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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

TUAIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Thursday, 22 April 2004.

An Bille um an Seachtú Leasú is Fíche ar an mBunreacht 2004: An Dara Céim (<i>atógáil</i>)	1
Twenty-seventh Amendment of the Constitution Bill 2004: Second Stage (<i>resumed</i>)	1

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TUAIRISC OIFIGIÚIL OFFICIAL REPORT

IMLEABHAR 584

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Déardaoín, 22 Aibreán 2004.
Thursday, 22 April 2004.

Chuaigh an Leas-Cheann Comhairle i gceannas ar 10.30 a.m.

Paidir.
Prayer.

An Bille um an Seachtú Leasú is Fíche ar an mBunreacht 2004: An Dara Céim (Atógáil).

Twenty-seventh Amendment of the Constitution Bill 2004: Second Stage (Resumed).

An tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, an Teachta MacDubhghaill, a rinne seo a leanas: “Go léifear an Bille an Dara hUair anois.”

The following motion was moved by the Minister for Justice, Equality and Law Reform, Deputy McDowell: “That the Bill be now read a Second Time.”

Debate resumed on amendment No. 1:

To delete all words after “That” and substitute the following:

“Dáil Éireann:

- in accordance with the recommendations of the All-Party Oireachtas Committee on the Constitution’s report for clear and agreed procedures for the holding of referendums on constitutional amendments;

— considers that political parties, North and South, view the proposal for an amendment to Article 9 of the Constitution, as impacting on Article 2 and thereby the Good Friday Agreement and the process of its present review;

— believes there is a need for an All-Party Oireachtas committee to consider the Twenty-seventh Amendment of the Constitution Bill 2004, and specifically to evaluate the issues on the basis of the knowledge of experts and the presentations of the insights of groups outside the Houses and to report thereon to both Houses of the Oireachtas before 1 September 2004;

declines to give a Second Reading to the Bill.”

—(Deputy Kenny).

Mr. O’Connor: I am pleased I made the long trip from Tallaght to be the next speaker. It is good to see so many Members here early in the morning. I acknowledge the presence of the Leader of the Opposition to hear me speak.

Mr. Kenny: We look forward to it.

Mr. O'Connor: Given that we are all here so early, I wonder whether Members were up late last night to watch "TV3 News". I was watching the news and a film because I was trying to relax. The poll carried out indicated that an amazing 80% of people are in favour of the legislation before us. I would contrast that——

Mr. Kenny: That was not the question asked.

Mr. O'Connor: We all know the question that was asked and the answer received. It is very accurate and we should all listen to it.

Mr. Kenny: I know the question that was asked and it was not on the legislation.

Mr. O'Connor: So do I. I wonder about the events in this House, how they are impacting on the public, how the public is reacting and the damage it is doing to the body politic. As a new Member, I am sometimes fascinated by the workings of this House. I was here the week before last for the various debates and votes. There were all sorts of arguments and rows about whether this House should sit these two days. My colleague, the Minister for Defence, Deputy Smith, dealt with the issues eloquently and made the point about the importance of these two days in the life of the Dáil and the importance of the debate. On a positive note, it was good to see so many Members, including prominent Members of the House, here yesterday. The Taoiseach was present, as were most members of the Government. All the leaders of the Opposition were present, including those whom some of the newspapers describe as prominent backbenchers, and the rest of us were here.

Mr. Durkan: I thought the Deputy was a prominent Member.

Mr. O'Connor: Deputy English in his excellent contribution last night made a point about the level of debate in the House and the manner in which people were treating it. He was sorry about the way my colleague, the Minister for Justice, Equality and Law Reform, Deputy McDowell, was treated by some of his colleagues.

Mr. Durkan: That is a peculiar interpretation because I was here too.

An Leas-Cheann Comhairle: Allow Deputy O'Connor to make his contribution.

Mr. O'Connor: That is what he implied. The Deputy can read the record if he was not here. I know he was touring the House, which is fair enough. In fairness, we should understand that this is a very important debate and that the public is watching what we are doing.

Mr. J. O'Keefe: We would all like a higher standard of debate.

Mr. O'Connor: We should understand that some of the scenes in the Dáil yesterday did no great service to the political system. People are talking about the polls to be held 49 days from tomorrow and how the public will react. People appear to be needlessly worried about how the public will react. Members of the Irish public have proved time and time again that they have the capability to understand issues and make decisions.

An Leas-Cheann Comhairle: Is the Deputy sharing his time?

Mr. O'Connor: No. Does someone wish to share time with me?

An Leas-Cheann Comhairle: I just want to clarify the situation.

Mr. O'Connor: I will be happy if the Minister wishes to share my time and if Deputy English were to arrive, I would be happy to facilitate him.

It is important to consider what we will be doing over the next 50 days. The public will expect us to divide our time between the various issues that must be dealt with by 11 June. It will be a pity if those issues impede the campaign for the local elections. I have very strong views on what they should be about. I was a member of the local authority for several years from 1991. Local elections should be about how people envisage the next five years of the local authority. They should consider the candidates and how they react to the various issues of concern to them in the management of local authorities. There is a danger, as proved by comments from the Opposition benches yesterday which I am sure will continue today, that attempts will be made to ambush the various campaigns and deal with issues that have nothing to do with the local elections. To some extent that will also be true of the European elections. Now we are having this debate. I will not taunt anyone about TV3, since I have already made that point. However, the referendum on citizenship is important. It is important that it be dealt with as calmly and as coolly as possible.

I have often said that I bring to this House the experience I gained in my constituency. For those Members who do not know, I live in Tallaght and represent Dublin South-West. I spend a great deal of time in my constituency and I am sometimes much happier walking the streets of Tallaght, Firhouse, Templeogue and Greenhills than in Leinster House. That is not to say I am unhappy here.

Mr. Durkan: The Deputy left some out.

Mr. O'Connor: However, I am happier when I am out in my constituency doing my seven clinics.

Mr. M. Higgins: He left a whole lot out.

Mr. O'Connor: Perhaps Members want me to spend my time naming every estate I represent. It is only 10.40 a.m. and I have already been in several estates in Tallaght. I am happy to make that point.

I intend to share some time with my colleague, Deputy Michael Smith.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Mr. O'Connor: In case it has not been clear to my colleagues opposite, I strongly support the Government position on the referendum on citizenship. It is important that we do that. I was making the point regarding my constituency, which bears out what TV3 reported last night, namely, people are expressing strong support for this legislation. Regardless of whether we like that or wish to reflect other views in this House, that is what people are saying to us. I suspect that such sentiments are duplicated in every Dáil constituency, including Kildare.

Mr. Durkan: Did the Deputy hear "Morning Ireland"?

Mr. O'Connor: I have not all that much time and the Deputy should let me make my point. I have listened very carefully to all our colleagues, both here in the Chamber and in my room via the monitor. People are entitled to make their case. It is an important debate and, as I said, the attendance in the House yesterday proved that. It is a pity that some of the contributions yesterday bordered on hysteria, since that does not help or send a positive message about the workings of Dáil Éireann to the public. I hope that matters will become more regular with people viewing the referendum in the correct light, during whatever time is left to us today and in the debate generally.

Many of the misconceptions of our colleagues from the Opposition benches have more to do with the political climate than the referendum itself. Having listened to the Taoiseach yesterday, he put the Government position very clearly. It was a very fair and fine speech and I hope it will influence some of the thinking of our colleagues.

Mr. Durkan: The Taoiseach is hardly synonymous with clarity outside this House.

Mr. O'Connor: It was a clear speech. Those of us who are new here sometimes do not understand that politics is politics and that people must go on with it for their own sake. However, ultimately we must go out, knock on people's doors and talk to them. I have already made the point that whether one is in Kildare, Cork, Tipperary or Dublin city and county, people are saying the same things. The Deputy should not tell me fibs or try to persuade me that people are saying anything different to him.

Mr. Durkan: What are they saying?

Mr. O'Connor: People are saying this is reasonable legislation. They are looking forward to supporting the legislation in 49 days, whether the Opposition likes it or not. We should be responsible legislators and we should understand that government is about governance; government is about dealing with the issues that are of concern to people in a calm way. Some contributions in the House yesterday spoke of people saying different things on doorsteps. I was amazed at the allegation that election literature from Government parties is dealing with this issue because that is news to me. I can assure the House that out in Dublin South-West that is definitely not the case and other colleagues made the same point concerning their own constituencies. That is as it should be.

I will say to my colleagues in Tallaght central, Tallaght south and in Terenure-Rathfarnham, that we should be very responsible in how we deal with this legislation and with this referendum. I believe that in general that is what people will do and to do otherwise is quite wrong.

I am pleased to have the opportunity to speak on this proposal. I support the Minister, Deputy McDowell, in what he is trying to achieve. I hope the debate today will be a little more reasonable than it has been. I am looking forward to the referendum and to supporting the legislation. I will campaign over the next 49 days to ensure this referendum is passed.

Minister for Defence (Mr. M. Smith): I am pleased to have an opportunity to contribute to this important debate. As a country, Ireland has a tremendous sense of what migration is about. It is to an extent embedded in our folk memory as generations of our people saw it necessary to leave our shores in search of a better life. For at least a century and a half the Irish were an emigrant people. In more recent times this migration reached a peak in the 1950s and again took an upward direction as recently as two decades ago.

This House knows well the success we have enjoyed in terms of economic and social development over the last decade in particular. Strong political leadership, underpinned by the cohesiveness of social partnership, has built an Ireland which offers more opportunity than ever before. This opportunity is clearly attractive to people beyond our shores and has made Ireland a very desirable place of migration. We have come full circle from where we were as recently as the 1980s and are now experiencing the ever-increasing forces of migration in a completely new way.

Our society has been enriched greatly in recent years through migration. New cultures, languages and lifestyles have begun to integrate themselves into a country which for so long was characterised by relative homogeneity. Most right-thinking people would recognise that the flow of people into our country in recent years has brought much

[Mr. M. Smith.]

that is good. Likewise it must be recognised that it has brought many challenges.

Fundamental to these challenges is a need to address the nature of citizenship in a modern Ireland. Currently Irish citizenship is bestowed on anyone born on the island of Ireland, a provision set out in the ground-breaking Good Friday Agreement of 1998 and endorsed by the people on both sides of the Border. It has now become clear that this constitutional provision on citizenship is being used in a way not intended by the people when they voted on the Agreement. A loophole is being exploited that sets us apart from other EU countries and it is the Government's belief that the approval of the people must now be sought to close it.

Citizenship should be much more than a matter of geographical fact. It is about loyalty to the State and fidelity to the nation. Current trends in our society have made it more necessary than ever to challenge assumptions that everyone born in Ireland should be entitled to Irish citizenship solely on that basis and without further connection to Irish society or the State.

The Government has deemed it necessary to seek the approval of the people to effect the necessary legislative changes to redefine Irish citizenship. It is doing this not out of any desire to imply that citizenship is linked to some sort of cultural uniformity and narrow sense of what it means to be Irish. On the contrary, what is intended will copperfasten and give a new sense of recognition to the place of our established immigrant community.

By setting a very reasonable three-year period of residency for one or more non-national parents before citizenship rights are granted to a child, Ireland will compare more than favourably with the time periods for the acquisition of citizenship in all other jurisdictions.

Regrettably, many elements of this debate, including contributions from the opposite side of the House, have followed a firm but misguided argument that the Government is in some way playing the racist card. It is frankly a contemptible suggestion that the Government would try to exploit the insidious evil of racism for political gain and one of the most offensive political slurs I have encountered over long years of service in this House.

The Government will not be intimidated by those who by their own irresponsible words are playing the racist card themselves. Surely it is not unreasonable for us to bring our Constitution and legislative framework into line with our neighbours? Should we not address unintended incentives that are unfair to us and other EU states provided this is done in a fair and balanced way?

The Government's proposal will give us one of the most generous systems of nationality and citizenship in the EU and has been specifically designed to be acceptable to Irish citizens and our immigrant community alike. Are those who are

most vigorous in their opposition to our proposals seriously suggesting that the citizenship laws of our EU neighbours are mired in racism?

There has been some disquiet in recent days that the proposals being brought forward by the Government will undermine fundamental elements of the Good Friday Agreement. I remind the House that it was this Government, under the relentless personal commitment of the Taoiseach, that was one of the main architects of the Agreement. Its full implementation remains a top priority and it is unthinkable that we would do anything to undermine it.

The Government is entirely satisfied that our proposals are fully compatible with what was agreed in 1998 and does not contradict the Good Friday Agreement. Members should be reassured of this by the joint declaration issued in recent days by the two Governments that the proposed citizenship referendum is fully in keeping with the Agreement.

Many of those seeking to drag the context of these proposals down to a debate on racism are arguing that the timing of the referendum is calculated to exploit maximum political advantage. I utterly reject this. It makes eminent sense to hold this important and reasonable referendum in tandem with the local and European elections as voting on a range of issues will increase the likelihood of higher and more broadly based voter turn-out. By running the referendum alongside the two elections, the type of intensity that might arise in a single issue campaign and could be exploited for malicious intent will be greatly reduced.

It is misguided to assert that people will vote for candidates on the basis of their views on the referendum alone. Holding the referendum on the same day as the elections does not transform what is a reasonable proposal into a racist one. The vast majority of Irish people will not look favourably on any candidate who would seek to stoke a racist agenda. Unlike many in the Opposition, perhaps I have more faith in the maturity and discernment of the electorate.

The proposals this House is debating and the wording to be put before the people on 11 June are a reasoned and fair attempt to address an anomaly in our citizenship laws. Our society is changing profoundly as new cultures and creeds find their place here. What we are trying to do has been designed to be acceptable to Irish citizens and our immigrant community alike and brings us into line with our EU partners.

I ask those who are opposing our proposals to ask themselves if by their actions and language they are playing into the hands of the racists they would purport to abhor.

Mr. M. Higgins: I welcome the suggestion that we should have a mature debate and that we should deal straightforwardly with the public about the issues at stake here. I begin by correcting the latest I have heard, with respect, from the Minister for Defence, Deputy Smith, the

suggestion that we are putting ourselves in line with the European Union in terms of arrangements. We are not being asked by the European Union to make this change. We had five referendums about our entry and relationship with Europe and in none of them did the question arise. I repeat straightforwardly that we have not been asked, we are not asked now, nor is there any proposal to ask us to harmonise our laws with Europe.

On the other hand we are changing the Constitution in a fundamental respect. We are taking ourselves out of the procedures to the allocation of citizenship that are associated with the common law tradition. Under the common law tradition, 41 countries have the same procedure we have for the allocation of citizenship. The old legal principle is, "Born on the rock, a citizen of the rock". One is a citizen of the place where one is born. The suggestion that we are somehow unique is simply untrue.

Over 40 countries have the same arrangements as us, including many which had old relationships with Britain. They are not meaningless countries, as I heard someone — not the Minister for Defence — describe them. They are countries like India, Pakistan, New Zealand and Brazil which have very substantial populations. Countries with the same arrangements as ours have on occasion debated the significance of those arrangements. Canada, for example, had an extensive debate on the arrangement whereby a person acquired citizenship on the basis of birth and it concluded after that debate that it would keep that arrangement. The US has debated that arrangement on occasion and it has decided to keep the arrangement. In 1984, Mrs. Thatcher had a debate on the procedure in England and decided to depart from it, as did Australia later. New Zealand decided to retain the procedure. I hope I have now clarified two points of misinformation, namely, that this is required by Europe, when it is not, and that we are somehow unique in our arrangements, which we share only with the US. We are not.

We are, therefore, changing the Constitution on a fundamental principle of law. We are not harmonising ourselves with Europe on taxation policy, neutrality or a raft of other issues, and those being asked to vote may reasonably ask how this argument started. The Minister for Justice, Equality and Law Reform suggested that an urgent problem has arisen — a problem so urgent that it cannot wait for the normal sessions of the Dáil, for referral to the All-Party Committee on the Constitution or for a full debate in the House. It could not possibly wait for a White or Green Paper either. Those being asked to vote may therefore reasonably ask questions about the nature of the problem, because it seems to be changing.

I was described yesterday as a slow learner in a lecture from the Minister for Justice, Equality and Law Reform, so I decided to put in my work on the annexe to his speech and I found some

fascinating statistical usages in it. At one stage he referred to 58% of asylum seekers who are pregnant, but if one looks at the annexe one sees that that 58% refers to females over 16. I presume that even in the Minister's world people of 17 who come in are not having babies. It is easy to move from one use of statistics to another. Sometimes the Minister is speaking about non-national births and sometimes he is not speaking about immigrants. He moves along like that.

Let me make the point plain. The problem was not described and the fact that it was not described is outrageous in any event. However, it is particularly outrageous when it is suggested that the only way to deal with the alleged problem is through a fundamental change in the Constitution.

I am trying to respond reasonably to the speeches made yesterday and today. The British and Irish Governments have issued an interpretation of the implications of what is proposed for the Good Friday Agreement. As someone who served in the law courts for a long time, the Minister for Justice, Equality and Law Reform should know the Good Friday Agreement is not a matter for politics any more. It is a matter for law. It is an international treaty and lodged as such. The circumstances in which it should be amended can be debated and that is in the realm of politics. However, an interpretative statement by political heads which happens, *en passant*, to exclude the parties directly involved in Northern Ireland is absurd. It is a matter of law. We must reflect that 90% of the people — reflecting their very best instincts — voted for peace North and South. They asked whether this problem could not be quantified.

It is a problem that keeps changing description. Sometimes it is in the minds of the masters of the maternity hospitals. Sometimes, as the Minister stated in his speech yesterday, he is
11 o'clock aware of something anecdotally. The Minister for Justice, Equality and Law Reform obviously does not lack the confidence to propose an amendment to the Constitution on the basis of anecdotes. That has led him to create some new offensive concepts, such as citizenship tourism. If it is the case that people are arriving here for such a purpose, the Minister should show us the facts. Let us debate the matter properly, ascertain the people's views and then make proposals.

I have been a Member of the House for a long time but I am not a lawyer. One must legislate for matters that can be legislated for, but constitutional amendments are suggested when one comes up against an obstacle. I will cite a pertinent example that would have been particularly relevant to Deputy O'Connor had he remained in the Chamber. The Labour Party's proposal to deal with speculation in building land, which is the major factor excluding young couples from the possibility of owning their own homes, argued that one did not need to change the Constitution to implement the Kenny report's

[Mr. M. Higgins.]

formula. The Government parties voted us down more than once on the basis that there was a constitutional difficulty. If that were the case, why are they not going to the public with a proposal to deal with building land by way of constitutional amendment? That problem has been quantified for them and the All-Party Committee on the Constitution has commented on it. In the atmosphere prior to the European and local elections, people are asking why house prices have torn the heart out of the economy and housing speculation has torn the heart out of society. Lending agencies have destroyed the community because of what is now required to become a mortgage slave.

The Minister, Deputy McDowell, is a lawyer. I worked as a sociologist for more than 20 years and can see the destructive effects of the housing crisis and the speculative manipulation at its core, which is the greatest problem facing us. We will not discuss that but we will have a referendum on an unstated problem the Government is pushing through. What is the public to think of that? In his speech earlier, Deputy O'Connor was worried about what people listening to this debate will say. I suppose it is a genuine concern for Fianna Fáil that the distraction might not work. It would be a disaster for the Government if people began to ask questions about health, social welfare, widows' pensions, houses, playgrounds, planning and corruption. Would that not be dreadful? It is much better to talk about 200 or 250 — what are the numbers? — so-called citizenship tourists from which the Minister is trying to save us by amending the Constitution. Perhaps he could bring them all together in one place so that we could see them. This is the kind of arrogant nonsense we heard yesterday.

The Minister suggested there was no point in referring the matter to the all-party committee because two of the parties were opposed to that course of action. He also dismissed the reports of review groups. How many people are convinced by the Minister's argument that the situation has changed radically since 1999? It is suggested that in 1999 we did not know what was going to hit us — that perhaps 250 people would emerge from the ether and rock the State, thus requiring a constitutional amendment. What rubbish.

Those producing these figures for the Minister's speech should observe the normal procedure pertaining to statistical information which involves giving one's sources. They flit easily, for example, from the figure of 444 emergency births referred to yesterday. They are not able to tell us the exact figure. We must subtract from the given figure the figure associated with those who are properly here with work permits. Then we must subtract the figures associated with those who are properly here with residential qualifications from other European Union countries and those who may be awaiting citizenship on a contested basis. What figure does one end up with? Is the public not entitled to it?

I can provide the House with one good statistic, however. It is an interesting one the Minister, Deputy McDowell, and his Fianna Fáil colleagues in particular might like to reflect on. The number of people who have abused State companies and who are now tax exiles certainly exceeds the number of non-national women who are giving birth in the State. The tax exiles have decided to have a unique relationship with the Constitution.

The Minister ended his contribution with a flourish, as he is good at doing — I suppose one learns this presenting cases in defence in the courts. He made an appeal for fidelity to the nation. I could see hands rising to people's hearts in fidelity. He said citizenship means something important to those who hold it and he referred to a sense of fidelity to the nation and loyalty to the State. I am sure this means having the right to strip assets of State companies and run abroad to avoid paying capital gains tax. It means having the right to be a monopoly owner of a newspaper group and to run abroad and not be a citizen. It means having the right to take titles from foreign countries and to have a lifestyle of ostentatious expenditure. This is what I call Deputy McDowell's fidelity to the nation. He should invent a hymn and sing it when seeing off the tax exiles who strip assets and who, in a near fraud, force shareholders to sell their shares and impoverish them. They then return for the 90 days, often through Belfast, because they are probably in favour of Irish unity. They do so because they can slink into the country and not be counted. I would like to compare the cost of resources allocated to monitoring these tax exiles with those allocated to monitoring those who are asked whether they are having an emergency birth or whether they have a work permit.

Deputy O'Connor mentioned how the people will really look to TV3 to decide how to vote. I find that interesting. I did not realise that independent broadcasting had such a grip on the people just yet. The Deputy listed many areas he was visiting, even this morning, and therefore I suppose that eccentricity is appreciated for what it is. The fact of the matter is that we are entitled to a proper debate. To summarise the current position: there has been no European request; fundamental change to the Constitution is sought; the problem has not been quantified and has been distorted; and there has been no consultation. In spite of this, the tragic side of the issue is being pointed out. There is a desperate need for a proper immigration policy. This has been discussed by all the NGOs. There was a draft Bill on immigration and relationships three years ago which was forked into the shadows and of which there is now no sign.

Deputy O'Connor should note what people say to me. They ask me if there will be proposals to change the work permit from the employer to the employee. Is this not a change from a form of bonded labour to some kind of recognition of the rights of a worker? Some of us remember the Tánaiste and Minister for Enterprise, Trade and

Employment going to South Africa, striking while the iron was hot and recruiting people for the Irish economy. There are other lists from other seminars being held concerning the number of people we will need if we are to keep the economy purring.

It is time we had a little straight talking. What has happened the Bill on immigration? Where is the legislation on work permits? Where is the education programme on inter-culturalism and anti-racism that was supposed to be established? What amount of money is being spent on that?

When did people in the Department of Justice, Equality and Law Reform identify the opening of the floodgates yet again? I have spent all my political life listening to reports that the floodgates are opening. It was said that if we had civil divorce, not a marriage in the State would be safe. It was also said that so much activity would be going on we would not be able to move with the congestion arising from the use of condoms. We were told that water systems would clog up from such activity. Such rubbish.

Here again we have the Minister's pathetic little figure of 446 people or whatever it is that must be adjusted downwards when it gets around to counting the cost. What is the motivation for all of this? It is the great distraction, the idea that one will not speak about something very interesting. Last year 68,000 houses were built in Ireland. I do not argue if people say it was 70,000. How many houses were built for people on housing lists? It was in the region of 5,600. In the middle of the crisis in the 1980s we built 10,200 local authority houses in a single year. That issue might be raised on doorsteps throughout the country but is it not an awful lot easier to speak out of the side of one's mouth and say "we are doing something about the other thing". What is the issue about which something is being done? Then the canvasser will listen to hear it come back to him or her, nod sagely and shamefully go along on the canvass. I know too many decent people in Fianna Fáil and the Progressive Democrats to say that this is the regular approach, but the shameful amendment of the Minister for Justice, Equality and Law Reform, Deputy McDowell, creates the capacity for that and he cannot walk away from those consequences.

I agree with the Minister for Defence's suggestion that what we do in regard to citizenship should take into account our relationship and history on emigration and immigration. In the terrible 1950s, for example, in 1955, 55,000 people left Ireland. In 1957, 59,000 people left Ireland; the largest number to leave in any one year. These people are scattered in different parts of the world.

One can discern the beginning of the stirrings of some of the false information between 1995 and 2000 when 658,500 came to Ireland. However, 55% of these were Irish people returning here. It is clear that a large proportion of those coming to Ireland fall into that category.

In that five year period from 1995 to 2000 the figure for people from what is called "the rest of the world" was 12%. When I redid the calculations I corrected the figure of 50% to 55% for returning Irish migrants. Some 18% of these came from the United Kingdom, 13% from the rest of the European Union, 7% from the United States and 12% from the rest of the world.

There is an interesting sub-text in some of the speeches I heard during this debate, to the effect that we were a poor county that had to send our people abroad and now that our economy is healthy — although it is not doing so well for everybody — people are attracted to it. We have new obligations to defend our new condition. When we have done this we then have to begin to defend Europe as well, just in case. Who is destabilising us?

According to the anecdotal evidence the Minister cited in the House yesterday, along with several other ornamentations of the facts, as the basis for his constitutional referendum, it is a group of women who are getting pregnant and leaving the country immediately their babies are born and obtain passports. The reality is that since the Supreme Court case of O and L — the Minister stated he was involved in the Fajujonu case — giving a baby a passport does not automatically confer a right to stay on its parents. The Minister stated he would seek a constitutional amendment if he lost the O and L case, yet, having won it, he has decided to proceed with a constitutional amendment for other purposes. This needs to be clarified.

The old common law tradition we share with 40 other countries allows for humane interpretation. The most important aspect of the proposal is that it establishes a principle of inequality between children born on the same day in different circumstances. We ratified the international Convention on the Rights of the Child in 1989, which includes a commitment to work for the reduction of statelessness, although we have not ratified the Convention on the Reduction of Statelessness. This legislation takes us in the opposite direction and changes the current arrangement under which four babies born in the same circumstances at the same time acquire a right of citizenship under the shared common law tradition. If, for example, one of a child's parents is dead, one will have to ascertain if it qualifies for citizenship. Put simply, one does not qualify in one's own right but by virtue of one's parents meeting conditions established by the Minister and Government of the day.

Let no one argue that this legislation is not a powerful net reduction of the rights of the child. It introduces a fundamental principle of inequality between children born on the same day. It is absurd and wrong to state that the birth of a child automatically confers rights on the parents. It is also untrue and incorrect to state that if we do not change the Constitution, we are somehow dislodging a European arrangement. That is the most important issue.

[Mr. M. Higgins.]

I am not a lawyer, but in my work as a political scientist and sociologist for many years we were told only one thing about constitutions, which dated back to Sartory, namely, that they are, above all else, about certainty. This legislation removes certainty from the allocation of citizenship, inserts all sorts of dubious conditionalities and will have the effect of reducing the rights of the child in a universal sense.

Ms F. O'Malley: I listened with interest yesterday evening to Deputy English's contribution. As a new Member, I share the horror and shame he felt at the hysterical manner with which the debate was conducted, particular during the opening session. I am glad the large number of schoolchildren present were not here yesterday because the conduct and tenor of the debate brought shame on the House. While I am glad a certain amount of calm has descended today, yesterday's proceedings were shameful.

Mr. Durkan: That is not fair.

Ms F. O'Malley: It is our responsibility to inform the people in a constructive and calm manner.

Mr. F. McGrath: Calling Members "babies", as the Minister did yesterday, is not part of a calm debate.

Ms F. O'Malley: I would appreciate if Deputies allowed me to make my contribution without heckling. We all deserve to be shown that basic courtesy.

The debate should be conducted in a calm way and I would appreciate Deputies allowing me to make my point without interruption. They will have an opportunity to criticise me when I have done so.

The issue is fundamentally and critically one of citizenship. What does Irish citizenship mean and what do we want it to mean? Do we want people who carry an Irish passport and declare themselves to be Irish to have some sense of what it is to be Irish, to have lived here, to have some knowledge of and engagement with our history and, as was said yesterday, some fidelity to our State? The issue is not one of race.

Is the Constitution the appropriate place to define Irish citizenship? Criticism has been made, most recently by Deputy Michael D. Higgins, that this amendment will remove certainty. I remind Deputy Higgins that by making the amendment we will simply revert to the situation which pertained before the Good Friday Agreement when the Oireachtas was the forum in which citizenship would be conferred on people and where it would be defined. People forget that was the case. Hysteria is not helpful to the situation. The question being put to the people is whether or not it is appropriate for the Oireachtas to

make decisions on citizenship. We all accept that our Constitution makes the people supreme. We merely ask them if they want to make this choice.

Mr. Durkan: Deputy O'Donnell expressed reservations about the referendum.

Mr. Costello: There was no consultation.

Ms F. O'Malley: Delaying the referendum would not be a good idea. It has been claimed that no debate has been held. The debate only began yesterday. It is incumbent upon us to ensure that the debate is calm and clear and that we remind people of the question they will be asked. I remind Deputies that the people will decide whether or not the amendment will be made. I ask Deputies to remember this when they are canvassing for the referendum and for the local and European elections. If the amendment is made the debate on our immigration policy and citizenship will then take place. There will be a two-stage process. The Oireachtas will decide and we will have adequate opportunity for further debate on citizenship, what it means and whether we agree with the proposed changes. The question being put to the people is whether or not the Oireachtas should decide if the decision is to be made. The people, and not the Government or the Opposition, will decide if that is to be the case.

It is in all our interests, therefore, to have a calm and informed debate and not to whip up hysteria, as happened yesterday. An informed debate will encourage the people to participate in the referendum. Depending on what the people decide, the Oireachtas will have a further opportunity to debate immigration policy. Knowing as we now do, that we may be looking at citizenship legislation after the referendum, we have an opportunity to formulate our immigration policy and to have a full and thorough debate about it. Yesterday, I listened to contributions from Deputies calling for a full debate on immigration policy. The holding of the referendum will give this opportunity if the referendum is passed by the people. I stress the importance of the people in deciding this matter.

The Fine Gael proposal that the referendum should be delayed—

Mr. Durkan: Deputy O'Donnell made the same point.

Ms F. O'Malley: I do not know if Deputy O'Donnell proposed delaying the referendum.

Mr. Durkan: Precisely.

Ms F. O'Malley: The Government has decided to go ahead with the referendum.

The question of participation is important. Democracies throughout the world are facing a diminution in the participation of people in the political process. We have already decided to hold the European and local elections on the

same day because we are all worried that if the European elections were held on their own, voter turnout might be very low. In an attempt to ensure participation on a greater level the two elections will, in future, always be held on the same day. For that very reason it was decided to hold the referendum on 11 June. This was a wise decision because participation in the electoral process is most important. We are guaranteed a higher level of participation in the referendum if voters are also coming to the polls for another election.

Mr. Durkan: It is an opinion.

Ms F. O'Malley: I do not understand the purpose of delaying the referendum. This is a false argument. The question will be put to the people and if they decide that the Oireachtas needs to legislate on the matter the debate will begin in earnest on the question of citizenship.

Mr. Durkan: Why not have the debate first?

Ms F. O'Malley: What would be the point of that? Let us first discover if the people want to change the legislation.

Mr. Durkan: Let us decide for the people.

Ms F. O'Malley: I disagree. The sooner the question goes to the people the better. The people's answer is supreme. They will decide what will happen. If they decide, in their wisdom, that the Constitution needs to be changed we will then have the debate outside an electoral contest. This would be to the benefit of us all.

Mr. Morgan: I wish to share time with Deputies Healy and Gormley.

As all my party colleagues have stated in the course of this debate, Sinn Féin is opposed both to the timing and the substance of the proposed referendum. The issues I will address will include the process by which the proposed referendum was brought forward and the false claims from the Government that the decision to hold the referendum on 11 June was made in the public interest, in the interest of convenience and of saving taxpayers' money.

Any change to the Constitution is of fundamental importance to all citizens and should only be made after full consultation and careful consideration. The necessity for such change and its implications must be clearly outlined. There was no consultation with political parties, the social partners or interested parties on the proposal before the House. Contrary to its initial claims, the Government did not make any attempt to consult with parties, either in this State or in the North. The programme for Government included a commitment to initiate an all-party discussion on the issue of constitutional and other measures which may be necessary with regard to children born to non-nationals. This has not happened. We have all been merely informed in

a contemptuously casual manner as if we were disinterested observers, that a referendum with fundamental implications for citizenship would be held on 11 June.

