

### Summary

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Direct democracy is now essential to enhance communication between us the governed and those to whom we delegate our power to govern ourselves

*“There may be change in the criteria of decision-making at the top; change in social habits at the bottom. But unless these two are bridged by the mutual education of the democratic process, communication between the top and the bottom may cease. And in Ireland, where the stimulus to change is to a great extent external, something like this may in fact be happening...But if decision-makers respond more quickly to the challenge of change than the masses, the continuing vitality of democracy turns essentially upon their capacity to communicate their convictions to society...They must be able to persuade the electorate of the necessity of what they are doing. This, if anywhere, is where leadership that is otherwise good has failed in Ireland.”*

David Thornley, *Ireland - the end of an era?* Dublin. Tuairim. 1965. p.11-12

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Reprinted in Yseult Thornley *Unquiet spirit: essays in memory of David Thornley* Dublin. Liberties Press. 2008

## **The Mutual Education of the Democratic Process – a case for citizens initiative and direct democracy**

Article 6 of our constitution sets out clearly the source of political power in this state. "All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate all the rulers of the State and, in the final appeal, to decide all questions of national policy, according to the requirements of the common good".

In accordance with other articles of the constitution, we delegate this power to elected representatives (eg. the President, TDs, Councillors, MEPs) for pre-set periods of time. During these relatively long periods, we temporarily lose our political power and have no method to intervene if the delegated power is mis-used or not used as we would wish.

### **Citizens' Initiative**

Citizens' initiative (or popular initiative) is a means of asserting control between elections. As proposed in this article, a sizable group of citizens could put forward a draft law or revision to the constitution which would, subject to certain conditions, be put before the whole electorate in a referendum. This direct democracy complements the indirect democracy whereby we elect people to represent us.

It is a formal method whereby a proposal for legislation may be initiated by securing voters' signatures to support or oppose proposals for legislation. This may affect ordinary legislation (eg. Acts of the Oireachtas, Statutory Instruments) or a more fundamental law like the constitution.

Citizens' initiative can be used to propose laws that government or legislators are either unable or unwilling to propose. Similarly, it can be used to oppose legislation already passed by forcing a referendum of all voters on a specific statute or even part of a statute, including the Constitution.

Modern democratic government consists of the interaction of people, politicians, civil /public servants and judiciary in drawing up and implementing policies through legislation within the agreed framework of the written constitution.

The re-introduction of taxes on domestic residences (ie Household charge) to fund local government shows considerable weaknesses in the way the parts of the governmental system works. At present, about one-third of households have not yet paid this charge. This non-compliance with a law passed by the Oireachtas has been exacerbated by political high-handedness and administrative sloppiness in the introduction of this new tax.

### **Institutional Inertia/slow learning**

We have been here before. Consider the following comment from Dr. T. K. Whitaker "Democracy has also suffered much in recent years from the habit of powerful interest

groups of declaring their rejection of decisions of government and parliament. No sooner is a tax or local charge enacted, for example, than some group refuses to pay it; no sooner is some improvement in pay or services denied because it cannot be afforded than disruption is threatened<sup>1</sup>

During the 1980s crisis, Ray McSharry (then an MEP, later to be Minister for Finance and EU Commissioner) wrote about *"failure to carry through decisions on institutional modernisation"* in a comment on a 1985 Government White Paper on reforming the public service.<sup>2</sup> Recently, Richard Boyle and Muiris MacCarthaigh suggested that changes made had not gone far enough

*"However the OECD review also noted that 'despite the reforms, the overall political and managerial systems in Ireland are still based on a compliance culture that emphasises controlling inputs and following rules' (OECD, 2008a: 170) and went on to recommend that future reform 'is not about changing structures and systems, but is primarily about getting people to think and work outside of institutional boundaries' (2008a: 267)."*<sup>3</sup>

We have changed very little in our political system despite our experiencing a chronic inability to balance the levels of public expenditure with the revenue raised by taxation which has led to unsustainable levels of borrowing twice during the past 40 years. Our government had not developed the competences and skills needed to manage the national framework for our economic welfare.<sup>4</sup> In 2008 the Government re-introduced the same method of trying to control public expenditure by setting up An Bord Snip Nua just as it had set up An Bord Snip in 1987.<sup>5</sup>

