



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Wednesday, 28 April 2004.

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DÁIL ÉIREANN

*Dé Céadaoin, 28 Aibreán 2004.
Wednesday, 28 April 2004.*

Chuaigh an Ceann Comhairle i gceannas ar 10.30 a.m.

*Paidir.
Prayer.*

Leaders' Questions.

Mr. Kenny: Last week the country was informed that the Minister for Education and Science, Deputy Dempsey, had used Civil Service resources in his Department to prepare election literature marked private and confidential for Fianna Fáil candidates in the local elections. After some reluctance the Taoiseach indicated that this was not a very serious matter. However, the Standards in Public Office Commission has initiated an inquiry into the matter.

Yesterday we had a report that the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, had used public resources and officially headed departmental paper for the purposes of fundraising for a Fianna Fáil candidate at a function at which the Taoiseach will be the guest speaker. It appears that some elements in Government do not understand the difference between right and wrong.

The Taoiseach is aware of the standards and code of conduct for office holders which states specifically in respect of Ministers: "Office holders are provided with facilities at public expense in order that public business may be conducted effectively... Holders of public office enjoy an enhanced public profile and should be mindful of the need to avoid use of resources in a way that could reasonably be construed as an inappropriate raising of profile in the context of a General Election." I assume the same applies in the case of all elections.

Mindful of the fact that prior to the previous general election civil servants were instructed by a serving Minister at the time only to issue "good news" letters, does the Taoiseach condone the actions of the Minister and the Minister of State? Will the Taoiseach instruct all Ministers as office holders, today if he has not already done so, not to abuse their ministerial privileges for political gain in the 44 days left in the run up to the local and European elections?

The Taoiseach: The information packs referred to were a collation of information publicly

available regarding the work of the Department of Education and Science and its achievements over the past five years. They also contained information on special education and key facts about education in this country. All the information in the pack was in the public domain in one form or another, either by way of answers to parliamentary questions, Adjournment Debates or departmental websites and publications. Each pack contained a relevant county breakdown of the schools' building programme and showed the overall total that had been spent on school buildings, both primary and post-primary, up to 2003.

The information included in the packs is not a problem. However, the folders were Department of Education and Science packs and they should not have been used. That was wrong and I said that to the Minister. He should not have used Department of Education and Science folders for such information. I accept there was an error in that matter.

The letter sent by the Minister of State, Deputy Fahey, concerning a party fundraising event was sent from his constituency office. It is totally inappropriate and, as Deputy Kenny pointed out, is in breach of guidelines. I made it clear to the Minister of State when I discussed the matter with him that the use of departmental notepaper for such correspondence is not permitted. He believed there was a distinction because it was his constituency office. However, there is not and the standard is clear. The code of conduct for office holders states in section 2.2.3 that public resources and official facilities should be used only for official purposes. In this case I accept what Deputy Kenny said and I will remind my colleagues that they were in breach of the code.

Mr. Kenny: I thank the Taoiseach for his frankness and openness in this matter. I do not know what he said to both Ministers. Perhaps it might be appropriate if they were men enough to come to the House and apologise for their behaviour, as happened in 1996 when a then Minister of State and a more senior Minister apologised to the House for literature that was issued on officially headed notepaper.

Has the Taoiseach had any consultations with or contact from his partners in Government on this matter? In the 1996 incident, the now leader of the Progressive Democrats called for resignations over a similar matter.

Mr. M. Ahern: No one will resign over this.

Mr. Kenny: In that context both the senior Minister and the Minister of State involved came to the House to apologise for their conduct. It would, perhaps, be appropriate if the Minister and Minister of State in these cases did the same. I do not know if the Taoiseach has suggested that to them but it might be appropriate to do so.

I suggest to the Taoiseach, in everybody's interest, that an instruction should be sent to all

[Mr. Kenny.]

Ministers and Ministers of State, who, after all, are office holders, that this particular privilege should not be abused in any way between now and the local and European elections, or at any time.

The Taoiseach: I will remind people of the code, particularly in view of the two breaches. We will comply with the code of the Standards in Public Office Commission. I do not think there is a difficulty about the information and I do not want to see restrictions on the provision of information from anybody. The Opposition also uses Departments in the information process. The use of the folder is the issue in the case of the Minister for Education and Science. In the case of party political issues, the rule is clear. One cannot use either constituency offices or Departments for information. I will point that out again. It is easy for people to make an error in these matters. The rules are tight now and we must comply with them. I will remind my colleagues of the rules.

Mr. Durkan: What about an apology?

Mr. Allen: Fianna Fáil does not make apologies.

Mr. D. Ahern: Is the Opposition saying it never uses——

An Ceann Comhairle: I called Deputy Rabbitte. Allow him to speak without interruption.

Mr. M. Ahern: The Minister of State, Deputy Fahey, apologised.

Mr. Rabbitte: I want to——

Mr. Quinn: I had the courage to apologise.

Mr. M. Higgins: I cannot hear what the Minister of State across the way is saying.

An Ceann Comhairle: Will the Labour Party and the Government Deputies allow Deputy Rabbitte to speak without interruption?

Mr. Rabbitte: It is an odd time for the Minister of State, Deputy Michael Ahern, to decide to make an impact on the House. It would be the first speech I have heard him make. At least the Minister of State at the Department of Foreign Affairs, Deputy Roche, had a spectacular success in Wicklow. I read Mr. Kevin Myers on it. I do not know whether Deputy Roche read him. He wrote a worthwhile piece.

Mr. Roche: It was up to his usual high Pulitzer standard. I do not deserve it.

Mr. Rabbitte: What is the Taoiseach's response to the initial observations of the Human Rights

Commission appointed by the Government on the proposal of the Government to proceed with the referendum on citizenship? The Human Rights Commission has expressed concern about the Government proceeding with this poll on 11 June without any consultation with the commission. The commission has also expressed concern about the implications for the Belfast Agreement and stated that it is meeting its corresponding body in Belfast today and will make further observations on the implications for the Good Friday Agreement after that meeting.

I want to draw the Taoiseach's attention in particular to the commission's conviction that the amendment may breach the rights of Irish born children under two different international human rights treaties and will create a new category of non-citizens with a lower level of protection, that the Government had not given serious and comprehensive consideration to the human rights consequences of the referendum, that the data provided by the Government to justify the amendment is weak and that "much of the evidence and rationalisation for the proposed amendment seems vague or anecdotal in nature".

High-handed intellectual bullying is not a sufficient response to the concerns raised by the Human Rights Commission. Would it not be better to adjourn the Committee Stage tonight to allow for consultation and consideration on such a sensitive issue, to consider, as the commission put it, whether other means of addressing any purported social need have been adequately explored which would not have the same detrimental effect on human rights? If the Taoiseach will not listen to the Opposition or to the SDLP, will he respond to the Human Rights Commission established by his own Government?

The Taoiseach: The House set up the Human Rights Commission but the Government appointed it. I would, therefore, always listen to what it says and examine its views. In that regard, I have discussed the matter with the Attorney General. He assures me, and the Government is satisfied, that Ireland is not in breach of any laws or of the British-Irish Agreement. That is the legal position. As Deputy Rabbitte knows, the issue of citizenship is for the people of a country or the Legislature to deal with. It is a political matter.

It is my understanding that the Human Rights Commission has given what it calls an initial view on the Government's proposal and we will carefully examine that. This dealt with a number of issues, some of which are human rights related.

On Deputy Rabbitte's contention that a new category of non-citizen would be created which would somehow have less constitutional protection than citizens' children, let me make two points. First, the commission's initial report does not indicate which aspects of constitutional protection will be denied to these children. Second, it has not dealt with the reality that there are relatively many non-national children and

adults here and there is no evidence that the fundamental rights of all of these people who are working and contributing to our economy, participating in schooling or in our communities are somehow less protected under law than the rights of our own citizens. We heard of a case the other night on RTE's "Prime Time" in which employers are in breach of the law, but that is not our constitutional position. In any event these and other issues can be discussed comprehensively during the debate.

On the point raised by Deputy Rabbitte, the Government is satisfied that Ireland is not in breach of any laws or of the British-Irish Agreement. I have answered Mr. Mark Durkan comprehensively, and the declaration put forward by the two Governments comprehensively deals with that issue.

Mr. Rabbitte: The Taoiseach is correct in stating that these were the initial observations of the commission. However, the commission was not consulted. It is working within the same timeframe as the rest of us. The chairman of the commission wrote to the Minister and it was only then that he was invited to give his views.

Everything the Taoiseach has said confirms me in two views. First, despite the appeal from a broad cross-section of moderate opinion, the Taoiseach is determined to proceed on 11 June and, second, he is doing so for narrow electoral advantage and for no other reason. The Taoiseach knows how potent a force this is in communities where, for example, the queues for housing are lengthening every day. The Taoiseach understands that. I am not saying that the Minister for Justice, Equality and Law Reform know or understands that — the barristers and friends of the Minister for Justice, Equality and Law Reform are not on the housing list. However, in communities where so many people are on the housing list, this is a potent force and it is wrong for the Taoiseach to use it in an electoral context. There are some matters on which we do not play politics. Despite the ups and downs of the Northern Ireland peace process, nobody on this side of the House has ever made life difficult for the Taoiseach on that issue.

Mr. Quinn: Unlike the other way around.

Mr. Rabbitte: Similarly, this issue should not be resorted to for narrow electoral gain when there is no urgency about it and when bodies like the Irish Human Rights Commission and many academics, political parties such as the SDLP, Mr. Bruce Morrison and others have said that we should take time to consider the nature of the problem and address it with as much consensus as possible.

The Taoiseach: Let me make two points. It is not my intention to be in any way rancorous. There is no need to turn this issue into a political battle. On the first point, the Human Rights

Commission has been requested to give its views on the legislation and its preliminary view on this report should be seen as such. The commission has not been asked to give its views on the constitutional amendment because that is a political matter. However, if it makes any comments on the legislation the Minister will examine them.

On the second matter, Deputy Rabbitte is right. We know what difficulties might arise for Irish society in the future because of people coming to this country. I do not believe we have a difficulty. There are schools in Tallaght, in Deputy Rabbitte's constituency, and in the inner city, in my constituency, which have children from several countries. There are people from different countries living in our communities. People distinguish between the nationalities they like and those they do not like. They form their own views on that, but they do so in a low-key way and there is no great hatred, bitterness or racism in our society. There is no necessity for it. I took a chance six years ago in stating that I did not envisage difficulty.

People wonder why people from Southern Nigeria and elsewhere bypass Brussels, London and Paris and come here. When I spoke with the President and Foreign Minister of Nigeria last year they told me — I did not ask them — that it was well known around the world that our citizenship laws were easy game. They wondered why we did not tighten our laws, why we had loosened them, when everyone else was tightening them. When I had this debate with Deputy Quinn, I looked at the letters and he pointed out the problem to me, as did the Minister, Deputy O'Donoghue.

Mr. Quinn: Is the Government making the right interpretation of it?

The Taoiseach: Just a few hundred people were coming in at that stage. It was not an issue when we had a calm discussion about it at that time. I do not think we need to get ourselves in a knot about this matter. Our citizenship laws are too loose and we need to tighten them somewhat. In my speech last week, I tried to point out five categories. Our citizenship laws remain significantly more liberal than those elsewhere. I outlined the categories last week in the plainest English. They are massively more liberal. Frankly, I do not see any political advantage and I will not campaign by saying anything about the Labour Party or anybody else who takes a different view. I will not do that because I just do not see it.

Mr. Rabbitte: I have already heard ugly things from some of the Taoiseach's canvassers, which I will personally relate to him.

The Taoiseach: I appreciate that. Nobody mentioned this issue when I was in Deputy Rabbitte's constituency last week. There are

[The Taoiseach.]

many issues, but this is not an important issue for many people. It is a matter of sorting out our citizenship laws, which are too loose — they will remain much looser than those elsewhere — and it is no more than that. I do not see any reason to engage in contention on the matter. We need to correct this problem now. The relevant figures are available. I do not want to engage in a rant about the figures because to do so would be to hype it up and I will try my best to avoid it.

Mr. Connaughton: Why will the Government not hold the referendum in October? There would be no trouble then.

Caoimhghín Ó Caoláin: The Taoiseach addressed a gathering of Fianna Fáil's party faithful at Arbour Hill last Sunday, 25 April 2004, to mark the anniversary of the 1916 rising. There was another important anniversary last Sunday, the second anniversary of the publication of Fianna Fáil's manifesto for the last general election. Two years on, we know what has happened to the promises that were made. Despite the fanfare given to the document at the time, the anniversary of its publication has passed with little attention.

A deadline that was enshrined in the manifesto had a critical influence on the outcome of the 2002 election. I refer to the Government's promise to eliminate hospital waiting lists within two years. The deadline passed last Sunday while the Taoiseach spoke at Arbour Hill. I wish to remind him that his party stated two years ago that in Government it would "permanently end waiting lists in our hospitals within two years through a combination of bed capacity, primary care, secondary care and targeted reform initiatives". Two years on, that promise has come to naught. The statistics show that some 27,000 people are on hospital waiting lists. People are suffering, in pain, in discomfort and in anguish as they wait for an opportunity to be treated or for particular procedures to be carried out on their behalf.

Given that such an important milestone has been passed in the term of this Dáil, it would be appropriate for the Taoiseach to apologise to the people for the Government's failure to live up to promises that were made two years ago. Will he consider the fact that the manifesto launched two years ago contained a commitment to extend medical card eligibility to a further 200,000 people? Statistics in this morning's newspapers show that 20,000 fewer people are in possession of medical cards than was the case two years ago, when Fianna Fáil launched its general election manifesto. That equates to 1,735 fewer people with medical cards in my health board area today compared to 2002.

Will the Taoiseach consider apologising to the broad electorate for making commitments which, with hindsight, he had no intention of delivering on? More importantly, what measures will he

bring forward to address the needs of those on hospital waiting lists? I refer to those who are suffering. What steps will he take to help those who face the dreadful choice each week of providing for the needs of their families or bringing their children to their local GPs? I refer to those who are on the margins, beyond the current qualifying limits for medical cards.

Mr. Roche: What about an apology from Deputy Ó Caoláin's side?

Mr. F. McGrath: The Government's record over the last two years is disgraceful.

The Taoiseach: I am glad to report, two years on, that the Government has continued to provide substantial resources to the health system. The projected figures for hospital activity show a likely increase of one third in such activity over the lifetime of the Government. Almost 1 million people have received in-patient treatment and been discharged. Over 10,000 people have been treated under the hospital services fund.

In the last full year, between September 2002 and September 2003, there has been a reduction of 42% in the number of adults waiting more than 12 months for in-patient treatment. In the same period, there has been a reduction of 39% in the number of children waiting for more than six months. Waiting times for adults and children have been halved from a year to six months. Approximately 75% of the actions in the framework as set out in the reform programme have been commenced in the first year.

We have provided the promised capital and revenue resources regarding bed capacity. Additional beds have been opened in many of the health board areas. Some 568 extra beds have been opened in the Eastern Regional Health Authority area alone. Funding has been put in place to support the commission of over 700 beds under this initiative. Ten primary care teams, one for each health board, have been approved while out-of-hours co-ops have been extended.

In respect of staffing, we are now just short of 100,000 people and the number of staff is continuing to increase. I do not need to provide details of the medical, dental and paramedical facilities. The Government's investment of over €500 million in the implementation of the national cancer strategy has had an enormous effect. We have established cardiac surgery centres in Galway, Cork and St. James's Hospital, to complement the existing centre at the Mater Hospital. We have provided enormous resources to the areas of mental health and disability. We have not eliminated waiting lists, but we have been doing a good job on them.

Ms McManus: The Government will not even publish the figures.

The Taoiseach: Approximately one third of the population has access to a medical card.

Mr. F. McGrath: What about the problems in St. James's Hospital last Monday at 9.15 p.m?

The Taoiseach: Deputy Ó Caoláin raised the issue of medical cards.

Ms McManus: We are still trying to——

The Taoiseach: The number of people——

Mr. F. McGrath: Last Monday night at 9.15 p.m.——

The Taoiseach: There is no point in me trying to speak because the Members opposite do not want to hear my answers.

Mr. F. McGrath: ——there were 16 people on trolleys and chairs at St. James's Hospital.

Mr. D. Ahern: The Deputy should let the Taoiseach answer.

Mr. F. McGrath: They could not even find trolleys, so some of the people had to be put on chairs.

An Ceann Comhairle: Deputy McGrath, you are not the leader of the Sinn Féin Party.

Mr. Kenny: Sometimes he pretends to be the leader.

An Ceann Comhairle: Only Deputy Ó Caoláin and the Taoiseach are entitled to make a contribution.

Mr. F. McGrath: After the Government's first two years in power——

An Ceann Comhairle: I ask the Deputy to resume his seat and to stay quiet.

Mr. F. McGrath: ——there are 2,286 people with disabilities on waiting lists.

An Ceann Comhairle: Deputy McGrath, I will ask you to leave the House if you interrupt once more.

Mr. F. McGrath: It is a disgrace.

Mr. Callely: Listen to the facts.

The Taoiseach: I was about to speak about disabilities before I was interrupted.

Ms O. Mitchell: The Taoiseach was talking about medical cards.

The Taoiseach: The Government has provided 1,700 additional residential places, which are mainly based in the community. Some 465 extra dedicated respite places have been provided in the past three years and 2,950 new day places have been developed. The number of persons with intellectual disability or autism who were

resident in hospitals in May 2003 represented a significant decrease of 50%. I have given the facts. I was also asked about medical cards. We had a higher proportion of medical cards when unemployment was almost 20% in this country, but things have changed, thankfully.

Mr. Ring: Does the Taoiseach know how much it costs to go to a doctor?

Mr. Crawford: He does not.

Mr. Ring: He does not have a clue what is going on.

Ms O. Mitchell: He never indexed the thresholds.

The Taoiseach: I will conclude because Deputy Ó Caoláin will want to ask me more questions. He might take the opportunity to explain something to me. When I examined figures relating to when his party had control of the health service in Northern Ireland, I noticed that waiting lists increased dramatically during that time.

Ms O. Mitchell: That is wonderful.

Mr. Roche: The people of Northern Ireland are waiting for an apology.

Caoimhghín Ó Caoláin: The Taoiseach is well aware that, regrettably, we do not have autonomous governance in the Six Counties.

The Taoiseach: I referred to when his party had power.

Caoimhghín Ó Caoláin: We have to endure the continual interference of his good friends at Westminster.

Mr. D. Ahern: Some people have to endure knee replacements.

Mr. McDowell: Knees and ankles are a speciality.

Caoimhghín Ó Caoláin: We might have a very different situation if he worked a little harder to bring about change in that regard.

Mr. Roche: Why does Sinn Féin not apologise to the people of Northern Ireland for its actions?

Caoimhghín Ó Caoláin: As usual, the Taoiseach has trundled out a list of figures and statistics and presented it as a reply. He has given no comfort to the 27,000 people who remain on hospital waiting lists. These people must "serve their sentence", in new Government-speak. Children must wait up to six months while adults wait 12 months to qualify for consideration for the treatment purchase fund. The Taoiseach has offered nothing in his reply to those people who

[Caoimhghín Ó Caoláin.]
are suffering. The word “suffering” must be repeated to him and the Minister for Health and Children, Deputy Martin.

The Taoiseach should not claim we are all so better off today that fewer people need medical cards. Has the Taoiseach any idea of the number of people every week presenting themselves at Deputies’ clinics who are concerned that the threshold for medical card qualification is so shamelessly low? People are forced into real poverty when they cannot afford to make the choice to bring their children to a GP and get subsequent medical care, including prescriptions. Will the Taoiseach raise the medical card threshold to a realistic figure to address this suffering in society? That is the least he can do if he actually means his claim last Sunday of honouring the Proclamation’s ideal of “cherishing all the children of the nation equally”. The Taoiseach should take the advice I and every Member has given on this issue and put it into practice.

Mr. Roche: The Deputy is a hypocrite.

The Taoiseach: The Government is committed to extending the numbers of people with medical cards. Everybody over 70 years of age has already received a medical card. The number of people aged 70 years and over is rising because of our better health services.

Ms O. Mitchell: Which means fewer people can get medical cards.

An Ceann Comhairle: Allow the Taoiseach to speak without interruption.

The Taoiseach: One third of the population have medical cards. The Government is committed in the programme for Government to increasing this number. Deputy Ó Caoláin does not like the statistics.

Caoimhghín Ó Caoláin: It is the Taoiseach who does not like the facts.

Ms McManus: The Taoiseach means the Government has reduced the number.

The Taoiseach: The Deputy cannot have his own time slot and then another. He cannot have it both ways.

Ms McManus: That is what the Taoiseach is having.

An Ceann Comhairle: Deputy Ó Caoláin allow the Taoiseach to continue without interruption.

The Taoiseach: I simply want to answer the Deputy’s question. He speaks for two minutes when I have a minute.

Ms Lynch: What about the 1,000 medical cards promised in two years?

Mr. Costello: The Government also promised 2,000 extra gardaí.

An Ceann Comhairle: Deputy Lynch, this is a question from the Sinn Féin Party.

Caoimhghín Ó Caoláin: My question is for the Irish people.

An Ceann Comhairle: Deputy Ó Caoláin, I ask you to be silent. This is a democratic Parliament. The Deputy has submitted a question which he is entitled to do. The Taoiseach is entitled to give his answer.

Deputies: Hear, hear.

Mr. D. Ahern: If Sinn Féin wants democracy, we will give it democracy.

Mr. Roche: There will be no knee-capping then.

An Ceann Comhairle: The Taoiseach to continue without interruption.

The Taoiseach: I will be brief if I am allowed the time. However, the Deputy obviously does not wish to give me that time. The Government has increased resources in the health sector. There are more staff, more facilities and buildings, and more community and health care workers to deal with the waiting lists. One needs the resources to create the staff. That is why 1 million people — 25% of the population — are receiving in-patient and out-patient treatment every year. The Government is putting significant resources into 20 projects in the State mainly in the staffing area. There are 100,000 people working in the health sector and the Government will continue with this commitment.

Visit of British Delegation.

An Ceann Comhairle: On my own behalf and on behalf of the Members of Dáil Éireann, I offer a céad míle fáilte — a most sincere welcome — to Mr. Gerry Sutcliffe MP, Minister with responsibility for employment relations, competition and consumers in the UK, who is here with us in the Distinguished Visitors’ Gallery. I hope he will find his visit enjoyable, successful and to our mutual benefit.

Ceisteanna — Questions.

Northern Ireland Issues.

1. **Mr. Kenny** asked the Taoiseach if he will report on recent developments in the Northern

Ireland peace process; and if he will make a statement on the matter. [5581/04]

2. **Mr. Kenny** asked the Taoiseach if he will report on his recent contacts with the political parties in Northern Ireland; and if he will make a statement on the matter. [5582/04]

3. **Mr. Kenny** asked the Taoiseach when he next expects to meet with the British Prime Minister; and if he will make a statement on the matter. [5583/04]

4. **Mr. Kenny** asked the Taoiseach if he will report on his visit to Northern Ireland on 19 February 2004; and if he will make a statement on the matter. [5689/04]

5. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his visit to Northern Ireland on 19 February 2004. [5709/04]

6. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on the outcome of his meeting on 19 February 2004 with representatives of the relatives of those who died in the Omagh bombings. [6063/04]

7. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his visit to the Six Counties on 19 February 2004; and if he will make a statement on the matter. [6521/04]

8. **Mr. J. Higgins** asked the Taoiseach if he will report on his visit to Northern Ireland on 19 February 2004. [6702/04]

9. **Mr. J. Higgins** asked the Taoiseach if he will report on his recent contacts with the political parties on Northern Ireland; and if he will make a statement on the matter. [6704/04]

10. **Mr. J. Higgins** asked the Taoiseach if he will report on his recent contacts with the British Government; and if he will make a statement on the matter. [6705/04]

11. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his recent contacts with the political parties in Northern Ireland regarding developments in the peace process. [6716/04]

12. **Mr. Rabbitte** asked the Taoiseach the matters discussed at his meeting with a Sinn Féin delegation on 25 February 2004; if he raised with the delegation, reports that members of the republican movement were involved in a violent incident in Belfast on 20 February 2004; the response he received; and if he will make a statement on the matter. [6771/04]

13. **Mr. Sargent** asked the Taoiseach if he will report on recent contacts with the British Government regarding Northern Ireland; and if he will make a statement on the matter. [7574/04]

14. **Mr. Sargent** asked the Taoiseach if he will report on his meeting with a Sinn Féin delegation on 25 February 2004; the agenda of the meeting; and if he will make a statement on the matter. [7575/04]

15. **Mr. Sargent** asked the Taoiseach if he will report on his visit to Northern Ireland on 19 February 2004; and if he will make a statement on the matter. [7576/04]

16. **Mr. Sargent** asked the Taoiseach if he will report on recent developments in the Northern Ireland peace process; and if he will make a statement on the matter. [7577/04]

17. **Mr. Sargent** asked the Taoiseach his views on the decision by the Ulster Unionist Party leader, Mr. David Trimble, to withdraw his party from the review of the Belfast Agreement; and if he will make a statement on the matter. [7785/04]

18. **Mr. Sargent** asked the Taoiseach the timescale he is envisaging for the review of the Good Friday Agreement; if this timescale is one shared with the British Government; and if he will make a statement on the matter. [7786/04]

19. **Mr. Rabbitte** asked the Taoiseach if he will report on his telephone conversation with the leader of the Ulster Unionist Party, Mr. David Trimble, on 3 March 2004; and if he will make a statement on the matter. [8289/04]

20. **Mr. Rabbitte** asked the Taoiseach the matters discussed and conclusions reached at his meeting with the British Prime Minister, Mr. Tony Blair, on 11 March 2004; and if he will make a statement on the matter. [8415/04]

21. **Mr. Rabbitte** asked the Taoiseach when he next plans to visit Britain; and if he will make a statement on the matter. [8416/04]

22. **Mr. J. Higgins** asked the Taoiseach if he will report on his recent meetings with the political parties in Northern Ireland at Hillsborough Castle. [9096/04]

23. **Mr. J. Higgins** asked the Taoiseach the matters discussed and conclusions reached at his recent meeting with the British Prime Minister, Mr. Tony Blair; and if he will make a statement on the matter. [9098/04]

24. **Mr. J. Higgins** asked the Taoiseach if he will report on his meeting in February 2004 with representatives of the relatives of those who were killed in the Omagh bombings. [9106/04]

25. **Caoimhghín Ó Caoláin** asked the Taoiseach if he will report on his meeting with the British Prime Minister at Hillsborough on 23 March 2004; and if he will make a statement on the matter. [9561/04]

26. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his discussions with the British Prime Minister, Mr. Tony Blair, in Hillsborough on 23 March 2004. [9564/04]

27. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on the outcome of his discussions with the Northern Ireland political parties in Hillsborough on 23 March 2004. [9565/04]

28. **Mr. Rabbitte** asked the Taoiseach his assessment of the prospects for political progress in Northern Ireland in view of his discussions in Hillsborough on 23 March 2004. [9566/04]

29. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his most recent contacts with the political parties in Northern Ireland. [11743/04]

30. **Mr. Rabbitte** asked the Taoiseach if he will make a statement on his telephone conversation with the British Prime Minister on 19 April 2004. [11744/04]

The Taoiseach: I propose to take Questions Nos. 1 to 30, inclusive, together.

The events in Belfast on Friday, 20 February, had a serious impact on the review and the ongoing efforts to build trust and confidence. When I met with a delegation from Sinn Féin on 25 February, I expressed my deep concern at these events. I reiterated the Government's view that the transition to exclusively peaceful and democratic means must be completed. Both Governments subsequently asked the Independent Monitoring Commission, which was established to ensure compliance with key commitments relating to the Agreement, to examine these events in the context of the preparation of its first report. The commission's report was published on Tuesday, 20 April. The report speaks for itself. It paints a disturbing picture of paramilitary and criminal activity and deals with the links between political parties and paramilitary organisations. The Government accepts the report's conclusions and recommendations.

The people of Northern Ireland want a restoration of the devolved arrangements of the Good Friday Agreement. Everyone, including the two Governments, has a part to play in this but to make real progress, it is essential that the issues raised in the Independent Monitoring Commission's report are addressed as soon as possible. Both Governments are clear that the achievement of a sustainable basis for political progress requires a full and permanent cessation of all paramilitary activity.

On 3 March, I spoke with Mr. David Trimble by telephone on the situation in the process current at that time. I met with Prime Minister Blair in Farmleigh on Thursday, 11 March, where we discussed the review and recognised the importance of injecting momentum into the review process. For that reason, together we met with each of the parties in Hillsborough on Tuesday, 23 March.

At those meetings, we explored with the parties how fully-inclusive and fully-functioning devolved government could be achieved. There needs to be a clear and definitive end to paramilitarism. There also needs to be clarity that unionism will participate fully in an inclusive process if paramilitarism is brought to a definitive end. Remedying the deficits of trust and confidence that now exist requires a fast-forwarding to completion. A If this can be

achieved, there will be a successful outcome to the review and it will ensure the restoration of the devolved arrangements.

Prime Minister Blair and I recently considered the possibility of an intensive engagement with the parties towards the end of April. However, when I further discussed this with him last week, our judgment was that sufficient progress across a range of issues has not been made that would enable us to achieve a positive outcome at this time. However, we will continue our efforts in a number of other formats over the coming period.

Earlier this week, I had a meeting with the Sinn Féin Party leader, Mr. Gerry Adams, that sought to establish whether there is a clear basis on which progress can be made. On Friday, I will meet with the SDLP leader, Mr. Mark Durkan. The reconvened review also allows opportunities for contact and engagement. The review, which met yesterday, will meet again next week. Its activities may have to be curtailed in light of the elections in Northern Ireland. I regret that the Ulster Unionist Party is not participating in the review. I hope it will reconsider this decision and find it possible to resume participation as soon as possible.

Last week's meeting in London of the British-Irish Intergovernmental Conference, chaired by the Minister for Foreign Affairs and the Northern Ireland Secretary of State, was also a timely opportunity to review progress in a number of areas identified in last year's Joint Declaration. I will meet with Prime Minister Blair again next Sunday. This meeting will afford an opportunity to assess the prospects for the intensified efforts that will be undertaken in the coming weeks. Our aim, with the help of the parties, is to make as much progress as possible in this period. In June, I will visit Britain as part of a series of visits to EU capitals in my role as EU President prior to the EU Council meeting.

In the course of my visit to Northern Ireland on 19 February, I met with the SDLP leader, Mr. Mark Durkan, in Derry. Our discussions focused on the review and other issues. I later visited Coleraine University at the invitation of the chairman of the council, Dr. Gerry Burns, and the vice-chancellor and president, Professor Gerry McKenna. In my address to the university entitled *Partnership As The Only Way Forward*, I emphasised that a viable partnership in Northern Ireland can only be constructed on the basis of total equality between the prospective partners. There can be no half-way house between violence and democracy and no comfortable resting place between exclusion and partnership. For the republican movement, this means bringing definitive closure to paramilitarism and an absolute commitment to exclusively peaceful and democratic means. For unionism, it means signing up to the imperative of a total partnership, based on the inclusion of all parties whose electoral mandate gives them a right of participation.

Following my address at the university, I visited the bomb site and the memorial garden in Omagh

accompanied by Mr. Alan Rainey, chairman of Omagh District Council and Mr. Danny McSorley, chief executive. I then attended a meeting at the council offices with public representatives, a meeting with victims and relatives of victims of the Omagh bombing and a reception for representatives of local community groups.

At my meeting with the victims and relatives of the victims, I reiterated the Government's resolve to do everything possible to bring the perpetrators of the bombing to justice. All our efforts to sustain and implement the Good Friday Agreement and to keep politics working are intended to ensure that the conflict is over for good and that no one else will ever suffer such terrible pain. I also confirmed that the Government intended making a substantial contribution to the Northern Ireland memorial fund. I expect that it will be possible to make that contribution within weeks through the Remembrance Fund Commission.

Following my engagements in Omagh, I travelled to Belfast where I met with the Lord Mayor, Mr. Martin Morgan, and other public representatives at City Hall. I then travelled to the Springvale training centre to meet with representatives of the west Belfast partnership, local public representatives and community groups.

In Dublin on Thursday, 11 March I met with the Omagh self-help group. Among the issues discussed at that meeting were the civil action being taken by the relatives, the Nally report and the inquiry and investigation into the bombing. Following my meeting with the group, its members met separately with the Garda Commissioner at Government buildings.

I welcome the publication on 1 April of the four reports by Mr. Justice Peter Cory into the murders of Pat Finucane, Rosemary Nelson, Robert Hamill and Billy Wright. I again express my thanks again to Mr. Justice Cory for the work he has done and the commitment and energy he devoted to this difficult and complex task.

The reports give rise to very serious concerns about the rule of law. The delay in responding to the recommendation of Mr. Justice Cory for a public inquiry into the murder of Pat Finucane is disappointing and conflicts with the view of Mr. Justice Cory that a public inquiry in this case is more important than prosecutions. I am deeply conscious of the impact that this decision has had on Geraldine Finucane and the Finucane family. The British Government has stated that it stands by its Weston Park commitments. It is vitally important for confidence in the administration of justice in Northern Ireland to ensure that the delay in establishing a public inquiry in the Finucane case is not prolonged and that such an inquiry is established as quickly as possible.

I welcomed the statement of 24 February by the UDA and UFF announcing an indefinite

extension of their military inactivity and the efforts of those who worked to bring this initiative about. If the aspirations of the statement are to be realised, the future actions of the wider organisations must match the words of its leadership. I hope that this development will help ease tensions on the streets and further develop a climate of confidence between both communities.

Mr. Kenny: Perhaps Mr. Sutcliffe will give our Minister the benefit of his advice and experience for some problems we are experiencing here in the areas of employment, skills and trade.

I welcome the report of the Independent Monitoring Commission. Do its findings tally with the information available to the Government on criminal activities engaged in by the IRA? Mr. Paul Murphy made it clear, in responding to the commission's report, that the Progressive Unionist Party and the Sinn Féin Party were linked with paramilitary groups. The Taoiseach has indicated that Sinn Féin and the IRA are two sides of the same coin. The Minister for Justice, Equality and Law Reform, Deputy McDowell, has claimed that Gerry Adams is a liar and that senior members of Sinn Féin are involved in paramilitary activities, some of which fund political activities in this jurisdiction. Does the IMC report tally with the intelligence held by the Government on criminal activities?

Is it still the Government's belief that some of the moneys raised through criminal activities are being used for political purposes in this jurisdiction? If that is the case, will the Government take similar action to that recommended by the IMC? The recommendation is that where such activity is known, parliamentary financial assistance to parties involved in that activity should be withdrawn.

An Ceann Comhairle: The Deputy should not use the word "liar" in the House even if he is quoting another person.

Mr. Kenny: I am sorry, a Cheann Comhairle.

The Taoiseach: I am grateful to those who worked on the IMC report because it was thought the report would not be out until the summer but we asked it to be brought forward. I am also glad it was not introduced on top of the elections. The need to avoid this was a valid point made by a number of people. The peace process goes on regardless and has nothing to do with elections, North or South. The report stands by itself — there is no point in my trying to analyse it. It deals with what is happening in Northern Ireland. Obviously, it is based on the intelligence report. As I said, the Government accepts its recommendations. It is a clear analysis of issues I have mentioned many times. People have been asking about proof or evidence. This is provided in the report.

[The Taoiseach.]

I hope that ongoing investigations into various issues do not lead to similar actions in the South. I am more interested in stopping these actions and removing links with criminality and gangs. Some of the activities that have gone on over the last number of months have helped in this area, particularly in the matter of gangs operating at the docks. The Government believed with certainty that there were paramilitary groups involved. The facts were disputed by these groups but according to our intelligence these people were closely associated with, if not actively part of the IRA. I hope the events that have taken place over the last number of months have resulted in the ceasing of these operations. The Department of Justice, Equality and Law Reform continues to monitor matters.

The next IMC report will be issued in the autumn. If we are to make progress in this area, we must see a substantial change. Otherwise, we will continue to run into the sand. All parties know we cannot continue in this vein. There must be a change in the intelligence reports on these matters. The only way in which this can happen is for people to cease these actions. It is to be hoped we will see a change — that is what we will all be working towards.

Mr. Kenny: The Minister for Justice, Equality and Law Reform said publicly that senior elements in Sinn Féin had been involved in criminality at Dublin Port. I note that in the last week the Taoiseach had a frank discussion with the president of Sinn Féin, Mr. Gerry Adams. Did he raise this matter with Mr. Adams? The IMC report states clearly that senior politicians in the PUP and Sinn Féin have an influence on their paramilitary associates. If we are to have a serious change before the next IMC report in the autumn, senior politicians must use their influence. If the Minister for Justice, Equality and Law Reform has substantial evidence backing up his public statements, that should be taken into account. In the full and frank discussions the Taoiseach had with Mr. Adams, did he raise this matter? We all want to see an end to this business if we are to stay on the road to peace.

I noted in the Taoiseach's reply that he met with the leader of the SDLP, Mr. Mark Durkan, on 19 February. Two days before that, on 17 February, the Taoiseach had failed to mention during a reply to the House that the Government intended to hold a referendum on citizenship. He said he had discussed a review of the Agreement and other issues with Mr. Durkan. Did he discuss the question of the Government's intention to hold the referendum on 11 June? Can he tell the House whether he raised the Government's intent with the other parties, namely the UUP, the DUP and Sinn Féin? What was the extent of consultation with the Northern Ireland parties? We have heard their various concerns about the implications for the Good Friday Agreement of

the Government's intention to hold the referendum on 11 June.

The Taoiseach: I did not discuss that issue. I only discussed matters relating to the peace process at that stage because the Government had not made a decision. I did not discuss that matter with the other parties but I did discuss it with the British Government. It was the understanding of the British and Irish Governments which I set out in the reply to Mark Durkan. I put most of that on the public record last week.

In my view it was not necessary because it was the understanding of the two Governments, not the parties.

On the first question, I discussed all these matters with the president of Sinn Féin, Gerry Adams, on Monday. I am anxious to get on and move forward. We also discussed the individual cases mentioned by the Deputy. All those issues were discussed but there are two key issues. We must find some way of dealing with paramilitarism. It is not just a question of saying that. The difficulty is that we will not be able to make the process work to achieve devolved government so a substantive leap forward must be made. We will not be able to do so in the current climate no matter what happens unless some mechanism is found to deal with and bring closure to the issue.

Equally, we must find a way whereby unionism will accept fully and conclusively that exclusion is not part of the equation, that this is an inclusive process and, under the Good Friday Agreement, that means sharing power with the parties that have the mandate, which, in this case, clearly means the DUP and Sinn Féin. People must accept the two issues and it is not a question of measuring out punishment to one side or the other. That is the reality of the situation. I want to move forward constructively and positively to deal with those two issues.

It is a year almost to the day since we almost got to that position and we had another good effort last October, which was run into the sand. I discussed the history of that also with the president of Sinn Féin because fundamental difficulties were created last October. It is not, as somebody said over the weekend, that I was in a huff over them. That was the reality of what happened and issues cannot be resolved unless people accept the reality and how we will move forward.

Clearly, the parties want to try to find a way forward. We will have discussions, meetings and contacts. There will be a number this week but there is not much point in having those until people accept the two main issues and we have pressed for that. Given the parliamentary system and a British decision, meetings relating to the process cannot be held within 30 days of an election. Effectively 5 May will be the last day of the review talks and we will not resolve everything by then. It is just not realistic. Some

people say we can rush over a few days and resolve the issues, but there is not a hope of that. Given the state of mind of all the parties, it is not possible. However, progress could be made to devise a process to deal with the issues later in the summer. Summer in the Northern Ireland political system tends to be a little earlier than in ours. Once one hits the beginning of July, that is it — the week before Drumcree Sunday and 12 July.

We are trying to devise a plan that can get us back into engagement in late August, early September. That is the reality and we need to address that reality, otherwise we will drift seriously. On top of that, we need co-operation between parties to get through the summer. Positive work on trying to manage the summer, as happened last year, is going on, which I strongly commend and support. We can do that over the next few weeks.

Mr. Rabbitte: Does the Taoiseach agree with the former Minister of State, Deputy O'Donnell, who recently said all this bashing of Sinn Féin is counterproductive and that we would all be better concerned with trying to involve them in the administration of policing, for example?

The Taoiseach: I agree with Deputy O'Donnell that if we could find the solution to policing, it would provide the vehicle to resolve the issue of paramilitarism. The reason people think paramilitarism is required in many areas — I do not accept this — is that policing is not accepted and cannot work in those areas. A few years ago, we thought progress had been made on the policing issue and Sinn Féin would take substantive steps in that regard. That was not long after the Weston Park talks, in which Deputy O'Donnell was involved as Minister of State and she will be well aware of that. If progress had been made then, it would have been easier to bring the paramilitarism issue to an end. Paramilitarism and the future of policing are interlinked. There is no doubt about that aspect.

With regard to the ongoing comments about Sinn Féin, I would be the happiest person in the world if we could stop commenting about all these issues and make progress because one sounds like a long playing record, saying the same things over and over again. Unfortunately, there is no way around that when progress is not made. We have not made any substantive progress in the past 12 months. I could think of a few things that would be of some substance but the only thing we achieved was that we managed to force the British Government to have the election. This week last year, it postponed the election but we managed to force the British Government to hold it. However, nothing else has been achieved other than to keep everybody working together to get through a successful summer and keep the level of violence low.

If a substantive move is not made, we will be back in a vacuum and that is always a dangerous

position. Thankfully, we have not reached that and that is why a substantive move must be made. However, policing is a key issue.

Mr. Rabbitte: The Taoiseach said no progress has been made over the past 12 months. What does he say to people in a number of quarters who say that is at least partly due to a change of attitude at Government level and that, for whatever reason, he has consciously decided to unleash the Minister for Justice, Equality and Law Reform in a fashion that, on the eve of elections, some commentators are tempted to view as about electoral politics rather than the substance of the matter? If no progress has been made in the past 12 months, what is his assessment of the prospects between now and the summer break of making real progress? He met Mr. Adams recently, as did Prime Minister Blair. Is there a prospect of the impasse of the past 12 months, to which the Taoiseach referred, being broken? Is there cause for conviction that progress can be made in the few months immediately ahead?

What is the Taoiseach's response to the monitoring commission's report in this regard? It came into existence because every difficulty that arose during the lifetime of the institutions in Northern Ireland could not put their future at risk and, as a result, the commission was established to validate alleged breaches and so on. Has the commission contributed to doing that or is the existence of the report an insuperable obstacle to getting back to where we were and getting the allegiance of the parties in Northern Ireland to allow a devolved administration to function again in Northern Ireland?

The Taoiseach: We are sufficiently removed from the elections in Northern Ireland for

everyone to be calm. A number of issues arose over the past few months. The Minister for Justice, Equality and Law Reform spelled out the position as he saw it, particularly regarding the Tohill incident on 20 February, the issues of last year, the connections with paramilitarism and the actions of the Dublin docks gang, whether they were official or unofficial paramilitaries. Those issues were brought before the Minister by those concerned with security. He made his points quite forcibly. Had he said nothing, he would have been accused of not making people aware of the facts.

With regard to Northern Ireland, there has been no change in Government policy over the past year. The year could be considered in two distinct periods. People said no progress could be made in Northern Ireland until an election took place. The five years were up for the Assembly, and people needed to get a new mandate. The Governments wanted the contexts for those elections to be positive, particularly for the parties who had contributed to and worked extremely hard in the Executive, in particular the SDLP and the UUP. Every party and everyone

[The Taoiseach.]

in Northern Ireland would have benefited from those elections and a positive approach to them. We failed to involve ourselves in a positive way because the scenario we envisaged with all the political parties did not work out. That led to what were seen at the time as the two more extreme parties, the DUP and Sinn Féin, doing better in the election than the other two parties which had tried to work the Agreement. I do not know if the election results would have been different. However, Mr. Trimble's party fell short by only three seats. If the outcome had been more positive for him, there is no doubt he would have done far better.

Since the elections, nobody will move until a change occurs regarding paramilitarism. The key issue in Northern Ireland is whether people genuinely want to move forward positively. The Deputy has asked what direction our talks are taking. The effort must be to establish whether Sinn Féin can achieve something significant in the area of paramilitarism, and whether the DUP will then honour the terms of the Agreement and share power in a devolved administration. That is where the discussions stand.

Deputy Rabbitte asked me for my analysis. It is difficult to achieve the two aims I have just mentioned, because they involve major changes for the two parties involved. I have some sense that people will engage in a process directed towards those ends, but I do not see it happening in a matter of weeks. There is no chance of that. North and south, elections come and go, and everyone realises the work that must be done. We have not got a very long period to make things happen. Progress must be made over the next few months. Otherwise — as regularly happens in Northern Ireland — by Christmas, people will be turning their attention to the Westminster elections, and the merry-go-round will begin again. As a result of the situation in Northern Ireland, with people watching elections in the North, the South and in Westminster, the windows of opportunity are permanently narrow. There was a window in the autumn and there will be one after the summer, but little or no chance of one before the summer. Some people disagree, but people regularly tell me that others are saying certain things, and when I contact them, they deny it. Small talk is cheap until one has to get down to it.

There is an opportunity for us now to attempt to understand what benchmarks people are setting down and to work hard in that area after the summer. There are two main issues. There are other issues which can be solved. However, two main issues remain: whether Sinn Féin will use its influence and power to make a significant move on paramilitarism, and, if that happens, whether the DUP will alter its position and move towards inclusive government. The smaller issues are surmountable. It is in the two major issues that we are involving ourselves directly, and have been doing for some weeks with the various

parties — sometimes quietly, sometimes not so quietly — in an effort to make progress.

Caoimhghín Ó Caoláin: The Taoiseach said he hoped there was no association between Sinn Féin and criminal elements in this jurisdiction. I assure him and Deputy Kenny, and other Members of this House, that there are no such links. Sinn Féin is not and has not been involved in, or been a beneficiary from, such activities, either in this jurisdiction or in any part of this island or beyond. Will the Taoiseach note that on behalf of Sinn Féin, I roundly reject any and all such activities? I also reject the barrage of accusation directed at Sinn Féin by some politicians and some journalists whose anti-republican bile apparently knows no bounds.

Regarding Questions Nos. 39 and 57 in my name, does the Taoiseach accept that the basis of the peace process is inclusiveness and the recognition of electoral mandates? Does he accept that the success of the peace process so far has rested on, and has been built on, that principle, and that any attempt to place any party beyond the Pale, which has clearly been the agenda of some, is a recipe for the failure of the peace process, the success of which I and my colleagues in Sinn Féin are totally committed to?

I will ask some questions to highlight certain contradictions. Can the Taoiseach explain why he and the British Prime Minister requested the so-called IMC, the Independent Monitoring Commission, to investigate and adjudicate on the Tohill affair while the trial of persons connected with that incident is pending? The inquiry recommended by Judge Cory into the murder of Patrick Finucane is meanwhile denied on the basis of ongoing legal proceedings. Does that not indicate gross double standards on the part of both Governments?

What is the Taoiseach's view of the British Act of Parliament that gave effect to the IMC, the so-called Northern Ireland Monitoring Commission Act of 2003, which established the commission, but to which, interestingly, the Minister for Justice, Equality and Law Reform made no reference — I have looked at his contributions at the time — when he introduced the corresponding IMC legislation in this Chamber? Is the Taoiseach aware that the British Act allows a British Minister to dismiss a Minister from the Executive in Northern Ireland without a vote in the Assembly, and that not only in my view, but in the view of others I have talked to regarding this very serious disparity, this is in clear breach of the letter and spirit of the Good Friday Agreement? I would like the Taoiseach to give us his views.

Does the Taoiseach still acknowledge — he made an acknowledgement in this House when I questioned him at the time — that the very significant IRA initiative of last October in putting arms beyond use was, as he then described it, sufficient for the Irish Government? Those were the words the Taoiseach used. Does

he accept that such progress, and it was progress, must be built upon and that the removal of all armed groups and armies from the political equation on any part of this island, or in the engagement between the peoples of these islands, can only happen in the context of progress on all issues addressed by the Good Friday Agreement? That is not something that I or any other representative of Sinn Féin can just wish away with the stroke of a magic wand.

Does the Taoiseach agree that there can be no return to the days of preconditions to real engagement with any party and megaphone diplomacy which, all too sadly, we have seen examples of in the recent past, or to scapegoating any party? We have to recognise that these are totally inappropriate and that both Governments have the responsibility — I emphasise that — to lead all parties on the path towards the restoration of the institutions. It is in the gift of both Governments to see that situation arrived at.

The Taoiseach: Deputy Ó Caoláin has asked a number of questions and I will try to recall all of them. I can be very clear on the first one. The implementation of the Good Friday Agreement has always been an inclusive process. Partnership is at the heart of the Agreement. We have made progress but to achieve it on a sustainable basis it is important that all outstanding issues are resolved collectively. I totally accept that. If, in the final analysis, that proves to be impossible it will be for the two Governments, as guardians of the Agreement, to decide on the best way forward. That also has to be accepted.

On the IMC, I recall what Deputy Rabbitte said about its history. I can understand Deputy Ó Caoláin not fully liking the IMC, and I also understand what he said about an arbitrary dismissal. As he is aware, I argued against some of those issues.

Caoimhghín Ó Caoláin: I do not like it at all. Let us be clear about that.

The Taoiseach: I appreciate that but we should recall what Deputy Rabbitte said about the reason for it. These are the only democratic institutions in the world which have had four suspensions in a five year period. We have to try to find a way forward.

Caoimhghín Ó Caoláin: Arbitrary suspensions.

The Taoiseach: But——

Caoimhghín Ó Caoláin: No buts. They were arbitrary suspensions.

The Taoiseach: I want to try to be constructive. I can recall why they happened but the Deputy does not need me to do that because it does not help matters. Apart from that it upsets him but they did not suspend for no reason. They suspended for a fairly good reason in most cases. Let us be honest, if there was no IMC and we did

not have the process, and if the institutions had been up and running they would be suspended again over the Cory incident. I would not have stopped them, nor would anybody in this House. The other parties to the Agreement would have walked out again, and the institutions would be down. I know the Deputy accepts that but that is the difficulty. While it is an inclusive process it means that those who are part of it have to be reasonably happy, not politically, that if they are in government with other parties they are not operating on some basis that they cannot accept. That is the issue, without going into the blunt detail of it. It is why paramilitarism in all its forms has to stop.

I accept what Deputy Ó Caoláin has put on the record again but my accepting that will not get the UUP, the DUP and others into an inclusive arrangement to work with Sinn Féin. We have to agree some basis on which they will do that. As the Deputy knows, there is no point in me giving my view when I get into those discussions. He is aware of the issues that come up — putting arms beyond use, the IICD report. I repeat that what happened in October was substantive and it was sufficient for me, but we still have to get finality in an IICD recommendation of John de Chastelain. That is the number one priority.

We still have to get finality on paragraph 13, which has been an issue for well over a year and the basis of which has been an issue for 18 months. We have to get an understanding on paragraph 13, and Deputy Ó Caoláin understands all the issues in paragraph 13. We have to find a way whereby the IMC, even if the Deputy does not like it, as an independent body set up by statute, can give positive reports. That is an issue with which we must deal. I believe we can then get into meaningful discussions to try to get an inclusive Government but I cannot do it the other way around. For the past 12 months I have tried every way, and his party's president knows that, but it cannot be done unless those issues are addressed. The Deputy asked me if it was an inclusive process. I agree it is an inclusive process and he must accept, therefore, that the people who are part of that process have to be satisfied but, unfortunately, they are not. That is the rationale.

I did not set this agenda. The people of Northern Ireland and Southern Ireland voted for it but we have to make it work, and all I am asking is for the Deputy and his party to play their part. I am clearly stating that the DUP in particular has the other side to play and that is that it accepts the electoral mandate of the Deputy's party. It has an obligation to accept that the Deputy's party is part of the Executive of Northern Ireland, and we can get on with the issues. There is no other way of doing it.

Caoimhghín Ó Caoláin: Very briefly——

An Ceann Comhairle: If Deputy Sargent gives way to you, Deputy Ó Caoláin, you can come in. If he does not, I will call on Deputy Sargent.

Mr. Sargent: That is a very unfair request to make.

An Ceann Comhairle: Taoiseach's Question Time is concluded, Deputy. I should not be letting you in at all. The Deputy should be very brief.

Mr. Sargent: It is ironic that we are talking about an inclusive process. I have five questions to ask and the Ceann Comhairle is asking me to give way to another Deputy on the basis of his being allowed to say a word or two. I ask you, a Cheann Comhairle, to take that into account when we are organising these questions in the future.

I want to ask the Taoiseach about the implementation of his own commitments undertaken in the Joint Declaration. Since April 2003 we have been waiting for some movement on the rights, equality, identity and community aspect of the declaration. As the Taoiseach appears to have renewed his interest in the process I wonder if he has anything to say about work that has been done on that aspect of the declaration since April 2003. Has he learnt any lessons from the debacle over the lack of debate on the constitutional referendum in regard to the parties in Northern Ireland? Will he agree that the spirit of the all-party Agreement specifically requires consultation, which did not take place? Has the Taoiseach learnt any lessons in that regard which will ensure we do not have the DUP celebrating the lack of consultation and wishing to see the breakdown of the process?

The Taoiseach: I do not know what planet the Deputy lives on but——

Mr. Sargent: The same one as the Taoiseach.

The Taoiseach: ——I cannot renew my interest in something that one does not get away from seven days a week.

Mr. Sargent: That is not what Denis Bradley said.

The Taoiseach: Who?

Caoimhghín Ó Caoláin: Does the Taoiseach not remember him?

Mr. Sargent: The Taoiseach might know him.

The Taoiseach: I know him in current capacity but he does not deal with the everyday peace process.

Mr. Sargent: Does the Taoiseach know him?

An Ceann Comhairle: Allow the Taoiseach to continue without interruption.

The Taoiseach: I met him about three years ago when he sought a meeting.

Mr. Sargent: That is a long time ago.

The Taoiseach: Exactly, and he has not been at any of the hundreds of meetings since.

Mr. Sargent: The Taoiseach did not talk to him either.

The Taoiseach: If he comes along some time I will enlighten him.

Caoimhghín Ó Caoláin: Perhaps the Taoiseach is as concerned about the nature of the policing boards as we are in Sinn Féin.

An Ceann Comhairle: Allow the Taoiseach to continue without interruption.

The Taoiseach: What I am trying to do is get Deputy Ó Caoláin to talk to the policing board.

Caoimhghín Ó Caoláin: I will talk to Denis Bradley any time. I remember all the players. I do not drop them all.

An Ceann Comhairle: Deputy Ó Caoláin, you had six minutes to submit a question.

The Taoiseach: There was a time when he was close enough.

An Ceann Comhairle: Taoiseach, if you address your remarks through the Chair we might not provoke interruptions.

The Taoiseach: I know his history too. In reply to Deputy Sargent, it is an inclusive process and on all issues that are relevant we actively engage with all the parties and we continue to do that, even the smaller ones.

Mr. Sargent: The Taoiseach did not answer the question on the Joint Declaration.

Requests to move Adjournment of Dáil under Standing Order 31.

An Ceann Comhairle: Before coming to the Order of Business I propose to deal with a number of notices under Standing Order 31. I will call on Deputies in the order in which they submitted their notices to my office.

Dr. Cowley: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter of national importance: the failure of the Minister for Health and Children, Deputy Martin, to address the disgraceful situation whereby Ireland's third largest county, Mayo, with 14,500 arthritics are left without a rheumatology unit or consultant rheumatologist

while 1,000 Mayo people wait in pain for four years for their first appointment. Their joints suffer irreparable damage and they must undertake round trips of up to 300 miles when they eventually get an appointment to see the solitary consultant rheumatologist, based in Galway, who must look after the entire Western Health Board area, as well as other counties.

Mr. Neville: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter of national importance: up to 160 patients were on trolleys in accident and emergency departments in Dublin hospitals last weekend. Patients are subjected to excessive waiting times for treatment, extended periods on trolleys and frequently unacceptable care environments where dignity and privacy are severely compromised. Over the past week, as many as 44 patients were on trolleys at Tallaght hospital, and people had to be treated in ambulances outside James Connolly Memorial Hospital, while a psychiatric patient was on a trolley for two days.

Aengus Ó Snodaigh: I seek the adjournment of the Dáil under Standing Order 31 to debate the following important matter of public interest requiring urgent consideration: the need for the Minister for Justice, Equality and Law Reform to make a public apology both for his contemptuous treatment of the Human Rights Commission to date and for his repeated insistence on misleading the public that he engaged in a consultation process with the Opposition parties regarding the citizenship referendum proposal.

Mr. Sargent: I seek the adjournment of the Dáil under Standing Order 31 to debate the following urgent matter of public importance: the use of departmental resources for Fianna Fáil Party purposes by the Minister for Education and Science, Deputy Noel Dempsey, who had his departmental staff prepare confidential briefing documents for Fianna Fáil election candidates. Now we have learnt that the Minister of State at the Department of Enterprise, Trade and Employment, Deputy Fahey, has used departmental headed paper for invitations to a party fundraiser.

An Ceann Comhairle: Having given the matters full consideration, I do not consider them to be in order under Standing Order 31.

Order of Business.

The Taoiseach: It is proposed to take No. 23, the Twenty-seventh Amendment of the Constitution Bill 2004 — Order for Committee and Committee Stage. It is proposed, notwithstanding anything in Standing Orders, that the Dáil shall sit later than 8.30 p.m. and that business shall be interrupted not later than 10.30 p.m. Committee Stage of No. 23 shall be taken today and the proceedings shall, if not previously

concluded, be brought to a conclusion at 10.30 p.m. by one question which shall be put from the Chair and which shall, in relation to amendments, include only those set down by the Minister for Justice, Equality and Law Reform. Private Members' Business shall be No. 46, motion re road safety (resumed), to conclude at 8.35 p.m.

An Ceann Comhairle: There are two questions to put to the House. Is the proposal for the late sitting agreed? Agreed. Is the proposal for dealing with No. 23 agreed?

Mr. Kenny: I do not agree with that and would like to propose an amendment in the name of Deputy O'Keeffe to delete "10.30 p.m. today" and substitute "3.30 p.m. tomorrow and, in conjunction with the Select Committee on Justice, Equality, Defence and Women's Rights, shall take evidence from key experts and personnel from the legal, medical and human rights areas to provide their expert insights into the implications of the proposed constitutional amendment". Against the background of the necessity of full and thorough discussion about these sensitive matters, Deputy O'Keeffe wrote to the Chairman of the Select Committee on Justice, Equality, Defence and Women's Rights to call a special meeting for this purpose. While the Chairman was not averse to calling a meeting, he felt that there was not enough time to do so. This amendment would allow for that to happen and enable the Select Committee on Justice, Equality, Defence and Women's Rights to meet to discuss some of the relevant matters in the context of the options being put forward by Deputy O'Keeffe and others in respect of this amendment.

Mr. Rabbitte: My colleague, Deputy Costello, made a similar request to the Chairman of the Select Committee on Justice, Equality, Defence and Women's Rights, Deputy Ardagh, highlighting the need for expert evidence on this important and sensitive issue from the masters of the three maternity hospitals, the SDLP, the Human Rights Commission and others who have expertise to offer. I understand that Deputy Ardagh felt unable to accede to that because of the manner in which the Bill is being rushed through the House by the Minister for Justice, Equality and Law Reform who, when on this side of the House, was a trenchant advocate of the rights of Parliament *vis-à-vis* those of the Executive. He would want such issues considered in the manner in which the All-party Committee on the Constitution, chaired last time by Deputy Brian Lenihan, advised.

I support the amendment from Deputy Kenny and ask the Taoiseach to give an undertaking that he will ask Deputy Ardagh about the matter. One of the most negative aspects of the reforms that we agreed in terms of committees is that — this is no reflection on my friend, Deputy Ardagh — all the chairmanships are given out as chocolate

[Mr. Rabbitte.]

sweets to Deputies disappointed not to have achieved the same elevation as people such as the Ministers of State, Deputies Fahey and Roche. They chair all the committees. Given that he is a member of the Taoiseach's party, I ask him to request Deputy Ardagh to facilitate the kind of hearings that Deputies O'Keeffe and Costello and others desire so that we can take expert evidence in a calmer environment on this issue and establish to the people's satisfaction where they stand before they have to vote on the amendment on the proposal for a referendum.

Mr. Sargent: The Green Party, An Comhaontas Glas, has made a similar request for this matter to be referred to the Select Committee on Justice, Equality, Defence and Women's Rights. Regarding what we have just been discussing, it is important that the two matters are tied together. We are talking about the credibility of the Good Friday Agreement, the all-party agreement which applies to many groups that have felt excluded from the consultation, such as it was, which preceded this referendum decision. With the Human Rights Commission meeting Northern Ireland counterparts today, there is no doubt that there will be a need to hear expert opinion on this matter so that we do not rush into it, and the same goes for the figures coming from the hospitals. People born in the United States and London telephone me——

An Ceann Comhairle: The Deputy should be brief in his comments.

Mr. Sargent: They are being asked where they were born.

An Ceann Comhairle: There will be an opportunity to debate the issue.

Mr. Sargent: This contribution is shorter than some heard by the Ceann Comhairle already. I am being brief. It is important to point out——

An Ceann Comhairle: This must be relevant.

Mr. Sargent: This is absolutely relevant. The figures given by the hospitals are being challenged by those who have been in them and are asked where they were born rather than of which country they are citizens. It gives the false impression that they are coming from America or England when they have lived here most of their lives. It is important that we hear the details and ensure that we do not hold a referendum based on false information.

Caoimhghín Ó Caoláin: Sinn Féin cannot agree to this proposal on the Order of Business. Yesterday the Human Rights Commission, which was established under the terms of the Good Friday Agreement, issued a very measured and considered legal critique of the Government's citizenship referendum proposal. Regrettably,

before the ink was even dry on that opinion, the Minister for Justice, Equality and Law Reform, Deputy McDowell, in what can only be described as a very summary and arrogantly dismissive way, absolutely rejected all its concerns. This is a very serious matter.

We cannot agree to taking the Twenty-seventh Amendment of the Constitution Bill 2004 in the way it is now presented. It is irresponsible in the extreme and that has been demonstrated and repeated by people who have a variety of views and opinions. Our view is — and we are not running contrary to the proposition, if that is what is to be put as regards the justice committee — that the matter should be referred to the Joint Committee on the Constitution. The Minister for Justice, Equality and Law Reform, Deputy McDowell, told the House last week that this issue had been addressed by the All Party Committee on the Constitution in the 1990s and that we did not need another exercise to offer us the same opinion. Yet, Deputy O'Donovan, the chairman of the Joint Committee on the Constitution indicated subsequently that he would like the committee to have addressed Articles 1 to 9, as it had planned to do. However, this could not now be done within the time frame offered *vis-à-vis* a referendum planned for 11 June.

All of this is clearly a shambles, with all respect. It requires the Minister being big enough, both politically and as a person, to stand back and concede that there is genuine concern on this issue. With respect, the Human Rights Commission is a body that should be listened to and given due respect and regard. I believe that is now timely and the Government will earn more respect if it now decides not to proceed and to allow the full consultative debate that is necessary——

An Ceann Comhairle: The Deputy has made his point.

Caoimhghín Ó Caoláin: ——in order to evaluate what is necessary to address the abuses the Minister has highlighted, if that is what a careful analysis of them will prove them to be. Certainly, we do not need an amendment to our Constitution.

The Taoiseach: I will make just two points. On the notice discussed by the Whips last week, it was the original intention of the Government to debate this on Committee Stage last night and today. That may not be precisely what Members are talking about as regards bringing in outside groups. However, it was pointed out to us, correctly, by one of the Opposition Whips, that the debate should be on the floor of the House rather than in committee; and so we are having the debate on the floor of the House.

Mr. Costello: The Bill is on Committee Stage.

Mr. J. O’Keeffe: Yes.

An Ceann Comhairle: The Taoiseach, without interruption.

The Taoiseach: I accept that it is not the same as bringing in outside groups. Second, as I said already, this is a clear issue. People can see whether they support this issue. That is their democratic right. Based on previous experience on referendums, when the Green Paper process is gone through there is massive consultation, with thousands of people putting their views——

Mr. Rabbitte: It is like the price of building land.

The Taoiseach: ——even if it is over 90% of the views. I did this previously on the abortion referendum——

Mr. Rabbitte: The Taoiseach knocked seven years out of the price of building land.

The Taoiseach: ——and still when it came to the House it made no difference. It involves the concept of going through a long process of consultation and Members coming back into the House and not accepting the outcome. Despite the fact that more than 90% of people shared one view there was no consensus in the House.

Mr. Rabbitte: Democracy is messy, is it not?

The Taoiseach: This issue is far more straightforward. We have set it out clearly. I look forward to the debate today.

An Ceann Comhairle: The amendment, as proposed by Deputy Kenny is in order, so the question will be put.

Question put: “That the words and figure proposed to be deleted stand.”

The Dáil divided: Tá, 68; Níl, 52.

Tá

Ahern, Bertie.
Ahern, Dermot.
Ahern, Michael.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Fox, Mildred.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Healy-Rae, Jackie.
Hoctor, Máire.
Jacob, Joe.
Keaveney, Cecilia.
Kelleher, Billy.

Kelly, Peter.
Killeen, Tony.
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McDowell, Michael.
McEllistram, Thomas.
McGuinness, John.
Martin, Micheál.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M.J.
Ó Cuív, Éamon.
Ó Fearghail, Seán.
O’Connor, Charlie.
O’Donnell, Liz.
O’Donovan, Denis.
O’Flynn, Noel.
O’Keeffe, Batt.
O’Keeffe, Ned.
O’Malley, Fiona.
Parlon, Tom.
Power, Peter.
Power, Seán.
Roche, Dick.
Sexton, Mae.
Smith, Brendan.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Wilkinson, Ollie.
Woods, Michael.

Níl

Boyle, Dan.
Breen, James.
Breen, Pat.
Broughan, Thomas P.
Bruton, John.
Connaughton, Paul.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Cuffe, Ciarán.

Deasy, John.
Durkan, Bernard J.
English, Damien.
Ferris, Martin.
Gilmore, Eamon.
Gormley, John.
Hayes, Tom.
Higgins, Michael D.
Hogan, Phil.
Kenny, Enda.

Níl—*continued*

Lynch, Kathleen.
McCormack, Padraic.
McGinley, Dinny.
McGrath, Paul.
McHugh, Paddy.
McManus, Liz.
Mitchell, Olivia.
Morgan, Arthur.
Murphy, Gerard.
Naughten, Denis.
Neville, Dan.
Noonan, Michael.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O’Keeffe, Jim.
O’Shea, Brian.

O’Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.
Perry, John.
Quinn, Ruairí.
Rabbitte, Pat.
Ring, Michael.
Ryan, Seán.
Sargent, Trevor.
Sherlock, Joe.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Twomey, Liam.
Upton, Mary.
Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Durkan and Stagg.

Question declared carried.

Question put: “That No. 23 be taken today.”

The Dáil divided: Tá, 68; Níl, 50.

Tá

Ahern, Bertie.
Ahern, Dermot.
Ahern, Michael.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Fox, Mildred.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Haughey, Seán.
Healy-Rae, Jackie.
Hector, Máire.
Jacob, Joe.
Keaveney, Cecilia.
Kelleher, Billy.

Kelly, Peter.
Killeen, Tony.
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McDowell, Michael.
McEllistram, Thomas.
McGuinness, John.
Martin, Micheál.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M. J.
Ó Cuív, Éamon.
Ó Fearghail, Seán.
O’Connor, Charlie.
O’Donnell, Liz.
O’Donovan, Denis.
O’Flynn, Noel.
O’Keeffe, Batt.
O’Keeffe, Ned.
O’Malley, Fiona.
Parlon, Tom.
Power, Peter.
Power, Seán.
Roche, Dick.
Sexton, Mae.
Smith, Brendan.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Wilkinson, Ollie.
Woods, Michael.

Níl

Boyle, Dan.
Breen, James.
Breen, Pat.
Broughan, Thomas P.
Bruton, John.
Connaughton, Paul.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Cuffe, Ciarán.
Deasy, John.
Durkan, Bernard J.

English, Damien.
Ferris, Martin.
Gilmore, Eamon.
Hayes, Tom.
Higgins, Michael D.
Hogan, Phil.
Kenny, Enda.
Lynch, Kathleen.
McCormack, Padraic.
McGinley, Dinny.
McGrath, Paul.
McHugh, Paddy.

Níl—*continued*

McManus, Liz.
Mitchell, Olivia.
Morgan, Arthur.
Murphy, Gerard.
Naughten, Denis.
Noonan, Michael.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O'Keeffe, Jim.
O'Shea, Brian.
O'Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.

Perry, John.
Quinn, Ruairí.
Rabbitte, Pat.
Ring, Michael.
Ryan, Seán.
Sargent, Trevor.
Sherlock, Joe.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Twomey, Liam.
Upton, Mary.
Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Durkan and Stagg.

Mr. Rabbitte: Over the past 40 years or so, serious punishment has been inflicted on tax-compliant citizens in this jurisdiction as a result of the extent of tax evasion as established by report after report.

An Ceann Comhairle: Does Deputy Rabbitte have a question appropriate to the Order of Business?

Mr. Rabbitte: I do. It is my understanding that it has been established that a Member of the House has been facilitating tax evasion. The Member is a member of the Taoiseach's party. What action does he propose to take now that the matter has been disposed of?

An Ceann Comhairle: I am sorry Deputy, that does not arise on the Order of Business.

Mr. Rabbitte: It is a matter of fundamental public interest that this House——

An Ceann Comhairle: There are other ways for the matter to be raised in the House. I call Deputy Sargent.

Mr. Rabbitte: ——shows that it is concerned about issues like this. The matter has finally been disposed of.

An Ceann Comhairle: I would prefer the Deputy to raise the matter in another way.

Mr. Rabbitte: I am raising it in the most moderate way possible. I ask the Taoiseach what action he proposes to take.

An Ceann Comhairle: It is not appropriate to the Order of Business. We cannot have one rule for Deputy Rabbitte and another for other Members of the House. I call Deputy Sargent.

Mr. Rabbitte: Is it proposed to bring the defamation Bill before the House in the near future? In advance of that, will the Taoiseach deal with the disciplinary matter that is calling out to be dealt with on his benches?

An Ceann Comhairle: We cannot discuss the contents of the defamation Bill.

The Taoiseach: The Minister for Justice, Equality and Law Reform is working on proposals which he will bring before Government in the autumn. It is unlikely we will see the Bill until next year.

Mr. Rabbitte: Will the Taoiseach not respond to a matter that diminishes the House?

An Ceann Comhairle: I have called Deputy Sargent. I would prefer if Deputy Rabbitte would stay within Standing Orders.

Mr. Rabbitte: I am endeavouring to do so.

