

**TOWARDS A PHILOSOPHY FOR LEGISLATION IN GAELIC GAMES.**

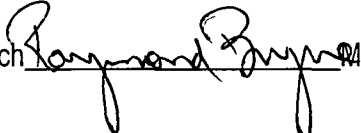
**BY**

**JOE LENNON**

A study of a philosophy for legislation in the games of football and hurling, and how this philosophy should improve the playing rules of these two national games


Thesis submitted to Dublin City University in fulfilment of the requirements for the degree of Doctor of Philosophy by Joe Lennon ST C , D L C P E , S C P E , M Sc

Dublin City University Business School, Ireland April 1999

Supervisor of Research  Mr Raymond Byrne B C L , L L M , B L

**CERTIFICATE OF AUTHENTICITY**

I hereby certify that this material, which I now submit for assessment on the programme of study leading to the award of the degree of Doctor of Philosophy is entirely my own work and has not been taken from the work of others save as to the extent that such work has been cited and acknowledged within the text of my work

SIGNED  ID No 93700636  
J F LENNON

Date 23 October 1999

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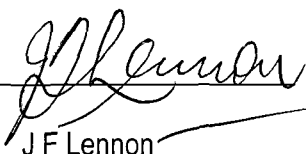
I wish to record my thanks to Sean Freyne, Professor of Theology, Trinity College, Dublin, and former intercounty footballer with Co Mayo for reading the early draft of the material, and for his advice

I acknowledge the assistance of many people in my search for the original sets of playing rules of football and hurling, and for the early sets of playing rules of other similar invasive ball games This assistance is acknowledged in detail in each of the two Appendices

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Signed  Date 23 October 1999  
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## Abstract

The thesis of this research project is to demonstrate the existence of an incipient philosophy for the playing rules of Gaelic games as examples of invasive body-contact games generally

This philosophy may assist those who make the rules of such games to formulate enhanced sets of playing rules. Improved sets of playing rules may enable the game to be more readily understood, played and controlled by match officials.

In turn, this will be of direct benefit to the cultivation and preservation of the games, and will assist compliance with this basic aim of the GAA.

Chapter One states the needs for and the limitations of the scope of this research. The history of the philosophy of sport is traced to show its novelty. The existence of a philosophy for legislation in games is asserted by examining the areas of knowledge or components of which it is comprised. Chapter Two examines games from a philosophical perspective, and then sets out the three sections into which all such sets of rules can be divided, before examining a *modus operandi* for rule formulation. Chapter Three illustrates the principles of play common to such games, then lists and examines the function of rules. The characteristics of rules are listed and examined in detail. It was shown that these characteristics which have much in common with Fuller's "principles of legality" facilitate formulation of user friendly rules. Chapter Four makes the case that a simple format of presentation enhances ease of learning. It traces the steps taken to develop a universal format, and evaluates this simple method of presentation. Chapter Five discusses the importance, impact and interaction between the law on the content and formulation of the playing rules of these games. This chapter pays particular attention to the tort of negligence with respect to games, and examines important parts of the network of the duty of care inherent in games and their rules. Chapter Six examines the past and present process of rule making in the GAA. Chapter Seven argues that a philosophy of legislation can produce enhanced playing rules.

After consideration of the foregoing, the playing rules for both games were redrafted by reference to three objective criteria: the rules must be (i) easy to read, (ii) easy to remember and (iii) easy to apply.

Appendix 1 is a collection of all available sets of playing rules for Gaelic football and hurling. Appendix 2 contains a comparative analysis of the rules of play from 1884 to 1999. This analysis identifies and assesses the philosophical contents of these rules.

This Appendix also comprises the early rules of other invasive body-contact games for comparative purposes.

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## **APPENDIX 1**

The Playing Rules of Football and Hurling 1884 - 1999

This is a separate volume published with permission prior to submission of the thesis It contains a collection of the early Playing Rules of Hurling and Hurley 1869 - 1889, the Playing Rules of Football and Hurling 1884 - 1999, the Composite Rules of the Hurling/Shinty Internationals 1933 - 1999, and the rules of hurling as played in Cornwall and Devon in the 16th and 17th centuries

## **APPENDIX 2**

Part 1 A Comparative Analysis of the Playing Rules of Football and Hurling 1884 - 1999

Part 2 A collection of the early Rules of Play of other similar football and ball and stick



games

This is a separate volume which contains a comparative analysis of the Playing Rules of Football and Hurling 1884 - 1999 contained in Appendix 1, and a collection of the early playing rules of other similar football and ball and stick games. The current Rules of Play of some of the above games are included for reference and comparison

### **List of abbreviations**

CLG	Cumann Luthchleas Gael
GAA	The Gaelic Athletic Association
O G	The Official Guide
C T	The Celtic Times
E H	The Evening Herald
E	The Examiner
F J	The Freeman's Journal
I F A	The Irish Football Annual
I I	The Irish Independent
I P	The Irish Press
I S	The Irish Sportsman
I T	The Irish Times
N W	The News of the World
O	The Observer
S H	The Saturday Herald
S C	The Southern Cross
S	The Sun
S I	The Sunday Independent
S P	The Sunday Press
S T	The Sunday Times
U I	The United Ireland

### **List of Legislation and other Official Publications**

The Brehon Laws Vol 1 Law of Distress

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Appendix 2 A Comparative Analysis of the Playing Rules of Football and Hurling  
1884 – 1999

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**Note.** Where publisher, date or place of publication was not available, the reference number of the publication in the National Library of Ireland is given in brackets after the title

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## **CHAPTER 1. INTRODUCTION**

### **1.1 OBJECTIVES OF THIS STUDY**

### **1.2 THE NEED FOR AND BENEFITS OF THIS STUDY**

### **1.3 LIMITATIONS OF THE STUDY AREA**

### **1.4 REVIEW OF THE ORIGINS OF THE PHILOSOPHY OF SPORT**

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## **SUMMARY**

## **CHAPTER 1. INTRODUCTION**

### **1.1 OBJECTIVES OF THIS STUDY.**

The principal objectives of this study may be summarised as follows

- 1 To determine if the legislation governing the playing rules of Gaelic football and hurling, as examples of competitive, body-contact invasive games may be regarded as a quodlibet
- 2 To produce a collection of the playing rules, and a comparative analysis of them, as databases for reference in this research
- 3 To examine and evaluate general areas of knowledge which can contribute to such a philosophy of legislation. In particular, to examine the presentation of the rules, the relationship between the law and the rules, and the process of legislation within the Gaelic Athletic Association ( Association or the GAA)
- 4 To examine critically the changes and proposals for change over the past three decades
- 5 To discuss why the current legislation needs to be upgraded and give examples of how this can be achieved
- 6 To redraft the entire legislation of the playing rules for Gaelic football and hurling in a way which reflects the contribution of the areas of knowledge or components of this incipient branch of philosophy

## 1.2 THE NEED FOR AND BENEFITS OF THIS STUDY

The principal needs for and benefits of this study include the following

- 1 To focus attention on the essential criteria upon which proposed changes to the playing rules should be based
- 2 To provide a simple format of presentation of the playing rules
- 3 To identify the functions and characteristics of playing rules and examine how these interface with the principles of play
- 4 To examine the relationship between the law and the rules
- 5 To argue the need for quality control and transparency in the process of legislation
- 6 To enable the legislators to identify changes which could result in structural change, degradation or mutation of the games
- 7 To provide sets of playing rules which are easy, to read, remember and apply, and have a single, clear meaning
- 8 To assemble a complete (as possible) collection of the Playing Rules for reference, reviews and identification of trends in policy
- 9 To provide a detailed analysis of the entire legislation to facilitate the assessment of any underlying philosophy of legislation

Rules are essential for the conduct of invasive, body-contact games such as football and hurling. The quality of the rules, or legislation, determines the quality of the game in terms of skill level required, the quality of onfield control by match officials, and the behaviour of players in terms of fair play.

Since the rules are central to the good of the game, the process of legislation is also of central importance. This process can be open and democratic, or closed in by democratic centralism which is not a benign system for rule formulation.

This philosophy of legislation is synthesised from a study of several areas whose combined influence provide a clearer overview of the games and their needs in terms of rules. It helps the legislators to understand the relationships which exist between the game and its rules, and focuses their attention on how the game depends on the rules for its identity and survival - even for its existence.

Since a simple format of presentation has been adopted, this study now seeks to provide the information required to ensure that changes to the playing rules reflect the principles

of play, the functions and characteristics of playing rules, the law of the land and a proper process of legislation. It demonstrates the outcome of this approach. As the twentieth century draws to a close when the Gaelic Athletic Association will be 116 years in existence, there is an urgent need to ensure that the basic aim of the Association<sup>1</sup> **to preserve and promote Gaelic games** is not frustrated by a policy which seeks to change so many of the rules of play of Gaelic football that it will be mutated into another game.

The appendices are databases for assessing the quality of past legislation, and identifying policies and trends which affect the games.

### 1.3 LIMITATIONS TO THE STUDY AREA

This study is confined to developing a pragmatic philosophy which may be useful to those who formulate the playing rules of Gaelic football and hurling, and to those who are in a position to decide which experimental rules should be included in the season prior to a Congress at which motions dealing with playing rules may be tabled as set out in Rule 77 (c) of the administrative rules.<sup>2</sup>

Although the 'National Games which the GAA shall promote and control' include Handball and Rounders<sup>3</sup> this study deals only with the invasive field games of football and hurling.

Any conclusions reached in this study on the philosophy of legislation for Gaelic games should apply to camogie, an invasive game adapted from hurling, and ladies Gaelic football. The playing rules of these games for ladies are similar to the male counterparts. Some of the broader aspects of this study and some of the conclusions reached herein may be of interest to or useful to those who formulate the playing rules of other invasive games but no claim is made in this regard for this study.

This study does not deal with the administrative rules of the GAA which are now contained in Part 1<sup>4</sup> of the Official Guide except when discussion of playing rules

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<sup>1</sup> The Official Guide (O G) contains the Rules of the Association. Part 1 contains administrative rules, while Part 2 contains the playing rules. In O G 1998 p 4 Rule 3 states **National Games**, *The Association shall promote and control the national games of Hurling, Gaelic Football, Handball and Rounders, and such other games, as may be sanctioned and approved by Annual Congress*.

<sup>2</sup> O G Part 1 1995 GAA Dublin Rule 77 (c)

<sup>3</sup> *Ibid* Rule 3

<sup>4</sup> *we f* 1 January 1991 for the first time

requires some reference to the rules of administration

Finally, it is made clear that this study is the first tentative step towards a philosophy of legislation

#### 1.4 REVIEW OF ORIGINS OF PHILOSOPHY OF SPORT

The philosophy of sport is a comparatively recent area of study. Some explanation for the late arrival of sport on the forum of philosophic debate is necessary.

Games and sports probably existed from the dawn of time, thus not only predating civilisation but also playing an important role in its evolutionary process.

The two great passions of the ancient Greeks which epitomised Hellenic culture were drama and 'sport'.<sup>5</sup> Evidence of this can be seen in the ruins of theatres and stadia usually built side by side in the cities of ancient Greece.<sup>6</sup> Considering that the use of the theatres was generally confined to a few important festival days, and that 'sport' was an integral part of the daily lives of ancient Greeks, it is surprising that so much more has been written about the former than the latter.

Evidence that the Greek thinkers ever dealt extensively with the origin, function and nature of sport is rare. For Plato, the significance of sport or physical education is limited to its extrinsic contributions to teaching and military affairs.

This lacuna in the reflections of Plato was not filled by the father of western philosophy, Aristotle. For while he

[w]rote brilliantly and extensively on logic, physics, biology, psychology, economics, politics, ethics, art, metaphysics, and rhetoric, he says hardly a word about either history or religion, and nothing at all about sport.<sup>7</sup>

#### The Brehon Laws.<sup>8</sup>

The first judgement by a Brehon lawgiver was with respect to the Law of Distress.<sup>9</sup> References to sport and games in the Brehon Laws are rare and confusing because what was then thought of as 'sport' would not merit inclusion today.

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<sup>5</sup>The activities pursued in the stadia were invariably competitive (agonistic) hence most, but not all, would fit with the writer's view of sport. See chapter 3.

<sup>6</sup>An example is the ruins of the city of Sicyon near Corinth.

<sup>7</sup>Weiss P. Sport: A Philosophic Enquiry. Southern Illinois University Press, Carbondale, 1969, p. 5.

<sup>8</sup>Selected documents and writings of the Ancient Laws are contained in five volumes and a glossary in the Library of University College, Galway.

<sup>9</sup>Vol. I and part of Vol. II of Brehon Laws deal with the Laws of Distress.



For example, **Foul Play** is defined as follows

Idle shouting means the doing of it for the purpose of sport, and it is not sport with respect to pigs, and if it were it should be considered as idleness of foul play, and there would be a full fine for it <sup>10</sup>

This appears to have been loud shouting intended to frighten animals

'Fair Play' and 'Foul Play' are referred to regularly in the Book of Aicill<sup>11</sup> as misbehaviour which attracted a fine

The exceptions to the regulations regarding the imposition of fines reveal more about sport and games than any other legislation in the Brehon Laws. Thus the exemption (of a fine) as regards the ball being hurled on the Green<sup>12</sup> of a Chief 'cathair' - fort

That is, the person is exempt who nobly strikes off the ball upon the green of the chief 'cathair' - fort, and this is an order that one might not be sued for going upon a green, or playing a game upon it, it is not right that one should be sued for it, "every green is free" <sup>13</sup>

While this could be taken to mean that hurling enjoyed a special place in the games then played, it cannot be construed that this exemption was exclusive to hurling

More interesting is the inclusion of a reference to lawful sports in the schedule of '*sheddings of blood*'<sup>14</sup> which 'do not deserve fines or sick -maintenance' <sup>15</sup> This was listed as that blood "Shed by a boy in lawful sports" <sup>16</sup> Significantly the law made provision for

The blood shed by boys in regulations referring to their games, i.e. the blood which little boys shed **within the rule of the game**<sup>17</sup> (emphasis added)

The Heptad goes on to state that

Little boys are safe in all the rights of lawful sports, until they have come to *the age of having* to pay damage of 'dire' for violence, their 'fian' - games<sup>18</sup> are safe till the

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<sup>10</sup>Brehon Laws Vol II p 251

<sup>11</sup>Brehon Laws Vol III Customary Law and The Book of Aicill

<sup>12</sup>A green is the four fields nearest the residence, a field on every side around it including a mountain if nearest the house

<sup>13</sup>*Ibid* Vol III p 253

<sup>14</sup>Brehon Laws Vol V Heptad V I P 143 see 1 to 7

<sup>15</sup>Sick-maintenance was paid to the Plaintiff by the Defendant who injured him

<sup>16</sup>*Ibid*

<sup>17</sup>*Ibid* p 151 Emphasis added

<sup>18</sup>The word *fian* - *cluchi* is rendered in SM III 182,1 as "*rule of fair-play*", so also in 192,20, 252,6 But as

same period, but after they have to pay compensation for their violence<sup>19</sup>

The Brehon Laws reflect a very caring attitude for those injured in games, and provided for the injured to receive compensation while sick, or for the dependants (presumably), to receive compensation if death ensued. Thus they anticipated the notion that 'the laws of the land do not stop at the touchline'<sup>20</sup>

### **Patristic and Medieval periods.**

One of the most interesting Greek philosophers of this period was Galen c 129 AD, a 'student of medicine and in his younger days a physician for the gladiators in the city of Pergamon in Asia Minor'<sup>21</sup>

He wrote in great detail about the functions of small ball games and exercises in producing physical, mental and spiritual health and ease, and how the tactics developed in small ball games were beneficial to the military.<sup>22</sup> Unfortunately, he did not deal with the rules of these games. His philosophy of sport centres on the therapeutic value of these games unlike other sports which required wealth and leisure.

### **Renaissance period.**

The Renaissance period saw the re-emergence of philosophy, and schools of philosophers emerged such as the continental rationalists - Descartes, Leibniz and Spinoza, and later the British empiricists - Locke, Berkeley and Hume. However, according to Osterhoudt<sup>23</sup>, none of these had anything to say about sport.

It was not until Jean Jacques Rousseau's views on education in general, and physical education in particular as detailed in *Emile*<sup>24</sup> that sport entered philosophical discourse and made its mark there.

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this meaning would not apparently suit in 252,4, it is rendered *foul-play*<sup>19</sup>

<sup>19</sup> *ibid*

<sup>20</sup> Grayson E. *Sport and the Law*. Second ed. Butterworths and Co (Pub) Ltd. London 1994. Extended treatment of this assertion is contained in Chapter 5, below.

<sup>21</sup> Sweet W E. *Sport And Recreation In Ancient Greece*. Oxford University Press Inc. 1987 p 96.

<sup>22</sup> *ibid* p 98 "for it is the duty of good generals to attack at the right time, to escape when attacked, to seize an opportunity at once, to turn the tables in adverse circumstances, whether attacked directly or set upon unexpectedly, and to hold what has been won. To put it in a word, a general must be a guard, and a clever thief, and this is the sum total of his art."

<sup>23</sup> Osterhoudt R G. *The Philosophy of Sport: An Overview*. Champaign, Illinois 1991.

<sup>24</sup> Rousseau J J. *Emile* (Trans. Barbara Foxl) Dent, London, 1974.

Rousseau's advocacy of vigorous activity and his emphasis on the need to educate and develop harmoniously the mind and the body was to mark a watershed in the history of the philosophy for it signalled clearly that sport was a quodlibet

### **The nineteenth century.**

Osterhoudt points out that although German philosophers such as Fichte, Schelling, and Schleiermacher were contemporaries of Hegel and led the world in philosophic discourse for the greater part of the early nineteenth century, only Hegel dealt with sport. He recognised sport's potential to contribute to the aesthetic, the spiritual, the sensuous and the artistic, and can be credited with opening the debate that sport could be regarded as art.

The thoughts of Karl Marx (1818-1883) on sport have been the subject of many comments by modern philosophers such as Osterhoudt in *The Philosophical Ground of Modern Socialist Sport*<sup>25</sup>, Brohm in *Sport - A Prison of Measured Time*<sup>26</sup>, Rigauer in *Sport and Work* and Wohl *Competitive Sport and its Social Functions*<sup>27</sup>.

Although the value, uses and function of sport in society had found a niche in philosophy, an examination of the origin and nature of sport was still some way off. The sporting interests and activities of "the common man" were largely ignored by philosophers until the second half of the twentieth century.

### **Twentieth Century.**

Robert Osterhoudt suggests that the philosophy of sport as a formal subject can be traced through three discernable stages - the primitive beginning in the early 1920's, the formative in the early 1960's and the creative period in the late 1960's<sup>28</sup>.

While crediting Slusher with making the most important contribution to opening the creative period, he lists what he considers as the five most important books in this developmental process of the philosophy of sport<sup>29</sup>.

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<sup>25</sup> In Quest Vol. 37, No 1 (1985)

<sup>26</sup> Brohm J-M *SPORT - A Prison of Measured Time* Christian Bourgois Ed Paris 1976

<sup>27</sup> Osterhoudt R G *The Philosophy of Sport An Overview* Champaign Illinois 1991 ps 267, 268

<sup>28</sup> *ibid* p 18

<sup>29</sup> Huizinga J *Homo Ludens* Beacon Press, Boston 1950

Herrigel E *Zen In The Art Of Archery* R F C Hull (trans) Random House, New York 1971

Slusher H S *Man, Sport And Existence A Critical Analysis* Lea and Febiger, Philadelphia 1967

In reference to Huizinga's *Homo Ludens*, published in 1950, Drew Hyland wrote

This is perhaps the single book that legitimised sport as a serious intellectual enterprise <sup>30</sup>

The philosophy of sport has thus only really emerged in the last 50 years

## 1.5 GAMES IN THE CONTEXT OF THE PHILOSOPHY OF SPORT

Mary Warnock has argued that '[p]hilosophy is a seamless garment. It does not readily lend itself to being split into bits' <sup>31</sup> While she would make an exception for formal logic, she wrote that

I very much deplore the growth of specialist departments (such as departments of the philosophy of religion and of medical ethics). For such subjects, interesting and respectable enough in themselves, are essentially parasitic on the totality of philosophy, and cannot flourish in the absence of their host <sup>32</sup>

She goes on to state that 'Philosophy is not in the business of providing the solution to problems' and reaffirms the view that

There are those who remain firm in their conviction that philosophy must remain in the realm of abstract theorising, without direct attention to practical endeavours <sup>33</sup>

The writer's view, by contrast, is that a philosophy of sport or of the legislation in games can flourish within the framework of the "host". There is no reason why it should not be functional. The writer agrees with Vanderzwaag who wrote

There is probably no field of inquiry more elusive than philosophy. From one standpoint, philosophers are better understood for what they do not do than for what they do. The subject becomes particularly confusing when one moves over to what might be called "applied philosophy," such as suggested by investigations into the philosophy of art, philosophy of music, philosophy of education, and philosophy of sport. These investigations are somehow or other based on the assumption that "philosophy bakes bread." There are those who would argue that philosophy bakes no bread. We must take the contrary view, or we would not proceed with an analysis of the nature of sport <sup>34</sup>

Drew Hyland noted that

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Metheny E. *Movement And Meaning* McGraw Hill, New York 1968

Weiss P. *Sport, A Philosophic Enquiry* Southern Illinois University Press, Carbondale 1969

<sup>30</sup> Hyland D. *Philosophy of Sport* Paragon House 1990 p vii

<sup>31</sup> M. Warnock. *Lecture on Uses of Philosophy* in *Philosophy of Education* Blackwell, Oxford 1992 p 2

<sup>32</sup> *ibid* p 3

<sup>33</sup> *ibid* p 4

<sup>34</sup> Vanderzwaag H J. *Towards a Philosophy of Sport* Addison Wesley Pub. Co. Reading, Mass 1972 p 7

Many new currents of philosophic thought have emerged over the past fifteen years - the rise of cognitive science, for example, or feminist philosophy went unnoticed in undergraduate philosophy courses until the end of the 1980's. Clearly, then, the philosophy of sport as a formal philosophic discipline is one of the most recent 'movements' in philosophy" <sup>35</sup>

The writer agrees with Hyland's explanation for the late arrival of a philosophy in the study of sport

There seems to be a longstanding prejudice that however popular a phenomenon sport may be, however widely its influence may permeate our culture, it is simply not 'serious' enough to be a legitimate subject in intellectual enquiry. That certainly has been one of the long standing prejudices of professional philosophy <sup>36</sup>

He also argued that

There is a long tradition that calls on the academy, as one of its central tasks, to reflect on and analyse social phenomena that play an important role in a given culture <sup>37</sup>

The writer agrees with this tradition rather than the view expressed by Warnock. Applied philosophy can analyse and solve problems in the legislation for sport

The pragmatic philosophers Charles Sanders Pierce and William James subscribed to the view that

Philosophy is principally an analytic process of clarifying ideas and making them thereby useful in getting from various parts of one experience to various other parts. The test of knowledge by this view, is the expediency or utility of its practical consequences in life, its problem solving capacity <sup>38</sup>

These are the reasons for trying 'to assemble' a philosophy for legislation in the area of the playing rules - football and hurling in this case. By clarifying each of the major areas of knowledge essential for legislation, then examining the interrelationships which exist between these areas, it is the objective of this research to demonstrate that there is a better way of producing the legislation which regulates the play in games. This will facilitate the preservation of the games as cultural icons.

A philosophy of legislation for the playing rules of our national games should be based

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<sup>35</sup> Hyland D. *opus cit* p 1

<sup>36</sup> *ibid* p 1

<sup>37</sup> *ibid* p1

on a detailed study of interrelated areas each of which contribute to an integrated and coherent body of knowledge. This should enable those who make, amend and rescind our playing rules feel confident in their ability to recognise, eliminate and avoid repetition of mistakes. They may thus formulate rules which, as well as being technically sound, are easy to read, remember and apply. Such a philosophy of legislation may also contribute to the happiness of those who play, watch and administer our games. In that respect it might meet a need identified by John Dewey, who contended

[T]he culmination of human experience and happiness is found in an aesthetic refinement of ordinary experience, and that such refinement and intensification entail bringing order and harmony to otherwise disordered experience, the aesthetic (which pervades all integral features of life lived authentically) resolves the fragmented and suspended aspects of experience and thereby enhances the experience of living'<sup>39</sup>

Therefore it would appear that a philosophy for legislation in the playing rules of games is a worthwhile area of study which should be researched.

## 1.6 METHODOLOGY USED IN THIS STUDY

In addition to a brief review of the philosophy of sport, eight areas of study are examined. Each has a significant contribution to make to a philosophy of legislation. These are -

- (i) The record of legislation as contained in the playing rules
- (ii) Comparative analysis of the playing rules
- (iii) The relationship between games and rules
- (iv) The format of presentation of the legislation
- (v) The Functions of the Playing Rules
- (vi) The Characteristics of the Playing Rules
- (vii) The law and the legislation dealing with the playing rules
- (viii) The process of legislation

The contribution of each of these areas to a philosophy is assessed. This research began by considering fundamental questions such as

"Why were playing rules necessary in the first place?"

"What other reasons precipitated the formulation of the playing rules?"

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<sup>38</sup>Ousterhoudt R G *opus cit* ps 302,303

<sup>39</sup>*ibid* p 304

"What functions do the playing rules fulfil?"

"What functions should the playing rules fulfil?"

"Are these functions universally applicable?"

"Is there a finite list of functions for each and for all games?"

After considering these and similar questions, a list of the functions of the playing rules was generated

It was also clear from the outset that the list of characteristics was both short and finite

The same process of enquiry was applied

The list was generated by reflecting initially on such questions as

- What is a good rule? and What is a bad rule?
- How does one differentiate between a 'good' rule and 'bad' rule in terms of the presentation and statement of the rule as well as the content and intent of the rule?

and then identifying the essential characteristics by considering -

- How many rules are needed?
- Is there a definite number of rules - no more or no less?
- What can be said about the statement of the rule?

Is there a relationship between the statement and application of a rule? and

- How do the characteristics affect the formulation of the legislation?

The functions and characteristics were compared and contrasted with what was to be found in the writings of philosophers of sport<sup>40</sup> and law<sup>41</sup> The Principles of Play is a list of ten principles which the writer generated while researching for his publication *Fitness for Gaelic Football*<sup>42</sup> A principle of play is something which enables one to understand how and why games are won and lost

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<sup>40</sup> These include amongst others D'Agostino, Fraleigh, Harris, Huizinga, Kretchmar, Meier, McIntosh, Postow, Simon, Suits, Osterhoudt and Weiss

<sup>41</sup> This list includes Dworkin, Fuller, Hart, Simmonds and Stein

<sup>42</sup> Lennon J *Fitness for Gaelic Football* Alba House, Dublin 1969 p 89 et seq

## 1.7 DIFFICULTIES ENCOUNTERED.

The record of the rules of the Association passed since 1884 was seen as an important database for this study. There was no complete, or even near complete, record of the rules in existence. Therefore, the collection of all the sets of rules was essential to the study. Appendix 1 is the result of this part of the research, and is the most complete record of the playing rules in existence. Two further sets of rules came to hand since the publication of Appendix 1, and these are included in Appendix 2 Part 2.

The Director General of the Association made available all sets of the playing rules in his possession, and the GAA museum in Thurles provided some others. Some sets of rules were found in The National Library, in Pearse Street Library, in old Irish newspapers, second hand bookshops, from old officials of the Association and by direct requests to possible owners of old Official Guides. One set of rules for hurling was located in an edition of a paper still published in Buenos Aires, *The Southern Cross* of 17 August, 1900 when it was learned that hurling was once played in Argentina.

The custom of publishing editions of the playing rules frequently does not fully explain why a complete collection of the published rules (at least) was not kept and maintained. It is clear that these rules were not always accorded the importance due to them. GAA writers and journalists often only recorded the changes made at certain Conventions (early Congresses) or, indeed, only recorded what they considered to be the most important or controversial changes made at the time.

For many years, the Association adopted the habit of issuing rule amendments printed on adhesive strips which were stuck over the existing text of the legislation they superseded. This does not indicate a high regard for the legislative process.

Relatively few copies of the Official Guide of the Association, containing the administrative and playing rules in one volume, were printed and sold apart from those distributed to clubs, and clubs were unlikely to keep a complete record of past Official Guides.

Official Guides were not published on a regular basis. They were usually published in the year after playing rule changes were made. Hence, for the purposes of this study, the playing rules for some years when Congress did make changes had to be synthesised.



from the previous Official Guide and a copy of the changes made<sup>43</sup> However, when about 90 sets and partial sets of rules had been collected, it was decided that this was sufficient for the purpose of this study

Without this collection of the playing rules, it would not have been possible to attempt a meaningful comparative analysis and hence ascertain what philosophy or what strands of philosophic thought was evident in these rules The comparative analysis is contained in Part 1 of Appendix 2

Part 2 of Appendix 2 contains a collection of the early playing rules of other similar football and ball and stick games It was thought that this data would be useful in ascertaining what was happening in other games around the world These early rules of other games came from searches made around the world - from America to Argentina to Australia, Canada, and especially to Scotland where so much very useful material for comparative study was located

The absence of a complete record of the playing rules and the scarcity of old Official Guides suggests that those who were involved in the legislative process did not have the information required for reaching meaningful results Indeed, in 1903, most of the motions proposed at Convention were found to be unnecessary because previous editions of the Official Guide had suddenly come to hand

As is explained in the preface to Appendix 1, it is not claimed that the collection of the playing rules and the comparative analysis constitutes a history of the playing rules However, it is argued that all the historical facts which emerge from these two pieces of research are both sufficient for and essential for the formulation of that part of a philosophy of legislation which demands a knowledge of what has gone before

Another difficulty was that from enquiries made to the Director, Journal Division of the *Journal of the Philosophy of Sport*, and from the two editors of this Journal, they did not know of anyone working in or researching the philosophy of legislation for games<sup>44</sup> Dr Tony Collins, Archivist to The Rugby League, confirmed this view

This meant that it was necessary to search the literature on the parent area of this proposed philosophy, the philosophy of sport, for references which might prove useful in proposing the thesis in this study

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<sup>43</sup> See Appendix 1 ps 342 and 358 for the rules of 1980 and 1981

<sup>44</sup> Correspondence on file

## **SUMMARY**

The importance of and contribution of the functions and characteristics of the rules to the philosophy of legislation can be summed up by saying that if we do not know exactly what the rules are for or what a good set of rules should look like then the chances of either making or having good rules become fortuitous rather than planned

Since the Philosophy of Sport is generally acknowledged to have found a niche in philosophic endeavours only in the second half of this century, and since it would appear that no philosophers have yet considered whether there could be such a thing as a philosophy of legislation (for playing rules) for contact sports, the writer is very much aware of the fact that he is sailing into uncharted waters

However, since sport is now an established area of philosophic enquiry, the writer suggests that something as important as the legislation which attempts to guide and control the behaviour of those engaged in competitive, invasive, body-contact games cannot for too long escape the attentions of philosophers of sport

## **CHAPTER 2. WHAT IS A GAME AND WHAT IS A RULE?**

### **2.0 WHAT IS A GAME?**

#### **2.1 THE FIRST GAA GAMES OF FOOTBALL AND HURLING DEFINED BY REFERENCE TO RULES.**

#### **2.2 PHILOSOPHICAL CONSIDERATION OF THE RULES**

#### **2.3 THE THREE TYPES OF RULES IN THE PLAYING RULES**

##### **2.3.1 The Rules of Specification**

##### **2.3.2 The Rules of Control**

##### **2.3.3 The Rules of Play**

#### **2.4 PRACTICAL PHILOSOPHY OF RULES AS LEGISLATION**

##### **2.4.1 The two basic approaches to playing rule formulation**

##### **2.4.2 The directive-punitive method of rule formulation**

##### **2.4.3 The developmental-punitive method of rule formulation**

##### **2.4.4 General consideration and particular application of penalties**

### **SUMMARY**

## **CHAPTER 2. WHAT IS A GAME AND WHAT IS A RULE?**

### **2.0 WHAT IS A GAME?**

When Gardiner asked 'Where are the lines to be drawn between sport, games, recreation, work and play?'<sup>1</sup> he quoted a number of definitions of sport suggested by various writers. However, these only served to illustrate the divergence of opinions on the definitions. None of these writers has identified the essential nature of sport.

Sweet claims that it is not always possible 'to distinguish between "sport" and "recreation" and is content to use the loose definitions of Kyle who stresses that 'sport is competitive and recreation is not'.

"Sport" is a non-ancient and vague term at best. "Athletics" usually suggests serious competition, training, prizes, and the goal of victory. "Physical education"

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<sup>1</sup> Sport and Law Journal Vol 4 Issue 2 1996 p 31

Denis Howell, a long serving British Minister for Sport suggested that sport defies definition. *ibid* Howard wrote 'Basically sport, like religion defies definition. In a manner, it goes beyond definitive terminology. Neither has substance which can be identified. In a sense, both sport and religion are beyond essence.' Howard S. Men, Sport and Existence. A Critical Analysis. Lee and Febiger, Philadelphia 1967.

implies instruction and exercise of the body "Recreation" or "leisure" applies to non-work, relaxation and rejuvenation with pleasure or fun as goal "Sport" is used as a general rubric for all these areas as hunting, dance, and even board games Herein "sport" generally will refer to public, physical activities especially those with competitive elements, pursued for victory, pleasure, or the demonstration of excellence <sup>2</sup>

As 'definitions' of key terminology this is less than helpful

It is the writer's view that the essential essence of sport is competition If an activity is not competitive, it cannot be regarded as sport

Other activities like work can be characterised as competitive However, although competitiveness may be essential to get work, it is not essential for all work Not all those activities which we call games are competitive for some require neither opposition, scores, results or winners On the contrary, invasive, body-contact games like football and hurling require all these things, and are rightly regarded as sport

As Bond wrote 'The whole predicament is that sport, like life, has an uncomfortable way of coming up with winners and losers' <sup>3</sup>

The writer agrees with Keating that there is an urgent need for definitions and distinctions

The language of sport is needlessly obscure and unduly inclined to paradox The vague, the ambiguous, the equivocal are omnipresent As a result, serious terminological problems have developed, diverting the attention from the more important substantive issues, both practical and theoretical Basic terms such as "play", "game", "sport" have been extended by common usage to the point of meaningless Thus there is a need for a more imaginative use of the arts of functional definition and distinction <sup>4</sup>

There may be different ways of defining sport and games Definitions may emerge from a philosophical consideration of the activities, or may emerge from an analysis of the 'anatomy' of the activity

A study of the playing rules may lead to a functional definition of a game, and on to a definition of games generally So what is a game?

There is no society known to man which does not have games of the sort in which individuals set up purely artificial obstacles and get satisfaction from overcoming

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<sup>2</sup>Kyle D *Direction in Ancient Sport History* Journal of Sport History 10, No 1 1983

<sup>3</sup>Alan Bond *NO SPORTING CHANCE* The Observer 16 March, 1986 p 44

<sup>4</sup>Keating J *The Urgent Need for Definition and Distinction* Physical Education March 1971 Vol 28 ps 41,42

them<sup>5</sup>

This question of 'what is a game', is seldom, if ever, asked or answered here in Ireland where the great majority of games, and Gaelic games in particular, are simply taken for granted

Games are variously described as great, good or bad, as rough, dirty or dangerous, as national, compromise or international, as art when Liam Griffin, manager of the 1996 Hurling Champions, Wexford, described hurling as *The River Dance of Irish Sport*<sup>6</sup>

### **A Game as art?**

There are some features of competitive games which could be claimed to keep games outside the realm of art, and there is considerable debate amongst philosophers of sport as to whether sport generally, and games in particular, is art

The writer would not be in full agreement with Best who wrote 'Whereas sport can be the subject of art, art cannot be the subject of sport'<sup>7</sup> Keipfer does not agree with Best either for he stated that

Not only the qualitative judged sports (gymnastics, dance, dressage) but also the competitive sports contain essential aesthetic components. The dramatic possibilities and qualities inherent to purposive sports, due to necessary social interaction and opposition, and final resolution and at time culminating in a 'great moment' long remembered in the consciousness of sports fans, makes these activities eligible for aesthetic attention and serious axiological inquiry<sup>8</sup>

This raises the question as to whether the performer should be conscious or even dedicated to the production of art for the subject matter to be seriously regarded as art. The painter, the poet, the musician is much more likely to be conscious of (indeed striving for) a work of art than the footballer or hurler who is striving to win or for damage limitation in a game which cannot be won. Since winning is the objective, and getting the ball into the net within the rules is counted as a score worth three points no matter how fortunate or clumsy the effort, the quality of such a score is more often regarded as a bonus than a work of art.

Other arguments against regarding sport as art include the concern for skilled

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<sup>5</sup> Fredrickson P S *Sports and the Culture of Man* Science of Medicine and Exercise of Sports Ed Warren Russell Johnson, New York 1960 p 634

<sup>6</sup> In an interview with Brian Carty on Sunday Sport, 14 July 1996 after the Leinster Hurling Final

<sup>7</sup> Weiss P *Opus cit* p 449

<sup>8</sup> *ibid*

performances or technical efficiency which occludes those ingredients essential to art such as form, style and grace. Furthermore, the competitiveness of games occludes the aim of beauty in art, and, even if one of the aims of games is beauty, games are not making any important statement about the human condition.

### **A Game defined by reference to rules?**

Onard<sup>9</sup> has shown that by changing just two of the playing rules of Rugby League - the forward pass and the five yard line rule - the game of American Football was born. There is little resemblance now between what is seen in the Super Bowl and in Twickenham or Bradford.

The visual characteristics of games like football, hurling, soccer or rugby are established by what the rules permit the players to do with the ball as well as how they require the players to behave. Conduct which is permissible, even required or demanded, in one game would not be tolerated in another. The skills are specified by the rules, and the game is at least the sum of its rules.

From this it is argued that the game is defined by its rules, and is its rules as expressed by its skills and player behaviour.

It is fair to comment that the most important statement which games make - as far as the spectators are concerned - is the superiority of one, and generally one's own, team over the other. A minority of spectators would seek and only find real satisfaction in the quality of the play. The majority could be regarded as 'the aficionados' and the minority 'the cognoscenti' amongst the followers of games.

Just occasionally one encounters the remark that 'it isn't a game at all' by someone who is disenchanted by his association with or perceptions of a game over a period of time. In making such a remark about games, the disenchanted person is making an important philosophical statement about games. For what he is really saying is that *in the absence of adherence to or application of the rules, a game ceases to be a game*.

However, although this remark does not define what a game is, it is one useful starting point in a search for a definition of a game.

Another starting point could be an analysis of what the inventor of a game visualised and

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<sup>9</sup> Onard M. *Reading Football: How the Popular Press Created an American Spectacle*. University of North

proposed that it should be

## 2.1 THE FIRST GAA GAMES OF FOOTBALL AND HURLING DEFINED BY REFERENCE TO RULES.

### Games defined by the founding fathers

When Michael Cusack, Maurice Davin, P J Nally and other founder members of the GAA had decided that football and hurling as well as athletics and wrestling should be included in the activities of the new athletic association, one of the first tasks they undertook was to draft sets of rules for each game. These sets of rules were adopted at the second convention of the GAA in Cork in December 1884 within two months of the foundation of the Association.

Since football and hurling had been played in Ireland for many hundreds, perhaps thousands<sup>10</sup> of years before 1884, without, it would appear, any written rules,<sup>11</sup> why the urgency for rules then so soon after 1 November, 1884? The reasons would seem to include the following

Davin had written that ' *I may say there are no rules and therefore the games are often dangerous* ' <sup>12</sup>

It is safe to assume that Davin related the absence of rules to the danger in the games, and an important part of his intention in writing rules was to reduce or eliminate as much of this element of danger from the games as possible<sup>13</sup>. In doing this, he recognised that it is a function of the playing rules to provide for the safety of the players. This indicates a philosophical approach to the earliest legislation.

Cusack had been involved in writing the playing rules of hurling for the Dublin Hurling

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Carolina, 1993

<sup>10</sup> See O'Maolfabhail A. *CAMAN 2,000 Years of Hurling in Ireland* Dundalgan Press (W Tempest) Ltd, Dundalk, 1973 and

Peabody Magoun F. *History of Football from the Beginnings to 1871* Bochum-Langerdreer, Verlag, Heinrich, Poppinghaus O H C 1938

<sup>11</sup> O'Laoid reports that Purseall claims that the Killimor Rules were in existence from as early as 1869. However, they were not adopted by the committee of the Killimor Hurling Club until 22 February 1885. See *Annals of the G A A in Galway 1884-1901* by Padraig O'Laoid pp 10-12. There is no good proof of the exact date of their origin.

<sup>12</sup> Letter to *THE UNITED IRELAND* 13 October 1884 - less than three weeks before the foundation of the GAA.

<sup>13</sup> See Appendix 2 p 630

Club the previous year <sup>14</sup>

Other associations which had been formed many years earlier had published sets of rules for their games <sup>15</sup>

The founding fathers knew that without rules for each game, several forms of each game would persist, and they wanted to ensure that the new association catered for just one form of each game <sup>16</sup>

They were determined that their games should be essentially and recognisably different from all other football and ball and stick games of the time

They knew that once they had rules, the Association could require all clubs and their players to conform to them<sup>17</sup> They realised that rules were necessary to control the games and the performance of those who played them

Most important of all perhaps, *they used the rules to define the games* While in this sense they were designer games, the founding fathers recognised several important functions which the rules could serve

### **The birth of the national games**

The first sets of rules for both football and hurling<sup>18</sup> said very little about how the games should be played<sup>19</sup> and hence did not define them very well It soon became clear that further legislation would have to be introduced do this Shortly, after the publication of

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<sup>14</sup> See Appendix 1 ps 5 *et seq*

<sup>15</sup> Canadian Lacrosse, 1868, Shinty, 1815, Australian Rules, 1859, Association Football, 1871 and Insh Rugby Football Union, 1874

<sup>16</sup> Before 1884, some of the clubs in Munster had formed themselves into *The Munster National League* They had produced their own rules known as The Cork Rules which included permission to carry the ball Many of these clubs later affiliated to the GAA, and were then seen to be playing two different forms of football under two different sets of rules

At a special meeting of the Association held in Thurles 6 April, 1886, the Minutes record that one of these clubs, Lees from Cork, was threatened with expulsion from the GAA for, as one delegate put it fittingly -*If two or three clubs kick against us, we can do without them*

Despite the fact that Cusack had organised rugby at his academy, played rugby and helped with its development while teaching at Blackrock College, at this meeting he referred to these Cork Rules in typically scathing terms as '*Rugby thinly disguised*'

<sup>17</sup> An tAthar Pádraig O'Laoid records that when John Lynch, the captain of the Killimor team sent a challenge to Patrick Crowley of the Craughwell hurling club, the challenge was accepted but on condition that the match come off under the rules of the G A A Mr Lynch objected as the game played by the G A A is not "hurling", the game of our forefathers, but a hurley of importation Killimor failed to turn up for the match due to late delivery of the letter When Craughwell claimed the £6 stake from Killimor, the latter issued a challenge to Craughwell in which they said "the game played by the G A A is not considered by the Killimor, Meelick, Lusmagh or Mullagh clubs as hurling, but "hurley" an importation and a slight improvement on these effeminate games 'Croquet' and 'Lawn Tennis' *Opus cit* ps 19,20

<sup>18</sup> See Appendix 1 ps 10 *et seq*



the first sets of rules, Cusack wrote a letter to the *UNITED IRISHMAN* in which he explained

We have to remind those who play football that it is not to be passed or carried in any way It may be caught, but it must be kicked or put on the ground at once It may also be hit with the hand The passing and carrying is entirely foreign, having been imported from rugby<sup>20</sup>

This publication of Cusack's view of 'his' game of football contains much more definition than did the first set of rules It illustrated his determination to design a uniquely Irish form of football, and that the rules were used to do this The shortfall in his rules may reflect some vagueness in his vision of the game, and that, initially, he was more concerned with its distinctiveness from other games

It would be fair to assume that Cusack was not aware of the hurling played in Cornwall and Devon, or that Irish hurlers travelled to London on two noted occasions to play this game for which there were sophisticated sets of written rules<sup>21</sup>

Cusack used the rules to distinguish Gaelic football from rugby and the 'Cork' game which allowed carrying He knew that the rules define the game, but it is not clear if he thought that the games were their rules When Michael Cusack and the other founding fathers of Gaelic games invented, designed or selected the definitive ingredients of Gaelic football and hurling as we have come to know them today from the existing football and ball and stick games of his time, it is clear that they had several ideas and functions in mind which would shape these two games as vehicles or means to the ends which they envisaged

Apart from distinctiveness from other games played at the time, these two games were designer games They were designed to serve national ideals as much, if not more than, to provide competitions and the opportunities to be winners

Whether the games we play are part of what we are or we are part of the games we play is an interesting question for it has been shown that players are moulded by their games They do not just play them This has been established for a number of different societies Reisman and Denny showed how football was used as a significant device for

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<sup>19</sup> See Appendix 2 Comparative analysis of 1884 rules

<sup>20</sup> *United Ireland* 18 April 1885

<sup>21</sup> See Appendix 1 ps 615 *et seq* and Appendix 2 Part 2 first entry for Richard Carew's Laws of Hurling as played in Cornwall and Devon in 16th and 17th Centuries

enculturation of immigrants into American society<sup>22</sup>

Of the most important purposes after nationalism, enculturation and social control, the games of Gaelic football and hurling were to be distinct, defiantly nationalistic and, of course, competitive

In this sense, it is true to say that our games were a reflection, perhaps a synthesis, of what the founding fathers wished the games to come to mean for Irish people

This view of a game would not be acceptable today. An existentialist would claim that there are no values in a game other than the game itself when the individual makes a decision to play a game.

Existentialists would argue that games have value only when the individual decides that this or that game is for him. If any group proceeds to claim the values of a game, the individual has already lost some of his opportunity to make his mind up.

Distinctiveness, exclusiveness and mechanisms for social control were seen as important functions, if not definitions, of our national games by Cusack. While some of these characteristics and functions have undergone considerable reappraisal, others like the need to control have not - as what has come to be known as the 'R D S Affair' clearly demonstrated.

In 1992, Clanna Gael Fontenoy GAA Club wanted to play Co. Down at the Royal Dublin Society (R D S) grounds in a charity fund-raising event. The club was forced by the GAA to abandon its plans because a soccer game (Bohemians v Shamrock Rovers) was included on the same programme.

Overall, the whole incident (R D S Affair) and the responses to it would support our argument that of necessity the GAA now plays two radically different roles in Irish cultural and political life. In the Irish Republic, its role is complicated by the fact that it must now compete with other sports, notably soccer, for the right to be regarded as the national game, whereas for northern Gaels, the only true 'nationalist' sports remain those peculiar to Ireland<sup>23</sup>.

### **Games as 'education'?**

It is the writer's view that to use games other than for the purposes of competition is to somehow subvert or abuse the proper function of games in society. Neither should

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<sup>22</sup> Reisman D. & R. Denny *Football in America: A Study in Culture Diffusion* American Quarterly 1951 ps 302 - 325

<sup>23</sup> Sugden J. & A. Barner *Sport And Sectarianism In A Divided Ireland* Leicester University Press 1995 ps 41,42

games be used as a medium for a particular type of education, and most certainly not as a forum for the expenditure of excess *libido* or energy of any form, for to do so is to state that games are in some way a mere prescription for the ills or inadequacies of society.

In an article entitled *The Degradation of Sport*, Christopher Lasch wrote:

Games quickly lose their charm when forced into the service of education, character development, and social improvement<sup>24</sup>.

This is not to say that when games are properly taught, coached, refereed and administered, they may not have a significant educational role both for the individual players and, by providing recreational experiences, for spectators. Otherwise, physical education has a huge question to answer.

There is a wide range of opinions about the nature of the individual games. The perception of the public and the opinions expressed by the media are usually based on the entertainment value of the games rather than on their technical merit.

### **Games as entertainment?**

From his experience in analysing games for the purposes of commenting on their technical merit, the writer has come to the conclusion that a game in which scores are always close, where the lead changes often, where good chances are missed and improbable scores or saves recorded, and where plenty of dramatic incidents occur seem to merit the praise of the media more than those games where there is a higher content of technically good play and good behaviour but where the result may not be in doubt for much of the game.

In this respect, the games are seen as entertainment where drama is a critical component. Howard Cosell, the American Sports commentator, has candidly acknowledged that sports can no longer be sold to the public as 'just sports or religion...Sports aren't life and death. They're entertainment.'<sup>25</sup> However, the late Bill Shankley, one time manager of Liverpool, remarked that 'Some people around here think that football is a matter of life or death...It's far more important than that!' The equally famous Vince Lombardi, one time coach to the Green Bay Packers, said 'Winning isn't everything - it's the *only* thing'. It is fair to assume that it was not

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<sup>24</sup> Lasch C. *The Culture of Narcissism* Warner Books, New York, 1979. ps. 100-124.

entertainment these men had in mind

The writer can empathize with these views. However, he rejects the view that sport is either primarily or essentially entertainment

### **Games and their essential 'personality'?**

Philosophers have another view of games which is based on the fundamental nature and purpose of games and concerns itself with the metaphysical, epistemic and axiologic status of games such as Gaelic football and hurling

The writer considers that a game may be likened to a spirit or 'a being' which has form, content and purpose. This *game* is determined by those rules of play which permit some and forbid other actions. The *content* comprises the range and level of skill which can be achieved by players within the constraints of the rules. The *purpose* is competition and the declaration of winners.

One line of thought was that the skills of the games were like the organs of a body, the articulation of which gave the game a distinctive 'personality'. Furthermore, some skills could be likened to major organs like the heart, lungs, liver, and minor skills likened to minor - even disposable - organs like the appendix or teeth which, if removed, would not alter the essential nature of the body (game).

However, removal of a major organ or transplanting a major organ from another game would change the very nature of the game. For example, if the skill of tackling in Gaelic football were to be replaced by the type of tackle used in American, Australian or Rugby football, Gaelic football, as such, would cease to exist. The substitution of a skill or skills from another game changes the game. A different game would result because if all the rules of one such activity are identical with those of another, the activities are identical.

### **Games and the distinction between sport and play**

In 1967, Suits had defined a game thus

[t]o play a game is to engage in activity directed toward bringing about a specific state of affairs, using only means permitted by specific rules, where the means permitted by the rules are more limited in scope than they would be in the absence of rules, and where the sole reason for accepting such limitation is to make possible such activity.<sup>26</sup>

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<sup>25</sup> Novak K. *The Joy of Sports: Essay in Philosophic Enquiry in Sport*. Supra p 275

<sup>26</sup> Suits B. *What Is A Game?* *Journal of the Philosophy of Science* 1967 Vol xxxiv p 148

Suit's discussion of this question led him to state that 'Rules in games thus seem to be in some sense inseparable from ends. To break a rule is to render impossible the attainment of an end' <sup>27</sup> However, he added 'The inseparability of rules from ends does not therefore seem to be a completely distinctive characteristic of games' <sup>28</sup> He added

We may therefore say that games consist in acting in accordance with rules which limit the permissible means to a sought end, and where the rules are obeyed so that such activity can take place <sup>29</sup>

Loy defines a game as '[a]ny form of playful competition whose outcome is determined by physical skill, strategy or chance employed singly or in combination' <sup>30</sup>

The writer would not agree that a game is either a 'playful competition', or that play in this sense is an ingredient of competition. Play and competition are two entirely different things.

Vanderzwaag suggested that 'Rules are probably the one thing which most clearly distinguish games from other varieties of play and other forms of contest' <sup>31</sup> Here again the fudging of this important issue of play and competition by American writers is evident. The writer would agree that rules are a definite distinguishing mark of games but not necessarily of play. It would be hard to envisage either a game or a contest without rules.

Best's definition is as follows

A purposive sport is one in which within the rules or conventions there is an indefinite variety of ways of achieving the end which at least largely defines the game <sup>32</sup>

## Games and Rules

Despite the obvious absence of agreement on what precisely these important terms mean, a synthetic reading of what philosophers have to say when writing about

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<sup>27</sup> *ibid* p 149

<sup>28</sup> *ibid* p 151

<sup>29</sup> *ibid* p 155

<sup>30</sup> Loy J W *THE NATURE OF SPORT: A DEFINITIONAL EFFORT* Quest X 6 May, 1968

<sup>31</sup> Vanderzwaag H J *Towards a Philosophy of Sport* Addison Wesley Pub Co Reading, Mass 1972

p.50

<sup>32</sup> Best D *The Aesthetic In Sport* from *The Philosophy of Human Movement* Allen & Unwin, London 1978 p 481

definitions of a game underlines the fact that rules are seen as an essential part of their definitions of games

A game is generally seen to be a rule governed activity which has an objective or goal the attainment of which is not necessarily by what they would regard as 'the most efficient means' but rather by means which require acceptance of the parameters and possibilities inherent in the rules of play

The writer's view is that the rules are the game - perhaps not all of it, but certainly the essence of it

So what else is there to games besides the rules of play?

### **Games and the ethos of games**

In discussing the ethos of games, D'Agostino defines ethos thus

By the ethos of a game I mean those conventions determining how the formal rules of that game are applied in concrete circumstances <sup>33</sup>

He explains how rule formalism or a Platonistic view of a game differs from a non-formalist view of games, and how this impacts on the ethos of games

The (rule) formalist view of rules is that if a player breaks a rule, he is no longer playing the game, and therefore cannot win the game. Hence, according to this definition, this view excludes the possibility of games having an ethos

He says that 'The ethos of a game in effect provides the basis for making two distinctions where the formal rules of that game provide the basis for making only one distinction' <sup>34</sup>

The non-formalist view of rules, or the ethos of a game, distinguishes between behaviour which is permissible, behaviour which is impermissible but acceptable, and behaviour which is unacceptable. In the second of these cases, a player is penalised and remains on the field in the game. In the third case, he is dismissed and takes no further part in the game

Since the rules of play of football and hurling specify clearly a list of aggressive fouls which are regarded as unacceptable and are penalised by dismissal, and a further list of aggressive fouls for which a penalty is imposed that does not include dismissal, it can be

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<sup>33</sup> D'Agostino F. *The Ethos of Games* Journal of Philosophy of Sport VIII (1981) ps 7-18

said that the ethos of Gaelic games is based on a non-formalist view of the rules D'Agostino does not specify the nature of unacceptable behaviour, but it is clear that such behaviour has two forms

The first is behaviour which violates those rules which govern the performance of the skills of the game The second is behaviour towards opponents, officials or spectators, which is unacceptable in the game Making this distinction differentiates the ethos of the game more sharply It is notable that D'Agostino suggests that the ethos of a game distinguishes between mistaken official judgements which are acceptable and those which are unacceptable

However, he goes on

[t]o consider a widely canvassed account of games that does not recognise the importance of the ethos of a game, shows that this account is irreparably defective in various ways, and shows that an account of games which recognises that every game has an ethos is not defective in these ways and has other advantages as well <sup>35</sup>

By way of example, the All-Ireland Hurling semi-final between Clare and Offaly in 1998 was replayed because the referee terminated the game before the allotted time specified by rule had been played In this instance, the Association ordered a replay of the match This was equivalent to saying that because a rule (of specification) was broken, the game had not been played or properly completed

The rules of play, the adherence of players to those rules and the ability of referees to apply the rules of play as directed and intended constitutes the major part of the ethos of Gaelic games When the rules of play are not consistently and properly applied, the ethos of the game suffers

### **Games and their 'spirit'.**

Other writers have recognised the importance of what might be regarded more generally as the spirit of games Indeed there are memorable poems written about most major games Henry Newbolt's *Vital Lampada* of 1897 is essentially about the spirit of cricket which suggests that the spirit of the game is more important than the spoils of success

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<sup>34</sup> *ibid* p 69

<sup>35</sup> *ibid*

because -

*It's not for the sake of the ribboned coat  
But his Captain's hand on his shoulder smote---  
Play up! play up! and play the game!*<sup>36</sup>

Agreement is far from complete on either the spiritual, mystical or ethical qualities of games. Indeed, a statement by Lasch is a salutary reminder that there may be more 'game-agnostics' than 'game gnostics' amongst the ranks of philosophers generally.

Games enlist skill and intelligence, the utmost concentration of purpose, on behalf of activities utterly useless, which make no contribution to the struggle of man against nature, to the wealth or comfort of the community, or to its physical survival.<sup>37</sup>

The writer would reject Lasch's assessment of games. This is not what games are about. Their contribution to society seems to be increasing.

If there is any connection between the spirit of the game and the rules of play, it is tenuous and may rely completely on the Corinthian ideas of fair play.

If, as has been argued, the rules are the game, it is important to ascertain what a rule is.

## **2.2 PHILOSOPHICAL CONSIDERATION OF RULES.**

A common theme or premise amongst many philosophers of sport is that games are essentially activities where the attainment of objectives is achieved by inefficient means. Typically, the selection of this starting point was explained thus by Suits:

Mindful of the ancient canon that the quest for knowledge obliges us to proceed from what is knowable to what is knowable in itself. Games, therefore, might be expected to be what work, in some salient respect, is not.<sup>38</sup>

Having described work as a 'technical activity' where the most efficient means are employed to attaining the goal, he then suggests that

" games differ from technical activities in that the means employed in games are not the most efficient. Let us say then that games are goal-directed activities in which inefficient means are intentionally (or rationally) chosen."<sup>39</sup>

However, he does admit that the selection of inefficient means is not a satisfactory account of game-playing but goes on to argue that 'Rules in games thus seem to be in

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<sup>36</sup> See *The Oxford Dictionary of Quotations* BCA London 1992 p 492

<sup>37</sup> Lasch C. opus cit ps 102-124

<sup>38</sup> Suits B. *What is a Game?* Journal of the Philosophy of Science 1967 Vol XXXIV 148-156

<sup>39</sup> *ibid*



some sense inseparable from ends,' and concludes that 'Games consist in acting in accordance with rules which limit the permissible means to a sought end, and where the rules are obeyed just so that such activity can take place'<sup>40</sup>

Apart from the fact that games are work for many people, it would be difficult to convince many committed games players that their activity is not technical or even highly technical. One only has to think of golf to get some idea of the highly technical nature of a game played with 14 clubs of different lengths and club-face angles where the player has to calculate from shot to shot which club will enable him to drive the ball the estimated distance and direction required allowing for the wind, rain perhaps, the texture and contours of the ground, and even the compression of ball he is using. In addition, he has to visualise some shots beforehand, and decide if it is better to play a high fade or draw, or a low punched shot with backspin to ensure it stops near where it lands. Getting the ball from tee to hole in the least number of strokes is all about using the most efficient means. The 'philosophical' alternatives are absurd.

It is not hard to think of a long list of activities we refer to as work where the most efficient means are not employed to achieve the objective, and where there is no obvious or stated technical content.

It is only because certain restrictions are imposed on the performance of certain skills that games exist at all. Hence, this approach to defining games should be treated with caution.

Suites was more perceptive when he suggested that

Rules can be *directives* to attain a given end, or they can be restrictions on the means to be chosen to a given end'<sup>41</sup> (emphasis added)

Unfortunately, he left this productive line of thought hanging there.

According to what American philosophers refer to as 'The logical-incompatibility thesis', the rules *are* the game. Pearson reached this conclusion by arguing that

A particular game is no more (in terms of its careful definition) than its rules. The rules of a game distinguish it from being different from all other games. Some game may have quite similar rules, however, there must be at least one difference between the rules of one game and those of all other games in order for that game to be distinguished from all other games.

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<sup>40</sup> *ibid*

<sup>41</sup> *ibid*

Problems of identity and diversity of games are decided by the rules of each game. Identical games have identical rules. A game is identified, or defined, as being just that game by the rules which govern it.<sup>42</sup>

The failure to recognise this important aspect of rules is evident in the attempt being made to make some of the rules of Gaelic football identical with those of hurling and Australian football. The inevitable consequence of this policy is loss of identity, a change in the ethos of the game and, as Oriard<sup>43</sup> showed, a change in the game itself.

