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**Wednesday,
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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

TU AIRISC OIFIGIÚIL—*Neamhcheartaithe*
(OFFICIAL REPORT—*Unrevised*)

Wednesday, 7 April 2004.

[illegible]

SEANAD ÉIREANN

Dé Céadaoin, 7 Aibreán 2004.
Wednesday, 7 April 2004.

Chuaigh an Cathaoirleach i gceannas ar 11.00 a.m.

Paidir.
Prayer.

Business of Seanad.

An Cathaoirleach: I have received notice from Senator Ulick Burke that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Justice, Equality and Law Reform to outline his proposals to rectify matters pertaining to persons who have resided in this State for more than five years, who have fulfilled the statutory and administrative requirements for citizenship, who submitted their applications in 2002 and still, after two years, have not had their citizenship applications finalised.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Order of Business.

Ms O'Rourke: The Order of Business is No. 1, Criminal Law (Insanity) Bill 2002 — Committee Stage, to be taken at the conclusion of the Order of Business and to conclude at 1.30 p.m.; No. 2, statements on the CLÁR programme, to be taken at 2.30 p.m. and to conclude not later than 5 p.m., with the contributions of spokespersons not to exceed 15 minutes and those of other Senators not to exceed ten minutes, Members may share time and the Minister to be called upon to reply not later than ten minutes before the conclusion of the statements; and No. 15, motion No. 20, to be taken from 5 p.m. to 7 p.m. There will be a sos from 1.30 p.m. to 2.30 p.m.

Mr. B. Hayes: There is general agreement that our Constitution has always been above and beyond party politics. When we change, amend or reform our Constitution there is usually a sense of agreement about the substance of the issue to be put to the people. Does the Leader agree the Government's decision to hold a referendum on the sensitive issue of citizenship rights on the same day as the local and European elections on 11 June is abhorrent and wrong? Does she also

agree the manner in which the Government has decided to force this measure through the Houses, bringing the other House back a week early from the Easter recess and the complete lack of all-party consultation and agreement on this matter, is a sign that some politicians want to use this issue as a glorified race card in advance of the elections?

Ireland needs a serious debate on the issue of immigration, particularly the position of non-nationals, but we will not have that debate if this minor point becomes the focus for all publicity between now and 11 June. This is a bad day's work. The House has a fundamental responsibility, because it does not have a political mandate from the people, to point out these issues to the Government. Members on both sides of the House rightly said to the Government three weeks ago that we should not have this referendum at the same time as the local and European elections. That is the voice of the House and it is the way in which this House can be unique. It has historically played a key role in our political establishment because it has been able to guide the Government in a non-political fashion.

I ask the Government to rethink its strategy on this matter. I know we will have an opportunity to debate it later, but this is a fundamental point. We should not change our Constitution for party political ends. We remember the mistake that was made when the amendment on abortion was inserted into the Constitution 20 years ago. Now, those who say they support the rights of the unborn wish to limit their rights and the rights of their parents. It is a bad day's work. I ask the Government to reconsider.

Mr. Quinn: I hope the Cathaoirleach will excuse me if I make a personal point, but I notice he has been in particularly good humour over the past ten days. I have also noticed that everyone else has been in a better mood. I was not sure whether this was due to the smoking ban, but I have now come to the conclusion that it is due to the extra hour of daylight in the evening. I was interested to discover yesterday that in the UK there are moves afoot to reintroduce double summer time, or to change the standard time to central European time. The campaign is called Free Britain from the Tyranny of Greenwich Mean Time.

The reason I raise this is the figure that was introduced following the worthwhile steps taken yesterday by the Minister for Transport, Deputy Brennan, to enhance road safety. In the UK it is estimated that an extra hour of daylight all year round would prevent 450 deaths and serious injuries on the roads. It is time we reintroduced this debate. Will the Leader consider inviting the Minister for the Environment, Heritage and Local Government to the House to discuss this matter? Some years ago an effort was made to move to central European time. The opposition to this was based on the argument that the UK

[Mr. Quinn.]

was not likely to do the same. We should be willing to leave the nursery even if nanny does not come with us. We should consider the benefits to the country not just in business terms, but in the area of road safety and so on, if we joined central European time rather than being hooked to the UK.

I mentioned the subject of car insurance yesterday. I was delighted to read the comments of the Minister of State at the Department of Justice, Equality and Law Reform, Deputy O'Dea, in today's *Irish Examiner* that he will not back the EU's proposals on motor insurance. He will meet members of the Irish Insurance Federation today to explain this to them. It is estimated that if we accept this proposal, women's motor insurance premiums will rise by an average of €750 per year. It is political correctness gone mad to insist on gender equality in this area rather than applying lower premiums to those who are safer drivers. It appears that women are safer drivers than men.

Mr. Ryan: On the front page of *The Irish Times* this morning there is a story which states that parents who——

Mr. Dardis: "It Says in the Papers."

Ms O'Rourke: Parents who——

Mr. Ryan: It is a compliment if one is interrupted before one has even said anything. They must be afraid of me.

Mr. Dardis: We will always interrupt the Senator if he is prepared to say nothing.

An Cathaoirleach: Order, please. This is time wasting.

Mr. Ryan: It was not me who was wasting time.

Mr. Dardis: Yet.

Mr. Ryan: When I see the Department of Justice, Equality and Law Reform demanding that the passports of Irish citizens be handed back by their parents before they are deported, as has been reported this morning, I do not think that is time wasting. It is extremely serious. I would like to know on what basis the Department, that is now landing us with a referendum without proper consultation, decided to deal with Irish citizens in that way. We all know that the racists in the Department of Justice, Equality and Law Reform do not want black people to be Irish citizens.

Mr. Dardis: That is not right. It is nonsense.

Ms Ormonde: The Senator should withdraw that remark.

Mr. Ryan: I know the record of the Department. When Eamon de Valera wanted to

allow Jewish immigration into this State, the Department of Justice prevented it. If people want me to do so, I will produce chapter and verse about the activities of that Department. Why can we not have a rational debate on the issue of citizenship? Why can we not have time for such a debate? None of us believes that citizenship is an easy or simple issue with which to deal. When the Good Friday Agreement was passed by the Oireachtas, I was aware that there might be a problem about citizenship. Anybody who read the agreement would have realised that. Now that the problem has become an issue which preoccupies the Government, it would be sensible to work out a consensus. A report will be published this evening which presents a consensus view on private property. By adopting a sensible and mature approach we were able to reach a consensus on that matter. The Labour Party wants to know why we cannot take a similarly sensible approach to the issue of citizenship. Is there some crisis that we do not know about or is it, as many people suspect, that the Government knows immigration is a hot issue in an election and wants to tie us all down by indulging in a bit of immigrant bashing leading up to the local and European elections?

Mr. Leyden: Senator Ryan should withdraw the unfair comments made against——

An Cathaoirleach: That is a decision for the Chair.

Mr. Leyden: I am recommending that to the Chair.

An Cathaoirleach: No, that is a matter for the Chair. Does the Senator have a question on the Order of Business?

Mr. Leyden: In fairness, this side of the House takes grave exception to the comments made by Senator Ryan.

An Cathaoirleach: Senator Leyden should refer to the Order of Business.

Mr. Leyden: Will the Leader contact the Minister for the Environment, Heritage and Local Government concerning the building regulations Bill? The legislation has been at the drafting stage for some time and will contain approximately 55 sections. I wish to declare a vested interest in the Bill, concerning the registration of architects and quantity surveyors. At the moment, there is no legislation governing the titles of "architect" or "quantity surveyor". It is time for this matter to be dealt with by way of legislation. Discussions have been going on for some time on the issue, yet the Department of the Environment, Heritage and Local Government has not displayed any urgency in this regard. The Bill is ready for publication. The Royal Institute of Architects of Ireland and members of other professional bodies

representing quantity surveyors are anxious that the legislation should be brought before the Oireachtas as quickly as possible. The legislation should receive a hearing in the Seanad first as there is widespread interest in it. With so much construction work going on and with current developments in the building industry, it is important to provide for the registration of architects and quantity surveyors. I ask the Leader to use her good offices to bring the Bill before the House as soon as possible.

Mr. Finucane: In this morning's newspapers there are pleasant photographs of Michael Schumacher, the Taoiseach and the Minister for Transport, Deputy Brennan.

An Cathaoirleach: On the Order of Business, please.

Mr. Finucane: I want to ask a question in that context. Regrettably, over the past few months, road deaths have risen compared to the same period last year. Anyone driving to Dublin at 60 mph will see other vehicles zooming past. There appears to be an absence of gardai to enforce speed limits. In the past, we were promised that a traffic corps would be introduced. Two weeks ago the Minister for Justice, Equality and Law Reform, Deputy Michael McDowell, said it was not possible to have such a corps due to legal difficulties. In an article in the current Automobile Association's magazine, the Taoiseach states that we will have a traffic corps, and that the Minister for Transport and the Minister for Justice, Equality and Law Reform will tease out the legal aspects.

Will the relevant Minister attend the House to address the two specific questions of whether we will have a traffic corps and, if so, when it will be in operation?

Mr. McCarthy: It is ten years since the genocide in Rwanda that claimed 800,000 lives. This was the worst case of genocide since the Second World War. The international community, through the United Nations, failed abjectly to help the people of that Central African country. Will the House observe the one-minute silence at noon today, as requested by the UN? The UN Secretary General, Mr. Kofi Annan, has asked as many countries as possible to participate in that minute of silence as a mark of respect to all those who lost their lives so brutally and needlessly in Rwanda. It was a horrible incident in world history.

Before the last general election we witnessed a high profile outburst of racist remarks from a candidate who went on to win a seat and was appointed chairman of a Dáil committee. If the race card is going to be played by Government candidates in the forthcoming elections, will those candidates be rewarded by the Taoiseach after the elections?

An Cathaoirleach: That is not a matter for the Leader, it is a matter for the Taoiseach.

Mr. Coghlan: I support Senator Brian Hayes's comments about the proposed referendum on citizenship which is a matter of vital interest to every citizen, and properly so. Surely, however, the good of our democracy requires that all-party consensus should be reached on this matter. As Senator Ryan has pointed out, such consensus has already been reached with regard to the ninth progress report on private property to be launched this evening. There is no need to rush into a referendum on citizenship. We do not want to refer to what is very likely to happen as a result. We have had a taste of it.

An Cathaoirleach: That point was adequately made by Senator Brian Hayes and I do not think we can have a debate on it now.

Mr. Coghlan: Of course not and I do not intend to do so. I am just supporting the points of view he expressed.

I have a question for the Leader. The belief is growing that the Great Southern Hotel chain will be sold, including some of the Leader's favourite hotels.

An Cathaoirleach: Does the Senator have a question for the Leader?

Mr. Coghlan: Yes. Two of the most senior men in the hotel group have been rather disgracefully eased out. Is it planned to sell the chain collectively, or to sell the hotels separately? I am repeating my request for the Leader to invite the relevant Minister to attend the House to discuss this matter. It would be timely to have such a debate.

Mr. Dardis: We should discuss it over dinner.

An Cathaoirleach: Order, please.

Mr. Ross: You may remember, a Chathaoirligh, that at the beginning of this session you were sitting down there and I was in the Chair.

An Cathaoirleach: I remember it.

Mr. Ross: It is a position I have ambitions to resume at a future date. I wish to raise the issue of Seanad reform. I gather that a report on that particular issue has been under consideration for some time. Perhaps the Leader could tell us when the report will be presented to the House and what programme is planned for it. What principles will be established by the report? The most important principles that should be contained therein are that the immense political patronage in this House should be removed and that the university franchise should be extended.

Mr. Dardis: There goes the Chair.

Mr. Ross: I do not think so. I will be back. Senator Dardis depends on others in greater positions than I. Prior to the presentation of the report on Seanad reform — and this is relevant in view of what Senator Brian Hayes said about unanimity on constitutional matters — I would like to know if it has all-party support and whether it has been signed by the leaders of all parties in this House.

An Cathaoirleach: That is a matter for the sub-committee. The report has not yet been laid before the House.

Mr. Ross: I cannot hear what the Clerk is saying, a Chathaoirleach.

An Cathaoirleach: The Chair is of the opinion that we will have to wait to see the report before we can discuss it.

Mr. Ross: I am only asking for some guidance as to when the report will come before the House and whether any legislation is planned in that regard.

An Cathaoirleach: The Leader will answer that.

Mr. B. Hayes: Ball hopping.

Mr. McHugh: Over the past 15 years, 24 post offices have closed in County Donegal. This is a stark statistic. I call on the Minister for Communications, Marine and Natural Resources to intervene because this is the result of depopulation. We all have bases in rural areas and depopulation is a sickness in them. There is a way to address it. The intervention of the Minister could go a long way towards addressing this issue because a two part mechanism is available. Counties such as Donegal could be linked to the broadband grid in Northern Ireland and radio broadband solutions could be provided in rural areas. This has not happened. A seven year plan for rural areas close to gateway towns such as Letterkenny is under discussion. This plan is not good enough and the timeframe involved will not allow for a solution. The Minister should come to the House to debate a connection to the broadband grid in Northern Ireland and to provide radio broadband solutions in rural areas because the closure of post offices will continue and it is our responsibility to do something about it.

Mr. J. Phelan: I support Senator McHugh's comments. As a rural Member, the Cathaoirleach will be familiar with the problem of rural depopulation and its effects on services, post offices, schools and various sporting organisations.

Will the Leader arrange a debate on agriculture as soon as possible, with particular reference to the recent announcement on CAP reform and the procedures for single payments?

It would be opportune to hold such a debate soon. The proposals contain a number of potential difficulties and I urge the Leader to arrange a debate.

I share the sentiments of Senator Brian Hayes regarding the holding of the proposed referendum on 11 June. I do not welcome this move and I urge the Government to rethink that plan before it is put into practice.

Mr. Glynn: I refer to the closure of post offices. It is regrettable that rural depopulation is not the only cause of such closures.

Ms O'Meara: What about Government policy?

Mr. Glynn: I lobbied against a number of post office closures in County Westmeath but the local people did not support the post offices. Depopulation was not the reason they closed. It was proposed that a post office situated four miles from Mullingar should close down and when a canvass of the area was conducted, nobody would take it on because the returns were negligible. Local people travel to Mullingar to draw their pensions.

An Cathaoirleach: We cannot debate the matter now.

Mr. Glynn: It is important.

Mr. McHugh: Does the Senator blame the voters?

An Cathaoirleach: Issues such as this are not debated on the Order of Business.

Mr. Glynn: This is a relevant point. I bemoan the closure of rural post offices because they are part of the rural infrastructure but depopulation is not the only factor in such closures. Local people do not support post offices in the way they should.

Mr. McHugh: Blame the people.

Mr. Glynn: That is a fact.

Mr. Feighan: I would like to add to the closure of post offices——

Mr. Lydon: Enough have closed.

Mr. Feighan: However, one would earn more working for McDonald's than through opening a post office. An Post should consider the remuneration it offers because it is a pittance.

The House should debate the effects of gambling. Over the past ten years, bookie shops have opened on high streets and racing has been permitted on Sundays. Gambling causes severe hardship for families because people fritter away disposable income in gambling dens. Recently, a GAA club banned a number of players because

they refused to participate in the club's lotto scheme. This is a serious scenario——

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

Mr. Feighan: This issue should be debated.

An Cathaoirleach: The House cannot debate the internal affairs of a club or organisation.

Dr. M. Hayes: I will not enter into a debate on the citizenship issue or impute motives to anybody but it is a matter for calm discussion or mature reflection. People in Northern Ireland have a significant interest in this issue, as it is integral to the Good Friday Agreement. Will the Leader ensure that, whatever discussions or consultation take place, a structure will be put in place to provide for an input by relevant parties in Northern Ireland?

Mr. U. Burke: Will the Leader ask the Minister for Education and Science to review the allocation of teachers on post-leaving certificate courses? PLCs have provided an important opportunity to many people from disadvantaged backgrounds to re-enter the education system or engage in training. It is of the utmost importance that such courses should be retrained. Under the new allocation, many of the courses will have to cease, thereby denying training to those who need it. The Minister has requested the House many times to allow him to provide for disadvantaged people to enter third level but, through this allocation, he will deny such access. I ask the Leader to request the Minister to review this issue as a matter of urgency in order that additional places will be provided on PLCs in the 2004-05 school year.

Ms O'Rourke: The Dáil will observe a minute's silence at 12 noon and this House should do likewise. That does not mean everybody should be present because Members have various appointments and so on. I thank Senator McCarthy for raising this matter.

Senator Brian Hayes raised the issue of the constitutional referendum. He expressed himself forcefully on the issue and we will have an opportunity to fully discuss it later. I have given my opinion previously and many people share it. That is a separate matter. As Senator Maurice Hayes said, we must ensure plenty of time is provided for a full debate on the proposals.

Senator Quinn wants summer time all the time. The Senator must think of the other side of the coin. Children would have to go to the school in the dark for a long time if that happened. However, I agree the fine evenings are wonderful. I do not know whether one enjoys the stretch in the evenings more as one gets older, but it is wonderful that there is daylight until 8.30 p.m. The Senator says that is the reason people are in better humour.

He also said women's insurance premia will increase by €750. This is a serious matter but the Minister of State at the Department of Justice, Equality and Law Reform has stated he will not allow that to happen. That is heart warming.

Senator Ryan called for the passport of Irish citizens to be returned. He has strong feelings about this issue and it is one on which people should be free to express their opinions. It is a significant issue and the Senator feels strongly about it. My fear is that it will take over the European and local elections campaign.

Senator Leyden referred to the Bill, which will provide for the registration of architects and quantity surveyors. He said it is ready in the Department of the Environment, Heritage and Local Government. I will inquire about this sensible legislation.

Senator Michael Finucane raised the issue of a traffic corps and commented on the photograph of Mr. Schumacher with the Minister for Transport, Deputy Brennan, and the Taoiseach. The issue of a traffic corps could be raised on the Adjournment when the Senator would get a straight answer to his question.

I thank Senator McCarthy for bringing that matter to our attention. He also fears the race card in the election. Senator Coghlan raised the question of the referendum on citizenship. Let me reassure Senator Coghlan that I do not go to these hotels all the time.

Mr. Coghlan: I did not mean to imply that.

Ms O'Rourke: I go to one of them for a few days every summer. I could say much more but I will not do so.

Mr. Finucane: We know the Leader loves Killarney.

Ms O'Rourke: Senator Coghlan said that two senior staff members have been forced out. I have been invited to an event to mark the departure of Mr. Feeney, who has given great service to Parknasilla hotel. He was not forced out as he wanted to leave.

Mr. Coghlan: He has given tremendous service.

Ms O'Rourke: Senator Ross raised the issue of Seanad reform. We are delighted to know that inside his heart beats ambition.

Mr. Ross: I want to be back there in the Cathaoirleach's chair.

An Cathaoirleach: The Senator will have to wait a bit.

Ms O'Rourke: As the Cathaoirleach does not show any signs of giving it up, the Senator will have to hold his whist. The report on Seanad reform will issue on Wednesday, 28 April 2004. The text was returned three times to the printer,

[Ms O'Rourke.]
to deal with the print size and errata. We are all committed to a full debate on it in the House.

Mr. Ross: Has it got all-party support?

Ms O'Rourke: I am coming to that point. It will be fully debated. The Cathaoirleach and the Committee on Procedure and Privileges will receive it first as they set the terms of reference and then the debate will follow. I want to be quite explicit that it had all-party support until a particular point, which had nothing to do with reform itself——

Mr. Ryan: That is provocative.

Ms O'Rourke: ——but with a separate issue, the commission.

Mr. Ryan: I believe it had a great deal to do with the reform, but we will not go into that now.

An Cathaoirleach: The Leader to reply without interruption. We cannot discuss a report that we have not seen.

Ms O'Rourke: A Member informed a meeting that it related to the way the commission was set up. It has broad support and it will be signed by four Members, including the Senator's leader — I know one does not call him leader.

Mr. Ross: Commissioner O'Toole.

An Cathaoirleach: The Leader to reply. She should ignore any interruptions.

Ms O'Rourke: The report has been approved by the Senator's spokesman. He will get a chance to debate it. I note the Senator wants a widening of the universities' electorate, but in the referendum of 1979, some 25 years ago, the people voted for that but it was never enacted in legislation. I hope that a quarter of a century later the report supports the will of the people.

Senator McHugh raised the depopulation of rural areas and how broadband technology would provide services no longer available because of the closure of post offices. Post offices could use the broadband and make it available to people. Senator John Paul Phelan agreed with Senator McHugh on this point, but he also requested a debate on CAP reform, to which I am sure the Minister for Agriculture and Food, Deputy Walsh, will agree.

I agree with Senator Glynn that people must use the local rural post office in order to retain it. People now have cars to travel to towns and elsewhere and they do not have the same reliance on small rural post offices that they had previously. However, if people want to retain local post offices, they should use them.

Senator Feighan requested a debate on gambling. I agree with Senator Maurice Hayes that the issue of immigration deserves to be

thoroughly debated. Senator Ryan requested a debate on citizenship.

I agree with Senator Ulick Burke that post leaving certificate courses are the first rung on the ladder for those who wish to progress to third level education. Certification from an appropriate course will give an exemption from the first year in a college or institute. I am sure that the teacher allocations will be strengthened as time goes on. It might be a minor curbing but as numbers increase, the needs will be met.

There will be one minute's silence at 12 noon.

Order of Business agreed to.

Sitting suspended at 11.35 a.m. and resumed at 11.45 a.m.

Criminal Law (Insanity) Bill: Committee Stage.

SECTION 1.

Dr. Henry: It is very unsatisfactory for all Members that we do not have the Government amendments before us. Fourteen months have elapsed since Second Stage of this incredibly important Bill which seeks to update legislative provisions in this area by repealing the 122 year old Trial of Lunatics Act 1883.

An Cathaoirleach: I am not sure the Senator is entirely in order, but I will allow her to make her point.

Dr. Henry: We have only just received notice of the grouping of the amendments. If Senators Terry, Tuffy and I find it impossible to deal with the amendments in the groupings set out, can we change them? All of us have naturally put our notes together in such a way as to deal with the amendments consecutively.

An Cathaoirleach: If the Senator is requesting some latitude in the groupings as we progress, we can accommodate her.

Dr. Henry: Will the Minister agree? The problem is that we have only just received notice of the groupings. If we cannot cope with the groupings as ordered, will the Minister agree to address the amendments in order?

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): There are 139 amendments to this very short Bill. Obviously, there must be some form of grouping. I have no doubt the House is liberal enough to accommodate people with difficulties relating to the exact sequencing of amendments. There is always some latitude on groupings. While I am not a Member of the House with power to order business, I will certainly not be squeamish or rigid on groupings.

I am very grateful to the officials of the House for the work they have put into grouping the 139 amendments. The groupings they have worked out will serve to put some degree of order on the

proceedings. Government amendments which are forthcoming will not go without debate and will not be rushed through in a way which is in any way undemocratic, ill-considered or under-considered. There is a sufficient number of amendments before the House for us to make significant progress and I believe the House will not be inhibited in any way by amendments the Government tables at a later stage.

An Cathaoirleach: I hope that clears up the matter.

Dr. Henry: I am sure the Minister would not try to bring forward Government amendments without debate. The only problem is that on Report Stage we can speak only once.

An Cathaoirleach: That is noted. We will proceed to deal with these matters as they arise.

Ms Terry: I move amendment No. 1:

In page 4, subsection (1), between lines 4 and 5, to insert the following definition:

“‘intoxicated’ means under the intoxicating influence of any alcoholic drink, drug, solvent or other substance or a combination of substances and cognate words shall be construed accordingly;”.

The definition of mental disorder in the Bill includes the word “intoxication” but there is no definition of “intoxication”. I am taking this opportunity to outline the definition in detail. It is important we define the term “intoxication” and ensure that drugs and other substances are covered under it. I ask the Minister to accept this amendment in the interest of clarity.