The new Household Tax is part of the response to this exchequer deficit. The government has appointed a group, chaired by a retired civil servant, to draw up proposals.<sup>6</sup> It seems that the group has now completed its work and reported to the Government. As the government has not released the report, we citizens who will have to pay this tax, do not know what options the group considered or their reasoning to reject/support their recommendations or how the group went about its work. We do not know what discretion, if any, local authorities will have to vary the rate of tax in their areas or even the basis on which the tax will be assessed..All we have are leaks on aspects of the proposed new tax eg. the Revenue Commissioners will be responsible for collecting this tax designed to fund local government.

### **The mutual education of the democratic process**

During the 1960s, the late Dr. David Thornley drew attention to the effects on our democracy of external stimuli to change *"There may be change in the criteria of decision-making at the top; change in social habits at the bottom. But unless these two are bridged by the mutual education of the democratic process, communication between the top and the bottom may cease. In Ireland, where the stimulus to change is external, something like this may in fact be happening".....*<sup>7</sup>

This observation is as relevant today as it was 50 years ago, even if we take account of more widespread education in the intervening period. We face challenges similar to those of the 1960s arising from significant changes to patterns of trade (eg. then the Anglo-Irish Free Trade Agreement, now the rise of China) with the resultant pressures on resources. This challenge is all the more demanding because of the social and economic effects of extraordinary property/building speculation funded by incompetent banking coupled with a lack of checks and balances in government<sup>8, 9, 10</sup>. We now have completely new information and communications technologies readily available to us.

The 2012 Edelman Trust Barometer found that Government is a long way from meeting public expectations with unfavourable gaps of over 60 per cent between what people report as important for government and their assessment of government performance in a number of areas critical to a well functioning modern democratic society eg

- Effectively manages the financial affairs of the country;
- Communicates frequently and honestly;
- Listens to citizens needs and feedback;
- Has transparent and open practices.<sup>11</sup>

### **Not the “rule of the politician”**

In this context it is instructive to look at how the Swiss, who have highly developed forms of citizens initiative at Federal, Cantonal and local levels, might have gone about introducing a new Federal law. Apart from historical and cultural differences, the key element is that Federal legislation (except budgets) can be subject to a petition leading to a referendum of all the voters on Federal legislation<sup>12</sup> ie the optional referendum. Some Cantons (eg. Zurich) have citizens’ initiative on budgetary matters.

In Switzerland, it is not unusual to have referenda on more than a dozen laws per year. All it needs is for some group to find 50,000 electors (about 1.2% of the electorate) who sign a form demanding a referendum within 100 days

This result of this is that those proposing federal legislation present a draft which is carefully prepared. Prior to being submitted to Parliament, there is a formalized kind of opinion poll which involves Cantonal governments, political parties, NGOs and civil society groups. The Federal Parliamentary committees discuss it in detail and then it is debated in public sessions. If the Government and Parliament get it wrong, they face the possibility of a referendum.<sup>13</sup> This contrasts starkly with our way of governing ourselves.

Recently, the Swiss President Doris Leuthard pointed out that *Democracy is hard work – sweat and often uncomfortable confrontation. As former journalist Ulrich Kägi noted, democracy lives in “the conflict of interests and opinions – but also in the wisdom to recognise the limitations of this conflict”.....*

*Democracy is never easy – especially in an increasingly globalised world, in which state borders become more and more porous, where commerce and trade are possible everywhere and the exchange of goods can be carried out at any time. Nowadays – with few exceptions – and thanks to the latest electronic communications technology, doubt, distrust and criticism of government decisions can be viewed and downloaded by anyone anywhere in the world around the clock.....*

*In our country democracy is not “the rule of the politician” as defined by Joseph A.Schumpeter. In Switzerland there is a direct trade-off and active participation in shaping policy between the political establishment and the voters via the right of initiative. Here the initiative and referendum process has become a direct political feedback loop<sup>14</sup>*

Since 1848, nearly 600 federal referenda have been held in Switzerland. The result of this experience over nearly 165 years is shown in Table 1 below

- Only one-third of these have been mandatory, of which 75 per cent were accepted;
- Sixty per cent have arisen from initiatives split almost equally between
  - Optional referenda on legislation or international treaties, of which 55 per cent were accepted;
  - and
  - Popular citizens’ initiatives, of which just over 10 per cent were accepted in referenda.
- The remaining 7 per cent consisted of counter proposals by the Federal Government, of which nearly 60 per cent were accepted.

