

# **Alfred O' Rahilly Papers**

**P178**



**UCD Archives**  
**School of History and Archives**

**archives @ucd.ie**  
**www.ucd.ie/archives**  
**T + 353 1 716 7555**  
**F + 353 1 716 1146**  
**© 2001 University College Dublin. All rights reserved**

<b>Introduction</b>	<b>iv</b>
---------------------	-----------

**Alfred O’Rahilly Papers: content and structure**

<b>A.</b>	<b>Anglo-Irish Treaty, 1922</b>	<b>1</b>
<b>B.</b>	<b>Irish Free State Constitution, 1922</b>	
<b>i.</b>	<b>The work of the Constitution Committee</b>	<b>2</b>
<b>ii.</b>	<b>The proposal to publish Draft C</b>	<b>13</b>
<b>iii.</b>	<b>Notes</b>	<b>17</b>
<b>iv.</b>	<b>Press cuttings</b>	<b>18</b>
<b>C.</b>	<b>Post-1922 Constitutional interests</b>	<b>18</b>
<b>D.</b>	<b>1937 Constitution</b>	<b>20</b>
<b>E.</b>	<b>Original list of papers</b>	<b>21</b>

## **Introduction**

Born in Listowel, County Kerry in October 1884 and educated at Blackrock College Dublin and university College Dublin where he took a first in Mathematical Physics and Experimental Physics from the Royal University in 1907, he entered Stonyhurst College, Lancashire the following year with the intention of becoming a Jesuit. He left in 1914 without taking orders and joined the staff of University College Cork as assistant in mathematics. He was appointed to the chair of mathematical physics in 1917, a position he held until 1943. An outstanding college career included serving as Registrar, 1920—43, and President, 1943—54.

After his wife's death he retired and went to live in the grounds of his old school. He was ordained a priest in 1955 and monsignor in 1960. A polymath and controversialist, the highlights of a life littered with achievement included the establishment of Cork University Press, an adult education programme that extended university education in social and economic subjects to a much wider audience, in addition to a prodigious output of publication. His contribution to public life outside academia included election as pro-Treaty T.D. for Cork City; and membership of the Banking Commission, 1934—38, and of the Commission on Vocational organisation, 1939—43. He died in Dublin in August 1969.

The small collection of papers, mainly correspondence, concerns O'Rahilly's interest in constitutional matters and his involvement in framing the Irish Free State Constitution, primarily through his membership of the Constitution Committee appointed by the Provisional Government in January 1922 to draw up a new constitution. The correspondence attests to a characteristically maverick approach on his part, not attending the Committee's daily meetings in the Shelbourne Hotel and drawing up his Draft C which was endorsed by one other member of the Committee, James Murnaghan, Professor of Jurisprudence and Roman Law at University College Dublin and afterwards a judge of the High Court. On the Government's failure to either adopt his Draft or put it to the constituent assembly, Dáil Éireann, O'Rahilly attempted to make it public without success. As late as 1937 and with constitutional matters again in the limelight, he was still attempting to make public his rejected draft [see p178/43-57].

Some small amount of documents concern his continuing interest in constitutional matters after 1922 [see P178/60-63] and his interest in the 1937 Constitution [see P178/64-65].

The collection also includes an original list of some of the papers [see P178/66], presumably drawn up while they were in Blackrock College. They were given to Professor Brian Farrell in early 1970 when he was researching the origins of the Free State Consitution ['the drafting of the irish Free State Constitution', *Irish Jurist* 1970]. Additional Alfred O'Rahilly papers are held in the Boole Library, National University of Ireland, Cork.

S.H.  
August 2001

### A. Anglo-Irish Treaty, 1922

- 1 [1921] Two summaries of memoranda prepared by O'Rahilly for the information of members of the Irish delegation to the Conference on Ireland, London, October 1921. Includes *Notes on the British Commonwealth of Nations* (5pp) and *Notes on Allegiance* (5pp). A typescript note on the front page of the summaries indicates that the notes are extracts from a full memorandum which is available for perusal by the delegates; and a note in O'Rahilly's hand describes the summary as 'One of the memoranda written by me in London for the Treaty negotiators'. A third set of typescript notes on *Treaty-Making Power* (4pp) may be part of the same series.  
3 items
- 2 [Late November] 1921 Handwritten text by O'Rahilly entitled 'Camouflage', consisting of a reply to a public statement by Sir Gordon Hewart, British Attorney-General, concerning the Anglo-Irish negotiations and matters on which there would be no compromise by the British. 'It was probably rather a surprise to these British politicians to find that Irishmen refused to take their political phraseology at its face value. The whole elaborate system of British political camouflage may suit English psychology. To attempt to force it as a reality on Irishmen is mere hypocrisy and sheer mendacity. These gentlemen still talk of the "British Empire" as if they lived in the days of George III; as if Canada & Australia with their army and navy, their ambassadors, their treaty-making powers, their inclusion in international conferences, their unchallenged assertion of absolute equality with Great Britain, were still dependencies of Great Britain',
- 3 26 January 1922 Handwritten note from E[rskine] C[hilders], 12 Bushy Park Road, Terenure, Dublin, to [O'Rahilly] returning his memoranda to the Treaty Committee. 'I shall never cease to be amazed at the amount you accomplished ...'

