

SUDS' LAW

*Ireland's youngest Attorney General, Europe's youngest European Commissioner. Adjunct Professor of European Affairs in UCD's school of Law. Chairman of the London School of Economics. European Chairman of the most influential investment bank in the US. Chairman of the third biggest corporation in the world. Brokered a deal in 1994 that defined world trade as we know it today. Any one of these achievements would amount to a very successful career for most people. For **Peter Sutherland** (or "Suds" as he was known at school) each achievement came effortlessly on top of the last, links in the chain of an exceptional career. Rory Egan meets him.*

Peter Sutherland's home, on Dublin's Eglinton Road in Donnybrook, has no long gated drive, no helicopter pad, limousines or Rolls Royces or Range Rovers parked in the front. It is indeed a beautiful period house, tastefully furnished in an eclectic manner but it is most definitely a home rather than a trophy.

It is a fair reflection of the style of the man. Peter Sutherland is, by any metric, one of the most successful people this country has ever produced. He is a rare individual who is better known, and has more influence, on the world stage than in his own country. There isn't a hint of pomposity in Sutherland's demeanour and, once in his presence, you soon realise that the usual barometers of success mean little to him. In his drawing room there is a glass case that, at first glance, seems to hold a collection of old coins with ribbons attached. On closer inspection it reveals the Légion d'honneur, bestowed on him by President Mitterrand, and the honorary knighthood given to him by the Queen. Sutherland, because he was born before 1949, could have claimed dual citizenship but refused to do so. He has renounced, therefore, the right to use the title 'Sir' or the obligation to serve the Queen. The prospect of using a title would be alien to him. Peter Sutherland is Irish and very proud of that fact.

He was educated by the Jesuits in Gonzaga College in Ranelagh, a stone's throw from his Donnybrook home. Sutherland was not a devoted student and spent most of his time playing sport but he knew from an early age that he wanted to become a

barrister because of his passion for debating. In 1964 he enrolled in a Bachelor of Civil Law degree course and in his first year on that course apart from Law he also studied Economics, History and Philosophy in UCD where he first encountered Garrett FitzGerald [then Professor of Economics], among others, who went on to have a major influence on his life. "I had some very good friends at UCD who remain close friends today including Johnny Quirke, Paddy Kevans, Declan McCourt and Finbar Costello and a very close friend almost all through my life, Garrett Sheehan," [former solicitor, now Judge of the High Court]. "We had gone through school together, played rugby together and studied law together." Sutherland went on to captain UCD in rugby in his final year and obtained a good Honours degree.

After being called to the Bar in 1969, (he was later in life called to both the English Bar and the New York Bar) Sutherland continued tutoring in Tort Law at UCD. "I'm sure I was pretty abysmal but it helped to make ends meet."

His long association with the University continued. In 1993, after his period as Commissioner, he became Adjunct Professor of European Affairs and used to teach on Saturday mornings. He later endowed a Chair in European Law. "Hugh Brady [President of UCD] contacted me and asked if I could help in some way with regard to the development of a Law School and I've been engaged in the process ever since."

UCD has scheduled the Sutherland School of Law for completion in 2011, a €27m project that has already received the backing of Ireland's leading law firms as well as a number of senior

PHOTOGRAPH BY LIAM MURPHY



counsel and former law graduates. Sutherland himself has donated the lead gift to the cause. Interested in the creation of a law school of international repute, he resisted the honour of having it named after him. "The name was not my idea and I resisted it initially."

The topic of education comes up often in conversation. It is probably Sutherland's greatest passion and, he believes, the key to

the future of this country.

"All the universities in Ireland are going to have to fight for their reputation in the future. I believe the future of Ireland is significantly related to the issue of the standing of our universities. We are at a crucial moment and I have strongly urged for more support for our universities, even in these difficult times. We do not currently

have a superior education system and we must find the means to achieve it. Our secondary school results are only average, according to the Organisation for Economic Co-operation and Development (OECD), and average is not good enough. In our universities the student/teacher ratio is about 19 to 1 - in the UK, it's much better, sometimes 13 to 1 - and we have to compete with them. We spend less than the average OECD country on education. In contrast, we spend more than the average on health."

