



Ollscoil na hÉireann
National University of Ireland



NUI Galway
OÉ Gaillimh

Dr Garret FitzGerald Memorial Lecture 2013/14

European Integration and the Taming of Nationalism

Dr Peter Sutherland

The Aula Maxima, Quadrangle Building,
National University of Ireland, Galway

31 January, 2014

ISBN: 9780901510662

ISSN: 2009-4647

© Dr Peter Sutherland

CONTENTS

Opening Remarks, Dr Maurice Manning, Chancellor, NUI	3
European Integration and the Taming of Nationalism, Dr Peter Sutherland	6
Response, Professor Gerard Quinn	26
Garret FitzGerald – A Brief Biography	40
Garret on National Interests and Europe	42
Biographies	47

OPENING REMARKS

Dr Maurice Manning, Chancellor, NUI



Nothing delighted Dr Garret FitzGerald more than public discourse and the articulation and defence of ideas. In seeking to honour him, the Senate of the National University of Ireland thought it appropriate to initiate an annual series of lectures in his memory on topics of national or international importance.

The inaugural lecture was given in 2011 by Professor Ronan Fanning on the theme *Garret FitzGerald and the Quest for a New Ireland*. That lecture was intended as a first assessment of Garret's legacy. Ronan Fanning's conclusion: 'That he left Ireland a better place than he found it, is a verdict for which I am confident I can command your assent'.

The second lecture *Garret FitzGerald and Irish Foreign Policy* was given by Seán Donlon. Referring to Garret and Europe, he said that 'particularly in the 70s, he succeeded in putting a unique and very Irish, indeed a very Garret stamp on our participation in Europe' and went on to comment, with particular reference to Ireland's 1975 EC Presidency, that 'that Presidency, led by Garret's infectious enthusiasm, created valuable political capital which could subsequently be deployed in pursuit of Irish interests across a wide range of portfolios. There is no doubt that Garret's thinking dominated our approach and policy towards Europe right through the 70s and 80s. It created a very solid base for our membership'.

As an Irishman first and foremost and as a committed European, Garret would have had great interest in Peter Sutherland's topic this evening 'European Integration and the

Taming of Nationalism'. There will be a response from Professor Gerard Quinn. Both speakers are well placed to speak authoritatively on the interface between nationalism and Europe and we can expect rich insights this evening on this complex subject.

The constituent universities of the National University of Ireland are spread across Ireland. The inauguration of the lecture series was accompanied by a commitment that the lectures would be given on the various campuses. I am particularly pleased that this third lecture is being held in NUI Galway and grateful to Dr Jim Browne, President of NUI Galway for making the wonderful historic venue of the Aula Maxima available as our venue.

A handwritten signature in black ink, appearing to read 'Maurice Manning', written in a cursive style.

Dr Maurice Manning
Chancellor

Dr Garret FitzGerald pictured with François-Xavier Ortoli, President of the European Commission on the way back from Brussels 1975.

(With kind permission from Gill and MacMillan)



As Minister for Foreign Affairs, Dr Garret FitzGerald signing the Lomé Agreement in 1975.

(With kind permission from Gill and MacMillan)



European Foreign Ministers Meet in Dublin in St Patrick's Hall, Dublin Castle on the 13th February 1975.

Credit www.irishphotoarchive.ie, Lensmen Photographic Agency



EUROPEAN INTEGRATION AND THE TAMING OF NATIONALISM

Dr Peter D Sutherland SC



Garret FitzGerald's defining characteristic was his humanity. This was demonstrated by his great kindness to all. This innate quality that he had in such abundance helped to shape his contribution to policies on a wide range of issues.

Intellectually his interests and influences were famously diverse. Although not generally known these included an interest in science but also, particularly, in philosophy and theology.

A friend, who accompanied Garret for many years on his intellectual journey, described Garret to me as a "universalist". This description has a particular resonance for this evening's lecture. The religious terms that particularly inspired this moral universalism are based on the acceptance of universal values and ethics. I believe that he had in mind the fact that Garret did not believe in distinction based on race or national identity.

The Catholic philosopher, Jacques Maritain, whom he met in his childhood, was sometimes mentioned to me by Garret in this context. A Thomist, Maritain had been a friend of Garret's father as a result of their joint connection to Notre Dame University in the 1930s. Maritain was to be extremely influential in the post-World War II period particularly in framing the Universal Declaration of Human Rights of the United Nations (surely the apogee of universalism). So underpinning moral universalism is the concept of the natural law that interested Garret throughout his life. He always seemed justifiably wary of nationalism and sought to channel it into a path that, rather than being divisive, had integration as its aim.

So in many ways he measured his political philosophy against moral principles that he believed to be universal. The practical conclusions that he drew were ones from which he never deviated. These were expressed in the autumn 1964 edition of the Jesuit journal, *Studies*, where he wrote “we have to look to more universal philosophies and wider traditions, first of all to the Christian tradition from which we derive the basic structure of our thought to such traditions as British liberalism whose emphasis on tolerance provides a new insight into the meaning of Christian charity; and to the socialist tradition which has helped to develop the sense of social consciousness inherent in Christian thought”.¹ As appears from this quotation, while his ultimate political home was to be within the Christian Democrat party grouping, his political inspiration came from the socialist tradition for which he retained an abiding affection.

Garret’s view on interdependence, European integration, sharing sovereignty and even globalisation were influenced by this belief in the oneness of mankind transcending all other divisions. At a time of recrudescence of extreme nationalism in parts of the EU, his views have a particular relevance.

But first a historic vignette: throughout the 1960s Garret lectured in UCD on the economic aspects of European integration in particular and, in 1964, when I started my university studies in law, I also took economics as an optional subject. I was prompted to make this choice because he was to be one of my lecturers. His enthusiasm for Europe was infectious to young people because it was related to more than mere national interest and this was at a time when Ireland was opening up to the world. His belief in the process of European integration through the sharing of sovereignty was later to be demonstrated by practical leadership when he was both Foreign

¹ FitzGerald, Garret (1964) ‘Seeking a National Purpose’, *Studies: an Irish quarterly review*, Vol. LIII, p. 342

Minister and Taoiseach. It was also illustrated in his writings at an early stage in his political career when he advocated the supranationalist development of Europe.²

The “universalism” to which I have referred was reflected also in the thinking of the early leaders of the process of European integration. For example, at an important meeting, when Konrad Adenauer and Jean Monnet met in 1950 under the auspices of the Geneva Circle, they spoke of the forthcoming European construction as having a “general moral purpose”.

So Garret’s belief in European integration was driven by a belief in the cause of integrating Ireland in a Europe based upon shared and universal values, particularly associated in his mind with Judeo-Christian thinking. This moral case for uniting our old continent sang in unison with his humanity and Christian beliefs and heritage. This was a sentiment that he shared with many of the Founding Fathers of the European project, most of whom were Christian Democrats. For example, it is more or less exactly what Adenauer wrote in a letter to Robert Schuman on the 23 August 1951.³ In Adenauer’s view this heritage provides all Europeans with common values based upon the principles of the dignity of man and the equality of man. Fundamentally, that is why European integration was and remains a truly noble project transcending economic calculations of its value to particular participants. Others, such as the great German humanist philosopher and sociologist, Jurgen Habermas, have reached similar conclusions about its moral value coming from a different intellectual base.

In a famous speech in November 1981 in the Westminster

² FitzGerald, Garret (1991) *All in a Life: Garret FitzGerald, an autobiography* (Dublin, Gill and MacMillan)

³ Adenauer, Konrad, Mr. “Common Values of the European People.” Letter to Mr. Robert Schuman. 23 Aug. 1951. MS. N.p.

parliament, Geoffrey Howe said that European integration was essentially about the “taming of nationalism”.⁴ Thus, at its creation in the immediate post-World War II period, it was intended to provide a means to foster the reconciliation between former enemies that had been so strikingly absent in the period following the end of the First World War. This approach particularly appealed to Garret.