When discussing the question *Can Cheaters Play the Game?* Leaman writes that

A number of philosophers of sport have endorsed the thesis that it is logically impossible to win, or even compete in, a game while at the same time breaking the rules (intentionally at least).<sup>44</sup>

and he quotes Suits who wrote

Rules in games seem in some sense inseparable from ends. If the rules are broken, the original end becomes impossible of attainment, since one cannot (really) win the game unless he plays it, and one cannot (really) play the game unless he obeys the rules of the game.<sup>45</sup>

Success in life just as in invasive body-contact games does not depend on keeping all of the rules all the time!

### 2.3 THE THREE TYPES OF RULES IN THE PLAYING RULES.

An analysis of the playing rules of football and hurling showed that they can be divided into three discrete sections

- 1 The rules of specification
- 2 The rules of control
- 3 The rules of play

The playing rules of Gaelic games are now contained in Part 2 of The Official Guide, and are laid down in these three sections

A list of definitions of key technical terms follows these three sections and forms an

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<sup>42</sup> Pearson Kathleen M. *Deception, Sportsmanship and Ethics* Quest XIX 9 Jan, 1975 ps 115-118

<sup>43</sup> Oriard M. *READING FOOTBALL, How the Popular Press Created an American Spectacle* University of North Carolina Press 1993 P 31. As already indicated in the text, Oriard showed that by changing two of the rules of rugby, American Football was created.

<sup>44</sup> *A Philosophy Enquiry in Sport supra* p 282

<sup>45</sup> Suits B. *opus cit* ps 148-156

integral part of them

It was found that there were four rules of specification, three rules of control and six rules of play

### **2.3.1 The Rules of Specification**

The Rules of Specification define the physical dimensions of the game either exactly, or, they specify the tolerances allowed in dimensions

For example, the length and width of the field of play can vary between 130m and 150m and between 80m and 90m <sup>46</sup> which means the full size pitch is 29% larger than the smallest size allowed or about three quarters of a statute acre larger This is a significant tolerance

The dimensions of the scoring space are fixed without any allowable tolerance except as decided by County Byelaws for under age players

The number of players has a fixed upper limit of 15 for championship games but county Committees may reduce this number for non-Championship games <sup>47</sup> A lower limit is not specified

The rule dealing with time provides for a game of two periods of 30 minutes of actual playing time but senior intercounty championship games are of two periods of 35 minutes <sup>48</sup>

However, time may be added on in each period of all games for incidental or deliberate delays and the playing time may be reduced by Local ByeLaws for Under 15 or younger grades <sup>49</sup>

The weights of the football and the sliothar may vary by a maximum of 15% and 30% respectively and their circumferences can vary by 7%

Given the variations permissible, it is clear that the rules of specifications are intended to be quite flexible, and in many cases allow surprisingly large tolerances

Failure to comply with some of the rules of specification carries penalties ranging from fines to forfeiture of the game, but these penalties are not listed after the relevant rules

They are listed in Part 1 of the Official Guide

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<sup>46</sup> See Appendix 1 p 556 et seq

<sup>47</sup> See Appendix 1 p 557 Rule 2 1

<sup>48</sup> *ibid* p 556 Rule 3 1

### 2.3.2 The Rules of Control.

The Rules of Control begin by stating that

Control of the Games shall be entrusted to a referee, four umpires and two linesmen who shall decide on the field all matters affecting play <sup>50</sup>

The powers and duties of these officials are subdivided into the Powers and Duties which these officials have under the rules

The Referee has power to extend the time played in each period by an amount which he considers equal to the playing time lost in incidental or deliberate delays

The umpires and linesmen have the power to bring to the attention of the referee - during a break in play - any instances of foul play, that is, any breaches of Rules 4, 5 or 6 of The Rules of Play

Rule 1 2(i) of Rules of Control, states that the referee has 'To control the game in accordance with the Playing Rules' This means he has no authority or brief to interpret the rules with the exception of deciding what he considers to be 'dangerous behaviour', (Rule 5 4) or what he considers to be 'a form of rough play' (Rule 5 12 Hurling and Rule 5 14 Football) <sup>51</sup>

With the exceptions listed above, the rules of Play for Football and Hurling have been stated in such simple sentences and terms that there is no need for interpretation This ensures that the scope for interpretation of the Playing Rules is confined to the two examples given above, and the further example quoted in relation to deciding the amount of time to add on, if any, for delay

There are no penalties listed for failing to comply with any of the Rules of Control by any of the seven officials

However, it should be noted that the award of any game ultimately rests with the Committee in Charge of that game<sup>52</sup> which can alter the result of a game, disqualify either or both teams or order a replay on foot of evidence which demonstrates a clear miscarriage of justice For example, when a point was awarded to Co Laois in the 1995 Leinster Senior Football Championship game against Carlow when the ball went outside

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<sup>49</sup> *ibid* Rule 3 2

<sup>50</sup> *ibid* p 559,560

<sup>51</sup> *ibid* ps 570, 571 & 581,582

<sup>52</sup> Official Guide 1998 Part 1 Rule 104 p 58

the uprights, the Leinster Council ordered a replay although the final score recorded by the referee indicated that Laois had won by a point

This demonstrates that the decisions of onfield officials are not final despite Rule 1.1 which reads 'The referee's decision on any question of fact and in regard to time shall be final'

### **2.3.3 Rules of Play.**

The Rules of Play are divided into two sections, The Rules of Fair Play and The Rules of Foul Play

Rule 1 - The Play comprises 11 sections which specify what the players may do and places some limitations on how, and how often, they perform certain actions or skills. Some of these rules are directive in the sense that they state how a skill is to be performed. For example, Football Rule 1.2 and Hurling Rule 1.5 state 'The ball may be lifted off the ground with the feet'<sup>53</sup> Others are developmental in the sense that they state the general principle concerning a skill, and leave the working out of the details of how that skill is to be performed to the players and coaches. For example, Football Rule 1.6 and Hurling Rule 1.8 state

Player(s) may tackle the opponent for the ball<sup>54</sup>

Additionally, the tackle is defined in Definition No. 15 and this general definition is exactly the same for both games<sup>55</sup>

Clearly, it is important that Rule 1 The Play provides opportunities for players to use their own expertise in developing a variety of ways of performing the same basic skill. If all the Rules of Play were directive, the performance of basic skills would be alike and lack individual flair, even genius.

The more the rules tend to specify how the players are to perform the skills, the less scope there is for the players to develop new techniques, and for teams and coaches to develop new tactics. In the extreme case of all such rules being directive, the game would become totally 'Rule Directed' and too tightly specified to allow personal variations.

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<sup>53</sup>Appendix 1 ps 564, 574

<sup>54</sup>*ibid.*

When a rule specifies too rigidly how a skill is to be performed, it can stifle and restrict the skill. The handpass is a good example of how this skill was needlessly limited and stifled for over a century by unimaginative legislation which lacked technical underpinning.

Rules 4, 5, and 6 deal with foul play and can be described as 'Directive-Punitive' in the sense that they specify fouls and the relevant penalties.

The important distinction between the three basic types of foul is highlighted in Rules 4, 5 and 6. Rule 4 deals with fouls 'on the ball'. For example, carrying the ball more than the permitted four steps or being too close to the ball when a free kick or puck is being taken. Rule 5 deals with fouls on an opponent (and indeed a team mate), and Rule 6 deals with fouls on officials.

While all fouls incur at least one penalty, technical fouls do not incur dismissal. Simultaneous fouls by players of each team are covered, in O.G. 1995, by Hurling Rules 4.31, 5.23 and Football Rules 4.33, 5.20 (see Appendix 1 ps 570, 572, 581, 583).

This distinction was made when discussing philosophical aspects of rules above.

The final part of the Playing Rules is the list of definitions which forms an integral part of the Playing Rules.

This brief background description of the Playing Rules of football and hurling is a necessary preamble to the wider discussion of 'What is a Rule?'

## **2.4 PRACTICAL PHILOSOPHY OF RULES AS LEGISLATION.**

A common sense or practical philosophical approach to legislation should help and guide those who wish to make or amend a playing rule. It should also help in arguing the case for deleting a rule. However, it must be technically based in the sense that what is sought is technically feasible and efficient, and, arguably, 'good' or 'important' for the game. It should also be applicable by the referee.

It is important that the method of rule formulation should be based on an overall view of what type of legislation is required for each of the Rules of Play.

Since Rules 1, 2, and 3 deal with the Fair Play side of the game, and Rules 4, 5 and 6 deal with the Foul Play side of the game, it is to be expected that different methods of

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<sup>55</sup> *ibid* p 584

formulation are required for these quite different pieces of legislation. It is essential that those who are preparing motions for Congress should be familiar with the two basic approaches to formulation because of the significantly different impacts which each can have on the game.

#### **2.4.1 The two basic approaches to the formulation of playing rules.**

There are two main methods by which the rules may be formulated. The first is a **Directive-Punitive** or mandatory approach where the rule specifies what a player may or may not do. This is followed by the penalty for not playing as specified.

The second approach is a **Developmental-Punitive** or prescriptive approach where the rule gives a general permission to perform skills, may list and describe some forms of the skill but then specifies any form of the skill which is forbidden - usually in the interests of preserving the skill.

When it is understood how and why these methods may be used, it becomes clear where these methods of formulation apply in the rules.

#### **2.4.2 The directive-punitive approach**

This approach is appropriate for those rules of Foul Play which deal with aggression and dissent. These rules are essential for regulating the conduct of players, and therefore it should be clear what type of conduct as well as the individual examples of this conduct which will not be permitted. The penalties and sanctions for these fouls should be set out in a way in which there is no doubt about what the penalty is for each foul, and whether the referee has any discretion in applying these penalties. In the current rules of hurling and football, provision is made for the referee's discretion in applying the penalty immediately. What is popularly referred to as 'the advantage rule'<sup>56</sup> allows him to decide to allow play to continue until the ball goes out of play before applying the penalties set out in the rules. The referee has to decide what constitutes dangerous play and rough play, and decide what is abusive language. However, in all other cases, the referee has no discretion in applying the rules.

If a directive-punitive approach were applied to the rules of Fair Play and technical Fouls,

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<sup>56</sup>See Appendix 1. Hurling Rules 4.34, p 570 and 5.25 p 572 and Football Rules 4.36 p 581 and 5.22

it would involve specifying how each and every skill is to be performed as well as specifying each technical foul. Clearly this approach to formulating the rules of Fair Play would not provide for any deviations from the rule, and would not therefore allow individual flair to develop at playing, coaching or management levels.

For example, a rule may state that the ball may be played and therefore passed with the hands. The rule may go on to specify the performance of this skill in more detail such as stating that the ball must be struck with the hand when passing. Furthermore, a definition of the various types of handpass may be listed and defined. However, since the ball may not be thrown, this form of passing the ball must be forbidden and a penalty attached to it. The throw should be defined to ensure that everyone could identify this 'foul handpass'. It is neither necessary nor good that the specific permission to pass with the hands, the prohibition on throwing the ball and the definitions of each should all appear in the same rule.

Definitions of key technical terms may be directive or developmental in nature. From this it is argued that the Directive-Punitive approach to rule formulation should apply to those Rules of Foul Play which deal with aggression and dissent but with the exception of those occasions when the referee is empowered to allow play to continue even though he sees a foul.

Unless it is used selectively, the directive-punitive approach to rule formulation can make quite unnecessary demands on the players and the referee. It is prone both to over-prescribing and tautology. Where it is used, it is not surprising to find that referees are inclined to ignore what they regard as irrelevant restrictions, and players are frustrated by having to comply with them.

The directive-punitive approach to rule formulation should be used almost exclusively to produce acceptable forms of behaviour or to discourage certain forms of behaviour by use of specified sanctions. It should only be used for the formulation of the rules dealing with aggressive foul play or fouls of dissent.

Clearly, this Directive-Punitive approach to rule formulation would make the task of refereeing excessively difficult even needlessly difficult and complicated if applied to the rules of Fair Play or Technical Fouls.

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p 583 These are popularly known as 'the advantage rules'



### 2.4 3 The developmental-punitive approach

The Developmental-Punitive method of rule formulation should be applied to the Rules of Fair Play and to Technical Fouls. It provides players, teams and coaches with scope to develop new individual and new tactical ways of performing skills. The referee does not have to watch for irrelevant technical parameters. He has only got to watch for the proscribed form of the 'skill', and any concurrent aggressive fouls. This makes the task of refereeing much easier. It promotes the level of skill and the quality of tactics in the game by 'inviting' players to express their talents.

An example of the difficulty which can arise if this approach to rule formulation is not followed can be illustrated by reference to Football Rule 1.4 which sets out in detail how the player may use his hands to play the ball in football. Section (d) states 'The ball may be changed from one hand to the other once with the original holding hand maintaining contact until the change is completed'.<sup>57</sup>

This means that in addition to concentrating on what he is doing and planning to do, the number of steps and the length of time he has to cope with, whether to bounce or toe-tap the ball, what the opposition is doing and where other players are, be mindful of ground and weather conditions, the player must remember two further details - he may not change the ball from hand to hand twice, and he must keep the holding hand in contact with the ball until the other hand has a hold of it. The referee must count the number of such changes a player makes, and decide if the player complied with the *continuous hand contact directive*. He must keep a check on the number of steps the player in possession has taken, the time he has held the ball, whether he committed any aggressive foul, and whether any other player has committed any aggressive foul on the player in possession or indeed any other player. There is no technical basis for including such restrictions. They do not involve the foul of throwing the ball hence are not necessary. They interrupt the play needlessly, and spoil the enjoyment of the skill of the solo-run. This approach to rule formulation makes the referee's task needlessly difficult. Players and spectators are frustrated by it.

Examples of a Developmental-Punitive approach to rule formulation are found in Rule 1 -

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<sup>57</sup> Appendix 1 p 574

## THE PLAY - Football Rule 1 3 -

'When the ball is not on the ground, it may be played by any part of the body '

Hurling Rule 1 8 and Football Rule 1 6 which state

Player(s) may tackle an opponent for the ball.<sup>58</sup>

This statement makes it quite clear that one or more players from a team may tackle the opposing player (who is in possession) for the ball. While other rules go on to indicate specific examples of tackling e.g. 'The ball may be knocked from an opponent's hand(s) by flicking it with the open hand',<sup>59</sup> and Football Rule 1 7 and Hurling Rule 1 9 state 'A player may make a side-to-side charge on an opponent', all examples of tackling are not given - nor should they be. The only restrictions deal with how and when a side-to-side charge may be made, and using the boot to block a ball being kicked by an opponent even when no physical contact is made. These are obvious safety measures.

The developmental approach in this instance provides players, teams and coaches with the opportunity to develop many ways of tackling (for the ball) - singly or in groups - without a long list of do's and don'ts. Referees have only to watch for aggressive fouls by the defence and technical fouls by the attacker.

Additionally 'the tackle' is defined in the list of key terms in a way which provides scope for imagination and flair.

By stating that 'the tackle is aimed at the ball not the player'<sup>60</sup> this definition draws attention to important facts about this skill - physical contact is not essential, the skill is safe to perform and it is unique to our games.

These examples illustrate how an understanding of the philosophy underlying the approach to rule formulation produces legislation which is easier to apply and easier to play under.

### **2.4.4 General consideration and particular application of penalties**

There are two other aspects of the legislation dealing with foul play which should be mentioned in this section which deals with a common sense approach to legislation.

The first consideration is concerned with ensuring that the penalty is commensurate with

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<sup>58</sup> Appendix 1 ps 564, 574

<sup>59</sup> *ibid* p 585

the seriousness of the foul. The second consideration has to do with 'fair play' in punishments, or ensuring that similar fouls are similarly punished. This idea has been expressed by Hart:

Justice is traditionally thought of as maintaining or restoring a balance or proportion, and its leading precept is often formulated as 'Treat like cases alike' though we need to add to the latter, 'and treat different cases differently'.<sup>61</sup>

There is no doubt that the existing legislation dealing with penalties for fouls is commensurate with the gravity of the fouls. However, common sense would dictate that it is important to ensure that some distinction is made between fouls which have actually occurred and those which were merely attempted.

Since there is a clear distinction made in law between the 'attempt' and the 'commission' of a crime, the Rules of Foul Play should reflect this distinction. Otherwise, players may adopt the attitude that they may as well be 'hung for a sheep as a lamb'.

Rules 5.1, 5.2 and 5.5 in both Football and Hurling make it quite clear that to 'strike or attempt to strike' and 'to kick or attempt to kick' are viewed with the same seriousness on the field where they attract the same penalties - instant dismissal. However, there is no legislation to cover suspension for dismissal for 'an attempt' at an aggressive foul whereas terms of suspension ranging from one month to six months depending on the type of foul are imposed for the commission of certain aggressive fouls.<sup>62</sup>

There are difficulties with treating 'attempts to ' as being the same or deserving the same punishment as 'actual commission of '.

In the first place, no harm is done to anyone. Secondly, a judgement has to be made as to intent. Did the player really mean to strike, or did he merely threaten, or did he mean to strike and then change his mind and deliberately abort the attempt? Moreover, threatening to strike back is a natural protective mechanism or reaction to inflicted pain which rational people exhibit when injured.

For these reasons at least, it is important to consider the need for distinguishing between *the attempt* and *the commission* of a foul. If the former is considered as less serious than the latter, it should be moved down one place in the order of severity of penalties where

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<sup>60</sup> *Ibid*

<sup>61</sup> Hart H L A *The Concept of Law* Oxford University Press, London, 1961 p 155

<sup>62</sup> Official Guide 1998 Part 1 Rule 137 p 75

it will merit a caution (this means taking the name of the player) and only dismissal if repeated<sup>63</sup>

This type of common sense or practical philosophy when applied to the process of formulation of playing rules can go some way to ensuring that subsequent legislation is soundly based. However, more background knowledge is required for sound legislation. It is important to have a working knowledge of the functions and characteristics of the rules and how these interface with the principles of play which govern invasive, body contact games such as football and hurling and indeed all other invasive, body-contact ball games.

These functions and characteristics are identified, listed and evaluated in Chapter 3 below.

### **Summary**

This chapter discussed the nature of games and concluded that games are defined by their rules. The nature and types of rules were discussed, and it was shown that it is important to recognise the type of rule to apply to each part of the game.

It is argued that a game is its rules and is defined by them.

It can be stated that there is really only one logical way of formulating the rules which deal with aggressive foul play. Neither specific nor general permissions may be given to foul. Hence, the rules should specify the fouls quite clearly, and then specify the penalties for them. In this sense they are directive-punitive and are mandatory.

Since it would be unreasonable to expect the rules to list every single foul which is forbidden, the inclusion of a clause which empowers the referee to penalise unspecified fouls is acceptable. Football Rule 5.14 and hurling Rule 5.12 'To engage in any other form of rough play' provide the enabling legislation for referees in either game to penalise players for conduct not specifically listed as fouls. This is both reasonable and expected of the legislation.

The Developmental-Punitive approach to rule formulation should be applied to those rules which deal with receiving, retaining, relaying and recovering the ball as well as those which deal with scoring, and (re)starting play.

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<sup>63</sup> For further treatment of this see Endnote 1 Section 5 Aggressive Fouls

## **CHAPTER 3. THE PRINCIPLES OF PLAY, THE FUNCTIONS AND CHARACTERISTICS OF PLAYING RULES**

### **3.0 INTRODUCTION**

#### **3.1 THE PRINCIPLES OF PLAY AND HOW THEY ARE USED**

##### **3.1.1 The Impact of Legislation on The Principles of Play**

#### **3.2 THE FUNCTIONS OF THE PLAYING RULES.**

#### **3.3 THE CHARACTERISTICS OF THE PLAYING RULES.**

### **SUMMARY**

## **CHAPTER 3 THE PRINCIPLES OF PLAY, FUNCTIONS AND CHARACTERISTICS OF PLAYING RULES**

### **3.0 INTRODUCTION**

In this chapter, the principles of play, the functions and the characteristics of playing rules are identified, listed and examined to ascertain what they contribute to a philosophy for legislation. The interrelationship between them is examined with respect to the formulation of playing rules.

Much has been written by philosophers of sport and others about the rules of games generally, and the playing rules in particular. However, none of the literature on the playing rules treats the functions and characteristics of these rules in depth, or deals with the philosophy of legislation for playing rules.

Some writers such as Peter McIntosh, Bernard Suits, and Paul Weiss have made brief references to one or two ways in which rules function, and to one or two functions of rules - more in passing than in rigorous analysis of these functions. For example, Suits wrote

Still, even if it is true that the function of rules in games is to restrict the permissible means to an end, it does not seem that this is in itself sufficient to exclude things which are not games.<sup>1</sup>

Perhaps the nearest to an analysis of the functions of playing rules was that of Fraleigh who wrote that 'Understanding how rules function helps sports participants act

appropriately and assists rulemakers state and revise rules' <sup>2</sup>

Fraleigh also suggested that rules function in three ways

First, rules contain positive prescriptions for what participants must do and what they are allowed to do

Second, rules function to identify the within-the-contest goal towards which the performance of the positively prescribed skills and tactics is aimed

Third, rules function to proscribe certain illegal actions <sup>3</sup>

It will be shown below there is a lot more to the functions of the playing rules than Fraleigh has stated here

These and other writers have made only brief references to some of the characteristics of rules. More has been written about the types of rules than either the functions or the characteristics of rules.

It would appear that an in-depth look at these two features of the playing rules have not been undertaken elsewhere.

Besides acquiring a working knowledge of the principles of play, it is important to ask such questions as

- What are the functions of the playing rules?
- What purpose do they serve?
- Is knowledge of these functions important and or necessary for legislators?
- How does one recognise a legitimate or a spurious function?

These investigations lead naturally to similar enquiries about the characteristics of playing rules.

The inter-relationship between these three areas of study – the principles of play, the functions of the playing rules and the characteristics of good rules - and the contribution each can make to a philosophy for legislation is assessed.

### **3.1 THE PRINCIPLES OF PLAY AND HOW THEY ARE USED.**

The principles of play are a set of tools which can be used to analyse, demonstrate or illustrate, coach or teach a player or a team how to play a game better, and develop a

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<sup>1</sup>Suits B opus cit p 154

<sup>2</sup>Fraleigh W *Why The Good Foul Is No Good* Journal of Physical Education and Dance Jan , 1982 ps 41-44

fuller understanding of the game.

The following is a brief explanation of the principles of play

Quite simply they are the factors which govern successful football. They are the basis on which the players build up an appreciation of the game and an ability to interpret it as a whole or read parts of it quickly and intelligently. We are discussing principles when we say a team passes the ball too often or when a player is too fond of solo-running or when a team is left yards behind or fouls too often. Without a firm grasp of all the principles involved in play, it is impossible to make a fair assessment either of a player or of a team. Impossible to pin-point the reason for failure or success or to relate standards against various opponents, or indeed, to assess the progress of a team.<sup>4</sup>

An important aspect of principles of play was highlighted by showing that if something is a true principle of play, it must be applicable to Attack and Defence - not, of course, in precisely the same words but as a mirror image so to speak. The diagram overleaf illustrates how these principles apply to attack and defence by giving examples of their application.

In summary, a principle of play is a tool for

- Analysing performance
- Assessing ability levels
- Comparing ability levels of players and teams
- Teaching and coaching skills and tactics
- Developing game plans
- Developing a full understanding of the game

Hence, a principle of play must apply to both attack and defence.

The list of these principles is short and finite.

Accuracy, Anticipation, Ball Speed, Depth, Determination, Mobility, Recovery, Penetration, Safety and Superior Numbers.

Although a detailed explanation of how these principles apply to both attack and defence is already published,<sup>5</sup> explanations of one principle will illustrate its dual application.

Accuracy involves receiving the ball (with hand or hurley) and with one touch control,

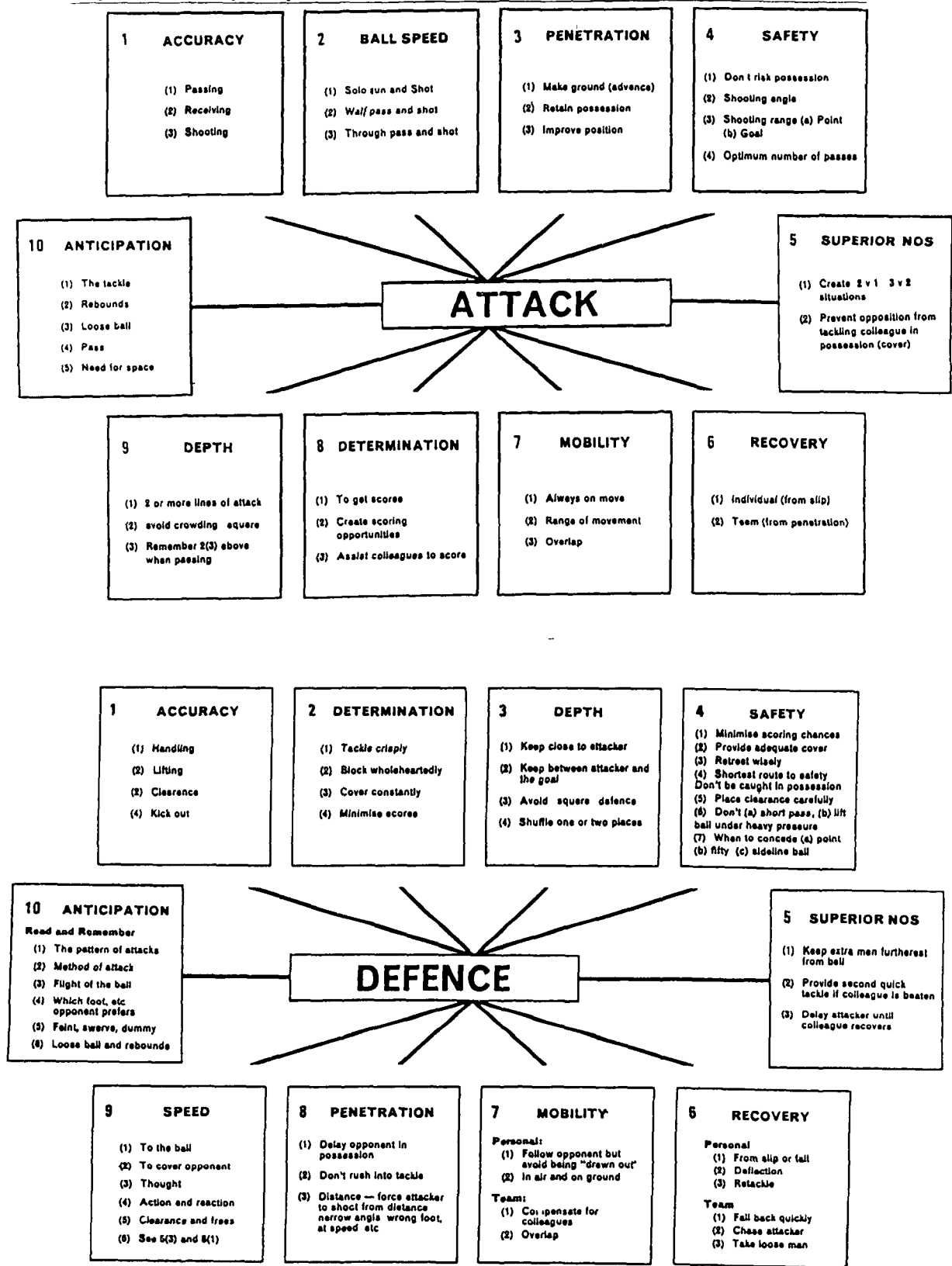
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<sup>3</sup> Quoted by Weiss P. opus cit p 268

<sup>4</sup> Lennon J. *Fitness For Gaelic Football* Alba House, Dublin & J F & A Lennon, 1967 p 89

<sup>5</sup> *ibid* ps 89-106

Diagram 3.1 The principles of Attack and Defence



From FITNESS FOR GAELIC FOOTBALL ps 96,97



accuracy in passing, accuracy in shooting from play or from a free puck

For the defender, accuracy is needed for reading the play of the opponent in possession, reading the flight of the ball, placing body in the correct flight path of free kick i.e. allowing for the shape of the kick and the wind. Additionally, accuracy is essential when regaining possession by lifting the ball properly, and playing the 'breaking' ball first time to a team-mate. Strictly speaking the kick-out is taken by an attacker because he is in possession. Accurate kicks out are of great importance to ensure the team retains possession.

The purpose of this section is to examine the interaction between the legislation and these principles of play.

The ten principles of play as they apply to attack deal with how a player and his team may best exploit their possession of the ball.

### **3.1.1 The Impact of Legislation on The Principles of Play**

As the legislation currently stands, the player in possession has a choice of how he may play the ball. He may decide to keep possession himself, and do any of several types of solo run in football, or the single type of solo run in hurling. He may pass the ball with his hand, hurley or foot. He may kick or puck the ball, or he may shoot for a score with his fist (for a point only) or foot in football<sup>6</sup>, or with his hurley or foot in hurling.

The traditional (1907-1980)<sup>7</sup> scoring methods for footballers and hurlers were restricted in 1981<sup>8</sup> when use of the hands by the player in possession to score a goal was prohibited. The Special Congress in December 1985<sup>9</sup> disallowed the use of the hands to score by a footballer who is in possession, yet hurlers were allowed to score goals and points with the hands. At Congress 1990<sup>10</sup>, the rules were changed again forbidding hurlers in possession of the ball to score with their hands while the footballer in

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<sup>6</sup> A player may score with any part of his body except a goal with his hands when in possession, a point with his open hand when in possession. He may score with his hand(s) by immediately deflecting the ball which has come from another player or rebounded off the posts or crossbar.

<sup>7</sup> See Appendix 1 Rule 8 p 73, Rule 148 ps 342, 343

<sup>8</sup> *Ibid* Rule 148 p 359

<sup>9</sup> *Ibid* Rule 185 p 378

<sup>10</sup> *Ibid* Rule 182 p 480

possession could now only score a point with the fist. In both games, scores could be made by deflecting the ball with the hand. These restrictions are quite unnecessary. They complicate the game for the players, referees and spectators. They are examples of how this piecemeal legislation impacts on the principle of safety (in attack).

There seems to be no good reason for allowing hurlers to score a goal or point with their feet while not allowing footballers to score a goal with their hands.

For example, if legislation is proposed which changes the way in which a player may be deprived of possession i.e. the way in which he may be tackled, this would obviously affect the way he plays the ball. In particular, it will limit his opportunities for retaining possession and increase the number of passes and long range shots. This impacts directly on the principles of ball speed and safety (in attack) because the player will be forced to play the ball rather than solo it into a better scoring position. Hence, such proposals will change significantly the way the game is played, coached, analysed and assessed. It will also change significantly the attitude of players who prefer a game where there are ample outlets to express their individual as well as team skills. If legislation is proposed which restricts the way in which the player in possession is permitted to hold or play the ball, the number and type of passes he may make, such changes will also affect the principles of play. Restrictions on the solo-run and the method of passing the ball by hand in football were tried out in certain competitions in the 1998.<sup>11</sup>

There are no good technical reasons for differentiating the methods of scoring with the hands in football - open hand or closed hand. There does not appear to be any philosophical basis to these variations especially the permission to allow players in a ball and stick game to score with the feet.

Examples of how the legislation impacts on the Principles of Play in other games are useful. In rugby where a player may not pass the ball forward with his hands, and where, because of the offside rule, when he kicks the ball forward, he concedes possession, it is quite clear that a change in the legislation affecting either forward hand passes or offside would radically alter the whole structure of the game.<sup>12</sup> Additionally, these parameters

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<sup>11</sup> See Appendix 1 p 586

<sup>12</sup> This was how American football was developed from rugby. In a short space of time, the game became

often force the player in possession to concede possession by kicking for touch when he wishes to gain ground. Although the method of restarting play after the ball is played over the side line in rugby provides somewhat less opportunity for regaining possession than in either Gaelic games or soccer, kicking for touch is seen as an important way of improving attacking position even if possession is conceded<sup>1</sup>

In Association Football, a recent change to the offside rule was introduced which gave a little more relief to the attackers in the hope of producing more goals. However, it did not make it easier to decide about off-side nor did it alter the structure of the game or impact significantly on the principles of play.

A change in legislation which would alter the way in which defenders may tackle for the ball or the way in which attackers may retain possession of the ball<sup>13</sup> could create a sea change in Gaelic games because the tackle is a major structural skill in these games. This would impact on the principles such as ball speed and safety in attacking play, and introduce a major structural change in the game. Applied to Gaelic football, it is the writer's view that it would no longer be Gaelic football.

As well as impacting on the principles of play, such a change in rule would immediately frustrate some of the most important functions and characteristics of the game.

### **3.2 THE FUNCTIONS OF THE PLAYING RULES.**

Knowledge of the function of the playing rules is essential for legislators. Unless they have a clear understanding of the relationship between the rules and the game, and what the playing rules should do for the game, the risk of counterproductive legislation is high.

The following list of functions emerged after considering such questions as

- What are the functions of playing rules?
- What purpose do they serve?

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visually and structurally different. Today, the rugby genes in American football are barely detectable. See Chapter 2.0 for Michael Onard's view.

<sup>13</sup> An Australian Rules or a rugby type tackle would enable a player without any ball skill to dispossess the most skilful player. A limitation or elimination of the solo-run would reduce the skill content in the game, reduce the effectiveness of the skilful player, force the player to adopt other ways of soloing the ball (the soccer dribble), increase the amount of handpassing and force players to shoot for a score from much further out than otherwise necessary.

Are they essential, important, useful or just of interest to the legislators?

How does one recognise a spurious function in the legislation?

### **FUNCTION 1. To facilitate competition.**

History provides the first clue to the functions of the playing rules. It is quite clear from the history of the rules of Gaelic games and other similar invasive games that the primary function of the playing rules was and remains to facilitate competition. Rules are essential if teams are to compete in any meaningful, ordered and safe way.

### **FUNCTION 2. To preserve the essential characteristics of the game.**

History also provides the clue to another, and arguably the second most important function of the playing rules.

It is quite clear from a study of the history of games such as Gaelic football and hurling, American Football, Association Football, Australian Rules, Hockey, Lacrosse, Rugby (both types) and Shinty that the playing rules were used to differentiate these games from other football and ball and stick games. Hence, it was, and it remains a function of the rules to preserve the essential characteristics of the games which were designed and adopted by the founding fathers of the associations.

Some associations chose a round ball, some chose an oval ball, some chose a distinctive stick design as in Hurling, Shinty, Hockey and Lacrosse. Although oval balls were adopted by American, Australian, Canadian, Rugby League and Rugby Union only the American and Canadian footballs are the same size. The Rugby Union ball is slightly bigger than that used by Rugby League. The soccer ball is slightly heavier than the Gaelic football, but the latter is slightly bigger than the former.

Different games have different rules. If the rules of game A are made the same as the rules of another game B, either game A or game B ceases to be, as A and B are then the same game. If the rules of Rugby League and Rugby Union were to be written down in the same or virtually the same wording, one or other form of the game would cease to be. There is some evidence to suggest that this might happen eventually because games between these two codes have been officially organised.<sup>14</sup>

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<sup>14</sup>In the first game, Wigan (Rugby League Champions) beat Bath (dual English Rugby Union Champions of Cup and League) by a score of 82 - 6 on 8 March 1996 playing under Rugby League rules. Eleven days

The distinctive features of Gaelic football and hurling were first established by the rules, and the rules were used to refine these features <sup>15</sup> Definitions, usually embedded in the rules, were used for some of these refinements such as the note in Rule 10 1889 which was a definition of 'The Toss' - a term not defined as such until 1991

**FUNCTION 3. To describe the broad objective of the game by specifying all the parameters within which the game is to be played, and prescribing the general and specific permissions and penalties in the rules of Fair Play and Foul play.** The broad objective of invasive games is usually to score more than one's opponents. The value of different types of scores, where such exist, is clearly specified

Some of the first rules or laws of every invasive body-contact game, indeed all games, deal with the specification of the game - the field of play, team sizes, number of officials, playing times, equipment etc. These physical features of the game are instant recognition criteria. Anyone with an interest in team games would identify a game if shown a picture of the pitch, ball, players and officials.

The rules of play set out in detail the permissions, parameters and penalties for the performance of the game and the behaviour of the players. The method of deciding the winners of the game should be clearly specified.

**FUNCTION 4. To provide an acceptable level of safety for the players.**

From a legal perspective, it is important that the Playing Rules should include legislation which is regarded as providing safety for the players by specifying clearly such fouls and conduct as are likely to result in injury, and specifying the appropriate penalties. The Rules of Specification should specify, amongst other things, equipment which is necessary for the safety of the players.

It is clear that Football Rule 14<sup>16</sup> and Hurling Rule 7<sup>17</sup> of 1896/97 were both concerned

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later at Twickenham, London, Bath beat Wigan 44 - 9 playing under Rugby Union Rules. Source: Phone conversation with Edmund van Esbeck. In a personal interview with by phone.

<sup>15</sup>See Appendix 2 p 755

<sup>16</sup>See Appendix 1 p 50

<sup>17</sup>*ibid* p 53

with player safety<sup>18</sup> for they forbade much physical contact off the ball. These pieces of legislation reflect strands of philosophic thought<sup>19</sup> for the safety of the players. However, some regression in this area of player safety occurred in 1950 when the rules banning dangerous footwear<sup>20</sup> which had been in place for 65 years were dropped.<sup>21</sup> The minutes of Congress 1950 may explain why this good piece of legislation was rescinded. Australian Rules have retained this safety provision in Rule 4, entitled 'Players' Boots, Jewellery and Protective Equipment'.<sup>22</sup>

In some cases, safety legislation was passed for one game but not the other as in 1938 when Football Rule 12 was introduced to protect the goalkeeper yet a similar rule did not appear in hurling. At this same time, some legislation was introduced which prejudiced player safety by restricting to two minutes the time allowed for recovery from injury.<sup>23</sup> This was in keeping with a policy 'to keep the game moving' and hence suggests that the caring aspect of the legislation was less important. In view of the decision in *Smolden v Whitworth*<sup>24</sup> it is important that the playing rules require the referee to apply the rules to prevent foreseeable injury.

As has been noted earlier, there are three types of foul in any invasive game. A technical foul is a foul on the ball. For example 'to throw the ball' in Gaelic football or hurling.<sup>25</sup> An aggressive foul is a foul on another player - either opponent or team-mate. For example 'To strike or attempt to strike an opponent'.<sup>26</sup> A foul of dissent is a foul on any official. For example 'To challenge the authority of any match official'.<sup>27</sup>

It is a function of the rules to specify all fouls clearly and what the penalties are for committing any of these three types of foul.

The penalty for technical fouls does not include dismissal or caution. However, the

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<sup>18</sup>See Appendix 2 ps 666, 670, 671

<sup>19</sup>See Appendix 2 ps 691, 692 for further examples of this care for the safety of players

<sup>20</sup>See Appendix 2 p 766

<sup>21</sup>The writer has not been able to trace a motion which sought to have this rule rescinded

<sup>22</sup>See Appendix 2 Part 2 p 888

<sup>23</sup>See Appendix 2 ps 732, 733

<sup>24</sup>*Smolden v Whitworth and Nolan* qb Unreported 19 April 1996, CA Unreported 17 December 1996  
See Chapter 5 The playing rules and the Law

<sup>25</sup>Appendix 1 p 567 Hurling Rule 4 2, p 578 Football Rule 4 2(a)

<sup>26</sup>See Appendix 1 Hurling Rule 5 1 p 570, Football Rule 5 1 p 581

<sup>27</sup>See Appendix 1 Hurling Rule 6 1 p 572, Football Rule 6 1 p 583

penalty for both aggressive fouls and fouls of dissent can vary in severity from the award of a free kick against the offender's team to instant dismissal and lengthy terms of suspension. Indeed a whole team may be suspended for gross misconduct.

In Gaelic games, the referee's first duty is -

To control the game in accordance with the Playing Rules <sup>28</sup>

Under this same Rule 1.2 section (iii) the Referee has a duty

To ensure that all players are correctly and safely attired, and that all playing equipment conforms with the rules.

In some games, there is no specific legislation to forbid behaviour which could foreseeably lead to, or cause, injury.

In hurling, the penalty puck has been identified as potentially dangerous<sup>29</sup> yet legislation was not introduced to reduce or eliminate this danger. The absence of legislation requiring players of any age to wear protective head gear has led to civil proceedings in negligence where the GAA has been enjoined in actions taken by minor plaintiffs for not providing or insisting that they wore a suitable helmet while playing hurling <sup>30</sup>

In soccer, the sliding tackle which is not perfectly timed and directed can cause serious injuries to the lower limbs. In Gaelic football the 'sliding tackle' was made illegal.

In Rugby Union football, the loose maul and the ruck could lead to very serious injury as players' boots may come into contact with players who are grounded. Collapsing of the scrum can and has been the cause of very serious neck injuries.

In Australian Rules football, 'rucking' or levering upwards with the boot placed in another player's back can cause very serious lower back and kidney injuries.

In American Football, the head-on collisions ensuing the set pieces have led to very serious injuries such as the 'glorious triple' where medial, lateral and cruciate ligaments are severely damaged by impact to the front of the knee.

This type of permitted behaviour or 'acceptable level of violence' is regarded by the writer as examples of legislation which overlooks or ignores this function and, in so doing,

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<sup>28</sup>See Appendix 1 Rules of Control 2.1 (i) p 560

<sup>29</sup>Report of the Commission on the GAA Dublin 1971 s 9.2.6 p 121

<sup>30</sup>*O'Driscoll M v CBS, North Monastery*, Circuit Court, Cork, 29 Nov 1994

*Devereaux D v Na Piarsaigh Hurling and Football Club* Circuit Court Cork Record No 4114/19975 February, 1999

*O'Donnell v Sean O'Mainnín, Cumann Luthchleas Gael and Brendan Cummins* Galway Circuit Court Record No 1511/93 27 June 1996 See further Chapter 5, below

leads to structural flaws in each game

**FUNCTION 5 To permit acceptable development of skills, tactics, game plans and management, and on-field control by match officials.**

Rules should be so stated that the individual performance of skills can vary within any specified parameters as players develop new and better ways of performing ball skills and game skills

Where the method of performing a skill is dictated by the rules of play, the scope of the skill is limited. For example, in Gaelic football the sideline ball was originally thrown in one-handed (up to Congress 1945), later it was kicked in from off the ground. Since 1990 it is kicked back into play from the hands.

Since throwing the ball was specified as a foul as early as 1886, it is surprising that this method of restarting the game which was similar to soccer was retained for so long. The development of this legislation entailed the loss of the skill of throwing the ball one-handed, and a significant reduction in opportunities to exploit the skill of kicking the ball off the ground.

Taken in conjunction with the relatively new legislation allowing free kicks other than penalty kicks (and the 45 metre kicks) to be taken from the hand, the skill of taking free kicks off the ground has lost much of its application.

If the legislation required play to be restarted with a drop kick after the ball has gone over the sideline, the player fouled to take the free kick awarded to him from the ground, and free kicks awarded for technical fouls to be taken by a player 'nearest to the ball' from the ground, the legislation could be seen as promoting rather than diminishing the skill of kicking the ball.

Legislation aimed at restricting the handpass was in place in the Experimental Rules used in the National Football League, 1994/95<sup>31</sup> and rejected for several technical reasons. These included deciding if a handpass which touched the ground, an opponent or rebounded off the crossbar or uprights on its way to a team-mate should be regarded as a handpass. It also imposed an intolerable and unnecessary burden on the referee. Clearly this function was overlooked or ignored when formulating these rules. The



1998/'99 Experimental Rules<sup>32</sup> banned the use of the open hand to play the ball away, and made it a foul for the goalkeeper in possession to play the ball away with his hands<sup>33</sup>

It is not a function of the rules to engineer the skills of the game in this restrictive way in the hope of producing some imagined or perceived change for the better of the game. Skill development and the selection of the best form of the skill to use in each situation is a function of coaching not of legislation.

#### **FUNCTION 6. To enable the game to be readily understood**

The playing rules of the game are the main channel of communicating information about the game to players, referees, spectators and the media. They describe and specify the game. In fact, as has already been argued from a philosophical and a practical perspective, the playing rules *are* the game.<sup>34</sup>

Whether the game is easily or readily understood by reading the rules depends to a very large extent on the clarity and format of presentation. If the rules are presented in a way in which they are easy to read, remember and apply, the game will be understood more widely.

It is important to stress the role of the media in this function. If journalists and broadcasters use the correct form of the rules, and the correct terminology, knowledge of the rules and understanding of the game will be promoted and enhanced.

The regular use by the media of slang terminology, and regular reference to outdated legislation causes confusion in the minds of spectators and players who do not have, or have not studied, a copy of the rules. Where a lack of knowledge of, or misquoting, the playing rules leads to misinformation by media when commenting on the games, the Association should take steps to correct this.

For example, terms like 'shoulder charge', 'The Pick Up', 'The Square Ball' and the parallelogram do not occur in the playing rules. It is both misleading and unprofessional for the media to use them. The term 'foul tackle' is commonly used yet it is a

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<sup>31</sup>See Appendix 1 p 553

<sup>32</sup>See Appendix 2 Part 1 for analysis of Experimental Playing Rules

<sup>33</sup>See Experimental Rules, 1998/'99 in Appendix 1 p 586

contradiction in terms because the tackle is a skill and therefore cannot be a foul. The term 'shoulder charge' was replaced by the anatomically correct term 'side-to-side' charge in 1975<sup>1</sup>

**FUNCTION 7. To provide balance in the legislation as it applies to attackers and defenders.**

All invasive games can be regarded as falling into two halves - Attack and Defence - depending on which team has possession of the ball. This fact was recognised as long ago as the sixteenth century by Richard Carew when he described the games of hurling as played in Cornwall and Devon.<sup>35</sup>

Every player on the team who has possession of the ball is automatically an attacker, and continues to be an attacker until possession is lost. All members of the team who do not have possession of the ball are defenders - irrespective of what position they are playing.

The goalkeeper can be a defender one instant, and an attacker the next as he prepares to save a shot, saves it, and prepares to start an attack.

The ability of players to change rapidly from being attack conscious to defence minded is one indicator of the quality of their performance.

If the rules of the game do not provide defenders with opportunities to regain the ball, then the game would become one-sided. If the rules of the game do not allow the player in possession and his team-mates fully to exploit possession, then the game is equally one-sided.

The balance between legislation for the defence and attack is important.

In football and hurling, the rules provide defenders with a general permission to tackle. Football Rule 16 and Hurling Rule 18 state this general permission:

Player(s) may tackle an opponent for the ball.

Definition 15 makes it clear that, in both games, the tackle is aimed at the ball, not the player.<sup>36</sup>

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<sup>34</sup>See Chapter 2.1

<sup>35</sup>See Appendix 1 p. 616 and p. 75 or V2 of original *The first Booke of The Survey of Cornwall* 1602. See also Appendix 2 Part 2 p. 832 *et seq*.

<sup>36</sup>See Appendix 1 p. 585 *et seq*.

Specific references<sup>37</sup> to methods of tackling are listed as for example

Football Rule 1 4 The ball may be knocked from an opponent's hand(s) by flicking it with the open hand <sup>38</sup>

Football Rule 1 7 Provided he has at least one foot on the ground, a player may make a side-to-side charge on an opponent -

- a) who is in possession of the ball, or
- b) who is playing the ball, or
- c) when both players are moving in the direction of the ball to play it <sup>39</sup>

Failing these, the defender in either game can force the attacker to shoot when running at full speed which makes accuracy harder to achieve

In addition to the common legislation on the general permission to tackle the player in possession, Rule 1 9 of Hurling is the same as Rule 1 7 of Football but with the added permission to block a goalkeeper's puck when he is in his small rectangle

However, there is no specific permission 'to knock the ball from opponent's hand(s)' in hurling for the obvious reason that it would be extremely difficult to do this without injuring the attacker's hand

Hurlers who are defending may perform all the tackling skills listed under 'additional forms of tackle' for football with the obvious exceptions -

- i) Since hurlers do not toe-tap the sliothar (hurling ball), the defender may knock the

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<sup>37</sup>When he is within the small rectangle, the goalkeeper may not be charged but he may be challenged for possession of the ball and his kick or pass may be blocked. Incidental contact with the goalkeeper while playing the ball is permitted

Hence in football, specific permissions are

- 1 Knocking a ball from opponents' hand(s)
- 2 Side-to-side charge (Fair)
- 3 Blocking the ball being kicked by opponent
- 4 Blocking the ball being passed by opponent
- 5 Holding up the hands to intercept a free kick

Additional forms of tackle in football

- 6 Knock the ball away or catch the ball being bounced or toe-tapped
- 7 Obstruct an opponent by body, hand or arm
- 8 Force an opponent into technical fouls of overholding and over-carrying
- 9 Force an opponent into weaker position e.g. slow him down, stop him, narrow his angle, force him to play ball with weaker foot or foot closer to the defender
- 10 Force opponent to try more difficult shot e.g. side-on shots or overhead shots
- 11 Force opponent into tactical errors e.g. over-passing and passing the ball high and too slow

<sup>38</sup> See Appendix 1 p 574

<sup>39</sup> *ibid* ps. 574,575.

ball away when the attacker is balancing or hopping the ball on his hurley

- ii) A defender 'may not use the hurley to obstruct an opponent' but may use his body, arms and hands
- iii) Hurlers may hold up the hurley or hands to intercept a free puck <sup>40</sup>

Clearly when the attacker has eluded the defender in hurling, the defender can force the attacker to shoot or pass at full speed

With the obvious differences expected between a ball-and-stick game and a football game, the legislation in the two games is virtually identical, and it provides a very wide range of options to the defenders. Of course they can add their own particular variations provided they are not fouls

From the foregoing, it is clear that the legislation provides a wide range of options with accompanying safety measures

### **Legislation for the attack**

In addition to the width of the scoring space (as opposed to the whole of the end line which is a scoring space for Rugby and American Football for example), the Gaelic player has to get the ball between the posts. There are two further parameters

- 1 For the attacker in either game, it is a foul to carry the ball over the goal line i.e. between the posts <sup>41</sup>
- 2 It is a foul for an attacking player to be in opponent's small rectangle before the ball arrives <sup>42</sup>

The range of options for the attacker has to be assessed before coming to a judgement about the balance in the legislation

In this assessment, it is necessary to exclude first time playing of the ball without attempting to take and keep possession of it for even a short period of time. For example, a player in either football or hurling can kick or 'pull' or strike with his hand a ball that is not in possession of either team. This is commonly called 'a loose ball'. This play can result in scores, saves, clearances and deflected passes

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<sup>40</sup>See Appendix 1 Rule 1 11 p 564

<sup>41</sup>See Appendix 1 Hurling Rule 4 12 p 568, Football Rule 4 12 p 579

<sup>42</sup>See Appendix 1 Hurling Rule 4 10 p 567, Football Rule 4 9 p 578

Possession of the ball is defined<sup>43</sup> as having or holding the ball in the hand(s), performing any form of the solo-run in either game, having control of the ball on the ground in the sense that it can be played before another player can play it, having the right to play the ball in any set piece - kick-out, free kick or side-line kick

In 'set piece' play such as free kicks, free pucks including sideline kicks or pucks where the scoring space is within range, the attacker has the decided advantage of a 'free' shot for a score <sup>44</sup>

Hence for all set pieces, the player preparing to take the 'free' has a distinct advantage over defenders

The player in possession can pass the ball to a team- mate using his hands, feet or hurley

The player in possession in both games can do a solo-run which may take any one of several forms <sup>45</sup> There are certain parameters to be observed in the solo run <sup>46</sup>

In both games -

- 1 The player in possession is not allowed to give a fair charge
- 2 The player may not score by carrying the ball over the goal line
- 3 The attacker is not allowed into the defenders' small rectangle before the ball

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<sup>43</sup>This is the writer's definition

<sup>44</sup>Defenders may not approach nearer than specified distances - 13m to the ball in football or 20m to the ball in hurling before it is played For sideline frees in each game the distance is 13m For the kick-out after a wide in football, defenders (and attackers) are required to be 'outside the 20m line' (See Appendix 1 Football Rule 4 14 p 579 ) which is a minimum of 15.5m away from the ball The same parameters apply in hurling

<sup>45</sup>In football, this may be

- 1 using continuous bouncing if the ball has not been caught
- 2 all toe-taps
- 3 a combination of bounces and toe-taps
- 4 a ground solo-run

In hurling this may be,

- 1 carrying the ball on the hurley - balanced or hopping
- 2 a ground solo-run

Both these solo runs have the following parameters -

- 1 the ball may not be carried in the hand(s) for more than four steps
- 2 the ball may not be held in the hand for longer than the time needed to take four steps

<sup>46</sup>In football, the solo-runner may not change the ball from one hand to the other more than once in any one period of possession, and he must keep at least one hand in contact with the ball when changing it from hand to hand

In hurling, the solo-runner may play the ball into his hands from the hurley only once if he has first caught the ball to gain possession If he has not caught the ball in gaining possession, he may play the ball from hurley to hand twice. See Appendix 1 Hurling Rule 1.4 p.563

arrives<sup>47</sup>

The player in possession in both games is protected by the provisions of Rule 5 Aggressive Fouls of each game

It is the writer's view that the 'task' of defending should be a little easier than that of attacking otherwise there would be too many scores This view is not shared by everyone<sup>1</sup> (See Endnote 1 At the end of this chapter)

### **Overview of Legislation on Attack and Defence.**

In considering this detailed comparative analysis of the legislation affecting defensive and attacking play, it is the writer's opinion that on balance the legislation favours the defenders This is how it should be in invasive games for it would appear to make good sense that defence of one's goal should be easier than attacking an opponents' goal successfully

Despite the inclusion in the rules of a clear definition of the term tackle, a number of commentators have asserted that no such definitions exist

The frequency of these denials on the existence of a tackle in Gaelic football<sup>48</sup> is a serious matter for the Association because the more often people read them, the more likely they are to believe them

Since the legislation surrounding the tackle and defensive play generally is virtually the same, some explanation is necessary for the lack of any criticism of tackling in hurling

It is the writer's view that the balance of legislation as between attacking and defensive play is about right It should be biased slightly in favour of defenders This balance is easily upset, and it is argued that legislators should be aware of the importance of both this key function and the balance of the legislation in these important areas of the rules

If the balance of legislation with regard to attacking and defensive play is altered because of a lack of knowledge or misunderstanding of the relevant rules, this could lead to the destabilisation of the game

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<sup>47</sup>However, if an attacker is in the small rectangle before the ball arrives, a point may be allowed if the ball was so high as to be out of reach of all players in that area

<sup>48</sup>See, for example, Paul Healy, *Gaelic games and the Gaelic Athletic Association* Mercier, 1998 ps 36,37 and 71 where he repeatedly claims that the tackle is *not* defined This is despite the fact that the tackle is one of the terms defined in the Playing Rules Examples of the tackle are specified in the Rules of Play for both games

**FUNCTION 8. To provide a balance in the legislation as between big and small players.**

If the nature of a game is such that the somatotype of the players is critical to success, then that game will effectively only cater for players who have, or have something approaching, that somatotype

For example, success at basketball almost demands that players be very tall as well as athletic and skilful American football demands that players be tall, very heavily muscled and very quick Some events in athletics such as the high jump effectively preclude small athletes Some competitive activities such as wrestling, judo and boxing acknowledge this important fact by having separate competitions from local level to world championships for people of different weights

Within certain games, certain positions demand a certain somatotype The physique required for the lineout players in rugby effectively means that players below a certain size have little chance of winning the ball in the lineout, and simply will not be selected for these positions

If Gaelic games should cater for all sizes and shapes of players, then there should be scope in the game for small and light players as well as for tall or heavy players This scope is provided by the skills of the game and the legislation surrounding these skills Failure to do this automatically excludes a section of players who are keen to play Gaelic games

While tall players can be expected to excel and succeed at high catching for example, and big strong players can be expected to have a distinct advantage in some aspects of the play like the side-to-side charge, small, skilful and quick players can excel and succeed at skills like the solo-run and the lift

Although many of the players who are regarded as the stars of both football and hurling are, and were, tall mesomorphs, it is true to say that small players have excelled in virtually every position on the field in both games

In Brian McEniff's team of 1992, the two McHughs, James and Martin, along with Joyce McMullan formed what was surely the smallest half-forward line ever to win an All-Ireland But they flummoxed a hitherto omnipotent Dublin half-back line with the speed and audacity of their ball-carrying, always holding possession and only popping it when a colleague arrived at speed into the line If they were using an oval

ball, it would have been called a feast of running football <sup>49</sup>

The reason that players of all sizes have excelled in Gaelic games is that the legislation facilitates skilful players of all sizes

Over the last decade, several skills in the game of Gaelic football, in particular, are under threat of elimination or serious curtailment. That threat persisted in the experimental Rules for the 1998/99 National Football League

For example, the skill of using the foot to lift the ball from the ground is being blamed regularly for promoting 'a lot of aggressive fouls'. Eugene Magee is reported as stating

The present pick-up should be abolished, as it frightens young boys away from the game <sup>50</sup>

This skill is often described as 'unnecessary', by O'Rourke<sup>51</sup> and others, and it is regularly suggested that it should be deleted or replaced by the Australian lift directly off the ground

These arguments and suggestions do not stand up to any serious technical examination. They are clearly part of the overall thrust of the official policy to replace the skills of our indigenous game with those of Australian Rules. There is no excuse for using slang terms in this context.

The various skills of the solo-run are regularly blamed for causing fouls and, repeatedly, suggestions are made to reduce the solo-run to a single bounce and perhaps a single toe tap. This curtailment was implemented in the Experimental Rules in the 1997/98 season. It had to be abandoned in the face of public criticism before the end of the trial. When proposing a new code for Gaelic football, O'Connell suggested

My blueprint would rule out the solo-run. I have no regrets there. It is a pity it was not nipped in the bud the first day it reared its head, because it has contributed to much that is horrible in the game, for example, charging, blocking in possession and the

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<sup>49</sup>Conlon T. *McHugh looks beyond Donegal's short game* Sunday Times 2 Feb., 1997, p. 2. 10 Sport

<sup>50</sup>See McCrory S. *Voice from the Sideline* Blackwater Press, Tallaght, 1997, pp. 64, 65. Note the use of the slang term 'pick-up' instead of the correct term 'the lift'.

<sup>51</sup>Colm O'Rourke 'A clean pick-up [sic] - provided the player is standing - will also see the development of new skills, as the Australians have demonstrated. Taking the ball one-handed at speed is a skill in itself, while those under pressure will learn to flick it away with an open hand.' Sunday Independent 15 January 1997.

Note the use of the slang term 'pick-up' instead of the correct term 'the lift', and that this suggestion as to how to play the ball on the ground when under pressure is, in effect, a throw.



inevitable pull-down<sup>52</sup>

Others had a less sanguine view

One such suggestion is that the solo run should be limited, though to many, such a move would be unacceptable because the solo run is one of the unique skills of the game. A similar experiment with limiting the handpass, some years back, was a failure<sup>53</sup>

Claims that 'The Lift' and 'The Solo-run' cause or create fouls and therefore should be strictly curtailed, are somehow akin to arguing that the victim of crime rather than the criminal perpetrator should be curtailed

Repeatedly, critics of the game are urging that the handpass be restricted to one per period of team possession - even though such an experiment was tried and failed in the National Football League of 1994/95<sup>54</sup>

No factual evidence has been given to support these views, and all the available evidence of match analysis indicates that neither the solo-run nor the lift from the ground with the foot either cause or attract fouls

Despite the pressure of public opinion which forced the abandonment of three of the seven experiments in the 1997/98 Experimental Rules trials, for this agenda to succeed, it is only sufficient that those who recognise the value of these skills do nothing

Denuding the game of skills will inevitably denude the game of players for the simple reason that fewer players will find they can play the game to a level of personal satisfaction which will sustain their commitment to the game

In any change that is made, there must be one golden rule - Do Not penalise skill. Therefore we must retain the solo run, the pick-up and the hand-pass<sup>55</sup>

Whether this 'golden rule' will be observed by the legislators remains to be seen

It is the writer's view that it is a function of the rules to facilitate a wide range of participants by offering a wide range of skills

If our national games have something special to offer us by way of competitive sport,

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<sup>52</sup>O'Connell M (ex-Kerry player) quoted in *Hurling and Football Annual* GAA Dublin 1997 p 54

<sup>53</sup>Keenan D *The Sunday Times* 10 December 1995 Sport p 2,19

<sup>54</sup>See Appendix 1 p 553

recreation, culture and identity, it is important that the rules governing the playing of these games should invite and embrace as many players as possible

In a quite different context, Binchy wrote

At the heart of a humane society is an almost instinctive response to dependency, weakness, immaturity and small size<sup>56</sup>

This statement could apply equally to the heart of a humane Association catering for the competitive and cultural aspirations of its members

In summary, it is important to state that rule functions are signposts for the legislators. They direct attention to the need to ensure that if the integrity of the game is to be preserved, proposals to make, amend or rescind rules must reflect the legitimate functions of the rules.