Sutherland has always believed the quality of young Irish people to be superb but that it's an innate quality rather than a consequence of education. "The capacity to communicate, to demonstrate a sense of humour and a gregariousness marks out young Irish people as being somewhat different. They have no sense of class distinction nor do they believe in glass ceilings - they're ambitious and very able. Now, if we can ally that to a superior education, not an average education, the consequences for the country could be enormous."

When asked about whether universities should charge fees, he doesn't hesitate. "I advocate the payment of fees because the alternatives are a superior education or an inferior education and I know which one I would go for. The British system allows loans to students which are only repayable when they earn more than £15,000stg per annum and they only pay up to a maximum of nine per cent of their income by way of fees. Between the ages of 35 and 44, the increment to the average graduate's income which results from having a university degree is 59 per cent. Surely it makes sense to take the loans and to have the better education? We have to ensure that the disadvantaged parts of our community are supported in the scheme, but it should be done."

However much funding is needed for third level education, Sutherland is scathing about how we manage our secondary schools. "We have less teaching hours than the vast majority of schools in Europe. We have an utterly dysfunctional secondary school year which is duplicated nowhere else in the world."

Sutherland was called to the Irish Bar in 1969 and practised as a barrister for a period before running for election in 1973 in the Dublin North West constituency where Declan Costello had originally been TD. He failed to get elected and went back to his legal career. "I took silk rather young and then, to my amazement, was asked to become Attorney General. I was Attorney General in two governments, one of which was very short lived." The second government he joined took on contentious issues. "That period of government was a very difficult time, both economically and because of Northern Ireland. I was busy representing the state in extradition cases and the Section 31 prohibition of Sinn Féin

on the national airwaves, in which I represented the government in Court. I don't think I enjoyed my period as Attorney General because they were difficult years."

The 1983 abortion referendum wording, giving the same equality of rights to the unborn child as it did the mother, was ambiguous and unacceptable, according to Sutherland. "I opposed it. And then Fine Gael split, part of the party voting with the opposition, the rest supporting the government. We ended up in

the paradoxical situation of arguing against our own referendum, then being massively defeated. That was a traumatic period."

In 1985, a vacancy appeared in Europe, FitzGerald asked him if he would go to Brussels. "I suppose I was asked because I was notoriously European. It was a defining moment, if ever there was one, in my life."

Jacques Delors, the incoming president, offered him the Competition Portfolio.

Delors asked that he also take on Social Affairs and Education for one year until Spain joined. "We fought regularly in the Commission because I was a free market liberal and he was something of an interventionist. However, we remain close friends to this day, and I am a committee member of his foundation, Notre Europe." In his first year he introduced something that he is particularly proud of - the Erasmus Programme. Erasmus, the European Regional Action Scheme for Mobility of University Students, allows European university students to study in other member states for the same cost of study in their own. "Over two million students have availed of it so far and I think it's been a great success."

When he took up the role of Competition Commissioner, Europe, although technically one market, was rife with local and national laws that protected certain industries such as car manufacturing and national airlines. Sutherland's work would lead to deregulation of the airline, telecoms and energy sectors and allow for the emergence of companies like Ryanair and Esat Digifone.

Sutherland explains that he was particularly interested in the role of Competition Commissioner because it controlled state subsidies. This resulted in battles with President Mitterrand and the French over Renault, and Margaret Thatcher over British Leyland and Rover. "They were difficult battles and I remember listening, while I was shaving, to an interview on the BBC with Mrs Thatcher at a G7 meeting in Canada. Asked about currency levels and exchange rates, she said, 'No I don't want to talk about that, I want to talk about that awful man in Brussels who is stopping me spending British taxpayers' money.' I almost cut my throat because it was indeed me she was talking about."

However, if those battles weren't fought, the 1992 Movement

of Goods, Persons, Capital and Services programme which was later to transform Europe would not exist. "It was vital for Ireland. It's why we benefited from foreign direct investment. Overseas companies knew they had access to the larger EU market."