An Ceann Comhairle: No, you are not. The Chair has ruled on the matter. I call Deputy Sargent.

Mr. Rabbitte: This is an issue that diminishes the entire House. What is the Taoiseach's response to this matter?

An Ceann Comhairle: I am sorry, Deputy Rabbitte, the Chair will facilitate the Deputy in raising the matter in another way. I call Deputy Sargent.

Mr. Rabbitte: Will the Taoiseach make time available to discuss the matter in the House in accordance with Standing Orders and your interpretation?

The Taoiseach: It is a matter that requires discussion. I have not yet seen the judgment.

Mr. Rabbitte: I have no idea what the Taoiseach said. I asked if he intends to make time available to discuss this issue in the House.

The Taoiseach: No, I do not intend to do that today.

Mr. Rabbitte: There hangs a tale.

Mr. Sargent: While the Ceann Comhairle may have ruled, it is important that the Supreme Court ruling is not ignored.

An Ceann Comhairle: I am sorry, Deputy, the Chair is ignoring nothing. The Chair is obliged to implement Standing Orders and if Deputies have a difficulty with Standing Orders, they know how to change them. There are ways in which issues that are not appropriate to the Order of Business can be raised in this House.

Mr. Sargent: I want to remain in order and ask about promised legislation.

An Ceann Comhairle: I am sorry Deputy, if Deputies want to abuse the Order of Business, we will move on to the next business which is the Twenty-seventh Amendment of the Constitution Bill.

Mr. Sargent: I do not want to abuse anything.

An Ceann Comhairle: If the Deputy has a question appropriate to the Order of Business, I will hear it.

Mr. Sargent: I do.

An Ceann Comhairle: The Deputy should come to it.

Mr. Sargent: We have a number of examples of situations which, unfortunately for the Taoiseach, pertain to the Fianna Fáil Party, requiring——

An Ceann Comhairle: I am sorry, Deputy, we are moving on to the next business.

Mr. Sargent: My question relates to the Civil Service Regulation (Amendment) Bill. Civil servants have to work with Fianna Fáil, a party which has within its numbers somebody who has been found not to be in favour of tax compliance——

An Ceann Comhairle: Deputy Sargent should allow the Taoiseach to answer the question on the legislation. The Deputy should resume his seat.

Mr. Sargent: We have to deal with that matter. We also have to deal with a number of matters relating to Fianna Fáil, such as those in regard to the Minister for Education and Science, Deputy Noel Dempsey and the Minister of State, Deputy Fahey.

An Ceann Comhairle: Before the Taoiseach replies, it is once again appropriate that we put on the record of the House Standing Order 26: “business on the Order Paper; about the taking of business which has been promised, including legislation promised either within or outside the Dáil; about the making of secondary legislation; about arrangements for sittings; and as to when

Bills or other documents on the Order Paper needed in the House will be circulated: Provided that, the Taoiseach may defer replying to a question relating to the making of secondary legislation to another day.” If Members of the House are not happy with the Standing Order, they may change it and the Chair will be only too delighted to implement the new Standing Order.

The Taoiseach: That will happen this session.

Caoimhghín Ó Caoláin: In the Government’s legislative programme published last January it was indicated that the following Bills would be published in 2004, the adoption Bill, the Irish Medicines Board Bill, the medical practitioners Bill, the nurses and midwives Bill, the pharmacy Bill and the VHI Bill. Yet in the most recently published programme for this session, we find that either they will be published in 2005 or it is not possible to indicate when they will be published. These are all important Bills.

An Ceann Comhairle: The Deputy has made his point. He should allow the Taoiseach to answer his question.

Caoimhghín Ó Caoláin: Can the Taoiseach explain why that raft of promised legislation is now in such a questionable state?

The Taoiseach: The Adoptive Leave Bill was published on 22 April and it is ordered for Second Stage to be taken in the Seanad.

Caoimhghín Ó Caoláin: I asked about the adoption Bill. I did not refer to the Bill to which the Taoiseach responded.

The Taoiseach: The adoption Bill will be ready for next year. Feedback from the consultation process, which is being examined by the Minister of State, Deputy Brian Lenihan, is being considered as some of the draft heads of the Bill had been prepared, but the final draft will depend on the outcome of that consultation.

Caoimhghín Ó Caoláin: What about the Irish Medicines Board Bill?

The Taoiseach: It will be ready in 2005. The other Bill the Deputy asked about was the pharmacy Bill.

Caoimhghín Ó Caoláin: I also asked about the medical practitioners Bill and nurses and midwives Bill.

The Taoiseach: Work is under way on the drafting of the heads of the pharmacy Bill and it is expected it will be ready during 2004. I do not have a date for when the nurses and midwives Bill will be ready. The purpose of that Bill is to implement the recommendations of the Commission on Nursing.

Caoimhghín Ó Caoláin: All these Bills were promised——

An Ceann Comhairle: The Deputy should allow the Taoiseach to answer his question.

The Taoiseach: The medical practitioners Bill——

Caoimhghín Ó Caoláin: I am trying to be helpful to the Taoiseach.

An Ceann Comhairle: The Deputy is not being helpful. The Chair is ruling the Deputy out of order. He continually interrupts the Minister or member of Government who is answering.

The Taoiseach: For the information of the Deputy most of the work being done now on legislation in the Department of Health and Children is on the Health (Amendment) Bill 2004. It is on that Bill the work is being concentrated. The relevant people are putting all their efforts into providing a legislative basis for the implementation of the health reform programme.

(Interruptions).

The Taoiseach: That is the major Bill on which they are working.

Caoimhghín Ó Caoláin: This is a serious matter.

Mr. Naughten: On promised legislation, in light of the fact that the RPA is currently investigating itself regarding the derailment of a Luas tram earlier this month, when will Report Stage of the Railway Safety Bill be taken?

The Taoiseach: The Railway Safety Bill is listed for Report Stage.

Mr. Naughten: Yes, for the past 12 months, but when will Report Stage of that Bill be taken?

The Taoiseach: I am sure the Minister will be glad to get on with it.

Mr. Naughten: He has not been so far.

Mr. Broughan: In regard to the programme published yesterday, can we take it the coastal zone management Bill has finally been abandoned? The Taoiseach announced perhaps 20 times in recent years that it would be coming and that it was listed on various programmes. What is the plan for that Bill?

Does the Taoiseach consider we might have an opportunity to debate the residential densities guidelines?

An Ceann Comhairle: That matter does not arise on the Order of Business.

Mr. Broughan: I ask the Taoiseach to put it on the Order of Business given the clear indication of corruption in areas of planning. Perhaps we should review this area given the mega profits that are being made by certain developers.

The Taoiseach: In terms of a debate, I am sure the matter can be discussed. With regard to the coastal zone management Bill, it is being incorporated into the marine services Bill, which will provide for comprehensive new legislative proposals for the seafood sector and the marine coastal zone.

An Ceann Comhairle: I am moving on to the Twenty-seventh Amendment——

Mr. Rabbitte: A Ceann Comhairle——

Aengus Ó Snodaigh: A Ceann Comhairle——

An Ceann Comhairle: I am not taking any more questions because it is now 12.35 p.m.

Aengus Ó Snodaigh: On a point of order——

An Ceann Comhairle: I will hear a point of order.

Aengus Ó Snodaigh: I indicated at the same as Deputy Ó Caoláin that I wished to speak and the Ceann Comhairle nodded to both of us but he skipped over me.

An Ceann Comhairle: I did not. Dealing with such matters is entirely at the discretion of the Chair.

Aengus Ó Snodaigh: If the Chair's head does not swivel far enough to see me, we should introduce some type of mechanism which would enable me to signal to the Chair my intention to speak.

An Ceann Comhairle: Unfortunately this Chair seems to allow the Order of Business to go on much longer than his predecessor.

Aengus Ó Snodaigh: I have two questions on relevant legislation.

An Ceann Comhairle: I ask the Deputy to resume his seat. Deputy Rabbitte was on his feet.

Aengus Ó Snodaigh: We will have to bring in some type of light system that will light up in front the Ceann Comhairle to signal that Members wish to speak.

An Ceann Comhairle: I ask the Deputy to resume his seat for a moment.

Aengus Ó Snodaigh: I am sorry, but I raised a point of order and the Chair indicated that I could make it.

An Ceann Comhairle: The point the Deputy raised was not a point of order. The Deputy must resume his seat as I have called Deputy Rabbitte. If the Deputy resumes his seat, I will call him. I call Deputy Rabbitte.

Mr. Rabbitte: Can I take it from earlier exchanges that the Taoiseach has nothing to say about the facilitation of tax evasion—

An Ceann Comhairle: The Deputy is totally out of order.

Mr. Rabbitte: —by one of his own members?

An Ceann Comhairle: I ask the Deputy to resume his seat. I call Deputy Ó Snodaigh.

Mr. Rabbitte: Is the Taoiseach silent on the facilitation of tax evasion by one of his own members?

An Ceann Comhairle: The Deputy is out of order. The Chair has already quoted Standing Order 26 to him and he knows he is out of order. I call Deputy Ó Snodaigh.

Aengus Ó Snodaigh: I wish to ask about two Bills. Why is there an additional delay on the introduction of the *Údarás na Gaeltachta* (Amendment) Bill when it needs to be dealt with quickly?

We are dealing with referendum legislation today and it was promised that a Bill would be published, but one of the most recent referendum Bills dealt with was the ICC Bill. Why has it taken so long to deal with it and is there any relationship between the ICC Bill and the Diplomatic Relations and Immunities (Amendment) Bill?

The Taoiseach: It is expected that the heads of the *Údarás na Gaeltachta* (Amendment) Bill will be ready in mid-2004. I respectfully suggest if time was more efficiently used in this House we would deal with far more legislation. If Members

co-operated with the Chair we would deal with far more legislation.

Caoimhghín Ó Caoláin: I thought the Taoiseach said in reply to one of my questions that the Department of Health and Children could not cope.

The Taoiseach: We lose hours every day with Members interrupting and being out of order. If Members did not do that, we would be able to clear legislation.

An Bille um an Seachtú Leasú is Fíche ar an mBunreacht 2004: Céim on Choiste.

Twenty-seventh Amendment of the Constitution Bill 2004: Committee Stage.

An Ceann Comhairle: Before Committee Stage commences I would like to deal with a procedural matter relating to Bills to amend the Constitution. The substance of the debate on Committee Stage relates to the wording of the proposed constitutional amendment, which is contained in the Schedule to the Bill. The sections of the Bill are merely technical. Therefore, in accordance with long-standing practice, the sections are postponed until consideration of the Schedule has been completed. I ask the Minister for Justice, Equality and Law Reform to formally move, in accordance with precedence, that consideration of sections 1 and 2 of the Bill be postponed until the Schedule shall have been disposed of.

Minister for Justice, Equality and Law Reform (Mr. McDowell): I move:

That sections 1 and 2 of the Bill be postponed until the Schedule shall have been disposed of.

An Ceann Comhairle: Is that agreed?

Caoimhghín Ó Caoláin: No.

Question put.

The Dáil divided: Tá, 63; Níl, 45.

Tá

Ahern, Bertie.
Ahern, Dermot.
Ahern, Michael.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Browne, John.
Callanan, Joe.
Carty, John.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.

Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Fox, Mildred.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Harney, Mary.
Hector, Máire.
Jacob, Joe.
Keaveney, Cecilia.
Kelleher, Billy.
Kelly, Peter.
Killeen, Tony.
Kitt, Tom.

Tá—continued

Lenihan, Brian.
 Lenihan, Conor.
 Martin, Micheál.
 McDowell, Michael.
 McEllistrim, Thomas.
 McGuinness, John.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Nolan, M. J.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 O'Connor, Charlie.
 O'Donnell, Liz.

O'Donovan, Denis.
 O'Flynn, Noel.
 O'Keeffe, Batt.
 O'Keeffe, Ned.
 O'Malley, Fiona.
 Power, Peter.
 Power, Seán.
 Sexton, Mae.
 Smith, Brendan.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Boyle, Dan.
 Broughan, Thomas P.
 Bruton, John.
 Connaughton, Paul.
 Costello, Joe.
 Cowley, Jerry.
 Crawford, Seymour.
 Cuffe, Ciarán.
 Deasy, John.
 English, Damien.
 Ferris, Martin.
 Gilmore, Eamon.
 Hayes, Tom.
 Higgins, Michael D.
 Hogan, Phil.
 Kehoe, Paul.
 Lynch, Kathleen.
 McCormack, Padraic.
 McGinley, Dinny.
 McGrath, Paul.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.

Murphy, Gerard.
 Neville, Dan.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Keeffe, Jim.
 O'Shea, Brian.
 O'Sullivan, Jan.
 Pattison, Seamus.
 Penrose, Willie.
 Perry, John.
 Quinn, Ruairi.
 Rabbitte, Pat.
 Ring, Michael.
 Ryan, Seán.
 Sargent, Trevor.
 Sherlock, Joe.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Twomey, Liam.
 Upton, Mary.
 Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Durkan and Stagg.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

I leathanach 7, roimh líne 1, an Sceideal nua seo a leanas a chur isteach:

Question declared carried.

“SCEIDEAL 1

CUID 1

An Ceann Comhairle: Amendments Nos. 18 and 19 in the name of Deputy Costello are out of order. Amendment No. 20 in the name of Deputy Jim O'Keeffe proposes a new schedule. Amendments Nos. 10 to 14, inclusive, and amendments Nos. 20 to 23, inclusive, are related. Amendment No. 10 is consequential on amendment No. 20, amendment No. 11 is consequential on amendment No. 21, amendment No. 12 is consequential on amendment No. 22, and amendment No. 13 is consequential on amendment No. 23. These amendments will be taken together by agreement. Is that agreed? Agreed.

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2°

CUID 2

Subject to legislation enacted pursuant to Article 9.1.2°.

I move amendment No. 20:

In page 6, before line 1, to insert the following new Schedule:

“SCHEDULE 1

PART 1

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2°

PART 2

Subject to legislation enacted pursuant to Article 9.1.2°.

SCEIDIL NUA.

NEW SCHEDULES.

Mr. J. O'Keeffe: Tairgim leasú a 20:

I should explain my thinking behind the various amendments and my reaction to the ruling out of order of so many of them. I fully understand that in the circumstances in which we are debating Committee Stage there are tight parliamentary rules as to what can or cannot be accepted by way of amendment. While I accept that the Ceann Comhairle must apply these rules objectively, they are a further chapter in a story of constraint on debate.

A number of amendments which have been ruled out of order would not have been tabled at all if we had gone through the original proposed process of referral to the All-Party Committee on the Constitution, or in default of that, if we had conducted detailed discussions between the parties or full discussion before the Select Committee on Justice, Equality, Defence and Women's Rights. None of these processes were available to us. Ironically, if Committee Stage of the Bill was dealt with by select committee, perhaps we would have had more leeway in the discussions. When I and other Members raised the issue this morning at the Committee on Justice, Equality, Defence and Women's Rights, the Chairman informed us time constraints made it impossible to take it in committee.

What I wanted was to see happen was along the lines proposed by the All-Party Committee on the Constitution in its sixth report on the holding of a referendum. I wanted the committee to invite before it key experts and personnel from the legal, medical and human rights areas to provide their expert insights into the implications of the proposed constitutional amendment and of the exact wording proposed. We were not able to do that because of the constraints.

This debate would have been better informed if we had had the opportunity of such contributions. One of the people I had in mind was Gerard Hogan who is acknowledged as one of the leading constitutional experts in the country. I would be very happy to get his views on this Bill. I would like to have seen —

Mr. Costello: He is a good supporter of the Progressive Democrats.

Mr. J. O'Keeffe: I am reminded by Deputy Costello that he has a particular orientation; that would not trouble me in the least. I have had some private discussions with him and would like to have heard him put his views on record on this issue.

Mr. McDowell: I was wondering why the Deputy was in discussion with him.

Mr. Quinn: This debate has nothing to do with constitutional law.

Mr. J. O'Keeffe: I would also like to have heard the views of experts from the medical fraternity, particularly the masters of the

maternity hospitals. I am somewhat addled by the figures and would like to have got full clarity on them. An additional dimension which has not been focused is the data from Northern Ireland which also has an impact on the current situation from the point of view of current citizenship. Additional questions I would have raised would have concerned the exact figures for non-EU national births within Northern Ireland over the past number of years. This is an aspect which has not been examined, as far as I know. I had the opportunity of talking to a doctor from Northern Ireland last weekend who is also involved in politics. He gave me some information which would have been useful and could have informed our discussion on some "late arrivals" in Northern Ireland.

The human rights area is another aspect needing examination. It would have been helpful to have some people from this area before a committee. I listened to the Minister this morning when, in a rather abrasive manner, he used a sledgehammer approach to Michael Farrell of the Human Rights Commission. That is not the way to treat a constitutional amendment or a view being put forward on it. I have not even had the opportunity to fully consider all the points raised in the human rights document. Rejecting them out of hand by use of language such as "tendentious" and by challenging the concepts in the document without an opportunity for proper debate is not the way to deal with the issue. It was the wrong approach.

I have no intention of coming between the Minister and the Human Rights Commission because we have not heard the details. We touched on one aspect. The Minister made a reference that he got no response from the Opposition when he originally floated his proposals last month. That is not true. The facts are that the proposals were originally presented around 10 March. They were followed up on 11 March by a letter to the Taoiseach from the leader of Fine Gael, Deputy Kenny — I have the correspondence — suggesting that the proposals should be referred to the All-Party Oireachtas Committee on the Constitution.

Mr. McDowell: I said I never got any response on the substance.

Mr. J. O'Keeffe: That was not the point. There was an immediate response. Deputy Kenny wrote to the Taoiseach on 11 March stating that he strongly believed that the Government should refer the proposal for a constitutional amendment concerning the issue of Irish citizenship for children of non-national parents to the All-Party Oireachtas Committee on the Constitution. He proceeded at length, indicating the approach we would adopt, that we would try, as we always do, to be constructive but that the issue should be teased out fully and that this was the process by which it should be teased out.

Nothing was heard from the Government side until 30 March at which stage there was a response, nearly three weeks later, rejecting the approach of referring the issue to the

1 o'clock All-Party Oireachtas Committee on the Constitution but indicating that the Minister would be available for further meetings should members of the Opposition wish to contribute to the development of proposals. Such a further meeting was held a couple of days later. I spent an hour and a half with the Minister. I asked him 34 preliminary questions which I felt should be teased out. If the process followed by the Minister is considered by him to be consultation, I utterly reject it. The Minister must accept I did not get the replies to those questions until two weeks later, in two instalments, on the night before the Second Stage debate. That is a ridiculous way to handle the issue. In addition, to say there was no contribution from the Opposition is wrong. Furthermore, I sought an emergency meeting of the justice committee yesterday morning to bring in outside experts. It was not possible to organise that.

We are now dealing with a Committee Stage debate constrained by Committee Stage rules without having had proper discussion and consultation between the parties and, above all, a proper input from bodies such as the parties in Northern Ireland, the masters of the maternity hospitals and legal experts, all calling for the process recommended in the report of the all-party committee. It is not the way to amend the Constitution. I have considerable respect for the Constitution. It has served the country well. I wish the Minister had similar respect for it.

Regarding the amendment before the House, I should explain the approach I have adopted. I have tabled a number of amendments. I have done so on the basis of highlighting the many options which could have been discussed by the All-Party Oireachtas Committee on the Constitution. Many of them are alternatives to one another. Some of them do not sit comfortably together. However, as spokesperson for an Opposition party which took the approach of being constructive from the beginning, I felt this was the best contribution I could make. I am not necessarily advocating any one of the seven or eight proposals I have put forward as being the best. However, the very number of them illustrates the very many ways in which the problem, such as it is, could have been remedied. This is only on a constitutional level. There are other possible practical approaches which have come up in discussion.

I will deal directly with the amendment before the House, allow colleagues in and return to the other issues. The Minister suggests in the Bill that the way to deal with the issue is by amending Article 9 of the Constitution. Some people would agree that is the best approach. Others would not. There is an informed view that a constitutional amendment is not necessary. That is something that has not been fully teased out. There is a

further very strong view that the correct approach is to confront the issue head on in the Article which is the source of the problem. It is accepted that the difficulty, in so far as there is a difficulty, has arisen because of amending Article 2 in 1998.

If Article 2 is the basic problem, would it not be more up-front, honest and transparent to amend that Article? I appreciate that, because of the Anglo-Irish Agreement and the multi-party document associated with it, it would involve discussions with the UK authorities — I would not anticipate any difficulty there — and also with the parties in Northern Ireland. Why not have such discussions? If there were discussions at the time would it not be appropriate that there should be such discussions rather than effectively amending Article 2 by the back door, which is what we are actually doing? We will discuss this in more detail as we go along. Why should we not address the issue in an up-front, open and transparent way?

The amendment with which we are dealing recognises that there is already power under Article 9.1.2° to deal with the future acquisition and loss of Irish nationality and citizenship and provides that this will be determined in accordance with law. Why are we not determining it in accordance with law? The answer is there may be a constitutional barrier because of the reference in Article 2 which refers to the entitlement and birthright of every person born on the island of Ireland, which includes its islands and seas, to be part of the Irish nation. If that is a problem, surely it can be very easily resolved by taking one of the many options I have put forward and merely adding to Article 2 the words, “subject to legislation enacted pursuant to Article 9.1.2°”. That would achieve the same result because it would make it clear that the power under Article 9.1.2° to have laws governing our nationality and citizenship would not be overridden by Article 2. That is one of the many approaches that should be teased out. It is the basis on which I put forward this amendment, because there is a whole range of other ways in which Article 2 or Article 9 could be amended. My concern is that these other possibilities have not been teased out. We are rushing this today. There is a whole raft of amendments, many of which have been ruled out of order with no real opportunity to debate them fully or get advice on them.

My last point relates to the fundamental issue of whether we should amend Article 2 or Article 9. That hinges on the question of how effective Article 9 is regarding the existing Article 2 and the nature of that relationship. The case has been made that the Minister, or the Government of the day, does not have that power under Article 9 of the Constitution, which specifies, “the future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law”. This is because of the revised Article 2 that was included in the Constitution in 1998. The Irish Nationality and Citizenship Act 1956

[Mr. J. O’Keeffe.]

was amended, however, by the Irish Nationality and Citizenship Act 2001. I direct the Minister’s attention to section 3 of the 2001 Act, which inserted a new section 6 into the 1956 Act to restrict the entitlements of a person born in the island. It specifically states that, in certain circumstances, such a person “shall not be an Irish citizen” unless he or she makes a declaration.

Mr. McDowell: Unless they opt to become an Irish citizen.

Mr. J. O’Keeffe: If it was possible in 2001 to provide for such a restriction in legislation — the amending Irish Nationality and Citizenship Act 2001 — why is it not possible to do so in 2004? This issue needs to be fully considered. Two categories of person are mentioned in the amended section 6, the first of which is persons born “to a non-national who at the time of that person’s birth was entitled to diplomatic immunity within the State”. One could argue that special rules apply to diplomats in any event, although I am not sure that an unconstitutional provision should be made for them in legislation. The second, more relevant, category mentioned in section 6 is persons born in the island of Ireland “to a non-national on a foreign ship or in a foreign aircraft”. Such persons shall not be citizens of Ireland unless they make a declaration, etc.

If it was possible to provide for restrictions on Irish citizenship in the 2001 Act, which was enacted after the 1998 constitutional amendment, why are we rushing into this amendment? Is it because the Minister says it is necessary to provide for further restrictions? I will be happy to give the Minister the opportunity to reply fully to that point. If I recall correctly, it is obvious he is well aware of the 2001 amending legislation because, as Attorney General, he advised on the constitutionality of the 2001 provisions.

Mr. McDowell: May I deal with Deputy O’Keeffe’s query now, as I will not be here later? It is important that I should deal with the issue. Two exceptions are provided for in section 6 of the Irish Nationality and Citizenship Act 1956, as a result of amendments made in the 2001 Act. The exceptions do not represent an infraction of the birthright provisions in Article 2 of the Constitution. We should bear in mind that the birthright is a right to be exercised; it does not constitute an automatic conference of citizenship on people against their wishes.

I tried to speak about the two categories mentioned by Deputy Jim O’Keeffe during the *ruaille buaille* that took place on Second Stage, but I was unable to be heard because of the disorder that was taking place. The Deputy was not present at that time, but the matter had been raised by some of his colleagues. The Irish State is saying that it will not impose Irish citizenship

on persons in the two categories against their wishes. Under the Constitution, as it stands, it is their birthright to have Irish citizenship if they wish. We have made such a provision because, in the case of diplomats, it is an international convention that such people do not have citizenship imposed on them. The convention is in place because if citizenship were automatic, one might be liable for conscription if one was born in a certain country while one’s father or mother was working as a diplomat there and citizenship had been imposed on one against one’s wishes.

The same provisions apply to persons born on board a foreign ship or aircraft. Irish citizenship is not imposed against their will on persons whose mothers were on board a foreign ship or aircraft when they were born and who have no intention of assuming the rights to which they are entitled as a consequence of having been born in Ireland. Deputy Jim O’Keeffe should not consider that Article 2 of the Constitution says that everyone born on the island of Ireland is an Irish citizen, whether they like it or not. Article 2 of the Constitution does not say that — it states that it is the “birthright of every person born in the island of Ireland ... to be part of the Irish Nation”. On the *arbiter dicta* of two judges of the Supreme Court, the Attorney General advises me it is the entitlement of everybody born on the island of Ireland to claim Irish citizenship.

I understand a casual reading of the Irish Nationality and Citizenship Act might lead one to consider that it represents a statutory derogation from the birthright of everybody born on the island of Ireland. It is not a derogation from the birthright, however; it simply confers an option on a person. One is not deemed to be an Irish citizen in the absence of the exercise of the option by one or one’s parents. Nobody has suggested the State is entitled to oblige people in Northern Ireland of the Unionist persuasion to be regarded for all purposes as Irish citizens and to owe a duty of “fidelity to the nation and loyalty to the State” in line with Article 9 of the Constitution. Nobody has suggested that such demands are being imposed on people against their wishes.

If one reads Article 2 of the Constitution carefully, one will see that the “entitlement and birthright” phrase is very clear. It confers an option on everybody born on the island of Ireland to become an Irish citizen. It does not confer an obligation to be regarded as an Irish citizen. That is the distinction one has to draw. For the purposes of Ireland’s need to remain consistent with international law, we had to say to the children of diplomats that it is a matter of Irish law — section 6(1) of the Irish Nationality and Citizenship Act — that “every person born in the island of Ireland is entitled to be an Irish citizen”. That does not mean, however, that everybody born on the island of Ireland is an Irish citizen, whether they like it or not.

Mr. J. O’Keeffe: If the Minister believes there is no full automatic entitlement to citizenship under Article 2 of the Constitution——

Mr. McDowell: There is an automatic entitlement to citizenship, but citizenship itself is not automatic.

Mr. J. O’Keeffe: According to the Minister’s interpretation, does Article 2 of the Constitution not merely confer an entitlement to apply for citizenship in the circumstances he has mentioned?

Mr. McDowell: There is an entitlement to be——

Mr. J. O’Keeffe: How does he make the argument that the specific provision in Article 9.1 of the Constitution, that “the future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law” is overridden by Article 2 of the Constitution? If Article 2, as amended in 1998, merely gives an entitlement to apply for citizenship, surely Article 9.2 should override Article 2? Would it not then be the case that there is no need for a constitutional amendment? That brings us again to the question of whether it is wise to proceed with the proposed referendum and to refer the matter to the Supreme Court, if necessary. If Article 2 merely confers an entitlement to apply for citizenship, surely the existing Article 9 takes precedence because it specifically states that “the future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law”.

Mr. McDowell: Article 2 does not simply provide for an entitlement to apply for citizenship. The phrase “entitlement to apply” suggests that one is entitled to apply, but one might be rejected. That is not the case. One is entitled to Irish citizenship. Section 6(2)(a) of the Irish Nationality and Citizenship Act states, “subject to subsections (4) and (5), a person born in the island of Ireland is an Irish citizen from birth if he or she does, or if not of full age has done on his or her behalf, any act which only an Irish citizen is entitled to do”. Section 6(2)(b) goes on to state, “the fact that a person so born has not done, or has not had done on his or her behalf, such an act shall not of itself give rise to a presumption that the person is not an Irish citizen”. I wish to make clear that section 6(1) is fully consistent with Article 2 of the Constitution because it acknowledges the entitlement to citizenship. Deputy Jim O’Keeffe is saying that if entitlement to citizenship is not automatic, it means——

Mr. Costello: I feel I have to interrupt at this point. The Minister is not replying to the debate on the amendments before the House. A number of other Deputies wish to speak. The Minister is now on a question and answer session while not

addressing the substance of the issue. The normal procedure is that those Deputies offering are given the opportunity to speak and the Minister then replies.

Mr. McDowell: With respect, Acting Chairman, that is not the procedure. The order in which Members contribute on Committee Stage is not on the basis that the Minister responds at the end.

Acting Chairman (Dr. Cowley): Deputy Costello was offering before the Minister spoke. I allowed the Minister speak because he wished to reply specifically to Deputy Jim O’Keeffe.

Mr. J. O’Keeffe: It was on one specific point.

Mr. McDowell: I have not deviated from that point. Deputy Jim O’Keeffe has asked me whether the contents of this section did not give the lie to the proposition that, through legislation, the entitlement to citizenship could be qualified or reduced. It cannot be.

Mr. Costello: The Minister is not in a position to spend 15 minutes answering a specific question. Other Members offered to speak before the Minister but we agreed to allow him to reply to that specific point.

Mr. McDowell: I am happy to sit down. However, I find it rich that Deputy Costello, whose party conducted three divisions this morning, is now attempting to curtail Committee Stage. We are suddenly told that he is in a desperate hurry.

Mr. Costello: The Minister is wrong once again. The Labour Party did not call three divisions this morning.

Mr. McDowell: There were three divisions.

Mr. Costello: Yes, but the first was an amendment to the Order of Business from the Fine Gael Party.

Acting Chairman: If Deputy Costello wishes to make a contribution, he may do so now.

Mr. Costello: It is high-handed of the Minister to feel he can interrupt and go on *ad nauseam* on this issue when no opportunity was given to debate the issue properly. He comes into the Chamber, talking off the top of his head and making all sorts of inaccurate allegations. He then informs the House that he will have to leave the Chamber for the rest of the debate. Who does he think he is?

The Minister for Justice, Equality and Law Reform is expected to be present in the House when introducing a constitutional amendment. Committee Stage is being taken in the Chamber because it is an important constitutional issue. Does the Minister not recognise that we are

[Mr. Costello.]

proposing to change the Constitution in a number of ways? When we gave way to the Minister to answer a specific question raised by Deputy Jim O’Keeffe, he spoke for 15 minutes and informed us that he will be absent for the rest of the debate. Are Members expected to speak in limbo while the Minister is out of the Chamber on business he considers more important than an amendment that will change the democratic framework of the State? He then gets on his high horse because he believes he is entitled to speak for the few minutes he is in the Chamber. It is wrong to allow the Minister to behave in such a high-handed manner. I, at least, expect the Minister to hear what I have to say on this Bill.

To date, there has been minimum consultation with the Minister. While he has spoken *ex cathedra*, he has not engaged in dialogue. There will be at most six hours’ debate on Committee Stage and only two hours on Report Stage. All Stages will be taken in the Seanad on Friday. The Minister, Deputy McDowell, should not be Minister for Justice, Equality and Law Reform if he cannot manage to be in the Houses for those three days. His prior responsibility is to the House. If he is putting through a constitutional amendment, he is expected to be here to answer all questions.

An attempt was made to establish a forum with the Oireachtas Committee on Justice, Equality, Defence and Women’s Rights. Last Friday, I wrote to the committee with specific proposals——

Mr. McDowell: On a point of order, we are meant to be discussing an amendment and not the process of this House. There have been discussions on the process over a number of days with votes taken on the issue. With respect to Deputy Costello, he is only talking about the process when this amendment should be discussed. If the Deputy is concerned about order being kept in the House, he should speak to the amendment and not about what committee might have considered the Bill.

Acting Chairman: Deputy Costello will address the amendment.

Mr. Costello: We are discussing amendments Nos. 10 to 14, inclusive, and Nos. 20 to 23, inclusive. The Minister spoke only on one point for 15 minutes so he should not decide how the House conducts its business. I was making a point as a backdrop to the substance of this legislation.

The Opposition endeavoured to seek a proper debate on these amendments. The context in which they are being discussed is wrong. I asked for the Committee on Justice, Equality, Defence and Women’s Rights to seek expert advice from the three masters of the maternity hospitals, the Human Rights Commission, the SDLP and the Immigrant Council of Ireland. Today, on “Morning Ireland”, the Minister and Mr. Michael

Farrell of the Human Rights Commission discussed its concerns that rights may be undermined by this Bill. The commission will meet its counterpart in Northern Ireland to issue a statement tomorrow. When I met the Minister on 7 April——

Mr. McDowell: The Chair has already ruled that the Deputy address the amendment and not the process.

Acting Chairman: Deputy Costello should address the amendment.

Mr. Costello: This is the last contextual point I will make. The Minister did not address the amendment during 15 minutes speaking. He addressed the issue of how the position of persons born on a foreign ship or not directly on the island could be altered by legislation and not necessarily by constitutional amendment.

When I met the Minister on 7 April, I made the offer that if there was all-party consensus on the issue, the Labour Party would accept it. The Minister claims the spokespersons did not come back to him, but I would have liked him to come back on my proposal.

Deputy Jim O’Keeffe’s amendments show other ways for the Minister to address this issue. An amendment to Article 9 will effectively delete Article 2. Deputy Jim O’Keeffe has suggested that there was provision to deal with this through the citizenship Act 2001. Article 9.2 regarding the future acquisition and loss of Irish nationality has a considerable degree of flexibility.

Tugadh tuairisc ar a ndearnadh; an Coiste do shuí arís.

Progress reported; the Committee to sit again.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Ceisteanna — Questions (Resumed).

Priority Questions.

Family Support Services.

64. **Mr. Ring** asked the Minister for Social and Family Affairs the supports she has put in place for families in view of the fact that this is the tenth anniversary of the UN international year of the family; and if she will make a statement on the matter. [12179/04]

Minister for Social and Family Affairs (Mary Coughlan): My Department has significant responsibilities in the provision of a range of support programmes for families. These include child benefit, one parent family payments for parents raising children alone, payments for families who are out of work through illness or

unemployment, family income supplement and provision for carers. These are core responsibilities of my Department, the primary and overarching objective being to ensure that individuals and families have recourse to income support for themselves and their families in times of need.

The Government-led "families first" approach in recent years involved the development in my Department of a range of new initiatives to address the effects of divorce on families, to prevent marital breakdown where possible and to put in place a range of supports to assist families dealing with crises or major upheaval in their lives.

Last year, I established the Family Support Agency to draw together the main family-related programmes and services developed by the Government since 1997. The functions of the agency include the provision of services such as family mediation, marriage and relationship counselling, family support services and programmes, including parenting, and support for the promotion and development of family and community services. This year I have made some €20.185 million available to the agency to fulfil its functions, €7.16 million of which is for the scheme of grants for voluntary organisations providing marriage and relationship counselling and other family supports.

Last year I embarked on a wide ranging consultative process on strengthening families. I hosted a series of nationwide public consultation forums whose purpose was to provide me with the opportunity to hear the views of families and all those that work with them, including public representatives, about the major changes affecting families and what they see as the priorities for strengthening family well-being. The report of the public consultative forums, *Families and Family Life in Ireland: Challenges for the Future*, was published in February. It has been made widely available and is already stimulating wide debate in this, the tenth anniversary of the UN international year of the family. It will be fully taken into account in drawing up a clear, comprehensive, integrated strategy for strengthening families. It is my intention to have this strategy ready at the end of this year.

In drawing up the strategy I will also take account of the Irish Presidency conference on families, change and European social policy, which is to be held in May, and the international study by the OECD, entitled *Babies and Bosses: Reconciling Work and Family Life*, in which Ireland has participated.

Additional information not given on the floor of the House

I am conscious of the fact that many families involved in community and voluntary groups will want to celebrate this anniversary year. With this in mind I have made €1 million available through an award scheme to facilitate the celebration of the year. The once-off special awards are

available to locally based family and community groups and to larger regional and national groups to mark the year. Funding will be made available through a scheme of small once-off awards to local voluntary groups to assist with projects or events to celebrate the family in their area. More substantial awards will also be available to larger regional or national groups for once-off events or projects focusing on families and family life in today's Ireland. There has been a good response to the scheme so far and I expect to receive more applications before the closing date of 7 May.

Mr. Ring: Families have been let down by this Government over the last number of years. They are finding it difficult to get by and they are under threat. When will the Minister honour her broken commitment on child benefit? When will she deal with the problem of the three different rates for child dependant allowance? The three rates are €21.60, €19.30 and €16.80 per week and they have been at the same level for the last ten years. The difference between the highest and lowest rates is €250 per year, which is a lot of money for a family on social welfare.

When will the Minister deal with the problem of the adult dependant allowance? A wife receives 70% of her husband's payment, but if a couple are of the same sex each will receive 100% of the payment. Is this not a case of discrimination against the family? When will the Minister correct this anomaly so that a husband and wife will each receive 100% of the payment? At the moment each member of a gay couple receives 100% of the payment. That is wrong. What does the Minister intend to do about the 200,000 medical cards promised to families? Since this Government took office in 1997, 100,000 people have lost their medical cards. Is this doing anything for the family?

An Leas-Cheann Comhairle: The question about medical cards is not relevant to the Minister.

Mr. Ring: It is a broken promise.

An Leas-Cheann Comhairle: It is not relevant to this Minister.

Mary Coughlan: A Leas-Cheann Comhairle, I take the opportunity to wish you well in your recovery.

It is not for me to advise the House on Standing Orders, but the Leas-Cheann Comhairle is correct in saying that medical cards are not my responsibility. I congratulate Deputy Ring on circumventing the entire question. I was expecting a good discussion on many other issues to do with the family but he chose to stick to the issue of family income support. Within the programme for Government we indicated that we would be addressing the issue of child benefit. Almost €1.7 billion is being provided this year for child benefit. There have been major increases in

[Mary Coughlan.] child benefit over the last number of years. It is my intention that we will reach our target in child benefit prior to the completion of the Government's term.

We have had ongoing discussions about child dependant allowance. It is not my intention to address the issue of CDA until the issue of child benefit has been fully dealt with. The issue of same-sex couples is well outside the realm of this parliamentary question. However, it is a topical issue and will be addressed in a later question. On the basis of the Deputy's comments I am setting up an expert group to deal with this issue. We will also be analysing and taking into consideration the outcome of the consultation process of the Law Reform Commission. To deal with this discrimination I will be changing the legislation through the Social Welfare Bill.

I do not agree with the views of the Deputy that we are not supporting families. We are supporting families in a cogent way through family income supports and providing additional supports which are vital for family life through the Family Support Agency. As I said in my reply, it is my intention to advance further the issue of family supports. We must also take into consideration the diversity of family life. I feel, as I am sure every Member does, that it is important to have a child-centred approach.

Mr. Ring: Is it not true that the recent "savage 16" cutbacks were anti-family? The provision of rent supplement has an effect on families. If a marriage breaks up a wife may find herself in need of rent supplement in the middle of the night so she can have somewhere to stay. This is a problem.

The most important issue I have heard about, however, is the money, advice and budgeting service. This service was implemented in conjunction with the health boards. If a family got into difficulty, community welfare officers would sit down with them to work out a deal with the banks and the health boards could provide assistance. They can no longer do that because the Minister has taken away their powers to provide financial support. Is that not anti-family? Will she reverse that measure, which was one of the 16 cutbacks?

Mary Coughlan: I will not reverse any other changes to my budget. The Deputy made two incorrect statements. If a woman finds herself in a difficult position and must leave the marital home, the CWO, under section 30, can institute his powers to facilitate her. It is incorrect to say that will not happen and it must be clarified. Scaremongering will get the Deputy nowhere.

Mr. Ring: The Minister said that about the widows two months ago but she reversed that cutback.

Mary Coughlan: With regard to the MABS issue, I met the service's representatives. They are the only people who provide such a service. I indicated to them this system will not continue. However, it is my intention to support the expansion of MABS, which I have done this year. It is a money advice and budgeting service and operates in an advisory role. It has worked well and, in particular circumstances, support will be provided in consultation with MABS under the exceptional needs payment to provide for needy families. Many of those involved in MABS would prefer if it was up the people themselves to address the issues that arise, and would prefer to provide people with the necessary skills so that they can deal with their problems.

Social Welfare Benefits.

65. **Mr. Penrose** asked the Minister for Social and Family Affairs if, following her decision to reverse the cut of the half rate payment of disability, unemployment and other related benefits for persons in receipt of the widows and widowers pension or one parent family payments, she has plans to review the other cutbacks announced by her in November 2003, particularly in view of the serious problems being created for many recipients; and if she will make a statement on the matter. [12182/04]

Mary Coughlan: The Estimates for the Department of Social and Family Affairs announced last November included a number of provisions to better target resources within the social welfare code. My Department keeps all its schemes under review so that the total social welfare budget is applied to best effect in tackling disadvantage and to continue the Government's policy of significant improvement in basic payments to social welfare recipients, as with other improvements to the social welfare code. I have continued to keep the implementation of all of the Estimates measures under review.

In that context, I reviewed the measure relating to entitlement to certain half rate payments and, given that my review suggested there may be potential hardship in a number of cases, I decided to fully retrospectively restore entitlement to the affected persons.

I have no plan to alter the other measures announced. A number of those measures were undertaken to again focus social welfare schemes on their original objectives or target groups. Many of the measures affecting entitlement to social insurance benefits strengthen the link between the level of contributions and the entitlements accrued. These changes are unlikely to cause serious personal hardship. However, in the unlikely event that such problems arise, alternatives such as supplementary welfare allowance payments or unemployment assistance are available in cases of hardship.

The measures announced in November produced significant savings which, in turn, freed up resources towards a substantial budget 2004

package of €630 million. This enabled the provision of increases well ahead of inflation for all social welfare recipients of weekly payments as well as significant general improvements in social welfare provisions generally.

The record of the Government parties in regard to investment in social welfare is second to none. When they took up office in 1997, the spend on social welfare was €5.7 billion. This year, the Estimates provide for total spending of more than €11.2 billion, a doubling of social welfare expenditure over this period. This is all the more remarkable when the reduction of 86,000 in the number in receipt of unemployment payments over that period is taken into account, which, in the years prior to 1997, accounted for a significant portion of overall expenditure.

The increases provided in budget 2004, in conjunction with the increases provided since 1998, demonstrate the Government's continuing commitment to safeguard and enhance the living standards of the most vulnerable in our society.

Mr. Penrose: The Minister reversed the cutback in the widows and widowers pensions. She had no choice because she would have walked into a legal quagmire. She had no right to interfere with them in the first place. It took four months of suffering and great angst for people before she caved in, despite our warnings.

Does the Minister accept there are harmful and negative effects to the cutbacks proposed in the social welfare Estimates, which we pointed out on day one? She is screwing the poor for the sake of €58 million. I refer to the restrictions on rent supplement. If one is not renting for six months, one will not be awarded rent supplement unless the local authority determines through a needs assessment that one is homeless or in need of housing or meets other narrow criteria.

Is it a negative effect if one's spouse works for more than 30 hours per week, no matter how low the wage or uncertain the position or how high the market rent is in the locality or how many dependants are in the household, rent supplement is denied? Does that contradict the Government's report two years ago, which stated the best way to facilitate the transition from poverty is through work? The Minister is telling people the minute they work more than 30 hours per week, everything is wiped. Does that contradict Government policy? Does the left hand know what the right hand is doing? If one falls foul of local authority procedures and receives two offers of housing, one is also refused rent supplement. As Deputy Ring said, the ability of CWOs to provide help is restricted, as evidenced by the instructions to them under circulars 03/04 and 05/04, which stipulate there must be exceptional circumstances that must be reported to the Department. How can CWOs exercise discretion when they must report every little thing to the Department?

The new rules will help to deny people who need help and are in crisis. The Minister should

do the honourable thing. She won back friends by giving the widows what should never have been taken from them in the first place. Social welfare recipients are being denied what is theirs. I appeal again to the Minister to reverse the cutbacks.

Mary Coughlan: The Deputy indicated at his party conference that he would be a vigilant on these issues. He would look well on a white horse as a knight in shining armour. I will not reverse the cutbacks for a number of reasons. All Members will agree that using a short-term measure for a long-term initiative is wrong. It does not support those who need housing. It was on this basis that the previous Government decided that rent supplement would be supported by local authorities. Unfortunately, agreement was not achieved on that. However, thankfully, following a change in philosophy, the Department is working in a more coherent and strategic way on the development of housing policy between CWOs and housing officers and I commend them on that. Deputies who were members of local authorities will be aware they are working more closely with departmental staff to address people's housing needs.

I do not agree the supplementary welfare code needs to be changed. Following consultation, my colleague, the Minister of State at the Department of the Environment, Heritage and Local Government and I have produced an action plan, which will be announced shortly, to address the pertinent issue of progressing from a short-term payment, SWA rent supplement, to a long-term solution for people with a housing need. That is the most appropriate way to go forward.

No matter how Members huff and puff, it is not my intention to change the other initiatives undertaken during the Estimates procedure. The Deputy referred to the futility of the Department being informed about rent supplement cases. That is done under my instruction. I will be informed of the implications of all decisions made by the Department and CWOs on my behalf. As a result, I will be able to analyse the impact of policy changes. I will continue to ensure I and the Department are informed of the implications of these measures. I am anxious to ensure that should happen so that I can be answerable for those decisions.

In recent months, the Department has only been requested to get involved in rent supplement cases on a number of occasions. People were dealt with adequately locally.

Mr. Penrose: Is it the case that lone parents and single persons involuntarily living with their own older parents are most obviously targeted by the cuts? Should a person living in an area of high unemployment not be able to move to improve his or her prospects of employment? Where do such people fit in with regard to the six-month restriction? What happens to them if they want

[Mr. Penrose.]
to move to an area where there might be a job, and then get rent supplement?

Mary Coughlan: If a lone parent with a child or a number of children is in a situation of overcrowding, an application is made to the county council, which makes an evaluation. If that family is on a housing list, it is then entitled to a rent supplement.

66. **Mr. Boyle** asked the Minister for Social and Family Affairs the position regarding the principle of one social welfare payment per person in view of her decision to rescind the previous decision to remove additional payments to widows and single parents. [12181/04]

Mary Coughlan: The social welfare system is primarily a contingency-based system, with entitlement based on defined contingencies such as sickness, unemployment, old age or widowhood. Primary social welfare legislation provides that only one social welfare payment is payable at one time. While it can happen that a person may experience more than one contingency at the same time — such as an unemployed person becoming sick — a general principle usually applies whereby even if a person experiences more than one of the contingencies at any one time, he or she can receive only one of those payments. This principle is common to social welfare systems across the world.

The legislation provides, however, that regulations may be made to enable more than one of the payments to be paid concurrently. There is a limited number of such instances, including the situation where a recipient of a widow's or widower's pension can, at the same time, receive short-term social insurance benefits such as disability benefit or unemployment benefit, at half rate.

In the context of preparation of the spending estimates for 2004, this entitlement to concurrent half-rate payment of a number of benefits was discontinued for new claimants with effect from 19 January 2004. I have since reviewed this measure and have decided to fully retrospectively restore entitlement to the affected persons.

The general principle that a person can receive only one payment at any one time, as provided for in legislation, remains valid. In this regard it should be noted that the current overlapping arrangements were introduced in whole or in part in the early 1950s. At that time there were only ten individual social welfare schemes. As the Deputy is aware, the system has been gradually developed over the intervening 50 years with the result that there are now 38 separate schemes. As a result, the number of possible combinations of concurrent contingencies has increased greatly, and it is realistic to maintain the underlying principle of entitlement to one payment only at any one time.

My overall objective is to ensure that the total social welfare budget is applied to the best effect

in tackling disadvantage and continuing the Government policy of significant improvement in basic payments to social welfare recipients, and with other improvements in the social welfare code.

Mr. Boyle: I suspect that when decisions were being made in November 2003 — I will give the Minister the benefit of the doubt in this regard — most of the decisions relating to the 16 cuts were made for her. Subsequently, she had to valiantly defend those cuts, and had to bear the opprobrium before overturning one of them.

I was disturbed at the defence used regarding the additional half-rate payments for widows and single parents. The principle was trumpeted that people within the social welfare system are entitled to only one payment. This is a defence the Government uses regularly with regard to payment for carers. As a legislative body we must be clear that as a matter of course and of principle there are people in need of additional and graduated payments. To use the "one payment" principle to justify cuts within a Departmental budget is not defensible, and it should not be used in that way during any future arguments or debates we might have on the issue.

People find themselves in need of social welfare because of varying sets of circumstances, which can only be met by having access to different types of support, sometimes along with additional, extra supports. The answer the Minister gave, saying that the principle exists in certain circumstances but not in others is not good enough. Either the principle exists or it does not. It should not exist. We should proceed only by saying that if we want to introduce reforms into our social welfare system, they will be on the basis that people have varying sets of circumstances that need varying approaches at all times. Unfortunately, one result of the decisions taken last November has been the introduction of a note of uncertainty, suggesting that the Government may be moving to a "one size fits all" approach to social welfare, which does not reflect well on the Minister and her Department. Unfortunately it is the philosophy which defines the Government of which she is a member.

Mary Coughlan: The Deputy is of the view that someone who is sick and unemployed should get two payments. A double payment is an inequity. It is unjustifiable and could not be paid. It is on that basis that we have a rule. There are a number of instances where it is not applied, such as in the case of widows, and of orphan's contributory or non-contributory payments, where one is entitled to claim unemployment benefit and disability benefit if either contingency applies. We could change the position regarding those in receipt of the blind pension, but why should we? People who are blind have enough trouble without them not being entitled to their unemployment or disability benefit. They would be more than delighted if they were working. Disablement

pension is not an income support but a maintenance payment to compensate for the loss or partial loss of a faculty. Accordingly, there are very few instances where the rule does not apply and the few changes that were made took place about 50 or 60 years ago. They concern a very small number of people with particular contingencies who must be supported. I do not intend to make changes in that area.

The Deputy probably informs people who encounter a number of contingencies of the best payment to support their needs at a given time. Changes take place with qualified adult allowances, pensions, carers' allowance, unemployment benefit and unemployment assistance. There are numerous combinations. Decisions are made on an individual basis in terms of supporting the person who would be better off by taking a particular payment.

There is an issue involving carers. The pensions services office will indicate that the majority of people in the caring profession are over 65 and in receipt of a widow or widower's pension, a contributory or non-contributory pension. That argument has been put forward by the various associations, indicating that they should at least get a half-rate payment. It is one of the issues supported by the committee. It would scupper the concept of one payment, but on the basis of an overall caring strategy that we must consider, these are possibilities which must be inquired into on the basis of funding long-term care and the value of the carer's allowance, and where it fits in with the home caring situation. That will be considered, but in normal circumstances the issuing of a double payment, or two or three payments for particular contingencies that someone might encounter, would be a retrograde step.

Mr. Boyle: I will highlight the over-bureaucratic approach. In my constituency this week, I met a 68-year-old man with a 78-year-old wife, who suffers from Alzheimer's disease, and who has to be brought to a clinic each day before 9.30 a.m. The free travel pass in Dublin and Cork does not operate before 9.30 a.m., which means that this couple's weekly income is decreased by €10 weekly as a result of having to pay for travel. All the agencies involved say that the rules are the rules. I feel there are people behind the Minister, at least metaphorically, who are prepared to take this argument further and question where the secondary benefit begins, and an additional payment stops. We must have clarity in this area. There must be a graduated approach offering assistance to people in need. Otherwise, we are holding up people unnecessarily, and creating unnecessary poverty traps.

Mary Coughlan: Dublin and Cork feature strongly in the spare capacity times of Bus Éireann and it is on that basis that reduced fares are allowed for my Department, which

consequently pays for the free travel. Through the Department of Health and Children and the health boards, we have tried on a number of occasions to impress on the relevant hospitals and clinics that they should not provide a clinic timetable for the elderly outside the capacity times of Bus Átha Cliath and Bus Éireann. However, there is some flexibility on the basis of the health boards or authorities not providing such a facility for that person. This person must travel and, in the case of a particular illness, some flexibilities are available. I ask the Deputy to appeal that case to the principal officer in the free travel section in Sligo on the basis they were not facilitated by the board.

Mr. Boyle: They say 75 is the rule.

Mary Coughlan: I was asked by a number of Members of the House to facilitate this and it has been done on the basis that the health boards were not in a position to provide alternative appointments for people. That should not happen.

67. **Mr. Ring** asked the Minister for Social and Family Affairs if her Department will amend the free schemes rates payable to Eircom to ensure that all telephone rental will be paid; and if she will make a statement on the matter. [12180/04]

Mary Coughlan: The cost of the telephone allowance scheme in 2004 is estimated at €92.2 million for some 300,000 customers. This represents a significant increase of nearly €9 million, or 11%, in expenditure on the scheme in 2003.

In order to ensure that the costs to my Department of the telephone allowance scheme are predictable and that the scheme does not become a distorting factor in the liberalised telecommunications market, a significant change to the scheme was made in October 2003. The structure of the allowance was adapted to make it a single integrated credit item on client telephone bills, not attributable to any particular component of the bill. The allowance is worth €49.39 per two monthly bill, including VAT. This change makes it easier for additional service providers to participate in the scheme by applying a standardised allowance amount to bills irrespective of the tariff components.

In conjunction with this change, a special bundle rate, the Eircom social benefits scheme, was negotiated with Eircom. This provided telephone allowance customers with line and equipment rental plus an enhanced call credit of up to €5.35 worth of free calls per two month billing period. The cost of the bundle, €20.41 plus VAT per month, represents a substantial discount on the previous cost of the service.

Separately, the Commission for Telecommunications Regulation, ComReg, approved a price increase application from Eircom of 7.5% in line rental, effective from 4 February this year.

[Mary Coughlan.]

A lesser percentage increase is also being applied to telephone instrument rental where applicable. It is my understanding that these increases are being partially offset by reductions in call costs in order to limit the average private customer bill increase to the consumer price index.

Following detailed discussions with my Department, Eircom agreed that the increase in the cost of its social benefits scheme would be limited to the rate of CPI, 1.9%, as part of which Eircom made a change to its bundle package by removing some additional call unit value. To offset this, however, Eircom has offered to give low use customers, including our own customers, up to €10.00 worth of calls free per two-month bill by offering them its separate vulnerable users scheme in addition to the social benefit scheme.

The revised Eircom package results in an increase in telephone costs to the social welfare customer of 94 cent, including VAT, per two monthly bill or less than 12 cent per week. The other revisions to call costs by Eircom, including wider promotion of its low user scheme, should be broadly beneficial to social welfare customers.

I have no plans at present to make any further changes to the telephone allowance scheme. Any future changes to the scheme will be considered in a budgetary context in the light of available resources and other priorities.

Mr. Ring: The Minister should understand that social welfare recipients' money is being eaten away because Eircom, like the ESB and other State companies, is increasing its prices. The ESB increased its costs three times last year. It is no wonder people on social welfare find it difficult to make ends meet. My question, however, relates to the telephone rental allowance. In the past the Department paid the full rental allowance but many elderly people throughout the country are now confused. I have had telephone calls and letters inquiring if the free schemes are now gone. I realise it is only an extra 92 cent that they have to pay but it is causing confusion because people believed the rental was free.

This is a small cost. The telephone rental was always free but now that Eircom has increased its charges the Department should increase its payment to Eircom. People availing of the free schemes should not have to pay the increase. Otherwise, the Minister will have to stop referring to these schemes as free schemes.

The same happened in regard to the dental scheme. That scheme was in operation until the Minister came into office but now people have to make a payment towards it. This Government attacked the widows and it appears it is now attacking the people on the free schemes because this is the first time since they were introduced that they have to make a part payment towards them. If the Department paid the increase, which is a small amount, it would save confusion on the part of elderly people who have contributed to

this State. They availed of these free schemes but will now have to pay a small amount, 92 cent, towards them. That may not be a large sum but it can be to people on social welfare. However, this is more about preventing confusion than anything else. I call on the Minister to honour the rental allowance and be fair to elderly people.

Mary Coughlan: I sincerely hope that NWR and MWR are taking a direct feed from this Chamber because every time I have appeared on their programmes they have complained to me that the telephone allowance and the free schemes are being abolished. That is factually incorrect and it is about time Deputy Ring said that as well and stopped adding to the confusion of the elderly.

Mr. Ring: They now have to make a payment towards them that they never had to make previously.

Mary Coughlan: It is factually incorrect. What is happening now is that ComReg, which is the regulator, has indicted to my Department that on the basis of the regulations and the opening up of the market, all other telephone companies must have access to my scheme, be it ESAT Digifone and so on. In addition, it provides an opportunity to allow mobile telephone providers, O2, Vodafone and so on — I do not want to be criticised for mentioning these people — provide a service for our customers. On that basis we had to change our entire policy with regard to supporting the telephone scheme and that is the basis on which people are now getting a lump sum.

There has been a significant increase of 7% in telephone charges. We have reduced that for our customers, as customers of Eircom, to 1.7%. We were able to provide a new initiative, one which I hope elderly people in particular will take up because, as the Deputy is aware, in 99% of cases "CR" appears at the bottom of those bills indicating credit.

We have introduced a system. I saw the information provided by Eircom. It was easy to read and very understandable. It has provided a service for those particularly vulnerable users, mainly the elderly. They have been facilitated with an additional scheme, with an additional €10 worth of calls, the majority of which I assume are not even used because they normally make about one telephone call a week. Others make more but generally the telephone is used as a form of security in that they know they can receive a telephone call and that somebody can get in touch with them. It was on that basis that we had to change the system to a one-off payment, and that one-off payment will continue.

Given the competition I have been able, through my Department, to negotiate an excellent deal with Eircom. Any additional increase in rental will also have to be taken into consideration in the context of any changes that

take place. It is my view, rightly or wrongly, that it is outside my remit to discuss the issue of ComReg. It has dictated that this is the way it has to go and it is on that basis that I had to facilitate greater competition within the system. The advice from my colleague, the Minister for Communications, Marine and Natural Resources, is that this will greatly facilitate access by other operators to the scheme and, moreover, will be more beneficial to people who wished to use the services. We are talking about an increase of 12 cent on the rental but the overall package is better given that, heretofore, they got €2 worth of free calls and they will now get €10 worth of free calls under the vulnerable users heading. I wish to reiterate this scheme is not being abolished and it will continue.

Mr. Ring: People do not really care about the Minister for Communications, Marine and Natural Resources, regulations or Europe. They care about the fact that they now have to pay 92 cent that they did not have to pay last year. It is a small amount. It was called the free rental scheme but it is no longer free. Pensioners now have to make a payment. They are not interested in EU regulations or what the Minister or her Department have to do. They had a free scheme but that free scheme has now been taken from them. The Minister should stop calling them free schemes.

Mary Coughlan: The Deputy should stop saying that. It is not being taken away from them.

Mr. Ring: It is time for the Minister to fight the Department and look after the people she is supposed to represent.

Mary Coughlan: That is incorrect.

Mr. Ring: The Minister has let them down again.

An Leas-Cheann Comhairle: Order, please.

Mary Coughlan: It is factually incorrect. The Deputy is filibustering again and he is doing no good for the people in Mayo.

Mr. Ring: No, I am not. They now have to pay 92 cent they did not have to pay a month ago.

An Leas-Cheann Comhairle: We must move on to Question No. 68.

Mr. Ring: What has gone wrong in the Department?

An Leas-Cheann Comhairle: Order, please.

Emigrant Support Services.

68. **Mr. Penrose** asked the Minister for Social and Family Affairs if, in regard to her announcement on 22 March 2004 of funding of €100,000 for Emigrant Advice and €80,000 for

ICTU to allow them to provide comprehensive information and support services for departing emigrants or those returning home, she has plans for further initiatives before the end of 2004; if she has provided funding to similar organisations working with Irish emigrants in the UK or plans to provide such funding; and if she will make a statement on the matter. [12183/04]

Mary Coughlan: I understand that the focus of the Deputy's question concerns my Department's support for information and other support services for departing emigrants and those wishing to return home and that he is aware that the funding allocated to ICTU for 2004 was not for that purpose.

The primary responsibility of my Department in dealing with emigrant issues is the provision of comprehensive and accurate information in an accessible manner to those wishing to emigrate and to Irish people living abroad who wish to return home to live. Emigrant Advice is the main voluntary organisation in Ireland disseminating information to intending emigrants and those wishing to return home. This year, I have increased the core funding for the organisation from €70,000 to €100,000. That funding will enable Emigrant Advice to continue its valuable work on behalf of our emigrants from its drop-in centre in Dublin. It will also enable it to update its various information publications for intending emigrants and maintain its website with up-to-date information.

In addition to funding for Emigrant Advice, I have provided funds in recent years to other organisations disseminating information to our emigrants. Emigrant Advice Network is an independent network of various organisations involved in the provision of information and advice to intending emigrants. It consists of several youth information centres, centres for the unemployed, and two centres dedicated specifically to providing advice to migrants, one in Dublin and one in Cork. I provided core funding of €71,916 to that organisation in 2003 to enable it to employ a full-time development worker and develop a website to expand and develop an independent national network of emigration advice and information agencies. An application for funding for 2004 from this organisation is awaited.

I have recently approved funding of €18,500 to the Safe Home programme. The main objective of that organisation is to help those elderly Irish emigrants wanting to return to Ireland to live but lacking the means or resources to do so. My Department's funding enables Safe Home to publish and distribute a monthly newsletter to those on its waiting list and to the various Irish centres throughout the UK. The newsletter contains information on a variety of topics including social welfare entitlements.

Additional information not given on the floor of the House

The funding provided by my Department to those organisations is very much in line with one of the main recommendations of the report of the task force on policy regarding emigrants, which was published in August 2000. The task force recommended that there be close co-operation between the various Departments and voluntary agencies at home and abroad regarding the provision of pre-departure advice and information. I am very pleased that I was able to increase the funding available for those services from €127,000 to €427,000 in January 2003. That increase in our funding has enabled us further to engage with the various voluntary organisations working in that field and to help them enhance the services that they provide.

My Department will consider an application for project funding from any voluntary or community organisation working in the field of information provision to our emigrants. Applications will be considered on their merits and will be subject to the budget allocation available at the time of application.

Mr. Penrose: I notice that funding is for emigrants before they go and for those returning home. There was a Government task force into which the Minister obviously must have had some input. Are there proposals for direct monetary or financial help for those organisations in Britain dealing with the welfare of the Irish emigrant population, many of them from my county and that of the Minister? Surely they must be considered part of the Irish nation under Article 2 of the Good Friday Agreement. Does the Minister accept any role or responsibility arising from the task force on emigrants? Does her Department have any role, apart from fulfilling those objectives in that regard, which she has done? Does she accept that we should now be allocating significant resources to improve accommodation and services for the neediest and most vulnerable among our emigrants in Britain in line with the task force's recommendations, which I have here? What steps has the Minister taken to implement the recommendations, in particular during our Presidency of the EU, to deal with the link between migration and social exclusion, which is very important? Did she organise a Presidency conference on reconciling mobility and social exclusion?

In the wake of the "Prime Time" report that many of us viewed with shame and in the context of the indisputable fact that our emigrants sent back remittances of over €5 billion to these shores to help us all, does she not feel that it is incumbent upon her to establish a properly resourced and funded scheme for the provision of care and support services to elderly returning emigrants and support them in getting housing and accommodation? In particular, she must try to help those who currently feel left out and under pressure, especially in Britain. We now

have undoubted reservoirs of wealth to help pay back in some small way the help they gave many of us in this country in the bad old days from the 1950s to the 1970s. Has the Government considered with the Minister putting in place and implementing in full the recommendations of the task force on emigration? We heard Father Burns saying that it was a piecemeal and disappointing response. Surely we should take cognisance of what someone who works with Irish emigrants is saying and act on it in the best interest of the many Irish people abroad.

Mary Coughlan: One of the main recommendations of the task force was that we provide funding and ensure that there is close co-operation between various Departments and the voluntary agencies at home and abroad, with particular regard to advice and information in my section. I have increased that money and provided funding to a very fine initiative in Mayo, the Emigrant Liaison Committee. It is a pity Deputy Ring is not here to hear me praising the people of Mayo. That brings people home, and it has been tremendous.

I also fund the Episcopal Commission for Emigrants, facilitate the Coalition of Irish Immigrant Centres in the United States and provide funding for the Irish Commission for Prisoners Overseas. A considerable sum has been made available — it increased from €127,000 to €427,000 from last year to this. That is a huge increase in funding. I am totally committed to ensuring that we live up to the recommendations. As the Deputy indicated, we had a first and very successful European conference on mobility and integration. For the first time, the emigrant advice centres and the coalition were invited from the United States and the United Kingdom. They facilitated several of the discussions that took place. It was very fruitful and encouraging. People were very happy with the outcome and the interaction between the European issues, which certainly exist.

Someone very high up in the Commission, a French gentleman, said that he could not understand the problem that we had with the Irish in the United Kingdom. However, he said that once he had the opportunity to listen to the British and United States organisations, it became particularly and peculiarly clear to him what the issues were. His view was that, on that basis, such things should not happen to migrants in the European Community. He took that as a policy initiative to be considered by the Commission. I will therefore forward recommendations to the Council in Luxembourg to make progress on this issue in particular. Our interaction has been fabulous and I intend to continue the support and funding of this programme.

I agree with the Minister for Foreign Affairs that whatever resources are available should go to those who need them most. I appreciate that people wish to have a committee set up and an

organisation. I am not sure if that is the right way to go forward at present — perhaps in due course. However, we can achieve more interaction regarding emigrants and emigrant advice in particular, supporting those who wish to come home.

There have been several new initiatives on the basis of that in Mayo which I feel it is incumbent on communities to consider, for example, in voluntary housing projects, where two or three houses are made available. I believe that Kerry does that too. Those housing facilities are there for two or three people to be repatriated. There are other issues, as the Deputy knows, relevant to why people will not come home and find themselves in various situations. However, in the main, we can more and more facilitate work on this issue, and I have considerably increased the funding this year to ensure that that happens.

An Leas-Cheann Comhairle: That concludes Priority Questions. We now come to Other Questions, the first of which is No. 69.

Other Questions.

Social Welfare Code.

69. **Mr. Morgan** asked the Minister for Social and Family Affairs the progress that she has made on her commitment to have a review carried out of the overall social welfare code regarding the requirements of the Equal Status Act 2000. [11949/04]

100. **Mr. Eamon Ryan** asked the Minister for Social and Family Affairs her position on the views of the chief executive of the Equality Authority that aspects of the Social Welfare (Miscellaneous Provisions) Act may be discriminatory. [12097/04]

Mary Coughlan: I propose to take Questions Nos. 69 and 100 together.

In the social welfare code, same-sex couples are treated as individuals, which, in the majority of cases, is to the couple's advantage. For example, where each person of an opposite-sex couple has an entitlement in his or her own right to unemployment assistance, the weekly rate of payment comprises a full rate payment and a qualified adult allowance. A same-sex couple in the same situation is treated as two individuals, and each receives a full rate payment.

The case taken last year by the Equality Authority was on behalf of a same-sex couple where one of the couple had an entitlement to a free travel pass but was refused a "married-type" pass in respect of his partner, in keeping with the definition of a couple used by the Department.

Legal advice received by my Department indicated that, as the Equal Status Act 2000 applies to all non-statutory schemes, including free travel, the failure to award the "married-

type" pass would be in breach of that Act, as an opposite-sex cohabiting couple in the same situation would have been awarded the "married-type" pass.

The application of different rules as regards statutory and non-statutory social welfare arrangements would not be sustainable in practice. The amendment included in the Social Welfare (Miscellaneous Provisions) Act 2004 represents an interim solution which restores the position prior to the free travel equality case, which is that for all social welfare arrangements, "a couple" means a married couple or a pair cohabiting as husband and wife.

When I introduced this amendment, I gave a commitment to a fundamental review of the overall social welfare code as regards the requirements of the Equal Status Act 2000, and I regard this as a positive step. The Equality Authority has welcomed this review which will be done in consultation with all interested parties. The review will aim to ensure that difference of treatment on any of the discriminatory grounds set out in the Equal Status Act 2000 can be justified by a legitimate social policy aim and that the means of achieving that are appropriate and necessary.

As the review will examine complex issues, with possible knock-on effects to areas outside the social welfare area, and will involve a number of Departments, it will take some time to complete. The review will be based on a framework to be agreed with the Department of Justice, Equality and Law Reform. Its scope and terms of reference and the necessary arrangements for undertaking it will be decided in the coming months.

Mr. Ferris: When does the Minister expect the report to be completed? Has the review begun, as of yet? What level of priority does it have? Is she including NGOs among the lobby groups to be reviewed? I wonder whether the report is not just a way of long-fingering the issue because the Government does not want to deal with the issue of same-sex relationships.

Mary Coughlan: The review has not taken place as yet. We have to set up the terms of reference in consultation with the Department of Justice, Equality and Law Reform and perhaps, the Department of Finance. I offered a number of NGOs the opportunity to participate in the review and that will take place. I gave a commitment to them. I intend to set up this committee to pursue this as quickly as possible. As I indicated heretofore there is currently a consultation document put forward by the Law Reform Commission and I intend to respond to it on the basis of the issues being raised. It is not intended to long-finger the issue. It must be dealt with as quickly as possible. These are issues that need to be addressed without delay. I will address the issue of the social welfare code, but I would prefer to do it in an overall context because there

[Mary Coughlan.]
are other issues, as regards taxation, inheritance etc. Those issues equally need to be addressed. As the Deputy knows, my Department has taken a different view, perhaps, to the Revenue Commissioners, on a number of these issues.

Mr. Boyle: The Minister has already referred to some of the aspects about which I wanted to ask. I would like, if possible, more detail in the light of yesterday's report from the Law Reform Commission on co-habiting couples and the fact that there are at least 1,300 couples in same-sex relationships. In view of the reported comments of the chief executive of the Equality Authority and the authority itself, does the Minister accept that what this House has decided as regards the Social Welfare (Miscellaneous Provisions) Act 2004 and the Civil Registration Act 2004 represents an overly cautious approach that runs against many other initiatives the Minister seems to be promoting with regard to defining and promoting what the family means in the Irish society of the 21st century? Will she accept that what we really need to do is revisit the legislation only recently enacted in respect of both those Acts and put forward measures that really reflect what Irish society is now, and how we should progress into the future?