1p

- 4            1922            Proposed terms for an agreement between pro- and anti-Treaty sides in O'Rahilly's hand (5pp); together with a typescript copy (1p) annotated by O'Rahilly, 'I think this was my proposal for peace to the I.R.A. leaders in Fermoy. No'.
- 2 items
- 5            1922            The Case for the Treaty, pamphlet by O'Rahilly, autographed and dated in his hand on the cover.
- 24pp

## **B. Irish Free State Constitution, 1922**

### **i. The work of the Constitution Committee**

- 6            26 January 1922            Typescript letter from Darrell Figgis, Chairman, An Comhaltas um Reacht/ The Constitution Committee, Shelbourne Hotel, Dublin, to O'Rahilly, Gresham Hotel, inviting him to serve on the Committee 'set up by the Rialtas Sealdach to draw up a Constitution for Saorstát Éireann' He refers to their intention to meet daily.
- 1p
- 7            28 January 1922            Typescript letter from Micheál Ó Coileain, Chairman of the Provisional Government, to O'Rahilly, University College Cork, inviting him to sit on the Constitution Committee.
- 1p
- 8            1 February 1922            Typescript letter from R.J.P. Mortished, Secretary to the Constitution Committee, Shelbourne Hotel, Dublin, to O'Rahilly, University College Cork. Mr Figgis had been hoping to hear from him. The Committee are anxious to have the benefit of his experience as soon as possible.
- 1p

- 9                    2 February 1922                    Typescript letter from Darrell Figgis,  
The Constitution Committee,  
Shelbourne Hotel, Dublin, to O'Rahilly, University College Cork. He  
is delighted to have received O'Rahilly's letter. The Committee has  
held eight meetings 'and consequently got through a good deal of  
work. But we are very anxious to have your assistance and should  
be glad if you would come up to Dublin as soon as possible. We  
meet every day and each day we lose you is a serious matter'.  
1p
- 10                    15 February 1922                    Confidential handwritten letter from  
Edward J. Byrne, Archbishop of  
Dublin, Archbishop's House, to O'Rahilly. He refers to O'Rahilly's  
suggestion for the formation of a committee to ensure Catholic  
interests are represented in the framing of the draft constitution,  
the appointment of which the Archbishop considers to be quite  
outside his competence.  
'Your objects – consultation, suggestion, criticism – may be  
obtained quite as well privately and informally as if any committee  
were put together.  
I am quite certain that the gentlemen you mentioned in your letter  
would if approached be glad to give you any assistance in their  
power in your important work.  
I do not fear that Catholic interests will suffer while earnest  
Catholics like yourself and others are on the Committee for drafting  
the Constitution'.  
3pp
- 11                    20 February 1922                    Typescript letter from James C.  
Douglas, Wexford Street, Dublin, to  
O'Rahilly, Gresham Hotel, Dublin. He has received O'Rahilly's  
letter and quite understands his position.  
'I asked Mr France to explain to you that while I would not oppose  
the adjournment I did not feel I could honourably press it as I had  
previously agreed to the Chairman's proposal to try and have the  
draft ready by Monday to enable him to attend the Ard Fheis. I very  
much hope that when your draft is complete you will bring it to the  
whole Committee as I feel there is sure to be a great deal in it which  
the Committee could be persuaded to support'.  
Alternatively he suggests that he, Kennedy and France be allowed to  
go through O'Rahilly's draft and express as much agreement with it  
as they could.  
1p



- 12                    20 February 1922                    Typescript letter from Darrell Figgis, Chairman, The Constitution Committee, Shelbourne Hotel, Dublin, to O'Rahilly, Gresham Hotel, Dublin. He is sending O'Rahilly's documents to him herewith. The Committee has been meeting each day and has missed O'Rahilly's presence and help.  
'We have now completed a draft of the Constitution as you will see. We will be very glad to call a Special Meeting on Wednesday to discuss it with you, and to have any alternative proposals which you may have in mind. Will you let me know?'
- 1p
- 13                    21 February 1922                    Copy handwritten letter from Alfred O'Rahilly, Gresham Hotel, Dublin, to Darrell Figgis. He has hastily looked over the draft Constitution approved by the other members of the Committee.  
'I greatly regret to say that under practically every section I am in disagreement therewith. As we have, both in Committee & in informal intercourse, very fully discussed most of these differences, I do not think I should be justified in further encroaching on the time & attention of my colleagues.  
I therefore propose to proceed as rapidly as possible with my own draft which I intend to present as an independent minority report. The time allotted to us is so inadequate that we must now perforce concentrate respectively on the Majority Draft & on my Minority Report, without any further attempt at readjustment.'
- 1p
- 14                    22 February 1922                    Typescript letter from Darrell Figgis to O'Rahilly. He has received O'Rahilly's letter and is very sorry that they will not have the opportunity to at least meet to discuss their different drafts. He requests a copy of the draft O'Rahilly intends submitting as an independent minority report so that it may be circulated among members of the Committee.
- 1p
- 15                    23 February 1922                    Standard form of notification from R.J.P. Mortished, Secretary to the Constitution Committee, that there would be no meeting of the Committee until the next day with a coda to O'Rahilly requesting at least part of his manuscript so that he can have copies prepared for circulation.
- 1p

