

HOUSES OF THE OIREACHTAS

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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉI- REACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Dé Céadaoin, 11 Márta 2015

Wednesday, 11 March 2015

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Pearse Doherty,	Senator Sean D. Barrett,
Deputy Joe Higgins,	Senator Michael D'Arcy,
Deputy Michael McGrath,	Senator Marc MacSharry,
Deputy Eoghan Murphy,	Senator Susan O'Keeffe.
Deputy Kieran O'Donnell,	
Deputy John Paul Phelan,	

DEPUTY CIARÁN LYNCH IN THE CHAIR.

Context Phase

Professor David Farrell

Chairman: I welcome everyone to the 14th public hearing of the Joint Committee of Inquiry into the Banking Crisis. During our sessions this week, we will hear from a number of witnesses on the theme of relationships between state authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector. Later this morning, we will hear from Professor Niamh Hardiman on systems of governance. However, at our first session this morning, we will hear from Professor David Farrell, a professor of politics at UCD, to discuss the issue of public policy in parliamentary democracies. He is a member of the Royal Irish Academy and a specialist in the study of parties, elections, electoral systems and Members of Parliament. His current research focuses on the role of deliberation in constitutional reform processes. In 2012, he was elected president of the Political Studies Association of Ireland. In 2013, he was elected speaker of the council of the European Consortium for Political Research. He is founding co-editor of the publication *Party Politics*. Prior to his move to Dublin, he was professor and head of social sciences at the University of Manchester. He is very welcome to the inquiry this morning.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. If they are directed by the Chairman to cease giving evidence on a particular matter and continue to do, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given. As the witness has been informed previously, the committee is asking witnesses to refrain from discussing named individuals in this phase of the inquiry.

Members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I invite Professor Farrell to make his opening comments.

Professor David Farrell: I thank the Chairman for the invitation to speak to the committee. I have been invited to speak about the role of parliament in scrutinising government. My paper has been circulated. I propose to pick out some of the main features of the paper, if that is acceptable, and I will try to keep to time. I apologise in advance if I inadvertently offend anyone in anything I say. I am not a specialist in parliamentary procedure. The members are and all of them know how this Parliament operates. I am just an academic, a theoretician. I have some knowledge of how the systems work in other countries, and that is the main reason I have been invited to contribute to the discussions. If I make mistakes in what I say about the way in which the Oireachtas operates, I apologise.

In my comments, I want to observe a general consensus, which is that the Parliament in Ireland is weaker than in most other countries. That is the context for my paper. What I want to

addresses is the question of whether this might have contributed to the circumstances that gave rise to the banking crisis. I have framed the note in two parts. I want to start by giving some general ideas on what we might consider to be an “effective parliamentary democracy”. I will set out the three main features of an effective parliamentary democracy and then address each of them in regard to the Irish case.

Starting with an effective parliamentary democracy, we might reasonably expect it to consist of three factors. First, the parliament should be organisationally and structurally suited to fulfilling its scrutiny role over government. What I mean is that we should see some appropriate structure both in its plenary sessions and in its committee structures. In terms of its plenary sessions, among the things one gets from the literature is that the parliament should be able to determine its own agenda, to varying degrees in collaboration with the government. However, the parliament has a big say over its own agenda. At the heart of this is a chair of the parliament who is elected by the Members of the parliament, MPs. In virtually all of the other European cases it is by a secret ballot of the MPs. Regarding the committee structure, one should see that the committees have a very major role in the legislative process. That would include, among other things, sufficient time for committee work. The features I pick out include the proportional allocation of chair positions among the parties; the election of the chairs by secret ballot of the members of the parliament; the notion that committee membership is not a right but a privilege; the notion of a well staffed and well resourced committee structure. These would be the main features of what we might expect of a well structured parliament.

Second, it is one thing to think about the parliament having control over its own agenda, but if we are to see it also operating effectively we must also think about the culture of the parliament and how it is attuned to its role as a more equal player *vis-à-vis* the government. The second main factor of an effective parliamentary democracy is a culture of effective parliamentary scrutiny. How this plays out in parliaments today, particularly in the last part of the last century and the first part of this century, is through its committee structure. We should see an effective use of the committee structure as the core to this. In those parliaments with effective committees there is a tendency for many of the members of those committees to take their committee role very seriously. Some even see the committee as an alternative career route to ministerial office. We see committees that follow a tight schedule of policy scrutiny, with meticulous attention to tracking the detail of the policy process, careful background research, well structured interviewing of witnesses and a philosophy of operation that specifically eschews ambulance chasing.

There is a third feature of an effective parliament. One might have a parliament that is well structured and a parliament whose members take their role very seriously, but the third link in the chain is a culture of open and transparent government. This obviously relates to a robust freedom of information regime, whistleblower legislation and the like. However, it also relates to how the government interfaces with parliament. The government and its agencies must be prepared to work with parliament in providing access to information and to key officials. Of particular relevance to the work of this committee, I would argue, is an open budgetary process and the right for parliamentarians to quiz heads of agencies and senior civil servants on policy and operational matters.

Those are the three main features of an effective parliamentary democracy. How does the Irish Parliament relate to that? As I said earlier, the first point relates to the strength of the parliament. The consensus among academics is that the Irish Parliament is one of the weakest in Europe. It is not just the academics who say it, the politicians also say it. Look at what happened in the most recent election in 2011. Every political party represented here put parliamentary reform very high on the agenda in their manifestos, so it is clear that the politicians think this.

CONTEXT PHASE

A key feature of the programme for Government of this Government is a commitment to deal with parliamentary reform. Dáil reform was also a topic that was taken up by the Constitutional Convention as one of the agenda items it chose to examine.

It is the weakness of the Oireachtas that explains why so little attention is paid to it in the three reports we have had to date on the banking crisis. Having read through the three reports in preparation for my presentation today, I was struck by the absence of attention to the Oireachtas. The only thing I could find was in the most recent, 2011, commission of investigation report which says, in passing, that one of the causes of a systemic financial crisis is likely to include a parliament that remains unaware of the mounting problems. That is the only reference I could find to the Oireachtas. Given the recent flurry of interest in Dáil reform, it would be nice to think that this issue has been resolved. There is not too much evidence that the issue of a weak Dáil has been resolved to this date, and I will be happy to discuss that matter in further detail during the questions and answers.

The second feature is the question of whether there has been sufficient scrutiny by the Oireachtas. It is one thing to talk about the weakness of the Oireachtas, which I have just outlined, but it is quite another to see to what extent the Oireachtas has been making use of its existing powers. As I outline in my document, committees already have quite substantial powers. I list them on page 4. The question is whether the committees were prepared to make sufficient use of those powers to test the veracity of the Government and other regulatory offices that were suggesting things were fine in the lead-up to the banking crisis. The second point is the lack of scrutiny by the Oireachtas and whether a culture shift is required by the Oireachtas to address that.

The third feature of an effective parliamentary democracy is open government. That relates to active engagement by the government with the parliament of the day, or Oireachtas in this case. As I set out in my report, as a Westminster democracy we follow what is found in Westminster democracies. First, there is a very tightly controlled, highly secretive budgetary process with a fixation on budgetary secrecy. That question was meant to be addressed. In the programme for Government in 2011 the Government talked about how it could open up the budget process to the full glare of public scrutiny. We have yet to see that.

The second feature in the open government agenda is the issue of the ability to question senior civil servants. The protocol followed in this country is that the Minister's word is final. Any advice that might have been provided in conflict with the decision of a Minister is not divulged, and certainly not divulged to the Parliament. In a context in which we know now, from the reports, that there were differences of opinion between Departments over the direction of economic policy leading up to the banking crisis, it should be possible for a senior civil servant to provide additional information to an Oireachtas committee on the different scenarios that might have been explored in the lead up to a decision. Arguably, it should even be permissible for a civil servant to inform the committee of areas where he or she may have been in disagreement with their Minister. That issue was raised in the Labour Party manifesto of 2011 and was included in the programme for Government: "Restrictions on the nature and extent of evidence by civil servants to Oireachtas committees will be scrapped, and replaced with new guidelines for civil servants that reflect the reality of authority delegated to them, and their personal accountability for the way it is exercised". I would hazard the argument that we get to see that.

In my main conclusion, what I draw from all of this in the period under scrutiny is that the Irish Parliament performed poorly. It lacked sufficient organisational and structural fire power to provide effective scrutiny. It lacked the political will to use what powers it did have, indicating what I call cultural shortcomings, and it was hindered by a governmental system that places

great emphasis on secrecy, particularly in its dealings regarding budgetary matters. There is little evidence to this day that those matters have been resolved. My overall argument is that if the Parliament has sinned in any regard relating to the origins of the banking inquiry, it is more in respect of sins of omission than sins of commission.

Chairman: Thank you. In the full text of the statement you presented to the committee you refer on a number of occasions to the culture of the Oireachtas and how this may have impacted on the effectiveness of the Oireachtas in providing oversight of the actions of the Government and the various agencies under its direction. How would you characterise this culture and what mechanisms do you think should or could be employed to develop a culture which supports more effective and deeper scrutiny in regard to both the status of the Government and the Oireachtas in the future?

Professor David Farrell: It is a fundamental question, from my area of the world. There is a need for some dramatic change in how our Parliament operates. It would be a mistake to suggest there are one or two magic bullets that will fix things. What we need is a fundamental overhaul of how the Oireachtas operates and the Government relates to the Oireachtas. It is only by way of a fundamental overhaul that a cultural shift might be realised. If only one or two things are changed, the culture of how the process operates will not change. There is a need to change how the whole system operates. In effect, I am suggesting issues such as what it is that motivates a Member of Parliament to be an active member of a committee need to be examined. There is no doubt that this committee is a model of good practice and that its members take their role very seriously, for understandable reasons, given the subject matter of its deliberations. Having appeared before and observed other committees, I argue that, in comparison with committees I have observed in other countries, there is a need for reflection on how committee work in this system is done. While it is largely about changing the structures, it is also about changing how members treat their committee role.

