach, don dilleacht agus don sean.

### LITERAL ENGLISH TRANSLATION

The State takes upon itself specifically to protect the economic welfare of the classes in the community whose power is least and, when it will be necessary, to give subsistence help to the infirm, to the widow, to the orphan and to the old.

### ENGLISH TEXT

The State pledges itself to safeguard with especial care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.

### Divergences between the official texts

- 1 'To contribute to the support of' is expressed in the Irish text as 'cabhair maireachtála a thabhairt do', 'to give subsistence help to'.
- 2 'The weaker sections' is expressed as 'na haicmí is lú cumhacht' ('the classes whose power is least') in the Irish text.
- 3 'Pledges itself' is expressed by 'gabhann air féin' ('undertakes' / 'takes upon itself') in the Irish text.
- 4 'To safeguard with especial care' is expressed as 'cosaint sonrach a dhéanamh ar' ('specifically to defend') in the Irish text.
- 5 'Interests' is expressed as 'leas', 'interest'/'welfare', in the Irish text.

### Commentary

*Gabhann ... air féin* 'Assume, undertake' is given as a secondary sense of 'gabh ar' in *Ó Dónaill*, who cites '*ghabh sé air féin an obair a dhéanamh*, he undertook to do the work'. *Dinneen* translates 'gabhaim orm' as 'I take on myself, take up a challenge'. DIL cites 'gabhuid sin ortha fein' ('they undertake to do that'), from the *Lives of Irish Saints*, as an example of 'gaibid for', with reflexive pronoun, in the sense of 'takes (*a burden, responsibility on one's self*), undertakes'.

'The Contracting Parties pledge themselves in such cases to grant extradition in accordance with their laws and treaties in force' is translated as 'Gabhann na Páirtithe

Conarthacha orthu féin eiseachadhadh a dhéanamh i gcásanana den sórt sin de réir a ndlíthe agus na gconarthaí a bheidh i bhfeidhm' in Article VII of the Schedule to the Genocide Act, 1973. In the 'Form of Declaration' in the Second Schedule to the *Gárda Síochána (Temporary Provisions) Act, 1923*, 'I ... do solemnly and sincerely before God declare and affirm and my word and honour pledge that I will be faithful' is translated as 'Dinim-se ... a fhaisnéis agus a dheimhniú agus m'fhocal agus m'onóir do thabhairt, go solamanta agus go macánta i láthair Dé, go mbead dílis'.

In the 1993 *Joint Declaration* (p. 4), 'but he pledges in the meantime that ... no Northern Unionist should ever have to fear' is translated as 'ach geallann sé idir an dá linn ... nár cheart go mbeadh eagla choíche ar aon duine d'Aontachtaithe an Tuaiscirt', with 'We will give a lead by honouring the pledge in the public sector' being translated as 'Beimid ar thús cadhnaíochta agus comhlíonfaimid an gealltanais san earnáil phoiblí' in the *Programme for a Partnership Government, 1993-97* (p. 35). 'I pledge credit' is translated as 'cuirim creidmheas i ngeall' in *Téarmaí Dlí*, 'gealltán' translating the noun 'pledge'. *De Bhaldraithe* translates 'pledge' as 'tugaim (m'fhocal, gealltanais)', translating 'to be pledged to do something' as 'bheith faoi ghealltanais rud a dhéanamh'.

*cosaint sonrath* According to the official standard 'sonrath' would be lenited here, being an adjective qualifying a feminine noun; the rule regarding non-lenition of 'd', 't', 's' after 'd', 'n', 't', 'l' and 's' only applies to qualifying nouns – see *An Caighdeán Oifigiúil*, chapter on 'Séimhiú and Urú', s6(i) and s6 of the part headed 'Séimhiú ar Aidiachtaí', where 'an áit shalach' is cited as an example. See the commentary on Articles 40.3.2°, 45.2 and 45.2.iii regarding 'sonrath' and see the commentary on Articles 24.1, 28.3.2° and 40.3.1° regarding 'cosaint', expressing respectively 'preserve', 'protect' and 'defend'.

*De Bhaldraithe* translates 'safeguard' as 'cuirim ar lámh shábháilte, cosnaím', the latter headword being translated as 'I defend' in *Téarmaí Dlí*. 'To safeguard the interests of the Bank' is translated as 'chun leasanna an Bhainc a chosaint' in s44(2)(h) of the Building Societies Act, 1989. 'Whose duty it is to safeguard the interests of the Parties to the conflict' is translated as 'agus is é a ndualgas sin leasanna na bPáirtithe sa choinbhleacht a chaomhnú' in Article 8 of the First Schedule to the Geneva Conventions Act, 1962, with 'and to safeguard the rights of the other party to the contract' being translated as 'agus chun cearta an pháirtí eile sa chonradh a chosaint' in s4(c) of the Schedule to the Great Northern Railway Act, 1958. In s14(3) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1923, 'for the purpose of safeguarding all persons concerned' is translated as 'chun leas gach éinne le n-a mbaineann do chosaint'. Note, however, that 'in relation to the safeguarding of the health of the people' is translated as 'maidir le caomhaint shláinte na ndaoine' in s21(6)(a) of the Local Government Act, 1925.

As regards 'especial', 'that there is an especial danger of the spread of infestation of persons and articles' is translated as 'go bhfuil contúirt speisialta ann go leathnóidh foiriciú daoine agus earraí (ón mbunaíocht sin)' in s49(1) of the Health Act, 1947. 'Where an establishment or institution is confined ... to persons of one sex requiring special care, supervision or treatment' is translated as 'i

gcás ar daoine de ghnéas amháin ... atá i mbunachas nó in institiúid is daoine ar gá aire, maoirseacht nó cóireáil ar leith lena n-aghaidh' in s17(2)(c) of the Employment Equality Act, 1977. 'Are certified ... not to require special care and treatment in a fully equipped mental hospital' is translated as 'a bheas ... deimhnithe ... nach gá dóibh aireachas agus cóireáil speisialta in óspidéal meabhairghalar lánfheistithe' in s22(1) of the Mental Treatment Act, 1945.

*cabhair maireachtála* One would also expect 'cabhair mhaireachtála' here, 'cabhair' being a feminine noun. 'Cabhair a thabhairt do dhuine' is translated as 'to give help to someone' in *Ó Dónaill*, 'maireachtáil' being translated as 'living, livelihood, subsistence', *Ó Dónaill* citing '*cóir mhaireachtála*, means of subsistence'. *Téarmaí Dlí* cites '*gan a chuma air cóir mhaireachtála a bheith aige*, with no visible means of subsistence'. *Dinneen* translates 'cabhair' as 'help, assistance, support ...'; he does not appear to give 'maireachtáil' as a headword, giving instead the variant form (in *Ó Dónaill*), 'maireachtain(t)', translated as 'act of living, etc., livelihood'. *DIL* cites 'lase dombeir dia cobrith n-occo' ('when God gives help therein') from the eighth-century Würzburg Glosses on the Pauline Epistles as an example of 'cobair' ('help, assistance'), citing 'cabhair fhaghla' ('military help'), from a miscellaneous collection of Classical Irish poetry, along with 'guth gan chabhair choigríche' (of the Irish language) from Keating's seventeenth-century poetry, as examples of 'cobair' with descriptive genitive.

'All patients must contribute towards their maintenance according to their means' is translated as 'Caithfidh gach othar cabhrú do réir a acuinnne chun a chimeáda suas' in s11 of the 'Details' in the 'Leitrim County Scheme' in the First Schedule of the Local Government (Temporary Provisions) Act, 1923. 'Such amount as the Minister determines that the relevant pensioner ... could reasonably be expected to contribute to the support of the carer' is translated as 'cibé méid a chinneadh an tAire a bhféadfaí a bheith ag dréim le réasún go n-iocfadh an pinsinéir iomchuí ... é chun an cúramóir a chothú' in s18(2)(b) of the Social Welfare Act, 1990. The Long Title of the Illegitimate Children (Affiliation Orders) Act, 1930, reads as follows:

An Act to make provision for the imposition on the father of an illegitimate child of the obligation to contribute to the support or otherwise in respect of such child. ... *Acht chun socrú do dhéanamh chun a chur mar oblagáid ar athair leinbh thabhartha cabhair do thabhairt chun an leanbh san do chothú no cabhrú leis ar shlí eile.*

'And that the parent or guardian is able to support the child' is translated as 'agus gur féidir leis an tuiste nó an caomhnóir an leanbh a chothabháil' in s5(1)(c) of the Children (Amendment) Act, 1957. 'Has sufficient means to support the child' is translated as 'gur leor a acmhainn chun an leanbh a chothú' in s13(1) of the Adoption Act, 1952. 'In possession of the lowest interest in the building ground which is sufficient to support the grant on the said day of a lease for one hundred and fifty years' is translated as 'i seilbh an leasa is isle sa talamh tógála is leor chun neartuithe le léas céad go leith blian do dheonadh an lá san' in s60(2)(b) of the Landlord and Tenant Act, 1931. 'Investment in and support of bodies

corporate' is translated as 'Infheistiú i gcomhlachtaí corpraithe agus tacú leo' in the Margin Title of s28 of the Building Societies Act, 1989, with 'to support a nomination at a meeting of the society' being translated as 'tacú le hainmniúchán ag cruinniú den chumann' in s18(2).

'That the harbour authority shall cease to contribute to the maintenance by the local authority of the roads' is translated as 'go scoirfidh an t-údarás cuain de ranníoc a dhéanamh i leith cothabhála na mbóithre ag an údarás áitiúil' in s178(2)(a) of the Harbours Act, 1946. 'Its construction contributes or will contribute significantly to meeting those needs' is translated as 'go gcabhraíonn nó go gcabhróidh a fhoirgníú go mór chun freastal do na riachtanais sin' in s10(b)(ii) of the Finance Act, 1990. 'The insured person did not directly or indirectly induce or contribute to the happening of the accident by his conduct outside the employment' is translated as 'nach ndearna an duine árachaithe go díreach ná go neamhdhíreach trína iompar lasmuigh den fhostaíocht ... tarlú na tionóisce a aslú nó cabhrú lena tarlú' in s39(2)(c) of the Social Welfare (Consolidation) Act, 1981.

*easlán* This headword is translated as 'sick person, invalid' in *Ó Dónaill*, and as 'a sick or infirm person' in *Dinneen*. DIL cites 'torramad eslánú' ('let him tend the sick') from the twelfth-century *Book of Leinster*, 'eslán' being composed of the negative prefix 'eas-, eis-' (translated as 'ex-, dis-' in *Dinneen*) and 'slán' ('whole, sound, unimpaired, healthy, safe' in DIL).

'Or be afflicted with some permanent affirmity disabling him from the due execution of his office' is translated as 'no mara mbeidh easláinte éigin bhuan ag gabháil do ná fágfaidh ar a chumas a oifig do chó-líona go cuibhe' in s2(3) of the Comptroller and Auditor-General Act, 1923. 'The care and treatment of the sick or infirm' is translated as 'aireachas agus cóireáil daoine breoite nó daoine easlána' in s2 of the International Health Bodies (Corporate Status) Act, 1971. 'The wounded and sick, as well as the infirm and expectant mothers, shall be the object of particular protection and respect' is translated as 'Tabharfar coimirce agus urraim ar leith don lucht créachtaithe agus breoite, agus do na heaslán agus do mhná atá le haghaidh clainne' in Article 16 of the Fourth Schedule to the Geneva Conventions Act, 1962. In s16 of the 'Wicklow County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'That one Home for the aged and infirm ... shall be established for County Wicklow' is translated as 'Aon Teaghlach amháin do sheandaoine agus do dhaoine fannlaga ... do bhunú do Chontae Chill Mhanntáin', with 'the body of the house being set apart for the aged, infirm ...' being translated as 'corp an tigh do chimeád i gcóir seandaoine, lucht anbhfainne' in s8 of the 'Clare County Scheme'.

*De Bhaldraithe* translates the adjective 'infirm' as 'easlán, éigli, cróilí'.

*don bhaintreach* 'Baintreabhach' is translated as 'a widow, a widower' in *Dinneen*, who cites '*baintreabhach fir*, a widower' and '*baintreabhach mná*, a widow'. *Ó Dónaill's* entry s.v. 'baintreach' is as follows: (1) '*baintreach (mná)*, widow' and (2) '*baintreach (fir)*, widower'. 'Baintreabhach', which is translated simply as 'widow' in DIL, is a compound of 'ben' ('woman') and 'trebhach' (translated as 'householder, farmer' in DIL), this word being

based on 'treb', translated primarily as 'house, farm, holding' in DIL – 'mac na bantrebthaige' (1 *Kings* xvii. 17) is cited from the Gaelic Maundeville. Note that 'widower' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'baintreach fir' in translations for the Department of Industry and Commerce. 'To make suitable provision for his widow Mrs. Maud Griffith' is translated as 'soláthar oiriúnach do dhéanamh dá bhaintrigh Meadhbh Uí Ghriobhtha' in the Preamble to the Griffith Settlement Act, 1923.

*don dilleacht* The form 'dilleachta' is given in the Glossary accompanying *An Caighdeán Oifigiúil*, where it is translated as 'orphan', 'dilleachta' being similarly translated in *Ó Dónaill*, who gives this as the standard form of 'dilleacht'. The form 'dileacht' is given as the headword in *Dinneen*, who gives 'dilleacht' as a variant. The nominative plural, 'in dilechtaí', glosses Latin 'orfani' in the ninth-century Milan Glosses on the Psalms, 'dilechtae' being given in DIL as the early form of this word, which is perhaps a compound of 'di' and 'slicht' (in the sense of 'offsprings, family').

'Where the weekly means of the orphan do not exceed £1' is translated as 'i gcás nach mó ná £1 acmhainn sheachtainiúil an dilleachta' in s183(a) of the Social Welfare (Consolidation) Act, 1981. 'The word "orphan" means a child both of whose parents are dead' is translated as 'cialluíonn an focal "dilleachtaí" leanbh go bhfuil a athair agus a mháthair marbh' in s3(1) of the Widows' and Orphans' Pensions Act, 1936, with 'as if they were the orphan children of such man' being translated as 'fé is dá mba leanbhaí dilleachta leis an bhfear san iad' in s3(2). 'Allowances to his widow or orphan children' is translated as 'liúntaisí dá bhaintrigh nó dá chlainn ina dhiaidh' in s4 of the Railways (Existing Officers and Servants) Act, 1926. Finally, in s2 of the Social Welfare (Consolidation) Act, 1981, "'orphan" means ... a qualified child, being a legitimate child, both of whose parents are dead', is translated as 'ciallaíonn "dilleachta" ... leanbh cáilithe, ar leanbh dlisteanach é, a bhfuil a bheirt tuismitheoir marbh'.

*don sean* 'Urraim don sean' is translated as 'respect for the aged' in *Ó Dónaill*, with *Dinneen* translating 'sean', as a noun, as 'an old person, an ancestor, an elder, an ancient'. 'Sen' glosses Latin 'senex' in the ninth-century St Gall Glosses on Priscian, DIL also citing 'is alind sen sobrich' ('delightful is a sober old man') from the eighth-century Würzburg Glosses on the Pauline Epistles.

In s4 of the 'Monaghan County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923, 'The Home to accommodate all the aged and infirm, harmless lunatics, imbeciles, and chronic cases' is translated as 'Slí do bheith sa Teaghlach do gach seandúine, duine fann-lag, gealt nea-dhiobhálach, amadán, agus síor-breoiteachán'.

*cosaint na n-aicmí* See the commentary on Articles 40.6.2° and 44.2.4° as regards 'aicme', expressing respectively 'class' and 'denomination'. As regards 'section', in s24(5) of the Constitution (Amendment No. 17) Act, 1931, 'the expression "public meeting" means a meeting at which all members of the public or any particular class or section or classes or sections of the public are invited

... to be present' is translated as 'cialluíonn an abairt "cruinniú puiblí" cruinniú ag a dtugtar cuireadh ... do gach duine den phobal no d'aon aicme no dream no aicmí no dreamanna áirithe den phobal bheith i láthair'. In s3(1) of the Dublin Reconstruction (Emergency Provisions) Act, 1924, 'in addition to any plans and sections of the proposed work' is translated as 'i dteannta aon phleananna agus gearrtha i gcóir na hoibre beartuithe', with 'interchanged between broad and narrow gauge sections of the company's railway' being translated as 'a malairteofar idir roinn leathan agus roinn chaol de bhóthar iarainn na cuideachtan' in s5 of the Sixth Schedule to the Railways Act, 1924.

Note that in the *New Ireland Forum Report* (1984, 3.11) 'both sections of the community' is translated as 'an dá chuid den phobal', with 'both sections of the community in the North' being translated as 'an dá dhrong de phobal an Tuaiscirt' (2.3). 'Representative of a broad section of prominent Irish-American business people' is translated as 'agus atá ionadaíoch do phobal leathan lucht gnó mór-le-rá Éireannach-Meiriceánach' in the *Programme for a Partnership Government*, 1993-97 (p. 14). 'Article 47 of the EEC Treaty lays down that its Agricultural Section shall have as its task' is translated as 'tá sé leagtha síos in Airteagal 47 de Chonradh CEE go mbeidh de chúram ar rannóg talmhaíochta an Choiste sin' in the *Treaties establishing the European Communities* (1973, p. 1492). Note finally that the Translation Section of the Houses of the Oireachtas is styled 'Rannóg an Aistriúcháin'.

*nuair a bheas riachtanas leis* See the commentary on Article 45.2.i regarding 'riachtanas' and note that 'preventing the withholding of any such necessities from the community' is translated as 'chun cosc do chur le haon riachtanaisí den tsórt san do chimeád siar o sna daoine' in s2(1)(e) of the Protection of the Community (Special Powers) Act, 1926. In s28(b) of the Finance Act, 1989, 'and, where necessary to grant to each allowable investor company concerned an amount of relief' is translated as 'agus, más gá, d'fhonn méid faoisimh ... a dheonú do gach cuideachta infheistiúcháin'. 'To inspect all or any of such documents and where necessary, to open sealed packets' is translated as 'gach ceann no aon cheann de na scríbhinní sin d'iniúchadh agus, i gcás inar gá san, pacáidí séaluithe d'oscailt' in s39(3) of the Referendum Act, 1942.

*ar leas gheilleagrach* See the commentary on Article 45 regarding lenition of the adjective qualifying a masculine noun in the dative case – according to the official standard, this would have the form 'ar leas gheilleagrach'. 'Leas' is translated as 'interest (i.e. beneficial etc.)' in *Téarmaí Dlí*.

*a bheas* See the commentary on Article 6.1 regarding the special form of the relative in '-s', the above phrase now generally being written as 'a bheidh'.

### Standardised Irish text

Gabhann an Stát air féin cosaint shonrach a dhéanamh ar leas gheilleagrach na n-aicmí is lú cumhacht den phobal agus, nuair a bheidh riachtanas leis, cabhair mhaireachtála a thabhairt don easlán, don bhaintreach, don dilleachta agus don sean.

### Direct translation

Tugann an Stát gealltanas go ndéanfaidh sé leas eacnamaíochta na ranna laga den phobal a chosaint le haire<sup>1</sup> ar leith agus, más gá, cuidiú a thabhairt maidir le tacú leis an easlán, leis an mbaintreach, leis an dilleachta, agus leis an sean.

### Variant

<sup>1</sup> 'le cúram'

## ARTICLE 45.4.2<sup>o</sup> AIRTEAGAL 45.4.2<sup>o</sup>

### TÉACS GAELGE

Déanfaidh an Stát iarracht chun a chur in áirithe nach ndéanfar neart agus sláinte lucht oibre, idir fheara is mná, ná maoth-óige leanaí a éagóradh, agus nach mbeidh ar shaoránaigh, de dheasca uireasa, dul le gairmeacha nach n-oireann dá ngné nó dá n-aois nó dá neart.

### LITERAL ENGLISH TRANSLATION

The State will endeavour to ensure that the strength and health of workers, both men and women, nor the tender youth of children will not be wronged, and that citizens will not have to, because of want, take up occupations that do not suit their kind or their age or their strength.

### ENGLISH TEXT

The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

### Divergences between the official texts

- 'Sex' is expressed as 'gné' ('kind') in the Irish text, the derivative 'gnéas' rather than 'gné' being the usual term today rendering 'sex'; 'to their sex, age or strength' is expressed in the Irish text as 'dá ngné nó dá n-aois nó dá neart', 'to their sex **or** to their age or to their strength'.
- 'The tender-age of children' is expressed as 'maoth-óige leanaí' ('the tender youth of children') in the Irish text.
- 'Shall not be forced' is expressed as 'nach mbeidh ar' ('will not have to') in the Irish text.
- 'By economic necessity' is expressed as 'de dheasca uireasa' ('because of want') in the Irish text, which phrase is preceded and followed by a comma in the Irish text alone.
- 'Ensure' is expressed by 'a chur in áirithe', which phrase we have seen expressing 'secure' in s3.2<sup>o</sup> of this Article, and expressing 'ensure' in some earlier Articles, 'to reserve' being the usual sense of this phrase today.

### Commentary

*dul le gairmeacha* 'Take to, engage in' is given as one of the senses of 'téigh le' in *Ó Dónaill*, who cites '*dul le polaitíocht*, to engage in politics' and '*ní rachadh an mac*

*le feirmeoireacht dó*, the son wouldn't take up farming for him'. DIL gives 'devotes oneself to, adopts, takes a certain course' as one of the senses of 'téit fri', citing 'docotar *iterum* fri tola in betho' ('they have given themselves over again to worldly desires') from the eighth-century Würzburg Glosses on the Pauline Epistles, citing 'conn-dechaid re filidecht' ('... took up poetry') from a later source.

'Gairmeacha' is the plural of 'gairm', 'profession, occupation' being given as a secondary sense of that headword in *Ó Dónaill* and 'avocation or condition of life' being included among its senses in *Dinneen* – see the commentary on Articles 13.5.2° and 18.7.1°i regarding 'gairm', expressing respectively 'commission' and 'professional interest'.

'To enable them to resume their previous avocations and earn their livelihood' is translated as 'ionas go mbeidh ar a gcumas gabháil arís do na slite beatha a bhí acu cheana agus a mbeatha a thuilleamh' in the Preamble to the Convalescent Home Stillorgan (Charter Amendment) Act, 1958. 'He possesses the requisite knowledge and ability to enter on the discharge of the duties of that position' is translated as 'go bhfuil aige an t-eolas agus an ábaltacht is gá chun dul i gciunn dualgas an phoist sin a chomhlíonadh' in s17(1)(a) of the Civil Service Commissioners Act, 1956, the same English text (with 'his duties in that situation' replacing 'the duties of that position') being translated as 'go bhfuil an t-eolas agus an ábaltacht san aige is gá dho a bheith aige chun dul i mbun a dhualgaisí sa phost san' in s3(2)(d) of the Civil Service Regulation Act, 1923.

*idir fheara is mná* 'Fir' is the standard form of the plural of 'fear', with 'feara' and 'fearaibh' being used in certain phrases, according to *Ó Dónaill*, none of which phrases appears to be cited s.v. 'fear'. *Ó Dónaill* cites '*idir fhir agus mhná*, both men and women', however, s.v. 'idir'. *Dinneen* cites '*idir fear is bean*, men and women alike, all'. See the commentary on Article 45.2.i for citations of 'eter mnaí is fer' and 'etir fer 7 mnaí' from earlier literature.

*lucht oibre* This phrase is translated as 'workpeople' in *Ó Dónaill* and as 'workers' in *Dinneen*. *Ó Dónaill* gives '(class, category, of) people' as the secondary sense of 'lucht', which in this sense is not inflected in the genitive singular, according to *Ó Dónaill*. 'Lucht' is translated principally as 'contents, charge' in DIL (which sense 'lucht' still has in Modern Irish) and secondly as 'people, class of persons, category', nearly always with defining genitive or clause. According to DIL, the earlier meaning of 'lucht' with defining genitive was 'those occupying, inhabiting (and hence also possessing)', citing 'luct Corint' ('the people of Corinth') from the eighth-century Würzburg Glosses on the Pauline Epistles; 'a lucht adartha' ('his followers') is cited from *Leabhar na hUídhre* (compiled in Clonmacnois c. 1100) as an example of 'lucht' with following verbal noun clause in the sense of 'those who (perform certain actions, are engaged in certain occupations)'. See the commentary on Articles 12.10.6° and 27.2 where we find respectively 'lucht tagartha' and 'lucht achainí', the latter expressing 'petitioners'.

We find the current general term translating 'worker', 'oibri', in the Schedule to the Appropriation Act, 1922, for example, where 'contributions to ... the Unemployed

Workers' Dependendants' Fund' is translated as 'sintíúisi ... don Chiste um Muirir Oibríthe Díomhaoine'.

*dá ngné* 'Gné' is translated as (1) 'species, kind' and (2) 'form, appearance' in *Ó Dónaill*, citing '*gné de rud*, an aspect of something' as an example of the secondary sense, this being one of the most common usages of 'gné' today. *Dinneen* translates 'gné' as 'that by which a thing is known, characteristic, mark, specimen; form, appearance, countenance; an accident (*in philosophy*); colour, tint; apparition; good appearance; a kind or sort, a species'. Like *Ó Dónaill*, DIL translates 'gné' as (a) 'kind, species', citing 'fúad et gné' ('form and kind') from the eighth-century Würzburg Glosses on the Pauline Epistles and 'gné ferrdha dib 7 gné bannda' (of diamonds) from the Gaelic Maunde-ville, and (b) 'form', (i) 'of outward appearance, appearance of countenance', citing 'gné firinne fuiri' ('the appearance of righteousness') from the ninth-century Milan Glosses on the Psalms, and (2) 'way, manner'. See the commentary on Article 9.1.3° for 'sex' in the Constitution.

*maoth-óige* A compound of the adjective 'maoth', translated principally as 'soft, tender' in *Ó Dónaill* (who cites '*leanbh maoth*, tender child') and the abstract noun 'óige' ('youth'), this compound not being cited as a headword either in *Ó Dónaill* or in *Dinneen*. Both, however, give 'maothóg' as a headword, the former translating this noun as (1) 'soft thing; soft person, softy' and (2) 'shell-less egg', *Dinneen* translating 'maothóg' as 'a soft-shelled egg'. 'Maethóclach', 'a youth', is cited in DIL from the *Passions and Homilies* from the *Leabhar Breac*, for example, which were composed in the second half of the eleventh century, where we find 'oclach 7 moethoclach 7 senoir' ('man, youth and greybeard' [of the three Magi]). Old Irish 'moith', later 'maeth' ('moeth'), is translated as 'soft, tender, yielding (*of substance or texture, also in figurative sense*)' in DIL, with the sense 'tender, delicate' of persons, 'often denoting immaturity or youth', citing 'minores .i. inn aes moith 7 anfoirbthe' ('or *minores*, i.e. the tender and imperfect') from the ninth-century Milan Glosses on the Psalms.

*Dinneen* includes 'tender' among the senses of 'moigli', 'maoth' and 'saghal', with 'frithir' and 'iogair' being included among the terms issued by the Department of Education. 'Maoth-chroidheach' is translated as 'tender-hearted' in *Dinneen*, 'tiom(a)-chroidhe' being translated as 'a tenderheart, tenderness'. 'Maoth-bhleántracha' is cited in *Téarmaí Oifigiúla* as translating 'tender loins' in the Pigs and Bacon Act, 1937.

Regarding the hyphen in 'maoth-óige', according to *An Caighdeán Oifigiúil* ('Na Rialacha', s24 (iv)), the hyphen is inserted in cases where there is a danger that the compound would not be recognisable without the hyphen; the hyphen here certainly makes it clear that we are dealing with a compound of 'maoth' and 'óige' as against an inflected form of 'maothóg'.

*a éagóradh* 'Éagóradh' is the verbal noun of 'éagóir', the variant form of the verb 'éagóirigh', 'wrong', in *Ó Dónaill*, with 'éagóiriú' being given as the standard form of the verbal noun. The noun 'éagóir' is translated as 'wrong' in *Téarmaí Díl*, where '*duine éagóraithe*, aggrieved person (i.e. injured)' is also cited, this being given as '*duine éagóirithe*' in *Ó Dónaill*. 'Éagóir' is translated as 'a crime; wrong, injustice, iniquity, unrighteous-

ness, a foul (in athletics, etc.)' in *Dinneen*. 'Éccóir', the negative of 'cóir', is translated as 'incongruous, wrong, inaccurate, improper, unjust, unfitting', as an adjective, in DIL, citing 'manip ecoir frisín stoir' ('if it be not at variance with the history') from the ninth-century Milan Glosses on the Psalms, and as 'wrong, impropriety, injustice', as a noun, citing 'écoir dungni som ón' ('the wrong which he does'), from the same collection of Glosses.

That the rights conferred by this section are being abused to secure needless publicity for defamatory matter' is translated as 'go bhfuil mí-úsáid á baint as na cearta a thugtar leis an alt seo chun poiblíocht gan gá a fháil d'ábhar clúmhillteach' in s86(4) of the Building Societies Act, 1989, with 'go bhfuil na cearta a thugtar leis an alt seo á mí-úsáid chun poiblíocht gan ghá a fháil d'ábhar clúmhillteach' being found in s182(4) of the Companies Act, 1963. 'The monopoly rights under a patent shall be deemed to have been abused in any of the following circumstances' is translated as 'Tuigfar mí-úsáid do bheith déanta de sna cirt aon-tseilbhe fé phaitinn in aon chás acu so a leanas' in s43(2) of the Industrial and Commercial Property (Protection) Act, 1927. Note that 'the Prevention of Electoral Abuses Act, 1982', is cited in Irish as 'an tAcht chun Droch-Bhearta Toghcháin a Chosc, 1982', following the citation in Irish of 'the Prevention of Electoral Abuses Act, 1923', 'an tAcht chun Droch-bhearta Toghcháin do Chosc, 1923'.

*uireasa* See the commentary on Article 41.2.2° regarding the phrase 'de dheasca uireasa' and note further that DIL cites 'do fháguibh [d]juiresbaidh bennaighthe an taobh budh tuaidh' ('he left the north side without blessing') from the seventeenth-century *Martyrology of Donegal*.

Looking at 'necessity' in the Acts, 'in case of urgent military necessity' is translated as 'i gcás géar-riachtanais mhíleata' in Article 33 of the First Schedule to the Geneva Conventions Act, 1962, with 'extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly' being translated as 'diothú a dhéanamh agus seilbh a ghlacadh go forleathan ar mhaoín nuair nach bhfuil riachtanas míleata leis agus nuair a dhéantar é go neamhdhleathach agus go hainrianta' in Article 50. In s15 of the Public Safety (Emergency Powers) Act, 1923, 'the exercise by the Military Forces of Saorstát Éireann of any of the powers or authorities exercisable by them by virtue of military necessity arising in the course of the performance of their duty' is translated as 'feidhmiú do dhéanamh ar aon cheann de sna comhachta no na húdaráis is infheidhmithe acu san de bhua riachtanas míleata d'eirghe le linn iad do bheith ag có-líona a ndualgais'.

*neart* "Actual alcoholic strength by volume" means the number of volumes of pure alcohol contained at a temperature of 20°C in 100 volumes of the product at that temperature' is translated as 'ciallaíonn "an neart alcólach iarbhír de réir toirte" an líon toirteanna d'alcól íon atá, ag teocht 20°C, i 100 toirt den táirge ag an teocht sin' in s37(1) of the Finance Act, 1989. 'The strength of the bargaining positions relative to each other' is translated as 'a láidre atá staideanna margántaíochta na bpáirtithe i gcóimheas a chéile' in s2(a) of the Schedule to the Sale of Goods and Supply of Services Act, 1980. 'On grounds of physiology (excluding physical strength or stamina)' is

translated as 'ar fhorais fiseolaíochta (gan neart ná lúth coirp a áireamh)' in s17(2)(a) of the Employment Equality Act, 1977. 'To perform any task of work which in the opinion of the board is suitable to the sex, age, strength, and capacity of such person' is translated as 'aon teas oibre do dhéanamh is dó leis an mbord is oiriúnach d'innscein, d'aois, do neart, agus d'ábaltacht an duine sin' in s4(1) of the Poor Relief (Dublin) Act, 1929. Note, finally, in passing, that 'no such allowance shall be payable unless the numerical strength in Dáil Éireann of the Third Party is not less than seven' is translated as 'ní bheidh aon líuntas den tsórt san iníocht maran seacht ar a laighead an líon comhaltá i nDáil Éireann a bheidh ag an Tríú Páirtí' in s11(a) of the Ministerial and Parliamentary Offices Act, 1938.

*sláinte* 'On methods of safeguarding and improving the health of workers' is translated as 'ar mhodhanna chun sláinte oibríthe a chosaint agus a fheabhsú' in s151(3)(d) of the Mines and Quarries Act, 1965, with 'a fheabhsú' replacing 'd'fheabhsú' of s127(3)(d) of the Factories Act, 1955.

*nach mbeidh ar* 'When forced by stress of weather to seek shelter in the ports or on the coasts of Saorstát Éireann' is translated as 'nuair is éigean dóibh de dheascaibh doininne dídean d'iarraidh i bpoirt no ar chóstaí Shaorstáit Éireann' in s40 of the Schedule to the Pier and Harbour Provisional Order Confirmation Act, 1929, with 'in the case of a forced landing which takes place in the State, the time when a member of the Garda Síochána arrives at the place of landing' being translated as 'i gcás tuirlingt éigin sa Stát, an t-am a shroicheann comhalta den Garda Síochána an áit tuirlingthe' in s1(2)(a)(ii) of the Air Navigation and Transport Act, 1975.

Commenting on a draft of the direct translation below, in which 'shall not be forced' was translated as 'nach gcuirfead brú ar', Professor Máirtín Ó Murchú remarked that, while this is commonly heard, as part of contemporary jargon, he doubts whether it is in line with the correct usage of Irish; it is based directly on English 'pressure, pressurize', and is not recognised by *Ó Dónaill*. Professor Ó Murchú recommends either 'nach gcuirfead d'fhiacha ar' or 'nach dtabharfar ar', along with the phrase in the original text, 'nach mbeidh ar'.

*nach n-oireann d(o)* See the commentary on Article 34.5.1° regarding 'oir'. 'And whereas the Control of Prices Act, 1937 ... is unsuited to the present needs of the State' is translated as 'Agus de bhri go bhfuil an tAcht chun Pragsanna a Rialú, 1937 ... neamhoiriúnach do riachtanais láithreacha an Stáit' in the Preamble to the Prices Act, 1958. In s10(3) of the Damage to Property (Compensation) Act, 1923, 'that the substituted building named by the applicant would not be unsuited to the neighbourhood' is translated as 'nár neamhoiriúnach don chomharsanacht an mhalairt fhoirgnimh d'ainmigh an t-iarthóir', with 'and in particular the existing law relating to the relief of the poor is wholly unsuited to the circumstances of Saorstát Éireann' being translated as 'agus, go sonnrách, an dlí atá ann fé láthair i dtaobh fóirithín na mbocht, go bhfuil sé neamhoiriúnach ar fad do chás Shaorstáit Éireann' in the Preamble to the Local Government (Temporary Provisions) Act, 1923.

*a chur in áirithe* See the commentary on Article 15.10.

**Standardised Irish text**

Déanfaidh an Stát iarracht chun a chur in áirithe nach ndéanfar neart agus sláinte lucht oibre, idir fhir is mhná, ná maothóige leanaí a éagóradh, agus nach mbeidh ar shaoránaigh, de dheasca uireasa, dul le gairmeacha nach n-oireann dá n-aois nó dá neart.<sup>1</sup>

**Note**

- 1 'dá ngné' is omitted here following the gender-proofed English text.

**Direct translation**

Féachfaidh an Stát lena áirithiú<sup>1</sup> nach mbainfear mí-úsáid as neart agus sláinte oibríthe, fir agus mná, ná as<sup>2</sup>

maoth-aois leanaí agus nach gcuirfear d'fhiacha<sup>3</sup> ar shaoránaigh de dheasca riachtanais eacnamaíochta dul le slite beatha<sup>4</sup> atá neamhoiriúnach<sup>5</sup> dá ngnéas, dá n-aois nó dá neart.

**Variants**

- 1 'lena dheimhniú'
- 2 ', agus'
- 3 'nach dtabharfar', 'nach mbeidh'
- 4 'gairmeacha'
- 5 'nach n-oirfidh'



# AMENDMENT OF THE CONSTITUTION

## AN BUNREACHT A LEASÚ

### ARTICLE 46.1 AIRTEAGAL 46.1

#### TÉACS GAELIGE

##### AN BUNREACHT A LEASÚ

Is cead foráil ar bith den Bhunreacht seo a leasú, le hathrú nó le breisiú nó le haisghairm, ar an modh a shocraítear leis an Airteagal seo.

#### LITERAL ENGLISH TRANSLATION

##### AMENDING THE CONSTITUTION

It is permitted to amend any provision of this Constitution, by change or by addition or by repeal, in the manner provided by this Article.

#### ENGLISH TEXT

##### AMENDMENT OF THE CONSTITUTION

Any provision of this Constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this Article.

#### Divergences between the official texts

- 1 'Whether by way of variation, addition, or repeal' is expressed simply as 'le hathrú nó le breisiú nó le haisghairm' ('by variation or by addition or by appeal') in the Irish text.
- 2 'May be' is expressed as 'Is cead' ('It is permitted to') in the Irish text, as we have seen in some earlier Articles.

J.M. Kelly, op. cit., p. 210, reports as follows on reference to this Article in the courts:

In *Finn v Minister for the Environment* ([1983] IR 154) Barrington J drew attention to the fact that the Irish equivalent for the phrase "whether by way of variation, addition, or repeal" contains no word corresponding to "whether", thus lending some (though he thought not enough) strength to the suggestion that the recital of these three modes of amendment was intended to be exhaustive rather than merely illustrative.

#### Commentary

*a leasú* 'Chun an Bunreacht a leasú' expresses 'to amend the Constitution' in Article 46.3. 'Leasú' is the verbal noun of 'leasaigh', the first person singular, present indicative, of which, 'leasaím', is translated as 'I amend' in *Téarmaí Dlí*, this being given as one of the senses of 'leasuighim' in *Dinneen*. 'Amend, reform, improve' are given as the principal senses of 'leasaigh' in *Ó Dónaill*, who cites '*do bheatha a leasú*, to amend one's life' and '*dlí a leasú*, to amend a law'. 'Lesaidir' is used to express a wide range of beneficial or remedial action, according to DIL, this verb being based on 'les', the earlier sense of which seems

to have been 'relief, redress, remedy', Modern Irish 'leas', 'welfare', being a development of that sense. The principal sense of 'lesaidir' in DIL is 'is of benefit to, improve', with 'preserves, cherishes; *perhaps also* improves, embellishes' in relation to objects, literary works, etc., as a secondary sense, DIL citing 'iss é ro scrib 7 ro lesaig na scela so' from *Leabhar na hUidhre* (compiled in Clonmacnois, c. 1100).

'Amendments of this Constitution ... may be made by the Oireachtas' is translated as 'Féadfaidh an t-Oireachtas leasú do dhéanamh ar an mBunreacht so' in Article 50 of the 1922 Constitution. Note that 'it shall be lawful for the District Justice to amend the said rate-book by striking out the name or description of the person entered therein' is translated as 'beidh sé dleathach don Ghiúistís Dúithche an leabhar rátaí sin do cheartú tré ainm no tuairisc an duine atá iontrálta ann ... do bhuala amach' in s4(1) of the Local Government (Collection of Rates) Act, 1924.

'Amendment of the Constitution' is translated as 'Leasú an Bhunreacht' in the Margin Title of s3 of the Public Safety Act, 1927, with 'An Bunreacht do leasú' translating 'Amendment of the Constitution' in the Margin Title of s1 of the Constitution (Amendment No. 17) Act, 1931, and 'Amendment of Article 40.3 of the Constitution' being translated as 'Airteagal 40.3 den Bhunreacht do leasú' in the Margin Title of s1 of the Fourteenth Amendment of the Constitution Act, 1992. 'An Bunreacht a leasú' translates this Margin Title in the Twentieth Amendment of the Constitution (No. 2) Bill, 1999, as passed by both Houses of the Oireachtas. Note that the practice in the Acts in general in Margin Titles which are of the form 'Amendment of ...' is to translate this phrase as 'Leasú ar ...' – see the Margin Title of s2 of the Shannon Free Airport Development Company Limited (Amendment) Act, 1980, for example, where 'Amendment of section 2 of the Principal Act' is translated as 'Leasú ar alt 2 den Phríomh-Acht'.

*breisiú* This headword is the verbal noun of 'breisigh', which verb is translated as 'increase, add to' in *Ó Dónaill*, the noun 'breisiú' being translated as 'increase, growth'. 'Breisiú' does not appear to be given as a headword in *Dinneen*, who translates 'breis', on which it is based, as 'increase, profit, interest; an addition'. The earliest citation of 'breis' in DIL is from the twelfth-century *Book of Leinster* ('Eocho Mumo mó cech breis'), this headword being translated as 'increase; profit, advantage'.

Looking at early Acts, 'Any power of the court under this section shall be in addition to and not in derogation of any other power of the court' is translated as 'Aon chomhacht a bheidh ag an gcúirt fén alt so is mar bhreis a bheidh sí le haon chomhacht eile ag an gcúirt ... agus ní mar luíodú uirri' in s6(6) of the Criminal Justice (Administration) Act, 1924, with 'including the making of

alterations and additions, so as to convert the same into one or more houses or self-contained flats' being translated as 'maraoon le hatharuithe agus breiseanna do dhéanamh, i dtreo go ndéanfaí den chéanna tigh no tithe, no úrlár no úrláir comhnaithe, iomlán ionta féin' in s1 of the Housing (Building Facilities) Act, 1924. 'Completion of the said works with such additions, omissions, variations, and deviations as aforesaid' is translated as '(i) gcríochnú na n-oibreacha san maraoon le gach cur-leo, fágaint-ar-lár ionta, atharú ortha, agus casa-i-leataoibh uatha mar adubhradh' in s7(b) of the Barrow Drainage Act, 1927, with 'The Minister shall ... confirm with such modifications, omissions and additions as he shall deem necessary ... every scheme submitted to him' being translated as 'Déanfidh an t-Aire gach scéim dá leagfar fé n-a bhráid ... do dhaingniú tar éis í d'atharú agus baint uathí agus cur léi fé mar is dó leis is gá' in s4(1) of the Local Government (Temporary Provisions) Act, 1923. Finally, 'breisiúchán' is cited in the *Oireachtas Dictionary of Official Terms* as translating 'addition' in the *Proceedings of Seanad Éireann*, 19/12/23.

"Alteration" ... includes any addition to or variation of the memorandum of rules' is translated as 'folaíonn "athrú" ... aon bhreis a chuirfead leis an meabhrán ... nó aon éagsúlú a dhéanfar air' in s2(1) of the Building Societies Act, 1989. 'Whether by variation, addition or omission' is translated as 'trí athrú, breisiú nó fágáil ar lár' in s26(7) of the Agricultural Credit Act, 1978, with 'whether by way of addition, omission or variation' being translated as 'trí chur léi, baint aisti nó athrú' in s11(3) of the Local Government (Planning and Development) Act, 1976, and 'trí bhreisiú, trí fhágáil ar lár nó trí athrú' being found in s12(3) of the Law Reform Commission Act, 1975.

*le haisghairm* 'Aisghairm' is the verbal noun of 'aisghair', which verb is translated as 'abrogate; repeal' in *Ó Dónaill*, 'aisghairm' being translated as 'I abrogate' in *Téarmaí Dlí*. The noun 'aisghairm' is translated as 'abrogation; repeal' in *Ó Dónaill*, 'ais-ghairm' being translated as 'recalling, abrogation' in *Dinneen*. This is a compound of the prefix 'ais' (translated as 're-, again, back, non-' in *Dinneen*) and 'gairm', verbal noun of 'gair' ('call'), on which verb see the commentary on Articles 13.2.1° and 13.5.2°.

Looking at early Acts, 'the imposition, repeal, remission, alteration or regulation of taxation' is translated as 'leaga, ath-ghairm, maitheamh, atharú no rialú cánach' in Article 35 of the 1922 Constitution. 'The enactments mentioned in the Tenth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule' is translated as 'Na hachtacháin a luaidhtear sa Deichiú Sceideal a ghabhann leis an Acht so ath-ghairmtear iad leis seo a mhéid a háirítear sa tríú colún den Sceideal san' in s66(1) of the Electoral Act, 1923, with 'Repeals' being translated as 'Ath-ghairmeanna' in the Margin Title of that section. See further the commentary on Article 48.

*le hathrú* 'Athrú' is translated as 'alteration' in *Téarmaí Dlí*, citing '*athrú déanmhais*, structural alteration' and '*athrú úsáide*, alteration of user', along with '*athrú ar imthosca*, variation of circumstances' and '*comhaontú athraithe*, variation agreement'. 'Athrú', the verbal noun of 'athraigh', is translated as 'change, alteration' and 'variation' in *Ó Dónaill*, who cites '*athrú maighnéadach*,

magnetic variation', for example. *Dinneen* translates 'athrughadh' as 'a change, a transformation; translation'. DIL translates 'athrugad' as 'act of changing, altering, moving', this being the verbal noun of 'aithrigid', the late form of 'ad-eirrig', translated in DIL as (a) 'repeats, reiterates' and (b) 'changes', with the sense of 'changes for the better, amends, improves' in the Old Irish Glosses, DIL citing 'dúus indaithirset' ('if perchance they may repeat it') from the eighth-century Würzburg Glosses on the Pauline Epistles.

'With respect to the crediting or variation or cancellation of reserve values' is translated as 'i dtaobh luachanna cúl do chur i gcreidiúint no d'atharú no do chur ar neamh-ní' in s26(1) of the National Health Insurance Act, 1923. 'By way of variation, omission, or addition' is translated as 'trí athrú, fágáil ar lár nó breisiú' in s10(1) of the Coastal Protection Act, 1963. Note that 'as amended by any alterations or variations made or to be made under this Act' is translated simply as 'arna leasú le haon athruithe a dhéantar nó a dhéanfar faoin Acht seo' in s6(2) of the Leopardstown Park Hospital (Trust Deed Amendment) Act, 1974. Note also that 'claochlú' translates 'alteration' in s8(1)(c)(ii) of the Fisheries Act, 1980, where 'review the programme and make in it any variations whether by way of alteration, addition or deletion' is translated as 'an clár a athbhreithniú agus aon chlaochlú is cuí leis a dhéanamh air trí athrú nó trí ábhar a chur leis nó a scriosadh as'.

Commenting on 'claochlú', given as a variant in a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that it is too strong and suggests 'athrach' as an alternative to that variant, 'athrú' being without fault.

As regards 'le' expressing 'by way of', *Ó Dónaill* gives 'by use of, by means of' as one of the senses of the preposition 'le', citing '*léirigh le samplaí é*, illustrate it by example'. 'Or confirm the scheme with such alteration (whether by way of variation, addition, or omission) as they may think proper to make therein' is translated as 'no an scéim do dhaingniú tar éis pé atharuithe (pe'ca tré chur leis no fágaint ar lár no aon atharú eile é) is oiriúnach leo do dhéanamh uirthi' in s9(1) of the Arterial Drainage (Minor Schemes) Act, 1928, the phrase in brackets being translated as 'pe'ca tré atharú do dhéanamh é no cur leis no fágaint ar lár' in s10(1) of the Arterial Drainage Act, 1925, and as 'pe'ca tré atharú do dhéanamh é no cur-leis no fágaint-ar-lár' in s4(1) of the River Owenmore Drainage Act, 1926.

Turning to modern Acts, wherein this triad does not appear to be cited, in s69(2)(b) of the Central Bank Act, 1989, 'thereafter be distributed (whether by way of payment or by reducing the amount to be lodged ...) among the holders of licences' is translated as 'i a dháileadh dá éis sin (cibé acu trí íocaíocht nó trí laghdú a dhéanamh ar an méid a bheidh le lóisteáil ...) i measc na sealbhóirí ceadúnas'. 'Review the programme and may make in it any variations whether by way of alteration, addition or deletion which it considers proper' is translated as 'an clár a athbhreithniú agus aon chlaochlú is cuí leis a dhéanamh air trína athrú nó trí ábhar a chur leis nó a scriosadh' in s8(1)(c)(ii) of the Fisheries Act, 1980, with 'review the plan and may make in it any variations (whether by way of alteration, addition or deletion) which they consider proper' being translated as 'an plean a athscrúdú agus aon athfhoirmithe (trí athrú, cur leis nó scriosadh as) is cuí leo a dhéanamh air' in s20(1) of the

Local Government (Planning and Development) Act, 1963. Note, finally, that ‘by way of’ is expressed as ‘i bhfoirm’ in Article 40.4.3°.

*ar an modh a shocraítear* We find eclipsis after the relative particle ‘a’ following ‘modh’ in s11(2) of the Health Act, 1970, for example, where ‘Féadfaidh ordú faoin alt seo sócrú a bheith ann i dtaobh an mhodha a n-íocfar na caiteachais’ translates ‘An order under this section may provide for the manner in which expenses ... are to be met’.

DIL cites ‘modh conid-tuccid’ (‘in such wise that ye may understand it’), from the eighth-century Würzburg Glosses on the Pauline Epistles, and ‘cach modh dobeir saethar furra’ (‘whatever trouble it gave her’), from an early Irish law-tract, as examples of ‘modh’ as a relative adverb, ‘modh’ being borrowed from Latin ‘modus’, and translated as ‘manner, mode, way, fashion’ in DIL. See the commentary on Articles 18.6 and 34.1 regarding ‘manner’.

‘Every insured person shall be insured in the manner provided by this Part against intermittent unemployment’ is translated as ‘Ní mór gach duine árachaithe bheith faoi árachas in aghaidh breac-dhífhostaíochta sa tslí a fhoráiltear leis an gCuid seo’ in s239 of the Social Welfare (Consolidation) Act, 1981, with ‘shall, in the manner provided by this Act pay to the Trustees for and in respect of such animals the appropriate charges’ being translated as ‘íocfaidh sé leis na hÍontaobhaithe ar na hainmhithe sin agus maidir leo, sa tslí a fhoráiltear leis an Acht seo, na táillí iomchuí’ in s4(1) of the Slaughtered and Detained Animals (Compensation) Act, 1986. Note, finally, that ‘in the manner’ is expressed as ‘ar an gcuma’ in Article 18.10.3°.