- 16                    23 February 1923                    Typescript letter from Darrell Figgis to O'Rahilly. He had misread O'Rahilly's earlier letter.  
 'I certainly had received the impression that you would be presenting a report independently of this Committee. I am glad to be assured by you that I was wrong.'  
 The Committee's report is practically ready and would be put into members' hands on Saturday [23 February was a Thursday]. Could O'Rahilly submit his report by Friday afternoon?  
 'At our last meeting we were all united in a common desire that you should meet us and go over the two reports together. I agree entirely with you that any such discussion does not preclude adherence to and the formulation of individual views'.  
 1p
- 17                    1 March 1922                    Handwritten and initialled draft note by O'Rahilly.  
 'I have had an opportunity of discussing my draft with Messrs [James C.] Douglas, [C.J.] France & [Hugh] Kennedy though I have not seen theirs. We feel that we are really in very substantial agreement on most points. Probably, if we had the time, we could have produced a composite report'.  
 1p
- 18                    5 March 1922                    Typescript letter from Darrell Figgis to O'Rahilly. He is very sorry to learn that O'Rahilly is indisposed and is in bed being nursed; but he needs to know O'Rahilly's wishes about the submission of his report.  
 'Do you desire me to send forward your report on Tuesday over your name when sending forward the other two? Perhaps you could manage to scrawl me a note letting me know what your desire is.'  
 1p
- 19                    6 March 1922                    Handwritten letter from Alice T. Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly. She is writing on behalf of her husband who is 'now on the road to recovery but still tired and laid up'. He has read and returned O'Rahilly's report to Mr Figgis. Mr [Kevin] O'Sheil is to go to the Shelbourne to read the report, 'after which he would make his decision and ring here to let us know the result'.  
 3pp

- 20            7 March 1922            Handwritten letter from James Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly.  
'[Kevin] O'Sheil was seen late last night by one of the secretaries I think. He is leaving Dublin this morning and as he has not had time to read the various drafts he refuses to sign any & has so written to the government'.  
He is glad O'Sheil has 'resisted all blandishments'. Discusses the poor health of virtually all members of the Constitution Committee.  
3pp
- 21            8 March 1922            Typescript letter from Darrell Figgis, Chairman, Constitution Committee, Shelbourne Hotel, Dublin, to O'Rahilly, Gresham Hotel, Dublin.  
He had signed Draft C in O'Rahilly's name as requested and the documents are now being delivered to the Provisional Government.  
'I need not tell you that this does not mean that the Committee ceases to exist. We remain in being until we are formally dissolved. When that formal dissolution will take place I cannot say'.  
1p
- 22            9 March 1922            Typescript letter from Darrell Figgis, Constitution Committee, Shelbourne Hotel, Dublin, to O'Rahilly, Gresham Hotel, thanking him for his letter.  
'One tried to be just and fair, and, I am afraid the circumstances of the case compelled one to drive the team rather hard so far as time was concerned'.  
Discusses the question of the expenses of members of the Committee.  
1p
- 23            16 March 1922            Handwritten letter marked private from James Murnaghan, Grand Hotel, Greystones, where he has come to recuperate from the flu', to O'Rahilly.  
'I don't think we need write to the Pro.[visional] Govt. at present – I imagine that when the drafts are studied we shall again be convened – it might be no harm in the meantime informally to get in touch with members of the Pro. Govt. My belief is that the Govt. will leave the matter over for a week or so but when I get back to town I will try to find out what is going on".  
2pp