His own family background, though intimately connected with republicanism through both his parents, was emphatically not tribal in the sense of being exclusively Catholic. He not only opposed irredentism throughout his life, but he was even uncomfortable for the philosophical reasons already described with distinctions based in any way on race or religion. He was much more an internationalist than a nationalist. This antipathy to a tribalist approach to international relations remained constant in his approach to both Irish and European matters. This did not reduce his sense of his own national identity but was an expression of it. He was in this, conscious of our differences from our large neighbour and in this he approved of Tom Kettle’s counsel to Ireland, though expressed in a different context, that in order to become deeply Irish she must first become European.⁵

George Orwell wrote that a nationalist is essentially someone who thinks that his people are better than others.⁶ It is as good a definition as any and, if one is truthful, a great many of us harbour such delusions from time to time. Regrettably this delusion appears to be growing again in its appeal around Europe. That kind of nationalist however thinks on lines with which a supremely rational liberal like Garret could never agree.

⁴ Howe, Geoffrey (1995), *Nationalism and the Nation-state* (Cambridge, Cambridge University Press)

⁵ Kettle, T. M. and Sheehy Kettle, Mary (1917), *The Ways of War*, Memoir p.4

⁶ Orwell, George. “Notes On Nationalism.” *Polemic* 1.October (1945): n. pag.

Like Jean Monnet (whom he greatly admired), he saw European integration as a step on the road not merely towards more global governance but also to the defeat of what Jacques Delors described, in an important speech in the European University in October 1989 in Bruges, as “triumphant nationalism”.⁷ Garret did not agree essentially with the Hegelian view that, in principle, sovereignty must be preserved by traditional States. He saw a brave new world of interdependence partially based on international institutions that had a real role in governance. He did not see such institutions as a threat. He believed that a small country like Ireland in particular expanded its influence over its own destiny by sharing sovereignty and, by doing so, could also contribute a positive influence in international affairs. For example, he never accepted the proposition that we had a sacrosanct “neutrality” that inhibited our engagement in European integration in defence or foreign affairs matters in principle. In the context of Northern Ireland too he looked for institutional means to involve the different communities in sharing influence in which he was ultimately to succeed with the Anglo Irish agreement. I even remember advocating with him the concept of all Ireland courts to overcome difficulties regarding extradition in the early 1980s (as recent documentary releases in Britain testify).

As he wrote in *Towards a New Ireland*⁸ in 1972, European integration had for him an additional value and relevance as a means that might help to resolve the conflict in Northern Ireland by bringing both communities together. The essentially tribalist nature of the divisions there are based of course on perspectives on history and perceptions of identity intimately connected with race and religion. They are manifestations of

⁷ Address given by Jacques Delors to mark the 40th academic year of the College of Europe in Bruges, Belgium. 17 October, 1989.

⁸ FitzGerald, Garret (1972), *Towards a New Ireland* (London, C. Knight)

forms of nationalism. Garret believed that just as the sharing of sovereignty, promised at the foundation of the European project by the Schuman Declaration, would help to remove the hatred demonstrated over centuries by wars between Germany and France, so too the joint membership of Ireland and Northern Ireland of the then EEC would help to dissipate our differences and transform our relationship on this island over time. Regrettably in this he was to be proved too optimistic. It is not irrelevant to this relative failure that both Unionists and Sinn Féin appear to be adamantly and consistently opposed to European integration (albeit for different reasons). They cleave to their separateness even in the context of Europe.

As it did in the 1930s, the economic turmoil of recent times has provided fertile ground in many parts of Europe for the growth of extremism based on racism. It is increasingly evident that this has assisted the rise of parties propagating an angry, xenophobic and anti-immigrant message. No doubt this will be evident in the results of the forthcoming European elections and seasoned observers suggest that over 25% of the vote across Europe may go to such parties.⁹ In the United Kingdom and France, UKIP and the Front National both oppose the EU and are finding support in surprising quarters. (55% of students in France, for example, say that they are considering voting for the Front National).¹⁰ This rise in support is associated with two interlinking trends: increasing Euroscepticism and anti-immigrant nationalism. Each feeds off the other. Recent polling evidence shows the strength of both the EU issue and migration on the rise of extremist parties. In the Netherlands, Geert Wilders, the leader of the Freedom Party, describes the Koran as

⁹ 'Turning Right'. *The Economist*. 4 January 2014. www.economist.com/news/leaders/21592610-insurgent-parties-are-likely-do-better-2014-any-time-second-world Retrieved 17 July 2014.

¹⁰ 'Turning Right'. *The Economist*. 4 January 2014. www.economist.com/news/briefing/21592666-parties-nationalist-right-are-changing-terms-european-political-debate-does Retrieved 17 July 2014.

“a fascist book”.¹¹ In Hungary, the emergence of fascism has even given rise to some debate about how its membership of the EU may be at risk. The True Finns party on the extreme right is gaining significant support in Finland. Denmark too has its issues with extremism. On the left, the Syriza Party in Greece and the Five Star Movement in Italy are separatist insurgency parties presenting very anti-EU policies.

To its credit, Ireland has not yet evidenced any marked degree of similar xenophobic reactions. Nor have the considerable number of immigrants that have come to Ireland in recent years given rise to significant organised racist reactions.

Even though Ireland has not yet shown opinion poll evidence of tendencies of rising substantial support for anti-European views, it may be said that, over the years, our role in the political process of developing European integration has been curious in its occasional ambivalence on some issues of sharing sovereignty. Indeed, as a result, our engagement with the constitutional development of the process has not always been a happy one. We have had nine referenda since 1972 in order to ratify the Treaty of Rome and six subsequent treaties. Garret FitzGerald fought all of them. Having failed on two occasions (namely the Nice Treaty and the Lisbon Treaty) to pass referenda on treaties that most others found inoffensive (thereby necessitating a second plebiscite) fundamental questions have been raised across Europe from time to time about our real commitment to European integration. After all when we joined the European Communities, the preamble to the Treaty of Rome stated its intention to lay “the foundation of an ever closer union of the peoples of Europe”.¹² It sometimes remains unclear as to

¹¹ Waterfield, Bruno, 'Geert Wilders trial suspended after he attacks judge'. *The Telegraph*. 4 October, 2010. www.telegraph.co.uk/news/worldnews/europe/netherlands/8041998/Geert-Wilders-trial-suspended-after-he-attacks-judge.html Retrieved 17 July 2014.

¹² Treaty establishing the European Economic Community, Rome, 25 March, 1957. http://europa.eu/legislation_summaries/institutional_affairs/treaties/treaties_eec_en.htm Retrieved 17 July 2014.

whether we believe it.

Indeed we have not often been in the forefront of a debate advocating greater integration. In the case of the Euro we were in the avant-garde, however in other cases to which I shall refer we were not. But briefly in Garret's time we were. His appointment of Jim Dooge in 1985, and the report of the Dooge Intergovernmental Committee on Institutional Affairs, which he influenced, led to the negotiation of the Single European Act (SEA) (as Brendan Halligan set out in his excellent FitzGerald lecture in May 2013).¹³ This Treaty was to enact some of the most important constitutional changes in the history of the European project. Amongst its provisions, which Garret actively advocated, was the introduction of greater majority voting in the Council of Ministers for the passage of important European legislation relating to the Single Market. This was therefore a significant practical expression of the sharing of sovereignty. It caused some traditional nationalists, such as Mrs Thatcher, some grief at the time and indeed later. Importantly, the Single European Act also led, as part of a political process that it provoked, to significant increases in the structural funds. This example of a "transfer union" of funds from richer to poorer states also challenged traditional nationalists elsewhere as it still does. In particular, it challenges those who see the European Union as being no more than a market. No doubt the recognition of how much we have gained from the structural funds, and indeed from the CAP, has influenced Irish public opinion positively. It is worth mentioning also that during his period as Foreign Minister Garret had played a significant role in developing the Regional Fund that came into existence earlier in 1975.