*Is cead* See the commentary on Article 9.1.3°.

### Direct translation

Féadfar aon fhoráil den Bhunreacht seo a leasú, cibé acu trí athrú, trí bhreisiú, nó trí aisghairm, sa tslí a fhoráiltear leis an Airteagal seo.

## ARTICLE 46.2 AIRTEAGAL 46.2

### TÉACS GAEILGE

Gach togra chun an Bunreacht seo a leasú ní foláir é a thionscnamh i nDáil Éireann ina Bhille, agus nuair a ritear nó a mheastar a ritheadh é ag dhá Theach an Oireachtais ní foláir é a chur faoi bhreith an phobail le Reifreann de réir an dlí a bheas i bhfeidhm i dtaobh an Reifrinn in alt na huaire.

### LITERAL ENGLISH TRANSLATION

Every proposal to amend this Constitution (it) must be initiated in Dáil Éireann as a Bill, and when it is passed or deemed passed by both Houses of the Oireachtas it must be submitted to the people for determination by Referendum in accordance with the law which will be in force as regards the Referendum at the time.

### ENGLISH TEXT

Every proposal for an amendment of this Constitution shall be initiated in Dáil Éireann as a Bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by Referendum to the decision of the people in accordance with the law for the time being in force relating to the Referendum.

### Divergences between the official texts

- 1 ‘For an amendment of this Constitution’ is expressed as ‘chun an Bunreacht seo a leasú’ (‘to amend this Constitution’) in the Irish text.
- 2 ‘Shall be’ is expressed as ‘ní foláir’ (‘must be’) in the Irish text, as we have seen in many other Articles.

### Commentary

*togra* This headword is translated as ‘purpose, desire, will, inclination; act of desiring, resolving ...’ in *Dinneen*, who gives ‘togradh’ as a variant form. In *Ó Dónaill*, on the other hand, ‘togra’ is given as a variant form of ‘togradh’, verbal noun of ‘togair’, which verb is translated as ‘desire, choose, attempt’, with ‘togradh’ as a noun being translated as ‘will, inclination’. Earlier ‘tocra’ is the verbal noun of ‘tocraid’, which is apparently from a compound of ‘gair-’, according to DIL, where this verb is translated primarily as ‘desires to go, seeks as way’, citing ‘Adchíu far rígha in móir / ní toccair dond imfórráin’ (‘I see that your great queen does not seek to come to the fight’) from the version of the *Táin* in *Leabhar na hUidhre* (compiled in Clonmacnois c. 1100), giving ‘desires’, ‘resolves’ and ‘tries, attempts’ as other senses.

Looking at ‘proposal’ in the early Acts, ‘The method of proposal and selection for nomination’ is translated as ‘an tslí déanfar tairisgint agus togha chun ainmniúcháin’ in Article 33 of the 1922 Constitution, with ‘for the purpose of debating, but not of voting upon, the proposals of the Bill’ being translated as ‘chun díospóireacht, ach gan vótáil, do dhéanamh ar intinn an Bhille’ in Article 38. In Article 48, ‘The Oireachtas may provide for the initiation by the people of proposals for laws or constitutional amendments’ is translated as ‘Féadfaidh an t-Oireachtas soláthar do dhéanamh chun tairisgintí ó sna daoine do thionnsnamh i dtaobh dlíthe no i dtaobh leasuithe bun-reachta’. ‘Pass a resolution ... approving of the proposals contained in the petition’ is translated as ‘rún do rith ... á rá go bhfuilid sásta leis na molta atá san achuinge’ in s3(3) of the Arterial Drainage Act, 1925. Finally, ‘fógra faoi é bheith beartuithe’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘notice of proposal’ in *Iris Oifigiúil*, 31/24.

Turning to more modern translations, ‘Every proposal for an industrial assurance policy shall ... contain a declaration’ is translated as ‘I ngach tairisgint i gcóir polasaí árachais tionnscail ... beidh dearbhú’ in s61(1) of the Insurance Act, 1936. ‘Shall formulate its opinion on any proposal for amendment of this convention which is referred to it’ is translated as ‘foirmeoidh sé a thuairim ar aon mholadh chun an coinbhinsiún seo a leasú’ in Article 19(c) of the Data Protection Act, 1988. ‘A proposal for the amendment of the register for the purpose aforesaid shall be notified to the registered proprietor of the trade mark

affected' is translated as 'Déanfar moladh chun an clár a leasú chun na críche a dúradh a chur i bhfios do dhilseánach cláraithe an trádmhairc' in s44(3) of the Trade Mark Act, 1963. Note that while 'The matters which shall be dealt with by Bills shall include all proposals for legislation' is translated as 'Ar na nithe a ndéileálfar leo le Billí áirítear gach togra reachtaíochta' in s108(4) of the *Standing Orders* of Dáil Éireann (1997), 'save where such proposal is opposed' (referring back to 'may propose ... arrangements for sittings') is translated as 'ach amháin i gcás go gcuirtear in aghaidh moladh den sórt sin' in s26(2).

*a chur faoi bhreith* See the commentary on Article 26, 'cás a chur faoi bhreith duine' being translated as 'to submit a case to someone for determination' in *Ó Dónaill*. In Article 47 of the 1922 Constitution, 'Such a Bill shall in accordance with regulations to be made by the Oireachtas be submitted by Referendum to the decision of the people' is translated as 'Déanfar Bille den tsórt san do chur, do réir rialacha a dhéanfaidh an tOireachtas, fé bhreith na ndaoine le Referendum', with 'it shall be submitted to the people for decision in accordance with the ordinary regulations governing the Referendum' being translated as '(go) gcuirfeadh fé bhreith na ndaoine é do réir na ngnáth-rialacha a rialúonn an Referendum' in Article 48. 'The matter shall be referred to the decision of a person appointed by the judge of the Circuit Court' is translated as 'déanfar ... an t-ábhar a chur á chinneadh ag duine a cheapfaidh breitheamh den Chúirt Chuarda' in s113(6) of the Mines and Quarries Act, 1965. In s22(6)(a) of the Dairy Produce Act, 1924, 'the question ... shall be referred to the decision of an arbitrator' is translated as 'cuirfeadh fé bhreith moltóra ... an cheist ...'.

'Córas Iompair Éireann shall submit to the Authority for decision any proposals to vary its fares' is translated as 'Déanfaidh Córas Iompair Éireann aon tograí chun athrú a dhéanamh ar a tháillí ... a chur chuig an Údarás le cinneadh a dhéanamh orthu' in s28(2) of the Dublin Transport Authority Act, 1986. 'Any question of interpretation ... arising among members of the Agency shall be submitted to the Board for its decision' is translated as 'Aon cheist a éireoidh ... idir baill den Ghníomhaireacht maidir le léiriú ... cuirfeadh faoi bhráid an Bhoird í le cinneadh a dhéanamh uirthi' in Article 56(a) of the Schedule to the Multilateral Investment Guarantee Agency Act, 1988. 'The question shall be submitted for decision in accordance with this Part' is translated as 'cuirfeadh an cheist faoi chinneadh de réir na Coda seo' in s119(a) of the Social Welfare (Consolidation) Act, 1981, with 'cuirfeadh an cheist faoi bhreith de réir an Achta seo' translating the same English text (with 'Act' replacing 'Part') in s57(a) of the Social Welfare Act, 1952.

*in alt na huair* See the commentary on Articles 10.1, 12.4.2° and 41.3.3°. 'By reason only that it is not stamped in accordance with the law for the time being in force in Saorstát Éireann in relation to stamp duties' is translated as 'do dheascaibh gan é bheith stampálta do réir an dlí bheidh i bhfeidhm de thuras na huair i Saorstát Éireann maidir le diúitithe stampa agus dá dheascaibh sin amháin' in s25 of the Finance Act, 1936. To give a modern example, in s45(3)(f)(iii) of the Finance Act, 1989, 'applying to the said licence duty any enactment for the time being in force relating to persons carrying on any trade' is translated

as 'chun aon achtachán a bheidh i bhfeidhm de thuras na huair i ndáil le daoine a sheolann aon trádáil ... a chur i bhfeidhm maidir leis an dleacht ceadúnais sin'.

*rith* 'Pass, enact' is given as one of the senses of this verb in *Ó Dónaill*, who cites '*bille, rún, a rith*, to pass a bill, a resolution'. *Dinneen* does not appear to cite examples of this specific sense s.v. 'rithim', translated there as 'I run, race, rush, go smartly, visit, pass, pass current'. See the commentary on Articles 13.3.1°, 17.2 and 24.1.

*a thionscnamh* The verbal noun of 'tionscain', translated as 'begin, originate; initiate; establish' in *Ó Dónaill*, 'tionscainm' being translated as 'I institute' in *Téarmaí Dlí* – see the commentary on Article 20.1.

*a bheas* See the commentary on Article 6.1 regarding the special form of the relative in '-s', this phrase being generally written today as 'a bheidh'.

*Reifreann* See the commentary on Article 47.1.

*ina Bhille* See the commentary on Article 28.6.1° for this use of the preposition 'i'.

### Standardised Irish text

Gach togra chun an Bunreacht seo a leasú ní foláir é a thionscnamh i nDáil Éireann ina Bhille, agus nuair a rithear nó a mheastar a ritheadh é ag dhá Theach an Oireachtais ní foláir é a chur faoi bhreith an phobail le Reifreann de réir an dlí a bheidh i bhfeidhm i dtaobh an Reifrinn in alt na huair.

### Direct translation

Déanfar gach moladh<sup>1</sup> maidir le leasú a dhéanamh ar an mBunreacht seo a thionscnamh i nDáil Éireann ina Bhille, agus ar é a bheith rite nó arna mheas é a bheith rite ag dhá Theach an Oireachtais, déanfar é a chur faoi bhreith an phobail<sup>2</sup> le Reifreann de réir an dlí a bheidh i bhfeidhm de thuras<sup>3</sup> na huair maidir leis an Reifreann<sup>4</sup>.

### Variants

- 1 'togra'
- 2 'faoi chinneadh an phobail', 'faoi bhráid an phobail lena chinneadh'
- 3 'in alt'
- 4 'i dtaobh an Reifrinn'

## ARTICLE 46.3 AIRTEAGAL 46.3

### TÉACS GAEILGE

Ní foláir a lua i ngach Bille den sórt sin é a bheith ina "Acht chun an Bunreacht a leasú".

### LITERAL ENGLISH TRANSLATION

Its being "an Act to amend the Constitution" must be mentioned in every Bill of that kind.

**ENGLISH TEXT**

Every such Bill shall be expressed to be “An Act to amend the Constitution”.

**Divergences between the official texts**

- 1 ‘Every ... Bill shall be expressed to be’ is expressed in the Irish text as ‘Ní foláir a lua i ngach Bille ... é a bheith’ (‘It must be mentioned in every Bill ... its being’), with ‘shall’ again being expressed as ‘Ní foláir’ (‘must’) in the Irish text, as we have seen in the previous section and in many earlier sections, and ‘expressed’ being expressed by the verb translated as ‘cite’ in *Téarmaí Dlí*, ‘luaigh’, the adjective ‘express’ being translated in *Téarmaí Dlí* as ‘sainráite’.
- 2 ‘To amend the Constitution’ is expressed as ‘chun an Bunreacht a leasú’, the same phrase as expresses ‘for an amendment of (the) Constitution’ in the previous section, while ‘An Bunreacht a leasú’ expresses ‘Amendment of the Constitution’ in the heading of this Article.

Richard F. Humphreys, in ‘The Constitution of Ireland: The Forgotten Textual Quagmire’ (*The Irish Jurist*, xxii [1987], p. 175), noted that all Bills containing proposals for constitutional amendment (other than the first) were entitled ‘*Acht chun an Bunreacht do leasú*’, which is the form appointed in Article 46.3, although the Stationery Office copy has the word *a* in place of *do*. Referring to ‘*Finn v. Attorney General* [1983] I.R. 154 at 162’, Richard F. Humphreys remarks: ‘Theoretically the President might even be justified in refusing to sign an Amendment Bill which employed the Stationery Office formula’. Note that the Twentieth Amendment of the Constitution (No. 2) Bill, 1999, as passed by both Houses of the Oireachtas, reads ‘*Acht chun an Bunreacht a leasú*’. While we find ‘*Acht chun an Bunreacht do leasú*’ in the Fourteenth Amendment of the Constitution Act, 1992, for example, the Fifteenth Amendment of the Constitution Bill, 1995, however, has ‘*Acht chun an Bunreacht a leasú*’, as has subsequent amendments.

**Commentary**

*a lua* The verbal noun of ‘luaigh’, the first person singular, present indicative, of which, ‘luaim’, is translated as ‘I cite’ in *Téarmaí Dlí*, ‘(I) mention, speak of, tell’ being given as one of the senses of ‘luadhaim’ in *Dinneen*. See the commentary on Article 12.10.1<sup>o</sup>, where this verb expresses ‘state’, expressing ‘specify’ in Article 14.5.2<sup>o</sup>. The adjective ‘express’, on the other hand, is translated as ‘sainráite’ in *Téarmaí Dlí*, with ‘expressly’ translated as ‘go sainráite’.

‘The affidavit shall be expressed to be made by the creditor specified in section 6’ is translated as ‘Beidh sé sainráite sa mhionnscríbhinn í a bheith arna déanamh ag an gcreidiúnaí a shonraítear in alt 6’ in s71(3) of the Registration of Title Act, 1964. ‘Every contract by a committee of agriculture which is made in writing shall be expressed to be made by the council by whom such committee is appointed’ is translated as ‘gach connra dhéanfaidh coiste talmhaíochta agus a bheidh i scríbhinn déarfair ann gurb í an chomhairle do cheap an coiste sin

do rinne é’ in s30(2)(b) of the Agriculture Act, 1931, with ‘each such lease or licence shall be expressed to be made or granted by the local authority as agent for the Minister’ being translated as ‘déarfaidh léas no ceadúnas den tsórt san gur mar ghníomhaire don Aire do dhein no do dheon an t-údarás áitiúil é’ in s5(2)(a) of the State Land (Work-houses) Act, 1930. See further the commentary on Article 24.1 regarding ‘express’ (expressed by ‘luaigh’).

Commenting on a draft of the direct translation below, which had the variant there as the direct translation of this section, Professor Máirtín Ó Murchú remarked that while it was very correct (“an-cheart”) it said much more than is found in the English text, Professor Ó Murchú recommending the Irish text given below.

*Ní foláir* See the commentary on Article 11.

*a leasú* See the commentary on Article 46.1 above.

**Direct translation**

Beidh sainráite i ngach Bille den sórt sin gur “Acht chun an Bunreacht a leasú” a bheidh ann.<sup>1</sup>

**Variants**

- 1 ‘Beidh gach Bille den sórt sin ina Bhille a mbeidh sé sainráite gur “Acht chun an Bunreacht a leasú” atá ann.’

**ARTICLE 46.4 AIRTEAGAL 46.4****TÉACS GAELIGE**

Aon Bhille ina mbeidh togra nó tograí chun an Bunreacht seo a leasú ní cead togra ar bith eile a bheith ann.

**LITERAL ENGLISH TRANSLATION**

Any Bill in which there will be a proposal or proposals to amend this Constitution it is not permitted to have any other proposal in it.

**ENGLISH TEXT**

A Bill containing a proposal or proposals for the amendment of this Constitution shall not contain any other proposal.

**Divergences between the official texts**

- 1 ‘For the amendment of (this) Constitution’ is expressed in the Irish text by the same phrase which expresses ‘to amend (the) Constitution’ in the previous section, ‘chun an Bunreacht a leasú’.
- 2 ‘Shall not’ is expressed as ‘ní cead’ (‘it is not permitted’) in the Irish text, as we have seen in some earlier Articles.

**Commentary**

*ina mbeidh* See the commentary on Article 40.6.2<sup>o</sup> regarding ‘contain’. ‘A plan under this section shall not contain any provision inconsistent with regulations under section 26’ is translated as ‘Ní bheidh aon fhoráil ar

neamhréir le rialacháin faoi alt 26 i bplean faoin alt seo' in s15(5) of the Local Government (Water Pollution) Act, 1977. 'A revoking order shall not contain a provision transferring the holder of an office under the dissolved body to an office under a Department of State' is translated as 'Ní bheidh in ordú cúlghairme foráil d'aistriú sealbhóir aon oifige faoin gcomhlacht díscailte chun oifige faoi Roinn Stáit' in s5(3) of the Local Government Services (Corporate Bodies) Act, 1971.

*togra* See the commentary on Article 46.2.

*a leasú* See the commentary on Article 46.1.

*ní cead* See the commentary on Article 9.1.3°.

### Direct translation

Aon Bhille ina mbeidh togra nó tograí maidir le leasú a dhéanamh ar an mBunreacht seo, ní bheidh aon togra eile ann.<sup>1</sup>

### Variants

- 1 'Ní bheidh aon togra eile i mBille ina mbeidh togra nó tograí maidir le leasú a dhéanamh ar an mBunreacht seo.'

## ARTICLE 46.5 AIRTEAGAL 46.5

### TÉACS GAEILGE

Aon Bhille ina mbeidh togra chun an Bunreacht seo a leasú ní foláir don Uachtarán a lámh a chur leis láithreach, ar mbeith sásta dó gur comhlíonadh forálacha an Airteagail seo ina thaobh agus gur thoiligh an pobal go cuí leis an togra sin de réir forálacha alt 1 d'Airteagal 47 den Bhunreacht seo, agus ní foláir don Uachtarán é a fhógairt go cuí ina dháil.

### LITERAL ENGLISH TRANSLATION

Any Bill in which there will be a proposal to amend this Constitution the President must immediately put his hand to it, when he has been satisfied that the provisions of this Article were fulfilled regarding it and that the people duly consented to that proposal in accordance with the provisions of section 1 of Article 47 of this Constitution, and the President must duly promulgate it as a law.

### ENGLISH TEXT

A Bill containing a proposal for the amendment of this Constitution shall be signed by the President forthwith upon his being satisfied that the provisions of this Article have been complied with in respect thereof and that such proposal has been duly approved by the people in accordance with the provisions of section 1 of Article 47 of this Constitution and shall be duly promulgated by the President as a law.

### Divergences between the official texts

- 1 'Has been duly approved by the people' is expressed as 'gur thoiligh an pobal le' ('the people duly consented to') in the Irish text, with 'I approve' being translated as 'formheasaim' in *Téarmaí Dlí*, while 'toilim' is

translated there as 'I consent'.

- 2 'Shall' is twice expressed in the Irish text as 'ní foláir' ('must'), as we have seen in sections 2 and 3 and in many earlier Articles, the final clause being preceded by a comma (before 'agus ní foláir') in the Irish text alone.
- 3 'Forthwith' is expressed as 'láithreach' ('immediately') in the Irish text, as it is generally in the Acts.
- 4 'For the amendment of the Constitution' is again expressed in the Irish text by the same phrase as expresses 'to amend (this) Constitution' in this Article.

### Commentary

*láithreach* 'He shall forthwith be deemed to have vacated his first seat' is expressed as 'ní foláir a mheas láithreach go bhfuil éirithe aige as an gcéad ionad' in Article 15.14, with 'fiosrú a dhéanamh láithreach' expressing 'shall forthwith enquire' in Article 40.4.2°. 'Upon receipt of such notification ... the President shall forthwith ...' is expressed as 'Láithreach d'éis na scéala sin ... a fháil don Uachtarán ní foláir dó' in Articles 33.5.3° and 35.4.3°. In Article 27.4.1°, however, 'Upon receipt of a petition addressed to him under this Article, the President shall forthwith consider such petition' is expressed as 'Chomh luath agus a gheibheann an tUachtarán achainí faoin Airteagal seo ní foláir dó í a bhreithniú'. 'Láithreach' expresses 'immediately' in Article 24.1 where 'That ... the Bill is urgent and immediately necessary' is expressed as 'go bhfuil práinn agus riachtanas leis an mBille sin láithreach'.

'Immediately' is given as the secondary sense of 'láithreach' in *Ó Dónaill*, who cites '*déan láithreach é, do it at once*', with 'present, immediate' being the principal sense of 'láithreach' as an adjective. *Dinneen* translates the adverb 'láithreach' as 'presently, without delay; just a moment ago, on the spot', citing '*do fuaduiheadh uait láithreach*, which was snatched from you on the spot'. According to DIL, 'láithreach' is apparently the genitive singular of 'láthar' ('place, position' being one sense of this word) in adjectival and adverbial use, no early examples of this adverbial use being cited in DIL, where 'láithreach' is translated as 'immediately'.

'Forthwith' is translated as 'gan mhoill, ar an bpoinne (boise)' in *De Bhaldraithe*. 'The High Court ... shall forthwith enquire into the same' is translated as 'fiosróidh an Ard-Chúirt ... an gearán san láithreach' in Article 6 of the 1922 Constitution, with 'the secretary of the council shall forthwith send to the Commissioners a copy of such resolution' being translated as 'cuirfidh rúnai na comhairle chun na gCoimisinéirí láithreach cóip den rún san' in s3(4) of the Arterial Drainage Act, 1925. Note how 'láithreach' translates both 'immediately' and 'forthwith' in s3(2) of the Offences Against the State Act, 1940, where 'that it is expedient that this Part of this Act should come into force immediately, this Part of this Act shall come into force forthwith' is translated as 'é bheith oiriúnach an Chuid seo den Acht so do theacht i bhfeidhm láithreach, tiocfaidh an Chuid seo den Acht so i bhfeidhm láithreach'. 'Such person shall unless a Justice of a District Court is immediately available forthwith be brought before a Peace Commissioner' is translated as 'tabharfar an duine sin i láthair Feadhmannnaigh Shíochána láithreach mara mbeidh Breitheamh de Chúirt Dúithche le fáil láithreach' in s88(4) of the Courts of Justice Act, 1924; in s4(3) of the District

Justices (Temporary Provisions) Act, 1923, this same English text (with 'a District Justice' replacing 'a Justice of a District Court') is translated as 'déanfar mara mbeidh Giúistís Dúithche ar fáil díreach le na linn sin, an duine sin do thabhairt gan mhoill os cóir Coimisinéara Shíochána'. 'Láithreach' currently translates 'forthwith' in the Acts, with 'he shall forthwith cease to hold that office' being translated as 'scoirfidh sé láithreach den oifig sin a shealbhú' in s64(10) of the Building Societies Act, 1989.

*thoiligh* 'Toilim' is translated as 'I consent' in *Téarmaí Dlí*, 'toilighim' being translated as 'I will, assent, agree to' in *Dinneen* – see the commentary on Article 15.8.2° where this verb expresses 'assent'. 'Toiligid' is translated as 'wills' and 'consents, agrees' in DIL, most examples cited coming from sixteenth- and seventeenth-century sources. This verb is based on 'tol', 'will', DIL citing 'tol dae do dénum' ('to do God's will') from the eighth-century Würzburg Glosses on the Pauline Epistles.

See the commentary on Article 13.1.2° regarding 'approval', there expressed as 'comhaontú', with 'aontú' being found in Article 40.2.2° and the phrase 'sásta le' in Article 13.7.3°. Both 'ceadaigh' and 'toiligh' are cited in the *Oireachtas Dictionary of Official Terms* as translating 'approve' in translations for the Department of Local Government and Public Health, with 'toiliú' being cited as translating 'approval'. Note that 'A copy of any consent, approval, sanction ...' is translated as 'cóip d'aon toiliú, aontú, ceadú' in s11 of the Methodist Church in Ireland Act, 1928. 'Except under conditions approved by the Government of that country' is translated as 'ach amháin faoi choinníollacha a cheadóidh Rialtas na tíre sin' in Article 7(c) of the Diplomatic Relations and Immunities Act, 1967, with 'until the execution of the sentence has been approved by the Government' being translated as 'go dtí go gceadóidh an Rialtas an phianbhreith a chur i bhfeidhm' in s227(1) of the Defence Act, 1954. 'But the Council shall not permit such alteration or addition to be made which in the opinion of the Council would fundamentally alter the scheme as approved by the members of the Institute' is translated as 'ach ní cheadóidh an Chomhairle aon athrú nó breis den sórt sin a d'athróidh go bunúsach, i dtuairim na Comhairle, an scéim arna ceadú ag comhaltaí na hInstitiúide mar a dúradh' in s5 of the Institute of Chartered Accountants in Ireland (Charter Amendment) Act, 1966. Finally, 'A statement under this section shall not be sent to members of the society unless the contents have been approved by the Central Bank' is translated as 'Ní chuirfear ráiteas faoin alt seo chuig comhaltaí an chumainn mura mbeidh an t-ábhar ann ceadaithe ag an mBanc Ceannais' in s103(3) of the Building Societies Act, 1989. See further the commentary on Article 47.1.

*sásta* A variant past participle of 'sásaigh', according to *Ó Dónaill*, where this adjective is translated as 'satisfied, contented, pleased', 'sásaim' being translated as 'I satisfy' in *Téarmaí Dlí*. 'Satisfied, contented, willing' are the principle senses of 'sásta' in *Dinneen*, who cites '*sásta im' aigneadh*, satisfied in my mind'. DIL cites 'ar mbeidh sásta dhóibh' from Keating's seventeenth-century *Three Shafts of Death*, this being the opening example of DIL's entry s.v. 'sásta', translated there as 'satisfied, content'. The verb 'sásaid' is translated in DIL as 'satisfies (particularly with food), feeds; assuages, soothes', with 'sásatar'

glossing Latin 'saturati sunt' in the ninth-century Milan Glosses on the Psalms. 'Sás', upon which this verb is based, is translated principally as a 'snare, trap (particularly for birds)'. See the commentary on Article 13.7.3° where 'ní foláir an Rialtas a bheith sásta le' expresses 'have received the approval of the Government'.

'Deimhin' is used in early Acts to translate 'satisfied' in this context. 'If the County Judge is satisfied ... that it was not reasonably possible to effect service in the manner required by the law aforesaid' is translated as 'más deimhin leis an mBreitheamh Cúirte Contae ... ná luíonn sé le réasún go bhféadfaí an scríbhinn sin do sheirbheáil ar an gcuma a héilítear leis an dlí roimh-ráite' in s2(1) of the County Courts (Amendment) Act, 1923. 'If satisfied as to the guilt of the accused of any two or more of the offences with which he is so charged' is translated as 'más deimhin leis go bhfuil an duine sin ciontach in aon dá chionta no níos mó díobh san inar cúisíodh é amhlaidh' in s7 of the Defence Forces (Temporary Provisions) Act, 1925. 'Postmasters should satisfy themselves that ...' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'ba chóir do Mháistrí Puist féachaint chuige go ...' in *Iris an Phuist*, 4/4/28, with 'I have satisfied myself as to ...' being translated as 'táim tar éis mé féin do shásam maidir le' in translations for the Department of Finance.

Turning to modern Acts, 'and such order of rescission shall be made by the court upon it being satisfied that a reconciliation has taken place between the applicant and the respondent' is translated as 'agus déanfaidh an chúirt an t-ordú cealaithe sin ar í a bheith deimhin de go bhfuil an t-iarratasóir agus an freagróir tar éis teacht ar chomhréiteach' in s8(2) of the Judicial Separation and Family Law Reform Act, 1989. In s13(2)(c) of the Housing (Miscellaneous Provisions) Act, 1979, 'the authority, upon being satisfied that the specified works have been properly completed, shall grant to the tenant a certificate stating that they are so satisfied' is translated as '(go) dtabharfaidh an t-údarás, ar bheith sásta dóibh gur críochnaíodh na hoibreacha sonraithe go cuí, deimhniú don tionónta á rá go bhfuil siad sásta amhlaidh'.

*ar mbeith* The preposition 'ar', used for 'iar', is translated as 'after' in *Dinneen*, who cites '*ar dteacht abhaile dhóibh*, after they had come home, when they had come home' and '*ar ndul a chodladh dhóibh*, when they had gone to sleep'. *Ó Dónaill* cites '*iar gcaitheamh a bproinne*, after taking their meal', from earlier literature, giving '*ar éirí dom*, when I get, got, up' and '*ar a theacht*, on his coming' from contemporary usage. 'Upon his being returned for trial' is translated as 'ar é a chur chun a thrialach' in s3(1)(b) of the Criminal Justice (Legal Aid) Act, 1962. 'Upon his being attested as a man in any portion of the Defence Forces' is translated as 'ar é d'fhianú mar fhear in aon chuid d'Óglaigh na hÉireann' in s248(b) of the Defence Act, 1954, with 'upon his being attested as a soldier' being translated as 'nuair a dineadh é theistiú mar shaighdiúir' in s196(1) of the Defence Forces (Temporary Provisions) Act, 1923. See further the commentary on Article 27.4.1° where 'upon ...' is expressed as 'chomh luath agus'.

*de réir forálacha alt 1* According to the official standard this would read as 'de réir fhorálacha alt 1' – see the commentary on Article 1 regarding the lenited nominative in place of the genitive.

*a fhógairt* 'Fógairt' is the verbal noun of 'fógair', translated as 'declare, announce, make known' in *Ó Dónaill*, who cites '*dlí a fhógairt*, to promulgate a law' – see the commentary on Articles 13.3.2° and 25.1.

*gur comhlíonadh* See the commentary on Articles 12.1, 28.12 and 34.5.1° (where this verb respectively expresses 'perform', 'discharge' and 'execute'), 'comhlíonaim' being translated as 'I comply with; I conform with; I perform' in *Téarmaí Dlí*.

*go cuí* See the commentary on Articles 40.1 and 43.2.1°, 'cuí' being translated as 'due' in *Téarmaí Dlí*.

*ní foláir* See the commentary on Article 11.

*a lámh a chur leis* See the commentary on Articles 12.8 and 13.3.1°.

*togra* See the commentary on Article 46.2.

*a leasú* See the commentary on Article 46.1.

*ina dhlí* See the commentary on Article 28.6.1° regarding this use of the preposition 'i'.

### Standardised gender-proofed Irish text

Aon Bhille ina mbeidh togra chun an Bunreacht seo a leasú ní foláir don Uachtarán a lámh a chur leis láithreach, ar bheith sásta dó nó di gur comhlíonadh forálacha an Airteagail seo ina thaobh agus gur thoiligh an pobal go cuí leis an togra sin de réir fhorálacha alt 1 d'Airteagal 47 den Bhunreacht seo, agus ní foláir don Uachtarán é a fhógairt go cuí ina dhlí.

### Direct gender-proofed translation

Déanfaidh an tUachtarán Bille ina mbeidh moladh<sup>1</sup> maidir le leasú a dhéanamh ar an mBunreacht seo a shíniú láithreach ar é nó í a bheith sásta gur comhlíonadh forálacha an Airteagail seo ina leith sin agus gur cheadaigh an pobal an moladh<sup>1</sup> sin go cuí de réir fhorálacha alt 1 d'Airteagal 47 den Bhunreacht seo agus déanfaidh an tUachtarán é a fhógairt go cuí ina dhlí.

### Variant

1 'togra'



# THE REFERENDUM AN REIFREANN

## ARTICLE 47.1 AIRTEAGAL 47.1

### TÉACS GAEILGE

Gach togra a dhéantar chun an Bunreacht seo a leasú agus a chuirtear faoi bhreith an phobail le Reifreann, ní foláir a mheas, chun críche Airteagal 46 den Bhunreacht seo, go dtoilíonn an pobal leis an togra sin má tharlaíonn, tar éis é a chur mar sin faoi bhreith an phobail, gur ar thaobh é a achtú ina dhlí a thugtar tromlach na vótaí a thugtar sa Reifreann sin.

### LITERAL ENGLISH TRANSLATION

Every proposal (which is) made to amend this Constitution and which is submitted to the people for determination by Referendum, it must be deemed, for the purpose of Article 46 of this Constitution, that the people consent to that proposal if it happens, after submitting it thus to the people for determination, that the majority of the votes that are given in that Referendum are given in favour of enacting it into law.

### ENGLISH TEXT

Every proposal for an amendment of this Constitution which is submitted by Referendum to the decision of the people shall, for the purpose of Article 46 of this Constitution, be held to have been approved by the people, if, upon having been so submitted, a majority of the votes cast at such Referendum shall have been cast in favour of its enactment into law.

### Divergences between the official texts

- 1 'Every proposal for an amendment of this Constitution which is submitted' is expressed as 'Gach togra a dhéantar chun an Bunreacht seo a leasú agus a chuirtear faoi bhreith' ('Every proposal which is made to amend this Constitution and which is submitted') in the Irish text.
- 2 'Be held' is expressed as 'a mheas' ('be considered') in the Irish text, as this phrase is generally translated in Irish.
- 3 'To have been approved by the people' is expressed as 'go dtoilíonn an pobal le' ('that the people consent to') in the Irish text.
- 4 'So submitted' is expressed as 'a chur mar sin faoi bhreith an phobail' ('thus submitted to the people for determination') in the Irish text.
- 5 'Shall' is expressed as 'ní foláir' ('must') in the Irish text, as we saw in the previous Article and in many earlier Articles.

Note that Article 47 of the 1922 Constitution contains the following:

Such a Bill shall ... be submitted by Referendum to the decision of the people .... *Déanfar Bille den tsórt san do chur ... fé bhreith na ndaoine le Referendum.*

Article 50 commences as follows:

Amendments of this Constitution ... may be made by the Oireachtas, but no such amendment ... shall become law, unless the same shall ... have been submitted to a Referendum of the people, and unless a majority of the voters on the register shall have recorded their votes on such Referendum, and ... the votes of a majority of the voters on the register ... shall have been cast in favour of such amendment. *Féadfaidh an t-Oireachtas leasú do dhéanamh ar an mBunreacht so ... ach ... ní dhéanfaidh dlí de n-a leithéid de leasú ... mara ndéanfar ... an leasú san do chur fé referendum na ndaoine agus mara gcaithfidh mór-áireamh de sna vótáluithe ar an gclár a vótanna le linn a leithéid de referendum, agus vótanna mór-áirimh de sna vótáluithe ar an gclár ... do chaitheamh i bhfabhar an leasuithe.*

### Commentary

*Reifreann* This headword is simply translated as 'referendum' in *Ó Dónaill*, the form of the modern borrowing of 'referendum' in Irish being modelled on 'Aifreann', 'oifrend' being the earlier form of that borrowing from Latin 'offerenda', with 'oifrend' literally meaning 'offering, sacrifice', hence 'the sacrifice or office of the Mass', according to DIL – 'a canar dind oifriund' ('what is chanted of the Mass') is cited in DIL from the *Stowe Missal*, written in the monastery at Tallaght sometime between 792 and 812. As we see above, 'Referendum' is simply given as 'Referendum' in the Irish text of the 1922 Constitution, as it is in s29(4) of the Electoral Act, 1923. The Long Title of the Constitution (Amendment No. 16) Act, 1929, reads as follows:

An Act to amend the Constitution by extending the period within which amendments of the Constitution may be made by the Oireachtas without submission thereof to a Referendum of the people. *Acht chun an Bunreacht do leasú tré fhaidiú do dhéanamh ar an tréimhse ina bhféadfaidh an tOireachtas leasuithe do dhéanamh ar an mBunreacht gan iad do chur fé Referendum na nDaoine.*

Following the 1937 Constitution, 'the Referendum Act, 1942' is cited in Irish as 'Acht an Reifrinn, 1942'.

*a mheas* See the commentary on Articles 12.6.2° and 20.2.2° where 'meas' respectively expresses 'deem' and 'consider'. As regards 'hold' in this context, note that 'damage may be held to be caused by the wrong of the defendant' is translated as 'féadfar a chinneadh gurbh é éagóir an chosantóra ba chúis le damáiste' in s34(2)(e) of the Civil Liability Act, 1961. 'A patent shall not be held to be invalid by reason only of the invention ... having been published prior to the date of the patent' is translated as

'Ní tuigfar paitinn do bheith nea-dhleathach mar gheall ar gur dineadh an chumadóireacht ... d'fhoillsíú roimh dháta na paitinne' in s56(2) of the Industrial and Commercial Property (Protection) Act, 1927. 'No loan or advance of moneys so made by the Corporation before the passing of this Act shall be held or deemed to be or ever to have been invalid or irrecoverable' is translated as 'ní háireofar ná ní tuigfar i dtaobh aon iasacht no roimh-íoc airgid do thug an Chorporáid uaithi amhlaidh roimh rith an Achta so, go bhfuil ná go raibh sé riamh nea-dhleathach na neamh-ionbhainte amach' in s23(2) of the Agricultural Credit Act, 1929. As we have already seen, 'meas' later replaces 'tuig' in this context. See further the commentary on Article 40.1 where 'All citizens shall ... be held equal' is expressed as 'Áirítear gurb ionann ... na saoránaigh uile'.

*a chuirtear faoi bhreith an phobail* See the commentary on Article 26. Regarding 'a chur mar sin faoi bhreith an phobail', note that 'provided that a scheme under this section which relates to the staff of a regional board shall be so submitted by the Central Board only after consultation with that board' is translated as 'ar choinníoll nach ndéanfaidh an Príomh-Bhord scéim faoin alt seo a bhaineann le foireann boird réigiúnaigh a chur faoi bhráid an Aire gan comhairle a ghlacadh roimh ré leis an mbord sin' in s33(1) of the Fisheries Act, 1980. In s41(1) of the Railways Act, 1924, 'The railway tribunal shall consider the terms and conditions so submitted' is translated as 'Breithneoidh an bínse bóthair iarainn na téarmaí agus na coinníollacha a leagfar fé n-a mbráid amhlaidh'.

*ar thaobh ... a thugtar* Ó Dónaill cites 'ní raibh sé ar thaobh ná ar thaobh eile, he didn't support either side, take any side in the argument' and 'An dá thaobh a thabhairt leat, to curry favour with both sides, to be a double-dealer'. 'Do vóta a thabhairt do dhuine' is translated in Ó Dónaill as 'to give one's vote to someone', with 'do vóta a chaitheamh' being translated as 'to record one's vote'. *De Bhaldraithe* translates 'cast' as 'caithim (vóta)'.

'If a majority of the votes validly cast at that meeting ... are cast in favour of the resolution for the proposals' is translated as 'má chaitear tromlach na vótaí a chaitheamh go bailí ag an gcruinniú sin ... i bhfabhar an rúin le haghaidh na dtograí' in s23(3) of the Companies (Amendment) Act, 1990, with 'If the voting rights conferred by any shares in the company were not cast in favour of the special resolution' being translated as 'Más rud é nach ndearnadh na cearta vótála a thugtar le haon scaireanna sa chuideachta a chaitheamh i bhfabhar an rúin speisialta' in s260(3) of the Companies Act, 1963. In s7 of the Seventh Schedule to the Electoral Act, 1923, 'stating the number of votes cast in favour of the Bill' is translated as 'á rá cá mhéid vóta do caitheadh i bhfabhar don Bhille', with 'and either the votes of a majority of the voters on the register, or two-thirds of the votes recorded shall have been cast in favour of such amendment', in Article 50 of the 1922 Constitution, being translated as 'agus vótanna mór-áirimh de sna vótáluithe ar an gclár, no dhá dtrian na vótanna sa chomhaireamh, do chaitheamh i bhfabhar an leasuithe'. Finally, 'In the counting of the votes cast at a Seanad election' is translated as 'I gcomhaireamh na vótanna a tugadh i dtoghachán' in s4(1) of the Electoral (Seanad Elections) Act, 1925. See further the commentary on Article

15.11.2° where 'vóta a thabhairt' expresses 'to exercise a vote'.

*go dtoilíonn* See the commentary on Article 46.5. 'Unless the scheme has been approved by the Central Bank as meeting the requirements of ... this Part' is translated as 'mura mbeidh an scéim ceadaithe ag an mBanc Ceannais mar scéim a chomhlíonann ceanglais na Coda seo' in s101(5) of the Building Societies Act, 1989. 'A settlement which has been approved by a court in the course of proceedings' is translated as 'Socraíocht ar tugadh formheas uirthi sa chúirt i gcúrsa imeachtaí' in Article 51 of the First Schedule to the Jurisdiction of Courts and Enforcement of Judgements (European Communities) Act, 1988.

*tromlach* See the commentary on Article 13.2.2°.

*ní foláir* See the commentary on Article 11.

*chun críche* See the commentary on Article 29.4.2°.

*togra* See the commentary on Article 46.2.

*a leasú* See the commentary on Article 46.1.

### Direct translation

Measfar, chun críche Airteagal 46 den Bhunreacht seo, go mbeidh gach moladh<sup>1</sup> maidir le leasú a dhéanamh ar an mBunreacht seo a chuirtear faoi bhreith an phobail<sup>2</sup> le Reifreann ceadaithe<sup>3</sup> ag an bpobal, más rud é, arna chur faoina mbreith amhlaidh, gur i bhfabhar a achtaithe<sup>4</sup> ina dhlí a chaitheamh formhór na vótaí a chaitheamh sa Reifreann sin.

### Variants

- 1 'togra'
- 2 'a chuirtear faoi bhráid an phobail lena chinneadh', 'faoi chinneadh an phobail'
- 3 'formheasta'
- 4 'é a achtú'

## ARTICLE 47.2.1° AIRTEAGAL 47.2.1°

### TÉACS GAEILGE

Gach togra, nach togra chun leasaithe an Bhunreachta, a chuirtear faoi bhreith an phobail le Reifreann ní foláir a mheas go ndíulthaíonn an pobal dó más in aghaidh é a achtú ina dhlí a thugtar tromlach na vótaí a thugtar sa Reifreann sin, agus nach lú an méid vótaí a thugtar amhlaidh in aghaidh é a achtú ina dhlí ná cion trí triochad is trian faoin gcéad de líon na dtoghthóirí atá ar an rolla.

### LITERAL ENGLISH TRANSLATION

Every proposal, which is not a proposal for the amendment of the Constitution, which is submitted to the people for determination by Referendum it must be deemed that the people reject it if the majority of the votes that are given in that Referendum are given against enacting it into law, and the amount of votes so given against enacting it into law is not less than a thirty-three and a third per cent share of the number of electors that are on the roll.

**ENGLISH TEXT**

Every proposal, other than a proposal to amend the Constitution, which is submitted by Referendum to the decision of the people shall be held to have been vetoed by the people if a majority of the votes cast at such Referendum shall have been cast against its enactment into law and if the votes so cast against its enactment into law shall have amounted to not less than thirty-three and one-third per cent. of the voters on the register.

Note that the words 'Every Bill and' were deleted from the beginning of this subsection in the English text by the Second Amendment of the Constitution Act, 1941, with 'Gach Bille agus' being deleted from the beginning of the Irish subsection.

**Divergences between the official texts**

- 1 'To be vetoed by the people' is expressed as 'go ndiúltaíonn an pobal dó' ('that the people reject it') in the Irish text.
- 2 'Voters' is expressed as 'toghthóirí' ('electors') in the Irish text, the English text having 'voters' where one might expect 'number of the voters', with the Irish text having 'líon na dtoghthóirí', 'the number of electors'.
- 3 'Thirty-three and one-third per cent. of the voters' is expressed as 'cion trí triochad is trian faoin gcéad de líon na dtoghthóirí' ('a thirty-three and a third per centage share of the number of voters') in the Irish text.
- 4 'And if the votes so cast against its enactment into law shall have amounted to not less than' is expressed in the Irish text as 'agus nach lú an méid vótaí a thugtar amhlaidh in aghaidh é a achtú ina dhlí' ('and the amount of votes so cast against its enactment into law is not less than').
- 5 'Register' is expressed by 'rolla' ('roll'), the term usually expressing 'panel', in the Irish text, with 'on the register' being expressed as 'atá ar an rolla', 'that are on the register/roll'.
- 6 'Shall' is again expressed in the Irish text as 'ní foláir' ('must'), as we saw in the previous section and in many earlier Articles.

**Commentary**

*go ndiúltaíonn ... dó* See the commentary on Article 13.2.2° for 'diúltaigh' in the Constitution generally expressing 'refuse'. 'Diúltaigh do' is translated in *Ó Dónaill* as (a) 'renounce, repudiate', citing '*diúltú don diabhal*, to renounce the devil' and (b) 'refuse, reject', citing '*diúltú do bhia is do bheatha*, to reject food and sustenance'. *Dinneen* translates 'diúltaighim' as 'I deny, refuse, oppose, renounce (with *do*); I jilt', with 'diúltaim don fhaisnéis' being translated as 'I refuse informations' in *Téarmaí Dlí*. 'Diúlta(id)' is translated as 'refuses, rejects' in DIL, where examples are cited from the *Book of Ballymote* (written c. 1400) onwards. This verb is based on 'diúltad', which itself is the verbal noun of the earlier 'do-sluindi', examples of which verb in the sense of 'denies' (i.e. refuses to believe) are cited in DIL from the Glosses of the eighth century onwards, with 'isee ar ndiltuth dunn fanissin' ('this is our denial of ourselves') being cited from the seventh-

century *Cambrai Homily* as an example of 'do-sluindi' with the preposition 'do' in the sense of 'denies, renounces, rejects'.

Turning to 'veto', 'whether such proposal was or was not vetoed at such referendum' is translated as 'cé acu diúltuodh don togra san sa reifreann nó nár diúltuodh' in s8(4) of the Electoral (Amendment) Act, 1985, following s32(1)(b) of the First Schedule to the Referendum Act, 1942, where 'and in any case whether such proposal was or was not vetoed at such referendum' is translated as 'agus in aon chás cé aca diúltuodh don togra san sa reifreann san nó nár diúltuodh', which itself follows the wording of the Constitution. Looking at 'veto' outside of the context of the Constitution, '(the) power to veto the appointment of a director of the company' is translated as 'cumhacht urbhang a chur le ceapadh stiúthóra ar an gcuideachta' in s16(4)(b)(ii)(IV) of the Capital Acquisitions Tax Act, 1976, and in s6(3)(ii)(II) of the Wealth Tax Act, 1975. In s36(1)(d) of the Finance Act, 1971, however, 'power to veto the appointment of a director thereof' is translated as 'cumhacht chun ceapadh stiúthóra don chéanna a chrosadh'. Finally, in s154 of the Defence Forces (Temporary Provisions) Act, 1923, 'or to do either of such things subject, nevertheless, to the veto of the Minister', is translated as 'no chun aon taobh acu do dhéanamh ach, mar sin féin, beidh san fé veto an Aire'.

In *Treaties establishing the European Communities* (1973, p. 547), '(The Agency shall) ... possess a right of veto over its decisions' is translated as 'beidh ceart aige chun a cinntí a chrosadh'. *De Bhaldraithe* translates 'I veto' as 'crosaim (rud)', translating the noun 'veto' as 'cros', citing 'to put a veto on something, *rud a chrosadh*' and 'he has the right of veto, *tá ceart crosta aige*'.

*cion* 'Share, amount' is the sense of the second headword 'cion' given in *Ó Dónaill*, the first being translated principally as 'love, affection' and the third as 'offence, transgression, blame', all these headwords having their origin in Old Irish 'cin', translated principally as 'guilt, fault, crime' in DIL – see the commentary on Articles 30.3 and 38.1. DIL cites 'breith na clainne is cean [do] mhartra' ('... is a kind of martyrdom'), from a miscellaneous collection of Classical Irish poetry, as an example of the secondary sense of 'share, due, portion', referring the reader to 'cuit' and 'páirt' as regards the development of the meaning 'love, affection'. *Dinneen* cites '*mo chion den airgead*, my share of the money' s.v. 'cion', 'a share, division, portion, quota or dividend'.

As regards 'amounted to', 'Where in a particular year an employed contributor's reckonable earnings have amounted to the sum of £7,000' is translated as 'I gcás ina raibh, i mbliain rannioca áirithe, suim £7,000 de thuilleamh ináirithe ag ranníoc fostaithe' in s10(1)(c) of the Social Welfare (Consolidation) Act, 1981. 'Such that the extent of the resulting disablement assessed in accordance with the following provisions of this section amounts to not less than one per cent.' is translated as 'ionas nach lú ná aon faoin gcéad méid na mithreorach dá dhroim sin arna measúnú de réir na bhforálacha seo a leanas den alt seo' in s43(1). 'Shall be divided as if each such deduction amounted to the said aggregate divided by the number of such deductions' is translated as 'a roinnte ionann is dá mbeadh gach asbhaint acu sin cóimhéid leis an gcomhiomlán arna roinnt ar an uimhir asbhainti den sort

sin' in s17 of the Finance Act, 1969. 'And the value of that interest ... amounts to one fifth or more of the net assets of the company' is translated as 'agus gur cúigiú cuid nó níos mó de ghlansócmhainní na cuideachta luach an leasa sin' in s63(1)(6) of the Finance Act, 1974. Finally, 'whether the sum amounts to fifty pounds or more' is translated as 'más có-mhéid le caoga punt no breis í' in s3(1) of the Damage to Property (Compensation) (Amendment) Act, 1926.

*rolla* Note that this headword has an initial capital in the original text. See the commentary on Article 18.4.1° regarding 'rolla' expressing 'panel'. Note that in Article 50 of the 1922 Constitution, which deals with referenda, 'the votes of a majority of the voters on the register' is translated as 'vótanna mór-áirimh de sna vótáluithe ar an gclár', 'register' being translated as 'clár' in *Téarmaí Dlí*. 'The expression "the Register" shall mean the Register of the decrees of the Dáil Land Courts' is translated as 'ciallóidh an focal "an Clár" an Clár d'aitheanta Dáil-Chúirteanna Talmhan' in s3(1) of the Dáil Éireann Courts (Winding Up) Act, 1923, Amendment Act, 1924.

*trí tríochad* 'Tríochad' is the form of the genitive singular of 'tríocha' ('thirty'), both 'ceithre bliana tríochad' and 'ceithre bliana is tríocha' being translated as 'thirty-four years' in *Ó Dónaill*.

*leasaithe* The genitive singular form of the verbal noun of 'leasaigh', on which verb see the commentary on Article 46.1.

*ní foláir* See the commentary on Article 11.

*na dtoghthóirí* See the commentary on Article 16.1.4°.

*togra* See the commentary on Article 46.2.

*a chuirtear faoi bhreith* See the commentary on Article 26.

### Standardised Irish text

Gach togra, nach togra chun leasaithe an Bhunreacht, a chuirtear faoi bhreith an phobail le Reifreann ní foláir a mheas go ndiúltaíonn an pobal dó más in aghaidh é a achtú ina dhlí a thugtar tromlach na vótaí a thugtar sa Reifreann sin, agus nach lú an méid vótaí a thugtar amhlaidh in aghaidh é a achtú ina dhlí ná cion tríocha a trí is trian faoin gcéad de líon na dtoghthóirí atá ar an rolla.

