

The John Hume Lecture

Making Our Parliament Work Now

In his address, Michael McDowell sets out the simple practical steps we must take now before the next election to ensure that the newly elected parliament will function as the instrument of democratic accountability holding the next Government to account in the way that the Constitution envisages

Patrick MacGill Summer School

Glenties

Co Donegal

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John Hume

It is truly an honour that I did not expect - and an occasion of real gratitude on my part - to have been asked to deliver this lecture on this occasion in honour of John Hume, a great Irishman, a true statesman and a towering constitutionalist.

John Hume has always been both visionary and realist in equal measure - and in great abundance.

Ultimately those twin attributes impelled him to make a personal sacrifice which few would be willing to make and which many, including myself, believe he should never have been asked to make – not merely to put the interest of his country on the one hand before his personal and party interest on the other hand, but to save the former at great cost to the latter.

In the words of Sir Christopher Wren's epitaph etched on the wall of St Paul's Cathedral – *"Si monumentum requiris, circumspice"*.

If you would search for John Hume's monument, just look around you at this transformed island.

We now have, on this island, the end of communal violence within our grasp. We now have at least the building blocks of reconciliation at our feet. Whatever the difficulties, imperfections and set-backs, we have begun at last to act on John Hume's greatest belief – namely, that we in Ireland have more in common than divides us.

I have spoken here previously on the great republican vocation – the challenge of our Tricolour - the call that beckons every Irish woman and man – the task of reconciliation of Orange and Green.

In identifying, defining and articulating that task of reconciliation - and in giving literally everything to its accomplishment – John Hume, perhaps in unusual terms, can be described not just as a great Irishman, statesman and constitutionalist, but as a true republican.

Permit me then to draw in this address on those attributes of John Hume which we most admire – his constitutionalism, his vision and, above all, his realism.

Tackling Our Dysfunctional Democracy Now

And with John Hume’s “realism” especially in mind, let me deal with a very “real” issue that literally demands the *immediate* attention of the Irish people and their elected leaders – the dysfunction that has characterised, impaired and crippled our democratic, representative institutions.

We know for a certainty that we are facing a General Election to take place before we all meet again in Glenties next year. There is only uncertainty as to its exact timing.

I want to put before you this evening a few plain, simple, practical home truths and a few simple practical steps to address the issue.

If some of these issues of institutional dysfunction are not addressed in the next 180 days, they will not be addressed *at all*.

It will be too late if we postpone action until **after** the forthcoming election. The cynical, dysfunctional, partisan politics we have come to disdain will continue unabated unless we act now. There will be no “New Politics”

If the next Dail starts out on its term on the basis of its existing Standing Orders (which it is set fair to do), there will be no change in its culture or effectiveness.

It is truly a case of “*now or never*”.

The Dysfunctional Relationship Between The Executive And Parliament

It has become almost universally accepted that the Irish political system suffers gravely from a culture and an ingrained practice which allows the Executive to completely dominate and subjugate the Parliament.

Equally, there is a consensus that someone, sometime should do something to redress the imbalance and to restore the standing of parliament and parliamentarians in our democracy. But what?

Crucially, we very badly need the Executive to become really and substantially answerable to the Dail and its committees, and we need parliamentarians in both Houses of the Oireachtas who see themselves as something more than pawns manipulated by the Government of the day.

We need Ministers to face real, searching parliamentary scrutiny by bi-partisan committees.

Tinkering around with populist gimmicks such as reducing the number of TDs or reducing their pay not merely achieves nothing – it is utterly counterproductive to the achievement of parliamentary accountability.

We need real reform now.

The Next Ceann Comhairle

I begin with the position of the Ceann Comhairle – a constitutional office of vital importance. That position should not be left to be dealt with in the aftermath of an election on the same basis that it has been treated up to now.

The very first item on the agenda of the next Dail will be the selection of the Ceann Comhairle.

If Standing Orders relating to the election of Ceann Comhairle are not changed **now before the election**, the next Ceann Comhairle will inevitably be elected on the say-so of the next incoming Government and, as at present, on the basis of a whipped party vote.

That office cannot continue to be a consolation prize for a disappointed would-be minister. It cannot remain in the gift of the incoming Government - to be bartered away as part of the spoils of electoral victory between those who share ministerial power.

