

OUR WORST PREFERENCE

Reforming the Electoral System



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By Brendan Halligan

Preface

This volume draws together four papers and an article I wrote on the Single Transferable Vote (STV), the first in 1982 and the last some thirty years later. They each reflect a long held belief that the Irish system of Proportional Representation (PR), the Single Transferable Vote, is riddled with defects and is the main cause of a dysfunctional political system which produced two catastrophes in my lifetime, and may yet cause a third.

I first became involved in the intricacies of the Single Transferable Vote shortly after joining the Labour Party Head Office in 1967 as Political Director. On becoming General Secretary the following year I was immediately confronted with a referendum in which Fianna Fáil tried for the second time in a decade to replace STV with the British “first past the post” system of election. Of necessity, I had to become expert in the workings of both systems and learnt a great deal about PR in general and STV in particular from the legendary Enid Lakeman of the British Electoral Reform Society, who came to Ireland to help defend STV worked with us in the referendum campaign.

In the event, a majority of the electorate saw through Fianna Fáil’s attempt at a power grab and, by a thumping

majority, rejected their proposal to jettison STV and copperfasten themselves in power. Retribution, however, was not long in coming. The following year, Kevin Boland, the then Minister for Local Government, carried out a major rearrangement of the constituencies by re-drawing their boundaries and altering their size. The aim, naturally, was to dilute the proportionality effect of STV, and to secure a higher share of seats in the Dáil than the Fianna Fáil national vote would warrant in a general election.

As a civil engineer, he was highly numerate and far more astute than his manner suggested (the Irish word “glic” would sum him up best). He understood how STV worked and as a party manager, was thoroughly familiar with Fianna Fáil’s electoral strength in every District Electoral Division throughout the country. In short, he was ideally equipped to do what he intended to do, and the result was a classic gerrymander.

In the ensuing General Election the Labour Party got a lesson in how STV can be made to work against a party on the receiving end of a constituency carve-up. Despite winning 17% of the national vote Labour won only 12% of the seats in Dáil Éireann and, instead of gaining two or three extra seats actually lost five when compared to the previous election. An analysis of the Boland gerrymander is contained in the Labour Party’s 1969 Annual Report.

At the following election in 1973, Labour came to power with Fine Gael after sixteen years in opposition. Still smarting from Boland’s gerrymander (and with the two

attempts to impose the British electoral system still fresh in the mind) the National Coalition set about undoing what they regarded as a partisan attempt to change the electoral rules of the game. Jimmy Tully, the new Minister for Local Government, was responsible for drafting the legislation, which he did in close collaboration with key ministers, including the Taoiseach, Liam Cosgrave, and both parliamentary parties.

As General Secretary of the Labour Party I was deputed to work with him as an adviser and this gave me a privileged insight into the design of a constituency system intended to ensure that both parties would maximise their ratio of seats to votes.

That meant balancing geography with the inherent mathematical logic of STV, a tricky task. Three seaters, for example, offered the highest potential reward in seats won but carried the highest risk of losses if things went wrong, whereas four seaters minimised risk at the expense of maximising reward because the split between Fine Gael and Labour, on the one side, and Fianna Fáil on the other could be expected to work out at two seats each. Five seaters balanced both risk and reward. If the overall mix could be got right then the outcome would be as intended: a bonus in seats for the coalition, such as Fianna Fáil had previously ensured for itself.

As things turned out in the subsequent General Election held in 1977, this grand plan boomeranged because both parties lost votes nationally and the preponderance of three

seaters in the system leveraged the losses in seats with the result that Fianna Fáil won its biggest Dáil majority ever, twenty-two seats in all. I was a casualty myself, coming fourth in a three seat Dublin constituency.

The period beginning with the referendum in 1968 and culminating with the 1977 election highlighted the first big defect in STV – it need not be proportional at all. It is open to manipulation and, while protected somewhat from that danger because of the Constituencies Commission created after the 1977 election, the protection afforded is only as strong as the law on which it is founded. Legislation can always be amended.