- 24                 23 March 1922                 Handwritten letter from the Rev.  
J.M. Harty, [Archbishop of Cashel]  
Grand Hotel, Tramore, to O'Rahilly.  
'I expect that there would be no difficulty in getting a Committee of Bishops to examine the Constitution from the Catholic standpoint if the Provisional Government were willing to submit it for examination.  
In regard to the unearned increment I have two difficulties – one theological & another diplomatic. The theological difficulty arises from the general view that the increment belongs to the owner of the land. The diplomatic difficulty arises from the probability that the farming element of the community would rise in opposition to the Constitution which would be looked on as confiscating the farmers' property. The Treaty cannot afford to encounter such opposition at the present time'.  
Comments on the aim of a section of the Army being to achieve a military dictatorship. He had hoped to see O'Rahilly at the following day's meeting of the Governing Body [of University College Cork] but a prolonged attack of influenza has driven him to Tramore for a change of air.                                 4pp
- 25                 31 March 1922                 Typescript letter from C.J. France,  
The American Committee for Relief  
in Ireland, Standard Hotel, Dublin, to O'Rahilly, University College Cork. He will be returning to America in May and will be asked to speak about his experiences and the making of the Constitution. Could O'Rahilly forward a short autobiographical statement and a photograph..  
'People in America are specially interested in learning about the men who have done things for Ireland'.                 2pp
- 26a                1 April 1922                 Handwritten letter from James  
Murnaghan, 25 Upper Fitzwilliam  
Street, Dublin, to O'Rahilly. He does not know what the future course of events will be.  
'I made enquiry yesterday and learn that when a report comes in from Healy the Committee will be called together. I think you should attend if possible. As regards publication I personally would not feel justified in joining you. I think I should use any means to influence the final result of the Committee's report, but I would not feel justified in publishing a hostile constitution. Certain events might make that inevitable but I think no action should be taken until the P.G. makes publication ... I threw in what little weight I had in support of your constitution and it may do useful work in shaping the final constitution but it will be difficult to carry it in its entirety'.   3pp

- 27                    1 April 1922                    Typescript letter from F. O'Reilly,  
Catholic Truth Society of Ireland,  
Upper O'Connell Street, Dublin to O'Rahilly, University College  
Cork.  
'I have written to the Archbishop of Cashel to-day regarding the  
desirability of issuing a statement at once on the inclusion of  
sections dealing with Religious Education and Family Life. I notice  
that practically all the pastorals this year dealt with the Christian  
family'.
- 1p
- 28                    5 April 1922                    Strictly confidential typescript letter  
from Darrell Figgis, the Constitution  
Committee, Room 110, Office of the Provisional Government, Upper  
Merrion Street, Dublin, to O'Rahilly, University College Cork (1p).  
He has received O'Rahilly's letter and is not in the least surprised at  
the enquiry with which he has the deepest sympathy.  
'I, as Chairman, had received no intimation that such an article was  
to be written, and had not been consulted at all on the matter'.  
He encloses O'Rahilly's copy of a strictly confidential circular he is  
sending to each member of the Committee (5 April 1922, 1p) on foot  
of publication of the article in an English newspaper, concerning  
'whether each member of the Committee is not now at liberty to  
publish his views on the Constitution. I have consulted on this  
matter with the President of Dáil Éireann and with the Chairman of  
the Provisional Government. I am to inform you that no member of  
the Committee shall write articles expressing his views on the  
Constitution until such time as the Provisional Government shall  
have decided to publish the Constitution'.
- 2 items
- 29a                    6 April 1922                    Typescript letter from Darrell Figgis,  
Chairman, the Constitution Committee,  
Upper Merrion Street, Dublin, to O'Rahilly, enclosing 'a copy of the  
criticisms received from T. M. Healy for your examination'.  
It is now necessary to summon a meeting of the Committee to  
consider both Healy's criticisms and those of George O'Brien and he  
informs O'Rahilly of the arrangements.
- 1p

- 30            7 April 1922            Handwritten copy letter from  
O'Rahilly to the Chairman of the  
Constitution Committee. He is unable to attend the next day's  
meeting of the Committee as he is unable to incur any further  
expenses in relation to the work. He has additionally only the  
haziest notion of what is to be done or discussed at the meeting.  
'It is very surprising that the Provisional Government has sent us no  
communication; not even a copy of their letter to Mr George  
O'Brien, which seems to have contained a very important decision  
concerning their choice of Draft B.'  
He makes a fundamental distinction between the work on which  
they had been engaged as 'a preliminary advisory body to facilitate  
the decision of the only competent & sovereign assembly, namely, a  
popularly & specially elected Constituent Assembly', work which he  
considers to be finished; and issues which emerge from Healy's  
note, concerning the Government's publication as part of its  
election manifesto of its view of 'the possibilities of a really Irish  
Constitution being compatible with the Treaty. ... I submit therefore  
that Mr Healy's note raises an issue & presents a task not hitherto  
envisaged by our Committee. He is not "criticising" our work at all;  
he is suggesting an entirely new job'.  
2pp
- 31            20 April 1922            Typescript letter from R.J.P.  
Mortished, Constitution Committee,  
Upper Merrion Street, Dublin, to O'Rahilly, University College  
Cork, enclosing drafts of articles of the "C" Constitution and  
answering at some length criticism O'Rahilly had offered of the  
index to the three drafts made by Committee staff.  
'I think you will agree that it is always possible to find defects in any  
index however exhaustive, and this index was merely intended as a  
brief summary to facilitate cross reference'.  
The memorandum received from him has been copied and  
circulated to members of the Provisional Government.  
2pp
- 32            27 April 1922            Typescript letter from Darrell Figgis,  
Constitution Committee, Upper  
Merrion Street, Dublin, to O'Rahilly, University College Cork.  
'Thanks for your notes. The points you mention were with me all the  
time, but you will see the difficulty in which I was placed. When a  
meeting has been called in the ordinary way I have no right to treat  
the conclusions of those who assemble, if they form a quorum, other  
than the conclusions of the committee as a whole. I took care,  
personally, to inform both the Chairman of the Provisional