Dr. M. Hayes: I agree with the purpose of the amendment in that it is helpful to have definitions but it appears this definition is too broad. The amendment refers to a “substance or a combination of substances”. We all know the substances the Senator has in mind but to word it like that is wrong. The Senator needs to be more specific or leave it out altogether. In a Bill of this sort we need to leave enough room for accommodation of emerging substances or conditions we know about. If a form of words could be found that would meet that it would be helpful but I am not sure this particular form of words is the one best suited to it.

Mr. M. McDowell: I tend to agree with Senator Hayes. The amendment Senator Terry is presenting delimits the meaning of another term when used in the Bill. Any criminal law statute, which this effectively is, has to be interpreted as time goes by and in the context of the facts of any particular case. Where there is ambiguity in a Bill, as a matter of legal construction in a criminal statute the Bill is always construed, where two reasonable interpretations are open, in a manner favourable to the accused. It is not a question of

an injustice being done but when it is decided that “intoxication” is to have a clear and precise meaning in a statute, we must go very carefully, as Senator Hayes has just done, through the proffered definition and ask whether that is exactly what is meant.

For instance, the use of the term “substance” in the amendment could mean — I am sure this definition has been taken from some other statute — consumption of food or over-indulgence in, say, coffee, Red Bull or something like that. The term “intoxication” is well understood by the criminal justice process. We know what intoxicating liquor is, and I do not believe it is wise to tie down the definition to the degree of specificity that is in the amendment.

This is a definition of the term “intoxication” where it would qualify the term “mental disorder”. The term “mental disorder” includes mental illness, mental handicap, dementia or any disease of the mind but does not include intoxication. We should not at this stage insert a new rigidity into the Bill as to what intoxication might mean in a certain circumstance. A broad brush approach is being taken in this amendment, which refers to “a substance”. I realise the term “other substance” probably would be construed *eiusdem generis* with the preceding substances which are alcoholic drink, drugs or solvents but I am slightly wary of doing something without clearly working out what it would actually mean. It is better to leave the term undefined as commonly understood and wait for case law to emerge and individual cases to arise as to what it means where that becomes relevant, rather than try to tie it down in advance. I would be concerned that somebody who is allergic to food or a combination of foods might be affected by this definition.

I ask the Senator to take it that it is better to leave the term undefined and to leave it to case law and individual decisions of the courts, bearing in mind the overall construction I mentioned, that where two reasonable interpretations of a penal statute are open to a court, and one is more favourable with innocence rather than guilt, a court, having applied the ordinary meaning rubric in terms of interpretation, will normally give the benefit of the doubt to the accused in any particular case. It is better to leave it in this form because we would have to have a second amendment as to what the term “substance” means in those circumstances. If it was a combination of food, stimulants, etc., we could be in a peculiar position. The definition of “substance” is an extension of the term “intoxication” and therefore if we deny somebody the defence that the Act accords by virtue of the fact that they have taken some substance, we would need to know exactly what we were accomplishing by that extension of the term “intoxication”. I do not propose to accept the amendment.

Ms Terry: I take on board what the Minister said and we will re-consider the matter for Report Stage.

Amendment, by leave, withdrawn.

Progress reported; Committee to sit again.

Business of Seanad.

Ms O'Rourke: As agreed on the Order of Business this morning, the House will now observe a minute's silence to mark the tenth anniversary of the genocide in Rwanda.

Members rose.

Criminal Law (Insanity) Bill: Committee Stage (Resumed).

SECTION 1.

An Cathaoirleach: Amendment No. 2 is in the name of Senator Henry. Amendments Nos. 3 and 4 are alternatives, and amendments Nos. 17, 137 and 138 are related and may be discussed with amendment No. 2. Is that agreed? Agreed.

Dr. Henry: I move amendment No. 2:

In page 4, subsection (1), to delete lines 6 to 8 and substitute the following definition:

“‘mental disorder’ has the meaning ascribed to mental disorder within the meaning of the Mental Health Act 2001;”.

While the Bill may be short it is very important. As I said when we began the debate, it repeals an Act, which is more than 120 years old and we should do our best to ensure it complies with modern terminology. We put considerable work into the Mental Health Act during its passage through both Houses of the Oireachtas to ensure this happened. The Bill before us deals with the same kind of people dealt with under the Mental Health Act except that they have or are suspected of having committed crimes. We should try to afford them the same rights and respect that apply to ordinary psychiatric patients under the Mental Health Act.

The definition in the Bill is rather old-fashioned. It describes “mental disorder” as including “mental illness, mental handicap [a phrase now rarely used], dementia or any disease of the mind but does not include intoxication”. My amendments seek to mirror as far as possible what is contained in the Mental Health Act so we do not spend considerable time deciding what is mental disorder as a result of having different definitions in two Acts. The definition of mental disorder in the Mental Health Act 2001 is very good and comprehensive and states it means “mental illness, severe dementia or significant intellectual disability”. The change in terminology is worth considering. The section of the Mental Health Act continues “because of the

illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons”. This reflects exactly what we want in the Bill before us.

The section continues “because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission”. This again is exactly what we want in removing the persons from the courts to a therapeutic unit. The section then states “the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent”. This again is what we want because if at all possible we want to return them to a state of mental normality.

The section finally states:

“‘mental illness’ means a state of mind of a person which affects the person's thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other persons;

The reference to altering their “thinking, perceiving, emotion or judgment” is extraordinarily important when we come to consider whether people are unable or perhaps incapable of knowing the effects of their actions. The section describes severe dementia as “a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression”. This again forms a very important part of the Bill before us.

The section describes significant intellectual disability, a term much more widely used than mental handicap, as “a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person”. This is precisely the sort of person with diminished responsibility addressed by the Bill before us. Rather than having “mental disorder” described as it is in the Bill, we should use the definition already passed by this House and in use in those parts of the Mental Health Act already implemented.

My amendments Nos. 137 and 138 seek to use the term “mental disorder” rather than “insanity” in the Title of the Bill. While I have not proposed replacing it everywhere, this should be done. The word “insanity” could be described as stigmatising people whereas “mental disorder” is

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the term used in medical textbooks these days in place of describing people as insane. Just because we are updating the Trial of Lunatics Act, there is no need to insert a word which is already out of date and we should use a term in common parlance in the psychiatric profession.

Dr. M. Hayes: I support Senator Henry's amendments and I hope the Minister will be able to accept them. During the passage of the Mental Health Act, we spent considerable time fashioning the definition of mental disorder, which meets the requirements of modern practitioners. There is no point in reinventing the wheel if it can be done by cross-referencing to an existing definition. I suggest it would be more convenient for the expert witnesses called to the courts to deal with these matters in terms to which they are accustomed. Like Senator Henry, I believe it would be gracious to use the term "mental disorder" rather than "insanity" in the Title. At least the Minister has saved us from "lunacy". However there is a slightly derogatory overtone in the term "insanity".

Ms Terry: I wish to speak to my amendment No. 4. I support Senator Henry's amendments which seek that the Bill use the modern term "mental disorder" rather than "insanity". The Bill should be updated in every possible given that many years have passed since it was first drafted. It needs to be modernised.

The definition of mental disorder is central to the legislation. I am concerned that the definition as provided for in the Bill is a little ambiguous. Perhaps that is deliberate but I fear the definition in its current form will inevitably lead to judges determining their own meaning of the words "mental disorder". We are the people who make the legislation and we must ensure, when drafting, amending and enacting it, that our intentions are clear. In defining something we should be clear about what we want. While the definition of "mental disorder" refers to intoxication, it does not deal with a state of mind induced by intoxication. I would like the Minister to consider my amendment with a view to accepting it.

Ms Tuffy: I move amendments Nos. 3 and 137 and wish to speak on the related amendments.

An Leas-Chathaoirleach: The Senator may not move any of her amendments at this stage but may speak on them.

Ms Tuffy: Amendment No. 3 seeks to delete the word "disease" and substitute it with the words "other disease or medical condition". We tabled this amendment because we believe the wording in terms of "disease" is too limited. We are seeking to include other conditions such as personality disorders which are not diseases. I would like the Minister to clarify that point.

Much of the commentary on the Bill by experts in law and psychiatry state that it is not clear whether personality disorders are covered by the current definition. This issue could come into play in terms of a court's adjudication on a matter. Senator Henry has suggested we amend the definition to correspond to the definition used in the Mental Health Act 2001. A commentator in *The Irish Times*, Dr. Darius Whelan, stated that the Bill is unclear in terms of whether it includes personality disorders. The Mental Health Act 2001 states that a person cannot be detained under that Act solely because of a personality disorder. The Bill specifically states that a person found not guilty by reason of insanity can only be detained if he or she has a mental disorder within the meaning of the 2001 Act. Dr. Whelan points out that it is unclear whether the section of the Mental Health Act 2001 prohibiting detention based on personality disorder alone impacts on a mental disorder within the meaning of the 2001 Act. This issue requires further consideration by the Minister. Perhaps he will comment on the proposed amendments in terms of how broad he feels the section is as currently worded and the effect of our amendments in that regard.

Dr. Whelan, in his article in *The Irish Times*, mentioned that in 1996 the current Minister for Arts, Sports and Tourism, Deputy O'Donoghue, included personality disorders in his definition in a Fianna Fáil Private Members' Bill. As regards Senator Henry's proposal, many people have commented that the Mental Health Act 2001 is progressive legislation, some of the features of which are imported into this Bill. However, many others are not. There is concern about how one treats the people concerned in that while they have rights under the Mental Health Act in terms of, for example, the reasons they are being detained and so on, they do not have the same rights under this legislation.

Amendments Nos. 137 and 138 deal with the substitution of the word "insanity" with the words "mental disorder". I agree with those who say we should reconsider the use of the word "insanity" and should instead use the term "mental disorder". Many people have commented on the use of that old fashioned term which conjures up certain pictures in people's minds, in particular that such a reference could impact on a jury's decision in a trial. The use of the term "mental disorder" is modern. Other jurisdictions, such as Canada, use the term "mental impairment". I ask the Minister to comment on the issues I have raised.

There has been much commentary on the Bill by people with a great deal of expertise in this area, including Senator Henry. An article in *The Irish Times* by Dr. Justin Brophy, chairman of the Irish Psychiatric Association, raised concerns about the lack of proper consultation on the Bill by the Minister and Government. Perhaps the Minister will inform the House if there has been further consultation on the Bill with interested

[Ms Tuffy.]

bodies since the publication of that article, which was written around the time of the Second Stage debate. If so, has he taken on board any of their suggestions?

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I appreciate the reasoning behind Senator Henry's amendment which proposes the alignment of mental disorder for the purpose of this Bill with that of the Mental Health Act 2001. Although this issue has been the subject of much public debate, I profoundly disagree with the proposition that there should be an alignment. It would not be helpful, constructive or enlightening. I hope that does not sound too pugnacious but I do not believe there should be an alignment between the two.

The Mental Health Act 2001 has a particular purpose, which is to govern the circumstances in which people can or cannot be, among other things, admitted to psychiatric institutions against their wishes and so on — involuntary detention — and to set a framework for the treatment of patients with mental illnesses. The Criminal Law (Insanity) Bill 2002 has a different purpose — to establish a workable template for decisions by courts that people are to be excused criminal responsibility in certain circumstances and to deal with other issues such as inability to plead and so on.

I do not believe, even on a first principle basis, that there should be an alignment between the two sets of underlying definitions for either statute. There is no necessity to align them. I do not believe — this is a particularly important point — that decisions in terms of involuntary admissions to hospitals and judicial decisions about the impropriety in that regard should have necessary spillover effects into the law of criminal responsibility. Likewise, I do not believe decisions in the criminal courts as to the meaning of a particular matter should have a spillover effect on the treatment of patients who have nothing to do with the criminal law. If one includes the same definition in both statutes and if a particular judge in a criminal trial states his definition of what the law means, if that is a matter of decided law, then the spillover effect, in terms of mental treatment, will be that what a criminal law judge decided in a particular case about the meaning of a particular definition is the law of the land and *vice versa*. This is not some thought that has occurred to me at random, because the issue of whether the two Acts should be made to coincide in their definitional basis — I hope that I am not being misleading — was one of questions which held up this legislation for so long. There was great interplay between the Department of Health and Children, the Department of Justice, Equality and Law Reform, the Office of the Attorney General and the Cabinet for a very long time. We must ask ourselves whether we should handcuff the two Acts together so that a decision made in a

criminal trial interpreting the definition of mental disorder is a decision on the self-same words which will apply regarding future civil law decisions on whether a person should be detained against his or her wishes in a mental hospital. That is a fundamental question for us to address.

Senator Tuffy asked whether we had been unmindful of what the College of Psychiatrists had said; we have not. However, we ask ourselves why the definition should be the same for the two purposes if the consequence is that decisions made in a criminal case thereafter affect the administration of civil law regarding the treatment and detention of patients in cases that have nothing to do with criminal behaviour. I will not dismiss the argument, but it is by no means clear to me that it is desirable to do so. There are many reasons in my mind that make it undesirable to marry the two concepts so closely that a decision in one area necessarily means a collateral decision for the other purpose and that a judge, in charging a jury on the meaning of this section of this Act, is handing down an authoritative decision to bind the psychiatric profession regarding the involuntary detention of people under mental treatment law. From that point of view, perhaps I might put it like this without being unduly pugnacious, why would one consciously set out to procure a situation whereby a decision in the context of criminal law had those consequences for the day-to-day administration of the civil law of mental health? Why would one want to do that? Why would one want a judge contemplating whether an individual had had his or her mental state properly dealt with under the Mental Treatment Act 1961 to make a decision that would spill over into criminal law?

Let us consider section 3 of the Mental Health Act 2001. I fully concede, as Senators Maurice Hayes and Henry have said, that this House spent a great deal of time thinking about those issues, and I pay tribute to it. The definition which the two Houses of the Oireachtas produced is:

3.—(1) In this Act “mental disorder” means mental illness, severe dementia or significant intellectual disability where—

(a) because of the illness, disability or dementia, there is a serious likelihood of the person concerned causing immediate and serious harm to himself or herself or to other persons

Does that mean that, for criminal law purposes, that if a psychiatrist says on oath that he or she does not believe there was a serious likelihood of self-damage or damage to others the day before yesterday, a person cannot invoke the defence provided by the legislation that we are discussing today?

The second definition of mental disorder reads:

(b) (i) because of the severity of the illness, disability or dementia, the judgment of the person concerned is so impaired that failure to admit the person to an approved centre would

be likely to lead to a serious deterioration in his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission, and

(ii) the reception, detention and treatment of the person concerned in an approved centre would be likely to benefit or alleviate the condition of that person to a material extent.

How would it be relevant to the question of whether one was criminally responsible if one ought to have been admitted to a psychiatric institution, a psychiatrist who had carefully examined one ought to have arrived at that view or if doing so ought to have alleviated the condition from which one was suffering? Does that definition give any ease to the accused? That carefully worked-out definition is clearly designed to regulate involuntary admissions, but is it the test one really wants to lay down for someone in the dock who is pleading that mental disorder has diminished his or her sense of responsibility? It must fit into either (a) or (b), the first being that there is a serious likelihood of one's causing harm. Criminal law is not concerned with whether there was a serious likelihood but with the question of whether, in retrospect, harm was caused. It was entirely improbable that a mental condition should have led to this, but it did so. In other words, if one commits a crime and it was entirely improbable that one should have done so, does paragraph (a) come to one's assistance? If one is then driven back to paragraph (b) of the definition, which states that one's condition should be such as to justify one's reception in a mental institution of some kind and do one some good, is that something the accused wants to have set as a test for his or her lawyers to overcome in establishing that the particular act of which the person is accused amounted to one that arose from mental disorder?

Looking carefully at section 3 of the Mental Health Act 2001, one sees that it is crafted for a different purpose — that of taking protective decisions about people in circumstances fine-tuned to respecting their rights. People cannot be put into mental institutions if, for example, under paragraph (b), it would do them no good. One cannot simply incarcerate someone, not under that paragraph at any rate. Paragraph (a) is to do with self-harm and harm to others, but (b) is a matter of whether therapy would have a beneficial effect. That is frankly irrelevant to whether one should be convicted or acquitted on the grounds of one's mental state.

I therefore believe that the long process — it took approximately ten years — of debate between the two Departments on whether they should harness those two horses to the same definitional wagon was correct in deciding that there should be no coincidence. One can see that there are at least two sides to the argument. Does one want the criteria that judge one's admission to a mental hospital against one's wishes, with

which section 3 is concerned, to be the self-same criteria which determine whether one should be acquitted? Crafted as they are, their purpose is to safeguard the rights of individuals and to ensure that unnecessary committals do not take place. I have endless admiration for this definition in the Mental Health Act 2001, that people's rights could not be abrogated and they could not be confined to mental institutions unless there was a serious likelihood they would damage themselves or others; or alternatively, they were suffering from a disease or condition of the mind which required them to be hospitalised and where the hospitalisation would do some good.

I do not believe that is a set of criteria by which the criminal law should be administered. Neither do I believe that these issues — it is perfectly reasonable that they should arise in the context of an involuntary admission and other purposes — should gauge whether people may be judged guilty or innocent on the ground of mental disorder or whatever. It would be a mistake to harness these two concepts together because this could give rise to a situation where a decision made in a criminal court as to the joint definition of the term “mental disorder” or whatever, which is common to two statutes, would have a spillover effect. Some judge considering whether a person should or should not be admitted against his or her wishes to a mental institution would come to findings as to the meaning of the definition under the Mental Health Act 2001, which would have serious implications for the administration of the criminal law on insanity, as it is termed, and *vice versa*.

A judge, some afternoon in the Four Courts in the middle of a criminal trial, would come to a reasoned analysis of the definition, which was put there for a different purpose and say, “It means X and it does not mean Y,” in circumstances where psychiatrists would query why he or she had opted for that particular definition and say in effect: “This is wholly unsuitable for our case and for our purposes and for admitting people to hospitals.” They would claim the judge's decision was not in accordance with best psychiatric practice for that purpose.

In short, I do not see why the two should be brought together because they are different concepts. One is a definition of mental disorder which is calibrated and circumscribed and stated in terms to do with the efficacy of mental health treatment, on the one hand, or, on the other, preservation from self-harm or harm to others. A simple example would be some kind of kleptomania condition. Paragraph (a) is no use because “harm to others” does not arise; and paragraph (b) may or may not be of some significance because I do not know whether involuntary hospitalisation would or would not benefit a confirmed kleptomaniac, pyromaniac, or whatever. There are other issues too, such as hypoglycaemia and things like that, which might have nothing to do with all of this — paragraphs

[Mr. M. McDowell.]

(a) and (b) may be no help at all — but which could be relevant to a criminal law case.

I have a strong view on this matter. I heard all the debate and I did not ignore it. I saw all the comments in *The Irish Times* and elsewhere and I got the letters from the colleges of psychiatrists, etc, but I remain unconvinced. We are talking about the view that two definitions should be aligned and made co-terminous so that they are the same for two different purposes. I remain unconvinced that this is a good idea. Others may disagree. One of the great aspects of legislation, something to which we all owe a duty as legislators, is not to have unintended consequences. One should avoid taking a decision in Seanad Éireann which later has trickle-down effects and which may prompt the question at some stage as to why it was done. I would argue that it was perfectly reasonable to craft the Mental Health Act 2001 in the way it was done. However, it is perfectly reasonable not to follow that definition for the purposes of criminal justice because it would risk making a mistake.

There is a division in the Dáil, but I will continue until somebody tells me the Government is going to collapse, or something.

On the issue of personality disorder, as mentioned by Senator Tuffy, it is clear in section 8(1) of the Mental Health Act 2001, which deals with mental disorder, that nothing shall be construed as authorising the involuntary admission to an approved centre by reason of the fact that the person is suffering from a personality disorder. It may or may not be that this is a tacit admission that mental disorder could include a personality disorder and, therefore, section 8 was necessary to take it out of that realm. Alternatively, the whole Act could be read as stating mental disorder under the 2001 Act was not intended to cover personality disorder.

We have crafted this legislation so as not to close the door and slam it in the face of personality disorder, in the way that section 8 of the other statute seems to do, for some purposes at any rate. The policy underpinning this Bill is quite deliberate. We heard all the criticisms and the points that were made. However, the policy effectively dictates that in the specific context of the Bill as a criminal law measure, the definition of the term “mental disorder” must, first and foremost, be framed against the existing position in common law. I am not prepared to move outside that framework. That is why the Bill does not propose to align the two definitions.

No singular or uniform solution has been found and adopted in the various common law countries on this issue, including those with which Ireland is closely connected. Our law firmly puts the matter within legal parameters and directly related to personal responsibility for one's actions. In this scenario medical evidence will be influential, but it is not decisive. That means that an accused person diagnosed as medically insane may fail to satisfy the criteria for legal insanity under

criminal law and *vice versa*. The Bill is designed to deal primarily with the criminal law aspect of the issue, once that aspect has been determined by the court, with the question of care and treatment.

I fully accept that a person may be incarcerated in a mental health institution on the basis of two different tests. However, it is not the end of the world if someone ends up in the same place by two different routes. To unify the routes, in terms of their intellectual content, would be fraught with difficulty. The matter is also complicated by the fact that legal and medical definitions which apply are not co-extensive. As I said on Second Stage, care was taken in the drafting of the Bill to ensure those matters were taken into account.

Particular attention was given to the fact that there is an overlap between the criminal justice elements and the Bill reflects the need to have regard to the care and treatment aspects of mental health legislation, in particular those matters which a court might take into account when considering the options available to it at the sentencing stage. That will arise following a determination by a court of a person's fitness to be tried, or a verdict of not guilty by reason of insanity. The determination will be based on the definition of mental disorder set out in this Bill. In other words, as a threshold test, a person must at least be suffering from a mental disorder as defined in section 1 of the Bill, meaning mental illness, mental handicap, dementia or any disease of the mind. However, for the special verdict under section 4 of the Bill, that mental disorder must additionally be defined as in section 4(1)(b) by the use of the words “the mental disorder was such that the accused person ought not to be held responsible for the act alleged by reason of” etc. That appropriately emphasises the fact that the issue for the court is fundamentally one of legal responsibility, rather than simply a psychiatric diagnosis. The three limbs of the test, which are mutually exclusive, restate what the current text is in this jurisdiction.

Regarding amendment No. 3, the definition of mental disorder contained in the Bill is of fundamental importance and is tightly worded. To amend it as suggested would introduce uncertainty into an area where there can be no room for doubt. A reference to “any other disease or medical condition” is much too vague and would allow arguments to be made which would widen the scope of the defence. I am not anxious to allow that and I am opposed to amendment No. 4 because it is unnecessary.

Amendments Nos. 135 and 136 propose to change the reference to “insanity” to “mental disorder” in both the Long and Short Titles of the Bill. I do not want to accept those amendments because corresponding changes would have to be made in the terminology throughout the Bill. I know that Senator Henry has raised the reference only in two instances. The change would be undesirable, however, because regarding the use of the less pejorative terminology, insanity is an

outdated term, perhaps a little severe and slightly Victorian in concept. Terms of art with regard to psychiatry change over time. Most of the 19th century and early 20th century statute law uses terms with which we would now be slightly uneasy, such as idiocy, lunacy and feeble-mindedness, which meant something at the time but now are a little out of kilter with modern terminology. Such terms were the best people could find in those days and were not meant as terms of dismissal. They were the common terms in the old medical textbooks, as Senator Henry will no doubt agree.