Mary Coughlan: I have not had an opportunity to read all of the document. However, I understand that one of its recommendations is the definition of co-habitation in social welfare legislation to include same-sex couples in relationships. I intend to study the review in detail and to consider it in the light of the Department's work. As I indicated on the Committee and Report Stages of the Social Welfare Bill, this is an interim solution. On the basis of that interim solution I decided to set up a committee to recommend what changes needed to take place. As regards the Civil Registration Act 2004, I do not know whether we are there yet.

Mr. Boyle: There are 1,300 couples. It is an anomalous situation.

Mary Coughlan: There are enormous issues involved. I for one will be cautious on that issue until such time as the people have said to me that this is the way they wish to go. However, there are other issues with regard to the civil registration Act, on co-habiting *per se*, which may arise from this evaluation. The Law Reform Commission publication will facilitate much of the discussion that will take place here. It will feed into much of the information. Heretofore, we would have had to start off on a blank page. We need to deal with this issue as expeditiously as possible, particularly on the basis of the social welfare code, taxation and some of the justice and equality issues.

I gave a commitment that this would be expedited without delay. There will be enormous complexities and decisions will have to be made but we cannot continue in a vacuum of policy direction. It is on this basis that I decided to facilitate these discussions. As I indicated, the NGOs will be asked to put forward their views as well.

Mr. Ferris: What kind of timeframe does the Minister have in mind?

Mary Coughlan: Between the Presidency and all sorts of matters such as carers and carers' allowances, I have only a certain number of officials to work with. However, it is my intention that during the summer we will have an opportunity to think about the make-up of the committee and the terms of reference.

Carer's Allowance.

70. **Mr. Costello** asked the Minister for Social and Family Affairs when the promised consultation document on the benefit design, delivery, cost and financing of long term care will be published; when the subsequent consultation process is expected to commence; when it is likely to be concluded; and if she will make a statement on the matter. [12040/04]

89. **Mr. Sargent** asked the Minister for Social and Family Affairs if consideration has been given to the analysis of the recent CSO statistics on caring by Age Action Ireland. [12098/04]

122. **Mr. Kehoe** asked the Minister for Social and Family Affairs if she has given consideration to establishing a national carer's database with the aid of the Central Statistics Office. [12170/04]

125. **Mr. Penrose** asked the Minister for Social and Family Affairs the progress that has been made in her consideration of the 15 recommendations contained in the report, "The Position of Full-Time Carers", of November 2003 from the Joint Committee on Social and Family Affairs, specifically, the recommendation for the abolition of the means test for the carer's allowance; if her consideration of the report will be expedited, especially in view of the recent census figures showing that unpaid help for a family member or friend was being provided by nearly 150,000 carers; and if she will make a statement on the matter. [12036/04]

136. **Mr. P. McGrath** asked the Minister for Social and Family Affairs the proposals she has to change the eligibility criteria for carer's allowance, particularly for persons in receipt of a social welfare payment prior to making application for carer's allowance; if consideration will be given to the need for introduction of an income disregard for those in receipt of a social welfare payment who subsequently qualify for carer's allowance; and if she will make a statement on the matter. [12169/04]

139. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will relax the means test for carer's allowance; and if she will make a statement on the matter. [12106/04]

210. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will extend the carer's allowance with particular reference to the need to alleviate hardship to the wider group of carers who provide the service; and if she will make a statement on the matter. [12324/04]

Mary Coughlan: I propose to take Questions Nos. 70, 89, 122, 125, 136, 139 and 210 together. The provision of support to carers has been a priority objective of Government since 1997. Over that period we have significantly improved the position of carers through improvements each year in the scheme and this will continue to be a priority.

The report of the Joint Committee on Social and Family Affairs makes a range of recommendations, many of which relate to my Department and a number of which concern the Department of Health and Children. I am always prepared to consider changes in existing arrangements where these are for the benefit of recipients and financially sustainable within the resources available to me. In this regard, the abolition of the means test for carer's allowance could cost in the region of €180 million. This is not feasible in present circumstances and, in any event, it is questionable whether it would be the best use of such resources in the light of other demands.

The committee also made recommendations on other policy and administrative matters which my officials are examining. As regards paying carer's allowance concurrently with another social welfare payment or introducing a "disregard" in respect of that payment, the primary objective of the system is to provide income support and, as a general rule, only one social welfare payment is payable to an individual. Persons qualifying for two social welfare payments always receive the higher payment to which they are entitled.

With regard to a national carers' database, the Central Statistics Office included a question in the 2002 census to identify the number of persons providing unpaid personal care for a friend or family member with a long term illness, health problem or disability. In March this year, the CSO published volume 10 of the census results pertaining to data on people with disabilities and carers. This is a comprehensive document with more than 40 tables of data relating to carers. I have no plans at present to compile further data on carers.

The analysis of this portion of the census found that some 40,500 people provide 43 hours or more unpaid personal help per week, or more than six hours per day; some 23,400 people provide 15-42 hours unpaid personal help per week, or between two and six hours per day; some 84,900 people provide between one and 14

hours unpaid personal help per week, or up to two hours per day.

There are currently approximately 22,000 carers in receipt of carer's allowance or carer's benefit. This means that more than 50 per cent of the 40,500 carers, as estimated by the CSO to be caring for more than six hours per day, are in receipt of a specific carer's payment from the Department of Social and Family Affairs. People providing lower levels of care in terms of time would not necessarily meet all the qualifying conditions for receipt of a carer's allowance.

Deputies will be aware that I launched a study last year on the future financing of long-term care. My Department is finalising the consultation document which aims to focus interested parties on the complex issues we need to address which include benefit, design, delivery, cost and financing which are discussed at length in the report. I intend to have the consultation document issued to all interested parties within a few weeks. A consultation process on the financing of long-term care will follow, the feedback from which will be the starting point for meeting the commitment in Sustaining Progress to examine the strategic policy cost and service delivery issues associated with the care of older people. I hope to establish a working group to conduct this examination in the middle of this year.

Mr. Penrose: I thank the Minister for a comprehensive reply. It is five months since the Oireachtas Joint Committee on Social and Family Affairs issued a unanimous carer's report. Should we not be ashamed of ourselves that in our society 148,754 carers are giving unpaid help throughout the State? Many of these people are over 50 years of age and care in the home for a family member or friend with a long-term illness, health problem or disability. Without that help the health system would collapse. Why can we not provide €180 million for people who provide health care on the cheap for their loved ones and save us many billions of euro? The Minister might say it is not the best use of resources but these people are not in their role for the money. Carers of all kinds want recognition. I recently met a woman caring for a young boy and I confess I would not be able to do her work. However, she is denied a carer's allowance. In a compassionate Christian society surely we can support people like her. We can find €180 million for anything. In her heart the Minister is willing to give it but the Minister for Finance, Deputy McCreevy, should realise there will be a revolution very soon if he does not stop this hard man hatchet approach to financial policy. People who have given their hearts and souls to looking after people want some recognition, not charity.

The respite care grant should be given to everybody. I acknowledge the Minister increased the grant and she has a limited pool of money. If she had more she might distribute it in some of the ways we suggest. We must stop putting this

[Mr. Penrose.]
on the long finger. This issue is going to erupt because the carers' patience is being tried. The 15 recommendations in the carers' report are not the be all and end all.

An Leas-Cheann Comhairle: I remind the Deputy that supplementary questions are limited to two minutes.

Mr. Penrose: This matter is so important I could go on for two hours. Will the Minister ensure the committee to advance the consultation process does so within a defined timescale? The Carers Association and the carers who are depending on us to bring them some measure of relief are closely focused on this.

Mary Coughlan: I intend it will work within a short timeframe. I appreciate people have been waiting for this consultation to take place and it should be finalised within the next two or three weeks. Caring is the greatest priority among all the issues about which the Opposition roars.

Mr. Penrose: I agree.

Mary Coughlan: Contrary to what the Deputy may think I have taken into consideration the views of the committee, which are very succinct. We implemented one of its recommendations by providing an information pack through the Carers Association. I have met the association which is considering a caring strategy which will link into our process. We will make further improvements in the carer's allowance scheme. It is not so long since this and carer's benefit were introduced, likewise the respite grant, the free schemes and several other facilities that are to the fore in supporting families. This is particularly true for the elderly but includes young people and those who are disabled. I intend to continue to build on the significant progress that has taken place this year, such as the major increase in the income disregard. I appreciate that people believe it should not be a means-tested scheme. There are priorities and it may come to the stage where we identify one and look at other things later. I appreciate the sincerity of all Members on this issue. It is not an income support, it is income recognition of what people are doing.

Mr. Penrose: Hear, hear.

Mr. Boyle: Does the Minister not accept the irony that the CSO figures on the number of carers represent many of those to whom the State offers a duty of care, as many are over 65 years of age? This goes back to the principle we raised in previous questions. It is not a question of the income of the household. The State should make clear statements to the effect that care is best in an environment where there is a strong personal

relationship between the carer and the one receiving care and in a place that is familiar to the person in need of care. It is not a matter of comparing the household income of the carer and the person in need of care. The comparison should be what the cost would be otherwise to the State. On every comparison the State allows its citizens to be cared for at little cost. We must challenge this and put aside the principle of only one social welfare payment. So many need the type of assistance that recognises the role they play within their household settings, personal relationships and on behalf of society.

Many of us on this side of the House are annoyed because our society is ageing and the replacement birth rate is declining, yet the white elephants of political issues are brought into debate, such as who of those born here should be a citizen when we need more births and young people to balance our average age profile between those who give and receive care in the future. When we can address those issues we will have an honest and coherent political system. Until then we will continue to raise these questions regularly with this Minister and her successors.

Mary Coughlan: I look forward to the day when the Deputy will be responding to himself. He has raised several issues, specifically citizenship and replacement and it is true that in the next 20 years we will have a large elderly population. There will be problems with pensions and with caring. We must also be prepared to pay to finance long-term care and provide care for older people, and consider what type of financial incentives to introduce to support people in preparing for that day. I met a group today which is very anxious to pursue the issue of pension policy. Its statistics on our attitude to saving are frightening. Unless we change our attitude to saving for the rainy day and investing in pensions or care plans there will be very serious repercussions and people's expectations will not be met.

The Deputy is right. When I looked at the CSO figures about 50% of those in the caring system are receiving the carer's allowance but the statistics also indicate that there are many people over 65 caring for others. This is one of Deputy Crawford's points. There are older people who, while they do not need to be in care, find themselves in that caring situation. That statistic was invisible until the CSO asked the question. One of the problems we had two years ago was the absence of a database of carers or people involved in caring. It is important that we consider policy initiatives on that basis. This is a live issue, many changes are taking place and more must take place. Priorities must be considered. One would not need to be good at

economics to compare the cost of paying a carer's allowance and the cost of institutional care.

Mr. Ring: I have come across two problems in regard to carer's allowance which could be examined by the working group. The first matter is a simple one. A lady who was getting carer's allowance became ill and was no longer fit to fulfil the role of carer. In fairness to the Department, it did not take the money from her straight away. She wanted to get somebody to take over as carer on a short-term basis until her health improved but it was not possible for her to make provision in this regard. The Minister should examine this matter.

Is there interdepartmental contact between the Departments of Health and Children, Social and Family Affairs and others in regard to the elderly? Will the Minister speak to the Minister for Health and Children on this matter? People who are not getting carer's allowance are not receiving any recognition for their work. That does not make sense. In addition to doing the job for nothing, these people can be told by a health board official that the six hours of home help is being reduced to three hours. That is the worst thing that can happen. As a consequence, people are put into homes which cost €1,100 per week. Is it not preferable to give them an extra two or three hours of home help?

I urge the Minister to examine the possibility of allowing for temporary carers in cases when full-time carers fall ill. This matter should be examined when a review takes place.

Mr. Crawford: The Minister said the scheme is relatively new. However, it has been in existence during most of my time in the House and a great deal of change has been made to it. I am especially concerned that farmers and the self-employed, in particular, are being denied access to the carer's allowance by social welfare officers on the basis of the number of stock they own and so forth. This issue has gone haywire. The Minister referred to an attitudinal problem. There appears to be a problem with the attitude of some social welfare officials. There was no problem some years ago. If it was accepted that a son or daughter was giving full-time care to a parent there was no argument the number of hours or the number of cows on the farm. However, some current cases are causing extraordinary difficulties for families. I ask that the matter be examined as a matter of urgency.

There is no question but that there are many people in full-time employment looking after sizeable holdings. We now have a situation where these people are in the yard one minute and may be called back into the house the next. They are doing what is necessary to provide care for an elderly relative yet some social welfare officers appear to have a hang-up about this and go out

of their way to prove that they cannot give full-time care because they are doing more than ten hours work on the farm. The situation is crazy.

I can highlight individual cases to the Minister when times were much tougher. No questions were asked of an individual milking 20 or 25 cows. Such people were granted carer's allowances. Now a person with ten suckler cows in the barn at the back of the house is not supposed to have time to look after a loved one. It is ridiculous.

Mr. Penrose: The Minister pointed out one of the problems we have. I acknowledge some of the improvements she has made. We should be clear about that, although there has always been ballyragging from this side of the House. Many of the people involved in caring are elderly. The person being cared for often ends up in a better situation than the carer. We are denying carers respite and all those things that would give them some help. That is why they feel so aggrieved and angry, especially in view of the denial of a carer's allowance, which is small but salutary in the context of the recognition it provides.

Mr. J. Breen: I am aware of a case where a husband and wife were looking after a disabled person. The wife got the carer's allowance. However, on becoming a widow she was no longer entitled to this allowance. This serious anomaly in the system should be rectified. I urge the Minister to rectify the matter so that the carer's allowance would continue to be paid so this woman can look after her disabled relative at home.

Mary Coughlan: We have discussed this issue at length. In those circumstances, a single payment would apply. On that basis, it would be determined if the widow would be better off on the carer's allowance or on a widow's pension. If she is a young widow, the former would be the case. Such a decision would have to be made. That issue has been under consideration. The recommendation is that a half-rate carer's allowance would be paid to widows and widowers.

The issue concerning farmers has been brought to my attention on a number of occasions. We will look at the determination of farming practices.

Mr. Crawford: It is extremely serious.

Mary Coughlan: I accept that. I intend to examine the matter. I promised I would do something in regard to the farm assist scheme a couple of years ago; I did that and I will also examine this issue.

Mr. Crawford: That is good.

Mary Coughlan: The farmers' friend.

Mr. Ring: That is Deputy Crawford.

Mr. Penrose: The Minister's pet.

Mary Coughlan: No, that is not the case. Wait until I am in Monaghan on Saturday morning. It will not be a case of the Minister's pet after that.

I accept that this is an issue. It has been raised on every parliamentary Question Time. We are examining the matter and hope to draw up a policy initiative in the near future. We are working with the Department of Health and Children on what I — we all — consider to be the best option, the home care subvention scheme.

Written Answers follow Adjournment Debate.

Adjournment Debate Matters.

Acting Chairman (Mr. B. O'Keeffe): I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 21 and the name of the Member in each case: (1) Deputy Ring — to ask the Minister for the Environment, Heritage and Local Government to clarify the position in regard to funding for protective barriers on Dooncarton Mountain in north Mayo to prevent further landslides; (2) Deputy Cassidy — to call on the Minister for Justice, Equality and Law Reform to re-open the Garda station in Clonmellon, County Westmeath; (3) Deputy Michael D. Higgins — the urgent need for the Department of Education and Science to give priority to the request for a new school (details supplied) the site for which was approved two years ago; (4) Deputy Ferris — the crisis in cancer treatment services at Tralee General Hospital; (5) Deputy Neville — deficits in the mental health services; (6) Deputy Costello — the need for the Minister for Education and Science to explain why compensatory awards for child victims of abuse in religious institutions are being reduced and to address the case of a person (details supplied); (7) Deputy Ó Caoláin — the need for the Minister for Education and Science to ensure equality of access to education, including physical accessibility of schools, for all pupils with disabilities; (8) Deputy Boyle — to discuss the failure of the Government's so-called decentralisation programme that is seeing a proposal for Department of Agriculture and Food offices and specialised laboratories in Cork city to be moved to Macroom; (9) Deputy Keaveney — to discuss the delays in progress on a sewerage scheme (details supplied) in County Donegal; (10) Deputy Sargent — that a definite timetable and plan be put in place to provide a water supply system and a sewerage system to the people of Carraroe in Connemara.

The matters raised by Deputies Costello, Ó Caoláin, Ring and Keaveney have been selected for discussion.

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

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

SCEIDIL NUA.

NEW SCHEDULES.

Atógadh an díospóirleacht ar leasú a 20:

I leathanach 7, roimh líne 1, an Sceideal nua seo a leanas a chur isteach:

“SCEIDEAL 1

CUID 1

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2°

CUID 2

Subject to legislation enacted pursuant to Article 9.1.2°.”

Debate resumed on amendment No. 20:

In page 6, before line 1, to insert the following new Schedule:

“SCHEDULE 1

PART 1

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2°

PART 2

Subject to legislation enacted pursuant to Article 9.1.2°.”

—(Deputy J. O'Keeffe).

Mr. J. O'Keeffe: I am glad we have a new Minister for Justice, Equality and Law Reform in the person of Deputy Coughlan.

Mary Coughlan: There could be a problem with such an appointment, as I am married to a member of the Garda Síochána.

Mr. J. O'Keeffe: Has the Government given up at this stage?

Mary Coughlan: No.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): I apologise for being late. I thought the Bill was to resume at 3.50 p.m.

Mr. Costello: I welcome the Minister of State, Deputy Brian Lenihan. However, the Minister for Justice, Equality and Law Reform remained

with us for less than one hour of this debate. More pressing business required his attention. The same is true of the Second Stage debate when he was scarcely present in the House. This is a debate on the Constitution and I would have expected that the Minister would be here for the entire debate. If this matter is to be rushed through this House and he thinks it is so important, the least he can do is grace us with his presence. It is not good enough that the Minister can hop in for a while and then disappear for the rest of the day as though this is not an important issue. The reason we are in this Chamber is that this is a constitutional amendment Bill, otherwise we would be dealing with it in committee. Since we are in this Chamber we expect the Minister to be here to address the issues we raise.

I want to flag my extreme disappointment and objections to the manner in which the Minister is handling this debate. About three quarters of an hour is all the time he spent with us, and that certainly is not good enough. We should amend Standing Orders to ensure that when a constitutional amendment Bill is before the House the Minister responsible sees through the entire debate. It is not as though we will be here all day, although we will be here for a large part of it, but we will not be dealing with this Bill all week. We have six hours maximum to deal with Committee Stage, fewer than two hours to deal with Report Stage and we do not know if the Minister will be here for that debate tomorrow.

I strongly register my protest. I would have expected that the Minister would be here for the entirety of this debate but I presume we will not see him for the rest of day. Will the Minister of State, Deputy Brian Lenihan, indicate whether we will have the benefit of the wisdom of the Minister for Justice, Equality and Law Reform at some stage in the course of today's proceedings. Will the Minister of State clarify that before we proceed further. I note Deputy Jim O'Keeffe also wishes to speak on this matter.

Mr. J. O'Keeffe: I have the highest regard and respect for the Minister of State, Deputy Brian Lenihan, but it is unsatisfactory that a quarter of the way through Committee Stage of the Bill——

Mr. Costello: One sixth of the way through it.

Mr. J. O'Keeffe: ——the Minister for Justice, Equality and Law Reform absented himself. We were engaged in an intense debate on a particular point. The difficulty about this debate is that each issue requires intense debate and even each word needs to be teased out, parsed and analysed because a word inserted, removed or inserted in the wrong place can result in an unintended legal interpretation.

I will give an example of that. The wording of the famous abortion referendum 20 years go, pushed like mad by people who were anti-

abortion, led to the opposite outcome. The Minister of State, Deputy Brian Lenihan, is well aware of the background to that. He was party to the situation that led to the diffusing of that issue. He had hearings before the all-party committee, of which I was glad to be a member, and they led to the issue being calmly and reflectively debated. This is what we wanted to happen in this case.

I raised a number of issues with the Minister, Deputy McDowell, this morning. We had not concluded on the amendment with which we were dealing. It is ridiculous and a waste of Oireachtas time to have to cover the entire ground again. I register my protest. There may be pressing reasons for the Minister's absence and if there are, I can understand that — it can happen to anyone — but we did not rush this debate. That was done by the Government and, in particular, the Minister. He was up bright and early this morning challenging the Human Rights Commission without giving its representatives the opportunity to make their case. That is part of the unsatisfactory process relating to this entire debate.

Mr. Costello: As long as it is the media, the Minister has no problem finding time, but he cannot find time for a debate in this House.

Mr. B. Lenihan: Perhaps because of the nature of the exchanges that take place in this House we lose sight of the fact that this is a Government Bill and it has been collectively decided upon by the Government.

Mr. Costello: Virtually all Bills are Government Bills.

Mr. B. Lenihan: Virtually all of them are.

Mr. Costello: This is a constitutional amendment Bill.

Mr. B. Lenihan: Yes, but it is a Government Bill. It is a proposal which has the collective authority of the Government behind it. That is why a Minister or a Minister of State is fully in a position to explain this measure to the House. The Minister for Justice, Equality and Law Reform, Deputy McDowell, will not be present, as I understand it, for the section of this Committee Stage which will continue until Private Members' time. I am a Minister of State at the Department of Justice, Equality and Reform and I believe that the other Minister of State at the Department will take Committee Stage after Private Members' time.

Mr. J. O'Keeffe: The Minister of State must be joking.

Mr. Costello: This is a disgrace. That will mean that three Ministers in the one day——

Mr. B. Lenihan: In the one Department.

Mr. Costello: —will take Committee Stage of this Bill. The Minister could not be here for more than one hour.

Mr. B. Lenihan: The other matters Deputy O’Keeffe raised were Second Stage points. We should deal here with——

Mr. J. O’Keeffe: Having welcomed the Minister of State and having great respect for his ability, and perhaps his taking over from the Minister for Justice, Equality and Law Reform is a sign of things to come, at least in the short term up to the next general election. Does the Minister of State feel compromised in handling this debate in a situation where the progress report which bears his name sets out the guidelines for running a referendum and every one of them has been trampled on by the Minister, Deputy McDowell? Does the Minister of State, Deputy Brian Lenihan, feel awfully compromised to be foisted into the debate at this stage apparently only as a temporary substitute? It is like a blood injury on the rugby field. He is on while the Minister is out for blood.

Mr. Costello: The Minister is in the sin bin.

Mr. J. O’Keeffe: That is more likely the case. My colleague, Deputy Costello, has summed it up correctly. If the Minister is not in the sin bin, that is where he should be.

Acting Chairman: I remind Members that they are here to address the amendments. We have coupled with amendment No. 20, amendments Nos. 10 to 14, inclusive, and amendments Nos. 21 to 23, inclusive, and I would like Members to address them.

Mr. Costello: Before the Minister left at 1.30 p.m. he intervened to tell us that he intended to go off and that he would not be back after 1.30 p.m. We were outraged by that. We have now heard that not only will we have this Minister of State for the next three hours but that we will have another Minister of State for the remaining portion of the debate up to 10.30 p.m. The Committee Stage debate is being divided between three Ministers. That is totally unsatisfactory when we need to tease out the wording of the Bill. This is a short Bill and we are going through it line by line. It is a constitutional amendment Bill to provide for a referendum. As Deputy O’Keeffe said, a good deal depends on the wording of the Bill. If we do not get the wording right, the thrust of the intent behind the Bill could fall apart. We deserve an apology from the Minister for Justice, Equality and Law Reform.

Mr. J. O’Keeffe: Parliament does.

Mr. Costello: Parliament deserves an apology for the way he has treated us. We are in this Chamber for a specific purpose because this is such an important issue. It is a constitutional amendment Bill and therefore it should be treated with respect. The Minister has not treated us with respect. I do not mind whether this Bill has the collective authority of the Government to put it through, but the Minister of State should not forget that there is an Opposition here which has a responsibility. It is our amendments, not Government amendments, that are before the House. We expect respect and the debate on those amendments deserves a decent hearing.

Acting Chairman: I call the Minister of State to address this issue and then I will move on to consideration of the amendments.

Mr. B. Lenihan: I should make it clear to the House, because of the nature of what has been said about the Minister for Justice, Equality and Law Reform this afternoon, that he is in Brussels chairing the relevant European Union Committee on Justice and Home Affairs.

Mr. Costello: Then why did he not set another day to deal with Committee Stage?

Mr. B. Lenihan: Deputies are well aware that the European Union Presidency is in progress.

Aengus Ó Snodaigh: The Minister should have deferred this debate until after that meeting.

Mr. B. Lenihan: Ministers have been assigned to take this debate. The Minister discussed these amendments in great detail——

Mr. Costello: With whom?

Mr. B. Lenihan: —with his officials and his Ministers of State. In regard to the constant cry about all-party agreement, we thought we had all-party agreement because the then leader of Deputy Costello’s party requested this amendment when the Good Friday Agreement was concluded.

Mr. Costello: That is not true.

Mr. B. Lenihan: The correspondence is clear. With regard to what Deputy O’Keeffe said, on the principle——

Mr. Costello: That is absolutely untrue. I ask the Minister of State to withdraw that remark.

Mr. B. Lenihan: I will not withdraw that remark.

Mr. Costello: The former leader of my party will be in this House——

Mr. B. Lenihan: He suggested that.

Mr. Costello: He did not. He will be in this House to address that issue. That is an outrageous statement to make.

Mr. B. Lenihan: From the correspondence I have seen——

Mr. Costello: It is unbecoming of the Minister of State.

Mr. B. Lenihan: I will certainly deal with the matter. I want to say to Deputy O’Keeffe——

Mr. Costello: Deputy Quinn, the former leader of the Labour Party, will be here shortly to address that issue. It would be more appropriate to deal with the matter at that stage.

Mr. B. Lenihan: In correspondence it was stated, “the Deputy will note the proposal in the enclosed memo that a consequential amendment could be made to Article 9, together with the already published changes to Articles 2 and 3”. The correspondence also states this could possibly be presented as a belt and braces exercise by the Government to ensure its intentions, as they relate to citizenship, are carried into effect. It further states that on the grounds it would not require any change in the wording agreed at Castle Buildings, there would be no question of reopening the concluded talks process.

Mr. Costello: The Minister of State does not know what he is talking about, which illustrates the point we are making.

Acting Chairman: I must insist that we return to dealing with the amendments before us. As the Deputy so eloquently put it, his party’s former leader will be in the House shortly and will have the opportunity to take issue with what the Minister of State said.

Mr. B. Lenihan: The memorandum goes——

Acting Chairman: If I could ask the Minister of State——

Mr. Costello: The Minister of State is completely out of order.

Mr. B. Lenihan: Has the Deputy examined the memorandum?

Mr. Costello: Of course I examined it. The Minister of State is completely out of order.

Acting Chairman: Deputy Rabbitte will be coming before the House shortly.

Mr. Costello: It is not Deputy Rabbitte, it is Deputy Quinn.

Acting Chairman: We must return to dealing with the amendments.

Aengus Ó Snodaigh: There is no all-party agreement on this matter. My party is certainly not in agreement with what is being done.

Acting Chairman: Will the Deputies please address the amendments?

Aengus Ó Snodaigh: The Minister of State indicated there is all-party support but that is not the case.

Acting Chairman: Deputy Costello should focus on the amendments.

Mr. Costello: At this point, I feel I must call for a quorum.

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

Mr. Costello: As Deputy Jim O’Keeffe stated, he tabled these amendments in order to try to explore the complexity of the proposal before us, to tease matters out and to have discussions with the Minister in respect of what might be possible, either on a constitutional basis or, more preferably, on a legal basis, in terms of addressing the issues. The Deputy is trying to address matters in respect of Articles 2 and 9. I do not necessarily agree with the intention of seeking to amend Article 2 or to make it in any way subject to Article 9. That might have the effect of adding further to the difficulties with the Good Friday Agreement. Article 2 should have priority and the latter should be clearly asserted because that was the intention of the legislation that arose on foot of the Good Friday Agreement.

Article 9 is an enabling instrument and makes provision with regard to circumstances where citizenship can be withdrawn. The only people who automatically qualify for citizenship under Article 9 are those from Saorstát Éireann. However, Article 9.2 states, “Fidelity to the nation and loyalty to the State are fundamental political duties of all citizens”. Therefore, there are circumstances in which citizenship can be revoked. I do not know if the provisions of this Article have ever been exercised and someone’s citizenship revoked as a result.

I have in my possession a reply from the Minister for Justice, Equality and Law Reform to a question I tabled in respect of a gentleman I have been pursuing for a period of time. I refer to the infamous Victor Kozeny from the Czech Republic who is a fugitive from justice in a number of states. If Mr. Kozeny did not possess an Irish passport, he would have been locked up in one of the countries which have warrants out for his arrest. In the reply to which I refer, the Minister indicates that a certificate of naturalisation can be revoked in a number of circumstances. He makes specific reference to Article 9 and whether the certificate granted was procured by fraud, misrepresentation, innocent or fraudulent, etc., or if the person to whom it was granted has, by any overt act, shown himself to

[Mr. Costello.]

have failed in his duty of fidelity to the nation and loyalty to the State. Does the Minister have any intention of investigating some of the approximately 150 individuals to whom passports were issued under the passports for sale scheme, who have proven to be unsavoury characters and who are wandering the world on Irish passports?

Mr. Kozeny is going to be standing in the European elections in the Czech Republic, not by virtue of his Czech citizenship, which has been withdrawn, but by virtue of his Irish passport which grants him entitlement to stand for elections.

Mr. J. O’Keeffe: Mr. Kozeny rejoices in the nickname of the pirate of Prague.

Mr. Costello: That is correct. He is being sought by the authorities for allegedly defrauding €3.6 billion from 800,000 citizens of the Czech Republic. Would it not be great if the Minister turned his attention to dealing with the citizenship and naturalisation of that gentleman and those like him? The point I was making was that in section 9 there is already some provision that allows, within the Constitution, for citizenship to be withdrawn on those grounds.

I do not intend to pursue this any further at present. The Minister has presented us with a *fait accompli* or with a wording which he is not prepared to change. He has categorically told us that he will go forward with that particular wording and that we must like it or lump it. I feel that our presence here, without the Minister, is very much a formality and any arguments we put forward are not likely to be listened to. We would like to have had the opportunity of teasing out the possible options that might be there, the extent of the problem, the facts and figures underpinning it, and how it could be addressed. I do not think we will have the opportunity to do any of that.

Mr. J. O’Keeffe: I get the feeling that we are wasting our time somewhat on this debate. However, we keep doing the best we can in the circumstances. It is important to put matters in context. In this particular proposal I put forward one option as to how the problem can be resolved. A range of other proposals were made, including by way of legislation, which we will come to separately.

I want to make it clear that I put these options forward for debate and discussion on the basis that these issues would have been examined in detail in the context of an all-party discussion. I do not press any of them as being a preferred option. The range is quite wide. If we reach the stage of accepting there is a need for a constitutional referendum, there are three or four different possibilities for Article 2.

For example, it could be made clear that Article 2 is subject to Article 9 with regard to the power of the Oireachtas to legislate for

citizenship. That could be done simply by the amendment which I put forward which suggests putting in at the beginning of Article 2 the words, “Subject to legislation enacted pursuant to Article 9.1.2°”. This means that Article 2 would then clearly take second place to Article 9. The Minister, however, proposes to take the back door route and do it the other way around. He proposes to do the same indirectly in Article 9. I accept that if he dealt with this in an honest upfront way, we would have to have discussions with the parties in Northern Ireland.

Another possibility is to insert in Article 2, after the words “person born on the island of Ireland, which includes its islands and seas”, the words “of at least one parent who is an Irish citizen or entitled to be an Irish citizen”, thereby using the Minister’s own words.

A further possible way of dealing with this issue in Article 2 is to include the words “to seek” after the word “seas” in the phrase “born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation”. That would raise the issue of somebody who does not want citizenship foisted on them — another issue we have not teased out. What is the current and future position in this regard? I will get back to that issue.

The question of nationality and citizenship should have been teased out fully. Let me ask a simple question. Is Dr. Ian Paisley an Irish citizen? These are the kinds of coal face issues one must examine.

Mr. B. Lenihan: He is entitled to be an Irish citizen.

Mr. J. O’Keeffe: He may be or may be entitled to be — so what? This is just one of the issues which has not been examined.

There are also far simpler ways of amending Article 9. We could insert at the beginning of Article 9.2 the words “Notwithstanding Article 2”. This would clarify that the power given for the future acquisition and loss of Irish citizenship and nationality shall be determined in accordance with law. It would also make it absolutely clear that the entitlement would be there for the Oireachtas to do that, notwithstanding Article 2. This again is another way——

An Ceann Comhairle: I am reluctant to intervene but I want to try to have an orderly Committee Stage. There is no restriction on time on Committee Stage, as the Deputy knows, and no restriction on the number of contributions. I understand that the Deputy proposed these amendments and that Deputy Costello then contributed after him. Before Deputy O’Keeffe makes another major contribution, I should call Deputy Ó Snodaigh, Deputy Quinn and then the Minister. It would be unusual for a Member to contribute twice before hearing the Minister’s reply to the first points raised. As the Deputy knows, there is no restriction on time other than

the guillotine and what it entails. The Deputy will have ample opportunity to contribute.

Mr. J. O’Keeffe: I accept that. I suppose the situation where the Minister is out on a blood injury and we have the replacement Minister of State here for a few hours and will have another Minister later——

An Ceann Comhairle: I understand that the Minister did make one contribution which Deputy O’Keeffe may well have understood was his contribution.

Mr. J. O’Keeffe: The problem is we did not even complete the debate on that small issue. I accept the Ceann Comhairle’s ruling entirely.

An Ceann Comhairle: We will hear Deputy Ó Snodaigh, Deputy Quinn and the Minister of State and I will then call Deputy O’Keeffe again.

Mr. J. O’Keeffe: This shows how ludicrous it is to try to explore all the issues within the constraints of this Committee Stage debate.

An Ceann Comhairle: I accept that.

Aengus Ó Snodaigh: Tá me go hiomlán i gcoinne an leasú seo ar an mBunreacht. Níl aon réiteach idir mé féin agus an Aire maidir leis an gceist seo. Níl réiteach uile-pháirtí ar an gceist.

Chomh maith leis sin, ba mhaith liom meabhú do Fhianna Fáil, ach go háirithe, agus b’fhéidir don Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, adúirt le déanaí gur phoblachtánach é, féachaint siar ar dhá príomh doiciméad poblachtánach na hÉireann, is iad san, forógra na Cásca agus clár daonlathach an Chéad Dála. De réir fhorógra na Cásca, “Ráthaíonn an Phoblacht saoirse chreidimh agus saoirse shibhialta, comhchearta agus comhdheiseanna dá saoránaigh uilig agus dearbhaíonn sí gurb é a rún séan agus sonas a lorg don náisiún uile agus do gach roinn di le comhchúram do chlann uile an náisiúin agus le neamart ar an easaontas.....”.

Chomh maith céanna, i gclár daonlathach an Chéad Dála, déantar tagairt arís do “cherishing all the children of the nation equally”. Tá an cheist sin i gceist anseo mar luaitear an náisiún.

Mr. B. Lenihan: Níl an cheist sin i gceist anseo in aon chor.

Aengus Ó Snodaigh: Tá, mar tá sé luaite in Airteagal 2 den Bhunreacht. Cuireann an t-athrú a bhfuil an Rialtas ag triall a dhéanamh do Airteagal 9 isteach ar Airteagal 2, adeir go bhfuil sé de cheart ag gach duine a rugadh ar oileán na hÉireann——

Mr. B. Lenihan: A Cheann Comhairle, níl an Teachta ag plé na leasaithe atá ós comhair an Tí. The Deputy is not discussing the amendments before the House.

An Ceann Comhairle: Deputy Ó Snodaigh, you should confine yourself to the amendment before the House.

Aengus Ó Snodaigh: The amendments deal with the text which would change Article 9. If we are to deal with that we must deal with them in the context that they have an effect on Article 2.

An Ceann Comhairle: On Committee Stage the Deputy must confine himself to the details of the amendment before the House. What is appropriate on Second Stage is not appropriate on Committee Stage, the purpose of which is to address the amendments. The principles of the Bill have already been debated in this House. We are dealing specifically with amendments Nos. 10 to 14, inclusive, and amendments Nos. 20 to 23, inclusive.

Aengus Ó Snodaigh: I understand that. All those amendments have the effect of changing Article 9. Any changes in Article 9 have implications for Article 2. I am addressing the amendment and opposition to the amendment and the legislation itself. It is, therefore, in order. Dúirt an Clár Daonlathach gurbh é príomhchúram ar Rialtas an tSaorstáit ná “gléas a sholáthar chun leas corpartha, leas spioradálta agus leas intleachta na leanaí a chur in áirithe dóibh”.

It is very simple. The rights of the children of the nation should be protected in full. If this legislation with these amendments is passed, that will not happen. It is necessary to focus on the effects these proposals will have on the Good Friday Agreement and on the changes that were brought about in 1998. They will negate the changes implemented in Article 2, the entitlement to citizenship, which were carefully negotiated. The amendments and the legislation before us are in violation of our international treaty obligations, in this case the Good Friday Agreement.

At present citizenship is conferred in Article 2 of the Constitution. This Article was negotiated in the Good Friday Agreement and its wording was included in Annex II to the first constitutional issues section of the agreement. The Government’s commitment in this section was specifically included in the international British-Irish Treaty annexed to the agreement. This proposal by the Government indicates that rather than facing the significant political fall-out of tampering with the wording of Article 2, which replaced the existing Articles 2 and 3 in 1998, the Government is trying to get around it by amending Article 9. That is the effect of the wording before us.

We should accept none of the amendments nor the proposed wording. The Government asserts that they do not violate the Good Friday Agreement. It argues that the people of Northern Ireland whose citizenship is recognised in the British-Irish joint declaration and defined in

[Aengus Ó Snodaigh.]

Annex 2 includes all persons born in Northern Ireland and having at least one parent who is at the time of birth a British citizen or one parent who is an Irish citizen or who is otherwise entitled to reside in Northern Ireland without restriction on their period of residency. The Government's explanation is now bolstered by its recent interpretative declaration signed by both the British and Irish Governments in which they affirm that it is not their intention in making the said agreement that it should impose on either Government any obligation to confer nationality or citizenship on persons born on any part of the island of Ireland whose parents do not have sufficient connection with the island of Ireland.

Accordingly the Government has declared that the referendum proposal is in accordance with the intention of the Good Friday Agreement. I disagree wholeheartedly with the Minister on this. I have argued from the start that this is not the way to proceed on this issue. I will deal with other issues later regarding the manipulated figures the Minister quoted if I have the opportunity.

The amendment violates the treaty, despite the interpretative declaration. It also undermines the Good Friday Agreement which states that it is vital to Nationalists to have a constitutional guarantee underwritten by treaty. Another aspect is that the people to whom the Good Friday Agreement gave protections have no vote to agree or disagree with the proposals the Minister has produced. We have extended rights to those people yet we are taking them away without consultation with them. That has been raised by others. In addition, they have no say whatsoever in this matter.

Mr. B. Lenihan: No one's rights are taken away. This affects children not yet born.

Aengus Ó Snodaigh: The Good Friday Agreement was voted on by both sectors in Ireland——

Mr. Quinn: This is a unilateral change in a contract by one side. That is what it amounts to.

Aengus Ó Snodaigh: ——to implement something which affects those people who voted in favour of or against it. The agreement was accepted.

Mr. Costello: Ask Dr. Paisley about it.

Mr. B. Lenihan: He is an expert on our Constitution.

Aengus Ó Snodaigh: He probably is. There are others.

An Ceann Comhairle: Allow the Deputy to continue without interruption.

Aengus Ó Snodaigh: It needs to be borne in mind that because of the rush to pass this legislation, we have not heard from the Human Rights Commission or other interested parties. I will not go into that major debate. However, what the commission had to say has major implications in terms of the wording of the proposals before us, Deputy O'Keeffe's amendments and the legislation itself. Because we have not had the opportunity to have the Human Rights Commission come before us and put its concerns on the record of the House, it is important that I take the opportunity to do that. The same can be said regarding the ICCL. I will not read the whole lot, but it is important to put this on the record so that future researchers will understand that outside bodies made very valid points which were insultingly dismissed by the Minister this morning.

I have never heard any Minister insult the Human Rights Commission as did the Minister for Justice, Equality and Law Reform, Deputy McDowell, this morning. If he were here I would ask him to withdraw the comments he made about the commissioners. We do not need to lower ourselves to the level of insult in which the Minister engaged. If he bothers to turn up tomorrow for this vital legislation he might withdraw his comments.

The Human Rights Commission stated that on 7 April, the President of the Human Rights Commission wrote to the Minister for Justice, Equality and Law Reform to express concern regarding a number of aspects of the proposed referendum, emphasising the short timeframe that was available for consideration of the matter, the potential impact of the referendum on race relations——

An Ceann Comhairle: I draw the Deputy's attention to the fact that we are addressing eight amendments. There is a time limit on this debate and the Deputy should not make a Second Stage speech.

Aengus Ó Snodaigh: The time limit was not of my choosing. I opposed it. I raised the concerns of the organisations that I was hoping to quote extensively. They have been ruled out of this debate from the start. They were not given an opportunity, which they should have had under the Good Friday Agreement, to comment. They were not allowed to come to the House to make their points. What is in their document is relevant to the amendments under discussion and to my reasons for advocating that those amendments should be rejected. I have many more documents. I could speak all day, but I do not intend to do that. However, if people continue to interrupt me I will continue to speak.

If the Chair will bear with me, the document runs to only four pages and I was half-way through the first page.

I will skip the Human Rights Commission's background remarks which are at the start of its

report. I will deal with the specific points the commission made about citizenship and the Constitution in its report, which states:

Under Irish constitutional jurisprudence, there is a prevailing lack of clarity as to which rights under the Constitution are guaranteed exclusively to citizens, and which rights are protected in respect of all persons within the State. This uncertainty as to the constitutional protection of the rights of non-citizens is evident in our constitutional jurisprudence and has been noted in the analysis of the leading academic authorities in the area. The proposed exclusion of children of non-nationals from the right to citizenship will, therefore, create a new category of persons born in Ireland whose protection of legal rights and social rights and services will be uncertain at best.

The proposed amendment would insert a new Article 9.2 to the Constitution, which would provide that, “notwithstanding any other provision of the Constitution”, children of non-nationals are to be excluded from citizenship except as may be provided by legislation. Of particular importance is the possible impact of the amendment on Article 2 of the Constitution, which sets out that all persons born, on the island have an “entitlement and birthright to be part of the Irish Nation”. The courts may in the future have to decide on the entitlements and rights of persons who are part of the Irish nation, but not considered under statute to have any entitlement to Irish citizenship or nationality, thus adding further confusion to an already uncertain area of law.

The “notwithstanding any other provision of the Constitution” aspect of the proposed amendment may also override all other constitutional provisions, including the fundamental rights provisions contained in Articles 40-44 and may apply to subsequent legislation which might provide for rights to citizenship from some category or categories of children of non-nationals. The significance of this point is that should future citizenship legislation provide for qualification for citizenship on a basis which might be deemed to be unreasonably discriminatory, the rights of those excluded to challenge that legislation might be frustrated.

A wider issue than the discrete issue of citizenship is the question of how any significant area of constitutional change should be approached. In the view of the Commission, the principles of human rights law provide standards against which any proposal for constitutional change should be considered. Any proposal for constitutional change which might lead to a significant restriction of rights should be accompanied by a serious and comprehensive consideration of the likely impact of the proposed change on the

enjoyment of constitutional rights by the persons affected.

It is not apparent to the Commission that such a consideration of the human rights consequences of the proposed referendum has taken place. In this regard, the Commission is concerned that the Government chose not to consult with the Commission in advance of publishing the proposed Twenty-seventh Amendment to the Constitution Bill or in advance of taking the decision to proceed with a referendum on this issue.

The commission’s report deals with the nature of the State’s human rights obligations under international law, a matter to which I will return. It discusses the justifications for the proposed amendment before giving a summary of the commission’s view. This is the crux of the matter, as it relates to the amendments before the House. The report further states:

It is the view of the Human Rights Commission that the proposed amendment to the Constitution aimed at removing a category of persons, notably children born in Ireland of non-national parents, from qualification for Irish citizenship raises significant issues relating to the human rights of those persons and their families.

A notable feature of the Irish Constitution is that some of the rights contained in the Constitution are explicitly linked to citizenship whereas others are not. Therefore, the proposed amendment will have the effect of creating a new category of non-citizens who are likely to be subject to a lower and more uncertain level of protection of rights than currently prevails for children previously born in the State in equivalent circumstances.

Under a number of the international human rights treaties to which the State is a party, Ireland has accepted obligations to guarantee rights equally to all persons, and specifically all children, within its territory without discrimination on the basis of nationality, race, ethnic background or other status. The differential treatment which is likely to result between citizen and non-citizen children may constitute unlawful discrimination under international law in respect of a new category of non-citizen children.

Any restriction of the protection of the rights set out in international human rights law must be justified by a demonstrated reasonable and objective need to further a legitimate purpose. The Commission is not convinced that such a need or such a legitimate purpose has been demonstrated in the present context, nor that other means of addressing any purported social need have been adequately explored which would not have the same detrimental effect on human rights.

[Aengus Ó Snodaigh.]

In the view of the Commission, the Government has not demonstrated any justification for singling out one category of citizens with “no substantial connection to Ireland” upon which to impose restrictions as to citizenship entitlements.

That is just part of the Human Rights Commission’s report. The commission issued a further press statement today, after a meeting of a joint committee of the two human rights commissions on this island. The joint committee concluded that the proposed constitutional amendment has:

implications for rights protected by that Constitution, including the rights of persons born in the island of Ireland as set in Article 2 of the Constitution. These implications are being addressed in detail by the Irish Human Rights Commission in observations being issued this week. In so far as the Irish Government’s proposal impacts on Article 2 of the Irish Constitution, which was amended in order to allow the Belfast (Good Friday) Agreement to come into force, the Joint Committee believes that the proposal ought to be considered in the manner indicated in paragraph 7 of the section of the Agreement dealing with Validation, Implementation and Review. That paragraph requires the two Governments to consult with parties in the Assembly if relevant legislation (such as the Irish Nationality and Citizenship Acts) requires amendment.

I have outlined the findings of the joint committee of the two human rights commissions on the island of Ireland.

I have concerns about the proposed constitutional amendment and Deputy Jim O’Keeffe’s amendments which have been suggested to promote a debate on something that is fundamentally flawed. My concerns relate to the removal of the rights of Irish citizens of certain national and ethnic origin and parentage. The removal of these rights represents the ethnic cleansing of the Constitution. The measures need to be understood in the context of the Government’s overall legislative strategy, with respect to the rights of non-nationals.

An Ceann Comhairle: I am afraid I have to ask the Deputy to state what amendments he is addressing.

Aengus Ó Snodaigh: I am addressing amendments Nos. 10, 11, 12,—

An Ceann Comhairle: The Deputy is making points that would be more appropriate to Second Stage.

Aengus Ó Snodaigh: —13, 14, 20—

An Ceann Comhairle: The Deputy has done very well.

Aengus Ó Snodaigh: —21, 22 and 23.

An Ceann Comhairle: I ask the Deputy to return to the amendments before him.

Aengus Ó Snodaigh: I have spoken about the specific amendments you asked me to address, a Cheann Comhairle. Every one of the amendments I have mentioned would have the effect of changing Part 1 of the Schedule to the Bill.

An Ceann Comhairle: The Deputy is not speaking about the amendments.

Mr. B. Lenihan: Can I ask Deputy Ó Caoláin what ethnic cleansing is?

Mr. Quinn: It is the killing of Protestant farmers in County Fermanagh.

Aengus Ó Snodaigh: By trying to amend the Bill, Deputy Jim O’Keeffe has opened up a discussion on all aspects of it.

An Ceann Comhairle: I ask the Deputy to confine his remarks to Deputy Jim O’Keeffe’s amendments, rather than making general comments about their effect.

Aengus Ó Snodaigh: I am allowed to support the Minister by saying that I agree with the proposed constitutional amendment, but to do so would not be to speak on Deputy O’Keeffe’s amendments. I will not say that I support the proposal, because I do not support it, just as I do not support Deputy O’Keeffe’s amendments. I am speaking in that regard and putting into context why I am opposed to the amendments and specific parts of the legislation before the House. That is in order. If you stop interrupting, a Cheann Comhairle, I might be able to conclude what I want to say.

An Ceann Comhairle: The Chair does not interrupt; the Chair intervenes.

Aengus Ó Snodaigh: Intervening and interrupting seem to be the same thing in this House, in most cases.

An Ceann Comhairle: Deputies interrupt occasionally.

Aengus Ó Snodaigh: I will have to reiterate what I have said. I may restate what I have already said, as is my right if I am addressing the amendments. This is procedural stupidity — if we are addressing a Bill on Committee Stage, we

should be allowed to address these issues. I have said that the Government's intention is to strip away rights from a category of people and to deny them equality.

I would like to discuss the consequences of the passing of this Bill in its current form, or in a new form if Deputy Jim O'Keeffe's amendments are accepted. If it is passed as it is, its effect on the Equality Bill 2004 will be to legislate for discrimination against non-nationals in general and asylum seekers in particular.

Section 10 of that Bill removes the protection of the Employment Equality Act from non-nationals, including both asylum seekers and refugees. Section 47 also excludes legislative discrimination against non-nationals by the Minister for Education and Science, directly reversing a decision of the Equality Tribunal. Section 49 removes Equal Status Act protection from current and former asylum seekers and persons who have applied for leave to remain in the State and allows Government, public authorities and statutory agencies to discriminate against them. All these Government proposals violate the non-regression principle enshrined in the EU race directive which the Bill purports to incorporate into law. It clearly illustrates the Government's agenda with respect to people of Irish descent from non-EU member states such as America, Canada, Australia and New Zealand.

There are many important aspects in the briefing document provided by the ICCL. However, it did not have an opportunity to make a representation on this matter to the committee. The worst aspect of this constitutional amendment is the haste with which it was introduced. Bad laws are made in haste.

Mr. Quinn: I have not yet had an opportunity to speak in this debate as I was in Brussels last week. However, I will speak to the amendments and the Schedule. My name has been cited in this debate. I wrote to the Taoiseach — in confidence at the time — on aspects of the Good Friday Agreement. Though I have no problem with the correspondence being made public, selective extracts have been put into the public domain by the Minister for Justice, Equality and Law Reform, Deputy McDowell. With the Ceann Comhairle's permission I wish to put them on the record of the House as it is in the interest of proper debate and in the defence of my position.

An Ceann Comhairle: The Chair ruled with regard to Deputy Ó Snodaigh that we would deal with the amendments at this stage.

Mr. Quinn: In the *rí-rá* that occurred during my absence from the Chamber when I was at a committee meeting, a memorandum written in connection with these letters was selectively quoted in the House. I am duty bound to put the record straight. I will address the amendments in the context of what has happened here. I

appreciate your accommodation, a Ceann Comhairle.

On 16 April 1998, I wrote the following to the Taoiseach:

Dear Taoiseach,

An aspect of the Government's proposed rewording for Articles 2 and 3 was raised with me; I enclose a copy of the relevant memorandum. [I will not read the memorandum into the record] My understanding now is that the official view is also that the revised Articles do not, and were not intended to, confer an entitlement to citizenship as of right on all persons born in Ireland. In effect, Article 2 would create a right to be considered part of the nation, while the right to citizenship would continue to be dealt with separately under Article 9, which more, or less leaves the entire question to be regulated by statute.

I am not so much concerned with the merits of this proposal as with the potential for misunderstanding and confusion which appear to have been created. Several commentators and politicians, including both yourself and myself, have in good faith welcomed the draft as conferring, for the first time a constitutional recognition of the right of members of the Northern nationalist population to citizenship of this State. If this interpretation were to be contested and it were to emerge that, according to official view, no such effect was intended or brought about, there could be considerable controversy provoked in the referendum campaign with a seriously disruptive effect. At the very least it would be argued that supporters of the amendment were unsure of the precise legal consequences of the new draft.

I very much appreciate the sensitivity of the situation and you can be assured that I do not wish to raise publicly any reservations concerning what should primarily be seen as a vote endorsing the totality of the multi-party agreement. I am nonetheless seriously concerned that a successful outcome to the referendum process may be endangered when an examination of [the] amendment commences and contradictory interpretations are put forward — even, perhaps, by different groups of supporters of the amendment.

Assuming that the wording of the proposed Articles 2 and 3 cannot now be changed, then there should be specific agreement between those who support it in the Oireachtas as to its meaning. It seems to me that it would be dangerous to make claims which could not be sustained under inevitable scrutiny. You will note a proposal in the enclosed memo 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

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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.

However, if something, along those lines could not be incorporated at this stage, then I believe that the Government, its officials and those whose support it seeks should make every effort to share a common understanding of the meaning to be given to the published text. I hope that you will be in a position to consider this issue and revert to me before the Dáil debate on this amendment.

The Taoiseach's reversion by way of letter dated 20 April 1998 is as follows:

Dear Ruairí,

Thank you for your letter and I am glad to be able to deal with your concerns.

The proper interpretation of the two opening sentences of the new Article 2 is that they confer on every person born in the island of Ireland an entitlement and birthright to nationality and hence to citizenship. This is emphasised by the use of the word "otherwise" indicating that the entitlement of citizenship may be given by law to persons not born on the island of Ireland and, therefore, necessarily implying that for all persons born in the island of Ireland statute law is not required for the entitlement to citizenship. While the mechanics of asserting the right to citizenship might continue to be governed by statute law (the 1956 Act or any future amendment which may well be needed), statute would in the context of the new Article not be the basis of the entitlement to citizenship for persons born in Ireland.

If the new Article 2 became part of the Constitution, it would not result in any contradiction between that provision and the current Article 9, nor would it make Article 9 redundant. There are many necessary provisions relating to the acquisition of nationality and citizenship which require to be dealt with by statute and would still so require after the granting of the entitlement in the first sentence of the new Article 2. Issues relating to nationality and citizenship acquired by naturalisation, by marriage and by descent will continue to require legislation.

The concepts of nationality and citizenship are in Irish law virtually synonymous as is to be seen from the twinning of the two words in Article 9 and in our statute law. Where distinctions are drawn between the two as for instance in Article 9.2, it is to ensure that persons who have an entitlement to Irish nationality, and therefore citizenship, are not subject to the duties and responsibilities attached to citizenship unless they actively acknowledge it.

One effect of the new article will undoubtedly be to confer an entitlement to

Irish citizenship on persons born in Northern Ireland irrespective of their family background or the circumstances of their birth in Northern Ireland. We do not contemplate any change in the *jus soli* rule. Considerations of peace in Northern Ireland would outweigh any concerns related to immigration. [That is a pertinent comment].

I have had to bear in mind, when considering the changes in the amendment the strong desire of Unionists not be automatically incorporated in the nation whether they will it or not. We wish to be as inclusive as possible, but at the same time to remove any suggestion of coercion.

The proposed constitutional amendment has been very carefully vetted not only by the Attorney General and his office but by others with expertise in this area, and, without absolutely compelling legal reasons, I would be very reluctant to contemplate making any changes to it. I would regard it as important that no unnecessary doubts, or uncertainties be created in the public mind and I would be very grateful for your support in this. On 19 May 1998, I subsequently wrote to the Taoiseach:

Dear Taoiseach,

On 16 April I wrote to you outlining my concerns about the proposed re-wording of Articles 2 and 3. Then, as now, my concern was as to whether the Government's draft in fact achieved what was claimed on its behalf: that, for the first time, the right to citizenship of this State of every person born on the island of Ireland was being enshrined in the Constitution.

You replied to my letter to the effect that the proper interpretation of the amendment was that it did indeed place on a constitutional — rather than a statutory — footing the right of people born in Ireland to Irish citizenship. I accepted your assurances. I believe that you wrote in good faith and that you intended to reply on behalf of the Government as a whole, with the advice of the Attorney General, on the correct meaning of the new Articles.

However my faith in the view espoused by you has been substantially undermined by the revelation by the Minister for Justice that the Government has accepted all 12 recommendations of the Inter-Departmental Committee on Immigration, Asylum and Related Issues.

Briefly to recap the history. First, the draft amendment avoids setting out, in explicit terms, a clear entitlement to citizenship by virtue of birth in Ireland. Second, to be frank, it does not appear, on the evidence available to me, that your interpretation of the nature and effect of the re-worded Articles is shared by officials of the Department of Justice, which is the Department of State concerned with the administration of our citizenship laws. On the Wednesday following the Good Friday

Agreement, *The Irish Times* was able to publish news that the Government was considering proposals designed to limit access to Irish citizenship. The proposals were intended to curtail the statutory right, which exists at present, of all persons born in Ireland to Irish nationality and citizenship and were designed to cut the flow of immigration.

Any such proposals would of course be clearly incompatible with the Constitution, if the referendum is passed and if the new text has the meaning which you have assured me it does.

The speech of Minister O'Donoghue in the Dáil debate on the agreement did not shed any light on his Department's attitude since, remarkably, citizenship was the only aspect relevant to his Department with which he did not deal.

Finally, on the 7th May, in written reply to a Dáil question only drawn to my attention today, Minister John O'Donoghue published the recommendations of the Interdepartmental Committee. These included recommendation No. 7, to the effect that "legislation should be examined to see what changes might be possible to eliminate abuses of Irish citizenship law in regard to post-nuptial citizenship and the deliberate arrangement of births to non-national parents here". The Minister indicated that the Government had accepted this recommendation but it would "fall to be considered in the light of the outcome of the agreement reached in the multi-party negotiations of the 10th April and its implementation".

If your reply to my earlier correspondence has any significance, then clearly recommendation No. 7 does not "fall to be considered" — it simply falls. Legislation to curtail citizenship derived from birth would be incompatible with the Constitution, as amended. In your letter to me you have a specific commitment that the Government did not contemplate any change in the *jus soli* rule.

It is not possible for the Government to ride two horses simultaneously. There is only one attitude for the Government to adopt which is consistent with the view that it, all its members and all of its officials share a common understanding of the nature and effect of the referendum being put to the people. It should publicly and formally concede that no restrictions on citizenship as birthright are possible and that consideration of this aspect of recommendation No. 7 is being abandoned, since any legislation along those lines would be unconstitutional.

I want to assure you that this is not simply the pursuit on my part of a side issue; my immediate concern in the context of next Friday's vote does not relate to the State's policy on immigration. Those questions are critically important and will be considered on another day. I am, however, committed to

upholding the integrity of the referendum process. I believe the integrity of the process would be undermined if it was later revealed that your Government was committed to legislation which was completely inconsistent with your interpretation of the amended Article 2 of the Constitution — an interpretation campaigned for with the use of public funds.

The final letter is the Taoiseach's response of 21 May 1998.

Dear Ruairi,

I have your letter of 19 May about the acceptance by the Government of the recommendations made by an Inter-Departmental Committee on Immigration, Asylum and Related Issues, and the implications of the decision as regards the implementation of the Good Friday Agreement.

The interpretation you are placing on the Minister for Justice, Equality and Law Reform's recent PQ reply is not warranted.

The position is that the Inter-Departmental Committee on Immigration, Asylum and Related Issues presented its report to the Minister for Justice, Equality and Law Reform in February. The Minister subsequently brought the report to Government for their meeting of 17 February and obtained Government endorsement of its recommendations. The Minister made the Dáil aware of that fact in a debate on a Private Members Bill in the name of Deputy McManus on March 10. The Agreement in the Multi-Party Negotiations was, as you know, concluded on Good Friday, April 10.

The Minister, in responding to Deputy McManus's recent parliamentary question, set out — as requested — the various recommendations which were contained in the Inter-Departmental Committee's Report. He quite rightly indicated that the specific recommendation to which you refer would now fall to be considered in the light of the Good Friday Agreement and its implementation given that the recommendation had been made prior to the Agreement having been reached. The Minister answered a question from you in the matter on 14 May in similar terms. The changes to the Constitution proposed in the Agreement have yet to be approved by the Irish people although, I know, we both hope that they will be overwhelmingly endorsed in Friday's referendum.

There is no question therefore of the Minister or the Government resiling from the position I set out in my letter in reply to yours of 16 April. The Minister was simply making clear that that particular recommendation had now to be read with reference to the Agreement itself. I can assure you that in the event of the new Articles 2 and 3 taking effect,

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no legislation will be proposed by this Government to the Oireachtas which imposes restrictions on the entitlement to Irish nationality and citizenship of persons born in Ireland. I trust that this meets your concern on the point.

An Ceann Comhairle: Given that the Minister raised the question of the letters I allowed the Deputy to put them on the record of the House. I would like him to discuss the amendments now.

Mr. Quinn: I will do so. The proposed change and the Committee Stage amendments relating to this have been introduced in a way I find repugnant. It saddens me to say this. The way in which the Minister, Deputy McDowell, attempted to use that piece of correspondence and the related memo was devious and dishonest. Correspondence into which I entered in the spirit of support for an amendment which all parties in the House supported was legitimate and well argued. The Department of Justice, Equality and Law Reform has for many years had a persistent view — I do not refer to any individual, but to something in the air at St. Stephen's Green — that somehow we needed to impose restrictions in this area. I find this baffling. I have been misrepresented by the Minister for Justice, Equality and Law Reform in this correspondence and in comments made at different times.

We are starting at the end of a process, should such a process be necessary, rather than at the beginning. Whether the Government likes it or not, we are in the process of unilaterally changing the Good Friday Agreement, notwithstanding any joint agreement made with the current British Government. A memorandum of understanding between two Government Departments does not in any way invalidate the critique put forward by Deputy Ó Snodaigh and my colleague, Deputy Costello. That is the view shared by Mark Durkan of the SDLP. To suggest that it was legitimate to engage in consultation with the British Government but not with the parties involved — and that this was sufficient to meet the spirit of the Good Friday Agreement — flies in the face of not just the last three of four years of work but the last 30 years. We should not forget that the Good Friday Agreement is, in the immortal words of Seamus Mallon, “Sunningdale for slow learners.” Thirty years of work with different parties took place. People devoted their whole careers to trying to find an accommodation. People shifted their fundamental positions to get to where we are now. Yet now the Government is casually changing the wording, and thereby the process, to such an extent that the first person to stand up and say “Hurrah” is Ian Paisley.

An Ceann Comhairle: I ask the Deputy to address the amendment.

Mr. Quinn: I am addressing the amendment. I am addressing the core of the proposals. It is repugnant that these amendments should be before us in the first place. For what purpose is this Bill? Is it so that the Government can hold on to council seats in June? I regret that my constituency colleague, Deputy McDowell, is not in this House. I find it cavalier in the extreme.

An Ceann Comhairle: The Deputy should address the amendment.

Mr. Quinn: I am doing so.

An Ceann Comhairle: The Deputy is talking about whether a Minister is in the House.

Mr. Quinn: If the amendments mattered and if the matter was so urgent, the Minister would be in the House. I say this with all due respect to the junior Minister, who is attached to three Departments. I presume he is wearing his Department of Justice, Equality and Law Reform hat today.

Mr. B. Lenihan: Indeed.

Mr. Quinn: It is a three-cornered hat and the Minister is wearing one corner at the moment. With all due respect to his eminence and his attachment to this House and its traditions, it must——

An Ceann Comhairle: Deputy, the Minister——

Mr. Quinn: The Ceann Comhairle should not provoke me.

An Ceann Comhairle: Eminent though the Minister of State may be, this is not relevant to the amendments. I ask him to deal with the amendments.

Mr. Quinn: I am dealing with the amendment to change our Constitution, which was rushed in without consultation with anybody and up to the wire in terms of time, without taking account of the recommendations offered by the committee which is chaired by the Minister of State, Deputy Brian Lenihan, which state that we should have sufficient time while debating a proposed amendment to the Constitution so that every Member may contribute on Second Stage. I did not have that possibility. There simply was not the time.

Mr. Costello: The Minister of State should come over to this side of the House.

Mr. Quinn: I am amazed that this proposal, and the section to which these amendments apply, was brought in by subterfuge. It was considered, I suggest, as far back as last autumn. The Taoiseach denied in the House that he was contemplating any amendment to change the Constitution,

although in January Peter Green had written to the Department of Justice, Equality and Law Reform from the Department of the Environment, Heritage and Local Government asking whether the voting machines would have the capacity to deal with a third poll. We have been misled. There are other non-parliamentary words that could be put on the record.

Worse still, we have been deliberately misled by the Government. The person who has led that trail of deception is the Minister for Justice, Equality and Law Reform.

An Ceann Comhairle: The Deputy is not addressing the amendments.

Mr. Quinn: We are sufficiently constrained in terms of how we can debate the legislation so I ask the Chair to allow me, within reason, to address it. The intention is to amend the Schedule and I am addressing the motive for the proposed change, as much as its consequence. The motive is to deny a certain category of people, whose numbers cannot be quantified in the context of the 4 million people living in Ireland. The number of non-nationals who are in Ireland on work permits or extended visits or through marriage have not even been disaggregated from the number who have deliberately travelled to have a child on the island. The Minister of State cannot give us the facts. He is an eminent senior counsel and, if he were to present the entire argument as a book of evidence on behalf of the prosecution or by way of defence, his case would fall.

No substantial facts have been quantified to the extent that they are credible and they have not been highlighted in any way to justify an amendment to the Constitution. In the absence of a rational explanation as to why the constitutional amendment should be considered, we must speculate about the motivation, which is at the basest level. I never thought this would come from the Minister for Justice, Equality and Law Reform who distrusted single party Government so much that he climbed halfway up a lamp post while serving as Attorney General to beseech the nation not to trust Fianna Fáil in Government. We need not have bothered. Fianna Fáil would hardly have gone to these depths in terms of introducing such a base element into our Constitution to address a perceived peril, which they cannot even quantify.

However, the Government is playing with something much more substantial: a fear of the unknown, a fear of the foreigner that is shared throughout Europe. That fear was such that the council dealing with racism in Ireland asked all political parties prior to the last general election to sign a pledge not to use the race card during the campaign. I refer to the outrageous behaviour of Deputy O'Flynn in Cork whose racist comments were rewarded by the appearance of the Minister for Finance at a fund-raiser a

number of days later. A member of my own party who made similar comments was expelled.

The attitude of Deputy McDowell since he became Minister with responsibility for immigration is inexplicable. His initiative is opportunistic and racially motivated. No one could draw any other conclusion. There is no compelling argument for amending the Constitution with such haste at this time. There has not been time for proper debate.

Ireland has a migration problem but it starts within the Department of Justice, Equality and Law Reform because of its attitude to this issue for many years. There has been a conflict going back to my time in the Department of Labour in the mid-1980s between the demand in the economy to bring in more skills and the attitude emanating from the Department in Stephen's Green which refused to allow the nation to open its door to foreign people in an extended way. I regret to say this but that has been my experience in this area for a long time.

Much of the prejudice among people who find themselves competing for scarce resources results from this right of centre Government refusing to provide adequate funding for resource teachers in schools, housing or health facilities and so on. Consequently, the minute people who work in our hospitals and elsewhere and who are here legitimately at the invitation of the State on work permits, take off their uniforms, get into a car, take out a mobile telephone or turn the key in the door of an apartment for which they pay rent, they are immediately branded as asylum seekers sponging off the State for the simple reason the Department has lamentably failed to address the issue.

I am aware of the argument put forward by the previous Minister for Justice, Equality and Law Reform to the Tánaiste who sought the granting to asylum seekers of the right to work after a period of time. It was proposed on the basis that it would be an additional pull factor. I recently left a committee meeting, which was addressed by the Taoiseach. He referred to the demographic deficit facing Europe and stated its birth rate needed to increase because more people were needed. Less than 500 metres from the Chamber, the Leader of the Government referred to the need to enhance Europe's capacity to bring in more people, yet Ireland is responding in the opposite fashion.

Ireland has an immigration problem. There are attitudes of fear, apprehension, resentment and race, which are common to all of Europe. Europe went to war on two famous occasions in the last century. We had the temerity to call them world wars but they were civil wars, much of which related to race. Europe, more than any other continent, has a history of having a difficulty with the question of race. Dealing with the issue is the responsibility of the Department of Justice, Equality and Law Reform.

Instead of that, it was extracted reluctantly from the Taoiseach during holy week — even

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though he had denied that a referendum was promised less than four months ago while knowing it was planned — that there would be a referendum and the House would have to come back for a debate to be taken in a half baked constitutional and legal way given that Second Stage would be debated before we even voted on the Order of Second Stage on a half sitting day.

This is a most unseemly rush to amend the Constitution so that Fianna Fáil and Progressive Democrats supporters can knock on doors seeking votes for their local election and European election candidates. Last night a friend of mine in the Dun Laoghaire-Rathdown local authority area, who is a member of the legal profession, was told on a doorstep, “If you want a nigger for a neighbour, vote Labour.” I will send the Minister of State the documentation from Fianna Fáil. It is already out there. We are aware of the snivelling, side comments that are being made such as “the left cannot be trusted because it favours an open door policy”, yet, at the same time, the Tánaiste and the Minister for Enterprise, Trade and Employment has issued 45,000 work permits. The minute those people take off their uniforms and leave the hospitals and IT centres in which they are employed, they are branded spongers and asylum seekers because, as the Minister famously said to Ivana Bacik on the radio recently, “Open your eyes, you can see with your own eyes.” What can one see with one’s own eyes? The elegance of their physical appearance or the colour of their skin?

This is a racist proposition and the Minister of State should be ashamed of himself to bring it forward in a manner that contradicts every recommendation he made as chairman of the Oireachtas Joint Committee on the Constitution. What is the justification for the rush? How many children are born in our hospitals to pregnant tourists who have come to Ireland to deliberately exploit the citizenship laws? What is the difficulty? How many non-nationals are working in our economy?

I refer to another case involving the Department of Justice, Equality and Law Reform and the shame I experienced as a Minister in a previous Government. I was approached by a qualified doctor from Sudan who came to work in one of our hospitals as a registered student. He came here to study and help our hospital system to work in the hope that he would become a consultant and return to his own country. His story is one of many. This man presented himself at my clinic in Charlemont Street and he asked me to explain why his wife could not get a visa to come and live with him during the four years he would be in Ireland. I said that I did not know and that I would find out. I made inquiries and the then Minister for Justice, Nora Owen, finally conceded under pressure that the reason the visa was refused for his legitimate wife was that if she arrived in Ireland, she might have a child and they would not return to the Sudan.

That man came to me on three or four Saturdays seeking news. He was lonely and he had the means to sustain and support his wife. Eventually I said I would tell him the truth, of which as a public representative and a citizen of this republic I was ashamed. I told him his wife was being refused a visa and that he was being denied the company of his wife, because this State thinks that if she were to come to Ireland and have a child, he would not return to his country. That man stood slowly up in front of me and said he appreciated the honesty which I had treated the question, but that he was disgusted with my reply. He said that if he had been told when he applied to the Royal College of Surgeons and the hospital where he trained that he would not be allowed the company of his wife, he would not have come to Ireland. He said he did not want to stay in Ireland, and wanted to return to his own country, and would have done his training somewhere else, such as in Edinburgh, or perhaps Norway, if he had been told.