### Direct translation

Measfar, maidir le gach moladh<sup>1</sup>, seachas moladh<sup>1</sup> chun an Bunreacht a leasú, a chuirtear faoi bhreith an phobail<sup>2</sup> le Reifreann, go mbeidh sé crosta ag an bpobal más rud é gur in aghaidh é a achtú ina dhlí a chaithfear tromlach na vótaí a chaithfear ag an Reifreann<sup>3</sup> sin agus nach lú ná tríocha a trí agus trian faoin gcéad de na vótálaithe ar an gclár na vótaí a chaithfear amhlaidh in aghaidh é a achtú ina dhlí.

### Variants

- <sup>1</sup> 'togra'
- <sup>2</sup> 'faoi chinneadh an phobail', 'faoi bhráid an phobail lena chinneadh'
- <sup>3</sup> 'a bheidh tromlach na vótaí a chaithfear ag an Reifreann'

## ARTICLE 47.2.2° AIRTEAGAL 47.2.2°

### TÉACS GAEILGE

Gach togra, nach togra chun leasaithe an Bhunreacht, a chuirtear faoi bhreith an phobail le Reifreann ní foláir a mheas, chun críocha Airteagal 27 den Bhunreacht seo, go dtoilíonn an pobal leis mura ndiúltaid dó de réir forálacha an fho-ailt sin romhainn den alt seo.

### LITERAL ENGLISH TRANSLATION

Every proposal, (which is) not a proposal for the amendment of the Constitution, which is submitted to the people for determination by Referendum it must be deemed, for the purposes of Article 27 of this Constitution, that the people consent to it if they do not reject it in accordance with the provisions of the foregoing subsection of this section.

### ENGLISH TEXT

Every proposal, other than a proposal to amend the Constitution, which is submitted by Referendum to the decision of the people shall for the purposes of Article 27 hereof be held to have been approved by the people unless vetoed by them in accordance with the provisions of the foregoing sub-section of this section.

Note that the words 'Every Bill and' were deleted from the beginning of this subsection in the English text by the Second Amendment of the Constitution Act, 1941, with 'Gach Bille agus' being deleted from the beginning of the Irish subsection.

### Divergences between the official texts

- 1 As in the previous section, 'approve' is expressed in the Irish text by 'toiligh le' ('consent to'); as in the foregoing subsection, 'veto' is expressed by 'diúltaigh do', 'reject'.
- 2 'Hereof' is expressed as 'den Bhunreacht seo' ('of this Constitution') in the Irish text, as we have seen in some earlier Articles.
- 3 'Shall' is expressed as 'ní foláir' ('must'), as in the previous subsection.

### Commentary

*mura ndiúltaid* The synthetic form of the third person plural, present indicative, of 'diúltaigh' – see the commentary on Article 14.5.1° regarding the synthetic and analytic (i.e. 'mura ndiúltaíonn siad' in the case of the phrase above) forms of the verb and see the commentary on the previous subsection regarding 'diúltaigh do' and 'veto'. Commenting on the direct translation below, Professor Máirtín Ó Murchú commends the continuity of 'beidh ... ceadaithe ... beidh crosta' as against the forms of 'cross' given in the variants.

*de réir forálacha an fho-ailt sin* This would have the form 'de réir fhorálacha an fho-ailt sin' in the official standard – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive.

*ní foláir* See the commentary on Article 11.

*go dtoilíonn ... leis* See the commentary on Article 47.1.

**Standardised Irish text**

Gach togra, nach togra chun leasaithe an Bhunreachta, a chuirtear faoi bhreith an phobail le Reifreann ní foláir a mheas, chun críocha Airteagal 27 den Bhunreacht seo, go dtoilíonn an pobal leis mura ndiúltaíonn siad dó de réir fhorálacha an fho-ailt sin romhainn den alt seo.

**Direct translation**

Measfar, chun críocha Airteagal 27 den Bhunreacht seo, go mbeidh gach togra, seachas togra chun an Bunreacht a leasú, a chuirfear faoi bhreith an phobail le Reifreann ceadaithe ag an bpobal mura mbeidh sé crosta acu<sup>1</sup> de réir fhorálacha an fho-ailt sin romhainn den alt seo.

**Variants**

- 1 'mura gcosfaidh siad é', 'mura ndéanfaidh siad é a chrosadh'

## ARTICLE 47.3 AIRTEAGAL 47.3

**TÉACS GAEILGE**

Gach saoránach ag a bhfuil sé de cheart vótáil i dtoghchán do chomhaltaí de Dháil Éireann tá sé de cheart aige vótáil i Reifreann.

**LITERAL ENGLISH TRANSLATION**

Every citizen who has the right to vote in an election for members of Dáil Éireann (he) has the right to vote in a Referendum.

**ENGLISH TEXT**

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at a Referendum.

**Divergences between the official texts**

- 1 'Shall have the right' is expressed as 'tá sé de cheart aige', '(he) has the right', in the Irish text.

**Commentary**

*de cheart* See the commentary on Article 12.2.2° regarding 'ceart', that subsection reading as follows:

Every citizen who has the right to vote at an election for members of Dáil Éireann shall have the right to vote at an election for President. *Gach saoránach ag a bhfuil ceart vótála i dtoghchán do chomhaltaí de Dháil Éireann, beidh ceart vótála aige i dtoghchán don Uachtarán.*

'De cheart' is translated in *Ó Dónaill* as 'by right', citing '*tá sé de cheart agat saoire a ghlacadh*, you are entitled to take a holiday'. *Dinneen* translates both 'níorbh é a cheart é' and 'ní raibh sé de cheart aige' as 'it was not right for him'.

*i dtoghchán do chomhaltaí* See the commentary on Articles 12.2.2° and 12.5.

**Gender-proofed Irish text**

Gach saoránach ag a bhfuil sé de cheart vótáil i dtoghchán do chomhaltaí de Dháil Éireann tá sé de cheart aige nó aici vótáil i Reifreann.

**Direct gender-proofed translation**

Beidh sé de cheart ag gach saoránach a bhfuil de cheart aige nó aici vótáil i dtoghchán do chomhaltaí de Dháil Éireann<sup>1</sup> vótáil i Reifreann.<sup>2</sup>

**Variants**

- 1 'i dtoghchán comhaltaí do Dháil Éireann'  
2 'Gach saoránach a bhfuil sé de cheart aige nó aici vótáil i dtoghchán do chomhaltaí de Dháil Éireann beidh sé de cheart aige nó aici vótáil i Reifreann.', 'Beidh ceart vótála i Reifreann ag gach saoránach a bhfuil ceart vótála aige nó aici i dtoghchán do chomhaltaí de Dháil Éireann.'

## ARTICLE 47.4 AIRTEAGAL 47.4

**TÉACS GAEILGE**

Faoi chuimsiú na nithe réamhráite is le dlí a rialófar an Reifreann.

**LITERAL ENGLISH TRANSLATION**

Within the constraint/scope of the aforementioned matters it is by law that the Referendum will be regulated.

**ENGLISH TEXT**

Subject as aforesaid, the Referendum shall be regulated by law.

**Divergences between the official texts**

- 1 'Subject as aforesaid' is expressed as 'Faoi chuimsiú na nithe réamhráite', 'Subject to the aforementioned matters', in the Irish text; 'subject to' is translated as 'faoi réir' in *Téarmaí Dlí*, as against 'faoi chuimsiú', which is translated in the Glossary appended to *An Caighdeán Oifigiúil* as 'within the scope of'.  
2 'Regulate' is expressed by 'rialáigh', which term is translated as 'rule'/'control' in *Téarmaí Dlí*, 'rialáil' generally translating 'regulate' in the modern Acts.

**Commentary**

*Faoi chuimsiú na nithe réamhráite* See the commentary on Article 12.5 regarding 'faoi chuimsiú'. 'Subject as aforesaid, the said sum shall be deducted repeatedly from the payments' is translated as 'Faoi réir na nithe a dúradh, déanfar an tsuim sin a asbhaint go ráitúil as na híocaíochtaí' in s3(b) of the Table to s10(2) of the Finance Act, 1980. 'Subject as aforesaid the Company may dispose ... of any property' is translated as 'Faoi réir a bhfuil ráite roimhe seo féadfaidh an Coiste aon mhaoin ... a dhiúscairt' in s18(2) of the Dublin Cemeteries Committee Act, 1970. 'Faoi réir an mhéid a dúradh' translates 'Subject as aforesaid' in s136(3) of the Income Tax Act, 1967. 'Different superannuation schemes may be prepared and (subject

as aforesaid) be carried into execution by the Minister for Education in relation to different classes of teachers' is translated as 'Féadfidh an tAire Oideachais scéimeanna deifriúla aois-liúntais d'ullamhú agus (fé réir a ndaingnithe mar adubhradh) do chur i bhfeidhm i dtaobh aicmí deifriúla múinteoirí' in s2(2) of the Teachers Superannuation Act, 1928. Finally, in Article 24 of the 1922 Constitution, 'The Oireachtas shall be summoned and dissolved by the Representatives of the Crown in the name of the King and subject as aforesaid Dáil Éireann shall fix the date of re-assembly of the Oireachtas' is translated as 'Déanfaidh Ionadaí na Coróinneach in ainm an Rí an t-Oireachtas do ghairm agus do sgur agus ar na hachtaibh sin ceapfaidh Dáil Éireann dáta aith-thionóil an Oireachtais'.

*a rialófar* The passive future of the verb 'rialaign' – see the commentary on Articles 10.3 and 12.5 regarding this verb and 'regulate'.

#### **Direct translation**

Faoi réir na nithe<sup>1</sup> a dúradh, déanfar an Reifeann a rialáil le dli.

#### **Variant**

<sup>1</sup> 'an mhéid'

# REPEAL OF CONSTITUTION OF SAORSTÁT ÉIREANN AND CONTINUANCE OF LAWS BUNREACHT SHAORSTÁT ÉIREANN A AISGHAIRM AGUS DLÍTHE A BHUANÚ

## ARTICLE 48 AIRTEAGAL 48

### TÉACS GAEILGE

#### BUNREACHT SHAORSTÁT ÉIREANN A AISGHAIRM AGUS DLÍTHE A BHUANÚ

An Bunreacht a bheas i bhfeidhm do Shaorstát Éireann díreach roimh lá an Bunreacht seo a theacht i ngníomh agus an tAcht um Bunreacht Shaorstáit Éireann, 1922, sa mhéid go mbeidh an tAcht sin nó aon fhoráil de i bhfeidhm an uair sin, aisghairtear leis seo iad agus beid aisghairthe an lá sin agus as sin amach.

### LITERAL ENGLISH TRANSLATION

#### REPEALING THE CONSTITUTION OF THE IRISH FREE STATE AND PERPETUATING LAWS

The Constitution which will be in force for the Irish Free State immediately before the day of the coming into operation of this Constitution and the Constitution of the Irish Free State Act, 1922, in so far as that Act or any provision of it will be in force at that time, they are repealed by this and they will be repealed (on) that day and from then on.

### ENGLISH TEXT

#### REPEAL OF CONSTITUTION OF SAORSTÁT ÉIREANN AND CONTINUANCE OF LAWS

The Constitution of Saorstát Éireann in force immediately prior to the date of the coming into operation of this Constitution and the Constitution of the Irish Free State (Saorstát Éireann) Act, 1922, in so far as that Act or any provision thereof is then in force shall be and are hereby repealed as on and from that date.

### Divergences between the official texts

- 1 'Continuance of laws' is expressed as 'Dlíthe a bhuanú' ('to perpetuate laws') in the Irish text, the verb 'buanaigh' being based on 'buan', which has the sense of 'permanent'.
- 2 'The Constitution of Saorstát Éireann in force ...' is expressed as 'An Bunreacht a bheas i bhfeidhm do Shaorstát Éireann' ('The Constitution which will be in force for Saorstát Éireann') in the Irish text.
- 3 'The date of' is expressed in the Irish text as 'lá an', 'the day of', as we have seen in some earlier Articles, and 'as on and from that date' is expressed as 'an lá sin agus as sin amach', 'on that day and from then on'.
- 4 'Is then in force' is expressed as 'go mbeidh ... i bhfeidhm an uair sin' ('will be in force at that time') in the Irish text.

### Commentary

*a bhuanú* The verbal noun of 'buanaigh', translated as 'perpetuate' in *Ó Dónaill*, citing '*nós a bhuanú*, to

perpetuate a custom'. *Dinneen* translates 'buanaighim' as 'I continue, prolong, persevere, give long life'. DIL cites 'buáineochuidh an duine iomlán innte' ('= the perfect shall remain in it') from the seventeenth-century translation of *Proverbs* ii. 21, this verb being based on the adjective 'buan', translated as 'lasting, enduring; constant, firm, persevering' in DIL, giving citations from the poems of Blathmac (fl. 750-770) onwards. Modern Irish 'buan' has the principal sense of 'enduring, permanent' in *Ó Dónaill* – see the commentary on Article 14.1.

The Margin Title of s1 of the Exchange Control (Continuance and Amendment) Act, 1978, 'Continuance of Principal Act', is translated as 'An Príomh-Acht a choimeád i ngníomh', the Act itself being cited in Irish as 'an tAcht um Rialú Iomlaoide (Buanú agus Leasú), 1978'. The Margin Title of s8 of the National Agricultural Advisory, Education and Research Authority Act, 1977, 'Continuance of orders and regulations', is translated as 'Orduithe agus rialacháin do leanúint i bhfeidhm', with 'Continuance of Control of Exports (Temporary Provisions) Act, 1956' being cited as 'An tAcht chun Onnmhaire a Rialú (Forálacha Sealadacha), 1956, a Bhuanú'. The Margin Title of s1 of the Expiring Laws (Continuance) Act, 1922, 'Continuance of Acts in Schedule', is translated as 'Buanú na n-Achtanna atá sna Sceidil', this Act being cited in Irish as 'Acht um Buanú Dlíthe atá ag dul in Eug, 1922', and the Long Title reading as follows:

An Act to continue certain expiring laws. *Acht chun dlíthe áirithe atá ag dul in eug do bhuanú.*

Note, finally, that 'Continuance of new import duties' is translated as 'Diúitéthe nua iomportála do bhuanú' in the Margin Title of s11 of the Finance Act, 1926, with 'included in the duties continued by this section' being translated as 'a háirithe ar na diúitéthe a buanuítear leis an alt so' in s11(2).

*a aisghairm* The verbal noun of 'aisghair' – see the commentary on Article 46.1. 'Repeal of section 8 of Act of 1941 and continuance of orders' is translated as 'Alt 8 d'Acht 1941 a athghairm agus orduithe a choimeád i bhfeidhm' in the Margin Title of s3 of the Trade Union Act, 1947. 'Notwithstanding the repeal of the Building Societies Act, 1976' is translated as 'D'ainneoin aisghairm an Achta Cumann Foirgníochta, 1976' in s6(5) of the Building Societies Act, 1989. The Margin Title of s12 of the Social Welfare (Amendment) Act, 1981, 'Repeal of certain obsolete provisions of Principal Act', is translated as 'Forálacha áirithe den Phríomh-Acht atá tite as feidhm a aisghairm'. Finally, the Margin Title of s1 of the Gaming Act, 1923, 'Repeal of Section 2 of Gaming Act, 1835', is translated as 'Alt 2 den Acht Cearrbhachais, 1835, d'athghairm'.

*as sin amach* 'On' is given as a sense of 'amach' in the context of time, 'forward' being a subsense, in *Ó Dónaill*, who cites '*uaidh seo amach*, henceforth' and '*ón lá seo amach*, from this day forward'. *Dinneen* cites '*ó shoin amach*, from that time forth'. The earlier form, 'immach', literally means 'into the plain', i.e. the preposition 'i' (followed by eclipsis) plus 'mag' ('field'/'plain'), and is translated principally as 'out, outwards' in DIL, translating the phrase 'ó shin amach' as 'from that time forward, henceforth', citing 'ba cara do Patraic he o sein immach' ('he was a friend of Patrick thenceforth') from Fiacc's Hymn on S. Patrick, composed c. AD 800. See the commentary on Article 34.4.4<sup>o</sup> regarding 'amuigh'.

'The certificate shall have effect as on and from that date' is translated as 'beidh éifeacht ag an deimhniú amhail ar an dáta sin agus uaidh sin amach' in s26(1)(b) of the Civil Service Commissioners Act, 1956. In s10(3) of the Drainage Maintenance Act, 1924, 'This Act shall be deemed to have come into force on the 1st day of April, 1924, and shall take effect as on and from that date' is translated as 'Tuigfar an tAcht so do theacht i bhfeidhm an Iadh lá d'Abrán, 1924, agus beidh éifeacht aige an lá san agus ón lá san amach'. See the commentary on Article 12.3.1<sup>o</sup> regarding 'lá' expressing 'date'.

*An tAcht um Bunreacht Shaorstáit Éireann, 1922* The official title of this Act in Irish; 'Saorstát' in this position would be lenited but otherwise today remain uninflected in this construction, as in 'Bunreacht Shaorstát Éireann' in the Heading of this Article – see the commentary on Article 1 regarding the (lenited) nominative in place of the genitive.

*beid* The synthetic form of the third person, plural, future tense, of the substantive verb – this would generally be replaced today by 'beidh siad' (the analytic form). See the commentary on Article 14.5.1<sup>o</sup> regarding the synthetic and analytic forms of the verb.

*a bheas* The special form of the relative, future tense, of the substantive verb; this would generally have the form 'a bheidh' today – see the commentary on Article 6.1 regarding the special form of the relative in '-s'.

### Standardised Irish text

BUNREACHT SHAORSTÁT ÉIREANN A AISGHAIRM AGUS DLÍTHE A BHUANÚ

An Bunreacht a bheidh i bhfeidhm do Shaorstát Éireann díreach roimh lá an Bunreacht seo a theacht i ngníomh agus an tAcht um Bunreacht Shaorstáit Éireann, 1922, sa mhéid go mbeidh an tAcht sin nó aon fhoráil de i bhfeidhm an uair sin, aisghairtear leis seo iad agus beidh siad aisghairthe an lá sin agus as sin amach.

### Direct translation

BUNREACHT SHAORSTÁT ÉIREANN A AISGHAIRM AGUS DLÍTHE A CHOIMEÁD I nGNÍOMH<sup>1</sup>

Leis seo déanfar<sup>2</sup> Bunreacht Shaorstát Éireann a bheidh i bhfeidhm díreach roimh dháta an Bunreacht seo a theacht i ngníomh agus an tAcht um Bunreacht Shaorstáit Éireann,

1922, sa mhéid a bheidh an tAcht sin agus aon fhoráil de<sup>3</sup> i bhfeidhm an uair sin, a aisghairm agus beidh siad aisghairthe amhail ar an dáta sin agus ón dáta sin amach<sup>4</sup>.

### Variants

- 1 'a bhuanú'
- 2 'déantar'
- 3 'den Acht sin'
- 4 'ón dáta sin'

## ARTICLE 49.1 AIRTEAGAL 49.1

### TÉACS GAELIGE

Gach uile chumhacht, feidhm, ceart agus sainchumas a bhí inoibríthe i Saorstát Éireann nó i dtaobh Shaorstát Éireann díreach roimh an 11ú lá de Mhí Nollag, 1936, cibé acu de bhua an Bhunreacht a bhí i bhfeidhm an uair sin é nó nach ea, ag an údarás ag a raibh cumhacht chomhallach Shaorstát Éireann an uair sin, dearbhaítear leis seo gur leis an bpobal iad uile.

### LITERAL ENGLISH TRANSLATION

Every power, function, right and prerogative that was operable in the Irish Free State or with regard to the Irish Free State immediately before the 11th day of the Month of December, 1936, whether by virtue of the Constitution which was then in force or not, by the authority which had the executive power of the Irish Free State at that time, it is hereby declared that they all belong to the people.

### ENGLISH TEXT

All powers, functions, rights and prerogatives whatsoever exercisable in or in respect of Saorstát Éireann immediately before the 11th day of December, 1936, whether in virtue of the Constitution then in force or otherwise, by the authority in which the executive power of Saorstát Éireann was then vested are hereby declared to belong to the people.

### Divergences between the official texts

- 1 'Or otherwise' is expressed as 'nó nach ea' ('or not') in the Irish text.
- 2 'By the authority in which the ... power was then vested' is expressed as 'ag an údarás ag a raibh cumhacht ... an uair sin' ('by the authority which had the ... power ... at that time') in the Irish text.
- 3 'All powers ... whatsoever' is expressed as 'Gach uile chumhacht' ('Every power') in the Irish text, though 'uile' ('all') does add to the force of 'gach'.
- 4 'Exercisable' is expressed as 'inoibríthe' ('operable') in the Irish text, 'oibrim' being translated as 'I operate' in *Téarmaí Dlí*.
- 5 'Executive', as we have seen in some earlier Articles, is expressed by an unfamiliar term today, 'comhallach', which would be more literally translated perhaps as 'discharging', the general term today expressing 'executive' ('feidhmiúchán') being found in a 1998 Amendment of the Constitution.



### Commentary

*sainchumas* This headword is translated as ‘prerogative’ in *Téarmaí Dlí* and in *Ó Dónaill*. This compound of the prefix ‘sain-’ (translated in *Dinneen* as ‘special, different, particular’) and ‘cumas’ (‘requisite capability or power; ability’ being among its senses included in *Dinneen*) does not appear to be cited as a headword in *Dinneen*. See the commentary on Articles 14.2.2° and 31.2 regarding ‘cumas’. The adjective ‘sain’ is translated in DIL as (a) ‘different, distinct, separate (from other things)’, citing ‘sain dán cáich’ (‘different [is] every one’s gift’) from the eighth-century Würzburg Glosses on the Pauline Epistles, and (b) ‘peculiar, special (of a characteristic which distinguishes one thing from others)’, citing ‘is sain *ordo* dogní cehtar náí’ (‘different is the *ordo* which each of them makes’) from the same collection of Glosses, with ‘sainchóim ind rig’ (‘the special favourites of the King’) being cited from the same source as an example of ‘sain-’ compounded with a noun.

‘A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank’ is translated as ‘Ní cead na sainchumais a ghabhann lena chéim a bhaint de phríosúnach ar ar gearradh pionós araíonachta’ in Article 98 of the Third Schedule to the Geneva Conventions Act, 1962, with ‘Beidh na sainchumais chéanna ag toscairí Choiste Idirnáisiúnta na Croise Deirge’ translating ‘The delegates of the International Committee of the Red Cross shall enjoy the same prerogatives’ in Article 126. Following the present Article, the Heading of Part III of the State Property Act, 1954, ‘Rights and Prerogatives belonging to the people in relation to property, escheat and bona vacantia’, is translated as ‘Cearta agus Sainchumais an Phobail maidir le Maoin, Eiséatadh agus bona vacantia’, with s27 reading as follows:

Every right and every prerogative which, by virtue of Article 49 of the Constitution, belong to the People and relate to any property (including choses-in-action) shall be exercised by the Government through and by the Minister. *Is é an Rialtas, tríd an Aire, a fheidhmeos gach ceart agus gach sainchumas is leis an bPobal, de bhuaidh Airteagail 49 den Bhunreacht, agus a bhaineas le haon mhaoin (lena n-áirítear ábhair i gcaingean).*

In the *Treaty on European Union* (1992, p. 70), ‘for the purpose of protecting their prerogatives’ is translated as ‘d’fhonn sainchumais na gcomhlachtaí sin a choimirciú’.

Looking at early translations, ‘the word “charter” means a charter, letters patent, warrant, or other instrument granted, made, or issued by the King in exercise of a prerogative power and having the force of law in Saorstát Éireann’ is translated as ‘cialluíonn an focal “cairt” cairt, leitreacha paitinne, barántas, no ionstruim eile den tsaghas chéanna do dheon no do rinne an Rí, no do thug sé amach, i bhfeidhmiú comhachta príbhléidige agus ag a bhfuil feidhm dlí i Saorstát Éireann’ in s1 of the Executive Powers (Consequential Provisions) Act, 1937. ‘Ceart príbhléideach’ is cited in the *Oireachtas Dictionary of Official Terms* as translating ‘prerogative right’ in *Iris Oifigiúil*, 1925, p. 36. ‘Réimiadh’ translates ‘prerogative’ in *Foclóir Staire is Tír-eóluíochta. Dinneen* translates ‘uirdhligheadh’ as ‘prerogative, privilege’. Finally, ‘prerogative right’ is translated as ‘ceart príbhléideach’ in *Foclóir Oifigiúil* (without reference).

*gur leis an bpobal iad* As regards ‘belong’ in the Acts, ‘The commodities or materials ... are exported out of the State while continuing to belong to that person’ is translated as ‘go ndéanfar na hearraí nó na hábhair ... a onnmhairiú as an Stát le linn dóibh a bheith fós ar úinéireacht ag an duine sin’ in s59(1) of the Corporation Tax Act, 1976, with ‘the machinery or plant shall be deemed to belong to him’ being translated as ‘measfar gur leis-sean an t-innealra nó an gléasra’ in s6 of the First Schedule thereto and ‘any event ... whereby the machinery or plant ceases to belong to the person carrying on the trade’ being translated as ‘aon teagmhas ... trína scoirfidh an t-innealra nó an gléasra de bheith ina mhaoin dá chuid féin ag an duine a bheidh ag seoladh na trádála’ in s29 of that Schedule. Finally, ‘Certain lands reclaimed to belong to the State’ is translated as ‘Má dintar mintíreach de thailte áirithe, is leis an Stát iad’ in the Margin Title of s105 of the Dundalk Harbour and Port Act, 1925.

*de Mhí Nollag* ‘Mí Nollag’ would generally be written today as ‘Mí na Nollag’, ‘Nollaig’ and ‘Mí na Nollag’ being translated as ‘December’ in *Ó Dónaill*, ‘Nollaig’ having the principal sense of ‘Christmas’. *Dinneen* also gives ‘Mí na Nodlag, December’, ‘Lá Nodlag’ being ‘Christmas Day’. ‘Notlaic’ comes from Latin ‘natalicia’ and is translated as ‘Christmas; Christmas day’ in DIL, where this word is cited from the *Stowe Missal*, written in the monastery of Tallaght some time between 792 and 812.

*i dtaobh* This prepositional phrase is translated as ‘about, concerning’ in *Ó Dónaill*, who cites ‘*i dtaobh do litreach*, as regards your letter’. *Dinneen* gives ‘regarding, in reference to, about’ as one of the senses of ‘i dtaobh’, citing ‘*im thaobh de*, as far as I am concerned’. DIL cites ‘atcualaidh ... beccán do briathraib slánaighibh ‘na thaibhsiumh’ (... as regarded him)’ as an example of the sense ‘as regards, with respect to’ s.v. ‘taeb’. ‘I dtaobh aon ní’ expresses ‘on any matter’ in Article 13.7.1°.

‘In respect of’ is generally translated as ‘i leith’ in the Acts today, though we also find ‘maidir le’. ‘Minister’s sanction required as regards certain authorisations’ is translated as ‘Ceadú an Aire riachtanach maidir le húdaruithe áirithe’ in the Margin Title of s11 of the Local Government (Financial Provisions) Act, 1978, for example.

*de bhua* See the commentary on Article 27. ‘And whether in virtue of ownership of such bog land or of ownership of other lands or otherwise’ is translated as ‘agus pe’ca de bhua únaeracht an phortaigh sin é no de bhua únaeracht tailte eile no éinní eile’ in s18(a) of the Arterial Drainage (Minor Schemes) Act, 1928. In s84(2) of the Postal and Telecommunications Services Act, 1983, ‘Subsection (1) shall not apply to any person who is acting ... in virtue of any power conferred on the company by section 83’ is translated as ‘Ní bheidh feidhm ag fo-alt (1) maidir le haon duine a bheidh ag gníomhú ... de bhua aon chumhachta a thugtar don chuideachta le halt 83’. ‘Which is a disposal to which Chapter VII ... applies (whether by virtue of subsection (3) of section 64 or otherwise)’ is translated as ‘is diúscairt lena mbaineann Caibidil VII ... (cibé acu de bhua fho-alt (3) d’alt 64 nó ar shlí eile)’ in s2(2)(b) of the Fifth Schedule to the Finance Act, 1990.

*i bhfeidhm* See the commentary on Article 24.3 where

'fan i bhfeidhm' expresses 'remain in force'. 'As regards which a certificate issued under section 73(2) of the Principal Act was then in force' is translated as 'a raibh deimhniú arna eisiúint faoi alt 73(2) den Phríomh-Acht i bhfeidhm an tráth sin ina leith' in s36(2) of the Safety in Industry Act, 1980. 'And which, if the Act of 1958 were then in force, would have been a building lease ... within the meaning of that Act' is translated as 'agus a bheadh, dá mba rud é go raibh Acht 1958 i bhfeidhm an tráth sin, ina léas foirgníochta ... de réir bhrí an Achta sin' in s8(1) of the Landlord and Tenant (Amendment) Act, 1971. In s1(1) of the Finance Act, 1923, 'under the law then in force in Saorstát Éireann' is translated as 'fén dlí a bhí i bhfeidhm an uair sin i Saorstát Éireann'.

*gach uile* See the commentary on Articles 12.1 and 16.1.2° where 'gach uile' expresses 'all'. 'And shall be computed on the amount of all such salaries, fees, wages, perquisites or profits whatsoever therefrom' is translated as 'agus a riomh ar mhéid na dtuarastal, na dtáillí, an phá, na bpeorcaisí nó na mbrabús uile sin de shórt ar bith uaithi' in s19(a) of the Finance Act, 1990. In Article 66 of the 1922 Constitution, 'and shall not be reviewed ... by any other Court, Tribunal or Authority whatsoever' is translated as 'ná ní féadfar aith-bhreithniú do dhéanamh ar an mbreith sin ag aon Chúirt, Binse ná Údarás eile ar bith'.

*inoibrithe* This headword is translated as 'workable, practicable' in *Ó Dónaill*, this adjective not appearing to be given as a headword in *Dinneen*, according to whom the prefix 'ion-, in-', with the genitive, denotes 'fitness, aptitude, worthiness', giving 'ion-chaithte' ('edible, wearable, missive') as an example of 'ion-' with the genitive of a verbal noun – see the commentary on Article 31.1.

Commenting on the direct translation below, Professor Máirtín Ó Murchú remarks that 'a bhí infheidhmithe' is separated quite a bit from 'ag an údarás', a problem found in the English 'exercisable ... by the authority' also and which the original Irish text did not succeed in lessening.

*dearbhaítear* See the commentary on Article 29.1 and on Article 1.

*cumhacht chomhallach* See the commentary on Article 28.2.

### Standardised Irish text

Gach uile chumhacht, feidhm, ceart agus sainchumas a bhí inoibrithe i Saorstát Éireann nó i dtaobh Shaorstát Éireann díreach roimh an 11ú lá de mhí na Nollag, 1936, cibé acu de bhua an Bhunreachta a bhí i bhfeidhm an uair sin é nó nach ea, ag an údarás ag a raibh cumhacht chomhallach Shaorstát Éireann an uair sin, dearbhaítear leis seo gur leis an bpobal iad uile.

### Direct translation

Dearbhaítear leis seo gur leis an bpobal na cumhachtaí, na feidhmeanna, na cearta agus na sainchumais uile sin de shórt ar bith a bhí infheidhmithe i Saorstát Éireann nó ina leith<sup>1</sup> roimh an 11ú lá de mhí na Nollag, 1936, cibé acu de bhua an Bhunreachta a bhí i bhfeidhm ansin nó ar shlí eile, ag an údarás dá<sup>2</sup> raibh cumhacht fheidhmiúcháin Shaorstát Éireann dílsithe<sup>3,4</sup>.

### Variants

- 1 'i leith Shaorstát Éireann'
- 2 'ina'
- 3 'a raibh cumhacht fheidhmiúcháin Shaorstát Éireann dílsithe dó'
- 4 'Na cumhachtaí, na feidhmeanna, na cearta agus na sainchumais uile sin de shórt ar bith a bhí infheidhmithe i Saorstát Éireann nó ina leith roimh an 11ú lá de mhí na Nollag, 1936, cibé acu de bhua an Bhunreachta a bhí i bhfeidhm ansin nó ar shlí eile, ag an údarás dá raibh cumhacht fheidhmiúcháin Shaorstát Éireann dílsithe, dearbhaítear leis seo gur leis an bpobal iad.'

## ARTICLE 49.2 AIRTEAGAL 49.2

### TÉACS GAELIGE

Ach amháin sa mhéid go ndéantar socrú leis an mBunreacht seo, nó go ndéanfar socrú ina dhiaidh seo le dlí, chun go n-oibreofar, le haon organ dá mbunaítear leis an mBunreacht seo, aon chumhacht, feidhm, ceart nó sainchumas díobh sin, achtaítear leis seo nach dleathach agus nach féidir na cumhachtaí, na feidhmeanna, na cearta, agus na sainchumais sin a oibriú sa Stát nó i dtaobh an Stáit ach amháin ag an Rialtas nó le húdarás an Rialtais.

### LITERAL ENGLISH TRANSLATION

Except in so far as provision is made by this Constitution, or that provision will be made hereafter by law, so that any of those powers, functions, rights or prerogatives will be operated, by any organ which is established by this Constitution, it is hereby enacted that it is not lawful and it is not possible to operate those powers, functions, rights, and prerogatives in the State or with regard to the State except by the Government or with the authority of the Government.

### ENGLISH TEXT

It is hereby enacted that, save to the extent to which provision is made by this Constitution or may hereafter be made by law for the exercise of any such power, function, right or prerogative by any of the organs established by this Constitution, the said powers, functions, rights and prerogatives shall not be exercised or be capable of being exercised in or in respect of the State save only by or on the authority of the Government.

### Divergences between the official texts

- 1 'Shall not be exercised' is expressed as 'nach dleathach ... a oibriú' ('it is not lawful to exercise') in the Irish text.
- 2 'Shall not ... be capable of being exercised' is expressed as 'nach féidir ... a oibriú' ('cannot be exercised' / 'it is not possible to exercise') in the Irish text.
- 3 'By or on the authority of the Government' is expressed as 'ag an Rialtas nó le húdarás an Rialtais' ('by the Government or on the authority of the Government') in the Irish text – note that Article 6.2 reads as follows:

These powers of government are exercisable only by or on the authority of the organs of State established by this Constitution. *Is leis na horgain Stáit a chuirtear ar bun leis an mBunreacht seo, agus leo sin amháin nó lena n-údarás, is féidir na cumhachtaí riala sin a oibriú.*

- 4 'Or may hereafter be made by law' is expressed in the Irish text as 'nó go ndéanfar socrú ina dhiaidh seo le dlí', 'or (to the extent) that provision will be made hereafter by law'.
- 5 'Exercise' is expressed by 'oibrigh' ('operate') in the Irish text, as we have seen in some earlier Articles.

### Commentary

*féidir* See the commentary on Article 6.2, where 'is féidir ... a oibriú' expresses 'are exercisable'. 'A holder ... will then, and only then by law be entitled to or be capable of being granted a superannuation allowance' is translated as 'maidir le sealbhóir a bheas do réir dlí ... agus nach mbeidh go dtí sin, i dteideal aoisliúntas d'fháil nó i gcumas é a dheonadh dhó' in Part I of the Second Schedule to the Local Government Act, 1955. In s121(b) of the Industrial and Commercial Property (Protection) Act, 1927, 'licences made by the Minister ... shall not ... be or be capable of being entered in the register' is translated as 'ní déanfar ná ní féadfar ... ceadúnaisí a dheonfadh an tAire ... d'iontráil sa chlár'. In s5(4) of the Dáil Éireann Courts (Winding-up) Act, 1923, 'No decree of a Dáil Court shall be of any force or effect or be capable of being sued upon or enforced before or by the Commissioners' is translated as 'Ní bheidh aon bhri ná éifeacht ag aon aithne Dáil-Chúirte ná ní féadfar dlí do chur ar siúl mar gheall uirthé ná i d'fheidhmiú i láthair na gCoimsinéirí'. Finally, 'capable of being applied' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'is féidir do chur i mbaint' in *Iris Oifigiúil*, 1925, p. 573.

*socrú* See the commentary on Article 8.3. Note that 'Where a person is convicted of an offence under the Principal Act ... in relation to which provision is not made ... for the forfeiture on conviction of any fish in respect of which the offence is committed' is translated as 'I gcás ina gciontófar duine i gcion faoin bPríomh-Acht ... nach bhfuil aon fhoráil ina thaobh déanta ... maidir le haon iasc a ndearnadh an cion ina leith a fhorghéilleadh' in s32(7) of the Fisheries Amendment Act, 1962.

*Ach amháin* See the commentary on Article 12.10.4°. 'A provisional referendum certificate shall not be capable of being questioned in any manner in any court save only by a referendum petition presented to the High Court' is translated as 'Ní bheidh deimhniú reifrinn sealadach ionchospóidithe in aon tslí i gcúirt ar bith ach amháin tré achuinge reifrinn arna tiolacadh don Ard-Chúirt' in s34(4) of the Referendum Act, 1942. 'The name of a person whose name has been erased from the register by the Council on account of professional misconduct shall not be restored to the register save only by order of the High Court' is translated as 'Ní déanfar ainm duine gur scrios an Chomhairle a ainm amach as an gclár mar gheall ar mhí-iompar maidir le n-a ghairm do chur thar n-ais sa chlár ach le hordú ón Ard-Chúirt' in s37(1) of the Veterinary Surgeons Act, 1931.

*Ach amháin sa mhéid* 'Any such refund shall be made without payment of interest on the amount so refunded, save to the extent to which interest was paid on the amount so refunded when the tax was paid' is translated as 'Déanfar aon aisíoc den tsórt sin gan ús d'íoc ar an tsuim

a haisíocfar amhlaidh, ach amháin sa mhéid a hiocadh ús ar an tsuim a haisíocadh amhlaidh nuair a hiocadh an cháin' in s2 of Article VI of the First Schedule to the Finance Act, 1950. See the commentary on Article 15.4.2° regarding 'sa mhéid', 'to the extent'.

*ina dhiaidh seo* 'Such claim hereafter be made at any time within one year after the end of the year of assessment' is translated as 'féadfar an t-éileamh san do dhéanamh feasta áon uair laistigh de bhliain tar éis deire na bliana cáinmheasa' in s9(4) of the Finance Act, 1925. 'Accept the trusteeship ... of any trust which has been, or may hereafter be, established by any deed' is translated as 'glacadh le hiontaobhaíocht aon iontaobhas a bunaíodh, nó a bhunófar dá éis seo, le haon ghníomhas' in s3 of the Commissioners of Public Works in Ireland (Acceptance of Trusteeship) Act, 1978. 'The privileges and immunities which have been, or may hereafter be, accorded by any State to any specialised agency' is translated as 'na pribhléidí agus na díolúintí atá tugtha, nó a thabharfar dá éis seo, ag aon Stát d'aon sainghníomhaireacht' in s39 of the Fourth Schedule to the Diplomatic Relations and Immunities Act, 1967.

*dleathach* This headword is translated as 'lawful' in *Téarmaí Dlí* – see the commentary on Article 10.1.

*go n-oibreofar ... oibriú* See the commentary on Article 3 regarding 'oibrigh'.

*organ* See the commentary on Article 6.2.

*sainchumas* See the commentary on the previous section.

*le húdarás* See the commentary on Article 6.2.

### Direct translation

Achtaítear leis seo, ach amháin sa mhéid a dhéanfar socrú leis an mBunreacht seo nó go bhféadfar socrú a dhéanamh le dlí dá éis seo maidir le haon chumhacht, feidhm, ceart nó sainchumas den sórt sin a fheidhmiú ag aon cheann de na horgáin a bhunófar leis an mBunreacht seo<sup>1</sup>, nach ndéanfar na cumhachtaí, feidhmeanna, cearta agus sainchumais a dúradh a fheidhmiú nó nach mbeidh siad infheidhmithe sa Stát nó i leith an Stáit ach amháin ag an Rialtas nó ar údarás an Rialtais.

### Variants

- 1 'maidir le haon cheann de na horgáin a bhunófar leis an mBunreacht seo a fheidhmiú aon chumhachta, feidhme, cirt nó sainchumais den sórt sin'

## ARTICLE 49.3 AIRTEAGAL 49.3

### TÉACS GAELGE

Is é an Rialtas is comharba ar Rialtas Shaorstát Éireann i gcás gach maoine, sócmhainne, cirt agus féichiúnais.

### LITERAL ENGLISH TRANSLATION

The Government is successor to the Government of the Irish Free State with regard to all property, assets, rights and liabilities.

**ENGLISH TEXT**

The Government shall be the successors of the Government of Saorstát Éireann as regards all property, assets, rights and liabilities.

**Divergences between the official texts**

- 1 'The Government shall be the successors of' is expressed in the Irish text as 'Is é an Rialtas is comharba ar', 'It is the Government which is / The Government is successor to'.
- 2 'Liability' is translated as 'dliteanas' in *Téarmaí Dlí*, although 'féichiúnas' does also have this sense.

**Commentary**

*comharba ar* See the commentary on Article 28.11.1°. 'And the council of such rural district' is translated as 'agus is iad comhairle na contae sin a bheidh ina gcomharbaí do chomhairle an tuathcheanntair sin' in s3(1) of the Local Government Act, 1925. 'Córas Iompair Éireann as successors to the Waterford and Limerick Railway Company' is translated as 'Córas Iompair Éireann, mar chomharbaí ar an *Waterford and Limerick Railway Company*' in the Preamble to the Waterford Harbour Commissioners (Acquisition of Property) Act, 1964. 'As successors to the Congested Districts Board for Ireland' is translated as 'mar chomharbaí do Bhórd na gCeanntar gCumhang in Éirinn' in s62 of the Land Act, 1923. 'That I will be faithful to H. M. King George V., his heirs and successors by law' is translated as 'go mbead dilis dá Shoillse Rí Seoirse V., dá oighrí agus dá chomharbaí' in the 'Form of Oath' to be taken by members of the Oireachtas in Article 17 of the 1922 Constitution.

'And which is the successor to a scheduled harbour authority' is translated as 'agus is comharba ar údarás cuain sceidealta' in s3(2) of the Harbours Act, 1947. 'And thereupon the Corporation shall become and be the successor to the District Council' is translated as 'agus leis sin tiocfaidh an Bárdas chun bheith agus beidh ina chomharba don Chomhairle Cheanntair' in s5 of the Local Government (Galway) Act, 1937.

Commenting on a draft of the direct translation below, Professor Máirtín Ó Murchú remarks that the plural of the noun or pronoun was not really necessary here, and would translate the opening clause as 'Beidh an Rialtas ina chomharba an Rialtas Shaorstát Éireann'.

*féichiúnais* The genitive singular form of 'féichiúnas', translated as 'indebtedness, liability' in *Ó Dónaill*, 'féicheamhnas' being translated as 'liability; recrimination' in *Dinneen*, who cites '*cáil féicheamhnais*, state of indebtedness'. 'Féchemnas' is translated as 'advocacy, pleading' in *DIL*, citing Fionn Mac Cumhaill's boast, 'úair budh forderg forránach fergarnaidh na fuighle feicheamnais dogén-sa friú' ('for the debtor's speech which I shall hold with them will be bloody and crushing, wrathful and relentless') from the fifteenth-century version of the *Chase of Slieve na mBan*. This word is based on 'féchem', a noun of agency from 'fiach', which in early Irish law can

mean 'either of the parties to an obligation, creditor as well as debtor', according to D.A. Binchy, in his 'Legal Glossary' to the early Irish law-tract, *Críth Gablach* (p. 88), which word is cited in *DIL* from the eighth-century Würzburg Glosses on the Pauline Epistles. See further the commentary on Article 11.

*sócmhainne* The genitive singular form of 'sócmhainn', the plural form, 'sócmhainní', being translated as 'assets' in *Téarmaí Dlí*. 'Asset' is given as the sole meaning of 'sócmhainn' in *Ó Dónaill*, who cites '*sócmhainní pearsanta*, personal assets' and '*sócmhainní so-aistrithe*, liquid assets', along with '*is beag an tsócmhainn duit é*, it is no great asset, not much good, to you'. *Dinneen* translates 'sócmhainn' as 'a makeshift or resource, something to fall back on, the next best thing, an asset especially if convertible', citing '*is maith an tsócmhainn airgid muca*, pigs are readily turned into money' and '*ní'l airgead ná sócmhainn airgid agam*, I have neither money nor convertible assets'. *Dinneen* translates the plural 'sócmhainní' as 'assets', also including 'dainties, delicacies, medicaments' among its senses. According to *Dinneen* 'sócmhaing' developed from 'so' and 'eacmhaing', early 'eacmhang' now 'acfuinn, acainn', 'juncture, capacity (at a given time), power, etc.'

*i gcás* 'I gcás' is translated as 'as regards' in *Dinneen*, citing '*i gcás Sheáin*, in John's case, as regards John'. 'I gcás mar seo' is translated as 'in a case like this' in *Ó Dónaill*, who cites '*i mo chás féin*, in my own case', 'cás' being translated principally as 'case' in the sense of 'instance, circumstances, state of affairs'. See further the commentary on Articles 14.4, 15.8.2° and 17.1.2° regarding 'cás'. 'Indemnified such person in respect of the rates' is translated as 'an duine sin a shlánú i leith na rátaí' in s5(1)(c) of the Local Government (Financial Provisions) Act, 1978.

*i gcás gach maoinne* 'Maoinne' is the genitive singular form of 'maoin', translated as 'property' in *Téarmaí Dlí* but in general usage expressing 'wealth' – see the commentary on Article 10.1. Commenting on a draft of the direct translation below, where 'as regards all property, assets, rights and liabilities' was translated as 'maidir leis an maoin, na sócmhainní, na cearta agus na dliteanais go léir', Professor Ó Murchú remarked that 'go léir' was not understood as being so all-encompassing in the Irish and recommended returning to 'gach' of the original.

**Direct translation**

Beidh an Rialtas ina gcomharbaí<sup>1</sup> ar Rialtas Shaorstát Éireann sa mhéid a bhaineann le<sup>2</sup> gach maoin, sócmhainn, ceart agus dliteanas<sup>3</sup>.

**Variants**

- 1 'ina chomharba'
- 2 'maidir le'
- 3 'le gach maoin, le gach sócmhainn, le gach ceart agus le gach dliteanas'

## ARTICLE 50.1 AIRTEAGAL 50.1

**TÉACS GAEILGE**

Na dlíthe a bheas i bhfeidhm i Saorstát Éireann díreach roimh lá an Bunreacht seo a theacht i ngníomh leanfaid de bheith i lánfheidhm agus i lánéifeacht, faoi chuimsiú an Bhunreacht seo agus sa mhéid nach bhfuilid ina choinne, go dtí go n-aisghairtear nó go leasaítear iad nó aon chuid díobh le hachtú ón Oireachtas.

**LITERAL ENGLISH TRANSLATION**

The laws which will be in force in the Irish Free State immediately before the day of the coming into operation of this Constitution will continue to be in full force and in full effect, within the constraint of this Constitution and to the extent that they are not against it, until they or any part of them are repealed or amended by enactment by the Oireachtas.

**ENGLISH TEXT**

Subject to this Constitution and to the extent to which they are not inconsistent therewith, the laws in force in Saorstát Éireann immediately prior to 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 Oireachtas.

**Divergences between the official texts**

- 1 'They are not inconsistent therewith' is expressed as 'nach bhfuilid ina choinne' ('they are not against it') in the Irish text, 'inconsistent with' being translated as 'ar neamhréir le' in *Téarmaí Dlí*.
- 2 'Date' is expressed as 'lá', 'day', in the Irish text, as we have seen in some earlier Articles.
- 3 'Shall continue to be of full force and effect' is expressed as 'leanfaid de bheith i lánfheidhm agus i lánéifeacht' ('shall continue to be in full force and in full effect') in the Irish text.
- 4 'The same' is expressed as 'iad', 'they'/'them', in the Irish text.
- 5 'Any of them' is expressed as 'aon chuid díobh' ('any part of them') in the Irish text.
- 6 'Shall have been repealed or amended' is expressed as 'go n-aisghairtear nó go leasaítear' ('are repealed or amended') in the Irish text.
- 7 'Subject to' is expressed as 'faoi chuimsiú' ('within the scope/constraint of') in the Irish text, as we have seen in some earlier Articles.

J.M. Kelly, op. cit., p. 210, reports as follows on reference to this Article in the courts:

In *The State (Sheerin) v Kennedy* ([1965] IR 379) Walsh J pointed to the corresponding pairs of expressions (which were distinct in each text) "inconsistent/ina choinne", "validity/bail", "repugnant/in aghaidh" in order to fortify the practical distinction which he emphasised between "inconsistency" with the Constitution (under Article 50) and "invalidity" (under Article 34) or "repugnancy" (under Article 26).

Note that Article 73 of the 1922 Constitution reads as follows:

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 Oireachtas. *Gan dochar don Bhun-reacht so agus sa mhéid ná fuilid buinisciunn leis, leanfaidh na dlíthe atá i bhfeidhm i Saorstát Éireann le linn teacht i ngníomh don Bhun-reacht so i lán-neart agus i lán-fheidhm go dtí go n-athghairmfear no go leasófar iad no aon cheann aca le hachtú den Oireachtas.*

**Commentary**

*ina choinne* 'Subsection (2) of section 38, to the extent to which it is inconsistent with this Act' is translated as 'Fo-alt (2) d'alt 38, sa mhéid go bhfuil sé ar neamhréir leis an Acht seo' in Part III of the Schedule to the Statute of Limitations, 1957. 'In so far as they are inconsistent with' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'sa mhéid ná fuil ... do réir ...' in translations for the Department of Local Government and Public Health. We find the phrase 'bunisciunn le' in earlier Acts, following the 1922 Constitution above. In the Preamble to the Adaptation of Enactments Act, 1922, 'subject to that Constitution and to the extent to which they are not inconsistent therewith' is translated as 'gan dochar don Bhun-reacht san agus sa mhéid ná fuilid buinisciunn leis'. 'And every such contract shall accordingly be deemed to be void to the extent (if any) to which it is inconsistent with such regulations' is translated as 'agus, dá réir sin, is tuigte gach connradh den tsórt san do bheith gan bhri sa mhéid (más aon mhéid é) go mbeidh sé bunosciunn leis na rialacháin sin' in s21(3) of the Children Act, 1941. Note, finally, that 'Sections 69 and 117 of the Income Tax Act, 1918, so far as the same are inconsistent with the provisions of this section shall cease to have effect' is translated as 'Sa mhéid ná tagaid le forálacha an ailt seo scuirfidh Ailt 69 agus 117 den Acht Cánach Ioncaim 1918, d'éifeacht do bheith acu' in s11(4) of the Finance Act, 1923.