Dail Eireann, as our “House of Representatives”, badly needs an elected Speaker who is in reality, and is seen to be, wholly and unambiguously mandated and empowered to act as the pro-active champion of each and every single one of those elected TDs in vindicating their twin

constitutional functions, firstly, of holding the executive power to democratic accountability and, secondly, as legislators.

The next Ceann Comhairle, I propose, must be chosen in a process that unambiguously guarantees that the appointee will be seen as and will be the embodiment and public face of the protection of members' individual and collective rights. That is an essential part of "New Politics".

How can this be done?

The first requirement is that the Standing Orders of Dail Eireann be amended *now* (i.e. within the next 180 days) to provide that any candidate for appointment as Ceann Comhairle must in future:

- (1) Have been initially proposed for nomination by any eight TDs on a cross-party basis (i.e. have been proposed and seconded by two TDs and have the written assent of six other TDs, four of whom are not in the same party or group as the proposer and seconder), and**
- (2) Be nominated for appointment on foot of a free and secret ballot by single transferable vote of all the incoming members of the next Dail.**

The position of Leas Ceann Comhairle should be filled by a similar process

The second requirement is that the next Ceann Comhairle must make a new Declaration of Office in terms *far more explicit* than at present -

committing him or her to securing the real and effective accountability of the Executive power – Government and agencies – to Dail Eireann as is required by Article 28.4 of the Constitution.

The next Ceann Comhairle should also have explicit power, under amended Standing Orders, to protect the Dail from excessive use of the guillotine and to ensure adequate debate save in wholly exceptional circumstances.

The next Ceann Comhairle, under amended Standing Orders, should also have an over-riding discretion to ensure that individual deputies with a demonstrated desire to make specific points in debate are not unfairly excluded from doing so by group or party arrangements of speaking time in debates.

And in order to foster genuine debate in the Dail rather than a succession of pre-arranged speeches to an empty chamber, the Chair should also be empowered to give a reasonable discretionary preference to those TDs offering who have attended the debate and participated by their presence.

If this is done the Ceann Comhairle's position will never again be seen as a consolation prize for a disappointed TD or a means to secure an extra seat for the Government parties in the next election.

It will become a major office of state, reflecting the constitutional tripartite separation of powers.

Other Parliamentary Office-Holders

A similar cross-party nomination process by secret ballot for the selection of chairs and vice-chairs of committees should be provided for in amended Standing Orders.

Likewise, such office holders should be required to make a declaration of impartiality, independence and commitment to Executive accountability analogous to the amended declaration of the Ceann Comhairle.

Most importantly, Standing Orders should provide that chairs, vice-chairs and ordinary members of committees, once elected, should have security of tenure and be removable only by formal resolution of the Dail requiring just cause to be shown for their removal.

We badly need committees that will hold Ministers to continual and effective scrutiny, and which are elected and composed and conducted in a manner that encourages bi-partisanship and solidarity among their members.

I envisage, by such means, that the standing and independence and effectiveness of all TDs who are **not** ministers can be greatly enhanced by giving them the unambiguous right to carry out their constitutional roles in a manner which takes them out of the dark shadow of Executive patronage and excessive control of the party whip, and places them unambiguously in the political sunlight as champions of Executive accountability.

Likewise, I believe that the role and status of independent TD members would be protected and fairly enhanced if Standing Orders were amended in this way. Why should none of them chair or participate in

committees except as a matter of grace and favour during the pleasure of the Government which in theory owe accountability to such committees?

Practicality

Are these proposals practicable? The answer is Yes.

None of these proposals would cost a single cent. None of these proposals requires any Bill for a new law or any amendment to the Constitution.

All that these changes simply require is a set of amendments to the Standing Orders of the Dail which can be adopted at any time.

If there is a will for these reforms among TDs and parties, the drafting of the amendments could be started this month by a small group and implemented in October – well in advance of the forthcoming election.

I am not aware that any party has opposed or would oppose such changes. On the contrary, a number of these proposals have received expressions of support in principle from a wide variety of elected politicians and commentators, including the Constitutional Convention (a body which deserves at least **some** recognition for some of its efforts).

