

TEACHER'S NOTE: SEPARATION OF POWERS

(The following is to provide teachers with some background to our system of government and the function of the legal system. It is not intended for use by the class although it may be of use as part of a discussion with higher grade students.)

Ireland has a written constitution, the Constitution of Ireland, which was enacted in 1937. The Constitution is the fundamental law of the State. It provides an umbrella under which the State functions and under which justice is administered by the courts. It provides protection for the fundamental rights of the citizen and the relationship between the branches of government.¹

The Constitution supports a system of government with three separate branches of government: Legislature, Executive and Judiciary. Each has separate and distinct powers. The **Legislature** passes the law, the **Executive** puts it into operation and the **Judiciary** interprets it. This concept is known as 'the separation of powers'.

By spreading the power of government among these three branches one branch is unlikely to dominate the other two. If one branch of government had all the power it could lead to an abuse of freedom and rights.

It is a fundamental principle of a separation of powers that the three branches of government remain separate and independent. For example, judges must at all times be free of government influence when they go about their business of interpreting law in the courts.

Legislature:

In Ireland the legislature is the Oireachtas. It comprises the President and two houses: the Dáil and the Seanad. The main functions of the Oireachtas are to manage the State finances and to legislate for the good of the people. The people elect the President and representatives (T.D.) to Dáil Éireann.

Executive:

The executive is the government. The government is made up of An Taoiseach and the ministers of the various government departments. The government is the centre of the administrative system in Ireland. It formulates policies, promotes legislation and directs the operations of the various departments - in a way, it is like the board of directors of a company.

Judiciary:

These are the judges who administer justice in the courts. The Irish Constitution (Article 34.1) says that justice shall be administered by judges in courts established by law.

¹ 'Government' in this context is a broader concept than the more usual use of the word (referred to under 'Executive' above).