*díreach roimh* 'Immediately preceding' is cited in the *Oireachtas Dictionary of Official Terms* as being translated as 'díreach roimh', preceding a noun, and as 'díreach sara', preceding a verb, in *Iris Oifigiúil*, 1922/23. 'In every statute and statutory instrument in force immediately prior to the date of the coming into operation of the Constitution' is translated as 'I ngach reacht agus instruim reachtúil a bheidh i bhfeidhm díreach roimh an dáta thiochfaidh an Bunreacht i ngníomh' in s2(1) of the Constitution (Consequential Provisions) Act, 1937. 'All property ... which immediately prior to the date of the passing of this Act is vested in ... the commissioners' is translated as 'an mhaoin uile ... a bhí, díreach roimh dháta an Achta so do rith, dílsithe sna coimisinéirí' in s3(1) of the Mountjoy Square, Dublin, Act, 1938. 'Part of an accounting period falling after the day immediately prior to the date of the commencement of that relevant accounting period' is translated as 'cuid de thréimhse chuntasaíochta ar tar éis an lae díreach roimh dháta tosaigh na thréimhse chuntasaíochta iomchuí sin di' in s42(4) of the Finance Act, 1980.

*lánfheidhm ... lánéifeacht* 'For the purpose of ensuring that the laws in force in Saorstát Éireann immediately prior to the date of the coming into operation of the Constitution shall continue to be of full force and effect in accordance with and to the extent provided by Article 50 of the Constitution' is translated as 'Chun a chur in áirithe go leanfaidh na dlíthe bheidh i bhfeidhm i Saorstát Éireann díreach roimh dháta an Bhunreacht do theacht i ngníomh de lán-fheidhm agus de lán-éifeacht do bheidh acu do réir Airteagal 50 den Bhunreacht agus sa mhéid a forálar leis an Airteagal san' in s5(1) of the Constitution (Consequential Provisions) Act, 1937. In s37 of the Limerick Harbour Act, 1926, 'the Limerick Harbour Act, 1867 ... shall continue to be of full force and effect as if this Act had not been passed' is translated as 'leanfaidh i lán-fheidhm agus i lán-éifeacht fé is dá mba ná rithfí an tAcht so ... an *Limerick Harbour Act*, 1867'. 'And the adaptations of the Income Tax Acts ... had had full force and effect' is translated as 'agus dá mbeadh lán-fheidhm agus lán-éifeacht ... ag na hoiriúnuithe a dinedh ar na hAchtanna Cánach Ioncuim' in 2(1) of the Finance Act, 1923. Finally, in s68(1) of the Medical Practitioners Act, 1978, 'the agreement ... shall continue to have full force and effect' is translated as 'leanfaidh an comhaontú de lánfheidhm agus de lánéifeacht a bheith leis', with 'the covenant shall ... continue in full force and effect' being translated as 'leanfaidh an cúnant ... de lánfheidhm agus de lánéifeacht a bheith leis' in s28(2) of the Landlord and Tenant (Ground Rents) (No. 2) Act, 1978.

Commenting on a draft of the direct translation below, where 'shall continue ... to be of full force and effect' was translated as 'leanfaidh na dlíthe ... de lánfheidhm agus lánéifeacht a bheith acu', Professor Máirtín Ó Murchú recommended the more succinct 'faoi lánfheidhm agus faoi lánéifeacht'.

*le hachtú* 'Achtú' is the verbal noun of 'achtaigh', translated as 'enact, decree' in *Ó Dónaill*, 'achtaim' being translated as 'I enact' in *Téarmaí Dlí*. 'Achtú' as a noun is translated as 'enactment' in *Ó Dónaill*, 'achtughadh' being translated as 'act of ordaining, decreeing, act of binding, coming to an agreement, imposing conditions' in *Dinneen*, who cites the variant 'achtadh'. 'Achtugad' is translated as 'act of stipulating, making a condition; stipulation' in DIL, where 'ma ta achtugad airithe air eturru' ('if there be a particular stipulation respecting it between them') is cited from a commentary on an early Irish law-tract, 'achtugad' being the verbal noun of 'achtaigid'. The verb 'achtaigid' is based on 'acht', six different headwords 'acht' being given in DIL. One such headword, translated as 'stipulation, condition' in DIL and cited from commentaries on early Irish law-tracts, may be a specialisation of 'acht', 'save, except' (Modern Irish 'ach'). The sixth headword 'acht' is an English loanword and is translated as 'decree, contract, condition' in DIL, where citations are given from seventeenth-century texts onwards. See further the commentary on Articles 13.3.1° and 15.4.2° regarding 'achtaigh'.

*leanfaid ... nach bhfuilid* The synthetic forms of the third person plural, future tense, of 'lean' and of the third person plural, present indicative, of the substantive verb, respectively, these generally today being replaced by 'leanfaidh siad' and 'nach bhfuil siad' (i.e. the analytic

forms) – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb.

*go leasaítear iad* Commenting on a draft of the direct translation below, where 'until the same ... shall have been repealed' was translated as 'go dtí go mbeidh an céanna aisghairthe', Professor Máirtín Ó Murchú, who in general advises against the use of 'an céanna', remarks that 'an céanna' could be taken as referring to 'an Bunreacht', which is syntactically nearest to it.

*a bheas* The special form of the is relative, future, of the substantive verb – see the commentary on Article 6.1 regarding the special form of the relative in '-s', the above now generally being replaced by 'a bheidh'.

*lá* See the commentary on Article 12.3.1°.

*faoi chuimsiú* See the commentary on Article 12.5.

*go n-aisghairtear* See the commentary on Article 46.1.

*go leasaítear* See the commentary on Article 46.2.

### Standardised Irish text

Na dlíthe a bheidh i bhfeidhm i Saorstát Éireann díreach roimh lá an Bunreacht seo a theacht i ngníomh leanfaidh siad de bheith i lánfheidhm agus i lánéifeacht, faoi chuimsiú an Bhunreacht seo agus sa mhéid nach bhfuil siad ina choinne, go dtí go n-aisghairtear nó go leasaítear iad nó aon chuid díobh le hachtú ón Oireachtas.

### Direct translation

Faoi réir an Bhunreacht seo agus sa mhéid nach bhfuil siad ar neamhréir leis, leanfaidh na dlíthe a bheidh i bhfeidhm i Saorstát Éireann díreach roimh dháta an Bunreacht seo a theacht i ngníomh faoi lánfheidhm agus faoi lánéifeacht<sup>1</sup> go dtí go mbeidh na dlíthe sin, nó aon cheann díobh, aisghairthe nó leasaithe le hachtú ón Oireachtas.

### Variant

<sup>1</sup> 'de lánfheidhm agus lánéifeacht a bheith leo'

## ARTICLE 50.2 AIRTEAGAL 50.2

### TÉACS GAEILGE

Dlíthe a bheas achtaithe roimh an mBunreacht seo a theacht i ngníomh agus a mbeidh luaite iontu iad do theacht i bhfeidhm dá éis sin, tiocfaid i bhfeidhm de réir mar a luaitear iontu mura n-achtaí an tOireachtas a mhalairt.

*Dochum Glóire Dé  
agus  
Onóra na hÉireann.*

### LITERAL ENGLISH TRANSLATION

Laws which will be enacted before the coming into operation of this Constitution and in which will be stated that they are to come into force after that, will come into force in accordance with what is stated in them unless the Oireachtas enacts the contrary.

*For the Glory of God  
and  
the Honour of Ireland.*

#### ENGLISH TEXT

Laws enacted before, but expressed to come into force after, the coming into operation of this Constitution, shall, unless otherwise enacted by the Oireachtas, come into force in accordance with the terms thereof.

*Dochum Glóire Dé  
agus  
Onóra na hÉireann.*

#### Divergences between the official texts

- 1 'But expressed' is expressed in the Irish text as 'agus a mbeidh luaite iontu' ('and in which will be stated'), 'express' being translated by the participial adjective 'sainráite' in *Téarmaí Dlí*, where 'luaim' is translated as 'I cite'.
- 2 'In accordance with the terms thereof' is expressed as 'de réir mar a luaitear iontu' ('in accordance as is stated in them') in the Irish text, the same verb being found here as expresses 'express' earlier in the section.

#### Commentary

*luaite ... luaitear* See the commentary on Articles 12.10.1°, 14.5.2° and 24.1 regarding the verb 'luaigh', respectively expressing 'state', 'specify' and 'express'. 'Where an Act passed after the commencement of this Act ... is expressed to come into operation on a particular day' is translated as 'Má abartar go dtiocfaidh i bhfeidhm ar lá áirithe Acht a rithfar tar éis tosach feidhme an Achta so' in s11(2) of the Interpretation Act, 1923. 'Any order made by the Minister ... before the appointed day shall not be expressed to come into operation on a day earlier than the appointed day' is translated as 'Aon ordú dhéanfaidh an tAire ... roimh an lá ceaptha ní déarfadh go dtiocfaidh i bhfeidhm ar dháta is túsce ná an lá ceaptha' in s30(6) of the Agricultural Produce (Cereals) Act, 1936, with 'but any order which is made ... before the appointed day shall not be expressed to come into operation on a day earlier than the appointed day' being translated as 'ach ní déarfad in aon ordú a dhéanfar ... roimh an lá ceaptha, go dtiocfaidh an t-ordú sin i ngníomh ar dháta is luaithe ná an lá ceaptha' in s2(5) of the Ministers and Secretaries (Amendment) Act, 1977. 'The following provisions shall have effect in relation to every Act of the Oireachtas of Saorstát Éireann which is expressed to come into operation immediately after the coming into operation of the Constitution' is translated as 'Beidh éifeacht ag na forálacha so leanas maidir le gach Acht d'Oireachtas Shaorstáit Éireann go mbeidh ráite ann é do theacht i ngníomh díreach tar éis teacht i ngníomh don Bhunreacht' in s11(2) of the Constitution (Consequential Provisions) Act, 1937.

Looking at modern Acts, 'A requirement of the Central Bank under subsection (4) may be expressed to apply ...' is translated as 'Féadfaidh sé a bheith sainráite i gceanglas de chuid an Bhainc Ceannais faoi fho-alt (4) go bhfuil feidhm aige' in s39(5) of the Building Societies Act, 1989. 'Part 1 shall, save as is otherwise expressly provided therein, be deemed to have come into force ... as on and

from the 6th day of April, 1990' is translated as 'Measfar gur tháinig Cuid 1 i bhfeidhm ..., ach amháin mar a fhoráiltear a mhalairt go sainráite inti, amhail ar an agus ón 6ú lá d'Aibreán 1990' in s140(8) of the Finance Act, 1990. Note that 'No adoption of a person taking effect or expressed to take effect at any time after the coming into operation of this Constitution' is rendered as 'Ní raibh ná ní bheidh aon uchtáil ar dhuine do ghlac éifeacht nó a bhfuil sé sainráidhte gur ghlac si éifeacht aon tráth tar éis don Bhunreacht seo do theacht i ngníomh' in Article 37.2, following the Sixth Amendment of the Constitution (Adoption) Act, 1979. See further the commentary on Articles 24.1 and 46.3.

Regarding 'thereof', which as the plural 'iontu' clearly shows, refers to the 'laws', see the commentary on Articles 8.3 and 40.4.5°; 'den chéanna' would match the ambiguity of the English text.

*tiocfaid* The synthetic form of the third person plural, future tense, of the verb 'tar', this would generally be replaced by 'tiocfaidh siad' (the analytic form) today – see the commentary on Article 14.5.1° regarding the synthetic and analytic forms of the verb in the Constitution.

*mura n-achtaí* The present subjective of the verb 'achtaigh', this generally being replaced by the future tense today (i.e. 'mura n-achtóidh'), except in the case of the optative (e.g. 'go ndéana Dia trócaire ort') – see the commentary on Article 12.3.1°.

*a bheas* The special form of the relative, future tense, of the substantive verb, this would generally be replaced today by 'a bheidh' – see the commentary on Article 6.1 regarding the special form of the relative in '-s'.

*do theacht* 'A' generally replaces 'do' before verbal nouns today – see the commentary on Article 15.8.2°.

*Dochum Glóire Dé agus Onóra na hÉireann* This well-known Irish expression, here closing both texts of the Constitution, is attested in the 'Epistle Dedicatory' from Michael O'Clery to Fearghal O'Gadhra in the seventeenth-century *Annals of the Four Masters*:

Tanacsa an brathair bocht durd .S. Fronseis Michel o clericch (iar mbeith deich mbliadhna damh acc Sccriobhadh gach sendachta da bfuaras ar naomhaibh na hereann a maille le humhlacht gach Prouinsial da raibhe in erinn a ndiaidh a chele do beith accam) da bhar lathairsi a uasail A Fherghail uí ghadhra. Do bhraithes ar bhar nonoir gur bhadbar truaighe, 7 nemhele, doghailsi, 7 dobroin libh (do chum gloire dé 7 onora na hereann) a mhed do dheachattar sliocht Gaoidhil meic Niuil fo chiaigh 7 dorchadas, gan-fios ecca na oidhedha Naoimh, na bannaomhe Airdepscoip, Epscoip, na abbadh, na uasal graidh eccailsi oile, Righ, na Ruirigh, tighearna na toisicch, comhairsir na coimhsinedh neich dibhsidhe fri aroile. (I, Michael O'Clery, a poor brother of the order of St. Francis (after having been for ten years transcribing every old material which I found concerning the saints of Ireland, observing obedience to each provincial that was in Ireland successively), have come before you, O noble Farrell O'Gara. I have calculated on your honour that it seemed to you a cause of pity and regret, grief and sorrow (for the glory of God and the honour of Ireland), how much the race of Gaedhal the son of Niuil have gone under a cloud and darkness without a knowledge of the death or obit of saint, or virgin,

*archbishop, bishop, abbot, or other noble dignitary of the Church, of king or prince, lord or chieftain [and] of the synchronism or connexion of the one with the other.)*

The colophon followed Article 63, the final Article of the Transitory Provisions, in the original Constitution. Such expressions would generally not be standardised.

#### **Standardised Irish text**

Dlíthe a bheidh achtaithe roimh an mBunreacht seo a theacht i ngníomh agus a mbeidh luaite iontu iad a theacht i bhfeidhm dá éis sin, tiocfaidh siad i bhfeidhm de réir

mar a luaitear iontu mura n-achtóidh an tOireachtas a mhalairt.

#### **Direct translation**

Dlíthe a achtófar roimh theacht i bhfeidhm don Bhunreacht seo ach a mbeidh sé sainráite go dtiocfaidh siad i bhfeidhm i ndiaidh don Bhunreacht seo a theacht i ngníomh, mura n-achtóidh an tOireachtas a mhalairt, tiocfaidh siad i bhfeidhm de réir théarmaí na ndlíthe<sup>1</sup>.

#### **Variants**

<sup>1</sup> 'na ndlíthe céanna', 'na ndlíthe céanna sin', 'an chéanna'



# APPENDIX 1

## FOSCRÍBHINN 1

### PREAMBLE BROLLACH

As noted in the introductory essay, unlike the Irish text of the Constitution in general, the Preamble is acknowledged in the authorised Irish biography of Éamon de Valera to be a translation from English done by Tomás Ó Rathile. The Preamble, being in the nature of a dedication or prayer and not having the same legislative content as the main part of the text, would allow the translator some freedom. A cursory commentary on the Preamble is presented below, the text itself being divided into five sections.

#### I

##### TÉACS GAEILGE

##### BUNREACTH NA hÉIREANN

In Ainm na Tríonóide Ró-Naofa is tobar don uile údarás agus gur chuici, ós í is críoch dheireanach dúinn, is dírithe ní amháin gníomhartha daoine ach gníomhartha Stát,

##### LITERAL ENGLISH TRANSLATION

##### THE CONSTITUTION OF IRELAND

In the Name of the Most Holy Trinity which is the wellspring for all authority and to whom, since it is the final end for us, not alone actions of people but actions of States are directed,

##### ENGLISH TEXT

##### BUNREACTH NA hÉIREANN

In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,

#### Divergences between the official texts

- 1 'From Whom is all authority' is translated as 'is tobar don uile údarás' ('who is the source of all authority') in the Irish text.
- 2 The initial capital in 'Whom' is not matched either in 'chuici' or 'í' in the Irish text, this being in accord with differences in orthographic convention, according to Professor Máirtín Ó Murchú.
- 3 'As our final end' is translated in the Irish text as 'ós í is críoch dheireanach dúinn', 'as it ("í", in reference to the grammatically feminine "Tríonóid") is the final end for us'.
- 4 'All actions both of men and States' is translated as 'ní amháin gníomhartha daoine ach gníomhartha Stát' ('not alone the actions of people but the actions of States') in the Irish text.
- 5 'Must be referred' is translated in the Irish text as 'is dírithe', 'are (to be) directed'.

Note that the Preamble to the 1922 Constitution reads as follows:

Dáil Éireann 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 the National life and unity of Ireland shall thus be restored, hereby proclaims the establishment of The Irish Free State (otherwise called Saorstát Éireann) and in the exercise of undoubted right, decrees and enacts as follows:- *Dáil Éireann 'na suidhe mar Dháil Bhunaidh sa Pháirlimint Shealadach so, á admháil gur ó Dhia a thagann gach údarás dleathach chun na ndaoine agus muinghin aice gur mar seo a tabharfar thar n-ais beatha agus aontacht Náisiúnta na hÉireann, fógrann sí leis seo bunú Shaorstáit Éireann agus de bharr lán-chirt gan dearmad dineann sí a reachtú agus a achtú mar leanas:-*

#### Commentary

*is tobar do* 'Tobar' is translated as 'well; fountain, spring, source' in *Ó Dónaill*, who cites '*tobar eagna, eolais*, fountain of wisdom, of knowledge'. *Dinneen* translates 'tobar' as 'a well, spring or source' and cites '*Tobar na dTrí Sreabh*, the Well of Three Streams, God; *Trí Tobar na trócaire*, the Three Wells of mercy, the three Divine Persons; *Eo na dTrí dTobar*, the Salmon of the Three Wells, Christ'. DIL cites 'is hé as tobar inna n-ane' ('it is He who is the well of the treasures') from the eighth-century Würzburg Glosses on the Pauline Epistles, giving three examples of 'tobar do', including 'Saltair Temrach ... as tobar do seanchadhaibh Érenn' (i.e. the Tara Psalter is the source for the historians of Ireland).

*críoch dheireanach* 'An chríoch dhéanach' is translated as 'the latter end' in *Ó Dónaill*, who cites '*(Ceithre) críocha déanacha an duine*, man's last state; the Four Last Things' and '*tá sé sna críocha déanacha*, he is in the last extremities'. *Dinneen* also cites '*ceithre críocha déidheannacha an duine*', which he explains are death, judgment, hell, heaven. He also cites '*tá sé sna críochaibh déidheannacha*, he is in the last extremities, at the point of death'. DIL translates 'crích' as (a) 'boundary, limit (of territory), end; aim, purpose', and (b) 'confines, territory, district, land'. Under (a) is cited 'go ttangador críocha deiridh don lo soin' (i.e. evening). From Gearnon's *Parrthas an Anma* (1645) are cited the four last things: 'an bás, an breithiomhnas, ifrionn ⁊ flaitheamhnas'. See further the commentary on Articles 2 and 3.

'Deireanach', like 'déanach', is translated as 'last' in *Ó Dónaill*, and comes from 'deiredach' through the influence of 'déidenach' – see DIL s.v. 'deirenach'. It is based on 'deired', translated as (a) 'remainder, residue' and (b) 'end, rear, conclusion' in DIL, examples of which are cited from the Glosses of the eighth century onwards. No early examples of 'deiredach' are cited in DIL (only a

few examples in all of 'deiredach' and 'deirenach' are cited), as against 'déidenach, didenach', the earlier form of 'déanach', examples of which are cited in DIL from the eighth-century Glosses onwards. 'Déidenach, didenach' are formed from 'déiden-' ('last') and 'diden-' ('end').

*na Tríonóide Ró-Naofa* 'Rónaofa' is translated as 'most holy' in *Ó Dónaill*. *Dinneen* translates 'ró-naomhtha' as 'Most Holy or Sacred' and cites '*an Tríonóid Ró-naomhtha*, the Most Holy Trinity'. The earlier form of 'ró-' was 'ro-'. As stated in DIL s.v. 'ro', this intensive prefix with an adjective is used 'to denote the possession of a quality in a high (but not necessarily excessive) degree; the notion of excess is sometimes implied and is usual in modern Irish'. Note that the headword is un-hyphenated in *Ó Dónaill*. According to the official standard, 'proper titles', such as 'An Priomh-Bhreitheamh' and 'An tArd-Aighne', are hyphenated and the hyphen may perhaps be so justified here. Professor Máirtín Ó Murchú refers to s47 of *Graiméar Gaeilge na mBráithre Críostaí* where 'Naomh-Mhuire Síor-Ógh' is cited. Also as 'Most' and 'Holy' have initial capitals, the inclination in translation would be to follow suit.

'Trínóid', Old Irish 'trindóit', comes from Latin 'trinitāt-' – see DIL s.v. 'trindóit', where 'chum na Tríonóide ro naomhtha d'onórughadh' is cited from Donlevy's *Catechism* (1st edition, 1742).

*chuici ... í* As regards the lower-case initials referring to the Trinity, see s48 of *Graiméar Gaeilge na mBráithre Críostaí* where it is stated that initial capitals are not usually used in pronouns referring to God, with 'is tú mo Dhia' and 'go dtaga do riocht' being cited for example. Professor Máirtín Ó Murchú remarks that while *Ó Dónaill* has 'Sé' s.v. 'Dia' he cites 'tá máthair mhaith aige'. Professor Ó Murchú further remarks that it is unusual that the Trinity is referred to by the singular pronouns 'chuici' and 'uaithi', citing '... an Tríonóid naomhtha 'na trí bpearsanaibh ... 7 gurab ionan aois, óige, glóir, 7 cumhachta dóibh' from *Seanmóna Chúige Uladh* (ll. 1109-11).

*is dírithe* 'Dirigh' is translated as (1) 'straighten' and (2) 'direct' in *Ó Dónaill*. 'I refer (a case to the County Registrar, etc.)' is translated as 'tarchuirim (cás chun an Chláráitheora Chontae, etc.)' in *Téarmaí Dlí*. Commenting on 'tarchur' in a draft of the direct translation below, Professor Ó Murchú remarked that this was not the sense of 'refer' here, recommending 'tagairt' instead. Commenting on 'araon' expressing 'both' in the same draft, Máirtín Ó Murchú remarked that, as there is more than one state involved, 'both' here refers to more than a couple.

### Direct gender-proofed translation

In Ainm na Tríonóide Ró-Naofa, a dtagann gach údarás uathu<sup>1</sup> agus nach mór, mar chríoch dheireanach<sup>2</sup> dúinn, gníomhartha uile daoine agus Stát a thagairt dóibh<sup>3</sup>,

#### Variants

1 'arb uathu a thagann gach údarás'

2 'dheiridh'

3 'ar chucu, mar chríoch dheireanach dúinn, a chaithfear gach gníomh de chuid fear agus Stát a thagairt'

## II

### TÉACS GAELIGE

Ar mbeith dúinne, muintir na hÉireann, ag admháil go huiriseal a mhéid atáimid faoi chomaoín ag Íosa Críost, ár dTiarna Dia, a thug comhfhortacht dár sinsir i ngach cruatan ina rabhadar ar feadh na gcéadta bliain,

### LITERAL ENGLISH TRANSLATION

As we, the people of Ireland, are humbly admitting the extent to which we are obliged to Jesus Christ, our Lord God, who comforted our ancestors in every hardship in which they were for hundreds of years,

### ENGLISH TEXT

We, the people of Éire,

Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,

### Divergences between the official texts

- 1 The lay-out of the Irish text does not correspond to the English, which has 'We, the people of Éire' on a separate line.
- 2 'Our obligations to' is translated as 'a mhéid atáimid faoi chomaoín ag' ('the extent that we are under obligation to') in the Irish text.
- 3 'Our Divine Lord, Jesus Christ' is translated as 'Íosa Críost, ár dTiarna Dia' ('Jesus Christ, our Lord God') in the Irish text.
- 4 'Who sustained our fathers' is translated as 'a thug comhfhortacht dár sinsir' ('who gave consolation to our ancestors') in the Irish text.
- 5 'Through centuries of trial' is translated as 'i ngach cruatan ina rabhadar ar feadh na gcéadta bliain' ('in every hardship in which they were for hundreds of years') in the Irish text.

### Commentary

*Ar mbeith dúinne* The preposition 'ar' plus the verbal noun of the substantive verb 'bí', plus the first person plural of the prepositional pronoun 'do', with which the first person plural suffix '-ne' coalesces. See *Ó Dónaill* s.v. 'ar' (14) (with verbal noun), '(b) (Action) *Ar éirí dom*, when I get, got, up. *Ar a theacht*, on his coming'. 'Ar mbeith' would generally be replaced today by 'Ar bheith'.

*go huiriseal* 'Uiriseal' is translated as (1) 'lowly, humble' and (2) 'base, servile' in *Ó Dónaill*. The earlier form, 'airisel', which is based on 'isel', is translated as 'very low' in DIL, an example of 'co airisel' in the sense of 'in a low voice' being cited from the twelfth-century manuscript, the *Book of Leinster*.

*faoi chomaoín* 'Comaoín' is translated as 'consideration' in *Téarmaí Dlí*. *Ó Dónaill* translates 'bheith faoi chomaoín ag duine' as 'to be under a compliment, beholden to someone' and cites '*tá mé faoi chomaoín agat*, I am obliged to you'. *Dinneen* translates 'comaoín' as 'a counter-gift, consideration, favour, recompense, complement' and translates 'táim fá chomaoín agat' as 'you have

done me a favour, I am under an obligation to you'. The earlier form, 'commaín', is a compound of 'com' and 'maín', translated as 'equal wealth, means' in DIL. Commenting on a draft of the direct translation below containing 'na comaoineacha atá curtha orainn', Professor Máirtín Ó Murchú remarked that the plural of 'comaoin' in this context would be somewhat unusual.

*comhfhurtacht* 'Comhfhortacht' is translated as 'consolation, comfort' in *Ó Dónaill*. The form 'fortacht', rather than 'furtacht', is given in *An Caighdeán Oifigiúil* and, according to *Ó Dónaill*, 'comhfhortacht' is the standard headword. *Dinneen* translates 'comhfhortacht' as 'act of consoling, comforting; comfort, aid, consolation; full relief, help, or comfort'. 'Comfortacht', based on 'fortacht', is translated as 'act of helping, comforting; help; comfort, relief' in DIL – no early examples are cited.

*rabhadar* The synthetic form of the substantive verb – the analytic form, 'raibh siad', generally replaces this in writing today. See the commentary on Article 14.5.1° regarding synthetic and analytic forms of the verb.

*cruatan* This headword is translated as 'hardship, want' in *Ó Dónaill*, who cites '*cruatan a fhulaingt*, to endure hardship' and the saying '*tagann an cruatan i ndiaidh an chaite*, waste makes want'. *Dinneen* translates 'cruadhtan' as 'difficulty, hardship, distress' and cites '*mám an chruadhtain*, the yoke of misery; *an cruadhtan*, the busy season'. The earliest examples of this word, which is based on 'crúaid' ('hard'), seem to mean 'hard ground' but we find the meaning 'hardship' in Pádraigín Haicéad's seventeenth-century poetry and, in the translation *Trompa na bhFlaitheas* (1755), we find 'trésan uile shórt cruatain' – see DIL s.v. 'crúatan'.

'Triail' is translated as 'trial, test' in *Ó Dónaill*, who cites '*is crua an triail orthu é*, it is a sore trial for them' and '*ba mhór an triail a bhí ann*, he showed great endurance'. Commenting on 'trí na céadta bliain de thrialacha' in a draft of the direct translation below, Professor Máirtín Ó Murchú remarked that this plural would only have the literal sense and recommends retaining 'cruatan' or substituting the singular 'de threabhlaid', 'd'anró' or 'd'fhulaingt'.

*sinsir* This headword is translated as 'ascendants' in *Téarmaí Dlí* – see the commentary on Article 1. *Ó Dónaill* has 'ancestor' as a secondary sense of 'athair', as have *Dinneen* and DIL, and translates 'ár n-aithreacha romhainn' as 'our fathers before us'. However, as Professor Máirtín Ó Murchú remarks, 'aithreacha' would not suit here as regards gender-proofing, remarking further that 'aithreacha' adheres very much to its literal meaning.

*ár dTiarna Dia* 'An Tiarna (Dia)' is translated as 'the Lord (God)' in *Ó Dónaill*, who also cites '*Ar dTiarna (Íosa Críost)*, Our Lord (Jesus Christ)'. 'An Tighearna' is translated as 'the Lord' in *Dinneen*. 'Tigerna' is translated as 'lord, superior, chief' in DIL, citing examples of the meaning 'God' from an early Irish law-tract, as well as from two religious tracts. See further the commentary on Articles 40.3.3° and 44.2.1°.

*ag admháil* 'Admhaím' is translated as 'I acknowledge' and 'I confess' in *Téarmaí Dlí*; 'admhuighim' is translated

as 'I confess, admit, acknowledge' in *Dinneen*. The earlier form of the verb is 'ad-daim', which is translated as (a) 'acknowledges, admits, concedes, confesses', (b) 'consents to, accedes to, grants, allows' and (c) 'avows, reveals, makes known, declares' in DIL, where examples are cited from the Glosses of the eighth century onwards.

*ar feadh* This prepositional phrase is translated as 'during, throughout' in *Ó Dónaill*, who cites '*ar feadh an lae*, during the day, all day. *Ar feadh bliana*, for the space of a year ... *Ar feadh i bhfad*, for a long time'. DIL s.v. 'ed' (with prosthetic 'f' in 'fed' probably under the influence of 'fo') cites examples of 'ar fed' ('during, for the period of; whilst') from the *Passions and Homilies* from the *Leabhar Breac* (a fourteenth-century manuscript [er fead na bethadsa]) onwards.

'Trí', 'through', also has the sense of 'during the course of; throughout' (*Ó Dónaill*); *Dinneen* cites '*tré'n oidhche go léir*, all through the night; *tré saoghal na saoghal*, for ever and ever, *tré biotha síor*, *trias an saoghal síor*, idem'. DIL s.v. 'tré', cites 'trí rei ciana' ('for long times') from the ninth-century Milan Glosses, and 'tria nuile mbethaid' ('through their whole life') from the Turin Glosses, as well as examples from later centuries.

*muintir na hÉireann* See the commentary on Article 12.2.1°.

### Standardised Irish text

Ar bheith dúinne, muintir na hÉireann, ag admháil go huiriseal a mhéid atáimid faoi chomaoin ag Íosa Críost, ár dTiarna Dia, a thug comhfhortacht dár sinsir i ngach cruatan ina raibh siad ar feadh na gcéadta bliain,

### Direct gender-proofed translation

Déanaimid, muintir na hÉireann, leis seo, Ag admháil dúinn go huiriseal an chomaoin atá curtha orainn ag ár dTiarna Íosa Críost, a chothaigh ár sinsir trí na céadta bliain de chruatan<sup>1</sup>,

### Variant

1 'd'fhulaingt'

## III

### TÉACS GAEILGE

Agus ar mbeith dúinn ag cuimhneamh go buíoch ar a chalmacht a rinneadarsan troid gan staonadh chun an neamhspleáchas is dual dár Náisiún a bhaint amach,

### LITERAL ENGLISH TRANSLATION

And as we gratefully remember how bravely they fought ceaselessly to achieve the independence which is the intrinsic right of our Nation,

### ENGLISH TEXT

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our Nation,

### Divergences between the official texts

- 1 The Irish text has 'chun an neamhspleáchas is dual dár Náisiún a bhaint amach' ('to **gain** the rightful independence of our Nation') as against the English text's 'to regain' it – note, however, the strength of 'is dual do', which has among its senses 'that belongs to', so that gaining it is really regaining it.
- 2 'Their heroic and unremitting struggle' is translated as 'a chalmacht a rinneadarsan troid gan staonadh' ('how bravely they fought without cessation') in the Irish text.

### Commentary

*a bhaint amach* 'Bain amach', literally 'take out', also has the sense of 'gain'. Ó Dónaill cites *clú, ceart, a bhaint amach*, to gain a reputation, a right' and *daingean a bhaint amach*, to gain, capture, a fortress'. *Dinneen* translates 'bainim amach' as 'I take possession of, I exact, I eke out, I reach, gain, I rescue'. DIL s.v. 'benaid', cites 'lér bhain sé a fhlaithéas ... amach arís' ('bhain amach' being translated there as 'recovered'), from Keating's seventeenth-century *History of Ireland*.

*De Bhaldraithe* gives 'bainim (áit) amach arís' as a translation of a secondary sense of 'regain', giving 'athghnóthaim, gnóthaim ar ais' as a translation of the principal sense. Commenting on a draft of the direct translation below, where 'to regain the independence' was translated as 'chun an neamhspleáchas a athghnóthú', Professor Máirtín Ó Murchú suggested 'a bhuanachan' as an alternative to 'a athghnóthú'. Note that *De Bhaldraithe* translates 'to regain possession of something' as 'athsheilbh a fháil ar rud'. Note finally and incidentally that 'who when recovering from illness would otherwise be obliged to return to work before they had regained their strength' is translated as 'a mbeadh orthu, mura mbeadh sin, ... filleadh chun oibre sula mbeadh siad ar ais ar a neart' in the Preamble to the Convalescent Home, Stillorgan (Charter Amendment) Act, 1958.

*troid a dhéanamh* 'Troid', translated as 'fight, quarrel' in Ó Dónaill, is given as the verbal noun of 'troid'. *Dinneen* translates this headword as 'act of fighting, struggling or wrangling, a fight or struggle, a quarrel or wrangle, opposition, resistance'. Unlike 'cath' and 'comrac', for example, we find no examples of 'troid' in the Glosses of the eighth and ninth centuries; it is cited, however, in the twelfth century *Book of Leinster* – see DIL, s.v. 'troid' ('fight, battle, quarrel').

'Gleic' would be the usual translation of 'struggle' today. 'During the struggle to bring about the establishment of the First Dáil Éireann' is translated as 'le linn na gleice chun an Chéad Dáil Éireann ... do bhunú' in the Long Title of the Indemnity Act, 1924, for example. 'Gleic' is translated as '(act of) wrestling, fighting; struggle, contest' in Ó Dónaill and as 'a wrestling, a contending, a struggle, a contest, act of contending, struggling' in *Dinneen*. DIL translates 'gleicc' as 'wrestling, a struggle, a contest', citing an example from *Leabhar na hUídhre*, completed by 1106.

*go buíoch* 'Buíoch' is translated as (1) 'thankful' and (2) 'pleased, satisfied' in Ó Dónaill. The form 'buidheach' is found in *Dinneen*, who translates this headword as

'thankful, grateful, obliged, kindly disposed, pleasing'. The Old Irish form 'buidheach' glosses Latin 'contentus' and 'gratus' and is translated as 'well-disposed, pleased, satisfied, sated, grateful, thankful' in DIL, citing 'go ... buidheach' (= 'thankfully') from Donlevy's *Catechism* (1742).

*a chalmacht* 'Calmacht' is translated as 'stalwartness; bravery, strength' in Ó Dónaill and as 'bravery, courage, strength' in *Dinneen*. This abstract noun is itself based on the abstract noun 'calma', 'strength; bravery, deeds of valour'; the adjective 'calma' is translated as 'strong, brave, valiant' in DIL, where it is stated that the relationship to English and French 'calm(e)' is obscure. 'A', leniting, is a particle used with abstract nouns to denote degree – see Ó Dónaill, who translates this particle as 'how', citing 'a ghéire a labhair sí, how sharply she spoke'.

*a rinneadarsan* The synthetic form of the third person plural, perfect tense, of 'déan', plus the plural emphatic suffix – see Ó Dónaill s.v. '-san', who cites 'ach rinn-eadarsan an obair, but it was they who did the work'. See the commentary on Article 14.5.1<sup>o</sup> regarding synthetic and analytic forms of the verb. Today in the Acts 'rinneadar' would be rendered as 'rinne siad', i.e. the analytic form.

*staonadh* This headword is translated as 'forbearance' in *Téarmaí Dlí*. It is the verbal noun of 'staon', translated as 'stop, desist; abstain, forbear; draw back, flinch' in Ó Dónaill, who translates 'gan staonadh' as 'without stop' and cites '*fearthainn gan staonadh*, incessant rain' and '*gan stad (sos, stop) gan staonadh*, without stop or stay'. *Dinneen* cites '*ní raibh maide rámha gan staonadh*, no oar but was strained (in the rowing)'. O'Daly's *Poets and Poetry of Munster* and two volumes of the *Transactions of the Ossianic Society* are the only sources for the late examples of the verb 'staonaid', 'refrains, desists, hangs back', cited in DIL.

*neamhspleáchas* This headword is translated as 'independence' in Ó Dónaill. The noun 'neamh-spleádh', 'independence', and the adjective 'neamh-spleádhach', 'independent', are given in *Dinneen*. 'Spleadhachas' is translated as 'flattery, boasting, romance, exploits, dependence' in *Dinneen*, where 'gan spleadhachas' is translated as 'independent, regardless of consequence'. 'Spleadhachus' is translated as 'flattery' in DIL. See further the commentary on Articles 5 and 35.2.

*is dual do* 'Dual' is translated as (1) 'native, natural (do, to)', (2) 'proper, fitting' and (3) 'in the natural order of things; fated; possible' in Ó Dónaill. Under (1) Ó Dónaill cites '*an rud is dual do dhuine a dhéanamh*, what is natural for one to do, what one may be expected to do' and '*ba dhual sin dó ón dá thaobh*, he took that from both sides of the family'. Under (2) he cites '*an áit, an oidhreacht, is dual dó*, his rightful place, inheritance' and '*is dual dó é*, it is his due'. Under the third group of senses Ó Dónaill cites '*dúirt sé gur dhual don mhac a bheith in aghaidh an athar*, he said that it was fated for son to oppose father'. *Dinneen* translates 'dual' as 'that which is natural, hereditary, bounden, expected', and cites '*ba dhual dó é dhéanamh*, it was according to his kind to do it'. DIL translates 'dual', with the preposition 'do', as 'that

which belongs or is proper to an individual by nature or descent; kind, natural' and cites an example of the sense 'belonging to by right or descent, right, possession' from the twelfth-century *Book of Leinster*.

Looking at 'rightful' in the Acts, 'that he is the rightful holder of a particular supplementary unemployment book' is translated as 'gurb é is sealbhóir dlisteanach ar leabhar difhostaíochta forlionsach áirithe' in s262(2) of the Social Welfare (Consolidation) Act, 1981, and as 'gurb é sealbhóir dleathach leabhair áirithe díomhaointis fhoirliontaigh' in s42(2) of the Insurance (Intermittent Unemployment) Act, 1942. Finally, 'the District Justice may order such books or money to be delivered to the rightful owner thereof' is translated as 'féadfí an Giúistís Dúithche a ordú go dtíolacfar na hearraí no an t-airgead san don té gur leis iad le ceart' in s5(1) of the Public Safety (Punishment of Offences) Temporary Act, 1924.

### Standardised Irish text

Agus ar bheith dúinn ag cuimhneamh go buíoch ar a chalmacht a rinne siadsan troid gan staonadh chun an neamhspleáchas is dual dár Náisiún a bhaint amach,

### Direct translation

Ag cuimhneamh go buíoch dúinn ar a ngleic laochta gan staonadh chun athsheilbh a fháil ar an neamhspleáchas is dual dár Náisiún',

### Variants

- 1 'is lenár Náisiún le ceart', 'chun an neamhspleáchas is dual dár Náisiún a bhuachan / a athghnóthú'

## IV

### TÉACS GAEILGE

Agus ar mbeith dúinn á chur romhainn an mhaitheas phoiblí a chur ar aghaidh maille le Críonnacht agus le hIonracas agus le Carthanacht de réir mar is cuí, ionas go dtiocfaidh linn a uaisleacht agus a shaoirse a chur in áirithe do gach aon duine, saol ceart comhdhaonnach a bhunú, aiseag a haontachta a thabhairt dár dtír, agus comhcharadra a dhéanamh le náisiúin eile,

### LITERAL ENGLISH TRANSLATION

And as we are setting out to advance the public good with Wisdom and Integrity and Charity as is appropriate, so that we can ensure his nobility and his freedom to every individual, to establish a proper societal life, to give the restoration of her unity to our country, and to make mutual alliance with other nations,

### ENGLISH TEXT

And seeking to promote the common good, with due observance of Prudence, Justice and Charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations,

### Divergences between the official texts

- 1 The Irish text can be read as if the final three clauses, beginning with 'saol ceart comhdhaonnach a bhunú',

were following on from 'Agus ar mbeith dúinn á chur romhainn' ('And seeking to') rather than following from 'ionas go dtiocfaidh linn' ('so that we can').

- 2 'Aiseag a haontachta a thabhairt dár dtír' would not be readily understood today, 'aiseag' being disadvantaged by having the sense of 'vomit'.
- 3 'With due observance of Prudence ....' is translated as 'le Críonnacht ... de réir mar is cuí' ('with Prudence ... as is appropriate') in the Irish text.
- 4 The term translating 'social' in the Irish text, 'comhdhaonnach', has been superseded by 'sóisialta'/'sóisialach'.

### Commentary

*aiseag* This headword is translated as 'restitution' in *Téarmaí Dlí* where '*aiseag chearta an phósta*, restitution of conjugal rights' and '*eascaire aisig*, writ of restitution' are cited. Professor Máirtín Ó Murchú cites 'fuair sé aiseag a amhairc' from An tAthair Peadar. 'Aiseag' is translated as 'restoration, restitution' in *Ó Dónaill*, but is more common today in *Ó Dónaill*'s secondary sense of 'vomit, emetic'. *Dinneen* translates 'aiseag' as 'restitution; repayment; recovery; restoration; act of vomiting; the thing vomited; disgust, nausea, loathing', citing '*tabhair aiseag 'na bheathaidh dó*, restore to him his means of livelihood' as well as '*chuirfeadh sé ag aiseag mé*, it would make me vomit'. DIL s.v. 'aisec' ('act of restoring, giving back; restitution, restoration'), cites 'asec a rige fein do' from the *Annals of Connacht*, 1250. The difference in the sense of 'aisecc', verbal noun of 'do-aisicc', translated as 'restoring, restitution' in DIL, is not clear, according to DIL (s.v. 'aisecc').

*aontachta* 'Aontacht' is translated as (1) 'oneness, unity', (2) 'union', (3) 'unanimity' and (4) 'simplicity' in *Ó Dónaill* and as 'unity, agreement, singleness, solitariness, celibacy' in *Dinneen*. 'Oendacht' is translated as (a) 'oneness, unity, indivisibility' and (2) 'simplicity, ingenuousness' (only one example cited, from *Betha Colaim Chille*) in DIL.

*á chur romhainn* 'Cuir roimh' is translated literally as 'put, place, send, before' in *Ó Dónaill* and also as 'set before (as aim)', citing '*rud a chur romhat (féin)*, to set oneself to do something'. *Dinneen* translates 'cuirim róimham' as 'I propose for myself, decide, undertake, put in front of myself'. See DIL s.v. 'cuirid', with 'ré'.

*Críonnacht* This abstract noun is translated as 'wisdom, prudence; shrewdness, sagacity', as well as 'thriftiness' and 'maturity; old age' in *Ó Dónaill* and as 'wisdom, prudence, thrift; cleverness; age, longevity; old withered refuse' in *Dinneen*. 'Crínnacht', translated as 'prudence, wisdom' in DIL, is based on the adjective 'crinna' (translated as 'old, aged; experienced, prudent, wise' in DIL), which is a development of the adjective 'crin', translated as 'withered, decayed; old, decrepit' in DIL. 'Manage the affairs of the society with prudence, integrity and adequate professional skills' is translated as 'gnóthaí an chumainn ... a bhainistí go crionna agus go hionraic agus leis na scileanna gairmiúla leordhóthanacha' in s17(4)(a)(iii) of the Building Societies Act, 1989.

Commenting on 'críonnacht' in the direct translation below, Professor Máirtín Ó Murchú remarks that it still

retains some of the sense of age and suggests 'gaois' and 'ciall' as alternatives.

*comhdhaonnach* This compound is translated as 'social, companionable' in *Ó Dónaill*, who translates 'saol ceart comhdhaonnach' as 'true social order'. See the commentary on Article 15.3.1°.

*comhcharadra* This compound is translated as 'concord' in *Ó Dónaill*, preceded by the abbreviation for 'history; historical'. *Dinneen* does not seem to have this headword but translates 'cómhchárdeas' as 'mutual friendship'. *Ó Dónaill* has 'caradradh, caradras = cairdeas'. The one example of 'comcharatrad' cited in DIL (from the Irish version of Lucan's *Pharsalia*) is translated as 'mutual friendship'.

*Ionracas* This headword is translated as (1) 'uprightness, honesty, integrity', (2) 'artlessness, guilelessness' and (3) 'favour, compliment' in *Ó Dónaill*, where the saying '*tá ionracas os cionn margaidh*, honesty is above bargaining, honesty is the best policy' is cited. 'Ionracas' is translated as 'uprightness, conscientiousness, honesty; innocence, chastity; justice, fair play; compliment, mark of respect, favour; officious diligence' in *Dinneen*. DIL translates 'indracus' as 'worthiness, honour, integrity, innocence'. This abstract noun is based on the adjective 'indraic', which is formed from 'in' + 'reic', literally 'fit for sale' – see DIL s.v. 'indraic', where examples are cited from the Glosses of the eighth century onwards as well as from early Irish law-tracts, where in reference to persons it has the sense of 'worthy, trustworthy, qualified to perform certain legal functions'.

Note that 'miscarriage of justice' and 'natural justice' are translated as 'iomrall ceartais' and 'ceartas aiceanta' in *Tearmaí Dlí*. See the commentary on Articles 29.1 and 34.1 where 'justice' is respectively expressed as 'cothrom' and 'ceart'.

*Carthanacht* See the commentary on Article 45.1. Note further and incidentally that, unlike 'grád' (Modern Irish 'grá'), examples of 'serc' (the early verbal noun of 'caraid'), 'love (both sacred and profane)', according to DIL, are found in the Old Irish Glosses of the eighth and ninth centuries. 'Carthanas' is translated as 'charity' in *Tearmaí Dlí*, where 'iontaobhas carthanais' is translated as 'charitable trust'.

*a chur in áirithe* 'In áirithe' is translated as 'reserved, engaged' in *Ó Dónaill*, who cites '*suíochán a chur in áirithe*, to book a seat' and '*culaith a chur in áirithe*, to bespeak a suit'. *Dinneen* translates 'cuirim i n-áirithe' as 'I engage, secure'. See the commentary on Article 15.10.

*an mhaitheas phoiblí* This phrase is translated as 'the common good' in *Tearmaí Dlí*. *Ó Dónaill* translates 'an mhaitheas phoiblí' as 'the common weal', while *Dinneen* translates 'an maitheas poiblidhe' as 'the public good' s.v. 'maitheas'. 'Poiblí' is translated as 'public' in *Ó Dónaill*, while 'poiblidhe' is translated as 'public, common, well-known' in *Dinneen*, who here translates 'an mhaitheas poiblidhe' as 'the public weal'. DIL s.v. 'maitheas', cites two examples (with 'maitheas' in the sense of 'welfare, weal') from the seventeenth century: 'a mbearear ... do

bhreathaibh díorgha dlighe isin maitheas phuiblidhe' ('in the common weal') from the 'Contention of the Bards' and 'na seacht gcéime onóra bhíos corónta san maitheas phuiblidhe, mar atáid pápa, impir, rí, etc.', from Keating's *Three Shafts of Death*. See the commentary on Article 6.1, where we find 'leas an phobail' expressing 'the common good', as it does in general in the Constitution.

*uaisleacht* See the commentary on Article 40.2.1° where this headword expresses 'nobility'. This abstract noun is translated as 'nobility, gentility' in *Ó Dónaill*, to which *Dinneen* adds 'generosity, refinement; finery', citing '*ar aon dul in uaisleacht*, of equal dignity'. DIL translates 'úaisleacht' as 'nobility, honour, greatness'. This word is based on 'úaisle', translated as 'nobility, dignity' in DIL.

*Dinneen* s.v. 'dighnit' ('dignity'), states 'used as far back as 1500' and cites '*fear dighnité móire*, a man of high position' from the *Annals of Ulster*. DIL s.v. 'dignit', an English or Romance loanword, gives examples in particular from the seventeenth-century works of Keating. T.F. O'Rahilly includes it in his 'English words rooted in Irish before 1580' – see *L. Mc Cionnaith* s.v. 'dignity', who also cites 'my dignity was never upset, *níor gabhadh do chosaibh im dhighnít riamh*' from the Munster Irish of Seán Tóibín, *Murcha Dubh*.

*ionas go dtiocfaidh linn* Note that the form of this verb is 'go dtiocfadh' in the original text, that is, the conditional rather than the future tense.

*de réir mar is cuí* 'De réir' is translated as 'in accordance with, according to' in *Ó Dónaill*, who cites '*de réir mar a chuala mé*, according to what I have heard' and '*de réir mar is mian leat*, according as you wish'. *Ó Dónaill* translates 'cuí' as 'fitting, proper', and 'mar is cuí' as 'as is proper'. *Dinneen* translates 'do réir' as 'agreeable to, according to, after, at the disposal of' and 'do réir mar' as 'according as, while, as', citing '*do réir mar thiocfaidh linn*, as we shall have occasion' and '*do réir mar chífead*, according to what I shall find, according to circumstances'. 'Mar is cuibhe' is translated as 'as is becoming' in *Dinneen*. DIL s.v. 'riar', cites two examples of 'do réir', in the sense of 'according to', with 'mar', both from the seventeenth century: '*do réir mar ráinig a leas*, according as the need had arisen' (from the 'Contention of the Bards') and '*do réir mar léaghthar san ochtmhadh caibidil*' (from Keating's *Three Shafts of Death*). DIL s.v. 'cubaid' (a compound of 'com' + 'fid' ['tree, wood, timber']), translated as (a) 'harmonious, in accord, agreeing' and 'fitting, meet, becoming; proper, right', cites 'neach nár iomchair an umhla mar budh cubaidh' (i.e. a person who did not carry humility as was meet) from the seventeenth-century *Beatha San Froinsias*. See further the commentary on Article 43.2.1°.