Chairman: Before I call Deputy Pearse Doherty, in his written opening statement and oral commentary to the committee Professor Farrell said the failures of parliamentary practice in terms of oversight were more sins of omission. Perhaps he might elaborate further on this? Given that oversight of the actions of the Government is a central role of the Oireachtas, what is Professor Farrell's view of the importance of this role in the context of the banking crisis?

Professor David Farrell: Obviously, I do not know the details of the banking crisis in nearly as much detail as members of the committee. I did not even live in Ireland during those years, but based on what I have learned from the banking reports thus far, there is a general sense that regulatory authorities of varying types all the way down to government took their eye off the ball. If government, through all of these regulatory authorities, can be accused of having taken its eye off the ball, it is pretty safe to say the Oireachtas also took its eye off the ball.

Chairman: Perhaps Professor Farrell might elaborate further.

Professor David Farrell: There is no evidence that I have been able to find of any committee within the Oireachtas at any stage leading up to the banking crisis seriously testing the veracity of arguments that everything was all right. There were individuals who in the lead-up to the banking crisis were pointing to problems, but there is no sense that the Oireachtas or its committees were tuned into this.

Chairman: Did Professor Farrell note a change in attitude and behaviour in that regard post-2007 and 2008 or post-2011?

Professor David Farrell: I cannot say I have noted any change in that behaviour.

Deputy Pearse Doherty: Cuirim fáilte roimh an tUasal Farrell chuig an fiosrúchán seo. Professor Farrell has referred in his oral evidence to a weak Parliament and stated he seeks to address the issue of if this contributed to the banking crisis. Did it contribute to it?

Professor David Farrell: That is a nicely framed question. The answer is it did. Like all other agencies with which the committee is dealing in the context of its hearings, it contributed in the sense that, as I said, it took its eye off the ball. If at the time of the banking crisis the committee structure had been closer to that which was in place in the Scandinavian countries and if the budgetary process here had been closer to that in the newer east European democracies, which have a powerful budgetary office under the control of Parliament that scrutinises in close detail the assumptions underlying a government's budgetary policies and holds it to account, there could be grounds for saying the Oireachtas had done its best. The problem is that was not the case. We did not have the proper structures in place and, as I suggest in my paper, the structures in place still do not appear to be used by any of the committees in place. In that sense, the answer is "Yes".

Deputy Pearse Doherty: Professor Farrell went on to say this was a sin of omission. When speaking about parliamentary oversight and sins of omission, he is speaking not about the Government but the parliamentary system as a whole. Perhaps he might elaborate on who, in his view, was guilty of sins of omission in this regard.

Professor David Farrell: The Government and the Oireachtas. The Government is held to account by the Oireachtas under the Constitution. As we know, that is a constitutional fallacy rather than the political reality. It would have been nice to have lived in a world where the Oireachtas would really have held the Government to account. Therefore, in that sense, it is to blame. Both are to blame, not one or the other.

Deputy Pearse Doherty: In terms of the weakness of Parliament, who or what, in Professor Farrell's view, controls Parliament and is the structure of the weak Parliament a sin of omission or a sin of commission?

Professor David Farrell: That is a good question. In that sense, one can talk about a sin of commission. There is a failure on the part of successive Governments, the current one included, to address a serious shortcoming in how government systems operate and that is the weakness of our Parliament. There has been much talk about Dáil reform, but we have yet to see serious Dáil reform. With the singular exception of pre-legislative scrutiny, there has not been serious engagement by this or previous Governments with Dáil reform. What many of us have been arguing for in terms of parliamentary reform - as I set out in passing in part of my paper - is a secretly elected Ceann Comhairle and a clear agenda for root and branch reform of how the Dáil operates, with an equivalent exercise being undertaken in the Seanad at the same time. There is a need to look at how the Dáil can have a much greater say in setting its own agenda and the allocation of its own resources, with other reforms relating to how committees are formed, including the notion that committee membership is more a privilege than a right. It should be the case, perhaps, that a Member would be appointed to no more than one committee and that committee work is viewed as a serious part of a Member's parliamentary work. There should be committee weeks in order that committee members would have the scope to get on with their committee work, quite apart from any other legislative work. There should be proper resourcing of committees and proper resourcing of the parliamentary function rather than the resourcing of individual parliamentarians. I could go on, but these are the sorts of thing that

have been mentioned and bandied about and on which we have yet to see any serious engagement. In that sense, I would go along with the Deputy's question as framed in that there are some sins of commission in that regard.

Deputy Pearse Doherty: Professor Farrell mentioned the resourcing of committees. What is his view of the competence of parliamentary and committee resources in terms of the effectiveness and independence of Parliament?

Professor David Farrell: From what I have read, in previous times when there was talk about increasing the resources of the Oireachtas, this translated into individual Dáil Deputies being given an additional parliamentary resource by way of an additional staff member. That is the wrong way to go. The right way is to realise modern day Parliament needs an effective committee structure. Parliamentarians are parliamentarians first and foremost. They have a parliamentary role to play and should be serviced in that role. If we were starting with a blank sheet, what I would be advising - others would agree with me on this - is that resources should be given to committees. I can see that this committee is well resourced, but that should be the norm rather than the exception. The library and information service should be better resourced than is the case. As I mentioned, there should also be a budgetary office that would work to the agenda of the Oireachtas.

Deputy Pearse Doherty: Professor Farrell mentioned in his opening statement that, on paper, at least, the committees already had pretty substantial powers to monitor and scrutinise the Government. Will he explain this further for the committee? In that regard, does he mean that limits on powers are not important in restricting the work of committees or does he believe it would be useful for committees to have additional powers?

Professor David Farrell: I think it would be useful for a committee to have additional freedom to control its own affairs. With all due respect to the Chairman of this committee, because chairmanship and, for the most part, membership of a committee is effectively in the gift of the Government of the day this means that because the whole agenda of Parliament is controlled by the Government, the agendas of the committees are controlled by the Government. All of this needs to change. We need to move more towards a continental European consensus approach. In this regard, I am not speaking about what happens in the United States of America, rather I am speaking about the type of powerful committees in place in north European countries. It is not about giving committees additional power; it is more about giving them greater control. The Deputy is correct; as I set out in my paper, there is already quite a degree of power available to committees. There is quite a degree of power available to committees. They can take oral and written evidence. They can send for persons and papers. They can draft recommendations for legislative change. They can engage specialists or technical knowledge. There is a list and I have only given the committee a flavour. There is sufficient power.

There is another thing in the mix. We need to change the mindset, with all due respect, of committee members and alert them to the need to take their committee role seriously. That matter needs to be addressed.

Deputy Pearse Doherty: In regard to Mr. Farrell's observations on the structure and way committees operate, and the culture which members of the committee have, is this committee an outlier in terms of continental Europe? Are there common features that we can see in other parliamentary democracies?

Professor David Farrell: It is not completely an outlier. My late father used to talk about

how the institutions of Irish Government are more British than the British themselves. In effect, we are the personification of the Westminster democracy. I lived for 20 years in Britain and while there observed their parliamentary democracy modernise while ours stood still. That means what my father said 20 or 30 years ago is even more applicable today than when he was writing. Our parliamentary system has not kept pace with the need for change and in that sense we are moving towards being an outlier. In fairness, we are an example of a Westminster system.

On the scale of things, one has a Westminster democracy system where power lies with the government and the parliament is largely subservient to the government and the other extreme, as members will well know, is the United States of America. What is often missed, as I said earlier, is that within continental Europe and consensus democracies, there is a much closer degree of correspondence between the power of government and the power of parliament. That is where we should be going.

Deputy Pearse Doherty: Does Professor Farrell believe that politicians have the ability to reform parliament to the degree he believes it needs to be reformed? It would mean ceding power from Government to the Oireachtas. Does he believe that is possible? Does he believe it is not possible?

Professor David Farrell: I think it is possible but political realities of party politics lie as they do. For whomever is in government the same problem will always emerge that once one is in government one is in control of the reins of power. It is very difficult, no matter what one has said in Opposition, to follow through on that. Under the Constitution the Parliament has the right to assert its own power.

Deputy Pearse Doherty: The professor mentioned that since 2011 there have been attempts at Dáil reform and went on to say they were little more than cosmetic. What did he mean? Why have the changes been little more than cosmetic?

Professor David Farrell: I refer to Friday sittings, changing the names of committees, perhaps reducing some committees and turning them into sub-committees, sitting more hours and reducing the pay of parliamentarians. I am sure the Government has pleased certain audiences with that set of proposals. They will not change the power relations between the Parliament and the Government. As I said earlier, the only thing of significance I would pull out and applaud the Government for is the heads of a Bill proposal at pre-legislative stage in committee work. That is an important change. There are some serious reform proposals. They were outlined by the conventional constitution a year ago, in one of its final reports. The report was meant to be responded to by Government within four months of its receipt. It has never been responded to by the Government. If it were to be responded to, then it could go some way to addressing those issues.

Deputy Pearse Doherty: The professor has mentioned, as he did in his opening statement, that one useful innovation has been the introduction of pre-legislative scrutiny. All of us on this committee are familiar with the way scrutiny works.

Under the terms of reference of this committee of inquiry, we can look at IBRC and its liquidation. The professor may know that the legislation to liquidate the IBRC passed all Stages of the Dáil and Seanad within 14 hours. Does he believe that is a good example of parliamentary oversight or not?

Professor David Farrell: I cannot comment on specific cases and I have not got the expertise to really comment on specific cases.

A point that is often made is that bad legislation, if we can talk in that sense, is legislation that is rushed. I know members know that one needs time, in an ideal world, to reflect and allow differing views and voices to be raised just to test the veracity of what is being considered before the Dáil and Oireachtas of the day. That is the general argument I am making here. Democracy is really messy and somebody mentioned that it is a bit like watching sausages being made. Democracy is an extremely messy thing if done properly but it can be very inconvenient for the Government of the day. It can be very slow and expensive but that is democracy. What we have is not as good as it could be, in the regard.

