

Opening Statement of Harry Rea - Supreme Court 5th April 2016

HARRY REA·TUESDAY, APRIL 5, 2016

1. I am appealing the judgement of Justice Ryan in the High Court at page 12 of the Book of Appeal made on my application of 12 October 2009. In that judgement justice Ryan is of the view that I made no stateable case and that the document I lodged in the High Court is a polemic,
2. He said my complaint was political and not legal and did not constitute any basis for an application for Judicial Review. I do not accept that decision of justice Ryan as my application was not a 'polemic' it was a straightforward argument exclusively dealing with issues of sovereignty and points of law including detailed references to the Crotty case and the Constitutionality of the conduct of foreign policy exercised by the Government.
3. The Oxford English dictionary defines polemic as: "a strong verbal or written attack on someone or something". I was not before justice Ryan to attack anything and nor am I here to attack anything, I'm here to make points of law, to argue for my sovereignty and for the sovereignty of the Irish people.
4. My argument in my original High Court application which I'm appealing here today concerns the Constitutionality of the conduct of foreign policy by the Government with regard to the European Union.
5. The outline written submissions of the Respondents filed in this court describes my application and argument as 'discursive'. I refute this. The arguments I presented are straightforward and deal exclusively with issues of sovereignty and points of law. Far from being discursive, my arguments proceeded with reasoned considerations. Clearly, by their submissions, the state showed that they did in fact follow the arguments that I presented as they replied to them in a similar logical order. The fact that the respondents have responded in legal argument confirms that they concur that the judge was incorrect and the case presented was not a 'polemic' while at the same time

maintaining a contradictory legal position on this issue. My case deals with points of law and the state confirms this in that it has made some effort to deal with them.

6. I would like now to look at the Statement grounding my Application to the High Court for Judicial Review at Page 84 of my Book of Appeal. This application is in my own language and may not be as legally concise in the way I expressed myself or as a barrister may have presented it. The first two paragraphs deal with the Crotty Supreme Court case and the way in which it may have been misunderstood to require a referendum in all circumstances. I understand fully that a referendum may not be necessary in all circumstances.

7. At the time of writing the original application there was massive confusion in the country with the second referendum which was created by the contradictory facts being presented to us by our politicians, the State and even from other foreign political entities from Europe. I intend today to unravel the confusion that was spun by the Council of the European Union, the Heads of State or Government, the President of the European Union and our politicians at that time.

8. I think the best way of explaining my argument is to go through what happened in Europe in the negotiations, the convention and the conference that led to the signing of the Lisbon Treaty in 2007 and the subsequent negotiation of the so-called 'Irish Guarantees':

9. The Government had attended the convention and conference with their legal advisers to discuss and finalise the terms of the Lisbon treaty. During those discussions Poland and the UK Governments argued that the Charter of Fundamental Rights had potential to override national and constitutional rights and national court decisions pertaining to them. The United Kingdom and Polish Governments obtained a Protocol protecting their national and constitutional law and rights of their citizens from being superseded by rulings from the European courts on the Charter of Fundamental Rights. This protocol is exhibited in my Book of Authorities at Page 1; I would like the court to examine this protocol. This protocol was endorsed unanimously, clearly

therefore including Ireland, by every state in the union and by doing so they agreed that the Charter of Fundamental Rights has the potential to override national and constitutional laws and that Poland and the UK were justified in obtaining a special protection from such decisions.

10. The UK and Poland have as a result, a special position under the terms of the Lisbon treaty. This is not shared by any other member state. The subsequent European Court of Justice ruling in the 2013 case between **Melloni** and **Ministro Fiscal** (See Page 3 of my Book of Authorities) confirmed that this was indeed the situation in law regarding the Charter of Fundamental Rights.

11. It was decided by the European Court of Justice that the European Union Charter of Fundamental Rights supersedes national constitutions as does all other EU law. Constitutional rights at national level must therefore be ignored if they should clash with the European Courts interpretation of the same rights. A member State cannot rely on a provision in its national constitution that purports to provide a higher level of protection of a fundamental right than in the Charter as a reason for not applying a clear provision in an EU law. This is stated in the commission's annual report for 2013.