¹³ The Institute of International and European Affairs, Garret FitzGerald Lecture: Strategies for a Small State in a Large Union, 9 May, 2013.
www.iiia.com/events/garret-fitzgerald-lecture-strategies-for-a-small-state-in-a-large-union
Retrieved 17 July 2014.

According to Euro barometer surveys over the years, since the late 1980s the Irish people have remained extremely positive in their general views on the European Union and even on economic and monetary union in particular. (On European Monetary Union, 70% are in favour of EMU in Ireland with only 19% in favour in the United Kingdom according to the most recent Euro barometer poll).¹⁴

On the other hand, attitudes in the United Kingdom have been consistently almost the polar opposite to those in Ireland. There, the electorate remain the most consistently sceptical of the EU and this is, as we shall see, relevant to our position in the British renegotiation talks. The genesis of British negativism can be ascribed to various causes. Hugo Young, the late author, has written that “Britain struggles to reconcile the past she could not forget with the future she cannot avoid”.¹⁵ The United Kingdom is not alone in this.

I believe that where we have voted against European treaties, it has largely been the result of misinformation and confusion about their effects rather than deep-seated opposition to the whole project. Who can even remember today the apocalyptic arguments of opponents to treaties on issues like neutrality? We were told that we were going to have European armed forces conscription for example. These often grossly distorted interpretations of complicated treaties contributed greatly at the time to people voting “no” in referenda. Those who advanced some absurd arguments were never held to account afterwards. Erroneous assessments of the possible effects of a new treaty are sometimes delivered from unlikely and apparently authoritative quarters. For example, the majority judgment of the Supreme Court in the Crotty Case on Part III of the SEA relating

¹⁴ European Commission, *Public Opinion in the European Union*. Report no 80. http://ec.europa.eu/public_opinion/archives/eb/eb80/eb80_first_en.pdf Retrieved 17 July 2014.

¹⁵ Young, Hugh (1999), *This Blessed Plot: Britain and Europe from Churchill to Blair* (Woodstock, NY, Overlook)

to foreign policy (which, in turn, wrongly led, in my opinion, to a belief that some other referenda were required when they were not) presented a picture of the meaning and effect of that part of the treaty that was quite wrong.¹⁶ It postulated damage potentially being caused to national sovereignty in foreign policy matters that had no substance.

It is clear yet again that the EU as a whole and Ireland now face serious challenges to the process of European integration. These include: firstly, the imminent likelihood of significant votes for extremist anti-European parties in the forthcoming European elections. This may result in a powerful disruptive and anti-European force in the European Parliament and later in national parliaments. Secondly, the continuing crisis of the Euro and, thirdly, the attempted renegotiation of the British bargain with the EU to be followed perhaps by its withdrawal and the negotiation of a new relationship. All of these challenges are connected and are linked by the rise of nationalism.

I will discuss the Euro crisis first because it is the backdrop to and influences public reaction to the other issues. This crisis has been correctly characterised by Mrs Merkel as an existential threat to the Union (and therefore by definition a major threat to Irish interests). The crisis is not over. A number of States, including Ireland, notwithstanding its considerable success in dealing with the crisis, still face formidable challenges. The debt to GDP ratio of Greece is 182% with that of Portugal, Ireland and Italy between 120 and 130%. New shocks are not to be discounted in handling these massive overhangs. Taken in conjunction with the continuing difficulties with the reduction of budget deficits, much remains to be done. Greece is currently a case apart with Ireland already accessing the markets. Portugal too is proceeding towards the exit from the bailout. But all three

¹⁶ Crotty v An Taoiseach. CVCE. The Supreme Court. 9 April, 1987. www.cvce.eu/obj/judgment_of_the_supreme_court_of_ireland_crotty_v_an_taoiseach_9_april_1987-en-187e7d4f-aa3e-43da-a1e2-bb3fc41d2fbd.html Retrieved 17 July 2014.

are small economies. Spain, Italy and even France are dimensionally much larger and more difficult issues to handle should political problems become manifest. Then market reactions could be considerable to any serious political turbulence. In this context, Italy and France still have to make the necessary structural adjustments to increase competitiveness and these, such as freeing up labour markets, may meet with resistance. The internal devaluations have been largely made both here and in Spain, and Ireland in particular has been justly applauded by the markets for what it has achieved. We are undoubtedly the current success story of the EU even though we have some distance still to travel.

Of course the consequences of a failure of the currency would be so terrible that many analysts conclude that it would not at any price be permitted to happen. Recognition of these catastrophic consequences has been reflected in comments by Mrs Merkel and Mr Draghi in particular. A failure of the currency would almost inevitably destroy the Internal Market because of the rapid devaluation and revaluations that would occur with the national currency to follow. But dreadful consequences do not always deter accidents occurring, particularly in politics. The means at our disposal to deal with such events are limited, notwithstanding Mario Draghi's undertaking to "do whatever it takes" to save the Euro.¹⁷

The fundamental problem is that virtually the only route to the massive debt reductions required appears to be paying them off. I say virtually because it is worth mentioning that the Programme countries have benefited from a material reprofiling of their central government liabilities that amounts to a present value restructuring through the replacement of maturing debt with long

¹⁷ Dunkley, Jamie, 'Debt Crisis: Mario Draghi pledges to do "whatever it takes" to save the Euro'. *The Telegraph*. 26 July, 2012.
www.telegraph.co.uk/finance/financialcrisis/9428894/Debt-crisis-Mario-Draghi-pledges-to-do-whatever-it-takes-to-save-euro.html Retrieved 17 July 2014.

term loans. I do not believe that this provides an adequate policy without other alternatives. But the general and simultaneous rejection of inflation, default or debt forgiveness (combined with the impossibility of devaluation) as a means to achieve the necessary debt reduction leaves the highly indebted Eurozone countries with the prospect of years of potential difficulty. The limited ECB mechanisms now put in place to maintain market stability, though vital, have not been truly tested.

I refer to the Outright Monetary Transactions and the European Stability Mechanism. Reliance on debt reduction alone combined with these instruments is not enough. Germany (and the Troika) have of course been correct in principle in requiring the national administrations in the Programme countries to take measures to recalibrate their economies both through restructuring to increase competitiveness and deficit reduction. Countries within a single currency area simply cannot live beyond their means without damaging others in the area. However both pragmatism and the understanding of history that should influence it, should now prompt the Member States in general, that solidarity must also play an increasing role in solving the crisis. The use of the balance sheet of the ECB and the systematic intervention that it has provided is only one part of the solution. More active steps can and should also be taken to expand spending in the stronger economies through the expansion of domestic demand there. In Germany now the minimum wage and proposed pension increases should raise consumption, but perhaps too modestly to have a substantial effect. Furthermore more fundamentally President Barroso has spoken of the need for “genuine mutualisation of debt redemption and debt issuance”¹⁸ and he was correct to do so. Of course any such mutualisation may well be subject to

¹⁸ Barroso, Jose, 'State of the Union Address 2012'. 12 September, 2012.
http://europa.eu/rapid/press-release_SPEECH-12-596_en.htm Retrieved 17 July 2014.

conditionality, but refusing to even contemplate the issue seems quite wrong. Full banking union also needs to be concluded rapidly, involving not merely a unified regulatory and oversight mechanism, but a resolution capacity also. In this we are moving, however slowly in the correct direction but it will require an acceptance of an ultimate funding capacity that is dependent on mutual assistance and not merely national resources. However this is the adhesive that investors were looking for to become more comfortable with the notion of EMU holding together.