Sutherland was also responsible for granting permission for the Irish Financial Services Centre to go ahead. "I did so legitimately because we had a GDP per capita that was less than 75 per cent of the EU average and an unemployment rate of 16 per cent. This permitted exceptional treatment."

Sutherland is genuinely proud of the work he did in Europe and there is no doubt he played an important role in transforming Europe, shaping it into what it has become today. Most of the policies and decisions he implemented in those years had significant ramifications. He attributes much of his success to the people he gathered around him. He forms teams he can trust and is happy to delegate. If you are part of his team, you won't last long unless you can keep up. Those who do are generously acknowledged.

"The people who were in my cabinet were crucial to me and the relative success I had as a commissioner. Richard O'Toole, my *chef de cabinet*, has remained close to me to this day. David O'Sullivan and Catherine Day were both appointed Secretary General to the Commission. It is unheard of for one cabinet to contain two people who went on to become the highest civil servants in Europe."

He was considered twice for the Presidency of the European Commission. On one such occasion, according to Sir John Major in his autobiography, he was blocked by the French. "All Irish people, being English speaking, are sometimes deemed to be sort of Anglo Saxon. I would also probably have been seen as an economic liberal, which the French wouldn't have approved of. But I had a lot of support. I would have given my right arm and leg to have been President of the Commission. I really wanted the job." Though it never became public, Bertie Ahern, when he was Taoiseach, went to every head of government and asked if they would support him. "I'm grateful to him for doing it." Would he accept the position now if it came up? "Absolutely. Like a shot. I would absolutely love it but it is not going to happen."

After Sutherland left the Commission, people continually asked him, what next? "I said that there was one fundamental issue - that was GATT (General Agreement on Tariffs and Trade) and the creation of the WTO (World Trade Organisation). There was

some incredulity at that but it seemed to me, with the collapse of the Iron Curtain, that the beginnings of globalisation were appearing. We had the potential, for the first time ever in history, to have a single global economic dynamic integrating across borders."

Jean Monnet, a great influence in Sutherland's life, had always seen the European Union as a step on the way towards globalisation. So did Sutherland, and he was asked in 1990 by Mike Moore, the Prime Minister of New Zealand, if he would go on a committee to report on the Uruguay round of trade talks which had been faltering without conclusion for years. At this point, Sutherland's name was beginning to be associated with GATT.

After leaving the Commission he received a telephone call from Mickey Kantor, the US Trade Representative. "He asked to meet me in Brussels for dinner. I was due to see Leon Brittan, the EU trade commissioner, for breakfast the following day so I knew

bloody well what the call was about. When I came home, after Europe, I was made chairman of AIB and was happily living here with my wife and family. Suddenly, I was going to be faced with moving to Geneva to do something which looked like mission impossible. I also knew the then current Director

General of GATT, Arthur Dunkel, was tired. He had done tremendous work and he'd brought the round very close to a conclusion but GATT was a huge undertaking and they needed someone to push it over the line."

He was about to realise just how massive the undertaking was. "There were 22,000 pages of documents, but the principles were fairly simple. I said I would only do

it on the basis that I would not become a permanent fixture as an international civil servant living in Geneva. I would stay for as long as it was necessary to keep GATT together. I remember Mickey Kantor saying: 'I have no intention of being the person who fails to get [an agreement]. If you do it, and I do it and Leon [Brittan] does it, we'll get it over the line because all of us want it to succeed.' So began two years of frenetic work and lobbying all over the world. We were trying to bring the Chinese and the Russians into the system." They eventually finished the Uruguay round in 1994. "It was really huge, and by far the biggest thing in my life to this day. But it never emotionally affected me in the way that Europe has continued to do in terms of achievement." The conclusion of the Uruguay round of GATT led to the creation of the WTO (World Trade Organisation) in 1995, with Sutherland having the support

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of everyone to remain on as Director General but he only wanted to do so until a successor was named.

In the 1940s and 1950s, the Americans had prevented the creation of the WTO, or ITO as it would have been called then, because they were afraid of its impact on their national sovereignty. “I had to go to the US Congress to try to convince them that they weren’t losing sovereignty by agreeing to this new organisation. Crucially, the WTO could adjudicate on disputes - GATT could never have done that.”