*a chur ar aghaidh* *Ó Dónaill* translates 'cuir ar aghaidh é' as 'put it forward' and cites '*scéim a chur ar aghaidh*, to promote a scheme' – see the commentary on Article 1.

### Standardised gender-proofed Irish text

Agus ar bheith dúinn á chur romhainn an mhaitheas phoiblí a chur ar aghaidh maille le Críonacht agus le hIonracas agus le Carthanacht de réir mar is cuí, ionas go

dúinn a chur in áirithe, saol ceart comhdhaonnach a bhunú, aiseag a haontachta a thabhairt dár dtír, agus comhcharadra a dhéanamh le náisiúin eile,

### Direct translation

Agus ag iarraidh dúinn an mhaitheas phoiblí a chur chun cinn, le meas cuí ar an gCríonnacht<sup>1</sup>, ar an gCeartas<sup>2</sup> agus ar an gCarthanacht,<sup>3</sup> chun go ndéanfar dínit agus saoirse an duine aonair a áirithiú, fíor-ord sóisialach a bhaint amach, aontacht ár dtíre a thabhairt ar ais, agus comhcharadra a bhunú le náisiúin eile,

### Variants

- 1 'ar an nGaois'
- 2 'ar an gCóir'
- 3 'leis an gCríonnacht, leis an gCeartas agus leis an gCarthanacht á n-urramú go cuí.'

## V

### TÉACS GAEILGE

Atáimid leis seo ag gabháil an Bhunreacht seo chugainn, agus á achtú agus á thíolacadh dúinn féin.

### LITERAL ENGLISH TRANSLATION

We are hereby adopting this Constitution, and enacting it and dedicating it to ourselves.

### ENGLISH TEXT

Do hereby adopt, enact, and give to ourselves this Constitution.

### Divergences between the official texts

- 1 'Give to ourselves' is translated more poetically – perhaps with religious intonations – as 'á thíolacadh dúinn féin', 'dedicating it to ourselves', in the Irish text.

### Commentary

*ag gabháil ... chugainn* Ó Dónaill cites 'gabh chugat an scian, take (hold of) the knife'. Dinneen translates

'gabhaim chum' as 'I take or receive for myself, take to heart, adopt, suffer' and cites '*ná gabh chugat m'éagnach, take not my reproaches to heart*', from the seventeenth-century 'Contention of the Bards'. See DIL s.v. 'gaibid co', 'takes to oneself, receives', with a reference to Keating's seventeenth-century *Three Shafts of Death*.

"Adoptable powers" means powers which ... must ... be adopted by the society and "adopt" or "adopted" means adopt or adopted on the formation of the society or subsequently by a special resolution' is translated as 'ciallaíonn "cumhachtaí inghlactha" cumhachtaí nach mór ... a bheith glactha ag an gcumann ... agus ciallaíonn "glacadh" nó "glactha" glacadh nó ghlactha, trí chomhaontú, ar fhoirmiú an chumainn nó trí rún speisialta dá éis sin' in s2 of the Building Societies Act, 1989. In s10 of the 'Sligo County Scheme' in the Schedule to the Local Government (Temporary Provisions) Act, 1923, 'The Committee shall adopt such Standing Orders and Regulations as shall be deemed necessary' is translated as 'Glacfaidh an Coiste le pé Buanórduithe agus Rialacháin is gá'.

Commenting on the variant direct translation below of 'a ghabháil chugainn féin', Professor Máirtín Ó Murchú remarks that it is somewhat too strong, with the sense of 'make our own of'.

*á thíolacadh* 'Tíolacaim' is translated as 'I convey' in *Téarmaí Dlí. Ó Dónaill* translates 'tíolaic' as (1) 'bestow', (2) 'dedicate' and (3) 'convey', citing '*thíolaic sí a beatha do Dhia*, she dedicated her life to God' under 'tíolaic' (2). Dinneen translates 'tíodhlaicim' as 'I convey, deliver, present, bestow, offer, grant, deliver up, conduct, convoy, escort'. The earlier form of the verb, 'do-indnaig', is translated as 'gives, bestows, grants, hands over (with *do* of recipient)' in DIL, where examples from the Glosses of the eighth century onwards are cited.

### Direct translation

An Bunreacht seo a ghlacadh, a achtú agus a thabhairt dúinn féin<sup>1</sup>.

### Variant

- 1 'a ghabháil chugainn féin'

## APPENDIX 2 FOSCRÍBHINN 2

### TÉARMAÍ DLÍ      LEGAL TERMS

*The following is a table of terms in the Constitution which differ from those in Téarmaí Dlí – see the English Index for references to the Articles in which these terms and phrases occur. Where the Irish term in the Constitution expressing an English headword below is differently translated in Téarmaí Dlí that is included at the end of the entry from Téarmaí Dlí.*

	CONSTITUTION	TÉARMAÍ DLÍ
acquire	<i>acquired by the State:</i> a thiocfas i seilbh an Stáit	<i>after-acquired property:</i> maoin iarfhaighte seilbh: <i>possession</i>
actual	<i>without any actual election:</i> gan é a dhul faoi thoghadh; <i>in the case of actual invasion:</i> i gcás ionraidh; <i>actual conditions:</i> cor an lae	<i>actual bodily harm:</i> díobháil choirp; <i>actual delivery:</i> seachadadh iarbhír; <i>actual loss:</i> caillteanas iarbhír
affection	<i>without affection or ill-will towards any man:</i> gan bá gan drochaigne chun duine ar bith	<i>natural love and affection:</i> grá agus gearn nádúrtha
affirm	deimhnigh; dearbhaigh	<i>I affirm (decree etc.):</i> daingnim; <i>I affirm (as an unsworn witness):</i> dearbhascaim deimhnim: <i>I certify, I vouch</i> dearbhaím: <i>I declare</i>
agree	réitigh	<i>I agree:</i> comhaontaím
alienation	sannadh	coimhthiú sannadh: <i>assignment</i>
allege	abair <i>a person alleged to be detained:</i> duine a deirtear a bheith á choinneáil	<i>I allege:</i> liomhnaím
allow	lig do <i>the High Court shall ... allow the said person to be at liberty:</i> ní foláir don Ard-Chúirt ... ligean don duine sin a shaoirse a bheith aige	<i>I allow (a question, costs, etc.):</i> ceadaím
appear	<i>to appear at the investigation:</i> bheith i láthair ar an scrúdú	<i>I appear (in Court):</i> láithrím
appropriate	leithghabháil	<i>I appropriate:</i> dílsím chugam
approval	comhaontú; sásta le; aontú	formheas
approve	toiligh le	<i>I approve:</i> formheasaim
armed rebellion	ceannairc faoi arm	ceannairc faoi airm
assign	<i>counsel assigned by the Court:</i> abhcóidí a thoghfair ag an gCúirt	<i>I assign:</i> sannaim
attach	<i>power to attach penalties for their infringement:</i> de chumhacht acu pionós a cheapadh do lucht a sáráithe sin	<i>I attach (for contempt, etc.):</i> astaím
authenticate	fioraigh	<i>I authenticate:</i> fiordheimhnim



	CONSTITUTION	TÉARMAÍ DLÍ
body	<i>vested in any person or body</i> : is le haon duine nó le haon dream	<i>body corporate</i> : comhlacht corpraithe
capacity	<i>differences of capacity, physical and moral</i> : (don) difríocht atá idir daoine ina mbuanna corpartha agus ina mbuanna morálta	cáil <i>personal capacity</i> : cáil phearsanta; <i>testamentary capacity</i> : inniúlacht tiomnaithe
capital	<i>capital cases</i> : cásanna breithe báis	<i>capital offence</i> : cion báis
case stated	cás ríofa	cás sonraithe <i>I state (a case)</i> : sonraím (cás) ríomhaim: <i>I compute</i> ; cuntas ríofa: <i>account stated</i>
casting vote	vóta cinniúna	vóta réitigh
certified	faoi theastas	<i>certified copy</i> : cóip dheimhnithe
charge	<i>invoking a charge upon public funds</i> : a chuirfeadh costas ar an gciste poiblí	muirear <i>land improvement charge</i> : muirear feabhsaithe talún
children	clann	<i>the Children's Court</i> : an Chúirt Leanaí
the common good	leas an phobail	an mhaitheas phoiblí leas: <i>interest (i.e. beneficial)</i>
commute/commutation	maolú	iomalairt <i>I commute</i> : iomalartaím maolú: <i>mitigation</i>
condition	cúinse	coinníoll
consent	toil	toiliú tionóntacht ar toil: <i>tenancy at will</i>
control	<i>for the regulation and control ... of the exercise of the right</i> : chun oibriú an chirt ... a rialú agus a stiúradh	<i>I control</i> : rialaim stiúraim: <i>I conduct (case, etc.)</i>
corporate	<i>private and corporate educational initiative</i> : tionscnamh oideachais idir phríobháideach agus chumannta	<i>body corporate</i> : comhlacht corpraithe
custody	coinneáil	coimeád coinneáil: <i>detention</i>
decide	<i>the Court decides that</i> : más é breith na Cúirte	<i>I decide</i> : breithním
declare	<i>The Oireachtas shall not declare acts to be infringements of the law</i> : Ní cead don Oireachtas a rá gur sárú dlí gníomhartha; <i>War shall not be declared</i> : ní dleathach cogadh a fhógairt	<i>I declare</i> : dearbhaím; <i>dying declaration</i> : dearbhú i mbéal báis
dedicate	<i>dedicate my abilities</i> : mo lándícheall a dhéanamh	<i>I dedicate</i> : toirbhrím
defer	moilligh	<i>deferred share</i> : scair iarchurtha
detain	coinnigh ina bhrá	<i>I detain</i> : coinním
detention	braighdeanas	coinneáil
develop	cuir ar aghaidh	<i>development scheme</i> : scéim forbartha

	CONSTITUTION	TÉARMAÍ DLÍ
direct	<i>such one of the judges of that Court as that Court shall direct.</i> an duine sin de bhreithiúna na Cúirte sin a cheapfaidh an Chúirt sin chuige sin; <i>if the President of the High Court ... directs.</i> má dhéanann Uachtarán na hArd-Chúirte ... a ordú	<i>I direct (jury):</i> treoraím ceapaim: <i>I appoint</i> ordaim: <i>I order</i>
direction	ordú	treorú ordú: <i>order</i>
discretion	<i>in his absolute discretion.</i> as a chomhairle féin	<i>judicial discretion:</i> rogha bhreithiúnach; <i>at the discretion of.</i> faoi rogha; <i>I exercise discretion:</i> déanaim rogha comhairle: <i>advice</i>
dispute	achrann	diospóid
disqualify	cuir faoi dhícháilíocht	<i>I disqualify.</i> dicháilim
distribution	<i>distribution of business:</i> gnó a roinnt orthu	<i>I distribute:</i> dáilim; <i>Statutes of Distribution:</i> Reachtanna an Dáilte
document	scríbhinn	doiciméad
enrol	cuir isteach ina iris	<i>I enrol:</i> rollaim; <i>enrolment:</i> rollú
enter	dul isteach i	<i>I break and enter:</i> brisim agus iontrálaim
entitled	<i>No person shall be entitled to:</i> Ní cead d'aon duine	<i>absolutely entitled:</i> i dteideal iomlán
except	<i>No law shall be enacted excepting from the appellate jurisdiction:</i> Ní cead aon dlí a achtú a chuirfeadh ar an taobh amuigh de dhlinse achomhairc	<i>I except:</i> eiscim
exclude	<i>No person may be excluded from Irish nationality.</i> Ní cead náisiúntacht Éireann a cheilt ar dhuine ar bith	<i>I exclude:</i> eisiaim; excluding: ag eisiaimh  ceilt bhreithe: <i>concealment of birth</i>
exclusive	<i>The sole and exclusive power of making laws is vested in the Oireachtas.</i> Bheirtear don Oireachtas amháin an t-aon chumhacht chun dlíthe a dhéanamh	<i>exclusive right:</i> ceart eisiatach
execute	comhlíon	<i>I execute (i.e. an order, deed, etc.):</i> forghníomhaím  comhlíonaim: <i>I comply with; I conform with; I perform</i>
execution	<i>for the execution of the said sentence of death:</i> chun an bhreith bháis sin a fheidhmiú	<i>execution order:</i> ordú forghníomhaithe; <i>stay of execution:</i> bac ar fhorghníomhú
expiration	<i>at the expiration of:</i> i gceann; <i>before the expiration of:</i> go ceann	<i>on the expiration of the lease:</i> ar éag don léas
forcible	foréigneach	forneartach foréigneach: <i>violent</i>
future	<i>the future acquisition:</i> fáil feasta	<i>future debt:</i> fiach todhchaí
general	<i>general guidance:</i> gnáth-threoir	<i>general agent:</i> gníomhaire ginearálta; <i>general meeting:</i> cruinniú ginearálta; gnáthchruinniú: <i>ordinary meeting</i>
the common good	leas an phobail	an mhaitheas phoiblí

	CONSTITUTION	TÉARMAÍ DLÍ
goods	<i>external goods</i> : maoin shaolta	earraí <i>I pass off goods as those of another</i> : tairgim earraí i leith is gur earraí duine eile iad maoin: <i>property</i>
ground	<i>on the ground of</i> : mar gheall ar	<i>on ground of</i> : ar fhoras
holder	<i>the holder of the office</i> : an té a bheas i seilbh na hoifige	sealbhóir <i>holder for value</i> : sealbhóir ar luach-chomaoin
inadequate	nach leor	<i>inadequate consideration</i> : comaoin neamhleor
incapacity	míthreoir	éagumas <i>permanent incapacity</i> : éagumas buan míthreoraím: <i>I misdirect</i> ; míthreorú: <i>misdirection</i>
incidental	<i>incidental to</i> : a bhfuil baint aige le	<i>risk incidental to the employment</i> : fiontar a ghabhas leis an bhfostaíocht
incite	saighid	<i>I incite</i> : gríosáim; <i>incitement</i> : gríosú
include	<i>The Courts of First Instance shall include</i> : Beidh ar na Cúirteanna Céadchéime	<i>I include</i> : foláim
inconsistent	<i>to the extent that they are not inconsistent therewith</i> : sa mhéid nach bhfuilid ina choinne	<i>inconsistent with</i> : ar neamhréir le
indecent	graosta	míghneasach graosta: <i>obscene</i>
intention	<i>unless the contrary intention appears</i> : mura léir a mhalairt d'intinn ina thaobh	<i>notice of intention to claim relief</i> : fógra go bhfuiltear chun faoiseamh a éileamh
invalid	<i>shall be invalid</i> : beidh sé gan bhail; <i>no adoption shall be invalid</i> : ní bheidh aon uchtáil ó bhail dlí	neamhbhailí
issue	cuir amach	<i>I issue</i> : eisim
jury	coiste tiomanta	giúiré coiste iniúchta: <i>committee of inspection</i>
justice	cothrom; ceart; ionracas	<i>miscarriage of justice</i> : iomrall ceartais; <i>natural justice</i> : ceartas aiceanta ceart: <i>right</i>
knowledge	<i>to the best of my knowledge and power</i> : chomh maith agus is eol agus is cumas dom; <i>persons having knowledge of the following interests</i> : daoine ag a mbeidh eolas ar na gnóthaí seo a leanas	<i>guilty knowledge</i> : fios ciontach; <i>unlawful carnal knowledge</i> : fios collaí neamhdhleathach
positive law	reacht daonna	dlí daonna Reacht na dTréimhsi: <i>Statute of Limitations</i>
liability	féichiúnas	dliteanas féichiúnaí: <i>debtor</i>
matter	<i>a matter of such grave import</i> : chomh tábhachtach sin	ábhar <i>in the matter of</i> : maidir le
means	<i>the means of making reasonable provision for their domestic needs</i> : caoi chun soláthar réasúnta a dhéanamh do riachtanais a dteaghlach	<i>with no visible means of subsistence</i> : gan a chuma air cóir mhaireachtála a bheith aige

	CONSTITUTION	TÉARMAÍ DLÍ
meeting	tionól	cruinniú tionól neamhdhleathach: <i>unlawful assembly</i>
notice of motion	fógra tairisceana	fógra foriarratais
molest	<i>any person interfering with, molesting ... its members</i> : aon duine ... a dhéanfadh cur isteach nó toirmeasc ar a chomhaltai	<i>I molest</i> : cuirim isteach ar
movable	so-aistrithe	so-chorraithe
nuisance	cránas	núis
nullify	cuir ar neamhní	<i>I nullify</i> : neamhním
official	<i>official residence</i> : stát-áras	<i>official assignee</i> : an sannaí oifigiúil; <i>official receiver</i> : glacadóir oifigiúil Stát-fhiach: <i>State debt</i>
open	<i>in open court</i> : sa chúirt go poiblí	<i>hearing in open court</i> : éisteacht i gcúirt oscailte ceart slí poiblí: <i>public right of way</i>
operate	<i>shall operate to</i> : is é is feidhm do	<i>I operate</i> : oibrím cuirim i bhfeidhm: <i>I enforce</i> ; i bhfeidhm: <i>in force</i>
ownership	<i>the ownership ... of the material resources of the community</i> : dílse ... gustail shaolta an phobail; <i>private ownership</i> : a bheith aige dá chuid féin	úinéireacht dílsím: <i>I vest</i>
period	ré; téarma; tráth	<i>extension of period</i> : fadú tréimhse; <i>I extend the period</i> : fadaím an tréimhse tionóntacht ar feadh téarma blianta: <i>tenancy for a term of years</i>
petitioner	<i>petitioners</i> : an lucht achainí	achainíoch
positive law	reacht daonna	dlí daonna reacht: <i>statute</i>
possess	tá aige	<i>possess and receive ... order to</i> : ordú ... a shealbhú agus a ghlacadh
preference	<i>in violation of their ... lawful preference</i> : in aghaidh a rogha dleathaí	<i>fraudulent preference</i> : tosaíocht chalaíseach; <i>preference share</i> : scair thosaíochta rogha: <i>option</i>
presence	<i>in the presence of</i> : i bhfianaise	<i>in the constructive presence of</i> : i láthair ... go hinchiallaithe
privileged	saor ar chúrsaí dlí	faoi phribhléid
prosecute	<i>All crimes ... prosecuted in any court ... shall be prosecuted</i> : i gcás gach coir dá dtugtar in aon chúirt ... a dhéanfar an cúiseamh	<i>I prosecute (a person)</i> : ionchúisím; <i>I prosecute (appeal, proceedings, etc.)</i> : tugaim ar aghaidh
purport	a bheireann le tuiscint	<i>I purport</i> : airbheartaím
armed rebellion	ceannairc faoi arm	ceannairc faoi airm
refer	cuir faoi bhráid; cuir faoi bhreith	<i>I refer (a case to the County Registrar, etc.)</i> : tarchuirim (cás chun an Chláraitheora Chontae, etc.)
reference	a chur faoi bhreith	<i>reference (to arbitration, etc.)</i> : tarchur (chun eadrána, etc.); <i>reference order</i> : ordú tarchurtha

	CONSTITUTION	TÉARMAÍ DLÍ
register	rolla	clár <i>register of agreements</i> : clár na gcomhaontuithe rolla an ghiúiré: <i>jury panel</i>
Registrar	Iriseoir	Cláraitheoir <i>County Registrar</i> : Cláraitheoir Contae
remuneration	tuarastal	luach saothair
represent	ionadaigh	<i>I represent the plaintiff</i> : feidhmim ar son an ghearánaí
representative	ionadóir	<i>personal representative</i> : ionadaí pearsanta
repugnant to	in aghaidh	aimhréireach le
retire	dul as oifig; scoir	<i>I retire</i> : scoirim as oifig
review	cuir faoi léirmheas	<i>I review</i> : athbhreithním
rule	<i>rule of conduct</i> : treoir	<i>rule of Court</i> : riail Chúirte treoraím: <i>I direct (jury)</i>
satisfy	<i>unless satisfied that</i> : mura deimhin leis go	<i>I satisfy</i> : sásaím
second	<i>as a second official language</i> : mar theanga oifigiúil eile	<i>second private sitting</i> : an dara suí príobháideach
senior	<i>in the presence of ... the senior available judge</i> : i láthair ... an bhreithimh ... is sinsearaí dá mbeidh ar fáil	<i>senior counsel</i> : abhcóide sinisr
sentence	<i>sentence of death</i> : breith bháis	pianbhreith <i>I sentence</i> : cuirim pianbhreith ar breith: <i>decision</i>
sign	lámh a chur le <i>signed by</i> : faoi lámh	<i>I sign</i> : sínim
special	faoi leith	<i>special agent</i> : gníomhaire speisialta; <i>special sitting</i> : suí speisialta
specific	<i>by specific enactment</i> : in achtachán chuige sin	<i>specific gift</i> : bronnantas sonrach; <i>specific performance</i> : sainchomhlíonadh
specify	luaigh	<i>I specify</i> : sonraím luaim: <i>I cite</i>
state	luaigh; abair	<i>I state (a case)</i> : sonraím (cás)
stated	<i>case stated</i> : cás ríofa	<i>case stated</i> : cás sonraithe cuntas ríofa: <i>account stated</i>
statement	léirthuirisc	ráiteas
subject to	faoi chuimsiú	faoi réir faoi chuimsiú na fostaíochta: <i>within the scope of the employment</i>
subsequent	<i>subject to the subsequent provisions of this section</i> : faoi chuimsiú na bhforálacha inár ndiaidh den alt seo	<i>subsequent condition</i> : iarchoinníoll
subsisting	<i>but is a subsisting marriage</i> : agus an pósadh sin ... a bheith ann fós	ar marthain
supervision	<i>to be prepared under his supervision</i> : a ullmhú faoina threorú	<i>winding up under supervision</i> : foirceannadh faoi stiúradh treorú: <i>direction (by judge)</i>

	<b>CONSTITUTION</b>	<b>TÉARMAÍ DLÍ</b>
term	<i>the terms and conditions of the office</i> of ...: coinníollacha agus cúinsí oifig an ...	<i>term (i.e., of contract, etc.): téarma</i>  coinníoll: <i>condition; proviso; stipulation</i>
terminate	<i>terminate the appointment.</i> cuir as oifig	<i>I terminate.</i> foirceannaim
title	gairm <i>title of honour.</i> gairm onóra	teideal
transfer	<i>to transfer ... property.</i> maoin a shannadh	<i>I transfer.</i> aistrím
unlawful	<i>unlawfully.</i> go haindleathach	<i>unlawful assembly:</i> tionól neamhdhleathach
valid	<i>but is a subsisting valid marriage:</i> agus an pósadh sin, agus bail dlí air, a bheith ann fós	bailí
validity	<i>the question of the validity of any law.</i> (leis) an gceist sin bail a bheith nó gan a bheith ar aon dlí áirithe	bailíocht
vest	<i>interests ... lawfully vested in any person.</i> leasanna is le haon duine; <i>The supreme command of the Defence Forces is hereby vested in the President.</i> Leis seo cuirtear na Fórsaí Cosanta faoi ardcheannas an Uachtaráin	<i>I vest.</i> dilsím
voluntary	deonach	saorálach
work	saothar	obair luach saothair: <i>remuneration</i>

## APPENDIX 3 FOSCRÍBHINN 3

### GENDER-PROOFING PROMHADH Ó THAOBH INSCENE

Two cases are outlined in the introductory essay where the Irish text of the Constitution could be taken into account in gender-proofing the English text. Other possible cases are examined in this appendix, which is concerned in particular with cases where there appears to be an option in how one gender-proofs the Irish text, along with the question of repetition in gender-proofing.

Article 43.1.1<sup>o</sup>, 'The State acknowledges that man, in virtue of his rational being, has the natural right ...', is gender-proofed in the edition published by the All-Party Oireachtas Committee on the Constitution to read 'The State acknowledges that ~~man~~, **a man or woman**, in virtue of his **or her** rational being, has the natural right ...'. The Irish text is as follows: 'Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha aige ...'. The only emendation necessitated by gender-proofing this text is to add '**nó aici**' to the final 'aige'. While one would not recommend, as an alternative to the amendment 'a man or woman' in the English text, substituting 'the person' for 'man' above, 'duine' expressing 'person' on approximately forty occasions in the Constitution, 'duine' also expresses 'individual' both in the Preamble ('so that the dignity and freedom of the individual may be assured', '*ionas go dtiocfaidh linn a uaisleacht agus a shaoirse a chur in áirithe do gach aon duine*') and in Article 45.2.iii ('the concentration of the ownership or control of essential commodities in a few individuals', '*an t-urlámhas ar earraí riachtanacha a bheith ina lámha féin ag beagán daoine*'). In light of this, 'The State acknowledges that man, in virtue of his rational being, has the natural right ...' might be emended to read 'The State acknowledges that ~~man~~, **the individual**, in virtue of his **or her** rational being, has the natural right ...'.

Article 12.4.5<sup>o</sup>, which reads 'Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for his election', is gender-proofed as follows:

Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for **his the** election.

The Irish text reads:

Nuair nach n-ainmnítear d'oifig an Uachtaráin ach aon iarrthóir amháin, ní gá vótáil chun é a thoghadh.

This would be gender-proofed as follows:

Nuair nach n-ainmnítear d'oifig an Uachtaráin ach aon iarrthóir amháin, ní gá vótáil chun é **nó í** a thoghadh.

This would be equivalent to emending the English text above to read:

Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for his **or her** election.

An emendation similar to the above is made to the English text of Article 18.9 ('Every member of Seanad Éireann shall ... continue to hold office until the day before the polling day of the general election for Seanad Éireann next held after his election or nomination'), which is gender-proofed as follows:

Every member of Seanad Éireann shall ... continue to hold office until the day before the polling day of the general election for Seanad Éireann next held after his **or her** election or nomination.

There is another factor involved in making the gender-proofed Irish and English texts of Article 12.4.5<sup>o</sup> correspond more fully to one another, that is, Article 12.7, which concludes with the clause 'as soon as may be after the election' – the very same clause with which the gender-proofed text of that Article commences: 'The first President shall enter upon **his** office as soon as may be after **his the** election ...'. The Irish text of this Article commences and concludes as follows:

Ní foláir don chéad Uachtarán dul i gcúram a oifige chomh luath agus is féidir é tar éis é a thoghadh ... chomh luath agus is féidir é tar éis an toghcháin.

The same English word 'election' is expressed by 'a thoghadh' and 'toghchán', the first being the verbal noun and the second a noun. The above can be gender-proofed as follows:

Ní foláir don chéad Uachtarán dul i gcúram a oifige chomh luath agus is féidir é tar éis é **nó í** a thoghadh ... chomh luath agus is féidir é tar éis an toghcháin.

While one could propose emending 'a thoghadh' to 'toghchán' and reading 'Ní foláir don chéad Uachtarán dul i gcúram a oifige chomh luath agus is féidir é tar éis é ~~a thoghadh~~ **an toghcháin** ... chomh luath agus is féidir é tar éis an toghcháin', the emendation of Article 12.4.5<sup>o</sup> to read 'Nuair nach n-ainmnítear d'oifig an Uachtaráin ach aon iarrthóir amháin, ní gá vótáil don toghchán' is not satisfactory. The recommended emendation of the commencement of Article 12.7 above would be equivalent to emending the English text to read 'The first President shall enter upon **his** office as soon as may be after his **or her** election' rather than 'The first President shall enter upon **his** office as soon as may be after **his the** election'.

Finally, turning to the Preamble, 'We, the people of Éire, Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial' is gender-proofed to read 'We, the people of Éire, Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our **fathers forebears** through centuries of trial'. No gender-proofing is necessary in the case of the Irish text which reads 'Ar mbeith dúinne, muintir na hÉireann, ag

admháil go huiriseal a mhéid atáimid faoi chomaoin ag Íosa Críost, ár dTiarna Dia, a thug comhfhurtacht dár sinsir i ngach cruatan ina rabhadar ar feadh na gcéadta bliain'. While *De Bhaldraithe* translates 'forbear' as 'sinsir', 'our forbears' is translated therein as 'an mhuintir a chuaigh romhainn'. In *Téarmaí Dlí*, based on Statutory Instrument No. 3 of 1950, 'sinsir' is translated as 'ascendants'. In view of this, perhaps 'Who sustained our fathers through centuries of trial' might be emended to read 'Who sustained our fathers **ascendants** through centuries of trial', rather than emending it as above.

As we have seen above, a choice sometimes presents itself in gender-proofing the Irish text between following the gender-proofed English text published by the All-Party Oireachtas Committee on the Constitution or gender-proofing the Irish text independently of the English text. Article 25.2.1°, for example, reads:

Save as otherwise provided by this Constitution, every Bill so presented to the President for his signature and for promulgation by him as a law shall be signed by the President not earlier than the fifth and not later than the seventh day after the date on which the Bill shall have been presented to him. *Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo, gach Bille a thairgtear don Uachtarán mar sin chun a lámh a chur leis agus chun é a fhógairt ina dhlí, ní foláir dó a lámh a chur leis lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae a thairgtear an Bille dó.*

The English text has been gender-proofed as follows:

Save as otherwise provided by this Constitution, every Bill so presented to the President for his **or her** signature and for promulgation by him **or her** as a law shall be signed by the President not earlier than the fifth and not later than the seventh day after the date on which the Bill shall have been presented to **the President**.

The Irish text can be gender-proofed as follows:

Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo, gach Bille a thairgtear don Uachtarán mar sin chun a lámh a chur leis agus chun é a fhógairt ina dhlí, ní foláir **don Uachtarán** a lámh a chur leis lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae a thairgtear an Bille dó **nó di**.

Gender-proofing the Irish text following the gender-proofed English text above would give the following Irish text:

Taobh amuigh de chás dá socraítear a mhalairt leis an mBunreacht seo, gach Bille a thairgtear don Uachtarán mar sin chun a lámh a chur leis agus chun é a fhógairt ina dhlí, ní foláir **dó nó di** a lámh a chur leis lá nach luaithe ná an cúigiú lá agus nach déanaí ná an seachtú lá tar éis an lae a thairgtear an Bille **don Uachtarán**.

While account was taken of the gender-proofed edition of the English text in gender-proofing the Irish text in this study, the Irish text was gender-proofed having regard to emendations which would involve the least interference with the original Irish text.

In the published gender-proofed English text, 'Chairman' is gender-proofed to 'chair' in the following Articles: 15.9.1°, 15.9.2°, 15.11.1°, 15.11.2°, 22.2.3°, 24.1, 27.5.1°, 27.6, 33.5.2° and 35.4.2°. By emending 'Cathaoirleach' to 'cathaoirleach' (with lower case 'c'), this minor

emendation suffices to gender-proof the Irish version of those Articles. Note, however, that we find 'Cathaoir' in the *Standing Orders* of Dáil Éireann (1997), in sections 20, 44, 48, 53, 61(1), 64(1), 75, 113 agus 115(1) – s44, for example, reads 'Members shall address the Chair', '*Is chun na Cathaoireach a labhróidh comhaltaí*'. In s116, however, 'which is deemed by the Chair ...' is translated as 'más dóigh le Cathaoirleach an Choiste'. 'Cathaoirleach' (with upper case 'C') refers to 'Cathaoirleach Sheanad Éireann' in Articles 14.2.1° and 14.2.4°.

Article 15.9.1° reads as follows:

Each House of the Oireachtas shall elect from its members its own Chairman and Deputy Chairman, and shall prescribe their powers and duties. *Toghfaidh gach Teach ar leith den Oireachtas a Chathaoirleach agus a Leas-Chathaoirleach féin as a chomhaltas féin, agus leagfaidh amach dóibh a gcumhachtaí agus a ndualgais.*

The English text has been added to as follows in the gender-proofed edition of that text:

Each House of the Oireachtas shall elect from its members its own **chair** and **deputy chair**, and shall prescribe their powers and duties, **the chair of Dáil Éireann to be known as the Ceann Comhairle and the chair of Seanad Éireann to be known as the Cathaoirleach**.

This has been rendered as follows in the gender-proofed Irish text in this study:

Toghfaidh gach Teach ar leith den Oireachtas a **chathaoirleach** agus a **leaschathaoirleach** féin as a chomhaltas féin, agus leagfaidh amach dóibh a gcumhachtaí agus a ndualgais; **an Ceann Comhairle a ghairfear de chathaoirleach Dháil Éireann agus an Cathaoirleach a ghairfear de chathaoirleach Sheanad Éireann**.

Somewhat like 'Cathaoirleach' above, 'baintreach', expressing 'widow' in Article 45.4.1°, needs no gender-proofing. The English text, 'to contribute to the support of the infirm, the widow, the orphan, and the aged' is gender-proofed as follows: 'to contribute to the support of the infirm, widows and widowers, the orphan, and the aged'. The Irish text reads as 'cabhair maireachtála a thabhairt don easlán, don bhaintreach, don dilleacht agus don sean'. 'A widow or widower' is translated simply as 'baintreach' in s19(1) of the Finance Act, 1966, though we find 'baintreach fir' translating 'widower' in s18(2) of the Social Welfare (Occupational Injuries) Act, 1966, and 'baintreach nó baintreach fir' translating 'widow or widower' in s5(1)(c) of the Social Welfare Act, 1970. 'Baintreach fir' is cited in *Foclóir Oifigiúil* as translating 'widower' in translations for the Department of Industry and Commerce. *Ó Dónaills* entry s.v. 'baintreach' reads: '1. baintreach (mná), *widow*. 2. baintreach (fir), *widower*'. In *De Bhaldraithe*, s.v. '*widower*', we find 'baintreach (fir)'. *Dinneen* translates 'baintreach' as '*a widow, a widower*', but also includes 'baintreach fir, *a widower*; baintreach mná, *a widow*'. While 'baintreach' is a compound of 'ban' and 'trebhach' ('householder, farmer'), we find the metaphorical use of this term in the seventeenth century in the phrase 'is baintreach gach teampoll' (i.e. without their clergy) –see DIL.

Turning specifically to the question of gender-proofing



and the Irish text, the omission of the personal pronoun in some clauses where one would generally find such a pronoun today results in clauses where the English text requires gender-proofing but the corresponding Irish text needs no such proofing. Taking the opening of Article 14.1, for example, where the gender-proofed English text reads 'In the event of the absence of the President, or **the** temporary incapacity **of the President**, or **the** permanent incapacity **of the President**', the Irish text reads 'Má bhíonn an tUachtarán as láthair nó má bhíonn ar míthreoir go sealadach, nó má bhíonn ar míthreoir go buan ...'. In Article 12.7, where '... in the event of his predecessor's removal from office, death, resignation, or permanent incapacity ...' is gender-proofed to read 'in the event of his **or her** predecessor's removal from office, death, resignation, or permanent incapacity', the Irish text ('má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é nó go n-éagfaidh nó go n-éireoidh as oifig nó neachtar acu go ngabhfaidh míthreoir bhuan é') can be gender-proofed to read 'má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é **nó í** nó go n-éagfaidh nó go n-éireoidh as oifig nó neachtar acu go ngabhfaidh míthreoir bhuan é **nó í**', rather than 'má tharlaíonn dá réamhtheachtaí go gcuirfear as oifig é **nó í** nó go n-éagfaidh **sé nó sí** nó go n-éireoidh **sé nó sí** as oifig nó neachtar acu go ngabhfaidh míthreoir bhuan é **nó í**'.

'Under disability or incapacity for membership of Dáil Éireann', in Article 16.1.3°, is expressed as 'faoi mhíchumas nó faoi mhíthreoir maidir lena bheith ina chomhalta de Dháil Éireann'. In the gender-proofed text presented in the study, 'lena' is emended to 'le' and the text reads 'faoi mhíchumas nó faoi mhíthreoir maidir **le** bheith ina chomhalta **nó ina comhalta** de Dháil Éireann'. The English text 'after his election or nomination', in Article 18.9, which is expressed in the Irish text as 'd'éis é a thoghadh nó é a ainmniú', is gender-proofed to read 'after his **or her** election or nomination'. In gender-proofing the Irish text here 'é nó í' is inserted only once in the Irish text and the second 'é' is deleted, to read 'd'éis **é nó í** a thoghadh nó a ainmniú', rather than 'd'éis **é nó í** a thoghadh nó **é nó í** a ainmniú'.

Gender-proofing the Irish text sometimes, however, requires repetition of elements of the original text. Where a preposition occurs before a masculine personal pronoun it would appear that the preposition itself needs to be repeated before the feminine pronoun which is introduced in gender-proofing. In Article 26.2.1°, for example, 'le hargóintí ón Ard-Aighne nó thar a cheann' would be gender-proofed to read 'le hargóintí ón Ard-Aighne nó thar a cheann **nó thar a ceann**', rather than 'le hargóintí ón Ard-Aighne nó thar a cheann **nó a ceann**'. Similarly, in Article 31.1, where the English text 'in relation to the exercise and performance by him of such of his powers and functions, as are by this Constitution expressed ...' is gender-proofed to read 'in relation to the exercise and performance by him **or her** of such of his **or her** powers and functions as are by this Constitution expressed', the Irish text, 'maidir le hé d'oibriú is do chomhlíonadh na gcumhachtaí is na bhfeidhmeanna a luaitear sa Bhunreacht seo', would be gender-proofed to 'maidir le hé **nó le hí** d'oibriú ...' rather than 'maidir le hé **nó hí** d'oibriú' or 'maidir le hé **nó í** d'oibriú'. An alternative to the above, as noted by my colleague Treasa Ní Bhrua, is to repeat the noun, i.e. to gender-proof 'le hargóintí ón Ard-Aighne nó

thar a cheann' as 'le hargóintí ón Ard-Aighne **nó thar ceann an Ard-Aighne**' — such repetition of the noun is found in the gender-proofed English text also, as we saw above, where 'the President' was inserted rather than emending 'he' to 'he or she'. Note, as an example of repetition of the preposition in the original text, that 'all estates and interests therein for the time being lawfully vested in any person or body' is expressed as 'cibé eastáit agus leasanna is le haon duine nó le haon dream go dleathach in alt na huaire' in Article 10.1 and 'Every such message or address must, however, have received the approval of the Government' is expressed as 'Ach i ngach cás díobh sin ní foláir an Rialtas a bheith sásta roimh ré leis an teachtaireacht nó leis an aitheasc' in Article 13.7.3°.

Repetition of the copula seems to be necessary when gender-proofing the phrase 'is é', i.e. 'is é **nó is í**', as against 'is é **nó í**'. In Article 28.1, for example, 'agus is é an tUachtarán a cheapfas na comhaltaí sin' ('who shall be appointed by the President') is gender-proofed as 'agus is é **nó is í** an tUachtarán ...' rather than 'agus is é **nó í** an tUachtarán'. As regards the feminine pronoun referring to a masculine noun, see *Graiméar Gaeilge na mBráithre Críostaí*, p. 144:

Is é gnéas an duine agus ní hé gnéas an ainmfhocail a chinneann inscne an fhorainmnigh go hiondúil. (*The gender of the person rather than the gender of the noun usually decides the gender of the pronoun.*)

Among the examples cited are 'sin í an cailín ag cur uirthi a cóta' and 'is í an captaen í'.

Article 35.2 reads as follows:

All judges shall be independent in the exercise of their judicial functions and subject only to this Constitution and the law. *Beidh gach breitheamh saor neamhspleách maidir lena feidhmeanna breithimh a oibriú, gan de smacht air ach an Bunreacht seo agus an dlí.*

It would appear that 'breithimh' needs to be repeated in gender-proofing. Professor Máirtín Ó Murchú recommending having the extra phrase 'no lena feidhmeanna breithimh' preceded and followed by a comma:

Beidh gach breitheamh saor neamhspleách maidir lena feidhmeanna breithimh, **nó lena feidhmeanna breithimh**, a oibriú, gan de smacht air **nó uirthi** ach an Bunreacht seo agus an dlí.

The alternative would read:

Beidh gach breitheamh saor neamhspleách maidir lena feidhmeanna **nó lena feidhmeanna** breithimh a oibriú, gan de smacht air **nó uirthi** ach an Bunreacht seo agus an dlí.

It would not appear to be necessary to repeat 'maidir' to read:

Beidh gach breitheamh saor neamhspleách maidir lena feidhmeanna breithimh **nó maidir lena feidhmeanna breithimh** a oibriú ....

Again it would appear necessary to repeat the adjective in Article 40.4.1° which reads:

No citizen shall be deprived of his personal liberty save in accordance with law. *Ní cead a shaoirse phearsanta a bhaint d'aon saoránach ach amháin de réir dlí.*

The English text has been gender-proofed to read:

No citizen shall be deprived of his **or her** personal liberty save in accordance with law.

A question arises as to whether the Irish text be gender-proofed to read:

Ní cead a shaoirse phearsanta **nó a saoirse phearsanta** a bhaint d'aon saoránach ach amháin de réir dlí.

or

Ní cead a shaoirse **nó a saoirse** phearsanta a bhaint d'aon saoránach ach amháin de réir dlí.

Similarly in Article 40.5 ('The dwelling of every citizen is inviolable', '*Is slán do gach saoránach a ionad cónaithe*'), one could gender-proof the Irish text as '*Is slán do gach saoránach a ionad cónaithe **nó a hionad cónaithe***' or simply as '*Is slán do gach saoránach a ionad **nó a hionad cónaithe***'. Note in the original text that 'sannadh' is repeated in Article 10.3 ('for the control of the alienation, whether temporary or permanent, of that property', '*chun sannadh buan nó sannadh sealadach na maoiné sin a rialú*'), as is 'tábhacht' in Article 13.7.1° ('any matter of national or public importance', '*aon ní a bhfuil tábhacht náisiúnta nó tábhacht phoiblí ann*').

In gender-proofing 'Tig leis an Uachtarán, as a chomhairle féin, diúltú' ('The President may in his absolute discretion refuse'), in Article 13.2.2°, for example, a question arises as to whether it is necessary to repeat 'féin', i.e. 'as a chomhairle féin **nó as a chomhairle féin**' as against 'as a chomhairle **nó a chomhairle féin**'. See also Articles 13.9 and 31.3. In Articles 28.9.4°, 30.5.2° and 31.7 – where the English text, 'for reasons which to him seem sufficient', is gender-proofed simply as 'for reasons which to him **or her** seem sufficient' – the choice in gender-proofing the Irish text 'ar ábhair is leor leis féin' is between 'ar ábhair is leor leis féin **nó léi féin**' or 'ar ábhair is leor leis **nó léi féin**'.

The question of the repetition of 'sin' arises in some Articles. 'Ceapfaidh an tUachtarán an Taoiseach .i. an Ceann Rialtais nó an Príomh-Aire, arna ainmniú sin ag Dáil Éireann' ('The President shall, on the nomination of Dáil Éireann, appoint the Taoiseach, that is, the head of the Government or Prime Minister'), in Article 13.1.1°, would appear capable of been gender-proofed either as 'Ceapfaidh an tUachtarán an Taoiseach .i. an Ceann Rialtais nó an Príomh-Aire, arna ainmniú sin **nó arna hainmniú sin** ag Dáil Éireann' or as '... arna ainmniú **nó arna hainmniú sin** ag Dáil Éireann'. A similar phrase is found in Article 30.2 ('The Attorney General shall be appointed by the President on the nomination of the Taoiseach ...', '*Is ag an Uachtarán a cheapfar an tArd-Aighne arna ainmniú sin ag an Taoiseach*'); the same wording is found in Article 33.2, regarding the appointment of the Comptroller and Auditor General. 'Arna' is composed of 'ar' and the possessive adjective 'a'; no differentiation is made as regards number or gender in the case of 'sin' with a possessive pronoun – 'a mhac sin' ('that man's son') and 'lena dtaobh sin' ('as compared to those') are cited by Ó Dónaill; 'muintir Chonamara sin' is cited in s104(d) of *Graiméar Gaeilge na mBráithre Críostaí*, where 'sin'

qualifies the feminine noun 'muintir'.

The English text of Article 34.5.4°, 'shall be deemed to have vacated his office', is gender-proofed as 'shall be deemed to have vacated his **or her** office'. The Irish text reads as 'ní foláir a mheas go bhfuil scartha aige lena oifig'. Again a question arises as to whether to gender-proof as 'ní foláir a mheas go bhfuil scartha aige lena oifig **nó aici lena hoifig**' or as 'ní foláir a mheas go bhfuil scartha aige **nó aici lena oifig nó lena hoifig**'.

Article 40.4.2°, 'go bhfuil an duine sin á choinneáil ina bhrá go haindleathach' ('... that such person is being unlawfully detained') illustrates the case of gender-proofing the Irish text where possessive adjectives are involved. This phrase is gender-proofed in the study as 'go bhfuil an duine sin á choinneáil ina bhrá **nó á coinneáil ina brá** go haindleathach' rather than 'go bhfuil an duine sin á choinneáil **nó á coinneáil** ina bhrá nó **ina brá** go haindleathach'. Further on in that subsection, the English text's 'the person in whose custody he is detained' ('neach a choinnithe ina bhrá') is gender-proofed as 'the person in whose custody he **or she** is detained'. The Irish text has been gender-proofed here as 'neach a choinnithe ina bhrá **nó a coinnithe ina brá**' rather than 'neach a choinnithe **nó a coinnithe** ina bhrá **nó ina brá**'. We find similar phrases in Articles 40.4.3° agus 40.4.4° – 'a bheith á choinneáil ina bhrá' being gender-proofed to read 'a bheith á choinneáil ina bhrá **nó á coinneáil ina brá**' rather than 'a bheith á choinneáil **nó á coinneáil** ina bhrá **nó ina brá**'. In Article 40.4.3° 'ligean don duine sin a shaoirse a bheith aige' is gender-proofed to read 'ligean don duine sin a shaoirse a bheith aige **nó a saoirse a bheith aici**' rather than 'ligean don duine sin a shaoirse **nó a saoirse** a bheith aige **nó aici**'.

Finally, Article 43.1.1° reads:

The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods. *Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha aige maoin shaolta a bheith aige dá chuid féin go príobháideach, ceart is ársa ná reacht daonna.*

The English text is gender-proofed as follows:

The State acknowledges that **a man or woman**, in virtue of his **or her** rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

The Irish text is gender-proofed to read:

Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha **ag fear nó bean** maoin shaolta a bheith aige dá chuid féin **nó aici dá cuid féin** go príobháideach, ceart is ársa ná reacht daonna.

This is in preference to the following:

Admhaíonn an Stát, toisc bua an réasúin a bheith ag an duine, go bhfuil sé de cheart nádúrtha **ag fear nó bean** maoin shaolta a bheith aige **nó aici** dá chuid féin **nó dá cuid féin** go príobháideach, ceart is ársa ná reacht daonna.

## APPENDIX 4 FOSCRÍBHINN 4

### THE LATEST AMENDMENTS

As stated in the introductory essay, the Irish text of the most recent amendments of the Constitution are direct translations of the English text and therefore need not be translated into English in this study. However, again as noted in that essay, the translator of the amendment strives as far as possible to adhere to the terms and phrases already in use in the full text, which terms and phrases may not be direct translations of the terms and phrases in the English text, as this study has shown. It follows, therefore, that some modern amendments contain an amalgam of two styles, as we have seen in the commentary on Articles 40.3.3° and 41.3.2° above, which include the Thirteenth, Fourteenth and Fifteenth Amendments of the Constitution. While it is not intended to comment in any detail on the later amendments here, particularly as the author is a member of the staff of the Translation Section of the Houses of the Oireachtas which produced those translations, the texts are given here for the sake of completeness and a few remarks will be made on the lengthy Nineteenth Amendment of the Constitution in Article 29.7, which contains two new Articles which are proposed to be substituted for Articles 2 and 3.

Article 29.4.3° was added to the Constitution by the Third Amendment of the Constitution Act, 1972. The text of that subsection was added to by the Tenth Amendment of the Constitution Act, 1987. It is the text following that amendment which is given in the study above and commented on. Following the Eleventh Amendment of the Constitution, 1992 (dealing with the Maastricht Treaty), the third sentence of that Article was deleted and became the basis for the new ss7°; ss4° and 8° were also added to the text following that amendment. Subsections 5° and 6° were added following the Eighteenth Amendment of the Constitution, 1998 (dealing mainly with the Amsterdam Treaty). Articles 29.4.4°, 5°, 6°, 7° and 8° read as follows:

4° Tig leis an Stát an Conradh ar an Aontas Eorpach a síníodh i Maastricht ar an 7ú lá d'Fheabhra, 1992, a dhaingniú agus tig leis a bheith ina chomhalta den Aontas sin.

*The State may ratify the Treaty on European Union signed at Maastricht on the 7th day of February, 1992, and may become a member of that Union.*

5° Tig leis an Stát an Conradh Amstardam ag leasú an Chonartha ar an Aontas Eorpach, na gConarthaí ag bunú na gComhphobal Eorpach agus Ionstraimí gaolmhara áirithe, a síníodh in Amstardam an 2ú lá de Dheireadh Fómhair, 1997, a dhaingniú.

*The State may ratify the Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related Acts signed at Amsterdam on the 2nd day of October, 1997.*

6° Tig leis an Stát na roghnuithe nó na roghanna a fheidhmiú a shocraítear le hAirteagail 1.11, 2.5 agus

### NA LEASUITHE IS DEIREANAÍ

2.15 den Chonradh dá dtagraítear i bhfo-alt 5° den alt seo nó fúthu agus leis an dara Prótacal agus leis an gceathrú Prótacal atá leagtha amach sa Chonradh sin nó fúthu ach beidh aon fheidhmiú den sórt sin faoi réir ceadú a fháil roimh ré ó dhá Theach an Oireachtais.

*The State may exercise the options or discretions provided by or under Articles 1.11, 2.5 and 2.15 of the Treaty referred to in subsection 5° of this section and the second and fourth Protocols set out in the said Treaty but any such exercise shall be subject to the prior approval of both Houses of the Oireachtas.*

7° Ni dhéanann aon fhoráileamh atá sa Bhunreacht seo aon dlíthe a d'achtaigh, gníomhartha a rinne nó bearta lenar ghlac an Stát, de bhíthin riachtanais na n-oibleagáidí mar chomhalta den Aontas Eorpach nó de na Comhphobail a chur ó bhail dlí ná cosc a chur le dlíthe a d'achtaigh, gníomhartha a rinne nó bearta lenar ghlac an tAontas Eorpach nó na Comhphobail nó institiúidí díobh, nó comhlachtaí atá inniúil faoi na Conarthaí ag bunú na gComhphobal, ó fheidhm dlí a bheith acu sa Stát. *No provision of this Constitution invalidates laws enacted, acts done or measures adopted by the State which are necessitated by the obligations of membership of the European Union or of the Communities, or prevents laws enacted, acts done or measures adopted by the European Union or by the Communities or by institutions thereof, or by bodies competent under the Treaties establishing the Communities, from having the force of law in the State.*

8° Tig leis an Stát an Comhaontú maidir le Paitinní Comhphobail a tarraingíodh suas idir Ballstáit na gComhphobal agus a rinneadh i Lucsamburg ar an 15ú lá de Nollaig, 1989, a dhaingniú.