Apart from these high level engagements in the workings of STV, I was also involved as General Secretary in the more mundane task of candidate selection. My experience of this most trying of activities was depressing and exposed the second great defect in STV. As an electoral system it did nothing whatever to facilitate the selection and subsequent election of candidates with the potential to be either good parliamentarians or cabinet ministers, or both. The focus lay elsewhere; the primary requirement of a candidate was to win votes and all other qualities were secondary. From a party perspective, the task of maximising the size of the parliamentary party and simultaneously ensuring that it had the talent to discharge its parliamentary obligations were directly at odds with each other. Sometimes one could get lucky, as the Labour Party did in 1969 when an exceptionally gifted group of deputies was elected, but it was the exception to the rule

and their decimation two elections later in 1977 made the point that political talent and popular appeal don't always go hand-in-hand. If anything, the reverse is true. That was, and still is, the second great defect of STV.

The third defect only became obvious with the "normalisation" of politics when civil war passions had cooled and the business of politics had become more mundane in the 1990s. Competition for votes no longer depended on war records but on service to the electorate. As far back as the early 1950s Professor Basil Chubb had identified badgering civil servants on behalf of constituents as a major preoccupation of Dáil deputies and had exposed the "clinic" as a major feature of political life. Academic analysis on the clientelist nature of Irish politics is by now so voluminous that its worst effects can neither be denied nor ignored.

By the time I arrived in the Head Office of the Labour Party in the late sixties the "clinic" was the hub around which constituency life revolved. Assiduous clinic work was lauded by the insiders; neglect was condemned. That is not to say that the intellectual side of politics was ignored. The opposite was true. Policy, however, was the province of the party rank and file whereas constituency work was the preoccupation of deputies, councillors and aspiring candidates. The party had two parallel lives, as it were, and one began to crowd out the other with such effect that a half a century after Basil Chubb's ground-breaking research the "clinic" has won over the "chamber".

This practical experience of STV progressively turned me into a critic of the system and serves as the context for the chapters that follow.

The first consists of a paper I gave to a seminar on electoral reform organised by the *Irish Parliamentary (Former Members) Society* in January 2010. I was asked to consider whether STV was “fit for purpose in a modern democracy” and my conclusion, as will be seen, was an emphatic negative. I did, however, go on to look at other aspects of the political system, such as the method of recruiting and appointing members of the Cabinet, and concluded that they too were unfit for purpose. In short, I said that we needed a root and branch reform of the whole political system if our democracy was to be saved from progressive decay.

To attribute all the ills of the political system to STV would be misplaced, of course, and would only distract attention from the need for other vital reforms, including that of the Civil Service. But, on the other hand, to ignore the centrality of the electoral system is to miss out on how the pieces of the political system fit together and work as a whole.

After all, the electoral system produces the individuals who run the parliamentary system, which in turn determines the governmental system and if ministers are generally below the level required then the fault lies with the process through they are chosen as candidates, elected as deputies and appointed as ministers. It does not lie elsewhere and that was the central thesis advanced to

the former members of the Oireachtas (a tough and battle-hardened audience). Without putting words in the mouths of the former parliamentarians, the tenor of the day was strongly in favour of reform.

The second chapter goes back in time to a paper delivered to the Constitutional Club in 1987, where I had been asked to look at the origins and functioning of Proportional Representation in this country and to compare it with other systems of PR in Europe. It drew heavily on research by Michael Holmes, which had been jointly commissioned some years earlier by Bertie Ahearn, Ted Nealon and myself with the aim of writing a book together in which we would advocate the replacement of STV with something akin to the German system. Even then there was a substantial body of support among deputies, as there always is, for a change from STV to some proper form of PR. The pity is that the book never saw the light of day; we were all simply too busy doing other, and ultimately less important, things.