We do not want a situation in which juries would arrive at the view that any mental disorder, regardless of how trivial, would provide grounds for acquittal. The Bill creates a high threshold. Whatever the term "insanity" might convey and connote to psychiatrists and sociologists, to the ordinary man and woman in the street it suggests that the person in question was insane when the offence was committed. A definition of what that means is then given. It means that it is not something trivial. The word "insanity" denotes a category of disorder which is far from trivial, minor or incidental. One would hesitate before finding someone "insane". It is a threshold which has a degree of seriousness attached to it. It also carries some solemnity, so that a jury will not simply imagine that the person in question was a little upset on the day, or inclined to fly off the handle, or had a short temper, or suffered from some sort of low-grade personality disorder.

A high threshold is being set for excusing someone of criminal responsibility for his or her acts. One is saying that most people in a liberal society, however quirky or multifaceted or egregious their personalities might be, are presumed by the law to be morally and intellectually responsible. They are allowed to vote, to get married and to do a great many things. If they stand in court and ask a jury to excuse them from responsibility for their acts, they must undertake a high threshold of proof of insanity and not merely raise a doubt as to the oddity of their character or the flakiness of their personalities.

Language is always imprecise and doubtless in 20, 30 or 40 years' time someone will look back at this debate with mirth and say that my defence of the term "insanity" was a piece of early 21st century folly. To change the word "insanity" to "mental disorder" would send a signal that thresholds were being significantly lowered. We live in a liberal society and should strongly rely on the presumption that although people differ greatly in their psychological and psychiatric constitutions, with some people having very turbulent constitutions, the circumstances in which they will be excused criminal liability are ones for which a threshold of seriousness and gravity must be passed before a decision to acquit is made.

It is that decision with which we are now dealing. We are talking about a verdict of "not

guilty by reason of insanity". We are establishing a high threshold and not inviting juries to adopt a sympathetic mode and wonder if a person should be punished at all. We are saying that people in our society must bear criminal responsibility unless they suffer from a mental disorder which satisfies the high threshold set by the statute and with which the public thereafter can be comfortable. It is very important that the public does not see psychiatry as providing a "get out of jail free" card for people in circumstances where public confidence in the administration of justice would be adversely affected.

With regard to section 4(1)(b), the point is not merely that one might be suffering from a disorder, but that "the mental disorder was such that the accused person ought not to be held responsible for the act alleged by reason of the fact that he or she (i) did not know the nature and quality of the act, or (ii) did not know what he or she was doing was wrong, or (iii) was unable to refrain from committing the act." Those are high threshold tests which must be overcome in order to disestablish the presumption of criminal responsibility in an adult person. I do not want to be party to a dilution of criminal responsibility not because of conservatism, but because the dignity of the individual, and the public attitude to such issues, are centred on a presumption that however diverse people's personalities are, people must be respected as free moral agents in a society and should not be excused from a responsibility unless there is a clear case made that because of their mental disorder at the time, they fell below a fairly exacting threshold.

Ms Tuffy: Can the Minister say how the definition as it stands allows for personality disorder?

Mr. M. McDowell: It does not exclude it. What is meant by personality disorders? If the term personality disorder is put in the legislation, a definition must be included. We would be here until the crack of doom working out what constitutes a personality disorder. The Mental Health Act raises an issue as to whether mental disorder by definition encompasses personality disorder or not; it can be argued both ways. I do not want to close the door on an individual being able to establish that he suffered from a personality disorder which went over the threshold in section 4. Going back to the earlier debate with Senator Terry on intoxication, if an express reference is included, some guidance would then have to be given to the courts. I do not feel either inspired or competent to do so.

Dr. Henry: There appear to be two thresholds in the Bill. Under the section on fitness to be tried, section 3(b) states that the courts should determine "if the accused person is suffering from a mental disorder, within the meaning of the Act of 2001." If it is suitable there, why is it unsuitable for the whole Bill? Under subsections (7) and (8),

[Dr. Henry.]

the courts are supposed to use the mental disorder definition from the Mental Health Act. Subsection (7) states:

Where on the trial of an accused person the question arises as to whether or not the person is fit to be tried and the court considers that it is expedient and in the interests of the accused so to do, it may defer consideration of the question until any time before the opening of the case for the defence and if, before the question falls to be determined, the jury by the direction of the court or the court, as the case may be, return a verdict in favour of the accused or find the accused person not guilty, as the case may be, on the count or each of the counts on which the accused is being tried the question shall not be determined and the person shall be acquitted.

The Minister said that he does not want the Mental Health Act definition used in the Bill, but it is referred to in this section.

Subsection (8) states:

Upon a determination having been made by the court that an accused person is unfit to be tried it may on application to it in that behalf allow evidence to be adduced before it as to whether or not the accused person committed the act alleged and if the court is satisfied that there is a reasonable doubt as to whether the accused committed the act alleged, it shall order the accused to be discharged.

Why is the definition from the Mental Health Act used in this subsection yet not used in the definition?

The Minister's definition of thresholds for mental disorder introduces a lower one than that in the Mental Health Act. The public is entitled to have the higher definition applied. Under the Minister's definition of mental disorder, it can be claimed that 25% of the population will suffer some form of mental disorder. If those with Prozac prescriptions are included, the definition could apply to anybody. Why not use the higher definition as in the Mental Health Act?

This Bill will treat people differently. For example, a large number of mentally ill people used to congregate at Baggot Street Bridge. Due to my complaints that they were getting so little treatment there, they have been moved on to some other bridge. Occasionally, some of the local shopkeepers had trouble with them with items such as milk being stolen. In general, the shopkeepers were understanding about this and did not contact the police. However, what if a shopkeeper got fed up and decided to contact the police? Under this Bill, that same mentally ill person will have a different test of mental disorder applied to him because the shopkeeper pressed charges. Is this right under human rights legislation when this is the same mentally ill person? Why is the Minister for Justice, Equality

and Law Reform persisting in deciding that these people must be treated differently?

The Minister's threshold of mental illness is much lower than the one put forward by the Mental Health Act. I cannot understand this but I am sure that the Minister will elucidate matters. Why is he using the definition in the most important subsection? Mentally ill people must be taken out of the criminal law system. At the same time, their rights should not be destroyed. Mentally ill people have certain rights and, irrespective of whether they are charged for stealing a bottle of milk, they must get the same treatment in the law.

From the Minister's comments, he does not have a high opinion of psychiatrists and sociologists.

Mr. M. McDowell: I never said anything of the sort.

Dr. Henry: The Minister should not shake his head. On Second Stage, he informed the House that this Bill was for the ordinary, common sense, normal people one finds in the Four Courts and not psychiatrists. However, the courts rely on psychiatrists to give a medical opinion in cases. To ask them to give an opinion in a situation which they believe is crazy — forgive the use of the term — is not good. It may be all right in legalistic terms, but these professions have ethical responsibilities to the people in front of them in a courtroom, which they must consider first and foremost. The Minister does not have to include every last line of section 3 of the Mental Health Act to say that one has a mental disorder. If parts of it apply to an individual, that will be sufficient. If an individual is suffering from hallucinations, one does not have to say he has delusions as well.

The Bill asks professional people to go before the courts to use vague forms of wording and definitions that they do not believe are suitable. I object to the term "mental handicap"

1 o'clock being used because it went out with buttoned boots. The definition is pitched too low. The Minister claims people wanted it pitched high enough and that is why the word "insanity" is used. Its use does not mean it is high enough. This is an old-fashioned word although I do not mind if people giggle about it in 40 years time. However, modern psychiatric terminology should be used in a Bill concerning mentally ill people. Psychiatrists coming before the courts to give professional opinions in cases must believe they are doing so within the parameters of psychiatric disease.

Mr. J. Walsh: The Senator's points are interesting as they go to the heart of the Bill and its intentions. I agree with Senator Henry's point, which was endorsed by the Minister, that the threshold should be high. One is exonerating people from serious criminal offences because of their mental state. I concur with the Minister in respect of the use of the word "insanity". The

word has connotations, perhaps not for the medical profession, but for the public at large. The Minister made the valid point that it is important that public confidence in the system is secured when people are excused in court of an offence on the grounds we have mentioned. Confidence can sometimes be dented, however.

I am not sure I agree with Senator Henry's comment that persons who are mentally ill should be taken out of the criminal court process. I hope I understood her correctly. Surely the nature of the illness should be the relevant factor. I think that what qualifies should not depend on the definition of "mental disorder" one uses. I note the distinction the Minister made between the definition in the 2001 Act and that in this Bill. I am inclined to concur with his point that the manner in which it is defined here — it is not over-defined — is probably preferable because it takes into account case law that has arisen from years of jurisprudence. What is really relevant in determining and defining it, surely, must be section 3(2) which states:

An accused person shall be deemed unfit to be tried if he or she is unable by reason of mental disorder to understand the nature or course of the proceedings so as to—

- (a) plead to the charge,
- (b) instruct a legal representative,
- (c) make a proper defence,
- (d) in the case of a trial by jury, challenge a juror to whom he or she might wish to object, or
- (e) understand the evidence.

Surely that will be the yardstick by which the court will assess the matter, before coming to a decision with the assistance of medical evidence. The real test is whether the person, in a legal scenario, is being excused.

The Minister mentioned section 4(1)(b) of the Bill, which states that a court or jury should find that "the accused person is not guilty by reason of insanity" if:

the accused person ought not to be held responsible for the act alleged by reason of the fact that he or she—

- (i) did not know the nature and quality of the act, or
- (ii) did not know that what he or she was doing was wrong,
- (iii) was unable to refrain from committing the act,

I understand that the clearly established definitions in the Bill take account of case law. We will have to leave it to the discretion of the courts to apply a test. It is obvious that legal people will make certain arguments to defend their clients. People can sometimes feign insanity. It can often happen that when one looks at or speaks to a person, one cannot ascertain their

nature or tell whether they qualify under the terms of the provisions I have mentioned. That has to be tested. People should be held accountable for their actions unless they fit the criteria established in sections 3 and 4. A great deal of the debate on the definition of mental disorder may not be as pertinent as some of the other points made by the Senator, bearing in mind some of the Bill's other qualifications on that issue.

Dr. M. Hayes: It is not for me to throw in the towel for Senator Henry or the other proposers of these amendments. I am grateful to the Minister for the cogency of his argument. I agree with him, to a certain extent, about the distinction between the fundamental purposes of this Bill and the 2001 Act. Although I argued for the adoption of the definition, I do not think I could support Senator Henry's argument that one could take parts of the definition while omitting others. If one does not take on board the entire definition, one is not dealing with the definition.

Most of us are concerned about the subsequent treatment of people. It is a question of one's opinion of whether a person is fit to plead, under the standards set down, or whether they could be held responsible for the action. Such conditions apply at a certain time. The reference to the Mental Health Act 2001 in section 4 is quite reasonable. The Bill states that if people need treatment, they should be treated in accordance with the 2001 Act, which is what we want.

Like other speakers, I encourage the Minister to keep the threshold quite high. That is important, in terms of public respect for the law, because it does not do anybody any good if people are able to plead on what most lay people would see as silly grounds. I am satisfied for the moment with the Minister's explanation of his position.

Mr. M. McDowell: I wish to respond to a point made by Senator Henry. Given that it has been said that a different definition of "mental disorder" to that in the Mental Health Act 2001 is required for the purposes of the Bill, she rightly asks why a reference to the 2001 Act has been included in section 3(3). We are dealing with a slightly different situation here. Section 3 deals with the concept of fitness to be tried. It does not relate to guilt or innocence. If my fitness to be tried is an issue when I am brought before a District Court this afternoon, it is my fitness now — there and then, before the court — that is important. It does not relate to whether I shot my Granny three months ago — it has nothing to do with that. A person may be fit to be tried even if it is certain in the minds of everybody in the court that he or she will be found not guilty by reason of insanity at the end of the case.

The issue of fitness to be tried relates to whether one is capable, at the time one is being tried, of participating in a meaningful way in the judicial process. The condition one was in when

[Mr. M. McDowell.]

the alleged offence occurred does not matter. It is more important to determine whether one can understand the charge, give instructions to one's lawyers, make a proper defence, challenge a juror and understand the evidence. One's state when one is before the court to have one's fitness to be tried determined may not particularly relate to one's state six months or three years previously. Although one might have been suffering from chronic madness — or florid madness, to use an unusual term — when the crime was committed, one might have totally recovered. The exact opposite may also be the case — one might have been an absolutely ruthless killer, acting with premeditation and total sanity, but one might have thereafter become completely unfit to plead before a court. Anything could have happened with the passing of time. One may be unfit to plead because one may have suffered a serious mental illness, or a physical injury that brought about mental disorder, in the interim.

Senator Maurice Hayes mentioned that section 3(3) states that if a court decides that one is unfit to plead, it can do certain things. By definition, the court does not decide whether a person is guilty or innocent of the original offence for which he or she was brought before it; it decides what to do with him or her now. The court can request that a person be committed to a psychiatric institution. If a judge states, without prejudicing the guilt or innocence of the person, that Michael McDowell should be committed to a psychiatric institution today, he or she has to ask if it would serve any purpose. The Department of Health and Children's representations have had an effect on the Bill in that regard. If I am a *duine le Dia*, or a person who is incapable of meaningfully participating in a criminal trial, it does not automatically follow that I should be placed in a psychiatric institution for treatment — it may be totally pointless and wrong to do so and could be a waste of everybody's time. If I stole a bottle of milk, as in Senator Henry's example, sending me to any psychiatric institution in the country might have absolutely no effect and I may be back at Baggot Street Bridge six or nine months later in exactly the same state of mind and unable to be helped by any psychiatrist.

Section 3(3)(b) states:

Subject to *subsections* (7) and (8), where in a case to which *paragraph (a)* relates [meaning somebody who is found to be unfit to plead] the Court determines that an accused person is unfit to be tried, that Court shall adjourn the proceedings until further order and may, if it is satisfied, having considered the evidence of an approved medical officer adduced pursuant to *subsection 25(6)* and any other evidence that may be adduced before it that the accused person is suffering from a mental disorder (within the meaning of the Act of 2001) and is in need of in-patient care or treatment in a

designated centre, [and] commit him or her to a specified designated centre until an order is made under *section 12*.

The section deals with people who are incapable of participating in the process of a court case. Having heard the evidence of a doctor, and any other evidence that is available, that the person needs in-patient care, the judge may commit him to a specified institution. In those circumstances it is not inconsistent to borrow the definition set out in the 2001 Act because that definition is crafted to raise the question of whether the person is a danger to himself or somebody else or is suffering from some disease which cannot be dealt with unless the person is committed to an institution. It is an entirely reasonable basis on which to decide whether the person should be so treated. I do not share Senator Henry's opinion about the importation of the definition in the 2001 Act for this limited purpose. We are talking about a case in which somebody has not been convicted of anything. The judge may simply tell the person he is free to go or he may decide the person should not be allowed to leave the court by himself. The definition is entirely suitable for that purpose.

Subsection (8) is also important. It states:

Upon a determination having been made by the court that an accused person is unfit to be tried it may on application to it in that behalf allow evidence to be adduced before it as to whether or not the accused person committed the act alleged and if the court is satisfied that there is a reasonable doubt as to whether the accused committed the act alleged, it shall order the accused to be discharged.

This provision is included because there are cases — I have seen them myself — in which there is no question of the accused being fit to plead but it is abundantly clear that the prosecution case would not succeed anyway because, for example, the accuser is wholly unreliable or the person did not have the bottle of milk when he was apprehended. In those circumstances, rather than allowing the criminal charge to survive, it makes sense to admit that the case would have collapsed even if the person was Albert Einstein, and bring proceedings to an end. That is perfectly reasonable.

I am in no way hostile to psychiatrists or sociologists. They perform a useful function in the criminal justice system as well as in the general world of mental health. However, I do not want a situation in which every controversy in psychiatric medicine becomes a controversy in criminal law. I do not want to marry two systems which are cognate but not identical. I do not want to pretend there is no difference between the requirements of civil law and those of criminal law in the area of mental health. There is no inconsistency in that distinction.

We make distinctions such as this in many areas. We make many decisions on the basis of the balance of probabilities. In civil law, the

decision of who is responsible for a car crash is made on the basis of probability. In criminal law, the same car crash may be considered — if there is a charge of dangerous driving or manslaughter — and decided on with reference to a different standard. The mere suspicion that someone is a sexual predator, if it is well grounded, would cause an educational establishment to refuse to employ that person. We apply different tests for different purposes because they are crafted with different outcomes in mind.

I do not see why we should attempt to establish a phoney uniformity or commonality of approach if we are trying to achieve very different outcomes. It does not mean we are treating a person suffering from a mental disorder as a second-class citizen. Different concepts are brought to bear on the question of whether a person should be committed to a psychiatric institution, for example, or found guilty of an offence.

For the purpose of criminal law, it is not adequate to specify that a person must be in danger of harming himself or others or suffering from a condition which would merit committal to a psychiatric institution provided the person would benefit from this. If I slash the Mona Lisa, it may not be relevant whether I am also a threat to the attendants in the Louvre. Whether I intend to harm myself or others is immaterial. Whether I would benefit from in-patient treatment is also irrelevant. When it comes to the question of whether I was suffering from a mental disorder when I did such a thing, those two criteria will be of no assistance to a jury in deciding whether I should be convicted. One could bring in 20 reputable psychiatrists to say they were absolutely satisfied that I was a gentle soul who would never harm myself or anybody else. They could also say with certainty that a long spell in a psychiatric institution would have no effect on whether I would ever do such a thing again. If the two parts of the definition in the 2001 Act were ruled irrelevant — as they would be in those circumstances — the question of whether I was suffering from a mental disorder when I committed the offence would be central. I am not being specious. I am trying to make the point as strongly as I can that we are talking about different things and we should not confuse them.

Dr. Henry: I do not for one instant think the Minister is being specious. I just want him to be sensible. I accept fully that some of the Minister's best friends are psychiatrists and, indeed, the odd sociologist may also be thrown in. However, I do not agree with the Minister. I think the mental disorder definition is sensibly inserted in this section and it would have been much better to follow it in the remainder of the Bill. The interpretation of the definition in this section will lead to people being able to prove there is mental illness when people were perhaps on Librium at the time. The definition in the Mental Health Act is of a much higher standard. I am unenthusiastic

about part of section 4, which we will have a chance to discuss later. The Minister alluded to section 3(5)(c) but one of the big problems with it is that a judge can only recommend in-patient care or treatment in a designated centre, whereas the person may not need to be put anywhere. They could be perfectly all right under supervision in the community. Those points are for a later discussion, however.

Amendment, by leave, withdrawn.

Amendments Nos. 3 and 4 not moved.

Acting Chairman (Mr. Dardis): Amendments Nos. 5 and 8 form a composite proposal. Amendments Nos. 50 to 56, inclusive, Nos. 58 to 73, inclusive, Nos. 75 to 86, inclusive, Nos. 88 to 90, inclusive, Nos. 93 to 102, inclusive, Nos. 105 to 108, inclusive, No. 112, No. 113, No. 117, No. 118, Nos. 120 to 122, inclusive, No. 124, No. 125 and No. 127 are related and may be discussed together with amendments Nos. 5 and 8, by agreement.

Dr. Henry: I move amendment No. 5:

In page 4, subsection (1), between lines 8 and 9, to insert the following definition:

“‘Mental Health Tribunal’ means the Mental Health Tribunal established under Part III of the Mental Health Act 2001 with the additional condition that when determining matters in relation to a patient detained under this Act the Chairperson shall be a Judge of the Court which exercised criminal jurisdiction in relation to the patient;”.

As the Minister knows, the Mental Health Act has proposed mental health tribunals which are in the process of being established. The composition of the commission and the tribunals looks like being eminently sensible. The membership of the commission will consist of a person with not less than ten years' experience as a practising barrister or solicitor in the State, ending immediately before his or her appointment to the commission; three registered medical practitioners, two of whom shall be consultant psychiatrists who are to have a special interest and expertise in the mental health service; two representatives of registered nurses whose names are with An Bord Altranais and who have psychiatric training; one representative social worker with special interest in this area; one representative psychologist with a special interest and expertise in the provision of mental health services; one representative of the interests of the general public; and three members from voluntary bodies promoting the interests of persons suffering from mental illness, at least two of whom shall be a person who suffers from or has suffered from a mental illness. In the latter case, such people will be easy to find because some 25% of us suffer from some form of mental

[Dr. Henry.]

illness during our lives. There will also be one representative of the chief executives of the health boards, although I do not know how they will find such a person given the boards are being abolished. In addition, not less than four members of the commission shall be women, and not less than four shall be men.

When there is one good commission which is to bring forward tribunals, why on earth does the Minister not use that and save the taxpayer some money? The Bill's explanatory memorandum states "it is not anticipated that the proposals in the Bill will have significant financial or staffing implications", but I have never known anything that did not cost something. The establishment of the mental health review board will certainly cost money. It would be sufficient for the Minister to appoint as chairperson of the tribunal a judge of the court which exercised criminal jurisdiction in relation to the patient.

Section 10, which provides for the establishment of a mental health review board, does not include much information as to what sort of people should be on it. That information is well laid out in the Mental Health Act. The Minister could save his Department and the taxpayer a great deal of time, trouble and expense by accepting that the tribunals, as established by the Mental Health Act, could review such cases. After all, the same sort of people will make up the membership both of the tribunals and the mental health review board, and they will be looking for the same sort of things. The person affected will have the same rights, whether they have been detained under this Bill, once enacted, or under the Mental Health Act. I would have thought the Minister could easily accept this amendment.

Mr. M. McDowell: First, it is important to examine what is contained in the Bill in this regard. Schedule 1 states:

1.—The Review Board shall consist of a chairperson and such number of members as the Minister, after consultation with the Minister for Health and Children, may from time to time as the occasion requires appoint. The Review Board shall have as an ordinary member, at least one consultant psychiatrist [so the Senator can rest assured that such a person will certainly be there].

2.—The chairperson shall have had not less than 10 years' experience as a practising barrister or practising solicitor ending immediately before his or her appointment or shall be a judge of or former judge of the Circuit Court, High Court or Supreme Court.

The mental health review board will be independent in the discharge of its functions. It is relevant also that the review board can review detentions. The purpose of the board is to advise and come to conclusions about whether a person should continue to be detained. One of the

problems I have at the moment is that I am vested, as Minister, with powers of release or detention of persons who have been adjudged guilty but insane. Although it says "guilty but insane", it means not guilty and it is an acquittal.

In the context of deciding what one does with people who have been ordered to be detained in the Central Mental Hospital, following such a decision, one must rely on the expert opinion of psychiatrists who have viewed and interviewed such persons. In the last analysis, however, it is somewhat undesirable that it should fall to a political officeholder, such as myself, simply to operate on the basis of a very unstructured process in which the fate of a person who has been found not guilty, despite the wording of the verdict, lies in the Minister's hands. This is not something that happens every so often. I make detailed decisions on a weekly basis, sometimes making a number of such decisions each week, about whether persons should be allowed out permanently or temporarily to attend courses, visit family members, take up educational opportunities or go to work or on holidays, supervised and unsupervised. They are immensely complex decisions. The tribunals system under the other Act has a specific purpose, which is to review the decisions of psychiatrists. However, this body has a qualitatively different function, which is to make findings and to review the condition of people in one particular circumstance.

Progress reported; Committee to sit again.

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

CLÁR Programme: Statements.

An Cathaoirleach: I welcome the Minister to the House.

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): Cuireann sé áthas orm labhairt anseo ar tionscnamh CLÁR, cuir síos a dhéanamh ar an obair atá ar bun, na cúiseanna atá leis na tograithe éagsúla atá roghnaithe againn agus deis a bheith agam éisteacht lena bheas le rá ag Seanadóirí.

I dtosach báire, déanfaidh mé tagairt do rud a dúradh sa Seanad le gairid, rud gan bunús tromchúiseach. Before I speak generally on the CLÁR programme, I wish to raise a very serious issue regarding the abuse of parliamentary privilege by Senator Ulick Burke in the Seanad. Recently, the Senator accused me in the Seanad of using funds under the CLÁR programme as a slush fund. This is not the first time that Senator Burke has made this allegation and I feel it incumbent on me as a result to defend myself against baseless untruths from the Senator.