Throughout China and India, the WTO is much better known than it is here. Even the most humble farmers knew about it because it was a force greater than their national government. “It was used to change domestic rules; to open up economies and so has become a force for openness, especially in China.”

Up to this point, Sutherland’s life had revolved around setting standards in regulation and deregulating anti-competitive practices but when Sutherland left the WTO contemplating going back to the Bar, his career as banker and businessman was about to commence. He was approached by a number of companies. “On a plane going to the US, I had previously met the head of Goldman Sachs in Europe. I scarcely knew the name of the company at the time.” This encounter later led to an interview with Hank Paulson, who later became Secretary of the Treasury in the Bush administration. “I told him, ‘I know nothing about this business and if I’m ever offered a job in the public service that I want, I’ll take it. I’m just warning you.’ I have always particularly enjoyed public services and if I had been asked, at any time, to go back into public service, I probably would have done so.”

At virtually his first board meeting he was made chairman of Goldman Sachs International, with responsibility for Europe and Africa. It generates about one third of the profits of Goldman Sachs, is a separate reporting company and is regulated out of London. He became a partner and when Goldman Sachs became a public company his shares were worth millions. “I actually retired, although nobody in this country seems to know it, as executive managing director of Goldman Sachs in 2002 and stayed on as non-executive chairman, which allowed me to spend more time in British Petroleum [BP]. As one of the biggest companies in the world, it took up an awful lot of my time.”

Although Sutherland is better known as chairman of Goldman Sachs International, most regard his chairmanship of BP for 13 years as his most impressive performance. During the period between 1989 and 1993, when he was European Commissioner, he had fined BP for being part of a cartel. It was the only contact he had with the company before he joined the Board. Under his stewardship BP grew to become the biggest

corporation outside the US and the third largest in the world. An unparalleled period of growth and record profits meant that when his successor, Carl Henric-Svanberg, was announced in June of 2009, BP’s share price dropped as analysts called Sutherland a “hard act to follow”.

Since he departed, BP has been devastated by the oil spill in the Gulf of Mexico and, to a lesser extent, by the row in the US about its alleged involvement in the early release of Al Megrahi, the Libyan jailed for the Lockerbie bombing.

“I’m very proud of BP. I think it’s a very fine company and I think it’s very sad that this appalling event in the Gulf of Mexico occurred. I was significantly involved in the appointment of Tony Hayward [the recently retired chief executive of BP] and both he and Carl Henric-Svanberg are very fine men. When a tragedy like this occurs, all the companies involved come under fire. We don’t know yet where blame lies and whether BP or the other independent companies who operated the well are culpable but I am very glad that BP assumed responsibility for compensation so quickly and so comprehensively. I think that went a long way to ameliorating the damage for many people and I think the media has been very reluctant to even acknowledge this.”

With both companies coming under fire recently does he believe all the criticisms are justified?

“No, I don’t think so. Goldman Sachs came through the Lehmann Brothers trauma rather successfully, unlike many others. As a result of that, from being part of the pack at the top of global finance, it has gained a very powerful reputation. I think the criticism it has come up against is unfair.”

When asked why Goldman Sachs survived where others failed, Sutherland is firm in his assessment. “It had a better system of governance with regard to risk analysis than many others.

“I think the main responsibility for the sub-prime mortgage failure was political: there was a huge intent to float the economy on the building of more and more houses. There was a loosening of the levers that allowed that to happen. The issue of derivatives and sub-prime mortgages didn’t massively affect Goldman Sachs because they operated proper valuations of assets rather than being fooled by the value of assets.”

When asked about how Ireland fared during this period he stresses that Ireland’s predicament is home-generated and entirely separate. “The Irish problem was that we simply lent too much money on property that had a false value. It was lending that was grossly excessive to the real value of the property.”

