

Debate in the Seanad Éireann on the referendum bill (25 February 1998)

Caption: Extract from the minutes of debates in the Seanad Éireann on 25 February 1998. The Irish Senate approves the bill providing for new procedures for the conduct of referendums and establishing an independent ‘referendum commission’ to provide information and stimulate public debate prior to referendums, while respecting the interests of all parties.

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Referendum Bill, 1998: Second Stage.

Wednesday, 25 February 1998

Question proposed: "That the Bill be now read a Second Time."

Minister for the Environment and Local Government (Mr. Dempsey): Apart from the consolidation and amendment of the law relating to the conduct of a referendum effected by the Referendum Act, 1994, this is the first legislation on referendum law providing for substantial new procedures at a referendum since the original referendum law was enacted in 1942.

The Bill provides for new procedures relating to the conduct of a referendum. The establishment of a Referendum Commission to prepare information statements and to foster and promote debate relates to the broader aspect of a referendum campaign, an area that was not heretofore governed by detailed statutory regulation.

The new procedure relating to the appointment of agents at a referendum is an extension of the law relating to the detailed conduct of a referendum extending from the taking of the poll to the counting of votes. In this context, while the Bill is a relatively short one, it nevertheless represents a significant development of the law relating to a referendum.

The Bill breaks new ground in so far as the information aspect is concerned and I am sure we will gain much experience on how the procedures provided for in the Bill will operate in practice at the forthcoming referendum.

In the Dáil, Fine Gael Deputies opposed the Bill. They expressed the view that the Government is entitled to campaign for a "yes" vote using public funds, notwithstanding the McKenna judgments and that if there is a role for a Referendum Commission it should be to determine whether the Government is impartial in the expenditure of public funds at a referendum. They envisaged that legislation should provide accordingly, with its constitutionality being tested in the courts.

In the period of over two years since the McKenna judgments, it has been generally accepted that the Government may not spend public funds on advocating a result at a referendum to the detriment of those on the other side of the argument. I do not see how the views put forward by the Fine Gael Party can be squared with the McKenna judgments. While the judgments acknowledge that the Government may advocate a result at a referendum, they make it clear that it is impermissible for the Government to spend money in the course of a referendum campaign to benefit one side rather than the other.

The commission to be set up under this Bill is charged with spending public funds in a way that is fair to all interests concerned. In that way, I believe it meets the main point of the McKenna judgments on the use of public funds.

The purpose of the Bill is to establish an independent statutory Referendum Commission to prepare and disseminate information on the subject matter of a referendum and to foster and promote public debate in a manner that is fair to all interests concerned at a referendum. It will also consider and rule on applications from bodies for a declaration that they be approved bodies, whose sole function will be to appoint agents at a referendum.

Section 2 provides for the establishment, by order of the Minister, of an independent Referendum Commission not earlier than the date on which the Constitution amendment Bill is initiated in the Dáil or, in the case of an ordinary referendum, not later than the date of the order appointing polling

day at such referendum. Where the commission is established before the passing of a Constitution amendment Bill by both Houses of the Oireachtas, it will be prohibited before the passing of the Bill from publishing any statements or incurring any expenditure without the consent of the Minister for Finance.

The section provides that the commission will be independent in the performance of its functions and, subject to the provisions of the Bill, it will regulate its own procedure. This is an important point especially when considered in conjunction with the specific requirement in the Bill that the commission carry out its functions in a manner that is fair to all interests concerned. This should allay any fears that the funding to be provided by the Government to the commission may not be spent in a fair manner to both sides of the debate at a referendum.

Section 2 also provides that a member of the commission shall not advocate or promote a particular result at the referendum in respect of which the commission has been established. While it might not be necessary to provide for this matter, given the membership of the commission, it is important to demonstrate explicitly that the commission will be impartial in its attitude to the proposal in the referendum.

The section also sets out the membership of the commission. The members will be a former judge of the Supreme Court or a serving or former judge of the High Court nominated by the Chief Justice, who will be chairperson, the Comptroller and Auditor General, the Ombudsman, the Clerk of the Dáil and the Clerk of the Seanad. The section makes provision for substitution where there is a vacancy in the office of one of the ordinary members of the commission and where the chairman or another member of the commission is temporarily unable to act. A member of the commission, who ceases to hold the relevant office, such as on reaching retiring age, will normally continue as a member until the commission reports. The former Chief Justice, Mr. Thomas Finlay, has agreed to be chairperson of the first commission. I take this opportunity to thank those who have agreed to serve on the commission.

Section 3 sets out the principal functions of the commission. It provides that it will prepare statements containing a general explanation of the subject matter of the proposal, the subject of the referendum. The commission will also prepare a statement or statements of the arguments for and against the proposal having regard to any submissions made to it under section 6 of the Bill. The commission will be required to publish and disseminate these statements to the electorate.

As this section confers such powers on the commission as are necessary for the performance of its functions, it will be open to it to decide the best way of communicating with the electorate. The commission can use television, radio and other electronic media in addition to printed matter in brochures, leaflets, pamphlets and posters. It will also be a function of the commission to foster, promote and facilitate public debate on the proposal the subject of a referendum. The commission, in carrying out these functions, will be required to be fair to all the interests concerned. This is an essential part of the commission's role.

The process of providing direct information to the electorate has evolved over the last few years arising from the fact that, in recent years, most of the political parties represented in the Houses of the Oireachtas have been in favour of proposals put before the people at referenda. This is a welcome development as constitutional change should have the widest possible consensus. However, it has the drawback that public debate is not as sharp or as interesting as some people would like. The process of providing direct information on the advantages and disadvantages of a proposal at a referendum commenced in 1995 with the establishment of an *ad hoc* commission on referendum information for the divorce referendum. Since then there were two further commissions which had the responsibility of preparing statements with arguments for and against proposals at the bail referendum in 1996 and at the Cabinet confidentiality referendum in 1997.

Criticism was expressed after the most recent referendum that the advertisements were not the best of way of communicating simple factual information to the electorate. There is a view that the

delivery of a leaflet in an easy to read format to every household is more effective than newspaper notices. Notwithstanding the criticism, the *ad hoc* commissioners were a step forward in attempting to breach the gap in the provision of information. I believe this proposal will be a further step forward in that process.

Section 4 provides that the commission may engage such consultants and advisers as it considers necessary for the performance of its functions. Again it will be a matter for the commission to engage professionals such as public relations experts, publicists, advertising agencies and other professional services to ensure that they get their message to the electorate in the most effective way. This is important to ensure that public funds are not wasted on ineffective information and publicity. Due to the criticism which arose after the last referendum on the lack of comprehensible information, the commission will have to ensure that its statements are prepared in simple and understandable language. This section will enable the commission to engage the services of agencies with the appropriate expertise in this area.