Mr. McHugh: On a point of order, I am not fully conversant with protocol, but would Senator

Ulick Burke need to be present to defend himself?

An Cathaoirleach: That is not a point of order, Senator. The Minister to continue without interruption.

Éamon Ó Cuív: When the very serious allegation was made in the House, I was not here to defend myself. In fact, I heard it from a colleague who was in the House that evening. I quote directly what the Senator said——

Mr. McHugh: Is this relevant to statements on the CLÁR programme?

An Cathaoirleach: The Minister without interruption please.

Éamon Ó Cuív: This is relevant to CLÁR. Senator Burke said:

The reality is that if we are to judge the potential of a slush fund based on the record of Deputy Ó Cuív as controller of CLÁR, it is no surprise there is distrust. The record speaks for itself. There is approximately €175 million in the fund currently, [the dormant accounts fund] but when dormant insurance policies and so on are taken into account there may be something in the region of €500 million to disburse. That is, of course, of concern to many people. The record of Deputy Ó Cuív's efforts under the CLÁR programme in County Galway shows that he has provided, for example, footpaths to the doorways of individual supporters. He has provided roads and boreens to the homes of certain supporters. This is not hearsay — this is a matter of fact.

Any examination by Senator Burke of the facts would have shown him, as I will now demonstrate to the House, that this is an absolutely baseless and scurrilous accusation. Under the CLÁR programme my Department divides resources for roads on a population basis between the various CLÁR areas. A minimum amount of money is given to each county and there is a slight adjustment of the figures for the counties with the largest CLÁR populations as a result.

Mr. McHugh: On a point of order, a Chathaoirligh, the item on the agenda is statements on the CLÁR programme.

An Cathaoirleach: We have no control over the Minister's statement. That is not a point of order. Will the Senator please resume his seat?

Mr. McHugh: I think Senator Ulick Burke should be here to defend himself.

An Cathaoirleach: The Senator will be the first to speak after the Minister and will have ample opportunity to make his points then. The Minister to continue without interruption.

Mr. McHugh: When will we have the statements?

An Cathaoirleach: The Minister without interruption.

Éamon Ó Cuív: This is the CLÁR programme.

Mr. McHugh: It is a specific one to one disagreement the Minister has with the Senator.

Éamon Ó Cuív: I am addressing the issue of an allegation that was made about me when I was not present and could not have been present, unlike Senator Ulick Burke who could be here this afternoon. If he were interested in the CLÁR programme, he would be here.

An Cathaoirleach: That is not an issue. We will continue on the CLÁR programme.

Éamon Ó Cuív: As I was saying when I was slightly rudely interrupted——

Mr. McHugh: In fairness, I did not rudely interrupt the Minister. I just asked when we would have statements on CLÁR.

An Cathaoirleach: Order please. Senator McHugh will have an opportunity to speak when the Minister has concluded. The Minister without interruption.

Éamon Ó Cuív: Each local authority is then informed of its allocation and it is the local authority, not me, which selects the roads within the confines of the terms of the schemes. My Department then receives the proposals from the local authorities matching the amount of money allocated. These are then sent to the Department of the Environment, Heritage and Local Government for examination to ensure that they comply with the terms of the scheme. Having gone through this arm's length and rigorous procedure and on the recommendation of the Department of the Environment, Heritage and Local Government and subject to a check that it is in a CLÁR district electoral division, a decision is made by my Department to approve the grants. This decision is then made public by my Department. It is obvious from the procedure that there is no mechanism by which I could personally choose roads for repair within my own county or in any other county.

I call on Senator Ulick Burke to withdraw the utterly false allegations he made against me and to apologise in the House. Politics has been demeaned, as have other professions, by wrongdoing. However, all of us are equally demeaned by untrue allegations being made for political gain, which any cursory examination would have proved to be unfounded. Senator Ulick Burke is aware of the damage that can be done by baseless allegations in the climate in which we live. This kind of allegation is the lowest kind of political skulduggery — at a level to

[Éamon Ó Cuív.]

which I would never stoop. It leaves the victim in a “damned if you do and damned if you don’t” position. One is damned if one defends oneself because no matter how clear-cut is the rebuttal, one is in danger of highlighting the wrongful allegation to a wider audience, thereby creating a false impression that there must be some truth to it. On the other hand, one is damned if one does not defend oneself because one creates the belief that there must be some foundation to the allegation.

My first reaction when Senator Ulick Burke made his allegations some considerable time ago before the last election was to ignore them for the reasons I outlined. However, it would appear that Senator Burke feels that this gives him leave to repeat these allegations. He seems to be of the mind that it is not the truth that counts, but with what one can get away.

Mr. U. Burke: The Minister certainly got away with a great deal.

Éamon Ó Cuív: It is only a short time ago that Senator Burke stood up in the House——

Mr. U. Burke: The proof is here in my hands.

An Cathaoirleach: The Minister without interruption. Senator Burke will have an opportunity to speak later.

Mr. U. Burke: I will and I hope the Minister will wait to listen to me unlike the last day.

An Cathaoirleach: The Minister without interruption.

Mr. U. Burke: On a point of order, a Chathaoirligh, the Minister stated that he was not present in the House when I spoke on the last occasion. He walked out but I was here.

Éamon Ó Cuív: I beg the Senator’s pardon.

Mr. U. Burke: The record shows that. Stop avoiding the issues.

An Cathaoirleach: The Minister without interruption.

Éamon Ó Cuív: The record will show that I was in Brussels on that day and for that reason, my colleague, the Minister of State, who has responsibility for dormant accounts on a day to day basis, was present for the whole debate.

Mr. U. Burke: Read the record. Do not be selective.

Éamon Ó Cuív: I was not in the country.

An Cathaoirleach: We cannot have verbal crossfire.

Éamon Ó Cuív: It is only a short time ago that Senator Ulick Burke was strongly critical in the House of the proposals of the Government to change the governance of the dormant accounts. He was loud in praise of the concept of independent statutory boards keeping things away from politicians. One can imagine my utter amazement when last week I received a letter from the same Senator Burke requesting funding from me, under the dormant accounts scheme, for an application from his constituency.

Mr. U. Burke: The Minister did not read the letter. The same letter was sent to his colleague. I have it here and his reply.

Éamon Ó Cuív: I read it carefully. The top of the letter shows the names of certain organisations.

Mr. U. Burke: There was no skulduggery.

An Cathaoirleach: Order, please. The Minister without interruption.

Éamon Ó Cuív: It was for an application from his constituency.

Mr. U. Burke: Arrogance.

Éamon Ó Cuív: This is hypocrisy of the highest order. It would appear that Senator Ulick Burke has a major problem with overt political controls operated in a fair and transparent manner, but has no problem with covert political interference.

Mr. U. Burke: With the permission of the Chair, I will reply to those points.

An Cathaoirleach: At the appropriate time.

Éamon Ó Cuív: It is time Opposition Members stopped speaking out of both sides of their mouths.

Mr. U. Burke: Is there a mirror for the Minister?

Éamon Ó Cuív: They should declare clearly whether politicians were elected to make decisions and act accordingly or whether they believe in the theory that decisions should be made at arm’s length from Government. A politician like Senator Ulick Burke does no service to politics.

Mr. McHugh: A Chathaoirligh, that is a serious allegation against a democratically elected Member of this House.

Mr. U. Burke: We came here to debate CLÁR but the Minister has nothing to offer but this. It is the same with some of the schemes he invented for himself.

An Cathaoirleach: Order, please.

Éamon Ó Cuív: The Senator has damaged his good name and reputation and enabled people to take a cynical view of every politician. Since my election as a Senator in 1989, I have found that the vast majority of Members of the Oireachtas, irrespective of party or other differences, have treated each other fairly and with respect. Unfortunately, there are a few who fail to adhere to these standards and do no service to politics, their country, party or group.

I turn now to the more general issues relating to CLÁR and outline the measures which have been undertaken under the programme. The measures have been directed at requirements in the areas of roads, water, sewerage, village enhancement, sporting, community and health facilities, airports, schools, piers, Garda stations, courthouses and broadband roll-out. The total spend between 2002 and 2003 was €22.751 million. An accurate estimate of leverage funds demonstrates the provision of €21.632 million.

Mr. U. Burke: On a point of order, can Members be circulated with a copy of the Minister's speech or is he referring to a special addendum?

Éamon Ó Cuív: I am referring simply to some notes. A copy can be provided to the Senator.

Mr. U. Burke: I thank the Minister for the courtesy he has shown the House by his outrage.

An Cathaoirleach: The Minister, without interruption.

Éamon Ó Cuív: Chuala mé faoin gciteall ag tabhairt tóin dubh ar an bpota.

Mr. U. Burke: Lean ar aghaidh.

An Cathaoirleach: On the CLÁR programme, please.

Éamon Ó Cuív: That leveraged out as a further €21 million which would not have been spent in CLÁR areas, giving a gross extra spend in CLÁR areas of about €40 million. The Estimate for 2004 involves €13.490 million and we estimate that approximately €70 million will be spent under the CLÁR programme over the next five years. In total, the spend will be €90 million over the life of the scheme. When one calculates that this figure leverages out as €1 for every €1 spent, one will find that we are talking about €180 million in extra money. This is having a considerable effect on the ground, particularly in the peripheral areas which have suffered the greatest neglect over the years.

Mr. U. Burke: Especially the Minister's own constituency.

An Cathaoirleach: Order, please. The Minister to continue without interruption.

Éamon Ó Cuív: We all understand that even within a county, there is a pull toward the centre. The CLÁR programme has been specifically designed to act as a counterweight to that pull. Recently, I announced the school playground scheme through which each primary school in a CLÁR area will be entitled to a rebate of €7,500 if it spends €10,000 on play facilities on its campus. Certain schools intend to provide football facilities, others basketball facilities and some will tar a yard to ready it for hopscotch. The decision will be for each school to make. All of us can accept that traditionally rural schools were provided with no funding whatsoever for the provision of sporting facilities. In schools with between 30 and 50 pupils, funding of this nature will help parents considerably in the provision of the facilities in question.

While we tried to contact as many schools in the CLÁR areas as possible, in the trawl we performed some schools were left out. Other schools completed the very simple application form incorrectly. Some forgot to include the roll number while others listed figures in excess of the amount to be granted. In every case in which a form was incorrectly filled in, we returned it to the school as soon as the postal dispute had ended. Schools should receive the returned forms over the next few days if they have not done so already. We are asking the schools to fill out the forms correctly and return them to the Department at which point the money will be sanctioned. If there are schools which for whatever reason and despite our best efforts through the Leader companies were not included or eligible for the scheme, it is open to them to contact my Department to be sent the appropriate application form. There is no closing date for the scheme although each school may claim only once. On receipt of an application, the Department will sanction funding which will be paid out on receipt of invoices.

Among the projects I have been keen to progress is broadband roll-out. Last autumn, my Department, with the assistance of the Department of Communication, Marine and Natural Resources, called for broadband projects. A detailed and comprehensive analysis of the projects has been carried out and I hope to be in a position in the near future to make an announcement on the roll-out of broadband to chosen towns in CLÁR areas. The broadband programme is significant. We will evaluate the success of roll-out to the towns in question. If it is a success, I will certainly consider expanding the process.

The provision of water and sewerage services in rural areas is of great importance. While we have heard a great deal about difficulties with group water schemes, there is very rare mention in the media of people who continue to be dependent on wells and other private sources of water. The argument has been made that it would be incredibly expensive to provide them with piped water from central sources, but our

[Éamon Ó Cuív:] experience through the top-up scheme under CLÁR has been to the contrary. A very modest sum can make up the difference and render affordable the provision of water services to a household. Under the scheme, the charge per household is just in excess of €1,000 which represents a fair and equitable charge given the cost of connection to a mains supply in a town or village.

Significant advantage has been taken in Roscommon of group sewerage schemes on the edges of villages. Such schemes have great potential in other rural areas. While many towns and villages now have small main sewerage schemes which have been constructed by local authorities, in the case of development there can be a delay in extending the schemes to connect newly built houses.

Mr. U. Burke: How many such programmes have been supported in this way, as the Minister is speaking off the cuff?

An Cathaoirleach: The Minister without interruption.

Mr. U. Burke: We are listening to fantasy.

An Cathaoirleach: The Senator will have an opportunity to contribute.

Éamon Ó Cuív: I am glad the Senator raised that question. A report has been published, a copy of which can be obtained for him. Each county receives a block grant from the Department of the Environment, Heritage and Local Government. The arrangement in CLÁR areas on small water and sewerage schemes is quite simple. If the county, not the Minister, chooses——

Mr. U. Burke: Thank the Lord.

Éamon Ó Cuív: ——to spend some of the block grant in a CLÁR area, it is automatically entitled to a €1 per €1 top-up from the CLÁR programme. The decision is one for the county councillors to make. As the Senator is a former member of Galway County Council——

Mr. U. Burke: Like the Minister.

Éamon Ó Cuív: ——he should be well aware that those opportunities existed but he is correct in that the pick-up in County Galway, for some reason I do not understand but which the Senator might be able to explain as a member of the local authority, was very low.

Mr. U. Burke: The proof of the pudding is in the eating. The Minister should stop rambling.

An Cathaoirleach: Order, please.

Éamon Ó Cuív: No. The choice is Senator Burke's, not mine. Other counties, for example, County Roscommon, have set up endless schemes under this measure and when the Senator reads the print-out it will show him the counties that made a choice on their own to avail of this scheme.

The total cost of CLÁR funding in Leitrim was €661,000 but the total cost in County Galway last year was zero. The areas in which they spent their block grant was the choice of the county councillors. There is no point in blaming the Minister if the county councillors of Galway decide not to spend the block grant in the CLÁR area. This is the typical nonsense——

Mr. U. Burke: The Minister must be getting the message in his constituency.

An Cathaoirleach: Senator Burke, you will have an opportunity to contribute.

Éamon Ó Cuív: I do not control the council.

Mr. U. Burke: Praise the Lord.

An Cathaoirleach: Senator Burke, you are wasting time. Many Senators are anxious to make contributions.

Éamon Ó Cuív: At times I wish I did because I might get a better spread into some of these areas which appear——

Mr. U. Burke: It would be a mass exodus.

Éamon Ó Cuív: ——to always pass up money when it is available.

Mr. McHugh: Is that a vote of no confidence in the councillors?

Éamon Ó Cuív: I can say, however, that many counties have availed of the scheme. Even though they are small areas, they realise the cost benefit of doing the CLÁR schemes is attractive because they are getting extra money into their county.

Mr. U. Burke: Will the Minister answer the question? How many small sewerage schemes have benefited——

An Cathaoirleach: Senator Burke, allow the Minister to continue without interruption.

Éamon Ó Cuív: There are a number in Roscommon. Is the Deputy talking about small sewerage schemes?

Mr. U. Burke: Yes.

Éamon Ó Cuív: There are many.

Mr. U. Burke: The Minister is talking fantasy.

Éamon Ó Cuív: I have the 2002 and the 2003 reports. The ones we sanctioned this year, which

were quite considerable, do not count. I will arrange for all of those to be put in the Senator's pigeonhole this evening and he can check the list for himself. It is too long to read out here. Everything we spent money on is in these schemes. We operate a transparent system and no matter how much the Senator tries to put dubh ar an mbán it will not stand up to rigorous scrutiny because this scheme has been operated in a fair, open and transparent manner and the people know that.

Mr. U. Burke: The Minister's people.

Mr. McHugh: I did not intend to come in here today to be caught in political crossfire but unfortunately that is what happened. If there are issues to be addressed it is best to address them on a one to one basis rather than use this House as a mechanism to do that because it does nothing but degrade the House. If any comment is to be retracted it should be the one made by the Minister about a gentleman who is elected to this House. He stated that a politician like Senator Burke does no service to politics. Politics is a tough game, and I know the Minister finds that also, but I do not understand the logic behind that statement. If anything needs to be retracted it is the Minister's comment about Senator Ulick Burke. Senator Burke does provide a service and he works very hard.

An Cathaoirleach: The Chair will decide what is to be retracted.

Mr. McHugh: I tried to interrupt the Minister a few times as Senator Burke was not here to defend himself. He is here now, however, and he will defend himself when he gets an opportunity.

The Minister for Community, Rural and Gaeltacht Affairs has a big job because his ministerial portfolio has no teeth in terms of reversing the lack of investment in rural areas. His mindset in regard to depopulation is right and he wants to do something about it but as far as I am concerned, that is not happening.

I wish to refer to a number of items, the first of which is the community groups and the partnerships. As the Minister is well aware, the community groups and the partnerships fought hard to be included in the CLÁR programme and to act as a conduit in regard to the draw-down of money but the Minister decided not to go down that road. He went down the local authority road and decided not to use the community and voluntary sector for reasons——

Éamon Ó Cuív: That is not so.

Mr. McHugh:——involving the rationalisation of community groups and because he is trying to amalgamate services. A whole re-negotiation and restructuring process is going on in that sector.

Second, the Minister said that €7,500 would be allocated to schools in rural areas but where was his Department last summer when a little school

in Doaghbeg, Portsalon, Fanad was on the brink of being closed down? His Department was lobbied and every argument put on the table. He got various representations from his own party, cross-party and from different groups. The Doaghbeg school would have closed down last summer were it not for the fact that the Minister for Education and Science made an error in his call for its closure. That is the only reason. The closure of that school, which is in the CLÁR area, would have resulted in those children having to go to another school outside of the little community of Doaghbeg.

Mr. U. Burke: It is not in the west Galway constituency.

Mr. McHugh: Doaghbeg is a microcosm of rural life. It is a rural area disaffected by depopulation, brain drain and the movement of people to urban centres. If the Department had any teeth it would have no problem keeping a school like that open and encouraging investment in the area. There are people living in continental Europe, America and even other parts of Ireland, from Letterkenny to Dublin, who would live in Doaghbeg if the services were provided. Donegal people would live in Doaghbeg and Fanad if broadband services were provided, to which the Minister referred earlier and which I will address shortly.

My third point concerns the CLÁR area, of which the Minister will be aware. The CLÁR area was mapped out but there was political uproar when certain areas were not included. That political uproar continued until the Minister decided to include other areas in the CLÁR area, which he did in Donegal and for which he should be commended. However, the nub of the problem was that he increased the number of areas but reduced the funds. That is a fact. That is like having a birthday party and a big cake for 20 young people and then deciding to invite another 20 but have a smaller cake. That situation must be seriously addressed.

I wish to be parochial now because the rural way of life is part of me, my social upbringing and my mindset and is something for which I have to fight the cause and bring problems to the Minister's attention. There is a small area in a place called Elly in Oughterlin in Donegal. A gentleman came to me last week and said that 50 years ago there were 45 smokes, as he called it, in that area. I do not need to define "smokes" for the Minister; he knows what I mean. The man was talking about smoke from chimneys. That number has been reduced to three. That is an area which lobbied strongly to be included in the CLÁR programme. I asked him what he would gain from being included and he said he wanted to set up a small business and wondered if he would get grant aid for it through the Minister's Department. I told him he would not because the Department lacks teeth.

[Mr. McHugh.]

The Minister has talked here on many occasions about broadband roll-out. It is like the spatial strategy and every development plan and feasibility study we have in Donegal on which millions of euro were wasted. The Minister would also agree that money was wasted on consultancy fees. Broadband roll-out is a myth when we talk about rural areas. The only places gaining in terms of broadband roll-out from the Government are urban areas like Gweedore and Letterkenny. The rural areas are not being included. There has been no examination of radio broadband or satellite broadband for rural areas. If the Department of Community, Rural and Gaeltacht Affairs had teeth, it would carry out pilot schemes in areas like Milford, from where I come.

A few weeks ago, my party leader, Deputy Kenny, tabled a parliamentary question on post offices in County Donegal. As I mentioned this morning, in the past 15 years, 24 post offices in Donegal have closed down because of insufficient people.

Senator Glynn argued against me this morning. However, this is the effect of depopulation and the movement of people from rural to urban areas. The Letterkenny town plan cannot cope with the number of people from rural Donegal moving to the town. There is no reason for them to stay in rural areas, as there are no services, post offices, shops or schools.

There is a small place in the north of County Donegal, which no longer has a post office or a school. All that is left is a little community that is disillusioned and disenfranchised from society. They have no confidence in the system and have no hope for their young ones to return in the future as they are either working in continental Europe, London, Dublin or Letterkenny. Does the Minister believe his Department can address the issue of depopulation under his remit? The people living in the small areas I have highlighted — Elly, Oughterlin, Glenvar and Doaghbeg — do not believe the Department has done anything to instil confidence that their communities have a future.

The Minister spoke about water and sewerage schemes. We have group schemes, small water schemes and every type of scheme in County Donegal. The smaller the scheme, the more the people get hammered in terms of money. Those in a small scheme with 20 people have to pay €6,000 per household. These people are not in a position to pay that kind of money. The Minister might say that if they were in the CLÁR programme, they might be included. Where is the support from the Department of Community, Rural and Gaeltacht Affairs for them?

The Minister is using the local authorities as a mechanism to bring money to rural areas and he says this is ultimately the responsibility of the councillors. I am still a member of my local authority and along with a Fianna Fáil and an Independent Fianna Fáil councillor, I had a part

to play in getting CLÁR money to County Donegal for roads. I admit that money tarred three or four lanes that would not have been tarred under the local authority programme. However, what has that done to reverse the problem of depopulation? The Minister might think that tarring a road that has not been tarred in 20 years is the way forward. This may be a case the glass being half full and perhaps I should not be too critical.

As regards water and sewerage schemes that come through the local authority, the Minister knows that each section of Donegal County Council is under pressure and constantly draws down money for major capital projects. The director of services in the environment and sanitary section of Donegal County Council is dealing with millions of euro annually. The total allocation for County Donegal from the Department of Community, Rural and Gaeltacht Affairs is approximately €2 million. When this is broken down to water and sewerage schemes, sums of €50,000 to €80,000 are being allocated. Such amounts get lost in administration as the Minister knows and do not go directly to the rural area. The Minister should consider the community groups and not the local authorities as a mechanism for transferring this money.

Éamon Ó Cuív: Community schemes are operated through the community groups.

Mr. McHugh: This is not true in my area of Milford in County Donegal. The water and sewerage schemes and the roads programme should not be managed through the local authority. Putting €38,000 or €40,000 through the local authority is a waste of time and gets lost in the pool.

Éamon Ó Cuív: That is not so.

Mr. McHugh: Why are the partnerships singing from the same hymn sheet as I am?

An Cathaoirleach: We cannot have a questions and answers session now. The Minister will have the opportunity to reply at the end of the debate.

Éamon Ó Cuív: It would be impossible——

An Cathaoirleach: Minister, I said you would have an opportunity to reply at the end of the debate.

Éamon Ó Cuív: It would be impossible for a partnership——

An Cathaoirleach: Allow the Senator to speak without interruption.

Éamon Ó Cuív: I wanted to reply.

An Cathaoirleach: The Minister will have an opportunity to respond.

Mr. McHugh: I gave the Minister credit for what has been done on the roads.

Éamon Ó Cuív: They can only be done by local authorities.

An Cathaoirleach: I have said we cannot have a question and answer session.

Mr. McHugh: Why not, Minister?

An Cathaoirleach: The Senator should address his remarks through the Chair.

Mr. McHugh: Why should community groups not look after group water schemes? Ultimately the ordinary people promote the scheme. There is no mechanism for the delivery of the Minister's plans for radio broadband in rural areas. There is talk about a seven-year plan under the Department of Communications, Marine and Natural Resources to have a scheme similar to a group water scheme. What proposals does the Minister have to bring ISDN lines and broadband to the outermost places like Malin Head or Downings? The Minister has no plan. There is not a hope in hell of us getting radio broadband or satellite broadband into those areas. It is all chat; it is a seven-year plan; it is another programme; it is absolute bull.