- 32 contd. Government and the President of Dáil Éireann that the signatories of "C" were not present at the meeting. It was clearly necessary that I should do this. But it was impossible to treat our meeting except as a meeting of the Committee and not as part of it. Nevertheless I tried, in the wording of the letter to indicate how the matter stood'.  
1p
- 33 22 May 1922 Typescript letter from R.J.P.  
Mortished, Constitution Committee,  
Upper Merrion Street, Dublin 2 to O'Rahilly, University College  
Cork. The Government has communicated with Mr Figgis as to the  
Executive provisions of the Constitution and a meeting of the  
Committee is to be held to consider the Government's response.  
1p
- 34 1922 Official published text of the *Draft  
Constitution of the Irish Free State to be  
submitted to the Provisional Parliament*. The text contains  
occasional marginal notation in O'Rahilly's hand.  
21pp
- 35 16 June 1922 Typescript copy of a letter from A.  
Berriedale Keith, Edinburgh  
University, to the editor of *The Times*, asserting that the Free State  
Constitution accords with the Anglo-Irish Treaty,  
'... for, like it, it recognises the sovereignty of the people of Ireland  
while leaving utterly vague the relations of Britain and Ireland'.  
He mentions five points that merit special notice: that nothing is  
decided as to the right of Ireland to secede from the Empire; that  
legislative power is vested in the Irish Parliament but Imperial  
legislative supremacy is not renounced – it will be necessary to  
confer 'sole and exclusive power' on the Irish Parliament; no power  
of disallowance of acts assented to by the Governor-General is  
reserved to the Crown, contrary to Dominion practice; the only  
safeguard for the observance of the Constitution will be the Irish  
Courts; and it must be made clear by Imperial Act that Irish  
legislative authority extends beyond territorial waters.  
Copy stamped Provisional Government Constitution Committee.  
2pp

- 36 [c.June 1922] Handwritten undated letter from James Hogan [Professor of History, University College Cork] to O'Rahilly concerning an aspect of the Constitution which he perceives as being 'dangerously defective'. 'I refer to the fact that a majority of the votes cast in a referendum is sufficient for a constitutional amendment. Surely it should be a majority of the electorate, since the positive assent of the electorate should be required for a change in the Constitution. Apathy is one thing but intimidation of one sort or another is the real danger against which it [is] necessary to guard. One can easily imagine circumstances in a moment of crisis in which it would be possible by moral pressure combined with open or covert intimidation to prevent or at least frighten off many people from voting, and in these circumstances a very small minority might make a mess of the Constitution. The simple solution is the correct one, a majority not of the vote cast but a majority of the electorate for a constitutional amendment to take effect. The alternative is wrong in principle and will be a temptation to intimidation'.
- 2pp

- 37 22 September 1922 Handwritten letter from L. deR. [Liam de Róiste] Grosvenor Hotel, Dublin, to O'Rahilly, generally supportive of his stance on the Constitution and critical of the Government on this and other matters such as the peace moves emanating from Cork. 'They refuse to give us copies of the draft Constitution that was taken to London. Blythe has gone so far as to say that Draft was not within the terms of the Treaty and he knew beforehand it would not be accepted by the British. There are 12 articles they are determined to push through (see *Independent* of today). My personal view is that at least half of these may be amended without danger of reverting to a war policy: that such amending will lead only to further negotiations (*sic*): as our negotiators are now in a stronger position than they were last May ... J.L. Fawsitt has just called in and tells me he has been superceded in his position in Economic Affairs office. This arose out of appointment of an old Castle official as Secretary to that Department. This is in keeping with a general attitude or policy of some Ministers here and is one of the matters I am most strongly opposed to'.
- 4pp