We have had this attitude for a long time in this country. It did not emerge today or yesterday. I respectfully suggest that we deal with this issue of attitude to foreigners, that we deal with migration and a migration policy and with the fears that it genuinely generates among people. This country is no more or less racist than any other European country. We are simply human. This amendment does enormous damage to the Good Friday Agreement. In a couple of years’ time, if not sooner, we will see attempts to unilaterally change the Agreement because we have created a precedent. That may not concern the Department of Justice, Equality and Law Reform or the people obsessed with immigration and foreigners coming into Ireland, but it concerns me.

The Minister of State has presented no logical reason as to why this matter is now before us. What is the urgency in the Department of Justice, Equality and Law Reform? Is it so free of a workload of legislation that it can advance this matter? If one were to consider the list of legislation proposed by the Government, then of the 140 or so Bills that are there, the Department of Justice, Equality and Law Reform is responsible for about 38. Why, for example, are we awaiting the disability Bill? Why do we see no change regarding the Work Permits Bill — not the Department’s immediate responsibility — a change which would address some of the issues? Why did it suddenly become urgent in the Department that this matter should be fast-forwarded ahead of so many other Bills? Where is the logic that determines that we must push this through ahead of all the other matters to which we are committed, and for which there is a clear need? I would like to hear answers to those questions, because I have not heard them to date. I have heard today that we are getting no movement on an integrated migration policy, or on the issue of work permits, so that the bondage

attached to those permits and the abuse related to them, a subject the “Prime Time” programme considered on Monday night, is not being addressed. There is no Government movement on that issue. We are getting no shift in the Department of Justice, Equality and Law Reform with regard to the right of asylum seekers to work, though at the same time Deputy Harney is seeking people to work in this economy. Meanwhile, the issue before us is being promoted.

Deputy McDowell’s attempt to distort the basis of the critique which was put on the record in correspondence from me to the Taoiseach was politically dishonest, however clever the Deputy makes it look. His selective extract and quotation of my correspondence was added to by his statement that the Labour Party was trying to achieve the same ends as the Government in the matter. The Labour Party was doing the opposite. Since the culprit Minister is in Brussels attending to some issue which is no doubt immensely important, I would like the Minister of State, while he is on the watch before the entrance of Deputy O’Dea, to confirm that the thrust of the memo in question was to copperfasten the right of every person born on the island of Ireland not just to be a member of a nation, but to be a citizen. What has gone into the public record from the Minister, Deputy McDowell, is the suggestion, out of the corner of his mouth, that somehow or other, Ruairi Quinn in private correspondence to the Taoiseach in 1998 suggested that if Article 9 were amended in the way he was proposing, the same effect would result. The Minister of State will surely accept at least that much. He is not responsible. I would much prefer if his senior colleague were here.

Mr. B. Lenihan: I have sinned too, and I will deal with the matter.

Mr. Quinn: It is unacceptable that it should not be dealt with. On this side of the House, we have never played politics with Northern Ireland. We have never attempted to undermine the position of the Government of the day on that issue, because it is too big an issue with which to play politics. Given the legacy of Europe, racial harmony on this island is a similar issue with which no party should be tempted to play politics. Unless I am given evidence to the contrary, I can only conclude that for reasons and fears in the Department of Justice, Equality and Law Reform which I do not understand — perhaps some day someone will explain them to me — successive Ministers have been pushed into attempting to change this fundamental right.

Some people say we have the most liberal laws on citizenship in all of Europe. Of course we have. They were brought into being deliberately so that a centuries-old conflict, which gave us 30 years of physical violence in Northern Ireland, would be resolved by explicitly extending to a category of people in Northern Ireland who felt

that they were being betrayed by the Irish nation, because Article 2 was being altered. The view was vehemently held by many people on the republican or extreme Nationalist side south of the Border that in return, in compensation for the recognition of what was an historical compromise in Northern Ireland, the rights of the Nationalist community to be not merely members but citizens of the nation, would be copperfastened and written into the Constitution. It was done deliberately.

We now suddenly hear from the same people who agreed to that less than six years ago that it was somehow or other a mistake to have the most liberal citizenship laws in Europe. It was not a mistake or an accident. It was done deliberately to resolve an historical conflict. The Government is now trying to unilaterally change it and in the process undermine a whole series of negotiation — and for what? For the sake of 400 babies annually, who are now living back in Nigeria and who might arrive in Ireland to demand an Irish passport. By the time those children are aged 18, we will be paying their fare for them to come home because we will need their labour. By the time they are of working age, according to the demographic statistics given to us by the Taoiseach and others in the committee on European affairs, we will be issuing open invitations to those people. What is this about? It is about a narrow, racist, opportunistic attempt to garner some votes on 11 June. Sadly, that is the only conclusion I can reach, and it is disgusting.

Mr. Costello: That was a fine contribution from Deputy Quinn but unfortunately there were not very many Progressive Democrats or Fianna Fáil Deputies listening to it. I call a quorum.

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

Mr. Cuffe: I am glad to have the opportunity to speak on the Bill. I was unable to be in the House last week. I wish to address my comments to the amendments but I want to state at the outset that the Green Party welcomes a debate on the issue of citizenship but we are saddened that we were presented with a *fait accompli* by the Minister for Justice, Equality and Law Reform a month ago and the pretence of consultation when, at the time, he walked out the door to the waiting microphones a few minutes after he brought the Opposition justice spokespersons into the room. In my definition that is not consultation, it is operating by diktat. I am also saddened, a Leas-Cheann Comhairle, that our amendment was ruled out of order by way of letter from your office today at short notice.

In regard to the entirety of the Bill, I feel rather like a rabbit caught in the headlights. We are moving rapidly towards a significant change in what constitutes being Irish. There is a real danger in moving so quickly. Only today I

[Mr. Cuffe.] realised that because my late mother was American, I fall into that category of children born to foreign-born women. She lived in this country for 50 years. I was born 14 years after she left the United States but the type of statistics we gather are not taking sufficient account of that. It is important that those statistics are carefully examined and considered, and I am grateful to the Irish Council for Civil Liberties for the briefing paper it has prepared which concentrates on the issue of statistics and considers the fact that, for instance, 11% of the people of Dublin are non-nationals. When we talk about births to non-nationals, which is an emotive issue——

Mr. Quinn: Exactly.

Mr. Cuffe:——we should recognise that one in ten of the people in Dublin were not born in Ireland. If we knew that before statistics were thrown out in a very haphazard fashion over the past several weeks, we could have a more considered debate on the issue.

Change is a challenge to all of us involved in public life. For many years in Ireland we were quite isolated from the mainland of Europe but that changed in 1973 with our entry into the Common Market, and it changed even further with the economic growth that changed Ireland for the better over the past decade. That change brought new faces, new races and new prosperity to the country. We have welcomed that change and I believe it has added to our economy, our social and religious life, our culture and even our cuisine. Long may this positive change continue.

Some people in public life, however, have used the issue of immigration to further their own political careers. I am saddened, and Deputy Quinn pointed this out, that the remarks from the Minister of State, Deputy Callely, and committee Chairman, Deputy O'Flynn, have not gone unrewarded. One of them received a junior ministry while the other received the boost of the chairmanship of a Dáil committee.

When we discuss citizenship it is important that we look at the substantive change that is being proposed. That change is reversing the basis of Irish citizenship from *ius solis* to *ius sanguinis*, a change from the land to the blood. There is a real danger that people will suffer from that change, particularly given that many of those who have recently arrived in Ireland have come here to seek work and are here subject to the whims of an Irish or a multinational employer. There is a real danger in all of that. If citizenship is given on the basis of residency, residency is given on the basis of a work permit and a work permit is given on the basis of an employer, and if that employer is a private company, we could end up with a scenario whereby citizenship might be subject to the vagaries of the employer.

Let us take the case of foreigners who have been living and working in Ireland for three or four years. If they find themselves pregnant, the

citizenship of their child would surely depend on whether they are in employment and can remain in Ireland. This opens up a Pandora's box of difficulties that Bruce Morrison alluded to a fortnight ago. It was interesting to listen to a man like Bruce Morrison, who has enormous experience in the area of immigration into the United States. He has welcomed perhaps 50,000 Irish people to the shores of the United States and he has seen the type of pitfalls that can occur in immigration. He made a very salient point. He said the Irish immigration system is a mess and that we have to be able to respond immediately and coherently to those who come to our shores. I am not convinced that we have done that. Instead of looking at the wider issues of citizenship we are simply making a dramatic change to our Constitution, and I am not convinced that is the way to proceed.

We are probably much better off keeping the fundamental of *ius solis* in the Constitution because otherwise, who knows where it might end? I would be much happier to see change in the Constitution if I felt we had considered every last aspect of the issue prior to going to referendum.

Mr. Quinn: Exactly.

Mr. Cuffe: I am a member of the All-Party Oireachtas Committee on the Constitution which has, over an 18 month period, attempted to deal with every last aspect of what is, in some ways, the small issue of property rights. Citizenship can be seen as a wider issue than that. I am sure we left some stones unturned in our discussion of property rights. I am therefore doubly convinced that, by proceeding to a referendum on the issue of citizenship within a matter of months, we will leave ourselves open to further difficulties, and that this Pandora's box will be opened in Ireland. I know that those who will be at the receiving end of difficulties arising from this referendum will be the most vulnerable in our society, those who featured in that "Prime Time" programme earlier this week. God knows that they are exploitable and vulnerable. The best way to proceed is to discuss the issue in detail at the Select Committee on Justice, Equality, Defence and Women's Rights. I am still not convinced that such a change to our Constitution is justified; I believe that it is not. We should continue to keep the idea of citizenship based on soil rather than blood.

Change is a challenge to us all. We must accept that the face of Ireland in every sense of the word has changed dramatically over the past ten years, and that is positive. We should not have an open door, yet not proceeding with this change to our Constitution does not leave us with that. It leaves us with the Supreme Court decision of 23 January 2003, which my party supported. We therefore have safeguards in place for examining who comes to Ireland. I am highly critical of the way in which this referendum has been initiated and proceeded with. The debate should be mature

and careful. For a Minister for Justice, Equality and Law Reform to use such phrases as “citizenship tourism” is a pejorative way to proceed, and I am critical of him on that.

Mr. Ferris: I welcome the opportunity to speak — unfortunately, I did not get that last week. I speak today in opposition to amendments Nos. 10 to 14, inclusive, and 20 to 23, inclusive, as well as to the specific wording. This is not the first time that citizenship or changes to the procedure whereby people become citizens has been discussed in this House. In 1935, the Irish Nationality and Citizenship Act was passed to allow people born in Ireland or to one parent born in Ireland before the passing of the 1922 treaty but not domiciled in the country when the treaty came into effect to claim citizenship. There was originally a two-year limit on that provision, but it was extended by the amendment of 1937.

There is a curious echo of what was said at that time in some of the arguments being made by supporters of the current proposals. For example, some Deputies raised the spectre of the vast numbers who would use the change to claim Irish citizenship and then come to live in the State. They employed the very same phrase as that used by the Minister, of having “no connection” with this country. In response, de Valera pointed out that, in 1937, there were 608 such applications pending, and that there was no danger of the massive influx of people being considered. When the Minister, Deputy McDowell, announced his proposal, he also conjured up the same spectre of unknown but vast numbers of aliens ready to abuse the current provisions to claim citizenship. One would have got the impression — of course, that was deliberate — that those numbered many thousands.

Last week, he gave us statistics on the numbers of late arrivals in the category that would include women coming here solely to have a child and then leave with citizenship secured. There were 432 in the Dublin hospitals in 2003. However, even among that small group, there is no reliable way of isolating those who fit into the category defined by the Minister. Like the imaginary hordes of aliens of the 1930s, the myth of this State being deluged by the so-called “pregnancy tourist” is exposed.

In 2004, the bogeyman of the myth spun to justify restricting citizenship is the heavily pregnant African or eastern European woman. In the 1930s, it was the Jews. In 1937, there were people such as the Fine Gael Deputy, Paddy Belton, who claimed that the then Fianna Fáil Government was allowing this State to become a shelter for undesirable aliens coming to this country, many of them the outcasts of countries in which they had previously resided, coming in here and getting full citizens’ rights. Those people were being driven out of their homes across Europe. Many of their relatives and peers went to the concentration camps, and that should not be forgotten by this House. They were what

Belton described as “international Jews”, people who, he claimed, owned entire streets of houses and threatened the moral and social ruin of the country.

That sounds familiar, except that now the “international Jew” has been replaced by another mythical figure, the refugee who takes over our hospitals, gets free mobile homes and jumps the housing list. We have all heard that, and we have all had to confront such issues in our constituencies. I pay tribute to many councillors on Kerry County Council and Tralee Town Council, as I am sure every Deputy here could throughout the island, who stood up to the bigots promoting such rhetoric and trying to inflame racial tensions. That happened right across the whole spectrum. Unfortunately, the Government, driven by the Minister, Deputy McDowell, is undermining everything, though credible people of all persuasions stood up to it in their respective councils.

This proposal and the campaign for it to be passed are a recipe for giving credence to all that nonsense. Every ignorant bigot who believes the rubbish to which I have referred has an excellent source in the Minister for Justice, Equality and Law Reform, Deputy McDowell, who has decided to frame a constitutional amendment on the basis of an argument that one might hear from certain bigots near closing time in a pub.

When confronted with Deputy Belton’s bigotry in 1937, Seán McEntee reminded him that our people too had often been outcasts. We might do well to remind ourselves once more of the truth of that. There are millions of people of Irish descent around the world, and many of them, or their parents, have benefited from the provision of citizenship pertaining in the USA. The United States continues to admit large numbers of people from around the world, and while its immigration policies have become more restrictive, it has never been seriously proposed to remove the constitutional right to claim citizenship by reason of birth. There is no basis for doing so here and sorting out the small numbers of people who the Minister claims are abusing the current procedures.

Another of the arguments that we must confront is that concerning the need to bring our citizenship law into line with that of other EU states. I do not accept that as a valid argument. Surely we have not reached the stage where even such basic issues as the definition of Irish citizenship are to be revised to bring us into line with some putative EU consensus. Citizenship has never arisen in any of the EU referenda. The one that endorsed the Amsterdam treaty was held on the same day on which people in this State and across this island supported overwhelmingly the Good Friday Agreement and the definition of citizenship contained therein.

This referendum is proposed for 11 June 2004. It affects the people of this island, many of whom are excluded from taking part in it. Under the Good Friday Agreement as endorsed by the

[Mr. Ferris.]

people of Ireland, this is an affront to the democratic rights of people in the other part of our island currently occupied, who have no rights and no democratic input into what is proposed.

I ask that this be debated, not in the next couple of weeks, but thoroughly, and that we remember the mistakes of the past. Remember the “Deputy Beltons” and others who contributed to the persecutions of minorities who were driven out by the Nazi regime in Europe at that time. Let us remember that children born on this island are no different from those born either to Irish parents or people from outside this country. They are children, nevertheless, and are entitled to citizenship.

Mr. J. O’Keeffe: I was hoping there would be a response from the Minister, shortly, to the wide variety of views presented. As the mover of this amendment let me focus on the point of it. The amendment I proposed, together with three others that relate to Article 2, was mainly to highlight the fact that if we are to follow the constitutional route, by way of referendum, all these various issues should be teased out. I am not proposing and neither will I be pushing for a vote to amend Article 2. I merely put these options forward for discussion. My main concern as regards this whole debate, as highlighted by many speakers, is its rushed nature. To a degree, the former Minister for Justice, Equality and Law Reform, who used to be known as “the bull” has been replaced by the present incumbent who can only be described as “a bulldozer”. That is his attitude as regards this whole debate.

I put before the House for discussion four different options relating to Article 2. They are all premised on the basis that if we are amending Article 2 by the back door, which I believe we are, we might as well do it in an open and transparent way by the front door. I understand the problems and the need to have discussions with all the parties involved. However, if that is the right thing to do let us go and do it. That is one approach.

The other approach I have put forward by way of alternative amendments is that instead, if we are to amend Article 9, for instance, it should be done in an absolutely minimalist way, correctly, by including three words, at the beginning of the relevant section, “notwithstanding Article 2”. Then powers are given to the Oireachtas to determine citizenship law. That is another simple possibility. Again, I am not pressing it, but it is an option that should be discussed. The Constitution should only be amended after all legislative and constitutional routes have been explored. If it is to be amended my preference is that it should be done in a minimalist way. That is why I argue that if the Government is going to amend Article 9 and its concern is that the Oireachtas does not have the power even to amend citizenship law, even though it is specifically stated in Article 9, then the problem should be approached in

another way. If the Government’s concern is about the new Article 2 and if it wants to retain the powers of the Oireachtas, it merely says, “notwithstanding Article 2”. That makes it clear that the existing Article 9 has precedence over Article 2. I put it forward for consideration, again not pressing the issue, and also from the standpoint that these issues have not been properly teased out.

The Minister rushed into this debate. It is supposed to be over virtually within a month and this Parliament is supposed to rubber-stamp everything. That is utterly the wrong way to proceed. I can see I am striking a chord with the Minister of State, who, with some good assistance from his committee, produced a reflective document on how and in what circumstances the referendum process should be used. That was the sixth progress report of the All-Party Oireachtas Committee on the Constitution, very ably chaired at the time by the present Minister of State.

I would like to hear the Minister on all these various issues. One other aspect should be borne in mind. The Minister is putting in a substantial amendment to Article 9 and is specifically referring to a person born on the island of Ireland who does not have, at the time of his or her birth, at least one parent who is an Irish citizen. If the wording, “at the time of the birth of that child”, is considered, has consideration been given as to what complications may arise in that regard? What happens if a parent has died before the birth, if the Irish father is killed in a road accident or something? That would seem to preclude entitlement to citizenship of the baby because he or she did not possess at least one Irish parent at the time of birth.

The more words are put in the greater the possible dangers. My view on the Constitution is that every single word has to be parsed, analysed, teased out and examined because of its possible implications, not just for the Constitution, but as regards all the laws that must conform to it. I see no discussion or debate on that issue, but when what is being proposed is examined, that immediately springs to mind.

There are three different ways to get over that possibility if the Minister’s proposal is to be further refined, but to deal with it one has to have a Minister who is prepared to listen to the fact that there might be a problem. I do not want to—

Mr. Quinn: It would be helpful if the Minister was in the Chamber?

Mr. B. Lenihan: I would be delighted to assist.

Mr. J. O’Keeffe: Another issue was raised with me on this point, the fact that someone is being excluded who does not have at the time of birth at least one parent who is an Irish citizen. I saw the case of an unfortunate mother in the newspaper where a child was abandoned, left in a bus shelter or in front of a church or something.

There is a long history of that practice going back to “The Importance of Being Earnest” — was that the Oscar Wilde play?

Mr. B. Lenihan: The Deputy should be aware that there is existing statutory provision for that.

Mr. J. O’Keeffe: Yes, but I am talking about the situation under the new provision in the Constitution with regard to somebody who does not have at least one parent who is an Irish citizen at the time of his or her birth. If that baby is abandoned, how do we know——

Mr. Quinn: They will wait until the child learns to speak and then interview him or her.

Mr. J. O’Keeffe: That is the kind of helpful suggestion that probably should be given some consideration. This whole process is a farce from the viewpoint of teasing out these problems.

Mr. Quinn: It depends on the child’s colour. If he or she is white it gets citizenship, if he or she is black, it does not.

Mr. B. Lenihan: The Good Friday agreement did not deal with foundlings.

Mr. J. O’Keeffe: Deputy Quinn has put it more bluntly than I would have, but that is one further issue. It is one of a hundred issues that have not been teased out properly because of the process adopted by the Government as regards this referendum. It all goes back to the suggestion that apparently developed only a month ago. Perhaps the Minister of State will confirm why this whole issue as regards the referendum was not first mooted and discussed. I am not talking about years ago, but recent times. When was the decision made to have a referendum on this issue? It would be helpful from the point of view of teasing out these issues if we knew that.

It is only fair to leave it open to the Minister of State to refer to the various points that have been raised and as proposer of the amendment I reserve the right to speak again after hearing his response.

Mr. B. Lenihan: The Government decision was taken on 6 April, the day before the Opposition spokespersons were briefed on this matter. The Government decided to proceed with a referendum and to approve the proposals.

Mr. Quinn: When was the decision given to prepare the memorandum?

Mr. B. Lenihan: The Deputy must bear with me a moment. This does not arise on Committee Stage. I am prepared, however, to assist the House and hope that the Leas Cheann Comhairle will give me some latitude because considerable latitude was given in raising points that were not strictly germane to Committee Stage, but I understand why they were raised. The

memorandum was decided on approximately three weeks previously.

I will deal with Deputy Jim O’Keeffe’s points first because, as he acknowledged at the end of his contribution, he tabled these amendments to focus debate on various issues closest to the questions on the referendum. He referred to “rubber stamping” a proposal here, whereas we are being invited to deal with a proposal to restore to the Oireachtas the power to legislate. The Oireachtas could have legislated in this matter before 1998 as the use of the *jus solae* was there since the 1956 Act and could have been amended at any time up to 1998. Only since 1998 has a constitutional fetter existed on the powers of the Oireachtas to deal with what is essentially a question of detail, not of principle. Many speakers have suggested that we are abrogating the rule of the *jus solae*, that when a person is born on a defined soil he or she is entitled to acquire the nationality of the relevant state.

When international lawyers refer to the *jus solae* they speak, as international lawyers do, of a general principle. These can always be qualified. We have managed in Article 2 to provide that the principle cannot be subject to any detailed amendment in any respect, which is a very definite fetter and restriction on the powers of this House.

I agree with many of the sentiments Deputy Ferris expressed about the need for racial tolerance and harmony but I was surprised to hear him say that the matter under debate was a minor problem because there were only 432 unbooked or late arrivals at the maternity hospitals in a given year. They are 432 women expecting children with no proper ante natal screening and no proper evidence available to medical practitioners in this State as to how they should be handled. I suspect that most of these women arrive in this country in an aircraft. That is a very serious matter.

Mr. Costello: So it is not a question of the integrity of citizenship.

Mr. B. Lenihan: I am addressing a point raised by Deputy Ferris and I am entitled to address it.

Mr. Costello: It is a health issue.

Mr. B. Lenihan: That is a very serious matter. The fact that, as was suggested earlier, it would take a long time to fill Lansdowne Road with all of these women does not detract from the seriousness of the matter. They are not cattle, they are women in a late stage of pregnancy putting themselves at considerable health risk. The Oireachtas should be in a position to legislate on this issue. There should not be a constitutional fetter in a matter of this kind. The decision to proceed with the referendum is a Government one.

Mr. Costello: Why, then, is the Minister for Justice, Equality and Law Reform concerned and not the Minister for Health and Children?

Mr. B. Lenihan: Deputy Jim O’Keeffe’s amendments seek in the main to amend the text of Article 2 of the Constitution, one of the two Articles whose text was agreed in very delicate negotiations with which we are all familiar and which took place in the run-up to Good Friday, 1998. Were those amendments accepted Article 2 would now read:

Subject to legislation enacted pursuant to Article 9.1.2°, it is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, of at least one parent who is an Irish citizen or is entitled to be an Irish citizen to seek to be part of the Irish nation.

Beside that, as Deputy Jim O’Keeffe outlined, there would be an amendment to Article 9.1.2° which would provide that:

Notwithstanding any other provision of this Constitution, the future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law.

The spirit and clear intention of these amendments is to achieve in a different way the same objective as the Government seeks to achieve through its proposal, namely to restore to the Oireachtas the power to legislate in this area. There are several important distinctions in the approach taken in the amendments which make them unacceptable to the Government, whose aim is to achieve a limited restoration of the power to legislate for citizenship. The limitation is that Article 2 puts out of bounds any legislation whatsoever that would limit or even defer the exercise by any person born in the island of Ireland of the entitlement to Irish citizenship. In the event that the people accept the Government’s proposal, the Oireachtas would have power to legislate for a very narrow class of persons born in the island, namely those born to parents neither of whom was Irish or entitled to be Irish. The Government is content to go for this limited approach because it is consistent with the British-Irish Agreement and the Good Friday Agreement as a whole. Speakers referred to—

Mr. Costello: Not as a whole. The Good Friday Agreement and the British-Irish Agreement are different things.

Mr. B. Lenihan: : I would like to address Deputy Costello’s argument because it is an important issue and one about which we must be very careful. Deputy Quinn spoke about it, as did many other Deputies on Second Stage. It is clear from Annex 2 to the Good Friday Agreement that this position was plainly envisaged by the signatories at the time the Agreement was concluded. The correspondence to which Deputy

Quinn referred, and to which I will return, is predicated on a clear recognition that Annex 2 of the Good Friday Agreement permits both sovereign states to legislate as we are doing here today. That is clear from the correspondence opened by Deputy Quinn.

Deputy Costello wishes to raise the question of the multi-party agreement because what we commonly call the Good Friday Agreement is two agreements: a multi-party agreement and the British-Irish Agreement. In the British-Irish Agreement there is a clear acknowledgement by the two states that the birthright of the people of Northern Ireland to be British or Irish or both would be safeguarded and respected in domestic arrangements and given vesture in that form. The Agreement was initialled on behalf of the two sovereign parties, by the Taoiseach and the British Prime Minister. Following that there are two annexes the first of which is the multi-party agreement and the second, which permits this particular legislation because in it the two Governments declare:

that it is their joint understanding that the term “the people of Northern Ireland” in paragraph (vi) of Article 1 of this Agreement means, for the purposes of giving effect to this provision, all persons born in Northern Ireland and having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence.

Unlimited residence is a concept of UK statutory law but not of ours. When people quote the DUP view that this is a breach of the Agreement they should point out that there is no third annex to the Agreement. On Second Stage, Deputy Rabbitte made the point, which Deputy Costello seeks to echo, that the precise text we are inserting into Articles 2 and 3 of the Constitution was outlined in the multi-party agreement. It was a step which our Government agreed to take in the implementation of the Good Friday Agreement and it was taken, when the amendment was submitted to the people and inserted into the Constitution. That was within the contemplation of the signatories.

Mr. Quinn: It was more than an amendment, it was a variation on an Article.

Mr. B. Lenihan: No. At the conclusion of the British-Irish Agreement, which is a solemn international agreement, there is a reference to the multi-party agreement and the understandings to which it gave birth and which have been implemented. Next to this is the second annex reserving the position of the sovereign states. That is why the good legal advice which Deputy Quinn obtained raised the question that it was open to the Government to deal with this issue. That is clear from the tenor of the advice received

at the time. That is the same advice we received from the Attorney General.

The Government would not do anything which amounted to a breach of the Good Friday Agreement or raise the suggestion that the proposal being put before the people

6 o'clock is a breach of the Good Friday Agreement. That would be a very serious matter. We are relying on powers which were expressly to the two sovereign states that have to legislate on these matters under the Good Friday Agreement. They are contained in Annex 2 of the Good Friday Agreement. As I said earlier, if others seek to misconstrue what the Government is doing or feel suspicious that that is the case, it should be pointed out that there is no third annex. The Good Friday Agreement stands and what is being done here is within the scope—

Mr. Quinn: May I ask the Minister of State a brief question?

Mr. B. Lenihan: Indeed.

Mr. Quinn: The second annex, which the Minister of State correctly quoted is a reservation put in by the British Government to modify the entitlement to British citizenship. There is no similar third annex that gives the Irish Government a similar right. Is that not correct?

Mr. B. Lenihan: That is incorrect. If the Deputy examines it, it is a joint understanding of the two Governments in regard to the expression “the people of Northern Ireland” and in regard to their undertakings in respect of the same. There is an express reference to “Irish citizen” in the joint understanding.

The Deputy is historically correct to the extent that, at the time of the negotiation of the Agreement, the British legislation of the type we are envisaging enacting if the people adopt this proposal goes back as far as 1982. Since then Britain has had a modification of the rule that everyone born within the United Kingdom is automatically a British citizen. Naturally its legal advisers had to formulate a proposal to protect its rights. The protection of the rights is bilateral; it applies to both sovereign states and reserves its position in regard to the enactment of citizenship legislation.

Mr. J. O’Keeffe: Will the Minister of State explain how he gets that interpretation in light of the fact that Annex 2 refers specifically to the people of Northern Ireland?

Mr. B. Lenihan: To understand that, one has to go back to an earlier passage in the British-Irish Agreement Article 1.6:

Under the British-Irish Agreement of 1998, persons born in Northern Ireland to Irish citizens, British citizens, or to non-nationals with an entitlement to reside in Northern

Ireland without restrictions as to their period of residence there, are entitled to be British citizens or Irish citizens or both as they choose. In the British-Irish Agreement, the two Governments recognise that “the people of Northern Ireland” does not include every person born in Northern Ireland.

Article 1(vi) of that Agreement recognises “the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose . . .”.

The key concept in the international agreement, the mutual guarantee between the two Governments in the international agreement related to the people of Northern Ireland. Some Unionists argued we should give a similar guarantee in respect of this State, but the undertaking given by the two Governments was the birthright of the people of Northern Ireland to identify themselves and be accepted as Irish, British or both. The Governments went on to make their joint understanding of what that term means for the purpose of that provision. In other words, the international commitment given by the two Governments was directly qualified in Annex 2. That point is fundamental.

Mr. J. O’Keeffe: That appears to confirm the query I raised, that Article 1.6 is a recognition of the birthright of the people of Northern Ireland.

Acting Chairman (Mr. Sherlock): Deputy Jim O’Keeffe will have a right to reply.

Mr. B. Lenihan: I am replying, but I am happy to assist the House on this issue. The matter is so clear cut.

Mr. J. O’Keeffe: Article 1.6 of the intergovernmental agreement refers to the birthright of all the people of Northern Ireland. Similarly the annex refers to a joint interpretation of that reference to the people of Northern Ireland. How does that change the situation in regard to the people of the Republic? There is no reference to people born in the Republic.

Mr. Costello: The Minister of State has it back to front. Annex 2 was agreed solely by the British and Irish Governments in regard to the situation in Northern Ireland. In regard to Articles 2 and 3, the Good Friday Agreement was a multi-party agreement. The two sovereign Governments were also involved. The Good Friday Agreement involving all the parties was included in Articles 2 and 3. Annex 2 did not involve all the parties to the Good Friday Agreement; it only involved the two Governments. Therefore, if one is to fundamentally change Articles 2 and 3, one is fundamentally changing the Good Friday Agreement. The Minister of State has it back to front.

Mr. B. Lenihan: That was the point I made to Deputy O'Keefe in reply to his amendments. We are not amending Articles 2 and 3 of the Constitution; we are amending a subsequent Article of the Constitution.

Mr. J. O'Keefe: Is one not amending Article 2 by implication? The absolute right given in Article 2 is now to be restricted under Article 9. Is that not the difficulty? I referred to it as amending Article 2 by the back door. It clearly impacts on Article 2 and, therefore, how does one address the difficulty raised by Deputy Costello that Article 2 is specifically set out in the multi-party agreement which is an annex to the Good Friday Agreement.

Mr. B. Lenihan: That has already been implemented. We have firm advice from the Attorney General on this issue.

Mr. J. O'Keefe: What is the advice? Can we see it?

Mr. B. Lenihan: His advice is that——

Mr. Costello: The Minister is unilaterally changing the Good Friday Agreement.

Mr. B. Lenihan: No. I am disappointed this issue has intruded into the debate. The Good Friday Agreement has to be construed as a whole. If one examines the Agreement, the annexes — the multi-party agreement is one annex — the other annex is the joint interpretative declaration by the Governments of their obligations.

Mr. Quinn: The Minister of State is being very Jesuitical.

Mr. B. Lenihan: There are none so blind as those who will not see. This is a simple restoration to the Oireachtas of a power to legislate in this area.

Mr. Quinn: I can see why the senior Minister went to Brussels.

Mr. B. Lenihan: Deputy Eamon Ryan suggested that this was a significant and dramatic change. He preferred soil to blood. A great number of Irish citizens will continue to acquire that status through birth in Ireland. It is clear what is envisaged in the details of the legislation submitted by the Minister to the House; it is a technical and limited change in our nationality law. The Government could not countenance the question of a unilateral variation of the Good Friday Agreement. Article 2 will continue to have considerable vitality in this area.

Whatever about the practical arrangements the Government would have to put in place in the event that the referendum is adopted, we cannot discriminate in the legislation between the position in Northern Ireland and the position in

this State. There cannot be any discrimination in that legislation. There is no discrimination in the draft legislation submitted by the Minister. The three year restriction applies to Northern Ireland in the same way as it applies within the State. As a matter of practical implementation there may have to be different administrative arrangements because the administrative arrangements for the monitoring of those who come into the State are not the same as the administrative arrangements to monitor those who enter Northern Ireland.

Deputy Quinn entered into the matter of his correspondence with the Taoiseach at the time of the Good Friday Agreement. I accept that he entered into this correspondence in good faith. In a postscript to his opening letter he made a gracious acknowledgement of the work which the Taoiseach had done in concluding the Agreement. I am glad he opened the correspondence to the House today because it is of considerable assistance in throwing light on a number of issues which have arisen.

Mr. Quinn: It is on the record of the House and I am proud to stand by it.

Mr. B. Lenihan: Deputy Quinn's assumption in his initial letter of 16 April was that the proposed amendment contained in the Good Friday Agreement would not confer any constitutional right on a person born in Northern Ireland to be an Irish citizen.

Mr. Quinn: That right was previously enjoyed by people under the original Article 2. The territorial claim gave them that right and that is why we had to copper-fasten it.

Mr. B. Lenihan: That is arguable in the sense that the territorial claim was adopted by reference in the 1956 Nationality and Citizenship Act and hence the 1956 Act states that every person born in the national territory shall be entitled to be an Irish citizen.

Returning to the correspondence, I am not certain that was a matter of constitutional right. It was a pure matter of statutory provision, but in any event we had to meet this issue. The issue raised by Deputy Quinn was whether the birthright was made a constitutional right by the new Article 2. He had received advice that the text of the Good Friday Agreement clearly allowed the Government to act. Annex 2 indicates that the Deputy's advice at the time was that the text permitted it to act, and it appeared we had so acted because the Deputy received the advice that the text on one construction did not guarantee the constitutional right to citizenship. The Taoiseach then replied by saying that the Deputy's advice was inaccurate in that respect and that the position regarding Article 2 was that there was a constitutional right. That was the substance of the reply by the Taoiseach.

Deputy's Quinn's adviser in his note canvassed the idea, as I understand it, that an amendment could be made to Article 9——

Mr. Quinn: To be sure, to be sure.

Mr. B. Lenihan: "Belt and braces" was the expression the Deputy used in his letter. Were that proposal adopted, it would not differ in substance, in the same way as Deputy Jim O'Keeffe's proposal would not differ in substance, from what the Government is doing now.

Mr. Quinn: It had a different intent.

Mr. B. Lenihan: The Deputy did canvass that possibility.

Mr. Quinn: With a totally different intent.

Mr. B. Lenihan: With the same intent, with respect.

Mr. Quinn: No, it was totally different.

Mr. B. Lenihan: The possibility canvassed by the Deputy's adviser in the memorandum, the belt and braces measure referred to in the Deputy's letter, would have procured, on his understanding, the same result that we will procure if the people, in their wisdom, decide to accept this amendment.

Mr. Quinn: I fundamentally disagree with the Minister of State.

Mr. B. Lenihan: The substance is the same. I accept that the Deputy's motivation in relation to this correspondence primarily related to the successful conclusion of the Good Friday Agreement at the time. There is the subsequent correspondence with the Taoiseach to which the Deputy referred and which puts that beyond doubt. The Deputy confirmed that his final political judgment at the time on the matter was that he was satisfied with the Government's approach to simply leave the matter as a matter of constitutional right in Article 2 and not address other issues.

The Government's aim is to achieve that limited restoration of power to legislate for citizenship. The Government must pursue this limited approach because it is consistent with the British-Irish Agreement and the Good Friday Agreement as a whole. The rights and expectations of the people of Northern Ireland, as defined in the British-Irish Agreement, to identify themselves and be accepted as British, or Irish, or both, as they may choose, continued to be respected to the full in so far as it was within the competence of this State to secure it.

We cannot legislate for the entitlement to British citizenship, a matter exclusively for the United Kingdom authorities, but the entitlement to Irish citizenship is within the competence of

this Legislature and to that extent we owe it to our citizens in Northern Ireland and to our partners in the British-Irish Agreement to ensure that our laws and our Constitution continue to offer that guarantee. That is what the Government's proposal will continue to make available. Were we to follow the route of Deputy Jim O'Keeffe's amendments, they would not be as excellent or as superior as the amendments which were canvassed by Deputy Quinn's adviser in 1999 because Deputy Jim O'Keeffe's amendments would derogate somewhat from the continuing vigour of Article 2——

Mr. J. O'Keeffe: Will the Minister of State yield?

Mr. B. Lenihan: ——not in the expressed terms canvassed in his amendments where he directly amends the text of Article 2.

The Supreme Court in construing the Constitution has the principle of harmonious interpretation of construction where it tries to make sense of the different provisions. We must take account of that when we are inserting a new provision into the Constitution. We are continuing to affirm the birthright in Article 2. We are permitting the Oireachtas to exercise a very limited discretion in the subsequent Article. Taking the whole complex of legal rights conferred by the Constitution — we have the advice of the Attorney General on this — in conjunction with Article 2, the proposed amendment means we cannot differentiate in our domestic legislation between persons born in Northern Ireland and persons born in the rest of the State. That is the advice we have. In other words, if the people adopt this proposal, the Oireachtas will not be competent to differentiate between Northern Ireland and this State in its restriction.

Mr. J. O'Keeffe: Will the Minister of State yield in regard to this point?

Mr. B. Lenihan: I am reluctant to yield much further, but I will yield to the Deputy on this point.

Mr. J. O'Keeffe: I do not want the Good Friday Agreement or the Multi-Party Agreement to be affected in any way. It is my duty to point out that I am concerned that they may be affected because of this proposal. We have not adequately or sufficiently teased out that potential danger.

Acting Chairman: Is the Deputy replying to the debate on the amendment?

Mr. J. O'Keeffe: No, I am not. I am making a point regarding the Good Friday Agreement. Given that we are discussing many issues, I thought it would be useful to focus on this issue to give the Minister of State an opportunity to further clarify the Government's position on it.

Acting Chairman: Ar aghaidh leat.

Mr. J. O’Keeffe: This is one of the most serious concerns many of us have in regard to the proposed referendum. None of us wants to see it impinging on the Good Friday Agreement or the Multi-Party Agreement. We would be doing our duty if we could clarify that. The Minister is making a point which does not fully clarify the position. I am raising issues that may be raised by others at a later stage. Such persons may claim that the Irish Government unilaterally resiled from this Agreement and that would give it the opportunity to similarly resile from some other aspect of the Agreement. That is my concern.

Mr. B. Lenihan: That is a matter of concern to me as well.

Mr. J. O’Keeffe: I have obtained advice from an eminent Senior Counsel on this issue because of my concern about it. The Senior Counsel raises a considerable argument in this respect that there could be a danger that we could be considered to be resiling from the Good Friday Agreement. He states clearly that certainly what is involved is a breach of the Mutli-Party Agreement and that it is arguable that the obligation to observe the Multi-Party Agreement is carried over into the Intergovernmental Agreement. I accept that the short Intergovernmental Agreement is a legal international document. If the British say they are happy with what is happening, that covers us in that respect. However, the Multi-Party Agreement is an annex to that Agreement, which implies at least a political obligation, although perhaps not a legal obligation, to observe the terms of the Multi-Party Agreement. It implies a political obligation on the parties who were parties to the Multi-Party Agreement. In this context, there is the danger that we may be accused of breaching the Multi-Party Agreement without reference to or even a debate with those bodies who were party to the multi-party negotiations.

The real problem was touched on in the advice I obtained from Senior Counsel who raised the issue about the clear terms of Article 2 of the Intergovernmental Agreement. He states that the two Governments affirm their solemn commitment to support and, where appropriate, implement the provisions of the Multi-Party Agreement. Therefore, the Government is obliged under that commitment to support the provisions of the Multi-Party Agreement. That Agreement sets forth exactly the provision on the entitlement and birthright of every person born on the Island of Ireland. The next stage, and the real concern, is that by amending Article 9, we are, effectively, if not resiling from Article 2, by implication and by the back door, reducing the entitlements under Article 2.

That is my genuine concern on that issue and the position was not adequately clarified by the Minister, Deputy McDowell. I am raising it to

give the Minister of State, Deputy Brian Lenihan, the opportunity to do so now. However, I do not know if this can be done because I have received considerable legal opinion in respect of the point I am making.

Mr. B. Lenihan: I am also trying to do my duty and I appreciate the seriousness of the matter that has been raised. However, there is a clear-cut answer. I return to the express terms of the British-Irish Agreement. It is a pity Deputies do not have copies of that document before them because if they had they would understand the point in all its clarity.

Mr. Costello: We have copies of it.

Mr. B. Lenihan: The concluding part of the British-Irish Agreement lists the signatories and includes the annexes, of which there are two. The first of these relates to the agreement reached in the multi-party talks and the second to the declaration of what the Governments considered their obligations in terms of how we define who was born in Northern Ireland.

Deputy Jim O’Keeffe stated that the text of the new Articles 2 and 3 was contained in the agreement reached in the multi-party talks, which is correct. That was the implementing decision of the Government at the time. We have fully complied with our obligations in that regard and the people assisted us by enacting the relevant changes in the Constitution. That was done, it has been implemented and is an historic fact. When one is construing an arrangement of that sort, one must consider what was contemplated by the parties at the conclusion of the Agreement. What was contemplated by the parties on Good Friday was that we would enact those changes in our Constitution. When the Government stated, however, that we would enact those changes and supplied the text attaching thereto, we also said that the question of who was to constitute a person born in Northern Ireland was a matter of joint understanding between the Governments and could exclude the persons defined therein. That understanding defines such a person as having been born in Northern Ireland and as having, at the time of their birth, at least one parent who is a British citizen, an Irish citizen or who is otherwise entitled to reside in Northern Ireland without any restriction on their period of residence. We were very careful, in terms of our international obligations, to put it beyond any question at the time of the conclusion of the Agreement that, notwithstanding the agreement reached in the multi-party talks or the expressed form of Articles 2 and 3 which we proposed to include in the Constitution, we would reserve our rights as a sovereign State with regard to who exactly would be entitled to invoke this guarantee in the international order.

Mr. J. O’Keeffe: That relates to people born in Northern Ireland. What about people born in the Republic?

Mr. B. Lenihan: The Good Friday Agreement and the British-Irish Agreement were not intended to deal with those people. The guarantee in the Good Friday Agreement relates to the people of Northern Ireland who can be British or Irish or both. There is no guarantee in respect of people born in this State contained in the Good Friday Agreement. The Agreement does not regulate such matters. Ireland is a sovereign State and has its own Constitution.

Mr. J. O’Keeffe: We agreed to put in place the new Article 2.

Mr. B. Lenihan: There is no guarantee for the people of the State. I have discussed this matter at some length and, as stated earlier, we could continue arguing about it all evening. I have set out the Government’s case.

Mr. J. O’Keeffe: The Minister of State has been dealt a very bad hand.

Mr. B. Lenihan: I do not view it as a very bad hand.

Acting Chairman: I have shown latitude because a particular issue is being debated. I understand that Deputy Costello has an observation to make.

Mr. Costello: Let us get this point out of the way. I have in my possession a copy of the Good Friday Agreement, at the conclusion of which are two annexes. The first is “Annexe 1 — The Agreement Reached in the Multi-Party Talks” which was signed up to by all of the parties in Northern Ireland which were party to the talks. Those parties included the Irish and British Governments, the SDLP, the Women’s Coalition, the Ulster Unionist Party and Sinn Féin. Annexe 2 was a side issue which comprised a declaration between the British and Irish Governments. That annexe did not constitute the part of the Good Friday Agreement comprised by the agreement reached in the multi-party talks.

There are further annexes in the Good Friday Agreement. I refer to the earlier annexe B which contains the Irish Government’s draft legislation to amend the Constitution. That draft legislation is incorporated verbatim in the Agreement and deals with Article 29 — to which reference has not yet been made but which allows for the implementation of the various institutions and Articles 2 and 3. The amendments to the Irish Constitution are contained in verbatim form in the agreement reached in the multi-party talks. That is what the Irish people voted on, namely, an agreement reached by all the parties and not one agreed by just the British and Irish Governments.

The two Governments stated in recent days in their joint declaration that the referendum proposals were not out of line with the British-Irish Agreement. That is completely irrelevant. The British-Irish Agreement is not the issue. What we are concerned with is the Good Friday Agreement and, specifically, the part of it comprised by the agreement reached in the multi-party talks. The latter clearly contains the proposals to amend Articles 2 and 3. If we do violence to those articles, we will unilaterally change the Good Friday Agreement. The Minister of State must take into account the two annexes at the end of the document and the wording of the Article 2.

Mr. B. Lenihan: Before addressing Deputy Costello’s point, I wish to make a final reply to Deputy Jim O’Keeffe who referred to advice that he received. We received advice from the most eminent counsel of them all, namely, the Attorney General, on these matters.

With regard to the point canvassed by Deputy Costello, an annexe is not a side issue. An annexe is described as an annexe. In construing international arrangements, one does not describe one matter as a side issue. This particular side issue was so important that it was given the same description as the agreement reached in the multi-party talks. Why is that the case? There is a fallacy which runs throughout the Deputy’s argument and, again, it relates to what he terms the “Good Friday Agreement”. The Good Friday Agreement is two separate documents: it contains the agreement reached in the multi-party talks and the British-Irish Agreement. It does not merely contain the agreement reached in the multi-party talks.

Mr. Costello: The phrase “The British and Irish Governments declare that it is their joint understanding that the term “the people of Northern Ireland” is used in annexe 2. The other parties to the Agreement are not party to that joint international agreement between the two Governments.

Mr. B. Lenihan: No, nor can they be because the power to legislate in this matter is reserved to the two sovereign Governments. The power to legislate for citizenship is not one which belongs to a political party, it belongs to the sovereign state.

Mr. Costello: That is the British-Irish Agreement. We are not talking about that.

Mr. B. Lenihan: In international law, political parties do not have the same standing as sovereign states. Any international court looking at an agreement of this character will give high credence to the stated intentions of the sovereign powers involved in its conclusion. The sovereign powers incorporated a reference to the agreement reached in the multi-party talks in

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their Agreement. That is the point. The only vitality the multi-party element of the Good Friday Agreement has in international law is through its incorporation in the British-Irish Agreement.

Mr. J. O’Keeffe: How do we get over——

Mr. B. Lenihan: I am entitled to conclude my argument. It was included in the British-Irish Agreement as an annexe with another annexe which fully protected the Governments’ sovereign powers in this area. That is fundamental to our construction in this area.

Mr. J. O’Keeffe: How do we get over the solemn commitment of the two Governments to support the provisions of the agreement reached in the multi-party talks?

Mr. B. Lenihan: The solemnity of the commitment is qualified on the face of the document by Article 2, a fact noted and clearly acknowledged at the time by Deputy Quinn’s legal adviser in the memorandum he submitted to the Deputy.

The reason may be deduced from the declaration contained in Annexe 2 of the British-Irish Agreement where the phrase “the people of Northern Ireland” is interpreted as meaning all persons born in Northern Ireland and having at the time of their birth at least one parent who is a British or Irish citizen, or entitled to permanent residence there. The intention is to exclude from the entitlement to dual citizenship, or potentially from citizenship of either state, the children of illegal immigrants and those who have only a temporary residence entitlement. That is the advice Deputy Quinn got at the time and it is the same advice the Attorney General has given the Government in recent weeks.

We cannot go further into this issue. The more we go into it the clearer the case becomes. We cannot equate an agreement concluded between a few political parties as having the same standing as an agreement concluded by Ireland as a sovereign State with a neighbouring sovereign state. That political agreement was included in the international treaty but it was expressly qualified by a reference to the annexe.

Deputy O’Keeffe raised the issue of a further provision with regard to the amendment. The Deputy has submitted a later amendment dealing with the issue of the time of the birth of the person.

Mr. Costello: It is the next amendment.

Mr. B. Lenihan: If it is, we will have time to deal with it later. Deputy Quinn also raised the question of a statistical basis and the evidence for this particular referendum. Much criticism was levelled at the Minister in the course of Second Stage debate on this issue, but the Minister was

not in a position to give the information he wanted in his reply.

An analysis has been done of the 2002 census of population and we also have a nationality breakdown for all births in Dublin maternity hospitals in 2003. Some 1.8 million Irish national females were resident in the State according to the census. There were approximately 17,000 births to Irish national mothers in 2003 in the Dublin maternity hospitals. This is a rate of birth in the Dublin hospitals of almost 1% of the total female population of Irish nationality. I can arrange for this note to be made available to the Deputy.

Mr. Costello: It is a shame we could not get it earlier. This is the reason there is so much frustration.

Mr. B. Lenihan: The Minister sought to reply to the Second Stage debate. Do we really want to enter into the saga which ensued then?

Some 69,000 EU national females were resident in the State according to the census and there were 970 births to EU national mothers in 2003 in the Dublin maternity hospitals. This is a rate of birth in the Dublin maternity hospitals of 1.4% of the total female population of EU nationality. Some 40,881 non-EU national females resident in the State according to the census and there were 4,501 births to non-EU national mothers in 2003 in the Dublin maternity hospitals. This is a rate of birth in the Dublin maternity hospitals of 11% of the total female population of non-EU nationality. On the basis of these figures, a non-EU national female is eight times more likely to have a child than an Irish or EU national.

Deputies have often made the point that many of the births could be to work permit holders. The following countries are the highest for the granting or renewal of work permits during 2003: Poland, Lithuania, Latvia, the Philippines and the Ukraine. Only one of these countries, namely the Philippines, features in the top five countries for non-EU national births in the Dublin maternity hospitals.

Approximately 44% of the births to non-EU national mothers in the Dublin maternity hospitals arise in respect of just two nationalities, namely Nigeria and Romania, both of which are regarded as causing the most difficulty from the point of view of illegal immigration. It is no coincidence that virtually all the charter flights which have been organised by the immigration authorities to date have gone to both of these jurisdictions. The Minister wished to make this information available in reply on Second Stage. I will have a note circulated to Deputies about the matter.

Mr. J. O’Keeffe: Everybody is exhausted. I will be happy to conclude on this amendment. Essentially, I have put four possible options for an amendment of Article 2 before the House. I

accept that it would not take much to convince me that, if possible, we should not amend Article 2. I put these amendments forward for the purpose of discussion, deliberation and debate and to highlight my fundamental concern with the approach adopted by the Government that even though Article 2 is not being directly amended, we are indirectly amending it because of the approach being adopted on Article 9.

The consequences of such an indirect amendment are what give rise to the concerns under the Good Friday Agreement. We have not fully teased out that issue. If we accept that Article 2 is being indirectly restricted by the proposal, we must look at the intergovernmental and the multi-party negotiation agreements in their entirety. I accept that the Minister of State, a very able senior counsel, has striven valiantly to deal with the points raised. However, there are still some loose ends.

To some degree, the Minister, Deputy McDowell, opened up this issue when he spoke in the Seanad last month. He focused on the reference to the people of Northern Ireland in Annex 2 of the intergovernmental agreement. We are not discussing the people of Northern Ireland but all the people on this island. Therefore, Annex 2 does not clarify the issue.

The point raised by my eminent legal adviser on this issue is fully clarified. When he says that what is involved is a breach of the multi-party agreement, I agree it is a breach. This is not a legally enforceable international agreement but an agreement between a variety of parties. However, the words in the agreement could not be clearer.

Mr. B. Lenihan: May I——

Mr. J. O’Keeffe: I will concede when I have made my point. The words in both the intergovernmental and the multi-party agreements could not be clearer.

Acting Chairman: Perhaps the Minister wishes to clarify some point.

Mr. J. O’Keeffe: Let me complete this point and I will be happy to yield to the Minister temporarily then. We have not clarified the interlocking nature between the intergovernmental and the multi-party agreements and the fact that the wording in Article 2 is clearly set forth in the multi-party agreement. It must be accepted that the amendment to Article 9 impacts on and restricts the effect of Article 2. How then, in that situation, does the Government deal with the points in Article 2 of the intergovernmental agreement which gave a solemn commitment — this Government is one of the two involved — to support and, where appropriate, implement the provisions of the multi-party agreement. This is an outstanding issue which I am keen to see clarified. I will yield on this point.

Acting Chairman: I wish to clarify the position. I am allowing some latitude for the Minister of State to respond because there will be a motion to close the debate at a certain time.

Mr. B. Lenihan: I appreciate that. I have already discussed how the Government characterises the agreement as part of the whole Good Friday edifice. The multi-party agreement begins with the declaration of support and proceeds to listing the constitutional issues which were of concern to the parties. It is interesting that those constitutional issues related to the aspirations of the people of Northern Ireland and included the birthright of the people of Northern Ireland to identify themselves and be accepted as British or Irish or both. At the conclusion of that, the participants noted that the two Governments had undertaken in the context of this agreement to support changes in the Constitution of Ireland and in British legislation relating to the constitutional status of Northern Ireland.

The reference to Articles 2 and 3 in the multi-party agreement is in the context of legislation relating to the constitutional status of Northern Ireland. That is clear from the preamble to the agreement. These matters were included and acted upon but, as I reiterated already, the sovereign position of this State was fully safeguarded in Annex 2 directly following upon the reference to Annex 1 in the Good Friday Agreement.

Acting Chairman: If the Deputy wishes to make an observation, it should be brief.

Mr. Costello: This is precisely the point on which we need elucidation. I have not seen the Attorney General’s advice on this matter. I do not know whether the Minister has advice with him as to the Government’s view of the matter or at least the Government’s legal adviser’s view of the matter.

Mr. B. Lenihan: It is the Government’s view of the matter as well as that of its legal adviser.

Mr. Costello: We are talking about an interpretation of an international treaty as well as an agreement. There are two parts to it, the Good Friday Agreement, which is the multi-party agreement, and the international treaty between the two sovereign Governments, the British-Irish Agreement. The Good Friday Agreement negotiated the wording relating to Articles 2, 3 and 29. That wording was negotiated by all the parties to the Good Friday Agreement and it was put to everybody on this island. That is what we voted on as the Good Friday Agreement. The vote on that to change Articles 2 and 3 triggered the institutional change that brought about the implementation of the multi-party Good Friday Agreement. There was no multi-party negotiation on Annex 2. It was a joint arrangement between two sovereign governments. Now, Article 2 is

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being unpicked by the changes to Article 9 of the agreement. I cannot accept the Minister's assertion that Article 2 is unchanged by what is happening to Article 9. That is not so because the phrase "notwithstanding any other provision in the Constitution", without naming Article 9, is directed to undermining the intent and the strength and purpose of Article 9, which is the substance of the Good Friday Agreement. That is where we differ on this issue. That is where I, the SDLP and Dr. Paisley believe violence is being done to the Good Friday Agreement. I may be wrong. I am not a lawyer. However, that is my legal advice. It is Deputy O'Keeffe's legal advice. Apparently it is the view of the SDLP. I do not know whether it obtained legal advice before articulating that view.

Part of our problem is that we have had not had the opportunity of a forum to tease out these issues apart from the very short time we have here today — the debate will conclude at 10.30 p.m. and this is but our first set of amendments. There are other important issues with which we must deal. Everybody has pointed out it is outrageous that we cannot do so. This is a fundamental issue that could unravel the Good Friday Agreement. The Minister says that is not so.

Mr. B. Lenihan: Why does Deputy Costello say these things?

Mr. Costello: It is no good for the Minister of State to appear pained about this. This is a very serious issue. There has not been an opportunity to tease it out to anybody's satisfaction. Despite everything the Minister of State has said, I am unconvinced of his interpretation of Annex 2 as against what we have presented in relation to Articles 2, 3 and 29 and the manner in which the Good Friday Agreement was negotiated.

Mr. J. O'Keeffe: I hope the Good Friday Agreement will not be affected or impinged upon by the Government's proposal. However, as a member of the Opposition, it is my duty to raise the issue and to avail of the time allowed in this limited debate to address it as best I can. On this issue I must raise these questions, and it is still a matter for the Government to plough ahead, or to bulldoze ahead as I characterise the Minister as doing, if it is 100% certain that we are completely all right on this point.

What would have been the effect if, in the course of the negotiations on the Good Friday Agreement, the Government had proclaimed what is its current position on the constitutional amendments that were a precondition to the intergovernmental agreement taking effect and which was a fundamental term of the multi-party agreement? What would have been the effect if the Government had said then that it was at liberty to put before the people a referendum to reverse or modify any of the constitutional

changes to which it had fully committed itself at the time?

This relates to my point that I do not believe the Minister for Justice, Equality and Law Reform, Deputy McDowell, has at any stage dealt with the argument that Article 1.6 of the British-Irish Agreement only imposed citizenship commitments on both states in respect of the people of Northern Ireland. However, the multi-party agreement constituted an express commitment negotiated by the then Government to propose and support changes to the Irish Constitution which were then put to the people in May 1998 and resoundingly adopted as the 19th amendment of the Constitution. It was part of the choreography at the time in that because of so doing, certain other terms came into effect. Article 4 set forth a fundamental mechanism of the intergovernmental agreement, that it was a requirement for entering into the agreement that the British Government procured the passage of the legislation provided for in the multi-party agreement and that the Irish people had, in a referendum, approved the constitutional amendments specifically provided for and set forth word by word in the multi-party agreement. Each Government was to notify the other of the fulfilment of the conditions for which it was responsible, and the agreement was to enter into force on the date of receipt of the later of the two notifications.

Article 4.3 provided that immediately on the entry into force of the agreement the Irish Government would ensure that the constitutional amendments took effect. All of this was done. The last step was the declaration of the Government on 2 December 1999 that the State had become obliged, pursuant to the Good Friday Agreement, to give effect to the constitutional amendment. One of the major bases for my concern is that an inadequate level of discussion has taken place on this issue. There has been inadequate consultation. Serious, complex and multifaceted issues have not been fully teased out. I do not pretend to have all the answers or to believe that the amendments I have proposed for discussion resolve the problem in any way.

When I met the Minister to discuss this issue approximately a month ago, he handed me a copy of what was a *fait accompli* at the time. It was presented on the basis of a ridiculous argument. I was asked if I had an alternative proposal to make, having received the document just five minutes previously. The Minister considers that there had been all-party discussion on the issue, but if the Bill had not been printed at that stage, it was about to go to the printers. It was quite ridiculous. I took the view that the way to resolve this problem was to confront the approach adopted by the Minister, for example, by trying to get a complete examination of the problem we were trying to resolve. I do not think that issue has been fully resolved.

Despite the plethora of figures that have arrived, many weeks after the start of this debate, I do not believe that we know the true extent of the problem. I am utterly confused by the figures that have been circulated. I do not know which figures relate to Ireland, Britain, the EU or places outside the EU. It is utterly confusing. I have not got around to asking questions about the figures for Northern Ireland. We have not been given the figures, needless to say. What would be the present situation if I had not raised such questions with the Minister at the time? Would we have continued to plough ahead blindly into a constitutional referendum without the Minister having bothered to raise the questions? It is clear that he did not have the answers, as it took him two weeks to answer the preliminary questions I asked him.

I am usually concerned that we are ploughing into uncharted waters without knowing the full extent of the problem. It has not been possible, therefore, to examine the various options that are available to help us to resolve the problem. Some progress has been made in the past month, largely as a result of the efforts of the Opposition, which has tried to raise these issues.

Mr. Costello: Any progress has been purely as a result of the Opposition.

Mr. J. O’Keeffe: It is understandable that the Minister attracted a rather turbulent response to the manner of his presentation and approach. It is a pity that he adopted such an attitude. On behalf of the Fine Gael Party, I intend to continue to tease out these issues in the best way possible in the limited time that is available.

I proposed the amendment to Article 2 without demanding in any way that it be carried. I would be worried if it were accepted without due explanation from the Government. I proposed the amendment in the context of the overall examination, in its entirety, of the Constitution. If we are to amend the Constitution, I recommend that we should, at least, examine those possibilities. I ask the Government to give serious consideration to the amendment of Article 9 to include the words, “notwithstanding Article 2”, thereby giving Article 9 supremacy.

I am usually concerned about the full wording included in the proposal. The length of the wording leaves it open to possibilities of argument and court challenge, based on the interpretation of different parts of it. I refer in particular to a baby who does not have, at the time of his or her birth, at least one parent who is an Irish citizen. That is just one example of the kind of complexity that can arise as a consequence of the manner in which this is presented. Much as I admire the legal expertise of the Minister of State, Deputy Brian Lenihan, it would have been helpful to have been able to analyse these issues with an independent legal expert. The Minister for Justice, Equality and

Law Reform is bound and constrained by his office. He is bound to follow the party line.

Mr. B. Lenihan: The Attorney General does not have a party line.

Mr. Costello: He has to follow a two-party line.

Mr. J. O’Keeffe: We have not seen the Attorney General’s advice. It is said that doctors differ and patients die, but lawyers differ and they still get paid. I respect the view of the Attorney General, but I will not bow in front of it, even as a country attorney. I am bolstered by a lengthy opinion from one of the most eminent senior counsel at the Bar.

Mr. B. Lenihan: He is a future Attorney General.

Mr. J. O’Keeffe: He has put himself in the running to a considerable extent, but I had better not go into that at this stage. We will wait until after the next election to finalise such matters. I mentioned earlier Dr. Gerard Hogan, who is not my advisor but whom I usually respect. I understand that he happens to be a member of the same party as the Minister, Deputy McDowell. As a member of the Constitution Review Group, he examined this entire issue and was party to the group’s recommendations, produced under the chairmanship of Dr. Whitaker. The CRG’s recommendations were not followed up in the nineteenth constitutional amendment in 1998. It is clear to me from a legal point of view — I am leaving aside the other issues — that the kind of issues we are considering should have been discussed and fully teased out in a non-adversarial manner by an all-party group. I would have welcomed an invitation to somebody like Dr. Hogan to come to such a meeting to assist in that process. We have not had such an opportunity, however.

My real concern is that we are engaging in a dangerous process. While all legislation should be the subject of careful perusal and full debate, it is clear that extra care should be taken when we are amending the Constitution. The bulldozing efforts of the Minister, Deputy McDowell, have meant that the proposed constitutional amendment is getting less attention than it deserves. The kind of issues we are discussing have surfaced in recent weeks. There has not been enough time for reflection, consideration, teasing out the issues and getting advice and I worry that, as a consequence, Parliament will not have fully done its duty in respect of this issue. The real problem is that it may transpire that this amendment will have unforeseen consequences.

I recall from my early days in this Parliament the first constitutional amendment on abortion. There was absolute fury from the wings, as people said, “You must do this”. An emotional tide swept that amendment into the Constitution. The amendment was ill-considered — one might

[Mr. J. O’Keeffe.]
even call it ill-conceived — and had unintended consequences that were pointed out at the time as being possible. This is why I am concerned at this process.

Acting Chairman: As there is only half a minute left, is the Deputy pressing the amendment?

Mr. J. O’Keeffe: I will not force it to a vote. I see this debate as a continuum and I am prepared to move to the next amendment. It has been an interlocking debate with crossover between the amendments.

Acting Chairman: Is the amendment withdrawn?

Mr. J. O’Keeffe: I wish to reflect on it.

Tugadh tuairisc ar a ndearnadh; an Coiste do shuí arís.

Progress reported; Committee to sit again.

Private Members’ Business.

Road Safety: Motion (Resumed).

The following motion was moved by Deputy Naughten on Tuesday, 27 April 2004:

“That Dáil Éireann:

- notes that the number of road deaths is now at a similar level to that before the introduction of penalty points, believes that this is in part due to a lack of adequate enforcement because of the failure of the Minister for Justice, Equality and Law Reform to deliver the promised 2,000 extra gardaí and his failure to create a dedicated traffic corps;
- expresses its deep concern at the lack of a national road safety strategy to reduce the loss of lives on our roads and notes that the chairman of the National Safety Council has accused the Government of failing to adequately fund the road safety strategy;
- condemns the Minister for Transport for his ill-thought-out initiative to clamp down on provisional driving licences, which has led to a chaotic backlog within the driver testing system;
- condemns the Minister for Transport for his inability to address the huge driving test failure rate and the current backlog which is costing young

motorists an estimated €50 million in extra insurance premiums by denying them a chance to obtain a full licence;

calls on the Minister for Transport to:

- ensure the effective enforcement of road safety legislation and the penalty points system and the creation of a traffic corps to allow for a visible presence and higher level of enforcement on our roads, especially in areas of known accident black spots;
- improve driving standards on our roads by reforming the current driving test to ensure better driver education and higher standards and by introducing a structured driver training programme for motorists and motorcyclists;
- immediately address the driving test backlog by increasing the number of testers and the reintroduction of a bonus scheme;
- tackle the unacceptably high driving test failure rate and the level of variation in pass-failure rates throughout the country, by implementing a comprehensive and regular training programme for driving testers and ongoing evaluations of testers;
- reform the provision of driving instruction through the introduction of mandatory approved training courses for all instructors and the establishment of a statutory registration for driving instructors; and
- establish a road accident investigation unit to investigate all road accidents and to issue recommendations to prevent recurrences especially in the vicinity of black spots.”

Debate resumed on amendment No. 1:

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

“Dáil Éireann:

- notes that the first road safety strategy was adopted by the current Government;
- commends the Ministers for Transport and Justice, Equality and Law Reform and all the other agencies, particularly the members of the Garda Síochána, involved in the pursuit of road safety policy for the achievement of the sustained reductions in road deaths realised over the past six years;
- notes that the Minister for Transport will shortly publish a new road safety strategy, which will cover the period 2004 to 2006, and is based on the work of the high level group on road safety;

- commends the Government on the continued pursuit of policies on an integrated basis that is based on the contributions of all the bodies involved in the promotion of road safety, including the Garda Síochána, the National Roads Authority and the National Safety Council;
- notes that in the 17 months since the introduction of penalty points road deaths have fallen by more than 100 when compared to the preceding 17-month period;
- acknowledges that Garda numbers are at their highest ever level, that recruitment is being prioritised to bring the force to its authorised strength of 12,200 and that significant increases were secured for the Garda Síochána in this year's Estimates, bringing the allocation to more than €1 billion for the first time;
- notes that the Minister for Justice, Equality and Law Reform is planning to support existing Garda resources by means of innovative private sector involvement, such as the outsourcing of certain administrative functions and the privatisation of speed cameras;
- commends the Minister for Transport on his commitment to reform the provisional driving licence system in order to reduce long-term reliance of drivers on provisional licences and notes that a package of measures to achieve this objective is being finalised by the Minister;
- notes that the Bill to establish the driver testing and standards authority will be published shortly and that the authority will have greater flexibility to respond to variations in demand for driving tests and will be responsible for driving standards in general, including the registration of driving instructors;
- notes the almost twofold increase in the number of driver testers recruited to the driving test service during the course of the Government's road safety strategy 1998 to 2002; that the current waiting times for driving tests are due to a record level of 234,000 test applications received in 2003; that the number waiting for a driving test is being reduced and that the Minister for Transport is considering measures to reduce waiting times more quickly;
- notes that the driving test is conducted to the standard as set down by the European Union and that the pass-failure rate is in line with experience in other countries."

— (Minister for Transport).

Ms Shortall: The area of provisional driving licences needs urgent reform. Accident rates continue to be highest among young males, with the majority occurring at weekends. Figures from the National Safety Council for 1997 to 2000 show that males aged between 18 years and 34 years account for over 53% of road accidents causing death or serious injury. Many of these accidents involved a combination of speed, alcohol and inexperience. There is a clear need to target the road safety strategy towards this age group. Yet, 16 months have passed and there is no sign of the strategy. In the absence of a strategy, it is evident that accident rates are increasing.

The Minister's tenure began with much promise but little has been delivered. While the public is used to the Government's failure to deliver, the ultimate problem with the Minister for Transport, Deputy Brennan's inaction is that it sadly costs lives.

Mr. Wall: I wish to address the problems caused by mobile phone usage, particularly with headsets, that affect road safety. This morning, I noticed a young lady with mobile telephone earphones walking in front of one of the Luas trams on Harcourt Street. Only the driver was alert, there could have been an unfortunate casualty in the Luas's test period. These earphones are the new in-thing for pedestrians, cyclists and motorists with no regard for their own or others' personal safety. It is mainly young people who are enjoying these facilities. Many of them do not understand road safety procedures when using them. However, a safety factor must be included in their use. What mechanisms will be put in place to ensure the safety of users and others?

I have raised the issue of safety belts on school buses with the Minister many times before. Many parents and school bus drivers have expressed their concerns to me about the lack of action on this issue. What is happening to the proposals for the provision of safety belts for school children? The safety of the child is paramount but safety belts can also assist drivers in controlling the behaviour of school children. I hope the Minister will address these issues in his response.

Mr. Kelly: I wish to share my time with Deputies Martin Brady, Glennon, Peter Power and O'Flynn.

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

Mr. Kelly: The Irish term of the EU Presidency saw the signing of the European road safety charter at a special ceremony in Dublin Castle. Up to 39 international organisations pledged themselves in the pursuit of goals, objectives and practical measures for better road safety. Areas addressed in the charter include initiatives on driving training, motor vehicle equipment and

[Mr. Kelly.] infrastructural design to minimise the risks of accidents. Other areas included are the implementation of technologies for reducing the consequences of accidents, developing uniform and appropriate monitoring of compliance with traffic rules, continuous education initiatives and contributing to a better understanding of the causes, circumstances and consequences of accidents.

A new three year Irish road safety strategy that will target speeding, drink driving, seat belt wearing and pedestrian safety has been prepared for 2004 to 2006. Over this period, the following major road safety policy initiatives will be pursued: random preliminary breath-testing for drink driving will be introduced; a new speed limit structure to be expressed in metric values will be introduced; a network of speed cameras to be operated by private sector interests will be developed; and the full penalty points system will be rolled out. In addition, and in recognition of the importance of enforcement, the Garda has established commitments to the achievement of specific levels of enforcement in seat belt wearing, observation of speed limits and drink driving.

The number of road accident fatalities since the beginning of the year is a cause of concern. It gives added focus to ensuring that the means recommended in the new strategy will be implemented quickly. The first road safety strategy was adopted by the Government. I commend the Ministers for Transport and Justice, Equality and Law Reform and the agencies involved, particularly the Garda Síochána, in the pursuit of road safety policy for the achievement of the sustained reductions realised over the past six years.

Mr. Naughten: We cannot forget the former Minister of State, Mr. Molloy.

Mr. Kelly: The Minister for Transport, Deputy Brennan, will shortly publish the strategy, which is based on the work of the high level group on road safety. I commend the Government on its continuing pursuit of policies in an integrated fashion based on the contributions of all the bodies involved in the promotion of road safety, including the Garda Síochána, the National Roads Authority and the National Safety Council.