*The State may ratify the Agreement relating to Community Patents drawn up between the Member States of the Communities and done at Luxembourg on the 15th day of December, 1989.*

Most of the terms and phrases found in ss4°, 5° and 8° are already found in ss3° and the Irish text of those new subsections is consistent with that of the earlier subsection. Note that 'amending' in ss5° could also be translated as 'lena leasaítear'. As noted above, ss7° is based on the original ss3°, with 'aon fhoráileamh' replacing 'aon fhoráil' of the original subsection, 'foráileamh' being the form of 'foráil' found in the original text of the Constitution, but being replaced by 'foráil' in the popular edition in general.

The subsections above did, nevertheless, introduce terms to the text which do not conform to those of the original text. As noted in the commentary on Article 3, 'exercise' is rendered by 'feidhmigh' in ss6°, as is the norm in the modern Acts, 'oibrigh' expressing 'exercise' in the text of the Constitution in general. As noted in the commentary on Article 12.5, 'subject to' is rendered above as

'faoi réir', following *Téarmaí Dlí*, 'faoi chuimsiú' generally expressing 'subject to' in the Constitution. Similarly 'ceadú' is the term found generally in the modern Acts translating 'approval', although this term is translated as 'formheas' in *Téarmaí Dlí* – see the commentary in Article 13.1.2°.

Article 28 was amended by the Seventeenth Amendment of the Constitution, 1997 (dealing with Cabinet confidentiality). Subsection 3° of Article 28.4 was renumbered as ss4° and the following new ss3° was inserted:

Déanfar rúndacht na bpléití ag cruinnithe den Rialtas a urramú i ngach toisc ach amháin i gcás ina gcinnfidh an Ard-Chúirt gur ceart nochtadh a dhéanamh i dtaobh ní áirithe –

i ar mhaithe le riaradh cirt ag Cúirt, nó  
ii de bhua leasa phoiblí sháraithe, de bhun iarratais chuige sin ó bhinse arna cheapadh ag an Rialtas nó ag Aire den Rialtas le húdarás Thithe an Oireachtais chun fiosrú a dhéanamh faoi ní a luafaidh siad ina thaobh go bhfuil tábhacht phoiblí ann.

*The confidentiality of discussions at meetings of the Government shall be respected in all circumstances save only where the High Court determines that disclosure should be made in respect of a particular matter –*

*i in the interests of the administration of justice by a Court, or*

*ii by virtue of an overriding public interest, pursuant to an application in that behalf by a tribunal appointed by the Government or a Minister of the Government on the authority of the Houses of the Oireachtas to inquire into a matter stated by them to be of public importance.*

Note how 'respect' ('a urramú') is translated literally here as against 'gan cur isteach ar' found in Articles 40.3.1° and 42.1; 'justice' is translated as 'ceartas' following *Téarmaí Dlí* as against 'ceart' in the Constitution in general. Note that *Ó Dónaill* gives 'riaradh' as a variant form of 'riar', 'riaradh' being the general form in the Acts; and note, finally, that we find the lenited nominative in the phrase 'le húdarás Thithe an Oireachtais', this rule of the official standard regarding the lenited nominative in place of the genitive not being complied with in general in the popular edition of the original text of the Constitution – see the commentary on Article 1.

Article 40.4.7° was added to the Constitution following the Sixteenth Amendment of the Constitution, 1996 (dealing with bail). This section reads as follows:

Féadfar socrú a dhéanamh le dlí chun go bhféadfaidh cúirt bannaí a dhiúltú do dhuine atá cúisithe i gcion tromaí sa chás go measfar le réasún é a bheith riachtanach chun an duine sin a chosc ar chion tromaí a dhéanamh.

*Provision may be made by law for the refusal of bail by a court to a person charged with a serious offence where it is reasonably considered necessary to prevent the commission of a serious offence by that person.*

'Charge' is translated here, following *Téarmaí Dlí*, by 'cúisigh', this not being the case always in the original text of the Constitution – see the commentary on Articles 12.10.2° and 3°. Note also that 'trom' (rather than 'tromaí') translates 'serious' in *Téarmaí Dlí*, where 'serious and permanent disablement' is translated as 'buan-mhíchumas trom'. 'Serious offence' is translated as 'cion tromaí' in the 'Interpretation' in s1 of the Extradition (European Convention on the Suppression of Terrorism) Act, 1987, with 'mura mbeidh cúiseanna tromaí ann chun a thiomhde go bhfuil

earraí ann nach mbaineann na saoirseachtaí leo a luaitear i mír 1 den Airteagal seo' translating 'unless there are serious grounds for presuming that it contains articles not covered by the exemptions mentioned in paragraph 1 of this Article' in s2 of Article 36 of the First Schedule to the Diplomatic Relations and Immunities Act, 1967.

The final amendment to be touched on here is the lengthy Nineteenth Amendment of the Constitution, 1998 (dealing with the British-Irish Agreement), which added Article 29.7 to the Constitution. This section reads as follows:

1° Tig leis an Stát a thoilíú a bheith faoi cheangal ag Comhaontú na Breataine-na hÉireann, arna dhéanamh i mBéal Feirste an 10ú lá d'Aibreán, 1998, ar a dtugtar an Comhaontú sa Bhunreacht seo feasta. *The State may consent to be bound by the British-Irish Agreement done at Belfast on the 10th day of April, 1998, hereinafter called the Agreement.*

2° Tig le haon institiúid a bhunófar leis an gComhaontú nó faoin gComhaontú na cumhachtaí agus na feidhmeanna a fheidhmiú a thugtar di dá chionn sin i leith oileán na hÉireann ar fad nó i leith aon chuid de d'ainneoin aon fhorála eile den Bhunreacht seo lena dtugtar cumhacht nó feidhm dá samhail d'aon duine nó d'aon organ Stáit arna cheapadh faoin mBunreacht seo nó arna chruthú nó arna bhunú leis an mBunreacht seo nó faoin mBunreacht seo. Féadfaidh aon chumhacht nó aon fheidhm a thabharfar d'institiúid den sórt sin i ndáil le hacrainn nó conspóidí a réiteach nó a shocrú a bheith i dteannta nó in ionad aon chumhachta nó aon fheidhme dá samhail a thugtar leis an mBunreacht seo d'aon duine den sórt sin nó d'aon organ Stáit den sórt sin mar a d'ádh.

*Any institution established by or under the Agreement may exercise the powers and functions thereby conferred on it in respect of all or any part of the island of Ireland notwithstanding any other provision of this Constitution conferring a like power or function on any person or any organ of State appointed under or created or established by or under this Constitution. Any power or function conferred on such an institution in relation to the settlement or resolution of disputes or controversies may be in addition to or in substitution for any like power or function conferred by this Constitution on any such person or organ of State as aforesaid.*

3° Má dhearbhaíonn an Rialtas go bhfuil an Stát tagtha chun bheith faoi oibleagáid, de bhun an Chomhaontaithe, éifeacht a thabhairt don leasú ar an mBunreacht seo dá dtagraítear sa Chomhaontú sin, ansin, d'ainneoin Airteagal 46 den Bhunreacht seo, déanfar an Bunreacht seo a leasú mar a leanas: *If the Government declare that the State has become obliged, pursuant to the Agreement, to give effect to the amendment of this Constitution referred to therein, then, notwithstanding Article 46 hereof, this Constitution shall be amended as follows:*

i déanfar na hAirteagail seo a leanas a chur in ionad Airteagail 2 agus 3 den téacs Gaeilge:  
i the following Articles shall be substituted for Articles 2 and 3 of the Irish text:

#### "Airteagal 2

Tá gach duine a shaoilaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, i dteideal, agus tá de cheart oidhreachta aige nó aici, a

bheith páirteach i náisiún na hÉireann. Tá an teideal sin freisin ag na daoine go léir atá cáilithe ar shlí eile de réir dlí chun bheith ina saoránaigh d'Éirinn. Ina theannta sin, is mór ag náisiún na hÉireann a choibhneas speisialta le daoine de bhunadh na hÉireann atá ina gcónaí ar an gcoigríoch agus arb ionann féiniúlacht agus oidhreacht chultúir dóibh agus do náisiún na hÉireann.

### Airteagal 3

1 Is í toil dhiongbháilte náisiún na hÉireann, go sítheach cairdiúil, na daoine go léir a chomhroinneann críoch oileán na hÉireann i bpáirt lena chéile, in éagsúlacht uile a bhféiniúlachtaí agus a dtraidisiún, a aontú, á aithint gur trí mhodhanna síochánta amháin le toiliú thromlach na ndaoine, á chur in iúl go daonlathach, sa dá dhlíne san oileán, a dhéanfar Éire aontaithe a thabhairt i gcrích. Go dtí sin, bainfidh na dlíthe a achtófar ag an bParlaimint a bhunaítear leis an mBunreacht seo leis an limistéar feidhme céanna, agus beidh an raon feidhme céanna acu, lena bhain na dlíthe, agus a bhí ag na dlíthe, a d'achtaigh an Pharlaimint a bhí ar marthain díreach roimh theacht i ngníomh don Bhunreacht seo.

2 Féadfaidh údaráis fhreagracha faoi seach na ndlísin sin institiúidí ag a mbeidh cumhachtaí agus feidhmeanna feidhmiúcháin a chomhroinntear idir na dlínsí sin a bhunú chun críoch sonraithe agus féadfaidh na hinstitiúidí sin cumhachtaí agus feidhmeanna a fheidhmiú i leith an oileáin ar fad nó i leith aon chuid de.”

ii déanfar na hAirteagail seo a leanas a chur in ionad Airteagal 2 agus 3 den téacs Sacs-Bhéarla:  
ii *the following Articles shall be substituted for Articles 2 and 3 of the English text:*

#### “Article 2

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

#### Article 3

1 It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions in the island. Until then, the laws enacted by the Parliament established by this Constitution shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution.

2 Institutions with executive powers and functions that are shared between those jurisdictions may be established by their

respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island.”,

iii déanfar an t-alt seo a leanas a chur leis an téacs Gaeilge den Airteagal seo:

iii *the following section shall be added to the Irish text of this Article:*

“8 Tig leis an Stát dlínse a fheidhmiú taobh amuigh dá chrioch de réir bhunrialacha gnáth-admhaithe an dlí idirnáisiúnta.”,

agus  
and

iv déanfar an t-alt seo a leanas a chur leis an téacs Sacs-Bhéarla den Airteagal seo:

iv *the following section shall be added to the English text of this Article:*

“8 The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law.”.

4° Má dhéantar dearbhú faoin alt seo, déanfar an fo-alt seo agus fo-alt 3°, seachas an leasú ar an mBunreacht seo a dhéantar leis an bhfo-alt sin 3°, agus fo-alt 5°, den alt seo a fhágáil ar lár as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin, ach d'ainneoin iad a fhágáil ar lár amhlaidh leanfaidh an t-alt seo d'fheidhm dlí a bheith aige.

*If a declaration under this section is made, this subsection and subsection 3°, other than the amendment of this Constitution effected thereby, and subsection 5°, of this section shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.*

5° Mura ndéanfar dearbhú den sórt sin laistigh de dhá mhí dhéag ón tráth a chuirfear an t-alt seo leis an mBunreacht seo nó cibé tréimhse is faide ná sin a shocrófar le dlí, scoirfidh an t-alt seo d'éifeacht a bheith leis agus fágfar ar lár é as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin.

*If such a declaration is not made within twelve months of this section being added to this Constitution or such longer period as may be provided for by law, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.*

This is a very literal translation of the English text favouring modern Irish legal terms and the phraseology of the modern Acts to the terminology and phraseology of the text of the Constitution in general. Thus ‘consent’ is translated as ‘toiliú’ in the proposed new Article 3 (as against ‘toil’ in Article 12.9, for example); ‘exercise’ is translated as ‘feidhmigh’ in ss2° above (as against ‘oibrigh’ in the Constitution in general); ‘has become’ is translated as ‘tagtha chun bheith’ in ss3° (see the commentary on Article 9.1.1°) and ‘within’ is translated as ‘laistigh’ in ss5° (as against ‘taobh istigh de’ in the Constitution in general). On the other hand, following Article 29.3, ‘the generally recognised principles of international law’ is rendered as ‘bunrialacha gnáth-admhaithe an dlí idirnáisiúnta’ in the new Article 29.8 contained in Article 29.7.3° above. In s66(2) of the Central Bank Act, 1989, for example, ‘the general principles which guide the Bank’ is translated as

'na prionsabail ghinearálta a bhíonn mar threoir ag an mBanc', 'de réir ghnáthphrionsabail an dlí' translating 'in accordance with general principles of law' in Article 67 of the Fourth Schedule to the Geneva Conventions Act, 1962, and 'Prionsabail Ghinearálta' translating 'General Principles' in the Heading for s55 of the 'Clare County Scheme' in the First Schedule to the Local Government (Temporary Provisions) Act, 1923.

As stated in the text of the amendment above, it is intended that subsections 5°, 4° and 3° of Article 29.7 be omitted in due course from the official text of the Constitution and that the new Articles 2 and 3 contained in Article 29.7.3° be substituted for the original Articles 2 and 3. Note that 'territory', in 'the territory of the island of Ireland' in Article 3.1, is translated literally by the singular 'críoch' ('críoch oileán na hÉireann') as against the plural 'críocha' of the original Article 2, where 'The national territory consists of the whole island of Ireland' is expressed as 'Is é oileán na hÉireann go hiomlán ... na críocha náisiúnta' – see the commentary on Article 2 regarding 'críocha' v. 'críoch'. In Article 3.2 we find 'exercise' translated by the current term in the Acts, 'feidhmigh', rather than the term in the Constitution in general, 'oibrigh'. 'Executive' is translated by the genitive singular of 'feidhmiúchán' as an attributive adjective rather than as 'comhallacht' as in Article 6.1, or the adjective 'comhallach' as in Articles 28.2, 29.4.1°, 29.4.2° and 49.1.

As stated in the introductory essay, the new Article 2 introduced gender-proofing in an otherwise non-gender-proofed text, with 'tá de cheart oidhreachta aige nó aici' translating 'It is the ... birthright (of every person)'. Note that in order to gender-proof the preceding subsection in this amendment (Article 29.7.2°), 'd'aon duine nó d'aon organ Stáit arna cheapadh faoin mBunreacht seo' ('on any person or any organ of State appointed under ... this Constitution') would have to read 'd'aon duine nó d'aon organ Stáit arna cheapadh nó arna ceapadh faoin mBunreacht seo' – Professor Máirtín Ó Murchú recommends 'd'aon duine nó d'aon organ Stáit dá gceapfaí faoin mBunreacht seo' here.

Note, finally, that 'oidhreachta' occurs twice in the new Article 2, translating 'heritage' in the concluding clause of this Article, with 'ceart oidhreachta' translating 'birthright' of the opening clause. 'Oidhreachta' is translated as

'inheritance, heredity; heritage, patrimony' in *Ó Dónaill*, citing '*thréig siad a n-oidhreachta*, they forsook their heritage' and '*oidhreachta ár sinsear*, our ancestral heritage, patrimony' – note that s.v. 'ceart', *Ó Dónaill* translates 'ceart dúchais' as 'hereditary right'. *Dinneen* translates 'oidhreachta' as 'an inheritance, heirloom, birthright, patrimony'. DIL translates 'eigrecht'/'oigrecht' as 'inheritance, heritage, patrimony, (inherited) possession'. This abstract noun is based on 'eigre'/'oigre', translated in DIL as 'heir, inheritor, successor, descendant (often equivalent to *mac*)'; the earliest dateable example recorded is 'eigher' in a thirteenth-century poem, but 'eigre' ('oigre'), the commoner form, may be older, according to DIL.

Turning specifically to 'birthright', *Dinneen* cites '*ceart beirthe*, birth-right' s.v. 'ceart'. *L. Mc Cionnaith* cites 'ceart do shinnsearachta', from Munster, translating 'your birth right'. Historically, 'sinsearachta' alone expresses 'birthright'. The year 1535 is given for the earliest citation of 'birthright' in the *Shorter Oxford Dictionary*, where Jacob's response to his brother Esau's request for food, 'Sell me this daye thy byrth-right', is cited from *Genesis* xxv. 31. This is rendered as 'Reic liom do cheart sinsearachta ar dtús más ea' in the modern 'Maynooth' Bible. This biblical episode is echoed in the Irish saga 'Echtra mhac nEchach' ('The Adventures of the Sons of Eochaid'), with the Goddess of Sovereignty telling the young Niall 'ná tabair-seo in t-usce dod braithrib co tucad aisceda dait .i. co tucud a sindisirdacht duid', translated by Standish Hayes O'Grady as 'to thy brothers deal not water until they give thee conditions: till they yield thee their birthright'. DIL translates 'sinsirecht'/'sinseracht' as 'seniority, birthright', citing examples from the twelfth-century *Book of Leinster* onwards. DIL also includes 'seniority, birthright' among the senses of the headword 'sinserdacht'. Both headwords are developments of 'sinser', translated as 'the elder, the eldest; a senior, *in plural*, elders, ancestors, forefathers' in DIL. *Dinneen* translates the phrase 'de shinnsearachta' as 'by inheritance', and cites from the epigram by Roibeard Mac Artúir (fl. 1606-1626), '*sinsearachta ní ghabhann ceart i dtír do ghabhtar le neart*, ancestry counts for naught in a conquered land'. This epigram in particular, the author feels, would have won a place for 'sinsearachta' over the repetition of 'oidhreachta' were the new Article 2 found in the original 1937 Constitution.

## APPENDIX 5 FOSCRÍBHINN 5

### 1999 ENROLLED IRISH TEXT AN TÉACS GAELGE MAR A ROLLAÍODH I 1999

Under Article 63 – a Transitory Provision – a copy of the Constitution signed by the Taoiseach, the Chief Justice and the Chairman of Dáil Éireann must be enrolled for record purposes in the office of the Registrar of the Supreme Court, such enrolled text being the conclusive evidence of the provisions of the Constitution. This was done in 1938. Under Article 25.5, further enrolments took place in 1942, 1980, 1990 and in 1999 to embody amendments. The authentic version of the Irish text, then, is that passed by the people in 1937, as subsequently amended under the Constitution, and enrolled. The following is the Irish text (excluding the Transitory Provisions, in accordance with their own terms) as enrolled on 27 May 1999.

## Bunreacht na hÉireann

1 nAinm na Tríonóide Ró-*Naomh*ta is tobar don uile ugharás agus sur cuice, ós í is críóc éireannaic úinn, is dírište ní haíáin gñíomharcta daoine ac gñíomharcta stáct,

AR mbeic úinne, muintear na hÉireann, as aomáil so huiriseal a méio atámaio fá comaoim as íosa críost, ar uirisearna Dia, eus comfurtaic dár sinsearaib i nshac cruadotan 'na rabadar ar feo na scéadta bliadon,

ASUS AR mbeic úinn as cuínniú so buideac ar a calmaic do rinneadar-san troio gan staoic ac an neim-spleadac is dual dár náisiún do bamt amac,

ASUS AR mbeic úinn dá cur roimainn an máiteas poiblice do cur ar asaió maille le críonnaic agus le hionnracas agus le carctannaic do réir mar is cuáió, ionnas so uiofao linn a uaisleac agus a saoirse do cur i n-áirice do sac don uime, saosal ceart comhadonnaic do bunú, aiseas a haonadca do eadairt dár uir, agus comcaradradó do uéanam le náisiúnaib eile,

atámaio leis seo as gabáil an bunreacca so eusainn, agus dá acú agus dá tíolacaó úinn réin.

### an náisiún.

#### airteasal 1.

Deimhseann náisiún na hÉireann leis seo a scéart do-shannca, do-claoirte, ceannasac eun cibé cinéal Ríadaltais is rosa leo réin do bunú, eun a scaireain le náisiúnaib eile do cinnead, agus eun a saosal poiliticeac is seilleasair is saoireac do cur ar asaió do réir úicac is gnás a sinsear.

#### airteasal 2.

is é oileán na hÉireann so hiomlán, maille le n-a oileáin agus a fáirrsí teorann, na críoca náisiúnta.

#### airteasal 3.

SO uir so noeantar ac-comlánú ar na críocáib náisiúnta, agus gan uocar do ceart na párlaiminte is an Ríadaltais a bunuictear leis an mbunreacac so eun uirise do'uibriú msna críocáib náisiúnta uile, bainfio na uiriste acúocar as an bpárlaimint sin leis an límistéir céadna le n-ar bain uiriste saorstac éireann, agus beio an éireacac céadna ac a taob amuis den límistéir sin a bí as uiricib saorstac éireann.

### an stáct.

#### airteasal 4.

Éire is ainm don stáct nó, sa tsacs-*béarla*, *Ireland*.

#### airteasal 5.

is stáct ceannasac, neim-spleadac, daon-pladac éire.

#### airteasal 6.

1. is ón bpobal, fá Dia, a uiseas sac cumacac ríadla, uoir reacacúeacac is comallacac is breicéainnas, agus is as an bpobal atá sé de ceart ríadlóirí an stáit do ceapad, agus is fáin bpobal fá ueio atá sac ceist i uiaob beartas an náisiúin do sócrú do réir mar is gabad eun leas an pobail.

2. is leis na horzanaib stáit a cuirtear ar bun leis an mbunreacac so, agus leo sin aináin nó le n-a n-ugharás, is réioir na cumacca ríadla sin do'uibriú.

#### airteasal 7.

An uradac trí noac .i. uaine, bán, agus plannbuio, an suaicéantas náisiúnta.

#### airteasal 8.

1. Ós í an shéoilis an teansa náisiúnta is í an príin-*teansa* oiriseáil í.

2. glactar leis an sacs-*béarla* mar *teansa*in oiriseáil eile.



3. Acé féadfar socrú do dhéanamh le tliḡeasó d'fonn ceactar den dá cheanḡam sin do beic ina haon-cheanḡam le haḡairé don ḡnó nó ḡnócaí oifḡeainḡa ar fuair an Stáit ar fáil nó i n-aon éuro de.

#### ḡirteasáil 9.

1. 1° Ar cheact i nḡnóim don bhunreacht so is saoránaḡ d'Éirinn don duine ba saoránaḡ de saorstáct Éireann díreac roim cheact i nḡnóim don bhunreacht so.

2° Is do réir tliḡiḡó a cinnḡear faḡáil agus cailleanaint náisiúntaḡt agus saoránaḡct Éireann feasta.

3° Ní ceao náisiúntaḡt agus saoránaḡct Éireann do ceilt ar duine ar bit toisc ḡur fireann nó toisc ḡur baineanḡ an duine sin.

2. Is bun-tuallḡas poiliticeac ar ḡac saoránaḡ beic dílis don náisiún agus tairiseac don Stáct.

#### ḡirteasáil 10.

1. ḡac adbar maoine nádúrca, mar don leis an aer agus ḡac adbar fionnóim, dá bfuil fá tliḡimse na ḡárlaiminte agus an Riáḡalcais a bunuḡḡear leis an mbunreacht so, maille le ḡac rí-cíos agus díolmáine dá bfuil fá tliḡimse sin, is leis an Stáct iao uile, ḡan doḡar do cibé eastáit agus leasan-na is le haon duine nó le haon dream so oleaḡcaḡ i n-alc na huair.
2. ḡac talainḡ agus ḡac mianac, mianraḡ, agus uisce ba le saorstáct Éireann díreac roim cheact i nḡnóim don bhunreacht so is leis an Stáct iao uile sa méir so mba le saorstáct Éireann an uair sin iao.
3. Féadfar socrú do dhéanamh le tliḡeasó cun bainistḡe do dhéanamh ar an maoin is leis an Stáct de buao an ḡirteasáil seo, agus cun sannaḡ buan nó sannaḡ sealaḡac na maoine sin do riáḡlú.
4. Féadfar socrú do dhéanamh le tliḡeasó, fairis sin, cun bainistḡe do dhéanamh ar talainḡ, ar mianaiḡ, ar mianraiḡe agus ar uiscí tíocpas i seilb an Stáit d'éis teact i nḡnóim don bhunreacht so, agus cun sannaḡ buan nó sannaḡ sealaḡac na talainḡ, na mianac, na mianraḡ agus na n-uiscí a tíocpas ina seilb ainlaḡo do riáḡlú.

#### ḡirteasáil 11.

Ní foḡair cíos uile an Stáit cibé bunao atá leis, acé ainḡin an éuro sin de ar a nḡeantar eisceaḡt le tliḡeasó, do cur i n-aon císte ainḡin, agus é do leic-ḡabáil cun na ḡcriḡeanḡa, agus ar an móo, a cinnḡear le tliḡeasó agus fá cuimsiú na muirear agus na bfeiceainḡas a ḡearrḡear le tliḡeasó.

### ḡn tuactarain.

#### ḡirteasáil 12.

1. Beic uactarain ar Éirinn (.i. uactarain na héireann), ar a dtuḡtar an tuactarain insan bhunreacht so feasta; beic tosaḡ aḡe ar ḡac uile duine insan Stáct, agus ní foḡair do na cuinaḡca agus na feadmanḡa a beirḡear don uactarain leis an mbunreacht so agus le tliḡeasó d'oibriú agus do coimḡionao.

2. 1° Le bóca lom-díreac an ḡobail a toḡfar an tuactarain.

2° ḡac saoránaḡ aḡ a bfuil ceart bócaḡa i toḡcán do coimḡalcaib de Óáil Éireann, beic ceart bócaḡa aḡe i toḡcán don uactarain.

3° Is le rún-ballóir agus do réir na hionadaiḡeacca cionnáiḡe agus ar móo an aon-ḡoḡa ionaistriḡe a dhéanḡar an bócaḡil.

3. 1° Beic an tuactarain i seilb oifḡe so ceann seaḡt mbliadḡan ón lá raḡairé i ḡcúram a oifḡe muna dtárluigiḡo roim dhéireao an téarma sin so n-éaḡfaiḡo nó so n-éireoḡair as oifḡe nó so ḡcuirḡear as oifḡe é, nó so nḡeobair míḡreoir buan é agus so suiḡḡear sin so sásaḡ na cúirte uactaraiḡe agus i coimḡeantḡa de cúḡeair breicéainḡan ar a laiḡeao.

2° Duine atá nó a bí ina uactarain, is iontoḡca cun na hoifḡe sin é don uair ainḡin eile, acé sin a mbeic.

3° Ní foḡair toḡcán d'oifḡe an uactarain do dhéanamh lá nac dhéireanaiḡe ná dáca dhéireao téarma oifḡe ḡac uactarain ar leic agus nac luaiḡe ná an seascadmaḡo lá roim an dáca sin, acé má cuirḡear an tuactarain as oifḡe, nó má tárluigiḡeann do (roim é do dól i ḡcúram a oifḡe nó dá éis sin) é d'eaḡ nó é d'éirḡe as nó míḡreoir buan ar n-a suiḡeainḡ mar adubraḡo dá

ḡábdáil, ní foláir toḡcán d'oiḡis an uáctaráin do dhéanán táb istis de seasc lá tar éis an ní sin do éarlaáctaint.

4. 1° ḡac saoránac as a bfuil cúis bliáona tríócádo slán, is iontoḡta cun oiḡis an uáctaráin é.

2° ḡac iarrtóir d'oiḡis an uáctaráin, seácas duine acá nó bí ina uáctarán éana, is uáca so leanas nac foláir a ainmniú do éeáct:

- i. píce duine ar a laiḡeao agus ḡac duine fá leic dhóibh sin ina cóimálta, i n-álc na huair, de tḡis de tḡicḡib an Oireáctais, nó
- ii. Cóimairlí ceitre cóntae riaraácaim ar a laiḡeao (agus cóntae-ḡuirḡí d'áireain) mar míniḡtear le dlḡeao.

3° Ní ceao d'áon duine ná d'áon cóimairle dhóibh sin beic páirteac i n-ainmniú breis is áon iarrtóir áhain d'oiḡis an uáctaráin san áon-toḡcán.

4° Tḡis le haon duine acá nó a bí ina uáctarán é péin d'ainmniú d'oiḡis an uáctaráin.

5° Nuair ná hainmniḡtear d'oiḡis an uáctaráin ac áon iarrtóir áhain, ní ḡábdádo dhóibh cun é toḡca.

5. fá cúimsiú foráilcí an áirteasail seo is le dlḡeao riáḡlócar toḡcáin d'oiḡis an uáctaráin.

6. 1° ní ceao an tuáctarán do beic ina cóimálta de dháil éireann ná de sheanao éireann.

2° Má toḡtar cóimálta de ceáctar de tḡicḡib an Oireáctais cun beic ina uáctarán, ní foláir a meas ḡo bfuil scárta aḡe le cóimáltas an tḡise sin.

3° ní ceao don uáctarán áon oiḡis ná post soáir do beic aḡe seácas a oiḡis uáctaráin.

7. ní foláir don céao uáctarán dul i ḡcúram a oiḡise cóim luac agus is péidoir é tar éis é toḡca, agus ní foláir do ḡac uáctarán dhá éis sin dul i ḡcúram a oiḡise an lá i n-oiáio veireao téarma oiḡise a réain-éaáctaióe nó cóim luac agus is péidoir é dhá éis sin nó, má éarluiḡeann dhá réain-éaáctaióe ḡo ḡcúir-pear as oiḡis é nó ḡo n-éaḡeaióe nó ḡo n-éireoáio as oiḡis nó neáctar acá ḡo nḡeobáio mítreoir buan é agus ḡo suiópear sin mar socruiḡtear le hál. 3 den áirteasail so, cóim luac agus is péidoir é tar éis an toḡcáin.

8. is é slḡe a raácaio an tuáctaráin i ḡcúram a oiḡise ná leis an dearbádo so leanas do dhéanán ḡo poiblíóe aḡus a lámh do cur leis i bhfiáónaise cóimáltaí den dhá tḡis den Oireáctas, agus breiteainna den cúirt uáctaraíḡ agus den áro-cúirt agus maice poiblíóe eile:-

“I lácair dhá na nuile-cúmaáct, táimse, dhá ḡealláinaint agus dhá dearbádo ḡo sollamannta is ḡo pírimneac beic im áca agus im dhóin do dhunreáct éireann, agus a dlḡicḡe do áoinna, mo dháḡais do cóimlíonádo ḡo dháis coimsiasac do réir an dhunreáctas is an dlḡicḡe, agus mo lán-díceall a dhéanán ar son leasa is róḡnainn míunḡir na héireann. dhá dom stiúrao agus dom cúmhádo.”

9. ní ceao don uáctarán imeáct ón stáct le linn é beic i n-oiḡis, ac áhain le toil an riáḡaltais.

10. 1° péaḡear an tuáctarán do táinseain as uéct mí-íomáir a luáḡear.

2° Ceáctar de tḡicḡib an Oireáctais a dhéanfas an cúisiú agus is fá cúimsiú agus do réir foráilcí an áil seo dhéanfas é.

3° Má tairḡtear do ceáctar de tḡicḡib an Oireáctais cúis do ádhairt i n-aḡáio an uáctaráin fáin álc so ní ceao áirto do ádhairt ar an dhairḡsint sin ac áhain de dharr róḡra tairḡseana i scrúibinn fá lámh tríóca cóimálta ar a laiḡeao den tḡis sin.

4° ní ceao do ceáctar de tḡicḡib an Oireáctais ḡlacádo le haon tairḡsint den tsórt sin ac áhain de dharr rúin ón tḡis sin le n-a mbeio tacaioeáct dhá dhrián ar a laiḡeao dhá lán-cóimáltas.

5° Má dhéanann ceáctar de tḡicḡib an Oireáctais cúisiú fáin álc so ní foláir don tḡis eile an cúis do scrúoádo nó an cúis do cur dhá scrúoádo.

6° Beio de ceart as an uáctarán beic i lácair agus luéct tairḡta do beic aḡe ar an scrúoádo sin.

7° Máas é torádo an scrúoáta sin ḡo riḡpear rúin, le tacaioeáct dhá dhrián ar a laiḡeao de lán-cóimáltas an tḡise den Oireáctas do scrúoiḡis an cúis nó do cúir

an cúis dá scrúdaí, dá dtearbháid gur suirbhéid an cúis a tuasáil i n-ádhaidh an uachtaráin agus, an mí-iomláir ba síocair don chúisiú, gur mí-iomláir é go bhfuil an tuachtarán neamh-oireadhaic dá dteascáil cun fanaidhaint i seilbh oifige, isé is feidhm don rún sin an tuachtarán do chúir as oifige.

11. 1° Beid stáit-árus as an uachtarán i gcaitair bháile áda cliaic nó ar a comhgar.

2° Seobáid an tuachtarán sócáir agus allúntais fá mar cinnfeas le bliagáid.

3° Ní cead lagtóú do dteanaim ar sócáir ná ar allúntais an uachtaráin le linn é beid i n-oifige.

Áirteagáil 13.

1. 1° Ceapfaid an tuachtarán an taoiseac .1. an ceann ríagáiltais nó an príomh-áire, ar n-a ainmniú sin as dáil éireann.

2° Ar n-a n-ainmniú as an taoiseac, le comáontad dáil éireann roim ré, ceapfaid an tuachtarán na comáltaí eile den ríagáiltais.

3° Ar comáirle an taoisig ní foláir don uachtarán ghlacáid le haon comálta den ríagáiltais d'éirge as oifige, nó comálta ar bid den ríagáiltais do chúir as oifige.

2. 1° Is é an tuachtarán, ar comáirle an taoisig, a comórfeas agus a lán-scoirfeas dáil éireann.

2° Tis leis an uachtarán, as a comáirle féin, diúltaid do dáil éireann do lán-scor ar comáirle taoisig ná leann tromlaic i n-dáil éireann de beid i dtacáidheac leis.

3° Tis leis an uachtarán uair ar bid, tar éis comáirle do ghlacáid leis an gcomáirle stáit, ceacáir de tígáib an oireadtais, nó iad ardon, do comórad.

3. 1° Gac bille rítear nó a meastar a rítead as dá tís an oireadtais ní foláir lán an uachtaráin do beid leis cun é acú ma bliagáid.

2° Gac bliagáid dá ndéanfaid an toireadtais ní foláir don uachtarán é fócairt.

4. Leis seo cuirtear na fórsaí Cosanta fá ártó-áeannas an uachtaráin.

5. 1° An t-ártó-áeannas ar na fórsaí Cosanta is le bliagáid a ríaglócair an moó ar a n-oibreocáir é.

2° Is ón uachtarán a beid a gáirm as gac oifigeac gárima de na fórsaí Cosanta.

6. Beirtear don uachtarán leis seo ceart maiteadhaicais, agus cuimacáit cun maolúighe nó lošta pionóis a gearrtear ar dáomib i n-aon cúirt bliagáinse coire, ac, taob amuis de áasanna breite báis, féadfar an cuimacáit maolúighe nó lošta sin do tabáirt le bliagáid d'ugárasáil eile freisin.

7. 1° Tis leis an uachtarán, tar éis comáirle do ghlacáid leis an gcomáirle stáit, teacáireacáit nó áiteasc do chúir fá bráidáid tígáit an oireadtais i dtacáid don ní a bhfuil tabáic náisiúnta nó tabáic poiblíde ann.

2° Tis leis an uachtarán uair ar bid, tar éis comáirle do ghlacáid leis an gcomáirle stáit, áiteasc do chúir fá bráidáid an náisiúin i dtacáid don ní den tsórt sin.

3° Ac i n-gac cás díob sin ní foláir an ríagáiltais do beid sásta roim ré leis an teacáireacáit nó leis an áiteasc.

8. 1° Níl an tuachtarán freagáicac d'aon tis den oireadtais ná d'aon cúirt i n-oibriú is i gcomlíonad cuimacáit is feadomanna a oifige ná i n-aon gníom dá ndéanann sé nó a beireann le tuigsint gur gníom é a dteanann sé i n-oibriú agus i gcomlíonad na gcuimacáit is na bfeadomanna sin.

2° Ac féadfar iomláir an uachtaráin do chúir fá léirneas i gceacáir de tígáib an oireadtais cun críceanna áit 10 d'áirteagáil 12 den bunreacáit so, nó as don cúirt, binnse nó comluic a ceapfar nó a ainmneocáir as ceacáir de tígáib an oireadtais cun cúis fá áit 10 den áirteagáil sin do scrúdaid.

9. Taob amuis de áas dá socruighear leis an mbunreacáit so go ngníomháid an uachtarán as a comáirle féin, nó tar éis comáirle do ghlacáid leis an gcomáirle stáit, nó go ngníomháid sé i dtacáid ní a báneas leis an gcomáirle stáit, nó ar comáirle nó ainmniú don duine nó don dreanna eile, nó ar don scéala eile d'fáidáil ó don duine nó don dreanna eile, is ar comáirle an ríagáiltais áháin is cead don uachtarán na cuimacáta agus na feadomanna a beirtear do leis an mbunreacáit so d'oibriú is do comlíonad.

10. Fá cúimsiú an bhunreácta so féadfar tuilleadh cumhacht agus feadomanna do tadhairt don uachtarán le tligheadh.
11. Ní ceas do uachtarán aon cumhacht ná feidhm dá mbronntar air le tligheadh d'oisiríú ná do choimhlíonadh ac aithne ar choimairle an Rialtais.

#### Airteagal 14.

1. Má bhíonn an tuachtarán as láthair nó má bhíonn ar mítreoir go sealadach, nó má bhíonn ar mítreoir go buan agus go suíofear sin mar socrúistear le halt 3 d'airteagal 12 den bhunreáct so, nó má tairluiseann é d'éas nó é d'éirise as oifis nó é do cur as oifis, nó má teipeann air cumhachta is feadomanna a oifise nó aon ceann díob d'oisiríú is do choimhlíonadh, nó má bhíonn oifis an uachtaráin poláin, is Coimisiún a beas coimhdeanta mar socrúistear i n-Alt 2 den Airteagal so oibreochas is coimhlíonpas na cumhachta is na feadomanna bronntar ar an uachtarán leis an mbunreáct so nó fé.
2. 1° Is iad na daoine seo leanas an Coimisiún, .i. an Prímh-Úreiteán, Cachtairleac Óáil Éireann (An Ceann Coimairle) agus Cachtairleac Seanad Éireann.
- 2° Gníomhócair uachtaráin na hárd-cúirte ina coimhachta den Coimisiún i n-ionadh an Prímh-Úreiteán aon uair a beas oifis an Prímh-Úreiteán poláin nó a beas an Prímh-Úreiteán san beir i scumas gníomhuighe.
- 3° Gníomhócair Leas-Cachtairleac Óáil Éireann ina coimhachta den Coimisiún i n-ionadh Cachtairleac Óáil Éireann aon uair a beas oifis Cachtairleac Óáil Éireann poláin nó a beas an Cachtairleac sin san beir i scumas gníomhuighe.
- 4° Gníomhócair Leas-Cachtairleac Seanad Éireann ina coimhachta den Coimisiún i n-ionadh Cachtairleac Seanad Éireann aon uair a beas oifis Cachtairleac Seanad Éireann poláin nó a beas an Cachtairleac sin san beir i scumas gníomhuighe.
3. Is oleaghad do don Coimisiún gníomú tré beirt ar bit dá líon agus gníomú d'aindeoin poláinanta is ina scómaltas.
4. Féadfar an Coimairle Stáit, le tromlac dá scómaltas, cibé socrú is oirceas leo do

téanaí cun na cumhachta agus na feadomanna bronntar ar an uachtarán leis an mbunreáct so nó fé d'oisiríú is do choimhlíonadh i n-aon éas ná téantat socrú ina coimair leis na foráiltí sin romáin den Airteagal so.

5. 1° Na foráiltí den bhunreáct so a baineas leis an uachtarán d'oisiríú is do choimhlíonadh na scumhacht is na bfeadomanna a bronntar air leis an mbunreáct so nó fé bainfio, fá cúimsiú na bforáiltí i n-ar ndiaid den alt so, le hoibríú is le coimhlíonadh na scumhacht is na bfeadomanna san fán Airteagal so.

2° Má teipeann ar an uachtarán aon cumhacht nó feidhm d'oisiríú nó do choimhlíonadh ná poláir dó, do réir an bhunreácta so nó fé, í d'oisiríú nó do choimhlíonadh fá ceann aimsire luaitear, ní poláir í d'oisiríú nó do choimhlíonadh fán Airteagal so com luac agus is feidhm é tar éis na haimsire luaitear aithair.

## AN PÁRLAIMINT NÁISIÚNTA.

### Coimhdeanaí agus Cumhachta.

#### Airteagal 15.

1. 1° An tOireáctas is ainm don Párlaimint Náisiúnta, agus sin é a beirtear uirtí de ghad sa bhunreáct so.
- 2° An tuachtarán agus dá tís adá insan Oireáctas: Tís ionadóirí ar a dtuhtar Óáil Éireann, agus Seanad ar a dtuhtar Seanad Éireann.
- 3° Is i scadair Úaile dá Cluac nó ar a comhar, nó cibé áit eile ar a scinnfio ó am go ham, a suíofio tíghe an Oireáctas.
2. 1° Beirtear don Oireáctas aithne leis seo an t-aon cumhacht cun tlighe do téanaí don Stáit; níl cumhacht as ugharás reáctairdeácta ar bit eile cun tlighe do téanaí don Stáit.
- 2° Ac féadfar socrú do téanaí le tlighe cun ró-reáctas do cur ar bun nó cun glacda leo, agus cun cumhachta agus feadomanna na bpo-reáctas sin do leagadh amac.

3. 1° Tíς leis an Oireáctas sócrú do théarmaí cun comhairlí feadomhanais is farrma beaáó, a ionaduiđeas ranna de saóşal cómhóannaó aşus de saóşal şeilleaşraó an řobail, do cur ar bun nó şlacáó leo.

2° Ulişeaó ar bié le n-a şcuirtear comhairle den tsórt sin ar bun nó fá n-a nşlacatar léi ní poláir léiriú do beic ann ar ceartaib, ar cumáctaib aşus ar óualşadaib na comhairle sin, aşus řos ar a comhaint leis an Oireáctas aşus leis an Riáşaltaş.

4. 1° Ní ceao don Oireáctas aon ulişeaó o'áctú a beaó ar aon cuma i n-aşaió an ðunreácta so nó i n-aşaió aon řoráilte den ðunreáct so.

2° I şcás aon ulişeaó o'á n-aóóóaió an toireáctas do beic ar aon cuma i n-aşaió an ðunreácta so nó i n-aşaió aon řoráilte den ðunreáct so beio sé şan ðail sa méio şo mbeio sé i n-aşaió an ðunreácta so aşus sa méio sin aiháin.

5. Ní ceao don Oireáctas a ráó şur sárú ulişió şnioiharta ná sárú ulişió iao le linn a noéanta.

6. 1° Is aş an Oireáctas aiháin aóa de ceart řorsaí míleata nó řorsaí armta do bunú aşus do cóóabáil.

2° Ní oleaştaó řorsa míleata ná řorsa armta ar bié, seaóas řorsa míleata nó řorsa armta a bunuiştear aşus a coóabáiltear aş an Oireáctas, do bunú ná do cóóabáil cun críce ar bié.

7. Ní poláir don Oireáctas suióe uair sa bliáoain ar a laişeaó.

8. 1° Is şo poiblíóe a suióřio şac Tíş den Oireáctas.

2° Ac i şcás práinn speisialta do beic ann, tíş le ceáctar den o'á Tíş suióe şo príobáioeaó ac o'á o'riañ de na comáltaib a beas i láctair do toiliú leis.

9. 1° Toşřaió şac Tíş ar leic den Oireáctas a cátaoirleaó aşus a leas-cátaoirleaó řeim as a comáltas řeim, aşus leaşřaió amaó o'óib a şcumácta aşus a noualşais.

2° Is le ulişeaó a cinnřear tuarastal cátaoirliş is leas-cátaoirliş şac Tíşe ar leic.

10. Oéanřaió şac Tíş ar leic a riáşlaóa aşus a ðuan-orduişte řeim, aşus beio sé de cumáct aş şac Tíş aca pionós do ceapaó do luó a sáruişte sin; beio sé de cumáct aise řairis sin saoirse aishnis do cur i n-aírióe, aşus a scríóinní oifíşeamla řeim aşus ráipéir řríobáioeaó a comáltaí do o'óoin, aşus řos é řeim aşus a comáltaí do o'óoin ar aon oime nó ar aon oream oaoine do oéanřaió cur-isteac nó toirmeasc ar a comáltaib nó do oéanřaió iarraóct ar iao o'éilliú aşus iao aş oéanřaió a noualşas.

11. 1° Taoó amuiş de cás o'á sócruiştear a ihálairt leis an mðunreáct so is é slíşe a o'abářřar breic ar şac ceist i nşac Tíş ar leic ná le hurihóř o'ótaí na şcomáltaí a beas i láctair aşus a oéanřas o'ótaí ac şan an cátaoirleaó nó an comálta beas i şceannas o'áireain.

2° Más ionann líon na o'ótaí ar an o'á taoó beio aş an şcátaoirleaó, nó aş an şcomálta beas i şceannas, o'óta cinneainna nac poláir o'ó a óabáirt.

3° Is le n-a ðuan-orduişte cinnřear cia an méio comálta a beas riáctanaó do óionól de ceáctar den o'á Tíş cun é beic i şcumas feaóma.

12. Şac tuarascóail aşus řoilşeaóan oifíşeamail ón Oireáctas aşus ó şac Tíş de, maille le caint ar bié o'á noéantař i n-aon Tíş o'óib, táio saor ar cúrsaib ulişió cibé áit a řpoillsiştear.

13. Oá comáltaí şac Tíşe den Oireáctas saor ar şabáil le linn beic i o'earmann ceáctar den o'á Tíş nó aş teaóct cuise nó aş imeáct uair, ac aiháin i şcás tréasa, mar míniştear sa ðunreáct so é, nó i şcás řeileontaóta nó briseaó síóóána; aşus cibé caint a oéanřaió comálta i n-aon Tíş o'óib ní hionóuisişte é mar şeall uiró i n-aon cúirt ná aş uşoaras ar bié ac aiháin an Tíş řeim.

14. Ní ceao o'áon oime beic ma comálta de o'á Tíş an Oireáctais san am ceáona, aşus aon oime beas ma comálta de Tíş o'óib aşus şo noéanřar comálta den Tíş eile o'e, ní poláir a ihéas láitreaó şo řřuil éirişte aise as an şceao ionao.

15. Tíς leis an Oireadctas socrú do déanaí le dlígeadh cun allúntais d'íoc le comáltaibh shac tíge de as uct a n-ualgas i gcáil ion-aoirí poiblíde, agus cun go n-éanfaí dóibh, maidir le n-a n-ualgasasib, saoráio cun taisteal i n-aisce agus cibé saoráio eile a cinnfíó an toireadctas, má éinneann.

### Uáil Éireann.

#### Airteaghal 16.

1. 1° Shac saoránac, cibé aca fear nó bean, as a bfuil bliadhain agus píce slán agus ná cuirtear fá mícumas nó fá mítreoir leis an mbunreacht so ná le dlígeadh, tá sé iontocht a comáltas Uáil Éireann.

2° i. Shac uile saoránac, agus

ii. cibé daoine eile sa stát a cinnfear le dlígeadh,

cibé aca fir nó mná, as a bfuil oet mbliadhna deas slán agus ná cuirtear fá d'icáilíreacht le dlígeadh, agus a comhionas comheallaca an dlíghíó i tsaobh tochtáin comáltaí do Uáil Éireann, tá ceart bótála aca i tochtán comáltaí do Uáil Éireann.

3° Ní ceao don dlígeadh d'actú do cuirfeadh saoránac ar bié, toisc sur fear nó toisc sur bean an saoránac sin, fá mícumas nó fá mítreoir maidir le n-a beit ma comálta de Uáil Éireann nó a d'icáileoach saoránac ar bié nó duine ar bié eile, ar an bporas céanna sin, ó beit i tpeirdeal bótála i tochtán comáltaí do Uáil Éireann.

4° Ní ceao do tochtóir ar bié tar don bótála ahdáin do tabairt i tochtán do Uáil Éireann, agus is le rún-bhallóio a déanfar an bótáil.

2. 1° Ionadóirí do Uáil-éanntraibh a socrúitear le dlígeadh comáltas Uáil Éireann.

2° Socrócar líon comáltaí Uáil Éireann le dlígeadh ó am go ham ac ní ceao a lánlíon do beit fá bun comálta i n-asháio shac tríóca míle den daonraio, ná ós cionn comálta i n-asháio shac píce míle den daonraio.

3° An comhréir a beas ioir an líon comáltaí beas le tocha don trác le haíó shac Uáil-éanntrair ar leit agus daonraio shac Uáil-éanntrair ar leit, do réir an daonraim is déireanaige dá n-éannaio roimhe sin, ní foláir í beit ar cotrom, sa méio sur péioir é, ar fuao na d'icé uile.

4° Ní foláir don Oireadctas na Uáil-éanntrair d'ait-meas uair ar a laigeadh insan dá bliadhain deas as féacaint go cuibe d'áon átarraige ar suideam na daonraio; ac átarraige ar bié dá n-éanntra ar na Uáil-éanntraibh ní tíoceao i bpeiom i rit ré na Uála beas ma suide le linn an aite-measta sin.

5° Is do réir na hionadaióeacta cionháire agus ar móó an don-focha ion-astriige a tochar na comáltaí.

6° Ní ceao dlígeadh d'actú a beareadh fá bun trír an líon comáltaí a beas le tocha d'áon Uáil-éanntrair.

3. 1° Ní foláir Uáil Éireann do comórad agus do lán-scor mar socrúitear le halt 2 d'airteaghal 13 den bunreacht so.

2° Ní foláir olltochtán do comáltaibh do Uáil Éireann do beit ann lá nac déireanaige ná tríóca lá tar eis Uáil Éireann do lán-scor.

4. 1° An bótáil do shac olltochtán ar leit do Uáil Éireann ní foláir í déanaí, sa méio sur péioir é, an t-don lá ahdáin ar fuao na d'icé uile.