A knowledge of these functions enables the critic of unwarranted change to refute them with authority. For example, a working knowledge of these functions will show that arguments such as

'Rules should be made to speed up the game,' or

'The rules should make refereeing easy, particularly, the dual referee' or that

'The rules should facilitate the dual player'

are all fallacious.

On reflection, it should be obvious that speeding up the game is a function of training and coaching. It is the clear logical format and clarity of the rules which facilitates ease of learning and application by referees. The quality of refereeing is a function of the quality of the training of referees, their knowledge of the rules, and their ability and willingness to apply them as stated.

The engineering of the legislation to make life easier for the dual referee<sup>57</sup> and the dual player is a complete negation of the function of the rules. Apart from the fact that the

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<sup>55</sup>Earley D. *opus cit* p 58

<sup>56</sup>Binchy W. *The Right to Life Touches on Wider Issues*. The Irish Times, 31 January 1997 p 12

<sup>57</sup>The common suggestion that those referees who officiate at both games cannot adapt immediately to the game in hand is less than complimentary to them. Drivers of vehicles who arrive on the continent from Ireland through England adapt immediately to a set of rules for the road which are significantly different. Surely our referees are equally adaptable.

Although it could be argued that the life and safety of the referee is not at risk if he makes a serious error, the *Smolden* case, discussed in Chapter 5, has demonstrated that he is at risk if he is not sufficiently aware of the rules of play.

percentage of dual players and dual referees is probably in the order of 10%-12% or less, the idea of machining the rules to suit these two categories is difficult to justify

However, it can be said that the existence and vitality of our games are at risk if the legislation of one game has to be altered to facilitate referees who cannot readily adapt from a football game to a ball and stick game

Frequent references are made in the literature to games and their rules as being activities where 'suspension of the ordinary' replaces normal living. This was the theme of *Sport and Play - Suspension of the Ordinary*<sup>58</sup>

McIntosh had similar views

However the purpose of the regulations is to define the sphere in which the ordinary rules of life are suspended, to define the unreality of sport and

In sport, the rules of normal life are replaced by other rules<sup>59</sup>

If by 'purpose of the regulations' Peter McIntosh means the 'functions of the rules', and there is good reason to believe that he does because 'purpose' and 'function' in this context are virtually synonymous, the writer would disagree with him on this matter. Clearly there are important similarities between many of the rules of normal life and the rules of sport

For example, those rules which require us to drive on the left or right of the road in the interests of safety or to wear a seat belt or helmet to reduce the risk of injury when a mishap occurs are mirrored in similar rules requiring sports people to wear equipment to protect them in collisions with others: players, the ball or the stick.<sup>60</sup>

In reference to players and officials in his sixth principle of rules, Grayson wrote

They and their officials should also be aware of the manner in which the law of the land transcends and overrides the law of any field of play.<sup>61</sup>

The writer agrees with the view that 'The rules of sport are *like* legalistic enactments', but

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<sup>58</sup>Schmitz K L *Sport and Play - Suspension of the Ordinary* Second ed Gerber E W and W J Mangan (Eds) Lee and Febiger, Philadelphia, 1979

<sup>59</sup>McIntosh opus cit p 83

<sup>60</sup>The rules of normal life forbid assault and battery as do the rules governing aggressive fouls. In golf, the players are expected to call 'fore' if they think that an errant ball is likely to hit another player. This example is not unlike many of the 'courtesy' rules of normal living

<sup>61</sup>Grayson E *Sport and the Law* 2nd Ed Butterworths, London 1994 p 404

would go one step further and say that the rules of sport *are* legalistic enactments - particularly the rules of foul play. Courts will refer to these rules when deciding upon claims for assault on the playing field <sup>62</sup>

It is the writer's view that to describe sport as unreal or to claim that any or all the rules of life are left at the sideline, is more than a little condescending. It does not reflect the facts of either life or sport authentically lived or played. The reality for many people is that sport is a part of their lives, for some at least the most important part, and these two parts are often inseparable.

### 3.3 THE CHARACTERISTICS OF THE RULES.

In addressing the general question as to the quality of playing rules, a key question is whether a rule is 'good' or 'bad'. Mill argued that it is easier and more productive to list characteristics of 'bad rules' than of 'good rules' <sup>63</sup>. When this is done, the characteristics of good rules stand out more <sup>64</sup>.

Even if speculative, such value judgements can be regarded as some of the raw data from which the philosophy of legislation for playing rules emerges. As such, they are the first steps in the process leading from speculative postulates, and hopefully, to principles which normative and analytical philosophers may choose to criticise.

#### A consideration of good legal rules

Lon Fuller proposed a list of eight principles by which to judge the validity of legal rules. These are:

Generality, Promulgation, Non-Contradiction, Clarity, Non-Retroactivity, Possibility of Compliance, Constancy through time and Congruence between official action and declared rule <sup>65</sup>

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<sup>62</sup>In *Duggan v Comharchumann Forbartha Chorca Dhuibhne Teo*, Circuit Court (Tralee), 13 Nov 1998, evidence was produced to show that the Playing Rules of a variety of games contained a rule forbidding players to wear anything which might injure another player.

<sup>63</sup>Mill J S *Utilitarianism* 1861 Ch 5

<sup>64</sup>As was shown above, defining what was not wanted (i.e. the throw) proved to be the key to gaining acceptance for a definition of what was wanted - the handpass.

<sup>65</sup>Fuller L L *Morality of Law* Revised Edn, Yale University Press, New Haven CT, 1969. See also Simmonds N E *Central Issues in Jurisprudence - Justice, Law and Right*, Sweet & Maxwell, London p 118 *et seq*.

These principles have also been referred to as 'Principles of legality'

Commenting on these Simmonds wrote

" the characteristic features of legal systems which have provided the focus for legal positivists exists as characteristic features because they are related to the purpose of legal systems. Once we have a clear understanding of the purpose of legal systems we will see it is an inherently moral purpose, a moral aspiration "66

The writer is of the view that a clear understanding of the principles of play and the functions of the playing rules is a prerequisite to identifying the characteristics of playing rules. The legal philosophy contained in Fuller's principles is directly applicable to the legislation covering the playing rules of invasive body contact games. Playing rules must be governed by such moral principles as fair play, concern for the safety of players and equal punishment for equal offences. The duty and powers of the referee must include authority to ensure that principles such as these are implemented in practice in the games. The duty of care owed by the referee to the players cannot be properly fulfilled unless the playing rules are formulated in a way which reflects these legal principles 67. Therefore those with the responsibility for formulating playing rules should be aware of the moral and legal requirements as well as the technical details required for sound legislation.

The use of the word 'good' in the current context ('characteristics of good rules') may require some justification. For example, in discussing the possibility of defining 'good', G. E. Moore contended that 'good' is incapable of definition because it is simple and has no parts 68. Whereas McIntosh pointed out differences in the uses of 'good' (short for 'morally good', good clock, good shot, good luck, good rules, good man) R. M. Hart thought these uses are all the same.

There are descriptive and evaluative meanings of 'good'. 'Good' can also be used persuasively in describing something to convince. For example, 'The playing pitch has a good surface', or 'This is a good pair of football boots'.

However, the writer's view is that since words like 'good' and 'bad' have a settled

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<sup>66</sup>Simmonds N. E. *Central Issues in Jurisprudence - Justice, Law and Right* Sweet and Maxwell, London, 1986 p 116

<sup>67</sup> See further the *Smolden* case, discussed in Chapter 5, below

meaning, and the rules of games have, or should have, a settled application, the terms 'good characteristics' and 'bad characteristics' convey both descriptive and evaluative meanings in this discussion. Hence, good and bad characteristics of rules should become evident when rule statements are analysed with respect to function, intent and application. The purpose of philosophy should not be to confuse the ordinary meaning of words with a terminology invented for that purpose.

### **Characteristics of good playing rules**

The writer has identified the following characteristics of Playing Rules

- 1 Rules should be as few as possible and as short as possible
- 2 They should be amenable to application
- 3 The rule can be applied as stated
- 4 Rules should not be ambiguous, contradictory, or repetitive
- 5 They should take the form of a statement and, where necessary, include a complete list of exceptions and penalties
- 6 Terminology should be accurate, appropriate and, where possible, exclusive to our games
- 7 They should be discrete and exclusive
- 8 Good rules do not need to be changed
- 9 A rule should have but one meaning, and should not need interpretation

It would appear that these characteristics bear a significant resemblance to Fuller's 'inner morality of law'. Whether these characteristics of good rules should be termed principles is a matter of choice rather than of significance. Since the *principles* of play forms part of this area, the term characteristics is preferred.

Essentially, it is argued that those who are in a position to make, amend or delete playing rules should, as a minimum starting point, recognise a bad rule when they see one. They should know how to recognise a good rule, and formulate good legislation.

If the list of characteristics of Playing Rules is more extensive than that of Lon Fuller, it might be observed that he did not have to deal with so many flaws in the laws he was describing. For this reason too, it may be more prudent to use the term characteristics.

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<sup>68</sup> Moore G.E. *Principial Ethics* Cambridge 1905. ps 9,10

than principles

The phrase which the writer found most appropriate to describe a good set of playing rules was that it should be *easy to read, easy to remember and easy to apply*. It is suggested that this is the standard at which our legislators should aim.

There is obviously a finite number of good characteristics, and the list should be relatively short. However, the list of bad characteristics may be infinite. The characteristics will now be considered *seriatim*.

## **1. THEY SHOULD BE AS FEW AS POSSIBLE AND AS SHORT AS POSSIBLE.**

This first principle is not directly comparable to Fuller's list, but arises from the poor state of the games' rules in the 1980s prior to the adoption of the current format. There could be no justification for having 35 Rules of Play, as was the case in 1980, when only six are necessary. Of course, any one of the six rules may be longer than any one of the 35 because of the obvious need for subsections. The benefits of having only six rules which are mutually exclusive far outweigh any criticism of the list of subsections however long. In Gaelic football and hurling, the number of rules varied significantly from time to time as illustrated in Table 3 used in the periodic analyses in Appendix 2.

In 1988, there was a total of 54 published rules which comprised the playing rules of the two games. Of these, 23 could be regarded as dealing with onfield control and specification.

Additionally, there was an unpublished list of 'Presidential Rulings' which amounted to the interpretations by Central Council, or the President of the day, on certain aspects of certain rules. In some cases, these rulings effectively contradicted the obvious statement of the rule in question.

For example in 1986, Rule 190 (c) stated

'When in flight or when caught, the ball may be struck with the open hand or fist'

However, a Central Council Ruling of May, 1986 declared that

the ball may be struck with the open hand or fist but there must be a visible striking action and no propulsion from the holding hand. The one-hand/fist pass is not permitted.<sup>69</sup>

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<sup>69</sup>Referees' Guide to the Playing Rules of Hurling and Football. GAA, Dublin, 1987, 1988. See Appendix 1 ps 411, 428, 429.

This contradicted the existing rule, amounted to a new rule, did not have the necessary imprimatur of Congress, and subsequent editions of the Official Guide did not include this 'interpretation' The ensuing confusion and frustration was understandable <sup>70</sup>

When the suggested new format of the playing rules established that all the rules of play of Gaelic football or hurling, or indeed any other invasive ball game, could be written down under six headings, this format of six rules was adopted at a Special Delegate Congress in December, 1990 and became operative with effect from 1 January, 1991

Although the definitions of key terms are an integral part of the rules of play, they are not regarded as a rule as such, they are simply part of the rules where the terms arise

The statement of the rule as a whole, and the individual statements of the subsections of each rule should be as short as possible while still clearly conveying all the necessary information about the rule

## **2. THEY SHOULD BE AMENABLE TO APPLICATION.**

Any rule or subsection of a rule which is not capable of being applied in virtually all cases cannot be a good rule particularly if it imposes an intolerable burden on the referee and unnecessary burdens on the players

For example, if a rule provides for players to perform the solo run in Gaelic football, and the performance of this skill is surrounded with acceptable parameters such as the number of steps a player may take while holding the ball, and the length of time he may hold the ball between bounces or toe-taps, it is quite unnecessary to place further parameters on how he plays the ball between bounce and toe-tap Since the player is allowed to toss the ball from hand to toe for the toe-tap, forbidding him to toss the ball from hand to hand between bounces or toe-taps is at once technically unnecessary, extremely difficult to apply for much of the time, and a source of frustration to players, referees and spectators Additionally, this unnecessarily restrictive piece of legislation effectively killed off one of the delightful skills of the game affectionately known as 'the dummy' where a player used the ball to deceive an opponent about his intentions

The downstream effects of this legislation were not properly evaluated

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The speed at which this piece of play is executed, the distance of the player from the referee, and the fact that the movement may be often obscured by the player's body combine to make it extremely difficult, if not impossible, to apply this part of the rule in many instances. More importantly, it does not matter how he changes the ball from one hand to the other. When this rule went on to require the referee to blow for a foul if he did not see the change, it brought both the rule and the referee into disrepute.

This subsection of the rule is really a relic of a defunct controversy about whether a handpass was 'automatically a throw' and the historical hang-up about what constituted a throw.

Since the possibility of compliance with this legislation is low, Fuller would argue that such legislation lacked an inner morality. The writer would agree.

### 3. THE RULE CAN BE APPLIED AS STATED

If a rule gives a general permission for any aspect of play, then the player is entitled to play the ball in any way he chooses which is not specified as a technical foul. This is what Fuller implies with his principle of 'possibility of compliance'.

Popular misconceptions about what was supposed to be a foul should not affect refereeing decisions.

For example, there was at one time a common call for the referee to penalise a player in possession if he turned around twice. '*Ah! Two turns Ref!*' was quite common, and is still occasionally heard. This action was often penalised by referees even though it never was a foul for the player in possession to turn twice. This call arose from the argument that if a player did turn twice, he must have overcarried or overheld the ball!

More recently, it was a common assertion amongst spectators, players and some referees that it was a foul to 'show the ball' (the basis of the 'dummy'). This argument arose from the restrictions imposed on the player performing the solo run in Gaelic football. 'Showing the ball' was never mentioned in any rule.

More importantly, if a certain action is not listed as a foul, it should not be penalised provided it does not fall within the terms 'rough or dangerous' play.

For example, there was at one time a foul entitled *obstructing a player by hand or arm*

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when trying to rationalise a refereeing error

even though he be not actually held<sup>71</sup> This specific foul was omitted from the Official Guides from 1986 onwards, yet many referees are still applying this rule as though it is still in force

Similarly, 'pulling' or 'to pull an opponent' is not listed as a foul but is being treated as a foul in circumstances where it can hardly be regarded as either rough or dangerous

This type of refereeing illustrates that there is not a congruence between what the referees do and what the rule requires them to do Hence, although the fault may lie largely with the referees, the Association has a duty to see that the referees apply the rules as required by the Official Guide

#### **4. RULES SHOULD NOT BE AMBIGUOUS, CONTRADICTORY, OR REPETITIVE.**

It is much easier to state this characteristic in the negative than in the positive Fuller's principles of clarity and non-contradiction cover most but not all of this characteristic It is the writer's view that Fuller would have found ambiguity and repetition in laws or playing rules equally unprincipled

The statement of a rule of sport should be perfectly clear to an average reader It should be set out in standard grammar with standard punctuation The rule statement should have only one self-evident meaning If a simple statement of a permission, parameter or penalty is thought to need further interpretation then, *ipso facto*, there is something wrong with the wording

Fuller and other legal writers argue that clarity should likewise be the hall mark of legal rules, though the complex and detailed nature of certain statutory rules (such as tax legislation) has tended to result in ever-more complex and lengthy statements of legal rules<sup>72</sup> Indeed, it has been noted that this has contributed to an ever-expanding role for

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<sup>71</sup>See Appendix 1 Rule 161(b) p 332

<sup>72</sup> See generally on the various rules of statutory interpretation in the Irish context, Byrne and McCutcheon, *The Irish Legal System*, 3<sup>rd</sup> ed, Dublin, Butterworth, 1996, Chapter 13 Of the various rules discussed, the one which appears to correspond to the need discussed here to ensure consistency is the golden rule of interpretation by which the ordinary sense of words is to be used unless it would lead to some absurdity or inconsistency with the rest of the (statutory) document However, as applied in the legal context, this rule is obviously used in a much more complex context than those of the rules of a game

judicial interpretation<sup>73</sup> Atiyah has argued that increased interpretation can lead to cyclical problems

Bad laws arise primarily from the way laws are made a tradition of narrow methods of interpretation which has led to a narrow style of drafting, which in turn has reinforced the same methods of interpretation<sup>74</sup>

It remains to be seen whether, in the legal context, the various campaigns for 'plain' language in legal rules will produce more clearly-worded laws in the way their champions intend

Whatever the difficulties in achieving clarity in the many different legal contexts, taken individually and as a group of rules, the rules of Gaelic games (by contrast with tax laws) consist essentially of an assembly of simple sentences Each rule should be capable of being stated in unequivocal terms

As Atiyah has pointed out in the legal context, if we accept that rules of a sport should be interpreted, we will not draft them in a way which makes interpretation unnecessary This leads to a situation where the rules may come to mean what the interpreter wants them to mean rather than what Congress intended they should mean

By way of example,<sup>75</sup> the specification for the semicircles on the 20m lines which appeared in the 1995 Congress Motion was very significantly different from the specification which subsequently appeared in the Rules of Specification, Rule 1.5 of the 1995 Official Guide This can lead to two faults the imprecise wording of motions, and the significant alteration of successful motions before insertion in the Official Guide

A statement in any rule should not contradict, or even appear to contradict, any other statement in any rule or definition of a term

Once a permission, parameter, or a foul and any exception to these have been stated, none of these should be repeated elsewhere in any other rule Where one piece of legislation applies to more than one rule as in the case of exceptions, subsequent

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<sup>73</sup>Commenting on the twentieth-century American legal language, Edelman noted *It is precisely its ambiguity that gives lawyers, judges and administrators a political and social function, for unambiguous rules would, by definition, call neither for interpretation nor for argument as to their meaning*

reference to it should be made by reference to the rule and subsection in which it first appeared

All fouls which have exactly the same penalty should be grouped together and the full, penalty specified at the end of the group even where part of the penalty is the same as for other groups of fouls. When the fouls and the penalties attaching to them are listed in descending order of gravity or some logical sequence, this facilitates the objective that the rules be easy to remember.

#### **5. RULES SHOULD TAKE THE FORM OF A STATEMENT AND, WHERE NECESSARY, INCLUDE A COMPLETE LIST OF EXCEPTIONS AND PENALTIES.**

The statement of a rule should make it perfectly clear what general and specific permissions are allowed. This corresponds to Fuller's Principle of Generality. The statement should make it perfectly clear what actions are specifically forbidden. A general caveat is usually required for aggressive fouls for it would be unreasonable to expect the legislators to anticipate and list every single unacceptable form of behaviour. This is the only area where the referee has a duty to interpret the rules - in particular the terms 'rough' and 'dangerous'. The use of examples of allowable actions or the inference of unspecified actions can raise queries by players, referees, spectators and the media as to what other actions may be permissible or forbidden.

The rule should begin with a clear statement of permissions or prohibitions followed by any exceptions, and the conditions in which these exceptions apply. The rules dealing with foul play should end with a clear statement of the penalty for non-compliance or repeated breach.

#### **6. TERMINOLOGY SHOULD BE ACCURATE, APPROPRIATE AND, IF POSSIBLE, BE EXCLUSIVE TO OUR GAMES.**

In most, if not all, body contact games, reference is made to parts of the body. All such references should use the correct anatomical term.

Although the term 'A fair charge' was defined as 'a shoulder to shoulder charge' until

1975<sup>76</sup> and as 'A side to side charge' since 1975<sup>77</sup>, the term shoulder charge is still very commonly used despite the fact that if the anatomical shoulder is used to charge with, the player would be charging with his head down, as seen in the scrum in rugby - something forbidden in Gaelic games

The area immediately in front of the scoring space is now called the small rectangle. It has been variously described in the playing rules as 'the parallelogram' and popularly as 'the square'. It began as a seven yard square in 1895 and was replaced by a rectangle made up of three five yard squares in 1903.<sup>78</sup> Strictly speaking from a mathematical point of view, this area never was a parallelogram. For most of the time it was specified, it was a trapezium for it had only one pair of parallel sides. Since the specifications failed to take into account the diameters of the bases of the posts, the side of this area out from the goal line was about two feet shorter than that on the goal line.

Rather than name this area after a mathematical shape, it would have been (and would still be) much more appropriate to call it 'the goalkeeper's area' for it was introduced to provide protection for the goalkeeper. Later, it provided certain derogations for the goalkeeper with respect to the rules in Gaelic football governing the playing of the ball on the ground. Unlike other players, he may lift the ball off the ground when it is within this area, or he may play the ball away on the ground with his hand(s) in this area whether or not he is down on the ground himself.

What were known as the four categories of fouls, grouped under the titles 'Category A Fouls', 'Category B Fouls' etc., where each category contained a list of fouls in descending order of seriousness, were replaced by the current groups of fouls - Technical, Aggressive and Dissent. This was a very important improvement in this area of the legislation. Neither the players, the referees, the spectators nor the media were able to remember which fouls were in each of these four categories A to D.

The adoption of terminology used in other games can cause confusion amongst those players, referees and spectators familiar with these other games. The term 'personal foul' was imported from basketball in 1975, and was deleted in 1985. This term had two

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<sup>76</sup>See Appendix 1 Rule 139 FOUL AND ROUGH PLAY Note 1 p 292

<sup>77</sup>See Appendix 1 The note after Rule 161(f) p 332

<sup>78</sup>See Appendix 1 ps 65, 79

weaknesses Firstly, it was borrowed from another popular game, basketball, where it had a rather different meaning and application It was confusing to young people who played both Gaelic games and basketball Secondly, it did not convey the sense that the fouls it covered were both aggressive and usually committed against another player It is interesting to note that although this term was abandoned in 1985, it is still commonly used in 1998 by officials, referees, players, spectators and, particularly, by commentators

It is fair to state that much of the blame for the persistent usage of outdated terminology is directly due to the media failing (and in some cases refusing) to keep up to date with changes in the rules

Some high profile reporters and commentators still simply refuse to use the official metric terms adopted by the Association in 1975 (although first proposed in 1917) This causes confusion with a generation or more of followers who have been educated in the metric system

The use of one term to describe an action should not be duplicated by using another term For example, if the term 'puck' or 'pucked' is used to describe the action of playing the ball with the hurley, the term 'struck' should not be used subsequently to describe the same action The same action should be described by the same term wherever it appears in the rules

## **7. THE RULES SHOULD BE DISCRETE AND EXCLUSIVE.**

The playing rules of a game should be formulated in a way in which each rule deals with a specific area All the legislation dealing with each area should be contained in the same rule

The same rule should not attempt to deal with fair play and foul play, nor should the same rule attempt to deal with control and specification of the game In this respect all rules should be discrete

If it is accepted that the rules should be easy to remember, then from the time the reader starts to read that rule until he comes to the end of it, the text should focus his attention on one area of the game Everything that deals with that area of the game should be contained in that one rule

In this respect, the rules should be mutually exclusive

## **8. GOOD RULES DO NOT NEED TO BE CHANGED.**

This characteristic is exactly the same as Fuller's seventh principle of law - 'Constancy through time'

If the playing rules of a game are changed often, confusion and frustration amongst referees, players, spectators and the media ensue. Additionally, a process of destabilisation begins as instability is institutionalised.

Players, coaches and managers need permanence in the legislation because of the time lag involved in adapting to significant changes. Any proposed experimental trials with the rules of play must be based on carefully researched data which indicates strongly that a proposed change will almost certainly produce the necessary improvement.

Before changing any rule, it is essential to establish where exactly the problem lies.

- Does it lie with the rule itself?
- Does it lie with the application of the rule?
- Does it lie with the non-application of other rules?
- Is the change technically or politically based?

It is essential that the downstream effects of a change to any rule are clearly identified and assessed, and it is important to realise that accurate assessment of the downstream effects of changes to several rules requires a sophisticated process similar to the mathematical process of multivariate analysis.

It is well to remember that simply by changing two rules, American football was developed from rugby football.<sup>79</sup>

Rule changes are not assimilated as quickly as those who promote the Experimental Rules policy seem to believe. In 1990, when the rule relating to scoring was amended to allow the player in possession to kick the ball over the bar for a point, it took a long time for players to use this method of scoring. In all televised games in that year's National Football League (after Congress) and Football Championship, it was not until the semi-final of the All-Ireland Minor Football Championship that a player scored a point with the

fist Even a decade later, players seem reluctant to avail of this good method of scoring The Experimental Rules which are now a feature of our process of legislation have resulted in changes in playing rules for the National Leagues initially Later other subsidiary intercounty competitions were used The Experimental Rules have not applied to club competitions generally so referees, players, spectators and media have to adopt to playing to different rules from week to week<sup>80</sup> - even on the same day when players could be playing a club game and a county game

In the past, some of the arguments used for some of the trials have been demonstrably dishonest For example, if the argument used to try the four quarters in Gaelic football in the 1989/90 National Football League was a genuine attempt to eliminate the weather as a factor in deciding the result of games, some explanation is required as to why it was not also used in hurling In October, 1998, the reason given for not allowing the goalkeeper in possession of the ball to play it away with his hands was that *'Particularly, as the goalkeeper may not be tackled in the small rectangle'*<sup>81</sup> Yet the Rules of Play state that he may be tackled in the small rectangle<sup>82</sup>

It is fair to comment that to date, the Experimental Rules have lacked democratic legitimacy<sup>83</sup>, technical underpinning and moral authority This system of experimenting with rules has, in the opinion of the writer, led to a certain amount of destabilisation of the game of Gaelic football particularly where most of the experiments have taken place Continued use of these experiments in their present format will institutionalise instability

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<sup>79</sup>See Chapter 2 1 A Game defined by reference to its rules

<sup>80</sup> Bob Hyland writing in Irish Independent, 11 December, 1998 quoted from Dublin County Secretary, John Costello's, Annual report 'It seems extraordinary that our second most important football competition, the National League, which was already undergoing a major reconstruction, is also the subject of yet another rules experiment

'Why we are constantly changing the rules of Gaelic football is a mystery It creates all sorts of problems for players who are playing one set of rules for their club and another for their county

'If it is difficult for players, it is even worse for referees Then we constantly change those rules and make a difficult task impossible

<sup>81</sup>Press Release issued from Croke Park to the media and attributed to Eugene Magee - Football Development Committee and Pat Daly - Coaching and Games Development Manager One would have expected the chairman to have put his name to this document However, it is interesting to note that in the rules for the International Rules series in Australia, October, 1999, Rule 13 Goal Keeper at 13 1 states The goal keeper shall not be charged, checked, challenged or tackled inside the small rectangle

<sup>82</sup>See Football Rule 1 4, 1 6, 1 7 Appendix 1 ps 574, 575

<sup>83</sup>See Chapter 6 Evaluation of old and new processes (of legislation) and Appendix 2



## 9. A RULE SHOULD HAVE BUT ONE MEANING IT SHOULD NOT NEED INTERPRETATION.

All the Playing Rules of a game should be simple statements or a series of short simple statements. Any terms used in these simple statements which might be capable of more than one meaning should be carefully defined using this same criteria. A rule which needs interpretation is either poorly drafted or is a bad rule for it lacks a clear and simple definitive statement of the intent of the rule.

Since an interpretation is not the same as the original rule, all interpretations change the original rule in some way, and unless such interpretations are embedded in the rule, the lack of clarity which gave rise to an interpretation remains. Interpretations thus embedded in the rule become definitions of their *raison d'être*.

Interpretation of playing rules had been a problem for a long time before 1940 when, in his Annual Report to Congress of that year, Secretary O'Caoimh wrote that '*The sole duties of Officials on and off the field, are clear. To apply the rules in accordance with their commonsense meaning and spirit and avoid all "interpretations" which only distort or weaken them*'<sup>84</sup>

The fact that there could be quite a difference between 'common sense meaning' and 'spirit' did not seem to have occurred to him. There is no evidence that he understood that the interpretations were needed because the rules were poorly drafted. Despite his aversion to interpretations, O'Caoimh was to get himself into a very embarrassing situation with his interpretation of a motion dealing with the handpass after Congress 1945. His interpretation of the entire sets of playing rules is set out in his Referees Chart, 1945<sup>85</sup>

Interpretation of playing rules was a feature of rule application which was to become a policy under Secretary O'Siochain which led to the publication of contradictory rules. Interpretations were added after the text of the playing rules in the 1973 Handbook for Players and referees<sup>86</sup>. In a series of Handbooks titled *Rules of Gaelic Football And*

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<sup>84</sup>For fuller treatment of this see Appendix 2 ps 743, 744

<sup>85</sup>See Appendix 1 ps 220 et seq

<sup>86</sup>See Appendix 1 ps 274 et seq.

*Hurling Referees and Players Guide*, published in 1976, 1980 and 1981,<sup>87</sup> the text of the rule is in roman and the interpretations are in bold. This gave the impression that the interpretations were more important than the rules.<sup>88</sup> This policy was effectively 'legislation by interpretation' for the significant changes made to the rules by these interpretations were never discussed or passed by Congress as required. This demonstrates how the well meaning idea of rule interpretation instead of being tightly controlled and very limited became a policy which led to a chaotic state of affairs where, for twelve years, there were two contradictory sets of playing rules in existence. O'Siochan's policy of interpretation is encapsulated in his introduction to the 1976 *Handbook*

The following are general instructions to referees and are intended to help them take charge of games in an efficient manner. **Instructions, interpretations and playing rules must themselves be interpreted** and the very necessary requirement for each referee is common sense to make this interpretation acceptable.<sup>89</sup> (Emphasis added)

This policy could not be described as having any philosophic underpinning. The downstream effects of interpretation or a policy which advocates interpretation are well illustrated in the sets of Playing Rules referred to above. In this period of 12 years, the application of the rules by the referees was not and could not be either consistent or uniform for application depended on the individual interpretation by referees. The rules and refereeing fell into disrepute, and the games suffered as a result.

This emphasises the argument that good rules do not need interpretation, and this should be part of the philosophy applicable to legislation for playing rules.

## **CHARACTERISTICS OF BAD RULES.**

If those who are in a position to make, amend or delete playing rules in Gaelic games are aware of the foregoing characteristics, it is argued that they will be better able to identify the characteristics of bad rules.

There are more bad characteristics than good ones, and one rule may have several bad

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<sup>87</sup>See Appendix 1 ps 311 *et seq*

<sup>88</sup>See Appendix 2 p 782 for fuller treatment of this point

characteristics It is neither necessary (nor perhaps possible) to list all the bad characteristics of playing rules

The following is a list of the type of errors characteristic of bad rules -

- 1 Rules which are difficult to read and remember
- 2 Rules which are difficult or impossible to apply uniformly
- 3 Having more rules than is necessary
- 4 The statement of the rule being longer than necessary
- 5 Rule statements with more than one meaning
- 6 Rule statements which are ambiguous
- 7 Common terms which mean different things in different games
- 8 Use of wrong terminology
- 9 Repetition of rule statements
- 10 Contradiction of one rule by another
- 11 Lists of fouls which are open ended or rule statements which contain unspecified implications
- 12 Rules which require the referee to interpret the intentions of the player
- 13 Interpretations added or embedded in the text of the rule which change the clear intent of the rule, or contradict the everyday meaning of the statement of the rule

Awareness of these characteristics forces the legislators to think through the proposed legislation, and enables them to anticipate most if not all of the results Before drafting, it is essential that the full implications are determined, and that these are compared with the intent of the rule Otherwise, unintended errors and omissions can occur

An awareness of these characteristics is justified by the question - 'If you can't recognise a bad rule when you see one, how can you recognise a good rule?'<sup>90</sup>

Atiyah distinguishes between two kinds of badness about law -

Laws may be bad because they are 'technically' bad, for instance because they are obscure, ambiguous, difficult to discover, or hard to apply to a variety of circumstances And secondly, laws may be substantively 'bad' simply in the sense that they produce unacceptable results - injustice or plain idiocy, or less extremely, because they are inefficient or expensive, or produce inconsistency or anomaly between like cases<sup>91</sup>

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<sup>90</sup>The deteriorating standard of drafting is dealt with in more detail in Appendix 2 ps 714, 718, 719

<sup>91</sup>Atiyah P S opus cit ps 138,139

These remarks about bad law are equally applicable to bad playing rules. Although one could say that a rule which would destroy the unique nature of Gaelic games would be a 'substantively' bad rule, perhaps the need to distinguish between the types of bad rules is not quite as important in the legislation for games.

## **SUMMARY**

This chapter contained a discussion on the principles of play and examined the two most important aspects of playing rules - their functions and characteristics.

It demonstrated the need for legislators to be conversant with these two areas. Otherwise, it is almost inevitable that serious mistakes will be made in drafting which will lead to bad rules and the degradation of the games. The correlation between a good working knowledge of the functions of the rules and the formulation of good legislation was established.

It demonstrated that a working knowledge of the functions guides the legislators in drafting good rules and assists them in repudiating spurious arguments for change.

The characteristics of the Playing Rules which the writer had identified were compared with Fuller's views on 'The inner morality of law'.

Having identified a list of characteristics of bad rules which is not claimed to be complete, but which is obviously neither finite nor short, it was concluded that if legislators do not know how to recognise a bad rule when they see one, they are unlikely to draft good rules consistently.

Legislators should know what makes a rule good or bad.

This chapter showed how an understanding of the principles of play enables one to look into the heart and workings of the game. The legislators should understand how the functions, characteristics and principles are interlinked, how they interface, and how the production of good rules depends on recognising them and how they are inter-related.

Clearly the legislators must know what these principles tell us about how the game 'ticks'. For if they do not, or if they ignore them when drafting legislation, the games are at a considerable risk of mutation and degradation. From this it is argued that not only is there a philosophy for legislation, it should be recognised and applied.

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Endnote 10

1 Divergence of views

However, since the skill of the tackle was questioned by the Director General, the view that there is a tackle in Gaelic football (at least) is not shared by all, or indeed most of, the people who write and comment about certain aspects of the games

Typical are statements by famous ex-players reported in *The Hurling and Football Annual, 1997* GAA Dublin

'There's too much dragging and pulling' is the phrase I hear most often. The explanation for this is that there is no tackle in the game and the only way to dispossess a player is to get your hands on him' - Dermot Earley

and

The standard of officiation and the absence of a real and legitimate tackle are the root causes of most of the playing problems

An important view was expressed thus by Colm O'Rourke

That brings me to the whole idea of the tackle. I am surprised by the number of people in the GAA who contend that there is no tackle in the game and that it is impossible to legally dispossess a player. Nothing could be further from the truth.

Significantly O'Rourke refers to 'people in the GAA' and in doing so underlines the point that most of the denials of there being a tackle in Gaelic football come from within the Association even if they are often articulated by journalists.

It would be fair to write that public statements denying the existence of a tackle in Gaelic football far outnumber statements confirming the existence of a tackle.

In *Gaelic Games* Mercier Press, Cork, 1998, Paul Healy asserted repeatedly that the tackle is not defined in Gaelic football. For ex 'One of the great dilemmas facing Gaelic football is the continued absence of a clear definition of what is a legitimate tackle' p 36 also 'but the real problem is that the Association does not have a defined tackle in Gaelic football' p 37, and again on p 71

Since the tackle is defined in the legislation, and examples of how it may be performed are listed in the rules, it must exist

## **CHAPTER 4. DEVELOPMENT OF A FORMAT OF PRESENTATION FOR THE PLAYING RULES.**

### **4 0 GENERAL BACKGROUND TO RULE PRESENTATION.**

#### **4.1 THE PROBLEM WITH THE PRESENTATION OF THE RULES**

#### **4.2 THE SEARCH FOR A SOLUTION FOR PLAYERS**

#### **4.3 THE SEARCH FOR A SOLUTION FOR FOOTBALL RULES IN GENERAL**

#### **4.4 THE WIDER PROBLEM INCLUDING OTHER GAMES**

#### **4.5 ANALYSING THE PROBLEM**

#### **4.6 THE STEPS TO THE SOLUTION**

#### **4.7 THE FIRST DIVISION OF THE RULES OF PLAY**

##### **4.7.1 The First Subdivision**

##### **4.7.2 The Second Subdivision**

##### **4.7.3 The New Format**

##### **4.7.4 Definitions of important terms**

#### **4.8 SUBDIVISION OF RULES OF CONTROL & SPECIFICATION**

#### **LEADING TO THE COMPLETE FORMAT**

#### **4.9 EVALUATION OF THE NEW FORMAT OF PRESENTATION**

### **SUMMARY**

## **CHAPTER 4 DEVELOPMENT OF A FORMAT OF PRESENTATION FOR THE PLAYING RULES.**

### **4.0 THE GENERAL BACKGROUND TO RULE PRESENTATION**

Within two months of its foundation on 1 November, 1884, the Gaelic Athletic Association (GAA) had produced agreed sets of playing rules for the Irish national games of football and hurling. These rules were first published on 7 February 1885 <sup>1</sup>

There were 10 rules for football and 12 rules for hurling<sup>2</sup>. A comparison of these sets of rules<sup>3</sup> shows that they were drawn up by different people or, perhaps, different committees. Since these games are completely different in form, it is not surprising that the first sets of

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<sup>1</sup>*The United Ireland*, 7 February, 1885

<sup>2</sup>See Appendix 1 p 10,11

<sup>3</sup>See Appendix 2 ps 623 *et seq*

rules were also quite different<sup>4</sup> particularly with respect to the size of the playing field, the size of the scoring space and the duration of play<sup>5</sup>

From February 1885 until a month<sup>6</sup> after Congress, 1950, the playing rules of football and hurling were presented in separate sets

For the next forty years until the end of December 1990, these playing rules were 'co-ordinated'<sup>7</sup> During this 116 year period, these rules were published in The Official Guide (O G ) of the Association in a single volume, and from time to time in newspapers, booklets, and Official Guides (of the playing rules) for Players and Referees

Since 1 January, 1991, when the O G was divided into two parts, Part 2 contains the playing rules which are presented in a new format where the Rules of Control and Specification for the two games are combined because they are virtually identical, and the Rules of Play of each game are presented separately although they are also virtually identical<sup>8</sup> A list of definitions of the key terms used in each game is contained in an appendix to, and forms an integral part of, these sets of playing rules 17 out of the 20 terms defined are common to each game

Hence the presentation of the legislation for playing the games can be divided into three eras - 1884-1950, 1950-1990 and 1991-2000<sup>9</sup>

#### **4.1 THE PROBLEM WITH THE PRESENTATION OF RULES**

The 'co-ordinated' or combined presentation of the playing rules made them very difficult for players to read, remember and understand It was also very difficult for referees to read, remember and apply the rules

These difficulties were compounded by the publication in 1976 by The National Referees Authority of these combined rules with interpretations added to many of them<sup>10</sup> Although

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<sup>4</sup> *ibid*

<sup>5</sup> The field of play for hurling was over three times the size of that for football The scoring area in hurling exceeded that for football by two thirds, and the duration of play for hurling was one third longer See Appendix 1 p 12

<sup>6</sup> New rules come into force one month after the Congress at which they are passed

<sup>7</sup> The term used in his annual report to Congress 1950 by the General Secretary, Padraig O' Caoimh, to describe this format of presentation of the playing rules

<sup>8</sup> About 96% of the text of the six Rules of Play for hurling is identical with the text of the Rules of Play for football

<sup>9</sup> Unless there is a Special Congress called for the purpose of changing the playing rules, they will not be changed until Congress, 2000

<sup>10</sup> See Appendix 1 ps 311 et seq

these interpretations had not been sanctioned by Congress, they appeared in bold print after the rules and hence gave the impression that they were more important than the official rules

Since these interpretations had been prepared and published by the National Referees' Authority with the approval of Central Council of the GAA, it is not surprising that many referees applied the interpretations of the rules despite the fact that these interpretations changed eight out of the 10 Rules of Play without the required authorisation of Congress

These spurious versions of the playing rules were in operation for a period of 12 years

A solution had to be found to alleviate the problems experienced by student players, and then extended to all players and all referees

Enhanced presentation was the route chosen The writer began A process of analysis in the late 1970's, when he was coaching young players

**4.2 THE SEARCH FOR A SOLUTION FOR PLAYERS**

The solution to the problem experienced by players involved analysing the official playing rules in operation in 1978 to ascertain what these players needed to know as a minimum before going out to practice and compete in leagues and championships

Clearly it was not necessary for them to know the size of the playing field or the weight and size of the ball - specifications, nor was it essential for them to know the powers and duties of the officials However, it was essential that they knew what the rules permitted players to do, and what the rules forbade them to do This focused attention on identifying those rules, or parts of them, which contained the minimum necessary information required by the players

This initial analysis of the playing rules produced the following results

There are 49 playing rules<sup>11</sup> in the 1978 O G dealing with the two games Of these, only 10 rules deal with *Play* in football <sup>12</sup> Since five of these rules deal with various types of free

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<sup>11</sup>The Playing Rules include all the legislation dealing with the on-field Control, Specifications and The Play See flowchart of the new format of presentation p 98

<sup>12</sup>This analysis of the rules of play of 1978 showed that the six aspects of play are dealt with under the following rules

The Play	Rule 145
Set play	Rules 140, 143, 144, 146,147
Scores	Rules 136, 138
Technical Fouls	Rules 137, 138, 144,145



kicks<sup>13</sup>, it suggested that all the legislation dealing with The Play<sup>14</sup> could be written down in six rules

This 'potted' version represented the minimum legislation that the players needed to know. It was much easier to read because it dealt with just one game, it was much easier to remember and understand because of the very significant reduction in the volume of text. Although this solved the players' problem of lengthy, complicated and unstructured text, it was only a partial solution for it only applied to them and did not address the much wider issues of simplification of the rules generally, and the problem of application by the referees.

**4.3 THE SEARCH FOR A SOLUTION FOR FOOTBALL RULES IN GENERAL**

The next step in the search for a solution was to examine the whole corpus of legislation for both games which had been in force for some time to try and establish if it could be separated out into fairly discrete sections which dealt with broad issues.

Since it soon became clear that it would be sufficient to do this for either game, football was chosen.

Although the rules which governed player behaviour on the field were the primary objective, it was found that by separating out all the legislation which dealt with the on-field control of the game by the seven officials, and the legislation which dealt with the specifications of the games, the Rules of Play for the two games were then isolated even though they were still interlocked as a result of the policy of 'co-ordination'.

While the standard of on-field control by referees, umpires and linesmen was recognised as a major part of the problem which would have to be addressed, it was decided to concentrate first on isolating and extracting all the Rules of Play for football from the combined rules because an acceptable reformation could go a long way to resolving the problem of applying them. The first two of these three discrete sections were set aside while the process of teasing the Rules of Play for football out from the combined rules was undertaken.

Ten Rules of Play were identified in the 1980 set of playing rules. These were Rules 136,

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Aggressive Fouls	Rules 137
Fouls of Dissent	Rule 139

Two terms were defined - A legal charge, and 'playing the ball'

<sup>13</sup> The Free Kick, The Kick Out, The Side(line) Kick, The 45-m Kick and The Penalty Kick

<sup>14</sup>Those rules which set out what the players may and may not do

137, 138, 139, 140, 143, 144, 145, 146 and 147

At first it appeared that the number of rules of play could be reduced to 10. However, when these 10 rules were examined, it became clear that five of them dealt with the same aspect of the game - kicking the ball off the ground. The free kick, the penalty kick, the 45m free kick, the kick out and the sideline kick were covered in separate rules. When these five rules were combined to make one rule, it became apparent that only six Rules of Play might be needed.

The fact that there was a separate rule for each type of free kick reflected the piecemeal development of the legislation, and the thinking of the legislators who did not appear to recognise 'the wood from the trees'<sup>15</sup>. Not only should all these free kicks have been regarded as a single aspect of the game, they should have been regarded as forming part of a discrete section of the game which dealt with all the ways in which play was started and restarted including free kicks.

On examination of the legislation covering The Play in football, it became clear that a good deal of redrafting would be necessary to eliminate such problems as duplication, contradiction and omission which were not so obvious in the 'co-ordinated' presentation.

It soon became clear that the Rules of Control would apply to both games in the same way and, apart from the obvious differences<sup>16</sup> between a football and a ball and stick game, the Rules of Specification were also common.

This search for a general solution for the presentation of the rules of football signalled the way to both particular solutions for presenting the rules for each game, and the probable shape of new format of presentation of the entire legislation.

#### **4.4 THE WIDER PROBLEM INCLUDING OTHER GAMES**

The legislation which deals with the playing rules varies from game to game and, especially, from non-invasive to invasive games.

Games which are non-invasive, where the opponents are separated by a net or where competitors play in same direction as in golf, do not require much in the way of legislation to

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<sup>15</sup>This thinking is still reflected in the current legislation where the lack of a uniform method of taking free kicks suggests that there is a significant difference between them when in fact there is none.

<sup>16</sup>The only markings on the Field of Play not common to both games are the 45m line in football and the 65m line in hurling. The free kick and the free puck are taken from these lines when a defender plays the ball over his own enplane.

cover foul play of an aggressive nature

Hence, while the playing rules of all games contain rules dealing with technical offences, invasive body contact games have a considerable extra volume of legislation designed to deal with aggressive fouls. For example, fouls against an opponent. In Gaelic games, fouls against a team-mate are also included in this section.

The volume of legislation often reflects the level of sophistication of the game, or the level of attention to detail by legislators.

The general problem with the playing rules for hurling and football in the second era of legislation was poor presentation and lack of transparency.

It was very difficult to get an overview of the legislation because the format of presentation was a very long series of rules which lacked focus, clarity and definition.

In the 1988 O G there are 54 Playing Rules numbered 157 to 211<sup>17</sup> covering both games. These follow the general rules of the Association. The 1988 Booklet of Football Rules contains 38 rules, of which the first 10 deal with specifications and control and the remaining 28 with Play.

In the 1989 Booklet of Hurling rules there are 40 playing rules of which Nos 1-10, 12, 13, and 14 deal with the Rules of Control and Specifications and 27 which cover Play. These rules of Play have 69 subsections and five separate paragraphs dealing with the penalties for breaches of the rules of play. Two definitions, 'the legal charge' and 'playing the ball' are embedded in the rules of play.

Overall, it is true to say that the legislation covering the Playing Rules was not user-friendly.

### **Rule presentation in other games**

The 1868 set of Laws for Lacrosse contained 15 rules.<sup>18</sup>

Men's Field Lacrosse, 1996 contains 84 rules with 365 subsections some of which are further subdivided.

The 1999 Rules of Box Lacrosse contain 86 rules with 255 sections some of which are further subdivided. They also contain 24 explanatory notes.

By contrast, the current Canadian Women's Field Lacrosse Rules (and Guidance) contain 25 Sections, (Rules) with 163 subsections. Section 24 contains definitions of 20 terms. Other sections have as many as 17 or 18 subsections.

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<sup>17</sup>See Appendix 1 ps 439 *et seq*

In Shinty there are 20 playing rules of which Rules 1-9 deal with specifications and control, rules 10-20 deal with The Play, Rules 21, 22 deal with modification of rules for under age players. In Rules 10-20, there are 51 sections some of which contain many subsections. For example, Rule 12 1 (fouls and misconduct) has 16 subsections and a Note <sup>19</sup>

In Rugby Union there are 28 laws of the game of which Laws 1-6 deal with Control and Specification, Laws 7-28 deal with The Play. There is a further set of Variations to the Laws of the Game at Under 19 level which apply to five Laws in particular by way of variations to the provisions for the senior game. There are 10 definitions in a preamble to the Laws, and most of the Laws 7-28 begin with a definition of some aspect of the play. Rules 7-28 contains 128 separate sections and 127 paragraphs of Notes. Some of these sections are further subdivided. This does not include the sections dealing with the penalties for breaches of the rules of play.

This is a very substantial and sophisticated body of legislation where some laws are particularly lengthy. For example Law 20 has 18 subsections, 21 paragraphs of Notes and two sections dealing with penalties. Rule 23 has 26 subsections, 15 paragraphs of Notes and one section in three parts dealing with penalties for breaches of the laws <sup>20</sup>

These examples are given to show that the problems of presentation are not confined to the GAA. Neither did they help in the search for a solution.

It is against this background of long and sophisticated sets of rules for the playing rules of games that a search for an ideal format of presentation should be viewed.

#### **4.5 ANALYSING THE PROBLEM.**

Whatever difficulties players, coaches, teachers and media and the general public had with reading and remembering the rules of invasive games like shinty and rugby, the difficulty for those seeking to learn the rules of football, hurling, or both, was compounded by the fact that many of the rules of these vastly different games were written down together.

For example Rule 196 of 1988 states

If a foul is committed by a defending player within the 13m/20m line in Football/Hurling, but outside the large rectangle, a free shall be given on the 13m/20m line in Football/Hurling opposite where the foul occurred.

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<sup>18</sup> See Appendix 2 Part 2

<sup>19</sup>ANNUAL AND FIXTURE LIST The Camanachd Association Season 1996-97 ps 56-71

<sup>20</sup>LAWS AND REGULATIONS OF THE IRISH RUGBY FOOTBALL UNION 1993-94

Rule 209 of the same year states

For the purpose of a lead up to a free, sideline kick/puck, or kick-out/puck-out, a player may go outside a side line/endline, but shall otherwise remain within the field of play <sup>21</sup>

Since some of the rules applied to hurling only, some to football only and considerable number which were common to both games and featured the 'kicked/pucked, 13m/20m line' type of phrases, it is fair to comment that the rules were both difficult to read and difficult to remember, and by extension, difficult to apply

It was the writer's experience that few people - players, spectators or reporters - ever saw or read the playing rules, and those who did had great difficulty in remembering them

Ambiguity in the rules caused misunderstanding and dissension

An example of ambiguity is contained in the Rule 192 (e) of 1988

In football, the goalkeeper may lift the ball off the ground or play it on the ground by hand, within the small rectangle <sup>22</sup>

It was generally assumed that both the goalkeeper and the ball should be within the small rectangle to avail of this derogation from the general rule which forbids lifting the ball directly off the ground by hand. It was unclear if the goalkeeper who was outside the small rectangle could lift the ball off the ground when it was inside the small rectangle or whether, if he was inside the small rectangle, he had permission to lift the ball off the ground if it was outside this small rectangle. Clarification was needed

The fact that no reference was made to whether the lines marking out this small rectangle were part of it or simply enclosed it, complicated matters somewhat unnecessarily. Since even technical fouls committed by footballers in their own small rectangle should result in the award of a penalty kick against them, it was essential that such ambiguities be eliminated. The result of very important matches could hinge on this matter.

At this stage, certain other difficulties became apparent

When the rules of play for Gaelic football were separated out from all other rules - hurling, control and specification, it was obvious that there were both duplications of some parts of some rules, and some parts of some rules either contradicted or appeared to contradict some parts of other rules. Clearly it was not enough to separate the rules of these two

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<sup>21</sup>See Appendix 1 p. 451 for Rule 196 p. 453 for Rule 209.

games, errors like those just mentioned should be eliminated

In summary therefore, the problems experienced with the playing rules were

- 1 The rules of two entirely different games were written down together. For those players only interested in one of the two games, the presentation was counterproductive to learning the rules of play for their chosen game
- 2 The player was left to separate out the rules of one game from another, and the various groupings which rules fall into - rules dealing with the play, the control and the specifications of the game
- 3 It was virtually impossible to visualise the rules in a way which facilitated memorising them

They appeared to the reader as a long string of unrelated facts which were neither discrete nor inclusive. They were not user-friendly.

#### **4.6 THE STEPS TO A SOLUTION**

The first obvious step was to separate the rules of these two vastly differing games.

It was during this process of separation, that it became obvious that there were three different types of rules dealing with the Playing of the Game. An analysis of the playing Rules of 1910<sup>23</sup> shows that they were only a step away from identifying these important subsections which are -

- Those rules which deal with the on-field control of the game
- Those rules which deal with specifications
- Those rules which deal with the actual play

Had this been done then, it is fair to assume that the subsequent history of the playing rules would have been significantly different for this division concentrates the attention of legislators on a fundamental aspect of rule formulation. The potential of this subdivision remained untapped for almost 70 years.

Most of the rules of control and specification were common e.g. the size of the pitch, the number of players and the length of the game. Similarly, the duties and powers of referees, linesmen and umpires were common to both games. It was therefore decided initially to concentrate on separating out those rules which the players should know if they were to

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<sup>22</sup>See Appendix 1 p 448 Rule 192 (e) (i)

understand and play the game of their choice properly and safely.

The first step was separation. The rules of football were separated out first in 1978 by the writer, and used to teach the students and teams with which he was working.

This separation had two important advantages.

Firstly, players could concentrate on the rules of the game they were learning to play.

Secondly, they could ignore for the moment all those rules dealing with specification.

As far as the rules of control were concerned, they had a choice - accept the referee's decision or learn the rules of control as well, and then accept his decisions.

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<sup>23</sup>See Appendix 2, p. 681 for fuller treatment of this point.

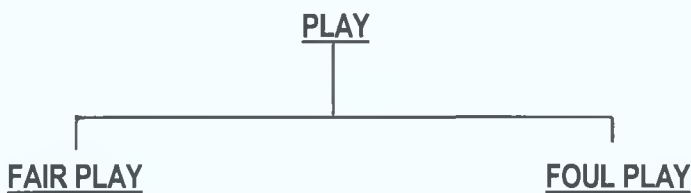
4.7 THE FIRST DIVISION OF THE PLAYING RULES.

An analysis of this group of rules dealing with The Play showed that the rules dealt with significantly differing aspects of the play.

However, what soon became clear was that all of these rules fell into one or other of two major sections - those dealing with **FAIR PLAY** and those dealing with **FOUL PLAY**.

This was the first significant division of these rules of play.

Diagram 4.1 The first division of the Rules of Play.



The important points about this division of the rules were that it was quite obvious that all the rules had to fall into one or other of these divisions or sections, and that these sections were both mutually exclusive and totally inclusive of all the rules of PLAY.

This opened the way for what was to follow.

4.7.1 The first subdivision

The first subdivision to be completed was that of FOUL PLAY.

An analysis of all the rules dealing with foul play showed that all these rules fell under three headings which were defined as follows:

- **Technical Fouls** is a foul 'on'<sup>24</sup> the ball.
- **Aggressive Foul** is a foul on an opponent or team mate.
- **Foul of Dissent** is a foul on an official.

On examination, it was clear that these three subdivisions were mutually exclusive, and fully inclusive as a group.

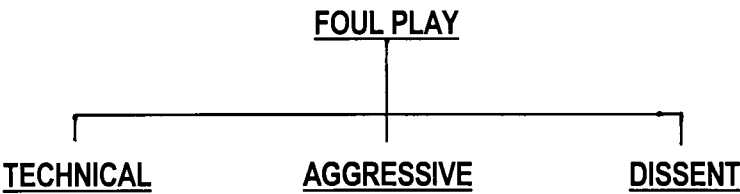
The definition of a technical foul as a foul 'on' the ball includes fouls committed by being too close to the ball when it is about to be played in a free kick or kick-out by an opponent. So even if not actually touching the ball (on the ground for example), being less than 13m from

<sup>24</sup>The term 'on' the ball includes technical fouls like throwing the ball, and fouls of being too close to the ball when an opponent is taking a free kick, for example, when physical contact with the ball is not the issue.



an opponent's free kick fell within the rule dealing with technical fouls. This half of the rules of play then could be presented as follows

**Diagram 4.2 The first subdivision of the Rules of Play.**



Similarly it was clear that these three rules were mutually exclusive and totally inclusive

**4.7.2 The second subdivision of the Rules of Play.**

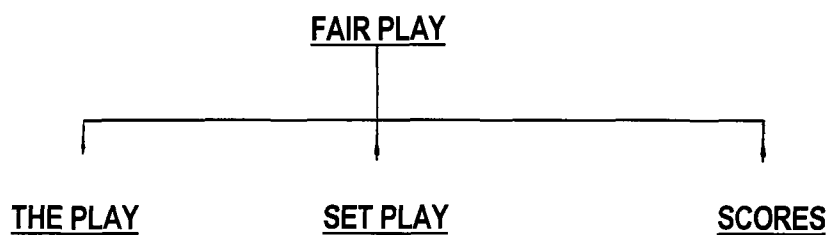
The remainder of the rules of play in the section or division called **FAIR PLAY** was examined to see if a similar subdivision was possible

After trying to fit various solutions to the problem, the solution of best fit was a subdivision into three parts which dealt with these rules under three headings

- **The Play** - Rules governing the 'moving' game
- **Set Play** - Rules governing starting and restarting the game
- **Scores** - Rules governing goal and points and their values

Once again, these three subdivisions are mutually exclusive and totally inclusive as a group, of all the legislation dealing with Fair Play. This half of the rules of play then could be presented as follows -

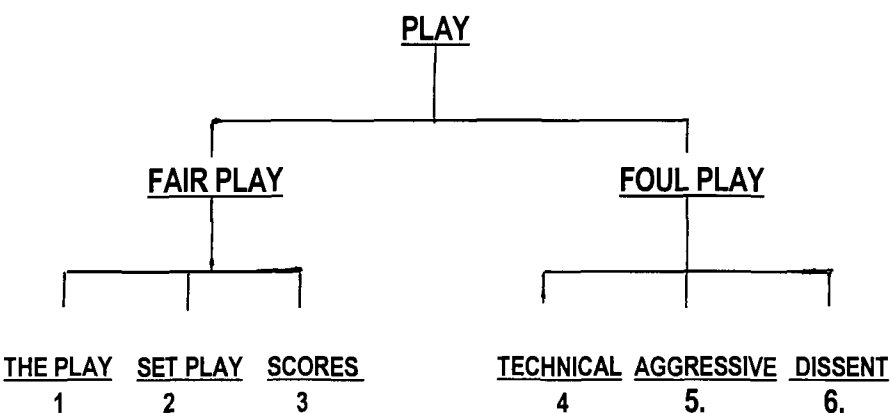
Diagram 4.3 The second subdivision of the Rules of Play.



The completion of this subdivision of the rules dealing with Fair Play produced a flow chart of the Rules of Play

4.7.3 The new format

Diagram 4.4 The new format of the Rules of Play.