Mr. U. Burke: It is fantasy.

Mr. McHugh: While I have asked many questions of the Minister, no doubt he will respond by highlighting all the positive elements. Through what mechanism does the Minister propose to bring radio broadband into the rural hinterlands from Milford to Malin Head to the west of Donegal? The Minister told us nothing new today and merely attacked my good colleague here. Private companies are willing to get involved in this venture. I am aware of a group with various investors in northern Scotland that wants to come and set up small to medium enterprises in rural areas and is only prevented by the lack of broadband. Broadband will bring the people in. If the people come in, the post offices can be sustained. If the post offices can be sustained, we can sustain communities and schools and bring people back to rural areas. That is what will bring people back and not bullshit such as consultancy papers.

An Cathaoirleach: That is not parliamentary language.

Mr. McHugh: We want to bring the people back into the rural areas. The Minister should withdraw his comment that Senator Ulick Burke does no service to politics.

Labhrás Ó Murchú: Cuirim fáilte roimh an Aire agus é ag cur tuarascála os ár gcomhair ar an obair dhearfach atá idir láimhe againn. Éinne go bhfuil taithí aige ar an tír seo agus seans aige

taistil timpeall, tá a fhios aige na torthaí atá le feiceáil ar an obair atá déanta ag an Aire. Níl aon Aire sa Rialtas a thuigean deacrachtaí agus dúshláin an phobail chomh maith leis an Aire seo. Níl aon Aire eile a chuaigh i ngleic leis na deacrachtaí sin ar an talamh cosúil leis an Aire féin. Níl aon Aire sa Rialtas a éistean chomh cuirteiseach agus chomh cúramach le gach duine ar an talamh agus molaim é de bharr na hoibre sin. Tá súil agam go leanfaidh sé ar aghaidh leis an obair sin.

Mr. U. Burke: Promises galore.

Labhrás Ó Murchú: I have been a Member of this House for seven years and the record will show that I never once interrupted another Senator. My principle in that regard is that one should put what one has to say on the record, let another reply and let others judge whether one is right or wrong. The Senator can continue to interrupt for the next 15 minutes if he wishes but the record will show I have never done so nor do I intend doing so.

I am delighted the Minister came to this House today to set the record straight. I have great regard for Senator McHugh, as well he knows, but to suggest an issue like this should be settled one-on-one or man-to-man is only one step from saying the matter should be settled outside. This is the Upper House of Parliament. The allegation regarding the Minister's integrity is on the record of this House. It would be wrong if the Minister ignored us. I, as a Senator, would regard myself as being badly served if, once an allegation was brought to his notice and he knew it was on the record of this House, the Minister did not seek an opportunity to set the record straight. That is precisely what he did. He did so because he not only has an obligation to this House but to the Oireachtas and the Irish people. What person, where public funds are concerned, would not set the record straight and show precisely what has been done under his stewardship? He is quite right to do so.

There is nothing inflammatory in the Minister's speech. The person to whom the remarks were directed will have an opportunity to reply as has always been the case in this House. I am not quite sure what all the hullabaloo is about in this case.

Mr. U. Burke: Nor am I.

An Cathaoirleach: Order, please.

Labhrás Ó Murchú: I will go a step further and state that as a Member of this House, I would be dissatisfied if in the future a Minister or Minister of State did not feel at liberty or, indeed, obligated to come here to discuss such an issue.

Senator McHugh said the Minister did not provide Members with a copy of his speech. Members have access to computers. I have a copy of the 2003 CLÁR report, a copy of which the Minister stated will be in Members' pigeonholes

[Labhrás Ó Murchú.]

later this evening. However, this important report is available on the Internet.

It is not possible for people to speak from a broad base and, at the same time, expect to obtain specific information. That will not happen. One must get down to specifics and the specifics are particularly clear. Anybody who knows that CLÁR stands for Ceantair Laga Árd-Riachtanais understands on what it intended to focus. One of the basic focuses was the pre-consultative aspect. The Minister consulted on priorities in particular areas. In all CLÁR areas, with the exception of one, disadvantage and a decline in population were identified as matters of priority. If that is not a challenge to any Minister or programme, I do not know what is. The Minister sought to prioritise those issues.

Senator McHugh asked in good faith what tarring a road has to do with halting the decline in rural populations. It is related in the same way as building a house or providing any other aspect of infrastructure. At the end of the day, everybody wants quality of life and that quality of life requires basic elements of infrastructure. We cannot suggest that one should ignore all the disadvantages and weaknesses in infrastructure and in some way, on a foundation of shifting sands, put in place a programme which will achieve miracles overnight. That is not possible.

Some €13.4 million, a 55% increase on the previous year, has been spent in this area. I doubt if any amount of public money ever spent has achieved what has been achieved with that funding. That was possible because there was a partnership in place. Money was not spent on consultants or peripheral issues; it was spent on tangible assets for particular communities. The areas in which that money was spent are so varied it would take one three hours to read them out. That is the strength of CLÁR. One cannot apply uniformity in a programme like CLÁR. Each area has a different set of requirements and needs something specific. That is precisely the reason there are so many areas involved.

If the Government is looking for value for money, then there is little that will ever show up in our accounts to match what has been done by the CLÁR programme. Rockchapel in Cork, an area with a huge decline in population, which up to four or five years ago was apathetic about the possibility of there ever being any improvement in its situation, benefited from this programme. I do not come from Rockchapel but I have seen the results of those benefits on the ground. I am speaking with a neutral voice in terms of the benefits there. I witnessed a new enhancement coming into play, a new invigoration being set in motion. What does that mean? It means one cannot expect to turn back the clock with a single swipe of a pen or one tranche of money. That will not happen. One has to enable the people to take the necessary steps. What is important is that what was done was tangible and relative to the area in question.

I was sorry the Minister commenced his contribution in the manner he did today.

Mr. U. Burke: For what reason?

Labhrás Ó Murchú: At the end of the day when one considers it, he had such a story to tell that every Senator——

Mr. U. Burke: The Minister did not even provide us with a copy of his script.

Labhrás Ó Murchú: ——should have applauded him for what he has done and achieved.

Senator McHugh raised two or three particular issues but does that suggest we expect 100% success from such a broad-based programme in two or three years? Of course, that cannot be done. I have no doubt that the Minister will listen closely to any genuine cases brought to his attention in the same manner he brought about the organic development of this programme. I will go a step further and say that knowing the Minister as I do he would accept any invitation to meet with people on the ground as he has done throughout the country. Lest anybody is for one moment suggesting that only Fianna Fáil supporters are benefiting from this programme, I know of several programmes in which there is cross-community and cross-party co-operation and loyalty. It is important that there be community focus. Trying to contaminate this process will not help the programme or the areas involved and will not provide for improvement in the future. It is not right to suggest there is a political tag attached to this programme which is community orientated.

Yesterday, we discussed the new draft guidelines on rural housing. The Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív has been central to that issue which shows the CLÁR programme does not stand in isolation. It cannot stand in isolation from local authorities, central Government, the commercial world or sporting and cultural activities. It is part of a process. Endeavouring to dissect it in that manner means somebody will have to return to it later on. We will then be back here seeking guidelines on the matter.

Mr. U. Burke: Again, more guidelines.

Labhrás Ó Murchú: However, the interesting thing was that Senator Ulick Burke and at least two other Senators on the other side of the House spoke on the Order of Business and invited the Minister to the House, as I did on the same day.

Mr. U. Burke: To discuss something.

Labhrás Ó Murchú: He has responded to our request on the Order of Business that he come to the House. However, let us be very clear on this point. I would be extremely sad if the suggestion was that we start dismantling something that has

been successful, given value for money, been in close contact with the communities being served and brought together all the interests that I mentioned — the community, local authorities, central Government and so on. It has achieved all that and in any CLÁR area where I spoke to those proactively involved, they told me that, for the first time, they can specifically identify with a policy which relates to them. The difficulty in the past with all the great and grandiose schemes we had in this country was that most of them were not poised and they were not able to avail of them. These, however, are specifically designed for them and are there to reflect what they sought.

I hope the Minister can return to us some day when there is a different atmosphere in this House and we can approach this positively and say that, at long last, rural Ireland is getting recognition. We see it in the rural guidelines on housing, in rural development and in so many other issues. I have attended meetings for over 35 years where I heard the finest and floweriest of rhetoric to which one could listen. We were asked what we were doing about rural Ireland, which we were told was dying. We were told that no one wanted to live there. Now people want to go back and there are schemes to help them. We are giving assets back to people and the Minister has been providing leadership.

I put this to the Senator: if he ever wants to carry out a poll in rural Ireland and ask people which political representative best enunciates their views and helps them to bring them to fruition, I guarantee him that the Minister, Deputy Ó Cuív, will be up near the top of that poll. I would feel extremely sad if no one else had their ear to the ground to hear that being said outside. He is regarded not as an emissary from Government, but as one of their own, a person first and foremost who sharpened his teeth in community work in Connemara. He went back there and developed the co-operative system. He brought all that experience with him and was able to put it at our disposal. Anyone who can say that he can go back to the Minister for Finance and achieve a 55% increase in funding from one year to the next must certainly have been doing good work. He must also have been making a very strong case.

I would never want anyone on the other side of the House to think that I would be personal. I will never be like that and it has never been my intention to do that here. However, if I feel animated on this issue, it is because of my involvement in rural activities down through the years. I am particularly happy that we have a Minister such as the Minister, Deputy Ó Cuív, who has given us leadership and brought results over the years.

Mr. U. Burke: I beg the Chair's indulgence to put on the record one or two matters that need to be addressed. If we had the facility of a dustbin here, I would deliver to it the statement issued

here and circulated in the House today. However, I will choose to ignore that and deal with the reality of the outburst that we witnessed here, which bordered on ministerial arrogance.

Last week, on 30 March, I made representations to the Minister for Justice, Equality and Law Reform, Deputy McDowell, sending a similar letter to the Minister, Deputy Ó Cuív. The request was that they assist in providing public funding for the provision of a crèche adjacent to the second phase of a housing scheme. The letter stated:

Dear Minister,

I wish to make representations on behalf of the Abbey Affordable Housing Project, Abbey, County Galway.

Éamon Ó Cuív: Senator——

An Cathaoirleach: The Minister will have an opportunity later to respond.

Mr. U. Burke: I will continue.

You may already be aware that the first phase of this project has now been completed and the second phase is about to go to the planning stage.

(Interruptions).

Mr. U. Burke: The letter continues as follows.

This housing project provides housing for elderly people, for social housing, and for some affordable dwellings also. The catchment area comprises of Tynagh, Duniry, Ballinakill and Woodford, most of them in the CLÁR area. For various reasons, some people are unemployed and require further training in order to return to the workforce, while others are badly in need of professional childcare facilities to remain in employment. I am given to understand that Galway County Council are prepared to give the site free to facilitate the building of the crèche within the community as part of an overall development that can be planned accordingly from the outset. I would be grateful if your Department would be amenable to provide funding for such developments.

I sent a similar letter to the Minister for Justice, Equality and Law Reform, Deputy McDowell, from whom I received a courteous reply with volumes of information on how that group could provide and access funding. The following is the reply that I received from the Minister, Deputy Ó Cuív.

Dear Senator,

I was astounded to get your letter on 30 March 2004

[Mr. U. Burke.]

Although it was an ordinary representation, he was astounded, obviously at the cheek of anyone——

Éamon Ó Cuív: About the dormant accounts.

An Cathaoirleach: Order.

Mr. U. Burke: I will deal with it. The Minister has had his say. I will put the record straight on the arrogance that he has shown here.

An Cathaoirleach: Order, please.

Éamon Ó Cuív: About the dormant accounts.

Mr. U. Burke: I seek the Chair's protection.

I was astounded to get a letter on 30 March 2004 asking me to act in an improper manner.

For the record, a Chathaoirligh, I ask you to adjudicate on whether the obvious representations that I made in that letter to the Minister, Deputy Ó Cuív, and the other to the Minister for Justice, Equality and Law Reform, Deputy McDowell, were in any way improper.

An Cathaoirleach: Order, please. It is not my role to adjudicate.

Mr. U. Burke: The Minister wants to have his usual loaf and eat it. I am aware of his speech in the Seanad on 25 March. We heard it all in the other document today. I am also shocked at the very serious allegations that the Minister made against me in the Seanad regarding the allocation of funding. Senator Ó Murchú is deadly accurate when he states that the Minister's sentiments are focused on looking after the community. Whether there is privilege or otherwise — people can decide for themselves — it is not appropriate for a Minister to whose constituency the greatest funding allocation goes, whether for roads, sewerage or any other social improvement for the community, to disburse finances in the way that he did, since they are public resources.

I brought into the House the allocations for 2003 and 2004 for roads in County Galway. I will not go through them in detail as the Minister has refused to give the details of his own CLÁR programme, for which he refused to provide a script. However, in the allocations, one after another is in his own constituency. We see the west Galway version of PuncHESTOWN in that allocation of funding.

To put the record straight, very soon I will be asking the Committee of Public Accounts to adjudicate on the allocation of funding under the various headings and schemes throughout the CLÁR areas. It will be quite clearly seen that what I have said on the record of this House is true, accurate and verifiable, and I will stand by it. Regarding the dormant accounts——

An Cathaoirleach: We are not speaking about dormant accounts but about the CLÁR programme.

Mr. U. Burke: I have to explain why the Minister was selective and pointed. If the Cathaoirleach does not want to hear it, I accept his ruling.

An Cathaoirleach: I thank the Senator.

Mr. U. Burke: I thought it apposite because of the relevance to CLÁR and the funding it will get from that particular source. It is one of the three areas from which funding will be obtained. If the Cathaoirleach does not want me to say any more on it, I will abide by his ruling.

Nonetheless, the reality and the facts stand. If there were instances where I was inaccurate in my assertions, let the Committee of Public Accounts deal with that. I will abide by its ruling in due course. However, the Minister is on record, and I will recall it for him in case he suffers from the amnesia that is in evidence elsewhere, as we speak. He was appointed a Minister of State in the then Department of Agriculture, Food and Rural Development some time ago. He said at the time he had nothing to do and wanted to create something. He created a scheme. He said it was in gestation for a long time before it came to fruition. This is it. There is no doubt it was designed to be particularly effective in areas of rural decline throughout the country, namely in Gaeltacht areas. Who would——

Éamon Ó Cuív: That is what it was all about.

Mr. U. Burke: ——ever have imagined that a Minister would use it to such an extent within his own constituency? Look at it. The reality I have put on the record——

Éamon Ó Cuív: A Chathaoirligh——

Mr. U. Burke: ——that the only reason there was such a——

An Cathaoirleach: That is enough Senator.

Éamon Ó Cuív: On a point of order——

Mr. B. Hayes: The Minister cannot make a point of order. He is not a Member of this House.

An Cathaoirleach: Order, order. I will vacate the Chair. The Minister is here now as the representative of the Government.

Mr. B. Hayes: On a point of order, the Minister is here by invitation of this House——

Mr. Brennan: He is not here to be insulted.

Mr. B. Hayes: He is not entitled to raise points of order in this House. Nor is he entitled to

interrupt my colleague, Deputy Burke, in the course of his reply.

An Cathaoirleach: I would like to point out to Senator Hayes that the Chair rules on a point of order.

Mr. B. Hayes: I thank the Cathaoirleach. Will the Cathaoirleach rule on it? May I continue?

An Cathaoirleach: I ask all speakers, including the Minister, not to be involved in political sparring.

Mr. U. Burke: It is not political sparring. It is a statement of fact.

Éamon Ó Cuív: The Senator should hang on a second.

An Cathaoirleach: Order now, please.

Mr. U. Burke: Is it fair that the Minister would preside and have control over such an allocation of funding? I believe there is an injustice in this and something must change.

An Cathaoirleach: Order now, please. Will the Senator please get back to the CLÁR programme?

Mr. U. Burke: I will abide by the Cathaoirleach's ruling at all times. If he gives me the protection of the Chair, I will continue.

An Cathaoirleach: The Minister will have an opportunity to reply.

Mr. U. Burke: He will, of course. If he does that, I will be satisfied. I will wait here for it. The reality is that today——

An Cathaoirleach: The Senator has one minute left.

Mr. U. Burke: Will the Cathaoirleach not be lenient, given the interruptions?

An Cathaoirleach: I cannot. The Senator had ten minutes.

Mr. U. Burke: I really thought that as the Minister had been invited to the House some time ago and would have had time to prepare, he would bring the specific details along with him. I asked him a specific question and I am restating it now. Will he, irrespective of what is on the Internet, indicate how many specific small sewerage schemes have benefited from an allocation of funding through the CLÁR programme? Perhaps he will take time out, if necessary, to provide us with this simple information. That it is on the Internet would indicate to us that the Minister, like any of his colleagues should, out of courtesy, have brought this information to the House and given his views

on it. The position is that CLÁR comprises day-to-day *ad hoc* responses to situations as they arise. There is no focus or policy on how it may be developed in the future. It is a terrible situation that our response to the need for maintenance of reasonable standards in areas of the greatest population decline is devoid of Government policy other than reactions on a day-to-basis to cases bordering on crisis. If we could re-establish confidence in the CLÁR scheme and in the allocation of funding in a fair and equitable way throughout the relevant areas, I would be satisfied, and this day would be worthwhile.

Mr. O'Brien: I welcome the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, and congratulate him on the wonderful work he has done and is doing in the CLÁR programme. I trust the Leas-Chathaoirleach will be somewhat courteous on the issue of time when I get to the end of my speech. This crossfire in the Chamber reminds me of local authority politics at its best. It is not appropriate to Seanad Éireann, as the Upper House of the Oireachtas.

The funds under the Minister's stewardship are distributed strictly on a population basis, so I cannot understand the thrust of the debate up to now. It was in his capacity as Minister of State at the Department of Agriculture, Food and Rural Development that Deputy Ó Cuív launched the CLÁR programme. CLÁR is a programme that set out to tackle the problems of depopulation, decline and lack of services in rural areas. The 16 areas covered by the programme included parts of the counties of Connacht-Ulster and parts of the five counties of Munster as well as parts of the four counties of Leinster. The areas selected were those which had suffered the greatest depopulation since independence, with the exception of the Cooley peninsula, which was included because of serious difficulties caused by foot and mouth disease. On average these areas had lost 50% of their populations over 75 years to 2001. In some communities in Leitrim the decline was much greater.

In a determined bid to end this continued decline of rural communities, the CLÁR programme has been fast-tracking national development plan spending in selected areas. When launching the programme, the Minister identified the lack of population as the biggest single problem and the main excuse for the non-provision of services in rural areas. He highlighted how this had become a vicious circle — a declining population leads to the withdrawal of services and lack of services means that more people migrate to the cities which, in turn, means that even more services are lost to rural areas. The Minister saw it as his responsibility to end that vicious circle. As Minister he took the view that the lack of population should be a priority reason for getting investment rather than an excuse for not getting it. He quite rightly set out to turn received wisdom on its head as he argued that a declining area that has suffered the classic

[Mr. O'Brien.]

symptoms of rural decline should now go to the top of the list. The Minister deserves our congratulations. Fresh thinking and willingness to change were essential, and the Minister was not found wanting. Since 2001, the commitments of the Government to rural areas have been reinforced by the establishment of the Department of Community, Rural and Gaeltacht Affairs, with Deputy Ó Cuív as Minister. Nothing better illustrates the Government's commitment to rural concerns.

The Minister may not have grown up in rural areas, but throughout his entire adult life he has manifested an interest in them, and a vocation for them. He has brought great zeal to his interests. No doubt his own heritage and lineage contributed greatly. The Minister has always seemed to be very conscious of our unique tradition and culture. Many of his Department's announcements are modest, yet can have a real and positive impact on people's lives because of the standards of some of his grandiose projects of recent years, whether it be a fantastic new motorway or a striking railway bridge. My county, Monaghan, has benefited through improvements to class three non-national roads. Works such as these may not capture the headlines, but are quietly effective.

CLÁR has put the issue of population decline and its terrible consequences on the political map. If this were its only contribution, it would have been worthwhile, but it has done much more. It has provided hope where it was absent, remembered the forgotten and reached out to those beginning to despair of ever getting the most elementary infrastructure. CLÁR has complemented the RAPID programme in urban areas, as the remit of the Minister's Department extended to both programmes. The problems of excessive growth in our cities and the decline in our rural areas, with its detrimental effect on the quality of life, have been given top priority by the Government. The CLÁR initiative is part of a comprehensive series of measures focusing on quality of life issues in rural and urban areas. I welcome in particular the grants provided by the Minister for schools in the CLÁR area in recent weeks. I commend the CLÁR programme and the Minister's stewardship of it.

Mr. Brady: I would like to share my time with Senator Brennan.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. Brady: Cuirim fáilte roimh an tAire. Gabhaim comhgáirdeas dó as ucht an slí in a bhfuil sé ag stiúradh an programme tábhachtach seo. I have not been in the House for very long today, but the reaction of the Opposition leads me to conclude that the Minister is doing something right. The treatment meted out to him

during the past ten or 15 minutes has been disgraceful.

I had no intention of spending a great deal of time talking about CLÁR, since as a townie I have not much firsthand experience of the programme. However, I have had contact with colleagues, Senators, councillors, Deputies, and community workers throughout the country, who praise the work being done under CLÁR.

The number of areas directly funded by CLÁR is astounding. If one listened to some of the Opposition, one would imagine it deals only with roads and putting tarmac on laneways. The CLÁR programme extends across people's lives, from the provision of water and sewerage to electricity, to urban and village enhancement, local authority enhancement and major and minor health projects. It is staggering to look at the list of projects funded in 2003, which includes group water schemes, sewerage schemes, community initiatives, Knock airport, the islands and telecommunications kiosks. The signage project, involving both bilingual and safety signs, is particularly striking and affects many people travelling in Ireland. These are crucial elements in people's day to day lives. I commend the Minister. This Government and the previous one are the first in the history of the State to take seriously the concept of social inclusion. The initiation of a Cabinet sub-committee on social inclusion, which the Minister of State reports to and attends regularly, was a step in the right direction.

In my area, the RAPID funding involves a scheme very similar to CLÁR. It is a community-based scheme organised from the ground up. Its first premise is community consultation. The community is consulted first when changes, or possible funding, are indicated. From speaking to colleagues around the country, it is clear that CLÁR has played a very important role in the improvement of lives. The programme covers the areas which suffered the greatest population decline between 1926 and 1996, and CLÁR funding has made a big difference in villages, towns and cities.

The RAPID funding in my own area has enhanced people's lives immeasurably. Community groups now consult each other, local authorities, the Garda and health boards. For many years, communities were excluded from such discussions, but are now the first to be consulted. That is the change these programmes have made. Dublin inner city areas, which for years suffered greatly from drugs and unemployment, are now being completely turned around. In the last two or three months, substantial playgrounds have been opened. That might be of little consequence to some people, but to those living in flats across the road from such a playground, the difference is great. Children living in those flats cannot go out to play in fields, as they might do in rural areas. For them to be able to go to a playground and feel safe, to

be supervised and enjoy some leisure activity, is part of what these programmes are about.

I will disregard the Opposition comments and will not get into parochial politics on this major issue, which affects hundreds of thousands of people's lives daily across the country. Some of the projects funded, such as water and sewerage schemes, are essential to people's lives. Village enhancement schemes, housing estate enhancement schemes, bilingual signage schemes, top-up sports capital grants, Gaeltacht sports and community grants, community initiatives, health, electricity and telecommunications are all areas on which people depend in their daily lives. Dragging this down to a parochial squabble is irresponsible. I commend the Minister for Community, Rural and Gaeltacht Affairs on how these programmes are put into operation in conjunction with local groups. I wish him well with the future implementation of the programme.

Mr. Brennan: I welcome the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív. We in County Limerick appreciate his efforts under the CLÁR programme and the proud tradition of public service by the de Valera family since the foundation of the State.