If a constitutional change were necessary there is a process in place, accepted by all parties, by which such a proposal is brought forward. The matter could be examined by the Joint Committee on the Constitution. This committee has just completed its examination of the issue of property rights and is in a perfect position to begin an examination of this issue. The matter was raised at the committee and its members expressed a willingness to take it as their next task. As it has done with other issues, such as abortion and property rights, the committee can take submissions from interested parties such as the Human Rights Commission, the Equality Authority and the National Consultative Committee on Racism and Interculturalism. It can also hold hearings and produce proposals regarding the necessity or lack of necessity for constitutional change.

In the case of the abortion debate, the Government presented a Green Paper that was considered by the All-Party Committee on the Constitution which carried out, in the words of the then Chairman of the committee, Deputy Brian Lenihan, "a political assessment of certain questions which arise from it in the context of the submissions we received and the hearings we conducted". We need to be told why the same process is not being undertaken in respect of the proposal before the House today. The Minister's claim that such a process cannot be undertaken because parties have already taken up positions on the proposal is simply nonsensical.

The proposed referendum will completely eliminate the basis of Irish citizenship as it has existed since the foundation of the State, in favour of a strict bloodline criterion. Contrary to what the Minister has claimed, it is not a straightforward issue. It has legal, constitutional and rights complexities. It gets to the heart of how Ireland, as a nation, defines the basis of its citizenship and, by extension, how we want the Irish nation to grow and develop. It is crucial that this issue should be the subject of proper public consultation and debate. Bearing in mind that it is charged with examining fundamental rights, the All-Party Committee on the Constitution is perfectly placed to examine this far-reaching proposal. I ask the Taoiseach to refer the matter to the all-party committee, even at this late stage.

The Government's claim that its decision to hold the referendum on 11 June was made in the interests of convenience and to save taxpayers' money is blatantly untrue. Did the Government learn nothing from the Nice treaty fiasco, when it foisted a referendum on the people of the State without informing voters about the issues or undertaking proper consultation? The Government's pathetic argument on such a fundamental issue fails to recognise the ultimate cost of making a mess of our citizenship laws. The

[Mr. Morgan.]

real motivation behind the timing of the referendum is to deflect attention from the coalition's abysmal record on health, housing and education. The basis on which the referendum is being held at this time is to facilitate the Government parties' desire to exploit the issue of race for electoral gain. Members should mark my words — PD and Fianna Fáil candidates will exploit ignorance, bigotry and racism by seeking to deflect the blame for the crisis in the health service and the lack of social and affordable housing from the incompetent Government to non-nationals.

The State needs a fundamental and comprehensive immigration policy, underpinned by respect for human rights. Sinn Féin supports the recommendations of the Immigrant Council of Ireland's report on labour migration into Ireland and calls on the Government to implement them. That involves the adoption of an integrated and representative approach to immigration policy and the immediate introduction of an anti-racism and anti-discrimination agenda. Migrant workers should have rights that are equivalent to those of the host society. Family reunification should be a legal right. The Government has failed to bring forward proper immigration laws and policies that are compliant with human rights, but it is happy to stand by as immigrant workers are exploited in this State. It has rejected repeated calls to protect the welfare of migrant workers by issuing employment permits to such workers rather than to employers. As Deputy Ó Caoláin has said, if the Government refuses to listen to the wide range of opinion demanding that it should call off the referendum, Sinn Féin will campaign vigorously for a "No" vote.

Mr. Healy: I wish to state my opposition to the timing of the proposed referendum and to the proposal itself. As we are aware, the Taoiseach told the House approximately six weeks ago that he did not propose to have a referendum on this or any other issue. Within four weeks, however, the Minister for Justice, Equality and Law Reform announced that the Government intends to hold a referendum on citizenship. One might wonder what happened in the intervening four weeks, but if one is honest one knows what happened. Opinion polls commissioned by Fianna Fáil and the Progressive Democrats showed that the Government is on a hiding to nothing in the local and European elections on 11 June.

Mr. Durkan: That is it.

Mr. Healy: The Government needed a smokescreen or a cheap political stunt to distract voters' attention from its absolutely disgraceful record since it came into office in 2002. It is worth reminding the House of the Government's dishonesty during the last general election

campaign and its broken promises since it took office two years ago.

Mr. Durkan: Hear, hear.

Mr. Healy: The Minister, Deputy McDowell, will recall the proposal of his party and Fianna Fáil to provide an additional 2,000 gardaí. The proposal was included in An Agreed Programme for Government, but there is no sign of the extra gardaí. A Garda traffic corps was also promised, but there is no sign of it. The Government said that 200,000 people on low incomes would receive medical cards, but that promise has gone by the wayside.

Mr. Durkan: It is another broken promise.

Mr. Healy: The Government said that it would end hospital waiting lists within two years of taking office, a deadline that will be reached in approximately a month. It is another example of a promise that has been broken. We are familiar with the state of the health services as a result of such broken promises. We were also promised 3,000 additional hospital beds, but many beds have been closed instead.

Mr. Durkan: Half of them were closed.

Mr. Healy: We know what happened to the proposal to support community employment schemes — they have been devastated. Twenty people were employed under community employment schemes in my local authority area, but that number has been reduced to two. We were supposed to get 15,000 social housing units; what has happened to that promise?

Mr. Durkan: It is gone.

Mr. Healy: The fact that approximately 50,000 families are on housing waiting lists means that approximately 150,000 individuals are waiting for reasonable local authority accommodation. In effect, the proposed constitutional amendment is a smokescreen to distract the electorate from the dishonest promises that were made at the last general election and the breaking of those promises over the last two years. I expect the public will see this proposal for what it is — a smokescreen to cover the PDs and Fianna Fáil during the local and European election campaigns. One has to smile when one recalls that the Minister, Deputy McDowell, went up a lamppost during the last election to put up a poster saying "One-Party Government — No Thanks".

Mr. Durkan: He said we had to save the country.

Mr. Healy: We know now that it is a one-party Government, because the PDs are more Fianna Fáil than the PDs themselves.

Mr. O'Donovan: I thought it was the other way around.

Mr. McDowell: We are “more Fianna Fáil than the PDs themselves” — that is a new one.

Mr. Healy: It took a PD Minister to come up with this type of proposal to attempt to salvage the disgraceful record of Fianna Fáil and the PDs in this Government.

There is normally widespread consultation and general discussion when it is proposed to hold a referendum, but that has not happened in this case. The Minister's decision to put this proposal to the people was taken within the space of four weeks. Such a proposal would normally be sent to the All-Party Committee on the Constitution, but that was not done. A referendum is usually held following requests from various agencies which might raise a significant matter that needs to be discussed widely and effectively, but nothing like that has happened. There has not been any discussion or consultation and the all-party committee has not produced a report on the matter. The failure to take such measures indicates to me, as I have said already, that the proposed referendum is a smokescreen to be used during the local and European election campaigns.

The masters of the maternity hospitals have been blamed, in effect, for the decision to pursue this referendum. We had to rely until yesterday on what was described as anecdotal evidence and information. Some statistics were trotted out yesterday, but they made the matter more unclear than anything else. We know that the number of babies born to those who are being called “citizenship tourists” is minimal. On a radio programme this morning, one of the masters of the maternity hospitals told us that of the number of mothers presenting within three weeks of due date in the hospitals in Dublin, 49% of them were Irish.

Mr. Durkan: They are lucky to get in.

Mr. Healy: The other 51% were non-Irish and came from various categories.

Mr. Durkan: This is the only country in the world with a 12-month waiting list for maternity services. Members of the Government should be ashamed of themselves.

Mary Coughlan: Does a woman have to be 12 months pregnant now?

Mr. Healy: The vast majority of them were legally entitled to form their families in the country. This proposal is a cheap political stunt. It is a smokescreen to try to cover Fianna Fáil and the Progressive Democrats for what they have not done and the promises they have broken in the past two years.

Mr. Gormley: I wish to speak in favour of the motion put forward by the Green Party, Fine Gael and the Labour Party, which seeks to postpone the referendum to facilitate a period of reflection and consultation so that we can collectively arrive at a sensible solution to this complex and sensitive issue. As practising politicians, we know how difficult and potentially divisive this issue could become, for the question of citizenship quickly becomes a question of nationality and of race. Those who seek to rush this issue for perceived electoral gain are opportunistic, irresponsible and cynical. Practically every week Members of this House are confronted by latent racism and we know how easy it would be to exploit the obvious tensions that exist. The responsible politician would always seek to calm the situation, to reason with individuals who claim for example that the asylum seekers are getting local authority houses, that there is discrimination against ordinary Irish people or that the blacks are getting cars and the Irish people are getting nothing.

Mary Coughlan: I clarified that matter last year.

Mr. Gormley: While the Minister may believe she clarified the matter, she knows this perception continues.

Mary Coughlan: I clarified the facts so that people like the Deputy could be responsible.

Acting Chairman (Dr. Cowley): The Minister does not have the floor. She will have her opportunity shortly.

Mr. Gormley: While it is not easy to deal with such situations, we must take every opportunity to try to prevent the rise of racism and bigotry. I have no doubt that my constituency colleague, the Minister for Justice, Equality and Law Reform, is only too aware that such racial tensions exist in our society. However, rather than trying to calm the situation as should a Minister charged with justice and equality, he has chosen instead to mine what he knows to be a rich electoral vein. He is playing a very dangerous game. It may yield electoral results, but at what price? I do not believe the Minister, Deputy McDowell, is a racist — in his more enlightened moments he could well give a passable impression of a liberal. Not long ago, before he was in Government, he branded the Department of Justice, Equality and Law Reform as racist in an article he wrote for the *Irish Independent*.

Mr. Durkan: We have some of it here.

Mr. Gormley: I agree and I hope this is quoted at length. By rushing this legislation through the House, the Minister is allowing ruthless political ambition to cloud his moral judgment. He has pulled some nice political strokes in the past. We remember his “Ceaucescu” reference to the

[Mr. Gormley.]

Taoiseach in the general election campaign and his famous lamppost stunt when he warned the electorate to avoid one-party Government.

Mr. Durkan: Aerobatics.

Mr. Gormley: His stunt worked and added a few percentage points to his personal vote. No doubt he hopes this stunt will have the same effect. However, this is qualitatively different. While having a go at Fianna Fáil might be regarded as opportunistic, its effect is not permanent or pernicious. This latest attempt by the Minister disturbs me greatly because the long-term effects of this political manoeuvring could be quite profound. As appears to be part of the ploy, the Minister has persisted in almost taunting the Opposition to “come on if you are hard enough”. This approach deserves to be resisted.

If the motives for the referendum are flawed, then the concept is flawed. The Minister has offered very few facts to prove his case. His colleague, the Tánaiste, was left floundering on “Morning Ireland” when she was forced to admit that no consultation had taken place with the Opposition or the parties in Northern Ireland. A period of time will provide the space for consultation and the opportunity to examine the facts. It would also allow us to debunk some of the myths that surround this issue. We now know that no consultations took place.

Despite earlier claims by the Minister, we know that the masters of the maternity hospitals did not ask for a referendum. We also know there is a problem in our maternity hospitals. However, we do not know how much of this can be attributed to so-called “citizen tourism”. Our maternity hospitals are in a mess — a problem to which I have frequently referred in this House when asking the Minister for Health and Children to address it. In 1973 there were 108 maternity units in the country. There are now 22 such units with plans to close a further ten. This is the problem. We cannot simply blame the people coming to the country — they do not cause the problem. The problem was caused by the Government, which has not invested in the health service. It is easy for members of the Government to now claim it is the immigrants’ fault.

Mary Coughlan: The Deputy can ask any woman in Ireland where she wants to have her baby and they will say they want to do so where there are paediatricians and neo-natal maternity services.

Mr. Gormley: The Government is pandering to all those people and is not dealing with the facts.

We have been repeatedly told, including by some on the Opposition side who have fallen into the trap, that we are dealing with an anomaly and a loophole. It is no such thing. In his speech yesterday, the Minister said the current Article 2 of the Constitution had been considered by a

number of eminent people, including the best legal brains in the country, who recommended not inserting it. It went in and we voted for it, so how can we say this is a loophole? Are we saying we did not foresee this? It is a fact that the Article exists and someone born here can become a citizen. It is very clear. It does not need a brilliant legal mind to identify this as a loophole discovered after years of study. It is nonsense.

We have now been told that the number of people affected is 442. That does not represent a crisis. At that rate it would take 100 years to fill Lansdowne Road to capacity if we were to fill it with the people who are supposed to be causing this problem. This is not a crisis. The Government is using it and it is opportunism. Many years ago the colleagues of the Progressive Democrats in Germany, when they were also involved in some political hanky-panky, were told they would suffer as a consequence. Some opposition parties at the time used the slogan, “Give opportunism a chance — vote for the SDP.” On this occasion I would say, “Give opportunism a chance — vote ‘Yes’ in the referendum.”

Minister for Social and Family Affairs (Mary Coughlan): Ba maith liom cupla bomaite de mo chuid ama a roinnt le mo chomhghleacaí, an Teachta O’Donovan.

Acting Chairman: Is that agreed? Agreed.

Mr. Durkan: We cannot differ.

Mary Coughlan: In debating this referendum, which was signalled as far back as June 2002 in An Agreed Programme for Government, it is incumbent on politicians on all sides to give leadership. In June we will go to the polls to vote in the local and European elections. We will vote electronically. Things have changed and often we fail to see changes happening around us. In the last decade we have witnessed an economic revolution that has changed our country utterly, from our standards of living to our expectations.

We are now part of one of the world’s largest economic blocs. By the time we vote on this referendum we will be part of an economic bloc of 25 countries, bound together intrinsically by ever strengthening economic and social ties. This is for the better, because Europe has been a seedbed for war for centuries and these wars have engulfed nations and the world. As the saying goes, the European Union is precisely what it says on the tin. It is a European Union of nations so tightly bound together that war is unthinkable and peace is the common bond. In our previous existence as an outpost of Europe we suffered as a lone famine state, and even as a new nation, our growth and potential was economically dependent on our near neighbour.

In the past few decades our economy has grown dramatically, society has changed shape, our political landscape has matured and Ireland of the welcomes has become multi-cultured. We

should remember that most non-nationals living in Ireland have come here properly documented and they share in and contribute to Ireland's economic success. We are delighted to have them here, to share in their vision for their new country and to welcome them and help them establish themselves permanently here, if that is what they want. Our civilisation has adjusted and adapted and that process of change and modification must and will continue.

In the new confident world where barriers and borders are crossed by invisible lines of communication, where trade is global and politics are played out on the world stage, we should reach out across our borders to embrace change and the people who can provide it, embrace new ways of life, new cultures and new visions. We have a duty of care to adapt and change, but not at the expense of our citizens. We have a duty to protect our citizens and it would be remiss and negligent of us to do otherwise. Our critics would be swift and correct in chiding us.

This is the reason this Government proposes to amend the Constitution. It wishes to restore to the Oireachtas the power to legislate on the future acquisition of Irish nationality and citizenship of persons born in Ireland neither of whose parents is, or is entitled to be, an Irish citizen. This proposal will bring us into line with other European Union member states, in a Union where borders, like the unwanted differences between us, will become invisible.

Perhaps we need to pause for a moment and consider what it means to be a citizen and what it means to hold citizenship. Citizenship is a highly valued commodity. It is the complex manifestation of rights and obligations shared by a people of a common nationality whose people value membership of that nation.

Currently, it is possible for a person with no real connection with Ireland to arrange to give birth to a child in Ireland, either North or South, and that child automatically acquires an entitlement to Irish citizenship and the benefits that attach to this citizenship.

Mr. M. Higgins: But not their parents.

Mary Coughlan: Irish citizenship automatically confers citizenship and residency rights of the European Union. Abuse of our citizenship is an abuse of European Union citizenship. No other country in the world has a situation where citizenship can be acquired so easily.

Mr. Durkan: We were selling passports some time ago.

Mary Coughlan: Having identified a problem, it is incumbent on us to safeguard our citizenship entitlements.

Mr. M. Higgins: That is not true.

Mary Coughlan: This proposed amendment to the Constitution will restore to the Oireachtas the

power to legislate for the conditions for the granting of citizenship to children of non-nationals. Ireland is not unique in this respect. All other member states of the European Union provide for the acquisition of citizenship through legislation or regulation. None of these member states has a constitutional right to citizenship by virtue of birth in its territory.

The proposed amendment will still leave Ireland with one of the more liberal arrangements on citizenship requirements. A three-year residence requirement compares favourably with the citizenship laws of our neighbours within the European Union. This amendment will recognise and acknowledge the stake that established non-nationals have in Irish society by ensuring that their children born here have the entitlement to be Irish citizens.

Critics of this proposal make two cases. They say that it represents an undermining or a renegeing of the Good Friday Agreement and that it is a racist proposal. Both are wrong, spurious and, frankly, inflammatory. Let me deal with the Good Friday Agreement first, by stating clearly that the Agreement is not being altered. The Government was especially conscious that Article 2 of the Constitution had its origins in the British-Irish Agreement and we never had any intention of breaching this agreement.

It is for this reason that we and the British Government issued the clear and unequivocal interpretative declaration which states that it was never the intention of either Government that persons born on the island of Ireland to parents who did not have, at the date of birth, a sufficient connection with the island of Ireland would be conferred with Irish citizenship.

Mr. M. Higgins: That has no legal status.

Mary Coughlan: Our intention is clear in this referendum — to end the abuse of the constitutional right to citizenship.

Mr. Durkan: It amplifies the abuse.

Mary Coughlan: As the Taoiseach said yesterday, the interpretative declaration is a legal document with a status in international law that copper-fastens the integrity of the British-Irish Agreement and eliminates any suggestion that there is any breach of the Agreement's provisions.

Mr. M. Higgins: He is wrong.

Mary Coughlan: It is beyond dispute that there is not and will not be any breach of the British-Irish Agreement.

Opposition parties have suggested that introducing this amendment is racist. That is not the case. As far as I am aware, the only people who have brought the question of race into this debate are the scaremongering members of the Opposition.

Mr. Durkan: In his opening statement the Minister urged those who are racist to vote “No”.

Mary Coughlan: This amendment is most certainly not racist. It will apply even-handedly to the children of all non-nationals irrespective of colour, ethnicity, or any other criterion on which racism is based. In giving leadership we should be responsible, reasoned and considerate in line with our responsibilities as legislators. A deeply held aspiration for generations of Irish men and women is that nothing is more valuable or cherished than citizenship and I fail to understand why anyone would oppose action to protect our citizenship.

This has become a heated, sometimes illogical, and politically charged debate and the people to blame for this are those on the Opposition benches. Sometimes issues, however sensitive, must be tackled. As political leaders we are charged with acting for the good of our citizens. The referendum on the Good Friday Agreement is a case in point. Had this Government not persevered to reach agreement on such a sensitive subject, would we be better off now? I think not.

Comments by those against this proposed referendum suggest that not only is immigration a sensitive issue, but that it is an untouchable holy cow.

Mr. M. Higgins: Nobody suggested that.

Mary Coughlan: They want to milk it for every political advantage. Shame on them. I commend the Bill to the House.

Mr. O'Donovan: As chairman of the All-Party Committee on the Constitution it is important to contribute to this debate. The All-Party Committee on the Constitution has been given the task of examining the Constitution in its entirety. It makes sense that it should have the opportunity to examine any proposals for constitutional change.

The committee has viewed the Constitution as consisting of two large parts. One part consists of the group of articles dealing with the institutions of State while the other part consists of the group of articles dealing with fundamental rights. The committee has published progress reports dealing with the institutions of State and is now dealing with the second group.

The committee produced a report on the right to life to support the discussion on the abortion referendum. A few weeks ago it produced a report on private property to support the discussion of the problems that have arisen with regard to housing and infrastructure. It proposes to continue its examination of fundamental rights and in that regard proposes to examine the rights of children and the rights of those with disabilities.

When it has completed its examination of the group of articles dealing with fundamental rights,

it proposes to deal with the miscellaneous group of articles, Articles 1 to 10. Among this group are Articles 2 and 9 which deal with nationality and citizenship.

The articles of the Constitution are complex because they are general and subject over time to interpretation and reinterpretation by the courts. While politicians develop skills in evaluating the probable effects of various legislative measures on people's lives, which helps shape the legislation as well as possible, the evaluation of constitutional provisions are notoriously demanding in this regard. As a result, the studies of the committee typically take from nine months to a year to complete.

The subjects of nationality, citizenship and naturalisation are intricately interwoven. Moreover, they need to be considered in line with the concept of European citizenship. It would be unreasonable to expect that the committee would complete a report by September which could form a basis for a constitutional proposal to be put to the people next November when the presidential election may take place.

Mr. Neville: The committee has not discussed this.

Mr. O'Donovan: I have not said we have discussed it. I am making my contribution to this debate.

Mr. Neville: The Deputy is speaking as chairman of the committee.

Mr. O'Donovan: I am making my own contribution and should be allowed to continue without interruption.

Acting Chairman: The Deputy has the floor.

Mr. O'Donovan: I am speaking as a member of the committee. While it would make sense to give the All-Party Committee on the Constitution the task of considering all proposals for constitutional change, that may not always be practicable. Cases will always arise where the Government judges that it must seek a constitutional change as the first step in a series designed to solve an urgent problem. In the case before us, namely, the issue of the Irish citizenship of children of non-national parents, the Government believes it must first change the Constitution in order to allow legislation to be enacted to bring in the necessary practical measures to deal effectively with the issue. I have no problem with that.

It should be remembered that when the Government established the Constitution Review Group in 1995, chaired by the eminent Dr. T.K.

Whitaker, the committee was effectively precluded by its terms of reference from considering the then Articles 2 and 3 because the articles were central to the resolution of political relationships in Ireland and between Ireland and Great Britain

12 o'clock

and were the subject of special consideration by the Government.

Notice taken that 20 Members were not present; House counted and 20 Members being present,

Mr. O'Donovan: I was making the point, before I was interrupted by Deputy Costello, that the 1995 Government under the then Taoiseach, Deputy John Bruton, and the then Minister for Justice, Nora Owen, would not allow this issue to be dealt with by the Constitution Review Group chaired by Dr. T.K. Whitaker. That precedence, therefore, is already established.

When these articles were subsequently amended following the Belfast Agreement, their formulation was infused by the national concern to be as inclusive as possible. Subsequently, and this underscores the point I have been making about the natural complexity of constitutional issues, this formulation allowed the inclusion of the children of non-national parents as citizens.

The current Government proposal is to fix a defect in the wording of the 1999 amendment and no more. It aims to do this by amending Article 9.2 by inserting the following:

1° Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless otherwise provided for by law.

2° This section shall not apply to persons born before the date of the enactment of this section.

This is clearly a narrow technical intrusion in the text, and no more.

The major issues of nationality, citizenship and naturalisation and their relationship to European citizenship clearly call for a more profound examination and my committee proposes to carry out this in due course. The great value of an all-party Oireachtas committee is that it allows a wide range of political views to be brought to bear on proposals and it works towards consensus. Where the committee invites submissions from the public and holds oral hearings, it further enlarges the wholeness of the discussion. This also helps towards the development of a consensus among the people who determine whether a proposal is carried. This is very valuable in regard to constitutional proposals.

As Deputy Morgan said earlier, we had a brief discussion about this issue in our committee and, as Chairman, I would like to have a full debate on the range of articles concerning this area but as far as this technical amendment is concerned, I believe there is no difficulty with it. The Government is entitled to move forward on this issue if it believes it is important. I support the Government proposal.

Mr. Durkan: I welcome the opportunity to comment on this proposed legislation. Like many other people I was somewhat confused by the litany of speakers on the opposite side of the House who made the same comments and spoke with the same degree of conviction until I discovered that the speeches were written by the same scriptwriter. I should not have been confused because all the contributions were based on the thinking of the same person.

Before this debate came to the House some comments were made outside it. I always thought the Minister for Justice, Equality and Law Reform, who is present in the House and for whom I have had tremendous respect over the years, was a fair-minded man and free to comment at all times on many issues. However, he plumbed a new low in this debate and predicted the way the debate would go in the future, when he made the reference, injudicious as it was, to the effect that if one was a racist, one should vote "No". I hope the Minister withdraws that remark, although I am sure it was not intended the way it sounded, because it was gratuitously insulting to this House and the people of Ireland. I am sure the Minister never intended it that way.

I thought about what would happen in days of yore when the former leader of the Progressive Democrats was a member of this House. I wonder how he would have reacted to that type of remark or to the legislation before us. Would he have agreed to put this referendum to the people at the same time as the local and European elections and govern by decree? I am certain he would not. He repeatedly said in this House he would stand by the Republic and do what he felt the people would like him to do, and he would have been right.

I am sorry to see on this occasion that the Minister, for whom I have great respect, has found himself buried deep in the formidable bosom of Fianna Fáil. Having done its research, it decided the best way to win the local and European elections, or to salvage what it can from these elections, was to introduce something with which the people would latently agree, or perhaps blatantly agree with at a later stage. This is a sad development in our political history. It is the first time I can recall issues have been debated in this House in such a fashion and with such an objective.

I listened with interest this morning to the masters of two maternity hospitals in this city. Deputy Gay Mitchell and a number of other Members of this House repeatedly sought information as to the number of non-national births allegedly clogging up the maternity services in this country and were refused the information. Deputy Mitchell had to leave the House a little more than two weeks ago when he pursued that question for the third or fourth time. Suddenly and mysteriously, the same information appeared in the media because the Government now proposes to govern by decree, to take the

[Mr. Durkan.]

information outside the House and away from Members of Parliament and engage directly with the media to bring on board more power to its elbow. This is a sad development.

Listening to the radio this morning, we discovered what really happened. Contrary to what we were told previously, the Minister for Health and Children was approached by the people in the maternity hospitals and asked to provide extra resources to ensure the services could continue. It has been suggested over a number of years that waiting lists for maternity services would be introduced. It now transpires — this is the worrying aspect — that the Department of Health and Children suggested the hospitals should approach the Minister for Justice, Equality and Law Reform. Does this mean that in the future if someone presents at a hospital with a headache he or she will be referred to the local Garda station? Does it mean that if someone presents at one of our hospitals for elective surgery he or she will be referred to the Department of Justice, Equality and Law Reform, the local Garda station, the local chief superintendent, the superintendent or the local sergeant? Where in Heaven's name are we going? This is where the seeds of this urgency have arisen, namely, a failure to deliver hospital services. It is just another smokescreen. The Minister for Health and Children arrived in the House yesterday and began to add his version to the debate. Given its origins, he should be ashamed to walk into the House and attempt to speak on the legislation.

I have listened with considerable interest to a number of people who say the public support the legislation. If someone who says in the local pub or wherever that he or she is in favour of the legislation is asked what it is, he or she cannot quantify it, which is interesting. Reference has been made to other European countries with a less liberal history than this one over the last 60 years or so. The development now taking place is extremely dangerous. I sincerely hope we do not live to regret what we are doing.

I and every other Member of the House must have personal experience of economic emigration and relatives being forced to leave their native country. My father, mother, uncles, aunts, grandparents and their grandparents had to leave this country at various times in the history of the State to seek an existence in a foreign land. It is interesting to hear creeping into speeches again and again throughout the country, and during one or two speeches in this House, that the reason people are coming to this country is because we are economically viable and it is a good place to be. When this was not the case, we were very pleased to have somewhere to go. We were very pleased also that no one popped up during election time with proposals of this nature to exclude us from their shores. It is an extremely dangerous route to go and we will pay a heavy and high price for it.

Mr. McDowell: This does not exclude anyone.

Mr. Durkan: What is the reason for the legislation?

Mr. McDowell: It is not part of fortress Ireland.

Mr. Durkan: The Minister and others on that side of the House have been saying there is a problem. He should tell us what the problem is. We listened this morning to the masters of the maternity hospitals clearly indicate there was no problem, and that the problem could be dealt with by way of legislation. If another problem was created by the Government by way of the Good Friday Agreement, why are the major players in Northern Ireland concerned about it? Why are the people who called for changes to the Good Friday Agreement, which was allegedly sacrosanct, suddenly silent? Why have the people who worked for the Agreement over a number of years expressed concerns now? Are they all wrong?

Yesterday morning, the Fine Gael leader, Deputy Kenny, together with other Opposition leaders, laid out clearly our policy on this issue. They said if there is a problem they want to help to resolve it, but they need to know what the problem is and quantify it. It is not just a case of saying a problem exists which everyone knows about. If so, let us hear about it and quantify it because it has not yet been quantified.

I referred earlier to governance by decree. Yesterday the Minister referred to Roman times. I am not surprised he mentioned Roman times coming fresh from his aerobatics success prior to the last general election, the fact that everything appears to happen outside this House, that there appears to be a general appeal to some amorphous group we cannot determine before Government takes decisions, notwithstanding the existence of spin doctors, advisers and consultants, and that the Government has its finger in various communications and media pies. We hear phrases like, "We know what the people are saying". Do we know? Whatever else may be said about the Irish people, in the final analysis they are very fair-minded. The Government must be careful that they do not get wind of what it is at and come to their own conclusions. Far from giving the Government the resounding mandate it anticipates on the back of the local and European elections, it may well get the kind of response some politicians and others in the United States got around the time of the American Civil War. I see the Minister grinning. The impossible happened then. It was presumed that the war would proceed in a particular direction until the President decided to abolish slavery. Nothing was further from people's minds at the time, but he did it and won the day.

We should have more time to debate an issue such as this. I listened to the former Minister for Justice, Equality and Law Reform, Deputy O'Donoghue, yesterday as he worked himself

into a considerable frenzy. I presume he did so with some cause since he was the Minister who made promises of zero tolerance, among other things. I remember that, but I am not sure this is part of it. However, some of the things he said yesterday contrasted dramatically with what he said in Opposition. On 19 October 1995, he said:

It has often been said that Ireland is the most difficult country to enter and the most expensive to leave, a sentiment not without some justification. While the remainder of Europe embraces a multi-cultural ethos without great difficulty and while some people might be uncomfortable with it, it must be said that Ireland has remained in the Middle Ages with regard to the granting of asylum and the declaration of refugee status to people exiled from their countries of origin out of fear of persecution or discrimination of one form or another.

Yesterday, the Minister gave figures regarding births in this country as an addendum. The top five nationalities for non-national mothers in the two maternity hospitals in Dublin in 2003 were as follows: Nigerian, 1,550; British, 677; Romanian, 469; Chinese, 239; and Filipino, 235. This morning we heard on "Morning Ireland" that most of those people are resident and working here. The Minister is shaking his head. If they are not working here, it is because they are not allowed to do so or because they have not had their application for refugee status processed so far — an administrative failure on the part of the Government.

I mentioned the Progressive Democrats in their former incarnation when they used to speak their minds freely. I was disappointed by Deputy Fiona O'Malley's contribution. I listened with interest to the comments outside the House from Deputy O'Donnell, which were in keeping with what she said previously. On 19 October 1995, she said in reference to the Refugee Bill 1995, "The Progressive Democrats warmly welcome this legislation." This legislation was dismissed yesterday by the Minister, Deputy O'Donoghue, who seemed to have forgotten he had supported it then. In the House yesterday he suggested this was the first legislation dealing with immigration to which he could append his name. Deputy O'Donnell continued, "as we welcomed the previous Bill [the Refugee Bill 1994] when it was before the House prior to the collapse of the last Government". That last Government involved Fianna Fáil and the Labour Party, and I am not sure it was Fianna Fáil that promoted the Bill. She continued, "It is regrettable that it has taken a modern State such a long time to put in place appropriate procedures, in line with our human rights commitments under international conventions." It goes on from there. I was very interested to hear her comments.

Mr. Costello: It was certainly not Fianna Fáil.

Mr. Durkan: Absolutely. That was before she got submerged in the amorphous mass of scriptwriters, advisers, consultants, spinners and so on over there. I listened with interest to what she had to say only a few days ago, when she expressed concern at the speed with which this issue was being dragged before the House. She was right to do so and I hope she will be able to come to the House and express it here. It is owed to us in the Opposition that any Member on the Government side who has such concerns stand up, voice them and vote next week in accordance with them. Then we will know exactly who is calling the shots opposite and be able to tell the people on exactly what basis decisions are being made for them and explain the choices before them when they go to the polls on 11 June. The indecent haste with which this proposal has been brought before the House is clearly a result of careful consideration by the Government — I presume by both parties. I wonder, since the Tánaiste has called for at least 250,000 non-national workers in the country on more than one occasion in the last three years, why we now see some of those people listed as the cause of the legislation's introduction.

If there is an immigration problem, we have a right to know what it is and its full extent rather than hearsay, anecdotal evidence or "Dúirt bean liom go ndúirt bean léi." We must have specific information, but every time we seek it, it is not forthcoming. There are other Members opposite, I have no doubt at all, who are very fair-minded people and know what the score is. They are asking themselves in their own minds and consciences what the real story behind this is, and they are right. We are being told about a loophole, but that suggests there are large numbers of people breaking the law or using it to bypass our immigration statutes.

I cannot see how that can be done except, as someone has said, over a very long number of years by people who are using their birthright to do so. As others on this side of the House have said, I cannot understand how that is happening, given that Irish women going abroad on numerous occasions in recent years, if in an advanced stage of pregnancy, were told they could not travel. I concede that there were reasons for that. It was inconvenient, but they had to accept it. However, I cannot understand why there is such a mad rush coming here in the opposite direction.