The precedent of electing a powerful speaker on the basis of a cross-party proposal and a secret ballot already exists in Westminster.

These proposals are not populist gimmickry. Unlike other past “reform” proposals, these proposals have the undeniable potential to transform the culture and effectiveness of our democratic institutions.

Being practical, we are not going to change the method of election or the number of TDs in the next Dail by law or by constitutional amendment in the next six months; but we can in next few months definitely ensure that the relationship between the Executive power and Parliament will change from the first day the new Dail meets.

Are these proposals naïve?

I speak not from self-interest but from the perspective, and with the varied experiences, of a former opposition TD, a former Attorney General, and a former Minister and Tanaiste.

When I was **not** an office holder, the culture and procedures of the Dail prevented me and my colleagues from holding the Executive to adequate account; when I **was** an office holder, the same culture and procedures prevented me and my colleagues from being held to adequate account.

In both circumstances, the result was seriously wrong and damaging.

While some politicians may cynically calculate that they will over time play in both directions on a very un-level playing field, and somehow hope to “win” more than they “lose”, the fact remains that the great, decent majority of politicians know that it is **always** the electorate who “lose” from the present seriously dysfunctional imbalance in the

relationship between the Executive the Parliament to which it ought to be, but is not, accountable.

Would Ireland be more difficult to govern under these changed conditions?

My answer is that Ireland would be more difficult to *govern badly* under these proposals; it would be easier to govern Ireland better if our TDs were empowered to effectively hold our government to account.

The Whip

Much has been written and said about the influence of the Whip on Irish politics. The Whip is over-used and abused.

Because, in Ireland unlike the US and some other countries, the Government depends literally for its day survival on retaining the support of a majority in the Dail and is constitutionally obliged to resign if it loses the support of a majority, there must be some form of parliamentary discipline and cohesion on the part of those who support the Government. We are always going to have some system of Whips - at least in the Dail.

That does not mean that the Government must win every vote on every issue and that any defeat of the Government means that there should be an election. Nor does it mean that TDs should be expelled for each and every vote against the party position.

I believe that the Whip system in its peculiarly severe Irish form probably stems in part from the Civil War culture and polarisation of Irish politics. If the other changes that I am proposing are made, I

believe that TDs and their parties will, in a very different atmosphere, move gradually towards a healthier, more relaxed and less whipped regime where the Government itself will be more relaxed about losing the odd argument or vote, and in bowing to a cross-party consensus on occasion.

The Seanad

It would be odd if I did not briefly mention my old friend, the Seanad, in this context in this place.

I want to sincerely thank the MacGill Summer School for being an important, indeed, a vital forum in the campaign to save and above all to reform the Seanad so as to improve the quality of our parliament and reform how that parliament works in future.

Not only did we save the Constitution from the wrecking ball; the present Government has finally accepted the principle of a Seanad to be elected as to its majority by the people. That acceptance is very belated but, I suppose, “better late than never”.

Even if the next Seanad will be composed on the same legal basis as this one, it will, I hope, be the last to be elected on such a narrow franchise.

Already the idea that the Government need not have a whipped majority in the Seanad has come to pass; **the sky has not fallen in.**

All of what I propose for the election of the Ceann Comhairle and for Dail committees can and should be applied *mutatis mutandis* to the election of the next Seanad’s Cathaoirleach and Leas- Cathaoirleach, to its committees and, indeed, to Joint Committees of both Houses.

What Now?

I take this opportunity to make an appeal not only to this distinguished audience, but through you and the media, to all those who now hold elective office, most of whom aspire to do so again in the near future.

My appeal to you, as democrats and republicans, is to avail of the fast-closing window of opportunity to take these practical steps towards a transformation of our political culture and of the way in which our democratic institutions function.

The proposals I am putting before you are not some dangerous steps into the unknown; they are, on the contrary, relatively obvious and uncontroversial steps to bring us from the dysfunctional to the functional.

If implemented they will bring a wind of change; but it will be change for the better.

It seems to me that these proposals are what the much promised but un-delivered “New Politics” need by way of a very, very minimum.

These are in themselves modest proposals which, to use John Hume’s great phrase, “threaten nobody”.

My three closing questions are:

If not these steps, what steps?

If not now, when?

If nobody is opposed, why not now?

Ends