12. The Irish Government and their advisors, having taken part in this Convention and Conference, were totally aware of this potential threat to fundamental rights of the people of Ireland. By signing the Treaty of Lisbon they endorsed the UK and Polish protocol. The Irish Government chose not to obtain a similar protocol to protect the Irish people from the threat to their rights and the National Law posed by rulings under the Charter of Fundamental Rights. Their advisers clearly must have advised them not to protect the Irish people's rights.

13. In 2008 the Irish people voted not to approve the 28th Amendment to the Constitution which would have resulted in their acceptance of the Lisbon Treaty. When the Government enquired as to the reasons why they had not approved the Lisbon treaty they discovered the people understood that amongst other issues, that the Treaty could potentially undermine their

fundamental rights under the Irish Constitution. It is apparent that they were correct.

14. The Government of Ireland returned to Europe to renegotiate the Lisbon treaty. At this stage the Government appears to have been woken up to the fact that they were supposed to be representing the people that had elected them. This time they negotiated a treaty with the Heads of State and Government uniquely in the name of the Irish people. They bound themselves to a treaty that came in the form of a Decision that was in itself a Foreign Policy Treaty and bound themselves to a future protocol in the defined terms of that Treaty.

15. In the lead up to the second referendum the Government told the people that the Treaty in the form of the Decision of Heads of State and Government did not change the Lisbon treaty, its provisions were just clarifications of the impact of the Lisbon Treaty on the member states and their peoples. [The word “clarify” means to make more clear by separating out the matters] The Government based this claim on a declaration made by the Heads of State or Government of the 27 Member States of the European Union in the Presidency Conclusions of the 18th and 19th June 2009. This declaration is at page 4 of the presidency conclusions page **18** of the Book of Appeal. This declaration states that:

"the protocol will in no way alter the relationship between the EU and its member states. The sole purpose of the protocol will be to give full treaty status to the clarification set out in the decision to meet the concerns of the Irish people.

Its status will be no different from similar clarifications in protocols obtained by other member states. The protocol will clarify but not change either the content or the application of the treaty of Lisbon".

16. This declaration of the Heads of State or Government is an erroneous statement. The protocols obtained by the UK and by Poland are not clarifications of the effect of Lisbon. They are

termed commonly as 'opt outs' but protocol 30 is in fact an interpretive protocol uniquely for the benefit of the United Kingdom and for Poland. They create a unique position for the UK and Poland with regard to the application of the Treaty of Lisbon and the Charter of Fundamental Rights to those countries.

17. An examination of the decision on the Concerns of the Irish people on the Treaty of Lisbon reveals three operative provisions A, B & C. Sections C on Securities and Defence is common to each member state including Ireland and is therefore a clarification. Section B is on taxation. It is also common to all member states and is a clarification. However, Section A, on the Right to Life Family and Education is not common to every member state. It is similar to the protocol obtained by the UK and Poland. It creates a unique position of the Irish people with regard to Charter of Fundamental Rights and the provisions of the Treaty of Lisbon in the area of Freedom, Security and Justice. It is not a clarification of the Treaty of Lisbon, it is an interpretive protocol provision.

18. Just as the UK and Polish protocol is not a clarification neither is Section A of the 'Irish Guarantees' a clarification.

19. The Irish protocol **does** change Lisbon because it is added to it, it changes the content of Lisbon and changes the application of the Lisbon Treaty so far as the Irish people are concerned. Therefore the Declaration of the Heads of State or Government on the decision at point (v) is entirely incorrect.

The State claim in their submission that Article 29.4.9 was inserted by the Lisbon Treaty. However, this amendment is a redrafting and reaffirming of the Nice Treaty. Article 29.4.9 originated at the second Nice Referendum and gives Constitutional effect to the Declaration of Seville of 21 June 2002. The Declaration is associated with Ireland's ratification of Nice and is an interpretive declaration. The original Article 29.4.9 is my Book of Authorities at page 16. The Constitutional Amendment forms a "Guarantee" from the State to the People. The Lisbon Treaty is between the State and the European Union, not between the People and the EU.