2° Ní foláir do Uáil Éireann teact le céile taobh istig de tríóca lá ón lá bótála sin.

5. Ní beit de ré as don Uáil Éireann ac seact mbliadhna ó lá a céao-tionóil: féarar ré is giorra ná sin do socrú le dlígeadh.

6. An comálta de Uáil Éireann a beas ma ácaoirleac díreac roim lán-scor do Uáil Éireann ní foláir socrú do déanaí le dlígeadh cun go bfeardar a meas an comálta sin a beit tochtá do Uáil Éireann insan céao olltochtán eile, san é uil fá tocha.

7. Fá cuimsiú na bporáiltí sin roiminn den airteaghal so is do réir dlíghíó a riaglócar tochtáin do comáltas Uáil Éireann, mar don le líonad corr-folaíantás.

#### ÁIRTEAGAL 17.

1. 1° Cómh luath agus is féidir é tar éis na Meastacáin ar fásáiltas an Stáit agus na Meastacáin ar cáiteadh airgid an Stáit i gcómhair don bliadhna airgeadais do chúir fá bhrádasú Óáil Éireann fá Áirteagal 28 den Bunreacht so, ní foláir do Óáil Éireann na Meastacáin sin do breaicnú.

2° An reáctairéacht a beas riáctanac cún feirom tliúir do tábairt do Rúin Airgeadais gac bliadhna ar leit ní foláir í áctú an bliadhna sin féin ac ainhin sa mhéir so mbeir a mhalairt socair i tcaob gac cas ar leit i n-áctacán cúise sin.

2. Ní oleáctac do Óáil Éireann bóta ná rún do rit, ná ní oleáctac don tliúeáó t'áctú, cún leit-ádbáil do tóanain ar stáct-cíos ná ar airgead poiblíde ar bit eile, muna mbeir teáctaireáct as Óáil Éireann ón Riááiltas fá Láin an Tcaoisí as moláó críce na leit-ádbála tóib.

### Seanad Éireann.

#### ÁIRTEAGAL 18.

1. Seasca comálta líon Seanad Éireann, .i. don duine tóeas a ainmneócar agus naonbar is dá ícío a toúpar.

2. Ionnas so mbeáó duine ionááctá ar comáltas Seanad Éireann ní foláir é beir ionááctá ar comáltas Óáil Éireann.

3. Na comáltaí ainmneócar do Seanad Éireann ainmneócar iáo le réain-áeao uáta féin as an tcaoiseac a ceapfar ar Óáil Éireann t'áitcionól i ntoiáó an lán-scoil ar Óáil Éireann is siocair leis na comáltaí sin t'ainmniú.

4. 1° Na comáltaí a toúpar do Seanad Éireann, is ar an gcuma so leanas a toúpar iáo:—

- i. Toúparíó ollscoil na héireann triúr.
- ii. Toúparíó ollscoil báile áta cliac triúr.
- iii. Toúpar triúr is dá ícío as rollaib t'iaráctóirib a cóireócar ar an gcuma a socruictear annso i n-ar ntoiáó.

2° Féapfar foráileain a tóanain le tliúeáó cún so ttoúpar do réir toú-córais, agus ar an móó, a socrócar le tliúeáó, as ceann ainhin nó níos mó de na forais seo a leanas, eádon:

- i. na hollscoileanna a luairtear i bpo-áct 1° den áct so,
- ii. don forais eile ártóiteacáis sa stáct,

an líon san comáltaí de Seanad Éireann a socrócar le tliúeáó in ionad líon comionann de na comáltaí a beas le toúá do bun míreanna i agus ii den fo-áct san 1°.

Féapfar comálta nó comáltaí de Seanad Éireann a toúá fáin bpo-áct so as forais a beas tiomsuicte le céile nó as foras donair.

3° Ní ceao don ní dá bfuil in san Áirteagal so t'ááairt cún toirmeasc a chúir le hollscóil a luairtear i bpo-áct 1° den áct so a lánscóir do réir tliúir.

5. Gac toúcán dá mbeiró ann do na comáltaib a toúpar do Seanad Éireann is do réir na hionadairéactá cionnaire a tóanain é agus ar móó an don-áóta ion-áistricte, le rún-bállóio íuist.

6. Na comáltaí a toúpar do Seanad Éireann as na hollscólaib is do réir toú-córais, agus ar an móó, a socrócar le tliúeáó a toúpar iáo.

7. 1° Romh gac olltoúcán do na comáltaib do Seanad Éireann a toúpar as rollaib t'iaráctóirib cóireócar ar an gcuma socrócar le tliúeáó cúis rollaí t'iaráctóirib ar a mbeiró ainmneáca tcaoine as a mbeiró eolas agus cleáctáó ar na gnoctáib agus na seirbísib seo leanas fá seac:—

- i. An áeóilí as an tcaoiseac náisiúnta, litricéact, ealaónáct, oiteacás agus pé garna a léireócar le tliúeáó cún críce an rolla so;
- ii. Talmaireáct, maille le gnoctáib a báineas léi, agus iascaireáct;
- iii. Oibreacás, cibé comheágruicte é nó ná eáó;

iv. TIONNSCAL IS TRÁCTÁIL AR A N-ÁIRMIŢEAR BANNCAERAÁCT, AIRGEADAS, CUNN-TASADHÓEÁCT, INNEALLTÓIREÁCT AGUS FOIRSHIÓEÁCT;

v. RIARACÁN POIBLÍDE AGUS SEIRBÍSÍ COMHARONNACÁ, AGUS OBÁIR COMHARONNACÁ DEONTACÁ D'ÁIREAÍ.

2° NÍ CEAD NÍOS MÓ NÁ AON DUINE D'ÉAS NÁ, FÁ CUMSIÚ FORÁILTÍ AIRTEAGAL 19 DEN BUNREÁCT SO, NÍOS LUŞA NÁ CUIGEAR DE COMHALTÁIB SEANAD ÉIREANN DO TOSGA AS AON ROLLA ÁIRIŢE.

8. NÍ FOLÁIR OLLTOŞCÁN DO SEANAD ÉIREANN DO BEIT ANN LÁ NAÓ D'ÉIRIŢE NÁ NÓCA LÁ D'ÉIS LÁN-SCOR DO DÁIL ÉIREANN, AGUS NÍ FOLÁIR DO SEANAD ÉIREANN TEÁCT LE CÉILE AR CÉAD-TIONÓL TAR ÉIS AN OLLTOŞCÁIN LÁ A CINNPIÓ AN TUÁCTARÁN CUIGE AR COMHARLE AN TAOISIŞ.

9. LEANFAIÓ ŞAC COMALTA DE SEANAD ÉIREANN DÁ OIFIS, MUNA N-ÉAGAIÓ NÓ MUNA N-ÉIRŞIÓ AS OIFIS NÓ MUNA NÓICÁILIŞTEAR É, ŞO DTÍ AN LÁ ROIMH LÁ NA BÓTÁLA DON OLLTOŞCÁN IS TUISCE BEAS ANN DO SEANAD ÉIREANN D'ÉIS É TOSGA NÓ É D'AMMNIÚ.

10. 1° FÁ CUMSIÚ NA BFORÁILTÍ SIN ROIMH DEN AIRTEAGAL SO, IS DO RÉIR ULIŞIÓ A RIÁŞLÓCAR ŞAC TOŞCÁN DO NA COMHALTÁIB A TOŞFAR DO SEANAD ÉIREANN.

2° IS LE HAMMNIÚ ÓN TAOISEAC A LÍONFAR CORR-FOLAMHANTAIS I LÍON NA ŞCOMHALTÁI AMMNIŞTEAR DO SEANAD ÉIREANN, LE RÉAMH-CEAD NA NÓDOIME AMMNEOCTAR.

3° IS AR AN ŞCUMA A SOCRUIŞTEAR LE ULIŞEAD A LÍONFAR CORR-FOLAMHANTAIS I LÍON NA ŞCOMHALTÁI A TOŞTAR DO SEANAD ÉIREANN.

#### AIRTEAGAL 19.

FÉADFAR SOCRÚ DO D'ÉANÁIN LE ULIŞEAD IONNAS ŞO BÉADOFAD AON DREAM FEADMA NÓ ŞARMA BEADAD, NÓ AON COMLUCT NÓ COMHARLE FEADMA NÓ ŞARMA BEADAD, AN OIREAD COMHALTÁI DO SEANAD ÉIREANN DO TOSGA ŞO LOM-OIREAC AGUS A CINNFEAR LEIS AN ULIŞEAD SIN, IN IONAD AN OIRIO CÉADHNA DE NA COMHALTÁIB A TOŞFAR AS NA COMH-ROL-LÁIB D'ÁIRRECTORÍB A COIREOCHAR FÁ AIRTEAGAL 18 DEN BUNREÁCT SO.

### REÁCTAIÓEÁCT.

#### AIRTEAGAL 20.

1. NÍ FOLÁIR ŞAC BILLE A TIONNSCANTAR I NÓDÁIL ÉIREANN AGUS A RIŢTEAR AS DÁIL ÉIREANN DO CÚR ŞO SEANAD ÉIREANN AGUS, MUNA BILLE AIRŞIÓ É, TIS LE SEANAD ÉIREANN É LEASÚ, AGUS NÍ FOLÁIR DO DÁIL ÉIREANN AON LEASÚ DEN TSÓRT SIN DO BREÁCTHÚ.

2. 1° IS DLEÁŞTAC BILLE NAÓ BILLE AIRŞIÓ É DO TIONNSCÁIN I SEANAD ÉIREANN, AGUS MÁ RIŢEANN SEANAD ÉIREANN É NÍ FOLÁIR É TÁBÁIRT ISTEAC I NÓDÁIL ÉIREANN.

2° MÁ TIONNSCANTAR BILLE I SEANAD ÉIREANN AGUS ŞO LEASUIŞEANN DÁIL ÉIREANN É, NÍ FOLÁIR A MEAS É BEIT MA BILLE A TIONNSCÁD I NÓDÁIL ÉIREANN.

3. BILLE A RIŢTEAR AS CEÁCTAR DEN DÁ TIS AGUS LE N-A NŞLACANN AN TIS EILE NÍ FOLÁIR A MEAS ŞUR RIŢEAD É AS AN DÁ TIS.

### BILLÍ AIRŞIÓ.

#### AIRTEAGAL 21.

1. 1° IS I NÓDÁIL ÉIREANN AMÁIN IS CEAD BILLÍ AIRŞIÓ DO TIONNSCÁIN.

2° NÍ FOLÁIR ŞAC BILLE AIRŞIÓ A RIŢTEAR AS DÁIL ÉIREANN DO CÚR ŞO SEANAD ÉIREANN D'ÁIRRAIÓ A MOLTAÍ MA TAOB.

2. 1° ŞAC BILLE AIRŞIÓ A CUIRTEAR ŞO SEANAD ÉIREANN D'ÁIRRAIÓ A MOLTAÍ MA TAOB, NÍ FOLÁIR É CÚR AR AIS ŞO DÁIL ÉIREANN I ŞCEANN TRÉIMHE NAÓ SIA NÁ LÁ AGUS FICE TAR ÉIS AN BILLE DO CÚR ŞO SEANAD ÉIREANN, AGUS TIS LE DÁIL ÉIREANN IOMLÁN NA MOLTAÍ Ó SEANAD ÉIREANN NÓ AON CUIO TÍOB DO ŞLACAD NÓ DO DHIULTAD.

2° MUNA ŞCUIRTEAR AN BILLE AIRŞIÓ SIN AR AIS Ó SEANAD ÉIREANN ŞO DÁIL ÉIREANN TAOB ISTIŞ DEN LÁ AGUS FICE SIN, NÓ MÁ CUIRTEAR AR AIS É TAOB ISTIŞ DEN LÁ AGUS FICE SIN MÁR AON LE MOLTAÍ NÁ ŞLACANN DÁIL ÉIREANN LEO, NÍ FOLÁIR A MEAS ŞUR RIŢ AN DÁ TIS I ŞCIONN AN LAE AGUS FICE SIN É.

#### AIRTEAGAL 22.

1. 1° IS É IS CIALL DO BILLE AIRŞIÓ BILLE NÁ BÍONN ANN AC FORÁILTÍ LE HAŞAIÓ IOMLÁN NA N-ADHAR ŞO LEANAS NÓ AON CUIO ADA .1.



cánačas do shearradó, d'aisghairm, do loḡadó, d'áchtarrú nó do riaslú; muirir do leasadó ar airgítoib poiblíde cun ríada d'íoc nó cun cuspóirí eile airgeadais, nó a leitéirí sin de muirir d'áchtarrú nó d'aisghairm; soláchar; airgead poiblíde do leit-ḡadáil, do ḡlacadó, do coimneáil nó d'eiseamhaint, nó cumntais air d'iniúcadó; don iasáct do cruinniú nó do ráctú nó d'aisíoc; ríó-áobair a bfuil baint aca leis na neitib sin nó le haon cuido aca.

2° Insan míniú sin ní áirimítear fá na foclaib "cánačas", "airgead poiblíde" agus "iasáct", fá sead, don cánačas, airgead ná iasáct a cruinniḡio uḡoáráis nó comluctáí áiteamla cun críceanna áiteamla.

2. 1° Má s é tuairim cátaoirleac Óáil Éireann sur bille airḡio don bille fá leit ní foláir do a deimniú sur bille airḡio é agus, fá cuimsiú na bporáiltí i n-ar noiaró den alt so, ní beiró dul tar an deimniú sin.

2° Tis le Seanad Éireann rún do rit i dtionól ná beiró níos luḡa ná tríoca comálta i láchar ann, dá iarráid ar an uáctarán ceist do cur fá bráḡaid Coiste Príbléirí féadaint cé aca bille airḡio an bille nó nac ead.

3° Má donḡuiseann an tuáctarán leis an áctuinḡe tar éis comairle do ḡlacadó leis an ḡcomairle Stáit, ní foláir do Coiste Príbléirí do ceapadó. An líon céadna de comáltaib de Óáil Éireann agus de Seanad Éireann a beas ar an ḡCoiste sin, agus breiteam den cúirt uáctaraḡ ina cátaoirleac ortá. Is tar éis comairle do ḡlacadó leis an ḡcomairle Stáit a deaḡar na ceapáid sin. Má s ionann an líon bótaí ar an dá taob beiró bóta as an ḡcátaoirleac, ac munab ionann ní beiró.

4° Ní foláir don uáctarán an ceist do cur fá bráḡaid an Coiste Príbléirí a ceapfar mar sin, agus ní foláir don Coiste a mbreit ar an ḡceist do cur cun an uáctaráin taob istis de lá agus ríce d'éis an lae a cuiread an bille so Seanad Éireann.

5° Ní beiró dul tar breit an Coiste.

6° Má óiultuiseann an tuáctarán d'áctuinḡe Seanad Éireann tar éis comairle do ḡlacadó leis an ḡcomairle Stáit, nó muna ḡcuiró an Coiste Príbléirí a mbreit i n-iúil taob istis den tréimse a luairtear annso roimhinn, seasfaid deimniú cátaoirleac Óáil Éireann.

### tréimse cun billí do breacnú.

#### Airteasal 23.

1. Daineann an tAirteasal so le ḡac bille a ríteann Óáil Éireann agus a seoltar so Seanad Éireann, ac amáin bille airḡio nó bille so ndearnad an tréimse cun a breacnuisḡe as Seanad Éireann do ḡiorrú fá Airteasal 24 den Bunreacḡ so.

1° Má tárluiseann, taob istis den tréimse áirite a luairtear sa céad ríó-alt eile, so noiuultuiseann Seanad Éireann d'aon bille le n-a mbaineann an tAirteasal so, nó so ríteann Seanad Éireann an bille agus leasuisḡe air a noiuultuiseann Óáil Éireann doib, nó muna ndéanann Seanad Éireann an bille do rit (pé aca leasuisḡe é nó ḡan leasú) nó oiultad do taob istis den tréimse áirite, annsin má ríteann Óáil Éireann rún cúise sin taob istis de naoi bpeidó lá tar éis na tréimse áirite beit caite, ní foláir a meas sur rítead an bille sin as dá tis an Oireacḡtais an lá rítead an rún.

2° Nóca lá, nó don tréimse is sia ná sin a réirḡisḡio dá tis an Oireacḡtais le céile maidir leis an mbille, an tréimse áirite, agus is é an lá a seoltar an bille ar dtús ó Óáil Éireann so Seanad Éireann tosaḡ na tréimse.

2. 1° Daineann an t-alt sin roimhinn den Airteasal so le ḡac bille a tionnsantar i Seanad Éireann agus a rítear as Seanad Éireann, agus a leasuisḡe ar Óáil Éireann, agus so meastar dá bfein sin sur i nÓáil Éireann a tionnsnacó é.

2° Cúise sin is é an lá a seoltar an bille so Seanad Éireann den céad uair tar éis é leasú as Óáil Éireann a ḡosuiseas an tréimse áirite i ḡcomair an bille sin.

#### Airteasal 24.

1. Má ríteann Óáil Éireann bille, seacás bille a luairtear a beit ina bille a bfuil toḡra ann cun an Bunreacḡ do leasú, agus so seolann an taoiseac teacḡaireacḡtaí scríobḡta cun an uáctaráin agus cun cátaoirleac ḡac Tisḡe den Oireacḡtais, dá deimniú doib surb é tuairim an Riaslatais so bfuil práinn agus riacḡanas leis an mbille sin láitreac cun síocḡáin agus

slánóidil an pobail do cosaint, nó go bfuil práinn agus riachtanas leis láithreadh toisc éigeandáil poiblíde inméadóthac nó eadarnáisiúnta do beiré ann, annsin má bheartuigeann Dáil Éireann amlaíó le rún, agus go n-aontuigeann an tuáctarán leis an rún tar éis comhairle do ghlacáó leis an gComhairle Stáit, ní foláir an tréimse a fásfar an bille sin fá breaicnú Seanad Éireann do giorrú agus do cur fán teorainn a luaitéar insan rún.

2. Bille ar bit a n-dearnaó an tréimse cun a breaicnuigíte as Seanad Éireann do giorrú fán airteasal so, má éarluiúgeann,

(a) i gcás bille nac bille airisio, go n-oiúltuigeann Seanad Éireann do nó go ritheann Seanad Éireann é maille le leasuisicéib doá n-oiúltuigeann Dáil Éireann nó ná déanann Seanad Éireann é rit ná oiúltacáó doó, nó,

(b) i gcás bille airisio, go gcuireann Seanad Éireann ar ais go Dáil Éireann é maille le moltaib ná ghlacann Dáil Éireann leo nó ná déanann Seanad Éireann é cur ar ais go Dáil Éireann,

taob isticé den tréimse a luaitéar insan rún, ní foláir a méas gur ritheáó an bille as doá cicé an oireacátais i gcióinn na tréimse sin.

3. Ar déanamé olicéiré do bille go n-dearnaó an tréimse cun a breaicnuigíte as Seanad Éireann do giorrú fán airteasal so, beiré sé i bpeirém ar feacá tréimse nóca lá ó doáca a acáitúicé, acé sin a mbeiré, muna n-aontuigíte doá cicé an oireacátais roimé deireáó na tréimse sin an olicéiré sin o'fanamháint i bpeirém ar feacá tréimse is sia ná sin, agus go luaitéar i rúnaió ón doá cicé an tréimse aontuigítear amlaíó.

*Oligíte do sígmiú agus o'rógairt.*

Airteasal 25.

1. Comé luacé agus rittear bille, seacás bille a luaitéar a beiré ma bille a bfuil togra ann cun an bunreacá so do leasú, nó a meastar é beiré ritte as doá cicé an oireacátais, ní foláir don taoiseacé an bille sin do éairisint don uacáran cun a lám do cur leis agus cun é rógairt ma olicéiré do réir foráiltí an airteasail seo.

2. 1° Taob amuisé do cás doá socruigítear a málairt leis an mbunreacá so, gacé bille a tairgítear don uacáran mar sin cun a lám do cur leis agus cun é rógairt ma olicéiré, ní foláir do a lám do cur leis lá nac luaité ná an cúisiméacá lá agus nac deiréanaisé ná an seacáimacá lá tar éis an lae tairgítear an bille doó.

2° Ar acéuinúge an Riagáltais, le coméoil Séanad Éireann roimé ré, ticé leis an uacáran a lám a cur le haon bille is siocair don acéuinúge sin níos luaité ná an cúisiméacá lá tar éis an doáca réamháiréte.

3. Gacé bille go n-dearnaó an tréimse cun a breaicnuigíte as Seanad Éireann do giorrú fá airteasal 24 den bunreacá so, ní foláir don uacáran a lám do cur leis an lá tairgítear an bille sin do cun é sígmiú agus cun é rógairt ma olicéiré.

4. 1° Déanann olicéiré do gacé bille an lá a cúireann an tuáctarán a lám leis fán mbunreacá so agus is olicéiré é an lá sin agus ón lá sin amacé agus, muna léir a málairt o'ntínn ma taob, is é an lá sin a ticéann sé i ngníóm.

2° Gacé bille a gcuireann an tuáctarán a lám leis fán mbunreacá so ní foláir do é rógairt ma olicéiré le rógra insan *Iris Oifigiúil*, fá ordú uairé, doá ráó go bfuil an bille ma olicéiré.

3° Isé téacs do bille a gcuiréiré an tuáctarán a lám leis ná an téacs do ritheáó nó a meastar do ritheáó as doá cicé an oireacátais agus, má rittear bille nó má meastar é beiré ritte amlaíó insan doá teangáin oifigiamla, cuiréiré an tuáctarán a lám le téacs gaeóilge agus le téacs Sacs-Béarla an bille.

4° I gcás an tuáctarán do cur a lám le téacs bille i teangáin do na teangáca oifigiamla agus insan teangáin sin amháin, ní foláir tionntóó oifigiamail do cur amacé insan teangáin oifigiamail eile.

5° Comé luacé agus is péiréiré é tar éis bille do sígmiú agus é rógairt ma olicéiré, ní foláir an téacs den olicéiré sin le n-a mbeiré lám an uacáran nó, i gcás lám an uacáran do beiré le téacs gaeóilge agus le téacs Sacs-Béarla an olicéiré sin, an doá téacs sígmicé sin do cur istecé ma iris nó ma n-iris i n-oifis irisoir na cúirt uacáraisé, agus is fiaónaisé do-claóiré ar foráiltí an olicéiré sin an téacs

a cuirfeadh isteach ina iris, nó an dá téacs a cuirfeadh isteach ina n-iris, amlaí.

6° I gcás téacs saeóilge agus téacs sács-béarla de úlgeadh do cur isteach ina n-iris fán alt so agus san an dá téacs sin do beir do réir a céile, is as an téacs saeóilge a beir an forlámhas.

- 5. 1° Is oleaghdac don taoiseac a tabairt, ó am go ham fá mar a cífeadh do sábhac do beir leis, go ndéanfar téacs (insan saeóilge agus insan sács-béarla) den bunreacht so, mar a beir i bfeidm an trác sin agus ma mbeir na leasuište uile beir déanta air go dtí sin, o'ullmú fá n-a t'reorú.

2° Saé téacs a hullamhócar amlaí ní foláir don uactarán a lám do cur le cóib de ar beir fíoruíšte ói le sígníšte an taoisig agus an íríim-breimí, agus ní foláir an cóib sin do cur isteach ina hiris i n-oiris iriseoir na cúirte uactaraiše.

3° An cóib a beir sígníšte agus curta isteach ina hiris amlaí agus surb í an téacs is deireannaíše, ar n-a ullmú amlaí, i n-alt na huairé í, beir sí, ar beir curta isteach ina hiris ói amlaí, ma fíadnaisé óo-élaoidte ar an mbunreacht so mar a beir ar óata an cóib sin do cur isteach ina hiris amlaí agus, cúige sin, saófa sí ionad na dtéacsanna uile den bunreacht so a mbeir cóibeanna óioó curta isteach ina n-iris amlaí romhe sin.

4° I gcás san na téacsanna o'adon cóib áiríte den bunreacht so a beir curta isteach ina hiris fán alt so do beir do réir a céile, is as an téacs saeóilge a beir an forlámhas.

*Billí do cur fá breit na cúirte uactaraiše.*

*Áirteagál 26.*

Dáineann an tairteagál so le saé bille a rítear nó a meastar a ríteadh as óá tíg an oireadtais, ac amláin bille áirgíro, nó bille a luairítear a beir ma bille a bfuil tosra ann cun an bunreacht do leasú, nó bille go ndearnad an tréimhe cun a breacnuíšte as seanaó éireann do síorrú fá áirteagál 24 den bunreacht so.

- 1. 1° Is ceao don uactarán, tar éis comairle do glacaó leis an scomairle stáit, don bille le n-a mbaineann an

tairteagál so do cur fá breit na cúirte uactaraiše féadaint an bfuil an bille sin nó don foráileam nó don foráiltí áiríte de i n-ágaró an bunreacá so nó i n-ágaró don foráilte de.

2° I nsaé cás den tsórt sin ní foláir an bille do cur fá breit na cúirte lá nac déirdeannaíše ná an seacámadó lá tar éis an óata a tairgeann an taoiseac an bille don uactarán cun a lám do cur leis.

3° Bille ar bit a cuirtear fá breit na cúirte uactaraiše fán áirteagál so, ní ceao don uactarán a lám do cur leis go dtí go dtuagann an cúirt a breit.

- 2. 1° Ní foláir don cúirt uactaraiše, cúirt ma mbeir cúigear breiteamán ar a laigead, saé ceist óá scuireann an t-uactarán fá n-a breit fán áirteagál so do breacnú agus, tar éis éisteach le harzónaib ón áro-áighe nó tar a ceann agus ó ábcóirib a tosfar as an scúirt, ní foláir ói a breit ar an sceist sin do tabairt insan cúirt go poiblíde com luac agus is feidm é agus, ar don cumá, lá nac déirdeannaíše ná seasca lá tar éis an ceist do cur fá n-a breit.

2° An breit a beireann an tromlac de breiteamán na cúirte uactaraiše, sin í breit na cúirte cun críceanna an áirteagáil seo agus isé éraolpas an breit sin ná an duine sin de na breiteamánib sin a ceapairó an cúirt cúige sin, agus ní ceao tuairim ar bit eile, as donú nó as easaon-tú leis an mbreit sin, do éraolac ná ní ceao a noctac tuairim ar bit eile den tsórt sin do beir ann.

- 3. 1° I gcás don bille a cuirtear fá breit na cúirte uactaraiše fán áirteagál so, más é breit na cúirte go bfuil don foráileam de i n-ágaró an bunreacá so nó i n-ágaró don foráilte de, ní foláir don uactarán diúltaó óá lám do cur leis an mbille sin.

2° I gcás atcúinghe do beir curta cun an uactarán fá áirteagál 27 den bunreacht so i ótaobó bille le n-a mbaineann an tairteagál sin, ní foláir an tairteagál sin do comlíonac.

3° I nsaé cás eile ní foláir don uactarán a lám do cur leis an mbille com luac agus is feidm é tar éis an lae a beireann an cúirt uactarac a breit.

*Billí do cur fá breic an pobail.*

## AIRTEAGAL 27.

Baineann an tAirteagal so le gac Bille, seacás Bille a luaitéar a beic ma Bille a bfuil togra ann cun an Bunreacé so do leasú, a meastar, de buad Airteagail 23 den Bunreacé so, a ritead as dá tís an Oireacéais.

1. Is cead do tromlac de comaltaié Seanad éireann, i bpoáir trian, ar a laisead, de comaltaié Óáil éireann, com-áccuinse do cur cun an uacéarain fán Airteagal so, dá iarrad air oiúltad dá lám do cur le haon Bille le n-a mbaineann an tAirteagal so agus don Bille sin o'fóairt ma ólisead, toisc togra beic ann ma bfuil an oiread sin tábacé náisiúnta sur cóir breic an pobail o'fááil air.
2. Ní foláir gac áccuinse den tsórt sin do beic i scríbinn agus í beic fá lám an lué áccuinse agus ní foláir a sígnisicé sin do beic fíoruisicé ar an moó a horóuisicéar le ólisead.
3. Ní foláir léar-tuairisc do beic i nscá áccuinse den tsórt sin ar an adóar nó ar na haóbaraié áiricé ar a bfuil sí bunuisicé, agus í do áairisicé don uacéarain lá nac déirdeanaise ná ceitire lá tar éis an dáta a meastar a ritead an Bille as dá tís an Oireacéais.
4. 1° Com luacé agus seibeann an tuacéarain áccuinse fán Airteagal so ní foláir do í breacnú agus, tar éis comairle do glacáó leis an sComairle Stáit, a breic do áairicé uirtí lá nac déirdeanaise ná deic lá tar éis an lae a meastar a ritead, as dá tís an Oireacéais, an Bille sin le n-a mbaineann an áccuinse.

2° I scás an Bille nó don fóráileain de do cur fá breic na cúirte uacéaraisicé fá Airteagal 26 den Bunreacé so, ní beic ar an uacéarain an áccuinse do breacnú muna noéanaió ná so o'fí so noéanaió an cúirt uacéarac, de óruim an cúrcá fá breic sin, breic do craoláó dá dearbú gan an Bille sin nó an fóráileain sin de do beic i n-ááir do an Bunreacé so ná i n-ááir don fóráilte de agus, i scás an cúirt uacéarac do craoláó breicé dá dearbú sin, ní beic ar an uacéarain a breic ar an áccuinse do craoláó so ceann sé lá tar éis an lae a craolpar breic na cúirte uacéaraisicé as dearbú mar adóbaráó.

5. 1° I scás gac Bille is siocair o'áccuinse fán Airteagal so, más é breic an uacéarain so bfuil togra ann ma bfuil an oiread sin tábacé náisiúnta sur cóir breic an pobail o'fááil air, ní foláir do scríbinn fá n-a lám agus fá n-a séala do cur so o'fí an taoiseacé agus so o'fí Caáoirleacé gac Tíse den Oireacéas dá cur sin i n-iúil doib, agus oiúltad dá lám do cur leis an mBille sin agus dá fóairt ma ólisead muna nglacéar, agus so o'fí so nglacéar, an togra—

- i. le toil an pobail i Reipreann do réir fóráilcí ailc 2 o'Airteagal 47 den Bunreacé so, taob istisicé o'ócé mí oéas ón lá a beireann an tuacéarain a breic, nó
- ii. le rún ó Óáil éireann ar n-a rit taob istisicé den tréimse réamráicé i noaió lán-scor agus áicéionól do Óáil éireann.

2° Cibé uair a oéantar togra bíonn i mBille is siocair o'áccuinse fán Airteagal so do glacáó le toil an pobail nó le rún ó Óáil éireann do réir na fóráilcí sin roiminn den alt so, ní foláir an Bille sin do áairisicé don uacéarain com luacé agus is féicir é tar éis a glacéa, cun a lám do cur leis agus é fóairt ma ólisead, agus air sin ní foláir don uacéarain a lám do cur leis an mBille agus é fóairt so cuibe ma ólisead.

6. I scás gac Bille is siocair o'áccuinse fán Airteagal so, más é breic an uacéarain ná fuil don togra ann ma bfuil an oiread sin tábacé náisiúnta sur cóir breic an pobail o'fááil air, ní foláir do scríbinn fá n-a lám agus fá n-a séala do cur so o'fí an taoiseacé agus so o'fí Caáoirleacé gac Tíse den Oireacéas dá cur sin i n-iúil doib, agus a lám do cur leis an mBille sin lá nac déirdeanaise ná don lá oéas tar éis an lae a meastar a ritead an Bille sin as dá tís an Oireacéais, agus é fóairt so cuibe ma ólisead.

**AN RIAÁALTAS.**

## AIRTEAGAL 28.

1. Móirseisear ar a laisead, agus cúis óuine oéas ar a méio, líon comaltai an Riaáaltais, agus is é an tuacéarain a ceapras na comaltai sin do réir fóráilcí an Bunreacé so.

2. Fá cúimsiú foráilte an Bunreáctas so, is é an Rialtas oibreócas, nó is le húdaráis an Rialtais a oibreócar, cumáct comallac an Stáit.

3. 1° Ní tleáctac coşaó o'fóşairt ná páirt do beic as an Stáit i n-aon coşaó ac aínáin le haontaó Óáil Éireann.

2° Ac fáoşairt an Rialtais, i şcás ionnraio, aon ní do oéanaín a méaşairt a beic riactanaó cun an Stáit do coşaint, asus muna mbeio Óáil Éireann ina suioe ní poláir í tioneól com luac asus is feioir é.

3° Ní ceao aon ní oá bfuil insan Bunreáct so o'asairt cun aon oliceao oá n-aótuiseann an toireáctas do cur ó bál má luairótear ann şur oliceao é cun sláoáil an póbaíl do cur i n-áirice asus cun an Stáit do éaoinna i n-aimsir coşairt nó ceannairce fá arm, ná cun aon şnioín oá noéantar nó a beireann le tuisint şur şnioín é a oéantar in aimsir coşairt nó ceannairce fá arm do bun aon oliceo den tsórt sin, do cur ar neaín-ní. Insan bpo-alc so, poluiseann "aimsir coşairt" trác a beio coinblióct fá arm ar siubál ná beio an Stáit páirteac ann ac şo mbeio beartuicte as şac Tis den Oireáctas ina éaoó le rún şo bfuil ann, oé oéascaio an coinbliócta sin fá arm, stao íráinne náisiúnta oéanann oeişir do bonn beaca an Stáit asus poluiseann "aimsir coşairt nó ceannairce fá arm" an tréinise amsire sin a beio ioir an trác a cuirfear oeişio le haon coşaó, nó le haon coinblióct fá arm den tsórt sin réaín-ráioite, nó le ceannairc fá arm asus an trác a beartócaio şac Tis den Oireáctas le rún nac ann a tuilleao don stao íráinne náisiúnta aró é an coşaó sin, nó an coinblióct sin fá arm, nó an ceannairc sin fá arm fá noeár é.

4. 1° Tá an Rialtas preaşarác do Óáil Éireann.

2° I şcoinuşoaras a tíoşairt an Rialtais le céile asus a şnioínócaio, asus táio şo léir le céile preaşarác msna Rannaio Stáit a riartar as comalcaio an Rialtais.

3° Oéanşar rúnoacó na bpleití as cruinnice den Rialtas a urramú i nşac toisc ac aínáin i şcás ina şcinnfeio an aró-cúirt şur ceart noctao a oéanaín i otaoó ní áirice—

i. ar máice le riaraó cirt as cúirt, nó

ii. oé bua leaa póiblí sáraitic, oé bun iarraoais cuise sin ó binse arna éapaó as an Rialtas nó as aire oen Rialtas le húoaras tice an Oireáctais cun fiosrú a oéanaín faoi ní a luafairt siao ina éaoó şo bfuil táoacó póiblí ann.

4° Ní poláir oen Rialtais Meastacáin ar fáşáltas an Stáit asus Meastacáin ar éairéaín airşio an Stáit o'ullmú i şcoimair şac bliáoina airşeoais, asus iao do cur ós comair Óáil Éireann cun a mbreánuicte.

5. 1° An taoiseac is teioeal do ceann an Rialtais, .i. an íríom-áire, asus sin é a beirtear air insan Bunreáct so.

2° Ní poláir oen taoiseac eoas i şcoitcinne do éaoairt oen uaótarán ar neitib a baineas le beartas imheaoónac asus le beartas eaoarnnáisiúnta.

6. 1° Ní poláir oen taoiseac comalta oen Rialtais o'ainmniú cun beic ina éánaiste.

2° Má éaşann an taoiseac nó má şabann mícioeir buan é, ní poláir oen éánaiste şnioínú cun şac crice i n-ionao an taoisicş nó şo şceaptar taoiseac eile.

3° Ní poláir oen éánaiste, fairis sin, şnioínú tar ceann nó i n-ionao an taoisicş le linn eisean do beic as lácair şo seala-oac.

7. 1° Ní poláir an taoiseac asus an éánaiste asus an comalta sin oen Rialtais a beas i mbun an Roinn airşeoais do beic ina şcomalcaio oé Óáil Éireann.

2° Ní poláir na comalcaí eile oen Rialtais do beic ina şcomalcaio oé Óáil Éireann nó oé şeanao Éireann, ac ní tleáctac tar beirt aca do beic ina şcomalcaio oé şeanao Éireann.

8. Tá sé oé ceart as şac comalta oen Rialtais beic i lácair asus labairt i nşac Tis den Oireáctas.

9. 1° Tis leis an taoiseac éirşe as oifis uair ar bic trí n-a cur sin i n-iúil oen uaótarán.

2° Tis le haon comalta eile oen Rialtais éirşe as oifis trí n-a cur sin i n-iúil oen taoiseac cun an scéal do cur fá bráşair an uaótarán.

3° ní foláir don uachtarán slacaó le haon comálta den Rialtas, seachas an Taoiseach, d'éiríse as oifis má comhairliúeann an Taoiseach é sin dó.

4° Tí leis an Taoiseach uair ar bit, ar aóðaraid is leor leis féin, a iarraid ar comálta den Rialtas éiríse as oifis; muna ndéanaid an comálta sin do réir na haécuinse sin, ní foláir don uachtarán an comálta sin do cur as oifis má comhairliúeann an Taoiseach dó é.

10. Don uair ná leanann tromlaic i nÓil éireann de beic i dtacaróeact leis an Taoiseach, ní foláir dósan éiríse as oifis muna lán-scoireann an tuachtarán Óil éireann ar comairle an Taoisí, agus go n-éiríseann leis an Taoiseach tacaíoeact tromlaic i nÓil éireann d'fásáil ar aiccionól do Óil éireann i ndiaid an lán-scoir.

11. 1° má éiríseann an Taoiseach as oifis trác ar bit, ní foláir a mheas go n-éiríseann an cúir eile de comáltaid an Rialtais as oifis fairis sin; ac leanfaid an Taoiseach agus an cúir eile de comáltaid an Rialtais dá n-ualais nó go sceaptar a scoimbarbaí.

2° Na comáltaid den Rialtas a beas i n-oifis lá lán-scora Óil éireann leanfaid dá n-oifis nó go sceaptar a scoimbarbaí.

12. Is do réir dlí a riallócar na neite seo leanas .i. Ranna Stáit do choimeasgrú agus shó do roinnt ortá, comáltaid den Rialtas do ceapad cun beic ina ndiaid i mbun na Rann sin, na feadomanna a baineas le hoifis comálta den Rialtas do comhlíonad le linn an comálta sin do beic tamall as lácar nó ar mícreoir, agus tuarastal comáltaid an Rialtais.

## CAITREAM EADARNÁISIÚNTA.

Airteagal 29.

1. Dearbann éire gur mian léi síocáin agus comar, do réir an coitruim eadarnáisiúnta agus na móraltaicta eadarnáisiúnta, do beic ar bun ior náisiúnaid an doimain.

2. Dearbann éire pós gur mian léi go ndéanfaí fás acránn ior náisiúnaid do réitoeac go síocáinta le heoráin eadarnáisiúnta nó le cinnead breiteamnac.

3. Slacann éire le bunriaglacá shac-adomaiete an dlí ior eadarnáisiúnta le beic ina dtreoir d'éirinn ina caiream le Stáit eile.

4. 1° Do réir airteagal 28 den Bunreac so is é an Rialtas oibreocas, nó is le huáorás an Rialtais a oibreocar, cuimact comallac an Stáit maidir le n-caiream eactrac.

2° Ionnas go bfeadpar don feiom comallac leis an Stáit d'oiriú maidir le n-caiream eactrac feadpar an Rialtas, sa méir go scinnepar le dlíeac agus fá cuimsiú pé comseallaca a cinnepar le dlíeac, má cinntear, don orsan Stáit nó sás nó nós imeacta do cur cun críce nó do slacaó a cuirtear cun críce nó a slactar cun a leiteir sin de cuspoir as na náisiúnaid is comáltaid d'aon buiom nó d'aon cumann de náisiúnaid a bfuil nó a mbeid an Stáit i scoimlacas leo le haáar comair eadarnáisiúnta i scúrsaib a baineas leo uile.

3° Tí leis an Stáit do beic ina comálta den Coitpobal Eorpac do fual agus cruac (do bunúeac le Conrac do síneac i bparas an 18ad lá d'aireán, 1951), de Coitpobal eacnamaiocá na heorpa (do bunúeac le Conrac do síneac insan Róim an 25ad lá de mártá, 1957) agus den Coitpobal Eorpac do fúinneam adomnac (do bunúeac le Conrac do síneac insan Róim an 25ad lá de mártá, 1957). Tí leis an Stáit an Ionstraim Eorpac donair (do síneac tar ceann balstáit na scoitpobal i Lucsamburg an 17ad lá d'feabra, 1986, agus insan háis an 28ad lá d'feabra, 1986) do áingniú.

4° Tí leis an Stáit an Conrac ar an donas Eorpac a síneac i Maastricht ar an 7ad lá d'feabra, 1992, do áingniú agus tí leis do beic ina comálta den donas san.

5° Tí leis an Stáit Conrac Amstardam as leasú an Conrta ar an donas Eorpac, na scoarctaid as bunú na scoitpobal Eorpac agus Ionstraimí faolmára áirite, a sínió in Amstardam an 2ú lá de Deiread póimair, 1997, a áingniú.

6° Tíis leis an Stát na roghnuithe nó na roghanna a feidmiú a sócráítear le hAirteagail 1.11, 2.5 agus 2.15 den Chonradh dá dtagraítear i bfo-alt 5° den alt seo nó fúthu agus leis an dara prótacal agus leis an gceathrú prótacal atá leasáil amháid sa Chonradh sin nó fúthu ac beirí don feidmiú den sórt sin faoi réir ceathú a fáil roimh ré ó dá téad an Oireáctais.

7° Ní déanann don fórsaíleam atá insan Bunreáct so don tliúite d'áctuiú, gníomhartha do rinne nó bearta le n-ar glac an Stát, de bítin riáctanais na n-oibleasáirí mar cómalta den dochtas Eorpac nó de na Comhobail do cur ó baid tliúirí ná cosc do cur le tliúite d'áctuiú, gníomhartha do rinne nó bearta le n-ar glac an tdochtas Eorpac nó na Comhobail nó instiúití d'óid, nó comúctáí atá inneamhail fá na Connarctáí as bunú na gComhobail, ó feidm tliúirí do beirí sca sa Stát.

8° Tíis leis an Stát an Comhontú maidir le daitinní Comhobail a tarrainúiseadh suas idir bállstáit na gComhobail agus a rinneadh i Lucsamburg ar an 15ú Lú de nollais, 1989, do dainmí.

5. 1° Ní foláir náid connradh eadarnáisiúnta ina mbeirí an Stát páirtead do leasadh ós comhair Óáil Éireann.

2° Don connradh eadarnáisiúnta a cuirfeadh costas ar an gciste poiblíde ní beirí sé ina ceangal ar an Stát muna tóilúirí Óáil Éireann le téarmaíbh an connartha.

3° Ní baineann an t-alt so le connarthaíbh ná le comhontáíbh ar cúrsaíbh teicnice agus riaráidín.

6. Ní beirí don connradh eadarnáisiúnta ina curio de tliúitead inneadónad an Stáit ac mar éinníirí an tOireáctais.

7. 1° Tíis leis an Stát a tóilú a beirí faoi ceangal as Comhontú an Breataine-na hÉireann, arna déanamh i mbéal feirste an 10ú Lú d'áibreán, 1998, ar a dtugtar an Comhontú sa Bunreáct seo feasta.

2° Tíis le haon instiúití a bunófar leis an gComhontú nó faoin gComhontú na cumháctáí agus na feidmeanna a feidmiú a tustar do dá éionn sin i leirí oileán na hÉireann ar fad nó i leirí don curio de d'ainneoin don fórdla eile den Bunreáct seo lena dtugtar cumháct nó feidm dá saimhail d'áon duine nó d'áon orshan Stáit arna ceapadh faoin mbunreáct seo nó arna éruíú nó arna bunú leis an mbunreáct seo nó faoin mbunreáct seo. Féadfaid don cumháct nó don feidm a tábairt d'institiúití den sórt sin i ndáil le hacraimh nó conspóirí a réitead nó a sócrú a beirí i tteannta nó in ionad don cumháct nó don feidme dá saimhail a tustar leis an mbunreáct seo d'áon duine den sórt sin nó d'áon orshan Stáit den sórt sin mar a tóradh.

3° Má déarbáidinn an Riáctas go bfuil an Stát tástá éun beirí faoi oibleasáirí, de bun an Comhontáite, éiríad a tábairt don leasú ar an mbunreáct seo dá dtagraítear sa Comhontú sin, ansin, d'ainneoin Airteagal 46 den Bunreáct seo, déanfar an Bunreáct seo a leasú mar a leanas:

- i. déanfar an hAirteagal seo a leanas a cur in ionad Airteagal 2 agus 3 den téacs áeilíse:

#### “Airteagal 2.

Tá náid duine a saolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fárraí, i tteirdeal, agus dá de ceart oírdreáctá aise nó aici, a beirí páirtead i náisiún na hÉireann. Tá an teirdeal sin freisin as na daoine go léir atá cáilíte ar slí eile de réir tliú éun beirí ina saoránais d'Éirinn. Ina tteannta sin, is móir as náisiún na hÉireann a cóibneas speisialta le daoine de bunad na hÉireann atá ina gcónaí ar an gcoisríóc agus arb ionann péimíúad agus oírdreáct éultúir tóib agus do náisiún na hÉireann..

#### Airteagal 3.

1. Is í toil óionúbáilte náisiún na hÉireann, go sítead cairdúil, na daoine go léir a cóimroinneann críóc oileán na hÉireann i bpaírt lena éile, in éasúúad uile a

b'féimíúlachtáí a'gus a 'ttráidisiún, a don'tú, á aic'nt gur trí mhóanna síochánta a'áin le toilíú t'romlác na n'aoime, á 'ur in iúl 'so d'áon-lá'c, sa dá 'línse san oileán, a 'éan'ar éire don'taite a 'á'airt i 'scrí'c. 'so 'tí sin, ba'p'í' na 'líte a 'á'tó'ar a'g an b'p'arlaimint a buná'te'ar leis an m'bhunreá'c seo leis an limisté'ar fe'irme céanna a'gus be'í' an raon fe'irme céanna acu, len'ar 'bain na 'líte, a'gus a 'bí a'g na 'líte, a 't'á'c'ta'í' an 'p'arlaimint a 'bí ar mar'tain 'd'íreá'c roim' 'c'eá'c i 'n'ghí'om' 'don bhunreá'c seo.

2. Fé'ar'ar'ó 'u'ar'á'is fé'ar'á'c'a fá'oi seá'c na n'ol'nsí sin inst'it'ú'í' a'g a m'be'í' cu'á'c'tá'í a'gus fe'í'omeanna fe'í'om'ú'c'á'ín a 'c'óim'roim'nte'ar 'í'oir na 'ol'nsí sin a 'bunú' 'cun crí'óc son'ra'ite a'gus fé'ar'ar'ó na hin'st'it'ú'í' sin cu'á'c'tá'í a'gus fe'í'omeanna a fe'í'om'ú' i le'it' an oileá'ín ar fá'ó nó i le'it' don 'c'ú'í' 'de.'.

ii. 'é'an'ar na h'á'ir'te'á'sá'íl seo a leanas a 'c'ur in ion'á'ó á'ir'te'á'sá'íl 2 a'gus 3 'den té'acs Sá'cs-'b'é'ar'l'a:

#### “Article 2.

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

#### Article 3.

1. It is the firm will of the Irish nation, in harmony and friendship, to unite all the people who share the territory of the island of Ireland, in all the diversity of their identities and traditions, recognising that a united Ireland shall be brought about only by peaceful means with the consent of a majority of the people, democratically expressed, in both jurisdictions

in the island. Until then, the laws enacted by the Parliament established by this Constitution shall have the like area and extent of application as the laws enacted by the Parliament that existed immediately before the coming into operation of this Constitution.

2. Institutions with executive powers and functions that are shared between those jurisdictions may be established by their respective responsible authorities for stated purposes and may exercise powers and functions in respect of all or any part of the island.”,

iii. 'é'an'ar an t-'á'lt seo a leanas a 'c'ur leis an té'acs 's'á'eil'se 'den á'ir'te'á'sá'íl seo:

“8. T'í' leis an st'á't 'ol'ínse a fe'í'om'ú' t'á'ob' á'mu'í'g dá 'crí'óc 'de ré'ir bun'ri-'á'lá'c'a 'n'á't-'á'om'á'ite an 'ol'í' 'í'oir'n'á'is'í'ú'nt'a.”, a'gus

iv. 'é'an'ar an t-'á'lt seo a leanas a 'c'ur leis an té'acs Sá'cs-'b'é'ar'l'a 'den á'ir'te'á'sá'íl seo:

“8. The State may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law.”.

4° m'á 'é'ant'ar 'de'ar'b'ú' fá'om' á'lt seo, 'é'an'ar an fo-'á'lt seo a'gus fo-'á'lt 3°, seá'c'as an leas'ú' ar an m'bhunreá'c seo a 'é'ant'ar leis an b'fo-'á'lt sin 3°, a'gus fo-'á'lt 5°, 'den á'lt seo a fé'á'sá'íl ar l'ár as 's'á'c' té'acs o'ir'í'sí'ú'íl 'den bhunreá'c seo a foil'se-'o'far dá 'é'is sin, á'c 'd'á'inne'om' í'á'ó a fé'á'sá'íl ar l'ár a'm'la'í'ó le'an'ar'ó' an t-'á'lt seo 't'fe'í'om' 'ol'í' a 'be'í't' á'í'se.

5° m'ura n'ó'é'an'ar 'de'ar'b'ú' 'den só'rt' sin la'is't'í'g 'de' dá' m'í' 'é'á's' ó'n t'r'á'c' a 'c'uir'fe'ar-'an t-'á'lt seo leis an m'bhunreá'c seo nó c'ib'é' t'r'é'm'h'se is fá'í'oe ná sin a 's'ocr'ó'far le 'ol'í', sco'ir'p'í'ó an t-'á'lt seo 'd'é'í'peá'c't' a 'be'í't' leis a'gus fá's'fe'ar ar l'ár é' as 's'á'c' té'acs o'ir'í'sí'ú'íl 'den bhunreá'c seo a foil'se'o'far dá 'é'is sin.