Deputy Pearse Doherty: I am not sure if the professor followed yesterday's evidence from Mr. Carswell but he told the committee the following:

Individuals who worked in the political arena afterwards took up highly paid roles representing and lobbying on behalf of the construction and financial industry. Easy and ready access to politicians brought easy and ready access to policy and decision-making that drove the growth of the property and financial sectors.

Does the professor see or not see lobbying as an issue with regard to the legislative process in this State? Can he explain his opinion to the committee?

Professor David Farrell: I do not have a particular expertise in lobbying. It is something that a colleague of mine in Dublin City University, Professor Gary Murphy, would be better able to talk to the committee about. Certainly, I understand that the current proposals under consideration to bring in a register of lobbyists, if done properly, will be an example of good practice and are to be welcomed.

Deputy Pearse Doherty: I wish to raise the issue of the Irish budgetary process. Professor Farrell mentioned in his statement that there is a "tightly controlled, highly secretive budgetary process." Can he explain what he meant by that comment? Who benefits and does anybody benefit from such a secretive process?

Professor David Farrell: It goes back to the Westminster tradition, the notion that it is the government's budget. Effectively, there is a default notion that it is the government's budget and, therefore, it should be kept under tight wraps until the very moment that it is released and that is the way it is done. As I tried to suggest earlier, in more consensus-based democracies, particularly in the north European cases, it is inbuilt in the DNA of politicians and civil servants who work in those systems to have an open government. Plus, there should be a much greater awareness of the underlying macroeconomic assumptions that lead towards to the budget. There should be much greater potential to scrutinise, in detail, the assumptions that lead towards what will be produced on budgetary day. As part of the mix, a budgetary office that comes under the remit of the Oireachtas is one way to address the matter. Those are the sort of areas where I suggest one could improve things.

Deputy Pearse Doherty: The professor said that to have an effective parliamentary democracy there are three key factors and one of them is the culture of open and transparent government, a culture that is lacking in this State. In this module we are here to deal with the relationship between property, finance, politicians, developers and so on. Would a culture of open and transparent government hinder or help those relationships that the inquiry seeks to

investigate?

Professor David Farrell: I would generally argue that a culture of open government is what we need to aim for. The freedom of information legislation that is finally going through the books, after a lot of delay and prevarication, is only a very first and very early step down that road. We need to move from the notion that freedom of information is something one replies to, which is a reactive process, to something that is totally proactive. We should have as open a set of government as possible. There will be areas of limitation and security matters would be the obvious one. That aside, there is no reason the citizens of this country should not be given total access to learn who is talking to Government, why they are talking to Government, how regularly they are talking to Government and matters of that kind.

Chairman: I thank Deputy Doherty and Professor Farrell. I call Senator O’Keeffe, she has 15 minutes.

Senator Susan O’Keeffe: Good morning, Professor Farrell. How can Parliament be an equal player with Government when the latter has a majority? That is always the crux of the matter.

Professor David Farrell: Yes, that is the crux of the matter. Ireland is kind of unusual. As I keep saying, we are an example of a parliamentary system that operates in the Westminster tradition. Unlike most of the other cases of Westminster-type parliaments, we have a coalition tradition which means we have the makings of a consensus parliament. That is one of the abiding features of the consensus parliaments of continental Europe - a coalition accommodating an inclusive notion of government. A coalition government is comprised of several parties, hence the need to co-operate and work well. There is also a notion that at any given time one party might be in or out of government. That means there is not an adversarial us versus them. It is quite a different culture. There is no particular reason we have to be like this. All that is required is for one of the leaders of the parties represented here to make an undertaking in a manifesto for the next election that the first acts of his or her party if it is elected to Government would be to introduce a secret ballot to elect the Ceann Comhairle and to ask the new Ceann Comhairle to examine and change the Standing Orders for the Dáil. The Government should be willing to engage seriously in allowing the Parliament of this country to have more control over its agenda. If we start down that road, we would be well on the way to a more consensus based system.

Senator Susan O’Keeffe: I would like to tease out Professor Farrell’s comments on the election of Ceann Comhairle. If a party has a majority in the Dáil, is it likely to agree to such arrangements? On paper I understand the argument about secret ballots as a means of aiming for an independent Ceann Comhairle, but if a party is in the majority are Members not going to vote for the person they want?

Professor David Farrell: A game like that might be played. We have to hope Members would engage with open minds. As I noted at the outset, if we are going to change the culture of how this place operates we need to think about radical change. It has to be part of a general piece. If we are going to have a secret ballot to elect a Ceann Comhairle, it should be associated with secret ballots to elect committee Chair positions. Chairs have not been allocated proportionately to all parties represented in the House.

Chairman: I am hearing a beeping from a phone or iPad in the committee room. I ask that it be silenced.

Professor David Farrell: It would be part of a general process of change. To give an example, during my time the House of Commons established a secret ballot to elect the Speaker of the House. There is no doubt that the Speaker of today is very different to those who occupied that position when I arrived in the late 1980s.

Senator Susan O’Keeffe: If one takes that to the corridors of power or the Galway tent, how do political scientists account for the impact those realities have on better governance structures? It will always be the reality in any organisation in any country that conversations take place or influence is peddled in such places.

Professor David Farrell: I would think openness and transparency has to be the mantra there. In the ideal world I have been trying to outline, whereby Parliament has a greater say than it does at present, there would also be a movement away from the notion that if the Minister needs advice it should be put on a sticky note rather than written in the margins or that the list of who visits what Ministers should not necessarily be made available to the public unless they submit freedom of information requests. The daily diary for Ministers, including who they have seen or spoken to, should simply be published on a website. We have to move away from reluctant, reactive responses to requests for information to a more proactive engagement with an open government agenda in all areas of Irish politics.

Senator Susan O’Keeffe: In his testimony to the committee, Mr. Rob Wright referred to the cooling effect of freedom of information, whereby civil servants and others are reluctant to commit to writing. I accept this is a dilemma but how does one reconcile this practice with making processes more transparent and open?

Professor David Farrell: It is also necessary to change the culture of the Civil Service. There was discussion during the 2011 election about whether senior appointments to the Civil Service should be more open in terms of recruiting people from the outside. It is only by bringing in people from outside the organisation that one effects a cultural shift. Part of this change would be the notion that a senior civil servant might be allowed to speak about when he or she disagreed with a Minister while giving evidence to a committee. I would make the argument that the notion of openness and transparency must go right across the *piste*.

Senator Susan O’Keeffe: Is Professor Farrell saying that the culture at the time of the banking crisis could not have responded in any other way? The changes he outlined had not happened. Would a different outcome have been possible?

Professor David Farrell: Probably not. However, as I noted earlier, Oireachtas committees might have had powers to call people in to ask them questions and test the veracity of senior Ministers’ claims about how good things were. There was theoretically the potential, through the powers already available to committees, for the Oireachtas to have been more active than it actually was.

Senator Susan O’Keeffe: He noted in his opening remarks that the reports do not mention the role of the Oireachtas. That probably reflects the terms of reference laid down for them. Does he wish to make an observation on the fact that the terms of reference did not include the Oireachtas?

Professor David Farrell: I will take the Senator as correct in saying that the terms of reference would have guided the reports. That speaks to the phenomenon that our Oireachtas is very weak. The knee jerk reaction of senior policy makers is to sideline the Oireachtas. That is the

nature of how politics has operated, and is still operated to this day. I was actually surprised to see a reference to the Oireachtas in the most recent report but, as I noted, it was a passing reference. The 2011 report stated in a footnote that it was not an essential feature that the Oireachtas took its eye off the ball. It speaks to the need to seriously engage with Oireachtas reform.

Senator Susan O’Keeffe: Can Professor Farrell comment on the idea that the Oireachtas would not have been included in the terms of reference? When I read the first report I remarked on the absence of mention of the Oireachtas but when I checked the terms of reference I realised the producers of the report were not asked about it. Was that a deliberate decision or was the Oireachtas sidelined?

Professor David Farrell: I am sure it was the latter. There was a lot of information to go through and it was necessary to deal with the actors who mattered. The reality is that the Oireachtas was not an actor who mattered.

Senator Susan O’Keeffe: Professor Farrell spoke about restrictions on civil servants giving evidence. Section 93 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 removes the restriction on civil servants giving evidence to committees. Is that a mark of progress and does he expect to see civil servants coming before committees like this one?

Professor David Farrell: I hope so. I was not aware of that change, so I am glad to be told that part of the programme for Government is seemingly being implemented. It would nice to see it in practice. It would be nice to see the first senior civil servant come before a committee to say “as I was saying to the Minister”.

Senator Susan O’Keeffe: The question I really want to ask pertains to the role and importance of the Civil Service. We discussed the Oireachtas and the Government, and then there is the Civil Service. How important is it in this great arrangement? Perhaps Professor Farrell would like to compare the role of the Civil Service, or perhaps its powers, with its counterparts in other countries. The public often forgets about the Civil Service, never mind sidelining the Oireachtas.

Professor David Farrell: What I have seen in the more consensus based democracies is that senior civil servants are more visible because they are expected to speak more openly. Whether that suggests the Civil Service in this country is any weaker or less influential than in other countries I could not say. All I am trying to suggest is that there is a need for greater visibility. We need to move away from the Sir Humphreys notion of a civil servant in the background giving quiet advice but never appearing in front of the camera. If the new legislation addresses that issue, it will help but I suspect that what will really help is opening competition for senior civil servant posts in a way that we have not yet seen.

Senator Susan O’Keeffe: I understand the premise of the visibility and I accept that. I am asking about the power of the Civil Service in this. If a group in a piece is invisible how much power did it wield, if any, in the debate that was undoubtedly had at the time of the banking crisis up to the point at which we all became very aware of it?

Professor David Farrell: I do not have the expertise to comment on this.

Senator Susan O’Keeffe: Since the Government took office the Oireachtas has had an oversight and petitions committee, of which I am a member. It has oversight of all the ombudsmen and takes petitions from members of the public and pursues those where it feels it is able to do so. Is this the type of reform Professor Farrell thinks would be good? How would he

qualify it?