However even though more needs to be done it is clear that we have moved a considerable distance to put in place a system that increases the federal aspects of the EU. This was absent from the Maastricht Treaty, and should ensure that what happened in the past does not happen again in the future. As a result the European Commission can now monitor and eventually veto national budgets before they are approved by national parliaments. If this power were not given, the currency could not be sustained simply on the basis of trust. We also have new commitments by the Member States relating to the implementation of national policies such as labour markets, pensions and taxation. We have too the Fiscal Compact with its monitoring and sanction powers. These various steps and others included in the so called “six pack” and the “two pack” have taken a major step towards an economic union. An economic union to be sustained also requires a political union and part of that is a functioning democratic system trusted by the people. This will entail greater engagement by national parliaments. Otherwise the resurgent nationalism that we now see will fatally undermine the whole project over time.

The conclusion that one can draw from this is that Ireland’s interests and role in policy formulation in future can best be advanced from the position of being a Member State

unambiguously committed to further integration of the EU. Ireland should maintain the intention of being in the leading group of countries committed to political union. We have not always done so. This will require us to argue for more not less Europe in different areas and not just debt mutualisation or other relief to our advantage. We have to be seen to protect what has already been achieved not merely in this area of economic and monetary policy, but more generally across the different policy areas.

Solidarity is of course, as I have said, a key element in a more united Europe, but in order to successfully develop the concept we have to simultaneously advance integration more or less across the board in other areas, including foreign policy. Opt-outs should not be seen as a desirable option.

In this context Ireland's attitude to developing competences within the EU in the areas of foreign policy, defence and in justice and home affairs has been, to put it mildly, reticent and tentative. The inclusion of a sub-article in the Constitution prohibiting the State from adopting a decision taken at the European Council to establish common defence including Ireland, in my view contradicts a true belief in political union.¹⁹ This is now effectively irreversible and I for one regret it. Ireland's reluctance on this subject seems to me to result in part from ill-informed debates in the past. We have been reluctant Europeans it seems even in an intergovernmental process.

In the area of foreign policy and defence, the spectre of neutrality as some kind of immutable but ill-defined aspect of our political identity has, I believe, inhibited our legitimate support for cooperation on military matters, although efforts have been made successfully from time to time to engage. When

¹⁹ Bunreacht na hÉireann Article 29 4 9°

questioned on this before we joined the EEC the government of the day made it clear that, when the time came, we would not be reticent about being part of a European defence project. But we certainly have been. In the past an important element of this reluctance was linked to a binary analysis of world affairs. That world is no longer with us and the very concepts of non-alignment or military neutrality no longer have the meaning they once had. With whom are we non-aligned? Between whom are we militarily neutral? Events over recent years in the Balkans have demonstrated how a united European response as the European Union may be required to avoid terrible events taking place. The White Paper to be issued on defence is to be welcomed as a basis for informed discussion.

The policy response in Ireland to the area of EU Justice and Home Affairs policy when introduced by the Maastricht Treaty (and developed by the Amsterdam Treaty) was also tentative and reticent. This exclusion provides another reason for Ireland not being considered in the avant-garde or inner core of Member States committed to integration. Ireland's special position here (shared by two often reluctant Europeans, Denmark and the UK) has detached Ireland from the main group of countries. The fact that we have a common travel area with the UK does not provide a complete answer as to why we have opted out from much that others have agreed. Ireland's position is described by Laffan and O'Mahony in their excellent book on Ireland and the EU as "detached and conditional" with a complex list of opt-outs in place. Until Minister Shatter (who has been very constructively engaged) took office, moves toward further integration in the fields of internal security and harmonisation of legal systems were "viewed with extreme caution" by Ireland.²⁰ Some other members of our legal confraternity seem predisposed to believe (like their counterparts in Britain) that there is something inferior in the Continental position although this may be based

²⁰ Laffan, Brigid and O'Mahony, Jane (2008), *Ireland and the European Union*. (Basingstoke, Palgrave Macmillan)

more on prejudice than actual knowledge. We must not allow this policy to provide another signal to other Member States of reluctance about integration that undermines our protestations of support for the process or indeed our demands for greater federalisation in other areas. Hopefully the current policy review in this area of Justice and Home Affairs will be positive in its outcome.

The gradually unfolding drama of the British demand for “renegotiation” of its relationship with the EU is a further threat that we now face. In policy terms this question may raise a conflict between two national objectives namely, keeping the United Kingdom in the EU on the one hand, and avoiding any steps that might be taken that would damage the character, essential competences or rights and obligations of membership of the EU on the other. One such is the free movement of people or rights enjoyed by EU migrants, but no doubt there may be others that will only become apparent when we have a fuller disclosure of the British position.

To amend any element of the treaties will require unanimity. This in turn may necessitate a referendum in some countries including Ireland because taking something out from an adopted treaty may be as problematic as putting something in.

I do not believe that any further treaty change is desirable at this time but clearly, from what the Chancellor of the Exchequer said two weeks ago, the British most definitely do. He said then that the treaties were “not fit for purpose”.²¹ But only the United Kingdom knows what treaty change in its opinion is necessary to make the EU “fit for purpose”. In principle, there is unlikely to be much support for any treaty change but in this the Germans have been unclear. The new Coalition agreement there does state “we will adapt the Treaty bases of the Economic and

²¹ George Osborne’s address to the Open Europe Conference, 15 January, 2014. http://ec.europa.eu/debate-future-europe/ongoing-debate/articles/20140215_en.htm Retrieved 17 July 2014.

Monetary Union” but of course this, whatever it means, is related only for the Eurozone. In any event Germany is not Europe. All 28 Member States will have to agree. Also, even if treaty change is agreed by the twenty eight Member States to British demands, it is hard to believe that whatever is agreed will be enough to resolve the British problem. For one thing, whatever happens is unlikely to assuage the 95 declared Eurosceptic Tory MPs. Their objective clearly is to either so change the character of the EU as to destroy its essence and legal authority or to leave it altogether.

As to Ireland’s position on this as yet unclear situation, on the 16th of January the Minister of European Affairs, Paschal Donohoe, in an excellent speech delivered in London to a Eurosceptical audience, put down a clear marker. He referred to the Irish view of the great value of the Union as it is. He said that it offers “the best chance for us to create a more prosperous, secure and open Europe”. He also said that our desire to improve the Union is “explicitly based within existing treaties”.²² The message was clear. The United Kingdom is our friend and we share a great deal of common interests with it, but there is a fundamental difference in our position on the EU.

Consistent with this position I believe that our national policy should compel us to oppose treaty changes which weaken the European project or undermine its core competences, its institutional prerogatives (such as the power of initiative of the Commission) or the values reflected in the rights that are central to its character. We must however seek to constructively engage, where possible, with proposals intended to improve the efficiency of the institutions or European competitiveness. One change that some argue for in Britain is the reduction in the size

²² Paschal O’Donoghue’s address to the Open Europe Conference, 16 January, 2014. www.merriestreet.ie/index.php/2014/01/speech-by-the-minister-for-european-affairs-paschal-donohoe-td-at-the-open-europe-conference-london-thursday-16th-january/?cat=11 Retrieved 17 July 2014.

of the Commission that we opposed at an earlier time. Then others including Germany were prepared to accept rotating membership. I think that we were wrong in our position then. The Commission is now too large to function as a College as it should. In any event, it should not be comprised of individuals who see themselves as national representatives, as our earlier position implied.

Unfortunately, my fear is that the United Kingdom has an unchanging and unchangeable perspective on sovereignty and that this may precipitate a crisis. Its prevailing political position has constantly been to reduce the EU to little more than a free trade area and, even then, one with an essentially intergovernmental character. By this I mean specifically an entity that merely entails cooperation between sovereign nation states. For example, the competences and authority of the European Commission and the European Court of Justice, which are supranational, are now being put in question by many parliamentarians even more vociferously than ever before. This is particularly clear from the position of the 95 Tory rebels, but it is more general than that and there are few voices expressing a different view. In addition, and consistent with this, the United Kingdom has generally sought to diminish the budget of the EU and attack the Common Agricultural Policy.