There seems to be a pattern, something we heard about a few months ago when the Department of Social and Family Affairs decided to introduce several cuts very conveniently applying to the so-called "hungry hordes" that are about to descend upon this island from eastern Europe from 1 May. Certain restrictions on their entitlements to social welfare benefits or assistance were introduced. Without a shadow of a doubt they are in breach of European law and, if tested in European courts, will fail. It was an immediate sign of what the Government was

[Mr. Durkan.] thinking. I was told on more than one occasion that no horde was coming from anywhere to descend on the country. We are lucky to have achieved some degree of economic independence after a very long time and a list of broken promises.

Before us is a proposal to deflect public attention from the Minister for Health and Children's failure to deliver on health services in Blanchardstown Hospital, Naas Hospital and Peamount Hospital. Likewise, the Minister for Justice, Equality and Law Reform, Deputy McDowell, has failed to deliver on crime and provide the extra gardaí promised before the last general election. The Minister for Education and Science, Deputy Noel Dempsey, has failed, apart from engaging with the teachers to tell them how he wished to be interviewed by them, to provide an adequate education service and school buildings the length and breadth of this country. Virtually every Department has failed to deliver on its promises before the last general election. I hope the people of this country will see through this smokescreen and emerge on 11 June to give the Government the answer it deserves.

Mr. Andrews: I wish to share time with Deputy Mulcahy.

Acting Chairman: Is that agreed? Agreed.

Mr. Durkan: Whether we agree or not, we cannot stop it.

Mr. Andrews: I will address this topic under three headings, the first being the question of the procedure by which the matter came before the House. The others are the urgency and timing of the referendum and the substantive issue. I am the chairman of the Fianna Fáil justice policy group and we spoke to the Irish Refugee Council earlier this year. I have spoken on the immigration issue a number of times in this House. I am also a member of the All-Party Committee on the Constitution so I do not come to this issue cold, so to speak. I have an interest in and have spoken on it before.

On the procedural question of why we are having a debate today, as a member of the Fianna Fáil parliamentary party I can state that we were not informed of this decision to recall the House or to hold this referendum; I regard it as unfortunate that I heard the news on the radio. I have served for 18 months on the All-Party Committee on the Constitution investigating the matter of property rights. Admittedly, the issue of property rights is very complex and has attracted much constitutional consideration in the Supreme Court over the last few decades but citizenship is an equally complex issue and is worthy of the contemplation, at least, of the All-Party Committee on the Constitution, if not a wider body of interest groups which could make submissions.

Mr. Durkan: Hear, hear.

Mr. Costello: Will the Deputy give way?

Mr. Andrews: No. I would have thought it appropriate for the All-Party Committee on the Constitution to have at least been informed, if not invited to speak——

Mr. Costello: That is all we asked for.

Mr. Andrews: ——on the issue and that would have been fair. However, I do not believe this to be a ground for objecting to what is being proposed as I will explain later. It is symptomatic of a long-standing problem within this House, which was a problem when both Fine Gael and the Labour Party were in Government and for as long as Government backbenchers are generally herded into the Chamber as voting fodder. They are neither spoken to nor consulted and it is regrettable that we should be treated as a barely tolerated inconvenience in some of these matters when we invest a lot of our time dealing with these issues and trying our best to make a sensible contribution. I do not believe it is merely a separate issue. I am very pleased to note also that the process of Dáil reform has commenced and I look forward to a time when we as Government backbenchers will have a much greater role to play and be consulted more widely.

The second issue concerns the timescale and the dangers associated with it. In this regard the question is whether on the one hand there is such an urgent need to hold a referendum in seven weeks and, on the other, whether the debate can be sufficiently informed in that short time. Seven weeks to a constitutional referendum is indicative of urgency.

Everybody has been aware of this problem for a considerable time, at the very least since January 2004 when the decision was made in the Supreme Court in the L and O case. The question must be asked whether there is an urgency now and, if so, why the referendum was only announced before Easter.

Mr. Costello: That is the question.

Mr. Andrews: If there is a fall-off in the number of refugee applicants, as there has been, then I ask why there is an urgency now. Why not await the outcome of the European Court of Justice hearing in the case of Mrs. Chen to find out what it is about and what effect it will have on our legislation? The Minister says there is an urgency but I remain to be provided with the evidence of this. I hope he will address this issue when he concludes this debate. I will be listening attentively to what he has to say.

The question of whether, in the seven weeks that remain, there can be a reasoned debate is the thorniest issue of all against the backdrop of party political competition in the European and local elections. Racism has fear and ignorance at its

core and I very pleased to note that in general, party politics has manfully avoided that. There is always a danger of a drift into party politics in this area and that party politics will prey on fear and ignorance. If I thought this was going on in Irish politics, I assure the House that I would not stand for it and I would let my feelings be known. It is my view that there is no such intention behind this legislation.

Mr. Costello: How does that tally?

Mr. Andrews: I ask Deputy Costello to allow me make my points in the short time available to me. If I have time, I will answer Deputy Costello's questions.

I have heard many things on the doorsteps about social welfare abuse, people vaulting over housing lists and all sorts of similar abuses and, as far as I am concerned, most of this is folklore and myth. However, there is a capacity in every nation to drift into difficulties as has happened in the case of France where great difficulties have flowed from its immigration debate. That country has a long way to go to reach the position of Ireland today.

There is time for a debate on the issue and I am certain there will not be a party political divide. I am not surprised to hear that everybody on the other side of the House has one point of view and everybody on this side of the House has a contrary and opposite point of view and, therefore, it is a party political issue. I am not surprised that everybody on this side of the House is making hay out of it and everybody on the other side is using it as a stick with which to beat the Government. It is unfortunate that people should stoop to that kind of debate.

Some members of the Opposition should be honest with themselves and stand up and admit there is a necessity for the substance of this referendum. Fine Gael has been honest in that respect.

The people of Ireland are capable of distinguishing between the issues at an election. There is evidence from 1959 of a referendum on the abolition of the PR system which was rejected by the Irish people on the same day as its proposer, Fianna Fáil, was successful in the presidential election. The Irish people in 1959 were capable of distinguishing between party political allegiance and core issues of democracy. I am assuming that on 11 June, they will equally be able to distinguish between party political loyalties in the local and European elections and issues that go to the core of our citizenship. It is reckless for some on the opposite side to suggest there is a racist intention on this side of the House.

On the substantive issue of the referendum, I agree there is a necessity to close this loophole. Like everyone else, I am aware of large-scale abuses, of people presenting as refugees with unbelievable stories about the problems they experienced at home and fantastical stories about

how they got to Ireland in the first place to avoid the application of the Dublin Convention. In fairness to the Minister he has made significant progress in closing off loopholes in the area through the designation of safe countries of origin in a sensible way and through consultation with all stakeholders and parties. He has tightened the procedures for appeal so that these appeals are not strung out and do not involve a disproportionate cost to the State.

This proposed amendment of the Constitution zeros in on the issue of the loophole created by the Good Friday Agreement. The objections have not been exclusively party political. There have been objections from Bruce Morrison, Mark Durkan and Maurice Manning, who are fairly trustworthy people in the eyes of most observers. Naturally their objections have found voice in this House. It is quite sensible to consider those objections quite carefully and they should not simply be dismissed as drivel or childish. People in power need to retain the humility that allows them to consider all points of view with courtesy.

I have heard all the same anecdotal evidence about what is happening in the maternity hospitals from doctors and other medical practitioners and it is not difficult to acknowledge there is a problem. Even the people who come here from the various non-EU states admit they want a better life for their children and acknowledge they are using the loophole.

The real victims in this area are not the Irish mothers who must wait or the staff of the maternity hospitals who are overworked; the victims are the mothers themselves who arrive in late pregnancy with no medical records. There is no doubt that this must be stopped. I am confident the simplicity of the issue will ensure that the Irish people accept it in the spirit in which it is intended.

On the substantive issue, it is essential that an EU-wide law on economic migration be created not for internal migration but for migration from non-EU states. This is at the core of the problem. Everyone who presents for refugee status is essentially an economic migrant. We do not have sufficient EU-wide coherent policies in this area. We have to close this loophole in the short term because it is placing unfair burdens on our maternity system. It was never the intention of the citizenship or of the Oireachtas to create a birthright citizenship in 1999. Effectively, we stumbled upon it as a result of the change that occurred at that time.

Will the Minister tell us more about the statistics that ground his view that this is an urgent matter? The Minister has to address the issue of when he first met the masters on this issue and whether he had other options in mind. Will he provide the legal advice provided to him on the necessity for a constitutional referendum?

In general, I am happy to support the referendum because there is a need for it. However, it could have been approached in a better way.

Mr. Mulcahy: We should remind ourselves that whenever we seek to make any change to the Constitution, Bunreacht na hÉireann, we should do so carefully and warily. Bunreacht na hÉireann has served this country extremely well and is the backbone of our society, our community and of the body politic. This morning, the Joint Committee on European Affairs, of which I am a member, welcomed a delegation of Turkish parliamentarians who would probably envy a model of a Constitution like this, because of its great strengths, its separation of powers and emphasis on the public good. We should be very careful about changing the Constitution.

The new Article 2 of Bunreacht na hÉireann, introduced in 1998, was a significant change. As I understand it, until this new article was brought in there was no constitutional right to citizenship for every child born on the island of Ireland. There had been a legal right as enshrined in the Irish Nationality and Citizenship Acts 1956 and 1986. The amendment to the Anglo-Irish Agreement was a constitutional underpinning of a basic legislative right. It would not have been foreseen that certain people — a small minority — would abuse the position. The programme for Government provides that the Government will keep under review the number of applications from non-nationals to remain in the State on the basis of parentage of an Irish born child and initiate all-party discussions on the issue of such constitutional or other measures which might be required.

We should remind ourselves of what constitutes citizenship. Citizenship gives rights and imposes obligations but it is all about belonging to a society. One is a citizen when one belongs to a society. The prospect that one person might come here, to have a child here who will gain citizenship but has no intention of retaining a connection or a commitment to Irish society is abhorrent and unacceptable. That even one person would seek to do that is a sufficiently strong reason to examine this provision. We must redouble our examination in light of our membership of the European Union.

Some have criticised the Minister for Justice, Equality and Law Reform for acting too hastily. Ministers for Justice, Equality and Law Reform are normally criticised for not acting quickly enough. It is difficult to get the balance right. Had the Minister for Justice, Equality and Law Reform not acted now, people would say — and it is being talked about on the streets — this provision was being abused. I will not dwell on the numbers of births in the Dublin maternity hospitals as that is a matter for public record. I do not need to use that argument for plugging this loophole. If only one or two people abuse what is one of the most sacrosanct things in our society, our citizenship, there is a requirement on us to look at the provision. Article 2, which perhaps was inserted too hastily, reads:

It is the entitlement and birthright of every person born in the island of Ireland, which

includes its islands and seas, to be part of the Irish Nation. . . .

It is proposed to amend Article 9 of the Constitution by the insertion of the following: “Notwithstanding any other provision of this Constitution, ...” There is a *prima facie* conflict between the new Article 9 and the 1998 Article 2. I would like a reassurance from the Minister for Justice, Equality and Law Reform that he obtained the requisite level of advice to ensure there will be no such conflict.

One aspect of the Opposition’s stance on this matter is extraordinary. In his speech, the Labour Party leader said the Labour Party is not in favour of an open-door policy and does not believe that everyone who lands in Ireland is entitled to receive an Irish passport. No substance was accorded to that proposition. There was no argument or fleshing out of that statement. The Labour Party is trying to have its cake and eat it. It is saying it is against the referendum but that it does not support an open-door policy. What does it believe in? That is the question I would like answered. For the Labour Party to contribute to this debate in an honest and intellectually open way, it should say what it believes in. The statement from the Labour Party leader appears to accept the principle of the proposed amendment to be contained in Article 9 but, on the other hand, he is opposed to the referendum. The public will be mystified beyond belief by that attitude. By and large, the public will support the referendum because it holds dear the concept of Irish citizenship. When it is pointed out to the public, and it is the duty of the Minister for Justice, Equality and Law Reform to do so, the Irish people will want to close that loophole.

On the timing aspect, some have said the referendum should not take place on the same day as the local and European elections. We know also there is to be a presidential election later in the year. Is it being suggested that the people should be asked to go to the polls on three occasions in the one year? Is that what the Opposition is seeking? Surely it makes sense when people are going to the polls to ask them to cast their votes in the referendum while they are there rather than asking them to come back for another poll. That makes logical and commercial sense and most members of the public would thank us for organising the referendum for that day rather than being troubled with three referenda in the one year.

Ms O’Sullivan: As other speakers have said, we value our Constitution. We should not embark lightly on changing it and we should not change it unless there is an issue to be addressed. We should carefully examine the implications of change and see if there are other ways to address the problem. Good governance is about making those decisions and going through that kind of due process before proposing any changes to the Constitution.

Unfortunately, as many speakers have said, that has not happened. The Taoiseach told us recently there was no intention of putting forward any proposals to change the Constitution this year, yet now we are rushing through legislation to address this issue at the same time as the local and European elections on 11 June. This is occurring in conjunction with a significant change in the voting mechanism — electronic voting — which will be confusing enough for people without having them make three different decisions, or four where town councils must be decided.

My party and I are particularly concerned that we are proposing to change the Constitution in this rushed way without the consideration merited by such a change. We have not had a Green Paper, White Paper or referral to the All-Party Committee on the Constitution. We have not even had a discussion with political parties in the South and North which were signatories to the Good Friday Agreement and that may be the most disturbing aspect of the process. That lack of discussion has significant implications which have been outlined by Mr. Mark Durkan, leader of the SDLP.

It is quite amazing the Taoiseach did not see fit to discuss this change with the parties affected by it in Northern Ireland. The DUP has been allowed to say our Government is opening up what was agreed very carefully in the various strands of the Good Friday Agreement and in the annexes to the agreement between the two sovereign Governments. The implications of being allowed to say this are that the DUP can open up the Agreement also.

The implications of this change to the Constitution for the Good Friday Agreement are probably the most serious of all and our party has given them serious consideration in deciding we are against this referendum. It is incumbent on the Government to see if there are other ways to address the issue concerned besides changing the Constitution. I am not a constitutional lawyer but I have read articles in newspapers by experts in this area which have stated that it is possible to address this issue through legislation. Should that avenue not have been explored? This matter could have been put forward for discussion among the learned people who understand constitutional law before we rush to asking the people to make a decision on the issue. That might have been possible, though as I am not a constitutional lawyer I do not know.

I am a member of the All-Party Committee on the Constitution and at its last meeting we were finalising our proposals on whether there was a need to change the Constitution to reduce the price of building land. At the end of that meeting I proposed, under any other business, that the committee should make itself available to the Government to examine this issue with the same level of detail and diligence that we examined the issue of land prices. There was no opposition from the other committee members, from both

Government or Opposition parties, all of which are represented. That seemed to me the way to go and the committee was prepared to examine the issue, so I take issue with the comments of the Minister for Justice, Equality and Law Reform that there would be no point in referring this to the All-Party Committee on the Constitution as two of the parties represented on it had declared their opposition. Everyone there was willing to look at the issue.

If one remembers the abortion issue being referred to the All-Party Committee on the Constitution, that was a matter of great contention as to whether the committee would be able to come up with some agreed recommendation. However, the committee did its work on abortion very well. I was not a member of the committee at that time but other speakers have referred to the former chairman, Deputy Brian Lenihan, who presided over the committee when it stated that that was the appropriate process for proposals to amend the Constitution. Some Fianna Fáil speakers have said we should have a reasoned debate. It is perfectly reasonable to come to a conclusion that putting forward an amendment to the Constitution in June, along with the elections, is not the way to go and that there are many other possibilities we should explore before taking that option.

On that committee's handling of the abortion issue, my first induction into political activity was in the early 1980s and my first political campaign was in opposing the abortion referendum in 1983, which was tough. I remember people on the doorsteps telling me they were absolutely certain that that wording would achieve what they wanted to achieve. We asked them about the equal right to life of the foetus and the mother, about balancing rights in the Constitution and whether it was appropriate to include such issues in the Constitution. They said it was and that we were wrong and bad. That lesson suggests we should not rush headlong into amending the Constitution when there is a perceived problem.

I will not go back over what others have said about the size of the problem. Many people have stated that we do not have the accurate statistics we need to work out what the problem is, and I accept there is a problem for hospitals in dealing with mothers who are admitted very late in pregnancy. The Chair, as a medical doctor, will know the health implications for mothers and babies. There is a problem when women travel long distances on aeroplanes late in their pregnancies to give birth, as obviously a woman can give birth before her time, which may cause serious health problems. There are also problems with the resources of the maternity hospitals, not just in Dublin but in other parts of the country, as our rate of obstetricians to women giving birth is the worst in Europe. Our maternity hospitals are under resourced, which needs to be addressed, but that is a separate problem. It is a problem of provision which the Government

[Ms O'Sullivan.]

should address irrespective of whether women are travelling late in pregnancy.

Is there a way to address the issue of women travelling late in pregnancy? Some speakers have asked about women getting on planes at the advanced stages of pregnancy but I understand there are few countries where this occurs. Can we ask our diplomats to address this problem, which is primarily one of maternal and infant health rather than one of citizenship? If possible we should do so for the sake of the mothers and babies.

It is not just those mothers and babies who will be caught up in this — it is also people who are here on work permits because we need them. From what we have been told, they may have to be here for three years before giving birth in order for their babies to qualify for Irish citizenship.

I commend my constituency colleague, the Minister of State, Deputy O'Dea, for his views on this issue. On the television programme “Questions and Answers”, he said it

1 o'clock was not a good idea to have the referendum in June. The problem, however, is that Deputy O'Dea does not always get his way. He said some good things about taxi deregulation, maintaining the 50-50 status of Shannon Airport and about the matter we are currently debating but, unfortunately, he does not seem to have any clout.

Mr. Calley: He has done some good things.

Ms O'Sullivan: That is the problem for Limerick East — he does not have any clout.

Mr. Calley: He does. He is a heavyweight.

Ms O'Sullivan: I respect his views and he is right on this matter but, unfortunately, his views are not having any effect on the Government.

As regards the issue of women having babies whose fathers have work permits, I have to confess that I was one of those women. I went to Canada when I was pregnant some 28 years ago. I got there six months before my daughter was born and stayed for another 12 months before returning to Ireland. Subsequently, I applied for a Canadian passport for her because she was embarking on a school tour and it was quicker to get a Canadian passport than an Irish one. I would have had to apply to Vancouver for the long form of my daughter's birth certificate to obtain an Irish passport. That was the first time I had figured out that she was entitled to a Canadian passport. She has not returned to Canada, although she now has a health professional's qualification and may choose to work there at some stage. Until this debate arose, I never felt that I or my daughter may have abused the system and I do not believe we have done so. I went to Canada with my husband who had a work permit to do a job that Canadians

needed at the time. I was pregnant and received excellent care in Vancouver General Hospital. My daughter grew up largely in Ireland but has positive feelings about Canada and may return there to work.

I was, therefore, in a similar situation to Filipino nurses who are now fulfilling a need in the Irish economy. It may well be that in 20 years' time, the children of these Filipino nurses may also have the kind of positive feelings towards their native land that my daughter has towards Canada. They might come back with professional qualifications and contribute to the Irish economy, and why not? Would it not be a good thing if they did? Should their mothers not have the right to do what I did? Should their children not have the same kind of rights my child had in Canada?

As my colleague Deputy Michael D. Higgins said, there are many other countries that operate the same system as ours, whereby if a child is born in the country they are natives and have rights. It is interesting to consider the words “nation”, “nationality”, “nativity” and “native”. We talk about being part of the nation but the word “nation” is related to the word “nativity” which means birth. There is a long-term understanding in the English language that nationality and nativity are related. In other words, if one is born in a place we talk about a person's birthright. These matters have resonance and they mean something. If one is born in a country one does have connections there, even if one's mother left a couple of days after giving birth.

These matters deserve deeper examination than can be achieved in the context of a rushed referendum. We need time to examine all these issues but we only have two days in which to do so in the House. I presume that Committee and Report Stages will be rushed, before the Bill goes to the Seanad. In that time-frame, the people will then have to examine all these complicated issues, reverberations and possible consequences for other matters which we have not even thought about as a result of changing the Constitution in this way.

Having listened to Deputy Mulcahy, I wonder if we have any chance of a reasoned debate. He said that because the Labour Party is against this referendum, it is in favour of an open-door policy.

Mr. C. Lenihan: It is.

Ms O'Sullivan: We are not.

Mr. C. Lenihan: On a point of information——

Ms O'Sullivan: The Acting Chairman does not have to take a point of information and I am not accepting any interruptions.

Mr. C. Lenihan: ——when he was leader of the Labour Party, Deputy Quinn supported an open-door policy with regard to migration.

Ms O'Sullivan: He never did.

Mr. C. Lenihan: That is a fact. I was here and I heard his statement.

Acting Chairman (Mr. Ardagh): Deputy O'Sullivan has the floor.

Ms O'Sullivan: Can I have the protection of the Chair? I do not have to take interruptions. Points of information are not relevant, although points of order might be.

Acting Chairman: You will have time to contribute later, Deputy Lenihan. I call on Deputy O'Sullivan to continue.

Ms O'Sullivan: The Labour Party does not have an open-door policy.

Mr. C. Lenihan: Not now.

Ms O'Sullivan: We published a document entitled *Ending the Chaos*, which clearly outlined the Labour Party's policies on asylum seekers, work permits and related issues. We have very clear policies, if Deputy Conor Lenihan would care to read them. To suggest, however, that because the Labour Party does not want to change the constitutional provision concerning children who are born in Ireland, it therefore has an open-door policy on asylum seekers and refugees, seems to be quite an extraordinary leap to make. If that were the case, the Government would have had an open-door policy on asylum seeking until such time as it decided to introduce this proposed referendum. Did the Government parties have an open-door policy on asylum seeking up to now? That is the conclusion one would have to draw, given the remarks made by Deputy Mulcahy.

Deputy Andrews was reasoned and balanced in most of what he had to say but I wish to pick up on one of his comments, if I have understood it correctly. He suggested that all asylum seekers are economic migrants, which introduces a dangerous element in the debates that will continue around this issue, even though they should not be relevant to the specific matter we are being asked to address. Of course, all asylum seekers are not economic migrants. Many people have been granted asylum here because they have been persecuted and were in danger of being killed in the countries from which they came. If we allow the myth to go out that all asylum seekers are economic migrants, we will undermine the status of those people who have been granted refugee status here.

Mr. Callely: The Deputy should put it in perspective, as well.

Ms O'Sullivan: In the context of this debate we should be very careful what we say. We should avoid ambiguity or making implications. Since we are discussing this matter in the context of the

forthcoming local elections in particular, there will be thousands of candidates discussing the issue with voters on the doorsteps. From what I have heard so far, including from Members of this House, I cannot imagine that the debate will be confined to the specific issue that people will be asked to address in the referendum. Holding such a referendum in conjunction with the local elections is a recipe for introducing bigotry, innuendo and possibly racism. That is why I feel strongly that the issue should not be addressed in this context.

The masters of the Dublin maternity hospitals went to the Minister for Justice, Equality and Law Reform before the court judgment on whether parents had a right to remain here when their children were born in Ireland. One of the masters said on the radio this morning that the numbers are now declining. In other words, because that issue has been addressed by the courts, it may well be that we are addressing a problem that is diminishing and that can be dealt with by other means. One of those means would be to provide proper resources for the maternity hospitals. Other means include making diplomatic approaches to other countries, enforcing airline regulations and changing the law, rather than changing the Constitution, as was suggested in a recent newspaper article.

We are doing all this in the context of a dangerous interference with the interconnectedness of Articles 2 and 9 of the Constitution. It is a dangerous interference with implications for the Good Friday Agreement and the peace process in Northern Ireland. It has implications for what might happen between the parties from the extremes of both sides in the divide in Northern Ireland which must now agree with each other. We are opening something which is far more fraught with danger than what may be achieved by this referendum being passed can justify. I oppose the Bill.

Minister of State at the Department of Health and Children (Mr. Callely): I wish to share my time with my colleague, Deputy Conor Lenihan.

Citizenship is an important issue which goes to the heart of the nature of our State, our nation and our sovereignty. It is to be expected, therefore, that any proposal relating to citizenship will give rise, as this has, too much public and political debate. It is natural that people will hold passionate, sincere and strong views on the matter of citizenship. I have expressed my views on this issue over a number of years. Sadly some of these views have been misrepresented, however I remain firm in my view.

No matter how deeply we hold our views and how committed we are to one particular perspective in this debate, it is essential that we conduct ourselves in a responsible manner. As politicians, we should lead the electorate in a debate which focuses on the principle not the process, which concentrates the minds of voters

[Mr. Callely.]

on the substance of the proposal on which they must decide, and which assists them in that decision. It therefore behoves us to discuss this in a calm, measured and rational manner.

This is a timely, appropriate and proportionate proposal. It is also a simple straightforward proposal and those who state otherwise are being, at best, disingenuous or, at worst, misleading. This proposal does not seek to re-write the Good Friday Agreement. It does not seek to amend or re-write Article 2 of the Constitution, nor does it seek to put in place arrangements on the conferring of citizenship by statute which place us as a nation outside the norm of civilised nations throughout the world.

The effect of this referendum, if passed by the people, will be to give back to the Oireachtas the power to decide the citizenship entitlements of people born on the island of Ireland, neither of whose parents is an Irish citizen nor entitled to become an Irish citizen. It is a carefully balanced and well thought out amendment. If passed by the people, it will enable the Government to introduce legislation to deal with the citizenship entitlements of children born to parents, neither of whom is an Irish citizen. The Government has already published a draft of that Bill. In broad terms, that Bill will provide that in the case of a child born to non-national parents, at least one of the parents will have to have been resident in Ireland for three to four years preceding the birth of the child before the child becomes entitled to Irish citizenship.

What we are about here is closing off an extraordinary loophole in the circumstances where children born here who have no connection to this country are automatically deemed to be Irish citizens. Up to now we as a country are probably unique on a global basis in our generosity in this respect. That, in itself, is a situation which could not be sustained in the longer term but when people travel here from literally anywhere on the planet to take advantage of this situation, it is a problem which all sensible people agree needs to be addressed. Even the most trenchant opponents of the Government's proposals are prepared to concede that. However, those same opponents are not prepared to offer anything to address the problem. There are no easy answers or so-called soft options to deal with this issue and we must focus to ensure fairness and equity in our society in this regard. This Government, no more than any previous Government, does not lightly embark on a constitutional referendum and it does not go down that road without good and sustainable reasons.

It is clear to all sensible people and those with balanced views that there is a problem. The figures are there for all to see. In 2002, 4,440 children were born to non-national parents in the three Dublin maternity hospitals, representing 19.9% of the total births in those hospitals in that year. This year, the figure was 5,471 or 23.9% of

total births. To give an example of the position outside the Dublin area, 2003 figures for Our Lady of Lourdes Hospital in Drogheda show that 20% of babies were born to non-national mothers.

Data which is available on one element of the immigrant cohort, that is, persons who have applied for asylum, indicates that from March to December 2002, 2,403 applications for asylum were received from pregnant women. In 2003, the figure was 1,893. Moreover, in both years 58% of female asylum applicants over the age of 16 were pregnant when they made their application. Finally, in 2002, 5,622 parents withdrew their claims for asylum on the basis that they had claimed a right of residency in the State on the basis of being parents of an Irish-born child.

Many Members have asked that we put this to an expert group. In 1996, the Constitution Review Group, chaired by T. K. Whitaker, considered whether the right of citizenship based on birth was something which should be dealt with in the Constitution or in legislation. The group which included many eminent lawyers, including three former Attorneys General, concluded that the issue was better dealt with in legislation. Their exact words were:

The Review Group, recognising that a provision on citizenship by birth necessarily includes exceptions and conditions and is correspondingly complex, is of the view that the subject is more appropriately dealt with in ordinary legislation. It concludes that a provision on the subject should not be inserted in the Article.

So what are we doing here? We are achieving exactly the position that the Constitution Review Group advised should prevail, that is, that citizenship should be governed by legislation. One does not even have to be a legal expert to know that the various conditions and exceptions which must be provided for in the area of citizenship are better dealt with in comprehensive legislation rather than in broad principles in the Constitution. This is a matter of common sense.

Governments have a duty to safeguard citizenship which is the essence of our sovereignty as a nation. It is more than just an entitlement to a passport. Citizens must show loyalty to the State and fidelity to the nation. Citizenship should not be available on foot of geographical circumstances of birth. There should be a greater connection with the country before an entitlement to citizenship and all it entails, arises.

A requirement that entitlement to citizenship would arise only where at least one parent of a child born in Ireland has three years' residency is a reasonable one. The Government's proposal will result in a fair and sensible citizenship law which will compare favourably with most EU member states. It will also acknowledge the role of non-nationals who have been here participating in Irish society for a number of years — people who are contributing to the economic,

cultural and social fabric of our community. It will acknowledge that role in a fundamental way by extending to them after a reasonable period an entitlement for their children to become Irish citizens. There are many countries similar to our own which impose far more stringent requirements before such entitlements arise.

I reject the assertions of those who would say this is a racist proposal. I equally reject the view that we should not ask people who are already going to the polling stations on 11 June to vote for their local and European representatives to consider a simple question about who should decide how citizenship is granted in this country. I cannot accept the argument of those who would say they agree with the intent and purpose of the proposal, yet say that holding it on the same day as an election somehow turns it into a racist and unreasonable proposal. People who adopt those stances do a disservice to politics, politicians and the public we are elected to represent. Our constituents and electorate deserve more from us.

I do not accept that a reasonable and practical constitutional and legislative proposal which is designed to bring Ireland's immigration and citizenship laws into line with those of the rest of our European partners can be termed racist. A mature debate on immigration is needed in this country and we, as political parties, should lead the debate rather than engage in trite easy labelling and name calling in a quest for political point scoring. I know all about that because I have been there.

I do not believe that a reasonable proposal is transformed into a racist proposal purely by holding a referendum on the same day as an election. This belief shows little confidence in the ability of politicians, candidates or indeed voters to discuss serious issues. This is a serious issue with implications for the integrity of our immigration system, the value of Irish citizenship and for long-term economic and social needs and planning in this country.

I am only too well aware that any debate on these issues is capable of being distorted by those with racist intent. However, they are not the only people who can distort this debate. It can also be distorted by those who see racism where it does not exist and criticise proposals as being racist when they patently are not. They reduce the focus of debate from the merit or otherwise of the proposal and bring an unnecessarily confrontational and simplistic approach to what are serious issues. The task of the genuine contributor to this debate will be to determine whether the changes proposed are proportionate and balanced and to ensure that debate on the subject is well informed and constructive.

It would be wrong, however, to allow ourselves to be intimidated out of discussing these fundamental issues for fear that persons with ulterior motives might wish to exploit any discussion which occurs. We should also remember that if we fail to address the problem honestly and soon, we are allowing our laws to

continue to act as an incentive to people to travel to give birth here and secure an Irish passport for their child. We must be realistic. I have heard two serious and well respected commentators state in the past few days that it is hard to blame people who live in less developed and less economically successful countries than ours for taking steps to ensure a better future for their children. What parent would not move heaven and earth to ensure his or her child has the best possible chance in life?

I want to stress the following two points. Is it sustainable that Ireland continue to be a destination for any parent around the world who wants to provide a better life for his or her child? More important, are we to allow to continue a situation where that incentive compels women to travel great distances putting their lives and those of their children in the gravest danger? There is no question but that lives could be lost if this continues. We will then ask ourselves why we did nothing to stop it. The Government's view is that this cannot and should not continue. That is why the people of Ireland should be asked to approve in a referendum a proposal to allow the Oireachtas to legislate to change it. Our law will no longer act as an incentive for women to put their lives at risk by travelling late in pregnancy, seeking to give their child what they perceive to be an edge, nor will it be an excuse for their partners or greedy traffickers to put pressure on mothers to make such journeys. It will not establish unfair or unreasonable barriers to Irish citizenship for children of non-nationals born here. A three year residency requirement compares favourably with the citizenship laws of our EU neighbours as a measure of the substantial nature of the parent's link with Ireland.

It has been said, both inside and outside this House, that the proposal we seek to put to the sovereign people of this nation is rushed, not thought through and generally ill-advised. Are the proponents of this view suggesting we should not take action until the number of non-national births to people travelling here to benefit from our extraordinary system reaches a certain level? If so, let them come out and say it and share with us what they believe that level should be. Perhaps they believe it should be open-ended. Logically, if they do not believe so, they must have some point in mind at which they believe critical action must be taken. It is my firm and honestly held belief that we must take decisive action now.