- 38 [c. September 1922] Handwritten letter from W. M. [William Magennis T.D.] to O'Rahilly concerning the Government's policy on the Constitution. 'Mr Johnson (Labour) conferred with me yesterday as to the advisability of moving to permit members of your Drafting Committee to address the Dail. We may do this, but steam-roller will crush us. ... The Provisional Govt. believes that unless this business is completed before Lloyd George goes out of office their situation becomes desparate. That is one factor. Another factor – highly operative – is the profound conceit of Minister O'Higgins. Between the honest dread of the Cabinet and this precocious youth's blind obstinate self-confidence, the Constitution. Will be completed in less time than a contract to build a row of artisans' dwellings'.
- 3pp
- 39 11 October 1922 Typescript letter from M.[icheál] MacDonnchadha, Acting Secretary to the Provisional Government, to Professor O'Rahilly, University College Cork, informing him, at the request of the President, that the work of the Constitution Committee should be formally terminated and placing on record 'the Government's high appreciation of the services which you and the other members of the Committee have rendered to the country in connection with the preparation of the Draft Constitution'.
- 1p
- 40 1922 Copy of the *Bille um Bun-reacht Shaorstáit Éireann mar do leasuigheadh ar Thuarasgabháil* (Constitution of Saorstát Éireann Bill as amended on Report). Copy is autographed 'With compliments. Liam de Roiste'.
- 20pp
- 41 5 December 1922 Copy of the Irish Free State Constitution Act [13 George 5] by which the Westminster Parliament ratified the Articles of Agree for a Treaty between Great Britain and Ireland and the Constitution of the Irish Free State, both of which are included as schedules to the Act
- 29pp



- 45            18 August 1922            Handwritten copy letter from  
O'Rahilly to M. MacDonnchadha,  
Gníomh-Rúnaí don Rialtas, pointing out that the editor of *Studies*  
had written spontaneously to O'Rahilly for 'an expression of my  
constitutional views. I naturally inferred that he had arranged  
matters with the Military Censorship at present being exercised by  
the Provisional Government. ... The other claims being put forward  
by the Provisional Government in your letter are not, and will not,  
be admitted by me'.  
  
1p
- 46            24 August 1922            O'Rahilly's copy of a typescript letter  
from Darrell Figgis, Constitution  
Committee, 16 Kildare Street, Dublin, to members of the  
Committee.  
'A member of the Committee has asked permission to publish in a  
leading magazine one of the Drafts submitted by this Committee to  
the Government. This request has been considered by the  
Government, which has decided that these Drafts, together with all  
documents of the Committee are confidential official documents  
which may not be published without the express permission of the  
Government. The Government has further decided not to consent to  
the release of such documents at the present moment, and I am  
desired to communicate this decision to you'.  
  
1p
- 47            25 August 1922            Typescript letter from M.  
MacDonnchadha, Gníomh-Rúnaí  
don Rialtas, to O'Rahilly acknowledging receipt of a letter from  
O'Rahilly and reiterating the position that 'the several draft  
Constitutions, and other documents connected therewith, were  
prepared at the request of the Government and cannot be published  
except by the Government or with its consent'.  
  
1p
- 48            2 September 1922            Handwritten copy letter from  
O'Rahilly to M. MacDonnchadha,  
Gníomh-Rúnaí don Rialtas, referring to his letter of 25 August and  
rejecting the view reiterated therein.  
'I have become aware of the Provisional Government's policy,  
namely, to force the published draft through the Constituent  
Assembly without any alteration whatever. As far as I am  
concerned, however, I assert my right to place my views before the  
members of the Constituent Assembly.

- 48 Contd. The Government has not the smallest proprietary claim over my draft – which they unanimously rejected without even a personal discussion with me such as they had with the signatories of the other drafts'.  
He points out that the Chairman of the Constitution Committee, a paid official of the Government has publicly criticised the Government Draft and highlights some of the lacunae that he himself sees.  
'As a matter of fact I am most anxious to refrain from mere criticism. I simply desire that my views as embodied in Draft C shall be before the Constituent Assembly. And if the Provisional Government do not give me a guarantee that they will not withhold this information from the Constituent Assembly, I intend to publish it myself'.  
2pp
- 49 9 September 1922 Typescript letter from M. MacDonnchadha, Gníomh-Rúnaí don Rialtas, to O'Rahilly, acknowledging receipt of his letter of 2 September concerning his intention to publish one of the draft Constitutions prepared at the request of the Government. Annotated by O'Rahilly, 'Received 3 Oct. 1922'.  
1p
- 50 14 October 1922 Handwritten letter from James A. Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly, concerning his proposal to publish Draft C of the Constitution.  
'I have been watching the fortunes of Draft A & B. It looks as if it now comes down to a choice between the English system and ours'.  
2pp
- 51 22 April 1936 Handwritten letter from James Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly, thanking him for a copy of his article in *Studies* which he will read carefully.  
'About mentioning my name you may be under a misconception. When I joined with you in your Draft of the Constitution the Government I understood did not want the drafts published while the Constitution was under consideration. I felt that we were bound to this but I think the time has long since passed when this consideration applies. If you felt that you should have any desire to publish your draft or parts of it I have no objection nor an objection to stating that I was a party to it. I alas move in that rarified atmosphere only suitable for the philosopher who has left all things behind'.  
2pp