We are facing a serious problem: the needless loss of young lives. I ask people to remember that the faster one goes, the faster one goes. One would be better off to arrive late than dead on time.

Mr. M. Brady: Like my colleague, I commend the Minister for Transport and all the other agencies, particularly the Garda Síochána, who are involved in the pursuit of safety policy on the achievement of a sustained reduction in road deaths over the past six years. It is interesting to

note that in the 17 months since the introduction of penalty points road deaths have fallen by more than 100 when compared to the preceding 17-month period.

We must acknowledge that Garda numbers are at their highest ever level, that recruitment is being prioritised to bring the force to its authorised strength of 12,200 and that significant increases were secured for the Garda in this year's Estimates, bringing the allocation to more than €1 billion for the first time. The Minister for Justice, Equality and Law Reform is planning to support existing Garda resources by means of private sector involvement, such as the outsourcing of certain administrative functions and the privatisation of speed cameras.

I commend the Minister for Transport on his commitment to reform the provisional driving licence system in order to reduce long-term reliance of drivers on provisional licences. A package of measures to achieve this objective is being finalised by the Minister. The Bill to establish the driver testing and standards authority will be published shortly. The authority will have greater flexibility to respond to variations in demand for driving tests and will be responsible for driving standards in general, including the registration of driving instructors. This is a welcome development.

I note the almost twofold increase in the number of driver testers recruited to the driving test service during the course of the Government's road safety strategy for 1998 to 2002 and that the current waiting times for driving tests are due to a record level of some 234,000 test applications received in 2003. The number of those waiting for a driving test is being reduced and the Minister for Transport is considering measures to reduce waiting times more quickly. This is welcome because as public representatives, we receive many representations from people who are waiting for driving tests, some of whom have applied for jobs that depend on their having a full licence. I commend the Minister, his officials, the members of the Garda Síochána and all concerned on the progress that has been made. Life will be made easier for everybody as a result.

New legislation is being prepared which will provide support for the deployment of key initiatives in the area of speed limits and drink driving. This will further enhance the capacity of the Garda Síochána. The Bill will feature a number of radical changes that will be focused on those key areas. A new system of speed limits based on metric values will be introduced this year. The Minister has already raised this issue with county and city managers and the new speed limit structure will, as envisaged in the report of the working group established to review speed limits, offer a far greater degree of flexibility to local authority members, who will retain primary responsibility for determining the application of speed limits at specific locations. Once again I

commend the Minister and his officials on these developments.

Mr. Glennon: I thank my colleagues for sharing time. I am happy for the opportunity to speak in support of the Minister's amendment to this motion. I commend the Minister, Deputy Brennan, on the progress that has been made since he took office, particularly the reduction in fatalities on our roads, which is a major achievement and is welcome. It is to be hoped the current variation in the trend is merely a glitch and that the progress made since the introduction of penalty points will be continued for the rest of this year and into the future.

The advent of the penalty points system has been an important development. The essential element of any road safety strategy is enforcement of regulations and appropriate penalty where those regulations have been breached. Only this evening, just before I came into the Chamber, I read in an evening newspaper of a case in my own constituency in which a person was found guilty of the use of fraudulent insurance documentation after a minor road traffic accident. It was good to see the regulations being enforced but I wondered about the penalty, which was the Probation Act and a €500 contribution to a charity. While it was not specifically reported, it was to be inferred from the fact that false documentation was used that there was no valid insurance, yet there was no mention in the report of any penalty for driving without insurance.

This brought to mind the reign of a particular district justice in my local area some 20 years ago. Judge Seán Delap, who is now deceased, discovered in his first few months in north County Dublin that there was a veritable epidemic of driving without insurance. At one stage he announced in the local court that he estimated that up to one in five drivers in the area were driving without insurance. He set out his stall clearly, announcing that in future his policy would be that a first offender, if found guilty, would have an automatic fine of €750 and if that offender appeared before him again he would be put off the road. He duly implemented that regime over a period of several years and dramatically reduced the incidence of non-insurance in the area. These were realistic penalties for an offence which has sometimes been made little of.

I hope the case to which I referred, as reported in today's *Evening Herald*, is an isolated incident and that we are not going back to the days of unrealistic penalties for the serious offence of driving without insurance. When one compares the difficulties we are currently experiencing in the area of insurance and the major effort being made to improve the lot of motorists, particularly young motorists, in light of the punitive premiums they are being charged, with the Probation Act and a contribution of €500 to a nominated charity, it brings the entire system into

clear focus and demonstrates the importance of appropriate enforcement and penalties.

The penalty points system has been a major success, whatever about the operational difficulties that may have been encountered. I use the road between the airport and the port tunnel road works on a regular basis. This stretch covers approximately one and a half miles and one encounters four different speed limits — 70 mph, 60 mph, 50 mph and 30 mph. The observance of these limits, which was imposed on road users by the penalty points system, was striking this time last year. It gives me no pleasure to say the reverse is now the case and the observer of those speed limits is very much in the minority. Over the past year, I have not witnessed enforcement of speed limits on that road, which is one of the busiest in the State.

There must be enforcement if there is to be adequate road safety. As the awareness campaign for the new system highlighted last year, penalties work and that has been the secret of its success. It has led to the reduction in the number of fatalities. Penalties are not being imposed and the novelty of the launch of the scheme has receded into our memories. The vast majority of motorists have come to terms with the system and know there is relatively little chance of them being stopped and convicted. The main element of the campaign when it was launched was the novelty of the accumulation of penalty points by a persistent offender. However, we must legislate for appropriate penalties for occasional offenders.

Human nature dictates the non-enforcement of laws will be exploited but the message of road safety is speed kills, not penalty points. Penalty points will be a headache for a while for all individuals but their lives will adjust. Meanwhile road accident victims and their families have major difficulty adjusting and that point must be got across. Speed is a major problem because it is an act of disrespect on the part of one road user towards others. All road users must get the message that speed kills and, more often than not, it kills the speedster rather than somebody else on the road. People only learn the lesson when that message is brought home to them in the most personal circumstances. Unfortunately, respect for our road traffic laws has been dramatically undermined following the significant increase in road use. Road safety must be re-engendered.

Neither road safety nor the profession of politics is well served when one of our number has no difficulty in proclaiming to the press for his own purposes that he regularly flouts the traffic laws. We must give leadership because that is why we are here. It behoves us all to lead by example and, in that regard, I commend the measures taken by the Minister for Transport. I look forward to the publication of his forthcoming strategy and congratulate him on his success to date.

Mr. Naughten: We will pass on the Deputy's comments to the Taoiseach.

Mr. P. Power: I thank my colleagues for allowing me to share time with them. A debate on road safety is always welcome but it is opportune in light of the disappointing statistics on road traffic deaths for the first three months of this year. While many statistics have been quoted in various contributions, it must be borne in mind that behind every statistic, there is a deep and personal tragedy.

While the number of road deaths is high in Ireland, last year more than 40,000 people lost their lives on the roads of the European Union. That is a significant number and it is the equivalent of a Chernobyl disaster every year or multiplying the number of those who died in the twin towers by ten. This is also an international problem.

It is not appropriate to predicate a motion such as this on statistics for three months. The National Safety Council states trends cannot be concluded from statistics taken over three months. At a minimum, trends should be examined over three years and, preferably, over five years. The trend in road deaths over the past five years has been especially encouraging, with the number reducing from 472 to 341 annually. However, that is 341 too many.

Following a tragedy in Limerick, in which three young people lost their lives in a single vehicle accident, I visited the offices of the National Safety Council and spent a number of hours with staff going through all the measures that had been implemented, statistics and trends. There is no simplistic solution to the difficulty faced by Ireland and other countries in this regard. No single solution can be introduced to address the problem, not even penalty points. A multidisciplinary, multi-agency approach is needed.

The contributory factors to road deaths in Ireland over the past number of years include speeding, young male drivers, alcohol, dangerous roads and seat belts. A completely new and strategic approach must be taken to tackle each issue and I hope all the issues will be dealt with separately in the new road strategy.

Penalty points have had an impact on speeding because for the first time a correlation can be made between the offence and the punishment. The offender can see the effect if he or she continues to speed. I compliment the Minister on introducing this initiative in the face of opposition. People said it would not work legally or administratively because there would be problems with enforcement but the Minister took his courage in his hands and stood off his critics to introduce this system. The loved ones of many families are alive because of this initiative.

The greatest problem in terms of speeding and road fatalities is complacency. A few months following the introduction of every road safety measure, drivers, including myself, become

complacent. That is why we need, every six months and 12 months, to roll out innovative measures to hammer home the message to the individual driver that this is a serious problem and that new initiatives and penalties have been introduced. Such initiatives over the next five years should deal first with random breath testing. It is only when drivers are not aware when they will be tested that they are more careful. That is very important. There must be a consistent, regular approach to new public awareness campaigns. TV advertising is very important.

Deputy Naughten last night addressed the important issue of driver licensing and testing. I was particularly supportive of his views on this matter and in that regard, I welcome the motion. In almost every discipline — medicine, teaching and law, for example — people undergo continuing professional development throughout their lives and it is time to introduce a similar regime for drivers, with regular updating, testing and development. The final aspect of the strategy must be an effective traffic management corps, whether it be independent, dealing specifically with road safety. I am grateful for the opportunity to contribute to this debate, and I commend the Minister's amendment to the House.

Mr. O'Flynn: I thank Fine Gael for moving this motion. It is wonderful that the Minister can be here to take credit for the work he is doing in the area of safety and penalty points. It is also a wonderful opportunity for the Opposition to speak about the matter tonight.

I want to talk of the cost of road fatalities to this economy and country. Others have spoken about the cost in human lives, but it is important that we also look at other costs. I ask Members not to criticise me if I do not concentrate on the human aspect, which is very important, but so far the economic cost of death and injury on Irish roads has topped €217 million. With the accelerating pace of road traffic carnage, the economic consequences at the end of the year could be as much as 30% more than the €723 million that such carnage cost in 2003. These figures come from an article by Martin Fitzpatrick in the *Sunday Independent* three weeks ago, which carried out an in-depth investigation into the waste of life on the roads and into the economic facts emerging from the daily road death and injury toll. The study revealed that since the decade began, 1,650 people lost their lives and the economic and social costs of road deaths and injuries in the Republic topped €3.7 billion. The numbers are increasing daily.

Road safety propagandists believe that if Ireland was merely brought into line with the best safety practices around the world, more than 100 lives could straight away be saved annually. In crude economic terms, that would represent a saving to the State of at least €177 million annually. This is exactly the direction being taken

by the Minister of Transport, Deputy Brennan. We commend him for making road safety his priority. The penalty points system is working.

We all know that traffic collisions are at very high levels in this and many other countries and there seems to be widespread acceptance that this is an inevitable consequence of ever-increasing mobility. That view encourages the type of behaviour which creates the environment that gives rise to such collisions in the first place. Challenging that attitude and the premise on which it is based requires the advocacy of champions. The Minister, Deputy Brennan, can be called a champion, and I commend him for his initiatives against the background of 1.2 million deaths and 50 million injuries on roads throughout the world.

The launch in Paris recently by the World Health Organisation and the World Bank of the world report on road injury traffic prevention presents a timely commentary on road safety in its broadest sense. The report presents an overview of road safety on a global basis, emphasising the scope of the problem and discussing policies aimed at the prevention of collisions and the reduction of their effects. The consequences of our acceptance of the inevitability of traffic collisions have been clearly established in very stark terms by the World Health Organisation. Failure to act would see injuries from road traffic placed as the third highest contributor to the global burden of disease and injury by 2020. Many societies and Governments have however chosen to face this challenge.

Mentalities are changing regarding road safety. Road accident fatalities are no longer accepted as an inevitable corollary of increased mobility. On the contrary, the continuous reduction of road accident numbers is now considered a challenge which warrants considerable effort. The Government is accepting the challenge and has set about building an infrastructural backbone with the aim of ensuring that every region can attract investment and jobs.

Since coming into office, the Government has embarked on the largest infrastructural projects in the history of the State. I thank the Minister, Deputy Brennan, and commend him on the penalty points system. There is no doubt that the gardaí in Cork are ensuring that people comply with the laws. Several people who were lazy about putting on seat belts and observing other traffic rules are now diligently attending to these rules daily to ensure that they do not receive penalty points. I am disappointed I have not got more time to speak, but I commend the Minister on his initiatives.

Mr. Morgan: I wish to share time with Deputies Cowley, Twomey and Eamon Ryan.

Sinn Féin is calling for a co-ordinated and integrated approach to road safety. It is worth investigating what level of co-ordination exists in terms of driving standards throughout the Thirty-

two Counties. We should have a nationwide integrated strategy for road safety and those standards should meet international requirements. We had a perfect example recently of EU and international standards being completely ignored by the NRA and the Department of Transport. I refer to the safety barrier erected on the M1 motorway which was simply a wire rope. It fell far short of the recognised international standard motorway barrier, which should be strong enough to prevent a truck or bus crossing the centre reservation area. It has now emerged that a family saloon vehicle has crashed through the new wire rope barrier on the M1, even before the barrier has been completed. It was mere luck that more people were not killed on this otherwise safe stretch of roadway. Three people have already died on that new motorway because it lacks a proper safety barrier.

The concept of inserting a mechanical instrument in cars which would limit the speed at which they can travel is very useful. BMW adopted such a device for some of its vehicles. There is sufficient speed capacity to enable effective acceleration for overtaking speed while limiting the capacity to exceed maximum speed limits.

Regarding the points system, it is notable that the Garda checks take place mostly on main roads and motorways rather than on the often very dangerous country roads. The penalty points system has not been effectively implemented, and the Garda is concentrating its efforts on low-risk areas such as 40 miles per hour zones rather than on high-risk stretches of road such as black spots and even housing estates. It may be that it is easier to collect money and revenue on the busier roads.

The condition of some roads is a matter of great concern. Some of the country roads should have very restricted speed limits and should be heavily signposted to that effect. Typically on country roads one will find blind spots, which should be dealt with before preventable accidents occur. Child safety is another important issue. The NCT, and in Northern Ireland the MOT, should involve checking child car seats for safety. Seating is an internal aspect of all vehicles and should be subject to the same checks and examinations as any other vehicle part. Tighter scrutiny is also needed regarding the use of safety belts in rear seats of cars.

Recently, the parents of a teenager who was killed in a quad bike accident last year called on the authorities to restrict the use of such vehicles. A seven year old child was killed in a similar accident at the weekend. There is a need for legislation to be tightened in terms of where and when people use quad bikes. In the Six Counties, for example, quads are classed as off-road vehicles and therefore there is no legal limit for use. There is not even a stipulation that one must wear a crash helmet.

[Mr. Morgan.]

There are concerns relating to road safety in the area of school transport. The lack of seat belt provision is an issue that has been raised both at Dáil committee level and in the public arena. The provision of seat belts has been recommended at EU level and should be applied here. That would mean that every child would have to have a seat, which would further contribute to safety. The financial cost of providing adequate seats for students probably features in the delayed introduction of seat belts. I say “delayed” as it would seem it will become legally binding on bus operators to provide belts, as is the case with taxis in terms of front and rear seats. Another matter often raised is the need for first aid kits and drivers who are trained in the basics of first aid.

Dr. Cowley: I am delighted to have the opportunity to speak on this important matter and I congratulate Fine Gael on bringing forward the motion.

Some years ago I made a submission on the road safety strategy — I understand one is currently being prepared — but I never heard anything more about it. Included in that submission was the way helicopter emergency medical services could save lives. We have a dedicated ambulance staff who are awaiting paramedic status, which would also save lives but we need HEMS as well.

Anyone who saw last night’s television programme on Crumlin hospital would have seen very ill children arriving at the hospital. I know of many children who did not arrive alive or who died shortly after arriving. These were often children with meningococcal meningitis, which is a very serious illness in which time is of the essence. One mother, talking about her child who had meningococcal meningitis, said that she saw the child develop these necrotic spots — they were eating into the body — before her eyes. That is what happens but when a child’s life is at stake, helicopter emergency medical services can make the difference. Children have died and are dying.

Young men are dying as well. Young men from the west in particular are dying from head and spinal injuries or are paralysed for life because of the difficulty of getting to the neurosurgical centre on the east coast. Helicopter emergency medical services can save those lives. The sickle score of half the people is so high they are too ill to travel but half of them can be saved by helicopter emergency medical services. We do not have that service but that would be one way of saving lives.

It is not acceptable that we are the only country in Europe which does not have this service. This is one sure way we could do a lot of good. In cold cash terms, every life saved represents a saving of €1.27 million. In one hospital alone, Beaumont Hospital, four lives per year could be saved and at least 12 people could be saved from being disabled for life. We are talking about the value

of a life and saving young people from being disabled for life. That is a considerable saving.

Speed limits should be more relevant and realistic. The current position is too cut and dried. If realistic speed limits were in place, people might be more inclined to adhere to them.

Balanced regional development often means having proper roads throughout the country but we do not have proper roads. We should use the western rail corridor to take freight off the road and allow the pressure to be taken off traffic on the road.

People have become complacent about the penalty points system. I congratulate the Minister on the introduction of penalty points, which is an important measure. The need for it was obvious and other countries have such a system, including our neighbours, but enforcement is the problem here. People have become complacent because there is the get away factor; they know they will get away with it. Garda speed checks are necessary, and the idea of having cameras everywhere is a good one provided the speed limits are realistic, for example, that a 30 mph speed limit is not used in areas where it is unrealistic. These are just some of the areas where I believe we could certainly save lives.

Dr. Twomey: Many of the important issues regarding road safety have been covered by a number of speakers. The most important way to improve road safety is to change driver behaviour and the most effective way to do that is proper enforcement of traffic laws. However, I would like to focus my contribution on the issues surrounding the driving test.

This motion calls for a reformed driving test and a structured driver training course; an increase in the numbers of testers; a comprehensive and regular training programme for testers to ensure they all have much the same pass rate; and a mandatory training course for driving instructors. These are laudable ideas but the reality is that we could never afford the cost involved and the logistics of trying to make these high standards available to everybody would be impossible. We should cut out the bureaucracy and target the training at those who need it.

I believe we should abolish the driving test as it currently exists. I propose that everyone be given a driving licence when they apply for it but any individual who breaks the law — this is where we should target the penalty points — should, on a first offence, be forced to sit through the reformed driving test about which we are talking. If subsequent offences are committed, that person would have to undertake a more detailed driver training course. In that way we would change the driving behaviour of those people who are causing most of the problems on our roads. It would also help to focus current resources because there are not unlimited resources available for all the measures we want to implement to change people’s behaviour and attitudes. Another benefit is that it would help to

keep down the penalty points of the people who are causing the offences.

Some people might say this is a ridiculous proposal and that it is nonsensical for somebody like me to propose such a measure. Many of our young drivers are driving for more than one year on a provisional driving licence but those of us who are old enough will remember that we drove for many years on provisional driving licences and we did not always have a person with a full driving licence in the car with us. Twenty years ago an amnesty was granted to people on the waiting list for a full driving licence because similar problems existed at that time in getting a driving test carried out but there is no evidence to show that those drivers are any more dangerous on the road than people who did the driving test.

The position applying in the United States is similar. To the best of my knowledge there is no practical test to obtain a driving licence in America. There is a theoretical test which one has to do but after that there is no practical test. Are the fatalities on the roads in America substantially different from ours?

This may sound like a ridiculous proposal but it might actually help to direct the resources towards those people who most need them. A huge amount of administration work is taken up with the whole process surrounding the driving test and if we want to implement a measure targeted at those people who need the most training, this would be a perfect way forward. It has the benefit of a carrot and stick approach as well because people know they will be penalised by having to do a driving test and that they may have to spend a weekend doing a structured driving course. That will dramatically improve driver behaviour.

All the other issues highlighted are important also, including our roads infrastructure and enforcement. Enforcement is vitally important but as many other speakers referred to that area, I will not deal with it. However, enforcement, coupled with sensible and less bureaucratic proposals on the way we give guidance to the citizens of this country, would be far more effective than what we are doing currently.

Mr. Eamon Ryan: A recent document from the Eurocity safe campaign was an annex to the European road safety chart which the Minister launched here a few weeks ago. That annex is an excellent document which sets out the 12 principles of proper urban road safety policy and in every one of those 12 principles the Minister is failing, and people are dying as a result.

The first principle is that we reduce our speed. I therefore ask why we are not generally introducing speed limits of 30 kph, which are widespread on the continent and should be widespread here, rather than on the very limited basis intended by the Minister. The second principle is that, in urban road transport, one looks after the most vulnerable. Having been

involved for years campaigning in this area, it is noticeable and remarkable to me that, since the Minister came to office, the cycling safety campaign, the provision of cycling and the whole design system that was working have come to a dramatic and sudden stop. We seem to be doing nothing to protect vulnerable road users. Having started at least six or seven years ago, it stopped in the past two years.

The third principle set out by this campaign is that one concentrates on education. In our schools, both secondary and primary, there is a disgraceful lack of proper education on road safety in terms of bringing children out and teaching them how to act on the road. That is the third major failing. The fourth principle that was set out is that one must enforce the legal measures that exist. Speaker after speaker has given us examples of how we have failed to bring in a traffic corps, random breath testing and proper speed camera checks. As the National Safety Council said, we have failed to fund the enforcement that we need.

The fifth principle set out is that one should design roads based on safety and not on capacity, as we are doing. When one starts asking local road engineers how one makes something safer, the first block is when someone says that one cannot reduce the capacity and that we need so many thousand cars through a road. That has happened in every case when I have gone to engineers in this city and others trying to promote road safety. We are failing on that fifth principle. The sixth principle is that one concentrates one's safety measures on the worst spots — the black spots. We are spending €2 million out of a budget of €1.5 billion on fixing the black spots on our national roads, and that is a disgraceful failure.

The seventh principle set out is that one must have very detailed road safety audits and databases to tell one what is happening. While the CSO provides good overall statistics, no clear information is provided in this country regarding what types of accidents are happening or where those accidents are occurring on the road. That sort of road audit material could help us reduce accidents and find where those worst black spots are. The eighth principle of the 12 set out is that one must have performance indicators. I do not know what the Minister's performance indicators are or what he thinks is an acceptable level of death on Irish roads this year. That lack of clear direction is part of the problem.

The ninth principle set out is that one must use telematics and intelligent road traffic management systems to try to reduce accidents. The only telematics that we have are to produce road tolls to pay off the private sector. No traffic management is involved and no intelligent new thinking is coming from the Department. The tenth principle in transport is that one addresses all road users. However, my experience of the NRA is that it wants pedestrians and cyclists — the vulnerable road users — off its roads, as evidenced by the latest plan to turn existing

[Mr. Eamon Ryan.]

primary roads into two-way and one-way sections. There is no space in those plans to cater for the vulnerable road users which this principle says we should be looking after.

The 11th principle is that one must reduce the risks for those most vulnerable to traffic and encourage people to make it safe to walk and cycle again. Once again, we are doing nothing on that, and as a result, we are seeing in our statistics a remarkable societal change whereby our children do not walk or cycle any more. They are driven everywhere since we have failed utterly in this 11th principle of achieving proper safety management. The 12th and last principle is that one tries to create intermodal shift towards public transport and those other safe modes so that there are not as many cars on the road and the figures can be brought down in that way. However, the Department has been characterised by this country being turned into the most car-dependent country in the world. We are ploughing billions each year into building new roads and failing utterly to provide the metro, the other Luas line, the western rail line and all the public transport that might get people out of their cars and reduce the slaughter on the roads.

Those 12 principles are set out by European cities in an annex to the charter that the Minister recently rightly heralded. When one examines the principles of road transport and gets down to the basics of how we design roads, one sees that we are designing them for economic benefit through capacity, and safety is a final add-on. We are failing in that regard. I recommend that the Minister consider those 12 principles in the annex and ask himself and his Department how he is meeting them. To my mind, we are failing.

Mr. P. Breen: I would like to share time with Deputies Enright and Kehoe.

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

Mr. P. Breen: I am delighted at this opportunity to speak on this very important and timely motion. I congratulate my colleague, Deputy Naughten, on his work on transport issues, particularly on road safety. I also congratulate him on his contribution at the Fine Gael Ard-Fheis at the weekend. Ireland has become a very prosperous country over the past decade. Its economic growth has become extremely rapid, with Ireland becoming one of the leading countries in the European Union. As a result of that prosperity, car ownership has grown considerably. In 1970, we had fewer than 200 motor vehicles per 1,000 inhabitants. Today, the figure is nearly 500 per 1,000. That is an increase of over 50% in car ownership over the past ten years. The Celtic tiger economy of the 1990s led to a situation where many young people have a car at their disposal.

The year 2002 saw a dramatic reduction in the number of lives lost on Irish roads, with 376 dying, as opposed to 472 in 1997. That was partly due to the introduction of the penalty points

system in October of that year. There was a further reduction in 2003, when 339 people were killed on the roads. So far this year, however, 120 people have been killed on the roads, and if that trend is to continue, it is likely that the downward movement of recent years will be reversed for 2004. I disagree with my colleague, Deputy Peter Power, who stated that one must allow three years for statistics. Three years is a long time, and many people will be killed over that period.

Ireland's attitude to road safety has to change. In recent years we saw the introduction of the plastic bag levy, which the public adopted very quickly. So far, the smoking ban has been very successful. Yet, despite the graphic advertising campaigns on television, people ignore the advice and continue to speed, drink and drive. Last night the Minister, in his contribution to the debate, acknowledged that the trend is worrying and disappointing. However, he is responsible for road safety and must accept responsibility for the absence of a strategy over the past two years. The time has come for action. We can no longer claim that road deaths and injuries are unavoidable. Hundreds of families each year are suffering the deep pain of losing loved ones. Thousands are living with injuries sustained on the roads, including some horrific ones, and we in Fine Gael believe that the Government is not doing enough to reduce the carnage.

Last year Fine Gael launched a policy document and action plan for road safety aimed at tackling Ireland's carnage. It falls into three categories, the first being better driving education at all stages of life. Recently I saw the statistic in a newspaper that 20% of road accidents are caused by people falling asleep. The second category is an improved and reformed modern driving test. Deputy Power has supported my colleague, Deputy Naughten, on that. There must also be an environment that encourages good driving and punishes those who endanger others' safety. The statistics speak for themselves, as Deputy Naughten said last night. One person is killed every 21 hours, and one young person every two days. There is one accident on the roads every 19 minutes. Consider the cost to medical services. Think of the saving to the Exchequer if we could improve road safety.

In its programme for Government, the Fianna Fáil-Progressive Democrats coalition promised 2,000 extra gardaí and to create a dedicated traffic corps. At last week's committee meeting, senior gardaí admitted that the deployment of Garda manpower to cover the demands of the European Presidency has meant that there are fewer on duty for traffic control. In many areas, the Garda divisional traffic unit is not at its full strength.

In my county of Clare, our full strength is two Garda sergeants and ten gardaí. Today, we are one down, with nine gardaí. Despite that, they have done very good work in the county. In January and February 2003, they secured 22 drink driving convictions and in the same period in 2004, they had 28. They had 223 speed detections for the same period in 2003 and 256 in 2004. That enforcement has been reflected in the casualties

on County Clare's roads. There were 16 deaths in 2002 and 11 in 2003. The contributing factors in the accidents which resulted in the deaths of those 11 people were alcohol, inexperience and excessive speed.

These figures clearly indicate that enforcement is a key factor in the reduction of accidents. We must have extra gardaí for proper enforcement and this Government has failed miserably by not increasing the numbers as promised. I pay tribute to the Garda in Clare for their initiatives in trying to reduce road accidents, particularly in conjunction with the local authority, Clare County Council, Clare local radio and the Clare sports partnership, who have concentrated their campaigns on road safety for young drivers.

The penalty points system had a good effect when introduced in October 2002. Sadly, as in the UK, after the initial novelty had worn off, drivers went back to their old habits. I see this regularly, as I drive up and down to Dublin. Today, only three of the 69 penalty points offences promised under the Road Traffic Act 2002 have been established. The Minister acknowledged his disappointment last night that the full system had not been deployed. The system still has to be fully computerised. We were told only a pilot project would be in place. This will run, I hope, before the end of 2004.

Penalty points were not meant to put people off the road. They were intended to change people's attitudes. Unless we change habits, we are losing the battle. It is quite obvious that many of the speed checks we see on the roads are there to catch easy targets, particularly in 30 miles per hour zones. Many of these limits are much too low, anyway. They generate enormous revenue for the Exchequer. The Joint Committee on Transport was told last week that 75% of the penalty points issued related to the low speed limits of 30 to 40 miles per hour. That figure speaks for itself. Speed checks should be concentrated on urban areas and black spots where there is speeding as well as on national secondary and regional routes. This Government has promised to review the national speed limits. So far the review has not been published. The current speed limits and the implementation of penalty points are actually turning people off the system.

Problems already exist with the new road safety strategy, which, I hope, will be published shortly, as the Minister has said. That there has not been a road safety strategy since 2002 has contributed to the increase in the number of deaths for the early part of this year. Senior gardaí told the transport committee last week that they were very much under resourced and there was no way they could meet the target set by the Minister in the new road strategy, that is, 25% over the next three years, with annual road deaths below 300. The target is too low and the Minister should aim for a 50% reduction. In Victoria, Australia, that was the target set and it was achieved. The leaked report in the *Irish Independent* last week, backs up that statement from the gardaí, which revealed that just 3% of the target numbers for speed checks asked for by

the Government, can be carried out with current resources. Will the Minister say how the Garda are going to increase the speed checks from 340,000 to 11 million, as he is asking? How will they increase the number of drink driving arrests to more than 45,000 from the present level of 13,000, when random breath testing is introduced? More manpower is needed, as well as a dedicated traffic corps. I know there are difficulties between the Minister for Justice, Equality and Law Reform and himself on this.

The current waiting time for driving tests is up to 54 weeks. Despite measures promised to clear the enormous backlogs the driving test waiting time has risen in recent months. There are currently 232,000 applications on the waiting list, as against 51,000 in 2001. There are 140 testers working with the Department. They are coping with some 3,000 tests a week, approximately. Add the 50% failure rate and the whole matter goes around in a circle, with people having to be tested again. The Minister said last night that there is a curb in the recruitment of new testers. I contacted the Local Appointments Commission last week and was told no new driving testers had been recruited since 1998. The Department of Finance's curbs only came in last year. This problem did not arise overnight. It has been there for several years. Obviously the Minister has failed in this regard because more driving testers should have been appointed. People will accept changes in driving behaviour if the Government is serious about funding the resources required to enforce sensible measures and make road safety a top priority. I hope the road safety strategy will be published and that it will be adequately resourced so that the necessary funding is put in place and more lives are saved on the roads.

Ms Enright: I welcome the opportunity to speak on this motion and to compliment my colleague, Deputy Naughten, on bringing it forward. I reject the claim made earlier on the benches opposite that it was reactionary motion. It is no such thing. Deputy Naughten has put much work into it over quite a long period of time.

This initiative is of great importance. I accept that efforts have been made. Unfortunately we are failing abysmally to meet the targets set. The statistics prove that. Deputy Naughten outlined many of the statistics yesterday as regards accidents and fatalities. Of interest also are the facts and statistics as regards road safety and children, in particular children under 14. The National Safety Council in its statistics from 1997 to 2001 showed that 55 pedestrians under the age of 14 were killed on Irish roads. Some 21 cyclists under the age of 14 were killed, and 1,410 pedestrians and 413 cyclists under 14 were injured on Irish roads. When people are termed "pedestrians" and "cyclists" it should also be acknowledged that they were children.

More child pedestrians are killed in Ireland than in any other country in Europe. A survey of road deaths in the EU and eastern Europe shows that Ireland has the highest fatality rate among pedestrians up to 14 years of age. It shows that

[Ms Enright.]

Irish children have a higher risk of being killed while walking or cycling than their counterparts in Britain, Switzerland, Belgium, Spain or France. We must ask, tonight, what is being done to address this. I think the answer is, very little. Does the Minister believe that children under 14 are sufficiently aware of the risks they face? What is he doing to ensure they are? I do not believe there is the same level of awareness, or the same level of risks advertising, particularly for children of primary school age, as existed some years ago. I would urge the Minister to seriously consider a reduction in speed limits outside primary schools in rural areas, in particular. I know of many instances where schools are located beside roads with 60 miles per hour speed limits. This places the gardaí in a "catch 22" position. Gardaí I have spoken to have made efforts to police such situations, but the prevailing speed limit is the problem. They cannot pull someone over for driving just under the 60 miles per hour when in reality the speed limit outside schools should be far less than this.

The scenario does not improve as children pass the age of 14. There must be much more education at all levels, with children learning road safety at primary school and right through the formal education system. I do not believe everything can be taught in schools within the education curriculum. However, there is room for this in transition year and students are at an age, then, when they want to learn how to drive. There is room for better awareness in primary school, also. A proper programme should certainly be put in place at second level. Fine Gael would propose that as part of transition year second level students take part in a road safety programme, designed to instil in them the importance of observing speed limits, the driving regulations and the rules of the road. This programme should be drawn up in consultation with interested bodies and would be an excellent starting point for young road users.

Such a programme should also include the basics of the driving test so that the abysmal failure rates that currently exist may be improved on. I agree that we have to have driving tests. The test needs to be modernised, however, with higher standards both in terms of driver training and in the test itself, with more thorough training of people before they sit the test. It is unacceptable that they have to wait the length of time they do at present before they can sit their tests. In the three test centres in my constituency the waiting time for Birr is 30 weeks, for Tullamore it is 37 and for Portlaoise it is 34. That is well over six months in each case. That is not acceptable. There must be additional testers to deal with this, to ensure a maximum waiting time of around eight weeks. We also have to ensure the results of the test are standardised and that there are not wide-ranging gaps, as at present.

Will the Minister provide for a better breakdown of where people go wrong when they sit their tests? That is a major problem for people who fail. They get a sheet with an answer but it does not give them enough information on their

weak points and where they need to improve. If we ask people to re-sit a test for a driver's licence the least we should do is let them know the areas in which they failed and need to make more progress.

Mr. Kehoe: I compliment my colleague, Deputy Naughten, on tabling this important motion. I do not often praise somebody on the other side of the House but when the Minister took up office he showed great promise, which has fallen by the wayside. He made good proposals about provisional licences and penalty points but he has failed on both counts.

The introduction of the penalty points was very exciting because it seemed many lives would be saved and the carnage on our roads would end. There would be no late night calls to homes bringing sad stories. The loss of life on the roads has decreased somewhat but not to the extent that the Minister promised when he introduced the penalty points system. It might not be entirely the Minister's fault because he needs a dedicated traffic corps to deal with the problem on our roads. This is the responsibility of the Minister for Justice, Equality and Law Reform.

I am pleased to see his Minister of State, Deputy O'Dea, here tonight because he can bring the message to his senior Minister, Deputy McDowell, who has lost the plot. He was on doorsteps before the last general election promising 2,000 extra gardaí in the programme for Government, which would incorporate a road corps.

The Minister of State's mobile phone is ringing — it must be the Minister to say they are on their way.

Mr. O'Dea: I apologise.

Mr. Kehoe: Deputy O'Dea should go back to the supposed real Minister and tell him that we need 2,000 extra gardaí to stop the carnage on our roads. Last night Deputy Naughten spoke about what a road corps could do. This could restore drivers' confidence. I know many older people who are afraid to go on the roads at night, for example my parents, who want to be off the road by 10 o'clock because accidents happen later. The Minister should look closely at this.

Before Christmas when I drove from Enniscorthy to Dublin I saw four Garda checkpoints on the road. On my journeys since Christmas I have not seen one checkpoint. It was one thing to spread the gardaí across the country to catch the drunken drivers because we needed them there but where are the checkpoints now? Between Christmas and yesterday I have hardly seen a Garda checkpoint. It is fine for a garda to go into a 30 miles per hour zone to clock up penalty points and report to the sergeant in the station that he has done his job, but there is more to the job of a garda. We need serious action before the problem gets out of hand.

I saw the superb work of the traffic police in Australia where I spent a year. The proportion of road deaths in that large country is lower than in this small one. The Minister of Transport should

reconsider this serious situation. If we do not move fast on this people will forget about penalty points and do what they like on the roads.

People with provisional licences are waiting months for their driving tests. Macra na Feirme and its national president, Thomas Honner, met the Minister a few months ago to discuss this. They told him that the delay was costing our young drivers €50 million. This is unacceptable especially when we complain about the increases in insurance premia. The Minister should look at this immediately.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O'Dea): This debate concerns a topic which has, at one time or other, affected almost every family in the country. Most of us know someone who has lost his or her life or been seriously injured on the roads. The Opposition Members are recent converts to the necessity of having a road safety policy and in sharp contrast to the courageous political leadership which we have witnessed from this Minister on this issue, there was a complete silence from the rainbow Government on the issue. The previous Fianna Fáil-Progressive Democrats Government was the first to initiate a national road safety strategy.

Mr. P. Breen: Under Dessie O'Malley.

Mr. O'Dea: As of 26 April 2004, the personnel strength of the Garda Síochána was more than 11,900 and we are on target to achieve a Garda force of 12,200 by the end of this year. For 2004 the Garda Vote is at its highest ever level at over €1 billion. There are approximately 520 gardaí attached to dedicated traffic units throughout the State.

Mr. Kehoe: Where are they?

Mr. O'Dea: The Garda national traffic bureau, headed by a chief superintendent and based at Garda headquarters, was established in 1998 to give greater focus and direction to Garda road safety initiatives.

Mr. Kehoe: Where are they? They are not visible.

Mr. P. Breen: The Minister of State should answer the question.

Mr. O'Dea: There are now traffic units in every Garda division with special responsibility for traffic law enforcement and a new unit, managed by the Chief Superintendent in Dublin Castle, is currently operating on a pilot basis in the Dublin metropolitan region with positive results. These units are supported by a range of other vehicles, motorbikes, vans etc. as well as an array of modern speed detection equipment principally hand-held laser devices, but also including in-car motor cycle cameras and mobile GATSO units. In 1996 there were more than 300 gardaí dedicated full time to traffic duties in 16 units. Today that total is in the region of 520 gardaí,

attached to 40 divisional units. All uniformed gardaí throughout the State are involved in traffic law enforcement as part of their duties.

Since 1998, the enforcement priorities of the Garda Síochána have been determined by the key targets of the strategy on road safety and will continue to be informed by the new strategy due to be published by the Minister for Transport shortly. The high level group on road safety is overseeing implementation of these strategies. Since the introduction of the strategy Garda enforcement and detection of road traffic offences has increased significantly. The principal Garda enforcement campaign Operation Lifesaver focuses primarily on speeding, drink driving, seat belt offences and vulnerable road users.

We have achieved a considerable improvement in road safety since 1998, when the first Government road safety strategy was launched. The number of fatalities on our roads fell to its lowest level in 40 years in 2003. There is no doubt that the introduction of penalty points contributed significantly to this decline. The success of the strategy can be measured by other means. Detections in respect of speeding, seat belt and drink driving offences all peaked in 2001. Everyone agrees, however, that more can be done, and it is being done. The new road safety strategy will set further ambitious enforcement targets with a view to achieving significant improvement in driver behaviour. Those targets are ambitious by design and everyone involved acknowledges that they will be very difficult to achieve but this is an issue of life and death; complacency is not an option.

The Minister for Justice, Equality and Law Reform recognises, and the Garda Commissioner agrees, that there are some support functions which could be as effectively carried out by persons without full Garda powers. A working group was established in late 2003 to examine the scope to outsource the installation and operation of speed cameras, both fixed and mobile, even though the Garda will retain ultimate responsibility. I will also be examining with my colleague the Minister for Transport and officials of both Departments how to ensure that public support for the changes will be forthcoming, and we will draw on the considerable expertise of the National Safety Council in this regard.

Considerable resources have already been made available for major infrastructural investment in IT systems to support the operation of the penalty points system in the Garda Síochána and the Courts Service. These developments include the fixed charge processing system and the criminal case tracking system both of which are well developed.

Deputy Naughten raised several points in the debate which I wish to address. He referred to the need for a longer driving test for candidates who are nervous or have literacy difficulties. There is a question on the application form for the driving test concerning special needs. Any candidates with such needs should indicate this on the form so that appropriate arrangements can be made to facilitate them when they attend for

[Mr. O'Dea.]

the test. I assure Deputy Naughten that a situation cannot arise where a person has penalty points endorsed on his or her licence without being notified. As soon as the Department of Transport is notified that a fixed charge has been paid or a court conviction secured in respect of a penalty point offence, this information is processed and a notice issued by the vehicle registration unit of the Department of the Environment, Heritage and Local Government on behalf of the Department of

Transport. The legislation provides that penalty points apply only 28 days after the date of that notice. This process normally takes approximately two weeks.

Mr. Crawford: I wish to share time with Deputy Naughten. I will speak for five minutes and he will speak for ten minutes.

An Ceann Comhairle: Is that agreed? Agreed.

Mr. Crawford: I congratulate Deputy Naughten on bringing forward this important motion. Since entering the House he has shown a keen interest in the issue of road safety. He prepared, with Deputy Coveney, a major plan on the training and qualification of young drivers. The proposal was to be backed by the insurance industry. It is incorrect to say he is doing this purely for political purposes. He is dedicated to trying to save lives through his actions and proposals.

I wish to focus on speed limits and the need for action on the issue of speeding and bad driving by those who can get away by crossing the Border. As a Border Deputy this matter is important to me.

As previous speakers said, we all had high expectations of the Minister for Transport, Deputy Brennan. He introduced a change in the licensing structure and scared the living daylight out of some older people who thought miracles would be created in a few days. Older people, especially those in rural areas, need to be encouraged to stay on the road provided their health allows them to do so.

Significant delays exist for driving tests which is costing a great deal of money in terms of insurance and also, in some cases, it is costing people jobs because they cannot get licences in time.

The cart has gone before the horse in regard to speed limits. All manner of regulations are being introduced, yet speed limits are completely unorganised. There are insufficient road signs in regard to speed. The Ceann Comhairle will be familiar with the road from my home town of Ballybay towards Carrickmacross. As one leaves the town, there is a 30 mph sign on the left hand side. Adhering to the signage, one has to drive four or five miles towards Lough Egish before one can pass 30 mph. However, there is no sign on the left as one drives into the town. These are major legal anomalies that must be dealt with as a matter of urgency.

In some parts of the constituency there are 30 mph limits going through small villages while it is

40 mph in other places. There is no co-ordination. On one road going through Cavan and Monaghan, the limit is 40 mph in Cavan while it is 30 mph in Monaghan. We need realistic regulations. Many parts of the dual carriageway coming into Dublin city have speed limits of 40 mph yet minor roads around the country have 60 mph limits. We must take the matter seriously.

It is glorious for all of us in the north-east area to travel the M1. It is a good road which has a speed limit of 70 mph. One can be guaranteed that nine out of ten overtaking cars on this road are UK registered vehicles. As with many other issues, we need co-operation and co-ordination from the authorities in Northern Ireland on this matter. There have been many casualties on the stretch of road from Dundalk to Dublin. That is not the only road; I can also name the N2 and the N3, among others, in this context. One day as I was going towards Cavan from Clones three cars passed me on a bend. It was ludicrous. Gardaí must be out on the road, not just sitting at the edge of a 30 mph limit but making sure they are a visible deterrent.

I want to ensure that people's lives are saved by whatever means, be it in regard to drink-driving or whatever else.

Mr. Naughten: I thank Members of the House who contributed to the debate. I especially thank the Minister of State, Deputy O'Dea, who was brave enough to address the issue. Serious issues of concern exist in regard to inadequate resources within the Garda Síochána. It was brave of him to come here in light of his outstanding record as Minister of State at the Department of Education and Science with special responsibility for school transport. He was presented with a report four and a half years ago in regard to school transport safety issues. In fairness to him, he gave bus drivers mobile phones. The issue of the 3:2 ratio in regard to bus seatbelts has not been addressed. During his watch pupils fell out the back of school buses. One pupil was caught in the door of a school bus and dragged along the ground. In one instance, an uninsured and unlicensed school bus driver was carrying primary school pupils. I welcome the contribution of the Minister of State, Deputy O'Dea.

As he is well aware, I am not a late convert to the issue of road safety. He was presented with a report regarding safety on school buses a number of years ago. He is also aware that the Fine Gael Party published two separate documents on the issue of road safety. I acknowledge that the Government was the first to introduce a road safety strategy. I also acknowledge that the Minister, Deputy Brennan, introduced the penalty points system. I have always acknowledged that welcome development.

In his contribution to the debate, the Minister incorrectly interpreted a point in regard to the road accident investigation unit. We were speaking about a road accident investigation unit within the Garda Síochána. The resources and skills are available at present, yet no dedicated investigation unit exists. Many PSV licence inspectors have significant skills in this area and

they should be used to provide conclusive reports. We do not compile statistics. Everybody refers to the connection between speed and drink in causing accidents. I am aware of a case involving one young man in County Roscommon where drink was allegedly the contributing factor to his death. However, his death was caused by a toolbox in the back of his van. That information has never come into the public domain. In another case a tennis ball was responsible for a fatality. It rolled from under the back seat of the car and became lodged between the brake and the floor of the car when the driver put his foot on the brake. Lack of sleep has also been responsible for a number of fatalities on Irish roads. We have only recently seen statistics in that regard. I urge the Minister to utilise the mechanism and structure that currently exists.

The Minister referred to the existence of a road safety strategy. Sadly, the first road safety strategy which was implemented by the then Minister of State, Bobby Molloy, covered the period 1998 to 2002. The new road safety strategy will apply from the second half of 2004 to 2006, which leaves a gap, regardless of the way one looks at it. We still do not know when the strategy will be implemented. The Minister said it has gone to the printers and will be published soon. It will not be a three-year road safety strategy, as outlined in the programme for Government. At best, it will be a two and a half year strategy and we will be without any strategy for 18 months.

The Minister stated that benefits in regard to investment do not accrue to the Department of Transport but to other Departments. He was critical of the Opposition because it focused on the issue of funding. The reason he was critical regarding the issue of funding was because the Bacon report commissioned by the Government highlighted the major savings that can be made if investments are put in place. The Minister stated that the resources set aside for road safety in 2004 are €22.4 million, yet in the 17 months since the penalty points system was introduced, it has brought about a saving of €148 million in terms of fatalities and the real figure is probably significantly higher when the reduction in number of road accidents is taken into account. It seems that only a fraction of the savings are being reinvested which would have a significant impact on reducing the number of fatalities on our roads.

The Minister has made an impact since he came to the Department. He introduced the penalty points system and he made a significant impact in terms of the driving test. No one could have made the impact he has made. With one short soundbite he was responsible for the waiting time for the driving test increasing from ten weeks to 13 months. The waiting time changed overnight. The driving test system is a shambles purely because of one comment the Minister made in December 2002. He said he could not understand the phenomenon whereby there was a doubling in the number of applications for the driving test. Not having a full licence costs young people €50 million per annum in additional premia. Such a long waiting time is an example of the lack of urgency within the

Department to address this problem. There are eight vacancies within the driving test service. If those vacancies were filled, such driver testers could conservatively carry out an additional 15,360 driving tests per annum. However, the Minister will not fill those vacancies nor has he any plans to do so.

The Minister referred to a 20% variation in the driving test pass rate in centres around the country. He said the rate is similar to the rate in the UK. Perhaps the Minister should read, and some of his officials should provide him with, a copy of the report of the Comptroller and Auditor General who was extremely critical of the driving test system in this country. The Minister should commence to implement some of the recommendations in that report. Young people are losing out in terms of having to pay additional insurance premia. Many of them are also losing out in terms of employment because many of them cannot get a job because they do not have a full licence. Yet there is no action from the Minister or no resources have been invested to address this matter. Some 16 months on, all we have is another promise from the Minister that he will bring forward legislation at some point.

With regard to what the Minister of State, Deputy O'Dea said about Garda resources, at any one time a maximum of 144 gardaí are dedicated to policing the roads of this country and enforcing road traffic legislation. That is a pathetic response. We need a dedicated and highly visible Garda traffic corps which can enforce the legislation and be seen to do so, which is critical. The Minister of State's response last night was that this is being progressed. Two years after the Government gave a commitment in the programme for Government to introduce a traffic corps, the working group is only being established. What is wrong with deploying a member of the Garda Síochána aged 56 or 57 to do policing duties? I do not foresee any difficulty in doing that. The requirement that gardaí must retire at the age of 55 should not prevent us bringing back retired gardaí, who proved to be capable and who did a good job during their years of service to this State, and deploying them on such policing duties. They could have the necessary powers and there are people who could ensure that such powers are protected and not abused. That would overcome the anomaly in the system.

The Minister spoke about the need for a new road traffic legislation in the form of a new road safety Bill. It will be introduced some time in 2004. This legislation will also include the ill-fated ban on the use of mobile phones proposed by the former Minister of State, Deputy Molloy, which was first announced in 2001. It will be at least 2005 before such a ban is in place. Given that the Ministers present are well able to bandy about statistics, I ask them how many additional fatalities and accidents must there be on our roads in that intervening period due to the use of mobile phones by motorists. Nothing has been done to address this practice.

We were promised consistently since the Minister, Deputy Brennan, announced the

[Mr. Naughten.]
introduction of the penalty points system that we would have a computerised system in the Department of Justice, Equality and Law Reform by June 2004. We cannot even get a straight answer from the Department as to when this system will be up and running. One of the organisations which tendered for the job is and

up and running and is doing the exact same job to that proposed under the penalty points system in relation to parking fines in Ennis. If that can be done in Ennis, it should be possible to do it in other parts of the country. I commend the motion to the House.

Amendment put.

The Dáil divided: Tá, 67; Níl, 47.

Tá

Ahern, Dermot.
Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Brennan, Seamus.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Collins, Michael.
Cooper-Flynn, Beverley.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Haughey, Seán.
Hoctor, Máire.
Jacob, Joe.
Keaveney, Cecilia.
Kelleher, Billy.
Kelly, Peter.

Killeen, Tony.
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McEllistrim, Thomas.
McGuinness, John.
Martin, Micheál.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M. J.
Ó Cuív, Éamon.
Ó Fearghaíl, Seán.
O'Connor, Charlie.
O'Dea, Willie.
O'Donnell, Liz.
O'Donovan, Denis.
O'Flynn, Noel.
O'Keeffe, Batt.
O'Keeffe, Ned.
O'Malley, Fiona.
Power, Peter.
Power, Seán.
Roche, Dick.
Ryan, Eoin.
Sexton, Mae.
Smith, Brendan.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Wilkinson, Ollie.
Woods, Michael.

Níl

Boyle, Dan.
Breen, Pat.
Broughan, Thomas P.
Bruton, Richard.
Connaughton, Paul.
Connolly, Paudge.
Costello, Joe.
Cowley, Jerry.
Crawford, Seymour.
Cuffe, Ciarán.
Durkan, Bernard J.
Enright, Olwyn.
Gilmore, Eamon.
Hayes, Tom.
Healy, Seamus.
Kehoe, Paul.
Lynch, Kathleen.
McCormack, Pdraic.
McGrath, Finian.
McGrath, Paul.
McManus, Liz.
Mitchell, Olivia.
Morgan, Arthur.
Murphy, Gerard.

Naughten, Denis.
Neville, Dan.
Ó Caoláin, Caoimhghín.
Ó Snodaigh, Aengus.
O'Dowd, Fergus.
O'Keeffe, Jim.
O'Sullivan, Jan.
Pattison, Seamus.
Penrose, Willie.
Perry, John.
Quinn, Ruairí.
Rabbitte, Pat.
Ring, Michael.
Ryan, Eamon.
Ryan, Seán.
Sargent, Trevor.
Sherlock, Joe.
Shortall, Róisín.
Stagg, Emmet.
Stanton, David.
Twomey, Liam.
Upton, Mary.
Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Durkan and Stagg.

Amendment declared carried.

Motion, as amended, put and declared carried.

An Bille um an Seachtú Leasú is Fiche ar na mBunreacht 2004: Céim an Choiste (Atógáil).

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

SCEIDIL NUA.

NEW SCHEDULES.

Atógadh an díospóireacht ar leasú a 20:

I leathanach 7, roimh líne 1, an Sceideal nua seo a leanas a chur isteach:

“SCEIDEAL 1

CUID 1

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2^o

CUID 2

Subject to legislation enacted pursuant to Article 9.1.2^o”.

Debate resumed on amendment No. 20:

In page 6, before line 1, to insert the following new Schedule:

“SCHEDULE 1

PART 1

Faoi chuimsiú reachtaíochta arna hachtú de bhun Airteagal 9.1.2^o

PART 2

Subject to legislation enacted pursuant to Article 9.1.2^o”.

—(Deputy J. O’Keeffe).

Mr. J. O’Keeffe: On the matter of amendment No. 20 and associated amendments, I am cognisant that there is a guillotine on this debate and that we have limited time to discuss the outstanding issues. I made it clear already that I put forward these amendments for the sake of discussion and to tease out alternative options to those proposed by the Government. In light of that approach and the limited time allowed for Committee Stage debate — although I believe we have not had sufficient debate and that we have not treated the Bill properly by not getting the advice of outside experts — I do not propose to press this particular amendment in order to allow some time for the many other amendments that need to be discussed.

Amendment, by leave, withdrawn.

An Ceann Comhairle: Amendments 21 to 23 have already been discussed. Is the Deputy pressing any of the associated amendments?

Mr. J. O’Keeffe: They are associated amendments. They have not been fully debated

in my view, but to clear the decks for the other amendments which have been tabled, I will withdraw them.

Amendments Nos. 21 to 23, inclusive, not moved.

An Ceann Comhairle: That is appreciated. Amendments Nos. 24 and 25 in the name of Deputy Costello are out of order.

Amendments Nos. 24 and 25 not moved.

An Ceann Comhairle: Amendment No. 27 is an alternative to amendment No. 26. Amendments Nos. 26 and 27 will be discussed together by agreement. Is that agreed? Agreed.

Mr. Costello: Tairgim leasú a 26:

I gCuid 1, leathanach 7, línte 5 agus 6, “, an tráth a shaolaítear and duine sin,” a scriosadh agus

I gCuid 2, leathanach 7, línte 16 agus 17, “,at the time of the birth of that person,” a scriosadh.

I move amendment No. 26:

In Part 1, page 6, lines 5 and 6, to delete “, an tráth a shaolaítear an duine sin,” and

In Part 2, page 6, lines 16 and 17, to delete “, at the time of the birth of that person,”.

I welcome our third Minister for the day, the Minister of State at the Department of Justice, Equality and Law Reform, Deputy O’Dea.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. O’Dea): I am delighted to be in the Deputy’s company again.

Mr. Quinn: The good wine for the end.

Mr. Costello: This amendment relates to a section in the text which, to my mind, is the unkindest cut of all in this provision. The section states that an Irish parent of a child seeking citizenship must be alive at the time of birth of the child. If the parent is not then alive, the right to citizenship is lost. It is not uncommon for a father to die during the pregnancy of the mother and perhaps he would be the parent with Irish citizenship. This would leave the child with no constitutional entitlement to citizenship and therefore it makes no sense for the Minister to say that there may well be a legislative entitlement. This is a mean provision to include in this section.

It is also possible that a mother could die in childbirth and as an Irish citizen she could be the sole carrier of the citizenship right. This provision seems totally unnecessary. The inclusion of this miserable caveat, that at least one parent to be an Irish citizen “at the time of the birth of that person”, is one of the meanest and unkindest cuts of all. Why does it have to be at the time of birth? It should be sufficient that a child has a parent

[Mr. Costello.] who is an Irish citizen. Why should the child be discriminated against if the parent who happens to a citizen is dead at the time of the child's birth?

Surely the Minister can eliminate that clause. It should be deleted because it serves no purpose except to discriminate against the entitlement of the child when obviously the parent is an Irish citizen. Where a parent might have died six months, two months, a week, a day or hours before the birth of the child, he or she will be deprived of his or her constitutional entitlement. It is extraordinarily mean to create such a situation.

This provision reflects the total antipathy in this legislation to the rights of the child. The legislation is not based on any understanding of or sensitivity to the rights of the child or on any understanding of the case of a child deprived of citizenship in those circumstances. As we know, Article 40 grants a host of entitlements and rights on the basis of citizenship. These will not be available to a person deemed a non-national who has no entitlement to Irish citizenship. We are creating a two-tier type of child recognition in this country and this is dangerous.

I wish to home in specifically on the immorality of this provision. There is no justification for it and it is wrong.

Mr. F. McGrath: It is a disgrace.

Mr. Costello: It is disgraceful and outrageous. It shows the petty-minded attitude of the people in the Department of Justice who concocted this clause. I cannot see the purpose of it and hope the Minister can explain what benefit can be gained by depriving the child of an Irish citizen, who happens to die before the child is born, of citizenship. I remain to be convinced of any benefit. I do not want to hear the Minister reply that this will be, or is already, provided for in legislation. That is not good enough.

There was some reference to the issue in the draft proposals which purport to be the background for the legislation to be enacted if this referendum goes through. That is not good enough. We need a clear constitutional statement and that is not too much to ask. I hope the House accepts this amendment.

Mr. J. O'Keeffe: I moved a similar amendment. I welcome the third member of the ministerial triumvirate to honour us with his presence. In a sense, one could say that the focus on this issue is an indication of the combined wisdom of the ministerial weight of the Department. However, a more practical explanation might be that the debate is being fitted in between meals by the different Ministers, which is perhaps a further indication of the offhand manner in which this issue is being handled.

Mr. O'Dea: That is outrageous. On a point of order, I cannot let that go unchallenged. The Minister is unavoidably absent, as Deputy O'Keeffe knows very well.

Mr. Costello: He could have told us. He came in here and then left. The Minister of State should not have to apologise for him.

Mr. O'Dea: I attended the opening of an extension to a school for the disabled in Limerick today. I got here as quickly as I could. It is not a question of fitting it in between meals.

An Ceann Comhairle: That is not a point of order.

Mr. J. O'Keeffe: I understand the explanation but I do not accept it. The Committee Stage of an amendment to the Constitution should get top priority. If the Minister had to be in Brussels—

An Ceann Comhairle: I would prefer if Deputies would confine themselves to the amendment. As they rightly pointed out, there is a guillotine on this legislation.

Mr. J. O'Keeffe: Let me respond briefly. If the Minister has business in Brussels, he should be there. However, he and the Presidency would have known that business had been ordered long before Committee Stage was ordered. The Committee Stage should have been ordered for a day on which the Minister could be here. I will not go beyond that at this stage.

We are discussing amendments to the wording of the proposal. This fits into the context of how this should be done, if there is to be an amendment to Article 9. I have already strongly expressed the view that if it is to be done it should be done in a minimalist way. That would avoid the problem so ably expounded by Deputy Costello. All we are trying to do is establish that legislation enacted pursuant to Article 9 will not be declared unconstitutional because of Article 2. If that is the objective, as I believe it is, the obvious approach would be to proceed with the amendment to Article 9 by inserting the words "notwithstanding Article 2" and leaving the rest of Article 9 in place. That would clearly indicate that the intended objective is to give supremacy to Article 9.

I understand the sensitivities regarding any open reference to Article 2, that in political terms it may cause problems. I merely point out it is an issue that should be teased out. However, if we are to proceed along the lines proposed by the Government in the present Bill, we must be careful to ensure that the wording will not cause injustice, unfairness or hardship. That is the basis of the amendments put down by Deputy Costello and I, which focus on our concerns arising from the inclusion of the words "at the time of the birth of that person" in the provision giving citizenship rights to a person born on the island of Ireland which includes its islands and seas who has at the time of the birth of that person at least one parent who is an Irish citizen. By including the words "at the time of the birth of that person" we may be precluding from the protection of the Constitution an Irish baby born in Ireland merely because the Irish parent may have died prior to the birth. It may be a measure of the haste of the

Government in rushing this referendum that this issue has not been properly addressed. As I did not get an explanation from the second member of the triumvirate when I raised this issue earlier, perhaps the Minister of State, Deputy O'Dea might deal with it.

I mentioned my concerns regarding abandoned babies. I highlighted a case recently where a baby was found in a bus shelter. The unfortunate mother has not yet come forward. I do not want to dwell on this but I hope the matter is resolved. Occasionally babies are abandoned. If there are indications — how will I express this in a politically correct way — that an abandoned baby might not be totally of native Irish stock——

Mr. Quinn: Is the Deputy referring to somebody like Paul McGrath?

Mr. J. O'Keeffe: Deputy Quinn has come to my rescue. Would that baby be denied its rights, even though he or she might eventually play for Ireland and distinguish himself or herself in the Irish colours? Might that baby be denied its rights because there was no proof and no presumption of an Irish parent at the time of its birth? That is an issue that has not been adequately examined. If there is genuine concern on this, as I believe there is, given that both Deputy Costello and I put forward similar amendments, there are a number of ways of dealing with it and we need not rush into accepting this.

Mr. Quinn: Is the amendment being accepted?

Mr. J. O'Keeffe: If it were accepted in principle that there might be a problem, it could be dealt with in a number of ways.

Mr. Quinn: On a point of order, is the amendment to delete the phrase “at the time of the birth of that person” being accepted? If it is, we can move on to another issue.

Mr. O'Dea: No, it is not.

Mr. J. O'Keeffe: We must tease it out further. If it were accepted that there was a problem, we could find a solution. If the Minister is not prepared to accept the deletion of the words “at the time of the birth of that person”, there are other ways of dealing with it. For instance, it could be done by inserting in page 6 line 16 after the word “have” the words “or did not have”. An alternative would be to insert in page 6 line 17 after the word “person” the words “or at any time previously”. These are different options for resolution. I favour the deletion of the words “at the time of the birth of that person”. In the absence of a reasonable explanation, I hope the Government will accept that approach.

Mr. O'Dea: I reiterate what I said earlier. The Minister is chairing a meeting of the JHA in Brussels today and is unavoidably absent.

Aengus Ó Snodaigh: This should have been scheduled for next week.

Mr. O'Dea: I have explained why I could come in only at this late stage. I apologise to the House for that. It was beyond my control.

Mr. Quinn: No. It was not. The Minister of State should not have to attend.

Mr. Costello: It was not beyond the Minister's control.

Mr. O'Dea: I take issue with Deputy Costello's suggestion that the State can do what it will in terms of a person who is not an Irish citizen. That is an old chestnut and is demonstrably false. This debate has been going on for the past three days. That assertion is obviously false. I do not know why the Deputy keeps repeating it.

Mr. Costello: This debate only began today.

Mr. O'Dea: We heard the same from Deputy O'Keeffe. He said that including a clause providing that Irish citizenship could be acquired only by somebody who had an Irish parent at the time of birth excludes them from the protection of the Constitution.

Mr. Quinn: Citizenship is denied.

Mr. O'Dea: That is not true. Non-citizens here know it is the present law that undermines the concept of Irish citizenship.

Mr. Costello: We are talking about the Constitution.

Mr. O'Dea: I will explain in a moment what we are doing here. The question of abandoned babies is another chestnut.

Mr. J. O'Keeffe: Will the Minister complete the other point first?

Mr. O'Dea: I will answer the point. I will deal with points according to my own chronology.

Mr. J. O'Keeffe: The Minister has not dealt with any point yet.

Mr. O'Dea: Deputy O'Keeffe makes much of the idea of abandoned babies, stating that there may be no proof of parentage and asking how we can prove citizenship and whether we are depriving abandoned babies of citizenship. Another Deputy sneered that they will not be deprived of citizenship if they can play soccer. That is a peculiar way to deal with an issue that, according to the Deputy opposite, is very serious. I do not know to what extent Deputy O'Keeffe has researched the legislation surrounding this, but it is as clear as a bell.

Mr. J. O'Keeffe: Obviously to a greater extent than the present Minister.

Mr. O'Dea: It is obvious that Deputy O'Keeffe has not done it at all. I suggest to him that it is as clear as a bell. Section 10 of the 1956 Act, which is the governing legislation, states that “every

[Mr. O'Dea.]
deserted infant first found in the State shall, unless the contrary is proved, be deemed to have been born in Ireland". That is the law as it stands.

Mr. J. O'Keeffe: I am talking about the constitutional protection under this provision.

Mr. O'Dea: The best advice we have received is that the proposed constitutional change will not affect that. If it does affect it in any way, we will ensure that the implementing legislation will make it clear——

Aengus Ó Snodaigh: It will change the Constitution.

Mr. O'Dea: ——that a foundling will be deemed to have been born to an Irish parent, unless there is compelling evidence to the contrary.

Mr. J. O'Keeffe: Why are the words "at the time of the birth of that person" being included?

Mr. Costello: What about citizenship?

Mr. J. O'Keeffe: What is the relevance of those words?

Mr. O'Dea: I will explain that to the Deputies, who are very impatient.

Aengus Ó Snodaigh: We have been here all day.

Mr. Costello: There are flaws in the Minister of State's argument.

Mr. O'Dea: The Deputies will take their time and they will listen to me.

Aengus Ó Snodaigh: No.

Mr. O'Dea: If they listen, they might learn. The stance being taken by Deputy Ó Snodaigh in the House is quite different from that being taken by his party's candidates on the doorsteps in Limerick. I will quote chapter and verse for the Deputy in that regard before the local elections.

Aengus Ó Snodaigh: The Minister of State can work away.

Mr. O'Dea: Sinn Féin is all things to all men and women.

Acting Chairman (Cecilia Keaveney): I ask the Minister of State to confine his remarks to the amendments.

Aengus Ó Snodaigh: The Minister of State should check the behaviour of his party in Limerick.

Mr. O'Dea: I would not like to take up the time of the House by quoting what some Sinn Féin candidates have said to people on the doorsteps of Limerick.

Aengus Ó Snodaigh: The Minister of State should go ahead.

Mr. O'Dea: I can give the time, date and place and I can provide witnesses.

Aengus Ó Snodaigh: He can go ahead and raise the matter.

Mr. J. O'Keeffe: The high level of the Minister of State's contribution has been noted.

Mr. O'Dea: I would like to explain to Deputy O'Keeffe that amendment No. 26 seeks to remove from the proposed constitutional amendment a phrase that is, to my mind, essential for the clarity and certainty of operation of the new provision. As it stands, the proposed amendment to the Constitution makes clear the extent of the power of the Oireachtas to legislate for the future acquisition and loss of Irish citizenship of a finite class of persons — those born in Ireland who did not, at the time of their birth, have a parent who was an Irish citizen or was entitled to be an Irish citizen. If one removes the phrase "at the time of the birth of that person", as this amendment proposes, one must consider what one will be left with. The extent of the class of persons to whom legislation can provide Irish citizenship entitlements immediately becomes quite unclear.

Mr. Costello: No, it does not.

Mr. O'Dea: Is it now to be possible for the Oireachtas to legislate for the citizenship of a person born to a parent who had been Irish, but ceased to be Irish before the birth?

Mr. Quinn: How does one cease to be Irish?

Mr. O'Dea: What will be the legal situation in respect of a person who is born to a parent who is not an Irish citizen at the time of birth, but who may subsequently acquire Irish citizenship? In putting the proposal to the people as it stands, the Government is asking them to vote for or against something which is clear and on which individuals can make up their own minds. If I accept amendment No. 26, the Government will ask the people to decide on something that is demonstrably unclear.

Mr. Costello: Will the Minister of State accept the amendment?

Mr. O'Dea: I do not propose to accept the amendment. Similarly, amendment No. 27 would not help to clarify the situation. In fairness to Deputy Costello, it appears that the purpose of amendment No. 27 is to address the question of posthumous birth. I do not accept that the amendment is necessary to address the circumstances of posthumously born children. I wish to draw the Deputy's attention to the draft implementing Bill.

Mr. Costello: I drew the Minister of State's attention to the draft Bill.

Mr. O'Dea: The draft Bill is set out in Citizenship Referendum: The Government's Proposals, a document which was circulated to all Deputies on the same day as the Bill before the House was published. The Bill is not formally before the House and cannot be brought forward until the people have accepted the referendum proposal. It is relevant to this debate, however, because of its standing in respect of the development of a proposal to amend the Constitution in a way which I will briefly explain. The draft Bill contains extensive provisions to address the issue of posthumous births, ensuring that the pre-decease of a parent through whom a child would have derived an entitlement to Irish citizenship will not prevent the child from continuing to derive that entitlement, notwithstanding the death of the parent in question.

Mr. Costello: So why do we not——

Mr. O'Dea: I can tell Deputies, if they want to hear it, that the draft Bill was drawn up before the proposal to amend the Constitution was drafted. This ensures that the scope of the constitutional amendment will be sufficient to guarantee the constitutionality of the implementing proposals. The Deputy's proposed amendment to the proposed Article 9.2 is not a pre-requisite for addressing the matter of posthumous births in legislation, as the draft implementing Bill amply demonstrates.

The amendment may have a broader, perhaps unintended, effect, however, which the Government would regard as unwanted and undesirable. If a naturalised person whose citizenship has been revoked on one of the grounds set out in section 19 of the Irish Nationality and Citizenship Act 1956 subsequently becomes the parent of a child born in Ireland, I do not want the child to acquire an entitlement to Irish citizenship automatically. I am concerned that the inclusion of the words proposed in Deputy Jim O'Keeffe's amendment might give rise to a claim that such a person has an implicit right to Irish citizenship, notwithstanding the revocation. That would certainly not be acceptable. I do not propose to accept the amendment for those reasons.

Mr. Quinn: Do I understand correctly the Minister of State's comment that the draft Bill was prepared before the text of the proposed constitutional amendment was drafted?

Mr. O'Dea: Yes.

Mr. Quinn: Can the Minister of State tell me when the draft Bill was drafted?

Mr. O'Dea: It was drafted in the three weeks running up to 6 April.

Mr. Quinn: Can the Department of Justice, Equality and Law Reform produce such a level of documentation so quickly?

Mr. O'Dea: It was produced by the Office of the Chief Parliamentary Counsel.

Aengus Ó Snodaigh: I wish the office could do likewise with all other Bills.

Mr. Quinn: I am afraid that I do not believe the Minister of State.

Mr. O'Dea: I am passing on the information I have been given by my officials.

Mr. Quinn: It is not credible.

Mr. J. O'Keeffe: Can I press the Minister of State a little further on the issue of timing? This process raises the issue of a non-national who was born in Ireland. Such a person may have entitlements under Article 2 of the Constitution, but will not be entitled to citizenship under Article 9. I wonder when that concept was first developed. The question of timing is quite relevant. A person born in Ireland was considered to be an Irish citizen by statute until 1998 and under the Constitution since 1998. When did the concept of a non-national born in Ireland come into vogue as a separate category of person? That is what will arise, essentially, when the proposed constitutional amendment is passed.

Mr. O'Dea: There has always been a distinction between nationals and non-nationals. I understand that Deputy O'Keeffe is asking me when the idea to legislate——

Mr. J. O'Keeffe: For non-nationals born in Ireland——

Mr. O'Dea: Precisely. I have given the Deputy the information I have. The instruction was given and both Bills were drafted in the three week period leading up to 6 April.