I encourage people to inform themselves of the proposal, to study the matter carefully, to reflect on the Government's proposal and to make constructive suggestions on the legislative initiative so as to contribute to a calm, balanced, reasonable public debate before casting their votes on what is a relatively straightforward issue. The proposal, when implemented, will reflect Ireland's high regard for those who have come from abroad to establish themselves in, share in and contribute to Irish society by entitling their

[Mr. Callely.]

children born here to be Irish citizens by operation of law. At the same time, it will ensure that Irish citizenship is not regarded as a passport to a wider Europe but means something important to those who hold it, namely a sense of fidelity to the Irish nation and loyalty to the great Irish State.

Mr. C. Lenihan: I welcome the opportunity to speak in this debate. I make no secret of the fact that I was one of the leading advocates behind the scenes in encouraging the Government to hold this referendum in June rather than October. It would have been wrong to twin this referendum proposal with the presidential election in October. It is a pressing and important matter of public concern which should be speedily addressed.

Citizenship is the most fundamental right a State confers on an individual. When it is clear that the rules and laws of citizenship as passed by the Oireachtas are open to abuse, that loophole must be quickly closed off. This debate and other debates outside the House are opening up a wider debate between the forces of political correctness and parties on this side of the House which respond and react in a proactive manner to reality on the ground. Everybody knows our citizenship laws are being abused. There is clear evidence, statistical and anecdotal, that this is occurring. It is imperative, if a government is to retain its reputation as being proactive on behalf of the people and defending their rights and the rights of others, that it react proactively in eradicating any such abuse. This is all the more pressing in Ireland's case, a country which for many years has had a convivial relationship with Britain on matters relating to migration. We reside in a common travel area with our nearest neighbour, the United Kingdom, as a result of which there is free movement — free movement that preceded the free movement now conferred by membership of the European Union. There was free movement between Ireland and Britain long before we contemplated joining the European Union.

When the British Secretary of State, David Blunkett, reacted to the issue of social welfare shopping by potential migrants from the new accession States, Ireland followed in his wake. If we leave open a loophole in our law while Britain corrects its loophole in terms of social welfare or citizenship, Ireland becomes a positive place for those seeking to abuse the entitlements that accompany citizenship. For that reason, it is imperative we react quickly to this problem.

So often we hear the populist cat-cry from the Opposition benches that the Government is not moving fast enough on a range of measures. In this instance, it has decided to move quickly and has consulted as best it can in that regard. The Government is acting with urgency in a matter that is urgent. If our system is open to abuse, so too will be the systems of many member states

of the European Union. It is important that we consider the issue of citizenship in the wider context of what is the societal attitude to the abuse of our social welfare code. There is widespread abuse of the system by nationals — I say that advisedly — and non-nationals. The more we tolerate such abuse, the less credibility we have in the eyes of the ordinary citizen. The forces of political correctness are trying to impose politically correct values that have no meaning on the ground. It is clear from opinion polls conducted on this matter that some 65% of the public support this measure. They want the Government to act fast.

I was rather concerned by the reaction and concerns expressed by the SDLP and believe it was foolish of them to go down that road. The two Governments have given enormous reassurances on this matter. It has nothing to do with the British-Irish Agreement. At the end of the day the two sovereign Governments are the ultimate guarantors of the Anglo-Irish process. They are the main signatories to the British-Irish Agreement. If parties such as Sinn Féin, the DUP, the SDLP and others contesting elections north of the Border spent more time trying to get the Assembly back up and running rather than commenting on side-show referendums in the Republic they would be far better off in terms of their political futures.

Mr. Costello: They at least deserve to be consulted.

Mr. C. Lenihan: There is clear evidence that people of non-national status are arriving in the Republic and leaving again as soon as they achieve the right of citizenship currently conferred by the State by dint of birth. That is not right. The evidence, for instance, of non-nationals arriving here from the United Kingdom to seek that right is telling because it suggests that asylum seekers seeking asylum status in Britain are aware that citizenship can be conferred here by dint of birth and are coming over here to have children. That is totally and utterly ridiculous. It means open season in this country for people who want to acquire citizenship. It is a total negation of the ideals that founded this State and I am glad we are now correcting it.

Dr. Twomey: I welcome the opportunity to speak on the Twenty-seventh Amendment of the Constitution Bill. There are two issues in this debate. One issue concerns the wording of the amendment and whether it will stand up to tests in the courts in future years. Unfortunately, I have no legal training, so I must wait and see what the arguments in this debate will turn up in the next few weeks on whether this will stand up to the legalities. The other point relates to the issues surrounding the necessity for this change. Protecting the right of citizenship is not a racist issue. We are muddying the waters in this debate by confusing the issue of citizenship with other

issues which are probably far more important to non-nationals living in this country. We need an enlightened immigration policy which allows more freedom for those who have work permits to have their families here with them and to progress in our society without being hindered by our restrictive immigration laws. This, however, is not an issue relating to citizenship.

Citizenship has nothing to do with asylum laws. People seeking asylum are looking for protection from the State and are not looking for citizenship. The word “racism” is being thrown around a lot in this debate. Those who like to promote racism or to prey on the fears of people about racism have a far better chance of achieving their goals if we do not have legislation which protects the right to citizenship. They can go around soft-selling the idea that this country is a soft touch and that it will be overrun by non-nationals. Laws such as this protect non-nationals who live here from assault and abuse.

Before the Celtic tiger, a large number of non-nationals used to work in our hospitals and attend our colleges but these issues did not arise because these people were not seen as economic immigrants; they were seen as paying their way or making a contribution to society. Now that there is this perception in certain sections of society that these people are abusing the system, they are more open to assault and racist abuse. If we give the impression we have good laws, we will see less of that.

The holding of this referendum on the same day we are to elect people to county councils and to the European Parliament might be good in that it might increase the turnout which would provide a better representation of the views of the people. Citizenship, like elections, is part of our democracy and it should be respected by all the people. I hope there will be a good turnout on the day.

We are treating our constituents with disrespect if we believe they cannot differentiate between the importance of an issue such as a citizenship and whether it is held on the same day as another poll or some other time. The idea of racism and its being used in a political context by some politicians to somehow get themselves elected is a reflection on the politician's inability to promote himself rather than on the inability of voters to make a sensible decision. I do not believe that is a huge issue in this election.

The number of births in maternity hospitals was the first reason mooted by the Government for this referendum but it has since rowed back on this. When seeking information on non-nationals, whether working here legitimately or whether seeking to abuse our easy access to citizenship, it has been almost impossible to get straight answers. I still have doubts about many of the figures and believe they will always remain anecdotal. When I worked in maternity hospitals, we never sat down and asked people why they were here. Many Irish women turn up in ante-natal clinics to have their third or fourth child

when they are 30 weeks or more pregnant. It is not only non-nationals who can be careless about their ante-natal care and we might be confusing that with the idea that they are coming here to seek citizenship. There is no way of getting accurate information such as that because one cannot pull all the ante-natal charts in the maternity hospitals and go through them to find a question asking whether the individual is here to get citizenship for her baby. There is no way one can correlate that information. If one pulled charts on Irish patients, one would have the same problem. Anecdotal evidence exists and while it may be part of the matter, it is not the core issue.

Mr. Calley: One could look at the figure for the number of people who pull their asylum applications because they perceive the right of—

Dr. Twomey: I accept that because it is accurate. However, none of the figures from the maternity hospitals is accurate from that point of view.

I wish to refer to another issue in regard to our health services on which I have been working for the past decade. We are all well aware of how badly we have treated foreign doctors who have kept our health services from collapsing over the years. In times gone by, we denied them access to their families in that they were not allowed to bring their families with them. We continue to deny them the same career opportunities as Irish graduates even though many of these people will have worked in the health services for more than seven or eight years — longer than some of the people appointed as consultants because they are Irish graduates. There is inherent racism in how we treat foreign doctors in the health system, not to mention the patients. Whether we have had a Labour Party or a Fianna Fáil Minister for Health and Children, these problems have existed for quite some time. We need to wake up to this issue because our health system is becoming more dependent on non-nationals, including not only doctors but nurses, radiographers and all the allied health professionals.

I wish to put on record a recent event which was missed by the national media and which shows how far we have progressed. Last week at the Irish Medical Organisation conference, Dr. Asam Ishtiaq was elected vice-president of the organisation. Next year Dr. Ishtiaq will be made president of the Irish Medical Organisation and will play a leadership role for 5,500 doctors, consultants and general practitioners. Dr. Ishtiaq started his career in this country as a non-national. In some respects, his election shows how much we can progress. We should bear it in mind when we discuss citizenship and try to mix it up with racism and immigration which are completely separate issues. We should try to separate these issues.

The issue of work permits and immigration gets mixed up with social welfare claims by non-

[Dr. Twomey.]

nationals. When we give work permits to non-nationals, they are issued in the name of the employer. In some respects, that is almost like a state of bonded labour. If the employee has a problem with the employer and the employer pulls the work permit, it makes the employee illegal even though this nation needs these people to help us out. We need to start to look at these types of issues as separate and not let them get mixed up in this debate.

On the question of new EU citizens coming to Ireland, I hope joining the EU will improve their economies. When we joined the EU, there was no explosion of Irish citizens going to wealthier EU countries. We continued with our regular emigration to the UK and the USA until our economy improved. Having spoken to citizens from the accession states, I believe it will be the same. I do not believe they have any great desire to come flooding into Ireland. They would much rather seek opportunities to develop their own countries under the umbrella of the EU. Therefore, the whole idea of citizenship and what we are voting for in June should be explained to us. I do not have the legal training required to understand the wording of the referendum. I look forward to listening to reasonable commentators explain the pitfalls in the wording over the next few weeks.

I believe in the idea of citizenship. Will this amendment, if passed, be of disadvantage to people that we would otherwise like to see as citizens? Previous amendments to the Constitution have fallen down when tested in the legal system. It is to be hoped the Government will take on board any discussions on the wording of the Constitution. When the Bill goes through Committee Stage in the Dáil we will make alterations to make sure there are no unintended results. We should start to separate out the issues. We need a good immigration policy and the fair treatment of non-nationals working in this country.

Mr. Eamon Ryan: It is clear we have a problem with immigration. That there is also a problem with maternity services in Dublin is quite evident to anyone who has attended these hospitals in recent times. Are we correctly addressing these problems through this constitutional amendment?

It was interesting to hear on radio this morning discussions involving representatives from the hospitals and asylum seekers. It is hard to know what is the central problem the Government wants to deal with. It seemed at first that the main problem was with the maternity hospitals, but then the position of the Government changed so that the problem was our relationship with Northern Ireland and considerations of open access to citizenship of EU member states.

One of the reasons for the problem in our maternity hospitals is the nature of our asylum system, which we desperately need to change. We

are sending people throughout the country during what is quite a lengthy and delayed process. We leave people without the ability to work and with minuscule financial resources that would not keep a TD in expenses for a couple of hours, let alone a full week, yet we expect them to maintain their health and psychological well-being. There is a clause which provides that an asylum seeker who is 32 weeks pregnant is free to avail of the social welfare service, which is a change of circumstances. Part of the problem being experienced in Dublin hospitals is that asylum seekers from other parts of the country availing of social welfare provisions come to Dublin hospitals to have their children. There is a community of which people naturally want to be part.

If we have a problem, let us define what it is. One of the first problems is the way in which we manage our asylum seeking process. While their cases are being decided we should give asylum seekers the right to work so they can keep their health and sanity. We should not de-humanise people as they wait for years on our pittance of a hand-out.

Mr. Callely: They do not wait for years. We have a fast-track system.

Mr. Eamon Ryan: That is a problem that needs to be dealt with, but it is not being dealt with in this Bill. If there is a problem in Dublin hospitals, that is part of the cause.

One of the masters of the maternity hospitals — I cannot remember which one — was asked on the radio this morning what the problem was and he stated strongly that it was a problem of resources. To anyone who has been in those three hospitals in recent years it is clear this is true. It is remarkable that only one of those three hospitals runs the domino system, which I strongly support. Under this system the skills of midwives are used to provide services outside the hospital to reduce the pressure on the hospital. In every other city in the UK and Europe there are extensive outpatient domino systems. We only have one small domino system in the whole country. If we want to take pressure off our maternity hospitals and if we have concerns about medical emergencies occurring because of people arriving late — Irish mothers as well as non-national mothers — it is about time the Government started to provide really good resources to those hospitals to cater for the demand.

Mr. Callely: How can we evaluate the demand?

Mr. Eamon Ryan: If one checks the numbers for the previous year one can make a rough estimate of the numbers this year. It is certain we are not catering for the demand at present. That is an issue that is not being addressed in this debate or by the Government.

There is a concern about what the Minister has called citizenship tourism. However, the figures are starting to show clearly that this problem was addressed by the Supreme Court decision last year which took away the right for parents to claim citizenship on the basis of a child being born here. Our party publicly supported that decision, which addressed the issue of people travelling to this country to obtain citizenship. I do not believe people would voluntarily travel to this city, where it is incredibly difficult to obtain a house, where one has no rights as an asylum seeker, where one must live for several years on a minimal amount of money and one is almost driven to depression and despair as one sits waiting for a decision. This is not such an attractive destination that people would come here in the expectation that their children might obtain citizenship rights 20 years later. They might do so if it was possible for parents to obtain citizenship on the basis of having an Irish-born child, but that loophole has been closed. The matter was dealt with in the Supreme Court decision, which my party applauded.

The Tánaiste has said that the problem is the Chen case — that of a lady whose daughter was born in Belfast and who is now before the European Court of Justice seeking European citizenship rights on the basis of Irish rights. Is it that we are concerned about protecting European citizenship? If we have a problem in Dublin it does not seem that people come from very far away to attempt to obtain citizenship rights for their children. It may be the case that certain people are coming from the UK, the Netherlands or elsewhere in Europe. What happens to them depends on the outcome of the Chen case. I would be interested to hear what the Government believes is the likely outcome. There has been no presentation of legal argument about when the case will be heard, the arguments that will be used on both sides and the likely outcome. Why are we not waiting for this judgment in case we do not need to change our Constitution?

It is a serious and important matter for us, as citizens, to decide how our Constitution is formed. I found it a remarkably powerful political moment, from the age of 18, to be occasionally presented with complex, difficult and contentious issues with arguments on both sides. I find it an enriching process. One finds oneself having to study the arguments on both sides to get to grips with the issue. However, that can only be a good political exercise if the arguments are presented clearly. It is remarkable how short a period of time has been given for this debate. The arguments which the Government says support its case are being presented in an atrocious manner. There is a lack of legal or other detail to back up its arguments. I still do not clearly understand its central concern.

There are alternative solutions. The debate here is remarkable in that we have not yet discussed and considered those solutions, such as waiting for the outcome of the Chen case. The

case presented by the barrister Colm MacEochaidh is that pending the outcome of this case, which will clarify the view of the European Court of Justice on our citizenship laws in relation to European citizenship, the wording of Article 2 would allow this to be solved on a legislative basis without having to amend the Constitution. In the Minister's response the other day this suggestion was glibly written off in half a sentence which did not answer the very strong case made by Mr. Ó hEochaidh. I also agree with Deputy O'Keeffe that changing Article 9 of our Constitution would have an effect on Article 2. It is almost impossible to change Article 9, which qualifies Article 2, without affecting the meaning of Article 2 and what it implies.

I was won over by Bruce Morrison's argument as well. What type of country are we? Are we a type of Greek city-state which has two laws, one for citizens who have all the rights and huge economic wealth, and one for migrant workers, asylum seekers, people who come in from less developed poor parts of the world to whom we do not give the same rights and to some of whom we do not allow citizenship rights to apply? I do not believe that is how the Irish people see this country developing. The American model should apply because in this we are closer to Boston than to Berlin. I look forward to engaging in the debate in an open and frank manner in the next while.

Mr. Nolan: I wish to share my time with Deputy Kirk.

Acting Chairman: Is that agreed? Agreed.

Mr. Nolan: I welcome the opportunity to speak in this debate. It is important that the public should be made aware that this is not just something that has been picked out of the sky and thrust on the people. It was part of the programme for Government which was announced and published in June 2002. It is worth reminding people what that programme stated. It stated that the Government would keep under review the number of applications from non-nationals to remain in the State on the basis of parentage of an Irish-born child and initiate all-party discussions on the issue of constitutional or other measures which might be required.

It is important to remember as well that what we are doing here is looking for a constitutional change which will enable this House of Parliament to bring forward legislation to deal with what is generally acknowledged as an abuse of our Constitution. The issue at the centre of this debate is the abuse of our country's constitutional right to citizenship. For anybody who works in a constituency and who is out and about and sees the influx of non-nationals particularly over the past number of years, there is no doubt that there is a problem. That problem will not go away and must be dealt with. It is the Government's job to

[Mr. Nolan.]

bring forward proposals to address it. I commend the Government on doing that.

Having a referendum to effect change is the right way to go. We can then bring forward legislation which will be debated in this House and later in the Seanad. The complaint that there is insufficient time to fully debate all the issues involved in this constitutional referendum is not valid. We have from now until 11 June to debate the constitutional amendment in general terms. Subsequently, the Government will bring forward a Bill which will be published. There is no great rush to have that debated in the House without full public consultation with all the individuals and groups who are interested in making a presentation. It will then be brought to the floor of this House where, no doubt, all Deputies of all political parties will have an opportunity to speak on it. It is wrong to say that it is being rushed. The Government is taking the correct approach. In some ways the Government's hands are tied in dealing with a number of issues because of the nature of our Constitution. On balance the Constitution is a good one, but like everything else, it must be changed from time to time to accommodate the needs of the public and the system.

The passing of the referendum on 11 June will have the effect that a child born on the island of Ireland, at least one of whose parents is an Irish citizen or is entitled to Irish citizenship, will continue to enjoy the constitutional right to Irish citizenship. It is important to remember that. It is also important to remember that nothing that is being proposed in this constitutional referendum will have any impact on the Anglo-Irish Agreement. I am pleased to note that the British Prime Minister and the Taoiseach have confirmed that. The proposal being debated, if passed by referendum and enacted through legislation, will only bring us into line with our partner European countries. At the core of this constitutional referendum debate is the prevention of the current abuses regarding Irish citizenship.

There is a European factor here in that anybody who has Irish citizenship also has European citizenship. We have a responsibility to our European partners to close off any loopholes in our law which would allow non-nationals to abuse shortcomings in our system. There is ample time from now until 11 June to debate all the issues involved. When the Bill is published and, it is hoped, passed, I ask the parties opposite to take a responsible position and to refrain from playing party politics with the issue because it is far too serious. They should see what is being done by the Government as a genuine attempt to close a loophole which is being abused. Of that there is no doubt. Far too many red herrings have been introduced by individuals and groups to try to muddy the water and cloud the issues. Let us be fair and frank with the people and give the Oireachtas, the parliamentarians they have

elected, an opportunity to deal with the issue. I am confident that the goodwill and good sense of the Irish people will see this constitutional amendment passed on 11 June.

Mr. Kirk: I thank Deputy Nolan for the opportunity to contribute on this important legislation. Given the focused provisions in this legislation, the wide-ranging contributions of speakers on the Opposition benches seem fairly irrelevant. The purpose of the Bill is simple. The proposal is to restore to the Oireachtas the power to legislate as to the circumstances in which citizenship will be conferred on a child born on the island of Ireland to parents neither of whom is an Irish citizen nor entitled to become an Irish citizen. The Oireachtas had that power until 1999. With the Good Friday Agreement and the subsequent referendum, unintended changes were introduced. If this referendum is passed on 11 June, that power will be restored to the Houses of the Oireachtas.

The 1996 Constitution Review Group felt that the right to citizenship should not be written into the Constitution. A short perusal of the membership of that review group will reveal very significant legal minds deciding on that recommendation, and who are we in this Chamber to argue with that recommendation? I am sure the group considered it long and hard. It considered the implications of the recommendation and was cognisant of its obligations to the greater population and the Oireachtas at the time.

In no other country in the world can citizenship be obtained through the most tenuous of links. The consequences of the changes to Article 2 in terms of citizenship were clearly unintended at the time. The present proposal must be and will be consistent with the British-Irish Agreement which was part of the Anglo-Irish Agreement.

We need fair and sensible citizenship laws. This Oireachtas has the capacity to deliver these but it needs to have the constitutional power to do so. Opposition parties in the House regularly lament not having a chance to participate but, as far as the fashioning of our future citizenship laws is concerned, their hour has come.

We are entitled to bring our Constitution and laws on citizenship into line with those of the European Union so we will not create unintended incentives that are unfair both to us and the other European Union countries. The Republic of Ireland is the only European Union member state that grants automatic citizenship rights and, therefore, a passport valid throughout the European Union. This is a fact we simply cannot ignore.

This referendum is not about race and those who suggest it is are twisting the facts. It is about bringing Irish citizenship law into line with European Union citizenship law. In Australia, for instance, a child born to non-national parents has no claim to citizenship. The same applies in the United Kingdom, France and Germany. We do

not hear people complain that these countries are racist because of their laws. Therefore, how can one accuse Ireland of racism for following suit?

It is the duty of the Government to regulate and control immigration. Failure to do so would lead to racial tensions. By bringing forward this proposal, the Government is taking the lead and bringing us into line with practice in all other EU countries and countries world-wide.

The Government believes there are sufficient and serious grounds for its proposals. The constitutional provisions on citizenship introduced when we approved the Good Friday Agreement are being used in a way that was not intended by those who voted in 1998. While the British-Irish Agreement gave rise to the conferring of a constitutional right to Irish citizenship on all children born in Ireland, it had not been the Government's intention to confer this right on those whose parents do not have sufficient connection with the island of Ireland.

Our constitutional provisions are being used in a way we did not intend. The provisions we are bringing forward do not contradict or undermine the Good Friday Agreement. The proposed amendment to Article 9 of the Constitution is not in breach of the Agreement or the continuing obligation of good faith in its implementation. The rights of the people of Northern Ireland will be preserved by this legislation.

The interest in the contributions over the past two days reflects the importance and seriousness of what we are discussing. The opportunity is being provided to the people to decide whether they want the Oireachtas to have the power to define our citizenship laws. They will have this opportunity on 11 June and I believe they will restore the position that existed prior to 1999 and allow the Oireachtas to legislate on our citizenship laws.

Mr. McCormack: I have listened to most of the debate on the Twenty-seventh Amendment of the Constitution Bill and I have picked out points I would like to address. The Minister for Arts, Sport and Tourism dealt in his contribution with the history of Article 2 and related matters. Despite this history, the timing of this referendum raises serious doubts about the Government's intentions. Does the Government hope it will enjoy some beneficial side-effects by holding the referendum in conjunction with the local and European elections? In towns such as Loughrea and Ballinasloe, for example, there will actually be four ballot papers, or electronic voting machines if the commission decides to go ahead with electronic voting. The introduction of electronic voting on 11 June is serious enough without having the added complication of holding the referendum, the town council election, the county council election and the European election on the same day. It is certainly overcrowding the pitch. I am suspicious of the Government's motives for rushing ahead with the referendum at this time.

The Government is presuming this matter is urgent. I do not know why it became so urgent because it is only recently that a very quick decision has been made to proceed with the referendum on 11 June. The Government wants to put its proposal to the electorate as part of a package, perhaps in an effort to encourage voters. Deputy Conor Lenihan stated that 65% of the population will support the referendum. This figure could even be higher and therefore the Government may be trying to cash in on the goodwill and support for the referendum to benefit its local election candidates. We will leave the European election candidates out of the equation for the time being.

There is a further possibility that the referendum, if held in conjunction with the local elections, could potentially incite racist responses among the voters. One cannot rule out the possibility that some Government candidates will promote this aspect to curry favour with the electorate. Some contributors said this is not possible but I know from experience what it is like to be a candidate in local elections and I know the pressure candidates sometimes come under. I would certainly not rule out the possibility that some candidates might deal with this referendum in a racist manner. It is very easy to get people going during local elections, particularly in the last week of the campaign during which there is intense pressure on candidates running for seats in their respective local authorities.

The Minister for Justice, Equality and Law Reform, Deputy McDowell, said the referendum was to eliminate the passports for sale procedures. I have not heard any other speakers on the Government side refer much to this. It is noteworthy that the Minister's own partners in Government were the greatest users of the passports for sale procedures. The Minister's comment contrasts with the contribution of the Minister of State, Deputy Tim O'Malley. The Minister of State, Deputy Callely, whose contribution I noted carefully because I have much respect for him, stated we should approach the matter in a calm, balanced and constructive manner. This also contrasts with the contribution of the Minister of State, Deputy Tim O'Malley. Let me quote some of the latter's extraordinary remarks:

First, I am concerned that citizenship is being given to those with little or no connection to Ireland and to its people. Such individuals will then in turn be able to give Irish citizenship to their children and grandchildren. It is wrong that Irish nationality can be simply given out in this manner.

Second, when we consider the Chen case, it is clear that Irish citizenship law is being used to circumvent UK immigration control through the exercise of European Union free movement. People can argue that, with an Irish citizen child, they have the right to reside in the UK or any other EU country.

[Mr. McCormack.]

Furthermore, he stated:

Third, a difficult situation in Irish maternity hospitals has been made significantly worse as a result of our citizenship law. The master of the Rotunda Hospital has, according to the *Irish Independent*, warned that it was surprising that there had not been a major catastrophe within the maternity services yet.

This represents a very different approach from that of the Minister of State, Deputy Callely, who said we should approach the issue in a balanced, calm and constructive manner.

The Minister of State, Deputy Tim O'Malley, went on to question if Irish citizenship should be automatically conferred simply as a result of a person being born here or if the Oireachtas should have the power to determine the entitlement to Irish citizenship. He stated that this is a key question on which people will be asked to vote on 11 June. The whole tenor of his contribution is contrary to the calm, constructive and reasoned debate we expect on this matter. He also stated that we must stick to the central question of whether children born in Ireland get automatic citizenship even if neither parent has any real connection with Ireland or the Irish people. He further stated that he was not sure whether we can expect a balanced debate on the referendum. This is the key to what he is anticipating. I share the Minister of State's concern in that matter. I am not sure, either, if we can expect a balanced debate, particularly now that it is proposed to hold the referendum on the same day as the local and European elections.

At another stage in his contribution the Minister of State said that a second concern that had been raised was the issue of the time required for the people to decide the question. He said he did not believe people needed a great deal of time to make a decision. That is most dismissive of people and of the seriousness of a constitutional amendment. We should take time to fully debate all matters relating to constitutional amendments. We should not be dismissive; a constitutional amendment is a most serious matter for the people to undertake. It is not a matter for the Government parties or the Opposition; changing the Constitution is ultimately a matter for the people. The Constitution belongs to the people. Neither the Minister of State, Deputy Tim O'Malley, nor any other Minister should not forget that. They should not be so dismissive of a matter of such importance as a constitutional amendment.

My party acknowledges that Article 2 of the Constitution, which was inserted following the Good Friday Agreement, creates the potential for an abuse of Irish citizenship. The Government, in its cuteness, stroke politics or whatever one likes to call it, decided to make an issue of this during the local and European elections. That is not the right way to approach a constitutional amendment. It is an error of judgment on the

Government's part. Perhaps it was an attempt to wrong-foot the Opposition into opposing the amendment which would put it on the wrong side of the 65% of people who Deputy Conor Lenihan claims will support the amendment. That is playing politics with the serious issue of a constitutional amendment, which should not be the case.

The Fine Gael Party shares the objective of closing off this potential abuse. It is at all times committed to working constructively with the Government and other parties in this matter, or any other regarding the Constitution, in order to find the best solution to problems. The best means of achieving a solution lies in having the issue considered calmly and rationally, as the Minister of State, Deputy Callely, stated. The All-Party Committee on the Constitution, of which I am a member, should consider it. That committee has dealt with far more thorny issues than this and produced unanimous conclusions and findings on those issues. If this is a problem of long-standing on which, as Deputy Nolan stated, there was a commitment in the programme for Government, why could the matter not have been referred to the All-Party Committee on the Constitution?

Mr. Callely: The 1996 committee did so.

Mr. McCormack: That is my opinion. That would have been preferable to this attempt to try and wrong-foot the Opposition parties in having this issue mixed up with the local and European elections.

Mr. Callely: That is not the intent.

Mr. McCormack: The Tánaiste acknowledged she has been aware of the difficulty for six years. There was ample time to deal with the matter in a more thorough and satisfactory manner.

In amending the Constitution we should follow the principle of hasten slowly. The Constitution is the basic law of the State protecting the rights of all. It is neither the preserve of the Government nor the Opposition; it is a matter for the people. It would not have been too difficult to bring all parties along with the necessary legislative changes. However, the manner in which it has been approached has been counter-productive. We and other parties would have been more likely to fully support the Government but for the sudden and late decision, at the request of Deputy Conor Lenihan, to have the referendum on the same day as the local and European elections. This approach has done more harm than good. I was most interested in his contribution. He took credit for bringing the Government to the position of holding the referendum on 11 June. He is a very influential backbencher. I am not sure if he also takes credit for bringing along the Government's partners, the Progressive Democrats, with his strong behind-the-scenes lobbying, which, as he said, convinced

the Government to hold the referendum on 11 June. I must make my representations to the Deputy in future because he is a very influential backbencher.

Mr. Callely: Deputy McCormack might sign up.

Mr. McCormack: We will find out. The Tánaiste said the Government will allocate as much time as is requested for debate on the substantive legislation. However, it is not prepared to give as much time as possible to the debate on the proposed constitutional amendment. I presume she meant that the debate would not be guillotined. That is an unsustainable approach because if it is important to give time to the substantive legislation, surely it is equally if not more important to give time to debating in the House the need for a constitutional change. The Dáil has been recalled for that purpose for two days. Various parties and Independent Members have put on record their views on the matter. This would have been better dealt with in an Oireachtas committee which would have allowed for a debate on the issue in a cooler light with less friction. The failure of the Government to consult with parties in the House has been the wrong approach. There is a need to defuse the tension that has been created.

Everybody involved in politics must realise the danger involved in holding a referendum of this nature at the same time as elections, particularly local government elections which attract all types of candidates. In some areas, 17 or more candidates will stand for election. For example, more than 20 candidates contested one ward in my constituency in the previous local elections. Given that Government candidates have a duty to promote the passing of the referendum, a position the Fine Gael Party had also hoped to take, I fear that local election candidates from the Government parties, who will be under strong pressure from other candidates, will use the emotive issue addressed by the proposal in a racist manner when they knock on doors.

My concern is not far-fetched but based on human nature and how people react when in tight corners or confronted on doorsteps. For this reason, the referendum should not have proceeded in conjunction with the local elections. Regardless of Deputy Conor Lenihan's influence over the decision to hold the referendum on 11 June, it would have been much more useful to hold it in September following all-party agreement on the issue, which is too serious for party politics.

Mr. Killeen: Several issues are being confused in the discussion of the Twenty-seventh Amendment of the Constitution Bill 2004. That is not to say the issues are entirely unconnected but the manner in which they are being intermingled does not serve to clarify the principal issue being addressed in the proposal. The core issue, the entitlement to citizenship, is

frequently overlooked in the debate in which we have had red herrings in the areas of asylum seekers, refugees, the Good Friday Agreement, racism, work permits and others. While I have no objections in that regard, as all these areas could impinge in certain circumstances on what is proposed in the Bill, the manner in which some of them have been dragged into the mix has served to confuse the issue and undermine what is proposed. Instead of clarifying the issue for the people, it has had the effect of making it considerably more difficult to establish exactly what is proposed in these circumstances.

The net issue revolves around an unusual provision in the Constitution which confers on a child born in this country a right of citizenship and an even more unusual aspect which confers on a child born in Northern Ireland the right to citizenship and, by extension, the right to citizenship of the European Union. None of us can affect to be surprised that some people, with the best interests of their unborn children at heart, would wish to avail of this highly unusual provision and none of us can pretend to be surprised that people living in poorer regions where they see no opportunities for their children should seek to benefit from it. Nor is it reasonable to argue that the provision is sensible and worthwhile in the context I have outlined.

This issue would require attention even if it were not being abused. There is, however, substantial evidence to show that abuse of this provision of the Constitution is widespread. We need to face up to the fact that our obligation, in the first instance, is to our own citizens, but we also have an obligation to the citizens of other EU states. This is particularly the case when Ireland holds the EU Presidency.

All the evidence suggests that the numbers likely to abuse the provision in question are likely to increase, particularly given the manner in which abuse is taking place. It is not clear how one can argue the case for delay in addressing this fundamental difficulty, whereas the course of action open to us is clear and unambiguous. Regardless of the time, resources or debate invested in this issue, a number of fundamentals will not change in any way. It is clear, for example, that the provision is open to abuse, is being systematically abused and will continue to be abused until it is addressed, and that no legislative provision is available to close the loophole. No matter how much this political issue is kicked around, it will be eventually addressed by the people in a constitutional referendum and it is pointless to pretend otherwise. The proposed referendum offers the means of dealing with the issue and it is our duty to proceed with it.

The Supreme Court decision of 23 January 2003 resulted in some changes to the previous position that parents of children born here were assumed to have an automatic right of citizenship. There is some evidence that the decision of the court and, perhaps more specifically, the provisions announced by the Department of

[Mr. Killeen.]