Section 5 is important. It provides that the prohibition in the Broadcasting Authority Act, 1960, and the Radio and Television Act, 1988, on the acceptance of political advertisements will not apply to advertisements to be broadcast at the request of the commission in relation to its principal functions at a referendum. The importance of the commission's work, which is governed by the concept of fairness to all interests concerned, warrants the departure from the prohibition of political advertisements for the purpose of conveying balanced information on a referendum proposal to the electorate.

Under the section, the commission may, after consultation with the RTÉ Authority or the Independent Radio and Television Commission and having considered any proposals on their broadcasting plans in connection with the referendum, request the Minister for Arts, Heritage, Gaeltacht and the Islands, to direct the RTÉ Authority or the Independent Radio and Television Commission to arrange to make broadcasting time available to facilitate the commission in performing its functions.

Section 6 provides that the public can make submissions to the commission relating to a proposal the subject of a referendum. The commission will have regard to the submissions received when it is preparing statements under section 3. This is not to say that the contents of every submission will have to be reproduced in statements prepared by the commission. It will be a matter for the commission itself to decide the content of its statements provided they are fair to all of the interests concerned.

Section 7 provides that a body may apply to a referendum commission for a declaration that it is an approved body for the purposes of the referendum. The only function of an approved body under the Bill will be to appoint agents at various processes at the referendum. The right of such bodies to appoint agents will be in addition to the right currently conferred on Members of both Houses of the Oireachtas to appoint agents. This provision is included to take account of the High Court judgment in 1997 which held that the Minister has jurisdiction to rule on requests made to him by persons or groups to appoint such agents at a referendum. In view of the confusion in the other House I wish to stress that the only function of an approved body under the Bill will be to appoint agents. There is no question of appointing funding to such bodies at a referendum.

A body will have to apply for a declaration at each referendum at which it wishes to appoint agents. The requirements are kept to a minimum. The body must have an interest in the referendum. It, or a branch of the body, must be established in the State, have at least 300 members, have a constitution, memorandum of association or other such document approved by the members and a name which is not identical or does not closely resemble the name of a political party registered in the Register of Political Parties. The commission must be satisfied that the applicant body has a bona fide interest in the subject matter of the referendum.

While some may criticise these requirements as too stringent, I stress that the role of an agent at an

election or a referendum is serious and important. It is a task which must be done correctly and not a matter to be taken lightly. I wish to give some background to the appointment of agents, what they can do at a referendum and the reason for this provision.

Section 26(1) of the Referendum Act, 1994, provides that a Member of the Dáil for the constituency and any Member of the Seanad may appoint agents at a referendum to be present at the issue of ballot papers to postal voters, the opening of postal ballot boxes and the counting of votes. A Member of the Dáil for the constituency and any Member of the Seanad may appoint one person to be present in each polling station at a referendum for the purpose of assisting in the detection of personation.

In November 1995, prior to the referendum on divorce, an anti-divorce activist wrote to the then Minister requesting him to redress what she referred to as a deficiency in the Referendum Act, 1994. The person claimed that groups opposing the then proposed constitutional amendment were excluded from appointing personation agents and agents to attend the count without obtaining an appointment from a Member of the Oireachtas. She indicated that most, if not all, the parties in the Oireachtas were supporting the proposed amendment and requested the then Minister to make provision by way of emergency regulations to allow anti-amendment groups to appoint such agents. As that request was not acceded to, legal action was initiated.

In March 1997, the High Court granted the plaintiff a declaratory relief and made a declaration that the Minister has jurisdiction to consider whether there exists circumstances of special difficulty arising from the operation of the power of appointment contained in the section. Should he decide that circumstances of special difficulty arise, he may modify section 26 by providing by ministerial order that the power of appointment should be exercised by persons or groups in addition to the persons mentioned in the section.

The practical arrangements to be put in place at a referendum where no political party in the Oireachtas is opposed to a constitutional amendment have to take account of any group opposed to it. The Minister could by difficulty order determine which groups could appoint agents, or he could designate that this function should be performed by the referendum returning officer or each local returning officer. It would not be the most satisfactory arrangement that the Minister would adjudicate on who should have authority to appoint agents at a referendum as a refusal by the Minister of a particular person or group to appoint agents would be likely to lead to allegations of bias or conflict of interest on the part of the Minister and could result in a referendum petition. Assigning the duty to the referendum returning officer or local returning officer to determine which bodies should be entitled to appoint agents is not considered appropriate; it could embroil impartial election officials in charges of partiality.

I consider that the procedure for making a difficulty order at a referendum is not an appropriate mechanism for authorising bodies to appoint agents. Instead, section 7 provides that interest groups which are declared to be approved bodies by the Referendum Commission will be entitled to appoint agents. This will avoid any allegations of unfairness or partiality.

Under section 8, a commission is required, as soon as possible after its establishment, to publish a notice in at least two national newspapers inviting submissions in relation to the proposal the subject of the referendum. The public notice must also refer to the procedure for declaration of approved bodies for the referendum. It must also specify the latest date for receipt of submissions and for applications to the commission for declarations as approved bodies in respect of the referendum. This public notice will alert individuals, groups or political parties of their right to make submissions which must be considered by the commission in preparing its statements.

Section 12 amends the Referendum Act, 1994, to provide that the result of a referendum may not be questioned on the grounds of non-compliance by the Referendum Commission with any provision of the Bill or any mistake made by the commission if it appears to the court that the general principles laid down in the Bill were complied with and the non-compliance or mistake did not

materially affect the result of the referendum.

Under section 13 the expenses of the Referendum Commission will be paid from moneys provided by the Oireachtas from the vote of the Minister who initiates the relevant Bill containing the proposal which is the subject of the referendum. The Government has approved funding of £2.5 million for the commission's promotional work in respect of the referendum on the Treaty of Amsterdam.

Some speakers in the debate on the Bill in the Dáil advocated that the commission should provide funding to interested groups at a referendum. I do not agree with such a proposal. For instance, how would an allocation be divided if we assume the Government decided to allocate £1 million to be distributed to political parties and interested groups? Should it be *pro rata* to the size and representation of parties or groups or should 50 per cent of the funding be given to both sides? Either approach would be open to challenge on the grounds of unfairness. This would be particularly true in the case of the Treaty of Amsterdam given that 97 per cent of the people's representatives are in favour of it. I am not satisfied that taxpayer's would be in favour of the Government issuing large sums of their money, together with the extra costs of administering a scheme, to political parties and interested groups to persuade them to vote for or against the referendum. The potential for wastage of public funds would be enormous, especially if the electorate was bombarded with conflicting and perhaps inaccurate propaganda paid for with its money. The Government considers that the Bill provides a better option for supplying information to the electorate in a manner that is fair to all the interests concerned.