Mr. Quinn: We know from the report of the interdepartmental committee that the idea has been around since 1998. It was one of the recommendations of the interdepartmental committee. There is a difference of opinion, but I think it is fair to say that officials in the Department of Justice, Equality and Law Reform, irrespective of the identity of the Minister at any given time, have been running with this idea because they collectively perceive — I do not necessarily refer to the officials beside the Minister of State — that there is a necessity to curtail open entitlement to citizenship on the basis of having been born on the island of Ireland.

One of the recommendations of the interdepartmental committee in 1998 that I mentioned in my speech earlier — I will not go through it again in the interests of time — was that restrictions be introduced to the right to apply for citizenship of children born to foreigners on this island who would previously have had such a general entitlement. In light of the increasing level of migration that was perceived, it was considered that the right would have to be curtailed. I am offering that as an

[Mr. Quinn.]
 explanation of when the concept first arose. I am answering Deputy Jim O’Keeffe’s question.

Mr. J. O’Keeffe: Did the Minister of State complete his response, or is he getting further advice on the matter?

Mr. Costello: It was my amendment.

Acting Chairman: I will call the Deputy after Deputy O’Keeffe.

Mr. J. O’Keeffe: I would like to ask a question arising from the Minister of State’s comment that this concept was first dreamt up three weeks before the documents were circulated.

Mr. Quinn: It is a patent lie.

Mr. J. O’Keeffe: On the basis that anybody born in Ireland is an Irish citizen under the prevailing legislation — the constitutional amendment of 1998 — will the Minister of State explain why in the Immigration Bill 2004, which was circulated in January of this year, there is a reference to non-nationals born in Ireland in the section dealing with the obligation of non-nationals to register? Obviously, this is a separate category of person even though no such person existed under legislation or in the Constitution at that time.

Aengus Ó Snodaigh: The Minister first briefed the spokespersons on 10 March that there would be a constitutional referendum on this issue. The second briefing was in April. Some thought went into it prior to 10 March, which is not three weeks before the debate. There was much more thinking on this issue than we were informed.

Mr. Quinn: Back in January, Richie Green was running a solo in the Department of the Environment, Heritage and Local Government.

Aengus Ó Snodaigh: A Minister does not make an announcement on proposed legislation to a spokesperson in March unless he has done his preparatory work on it.

Mr. O’Dea: There has been reference to non-nationals in Irish immigration legislation since the 1940s.

Mr. J. O’Keeffe: What about a non-national born in Ireland?

Mr. O’Dea: There are distinctions on citizenship between nationals and non-nationals born in a particular country in every European country. The distinction of entitlement to citizenship is drawn in every European country. If someone is a national born in the country or born outside the country, in most cases, he or she has an automatic right to citizenship.

Mr. J. O’Keeffe: This is incredible. A person born in Ireland is an Irish citizen.

Mr. O’Dea: Non-nationals are entitled to take up Irish citizenship if they so wish. In every country, there is a distinction in the acquisition of citizenship between nationals and non-nationals. There are restrictions on non-nationals, people who are not native of the country, whose citizenship——

Mr. J. O’Keeffe: Native if they are born in the country.

Mr. O’Dea: They are not. No European country gives the right to citizenship to a non-national simply because of birth.

Aengus Ó Snodaigh: Ireland does.

Mr. J. O’Keeffe: We do.

Mr. O’Dea: Except us.

Mr. Quinn: We do.

Mr. J. O’Keeffe: Why is there a provision in the Immigration Act for a non-national born in Ireland?

Mr. O’Dea: We do not give citizenship automatically but an entitlement to take it up. There are many non-nationals in the country who have not exercised that entitlement.

Mr. J. O’Keeffe: Under Article 2 anyone who is born on the island of Ireland is a citizen of the Irish nation. This problem arises because the article entitles an automatic right to citizenship

Mr. O’Dea: They are entitled to be citizens of the Irish nation.

Mr. J. O’Keeffe: The issue is that in the Immigration Act which was circulated last January.

Mr. O’Dea: That occurs in the 1946 legislation.

Mr. Costello: All the information received from the Minister indicated that the legislation was drafted prior to the provisions of the constitutional referendum. It is strange to find that there were draft proposals in place a number of weeks before the text.

Mr. O’Dea: Prior to the finalisation — Deputy Costello should not be putting words in my mouth.

Mr. Costello: That is meaningless because when the spokespersons met the Minister on 7 April, he was still unsure whether to use “the” or “him or her”. Finalisation can mean anything. The draft legislation contains proposals, and not even finalised. How long were these proposals in gestation?

Mr. Quinn: Three weeks.

Mr. Costello: It was supposed to be three weeks before the provision was there. Was it

prepared at that stage? Were these proposals in some textual form before the spokespersons heard anything?

Acting Chairman: Will the Deputy return to the amendment?

Mr. Costello: The Minister of State's clarification of this amendment does anything but clarify it. His clarification points out that it is a finite class of person and that it would be unclear, otherwise, if the clause was not there. It is then claimed that it is satisfactory that a posthumously born child is dealt with through the draft proposals. However, these are not yet enacted and may never be so. Instead, it is a mish-mash of some proposals, text, bullet points and suggestions. The draft Bill, entitled citizenship referendum, is the Government's proposals.

If the constitutional amendment is passed on 11 June, the legislation that follows will only then be finalised by the Government and presented to the Oireachtas for approval.

Mr. Quinn: It will join the queue with other Bills.

Mr. Costello: This can only happen in June. Is there an indication that this legislation will be passed by both Houses of the Oireachtas by July, before the summer recess? Considering how the Government operates, it might not happen until the autumn. Anyone born in the referred circumstances will suffer in that intervening period. Having draft proposals that may or may not be enacted is not satisfactory.

The introduction of this caveat in the Constitution is mean-spirited. It means that though one of the parents must be an Irish citizen, the parent, either the mother or father, must be alive at the time of the child's birth. Who is the Government trying to catch out with this proposal? How many citizenships for non-nationals are being revoked while little is done with those characters who traipse around the world on Irish passports that were handed to them.

Mr. Quinn: Could one be posthumously alive?

Mr. Costello: Will the Minister of State readdress this issue? No reason for this clause has been given to satisfy the House. This should be looked at with consideration of a child's rights. The child who is born is the one entitled to citizenship. Why should the death of a parent, in a short time and not in excess of nine months, be a reason for denying citizenship? It was claimed that there might be a time when citizenship might be revoked. Will the Minister inform us what those circumstances are and has it happened? Why is this caveat needed in the Constitution rather than a more generous entitlement to the child.

Mr. J. O'Keeffe: I have raised the scenario of a foundling's rights. I am not satisfied that there is constitutional protection for a foundling but I

wish it could be done. I do not accept the Minister of State's response that it is governed by legislation as that can be changed at any time. If we are talking about protection, a foundling is one who needs it more than most. However, the core issue of this amendment is the use of the expression "at the time of birth" of a person. The Minister of State has not adequately responded to Members' concerns on this issue.

I have been considering the three possibilities put forward: one in my own amendment, one suggested by Deputy Costello and another which was mentioned earlier. On balance I prefer Deputy Costello's formulation which reflects more adequately our concern that somebody who is unfortunate enough to lose his or her Irish parent before he or she is born may not be covered by this constitutional protection. If the Government is genuinely committed to listening to all views on this issue, it should take our concerns into account. It could easily do so. If this is not the case, we are only wasting our time.

Mr. O'Dea: Deputy Costello asked about the existence of any textual material before a certain date in April. As far as I am aware there was not, but I will make further inquiries. I am assured there was not but since the Deputy is so determined to pursue the matter I will make further inquiries and inform the Deputy if I find this is not the case.

Deputy Costello said the legislative proposals were simply in draft form and not yet in the form of a Bill. That is exactly what we said. They will be in the form of a Bill. Deputy Costello and every other Deputy and party in the House will have their opportunity to make a contribution to that Bill. The question he has legitimately raised about posthumous births will be dealt with. That is the Government's intention.

Mr. Costello: The Minister of State used the phrase, "will be".

Mr. O'Dea: It will be dealt with in the legislation.

Mr. Costello: The Government may not be around to deal with it in the autumn after the local elections.

Mr. O'Dea: If the referendum is passed it will be dealt with in the legislation to follow.

Mr. J. O'Keeffe: Why include the problem in this Bill?

Mr. O'Dea: The Constitution is not the appropriate vehicle to deal with every aspect. This is more properly dealt with in legislation. I am giving the Deputies an assurance that we will deal with it.

Mr. Quinn: I accept there is a problem in this area, although I am not sure of the extent of it or how best to deal with it. We are using the sledgehammer approach. However, I do not deny there is a problem. Civil divorce was also an issue

[Mr. Quinn.]
about which many people had major reservations. The Government of the day decided that not only would it amend the Constitution but it would actually draft and publish the legislation in advance to enable people to know when they voted to change the Constitution, precisely how the change would be implemented in light of all the difficulties and nuances of the issue. Will the Minister of State accept this set a precedent? His party in Opposition, having previously been in Government, supported not only the principle but the legislation.

Part of our concern is that this is another reflection of the rushed nature of the approach to this matter. There is a precedent, when questions arise of how an amendment will actually work, for publishing the legislation in final draft form — a green copy, if one likes — as was done during the divorce referendum, so people will know that if they vote “Yes” to this constitutional change, this is the Bill that will be introduced.

Mr. O’Dea: Is that not precisely what the Government is doing? We have outlined what our proposals will be and it does not matter whether they are in pink form, white form or green form. We have provided this information for the people who are to decide on whether we will do this.

People are not necessarily deprived of their rights under the Constitution or their human rights because they are not citizens. There are a few things to which citizens are entitled and non-citizens are not — the right not to be deported, for example, because non-nationals are here with the permission of the State if they are here legally. If this Bill is passed by the Dáil tomorrow and the Seanad next week, the law on the right to citizenship will not change. The nationality and citizenship legislation of 1956 will continue to operate until the referendum is passed, if it is, and the new legislation is passed by both Houses of the Oireachtas after due debate.

Deputy Costello asked me the circumstances in which somebody can have a certificate of naturalisation revoked. This is set out in section 19 of the 1956 Act.

Mr. Costello: How many times has it happened?

Mr. O’Dea: The Deputy asked me the circumstances. Section 19 states:

The Minister may revoke a certificate of naturalisation if he is satisfied——

(a) that the issue of the certificate was procured by fraud, misrepresentation whether innocent or fraudulent, or concealment of material facts or circumstances, or

(b) that the person to whom it was granted has, by any overt act, shown himself to have failed in his duty of fidelity to the nation and loyalty to the State, or

Mr. J. O’Keeffe: There are a fair few of those around.

Mr. O’Dea: The section continues:

(c) that (except in the case of a certificate of naturalisation which is issued to a person of Irish descent or associations) the person to whom it is granted has been ordinarily resident outside Ireland (otherwise than in the public service) for a continuous period of seven years——

Mr. J. O’Keeffe: The Pirate of Prague is in the Bahamas again.

Mr. O’Dea: The section continues:

—and without reasonable excuse has not during that period registered annually in the prescribed manner his name and a declaration of his intention to retain Irish citizenship with an Irish diplomatic mission or consular office or with the Minister, or

(d) that the person to whom it is granted is also, under the law of a country at war with the State, a citizen of that country, or

(e) that the person to whom it is granted has by any voluntary act other than marriage acquired another citizenship.

Those are the circumstances to which the Deputy referred.

People talk about the citizenship for investment scheme as if ours was the only Government in the world that ever operated such a scheme. It was the Fianna Fáil-Progressive Democrats Government that put an end to that practice. As far as I know it has been the practice of every Government since the foundation of the State to give passports in return for investment. It has certainly been practised by Governments of all hues. It has also been the practice of governments in every other country in the world until relatively recently. We discontinued this in 1998. Deputy McDowell is probably the first Irish Minister for justice never to have operated such a scheme.

Mr. J. O’Keeffe: Máire Geoghegan-Quinn is the only member of the Fianna Fáil Party to emerge with any honour.

Mr. O’Dea: Deputy McDowell is the first Minister not to have operated that system.

Mr. J. O’Keeffe: She stopped the freebooting that was going on between 1988 and 1994.

Mr. O’Dea: I do not know what was going on between 1988 and 1994 as I was on the back benches.

Mr. J. O’Keeffe: Nobody else does either. That is why the matter is before the tribunals. The Minister of State should ask Bobby Molloy.

Mr. O’Dea: The scheme offering citizenship or passports in return for investment has been

operated by every Government in this country and the governments of practically every other country in the world.

Aengus Ó Snodaigh: Operated? Abused is a better word.

Mr. O'Dea: We are delighted to have put this scheme to rest, which will happen when the referendum is passed, as I hope it will be.

Mr. Costello: The Minister of State did not answer the second part of my question. When did we ever revoke passports and what were the circumstances? Even if we were to revoke passports, why should we penalise the children of parents that had passports?

The section does not need the clause with which we are dealing. We could go on arguing about it for ever, but when we consider the matter from the point of view of a child there should be no question about whether this caveat should be removed. I urge the Minister of State to accept the amendment and allow these words to be deleted. If he does not I will certainly put the matter to a vote. It is the least we should expect in terms of an amendment to the text. There is nothing to be gained by retaining this clause.

We became somewhat confused about the question of a draft Bill and when it was produced. Do we know when it went to Government? Did it go to Government during the period before it appeared on 7 or 8 April? When did it go to the Attorney General? When was it approved by the Government?

How long has it been in gestation? That matter has not been clarified. Were different heads of the draft Bill circulated to Government for approval? If so, when were they circulated? If the Minister of State does not have the information, it is important that it should be provided so that we know when work began on this issue and what procedures were followed.

Aengus Ó Snodaigh: On 30 March I tabled three parliamentary questions to the Minister for Justice, Equality and Law Reform about the timing of the referendum and the consultation that took place. He stated in his reply:

I initiated the consultation process on 10 March 2004 by meeting with spokespeople for each of the Opposition parties on justice matters, including the Deputy. The briefing material which I had prepared and provided to the spokespeople as a basis for those consultations is now available on my Department's website.

That was four weeks before it eventually appeared.

He further stated: "No Government decision has yet been made as to when the proposed referendum will be held but the proposal is to publish the amendment of the Constitution Bill as soon as possible, and, at the same time, to produce a draft text of the proposed implementing Bill and other explanatory

material." I did not believe either of these statements. If the mishmash of notes and scribbles is a draft text for the implementation Bill, God love us, because it does not address the specifics, a number of which have been raised by other Members.

We still await the implementation Bill relating to the International Criminal Court. The Bill has been published but awaits discussion three years after the referendum. If this referendum is passed, will we have an idea about how the constitutional provisions will be implemented three years later? The Minister has given an assurance in this regard but it is similar to most assurances given by his predecessors and this Government. They are not worth anything.

Mr. J. O'Keeffe: If the referendum is passed, a new class of person will be created, who, under Article 2, will be part of the Irish nation but who, under Article 9 and the subsequent legislation, may not be an Irish citizen, even though he or she is born here. The citizenship entitlement of everybody born here will be restricted.

The Minister of State waxed lyrical about the rights of people on this island that are not related to citizenship. Since the Government will create a new category of person, what will be his or her rights? Will he or she be entitled to reside in the State or take up employment without a work permit? Will he or she be entitled to reside here similar to anybody else born on the island and entitled to the same rights, protections and privileges?

Mr. O'Dea: With regard to Deputy Costello's final question, both texts went to Government on 6 April and they had been in gestation for approximately six weeks. The Deputy asked a number of more specific questions and I will try to obtain replies to them before tomorrow.

Mr. Costello: On what date did the drafting of the texts begin in the Department?

Mr. O'Dea: I will find that out for the Deputy between now and tomorrow. I am not aware of circumstances in which citizenship was revoked by a Government. Deputy Jim O'Keeffe mentioned free-booting days in the 1980s when people allegedly obtained passports to which they were not entitled.

Mr. J. O'Keeffe: It was over dinner in the Shelbourne Hotel and without any formalities being observed.

Mr. O'Dea: The Deputy's party was in Government subsequently and it had every opportunity to revoke them under section 19. It did not do so. What is sauce for the goose is sauce for the gander.

Mr. J. O'Keeffe: We clean up enough of Fianna Fáil's messes and the tribunals are still doing it. The Minister of State knows full well—

Mr. O'Dea: The Deputy should quit while he is behind. Deputy Ó Snodaigh was gratuitously offensive about the draft texts circulated by the Government. Not only have we circulated the draft of our proposals but we have also, unusually, provided details of how the Irish Nationality and Citizenship Act 1956 will be amended along the lines proposed. This is quite unusual and far beyond the call of duty.

Deputy O'Keeffe stated the referendum will create a new class of Irish citizen.

Mr. J. O'Keeffe: No, the person will not be an Irish citizen but will be part of the Irish nation. He or she will be a non-national born in Ireland.

Mr. O'Dea: The Deputy is incorrect because the referendum does no such thing. The referendum enables the Oireachtas to legislate for the requirement to become a citizen. It is up to the people to decide whether they want to give the Oireachtas that power. If the people so decide, the appropriate legislation will be introduced by the Government and we will all have an opportunity to make a contribution on it.

Mr. J. O'Keeffe: The Minister of State is evading the question. The Bill has been presented as part of a package.

Mr. O'Dea: We are discussing a Bill to give people the right to decide.

Mr. J. O'Keeffe: The Minister of State should have stayed in Limerick. I have raised a reasonable point and the manner in which he has dealt with it does him no credit. If he does not have a reply, that is fine and I will accept that.

Mr. O'Dea: I will debate it at the appropriate time.

Mr. J. O'Keeffe: If the package is passed, there will be a new class of person born on this island who will not be an Irish citizen. If the Minister does not understand that, there is no point in debating the issue further.

Mr. O'Dea: Nobody understands this except the Deputy who is like Noddy.

Mr. J. O'Keeffe: Between the Minister of State and his co-correspondent with the *Sunday Independent*, there is a pair. He should concentrate more on his day job or perhaps his column is his day job.

Mr. O'Dea: The Deputy is in the House long enough to understand what he is discussing.

Mr. J. O'Keeffe: If the Minister of State is not aware the consequence of this package is a new class of person who will be part of the Irish nation under Article 2 but will not be an Irish citizen under Article 9, as amended, and the proposed legislation, then he does not understand the issue. If this package is agreed, in future some people born on the island who heretofore would automatically have been entitled to citizenship

may not be Irish citizens because they do not have an Irish parent or do not comply with other conditions proposed in the legislation.

The Minister of State said one's rights and entitlements do not depend on citizenship. The people to whom I refer will exist in future if this package is agreed. What will be their entitlements? If the Minister of State does not know, perhaps he will make the information available tomorrow.

Mr. O'Dea: Fundamental rights, including the right to life and the right to free travel within the State, will not be affected whether one is a citizen.

Mr. J. O'Keeffe: That is not the question. Will such a person be entitled to reside here?

Mr. O'Dea: The person will be entitled to reside here with the permission of the Government. Whether it be on a work permit in the case of the Minister for Enterprise, Trade and Employment, or whether in any other circumstances, they will be entitled to reside here with the permission of the Government.

Mr. J. O'Keeffe: That is not the point.

Mr. O'Dea: Taking Deputy O'Keeffe's case to its logical conclusion, he is saying people who are not Irish citizens should have an automatic right to reside here. Is that the point he is making?

Mr. J. O'Keeffe: Is the Minister of State being deliberately thick? If he does not know the answer, I accept that. He is not a walking encyclopaedia, and he only walked in on the discussion of this Bill tonight. It is a legitimate point that because of the Government proposals, some of the people born in future on the island of Ireland will not be automatically entitled to Irish citizenship. I am inquiring as to the rights of those persons, bearing in mind that under Article 2 of the Constitution, they are entitled to claim that they are part of the Irish nation. Under the new provision, and the legislation proposed, they will not be entitled to Irish citizenship. What will their rights be? That is a simple question.

Anyone from Guatemala to Hong Kong might get a work permit, or apply for one. I am asking about these people's entitlements under Article 2, bearing the mind the restrictions being imposed on them under Article 9. That is the point being raised regarding this amendment from the beginning, that the interlocking nature of Articles 2 and 9 is being changed as a result of the amendment. What will be the effects on the person who will thereby not be entitled to Irish citizenship, though born in Ireland?

Mr. O'Dea: Those people will be in exactly the same position as anyone currently in the country who is not an Irish citizen.

Mr. J. O'Keeffe: Will they not have any entitlement under Article 2, no rights of

residence or any such rights, even though they form part of the Irish nation?

Mr. O'Dea: Not unless they are Irish citizens — unless with permission. They will have the right to reside if they have permission. They will no automatic right to reside.

Mr. J. O'Keeffe: What, if any, will their entitlements be under Article 2, which entitles them to be part of the Irish nation?

Mr. O'Dea: They are entitled to the full protection of the law while they are in this country.

Mr. J. O'Keeffe: A visitor from Guatemala is entitled to that.

Mr. Costello: I do not want to pursue this matter much longer. My main concern is that the person who is born to one parent who is an Irish citizen, or entitled to be an Irish citizen, should have rights to Irish citizenship even if that parent dies during the pregnancy or childbirth. I want to see that in the constitutional provision as distinct from the text. There is no reason it should not be there. All that is required is to delete “at the time of the birth of that person”. It would then read as follows: “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” — and then drop the next clause — “at least one parent who is an Irish citizen or is entitled to be an Irish citizen, is not entitled to Irish citizenship or nationality as provided by law.” Incidentally I wonder if “born in the island of Ireland” should not read “on the island”.

Could we simply make that change? Regarding rights, there is a clear problem. Article 40 of the Constitution outlines the fundamental rights of citizens. These rights are given only to citizens, and under Article 40 there is an entire range of fundamental rights which are the rights of citizens. They include the right to life of the unborn, the right to a good name, property rights. The Article says that no citizen shall be deprived of his personal liberty save in accordance with the law, and guarantees to citizens the right to express freely their convictions and opinions. I do not know if that is granted in the same fashion to anyone else. Citizens are given the right to assemble peacefully. These rights are guaranteed by the Constitution. The citizen has the right to form associations and unions. These are the fundamental rights given to citizens of this country. They are not given to any other category of person. Obviously a diminution in rights will result for the people we have been discussing. That goes without saying. Regarding the amendment, can we get a “yes” or “no” at this point? Will the Minister of State consider it for Report Stage tomorrow or leave it for the Seanad. That will come up on Friday so it would

need to be reconsidered for Report Stage. If not, I want to put the matter to a vote.

Mr. O'Dea: I take the Deputy's point about the wording, because we are dealing with the Constitution, whether the reference should be to “in the island of Ireland” or “on the island of Ireland.” As I understand it, we are tracking the wording in Article 2, so that is why this terminology, which I would not have used, is being used.

Regarding rights given specifically to citizens under the Constitution, I take Deputy Costello's point. He is correct. It can be seen in Article 40 that it is the citizen who will not be deprived of his personal liberty. It is the citizen who is referred to throughout Article 40.

Mr. Costello: Fundamental personal rights are involved.

Mr. O'Dea: Deputy Costello must be aware that there is a wealth of jurisprudence, a wealth of court decisions here that afford such protection to people who do not happen to be citizens of this country and who are here.

Mr. Costello: We are talking of people on the island for the first time.

Mr. O'Dea: We are not considering this in a vacuum. I will send the Deputy copies of the case law which gives protection to people who happen to be in this country but who are not citizens. There is also a wealth of Statute law which gives further protection to those people.

I share Deputy Costello's view — strangely — that a person should not be excluded from citizenship because one of his or her parents happens to have died before the person's birth. We differ in how we should resolve that. Deputy Costello feels it should be resolved by means of the relevant Article in the Constitution. It is more appropriate for resolution by means of the legislation.

Mr. Costello: It should be seen from the point of view of the child.

Mr. O'Dea: If the referendum fails, the matter will not arise. If the referendum is passed by the Irish people in their wisdom, the follow-up legislation will contain that protection, and it is right and proper that it should.

Mr. J. O'Keeffe: We are talking of the rights of this new breed of person, this non-Irish Irish person who will have entitlements under Article 2 but will not be entitled to citizenship. A further issue has been triggered by the reference by the Minister of State to fundamental rights. As the Minister of State should know, Article 42 deals with the issue of education, and there has been much litigation on this matter in the courts. The

[Mr. J. O’Keeffe.]
rights and entitlements under Article 42 are not confined to citizens.

What is the position of the family, as protected under those rights? Article 42 acknowledges the primary educator is the family, and notes that the State will provide free primary education. Under the Article, a baby may be born in this country, and become part of the Irish nation, but because of the new provisions will not be an Irish citizen. Will that baby be entitled to the fundamental rights regarding education under Article 42? There is also the issue of the parents of that baby, who have rights and obligations under Article 42.

This issue is discussed in broad terms in Hogan and White at page 1857, and perhaps it is an issue that might be looked at. We have not discussed it to date. It involves the issue, following the L and O case, of the position regarding education, where the problem is — not for me, but for the Government — that the entitlement is not confined to citizens. This goes back to the earlier question I raised regarding residents. How can they exercise their rights of education if they have no entitlement to residence? This is part of the problem arising from the headlong rush into this issue. It was not completely resolved in the L and O case. It is one further issue that should be looked into in more detail. I do not expect the Minister to have an immediate answer to it.

Mr. O’Dea: My understanding is that the rights people enjoy by virtue of Article 42 of the Constitution, which, as Deputy O’Keeffe rightly says, is not confined to citizens, will remain unchanged. It is true that if they leave the State those rights can no longer be vindicated but the rights apply to people in the State. Article 42 is applicable as long as people are in the State. From that point of view it is unchanged.

Mr. J. O’Keeffe: Will they be forced to leave the State? In other words, will they be precluded from exercising their rights under Article 42?

Mr. O’Dea: The Supreme Court has considered this matter. In the L and O cases, the Supreme Court decided that an Irish citizen child has the right to the society of his or her parents, but not necessarily in Ireland.

Mr. J. O’Keeffe: Yes, but the education aspect was not dealt with in the L and O cases.

Mr. O’Dea: I am sure the education aspect was in the mind of the Supreme Court.

Mr. J. O’Keeffe: It is one of the many outstanding issues that have not been totally teased out.

Cuireadh an cheist: “Go bhfanfaidh na focail a thaigtear a scriosadh.”

Question put: “That the words proposed to be deleted stand.”

Rinne an Choiste vótáil: Tá, 62; Níl, 43.

The Committee divided: Tá, 62; Níl, 43.

Tá

Ahern, Noel.
Andrews, Barry.
Ardagh, Seán.
Brady, Johnny.
Brady, Martin.
Browne, John.
Callanan, Joe.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Collins, Michael.
Coughlan, Mary.
Cregan, John.
Curran, John.
Dempsey, Tony.
Dennehy, John.
Devins, Jimmy.
Ellis, John.
Finneran, Michael.
Fitzpatrick, Dermot.
Fleming, Seán.
Gallagher, Pat The Cope.
Glennon, Jim.
Grealish, Noel.
Hanafin, Mary.
Haughey, Seán.
Hoctor, Máire.
Jacob, Joe.
Keaveney, Cecilia.
Kelleher, Billy.
Kelly, Peter.

Killeen, Tony.
Kitt, Tom.
Lenihan, Brian.
Lenihan, Conor.
McEllistram, Thomas.
McGuinness, John.
Martin, Micheál.
Moloney, John.
Moynihan, Donal.
Moynihan, Michael.
Mulcahy, Michael.
Nolan, M.J.
Ó Cuív, Éamon.
Ó Fearghaíl, Seán.
O’Connor, Charlie.
O’Dea, Willie.
O’Donnell, Liz.
O’Donovan, Denis.
O’Flynn, Noel.
O’Keeffe, Batt.
O’Malley, Fiona.
Power, Peter.
Power, Seán.
Roche, Dick.
Sexton, Mae.
Smith, Brendan.
Treacy, Noel.
Wallace, Dan.
Wallace, Mary.
Wilkinson, Ollie.
Woods, Michael.

Níl

Boyle, Dan.
 Broughan, Thomas P.
 Bruton, Richard.
 Connaughton, Paul.
 Connolly, Paudge.
 Costello, Joe.
 Crawford, Seymour.
 Cuffe, Ciarán.
 Gilmore, Eamon.
 Gormley, John.
 Gregory, Tony.
 Healy, Seamus.
 Hogan, Phil.
 Kehoe, Paul.
 Lynch, Kathleen.
 McCormack, Padraic.
 McGrath, Finian.
 McGrath, Paul.
 McManus, Liz.
 Mitchell, Olivia.
 Morgan, Arthur.
 Murphy, Gerard.

Naughten, Denis.
 Neville, Dan.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Dowd, Fergus.
 O'Keeffe, Jim.
 O'Sullivan, Jan.
 Penrose, Willie.
 Perry, John.
 Quinn, Ruairi.
 Rabbitte, Pat.
 Ring, Michael.
 Ryan, Eamon.
 Ryan, Seán.
 Sargent, Trevor.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Twomey, Liam.
 Upton, Mary.
 Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Kehoe and Stagg.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

Question declared carried.

Faisnéiseadh go rabhthas tar éis diúltú don leasú.

Amendment declared lost.

An Ceann Comhairle: Amendment No. 27 in the name of Deputy O'Keeffe has already been discussed with No. 26. Is the amendment being pressed?

Mr. J. O'Keeffe: The same arguments apply in this case, so I will not press the matter. We have effectively already debated amendment No. 27, and the result on No. 26 would also apply to it. I will not press it, especially as we are short of time.

Níor tairgeadh leasú a 27.

Amendment No. 27 not moved.

Mr. Costello: Tairgim leasú a 28:

I gCuid 1, leathanach 7, líne 9, “nó náisiúntacht” a scriosadh agus

I gCuid 2, leathanach 7, línte 18 agus 19, “or nationality” a scriosadh.

I move amendment No. 28:

In Part 1, page 6, line 9, to delete “nó náisiúntacht”

and

In Part 2, page 6, lines 18 and 19, to delete “or nationality”.

This amendment seeks the deletion of the phrase “or nationality” in the main provision. There is some confusion regarding the distinction between citizenship and nationality, and in that section, the word “citizenship” occurs on three occasions, but the word “nationality” on only one. It has never been made clear, and does not seem to be clear in the Constitution, just what is the difference between citizenship and nationality. In the letters that passed between Deputy Quinn and the Taoiseach in 1998, the Taoiseach seemed to presume that nationality and citizenship were tantamount to being the same thing, although he did not supply any argument why he came to that conclusion. At the same time, the word “nationality” seems to occur from time to time in the Constitution, and here it occurs for the first time in the amendment proposed.

When one parent is an Irish citizen, the child of that parent has an entitlement to be an Irish citizen. It does not say that one parent has Irish citizenship or Irish nationality, yet it goes on to say that the person is not entitled, unless the child of an Irish parent, to Irish citizenship or nationality. Should it not read “Irish citizenship and nationality”? What is the extra meaning conveyed by “nationality”? Does the phrase mean citizenship or nationality, is it an addendum, or is it the same word in a different format? It is certainly not clear, and this amendment has been tabled to ask the Minister if he can throw some light on the issue. Is it tautology? If not, why does it occur only on this one occasion, when “citizenship” occurs on three occasions? “Nationality” is associated with it on this occasion, but not on the other three occasions that it occurs in the provision of the constitutional amendment.

Mr. J. O’Keeffe: We are going to the heart of the problem in many ways. I touched on it in my contributions regarding the issue of someone being part of the Irish nation under Article 2 but who would not get citizenship under the amended Article 9. That raises the question very ably put by my colleague, Deputy Costello, of whether there is a distinction between citizenship and nationality. The existing Article 9.1.2 appears to distinguish between nationality and citizenship, in that both words are used. Is there any substance to that? Does one distinguish between them, or is one synonymous with the other?

This issue was considered in 1996 by the Whitaker committee, the constitutional review group. There was a reference to nationality and citizenship probably being attributable to the continuation of a British Commonwealth usage. That is somewhat out of date. We are talking about amending the Constitution of a free republic after all these years. It raises the issue as to what “citizen” and “citizenship” mean. I think this issue was confused somewhat by the Minister, Deputy McDowell, in some of his speeches. He referred to the fact that the concept of citizenship goes well beyond the entitlement to a passport. How far beyond does it go? He then went on to say that citizenship is rather a term that embodies the concept of membership of a modern state, whatever that means.

It goes back to the issue I raised earlier, the question of citizenship and nationality. We should have had a full debate at an early stage on an all-party basis to tease out that issue. It would have teased out the issues raised by Deputy Costello in this particular amendment. The one raised earlier by myself, about which I am greatly concerned and which has not been resolved, concerns the entitlement of somebody who will be a part of the Irish nation under Article 2 but who will not be a citizen under Article 9.

Minister of State at the Department of Justice, Equality and Law Reform (Mr. B. Lenihan): Nationality and citizenship are synonymous terms in our law, and some Deputy who understands anything of the history of Irish republicanism should put it on the record of the House. Under the Constitution we are a nation and a State. We are nationals and we are citizens. The two terms are synonymous because we are not a State without a nation. We might have been before 1937. We are a nation and a State. That is why our nationality law is a “nationality and citizenship” law and has been so described since 1956. The Opposition should have checked out these facts. Deputy O’Keeffe should have checked this before he entered the House with yet another red herring, about this particular amendment of the Constitution. Nationality and citizenship in our system are synonymous terms. One is both an Irish national and an Irish citizen. In the United Kingdom one is not a citizen. It is not a modern state. One is the subject of a monarch. As the Constitution also provides,

fidelity to the nation and loyalty to the State are fundamental political duties of all citizens.

Mr. J. O’Keeffe: One is part of the Irish nation, and will be part of the Irish nation under Article 2, but will not be a citizen under the amended Article 9. We have received no explanation of that. A new category of person is being created. With all due respects, the issue has not been resolved nor have the rights and entitlements of that person.

Mr. Costello: I am seeking to amend the words “not entitled to Irish citizenship or nationality”. The Minister of State, Deputy Lenihan, has informed us they are synonymous. Why is it either-or? They cannot be the same if it is an either-or situation. Somebody has not told the Minister of State everything about Irish republicanism and statehood. Let us look at the Irish version. What is a citizen in Irish?

An Ceann Comhairle: I would prefer if the Deputy gave way to Deputy Ó Snodaigh. Deputy Costello has made a contribution on this. The Minister of State has not replied, as yet. Perhaps we will hear Deputy Ó Snodaigh. If there is time we will hear the Minister of State. If not, we will have to conclude.

Aengus Ó Snodaigh: I can be brief because what I have to say is similar to Deputy O’Keeffe’s argument. If we adopt these we will create three categories of people on this island, citizens, nationals — because they would be part of the Irish nation, according to Article 2 — and non-nationals.

(Interruptions).

An Ceann Comhairle: Allow Deputy Ó Snodaigh speak without interruption.

Aengus Ó Snodaigh: I am not complaining. I am just saying the Minister of State, Deputy Lenihan, is trying to undo that by creating three categories of people on this island, non-nationals, citizens and nationals. How can the Government insert anything into the Constitution which negates another section? That is in fact what it is doing. It would try to remove nationality from someone who has gained it under Article 2. I do not think contradictions in the Constitution augur well for the way it should be changed.

Mr. Costello: I was just going to finish on——

An Ceann Comhairle: The Deputy has already contributed on this issue.

Mr. Treacy: The Ceann Comhairle should allow the Deputy one last shot.

An Ceann Comhairle: I understand the Minister of State at the Department of Justice,

Equality and Law Reform, Deputy O'Dea will speak.

Mr. Costello: We have two Ministers of State who are——

Mr. Quinn: There we have it — a national and a citizen.

An Ceann Comhairle: We will hear the Minister of State and then——

Aengus Ó Snodaigh: And a non-national in Brussels.

Mr. O'Dea: There is a lost leader and a future leader.

Mr. Quinn: If the Deputy loses more weight, both Ministers of State will be identical.

Mr. O'Dea: I agree with the Minister of State, Deputy Lenihan. The terms are synonymous. We are amending Article 9 of the Constitution. Article 9.2 already refers to nationality and citizenship. Article 9.3 refers to nationality and citizenship. Deputy Costello asks, quite reasonably, why we use both terms if they are synonymous. The answer to that is contained in the report of the Constitution review group, on page 17:

The use of both 'nationality' and 'citizenship' is probably attributable to a continuation of a British Commonwealth usage. It does not seem that the two terms have different legal meanings. Article 9.1.2° anticipated legislation in regard to both citizenship and nationality, now comprised in the Irish Nationality and Citizenship Acts, which do not purport to give the two terms different meanings. The Attorney General's Committee of the Constitution (1968) concluded that the term, 'nationality' was probably obsolete in Irish law, but that in popular usage it implied inclusion of all those of the Irish race. Nevertheless, the term 'nationality' is included in the citizenship legislation (the Irish Nationality and Citizenship Acts); the term 'national' is used in section 6 of the Transfer of Sentenced Persons Act 1995; and Article 8 of the EU Treaty, as inserted by the Maastricht Treaty, refers to 'nationals' of member states. In these circumstances retention of the term 'nationality' in the Article would appear to be quite justified.

Mr. Costello: The Minister of State says that if we look at the Constitution review group's report, all will be clear. If we look at Article 9, which is also referred to by the Minister of State, there is a reference to citizenship and nationality. It is Article 9 that we are amending. It states: "the future acquisition and loss of Irish citizenship and nationality". Article 9.3 states: "No person may

be excluded from Irish nationality and citizenship". What are we inserting into the Constitution? What is the new proposal in which an Irish citizen is not entitled to Irish citizenship or nationality?. If the two are synonymous, why is one "and" and the other "or"? Should we not use the same format if we are satisfied the two are synonymous? Surely it is not "and" in one situation and "or" in another. All is not revealed and all is not clear.

I was also going to make a point about the Irish version. A citizen is a saoránach, a freeman or free person; and nationality is náisiún, a nation.

Mr. Treacy: Náisiúntacht is nationality.

Mr. Costello: The word "náisiún" implies origin from birth or nativity whereas "saoránach" is a fully fledged grown up adult, and we are talking about children in this respect. We are interested in children's rights. If a child is born to an Irish parent we want to ensure they get the full rights of citizenship, not diluted rights. Under Article 40, a fundamental set of rights are given to every Irish citizen.

Mr. J. O'Keeffe: The Minister of State has quoted from the report of the Constitution review group. Another interesting concept is raised on page 17 of the group's report. In it the group considered whether Article 9 specifically provides for citizenship based on place of birth. It decided against including such a provision on the basis that:

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.

This amendment includes such complexities and exceptions and gives rise to the debate in which we are engaged. We finish as we began. This subject has not been properly debated.

Mr. Quinn: The use of a guillotine in a debate on a constitutional amendment is a disgrace.

An Ceann Comhairle: Ós rud é go bhfuil sé 10.30 p.m., ní foláir dom an cheist seo a leanas a chur de réir ordú an lae seo ón Dáil: "Go naontaítear leis seo i gCoiste an Sceidal, ailt 1 agus 2, an Réamhrá agus an Teideal."

As it is now 10.30 p.m., I am required to put the following question in accordance with an order of the Dáil of this day: "That the Schedule, sections 1 and 2, the Preamble and the Title are hereby agreed to in Committee."

Cuireadh an cheist.

Question put.

Rinne an Choiste vótáil: Tá, 62; Níl, 47.

The Committee divided: Tá, 62; Níl, 47.

Tá

Ahern, Noel.
 Andrews, Barry.
 Ardagh, Seán.
 Brady, Johnny.
 Brady, Martin.
 Browne, John.
 Callanan, Joe.
 Callely, Ivor.
 Carty, John.
 Cassidy, Donie.
 Collins, Michael.
 Coughlan, Mary.
 Cregan, John.
 Curran, John.
 Dempsey, Tony.
 Dennehy, John.
 Devins, Jimmy.
 Ellis, John.
 Finneran, Michael.
 Fitzpatrick, Dermot.
 Fleming, Seán.
 Gallagher, Pat The Cope.
 Glennon, Jim.
 Grealish, Noel.
 Hanafin, Mary.
 Haughey, Seán.
 Hoctor, Máire.
 Jacob, Joe.
 Keaveney, Cecilia.
 Kelleher, Billy.
 Kelly, Peter.

Killeen, Tony.
 Kitt, Tom.
 Lenihan, Brian.
 Lenihan, Conor.
 McEllistram, Thomas.
 McGuinness, John.
 McHugh, Paddy.
 Martin, Micheál.
 Moloney, John.
 Moynihan, Donal.
 Moynihan, Michael.
 Mulcahy, Michael.
 Nolan, M.J.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 O'Connor, Charlie.
 O'Dea, Willie.
 O'Donnell, Liz.
 O'Donovan, Denis.
 O'Flynn, Noel.
 O'Malley, Fiona.
 Power, Peter.
 Power, Seán.
 Roche, Dick.
 Sexton, Mae.
 Smith, Brendan.
 Treacy, Noel.
 Wallace, Dan.
 Wallace, Mary.
 Wilkinson, Ollie.
 Woods, Michael.

Níl

Boyle, Dan.
 Broughan, Thomas P.
 Bruton, Richard.
 Connaughton, Paul.
 Connolly, Paudge.
 Costello, Joe.
 Cowley, Jerry.
 Crawford, Seymour.
 Cuffe, Ciarán.
 English, Damien.
 Enright, Olwyn.
 Gilmore, Eamon.
 Gogarty, Paul.
 Gormley, John.
 Gregory, Tony.
 Healy, Seamus.
 Higgins, Joe.
 Kehoe, Paul.
 Lynch, Kathleen.
 McCormack, Padraic.
 McGrath, Finian.
 McGrath, Paul.
 McManus, Liz.
 Mitchell, Olivia.

Morgan, Arthur.
 Murphy, Gerard.
 Naughten, Denis.
 Neville, Dan.
 Ó Caoláin, Caoimhghín.
 Ó Snodaigh, Aengus.
 O'Keeffe, Jim.
 O'Dowd, Fergus.
 O'Sullivan, Jan.
 Penrose, Willie.
 Perry, John.
 Quinn, Ruairi.
 Rabbitte, Pat.
 Ring, Michael.
 Ryan, Eamon.
 Ryan, Seán.
 Sargent, Trevor.
 Sherlock, Joe.
 Shortall, Róisín.
 Stagg, Emmet.
 Stanton, David.
 Upton, Mary.
 Wall, Jack.

Tellers: Tá, Deputies Hanafin and Kelleher; Níl, Deputies Kehoe and Stagg.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

Adjournment Debate.

Residential Institutions Redress Board.

Question declared carried.

Mr. Costello: Everybody in the House has seen the man who has been on hunger strike for two

weeks outside the gates of Leinster House. The matter was raised in the House by the leader of the Labour Party, Deputy Rabbitte, and Deputy Michael D. Higgins. This 57 year old man is protesting at the manner in which he was treated by the Residential Institutions Redress Board.

We are aware of the circumstances in which the board was set up and the controversial aspects of the funding for victims of abuse in residential institutions. The purpose of the board was to provide a forum and mechanism in which to enable victims to receive compensation in a sensitive fashion. It was strongly indicated at the time by the Minister who was processing the legislation to establish the board that awards would be at least equal to what was being obtained in similar cases in the High Court. That is not the way the Residential Institutions Redress Board operates, according to the tales of woe of the man outside the gate and those of his many colleagues who are supporting him. Others have told a similar tale implying that the board is a secretive organisation which does its work behind closed doors. The media are not allowed in and the victim is not expected to be present. Lawyers present the case.

When the individual in question sought a hearing for his case, his award was reduced by €50,000, which amounted to almost 50% of the original award. On appeal, he received a slight increase. That appears to have been done as a deterrent to others appealing against awards. We must bear in mind that the awards are made in the absence of victims without allowing them an opportunity to tell their story.

The structure has fallen apart since the demise of the Laffoy commission. Many wounded people in their late 50s, 60s and 70s have been severely damaged by what happened to them when they were entrusted by the State to the care of religious orders. When the Taoiseach finally apologised on behalf of the State, they expected the institutions of the State would deal with them sensitively and properly. Above all, they expected to be given the opportunity to tell their story in a suitable forum. They want closure and reasonable compensation.

It seems incredible that a person should go before that board, receive an award and then learn that it has been halved. I do not know the reason for that decision but in this gentleman's case it seems to be because he insisted on giving his own version of his case and then various points were deducted compared to the original allocation granted. How can a person suffer such a substantial reduction in an award unless it is to be interpreted as a deterrent to other people who might seek to appeal? Surely we need transparent procedures in the redress board if we are to deal with people sensitively and ensure proper closure is given to the incredible sufferings they endured.

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. Gallagher): I am grateful to the Deputy for raising this matter as it gives me the opportunity on behalf of the Minister for Education and Science to clarify the position in regard to the

operation of the Residential Institutions Redress Board and the Residential Institutions Redress Review Committee. The Minister, Deputy Dempsey, is chairing a meeting of European Education Ministers today, otherwise he would be here.

In 1999, the Taoiseach addressed this House and, on behalf of the State, delivered a formal apology to adults who in their formative childhood years were subjected to abuse while in residential institutions. The Taoiseach also announced a range of measures that the Government intended to introduce to assist victims in recovering from the abuses to which they were subjected.

On 10 April 2002, the Residential Institutions Redress Act was enacted. This Act provided for the establishment of the Residential Institutions Redress Board to provide a mechanism to make financial awards to victims of abuse to assist them in their recovery and enhance the quality of the remainder of their lives. It also provided an alternative to having to pursue traumatic civil court cases to obtain compensation for their injuries.

While the civil courts operate on the basis that a plaintiff must prove his or her case on the balance of probability, the redress board operates on a much lower threshold of proof and does not make any finding of guilt in regard to an individual or an institution. An applicant can engage the services of a solicitor to assist him or her in submitting an application and all reasonable legal costs associated with it will be covered by the board. The Department is not privy to any legal assistance received by individual applicants.

In 2002, the Compensation Advisory Committee established by the then Minister for Education and Science produced a report, *Towards Redress and Recovery*, which established a weighting scale for the evaluation of the severity of abuse and consequential injury. In addition to this, it set out redress bands for the offer of financial awards, which are in line with High Court awards made in personal injuries cases. These scales have been incorporated into the regulations governing the operation of the board in assessing the amount of awards to be offered to applicants.

In some cases the board will make an applicant a settlement offer solely based on the victim's written application. In the event that an applicant is not satisfied with the offer, the person can opt to pursue an oral hearing of his or her case. If a person decides not to accept a settlement offer and proceeds to a hearing, the hearing takes place entirely independently of the settlement talks. Members of the board who hear the case are not informed of any settlement process. In effect, this amounts to an entirely new hearing of the case.

Following the hearing, the board notifies the applicant in writing of the award on offer and the applicant has a period of one month to accept it. The applicant can use this period to reflect on the offer and consider any legal advice received from her or his legal representative on the merits of the award. In the event that an applicant is not

[Mr. Gallagher.] satisfied with an award, the person is entitled under the Act to submit the application to the redress review committee, which will review the entire case. The review committee may uphold the amount of the award, or increase or decrease the amount.

The review committee stage of the process is, effectively, the final option available to an applicant under the redress Act process. However, an applicant still retains the right to pursue a case through the courts. However, the person would have to prove his or her case on a balance of probability and also face the prospect of legal defence arguments.

Over the last week or so, the case of Mr. Sweeney has been covered in the media and Government intervention in the matter has been sought. However, the position is that, under the terms of the redress legislation enacted by the Oireachtas, the redress board and the review committee are entirely independent in their operations. In the circumstances, it is not open to the Government or to the Minister to intervene in their affairs.

Officials of the Department of Education and Science met Mr. Sweeney on 23 April to explain the position regarding the independence of the board and the review committee. It is a matter of serious concern that Mr. Sweeney's health is at risk in this way. However, it is the case that the redress board and the review committee are entirely independent of Government.

I realise the seriousness of the case. I am disappointed that I cannot be of more assistance. I fully sympathise with the case made by the Deputy, but I hope he will appreciate my position and that of the Minister. I thank the Deputy for giving me the opportunity to explain the position. I also acknowledge the case that was made by a Deputy on this side of the House prior to my entering the Chamber.

Special Educational Needs.

Caoimhghín Ó Caoláin: I thank the Ceann Comhairle for the opportunity to raise this issue, one of great importance to the young person concerned and his family and one with much wider implications for people with disabilities and for our society as a whole. This case was brought to my attention and that of my County Donegal colleague, Pierce Doherty, by concerned disability activists and I thank them for doing so.

The case concerns a ten year old boy with cerebral palsy called Christopher. He is a wheelchair user and is the son of Daniel Keenan. Christopher attends St. Macartan's School in Bundoran, County Donegal. He is currently in second class and is due to go into third class later this year. Unfortunately for Christopher, third class and the other senior classes in the primary school take place upstairs in a building that does not have a lift.

When Christopher entered the school four years ago school management notified the Department of Education and Science that a lift would be required for a pupil in the not too distant future. Repeated approaches to the

Department over the past four years have been effectively ignored. Now with a matter of months remaining until his class moves upstairs Christopher is facing an uncertain future. Daniel Keenan, his father, has stated that the school authorities and teachers have been excellent in their support for Christopher. They have supported his campaign to have a lift, which has been costed at a mere €17,000, to be installed as a matter of priority. In addition to the repeated approaches to the Department, this campaign has included pleas to councillors, Deputies and Ministers — so far all to no avail.

The family feels that the Department of Education and Science has simply turned its back on this boy. People may glibly ask why third class cannot take place downstairs. First, this would cause major disruption to the school programme and, second, why should any school be obliged to disrupt its programme in any way on this basis? The kernel of this issue is that such a move points the finger at the disabled child as the problem rather than the school building. Third, what if there were a disabled person in each class? What would the solution be then?

Every public building should be required to be 100% accessible. These buildings are owned by the people and exist to serve the people. Legislation which could give effect to this goal is long overdue. Long overdue also is the Education for Persons with Disabilities Bill, which has yet to conclude its passage through the Houses of the Oireachtas.

When people with disabilities demand a rights based disability Bill, this case, the case of Christopher Keenan, is exactly what they have in mind. It is not some abstract theory. If people such as Christopher and his family cannot, as a last resort, go to court and require the State to provide them with equal access which is their right, then the legislation will be fundamentally flawed. It will allow the State to argue successfully that it only need vindicate such people's rights if it deems that financial resources are available. I do not want to see the Keenan family or any other family or individual having to go to court but I want their rights to be guaranteed up to and including resort to the Supreme Court, if necessary.

I hope the Minister of State and his colleague will take on board all these points as they finalise the disability Bill. It is imperative that they do. I cannot emphasise strongly enough the rights based need.

An application in respect of the case to which I refer has been lodged with the Department by Christopher's school. The Minister of State will appreciate that there is only one month remaining before the school breaks for the summer recess and Christopher and his family remain in the dark about whether he will be able to go into third class in September. That is not good enough.

His father informed my office today that the Department claimed it had not received sufficient information from the school. If that is the only obstacle, I can only appeal to the Minister of State to communicate with the school as a matter

11 o'clock

of urgency in order to ensure that the necessary works are carried out without delay and that the lift system is put in place in St. Macartan's school, Bundoran, before the new school term begins in September. I expect that he will give his wholehearted support to ensuring that this is done.

Mr. Gallagher: I am pleased to have been given the opportunity on behalf of the Department of Education and Science to clarify the position concerning the matter of accessibility of schools for all pupils with disabilities and, in particular, the pupil to whom Deputy Ó Caoláin referred.

The Department of Education and Science sanctions special educational needs supports for pupils with disabilities in primary schools on an assessed needs basis to facilitate access to special schools, special classes and also mainstream schools on an integrated basis. Such supports take the form of special class teachers, resource teachers and special needs assistants and are processed on receipt of an application from the relevant school authorities. The Department sanctioned a full-time special needs assistant in August 2000 and also five resource teaching hours in January 2001 to cater for the needs of the pupil in question.

With regard to accommodation in the school, an application under the summer works scheme was received in the Department from the school to which the Deputy referred. All applications received were assessed and categorised by reference to the criteria detailed in appendix B of the circular letter — Prim 34/03 — governing the scheme. The available funding was then distributed on a top-down basis in accordance with the categorisation hierarchy. The purpose of this approach is to ensure precise targeting of funding.

While the school's application under the summer works scheme 2004 was unsuccessful, it is open to the school's management authority to apply for the 2005 summer works scheme when it is announced later this year. The school authority should ensure that the class is appropriately situated to enable the person to participate fully in school activities. It should also use the devolved grant which is paid annually by the Department of Education and Science to deal with any urgent health and safety works.

I have taken note of the points raised by the Deputy, namely, the fact that the end of the school year is approaching, that the school has applied for emergency funding and that the Department is awaiting communication from the school. I assure him that I take this case very seriously and I will discuss it with the Minister at the earliest opportunity. I will ensure that contact is made with the school to try to discover whether a lift is needed or whether the class in which the student will attend next year is appropriately situated in order to allow him to participate fully in school activities.

Mayo Landslide.

Mr. Ring: I thank the Ceann Comhairle for allowing me to raise this matter on the

Adjournment. Last September there was a major landslide in Dooncartin and Pullathomas in north Mayo. At that time, the various State agencies, the county council, the fire service, the Garda and the Civil Defence all responded. In the interim, the Government has provided funding for the repair and construction of bridges and roads. However, questions have arisen in respect of whether funding was provided for the building of a barrier.

I recently attended a public meeting held by the residents of the area who are becoming annoyed about the way this matter is being dealt with. A number of people have been out of their homes since last September and it is now almost May. Billions of euro have been poured into disaster funds in other European countries. However, we in Ireland cannot put in place the necessary funding to resolve this problem.

The county council has stated that it does not have funding for the barrier. The Department replied to parliamentary questions I tabled yesterday to the effect that the county council was given an increase of 17.5% in respect of local government funding. The reply also stated that this increase was to cover all the projects relating to the disaster in Pullathomas in respect of which Mayo County Council applied. The council has stated that it does not have the €2.2 million necessary for the construction of the barrier. The people of the area believe it is a waste of public money to put in place bridges and roads without constructing the barrier, particularly in the event that there is a recurrence of flooding and further landslides. They want a barrier to be put in place in order that people will be able to return to their homes and farms. Those involved in farming in the area have not been able to work in the past number of months. People will feel safe in their homes if the barrier is put in place.

Has the Department of the Environment, Heritage and Local Government provided Mayo County Council with the funding? If so, will the Minister of State direct the county manager to spend it on constructing the barrier? If the money has not been provided, that is fine. However, if it has been provided, who will make the county council construct the barrier? The Department's reply to the questions I tabled yesterday clearly stated that the funding has been provided and that the barrier should be erected.

The people are confused and are becoming angry. They want this matter to be resolved. They do not want any further promises. I would have preferred it if the Department, instead of allocating money to the water section, some of which the council will have to take, and providing grant aid for roads under the local government fund, had given a grant to the disaster fund in north Mayo.

I understand that a committee has been established which will be chaired by an official from Mayo County Council. I asked the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, to chair that committee. A Minister who would be accountable to the House should be in charge of matters so that when I

[Mr. Ring.]
table questions and raise issues, I will receive replies.

It is wrong that we are faced with a situation where the Government has stated that it provided the funding, while the county council has stated that the funding is not available. The poor innocent residents of Dooncartin and Pullathomas have been left to suffer and they want this matter to be resolved.

Will the Minister of State indicate if the funding has been provided? If it has, will he direct the county manager and Mayo County Council to spend the money on the erection of the barrier? People who have been out of their homes since last September want to return to them.

My final plea is to the media which could not obtain enough news and information about north Mayo when the disaster occurred. I call on them to return to the area to see what has happened and to try to help the people to press their claims and obtain the funding from the Government which will allow them to get their lives back on track. The media were present when matters were bad. They should return and support the people in the area.

I hope the Minister of State will provide a satisfactory reply. The Department has stated that the funding is in place. If so, will the Minister of State oblige the county council to direct the county manager to spend it on providing the barrier?

Mr. Gallagher: The position in respect of this matter was set out in the reply to Questions Nos. 800, 801 and 833 tabled yesterday by the Deputy regarding the landslide in north Mayo last September.

Mayo County Council's general purpose grant from the Department for 2004 is just short of €30 million. The allocation represents an increase of 17.5% over the comparable allocation for 2003 and is well above the average increase for local authorities generally. In determining the allocation, consideration was given to the demands on the council arising from the landslide in the Dooncarton area. In December, 2003 the council was notified of its general purpose allocation for 2004 and that this funding could be used by the council to contribute to the carrying out of such works as deemed necessary to prevent a recurrence of the landslide. It is now a matter for the council to determine the appropriate allocation for these works.

The general purpose allocations from the local government fund are a contribution towards the

day-to-day operational expenses of a local authority and it remains a matter for the local authority to prioritise its expenditure in the context of the budgetary process. The funding provided to the council through these grants has increased dramatically since this Government first came into office; in fact it has more than doubled since the 1997 initial allocation.

The council's estimated cost of repairing public roads and bridges in the North Mayo area as a result of the landslide was €2,030,500. A grant of €571,000 was paid by the Department to the council in 2003 for immediate remedial works and I have allocated a further special grant of €1,459,500 to the council in 2004 for the improvement, repair and protection of roads and bridges in the area affected by the landslide. These allocations fully meet the estimate made to my Department by the council.

The county council has also incurred expenditure of €25,000 in carrying out repairs to some water supply schemes. This expenditure was taken into account in the Department's 2004 rural water programme block grant allocation of €8 million to the council, an increase of over 63% on the 2003 outturn sum of €4.9 million.

In addition, the Department is continuing to recoup to Mayo County Council's 90% of the cost of providing emergency accommodation to households affected by the 2003 landslide. To date, an amount of €7,713 has been recouped and a further recoupment of €13,076 will be made shortly.

I appreciate the extra burden that the events at Dooncarton have placed on the council's resources. However, it should be noted that the financial resources of the council have increased considerably due to enhanced support from central funding.

I understand from Mayo County Council that it has established an implementation working group which is in liaison with the local committee. Works on infrastructure are continuing and the council is in discussion with the committee regarding these works which include protective ditches, berms and fences. When the final examination of protection works required has been completed, the council will be in a position to assess what barriers or other engineering solutions may be needed.

The allocations to which I referred fully met the estimate made to the Department by the council.

The Dáil adjourned at 11.15 p.m. until 10.30 a.m. on Thursday, 29 April 2004.

Written Answers.

The following are questions tabled by Members for written response and the ministerial replies received from the Departments [unrevised].

Questions Nos. 1 to 30, inclusive, answered orally.

Questions Nos. 31 to 63, inclusive, resubmitted.

Questions Nos. 64 to 70, inclusive, answered orally.

Social Welfare Code.

71. **Ms McManus** asked the Minister for Social and Family Affairs if she has received a response from Commissioner Wallstrom to the information she supplied regarding Government proposals for restrictions to social welfare entitlement aimed at persons from other EU states after 1 May 2004; and if she will make a statement on the matter. [12051/04]

75. **Mr. Gormley** asked the Minister for Social and Family Affairs the measures being put in place to protect citizens of EU accession countries, currently availing of supports, after 1 May 2004. [12095/04]

113. **Mr. G. Mitchell** asked the Minister for Social and Family Affairs the new arrangements being made by the Government which will affect citizens from the accession states, as well as those currently living in the EU but not resident here or in the United Kingdom, who seek to travel and work in Ireland after 1 May 2004; and if she will make a statement on the matter. [10010/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 71, 75 and 113 together.

As I outlined to the House during the course of the passage of the Social Welfare (Miscellaneous Provisions) Bill 2004, the Government has decided to restrict access to certain social welfare payments by introducing a “habitual residence condition” as an additional condition to be satisfied by a person claiming a social assistance payment or child benefit. This is not a transitional measure under the EU accession treaty arrangement but a permanent provision in our social welfare code. This new condition is designed to safeguard our social welfare system from abuse by restricting access to social assistance and child benefit payments for people from other countries who have little or no connection with Ireland.

The new condition will require a claimant for social assistance to be habitually resident in the State or the rest of the common travel area — Great Britain, Northern Ireland, the Channel Islands and the Isle of Man — for a substantial continuous period. If they have been present in the State for less than a two year period it shall be presumed that they are not habitually resident and the onus will be on them to prove otherwise. If the claimant satisfies the two year provision, he

or she will still be required to satisfy the general requirements relating to habitual residence.

A person must establish a degree of permanence to be considered habitually resident in the State. The term “habitual residence” is well known in other jurisdictions and in EU legislation and has been clarified in an EU Court judgment. It is intended to convey a degree of permanence in the person’s residence here. Clearly the duration and continuity of their residence would be important factors as would their intentions in that regard.

The following factors, as set down by EU case law, will be considered in determining whether a person satisfies the “habitual residence condition”: length and continuity of residence; employment prospects; reasons for coming to Ireland; future intentions; centre of interest, for example, family, home, connections. Each case will be examined on the facts and the person’s degree of permanence in the State and no single factor will be conclusive. People who claim welfare payments but do not satisfy the habitual residency test will be assisted to return home and the necessary arrangements will be made in co-operation with the Department of Justice, Equality and Law Reform.

These measures are being introduced to ensure our social welfare system does not become overburdened. It is a prudent and sensible measure. While the EU treaties provide for full freedom for citizens of the accession states to move freely through the enlarged EU they do not provide for automatic access to labour markets. Under the accession treaties, the EU has put in place a transitional measure, by which existing member states will be able to exercise discretion as to the extent of access of persons from the new members states to their respective labour markets. Unlike other member states, Ireland is not imposing any restrictions on the numbers of people from the new member states who wish to come here and work. This Government gave a commitment that EU citizens who want to come and work here from 1 May are welcome to do so and we will honour that commitment.

The Government has recently received a request from the EU Commission seeking information on the transitional measures introduced by the Government on free movement of workers from the accession countries. In response to the Commission’s request my Department will provide full details of the new habitual residence condition.

Social Welfare Benefits.

72. **Mr. Ferris** asked the Minister for Social and Family Affairs the progress which has been made on extending the existing free travel system for pensioners to enable them make point-to-point journeys within the Six Counties. [11950/04]

104. **Mr. O’Shea** asked the Minister for Social and Family Affairs the position regarding the implementation of an all-Ireland free travel scheme for pensioners; and if she will make a statement on the matter. [12055/04]

111. **Mr. Morgan** asked the Minister for Social and Family Affairs if she is in regular contact with the department of regional development in regard to an all-Ireland free travel scheme. [11948/04]

140. **Mr. Crowe** asked the Minister for Social and Family Affairs the progress which has been made on the development of a card based pass system which will enable all-Ireland free travel. [11946/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 72, 104, 111 and 140 together.

All persons aged 66 years or over who reside in the Republic as well as certain categories of people under that age are entitled to free travel in the South under my Department's free travel scheme. Under the concessionary fares scheme operated by Translink in the North, people aged 65 years and over who live in Northern Ireland are eligible to free travel within the North. Under these existing arrangements, free travel pass holders in Northern Ireland and the Republic can also avail of free cross-Border journeys on bus and rail services.

The programme for Government contains a commitment to introduce a system of All-Ireland free travel for pensioners and other eligible social welfare customer categories. This would enable passholders to make onward journeys free of charge in each jurisdiction. I intend to have this scheme in operation before the end of the Government's term of office.

My Department is co-operating with the Rail Procurement Agency towards the introduction of an integrated public transport ticketing system in the greater Dublin area, for free travel pass holders as well as for the general public. When it becomes operational in 2005-6, this system will involve the use of smart card technology. In developing the All-Ireland free travel scheme, my Department will discuss with the participating transport operators the feasibility of using smart card technology in that context. A similar type of smart card system already operates on Translink services in the North. Each card incorporates a photograph and signature of the pass holder as well as a card expiry date. Card readers on buses and trains ensure that every journey undertaken can be costed accurately and with minimum inconvenience to the customer and the transport operators.

The use of this technology by all the operators who are likely to participate in an all-Ireland free travel scheme, including Bus Éireann and Iarnród Éireann, would be beneficial from an administrative, accounting and control perspective. Officials from my Department have held initial discussions on the all-Ireland free travel scheme with their counterparts in the Department for Regional Development for Northern Ireland. There are a number of policy and operational issues to be resolved in connection with the new scheme, including its resourcing and the options for joint funding. My Department will continue to progress this matter with the Northern authorities this year. However,

it is likely to take some time to finalise the various technical issues and agree transport operator contracts and budgetary arrangements for the scheme.

73. **Mr. Boyle** asked the Minister for Social and Family Affairs the reason the Eircom company is allowed to disconnect phone lines for non-payments to users who have phone rental paid for by her Department. [12088/04]

Minister for Social and Family Affairs (Mary Coughlan): Where customers are in debt to Eircom due to non-payment of their phone call bills, Eircom has a policy for debt recovery. This can culminate in disconnection of the telephone line in persistent bad debt cases. Customers then have to pay a fee to get reconnected.

In the past, this policy applied equally to social welfare customers in receipt of the telephone allowance, even though my Department was continuing to meet the standing charge element of client bills in these cases through the telephone allowance. Following discussions initiated by my Department, Eircom has agreed to revise its debt management policy regarding defaulting customers who are in receipt of the telephone allowance.

From August 2003, Eircom implemented a new debtor policy on a pilot basis for customers in receipt of the telephone allowance. Since then, any such customers are no longer disconnected but have their outward phone service barred. This restriction, known as outward service barred or OSB, means that they can still receive calls and can make emergency calls but cannot make other outward calls. In this way, customers do not add to the debt already owed to Eircom. This procedure can be invoked by Eircom where the balance on a customer's two monthly bill is over a specified amount.

Eircom has stated to my Department that if this change in policy resulted in a substantial increase in the total amount of arrears outstanding from this particular group of clients, it would consider introducing a limit on the amount of time a customer could remain on outward service barred. Following a recent review of its policy, Eircom has identified that debt levels were increasing for some defaulting telephone allowance recipients. Accordingly, Eircom has informed my Department that it intends to limit the duration that customers can remain on outward service barred to four months. This is in cases where customers refuse to make any repayment towards their outstanding liabilities. As far as my Department is aware, this revised procedure has not yet been implemented by Eircom. Ultimately, the customer debt management policies of Eircom are a commercial matter for that company to determine.

Where people are having difficulty in meeting their liabilities, they can receive free advice on managing their financial affairs and help in dealing with creditors from the monetary advice and budgeting service, MABS, which is operated by my Department. I strongly urge anyone facing this situation to contact their nearest MABS adviser.

EU Presidency.

74. **Ms McManus** asked the Minister for Social and Family Affairs her Department's programme for the remaining period of the Irish EU presidency; and if she will make a statement on the matter. [12050/04]

Minister for Social and Family Affairs (Mary Coughlan): My overall focus for the Irish Presidency has been and will continue to be advancing the EU social policy agenda generally and, in particular, making progress in realising the ten year goals set by the Lisbon European Council in 2000.

One of the goals of the Lisbon agenda is to achieve greater social cohesion. Based on an analysis of the second round national action plans on social inclusion, 2003-2005, a joint Council-Commission inclusion report was adopted by the Council of Ministers in March and reflected in their key messages to the spring European Council. At the initiative of the Presidency, the employment and social

protection committees together prepared a key messages paper on employment, social protection/inclusion and gender equality. At its meeting on 4 March 2004, the Employment, Social Policy, Health and Consumer Affairs Council unanimously endorsed this paper for transmission to the spring European Council.

The four key social protection/inclusion messages relate to strengthening social inclusion; making work pay — which was the subject of our informal ministerial meeting in January; ensuring that pension systems support longer working lives; ensuring accessibility, sustainability and quality of health and long-term care for the elderly. The spring summit noted these and other key messages with approval and I was pleased to note that these messages were reflected throughout the spring Council conclusions.

One of the priorities of the Irish Presidency was to secure agreement with the European Parliament on the reform and simplification of Regulation 1408/71 which co-ordinates the social security systems of the member states so as to ensure that migrant workers, or members of their families, are not penalised in terms of social security when they exercise their right to free movement. Following acceptance by the European Parliament last week, the new regulation was deemed to have been adopted on Monday of this week after my colleagues at Council agreed to accept the two amendments proposed by Parliament.

Following the accession of the ten new member states, we will host a special conference in May, in co-operation with the Hungarian Government and the Commission. The conference will address both the implications of the current reform of the co-ordination regulations for all 25 states and the particular implementation challenges facing new member states in this field.

The issue of migration is also a priority for my Department during the Irish Presidency. I recently hosted a conference on the theme of "Reconciling Mobility and Social Inclusion". The main focus of the conference was on the role of

social and employment policies in achieving social inclusion for people moving within the EU. In the area of family policy and to mark the 10th anniversary of the UN International Year of the Family, the Irish Presidency will host a major international conference the title of which will be "Families, Change and Social Policy in Europe".

The Irish Presidency will progress an initiative taken by previous Presidencies by hosting, in Brussels at the end of May, a third meeting of people experiencing poverty. Our aim is to further develop ways of promoting participation by, and consultation with, people experiencing poverty in the context of developing policies in this area. I will update my EU colleagues on the outcome of the various conferences at the next meeting of the Employment, Social Policy, Health and Consumer Affairs Council which will take place at the beginning of June.

I am happy that these events represent a substantial programme of work and a significant contribution to moving forward the EU social policy agenda.

Question No. 75 answered with Question No. 71.

Social Welfare Benefits.

76. **Mr. McCormack** asked the Minister for Social and Family Affairs the numbers availing of and the amount of funding involved in the farm assist scheme in each year it has been in operation, giving details on a county basis; and if she will make a statement on the matter. [12178/04]

Minister for Social and Family Affairs (Mary Coughlan): Farm assist is a weekly means tested scheme which provides a payment for low income farmers. The scheme was introduced in April 1999. The amount paid to each farmer is dependent on a number of factors. These include family size, whether the spouse-partner is working and the value of means assessed. Farmers who have income from another source, such as other self-employment, insurable employment, capital and so forth, may qualify for a payment subject to such earnings being included in the means test.

The maximum personal rate per week is €134.80 with increases of €89.40 per week being paid in respect of a qualified adult and €16.80 per week for each child dependent, or €8.40 at the half rate. The average payment to farm assist customers in April 2004 was €143.59 per week. The scheme, therefore, makes a valuable contribution to supporting those on low incomes in the farming sector and to combating social exclusion in rural communities.

In respect of the statistical information sought by the Deputy, I am attaching to my response a tabular statement which shows the numbers of recipients by county at the end of each year since 1999. It should be noted that statistics are maintained only by local office catchment area and these areas do not in all cases correspond with county boundaries. Furthermore, with regard to local office areas, the only data

[Mary Coughlan.] available is about the numbers availing of the scheme. This, however, gives a reasonable indication of expenditure by county.