According to the European Council and the Attorney General this provision of the Constitution is now just a “clarification or assurance” and on that basis need not have been put into the Referendum.

20. The Heads of State or Government of the 27 Member States of the European Union did not want to create a situation where they all had to resign and re-ratify the Lisbon treaty all over again. This would have occurred if Ireland had insisted that an Irish Protocol was inserted into the body of the Lisbon Treaty to give full treaty status to the Guarantees. The problem was that some of those measures that would define the Irish protocol had been guaranteed to the Irish alone and other peoples could demand that they obtain similar protections. For this reason a separate protocol was planned that would be attached to Lisbon at a later date. **The effect of this protocol is that it would change the application of the Treaty of Lisbon for the Irish people. It is not true for the Heads of State or Government to declare that the Irish Protocol does not change the application of the Treaty of Lisbon for the Irish people.**

21. The Government did not put back the Guarantees through the Houses of the Oireachtas and create a new Amendment Bill to the 28 Amendment to the Constitution Bill as I contend they properly ought to have done.

22. By not laying the proposed "Guarantees" Treaty Decision before Dáil Éireann prior to its signing and by not amending the 28th Amendment to the Constitution Bill through the Oireachtas the Irish Government circumvented all democratic scrutiny of the Guarantees' Decision.

23. The statement in the Declaration that the Irish protocol would clarify but not change either the content of the application of the Treaty of Lisbon and therefore would not need to be subject to Referendum was just one of the reasons relied on by the Government to justify not putting the decision before the people.

24. They also rode another horse. This was that it would not be part of the Treaty of Lisbon because it would be, instead, part of a future treaty. Therefore

it would not be part of the Referendum. They also stated that being part of a future Treaty would make the protocol a full part of primary EU law. They told the people that this was decided by the Heads of State or Government.

25. I have provided three examples to the Court that demonstrate this promise and requirement that the protocol would be part of a future treaty.

26. Firstly in my affidavit dated Wednesday 9th December at Exhibit 2 - Page 13 (Last Paragraph) the Press Statement of President Sarkozy of the European Union.

27. Secondly in my Book of Authorities at page **22** (and particularly at Paragraph 4) I include a downloaded document from a Government website providing information to the citizens of Ireland which clearly says that the protocol will be part of a future treaty that makes it part of EU law.

28. Thirdly, I include in my Book of Authorities at page **25**, copy information which was published by the citizens information board wherein it states the protocol will be part of a future EU treaty so that it is part of EU law.

29. It is now an indisputable fact that the protocol was never made part of a subsequent EU treaty and consequently on the State's own position it cannot be part of EU law. Both of the reasons given by the Government to the people for not including the so-called 'Guarantees' in the second Lisbon vote are without foundation.

30. The Attorney General's submissions to this court however cite an Information Booklet on the 2nd Lisbon Referendum prepared by the Referendum Commission at page **6** stating: "the European Council has also agreed that this decision will be added to a future EU treaty as a protocol. This would make the decision part of EU law". At paragraph **57** the Attorney General then states that "**This is, of course, precisely what transpired following the 'yes' vote in the Lisbon Referendum**".

31. This statement is entirely incorrect and is clearly designed to mislead the Court and furthermore, it discredits the Attorney General's entire Submission

to this Court. The Attorney General's integrity is crucial for the proper functioning of the entire State of Ireland and this Court cannot accept such a serious misdirection lightly. Any citizen who requires bringing matters before the court concerning the State is already facing the might and financial power of the Attorney General's office. Whereas the Attorney General may be incorrect on a point of law and open to review by the judicial arm of Government, it is completely improper and an insurmountable obstacle to Justice if the Attorney General perpetrates a deliberate deception on the Court. It is my belief that this is what has transpired in this case before this Court.