**Table 1 Switzerland - Results of Referenda and Popular Initiatives 1848-2012 (June)**

	Accepted	Defeated	
<b>Referenda</b>			
<b>Mandatory</b>	144	48	192
<b>Optional</b>	93	76	169
<b>Popular Initiatives</b>	19	161	180
<b>Counter - Proposals</b>	21	16	37

578

Source: Dr. Nadja Braun-Binder ( formerly of the Swiss Federal Chancellery, now lecturing at German University of Administrative Sciences Speyer) based on data from [http://www.admin.ch/ch/f/pore/va/vab\\_2\\_2\\_4\\_1.html](http://www.admin.ch/ch/f/pore/va/vab_2_2_4_1.html) - personal communication

## Introducing Citizens' Initiative into our existing constitution

We clearly need new ways of governing ourselves which

- enhance the mutual education of the governing and the governed;
- bridge communication gaps identified by David Thornley and others<sup>15</sup>;
- provide voters with a means of active participation in shaping policy.

I propose that this Shadow Constitutional Convention set about drawing up articles to insert into our Constitution to enable citizens to directly exercise their power by initiating referenda. As at present, the result of any referendum held under these proposals would be based on a simple majority of the total valid poll for that referendum, without any geographical or turnout criteria

There are three aspects to this

1. Explicitly state that the people, who are the source of legitimate power of the State, have the right to exercise that sovereign power directly on their own initiative, by proposing a complete or partial revision of the Constitution, together with a right to call for submission of any Act of the Oireachtas (including Statutory Instruments) or parts thereof to the people in a referendum;
2. Setting out the forms and requirements of citizens' initiative, in terms of
  - The number of signatures needed from persons eligible to vote;
  - the timeframe within which these signatures are to be collected;
  - the right of the Dáil to make a counter proposal;
3. Specifying the timeframe within which the outcome of any referendum be implemented.

While there are a number of ways in which these measures could be implemented, the following spring to mind

- Add a new Section to Article 6, to make it explicit that the people have a right *"to decide all questions of national policy according to the requirements of the common good"* directly by means of citizens' initiative;
- Set out the forms and requirements for a citizens' initiative by replacing Article 27, as it has never been used. This article provides for referral of bills (ie. not Constitutional amendments) to the people in circumstances that seem unlikely to occur<sup>16</sup>. The 1996 Constitutional Review Group pointed out *Such a referendum would be different from other referendums in that it would be an instance of a popular veto, because it provides for the negating rather than the approving of the proposal submitted to the people. The proposed Bill would become law unless the number of voters voting against the proposal was not only a majority of those who voted but was also not less than one third of the registered voters: This principle is unique to Article 27 referendums. It does not apply to referendums to amend the Constitution.*<sup>17</sup>

This requirement to base the outcome of a referendum on something other than those who voted gives electoral weight to those who have died or emigrated since the register was last compiled.

- Specify the timeframe within which the outcome of any referendum be implemented by replacing Article 47.2. which refers to referenda held under Article 27. A measure of this type is needed to overcome the do-minimum approach that has delayed much political and institutional reform here.<sup>18</sup>

### **Issues with citizens' initiative**

Among the issues raised in considering the introduction of citizens' initiative are

- validating the signature of the voters;
- The influence of well-financed campaigns;
- Quality of legislation arising from such initiatives;

#### Validating signatures

As local governments have now made the total electoral register readily accessible on the web<sup>19</sup>, it would not take much administrative work or legal drafting effort to introduce a means of validating voters' signatures for citizens' initiative here. In fact, most of the work has already been done with the introduction of a European Citizens' Initiative (ECI) which took effect on 1<sup>st</sup> April 2012.<sup>20</sup> This measure arose from the Lisbon Treaty, which most Irish political parties supported.