I regret therefore that it has a radically different position to Ireland's on the EU and its development. While Europe badly needs all the qualities that the United Kingdom brings to the table such as its profound democratic credentials, its devotion to the rule of law and to an open market trading position, the price for its retention should not be the undermining of the very essence of the EU as it is. We have to be clear on this. One aspect of this relates to the concept of free movement of people that is particularly in the sights of Eurosceptics.

The basic silence of other Member States regarding this British debate is being interpreted by some in the United Kingdom – wrongly in my view – as a willingness to move further, by way of accommodation, than will prove to be the case. The relative silence is because there is as yet nothing to debate.

If the British fail in the negotiation, then it is hard to see any referendum on membership being passed. Nor should anyone take consolation from the assumption that Labour, if elected, will not hold a referendum. They have been studiously silent on the matter.

This is not the place to consider how matters will develop if Britain decides to leave the EU. Suffice it to say that in such an eventuality negotiations under Article 50 will be conducted regarding the post membership situation. It seems inevitable that Britain will adopt a model on Swiss or Norwegian lines that will retain market access to the British market and vice versa. I feel sure that the mutual interest of keeping this access to markets reciprocally would mean that our export markets would not be damaged by a withdrawal. It is less clear that the financial services in the City would emerge unscathed, as they certainly have not in Switzerland.

In conclusion let me say that this uncertain future now demands approaches that go beyond short-term self-interest. The Irish Commissioner, Máire Geoghegan-Quinn, has accurately described Ireland as being “conditionally integrationist”.²³ We need less of the “conditionally” and more of the “integrationist”. We cannot simply pick and choose the bits of the EU that we like and discard others. If we can do so, then others can do the same. Ireland should be part of the group that sees Europe as the answer rather than the problem.

²³ Address by the Minister of State for European Affairs, Máire Geoghegan-Quinn, Patrick Magill Summer School, 12 August, 1990.



Dr Garret FitzGerald pictured with Frank Clarke SC and former Taoiseach and Fine Gael leader John Bruton at the Vote Yes to Nice press conference in 2002.

(Credit Photocall Ireland)



Dr Garret FitzGerald with Professor Brigid Laffan celebrating the yes vote for the second Lisbon Treaty in 2009.

(Credit Photocall Ireland)



Dr Garret FitzGerald pictured with José Manuel Barroso, President of the EC, on a visit to Ireland in September 2009.

Credit © European Union, 2014

RESPONSE

Professor Gerard Quinn



Chancellor, President, members of the FitzGerald family, distinguished guests, ladies and gentlemen:

It is indeed a high honour and privilege to respond to Mr Sutherland on the occasion of the 3rd Garret FitzGerald lecture. The lecture affords an opportunity for the NUI community to come together to honour one of its most eminent Chancellors and a lifelong champion of an open society in Ireland – and Europe. I am sure that Garret would have revelled in tonight's proceedings.

It is also gratifying to see that the commitment to free and open enquiry and the construction of an open society that so characterised the public life of Garret FitzGerald is now securely lodged in the hands of Chancellor Maurice Manning who has given invaluable public service throughout his life and done more than most to breathe life into the cherished ideals of freedom on this island. Maurice, your presence here tonight symbolises our collective commitment in the broad NUI community to free and open enquiry and the pursuit of truth.

Justice Brandeis of the US Supreme Court reserved particular praise for men – and women – who, through experience and the wisdom gained through experience, develop an acute capacity for 'situation sense' – a capacity to see through the immediate, a capacity to divine the root causes of contention and, above all, a clear moral and political compass to guide our collective action into the future. We are tonight in the company of one such person – Peter Sutherland – a man who possesses that 'situation sense' in abundance – a man who has made us proud

– but most importantly of all, a man who bears a message that commands attention.

That message has to do with the corrosive impact of extreme nationalism on our shared European ideals and Institutions. Mr Sutherland weaves a compelling account of the essentially moral, as well as political and cultural mission of the European Union and the challenges it now faces.

Allow me to respond – as an academic might – by zooming out from that message and placing it into a historical context. For it often seems that the warnings from the past, even the recent past – no matter how harrowing – often fail to connect in the present. How quick we forget the moral wasteland of the 1930s as essential backdrop to the intentions of the framers of the Union.

In truth the Republic – the idea of an open society and open and responsive political institutions of the *Res Publicae* – has had its enemies from the very beginning. The European Union is the latest in a long line of noble efforts to deflect the negative energies and destructive impact of factions, ideologies and extreme nationalism – all intent on undoing the open society. Maintaining the open society as the foundation for peace and prosperity is exactly why the EU won the Noble Peace Prize in 2012.

Indeed, if one were to mine the content and power of some of the world's greatest constitutional moments – whether the English Glorious Revolution of 1688, or the American Revolution in 1776 – one will see an attempt to tame the savagery of totalitarian power, an attempt to erect an edifice that accommodates diversity – pegged to an economic structure that expands individual freedom. Indeed, during these grand constitutional moments one will see an attempt to define the

political community less in terms of belonging to an ethnic group – to which one must belong and conform – and more as an entity with a common set of ethical principles to which all, regardless of their differences, can subscribe.

This legacy is a precious thing – but it is also a very fragile thing. Its most inspirational source – a source to which the framers of the US Constitution constantly returned – was the Constitution of the Roman Republic. Imperfect though it was by today's standards, its essence nevertheless reverberates through the ages and was transmitted directly to us by the Enlightenment.

What set it apart?

First of all, it was premised on a realistic appraisal of the damage that faction could do and represented an attempt to diffuse its impact. The danger of faction was the inspiration for Madison's Federalist Papers. At the end of the day, its institutions did not prove to be up to the job – the pressure was too extreme. But it did at least make an effort to build walls against the cruder impulses of extreme factions.

Secondly, it took seriously the idea of *Res Publicae* – the view that although we have private interests, which can and should be pursued vigorously, they are nevertheless to be pursued in the context of the public interest. This entails a commitment to the view that there is always something bigger than ourselves worth committing to and that service in the name of the public interest is always something to be valued.

Thirdly, it entailed the idea and the everyday practice of civic virtue – a willingness to go beyond one's own interests, ideology, religion or nationality and contribute directly to the formation of the public interest. Viewed in this light, Government is not (or ought not to be) a pale shadow of warring creeds and rival

private factions – but represents a genuine attempt to rise above them.

And then citizenship, the idea that anybody can belong – and be seen to belong no matter their ethnicity, nationality or religion – provided one commits to the underlying principles of the Res Publicae which include tolerance and respect for difference.

Interestingly, freedom to the Romans meant the freedom to belong and the freedom to participate. It was public freedom and not just the protection of private freedom against arbitrariness. This commitment to public freedom maybe explains the resonance of Kennedy's words – “ask not what your country can do for you but what you can do for your country”.¹

Don't get me wrong. I am no apologist for the egregious abuses of power in the Roman Republic and especially in the later Republic. Thomas Jefferson was sufficiently cold-eyed to see this – and yet drew his inspiration from Rome. Even Alexander Hamilton – the First Secretary of the Treasury and the father of the American economy – did not just dream of a common market across the US States but of a great Commercial Republic – something that the EU has already attained at least in the marketplace.

Why this backward glance? What does antiquity have to say to us about political extremism and nationalism in Europe today?

Doubtless it has a lot to say in itself. Ambiguities in the law conferring immunity from prosecution were the immediate reason that drove Caesar to instigate civil war. But the deeper reason lay in the incapacity of the institutions of the Republic to

¹ Kennedy, John F., 'Inaugural Address'. Presidential Inauguration, United States of America, Washington D.C. 20 January 1961.

accommodate new realities – to adjust to different and severe social dislocation brought about, paradoxically, by unparalleled military success. As Dean Roscoe Pound told us, all institutions tend toward decay. But, interesting though they are, I don't want to dwell on its ancient messages. For the Roman ideal did not die – it was transmitted to us via epoch-making events such as the Enlightenment with the evolution of liberal political and economic theory and latterly democratic theory and practice – all encapsulated in what we now call liberal-democracy.