32. Furthermore the grounds on which I made my Application to the High Court plainly challenge the authority of the Government to have entered into the foreign policy Treaty referred to as the "Guarantees" which is the foundation of the subsequent protocol. By entering into that foreign policy Treaty with the Heads of State and Government they have alienated their sole responsibility to protect the fundamental rights of the citizens of Ireland from themselves to 26 other states of Europe.

33. Our Government went to a meeting with 26 other Heads of State or Governments of other countries and asked them if they would agree to guarantee the protections of the fundamental rights of Irish people under the Irish constitution from being superseded by European Union law. It was the exclusive inalienable responsibility of the Irish Government to guarantee the protection of those fundamental rights for the Irish people. This matter has already been comprehensively dealt with by this Court.

I cite Hederman J. in the Crotty case:

"It appears to me that the essential point at issue is whether the State can by any act on the part of its various organs of Government enter into binding agreements with other states, or groups of states, to subordinate, or to submit, the exercise of the powers bestowed by the Constitution to the advice or interests of other states, as distinct from electing from time to time to pursue

its own particular policies in union or in concert with other states in their pursuit of their own similar or even identical policies."

34. Our Government's function when conducting foreign relations is to assert to other countries that they the Government has to protect the fundamental rights of the Irish people in all its dealings. This foreign policy Treaty that the Irish Government has entered into has divested that responsibility to an initial 26 other states.

35. In the same Crotty case Henchy J at paragraph 76 states:

"It follows, in my view, that any attempt by the Government to make a binding commitment to alienate in whole or in part to other states the conduct of foreign relations would be inconsistent with the Government's duty to conduct those relations in accordance with the Constitution."

36. The foreign policy Treaty known as the 'Decision' was a potential treaty that was to come into effect if the people voted yes to the Lisbon treaty. In the first place the Government had to lay the international agreement before Dáil Éireann prior to signing it. The respondents claim in the submission that the presidency conclusions had been laid before Dáil Éireann on 23 June 2009 which did include the decision in annex 1, however this was not laid formally as a future Treaty under the terms of Article 29.5.1 of Bunreacht na hÉireann. However, the records of Dáil debate held on 24 June 2009 reveal that Taoiseach Brian Cowen was presenting a fait accompli on a decision of the European Council that had been, in his own words, of "immediate effect". This was not an opportunity of debate and therefore the court cannot accept the Attorney General's claim that the decision was laid before the Dáil on 23rd June 2009.

37. Article 29.4.1 of Bunreacht na hÉireann states:

"The executive power of the State in or in connection with its external relations shall in accordance with article 28 of this Constitution be exercised by or on the authority of the

Government." Article 28.4.1 states: "The Government shall be responsible to Dáil Éireann."

Finlay C.J. paragraph 30:

Article 29,s.5, sub-s.1 provides:-

"Every international agreement to which the State becomes a party shall be laid before Dáil Éireann"

38. Then in paragraph 32 he continues "it seems reasonable to infer a scheme under the Constitution that by virtue of Article 29,s.5, sub-s.1 Dáil Éireann should have a primary control over the exercise by the Government of its executive power in relation to entering into international agreements"... "This scheme is consistent with the provisions of article 28, S. Three, sub--S. One which provides:-

"War shall not be declared and the state shall not participate in any war save with the assent of Dáil Éireann"

39. As this Guarantee Treaty involves an alienation of the responsibility of protecting our constitutional rights from the Government to 26 foreign states it obviously would require the approval of the Irish people and needed to be an intrinsic part of the 28th Amendment to the Constitution. The Houses of the Oireachtas needed to pass an Amendment to the 28th Amendment Bill to include approval by the people that protection of our fundamental rights should be shared with other 26 other members of the European Union and to include those guarantees in a consequential protocol with the entire growing membership of the European Union.