Irish regulations to implement this EU measure provide that the register of European Electors and related registration records may be checked to establish the eligibility of signatories for ECI.<sup>21</sup> A similar provision could be made for citizens' initiative based on the register of Dáil electors.

#### The influence of well-financed campaigns.

Given the influence and lobbying power of well-placed groups and even individuals on our political system at present, it is difficult to see this as a serious reason for not having a citizens' initiative.<sup>22</sup>

Over recent years, we have learnt from Tribunal reports just how some people with money go about influencing policies. The growth of consultancies offering public affairs services is another indication of the resources that are currently being devoted to lobbying. We can learn from jurisdictions which have long experience of citizens' initiative and direct democracy.

## Quality of legislation arising from such initiative

The Swiss style of citizens' initiative allows the Federal Parliament to make a counter proposal to a citizens' initiative, both of which must be voted on at the same time. Giving the Dáil similar powers would be a safeguard against poor quality legislation being passed by referendum. This means that the full resources of the Dáil can be brought to analyse the issues raised. The Dáil could also make counter-proposals, should it decide, after deliberation, that the citizens' proposals leave something to be desired.<sup>23</sup> A provision of this type means that citizens' initiative is not a threat to either the Dáil as a legislative assembly or to TDs as elected representatives.

This objection was taken very seriously by the 1996 Constitutional Review Group, chaired by Dr. T. K Whitaker.<sup>24</sup> Arguments for and against a provision for popular initiative were set out together with an account of the Popular Initiative in the Constitution of Irish Free State, attached as Appendix 28. This relied on a study published in 1932. However, it is extraordinary that the Review Group did not examine the experience of direct democracy worldwide since say the end of WWII. The late John M. Kelly's (Constitutional lawyer, Attorney General, Minister) observation seems an apt comment on this approach "*Ireland's political and official rulers have largely behaved like a crew of maintenance engineers, just keeping a lot of old British structures and plant ticking over*"<sup>25</sup>

## **A dependence on the people is the primary control on the government**

The leaders of Ireland's administrative/business/trade union/agricultural/community sectors have admitted that they failed us on joining the Eurozone "*In the past decade, Ireland's approach to fiscal policy, prices, costs and financial regulation were not sufficiently adapted to the disciplines of a single currency.*"<sup>26</sup>

Our governing elites have no excuse for this oversight. For much of our history since independence, we have been in a single currency zone (£Sterling), as is Northern Ireland still. This too had pros and cons, just as being a Eurozone member has. One can only assume that new *convictions not sufficiently strongly held or rationally understood.*<sup>27</sup>

Our challenge as citizens, is to find ways in which we can ensure that government – political and administrative – controls itself. In this, we face challenges which Madison, one of those who drew up the US constitution over two hundred years ago, outlined as follows — "*Ambition must be made to counteract ambition. In framing a government which is to be administered by men over men the great difficulty lies in this: first you must enable the government to control the governed and in the next place, you must oblige it to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions*"<sup>28</sup>.

Our experience suggests that we now need to reinforce our primary control on the government with a well thought-through form of citizens' initiative<sup>29</sup>. We now need to design, develop, consider, discuss and implement more suitable direct political feedback loops than the inertia of those which have led us into economic insecurity twice in the past 40 years<sup>30</sup>.

## **Our only constitutional moment – Taking our rights to exercise power directly**

Citizens’ initiative is our means of ensuring that responses to change are aligned between us as citizens and those who we elect/appoint to govern. The only constitutional moment we need is one to give ourselves a method to exercise our sovereignty directly to complement politicians, parties, parliaments, policy makers and public servants. Given our recent history of bad governance, institutional reform is certainly a pre-condition for a sustainable economic recovery.<sup>31</sup> A properly designed and carefully implemented direct democracy will enhance the possibilities of our mutual education– as citizens who govern and are governed - as we work to rebuild our trust in our way of governing ourselves for the common good of all who wish to live and work here.

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<sup>1</sup> Whitaker, T. K (1986) 'Economic Development 1958-85' *Ireland in Transition - Economic and Social Change since 1960* edited by Kieran A Kennedy RTE Thomas Davis Lectures. Cork. Mercier Press p.15-16.

