

NATIONAL ARCHIVES

IRELAND



Reference Code:	2011/127/1092
Creation Date(s):	[December 1981]
Extent and medium:	3 pages
Creator(s):	Department of the Taoiseach
Access Conditions:	Open
Copyright:	National Archives, Ireland. May only be reproduced with the written permission of the Director of the National Archives.

CONFIDENTIAL

gh.
18
12
81

ADVISORY LEGAL COMMITTEE ON CONSTITUTIONAL REVIEW.

The first meeting of the Advisory Legal Committee on Constitutional Review was held in the Attorney General's Office on 1st December, 1981

The members of the Committee present were the Attorney General, Mr. N. St. J. McCarthy, S.C., Prof. R.F.V. Heuston, Prof. J. P. Casey, Mr. James O'Reilly B.L., and Mr. Declan Quigley. Apologies were received from Prof. Geoffrey Hand.

The Attorney General said that the meeting was an initial one to consider terms of reference and to decide on a method for continuing deliberations. He said that the Government's terms of reference allowed the Committee to consider all issues but that he felt that the essentially political issue of divorce should be left out because it was being considered by an all-party committee of the Oireachtas. He thought that Articles 2 and 3 of the Constitution should be considered at a later stage. He suggested that the Committee should proceed by taking areas of the Constitution and asking a member or group of members to prepare a paper for circulation a week in advance of meetings which should not take place more often than once a month. He said that while no time limit had been fixed for the Committee's deliberations it was hoped that the review would be completed within twelve months.

Prof. Heuston said that the review involved an enormous programme and wondered whether it would be possible to exclude certain provisions such as the article on the Comptroller and Auditor

CONFIDENTIAL

- 2 -

General or the articles dealing with the workings of the electoral system where essentially non-legal questions were involved.

Mr. McCarthy questioned whether it was possible to avoid considering the divorce question and referred to the problem of foreign divorces and persons who might have more than one wife.

Mr. O'Reilly asked whether the Committee was excluded from consideration of matters involving political questions such as freedom of association and trade union rights.

Prof. Heuston suggested beginning the review with a discussion of the amending power in the Constitution and the reference of Bills under Article 26. He asked whether the Committee was intended to start from scratch as if there were no existing Constitution or whether it was intended merely to review the existing document.

The Attorney General replied that the terms of reference were as wide as to include consideration of a new Constitution but he thought the practical method of approach was to review the existing Constitution in the first instance and only to reject it if suggestions for change were unworkable in the context of the existing document.

It was agreed that a copy of the final draft of the report of the Attorney General's Committee on the Constitution should be circulated to all members.

It was agreed that the next meeting would be held on or about the 20th January, 1982.

Prof. Heuston agreed to prepare a working paper for the 12th January on the topic of amendment of the Constitution and the Article 26 reference procedure, possibly in association with Prof. Hand.

Prof. Casey undertook to prepare a paper on Articles 34-39 and said he hoped to have it available for 12th January.

Mr. McCarthy and Mr. O'Reilly undertook to prepare a paper on the question of citizenship rights and the extent to which constitutional rights were or ought to be available to citizens and non-citizens.

The Attorney General and Mr. Quigley agreed to prepare a paper on the preamble to the Constitution.

The meeting adjourned.

James Hamilton
Acting Secretary