These six subdivisions of all the rules of play were numbered 1-6 and now form the six rules of play for each game

4 7.4 Definitions of important terms

Unless important terms used in games are clearly defined, they can come to mean different things to different people at different times and at different places

There was clear evidence that this had happened in Gaelic games for at least a century<sup>25</sup> Terms like 'the charge', 'the tackle', 'obstruct' and 'interfere with' meant different things to different people in the absence of clear definitions. The term 'to carry' was defined in the

<sup>25</sup>See Appendix 2 p 657 for analysis of 1895 rules. However, terms like 'the punt' and 'the drop kick' were defined in exactly the same words as those used in the 1877 Rules of Victorian Football in definitions 1 and 3. See Part 2 of Appendix 2

rules as 'taking more than four steps while holding the ball'<sup>26</sup> Clearly what was meant was 'overcarrying' However, this anomaly had persisted for 100 years The term 'overcarrying' was used in Rule 195(a) of the 1985 Draft Official Guide p 103 and in Rule 195(a) of the 1986 O G p 69

### The Handpass

In the writer's view, there is no term in any game which gave rise to more disagreement, even dissension than did the handpass in Gaelic football

In the 1896-'97 edition of the Football Rules, Rule 27 contained this definition - 'Hopping the ball against the ground with one or both hands, after catching it, is equivalent to a throw'<sup>27</sup> '[t]hrowing the ball against the ground is illegal'<sup>28</sup>

Another important term 'the toss' was defined in the rules of football of 1888 where Rule 10 reads

The ball may be struck with the hand It may be caught when off the ground, and the player so catching it may kick it in any way he please, but must not carry it or throw it

**NOTE:- There is nothing in this rule to prevent a player throwing the ball in front to allow him more freedom in kicking it.<sup>29</sup> (emphasis added )**

Although not called 'the toss' then, this is the proper description of this action which is performed by players in other games in preparation for striking the ball - with the racquet in tennis, with the hand in handball with the hurley in hurling and, clearly, with the foot in football

Clear definitions of terms was absolutely essential for ensuring they meant the same thing to everybody, and importantly, to ensure that the definition of a term does not have unintended knock-on effects

The current definition of The Toss was generated by the writer in 1982 It is stated as follows

TOSS (Football) To release the ball from the hand(s) to kick it, toe-tap it, or pass with the hands

(Hurling) To release the ball from the hand to strike it with hurley, foot or hand<sup>30</sup>

These definitions of terms such as 'the toss', 'throwing' and 'carrying' reveal the

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<sup>26</sup>See Appendix 1 p 382 Rule 195 (a)

<sup>27</sup>See appendix 1 p 52

<sup>28</sup> See Appendix 1 ps 51,52

<sup>29</sup>Appendix 1 FOOTBALL RULES (1888 - Revised) Rule 10 p 26

preoccupation of the legislators with the idea of throwing the ball, and anything remotely resembling a throw

Carrying the ball smacked of rugby and was therefore not allowed. Whether 'carrying' was deliberately used instead of 'overcarrying' is debatable. However, it is worth noting that this preoccupation with throwing pervaded the legislation, and rules were introduced with a determination to require the player who had caught the ball *'to at once kick it or strike it away with the hand, and must not hop, carry or throw it. Carrying shall be taking more than four paces while holding the ball, which must not be held longer than is necessary to kick or fist it away. Hopping the ball against the ground with one or both hands, after catching it, is equivalent to a throw. The ball on being caught, must be either kicked, or struck with the hand, as distinct from a throw. Throwing the ball against the ground is illegal'*<sup>31</sup>

This repetition underlined the technical, if not the psychological, problems surrounding the throw. By 1907, the requirement to fist the ball against the ground when hopping it had disappeared from the rules.

In 1982, the wnter generated a set of definitions for most of the technical terms used in football.

In 1990, 19 of these definitions were adopted, and appeared in the official copies of the rules with effect from 1 January 1991 and in the 1992 Official Guide.

Their inclusion ended the controversy over the meaning of the most important technical terms used in the playing rules.

#### **4.8 SUBDIVISION OF THE RULES OF CONTROL AND SPECIFICATION LEADING TO THE NEW FORMAT**

On analysing the Rules of Control, it became obvious that they could be set out under three headings - one for each of the three types of official concerned.

A further subdivision of these rules was obvious. This set out the POWERS and DUTIES of - **1. REFERÉE, 2.UMPIRES, 3. LINESMEN**

The Rules of Specification covered four distinct areas and were set out in four rules as follows - **1. THE FIELD OF PLAY 2. THE PLAYERS 3. THE TIME 4. THE EQUIPMENT.**

This led to the complete new format for the Rules, outlined in Diagram No 4.5 overleaf.

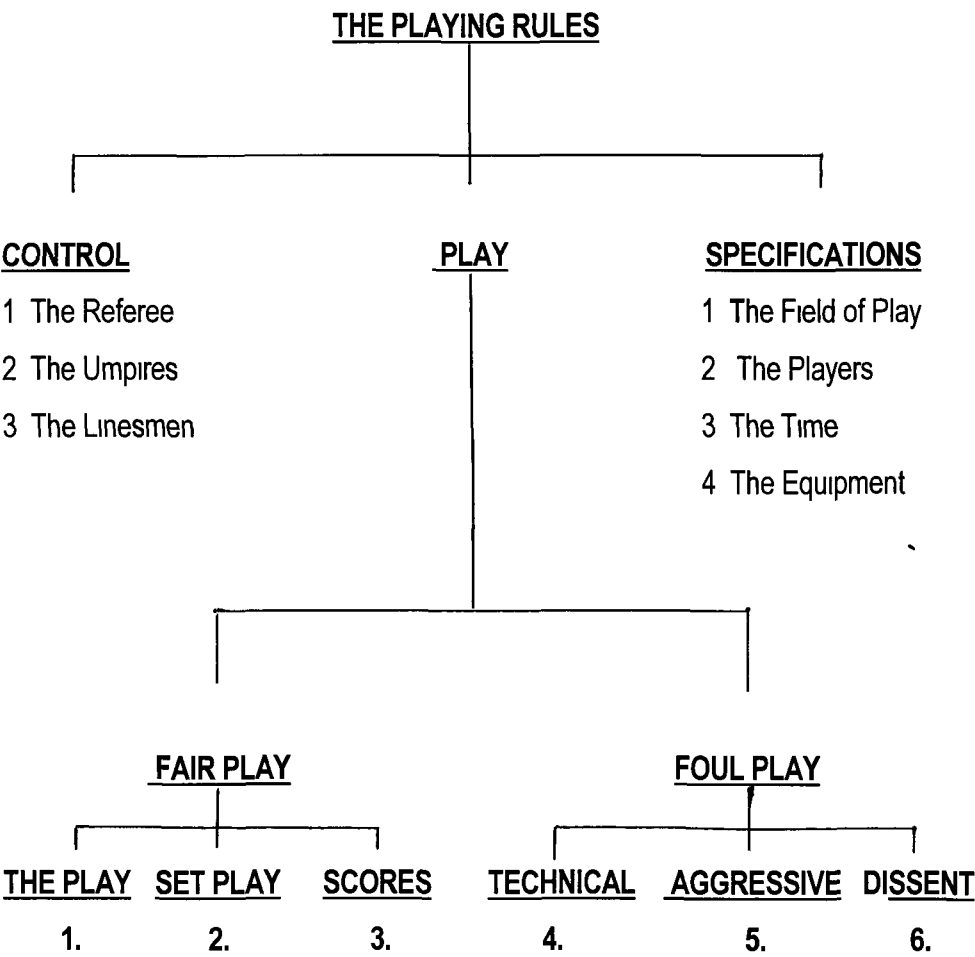
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<sup>30</sup>See Appendix 1 p 585

<sup>31</sup>*ibid*

THE NEW FORMAT COMPLETED.

Diagram 4.5 The new format of presentation of The Playing Rules.



**+ DEFINITIONS**

(which are an integral part of the Rules of Play.)

(The numbers 1 - 6 are the numbers of the six rules )

#### 4.9 EVALUATION OF THE NEW FORMAT OF PRESENTATION.

A number of advantages arose from the new format of presentation of the Rules

In the first place, the three sections of the rules were clearly set out and subdivided. Second, the rules of play were reduced from 27 and 29 respectively for football and hurling to just six for each game. In addition, the division into Fair Play and Foul Play each with three subdivisions enabled the reader to visualise the rules as on a map. More particularly, the subdivision of each of these two divisions into three rules produced a set of six rules which are mutually exclusive and, as a group, totally inclusive. This enables the reader to find any rule quickly and, once found, to know that all of the rule is there, and that it is neither duplicated nor contradicted elsewhere.

The addition of definitions put an end to the debate on what these key terms mean or should be taken to mean.

This format almost invited a similar exercise to be done on the rules of control and specification. The rules of specification are set out in a way which makes it is easy to find any piece of legislation covered by them.

On a wider plane, this format of presenting the rules facilitated an important piece of research called the Comparative Analysis of the Playing Rules. Without this format of presentation, the task of comparing the Playing Rules of football and hurling over this 114 year period would have been extremely difficult - if not impossible, and hence the organic development of the rules would have remained obscure.<sup>32</sup>

When any of the sets of rules of football and hurling is translated into this format, they become readily amenable to comparison. Without such a format, a comparison of the rules is extremely difficult. This format facilitated the analysis of the entire available legislation on the playing rules of Gaelic football and hurling both concurrently and in periodic reviews.

Hence, trends in the legislation with respect to any of the areas covered by the current six rules can be identified and compared.

Furthermore, although this study deals with the legislation of Gaelic football and hurling, this format can facilitate a quick and accurate comparison between the playing rules of all invasive body contact games once they have been translated into the format.

The rules of Gaelic football can be compared with the rules of all other football games, and

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<sup>32</sup>This format of presentation is a universal format in which the playing rules of all invasive games can be

the rules of hurling can be compared with the rules of all other invasive ball and stick games  
The rules of shinty, for example, could be compared with the rules of Australian football in meaningful ways

In this respect, this format can be regarded as a universal format of presentation of playing rules

It is suggested that the development and acceptance by the Association of this framework is an example of how the use of 'a common sense' or 'practical philosophy' can produce a simple solution to a complicated problem. In this case a very significant problem was solved. However, this was only the first concrete step on the road to ascertaining if there is a philosophy of legislation. The diagram overleaf indicates how the new format fits into the overall framework of the Official Guide.

Clarity of presentation and clarity of statement are essential if the standard of being easy to read, easy to remember and easy to apply is to be achieved.

The attempt in 1939 to 'Co-ordinate' the playing rules of two very different games did not result in clarity. The adoption of the 'Co-ordinated' presentation in 1950 was a very serious mistake which had very serious consequences. Clarity was the first victim.

## **SUMMARY**

This chapter outlined the history of the format of presentation of the playing rules, and underlined the difficulties resulting from the combined or 'co-ordinated' format which lasted for 40 years to 1 January 1991. These difficulties were compounded by the addition of interpretations which changed most of the rules of play in some important respects, and hence led to conflicting sets of rules for each game.

Since presentation of information can be critical to uptake, it was decided to search for a way of presenting the rules of play which would be easy to read, remember and later apply.

The steps to the solution are illustrated with diagrams.

All playing rules were divided into three sections – Rules of Control, Play and Specification. Each of these sections was subdivided showing the number of rules needed for each.

After examination, it became clear that the Rules of Play can be divided into two mutually inclusive sections – fair play and foul play. It was then found that each of these could be further divided into three rules, and all six of these rules were totally inclusive and mutually

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presented. Clearly, there is no need for any more than six rules of play for any of these games.

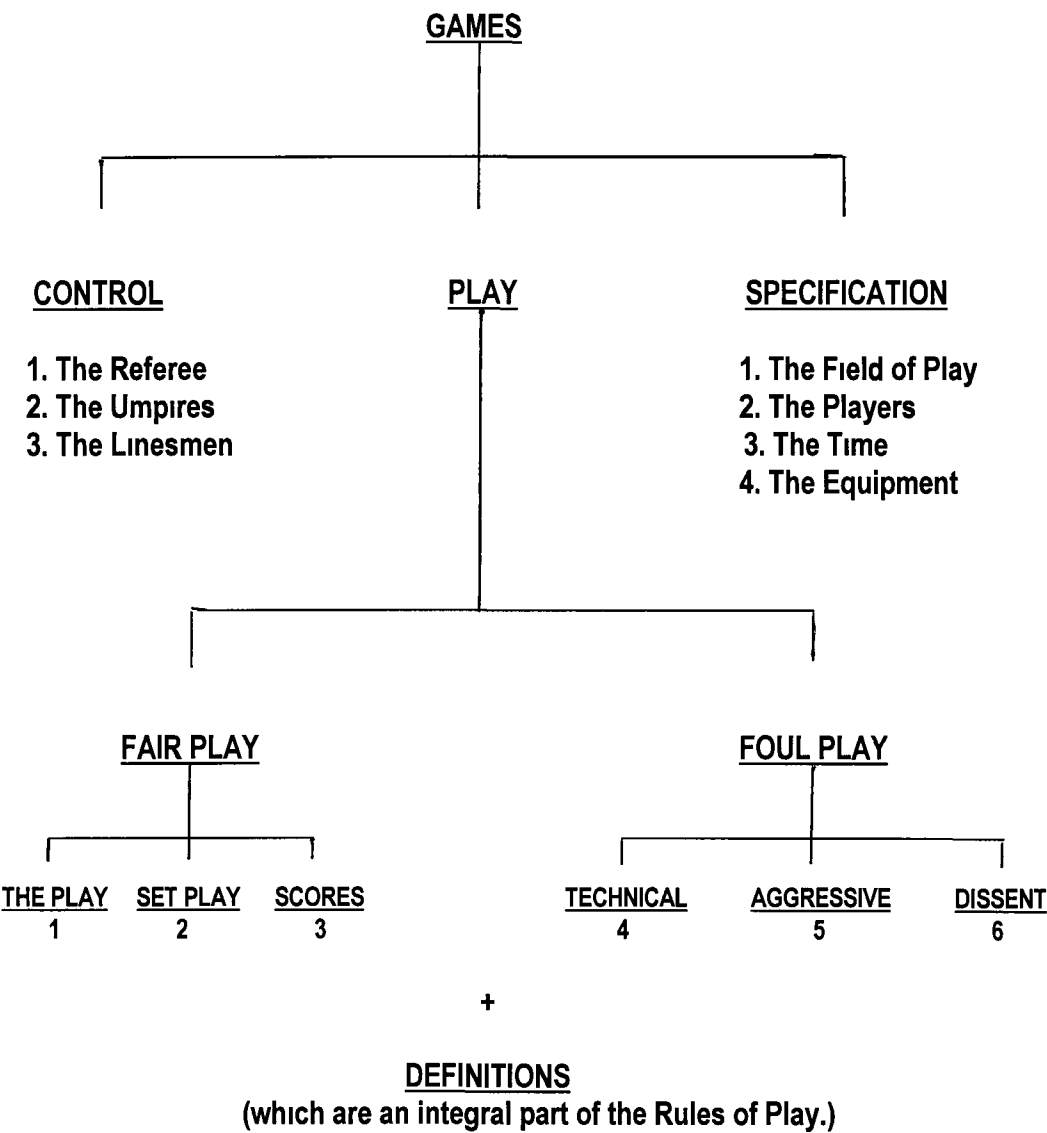
exclusive The addition of a list of definitions of key technical terms completed this section It was shown a maximum of three Rules of Control and four Rules of Specification This demonstrated that a maximum 13 rules are required for a complete set of playing rules The value of this format was discussed, and it was shown that it eliminated the shortcomings of the 'co-ordinated' format particularly, duplication, contradiction and inference This new format was easy to read and remember Any part of any rules was now easy to find Disagreement about the meaning of key terms was ended Interpretation of rules was no longer needed because the rules were stated in a series of short and simple sentences It was argued that this simplified, yet totally inclusive format, made the task of the referee easier The diagram of the format resembled a map where location and identification of any part of the 13 rules was simplified This format of presentation is applicable to all invasive body-contact games, and when the rules of quite different games such as Gaelic football and hurling are translated into this format, a detailed analysis and comparison of them can be made In this sense, it was argued that this is a universal format for the presentation of the playing rules of invasive body-contact games While the 'co-ordinated' format of presentation made it very difficult to process legislation, this new format facilitates the process of making, amending and rescinding rules However, the downside of this new format is that the rules of both our national games are now completely transparent, and hence more vulnerable to proposals for changing them than at any time in the past



Diagram 4.6 An overview of the rules in the Official Guide

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THE OFFICIAL GUIDE PART 2



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(The Rules of Play are numbered 1 - 6)

## **CHAPTER 5. THE PLAYING RULES AND THE LAW**

### **5.1 THE LAW IN GAMES FROM THE EARLY DAYS**

#### **5.1.1 Sport and criminal law**

#### **5.1.2. Self regulation in sport**

#### **5.1.3 Self regulation in the GAA**

#### **5.1.4 Derogations enjoyed by games**

### **5.2 THE DUTY OF CARE IN NEGLIGENCE**

#### **5.2.1 The standard of care**

#### **5.2.2 Who owes a duty of care in football and hurling?**

### **5.3 THE DUTY OF CARE OWED BY THE PLAYER**

#### **5.3.1 The duty of care owed by the player to other players**

#### **5.3.2 The duty of care owed by the player to match officials**

#### **5.3.3 The duty of care owed by the player to spectators**

#### **5.3.3 The duty of care owed to match officials**

#### **5.3.3 The duty of care owed to spectators**

#### **5.3.4 The players' needs and the rules**

### **5.4 THE DUTY OF CARE OWED BY THE REFEREE**

#### **5.4.1 The duty of care owed by umpires and linesmen**

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### **5.5 THE DUTY OF CARE OWED BY THE MEDICAL OFFICER**

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#### **5.6.1 The duty of care arising out of The Rules of Specification**

### **5.7 THE DUTY OF CARE AND THE RULES OF FAIR PLAY**

### **5.8 THE DUTY OF CARE AND THE RULES OF FOUL PLAY**

#### **5.8.1 The duty of care arising out of the definitions of key terms**

## **SUMMARY**

## CHAPTER 5. THE PLAYING RULES AND THE LAW

### 5.1 THE LAW IN GAMES FROM THE EARLY DAYS

According to Grayson<sup>1</sup> there is no special category of law that goes under the title of 'sports law' because each area of law impinges on sport in the same way as it does in many other social or jurisprudential areas.<sup>2</sup> For example, criminal law is relevant to physical contact sports, because they involve what seem at first sight a vast number of criminal assaults. Contract law is relevant to many aspects of sporting activity, in particular for individuals in professional sports, but also in the context of sponsorship arrangements. Tort law is relevant to the potential liability arising from sporting injuries and the liability of occupiers of sports venues. Statutory regulation of public order offences, fire safety and manufacturing standards also arise. European Community law may be relevant in the standards context also, but also in the application of competition law, for example, the *Bosman*<sup>3</sup> decision of the European Court of Justice has had an enormous influence in conferring greater freedom of contract on professional sports participants.<sup>4</sup>

This chapter concentrates on the interaction between the playing rules and the potential civil legal liability of those involved in playing in, officiating at, or responsible for administering the rules of Gaelic games.<sup>5</sup> This is of direct relevance to the pursuit of a philosophy of legislation for the games because those involved in rule making should be aware of whether the participants, officials or administrators leave themselves open to legal liability through a failure to ensure that the conduct of and within the games remain within the law of the land.

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<sup>1</sup> Grayson E. *Sport and the Law* 2nd ed Butterworths, London 1994

<sup>2</sup> In some games such as rugby and soccer, the term *law* is used to specify what players and officials may or may not do during a game. In games such as Gaelic football, hurling and shinty the term *rule* is used. In this study, the terms 'law' and 'rule' are taken to mean the same thing when referring to the playing rules which deal with on-field control, specification and play in Gaelic games.

<sup>3</sup> Union Royale Belge Des Societe de Football Association ASBL v Jean-Marc Bosman [1995] ECR I - 4921

<sup>4</sup> The recent development of 'sports law' in these many aspects has given rise to some specialised journals in Britain. Of these, the *Journal of Sport and Law* provides general commentary on recent developments. A number of conferences and seminars have been held in Britain on the area. The first seminar dedicated to the subject in Ireland was at Trinity College, Dublin in April 1997.

### 5.1.1 Sport and criminal law

The first widely reported criminal prosecution in England arising from sport, *R v Bradshaw*, was tried over 120 years ago<sup>6</sup>. This was a manslaughter case in which the defendant had 'charged' the deceased in an Association Football match. Although Bradshaw was acquitted, the jury added a rider to the effect that the rules governing the tackle should be tightened up. Twenty years later, in *Rex v Moore*,<sup>7</sup> the primacy of the laws of England over the laws or rules of sports was demonstrated when a player was found guilty of manslaughter for a deliberate and or reckless tackle outside the laws<sup>8</sup> of the game which resulted in the death of an opponent. In 1969, a similar verdict<sup>9</sup> was given for a deliberate or reckless blow outside the laws of the game. It would seem that there had been little by way of criminal prosecutions in sport from the *Moore* case to the late 1960s, but recent years have seen a plethora of cases, civil and criminal, in Britain and Ireland.<sup>10</sup> It has been suggested that newspapers are almost as likely to carry reports of sports in the courts section as in the sports pages.<sup>11</sup>

Two much earlier recorded fatalities in football games in 1280 and 1321 resulted from players being impaled on the sheathed knife hanging from the belts of opponents. The second of these cases involved William de Spalding, canon of Scoldham of the order of Sempringham who was absolved from blame by Pope John XXII<sup>12</sup> after the tragic accident during a football game which killed his friend. Although the wearing of sheathed

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<sup>5</sup> The wider legal implications of sport must therefore be left to a different study.

<sup>6</sup> (1878) 14 Cox Crim Cas 83.

<sup>7</sup> (1898) 14 TLR 229.

<sup>8</sup> Since the rules or laws of invasive body contact games specify in some detail what acts are to be punished by a penalty, the use of the term '*outside the laws of the game*' should be replaced by the term '*forbidden by the laws of the game*'.

<sup>9</sup> *R v Southly* (1969) *Police Review* 7 Feb, Vol 77 p 110, NLS Vol 120 p 143. See generally McCutcheon, 'Sport Violence, Consent and the Criminal Law' (1994) 45 NILQ 267.

<sup>10</sup> Grayson, 'Sports Medicine and the Law' in Payne (ed), *Medicine, Sport and the Law* (1990). For an Irish perspective, see McCutcheon, 'Sport Violence, Consent and the Criminal Law' (1994) 45 NILQ 267. It is worth noting that while most civil or criminal cases involve men, in 1985 at Essex Magistrates Court, Clacton, a woman was fined £250 plus costs for breaking an opponent's jaw in a friendly soccer match. See Grayson E. *Op cit* p 164.

<sup>11</sup> See McCutcheon, 'Judicial Scrutiny of Sports Administration' (1995) 13 ILT 171.

<sup>12</sup> Bliss W H ed. *Calendar of Entries in the Papal Registers relating to Great Britain and Ireland. Calendar of Papal Letters* (London 1895), II, 214.

<sup>13</sup> 'To William de Spalding, canon of Scoldham of the [Gilbertine] order of Sempringham. During the game at ball (ad pilam) as he kicked the ball (cum pede), a lay friend of his, also called William, ran against him and wounded himself on a sheathed knife carried by the canon, so severely that he died within six days. Dispensation is granted, as no blame is attached to William de Spalding, who, feeling deeply the death of his friend, and fearing what might be said by his enemies, has applied to the pope.'

knives appears to have been the norm - even for priests - while playing football, it is interesting that this matter was dealt with by the religious rather than the civil authorities Peabody Magoun Jr found that the intrusion of the law into sport, football in this case, is first recorded in the reign of Edward II and during the mayoralty of Nicholas Farnon of London about 1314<sup>13</sup> when football was banned from the city of London in the interests of keeping the peace

The attempt to promote the development of martial arts in The Statutes of Galway in 1527<sup>14</sup> by forbidding hurling and handball but allowing football is perhaps recognition that 'football for fitness' was appropriate for footsoldiers whereas time spent playing hurling and handball would interfere with the practice of required throwing skills It is quite clear that the Brehon Laws concerned themselves with the behaviour of players in games One example is the schedule of **Seven sheddings of blood** within the rule of the game<sup>15</sup>

These examples serve to demonstrate that contrary to what is sometimes referred to nowadays as a fairly modern problem of 'the interference' of the law in sport, the law has been used to regulate the behaviour within certain games and to forbid certain games in Ireland from time to time over the past 1,500 - 2000 years

Certain sports such as athletics have attempted to regulate the behaviour of their members by instituting the equivalent of courts which deal with the misbehaviour of

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Peabody Magoun Jr F *History of Football from the beginnings to 1871* Bochum-Langendreer, Verlag Heinrich Poppinghaus O H G 1938 p 6

<sup>13</sup>opus cit p 5

'Proclamation issued for the Preservation of the Peace

By virtue of this notice Nicholas de Farnone, then Mayor, has caused a proclamation set forth below as follows to be proclaimed throughout the entire city -

*Whereas our Lord the King is going towards the parts of Scotland, in his war against his enemies, and has specially commanded us to keep the peace And whereas there is great uproar in the City, through certain tumults arising from great footballs in the fields of the public, from which many evils perchance may arise - which may God forbid - we do command and do forbid, on the King's behalf, upon pain of imprisonment, that such game shall be practised henceforth within the city ' From H T Riley ed , Munimenta Gildhallae Londoniensis (Roll Ser , No 12 London, 1859 -62) Vol III , Appendix ii( Extracts from Liber Memorandum), pp 439-41*

<sup>141</sup> - Item It was ordered, enacted and statuted that what so ever man is found, of what degree or condicion so ever he be of, plainge at choyttes (quoits) or stonis but only to shute in long bowes, shorte crosbones and hurlinge of darts or speres, to lesse at every tyme so founde in doinge the same viii d , and also at no time to use ne occupye the horlinge of the litill balle with hockie stickes or staves, nor use no hande ball to playe without the walles, but onely the great foote balle, on payn of the paynis above lymitted

**The MANUSCRIPTS of THE MARQUIS OF ORMONDE, THE EARL OF FINGALL, THE CORPORATIONS OF WATERFORD, GALWAY, & H M S O 1885 p 402**

<sup>15</sup>See Chapter 1 p 7

members. It is appropriate, therefore, before discussing issues of legal liability, to explore the justifications for such 'self-regulation'.

### 5.1.2 Self-regulation in Sport.

Although the intrusion of the law in sport is not new, it is unwelcome to some sports administrators. Grayson recorded that a senior Football Association Councillor told him 'You lawyers keep out of sport, we can take care of it all!'<sup>16</sup>

Implicit in this rebuttal is the idea that sport should regulate the behaviour of sports people without recourse to the law of the land. Of course, a similar argument has been asserted by the professions and others who have criticised the 'claims culture' of recent years.

The response of athletics to deal with illegal activity amongst athletes which could, and perhaps should, have been dealt with in the civil and or criminal courts was to set up its own courts.

The International Court of Arbitration for Sport (I C A S), located in Lausanne in Switzerland, was instituted to deal with illegality in sport. Oswald<sup>17</sup> has argued that since judges cannot be expected to know everything, and in order to have good administration of justice, the law of sport must be dealt with by specialists. He pointed out that members of disciplinary bodies of sport organisations are specialists, to the extent that they are familiar with sport and law and are therefore better qualified than ordinary judges to settle disputes arising in sport. While this argument has some merit, the writer considers that Oswald did not explain why the fraud of using drugs to win fame and fortune at the expense of honest competitors is not treated as a criminal offence and punished accordingly.

Recent reports suggest that even when it has been shown that certain countries used performance enhancing drugs as a matter of routine over prolonged periods, their athletes who got the medals will not be required to return them. Thus, those athletes who were beaten by the cheats may not have their performances or their medals upgraded. Considering the financial rewards alone for success in the Olympics, it would

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<sup>16</sup>Grayson *E. Sport and the Law* Butterworths & Co London 1994 p 15

<sup>17</sup>Oswald Denis *By which courts should athletes be judged?* Olympic Review 1994 Jan. Feb. pp 31-33  
The writer of this article is a lawyer and member of the International Olympic Committee (I O C)

appear that I C A S has failed to achieve the justice which other citizens could expect in the courts of the land for similar fraudulent activities

David Walsh concluded an article in which he reviewed cheating in the Olympics with the following 'How can the Olympic movement recover from its recent past without confronting it and dealing with the proven injustices? The answer is simple It cannot' <sup>18</sup> While there seems to be a crisis of conscience in the Olympic movement in dealing effectively with this issue, there is no suggestion that ICAS be dismantled The main points in favour of such courts according to Oswald are

- 1 They exist elsewhere in professional organisations such as accountancy
- 2 There is a need for competence in this specialised area
- 3 Ordinary courts would be unable to handle the caseload
- 4 There is a need for decisions to be made quickly and other courts cannot deliver decisions in the necessary time scale
- 5 Sports justice is practically free of charge
- 6 Impartiality, independence and the fundamental rights of the individual are guaranteed

The writer would not agree with the general thrust of these arguments because they do not deal with the rights of, and particularly the right to, redress of those athletes who are beaten by an athlete whose 'victory' was 'drug enhanced'

Indeed Oswald accepted that any attempt to create a 'court for sports' which attempted to exclude the jurisdiction of the courts would be futile He commented

Any provisions in the regulations or statutes of certain associations which forbid appeal to ordinary courts are quite simply invalid, and cannot stop an ordinary court from declaring itself competent to review the decisions of that association <sup>19</sup>

Rule 149 of the GAA imposes just such a ban on appeals to the courts<sup>20</sup>, which the Association has retained despite motions to remove it It is clear, as Oswald noted, that

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<sup>18</sup>*The victims of injustice* The Sunday Times, 13 December 1998 On the same page, Craig Lord listed some of the British athletes who were the victims of the drug cheats These included Steve Ovett, Sharon Davies, Steve Cram, Hugh Matheson, Fred Smallbone, Daly Thompson and Fatima Whitbread

<sup>19</sup>*ibid*

<sup>20</sup>*Official Guide 1998 Part 1 Rule 150 There shall be no appeal except as provided in these rules and, in particular, there shall be no appeal to any Court of Law or to an outside body in any matter* The Dublin motion No 30 to Congress 1988 which sought to delete 'and in particular there shall be no appeal to any court of law or any outside body on any matters' from Rule 150, and the deletion of the words 'No appeal from a decision of the Central Council shall be made at law or otherwise' from Rule 78(d) was defeated See Congress Bulletin 1988 p D3

such a rule is invalid, and that the courts retain the power to reverse decisions of sports associations, for example, by way of injunction <sup>21</sup>

In dealing with the problem of foul play on the field of play, Pigden made the case for Players Courts<sup>22</sup> when he argued that he had more faith in the ability of competitive sportsmen and women to distinguish between robust play and cynical intimidation than he had in the courts to police professional sport. He urged that 'It is time for players collectively to take responsibility for policing their own sports, after establishing a professional code of conduct'

Although he was arguing the case for professional sports people, he admitted that such self-regulation may not solve all the problems and, significantly, he wrote that 'Amateur Sport, in particular, will struggle to establish a players' court regime'. In stating this he underlined the fundamental flaw in this whole argument which is that such regulatory courts would deal only with the small proportion of athletes or players who are professional while the amateurs would still have to rely on their association and the law of the land for justice

### 5.1.3 Self-regulation in the GAA.

The cost of litigation and interference (by the courts) were regarded as matters of such concern for the GAA at every level that the Director General, Liam Mulvihill, complained in 1994 that

the general public seems to be getting more and more litigation conscious by the year, while the courts are tending to interfere more and more in sporting matters <sup>23</sup>

This reflected the opinion expressed two years previously by the chief executive of the English Football Association

I have always opposed people who seek to bring too much law into sport. I believe very much that sport should govern itself on the field of play<sup>24</sup>

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<sup>21</sup>See, eg *Quirke v Bord Luthchleas na Eireann* [1988] IR 83, [1989] ILRM 129, in which the applicant successfully obtained an order of certiorari quashing a suspension of 18 months from international competition imposed by the respondent, the Irish Field and Track Athletics Board. It is more likely that a similar case today would be dealt with by way of injunction since the remedy of certiorari is more appropriate to a body exercising statutory powers, rather than one organised as a voluntary association of members. See McCutcheon, 'Judicial Scrutiny of Sports Administration' (1995) 13 ILT 171, discussing *Clancy v Irish Rugby Football Union* [1995] 1 ILRM 193, which concerned an application (ultimately unsuccessful) to seek injunctive relief.

<sup>22</sup>Pigden *Simon Players Courts: Sports' answer to Alternative Dispute Resolution* Sport and the Law Journal Vol 2 Issue Three 1997 ps 14-18

<sup>23</sup>O'Maolmhichil L. *Tuarascail an Ard Stiurthoir*, *Congress Bulletin*, 1994 p 10



Under the heading *Interference by the courts*, Mulvihill wrote

All sports have had to come to terms over a number of years with interference by the courts in internal and disciplinary matters. The interference would not be of concern were it not for the fact that in a few cases they have found flaws in the procedures being operated by various sporting bodies<sup>25</sup>

In 1978, when he was chairman of the Sports Council of England, Dick Jeeps expressed a more realistic approach when he wrote that

Sport belongs to the real world and its rapid development in recent years has made ignorance of the law amongst decision makers unacceptable<sup>26</sup>

Having noted that the IOC had decided to set up 'an internal Arbitration court' which will adjudicate on all sporting matters referred to it, and will deal with a lot of cases which would otherwise be going to the courts, Mulvihill wrote

I am asking the GAA to set up such a body, which would be manned on a part-time basis by fully qualified people with experience in both sport and law<sup>27</sup>

Almost two years later, it was reported that

A high powered committee is to be set up in an effort to reduce the number of GAA-related cases which end up in litigation<sup>28</sup>

Motion No 64 of the Agenda for Congress, 1995 sought

That the feasibility of setting up an "Internal Tribunal" or "Court of Appeal" be examined<sup>29</sup>

In December 1995, the terms of reference were still being drawn up by the Director General but it appears that civil cases for assault will not be dealt with by this committee. Whether such an alternative (even if it were to act in co-operation with other Irish sporting organisations) would have the support of the Government and the legal profession is open to question. In effect it would require another layer of legal procedure and a new system of justice for dealing with tort and crime.

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<sup>24</sup>Ted Croker in an interview with Simon Barnes reported in *The Times* 21 September 1992

<sup>25</sup>*Congress Bulletin* 1994 *Tuarascail an t-Ard Stiurthoir* p 10

<sup>26</sup>Grayson E. *SPORT and the Law* Butterworths, London 1994 p 15

<sup>27</sup>*Ibid*

<sup>28</sup>*GAA to plead its case* Liam Horan, *Irish Independent*, 2 December 1995 p 21

<sup>29</sup>*Congress Bulletin*, 1995 p 79

The GAA has a four-tier system of disciplinary procedures at the following levels - County Board, Provincial Council, Management - Games Administration Committee (GAC), and Central Council

If the Association could demonstrate to the general public that each of these tiers applied the disciplinary rules as set out in the Official Guide in a fair and equal manner, the above suggestion could well attract support. However, some of the suspensions handed down by various tiers of this system do not always appear to be fair or even-handed.

For example, after a well-publicised disturbance in the 1996 All-Ireland Senior Football Championship Final between Mayo and Meath, the suspensions handed down by the Games Administration Committee to Co. Mayo players were generally seen to be much more lenient than the suspensions handed down to the Co. Meath players<sup>30</sup>

This perception that the Co. Mayo players were treated more leniently was not helped by the fact that a member of the GAC was a Co. Mayo official, Paddy Muldoon. In the 1997 Connaught Championship, a similar situation arose<sup>31</sup>

It would have been wiser if the chairman of the GAC had asked Muldoon to step down from these hearings when players from his own county were before the GAC on disciplinary hearings.

Part of the difficulty in ensuring that the disciplinary rules of the Official Guide are fully implemented lies in the fact that the Referee's Reports do not always record incidents of

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<sup>30</sup>List of suspensions: Meath - J McGuinness - 6 months, C Coyle - 4 months, C Martin, J McDermott, T Giles, G Geraghty, D Fay, E McManus - all 2 months

Mayo, R Dempsey - 3 months, N Connelly, D Brady, L McHale, C McManamon, A Finnerty, J Casey - all 2 months. From *Royals resent the imbalance of bans*, by Noel Coogan, Irish Independent, 23.10.96

<sup>31</sup>Colm O'Rourke. *Sunday Independent* 13 July, 1997 - 'The Connaught Council took the easy way out on the Leitrim - Mayo game and handed out suspensions, the main purpose being to ensure that Mayo would not be penalised in their attempt to win the All-Ireland'

*It was not the first time this has happened in Connaught but Friday night's offering is a little too much for the Gaelic world to take*

Sean Moran *The Irish Times*, 15 July, 1997 under *Connaught justice points up the problem* wrote 'Its decision announced on Saturday, illustrated starkly how daft disciplinary procedures within the GAA have now become. Not all of these problems can be laid at the door of the Connaught Council, but there were anomalies in the suspension imposed and the outcome has caused resentment in Leitrim and even other counties in the Province at the perceived favouritism shown to Mayo who will - pace Sligo - probably represent Connaught in the All-Ireland semi-final'

Under FOOTBALL (no byline) *Mayo relief over fracas decision* *The Irish Times* 14 July, 1997 - 'THERE WAS general relief in Mayo at the weekend following the suspension and fines handed down by the Connaught Council arising out of the *melee* during the Connaught semi-final between Mayo and Leitrim on June 29th. Mayo's Colm McManamon, who was sent off along with Leitrim's Gerry Flanagan in that game, has been suspended for two months, which means that he will be available for the All-Ireland semi-final. Mayo was worried that McManamon would receive a longer ban which would rule him out for the rest of the season'

violence on the field of play. For example, in an National Football League match between Dublin and Offaly in Parnell Park in November, 1997, the Offaly captain, Finbar Cullen, was reported to have lost three teeth when struck by the fist of a Dublin player in an on-the-ball incident. The Referee's Report did not identify the culprit.

Indeed, the relevant information is not always available to the courts when such cases are tried, whether as civil or criminal matters. In the civil context, in *Connaughton v Ferry*<sup>32</sup> where the defendant was alleged to have broken the plaintiff's jaw during a club match in Donegal eight years prior to the action, Laffoy J. stated that 'On the balance of probability, the person who struck Connaughton was not in court'. In a criminal context, arising out of an incident which occurred near the end of a match played at the Caherlistrane GAA grounds on 6 June, 1998 when Michael Dunleavy was struck on the jaw and sustained severe injuries, John Joe Greaney of the Caherlistrane GAA club was charged under section 4 of the Non-Fatal Offences Against the Person Act 1997. He pleaded guilty at Headford District Court on 10 December, 1998. Judge John Garvan remanded Greaney on bail until 8 April, 1999 'to see if some arrangement could be made to pay the compensation. He felt sure the GAA could do something for the injured man'<sup>33</sup>

In his evidence, Garda Inspector Tony O'Donnell is reported to have said 'the referee intervened and took the Defendant's name and put him off'<sup>34</sup>. However, the Referee's Report<sup>35</sup> did not refer to the Defendant or state that he was dismissed.

Arising out of such incidents, it can be argued that all of the seven officials in charge of a game should have the power and the duty to make written reports of such incidents, and that these reports should be entered and signed into the Referee's Report<sup>36</sup>. Such reports should then be retained by the secretary of the committee in charge of the fixture for a minimum of three years, or until any potential case becomes statute barred.

One of the complicating factors in this area is the habit of team officials pressurising the referee to downgrade the seriousness of an offence in his report in the hope of a reduction in the proper penalty for the offence as laid down in Rule 136<sup>37</sup>. Since the period of suspension depends on the referee's report of the incident and the player's

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<sup>32</sup>*Connaughton v Ferry*, High Court, 13 November 1997.

<sup>33</sup>Eithne Donnellan writing in Irish Independent 17 December 1998.

<sup>34</sup>*Ibid*

<sup>35</sup>Copy of Referee's Report on file.

<sup>36</sup>This is the practice in Australian Rules Football. See Appendix 2 Part 2 ps 896 - 897.

<sup>37</sup>Rule 136 **Suspension - Misconduct on Fields** Official Guide 1997 Part 1 p 75.

record, there should be a further duty and power imposed on referees to report any such approaches, and these should result in a penalty for the offending person

In cases where a Referee's Report exaggerates the foul committed and the player is suspended for longer than he deserved, he can appeal. Since Rule 133 imposes a further period of six months suspension for playing while under suspension<sup>38</sup>, appeals should be heard within two weeks.

Disparities between the referee's report and other evidence are not confined to Gaelic games. In *Machin v Football Association*<sup>39</sup> Bristow J held in the English High Court that the referee had erred in making a report of a foul tackle. Although a TV recording of the incident was produced in this case, the Court of Appeal reversed Bristow J's decision by a 2-1 majority. Buckley L J dissented on the basis that the court was justified in drawing inferences of fact where an apparent perversity existed. This seems the better view.

This underlines the importance of accurate reporting of fouls and the importance of corroboration by other match officials.

In *Jones v Welsh Rugby Football Union*<sup>40</sup> Mrs Justice Ebsworth granted interlocutory relief to the plaintiff, an Ebbw Vale player and former Welsh international, and thus lifted temporarily the four week suspension imposed by the Welsh Rugby Union on him. In March 1997 it was reported that the Rugby Football Union had accordingly revised their disciplinary appeals procedure. In a letter to member clubs, the RFU secretary, Tony Hallett, wrote

As a result of the recent court decision, we feel it is prudent to reverse our rule so that a player may play while an appeal is pending<sup>41</sup>

This case could have important implications for the GAA if a player were to be sent off and reported for a serious offence within a week or two of a very important match such as an All-Ireland final.

The plan to have a 'Court for Sport' in the GAA was abandoned, and self-regulation by the Association is some way off.

In view of this, it is important that those rules which conflict with the law of the land should be rescinded, and the disciplinary procedure amended to cope with the possibility of an

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<sup>38</sup>*Ibid* p 74

<sup>39</sup> Unreported, Court of Appeal, 1983, cited in Grayson, *op cit*

<sup>40</sup> The Times 28 February 1997. See also the *Quirke* and *Clancy* cases, discussed *supra*

appeal to the courts. Moreover, it is important that legislation, in the form of administrative rules, be introduced to deal with interference with the referee's reporting procedures.

While it can be argued that there is adequate legislation for the control of players' behaviour in games, and for dealing with misbehaviour afterwards, it would appear that the first step which the GAA should take in self regulation is to insist that all Disciplinary Committees apply the existing rules as laid down. A single disciplinary body will not solve the problem unless the rules are applied strictly. While many calls have been made for this change recently, and motions<sup>42</sup> to make this change may well appear on the Agenda for Congress, 1999, the real problem does not appear to lie with either the disciplinary structures or the rules so much as the application of the rules. If officials who are entrusted with the task of applying the rules are unwilling to implement them, changing the disciplinary structure will not solve the problem. The proposal to have separate Disciplinary Committees for football and hurling could lead to very serious problems of separate standards of justice.

When referring to the biggest single problem facing the Association at the present time President Joseph McDonough singled out refereeing, and is reported as saying:

I am very concerned about the whole question of refereeing. I had a committee produce a comprehensive report on the state of refereeing. To be honest it was a frightening report. It did not paint a nice picture<sup>43</sup>.

It is clear that the Association has problems with the application of its playing rules by its referees<sup>44</sup>, and the application of disciplinary rules by committees.

Frank Murphy, the Cork County Secretary, is reported thus:

As chairman of the GAC my three wishes for 1999 would be;

- 1) that there should be further improvement by referees when it comes to discipline;
- 2) that county boards would respond seriously to the Central Council report which asks that a referee's administration committee be appointed in each county and
- 3) that hurling referees apply the rules as they should be<sup>45</sup>.

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<sup>41</sup>*Rugby Rules revised by high court decision* The Irish Times 26 March, 1997.

<sup>42</sup>Ciona Foley reported in *Clare call for radical shake-up* Irish Independent 17 December, 1998 that the Ruane club called separate for Disciplinary committees for hurling and football, and the O'Callaghan Mills club has a similar motion suggesting that the GAC forms one national committee to deal with all disciplinary matters...

<sup>43</sup>In an interview with Eugene Magee reported in the Irish Independent 7 December 1998.

<sup>44</sup>A Report on Refereeing was published by Ard-Chomhairle 15 August 1998. This report identified needs and recommendations based upon them.

<sup>45</sup>Peadar O'Brien *REFS TOLD: GET TOUGH* The Sun. 23 December 1998. p. 34.

It would seem prudent to solve the twin problems of poor application of the rules by referees and by disciplinary committees before seeking self-regulation

#### **5.1.4 Derogations enjoyed by games.**

The law of the land, both civil and criminal, forbids assault, but it provides a derogation to sport generally and body contact games in particular for certain conduct on the field of play which would be forbidden elsewhere <sup>46</sup>

Provided the player does not exceed what the rules of the game permit, and the game is 'properly conducted'<sup>47</sup> such actions as a fair side-to-side charge or a tackle on an opponent are not generally regarded in law as either a tort or a crime of assault <sup>48</sup>

However, the law still requires the player 'not to use excessive force' even though the rule of the game may not state this, so that in general, reckless and dangerous play remains both a tort and a crime <sup>49</sup>

From this it can be argued that associations such as the GAA should ensure that their playing rules do not permit the derogation from the general law of the land on assault to be exceeded to the extent that the law must intervene. The playing rules should not permit behaviour which is inherently dangerous, and referees should penalise players for use of excessive force which could cause injury even though the action complied with the rules otherwise

Both the administrative rules and the playing rules should be so reflective of the law that those who abide by them will not be in conflict with the law. The philosophy of legislation

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<sup>46</sup> See the general discussion above in section 5.0.1. See also the Law Reform Commission's 1994 *Report on Non-Fatal Offences Against the Person* (LRC 45-1994). The main recommendations in the 1994 Report were implemented in the Non-Fatal Offences against the Person Act 1997.

<sup>47</sup> The phrase was used by Lord Lane CJ in *Attorney General's Reference No 6 of 1980* [1981] QB 715.

<sup>48</sup> Tort retains the common law exception for properly conducted sports: see generally McMahon and Binchy, *Irish Law of Torts*, 2<sup>nd</sup> ed, Dublin, Butterworths, 1990. In criminal law, the common law crimes of assault and battery have been replaced by the assault provisions in the Non-Fatal Offences against the Person Act 1997. Section 22 of the 1997 Act specifies that the pre-1997 common law defences and exceptions are retained in the new law. The Law Reform Commission, in its 1994 *Report*, supra, had recommended that specific reference to the sports exception be included in any replacement of the existing law. Although many of the recommendations in the 1994 Report were implemented in the 1997 Act, no such specific reference was included in the 1997 Act. The Explanatory Memorandum published when the 1997 Act was a Bill stated that the common law exception for sports was being retained through the general reference in s 22. See the Annotation to the 1997 Act by Ivana Bacik in *Irish Current Law Statutes Annotated* (Sweet & Maxwell) and Byrne and Binchy, *Annual Review of Irish Law 1997* (Round Hall Sweet & Maxwell, 1998) ps 304-312.

<sup>49</sup> See the article by John O'Donnell, *Dangerous Play: Legal Penalties?* (1987) 7 ILT 66.

for games should be underpinned by compliance with the law. Rules should reflect the Association's care for players, officials and spectators. Indeed, as we have already seen, the founding fathers of the Association were intent on preventing 'danger' in the pre-1884 games which preceded the founding of the GAA.<sup>50</sup>

The remainder of this chapter focuses largely on the civil law aspects of the rules of Gaelic games.

## 5.2 THE DUTY OF CARE IN NEGLIGENCE

Perhaps the most common interface between the law and the playing rules is in the context of civil claims for damages arising from injuries inflicted on the field of play. The relevant legal principle is the duty of care which is an indispensable condition of negligence.

Negligence can arise out of the failure of a duty of care owed by those involved as players and officials in not observing or applying the playing rules and, potentially, by the Association via its playing rules,

The duty of care has been set out in Lord Atkin's 'neighbour principle'<sup>51</sup> in 1932 when he identified those to whom a duty of care is owed:

The rule that you are to love your neighbour becomes in law you must not injure your neighbour, and the lawyer's question, who is my neighbour? receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who then, in law is my neighbour? The answer seems to be - persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question.<sup>52</sup>

This general conception of relations giving rise to a duty of care is the basis on which cases of negligence have been decided, and it has been refined over time.

In 1977, Lord Wilberforce reformulated the duty of care as consisting of two essential stages. Firstly it has to be decided whether there is a sufficient relationship of proximity or neighbourhood between the defendant and the plaintiff that the defendant should have thought that his carelessness could cause damage to the plaintiff. If so decided, then the second stage comes into play to determine if there are any mitigating circumstances.

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<sup>50</sup> See Chapter 2, above.

<sup>51</sup> *Donoghue v Stevenson* [1932] AC 562.

which might nullify, reduce or limit the scope of the duty or the damages to which a breach of it may arise<sup>53</sup> Proximity here is a legal idea that is not fixed in time or space Liability in negligence may attach to conduct that results in injury or damage in another part of the world and or many years later even to a neighbour not born at the time when the conduct occurred The test applied in this jurisdiction since 1967 is that of *foreseeability* as was shown in *Burke v John Paul Ltd*<sup>54</sup> where it was stated that

[in] determining liability for the consequences of a tortious act of negligence, the test is whether the damage is of such a kind as a reasonable man should have foreseen

In games, the legal idea of proximity is not so diffused

The Atkin/Wilberforce neighbour principle has been criticised on various points and its persuasiveness has waned somewhat in England Some writers have criticised it to the extent of stating that 'the whole question of foreseeability is meaningless'<sup>55</sup> However, it still remains the basis of liability in Ireland<sup>56</sup>

McMahon and Binchy define a tort as 'a civil wrong (other than a breach of contract or a breach of trust) for which the normal remedy is an action for unliquidated damages' However, they point out that 'this definition does little to indicate to the layman the acts or omissions for which the law will hold him liable'<sup>57</sup>

Winfield describes the tort of negligence as 'the breach of a legal duty to take care which results in damage undesired by the defendant to the plaintiff'<sup>58</sup> However, it should be noted that no matter how harmful carelessness turns out to be, it does not give rise to a cause of action in the absence of a duty of care For a cause of action to arise, it must be established that a duty of care existed, that this duty of care was breached, and that injury resulted from this breach of duty

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<sup>52</sup> *ibid*

<sup>53</sup> *Anns v Merton London Borough Council* [1978] AC 728 at 751

<sup>54</sup> *Burke v John Paul Ltd* [1967] 1 R 277

<sup>55</sup> 'Despite its extraordinary emptiness, the neighbour principle has for many years occupied an unassailable position in the doctrinal exposition of negligence' Conaghan J & M Wade *The Wrongs of Tort* Pluto Press, London 1993 p 121 et seq

<sup>56</sup> See, in particular, the decision of the Supreme Court in *Ward v McMaster and Louth County Council* [1988] IR 388, in which the approach of Lord Wilberforce in *Anns* was upheld

<sup>57</sup> McMahon & Binchy *Irish Law of Torts* 2<sup>nd</sup> ed Butterworths (Ireland) Ltd Dublin 1990 p 17

<sup>58</sup> Quoted in Winfield and Jolowicz on Tort Sweet and Maxwell, London 1989 p 72



### 5.2.1 The Standard of Care

The standard of care is often a key factor in determining cases of negligence. The standard of care established in the context of medical practitioners is that the practitioner should achieve that degree of skill and expertise which is reasonably to be expected of competent colleagues of similar training and expertise.<sup>59</sup>

As a rule, a doctor is not negligent if he acts in accordance with a practice accepted at the time as proper by a reasonable body of medical opinion even though other doctors adopt a different practice - when treating players for example. Hence the law imposes a duty of care but the standard of care remains, at least where there is an 'accepted practice', a matter of professional judgement. While the medical and sporting contexts differ in many respects, there are some similarities such as that both may involve consent to assaults which the law recognises are given exceptional derogations from normal legal consequences. There are obvious differences, of course, though we should also bear in mind the Bill Shankley dictum that sport is not just a matter of life and death; it is more serious than that.

By way of analogy with the medical context, the law will expect a coach or teacher, in the sports context for example, to achieve a standard of care relevant to his training or qualifications rather than the standard of care expected of the prudent parent. It has been pointed out that:

Over the years it has been established through the courts that a schoolteacher should be expected to know a good deal more about the propensities of children than might a prudent parent. Add to this that some aspects of physical education have a high level of risk and required awareness and a *higher duty of care* [than that of the prudent parent] is now expected of physical education teachers.<sup>60</sup>

From this it can be argued that the law expects the coach or teacher to achieve the standard of care relevant to his or her training and qualifications rather than the standard of care expected of a prudent parent. This is particularly the case where the injuries arise from activities of which a prudent parent might reasonably have no knowledge but which a reasonable schoolteacher would be aware of.

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<sup>59</sup> See generally *Dunne v National Maternity Hospital* [1989] IR 91. See also *Bolam v Friern Hospital Management Committee* [1957] 2 All ER 118, [1957]1 WLR 582.

<sup>60</sup> Safe Practice in Physical Education. Dudley LEA. West Midlands. BAALPE 1995. p.23.

The standard of care expected of players is related, to some extent, to the standard at which the player competes. In *Condon v Bas*<sup>61</sup> Sir John Donaldson MR stated that

'[t]he standard is objective, but objective in a different set of circumstances. Thus there will of course be a higher degree of care required of a player in a First Division football match than of a player in a local league football match'<sup>62</sup>

From this it can be argued that the standard of care expected of a senior intercounty player is higher than that expected of a player who has not progressed from junior club standard. While different standards of care may be expected, it should not be concluded that the junior player is 'authorised' to play in an essentially unsafe way. The correct approach is that all players, regardless of their experience, owe a duty of care to other players and must behave reasonably, though the 'First Division' player will be required to meet an especially high standard. Binchy has suggested that an individuated standard of care would be adopted in this State.<sup>63</sup>

In *Smolden v Whitworth and Nolan*<sup>64</sup> the English Court of Appeal held that the referee owes a duty of care to the players. Commenting on the decision, the plaintiff's solicitor wrote

'It does appear, therefore, that the Court of Appeal are saying that it is entirely appropriate for a Judge to find an official of a match liable in negligence if he/she fails to exercise the appropriate degree of skill and care to be expected and thereby breaches or renders inadequate the "protective mantle" that surrounds the players and is kept in place by the effective and proper actions of that official and the standards to which he should officiate'<sup>65</sup>

In addition to the standard of care expected in the performance of an official or player, technical standards must be met in the supply of goods - sports equipment in this case. In discussing this matter, Byrne wrote

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<sup>61</sup> [1985] 2 All ER 453, at 454. The Court of Appeal indicated that the case was the first reported decision in England concerning an appeal to the court in a civil action in negligence arising from a sports injury.

<sup>62</sup> See also *Rootes v Shelton* [1968] ALR 33, *Elliott v Saunders and Liverpool Football Club Ltd* (1994) New Law Journal, 5 Aug, 1994.

<sup>63</sup> See Binchy, 'Sports Injuries: Who Can Sue Whom', a paper presented at Seminar on *Sports Injuries and the Law: New Issues of Liability*, Trinity College Dublin, 26 April 1997.

<sup>64</sup> Case No. 1993 S. No. 1715. Court of Appeal, December 1996. See the discussion of *Smolden*, below.

<sup>65</sup> Lee Terry, *Officials Liability and Implications of Smolden -v- Whitworth & Nolan*, Paper delivered to 1997 Annual Conference, British Association for Sport and Law.

An important factor in compensation claims, whether based on the common law duty of care or the breach of statutory duty, is compliance with relevant national, international or industry standards. In assessing whether organisations have met the relevant common law or statutory standard, a judge dealing with a claim will be influenced by evidence from technical experts such as engineers or sports injury specialists. Generally, the judge will decide on liability with the benefit of this expert guidance <sup>66</sup>

### **5.2.2 Who owes a duty of care in football and hurling?**

The players and officials and, potentially, the Association owe a duty of care to a range of people on a range of matters

The writer will deal with the duty of care arising under these headings

- 1 The player
- 2 The match officials - particularly the referee
- 3 The Medical Officer
- 4 The Association as legislator with respect to the Playing Rules

## **5.3 THE DUTY OF CARE OWED BY THE PLAYER**

The duty of care of a player may give rise to either a criminal prosecution or a civil claim for monetary compensation

### **5.3.1 The duty of care owed by a player to other players**

Grayson underlined the consequences of violent behaviour by players

From 1878 to 1978 the British, and in particular English and Welsh Courts, and since then Scottish Courts, have sustained the same principles of reckless and deliberate violent action for players as they have applied to protecting spectators in deciding what are the consequences of rough and illegal play. Tackle fairly and there is no problem. Tackle foully but accidentally, e.g. slipping in the mud or on canvass, and there would be no legal liability, but tackle foully or hit below the belt with deliberation and/or recklessness and there is no doubt what the consequences would and should be a criminal prosecution and claim for damages <sup>67</sup>

While agreeing with the substance of these comments of Grayson, the writer would prefer a technically correct phrase such as a kick or a punch or other aggressive foul to describe

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<sup>66</sup> Byrne R 'The legislative Standards for the Sports Venue, Sports Equipment and Employers', a paper presented at Seminar on *Sport Injuries And The Law New Issues Of Liability*, Trinity College Dublin, 26 April 1997

a foul committed instead of 'foul tackle' What emerges is that the use of undue force even within the rules of a game can be a crime

In Gaelic football and hurling the only legal form of physical tackle *on an opponent* is a fair side-to-side charge<sup>68</sup> However, if undue force is used in a fair charge or if a fair charge could result in an opponent being injured by the goalposts, boundary fence or walls around the field of play, this could lead to a prosecution for reckless conduct likely to cause injury<sup>69</sup>

Players should be aware of the risk which they accept when playing competitive body-contact games In general, the risks accepted are no more than those which are inherent in the rules Players do not accept the risk of injury caused by an action outside the rules of fair play as a result of a listed foul or dangerous play Hence the rules dealing with foul play should be very clear and comprehensive

The defence of *volenti non fit injuria* was often quoted in the past where a player was injured by a foul - deliberate or otherwise Since a player cannot licence another player to commit a crime, this defence is now regarded as flimsy and usually fails

Whereas a player can suffer a catastrophic injury for which there is no blame and therefore to which he consents when both he and the other player are engaged in play within the rules, a player who loses several teeth as a result of a punch in an off-the-ball incident - which is a listed aggressive foul<sup>70</sup> - has a clear right of action

### **5.3.2 The duty of care owed by a player to match officials**

Players have a duty of care to the match officials

Rules 5.5 Hurling and Football list the following fouls

To strike or attempt to strike any match official, to interfere with or use abusive language or conduct to a match official<sup>71</sup>

Incidents of striking a match official<sup>72</sup> are uncommon

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<sup>67</sup>*opus cit* p 151 Emphasis added

<sup>68</sup>See Appendix 1 Definition 15 p 585

<sup>69</sup>In the 1993 All-Ireland Football Final, Tony Davis a Cork player, was sent off for using excessive force in what appeared to be a properly performed side-to-side charge on a Derry player

<sup>70</sup>See Rule 5 Football and Hurling Appendix 1 ps 570 *et seq* and 581 *et seq*

<sup>71</sup>*ibid* ps 570 (hurling), p 581 (football)

The use of abusive language or conduct to a match official carries a penalty of dismissal plus a period of suspension which can range from two months for abusive or threatening language or conduct to 12 months for any type of assault<sup>73</sup>

### **5.3.3 The duty of care owed by a player to spectators**

Players have a duty of care not to injure spectators<sup>74</sup> Such injuries could result from a ball which was played with undue force into the crowd, or deliberately played into the crowd

Obviously, if the ball is driven into the crowd over or near the scoring area, an attacking player could not be liable although the organisers may be liable if there is no or no adequate protective netting between the playing field and the crowd If a ball which is deliberately driven with great force over the sideline by a player and a spectator is injured as a result, the player could be liable in law for the tort of battery

A distinction is made between injuries to spectators arising out of an action in the normal course of play<sup>75</sup> and injuries to spectators caused by an act not in the normal course of play and or outside the rules of play<sup>76</sup> The rules of play should cover this point

For example, if a ball which was struck with great force and is then deflected by another player into the crowd, neither player could be held responsible However, if play was stopped and a player struck the ball with great force into the spectators, or indeed at an opponent who avoided it or deflected it into the spectators, this act could be regarded as a failure in the player's duty of care to the spectators,<sup>77</sup> and he could be sued for negligence if an injury resulted

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<sup>72</sup>Hurlers John Power and Mark Rooney and footballer Niall Cahalane received two months, six months and one year respectively under Rule 137(B) [O G Part 1 ] which deals with 'A player or official interfering with a referee '

<sup>73</sup> O G Part 1 1998 p 75

<sup>74</sup>*Wooldridge v Sumner* [1963] 2 QB 43

*Wilks v Cheltenham Holmgard Motor Cycle and Light Car Club* [1971] 1 WLR 668

<sup>75</sup>In *Murray v Hamngay Arena* [1951] 2 KB 529, a juvenile spectator at an ice hockey game was injured when the puck was deflected out of play and struck him The claim was dismissed and judgement was in favour of the players and the organisers on the basis that all reasonable precautions had been taken

<sup>76</sup>In *Payne and Payne v Maple Leaf* (1949) 1 DLR (Canada) a spectator was injured with an ice hockey stick when ice hockey players began a fight The players were found liable because the spectator did not consent to the breach of the rules

<sup>77</sup>*Wooldridge v Sumner* [1963] 2 QB 43, *Wilks v Cheltenham Homeguard Motor Cycle and Light Car Club* [1971] 1 WLR 668, *Donaldson v Insh Motor racing Club* unreported Supreme Court 1 February 1957, *Callaghan v Killamey race Co Ltd* [1958] L R 366

Steve Kirk of Falkirk F C was found guilty of culpably and recklessly causing injury to a spectator after he had kicked the ball into the crowd, with the court holding that he used more force than was necessary to kick the ball out of play so that a team mate could receive treatment, thereby causing concussion in the spectator <sup>78</sup>

All players have a duty to learn the rules of the game they are playing. If a player has not taken the trouble to learn the rules, he is unfit to play the game.