My view – for what its worth – is that this liberal-democratic ideology sits very uneasily with nationalism and not just the extreme versions. At its heart is the image of the open society – a society where no one ideology (whether political, religious or otherwise) is privileged. It is a society committed to human flourishing on the basis of the person's own conception of his or her destiny – not on the basis of the dictation of the keepers of orthodoxy or of the economic planner. It is a society where one has a right to be wrong and indeed take risks – to flout orthodoxy and live one's life accordingly. It is a society that responds to the will of the people through open, fair and transparent institutions. Most importantly, it is a society of free and fluid human interaction whereby identity (and even one's views of one's own private interests) is in a constant process of change. It is this constant interaction with the 'other' that adds health to identity. If I may say so, part of the tragedy of partition on this island in the past is that we predictably grew inward as our only source of difference was cut off and latent diversity was submerged.

The very idea of wrapping a political community or state around a self-defined homogenous nation – around an ethnic group – is an accident of history – unknown in antiquity, non-existent in the Renaissance and coming into its own only in the 19th century. Some, such as Lord Acton, railed publicly against it even at the

time. True, we are all attracted to kith and kin. True, the phenomenon of a national identity whether defined culturally or otherwise, makes sense. It is an observable fact. This is what Herder called ‘cultural nationalism’.

But the idea that the political community or state should revolve almost exclusively around kith and kin only took shape in the 19th century. One sometimes has the suspicion that national identity is as much a function of conscious state action and policies to instil it than it is a natural phenomenon existing ‘out there’. Once this state induced sense of homogenous nationality dissolves, more space is left for multiple identities to express themselves. Here this has meant space for the expression of the British dimension to the Irish identity/ies. By the way, one of the most eminent scientists in this University has confirmed that – genetically speaking – the Irish people are not of Celtic stock!² The relative closure of nationalism – whether tame or extreme – to the ‘other’ stands as a threat to an open society – where conformity either to an ethnic label or an associated system of views is the test of belonging or citizenship. In extreme hands it can dissolve the glue of tolerance and respect essential to the maintenance of an open society – and economy. So the first big lesson from history is that the nation-state – a relatively recent construct – with its test of belonging based on ethnic identity and not on shared ethics that transcend difference can be pushed, in the wrong hands, to justify near total political closure – cultural closure and exclusion.

There is another lesson from history – one that speaks not to the ideal of the open society and the challenge that the nation-state poses to it, but more to the inherent vulnerabilities of the open society – vulnerabilities that can allow extreme nationalism –

² Observations shared with the author by Professor Noel Lowndes, discipline of Biochemistry, National University of Ireland, Galway.

and indeed other forms of extremism – to enter into and then proceed to deconstruct the institutions of an open society. The very openness of our political institutions creates space for extremist and intolerant forces to enter and hollow out the system. There is a lot written today about the symbiosis between democracy and human rights. Alas, this is not true – or at least not fully true without some important qualifications. Reflect even briefly on the situation under the Weimar Constitution of 1919. Unfortunately, this beautifully crafted liberal-democratic tract was overlain on utterly infertile ground. The old Prussian ideal that the State comes before the Constitution and the State does not tolerate difference and can physically force conformity, exerted its own undertow – so much so that one German politician famously quipped in the 1920s ‘we have a Republic but no Republicans’.³ One lesson from this history is that the imposition of a liberal-democratic veneer will not in itself transform an inherently closed or rigid culture – something else is needed to make its precepts appear natural and acceptable.

Another lesson – another reason why the vaunted nexus between democracy and rights is not as it seems to be – has to do with the relative ease with which open systems can be shuttered. An open system can come under stress because of extreme economic or social dislocation and the polarisation in politics that this might engender. Arguably, some EU Member States are going through this right now. It might come under stress because of the rise of virulent and intolerant orthodoxy, either in religion (the Tony Blair thesis) or ethnicity, which is closely tied to nationalism. And it might be aided by weak or opportunistic political parties pandering to extremism in order to supposedly blunt it and control it – an exercise doomed to

³ A phrase attributed to many commentators reflecting critically on the early experience with ‘normal’ democratic politics under the Weimar system in the 1920s.

failure and fraught with risk. And – here’s the point – an open system can quite easily be ‘legally’ deconstructed once one of these extremist forces obtain admission to power – through the democratic process.

This is the haunting lesson of the Nazi ‘legal’ order. Remember, Hitler did not take power violently. He engaged in what he called a ‘tactic of legality’ to enter the apparatus of power ‘democratically’ and to ‘legally’ dismantle all the recognisably liberal-democratic limits on his power once in place. He manipulated the emergency powers of the President and played Von Hindenburg like a fiddle – one reason why Article 15 of the European Convention on Human Rights placing restrictions on emergency powers is so strong. True he rigged the vote in the Reichstag to get it to hand over its law-making powers to him personally through the Enabling Act of 1933 – but he probably would have gotten this vote in time anyhow.

In place of an open society – tolerant toward difference – he insinuated his own extreme nationalist or Volkish theory of the State – a theory which, conveniently, only he could interpret and apply. The nightmare was only beginning. This created space for the persecution of the ‘other’ – of minorities ritually held up as scapegoats for current travails. These included not only Jews but also many persons with disabilities (the deaf, the blind and the feeble minded) as well as gypsies, not to mention political opponents. To a certain extent, the treatment of such groups is a barometer of the health (or otherwise) of a political system. When their status deteriorates this is not only a cause for concern in itself but an indicator that something is fundamentally wrong in our system of power.

Ladies and gentlemen, Charlemagne once dreamt of and partly built a *Respublica Christiana* in Europe as heir to the Roman tradition. His name is honoured to this day in Brussels. Sadly,

this decomposed into a patchwork quilt of principalities in the Middle Ages and finally into nations or nation-states in the 19th century. In truth, no state has ever completely encompassed one nation. Bits of nations are inevitably orphaned in the territory of other states. Further, these bits are tolerated – not welcomed. The series of minority rights treaties in the first few years of the League of Nations – conferring enhanced rights on national minorities, but on a premise that you don't belong and almost as a consolation for not belonging. Grotius – the inventor of international law – tried to pin down a series of ethical principles – emanating mostly from Christianity – to guide the behaviour of states. But the default setting became the balance of power and terror, in which no country ever has permanent friends – only permanent interests.

There were many complex causes of the First World War but surely one of them had to do with extreme nationalism, the ease with which bias could be mobilised and the practice of the dark art of the politics of fear. The extreme competition for new markets between the major nation-states did not help. Certainly the peacemakers did not come to terms with the nation-state and virulent nationalism. Indeed, one author has recently opined that the First World War has not yet ended.⁴ By this he meant that Wilson's well intentioned ideal of self-determination probably put the quest for nation-statehood on steroids, which has arguably had visible effects down to this day – especially in the Balkans and also in the former Protectorates in the Middle East. Incidentally, Wilson did not consider the claims of Irish nationalism to be just and instead held that it was an issue to be accommodated within the open British democratic system. Irish representatives pressed for entry to the Versailles negotiations – but were firmly rebuffed.

⁴ Furedi, Frank (2014), *First World War – Still No End in Sight* (London, Bloomsbury).

The penny only began to drop at the conclusion of the Second World War. That is to say, many throughout the world felt that the nation-state was itself part of the problem and that ways had to be found whether to reconceptualise the political community without relying on the nation or to tame the worst impulses of nationalism. Interestingly, the UK has long seen the outcome of the War as a result of the vibrancy of its nation-state (or in reality a multi-nation state). Not so for the rest of Europe. Mr Sutherland paints a very full picture of how the EU was imagined and constructed – out of moral revulsion but with a new moral compass.