<sup>2</sup> MacSharry, R (1986) *“It is true that many of the problems affecting our society at present - reflecting the trend across Europe - stem from our failure to carry through decisions on institutional modernisation. In turn, this is often the result of over-reliance on modes of thinking - which have become obsolete”* “The White Paper 'Serving the Country Better' - a step in the right direction.” *Seirbhís Phoiblí* (Department of Finance) 7, no. 1 (March 1986): 3-6.

<sup>3</sup> Boyle, R and MacCarthaigh, M (2011) *Fit for Purpose? Challenges for Irish Public Administration and Priorities for Public Service Reform* Dublin. Research Paper 4 IPA. April 2011 [http://www.ipa.ie/pdf/Fit\\_For\\_Purpose\\_New\\_Report.pdf](http://www.ipa.ie/pdf/Fit_For_Purpose_New_Report.pdf)

<sup>4</sup> O’Brien, Dan (2010) “Looking back on a unique absence of foresight” *Irish Times* 28 June 2010 [http://www.irishtimes.com/newspaper/opinion/2010/0628/1224273464255\\_pf.html](http://www.irishtimes.com/newspaper/opinion/2010/0628/1224273464255_pf.html)

<sup>5</sup> Report of the Special Group on Public Service Numbers and Expenditure Programme Dublin. Government Publications 2009. Expenditure Review Committee 1987

<sup>6</sup> <http://www.environ.ie/en/LocalGovernment/LocalGovernmentAdministration/News/MainBody,29330,en.htm>

<sup>7</sup> Thornley, David (1964). “Ireland - the end of an era?” *Studies Vol LIII (Spring) Dublin*. Later published as a Tuairim pamphlet No. 12. Dublin 1965.. Reprinted in Thornley, Y (ed) *Unquiet Spirit – essays in Memory of David Thornley*. Dublin. Liberties Press. 2008 p.167-184

<sup>8</sup> In his report to the Minister for Finance on the Irish Banking Crisis, the Governor of the Central Bank pointed out that *“Although the Directors and officials of the CBFSAI\* differed in many detailed respects in their knowledge and understanding of the emerging situation, they do not appear to have realised – or at least could not bring themselves to acknowledge*

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– before mid-2007 at the very earliest, not only how close the system was to the edge, but also the extent to which the task of pulling it back from the edge fell to the CBFSAI. Some also still feel that, without the external shocks of September 2008, the system would have survived without imposing a cost to the Government. This Report does not share this view” p.18 \*CBFSAI – Central Bank Financial Services Authority of Ireland

The Irish Banking Crisis. Regulatory and Financial Stability Policy 2003-2008. Dublin 31 May 2010

<sup>9</sup>Speaking to the University of Limerick Law Society, the Governor of the Central Bank, Dr. Patrick Honohan pointed out that *“The economic crisis has adversely affected most people in Ireland. Since the peak in 2007-8, average living standards have fallen by some 17 per cent, and aggregate wealth has fallen by an estimated 59 per cent (the decline in the wealth of the household sector was smaller). The peak activity levels reached by the economy were, of course, altogether unsustainable, and it is unwise to expect too much sympathy from outsiders for the fact of having fallen back after such a rapid run-up.”*

<http://www.centralbank.ie/press-area/speeches%5CPages%5CAddressbyGovernorPatrickHonohantoULLawSociety14March2012.aspx>

<sup>10</sup> Maarten van Eden, who spent a year as Chief Financial Officer in Anglo-Irish Bank before resigning in February 2011, was reported as saying

*“Apart from the recklessness, overconfidence and the total lack of professionalism, one sees clearly a lack of checks and balances not only within Anglo but within the country/ system as a whole,” he wrote in the letter that was read out in part to Anglo staff when he announced his resignation in February 2011. “Parties were not dealing with one another at arm’s length, transactions were circular in nature, back to back and off market pricing. There was misrepresentation, market manipulation and market abuse. “There was a green jersey agenda that, as so often is the case when nationalism is invoked, covered a multitude of sins. The rationale was made to fit the objective at the expense of guiding principles and truth.” He argued that the government authorities were “stuck in their old ways” and did not “recognise nor understand conflicts of interest”.*