Justice, Equality and Law Reform on 17 July last year, have had the effect of reducing the number of applications made under the provision in question and in several other categories. Nevertheless, the issue of the right of citizenship conferred by birth remains to be addressed.

It is difficult to sustain the argument that entry to this country a short time before the birth of a child should confer citizenship of Ireland and the European Union on the child in question. Some argue that there is a positive element to this, which may well be the case as regards individuals, but there are clearly negative effects which should not be ignored and will undoubtedly develop into even greater problems.

Several speakers adverted to the fact that the arrival of substantial numbers of women in late pregnancy exerts unusual and unpredictable pressure on the maternity services in our hospitals. Additional difficulties, particularly pertaining to the health of the mothers and babies in question, arise because the hospitals concerned will have no medical history for the new patients. We should face up to the fact that the State already has substantial difficulty catering for patients who are nationals; there is no point pretending otherwise.

It is clear that the health of the new mothers arriving in the circumstances described can be compromised and that the additional numbers, which accounted for a quarter of births in some Dublin maternity hospitals in 2003, put considerable additional pressure on hospital staff. If this matter is not addressed the business of human trafficking, which has been addressed to some extent although not entirely, will continue apace and will grow. While the provision which punishes carriers has had some impact this has mainly been felt by law-abiding people. There is little evidence it has impacted on those engaged in human trafficking for personal gain. A great many tragedies have arisen from that activity.

Mr. Calley: Hear, hear.

Mr. Killeen: Concerns regarding the Good Friday Agreement merit careful consideration. We must remember that the proposed provision amends Article 9 of the Constitution and not Article 2. I am confident, arising from the legal advice given to the Government, the Northern Ireland Office and the Government at Westminster, that the amendment has no implications for the Agreement. It is important that we be satisfied this is the case. Many people have expressed reservations on this score. Some parties, predictably, see a political opportunity. This is particularly true of the Democratic Unionist Party whose agenda includes the renegotiation of the Good Friday Agreement. That party's bleatings in this regard are politically and historically predictable.

The public will be genuinely concerned at the misgivings expressed by the Social Democratic

and Labour Party. That party has not put forward any legal advice to suggest that the proposed amendment impacts on the Good Friday Agreement. Its spokespersons have complained about the lack of consultation rather than about the issue itself. If the SDLP is dissatisfied with the manner in which it has been consulted by the two Governments on this issue there is an onus on the Government to address that dissatisfaction. That onus does not extend to changing course on a constitutional amendment which is clearly required, has no implications for the Agreement and requires to be dealt with in the interests of this nation and of the EU.

I understand the frustration felt by many in the SDLP at the manner in which they were sidelined in the run-up to the elections in the North when Unionist parties and Sinn Féin became central to negotiations and pressure from the two Governments. They have a fair argument when they say that emphasis on Sinn Féin and the Unionists sidelined the SDLP and made it seem less important to the electorate. That is an issue which the SDLP must raise with the British Government. In view of the failure to move forward in Northern Ireland since the election, the SDLP leadership may feel it has been vindicated in its view that it is more central to progress in Northern Ireland than had been realised or admitted. That is an entirely separate issue and has nothing to do with the provisions of the proposed constitutional amendment.

The timing of the referendum has attracted much criticism. Members of Opposition parties have claimed that the Government is likely to gain political advantage in the local and European elections from the timing of the referendum. I find no evidence of that. I have been canvassing with local and European election candidates and I have not encountered a single citizen who has raised the referendum issue. They have raised many other issues. The kind of people I am meeting seem to be sufficiently intelligent to make their decisions in the European and local elections on the basis of the individual candidates and the parties and to proceed to make their own decisions with regard to the referendum on citizenship.

Mr. Calley: Hear, hear.

Mr. Killeen: There is a significant advantage in holding the constitutional referendum on the same day as the local elections. This will ensure a large turnout. It would be a pity if the referendum were held on its own and attracted a turnout of 25% or 30%.

I know what Deputy McCormack means when he speaks of the pressure exerted on candidates in the last week. However, I believe the pressure exerted on individual candidates and their parties will be related to their constituents' issues. I dismiss the argument that people would vote for or against Government candidates on the basis of the referendum issue. That is not the case and the

intelligence of the electorate would not allow it to become the case. Besides the advantage of ensuring a high turnout is a considerable advantage in having ordinary political issues dealt with by canvassers and candidates rather than allow the referendum to develop into a referendum on race. There is agreement on all sides of the House that this should not happen. On the basis of my experience of elections I am convinced it will not happen. One can point to many issues and concerns which individuals and communities will raise with candidates.

Aside from the constitutional amendment, we must look closely at the issue of racism in Ireland. It is frequently argued that the Irish are more prone to racism than other nations. I do not believe this is the case. However, a small number of media outlets deliberately contrive to contribute to racist feelings and perhaps racist actions. There is legislative provision to outlaw this but it never seems to be proceeded with. I wonder if the occasional media story, almost always in one of two publications, does more damage than the woolly thinking and feather-headed, neo-liberal cant which does much damage by annoying ordinary people. Until recent years the people of this country have not been exposed to any great extent to people of African or oriental origin. Genuine wonder is sometimes confused with racism.

As it turns out, the people of County Clare have probably had more exposure than those in most other counties to people of different racial backgrounds over a long period because we have an international airport. A substantial proportion of the many asylum seekers who find their way into County Clare find their way into Deputies' constituency offices. They quickly discover that politicians' offices are good places in which to learn about one's entitlements. During the almost 12 years in which I have been a Member of the House, I have never encountered a difficulty as a result of having processed material for a considerable number of non-nationals. Constituents have never raised objections arising from such work on my part. I have never had any difficulty when a substantial proportion of the people in my waiting room have been non-nationals, frequently of African origin.

The Irish people will not make up their minds on the proposed referendum on grounds of racism. Genuine concerns may arise as a consequence of the manner in which provisions are made for non-nationals. The quicker such concerns are dealt with — they are usually dealt with fairly quickly — the better for all concerned. Such speedy action helps to avoid the kind of problems that feed the latent anti-immigrant feeling that sometimes lies undisturbed. A degree of generosity and openness is extended to non-nationals, generally speaking, which I believe is exemplary.

Speakers have questioned the principle of having constitutional referenda. We have not been great at having such polls, although we have

had more than most EU countries. Constitutional issues are quite frequently dealt with by means of plebiscite in Switzerland, even at canton level. Given that the legislative course is not an option in this case, we must proceed in the manner set out by the Government in the Twenty-seventh Amendment of the Constitution Bill 2004.

Mr. Callely: Hear, hear.

Mr. Neville: I welcome the opportunity to contribute to this debate. I am extremely disappointed that this issue has arisen. We are aware that the referendum has been proposed as a Fianna Fáil tactic to divert attention from the real issues, which will be discussed despite the Government's attempts to sideline them.

Mr. Callely: That does not merit a response.

Mr. Neville: It is also a politically sensitive issue. Some speakers have referred to the fact that the proposed constitutional amendment has racist overtones. The Minister of State who is present in the House is well versed in exactly what I mean by racist overtones and the use by politicians of racist issues to raise their profile over several years. One has to be concerned that this issue is being used to take attention away from the issues that affect people, as well as to motivate a reactionary element to vote. The Government hopes people will vote for it in the European and local elections on the basis that it has brought forward a proposal with which they agree.

Deputy Killeen said we are not used to having people of other races in our communities, but many generations of Irish people have been exposed to people of other races over many centuries. This did not take place in Ireland, but in those places throughout the world to which Irish people travelled. Irish people encountered racist reactions from people in other countries in some circumstances. They enjoyed a welcome in many instances, however, on the basis of their contribution to the construction of the economies and states of other nations, especially Australia and New Zealand. Irish people were always welcome in such countries, even in the dim and distant past when they went there initially as political prisoners. They helped to build the continent of Australia and the state of New Zealand from such positions. The experience was not as good in other countries to which Irish people travelled. The catch-all phrase "No Irish or blacks need apply" is still quoted today to remind us of the treatment of some Irish people who were forced to emigrate.

I would like to raise a specific concern with the Minister of State, Deputy Callely. Today's "Morning Ireland" has increased the level of doubt about the number of people who come to Ireland specifically to give birth within a short period of their arrival in order to gain Irish citizenship. Why does the Dublin Convention not

[Mr. Neville.]
 apply to such people? The convention states that a person who comes to the EU from elsewhere must reside in their first destination.

Mr. Calley: That is right.

Mr. Neville: Does the Minister of State agree that Ireland is the second EU destination of more than 90% of those who arrive in Ireland to have a child — those about whom the Government is concerned? Such people arrive elsewhere in the EU and proceed to this State in order to give birth. Surely such people can be required, under the Dublin Convention, to return to their place of first destination in the EU.

Mr. Calley: One would not do that to a heavily pregnant lady.

Mr. Neville: How many of those to whom I refer are heavily pregnant? Perhaps some of them have been pregnant for between three and seven months. The number of people arriving in Ireland while heavily pregnant is in doubt. All kinds of figures were quoted on “Morning Ireland” this morning. There is confusion about the number of such people coming here. Deputy Gormley said this morning that it would take 100 years for enough babies to be born in such circumstances to fill the stadium at Lansdowne Road. That puts the issue in context.

Mr. Calley: Some 5,622 people withdrew their asylum applications in 2002.

Mr. Neville: That is being disputed.

Mr. Calley: Many thousands of people withdrew their asylum applications.

Mr. Neville: That is asylum. We know we have a problem. Some years ago, the Minister of State, Deputy Calley, was one of the first people to highlight the race problem here. We know we have problems in that regard, but it is wrong to fuel them on the basis that we need emergency legislation to coincide with the European and local elections. There is a danger of raising race issues with which we should deal in a much more dispassionate and real manner. When we examine the race issue, we should examine the positive aspects of those who come here, as well as the negative aspects of such arrivals.

Mr. Calley: Of course.

Mr. Neville: The multi-cultural dimension that people from abroad bring to this country is one such positive aspect.

Mr. Calley: Nobody should deny that.

Mr. Neville: Such people can make a great contribution to the economy and to services. People often refer to the many nurses who have

come to this country from Thailand, some of whom I have met at Our Lady’s Hospital for Sick Children. They do excellent work and the level of expertise they bring to their profession is second to none. That is one of the few positive aspects of the immigration “problem” that is mentioned, as people sometimes prefer to concentrate on other problematic issues. We need a more balanced and informed approach to diversity among our people, but that is not happening.

We must ask why this is not happening. To a large extent the media seem to concentrate on the difficulties. The only positive report I have recently seen was that two foreign nationals were to stand for local government. Why was there such a big surprise about this? We do not see a problem with our people standing for election in other states, particularly in our nearest neighbour, where many Irish people and people of Irish decent have been highly successful in the political arena. However, in this country we seem to have a different view of any person from abroad. The election of our great friend, Dr. Moosajee Bhamjee, to this House created considerable media attention as if people almost felt it should not have happened.

We need to have a broader, more inclusive and positive approach as well as identifying the problems. Unfortunately this referendum focuses on one specific aspect of the race issue — that of citizenship. Along with others I fear it will aggravate the almost exclusively negative approach to people coming to this country. There seems to be an excessive concentration on illegal immigrants coming here and we have not mentioned the enormous contribution made to our economy by those coming here on work visas. I have personal experience of people coming from many other countries who have contributed enormously to Irish society particularly in the medical area.

Mr. Calley: Nobody would contradict what the Deputy said about their contribution. However, others are knowingly abusing their entitlements under the Dublin Convention.

Mr. Neville: However, the debate is concentrating on the abuse rather than being balanced and also considering the positive aspects of the immigration issue.

Mr. Calley: The Deputy is right and it is up to us to focus on those positive aspects.

Mr. Neville: I spoke of the contribution to the medical profession. There are now jobs that Irish people are no longer willing to do.

Mr. Calley: That is a good point.

Mr. Neville: I will not mention the jobs involved, as that might be unfair to those who have come here to do excellent work, for which they get good recompense. Thank God, we now have the minimum wage for such workers. Some

people have a view that immigrants can be exploited. In my experience of talking to employers they ensure that they are not exploited. They rightly make themselves aware of their rights in the employment milieu to ensure they get their rights. The idea that they are open to exploitation understates the understanding those who come here with visas have concerning their rights. We should continue to emphasise the need to inform those who come here from areas where they might have been earning 25% or less of what they earn here of their rights under Irish law. In my experience employers are delighted to pay them because of the value they get from many of those who come to Ireland to work.

Earlier I listened to the Chairman of the Oireachtas All-Party Committee on the Constitution, of which I am a member. I disagree with his suggestion that this issue could not be dealt with by that committee within a reasonable time. It is a sufficiently narrow issue to allow it be addressed in a short time. As it is also complex it should be addressed by the committee. The sixth report of the All-Party Committee on the Constitution, under the chairmanship of the Minister of State, Deputy Brian Lenihan, recommended that any changes in the Constitution should be carefully considered by that committee.

Why has this issue not been submitted to the committee for consideration? One can only conclude that the Government wants this as a diversionary tactic during the election campaign to move the debate away from the issues of concern over the health service, housing and general local government issues. The committee would have concluded its work in a reasonable period of time and reported. If the All-Party Committee on the Constitution had the opportunity to examine the constitutional amendment at the time of the Good Friday Agreement, would we be now facing an amendment to tidy up what the Government states is a difficulty that has arisen due to the amendment to Article 2 of the Constitution following that Agreement?

The Oireachtas All-Party Committee on the Constitution has just completed its report on property rights. The committee quickly came to a conclusion that a change to the Constitution was unnecessary to control the price of property. The reason the committee took so long to report related to planning and other issues that were not of a constitutional nature. The committee could have come to a conclusion on the basic constitutional issue in a period of a few months. The issue of changing the Constitution to deal with citizenship of foreign nationals coming to this country could also be dealt with quickly — certainly by September given that summer intervenes.

Coming up to last summer, for example, we met for two weeks to consult people on work the committee had in hand. I do not accept that the

committee did not have the time or space to deal with this.

The All-Party Committee on the Constitution should be allowed the space to fully examine this issue. I am convinced it could produce a report on the matter in a short period. I cannot
3 o'clock speculate on the outcome of such a report but I am sure it could be produced quickly and that after detailed examination of the case and obtaining expert advice from many sides on the issue, including emigrants, it would provide more informed recommendations than those we have currently. This would be preferable to the current proposal for a referendum by 11 June without reference to anybody, not the Opposition with which the Government said it would consult fully nor the SDLP which has expressed concern. Fianna Fáil has also dismissed the DUP's concern as totally irrelevant — I presume Deputy Killeen was advised by the party with regard to what he said. Within the All-Party Committee on the Constitution all parties would have an opportunity to fully examine all aspects of the issue and this could be done in a short period of time.

I implore the Minister to remove the racist element from the June elections and to allow the All-Party Committee on the Constitution to fully examine all aspects of the proposal.

Mr. B. O'Keeffe: I welcome the opportunity to speak in favour of the Bill. We are entitled to bring our Constitution and our laws into line with other European countries' laws on citizenship in order not to create unintended incentives which are unfair to us, our people or other European countries.

This Bill will provide that in the case of a child born to non-national parents at least one of the parents must have lived in Ireland for the three or four years preceding the birth of the child before the child becomes entitled to Irish citizenship. Whether either parent of a child born anywhere in Ireland is a United Kingdom national or a long-term resident, the child will still be entitled to Irish citizenship. The proposal in the referendum compares favourably with conditions in many of our EU neighbour states and it is hoped that through this referendum we will bring our laws into line with them.

Entitlement to Irish citizenship for children born in Ireland will still compare favourably with most countries outside of the European Union. If the referendum proposal is passed and the Government passes its published draft legislation, Ireland will still be one of the more liberal states in the EU as regards citizenship. The gospel in these matters is *The Irish Times*. It has come out against this referendum but has acknowledged this fact.

Mr. Neville: I thought it was the *Irish Examiner*.

Mr. B. O'Keeffe: The referendum is all about bringing Ireland into line with EU citizenship law. Let us take Australia as an example. There, a child born to parents who are in the country illegally has no claim to citizenship. The same applies in the United Kingdom, in France and Germany. For some strange reason we do not hear people complain that these countries are racist because of their laws. How, therefore, can one accuse Ireland of racism in following suit and ensuring that the integrity of the Irish passport and citizenship remains intact.

This referendum means this Government is not afraid to make the tough decisions necessary to deal with problems faced by society. It will not shy away from this one. Asylum seekers who have come to Ireland up to now have been treated with respect and care by our health, community and social services and by the people in the communities into which they have been integrated. I would hate it if these facts were forgotten in this debate.

It is important for us to recognise that it is the duty of Government to regulate and control immigration. Failure to do so would lead to racial tension. It is important to dwell on that fact for a while. Whether we like it or not, significant numbers of immigrants have attended our hospitals to seek maternity services.

Mr. S. Ryan: Where else could they attend?

Mr. B. O'Keeffe: I can only relate the facts as they affect the Southern Health Board. I was chairman of that body for a period. In January 2001, asylum seeker attendance at maternity services amounted to 5% of those seeking the service. In June 2001, that figure had risen to 10%, in January 2002 it rose to 11%, in June 2002 to 12% and in February 2003 it had risen to 18%. Part and parcel of the problem was the increased workload for staff which was made more dramatic by the problems associated with many of those who presented. Many of them had no case histories, series of tests had not been carried out and various other issues caused problems.

To be fair, the health service got on with the job. It carried out the required tests and looked after those who presented as best it could. However, the extra demands had a dramatic impact on the services being provided. All of us in the Southern Health Board region are aware of an application to the Department of Health and Children seeking an additional €3 million to deal with the influx of people seeking maternity services, most of whom were from the African Continent.

Rather than raising the issue of racism inadvertently, as the Opposition may be doing, the Minister, by dealing with this issue in terms of immigration laws, has objectively, sensibly and sensitively raised and introduced this referendum, and the legislation that will follow, to ensure that the charge of racism being levelled by the Opposition will not arise. The issue will be dealt

with factually and by the people, which is important. The Government is taking the lead and bringing us into line with all of the EU countries and countries world-wide.

An issue arises as to whether the referendum should be held on the same day as the local elections. Since this debate commenced much useful information has been disseminated. Unfortunately, a good deal of it has come from those on the Opposition side in their castigation of the Government. That did not do Opposition Deputies proud in terms of the way they present their case.

The referendum is seven weeks away. Can anybody say with any sense of logic that over the next seven weeks we cannot have an informed debate on this referendum? There are two alternatives to holding the referendum on 11 June. We could hold it on the same day as a presidential election but we do not even know at this stage if there will be a presidential election. Nor do we know if there will be a contest for that high office.

That begs another question about the fundamental democratic principle. Why would it be proper to hold a referendum on the same day as a presidential election but not to hold it on the same day as the local and European elections? That defies logic. The referendum could be held at some date in the future but there are three arguments against that. First, I do not believe the people would be of the view that we should have a referendum on its own, with all the incidental costs that would involve. Second, it is likely there would be a far lower turn-out and fewer citizens would involve themselves in what is an extremely important decision for the people. The third and most important argument is that there would probably be a far greater danger of racist tendencies and leftist extremism surfacing if the referendum were held on a stand-alone basis than if it were held on the same day as the local and European elections where it would not be the sole focus of political attention and debate. Somebody might criticise that and say it is a secondary issue, but it is not. The level of debate and the comments I am hearing on the ground in terms of canvassing for the local and European elections clearly indicate to me that people are very aware of the purpose of this amendment.

Mr. S. Ryan: They will not vote for Fianna Fáil in the elections either.

Mr. Callely: We will have to wait and see.

Mr. B. O'Keeffe: They are also very aware of the value they place on citizenship and the way Irish citizenship is revered throughout the world. The important message I hear from people on the doorsteps is that the sanctimony of that citizenship is all important to them. The referendum is not about race, a particular date or the Good Friday Agreement, despite what those opposite would have us believe. This referendum

is about ending an unintended abuse of our citizenship process, and I believe the Irish people will vote "Yes" on 11 June.

Some of the contributions I have heard defy belief in that Members on the opposite side of the House understand there is no abuse of citizenship. The Minister for Justice, Equality and Law Reform has been criticised about the meetings with the masters of the maternity hospitals, and the outcome of those meetings. Privately, however, if one asks the people who are dealing with the situation on the ground if abuse is taking place in certain percentages of cases, the answer will be "Yes". Why would anybody in that sector come out openly and say there is abuse and that this referendum should be held when they would be castigated by the Opposition and told they are racist in terms of what is happening on the ground and the high percentage of cases presenting at maternity hospitals? It is important that we grow up and be realistic in terms of what this referendum is trying to achieve.

I have listened to the debate today and read yesterday's Official Report. This is a diversionary tactic on the part of the Opposition. The fact is that anybody who has had his ear to the ground in recent years will be well aware that changes are demanded by the public, and it is important that the Government takes the lead to ensure those changes are put in place.

I am loath to refer to this but in the Dáil yesterday the Labour Party claimed that this referendum may override the outcome of the Good Friday Agreement.

Mr. Costello: And the SDLP.

Mr. B. O'Keeffe: The revelations in the newspaper this morning were interesting. They revealed that the only confused party on this issue is the Labour Party.

Mr. Costello: And Mr. Paisley.

Mr. B. O'Keeffe: This morning's report in *The Irish Times* stated that in 1998 the Labour Party asserted that an amendment to the citizens' provisions in Article 9 of the Constitution could be made without reopening the Good Friday Agreement talks process. All of us will know that is contrary to the hot air emitted from the Labour Party yesterday and in the past when it claimed that amending Article 9 runs the risk of damaging the Agreement. Interestingly also, in a letter to the Taoiseach, Deputy Quinn proposed that an amendment could be made to Article 9 to clarify the entitlement to be part of the Irish nation. That is exactly what the endorsement of this referendum will do and is in line with what the former leader of the Labour Party indicated at the time that he wanted. The Labour Party, with its change of leader, is now saying it does not agree with that because it does not have ten

weeks or perhaps six months to deal with the issue.

Mr. Costello: Which was the Taoiseach's response.

Mr. B. O'Keeffe: It is totally out of line with its previous policy and the people who read that article and the revelations that emanate from it will be aware that the Labour Party has not been consistent on this issue. It has let itself down badly. We were also subjected yesterday to the usual sanctimonious ranting from the Labour Party. It was the customary mix of insinuation, allegation, whinging and complaints but the contributions yesterday contradicted the previous view. The Labour Party will be labelled as having said "No" just for the sake of it and not through conviction or because of what is right.

Mr. S. Ryan: We were always labelled by the Deputy's colleagues in Cork. That would not be anything new.

Acting Chairman (Mr. Stanton): Deputy Ryan, you will have an opportunity to contribute shortly.

Mr. B. O'Keeffe: The Labour Party is not supporting this referendum because it does not want to admit that the Government has got it right on this issue.

Mr. Costello: Will the Deputy give way?

Mr. B. O'Keeffe: Yes.

Mr. Costello: On a point of clarification, the letter that emanated from Deputy Quinn to the Taoiseach in 1998, prior to the country voting on the referendum, was to clarify the distinction between citizenship and nationality, which was not clear. The Taoiseach replied that he was satisfied with the situation and that it did not matter whether all immigrants to this country were termed in that fashion because he was concerned that the Good Friday Agreement was paramount. At that time the Taoiseach did not see any need to do anything, and he knew exactly what he was proposing.

Mr. S. Ryan: Deputy Costello was referring to the Taoiseach.

Mr. B. O'Keeffe: The interruption is a further indication that the Labour Party's latest dance is purely motivated by base political opportunism and, unfortunately, it has got it wrong again. It is attempting to whitewash over its previous position on the issue in a desperate attempt to grasp much-needed media attention. In the past, the Labour Party rocked the foundations of the State. There were several baseless accusations against certain Ministers of the current Government which had to be withdrawn. I believe the Irish people will reject the warped

[Mr. B. O'Keeffe.]

attributes opponents of the referendum are conferring on the Bill. They will recognise the Bill is legitimate, enlightened and liberal and in the best interests of all the Irish people. I commend the Bill to the House.

Mr. S. Ryan: I wish to share my time with Deputy Burke.

Acting Chairman: Is that agreed? Agreed.

Mr. S. Ryan: I am pleased to have an opportunity to place my views on the Twenty-seventh Amendment of the Constitution Bill on the record of the House. However, I would prefer if we were debating a much wider agenda.

I do not accept the placing of restrictions on citizenship is a matter of principle. I firmly believe the State is obliged to protect itself against exploitation or abuse should it exist. I concur with the views expressed yesterday by our party leader. The Labour Party is not in favour of an open door policy and it does not believe that anyone who lands in Ireland is entitled by right to receive an Irish passport. While acknowledging the historical experience of the Irish people over the years in regard to emigration, we must look at the reality of life today. I am deeply concerned at the motivation and staging of the referendum in tandem with the local and European elections. I fully support the amendment put forward by Fine Gael, the Labour Party and the Green Party. I support in particular the need for an all-party Oireachtas committee to consider the Twenty-seventh Amendment of the Constitution Bill and evaluate the issues on the basis of the knowledge of experts and the insight of groups outside the Houses and to report thereon to both Houses of the Oireachtas before 1 September 2004.

At a time when Ireland has received at least 150,000 foreign immigrants since 1996, it is a scandal that there is no immigration policy in place. What we have seen over the years is a piecemeal approach by this Government. We urgently require an informed public debate on immigration and diversity, including its economic and cultural benefits. We need leadership which is unlikely to be forthcoming from the Taoiseach, the Tánaiste or anyone in the Government. As someone who admired the Tánaiste over the years, she has been conned into holding the referendum on the same day as the local and European elections.

I referred earlier to the need for leadership. Immigration is here to stay. The Immigrant Council of Ireland, which was formed by this Government, and supported by Governments in the past, has received no financial support in recent years, which is a scandal. In a recent submission to the Joint Committee on Social and Family Affairs the council stated:

Despite the economic slowdown of recent months, there is still a perception that

economic growth in the years to come will continue to require growth in the available supply of labour. IBEC believes that employer representative bodies are still encountering considerable difficulty recruiting staff with appropriate skills. They believe that immigration will continue to be a factor of the Irish Labour Market going forward and have called for an efficient immigration system.

It should also be noted that there has been more than a 600% increase in the number of work permits granted by the Department of Enterprise, Trade and Employment since 1999. In the context of the debate and the lack of leadership on the issue, it is timely that we put on record the following excerpts from the booklet *Labour Migration into Ireland* by the Immigrant Council of Ireland. It is the appropriate framework for an informed debate. It reads as follows:

Although politicians have frequently presumed that the only alternative to a restrictive immigration policy is a so-called "open door" policy, this is a false alternative. The choice facing Ireland is not one between the extremes of an "open door" policy or a "fortress Ireland". All states need to manage migration.

Completely unrestricted immigration is impracticable for a variety of reasons. Apart from the fact that such a policy would be impossible to adopt in isolation from other countries, especially our EU neighbours, any unplanned large-scale movement of persons, internally or externally, would have a variety of very practical consequences, such as the impact on the provision of transport, health, housing, education and other services. Moreover, in societies marked by conditions of considerable social inequality — and regrettably Ireland is an example — any substantial unmanaged influx may give rise to the dangers of social conflict.

This is an important statement which shows clearly where we must go and what needs to be done.

Leadership in this field has not been forthcoming. As practising politicians, we are all aware of the mistaken and exaggerated perceptions that exist, particularly on the part of people who have not benefited in recent years from the so-called Celtic tiger. When one is on the doorstep in certain areas one hears phrases such as, "Ireland is taking in more than its share", "Refugee and asylum seekers are getting free prams, phones, cars and so on from the Department of Social and Family Affairs", "Immigrants, refugees and asylum seekers cause shortages in health care and housing" and "Irish jobs are being taken by immigrants". This is the reality in certain areas. Rather than dealing with the substantive issues, the Minister informs us that he must proceed as a matter of urgency to bring this referendum to the people because it will sort out the perceived problems that exist in

Ireland today. There is no time to debate the issue in an effort to achieve consensus among the political parties. It is worth our querying the effect of these proposals. According to the masters of the maternity hospitals, approximately 400 children — some newspapers put the figure much lower — would be deprived of automatic citizenship each year. In the context of the Supreme Court judgment of January 2003 which stated there is no automatic legal entitlement for the parents of children born in Ireland to remain in the country, how will what the Minister proposes contribute to resolving the problems that Fianna Fáil backbenchers say exist and are put to them on the doorstep? That issue must be addressed; I ask why it is so.

It is no coincidence that Fianna Fáil has been in power in Government and local authorities for so long it has become imperative for it to retain that power. The Fianna Fáil think tank funded by the State was convinced that, arising from the cuts and broken promises since the general election, they were on a hiding to nothing in the local and European elections. The electorate could not be allowed to adjudicate on issues such as charges, health services, planning corruption and housing. In that context, it was vitally important to muddy the waters and a referendum was the answer. Positions of power on local authorities were much more important to Fianna Fáil and its financial backers than anything else. Many of the supporters who happen to be senior players in the various tribunals would have been at a huge disadvantage if Fianna Fáil had taken a drubbing in the local elections, so the Fianna Fáil think tank came up with the idea of encouraging the perception among the public that the referendum would resolve a problem that may or may not exist. They wished to muddy the waters and try to ensure they get a majority on councils, not caring how the matter would be resolved.

Mr. Murphy: One gets the impression, as the previous speaker said, from all the hype that this referendum has brought up that, by passing this referendum, the Irish people would solve all the immigration and asylum problems that we could ever have once and for all. However, closing this loophole will rectify only a tiny part of the overall problem. By holding the referendum now, this Fianna Fáil-Progressive Democrats Government seems to want to get the soundbite message to the electorate that they are the parties to clamp down on immigration. They know that this is currently a populist issue, with over 60% of voters agreeing that there should be some tidying up of citizenship eligibility criteria. While acknowledging there is a small problem in the area, the number of so-called “tourist citizenships” being granted to babies in this country is minimal, and tackling it will do nothing to solve the overall problem, or perception of one, that many people feel there is at the moment.

As a people and nation, we also prided ourselves on our generosity and openness. We helped that perception recently by opening our labour market without restriction to citizens of the accession states. On reflection, and considering the general policy trends of this Government, that situation was probably motivated far more by economic and financial concerns and the wish to secure a supply of labour for business rather than any humanitarian issues. However, this Government at one stroke — in the real sense of a Fianna Fáil stroke — sends out the wrong message internationally. At the same time, it portrays itself as a tough, right-wing Government, using this referendum to fool our own citizens into believing that closing this small loophole will solve all our immigration problems. We must constantly remind people that this referendum has nothing to do with whole families. As has been said on numerous occasions in the House, the Supreme Court has dealt with that situation adequately. In essence, all this referendum will do is deprive a small number of babies and children, mostly from disadvantaged families and parts of the world, of the right to Irish citizenship if born in this country. In reality, most of those children will in any case not remain in Ireland, as their families have not been entitled to citizenship or residency since the Supreme Court decision. In addition, it will be open to future and, one hopes, more enlightened Governments to amend the law to allow flexibility and generosity in considering citizenship for those babies born in Ireland.

This Government is changing our understanding of what we are as a people, and how we think and behave as a nation, in much the same way as Margaret Thatcher did in Conservative England. It was she who changed British citizenship regulations at that time. This Thatcherite Fianna Fáil-Progressive Democrats Government is trying, unfortunately successfully, to turn Ireland into a similar, right-wing, privilege-based society. Their dictatorial approach to Government means that more laws and regulations, and now a referendum, will turn us into a people who live our lives wholly by rules, regulations and diktats from various members of this Government. That type of approach should not be acceptable in a country where people value their lifestyles and where a sense of humour, generosity, tolerance and flexibility were — and, one hopes, will again be — part and parcel of our identity as a nation and people.

Holding this referendum at this point sends out the wrong message for us as a nation. It achieves nothing except depriving a few hundred children of Irish citizenship. Perhaps some consider that an achievement, but in the overall scheme of things, this referendum will achieve very little. One must ask why it is happening now and where the urgency is. We are constantly being told by the Minister that this referendum is urgent, and that it must be dealt with inside the next seven weeks. It is difficult to understand that urgency,

[Mr. Murphy.]

since the referendum will change nothing immediately in the context of immigration and asylum seekers. As the Minister said, they will not be able to use their entitlement to Irish citizenship until they are independently able to travel. We must therefore get the message across to the electorate that this referendum will make absolutely no difference to the numbers of immigrants or asylum seekers for at least 16 or 17 years.

The whole situation is a total and utter smokescreen. We have been waiting years for the Minister to introduce a transparent asylum and immigration policy that clearly addresses the many complex issues. Instead we get a politically motivated stopgap reaction from the Government. The Minister should tell the electorate that he is introducing an amendment to prevent 200 or 300 babies each year being entitled to Irish citizenship because they were born in this country. He should say why he is doing so even though, as the Minister said, the child can only use the right of citizenship when it can travel independently. This political ploy must be exposed. Even for those citizens who support the referendum, it should be very clearly explained that his measure will have absolutely no effect on the number of immigrants or general perceived immigrant problem in this country. By introducing this referendum, this Government is cynically using the fears of the electorate to try to deal with an issue in a referendum that is not being given the time and consideration it requires and that will have little or no effect on the overall immigration and asylum policies of this country. By rushing through with this referendum the Government is denying the opportunity to those who genuinely wish to be constructive and take part in this debate and seek an equitable solution to the real problems which exist. The Government is attempting to give the impression that by passing this referendum, we will solve all our asylum and immigration problems. The whole thing is a nonsense and an insult to the electorate.