Under section 14 the commission will be required to furnish a report to the Minister as soon as practicable, but not later than six months after the completion of its functions at a referendum. The Minister is required to cause a copy of the report of the commission to be laid before each House of the Oireachtas. Where the Minister so directs, the report of the commission must include information on any particular aspect of the commission's functions as may be specified by the Minister. The commission will automatically be dissolved one month after presenting its report.

The question of information at a referendum was considered by the All-Party Committee on the Constitution following a recommendation in the report of the Constitution Review Group. In its first progress report issued last April the all-party committee agreed, as part of its conclusions on this matter, with the Constitution Review Group that an independent body should be established to regulate the funding and conduct of referenda. The all-party committee is currently reconsidering the matter and I have been criticised for not waiting for its report. However, in view of the short time available before the referendum on the Treaty of Amsterdam, I had no choice but to proceed with the present Bill in order that the commission would have time to carry out its functions effectively. I will, of course, consider recommendations the committee may make for inclusion in future legislation.

The Constitution Review Group also recommended that a commission should allocate funds to political parties and interest groups to ensure a thorough sustained debate on a referendum proposal. I am not convinced, and am not aware of evidence, that providing funds directly to political parties and interested groups would provide simple factual information to the electorate.

The Bill will put in place a mechanism to provide information to the electorate in a way that is fair to all concerned interests. The commission can only provide information; it cannot make the electorate read or consider it. Neither can the commission force the electorate to vote. As public representatives, we and others participating at various levels in political parties or public life have a role to play in this issue. I hope that, irrespective of our views on the Treaty of Amsterdam, all persons active in politics will help in generating a healthy debate on it. I also hope politicians at national and local level will urge electors to vote on polling day.

Hopefully, the information provided by the commission will increase public awareness which will result in the electorate being in a position to make an informed decision and express that decision

by coming out on polling day to cast their votes. I commend the Bill to the House.

Mr. J. Doyle: Fine Gael opposed the Bill in the Dáil and has not deviated from that position. The Bill proposes the establishment of a Referendum Commission to prepare and disseminate information and to foster, promote and facilitate debate in a fair manner. The Government stated that the establishment of an independent commission is made necessary by the forthcoming referendum on the Treaty of Amsterdam and that it will be used to regulate future referenda, notably that on the outcome of the Northern Ireland peace process. We will all welcome such a referendum.

The Bill comes before the House at a time when the All-Party Committee on the Constitution in its first report concluded that an independent body should be established to regulate the funding and conduct of referenda. It was also of the view that, in addition to carrying out this function, the commission should also assume the functions currently undertaken by the Constituency Boundary Commission, the Public Service Ethics Committee, which was established under the Ethics in Public Office Act, 1995, and any other commission proposed to regulate election funding.

However, in view of the time available before the referendum on the Treaty of Amsterdam the Minister is proceeding with the Bill. Unfortunately, when it comes to important democratic issues there always seems to be a rush, and legislation which is rushed is not good. It would appear that with the possibility of apathy and misunderstanding preceding ratification of the Treaty of Amsterdam, the Government has been pushed into a referendum campaign fudge which is likely to result in a bizarre campaign. Whether the public will be wiser or more enthusiastic participants in the process will be seriously in doubt.

As a result of the McKenna judgment which resulted in a ban on partisan funding for referendum campaigns, the Government has decided to seek the services of an independent commission to make a case for and against any referendum. The commission will have £2.5 million to fund the printing and distribution of its arguments and any advertising deemed necessary.

The Bill is a lack lustre response to the main problems created by the McKenna judgment. Governments are entitled to issue information on any issue. The key test for the judges who found in favour of the McKenna case was that information should be provided on the basis of fairness. There is no reason the Government should not provide information on such a basis. The approach adopted by the Government in this Bill is wrong as the essence of the Bill does not tackle the main problem or resolve the issue concerning the entitlement of a democratically elected Government to advocate a point of view in a referendum.

Fine Gael believes in the Government's right to advocate a point of view in a referendum. We believe that it is a proper part of the function of a duly elected Government in a democratic system to act and negotiate on behalf of the people. When an issue is put to the people in a referendum, the Government should explain its views on the issue to the people. The Constitution is the fundamental law of the land and it is the preserve of the people who make decisions about it. They are entitled to be given the broadest possible base of knowledge on which to make a decision. Every political party has a responsibility to present its case to its supporters, and there is no prohibition on that.

When a Bill to amend the Constitution is before the Oireachtas, sufficient time for a full debate should be provided because these debates generate public interest. If it is rushed through the Oireachtas, as was the Bill on Cabinet confidentiality, then the public has little or no interest in or understanding of it. There has been a growing tendency in recent times from people who have no electoral mandate — and who have never sought one — to prohibit Members of the Oireachtas from contributing in referenda once the matter is before the people. Members of the Oireachtas have debated these issues and are often the most informed people about them. This is very dangerous for democracy and it has created a situation where the public has little or no interest in referenda; this is proved by the declining number of people voting in them. People still like to have arguments debated with passion, then they know exactly where they stand and what position they should take. This was clear from the divorce referendum when both sides argued passionately before the people

made their decision.

A substantial budget of £2.5 million will be made available for the referendum on the Amsterdam Treaty. Advertisements, leaflets, posters and arguments directed at voters will all contribute substantially to public understanding of the relevant issues. However, the Government has stopped short of enabling money to be allocated directly to campaign groups. In doing so it has left itself open to the criticism that the debate will not be carried convincingly to the electorate. I do not accept the Minister's arguments on this matter.

It would defeat the purpose of the Bill if the publicity and arguments put forward by the Referendum Commission were cast in the dry legalese used during the recent referendum on Cabinet confidentiality. By stopping short of enabling money to be allocated directly to campaigning groups, the Government failed to provide resources to political parties, to those who are democratically elected, to pursue public affairs here or to groups who have a particular interest in the referendum campaign itself.

There are alternatives available to the Government. I commend the arrangements being made by the Danish Government which will hold a referendum on 28 May on the Amsterdam Treaty. That Government will spend £500,000 printing and distributing purely factual material for the referendum. It has set aside a separate fund of £2.8 million for campaigners, half of which will be distributed to parties and groups through a formula that recognises both the need to reflect a party's electoral base and the principle that minorities need special help. Half of this £1.4 million is allocated equally among all registered political parties and the three EU focused campaign groups while the balance is distributed among the same groups in proportion to their electoral support.