<http://www.irishtimes.com/newspaper/frontpage/2011/0905/1224303500416.html>

<sup>11</sup> <http://www.edelman.ie/index.php/insights/trust-barometer/> Slide 14  
<http://www.slideshare.net/edelmanireland/irish-results-of-the-2012-edelman-trust-barometer>

<sup>12</sup> The Swiss Federal Constitution provides for Initiative and Referendum in Articles 138-142.. Federal Constitution of the Swiss Confederation of 18 April 1999 (Status as of 11 March 2012) . <http://www.admin.ch/ch/e/rs/101/index.html#id-ni10-ni12>

<sup>13</sup> For further information see here <http://direct-democracy.geschichte-schweiz.ch/index.html>

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<sup>14</sup> *No fair and decent globalisation without direct democracy.* Foreword to Kaufmann, Bruno, Rolf Büchi, and Nadja Braun. *Guidebook to Direct Democracy in Switzerland and Beyond.* Initiative and Referendum Institute Europe, 2010.

<sup>15</sup> *“This raises an interesting issue: why ministers and government departments are prepared to pay handsomely for the comfort blanket of public-relations consultants when preparing for an interview with the media, when they are so reluctant to pay for professional advertising-agency expertise to explain complex issues to the public”.* John Fanning *Minister need to be more creative with the message* Irish Times 27 August 2012

<http://www.irishtimes.com/newspaper/finance/2012/0827/1224323030564.html>

<sup>16</sup> For a discussion of Article 27, see J M Kelly: *The Irish Constitution.* Fourth Edition G. W. Hogan, G. F. Whyte. Dublin Total Publishing 2003 p. 414-417

<sup>17</sup> Report of the Constitution Review Group, Dublin, Stationery Office, 1996 p.65

<sup>18</sup> In 1979, the electorate voted in a referendum to change the constitutional provisions governing the election of the six senators (ie. 10 per cent of the Senate) from the then existing two universities in the Republic. This was to allow the Oireachtas to extend the electorate for these 6 Senators to graduates of other universities. Thirty three years later, this change has not been implemented.

<sup>19</sup> <http://www.checktheregister.ie/PublicPages/Default.aspx?uiLang=>

<sup>20</sup> The European Citizens’ Initiative is an agenda setting tool which enables people to petition the EU Commission to take action on matters within the Commission’s competence. The minimum total number of signatures is 1m, drawn from at least 7 EU member states .The minimum number of signatories per country is based on the number of European Parliament seats per Member State multiplied by 750. At present, Ireland would need to obtain 9,000 signatories to be part of one of the initial 7 Member States. This compares to the maximum for the FRGermany with 74,250 and the lowest of 4,500 each for Estonia, Cyprus, Luxembourg and Malta. For more information, see this EU Commission website <http://ec.europa.eu/citizens-initiative/public/welcome>

<sup>21</sup> European Union (Citizens’ Initiative) Regulations 2012 S.I. No. 79 of 2012  
<http://www.environ.ie/en/LocalGovernment/Voting/RHLegislation/FileDownload,29720,en.pdf>

<sup>22</sup> The Final Report of the Tribunal into Certain Planning Matters and Payments noted *Corruption, and in particular political corruption, is a deeply corrosive and destructive force. While frequently perceived as a victimless crime, in reality its victims are too many to be identified individually. Political corruption diverts public resources to the benefit of the few and at the expense of the many. It undermines social equality and perpetuates unfairness. Corruption in public office is a fundamental breach of public trust and inherently incompatible with the democratic nature of the State.*

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<http://www.flood-tribunal.ie/asp/Reports.asp?objectid=310&Mode=0&RecordID=504>

<sup>23</sup> The 2011 referendum on enhancing the Oireachtas powers of enquiry shows how Government can be out of touch with the Oireachtas, informed opinion and voters, when it draws up legislation. The Government’s proposal (Thirtieth Amendment) was defeated in a referendum on 27 October 2011. The Government put forward a different wording to that proposed by the Joint Oireachtas Committee on the Constitution in January 2011. As soon as the Government published the wording it proposed to amend the Constitution, DCU’s Eoin Daly expressed his concern about the implications for human rights of one section of the Government’s proposal. <http://www.humanrights.ie/index.php/2011/09/12/reversing-abbeylara-a-commentary-on-the-thirtieth-amendment-of-the-constitution-bill/>. Others (eg. the Bar Council, a group of former Attorney-Generals, the Irish Council for Civil Liberties) also opposed the Constitutional amendment which the Government proposed

