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New broadcasting legislation must go to referendum if it's in breach of constitution warns McKenna

Former Green Party MEP Patricia McKenna, who successfully challenged government's use of public funds to promote one side in constitutional referenda, has voiced concerns about a report published today by the Joint Oireachtas Committee on the constitution which concludes that "broadcasting legislation should be amended to avoid the present unreal and impractical situation which compels media outlets to devote equal amounts of coverage to both 'yes' and 'no' sides during a referendum campaign".

"Any attempt to introduce a system favouring one side of the argument over another in a referendum would clearly be in breach of the constitution and would have to be put to a referendum" says McKenna.

She said: "the conclusions of the Joint Oireachtas Committee are geared toward the interest of the political establishment and ignore the democratic nature of this State enshrined in our constitution."

McKenna went on to say: "The Committee's view that 'journalists must facilitate ad-hoc opponents of a referendum by giving them the same airtime as all established political parties, even if the level of opposition is tiny, is wholly artificial and false' indicates this failure to recognise that the people alone and not the political parties are the guardians of the constitution and only the people can agree to any changes. Justice O'Flaherty in his judgment in my case in the Supreme Court made this clear when he said 'I should think it bordering on the self-evident that in a democracy such as is enshrined in our constitution (which is not exclusively a parliamentary democracy; it has elements of a plebiscitary democracy), it is impermissible for the government to spend public money in the course of a referendum campaign to benefit one side rather than the other ...' This principle of equality was reaffirmed in the Coughlan case against RTE and the state."

McKenna said: "It is clear that the political parties resent the fact that voters do not always do what they are told and the aim of the Joint Oireachtas Committee is to change the rules to the benefit of the political parties. Their efforts to change the system also demonstrate a fear of open and fair debate and thus a lack of confidence in their own position."

"One side should not be privileged over the other just because its supporters happen to be

elected or in government, or because a particular referendum proposition may be regarded by one side as being subscribed to by all 'right-thinking' people. There are always two sides to a proposition, and to act as if the referendum result were prejudged in advance is to make a mockery of the referendum process" she concluded.

[ENDS]

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