This system is overseen by an independent and widely respected committee which has the right to distribute £1.4 million to applicants promoting specific projects, whether those relate to meetings, pamphlets or publicity. This allows those outside the mainstream political process or the minorities without the parties access to funds to play their role in a referendum. Should this system be allowed in Ireland?

The key test for all the judges who found for McKenna was that of equality; that citizens on one side of an argument should not be favoured against their equals on the other. Clearly, if the Government accepted the principle that it should assist the debate by directly funding both sides of the argument in order to avoid another successful legal challenge, it would have to establish an impartial mechanism for distributing funds which would take into account the need to assist minorities and to reflect a real balance of forces in an argument. If the Irish courts, as appears from a detailed reading of the McKenna judgment, are not so much concerned with the spending as with the bias of the State, it is arguable that such a system would be likely to be upheld. If an impartial mechanism was to be found for distributing such funding, what better than the commission provided for in this Bill which will be chaired by Mr. Justice Finlay? It will play an important role in our democratic system. The Government's approach to this is wrong, reflecting a paternalism and caution reminiscent of another age. It does not reflect the confidence of a new Ireland, and I will oppose this Bill on Second Stage.

Mr. Walsh: It is interesting that the Minister referred to this Bill as the first significant change in the referendum process since 1942. It is a major change. The Constitution is highly valued by the public. We have had 20 referenda since 1937. Of these, 15 have passed and five were rejected. The level of voting in most of those referenda has reflected the interest and commitment people have to plebiscites and the Constitution.

The McKenna judgment has changed the situation, giving rise to an information deficit during referenda. Debate has been stifled and this Bill will set ground rules to restore the previous order, when there was healthy debate and controversy during important referenda.

I have some sympathy for Senator Doyle's position but the Government will be in a position to articulate its view very clearly in any referendum. I am not sure that it is necessary for political

parties to source Exchequer funding to do so. I would welcome an independent, statutory referendum commission with two major functions: first to prepare, distribute and disseminate information in a way that is fair to all interests and second to rule on applications from bodies which wish to appoint agents to oversee the referendum. The commission will be established by ministerial order and it will be made up of eminent people who occupy important public positions. Their track records will assure us that they will discharge their responsibilities fairly and impartially.

Section 3 deals with the principal functions, such as the preparation of statements which explain the subject matter of the referendum proposal as well as statements setting out the arguments for and against the proposition. Debate will also have to be fostered, which is the most important requirement. I hope the commission will be innovative in the manner in which this is interpreted because that may be the criterion by which its performance is judged. In recent referenda notices were placed in newspapers with arguments for and against the issue. It was not the most effective way to get the message across in that the notice probably contained too much information and the small print did not make it user friendly and, therefore, the message was lost.

Turning to a point made by Senator Joe Doyle, the cut and thrust of political debate is important during the course of these campaigns. Certain issues will probably command the attention of politicians to a greater degree than others but if we are to attract the public's attention, particularly in a busy world where people are preoccupied with many other issues, the method of presentation is important. Some people would attribute the failure to do so, particularly in the last referendum, to the large number of spoiled votes and the low turn out, which is not healthy for a democracy and which is at variance with past experience in terms of people participating and exercising their franchise.

It is important that notices are user friendly. They should be limited to a small number of important points which should be put across in the most effective way possible. I take the point made by the Minister that a leaflet posted to each household is also effective and should be part and parcel of each referendum campaign. The issues would be grappled with and understood.

Section 4 gives the commission the power to engage consultants and advertisers, as it deems necessary. That is a welcome initiative. Perhaps the commission would consider engaging consultants or professionals on one or other side of the argument and giving them the wherewithal to articulate their views. That could be an effective way to get the message across because if we could generate that type of competitiveness in the debate, we would command media and, subsequently, public attention, which is healthy and desirable.

Section 5 is important because the greatest mediums in getting any message across are television and radio. The prohibition on the broadcasting authority in relation to political advertisements will be lifted where requests are made by the commission which will have the power to ask the Minister for Arts, Heritage, Gaeltacht and the

Islands to direct RTÉ and, indeed, the Independent Radio and Television Commission to make broadcasting time avail. During my days as a member of the junior chamber our debates generated much local interest and perhaps a television debate with three speakers on each side would be a good way to get the message across if done in a proper and entertaining way. The programme would command a high rating with audiences and would be a good medium to ensure both sides of the argument are made in a fair and comprehensive way.

Section 7 gives the Referendum Commission the power to appoint agents. Bodies which are accepted by the commission will be in the same position as a Member of the Oireachtas from the point of view of appointing an agent to oversee and participate in that process. It is good that bodies must have a national complexion, a minimum of 300 members, a proper constitution and memorandum of association. It is important local grievance groups do not become involved in national debates such as this without a mandate. It is important to protect against that and it appears

the Bill does so. Equally, it is imperative in these days of transparency that interested bodies are involved in overseeing the efficacy of the election because, ultimately, it leads to an acceptance of the political process by the public at large and enables those who are not actively involved in politics to participate in the process.

Section 8 deals with the requirement on the commission to publish in two newspapers. I hope the commission extends its remit and utilises to a great degree local newspapers and local radio which are effective mediums in getting the message across. We should not lose sight of that in this process. Section 12 is a precautionary measure to ensure that if the result is subsequently questioned on the basis of any act by the commission it will have to be adjudicated on against its compliance with the general principles of the Bill rather than on specifics. That is a prudent measure to avoid technicalities being contested to set aside the democratic will of the people.

Section 14 requires the commission to furnish a report to the Minister who must present it to both Houses of the Oireachtas. That makes the commission democratically accountable, which is worthwhile. I welcome the Bill and hope it will remedy the information deficit in recent referenda. I am sure that as time goes by and with an innovative approach by the commission, it will be an effective tool in our democratic process.

Mr. Dardis: I have a great deal of sympathy for Senator Joe Doyle's view. I take the point that the Bill is inescapable as a result of the McKenna judgment. The Minister said he did not see how the views put forward by Fine Gael could be squared with the McKenna judgment and neither do I. I do not know how he can deal with it except by way of a constitutional referendum to deal with the McKenna judgment. Perhaps that alternative was considered and might be considered in the future.

In a parliamentary democracy, parliament should be supreme, subject to the Constitution and the ruling of the courts on it. If parliament decides, either by a small majority or by consensus, on a particular advocacy in respect of a constitutional referendum the European Union or the Amsterdam Treaty, it is appropriate for that to be disproportionate. I accept that is at the heart of the McKenna judgment and that is where the difficulty lies. There may be an alternative way to do this.