It has been illustrated that one component for fitness for football is mental fitness<sup>79</sup> of which knowledge of the rules of play is a component part.

### **5.3.4 Players' needs and the rules**

Many players even at intercounty level have never read the rules or been taught the rules in a comprehensive and structured way <sup>80</sup>

In addition to knowing how to play the game and knowing the listed fouls, the player should have a good idea about what is involved in rough play, dangerous play, reckless behaviour and conduct which he knows or should know could lead to injuring another player, official or spectator. Ignorance of the rules of play is not a defence in negligence for an adult player.

Since the rules of football games differ with respect to skills with similar names,<sup>81</sup> it becomes all the more important that players who play and watch football, rugby and soccer learn to distinguish quite clearly between what are listed as fouls in each of these games.

What is regarded as a legal tackle in rugby<sup>82</sup> would not be tolerated in either Gaelic football or soccer, and some legal tackles in soccer<sup>83</sup> would not be tolerated in Gaelic

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<sup>78</sup> Lord Advocate's speech at seminar on *Legal Issues Facing Scottish Sport*, p 4 in Glen Pavilion, Dunfermline. The 'kung fu' attack by Eric Cantona, then a Manchester United player, on a spectator who had directed abusive language at the player has been well-publicised.

<sup>79</sup> See Lennon J *Fitness for Gaelic Football*, Alba House & J F & A Lennon, Gormanston 1967 p 13.

<sup>80</sup> In the period 1950 to 1969, the writer cannot recall any coach or manager of a college, club, county or interprovincial team that he played for instructing the players to read and learn the playing rules.

<sup>81</sup> The personal foul is one example of a term used in another game – basketball.

<sup>82</sup> The rugby player may grab his opponent around the body and haul him to the ground without incurring a penalty.

<sup>83</sup> The foot tackle or any attempt to block an opponent's kick with the foot is forbidden in Gaelic football.

football or rugby. The name of the skill<sup>84</sup> may be common, the performance is very different.

The Rules of Play for both football and hurling contain all the provisions which the law might require in terms of informing players what they may or may not do when playing our national games. Any footballer or hurler who has read the rules of our national games will be aware that they require him to behave in a way which is at all times within the laws of the land.

#### 5.4 THE DUTY OF CARE OWED BY THE REFEREE

The duty of care owed by the referee to the players was established in *Smolden v Whitworth and Nolan*<sup>85</sup> where the plaintiff, a colt rugby player, sued an opponent, Whitworth, and the referee, Nolan. Whitworth was cleared but the referee was found liable in negligence by the trial judge and the Court of Appeal. This was the first recorded case in Britain of a player suing the referee. No similar case appears to have arisen, as yet, in Ireland.

The plaintiff argued successfully that the duty of care of the referee arose under four headings:

- a) to enforce the laws of the Game,
- b) to apply fairly the laws of the Game without any variation or omission (save as provided in Law 6 (3) of the Laws of the Game)
- c) to effect control of the match so as to ensure that the players were not exposed to unnecessary risk of injury, and
- d) to have particular regard to the fact that at least some of the players (including the Plaintiff) were under the age of 18 years at the date of the match.

The trial judge, Curtis J, found that it was right and proper to impose a duty of care on the referee. He also found that Nolan failed in important respects relating to the scrums and failed to exercise reasonable care and skill in the prevention of collapses by insufficient

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<sup>84</sup> When the term 'tackle' is used, it may conjure very different images in the mind of the listener - depending on which game he plays or supports most frequently.

<sup>85</sup>English Court of Appeal, 17 December 1996. Unreported.

instruction to the front rows. He further found that 'the duty of the referee is to exercise that degree of care for the players which is appropriate in the circumstances'.<sup>86</sup>

The Court of Appeal rejected the second defendants' (the referee) claim that if the test upheld by the judge were correct, the threshold of liability would be too low and those in the position of the second defendant would be too vulnerable to suits by injured players, The Court of Appeal stated that:<sup>87</sup>

The function of the referee is to supervise the playing of the match between the opposing teams, endeavouring to apply the rules of the game thoroughly and judiciously so as to ensure that the flow of play is not unnecessarily interrupted, that points awarded are fairly scored and that foul or dangerous play is discouraged and, where appropriate, penalised or prevented.'

The appeal judges went on to add that:

Full account must be taken of the factual context in which a referee exercises his functions, and he could not be held liable for errors of judgement, oversights or lapses of which any referee might be guilty of in a fast moving and vigorous contest. The threshold of liability is a high one. It will not be easily breached.<sup>88</sup>

In summarising the conclusions of this case, Smolden's solicitor wrote:

What the *Smolden* case has done has been to throw the light for the first time on the activities of referees and clarified the duty that they hold towards those whose safety is in their hands. The sole purpose of having a referee on the field of play is to control the match.<sup>89</sup>

Another interesting aspect of the trial judge's judgement is the following passage:

[t]he plaintiff succeeds against the second defendant who in important respects relating to the scrums failed to exercise reasonable care and skill in the prevention of collapses *by sufficient instruction to the front rows, and in the use of C-T-P-E*<sup>90</sup> thereby reducing the impact of the engagement of the two packs to an acceptable level for Colt's games and especially that of the third scrum...<sup>91</sup>

The trial judge presumably did not intend the word 'instruction' to amount to saying that the referee has a duty to coach the players at this level. It must be assumed that he intended to convey the idea that the referee had failed in this instance to warn the players on the

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<sup>86</sup>*Ibid.*

<sup>87</sup>*Ibid* p. 7.

<sup>88</sup>*Ibid* p.10.

<sup>89</sup>Officials Liability and Implications of *Smolden v Whitworth & Nolan*. A paper read by Terry Lee, Smolden's solicitor, at the Annual Conference of The British Association of Sport & Law, 1997. p.9.

<sup>90</sup>The routine for commencing the scrum is crouch-touch-pause-engage. (C-T-P-E.)

<sup>91</sup>Quoted by Auld L J in the Court of Appeal at p. 33(B) of the transcript of judgement. Emphasis added.



previous occasions in which they had collapsed the scrum. The writer would strongly support the view that the referee has no duty to 'instruct' players in the sense of how to perform because this is the same as being obliged to coach the players during a game.

Turning to the duties of the referee of Gaelic games, these are listed under Rule 1.2.<sup>92</sup> The first and most important duty is to control the game in accordance with the Playing Rules. Arising out of the powers and duties conferred on him by the Rules of Control, it is clear that the referee has a duty of care to the players. Consistent with the rationale in the *Smolden* case, the Referee must be thoroughly conversant with the Playing Rules. The referee's duty to protect the integrity of the game is fulfilled by applying all the rules of play as they are stated - both fairly and consistently. Although a failure to protect the integrity of the game can have very serious consequences for the games and those who play them, such failure would not constitute a tort of negligence unless it could be shown that it led directly to injury and loss.

Two Rules of Play require interpretation by the referee. These contain the terms 'dangerous behaviour' and 'rough play'.<sup>93</sup>

The referee's power to appoint a replacement if he is not able to act imposes a duty of care on him to make sure he appoints a referee who is competent to control the game.

An important duty of care arises out of the referee's power to declare the ground unfit for play.<sup>94</sup> The lack of adequate run off space<sup>95</sup> between the boundary lines of the field of play and solid obstructions such as walls, posts or fences is a foreseeable danger to players which the referee should take into consideration when examining the ground for fitness to play. The loss of traction on very wet ground could lead to players crashing into boundary fences or walls. Poor light is a condition which can lead to an accident particularly in hurling because of the size of the ball and the speed at which it may travel. The sudden onset of fog which reduces visibility to a dangerously low level is an example of an 'other condition' where the referee should terminate the game .

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<sup>92</sup>Appendix 1. ps. 560, 561.

<sup>93</sup>Appendix 1 p. 570, 571 R.5.4, 5.12 (Hurling); p. 581, 582. R. 5.4, 5.14 (Football).

<sup>94</sup>*Ibid* p.560 Rule 1.1 POWERS OF THE REFEREE s.(ii)

<sup>95</sup> Legislation requiring that boundary lines be at least five yards from the fence appeared in Rule 1 of football in 1888, 1889 and 1896 and Rule 2 of football 1901. Similar provision existed in Rule 1 of hurling in 1888 and 1889. Since at least 1907 this safety provision has not appeared in the playing rules of football or hurling. See Appendix 2 ps. 647-694.

The referee's power 'to terminate a game because of outside interference, or any other reason which merits such action'<sup>96</sup> is clearly a sole power. He should exercise this power if he feels the safety of the players is at risk.<sup>97</sup>

The referee has a duty to ensure that all players are correctly and safely attired, and that all playing equipment conforms with the rules.<sup>98</sup> One of the specifications for playing equipment is that the *bas of a hurley* 'at its widest point shall not be more than 13cm'<sup>99</sup> yet the referee has no power to enforce this rule. Goalkeepers often use an oversize hurley.<sup>100</sup> See illustrations overleaf.

The referee can *forbid* the use of a hurling helmet by a footballer. What is not so clear is whether he should forbid the use of any type of helmet, even a dangerous one, by a hurler because the helmet is not specified in the rules and therefore cannot conform with the rules.

It is the writer's view that the rules which existed from 1884 to 1950 with regard to dangerous footwear should be reinstated because some of the metal studs now worn by players are quite dangerous.

These pieces of legislation are in urgent need of review not least because they may lead to claims against the referee based on the *Smolden* judgement but also against the Association.

A further duty of the referee which could have legal implications is contained in Rule 1.2 (iv).<sup>101</sup> 'To keep a record of the scores, the names of players injured, replaced, substitutes taking part.'

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<sup>96</sup> Appendix 1 p. 560 Rule 1.1 POWERS OF REFEREE s (vi)

<sup>97</sup> During the soccer international between Ireland and England at Lansdowne Road on 15 February 1995 a serious disturbance broke out in the crowd and the referee, Jöhl of Holland, quickly stopped the game and sent the players to the dressing room. He then abandoned the match. The game became the subject of an inquiry conducted by the former Chief Justice, Mr Justice Finlay.

<sup>98</sup> Appendix 1 p. 560 Rule of Control 1.2 (iii)

<sup>99</sup> *ibid* p. 559 Rules of Specification Rule 4 - Equipment s 4

<sup>100</sup> A good example of this was given in a photograph which appeared in *The Sports Supplement* of *The Irish Independent* 7 July 1997. This showed the *bas* of the hurley of Clare's David Fitzgerald appearing to be about twice as big as that of an opposing forward Philip O'Dwyer, Tipperary. p.c. of photo on file. See also photo in *Irish Times* 8 June 1999 shown overleaf.

<sup>101</sup> *ibid* p. 560

**5.1 Illustration of hurling stick with oversize bas.**

Photograph by Ray McManus, Sportsfile.



In addition to taking the names of players injured and replaced as per Rule 1 2 (iv) and the names of players cautioned and ordered off and exact reason(s) as per Rule 1 5, the referee should be required to state how injuries resulting in replacement occurred. In particular, he should state whether the injury was incidental, accidental or deliberate and outside the rules of Fair Play. The referee should be assisted in this by umpires and linesmen.

These powers and duties with their concomitant responsibilities and duty of care place a considerable burden on the referee. He should be properly trained how, and when to make these decisions.

Where the referee appoints the umpires and linesmen, he has a duty to ensure that these officials are fully conversant with the playing rules and, in particular, with the duties and powers contained in the Rules of Control.

These facts and arguments underpin the need for a philosophy of legislation and how the law and the playing rules interface.

#### **5.4.1 The duty of care owed by umpires and linesmen.**

The rule which requires umpires and linesman to report all aggressive fouls to the referee has important legal implications especially in the case of serious injury. These six officials should be required by rule to write their reports into the referees' reports. This would entail an amendment to the existing legislation.

It is no longer acceptable that a serious foul which occurred in full view of some or all of these officials and which led to a serious injury is not witnessed and reported in writing by at least one of these six officials. In view of the powers and duties entrusted to the umpires and linesmen, it is argued that they owe a duty of care to the players as well as to the teams. The rules should be amended to include the obligation to report in writing.<sup>102</sup>

#### **5.4.2 Does the law distinguish between the amateur and the professional?**

The Official Guide of 1896/97 contains the following definition of the term amateur

6 An amateur is one who has never competed for a money prize, or monetary consideration, or for any declared wager or staked bet, who has never engaged in,

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<sup>102</sup>Rule 16 11 Reporting Procedures of *The Laws of Australian Football* 1997 states

16 11 1 Umpires shall be provided by the controlling body with report sheets on which they shall enter particulars of any charge or charges they make against players or officials. This shall be completed at or before the termination of the match.

assisted in, or taught any athletic exercise as a means of pecuniary gain, and who has never taken part in any competition with anyone who is not an amateur <sup>103</sup>

Although it reflects the thinking at the time, few would take this definition seriously today

The distinction between amateur and professional has been blurred for some time. Since December, 1997, players may earn fees from non-playing activities<sup>104</sup>

Since the standard of care is objective (as set out above in *Condon v Basi*) and since amateurs play alongside professionals (players in receipt of fees referred to above), the law does not distinguish between the amateur and professional player in games other than that a higher level of skill may be expected of the 'First Division' (fee earning) player. The advent of full professionalism in Gaelic games would not affect the philosophy of the legislation.

## 5.5 THE DUTY OF CARE OWED BY THE MEDICAL OFFICER

Whether the Medical Officer is a doctor, a physiotherapist, a paramedic, an accident specialist or simply the person who undertakes to 'carry the bag' (the bag being the First Aid kit), all have a duty of care and a standard of care is expected from them.

As far as the playing rules are concerned, the Medical Officer is mentioned in Rule 1.4 of Control <sup>105</sup>. This rule links two important duties of care. Firstly, it imposes the duty of care on the referee to allow the medical officer to go on the field of play even though it states 'may allow'. It also imposes a duty and standard of care on the medical officer who goes on the field to examine an injured player. If the 'medical officer' is not qualified or capable of making a sound medical judgement on the condition of an injured player, he or she should not undertake the task. Life threatening complications can arise such as swallowing the tongue, and it is essential that every medical officer is able to deal with such emergencies.

A serious conflict of interest can arise in competitive games between the Medical Officer and the person in charge of the team - manager, coach or trainer - when a key player has

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<sup>103</sup>Official Guide 1896/97 Central Council, GAA Dublin 1896 p 32

<sup>104</sup>The amount of money a player may keep from sponsors is set out in The Report of the Committee established to review the GAA's Amateur Status 1, November 1997 s 2.8 (m) p 7

- Player involved	50%
- The relevant County Panel Finance Fund	30%
- A Job Creation and/or Hardship Fund for current or former players	10%
- Players' County Board	10%

<sup>105</sup> See Appendix 1 p 561

a serious injury The medical officer may not want the player to continue because of the injury, and the team 'manager' wants him to continue because he wants the team to win In a game where the player is sponsored, there may be an added pressure from the sponsor for the player to remain on the field and play

In all such circumstances, the opinion and decision of the Medical Officer must override that of the person in charge of the team For this reason, the rules of control should include a statement to this effect

The underlying philosophy of this approach to legislation is that the health and safety of players matter more than the results of any matches in which they play

The Medical Officer with First Aid qualifications has a duty of care to the injured player under heads such as

- To assess the extent of the injuries
- To provide appropriate First Aid treatment
- To ascertain if there is a life threatening complication and correct it (Such as 'swallowing' the tongue or a ruptured artery )
- To prevent the player aggravating an injury (Such as rubbing a badly injured eye )
- To recognise when a player should not be allowed to continue
- To ensure that a player does not continue playing when badly injured
- To recognise when an injured player should not be moved without full medical supports
- To remain with the injured player until specialist medical help is provided

From this it can be argued that the Medical Officer should have the last say in this matter, and that the rules should state this

Doctors or physiotherapists or professionally qualified medical personal who act as medical officers at games should be aware that any or all of these may apply

The legal principle underlying negligence and the failure of the duty of care which causes foreseeable injury applies in all these categories

In the excitement of an important match when a key player is injured, and his presence is seen as essential for victory, the welfare of the players must always come before the success of the team This further underpins the philosophy of such legislation

## 5.6 THE DUTY OF CARE OWED BY THE ASSOCIATION ARISING OUT OF THE PLAYING RULES

The playing rules form one category of rules required by any association which controls games. In the case of the GAA, these are contained in Official Guide (O G ) Part 2. While it may be necessary to refer to other rules contained in Part 1, this chapter will deal mainly with O G Part 2.

This section will deal with the duty of care and the standard of care arising out of the playing rules which are required by the law.

### *Liability of the Association as occupier*

An example of the Association's liability as occupier of premises is found in *Cowan v Ó Freaghaile (representing the Gaelic Athletic Association) and McInerney & Sons Ltd*<sup>106</sup>. The plaintiff was a spectator in the Hogan Stand of Croke Park at the 1985 All Ireland hurling final. During half time, a screen wall outside one of the Hogan Stand toilets collapsed on him. This part of the screen wall did not have any strengthening bars or dowel rods in it. When the rest of the wall was demolished, strengthening bars or rods of about 3 inches long were found. The wall had been built by McInerneys, the second defendant. An engineer gave evidence that such walls should have contained bars or rods of about 3 to 4 feet long. O'Flaherty J (sitting as a judge of the High Court) found that the wall was unsafe. He noted that, since part of the wall had contained some bars or rods, this probably meant that the specifications for the building had required that rods be put in the wall, though the original plans were not available for the case. He found that McInerneys had been negligent. He also found the GAA negligent, at least to some extent. He pointed out that the Bradford City FC fire and the Heysel Stadium riot had both occurred in May 1985 and that these events should have prompted the GAA to conduct a general structural examination of Croke Park in 1985 before the September All-Ireland finals. The evidence in the case also indicated that such a survey would have brought the defect in the screen wall to light. O'Flaherty J found McInerneys 80% liable and the GAA 20% liable for the injuries to Mr Cowan. Damages totalling £210,000 were awarded.

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<sup>106</sup>[1991] 1 IR 389

### *Liability of Association under legislation and codes of practice*

In January 1996, the Department of Education published a *Code of Practice for Safety at Sports Grounds* <sup>107</sup> Although this Code of Practice carries no statutory force, it refers extensively to relevant statutory provisions. Its content will undoubtedly be of significance in terms of determining compliance with statutory standards, in particular those under the Building Control Act 1990, the Criminal Justice (Public Order) Act 1994 and the Fire Services Act 1981. The Code of Practice follows closely international guidelines, including those issued by UEFA in the wake of the Heysel stadium disaster, and those developed in the United Kingdom in the wake of the Popplewell and Taylor Reports. In that respect, it reflects a wider level of responsibility indicated in a narrow way by the *Cowan* case, discussed above.

It is clear that failure to comply with the detailed guidance provided by the *Code of Practice* would be of great relevance in determining liability at common law. Given that the High Court was prepared to impose liability in the *Cowan* case on the basis of failure to act on the 'lessons' of Bradford and Heysel, it is clear that the courts would be prepared to take into account a published Code of Practice.

### *Liability of Association under the Personal Protective Equipment Directive*

Under recent EC Technical Standards Directives, manufacturers must meet certain safety and health standards for the products covered by the specific Directives. The 1989 Directive on the Approximation of the Laws of the Member States on Personal Protective Equipment, 89/686/EEC, as amended by Directives 93/68/EEC and 93/95/EEC, has been implemented in this State by the European Communities (Personal Protective Equipment) Regulations 1993 to 1994 <sup>108</sup>

In general terms, the European Communities (Personal Protective Equipment) Regulations 1993 to 1994 apply to

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<sup>107</sup>Department of Education, *Code of Practice for Safety at Sports Grounds* (Pn 2298, January 1996)

<sup>108</sup>European Communities (Personal Protective Equipment) Regulations 1993 (S.I. No 272 of 1993), as amended by the European Communities (Personal Protective Equipment) (Amendment) Regulations 1994 (S.I. No 13 of 1994) and the European Communities (Personal Protective Equipment) (CE Marking) Regulations 1994 (S.I. No 457 of 1994)



'any device or appliance designed to be worn or held by an individual for protection against one or more health and safety risks'<sup>109</sup>

The Directive and the Regulations apply to sports equipment

Reg 4(1) of the European Communities (Personal Protective Equipment) Regulations 1993 provides

'A person shall not place PPE on the market or bring PPE into service unless, when properly maintained and used for its intended purpose, it preserves the health and ensures the safety of users thereof without compromising the health or safety of individuals, domestic animals or goods, and complies with the basic health and safety requirements specified in Annex II'<sup>110</sup>

Annex II to the Regulations lists the essential health and safety criteria to which PPE must comply

The Regulations specify that 'place on the market' means

- (a) import,
- (b) sell (whether by wholesale or retail),
- (c) offer or expose for such sale,
- (d) distribute free of charge, or
- (e) supply by a manufacturer for any of those purposes'<sup>111</sup>

Heading (d) indicates that no money need change hands for the Regulations to apply, so that 'free' equipment must comply with the Directive and the Regulations

The Regulations thus appear to apply where sports equipment is supplied in any number of situations, whether through wholesale, retail or other manner, with or without payment

If, for example, the Association placed on the market any equipment which did not meet the requirements of the Directive and Regulations, both criminal liability under the Regulations and civil liability for breach of statutory duty would be likely to arise

#### *Liability of Association under the playing rules*

There has as yet been no definitive decision by the superior courts that the GAA owes a duty of care in law arising out of the playing rules. Yet such a duty may be taken to arise

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<sup>109</sup>Reg 3(1) of the European Communities (Personal Protective Equipment) Regulations 1993

<sup>110</sup>Reg 4(1) of the European Communities (Personal Protective Equipment) Regulations 1993, as amended by the European Communities (Personal Protective Equipment) (CE Marking) Regulations 1994 (S.I. No 457 of 1994)

<sup>111</sup>Reg 2(1) of the European Communities (Personal Protective Equipment) Regulations 1993

from the general principles arising from the 'neighbour principle' in *Donoghue v Stevenson*<sup>112</sup> Indeed, in a number of cases arising from injuries sustained through failure to wear head protection, the GAA appears to have been joined by virtue of the failure to have included in the Rules of Specification a requirement that head protection be mandatory, and a Power and a Duty of the Referee in the Rules of Control to ensure that head protection is worn Up to the end of 1998, such cases have been settled prior to hearing or appeal, with the Association paying compensation without admission of liability<sup>113</sup> However, in February, 1999, David Devereaux succeeded in an action against Na Piarsaigh Hurling and Football Club, Co. Cork for not providing him with a helmet when playing in an Under-16 Hurling match against Bishopstown's Under-16 hurling team Devereaux was injured in the second half of this game when struck in the face by the hurley of the player he was marking

Judge Clifford said he did not believe that the question of compelling players to wear helmets was an issue in the case What was at issue was whether the club had a duty of care to the Plaintiff, and whether it had fulfilled it *in loco parentis*

"There was a responsibility at least to look for a helmet or at least to tell him 'You better not play if you don't get a helmet'<sup>114</sup>

It is not clear how a club could fulfil its duty of care to young hurlers without compelling them to wear helmets irrespective of whether their parents were present or not Nor is it clear how this duty of care ends at the club which has no advice or instruction on this matter in the Official Guide Part 2 in the Rules of Specification

While on its face the case was against the particular club involved in organising the game, the Association was joined in the proceedings and was represented at the hearing It is understood that the Association would be the party making any payment of compensation Since the decision on liability was not appealed, it would appear that those in charge of under age hurling teams may have a legal obligation to ensure under age players wear a helmet, and by inference, a helmet which has a proper face protector

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<sup>112</sup>*Donoghue v Stevenson* [1932] AC 562

<sup>113</sup>*Mark O'Donoghue (A minor) v Denis Byrne* Circuit Court, 215/1989 Cork, 29 November 1994  
*Eamonn O'Donnell (a minor) v Sean O'Maoinn, Cumann Luithcheas Gael and Brendan Cummins*  
 Western Circuit Record No 1511/93 27 June 1996

<sup>114</sup>*Devereaux v Na Piarsaigh Hurling and Football Club, Record No 4114/1997 Circuit Court, Cork 5 February 1999 See THE EXAMINER 6 February 1999*

While Devereaux was 14 years 11 months at the time he was injured, it would appear that this ruling will apply to those in charge of players under the age of 18 years. This may be a landmark judgement, but it remains to be seen how the law will develop in this area.

Clearly, it may not be sufficient to ensure that all under-age players wear helmets with face protectors. The quality of the head protector (helmet plus faceguard) will become an issue, and standards for the manufacture of these will have to comply at least with the standard of any helmet or faceguard on the market which has both a British Standard Specification and a relevant C E mark.<sup>115</sup> The faceguard should be so designed, manufactured and fixed to the helmet so that neither the toe of the hurling stick or the hurling ball can penetrate it and strike the face of the wearer. Players who remove part of the faceguard (see illustration overleaf) will not enjoy much sympathy if they sustain a serious facial injury – an eye injury for example. At a more general level, the potential liability of the Association may be considered under a number of headings.

#### **5.6.1 Duty of Care arising out of The Rules of Specification.**

The four Rules of Specification are set out in Official Guide Part 2 1995<sup>116</sup>

It is clear that the Association has a duty of care to the players and to the match officials under Rules 1, 2 and 4 of Specification - The Field of Play, the Players and Equipment. In general, the Rules of Specification should reflect technical accuracy and safety.

**The Field of Play.** While the size of the field of play is seldom critical, it goes without saying that it should be large enough for 28 outfield players to pursue a game plan within the rules of play with safety and perhaps comfort. Boundary lines should be clearly marked. More important than absolute size of the field of play is the run-off area around the field of play. This should provide a reasonable stopping space between the boundary lines of the field of play and any barriers, fences, walls or hoardings or suchlike obstructions with which a player could collide if he runs over the boundary lines or if his momentum carries him over those lines.

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<sup>115</sup> See Byrne, 'The legislative Standards for the Sports Venue, Sports Equipment and Employers', a paper presented at Seminar on Sport Injuries And The Law - New Issues Of Liability, Trinity College Dublin, 26 April 1997, discussing Directive 89/686/EEC, implemented by the European Communities (Personal Protective Equipment) Regulations 1993 to 1994 (SI No 272 of 1993, SI No 13 of 1994 and SI No 457 of 1994). See further discussion of the standards required of such helmets in Chapter 7, below.

<sup>116</sup> See also appendix 1 p 556 – 559

When deciding on this run-off space, weather and pitch conditions should be taken into account for players can slide several metres along the ground if it is very wet, waterlogged or frozen.

There is a foreseeable risk of injury in players colliding with obstructions outside the field of play, and the general principle should be that all such obstructions should be free of obvious and hidden hazards.<sup>117</sup>

The surface of the field of play should be free from all hazards such as deep ruts or holes and stones.<sup>118</sup> Access to the field of play and dressing room floors should be free from hazards which could cause an injury.

Goalposts should be so firmly fixed in the ground that there is no risk of them falling due to impact with the ball, players or strong winds<sup>119</sup>. The crossbar should be of such dimensions and strength that there is no foreseeable risk of it breaking after impact with the ball or from players hanging on it.<sup>120</sup> Posts and crossbar should comply with the Irish Standard I.S. EN 748: 1996.<sup>121</sup>

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<sup>117</sup>A young player was killed when he collided with a boundary fence in match played in Glenties, Co. Donegal in 1991.

<sup>118</sup>In *Ward E. v St. Bernard Soccer Club*, the player was awarded £3,500 for injuries sustained when he struck his knee on a stone in the surface of the field of play in 1988. Reported in *Irish Independent* 24 March 1990. Blayney J. ruled that the Defendants must have been aware of the dangers.

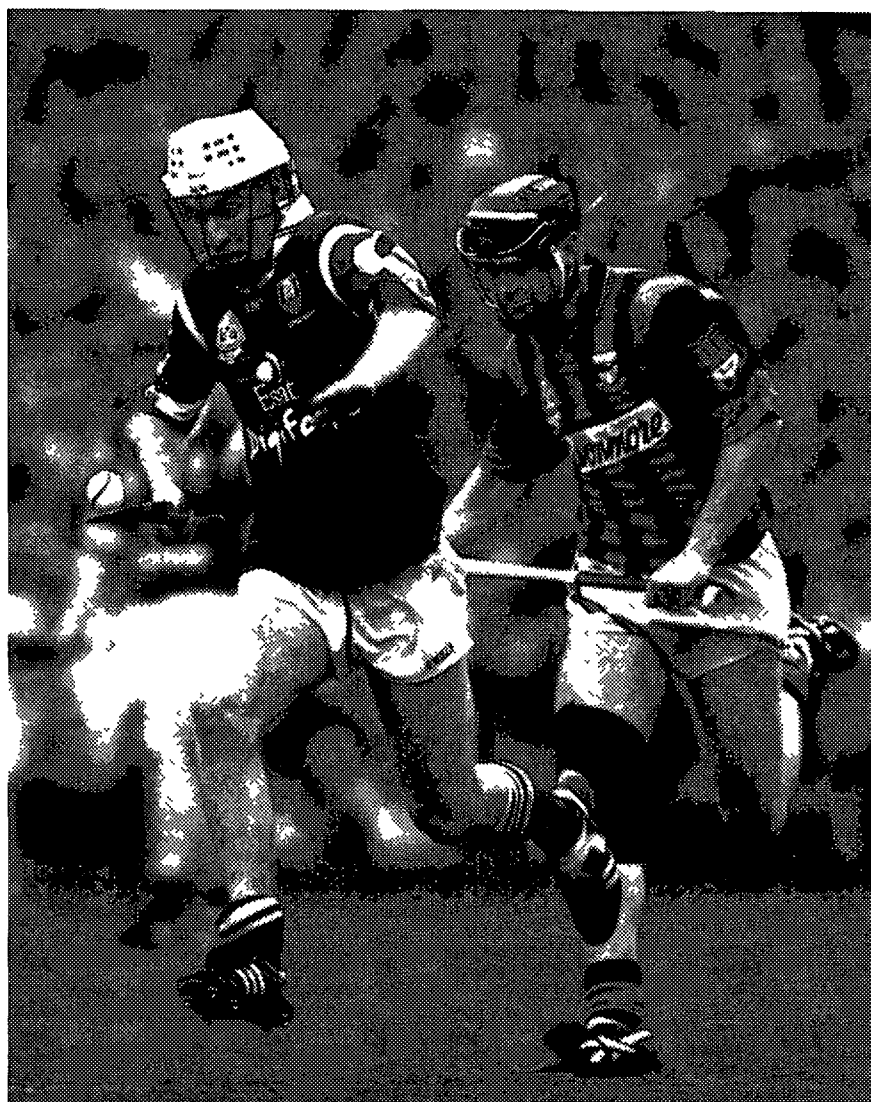
<sup>119</sup>A boy of six died after running into a 5-a-side football post an inquest heard yesterday. David O'Neill... was struck by the metal crossbar of the portable posts as they toppled over on him. *Daily Mail*, 18 February 1995. "BOY 7, KILLED BY FALLING GOAL POSTS. A 7 year old boy died yesterday after a goalpost fell on his head during a football coaching session. *Yorkshire Evening Post*, 29 July 1999.

<sup>120</sup>On 15 March 1998, in a televised N.F.L. game between Laois and Mayo, the crossbar was broken - apparently by an inrushing forward who grabbed the net. Fortunately there was no injury. However, the potential for serious injury was evident.

<sup>121</sup>European Standard **EN 748** December 1995. Playing Field Equipment - Football Goals - requirements and test methods including safety.

## 5.2 Illustration of 'adapted' faceguard

Photograph by Ray McManus, Sportsfile.



Net fixings should be designed and fabricated to eliminate injuries resulting from impact by players' hands or fingers <sup>122</sup> They should comply with Irish or European Standards <sup>123</sup>

Since in football and hurling, the ball is often played higher than the surrounding fence at the ends of the field of play, it could be argued that the Association has a duty of care to spectators behind the goal areas who might be struck by a ball. The high nets which are erected behind scoring areas have become a feature of GAA grounds. It could be argued that their purpose is to speed up the retrieval of the ball and reduce the loss of balls. Also, it could be argued that they are necessary to provide reasonable protection for spectators in transit to and from their seats as well as spectators seated or standing behind the goals. If the rules were clear on the specification of such nets, the duty would then be 'delegated' to the particular club or occupier, even a public body, rather than be fixed with the Association.

**The Players** There is a duty of care to ensure that young players are not mismatched against opponents who are significantly older, stronger and heavier but not, it would appear, significantly taller <sup>124</sup>. In the case of Under Age Competitions, the Association differentiates the competitors by age bands of two years. U-12, U-14 and U-16 are the commonly used age bands before players proceed to minor football where the upper age limit is under 18 years of age on 1st January of the Championship year <sup>125</sup>.

**The Equipment** The most sensitive area of duty of care with respect to the rules of specification is the question of protective equipment. In particular, the protective equipment required by hurlers which includes a helmet with face guard.

The absence of a rule requiring hurlers to wear helmets with faceguards, and a corresponding rule empowering the referee to dismiss hurlers who are not wearing this protective equipment, has been the subject of litigation based on claims of a failure in the

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<sup>122</sup>In 1994, a schoolboy became impaled through his wrist while jumping up behind a crossbar to strike a ball back over it. He settled out of court for an undisclosed sum. *David Kelly (a minor) v Martin Naughton* High Court (1995) No. 755P. Chris Hamilton is reported to have had his ring finger amputated when his wedding ring got snagged on a peg on the crossbar. THE SUN 10 Oct. 1996. In the same week, Paul Bandy lost his ring finger in a similar accident. Reported in News Watch 12 October 1996.

<sup>123</sup>*S/EN 748 1996 s 342 Playing Field equipment*

<sup>124</sup>In *Ward v Donegal Vocational Education Committee*, High Court 3 May 1993, Keane J. held that he considered that the plaintiff's argument that taller players should not be mixed with smaller players amounted to imposing a standard that, in effect, teams should be chosen so that people cannot be hurt. Injury was an expected hazard of physical contact sports. Because there was proper supervision he held that the defendant was not liable. *Doyle Court Reporters Personal Injury Judgements*, Hillary and Easter Terms 1993 p. 116.

<sup>125</sup>O.G. Part 1 1995 Rule 123 p. 69.

duty of care owed to hurlers by the Association <sup>126</sup> A series of court cases has centred on this point, and the Association has been exposed repeatedly in this area of litigation. The tactic of the Plaintiff enjoining the GAA in the action along with the schoolteacher and the school has led to the Association adopting a policy of settling out of court <sup>127</sup> However, in *Devereaux v Na Piarsaigh Hurling and Football Club*, the plaintiff succeeded

At the Annual Congresses of 1990 and 1995 motions calling for a rule requiring underage hurlers to wear helmets were defeated. In 1995, a motion requiring underage hurlers to wear helmets which meet with EU safety standards was referred by the Motions Committee to Central Council, and then rejected. Neither the referral nor the refusal complies with the rules <sup>128</sup>

The six main reasons offered by the Association for not adopting a rule requiring hurlers under the age of 18 to wear helmets were reported in *HOGAN STAND* as -

- 1 We would be admitting that the game is dangerous whereas we have statistics which prove the opposite
- 2 There is the cost factor involved
- 3 It could herald a change in the whole ethos of the game
- 4 The Association would have to ensure a minimum safety standard for all helmets
- 5 There is a danger of the players acquiring a false sense of security once they wore this equipment
- 6 There could be legal implications for the GAA if a helmet caused injury to another

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<sup>126</sup>*O'Driscoll v CBS North Mon and the GAA* Cork Circuit Court 29 Nov, 1994, *O'Donnell v O'Mainnin CLG and Cummins* [1996] Western Circuit Court Record No. 1511/93

<sup>127</sup>In the first of the cases quoted above, the school paid a nominal contribution to the costs. In the second case, the school was exonerated, and the GAA was found wholly at fault. The decision was appealed but the case was settled before the hearing of the appeal.

<sup>128</sup> The referral of motions to Central Council is a reserved power of Congress. See Rule 77 **Motions** s (e) O G 1977 Part 1 p 45 - 'Congress may refer a motion for consideration to Central Council or a sub-committee of that body. The ensuing amendments, if they propose to alter an existing rule, shall come in motion form to a subsequent Congress.' Rule 75 **Motions Committee** does not refer to this power. The 1995 Motion which sought 'That the wearing of a Hurling helmet, which complies with European Union Safety Standards be compulsory for all underage competitions' *Tiobraid Arann* was referred to Central Council and appeared in the Congress Bulletin at p 62 in a separate section for motions so referred. Subsequently, the **Response** issued from Central Council was -**This motion cannot now be dealt with since a similar motion was defeated at Congress.** While the Tipperary motion also referred to 'all under age competitions', it went very much further than the Mayo motion when it sought that helmets should comply with EU Safety Standards. So this motion was improperly diverted from Congress and inadequately dealt with by Central Council.

player<sup>129</sup>

On the same page, quotations from hurlers who had sustained serious eye injuries are in stark contrast to O'Neill's views<sup>130</sup>

Other associations<sup>131</sup> do not appear to have the same reservations. The Camanachd Association does not have a rule requiring players to wear helmets but it issued an Executive Directive requiring all shinty players of 14 years and younger to wear helmets. This directive has the same force as a rule.

Hockey, Cricket, Ice Hockey and, particularly, Lacrosse require some or all of their players to wear helmets with faceguards. In SECTION 12 **Safety and Equipment**, The Canadian Lacrosse Association stated in June 1998

## 1. **Safety Policy**

- 1.1 The fundamental concepts of the safety policy are to establish a standard of care intended to reduce the risk of injury from contact which is inherent in and

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<sup>129</sup> Ciaran O'Neill, GAA Commercial Manager on the proposal to introduce the wearing of helmets with visors for all hurlers up to the age of 18. Quoted in *HOGAN STAND* Vol 5 No 48 1 December 1995 p 31

<sup>130</sup> *'The actual blow caused a haemorrhage at the back of the eye and because of the severe damage and the vibrations there were some cells on the macula (the region of greatest visual sharpness in the retina) damaged. These cells do not replace themselves. They just die away and with them goes the sight*

*I never wore a helmet, but I'm sure if I had been wearing one, and a visor, that evening the injury would not have occurred. I would advise all young hurlers to wear helmets fitted with visors for their own safety and the safety of the game. Hurling is not a dangerous game, but as in all contact sports, there will be accidents.'* - Pat Buckley, former Cork hurler, endorsing the use of helmets with visors

Pat Malone, Galway hurler who has 80% vision following an eye injury earlier this year was quoted as saying -

*'Obviously I now wear a visor and helmet. Initially I found it difficult to get used to the visor, but you will never do things unless you have to*

*There is no way anybody can force senior players to wear helmets and visors but underage players should not be allowed to play without them. They are as important as the hurley.* 'Anthony Crosse, former Tipperary hurler who suffered serious eye injury at Pairc Uí Chaoimh in June this year is quoted as saying -

*'My cheekbone was broken in three places and the orbit (eye socket) of my right eye was shattered. I spent ten days in the Regional Hospital*

*I had a steel plate inserted and a silicon sheet was placed in my eye to hold it together. For the first few days I couldn't see anything. But since then it has improved all the time*

*I never wore a helmet, but if I was starting in hurling again I certainly would learn to wear a helmet and visor. And if I was ever involved in the management of an underage team I would certainly encourage all the players to wear helmets.'*

<sup>131</sup> Cricket, Ice Hockey, and, particularly, Lacrosse require some or all of their players to wear helmets with faceguards. For example, Rule 11 of Box Lacrosse 1997 states - (a) All players (including goalkeepers) shall wear suitable and approved helmets for Lacrosse

(b) All helmets shall have a chin strap and it shall be properly secured during play

(c) All players shall wear suitable facemasks for Lacrosse as specified in the CLA Safety and Equipment Policy

Rule 13 Player's Equipment - All players are required to wear protective gloves

Note: Players shall not be allowed to wear jewellery

From Rules of Box Lacrosse 1997 The Canadian Lacrosse Association, Ontario p 45

Field Hockey recommends the wearing of protective equipment



incidental to the sport and to identify the responsibilities of the various participants

## **2. General**

- 2 1 Player safety and the use of proper equipment is the responsibility of many parties including
  - 2 1 1 Players and parents (of minor players) are responsible for providing and maintaining proper equipment
  - 2 1 2 Coaches, trainers and team personnel are responsible for inspecting players' equipment and preventing the use of improper equipment
  - 2 1 3 Game officials are responsible for enforcing the rules of the game
- 2 2 All players are required to wear protective equipment as described and/or limited in the rules of play approved by the CLA
  - 2 2 1 In Box Lacrosse the use and/or prohibition on the use of protective equipment shall be as published by the CLA in the Rules of Box Lacrosse
  - 2 2 2 In Men's Field Lacrosse the use and/or prohibition on the use of protective equipment shall be as published by the ILF in the Official Rules of Men's Field Lacrosse
  - 2 2 3 In Women's Field Lacrosse the use and/or prohibition on the use of protective equipment shall be as published by the IFWLA in the International Women's Lacrosse Rules
- 2 4 Equipment shall be manufactured by a professional manufacturer, and shall not be altered in any way which will decrease the protection to the player, increase the risk of injury to an opponent or void the manufacturer's warranty

It is interesting to note the increase in numbers of cyclists of all ages who now wear helmets. This can be taken to mean that rather than make cycling look a dangerous activity, it means that helmets are widely regarded as a very important safety measure. There are good arguments for the inclusion of a rule requiring footballers and hurlers to wear proper protective equipment <sup>132</sup>

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<sup>132</sup>Paul O'Neill *NEWS of the WORLD* 27 July, 1997 under JOE'S HORROR INJURY MADE ME SEE SOME SENSE wrote -

Gum shields should be worn by footballers and by hurlers not wearing a face guard

Shin pads should be worn by footballers and hurlers

At least one protective glove should be worn by hurlers because the hands and fingers are at risk even in the normal course of play as well as in cases of foul play In reviewing such injuries Flanagan and Doyle reported

In analysing 44 upper limb injuries, 35 involved the distal portion of the limb, and this area seems particularly vulnerable in these games Metacarpal and phalangeal fractures are perhaps the most common fractures which occur, and hand protection may in future reduce the incidence of these and other hand injuries <sup>133</sup>

In a study of all (413) patients treated for hurling related injuries at Cork Regional Hospital between 1 July, 1992 to 30 June 1993<sup>134</sup> it was found that 76 percent of hurling injuries were to the head A hurler was over three times as likely to sustain a head injury (41%) if not wearing a helmet to hurlers who did (13%)

Hurlers who did not wear faceguards were seven times more likely to have a head injury (21%) than those who wore faceguards (3%)

In discussing his results, Crowley listed three ways in which increased use of headgear might be achieved among players <sup>135</sup>

The first and most drastic proposal would be to make the wearing of head protection mandatory on all players While in theory this may be an attractive option, in practice one must take into consideration the fact that hurling is a strictly amateur sport with an associated high degree of informality and freedom regarding one's participation in the game Consequently any attempts to impose a ruling on headgear may not receive majority support among the game's senior administrators While player insurance considerations may lead to the introduction of compulsory headgear sometime in the future, such a possibility seems remote at this time It is also important to note that since a high degree of skill is necessary to play the game, the actual risk of injury is extremely low Thus, most participants in the game tend to ignore the possibility of significant injury Similarly, lesser injuries are generally accepted as an inevitable consequence of one's involvement in the game <sup>136</sup>

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'Captain Joe Cooney has seen three of his Galway pals forced out of hurling so far this decade with head injuries Galway heroes Pat Malone, Martin Naughton and Eanna Ryan - holders of six All-Ireland medals - have all had to quit because of horrific head injuries'

In the same edition under *You're heading for big trouble* wrote -

'IRELAND'S hurling stars were dramatically warned last night *Wear helmets or risk getting killed*'

The demand came from top safety expert Dr Marie Laffoy

<sup>133</sup> Flanagan, J MB, DCH, DO & J Doyle FRCS 1979 *Injuries in Hurling and Camogie* Journal of the Irish Medical Association, Vol 172 No 10, pp 443-447

<sup>134</sup> Crowley P J Dr et al *THE VALUE OF HEAD PROTECTION GEAR WHILE PLAYING HURLING* pub in Coaching News Vol 4 No 1 1 Jan 1996

<sup>135</sup> *ibid*

<sup>136</sup> *ibid*

The writer would be in complete disagreement with these arguments. The inclusion of a rule requiring hurlers to wear proper protective equipment cannot be regarded as a 'most drastic proposal'. Whether a game is amateur, professional or informal is irrelevant. The safety and health of the players of all ages is the principal and overriding criteria. Like most other games, a high degree of skill is only acquired by a minority of players, and even these have to spend several years acquiring their skill. This argument seems to suggest that hurlers are born not made (coached and practised).

The Association should introduce legislation requiring all hurlers to wear helmets with faceguards. This would reduce the level of injuries and subsequent litigation arising in this area, and would demonstrate that the caring attitude of the Association is reflected in the rules.

Other items which may cause an injury are jewellery,<sup>137</sup> watches<sup>138</sup>, metal or plastic studs<sup>139</sup> and the banding of hurleys should be covered by rules and comply with an EU safety standard. By doing so the Association would demonstrate a caring attitude, and would be better able to repel claims arising from injuries to players caused these items.

The use of dangerous footwear<sup>140</sup> was forbidden by rule from 1884 to 1950 and referees had a duty<sup>141</sup> to disqualify a player for wearing dangerous footwear. Since rubber studs are equally effective in providing good purchase or traction on a variety of playing surfaces, studs which have a propensity to wear to a sharp edge have the potential to cause lacerations and therefore should be forbidden by rule. The Association has a duty of care to ensure that legislation is in place to prevent the foreseeable type of injury listed above.

The legislation in this area should be upgraded to reduce injury and further demonstrate the caring philosophy which rules should reflect.

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<sup>137</sup>Rule 13 of Box Lacrosse 1995 forbids players to wear jewellery (e.g. rings, ear rings, chains etc.). Players wearing jewellery will be sent to the dressing room and not allowed to return until the jewellery is removed.

<sup>138</sup>In *Duggan v Comharcumann Forbartha Chorca Duibhne Teo*, Record No 33/1997 Tralee Circuit Court 13 November 1998, the Plaintiff who was injured by a watch worn by an opponent in a mixed soccer match succeeded in her action.

<sup>139</sup>The BS 6336 1983 **Studs for rugby football boots** is not appropriate because the profile of the stud (s 4), the damage caused to studs by wear (s 5 3) and the material which may be used demonstrate the lack of safety in this item.

<sup>140</sup>See Appendix 1. Dangerous footwear banned by Rule 10 Football Rules, 1884 p 10. A similar ban did not appear in the rules of hurling until Rule 20 of 1896 p 55.

Similar bans on dangerous footwear appeared in the Argyllshire Shinty Club (Rule 15) 1880, in the Rules of the Victorian Football Club (Rule 14) 1877 and earlier again in The Laws of Canadian Lacrosse (Rule X) 1868. See Appendix 2 Part 2.

## 5.7 THE DUTY OF CARE AND THE RULES OF FAIR PLAY.

The Referee has a duty to apply all the rules all the time. If he chooses to ignore certain technical fouls such as playing the ball on the ground by hand in football or overcarrying in both games, his failure diminishes the skill level and the integrity of the games.

It can be argued that the failure of referees to apply s 4 1 and s 4 5 of Rule 4 Football has been partly responsible for the introduction of two of the 1998 Experimental Rules<sup>142</sup> which dispense with the skill of the foot lift and reduces the skill of the solo-run to two elements - one bounce and one toe-tap.<sup>143</sup>

The 'public policy' of encouraging or instructing referees 'to speed up the game' and ignoring 'petty offences' is not new. It appears to have been first stated in 1945 in an official booklet INSTRUCTIONS ON THE PLAYING RULES WITH PARTICULAR INTEREST TO REFEREES.<sup>144</sup> Although this set of rules appears to have been published by the Association rather than by 'a committee of referees', the introduction urged that 'every member should study them and explain them to other Gaels'.<sup>145</sup> It would appear that this was done with considerable success.

While it is clear from analysis of hurling matches that many fouls are ignored, recent directives given to referees at meetings in Athlone (in 1998) have resulted in referees penalising every single action of footballers which appears to breach the rules. This has proved there are two distinctly different standards of refereeing. While the latter may only strengthen the argument that this policy is part of the plan to change football into Australian Rules Football, as has been noted above in *Smolden*, the referee who ignores the rules of play in hurling leaves himself vulnerable to litigation if a player is injured as a result.

In particular, the duty of care arising out of the rules of Fair Play in hurling concerns the distance which other players should be from a free puck and a penalty puck which is stated in the rules as 20m.<sup>146</sup>

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<sup>141</sup>See for example Rule 14, Rules of Football, 1895 Appendix 1 p 45

<sup>142</sup> See Appendix 1 p 586

<sup>143</sup>This Experimental Rule restricting the solo-run to two elements - a bounce and a toe-tap - was abandoned half way through the experiment when it was heavily criticised by players, managers and media. It was seen to be counterproductive.

<sup>144</sup> See Appendix 1 p 222

<sup>145</sup>*ibid*

<sup>146</sup>See Rule 2 2 Hurling Appendix 1 ps 564, 565

Given that the 'muzzle speed' of a sliotar when struck by a strong and skilful player can reach or exceed 80 mph or c 112 kph,<sup>147</sup> it is important that this safety distance of 20m is maintained, perhaps extended, to give the defenders a chance of seeing the ball. Ideally, it should be increased as suggested in the Report of the Commission on the GAA, 1971. See below for fuller treatment.

It is common practice for the player taking the penalty puck to start outside the 20m line, move forward, lift the ball with the hurley and keep moving as much as two or three metres before striking the ball.

Two points arise from this. Firstly he is breaking the rule which requires him to take the puck from the 20m line and, secondly, the players defending the penalty have less time to see the ball which arrives at a slightly greater speed.

This danger to players defending a penalty puck in hurling was identified in 1971 in the *Report of the Commission on the GAA* where it was stated at 9.2.6 that

We believe the existing 21-yard free in front of the goal as taken by top-class players has a distinct element of danger. It has been suggested that such frees should be taken from a standing position but such a rule would be very difficult to enforce therefore we do not favour it. We recommend therefore that all 21-yard frees be replaced by 30-yard frees.

Rather than insist that referees apply the rule as stated, the recommendation was to change the rule. Nothing was done, and that danger still exists. This problem does not arise in football since the penalty kick is taken from the ground at the centre of the 13m line.

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<sup>147</sup>Figures produced by Mr. Ed Becker for Brian Walker of Snell Foundation Memorial. In a letter to Loughlin Campion, N.S.A.I. 2 Aug. 1995 -

'Mr. Campion's calculations for the sliotar looked plausible but I believe the secant term in his Galilean trajectory equation should have been squared

$$y = X \tan \theta - (gX^2 - 2Vo^2) \sec^2 \theta$$

With this correction, the sliotar velocity for 100 meters of travel is at least 31.3 meters per second. If it weighs 100 grams, the energy is about 40 joules.

However, if the concern is for head/hurley impact, the kinetic energy of the hurley must be greater. When the hurley strikes the sliotar, only a fraction of the energy gets transferred. I've attempted a rough calculation based on the information you provided. (Formula on file)

Applying this formula yields a hurley velocity of about 18.7 m/sec in order to drive a sliotar 100 meters. The corresponding kinetic energy is about 90 joules. After the impact, the hurley retains about 68% of its initial velocity and 46% of its initial kinetic energy.

If the hurley were to hit a head, I believe almost all 90.6 joules would be transferred in one form or another. I believe that the collision would be inelastic, no conservation of kinetic energy. After the collision, the head

## 5.8 THE DUTY OF CARE AND THE RULES OF FOUL PLAY

The legislation in Rule 5 is designed to protect the integrity of the players and match officials. It is comprehensive in so far as it covers virtually all possible acts of aggression and includes overall provision for any act not specifically mentioned. For example, having listed the fouls of '*to pull down an opponent*', '*to trip*', '*to jump at*' Rule 5 12 (Hurling) and 5 14 (Football) states it is an offence '*to engage in any other form of rough play*'. Rule 5 4 also states that it is an offence '*To behave in any way which is dangerous to an opponent*'<sup>148</sup>

Under these subsections, a referee can penalise a player for 'pulling' an opponent - a foul which is often committed but which is not listed in hurling or football.

As well as the fouls listed in Sections 5 1, 5 2 and 5 5 of Rule 5 for both hurling and football, attempting to commit these fouls carries the same penalty of instant dismissal. This can be counterproductive for two reasons.

Firstly, in law an attempt to commit a crime does not always attract the same punishment as commission of the offence. Secondly, referees do not appear to be prepared to send a player off for the foul of '*attempting to strike an opponent with the knee*', for example. So rather than apply the rule as stated and required, they tend to ignore such fouls altogether. This can lead to retaliatory action by a player who was so threatened and his assailant was not punished.

These two difficulties may be overcome by moving fouls of 'attempting to' down the order of seriousness to where they would attract a penalty of a caution for first offence and dismissal for a second or other cautionable offence. Referees may be more disposed to penalising these fouls with this suggested revision of penalty.

A complicating factor in this area is the fact that referees are very wary of sending off too many players in a game - especially an important championship game - for they fear they will not get any more appointments to such fixtures<sup>149</sup>

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and the hurley would move together at about 1.75 m/sec. The system would have about 4.2 joules of kinetic energy; the remaining 86 joules would go to damaging the head, the hurley or both.'

<sup>148</sup>Appendix 1 ps 571, 582

<sup>149</sup>In 1983, Referee John Gough sent off four players during the All-Ireland Semi-Final between Dublin and Galway. He has not refereed a senior All-Ireland semi-final since then. The message is not lost on ambitious referees. In the first round of the 1997 Ulster Senior Football Championship, Referee Martin McBrien penalised 100 fouls. He was roundly castigated by TV and press journalists although his decisions were right in all cases. For example, O'Rourke C. *Hunger is lacking in Derry* Sunday Independent, 8 June, 1997 wrote - 'Many people felt that I was a bit hard on referee Martin McBrien in my

The general failure of the officials in control of the game to apply all the rules all the time can lead to the degradation of the game. In the case of Gaelic football, the repeated incidents of misbehaviour by players, sometimes of a violent nature, has been partly responsible for a call to change certain rules of play which could have the effect of changing the game. When faced with a similar situation in soccer, the authorities reacted in a much more constructive manner.

After its Annual General Meeting at FIFA House Zurich on 5 March 1994, the International Football Associations Board issued Specific Instructions for Referees. This document had the effect of requiring referees to apply the sanctions which existed in Law XII<sup>150</sup> without a need to change the playing laws.

Rather than attempt to solve the problem of misconduct on the playing fields by changing the playing rules, it would make more sense to require the referees to apply the existing sanctions which are entirely adequate to eradicate misconduct on the field of play.

It is interesting to note that although there is no significant difference in the incidence of foul play in hurling, there has not been a call for a change in the rules of hurling. Clearly, if the referees are not prepared to apply the existing rules in football, there is no guarantee that they will apply the revised rules of the new game.

This policy which results in two distinct standards of refereeing, and which calls for significant changes in the rules of football but none in hurling demonstrates, perhaps more than anything, both the lack of and the need for, a philosophy of legislation for our national games.

### 5.8.1 The duty of care arising out of definition of key terms

It is essential that there be a list of definitions of key terms for any set of rules of play. It is equally important that it be clearly stated that the definitions of key terms if appended to (rather than embedded in) the playing rules form an integral part of the rules.

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*aftermatch comments on TV when I said he should not get the replay. In true GAA tradition he has - and hopefully he will make a better job of it, because he was awful.*

In the **FOOTBALL REVIEWS** on the same page, a review of this game stated:

*The fact the game was stopped so many times for frees did not help but most disappointing was the fact that during the last 10 minutes, when you expect to see both sides **at each other's throats** attempting to find **the killer score**, the football tended to be percentage play - more an attempt to ensure that the game was not lost.* Emphasis added to show what this journalist wanted to see!

<sup>150</sup>See Laws of the Game FIFA, Zurich, 1997 Law 12 ps 25 *et seq*

If definitions of terms such as the 'tackle' or the 'hand-pass' were absent, it is inevitable that such terms would mean different things to different people in different parts of the country, and this can only lead to avoidable dissension

In Definition 7 of **IMPORTANT TERMS AND DEFINITIONS**<sup>151</sup> the definition of the hand pass had to comply with the existing legislation from which it was extracted. This legislation stated that *'When in possession, the ball may be struck with the open hand or fist - provided there is a definite striking action, with the striking hand not being in contact with the ball before the strike'*. Clearly the second part of this statement should be deleted and the definition should simply read 'When in possession, the ball may be struck with the hand.'

Definition 9<sup>152</sup> is both vague and unnecessary and should be deleted

Since these definitions will facilitate a uniform understanding of important terms, the term *rough play* used in Rule 5.11 of Football and 5.12 of Hurling should be defined or described in more detail because behaviour which appears to one referee to be rough may not be so regarded by another referee.<sup>153</sup> Players, coaches and managers should be very clear about what constitutes rough play, and a definition of this term would facilitate this understanding. The term 'persistent' is used in Hurling Rule 5.21 and Football Rule 5.18.<sup>154</sup> Since this term implies a number of offences, this number should be specified (and perhaps the frequency) in a definition of this term.

The term 'hook' is used to describe the action of using the hurling stick to prevent an opponent from striking the sliothar. This term should be referred to in the Hurling Rule 1 - The Play as a specific permission, and defined in the list of terms because there are two fouls listed which deal with interfering with an opponent's hurling stick.<sup>155</sup> Since Rule 5.4 Hurling and Football<sup>156</sup> states that *'To behave in any manner which is dangerous to an opponent'* is punishable by immediate dismissal and the award of a free kick, this term 'dangerous behaviour' should be defined or replaced by the term **reckless behaviour**.<sup>157</sup>

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<sup>151</sup>See Appendix 1 p 584

<sup>152</sup>See Appendix 1 p 585

<sup>153</sup>See Appendix 1 ps 571, 582

<sup>154</sup> See Appendix 1 ps 571, 583

<sup>155</sup> See Rules 4.9 and 5.21 of 1995 rules in Appendix 1 ps 567 and 572

<sup>156</sup>See Appendix 1 ps 570, 580

<sup>157</sup> Recklessness has normally been held to have a subjective meaning of being aware of a risk of a particular consequence arising from one's actions but deciding nonetheless to continue with one's actions and take the risk. However, the House of Lords has ruled that, in the context of criminal damage,



which has been subjected to some definition in law. These two rules should include reference to a teammate or an official. Given the size of the Association now in 1998, and the multifaceted problems with which it is confronted, it would be reasonable to argue that it should have a full-time, legally trained member of staff<sup>158</sup> who could help to ensure that motions to Congress dealing with the playing rules will result in sound legislation if passed.