The Minister gave a detailed account of the €22 million spent over the last two years. Projects selected by local authorities for their strategic importance are detailed. Spending on non-national roads amounted to €5 million while spending on local improvement schemes came to €2.18 million. Local roads and safety improvements were also projects selected by local authorities. Water and sewerage schemes have also received additional funding.

Who can disagree that local authorities are in the best position to ascertain the merits of an application? Funding allocations are above reproach. Many other schemes have been included under the programme such as village enhancement schemes and local authority housing estates. I compliment the Minister's work on the rural development forum programme. This is additional money and Senators should support the Minister in securing any additional funding for the CLÁR programme. The Minister has ensured that under the rural development forum all funding under various Departments for rural development is taken into consideration. Under the rural housing programme, the Minister was the first to highlight the problems with the guidelines.

The Minister will have the Seanad's support in implementing his departmental programmes. On behalf of the people of rural Ireland, I congratulate him and wish him well in his endeavours.

Mr. Scanlon: I extend a warm welcome to the Minister for Community, Rural and Gaeltacht Affairs. I cannot understand why he was barraged as he made his speech. CLÁR funding for county

councils is available but they must apply for it and be in a position to match it. There is possibly why Galway County Council did not apply for CLÁR funding. Senator Ulick Burke would be advised to see if this was the case.

When a Minister visits a constituency, the acid test of success is the number of people who wish to meet him or her. Those involved in community work know the Ministers who work hard for them. When the Minister for Community, Rural and Gaeltacht Affairs comes to County Sligo, which has suffered serious depopulation over many years, he is inundated by community groups. We are fortunate that Deputy Ó Cuív holds this portfolio. When he left Dublin for Connemara, he was involved in a co-operative business and saw how hard it is to get the business off the ground and keep it going. He has firsthand knowledge of what is needed in rural areas. Due to this experience, as the Minister for Community, Rural and Gaeltacht Affairs he has made a difference to those living in remote rural areas.

Senator McHugh referred to local issues and, of course, all politics is local. I wish to give an example of a father and two sons involved in a furniture business in County Sligo. They struggled for years to build up the business. However, they needed new machinery which required a three phase electricity supply. The costs of installing such a system were £20,000, which was unaffordable to this man. However, under the CLÁR programme he was able to avail of grants to have the supply installed.

Mr. McHugh: Did it cost €20,000?

Mr. Scanlon: It cost £20,000.

Mr. McHugh: Was there £2,000 under CLÁR funding?

Éamon Ó Cuív: No, it was 100%.

An Leas-Chathaoirleach: Senator Scanlon without interruption.

Mr. Scanlon: The cost to the individual was £20,000. With the CLÁR programme, he had three phase electricity supply installed, allowing him to buy better and efficient machinery and he now employs 12 people.

The CLÁR programme has made a difference to many people who did not have running water. It is hard to believe that there are communities without group water schemes. Costs of up to €10,000 per house for providing water to those communities make it uneconomical for local authorities. The CLÁR programme, with matching funding from local authorities, has funded three group water schemes in County Sligo at a cost to each household of approximately €1,500. Those people are entitled to the same facilities that we enjoy. This is the difference the CLÁR programme is making on the ground.

[Mr. Scanlon.]

Sligo County Council will receive €66,000 this year for local road improvement schemes, on top of other funding from the Department of the Environment, Heritage and Local Government. The beauty of CLÁR funding is that the council must match it, bringing the total to €126,000. This will mean 20 minor roads will be improved. It also means the living standards of the one or two families served by these roads will also be improved.

Senator McHugh referred to the plethora of different organisations involved in rural development such as the Leader programme, county fora and enterprise boards. The Minister is right to examine this matter to make it more manageable. People are confused about where to apply for funding, such as employment grants. One body in each county is enough for developing local communities. The quicker it is implemented, the better.

National schools located on regional roads are dangerous and though it may seem minor, it is important. Members know of cases where young people have been injured or killed on such roads. There is funding in the CLÁR programme to provide warning lights at these schools. Four schools in County Sligo have had these installed this year. Thankfully, it has happened as there was a serious accident at one of those schools several years ago.

The Minister knows what is needed in rural areas. I congratulate him on his work with the CLÁR programme. We are fortunate that he holds this portfolio as he is prepared to listen and look after rural areas.

Minister for Community, Rural and Gaeltacht Affairs (Éamon Ó Cuív): Ba mhaith liom buíochas a ghabháil leis na Seanadóirí ar fad a labhair inniu. Ba mhaith liom díriú ar chuid de na ceisteanna a cuireadh.

The CLÁR programme is a top-up programme. Each of the CLÁR areas is entitled to the normal State services and the money associated with them. CLÁR funding is not the sole funding in such areas; it is top-up funding to redress an imbalance that existed in the past. When one considers the programme in that way, one can get some measure of the impact of CLÁR. As I said earlier, the programme has been in existence for two years and I have a certainty in respect of capital for a further five years. We have proven that the ratio of leverage funding is about 1:1. This means that approximately €180 million will be available in CLÁR areas, in addition to what they would have been given over a seven-year period. The approach has been tried and tested. We used it in the Gaeltacht and the islands, to good effect, and we are using it in the CLÁR areas. We are using the same procedure with a sum of money that is available in the RAPID areas. The reaction from the area implementation teams in the RAPID areas is positive. They want

the money to be spent in a non-bureaucratic and simple way.

I would like to speak about how we spend the money. I do not have a huge technical team. It is incredible that the entire programme is run by five officials in my Department. We have stopped trying to re-invent the wheel. We use the existing agencies, which are responsible for various things. Local authorities are responsible for public roads, water and sewerage. My Department does not second-guess what the Department of Arts, Sport and Tourism, which is responsible for sports capital grants, will do. If the Department approves a grant in a CLÁR area, my Department automatically provides a fixed percentage top-up. We do not question the decisions of other Departments, as we do not have the competence to do so — it is not our role. All our schemes are based on the premise that we use the existing agencies and top up the money in a focused manner.

Deprivation and disadvantage come in many forms. We must seek to increase the population of CLÁR areas and to examine the lifestyles of people who live in such areas. It is no good to say to somebody who is 70 years of age and living in an isolated house on a bad road that employment will be created in the area some time in the future. Such people want roads to be improved immediately to enable doctors or nurses to come to see them or to allow them to get around the town, if they are mobile. The economy is simply a method by which we deal with deprivation. In many cases, the actual deprivation is the lack of water or the lack of a road.

The CLÁR programme is divided into various segments, some of which, like local improvement scheme roads, deal with the here and now. Everywhere one goes in rural Ireland, one hears complaints from ordinary people about minor roads. They will say that the state of the roads is a major issue, as is the lack of water and sewerage facilities. The provision of such services immediately improves the quality of life of those who are deprived of them. Surely that is what it is all about if we are serious about tackling deprivation. If the economy of such areas was thriving and their population was growing, we would still have to spend money to improve water and sewerage services and road quality.

It is incorrect to state that community organisations are not involved in the CLÁR programme when it is appropriate. There is a special reason that certain companies were chosen to be involved in the Leader programme. Such companies were chosen to deliver the village enhancement scheme, in partnership with the local authorities. They deliver the community grants. If a Leader company decides to give a community group €30,000, for example, subject to certain EU rules, that money is doubled to €60,000 under the CLÁR programme as soon as the proposal is made. Such companies are responsible for making proposals, subject to simple rules that have to be in place because of

de minimis and other EU requirements. The system of topping up the sports grant is very much community-based because the original application has to come from a community. Similarly, LIS roads are people-based because applications come from the community. Group water schemes are community-based because every group water scheme has to be set up by a local committee. Local authorities are just facilitators in that process. We are using communities as leaders in all the schemes. We often use existing statutory agencies, where appropriate, to deliver the schemes because it is reasonable to do so.

Economic development is one of the major elements of the CLÁR programme. I said in my opening remarks that we will make an announcement about broadband soon. I know some people have doubts in that regard, but that is fine by me as it is not the first time I have been doubted. When we make the announcement, I hope those who doubt me will have the good grace to say “we doubted you, but actually you have delivered”. It has been a slow process. I have to say that it was simpler to deal with the ESB because it is a State monopoly — one could ask the price and get the service. Broadband is on our agenda. We have already pursued a number of broadband projects and we will make a further announcement, on a much wider scale, in the near future.

The ESB three-phase top-up programme was exclusively for industry. It was initiated as a result of an experience that I had many years ago as a young co-op manager in the west of Ireland. The small timber mill I was running did not have sufficient electrical capacity because it had single-phase electricity. The first machine we got was run off the back of a tractor by a PTO, something that would not be acceptable under health and safety regulations nowadays. As the former manager of a small co-op at the back of a mountain, I can state that we were almost unable to get the money to install three-phase electricity. It is lucky for us that Udarás na Gaeltachta gave us a grant towards that basic infrastructural provision. We struggled on in the timber mill — when I left it in 1990, it employed approximately 30 people. It is now run by one of the greatest timber millers I have ever met and has grown to process 300,000 tonnes of timber every year. It is a major industry, which employs 150 people, directly and indirectly. I understand that it is one of the biggest timber mills in the country. It was almost stifled at birth because we were almost unable to acquire three-phase electricity.

When I became Minister for Community, Rural and Gaeltacht Affairs, I said that many small industries may be unable to make the jump from being micro-industries to meeting their potential to become slightly bigger. I imagined that two or three of them could become major industries in time, but were being prevented from meeting that potential by the fact that a basic piece of infrastructure that is automatically

available in every town and city is not available to them or is too highly priced. Having examined the records available to me, I am not sure whether the €18,000 that was spent on the provision of three-phase electricity in County Sligo in 2002 was spent on the companies mentioned by Senator Scanlon and Senator McHugh.

Mr. McHugh: I was just seeking clarification.

Éamon Ó Cuív: The fact that three-phase electricity is so user-friendly can be seen from the case in question. If one needs three-phase electricity, one goes to the ESB to get a quotation and one gets a grant-giving agency to validate it. We hope to involve the county enterprise boards if one cannot get a grant — not all industries can get a grant. When it is certified that one's business is a bona fide business, one sends a simple form, the validation of the business and the ESB quotation to the Department of Community, Rural and Gaeltacht Affairs. The beauty of the scheme is that the Department pays the ESB directly because it is public infrastructure that is available to anyone else on the same line. The Department provides 100% payment of the quotation that the ESB gives us as the customer's charge. I do not know about the case to which Senator Scanlon referred, but I am sure the Department would have been asked to pay 100% of the connection charge directly to the ESB.

Perhaps some people do not like the CLÁR programme because, by doing what people on the ground want, it creates popularity for the Government. That may well be a good reason not to like it, but it seems to me that it has become a political sin to do what ordinary people want. They may want bathrooms or wash-hand basins in their houses, if they do not have them. If people tell one they need roads to their houses, it seems there is something wrong if one has the political nous to provide them with that and make oneself popular into the bargain. I do not know when the new political theory came in that it is wrong to provide people with what they perceive they need, be it water or roads or other improvements to their way of life. If that is wrong I stand accused, but I do not stand accused on the basis of what Senator Burke said.

Senator Burke said that I tarred roads that led to the houses of my supporters. He said today that Galway received a disproportionate amount of the money allocated for roads.

Mr. U. Burke: No, I did not. The Minister should not further misrepresent me. On a point of order, if the Minister checks the record of what I said he will see he has misrepresented and misconstrued it. That is what he did in the letter I read to the House and he is at it again now.

An Leas-Chathaoirleach: The Senator has made his point.

Éamon Ó Cuív: The Senator stated in the House: "That is of concern to many people. The record of Deputy Ó Cuív's efforts——"

Mr. U. Burke: Now the Minister is going back to what was said before. These are the shenanigans in which he wishes to engage. I came to the House out of courtesy to listen to the Minister, but he is merely going back to a previous debate. He talked about something I said today and now he has gone back to something else.

An Leas-Chathaoirleach: Allow the Minister to conclude.

Éamon Ó Cuív: The Senator said today——

Mr. U. Burke: We all know what was said. The Minister need not split hairs.

An Leas-Chathaoirleach: The Minister will conclude.

Mr. U. Burke: You should ask him to stick to the point, a Leas-Chathaoirligh. He has been missing it all day.

Éamon Ó Cuív: I will quote exactly what the Senator said because I have a copy of the record.

Mr. U. Burke: Is the Minister talking about what I said today or what I said in February?

Éamon Ó Cuív: I am talking about February.

Mr. U. Burke: We have heard it all already.

Éamon Ó Cuív: Instead of saying——

Mr. U. Burke: If the Leas-Chathaoirleach will give me the facility to repeat the Minister's letter expressing astonishment——

Éamon Ó Cuív: I will deal with that. Senator Burke stated:

The record of Deputy Ó Cuív's efforts under the CLÁR programme in County Galway shows that he has provided, for example, footpaths to the doorways of individual supporters. He has provided roads and boreens to the homes of certain supporters. This is not hearsay — it is a matter of fact.

That is what the Senator said.

Mr. U. Burke: The facts are here in front of me. If the Minister does not have them I will gladly present them to him. That was a shot in the dark.

Éamon Ó Cuív: If the Senator had been here earlier he would have heard my explanation. The way in which the money is divided for roads under the CLÁR programme is quite simple. For county roads, the money is divided according to

the population in the CLÁR area in each county. However, because some counties — Tipperary south, Limerick and Meath — have a very small population, we give those counties a minimum of €30,000. To cover this, we take a small amount of extra money — about €15,000 — from the biggest county, which is County Mayo. The allocations this year were: Mayo, €889,793; Clare, €584,653; Cork, €576,159; Donegal, €542,806; Kerry, €496,992; Cavan, €482,660; Roscommon, €463,557; and Galway, €447,832. The last sum covers the CLÁR areas east and west of the Corrib.

Mr. U. Burke: The message is getting through. Hallelujah.

Éamon Ó Cuív: The Senator can check that the money has been provided exactly according to population ratios. The allegation that Galway received a disproportionate amount of funding for roads is unfounded.

The second allegation is that I had some say in the picking of individual roads. As I explained earlier today, the allocation is sent to each county council. After being notified of a block allocation, the council sends to my Department a list of the roads it has chosen.

Mr. U. Burke: I thank the Minister.

Éamon Ó Cuív: I presume the Senator chooses the roads in Galway.

Mr. U. Burke: The Minister was a member of the county council not so long ago. Did he choose them? That is the important question. If he cannot answer it——

An Leas-Chathaoirleach: I ask the Minister not to invite trouble. He should conclude.

Éamon Ó Cuív: Unfortunately, when I was a councillor there was no CLÁR programme.

Mr. U. Burke: That is what I told the Minister today. It was his own creation.

Éamon Ó Cuív: The roads are selected by the council and sent to the Department of the Environment, Heritage and Local Government, which checks to see whether the roads comply with the specifications that have been laid down on its advice.

Mr. U. Burke: Did the Minister give Deputy Fahey a glimpse of them?

Éamon Ó Cuív: I do not see what roads have been chosen until the list comes back to the Department.

Mr. U. Burke: This is all very intricate.

Éamon Ó Cuív: I suppose it seems so to the Senator. We give a block allocation to County

Galway. Galway County Council chooses the roads that are to receive the funding. I presume the councillors have a say in this — I hope they have.

Mr. U. Burke: From the Minister's criticism of them I would not say they had much input.

An Leas-Chathaoirleach: Allow the Minister to finish without interruption.

Éamon Ó Cuív: The councillors pick the roads.

Mr. U. Burke: That is not factually correct.

Éamon Ó Cuív: Somebody in the council picks the roads. If councillors do not make sure their own officials are involved, that is their problem, not mine. The roads are picked by somebody in the council, be it officials or councillors. The list comes back to my Department and, without reference to me, it is automatically sent to the Department of the Environment, Heritage and Local Government for its opinion. That Department ensures that the roads chosen are class 2 and 3 roads. If everything is in order they are approved. This is totally at odds with the serious allegations made by the Senator in the House.

Mr. U. Burke: That is the Minister's spin on it.

Éamon Ó Cuív: I cannot understand how anybody could talk about slush funds and building roads to supporters' houses when the process is carried out in such an open, clear and transparent manner.

There is one curiosity about all this. A number of years ago I attended a committee meeting of the other House at which Senator Burke's colleague, Deputy McGinley, was present. Not only did he praise me for bringing back scéim na mbóithre áise, he complimented me, on the record, on the fair way in which I had spent the money. Since I became a Minister I have been careful to allocate money in a fair manner. The whole of the CLÁR programme is predicated on ensuring I can stand over every step of the process. I will not accept the baseless allegations made in the House today and on a previous occasion. Each one of these schemes is operated through a process, not according to my personal choice. I create the schemes, of course, but I do not make personal choices on projects. That allegation is totally unfounded.

The allocation of funding for roads under the local improvements scheme is quite simple. Each county is given an allocation by the Department of the Environment, Heritage and Local Government. When the council has allocated this money it works out how much has been earmarked for CLÁR areas. It notifies my Department of this and we divide the amount by two and make a further allocation for LIS roads in the CLÁR area. The county council picks the roads according to its own priority list. I do not

think anything could be fairer. It does no service to politics to imply that people are personally interfering with a mechanism for distributing funds. Every step of the system is designed so that the money is allocated according to series of schemes and not depending on any caprice of mine.

Mr. U. Burke: It is certainly well designed.

Éamon Ó Cuív: That is why the Senator is so annoyed. It hurts him that this scheme has been so successful on the ground.

Mr. U. Burke: In the Minister's constituency.

Éamon Ó Cuív: In the Senator's constituency. Each of these areas was picked by objective criteria. I can show the Senator all the maps and the details. When the revision took place there was not one DED added west of the Corrib. There were quite a number of DEDs east of the Corrib because the figures stood up that way. I did not do the first analysis, but when we got the 2002 results and examined the matter carefully, on the objective criteria we laid down, there were areas to be added east of the Corrib but not west of it. None of the areas east of the Corrib was in my constituency.

The hurt for the Senator is that the Government is doing things that people want us to do. It seems that the biggest sin in politics now is to listen to what people want and act on those wishes.

Mr. U. Burke: Promises.

Éamon Ó Cuív: If that is wrong, then the Senator is right and I stand accused and guilty. As long as I am in politics, however, I will try to do the things that people in my area need, request and tell me to focus on. I will do it fairly and objectively but I will do it and if I am subject to criticism for that, I will accept it.

I do not want to take up too much time but I wish to correct the record. Written at the top of the letter I received about the money for the Abbey affordable housing project is "Abbey affordable housing — dormant accounts". Then I was asked for money. If anyone here received such a letter would he or she not think that the——

Mr. U. Burke: On a point of order, I read this into the record of the House for correction purposes. I wrote a similar letter to the Minister for Justice, Equality and Law Reform, who replied politely and informatively. However, the reply I received from the Minister, Deputy Ó Cuív, was arrogant. I have put it on the record but here we are at it again.

An Leas-Chathaoirleach: Is that a point of order?

Mr. U. Burke: This is bordering on intimidation by the Minister.

Éamon Ó Cuív: I have always treated all my colleagues on both sides of the House fairly. During the debate on dormant accounts however, Senator Ulick Burke, not for the first time, started throwing around allegations about me like snuff at a wake.

Mr. U. Burke: They are not allegations, they are factually correct.

Éamon Ó Cuív: They are not.

Mr. U. Burke: I will stand over them any place, any time.

An Leas-Chathaoirleach: The Minister, without interruption.

Éamon Ó Cuív: However, I will give the Senator this much——

Mr. U. Burke: I thank the Minister.

Éamon Ó Cuív: ——when I received a letter headed “Abbey affordable housing — dormant accounts”, addressed to me as Minister for Community, Rural and Gaeltacht Affairs, who has the ultimate responsibility for the plan and also for the dormant accounts——

Mr. U. Burke: True.

Éamon Ó Cuív: ——my reading of that letter was that it was asking me to make representations about dormant accounts.

Mr. U. Burke: The Minister never mentioned his ultimate responsibility and that is misrepresentation.

Éamon Ó Cuív: No.

Mr. U. Burke: It is important that it is corrected for the record, a Leas-Chathaoirligh. If that is the Minister’s fashion, nobody——

An Leas-Chathaoirleach: The Minister is replying and he is entitled to do so without interruption.

Mr. U. Burke: The Minister is grossly unfair in what he is doing. He came into the House without a script and we have nothing on the record. We will have to wait for the Official Report.

Éamon Ó Cuív: It will all be on the record.

Mr. U. Burke: We will get it outside.

Éamon Ó Cuív: If the Senator is now saying that he was not writing to me about dormant accounts, I cannot understand why “dormant accounts” was at the top of the letter. However, if the Senator says it had nothing to do with dormant accounts and that he thought I had some funds, I cannot understand why “dormant

accounts” was mentioned specifically on his letter. If he tells me that is the way it was, I accept what he is saying but I would ask him to be——

Mr. U. Burke: For the record, I will put it clearly. With your permission, a Leas-Chathaoirligh, I will repeat the actual wording of the letter.

An Leas-Chathaoirleach: The Senator has already put the letter on the record.

Mr. U. Burke: I did but it has been misrepresented.

An Leas-Chathaoirleach: Allow the Minister to continue, without interruption.

Mr. U. Burke: I want to inform the Minister about the contents. A similar letter went to the Minister for Justice, Equality and Law Reform.

An Leas-Chathaoirleach: The Senator has already put that letter on the record.

Mr. U. Burke: I do not know why the Minister continues in that vein.

Éamon Ó Cuív: If the Senator tells me that, despite the fact that dormant accounts were mentioned in the letter, it had nothing to do with dormant accounts, then I will accept that it was just a very badly written letter.

Mr. U. Burke: Thanks for the compliment.

Éamon Ó Cuív: I have the grace to accept that my limited ability to read “dormant accounts” where it is written is in some way down to the convoluted writing of the Senator. However, I would hope the Senator would have the good grace to accept that I have proven quite conclusively that CLÁR funds are dispersed in a fair, open and transparent manner at arm’s length. The allegations the Senator has made against me — not once but several times, both in the print and electronic media — are totally baseless.

Mr. U. Burke: I refer the Minister to the article printed in *Relate* magazine.

Sitting suspended at 4.25 p.m. and resumed at 5 p.m.

Private Members’ Business.

Citizenship Rights for Non-Nationals: Motion.

Mr. B. Hayes: I move:

That Seanad Éireann, noting the position of the Government that a Constitutional Referendum on the issue of limiting citizenship rights for non-nationals may be held at some point and mindful of the need to have a

rational debate about this matter, calls on the Government to consult in detail with all members of Oireachtas Éireann before a decision is taken on this issue and specifically believes that the June 11th date for the holding of European and Local Elections should not be the date for the proposed referendum.

I welcome the Minister for Justice, Equality and Law Reform to the House and I thank him for his attendance, which is appreciated. Given the Government's announcement yesterday, it is significant that the matter is being debated in this House first.

The Minister and all Senators will be aware the issue of race and immigration is the most contentious of all on the basis of their discussions with people on the streets and polling evidence. There is a major responsibility on public representatives to demonstrate restraint, calm judgment and balance in respect of this issue. We have witnessed too often in western European the rise of the new right, fed on a diet of neo-nationalism. I refer to Mr. Le Pen, Jorge Haider and the rise of the British National Party. They have used race and immigration for their narrow party political advantage. It is absolutely crucial that those of us who hold positions of responsibility in the Oireachtas show leadership on this issue.

Vicious, appalling attacks on non-nationals have happened too often in our capital city and during the last general election campaign one candidate — there are others — used the issue of race for his own narrow party political advantage. All Members must be careful on this issue. If the referendum is held on the same date as the European and local elections, race and immigration has the potential to become an explosive issue and to allow untoward forces in Ireland to use it for their own narrow political focus. We must be mindful of that aspect.