I refer to recent newspaper articles about the proposed referendum. It is dealt with in a column written by Shane Coleman which is headed: "One thing is black and white: this poll is genius". He writes that to hold a referendum restricting the right of Irish citizenship is a political master stroke that carries virtually no downside for the Government and in political terms this is the only conclusion one can reach. On the same day in the same newspaper, there was a headline stating: "This referendum is not about facts, still less about the truth. It is about exploiting fears in order to gain votes". We were told that Ireland's liberal citizenship laws are unique yet there are 41 countries worldwide with similar provisions. England was one of them until Maggie Thatcher made the rules more restrictive. Thankfully the United States on that occasion did not follow. Many Irish citizens have benefited over the years from the US system. Despite its long borders with

Mexico and Canada the United States still gives the right of citizenship to those children born in the United States.

In the run-up to the local elections, we should be discussing closed hospital wards, hospital waiting lists, cutbacks in home help and in facilities for the handicapped, and cutbacks in county council budgets. These are issues that are hurting each of our citizens every day. We should not be discussing a political distraction such as this referendum which will have no real effect on the issue it is supposed to address.

Ms Hanafin: I will give way to Deputy Eoin Ryan.

Mr. Eoin Ryan: I thank the Minister of State. The proposed amendment of the Constitution in the forthcoming referendum is a minor change that is necessary to close an unintended loophole. It is a modest measure to protect our citizenship and it the job of Government to do that. Suggestions that it is a racist move are most unfortunate.

I listened to Deputy Morgan's contribution this morning in which he referred to the proposal as bigoted. I ask Deputy Morgan to state how he would therefore characterise the 30-year campaign carried out by his party and the IRA north of the Border. It is also possible to be bigoted against British people. Deputy Eamon Ryan stated that the Government should show leadership. When we came into Government in 1997, our citizenship legislation and asylum services were in a shambles. There were three or four people working in the Department of Justice, Equality and Law Reform trying to deal with thousands of asylum seekers. Deputy O'Donoghue took control and put some order into it and provided the staff and services that were required. There was no leadership being shown. When I listen to the Labour Party and Fine Gael speakers I know why it was in a shambles because those two parties are completely contradicting each other in this debate. If they were returned to Government tomorrow, it would be a shambles again. Leadership is required. This is a minor amendment of the Constitution compared to some other amendments passed in the last decade.

It is the duty of Government to regulate and control immigration. Failure to do so would lead to racial tensions. By bringing forward this proposal, the Government is taking the lead and bringing us into line with practice in all other EU countries. The Opposition has opposed the timing of this initiative. I challenge Opposition Members to state where they stand on the proposal and, if they oppose it, to state the alternatives they have to offer.

It is essential that following this referendum there should be a root and branch review of our immigration policy. All of us in the political system have failed to grasp this issue. We must

stop playing politics with immigration and need to urgently reform our immigration system. We should set ourselves the aim of putting in place a system that could be the benchmark for Europe. The nation must realise that there are jobs that Irish people will no longer do. This is obvious in the areas of market gardening, fish processing and the meat industry. Foreign workers are needed to do these jobs. It must be acknowledged that immigrant workers are playing a significant role in the health services, in services for the care of the elderly and in the hospitality industry. These and other areas would not function without these workers and their contribution should be valued. I welcome the decision to allow the spouses of non-national nurses to come to this country. These workers must be given a real stake in our society and an equal chance to advance within it.

The current work permit system whereby the employer holds the permit is unacceptable and it is indentured labour. Those workers should be allowed the freedom to find jobs for themselves and to be allowed move to other employers. Immigrant workers should have freedom to move within the labour market and to avail of opportunities. I suggest a transparent system such as the green card system under which people could apply to come to this country and their application would be assessed according to set criteria reflecting our requirements. It is wrong that the only method of gaining entry to this country is through the asylum or work permit systems. A transparent green card system would enable people to come to this country. A better matching of skills to employment is required. Immigrants who are highly-qualified professionals are working in McDonald's. The system pushes them in the wrong direction and this country is not benefiting from their training and education.

The method of integration of immigrants is crucial and we can learn from the mistakes made by other countries in Europe, particularly France and Germany, where immigrant populations are ghettoised. A top-class integration system should be developed. The opportunity is there to introduce a policy for immigration which could become a blueprint for Europe. That opportunity should be grasped and there should be no playing politics with the issue. All parties must ensure that the debate over the coming months is calm and measured. We have it in our power to ensure that this debate does not degenerate into bigotry. If it does, we only have ourselves to blame.

Minister of State at the Department of the Taoiseach (Ms Hanafin): As Chief Whip, I am delighted the House was able to devote so much time to this important debate. By recalling the Dáil a week early it has been possible to devote 16 hours of debate to this important topic. It would normally take the best part of two weeks in the usual Dáil schedule to allow for 16 hours debate on Second Stage. The referendum is being

given the sort of attention it deserves and I am pleased that so many Members from all parties have chosen to participate in this debate.

Listening to the contributions, one would wonder what the debate has been about. The referendum and the proposed change to the Constitution deals with one matter only and that is citizenship — perhaps the value and definition of citizenship. It means more than just a passport or a legal status. It is inextricably linked to belonging to a community, to having a commitment to the society and of being loyal to a country. Citizenship is not just to do with ethnicity; it is about participation and being an active, participating member of our society. It brings with it privileges, obligations and duties, political rights, the right to vote — a right reserved for those who play an active part in society — the right to stand for election, the right to the protection of all the State. Those are the rights that come with being a citizen. Duties are attached to being a citizen. Our democracy is balanced on what individual citizens do for society as well as on what our society and our country can do for us. We in Ireland value the whole concept of citizenship. We value the fact that it is positive and that it involves participating. That is seen right through the education system. As a central part of the curriculum there are programmes such as social, personal health education and civic, social and political education at second level which are educating people about their role in society, their rights and the world in which they live as active members. That one has a passport is not enough. One has to play a role in the society in which one lives.

Notice taken that 20 Members were not present; House counted and 20 Members being present,

Ms Hanafin: Before I was rudely interrupted I was making the point that citizenship brings with it a sense of responsibility, duties and all the obligations of being a member of society which do not come by virtue of the fact that one is handed an Irish passport. I was conscious of that not just as a public representative but as a teacher in my time in Sion Hill as a transition year co-ordinator where I encouraged and promoted social work and devised a rights and responsibilities course to enable young people to see they needed to develop a sense of civic responsibility and a desire to contribute to their communities. If people are to feel they are a part of a society and part of a community the concept of active participation has to be promoted. The active participation of Ireland and of Irish society is something everybody here holds dear. Rightly, we are all proud of being Irish and all that entails.

I consider myself to be a citizen of Ireland as does everybody in the House, not just because I was born here. I am a citizen of Ireland because my parents and grandparents lived and worked here and contributed to society. I too continue to make a contribution to society. Citizenship does

[Ms Hanafin.]

not imply any cultural or ethnic uniformity but it implies that contribution. The contribution to society of those who have come from all over the world to settle here has been immense. It has enriched our society not only economically but culturally. Diversity enriches the whole cultural expression. It makes our life more interesting. It can be seen in all aspects of society. For example, Dun Laoghaire town football club is a co-operation between the council, the Garda, the local community and asylum seekers — the young people based in Dun Laoghaire. Last year Dun Laoghaire had a very successful festival of world cultures which recognised and valued that diversity. That same diversity is recognised by businesses and employers in the workforce because it promotes innovation and creativity. As we work in a global environment it helps to have people working in society who have firsthand knowledge of the emerging markets in Asia and so on who are able to help our competitiveness.

The Irish have travelled abroad for many years. Through travel and communication we understand the whole of the world and appreciate the importance of giving in the country in which one lives. In the same way we see the importance of people who give to Irish society, the immigrants who have come here. We value not only the diversity we see and appreciate, but we need an adequate workforce to keep the Irish economy and, in the long term, to help pay the pensions of the future. The vast majority of non-nationals are here to work and to contribute to society.

Given that 50,000 work permits were issued last year — up ten times on that for 1999 — we recognise the importance of these people, many of whom will live here and bring up their children here. They want to be here, we are proud to have them here and we invite them to make Ireland their home and to promote an inclusive inter-cultural Ireland where everybody can play a part. As they live here, perhaps they will decide that Irish citizenship is something they want because of the contribution they make to society. They can apply for citizenship through the naturalisation process and get Irish citizenship with all the rights and responsibilities that go with it. Given the importance of inter-culturalism and the changes in society which we welcome it is important that the opportunity is not undermined by the development of a suspicion about the motives of some people who seek Irish citizenship not as an expression of membership of the Irish community but as a passport to Europe. It is vital to the promotion of a positive sense of inter-culturalism not to allow abuses of citizenship law by a minority to cast disdain on the majority of immigrants who contribute so much to our society.

The draft Bill, which the Government has proposed as a starting point for the debate, if the referendum is passed, will make a positive

distinction between those who place a value on participation in society and those who have no connection with this country who see Irish citizenship purely as a passport. The Government has proposed that as a starting point for the debate in the House if the referendum is passed. It will make a positive distinction between those who place a value on participation in Irish society and those who have no connection to this country and who see Irish citizenship purely as a passport. That is basically what this proposal does — it recognises that there are people who want to live and work here and to be a part of Irish society. We do not want to take from them by allowing this situation to be abused by a small group of people. It is an incredible distortion of what it means to be Irish to have a constitutional framework which confers citizenship and all of the legal and political rights which go with it on people with no tangible connection with the country. It gives all those rights to people whose parents came here purely to obtain an Irish birth certificate and an EU passport before flying back to the EU country of their choice, where they can avail of their rights as an Irish citizen.

By conferring Irish citizenship on the future children of these estranged Irish-born citizens we are not just creating one generation but a couple of generations of Irish people who have no connection with Ireland. That is an unacceptable abuse of our citizenship laws and it undermines the integrity and value of what it means to be an Irish citizen. It is in the interests of those who genuinely seek Irish citizenship, as a recognition of their present and future contribution to Irish society, that we close this loophole and protect the integrity of Irish citizenship.

The three-year residence requirement proposed by the Minister in the draft Bill will recognise the contribution of those who are living in Ireland and contributing to Irish society by giving Irish citizenship to their children at birth. The children of non-Irish or British parents, who do not acquire citizenship at birth but who go on to make their lives in Ireland and become real citizens in the sense we believe in, can then get Irish citizenship through the naturalisation process.

The requirement for a referendum to restore the right of the Oireachtas to set the conditions under which Irish citizenship is obtained is necessary both to restore the integrity of our citizenship process and to protect the value of the interculturalism in Irish society. We need to close the loophole which equates the entitlements of people whose only connection to Ireland is a short return trip from abroad to one of our maternity hospitals with those who have already and will continue to contribute to Irish society in the true spirit of what it means to be an Irish citizen.

It is because I believe in Irish citizenship and all that comes with it — that it is more than a passport and means more than someone who is lucky enough to be born on the island of Ireland

— I support the referendum. That is in deference to all of those people who are making a valuable contribution to the country. The referendum is straightforward, reasonable and necessary. When they think about it, the Irish people will see it is a fair and sensible proposition. It is a timely step to take at a time when a majority of people will be voting on 11 June. The 16-hour debate we are having can add to the debate, as will the public debate between now and polling day. When we think about this seriously, it is not a debate on racism, interculturalism, asylum seeking or immigration. It is about one issue only — what it is to be a citizen of Ireland. Does it mean more than being born in Ireland and handed a passport? I believe it does.

Aengus Ó Snodaigh: Níl mé sásta leis an oiread ama atá tugtha don díospóireacht seo mar is díospóireacht tábhachtach é. Ó thaobh aon reifreann de, ba chóir go mbeadh an deis ag gach uile Teachta sa Teach méid ar ghá dó a rá a rá sa Teach seo agus níl 16 uair a chloig fada go leor. Tá mise ag labhairt ar feadh 20 noiméad agus déarfainn gur mhaith le a lán de na Teachtaí eile sa Teach seo labhairt ar feadh 20 noiméad ar an cheist seo agus níos faide más gá. Tá sé i gceist an tseachtain seo chugainn go mbeadh an díospóireacht déanta i gcúpla uair a chloig ar an Chéadaoin agus arís go gcríochnófar Céim na Tuarascála de laistigh de dhá uair a chloig agus níl sé sin maith go leor. Measaim gur chóir go mbeadh an deis ann go dtí go dteipeann ar an díospóireacht go bhfuil an méid ráite againn gur chóir a bheith ráite agus ansin go gcuirfear chun vóta é. Sa chéad dul síos ní chóir go mbeadh sé seo curtha chuig vóta in aon chor — ní chóir go mbeadh an cheist seo os ár gcomhair. Measaim nach seo an cheist gur chóir go mbeimis ag cur. An cheist gur chóir go mbeimis ag cur agus an rud ba chóir linn deileáil leis ag an am seo i saol an Stáit seo ná ba chóir go mbeadh polasaí imirceach ceart os ár gcomhair. Ansin má tá fadhbanna ann amach anseo, is féidir ansin féachaint, agus féachaint go fadalach, ar an Bhunreacht.

This proposal is another front in the Minister's war on a rights-based society. With his attack on immigration and the Good Friday Agreement he has earned the title of Minister for injustice and inequality in this State and beyond. This Bill helps him live up to that title.

I challenge his claim that this proposal is not racist and will not encourage racism. I note he has taken care to point out that the measure is not racist in intent. Maybe not, but he has conspicuously avoided arguing that the proposal will not be racist in effect. He should prove to us that the referendum will not be racist in effect. He knows full well what the negative effect on Irish society will be but he has concluded that nothing will deter him from his cut-throat pursuit of political gains no matter how high the price. That price will be a high one, whether it is

wrecking the peace process or raising racial tensions in the State.

The proposal to grant some people the right of citizenship by birth but to remove the right of citizenship by birth from other babies from a different ethnic background, is nothing less than an introduction of citizenship based on race, and such a proposal is more appropriate to cross-burning than a constitutional amendment.

The arguments presented in support of this proposal are profoundly flawed, based on partial evidence, and framed to aggravate pre-existing prejudices. This is an unacceptable risk, as racism in the State has already prompted a rising level of hate crime which has resulted in assaults and deaths. Our time in the House would be used more constructively in putting together proper hate crime legislation which would address the rise in racism. We should put together an immigration policy to address the challenges we face in modern Ireland; that policy could then be addressed if issues arise with it in one or five years' time.

Let us not lose sight of the fact that the Supreme Court decision of 2003 which reaffirmed the right of Irish children born to non-national parents to citizenship. There is nothing in that decision that justifies the Government's proposal to strip children in this social category of their citizenship rights. The Minister's conduct in publicising the proposal has violated his responsibility both as Minister and as a signatory to the anti-racist protocol for political parties that he reaffirmed little more than a month ago. He has done this in three ways.

First, he has propagated the pejorative term and concept of "citizenship tourism" or "baby tourism", and he has deliberately misused aggregate statistics in doing so. In effect, the Minister is encouraging people to look at all pregnant women of non-Irish ethnic origin with suspicion. He is inviting people to presume that all such women, pushing their Irish children in prams, got pregnant and had their babies here to scam the taxpayer, steal our hard-earned money, and Hoover up the health care and housing that is "rightfully" ours. Most hurtful of all, he is encouraging people to consider these children as not being fully Irish because their ethnic background is not Irish. Underlying his arguments is the fundamentally flawed racist premise that the motivations of Irish migrants are somehow different, inherently more trustworthy and more legitimate than the motivations of non-Irish migrants. If these ideas are not racist, then I do not know what they are. As Minister for Justice, Equality and Law Reform, Deputy McDowell has a special responsibility to challenge these misconceptions and not reinforce them, as he has cynically done to justify his own ideological agenda for electoral purposes.

Third, the Minister has also promoted public misunderstanding of the impact of immigration on the economy because he is actively promoting the myth that non-nationals drain scarce

[Aengus Ó Snodaigh.]

economic resources. International evidence shows that this simply is not true. In fact, the Minister of State, Deputy Hanafin, accepted that they are vital for our economy. The Minister, Deputy McDowell, however, conveniently ignores the fact that immigration is an engine of the economy and that, statistically, immigrants are net economic contributors. If he believed that, the first item on the agenda would be aimed at tackling immigration policy, not denying citizenship to such people. Not only does immigration bring workers who pay taxes into the Exchequer, but it is also the only factor slowing the ageing of the population. This matters because an ageing population imposes costs and income constraints on society. The taxes young immigrants pay and the children they produce, help to buoy an economy that would otherwise be saddled with ever increasing pension costs and a dwindling pool of young workers to pay into pension funds. Our European neighbours will attest to that fact. Economically speaking, not only do we need immigrants but we also need their children.

What is disgusting about the Minister's resource-scarcity theory is that it uses common myths about immigrants to cover up the lack of health care and housing resulting from this and previous Governments' consistent under funding of public services, including the cutback in maternity beds in the 1980s that has never been reversed. This issue indicates the refusal of the Government, and its previous incarnations, to raise social spending to at least meet the EU average. These myths have been used to try to demonstrate that such problems are the fault of immigrants, while it has been proven that this is not so. If we had a proper immigration policy we could see the full benefit to be obtained from those who are willing to travel to our shores to work. Immigrants should have the right to work here, as well as the right to change jobs, which is another issue concerning the work permit system. I hope we will come back to that issue as quickly as possible when the people have rejected this referendum.

All these actions not only exploit but reinforce and encourage racial prejudice and stereotyping. As such, they amount to a violation of the responsibilities of signatories to the anti-racist protocol for political parties, which have been agreed in order not to incite hatred or prejudice on the grounds of nationality, ethnic or national origin. The Minister knows that his proposal will fan the flames of racism here but he is prepared to do so in the hope of electoral gain. It is the height of irresponsibility and, once again, calls into question the fitness of the Minister to hold his portfolio. Even at this late stage, I would urge the Taoiseach to re-think the position that Deputy McDowell holds in Government. The Taoiseach and the rest of his Cabinet colleagues are also irresponsible in having allowed the

matter to reach this stage. It calls into question their fitness for office, as well.

To return to the issue of racism, the outcome of the Government's proposal will be the unequal treatment of Irish children on the basis of their ethnic origin. Children born in Ireland who are ethnically Irish will get preferential treatment, with their rights unchanged and recognised in law. Children born in Ireland who have a different ethnic origin will get second-class treatment and their constitutional rights will be removed. This is nothing less than an ethnic cleansing of the Constitution. It is both repulsive and wrong.

The Government is constructing this as an election issue in order to deflect attention away from its abysmal record on health, housing and education, as well as the Minister's refusal to confront the problem of high crime rates and the failure of policing in working class communities. In particular, the Government is trying to scapegoat non-nationals for the crisis in the hospital system in order to deflect attention from its mismanagement of the health service over almost ten years. This is totally unacceptable.

Mr. McDowell: On one occasion, the Deputy accused me of hyping up the crime figures.

Aengus Ó Snodaigh: No. I accused him of using crime figures in the wrong context. If he refers back to the record, he will see that I did not say he had hyped them up. The reason was that the Pulse system had only just come into effect and it was skewed because it had no prior figures against which it could make a proper comparison.

The people can see through this pre-election ploy and will not fall for it. The Minister and the Government are hoping to appeal to fear, prejudice and a narrow concept of self interest. They under estimate the Irish people, however, the vast majority of whom want to see Ireland mature into an equitable and multi-cultural society, and who also want to challenge racism. I believe the people will reject the Minister's attempts to divide and conquer, and will demonstrate that they want a future united Ireland that is inclusive and strong in its diversity. If this referendum is forced on the people, they will confirm once again that they share Sinn Féin's vision of an Ireland of equals.

My party considers children born here to be Irish, not non-national. Sinn Féin claims these children to be part of the Irish nation and wants to ensure they are cherished equally, as the 1916 Proclamation hoped for. The Minister is wrong when he says that the inclusion of such people in the citizenry was an unforeseen result of the Good Friday Agreement. It is, in fact, an extension of the inclusive republican logic first outlined in the 1916 Proclamation.

The Irish Council for Civil Liberties has pointed out that the Government's proposal does not close any alleged loophole created by the Good Friday Agreement. Anyone born here

since 1921 has been entitled to Irish citizenship by virtue of birth. This has been the law in Ireland for 83 years. If we choose to reverse the basis of citizenship from *jus solis*, or right by birth, to *jus sanguinis*, we will not only be contradicting the constitutional principle of equality, but will also be abandoning a commonality with over 40 countries with whom we share a common republican and legal heritage.

Large western democracies such as the United States and Canada, as well as India and New Zealand, and almost the whole of South and Central America, and the Caribbean, provide directly for citizenship by birth in their constitutions. I do not accept that there is any legitimate imperative for us to change our citizenship law to bring it into line with EU standards. In the five referenda that have been held in this State on EU membership, constitutional provision for Irish citizenship was never raised as an issue. I therefore conclude only that there is either no connection between EU membership and Irish citizenship or that the Government has come under pressure from the British Government or other EU member states to change our Constitution. If this is the case, the proposal will be even less acceptable to the people.

A constitution and the rights it confers should not be reversed at breakneck speed, for electoral expedience or otherwise. What is happening today would not be acceptable in other constitutional democracies. Neither can I accept the idea of vesting the Government of the day with the ultimate power to define citizenship such that the citizen would have no protections in the Constitution, and such that there would no longer be the requirement of a popular mandate by referendum. This effectively holds the nation hostage to the whims of a particular Administration. This is precisely why we should not discuss any such proposal without the benefit of the informed opinion of the Human Rights Commission, as agreed in the Good Friday Agreement. This commission should be consulted on matters that would affect human rights in Ireland but this was not done before the Minister produced this Bill. Moreover, there was no attempt to consult all the parties in Ireland. The SDLP has made a complaint about this and other Six-County-based parties may also have done so.

The consultation we supposedly had amounted to the Minister informing us of what he intended to do, regardless of whether we approved. That is not consultation. There was no proper mechanism by which we could discuss the matter and try change his opinion before he called the second meeting in which he stated he had just published the Bill, which I believe he had given to the media before consulting us.

Sinn Féin is opposing this proposal because it is irresponsible. Instead, we want comprehensive immigration law reform to establish a positive, compassionate, human-rights-compliant and anti-racist immigration law that will pave the way for

Ireland's transition to a truly multicultural, equitable society. I urge the Government to distance itself from the agenda of the Minister, Deputy McDowell. If it does so, it will earn the respect of the people and open the possibility of having proper social consensus on immigration law reform.

Tá sé tubaisteach ag an bpointe seo de stair an Stáit seo go bhfuil an reifreann seo ag teacht chun cinn. In áit féachaint chun tosaigh agus déanamh cinnte de go bhfuil sochaí chuí agus chothrom sa Stát seo, is a mhalairt atá ag tarlú. Táimid ag dul siar ar na cearta daonna atá tugtha agus faighte againn thar na blianta sa Stát seo, agus táimid á gcur ar leataobh. Is iarracht eile é seo ón Aire ár gcearta, agus cearta phobal agus pháistí na hÉireann sa todhchaí, a dhiúltú. Sa deireadh thiar thall, cuideoidh sé seo le coimhlint chiníoch a chothú sa Stát seo.

Tá sé truamhéalach go bhfuil Aire a bhfuil dualgas air comhionannas agus cothromas a chur chun cinn sa Stát seo ag brú a leithéid de reifreann chun cinn. Níor chóir go mbeadh an reifreann agus an Bille seo os ár gcomhair, agus impím ar an Aire, fiú ag an am seo, é a tharraingt siar. Ba cheart déileáil le ceist na hinimíre i gceart, agus, más gá amach anseo, teacht ar ais má tá fadhbanna ann ó thaobh chúrsaí sláinte nó tithíochta de. Is féidir déileáil leis na fadhbanna sin ar fad má tá siad ann, agus ní aontaím go hiomlán go bhfuil siad ann mar gheall ar inimíre; tá siad ann mar gheall ar an Rialtas. Más gá dúinn déileáil leo, is féidir linn é sin a dhéanamh ó thaobh reachtaíochta de.

Ní gá dúinn cur as don Bhunreacht, atá ann anois le 83 bliana — níl sé ann go hiomlán chomh fada sin, mar tá athruithe tagtha air — ach ba chóir déileáil leis an cheist ó thaobh polasaí agus reachtaíochta de, ní trí athruithe bunúsacha a dhéanamh ar an Bhunreacht gan taighde nó díospóireacht cheart agus gan féachaint chuige an bhfuil aon bhealach eile in aon chor ar féidir linn déileáil leis seo. Níor choir go mbeimis ag oscailt suas an Bhunreachta ariamh ach amháin sa ghné dheireanach de phróiseas reachtaíochta nó Rialtais. Nílím tar éis teacht go dtí an pointe sin sa díospóireacht ar an cheist seo go dtí seo.

Má ghlacaimid leis an Bhille seo, táimid ag cothú dhá leibhéal de náisiún sa tír seo. Tá náisiún mór againn atá i bhfad Éireann níos mó ná na daoine sa Stát seo. Tá sé timpeall an domhain ar fad, agus tá a lán daoine ann ar mhaith leo bheith ina saoránaigh Éireannacha. Deir beagnach 60 milliún duine sna Stáit Aontaithe go bhfuil an ceart acu ar stádas Éireannach agus gur mhaith leo amach anseo, b'fhéidir, an tsaoránacht sin a ghlacadh dóibh féin nó dá gclann. Má tharlaíonn a leithéid de rud, ní bheidh an deis sin acu. Ní bheidh an deis cheart acu ról ceart nó cuí a imirt i náisiún na hÉireann amach anseo.

Impím ar an Aire an Bille seo a tharraingt siar agus gan dul ar aghaidh leis, agus díriú isteach ar an obair cheart chun polasaí ceart a bheith aige d'inimircigh, obair, agus chearta oibre sa tír seo.

Mr. Curran: I would like to share my time with Deputy Moloney.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Mr. Curran: I support this Bill fully and welcome the opportunity to say a few words on it. I have listened to numerous speakers both yesterday and today and have read comments in the papers. The amendment to be put to the people is straightforward and is understood by them. It proposes to restore to the Oireachtas the power to legislate on the citizenship of children born on this island. As it stands, there is an automatic right to citizenship, which was never envisaged and which does not pertain in other jurisdictions.

I have listened to Opposition Members complain that this Bill came out of the blue. I understand that it was clearly signalled in the programme for Government. It was certainly discussed previously and I do not believe it is new or was unexpected.

Mr. Costello: Not the constitutional amendment.

Mr. Curran: The issue was signalled. I suppose it is a matter of interpretation how one believed it might be dealt with. It is appropriate that it be dealt with.

I have also listened to the arguments on the numbers pertaining to the maternity hospitals and to anecdotal evidence on how many children of non-national parentage are born in the State and on where their parents are coming from. I really do not believe this is the major issue; rather, it is a result of the issue. The issue is whether we want to have automatic citizenship for any child born on this island. If we do, we need to ask ourselves what citizenship is all about and ascertain the responsibilities associated with it.

The figures on immigration and on whether pregnant immigrants are arriving 38 or 39 weeks into their pregnancies have been argued about in many different ways. I was listening to "Morning Ireland" this morning and heard the master of one of the maternity hospitals make an interesting comment.

This was something I had not paid much attention to or taken into account. He said that non-nationals are arriving from other EU countries. His view was that these people were coming here to give birth for the purpose of citizenship rather than on medical grounds because they were coming from France, Britain and so forth where people have access to good medical treatment, that because they were non-EU nationals, by giving birth in Ireland they were abusing the system.

I am not concerned about what the total numbers are. This is not a question of the level being so many hundreds or thousands of people;

the important issue is what kind of system we want to operate. The system which we have at present cannot be allowed to continue.

I have listened to Opposition Members query why the referendum is being held in tandem with the local and European elections in June. On most occasions when a referendum has been held, if feasible it has been held in conjunction with another election. The same people who are complaining about that fact would also complain if it had been decided to hold the referendum in September or October. They would claim it as a waste of taxpayers' money and ask why an earlier opportunity had not been availed of. That argument does not stand up. It is appropriate that this essential referendum is taken in conjunction with a scheduled election.

The argument has been made that it is right that a child born here should qualify for automatic citizenship. However, people who make this argument do not address the issue of what citizenship is about. Citizenship brings responsibility. Listening to many of the arguments on this issue which I heard in the House, citizenship appeared to amount to no more than a flag of convenience. As an island nation we should view it as a great deal more than that.

Deputy Ó Snodaigh referred to births from ethnic and non-ethnic parents and so forth. That is not really the issue. It is not about diversity in that sense; it is about citizenship. People of all ethnic backgrounds can be citizens of this nation. It is up to this House to legislate in regard to citizenship and this is precisely what the referendum will achieve. The referendum offers people the opportunity to make their views known on whether they want automatic citizenship, as applies at present, or if they want it regulated. When the referendum takes place I think we will find that while people are not racist they do not want the citizenship of this country to be abused. They do not want it to be a flag of convenience; they view citizenship as being a great deal more important than that.

The Oireachtas, as a result of the referendum, will regulate citizenship for new-born children. Although the numbers have been disputed the evidence shows that people are abusing the citizenship law. They are coming to the country for no other reason than to have children born here who qualify for Irish citizenship. That is wrong and I think most people in the country would agree. It is important that the Government has taken action in this regard. It is also important that the ultimate decision is left to the people by way of referendum.

I fully support the provisions of the Bill.

Mr. Moloney: I do not expect to have anything new or earth shattering to add to the debate. However, it is important that Members put their views on the record. I congratulate the Minister, who has once again shown his courageous attitude and style. Not alone has it been obvious

to the Government that the legislation needed to be brought forward, but it has also been obvious to many observers outside the political arena.

In the context of the debate, every day has been a learning process. I heard a radio interview this morning with the masters of the maternity hospitals. It is important to reiterate that non-EU nationals are coming from EU countries where there is a high standard of maternity care. We have been accused of many things in this debate but that point alone suggests that there is a major attraction in coming to this jurisdiction. The suggestion that the Good Friday Agreement could be dismantled does not stand up to scrutiny. The British Government, which was a partner to that agreement, is also of that view.

I congratulate the Minister and the Cabinet on the decision to hold the referendum. It is important to have the referendum on a day when we go to the polls for the local and European elections. Over the years we have had numerous referenda yet no matter how important they were it was difficult to get people to vote. The more issues on offer to the electorate, the greater is the possibility of securing public interest, if not public support. As the possibility exists that we may not have a presidential election, which could have provided another opportunity on which to hold the referendum, 11 June is the best option. Many of those who are against holding the referendum in June admit that the issue needs to be addressed.

The fact that we have the most liberal citizenship regime in Europe has been frequently referred to in the debate. This is an indisputable fact. In order to become an EU citizen, the easiest and simplest option is to become an Irish citizen. In some cases Irish citizenship has been cheapened into becoming a mere route to EU citizenship and the residency rights associated with that. This reflects badly not only on those who choose that course of action but also on Irish citizenship as a whole. Being Irish should be more than just a mere accident of birth. I accept that some of the proudest and most dedicated Irish men and women were born outside the State. However, we should not present the right to such a precious distinction, to what may be our most precious honour, to people who merely happen to be born in the confines of the State. The right to be Irish should be based on something more than the ability to hop on a plane and come here to give birth.

While matters of principle are at stake, there are also practical considerations. Some speakers appeared to consider the contribution of the Minister for Health and Children, Deputy Martin, to the debate as some kind of ploy. It is important that we take what he said into account. He outlined why our citizenship laws have become a health issue. We have often heard this on the ground in the context of our local maternity hospitals. Unfortunately, the fact remains that some women in the latter stages of pregnancy are coming here with the sole

intention of giving birth to a child in this jurisdiction. However, as soon as someone says that at a public meeting, he or she is accused of being racist. Those who make that allegation close their ears to the facts. The *status quo* has resulted in these women being allowed to remain in this country. Such a practice puts the health of both mother and child in jeopardy, which is a cause of great concern. This matter needs to be addressed. Women are going into labour during flights to the country. Others are being rushed to a strange hospital having been in the country for only days or hours. While I am not sure such an event has taken place, it is possible that births have occurred on board aircraft on which personnel have neither the training nor the appropriate materials to deal with such circumstances.

We must address the issue of undue risk to the health of these mothers and children. Apart from mothers who can afford to enter the country by such means, others risk their health and that of their unborn children by opting for other methods to enter the country, some of which pose dangers to the health of the fittest of people, not to mention heavily pregnant women and their unborn children. Some women will continue to regard the reward as worth the risk and, until we remove the carrot of citizenship, they will continue to gamble with their lives.