The highest numbers of recipients are based in the counties of Mayo and Donegal. Between these two counties recipients account for

approximately one third of all farm assist recipients, suggesting that spending is reasonably targeted at disadvantaged areas. The numbers availing of the scheme have grown by 837 over the five year period since the scheme was introduced. Expenditure on the farm assist scheme since it commenced in 1999 is as follows.

Year	1999	2000	2001	2002	2003
Cost	€19.9 million	€41.4 million	€50.6 million	€58.6 million	€62.8 million

It is estimated that the scheme will cost €69.7 million this year, which is a 350% increase in expenditure since it commenced in 1999 and is

proof of this Government's commitment to low income families who are engaged in farming.

Farm Assist Spending (nationally) and Number of Recipients

(Breakdown by County) 1999-2003

(Statistics have been compiled from data that is maintained on a local office catchment area basis which do not necessarily correspond with county boundaries.)

County	1999	2000	2001	2002	2003
Carlow	57	61	72	72	71
Cavan	306	309	325	306	313
Clare	472	478	468	467	464
Cork	469	530	551	578	596
Donegal	1071	1100	1172	1213	1220
Dublin	10	13	11	11	11
Galway	871	910	846	887	897
Kerry	759	731	732	696	698
Kildare	42	44	44	45	50
Kilkenny	84	100	111	112	127
Laois	75	85	90	96	94
Leitrim	229	241	250	252	260

EU Presidency.

77. **Ms Burton** asked the Minister for Social and Family Affairs the progress that has been made on the legislative priority she has set for the Irish Presidency of the adoption by the Council of Ministers and the European Parliament of the proposals to simplify and modernise EU regulations on social security of migrant workers; and if she will make a statement on the matter. [12039/04]

Minister for Social and Family Affairs (Mary Coughlan): The EU regulation to which the Deputy refers is Regulation 1408/71, which co-ordinates the social security systems of the member states so as to ensure that migrant workers, or members of their families, are not penalised in terms of social security when they exercise their right to free movement.

Regulation 1408/71 has been amended on many occasions to keep up with developments arising from European Court of Justice case law, various enlargements of the Union and legislative developments in member states. For these reasons, the Commission submitted a proposal to reform and simplify Regulation 1408/71 to Council in December 1998 and consideration of

it commenced in 1999 during the Finnish Presidency. In December of last year, following the political agreement reached by the Council of Ministers on the proposed regulation, I made it a priority for the Irish Presidency of the Council to secure agreement with the European Parliament during second reading, thus avoiding the lengthy conciliation process.

A first step was taken towards this goal on the 26 January when Council reached agreement on a common position, which was then presented to the European Parliament on 28 January. The employment and social affairs committee of the Parliament strongly endorsed the common position, with two minor amendments, in a vote on 6 April and this was followed by a plenary vote in Strasbourg on 20 April where Parliament voted overwhelmingly to accept the common position together with the committee's two amendments. Following this, the regulation was deemed to have been adopted on Monday of this week after my colleagues at Council agreed to accept the two amendments proposed by Parliament. This adoption will be formalised later this week when the regulation will be officially

signed on behalf of the Presidents of the Council and the Parliament.

This Regulation is one of the most important social measures to emerge from Europe in the past number of years and will have a very real impact on the lives of ordinary citizens throughout the European Union. The adoption of the regulation, which is essential to removing barriers to free movement of persons, is a striking demonstration of the fact that co-decision can work smoothly and efficiently in a constructive spirit between the Council and the Parliament.

Given the importance of this regulation to achieving the social objectives of the Union, I am delighted to be able to announce its adoption and confirm that I have achieved what was one of my main priorities for the Irish Presidency. This is the culmination of almost five years of painstaking work by successive Presidencies and it can be a source of pride to all of us that the Irish Presidency has had such a central role in its completion.

Pension Provisions.

78. **Mr. O'Shea** asked the Minister for Social and Family Affairs the number of persons who had taken out a personal retirement savings account by the end of January 2004; if she has satisfied herself with the level of take up of the accounts; her plans to promote awareness of these accounts; and if she will make a statement on the matter. [12054/04]

Minister for Social and Family Affairs (Mary Coughlan): Information on the number of personal retirement savings accounts, PRSAs, opened is received by the Pensions Board from PRSA providers at the end of each quarter. The latest figures available relate to the end of December 2003 and these show that 19,022 accounts have been opened with a total asset value of €41 million. This is a significant improvement on the position at the end of September 2003 when a total of 6,707 accounts were in existence. Figures for the period up to March 2004 are currently being collected by the Pensions Board and will be made available by the board in the next couple of weeks.

The increase in the number of new accounts opened since September 2003 is encouraging and I look forward to seeing further progress when the March 2004 figures are available. We are at an early stage in our programme to increase overall pensions coverage but it is clear that certain progress has already been made. It has always been acknowledged that, given the nature of pensions, achievement in this area would be slow. In 2003, the Pensions Board ran a very successful pensions awareness campaign on my behalf to supplement the publicity effort being made by PRSA providers. An assessment of the situation at the end of the year showed a high level of awareness amongst the public of pensions issues. The challenge is to translate this awareness into increased supplementary pensions coverage.

I have provided further resources this year to continue this awareness campaign.

In this regard, in early March, I launched an information booklet on pensions options for women. A series of local pensions fora were also run in March in areas identified in the CSO survey as having a low level of supplementary pensions coverage. The fora were backed up by local press and radio coverage and, indeed, they also resulted in some welcome national radio coverage. Upcoming initiatives include extensive promotion of women's pension issues as well as TV and radio advertising. It is also planned to have another pensions awareness week later on in the year.

79. **Mr. Quinn** asked the Minister for Social and Family Affairs the number of persons currently in receipt of a State pension; her Department's assessment of the numbers of persons likely to be in receipt of State pensions over the next decade; and the provisions which are being made in that regard; and if she will make a statement on the matter. [12058/04]

Minister for Social and Family Affairs (Mary Coughlan): At the end of March 2004, there were 201,788 people receiving an old age contributory or retirement pension and 86,194 receiving an old age non-contributory pension. An actuarial review of the social insurance fund, undertaken on behalf of my Department in 2002, projected that the number of recipients of old age contributory and retirement pensions will increase to 255,000 by 2011 and 321,000 by 2016. The increase will, to some extent, be balanced by a reduction in the number of people receiving an old age non-contributory pension. The numbers receiving this pension have declined by over 20% in the last ten years which reflects improved social insurance coverage and increased labour force participation, particularly amongst women.

In common with other European countries, the population of Ireland is ageing as a result of a combination of increasing life expectancy and a declining birth rate. The decline in the birth rate is relatively recent and this, coupled with the effects of high emigration for much of the period up to the 1990s, has resulted in Ireland having the lowest proportion of older people in the EU, with 11.2% aged 65 years and over, compared to the current EU average of 16.1%. The proportion of older people in Ireland will remain at broadly the same level for the next ten years after which it is projected to increase rapidly to 15% in 2021, 19% in 2031 and 28% in 2056. A similar situation exists with regard to the number of pensioners relative to the number at work.

Ageing, therefore, presents the same challenge to Ireland in meeting growing pension costs as to other countries except that we have a longer period to prepare for its full impact. The population projections suggest that no special measures are required in the time scale envisaged by the Deputy. However, the Government is

[Mary Coughlan.] making preparations, through the National Pensions Reserve Fund, to part-fund state pensions costs from 2025 onwards.

Pensions have been an important issue at EU level in recent years. This is not surprising given that the challenges facing pensions systems are more immediate for other member states. The EU has assessed national pensions systems under agreed objectives in the area of adequacy, financial sustainability and modernisation. In this regard, a joint EU Commission and Council report, published in 2003, considered that Ireland has made good progress in ensuring both the financial sustainability and adequacy of our pensions system. The report concluded that our system appears to be, in broad terms, financially sustainable despite projected major increases in future pensions expenditure. The situation will be kept under review.

Social Welfare Benefits.

80. **Mr. Hogan** asked the Minister for Social and Family Affairs if she will make a statement on the operation of the bereavement grant scheme and the number of grants approved for 2001 and 2002. [12176/04]

Minister for Social and Family Affairs (Mary Coughlan): The bereavement grant scheme was introduced on 2 February 1999 as a replacement for the former death grant scheme. The scheme is designed to alleviate the cost of funeral expenses and post bereavement costs on the death of a person who has paid pay related social insurance or on the death of the spouse, widow or child dependent of such a person. There were 20,778 grants approved in 2001 and 19,553 in 2002.

The scheme is a payment based on PRSI contributions and takes the form of a once off grant of €635, payable to the person normally responsible for the payment of the funeral bill. The scheme covers virtually all insured persons, including the self employed and people covered by the modified rate of social insurance, for example, public servants. The contribution conditions generally ensure that most insured persons would have an eligibility to a grant.

In the case of persons receiving contributory social welfare payments, such as old age or invalidity pensioners and their dependants, an automatic entitlement to the grant exists. In instances where a person has insufficient PRSI contributions to qualify for the grant, they may receive assistance under the supplementary welfare allowance scheme. Under this arrangement, a health board may make a payment to help meet once off expenditure, for example, in respect of funeral expenses. With regard to the administration of the scheme, my Department makes every effort to ensure that bereavement grants are paid as quickly as possible after a death has occurred. In most cases,

it takes an average of three weeks to fully process an application for the grant.

This grant is only one of a number of measures provided in the context of bereavement. In this regard, other supports are also offered by my Department. Where a person dies while receiving a social welfare payment the payment usually continues to be paid for six weeks after the death. A widowed parent grant is a once off payment of €2,700 designed to assist with the income support needs of a widow or widower with dependent children. This grant is payable in addition to bereavement grant. The Family Support Agency, which operates under the aegis of my Department, administers a scheme of grants to voluntary organisations including bereavement counselling and support services. Last year, €1 million was provided directly to such organisations in the context of bereavement services. My Department meets with the Irish Association of Funeral Directors on an ongoing basis. The range of post bereavement supports, including bereavement grant, are actively publicised by its members.

I am satisfied that a comprehensive range of measures, financial and otherwise, have been put in place which recognise the needs of families at this particularly traumatic time. The bereavement grant scheme is an affirmation of the importance placed by this Government on reducing the hardship and financial worries which bereavement can cause.

Family Support Services.

81. **Mr. S. Ryan** asked the Minister for Social and Family Affairs if she will make a statement on the work to date of the Family Mediation Service. [12062/04]

Minister for Social and Family Affairs (Mary Coughlan): The Family Mediation Service is a free, professional, confidential service that enables couples who have decided to separate to reach agreement on all issues related to their separation. It assists couples to address the issues on which they need to make decisions, including post-separation living arrangements, finances and parenting arrangements to enable children to have an ongoing relationship with each parent. The benefits of family mediation as a non-adversarial approach to resolving the issues that arise on separation are increasingly being recognised worldwide.

Over the past number of years there has been a significant expansion of the Family Mediation Service to meet a growing need for its service. It is now available in 14 centres throughout the country; this includes two new centres, which opened last year, in Sligo and in Waterford city.

One of the key issues raised by participants at the series of regional fora on the family, which I hosted around the country last year, were the benefits of this service for families and the need for additional centres. In response to this, I made additional funds available to the Family Support

Agency in budget 2004 to allow for a further two Family Mediation Service offices to be opened this year. One of these will be in the north west, expanding the availability of the service in that region, and one in the Midlands.

There has been a dramatic increase in the number of couples seeking mediation, as the benefits of mediation become more widely known. Last year the service helped over 1,403 couples which compares with the figure of 250 a year who used the service from 1986 up to the end of 1997, before its nationwide expansion. I pay tribute to the professionalism and hard work of the family mediators who have made a significant contribution to the promotion of the service over the years.

In May of last year I took the development of the service one step further by establishing the Family Support Agency, which will provide a solid and secure base from which this important family service can grow and develop in the future. The Family Support Agency brings together the programmes and family support services formerly administered directly by my Department. These include services to support families in times of difficulties, including the Family Mediation Service, support for voluntary organisations providing counselling and other family supports and a family resource centre programme, which supports and develops local communities. The Family Support Agency is responsible this year for a budget of over €20 million for the provision and development of its services.

Departmental Staff.

82. **Mr. Crawford** asked the Minister for Social and Family Affairs the number of medical referees employed by her Department; the medical qualifications of each of the referees; if psychologists and psychiatrists are employed from the point of view of determining the medical disability of persons claiming disability benefit, disability allowance or invalidity pension on the basis of their mental incapacity; if she has satisfied herself that there is a sufficient number of persons with expertise in her Department to deal with the issue; and if she will make a statement on the matter. [12172/04]

Minister for Social and Family Affairs (Mary Coughlan): Where a person claims a payment from my Department in respect of illness, an opinion regarding the person's medical condition is given in the first instance by their own doctor. Where required, a second opinion is provided by medical assessors employed by my Department for the guidance of the Department's deciding officers who ultimately determine entitlement.

Currently, there are 18 medical assessors, as well as the chief medical adviser and the deputy chief medical adviser. They are recruited via the Civil Service Commission and a condition of their appointment is that they must have at least six years experience in general medical practice. They are fully qualified and experienced medical

practitioners who have full registration in accordance with Medical Council criteria. Prior to qualification as doctors, each undergoes psychiatric training to the appropriate level.

Among the medical assessor cadre are individual doctors with post-graduate and higher qualifications in various fields of occupational medicine, including psychology and psychotherapy. All have considerable expertise in the area of disability assessment, including mental health and all other health related problems. Ongoing medical education in the evaluation of disability is provided by national and international experts, including distinguished psychiatrists. There are also regular meetings and seminars under the direction of the chief medical adviser where medical issues and developments in the occupational medicine field are discussed.

When a claimant is called for a medical examination, the medical assessor will have available the initial medical diagnosis from the claimant's own doctor, supplemented, where appropriate, by relevant specialist and other reports. The claimant's doctor is informed and may attend the medical examination if desired. Where considered necessary, there is provision for the chief medical adviser or the chief appeals officer to seek specialist consultant advice in individual cases. In the course of medical examinations of claimants, all relevant available medical information is taken into account. Any information provided by the claimant is also taken into account. Where further specialist advice is considered necessary, it is obtained.

I am satisfied that claimants are treated in a fair and equitable manner having regard to the need to ensure that the conditions for entitlement to disability payments are upheld. I am also satisfied that my Department has a sufficient number of medical assessors and that they have sufficient expertise to discharge their responsibilities.

Social Welfare Benefits.

83. **Mr. Crowe** asked the Minister for Social and Family Affairs the progress she has made in recent months to address the problem of fuel poverty. [11947/04]

95. **Aengus Ó Snodaigh** asked the Minister for Social and Family Affairs the extent of the fuel poverty problem in the State. [11952/04]

99. **Mr. Kehoe** asked the Minister for Social and Family Affairs the numbers currently receiving fuel allowance; and the annual cost for each of the years from 1997 to 2003. [12171/04]

105. **Mr. Rabbitte** asked the Minister for Social and Family Affairs if she has plans to extend the period during which the fuel allowance is awarded, in view of the fact that low temperatures can be experienced outside of the October to March period; and if she will make a statement on the matter. [12061/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 83, 95, 99 and 105 together.

My Department provides financial supports to assist householders who are in receipt of long-term social welfare or health board payments and who are unable to provide fully for their own heating needs. A fuel allowance payment of €9 per week is paid to eligible households, with an additional €3.90 per week being paid in smokeless zones, bringing the total amount in those areas to €12.90 per week. These payments are made for the duration of the fuel season which lasts for 29 weeks from the end of September to mid-April. The fuel allowances represent a contribution towards a person's normal heating expenses. In addition, many households also qualify for electricity and gas allowances. The question of increases in the rates of fuel allowance or an extension of the fuel allowance season is a matter for consideration in a budgetary context.

The number of households receiving fuel allowances in the period 1997 to 2004 has ranged from 258,000 to almost 287,000. At present, approximately 270,000 households receive fuel allowances. Expenditure on fuel allowances has risen from €57 million in 1997 to an expected €84 million this year. Details of the numbers receiving fuel allowance and the annual cost for each of the years from 1997 to 2004 are set out in a tabular statement which I will make available to the Deputy.

The extent to which people on social welfare can afford fuel is kept under review in my Department. The objective of social welfare provision in this regard is to ensure that the combined value of weekly social welfare payments and fuel allowances rises in real terms, after compensating people for inflation, including fuel price inflation. Significant increases in recent years in primary social welfare payment rates, such as the old age pension, have improved the income position for people dependent on the social welfare system. Primary payment rates are payable for the full 52 weeks of the year; hence increases in these rates benefit a wide range of recipients.

Giving people a real increase in their primary payment for 52 weeks of the year is a more expensive option than increasing the fuel allowance payment rate for part of the year or extending the period during which fuel allowances are paid. However, I believe it is the correct approach to take as it gives people greater flexibility in meeting their needs. That, coupled with programmes to improve the fuel efficiency of the housing stock, will bring about the reduction in poverty levels, including fuel poverty levels, that I am working to achieve. In that regard, my Department is currently in discussion with Sustainable Energy Ireland and the Combat Poverty Agency with a view to planning a fuel poverty project. It is proposed to carry out an action research project in designated

geographical areas where eligible persons will have an energy audit carried out in their homes.

The energy audit will include energy advice to the household as well as minor remedial work such as the installation of roof space insulation, draft proofing, fitting of hot water cylinder lagging jackets and energy efficient light bulbs. The project proposes to target persons over 65 years and long term disabled persons, who are in receipt of a fuel allowance from my Department. The project will evaluate the effects of the measures undertaken from the point of view of comfort levels and health effects, as well as changes in fuel costs and carbon dioxide emissions. This research is not intended to measure the full extent of fuel poverty but it may give some indications in that regard.

Social Welfare Code.

84. **Mr. J. O'Keeffe** asked the Minister for Social and Family Affairs if there will be development of the homemaker's scheme, in view of recommendations of the review which was undertaken; and the recommendations of this review. [12165/04]

Minister for Social and Family Affairs (Mary Coughlan): Measures are in place since 1994 to protect the pension entitlements of those who take time out of the paid workforce for caring duties. This scheme, known as the homemaker's scheme, allows for up to 20 years to be disregarded when a person's insurance record is being averaged to assess entitlement for contributory pension purposes.

My Department is at present finalising the second phase of a review of the qualifying conditions for old age contributory and retirement pensions which includes an examination of the homemaker's scheme. The first phase report, published in 2000, raised a number of general issues regarding the homemaker's scheme and these are being examined in more detail in the second part of the review. The main issues being examined include replacing the existing system of disregards with one based on credited contributions and the implications of backdating the scheme to an earlier date than 1994.

I expect the review will be ready for publication in the next few months and developments in the homemaker's scheme will be considered in the light of the conclusions of that report.

Decentralisation Programme.

85. **Ms O'Sullivan** asked the Minister for Social and Family Affairs if, in regard to proposals for decentralisation, a survey has been undertaken to establish the number of persons employed in her Department and in boards or agencies operating under the aegis of her Department who are willing to move to the new locations announced by the Minister for Finance in his budget speech;

the results of such a survey; and if she will make a statement on the matter. [12057/04]

93. **Ms O'Sullivan** asked the Minister for Social and Family Affairs the decentralisation plans for her Department following the announcement in the December budget 2003 by the Minister for Finance of the relocation of certain sections of her Department to Drogheda, Buncrana, Donegal, Carrick-on-Shannon Sligo, Monaghan, and Carrickmacross; the time scale in which she hopes the decentralisation plan for her Department will be complete; and if she will make a statement on the matter. [12056/04]

129. **Mr. Sargent** asked the Minister for Social and Family Affairs if she will report on the situation regarding the relocation of her Department. [12099/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 85, 93 and 129 together.

Under the Government decentralisation programme, all sections of my Department currently located in Dublin will move to decentralised locations. The senior management and headquarters of the Department will move to Drogheda and other sections will relocate to Buncrana, 120; Donegal town, 230; Carrick-on-Shannon, 225, and Sligo, 100. The Department's information systems division will also be relocated, though the location has yet to be determined. In addition, the Combat Poverty Agency and Comhairle, agencies under the aegis of my Department, will be relocated to Monaghan and Carrickmacross respectively.

My Department has experience of the issues associated with decentralisation, having previously relocated functions and staff out of Dublin to Sligo, Letterkenny, Longford, Waterford and Dundalk. The new programme of decentralisation will involve major change and a key objective will be to ensure that it is implemented in a planned way and with due regard to the effects on staff and the maintenance of high standards of service. A project management structure has been established to manage the decentralisation programme within the organisation. The structure will support the two phases of the decentralisation programme, that is, the development of an overall departmental strategy and the development and implementation of plans for decentralising individual sections.

A detailed plan covering all aspects of the decentralisation process is currently being prepared. This plan will set out: the sequence of each relocation; staff placement and training plans; the estimated resources required to complete the project; the risks associated with the project and the contingency plans to deal with those risks. In addition to the preparation of this plan, the Office of Public Works, OPW, is currently in the process of securing suitable accommodation in each of the seven locations. It

is expected that details of the accommodation in each of the decentralised locations will be available shortly.

As an input to the planning process, a survey of all staff in my Department was conducted to establish initial indications of interest in the new locations. There were 3,046 responses to the survey, which represents 64% of the 4,770 staff in the organisation. The position as regards expressions of interest is: Drogheda — 120 staff; Buncrana — 15 staff; Donegal town — 51 staff; Carrick-on-Shannon — 149 staff; Sligo — 24 staff; Monaghan — four staff and Carrickmacross — 16 staff. In all, 379 indicated a wish to move from their existing location to one of this Department's new decentralised office and a further 586 wish to move to a decentralised venue in another Department.

While the survey provides a useful initial indication of staff preferences, it is recognised that the decisions which people make are likely to change as the implementation of the programme proceeds. To date, staff surveys have not been carried out in either the Combat Poverty Agency or Comhairle.

Decentralisation arrangements are being co-ordinated and controlled at a national level by the decentralisation implementation group — DIG. This group recently published a report outlining the general timeframes, strategies and procedures that are being put in place to deliver the decentralisation programme. All applications for the decentralised locations will be handled by the Civil Service Commission through the central application facility — CAF. This process is expected to commence shortly. By that stage it is also expected that the OPW will have finalised the accommodation arrangements in a number of locations.

A final date for the completion of the decentralisation programme will not be known until the CAF process is completed and suitable accommodation has been identified in the decentralised locations. However, it is expected that the programme will be substantially completed by 2006. My Department will report progress on the plan on a regular basis to the implementation committee, which will report in turn to the special Cabinet sub-committee which is overseeing the decentralisation programme as a whole.

Anti-Poverty Strategy.

86. **Ms Lynch** asked the Minister for Social and Family Affairs the steps she intends to take to bring Ireland's social spending into line with the European norm; and if she will make a statement on the matter. [12048/04]

123. **Mr. Penrose** asked the Minister for Social and Family Affairs if her attention has been drawn to the recent document produced by the Conference of Religious in Ireland which claimed that economic decisions made by the Government over the past seven years have been

[Mr. Penrose.]
totally skewed in favour of those with higher incomes; the steps she intends to take within the social welfare code to address this imbalance; and if she will make a statement on the matter. [12037/04]

142. **Mr. Gogarty** asked the Minister for Social and Family Affairs if she has considered the CORI annual socio-economic report; and the implications this will have for Government policy. [12092/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 86, 123 and 142 together.

These questions relate to the recent socio-economic review for 2004 published by the CORI justice commission entitled, "Priorities for Fairness: Choosing Policies to Ensure Economic Development, Social Equity and Sustainability". This document will make a valuable contribution to the debate on the development of socio-economic policy over the next few years. The report argues that the effect of Government budgetary decisions relating to tax reductions, social welfare increases and other factors, such as wage increases and the introduction of the special savings incentive accounts, has been to increase income inequality in Irish society. It also argues that Ireland's low spend on social protection, in GDP percentage terms, contributes to poverty, unequal income distribution and deficits in social provision.

I believe, however, that budgetary decisions must be viewed in the context of the wider economic policies which have been successfully pursued by this Government in recent years. These policies have seen significant increases in employment levels; reductions in unemployment, in particular in long-term unemployment; heavy investment in infrastructure and in public services; and substantial increases in real terms in household incomes at all income levels. This is reflected most clearly in the sharp decrease we have seen in consistent poverty rates. Consistent poverty — a combined measure using income thresholds and the experience of deprivation — is the measure used for the global poverty reduction target in the revised national anti-poverty strategy, NAPS, launched in 2002 and in the national action plan against poverty and social exclusion — NAPs inclusion — submitted to the EU in July last year.

Consistent poverty has fallen from 15.1% in 1994 to some 5.2% in 2001. The Government is committed to reducing consistent poverty to below 2% and ideally eliminating it by 2007. Ireland's GDP percentage level of social expenditure is lower than other EU states due to a number of factors. Ireland's elderly population is a third lower than the EU average, thus requiring much lower expenditure on pensions, health care and care of the elderly. Social insurance was only extended to the full working population in recent decades, as a result of which

a high proportion of current pensioners qualify for pensions under social assistance only. Ireland does not provide for supplementary pensions under the State social welfare system leaving these to be provided by private insurance, the subject of the current PRSA campaign. Expenditure on these schemes is, therefore, not included as social protection expenditure. Ireland's current level of unemployment is among the lowest in the EU, thus requiring less expenditure on unemployment related support.

Furthermore, while Ireland has had low levels of investment in social and economic infrastructure historically, we are now financing a major catch up in infrastructure with public investment running to over 6% of GDP in 2002 compared to approximately 3.5% for the other cohesion countries, Spain and Portugal and 1% to 1.5 % for developed countries such as Belgium, Denmark, Germany and the UK. The policies pursued by the Government over recent years in combating unemployment and in reducing the level of consistent poverty have brought about a significant improvement in the situation of people on lower incomes. In the period from 1998 to 2003, for example, the value of the lowest social welfare payment has increased by over 50% in nominal terms and by 19% in real terms. The Government's determination to continue to improve the position of the most vulnerable in our society is reflected in the revised NAPS and in the NAPS/inclusion which contain ambitious targets across a number of areas — including that of increasing the minimum social welfare rate to €150 per week in 2002 terms by 2007.

The implementation of these targets will ensure that we are brought further along the road to our overall goal of building a fairer and more inclusive society in which everyone has the opportunity and incentive to participate fully in the social and economic life of the country.

Departmental Staff.

87. **Mr. Ring** asked the Minister for Social and Family Affairs the number of community welfare officers that are situated around the country; the plans in place to increase the numbers of community welfare officers; and her intentions in dealing with this matter in view of the fact that due to the shift in population in parts of the country there is a shortage of such officers. [12168/04]

91. **Mr. Murphy** asked the Minister for Social and Family Affairs the plans her Department has to reform the community welfare officers' situation in view of the fact that their workload has increased. [12160/04]

124. **Mr. P. McGrath** asked the Minister for Social and Family Affairs if her attention has been drawn to the fact that there is a shortage of community welfare officers in parts of the country; the plans she has to increase the number of community welfare officers. [12173/04]

Minister for Social and Family Affairs (Mary Coughlan): I proposed to take Questions Nos. 87, 91 and 124 together.

The supplementary welfare allowance, SWA, scheme is the “safety net” within the overall social welfare system in that it provides assistance to people in the State whose means are insufficient to meet their needs and those of their dependants. The scheme, which is subject to my general direction and control, is administered on behalf of my Department by the health boards. The scheme operates under the community care programme and is delivered by community welfare officers, CWOs, and superintendent community welfare officers, S/CWOs. My Department has no function in determining entitlement in individual cases.

I am satisfied that there are sufficient numbers of community welfare officers and superintendents in the overall system to ensure that the public receives an efficient and professional service. At present, there are 53 superintendent community welfare officers and 700 community welfare officers operating from approximately 1,050 locations throughout the country. Apart from administering the supplementary welfare allowance scheme, some of these officers also perform other duties on behalf of the Department of Health and Children and the relevant local authority. In such cases the Department of Social and Family Affairs is responsible for the payment of that proportion of administrative costs which corresponds to the amount of time spent on SWA related work.

Between 2000 and 2003 I have increased funding to health boards in respect of their administration expenditure by 44% — from €29.77 million in 2000 to over €43 million last year. I have also allocated an additional €4 million in respect of 2004.

Given that the responsibility for administering the supplementary welfare allowance scheme, including the assignment of staff, rests with the health boards, it is a matter for each board to respond to variations in workloads arising from population movement and changes in workloads in its functional area. Employing increased numbers of staff is not necessarily the only appropriate response when faced with workload pressures. The health boards are, of course, subject to the same restrictions on employee numbers as apply elsewhere in the public service, including my Department, and must also achieve efficiencies where possible in response to greater demands for their services.

Policy on Families.

88. **Mr. Gogarty** asked the Minister for Social and Family Affairs the reason she believes a constitutional amendment is not needed to reflect the changes in family structures and protect the rights of children. [12093/04]

98. **Ms B. Moynihan-Cronin** asked the Minister for Social and Family Affairs the progress made

to date in her review of Government policy towards the family; when she expects the review to be completed; and if she will make a statement on the matter. [12053/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 88 and 98 together.

As Minister with responsibility for family affairs, I am engaging in a process of discussion and consideration of all issues facing families in Ireland today. In the light of this I intend to develop a strategy for economic, employment and social policies to support families.

The institution of marriage has been and, for a majority of families with children, still is the foundation for continuity and stability in family life. Its contribution overall to the well being of individuals and more generally to social cohesion goes without saying and it is entirely appropriate that the State should, as stated in the Constitution, pledge “to guard with special care the institution of marriage”. A growing proportion of marriages, however, fail with the spouses separating to live apart. The Constitution now also recognises this reality by permitting the dissolution of these marriages in certain defined circumstances and allowing those divorced to marry again under the law and set up reconstituted families. There are also growing numbers of couples living together but not entering into the legal relationship of marriage. Changing values mean that this form of family arrangement is becoming more socially acceptable.

Given the rapid changes affecting families and family life, the State is required to provide more support to assist families in difficulties than might have been the case in the past. It is my responsibility, as Minister with responsibility for family affairs, to ensure that the well being of all individuals, especially children, is safeguarded within the family and that all families, irrespective of the form they take, receive appropriate State support in meeting their caring responsibilities.

It is also possible that State policies and programmes may not be contributing as effectively as they might to strengthening families at this time of change. It was for those reasons that I embarked last year on a wide ranging public consultation process by means of regional family fora. A report on this public consultation entitled, “Families and Family Life in Ireland: Challenges for the Future”, is now available from my Department. One of the points that came through from many participants at the fora was the need for the State, while guarding with special care the institution of marriage, to bear in mind also the different forms of family in developing policies to promote the well being of individual family members.

I am now urging interested groups to use the report on the public consultation process as a basis for a wider debate on the issues raised during this 10th anniversary year of the UN

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International Year of the Family and to forward their views to the family affairs unit of my Department. It is my intention that this consultation process will culminate in a clear, coherent and comprehensive strategy for economic, employment and social policies to support families to be issued by the end of this year. In drawing up the strategy, I will also take full account of the findings of the international conference on families, change and European social policy to be held in Dublin Castle in May, which is being hosted by the Irish EU Presidency, with the support of the EU Commission, to mark at EU level the 10th anniversary of the UN International Year of the Family. In addition, Ireland has been directly involved in an OECD study entitled, "Babies and Bosses — Reconciling Work and Family Life." The findings of this study will also be taken into account in drawing up the strategy.

If this wide ranging review of policies to support and strengthen families and family life, currently underway, were to show, when completed, that the current constitutional provisions are a barrier to the introduction of desirable and important policies to achieve these objectives for all families, then the issue of changing or further developing these provisions may have to be considered. I consider, however, that I can make a greater immediate contribution to the well being of family members, in my role as Minister with responsibility for family affairs, by concentrating on co-ordinating the development and implementation of economic, employment and social policies to strengthen families.

Question No. 89 answered with Question No. 70.

Social Welfare Benefits.

90. **Mr. Broughan** asked the Minister for Social and Family Affairs the social welfare entitlements of asylum seekers from the EU applicant countries who have been told by the reception and integration centre to leave Government provided accommodation by 1 May 2004; if her Department has had discussions with the Department of Justice, Equality and Law Reform regarding this matter; the outcome of such discussions; and if she will make a statement on the matter. [12038/04]

Minister for Social and Family Affairs (Mary Coughlan): Ten new countries will accede to membership of the European Union with effect from 1 May next. There are 330 nationals from all of the accession countries, apart from Cyprus and Malta, currently residing in direct provision centres throughout the country. These comprise 113 families.

Direct provision is a system of accommodation for asylum seekers whereby all accommodation needs together with meals, snacks, heating,

lighting, laundry and other services are provided directly by the State. The centres are operated by the reception and integration agency of the Department of Justice, Equality and Law Reform. Asylum seekers, who are in direct provision centres, are paid a reduced rate of supplementary welfare allowance which takes account of the value of the services provided. Asylum seekers are also entitled to claim child benefit.

From 1 May, citizens of the ten accession states will have full access to the Irish labour market in the same way as citizens of the existing member states. The reception and integration agency issued a letter to those asylum seekers who are currently in direct provision centres advising them of a change in their status from 1 May when their country of origin becomes a full member of the European Union. The letter also advised people that they will have to vacate the direct provision centres.

My Department contacted the agency as soon as it became aware of the letter and received an assurance that nobody would be made homeless or be forced into homeless. My Department also formally wrote to the agency expressing its concern to ensure that none of the individuals concerned would experience hardship arising from the change in their status. In addition, my Department met with officials of the agency and was again assured that all cases would be handled on a common sense basis. The agency advised that the purpose of the letter was to alert people to the forthcoming change in their status.

Question No. 91 answered with Question No. 87.

Social Welfare Code.

92. **Mr. Timmins** asked the Minister for Social and Family Affairs the status of her review of the rent supplement; and if she will make a statement on the matter. [12107/04]

106. **Mr. Costello** asked the Minister for Social and Family Affairs if her attention has been drawn to the recent submission made by One Family, on behalf of a coalition of 39 voluntary and community organisations, expressing serious concern regarding the implications for lone parents and other persons they deal with of the changes in the rent supplement schemes; if she intends to undertake a review of the changes in view of the concerns being expressed; and if she will make a statement on the matter. [12041/04]

130. **Mr. Gilmore** asked the Minister for Social and Family Affairs if, in regard to the recent changes introduced to the rent supplement scheme, she will withdraw the guidance given to community welfare officers that discretionary exemptions to the rules be minimal in number and also advise persons who have sought a housing assessment by their local authority, but the determination is pending, that they can

receive rent supplement; and if she will make a statement on the matter. [12042/04]

131. **Mr. Stanton** asked the Minister for Social and Family Affairs the way in which changes in rent supplement regulations recently announced will impact on applicants; and if she will make a statement on the matter. [12137/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 92, 106, 130 and 131 together.

Rent supplements are paid under the terms of the supplementary welfare allowance scheme which is administered on behalf of my Department by the health boards. The main impact of the measures recently introduced is to refocus the rent supplement scheme on its original objective. This is to meet immediate short-term income maintenance needs as opposed to long-term housing needs. As a result of the measures that I have introduced, the local authorities and the health boards are working together more closely to provide better housing solutions where appropriate. People applying for rent supplement will in future have their housing needs assessed by the local authorities in a systematic manner and this will increase their chances of getting social housing.

The local authorities now also have a greater say in decisions on claims for rent supplement. With certain important exceptions, it is no longer possible for a person to become a tenant in the private rented sector with the support of rent supplement unless the local authority is satisfied that that person has a housing need. However, if a person is assessed by a housing authority as having a housing need, he or she will qualify for rent supplement, regardless of how long he or she has been renting, subject to the normal means and other qualifying criteria.

The health boards have indicated that the housing authorities are responding to requests for housing assessments without undue delay. If, however, there is a delay in any particular case, the health board still has the discretion to make a payment where it considers that the circumstances of the case so warrant. None of the measures which I have introduced and none of the guidelines which issued to the health boards affects the discretion of a health board to make a payment, nor do they restrict in any way the number of discretionary exemptions made. The impact of the rent supplement changes and the other measures was fully assessed and the manner of their implementation was carefully designed to ensure that the interests of vulnerable groups such as the homeless, the elderly and disabled are fully protected, for example, the six months prior renting requirement does not apply in their case.

The organisation One Family, formerly Cherish, has confirmed that it has not made a recent submission to my office. However, I understand that the submission to which the Deputy refers is a letter which One Family recently sent to a number of public

representatives concerning the effect of the rent supplement measures.

With regard to monitoring and reviewing the effect of the changes, a working group under the social partnership agreement, Sustaining Progress, is being established to facilitate engagement with the social partners in that regard. The group comprises representatives of ICTU, the community and voluntary pillar as well as my Department and the Department of the Environment, Heritage and Local Government. The working group is being chaired by the Department of the Taoiseach. I look forward to the report of the group, which I expect to receive later this year.

In addition, my Department has been in regular contact with the community welfare staff of the health boards regarding the operation of the new measures and has held several meetings with senior officials of the boards since the introduction of the measures in January. My Department has not been made aware of any cases of hardship arising from the application of the new measures.

Question No. 93 answered with Question No. 85.

Departmental Expenditure.

94. **Mr. Naughten** asked the Minister for Social and Family Affairs the expenditure on social protection as a percentage of GDP, for each year since 1995; and the EU average for each of those years. [12166/04]

Minister for Social and Family Affairs (Mary Coughlan): EUROSTAT, the Statistical Office of the EU, publishes comparisons of social protection expenditure as a percentage of GDP across the EU. This encompasses not only social welfare expenditure but also expenditure in other areas such as health care, social housing, employment support programmes and other social inclusion programmes.

The latest EUROSTAT statistics on social protection expenditure were released last Friday and deal with developments up to and including 2001. In terms of expenditure on social protection as a percentage of GDP the figures for Ireland are: 1994 — 19.7%, 1996 — 17.8%, 1998 — 15.4%, 2000 — 14.2% and 2001 — 14.6%. The equivalent EU average figures are: 1994 — 28.5%, 1996 — 28.4%, 1998 — 27.5%, 2000 — 27.3% and 2001 — 27.5%. These statistics do not take into account the developments in social protection expenditure over the past two years. No comparable figures are available for 2002 or 2003.

When examining such data it is important to remember that gross expenditure measures can distort the real picture, as they do not take account of social charges or taxes which may be levied on benefits nor do they include transfers made by means of tax concessions, as opposed to direct cash payments. In fact, the EUROSTAT

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release itself states that: “The European average masks major national differences in the structure of social protection funding.” The level of expenditure is also significantly influenced by the age profile of the population. Currently, Ireland, with one of the youngest populations in the EU, needs to spend less on pensions and health care/care of the elderly than most other member states. The extent to which the State directly provides supplementary pensions and child care are also important factors.

In addition, social protection expenditure as a percentage of GDP is significantly influenced by the pace of economic growth and the level of unemployment. The statistics show that at EU level between 1993 and 1996, social protection expenditure relative to GDP stabilised at a level below the peak of 28.8% in 1993. This was due to renewed GDP growth and slower growth in social protection expenditure, particularly related to unemployment benefits. Over the period 1996 to 2000, the EU average dropped from 28.4% to 27.3% but there was a slight increase to 27.5% in 2001.

For Ireland in 1990, expenditure on social protection as a percentage of GDP was 18.4%. This rose to 20.2% in 1993 and then declined to 14.2% in 2000. These changes mirrored the developments just described in other EU countries, except that the level of economic growth and the decline in unemployment were much greater in Ireland than in most other EU countries. In 2001, there was an increase to 14.6%.

Under this Government there have been sustained and substantial increases in social protection expenditure. The EUROSTAT report on social protection states that the increase in real terms expenditure on social protection in four EU countries, including Ireland at 4.7% per annum, over the period 1992 to 2001 was “particularly marked.” The EU average was 1.9%. The EUROSTAT figures show a 40% increase in the *per capita* expenditure on social protection in Ireland in the period 1994 to 2001, compared with an EU average of 13.9%.

This Government will continue to address the scope for further improvements in Ireland’s social protection infrastructure, guided by the national anti-poverty strategy, while at the same time continuing to take the measures necessary to maintain economic growth and competitiveness.

Question No. 95 answered with Question No. 83.

Social Welfare Benefits.

96. **Mr. Ferris** asked the Minister for Social and Family Affairs if she will be proactive in encouraging developments on foot of the report commissioned by the European Commission recommending the establishment of a senior euro pass card for member states. [11951/04]

115. **Mr. Connaughton** asked the Minister for Social and Family Affairs if there is a common framework within the EU to allow persons who have travel passes in their own country to travel on same within the EU; the progress that has been made in establishing a senior euro pass card, within the EU, which would entitle older persons to concessions on various services, including travel, cultural and social activities with a particular emphasis on the benefits for Irish emigrants living in the UK and elsewhere; and if she will make a statement on the matter. [12161/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 96 and 115 together.

The free travel scheme is available to all people living in the State aged 66 years or over. It is also available to carers and to people with disabilities who are in receipt of certain social welfare payments. It applies to travel within the State and cross Border journeys between here and Northern Ireland. At EU level, a report “Towards a Senior Euro Pass”, was commissioned by the social affairs directorate of the European Commission and published by Age Concern, England, at the end of 1997. This report recommends that EU states should move towards having a senior euro pass card which would entitle older people to concessions on various services, including travel, cultural and social activities.

The role of my Department in matters relating to the senior euro pass has been to submit observations, as required, in conjunction with other Departments and statutory and non-statutory bodies on any action taken to implement the proposals in this report, in so far as they affect the business of this Department. The introduction of a senior euro pass is an initiative which would have to be developed at EU level. While it would be a welcome addition to the travel and other concessions our older citizens already enjoy within the State, I understand that further work on this issue has been suspended at EU level.

Departmental Properties.

97. **Mr. Neville** asked the Minister for Social and Family Affairs the number of public offices under the control of her Department which are not accessible to persons with a disability; and if she will make a statement on the matter. [12177/04]

Minister for Social and Family Affairs (Mary Coughlan): Currently within my Department there are 128 buildings which are open to the public. These buildings include 58 local offices, 63 inspectors’ offices and others such as signing centres, appeals and information offices.

Of the 128 offices open to the public, 103 are accessible to people with disabilities. Most of the other 25 offices comprise inspectors’ offices in

rural areas where office accommodation is limited but arrangements are made to visit people in their homes where access causes difficulty. Substantial progress is being made in improving and upgrading the general standard and access facilities of my Department's offices. Access issues are now being dealt with by a dedicated team within the Office Of Public Works, OPW, and this team is undertaking a programme, in consultation with each Department, to ensure that all buildings are accessible to people with disabilities. This programme is being systematically undertaken, within the constraints of available technical and financial resources.

In addition, where refurbishment is neither practical nor appropriate, my Department is taking opportunities to provide new accommodation at alternative locations. In any such new accommodation, the OPW ensures that compliance with standards regarding access are adhered to.

In delivering its services my Department also has available a network of 68 offices which are operated by branch managers employed on a contract basis. Under the terms of the contract, branch managers are required to provide suitable accommodation. My Department has concluded an agreement with the branch managers, included in which is the requirement that specific criteria be met in terms of the standard of accommodation provided. In this regard they will be required to make the premises accessible to people with disabilities within a reasonable period.

Question No. 98 answered with Question No. 88.

Question No. 99 answered with Question No. 83.

Question No. 100 answered with Question No. 69.

Departmental Reports.

101. **Mr. Cuffe** asked the Minister for Social and Family Affairs her views on the details and the recommendations of the report, "Young Men on the Margins", as published by her Department. [12091/04]

Minister for Social and Family Affairs (Mary Coughlan): The report in question was commissioned by the Katherine Howard Foundation and funded by my Department under the families research programme. The report highlights the fact that young men are over represented among the homeless, those involved in crime and in prison and among those who take their own lives.

It points out that the threat of marginalisation mainly affects young men who are experiencing poverty, broken homes and who live in disadvantaged areas. These are the men most likely to relate to the traditional form of

masculinity — the male breadwinner in a male dominated environment. In considering the reasons for this, the report explores the changing nature of society and suggests that modern family structures, the changing nature of work — with increased female participation and reduced numbers of traditional male jobs — and differing educational participation rates and achievements have all had an impact on modern masculinity. The report states that the roots of the difficulties being experienced by marginalised men go back to early childhood. Unfortunately, they can also result from an ongoing lack of the supports needed from family, community, State and other services that would enable the men to adjust more effectively to the complex world in which we live and to reach their potential.

One key finding in the report is that the fragmentation of the supports and services being provided takes greatly from their overall effectiveness. In its conclusions, the report calls for a concerted and comprehensive approach to future family support programmes and policies. The Government is now addressing this through the national action plan on social inclusion, which outlines a clear strategy to combat poverty and social exclusion, with objectives and targets, policy measures to give effect to the strategy and institutional arrangements designed to ensure that there is close monitoring and evaluation of these measures.

In particular, there are current Government initiatives aimed at ending child poverty; tackling educational disadvantage — literacy, numeracy and early school leaving; improving care, especially for children; increasing the provision of housing and accommodation; decreasing the levels of alcohol/drugs misuse; including everyone in the information society; improving prospects for the long-term unemployed, vulnerable workers and those who have been made redundant.

I launched the "Young Men on the Margins" report last week and copies of this research project are being despatched to all Members of the Oireachtas.

Social Welfare Benefits.

102. **Mr. Sherlock** asked the Minister for Social and Family Affairs when it is intended to implement the commitment given in An Agreed Programme for Government to remove the requirement whereby a person reaching 65 years must first retire for a period before being able to work and retain a portion of their pensions; and if she will make a statement on the matter. [12064/04]

Minister for Social and Family Affairs (Mary Coughlan): In addition to satisfying the relevant contribution conditions, those applying for retirement pension at age 65 years must be retired from employment or self employment. Retirement is defined as not having earnings from employment of more than €38 per week or

[Mary Coughlan.] earnings from self-employment of more than €3,174 per annum. There is no retirement condition associated with old age contributory or non-contributory pensions which are both payable at 66 years of age.

The retirement pension was introduced in 1970 and was intended to bridge the gap between retirement at 65 years and the pension age for social welfare purposes, which at the time was 70 years of age. The qualifying age for old age pension was subsequently reduced over time to 66 years of age. The Government is committed, as part of the programme for Government, to removing the requirement to retire at 65 years in order to receive a retirement pension. Progress in this regard will be made as soon as possible, having regard to the availability of resources.

Grant Payments.

103. **Mr. Howlin** asked the Minister for Social and Family Affairs the number of applications for grants received to date in regard to her recent announcement of funding of €1 million to mark the International Year of the Family; when it is expected that the grants will be made; the procedures that are being used to assess the grant applications; and if she will make a statement on the matter. [12046/04]

Minister for Social and Family Affairs (Mary Coughlan): This year marks the 10th anniversary of the United Nations International Year of the Family. To mark the occasion, I introduced a special awards scheme to fund projects and events to celebrate the role of family in today's Ireland. The once-off special awards are available to locally based family and community groups and to larger regional and national groups to mark the year. As a result of the postal dispute which seriously affected groups wishing to apply following my initial announcement of the scheme, I extended the original closing date to Friday, 7 May.

There has, to date, been an imaginative response to the scheme. I am to suggestions as to how family groups can mark this historic year. Each award application will be judged on its own merits. Funding will be made available through a scheme of small once-off awards, under €2,000, to local voluntary groups to assist with projects or events to celebrate family in their area. These could include facilitated discussions on family issues, workshops or local neighbourhood events. The report on the public consultation fora which I undertook last year, "Families and Family Life in Ireland — Challenges for the Future", could provide a basis for discussions and workshops. This report identified key themes for consideration during this year as parenting and childhood, balancing work and family life, relationships, family caring responsibilities and community supports for families.

More substantial awards will also be available to larger regional or national groups for once-off

events or projects focusing on families and family life in today's Ireland. Preference will be given to support projects of lasting value. To date, 200 applications have been received in my Department and I expect that many more will be received before the extended closing date. Each application will be considered on its own merits. Particular priority will be given to those applications which focus on the themes identified by the public consultation process to which I referred. I expect to be in a position to announce details of the funding awarded under this scheme later this year.

Question No. 104 answered with Question No. 72.

Question No. 105 answered with Question No. 83.

Question No. 106 answered with Question No. 92.

Postal Dispute.

107. **Mr. Eamon Ryan** asked the Minister for Social and Family Affairs the additional costs incurred by her Department as a result of the recent industrial dispute at An Post; and if she will make a statement on the matter. [12096/04]

Minister for Social and Family Affairs (Mary Coughlan): On commencement of the recent industrial dispute at An Post, my Department activated a contingency plan to ensure that customers continued to receive their payments during the dispute. This plan was in operation from Monday, 22 March to Friday, 2 April when the industrial action ceased.

Where possible, my Department's existing resources and services were used to implement the contingency plan and, therefore, additional costs were kept to a minimum, for example, social welfare local offices and branch offices were used as cheque collection centres. An evaluation of the contingency plan and the associated costs is currently being undertaken. For this reason it is possible to give only estimated additional costs at this time.

At this stage the total additional cost incurred by my Department is estimated to be in the region of €50,000. Of this, some €27,000 was spent on advertising. Costs were also incurred on items such as overtime, travel, courier services and stationery. Costs incurred during the dispute will be offset to some degree by the savings made from not posting cheques and other items to affected areas during the dispute.

Social Welfare Benefits.

108. **Ms B. Moynihan-Cronin** asked the Minister for Social and Family Affairs the number of persons receiving assistance from the money advice and budgeting service in respect of the latest date for which figures are available; the number who were in receipt of the supplement

payable to persons on social welfare allowance; if her attention has been drawn to concerns that many persons may be pushed into the hands of moneylenders; her views on whether this merits a reconsideration of her decision to abolish the supplement; and if she will make a statement on the matter. [12052/04]

Minister for Social and Family Affairs (Mary Coughlan): My Department has overall responsibility for the money advice and budgeting service, MABS, which provides assistance to people experiencing difficulty in meeting repayments on borrowings. There are 52 independent companies nationwide operating the service.

The MABS programme provides money advice to individuals and families who have problems with debt and who are on low income or in receipt of social welfare payments. The latest information available from the companies providing the service shows that 12,000 people are currently availing of the service. The MABS service does not provide financial assistance to its customers. Instead, the service places an emphasis on practical budget based measures that help people to move permanently from dependence on moneylenders and to access alternative sources of low cost credit.

In 2003, I provided €9.9 million for the operation of the MABS service and an additional €1.01 million was allocated for 2004 in the last budget. MABS supplement payments paid under the supplementary welfare allowance scheme were made by the health boards because the people concerned had entered into repayment arrangements that were so onerous that they did not have enough income left to meet their basic needs. Some 273 people were in receipt of these supplements at 16 April 2004, representing less than 3% of MABS customers.

At the time the decision was taken to discontinue the MABS supplement, over 50% of the MABS supplements in payment had been in payment for more than a year and nearly 25% of recipients had been in receipt of the supplement for more than two years. The duration of these payments confirms that the supplement had become a long term arrangement which is effectively a subsidy for creditors. These supplements have not been used in three health board regions and were rarely used in the largest health board region. The good practice established in these areas, which cover the majority of the State's population, is now being put in place throughout the State. I wish to emphasise that MABS supplements currently in payment will not be withdrawn. Payment of the supplement in these cases, will continue for the duration of their current term of agreement.

It is with the support and expertise of the MABS companies throughout the country that people can be best assisted in sorting out their debts. These companies will continue to provide their services to people who need it. In the

circumstances, I am satisfied that the decision to discontinue the MABS supplement is reasonable and will require creditors to take a more realistic approach to the repayment arrangements a debtor can afford to make. Health boards may still deal with emergency or exceptional cases at any time of the year by way of exceptional needs payments or an urgent needs payment.

109. **Mr. Cuffe** asked the Minister for Social and Family Affairs the plans she has to make free phone allowance available to all medical card holders, especially those with disability and not assessed on income means. [12090/04]

110. **Mr. Ring** asked the Minister for Social and Family Affairs if she will consider granting free schemes to all widows and widowers on the death of their spouse, regardless of age. [12167/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 109 and 110 together.

The household benefits package, which comprises the electricity/gas allowance, telephone allowance and television licence schemes, is generally available to people living permanently in the State, aged 66 years or over, who are in receipt of a social welfare type payment or who fulfil a means test. The package is also available to carers and people with disabilities under the age of 66 years who are in receipt of certain welfare type payments, such as invalidity pension and disability allowance. People aged over 70 years of age can qualify regardless of their income or household composition. Widows and widowers aged from 60 to 65 years, whose late spouses had been in receipt of the household benefit package, retain that entitlement to ensure that households do not suffer a loss of entitlements following the death of a spouse.

A range of proposals have been made to extend the free schemes to other groups. These are kept under review in the context of the objectives of the scheme and budgetary resources.

Question No. 111 answered with Question No. 72.

112. **Mr. Murphy** asked the Minister for Social and Family Affairs her plans to ensure access to the free meals scheme for all schools in disadvantaged areas; and the estimated cost of same. [12163/04]

Minister for Social and Family Affairs (Mary Coughlan): The school meals programme makes an important contribution to ensuring that school children receive better nutrition and contributes to improved school attendance and quality of learning. The current programme provides funding for the urban school meals scheme, which operates in conjunction with certain local authorities, as well as for a number of locally operated school meals projects that are in place in both urban and rural areas.

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In 2003, a sum of €3.29 million was spent on the school meals programme. It is estimated that 382 schools, with a total of over 50,650 pupils, benefited from the urban scheme while 347 schools and voluntary organisations received funding which benefited some 26,000 children under local school meals projects. Budget 2004 provided €6.08 million for the programme.

My Department is working with the Department of Education and Science to extend the school meals programme. In this regard the Department of Education and Science is using its schools completion programme and giving children an even break initiative to target disadvantaged schools. It is actively promoting the school meals programme through the local schools completion programme co-ordinators. In addition, my Department is currently contacting those schools which in 2003 indicated an interest in the school meals programme but did not submit a formal application for funding. My Department will also be issuing notifications to schools regarding the school meals programme for the 2004/2005 year in the near future.

A review of the urban and Gaeltacht schools meals schemes, which was published in 2003, made a number of recommendations to focus the scheme on areas of greatest disadvantage. This includes targeting secondary schools with the highest concentration of pupils at risk of early school leaving and their primary feeder schools. In July 2003, invitations to apply for funding under the school meals programme were issued to 217 schools as identified by the Department of Education and Science. During the current school year, September 2003 to June 2004, a total of 119 new projects so far have received funding.

The funding is being used to benefit children participating in breakfast clubs, lunch clubs and homework clubs in the schools concerned. The scheme also supports initiatives that target dispersed disadvantage and children with special needs.

Question No. 113 answered with Question No. 71.

114. **Mr. Quinn** asked the Minister for Social and Family Affairs the terms of reference of the proposed review of income support arrangements for lone parents; when it is expected that the review will be completed; and if she will make a statement on the matter. [12059/04]

Minister for Social and Family Affairs (Mary Coughlan): One of the objectives of the one-parent family payment is to encourage lone parents to consider employment as an alternative to welfare dependency while at the same time supporting them to remain in the home if they so wish. It is generally accepted that one of the most effective routes out of poverty for people in the active age groups is through paid employment. Income support for lone parents is designed to assist them in overcoming the particular obstacles

they may face in taking up employment or training opportunities and to encourage them to return to employment instead of remaining dependent on social welfare payments.

Ireland has among the highest percentage of lone parent families within the EU, with over 11% of households headed by a lone parent, a relatively low proportion of whom are in employment, compared to other countries. Figures from the national action plan against poverty and social exclusion in 2001 show that some 42.9% of lone parents in Ireland had a level of income which puts them in the category at risk of poverty. That is the reason I have given a commitment in my Department's statement of strategy to review the operation of income support arrangements for lone parents. This will take account of recent reports and emerging analysis in this area, such as the review of the one-parent family payment published by my own Department and a recent OECD study, entitled "Babies and Bosses", published in November 2003.

As a first step, I will be bringing together the Departments that have a role in the creation of policy around the issue of parenting alone. In the light of these discussions, terms of reference will be drawn up for a review of this issue to be carried out by the Departments concerned. These discussions will also serve to facilitate debate on the issue of parenting alone, enable networking at a policy level, and analyse and detail the progress needed to address gaps in current policy and programmes.

The intention is to have the overall review completed in time for consideration in the context of the next national action plan to combat poverty and social exclusion to cover the period 2006 to 2009.

Question No. 115 answered with Question No. 96.

Interdepartmental Committees.

116. **Ms Lynch** asked the Minister for Social and Family Affairs the role her Department plays in the interdepartmental planning group on future rent assistance; the submission her Department has made to the group; and if she will make a statement on the matter. [12049/04]

Minister for Social and Family Affairs (Mary Coughlan): Subject to certain conditions, the supplementary welfare allowance scheme, which is administered on behalf of my Department by the health boards, provides for the payment of a weekly or monthly supplement in respect of rent to eligible people in the State whose means are insufficient to meet their accommodation needs and who do not have accommodation available from any other source.

In recognition of the fact that the rent supplement scheme had, in effect, become a scheme of long-term housing support for many people, the Government set up a working group

to rationalise current arrangements for housing support and to ensure that long-term housing needs are addressed through providing appropriate solutions rather than through the social welfare system. An interdepartmental planning group was established to draw up detailed proposals for the implementation of revised arrangements. The group, which was chaired by the Department of the Environment, Heritage and Local Government, also comprised representatives from my Department, the Department of Finance and others.

Discussions have been underway in the planning group for some time about putting in place the most appropriate arrangements to meet the housing needs of people who would otherwise have to rely on a long-term basis on supplementary welfare allowance rent supplements. My Department has played a full part in these discussions and in the research that underpinned them. Arising from the work of this group, an action plan is now being finalised. The action plan will include criteria for determining which categories of rent supplement recipient will be eligible to have their needs addressed by the housing authorities, an implementation time scale, financing and other matters.

While there is full agreement that people with long-term housing needs require a housing response rather than a social welfare payment, and considerable progress has been made in developing practical proposals in that regard, all the details of how and when the new arrangements will be implemented in practice have not yet been finalised. Discussions between my Department and the Department of the Environment, Heritage and Local Government in that regard are continuing and I expect to be in a position to seek Government approval for the action plan in the near future.

Pension Provisions.

117. **Mr. Sherlock** asked the Minister for Social and Family Affairs when it is intended to implement the commitment given in An Agreed Programme for Government to establish a group to report on options for lower income groups to ensure that they can have an earnings related pension when they retire; and if she will make a statement on the matter. [12065/04]

Minister for Social and Family Affairs (Mary Coughlan): Research by the Central Statistics Office on pensions coverage has indicated that just over 50% of workers have supplementary pensions cover. The Government aims to increase this to 70% in accordance with the targets suggested in the national pensions policy initiative. The overall objective of the Government's pension policy is that all citizens will have an adequate income on retirement, the main components being the social welfare pension and supplementary pensions.

In this regard, the Pensions (Amendment) Act 2002 provided for the introduction of personal

retirement savings accounts, PRSAs, which became available to the public in 2003. The PRSA is a low cost, flexible pensions product which is the main instrument employed in furtherance of Government policy to increase supplementary pensions coverage. Take up of the new accounts is being monitored closely and I am encouraged by the latest figures available, which show that over 19,000 accounts were opened in the period up to the end of December 2003. This is a significant improvement on the position at the end of September 2003 when a total of 6,707 accounts were in existence. Figures for the period to the end of March 2004 will be available in a couple of weeks. An analysis will then be undertaken of the composition of the take up of PRSAs with a view to establishing the characteristics of those who have opened accounts, including, if possible, their income level.

The Government is required, under the Pensions (Amendment) Act 2002, to review progress in the level of pension coverage within three years and this will include an examination of pension options for lower income groups.

Social Welfare Code.

118. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will reverse any or all of the remaining 15 social welfare cuts introduced in the budget 2003; and if she will make a statement on the matter. [12105/04]

119. **Mr. Wall** asked the Minister for Social and Family Affairs if, following her decision to reverse the cut of the half rate payment of disability, unemployment and other related benefits to persons in receipt of the widow's and widower's pension or one-parent family payments, she has plans to review the other cutbacks announced by her in November 2003, particularly in view of the serious problems being created for many recipients; and if she will make a statement on the matter. [12066/04]

138. **Mr. Timmins** asked the Minister for Social and Family Affairs if she intends to review all the cutbacks that she announced in November 2003; and if she will make a statement on the matter. [12108/04]

209. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will reverse all the social welfare cuts introduced in the budget; and if she will make a statement on the matter. [12323/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 118, 119, 138 and 209 together.

The Estimates for the Department of Social and Family Affairs, announced last November, included a number of provisions to better target resources within the social welfare code. My Department keeps all its schemes under review so that the total social welfare budget is applied to the best effect in tackling disadvantage and to

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continue the Government's policy of significant improvement in basic payments to social welfare recipients, as with other improvements to the social welfare code.

I have continued to keep the implementation of all of the Estimates measures under review. In that context, I reviewed the measure regarding entitlement to certain half-rate payments and, given that my review suggested that there may be potential hardship in some cases, I decided to fully retrospectively restore entitlement to the affected persons. I have no plans to change any of the other measures implemented in the Estimates. The measures announced in November produced significant savings which, in turn, freed up resources towards a substantial budget 2004 package of €630 million. This enabled the provision of increases well ahead of inflation for all social welfare recipients of weekly payments as well as significant general improvements in social welfare provisions generally.

The record of this Government in investment in social welfare is second to none. When it came into office in 1997, the level of spending on social welfare was €5.7 billion euro. This year, the Estimates provide for total spending of well over €11.2 billion, a doubling of social welfare expenditure over this period. This is all the more remarkable when one takes account of the drop of 86,000 over that period in the numbers in receipt of unemployment payments, which in the years prior to 1997 accounted for a significant portion in overall expenditure.

The levels of increases provided in budget 2004, in conjunction with the levels of increases provided over the period from 1998, demonstrate the Government's continuing commitment to safeguard and enhance the living standards of the most vulnerable in our society.

120. **Mr. Gormley** asked the Minister for Social and Family Affairs if she will give details regarding the impact of a recent court decision relating to absentee fathers. [12094/04]

Minister for Social and Family Affairs (Mary Coughlan): Under social welfare legislation, there is a statutory obligation on spouses to maintain each other and their children and on parents to maintain their children. Applicants for one-parent family payment are required to make ongoing efforts to seek adequate maintenance from their former spouses, or, in the case of unmarried applicants, the other parent of their child. Normally, such maintenance is obtained by way of negotiation or by court order, though separated couples are increasingly using my Department's Family Mediation Service, which is being progressively extended countrywide. Since 2001, one-parent family payment customers are allowed to retain 50% of any maintenance received without reduction in their social welfare

entitlements, as a further incentive to seek support themselves.

Where social welfare support is being provided to the one-parent family, the other parent is legally liable to contribute to the cost of this payment. In every case where one-parent family payment goes into payment, the maintenance recovery unit of my Department seeks to trace the liable relative involved in order to ascertain whether s/he is in a financial position to contribute towards the cost of the one-parent family payment. This follow-up activity takes place within two to three weeks of award of payment. Legislation allows my Department to seek recovery from liable relatives through the courts in appropriate cases.

At a recent court hearing in the Dublin area, four cases were heard where the liable relatives had not complied with requests from the Department for a contribution towards the cost of one-parent family payment paid in respect of their children. All four liable relatives had failed to make contact with the Department prior to the court date and also failed to attend the court hearing. The presiding judge, on hearing all the evidence before the court, ruled that orders for amounts in excess of those assessed by the Department be discharged immediately and costs were awarded in each case. These amounts ordered to be paid to the Department by each person were for €100 or more per week.

Each of these liable relatives had already failed previously to provide adequate maintenance to their separated spouse and children, forcing the families concerned to rely on social welfare for their income support. These four cases were part of an overall total of 132 cases which were submitted for court action between 2001 and 2003. The majority of these cases have resulted either in orders being written against the liable relative in court or the liable relative agreeing to pay a contribution to either the Department or the lone parent. Further cases are in the course of preparation by the Department for court action.

The Department will continue to prosecute any liable relative who fails to co-operate or who defaults on their contributions.

Social Welfare Benefits.

121. **Ms Enright** asked the Minister for Social and Family Affairs the number of persons in receipt of the back to work allowance scheme and the numbers who availed of the scheme in 2002 and 2003. [12164/04]

Minister for Social and Family Affairs (Mary Coughlan): The back to work allowance was introduced in September 1993 as part of my Department's programme of initiatives designed to assist the long-term unemployed to return to the active labour force. The allowance was introduced at a time when long-term unemployment stood at 8.9%. In its early years, the scheme proved effective in helping people

who had been long-term unemployed to return to the labour force.

The transformation in labour market conditions since the mid-1990s has reduced the need for a back to work scheme. This is illustrated by the drop in numbers availing of the scheme in recent years. In December 2002, there were 25,076 participants — 13,510 on the self employed strand of the scheme and 11,566 on the employee strand. By December 2003, the number had fallen to 17,069 — 9,872 self employed and 7,197 employees. At present, there are 14,719 participants in the scheme, compared to 39,343 in October 2000 when the scheme reached its peak.

Question No. 122 answered with Question No. 70.

Question No. 123 answered with Question No. 86.

Question No. 124 answered with Question No. 87.

Question No. 125 answered with Question 70.

126. **Mr. Boyle** asked the Minister for Social and Family Affairs the reason invalidity pension remains the only such social welfare payment not awarded through the EMTS system; and when payments of this type can be made. [12089/04]

Minister for Social and Family Affairs (Mary Coughlan): The EMTS system to which the Deputy refers is an electronic money transfer system operated by one of the major banks. It is an electronic fund transfer or EFT system similar to those operated by the other banks and building societies. An Post also operates an EFT system which it calls electronic information transfer or EIT.

My Department's payment strategy aims to actively promote the use of electronic payment methods as the preferred payment option in line with the Government's e-services policy. Of the 60 million individual payments made by my Department in 2003, 38% were paid by electronic methods, 29% were by electronic fund transfer, EFT, to banks and building societies and 9% were via An Post's electronic information transfer system (EIT) at post offices.

At the end of March 2004, there were 11,818 invalidity pensioners in receipt of payment through this method. Electronic payment methods are available to people on all of my Department's disability payments with the exception of disablement benefit under the occupational injuries benefits scheme. It was not possible to provide an EFT or EIT option for all social welfare customers. This is because my Department uses a number of different computer systems to administer the various social welfare schemes. The introduction of EFT or EIT for each specific scheme requires a considerable investment in information technology. Each

scheme enhancement is a major project regardless of the customer numbers involved. For this reason the computer systems which serve the largest number of customers were the first to be enhanced to provide EFT and EIT.

The disablement benefit system was a lower priority because of the relatively small numbers of people served by the system. It is expected, however, that EFT and EIT facilities will be available to disablement benefit customers early in 2005. In the meantime, my Department offers an arrangement to disablement benefit customers which delivers some of the benefits of EFT. Customers can request that their cheques be sent to their banks rather than to their home addresses. The banks will then lodge the cheques directly to the customers' accounts.

127. **Mr. Rabbitte** asked the Minister for Social and Family Affairs if she has satisfied herself that enough is being done to promote awareness of family income supplement, in view of the fact that there are currently only just over 12,000 recipients, having regard to the numbers on low pay and those who do not earn sufficient to enter the tax net; if there is co-ordination with the Revenue Commissioners on this matter; if she has plans to promote greater awareness of FIS; and if she will make a statement on the matter. [12060/04]

Minister for Social and Family Affairs (Mary Coughlan): Family income supplement is designed to provide cash support for employees on low earnings with families. This preserves the incentive to remain in employment in circumstances where the employee might only be marginally better off than if he or she were claiming other social welfare payments. The number of persons in receipt of family income supplement at 16 April 2004 is 12,003, with an average weekly payment of €82.51.

The improvements to the family income supplement scheme, including the assessment of FIS on the basis of net rather than gross income and the progressive increases in the income limits, have made it easier for lower income households to qualify under the scheme. In this year's budget, I provided for further increases in the FIS income limits with effect from January 2004. These increases raised the weekly income limits by €28 at each point, adding an extra €16.80 to the payments of most existing FIS recipients. I also increased the minimum FIS payment by €7 per week, from €13 to €20.

On the question of take up, a working group, chaired by the Department of Finance, was established to examine the role which refundable tax credits could play in the tax and welfare system, with a specific brief to examine the possible payment of FIS through the tax system. While the group's final report is awaited, I understand that the principal recommendations regarding FIS are likely to be to continue

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payment through the social welfare system while maximising effects to increase take up.

My Department undertakes a number of proactive measures to ensure that people are aware of possible entitlement to FIS, which include advising all newly awarded one-parent family payment recipients, advising all employers annually in PRSI mailshots and examining entitlement in all awarded back to work allowance cases. Information on FIS is contained in all child benefit books and can be accessed on the Department's website. In addition, the scheme has been extensively advertised through local and national media outlets, including newspapers and radio, as well as through poster campaigns and targeted mailshots.

Every effort will continue to be made to publicise family income supplement and to increase peoples' awareness of their social welfare entitlements generally.

EU Presidency.

128. **Mr. Howlin** asked the Minister for Social and Family Affairs if she will make a statement on her recent address to the Irish Presidency conference in Bundoran on mobility and social inclusion. [12047/04]

Minister for Social and Family Affairs (Mary Coughlan): The conference in question, "Reconciling Mobility and Social Inclusion: the role of employment and social policy", was organised by my Department in consultation with the Departments of Justice, Equality and Law Reform and Enterprise, Trade and Employment and supported by the EU Commission. The aim of the conference was to examine how employment and social policies and resources can best be focused on promoting the social inclusion of migrants. Another aim was to afford participants an opportunity for an exchange of views and experiences on the various aspects of this process and how such exchanges between member states could be encouraged and facilitated at EU level on an ongoing basis.

In my opening remarks I alluded to the fact that immigration accounted for over 70% of the population growth of the European Union in the last five years. The EU has over 19 million immigrants, of whom over 6 million are from other EU countries, and the remaining two thirds are from countries outside the Union. All the current indications are that the numbers of non-nationals living and working in EU countries will continue to grow and that a significant proportion of that number will be at risk of social exclusion. I pointed out that this presents member states with a challenge. On the one hand, they will need to ensure the effective management of immigration so that the numbers entering their countries are at a sustainable level and in a position to become self sufficient from employment. On the other hand, we must ensure that those admitted as legal residents are given

the supports they need to realise their potential and achieve social inclusion.