Professor David Farrell: I had to paint in broad brush strokes when I was giving my answers, particularly to Deputy Doherty. It is quite an important change. With regard to how it affects relations between the Parliament and the Government I am not sure I would put it very high on the Richter scale. What we need is not only pre-legislative scrutiny of Bills but a move towards the idea that a committee might change the wording of legislation. We should move away from the notion that the most a committee can do is try to get a nod and a wink from the relevant Minister to agree to make a change on the next Stage, towards the idea the committee would seriously engage in amending draft legislation. The Oireachtas as a whole should look at this. This is the area one would like to see greater change.

Senator Susan O’Keeffe: To go back to the budgetary process and the secrecy about which Professor Farrell spoke, some changes have been made, such as the comprehensive expenditure report, and some alterations have been made. How in particular did the secrecy of budgets at the time we are speaking about, between 2000 and 2008, contribute to the disaster in which we found ourselves? Did it do so specifically or was Professor Farrell being more general in his remarks?

Professor David Farrell: In large part I am treating this rather generally, but in my paper I noted one of the observations from the 2011 inquiry report was the sense the Department of Finance was trying to push against an agenda in the 2006 to 2008 period but did not get its way. It stated it was not being nearly pro-active enough but at least there was evidence of differing views in various Departments. Obviously it is counterfactual and we will never know, but I wonder what would have happened if we had much greater investigation by relevant Oireachtas committees during the period. They might have unpicked the division of opinion across Departments.

Senator Susan O’Keeffe: Various observations have been made by people giving testimony here about reports being watered down, diluted or changed before being published. Is this something on which Professor Farrell has observations to make?

Professor David Farrell: No.

Deputy Eoghan Murphy: I welcome Professor Farrell. In his opening statement he said the culture of the Parliament needs to be attuned to its role as a more equal player *vis-à-vis* the Government. Nowhere in the document does he mention Whip reform. Does the use of the Whip have a role in bringing balance and making Parliament able to hold the Government more effectively to account?

Professor David Farrell: I know Whip reform is something in which Deputy Murphy has a lot of interest, as do I. There are differing views among the academic community on the merits of relaxing the Whip. I like to think there is a way in which to relax it somewhat, that we seem to be a little bit off the scale in this regard, but where one relaxes is another question. Undoubtedly an area to look at is committees. It is an unwritten rule when one observes committees in operation that the more open and less party-tied the committee is in its culture of operation the better. If we were to go down the road of having committee members able to speak the unspeakable across party lines, and even vote across party lines on committee reports, with the understanding it might still go back to plenary and there would still be the possibility of the Government saving the day if it was particularly worried about its legislation, at least it would start to instil the notion that individual parliamentarians have their own voices and are able to

think their own thoughts.

Deputy Eoghan Murphy: Professor Farrell mentioned the powers committees have. If a committee is to effectively hold the Government of the day to account, does it need an Opposition Chairman to do so?

Professor David Farrell: It is not sufficient but it helps. In consensus democracies the more normal way is a proportional allocation of committee chairs. Depending on how many seats a party has in Parliament it would have a couple of committee chairs. It is not enough, but it certainly helps.

Deputy Eoghan Murphy: In his answers to Deputy Doherty, Professor Farrell spoke about the role the Oireachtas might have played in the lead-up to the crisis and whether it played a contributory role. He mentioned it took its eye off the ball. Was it not more than this? A bad budgetary decision is ultimately made by Parliament. Is this not where ultimate responsibility then rests for decisions taken by government?

Professor David Farrell: That is a fair point. It does go back to Deputy Doherty's question. The Government of the day consists of the Parliament and the Executive, and in this regard if we are to attach blame for poor budgetary practice both parts of government are to blame.

Deputy Eoghan Murphy: Will Professor Farrell weight this blame? Are they equally responsible or is one more responsible than the other?

Professor David Farrell: Constitutionally speaking they are probably equally responsible, but in terms of political reality when dealing with an Oireachtas as weak as ours the Government holds greater responsibility in this regard.

Deputy Eoghan Murphy: When it comes to issues such as budgetary decisions, is it possible to distinguish between the Government and the Dáil?

Professor David Farrell: I think so. The Constitution states that only with the Taoiseach's permission can the Dáil discuss issues relating to financial expenditure. There is already a sense of weighting things more in favour of the Executive than the Legislature in our constitutional practice. Come the next election it will be the Government parties which will be held to account on their budgetary practices over the preceding number of years.

Deputy Eoghan Murphy: Professor Farrell believes it is possible to distinguish between the two and he can see a clear line.

Professor David Farrell: Politically it is, even if constitutionally one cannot. In the political reality one would attach greater responsibility to the Government than the Parliament.

Deputy Eoghan Murphy: When it comes to the budgetary process, Professor Farrell examined other jurisdictions. Does he believe the process here is unusual in that the decision is taken by the Government, and once it is taken it is debated by the Parliament? Is this sequence of events unusual *vis-à-vis* other parliaments?

Professor David Farrell: It is unusual *vis-à-vis* not all but many continental European parliaments from what I have seen. It is an exact example of the Westminster tradition in operation. We are not that different from British practice as far as I can see.

Deputy Eoghan Murphy: Has Professor Farrell seen any significant changes to our bud-

getary process since the pre-crisis and crisis period?

Professor David Farrell: There have been moves which are potentially interesting, such as the establishment of the fiscal advisory council, which is a good example of something that down the road might develop into quite an important stage in the budgetary process. As I stated in my remarks, it would be more important to see the establishment of an agency, perhaps a version of it, that is vested within the Oireachtas and, therefore, answerable directly to it and working for it, which is something we see in many of the newer democracies in central and eastern Europe.

Senator Marc MacSharry: I thank Professor Farrell for being here. The issues highlighted by him had an impact on the crisis, as Deputy Doherty stated at the outset. The Chairman might have a problem with the framing of this question but I will try anyway.

Chairman: Let me be clear. The committee may have a problem with the Senator because of our terms of reference.

Senator Marc MacSharry: At the risk of angering committee members, given Professor Farrell's research and the issues he has highlighted in terms of the weakness of Parliament, is it correct or incorrect to say we live in a dictatorship disguised as a democracy?

Professor David Farrell: I would not go so far as to say that. I would just make the argument that there is a big body of literature around what are better forms of democracy and it boils down to the separation I have been talking about in my remarks between the Westminster tradition and the consensus tradition. There are some differing views but for the most part the balance of arguments would favour the consensus tradition. Therefore, I would not go so far as to say what we have is a dictatorship, I would just argue that what we have is not as good a democracy as we could have.

Senator Marc MacSharry: Are there examples throughout the world? Would it be correct or incorrect to say that parliaments, as things stand, are subservient to the Cabinet of the day?

Professor David Farrell: Yes.

Senator Marc MacSharry: Are there examples throughout the world where, following a general election, alternates are run with candidates and when parliament elects the government that the government of the day steps outside parliament and is replaced by alternates, thus having to sell their policy to the parliament, even their former party colleagues, so to speak? Are there examples of that and, if so, can Professor Farrell outline them?

Professor David Farrell: There are examples of that but right now in my head I do not have any examples. I can say, however, that the more normal situation in most of the continental European democracies is for the Ministers to be external from the parliament, either they have been appointed from outside the parliament or they are appointed from the parliament but give up their parliamentary seats on their appointment.

Senator Marc MacSharry: Alternates, is that how that works? Is it that alternates run in parallel?

Professor David Farrell: There are different ways in which one can produce that but that would be one version. Actually, that is one of the recommendations of the Irish Constitutional Convention which-----

Senator Marc MacSharry: Does that help to improve the situation?

Professor David Farrell: It can improve the situation because, among other things, it means there is a greater population of members from which to select the committee chairs and committee members and it means there are more parliamentarians who are playing their parliamentary role. That would be one area. It does allow, depending on the version one has got, for more expertise to be brought into the Cabinet.

Senator Marc MacSharry: Following on from Deputy Eoghan Murphy's questions, in those circumstances would there be a relaxed Whip situation?

Professor David Farrell: It is very hard to get accurate information on the strength of the Whip systems across the different democracies. All I know is that when compared to the British our Whip system operates a bit more rigidly than in its case, but they operate slightly different systems in other countries.

Senator Marc MacSharry: In his paper, "External Shocks, Leadership Replacement and Party Change - The Case of Fianna Fáil", Professor Farrell was very critical of PR-STV as a method of election. He said: "PR-STV reflects the diktats of the Irish political culture." Why, in his opening statement, did Professor Farrell make no reference to that? Will he comment on what the better system may be?

Professor David Farrell: I would love to know which paper that was from which the Senator is quoting me.

Senator Marc MacSharry: That is what it was called. To clarify for the Chair, I will consult my notes. There may be some additional note. It may have related to Fianna Fáil. It was titled: "External Shocks, Leadership Replacement and Party Change - The Case of Fianna Fáil". Does that ring a bell?

Professor David Farrell: The problem with being an academic is that one writes a fair bit and then one forgets about it.

Senator Marc MacSharry: That is fine. It does exist so-----

Chairman: Will Professor Farrell answer the question?

Professor David Farrell: It is a pertinent question about the electoral system because it comes up regularly as to whether the electoral system is a villain in the piece here. There are differing views about whether the electoral system could be changed and, therefore, we might produce a better form of politics. The problem is - it goes back to what I said at the beginning - that if one is to effect a cultural change one needs to do a radical overhaul in how our governmental and political system operates and, perhaps, changing the electoral system would help. I am prepared to accept that but it is not a magic bullet as is so often portrayed. If we changed PR-STV to a closed list system, we would get away from the ambulance chasing of constituents by parliamentarians but what one might get instead is ambulance chasing of party members by parliamentarians because now one is moving from trying to get as many votes as possible to get elected, to trying to get as many votes as possible to get selected.

Senator Marc MacSharry: Does the ambulance chasing become more elitist?

Professor David Farrell: No.

Senator Marc MacSharry: Does it change the lane of the ambulance so that only certain people get into it?