It is interesting that, in the case of the McKenna judgment, the action was dismissed by the High Court and upheld by the Supreme Court by a majority of four to one. The Supreme Court held that the Government, using public funds in the promotion of a yes vote, was acting in breach of the Constitution. The decision was based on the people's prerogative to amend the Constitution, the constitutional right to equality, fair procedure, freedom of expression and a democratic process in the referendum.

The Minister referred to the Committee on the Constitution. I am a member of that committee. While I accept it when he says he need not have waited for the report of the committee, it would have been useful if the committee had looked at the Bill as drafted and given a view on it. It is down to the Government of the day to decide whether it accepts that view. There should have been a greater interface between the Committee on the Constitution and the preparation of the Bill. That might have been beneficial.

The question of the use of public funds in the promotion of a yes vote and the resultant breach of the Constitution brings us back to the difficult area of advocacy. One way to advocate a case is by pamphlet rather than by newspaper advertising. In October 1995 the *ad hoc* Commission on Referendum Information used pamphlets, costing £134,000. We are creating a gravy train for newspapers. I would hate to see the densely worded full page notices in newspapers which nobody reads. That was confirmed by a study in Massachusetts in 1976. People were asked how they came by information and by far the greatest proportion was by way of a pamphlet. A very small proportion received information by way of newspaper advertisements. A pamphlet going into every home may cost a great deal less, be as effective, and fulfil the obligations imposed upon us by the McKenna judgment and the legislation.

Senator Doyle raised the difficulty of the Northern Ireland question. When the talks come to a

successful conclusion, a proposition will be put to the people on both sides of the Border on the same day. We may be putting a question which, on the day, does not involve a constitutional amendment. In those circumstances I am unclear how the McKenna judgment would impact. I see no difficulty there in promoting one side of the question. In that instance it would be improper that a small minority opposed to the question should be given equal space to the vast majority who would be likely to be in favour of it. Debate is important but it should reflect reality.

The Government should be able to advocate its case and there should be a matter of choice. If we get that wrong the electorate can kick us out. I get impatient with people saying Members of these Houses do not reflect a particular point of view. If people are unhappy with that they can elect somebody else who will represent that view after an election. That is part of parliamentary democracy. Nothing we do by way of legislation or otherwise should undermine that principle.

It is true spending can affect the outcome. We have introduced legislation on the spending of political parties in general elections——

Mr. J. Doyle: And by elections.

Mr. Dardis: ——in all elections. If there is a principle it should be universal.

There are other legislative models which would indicate ways it could be done. The Canadian Referendum Bill, 1992, gives some examples of the way interested groups can make application to the commission to receive funds and have their case represented when it comes to a referendum.

The Clerk of the Seanad will be a member of the commission. In recent years the workload of the Clerk of the Seanad has become greater by way of constituency review commissions and other bodies. The Clerk should be on these bodies but should be given the remuneration and resources required to fulfil the obligations which are increasingly put upon her by law.

Section 2(7) of the Bill mentions “a member of the Commission notifies the Minister that he or she is . . . temporarily unable to act. . .”. How long is temporarily? Section 2(13) covers resources but section 2(1) it says that the Minister may “if he or she considers it appropriate” by order establish a commission. I do not understand the need for the words “if he or she considers it appropriate”. If it is considered as inappropriate, are they to do the same thing? This is just semantics but it is important.

On the question of engaging consultants, people who can translate this opaque language into something ordinary people can understand should be employed and paid well. The usual consultants have emerged, advertising agencies and so on but I would have a journalist do the job. I have a vested interest here, having been one myself. I spent most of my professional life translating scientific language into language people could understand. There are many people with that ability. They are important and the commission should make use of them to simplify the language. The legislation introduced at the start of the century is easy to read as the language used was very plain. We are constructing an edifice for the benefit of the legal industry where the lawyers have a ball and the State pays the fee. Section 3(2)(b) mentions the presidential electorate because it is the presidential electorate who vote in a referendum.

Television advertising and submissions in writing and by electronic mail are taking up a great deal of time. If we impose too many obligations on the commission, they may find it extremely difficult to get all the work done by the time the referendum is to be held. We must bear in mind that the commission should be able to do its duty well.

Section 7(4)(c), states that the Commission may refuse to make a declaration if the name of the body is identical with the name of any party registered in the Register of Political Parties. This seems to be a disqualification of political parties although I am sure that is not what is intended. Section 7 (9)(b) states that a political party that is for the time being registered in the Register of Political Parties shall be deemed to be a body. One subsection of the Bill seems to say that a political party cannot be a body and in another that it can. I am sure there is a reasonable

explanation for this and I would like to hear it. These technical aspects are a little obtuse but they must be given some consideration.

I accept the need for the legislation based on the McKenna judgment. The only alternative is to hold a constitutional referendum which might lead to further hearings in the Supreme Court. We need to vote on the Amsterdam Treaty. I will enthusiastically advocate the adoption of the Treaty. It is to our advantage to adopt it and I do not think that the reservations which have been expressed about it are real. A referendum on the McKenna judgment would further delay a referendum on the Amsterdam Treaty. If this legislation is necessary to have the referendum on the Amsterdam Treaty held on time, I support it.

Mr. B. Ryan: This is, of course, a very welcome provision. I celebrate the McKenna judgment which seems to have infuriated the entire party political system. Had I not been worried about the possibility of a large award of legal costs against me it might have been the Ryan judgment. Prudence, not an attribute which is associated with me, got the better of me and I did not make the challenge but I am very glad it was done.

I have no objection to the party political system. I do not regard myself as a superior species as an independent politician. It is, nevertheless, a mystery to me that political parties could accept the fact that governments could spend as much money as they saw fit advocating a particular outcome to a constitutional referendum. Who would have set limits to that spending? No checks or balances would have existed except for the faint possibility, mentioned by Senator Dardis, that the electorate might dismiss the Government at the next election. That would have been no use in this case because virtually every political party in the State had accepted the principle of the free use of taxpayers' money to advocate one side in a constitutional referendum. The Green Party was the only party not involved and the election of a Green Government was highly unlikely. It was particularly disturbing that, for a long time, the principle was accepted.

The current White Paper on the Treaty of Amsterdam is accepted as an honest effort, even by people who are usually critical of the Government's European policy. It is a better document and makes a better case for the Treaty for being fair. It is careful to avoid both excessive claims and scaremongering.

I was wrong to advocate a no vote in the 1972 referendum on EEC entry. I now attach great value to European cultural diversity and to the benefits we have received from being liberated from a single focus on the island between us and the rest of Europe. The Government did not spend money on the 1972 referendum. Political parties and organisations such as farming organisations devoted resources because they believed that membership of the EEC was an important issue. That is how it should be. The referendum on the Single European Act was unexpected and was the outcome of a brave man's decision to contest something in the Supreme Court. The Supreme Court occasionally demonstrates the principle of the separation of the judicial and legislative powers by disagreeing with the Government's legal advice. This separation is a necessary part of our constitutional arrangements and adds to my scepticism about the system of government of our neighbouring island. Other people are, of course, entitled to run their own countries as they wish. That is one of the reasons we chose not to be part of those constitutional arrangements.