I will report on the conclusions of the conference and of the other Irish Presidency conference on "Families, change and European Social Policy" to the meeting of the Council of Ministers for Employment, Social Policy, Health and Consumer Affairs in June. My aim is that the EU would build on the initiatives and measures described in the Commission communication on immigration, integration and employment and in the employment committee's opinions, as well as in the 2004 joint inclusion report, with a view to having comprehensive strategies on this matter in place for the next full national action plans for the period 2006 to 2009.

Question No. 129 answered with Question No. 85.

Questions Nos. 130 and 131 answered with Question No. 92.

Anti-Poverty Strategy.

132. **Mr. Hayes** asked the Minister for Social and Family Affairs the position with regard to relative poverty levels in the State and the revised targets for the national anti-poverty strategy. [12174/04]

135. **Mr. S. Ryan** asked the Minister for Social and Family Affairs the progress made to date with regard to achieving the target set in An Agreed Programme for Government of reducing consistent poverty to below 2%; the percentage in consistent poverty at the latest date for which figures are available; if the results of the national survey carried out in 2003 are available; and if she will make a statement on the matter. [12063/04]

Minister for Social and Family Affairs (Mary Coughlan): The most recent figures available for relative poverty levels in Ireland are to be found in the ESRI report, "Monitoring Poverty Trends in Ireland (Dec 2003)", which was based on the results of the 2001 living in Ireland survey. The analysis in the ESRI report indicates that the at risk of poverty rate, that is, the number of people with incomes below 60% of equivalised median income, has increased overall from 19.8% in 1998 to 21.9% in 2001. It also indicates that the risk of falling below that income threshold has increased for people who are ill or disabled, for the elderly and for people on home duties.

A number of factors contribute to this. During periods of high economic growth increases in household income can outstrip even substantial increases in the incomes of households with relatively low earnings or on social welfare. This is precisely what happened in Ireland in recent years. There were particular circumstances in the period from the mid-1990s when a combination of increased female participation in the workforce, reduced unemployment generally, tax reform and, crucially, high earnings growth caused very

large increases in household income. These increases in household incomes were substantially higher than increases both in individual earnings and social welfare incomes over this period, despite virtually unprecedented improvements in employment and social provision across the board in this period.

Income is just one indicator of poverty. Other factors, not least employment rates and levels of home ownership, all of which have been positive in Ireland over the same period, also have a major bearing on a person's standard of living. While the analysis of the at risk of poverty indicator provides us with valuable information on the proportion of our population at risk of poverty, it is necessary to go further in order to define more precisely the numbers who are experiencing poverty in terms of being consistently deprived of goods and services regarded as essential for living in Ireland today.

It is with regard to consistent poverty that the Government has fixed targets in its revised national anti-poverty strategy. The target is to reduce consistent poverty to below 2% by 2007. The success of Government policies in tackling consistent poverty is reflected in the sharp decreases observed in this indicator in recent years, down from 15% in 1994 to some 5.2% in 2001.

The 2003 national survey referred to is the Irish component of a new EU wide survey on income and living conditions called EU-SILC. This replaces the living in Ireland surveys which were previously undertaken by the Economic and Social Research Institute, ESRI, as part of another EU survey, the household panel survey, which has now been discontinued. The 2001 survey was the last in the series. The Irish component of EU-SILC is being undertaken by the Central Statistics Office. Work on the new survey commenced last year and it is expected that data for 2003 will be published towards the end of this year. The ESRI will continue to carry out an independent analysis of this data on behalf of my Department.

Pension Provisions.

133. **Mr. Gilmore** asked the Minister for Social and Family Affairs if her attention has been drawn to the findings of a recent report from employee benefit consultants (details supplied), that 80% of Irish pension funds fail to meet the minimum funding requirements; the steps being taken to address this situation; and if she will make a statement on the matter. [12043/04]

Minister for Social and Family Affairs (Mary Coughlan): The minimum funding standard, which applies to defined benefit, DB, occupational pension schemes under the Pensions Act 1990, is a wind up standard. It is designed to ensure that, if a funded DB scheme winds up, there are sufficient assets to meet the liabilities at that point in time.

The survey to which the Deputy refers, included a question as to the ability of such funded DB schemes to meet this standard. It was conducted among 250 clients of the consultants, of whom approximately 188 represent funded DB schemes. It is estimated that this survey covers up to 10% of all DB schemes. The key findings of the review relating to the solvency position under the Pensions Act of the schemes covered by those surveyed indicate that: 21.4% of the schemes are over 100% funded; 60.3% of schemes are 80% — 100% funded; 18.3% of schemes are less than 80% funded.

There are no major surprises in these figures. As the authors of the report point out, the findings follow the volatility in the equity markets for the three years 2000 to 2002 and the fact that liabilities are rising faster than expected. The situation has improved in the equity markets and, with asset performance improving at present, I am glad to note that 81.7% of the schemes in question are more than 80% funded.

I have long been aware of these issues and I facilitated the introduction of some flexibility to ease employers' burdens in pension funding in the short term. Indeed, as the report of the survey states, many of these schemes are now making funding proposals to the Pensions Board under these new arrangements. For the longer term, the experience of the last few years has raised questions about the structure of the current funding standard. While it has served pension members well since 1990, it has come under considerable strain over the last couple of years and there are differing views on its appropriateness in current circumstances.

One view is that, as the vast majority of pension schemes do not wind up, a wind up standard is not appropriate for pensions which, by their nature, require long-term investment strategies. Others take the view that the only way to achieve security of members' benefits is to have a wind up standard. To deal with these issues, the Pensions Board is reviewing the funding standard in the light of experience.

Ultimately, there is no magic formula to address these issues but I believe the combination of the short term alleviation measures which allow breathing space allied to the longer term review of the funding standard is the appropriate response for now and I look forward to the outcome of that review later this year.

Social Welfare Code.

134. **Mr. Stanton** asked the Minister for Social and Family Affairs if she has further plans to assist persons with disabilities; and if she will make a statement on the matter. [12138/04]

Minister for Social and Family Affairs (Mary Coughlan): My Department provides a broad range of support for people with disabilities through various income maintenance payments. These payments include, for instance, the contributory disability benefit and invalidity

[Mary Coughlan.]

pension schemes and the means tested disability allowance and blind person's pension schemes. In addition, there is a further range of benefits available under the occupational injury benefits scheme for people who have been disabled as a result of an accident at work.

Significant improvements have been made in these supports in recent years. Cover for social insurance payments, including illness and disability payments, has been extended to additional groups of workers, including part-time workers and public servants. A range of improvements have been introduced in the operation of the means test for the disability allowance and blind person's pension schemes, including substantial increases in the amount of earnings from rehabilitative employment and self-employment which can be disregarded for means test purposes, currently €120 a week, and major improvements in the method of assessing capital, with the first €12,697 being disregarded. The disqualification for disability allowance purposes for those in full-time residential care has been progressively relaxed and the range of employment supports available to people in receipt of illness and disability payments has been significantly strengthened and enhanced.

In addition, the rates of payment of the various illness and disability payments have been substantially increased in recent years. The weekly personal rate of disability allowance, for example, has been increased by over €49 since 1997 to €134.80 at present. This represents an increase of over 57% or a real increase of over 26%. Further support is available to people with disabilities through the provision of support for those caring for them, for example, the carer's allowance, carer's benefit and respite care grant schemes. These payments provide financial support to people who are providing care and attention on a full-time basis.

Following a review of the national anti-poverty strategy, the Government set a target of achieving by 2007 a rate of €150 per week, in 2002 terms, for the lowest rates of social welfare payments. The achievement of this target, reiterated in Sustaining Progress, will significantly increase the value of payments to people on low incomes and at risk of poverty, including those on disability and caring payments.

Question No. 135 answered with Question No. 132.

Question No. 136 answered with Question No. 70.

Pension Provisions.

137. **Mr. M. Higgins** asked the Minister for Social and Family Affairs her views on the recent ESRI report, "Reforming Pensions in Europe: Evolution of Pension Financing and Sources of

Retirement Income"; and if she will make a statement on the matter. [12044/04]

Minister for Social and Family Affairs (Mary Coughlan): The publication in question, which I had the pleasure to launch recently, is based on a series of papers presented at a conference organised by the European Network for Research on Supplementary Pensions and L'Institut de Recherches Economiques et Sociales held in Paris in October 2002.

Over the coming decades the EU faces a significant acceleration of demographic ageing due to three main factors: the baby boom generation reaching pension age; increases in life expectancy; and a declining birth rate. The number of people of pension age will increase rapidly and at the same time the number in the active age groups will diminish. Unless the situation is carefully managed, the changes in the old age dependency ratio will, in the future, place a heavy financial burden on those in employment to support those who are retired.

In these circumstances, it is not surprising that countries are looking at their pension systems and are implementing reforms which, in many cases, introduce a funded element into schemes which, heretofore, have provided generous earnings related benefits on a pay as one goes basis. These reforms are attempting to strike a difficult balance between the financial sustainability of pensions systems and their social objectives. In a sense it is difficult to separate these two aspects of pension provision as financial sustainability is a necessary precondition for a system of adequate pensions provision.

The papers presented raise concerns about the reforms being undertaken as the authors consider that, in many cases, they will actually increase costs because of the tax incentives being introduced to encourage private pension provision. They also consider that pension entitlements will be less secure and the percentage of pre-retirement income replaced by the pension system will actually fall as a result of the reforms. The Irish pension system is radically different from those which apply in many other EU countries and our demographic situation is much more favourable. Although, in time, we will face similar increases in dependency ratios already being experienced in other countries, the same pressures for reform do not exist here.

However, preparations in the form of the National Pensions Reserve Fund are already in place to meet the challenge of increased costs arising from changes in our demographic situation. We are also working to improve the position of our older people by increasing the level of our social welfare pensions and also by encouraging people to supplement this by participating in occupational and private pensions. The papers presented clearly demonstrate the complexity of the issues involved in pensions reform and the dilemmas faced by policy makers in trying to balance competing

objectives of adequacy and sustainability and the need to make all costs transparent.

Question No. 138 answered with Question No. 118.

Question No. 139 answered with Question No. 70.

Question No. 140 answered with Question No. 72.

Social Insurance.

141. **Mr. M. Higgins** asked the Minister for Social and Family Affairs if her attention has been drawn to the recent call from the Civil Public and Services Union for changes to PRSI legislation to support family friendly initiatives for workers, particularly for a change in current PRSI regulations which require workers to be present on the same day each week in order to be able to record a PRSI payment for that week; her views on the call made; and if she will make a statement on the matter. [12045/04]

Minister for Social and Family Affairs (Mary Coughlan): I am aware of the suggestions from the Civil and Public Service Union in this regard. It is clear that working patterns can have an impact on the liability for PRSI contributions and the award of contributions and this applies particularly to work sharing arrangements.

Work sharing arrangements are agreed between an employer and an employee and examples can include a four day week, a three day week, a week on/week off, mornings only and so forth. In many cases, the attendance pattern will overlap with the pattern of PRSI contribution weeks and work sharers will receive contributions in respect of 52 weeks provided their weekly earnings exceed €38, as is the case with full time workers. However in some circumstances and depending on the alignment of the working week with the contribution week, work sharers may be awarded 26 or 39 contributions in a given year rather than the 52 weeks of PRSI contributions. In such circumstances employees may decide to change their work sharing patterns so as to increase the number of contributions to 52. However, they are not obliged to change their attendance patterns in these circumstances.

The link between working patterns, contribution record and entitlement to benefits is complex and my Department recently published an information booklet which specifically deals with these work sharing issues. It is acknowledged that there may be work sharing patterns where, in some years, the employee may be awarded only 26 weeks contributions or 39 weeks contributions. The attendance patterns and the years when this might occur are clearly identified in the booklet. Central to this issue from the perspective of the employee is the question of whether a smaller number of contributions might affect entitlement to benefit at some future date.

In the case of short-term benefits, such as unemployment and disability benefits, relatively recent changes in the qualifying conditions mean that an employee with 26 weeks of contributions in the governing qualification year and 26 contributions in the previous year is fully covered for short-term social welfare benefits. For longer term benefits, the potential impact on qualification for benefit is quite limited, although my Department will keep the position under review. It is important to acknowledge that if a work sharer is allocated 26 contributions in a year because their working week coincides with the contribution week, this simply reflects the fact that the contributory principle in social insurance, in general, seeks to link the number of contributions awarded with the level of contribution. Work sharers are generally awarded the same number of contributions as full-time workers despite the fact that they and their employers pay a considerably smaller amount in PRSI contributions.

The issue of the interaction between the social insurance system and work sharing patterns is one of a number being examined by a social partnership working group with a view to developing a fully inclusive social insurance model that facilitates combining work and family responsibilities. While the considerations of the working group are not yet complete, I understand it has acknowledged that any change in the present PRSI contribution arrangements, which is based on weeks of insurable employment, would have major implications for different groups of workers and alternative models could adversely affect the position of certain categories of employees. I will consider the scope for change in the present arrangements in the light of the working group's report.

Question No. 142 answered with Question No. 86.

Live Exports.

143. **Mr. Gregory** asked the Minister for Agriculture and Food his views on the detailed claims by CIWF (details supplied) that new animal transport rules proposed by the Government provide less care and protection for animals than the current inadequate EU animal transport directive; and if he will make a statement on the matter. [12283/04]

Minister for Agriculture and Food (Mr. Walsh): Since the commencement of the Irish Presidency, I have been seeking to reach agreement in the Council of Ministers on a new Council regulation proposed by the EU Commission on welfare conditions for animals being transported. The Commission proposal attracted polarised views among member states. As President of the Council, I have endeavoured to reconcile these views so that the Council could reach consensus on a compromise proposal which would result in real improvement in the

[Mr. Walsh.]

conditions for animals being transported, while allowing farmers and exporters to continue to avail of vital and legitimate EU markets for their produce.

I am disappointed that the Council of Agriculture Ministers failed early yesterday morning to reach agreement on this matter, despite prolonged and intense efforts to broker a solution. I have no doubt that this proposal, involving adjustments to journey time sequences, the introduction of a satellite tracking system for transporters and improved training, enforcement and veterinary control, would have resulted in significantly improved conditions for animals being transported.

Civil Service Competitions.

144. **Dr. Upton** asked the Minister for Agriculture and Food his views on correspondence from a person (details supplied) in County Clare. [12284/04]

Minister for Agriculture and Food (Mr. Walsh): The person concerned participated in a competition held by the Civil Service and Local Appointments Commission, an independent body. It would not be appropriate for me to comment on the issues raised by the correspondent.

Grant Payments.

145. **Mr. Ring** asked the Minister for Agriculture and Food the reason a person (details supplied) in County Mayo has had the REP scheme payment reduced by €640 in 2004. [12285/04]

Minister for Agriculture and Food (Mr. Walsh): In an amended agri-environmental plan received in my Department on 30 March 2004, the applicant has declared an area of 5.05 hectares of commonage as ineligible for payment. This area had previously been declared eligible. The payment that recently issued was based on the revised area declared by the applicant.

Tax Clearance Certificates.

146. **Mr. Penrose** asked the Minister for Finance if he will take steps to expedite an application for a C2 certificate by a person (details supplied) in County Westmeath; and if he will make a statement on the matter. [12281/04]

Minister for Finance (Mr. McCreevy): I am advised by the Revenue Commissioners that an application for a C2 certificate was received in the Westmeath-Offaly revenue district on 25 February 2004. Additional information was required to make a decision on the application and, on 15 March, a letter issued to the tax agent seeking this information. The additional information was received in the Westmeath-Offaly revenue district on 15 April 2004.

Following a review of all the information, the application for a C2 certificate was approved and a letter to this effect issued on 26 April 2004. The C2 is available for collection by the person concerned at Westmeath-Offaly Revenue District, Government Offices, Pearse Street, Athlone, County Westmeath, and the person has been advised accordingly.

Departmental Staff.

147. **Ms Shortall** asked the Minister for Finance if there have been early retirement packages approved in respect of established civil servants in professional or technical grades in the past ten years; if so, the Departments and staff concerned; and the general terms of packages *vis-à-vis* added years service, lump sums and so on. [12282/04]

Minister for Finance (Mr. McCreevy): There have been no early retirement packages approved in respect of any group of established civil servants in a professional or technical grade in the last ten years. Voluntary early retirement packages have been implemented in a limited number of State sponsored bodies, for example, Teagasc, the Marine Institute, over the period referred to by the Deputy.

Tax Code.

148. **Mr. Murphy** asked the Minister for Finance if a person who is leasing land has to pay stamp duty. [12286/04]

Minister for Finance (Mr. McCreevy): I am informed by the Revenue Commissioners that there are two categories, under the First Schedule of the Stamp Duties Consolidation Act 1999, for charging stamp duty on the creation of a lease of immovable property or rights relating to such property. The rate of stamp duty that is charged on the average annual rent payable for the term of the lease is 1%, 6% or 12% depending on the length of the term of the lease, ranging from one year to 100 years and over. Where the lease is for a definite term but is less than one year, a stamp duty rate of 1% is charged on the rent reserved for the definite period.

The rate of stamp duty that is charged on the premium or key money payable on non-residential property can range from 1% to 9%. The amount of the consideration chargeable to *ad valorem* duty is the amount ascertainable at the time of execution of the legal instrument involved. The legal instrument should contain all the facts and circumstances affecting the liability to the duty.

149. **Mr. O'Shea** asked the Minister for Finance further to Parliamentary Question No. 202 of 6 April 2004, the meaning of a phrase (details supplied) in his reply; and if he will make a statement on the matter. [12307/04]

Minister for Finance (Mr. McCreevy): The phrase in question refers to the differing nature

of the relationships involved in a legal context. On 17 February 2004, I provided a reply to a parliamentary question from Deputy Richard Bruton which set out the different treatments of separated, cohabiting and married persons under the tax code, reflecting the different nature of the relationships between the parties. My reply indicated that under the income tax code, married parents may elect for joint assessment, separate assessment or single assessment.

Under joint assessment, the couple can transfer their personal credit and part of their bands between them. In the case of a married couple, where only one spouse has income, the facility for joint assessment allows the earning spouse to avail of the married personal credit — which is double the personal credit of a single person — and an increased standard band. In addition, the home carer tax credit may be claimed by a married couple who are jointly assessed for tax where one spouse remains working in the home in order to care for children or other dependent persons.

Under separate assessment, each spouse is assessed on his or her own income but one spouse's unused personal credit, reliefs and the transferable portion of the standard rate band may be transferred to the other spouse. This means that the tax payable under separate assessment does not exceed the tax payable had that couple elected to be jointly assessed. The home carer credit may not be claimed by spouses who opt for separate assessment. Under single treatment, each spouse is treated for tax purposes as if unmarried. Under single treatment, one spouse's unused credits, reliefs and standard rate band cannot be transferred to the other spouse. As with separate assessment, the home carer credit may not be claimed by spouses who opt for single assessment.

Separated couples, whether parents or not, are generally treated as if unmarried — that is, assessed as single persons — but they may, where a legally binding maintenance arrangement is in place, jointly elect to be treated for tax purposes as if the separation had not taken place. The general position in the case of legally enforceable maintenance agreements is that where the couple are treated for tax purposes as if unmarried, a tax deduction for maintenance payments for the benefit of his/her spouse is granted to the paying spouse but the payments are taxed in the hands of the receiving spouse. However, if the couple jointly elect to be treated for tax purposes as if the separation had not taken place, the payer does not receive a tax deduction for the maintenance payments and the receiving spouse is not taxable on them. On the other hand, non-legally binding maintenance payments are not taxable in the hands of the receiving spouse but the paying spouse cannot claim a tax deduction for them.

Maintenance payments in respect of children are not taxable in the hands of the children or

the receiving spouse. The effect of this is that the payments are treated the same way as if the taxpayer was providing for the child out of his/her after tax income. This is in line with the tax treatment of all other parents, where the cost of maintaining their children is not tax deductible. Parents who are separated from each other may each claim the one-parent family credit in respect of their child where that child resides with the parent at any time during the year of assessment. However, a man and woman living together as man and wife are specifically excluded by the tax code from entitlement to the one-parent family tax credit. It is possible in certain circumstances for separated persons who jointly elect to be jointly assessed for tax purposes to claim the home carer tax credit. However, in such circumstances and because of the joint assessment, the one-parent family credit may not be claimed by either parent.

Cohabiting parents are treated as single persons and there are no special income tax allowances for unmarried couples living together. The tax system treats members of cohabiting couples, with or without children, as separate and unconnected individuals. Each partner is a separate entity for tax purposes and credits, bands and reliefs cannot be transferred from one partner to the other. The home carer credit may not be claimed by cohabiting couples, as the credit is restricted to married persons who are jointly assessed for tax.

I have held the view consistently that changes in the tax code, for example, to recognise cohabiting couples, should not proceed ahead of changes in the general law. In this regard, I note with interest that the Law Reform Commission has recently published an extensive consultation paper on the rights and duties of cohabitants which deals, among other things, with the issue of taxation. My Department will be examining the recommendations contained in the consultation paper in the weeks ahead.

Visa Applications.

150. **Mr. Haughey** asked the Minister for Foreign Affairs if visa applications by three persons (details supplied) made to the Irish Embassy in New Delhi will be expedited in view of the fact that they have valid work permits since 24 February 2004; and if he will make a statement on the matter. [12291/04]

Minister for Foreign Affairs (Mr. Cowen): The visa applications detailed were recently approved by the Department of Justice, Equality and Law Reform and the Embassy of Ireland in New Delhi was informed of this decision on 22 April 2004.

Services for Irish Emigrants.

151. **Mr. R. Bruton** asked the Minister for Foreign Affairs if he will consider establishing an agency abroad under his Department to co-ordinate services for Irish emigrants; if he will

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consider expanding the existing budget for the support of Irish emigrants who are experiencing hardship abroad to the promised level; and if he will make a statement on the matter. [12293/04]

Minister for Foreign Affairs (Mr. Cowen): I am not opposed in principle to the establishment of an agency for the Irish abroad, as proposed by the task force on policy regarding emigrants, and I do not rule this out. However, in the context of the present level of funding, it would be inappropriate to devote a large proportion of this amount to the administrative costs of setting up and running an agency. I have decided, therefore, as an interim step, to establish a dedicated unit in the Department of Foreign Affairs, when staff resources become available after the EU Presidency, to co-ordinate the provision of services to the Irish abroad and to carry forward the implementation of the task force's report.

The total allocation for emigrant services in the Vote for the Department of Foreign Affairs this year is €4 million. This represents an increase of €1 million or one third over 2003. The greater share of the €4 million, €3.57 million, will go to the DION fund for services to Irish emigrants in the UK. A sum of €400,000 will be allocated to Irish welfare agencies in the U.S and €48,000 will go to agencies in Australia. I have also made provision for grants to ÉAN, the umbrella body for voluntary agencies in Ireland providing services to emigrants, and to the Irish commission for prisoners overseas. I also hope to be able to find some additional funds through savings in my Department's Vote later in the year which will enable me to increase this amount even further.

I will continue to implement the report of the task force and to work in partnership with the governments of the countries concerned and with the voluntary Irish agencies at home and abroad to support our emigrants overseas.

EU Constitution.

152. **Mr. Gregory** asked the Minister for Foreign Affairs his views on the incorporation of the animal welfare amendments proposed by German Federal Foreign Minister Fischler into the EU constitution; and if he will make a statement on the matter. [12305/04]

Minister for Foreign Affairs (Mr. Cowen): In response to the views expressed by a number of delegations in the IGC, the Italian Presidency proposed the inclusion of a new draft article in the constitutional treaty requiring the Union and the member states to pay full regard to the welfare requirements of animals in the implementation of the Union's policies on agriculture, fisheries, transport, internal market, research and technological development and space. Although the negotiations are being conducted on the basis that nothing is agreed until everything is agreed, it appears that a broad

consensus has been reached on the inclusion of the article.

Departmental Properties.

153. **Mr. R. Bruton** asked the Minister for Education and Science the status of lands (details supplied) in Dublin 3 in terms of ownership of same, the nature of the lease to the present users and the long term plans for the land; and if he will make a statement on the matter. [12222/04]

Minister for Education and Science (Mr. N. Dempsey): The lands referred to by the Deputy are in the ownership of my Department. No final decisions have been taken regarding the long-term plans for the lands in question. A number of complex issues are required to be fully explored and resolved, including matters relating to the lease, before a final strategy can be formulated.

Further Education.

154. **Mr. O'Dowd** asked the Minister for Education and Science the action he intends to take to rectify the anomaly that has arisen in Drogheda College of Further Education whereby the numbers have been capped at 384 in a facility built for 500. [12225/04]

Minister for Education and Science (Mr. N. Dempsey): Enrolment in the PLC sector has more than doubled since 1990. There are over 1,000 courses to choose from in over 60 disciplines, delivered in a network of over 230 schools and colleges. Government commitment to the sector is evident not only in this expansion but also in the introduction of maintenance grants for students with effect from September 1998, the provision of national certification under the Further Education and Training Awards Council and the development of links with the institutes of technology.

In the current academic year, the enrolments on PLC courses in certain schools and colleges have exceeded the number of places approved by my Department. Teacher allocations for 2004-05 and capitation grants have been allocated on the basis of the approved number of places or the numbers enrolled. A total of 666 post-leaving certificate places were approved in County Louth VEC in the current academic year. My Department is currently considering appeals from the VECs, schools and colleges for the recognition of the excess numbers enrolled for the purposes of teacher allocations and grants. A decision in the matter will be taken shortly in the light of the totality of demands for teaching resources across the system.

Special Educational Needs.

155. **Mr. Crowe** asked the Minister for Education and Science if a person (details supplied) in Dublin 24 who attends speech and language classes at Balinteer school will be

permitted to remain attending these classes after June 2004 when they will be beyond the seven year old mark set in the criteria for attending this school. [12227/04]

Minister for Education and Science (Mr. N. Dempsey): I have asked my Department's inspectorate to investigate the matter referred to by the Deputy. A response will issue to the applicant as quickly as possible thereafter.

School Staffing.

156. **Mr. Gogarty** asked the Minister for Education and Science if and when a school warden will be appointed for Gael Scoil Camoige, Clondalkin village; and if he will make a statement on the matter. [12230/04]

Minister for Education and Science (Mr. N. Dempsey): The appointment of a school warden is a matter for the relevant local authority and the authorities of the school should contact the local authority concerned, if they have not already done so.

School Accommodation.

157. **Ms O'Sullivan** asked the Minister for Education and Science if his attention has been drawn to the fact that as of 2 April 2004, 55 persons in Limerick city still had not been allocated places in second level schools; the action he intends to take to ensure that suitable places are identified for these persons; and if he will make a statement on the matter. [12233/04]

Minister for Education and Science (Mr. N. Dempsey): I am aware of the difficulties experienced by some families in Limerick city in securing a second level place for their children. Responsibility for ensuring that a child progresses from primary to post-primary education rests in the main with the child's parents. Under section 17 of the Education (Welfare) Act 2000, parents are responsible for ensuring that their children attend a recognised school or otherwise receive an appropriate minimum education.

The Education Welfare Board is required to assist parents who are experiencing difficulty in ensuring that their children attend school regularly and will also assist schools in fulfilling their role under the Act. Through its educational welfare officers, the board provides a welfare focused service that is accessible to parents, school and others concerned with the welfare of young people. The selection and enrolment of pupils in second level schools is the responsibility of the management authorities. My Department's main responsibility is to ensure that schools in an area can, between them, cater for all pupils seeking second level places in an area. This may result, however, in some pupils not obtaining a place in the school of their first choice. As schools may not have a place for every applicant, a selection process may be necessary.

There are 15 post-primary schools in the Limerick city area. I am satisfied that there is sufficient capacity overall in these schools to meet the demand arising from pupils leaving primary schools and requiring second level education. Officials from the regional office of my Department and the National Educational Welfare Board met representatives of schools in the Limerick area concerning enrolment difficulties.

Section 29 of the Education Act 1998, provides parents with an appeal process to the Secretary General of my Department, where a board of management of a school or a person acting on behalf of the board refuses enrolment of a student. Where an appeal under section 29 is upheld, the Secretary General of my Department may direct a school to enrol a pupil. A substantial number of appeals under section 29 of the Education Act 1998 have been lodged with my Department in respect of refusal to enrol in post-primary schools in the Limerick area for the school year 2004-05. Each appeal will be processed under the procedures for hearing and determining appeals, as published by my Department.

I am sure the Deputy will understand that, as Minister, I have no role regarding the operation of the section 29 procedures. I cannot intervene in or exert any influence on an appeal, which is in progress as this would be to act beyond my legal power and authority. Once these appeals have been completed, my Department will be working with the National Educational Welfare Board and the relevant school authorities to address the underlying enrolment difficulties in second level schools in Limerick.

Schools Building Projects.

158. **Mr. Deenihan** asked the Minister for Education and Science if his Department has decided to proceed with the refurbishment or extension to Scoil an Ghleanna, An Daingean, Chontae Chiarraí (details supplied); and if he will make a statement on the matter. [12247/04]

Minister for Education and Science (Mr. N. Dempsey): The large scale building project for the school referred to by the Deputy is listed in section 9 of the 2004 school building programme which is published on my Department's website at www.education.ie. This project is at stage 1 — site suitability, briefing and site report — of architectural planning. It has been assigned a band 3 rating by my Department in accordance with the published criteria for prioritising large scale projects.

Indicative timescales have been included for large scale projects proceeding to tender in 2004. The budget announcement regarding multi-annual capital envelopes will enable me to adopt a multi-annual framework for the school building programme which in turn will give greater clarity regarding projects that are not progressing to tender in this year's programme including Scoil

[Mr. N. Dempsey.]
an Ghleanna. I will make a further announcement in that regard during the year.

School Accommodation.

159. **Mr. F. McGrath** asked the Minister for Education and Science the position regarding the site for Gaelscoil Cholmcille, Whitehall, Dublin; the amount of public money spent on rent in 2004; and if urgent assistance will be given to this school in obtaining a proper premises in order to facilitate a quality educational environment for all its pupils. [12248/04]

Minister for Education and Science (Mr. N. Dempsey): My Department is considering options for the long-term accommodation needs of Gaelscoil Cholmcille including the possible purchase of a site. However, due to the commercial sensitivities surrounding site acquisitions, the Deputy will appreciate that I am unable to comment on specific site purchase issues. My Department is providing 95% grant aid towards an annual rental cost of €88,050 for the school. A recent proposed increase of €22,640 per annum is currently being examined in the school planning section of my Department.

Departmental Correspondence.

160. **Mr. Gilmore** asked the Minister for Education and Science the communications he has had with a person (details supplied) in County Dublin; the investigation he has carried out; the complaints made; the outcome of these investigations; the further actions he intends to take in the matter; and if he will make a statement on the matter. [12249/04]

Minister for Education and Science (Mr. N. Dempsey): On foot of initial correspondence from the person referred to by the Deputy on 31 January 2003, I made enquiries with the Higher Education Authority regarding the complaints being made. Letters were issued from my office on 10 February 2003, 21 May 2003 and 17 September 2003 outlining progress on the matters under review by the university involved, arising from the original complaints.

In this regard, my correspondence of 17 September 2003 outlined my understanding that the board of studies for the particular programme in the university concerned had approved a recommendation of the university's audit committee on matters that were the subject of complaint. I understand this is now being implemented. No further correspondence has been exchanged between my Department and the person concerned on the matter.

School Accommodation.

161. **Mr. J. Higgins** asked the Minister for Education and Science the steps his Department is taking to come to an agreement with Fingal County Council regarding securing an extra

classroom for Castleknock Educate Together national school (details supplied) at Beechpark, Dublin 15; and if he will make a statement on the matter. [12250/04]

162. **Mr. J. Higgins** asked the Minister for Education and Science the steps his Department is taking to come to an agreement with Fingal County Council regarding securing a permanent site for Castleknock Educate Together national school at Beechpark, Dublin 15 at which a temporary school building is housed; and if he will make a statement on the matter. [12251/04]

Minister for Education and Science (Mr. N. Dempsey): I propose to take Questions Nos. 161 and 162 together.

A planning application will be submitted to Fingal County Council shortly for the provision of a new 16 classroom school and autistic unit on a Department owned site at Beechpark, Dublin 15, for Castleknock Educate Together national school

A planning application for the provision of a temporary classroom at the school for September 2004 has already been submitted to Fingal County Council and a decision is expected shortly.

Disadvantaged Status.

163. **Ms O'Sullivan** asked the Minister for Education and Science if he will include St. Michael's infant school, Limerick (details supplied) as a designated disadvantaged school in view of the fact that the two primary schools with which it shares a campus are so designated; and if he will make a statement on the matter. [12252/04]

Minister for Education and Science (Mr. N. Dempsey): Any decision to expand or extend any of the initiatives aimed at tackling educational disadvantage is being considered in the context of a broad review of all such initiatives, which is currently underway in my Department. I anticipate that the review process will be completed shortly.

Child Abuse.

164. **Mr. G. Mitchell** asked the Minister for Education and Science if he will review the case of a person (details supplied) in Dublin 24; and if he will make a statement on the matter. [12268/04]

Minister for Education and Science (Mr. N. Dempsey): The Residential Institutions Redress Board and the Residential Institutions Review Committee are independent in the performance of their functions in accordance with the terms of the Residential Institutions Redress Act 2002. It is not open to me to make any comment on any individual awards that the redress board makes or to attempt to intervene in the process. In the case the Deputy is referring to I understand that

the person in question has already gone through the review process as laid down in the Act.

In the event that any individuals are not satisfied with an offer made by the redress board or the review committee, they are still entitled to proceed with their case through the courts.

Schools Recognition.

165. **Mr. Hogan** asked the Minister for Education and Science if assistance will be given for the accreditation of a new language school (details supplied) in Dublin 4 in view of the fact that the project is supported by Enterprise Ireland; and if he will make a statement on the matter. [12296/04]

Minister for Education and Science (Mr. N. Dempsey): The Advisory Council for English Language Schools, ACELS, is the regulatory body for English language schools and operates under the aegis of my Department. Its objectives are to: control standards in accreditation of EFL schools and courses; control standards in teacher training, both initial and in-career for EFL teachers in Ireland, and maintain a register of such qualified teachers; ensure the establishment of appropriate tests for EFL students and control standards in the certification of their performance; and promote an Irish cultural dimension in EFL courses, particularly in the textbooks used in its schools' network.

To obtain recognition the organisation can submit an application to ACELS, which will assess the school under the schedule of required standards and the regulations governing the recognition of organisations for the teaching of English as a foreign language. The recognition of organisations is granted on an annual basis by my Department on the recommendation of ACELS.

An application form can be obtained from the Advisory Council for English Language Schools, 44 Leeson Place, Dublin 2. No financial assistance is provided to individual language schools by my Department.

School Accommodation.

166. **Cecilia Keaveney** asked the Minister for Education and Science the outcome of the decision made regarding the long-term accommodation needs of a school (details supplied) in County Donegal; and if he will make a statement on the matter. [12306/04]

Minister for Education and Science (Mr. N. Dempsey): Before committing major capital funding to any project, my Department must be satisfied, having regard to all relevant factors, including enrolment and demographic trends, that the school in question has a viable future, thereby ensuring value for money. A number of issues remain to be explored and when these are fully investigated, a decision will be made on how best to provide for the school's long-term accommodation needs. My Department's officials

are in contact with the school authorities in this regard.

School Closures.

167. **Ms Enright** asked the Minister for Education and Science if he has satisfied himself with the proposal put forward by his Department on the closure of St. Catherine's College of Education for Home Economics; his views on whether students attending the college will be in a position to obtain full instruction in teaching in the required curriculum with the reduction of staff numbers; and if he will make a statement on the matter. [12326/04]

168. **Ms Enright** asked the Minister for Education and Science the reason his Department appears to have taken a decision that it will not redeploy persons who are employed on a temporary basis, whether full-time or part-time, at a college (details supplied); if he has satisfied himself that such a decision treats these persons in a fair and equitable manner. [12329/04]

169. **Ms Enright** asked the Minister for Education and Science if he will assess whether temporary whole-time staff employed at a college (details supplied) can be deployed to other areas; and if he will make a statement on the matter. [12330/04]

Minister for Education and Science (Mr. N. Dempsey): I propose to take Questions Nos. 167 to 169, inclusive, together.

The issue of the future of St. Catherine's arose in the context of a decision by the Dominican trustees of St. Catherine's that, due to personnel and financial considerations, they were no longer in a position to fulfil the role of trustees of the college. Following discussions between the trustees and my Department, it was agreed that a consultant would be appointed who would meet relevant parties and prepare a report on the options available.

The consultant's report was thoroughly examined in my Department and the options for the future of the college were set out for my consideration. Having carefully considered all of them and having taken into account other factors such as the national spatial strategy, relevant costs in a time of financial constraint, a Government decision to restrict public service numbers, the need to secure value for money and a better allocation of resources, I decided that these considerations are best served by the closure of St. Catherine's and the designation of St. Angela's College, Sligo, as the sole centre for the training of home economics teachers.

The closure of St. Catherine's will be phased over the next four years to facilitate students currently enrolled in the college in completing their course of training in the college. The supply of home economics teachers will not be affected by the closure, as student intake to St. Angela's College will increase. Discussions are currently taking place between officials of my Department

[Mr. N. Dempsey.]
and the management authorities of St. Catherine's on the practical arrangements involved in the closure of the college. As part of these discussions, the issue of future staffing levels with reduced student numbers is being addressed. I understand that no decisions have yet been made on this matter.

Coastal Protection.

170. **Cecilia Keaveney** asked the Minister for Communications, Marine and Natural Resources when improvements will be carried out to a station (details supplied) in County Donegal; and if he will make a statement on the matter.
[12246/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Consultants retained by my Department to conduct a study of the future development of the Irish Coast Guard recommended that two control centres as opposed to the existing three centres should be operated. Following assessment of the recommendations it was decided that Malin Head and Valentia would be the two centres. Coast Guard management is finalising proposals for the operation of the two centres. When these proposals have been finalised the necessary capital building programmes can be planned.

Offshore Exploration.

171. **Mr. Ferris** asked the Minister for Communications, Marine and Natural Resources if he will make a statement on the possible implications that the revelations concerning falsification of its oil and gas reserves by a company (details supplied) has for its involvement in the exploration sector here.
[12301/04]

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Estimates of reserves of fields discovered offshore under authorisations issued by my Department are evaluated independently by technical experts in my Department. The issue raised by the Deputy has, therefore, no implications for exploration or production in Ireland.

Sports Capital Programme.

172. **Mr. F. McGrath** asked the Minister for Arts, Sport and Tourism if the maximum advice and support will be given regarding funding for Casino Celtic YC (details supplied) in Dublin 5; and if he will make this a priority issue.
[12287/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): In a reply to a similar question in March 2003, reference number 7855/03, concerning this club, I informed the Deputy about the national lottery funded sports capital programme which is administered by my Department and I suggested at that time that the

club could apply for assistance under the 2003 sports capital programme if it had a suitable project. The programme is advertised on an annual basis.

Projects under the programme must be directly related to the provision of sport and recreation facilities and be of a capital nature, which, for the purpose of the programme, is defined as: expenditure on the improvement or construction of an asset and includes any costs directly incurred in this process; and purchase of permanently based sports equipment, which is securely housed, and will remain in use for five years or more. The programme does not assist in the purchase of sites, premises or personal equipment, such as sports kits, gloves, personal protective clothing and so forth.

No application under the programme was received from the club in question under either the 2003 or 2004 programmes. The latter was advertised in the national newspapers on 30 November and 1 December 2003. The closing date for receipt of applications was 16 January 2004. A total of 1,304 applications were received before the closing date. I intend to announce the grant allocations for the programme as soon as possible after the evaluation of the applications received has been completed.

Should the organisation in question have a project in keeping with the basic criteria for the sports capital programme, as listed above, then it will be open to it to apply under the 2005 programme, which is likely to be advertised towards the end of this year. The club can contact the sports unit of my Department if any further information is required.

Swimming Pool Projects.

173. **Mr. Fleming** asked the Minister for Arts, Sport and Tourism when funding for the proposed upgrading of Portlaoise swimming pool would be approved. [12289/04]

Minister for Arts, Sport and Tourism (Mr. O'Donoghue): The contract documents for the refurbishment of the swimming pool in Portlaoise, which have been submitted to my Department by Laois County Council, are under consideration. As the Deputy will be aware there are four principal stages in the local authority swimming pool programme as follows: preliminary report; contract documents; tender approval; and construction. Each stage of the process is subject to the approval of my Department and grant aid is only allocated to a project when the tender documents have been approved.

Services for People with Disabilities.

174. **Mr. Crowe** asked the Minister for Health and Children the reason a person (details supplied) in Dublin 24 was left waiting on an assessment waiting list until they were five and a half. [12228/04]

Minister of State at the Department of Health and Children (Mr. T. O'Malley): Responsibility for the provision of services to people with disabilities in the Dublin region lies, in the first instance, with the Eastern Regional Health Authority. My Department has, therefore, asked the regional chief executive of the authority to investigate the matter raised by the Deputy and reply directly to him.

Cancer Incidence.

175. **Mr. O'Dowd** asked the Minister for Health and Children if he intends to conduct an investigation into the alarmingly high number of cancer deaths in the Drogheda and Dundalk areas as stated in a recent report, Cancer Mortality and Morbidity Report in County Louth, by a person (details supplied). [12199/04]

183. **Mr. Morgan** asked the Minister for Health and Children if his attention has been drawn to a report published recently that indicates a particularly high level of cancer in the Drogheda area of County Louth; the action he is taking to deal with this situation; and if he will make a statement on the matter. [12219/04]

Minister for Health and Children (Mr. Martin): I propose to take Questions Nos. 175 and 183 together.

The National Cancer Registry has statutory responsibility for the collation and analysis of data on incidence and prevalence of cancer in Ireland. I have asked the National Cancer Registry to examine in detail the report referred to by the Deputies.

Hospital Staff.

176. **Caoimhghín Ó Caoláin** asked the Minister for Health and Children if his attention has been drawn to the inadequate levels of staffing at St. Joseph's home for the elderly, Trim, County Meath; if sufficient resources will be provided to the North Eastern Health Board to adequately staff this important facility in order that patients receive optimal care in a healthy environment. [12200/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the provision of health services in County Meath is, in the first instance, the responsibility of the North Eastern Health Board. The board has advised that in addition to the extensive programme of modernisation undertaken at St. Joseph's Hospital, Trim, a project team has been operating to look at the hospital and overall structures. A partnership approach is being adopted to progress staffing issues, in conjunction with the continual modernisation pathway undertaken.

The North Eastern Health Board accepts that there is some shortfall of staff at night-time and states that this will be one of the first areas to be

reviewed by the project team with the view to making recommendations.

Care of the Elderly.

177. **Caoimhghín Ó Caoláin** asked the Minister for Health and Children if his attention has been drawn to the fact that the North Eastern Health Board has not created one extra care for the elderly bed in County Meath to meet the needs of an increasing population; the action he and his Department propose to rectify this; and if he will make a statement on the matter. [12201/04]

Minister of State at the Department of Health and Children (Mr. Callely): As the Deputy will be aware, the provision of health services in County Meath is, in the first instance, the responsibility of the North Eastern Health Board. The board informs me that it proposes to construct a new 34 bed community nursing unit in Navan to replace the county infirmary. This will increase the bed provision in Meath by 14 beds. In addition, a day hospital will be provided as part of the development.

My Department is examining the health capital programme for 2004 and beyond to ascertain what new projects can be progressed through either planning or construction stages, taking account of existing commitments and overall funding resources available. It is in this context that my Department will continue to liaise with the North Eastern Health Board regarding the proposed development in Navan in the light of the board's overall capital funding priorities.

Health Board Services.

178. **Dr. Upton** asked the Minister for Health and Children the position regarding the issue raised in Parliamentary Question No. 356 of 30 March 2004. [12202/04]

Minister for Health and Children (Mr. Martin): Responsibility for the provision of orthodontic treatment to eligible persons in Dublin 12 rests with the Eastern Regional Health Authority. My Department has again asked the regional chief executive to investigate the matter raised by the Deputy and to reply to her directly.

Smoking Ban.

179. **Mr. Kehoe** asked the Minister for Health and Children when the position with regard to hotel rooms will be reviewed in view of the fact that the smoking ban has been introduced; if the ban will be changed to include hotel rooms; and if he will make a statement on the matter. [12204/04]

Minister for Health and Children (Mr. Martin): The smoke-free workplaces measures apply, with limited exceptions, to all enclosed places of work. These measures do not apply to hotel bedrooms as these are considered to be equivalent to private dwellings. A decision to allow the smoking of tobacco products in exempted

[Mr. Martin.]

premises is a matter for the management of the premises concerned. However, the fact that particular premises are exempted does not confer a right to smoke in that location and neither does it affect the duty of care an employer has in respect of his or her employees. Guidelines in respect of protection for staff for whom hotel bedrooms are a place of work have issued to the Irish Hotels Federation.

Health Board Services.

180. **Mr. Ring** asked the Minister for Health and Children the reason a person (details supplied) in County Mayo has not been admitted to Galway Regional Hospital. [12206/04]

Minister for Health and Children (Mr. Martin):

The provision of hospital services for people living in County Mayo is a matter for the Western Health Board. My Department has asked the chief executive officer of the board to reply directly to the Deputy on the matter raised.

181. **Mr. Ring** asked the Minister for Health and Children when a person (details supplied) in County Galway will be admitted to St. Luke's Hospital, Dublin. [12207/04]

Minister for Health and Children (Mr. Martin):

The provision of hospital services for people living in County Galway is a matter for the Western Health Board. My Department has asked the chief executive officer of the board to reply directly to the Deputy on the matter raised.

Homeless Persons.

182. **Mr. Gilmore** asked the Minister for Health and Children if he has received a communication from an association (details supplied) concerning the shortfall of €2 million in the provision for homeless services in Dublin in 2004; the extent to which his Department has contributed to this; the steps he is taking to remedy the problem; and if he will make a statement on the matter. [12218/04]

Minister for Health and Children (Mr. Martin):

Since 2000, €22.63 million additional funding has been made available by my Department to meet our commitments under "Homelessness — An Integrated Strategy". This is ongoing funding and will remain available to health boards for the provision of health services to homeless adults. I have received a communication from the association concerned and the matters raised by that association are being considered in my Department.

Question No. 183 answered with Question No. 175.

Question No. 184 withdrawn.

Health Board Services.

185. **Mr. Gogarty** asked the Minister for Health and Children if his attention has been drawn to the fact that some chiropractors in the Eastern Regional Health Authority area are charging medical card holders a small fee for their services; if action is being taken to counteract this; and if he will make a statement on the matter. [12232/04]

Minister for Health and Children (Mr. Martin):

As stated in response to previous questions on this subject, the matter had been referred to the chief executive officers of all health boards and the authority for investigation and reply to my Department. The health board chief executive officers have responded to my Department's request for a report on the arrangements for the provision of chiropractic services by each health board. The report is being examined by my officials. The need for further action will be considered on completion of this examination.

Organ Donation.

186. **Dr. Upton** asked the Minister for Health and Children his views on the introduction of an opt out organ donation scheme to increase the level of organ donation here. [12272/04]

Minister for Health and Children (Mr. Martin):

There are two systems that can be used to ascertain an individual's wishes on organ donation: the opt in system and the opt out system. The former system, which operates in this country, requires that the specific consent to donation of each person or their relatives be obtained before organs or tissues are removed. The opt out system presumes that all citizens consent to donation unless they have specifically expressed a wish to the contrary.

The practice in this country is that where a person has indicated his or her willingness to donate organs by way of carrying an organ donor card or a driving licence marked accordingly, the consent of the next-of-kin is always sought. Even where opt out systems are in operation, the relatives of the deceased are approached as part of the donor screening process to seek a medical history of any high risk behaviour. Thus, the relatives will always be aware that a donation is being considered and can register an objection to the donation.

I understand that the European Commission is considering the question of legislation in respect of organ transplantation, including the issue of consent, and proposes to conduct a thorough scientific evaluation of the situation. It will present a report to the Council of the European Union on its analysis as soon as possible. In the meantime, I am proposing to establish, in the near future, an expert group to examine organ donation, procurement and utilisation policy in Ireland as part of the national health strategy's commitment to develop organ transplantation services with a view to increasing donation and

utilisation rates. I would be happy to have the issue raised by the Deputy considered by the group in the course of its work.

Health Board Services.

187. **Mr. O'Shea** asked the Minister for Health and Children the proposals he has to assist the Caredoc Co-op after hours service to Waterford city and county in early 2004 (details supplied); and if he will make a statement on the matter. [12274/04]

Minister for Health and Children (Mr. Martin):

Between 2000 and 2003, €7.124 million was allocated to the South Eastern Health Board for the expansion of its out of hours co-operative, Caredoc. In 2004, €3.492 million has been included in the health board's base allocation for the continued provision of services under this heading. This dedicated funding is exclusive of the fees paid to participating general practitioners.

All decisions in regard to the geographical areas to be covered by co-operatives and the order of their commencement are matters for the relevant health board having regard to the range of financial and other issues involved in any such expansion.

Historic Insurance Liabilities.

188. **Mr. Hogan** asked the Minister for Health and Children if his attention has been drawn to the recent High Court decision reaffirming the discretionary powers of the medical defence organisations; the consequences of this decision for his strategy to address circumstances in which such organisations lawfully refuse to provide indemnity to current or former members; the measures he is taking to ensure that doctors and patients here are protected specifically with regard to historic liabilities; and if he will make a statement on the matter. [12298/04]

Minister for Health and Children (Mr. Martin):

The judgment delivered in the High Court in the case referred to by the Deputy has been brought to my attention. Copies have been forwarded to the Chief State Solicitor's Office and to the Office of the Attorney General for their observations. I do not propose to speculate on any implications of the judgment until I have received advice on the matter. My Department is actively involved in discussions with the medical defence organisations in an effort to resolve the issue of historic liabilities.

189. **Mr. Hogan** asked the Minister for Health and Children when he expects his discussions with the MDU on historic liabilities and the clinical indemnity scheme to conclude; his views on whether the matter can be resolved by negotiation; if he has undertaken similar discussions with the MPS; and if he will make a statement on the matter. [12299/04]

Minister for Health and Children (Mr. Martin):

The issues involved in my Department's discussions with the Medical Defence Union are complex. I expect the current phase of the process, which involves an independent assessment of the MDU's Irish obstetric liabilities, to be concluded shortly. I hope to be in a position to bring proposals to Government shortly thereafter. It has always been my wish that the matter of historic liabilities should be resolved by negotiation. However, the interests of patients, consultants and taxpayers have to be taken into consideration in determining that the matter can be resolved by agreement.

In parallel with the discussions with the Medical Defence Union, officials of my Department have also been engaged in discussions with the Medical Protection Society.

Vaccination Programme.

190. **Ms Enright** asked the Minister for Health and Children the systems his Department is looking into in other countries with regard to setting up a compensation scheme for persons who have been brain damaged by vaccines administered in this State; and if he will make a statement on the matter. [12332/04]

Minister for Health and Children (Mr. Martin):

The preliminary overview of schemes already undertaken is a working document which forms part of the deliberative process and it would not be appropriate to release the details thereof at this stage.

Garda Stations.

191. **Ms O'Sullivan** asked the Minister for Justice, Equality and Law Reform his plans and proposed timeframe for the replacement of the Mary Street Garda Station, Limerick, with a new station; and if he will make a statement on the matter. [12264/04]

Minister for Justice, Equality and Law Reform

(Mr. McDowell): I am informed by the Garda authorities that they are currently examining the provision of a new Garda station at Mary Street, Limerick, to cater for the needs of the area. When the views of the Garda authorities are received in my Department further consideration will be given to the matter.

Accordingly, the Deputy will appreciate that I cannot indicate at this time when construction of a new station might commence. I can, however, assure her that there will be no avoidable delay and the project will be progressed as quickly as the availability of financial and other resources allow.

Departmental Properties.

192. **Mr. Gilmore** asked the Minister for Justice, Equality and Law Reform if he has received a submission from Shankhill GAA Club proposing a GAA centre of excellence and Irish

[Mr. Gilmore.]

cultural centre for the former Shanganagh Prison, Shankhill, County Dublin; the consideration he has given to the proposal; if he will make the premises available for this purpose; and if he will make a statement on the matter. [12269/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): I have to date received no formal submission on the proposal mentioned by the Deputy. I have, however, already decided, with the consent of the Minister for Finance, that the property in question will be sold with the proceeds dedicated to the Irish Prison Service capital building programme. This process is now underway.

Proposed Legislation.

193. **Mr. Morgan** asked the Minister for Justice, Equality and Law Reform if he will implement the recommendation contained in the ninth progress report of the Oireachtas All-Party Committee on the Constitution to bring forward legislation for the abolition of ground rents; when he expects to publish legislation for the abolition of ground rents; and if he will make a statement on the matter. [12270/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The Government legislation programme which was published on 26 April 2004 makes provision for a Bill to abolish ground rents. As stated previously on this matter, publication of the Bill is subject to the resolution of possible constitutional and practical difficulties. The constitutional difficulties referred to concern the respective rights of ground rent tenants and landlords while the practical difficulties concern land law generally and, in particular, the land registration system.

I have nothing further to add to that by way of comment at this point in time other than to say that the recommendation contained in the ninth progress report of the Oireachtas All-Party Committee on the Constitution will be examined as part of the same exercise.

Garda Operations.

194. **Mr. Kehoe** asked the Minister for Justice, Equality and Law Reform the number of phone calls made to traffic watch in the past year; and the number of these calls which resulted in a prosecution. [12304/04]

Minister for Justice, Equality and Law Reform (Mr. McDowell): The traffic watch scheme was launched nationwide on 19 February 2004 and since that date a total of 841 calls have been received. The cases where callers have indicated that they were prepared to give evidence in court are still under investigation.

Prior to the launch of the scheme nationwide, a pilot scheme was operated in the south eastern region since November 2001. During the operation of the pilot scheme, 3,800 calls were

received from the public as a result of which more than 1,000 drivers were formally cautioned. There were also 30 prosecutions in the courts as a result of calls to the pilot scheme.

Local Authority Housing.

195. **Mr. Crowe** asked the Minister for the Environment, Heritage and Local Government if he will allocate funding to cover the cost of making adaptations to privately owned houses belonging to disabled persons; and if he will fast track the process in view of the fact that some persons have been waiting for over a year and a half. [12208/04]

Minister of State at the Department of the Environment, Heritage and Local Government

(Mr. N. Ahern): Assistance towards the adaptation of houses for the proper accommodation of a member of the household who is either physically handicapped or suffering from severe mental handicap or mental illness is available under the disabled persons grant scheme. The administration of the scheme, including the processing of individual applications, is a matter for individual local authorities. The framework for the operation of the scheme is laid down in statutory regulations and, as far as practicable, is designed to give an appropriate degree of flexibility to local authorities.

Capital funding of €65 million has been provided for the payment of disabled persons and essential repairs grants in 2004. Returns have now been received from all local authorities detailing their expenditure on the scheme in 2003 and their estimated requirements for 2004 and individual allocations are now being finalised. It is a matter for authorities to decide on the level of funding to be provided for the disabled persons grant scheme in their areas from within the allocations notified to them for these purposes by my Department.

My Department recoups to authorities two thirds of their expenditure on the payment of individual grants. It is the responsibility of the authorities to fund the remaining one third from their own resources from amounts provided for that purpose in their annual estimates of expenditure. The improvements which have been made in recent years to the maximum disabled persons grant and the level of recoupment available have resulted in increased levels of demand with expenditure on the scheme increasing from €13 million for 2,455 grants in 1998 to €52.6 million for 5,932 grants in 2002. Figures for 2003 are currently being compiled and will be published shortly.

In line with this significant increase in my Department's capital provision for the scheme, recoupment costs have also increased from €6.3 million for 2,512 grants in 1998 to almost €37.5 million for 6,153 grants in 2003. In that time the maximum grant has doubled from €10,158 to €20,320. These significant increases in the levels

of funding provided are a clear indication of the Government's commitment to the disabled persons grant scheme.

Private Rented Accommodation.

196. **Mr. Timmins** asked the Minister for the Environment, Heritage and Local Government the position regarding the registration of private rented dwellings; if landlords have to pay this registration in view of the recent court decision; and if he will make a statement on the matter. [12244/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. N. Ahern): I refer to the reply to Question No. 816 of 27 April 2004. I am not aware of a recent court decision that has implications for the obligation of landlords to register their tenancies under the Housing (Registration of Rented Houses) Regulations 1996.

Property Transfer.

197. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government if a property has been transferred into the State's ownership (details supplied); and if he will make a statement on the matter. [12245/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I refer to the reply to Question No. 147 of 24 March 2004. The position is unchanged.

Archaeological Sites.

198. **Mr. Deenihan** asked the Minister for the Environment, Heritage and Local Government when the archaeological report on the excavation at Ardfert Cathedral will be published; and if he will make a statement on the matter. [12273/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): Most of the specialist report on the human remains at this excavation has now been received. Given the extent of the remains, more than 2,000 burials, the information must now be collated with the general report. As promised previously, I will arrange for a copy of the published report to be forwarded to the Deputy.

Water and Sewerage Schemes.

199. **Cecilia Keaveney** asked the Minister for the Environment, Heritage and Local Government the position regarding contract documents for a group water scheme (details supplied) in County Donegal; and if he will make a statement on the matter. [12275/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I refer to the reply to Question No. 577 of 23 March 2004.

Road Network.

200. **Mr. Gilmore** asked the Minister for the Environment, Heritage and Local Government the purpose of local improvement scheme grants; and the allocation which has been made to Dún Laoghaire Rathdown County Council for 2004. [12280/04]

Minister of State at the Department of the Environment, Heritage and Local Government (Mr. Gallagher): Section 81 of the Local Government Act 2001 provides the statutory basis for the local improvements scheme and my Department's local improvements scheme memorandum, which issued in February 2002, sets out the current terms and conditions for the payment of local improvements scheme grants. Under the scheme, grants are provided to county councils for the construction and improvement of non-public roads which provide access to parcels of land of which at least two are owned or occupied by different persons engaged in separate agricultural activities, or provide access for harvesting purposes for two or more persons, or which will in the opinion of the county council be used by the public.

No applications for funding under the 2004 scheme were received in my Department from Dún Laoghaire Rathdown County Council and, accordingly, no allocation was made to the council.

Departmental Properties.

201. **Ms Enright** asked the Minister for the Environment, Heritage and Local Government the reason for the no hunting policy operated by him on lands within the control of his Department; and if he will make a statement on the matter. [12331/04]

Minister for the Environment, Heritage and Local Government (Mr. Cullen): I refer to the replies to Questions Nos. 264, 272 and 273 of 3 March 2004, to Question No. 4 of 4 March 2004 and to Questions Nos. 467, 468, 469, 470 and 471 of 30 March 2004 in which I have explained the background to the long-standing prohibition on hunting on lands managed by the National Parks and Wildlife Service and the reasons for continuing this policy.

CLÁR Programme.

202. **Mr. Kehoe** asked the Minister for Community, Rural and Gaeltacht Affairs the census figures which were used in order to meet the criteria to apply for funding of the CLÁR programme in 2003; and if he proposes to use the up to date figures when allocating funding in 2004. [12303/04]

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): The Deputy will, no doubt, be aware that I announced the revision of the CLÁR areas in January 2003 based on the preliminary results of the 2002 population census

[Éamon Ó Cuív.]
data. As the final figures, published in June 2003, are only marginally less, -0.0034%, a further revision of CLAR regions is unwarranted.

The programme will be operated in 2004 on the same basis as last year, with all 18 areas eligible to participate in all the measures operating under the programme.

Social Welfare Benefits.

203. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will consider further increases in child and adult dependent allowances; and if she will make a statement on the matter. [12317/04]

Minister for Social and Family Affairs (Mary Coughlan): Since 1994, successive Governments have held the rate of child dependant allowances, CDA's, constant while concentrating resources for child income support on the child benefit, CB, scheme. It is important to recognise that over that period, the combined CB/CDA payment has increased by more than double the rate of inflation. Child benefit is neutral *vis-à-vis* the employment status of the child's parents and does not contribute to poverty traps, whereas the loss of child dependant allowances by social welfare recipients on taking up employment can act as a disincentive to availing of work opportunities. As a universal payment, which is not taxable and is not assessed as means for other secondary benefits, child benefit is in fact more effective than child dependant allowances as a child income support mechanism when account is taken of these incentive issues.

The Government's commitment to this policy is reflected in the substantial resources we have invested in the child benefit scheme since entering office, including an additional expenditure of €1.27 billion on child benefit when the current programme of multi-annual increases is complete. We will then have moved from a position in 1994 where 70% of child income support for a family claiming social welfare payments was in the form of child dependant allowances, to a position where child dependant allowances will account for less than 33%. The issue of increasing child dependant allowances has been raised on a number of occasions. I believe that the increased investment in the child benefit scheme which the Government has made in recent years has been of major benefit to families and is a most effective use of the resources available for child income support.

In the partnership agreement Sustaining Progress, the importance of child income support arrangements is recognised, with a commitment to examine the effectiveness of current arrangements in tackling child poverty. Budget 2004 provided for increases in the qualified adult allowance ranging from €16.10 per week, invalidity pension where the qualified adult dependant is 66 years of age or over, to €6.60 per

week, non-contributory pension, blind pension and short-term schemes.

Legislation currently provides for the gradual reduction of the qualified adult allowance, QAA, for claimants of certain welfare payments, where the qualified adult is earning €88.88 or more up to €210.00 per week, at which point the QAA is fully withdrawn. The initial threshold of €88.88 together with the gradual withdrawal ensure that a spouse is not unduly penalised for taking up employment. A number of changes to these tapered arrangements have been introduced in recent years to ensure that the impact of increases in earnings are not negated for families where the spouse is the sole earner and is in low paid employment. The range of income over which the QAA is withdrawn has been progressively extended. In 1999 the QAA was withdrawn over an income range of €76.18 to €114.28. The current range is €88.88 to €210.00.

Furthermore, whereas prior to March 2000, the child dependant allowance, CDA, was halved where a tapered rate of QAA was payable, full CDA is now payable in such cases. The question of increasing the QAA and child dependant allowance rates are matters for consideration in a budgetary context and in the context of priorities generally.

204. **Mr. Durkan** asked the Minister for Social and Family Affairs the reason an increase in one parent family or widows allowance results in a reduction in rent support for those in private rented accommodation; and if she will make a statement on the matter. [12316/04]

Minister for Social and Family Affairs (Mary Coughlan): Rent supplements, which are provided for under the supplementary welfare allowance scheme are subject to a means test and are normally calculated to ensure that a person, after the payment of rent, has an income equal to the rate of supplementary welfare allowance appropriate to his or her family circumstances, less a minimum contribution, currently €13 which recipients are required to pay from their own resources.

In addition to the minimum contribution, recipients are also required to contribute towards their rent any additional assessable means that they have over and above the appropriate basic supplementary welfare allowance rate. In effect, this means that the difference between the relevant supplementary welfare allowance rate and the means which a person has also goes towards their rent thereby reducing the amount of rent supplement payable.

205. **Mr. Durkan** asked the Minister for Social and Family Affairs when she expects to liberalise means testing for social welfare payments that are subject to such tests; and if she will make a statement on the matter. [12318/04]

Minister for Social and Family Affairs (Mary Coughlan): Social assistance payments feature a

means test which is intended to ensure that available resources are targeted at those most in need.

In recent years, considerable improvements have been made to means tests to allow persons to qualify more easily for payments, to retain more of their income before payments are withdrawn or to withdraw payments more gradually if means exceed a certain level. The improvements included the following. The income disregard for carer's allowance was increased from €191 to €250, single, and from €382 to €500, couple, over budgets 2003 and 2004. This amounts to a €59 increase in the disregard for a single person and a €118 increase in the disregard for a couple. The assessment of benefit and privilege for unemployment assistance recipients aged 29 years or more was abolished from May 2003. In addition, budget 2004 continued this initiative and reduced the maximum age further to 26 years, in respect of persons who are living in the parental home. The past two budgets have also allocated an increase in the income disregard for the family income supplement payment of €45, for all family sizes. In addition, budget 2004 abolished the assessment of rent supplement from the calculation of assessable income for the payment of family income supplement, thus ensuring that people in receipt of FIS and rent supplement retain the full value of their payments.

In line with the current arrangements for one-parent family payment, the treatment of maintenance in the assessment of means for disability allowance, unemployment assistance, farm assist, PRETA, OANCP, widow/widower's pension and blind persons' pension was standardised in budget 2003. Any further changes to means assessment would require the allocation of additional resources and would have to be considered in a budgetary context.

Family Support Services.

206. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will investigate the possibility of improving the FIS; and if she will make a statement on the matter. [12320/04]

Minister for Social and Family Affairs (Mary Coughlan): Family income supplement, FIS, is designed to provide cash support for employees on low earnings with families and thereby preserve the incentive to remain in employment in circumstances where the employee might only be marginally better off than if s/he were claiming other social welfare payments.

The range of improvements to the family income supplement scheme instituted in recent years, including the assessment of FIS on the basis of net rather than gross income and the progressive increases in the income limits, have made it easier for lower income households to qualify under the scheme.

In this year's budget, I provided for further increases in the FIS income limits with effect

from January 2004. These increases raised the weekly income limits by €28 at each point, adding an extra €16.80 to the payments of most existing FIS recipients. I also increased the minimum FIS weekly payment from €13 to €20. The average weekly payment now stands at €82.51 per week, with a total of 12,003 families receiving a supplement under the scheme.

The question of further improvements to the income thresholds is a matter for consideration in a budgetary context, having regard to available resources and Government commitments.

Social Welfare Benefits.

207. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will consider substantially increasing child benefit with a view to assisting parents with high child minding costs; and if she will make a statement on the matter. [12321/04]

Minister for Social and Family Affairs (Mary Coughlan): Child benefit, CB, delivers a standard rate of payment in respect of all children in a family regardless of income levels or employment status. It supports all children but delivers proportionately more assistance to those on low incomes and with larger families. It does not distort parental choice in respect of labour force participation and contributes towards alleviating child poverty.

Child benefit is not intended primarily to meet child care costs. However, the substantial increases in CB in recent years can make a substantial contribution to meeting those costs. Budget 2004 provided for a €6 per month increase, or 4.8%, in the rate of child benefit payable in respect of each of the first two children and €8 per month, or 5.1%, increase in the rate payable in respect of the third and subsequent children.

Over the period since 1997, the monthly rates of child benefit have increased by €93.51 at the lower rate and €115.78 at the higher rate, increases of 246% and 234% respectively, compared with inflation of 26.9%. This level of increase is unprecedented and delivers on the Government's objective of providing support for children generally while offering real choice to all parents.

The question of further increases in child benefit will be a matter for consideration in a budgetary context.

Social Insurance.

208. **Mr. Durkan** asked the Minister for Social and Family Affairs the steps she can take to expedite the process of social welfare claims requiring calculation or contributions in more than one jurisdiction; and if she will make a statement on the matter. [12322/04]

Minister for Social and Family Affairs (Mary Coughlan): I refer the Deputy to my reply to

[Mary Coughlan.]

Question No. 8035/04 and Question No. 4370/04 in the above matter.

My Department has responsibility for the administration of a range of social security benefits and pensions, including cases where social insurance periods in other EU member states or in countries with which Ireland has a bilateral agreement, may be combined for the purposes of determining entitlement.

In the case of short-term benefits such as unemployment benefit, sickness benefit, maternity benefit and so on, reckonable social insurance contributions in one or more EU countries may be taken into account to determine entitlement in accordance with EU legislation. The majority of these cases can be decided on the basis of current or relatively recent information, such as details of employment contributions recorded in the relevant countries during the past few years and these are normally cleared without undue delay. In some cases, the need for further correspondence with the applicant and/or relevant authorities in other countries — for example, to confirm identity and locate the correct insurance records — may delay the outcome. However, every effort is made to minimise such delays.

Pension applications require far more detailed information and may often involve considerable work in establishing a person's complete social insurance coverage in one or more countries. Payments may have to be calculated on a *pro rata* basis having regard to the extent of reckonable social insurance periods in each of the relevant countries. This process can be very time consuming, particularly where investigations may be required to establish the full and correct employment records. Delays in processing applications do not result in any loss of payment to the pensioners concerned as claims are backdated in accordance with the normal provisions. Also, in the majority of cases, the applicants may be in receipt of a basic pension while the broader EU or bilateral aspects of their entitlement are being examined.

The processing of pension claims, and in particular, the collation and exchange of social insurance data in a timely manner, is a matter of concern at EU level. Work is ongoing to identify ways of simplifying and streamlining the administrative procedures to improve arrangements for the award and payment of social security benefits. Officials from my Department are currently involved in a working group which will draw up a plan of action for data exchanges, identifying concrete ways to EU wide progress in this area. It is expected that a plan of action will be ready for presentation by the end of next year.

Question No. 209 answered with Question No. 118.

Question No. 210 answered with Question No. 70.

Social Welfare Benefits.

211. **Mr. Durkan** asked the Minister for Social and Family Affairs if she will extend the scope and scale of optical and dental benefits; and if she will make a statement on the matter. [12325/04]

Minister for Social and Family Affairs (Mary Coughlan): The treatment benefit scheme operated by my Department provides to insured persons and their dependent spouses a range of services in the area of dental, optical and aural benefit. The availability of these benefits is subject to certain PRSI contribution conditions. The PRSI contribution classes which qualify for treatment benefit are A, E, H and P.

The operation of the schemes is subject to ongoing monitoring by my Department. I have no proposals, at present, for amending the dental and optical benefit schemes and any changes would be a matter for consideration within the constraints of available resources.

Community Development.

212. **Ms Enright** asked the Minister for Social and Family Affairs the amount allocated to Comhairle in the years 2003 and 2004; and if she will make a statement on the matter. [12333/04]

213. **Ms Enright** asked the Minister for Social and Family Affairs the amount allocated to Comhairle in County Laois for the years 2003 and 2004; and if she will make a statement on the matter. [12334/04]

214. **Ms Enright** asked the Minister for Social and Family Affairs the amount allocated to Comhairle in County Offaly for the years 2003 and 2004; and if she will make a statement on the matter. [12335/04]

Minister for Social and Family Affairs (Mary Coughlan): I propose to take Questions Nos. 212 to 214, inclusive, together.

The funding provided to Comhairle in 2003 was €17,011,000 and, in 2004, is €17,826,000. This funding is for the ongoing implementation of Comhairle's strategic plan and includes the ongoing development of the citizens information services; contributing to the development of social policy; the provision of a range of information and training services and the promotion of equal access to the broad range of social services.

Among the functions of Comhairle is the provision of support to community information centres and other local organisations providing service related services. Funding allocated by Comhairle for services in County Laois in 2003 amounted to €156,982. This consisted of an operating grant of €5,500 for various projects in the county. Funding of €163,450 has been allocated for 2004. Services in County Offaly received funding of €197,220 in 2003, consisting of €175,115 towards operating and running costs and other grants totalling €22,105. Funding of €198,020 has been allocated for 2004.