

Contribution of Mr John Bruton TD to the Convention Debate on Subsidiarity

4th October 2002

I believe that national parliaments should be much more involved in EU business in the per-legislative phase, and that their input should not be confined to subsidiarity but extended to the merits of proposals as well.

But as a representative of small country, in whose interest it is that the Union be strong, I must express my concern about the proposal to give a new early warning procedure to the governmental majorities in National Parliament.

I fear it will tilt the balance of forces in the EU legislative process in favour of those Governments in the Council of Ministers who want nothing to be done on a particular subject. I do not believe that it will be possible, in practice, to confine the early warning system just to "the question of compliance with subsidiarity and, not with substance of the proposal in question".

Given that subsidiarity is a political concept, this will not be a solid basis for deciding that a reasoned opinion from a national parliament is, in fact, not in order in legal terms.

If it suits the Government of a country which objects to a particular Commission proposal, it will prepare a reasoned opinion and get its parliament to agree an early warning to strengthen the government's hand in the Council of Ministers debates. This additional procedural weapon in the hand of "nay sayers" in the Council would be easier to understand if placed in the context of a further extension of QMV in the Council, but it is not so placed.

By giving only to national parliaments, as distinct from national parliamentarians, the right to issue an early warning, this report is, in effect giving a new power to Governments who only exist because they control a majority in their national parliament. If on the other hand, a power of initiative, in submitting a reasoned opinion on subsidiarity was given to qualified minorities in (say) two-thirds of national parliaments, a genuine debate on European questions might develop between parliamentary oppositions in member states that would be educational, lively

and would add something new to the process, without becoming a weapon in intergovernmental bargaining.

Furthermore, to ensure that any early warning system is balanced, I believe that national parliamentarians who believe a particular Commission proposal is necessary and is compliant with subsidiarity, should also be invited to put in a reasoned opinion in favour of the proposal on that latter ground.

The principle of subsidiarity is vague.

Does it, for example, concern itself only with whether a proposal is being put forward at the right level of Government from the point of view of getting the best technical legislative results, or does it extend to considering whether that is the right level to ensure maximum citizen participation and maximum consent?

These are two very different criteria but I feel that much of the demand for action on subsidiarity come from concern about participation and consent, not technical effectiveness, yet technical effectiveness seems to be solely what the Amsterdam protocol is concerned with. I am surprised therefore that:

- a) the group did not review the Amsterdam Protocol nor
- b) accept a "Mr or Mrs Subsidiarity" in the Commission. A Mr or Mrs Subsidiarity might develop a more profound reflection on what subsidiarity is really about, and suggest ways of improving the Amsterdam Protocol.

I think that that would be much better than involving the Court in political questions like subsidiarity. From Irish experience, I warn against Courts being invited to decide political questions, because politicians are unable either to do so, or to say, truthfully, as is often the case, that there is simply no satisfactory answer to some questions at all.

I feel that a lot of the elaborate structuration of subsidiarity in the EU is an attempt to avoid admitting that there are some questions in life, and in politics, to which there are no satisfactory answers, in this world at least.