Professor David Farrell: No, what is causing things to happen is not the electoral system, it is the culture of how politics operates. There have been four cases on this planet of electoral reform in the past 50 years, in France, Italy, New Zealand and Japan. They are the only four countries that have established democracies that have changed their electoral systems and none of those changes have fixed the problem they were supposed to fix.

Senator Marc MacSharry: As I am running out of time, I have a final question which is in two parts. Has the stripping of power from local authority members in the past decade to 15 years contributed to a lack of focus by parliamentary members on important national matters, such as preventing crises, or the bank crisis or has it been a good thing? Considering - I am quoting Professor Farrell's own testimony - "the weakness of the Irish parliament", is it his view that a banking crisis of such a damaging nature was unlucky, unfortunate or inevitable?

Professor David Farrell: I would not have the expertise to answer that question. I would like to think it was unfortunate. The weakness of local government is, to my mind - I am not alone in this - a bigger factor in trying to explain the cultural problems with how the Oireachtas operates than the electoral system. The issue is a demand based problem not a supply based problem.

Senator Marc MacSharry: It focuses the national body of politicians more on the local situation than on the national situation.

Professor David Farrell: Because individual citizens - I am guilty of this as a citizen - find nowhere else to go, they go to a Member of Parliament. What we need is a much more influential local government, a far better interface between public service and citizens and that affects the demand on our parliamentarians.

Senator Marc MacSharry: I thank Professor Farrell.

Senator Sean D. Barrett: I welcome Professor Farrell. Regarding an incorporeal Cabinet meeting, apart from being an oxymoron, is it not anathema in a democracy that a crucial decision was made at that kind of meeting?

Mr. David Farrell: Obviously, I cannot comment on that specific example. In an ideal world one would like to think that a Cabinet meets in a well-considered way and takes its decisions with as much information and as much thought as possible and as openly as possible. I was not there, I was not even in the country, so I cannot comment on exactly how frenetic those few hours were.

Senator Sean D. Barrett: Deputy Eoghan Murphy raised the Whip system. I think the British army would be in Syria now because the Prime Minister wanted to look for some weapons and so on but enough people in the Tory party made that impossible. Could we have a percentage of days off from the Whip system? Would that be one of the ways we could develop the kind of system Professor Farrell has been advocating?

Mr. David Farrell: This is where there are some differing views among the political scientists. I am on record as asking why do we have to have committees apply for each and every vote, why not, for example, have it that it applies for money votes, if one is a Government member, or, perhaps, votes that are very specifically relating to manifesto promises by one's party,

that maybe one should identify those areas as areas where the Whip system should apply. One is a signed up member, one fought the election, therefore, one should sign up to the agenda of one's party, but that in other respects the committee system should be relaxed and we should be relatively more relaxed about Governments occasionally losing votes. That is the type of views I have set out in the past but others have suggested that one is on a slippery slope if one does that.

Senator Sean D. Barrett: Is it usual in the parliaments that Professor Farrell studied that Ministers come in with a coterie of civil servants who whisper in their ears or pass them notes? I do not see that in Westminster, for example.

Professor David Farrell: It may not be physically manifest that there is somebody there whispering but there would certainly be an entourage supporting the Minister behind the scenes, so in that sense it would not be that uncommon. What is less common is the notion that the parliamentarians are more or less on their own in responding to the Minister. There is not the resource base to help one to respond or interrogate that Minister in a way that we see in other parliaments.

Senator Sean D. Barrett: Is parliament stronger in the public mind than sometimes around here or in the media? I have in mind the attempt to abolish the Seanad, for which the vast majority of Deputies voted and the majority of the Senators voted for its abolition. The opinion polls showed that it would be abolished but in fact the people decided it would not be abolished. Are there secret parliamentarians in the Edmund Burke tradition influencing public opinion in these matters who want a stronger parliament?

Professor David Farrell: That for me is an example of why we should not be such a Westminster democracy because we have referendums. The last time I checked, apart from Italy and Switzerland, we were the most regular user of referendums in Europe. That is giving the people a direct say in important issues of policy at a national level. In that sense, that is a good example of a more consensus approach. The Government was forced to have a referendum to decide on something it wanted to push through.

Senator Sean D. Barrett: In regard to committees, we had a case where a person did not want to appear as a witness and the majority of the committee summoned him to appear and he did so. In terms of people's reluctance to appear as a witness, there is some case law which the professor might discuss afterwards.

He said the Government actively supported the market over an extended period against the fairly weak but clear opposition of the Department of Finance. We found the Department of Finance did not want compliance codes for directors, for instance, and that it was more interested in developing the IFSC than the prudential role. There are criticisms of the Department of Finance in regard to the lack of qualified people. I am not so sure its role was as good as the professor stated.

Professor David Farrell: I was just going literally on what I was reading. I was desperate to find anything that related to the theme of what role the Oireachtas played, or did not play, and that seemed to be one area that was worth paying attention to.

Senator Sean D. Barrett: I refer to the absence of individual responsibility in Irish public life in that people do not resign, they do not take responsibility for what they do and they hide behind systems failures. Have political scientists written on that aspect?

Professor David Farrell: I have not seen anything systematic on that.

Senator Sean D. Barrett: I thank the professor.

Deputy Michael McGrath: The professor is very welcome and I thank him for his time. He makes a pretty clear conclusion at the end of his opening remarks that the Irish Parliament performed poorly during the period in question and he outlined the reasons. He talked a lot about parliamentary reform and the need to strengthen the committee system. Even within the constraints of the existing Oireachtas system and the constraints that applied over the past ten to 15 years, there were, and remain, opportunities to raise issues, including on Leaders' Questions. The Opposition has Private Members' time every week and the Government can organise debates but, in the main, that did not happen in regard to banking and regulation. The role of the Oireachtas is part of our terms of reference. How can he reconcile that? He has made points about reform but even within the constraints, there was not really adequate debate by any objective measure.

Professor David Farrell: That is a really core question. I tried to say that in my written document but I may not have expressed it so well. I am talking in general terms here. One could talk about a particular period but it does not matter which period one picks, the point is applicable regardless of who is in government at the time. It is the culture. Culture is such an amorphous thing, is it not? What is culture? It is very hard to define. We have whole courses just trying to define the damn thing. If one is going to change the culture of how an organisation operates, one needs to do some pretty radical transformation and that is what I am trying to suggest. In part of my paper, I talk about how the Oireachtas in the lead up to the banking crisis had existing powers that it could have deployed, for example, to test the veracity of Government's arguments. There were individuals who were saying we had a problem. Why were they not called in? Why was there not some discussion with those individuals? The powers were there and it says a lot about the willingness of Oireachtas Members to deploy the powers they already had.

Deputy Michael McGrath: The professor spoke about reforming and strengthening Oireachtas committees and giving them resources. Does he believe there is an optimum number of members on an Oireachtas or a parliamentary committee?

Professor David Farrell: The general rule of thumb is that one needs a decent critical mass. One of the leading people in this area, Kaare Strom, said about ten or 11 would be the ideal number. Obviously, it depends on the number of parliamentarians one has to play with. We have a small Parliament, so there are only so many Members available. That is why I was trying to suggest that one way to help move towards this ideal world that I tried to outline would be to move to a situation where a Member sat on only one committee.

Deputy Michael McGrath: If I pointed out that the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, for example, has 27 members, what would be the professor's reaction to that?

Professor David Farrell: It would sound to me like it is too large. It would be far better to have a small membership but a better resourced committee, so one would have professionals supporting those members on the committee.

Deputy Michael McGrath: Does the professor think having such a large number of members impacts on the ability of the committee do its work effectively?

CONTEXT PHASE

Professor David Farrell: I have never observed it. Those on it would have far better expertise than I but anyone who knows anything about how committees operate will know that at a certain stage, committees become dysfunctional.

Deputy Michael McGrath: I suppose I should have said “on a committee” and not necessarily that committee. Does having a membership of that number, in general, have an impact on the ability of a committee to do its work?

Deputy Michael McGrath: Yes. I would argue it is too big.

Chairman: That is a cross-departmental committee and includes the Department of Public Expenditure and Reform.

Deputy Michael McGrath: That is correct. Looking back over the Oireachtas debates, which is part of the terms of reference of this inquiry into banking and regulation, if I said to the professor that the Central Bank and Financial Services Authority of Ireland Act 2003, which was very significant legislation setting up the new Central Bank structure and separating the Central Bank from the Financial Regulator, was introduced by the Minister for Finance and, from my reading of it, about 11 other Deputies took part in the debate on Second Stage, how would the professor characterise that level of engagement in the context of 166 Deputies in the House and given the significance of the Bill?

Professor David Farrell: I do not have any knowledge of that particular episode, so I cannot really comment on the specifics of it but it would seem to me that if the legislation was as important as the Deputy suggests then, in an ideal world, it would be better to have a better populated House.

Deputy Michael McGrath: In light of the professor’s comments on Government control, and not talking about any particular Government but in general, of Parliament and of the committee system and given that we are sitting as part of a very important parliamentary committee, has he any observations to make on the fact the Government, in respect of this committee, ensured it had a majority of the membership, despite the original membership which was designed to be nine members? The Government did not have majority by way of the manner in which the votes fell but it subsequently changed it and introduced two additional members to ensure it had a Government majority. Does the professor have any observations to make on that?

Professor David Farrell: Going back to what I said earlier, one of the features of a well-run committee system is a proportional allocation of committee chairs and a proportional allocation of committee positions, so in general it is unfortunate to have committees where there is an in-built Government majority.

Senator Michael D’Arcy: Professor Farrell made the point that if there was a better funded and structured committee system, the Government arguments, say, in regard to the bank guarantee, could have been tested. I refer to the evidence we have heard and discussed on the information given to the Government, and subsequently after the guarantee by PwC. PwC had six months in the banks to see whether they were solvent. In light of PwC going into the banks subsequently and finding they were solvent, how would a small number of individuals have been able to contest that argument when it had access which maybe a committee would not have had? How could it be tested under those circumstances, given the evidence we have heard?