The motion has been tabled so that the Government will rethink its attitude on when this matter should be put before the people by way of constitutional referendum. It is important that politicians take ownership of, and show leadership on, this issue. A wide debate needs to take place on the issue of race and immigration. Why, therefore, is the relatively small number of births to non-nationals the total focus of political attention currently? I am concerned about this point.

The Taoiseach stated that no promise had been made regarding a proposed constitutional referendum on 11 June when he replied to a question by the leader of my party on 17 February. He stated: "The Government has no proposals at present to hold a referendum to change the Constitution." Why did he not inform the other House and, through it, us of the Government's intention to hold this referendum on 11 June?

The Minister first informed the press of the intention to hold a referendum more than a month ago. He will be aware that both Government and Opposition Members asked him to reconsider 11 June as the date on which the referendum should be held. I will not name

individual Senators as I am sure they will contribute to the debate. However, there was cross-party consensus in the House a month ago that 11 June would not be appropriate for the holding of a constitutional referendum, if such a referendum was needed. I ask him at this late stage, before the referendum legislation is published, to reconsider holding the referendum on 11 June.

A presidential election is due later this year. The President and other parties and individuals will determine whether an election will take place but it would be much more preferable to hold the referendum on the same day as the presidential election, as that would be a much less contentious time to debate this issue. It would also provide the Government with an opportunity to set out in both Houses why the referendum is necessary. The presidential election presents another window of opportunity. Even if a presidential election is not held, there would be no difficulty holding a referendum solely on this matter later in the year.

The Minister will be fully aware that there have been turnouts as low as 28% or 29% for previous referenda. However, tagging the referendum on to the European and local elections could provide the spark for dangerous comments to be made during the campaign and lead to a complete lack of leadership by irresponsible individuals who will use the issue of race and immigration for their own narrow political advantage.

The Minister should also be cognisant of two recommendations made by the All-Party Committee on the Constitution, chaired by the Minister of State, Deputy Brian Lenihan, in 2001 in respect of the timing of constitutional referenda. It was the firm view of the committee that the Standing Orders of both Houses of the Oireachtas should be amended "to embody a presumption that every TD and Senator will have a sufficient opportunity to make their own contribution in relation to that proposal". In other words, legislation relating to constitutional referenda should not be guillotined. The Government intends to bring the other House back the week after holy week to facilitate the debate. However, the necessary time is not available to debate the legislation in both Houses to ensure all voices are heard on this matter.

The all-party committee's second recommendation related to the length of the campaign, that is, the period between the date of a proposed constitutional amendment passing through the Houses of the Oireachtas and the date it is to be put. It stated:

Accordingly, the All-Party Committee recommends that the Referendum Act 1994 provides for a minimum of 30 days and not more than 90 days for the holding of a referendum following the passage of an amendment Bill through both Houses of the Oireachtas. The Committee were of the opinion that the lower limit of 30 days should be retained to allow the Government both to cope with urgent requirements and to programme conveniently technical and non-contentious proposals. It recommends that the

[Mr. B. Hayes.]

lower limit should not be otherwise resorted to because it is not ordinarily adequate. Moreover, its use for contentious or complex proposals might give the people the impression that they are being duly pressed into taking a particular decision.

The all-party committee recommends the 30 day requirement should not be the norm. Where an issue of fundamental national importance is to be put to the people, the 30 day stipulation should apply. This matter is contentious. It is primarily a matter that needs to be debated over a much longer period and I do not think we will have time for a rational, calm debate, which I know the Minister also wants, if it is rushed and put to the people on 11 June. Much will be determined by the consultative discussions that are now taking place between the Government and the Fine Gael Party and I am sure the Government will discuss it with other parties. I can see that point, but in a matter of such fundamental change, the embodiment of our law in the Constitution, we need to be mindful of the complexities and the potential for other issues to emerge that have not emerged to date.

I am aware of the Supreme Court ruling in January 2003 which interpreted the law in this matter, whereby the parents of non-national children born here have no constitutional rights in terms of citizenship and residency. I am also aware that since that ruling, there has not been a fundamental change in the total numbers of persons coming to give birth in this country. A document circulated by the Minister some weeks ago stated that it is clear from these figures that there has been a significant change in the situation since the Supreme Court judgment and the implementation of the Government's strategy on foot of it. If that is the case, why is the Government arguing for a constitutional change to Article 9, which will also bring about a fundamental change in the position in term of the total number of people coming here and wishing to have their children born here? I not believe that case has been adequately answered and I am sure the Minister will respond in the course of his remarks as to why he believes it to be the case. The substantive point is that we are asking the Government to reconsider holding the referendum on a later date than 11 June 2004.

Mr. Coghlan: I second the motion. I welcome the Minister to the House. Citizenship is fundamental and vital and is something in which we take great pride. It should be guarded jealously. I am sure the Minister would agree that in a constitutional democracy, there should be the widest possible consultation on citizenship, which may be the Minister's intention. I cannot understand the reason for such a tight timeframe, if we hold the referendum on 11 June. We should have the widest possible consultation and we should do nothing to damage our democracy, which I fear may happen because of this rush.

I look forward to hearing the arguments the Minister will put to us. As Senator Brian Hayes said, the fundamental question is whether the

referendum will be held on 11 June. It is preferable to have all-party agreement on an all encompassing package of measures. That is what is required. This is a complex matter. Various articles of the Constitution are involved as well as the citizenship Act 1956, which I presume will be amended also.

We have been reading on the subject. An interesting case being made in Northern Ireland is that a child born in Northern Ireland to a Chinese mother is entitled to UK residence under EU law and the mother is dependent on the child for immigration status. Has there been a judgment on that as of yet?

Mr. M. McDowell: No.

Mr. Coghlan: A child born anywhere, including Northern Ireland, would provide a basis for non-EU nationals to establish a right to reside in any other EU state. As we are aware, in 1998 an overwhelming majority of the people voted in favour of amending Articles 2 and 3 of the Constitution by way of implicit approval of the Good Friday Agreement. This involved deleting the previous territorial claim and replacing it with a broad and inclusive conceptualisation of the Irish nation which states:

It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, to be part of the Irish nation. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland.

We have not yet seen the Government's amending legislation on citizenship but it has stated that the referendum will take place on 11 June. It now appears that the Government proposes a change to the current understanding of Article 2 by way of an amendment to Article 9, the enabling provision dealing with citizenship. The Bill will amend the Citizenship Act 1956 in the area of entitlement to citizenship on the basis of birth on the island of Ireland combined with residency. One would expect that a constitutional referendum on something as fundamental and sensitive as citizenship at least would be preceded by the publication of Green and White Papers as well as wide ranging public consultation and debate. In this connection, Senator Maurice Hayes said this morning that we would need to be conscious of the position *vis-à-vis* people in the North and I am sure the Minister has borne that in mind. We would not want to rush into it without consulting them as we want to bring them with us. We have to consider whether the proposed referendum on citizenship removes the fundamental rights conferred by the 1998 Good Friday Agreement.

I am amazed at the Government's apparent rush to have everything in place for the referendum to coincide with the local and European elections, despite previous clear denials by Government that this would happen. Senator Hayes already referred to what we are aware of, although in one connection the lady said it was her personal opinion. Not alone will it

lead to a heightened atmosphere but on a subject as sensitive as citizenship and the related issues of race, culture and identity, I think it is impracticable. It would seem that the Government is doing nothing to neutralise the suspected race factor in this proposal. The Minister must suspect that it will be almost impossible to have a rational debate on all of these issues. We need political consensus and that requires dialogue at this stage. I appeal strongly to the Minister to postpone the referendum. As Senator Brian Hayes said, there may be a presidential election in the autumn, but even if there were not, this is such an important issue that it needs to be teased out in rational debate and argument and all interested parties in the North should be consulted.

For the first time, people will be casting their vote by electronic means, which will add further to the confusion.

Mr. B. Hayes: Do not speak too soon on that.

Mr. Coghlan: The Minister is a reasonable man and I respect his opinion. I look forward to hearing the arguments he will make on this issue. I appeal to the Minister to consider the possibility that he may be accused of being guilty of using the race card.

Mr. J. Walsh: I wish to move the amendment but I reserve my right to speak to allow the Minister to address the House.

I move amendment No. 1:

To delete all words after “Seanad Éireann,” and substitute the following:

recognising that it is the firm intention of the Government to hold a Constitutional Referendum on the universal entitlement of those born in Ireland of non-national parents to claim Irish citizenship, reminds all members of the Oireachtas of the need for rational and balanced debate—

(i) on the requisite Amendment to the Constitution Bill in the Houses of the Oireachtas;

(ii) on any subsequent implementing legislation in the Houses of the Oireachtas; and

(iii) during the forthcoming local and European election campaigns.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): I am pleased to be here this evening for this important debate. As Senators are no doubt aware, the Government has decided to hold a constitutional referendum on 11 June to deal with the impact of the universal entitlement to Irish citizenship on those born in Ireland. The Government is aware that an announcement of this nature is, quite properly, a matter for public and parliamentary debate. It is important to ensure the debate proceeds on the basis of an informed view of the issues, of what is proposed and, more important, of what is not.

At the outset, I wish to speak briefly about the concept of citizenship, which involves a great deal more than entitlement to a passport. Indeed, many of Ireland's finest citizens, particularly in years gone by, never held a passport. Citizenship, rather, embodies the concept of membership of a modern nation state. Initially, Irish citizenship constituted a fundamentally important legal vehicle which was used to convey the legal and political independence of the Free State, and, subsequently, the Republic. Its purpose is given expression in Article 9.2 of the Constitution which imposes on all citizens the fundamental political duties of fidelity to the nation and loyalty to the State. Citizenship, therefore, should never be for sale. As Minister for Justice, Equality and Law Reform, I brought categorically to an end the practice of exchanging citizenship for financial payments or investments.

Citizenship, which imports loyalty to the State and fidelity to the nation, should not be available on foot of geographical accident. It is far more fundamental, implying membership of the moral and political community of the Irish State. While citizenship does not imply cultural uniformity or some narrow and out-dated view of what it means to be Irish, it is, nevertheless, the essence of our sovereignty as a nation. Citizenship is also the essence of the character of our nation state.

To facilitate further debate on the issues, I would like to make the following matters clear. The effect of the Government's proposal will be prospective and will not affect the rights of any person who has obtained citizenship or is already entitled to citizenship through birth on the island of Ireland. The proposal will only affect persons born in Ireland where both parents are, at the time of the birth, non-nationals and unable to satisfy a residency requirement. It will only be necessary for one parent to satisfy the residency requirement. There will be no residency requirement in the case of a parent who is a British national; not least because of his or her immigration-free status and the implications for the Good Friday Agreement. There will be no specific residency requirement in respect of a parent who is resident in Ireland without condition as to time. A recognised refugee would constitute an example of such a parent. All others will, at a minimum, be required to demonstrate a period of three years lawful residence in the four years immediately preceding the birth. The requirement to reside for three years in four permits a person to be resident here and to return to his or her own country or travel abroad generally without violating a required period of continuous residency. The three-year time period has a precedent in Irish citizenship law as the qualification period for the acquisition of the entitlement to post-nuptial citizenship. If a non-national marries an Irish citizen, he or she must remain in the State for three years before being entitled as of right to become a citizen. Given the misrepresentation of the proposals by many, it should be noted that the requirement compares favourably with time periods for the acquisition of citizenship in all other jurisdictions. At the end of the process, ours will remain one of the most

[Mr. M. McDowell.]
open and fair citizenship laws and one of the most generous systems of nationality and citizenship in the European Union.

It is the intention of the Government to attain its objectives by a combination of constitutional change and subsequent implementing legislation. It is not intended to deal with the detail of the proposal in the Constitution itself, rather it is intended to provide the constitutional framework within which the Oireachtas can determine these matters. That is the intelligent way to proceed. I hope it is clear from what I have said that it is not the intention to debar the children of members of our established immigrant community from the entitlement to citizenship. On the contrary, the implementing legislation will act as a positive acknowledgement of the place of immigrants settled in Irish society by ensuring that their children acquire that entitlement. Those whose relationship with the State is far more transient or negligible cannot reasonably expect their children's citizenship entitlements to be the same as the entitlements of those with some connection to the jurisdiction. More important, the provision is not and will not be racist. I wish to emphasise that point in the context of the suggestion by some Members of this House and others that the proposals represent a playing of the race card or are themselves racist.

Mr. Ryan: It is not just us.

Mr. M. McDowell: Nothing could be further from the truth.

In recent years, the issues of immigration and citizenship have assumed a new prominence in public debate. Ireland is experiencing the broader impact of an interdependent world where mass communication and transportation, geographical position, political instability and, indeed, organised crime impact upon the movement of people. We have become a modern and thriving economy, increasingly integrated with world markets and trends, and a participant in European integration. Ireland was for a century and a half a country of emigration and relative domestic homogeneity. It was focused on the struggles of economic development. We are now experiencing the ever increasing forces of migration in a completely new and, in many respects, wonderful way. We are challenging long-held certainties and assumptions. The debate which is under way challenges one of those assumptions which holds that everyone born in Ireland should be entitled to Irish citizenship solely on that basis alone and without further connection to this society or State.

It is a legitimate aspect of public governance to hold this debate given the considerable evidence which suggests that the unique nature of Irish citizenship law among the European Union and candidate states has given rise to serious abuse. It is the duty of the Government and the Oireachtas to address such matters. We have a duty not to be intimidated into ignoring them for fear of being targeted with ill-founded allegations of racism. We can all agree that the proponents

of any change on this issue leave themselves open to charges of racism. We have had evidence to that effect. However, I acknowledge the onus on those who propose change to ensure that such changes are legitimate requirements of the common good and are neither overtly nor covertly racist in intent. I am confident that the Government's proposals will achieve that aim. A great deal of work has been done to ensure they will be acceptable to Irish citizens and members of our immigrant community alike.

Our immigrant community, of course, consists of a widely divergent group of persons from various social and economic backgrounds. It includes visitors, students, refugees, skilled and unskilled workers, business people and retired people who wish to see out their days in the State. It also includes asylum seekers, United Kingdom nationals who have been coming here for many years, nationals of European Economic Area countries who have in large part free movement entitlements, persons from developed countries such as the United States of America and persons from poorer countries. The vast majority in all those categories are legally present in the State and are welcome. They play a very important role in our society and economy. They enrich this country by their diversity and efforts to become part of our community. While a certain number, of course, are here illegally, the great majority are not.

The needs and expectations of immigrants vary greatly depending on their individual circumstances. In many instances, those needs have more in common with Irish citizens of a similar socio-economic background than with other categories of non-nationals. It is wrong to view all such persons as a separate, generic group whose views on Ireland, or more particularly Irish citizenship entitlements, can be neatly pigeonholed and unified into a single view. The vast majority of members of our immigrant community come from countries where the citizenship laws do not confer citizenship by place of birth alone.

How many of them would describe the laws in the countries from which they come, which do not have this *jus soli* element, as being bastions of racism as a result? I would say very few indeed. I fail to see, therefore, how persons could justifiably argue in good faith, and I believe many of the arguments are in bad faith, that a proposal of this nature is racist in intent. Any objective analysis, having regard to the situation throughout the world, would prove otherwise. It is open to any member of our immigrant community to apply for naturalisation after five years' residence in the State and indeed to continue to be a citizen of their own country thereafter. We allow people to be jointly a citizen of Ireland and a citizen of the State from which they have come after five years. That is not a paper right. This is a right that is accorded to people day in, day out. After five years, unless they have grievously misbehaved, they are entitled to apply for Irish citizenship and are granted it as a matter of course. As a regime, that is remarkably liberal by any standards and will

continue to be the case after this referendum is passed, if that is the choice of the people. We have one of the most generous naturalisation laws in Europe, if not the most generous, and notions that we are turning into some kind of fortress Ireland are entirely false, misconceived and based on a completely failed analysis of the situation.

The acceptance of dual citizenship, a feature of our citizenship regime which will remain unchanged, is the hallmark of our open and inclusive citizenship policy. In many other states if somebody wants to become a citizen under their naturalisation law, he or she must extinguish their pre-existing citizenship. Ireland never does that.

I am well aware of the fact that any debate on these issues is capable of being distorted by those with racist intent but it is equally capable of being distorted, and I regret to say has been already, by those who criticise proposals as being racist when they patently are not. This plays into the hands of those with racist or fascist tendencies because it reduces the focus of debate from the merit or otherwise of the proposal and engenders a confrontational and simplistic approach to what are serious issues.

It behoves us all, therefore, to acknowledge that citizenship of a country is of its very nature selective. The task of the genuine contributor to this debate will be to determine whether the changes proposed are proportionate and balanced and to ensure that debate on the subject is well informed and constructive. I do not accept, however, that we should be intimidated out of discussing these fundamental issues for fear that persons with ulterior motives might wish to exploit any discussion which occurs.

If the fear were such to prevent people from debating these issues during the course of the local and European elections in June, then democracy would be in a very sorry state. I would ask Senators to consider the point that the very fact that the referendum will take place in a wider context will serve to diffuse or dilute the type of intensity that could arise in a single issue campaign and as a consequence reduce the scope for exploitation by persons with malevolent intent. I do not believe people will vote for councillors or aspiring councillors on one side or the other of this issue. I do not believe that people in Mullinahone, Pembroke Ward or anywhere else—

Mr. Ryan: They did in Cork North-Central two years ago.

An Cathaoirleach: Order, please.

Mr. M. McDowell: I had intended to say that I do not believe a reasonable and practical constitutional and legislative proposal, which is designed to bring Ireland's citizenship laws into line with those of our European partners, can be termed racist. It does not bring them into line with our European partners; they will still remain far more generous than the vast majority of our European partners' laws. I do not accept the argument of those who say the holding of this

referendum on the same day as an election transforms an otherwise reasonable proposal into a racist one, as Senator Ryan has suggested. This shows little confidence in the ability of politicians to lead a mature debate or in the capacity of voters to discuss serious issues.

It has been said that this referendum should be postponed until the presidential election. I do not know whether there will be a presidential election but on the assumption that there will be and if a Member of this House or the other House were to stand for election in the autumn, are they to be silent on this proposal if it was to be decided on the same day? If they are not to be silent is the incumbent, were she to re-nominate herself, to be debarred from comment on this subject? Is that what we want? Do we want the candidates for the presidency to be lining up on this issue or be like Trappists and say nothing about this issue?

Mr. B. Hayes: It is not the same election.

Mr. M. McDowell: It is the same day. I am fascinated that Senator Brian Hayes seems to think that if we held the presidential election on the same day as this referendum, none of the candidates in the presidential election would be expected or entitled to express views on a major issue happening on the same day. I very much doubt that and I do not think that anybody in good faith believes it.

I welcome the fact that because of the constitutional position it will be the case that the people of Ireland will be required to express a view on these matters. I see no merit in any attempt to ask them to express that view separate from the context of an election campaign. It is important that a good number of people turn out to vote in this election and not a narrow, ignored, academic paper exercise such as some of the referenda which have attracted a very low turnout. I believe the vast majority of the people are not racist and that they will be well capable of taking issue with any candidate who promotes a racist agenda or who seeks to exploit this issue to curry favour with them in regard to the local or European elections. Their views will also be informed by the work of the Referendum Commission. Perhaps I have more faith in the Irish electorate to be discerning in these matters than the proponents of the Opposition motion.

There are also sound practical reasons for holding the referendum at this time. It will save the State from the cost of having to organise a second polling day for this purpose. As I said earlier in regard to the presidential election, first, there is no guarantee there will be one and, second, it would not be either advantageous or particularly edifying to see the presidential candidates having to tog out on this issue and to see in particular, were it to be the case, the outgoing President forced to adopt a position on this because her opponents were adopting a position also. That is not desirable and, on reflection, I do not think this House will deem it desirable.

[Mr. M. McDowell.]

This issue is not new. In August 2002, the Department of Justice, Equality and Law Reform published a report which it had commissioned from the much respected International Organisation for Migration. The report was entitled *International Comparative Study of Migration Legislation and Practice* and was intended to inform the development of immigration policy generally. At pages 97 and 98 the report discusses the nexus between inward migration pressures and citizenship and questions how such pressures can be managed. It goes on to state:

It may be necessary, when the migration management aspects are being examined, to go deeper and consider whether the particular feature of citizenship law itself should be changed. It is acknowledged that, depending on the approach finally adopted, it might be necessary to consider a change to the Constitution.

The issue was also flagged for consideration in *An Agreed Programme for Government* and all sides of both Houses are aware that it was being kept under review by the Government. All parties have been supplied with a comprehensive briefing document, and that document is also available on the website of my Department.

One aspect that has not been well canvassed is the European Union dimension to this debate. Article 17 of the EC treaty provides that every person holding the nationality of a member state shall also be a citizen of the Union. It is an accepted principle of European Community law, and indeed international law, that the regulation of a state's nationality comes within its own reserved domain. In that regard Ireland is the only country in the European Union or its candidate states which gives an automatic entitlement to citizenship to every child born here from the date of that child's birth. Once Irish citizenship is acquired, however, a European Union dimension kicks in.

The free movement of persons is one of the fundamental rights guaranteed to citizens of the Union. It is subject to certain tightly defined limitations. Indeed, the full extent of these limitations is still being judicially explored. It has been the case that such rights were understood to apply to adult persons and their non-national dependants. However, in the *Chen* case which is currently before the European Court of Justice, a non-EU national is claiming an entitlement to reside in the United Kingdom on foot of her Irish citizen child who was born in Belfast. It is common ground in that case that the reason Mrs. *Chen* went to Belfast was to ensure her child, when born, would acquire nationality, thereby enabling her mother to raise a possible claim to remain in the United Kingdom.

This case illustrates one of the perceived advantages of the current free movement regime. Those advantages do not simply flow from an immigration-free status in the State. They flow from an immigration-free status for Irish citizens in the United Kingdom because of the common

travel area. In addition, they flow from the extensive right of Irish citizens to move freely throughout the European Union and the full extent of the implications are illustrated by the *Chen* case, which I just mentioned. In effect, what we have is Irish citizenship law being used in an attempt to circumvent UK immigration control through the exercise of EU free movement rights.

I mention these facts simply to illustrate to Members of this House that there is a significant advantage to be gained by organising the birth of a child in the island of Ireland even where the parent in question does not seek or does not attain residency on that basis. This is why many women are willing to risk their own lives and the lives of their children by arriving here in the late stages of pregnancy. In many cases I have no doubt that they are operating on the misguided notion that it is in the best interests not of themselves, but of their unborn children.

It is one thing to be generous in the application of our citizenship laws, but it is another when those laws operate in a manner which motivates prospective parents to travel here at great personal risk and at danger to their children in circumstances where they would not contemplate having a child here otherwise. The Government's view is that this activity should be curtailed and that the people of Ireland should be asked to approve such a course in referendum.

I will now set out a brief history of the constitutional entitlement to Irish citizenship for Irish born children since 1937. Article 9 of the 1937 Constitution provided that any person who was a citizen of Saorstát Éireann prior to its coming into operation would become a citizen of Ireland. That was the only overt constitutional guarantee of citizenship that existed prior to 2 December 1999.

On that date the Government declared, under Article 29.7.3° of the Constitution, that the State had become obliged, pursuant to the British-Irish Agreement, to give effect to the constitutional changes. Thus it was the case that during that period of over 60 years the citizenship entitlements of all persons born in Ireland, which probably includes the vast majority of Members sitting in this Chamber this evening, were determined by legislation and not by overt constitutional guarantee. Consequently, it was never a fundamental tenet of the Irish citizenship regime that citizenship rights had to be guaranteed in the Constitution.

The reason such rights were enshrined in what is now Article 2 was in the interests of guarantees to the people of Northern Ireland and the removal of the territorial claim in the pre-existing Articles 2 and 3, in the context of the Good Friday Agreement. However, Article 1(vi) of the British-Irish Agreement — the intergovernmental agreement — only imposed citizenship commitments on both states in respect of the "people of Northern Ireland". Annex 2 to that agreement defines the common intention and understanding of both Governments of that term as meaning "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”.