Let us suppose that a referendum was being held on a fundamental European issue and opinion in the country was closely divided. A government, in its anxiety to have the referendum passed, would be tempted to spend a vast amount of money on the campaign. Political parties and independent candidates spend money during election campaigns as though there were no tomorrow. This is also done by individual candidates — one is running in an election and thinks that one is all right but all of a sudden Senator O'Toole produces yet another leaflet out of his 10,000 from the INTO and fools like me believe they have to respond. If this happens to individuals there can be no doubt that it could also happen to parties and Governments. Unfortunately, the Government's purse is bottomless. Where will this end?

Let me put an extreme position. If the McKenna judgment is wrong, as many believe it to be, what measures are in place to prevent Governments spending £10 million or £20 million on the outcome of a referendum or spending so much money that every printer in the country is kept busy for the three weeks before a referendum? This would be a breach of the fundamental principles which the Department of the Environment and Local Government is trying to implement but what would stop the Government doing so if it so decided? There was nothing in our laws which could have stopped it. Even if there was such a measure we could have changed the law if the Government had a majority. The only barrier which could have prevented a marginal abuse of power becoming a gross abuse of power was a judgment by the Supreme Court. This was why I ventured down the first step of that trail but then got scared and did not pursue it further. Given the outcome I am sorry now but if the judgment had been different I would be glad that I did not go further. The McKenna judgment was necessary.

I never know whether the Attorney General's Office develops fits of pique but it appears that it has decided nothing can be done. I have heard that people have been restricted from using State cars during elections. This is to be encouraged as it is an abuse of power. The Attorney General's Office is now attempting to say that all sorts of things cannot be done because of the Supreme Court judgment. Many people see this as a way of softening up public opinion in advance of a referendum to reverse or dilute the McKenna judgment. We should remember that all the Supreme Court decided was that Governments could not use public money to advocate a particular outcome to a referendum. This seems the most logical decision to the average citizen because the alternative is unthinkable.

Any Member of the Dáil can introduce a proposal to amend the Constitution but the practicality is that it is unlikely to be passed if Government does not support it. However, the constitutional principle is that any Member of the Dáil can advocate a constitutional amendment. If the Oireachtas passes such a Bill it goes to a referendum. Under the Constitution it is not the Government which *de jure* decides whether a constitutional amendment goes to the people. Such a decision is made by the Oireachtas, and the Dáil in particular, because this House, quite rightly, cannot introduce a constitutional amendment. One could have the ridiculous situation of a Government being defeated in the Dáil. This almost happened in the horrendous pro-life amendment, horrendous in the sense of the experiences of everyone involved. In that instance, a wording which the Government did not want went to the people because the Dáil decided not to follow the Government's instructions. What would have happened if the then Government had decided to spend a large amount of public money advocating a no vote? We would have been in a very peculiar position.

People in Government forget that the Constitution is the property of the people, as are the Houses of the Oireachtas. Elected representatives get annoyed when people like me give them lectures. That is not what I mean. One has to remember the constitutional hierarchy. The people give us whatever power we have. The Constitution is the contract between the people and the Oireachtas. It is the rules under which the people allow us to act in their name. If we want to persuade them to change a constraint they have imposed on us or on society, then it seems a constitutional contradiction to use their money without their approval, regulation or control to do so. I have long believed that the McKenna judgment was inevitable; it was a four to one decision. As I said I wished to celebrate the McKenna judgment because it is very important.

This Bill is a good idea and I am in favour of it. I hope that imagination is used so that we will no longer have dull, long documents. Let us find creative ways to stimulate debate; conflict is one way of doing so. My only regret about this Bill is that it will not fund conflict, by "conflict" I mean debate. There will be such a careful balance now that we will not have interaction. That is why I regret the lack of any attempt to explore the possibility of funding both sides of a referendum. I appreciate the difficulties of doing so, particularly when one has a 99 per cent to 1 per cent position. However, we ought to have introduced legislation which would address the possibility of funding both sides so that we have a real debate. As it stands it will be like an economist giving both sides of the argument — attempting to be fair but not addressing the issue.

Mr. D. Kiely: I welcome this Bill and I am delighted it is before the House.

Minister for the Environment and Local Government (Mr. Dempsey): I do not know where Senator Ryan got the impression that every member of the Government and the House does not share his views on the McKenna judgment. I have grave difficulties with some of the interpretations put on the judgment in relation to other matters. If anyone kept records of letters sent at the time of the judgment they would find one from me which stated that I agreed with the principle of what was being outlined. I agree that the Constitution is the people's document and that the Government should not be in a position to spend money advocating change in a biased manner. However, I have great difficulties with some of the subsequent interpretations by Attorneys General on party political funding and other matters raised by the Senator.

The Constitution is the people's document and I have no difficulty with Governments having the right to introduce proposals to change that document. They can advocate whatever decision they wish but should not spend taxpayers' money in a one sided campaign. I would not agree with the original Fine Gael proposition that taxpayers' money should be used to engender debate where Ministers debate both sides of the argument and the Referendum Commission would then adjudicate as to whether they were being fair and accurate. Such a position would be untenable.

I thank Senators for their contributions and I will deal with some of the points raised. As regards the McKenna judgment, the view has been put forward by the Fine Gael Party that the Government is entitled to campaign for a yes vote, irrespective of the McKenna judgment, and that the role of the Referendum Commission is to adjudicate whether the Government is impartial in the expenditure of public funds. I do not understand this argument put forward. On the one hand, we are expected to be fair and even handed but, on the other, we can advocate one side of the argument with a Referendum Commission set up to adjudicate whether we are being fair. If money is spent on one side of the argument, one cannot be fair. Fine Gael's argument is rather strange. Since the McKenna judgment, it has been generally accepted the Government may not spend public funds advocating a particular result in a referendum to the detriment of people with opposing views. I cannot square the Fine Gael position and that of Senator Doyle with what is generally believed outside the Fine Gael Party to be the position at the moment.

As regards the political debate on the referendum, there is nothing in the Supreme Court decision to prevent politicians from engaging in debate on the referendum. The publication of material by the commission should assist politicians and others engaging in such debate as objective information will be made available by an independent body. This means real issues can be debated as opposed to the propaganda of one side or the other. It should help the debate that there will be an independent and objective body disseminating information.