Professor David Farrell: The tenor of my remarks, in fairness, are much more focused on the period leading up to the banking crisis rather than the onset of the crisis itself. In the frenetic

period around the time of the guarantee, it is very hard to post-hoc try to suggest what might have done otherwise.

However, in terms of the long process, particularly in the period between 2006 and 2008 leading up to it, my remarks are focused on whether the Oireachtas might have performed better than it did. I am suggesting it did not perform well enough.

Senator Michael D’Arcy: I refer to the confines imposed by the Abbeylara judgment. A large proportion of Professor Farrell’s submission was about the expansion of committees but I seek his views in the context of the confines of the Abbeylara judgment and then subsequently, the confines of the referendum that was lost to expand the powers of a committee of investigation.

Professor David Farrell: It is unfortunate that the referendum was defeated. One can only hope an attempt will be made again, hopefully more effectively, to get something like that through a referendum. However, my remarks are less focused on what happens afterwards than on good governance in a normal period. The focus is less on an investigation into an issue that has arisen and more into a proper policy process and the role of a modern day parliament in that policy process. I refer to effective scrutiny of legislation as it is going through the books, picking out details and coming up with amendments that are taken seriously by the Government of the day. That is the sort of modern day parliament we really do not have and we could have.

Senator Michael D’Arcy: What is the view of Professor Farrell regarding a committee potentially impugning the good name of a citizen?

Professor David Farrell: I suggest it would be necessary to have good controls in place with regard to the powers of a committee, were legislation or a referendum of that nature to go through. Other than that, there is not much more that I can contribute.

Senator Michael D’Arcy: Earlier, Senator MacSharry discussed the reluctance, not just of the body politic itself but of the public to change. For instance, the Constitutional Convention was reluctant to move away from proportional representation through the single transferable vote, PR-STV. Can Professor Farrell shed some light on why the public and the body politic are reluctant to change a system which, in his analysis, is poorer than most? Why is there such reluctance to so do?

Professor David Farrell: My difficulty with Senator MacSharry’s question is I do not think the system is worse than most. I must have had a brainstorm on the day when I wrote whatever article he is citing. I must check when I go back.

Senator Marc MacSharry: Perhaps even a moment of clarity.

Professor David Farrell: What we know from the analysis that has been done across continental Europe since the Second World War is that most of the continental European democracies are moving their electoral systems towards our system. While it is not the single transferable vote, STV, they are moving towards a system in which voters have a greater say. There is a great merit in our system which is that, as members are aware, there is good linkage between politicians and their constituents. That is a good and is something we should value. The problem is our politicians perhaps take it to another level and as I stated earlier, much of that is less to do with the failings of our politicians and more to do with the failings of the system that causes greater demand on our politicians to so do. As to why the Constitutional Convention chose not to propose a radical change of our electoral system, it is because its members spent

CONTEXT PHASE

two long weekends reading briefing documents, listening to briefings by experts and considering, in a well-considered deliberative process, the merits of whether to change our electoral system. Having informed themselves in a well-considered process like that, they decided that on balance, the electoral system was not that bad after all.

Senator Michael D’Arcy: Finally, what is Professor Farrell’s view of the quality of the referendums? As he has stated we have had more referendums than most, what is his view on their quality and the impact of the change in the general system?

Professor David Farrell: While we have a lot more referendums than most other countries, we also have a lot more referendums than used to be the case. The problem with our referendums is we have not developed the machinery for how to run a referendum properly. There needs to be a serious engagement with the referendum process and on issues to do with balance of coverage and the finances surrounding the referendum process. Obviously, that is outside the remit of this committee but there is a body of work to be done on the referendum process in Ireland.

Chairman: I wish to round off one issue with Professor Farrell regarding the level of access members of the public have to public representatives in Ireland. In the context of levels of accessibility among our European partners, how would it rate? Does Professor Farrell rate it as being high or low and is that a good or bad thing?

Professor David Farrell: It is high. The level of connection between our Members of Parliament and citizens is very high.

Chairman: For example, were someone to ring his or her congressman, for want of a better word, to arrange to meet on the following Saturday, how does that play out internationally and in Ireland?

Professor David Farrell: We are off the scale. There is an Irish national election study, which incidentally needs to be funded the next time around. There is no funding for proper analysis in this country but that is another day’s work. In any event, the study asks a set of standard questions that are asked in election studies across the world. Usually, one asks a question along the lines of how often was the respondent of the survey contacted by a member of the campaign organisation or by the candidate. Usually, one gets a figure in single figures, that is, 8% or 9% or that sort of level. In Ireland, the figure is 20% or 25%. Respondents will state they were contacted more than once. I remember that having returned here after 21 years in Britain, I was here for the 2011 election and had forgotten what it was like to have candidates knocking on my door several times. One just does not get that.

Chairman: That is at election time but I am talking about the level of access-----

Professor David Farrell: In between.

Chairman: ----- the public has to national elected politicians. On an international scale, how would we rate?

Professor David Farrell: Very highly.

Chairman: The highest?

Professor David Farrell: There is no cross-national study that uses the same standard question in the way the election studies do.

Chairman: However, Professor Farrell would rate Ireland as being very high.

Professor David Farrell: In any comparative analysis that ever has been done, we are off the scale.

Chairman: In terms of participating in democracy, how does Professor Farrell rate that? Is it a good thing or a bad thing?

Professor David Farrell: In principle, it is a good thing. The problem is it is taken to an extreme and that is the area that must be addressed. It needs to be toned down somewhat.

Chairman: I thank Professor Farrell. I call Deputy O'Donnell, who has six minutes.

Deputy Kieran O'Donnell: I will take up that point. I refer to our political system with multi-seat constituencies and note that Professor Farrell has come from the United Kingdom. In Professor Farrell's view, to what extent has our political electoral system impinged on or had an impact on the efficiency of Parliament?

Professor David Farrell: I do not think the electoral system is the feature, as is often made out, that is causing a lot of these issues. I believe the issue is a poor interface between the public service and the citizens. It simply is poor and having spent 20 years in Britain, I can see that myself. I also think it is the weakness of our local government and so there is this sense on the part of the average citizens that if there is something they need to get done and they cannot find the answer to the question anywhere else, they will contact the Member of Parliament because they know the Member of Parliament will do it for them. It is this issue about the demands on our parliamentarians that needs to be fixed. While changing the electoral system might be part of a bigger mix of change, it would not, in and of itself, do much to change things.

Deputy Kieran O'Donnell: To get the type of change he seeks in terms of the efficiency of Parliament, what does Professor Farrell think of the models in which there is separation of power, such as one has in the United States *vis-à-vis* the President and Congress? Our system here effectively is a parliamentary system in its entirety, in that people must be elected before they can hold public office. In addition, I note that at present, Congress and the President are at loggerheads and consequently, no system is not absolutely proof. What is Professor Farrell's view on the different systems?

Professor David Farrell: This is important and gets to the kernel of a lot of this issue. The system of separated powers in the United States is on one extreme, while the Westminster system, of which we are part, is on the other extreme and both have their problems. In the case of the system in the United States, the big problem, as the Deputy has identified, is the issue of logjams and gridlock and therefore, there is a lot of dysfunctionality in how the governmental system can operate. However, there is an in-between position and that is continental Europe. It is a consensus form of democracy where there is a much greater balance of power between Parliament and Government. However, it need not go to the American extent of gridlock to get to be a better form of democracy.

Deputy Kieran O'Donnell: To take up another point, in essence Professor Farrell really is talking about the list system when he speaks about a European system. He is talking about having a list system alongside an electoral system. Is that his basic premise?

Professor David Farrell: No, it is not. In fairness, it is a reasonable question to ask but the point is there is a great variety. I could spend hours on it and it is my first love.

CONTEXT PHASE

Deputy Kieran O'Donnell: No, the professor should pick one parliamentary model that in his view works.

Professor David Farrell: However, I am not focusing on the electoral system, so I deny the electoral system as a feature. The feature is the parliamentary system.

Deputy Kieran O'Donnell: In that case, the professor should tell me one parliamentary system that in his view works.

Professor David Farrell: Norway.

Deputy Kieran O'Donnell: Why?

Professor David Farrell: Because there is a much greater culture of open government and an understanding that it is a proactive form of open government, and there is a much more powerful parliamentary system and much more effective committee structure. There is no such thing as an ideal, but if you held a gun to my head and asked which is the one I would pick out, I would give you Norway for starters.

Deputy Kieran O'Donnell: How much time have I left, Chairman?

Chairman: Two minutes.

Deputy Kieran O'Donnell: In the Irish context, which committee does Professor Farrell believe has been the most efficient?

Professor David Farrell: I have not looked at the Irish Parliament enough to give a clear answer. All I can say is what I am seeing here is---

Deputy Kieran O'Donnell: Professor Farrell made a fairly critical comment on the workings of the Parliament.

Professor David Farrell: Absolutely and I did start with an apology before I said anything, to say that I am dealing with parliamentarians and I know I am treading on thin ice because you are the people who actually have to work the system I am telling you about.

Deputy Kieran O'Donnell: Professor Farrell has been quite critical even in his opening statement on committees, yet when I ask him for a committee he tells me he has not studied the committee system in Ireland.

Professor David Farrell: I said at the outset that I have not studied the committee system in Ireland.

Deputy Kieran O'Donnell: If Professor Farrell has not studied the committee system, how can he give a view on it?

Professor David Farrell: I have observed it.

Deputy Kieran O'Donnell: What is the difference between examining and observing?

Professor David Farrell: In political science we have to carry out informed, evidence-based---

Deputy Kieran O'Donnell: In terms of observing, which of the committees has Professor Farrell observed to be efficient?

Professor David Farrell: I have not observed any to be efficient. Perhaps this one will be the exception.

Deputy Kieran O'Donnell: I think there is a career in politics beckoning for Professor Farrell. Does he believe in Cabinet confidentiality? How does he reconcile the principle of Cabinet confidentiality with senior public servants being able to give a view, for example a view which differs from the Minister's, and which may be critical of a decision under which Cabinet confidentiality has arisen?