- 52            4 May 1937            Handwritten letter from James Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly. He has no objection to being identified as the joint author of the Draft Constitution but wishes it to be made clear that the present publication of the draft is entirely O'Rahilly's initiative.'            2pp
- 53            3 May 1937            Typescript letter from Browne & Nolan Ltd., Nassau Street, Dublin, to O'Rahilly, University College Cork, expressing strong interest in a suggestion from O'Rahilly for a pamphlet. Since they have no experience of pamphlet publication, they suggest a joint arrangement with Easons.            1p
- 54            4 May 1937            Handwritten letter from Hugh P. Allen, 146 Grace Park Road, Dublin, to O'Rahilly, concerning his intention to publish a pamphlet, 'to extend beyond the scope of your newspaper articles'. He mentions some criticism of aspects of the draft Constitution, none of it worthwhile.  
 'The "President" is certainly a formidable person. Dev. However promised de facto a Republican Constitution which would not require the alteration of a comma when the time for unity and separation comes. I can't see how he could keep that promise without making the "President". It is going to be an expensive luxury, but since it is hardly a matter of principle is it wise for you to go out after the functionary's scalp with a tomahawk. I know, of course, that it is alleged that the "President" is a dictator in embryo'.            2pp
- 55            5 May 1937            Handwritten letter from James Murnaghan, 25 Upper Fitzwilliam Street, Dublin, to O'Rahilly, again concerning his intention to publish their Draft Constitution.  
 'Perhaps I should tell you what has come to my memory since. When you proposed publishing the draft you signed, Hugh Kennedy then Attorney General was very [wrath] and talked about the Official Secrets Act. I don't know how that stands but would you find out whether the Government as successors to the Provisional Government have any objections. ... Whatever you do you will have to make it clear that I am not in any way taking part because I think a publication at the present juncture would be politics and not history. I see you are writing for the press also'.            2pp

- 56            12 May 1937            Typescript letter marked personal  
from Arthur Cox, Arthur Cox & Co.,  
Solicitors, 42 St Stephen's Green, Dublin, to O'Rahilly, University  
College Cork, giving a legal opinion as to whether the publication of  
the Draft Constitution prepared by O'Rahilly and Judge Murnaghan  
would constitute a breach of the official Secrets Act. He examines  
the question as to whether O'Rahilly's membership of the  
Constitution Committee constituted an office under the Sovereign  
and reaches the conclusion that publication might technically be  
made the subject matter of a prosecution.  
'From the purely legal point of view of a Lawyer advising his client  
not to risk exposing himself to the possibility of annoyance, I would  
therefore, strongly think that it would be wiser not to publish the  
document unless permission were obtained, and, as I have said, I  
doubt very much that it would be wise to ask for permission, as one  
would know pretty certainly that if asked for, the permission would  
be refused'.
- 4pp
- 57            1937                            Handwritten text (60pp) and proofs  
(6 Galleys) of the introduction to  
Thoughts on the Constitution by O'Rahilly, mainly concerning the  
relationship between the 1922 Constitution and the Treaty and Mr  
de Valera's draft proposals for a new Constitution.
- 2 items

### iii. Notes

- 58            1921; 37                      Handwritten notes by O'Rahilly on  
aspects of the Irish Constitution and  
constitutional arrangements elsewhere. Some of the notes are more  
extensive, such as those on referenda (7pp), while others consist of  
nothing more than brief comments on specific topics such as  
finance and money bills. Some would appear to relate to the 1937  
Constitution with notes in another's hand on the definition of  
*Taoiseach* and *Tánaisteacht*.
- 23pp

**iv. Press Cuttings**

- 59           31 January-                   Cuttings from Irish and English  
               21 October 1922           newspapers concerning the  
                                       establishment and work of the  
 Constitution Committee. Includes letters from O'Rahilly and the  
 Darrell Figgis to the editor of the Irish Independent concerning  
 aspects of the draft Constitution and the progress of the  
 Committee's work; 2 parts of a series by Figgis from the same  
 newspaper, one on the Privy council as an Irish appellate court (27  
 June 1922); reports of reactions to the published draft Constitution  
 and 2 leaders from the Morning Post (16, 17 June 1922)  
 commenting on the draft, one referring to O'Rahilly's influence.  
   13 items

**C. Post-1922 Constitutional interests**

- 60           23 March 1932               Typescript letter from Conor A.  
                                       Maguire, Attorney General, to  
 O'Rahilly, University College Cork, referring to the 'constitutional  
 questions which have now reached a stage when they must be dealt  
 with as matters of practical politics ... It is particularly necessary  
 that I should give clear guidance if that is possible, on the strictly  
 legal position created by virtue of the Articles of Agreement for a  
 Treaty and the Statute of Westminster'. He refers to O'Rahilly's  
 expert knowledge as one who has given careful study to the  
 Constitutional developments of the Irish Free State, and requests  
 that he come to see him to give any help he can; or to 'summarise in  
 a memorandum your conclusions as to the question of the Oath and  
 as to the Constitutional position of the Irish Free State as defined by  
 the Statute of Westminster'.