<sup>24</sup> Report of the Constitution Review Group, Dublin, Stationery Office, 1996 p. 373 – 381

<sup>25</sup> John Kelly TD Review of Stephen O’Byrnes *Hiding behind a face: Fine Gael under Garret FitzGerald* Sunday Tribune 19 October 1986

<sup>26</sup> Press Release from National Economic and Social Council (NESC) on a report “The Euro: an Irish Perspective” 17th August 2010. NESC is 30-person social partnership body made up of representatives of government, business, trade unions, agriculture, community and environment. The Secretary General of the Government chairs NESC. Among the seven Government nominees are the Secretaries-General of five Government Departments. <http://www.nesc.ie/dynamic/docs/The%20euro%20MEDIA%20RELEASE%20from%20NESC.pdf>

<sup>27</sup> Thornley, David (1964) op. cit

<sup>28</sup> The Federalist. Middletown, Conn: Wesleyan University Press 1961 edited Jacob E. Cooke Paper 51.

<sup>29</sup> At hearings on a “*Method for citizens’ direct participation in EU Member States – Model for a more democratic Europe*” held by the European Parliament’s Constitutional Affairs Committee (AFCO) in Brussels on 18<sup>th</sup> September 2012, , Dr. Andreas Gross, (Member of the Swiss Parliament) outlined five key criteria for the design of direct democratic provisions

- 1) The number of signatures required should not exceed 3 % of the electorate;
- 2) There should not be any minimal quotas for either turnout or approval in any referendum, as these kill communication;
- 3) There should be provision for respective counter proposals to maintain the links between indirect/representative and direct democracy,;
- 4) To enhance the communication needed to make direct democracy effective, there needs to be generous time frames for all phases of the process;

5) Rules/procedures governing direct democracy must ensure fairness

Dr. Gross presentation starts at 14.22 here

<http://www.europarl.europa.eu/ep-live/en/committees/video?event=20120918-1400-COMMITTEE-AFCO&category=COMMITTEE&format=wmv>

<sup>30</sup> Thirty years ago, there was a widespread consensus that the tax system needed reform. The then government set up a Commission on Taxation which put forward a detailed solution. While some improvements were made, the system was not changed fundamentally. In 2009, yet another Commission on Taxation reported. One well-informed reviewer pointed out the similarities between the conclusions of both Commissions

*“Broadly speaking, both reports advocated:*

- *a wider income tax base with very limited incentives;*
- *mortgage interest relief directed at first-time buyers;*
- *the reduction/replacement of stamp duty on dwellings with an annual property tax;*
- *the introduction of tax expenditure budgets;*
- *the full integration of income tax and PRSI;*
- *the taxation of development gains.*

*This suggests that the main problem facing tax reformers is not in devising sensible proposals but rather in getting them implemented.\*”*

This inability to implement well designed reforms is at the root of the gap in the public finances, as for years, the Government relied on taxes (eg. VAT, stamp duty, capital gains, income tax) arising from the property development and construction sectors.

\*Dr. Donal de Buitléir *“The Agenda for Tax Reform” Irish Tax Review*, (March 2010). Donal de Buitléir was Secretary of the Commission on Taxation 1980-85

<sup>31</sup>*“Both the policy effectiveness and the democratic legitimacy of the Irish state and governance practices are in question.....But legitimating government activity in the national context requires both responsive and efficient political institutions. On both fronts, we have seen that Irish governance structures are deficient. The net effect is that Ireland’s reflexive learning capacity is low – political actors display a weak ability not only to learn from past mistakes but also to anticipate future adaptive needs and to act on them in a timely manner...Irish political institutions display very poor adaptive efficiency....”*

Hardiman, Niamh (2012) *“Changing Irish governance”* in *Irish governance in Crisis* edited by Niamh Hardiman. Manchester. Manchester University Press. 2012