## SUMMARY

This chapter showed that the law has interfaced with sport since ancient times. Successive judgements over the last century established the primacy of the law of the land over the rules or laws of games. The 'neighbour principle', first enunciated by Lord Atkin in 1932, was refined 45 years later by Lord Wilberforce. Despite criticisms, it remains the basis of liability in this country.

The standard of care owed by sportsmen was established in *Condon v Basi*. This standard is variable depending on the qualifications, level of competitive experience and skills of those concerned.

In addition to the general duty of care owed by the Association, the duty of care owed by match officials, players and ancillaries such as the medical officer is examined and discussed.

The duty of care owed by the Association arising out of the playing rules extends to such relationships as exist between match officials and players, between opponents, between player and spectators as well as between the Association and the players.

The web of relationships which exist between the legislation contained in the playing rules and the law of the land reinforces the argument that a philosophy of legislation which acknowledges the primacy of the latter can be beneficial to the former.

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recklessness also has an objective meaning of giving no thought or being indifferent to an obvious risk. This definition makes the concept of recklessness far stricter and brings it very close to the traditional definition of negligence. In most cases the subjective definition applies to common-law offences and the objective definition to statutory offences. There are, however, dicta in the Court of Appeal applying the objective definition of recklessness to some common law offences. From Oxford Dictionary of Law Third Ed. pp. 328, 329.

<sup>158</sup>In a one-third page advertisement in The Irish Times 19 February 1999, one of four significant new positions advertised was DIRECTOR OF LEGAL, INSURANCE AFFAIRS AND EVENT CO-ORDINATION. A qualification in Health and Safety will be highly desirable. There was no mention of any legal qualifications required.

## **CHAPTER 6. THE PROCESS OF LEGISLATION**

### **6.1 INTRODUCTION**

### **6.2 AN OVERVIEW OF THE PROCESS OF LEGISLATION**

### **6.3 REVIEW OF RECENT CHANGES AND PROPOSALS TO CHANGE THE RULES OF PLAY**

#### **6.3.1 The 1970's**

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### **6.4 THE IMPORTANCE OF THE PROCESS OF LEGISLATION**

### **6.5 THE TRADITIONAL PROCESS OF LEGISLATION**

### **6.6 THE NEW PROCESS OF LEGISLATION**

### **6.7 THE EVALUATION OF OLD AND NEW PROCESSES**

## **SUMMARY**

## **CHAPTER 6. THE PROCESS OF LEGISLATION**

### **6.1 INTRODUCTION**

This chapter gives a brief overview of the process of legislation from 1889 to the present time. Examples of rule changes and rule change proposals that featured repeatedly in the process are listed and discussed. The amount of activity in this area of legislation over the last 30 years was so important that it was necessary to examine this in some detail decade by decade.

The importance of the process of legislation is discussed. The old and new processes of legislation are illustrated, examined, discussed and evaluated.

### **6.2 AN OVERVIEW OF THE PROCESSES OF LEGISLATION**

The invitation in 1889 from the executive of the young Association to county secretaries to make proposals for changing the playing rules was the first step in the democratisation of the process of legislation adopted by the GAA. Regrettably, this

process has never been properly managed. Part of the reason was that it was flawed from the start because it was introduced to shore up the flagging fortunes of the Association rather than improve the quality of the playing rules, and hence the quality of the games. In this sense the process has been politically rather than technically based, and it remains so at the present time. There is no evidence of quality control in the process of legislation. However, the absence of a proper process of legislation is not fully explained by its politicisation. It is clear that there was no coherent overview of the legislation. Since it would appear that no one knew exactly where the process was leading, it is not surprising that the route was not seen as important.

The process lurched from crisis to crisis in each of the three eras of legislation, and as each crisis became, or appeared to become, chronic, the management's recipe for overcoming them was always the same - set up a Rules Revisionary Committee. More recently, Football and Hurling Work Groups have been established for the same purpose.

The first reference to a Rules Revisionary Committee was found in the preamble to the Football Rules of April, 1895<sup>1</sup> which had been set up some time previously. The Kerry Co. Board published its own version of the rules for both games in 1889 and in April 1985 Meath did the same<sup>2</sup>. 'Owing to the present imperfect state of the Rules and to ensure a uniform interpretation of the Rules by the Referee'.

Since Mr. R. T. Blake was the chairman of the Meath County Board at the time, and was secretary of the Association in 1895, '96 and '97, it was clear that central control was absent. A proliferation of such sets of rules could have led to significant variations in the games, and this had the potential for destroying all Cusack's good work in achieving a 'one game, one rules' objective.

The evidence that successive Rules Revisionary Committees failed to achieve a settled or permanent solution to the problems is the long list of such committees<sup>3</sup> and the very

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<sup>1</sup>See Appendix 1 p 42

<sup>2</sup>*ibid* p 40

<sup>3</sup>At least 50 sets of playing rules for each game were produced between February 1885 and Congress 1950. Special Rules Committees were set up as follows -

1 Sometime prior to June, 1895 when it was due to report. See Appendix 1 p 42

2 At Annual Convention, 1901 - *[to amend the rules]* *ibid* p 57, 60

3 At Annual Convention February 1907 *ibid* p 77

4 Annual Convention 1910 *ibid* ps 81, 86

long list of different sets of playing rules for each game which were produced (See Appendix 1 )

The urge to change the rules was insatiable. From being an annual occurrence in the early days, legislation had to be introduced in 1903 to limit it to every three years, and in 1935 to every five years with intervening special congresses when the hunger for change could not wait that long. This effectively resulted in a 'rule changing syndrome' which became a central policy of the Association. Successive editions of the Official Guide in the 1930's show that this 'five year rule' was not observed in the late 1930's.

Over the past 30 years, Congresses at which playing rules could be changed were held in 1970, 1974<sup>4</sup>, 1975, 1980, 1985, 1990 and 1995. Special Congresses at which playing rule changes occupied all or most of the agenda were called in 1972, 1981 and 1985. A special Delegate Congress called to adopt the new format of rule presentation was held in December 1990, and sub-committees were set up in 1989, 1994, 1997 and 1998 to produce Experimental Rules.

Between 1995 and 1999, the proposals for change in hurling dealt mainly with the format of the championship competition while, in football, the changes were aimed at changing the way the game is played by changing the playing rules.

There is no evidence that a stable and lasting set of rules was ever an objective. On the contrary, the Experimental Rules syndrome has been built into the process of legislation and, with it, instability has been institutionalised. Examples of this are to be found in the 1998/99 Experimental Rules proposals for football where a coloured card system for offenders is in place. This does not affect how the game is played. However, this is accompanied by a rule which forbids the football goalkeeper who is in possession of the ball to play it away with his hands. This rule does affect the game. There is no technical

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5 In 1918 under the chairmanship of General Eoin O'Duffy, Monaghan to have a new look at the rules and to report back to a later Central Council meeting with proposals to revise them if necessary (Source O'Toole P *The Glory and the Anguish*, Loughrea, 1984 p 117 )

6 At Congress, 1925 *ibid* ps 120, 125

7 At Congress, 1940 Source Congress Bulletin, 1941

8 At Congress, 1944 Source Minutes of Congress 1946 Debate on Motion No 37

9 A further Sub-committee was set to Co-ordinate the playing rules. This reported in 1950

<sup>4</sup>Playing Rule changes were introduced at this Congress for a one-year trial period

or rational reason for this experiment. The main reason given for this rule change was ' particularly as goalkeepers cannot be tackled within the small rectangle '<sup>5</sup> This is wrong for Football Rule 17 (1995) states quite clearly that the goalkeeper can be tackled within the small rectangle<sup>6</sup> A new definition of the fisted pass is a copy of the definition used in Australian Rules <sup>7</sup> It conflicts with Definition No 7 of the current Rules of Play which states that ' the ball may be struck with the open hand or fist '<sup>8</sup>

Despite the serious abuses of the process in each era as detailed in Appendix 2 Part 1, and particularly in the last ten years, the games remained fairly well intact principally because the membership routinely refused to accept the stream of proposals for change emanating from the senior executives and sub-committees of the Association set up for the purpose of proposing plating rule changes

Against this background, it is important to look back at the nature and extent of recent and current proposals to change the playing rules, and to adopt a critical and analytical attitude to them because this is 'precisely the function of critical philosophy' As Warnock wrote

To stand back and criticise, to raise questions about the relation of one subject to another, to ask what counts as good evidence in this field or that, all these things constitute the proper function of philosophy <sup>9</sup>

### **6.3 REVIEW OF RECENT CHANGES AND PROPOSALS TO CHANGE THE RULES OF PLAY.**

This review lists and examines the main changes proposed, passed and rejected during the last three decades

#### **6.3.1 The 1970's**

At Congress 1970, 13 recommendations to change the rules of football were proposed

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<sup>5</sup> Press Release issued by *Coaching and Games Development Manager*, Croke Park, 20 October 1998 Copy on file. However, it should be noted that the Rule 13.1 of the International Rules series October 1999 contained this prohibition on tackling the goalkeeper within the small rectangle<sup>1</sup>

<sup>6</sup> See Appendix 1 p 575. See also Rules 1.4, 1.6 p 574

<sup>7</sup> Press Release issued from Croke Park by *Coaching and Games Development Manager* on 20 Oct, 1998 stated

Note: The fist shall remain **clenched** [*sic*] until the striking action is complete

This compares with Australian Football Rule 9 (1997) which states

9.1 A player shall handball the ball by holding the ball in one hand and hitting it with the clenched fist of the other hand (underline added)

<sup>8</sup> See Appendix 1 p 584

Of these, nine were adopted but they involved only minor or cosmetic changes. Of the four rejected

- 1 Dealt with the enlargement of the 'penalty' area
- 2 Proposed limitation on the 'hand to toe' or solo-run
- 3 Proposed the direct 'pick-up' of the ball from the ground
- 4 Proposed an advantage rule

Items 2 and 3 above would have altered the game of football significantly

The Special Congress of 1972 dealt largely with putting the recommendations of the 1971 *Report of the Commission on the GAA* into the Official Guide <sup>10</sup> It also decided to establish a Special Rules Committee " to deal with such problems as 'the third man tackle'<sup>11</sup> (off the ball fouls), the deliberate pull down and foul tackle of the player in possession "<sup>12</sup>

The existing Rule 139 FOUL AND ROUGH PLAY specified as fouls -

- 1 Pushing, tripping, kicking, catching, holding, jumping at a player or striking him with fist, elbow or knee
- 2 Obstructing a player by hand or arm even though he be not actually held
- 3 Reaching from behind a player who is in possession of the ball
- 4 Charging a player from behind
- 5 Charging or interfering with a player unless he is moving to play the ball or is in the act of playing it

NOTE 1 A fair charge is hereby defined as a shoulder to shoulder charge <sup>13</sup>

This rule went on to deal specifically with rough play and dangerous play in some detail. Quite clearly there was ample legislation to deal with any and all of the 'persistent problems'. The real 'persistent problem' was not a shortfall in the Rules of Play, it was clearly an unwillingness or inability, or both, on the part of referees to apply existing rules as required by the Rules of Control. The definition of 'a fair charge' was technically inaccurate for the shoulder is not used in this charge.

This analysis indicates the following

- 1 There was more than adequate legislation to deal with foul play but this was

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<sup>9</sup>Warnock M. Lecture on Education - Philosophy of Education in *Uses of Philosophy*, London, 1992 p. 136

<sup>10</sup>The recommendations of this Special Rules Committee appeared in motion form on the agenda of Congress 1974 and several playing rules were changed

<sup>11</sup>This is a non-technical or slang term which tries to convey the idea that physical interference with any player not in possession of the ball was an aggressive foul

<sup>12</sup>*Report of the Commission of the GAA CLG* Dublin, 1971 s 9.3.3 p 122

neither acknowledged by the Commission nor implemented by referees

- 2 The real need for change was to require all on-field officials to learn the existing playing rules and apply them even-handedly and consistently
- 3 The officials of the Association were not in touch with either the real needs for change - particularly in football - because Congress rejected their proposals for change

The conclusion to be drawn from this analysis is that the Commission somehow felt that by changing the rules (rather than implementing them) the onfield problems would be solved. This attitude is still prevalent in 1998, and is reflected in successive Reports to Congress by the Director General in the 1990's

### 6.3.2 The 1980's

In 1981, another committee was set up to deal with Football Playing Rules *because of dissatisfaction with a few rules*<sup>14</sup>

The first section of this Report headed IDEAL GAME stated that -

It was agreed by the members of the Committee that before identifying problems in the game one must have a general picture of the ideal game and it was decided that the ideal game of football should be enjoyed by the players, be pleasing to the spectators and well disciplined. It was further agreed that we must strive for a balance between these factors which may sometimes conflict.<sup>15</sup>

It would have been reasonable to expect some reference to skill content, scoring rates, competitiveness and fair play even good refereeing. However, this 'philosophical preamble' to the work of the committee was followed up by a *modus operandi* to -

- (1) identify the problem areas in the game at the present time
- (2) examine those areas in depth
- (3) get a wide range of views on these areas
- (4) list possible solutions, and
- (5) make recommendations to Coiste Bainisti with regard to Playing Rules which should be changed

The PROBLEM AREAS were listed as -

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<sup>13</sup> See Appendix 1 p 292 Rule 139

<sup>14</sup> Report of Committee on Football Playing Rules CLG Dublin 1 Marta, 1981 p 2,

<sup>15</sup> *ibid*

## A The hand-pass

## B The Solo-run

## C Personal Fouls and

## D The Tackle <sup>16</sup>

Despite the fact that these areas were perceived to be problem areas, the surveys of the members carried out by the Committee to ascertain views on these areas showed very different results

Significantly, in its SUMMARY OF RECOMMENDATIONS, the Report came to the following conclusions

<u>Problem Areas</u>	<u>Recommendations</u>
(a) Hand Pass	<b>That the hand-pass <u>in play</u><sup>17</sup> be retained</b>
(b) Solo-run	<b>No limitations on the solo-run.</b>
(c) Personal Fouls	That the personal foul be re-introduced
(d) The Tackle	<b>No major change suggested <sup>18</sup></b>

This SUMMARY OF RECOMMENDATIONS showed that the PROBLEM AREAS which the Committee had identified, and had surveyed members opinions on, were not regarded by the members of the Association as problem areas at all

For the second time in 11 years, the views of the officials with regard to 'perceived problems' within the game of Gaelic football were not shared by the members of the Association generally

Although these 'Widespread concerns' were again shown to have been unfounded, Central Council was determined to proceed with them, and to pursue this 'Agenda of Concern'

The agenda for this Special Congress of May 1981 contained 60 Motions Of these 60 Motions -

- Eight dealt with the hand pass
- 18 dealt with SCORES WITH THE HAND

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<sup>16</sup>*ibid*

<sup>17</sup>With regard to the recommendation for A, the inclusion of the words '**in play**' were not explained However, since there seemed to be some confusion as to whether a score made by the hand was a pass or a shot, this might be an explanation<sup>1</sup>

<sup>18</sup>Report of the Committee on Football Playing Rules FOOTBALL PLAYING RULES March 1981 p 11



- Five dealt with the SOLO RUN
- 17 dealt with PERSONAL FOULS
- Five dealt with the TACKLE
- Seven came under the category of GINEARALTA (GENERAL)

Of the eight Motions on the **HAND PASS**, seven sought to change it in one or more ways. These Motions were all lost.

Motion No. 2 'That the **hand pass** in play be retained' (Rule 169 (b) T O ) which was submitted by five counties - Louth, Longford, Kerry, Meath and Offaly was passed. Yet this was simply a Motion to retain the *status quo*! This was conclusive proof that the members did not share the concerns of the Committee or Central Council about this skill, and were determined that the hand-pass would not be changed.

Similarly, in the section of Motions dealing with SCORES WITH THE HAND, the first (Motion No. 9) which sought '***That Rule 148 all sections be retained. Ciarraí***' was passed without any debate.<sup>19</sup>

A Louth Motion that 'Fisted goals be allowed' was passed by 64 votes to 58 showing that this did not involve a change in rule either or it would have required a majority of two thirds of those voting. Another Motion proposed by M. O'Ceallachain that '*Points scored with the fist be allowed*' was passed on a show of hands! (Perhaps a show of fists would have been more appropriate.)

Considerable confusion ensued and, eventually, A. O'Nuallain said that the only way back was to suspend Standing Orders. He proposed this, was seconded by S. MacGearraí, and Standing Orders were suspended.<sup>20</sup>

It was quite clear that neither President Mac Flynn nor the Director General had considered the full implications of the agenda which had been prepared for this Special Congress because many of the motions were ruled out of order, several were withdrawn, and Motions 32 - 40 were disposed of when a previous motion was defeated.

A significant number of the motions were pleas from many counties which did not want

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<sup>19</sup> Minutes of Special Congress, 1981 p. 8

<sup>20</sup> S. O'Leannain (the writer) said that so many delegates were confused that he felt the Congress should adjourn and re-draft the motions. The counties should then make decisions on the motions and come back to a further Special Congress before the start of the National League. After lunch, Congress rescinded decisions made before lunch.

the playing rules changed in any of the ways envisaged or at all For example -

Motion 2 That the hand pass in play be retained (An Lu, An Longfort, Ciarrai, An Mhí, Uíbh Fhailí)

Motion 17 That the fisted score be retained in its present form, as per Rule 148 san T O Lu

Motion 29 That there be no limitations on the Solo Run Rule 169 (h) T O Lu, Uíbh Fhailí

In the end their wishes were largely met However, this demonstrated yet again the great disparity that existed between what the officials wanted, and what the members felt was needed

More significantly, a motion from Roscommon underlined the real problem for it sought -

That this Special Congress recognises that the present dissatisfaction with the Playing Rules is largely due to the failure of Referees to implement them with accuracy and consistency and that we instruct the Central Council to take immediate steps to improve this situation Roscomain <sup>21</sup>

Furthermore, two motions requested that Rule 169 paragraphs (b) and (e) be strictly enforced These sections deal with lifting the ball off the ground, passing the ball with the hands and carrying the ball more than the permitted four steps <sup>22</sup>

It is fair to comment that this Special Congress which was planned to implement the findings of the Report of the Committee on Football Playing Rules and any other motions coming from County Boards was a significant failure on behalf of the GAA both in terms of the rescinding after lunch of motions which were passed in the morning of the Special Congress, and also in terms of the subsequent press reports

After the Congress of 1980, a Special Committee had been set up to 'modernise and streamline Treoir Oifigiúil (Official Guide)' See Chapter 2.3.3 This committee sought and got permission to suggest changes in all rules <sup>23</sup>

Since 1985 was a 'rule-changing year', the Report of this Committee to the Congress at Ballina contained the proposals to change playing rules, and the agenda for that Congress also contained motions from various counties seeking playing rule changes All these proposed playing rule changes became the agenda for a Special Congress in

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<sup>21</sup>Agenda of Special Congress, 1981 Motion No 55

<sup>22</sup>Appendix 1 p 331 *et seq*

Cork in December 1985

This Special Congress was most unsatisfactory. Several delegates who rose to query the absence of their county's motions were told they were not on the agenda! The delegates were forced to accept the whole package of proposals in the Draft Official Guide - which was the agenda - in one vote. The alternative was to go home. They remained. The set of playing rules which emerged from this Congress did not faithfully reflect the Agenda. Several rule changes were added after this Congress ended. After all the work put into it, this set of combined rules lasted only five years.

### 6.3.3 The 1990's

There have been four Experimental Rules trials in the last 10 years. In the 1989/90 National Leagues<sup>24</sup>, the proposal to divide the playing time for football into four quarters was the most controversial for it sought to copy the Australian practice of four quarters. In the introduction to the seven changes which were proposed and tried out in 1989, the Work Groups responsible for finalising the changes stated -

- 1 the present rules provide for adequate control of the games
- 2 There is a general lack of knowledge of the rules among players, team officials, spectators and in some instances referees
- 3 The rules are not being applied on a consistent basis by referees and administrators
- 4 Individual referees employ different interpretations depending on whether they adhere to the Official Guide or what they regard to be in the game's best interest
- 5 There is a hypothesis that rule interpretation will always differ between players, referee and coaches<sup>25</sup>

This argument does not contain a single good reason for trying out any changes at all. It is a thorough indictment of the standard of refereeing. There is no attempt to identify a measured need to change a single rule. No serious attempt was made to inform the members how the proposals were arrived at. The explanation for the trial of four quarters in Gaelic football was stated thus:

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<sup>23</sup>REPORT OF RULES COMMITTEE 1985, CLG Dublin p 3

<sup>24</sup>See Appendix 1 ps 473, 474

<sup>25</sup>Eadrainn Fein CLG, Dublin Marta 1989 p 11

**Reason.** It is an accepted principle of competition that each team should have an equal opportunity to score or have a score against it. The prevailing weather (wind) can have an inordinate effect on playing conditions to the extent that this premise does not hold true. The introduction of four quarters would help to reduce the environmental impact and ensure that contests are decided on merit.<sup>26</sup>

Significantly, the four quarters were not recommended for hurling so the 'premise' was not even national much less universal! The publication of this type of argument for imposing the 'four quarters' on Gaelic football's second most important competition reflects the mind-set of that Work Group, and their attitude to the members.

Changes in these areas were tried out -

- 1 Duration of the game - four quarters of twenty minutes in football only
- 2 The kick-out - to be taken from the hands from within the small rectangle
- 3 The free kick - may be taken from the hand by the player fouled or from the ground by a teammate. After a technical foul, free kick may be taken from hand or ground (New set of penalties for infringement of these rules.)
- 4 The sideline kick - to be taken from the hands (New penalty for 'pinching' ground.)
- 5 The pick-up - direct from the ground allowed in football
- 6 Teeing up the ball - now a technical foul
- 7 All players to be outside the 13m line until the ball has been kicked.

The handpass was 'defined' anomalously '*The striking hand (open/closed) must not be in contact with the ball immediately before delivering the strike*'<sup>27</sup>

The Workgroup concluded their report on the section dealing with football thus:

It is acknowledged that the proposed alterations will not result in any radical changes within the game.

Just who acknowledged this was never specified.

The first five of these proposals are copied directly from Australian Rules Football, and involved highly significant changes which undermined the essence of the indigenous game of football.

If the length of the game is increased by 25%, if the method of restarting play after a wide or a score is significantly altered, if free kicks and sideline kicks can now be taken

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<sup>26</sup>*ibid*

<sup>27</sup>Just how one can strike a ball (or anything else) with the fist which is already in contact with the ball requires some explanation!

from the hands, and if teeing up the ball is suddenly anathema, it is difficult to see how  
' *the proposed alterations will not result in any radical change within the game*'

The free kick and the sideline kick from the hands became law, and 'teeing up the ball' for a free kick was made a foul in 1990

By comparison, the proposed changes for hurling were eminently sensible for kicking the ball from the hand and scoring with the hand were to be regarded as fouls. It is the writer's view that in a ball and stick game, the use of the hands and the feet to play the ball should be strictly limited as in Shinty<sup>28</sup>, and Hockey<sup>29</sup> and Lacrosse<sup>30</sup>

Before the Experimental Rules trial in 1994/'95, the Director General's Report to Congress in 1994 advised that

- (i) We should be careful not to introduce too many experiments as it would confuse referees, players, administrators and spectators alike
- (ii) We should analyse each game carefully and identify the critical weaknesses of each of the field games
- (iii) Our rule changes should concentrate on tackling the perceived weaknesses in the rules
- (iv) While standardisation of playing rules relating to hurling and football makes the referees' task easier we need to consider the possible impact on each code
- (v) If we could get consensus over the next year on the most likely changes required, attention could be given to framing motions for the 1995 Congress aimed at getting decisions with clarity and with full knowledge of the likely consequence of the decisions taken

This note of caution, if not warning, was most appropriate, and the advice in (ii) was sensible, feasible and practicable. Clearly the Director General was anticipating, and

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<sup>28</sup>Rule (12 1) Fouls and Misconduct states  
(12 1) A player who intentionally commits any of the following offenses  
(12 1 1) Kicks the ball  
(12 1 15) Handles the ball, i.e. catches, strikes or propels the ball with his hand or arm

Note- The goalkeeper is permitted to stop and slap the ball with his open hand within the Ten Yard Area (Nine Metre Area) from THE CAMANACHD ASSOCIATION ANNUAL AND FIXTURE LIST Season 1996-97 p 66

<sup>29</sup>Similarly, the rules of hockey specify as fouls kicking and handling the ball under RULE 12 CONDUCT OF PLAY

(j) kick, pick up, throw, carry or propel the ball in any manner or direction except with the stick

Rule 12 1 (j) (iii) provides a derogation for goalkeepers -

Goal-keepers should not be penalised when using their hands or stick or kicking or propelling the ball with their feet or pads unless the propelled ball is considered dangerous or likely to lead to dangerous play

<sup>30</sup>Canadian Lacrosse Association, Rules of Box Lacrosse, 1997 Rule 49 p 19 or see also Appendix 2 Part 2 p 864

hoping for a list of suggestions from the counties in the form of motions to Congress, 1995

While the Playing Rule Experiments used in the National Leagues 1994-'95 were not as numerous as those of 1989/'90, the restriction on the handpass was an indication that the psychological hang-up with the handpass in football persisted because the player *'who takes a handpass from a team mate shall not be permitted to play the ball away with the hands'* - a very significant change in the play <sup>31</sup>

However, the rule changes which were eventually put in place for the National League in 1994/95 were once more very largely the result of subjective assessment of the need to change. They were selected from a long list of proposed changes submitted to Central Council by Work Groups set up for the purpose. Instead of making life easier for the referee, they made it extremely difficult. The Director General's advice had not been heeded, nor did his invitation to Counties to submit motions get the anticipated response. In early 1995, when the expected motions (from County Conventions) to change the rules did not materialise, and the time for acceptance was fast running out, over 30 motions, were hurriedly framed in Croke Park, and sent to Carlow (the last county to hold its convention) for insertion on the agenda for that County's Convention. This was in contravention of Rule 50 **Motions** in the Official Guide governing the source of motions which states that

Motions for consideration by the County Convention shall be submitted **only by the Clubs**.<sup>32</sup> (emphasis added)

These illegal motions were all dutifully passed and sent back to Croke Park as though they were genuine motions coming from clubs. They were then vetted by the Motions Committee, and entered in the Agenda for Congress, 1995.

One would have thought that if there was overwhelming dissatisfaction with the tackle in football, some experiment to deal with the tackle should have been included in the

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<sup>31</sup>The fact that a hand pass that bounced before being taken by a team mate or which rebounded off a goalpost or crossbar or was deflected by an opponent was not regarded as a handpass made life difficult for the players, the referee and the spectators not to mention the media. The handpass was hedged in with ludicrous restrictions which had no technical basis to them. Needless to say the failure to spot infringements in this area led to much post match discussion and recrimination particularly when the result was affected by the failure of the referee to apply one or more of these trial rules properly.

1994/95 National Football League by those who prepared and sanctioned the Experimental Rules used

If the Director General's claim about the tackle and how it is perceived was, it is extraordinary that not a single county at home or abroad proposed a motion to remedy 'this most unsatisfactory aspect of the game'<sup>33</sup> 101 motions appeared in the 1995 Congress Bulletin of which 30 were referred to Central Council and put in a separate section of the Bulletin

Of the remaining motions, 40 proposed changes to the Playing rules, of which 29 were attributed to the County Carlow club Rathvilly

This meant that only six out of the 36 counties (four from Britain) sought any changes and these were fairly minimal So the vast majority of the counties were happy with the existing rules of play<sup>34</sup>

It is worth noting that Ulster teams had won four out of the previous five All-Ireland Football Finals, and yet there was no motion from any Ulster county to change the way the game is played

Since some of the Carlow Motions contained two or three different motions, more than 30 Motions were attributed to Carlow

Apart from being illegal, some were trivial and some simply did not make sense

For example

Motion 35 "Hop - Football To play the ball off the ground from the hands without taking it back into the hands<sup>35</sup>

Since the term 'hop' does not occur in the **Rules of Play for Football**, it is both wrong and confusing to define it The correct term is 'bounce' and this is the first term defined in the list of definitions applicable to both games<sup>36</sup> The same proposal for hurling was a nonsense

Hop - Hurling

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<sup>32</sup>See Official Guide Part 1 1995 p 31

<sup>33</sup> *With regard to Gaelic Football, almost everyone believes that the tackle is the most unsatisfactory aspect of the game unfortunately there is no motion to Congress with regard to any aspect of this problem and I feel that we should start some experiments immediately aimed at having this matter examined for the next Playing Rules Congress* Source – Director General's Report, Congress Bulletin, 1995 p 13

<sup>34</sup>Article by the writer in IRISH PRESS 25 March 1995 p 51

<sup>35</sup>See Congress Agenda 1995 p 74

<sup>36</sup>See Appendix 1 ps 513 & 551

To play the ball off the ground from the hurley "

It is difficult to see how this would not affect Hurling Rule 1 3 which states 'A player may run with the ball balanced on, or hopping on his hurley' <sup>37</sup> Since this Rule 1 3 is affected by this proposed definition, it should have been quoted and the new version of this Rule should also have been quoted

Unfortunately, one of these definitions was passed and will remain as a salutary reminder that the failure to recognise such trivialisation of the legislation may lead to contempt for the rules

Definition No 9 "**In Flight** - The ball is deemed to be in flight, once it is off the ground, having been played away within the rules of Fair Play " *Ceatharlach*

The fact that this happened underlines the success of the tactic that if a lot of motions are proposed, Congress will pass some of them out of sympathy despite the 'warning' by the Director General that 'We should be careful not to introduce too many experiments, as it would confuse referees, players, administrators and spectators alike '

Congress '95 approved a significant change in the markings of the field of play by passing Motion 1

That Rule 1 2 Rules of Specification be amended to include

There shall be an exclusion zone with an outfield arc of 10m from the centre of the 20m line

Other Rules affected Rules of Football - Rule 2 3, Rule 4 (ii) (b) and the Rules of Hurling - Rule 2 3 and 4 (ii)(c) Muigheo, Ciarraí <sup>38</sup>

Since there was no Rule 4 2(ii)(b) in Football Rules or Rule 4 2(ii)(c) Hurling Rules, it is fair to assume that the reference should have been to Rule 4 11(b) of Football Rules and Rule 4 11(c) of the Rules of Hurling However, this type of mistake in the formulation of Motions should have been corrected before appearing on a Congress Agenda for it downgrades the process of legislation In any event, the Motion was out of order for failing to refer to Rules 4 16 of Football and Hurling - both of which were affected by the proposed change <sup>39</sup>

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<sup>37</sup>See Appendix 1 p 493

<sup>38</sup>Congress Bulletin 1995 p 69

<sup>39</sup>See Appendix 1 ps 536 & 546



However, these rules were subsequently amended to comply with the new rule of specification

Much more important is the wording of this new rule in the subsequent edition of the Playing Rules as set out in The Official Guide of 1995

### **Rules of Specification**

1.5 A semi-circular arc of 13m radius, centred on the mid-point of the 20m line, shall be marked outside each 20m line

There is a very significant difference between the motion and the subsequent rule. Even if the Motion had specified a semi-circular arc, the area of this exclusion zone is now 69% bigger than that proposed and passed by Congress. Footballers have to be further away from the ball prior to penalty kicks than heretofore, and hurlers could now be closer to the penalty puck - 13m instead of 20m. This affected two rules.

Although Rule 76 Part 1 of the Official Guide empowers Central Council to sanction a Management Sub-Committee's rephrasing of motions passed by Congress, the difference between the new rule and the motion is much more than 'rephrasing'. It can be regarded as a significant rewriting of the motion.

In summary of the period 1991 to 1995, the following points can be made about the process of and the content of the legislation dealing with the playing rules:

- (1) Playing Rules changes have been inserted and deleted without reference to Congress<sup>40</sup>
- (2) Experimental Rules are not discussed and passed by Congress as required by Rule of the Official Guide
- (3) Motions are appearing on the agenda of Congress which -
  - (i) Are out of order and poorly drafted
  - (ii) Contain several different motions
  - (iii) Are trivial or nonsensical
  - (iv) Do not reflect a measured need for change
  - (v) Ignore the distinct needs of the two distinct games
  - (vi) Keep the game in a state of turmoil and change - and often, it would appear, for change sake

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<sup>40</sup>Official Guide 1992 Part 2 Football Rule 4.21 inserted and in 1995 it was removed. See Appendix 1

- (vii) Make refereeing more difficult
- (viii) Are not based on the functions of the playing rules
- (ix) Single out aspects of the play for change without measuring the need for such change and considering the effects such change will have both on existing legislation and the visual and technical aspect on the games
- (x) Are originating in Croke Park and which therefor are vetted by the Director General, the President and past Presidents <sup>41</sup>

It is clear from the successive Reports of the Director General that he is keen to pursue a policy of experimenting with rules, without acknowledging that the obvious results of this policy will change football but will not guarantee any improvement in refereeing

The most commonly expressed dissatisfaction with the game of Gaelic football is, in the writer's view, the poor standard and uneven standard of refereeing. This problem is not reflected in the motions because such motions would imply a criticism of referees

Despite the problem with refereeing standards, the Director General's Report to Congress of 1996 states

Before the next rules revision year, I would like to see us experiment with the use of two referees for our top intercounty games or to see more power given to the linesmen, as is the norm in some sports <sup>42</sup>

This seems to suggest that the problem of refereeing will be solved by having more rather than better referees, and it overlooks the fact that linesmen and umpires in Gaelic football and hurling have much more extensive powers than 'is the norm in some sports' <sup>43</sup>

When this 'Carlow Strategy' failed because the delegates rejected all but a few minor proposals<sup>44</sup> in the Croke Park motions, a decision was made to restructure the workings

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p 547 and p 580

<sup>41</sup>See Official Guide Part 1, 1995 rule No 75 **Motions Committee** p 43

<sup>42</sup>Congress Bulletin 1996 p 11

<sup>43</sup> Rules 2 1 (ii) and 3 1 of the Rules of Control, O G Part 2 1995 state that

The umpires and linesmen shall have power to bring to the attention of the referee - during a break in play - any instances of foul play or incursions onto the field of play which have not been noticed by the referee

<sup>44</sup>Playing rule changes made at Congress 1995 affected the following -

- 1 The introduction of an exclusion zone Rule of Specification 1 5
- 2 Rules governing free pucks and sideline pucks in hurling
- 3 Free kicks other than a penalty kick may be taken from the hand (The 45 m free not mentioned )
- 4 Resetting the ball for a free kick without the referee's permission after he has blown the

of Congress so that it could never again frustrate the executives' proposals for changing the game. This was accomplished in November 1997 when a Special Congress adopted the Report of the Congress Review Committee. Central Council eventually (for the first time this century at least) got the right to submit motions to Congress<sup>45</sup>

It is fair to say that the rule changes proposed by the Rules Revision Committees from 1974 to 1998 inclusive have been surrounded with controversy

The most important conclusion to be drawn from all of this is that once again it was senior officials who were driving the changes and, apart from minor changes, the membership as represented by the delegates once again refused to pass them

The most important result of these experimental rules trials was to underline the need to ensure that any proposed change was based on hard evidence collected from a properly conducted analysis of a statistically reliable sample of games

Considering the amount of change which was experienced in the National Leagues, the second most important competitions in the GAA calendar, and the fact that players, referees and the spectators had to cope with different rules for county and club games at the same time, it is the writer's view that the first two experimental rules trials were counterproductive, and were instrumental in destabilising the game of Gaelic football to a significant extent

Two years after the second Experimental Rules Trials in the National Leagues, an article in the 1977 edition of the GAA's HURLING AND FOOTBALL ANNUAL by the Association's Games Development Officer identified the fundamental problems with

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whistle is now a foul Football Rule 4.21

5 Another definition added - IN FLIGHT

<sup>45</sup>At the Annual Convention 1903, when he had only been in office for two years, the Secretary of the Association, Luke O'Toole, proposed that **Central Council have supreme control over the Association**. "Source - Report of Adjourned Convention, EVENING HERALD, 12 January 1903

In 1941, the Secretary of the Association, Pádraig O'Caoimh wrote 'I would further suggest that the Central Council should be at liberty to frame motions for Congress, a privilege which I understand it could once exercise' Congress did not oblige. Source Congress Bulletin, 1941 p 14

While Sean O'Siochán was Director General of the GAA, he authorized the publication of a duplicate set of rules which effectively changed eight of the 10 playing rules - without any reference to Congress. For a period of 12 years, there were two contradictory sets of playing rules. See Appendix 1 ps 311 *et seq*. In his Report to Congress, 1993, Director General, Liam O'Maolmíchíl, wrote at p 15

*If the Management Committee and/ or Central Council were given authority to put motions before Congress in addition to clubs, the power of the clubs would not be weakened in any way*

In 1995, Motion No. 49 Congress Bulletin p 76 sought the revolutionary change in the process of legislation 'to permit the Management Committee of Central Council, Provincial Councils, the Executive Committees of County Boards to submit motions to Congress. This was eventually achieved in November 1997

football as

- Inconsistent application of the rules by referees
- Lack of knowledge of the playing rules in all quarters
- The quality and system used to appoint umpires
- Issuing sporadic edicts and the organisation of pre-match tutoring of referees <sup>46</sup>

Although the same could be said about hurling, this is a further indictment of the quality of the on-field control of the game rather than of the game itself or a shortfall in its playing rules

### **A policy of introducing Australian Rules?**

While the amount of change in the legislation governing the playing rules of football could be described as 'not very significant', it has had an immediate visual impact on the game, and there is no doubt as to where it was leading. For, taken together with further recommendations for changing how the game is to be played, Gaelic football will be very much more like Australian Rules Football than our national game of football if this policy persists.

It is worth noting that despite the amount of criticism of the conduct of players recently (1996/'97) in football in particular, not a single one of the experimental rules tried out in the National Leagues in 1989/90 and 1994/95 attempted to reduce the amount of fouling or improve the standard of refereeing. On the contrary, refereeing became more difficult than necessary. The changes proposed in 1974 were a bit better focused on this aspect of the games.

Only one of the changes proposed in the Experimental Rules used in the four subsidiary intercounty competitions in 1997/98 made any attempt to reduce aggressive fouls. This was the proposal to make it a foul 'to pull'. However, by making it a name-taking offence, the Development Committee went too far. Players objected to this very harsh penalty, referees were not keen to apply it after severe criticism in the media, and the spectators appeared to be frustrated by many of the decisions.

If the rules of the game like the laws of the land are not seen to be reasonably fair and just, they run the risk of not being applied or applied unevenly. The obvious penalty for

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<sup>46</sup>Daly P. *Hurling and Football Annual*. GAA Dublin 1997 p 59

this offence 'to pull' is a free kick. If the player is pulled to the ground, there is an existing rule which provides for the offender's name to be taken. What appeared to be happening in May and June 1998 was that referees are taking footballers' names for 'a pull' and doing this on the instructions of Croke Park officials. The difficulty with this approach is that 'to pull' is not listed as a foul and hence has no penalty.

All the individual proposals for changing the playing rules of Gaelic football in this decade can be traced back to suggestions made during the 1980's and 1990's in successive Reports to Congress by the Director General or by An Coiste Oiliuna agus Forbartha na gCluichí (Education Committee and Games Administration) - particularly the Director General's Report to Congress in 1997.<sup>47</sup>

In October 1998, the Football Work Group published proposed rule changes for football. These include the use of coloured cards to indicate to spectators that players were being booked for foul play, and a reintroduction of restrictions on the handpass. These restrictions forbade the goalkeeper when in possession of the ball to play the ball away with his hands, and required all other players to use the clenched fist for a handpass.

The argument used in the Press Release to justify the imposition of this restriction on the goalkeeper was based largely on the mistaken assumption that the goalkeeper cannot be tackled in the small rectangle.

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<sup>47</sup>In particular see Congress Bulletin 1997 p 12 **Gaelic Football - Under Playing Rules**

'How to lower the incidence of personal fouls *sic* pulling and holding in the game is our major task. This will involve consideration of the tackle and the rules governing possession (the number of steps allowed, solo-run and bouncing the ball). It may also involve consideration of allowing a limited mark, perhaps for direct fielding of a kick-out to encourage the high fielding at centrefield which is being ruled out at present by the tactical crowding in this area. It seems clear to me that we must either curb the advantages of the player in possession or give more options to the tackler.'

The term 'personal foul' does not occur in the O.G. These proposals, if implemented, would change the game of Gaelic football completely. The proposals to try out the Australian type Mark and to limit the solo-run were included in the next tranche of experimental Rules, and were abandoned even before the end of the experiment. When the Director General went on to suggest that 'Another aspect worthy of consideration would be to award two points for a free scored resulting from a personal foul' - he was on solid ground which would have made a real contribution to reducing the incidence of aggressive fouls - certainly within reasonable scoring range. Unfortunately, this proposal was not tried in the subsequent Experimental Rules. (The term 'personal foul' had been abandoned two decades earlier.) When he added 'although my own view is that this could lead to attackers being encouraged to invite the foul', he was restating the policy *if the referees do not apply the rules, then we must change the rules rather than require the referees to apply the existing rules*.

These drastic proposals were not suggested for hurling where the same problems existed.

### **In summary.**

The proposals made in this decade for changing how football is played include the following

- 1 Introduction of four quarters
- 2 Introduction of the Australian type of lift
- 3 Deletion of the solo run
- 4 Introduction of the Australian type handpass
- 5 Introduction of the 'Mark' for catching (a high ball) as in Australian Rules
- 6 Introduction of rolling substitution and two referees as in Australian Rules
- 7 Introduction of a time keeper - one linesman to become a timekeeper and the other to become a referee
- 8 Proposed increase for a penalty for aggressive fouls (two points for converting a free kick )
- 9 Dispense with the rule governing the small rectangle with respect to attacking players

All of the above proposals for change are recommended in the 1997 Congress Bulletin either in the Director General's Report or in Report of the Games Development Committee Previous editions of this same publication repeated these proposals<sup>48</sup>

Taken as a whole, they suggest that there is something fundamentally wrong with Gaelic football, and that fundamental changes ought to be made to the way in which the game is played and controlled by onfield officials

However, on examination it is clear that the thrust of these proposals is to change Gaelic Football into a game very closely resembling, if not the same as, Australian Rules football

The lesson in all of this for the legislators is that the members will not tolerate rule changes which are neither needed nor wanted Moreover, they will not tolerate a penalty which is too excessive for the offence It is the writer's belief that there is a collective wisdom amongst the membership as a whole when they are fairly and democratically represented at Rule Changing Congresses which has preserved the game of Gaelic football from mutation However, this wisdom is absent from the proposals of successive

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<sup>48</sup>These proposals were not suggested for hurling where the same problems existed

Rule Changing Committees and the current Football Work Group

Having listed and discussed the more important changes and proposals to change the Rules of Play over the last 30 years, it is necessary to examine the processes by which the legislation for the playing rules is processed

#### **6 4 THE IMPORTANCE OF THE PROCESS OF LEGISLATION**

Traditionally, there were three stages in the process of legislation which deals with the playing rules in the Gaelic Athletic Association - the Club AGM, the County Convention, and Annual Congress or a Special Congress called to deal with proposed legislation on the playing rules

Since 1988, there have been three points in the process where the wording of a motion can be amended to clarify the proposed motion - after County Convention, in Croke Park by The Motions Committee<sup>49</sup>, and after Congress by a sub-committee of Central Council<sup>50</sup>

Between the Annual Convention of the Association on 6 November 1889 until the Special Congress on 1 November 1997, this process of legislation for playing rules remained essentially the same. The Special Congress in November 1997 changed the process of legislation in several fundamental ways

Since the process of legislation is effectively the only way for improving the playing rules, it is important that it is -

- Effective in getting proposals to the floor of Congress
- Democratically based with respect to voting rights of members
- Fair - each motion has an equal chance of being discussed
- Legal - complies with the legislation in O G Parts 1 & 2, and the law of the land
- Not susceptible to tampering with important detail or to dilution of the essence of the motion

If the process of legislation does not provide for these safeguards, a philosophy of legislation may never be reflected in the legislation. To this extent the philosophy of legislation is dependent on the process of legislation. The process can be seen as the

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<sup>49</sup>O G Part 1 1997 Rule 75, p 43

arteries through which the refreshed blood of legislation flows

The first significant decision to democratise the process of legislation<sup>51</sup> was taken at the Annual Convention of 6 November 1889 in Thurles when County Secretaries were invited to submit motions. This decision effectively broadened the base from which proposals would come to include all clubs in the young association.

Although the reasons for making this significant decision may not have been motivated entirely by a philosophical view of the process, it nonetheless established a democratic *modus operandi* for making decisions which affected the playing rules. There is evidence that Cusack and Davin had been responsible for making and publishing changes without full discussion, and this Convention ended that process.

Any rule could be changed at Annual Convention up until 1903 when it was decided that proposals to change playing rules could only be made every three years. In 1935, a motion was passed which provided for playing rule changes to be made only every five years. A special congress could be called to deal with playing rule changes as in 1981. A special delegate congress could be called to deal with playing rule changes as happened in December 1990. Although Congress 1974 was not a special congress, proposals for trying out rule changes were passed and implemented for a one year trial up to Congress, 1975.

However, the frequency of Special Congresses and Special Delegate Congresses has increased dramatically in the last 20 years. The Special Congress in December 1997 decided that the Association could call a special delegate congress to deal with what can be regarded as fairly normal business affairs.

## **6.5 THE TRADITIONAL PROCESS OF LEGISLATION.**

The traditional process during the 118-year period 1889 to 1997 can be described as single channel, broadly democratic and transparent.

The club was the only source of motions, and there was only one route for motions. The voting rights of members was democratically based at all three stages - one member one

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<sup>50</sup>*ibid* Rule 76, p 44

<sup>51</sup>See Appendix 2 p 29



vote at Club AGM, each club had two delegates at County Convention<sup>52</sup> and each county had one delegate for each 10 clubs or fraction of 10 over five at Congress. Since 1985,<sup>53</sup> the maximum size of a county's delegation was reduced to 10. The ex-officio members of Central Council had a vote as of right which they could use at their discretion, as Central Council wished them to vote or as their county wished.

Before the limit of 10 delegates was introduced, the counties with a large number of clubs like Cork, for example, had a powerful voice at Congress when all delegates voted on a motion. If Central Council members voted with Cork on any motion, this was almost always sufficient to decide the fate of the motion. While it can be argued that this system was democratically based, it was changed because other counties, particularly those with small delegations, had no chance of succeeding unless Cork and/or Central Council supported them.

The representation at Special Congress was the same as that at Congress. However, if a Special Delegate Congress was called - even one where playing rules could be changed - Central Council could determine the representation.<sup>54</sup>

Importantly, this system was underpinned by a democratic method of voting by members of delegations to County Convention and to Congress.

This single channel process was perfectly adequate provided all the changes made by Congress were properly recorded in the subsequent Official Guide. The failure to do this has been noted in the 1930's and in the 1940's.

In the late 1960's and early 1970's, the policy of adding interpretations to rules which had the effect of changing the Rules of Play was a very serious abuse of the process which persisted for 12 years until 1985.

The propensity in the 1980's and 1990's to change Rules of Play by introducing changes and deleting sections of a rule without the authorisation of a Rule Changing Congress has also been detailed.

It has also been noted that some administrative rules, which have an impact on the playing rules, have appeared in the Official Guide without, it would appear, the proper

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<sup>52</sup>See O G 1995 Part 1 Rule 47, p 29

<sup>53</sup>*ibid* Rule 70 p 41

<sup>54</sup>*ibid* Rule 73 p 43

authorisation of Annual Congress<sup>55</sup> In particular, only one of the three Official Guides published in 1988 contain the sections which dealt with the use of Experimental Rules With the changes in the format of the Official Guide in 1986 and 1991, some unauthorised additions to the rules appeared, and some unauthorised deletions occurred These have been detailed and discussed in the Comparative Analyses in Appendix 2

These abuses of the process of legislation reflect an attitude that the Official Guide is not binding on the executive members of the Association, and that current policies rather than an overall philosophy determines the legislation

## **6.6 THE NEW PROCESS OF LEGISLATION.**

Since the Special Congress in November 1997, the following changes have been made to the traditional process

There are now four separate sources of motions and four separate channels in the process

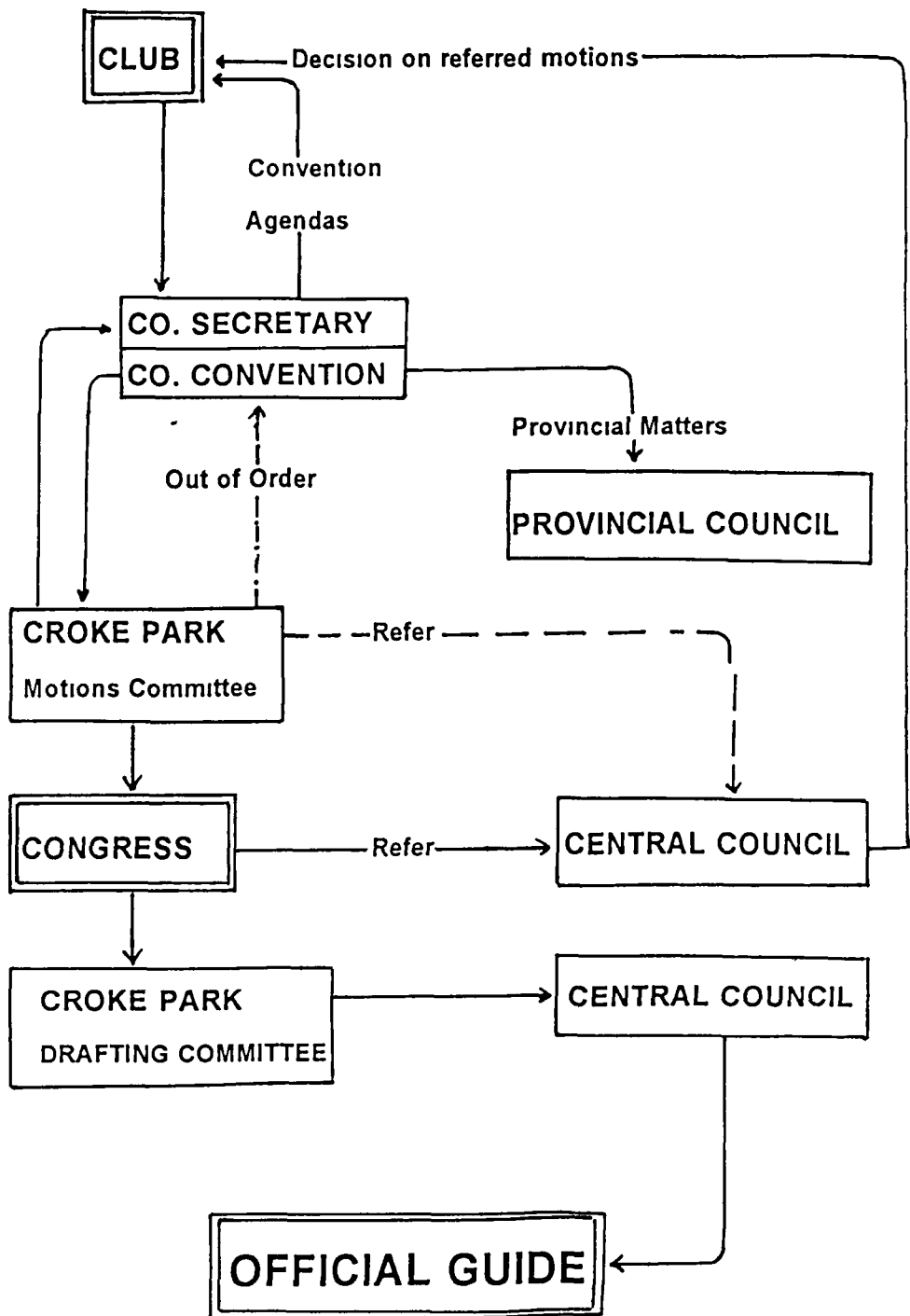
- 1 Motions arising at club level follow the traditional route
- 2 County Committees can originate motions, and can submit them to the Motions Committee in Croke Park for approval - without these motions being discussed at County Convention
- 3 Provincial Councils can now originate motions and send them direct to Croke Park for the approval of the Motions Committee
- 4 Central Council can originate motions and send them to the Motions Committee on which its own chairman, the President<sup>56</sup>, and its own secretary, the Director General, sit

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<sup>55</sup>For example, compare the 1988 Official Guides ps 40, 60 and 61 for the additions to Rules 77(c) and Rule 122

<sup>56</sup>Minutes of Special Congress, 1 November 1997

Diagram 6.8 The traditional process of legislation prior to December 1997.



Solid line = official route, Dotted line = Out of Order, Dashed line = Unofficial Route

This process can be described as multi-channel, undemocratic and non-transparent. At best, it can be characterised as 'democratic centralist'

Since the adoption of the recommendations for the Review of Congress in November 1997, some delegates will be selected rather than elected. However, the size of the delegation was not properly finalised, and there remained considerable doubt about the composition of delegations.

There does not seem to be any, or any good, reason why a County Committee should want to originate a motion on any matter, and not be required to have this motion discussed at its own Convention.

This effectively means that a County Committee can submit a motion with which the majority of members of the Association within the county do not agree. This is an undemocratic system and it leaves the Association open to this very serious criticism.

Since members of Central Council may be also members of Provincial Councils, County Boards and clubs, they have four separate opportunities to submit motions.<sup>57</sup>

The motions submitted by both Provincial Councils and Central Council may not be generally known to the members until they appear on the Agenda for Congress. Where motions from a club and Central Council seek a somewhat or even slightly different change in the legislation, it will be interesting to see if they are accorded equal standing.<sup>58</sup>

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<sup>57</sup>In 1980, a Dublin motion seeking to give Central Council the power to submit motions to change rules at Annual Congress was defeated when N. Aftercare proposed a direct negative, saying '*It was possible for all upper bodies of the Association to get their motions through their clubs in the normal way and on to Congress without giving an extra channel to it*'. See Motion 93 Congress Bulletin, 1980, and Minutes of Congress, 1981 Debate on Motion No 93.

<sup>58</sup>This problem surfaced as long ago as Congress, 1974 when motions from the Counties who had members on a Special Committee appeared to have got preferential treatment over motions from the traditional source. N. Aftercare asked how it happened that 'the various motions that have been tabled under the umbrella of Motion 30, coming from three specific counties, managed to get that tabulation for themselves while the Meath and Clare motions did not'. Minutes of Congress 1974, Motion 31.

## 6.7 EVALUATION OF THE OLD AND NEW PROCESSES

The traditional process of legislation had some failings but none of these was critical in so far as they could be corrected by administrative procedures, by a simple upgrading of the rules which govern the process and, perhaps most importantly, by better drafting of the motions

The time scale between the publication of the Agenda and the date for the County Convention was too short - only a week<sup>59</sup> The time scale between the publication of the Agenda for Congress and Congress of four weeks<sup>60</sup> was adequate but was routinely much shorter for administrative reasons, and hence insufficient for the Agenda to be properly discussed at County Board level These are administrative failures

It was not uncommon to have motions from several counties seeking the same change but since they contained somewhat different wording, all these motions appeared on the Agenda Routinely one was selected for debate and, if passed, the other motions were routinely withdrawn

This resulted in the Agenda being unnecessarily long, rafts of motions were withdrawn, and some degree of frustration amongst those delegates whose motions were withdrawn - sometimes under some pressure from the Chair This was a system failure

A simple change in the process could and should have made provision for all counties with roughly similar motions to agree by correspondence on a composite motion

The process had some other shortfalls including the following -

- 1 There was no mechanism for reviewing a piece of legislation dealing with a playing rule after a period of a year<sup>61</sup>
- 2 There was no mechanism for ensuring that the Irish text<sup>62</sup> of any rule which was inserted post-Congress was a correct translation, and there was no mechanism for correcting any errors in translation
- 3 There was no technical back-up service for motions which were highly technical

The great strength of the process was that it was democratic When the young

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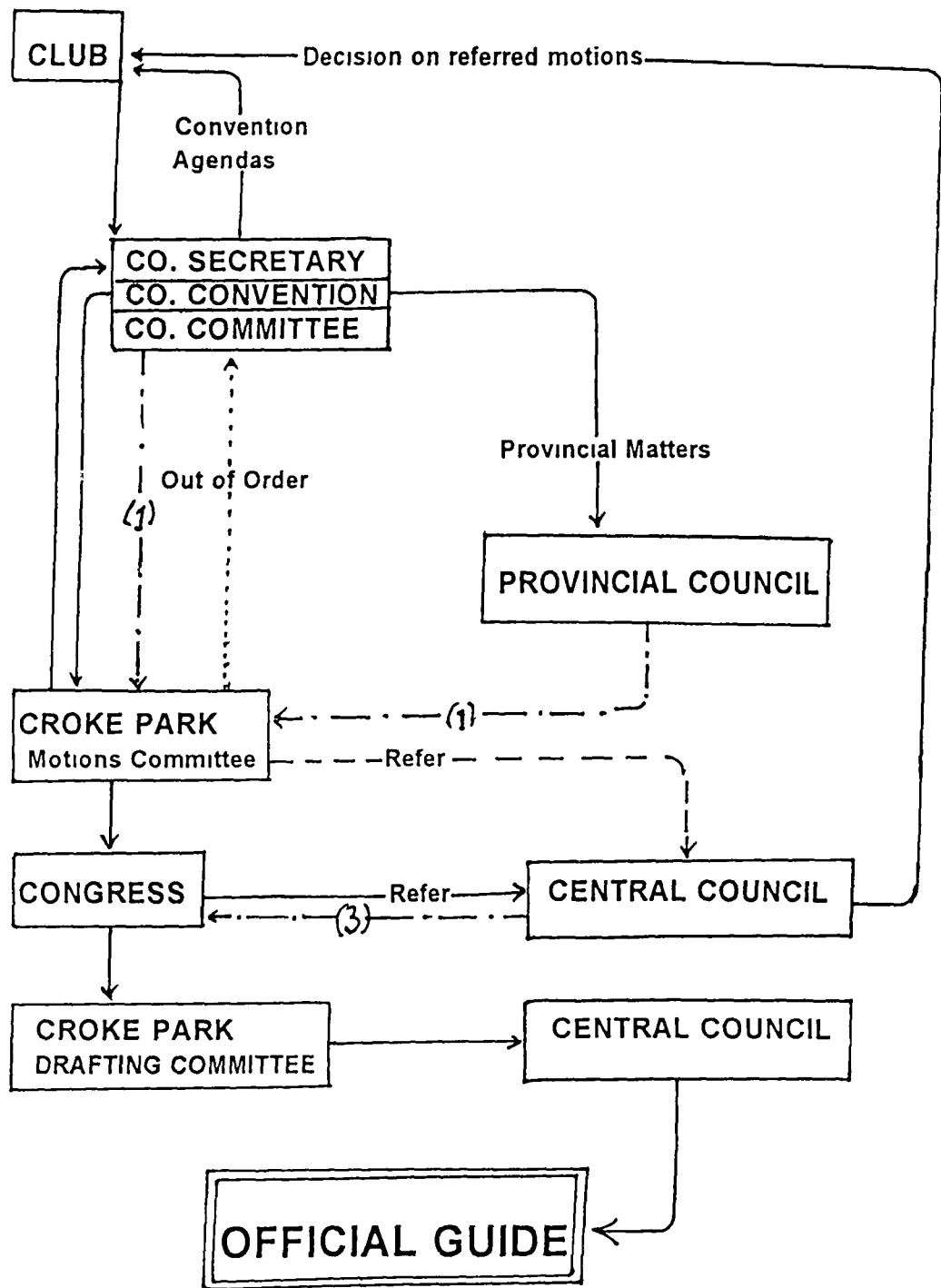
<sup>59</sup>*ibid* Rule 51 p 31

<sup>60</sup>*ibid* Rule 77 (a), (e) ps 44,45

<sup>61</sup>In 1969, an Antnm motion which sought *That all changes in playing rules must be given a year's trial before permanent adoption* 'was defeated See Congress Bulletin 1969 and Minutes of Congress, 1969

<sup>62</sup>*ibid* Rule 10 p 5

Diagram 6.9 The new process of legislation w.e.f. from December, 1997.