2pp

- 61            11 May 1932            Handwritten letter from John J. Hearne [Legal Adviser, Department of External Affairs], 3 Temple Villas, Palmerston Road, Dublin to O'Rahilly. He had hoped to let him have the first installment of material for the *Kingdom of Ireland* before now but has been confined to bed with influenza. 'I shall be back at the office on tomorrow as I am in charge of the Oath Bill and I shall be able to get down at once to the preparation of material for you. I am not forgetting your desire to be lit while hot'.  
2pp
- 62            13 May 1932            Typescript letter from John J. Hearne, Department of External Affairs, to O'Rahilly, enclosing copies of the published Treaty Series [not present]. He discusses sending him documents for the *Kingdom of Ireland* project relating to conferences together with his own views of the legal questions raised by conferral of powers to negotiate and sign treaties and conventions. 'As regards the Secret Minutes of the "Imperial" Conferences of 1926 and 1930, and the Secret Minutes of the Conference of 1929, the President feels that they should not be taken out of this Department. They have never been seen by any person other than members of the Cabinet and the Attorney General for the time being. It will be necessary, therefore, for you to read those Minutes here; but that will be for later I presume. I hope in a day or two to be well again and to be able to keep you busy reading the basic documentation of the theory of the Kingdom of Ireland, or at any rate of the Kingdom of the Irish Free State'.  
2pp
- 63            27 March 1934            Typescript letter from Eamon de Valera, Department of the President, to O'Rahilly, University College Cork, returning the drafts of the Constitution [not present] which he had lent some time previously.  
1p



## D. The 1937 Constitution

- 64 [May 1937] Typescript letter from James Hogan  
[Professor of History, University College  
Cork], Tilebarn, Ardfoile, to O'Rahilly.
- 'I had intended to give you my criticisms of the Constitution but on going carefully over it find that they are very few. In many ways it seems to me a decided improvement on the last Constitution. It makes no bones about being the Constitution of a Catholic people, and in the present bad and mad world that is something to be thankful for'.
- He welcomes the provision for direct functional representation as opening the way 'towards the gradual articulation of a functionally organised economic life in the state'; but feels that the provision is weakened by the substitution of representatives elected by T.D.s for those elected by vocational groups.
- 'It is unfortunate that the Constitution should have used Éire instead of Ireland because of the ambiguities it creates. The whole world knows the meaning of Ireland but in the North and in England Éire will probably be taken to mean the present area of jurisdiction of the Saorstát. If this Constitution is meant to be a Constitution for the whole of Ireland and is meant to convey that meaning to people in the North and outside Ireland, then the term Ireland is preferable to Éire, and in fact the latter seems to me to be an evasion calculated to produce a false attitude towards a Constitution which purports *de jure* to deal with the whole of Ireland.
- The point has already been put to me and I think there is a great deal of truth in it that the Constitution contains one fundamental omission – it omits to state what Éire is, whether it is a Kingdom or a Republic or what it is ... What kind of state is Éire?
- In the absence of a Constitutional definition of this fundamental point the present Constitution is on a par with Hamlet without the Prince of Denmark'.

3pp

- 65a            May-June 1937            Handwritten letter from Michael Tierney, [Senator and Professor of Greek, University College Dublin], Kilnamona, Shankhill, County Dublin, to O'Rahilly, a hasty note to catch him before he has committed his views to paper (4 May 1937, 2pp).  
 'In general I don't think the Constitution too bad. Apart from de Valera's inevitable "Year 1" business, it is, as the Manchester Guardian says, a conservative instrument.  
 My own ideal being a tripartite division of functions (= King, Lords, and Commons) I am not at all opposed to the President. There may be room to argue about his election and powers (I don't think the latter large) but it sounds queer to me to have Cosgrave & Co. object to him on "democratic" grounds. I thought 1932-4 had given us enough "democracy" for a lifetime. What I should really like would be a system giving President & Senate power to block all legislation if agreed against Dáil. ...  
 My only two urgent objections are to Éire and the Taoiseach, both of which I think resemble the army's new Merry Widow dress uniforms. If he doesn't like Saorstát, why not Árd-Ríoghacht Éireann? If used, Éire will necessarily mean only the 26 counties'.  
 Copy of 'The new Constitution' by Professor Michael Tierney, from *Studies* (5 June 1937, 2pp).

2 items

### E. Original list of documents

- 66            1963            Typescript list headed 'Professor Alfred O'Rahilly Manuscripts. Correspondence relating to Free State Constitution: 1922'. Consists of a list of 49 letters, in no discernible order, giving the date, correspondent and the location from which the letter was sent. A marginal annotation indicates the place of each item in chronology. The originals of the documents included in the list were numbered in ink according to the list's original order. The list has been signed by its author, Jack F. Fallon.

2pp