Professor David Farrell: That is a very good question. Many of the points I am raising, in all honesty, are points by way of suggestion of things that could be looked at for improving how we operate. What is said in the Cabinet----

Deputy Kieran O'Donnell: I am afraid Professor Farrell is being provocative.

Professor David Farrell: I would not say that at all. What is said in Cabinet is said in Cabinet and therefore there should be a degree of confidentiality. Many people would agree on that. However, the Minister going into Cabinet is receiving information and the official from whom he or she is receiving information might have differing views or might wish to suggest alternatives the Minister might want to consider. That is the dimension I am getting at - whether then a civil servant might be willing to speak to an Oireachtas committee and say, "the Government may have taken that decision, but this was the information that the relevant Minister went into that Cabinet meeting informed by and there were differing views, and these were the differing views".

Deputy Joe Higgins: Professor Farrell refers in page three of his written statement to the Nyberg commission and states: "The Oireachtas is notably absent from this coverage, receiving only passing reference in the Commission of Investigation report where it is noted that one of the causes of a 'systematic financial crisis' is likely to 'a parliament that remains unaware of mounting problems'." Earlier in the same page, Professor Farrell states: "The consensus among academics writing about the Irish parliamentary process is that it is weak and ineffectual by comparative standards." We will leave that hanging there for a moment.

We had evidence yesterday from Mr. Simon Carswell, the current Washington correspondent with *The Irish Times* and an experienced financial and banking affairs journalist. In page three of his written document, he writes: "There are examples of politicians and public representatives getting involved in land speculation deals, building projects and property investments - in one notable case, in partnership with a major figure from banking - while continuing to serve as public representatives, right up to and during the economic crisis." In page two of his statement, he writes: "I would characterise the relationship between the major players in the property sector and construction industry and government, certain elected representatives and the banks - as well as the relationship between the government, the banks and financial supervisory authorities - as extremely cosy in the period leading up to the 2008 banking crash."

Does Professor Farrell believe that if politicians in the national Parliament had the relationships alleged by Mr. Carswell, the ideology or motivation that led to those relationships could supersede and pervert the workings of a national Parliament?

Chairman: I need a question and ask Deputy Higgins to re-frame that.

Deputy Joe Higgins: Professor Farrell has dealt well with structures in Parliament and how it should work, and whether the structures enable it to work. I am trying to clarify the issue of

whether there is a different motivation that subverts that particular----

Chairman: You are asking Professor Farrell his interpretation of the dynamic in those processes.

Deputy Joe Higgins: Can politicians serve God and Mammon? Can they serve the interests of these close relationships on the one hand while serving the interests of the majority of ordinary people on the other?

Professor David Farrell: I can understand the premise underlying the question perfectly well. I really think it is an important question. It goes back to what I am saying about the need for a full, open and transparent political system. It is not just that Members would have to be completely open about any relationships they may have with any entity or individual; it also gets right down to funding of parties and proper regulatory controls over that, and full auditing of party accounts at all levels of political parties in a way that we do not have. In that sense, an effective parliamentary democracy, among the other things I set out in my paper, also includes the premise underlying your question, that there should be an understanding that a Member of Parliament is there to represent the citizens, not individuals.

Deputy Joe Higgins: Could it be the case that no matter how efficient the workings of Parliament or parliamentary committees are, other motivations can obstruct that efficiency being deployed in the best interests of society?

Professor David Farrell: It is entirely possible in any system and that is why you need good, rigid controls to minimise the dangers of that.

Deputy Joe Higgins: On page six, and Professor Farrell quoted this himself today as well, he writes: “The main conclusion to draw from all this is that in the period under investigation the Irish parliament performed poorly: it lacked sufficient organizational and structural fire power to provide effective scrutiny; it lacked too the political will to use what powers it did have indicating ‘cultural’ shortcomings.” Could it be that the political will that was lacking and the cultural shortcomings indicate an ideological agreement between a majority in Parliament on the right of bankers and developers to blow up a bubble? Professor Farrell said that Parliament took its eye off the ball. Could it be the case that he is speaking of a different ball from the ball that certain politicians had in mind? That might have determined the outcome.

Professor David Farrell: It is very hard to give an answer. I know where your question is coming from and can appreciate that. In any parliamentary system, one would like to think that if there is something going on that needs to be investigated and tracked and warning signals to be sent up, in an effective parliamentary democracy, that will happen, there will be those warning signs. We did not have it and beyond that, it is very hard to speculate. I can appreciate that perhaps the ideological composition of the Parliament might also contribute somewhat. The ideological composition of Parliament across the main parties might be skewed in a certain direction that might facilitate certain activities that were unfortunate. It is very difficult to get a grip on the extent to which it was contributing to the problem.

Deputy John Paul Phelan: Does Professor Farrell believe that a more effective Oireachtas could have reduced the cost of the financial crisis to the citizens of the country or reduced the burden of the financial collapse on the people?

Professor David Farrell: Given that I was focusing on the lead up to the crisis rather than the event itself, I cannot answer. Deputy Pearse Doherty also asked about it. I have not exam-

ined the period. I find it difficult to see how things might have been handled differently in the frenetic moment when decisions were being taken on the fly, even if the Oireachtas had had more of a say.

Deputy John Paul Phelan: Earlier, Professor Farrell said rushed legislation was bad legislation. On the night of the bank guarantee, legislation was rushed through. I got my speaking slot in the Seanad at 5 a.m. and the then Minister, the late Brian Lenihan, was there for the duration of the debate. Notwithstanding the impact of the legislation, in certain circumstances is rushed legislation necessary? We might have seen similar yesterday with the legislation following a court of appeal decision on misuse of drugs.

Professor David Farrell: Yes, sometimes rushed legislation is necessary. In moments of crisis such as the night of the bank guarantee, it would be difficult to see how it could have played out differently. The period of focus in terms of the role of the Oireachtas is the period leading up to the crisis regarding whether structures and culture could operate differently to try to minimise the danger of it happening again.

Deputy John Paul Phelan: In response to a question by Deputy Michael McGrath, Professor Farrell said committees should be representative of party or grouping strength, but added that it was unfortunate that the Government would always have a majority. If a committee is to be representative of the strengths of groups and the Government is a majority Government, as a matter of course the Government will always have a majority.

Professor David Farrell: It is a fair point. While a Government will not always have a majority, it is likely that it would often have one. In other contexts, when one is allocating on a proportional basis, parties bid for posts and will prioritise some committees over others. Thus, there may be committees in which the opposition parties are in the majority.

Deputy John Paul Phelan: Professor Farrell has clarified it. Article 28.7.2° of the Constitution provides for Senators to be appointed to the Cabinet. Why has the provision been availed of only twice in the history of our current Constitution?

Professor David Farrell: It is remarkable. I am old enough to remember when former Taoiseach Garret FitzGerald appointed James Dooge to the Cabinet and the media frenzy that followed it. There was a fair bit of excitement and also criticism that he had dared to step over the heads of far more deserving Members of the Dáil to pick a Senator out of nowhere and make him the Minister for Foreign Affairs.

Deputy John Paul Phelan: He was a retired Senator.

Professor David Farrell: Yes, he was a retired Senator. This part of the culture needs to change. Another member asked me about external Ministers. It is more normal in other European systems to have Ministers who come from outside or, if they come from within parliament, they must vacate their seats to become a Minister. Part of the mix for fixing our political system which the Constitutional Convention proposed was to move in this direction.

Deputy John Paul Phelan: Professor Farrell pointed out Deputy Eoghan Murphy's interest in the Whip system. The system that operates in many other countries, principally our neighbouring island, allows for a more relaxed form of whip, and that the whip is relaxed depending on when the party whips decide on issues. When I was first elected to the Seanad, 12 years ago, every week we were told there was a three-line whip on every vote. Can such a system be relaxed? Is there scope for relaxation?

CONTEXT PHASE

Professor David Farrell: There is scope and I suggested earlier some ways in which it could be done. Others say it is a slippery slope to an unintended result. If the British can do it, given that we have adopted in large part their parliamentary system, there is no reason we cannot at least do what they do.

Chairman: This committee has 11 members and I do not know how many other committees we have been involved in. In his presentation, Professor Farrell quoted the Art O’Leary briefing note on Oireachtas committees and the functionalities they can continue. To reframe Deputy O’Donnell’s question on which committee is the best, is Professor Farrell aware of examples of situations in which some committees engage with the roles and responsibilities better than others?

Professor David Farrell: I have not examined it and I am not aware of anybody who has had the money to examine it systematically.

Chairman: Much of Professor Farrell’s presentation was about reform. Does he mean he is also engaging in the sharing of power as opposed to reforming the structure?

Professor David Farrell: It is a great question. It is exactly that. If one is to reform the system, one must engage with the idea of power sharing and the consensus model of democracy. It is a form of sharing power, accommodating differing views and allowing conflicting voices around the table. One must share power.

Chairman: Does this imply that there is a certain crux in the dilemma that when one shares power, one shares responsibility?

Professor David Farrell: Yes, if one shares power one shares responsibility. One of the members was probing me on where one would attach blame. In an effective parliamentary democracy, the parliament should also be held to account for mistakes.

Chairman: Given Professor Farrell’s continuous restatement this morning that power has not been shared in the Irish democratic model since the foundation of the State, who has the ultimate responsibility, the Parliament or the Government?

Professor David Farrell: Deputy Pearse Doherty asked me about this. While a higher level of blame would attach to the Government than to the Parliament, it is an order of scale.

Chairman: I have been Chairman of approximately five committees and have witnessed this in government and in opposition. Is Professor Farrell familiar with how the Estimates process is run here?

Professor David Farrell: Not in any systematic way.

Chairman: Professor Farrell outlined difficulties in how Governments might hand over responsibility and share power with Opposition parties. Might Opposition parties also have difficulties with sharing in that engagement? For example, in the budgetary process one would have to be more forthcoming and open about one’s financial positions rather than cherry picking. I am basing this on having been in government and in opposition during the Estimates process.