Solid line = old route, Dotted line = Out of Order, Dashed line = Unofficial Route  
Dashed and dotted line = new routes with no of motions indicated

Association was in danger of collapse in 1889, the decision of the Annual Convention on 6 November 1889 to '*communicate with the Co Secretaries for suggestions as to Changes in rules*'<sup>63</sup> was largely responsible in reviving the flagging fortunes of the young Association. The traditional process provided a sense of involvement in shaping the Association and the games it controlled for it gave every member an equal right of access.

This strength overrode all the weaknesses whether administrative, legislative or technical. The new process of legislation has not been long enough in operation to judge the results of all the changes made in 1997.

If this process is to be judged by the standard set at the Special Congress in May 1998, the omens are not good. Rule 21<sup>64</sup> which bars members of the British Armed Forces and the police (including R U C) from membership of the GAA was the focus of attention of the first motion to be submitted by Central Council to this Special Congress of May 1998. After considerable discussion, this motion to rescind Rule 21 was not put. A compromise motion 'to suspend Rule 21 *pro tem*' was introduced by the President, discussed but then ruled out of order<sup>65</sup>.

The following criticisms can be made of the new process:

- 1 It is undemocratic in so far as the franchise of members has been diminished and some (exact number not available) delegates will be selected rather than elected. Congress could be 'packed' with 'yes men'.
- 2 There are now four separate channels for processing motions which will almost inevitably lead to some motions getting more favoured treatment than others on the Agenda.
- 3 The Motions Committee members now vet motions from Central Council where they sit.
- 4 The device of calling a Special Congress at any time Central Council wants to change a playing rule is now institutionalised.
- 5 The Experimental Rules system (as part of the process of legislation) is now firmly

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<sup>63</sup>O'Laoid P. *Annals of the G A A in Galway 1884-1901* p 109.

<sup>64</sup>**Rule 21 Ineligibility**

Members of the British armed forces and police shall not be eligible for membership of the Association. A member of the Association participating in dances, or similar entertainment, promoted by or under the patronage of such bodies, shall incur suspension for at least three months.

entrenched This has led to instability in the game, and will lead inevitably to changes, particularly in football, which only the senior executives want to see <sup>66</sup>

- 6 The President has far more power than his predecessors, and more than is compatible with a democratic Association <sup>67</sup>

Shortfalls common to the traditional and the new processes are -

- 1 The time scales are too short to provide members with adequate time to consider and discuss proposed changes
- 2 The Motions Committee does not have the power under Rule 75 or any other rule in O G to intervene in the process in the way that it does by referring motions to Central Council This is a reserved function of Congress as set out in Rule 71 O G 1997 <sup>68</sup>

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<sup>65</sup>See Minutes of Special Congress, May 1998

<sup>66</sup>In the last 30 years, Special Rules Committees were set up as follows -

1 By Central Council in 1969 to deal with the playing rules of football It submitted 13 recommendations to Congress, 1970 Nine were accepted but ' *none of these nine constituted a basic change*' See report of Commission on GAA, s 9 3 1 p 121

Significantly, proposals to deal with - The enlargement of the penalty area, The direct pick-up with the hand(s), The limitations of the hand-to-toe, and The 'advantage' rule were rejected

2 By Central Council in 1980 to deal with the football rules following the Report of Committee of Football Rules, CIG, Dublin, 1 March 1981 p 2 which identified THE PROBLEM AREAS as A The hand-pass, B The solo-run, C Personal Fouls, and D The Tackle *ibid* p 11 despite the fact that in the conclusions of this same Report, it was recommended that A B, and C above should *not be changed*! The Special Congress of May 1981 did not accept proposals to change any of A, B or C above

3 Central Council set up The Special Congress in December 1985 adopted a completely revised presentation of the O G which contained some playing rule changes This Congress was notable for the fact that the President, contrary to the wishes of many senior delegates, told Congress that they could accept the whole package of changes or go home They accepted it However, there were no significant changes to the playing rules of football There is evidence that the subsequent edition of the Official Guide varied in some respects from the package passed Some corrections to the draft O G which were given by the writer to a member of the Rules Revision Committee on the eve of this Special Congress were not discussed but appeared in the subsequent O G

4 Central Council set up a committee to recommend Experimental Playing Rule changes in 1989, 1994 and 1997 In these three experiments, changes to the following skills in football were kick off the ground - kick out, sideline kick and free kick, the hand-pass, the solo-run, the catch and the lift The following experiments were tried out in hurling in 1989 and 1994 - Kicking the sliothar from the hand was banned, Hand passed scores were banned

Proposals to change these skills have been rejected each time

<sup>67</sup>The President can propose motions through two channels, he can rule motions out of order both at Motions Committee level and at Congress, and he can introduce a motion to Congress without notice



- 3 The writer could not find any motion to Congress which authorised the addition to Rule 75 **Motions Committee** to 'put a motion in order' when it has any defect
- 4 The Experimental Rule programmes appear to have been set up without the authority of Congress The Experimental Rules were implemented without the authority of Congress as required by Rules 77(c)<sup>69</sup> and Rule 80 (h)<sup>70</sup> - whose authenticity is debatable
- 5 Central Council does not have the power to ban the submission of motions 'illegally' referred to it by the Motions Committee This is a reserved function of Congress
- 6 By institutionalising Experimental Rule programmes, the game of football (but not

<sup>68</sup>Table 6 1 No of Motions Referred Number of Motions in Insh

	No of Motions	No Referred	No in Insh
1990	111	15	1 (M 78)
1991	57	7	1 (M 24)
1992	30	-	-
1993	57	24	1 (M 6)
1994	59	35	-
1995	101	30	-
1996	61	31	1 (M 4)
1997	68	41	2 (M 7,18)
1998	19	-	-

Source - Congress Bulletins for the years quoted

Out of 346 Motions in the five-year period 1993 - 1997, 161 or 47% were referred to Central Council Over the nine years, 33% were referred Over this nine-year period only six or 1 % of motions are in Irish The Congress Agenda of 1998 had 19 motions of which four were passed, seven withdrawn and three were out of order

This policy of referring motions can largely frustrate the wishes of members because once a motion is referred to Central Council, there is no guarantee it will be dealt with in the way the proposer requires Moreover, any decision reached on the motion by Central Council is final

It is interesting to note that in 1997 a Motion from Co. Clare seeking

**Motion 24(a) *That the practice introduced in recent years to the Annual Congress of referring Motions, vital to the well-being of Gaelic Games, to Central Council or other Committees in advance of Congress be discontinued***

was referred to Central Council and entered in a separate section of the Bulletin<sup>1</sup>

(emphasis added)

<sup>69</sup>Rule 77 (c) provides for,

In the year prior to the revision of Playing Rules, motions with proposed rule changes for experimentation in national and county Leagues may be tabled

The Experimental Rules were never tabled at Congress as required by this rule, and hence this important provision has never been properly implemented

<sup>70</sup>This rule which sets out the Powers and Functions of Central Council specifically denies '**Central Council or its sub-Committees** the authority to introduce, enact, amend or rescind rules, or in any way vary or derogate the power reserved to Congress by Rule 71 This Rule shall in all respects be subject to Rule 71 and in the event of a conflict Rule 71 shall prevail

hurling) will be destabilised further

7 The Experimental Rules programme has become a part of the process of legislation. There is some justification for claiming that the media have been used as a publicity device for the Experimental Rules Programmes. Since January 1997, the amount of media coverage favourable to the changes proposed has increased exponentially. This has been accompanied by coverage which denigrated those football skills targeted for mutation.

It is quite clear that the entire process of legislation could have been upgraded by fairly simple administrative adjustments accompanied with changes to those rules which determine the timescales referred to above. If the 1969 Antnm Motion (which sought that all trials of rule changes should be in place for one year) had been accepted, there would be no need for the Experimental Rules programme at all. It would have been possible to test and evaluate the proposed rule changes on a proper scientific basis which requires a statistically sound sampling procedure of all types of competitions played at all levels.

The fundamental flaw with the Experimental Rules programme is that it applies only to senior intercounty league football and selected intercounty competitions.<sup>71</sup> The few isolated examples of schoolboy football under Experimental Rules do not provide the data required to produce reliable results. The play in championship football at all levels is so different from league football that results of experiments in league football do not necessarily apply to championship competitions.

## SUMMARY

The process of legislation which the Association evolved after the decision of 1889 to invite counties to submit motions has served the Association well for 108 years.

From time to time, it is clear that the process was abused. Sometimes the abuse occurred in pursuit of minority views generally about how the game of football should be played and, sometimes, by simply ignoring the functions and supreme authority of Congress, and changing the rules of play by inserting interpretations which amounted to change in the rules themselves.

What is also clear from the Comparative Analysis is that from shortly after the beginning

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<sup>71</sup>See Appendix 1 p 586

of this century, successive General Secretaries and Director Generals have sought to transfer the supreme power of control from Annual Congress to Central Council. With the passage of a Cork Motion (originally a Galway motion) at the Special Congress in December 1997, and the adoption of a policy to hold a Special Congress at regular intervals, Annual Congress has been very significantly diminished if not emasculated.

The policy of referring motions to Central Council which should be tabled on the Agenda for Annual Congress is a worrying trend. It could lead to a situation where the vetting committee of two or three people effectively determines what Congress will be allowed to discuss and decide. The legislative process for the playing rules has, in the writer's opinion, been seriously abused by the Experimental Rules policy which has attempted three times in the last decade to change the very nature of Gaelic football. Repeated failures since 1973 to change individual skills does not seem to have diminished the determination to succeed in eliminating the handpass, the solo-run and the lift.

In the 1997/98 Experimental Rules campaign in football, three of the seven proposed changes had to be abandoned in the face of severe public criticism even before the competitions or the experiment were completed.

It is the writer's view that if Gaelic football is to survive as an indigenous form of the game, the following changes are essential -

- 1 Annual Congress alone should determine every five years, or ten years preferably<sup>72</sup>, what playing rules are to be made, amended or rescinded or experimented with.
- 2 The time scale for submitting motions on the playing rules must be rescheduled to give all members at least six months, and preferably a year<sup>73</sup> to consider proposals for change.

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<sup>72</sup>Motion No. 52 on the Agenda for Congress, 1995 sought

*The Rule 77(c) T O (1994) be amended to read as follows "Motions to revise playing Rules may be tabled only in years divisible by ten. In the year prior to the revision of Playing Rules, motions with proposed rule changes for experiment in national and county leagues may be tabled"* An Dun, Tír Eoghán

This motion indicates clearly that it is Congress, rather than Central Council or any other committee, which should decide on which Experimental Rules should be tried out.

<sup>73</sup>At Congress 1986, a County Meath motion, No. 38, which sought that motions to change Playing Rules be submitted to County Conventions a year prior to rule changing Congresses was defeated.

It is interesting to note that the Congress Bulletin of 1999 contains on pp. 81-88 the draft of proposed rules and rule changes recommended by The Disciplinary Rules Sub Committee. These will come before Congress 1999. Since the last two of these rule change proposals involve Playing Rule changes to Rules of Control 1.2 and 1.5, they should not be discussed until Congress 2000 - the next Congress at which motions dealing with the Playing Rules may be tabled for discussion.

- 3 The Motions Committee must abandon the policy of referring motions to Central Council Any motion which needs referral should be sent back to the originator of the motion
- 4 Proposed changes should be based on a measured need for change, and then examined carefully to ensure that they are technically sound as well as legally valid before being placed on the Agenda for Annual Congress
- 5 Playing rule changes should not be tabled on the agenda of a Special Congress which does not represent the membership democratically
- 6 However good and sound the process of legislation may be, unless the referees are trained to apply the rules of play as directed by the Rules of Control, the process will be frustrated by unacceptably poor refereeing standards
- 7 As the final link in the process of legislation to application, referees must be objective, knowledgeable, authoritative and independent

It is interesting to note that in January 1999, a new REFEREES' HANDBOOK with guidelines for umpires and linesmen was published by the Association This was in response to a report on refereeing standards<sup>74</sup> which indicated that they were unacceptable In addition to restating what the Rules of Control require the match officials to do, there is an important section on *Medical Advice For Referees*

On p 51 of this Referees' Handbook it is stated

Interpretations of Rules and Directives issued by Ard Chomhairle and Guidelines issued by the National Referees' Administration Committee

These Interpretations, Directives and Guidelines, identified by Rule Number and Date, should be recorded for reference purposes

One such interpretation is entered immediately below which states

Rule 14 Rules of Hurling 12 12 1998

Toe-to-Hand in Hurling defined as a foul Ard Chomhairle decision

This is a new rule and Ard Chomhairle is expressly forbidden to change Playing rules by Rule 80 (h) of Official Guide, 1977 which states

**80 Powers and Functions** (of Central Council i.e. Ard Chomhairle)

(h) Nothing in this rule shall be construed so as to admit to Central Council or its Sub-Committees authority to introduce, enact, amend or rescind rules, or in any way derogate the power reserved to Congress by Rule 71 This Rule shall in all respects

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<sup>74</sup>See Report on Refereeing adopted by Central Council, 15 August 1998

be subject to Rule 71 and in the event of conflict Rule 71 shall prevail

The Rule 71 referred to here lists the Functions of Congress. The third of these is (c) *To consider motions and to enact, amend or rescind rules*

Not alone does this 'interpretation, directive or guideline' by Central Council ignore a very strongly worded rule of the Official Guide, it has very serious implications for the format of presentation

By inserting a technical foul in Rule 1, Central Council has made a very serious mistake. By so doing, this demonstrates that they are not aware of the importance of the format of legislation or the consequences which inserting a foul into the legislation which deals with The Play will have on the integrity of the format of legislation.

The proper course of action which Central Council should have taken on foot of the request from Cork<sup>75</sup> for a decision on the legality of a toe-tap in hurling was to decide that it appeared to be a technical foul. Then it should have been left to Congress to legislate on if, and only if, a motion to the effect appeared on the agenda of a Congress at which motions to change Playing Rules may be tabled.

One wonders if a hurler headed the sliothar into the net, would a further request for a decision come before Central Council!

The writer has only seen a hurler play the hurling ball 'hand-to-toe' once (July 1999), and it is his opinion that it is such an extremely rare event that it should not merit a mention in the Rules of Play.

More importantly, if this 'hand-to-toe' by a hurler is now to be regarded as a foul, it should not be entered in Rule 1 which deals with The Play. It should be entered in Rule 4 which deals with Technical Fouls, and the penalty for this 'foul' should be specified. Since no penalty is specified in the interpretation, one is left to guess what the referees will do if this ever occurs in a game. Hurlers and spectators may not be aware of this change of rule. Since the publication of the Report of the Commission on the GAA in December 1971 the democratic process of legislating for the playing rules has gone through a very turbulent

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<sup>75</sup>From enquiries made by the writer, it appears that during a club match in County Cork, a hurler toe-tapped the ball and, quite rightly, was not penalised by the referee. The incident led to a defining score in the game, and subsequently to the request to Central Council for an interpretation of this piece of play.

period

Repeated abuses of the proper democratic process of legislation, and flagrant breaches of the rules of the Official Guide led to the degradation of the system

When the breaches and abuses were publicised, a decision was made to enfranchise other units of the Association. For the first time this century, Central Council, Provincial Councils and County Committees acquired the power to submit motions to Congress. This marked a watershed in the process.

In addition, it appears that a single motion from Central Council can now seek agreement in principle for a large number of motions which affect many different rules. This is, in effect, another process of legislation in itself.

The authority of Congress has been eroded, and the power of the president has been significantly increased. Over the past two years, the role of the media in the process of legislation have become pervasive. RTE TV and Radio and the press have been used extensively and repeatedly to promote the Experimental Rules and the policy of changing Gaelic Football into Australian Rules.

While football was repeatedly condemned, hurling enjoyed fulsome praise. This uneven treatment of our two main national games is not explained by any significant difference in the standards of play or behaviour of players. It was not until late July 1998 after some very turbulent hurling games that the media finally criticised the conduct of the hurlers and the standard of hurling referees. It was not until his Report to Congress, 1999 that the Director General saw fit to criticise the behaviour of hurlers and the lack of acceptable standards in refereeing.

Despite the fiasco of the Special Rules Congress of 1981, several subsequent attempts to achieve the changes then sought and rejected were equally unsuccessful. A significant part of the 1997/98 Experimental Rules programme had to be abandoned before it was completed because it was both entirely inappropriate and generally unsatisfactory.

There is a list of 12 proposals for changing the playing of football and the on-field control of the games. It is not clear how many, if any, of these proposed changes in onfield control will apply to hurling.

All of this leads to the conclusion that as we arrive at the end of this millennium, there is not a clearly defined philosophy of legislation for the playing rules for our two major games.

## **CHAPTER 7 PROPOSED REVISION OF THE 1995 PLAYING RULES FOR FOOTBALL AND HURLING.**

### **7.1 INTRODUCTION**

### **7.2 IDENTIFYING THE CHANGES REQUIRED AND THE REASONS FOR THESE CHANGES.**

### **7.3 RULES OF CONTROL : SAMPLE OF PROPOSED REVISIONS**

### **7.4 RULES OF SPECIFICATION : SAMPLE OF PROPOSED REVISIONS**

### **7.5 RULES OF PLAY- FOOTBALL : SAMPLE OF PROPOSED REVISIONS**

### **7.6 RULES OF PLAY - HURLING : SAMPLE OF PROPOSED REVISIONS**

### **7.7 DEFINITIONS OF IMPORTANT TERMS – FOOTBALL AND HURLING.**

#### **7.7.1. Definitions of important terms: Proposed revision.**

### **SUMMARY**

### **ENDNOTES:**

- 1. Proposed rule revisions and reasons - Football.**
- 2. Proposed rule revisions and reasons - Hurling.**
- 3. Proposed revision of Rules of Control.**
- 4. Proposed revision of Rules of Specification.**
- 5. Proposed revision of Rules of Play - Football.**
- 6. Proposed revision of Rules of Play - Hurling.**
- 7. Proposed revision of Definitions of Key Terms.**

### **7.1 INTRODUCTION**

The writer is of the opinion that the playing rules of games say much about the Association which promotes them. Rules which are technically sound, carefully drafted and neatly presented<sup>1</sup> reflect a desire on the part of the Association to ensure that the conduct of and in the games is efficient,

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<sup>1</sup> O'Barr states that '*I intend to demonstrate that form may at times be highly significant, even to the point where a change in form can alter or reverse the impact of a message*'. He goes on to argue that form (of language) communicates as well as the content (words). O'Barr W M *Linguistic Evidence Language, Power, and Strategy in the Courtroom* Academic Press, London, 1982 p 2. Applied to the playing rules and their presentation, it can be argued that 'format communicates a message (unwritten) while the content (actual wording of the rules) communicates the law

fair, safe and legal when all the rules are observed all the time

The playing rules of the games are the most important part of the literature of the games. They are the defining text of the games. It is to the rules first that all thoughtful enquiries about the game are made. We should be as proud of the playing rules of our national games as we are about the literature or art which describes or illustrates other parts of our culture. There should be no misgivings about having copies of the playing rules of our national games on the shelves and in the reference sections of libraries around the world.

Since our national games of football and hurling are as unique and as distinctive as those of any other country are, they should be described as uniquely Irish rather than, as often happens, as hybrids of other games. The playing rules of a game are more than a definition of that game. They are that game.

For this chapter, the current playing rules for each game have been examined in detail, and amendments have been proposed which are based on the conclusions of the preceding chapters, on experience and on the thesis that there is a philosophy which can guide the formulation of enhanced legislation.

Although there is a considerable number of such proposals, this does not mean that the current playing rules are seriously defective. On the contrary, they include much of what is required to play and control the games safely and effectively. Each section of the playing rules can be improved by upgrading subsections of the rules which are outdated in one way or another, require some redrafting, or simply need to reflect more transparency. Perhaps the more significant of the changes proposed are in the sections which deal with Control and Specification rather than in the rules of play.

The reasons given for proposed changes to the Rules of Control are aimed at improving the quality of onfield control by the seven officials, enhancing the safety of the players and reducing the exposure of the Association to litigation.

The proposals made for the Rules of Specification are aimed at enhancing the safety of players, and reducing the exposure of the Association to litigation.

The reasons given for the proposals for upgrading the Rules of Play for football are to improve the technical quality and precision of the rules, to increase the range of skills required, to retain the traditional skills such as the handpass, the solo-run, the lift and, importantly, the unique skills of the tackle. As a group, these proposals fulfil the functions and characteristics listed above. In



particular, they preserve the essential characteristics of our national game of football

With this upgraded version of the playing rules, it can be said that there is not a single structural fault<sup>2</sup> in either game

An analysis of the legislation governing foul play shows that it is very comprehensive - Draconian even by comparison with similar legislation in other forms of football

Proposals are made which will reduce the level of aggressive fouling by increasing to two points the value of a resulting free which is kicked or pucked directly over the crossbar. The proposal to separate the 'attempt to foul' from the 'commissioned foul' should encourage referees to comply with the letter and spirit of this piece of legislation rather than ignore attempts to foul altogether.

The legislation contained in Rules 5, and 6 require players to behave within the law at all times, and it is formulated to protect them from injury.

The streamlining of subsections reduces the volume of legislation and, taken together with the included clarifications, makes the rules easier to read, remember and apply.

Overall, it is clear that there is an identifiable philosophic base for this revised legislation.

Much the same comment applies to the proposals for upgrading the Playing Rules of hurling. However, particular emphasis is laid on the need for increased player protection. If the governing bodies of other games such as Shinty, Lacrosse, Field and Ice hockey, American Football even Cricket have recognised the need for requiring some or all of their players to wear head protectors which are designed and manufactured to a specification which reduces or eliminates the risk of injury from a stick or a ball striking the protected part of the head, the GAA should have adequate legislation in place to do the same.

It is the writer's view that this requirement will help to encourage more parents to allow their children to play hurling. It will reduce the loss of hurlers through avoidable injury, and will significantly reduce the exposure of the Association to litigation arising out of claims of neglecting its duty of care to its players.

Since it has been argued that a functional or applied philosophy should have some 'visible or tangible' results, the chapter concludes with the proposed new sets of playing rules which have been upgraded. It is not sufficient that such a philosophy should bake bread, the proof 'should

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<sup>2</sup> A structural fault is a legitimate piece of play which is fraught with danger. For example, the scrum and the loose maul in Rugby, the sliding tackle in Association Football, the neck in Australian Rules football and the off-the-ball physical clashes in American and Canadian football.

be in the eating '

In view of the terms of reference<sup>3</sup> of the Football Development Group, and of the proposals which survived the Experimental Rules used in the 1997/98 National Football League, it is important to consider the status of the current playing rules of Gaelic football and hurling, and to examine in some detail what changes, if any, are needed to optimise the current sets of playing rules of both games

## 7.2 IDENTIFYING THE CHANGES REQUIRED AND THE REASONS FOR THESE CHANGES

The proposals for upgrading the legislation are based on the arguments set out in the previous chapters

Samples of proposals for each of the three sections of the Playing Rules are discussed, and the entire list of proposals and the reasons for them are in Endnote 1. These proposals deal with content and drafting. Where the same proposals are made for both football and hurling, (F&H) will follow the item

All the proposals are drafted into the 1995 sets of playing rules and appear in endnotes 3 to 7

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<sup>3</sup>The terms of reference of this Football Work group were -

- \* To initiate a comprehensive examination of the current state of Gaelic Football
- \* To initiate a wide ranging consultative process combining officials, players, coaches, managers and referees so that the comprehensive examination of Gaelic Football can be carried out
- \* **To examine and rationalise the existing playing rules**
- \* To examine how an effective application of these rules can be adopted
- \* To review and examine current refereeing structures and standards
- \* To review and perhaps re-organise existing disciplinary structures and procedures
- \* To examine competitive structures at all levels involving Gaelic Football
- \* To formulate recommendations following the comprehensive examination of Gaelic Football
- \* To initiate promotional initiatives for Gaelic Football, particularly at Under-age levels
- \* To examine and co-ordinate the organisation of National Feile Peile na nOg Competition and other under-age Festivals of Gaelic Football
- \* The Committee will have a close working relationship with the Coaching and Games Development Committee

### 7 3 RULES OF CONTROL: SAMPLE OF PROPOSED REVISIONS

The three rules of Control apply equally to both Football and Hurling. Each of these rules sets out the POWERS AND DUTIES of the referee, the umpires and the linesmen.

This section of the playing rules provides comprehensive powers and imposes comprehensive duties on the match officials to achieve good control of the games. Amongst the list of duties imposed on the referee should be a duty - *To protect the players by using the rules as a mantle of care*.

Other subsections of these rules which need to be reconsidered -

The Powers and Duties of the Officials to be extended to include

1. Referee to be empowered to dismiss players not wearing proper protective equipment as specified, or wearing or using dangerous equipment or jewellery.

Rule 1 2 (iii) states that the referee has a duty to

Ensure that all players are correctly attired, and that all playing equipment conforms with the rules<sup>4</sup>

In the absence of a list of such items, the referee may be unsure of how far his authority extends, and players may be unsure of what exactly is forbidden. However, there is no penalty listed for breaking this rule. The referee should be empowered to require a player to be correctly and safely attired under penalty of dismissal for non-compliance. Specific items of clothing, footwear, jewellery and equipment which are regarded as unsafe<sup>5</sup> should be listed.

For example, a belt with a buckle on it, boots with metal or plastic and metal studs, rings, earrings, nose or eyebrow rings, plaster of Paris on hands or arms could cause or contribute to an injury and should be forbidden. An impact with a wrist watch can cause nasty injuries<sup>6</sup>.

2. The method of starting and restarting play in hurling by throwing the ball in between two hurlers is fraught with danger because the immediate reaction of both players is to swipe at the ball which is close to their feet. In the All-Ireland Hurling Final, 1998, D J Carey is reported to have sustained a fracture of a bone in his left foot when struck by the hurl of the opposing player in such a restart.

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<sup>4</sup>See Appendix 1 Rules of Control, Rule 1 1 p. 560

<sup>5</sup>Law 4 of Australian Football (1997) forbids dangerous boot studs or plates, a finger ring or other jewellery and surgical appliance or guards. Law 4 2 and 16 4 empower the field umpire to inspect the players' boots, hands and guards.

<sup>6</sup>In *Duggan v Comharcmann Forbartha Chorca Dhuibne Teoranta*, Record No. 33/1997 at Tralee Circuit Court on 13 November, 1998, the Plaintiff succeeded in her claim for damages for an injury caused by a wristwatch worn by an opponent in a mixed soccer game.

3. Under Rule 1 5 REPORT OF REFEREE, it is clearly set out in an itemised list what this report should contain<sup>7</sup> This list should be revised to include an important item which was omitted from this rule in the 1992 and 1995 Official Guides although Congress did not sanction such a revision This list should be extended to contain the name of any player who had to leave the field as a result of an injury sustained during the game, and a statement of the circumstances surrounding the incident where the injury resulted from contact with another player, a spectator or a boundary fence

It is noted that Motions Nos 15, 16 on the agenda for Congress 99 are attributed to Ard-Chomhairle, and that these seek approval in principle for the *Draft of Proposed Rules Recommended by Disciplinary Rules Sub Committee* which contain amendments to 22 rules and one new rule Motion 16 seeks approval in principle for two proposed amendments to Rule 1 of Control<sup>8</sup> for experimentation as provided in Rule 78(d) T O 1998<sup>9</sup> This would seem to indicate that the proposals for experimenting with rule changes in the National and County Leagues is at last being processed through the proper channel of Annual Congress However, in the first of these subsections of Rule 1 of Control, a new section is added which covers the use of yellow and red cards In the second, the list of items which the Referee should include in his report again omits this important reporting requirement of naming players who had to retire as a result of an injury This list should also contain the names of players who were replaced, the names of the players who replaced them, and the time of each such replacement It follows that the form on which the Referee enters his report should comply with all the provisions of this Rule of Control, Rule 1 5 Report of Referee

Additionally, linesmen and umpires should be required to countersign any such report where they witnessed the incident which led to the injury

Umpires and linesmen should have the duty of noting the number and team of a player guilty of an aggressive foul which was not penalised by the referee This information should be made

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<sup>7</sup>One of the items listed in this Rule 1 5 in the 1991 Referees' Guide to the Playing Rules of Hurling and Football stated - 'The names of players injured, replaced and substitutes taking part' This important item was omitted from the same rule in the Official Guides of 1992 and 1995 This omission constitutes a change in this rule which was not discussed or sanctioned by Congress This part of the rule would require the referee to report the reasons for players who had to retire when injured as a result of an off-the-ball incident It would be vital information in any subsequent enquiry of legal proceedings

<sup>8</sup>See Congress Bulletin 1999 p 81 *et seq*

<sup>9</sup>This is one part of the amendments which appeared in one of the three Official Guides of 1988 and for which a corresponding enabling motion to congress of 1986, '87 or '88 could not be found by the writer The sections of the Rules of Control referred to are.

known to the referee during a break in play, at half-time or immediately after the game, and to be recorded in the referee's report

These Rules of Control should require all of the seven officials to ensure that all the Rules of Play are applied, and where fouls are committed which result in injury, insult or dissent, the player(s) responsible are named in the Referee's Report

Motion 16 seeks approval in principle for *The Draft of the Proposed Rules Recommended by Disciplinary Rules Sub Committee*<sup>10</sup> which contains the text of amendments to 19 rules and the text of one new rule. If passed at Congress 1999, this would become the new legislation one month after Congress. Hence it would appear that although Central Council sought and obtained authority to submit three motions to Annual Congress, a single motion may authorise debate on significant changes to 21 rules. It remains to be seen whether the amendments to Rule 1 of Control will be used as experimental rules in the next National and County Leagues as specified in Rule 78 (d)<sup>11</sup> or whether they too will become new legislation one month after Congress, and apply to all competitions

#### **7.4 RULES OF SPECIFICATION : SAMPLE OF PROPOSED REVISIONS**

1 Legislation requiring the use of hurling helmets<sup>12</sup> with face guards should be in place, and this should contain a specification of the minimum safety standard for the helmet, such as BS 4472 1988 or equivalent EN Standard

It has been calculated by Ed Becker, The Snell Foundation that

[i]n order to drive a sliotar (hurling ball) 100m a hurley velocity of 18.7m/sec is required. There is a corresponding hurley kinetic energy of about 90.6 joules. After the impact, the hurley retains about 68% of its initial velocity and 46% of its initial kinetic energy. If the hurley were to hit a head, I believe almost all 90.6 joules would be transferred in one form or another. I believe that the collision would be inelastic, no conservation of kinetic energy. After the collision, the head and hurley would move together at about 1.75 m/sec the system would have about 4.2 joules of kinetic energy. The remaining 86 joules would go to damaging the head, the hurley or both.<sup>13</sup>

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Rule 1.2 Duties of the Referee, and Rule 1.5 Report of Referee

<sup>10</sup>See Congress Bulletin, 1999 ps. 81 to 88 inc.

<sup>11</sup>O.G. 1998 Part 1 p. 45

<sup>12</sup>In *Devereaux v Na Piarsiaigh*, Cork Circuit Court, 5 Feb., 1999, Judge John Clifford stated that *What was at issue was whether the club had a duty of care, and whether it had fulfilled it in loco parentis. There was a responsibility at least to look for a helmet or at least to tell him 'You'd better not play if you don't get a helmet'* see Examiner, 6 March 1999 p. 4. The Plaintiff succeeded in his claim for damages.

<sup>13</sup>FAX Message from Brian Walker, Snell Memorial Foundation(U.K.) Limited to Loughlin Campion, Forbairt (National Standards Authority of Ireland) on file with the writer

In a letter dated 20 September, 1994 to NSAI (National Standards Authority of Ireland) concerning the matter of hurling helmets, Mr K C Condon, who was the Director of Accident and Emergency Services at Cork Regional Hospital for 22 years, in reviewing injuries and recommending certain design features for helmets wrote

The eyes, as such, generally escape serious injuries from the hurley stick. Occasionally, however, very serious injuries such as rupture of the globe of the eye and on one occasion, to my personal knowledge, a death issued from a ball striking an eye. I have, on a number of occasions, seen very serious injuries including fractures of the skull resulting from blows from a hurley stick upon helmets worn during play. On some occasions, the skull has been shattered, whereas the helmet has remained undamaged.<sup>14</sup>

This underlines the importance of ensuring that the helmet shell can dissipate the impact energy rather than transmit it to the skull

2. Hurlers should be required to wear foul cups and all players should be required to wear shin pads and gumshields. (A gumshield is not required if there is a good faceguard and chinstrap.)

Joe Quaid, the Limenck County goalkeeper is reported as having lost a testicle as a result of an attempt to block a penalty in a League game against Laois in April 1997.

It could have been worse, I could have lost both.  
I have to feel grateful that both of them did not go flying over the wall in Kilmallock. It felt as if they had.<sup>15</sup>

This is a good argument that protective cups should be worn by some hurlers - goalkeepers in particular - and perhaps those players who (are required to) defend penalty pucks and frees from the 20m line.

3. The type of studs worn by all players should be specified. Metal studs and studs made from a composition of metal and plastic can acquire a very sharp edge in the process of wearing and so should be banned for safety reasons. Metal, and plastic covered metal studs should be banned.<sup>16</sup> Studs to conform with BS 6366 1983 and Amendment No 1 of 15 March 1995.

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<sup>14</sup>Letter on file with the writer

<sup>15</sup> Sunday Independent 18 June 1997 p. Sport 4

<sup>16</sup>Motions 72 (a) & (b) Congress Bulletin 1976 sought to give the referee power to send off any player wearing dangerous studs or using a dangerous hurley. Both motions were withdrawn although they had a lot of merit. It is worth noting that Playing Rule 14 of 1895 stated: *At commencement of game it shall be the duty of the referee to*

## **7.5 RULES OF PLAY - FOOTBALL : SAMPLE OF PROPOSED REVISIONS**

### **1. All free kicks to be taken from the ground**

With the change in the rules which required all sideline kicks to be taken from the hand (but not sideline pucks it should be noted), the skills required to play the game were reduced needlessly. The result has been a marked reduction in the variety of kicking skills. A requirement that all sideline kicks be of the drop-kick variety is an example of how a change could have promoted a type of kick which is seldom seen now.

### **2. Include as a foul 'To pull or grip hold of' (F & H)**

This is a foul which somehow or another managed to escape successive rule revisions. In doing so, it was responsible to some extent in the increase in the incidence of players pulling an opponent without pulling him down - for which there is a penalty. The foul occurs in both games but since hurlers have to hold the stick in one hand, the incidence of pulling a jersey, for example, is less in hurling than in football.

In the absence of 'To pull' as a specified foul, referees had to treat this item under rough play, and clearly much of the pulling was not really in that category of behaviour. In an effort to eliminate the incidence of this 'foul' to pull, the Association (in the summer of 1998) has instructed referees to note the number of and player who does this. If the player repeats this foul, his name is taken, and if he commits any other foul for which his name is taken, he is dismissed.

### **3. Include as a foul 'To charge a player who is bent down or on his knee(s) in the act of playing the ball' (F & H)**

There are occasions in both games when what is now defined as a Fair Charge, can be made on a player who is not in a position to defend himself. For example, when he is bent down lifting the ball off the ground with his foot, is down on his knee(s) and in possession of the ball.

It is the writer's view that a player should not be charged when he cannot defend himself. Both the rule and the definition should be amended to cover such incidents.

## **7.6 RULES OF PLAY - HURLING : SAMPLE OF PROPOSED REVISIONS**

### **1. Disallow deliberate playing of the ball with the foot**

It is the writer's view that the feet should not be used deliberately to play the ball in a ball and stick game. The use of the foot is strictly limited in hockey, lacrosse and shinty.

It somehow seems out of character that an important game of hurling may be won by a score from a deliberate kick of the ball. Some relief from this general prohibition should be allowed to the goalkeeper as happens in other games. It is interesting to note that the rules drawn up for the **HURLING-SHINTY INTERNATIONALS** forbid the use of hands and feet<sup>17</sup>

2. Players allowed to carry the ball in the hand for a maximum of three steps (i.e. revert to former provisions of this rule.)

Since 1896, the rules of hurling placed strict limits on the carrying of the ball<sup>18</sup>. It was 1910 before hurlers were allowed to carry the ball in the hands at all and then only three steps. This limit of three steps lasted until the Special Congress in 1985 when it was increased to four steps. This increase made it much more difficult to dispossess the hurler whose hand could envelop the ball.

Over the last decade, some spectacular goals by D.J. Carey, Co. Kilkenny, and others have been scored in important championship games and allowed to count even when the player carried the ball in his hand as many as eight or nine steps. Some effort should be made to re-establish the tradition that the hurley and not the hand is to be used to carry the ball if the player takes more than three steps with it.

3. Penalty puck to be struck a minimum of 20m from the goal line.

Since the ball may achieve a 'muzzle' velocity of 85 m.p.h. or more when struck by a skilful hurler, it could cause very serious injury to a defender who is the required 20m away. Even though the rule forbids it, the penalty puck is invariably struck from much less than the prescribed distance as the player raises the ball on his hurley, tosses it goalwards, takes a few quick side steps and then strikes the ball from as close as 15 metres. Again the rules of the Hurling-Shinty International series require *The ball must be struck from the penalty spot with all other players behind the 23m line*<sup>19</sup>

The referee should be required to apply the relevant rule in all cases. If he repeatedly fails to do this, and an injury results from it, the player may sue the referee for negligence, and, like Ben Smolden, succeed in his action.

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<sup>17</sup>See Appendix 1 Rule 16 **FOULS AND MISCONDUCT** p 613

<sup>18</sup>See Appendix 1 p 55 Rule 13

<sup>19</sup>*ibid* Rule 12 PENALTY HIT.



## 7.7 DEFINITIONS OF IMPORTANT TERMS – FOOTBALL AND HURLING

1. Include definitions of 'an attacker', 'a defender' and 'in possession of' because they occur frequently in the rules and are interlinked

Since the terms 'attacker' and 'defender' are often taken to mean 'a forward' and 'a back', and the term 'in possession of' is usually taken to mean that the player has the ball in his hands or on his hurley. The definitions are important both for precision in the legislation and the description of the games

2. Delete definitions of IN FLIGHT, and DIVOT and all other references to them in Rules of Play

These terms are at once unnecessary and frivolous

3. Include a definition of the term 'PERSISTENT'. This definition to include the number and frequency of fouls regarded as 'persistent'

Since a player may be sent off for *persistent* aggressive fouls, this term should be defined in terms of the type, number and frequency. A player who commits aggressive fouls in fairly quick succession is usually sent off. However, if the offences occur every 25 minutes, he often escapes the proper penalty

Endnote 1 shows a variety of reasons for the proposed revisions. Some are made to group similar pieces of legislation and hence reduce the number of subsections. Others aim to improve the safety of the game and the quality of control and reporting procedures of onfield officials. Overall, they seek to make the rules easier to read, remember and apply. They reflect and are underpinned by a philosophy based on fair play, care for the game, its players and onfield officials

### 7.7.1 Definitions of important terms . Proposed Revisions

1. Definition 4. Add the condition 'A fair charge may not be made on a player who is bent down in the act of playing the ball'  
Reason: In the interests of safety and fair play
2. Delete definition No. 6. DIVOT  
Trivialises the rules and definitions
3. DEFINITION 9. Delete

Reason - not necessary, and it trivialises this important section of the legislation

4. Add at the end of this list of DEFINITIONS the statement that -  
'In these rules, the terms hand and fist are synonymous '
- 5 Define the term **persistently**  
There is a need to specify the number of times and probably frequency of fouls which will be regarded as **persistent**.
6. Define the terms 'attacker', and 'defender'  
The definitions should be based on 'possession'
7. Define the term 'in possession of'

## SUMMARY

The playing rules of both games were analysed in some detail and suggestions made for upgrading them

These proposed revisions were based on -

- 1 The fundamental premise that **the rules of play should be easy to read, remember and apply**
- 2 The need keep the number of rules to the necessary minimum, and for each rule to be as short as possible with but one obvious, common sense meaning
- 3 The need to remember the historical development of the games and their rules
- 4 The need to retain the fundamental characteristics of the games
- 5 The need to be based on the legitimate functions of the rules
- 6 An awareness of the fact that if the rules are changed, the game is also changed
- 7 The need to stabilise and preserve our national game of football
- 8 The need to ensure that the rules of play provide opportunities for players of all sizes, coaches and managers to develop and exploit their skills
- 9 The need to ensure that the rules provide for a high level of safety by identifying aggressive fouls, and specifying appropriate penalties for them
- 10 The need to ensure that players wear appropriate safety equipment, and that all equipment used by players complies with the rules
- 11 The need to ensure that referees are empowered by the legislation to deal with players who do not have the proper equipment

- 12 The need to ensure that umpires and linesmen play a full part in the control of the game in general, and the control of aggressive play in particular
- 13 The need to ensure that the penalties for the fouls are commensurate with the seriousness of the offence - neither too lenient nor too severe
- 14 The need to ensure that the reason for listing each technical foul applies equally to both games
- 15 The need to ensure that the rules are not trivialised by tautology, and the inclusion of definitions of terms which are facetious
- 17 The need to rescind legislation which has been overcome by more appropriate legislation, and legislation which is not possible to apply with a good to high degree of accuracy
- 18 The need to ensure that the legislation in the rules complies with the law of the land
- 19 The need to ensure that the Association is not exposed to litigation as a result of any shortfall in the playing rules of the games
- 20 The need to stop changing the Rules of Play to compensate for the failure of match officials to apply them, or use all the powers set out in the Rules of Control, and fulfil all their duties stated in the Rules of Control

No matter how good the legislation, if the match officials do not apply it fairly, fully and consistently, respect for the rules will be diminished amongst players, spectators and the media

Since the enfranchisement of three other units of the Association at the Special Congress of November 1997, it is too soon to say how motions coming from the traditional source, the club, will fare with those coming from the officers of higher committees. However, given the trends of referring motions in greater numbers to Central Council instead of entering them on the Agenda for Congress, it can be argued that only those motions which the Motions Committee approve of will appear on Congress Agenda. This poses a very serious and significant threat to the entire democratic process of legislation for the playing rules. It is now clear that the changes which the executive has sought so often to implement in Gaelic football may now be achieved.

Unless or until the Association develops or adopts a process of legislation which is based on a transparent and sensible philosophy, the quality of legislation is unlikely to improve. The game of hurling is unlikely to suffer any adverse *sequelae*. However, there are clear signs that our national football, as a native species of the game, may not have a future <sup>20</sup>

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<sup>20</sup> Writing in *The Evening Herald*, 23 July 1999, Frank Roche publicised the latest efforts of the GAA to

This research suggests that the sets of playing rules for hurling and football which are proposed in this chapter fulfil the list of needs stated above, and that they are based upon and reflect a philosophy of legislation applicable to the Playing Rules of invasive body-contact games

## ENDNOTE 1.

### PROPOSED REVISIONS AND REASONS - FOOTBALL

#### The Rules of Play. FOOTBALL - FAIR PLAY.

It is sufficient to state here that Rules 1 and 2 should indicate the broad parameters within which the game is to be played and, where necessary, specific permissions should be clearly stated. The inclusion of definitions clarifies and reinforces certain aspects of these rules.

Rules 1, 2, and 3 of Football provide a very good framework and clear specification for playing the game.

However, some sections of these three rules could be combined, others require minor amendments, and some should be deleted because they have been overtaken by other legislation or suffer from the mistake of repeating the obvious.

An analysis of **Rule 1. THE PLAY** reveals that there is a case for rewriting this legislation in a

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finalise proposed changes to football which will come before Congress 2000. Under **It's a whole new ball game – GAA steps up campaign to change the face of football**, he wrote that the Football Development Committee has issued a questionnaire to a cross-section of people closely involved in the game including players, coaches, referees, administrators and spectators. This survey seeks a yes/no answer to 32 questions (copy of questionnaire on file).

The questions seek answers to suggestions for changing the game of football (but presumably hurling will also be affected).

The changes to be considered are:

- The ball may be lifted off the ground as in Australian Rules
- Open hand pass to be banned again. Fisted pass as in Australian Rules
- Player receiving a fisted pass must play next pass with foot
- Introduction of Australian Rules type tackle after one bounce or toe-tap
- All sideline kicks to be taken from the ground
- All free kicks between 45m line and either goal line to be taken from the ground
- After a score play to be restarted at midfield or kick out from 20m line
- All players on the team awarded a penalty kick to be outside the 45m line except the kicker
- If a penalty is saved or rebounds off the post (sic), play to be restarted with kick out

This is the second such survey to be used by the GAA in this way. The normal statistical sampling procedures were absent in the previous survey, and no reference was made in this questionnaire as to how respondents were selected for this survey.

It is clear from the questions listed in this survey that the GAA is determined to change Gaelic football into a game which closely resembles Australian Rules.

Significantly, Frank Roche did not make any criticism or comment on these extraordinary proposals. His article was publicity for this 'process of legislation'. It is inconceivable that a professional sports journalist breaking similar news for rugby, soccer or, indeed, hurling would not make some effort to assess the need for these proposals or comment on the impact such proposals would have, if adopted and included, on the

way which enables the reader to comprehend it more readily

The current playing rules to which these recommendations apply are contained in Appendix 1 p 563 *et seq*

1 s 1 2 Delete last sentence of para 1

Reason Not necessary in view of first sentence

## EXCEPTIONS

(i) Delete 'small rectangle' and insert 'goalkeeper's area'

(ii) Delete the words 'may fist or palm the ball away on the ground' and replace them with 'may play the ball away with his hand'

Reason Anomalous and ambiguous For example, if the ball is played with the back of the hand or rises off the ground after being played by the hand, this could be construed as a foul'

2 s 1 3 Combine with s 1 2 as second paragraph

Reason Part of the same legislation

3 s 1 4d Delete

Reason This is a completely unnecessary restriction on the player in possession, virtually impossible to enforce consistently, has been overtaken by definition of the THROW and the TOSS This restriction eliminated the delicate and attractive skill of 'selling the dummy' so enjoyed by players and spectators

4 s 1 4 e Full stop after 'fist' Delete 'provided there is a definite striking action'

Reason Tautology A ball cannot be struck without a 'definite striking action' See Rule 1 3(f)

5 s 1 4 Last para - combine with s 1 6

Reason They are both forms of the tackle

6 s 1 6 Add last paragraph of s 1 4

s 1 7 Combine and include last para of s 1 4 and insert 'he is' in last line between 'while' and 'playing'

Reason In the interests of clarity

s 1 7 Insert 'and provided his opponent is not bent down or on his knee(s) in the act of playing the ball,' after 'Provided he has at least one foot on the ground,'

- Reason In the interests of fair play and safety
- s 17 Delete 'small rectangle' and insert 'goalkeeper's area'
- 7 s 1 10 Delete
- Reason Unnecessary See Rule 4 9

## 2. SET PLAY

- 1 s 2 2 EXCEPTIONS (i) Delete 'the rectangles'<sup>21</sup> and insert 'the penalty area', delete 'the large rectangle' and insert 'the penalty area', delete 'or any foul within the small rectangle', and delete 'within the penalty area but outside the goalkeeper's area'
- Delete, 'The penalty kick shall be taken from the ground '
- Reasons The penalty for a technical foul within the goalkeeper's area should have the same penalty in football as in hurling Rule 2 3 specifies taking of penalty kick
- 2 s 2 3 Delete 'move along his line but '
- Reason Already covered in Rule 1 8 and not needed here
- 3 s 2 7a Delete and replace with 'The ball shall not be played by another player of the team taking the kick-out until it has travelled 13m or has stopped ' Reason The team taking the kick-out is in possession of the ball and is therefor the attacking team If the ball comes to rest less than 13m from where it was played, it is unreasonable to forbid any player from playing it
- 4 s 2 8 Combine with s 2 5
- Reason It is part of this section Avoids error of not referring to 45m free in Rule 2 5
- 5 s 2 9 Delete the word 'hand's' in line two
- Reasons This rule reduces the skill of kicking the ball off the ground It is easier to have the free kick taken from where the foul occurred as required by the relevant rule

## 3. SCORES

- 1 s 3 1 Insert 'Two points are scored when a free awarded for an aggressive foul is kicked directly over the bar between the posts '

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<sup>21</sup> See Rule 1 4 of Specification below

- Reason To make the punishment fit the crime, and to reduce the level of aggressive fouling
- 2 s 3 1 EXCEPTIONS delete 'and who is in possession of the ball'
- Reason Unnecessary A player cannot carry the ball over the goal line unless he is in possession of it
- 3 s 3 1 EXCEPTIONS (iii) Delete
- Reason Illogical and unduly restrictive, reflects archaic thinking, creates a foul where none exists and makes refereeing unnecessarily difficult
- 4 s 3 3a Insert 'after consulting with the umpires' after the word 'referee' in line 2
- Reason Umpires have an existing power in this matter See Rules of Control 2 1 (ii)
- 5 s 3 3 b Delete
- Reason No longer necessary

## FOUL PLAY

In general, these rules should be directive and punitive In particular, they should be appropriate, balanced, commensurate, effective and fair

It is important that players, spectators and the media are quite clear about the differences between the three categories of fouls - Technical, Aggressive and Fouls of Dissent It should be accepted that as far as is possible 'the penalty fits the crime' It has been pointed out in Chapter 5 that those in charge of teams have a legal obligation to teach the players to learn the playing rules If players and spectators do not know the playing rules, it is unlikely that there will be discipline on the playing field or harmony on the terraces

Fouls of dissent often arise out of ignorance of the rules Since it is in the team's best interest to reduce the number of fouls it commits, those in charge of teams should teach their players to remember the rules

A simple and clear presentation of the rules will help

## 4. TECHNICAL FOULS.

- 1 s 4 1 Include in s 4 4 'To lie on the ball'
- Reason Similar type of foul Reduces subsections

- 2 s 4 2b Delete  
Reason Superfluous since this is the definition of 'To throw the ball' See 4 2 a and Definition 16
- 3 s 4 7 Combine with s 4 1, insert 'it is toe-tapped' after 'catch it again' in line 2.  
Reason Similar type of foul
- 4 s 4 9 Delete  
Reason Rule overtaken by other legislation, extremely difficult to apply correctly and consistently, exceptions complicate the rule
- 5 s 4 10a, Delete both subsections  
10b Reason Completely unnecessary restriction imposed on the player Technically bad legislation Extremely difficulty if not impossible to apply consistently
- 6 s 4 11 Include s 4 29  
Reason Same type of legislation
- 7 s 4 12 Delete 'For a player attacking a goal to' and replace with the word 'To'  
Reason Unnecessary and tautological
- 8 s 4 13 Delete 'or a point with his open hand(s)'  
Reason No technical reason for this to be a foul Extremely difficult to referee
- 9 s 4 13 PENALTY FOR THE ABOVE FOUL - Delete 'from where the foul occurred' and replace with 'from inside the goalkeeper's area '  
Reason This foul occurs on the goal line
- 10 s 4 15 PENALTY - Delete and replace with 'If the offender touches the ball or a score is not made, free kick shall be retaken '  
Reason Technical foul in this area does not merit a penalty kick
- 11 s 4 b Delete the words 'nearer than 13m before the kick is taken' and replace with 'forward of his goal line before the kick is taken'  
Reason Inconsistent with Rule 2 3
- 12 s 4 20 Combine with s 4 17  
Reason Reduces the number of subsections
- 13 s 4 21 Delete  
Reason Unnecessary Referee should indicate that the player should not waste time, or penalise him for wasting time as in Rules 4 24, 4 30



- 14 s 4 22 Delete '/'s' and punctuate properly  
Delete 'a free kick/penalty/sideline kick' and replace with 'any free kick' Replace '/' with 'or' between 'goal-posts' and 'crossbar'  
Reason Easier to read
- 5 s 4 21 Delete 'kick-out/free/kick penalty' in each case and insert 'any type of free kick'  
Reason This applies to all free kicks taken from the ground
- 16 s 4 28 Add the words 'or has stopped'  
Reason This is an unreasonable requirement
- 17 s 4 29 Combine with s 4 11  
Reason Same type of legislation, reduces number of subsections
- 18 s 4 31 Delete 'the small rectangle', insert 'the goalkeeper's area'  
Reason Referee and umpires can control this without listing it as a foul
- 20 s 4 32 Delete  
Reason As above

**This revision reduces the number of subsections from 36 to 25 and this should make this rule easier to read remember and apply.**

## **5. AGGRESSIVE FOULS.**

- 1 s 5 1 Delete 'or attempt to' and relocate in the sections 5 8 to 5 14  
Reason An attempt to commission a foul is not as grave as the actual foul A lesser penalty is appropriate Referees are reluctant to send players off for simply attempting to commit one of these fouls However, they may be more disposed to taking a name and dismissing for a second similar offence
- 2 s 5 2 Delete 'or attempt to' Combine with s 5 1  
Reason As in 1 above
- 3 s 5 3 Combine with s 5 1  
Reason Same type of foul
- 4 s 5 8, 5 9, 5 10 Combine  
Reason Similar types of foul, reduces number of subsections
- 5 s 5 11 Relocate at the end of this subsection  
Reason Other fouls are physical in nature, this one is verbal

6 s 5 12, s 5 13 Combine

Reason Same type of foul Insert the fouls 'To attempt' brought down from s 5 1, 5 2, 5 3

7 s 5 16 Insert the words 'pull or grip hold of' after the words 'To push' in line 1

Reason This omission creates an anomaly

8 s 5 17 Delete and replace with 'To use the fist while attempting to tackle an opponent'

Reason This conflicts with Rule 5 1 - 'to strike with the hand or fist' and the words 'of the ball' are unnecessary

9 s 5 18a Add the words 'or when he is bent down in the act of playing the ball'

Reason In the interests of safety and fair play A player who is lifting the ball off the ground with his foot is in no position to defend himself or withstand even a fair side to side charge, reduces the incidence of excessive force which may be a tort of assault

**This revision reduces number subsections from 22 to 15, groups similar fouls together, and makes the rules easier to read, remember and apply.**

## **6. DISSENT.**

1 s 6 2 As it is stated, this rule is unfair to the player who may understandably feel very aggrieved at a referee's decision, and will feel further aggrieved if he is punished further for displaying a very natural emotion

There is an argument to be made for refining this rule to make allowance for the case where the player is simply frustrated with himself rather than with the referee It is also reasonable to expect the referee to be able to deal with what could be termed mild disapproval of one of his decisions

Quite clearly, we cannot have players abusing the referee or remonstrating with him However, there is a need for a greater rapport between players and referees, and some amelioration and rephrasing of Rule 6 2 could promote this Otherwise, the rule is sound

## **ENDNOTE 2.**

## **PROPOSED REVISIONS AND REASONS - HURLING.**

### **1. THE PLAY.**

- 1 s 14 Delete 'onto' and insert 'into'
- 2 s 15 Delete 'kicked or lifted off the ground with the feet'  
Reason It is inappropriate that the ball can be played with the feet<sup>22</sup> in a ball and stick game (See Composite Rules Hurling - Shinty, Appendix 1 ps 589 *et seq*)
- 3 s 17 Delete 'four' in lines two and four and replace with 'three'  
Reason The increase from the traditional three steps to four steps was made to facilitate the dual referee This was not a valid reason for making such a change It makes tackling much more difficult
- 4 s 19 Last paragraph - delete the word 'kick', insert 'he is' between 'while' and 'playing'  
Reason See 2 above Clarifies who is playing the ball
- 5 s 1 10 Divide into two sections New section to read s 10 (ii) For a penalty puck, the ball must be struck from a point on or above the 20m line  
Reason To comply with the Rule 2 2 and in the interests of safety Ball speeds in excess of 80mph are achieved by hurlers To eliminate the abuse of this rule which is never penalised The Composite Hurling - Shinty Rules require this See Appendix 1 ps 589 *et seq*

## 2. SET PLAY.

- 1 s 2 1 Delete and replace with 'Play is started and restarted after half-time with a puck-out from goal after the referee has given the signal to start '  
Reason The present method is dangerous and leads to foreseeable injury
- 2 s 2 2 EXCEPTIONS (i) para 2 Delete 'from' and insert 'at' in second sentence  
Reasons To require the ball to be struck at or above the 20m line to comply with the rule and for reasons of safety
- 3 s 2 2 EXCEPTIONS Combine (iii)(a), (iii)(b) and (v) and rewrite in a simplified version
- 4 s 2 2(v) Last para Delete '(excluding penalties)' and insert 'or penalty puck' Full stop after 'taken'  
Reason To enable the three defenders to be 20m from the ball, and for the

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<sup>22</sup>Some would argue that the use of the hands in hurling to catch the ball is also out of keeping with the nature of the game Nicky Rackard is reported as recounting an incident in the 1956 All Ireland hurling final against Cork when, after catching the ball over Josie Hartnett's head, Christy Ring ran over, 'and with a sprinkling of expletives, explained to Rackard that what he had just done "wasn't hurling at all and shouldn't allowed "' Sunday Times 21 February 1999 *Meltdown looms for golden age* by Denis Walsh

safety of all players defending the goal

5 s 2 5(a) Add 'above the place at which the ball was placed'

Reason To comply with Rule 2 2

6 s 2 6 Para 2 Delete 'take the ball into his hands' and replace with 'toss the ball from hand to hurley'

Reason Clarification

7 s 2 6 Delete last paragraph and replace with 'The ball shall not be played by another member of the team taking the puck-out until it has travelled 13m or has stopped'

Reason Clarification The team taking the puck-out is in possession of the ball and is therefor the attacking team

8 s 2 8 Para 2 Delete 'he shall not delay in making his second attempt Only when the player ' and replace with 'and' Insert 'making' between 'Delays' and 'his'

Reason Overstated

### 3. SCORES.

1 s 3 1 Insert 'Two points are scored when the ball is played directly over the crossbar from a free puck awarded for an aggressive foul'

Reason To make the penalty fit the crime, and to reduce the level of aggressive fouling

2 s 3 1 **EXCEPTIONS** Delete 'and who is in possession of the ball'

Reason A player cannot attack the goal if he is not in possession of the ball A player of the attacking team may not score by deflecting the ball with his hands into opponent's scoring area

3 s 3 1 **EXCEPTIONS** Insert (iii) 'by deliberately kicking the ball'

Reason Kicking the ball should not be part of a ball and stick game (Kicking became a foul in handball c 40 years ago, it is not allowed in lacrosse or shinty )

4 s 3 3a Insert in line 2 after 'referee' the words 'after consulting with the umpires'

Reason To comply with RULES OF CONTROL 2 1 (ii)

### 4. TECHNICAL FOULS.

1 s 4 2 Add new subsection - (b) To play the ball up in the air with the hand and catch it

- again before it is played on the hurley, touches the ground, another player or the goal-posts
- Reason Makes good an omission This is a foul in football
- 2 s 4 3 Combine with s 4 4
- Reason Similar legislation Fewer subsections
- 3 s 4 7 Delete Now covered in s 4 2b
- 4 s 4 9 Delete and replace with 'To touch an opponent's hurley in any way which causes him to miss the ball'
- Reason Unfair interference
- 5 s 4 10 Delete
- Reason Same as for football See Football s 4 9
- 6 s 4 11a Delete the words 'other than a penalty'
- Reason To comply with Rule 2 2 (last para ), in the interests of safety, to eliminate abuse of rule not always penalised
- 7 s 4 13 Delete 'who is in possession of the ball' and replace with 'deliberately'
- Reason Inappropriate use of hands in a ball and stick game, a ball which strikes (but not 'which is struck by ') an attacking player's hand and goes into the scoring space should count as a score
- 8 s 4 14 Delete 'after a wide'
- Reason Should be outside 20m line before ALL puck-outs See Rule 2 6
- 9 s 4 15 PENALTY Delete and replace with 'Throw in the ball on the 20m line opposite the scoring space'
- Reason Too severe a penalty Complies with penalty for same foul in football
- 10 s 4 17a Delete
- Reason Covered by revision of 4 11(a), eliminates anomaly re penalty pucks
- 11 s 4 20 Amend to read 'To reset the ball for any free puck after the referee has signalled to restart play'
- Reason Easier to read and remember
- 12 s 4 21 Delete 'a free/penalty/sideline puck' and replace with 'any free puck'
- Reason Easier to read and remember
- 13 Insert (i) after 4 22 and add new subsection

(ii) To strike the penalty puck from less than 20m from the goal line

Reasons Safety, to penalise current abuse of the rule, to comply with Rule 2.2

14 s 4.24 Combine with s 4.33

Reason Similar type of legislation

15 s 4.29 Add 'or has stopped'

Reason Unreasonable to forbid any player to play a stationary ball which is 'in play'

**This reduces the number of subsections by five**

## 5. AGGRESSIVE FOULS

Since many of these proposed revisions are the same as those for football, it is not necessary to detail them all )

1 s 5.1, 5.2, 5.3 Combine and relocate the 'attempt to' subsection below

Reason These are all 'striking' fouls. The penalty for 'attempting to' should not be the same as for commissioning a foul, reduces subsections

2 s 5.1 Relocate 'or attempt to' in the combined s 5.12, s 5.13 below

Reason Same as for football above

3 s 5.8, 5.9, 5.10 Combine

Reason These are the same types of legislation

4 s 5.11 Relocate at the end of subsection

Reason Fouls of verbal abuse come after fouls of physical abuse

5 s 5.12, 5.13, 5.14, 5.15, 5.16

Combine these sections and include the fouls 'to attempt to strike a player or official'

Reason Similar legislation

6 s 5.18a Delete 'an opponent or hold' and insert 'push or grip hold of'

Reason These fouls were omitted

7 s 5.19a Add (iv) 'or when he is bent down or on his knee(s) in the act of playing the ball'

Reasons Same as in football i.e. safety, fair play

8 s 5.21 Delete

Reason Adequately covered in s 4.9 previous section

9 s 5 24 Delete 'may' and replace with 'must'

Reason Increases power of linesmen and umpires and Improves control

**This reduces the number of sections from 25 to 17.**

## **6. DISSENT**

The same comments and recommendations apply here as for football

### **ENDNOTE 3.**

## **PROPOSED REVISION OF CURRENT PLAYING RULES. (O.G. 1995 PART 2**

### **PROPOSED REVISION OF RULES OF CONTROL**

#### **RULE 1 - CONTROL OF THE GAMES.**

Control of the Games shall be entrusted to a referee, four umpires and two linesmen who shall decide on the field of all matters affecting play

#### **RULE 1.1 POWERS OF THE REFEREE.**

The referee's decision on any question of fact and in regard to time shall be final The referee shall have the power

- (i) To appoint a replacement referee if he is unable to act or unable to contact the Secretary of the Committee in charge Otherwise, the Secretary of the Committee in charge shall appoint a replacement referee
- (ii) To declare the ground or other conditions unsuitable for play after consulting - where feasible - with the officials in charge of the fixture
- (iii) To consult with the umpires and or linesmen concerning infringements of the Rules of Play, in particular rough or dangerous play, stinking, hitting or kicking The referee shall apply the appropriate rule following such consultations
- (iv) To over-rule a decision of a linesman or umpire(s)
- (v) To award a score when the ball has been prevented from going over the goal-line or crossbar by anyone other than a player or the referee
- (vi) To terminate a game because of outside interference, or any other serious reason that merits such action
- (vii) To terminate a game - having first given a three minute warning to the captain or official in charge of the team or the players involved - in any of the following circumstances -
  - (a) A player refusing to leave the field when ordered off, or having been ordered off, rejoins

the game again

- (b) A team or player(s) leaving the field either without the referee's permission, or refusing to continue playing
- (viii) Dismiss a player who is not properly dressed, or who has not got the proper safety equipment, or who is wearing anything which is likely to injure himself or another player
- (ix) Appoint an umpire to come on the field of play to assist in supervising penalty kicks or pucks
- (x) Allow play to continue when a foul has been committed, and penalise offender later

#### **RULE 1.2 DUTIES OF THE REFEREE.**

- (i) To control the game in accordance with the Playing Rules. In this control, the safety of the players overrides all other considerations of how the game is conducted. The rules are to be used as a mantle of care for the players
- (ii) To receive lists of players, sign them in Irish and give a copy to the opposing teams before the game
- (iii) To ensure that all players are dressed properly and safely, and that all playing equipment conforms with the rules

#### **PENALTY· Dismissal from the field of play until these rules are complied with.**

- (iv) To keep a record of scores, the names of players injured, replaced, substitutes taking part, any instance of late fielding or of exceeding the half-time interval, and the intrusion of unauthorised persons onto the field of play
- (v) To record playing time and to extend time in each half for deliberate or incidental delay, or to allow for a free - awarded before time had expired - to be taken. Should the defending team commit a further foul before the referee whistles for full-time, he shall extend the time further to permit an additional free to be taken from which a score can be made - provided no other player of the side taking the free touches the ball
- (vi) To obtain the signature, full address and club of any player participating in the game - if requested to do so by a captain or responsible team official
- (vii) To report any irregularities in respect of dimensions, markings or unsatisfactory or unsafe condition of the field of play, and to report any official protest about these made to him by a team captain before the game



- (viii) To present the ball to the captain of the winning team at the end of a Provincial or All-Ireland Final
- (ix) To blow the whistle when a foul has been committed, when the ball has gone out of play, or to signal the restart of play Once the referee has given a decision and has sounded his whistle to restart play, he shall not alter that decision
- (x) To indicate the place from which all free kicks or free pucks shall be taken

### **RULE 1.3 COMMENCING PLAY**

- (i) The referee shall toss a coin for choice of ends in the presence of the team captains  
This procedure shall be repeated for extra time
- (ii) FOOTBALL - Two players from each team shall stand one behind the other on their goal side of the halfway line, and shall face the referee for the throw in All other players shall be between their own 45m lines and the goals
- (iii) HURLING - The team which wins the toss has the choice of ends The other team starts the play with a puck-out from the goalkeeper's area  
Teams change ends after half-time, and the starting procedure is repeated

### **RULE 1.4 INJURIES AND INCURSIONS**

The referee shall give his permission to a team medical officer and one other authorised official to enter the field of play to examine an injured player No other team official shall enter the field of play without the referee's permission

Play may be stopped for injury to a player

A seriously injured player may be treated on the field before removal from the field of play

The referee shall take advice from a medical officer before deciding whether or not an injury shall be treated on the field of play

Any injury which results in bleeding must be treated off the field of play A player who is bleeding is not allowed to continue play until the wound is dressed

### **RULE 1.5 REPORT OF REFEREE**

The referee shall forward his report within a period of two days of the game to the Committee or Council in charge together with one copy of each team list This report shall contain

- The result of the game
- The names of the umpires and linesmen, and their reports if any
- The time each team took the field
- The time the game started
- A statement of the reason for the interval exceeding the time permitted
- The names of players injured, replaced and substitutes taking part
- The names of players cautioned or ordered off, and the exact reason(s)
- The name of anyone who interfered during the course of the game
- Any other breaches of the regulations
- The name of any player who had to leave the field as a result of an injury sustained on the field of play or as a result of colliding with a person or object adjacent to the boundary lines of the field of play The circumstances surrounding such injury to be recorded

## **RULE 2 - UMPIRES**

There shall be two goal umpires at each end of the field of play behind the endlines They shall take positions which enable them to determine scores and wides, and fouls in the area in front of the scoring space The umpires shall remain at the same end for the duration of the game

### **RULE 2.1 POWERS OF UMPIRES**

- (i) The umpires shall decide if a score is made, or if the ball has crossed the endline for a wide, for a 45m or 65m free, subject to Rule 1 1 (iv) above
- (ii) The umpires shall have the power to bring to the notice of the referee - during a break in play, at half time or after the final whistle - any instances of foul play, or incursions onto the field of play which have not been noticed by the referee

### **RULE 2.2 DUTIES OF UMPIRES**

The umpires shall signal their decisions as follows

- (a) A 45m free in Football or a 65m free in Hurling by raising an arm upright, and then pointing directly infield at the place where the ball passed over the endline
- (b) A wide by stretching arms out wide

(c) A score by raising a green flag for a goal or a white flag for a point

(d) A decision to disallow a score by crossing the flags at the centre of the scoring space

If required to do so by the referee, an umpire may go on the field of play to assist the referee in controlling the players prior to a penalty kick or puck

The umpires have the duty to make a note of the number and team of a player who commits an aggressive foul that has not been noticed by the referee, and to report on this to the referee at first available opportunity

### **RULE 3 - LINESMEN.**

There shall be one linesman on each sideline. Linesmen shall change sides at half-time. However, failure to do so will not affect the result of the game.