40. Having not laid the "Guarantees" Treaty known as the Decision before Dáil Éireann prior to it being signed and by not having introduced a Bill to amend the 28th amendment to the Constitution Bill to include this decision, the Government were asking the people, by their participation in a Referendum, to unknowingly approve of their omissions. These points were clearly made in my application to the High Court where it states:

"the people are being asked in this Referendum (2nd Lisbon) , through the wording of the amendment to approve of the Government having done something which their Constitution does not allow."

41. In the interim period since this matter was initially filed with the Supreme Court the Lisbon treaty has come into force the original decision of Heads of State and Government of the EU has followed a course and we are told that the provisions of the original protocol had been laid out in a protocol. I have filed an affidavit and submissions on these developments and the state in representing the Attorney General has also filed submissions. Furthermore I brought a Motion before the Supreme Court seeking further information on what has transpired since and prior to the matter coming before the court the state has provided a file of documents which I have accepted and have lodged as part of my Submissions to the court.

42. In my opinion there are serious irregularities in the course of that protocol. I intend herein to elucidate on these matters. However whatever I say on this issue is strictly without prejudice to my case that the Guarantees Decision and its associated declaration had to be approved by the Irish people alongside the Lisbon treaty within the 28th Amendment to the Constitution Bill.

43. I feel obligated to make these points as I am not prepared to acquiesce to what has transpired. In the course of what I've already said I'd made it clear that this protocol is not part of a future treaty as President Sarkozy, the Citizens Information Board, the European Council and information provided by the Irish Government said it had to be. As I've said, on the position as taken by these people, the protocol is not part of EU law because it is not part of a future treaty. I do not agree with the claim of the Attorney General at paragraph 5 I want to say which states that "the Guarantees have since been incorporated into primary EU law, in the form of a protocol to the EU Treaties..."

44. On 24 June 2009 Taoiseach Brian Cowen addressed Dáil Éireann. He explicitly stated that there was an undertaking from the European Council to

attach a protocol to the next accession treaty in the European Union. I will read from the record of the house:

"The Taoiseach: I thank Deputy Kenny for the part he played in ensuring that our colleagues and his colleagues in the EPP political grouping of prime ministers and leaders were helpful and supportive and understood what Ireland sought. I agree that the clarifications and confirmations we received have legal effect. They are not simply the interpretations of 27 member states but are a form of Council decision which gives legal effect to what is intended in the treaty in respect of the issues and areas of concern that Ireland raised.

The texts provided are the ones we sought. They were agreed to and are given the legal effect of a Council decision and **there is an undertaking to attach a protocol to the next accession treaty in the European Union** when a further enlargement takes place. That will give full treaty status to that decision. No eminent person or lawyer with knowledge of international law or the law of treaties doubts for one moment that the confirmations, clarifications and texts of the legal decisions that we have obtained and which will become a protocol in due course have the same status as the treaty provisions. That is so without doubt or impediment."

45. The undertaking of European Council as expressed categorically by the Taoiseach before Dáil Éireann has not been fulfilled.

46. In paragraph 32 of the respondents written outline submissions they state:

"On 11th May 2012 the European Council decided by decision that "a conference of representatives of the Government Governments of the member states shall examine the amendments proposed by the Irish Government in the form of a protocol on the concerns of the Irish people on the Treaty of Lisbon"". I sought to adduce further evidence by bringing a Motion before the Court on 4th March 2016 looking for the outcome or decision of the conference and evidence of the outcome or decision as published in the official Journal of the European Union.

47. The Attorney General voluntarily provided an answer to my request by way of a document handed to me in court. This information is filed in my Book of Authorities. However all they could produce was the same decision that a conference would be convened at some future date. I was not provided with any evidence to affirm that the conference was actually held and I was not provided with a decision that might have been made at such a conference to adopt the Irish protocol in the terms of reference laid out for the conference. Also in the Attorney General's documentation was what they describe as "a version" of the Irish protocol. This "version" is not listed and properly titled in the Official Journal of the EU as the protocol on the Concerns of the Irish people on the Treaty of Lisbon. Above the signatures it states "Done at Brussels 13th of June 2012".