It is not only the health of the women in question that is affected. Maternity services are coming under increasing pressure, which must jeopardise the health of those who already hold citizenship. Unannounced and unexpected births to non-nationals are putting additional pressure on hospitals and their staff and exacerbating problems in maternity services. I have encountered this problem in my capacity as a member of the Midland Health Board.

I will repeat some of the figures already placed in the public domain because they are accurate. In 2003, almost 60% of female asylum seekers aged 16 years and over who applied to the Office of the Refugee Applications Commissioner were pregnant. In the same year, 32% of births in Dublin's major maternity hospitals were to parents without Irish citizenship, an increase from 28% the previous year. These statistics show that the problem facing maternity services is significant and growing, as reflected in the position outlined by the masters of the maternity hospitals at their meeting with the Minister.

As well as citizenship, the prize for many of the people taking such risks include the benefits available in this country. By becoming an Irish citizen and, consequently, a citizen of the European Union, some of the people in question are unfortunately cherry-picking the benefits that become available. Effectively, they are moving from one EU country to another to reap the best possible benefits. This is not the reason benefits were introduced and we should take action to prevent this practice. The easiest and least

[Mr. Moloney.]

complicated way to do so is to regulate who becomes an Irish and EU citizen.

The strongest criticism of the referendum has been its timing. It has been suggested that holding it on the same day as local elections does not allow sufficient time for a proper debate. The decision to hold it was taken on 10 March, more than three months before the referendum on 11 June. Why should the referendum not be held on the same day as the local and European elections? Surely we want as many people as possible to vote. I have already made the point that holding a referendum on its own would result in a poor turnout, whereas holding an election simultaneously tends to increase voter turnout.

Nor do I agree with the argument that the referendum would be a lesser election issue during a presidential election than a local election. The former are generally devoid of issues because the President has no real law-making or governing power. With far fewer candidates standing, a presidential election poses the danger that a personal opinion on this issue could be used to decide the result. This is increasingly likely given the intense media scrutiny candidates receive. With far more candidates standing in the European and local elections, individuals will not receive anywhere near the same level of media attention as presidential candidates. In addition, more issues will be debated during the local and European election campaigns. Holding the referendum on 11 June is not, therefore, a negative decision.

I have been surprised by comments made by members of the Nationalist community in the North to the effect that the decision has helped further the DUP agenda to have the Good Friday Agreement renegotiated. I find this the most interesting criticism of all. The facts, however, are somewhat different. The Government discussed the legislation with the British Government which has no qualms with the proposal. This significant element in this debate has been overlooked at times. The passing of the referendum will not have any practical effects on the citizens of Northern Ireland. Nor will it prevent members of the Unionist tradition from receiving Irish citizenship if they were to pursue that option. It is staggering that members of the Opposition and the Nationalist community do not recognise that they are being manipulated by a DUP agenda.

It is noticeable that every time the Government introduces a measure which would be regarded as popular by the vast majority of the public, it is accused of making a political move. The irony that such accusations are nothing other than political moves is apparently lost on those who make them. This legislation is necessary and beneficial and has the support of the vast majority of the people.

I compliment the Government on its decision to abolish the investment based citizenship scheme. To paraphrase an advertisement for a

well-known credit card, to be an Irish citizen is priceless. As Deputies will agree, it is an honour to be an Irish citizen and the privilege should not be for sale. Citizenship is a matter of great pride to most Irish men and women and we should not cheapen it.

I congratulate the Minister on taking the opportunity to address this issue, a cause of concern to many people. The legislation the Government will introduce if the referendum is passed will protect Irish citizenship and its status and honour. To paraphrase the credit card advertisement again, Irish citizens should know exactly what it means to be Irish. I am glad to have participated in the debate and register my support for the Bill.

Mr. Perry: I join other speakers on this side in expressing concern about the manner in which the Government has handled this referendum proposal. Some issues should be above party politics and approached on the basis of consensus and all-party agreement. One such issue is the question of the voting system, on which all parties involved in the democratic process should move forward together to ensure it is acceptable to all. The Government's recent solo run on electronic voting indicates a departure from the consensus approach. Having invested €43 million on the expensive equipment required, it would make sense to use it again for a referendum after the local elections.

Issues connected with race should be above party politics. Again, however, the Government appears unwilling to achieve consensus and is intent on forcing a potentially divisive debate when all-party agreement could be secured on necessary proposals. I have no doubt the proposals advanced by the Minister have some merit and that our lax citizenship laws have been exploited by some unscrupulous individuals.

The genesis of the problem lies in what could be described as sloppy draughtsmanship when the Good Friday Agreement was ratified. Somewhere, someone, in his enthusiasm to endorse the Agreement, suggested a constitutional referendum on Articles 2 and 3, which provided that a person born on the island of Ireland was entitled to become an Irish citizen. I am puzzled as to whether the current Minister for Justice, Equality and Law Reform who is rushing through this referendum was the Attorney General at the time and, if so, if he had any role, responsibility or input in the drafting of the amendment put to the people in the context of the Good Friday Agreement. It is a pity the Government has stubbornly chosen to proceed with the referendum and engender such a potentially divisive debate when a large measure of agreement and consensus could be achieved.

There is no doubt that there is a major problem in maternity hospitals, particularly in Dublin. I have heard anecdotal evidence of serious pressure being placed on some maternity hospitals as a result of the increased number of

births to mothers from other jurisdictions who arrive late in pregnancy. An interview with a woman from Nigeria on today's "Morning Ireland" was descriptive. This woman, who already had an Irish-born child, was keenly focused on the citizenship aspect of her child being born in Ireland. The citizenship concession clearly motivated her decision to have her baby in Ireland.

The masters of the Dublin maternity hospitals have stated that more than 20% of births in their hospitals are to non-nationals. The highest proportion of these mothers are from sub-Saharan Africa. If this is presenting a problem — and some of the masters appear to be indicating that it is — it is appropriate that it should be addressed.

However, the problem of facilities in the Dublin maternity hospitals also needs to be addressed. Their problems are not exclusively related to the influx of non-national mothers. Other issues go to the core of the problems in the maternity services in Ireland. A number of years ago expectant mothers had a choice of many different Dublin hospitals in which to give birth. Nursing homes and private hospitals complemented the major maternity hospitals. Sadly, these alternatives are no longer available and women in the capital city are confined to three major public maternity hospitals and one private hospital. I note from recent media coverage that insurance issues may place the future of Mount Carmel Hospital in doubt. I would be deeply saddened if this referendum was the sole Government response to the crisis in the provision of maternity services in this State. It is one aspect only and should not be a substitute for the provision of proper resources and upgraded modern facilities in the Dublin maternity hospitals.

Many of us on this side of the House have some sympathy with the Minister's policy justification for the measures he is initiating but have major doubts about the sensitivity and timing of a referendum at this stage. We are not being deliberately obstructive or party political in our approach. We merely fear some of the worst excesses of racist incitement which may emerge in the course of a local election campaign.

Early this year clarification was sought regarding an announcement by the Minister of an all-party consultation on this issue. At that time my party leader raised a number of issues which needed to be addressed before we were in a position to offer a considered view on the Minister's proposals. On 11 March the Minister for Defence indicated in the Dáil that a Cabinet decision to hold a referendum had been made on 9 March. The Minister had been asked if the Government had decided a referendum was required and, if so, to what extent it had embarked on a process of all-party consultation. On 7 February last, when asked by Deputy Kenny if any constitutional referenda would be held this year, the Taoiseach stated that the

Government had no proposals to hold a referendum to change the Constitution. Why did the Taoiseach fail to inform the House of the planned referendum?

The Minister for Justice, Equality and Law Reform has indicated that the reason for the proposed referendum arises from the concerns of the masters of the principal maternity hospitals which became apparent at a meeting between the masters and the Minister. Some of the attendees at that meeting dispute the Minister's version of events. We need to know exactly what transpired and to this end we have requested a copy of the minutes of that meeting.

The Minister for Justice, Equality and Law Reform has decided that an amendment to Article 9 of the Constitution is preferred to an amendment to Article 2. His proposals refer to non-national parents. What is the likely impact of the amendment on citizens of other EU member states who move here and have children? Why was Deputy Gay Mitchell informed, on 10 March, that data on the number of children being born in Irish maternity hospitals was not available? There is a huge level of ambiguity.

It is regrettable that electronic voting will be used on 11 June for the European Parliament, urban and county council elections. For that reason it is an unsuitable date for this referendum. The State has invested €43 million in state of the art electronic voting equipment which could be obsolete by the time of the next general election in two years' time. There is concern that considerable investment will then be required to bring the equipment up to the required standard.

Why must the referendum be held on 11 June? Why can the Minister not wait for all-party agreement and hold the referendum on a more suitable day? The number of babies born to non-national mothers indicates a problem but not a substantial one. Why can the problem not be dealt with at the ports or points of entry? How are these women entering the country? They are not coming ashore at remote places around the coast. Can controls not be exercised at airports and ports? The number involved is not large.

The Minister for Justice, Equality and Law Reform was Attorney General when the Good Friday Agreement was signed.

Mr. B. Lenihan: That is not correct. Mr. David Byrne was the Attorney General at that time.

Mr. Perry: There was considerable debate about the amendment of Articles 2 and 3 of the Constitution at that time. Why was this problem not identified?

Mr. B. Lenihan: It was mentioned by the leader of the Labour Party at the time.

Mr. Perry: I do not understand the rush to hold the referendum without all-party consensus. Neither was there consensus on the question of electronic voting. Deputy Brian Lenihan chaired

[Mr. Perry.]
the All-Party Committee on the Constitution and the benefits of all-party agreement on constitutional issues is widely recognised. Why could this matter not be discussed at that forum? An opportunity for consensus has been lost.

The image of Ireland of the welcomes, which is actively promoted by tourism bodies in Europe and beyond, is being damaged. We are now seen as a nation which has reached the top league and the receptiveness which was a feature of Irish people in difficult times is no longer evident. We are sending out a heavy-handed message.

In a few weeks we will invite new accession countries into the EU and offer them all the entitlements deriving from membership. Many workers came to Ireland, encouraged by the Tánaiste, to work in our buoyant economy. They came to work and not to give birth to children here.

The State spends considerable sums on our maternity hospitals and on the health service in general. I am disappointed that the maternity hospitals are unable to cope, bearing
5 o'clock in mind the level of investment of taxpayers' money provided to finance them. Regardless of the figures mentioned by the Minister last week, if they are under huge pressure, they should state this clearly. There was a great deal of ambiguity in what the masters of the maternity hospitals were saying. The master of one hospital said one thing but another had a different line. The referendum should not be justified by referring to inadequate maternity facilities in the capital. I do not accept such inadequacies as a justification for referring this issue to the people so quickly, without having more dialogue and debate.

Consensus and all-party agreement are needed on this important issue, rather than causing total divisiveness by voting on it on the same day as the local and European elections. It is regrettable that the Government has taken the upper hand again. It has told the Opposition that it will pursue this approach regardless of any misgivings. Its attitude shows its lack of interest in consensus. Its new line on politics is regrettable.

Mr. Stanton: I welcome the opportunity to make some points in respect of the Bill. Fine Gael's policy has always been to work constructively in the House, where possible. All sides should act constructively when something as fundamental and important as making a change to Bunreacht na hÉireann, the basic law of the land that sets out the fundamental rights of the people, is proposed. Any change to the Constitution should be treated by all sides as the very serious matter that it is. I am amazed and astounded, therefore, that the Government has acted to make this debate an adversarial one. Why did it not invite the leaders of the Opposition parties to meet the Minister quietly to discuss this issue in order that an all-party consensus could be arrived at? Why has this

proposal been brought forward at the last minute, more or less, without any warning? Was the Chen case in Britain the catalyst? Has pressure been coming from overseas?

The Government would not have found Fine Gael wanting if it had asked it to meet our representatives to discuss the matter at the All-Party Committee on the Constitution or some other forum. The spokespersons and the leaders could have met to discuss the matter, thereby preventing an adversarial debate of the kind now starting. Those trying to debate this issue are plagued by uncertainty and problems.

The Minister, Deputy McDowell, has said that there may be some difficulties in determining whether a parent who has been residing in Northern Ireland has done so lawfully. He has acknowledged immediately that a difficulty has arisen. He has said the Government is confident that the implementing Bill will overcome such difficulties but we cannot be certain of this. Other issues and difficulties may arise in the course of the debate. Other constitutional difficulties may arise if the proposed amendment is passed by the people. As this problem has been flagged for years, why is it being rushed at this time in such an adversarial manner? Why did the Government choose to pursue this route?

One cannot blame people for thinking that the Government has brought forward this proposal as a way of diverting attention from its shortcomings. The Minister and the Chief Whip promised at the start of the year that the disability Bill would be published as a matter of urgency but we are still waiting for it. Thousands of our citizens are waiting for the legislation, on which they depend, but the Government has cynically decided to postpone its publication because, as I have reliably been informed, it will not meet the expectations of members of the disability community. The Government is delaying the enactment of disability legislation while rushing through the provision before the House. It is not surprising that people are cynical about politics in such circumstances. Those of us on this side of the House are frustrated by the Government's behaviour.

I want to be constructive by making a suggestion. I understand passport law, such as the issuing of passports, is not governed by main legislation. Has the Minister of State, Deputy Brian Lenihan, his senior colleague or their Department examined the possibility of using the issuing of passports to control the issue identified by the Minister? I refer to the birth of children to non-national parents. Has the Government examined this possibility? Has it decided whether passports can be used in this way, thereby removing the need for a referendum? Has such an examination been undertaken? The issue of passports has not been mentioned by any Government spokesperson during this debate, to my knowledge. Citizens have the right to have passports conferred on them but my understanding of current law is that the Minister

is responsible for determining the conditions under which they are issued. As the Minister of State is nodding, what I am saying is probably right. I ask the Minister to tell the House when he responds at the end of this debate whether he will examine the possibility I have outlined.

I agree that the abuse of Irish citizenship, mentioned earlier, also constitutes an abuse of EU citizenship. Did the Government's decision to hold this referendum result from pressure from other member states? Is the proposed constitutional amendment being brought forward at this time as a consequence of the *Chen* case? If that is the case, will the Government say so? Can it explain the reason there is a need for urgency now?

The Minister for Defence, Deputy Michael Smith, spoke this morning about the decision to hold the referendum on the same day as "the two elections". I assume he was referring to the local and European elections but people in many towns will vote in three elections, to a town council, a county council and the European Parliament. Many will now have to vote in a fourth poll in the form of the proposed referendum. Certain people who will vote in the local elections will not be eligible to vote in the referendum and others will not be able to vote in the local elections, for various reasons. It will be a real mismatch. Will machines be turned on and off? We are foisting another issue on the electorate. People in towns will vote in four elections. It will be a complicated process, especially when one takes into account that we will use a new form of voting when we use the electronic voting machines.

The Minister for Defence said, "By running the referendum alongside the two elections, the type of intensity that might arise in a single issue campaign and could be exploited for malicious intent will be greatly reduced." Given that nobody wants to see such malicious exploitation, it is a pity that the Government did not adopt a more conciliatory approach by consulting everybody before bringing this proposal forward. Perhaps the Minister of State can tell us the reason the Government did not do this. No Government spokesperson to date has explained the reason the Government did not consult the Opposition before bringing this Bill to the House. What was the rush? I am afraid that the Government has decided to push this referendum as an adversarial issue, possibly to deflect attention from its failures and inadequacies. That is not just what I think — it is what many are thinking and saying. There is a great danger that if people think that way, they will vote "No" and the proposal will be defeated.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): Deputy Stanton raised a specific point about passports. The administration of the passports system is a matter for the Minister for Foreign Affairs.

Mr. Stanton: That is correct.

Mr. B. Lenihan: The system has never rested on any statute. A passport is simply a request made by the Minister for Foreign Affairs to treat the bearer with respect in a foreign country. It contains the statement that it cannot be invoked in another country in which one is a national, in a case of dual nationality. The Minister has no power to protect one in such circumstances, as one is covered by the laws of one's other country.

The development of passports is an interesting subject in the context of this debate. Passports were seldom used in Europe before 1914. There was free transit between the various countries of Europe at that time. Modern commerce and communication systems resulted in the greater movement of population. A passport system was developed because states needed to be clear about who was arriving through their borders.

The conditions for the issue of a passport rest with the Minister for Foreign Affairs. The courts have recognised that if one is a citizen of this country, one has the right to a passport. The Minister for Foreign Affairs is obliged to respect one's constitutional right to travel overseas unless he can cite some compelling reason of the public good why one should not be given a passport — one might be a danger in the other country, for example. I suspect passports have not been mentioned much as the position is clear-cut. The Minister must give a passport to a citizen unless he can identify some compelling reason in the public interest for not doing so. Otherwise the citizen concerned can invoke the jurisdiction of the courts and compel the Minister to issue a passport to himself or herself. A person born in Ireland from two non-national parents becomes an Irish citizen under our current legislation and is entitled to apply for a passport. Obviously in the case of a minor, the passport must be applied for on his or her behalf. The adult can apply in his or her own right for the passport. This is no solution to the loophole.

Deputy Perry said that Fine Gael would not be found wanting. I have not found Fine Gael wanting in this debate. From what Deputy Kenny said yesterday, it is clear that Fine Gael is urging a "Yes" vote in this referendum. It recognises that a loophole exists and needs to be addressed. It has made a determination in the public interest and its Members have faced up to their responsibilities as legislators and have agreed we need this constitutional amendment. While Fine Gael may not like the method of approach in the way we introduced this Bill, it will support the proposal.

Deputy Perry pleaded for all-party consultations and agreement. The Minister briefed the Sinn Féin interest on this proposal in, I believe, late March. Within 48 hours he was told that Sinn Féin rejected the proposal. It is very difficult to go down the route of all-party consultations with a political operation of that type. Equally, it has been said that many eminent

[Mr. B. Lenihan.]

jurists anticipated that this difficulty might arise at the time of the conclusion of the Good Friday Agreement and the subsequent enactment in this House of legislation to implement that part of the Agreement relating to Articles 2 and 3 of the Constitution.

One of those eminent jurists was clearly a senior legal adviser to the then leader of the Labour Party, who wrote to the Taoiseach at the time suggesting that the implementing legislation should anticipate this difficulty and should deal with the matter. I understand the matter was considered by the Government at the time and various arguments were weighed up. I have not been able to penetrate the veil of Cabinet secrecy to find out what considerations led the Government to the view that it should not deal with the matter at the time.

However, the then leader of the Labour Party sought this change at the time and nobody would ever suggest that Deputy Quinn is a racist — far from it. He is one of those Deputies who has always struck a very strong note on the need for this country to be open to people of many faiths and none, and many races and none, and to build up confidence in this country in the process of immigration that now takes place. That was the position of the Labour Party as communicated to the Taoiseach at the time of the conclusion of that very important agreement in 1998. This year the Labour Party has indicated it is opposing the proposed amendment. It is very hard to see what kind of useful cross-party consultations could take place with a political operation based on that kind of absence of any fundamental principle.

One of the most extraordinary features of this Second Stage debate is that very few Deputies have criticised the substance of the proposal, which has been before the house for two days now. What is the principle? The principle of the provision is that the Government proposes to amend Article 9 of the Constitution and empower the Oireachtas to decide the citizenship entitlements of persons born on the island of Ireland neither of whose parents is an Irish citizen. That is the substance of the proposal that we are inviting the people to approve. Of those Deputies who will oppose the Bill when the division takes place, very few have expressed any reasoned objections to the core principle of this legislation.

It has been stated that we are not having the right debate and should have a proper immigration policy. We have an immigration policy. In 2003 we issued 49,000 work permits. That does not indicate an ungenerous immigration policy. We have introduced legislation. I believe Deputy Burton was involved at one stage in the enactment of the legislation. I know she would not claim credit for all of it and I would not blame her of the administrative impasse, which resulted afterwards. Legislation was enacted dealing with the protection of refugees and arrangements for the determination

of refugee applications in this jurisdiction. That is a feature of any enlightened immigration policy. We have an immigration policy.

To sustain public confidence in an immigration policy, which issued 49,000 work permits in 2003, the constitutional fundamentals regarding citizenship must be right. This is the essential point of departure in any rational debate on this subject. We will not sustain public confidence in our immigration arrangements if we continue to allow this type of loophole. In this debate, no Deputy has seriously suggested this is not a loophole. This is a small country. While we can argue about statistics, we all have friends and associates who work in maternity hospitals. We all know what is being said.

There have been two matters of exception in this debate. One of these, which has since received widespread media coverage, was when Deputy Gormley said this morning:

We have now been told that the number of people affected is 442. That does not represent a crisis. At that rate it would take 100 years to fill Lansdowne Road to capacity if we were to fill it with the people who are supposed to be causing this problem. This is not a crisis.

That 442 relates to mothers arriving with late-term pregnancies and no anti-natal screening in one year at the Dublin maternity hospitals. Deputy Gormley does not think that is a problem. Apparently they are only digits or numbers who in the fullness of time and after a number of decades will fill up Lansdowne Road. It is ludicrous to suggest that behind those 442 individuals there are no people financing their trafficking from the countries of origin to our maternity hospitals. However, this has received widespread coverage today.

Although not a major undercurrent, another matter, which has caused me concern, is the suggestion that there is something racist in this proposal. There is not. I accept it is important that we behave responsibly in the course of this debate and maintain the proper approach to racial tolerance that should obtain in a debate of this character.

The important issue of the Good Friday Agreement has been raised. In so far as it is a British-Irish agreement, the Good Friday Agreement never conferred this right on any individual. It was the subsequent constitutional amendment, which was adopted in this State that left this loophole. It is important for us to address this for the sake of those directly concerned by the existence of this incentive and also for the general public confidence that must be maintained in a period of very rapid change on this issue in Ireland.

We can argue about the merits and demerits of various approaches to the timing of the referendum. If a referendum took place in isolation there would be an equally great or possibly greater danger of having a highly racist national debate because we would be facing a

single-issue vote. At least this proposal has the merit of holding the vote at the same time as politicians are concerned with their appropriate representation on the county councils and other issues. On the suggestion that there is some opportunistic element in this as far as the Government parties taking part in the local government elections is concerned, the people form a very sophisticated electorate. They will not be taken in by that and will do as they please. They are perfectly capable of distinguishing different questions on the same day.

I should have said that I propose to share my time with Deputy McGuinness.

Acting Chairman (Mr. Costello): Is it agreed that the Minister of State may share time with Deputy McGuinness? Agreed.

Mr. McGuinness: Much has been said on this issue inside and outside the House and much of what has been said is misleading and unhelpful in the context of providing information to the public for consideration. Much of what has been printed on the matter has also been misleading. In some cases reports of what has been said have used the word “reckless”. However, if anything, reporting of the debate has been reckless. An evening report today makes a comment about a phoney crisis.

I see nothing wrong with the two days of debate we have had here. By and large the debate has been healthy and I hope the message of what this referendum is about gets to the public. What the referendum is about is quite simple and in saying that I reflect the views of the people I represent, normal people, and of our partners in Europe. That view is that we have a loophole in terms of our citizenship requirements and that we are taking steps to rectify it. Some Opposition Members appear to want to go beyond that and introduce debate on racism and our attitude towards immigrants. They should speak to some of the people they say it affects. I have spoken to these people and they recognise and understand a loophole does exist. They would expect any country with a loophole of that kind to close it in due course. This is the attitude of the very people about whom we are speaking, non-nationals, asylum seekers, and citizenship tourists, as referred to by the Minister. They recognise this as a fact and not as some manufactured issue. We should take this into consideration.

People clearly understand the issue being put to them. Over the past few days the Opposition has entered into a phoney debate, similar to their participation in the debate on electronic voting, which shows a clear disconnection between it and the electorate. It does not understand the electorate’s understanding of this issue or the direction the Government is taking on the issue.

There is nothing wrong with having the referendum on the same day as the local and European Parliament elections. This makes sense.

Mr. Kehoe: Fianna Fáil is delighted to have it on the same day because it fudges the issue.

Mr. McGuinness: Absolutely, but not for the reason Fine Gael has been suggesting over the past few days, misleading the public. Fine Gael will not be thanked for the transparent phoney debate into which it has entered. The electorate is more than willing to vote a number of times on the same day on the various issues, whether for a council, European election or this referendum. It is well able to understand the issues. I do not doubt that on the day the electorate will use the electronic voting system to deliver its message, whether for or against the Government or any particular party. It is well able to do so. As far as I am concerned the timing on this is right.

Mr. Kehoe: The electorate will teach the Government a lesson this time.

Mr. McGuinness: A short time ago one of the Opposition Members said that this issue has been around some time and asked why it is being rushed through now. The issue has been around and we are now dealing with it. It is Government’s duty to govern and make decisions, whether the Opposition realises that or not.

Mr. Durkan: And to give leadership.

Mr. McGuinness: That is what we are doing. We are giving leadership but the Opposition does not like it because a decision is being made.

Mr. Durkan: It must also be fair and equal.

Mr. McGuinness: If Fine Gael wanted to enter into a consultation process, it could have been proactive and come forward and entered discussions with Government on the issue. It did not do this but sat on its hands.

Mr. Kehoe: We were not given the opportunity.

Mr. Durkan: On a point of order——

Mr. McGuinness: I am commenting on what was said by one of the Opposition.

Mr. Durkan: On a point of order, Opposition leaders were promised discussion, debate and consultation. This only came after the event and that should be understood by everybody on the Government side of the House.

Acting Chairman: That is not a point of order.

Mr. McGuinness: We have had two days of debate, we have draft legislation in place and will have further debate on that. How much more debate does the Opposition want on this simple issue or how much of the issue does it not understand? Does the Opposition understand the electorate’s position on this issue?

Mr. Durkan: When the Government goes to the electorate it will find out when the electorate does not understand.

Mr. McGuinness: It appears the Opposition understands very little about the intelligence of the electorate as will be shown in due course on 11 June.

The issue of immigration has been raised during this debate. Immigration is an issue which is clearly separate from the issue of citizenship. The two should not be confused and I do not believe the electorate will confuse them. However, as the issue has been raised already I will make a comment. It is high time we brought immigration policy and the structures that deal with the immigration issue into this century. We do not acknowledge some of the basic rights of people who currently live in this country, some of them here due to unfortunate circumstances. I cannot see why highly qualified people such as a geologist I spoke to the other day, or a qualified doctor or teacher, should be asked to live locked behind doors in our hostels while their skills are needed in our growing economy.

We have issued 50,000 work permits. However, the time has come for Government, particularly during our Presidency of Europe, to bring forward proposals in this area which would acknowledge the wrongs of our current policy and acknowledge what needs to be done in the future, not just here but in Europe as a whole. We should take the lead in providing Europe with the type of immigration policy that is necessary and which reflects the economic changes that are taking place in Ireland. I urge the Minister to take a fresh look at what is happening and not to be afraid to bring forward the bold radical change needed here and in Europe.

I never heard so much rant on racism as what I heard from the Sinn Féin contributors today. Sinn Féin is the party which focused on this issue and on the issues we know exist but which are not part of this debate. Sinn Féin tried to make them a central part of the debate. I know that when the Minister for Justice, Equality and Law Reform, Deputy McDowell, takes part in debate temperatures are raised. He has raised the temperature with Sinn Féin and today it used the opportunity to throw the kitchen sink at him on this debate and place blame on him. I am not here to defend the Minister, however, Sinn Féin was out of order regarding the contribution made here this evening.

I commend the Minister on this proposal. I ask him to reflect on immigration policy and make the necessary changes. On the matter of the forthcoming elections, an astounding number of legal immigrants are registered to vote and are showing an interest in the elections. They are tuned into what is going on and the Department should be aware of this and ensure the necessary changes are made to make it easy for them to register to vote.

Ms Burton: The wonderful thing about democracy is that Governments do not always get their own way. Arrogant Governments, like the one we have, are more prone than others to getting their comeuppance when they cross the delicate line between public interest and party gain. Ministers from both parties thought this referendum idea was a master stroke. Today, the whole idea must seem, even to them, rather more threadbare as a sceptical public and media pile doubt upon doubt both as to motive, timing and content of what is proposed.

No less a victim of an earlier genius stroke than former judge Hugh O'Flaherty has denounced this proposal as a gross interference with a treasured definition of citizenship that has its roots in the 1956 Nationality Act. He has written about the matter at some length, if the Minister of State, Deputy Brian Lenihan, wants to read his detailed article. Surely the lesson of another notorious, ill-fated attempt to solve a delicate social problem with a constitutional weapon must give Ministers pause for thought.

If ever the idea of an unintended consequence has relevance, it is surely the 1983 so-called pro-life amendment which perversely led to the X case judgment a decade later. I can recall the same arrogant certainty on full display then as we now hear that this is necessary, that the legal formula is watertight and that it will solve the underlying problem. How wrong they were then.

Who can foretell what unintended consequences will similarly flow from this current rush to meddle with our nationality laws and the constitutional clause that underpins them? I do not buy the argument about unintended consequences of the Good Friday Agreement. There is a definite distinction between unintended and unforeseen consequences.

The Taoiseach and the Tánaiste cannot even begin to assert that they were not aware that the citizenship clause in that Agreement might give rise to the problems we now face. In 1998 we were fully aware of a refugee flow into Ireland. It was the topic of many dire warnings in the tabloid media, and a regular topic of the speeches of the former Minister for Justice, Equality and Law Reform, Deputy O'Donoghue, and he was in Belfast for the talks. I cannot believe that neither he nor the Taoiseach approached this part of the Agreement with eyes wide shut as to the possible consequences. They chose the right option, that a liberal birthright clause was the best possible guarantee to do the business of offering citizenship to everyone from all traditions in the North without any ambiguity. It was a risk. They knew this but it was a fair risk in view of the prize of peace it might bring and has brought. It was the right thing to do then and is the right thing to keep now.

I recall that in the May referendum of 1998 to sanction the Good Friday Agreement the independent Referendum Commission had the task of setting out the case for and against the Agreement. I got from it a copy of the document

sent to every house in the country at a cost of several million pounds which sets out the arguments against the Agreement. The Minister cannot say, therefore, as he suggested yesterday——

Mr. McDowell: I did not suggest that.

Ms Burton: He said he knew about it, as a practising solicitor, and that a number of eminent legal heads were aware also. Let us recall, however, the information the Referendum Commission posted to every house in the country. Knowing that information, the people still voted for the Agreement and did not accept this argument. It stated:

The new Article 2 will give a constitutional right of citizenship to anyone born in Ireland. This will make it very difficult to change the laws on citizenship and it may prevent the enactment of necessary laws to regulate immigration.

That information was sent to every house in the country. The Taoiseach and the Progressive Democrats were aware of it——

Mr. McDowell: As was the Labour Party.

Ms Burton: ——yet we all said it was right to vote for the Good Friday Agreement. We so voted and were right then as we won the peace prize. The Minister is wrong now, for baser political motives, to jeopardise what has been won in regard to the Agreement.

Mr. McDowell: Will the Deputy yield?

Ms Burton: No one on the Government benches can say they were not aware of possible consequences. The Referendum Commission set it out in plain English, and it is curious and revealing to see the examples Ministers chose to justify——

Acting Chairman: Deputy Burton, do you wish to yield?

Ms Burton: No, I do not.

Mr. McDowell: I thought not. We will deal with the matter later.

Ms Burton: Middle Eastern sheiks who came laden with bejewelled daggers and gifts for a corrupt Taoiseach had Irish citizenship delivered to them by ministerial hands at the Shelbourne Hotel breakfast table with no protest from the present Taoiseach. That is the reality.

I do not know if the Minister or the Department of Justice, Equality and Law Reform is aware of this but last year 3,500 people in South Africa got Irish passports from our Embassy in that country. I do not believe many know this. They got Irish citizenship for a fee because they could establish a family link with Ireland. Most of

the people concerned have no interest in and no current family links to Ireland. They do not visit here and, by and large, do not intend to do so unless something goes wrong in South Africa. Another 20,000 people in South Africa have the right to claim Irish citizenship as have approximately 2,500 in Zimbabwe.

Mr. B. Lenihan: That is not in the Constitution.

Ms Burton: The Minister and his Government colleagues are not worried about the people concerned because they are 99% white.

Mr. McDowell: That is rubbish.

Ms Burton: They have the run of Europe with their Irish passports, of which Ministers are quite proud. They are mostly white; some might be of mixed race and Irish descent. The concern of the Minister is exclusively with a small, as yet unquantified number largely of black African origin who are slipping through whatever vetting procedure is in train. Incidentally, the trafficking of women, whether pregnant or for any other purpose, is a disgrace and a disgrace on the Minister's office and the way he runs his Department. People do not swim to Cambodia or Ireland. They get on an aeroplane or a ferry. For the millions of euro the Minister is spending, he surely should be able to put in place proper checks in regard to pregnant women being trafficked on aeroplanes and boats. That is his job which he is not doing.

Mr. McDowell: What is the Deputy suggesting I do? Do they not have rights to travel?