## AN TÁRTO-ΔΙΓΗNE.

### ΔΙΡΤΕΔΣΔΛ 30.

1. Beirō ÁRTO-Διγήne ann, ΔΣUS IS É IS COΜΑΙRLEAC̄ DON RIAΣΔΛTAS I ΣCÚRSΔIḂ ὈΛIΓIḂ ΔΣUS TΔΑΙRIMÍ ὈΛIΓIḂ, ΔΣUS NÍ FOΛΔIR ὉÓ ΣΔC̄ CUMΔC̄T, ΣΔC̄ FEIḂM ΔΣUS ΣΔC̄ ὉΔΔΣΔS ὉΔ MBRONNTAR NÓ ὉΔ ΣCUIRTEAR ΔIR LEIS AN MḂUNREACT̄ SO NÓ LE ὈΛIΓEAC̄ Ὁ'OIB-RIÚ ΔΣUS ὉO COMLIḂNAC̄.
2. IS ΔΣ AN UACTARÁN Δ CEAPFAR AN TÁRTO-Διγήne ΔR N-Δ ΔIMMIÚ SIM ΔΣ AN TAOISEAC̄.
3. I ΣCΔS ΣΔC̄ COIR ΔΣUS CION ὉΔ ὉTUSΤAR I N-ΔON CÚIRT Δ BUNUIΓTEAR FÁ ΔIRTEΔΣΔΛ 34 DEN ḂUNREACT̄ SO, ΔC̄ ΔHΔM CÚIRT ὈΛIΓINSE ΔC̄COMAIRE, IS I N-ΔIMM AN ḂOBAIL ΔΣUS ΔR ΔΣRA AN ÁRTO-Διγήne, NÓ ΔR ΔΣRA ὉUINE ÉIΣIN EILE Δ UΓḂARUIΓTEAR INA COΜAIR SIM ὉO RÉIR ὈΛIΓIḂ, Δ ὉÉANFAR AN CÚISIÚ.
4. NÍ CEΔO AN TÁRTO-Διγήne BEIT INA COΜΔΛTA DEN RIAΣΔΛTAS.
5. 1° TIS LEIS AN ÁRTO-Διγήne ÉIRGE ΔS OIFIS UΔIR ΔR BIḂ TRÍ N-Δ CÚR SIM I N-IÚIL DON TAOISEAC̄ CÚN AN SCÉAL ὉO CÚR FÁ ḂRΔΣAIḂ AN UACTARÁN.
- 2° TIS LEIS AN TAOISEAC̄, ΔR ΔḂḂARAIB IS LEOR LEIS FÉIN, Δ IARRAIḂ ΔR AN ÁRTO-Διγήne ÉIRGE ΔS OIFIS.
- 3° MUNA NḂÉANAIḂ AN TÁRTO-Διγήne ὉO RÉIR NA HΔC̄CUIḂGE SIM NÍ FOΛΔIR DON UACTARÁN É CÚR ΔS OIFIS MΔ COΜAIRLIΓEANN AN TAOISEAC̄ ὉÓ É.
- 4° NÍ FOΛΔIR DON ÁRTO-Διγήne TUL ΔS OIFIS ΔR ÉIRGE ΔS OIFIS DON TAOISEAC̄, ΔC̄ TIS LEIS LEANAIHAIḂT ὉΔ ὉΔΔΣΔIS NÓ ΣO ΣCEAPTAR COΜARBA AN TAOISIΣ.
6. FÁ CUMSIÚ NA ḂFORΔITÍ SIM ROMAINN DEN ΔIRTEΔΣΔΛ SO IS ὉO RÉIR ὈΛIΓIḂ Δ RIAΣḂOC̄AR OIFIS AN ÁRTO-Διγήne, MAILLE LEIS AN TΔARASTAL IS MIḂCTA LEIS AN TÉ BEAS I SEIB NA HOIFIGE SIM.

## AN COΜAIRLE ΣTΔIT.

### ΔΙΡΤΕΔΣΔΛ 31.

1. Beirō COΜAIRLE ΣTΔIT ANN CÚN CΔḂAIR IS COΜAIRLE ὉO CΔḂAIRT DON UACTARÁN I ὉTΔOḂ ΣΔC̄ NÍ ὉΔ ΣCUIRFIḂ AN TΔACTARÁN INA ΣCOΜAIRLE, MAIḂIR LE HÉ Ὁ'OIBRIÚ IS ὉO COMLIḂNAC̄ NA ΣCUIHΔC̄T IS NA ḂFEΔḂMANNA Δ

LUAIḂTEAR SA ḂUNREACT̄ SO ὉO BEIT IONOIB-RIΓTE IS IONCOIMLIḂNTA ΔIGE TAR ÉIS COΜAIRLE ὉO ΣΔC̄AC̄O LEIS AN ΣCOΜAIRLE ΣTΔIT, ΔΣUS FOS CÚN ΔON FEΔḂMANNA EILE Δ BRONNTAR ΔR AN ΣCOΜAIRLE SIM LEIS AN MḂUNREACT̄ SO ὉO COMLIḂNAC̄.

2. IS IΔO NA ὉΔOINE SEO LEANAS Δ ḂEAS INA ΣCOΜΔLTΔIB DEN COΜAIRLE ΣTΔIT:
  - i. ὉE ḂUAC̄O OIFIGE: AN TAOISEAC̄, AN TΔHAISTE, AN ḂRÍM-ḂREITΔMḂ, UACTARÁN NA HÁRTO-CÚIRTE, CΔTΔOIRLEAC̄ ὉΔIL ÉIREANN, CΔTΔOIRLEAC̄ ΣEANΔO ÉIREANN, ΔΣUS AN TÁRTO-Διγήne.
  - ii. ΣΔC̄ ὉUINE ΣUR CUMAS ὉÓ ΔΣUS ΣUR Fonn LEIS ΣHIOHÚ INA COΜΔΛTA DEN COΜAIRLE ΣTΔIT, ΔΣUS Δ ḂI TRΔC̄ INA UACTARÁN NÓ INA TAOISEAC̄ NÓ INA ḂRÍM-ḂREITΔMḂ, NÓ INA UACTARÁN ΔR ÁRTO-COΜAIRLE ΣΔORSTΔT ÉIRE-ANN.
  - iii. ΔON ὉΔOINE EILE Δ CEAPFAR ΔΣ AN UACTARÁN FÁN ΔIRTEΔΣΔΛ SO, MΔ CEAPTAR ÉINNE, CÚN BEIT INA ΣCOΜΔLTΔIB DEN COΜAIRLE ΣTΔIT.

3. TIS LEIS AN UACTARÁN UΔIR ΔR BIḂ ΔΣUS Ó AM ΣO HAM CIBÉ ὉΔOINE EILE IS OIREΔIHNAc̄ LEIS, ΔS Δ COΜAIRLE FÉIN, ὉO CÉAPAC̄O LE ḂARÁNTAS FÁ N-Δ ΛÁM IS FÁ N-Δ ΣÉΔLA CÚN BEIT INA ΣCOΜΔLTΔIB DEN COΜAIRLE ΣTΔIT, ΔC̄ NÍ ὉLEΔΣCTAC̄ C̄AR MOIRSEISEAR Δ CEAPTAR ΔR AN ΣCUMA SIM Δ BEIT INA ΣCOΜΔLTΔIB DEN COΜAIRLE ΣTΔIT INSAN AM CÉΔḂNA.

4. NÍ FOΛΔIR ὉO ΣΔC̄ COΜΔΛTA DEN COΜAIRLE ΣTΔIT, AN CÉΔO UΔIR Δ BEIḂ SÉ ΔR CIONḂ DEN COΜAIRLE SIM INA COΜΔΛTA ὉI, AN ὉEARḂAC̄O SO LEANAS ὉO ὉÉANAIḂ ΔΣUS Δ ΛÁM ὉO CÚR LEIS:

“I ΛΔC̄AIR ὉIA NA NḂHILECUMΔC̄T TΔIMSE,

, ὉΔ ΣEΔLLAIHAIḂT ΔΣUS ὉΔ ὉEARḂAC̄O ΣO SOLLAMANTA ΔΣUS ΣO FÍRIN-NEAC̄ MO ὉΔΔΣΔIS IM COΜΔΛTA DEN COΜAIRLE ΣTΔIT ὉO COMLIḂNAC̄O ΣO ὉILIS COMSIΔAC̄.”

5. ΣΔC̄ COΜΔΛTA DEN COΜAIRLE ΣTΔIT Δ CEAPFAR ΔΣ AN UACTARÁN BEIḂO SÉ I SEIB OIFIGE NÓ ΣO ὉCÉIΓIḂ COΜARBA AN UACTARÁN Δ CÉAP É I ΣCÚRAM Δ OIFIGE, SÉ SIM MUNA ὉTÁRLUIΓIḂ ROIME SIM ΣO N-ÉΔΣFAIḂ AN COΜΔΛTA SIM, NÓ ΣO N-ÉIREOC̄AIḂ ΔS OIFIS, NÓ ΣO NGEḂΔIḂ MIḂTROIḂ ḂUAN É, NÓ ΣO ΣCUIRFEAR ΔS OIFIS É.

6. Aon comhalta den Comhairle Stáit dá sceapfaió an tuáctarán tís leis éiríse as oifis trí n-a cur sin i n-úil don uáctarán.
7. Tís leis an uáctarán, ar aóbaráib is leor leis féin, tuine ar bit dár ceap sé don Comhairle Stáit do cur as oifis le horú fá n-a láim asus fá n-a séala.
8. Tís leis an uáctarán an Comhairle Stáit do comórad cibé áit asus am a sócrócaíó sé cuise.

#### AIRTEAGAL 32.

Cumácta nó feadmanna ar bit so luaitéar ina tsoib insan bunreáct so sur oleasáctá don uáctarán iad o'uibriú nó do comhlíonad tar éis comhairle do glacad leis an sComhairle Stáit, ní cead don uáctarán aon cumáct ná feidm oíob o'uibriú ná do comhlíonad muna scomóra sé an Comhairle Stáit i nscá cás roim ré, asus éisteaáct leis na comhaltaib den Comhairle sin a beas i láctair.

### AN TÁRTO-REACTAIRE CUNNTAS ASUS CISTE.

#### AIRTEAGAL 33.

1. Beid áro-Reactaire Cunntas asus Ciste ann cun scá caiteáin airisio do riaslú tar ceann an Stáit, asus cun iniúctá do déanaí ar scá uile cunntas ar airsead a riaratar as an Oireáctas nó fá uádarás an Oireáctais.
2. Is as an uáctarán a ceapfar an tárto-Reactaire Cunntas asus Ciste, ar n-a ainmnú sin as Óáil Éireann.
3. Ní cead an tárto-Reactaire Cunntas asus Ciste beid ina comhalta de ceáctar de tísctib an Oireáctais, ná beid i n-aon oifis ná post soáir eile.
4. Ní foláir don áro-Reactaire Cunntas asus Ciste tuarascúala do cur ós comair Óáil Éireann ar tráctáib áiríte mar cinnear le dlisead.

5. 1° Ní cead an tárto-Reactaire Cunntas asus Ciste do cur as oifis ac ámáin de beascáib mí-iomáir nó mítreóra a luápar, ná an uair sin féin muna ríctio Óáil Éireann asus Seanao Éireann rúin dá éileáin é cur as oifis.

2° Rúin ar bit den tsórt sin a ríctio Óáil Éireann asus Seanao Éireann ní foláir don taoiseáct scéala a tábairt don uáctarán ina tsoib so cuibe, asus cóib de scá rún den tsamáil sin do seoláó cuise fá teastas áctaoirleaáct an tísge den Oireáctas do ríct é.

3° Láitreaáct o'éis na scéala sin asus cóibeanna de na rúnaib sin o'fásáil don uáctarán ní foláir do, le horú fá n-a láim is fá n-a séala, an tárto-Reactaire Cunntas asus Ciste do cur as oifis.

6. Fá cúmsiú na neite sin roimáin, is le dlisead a cinnear comsealáctá asus cúmsi oifis an áro-Reactaire Cunntas asus Ciste.

### NA CÚIRTEANNA.

#### AIRTEAGAL 34.

1. Is i sCúirteannaib a bunuiscéar le dlisead asus as breiteáinnaib a ceaptar ar an moó acá leasáctá amaáct sa bunreáct so a riarpar ceart, asus is so poiblíde a déanpar sin ac ámáin insna cásannaib speisialta teoranta sin a horúócar le dlisead.
2. Beid ar na cúirteannaib sin Cúirteanna Céadócéime asus Cúirt áctcomairc Óeirio.
3. 1° Beid ar na Cúirteannaib Céadócéime sin áro-Cúirt as a mbeid lán-dliscinse bunair, asus cumáct cun breit do tábairt, i nscá ní asus ceist dliscinó nó fíris cibé síbáilta nó coireáct iad.

2° Tsoib amuis de cás dá socruiscéar a málairt leis an Airteagal so, beid dliscinse as an áro-Cúirt maidir leis an sceist sin bail do beid nó san a beid ar aon dlisead áiríte as féacáint o'foráiltib an bunreáctá so, asus ní cead aon ceist den tsórt sin do tárrainis anuas (trí plétoeáil ná arsóint ná eile) i sCúirt ar bit, ar n-a bunú fáin Airteagal so nó fá aon Airteagal eile den bunreáct so, seacás an áro-Cúirt nó an Cúirt uáctarác.

3° Ní beirte óliúinse aS Cúirt ar bit cun bailiúeáct óliúinó nó fórdáilte ar bit de óliúeáó do cun i n-áinras is óliúeáó a n-óeárhna an tuáctarán an hille le n-a ášáir do cun fá breit na Cúirte uáctaráiše fá áirteášal 26 den bunreáct so, ná cun bailiúeáct fórdáilte de óliúeáó do cun i n-áinras má rinne an tuáctarán an fórdáileáin cóim-réire insan hille le hášáir an óliúinó sin do cun fá breit na Cúirte uáctaráiše fáin áirteášal sin 26.

4° Beirte ar na Cúirteannaib Céadócéime, fairis sin, Cúirteanna aS a mbeirte óliúinse ceoranta áiteáinail maille le ceart áctóináirc ina n-ášáir fá mar cinneáar le óliúeáó.

4. 1° An Cúirt uáctarác is teirdeal don Cúirt áctóináirc óeirió.

2° An príim-óreiteáin is teirdeal ó uáctarán na Cúirte uáctaráiše.

3° Taob amuis de cibé eisceáctá aSus fá cúimsiú cibé riášláca oróócar le óliúeáó, beirte óliúinse áctóináirc aS an sCúirt uáctaráiš ar breáctáib uile na hárd-Cúirte aSus, fairis sin, ar na breáctáib sin ó Cúirteannaib eile a oróócar le óliúeáó.

4° Ní ceáó don óliúeáó ó'áctú do cúir- feáó ar an ótaob amuis de óliúinse áctóináirc na Cúirte uáctaráiše cásanma ina mbeáó ceisteáanna le réiróteáó i ótaob bail do beirte nó šan a beirte ar don óliúeáó, aS féáóáin ó fórdáiltib an bunreáctá so.

5° Isé éraoláas breit na Cúirte uáctaráiše ar ceist i ótaob bail do beirte nó šan a beirte ar óliúeáó aS féáóáin ó fórdáiltib an bunreáctá so ná an tuine sin de breiteáináib na Cúirte sin a ceá- páir an Cúirt sin cúige sin, aSus ní ceáó tuáirim ar bit eile ar an sCeist sin, aS donóú nó aS eásonóú leis an mbreit sin, do éraoláó ná ní ceáó a noóctáó tuáirim ar bit eile den óórt sin do beirte ánn.

6° Ní beirte óul tar breit na Cúirte uáctaráiše i šcás ar bit.

5. 1° Šac tuine a ceápar cun beirte ina breiteáin fáin mbunreáct so ní fólar do an óeárbáó so leanas do óéanáin aSus a láin do cun leis:

"1 LÁCAIR Óia na nuilecúináct táimse, , óá šealláináin aSus óá óeárbáó šo sollámaná aSus šo fírinneáó šo šcoimlíonáó šo cuibe aSus šo óilis, cóin máit aSus is eol aSus is cumas dom, oipis an príim-óreiteáin (nó do réir mar oireas) šan eášlá šan cláonáó, šan háiró šan óró- áišne cun tuine ar bit, aSus šo šcoimóóáó bunreáct aSus óliúeáó éireánn. Óia dom štíúráó aSus dom cúinóáó."

2° Is i LáCAIR an uáctaráin a óéanáir an príim-óreiteáin an óeárbáó sin aSus a cúirpíó a láin leis, aSus is insan cúirt šo poiblíóe aSus i LáCAIR an príim-óreiteáin nó an breiteáin den Cúirt uáctaráiš is sinseáraiše óá mbeirte ar fášáil a óéanáiró šac breiteáin eile den Cúirt uáctaráiš aSus šac breiteáin den árd-Cúirt aSus de šac Cúirt eile an óeárbáó sin aSus a cúirpíó láin leis.

3° Ní fólar do šac breiteáin an óeárbáó do óéanáin aSus a láin do cun leis šara ótéiúó i šcúram óualšas a oipise, aSus cibé scéal é, ar óáta náó óeiróeáinše ná óeic lá tar éis láe a ceápta, nó óáta is óeiróeáinše ná sin mar cinneáir an tuáctarán.

4° Don breiteáin a óiúltócas nó a fáilleócas an óeárbáó réáinráiróte do óéanáin ní fólar a inéas šo bfuil scárcá áiše le n-a oipis.

Áirteášal 35.

1. Is aS an uáctarán a ceápar breiteáinán na Cúirte uáctaráiše, na hárd-Cúirte aSus an uile Cúirte eile a bunuigšear do bun áirteášail 34 den bunreáct so.
2. Beirte šac breiteáin šaor neáin-spleáóac máitóir le n-a féáómanna breiteáinán ó'óibriú, šan de smáct air ác an bunreáct so aSus an óliúeáó.
3. Ní ceáó don breiteáin do beirte ina cóinálta de ceáctar de óiúitib an Oireáctáis, ná beirte i n-aon oipis ná post sóáir eile.
4. 1° Ní ceáó breiteáin den Cúirt uáctaráiš ná den árd-Cúirt do cun aS oipis ác áináin de óeáscáib mí-íomáir nó mítreóra a luáópar, ná an uáir sin féin muna riéiró óáil éireánn aSus Seanáó éire- ánn rúin óá éileáin é cun aS oipis.

2° Rúin ar bit den óórt sin a riéipíó Óáil éireánn aSus Seanáó éireánn ní fólar don óaóiseáó scéala do tábairt don uáctarán ina ótaob šo cuibe aSus cóib de šac rúin óiob do šeoláó cúige fá ceástas Cátaoirleáó an óiúe den Oireáctáis do rié é.

3° Láitreada d'éis na scéala sin agus cóibeanna de na rúnaib sin d'fáidil don uachtarán ní foláir dó, le hordú fá n-a Láim is fá n-a Séala, an breiteam le n-a mbainn do cur as oifis.

5. Ní ceao laistóu do déanaí ar tuarastal breiteam an fáid is beir m oifis.

#### ÁIRTEAGAL 36.

fá cumsiú na bporáilte sin roiminn den bunreacht so a baineas leis na Cúirteannaib is do réir dlí is a rialóid na neite seo leanas .1.

- i. Líon breiteamán na Cúirte uachtaraige, agus na hárd-cúirte, tuarastal, aois scórta agus pinsin na mbreiteamán sin,
- ii. Líon breiteamán sa Cúirte eile, agus na comheallacha fá sceaparaí, agus
- iii. comhéanaí agus comheagraidheacht na scúirteanna sin, roinnt na dlí is agus na hoibre ar na Cúirteannaib sin agus ar na breiteamánib sin, agus sa n-áirteagál le n-áirteagál.

#### ÁIRTEAGAL 37.

1. Aon duine nó aon dream so n-údaruisítear so cuibhe dóib le dlí is feadomanna agus cumácta teoranta breiteamánais d'oibriú i scúrsaib nac cúrsaí coireacta, má oibriú na feadomanna agus na cumácta sin ní beir an t-oibriú sin san bail dlí is de bítin aon ní insan bunreacht so, siú is nac breiteam ná cúirt do ceapad nó do bunuigead mar breiteam nó mar cúirt fán mbunreacht so an duine nó an dream sin.
2. Ní raib ná ní beir aon uctáil ar duine do glac éireact nó a bfuil sé sainráidte sur glac sí éireact aon trác tar éis don bunreacht seo do ceact i ngníom faoi dlí is d'áctuis an coireactas agus is uctáil de bun ordú do rinne nó údarú do tuis aon duine nó aon dream a bí sonruigte leis na dlí is sin cun na feadomanna agus na cumácta sin d'oibriú ó bail dlí is de bítin aindín nar breiteam ná cúirt do ceapad nó do bunuigead mar breiteam nó mar cúirt faoin mbunreacht seo an duine nó an dream sin.

## TRIAIL I SCIONTAIB.

#### ÁIRTEAGAL 38.

1. Ní ceao éinne do triail i n-aon cúis coirctis ac mar is cuibhe do réir dlí is.
2. Féadfar mion-cionta do triail as cúirteanna dlí is seachtaire.
3. 1° Féadfar cúirteanna fá leit do bunú le dlí is cun cionta do triail i scásannaib so scinnear ma tacaob, do réir an dlí is sin, nac leor na gná-cúirteanna cun riaraob cirt do cur i bfeim le héireact agus cun síocáin agus ord poibliche do áoinna.

2° Is le dlí is seachtaire a socróid comhéanaí, cumácta, dlí is agus n-áirteagál na scúirteanna fá leit sin.

4. 1° Féadfar binnsí míleata do bunú cun daoine do triail i sciontaib i n-áirteagál dlí is míleata aoirtear do rinnead le linn a mbeir fá dlí is míleata, agus fós cun broic le heisic nó le ceannaire fá arm.

2° Duine de na fórsaib Cosanta ná fuil ar fianas ní ceao é triail i lácair aon arm-cúirte ná binnsé míleata eile i scion is mtrialte insna cúirteannaib síbiaita, muna cion é ac fá dlí is aon arm-cúirte nó binnsé míleata eile fá aon dlí is cun smaict míleata do cur i bfeim.

5. Ní ceao duine do triail i n-aon cúis coirctis ac i lácair coiste tiomanta, ac aindín i scás cionta do triail fá alt 2, alt 3 nó alt 4 den áirteagál so.
6. Ní bairé fórdáilte áirteagáil 34 ná áirteagáil 35 den bunreacht so le haon cúirt ná le haon binnsé a bunóid fá alt 3 nó alt 4 den áirteagál so.

#### ÁIRTEAGAL 39.

Is é aindín is tréas ann: coşad do cur ar an stáct, nó cabrú le stáct nó le duine ar bit, nó saigeadad fá duine, nó beir i scoimceil is le duine, cun coşad do cur ar an stáct; nó iarract do déanaí le harm nó ar móð fóireigheact eile ar na hórşain rialaitais a bunuigetar leis an mbunreacht so do trascairt; nó páirt nó baint do beir as neac le n-a leiteo sin d'iarract, nó éinne do saigeadad nó beir i scoimceil is leis cun a déanta nó cun páirt nó baint do beir aise léi.

## bun-CÚIRT.

### CIRT PEARSANTA.

AIRTEAGAL 40.

1. Áirimítear surb ionann ina bpearsain daonna na saoránais uile i láthair an tUachtaraí.

Ac ní hiontuigte as sin ná féadfaid an Stát go cuibhe, ina chúir a dtacaán, don deifriúeact atá iomr daoinib ina mbuaduib corporda agus ina mbuaduib móralta agus ina bfeiom coimhdaonmáis.

2. 1° Ní cead don Stát sairm uaisleacta do bronnao ar éinne.

2° Ní cead t'adon tsaoránac sairm uaisleacta ná sairm onóra do glacaó ac le haontaó roim ré ón Rialtas.

3. 1° Ráctuíseann an Stát san cur istead le n-a tUachtaraib ar ceartaib pearsanta don tsaoránais, agus ráctuíseann pós na cirt sin do cosaing is do suirdeam le n-a tUachtaraib sa mhéid sur féidir é.

2° Téalfaid an Stát, go sonnaoac, le n-a tUachtaraib, beacta agus pearsa agus deact-clú agus maom-cirt an uile saoránais do cosaing ar ionnsaige éascóraac coim paoda le n-a cumas, agus iad do suirdeam i scás éascóra.

3° Admáionn an Stát ceart na mbeo san breic cun a mbeacta agus, as féadaint go cuí do coimceart na mátar cun a beacta, ráctáionn sé san cur istead lena tUachtaraib ar an sceart sin agus ráctáionn pós an ceart sin a cosaing is a suiom lena tUachtaraib sa mhéid sur féidir é.

Ní teorannóid an fo-alt seo saoirse cun taisteal iomr an Stát agus Stát eile.

Ní teorannóid an fo-alt seo saoirse cun paisnéis a fáil nó a cur ar fáil sa Stát maomir le seirbísí atá ar fáil go tleactac i Stát eile ac sin paoi cuimsiú cibé coimnollac a féadfar a leasán síos le tUachtaraib.

4. 1° Ní cead a saoirse pearsanta do baing t'adon tsaoránac ac aindin do réir tUachtaraib.

2° Nuair téannann tuine ar bit searain, nó a téantár searain tar ceann tuine ar bit, leis an Árd-Cúirt nó le breiteam ar bit tó dá rád go bfuil an tuine sin dá coimneail ina braidse go hainoleactac, ní poláir

don Árd-Cúirt agus t'adon breiteam agus do scás breiteam tó cun a noéantár an searain sin fiosrú do téannam láitreaac i tUachtaraib an searain sin, agus féadfaid a ordú do neac coimnigte an tuine sin ina braidse an tuine sin do tadbairt ina pearsain i láthair na hÁrd-Cúirte lá a ainnnigtear agus a deimniú i scríbhinn cad is forais dá braidseannas, agus ní poláir don Árd-Cúirt, nuair do breitear an tuine sin ina pearsain i láthair na Cúirte sin agus tar éis caoi do tadbairt do neac a coimnigte ina braidse ar a cruicú sur braidseannas cóir an braidseannas, a ordú an tuine sin do scaoileao as an mbraidseannas sin muna deimhin leis an scúirt sin sur do réir an tUachtaraib atá coimneail.

3° I scás tuine adreitear do beic dá coimneail ina braidse go hainoleactac do tadbairt ina pearsain i láthair na hÁrd-Cúirte de bun ordúigte cuise sin ar n-a téannam fán alt so agus sur deimhin leis an scúirt sin an tuine sin do beic dá coimneail ina braidse do réir tUachtaraib ac an tUachtaraib sin do beic neambailre as féadaint t'foráiltib an bunreacta so, ní poláir don Árd-Cúirt an ceist sin bail do beic nó san a beic ar an tUachtaraib sin do cur fá breic na Cúirte uactaraisse i bfuirm éais riomta agus féadfaid, le linn an ceist sin do cur fá breic amlaio nó trác ar bit ina tUachtaraib sin, leisean don tuine sin a saoirse do beic aise, fá réir na mbannaí agus na scoimgeallacá sin a ceapfaid an Árd-Cúirt, go tó go tUachtaraib an Cúirt uactarac breic ar an sceist a cuirfear fá n-a breic amlaio.

4° Is triúr breiteamhan is Árd-Cúirt i n-adon éas aingite, ina noéantár tuine adreitear do beic á coimneail ina braidse go hainoleactac do tadbairt ina pearsain i láthair na hÁrd-Cúirte de bun ordúigte cuise sin ar n-a téannam fán alt so, má téannann uactarain na hÁrd-Cúirte nó, muna mbeid seisean ar faidil, an breiteam is sinsearaisse den Cúirt sin dá mbeid ar faidil a ordú, i tUachtaraib an éas sin, an líon sin do beic inri agus is breiteam aindin is Árd-Cúirt i nscás éas eile den tsórt sin.

5° I scás an Árd-Cúirt nó breiteam tó do téannam ordúigte fán alt so dá ordú tuine fá breic éais do tadbairt i láthair ina pearsain, ní poláir don Árd-Cúirt nó don breiteam sin tó a ordú preisin feiomniú na

breite báis sin do mhoilliú go dtí go dtiubairfear an duine sin ina pearsain i lárthair na hárto-úirte agus go gcinnefar an oleastac an duine sin do coinneáil ina bdráige nó nac oleastac agus má cinntear, tar éis an feiróimíste sin do mhoilliú, sur oleastac an duine sin do coinneáil ina bdráige, ceapfaid an áro-úirt lá cun an breit báis sin o'feiróimí agus beid éifeact as an mbreit báis sin pá réir an lá ceapfar amlaio do cur i n-ionad an lae socruigead i dtosac cun an breit báis sin o'feiróimí.

6° Ac don ghníomh de ghníomhaib na b'pórsaí Cosanta le linn eisíte nó ceannairce pá arm, ní cead don ní dá b'pail insan alt so o'asairt cun an ghníomh sin do choirmeasc nó do riaslú nó do bac.

7° Féadfar socrú a déanamh le dlí cun go b'féadfaid úirt bannaí a díultú do duine atá cúisíte i gcion tromaí sa cás go measfar le réasún é a beit riasctanaic cun an duine sin a cosc ar éion tromaí a déanamh.

5. Is slán do sac saoránac a ionad comhaidíte, agus ní cead dul istead ann go foireisneac ac do réir dlíste.
6. 1° Rácuigeann an Stát saoirse cun an cirt seo leanas o'uibríú ac san do beit pá réir uird is móraltaicéa poiblíde:—

- i. Ceart na saoránac cun a ndéimní is a dtuairimí do noctad san bac.

Ac toisc oileamaint aigne an pobail do beit com tadbactac sin do leas an pobail, féadfaid an Stát le n-a cur i n-áiríte ná déanfar orsain aigne an pobail, mar sompla, an raio is an preas is an cineama, o'úsaid cun an t-ord nó an móraltaicéa poiblíde nó ugdarás an Stáit do bonn-brisead. Insan am céadna coimeadfaid na horzain sin an tsaoirse is oleact doib cun tuairimí do noctad agus orca sin tuairimí léirímeasa ar beartas an riaslatais.

Don ní diaimslac nó ceannairceac nó draosta o'poillsiú nó o'áitris is cion in'pionóis é do réir dlíste.

- ii. Ceart na saoránac cun teact ar tionól go síteoilte san arm.

Féadfar socrú do déanamh do réir dlíste cun cosc do cur nó riaslú do déanamh ar éionláib go gcinnefar do réir dlíste sur baosal brisead síotcána do teact doib nó sur contadairt nó cradónas don pobal i scoitcínne iad, agus fós ar éionláib i scoimhar do ceactar de tisteib an oireactais.

- iii. Ceart na saoránac cun comlacais agus cumainn do bunú.

Ac is cead dlíste o'actú cun oibriú an cirt réamráite do riaslú agus do stiúrao ar máite leis an bpobal.

2° Ní cead don toirdealú, maidir le poiliticeact nó creideamh nó aicmí, do beit i n'olisteib a riasluigeas mo'oibriste an cirt cun comlacais agus cumainn do bunú agus an cirt cun teact le céile ar saor-éionól.

## An Teaglac.

### Airteagal 41.

1. 1° Doimigeann an Stát surb é an teaglac is buidean-donad príomda bunaid don comhdonnac do réir nádúra, agus sur foras móralta é as a b'pail cirt do-shannta do-claoite is ársa agus is airde ná don react donna.

2° Os é an teaglac is foča riasctanaic don ord comhdonnac agus os éiseantac é do leas an náisiúin agus an Stáit, rácuigeann an Stát comsuideam agus ugdarás an teaglais do éomna.

2. 1° Go somraoac, doimigeann an Stát go dtuagann an bean don Stát, trí n-a saosal insan teaglac, congnam ná féadfaid leas an pobail do gnoctacan dá éasmuis.

2° Uime sin, féadfaid an Stát le n-a cur i n-áiríte ná beid ar máitreaicib cloinne, de deascuib uireasba, dul le saotar agus faillice do cladairt dá éion sin ina ndualgais insan teaglac.

3. 1° Ós ar an bPósaó atá an Teaghlac bunuigíte sa bhann an Stáit ar féin coimirce fá leif do théanaí ar ord an pósta agus é cosaint ar ionnsaíge.

2° Féadfaid Cúirt a beid ainmníte le dlí scaoilead ar pósaó a tadbairt sa chás, ac sa chás aindin, sur deimhin léi-

i. go raib, ar tóata tionscnaí na n-imeadtaí, tréimse ceitre bliana ar a laşad, nó tréimhí ceitre bliana ar a laşad san iomlán, caite as na céilí ina scónaí ar leitlíg óna céile le linn na scúis bliana roimé sin,

ii. nac bfuil ioncas réasúnaic ar bit ann go mbeid comhréiteac idir na céilí,

iii. go bfuil cibé socrú ann, nó go ndéanfar cibé socrú, is dóig leis an scúirt a beid cuí as féadaint do na himtoscá, le haşaio ná scéilí, le haşaio don leanaí le ceactar acu nó leis an mbeirt acu agus le haşaio don duine eile a beid forordaité le dlí, agus

iv. go scoimlíontar don coimníollaca breise a beid forordaité le dlí.

3° I scás pósaó duine ar bit do scaoilead fá tligéad síbialta don Stáit eile agus an pósaó san, agus bail tligéio air, do beid ann pús fáin tligéad beas i bfeioim i n-ait na huaire taob istig de tligimse an Rialtaais agus na párlaiminte bunuigítear leis an mDunreac so, ní féadfaid an duine sin pósaó ar a mbead bail tligéio do théanaí taob istig den tligimse sin an fáio is beo don duine eile bí sa cúig pósta do scaoilead aindair.

**OIDEACAS.**

Airteasal 42.

1. Doimúigeann an Stáit surb é an Teaghlac is múinteoir príomía dúicásac don leand, agus ráctuígeann san cur isteaic ar ceart do-sannta ná ar tualşas do-sannta tuistí cun oideacas do réir a n-acfuinne do cur ar faşáil dá şclainn i şcúrsaib creioim, móraltaic, inleaic, cuirp agus comhdonnaic.

2. Tis le tuistib an t-oideacas sin do cur ar faşáil dá şclainn as baile nó i scolairb príobáioeaca nó i scolairb a doimúigítear nó a bunuigítear as an Stáit.

3. 1° Ní cead don Stáit a cur o'fiacáib ar tuistib, i n-aşaio a şcoinsiais nó a roşan oleaic, a şclainn do cur ar scolairb a bunuigítear as an Stáit nó ar don cimeal áirite scoile a ainmnúigítear as an Stáit.

2° Ac ós é an Stáit caoimnaioe leasa an íobail ní poláir do, toisc cor an lae, é théanaí éiseantaic minimum áirite oideacais do tadbairt do na leandairb i şcúrsaib móraltaic, inleaic agus comhdonnaic.

4. Ní poláir don Stáit socrú do théanaí cun bunoidacas do beid ar faşáil in misce, agus iarraic do théanaí cun cabrú go réasúnta agus cun cur le tionscnaí oideacais idir íríobáioeac agus cumanta agus, nuair is riactanas cun leasa an íobail é, áiseanna nó fonóioeac eile oideacais do cur ar faşáil, as féadaint go cuibe, áitac, do ceartaib tuistí, go móir-móir maidir le múnlú na haighe i şcúrsaib creioim is móraltaic.

5. I scásairb neam-coitceanna nuair tárluígeann, ar cúiseannaib corporía nó ar cúiseannaib móralta, ná théanaio na tuistí a ndualşais dá şclainn, ní poláir don Stáit, ós é an Stáit caoimnaioe leasa an íobail, iarraic do théanaí le beart oireamnac cun ionad na dtuistí do şlacad, as féadaint go cuibe i scoimnaioe, áitac, do ceartaib ndóirta do-claioite an leimb.

**maoin íríobáioeac.**

Airteasal 43.

1. 1° Doimúigeann an Stáit, toisc buad an réasúim do beid as an duine, go bfuil sé de ceart ndóirta aige maoin tsaosalta do beid aige dá cúio féin go príobáioeac, ceart is ársa ná reaic doanna.

2° Uime sin, ráctuígeann an Stáit şan don tligéad o'actú o'iarraio an ceart sin, ná şnáic-ceart an duine cun maoin do şannad agus do tionscnaic agus do şlacad ina hoioeac, do cur ar ceal.

2. 1° Ac adomúigeann an Stát sur cuíbe, insan comhdonnadh síbialta, oibríú na sceart atá luaithe insna foráilteib sin roimhinn den Airteagal so do riaslú do réir bunriaslaí an éirt comhdonnais.

2° Uime sin, tug leis an Stát, do réir mar beas riachtanach, teóra do cur le hoibríú na sceart réamhráirte d'fionn an t-oibríú sin agus leis an pobail do tadbairt dá céile.

### Creideamh.

#### Airteagal 44.

1. Adomúigeann an Stát go bfuil as dul do 'Dia na n-ilecúimhacht é d'adras le hómós go poiblíde. Beir urraim as an Stát dá ainm, agus béarfaid oirímhinn agus onóir do Créideamh.
2. 1° Ráctuístear do shac saoránach saoirse coimsias is saor-éad adhála is cleachtá creidiú, ac shan san do dul cun dochar don ord poiblíde ná don mhórdlath poiblíde.

2° Ráctuígeann an Stát shan don córas creidiú do mhóimí.

3° Ní cead don Stát neac do cur fá mhí-cumas ar bit ná don iorídealú do déanamh mar sheall ar créideamh nó adhála creidiú nó céim i scúrsaib creidiú.

4° Reachtairdeacht le n-a scuirtear congnamh Stáit ar fásáil do scoláib ní cead iorídealú do déanamh innti iorí scoláib atá fá haimistiúe aicmí creidiú seachas a céile ná í do déanamh dochar do ceart don leim cun scoil a sheibeann airgead poiblíde d'frestal shan teagasc creidiú sa scoil sin d'frestal.

5° Tá sé de ceart as shac aicme creidiú a ngnótaí féin do haimistiúe, agus maoin, iorí só-aistriúe agus do-aistriúe, do beir dá scuid féin aca, agus í d'fásáil agus do riarad, agus fonduireachtá cun crícheanna creidiú is carctannaictá do cótabáil.

6° Ní cead maoin don aicme creidiú ná don fonduireachtá oideachais do baint díob ac ahdám le haíad oibreachtá riachtanacha cun áise poiblíde, agus san tar éis cúiteam d'íoc leo.

### bun-treora do beartas comhdonnadh.

#### Airteagal 45.

Is mar shac-treoir don Oireachtas a ceapad na bunriaslaí do beartas comhdonnadh atá leasáta amac insan Airteagal so. Is ar an Oireachtas ahdám a beir sé de cúram na bunriaslaí sin d'feirmíú i n-éanamh dlúste, agus ní hintríalite as cúirt ar bit ceist i ttabó an feirmíste sin fá don foráilteam d'foráilteib an bunreachtá so.

1. Déanfaid an Stát a díceall cun leas an pobail uile do cur cun cinn trí ord comhdonnadh, ina mbeir ceart agus carctannaict as riaslú shac forais a haineas leis an saogal náisiúnta, do cur i n-áiríte agus do éaoimna com fada le n-a cumas.
2. Déanfaid an Stát, go sonnradhac, a beartas do stiúrad i slúe go scuirtear i n-áiríte:—
- go bfuigí do na saoránais (agus tá ceart aca uile, iorí fear is bean, cun leor-slúe beactá), trí n-a ngnarmáib beactá, caoi cun soláctar réasúnta do déanamh do riachtanais a tteaslaic.
  - go roinnfead dílse agus urlámhas sustail saogalata an pobail ar pearsanaib príobáideacha agus ar na haicmí éagsaíla insan cuma is fearr a racas cun leasa an pobail.
  - go sonnradhac, ná leifear d'oibríú na saor-iomairdeachtá dul cun cinn i slúe go dtiocfaid de an dílse nó an t-urlámhas ar earráib riachtanacha do beir ina lámáib féin as beasán daime cun dochar don pobal.
  - surb é leas an pobail uile is bun-cuspóir agus is príom-cuspóir a riaslócas ina mbaineann le hurlámhas creideamhasa.



- v. So mbunócar ar an talaímh fá slántháil  
 féilleasraísh an oiread teaslaic  
 agus is féidir do réir cor an  
 tsaosáil.
3. 1° Féadfaid an Stát le fonn ar tionnsc-  
 naíh príobháideac i gcúrsaibh tionnscail is  
 trádáil agus cuirfid leis nuair is gá d'ádh  
 sin.
- 2° Déanfaid an Stát iarraicé cun a cur  
 i n-áiricé so stiúrfaí fionntaraídeacé  
 príobháideac i slíse gur veimh so ndéanfaí  
 earráí do éairgead agus o'iomháil le  
 hinneamlaicé réasúnta agus so gcosnócar  
 an pobal ar b'rábús éascóracé.
4. 1° Gá d'ádh an Stát air féim cosaint  
 sonnraicé do dhéanaíh ar leas féilleasraicé  
 na n-áicmí is luísa cuíacé den pobal agus,  
 nuair beas riáctanas leis, cabair  
 maireacéana do éairicé don easláih, don  
 báinricé, don oilleacé agus don tsean.
- 2° Déanfaid an Stát iarraicé cun a cur  
 i n-áiricé ná dhéanfaí neart agus sláinte  
 luicé oibre, roir féaraibh is mnáibh, ná maoc-  
 óise leahb o'éascóracé, agus ná beid ar  
 saoránaicéibh, de dhéascaibh uireasbá, dul le  
 garmáibh ná hoireann dá nshé nó dhán-aois  
 nó dá neart.

### an bunreacé do leasú.

#### airteasáil 46.

1. is cead foráileah ar bit den bhunreacé  
 so do leasú, le hacarrú nó le breisiú nó le  
 haisgairim, ar an moé sochrucéar leis an  
 airteasáil so.
2. Gáic togra cun an bhunreacé so do leasú  
 ní foláir é tionnscnaíh i n'óáil éireann ma  
 hille, agus nuair a ricéar nó a meastar a  
 ricéad é as óá ticé an oireacéais ní foláir  
 é cur fá breicé an pobail le Reifreann do  
 réir an ólicéir beas i b'péim i t'caobh an  
 Reifrimh i n-áit na huairé.
3. ní foláir a luáó i n'gac hille den tsórt  
 sin é beicé ma "acé cun an bhunreacé do  
 leasú".

4. An hille ma mbeid togra nó tograí cun  
 an bhunreacé so do leasú ní cead togra ar  
 bit eile beicé ann.
5. An hille ma mbeid togra cun an  
 bhunreacé so do leasú ní foláir don  
 uacéarán a láih do cur leis láicreacé, ar  
 mbeicé sásta óó gur comhlíonad foráilicé an  
 airteasáil seo ma caobh agus gur óoilicé an  
 pobal so cuibe leis an togra sin do réir  
 foráilicé áit 1 o'airteasáil 47 den  
 bhunreacé so, agus ní foláir don uacéarán  
 é pósaicé so cuibe ma ólicéad.

### an Reifreann.

#### airteasáil 47.

1. Gáic togra dhéantar cun an bhunreacé so  
 do leasú agus a cuircear fá breicé an  
 pobail le Reifreann, ní foláir a meas, cun  
 críce airteasáil 46 den bhunreacé so, so  
 óoilicéann an pobal leis an o'togra sin má  
 éairluicéann, tar éis é cur mar sin fá breicé  
 an pobail, gur ar caobh é acéú ma ólicéad a  
 tucéar tromlacé na bócaí a tucéar insan  
 Reifreann sin.
2. 1° Gáic togra, nacé togra cun leasucé  
 an bhunreacé, a cuircear fá breicé an  
 pobail le Reifreann ní foláir a meas so  
 noicéluicéann an pobal do más i n-áicéir é  
 acéú ma ólicéad a tucéar tromlacé na  
 bócaí a tucéar insan Reifreann sin, agus  
 nacé luísa an méicé bócaí a tucéar áhlaicé i  
 n-áicéir é acéú ma ólicéad ná cion tricé  
 tricéad is tricéan fáih gcead de líon na  
 o'tocóirí acá ar an rolla.
- 2° Gáic togra, nacé togra cun leasucé  
 an bhunreacé, a cuircear fá breicé an  
 pobail le Reifreann ní foláir a meas, cun  
 críceanna airteasáil 27 den bhunreacé so,  
 so óoilicéann an pobal leis muna  
 noicéluicéir do do réir foráilicé an pó-áit  
 sin romáinn den áit so.
3. Gáic saoránaicé as a b'ruil sé de céart  
 bócaí i o'tocéan do comáitáibh de óáil  
 éireann tá sé de céart aise bócaí i  
 Reifreann.

4. Fá cúimsiú na neirte réamhráiríte is le tliḡeadó ríáḡlócar an Reifreann.

### bunreáct ḡaorstáct éireann o'aisḡairm aḡus tliḡte o'o buanú.

airteáḡal 48.

An bunreáct a beas i bfeiróm o'o ḡaorstáct éireann o'ireáct roimh lá an bunreáct so o'o tēáct i nḡníoim aḡus an tādct um bunreáct ḡaorstáct éireann, 1922, sa mheir o'o mbeir an tādct sin nó don foráileamh o'e i bfeiróm an uair sin, aisḡairmtear leis seo iad aḡus beir aisḡairmte an lá sin aḡus as sin amac.

airteáḡal 49.

1. ḡac uile cúimáct, feiróm, ceart aḡus san-cumas o'o b'í ionoibríḡte i ḡaorstáct éireann nó i o'taoḡ ḡaorstáct éireann o'ireáct roimh an 11o lá o'e m'í noo'laḡ, 1936, cibé aca o'e buao an bunreácta a b'í i bfeiróm an uair sin é nó nac eao, aḡ an uḡo'arás aḡ a raiḡ cúimáct coimállac ḡaorstáct éireann an uair sin, o'earbctar leis seo ḡur leis an b'pobal iad uile.

2. Ac amáin sa mheir o'o no'ean'ar so'crú leis an mbunreáct so, nó o'o no'ean'ar so'crú ina o'iair o'e le tliḡeao, cun o'o n-oibreo'ar, le haon orḡan o'á mbunuiḡtear leis an mbunreáct so, don cúimáct, feiróm, ceart nó san-cumas o'ioḡ sin, ac'uiḡtear leis seo nac o'leáḡta'ac aḡus nac feiróm na cúimácta, na fea'omanna, na cirt, aḡus na san-cumais sin o'oibriú sa stáct nó i o'taoḡ an stáct ac amáin aḡ an ríáḡal'tas nó le huḡo'arás an ríáḡal'tais.

3. Is é an ríáḡal'tas is coimarda ar ríáḡal'tas ḡaorstáct éireann i ḡacás ḡac maoinē, so'cimáinne, cirt aḡus feiceamhais.

airteáḡal 50.

1. Na tliḡte beas i bfeiróm i ḡaorstáct éireann o'ireáct roimh lá an bunreáct so o'o tēáct i nḡníoim lea'pao o'e beir i lán-feiróm aḡus i lán-éireáct, fá cúimsiú an bunreácta so aḡus sa mheir ná fuilid ina coimnib, o'o o'tí o'o n-aisḡairmtear nó o'o leasuiḡtear iad nó don cuir o'ioḡ le hac'tú ón o'ireáctas.

2. Tliḡte beas ac'uiḡte roimh an mbunreáct so o'o tēáct i nḡníoim aḡus o'o mbeir luairte ionnta iad o'o tēáct i bfeiróm o'á éis sin, tío'pao i bfeiróm o'o réir mar luairtear ionnta muna n-ac'uiḡir an o'ireáctas a m'alairt.

## IRISH INDEX INNÉACS GAEILGE

*This is principally an index referring to the commentaries in the study on the various Articles rather than a concordance or glossary. Translations/meanings of the headwords below as given in standard dictionaries will be found in the commentaries, along with citations from official translations.*

- abair: declare 15.5; allege 38.4.1°, 40.4.2°; mar a dúradh: *see* 27.4.2°
- ábhar: ground 27.3°; reason 28.9.4°
- ábhar fuinnimh: potential energy 10.1
- ábhar maoinne: resource 10.1
- abhcoídí: counsel 26.2.1°
- ach: however 15.2.2°; with 15.8.2°; save 40.5
- ach amháin: save 12.10.4°; save only 49.2
- ach amháin sa mhéid go: save in so far as 17.1.2°
- ach sin: *see* 40.3.3°
- achainí: request 22.2.3°, 25.2.2°, 28.9.4°; petition 26.3.2°
- achomharc: appeal 34.2, 34.4.3°
- achrann: dispute 29.2
- achtaigh: enact 13.3.1°, 15.4.2°
- acmhainn: means 42.1
- adhair: worship 44.1.1°
- admhaigh: acknowledge 40.3.3°, 42.1; recognise 42.2
- admháil: profess 44.2.1°; acknowledging *preamble*
- ag: by 38.2; a bheith aige dá chuid féin: private ownership 43.1.1°; tá aige: possess 41.1.1°
- agair: invoke 18.4.3°, 40.4.6°
- cuir ar aghaidh: develop 1; promote *preamble*
- in aghaidh: for 16.2.2°; in violation of 42.3.1°; repugnant to 15.4.1°, 26.1.1°
- agra: suit 30.3
- agus: *see* 22.2.1°
- aiceanta, *see* 10.1
- aicme: class 40.6.2°; denomination 44.2.4°; section 45.4.1°
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- aimsir chogaidh nó ceannairce faoi arm: time of war or armed rebellion 28.3.3°
- aindleathach: unlawful 40.4.2°
- ainm: name 4; *see* 15.1.1°
- ainmnigh: nominate 12.4.4°, 13.1.1°, 18.3, 30.2; designate 13.8.2°, 41.3.2°, 42.3.1°
- d'ainneoin: notwithstanding 14.3
- air sin: thereupon 27.5.2°
- aird a thabhairt air: entertain 12.10.3°
- is airde ná: superior to 41.1.1°
- aire: *see* 13.1.1°
- agus ... a áireamh: including 12.4.2°, 18.7.1°v
- airgead poiblí: public moneys 17.2; airgidí: moneys 22.1.1°
- airgeadas: finance 18.7.1°iv
- Bille Airgid: Money Bill 20.1
- áirigh: hold 40.1; *see* 15.11.1°; ar a n-áirítear: including 18.7.1°iv
- áirithe: one 18.7.2°; stated 23.1.1°
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- aiseag: restore *preamble*
- aisghairm: repeal 46.1, 48
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- bheith ann fós: subsisting 41.3.3°
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- gan arm: without arms 40.6.1°ii
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