The most startling point to emerge from the research by Michael Holmes was that the Single Transferable Vote is not a form of Proportional Representation at all. It was designed and intended for quite another purpose by its author, Thomas Hare. His intention had been to enhance voter choice within the British electoral system and the fact that under certain mathematical conditions it has a proportionality effect is incidental to its main purpose. As the Boland gerrymander proved, those conditions can be easily changed.

The other discovery was that STV had been incorporated into the constitutional order in 1922 without any serious scrutiny by the Committee drawing up the Free State Constitution and with only minimal debate in Dáil Éireann when it subsequently adopted the constitution in its capacity as a constituent assembly. Neither did STV get much examination when Bunreacht na h-Éireann was being debated in the Dáil in 1937. Thus, on the two occasions when a constitution was being formulated by our national parliament the electoral system was neither the centre of attraction nor even a sideshow.

The reasons for incorporating Proportional Representation into the constitution of the Free State belong, as always, to the particular history of the times.

Griffith had long been an advocate of PR and during the War of Independence had persuaded De Valera to commit Sinn Féin publicly to the use of PR as a means of placating Southern Unionist fears about their political future in an independent Ireland.

In the Treaty negotiations Griffith had felt honour bound to stick to that promise and so STV was incorporated into the Free State constitution with the blessing of the British government and parliament. The net result was the adoption of an electoral system without any grand debate as to its political or constitutional merits. By an accident of history, Ireland stumbled into a particular electoral system which was not a form of proportional representation at all, as a number of critics actually pointed out at the time.

It's hardly any wonder that there have been periodic calls to assess what we inadvertently inherited from our complicated past.

The third chapter incorporates material I had prepared for the Parliamentary Labour Party in 2007 for submission to the Constituency Commission, which was then preparing a redrawing of the constituencies. The submission I had drafted was not used but is included here because it illustrates the singular importance of constituency sizes on the allocation of Dáil seats among the parties, the lesson that had been learned in 1969.

The final chapter consists of an article published in *The Sunday Independent* prior to the first General Election of 1982. While it reflects the concerns of the day it makes the argument for electoral reform in a way that still rings true decades later; a depressing thought for sure. The article looked at the German and Swedish systems as preferred alternatives to STV.

While either would serve us well my personal preference is for the Swedish model, which I studied at first hand as the guest of the Social Democratic party during their 1968 General Election. The list system is used in large regional constituencies (such as the city of Stockholm) and in order to ensure a close mathematical correspondence between a party's national vote and seats party representations can be topped up by additional seats drawn from a reserve list.

There is a threshold of 4% of the national vote which

has to be exceeded for a party to be eligible to draw on the additional seats, a device to prevent the undue fragmentation of parliament and a common phenomenon in northern Europe.

The concept of a threshold is commonplace with list systems as a means of avoiding the atomisation of the national parliament, such as happens in the Israeli Knesset which, in the absence of a threshold, had no less than twelve parliamentary parties after the 2013 general election. In contrast, the repercentaging of parliamentary representation, which follows the exclusion of those failing to meet the threshold, confers a bonus in terms of additional seats on all the other parties.

Normally speaking, it strengthens the support for the government elected from and by the parliament, thereby adding to political stability. These benefits of the list system remain to be explored in this country, fixated as it is on an eccentric and unique form of election.

As will be seen, the common theme running through the chapters is that the Single Transferable Vote reinforces the clientelist nature of Irish politics, elevates the parochial over the national, enfeebles both the Dáil and the Government, rewards the worst aspects of political life and penalises the best.

The biggest casualty is the quality of government. That the calibre of ministers had been declining up to the 2011 General Election is beyond dispute. That the decline had reached crisis proportions was no longer in doubt.

The events of 2010, with the arrival of the European Central Bank (ECB), the European Commission and the International Monetary Fund (IMF) as our economic guardians and protectors, was proof positive that Irish governments up to that point were no longer equipped for the tasks of managing the economy and protecting society. It was a doleful conclusion, but a true one.