Professor David Farrell: It is also very important that the Government reflect that in this proposed change. The Westminster tradition is an adversarial one and the Opposition is just as guilty as the Government of playing an adversarial role. The consensus form of democracy is one in which there is give and take on both sides and a process of policy, whether budgetary or

other areas, where there is an accommodation of differing views and one tries to come up with a consensus of opinion. Although it can be very slow, inefficient and messy, it is preferable to the adversarial ping pong we have.

Chairman: Does it require that the Opposition take responsibility regarding the process?

Professor David Farrell: Absolutely.

Chairman: Is there a difference between rushed legislation and emergency legislation?

Professor David Farrell: That is a good question. My first attempt to answer that would be to say that the only rushed legislation should be emergency legislation. What we have seen last night and today would be a good example of that.

Chairman: Deputy Pearse Doherty referred to the emergency legislation to wind up IBRC. This committee would look at the extent to which it was prepared in advance of the emergency legislation coming through the House. Was the legislation actually ready? Was it worked upon months beforehand or was it written that afternoon? Are there different types of emergency legislation where a Government might be prepared for something and then enact it or is it a case that all emergency legislation is more or less written on the hoof that afternoon?

Professor David Farrell: I cannot answer that, except that I would put in parenthesis there that if one had a better-resourced committee structure and a better-resourced Parliament, it would be better placed to react even in the event of rushed legislation than might be the case today.

Chairman: To wind up I call Deputy Doherty followed by Senator O’Keeffe - just two questions.

Deputy Pearse Doherty: Professor Farrell said earlier, I think in response to Senator O’Keeffe, that the Oireachtas is not an actor that matters. In terms of framing economic policy, apart from Government, which he has mentioned, I ask Professor Farrell to outline the actors that matter, if any?

Professor David Farrell: In terms of budgetary policy-----

Deputy Pearse Doherty: Framing economic policy.

Professor David Farrell: I am going to be cowardly and say that my colleague, Professor Hardiman, who follows me, is better attuned to that than I am.

Deputy Pearse Doherty: Professor Farrell is very hard on himself. That is a fair enough answer to it.

He spoke at length about removing the Whips from committees. Let me quote to him a statement in recent weeks by a Deputy who called a vote at a committee. He stated:

What happened subsequently was that members of the Select Committee who were absent had to be substituted so seven substitutions were made.

Seven TDs then arrived in to vote on this incredibly important issue that affects many vulnerable students’ lives and they barely knew what committee they were standing in let alone what issue they were voting on.

CONTEXT PHASE

This is something that happens across the board whereby members are substituted when a vote is called. How important or unimportant is it that Members of the Oireachtas actually know what they are voting on before they cast their vote?

Professor David Farrell: I can talk about the generality rather than that case. I do not know the case. I think it is extremely important. That is why I was saying we should move away from the idea that Members are sitting on more than one committee, but also moving towards the idea of committee weeks. The European Parliament shows how that can work very effectively - move away from the idea of long plenaries as being the main agenda for how the Dáil or Oireachtas works and move to committee weeks so that then there is no excuse. One is on the one committee. This is the week in which the committee meets. More normally than not, one should be at that committee.

Deputy Pearse Doherty: The current configuration in the Dáil has a large number of Independents. We have a Technical Group which has been a feature of, I think, the four most recent Dáileanna. Within that period for a number of years there was no ability to establish a Technical Group because the numbers were below seven. Indeed it was my election to the Dáil in a by-election that allowed a Technical Group to be formed in 2010. What is Professor Farrell's view on the fact that elected Members of the Dáil would have no speaking rights on major issues, such as Leaders' Questions, Private Members' business, Second Stage debates and Committee Stage debates in the Dáil Chamber as a result of not having six colleagues with whom to form a Technical Group?

Professor David Farrell: This goes to the point I was making earlier about a secretly elected Ceann Comhairle with an agenda to review the Standing Orders so that the Dáil takes much greater control over its affairs as a Chamber, and similarly in the case of the Seanad. It should be up to the Dáil to come up with its own rules to address issues like this. As I am sure Deputy Doherty knows, if one puts together all the Independents in all the parliaments in Europe there would be less than we have in the Dáil.

Deputy Pearse Doherty: Who agrees the Dáil Standing Orders at this point in time?

Professor David Farrell: Technically, from what I understand, it is agreed by the Dáil, but in large part it is to the satisfaction of the parties in power as to whether they would like changes made or not made. In effect, it is the Government that controls the agenda, and controls the Standing Orders and how they might be changed.

Deputy Pearse Doherty: We have had the conversation about power, relinquishing power and empowering the Parliament. Is there a role or has there been a role for an independent authority in any of the areas Professor Farrell has studied to look at this issue and make recommendations, such as an electoral commission to look at constituency boundaries? If there is a failure in what Professor Farrell says to reform the Parliament beyond cosmetic changes, is there a role or not for an independent authority to come up with its proposals that should be supported by Government and Opposition?

Professor David Farrell: In this instance the role should be to constitute a body within the Dáil, itself, comprising Members of the Dáil with whatever advice and support they might need to come up with their conclusions. However, the Dáil should be taking charge of its own affairs. That is what we see in better run parliaments. The agenda - the issue of whether there should be guillotines for example - is either decided by the parliament itself at least is decided by the parliament in consultation with the government.

Senator Susan O’Keeffe: Some people may remember in the run up to the banking crisis the unfortunate remarks of the then Taoiseach, referring to the whole idea of the green jersey. I do not want to talk about that in particular. I just want to ask about the Office of the Taoiseach and the atmosphere or a pervading view that can be created by any Taoiseach. In all the talk we have had about Cabinet, Government and the Oireachtas we have not talked about the Office of the Taoiseach or the power of the Taoiseach, any Taoiseach. Does Professor Farrell have any observations to make about that in this context?

Professor David Farrell: In the world over we are seeing a presidential-isation of politics. What we are seeing in Ireland is pretty much consistent with what we are seeing everywhere else. Power is at the top. It is around the single officeholder and the coterie around him or her. I do not think we are that unusual in that regard. It is more the area we have been focusing on today where we would stand out.

Senator Susan O’Keeffe: So it is like trying to move to a position where there is more accountability at Oireachtas level, there is a pushback with the presidential role of a leader. Are they-----

Professor David Farrell: It creates a tension. There was a recent instance where there was a discussion about the Greek situation in the European Council where various Ministers for Finance were talking about the need to get agreement from their parliaments before they could decide once and for all. In fairness to our Minister for Finance when he said that, most of us just had a wry grin on our faces because it was obvious that whatever the Minister might decide in our case would be the decision. So it would be a token gesture by the Parliament to try to suggest otherwise. However, in the case of some of the other Ministers that was a genuine concern they had.

Senator Susan O’Keeffe: Page 236 of evidence given by Professor Edward Kane, who appeared before the committee, stated:

In particular, a firm’s access to political elites grows with its interconnectedness, geographic footprint, and the number of employees and creditors that can be persuaded to contribute on its behalf to re-election campaigns.

While we are talking about reform, greater accountability and so on, what do we do with that, if indeed Professor Farrell agrees with Professor Kane’s observation about the power that such organisations have?

Professor David Farrell: I think it gets to what Deputy Doherty was saying. The openness of our party funding regime needs to be looked at. An electoral commission that takes on the responsibilities that SIPO currently has and that has far greater teeth to really truly get to grips with how much money the parties are raising. We have this farce right now where year-on-year it seems that most of the parties in this country do not receive any funding from outside, when we absolutely know that the opposite is the truth. That is part of that culture of openness that I have been talking about that we need to address. An electoral commission that can actually get down to branch level accounts, fully audited accounts, and get to grips with the information on who is being seen by whom and who is funding whom. We are far from that.

Chairman: Would Professor Farrell like to add anything further?

Professor David Farrell: No.

CONTEXT PHASE

Chairman: I thank Professor Farrell for his participation today. It has been a very informative and valuable meeting which has added to our understanding of the factors leading to the banking crisis in Ireland.

Sitting suspended at 11.30 a.m. and resumed at 11.50 a.m.

Professor Niamh Hardiman

Chairman: I now call the committee back into public session. Is that agreed? Agreed. We will now commence with session 2 of this morning's hearings, which is a discussion with Professor Niamh Hardiman, UCD, on systems of governance. At our sessions this morning, we are focusing on the theme of relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector.

For our next session, I would like to welcome to the meeting Professor Niamh Hardiman to discuss the issue of systems of governance. Professor Hardiman is associate professor of political science and public policy. She has studied at UCD and Nuffield College, Oxford, and worked for a time at the Economic and Social Research Institute in Dublin. For several years, she was a fellow of Somerville College, Oxford, where she was the tutor in politics before moving to the school of politics and international relations in UCD, where she is director of graduate studies and director of the interdisciplinary public policy programme. Her research interests centre on the political economy and public policy. She is interested in the politics underlying policy outcomes, the politics of how public policy priorities are formed and implemented, the implications of institutional design for good governance and the political economy of growth, distribution and redistribution. Among her recent papers are work on comparative fiscal responses to crises, methodological challenges arising from analysis of fiscal policy choices, the political economy of housing bubbles, new approaches to thinking about the European periphery, the effects of crisis on State structures, the implications of State structures for vulnerability to crisis and the fiscal foundations of the State. Professor Hardiman is very welcome to the inquiry this morning.

Before I begin, I wish to advise the witness that, by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If Professor Hardiman is directed by the Chairman to cease giving evidence on a particular matter and continues to do so, she is entitled thereafter only to qualified privilege in respect of her evidence. She is directed that only evidence connected with the subject matter of these proceedings is to be given. As she has been informed previously, the committee is asking witnesses to refrain from discussing named individuals in this phase of the inquiry.

Members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable. I call on Professor Hardiman to make her opening remarks.

Professor Niamh Hardiman: I thank the Chairman. I have been invited to talk about governance practice in Ireland. I think that the broad outlines of the banking crisis are familiar enough. We know that the banks borrowed too much, they made too many risky loans and too little heed was taken of the growing property price bubble. So, from a political science perspective, some of the key weaknesses that stand out for me are, first, there was too little oversight and accountability going on in the Irish political system. The banks, we now know, were too