



DISHONEST POLITICIANS

BY

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Allegations that certain Irish politicians acted dishonestly have been the stuff of recent inquiries. Dishonesty may be as old as man himself, but the charge of financial dishonesty rankles. A charge of financial dishonesty against a politician who purports to serve in the public interest is one of the most serious in the dictionary of unacceptable behaviour.

This note examines a case where the charge of dishonesty was made against politicians in general and resulted in proceedings in the High and Supreme Courts.

The Dillon Case

Andrew Dillon, a prominent solicitor, now of Kinsale, County Cork, and a former member of the Council of the Law Society, stood as a candidate in the general election of 1981 as a founding member of the Young Ireland Party. He chose Dublin North Central, the constituency of Charles J. Haughey, TD, then Taoiseach. Like other duly nominated Dáil candidates, Dillon was entitled, free of charge, to send to each person on the register of electors in the constituency one postal communication relating to the election. A precondition was that the communication had to be deposited in advance with the officials of the Department of Posts and Telegraphs.

In the communication to the electorate, Andrew Dillon included the words: ‘To-day’s politicians are dishonest because they are being political and must please the largest number of people.’ Officials in the Department of Posts and Telegraphs considered that the words were of a grossly offensive character and must be deleted. The Attorney General, Anthony Hederman, SC (subsequently a judge of the Supreme Court) was consulted and agreed with the Department’s views. Dillon refused to delete the passage, instituted legal proceedings against the Minister for Posts and Telegraphs seeking injunctive relief. Harry Whelehan, SC (subsequently Attorney General) appeared for Dillon. Paddy Connolly, SC, then in failing health but regarded as one of the great constitutional lawyers of his time, appeared for the Minister for Posts and Telegraphs. Ellis J of the High Court heard the case. Counsel for Dillon argued that the contentious words, when read as a whole, were not grossly offensive and submitted that the passage was no more than acceptable rhetoric.

Ellis J considered that he would decide the case on matters of law and as a juror deciding the issue as a question of fact. Ellis J in a reserved judgment on June 2, 1981 held that the word ‘dishonest’ when applied, particularly to politicians at election time, associated politicians in the mind of any fair-minded person, with possible corruption, cheating, deceit or lack of fair dealing and many other possible forms of wrongdoing, many of which would or could be offences under the criminal

law, and warrant prosecution and sentence. Ellis J considered that Dillon sought to solicit votes by discrediting the good character of others while presumably excepting himself from the stigma of dishonesty which he attached to other politicians. In fact, Ellis J considered that it was difficult to think of a word more likely to be of a grossly offensive character, insult, displeasure or annoyance than the allegation of dishonesty about politicians. The High Court held the officials of the Department were totally correct in refusing to grant Dillon free postage in the circumstances.

Dillon appealed. Senior Counsel, Harry Whelehan and Paddy Connolly argued their case in the rarefied atmosphere of the Supreme Court before a powerful court of three judges; Henchy Griffin and Kenny JJ. The Supreme Court heard the case on the afternoon of June 2, 1981, (the same day the High Court delivered judgment). The Supreme Court reserved judgment until the following morning.

In a powerful judgment, Henchy J considered:

‘[T]hose who practise what is often dubbed the art of the possible would not feel grossly offended by [the expression of opinion that politicians are dishonest] which, denigratory and cynical though it might be thought by some, is no more than the small coinage of the currency of political controversy.’

In words that deserve to be immortalised, Henchy J continued:

‘Some of the most revered and successful politicians who have lived have failed, at least in the eyes of reputable historians, to align great political acumen and success with moral or intellectual honesty. A charge of dishonesty is one that rarely penetrates the epidermis of any seasonal politician.’

Griffin J and Kenny J, in separate judgments agreed with Henchy J. Kenny J in his judgment, noted that the main item on the RTE news bulletin on the evening of the hearing was that Garrett FitzGerald, then leader of the Opposition, had said it was ‘dishonest’ of the Taoiseach, Charles Haughey, to refuse to meet him in a face to face confrontation on television.

Dillon won in the courts, contributed to our jurisprudence but lost in the general election, to the extent, at least, that he failed to get elected. [Unfortunately, the written judgments of the various judges have not been formally reported in any series of reports].

The tendency for anyone writing on the topic of dishonest politicians is to preach on the virtues of honesty. While resisting the temptation to preach, allegations of financial dishonesty on the part of politicians, or anyone else, are regarded with grave seriousness. In relation to intellectual dishonesty, well, few can claim to be intellectually honest at all times. Let us be careful about casting the first stone!

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