Was this not a failure of regulation and would he acknowledge he was never a fan of regulation? “Fair point, but I was never against regulation of risk. I’ve always been in favour of strong

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regulation of risk. The culpability for Ireland’s economic deterioration has to be shared between the banks, the regulators and the political decision-making processes. Nobody involved disputes this is a responsibility that is widely shared. What we now have to focus on is - without denying the importance of looking back and learning - is how do we get out of this mess. The worry would be that we have gone so far, that risk would be anathema, that banks would no longer fulfil their primary purpose which is assessing risk and lending on risky propositions. We have to have institutions that lend otherwise we can’t create dynamic growth.”

If he were to advise Ireland Incorporated, what advice would he give? “Broadly speaking, we are doing what we have to do to balance the books. We’d be in an impossible position if we don’t stick to some years of strict budget tightening. I think growth can only be provided by individuals, not by the state. The state can only provide the infrastructure, human and physical, that allows the country to operate effectively. We have been far too stateist in our history and a lot of what has gone wrong in this country is as a result of excessive interference from the state. There are very few areas you can look at - transport, communications, infrastructure, the spending and monitoring of costs, education - where the state’s involvement was as positive as it should have been. Fás, Anco - there’s a whole history of stateism that has not been effective in Ireland. The answer to past ills is not to create more of that stateism. “We need proper regulation but that does not mean placing a dead hand on the development of the Irish economy.”

Sutherland explains that between 1973 and 1992 Ireland performed poorly in terms of economic development. “We scarcely diminished the difference between the average GDP in Ireland and the average GDP of the EU during that period. We were the only poor country in Europe for much of that time getting a huge amount of money from the EU. Since 1992, with the creation of the internal market, people in information technology and pharmaceutical companies have been able to come here, set up factories and export. That is what Europe has done for us. The only dynamic for growth in Ireland that can be created, in my view, is foreign direct investment which spawns individuals who can then go out on their own and create new businesses. That’s our only hope - there’s no other way of doing it. That’s why education is the key to this. Education, plus the experience from multi-nationals, whether abroad or at home, is what gives us hope.”

Sutherland’s views on the government’s purported sale of the various family jewels of state industries are simple. “There are no family jewels. The business of government is not running

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businesses. They’ve never been any good at it. The state running banks, which it did for a long time, hotels - The Great Southern - is ludicrous. Aer Lingus - ludicrous. Why should we have two state enterprises competing with each other - Bord Gáis and the ESB? I believe the state should look seriously at privatisation.”

In recent years, Sutherland’s work with the United Nations on migration in underdeveloped countries has become very important to him. Kofi Annan invited him to become High Commissioner for Refugees. Unable to take that position only because he was given too short a period to withdraw from his existing responsibilities, he agreed to another role. “A great deal of my time over the last four years has been spent as Special Representative of the Secretary General of the UN for Migration and Development. I took this position pro bono and employ a couple of people, one in New York and one in Geneva. Every year we have an inter-governmental conference dealing with migration and the effects of migration on development, the brain drain - the last one in Greece had 160 countries in attendance. It has become an important part of my life.”

It has also provided him with a vehicle for public service again which has always been, in his mind, his first priority. “I’m never going to take another chairmanship of anything - apart from the subsidiary company which is Goldman Sachs International. I’m on just three other boards, - one in Germany - Allianz, Koç in Turkey and BW Group Ltd which is basically a Hong Kong company.”

Sutherland’s health has recently become an issue. “Last July I was on a beach in Spain and one of my kids discovered a growth in my throat.” A tumour was quickly diagnosed and he flew home for surgery the same day. “I went through chemo and radiotherapy. I’m currently in remission and there’s no evidence of any remaining cancer, so that looks good. I still have some effects - such as swallowing, an effect of the radiation treatment which I understand will pass.”

When asked if illness has changed his outlook on life, his voice drops and there is a hint of vulnerability. It’s a question he has obviously addressed in private, but the

private and the corporate world are two distinct entities for Peter Sutherland. “It convinced me never to take on a full time executive role again but I’m pretty busy. I still effectively live in London but Ireland has always been the core of my life and my home, and still is. Ultimately, I will come back to live here full time.”

Finally, after everything he had achieved, what does he hope his legacy would be? He pauses for a moment. Again the voice drops ever so slightly. “I would like my legacy to be ... that I was a good father.” ■