To feel the nation-state is part of the problem is one thing. How to tame it – and the space it allows for extremism – is another. Two different approaches were housed in two new and different institutions. The Council of Europe – based in Strasbourg – is premised on the existence and sovereignty of the nation-state. Through its treaties it places a series of collective guarantees underneath the nation-state. It is the keeper of the conscious of Europe.

The European Union is different. It goes beyond setting a floor of minimum guarantees in, for example, the various treaties of the Council of Europe. It seeks instead to poke holes in the sovereignty of the nation-state by integrating our common economic life and, in turn, to influence our cultural and political life. It seeks to instil the value of unity through diversity and not homogeneity. It makes a solid stab at moving away from the negative ethics of conformity, exclusion and discrimination. Of course it does not – because it cannot – completely efface the notion of the nation-state. Unlike the US, its base of authority is not ‘we the people’ but ‘we the nation-states’.

However, it does possess some important powers to tame extreme nationalism. And it’s premised on the holy trinity of the

rule of law, democracy and human rights. It isn't just human rights and their violations that count – which to a certain extent are symptoms of political failure. It is this insistence on the 'rule of law and democracy' that also counts, which in a sense protect the integrity of the political system. From this angle, not every law counts as law within the 'rule of law'. The Nazi sham of hiding naked brutality behind the veneer of legal form will not do. And from this angle not every democratic outcome is due equal weight since democracy is seen not just as a completely open-ended process where anything goes, but a bearer of minimum values which can halt the slide against the democratic undoing of the democracy itself. To pick on or exclude one minority group is not permitted since not only is this morally objectionable in itself but it precipitates a long excursus down a slippery slope in which the entire political order can eventually collapse.

Just a few months ago the EU Fundamental Rights Agency found that nearly half the Jewish population in eight key Member States reported a fear of being verbally harassed in public and 33% feared physical attack. This is damning and an utter shame on Europe. In another 2013 EU FRA report on 'racism, discrimination, intolerance and extremism' with a focus on Greece and Hungary, the analysis went beyond manifestations of racism and intolerance and looked, with concern, on the entry into Parliament of extremist forces that propagated intolerance (specifically Golden Dawn and Jobbik). It found that Europe has an ample suite of legal measures to tackle discrimination – but that they were not being comprehensively implemented.⁵ Yet another 2013 EU FRA report on 'safeguarding human rights in time of Crisis' tackles the hard issue – which is how to stop the 'tactic of legality' being used by extremist organisations to infiltrate and dismantle the architecture of an open democratic

⁵ *'Discrimination and Hate Crime against Jews in Member States: Experiences and Perceptions of Anti-semitism'*, EU Fundamental Rights Agency, Vienna, 2013.

system – which includes erosion of the independence of the judiciary.⁶

Three major reports in one year on variations of the same theme! All systems come under extreme stress at some point. What matters is having the means to respond – which Europe appears to have but needs to exercise more vigorously.

Dealing with the symptoms of extremism in terms of discrimination and hate violence is relatively straightforward. It requires vigorous enforcement of existing EU laws. Dealing with the erosion of domestic constitutional guarantees, whether of the independence of the judiciary or otherwise, is trickier since they are a matter for the Member State or the nation-state. Speaking on the Hungarian constitutional changes in 2012, the President of the Commission – Mr Barroso – stated that the matter would be dealt with in as much as it implicates EU law (which is very little). He did go on to say that the issues did go beyond EU law and cited critiques from the Venice Commission of the Council of Europe. What's the point? The point is that the EU has a stake – at least once a certain threshold has been reached – in ensuring the integrity of the constitutional orders of its member states. Put another way, the 'tactic of legality' used by Hitler to undermine those orders is not to be tolerated in the 21st century. If you tug at one string at the domestic level it will inevitably have implications for the entire fabric of the Union as an entity based on law.

To conclude, to me at least, our project is not merely to contain nationalist extremism but to question closely the paradigm of the nation-state into the 21st century. The very idea of the nation is itself under examination. Apart from the fact that such entities have probably never really existed in their pure form,

⁶ *'The European Union as a Community of Values: Safeguarding Fundamental Rights in times of Crisis'*, EU Fundamental Rights Agency, Vienna, 2013.

they are defined by whom they exclude. And the State itself seems to be changing form. Our sovereignty is genuinely shared and, to the extent that it isn't, it is constrained in any event by forces beyond its control. The European Union – with all its in-built limitations – offers our best hope of articulating an ethical theory of the political community as distinct from an ethnically-based theory of the political community and State. Aristotle said you define something by what it is capable of becoming.

Let me end with a quote from Oliver Wendell Holmes – a quote I think that describes Mr Sutherland and his contribution tonight:

“We cannot all be Descartes or Kant, but we all want happiness. And happiness, I am sure from having known many successful men, cannot be won simply by being counsel for great corporations and having an income of fifty thousand dollars. An intellect great enough to win the prize needs other food besides success. The remoter and more general aspects of the law are those which give it universal interest. It is through them that you not only become a great master in your calling, but connect your subject with the universe and catch an echo of the infinite, a glimpse of its unfathomable process, a hint of the universal law”.⁷

Ladies and gentlemen, it is sometimes said that lawyers sharpen their minds at the cost of narrowing them. Not so with Mr Sutherland. He has shown a keen awareness of the deep theory – of the ethical foundations – of an open society and the extreme threats we now face. Tonight, as Holmes said – he has caught an echo of the infinite – the values that bind us together across our diversity and the institutions in Europe that we all have a responsibility to nurture to enable the European project to succeed. He has done the legacy of Garret FitzGerald proud. For this, I am, and on your behalf, immeasurably grateful.

Thank you.

⁷ Holmes, Oliver Wendell, '*The Path of the Law*,' 10 Harvard. L. Rev. 457 (12897).



Luxembourg European Council, 01-02 April 1976. Taoiseach Liam Cosgrave, on the left, and Garret FitzGerald, Minister for Foreign Affairs.

(Credit © European Union, 2014)



Dr Garret FitzGerald, Taoiseach, with Minister for Foreign Affairs, Mr Peter Barry, arriving at the Charlemagne Building, Brussels for a European Council meeting, March 1983. *Credit © European Union, 2012*



Fontainebleau European Council, 25-26 June 1984.

Taoiseach Dr Garret FitzGerald pictured at the European Council of Fontainebleau.

Credit © European Union, 2014

GARRET FITZGERALD

Dr Garret FitzGerald PhD MRIA had careers in air transport, economic consultancy, university lecturing, journalism, politics, and business. After graduating with a first class honours degree in history and modern languages from University College Dublin and being called to the Irish Bar, he spent the first twelve years of his working life in Aer Lingus.

In 1959 he was appointed a lecturer in Economics in University College Dublin. His political career began in 1965 when he was elected to Seanad Éireann. Four years later he was elected to the Dáil. From 1973 to 1977 he was Minister for Foreign Affairs (his father, Desmond FitzGerald, had served as the first Minister for External Affairs in the new Irish State from 1922 to 1927). Garret became leader of Fine Gael in 1977. Between June 1981 and March 1982, and again between December 1982 and March 1987, he was Taoiseach. As Taoiseach, he was President of the European Council in the second half of 1984.

In 1983 he established the New Ireland Forum as a preliminary to the negotiation of the 1985 Anglo-Irish Agreement.

Dr FitzGerald was the author of nine books. *Towards A New Ireland* (Charles Knight, London) was published in hardback in 1972 and in paperback (Gill MacMillan) in 1973. His autobiography *All in a Life* (1991) was followed by *Reflections on the Irish State* (Irish Academic Press) in 2002 and *Ireland in the World – Further Reflections* in 2005 (Liberties Press). He was a weekly columnist in the Irish Times for over 50 years.