Ms Burton: The Minister should do his job and have proper checks in place.

Mr. B. Lenihan: Pregnancy tests at the frontier.

Ms Burton: The United States has experienced a problem like this on a more vast scale but no US President has ever dared to upend so sacred a feature as birth-related citizenship to overcome the effects of small-scale abuse that inevitably happens when we have a liberal law or, as with child benefit in the case of social welfare, universal entitlements.

Although there was a debate on changing the law in both the USA and Canada 20 years ago similar to the one we are now having, and partly because of the flood of illegal immigrants from countries like Ireland at that time, they chose to retain the principle on the basis that they did not wish to create a hereditary caste of illegals. In other words, they wanted to ensure any children born to illegal immigrants would have their legal status regularised in order that successive generations would not remain illegal.

I wonder how many young Irish men and women who entered the USA illegally in the 1970s and 1980s had children who now happily have and intend to keep their American

[Ms Burton.]

passports. Some may never use them. Some travel to and from North America with them but we never hear American political representatives yell from the rooftops about Irish abuse of American citizenship rules.

Mr. McDowell: They did not go there for passports for their children.

Ms Burton: The argument that was persuasive in Canada and the United States was that the seemingly random “accident of birth” rule was actually a fair, democratic and objective way to determine citizenship, not dependent on race, colour, wealth or the political clout of parents. North American countries have maintained a generous approach to citizenship and have thriving economies. Their approach to citizenship has served Irish people very well over the past two centuries. We are grateful for that and we should learn from it.

It is amazing that the Government should wish to outlaw the principle that has been such an advantage to the Irish race for countless generations. It is no wonder Congressman Bruce Morrison, a proven friend of Ireland, urged the Minister and the Taoiseach to think again. He knows that prosperous societies are open societies and that *jus soli*, the doctrine of citizenship from birth, has worked brilliantly for the USA. It is widely valued there even though there must be inevitable abuses and difficulties. I do not often opt for the Boston model so beloved of the Tánaiste. However, in this matter she should stick to her own prescription.

The Good Friday Agreement is the triumphant achievement of the Taoiseach’s political life. I cannot understand how he can contemplate the risks he is taking in this amendment with the integrity of the Agreement. His amendment is shoddy in that it offers no primacy to the Good Friday Agreement in any interpretation of the proposed clause. This shows clearly that Ministers know well there is a potential conflict and want to hide it from the public in case voters heed the strong dissent from the proposal which is coming from a wide range of Northern opinion fearful of an *à la carte* interpretation which will play into the hands of Paisley and Co. This is to be deeply regretted.

The Government is on dangerous ground in any interference with the citizenship clauses of the Constitution. The exercise of many of the fundamental rights in the Constitution is limited to Irish citizens, including the right to liberty, freedom of speech, equality and even life itself.

Mr. McDowell: Rubbish.

Ms Burton: Thus children born to non-national parents, unlike any other children born in Ireland, may be denied these rights if the amendment is passed. As Professor William Binchy has written, the effect of the referendum

would be to cast a shadow over the protection afforded by the Constitution to the rights of children born in Ireland of foreign parents who have lived in Ireland for a certain period of time. No one can say with any certainty how extensive a subtraction from the present constitutional protection will result. That very uncertainty is in itself a potent argument against embarking on this project.

The Minister may sneer at Professor Binchy, who is someone I have differed from on different issues, but on this occasion he and Mr. Justice O’Flaherty deserve the courtesy of a hearing by the Minister and not just a sneer. The Minister rejects this as misguided but he can offer no firm basis for his view.

I notice a disturbing trend in the Government’s approach to many issues. Ministers like Deputy McDowell no longer offer arguments to sustain a case. They proclaim what they say to be self-evident truths, that the Minister has spoken and the issue is settled. It is not settled. This morning on “Morning Ireland” the masters of two of the maternity hospitals indicated the number of women to whom the Minister referred is falling and they are in the low hundreds per annum. I put it to the Minister that he should resource his officials to work properly in regard to the illegal trafficking of women. The UK Government has successfully dealt with this issue over the last two years.

Mr. McDowell: They do not give citizenship.

Ms Burton: They have dealt with it by working with their French and continental colleagues. I am sure the Minister has access to the detailed report. The Minister has chosen to present to the Irish people this master political stroke of a referendum.

I was in Trinity College the other night to chair a debate on the issue. The Minister of State, Deputy Brian Lenihan, ought to be a bit concerned and perhaps relay it to the Taoiseach. A number of good speakers, the lawyers of the future, said during the public debate that, even though they were members of Fianna Fáil, they were deeply ashamed of their party because of the role it has played in this matter. It is interesting because our young people live in a global world with global communications. Their entertainers and film stars are multiracial. They and many of their friends will marry people from other countries and continents. I am sure everyone in this House must now have nephews, nieces, sons or daughters who are married to people from outside of Ireland.

Mr. McDowell: So what?

Ms Burton: Our young people live in a multicultural and multi-racial society and are not racist. By playing the card of this referendum without proper consultation or procedure, the Minister has chosen a political stroke to deal with

something which is problematic and a delicate social issue. When I worked in the Department of Justice, I was told a story by an old staff member, now probably long retired. This person said that in the 1930s Jews did not come to Ireland because if a Jewish person seeking refuge was educated, he or she might take an Irish job, and if a Jewish person seeking refuge was uneducated, he or she might constitute a burden on the Irish State, therefore, we took almost no one. Our then ambassador in Berlin, Charles Bewley, was a supporter of Hitler. These issues are delicate and very difficult. I have dealt with them down through the years and I have worked in Africa and lived in multicultural societies. No one said this would be easy.

I do not think the Minister is racist and I hope no one in this House is racist. However, he is stirring the pot, which is beneath him and beneath the traditions of Fianna Fáil. Unfortunately, it will find a response, because some people will use it as an excuse for the chaos in our medical system and the lengthy housing waiting lists. The Minister who lives in the south side visited the north side last Monday to talk about policing issues. People lock their doors at 8.30 p.m. because there are no gardaí on the streets. This society is beset by both riches and an incredible array of social problems. It is very convenient to say the chaos in the maternity hospitals is not the result of an increase of 400,000 in the population, most of whom are returned Irish emigrants, but the result of a couple of hundred non-nationals giving birth in our hospitals.

The Minister is wrong to stir the pot on these issues. He is a well read man who should know his history and not stir the pot in regard to delicate social issues. He should not suggest that this kind of tricking around with the Constitution will solve the lack of maternity services or why women are sent home from hospital a day or two after giving birth when in the past they were able to stay in the Rotunda for approximately five days after giving birth. There will be a suggestion that the shortage of houses and the number of people on the housing list is caused by this group of people. This is like letting the genie out of the bottle. I do not think the Minister is racist but some over-enthusiastic local election candidates are already intimating a particular message on the doorsteps. It has been done in other elections. It is soft, low, does not get as far as a leaflet and is just whispered on the doorsteps — they are the problem. It is suggested that if we control the problem we will get back to no poverty, houses for everyone and a medical service of which we may once again be proud.

The Minister always talks about being a realist in politics. The chaos in our health services and maternity hospitals concerns resources and management. It is not about a few hundred babies of African origin born in our hospitals. The Minister should not make them scapegoats for the failure of public policy on the health

service, despite throwing money at it. I would think more highly of the Minister if he could address the debate in a rounded way rather than as a cute political stroke.

Ms Sexton: I have listened with great interest to the discussion for the last two days. I cannot understand from where all the acrimonious comment has come. The amendment to the Constitution on citizenship will have one central effect — to allow legislators to legislate. It is a simple, reasonable and practical thing to do. It is expected of lawmakers that they solve problems, deal with the facts, find solutions arising from the problems and make a ruling thereon. The cynicism that has arisen regarding politics comes from this kind of debate and discussion. It remains the wish of the people that the Oireachtas deal by legislation with such complex issues.

Nothing undermines the citizen's belief in a parliamentary democracy more than parliamentarians themselves saying that they can do nothing about an issue and are powerless. It is even worse when some Deputies do not even want to have that power to do something about the real issues. How can it instil confidence in the Oireachtas if Members argue against having that scope in law? In the abortion referendum, for example, Members of the Opposition argued strongly that the Oireachtas deal with the issue by legislation, since it was complex. Members on all sides of the House agreed. Why not do the same on the issue of citizenship? All this amendment will do is allow the Oireachtas more scope to legislate on citizenship. The Government's proposals for legislation in the event of the amendment being passed are simple. They will provide that a child will receive citizenship if one parent has been resident in the State for three years. It will be open to any Member of the Oireachtas of any party or Government to propose that it be changed in one year, six months or three months, or in any time that they think reasonable, as liberal or restrictive as they consider fit at the time and on the day. It will be open to this or any future Oireachtas to legislate as it sees fit to meet the needs and requirements of the people and to have good order in our citizenship rules.

Citizenship is a highly valued commodity. What can be wrong with that? How can it possibly be racist for the Oireachtas to have or acquire the power to legislate? It is only a few steps down the road from there to the idea that the people or elected representatives cannot be trusted and that the country would be better run by reliable, right-thinking proper people — self-appointed, of course. The arguments against this by Oireachtas Members imply a very poor view of the Parliament and parliamentary democracy in this country and the people whom they represent. We would be in a sorry state if we were so powerless politically, but when the result is by our own hand, it is pathetic. In my view, which I believe

[Ms Sexton.]

is that of the vast majority of Irish citizens, the Oireachtas should take responsibility to legislate in this area. It is what is expected of us and that is what this amendment proposes.

Mr. Costello: Deputy Sexton is making a very fine speech and we should have more backbenchers in the Chamber. I therefore request a quorum.

Ms Sexton: I thank the Deputy.

Notice taken that 20 Members were not present; House counted and 20 Members being present,

Ms Sexton: The picture is clear on the undisputed fact that our position on citizenship in the Constitution has created an incentive for people to come here and confer valuable Irish and EU citizenship on their new-born children. I listened attentively to a lady on “Morning Ireland” this morning who is currently in one of our maternity hospitals. She confirmed in a very honest and honourable way that she had come here voluntarily and with the sole purpose of securing citizenship for her children. I would do exactly the same thing in her position. Every mother I know seeks the best for her child at all stages. Why not secure valuable citizenship if it is available? There are no grounds to blame people like her who respond rationally to an incentive. It is not actually an abuse of the Constitution, it is simply following what it provides for.

This unforeseen incentive has arisen as a result of the vote on the Good Friday Agreement and it is our responsibility to change it if we so wish. It is clear we do not have a responsibility in international solidarity, in law or in policy, to offer citizenship and maternity or other free services to persons from anywhere and everywhere in the world. No country has that responsibility. It is not part of any aid policy or any state or international organisation’s remit. Irish State and NGO aid as well as personal contributions are generous and long may that continue. However, it has never been suggested that generosity should involve an open door policy on citizenship, health services or immigration. That would run counter to development aid strategy. International aid policy is aimed at building the capacity of other states in the areas of education, health, economic and democratic government and development. It is not to substitute our health, education or democratic system for theirs.

It has been argued that the number of cases in the hundreds is not sufficiently great to justify changing the Constitution but at least the

Oireachtas should have the power to shape legislation proportionate to the issue because at present the Oireachtas has no such power. It must be acknowledged that if the scale of the problem is sufficient to require an additional fourth

maternity hospital in Dublin as has been suggested, then action is surely required. This matter cannot be addressed purely as a matter of numbers. If so, should we act in the case of 100 cases, 600 or 1,000? If Opposition Members say that the numbers of cases are trivial then it is fair to ask at what level they would consider the numbers to be non-trivial? The need for a new maternity hospital is not a trivial matter.

The problem is that the Constitution leaves the issue completely open-ended and provides an incentive that I consider — as do the people — is not appropriate and was not intended. All responsible Members of this House share the determination to combat and prevent racism in Ireland and I include myself in that statement. It is my belief that if unintended incentives in the issue are not addressed and considered by the Oireachtas, then racism has an even greater chance of success in this small island. Our immigration and citizenship laws must be fair, first and foremost, to the Irish people and reflect their wishes as well as meeting our international obligations. We have a duty of fairness and responsibility to our fellow EU member states — 24 from next week — in the conferring of EU citizenship. Every country has the right and responsibility to design its citizenship laws in fairness to its own people and then to all parties. We are simply not doing that; however we are asking for the people’s approval to do that.

I take great exception to the suggestion made by Deputy Burton that the legislation is being proposed primarily to in some way mitigate and dictate against black people, as she stated specifically. I sincerely hope that when the people of Ireland agree to allow this Legislature to make the laws appropriate for the State, she will be prepared and be big enough to apologise to me — because I take it very seriously that I would be considered party to legislation that would mitigate against black people — to the general public and to other Members of the House to whom she referred in an inappropriate comment.

I have listened to the contributions to this debate and I believe it is *prima donna*-type behaviour by the Opposition. It has nothing to offer and it never had. It is pretending in some way to suggest that it was not aware that this proposal was coming down the line and that no appropriate — whatever that means — consultation took place. I suggest they were very well aware of it but it happens not to suit them and that is the only reason for their opposition. It is very regrettable, particularly when they have spent two days suggesting that this is all about racism while at the same time they do not wish it to become a racist issue.

Mr. Kehoe: I wish to share my time Deputy Paul McGrath.

An Leas-Cheann Comhairle: The Deputies will have five minutes each.

6 o'clock

Mr. P. McGrath: Perhaps the Minister will give us a couple of minutes as he is very generous.

Mr. Kehoe: I have listened attentively to all the contributions to the debate. As one of the final speakers in the debate, I plead with the Minister to call off this referendum and to allow all-party discussion on the subject and allow it to be considered by the All-Party Committee on the Constitution.

If the Minister, Deputy McDowell, was asked to spell “democracy”, he would probably spell it backwards because he definitely does not know the meaning of the word. As a young and newly-elected Deputy, I regard it as shameful that this proposal is being rammed through the House without any consensus between the parties.

As an Irish citizen I am proud of our Constitution. The Minister came into this House and displayed his arrogance with his shim-sham legislation. He has told some party leaders that there might or might not be a referendum. It is shameful that he then went to the party spokespersons before the Bill was published, told them what would be in the Bill but that it was too late for their input and that it would be done his way or no way. Many Irish citizens feel the same as me. I am not afraid to say this Government wants to fudge the issue of the real election, the local and European elections on 11 June.

Article 2 of the Constitution states:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage.

The Government has stated that this Article cannot be changed without a referendum; it cannot be changed by legislation. However, the Minister was Attorney General in 2001. Section 3(4) of the Irish Nationality and Citizenship Act 2001 states:

(4) A person born in the island of Ireland—

(a) to a non-national who at the time of that person’s birth was entitled to diplomatic immunity within the State, or

(b) to a non-national on a foreign ship or in a foreign aircraft,

shall not be an Irish citizen unless, in the prescribed manner, that person declares, or if not of full age has declared on his or her behalf, that he or she is an Irish citizen; and such person shall be deemed to be an Irish citizen from the date of birth or the date of coming into operation of this section, whichever is the later.

Will the Minister explain how this provision was made by legislation and yet it cannot be done in

the present situation? I ask the Minister to address this matter in his closing remarks.

I ask him to answer this truthfully and honestly and let this side hear what he has to say.

I heard the masters of the maternity hospitals on the radio this morning. They never asked for a referendum. Who asked for the referendum? Was it the leader of the Minister’s party? I do not think so because she fudges on the issue. Many of the Deputies who have contributed to the debate during the past two days, and with whom I have spoken privately, say one thing here and another outside the House.

I cannot believe what the Minister is doing. Between him and the Minister for the Environment, Heritage and Local Government, Deputy Cullen, democracy has gone wrong. This Government is a dictatorship. We have not been given the opportunity to debate this matter because the Minister for Justice, Equality and Law Reform, Deputy McDowell, wanted his own way.

Mr. P. McGrath: I thank my colleague for sharing time with me. I am conscious that the Minister has to be called at 6.15 p.m. and because of that my time is restricted.

Mr. Durkan: There is no such order. The Deputy can continue as long as he wishes.

Mr. P. McGrath: A Leas-Cheann Comhairle, will you clarify if there is an order of the House that the Minister must be called?

An Leas-Cheann Comhairle: The Minister will be called at 6.15 p.m.

Mr. P. McGrath: Is there an order of the House?

Mr. Durkan: Not for reply.

An Leas-Cheann Comhairle: There is enough precedent.

Mr. P. McGrath: All right, thank you.

Mr. Durkan: There is no order for reply.

Mr. Costello: No such order whatsoever was agreed by this House. Standing Order 101 provides that when no Member offers to speak the Chair calls on the Minister who will be replying to conclude. There is a Member offering to speak. If any Deputy offers to contribute the Minister may not conclude the debate. Deputy Paul McGrath is offering.

An Leas-Cheann Comhairle: There was an order that this debate would end at 6.30 p.m. on this day.

Mr. Costello: There was no order agreed before that. That was the only order, that the debate would end. Deputies are offering to speak.

An Leas-Cheann Comhairle: The Minister is to be called on to speak.

Mr. Durkan: There was no reference to the Minister.

Mr. Costello: Deputy Paul McGrath is offering to speak. Deputy Broughan is offering to speak. There is no reference whatsoever to the Minister replying to the debate

Mr. P. McGrath: Given that there is confusion about this, to be gracious perhaps the Minister would say he will reply at a later date. It is unfair that if there are Deputies offering——

An Leas-Cheann Comhairle: The order is that Second Stage should conclude at 6.30 p.m.

Mr. Costello: That is correct.

An Leas-Cheann Comhairle: If the Minister does not reply today he does not reply to Second Stage.

Mr. P. McGrath: He can reply at another stage. Business can be ordered for next week to give him a slot to reply.

Mr. S. Power: The Deputy's colleague has told the House he wants answers this evening.

Mr. P. McGrath: We presume any Member who is offering before 6.30 p.m. can continue and the Minister cannot reply until all Members have stopped. Even if it means extending at 6.30 p.m., so be it. It is clear the Minister cannot reply before 6.30 p.m. if Members are offering.

An Leas-Cheann Comhairle: The Minister will be called by the Chair at 6.15 p.m.

Mr. P. McGrath: With all due respect, the Chair is overstepping the mark.

An Leas-Cheann Comhairle: That was the order.

Mr. P. McGrath: That is not an order of this House. To impose it on us now is not in order. However, I wish to make a substantial point and follow on from what my colleague, Deputy Kehoe, has said. The Minister and the Government are rushing this matter through with an unholy haste and say it has to be put to the people on 11 June. There are a number of points that need to be clarified and the process must be slowed down to do that.

Deputy Kehoe referred to the Irish Nationality and Citizenship Act 2001. Under section 3 of that Act, the Minister of the day made a regulation about how people born on this island could or could not be citizens of this island. That gave the Minister of the day the right to interfere and say whether people born here were to be citizens. If the 2001 Act is constitutional, the Minister could

make regulations about who can be citizens. It refers to diplomats. If that Act is constitutional the Minister can regulate what happens to people born here. If it is not constitutional then he needs a constitutional amendment to put the matter right.

I put it to the Minister that he was Attorney General at the time. He was the person who advised the Government on this. If he advised the Government at that time then he knew it to be constitutional. If he has made a mistake he needs a referendum; if not, it can be regulated by legislation. What will be the test of the 2001 Act? The Minister should ask the President to refer it to the Supreme Court and let it judge definitively whether that section is constitutional. If it is constitutional the Minister can regulate under legislation the citizenship or otherwise of children born here. If it is not constitutional he has the whole basis of the Supreme Court decision to decide what type of constitutional referendum is needed. It is a reasonable way in which to proceed. It is clear to the Minister how he acted.

The Minister has said many times that he thought there was a problem with this matter going back over many years. If he thought so, how did he advise the Government of the day in 2001 that this was constitutional?

An Leas-Cheann Comhairle: As it is 6.15 p.m. I call on the Minister to reply.

Mr. P. McGrath: How did he advise the Government then? Will he not do the decent thing now——

An Leas-Cheann Comhairle: I have called the Minister to reply.

Mr. P. McGrath: Excuse me, a Leas-Cheann Comhairle——

An Leas-Cheann Comhairle: Will the Deputy resume his seat?

Mr. P. McGrath: There is no such order of the House.

An Leas-Cheann Comhairle: There is a long-standing practice of which the Deputy is aware.

Mr. P. McGrath: When it is made by order of the House. This was not made by order of the House.

An Leas-Cheann Comhairle: The Chair is ruling that the Minister be called.

Mr. P. McGrath: The Chair is overstepping his powers.

Minister for Justice, Equality and Law Reform (Mr. McDowell): Can my point of order be taken?

Mr. Costello: On a point of order——

Mr. Gormley: There are four points of order.

Mr. Costello: The Chair must take a point of order.

An Leas-Cheann Comhairle: The Minister on a point of order.

Mr. Costello: I hope he has a point of order.

Mr. McDowell: I am about to make a point of order. A Leas-Cheann Comhairle, as I understand it, you have ruled from the Chair authoritatively that I am to conclude the debate by replying at 6.15 p.m. I ask you, as a matter of order, if it is the case that your ruling is binding on all Members——

An Leas-Cheann Comhairle: Yes.

Mr. McDowell: ——and that further interruption is designed to frustrate me and has no substance.

Mr. Durkan: A Leas-Cheann Comhairle——

An Leas-Cheann Comhairle: Deputy Costello, on a point of order.

Mr. Durkan: On a point of order——

An Leas-Cheann Comhairle: There can be no point of order where there is disorder.

Mr. Durkan: We will be orderly.

Mr. Costello: We will be very orderly.

Mr. McDowell: This is an effort to——

Mr. Costello: The point of order is that the business was ordered to conclude at 6.30 p.m. The Standing Order provides in such circumstances that once——

An Leas-Cheann Comhairle: I have ruled on that matter already. There is ample precedent.

Mr. Costello: These are the Standing Orders.

An Leas-Cheann Comhairle: There cannot be any more. Please allow the Minister——

Mr. McDowell: I am delighted to wrap up this debate.

Mr. Durkan: On a point of order, the order has indicated that the business shall conclude at 6.30 p.m. In the normal course of events the order of the House states “and the Minister will be called upon to reply” within a specified period. That phrase has not been included in this order and the points already made are correct.

Mr. P. McGrath: That is right.

Mr. Durkan: Therefore, it falls——

An Leas-Cheann Comhairle: The Chair has made a ruling.

Mr. Durkan: Then the Chair is in breach of the order.

An Leas-Cheann Comhairle: The Chair is not in breach of the order.

Mr. Durkan: I am sorry, the Chair is in breach of the order.

An Leas-Cheann Comhairle: The Chair has made an order that the Minister responsible can reply.

Mr. Durkan: The Chair is in breach of the order.

An Leas-Cheann Comhairle: The Deputy should accept the ruling of the Chair.

Mr. Durkan: I am sorry, a Leas-Cheann Comhairle. The Chair——

An Leas-Cheann Comhairle: There cannot be a point of order when there is disorder.

Mr. Durkan: There is no disorder.

An Leas-Cheann Comhairle: The Deputy should resume his seat.

Mr. Durkan: Deputy McGrath is in possession. In accordance with the Order of the House——

An Leas-Cheann Comhairle: The Chair is quite entitled to make a ruling and has ruled in accordance with long-standing precedent and practice.

Mr. Durkan: There is no such precedent.

An Leas-Cheann Comhairle: The Chair has ruled in accordance with long-standing precedent and practice.

Mr. Durkan: There is no such precedent.

An Leas-Cheann Comhairle: There is a precedent where the ruling of the Chair is accepted.

Mr. Durkan: Not in relation to the Order of the House.

An Leas-Cheann Comhairle: Yes, there is.

Mr. Durkan: No. Show me where it is.

An Leas-Cheann Comhairle: The Chair does not have to tell the Deputy where it is.

Mr. P. McGrath: The Chair is like the Government.

Mr. McDowell: The Deputy is being very disrespectful to the Chair.

Mr. Durkan: The Minister is the last person who should be saying——

An Leas-Cheann Comhairle: The Chair has ruled that the Minister be allowed to continue.

Mr. Durkan: So that I can be orderly——

An Leas-Cheann Comhairle: The Chair is entitled to make a ruling.

Mr. McDowell: Is the Chair calling me?

An Leas-Cheann Comhairle: Deputy Durkan is being disorderly.

Mr. Durkan: So that I can be orderly.

An Leas-Cheann Comhairle: He is not orderly.

Mr. McDowell: Can I inquire if the Chair is calling on me to close the debate?

An Leas-Cheann Comhairle: Yes.

Mr. McDowell: Very well then. It is a pleasure to close this two-day debate in which Members have been given ample opportunity——

Mr. P. McGrath: A Leas-Cheann Comhairle, I am raising a point of order.

Mr. McDowell: ——to discuss all the issues arising out of the principle of the Bill in a comprehensive and thorough way. I thank Members who have contributed in an orderly way.

Mr. P. McGrath: A Leas-Cheann Comhairle——

Mr. McDowell: I thank all Members who participated in good faith.

Mr. P. McGrath: A Leas-Cheann Comhairle, on a point of order——

Mr. McDowell: By the same token, I deplore completely the constantly disruptive tactics unleashed every time I stood up.

Mr. P. McGrath: A Leas-Cheann Comhairle, I am raising a point of order.

Mr. McDowell: They have been deliberately unleashed by people who have no respect for democracy——

Mr. Durkan: On a point of order——

Mr. McDowell: ——and whose efforts sound like brownshirt tactics to shout down a Minister——

Mr. Durkan: A point of order has been raised by a Member.

Mr. McDowell: ——who has been brought to his feet by the order of the Leas-Cheann Comhairle.

Mr. Durkan: A point of order has been raised by the Member of the House who was in possession.

Mr. McDowell: It is not a surprise to me that Fine Gael spokespersons have taken to shouting down Ministers and trying to attack the authority of the House.

Mr. Durkan: On a point of order——

Mr. McDowell: It seems to come naturally to some Members——

Mr. Durkan: The Minister is showing contempt for the House and for the Irish people.

Mr. McDowell: ——to create disorder and try to disrupt the proceedings of the House.

Mr. P. McGrath: The Minister got it wrong as Attorney General and he has now got it wrong again.

Mr. McDowell: Yesterday morning I had one of the saddest experiences of my life. During a Second Stage debate Members behaved in a manner more fitting to a bar-room brawl than a parliamentary debate.

Mr. Durkan: The Minister should not go there.

Mr. McDowell: Shouting down a Minister, as happened constantly yesterday and today, is an attack on democracy itself.

Mr. Durkan: On a point of order——

Mr. McDowell: I am here as a Minister of the Irish Government, elected by the Irish people. I have been asked by the Chair of a sovereign Assembly which decides on its own procedures to conclude the debate.

(Interruptions).

Mr. Durkan: The Order of the House states that business will conclude at 6.30 p.m.

Mr. McDowell: I will not have it said that people can shout me down at will in the House——

Mr. Durkan: There is no mention whatsoever of the Minister's reply.

Mr. McDowell: ——or obstruct the true exercise of my democratic right as a Minister of the sovereign Government of the Irish people to address the House on an important issue.

Mr. Durkan: An emperor.

Mr. McDowell: I do not know how standards have slipped opposite, but if Fine Gael Deputies asked their members at the Ard-Fheis this evening if they approved of shouting down Ministers——

Mr. P. McGrath: It is tomorrow evening.

Mr. McDowell: ——they would get a clear message that they are disgracing themselves.

Mr. Durkan: At least the Minister will not be there, not like 1979.

Mr. McDowell: On this occasion I welcome the relative silence of the Labour Party and the dignity of the Green Party Deputies. I cannot believe Fine Gael would believe in such a jackboot fashion.

Mr. Durkan: The Minister should not go there.

Mr. P. McGrath: When the Minister was a member of Fine Gael——

Mr. McDowell: I was asked about section 6(4) of the Citizenship Act 1956. The reason that is constitutional is that it enables people to opt out of Irish citizenship which would otherwise be conferred on them. The matter was carefully considered at the time and is in no way inconsistent with the Constitution.

In the last 24 hours in this House we have had for the most part a constructive debate. For the most part nobody has been shouted down or barracked. For the most part speakers have been heard politely and permitted to make their points.

Mr. Stanton: Will the Minister give way on a substantive point?

Mr. McDowell: No, I am not yielding.

Mr. Durkan: Breaking the rule.

Mr. McDowell: During the debate I heard not heard one Member from any quarter of this House make any cogent argument on what the expert group led by Dr. T. K. Whitaker said on the issue.

Ms Burton: I did. I referred to the American experience.

Mr. Durkan: Ask the masters of the hospitals. What did they say today?

Mr. McDowell: That group said it would be wrong to attempt to create an absolute right based on birth in the Constitution because necessarily it must be subject to conditions and exceptions which are not suitable for inclusion in

the Constitution. I have heard nobody say anything different from that.

Mr. Durkan: The Minister has not heard anything at all.

Mr. McDowell: Also, during the debate I have not heard anybody suggest any reason as to why, if the law was as the Government proposed it should be, we should revert to the law as it now is. Nobody has said that anyone in their right mind would move to an absolute rule if there were discretion still vested in this House. I do not believe anyone would say it is wrong for the House to have discretion to legislate in this area.

Mr. Durkan: We never said that.

Mr. McDowell: I know. That is what I said.

Mr. Durkan: We asked what the rush was.

Mr. McDowell: The Deputy is still shouting me down. The colour of the Deputy's shirt is light blue. Remember that.

Mr. Durkan: At least my shirt is blue.

(Interruptions).

Mr. McDowell: And the Deputy is acting that way, if he does not mind me saying so.

Mr. P. McGrath: The Minister does not have a colour any more.

An Leas-Cheann Comhairle: Order, please.

Mr. McDowell: A number of Deputies, including Deputy Burton, have accused me of pursuing an agenda which is designed to discriminate against black people coming to Ireland.

Ms Burton: Stirring the pot.

Mr. McDowell: Yes, we heard the Deputy. I say yet again that there is nothing racist about this proposal.

Ms Burton: Will the Minister give way? I did not think the Minister was racist but I thought he wanted to stir the pot on these issues.

An Leas-Cheann Comhairle: Order, please.

Mr. McDowell: And the point was as stupid the first time the Deputy made it as it is now.

Ms Burton: So gallant.

Mr. Durkan: The point the Minister is making now is equally irrelevant.

Mr. McDowell: During the debate an attack was unleashed on this proposal, not least by

[Mr. McDowell.]
Deputy Burton, on the basis that it was subversive of the Good Friday Agreement.

Ms Burton: Yes.

Mr. McDowell: The Deputy does not have to keep echoing the point.

Ms Burton: The Minister could listen.

Mr. McDowell: In addition she said it was unwise and dangerous.

I have here a letter from Deputy Ruairi Quinn which was written to the Taoiseach in 1998. He enclosed a memorandum written by the same legal adviser who advises the Labour Party now and his letter states:

You will note a proposal in the enclosed memorandum that a consequential amendment could be made to Article 9, together with the already published changes to Articles 2 and 3. This could possibly be presented as a belt and braces exercise by the Government to ensure that its intentions were carried into effect as they relate to citizenship. On the grounds that it would not require any change to wording agreed at Castle Buildings there would be no question of reopening the concluded talks process.

Ms Burton: But there is now.

Mr. McDowell: That was what was said then, but now we are told we are stirring the pot and that we are on dangerous ground. We are now told that we are exploiting the race issue and that when we do what was suggested then, it is entirely wrong.

As for Fine Gael, I welcomed the fact that Deputy O'Keeffe engaged with me and asked me questions and that I was in a position to reply to those questions.

Mr. Kehoe: It took the Minister two weeks to reply.

Mr. Durkan: Two weeks.

Mr. McDowell: I welcome the position of Fine Gael — that if they are overruled by a majority in the House on the question of timing they will support the referendum when it goes to the people. This is because the purpose of the referendum is simple, to restore to this House the power to make decisions properly the subject matter of legislation. I trust that once all of these theatricals are over, the Fine Gael Party will sober up and join the Government in making this necessary change to the Constitution.

Ms Burton: The Minister is a bit of a ham actor himself.

Mr. Durkan: He should not go there.

Mr. McDowell: I want this debate to end on a constructive note: that when all the huffing and puffing is over, there will be a substantial majority in this House in favour of making this worthwhile, intelligent and reasonable change to the Constitution in order that citizenship which is of value to every Member is no longer abused in the way it is.

Mr. Durkan: That was not one of the Minister's greatest performances. If his former leader was here, he would have something to say about his performance.

Question put: "That the words proposed to be deleted stand part of the main question."

An Leas-Cheann Comhairle: The division is postponed until immediately after the Order of Business on Tuesday, 27 April 2004, in accordance with an order of the Dáil of 8 April 2004.

Mr. Costello: Can we not have it now?

Mr. Durkan: We would prefer to have it now.

Ms Hanafin: We would win it now, too.

Mr. Durkan: Olagón agus olagón arís.

The Dáil adjourned at 6.35 p.m. until 2.30 p.m. on Tuesday, 27 April 2004.