#### **RULE 3.1 POWERS AND DUTIES OF LINESMEN**

The linesmen shall have the power to bring to the attention of the referee - during a break in play, at half-time or after the final whistle - any instances of foul play or incursions onto the field of play which have not been noticed by the referee.

#### **RULE 3.2 DUTIES OF THE LINESMEN**

(i) The linesmen shall indicate by flag signal

(a) when and where a ball crosses the sideline

(b) which side is entitled to the sideline kick or puck,

(c) where the kick or puck is to be taken from

A linesman may enter the field of play at the referee's request to indicate the place from which a 65m free puck or 45m free kick is to be taken.

(ii) Where a ball is played across a sideline by opposing players simultaneously, or when the linesman is unsure which team played the ball over the sideline, the linesman shall throw in the ball as per Rule 1.3 (i), (ii).

(iii) A linesman's decision is subject to Rule 1.1 (iv) above.

(iv) The linesmen shall make a note of the number and team of a player who commits an aggressive foul which was not noticed by the referee, and report this to the referee as soon as possible – during a break in play, at half-time or immediately after the match.

#### ENDNOTE 4.

#### PROPOSED REVISION OF Rules of Specification

##### RULE 1 - THE FIELD OF PLAY.

- 1 1 The field of play shall be rectangular and its dimensions shall be as follows

Length - 130m minimum and 145m maximum

Width - 80m minimum and 90m maximum

##### EXCEPTION -

The dimensions may be reduced by local byelaws for Under 15 or younger grades

- 1 2 (i) At distances of 13m, 20m, 45m (Football) and 65m (Hurling) from each endline, lines shall be marked across the field parallel to the endline. The intersections of these lines and the endlines with the sidelines shall be marked by flags

The midline of the field shall be marked parallel to the endlines and shall have a minimum length of 10m

Boundary lines are part of the field of play

- (ii) All lines on the field of play will be 90mm +/- 10mm wide

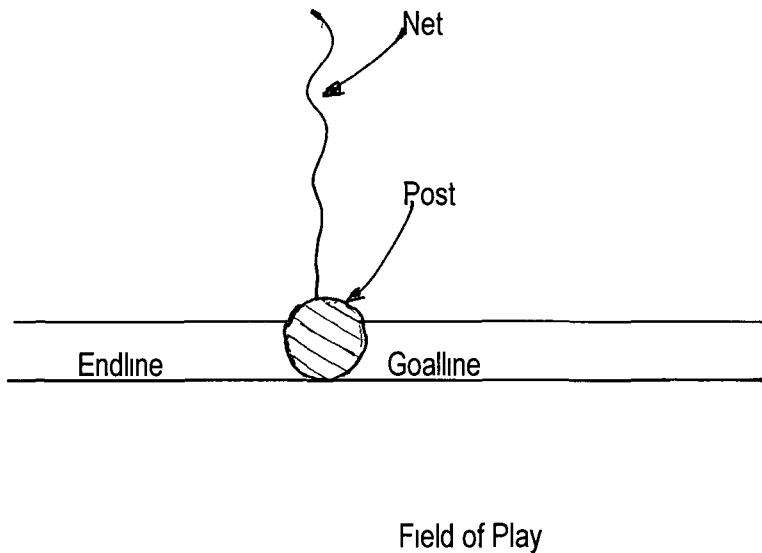
All lines shall be marked in white with a suitable marking material

- 1 3 (i) THE SCORING SPACE shall be at the centre of each endline. Each shall be formed by two goalposts, circular in cross section, which shall have a height of not less than 7m above ground level and be 6.5m apart. Posts will conform with IS/EN 748 1996 as a minimum. The foundations for the uprights will take into account the height of the poles. Where portable goals are used they should be so anchored that they will not fall or be disassembled by a foreseeable incident in the game or because of weather conditions

The **Warning Label** referred to in s 7 of EN 748 shall include the words - This goal is designed to be used for football, hurling and camogie only and for no other purpose

The inside edge of the endline shall be at a tangent to the front edge of the base of the goalposts

**Diagram 7. 10 The goalpost in relation to the goal line.**



(ii) A CROSSBAR shall be fixed to the goalposts at a uniform height of 2.5m above the ground

Where the crossbar is made of wood it shall comply with the following standard

The crossbar shall have a rectangle cross-section - depth 140mm  $\pm$  10mm and a width not less than 50mm. When circular, it shall have a uniform diameter of 125mm  $\pm$  5mm.

The crossbar should be of such a quality and be so fixed to the goalposts that it will not break or become dislodged due to foreseeable incidents in the game or weather conditions.

(iii) GOALNETS shall be securely fixed to the back of the crossbar and the back of each goalpost in a way in which, and using materials which, will not cause injury. They shall comply with EN 748 1996 s 3.4.2 Nets.

Open hooks or hooks which might cause injury are forbidden. The roof of the net shall be supported for a horizontal distance of not less than 900mm at crossbar height by a metal net support fixed to the back of the goalposts.

The mesh of the net shall have a diagonal length not exceeding 150mm for football and not exceeding 50mm for hurling.

### **EXCEPTION -**

The dimensions of the Scoring Space may be reduced by local Bye Laws for Under 15 or younger grades

- 1 4 (i) A penalty area of the following dimensions shall be formed in front of each scoring space

A rectangle 19m by 13m shall be formed by two lines 13m long at right angles to the endline being marked 6 25m from the inside of edge of each goalpost, and the ends of these lines being joined to the 13m line All the lines forming this penalty area are part of it

- (ii) A goalkeeper's area of the following dimensions will be formed in front of each scoring space

A rectangle 14m by 4 5m shall be formed by two lines 4 5m long at right angles to the endline being marked 3 75m from the inside edge of each goalpost, and the ends of these lines being joined All the lines forming the goalkeeper's area are part of this area

- 1 5 Semi-circular arc of 13m radius, with centre on the mid-point of the 20m line, shall be marked outside each 20m line

- 1 6 **FLAGS** All flags used on boundary lines shall have smooth rounded tops, and be made of flexible material

- 1 7 There shall be a run off space of not less than 5 m between the boundary lines and any obstruction which could cause an injury

### **RULE 2 - THE PLAYERS. Proposed revision.**

- 2 1 A team shall consist of fifteen players

#### **EXCEPTION -**

A County Committee may reduce the number for non-championship games

- 2 2 A team may commence a game with thirteen players but shall have fielded fifteen players, inclusive of players ordered off or retired injured, by the start of the second half In the event of failure to comply with this, the game shall continue 2 3 Players arriving late may join in the game during a break in play but must report to the referee before so doing

- 2 4 (i) A maximum of three substitutions shall be allowed A substitution is not allowed in the case of a player ordered off

- ii) For extra time, a further three substitutions shall be allowed during this game A player ordered off during the drawn game may be replaced
- (iii) A substitution may only be made during a break in play after the player has given a substitution note to the referee
- (iv) In intercounty games, all substitutions must be from players on the official list submitted to the referee

## **2.5 LIST OF PLAYERS**

- (i) Before all official games, the referee shall be given a list of players in duplicate and in Irish (in Ireland only) giving full Christian names The first fifteen names appearing on a list shall be taken as constituting the team - unless otherwise clearly indicated
- (ii) In Intercounty Games
  - (a) The list of players shall be numbered from 1 to 21 and shall give the clubs to which the players belong
  - (b) All players shall be from the list submitted to the referee prior to the game
  - (c) For extra time, players shall be from the list submitted to the referee prior to the game

## **RULE 3 - TIME. Proposed revision.**

- 3 1 A team shall take the field not later than ten minutes before the appointed starting time for Senior Intercounty Championships, National League Games, Railway Cup, County Senior Championships Finals, and not later than five minutes before the appointed starting time in all other games For extra time, play shall commence not more than ten minutes after the end of the drawn game
- 3 2 The playing time shall consist of two periods of thirty five minutes each but time shall be added on in each period for incidental or deliberate delays

### **EXCEPTION -**

- (i) The playing time may be reduced by Local Bye Laws for under 15 or younger grades
- 3 3 An interval, not exceeding ten minutes, shall be allowed at half-time following which the teams shall change ends
- 3 4 If a game in a championship competition ends in a draw, teams may, by consent, play

extra time consisting of two periods of fifteen minutes each way Extra time shall be obligatory in the case of a further draw in a replay

- 3 5 Extra time shall be obligatory in the Inter-Provincial, Oireachtas and other specified Intercounty Tournaments, the Sigerson and Fitzgibbon Cups and any other games in subsidiary competitions as determined by the Central Council

#### **RULE 4 - EQUIPMENT. Proposed revision.**

- 4 1 (i) Club teams shall wear their registered distinctive colours in inter-club competitions  
Where there is a similarity of colours, the teams shall change to their alternative registered colours or colours approved by the County Committee

- (ii) County teams shall wear their registered distinctive colours in intercounty competitions

Where there is similarity of colours, the two counties shall wear their registered alternative colours or other colours authorised or directed by the Committee in charge

- (iii) In all games, the goalkeeper shall wear a jersey which is distinctive from the colours of his own team's and the opposing team's colours

- 4 2 The referee shall not allow a hurler to play who is not wearing a helmet and face guard and at least one protective glove

The referee shall not allow a footballer to wear a helmet

All players must wear shin pads

All footballers must wear gumshields

The referee shall not allow any player to play who is wearing anything which is likely to be a cause of injury to himself or another player Jewellery is forbidden

PENALTY A player must leave the field of play, and will not be allowed to resume playing until he has complied with the referee's instructions

- 4 3(i) The hurling ball, SLIOTAR, shall weigh 120g +/- 10gm have a circumference of 260mm +/- 20mm

- (ii) The FOOTBALL shall weigh 400g +/- 20gm and have a circumference of 720mm +/- 20mm

#### **EXCEPTION**

The dimensions may be reduced by Local Bye Laws for Under 15 or younger grades



4 4 The width of the bas of a hurley shall not exceed 13cm

PENALTY Any illegal hurley or hurley in a dangerous state of repair will be removed by a match official and shall not be returned to the owner until after the game

The player(s) name(s) will be taken and entered in the referee's report

## ENDNOTE 5

### PROPOSED REVISION OF THE RULES OF PLAY - FOOTBALL.

#### Rules of Fair Play

Playing rules of football Proposed revision

This proposed revision reflects the changes which the writer feels will upgrade the rules of play by combining sections which deal with the same type of legislation, inserting necessary additions to some rules, deleting unnecessary parts of rules, and, generally making the rule more user friendly by striving to make them easier to read, remember and apply

#### **RULE 1 - THE PLAY Proposed revision.**

1 1 The ball is in play once it has been thrown in or kicked after the referee has given a signal to start or restart play, and it remains in play until

- (a) the referee signals a stop,
- (b) the ball has passed completely over any boundary line
- (c) the ball has been prevented from going over any boundary line or is touched in play by anyone other than a player

1 2 When the ball is not on the ground, it may be played by any part of the body

When the ball is on the ground, it may be played by any part of the body except the hands

#### EXCEPTIONS

- (i) The goalkeeper may play the ball with his hand(s) on the ground when it is inside his own goalkeeper's area
- (ii) Any player who falls or is knocked to the ground while in possession of the ball may play the ball away with his hand and may score by doing so
- (iii) The ball may not be lifted off the ground with the knees

1 3 When a player is in possession of the ball, it may be

- (a) carried in the hand for a maximum of four consecutive steps or held in the hand(s)

- for the time needed to take four steps,
  - (b) played from the foot to the hand(s)- toe-tapped
  - (c) bounced once, and once after each toe-tap,
  - (d) tossed for a kick, a toe-tap or a pass with the hand(s)
- 1 4 When the ball has not been caught, it may be bounced more than once in succession
- 1 5 Player(s) may tackle an opponent for the ball
- (a) The ball may be knocked from an opponent's hand(s) by playing it with the open hand
  - (b) A player may hold up his hands to intercept a free kick
  - (c) Provided that he has at least one foot on the ground, a player may make a side-to-side charge on an opponent
    - (i) who is in possession of the ball, or
    - (ii) when both players are moving in the direction of the ball to play it - provided the opponent is not bent down or on his knee(s) in the act of playing the ball or trying to get possession of it
  - (d) When he is within his own goalkeeper's area, the goalkeeper may be tackled and his kick or pass may be blocked. Incidental contact with the goalkeeper while he is playing the ball is permitted
- EXCEPTION** When he is within his own goalkeeper's area, the goalkeeper may not be charged
- 1 6 A goalkeeper may move along his goal-line when a penalty kick is being taken
- 1 7 For a run-up to a free kick, a player may go outside a boundary line, otherwise players shall remain within the field of play

## **RULE 2 - SET PLAY**

- 2 1 The referee, facing the players, starts the game and re-starts it after half-time by throwing in the ball between two players from each team who shall stand at the half-way line. All other players shall be between the 45m lines and the endlines
- 2 2 After a foul, play is restarted by a free kick or a throw-in where the foul(s) occurred

### **EXCEPTIONS**

- (i) In the case of fouls by players within their own penalty area, the following shall apply

A penalty kick shall be awarded for an Aggressive Foul within the penalty area. The penalty kick shall be taken from the ground at the centre point of the 13m line.

A free kick from the 13m line opposite where the foul was committed shall be awarded for a Technical Foul within the penalty area.

(ii) A free kick awarded for a foul by a player inside his own 13m line but outside the penalty area shall be taken from the 13m line opposite where the foul occurred. A free kick awarded for carrying the ball over his opponent's goal line shall be taken from the goalkeeper's area.

(iii) When a player is fouled immediately after he plays the ball away, and a score results, it shall stand. Otherwise, the referee shall award a free-kick from where the foul occurred or, if more advantageous, from where the ball lands or crosses the side-line. With the option of taking the free from where the foul occurred being retained, the rule shall be -

If the ball lands over the 13m line or the end-line, a free kick shall be given on the 13m line opposite where the ball crossed the end-line or the 13m line.

(iv) Where otherwise specified in the penalties listed in Rule 4 s 9, 11, 12, 13, 14, 15, 17, 19, 21, 22, 23, and Rule 6 2

(v) When play is re-started by throwing in the ball after a foul(s) between the end-line and the 13m line, the throw-in shall be given on the 13m line opposite where the foul(s) occurred.

All players except the player taking the free kick shall be at least 13m from where the free kick is awarded, or, all players except those two contesting the throw-in shall be 13m from where the throw-in is awarded.

2 3 A penalty kick shall be taken from the ground at the centre point of the 13m line, and only the defending goalkeeper may stand on the goal-line. All other players, with the exception of the player taking the kick, shall be outside the 20m line and the arc, and shall not cross the 20m line or the arc until the ball has been kicked. The goalkeeper may not advance from the goal-line until the ball has been kicked. If a defending player fouls before the ball is kicked and a goal does not result, the referee shall allow the penalty kick to be retaken.

2 4 When opposing players foul simultaneously, play is restarted by throwing in the ball.

- 2 5 All free kicks shall be taken from the ground The ball must be stationary when the kick is taken

When the ball is played over the end-line and outside the goal-posts by the team defending that end, a free kick shall be awarded to the opposing team on the 45m line opposite where the ball crossed the end-line

- 2 6 With the referee's consent, a free kick may be taken immediately

### **EXCEPTIONS**

A penalty kick and a free kick awarded to a team from their opponents' 13m line

- 2 7 (a) When the ball is played over the end-line by the team attacking that end, play is restarted by a kick-out from inside the goalkeeper's area The player taking a kick-out may kick the ball more than once before any other player touches it, but may not take the ball into his hand(s) after placing it for the kick-out If the goalkeeper is not taking the kick-out, the ball may not be kicked to him unless he is outside the 20m line All other players except the player taking the kick-out shall be outside the 20m line until the ball has been kicked

(b) After a score, the kick-out shall be taken from the ground on the 20m line in front of the scoring space All players, except the goalkeeper and the player taking the kick-out (if other than the goalkeeper), shall be outside the 20m line All other players shall be 13m from the ball until it has been kicked

- 2 8 When one team plays the ball over the side-line, a free kick shall be awarded to the opposing team from the place where the ball crossed the side-line If opposing players play the ball simultaneously over the side-line, or if the officials are not sure which team played the ball last, the linesman shall throw in the ball between one player from each team

- 2 9 If the ball touches any non-player during play, play is restarted by throwing in the ball at the place concerned, but if the ball touches any non-player from a free kick, the free kick shall be retaken

### **EXCEPTIONS**

(i) As provided in Rule 3 3

(ii) If the ball has been prevented from going over a boundary line by a non-player other than the referee, it shall be treated as having crossed the line and the referee

shall award a free as set out in Rule 2

### **RULE 3 - SCORES.**

- 3 1 A goal is scored when the ball is played over the goal line between the posts and under the crossbar by either team

Two points are scored when a free kick awarded for an aggressive foul is kicked directly from the ground over the crossbar and between the posts

One point is scored when the ball is played over the crossbar between the posts by either team

A goal is equivalent to three points

The team with the greater final total of points is the winner

#### **EXCEPTIONS**

A player on the team attacking a goal may not score

- (i) by carrying the ball over his opponents' goal-line, or
- (ii) a goal with his hand except as provided in Rule 1 2 EXCEPTION (ii)

- 3 2 When not in possession of the ball, a score may be made by striking the ball with the hand(s)

- 3 3 A score shall be allowed if, after consulting with the umpires, it is the opinion of the referee, the ball was prevented from crossing the goal-line by anyone other than a player or the referee

- 3 4 If a player plays the ball legally through his own scoring space in any manner, this shall count as a score

### **RULES OF FOUL PLAY**

#### **RULE 4 - TECHNICAL FOULS**

- 4 1 (a) To overcarry or overhold the ball
- (b) To play the ball up in the air with the hands and catch it again before it is toe-tapped, touches the ground or goal posts
- 4 2 To throw the ball
- 4 3 To lie on the ball or to lift the ball off the ground with the knees
- 4 4 To play the ball on the ground with the hand(s) except as provided in Rule 1 2

- 4 5 To bounce the ball more than once consecutively after catching it
- 4 6 To wrest the ball from an opponent who has caught the ball
- 4 7 (a) For a player on the team awarded a free kick to be less than 13m from the ball before it is kicked
- (b) For a player on the team awarded a penalty kick to be inside the 20m line or the arc before the ball is kicked
- 4 8 To carry the ball over opponents' goal-line
- PENALTY FOR ABOVE FOULS - Free kick from where the foul occurred except as provided under Rule 2.2.**
- 4 9 To be inside opponents' 20m line before a kick-out is taken after a wide
- PENALTY - Free kick from the defenders' 20m line opposite where the foul occurred.**
- 4 10 For an attacking player who is in possession of the ball to score a goal with his hands
- PENALTY - Free kick out from the penalty area**
- 4 11 When within own penalty area, to be less than 13m from the ball for opponents' free kick
- PENALTY - If the offender plays the ball, or if a score is not made, the free kick shall be retaken**
- 4 12 (a) For any player on the team defending a penalty kick, except the goalkeeper, to be inside the 20m line or the arc before the kick is taken
- (b) For the goalkeeper defending a penalty kick to move forward off his goal line before the kick is taken
- PENALTY - If a goal is not scored, the referee shall allow the penalty kick to be retaken.**
- 4 13 For an opposing player to be nearer than 13m to the ball before a free kick is taken
- PENALTY - Free kick 13m more advantageous than place of original kick, - up to opponents' 13m line.**
- 4 14 To delay an opponent taking a free kick by hitting or kicking the ball away, not releasing the ball to the opposition, or deliberately not moving away to allow a quick free to be taken
- 4 15 To interfere with a player taking a free kick by jumping up and down, waving hands or

any other physical or verbal interference considered by the referee to be aimed at distracting the player taking the kick

**EXCEPTION**

A player holding his hands upnght shall not constitute an interference

**PENALTY FOR THE ABOVE FOULS - Free kick 13m more advantageous than the place of original kick - up to opponents' 13m line.**

- 4 16 To play the ball again after taking any type of free kick before another player has touched it, unless the ball rebounds off the goal-posts or crossbar

**EXCEPTION.** After a kick out, any player is allowed to play the ball if it has stopped

- 4 17 (a) To advance the ball deliberately from the place at which a free kick is to be taken  
(b) To take the kick-out after a wide from outside the goalkeeper's area  
(c) To take the kick-out after a score from outside the 20m line  
(d) To be less than 13m from the ball for opponent's kick-out after a score

- 4 18 To waste time by delaying the taking of a free kick awarded to own team

**PENALTY FOR THE ABOVE FOULS -**

**(i) Cancel free kick.**

**(ii) Throw in the ball where the foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**

- 4 19 For the player taking the kick-out to take the ball in to his hand(s) before another player has played it

- 4 20 To be inside own 20m line when one's team is taking a kick-out except as provided in Rule 2 7

- 4 21 (a) For another player on the team taking the kick-out after a wide to play the ball before it has travelled 13m or has stopped  
(b) For a player on the team taking the kick-out after a score, other than the player taking the kick, to be less than 13m from the ball when it is kicked

- 4 22 To waste time by delaying own kick-out

**PENALTY FOR ABOVE FOULS -**

**(i) Cancel kick-out.**

**(ii) Throw in the ball on defenders' 20m line in front of scoring space.**

- 4 23 For opponents to foul simultaneously

**PENALTY - Throw in the ball where the foul(s) occurred except as provided under EXCEPTION (v) of Rule 2.2.**

4 24 (a) To go outside the boundary lines to gain an advantage except as provided in Rule 19

(b) To interfere with the goal-posts to distract opponents or to gain an advantage

**PENALTY FOR THE ABOVE FOULS -**

**Caution offender; order off for second cautionable foul**

4 25 When a team commits a technical foul, the referee may allow the play to continue if he considers it to be to the advantage of the opposing team. Once he allows play to continue, he may not subsequently award a free for that foul.

## **RULE 5 - AGGRESSIVE FOULS**

5 1 To strike an opponent with the head, hand, elbow, arm, foot, knee or leg, or to stamp on an opponent

5 2 To behave in any manner which is dangerous to an opponent

5 3 To strike, or attempt to strike any match official. To interfere with or to use abusive language or conduct to a match official

**PENALTY FOR THE ABOVE FOULS -**

**(i) Order offender off.**

**(ii) Free kick from where foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**

5 4 To commit any of the fouls listed in Rule 5 1, Rule 5 2 against a team-mate

**PENALTY -**

**(i) Order offender off.**

**(ii) Throw in the ball where the foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**

5 5 To commit any of the fouls listed in Rules 5 1 or Rule 5 2 on an opponent on the field prior to the start of the game or at half-time

**PENALTY -Offender shall be treated as ordered off and shall not participate (or further participate) in the game**

**NOTE -** Once the referee has received the list of players, or a substitution slip which



includes the offender's name, the player may not be substituted

- 5 6 (i) To pull down an opponent
- (ii) To trip an opponent with hand(s) or foot
- (iii) To jump at an opponent
- 5 7 (i) To block or attempt to block with the boot when an opponent is kicking the ball from the hand(s)
- (ii) To prevent or attempt to prevent an opponent from lifting or kicking the ball off the ground by striking him with the leg or boot
- 5 8 (i) To engage in any form of rough play
- (ii) To attempt to strike an opponent with the head, arm, elbow, hand or knee
- (iii) To threaten or to use abusive language or gestures to an opponent or team mate

**PENALTY FOR THE ABOVE FOULS -**

- (i) **Caution the offender; order off for second cautionable foul.**
- (ii) **Free kick from where the foul occurred except as provided under EXCEPTIONS of Rule 2.2 or**
- (iii) **Throw-up from where team mate was fouled**

- 5 9 To push, pull or grip hold of an opponent with the hand(s)
- 5 10 To use the fist while attempting to tackle an opponent
- 5 11 (a) To charge an opponent in the back or to the front or when he is bent down or on his knee(s) in the act of playing the ball, or trying to gain possession
- (b) To charge an opponent unless -
  - (i) he is in possession of the ball, or
  - (ii) both players are moving in the direction of the ball to play it
- (c) To charge an opponent for the purpose of giving an advantage to a team-mate, or to allow the ball to go out of play
- (d) To charge the goalkeeper in his own goalkeeper's area
- (e) For a player in possession of the ball to charge an opponent

**PENALTY FOR THE ABOVE FOULS -**

- (i) **Free kick from where foul occurred except as provided under EXCEPTIONS of Rule 2.2.**
- (ii) **Caution offender for committing a second such foul; order off for second**

**cautionable foul.**

- 5 12 For a player to retaliate between the award of a free kick to his team and the free kick being taken

**PENALTIES -**

(i) **Cancel free kick.**

(ii) **Throw in the ball where the original foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**

(iii) **Apply any other relevant penalty of Rule 5.**

- 5 13 For opponents to foul simultaneously

**PENALTY -**

(i) **Throw in the ball where the fouls occurred except as provided under EXCEPTION (v) of Rule 2.2.**

(ii) **Apply any other relevant penalty of Rule 5**

- 5 14 When an Aggressive Foul is drawn to the referee's attention by an umpire or linesman, the referee shall apply the appropriate penalty as per Rule 5 and shall restart play as per Rule 2

- 5 15 When a team commits an aggressive foul, the referee may allow play to continue if he considers it to be to the advantage of the offended team. Once the referee allows the play to continue, he may not subsequently award a free for that foul. He shall apply the relevant penalty

**RULE 6 - DISSENT.**

- 6 1 To challenge the authority of a match official

**PENALTY - Caution the offender; order off for second cautionable foul**

- 6 2 To argue with the referee about a decision to award a free kick to the opposing team

**PENALTY - The free kick already awarded shall be taken 13m more advantageous than the place of original free kick up to the opponents' 13m line**

- 6 3 (a) To refuse to leave the field of play when ordered off

(b) To rejoin the game after being ordered off

**PROCEDURE**

First give a three minute warning to the team captain, or the official in charge of the

team, or the player(s) involved, and then, if the player(s) refuse to comply, terminate the game

- 6 4 A team or player(s) leaving the field without the referee's permission or refusing to continue playing

PROCEDURE - as in Rule 6 3

Any player willing to continue shall give his name to the referee

## **ENDNOTE 6**

### **PROPOSED REVISION OF THE RULES OF PLAY FOR HURLING.**

#### **RULES OF FAIR PLAY**

##### **RULE 1 - THE PLAY**

- 1 1 The ball is in play once it has been pucked after the referee's signal to start or restart play, or when the referee throws the ball in, and it remains in play until
- (a) the referee signals a stop,
  - (b) the ball has passed completely over any boundary line or strikes any flag marking the boundary lines,
  - (c) the ball has been prevented from going over any boundary line or is touched in play by anyone other than a player
- 1 3 A player may run with the ball balanced on, or hopping on his hurley
- 1 4 A player may catch the ball, play it on his hurley, and play it from hurley to hand once A player who has not caught the ball may play it from the hurley to his hand twice
- 1 5 The ball may be played with the hand
- 1 6 The ball may not be touched on the ground with the hand(s) except when a player is knocked down or falls, and the ball in his hand touches the ground
- 1 7 The ball may be carried in the hand for a maximum of three consecutive steps or held in the hand for the time needed to take three steps
- 1 8 Player(s) may tackle an opponent for the ball
- 1 9 Provided that he has at least one foot on the ground, a player may make a side-to-side charge on an opponent
- (a) who is in possession of the ball, or
  - (b) when both players are moving in the direction of the ball to play it - provided the

opponent is not bent down or on his knee(s) in the act of playing the ball or trying to gain possession of it

- (d) When he is within his own goalkeeper's area, the goalkeeper may be tackled and his puck or pass may be blocked. Incidental contact with the goalkeeper while he is playing the ball is permitted.

**EXCEPTION** When he is within his own goalkeeper's area, the goalkeeper may not be charged

- 1 10 (i) For a run-up to a free puck, side-line puck, or puck-out, a player may go outside the boundary lines, but otherwise players shall remain within the field of play
- (ii) For a penalty puck, the ball must be struck from a point not less than 20m from the goal line
- 1 11 A player may hold up his hurley or hand(s) to intercept a free puck

## **RULE 2 - SET PLAY**

- 2 1 The game is started and re-started after half-time by pucking the ball out from the goalkeeper's area

When restarting play with a throw-in between two players, the referee will throw the ball up above reach height between them, and the hurley may not be used to play the ball until it has been caught or it falls on the ground

- 2 2 After a foul, play is restarted by a free puck or a throw-in where the foul(s) occurred

### **EXCEPTIONS**

- (i) In the case of fouls by players within their own penalty areas, the following shall apply

A penalty puck shall be awarded for an Aggressive Foul within the penalty area. The penalty puck shall be taken from the centre point of the 20m line. A free puck at the centre of the 20m line shall be awarded for a Technical Foul within the penalty area

- (ii) A free puck awarded for a foul by a player inside his own 20m line but outside the penalty area shall be taken from the 20m line opposite where the foul occurred
- (iii) When a player is fouled immediately after he plays the ball away, and a score results, it shall stand. Otherwise, the referee shall award a free-puck from where the foul occurred or, if more advantageous, from where the ball lands or crosses the

side-line With the option of a free being awarded from where the foul occurred being retained, the rule shall apply in the following circumstances

- (a) If the ball lands over the 20m line or the end-line a free shall be given on the 20m line opposite the place where the ball crossed the line
- (iv) Where otherwise specified in the penalties listed in Rule 4 s 10, 11, 12, 13, 14, 15, 22, 23, 24 and Rule 6 2
- (v) When play is re-started by throwing in the ball after a foul(s) between the end-line and the 20m line, the throw-in shall be given on the 20m line opposite where the foul(s) occurred

All players except the player taking the free puck or penalty puck shall be 20m from where the free puck is being taken All players except those two contesting the throw-in shall be 13m from where the throw-in is awarded

- 2 3 For a penalty puck, the ball shall be played from on or above the centre point of the 20m line and not more than three defending players may stand on the goal-line All other players, with the exception of the player taking the puck, shall be outside the 20m line, and shall not cross the 20m line or the arc until the ball has been played If a defending player(s) fouls before the ball is played and a goal does not result, the referee shall allow the penalty puck to be retaken If an attacking player fouls before the ball is played, or the ball is played from less than 20m from the goal line, the penalty puck shall be cancelled and play shall be restarted by throwing in the ball between a player from either side on the 20m line
- 2 4 When opposing players foul simultaneously, play is restarted by throwing in the ball between one player from each side
- 2 5 For all free pucks, including penalties, the ball must be struck with the hurley in either of two ways
  - (a) Lift the ball with the hurley at the first attempt and strike it with the hurley above the place at which the ball was placed
  - (b) Strike the ball on the groundIf a player taking a free puck or penalty fails to lift the ball at the first attempt, or fails to strike it away with the hurley, he must strike it on the ground without delay If he delays, players from either side may challenge for the ball

- 2 6 When the ball is played over the end-line by the team attacking that end or after a score, play is restarted by a puck-out off the ground from inside the penalty area
- The player taking the puck-out may strike the ball more than once before another player touches it
- All players shall be outside the 20m line and 20m from the ball until the ball has been struck except the goalkeeper and the player taking the puck-out - if other than the goalkeeper
- The ball shall not be played by another member of the team taking the puck-out until it has travelled 13m or has stopped
- 2 7 When the ball is played over the end-line and outside the goal-posts by the team defending that end, a free puck shall be awarded to the opposing team on the 65m line opposite where the ball crossed the end-line
- 2 8 When the team plays the ball over the side-line, a free puck from the ground shall be awarded to the opposing team at the place where the ball crossed the side-line. If opposing players play the ball simultaneously over the side-line, or if the officials are not sure which team played the ball last, the linesman shall throw in the ball between one player from each team as per Rule 2 1. A player on the team awarded a side-line puck shall place the ball on the side-line at the place indicated by the linesman. All players except the player taking the side-line puck, or the two players contesting the throw-in, shall be at least 13m from the ball until it is struck or thrown in
- If a player taking a side-line puck fails to strike the ball at the first attempt, he shall not delay in making a second attempt. If the player delays making his second attempt to strike the ball, a player from either side approach nearer than 13m
- 2 9 If the ball touches any non-player during play, play is restarted by throwing in the ball at the place concerned as per Rule 2 4, but if the ball touches any non-player from a free puck, the free shall be retaken

### **EXCEPTIONS**

- (i) As provided in Rule 3 3(a)
- (ii) If the ball has been prevented from going over a boundary line by a non-player other than the referee, it shall be treated as having crossed the line and the referee shall make the appropriate award

### **RULE 3 - SCORES.**

- 3 1 A goal is scored when the ball is played over the goal line between the posts and under the crossbar by either team

Two points are scored when a free puck awarded for an aggressive foul is played directly over the crossbar and between the posts

A point is scored when the ball is played over the crossbar between the posts by either team

A goal is equivalent to three points

The team with the greater final total of points is the winner

#### **EXCEPTIONS**

A player on the team attacking a goal may not score

- (i) by carrying the ball over his opponents' goal-line, or
- (ii) with his hand(s), or
- (iii) by deliberately kicking the ball

- 3 2 A score shall be allowed if, in the opinion of the referee after consulting with the umpires, the ball was prevented from crossing the goal-line by anyone other than a player or the referee

- 3 3 If a defending player plays the ball legally through his own scoring space, this shall count as a score

### **RULES OF FOUL PLAY**

#### **RULE 4 - TECHNICAL FOULS**

- 4 1 To overcarry or overhold the ball

- 4 2 (a) To throw the ball

- (b) To play the ball up in the air with the hand and catch it again before it is played on the hurley, touches the ground, another player or the goal-posts

- 4 3 To lie on the ball or to lift the ball off the ground with the knees

- 4 4 To play the ball on the ground with the hands except when a player falls or is knocked down and the ball in his hand touches the ground

- 4 5 To catch the ball more than twice before playing it away

- 4 6 To drop the hurley intentionally

- 4 7 To touch an opponent's hurley in a way which causes him to miss the ball
- 4 8 (a) For a player on the team awarded a free puck to stand or move nearer than 20m to the ball before it is struck
- (b) For a player on the team awarded a side-line puck to stand or move nearer than 13m to the ball before it is struck
- (c) For a player on the team awarded a penalty puck to be inside the 20 line or the arc before the ball is struck

- 4 9 For a player attacking a goal to score with his hand(s), or to carry the ball over the opponents' goal-line

**PENALTY FOR ABOVE FOULS - Free puck from where the foul occurred except as provided under EXCEPTIONS of Rule 2.2.**

- 4 10 To be inside opponents' 20m line before a puck-out is taken

**PENALTY - Free puck from the defenders' 20m line opposite where the foul occurred.**

- 4 11 (a) To take the puck-out from outside the goalkeeper's area
- (b) To strike the ball from less than 20m when taking a penalty puck

**PENALTY - Throw in the ball on the 20m line opposite the scoring space.**

- 4 12 (a) For a player on the team defending a penalty puck, with the exception of three defending players on the goal-line, to be inside the 20m line or the semi-circle before the puck is taken
- (b) For any of the three players defending a penalty on the goal line to move nearer than 20m to the ball before the penalty puck is taken

**PENALTY - If a goal is not scored, the referee shall allow the penalty puck to be retaken.**

- 4 13 For an opponent to be less than 13m from the ball before a side-line puck is played, or to be less than 20m from the ball before a free puck is played

**PENALTY FOR THE ABOVE FOULS -**

**Free puck 13m more advantageous than the place of the original puck but not nearer goal than opponents' 20m line.**

- 4 14 To delay an opponent taking any free puck by playing the ball away, not releasing the ball to the opposition, or by deliberately not moving back to allow the puck to be taken



- 4 15 To interfere with a player taking any free puck by jumping up and down, waving hands or hurley or any other physical or verbal interference considered by the referee to be aimed at distracting the player taking the puck

**EXCEPTION**

A player holding his hands or hurley upright shall not constitute interference

**PENALTY FOR THE ABOVE FOULS - Free puck 13m more advantageous than the place of original puck - up to opponents' 20m line.**

- 4 16 To reset the ball for any free puck without the referee's permission after the whistle has been blown for the free to be taken
- 4 17 To play the ball again after taking a free puck before another player has played it, unless the ball rebounds off goal-post(s) or crossbar, or has stopped
- 4 18 (a) To foul a free puck by making a second attempt to lift the ball, to hop the ball on the hurley, or to take the ball in the hand
- (b) To attempt to lift the ball with the hurley before striking it when taking a side line puck
- 4 19 To advance the ball deliberately from the place at which any free puck is to be taken
- 4 20 To waste time by delaying any free puck awarded to own team

**PENALTY FOR THE ABOVE FOULS -**

(i) **Cancel free puck or side-line puck.**

(ii) **Throw in the ball where the foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**

- 4 21 For the player taking the puck-out and, having missed a stroke, to take the ball into his hand
- 4 22 To be inside own 20m line when own team is taking a puck-out except as provided in Rule 2 6
- 4 23 For another player on the team taking the puck-out to play the ball before it has travelled 13m or has stopped
- 4 24 For a player(s) from each team to foul simultaneously

**PENALTY - Throw in the ball where the foul(s) occurred except as provided under EXCEPTION (v) of Rule 2.2.**

- 4 25 (a) To go outside the boundary lines to gain an advantage except as permitted by

Rule 1 10

(b) To interfere with the goal-posts to distract opponents or to gain an advantage

**PENALTY FOR THE ABOVE FOULS - Caution offender for second such offence, and order off for subsequent cautionable offence.**

- 4 26 When a team commits a technical foul, the referee may allow play to continue if he considers it to be to the advantage of the opposing team. Once he allows play to continue, he may not subsequently award a free for that foul

**RULE 5 - AGGRESSIVE FOULS**

- 5 1 To strike an opponent with a hurley, head, arm, elbow, hand, knee or foot or to stamp on an opponent

- 5 2 To behave in any manner which is dangerous to an opponent

- 5 3 To strike, attempt to strike, to interfere with, to threaten, or to use abusive language or conduct to a match official

**PENALTY FOR THE ABOVE FOULS -**

(i) Order offender off.

(ii) Free puck from where foul occurred except as provided under EXCEPTION of Rule 2.2.

- 5 4 To commit any of the fouls listed in Rule 5 1 or Rule 5 2 against a team-mate

**PENALTY -**

(i) Order offender off.

(ii) Throw in the ball where the foul occurred except as provided under EXCEPTION (v) of Rule 2.2.

- 5 5 To commit any of the fouls listed in Rules 5.1 or Rule 5 2 on an opponent on the field prior to the start of the game or at half-time

**PENALTY - Offender shall be treated as ordered off and shall not participate (or further participate) in the game.**

NOTE Once the referee has received the list of players, or a substitution slip which includes the offender's name, the player may not be substituted

- 5 6 (i) To pull down an opponent

(ii) To trip an opponent by hand(s), foot, or hurley

- (iii) To jump at an opponent
- 5 7 To threaten or to use abusive or provocative language or gestures to an opponent
- 5 8 To engage in any form of rough play
- 5 9 (a) To make a 'pull' with the hurley from behind and around the body of an opponent in an attempt to tackle
- (b) To use the hurley in a careless manner
- (c) To throw a hurley in a manner which is dangerous to another player(s)
- (d) To 'pull' with the hurley before the ball arrives

**PENALTY FOR ABOVE FOULS -**

- (i) **Caution offender; order off for second cautionable foul.**
  - (ii) **Free puck from where the foul occurred except as provided under EXCEPTIONS of Rule 2.2.**
  - 5 10 To threaten or to use abusive or provocative language or gestures to a team-mate
- PENALTY FOR ABOVE FOULS -**

- (i) **Caution offender; order off for second cautionable foul.**
- (ii) **Throw in the ball where the foul occurred except as provided under EXCEPTION (v) of Rule 2.2.**
- 5 11 (a) To push or grip hold of an opponent with the hand(s) or hurley
- (b) To hold opponent's hurley or pull it from his hand(s)
- 5 12 (a) To charge an opponent in the back or to the front or when he is bent down or on his knee(s) in the act of playing the ball or trying to gain possession
- (b) To charge an opponent unless -
  - (i) he is in possession of the ball, or
  - (ii) he is playing the ball, or
  - (iii) both players are moving in the direction of the ball to play it
- (c) To charge an opponent for the purpose of giving an advantage to a team-mate, or to allow the ball to go out of play
- (d) To charge the goalkeeper in his own goalkeeper's area
- (e) For a player in possession of the ball to charge an opponent
- 5 13 (a) To use the hurley to obstruct an opponent
- (b) To strike an opponent's hurley unless both players are in the act of striking the

ball

- (c) To play or attempt to play the ball with the hurley before catching it or before it touches the ground after the referee has thrown the ball up between two players

**PENALTY FOR THE ABOVE FOULS -**

- (i) Free puck from where foul occurred except as provided under EXCEPTIONS of Rule 2.2.
- (ii) Caution offender for persistently committing such fouls; order off for second cautionable foul

- 5 14 For a player to retaliate between the award of a free to his team and the free puck being taken

**PENALTY -**

- (i) Cancel free puck.
- (ii) Throw in the ball where the original foul occurred except as provided under EXCEPTION (v) of Rule 2.2.
- (iii) Apply any other relevant penalty of Rule 5.

- 5 15 For a player(s) from each team to foul simultaneously

**PENALTY -**

- (i) Throw in the ball where the fouls occurred except as provided under EXCEPTION (v) of Rule 2.2.
- (ii) Apply any other relevant penalty of Rule 5

- 5 16 When an Aggressive Foul is drawn to the referee's attention by an umpire or linesman, the referee may apply the appropriate penalty per Rule 5 and shall restart play as per Rule 2

- 5 17 When a team commits an Aggressive Foul, the referee may allow play to continue if he considers it to be to the advantage of the offended team. Once the referee allows the play to continue, he may not subsequently award a free for that foul. He shall apply any relevant penalty

**RULE 6 - DISSENT.**

- 6 1 To challenge the authority of a match official

**PENALTY - Caution the offender; order off for second cautionable foul.**

6 2 To argue with the referee about a decision to award a free puck to the opposing team  
**PENALTY - The free puck already awarded shall be taken 13m more advantageous than the place of original free puck but not nearer than 20m from the opponents' goal line.**

- 6 3 (a) To refuse to leave the field of play when ordered off  
(b) To rejoin the game after being ordered off

**PROCEDURE**

First give a three minute warning to the team captain or the official in charge of the team, or the player(s) involved, and then, if the player(s) refuse(s) to comply, terminate the game

6 4 A team or player(s) leaving the field without the referee's permission or refusing to continue playing

**PROCEDURE - as in Rule 6 3**

Any player willing to continue shall give his name to the referee

**ENDNOTE 7**

**PROPOSED REVISION OF DEFINITIONS OF KEY TERMS**

**Important Terms and Definitions - FOOTBALL AND HURLING.**

**The following list of Definitions of Terms used in the Playing Rules forms an integral part of these rules.**

- |                        |  |
|------------------------|--|
| 1 <b>BOUNCE</b>        | For a player to play the ball against the ground with his hand(s) and back to his hand(s) again  |
| 2 <b>CATCH</b>         | To gain control of the ball with the hand(s) in a way which prevents it falling to the ground  |
| 3 <b>CAUTION</b>       | To take a player's name  |
| 4 <b>CHARGE (Fair)</b> | Provided he has at least one foot on the ground, a player may make a side-to-side charge on an opponent -<br>(a) who is in possession of the ball, or<br>(b) who is playing the ball, or |

- (c) both players are moving in the direction of the ball to play it
- A Fair Charge may **not** be made on a player who is bent down, or on his knee(s) in the act of playing the ball or trying to gain possession
- 5 DELAY** Deliberately taking too much time to retrieve the ball, or to restart play, or any other action which unduly delays the restart of play
- 6 HANDPASS** When in possession, the ball may be struck with the hand
- In a **two-handed pass**, the ball may be struck off a holding hand by the other hand, or tossed and struck In **a one-handed pass**, the ball shall be tossed from the hand before being struck by the same hand This toss of the ball, when used, shall be considered an integral part of the handpass
- 7 FOUL**
- **Aggressive** To physically or verbally abuse any player or official
  - **Dissent** To disagree openly with any official about any decision
  - **Technical** To 'foul' the ball, or any other foul that is **not** aggressive or dissenting
- 8 IN POSSESSION OF THE BALL:-**
- To have control of the ball in the hands, on the hurley or on the ground, or to be that close to the ball when it is in play that an opponent is unlikely to play the ball first
- 9 LIFT** To use the hurley, foot or feet, hand or hands (where permitted) to raise the ball from the ground
- 10. OVERCARRY** To take more than four steps while holding the ball in the hand(s) in football or more than three steps while holding the ball in the hand in hurling
- 11 OVERHOLD** To hold the ball in the hand(s) longer than is required to take four steps (football) or three steps (hurling)
- 12 PLAY THE BALL** To touch the ball The last player to touch the ball before it crosses a boundary line shall be considered the last person playing it
- 13 'PULL' (FAIR)** To swing the hurley to play or attempt to play the ball
- 14 SOLO-RUN** Any allowable combination of bounces and toe-taps, or carrying the ball on the hurley, or playing the ball along the ground

- 15 **TACKLE** Any attempt to dispossess or reduce the advantage of opponent within the Rules of Fair Play With the exception of the charge (fair), **the tackle is aimed at the ball not the player**
- 16 **THROW** When the ball held in the hand(s) is played away without a definite striking action
- 17 **THROW-IN** To throw the ball up over the heads of one player from each team In football, the game is started and restarted after half-time with a throw-in between two players from each team
- 18 **TOE-TAP** To release the ball from the hand(s) to the foot and kick it back into the hand(s)
- 19 **TOSS** **(Football)** To release the ball from the hand(s) to kick it, toe-tap it, or play it with the hand(s)  
**(Hurling)** To release the ball from the hand to play it with the hurley or hand
- 20 **WREST** To attempt to dispossess an opponent who already has a (firm) hold on the ball by grabbing the ball to take it from him

## CHAPTER 8 CONCLUSIONS.

This research sought to confirm the existence of a philosophy which can assist those in the Gaelic Athletic Association who determine the formulation of the Playing Rules for football and hurling at congresses convened for that purpose.

Although a philosophy of sport has been developed during the second half of the twentieth century, it appears that the significant niche occupied in sport by invasive body-contact games and their playing rules, has not yet attracted the philosophers to write about the nature and essence of these playing rules. It is true that some philosophers of sport have touched on some aspects of this legislation. However, this research appears to be the first in-depth examination of how the collective wisdom contained in the areas of knowledge relating to playing rules can be assembled to form a practical philosophy which can assist legislators (of playing rules) to formulate the rules of their games in a way which meets the objective criteria of being easy to read, remember and apply.

In the absence of other similar philosophical investigations, it was considered that a suitable starting point was to collect all known sets of the playing rules of football and hurling, and then analyse them to ascertain what, if any, philosophical underpinning was discernible in the playing rules of the games of football and hurling.

Although some important threads of philosophical thought were identified, a coherent philosophy was not evident. There were insufficient threads to weave a garment.

The nature of games was considered, and various views of games were discussed. It was decided that a starting point in establishing the nature of these Irish games was to examine the formal 'rebirth' of these game by the founding fathers of the GAA.

While the early sets of rules did not say much about how players performed the skills, from the very beginning, these rules set out important parameters of conduct for players. They also specified in some detail safety precautions to be taken by players and officials with respect to dangerous footwear for example.

The need to expand the legislation is reflected in the increase in the number of playing rules which gradually fleshed out the skeletons of the first sets of rules. In doing so, this illustrated the nature of the games which the GAA designed and adopted.

Three types of rules soon became evident.

Those which specified the game, those which described how it should be controlled by match officials, and those which determined how the games were to be played and decided. These latter included forms of behaviour by players which were not to be



tolerated

An examination of the question of how rules could be formulated better led to the conclusion that two basic approaches to rule formulation are productive

A directive-punitive approach was considered to be best suited for formulating those rules which deal with foul play

A developmental-punitive approach was considered to be best suited for formulating the rules of fair play

The definitions of important terms were regarded as essential, and as integral to the rules because they ended differences of opinion about the exact meaning of these terms

It was concluded that the games are defined by their rules, and that the games are, in fact, the sum of their rules

The principles of play were listed and discussed to indicate their relevance to two central issues of the nature of playing rules

The first of these core issues examined was the functions of the playing rules. It was argued that unless it is known with some precision what these rules are for, the formulation of good rules was fortuitous rather than planned

Eight functions were identified, described and evaluated. Two primary functions of the playing rules were identified as providing for meaningful competition, and preserving the games as cultural icons. From an examination of all the functions, it was concluded that, in the past and particularly the recent past, rules were made which did not have a legitimate function

The second core issue examined was the characteristics of playing rules

It was argued that rule makers should be able to identify good rules and distinguish them from bad rules

Nine characteristics of good rules were identified, discussed and assessed. In doing this, it was noted that these characteristics have much in common with Lon Fuller's "principles of legality". The similarity was such that some of these characteristics were interchangeable with Fullers principles

From this section of the research, it was concluded that those who make the playing rules should have a good working knowledge of the principles of play, and a detailed knowledge of how functions and characteristics should be reflected in the playing rules

Since the format of presentation of facts is critical to the uptake of the information contained in them, it was decided that a detailed examination of the format of presentation

was necessary. This showed that a simple yet comprehensive format of presentation can assist transparency. By presenting the rules on a simple diagram, this simple format makes the rules user-friendly, and is applicable to all such invasive body-contact games. It was concluded that that format of presentation can be critical to the uptake of the rules, the application of the rules and obedience to the rules. The format is important to the game.

The interaction between the law and games, and the necessity to ensure that the playing rules reflect the law was discussed. From this it emerged that the duty of care when considered in conjunction with the playing rules of invasive body-contact games is an inter-related network. In this, the Association, match officials, team officials, players and spectators are in such close proximity that they have a common law duty of care not to injure one another.

Since our games enjoy significant derogations from the law, it is essential that those who formulate the playing rules should ensure that the duty of care is fully reflected in the rules, and that even where physical contact is permitted, excessive force is prohibited.

It was concluded that these rules must take account of the law and, moreover, that the rules of foul play should be regarded as laws which protect the common good.

It was then argued that the process by which playing rules are made, amended and rescinded is critical to the games.

The traditional and new processes of legislation were examined and compared in some detail. It was concluded that this process should be democratic and stable. Its *raison d'être* should lead to the enhancement of the rules.

It was concluded that that the process of legislation should have a clearly identifiable philosophical basis. It should not be driven by policy issues. Regular annual changes to the rules was identified as a destabilising influence on the games. It was argued that the games need stability in the rules. In the absence of this, rule changes can be processed which affect the very nature and essence of the game.

It was concluded that if major structural rules of a game are changed in any significant way, the game itself is changed significantly.

Drawing upon all the considerations reached in the preceding chapters, it was argued that if a philosophy of legislation has a significant contribution to offer our games by way of enhanced legislation, this must be evident in a revision of the playing rules which takes all these considerations into account.

After illustrating how samples of the rules could be upgraded by applying these arguments and conclusions to a reformulation of them, the entire current sets of playing rules for football and hurling were thus analysed and reformulated. This showed that the existing sets of playing rules can be improved when underpinned by this philosophy of legislation.

**END OF RESEARCH REPORT.**