Members of both Houses expressed fears that this might end up being very sterile and Senators Doyle and Walsh made a point about there being passion in the debate, I believe we are giving the commission sufficient scope to generate that passion by not being prescriptive about what it does. While I do not want to be seen as giving directions to the Referendum Commission, I stress there is nothing to stop the commission from organising or facilitating a debate between someone from one side of this House who favours the Amsterdam Treaty and one from the other side who is against it. There is nothing to stop it from having people from outside either House who feel strongly and passionately about this issue to do that as well. There is nothing to stop it, if it so decides, from having a televised debate between such people. I hate to think the Referendum Commission would feel inhibited in what it intends to do. The only limitation on it will be its members' imagination in bringing about debates.

Senator Doyle referred to the Danish proposals for referendum information. An essential part of those proposals is the division of funding made available by the Danish Government. As I understand it, the fund is divided into two, one half is paid to grass roots groupings which are in favour of and against the proposal and the other half is distributed as follows: two-thirds to be divided among political parties in proportion to their electoral support and the balance to be divided

equally among three groups — the European movement and two organised groups which are anti-EU. With respect to the Danish proposals, I cannot see them working in this country. If the same scheme were proposed here, I believe we would end up in the High Court very quickly. The approach upon which the Government has decided is to give the funds to a statutory commission to set out the arguments in a fair manner. It will then be up to us to make use of that information.

Senator Walsh referred to the role of the commission in fostering, promoting or facilitating debate on the proposals or the subject of a referendum. The commission will be independent in its functions, and I have outlined that the only limitation on it will be its members' imagination.

Senators Walsh and Dardis mentioned the use of leaflets as opposed to newspaper notices. I agree with this. In my experience, the leaflet which clearly explains something is very useful in informing the electorate, and I am sure that will be taken into account by the commission. I learned the lesson the hard way in the 1989 election that newspaper advertising on a large scale is not an effective way of putting across one's message, and it is even less effective if it consists of densely printed pages of arguments for and against.

I wish to clarify for those Senators who are members of the All Party Committee on the Constitution that this Bill is not an attempt to gazump the committee, as was recently suggested by a member. The urgency of having something in place on a statutory basis before the referendum on the Amsterdam Treaty is what prompted me to introduce this Bill and I was instructed by the Government to do so.

I have been asked why I did not stick with the existing *ad hoc* arrangement. One of the major criticisms of the last referendum was information was not issued in a digestible form. There was no great public debate on it on television and radio and it was not discussed in detail, when it was discussed at all. The reason for that might have been the presidential election. However, I believe the forthcoming referendum is so important that the power granted in this Bill, aside from the powers granted by virtue of its being established on a statutory footing, to allow the Referendum Commission to direct RTÉ, could not have been on an *ad hoc* basis. Along with others I have outlined, that is one of the major reasons this Bill has been introduced now.

As regards Senator Dardis's point about a commission member being temporarily unable, the commission will generally act in about three to four weeks. Since, if a person were unavailable for two or more weeks, the commission could not possibly wait, this measure will allow the commission continue its work. As regards the Senator's query about the presidential electorate, that is used because those who can vote in a referendum are the same as those who can vote in a presidential election.

The Senator referred to the section in the Bill which would give the Minister the right to set up a permanent referendum commission if that were deemed appropriate. The principle behind the Bill is that a commission may be established, by order of the Minister, at a referendum. The Minister has the discretion to decide whether such a commission should be established depending on the circumstances of a referendum. In the normal course of events it would be expected, and would certainly be my intention, that a commission would be set up. When I say "in the normal course of events" I am referring to the existence of arguments on both sides of an issue. A situation could, however, exist where an amendment might be of a very technical nature and everyone might agree with it. In that event, it might not be deemed necessary to carry out an information campaign or establish a referendum commission.

If I were to specify that the Minister "shall" set up a referendum commission, I would be obliged to come into both Houses and pass a Bill which would allow me not to do so. The provision is a purely technical one.

The provision in section 7 (7) is not intended to disqualify political parties as those are recognised under this Bill. It seeks to prevent other groups with a similar name to an existing party seeking the commission's approval.

I presume the commission will secure the services of legal people to put the arguments for and against an issue. Those arguments should be drawn up with regard to submissions made to the commission and general knowledge. I hope that when legal arguments are drawn up on both sides, the commission will then hire the necessary experts to produce the information and write it in plain English in order that people will understand the various issues involved. Those people may be drawn from the areas of communications, advertising or journalism. The commission will have the freedom to do that as the Bill is non-prescriptive.

I thank Members for their contributions.

Question put and declared carried.

Referendum Bill, 1998: Committee and Final Stages.

Wednesday, 25 February 1998

Question proposed: “That section 1 stand part of the Bill.”

Mr. B. Ryan: I fully accept I was wrong about the Minister's views on the McKenna judgment. I compliment him on using both sides of the paper in his script. To my knowledge, he is the first Minister to do so. His Department is setting a very good example and other people in the public sector should adopt a similar practice.

Question put and agreed to.

SECTION 2.

Question proposed: “That section 2 stand part of the Bill.”

Mr. B. Ryan: I am intrigued by the Comptroller and Auditor General. Is he a member of any other State body? It seems unusual that, given his role under the Constitution, he would have membership of the commission.

Minister for the Environment and Local Government (Mr. Dempsey): The membership of this body is the same as that of the Public Offices Commission, although I accept the Senator's point about the C & AG's constitutional position. Offices such as those of the Ombudsman, Clerks of the Dáil and Seanad and so on are regarded as being independent public offices which are, in some cases, constitutional. The C & AG is a member of the Public Offices Commission on which the membership of this body is based. The intention was that bodies dealing with electoral matters would have the same membership. This question was raised previously and the legal advice received was that this was acceptable from a constitutional point of view.

Mr. B. Ryan: I concur with Senator Dardis's comments that the name of the Clerk of the Seanad is turning up in more and more places. Something must be done to ensure that the Clerk of the Seanad's resources are extended if he or she — I am referring here to the office — is to fulfil all the onerous obligations placed on him or her.

Mr. Dardis: I do not want to repeat the point I made on Second Stage but I would point out that, under section 2 (13), the Minister for Finance has the power to make facilities and services available to the commission. I hope the Minister for the Environment and Local Government will bring that subsection to his colleague's attention.

Question put and agreed to.

SECTION 3.

Question proposed: “That section 3 stand part of the Bill.”