One design flaw which became more prominent during 2010 is the practice of holding by-elections to fill vacancies in the Dáil. This is another relic of the British constitutional principle that members of parliament are the representatives of all the electors in their constituencies, having been directly chosen by them for that purpose. It is entirely logical from this perspective that when a vacancy arises it should be filled immediately by constituents who are otherwise denied parliamentary representation. No such logic applies, however, to a multi-member constituency, yet the British practice has been transported into our constitutional order without any examination of its underlying rationale.

Interestingly, the practice of holding by-elections has not been carried over into either Local Government or the European Parliament. In the first case, vacancies are filled by the sitting Councillors making a co-option; in the second, any vacancy is automatically filled by a replacement from a list decided in advance by each candidate (or, more accurately, decided for them by the party they seek to represent).

Irish electoral history demonstrates that by-elections generally have a destabilising effect on governments, especially those elected with small majorities. Governments invariably lose a by-election because of the special nature of the contest, which is a lethal combination of local issues and national politics. For governments, squeezed at both ends of this spectrum, it's a no-win situation.

The inevitable effect of a string of by-elections is the erosion of governmental majorities. Deaths and defections within the ranks of its parliamentary supporters can push a government into a minority position even though the electorate had originally endowed it with a "secure" majority in the preceding general election. The events of 2009/2010 were a graphic example of the by-election effect whereby uncertainties over the government's capacity to adopt a budget worked against the national interest in a time of crisis.

The constitutional absurdity of by-elections can be ended by simple legislation; it does not require a referendum. That it has been allowed to fester to the point where it periodically puts a question-mark over the life of a Dáil is yet further proof that nobody has been thinking about the way the political system is supposed to serve the common good.

Governmental majorities can, of course, be lost through defections from their parliamentary parties whereby deputies put their own self interest before that of the nation, the ultimate triumph of localism over the common good.

The Dáil elected in 2011 had hardly settled in than this process began, predominantly within the ranks of the Labour Party. Within eighteen months the percentage of defections had reached an all-time high, a record which pointed up many of the inherent defects in STV, particularly individualism and localism.

These defections were all the more shocking given the perils besetting the state due to the financial and economic catastrophes created by the previous government, not to mention the solemn written pledges the deputies had given prior to becoming candidates to the effect that they would sit, vote and act with the parliamentary party (a formula adopted from Parnell, the creator of the first modern parliamentary party).

These lamentable events confirm that the STV system is open to a fourth systemic defect; the fracturing and weakening of parliamentary parties which is explored in the last chapter consisting of a paper delivered to the McGill Summer School in 2012.

The parliamentary party is the foundation on which parliament itself rests in every democracy and to enfeeble it in any way is to enfeeble the institution. Discipline is essential, not least for effective committee work where the principles and ideology of political parties are supposed to inform the work of the members. Otherwise the assembly and its various organs would become a cacophony of competing sectional, regional and individual interests in which decisions would be reduced to the lowest common

denominator to the detriment of the overriding national interest. They may no more perfect than human nature allows, but when used to effect they can be powerful instruments for reform and, in time of crisis, for salvation as the careers of O'Connell, Parnell and the two Cosgraves testify.

Cicero warned that the wellbeing of the people should be the first concern of government. It certainly is their first duty. But if successive governments fail in that duty and if the political system fails persistently to protect society then democracy itself is imperiled.

This realisation may provoke a reaction and create some sort of impetus for reform and the purpose of the following chapters is to help that process by encouraging reflection on the political system as a whole and on the electoral system in particular. They are offered in the belief that conclusions drawn from the evidence can only lead to the conclusion that fundamental reform is necessary for our survival as a sovereign state.

The catastrophe that befell us in 2010 is testimony enough. What we need now is action. As Grattan said, in order to save the country it is absolutely necessary to reform the state.

The general election results of 2011 may, at first sight, make this conclusion redundant, but I suspect not. Clearly the election marks a watershed in Irish political history, but it is surely just as clear that a new political order has yet to be established and may take a decade or more to bed in.

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