48. The Irish instrument of ratification, at page 109 of my Book of Authorities as provided by the Attorney General, was lodged with the Italian Government. This instrument bears the statement "done at Brussels on 16th May 2012". The Italian embassy acknowledged receipt of this and acknowledged the date on it in two separate letters at pages 111 & 113.

49. At page **110** of my Book of Authorities is a letter from the Italian authorities dated 13th of July 2012 informing the Irish Embassy that a Protocol on the Concerns of the Irish people on the Treaty of Lisbon done at Brussels on 13th of June 2011 had been deposited in the archives.

50. At page **114** of my Book of Authorities there is a letter from the Italian authorities stating that they have registered on 25 November 2014 the full instrument of ratification of the protocol on the concerns of the Irish people on the Treaty of Lisbon done at Brussels on 13 June 2012.

51. In all the Italian authorities have no less than three separate dates for when the protocol was done at Brussels. The protocol in the Treaty series also provided by the Attorney General states that it was done at Brussels on 13th June 2012.

52. At pages 98 to page 108 of my Book of Authorities is displayed a version of the protocol which is in the Irish Treaty series. This has the statement "done at Brussels 13th June 2012".

53. The amendment to the European Communities Act 1972 (Ireland) amends the legislation to include a protocol on the concerns of the Irish people on the Treaty of Lisbon done at Brussels on 16 May 2012.

54. My research into other countries includes the U.K.'s version of the protocol in their own legislation which states that the protocol was adopted at Brussels 16 May 2012. The Maltese legislation states that it the protocol was done at Brussels on 16 May 2012. The Luxembourg legislation states that the Protocol was done at Brussels 16 May 2012.

55. Ireland has never enacted or ratified any protocol that was done on 13 June 2012. There is no evidence in the official Journal of the European Union to support the claim that anything was done on 16 May 2012. There is no published Decision to have a signing date on 13 June 2012 in the official Journal of the European Union.

56. A three-page document from the Concilium website of the European Council and the Council of the European Union displayed at Book of Authorities 126, 127 & 128 gives diverse dates of signatory for countries between 16th of May to 13th of June 2012. This is in conflict with a document from the Italian authorities displayed at page 112 of my Book of Authorities which lists that all 28 member states signed on 16 May 2012. The list includes that Croatia signed on 16 May 2012 in the previous list referred to there is no date for the signing of Croatia only a date for the ratification by Croatia.

57. From the foregoing evidence it is clear that the ratification process is invalid. There is no evidence that an IGC conference was held or an IGC conference adopted a protocol. There is no evidence that anything was done at Brussels on 16 May 2012. There is no evidence of a decision to hold a signing date or ceremony on 13th June 2012. When the motion was brought before the court seeking further evidence the Attorney General was given an opportunity

to provide supportive documentation to establish the claim made that such dates were when specific functions were carried out by the member states of the European Union.

58. The Attorney General had been asked to provide specific information on the outcome of conference that would clarify that the protocol had been properly established as was her claim. It is true to say that the entirety of the documentation provided by the Attorney General as well as some of the documentation that I have found in my research show that all of the documents discovered so far from across Europe that are currently before the court are in conflict and stand to support the case that there is no evidence of a proper protocol in existence. It is certainly true to say Ireland has never ratified any protocol done on 13 June 2012 as the Government told Dáil Éireann when it laid the protocol in the Treaty series before the house. The legislation incorporating the protocol into the European Communities Act bears the date done Brussels 16 May 2012.

59. Notwithstanding the confusion and irregularity over the dates and lawful processes involving the Irish protocol, I would like the court to examine the document from the Citizens Information Board displayed at page 25 of my Book of Authorities. This states:

"The main difference between an international treaty and a protocol to an EU treaty is that an international treaty, while binding on the parties who have signed it, does not have an enforcement mechanism. An EU treaty and any protocol to it becomes part of EU law and is enforceable by the Court of Justice of the EU in the same way as other EU laws."