Mr. J. Doyle: Section 3 deals with the functions of the commission. I have no difficulty with the

commission and I am thankful to the people who have come forward and offered their services as members of it. I do, however, have some difficulty with the commission's functions. The Supreme Court has decreed that the State cannot spend public money arguing one side of a referendum over another. I do not believe the solution to that problem has been addressed in this legislation. The Government, in this Bill, proposes to set up a commission which will have the role of arguing both sides of a debate. I believe that, in doing this, the Government is setting up a process which could lead to a sterile and artificial referendum. That is what the Fine Gael Party is concerned about.

Mr. B. Ryan: I am not suggesting any kind of ulterior motive lies behind this section. The injunction on the commission to be fair to all concerned is similar to RTÉ's legal obligations. Those of us who have been on the wrong side of successive referenda would not be under any illusion that RTÉ was fair in these matters. Its distribution, for example, of party political broadcasts has always been based on party political representation and not on equivalence in terms of portraying both sides of an argument and the way in which a topic is presented in news bulletins always represents party political structures.

If we are to be fair we must ensure that all sides of an argument are seriously debated. The Maastricht Treaty represented a desecration of debate as the only two issues discussed during the referendum were abortion and neutrality when the real nub of the Treaty was Economic and Monetary Union. I sent a script to the national media every two days for four weeks which dealt exclusively with the economic issues of the referendum. Irrespective of whether my views were right or wrong, the economic issue was the major one involved. I watched vast quantities of waste paper accumulate which only added to the Minister's waste problems.

The commission will find it difficult to be fair. If it succeeds in working out a way of being fair, perhaps it could pass on the message to our broadcasters. We cannot tell the print media what to do but RTÉ and other broadcast media do have an obligation to be fair. I do not want anybody to receive special privileges but, in the interests of a good debate, all sides of an argument must be well articulated. A one sided debate results in people losing interest.

Mr. Dempsey: As Senator Ryan said, the obligation to be fair to all is based largely on the Broadcasting Acts. We could be philosophical and ask what is fairness. One man's fairness is someone else's unfairness. If 99 per cent of people advocate an issue and we must have a referendum, is it fair that funding and air time should be divided 50-50? That is why the term "fair to all" is used rather than equal. I do not want to refer to any particular case as there is an ongoing court case in relation to party political broadcasts.

I dealt with the issue of a sterile debate on Second Stage. A lack of imagination in how the Referendum Commission approaches it and a lack of participation by political parties will make this debate sterile. If the debate is sterile it will be as much the fault of Members of this House as anyone else.

The section of the Bill which deals with RTÉ is a necessary provision. There is a danger that people will decide the discussion of this matter on the basis of whether it is good television. They will forget it is a public service to have a debate, even if it happens to be as dry as dust and bad television. The Referendum Commission can instruct on the televising of a debate and it is up to the participants whether it is lively. None of us can be sure, but I think it will be a lively debate and we have given the commission every means to ensure that.

Mr. J. Doyle: If the commission must make an input, it should be interesting enough to catch the public imagination. In a recent programme on the Birmingham Six on Channel Four there was a representation of a court where trained barristers argued for both sides and a judge summed up. That caught the public imagination because people are intrigued by court cases on television. This idea might generate the interest of the public in this referendum.

Mr. Dardis: One might have to allocate 12 hours to a debate.

Question put and agreed to.

Section 4 agreed to.

SECTION 5.

Question proposed: “That section 5 stand part of the Bill.”

Mr. B. Ryan: Has the Government been advised whether the use of ministerial broadcasts under the Broadcasting Act would be a breach of the McKenna judgment? Two days before the referendum on the Maastricht Treaty, the Taoiseach monopolised RTÉ for about 15 minutes before the 9 o'clock news to address the nation without reply. In typical RTÉ fashion, his speech was reproduced on the news, in case we missed it the first time.

Mr. Dempsey: I am not aware that the Government has been so advised. The broadcast referred to by the Senator lasted ten minutes.

Mr. B. Ryan: The Minister should excuse my colourful language.

Mr. Dempsey: RTÉ subsequently broadcast the alternative view in a special edition of “Prime Time” immediately following the news. If I recall correctly, there may nearly have been a court case as a result. I cannot give the Senator a definitive reply. The matter is dealt with under the Broadcasting Act and RTÉ makes the decision. It is important that the Referendum Commission will have the right to broadcasting time.

Question put and agreed to.

Section 6 agreed to.

SECTION 7.

Question proposed: “That section 7 stand part of the Bill.”

Mr. B. Ryan: If a group called Fianna Fáil against the Amsterdam Treaty was established — there was a group called Fianna Fáil against Extradition — would the reference to a political party mean the body could not be recognised? Parties could take different views in future referenda.

Mr. Dempsey: That is also a matter on which the commission, as an independent body, will decide. The Bill refers to where the name of a body is the same as any party on the Register of Political Parties. In that unlikely event, the commission would probably rule against it.

Mr. Dardis: It would be nice if some of these bodies had to fulfil the obligations of the Ethics in Public Office Act by reporting how much money they are given to fund their campaigns.

Mr. B. Ryan: Is Senator Dardis referring to money from Moscow?

Mr. Dardis: I do not want to be specific.

Mr. B. Ryan: That is because he cannot be.

Question put and agreed to.

Sections 8 to 17, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: “That the Bill do now pass.”

Mr. J. Doyle: I thank the Minister for coming to the House to deal with this Bill. Although I acted as devil's advocate, I hope it will not be a sterile and artificial debate. I agree with the Minister that political parties at national and local level must play their part in this important referendum.

Minister for the Environment and Local Government (Mr. Dempsey): I thank the Senators who participated in the debate for facilitating the Bill's speedy passage through the House, which I appreciate. The Bill represents an advance in the provision of information to the electorate about

proposals in all future referenda.

I will not go into the matter in great detail as I have already mentioned it on Second Stage. However, I freely admit, as I did in the Dáil, that we are in a learning curve in relation to this matter. I do not know how effective it will be, although I think it will work well and an imaginative approach by the Referendum Commission should be helpful. I do not have a closed mind with regard to information for referenda. Should the All Party Committee on the Constitution make further recommendations, I will be pleased to look at them and will try to take them on board. Equally, if the Referendum Commission comes forward with other ideas after its experience with the Amsterdam Treaty referendum, I will take them on board. The £2.5 million being made available to the commission will not restrict the information it can give out. Obviously, it does not have to spend it all.

I regard this legislation as important and I thank Members for their assistance in passing the Bill as speedily as they have done. I also wish to thank my officials and the officials of the Seanad for their co-operation.

Motion for Earlier Signature.

Wednesday, 25 February 1998

Mr. Dardis:

That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Referendum Bill, 1998, on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Question put and agreed to.

Sitting suspended at 5 p.m. and resumed at 6 p.m.

<http://debates.oireachtas.ie/seanad/1998/02/25/>