Conferred with an honorary degree of the National University of Ireland in 1991, Dr FitzGerald was similarly honoured by other universities in Britain, the United States, Canada and South Africa.

Dr FitzGerald was elected Chancellor of the National University of Ireland in 1997, having been a member of the Senate of the University since 1972. He continued as Chancellor until 2009, and in 2008 he presided over the University's centenary celebrations. As Chancellor his major preoccupation was with the continued high standard and standing of NUI degrees. He was particularly interested in the transition of students from second level to third level and in the mentoring of students in their first year at college. Statistical studies he had undertaken in NUI pointed to the reliability of the Leaving Certificate examination as a predictor of success at university. He was an early champion of wider social participation in higher education. In January 1999 the Senate made a pre-budget submission to the Minister for Education and Science, seeking increased support for disadvantaged students and in 2001, a document prepared by Dr FitzGerald, 'The Issue of Access', called for the NUI constituent universities to address urgently the issue of access for young people from disadvantaged backgrounds. He was a staunch defender of university autonomy. Under Dr FitzGerald's Chancellorship, the range and value of NUI awards was enhanced significantly. Dr FitzGerald delighted in the opportunity afforded by the annual NUI Awards ceremony of meeting outstanding students and graduates from across the federal university. Despite its considerable weight, he continued to wear the Chancellor's robe commissioned by NUI in 1922 for Dr Éamon de Valera.

Garret FitzGerald died on 19 May 2011 at the age of eighty-five.

ON NATIONAL INTERESTS AND EUROPE

I ... directed the attention of the conference to the issues of supranationalism and democratisation of the Communities, which I felt had been glossed over in the opening exchange. Was it more important for us to have a veto to stop things happening or to seek support from others to get things done by means of majority voting? Was there anything in the fear that supranationalism – which meant less chance to veto decisions – would lead to big-power dominance? (For myself I thought that the opposite danger existed, i.e. big-power dominance in the absence of an adequate supranational decision-making system.) Were we to be inhibited from pursuing economic integration because of the fear that in a fully integrated Community we should eventually be involved in defence commitment? After all, we had accepted the logic of this commitment in the publicly stated positions of the previous Government and of my own party on EEC membership, and surely the matter was not likely to arise as a practical issue for a long time to come? Finally, was an economic and monetary union feasible, and if so would the Community not need much stronger democratic controls in that event?

These queries evoked a discussion that focused somewhat more sharply on the issues of supranationalism and democratisation. There was some scepticism about the desirability from Ireland's point of view of giving the European Parliament more powers, and there were mixed opinions on the issue of the veto. But at least this exchange of views had ensured that Foreign Affairs staff were looking afresh at these matters, and I was satisfied, in the light of what had been said, that I would not face opposition from within the department in pursuing the kind of European policy that I had a mind. In winding up the debate I stressed the need for us to seek out issues in respect of which we could play a constructive role, not purely in the narrow interests of Ireland but in such a way as to demonstrate that we

had a European philosophy beyond looking for what we could get out of the system.

All In A Life Garret FitzGerald An Autobiography (1991) London: Macmillan pp 119–120.

Successive governments, including those in which I participated, were content to allow the popularity of EC membership to rest exclusively on these economic benefits that Ireland was receiving, without seeking to deepen Irish attachment to the Community by reference to its positive roles in creating a zone of peace in Western Europe and in leading the global development aid process. There has never been adequate appreciation in Ireland of Europe's remarkable achievements in these and other respects during the decades after the Second World War.

No one could then have foreseen the way this battered and demoralised continent would succeed in the decades that followed in reversing the tide of its history by initiating major intellectual revolutions that ultimately transformed its role in global affairs.

The first of these was the decision in 1950 effectively to transfer the sovereignty of its states in relation to human rights to the supranational jurisdiction of a Human Rights Court at Strasbourg. Nothing in Europe's history had foreshadowed such a radical development, which ran against the tide of its history since the Renaissance, a history that had been marked by the aggressive assertion of unbridled state sovereignty. A year later, states which had been at war with each other just half a dozen years earlier came together to create a supranational authority that would control two of their industries which historically had been the basis of their military power: coal and steel. And six years later, these six countries laid the foundations of a united and peaceful Europe by agreeing to integrate their economies

within a supranational political system. In this way they created a European zone of peace that in time was to spread to the whole of Western, Central, and North-Eastern Europe. Here again the tide of European history was reversed.

The transformation of Europe's relationship with the developing world went well beyond decolonisation. Not merely did Europe abandon colonial exploitation – which had often involved the transfer of resources from poorer overseas countries to their European colonial masters – but Europe led the process of actually reversing these transfers by developing aid programmes to assist former colonies. Whatever imperfections these programmes may have – and some of them have included elements of neo-colonialism – the acceptance in principle of the concept that rich countries should help poor ones represented once again a reversal of the tide of history.

The fourth of these Europe-driven revolutions has been the ecological revolution, the recognition of the need to restrain the growth of global pollution and the running down of natural resources. However inadequate the steps hitherto taken towards this end, whatever had been achieved, or is likely to be achieved in the foreseeable future, is the product of European leadership: the United States, Russia and Japan have all lagged far behind.

But the unique role of Europe in these crucial areas has never been fully appreciated in Ireland, where, paradoxically, those, often on the left, who are most concerned about the issues of human rights, peace, development aid and ecological issues are the most critical of Europe and of the process of European integration.

Reflections on the Irish State (2003) Dublin Irish Academic Press pp 158-160.

After the lecture, from left: Dr Attracta Halpin, Registrar; Dr Maurice Manning, Chancellor; Dr Peter Sutherland; Professor Jim Browne, President, NUI Galway; Professor Gerard Quinn.



Members of the FitzGerald family and Professor Jim Browne standing above Dr Maurice Manning and Dr Peter Sutherland.





Dr Peter Sutherland, Key Speaker, on the right, stands next to Professor Gerard Quinn, Reply Speaker.



Dr Peter Sutherland during his speech on European Integration and the Taming of Nationalism.

From left, Dr Maurice Manning, Chancellor, Dr Peter Sutherland, and Professor Gerard Quinn sit in the order in which they spoke.



Portrait by Carey Clarke PPRHA of Dr Garret FitzGerald in his Chancellor's robe. This painting is on display in the NUI offices on Merrion Square.



Peter Sutherland

Peter Sutherland, SC was educated at Gonzaga College and studied law at University College Dublin where he obtained an honours degree. He captained the UCD RFC First XV. He is a former tutor in torts and adjunct professor at UCD.

He was Ireland's youngest Attorney General and also EC Commissioner responsible for Competition Policy. He was Director General of GATT between 1993 and 1995 and the founding Director General of the World Trade Organisation. He was Chairman of BP for thirteen years.

He has received fifteen honorary doctorates and has been decorated by nine countries including a papal knighthood (Pope Benedict), an honorary knighthood from the United Kingdom and Chevalier of the Légion d'honneur from France.

He is now the Special Representative of the Secretary General of the United Nations for Migration. He is Chairman of the London School of Economics and Political Science. He is a Consultor for the Administration of the Patrimony of the Holy See and holds various directorships.

Gerard Quinn

Gerard Quinn is a professor of law at NUI Galway. He sits on the scientific committee of the EU Fundamental Rights Agency (Vienna) as well as on various international advisory boards including the Soros-Open Society Foundations (Washington DC) and Human Rights Watch (New York).

A graduate of Harvard Law School, King's Inns and NUI Galway he is a former official in the European Commission (Director General, Employment and Social Affairs) and former co-Chair of a treaty monitoring body on social cohesion in the Council of Europe. He was named a 'Champion of EU Research' by Enterprise Ireland in 2012. He has a long-standing research interest in the Nazi legal order and the closure of political space in liberal-democracies.

He currently directs an international Centre on Disability Law and Policy at NUI Galway.