60. What this means is that once the decision of the Heads of State or Government of Europe had been converted into a protocol it was justiciable and enforceable in the European Court of Justice. The effect of this is that the European Court of Justice in the case of any dispute or conflict would interpret and implement our own Irish constitutional law and rights with regard to the articles of the constitution concerned. The result is that the interpretation of Bunreacht na hÉireann has been ceded to the European Court of Justice by the

creation of this protocol. A more profound ceding of sovereignty is difficult to imagine. In brief the original signing of the decision of the Heads of State or Government by our Government set in train a course of action that would bring about the creation of a protocol that would ultimately take away the powers of this court to interpret our Constitution and cede them to the European Court of Justice.

61. I have also to raise another point of law regarding the National internal process of ratification of the protocol followed by the Government of Ireland. It appears from their statements that the Attorney General does not view the incorporation into national law by the Houses of the Oireachtas as part of the process of ratification. Nor does the Attorney General view it that Dáil Éireann needs to be involved in this process of ratification. The Attorney General's position would appear to be that the Government has complete control of the entire process of signing, concluding and ratifying of all international treaties unless they cause a charge upon public funds or are required to go to a referendum. This is incompatible with the scheme described by Finlay CJ (cited below) in the Crotty where Dáil Éireann has primary control of the Government.

"it seems reasonable to infer a scheme under the Constitution that by virtue of Article 29,s.5, sub-s.1 Dáil Éireann should have a primary control over the exercise by the Government of its executive power in relation to entering into international agreements"...

62. The Attorney General's view appears to be that Dáil Éireann only gets to have sight of the Treaty after it has been signed and ratified entirely by the Government outside of any other democratic process. It is beyond my capabilities in this present case to deal with this issue but I am not prepared to accept the Attorney General has the correct interpretation of the constitutional role of the Government, Dáil Éireann and the Oireachtas in the process of entering into international Treaties.

63. The following is an extract, (shown in my Book of Authorities page 76) from the Houses of the Oireachtas Energy Charter Treaty and Energy Efficiency Protocol: Motion, Wednesday, 30 November 1994:

"Minister for education (Mr. M. Smith)

That Dáil Éireann approves the terms of the energy Charter Treaty and the Energy Efficiency Protocol which are open for signature subject to ratification from 17 December 1994, in Lisbon, Portugal, copies of which are laid before Dáil Éireann on 28th November, 1994"

"Question put an agreed to".

64. The process before Dáil Éireann regarding the laying before the House of the Energy Charter Treaty and the Energy Efficiency Protocol and the motion to approve of them would seem to be what Finlay CJ envisaged when he stated that Dáil Éireann should have a primary control over the exercise by the Government of its executive power in relation to entering into international agreements.

65. The state in their submission claim article 29.4.9 was inserted by the Lisbon Treaty. At their paragraph 61

66. The information provided to this Court in this statement is both astonishing and of the most serious nature and it has been an onerous task in trying to compile it and present it in a coherent and logical manner taking into account that there are so many complexities introduced from start to finish by the actions of the State and it's legal adviser the Attorney General. It's been laid out before the court that developments over the past six years concerning the Irish protocol since I originally made my Application to the High Court. These developments have given rise to certain supplementary issues.

67. In the circumstances I am presented with I have no choice but to hear and now apply to the court under section 20 subsection 3 of order 84 of the rules of the Superior Courts for the court to allow me to amend my statement of grounds and reliefs to include:

1. An Order revoking the Instrument of Ratification deposited by Ireland with the Italian Government in Rome on 8 October 2012
2. An Order revoking Ireland's signatory of the Decision of the Heads of State or Government of the 27 Member States of the European Union, meeting within the European Council, on the Concerns of the Irish people on the Treaty of Lisbon of June 18th and 19th 2009.
3. A Declaration that the Protocol No 25 in Treaty Series 2014 on the Concerns of the Irish People on the Treaty of Lisbon presented to Dáil Éireann by the Minister for Foreign Affairs and Trade is Invalid in Law.
4. Such further or other orders as this Honourable Court shall seem just and proper
5. On the grounds that I have laid out to this Court this day 5th April 2016.