The two Governments had a common intent to provide for the people of Northern Ireland that they could be citizens of one or other or both states, regardless of what happened to the status of Northern Ireland in the future. That guarantee of citizenship would remain and the extinguishment of the territorial claim as set out in the old Article 2 would not prejudice the rights in particular of Irish nationalists in Northern Ireland, who cleave to this State and citizenship of it, to retain their citizenship in future. Both Governments understood that to be that case and expressed solemnly in their agreement that to be the understanding they were reaching.

However, the new Article 2 of the Constitution, which was introduced at the time, went much further. It did not mention the “people of Northern Ireland”, but refers to the people of all of Ireland and the rights of people born anywhere in the island of Ireland. On reviewing the British-Irish Agreement, it can be seen that a joint enterprise, which was to confer rights of citizenship on everybody in Northern Ireland to be citizens of either state or citizens of both states and which had a very particular meaning, emphatically excluded the notion that somebody could go to Belfast, have a child and thereby become an Irish citizen. That was excluded from the joint understanding of both Governments.

Unfortunately, that understanding was not reflected in Article 2 of the Constitution as amended. Therefore, there is now a lack of symmetry between UK law and Irish law. In UK law, those who are transient do not confer any right of UK citizenship on their children born in Northern Ireland. However, in Irish law, as a consequence of the wording of Article 2, the legal advice to the Government is that an absolute right to citizenship from birth — not postponed — was conferred, regardless of whether it takes place North or South. Therefore it is the view of the Government that what is being proposed will not be in conflict with that agreement. It is also the case that while there is no general principle under which the State’s obligations under any international agreement must be enshrined in the Constitution, it is most certainly the case that the Government cannot introduce legislation which is in conflict with its international obligations.

The Government’s proposal for an amendment to the Constitution will not, of itself, have any immediate effect on the citizenship entitlements of those born after its enactment. The wording of the amendment itself will not be exclusionary. The regime as provided for under existing law will continue to apply until such time as suitable amending legislation is passed by the Houses of the Oireachtas.

The amendment will enable the Oireachtas to determine the citizenship entitlements of Irish born children who do not have an Irish parent at the time of birth. The Government will be publishing shortly a draft of the amending Irish nationality and citizenship Bill in the context of

the referendum proposal. This will help to inform debate on the Bill to amend the Constitution during its passage through the Houses of the Oireachtas and during the subsequent referendum campaign.

Senators should be conscious that a vote for the constitutional amendment is a vote for the right of the Oireachtas to determine the citizenship entitlements of the children of non-national parents. I therefore respectfully suggest that it is not the case that one should reject the constitutional amendment simply because one finds fault with the Government’s proposed implementing Bill. That is a separate issue.

It will be open to any Member of the Oireachtas to propose an amendment to the implementing legislation, which would maintain the *status quo*. That will not obviously be the Government’s position but it will be a possibility, which comes within the ambit of the constitutional amendment. The effect of the constitutional amendment will be to enable the Oireachtas to decide the circumstances in which the child of non-national parents may become a citizen of the State, as was the case with all children born in the State for more than 60 years. I ask Senators to bear this in mind when considering the matter.

The Government’s intention is that the legislation to accompany constitutional change will be carefully drafted to achieve the following aims: A person born, whether North or South, to non-national parents, either of whom has been lawfully resident in the State for at least three out of the four years preceding the birth, will have an entitlement to Irish citizenship. The European Economic Area, EEA, includes the European Union and certain other states. For non-EEA national parents, periods spent in the State for study purposes or while awaiting the determination of an asylum claim will not count.

A person born, whether North or South, to parents, one of whom is a British citizen or has an entitlement to reside in the UK and thus in Northern Ireland, without any restriction on his or her period of residence, will be entitled to Irish citizenship. A child born to a couple, one of whom is a UK national, or to a person who is a long-term resident of the United Kingdom, who is not a UK national, will be entitled to claim citizenship of this State, regardless of whether the birth takes place in Derry or in Letterkenny.

A person born, whether North or South, to parents, one of whom has an entitlement or permission to reside in the State without any restriction on his or her period of residence, will be entitled to Irish citizenship. A classic example would be a person who is not an Irish citizen, but a refugee who has been given the right to remain in Ireland indefinitely. Such a person would be entitled to have his or her child considered an Irish citizen.

A person born, whether North or South, to non-national parents, one of whom has been lawfully resident in Northern Ireland for at least three out of the four years preceding the birth, will have an entitlement to Irish citizenship. For non-EEA national parents, periods spent in

[Mr. M. McDowell.]

Northern Ireland for study purposes or while awaiting the determination of an asylum claim will not count. Exactly the same regime will apply North and South in respect of that category of people.

The Government's view is that there should be a rational and informed debate on this matter and that there should be no objection in principle to that debate taking place in the context of local and European election campaigns. Furthermore, the Government is satisfied that the regime laid down in Article 46 of the Constitution provides a more than adequate framework for the involvement of the Oireachtas.

The Referendum Commission will inform the public fully and objectively on these matters. The issue is a fairly simple one. Despite all the claims that more time is needed, the following points should be taken on board by at least some Members of this House whose minds are open on this issue. If I were to state that there would be a referendum of this type in 2004 or 2005 then lawyers, such as the one advising Mrs. Chen, throughout Europe would advise migrant people with children to go to Ireland before the gate closed. It is not simply a matter of saying we should consider this issue at a later stage or that we should allow a long period to elapse so that we could reflect on it because the inevitable consequence will be that people will take advantage of the *status quo*. There is a sense of urgency on this issue. It is not a fanciful or dreamed up sense of urgency if our law is to conform with what is normal internationally while at the same time keeping the most generous nationality and citizenship law in any member state of the Europe Union. Those who doubt me and believe fortress Ireland is emerging out of these proposals should read Carol Coulter's article in *The Irish Times* last Saturday. They are wide of the mark.

Those who say this proposal is playing the race card or that it is racist in content must ask what it is about the laws of all other States that is not racist; what is it about the laws of all the countries of origin of migrants to Ireland, which do not share our current and unique situation, that is not racist. There is nothing racist in this proposal. I reject completely the suggestion that it is either the playing of the race card or a racist referendum. Those who have employed language to that effect should ask themselves whether they are using language honestly or dishonestly for the purpose of political rhetoric. I thank Members for their attention.

Dr. Henry: I am quite sure there is not one Member of this House who does not want to see this referendum brought forward in a calm and responsible manner. At the same time, I am sure I am not the only Member to receive letters asking what I intend to do about black girls pushing top of the range buggies in this city. We must recognise the facts on the ground. I am not suggesting the Irish nation is racist although anyone who has read the study by Father Micheál McGréil, the Jesuit socialist——

Mr. B. Hayes: He is a sociologist.

Ms O'Rourke: I would say he is also a socialist.

Mr. B. Hayes: As a student, he was a socialist.

Ms O'Rourke: I would say he is still a socialist, in the best sense of the word.

An Cathaoirleach: Senator Henry without interruption, please.

Dr. Henry: Some 30 years ago he stated that Irish people were not racist because we were all much the same but that if we could be, we would be, which was rather depressing.

I can understand the Minister's reasons for bring forth this amendment. It is not creating fortress Ireland; it is a perfectly reasonable amendment. There is genuine concern that there will be a racist reaction from many people such as those who have contacted me in the past. For some people in this country, the word tolerance is very small in their lexicon. We need to face up to this issue which arose in one constituency during the last election. That was a truly regrettable incident. Unfortunately, the person who put forward those racist views gained from them and many people will think it is the smart thing to do this time. While I do not believe the Minister wants that to happen, we must recognise that it could happen. Of course, every Member of this House will do their utmost to avoid it but, nevertheless, it will happen in the forthcoming elections.

The Minister spoke briefly of women coming here to give birth and endangering themselves. He stated:

Many women are willing to risk their own lives and the lives of their children by arriving here in the late stages of pregnancy. In many cases, I have no doubt that they were operating on the misguided notion that it is in the best interests of not only themselves but of their unborn children.

I believe it is in the best interests of the entire family. In the past, such people were granted residency. The Minister disabused people of the idea that this was his reason for introducing this amendment and I feel I have a duty to put on the record of the House the statement by my colleagues and constituents, Dr. Michael Geary, master of the Rotunda and Dr. Sean Daly, master of the Coombe. The Minister is reported as saying on 11 March 2002 following a meeting with the two masters which actually took place a year and a half ago:

They pleaded with me to do something to change the law in relation to this. They didn't ask for additional resources, they were asking me to change the law. So I'm a bit surprised if it is being suggested that that is not the request that was being made.

That quotation is contained in an article in *The Irish Times* dated 13 March 2004. The masters say

they did not express an opinion on what the Minister should do. Their statements reads:

On Thursday, 17th October, 2002, we were invited by officials of the Department of Justice to attend a meeting the following morning. The meeting was co-ordinated by the officials of the Department of Health and the Department of Justice.

This meeting was called following discussions between the Rotunda Hospital, the Department of Health and the Reception & Integration Agency where it had been agreed a new facility was required in the Baleskin Reception Centre to streamline care for asylum-seekers newly arrived in the country. The meeting was attended by Dr. Sean Daly, master of the Coombe Women's Hospital, Dr. Michael Geary, master of the Rotunda Hospital, officials from the Department of Health, the Department of Justice and the Reception & Integration Agency, and the Minister, Mr. Michael McDowell. Dr. Declan Keane, master in the National Maternity Hospital, was unable to attend the meeting.

The two masters highlighted the need for increased resources as a result of (A) the increasing number of women presenting to their hospitals for delivery who were non-nations, (B) the complexity of the medical problems which they now encountered, and (C) the particular risks presented both to the individual and the staff by women presenting very late in pregnancy to access obstetric care. Drs. Daly and Geary emphasised the need for increased resources and the importance of a co-ordinated Government response.

The Minister for Justice outlined three possible options available to his Department: (1) Legislative change around the issue of citizenship; (2) The holding of a referendum; (3) Await the result of the pending Supreme Court judgment which was dealing with the issue of the right of parents to remain in Ireland to look after a newly-born Irish citizen.

It was generally acknowledged that the issue of citizenship was a major factor in women choosing to have their babies in Ireland and it was felt that this was an issue for Government. However neither Dr. Daly or Dr. Geary expressed any opinion as to the three options outlined by the Minister, and at no time pleaded for a referendum. The masters believed and appreciated that the need for increased resources within the context of a co-ordinated Government response was acknowledged.

The provision of maternity services was, and continues to be, the concern of the hospitals and a follow-up meeting was held with the Minister for Health on Wednesday, 20th November, 2002 to discuss resources.

Senator Brian Hayes is quite right in saying that following the Supreme Court case in 2003, when it was ruled that parents did not have a right to remain here because their child had been born in

this country, not an unexpected ruling, there was no diminution in the number of people having children in this country. However, there has been an interesting change in the composition of those non-nationals. Before the court case, 75% of those giving birth in this country were asylum seekers and 25% were economic migrants, but now the position is reversed, with 75% economic migrants and 25% asylum seekers. Many of the economic migrants are from countries very shortly to become members of the European Union. I wonder whether we might not be taking a sledgehammer to crack a nut, given that the rate is apparently decreasing by 2% or 3% a month at present. That is substantial, month on month, and perhaps we are being hasty.

It is very worrying that people arrive so late in labour. Some 15% arrive very late and another 15% arrive within a week of the birth. One of the interesting and sad things is that, if those people had tried to give birth in their own countries, some of them would have died. That they managed to get here, even with the difficulties of delivering them — no one is complaining too much about that because we are perfectly able to deal with them and only want resources — is a problem.

It is all very well to discuss naturalisation, but I have been writing to the Minister's Department about two doctors whom the health service is desperately anxious to employ permanently. One has been here for 12 years and the other for seven years. I have been writing to the Minister's Department for years about naturalisation, but all the officials do every time is send me back more forms about how to go forward for it. I suggest that the Minister's Department needs to examine that aspect.

Mr. J. Walsh: By way of background, the Supreme Court case of January 2003 has been mentioned. That clarified the position of non-national parents. It was interesting that, following the judgment, between July and December 2003, the Department sent out 1,108 letters to persons with an alternative legal basis for remaining in the State rather than basing everything on the status of their Irish-born child. Some 358 letters were sent, stating that the Department was considering deporting people. As part of that process, the Minister should be commended for agreeing the new voluntary return programme with the International Organisation for Migration, whereby the non-national parents of an Irish-born child can return to their native country and training and other assistance is being provided to help them. Equally, reapplication for leave to remain can also be made, but that will be dealt with only when the asylum claim has been determined.

I believe Senator Terry mentioned that applications for asylum reduced in 2003. I understand that the figures went from 988 in January to 347 in December, but it is impossible to determine what gave effect to that, since there

[Mr. J. Walsh.]

were several changes. Apart from the Irish-born child issue, there was the elimination of rent supplement for asylum seekers and the introduction of carriers' liability, all of which could have had an impact on some of those reductions. An interesting statistic from the Office of the Refugee Applications Commissioner was that 60% of female asylum seekers over 16 years of age are pregnant.

The Minister mentioned the growing concern of health care professionals in that regard. It should be noted that the three masters of the Dublin hospitals to which Senator Henry referred expressed a degree of concern. The number of births to non-nationals in Dublin was just under 5,000 in 2003 and represented 20% to 25% of all births. It was acknowledged by the masters that it gave rise to serious health and social policy issues, not to mention immigration policy, and they sought initiatives from the Minister in that regard. It is also important to acknowledge that many of those births are not necessarily to do with asylum seekers. That must also be put in context. Some people come here because Irish or EU citizenship is attractive, irrespective of their parental residence. In that context, we all now have EU citizenship as a consequence of being born in Ireland or another member state of the EU and it has been pointed out that this brings obligations as well as entitlements.

The Minister referred to the entitlement to citizenship for persons born in Ireland as being unique among EU member states. Most countries have citizenship acquired by descent from an existing citizen. Britain and Australia amended their legislation in the 1980s to deal with the issue with which we are endeavouring to deal here. It is worth describing the international scene. In Australia, a child acquires Australian citizenship if one of the parents is either an Australian citizen or a permanent resident. A child born to parents in the country illegally has no claim to citizenship and may be removed with the parents in accordance with normal removal procedures. In Britain, a child born after January 1983 is a British citizen if either the father or the mother is a British citizen or legally settled in Britain. A child born in the United States is entitled to US citizenship. The parents do not receive citizenship unless they have some legal basis for obtaining legal permanent resident status or otherwise meet the naturalisation eligibility requirements.

A child born in France to foreign parents automatically becomes a French national at the age of majority, which is 18. In Germany, if one parent has been a permanent legal resident for at least eight years, with a permanent resident's permit, children acquire German citizenship at their parents' request. In Denmark, the child of a non-Danish citizen does not receive Danish citizenship at birth. Since 1999, young foreigners aged 19 to 23 with a minimum of ten years' residence in Denmark have been able to request naturalisation. In Sweden, a child born to non-

Swedish parents does not acquire Swedish nationality at birth. Spain does not grant Spanish citizenship to a child born to non-Spanish citizens. The child can gain citizenship between the ages of 18 to 20 by declaration. In Greece, there is no entitlement to nationality at birth. When a child reaches 18, he or she can apply for naturalisation. In Italy, with continuous residence since birth, a child can apply for Italian citizenship at the age of 21.

We can see from those comparisons that we are unique and well out of synch with what happens across the rest of Europe. Yet when this is proposed, people raise the spectre of racism. However, that is not mentioned regarding the current arrangements of those other countries and this shows that the argument is disingenuous.

The timing of the referendum seems to be the Opposition's main contention. However, the Good Friday Agreement was brought to the people within 44 days. The Minister made an interesting point about symmetry.

Mr. B. Hayes: The Good Friday Agreement was not contentious.

Dr. Mansergh: Potentially it was.

Mr. Ryan: Some 94% of people voted for it.

Mr. J. Walsh: Perhaps I might proceed without interruption.

An Leas-Chathaoirleach: Senator Walsh has one minute left, without interruption, please.

Mr. J. Walsh: We now have 65 days until 11 June, which gives ample opportunity to debate this matter. Senator Hayes referred to the possibility of the matter being contentious. I doubt if it will be very contentious. I do not agree with him that the issue is complex; it is very simple. It gives the Oireachtas the right to legislate regarding Irish-born children of non-nationals. The issue is very simple to place and will be easily understood by the public at large.

Regarding the racist reaction, it is not right that we imply here that people who put themselves forward for local government or the European Parliament will exploit the issue by running on a racist ticket. The analogy made with comments made during the general election is unsustainable in that there was no such referendum during the general election but it did not prevent people, if they wished, from commenting on matters of public concern. The same would apply in local or European elections without being magnified by the fact that we have a referendum, which people will understand quite easily.

Regarding the deferral of this matter to a presidential election, first of all there is some doubt as to whether we will have one. If we have, I believe this would be less appropriate in that scenario. To have it on its own where the debate would be concentrated on this particular topic would give an opportunity to people with racist

leanings to make their case, which they would otherwise not have. In the context of local and European elections, they will not be given that opportunity. However, not to use such a forum would be to create the type of situation which Members are saying we should try to avoid.

I also think that the low turnout at referendums, generally, is something we should try to avoid. By combining this with the European and local elections, a much more representative decision of the people will be assured. That is important on any issue, and in particular on this one.

In amending our laws, we would have symmetry with people born in Northern Ireland. The arrangements here should be the same. As a republican, I would contend that people born in Northern Ireland should have no less entitlements than people in the Republic. To have symmetry between the arrangements in both jurisdictions is something we should be pleased to support and promote. Overall, I would commend the Minister for bringing this matter forward. It will regulate an area that is in need of regulation. There are no downsides from anyone's perspective with regard to it, certainly not for those who come here and want to be part of the Irish nation and who are prepared to play their part constructively and effectively. I think they will be welcomed.

Mr. Ryan: I rarely use phrases such as "more in sorrow than in anger". However, I think it is an appropriate phrase here. The Minister makes a coherent case for dealing with what he believes to be a problem. It is no more than I would expect. He puts together a coherent constitutional legal case for dealing with the problem and he identifies anomalous issues in the Good Friday Agreement, using those to further build a case for resolving the issue. The whole flaw, of course, is that this document which he produced on 10 March fails miserably to suggest that there is a problem about the claiming of citizenship. I quote from the document: "Statistics on the nationalities of mothers of children born in the State have not been collected in a systematic way in the past."

We knew something about asylum seekers because we kept an eye on them. We now know that asylum seekers are not the majority — in fact they are a minority — of the non-national mothers who give birth in our hospitals. We know that the position of two of our senior doctors was misrepresented, accidentally I presume, in the days after the Minister produced his briefing document. We know that the Taoiseach, on 17 February, told the Dáil that there were no plans for a referendum. Three weeks later, approximately, we were told there would probably be a referendum. We went from "no referendum" to a referendum in three weeks on the basis of a document which admits that the information is patchy and which underlines that nothing is known about the motives of non-

national mothers who arrive here. I quote from the Minister's document: "Anecdotal evidence suggests that many women are travelling from the UK in the later stages of pregnancy."

What an extraordinarily plausible and coherent position to be in, staging a referendum on the same day as an election based on what the Minister himself concludes is anecdotal evidence, with no evidence at all in some cases. The remainder of his document is equally confusing, switching from non-EU nationals to non-nationals almost paragraph by paragraph. The consequence of this is to mislead and confuse. He admits in the bulk of the document that the problem is not with asylum seekers but proceeds to produce pages and pages of data in Appendix 1 about them. The conclusion I draw is what we knew to be the case — the Department of Justice, Equality and Law Reform was always unhappy with Articles 2 and 3 of the Constitution, as they were drafted in the Good Friday Agreement. The Department could not coherently object during a referendum on the Good Friday Agreement. However, it wanted to close the gap that it — in its peculiar capacity to identify problems nobody else can — believed to be there. It started off on the campaign which ended up in the Supreme Court judgment about the "non-right" of the parents of a child born in this country to remain in Ireland. It achieved that part of its objective, so it then started on the next stage. Contrary to what the Minister says, however, it did not tell anybody about it. An Agreed Programme for Government stated——

Mr. B. Hayes: All-party discussions.

Mr. Ryan: Yes, it mentioned all-party discussions would be initiated on the issue of such constitutional or other measures. The all-party consultations for a referendum that was not going to be held on 17 February commenced with a briefing document stating what the Government wanted to do on 10 March. Now on 7 April, these all-party discussions having presumably concluded, we are told the Government will have a referendum on 11 June.

I live in Cork North-Central and I happen to have the misfortune to be represented by the most disgusting Member of Dáil Éireann, a man whose position in an opinion poll——

An Leas-Chathaoirleach: It is inappropriate for the Senator to use language of that nature.

Mr. Ryan: He is the least principled Member of Dáil Éireann. He is not disgusting, he just has no principles.

An Leas-Chathaoirleach: Is Senator Ryan withdrawing his first comment?

Mr. Ryan: He is not disgusting. He has no principles.

Mr. J. Walsh: Free speech.

An Leas-Chathaoirleach: It is not appropriate language for the Senator to use, in fairness.

Mr. Ryan: I leave it to the Members of this House to decide what adjective to apply to a man who was at the bottom of an opinion poll——

An Leas-Chathaoirleach: Is Senator Ryan withdrawing the remark?

Mr. Ryan: Which one of them am I to withdraw, that he has no principles or that he is disgusting?

An Leas-Chathaoirleach: Both of them.

Mr. Ryan: I said he was not disgusting. It is probably too kind to call him disgusting. He is worse than that, but we will leave it out.

An Leas-Chathaoirleach: Is the Senator withdrawing the remarks?

Mr. Ryan: I am withdrawing as much about him as he withdrew about innocent asylum seekers, which is shag all.

Mr. J. Walsh: On a point of order, those remarks, as the Senator knows, are intemperate and inappropriate and should be withdrawn. It is not the first time——

An Leas-Chathaoirleach: That is not a point of order. Is Senator Ryan withdrawing the remarks he made?

Mr. Ryan: I withdraw whatever adjective I used that people do not like.

An Leas-Chathaoirleach: I thank the Senator.

Mr. Ryan: I can write them all outside the House, anyway. It is an extraordinary fact that in here where I have privilege I cannot say the words that I have said frequently and in debate with this individual outside the House. However, I repeat that politics were demeaned in Cork by one individual in particular, who Fianna Fáil opinion polls showed was at the bottom of their three-candidate league table until he beat the racist drum. Then he jumped to the top.

Mr. J. Walsh: That is sour grapes.

Mr. Ryan: It is not sour grapes. The Senator should consult his own constituency colleague. Fianna Fáil private polls show that this man jumped from the bottom of the polls to the top.

Dr. Mansergh: The Taoiseach put this matter absolutely straight.

Mr. Ryan: The Taoiseach made this man Chairman of an Oireachtas committee. Whatever the innocence of the Minister for Justice, Equality and Law Reform — God help me, after all the

years I do not believe he is intent on using race — not for the first time since going into Government with Fianna Fáil, the Progressive Democrats has been conned into a position which it must now defend. If we have a referendum on such a difficult and complex topic as citizenship, in the middle of two elections, then immigrants, immigration and race will be covertly and overtly an issue in those elections.

We cannot be sure about intent in these matters. I cannot read other people's minds. However, I can be sure that either this Government is profoundly inept or it has chosen to go ahead with this in the certain knowledge that what I have foretold will happen. If either of those is the option, we then return to what I said at the outset, with the rational course being to first agree that we have a problem. There is no need for a referendum to be announced. That was one of the Minister's more misleading remarks. One simply quantifies the problem. That is possible. One can keep proper records, assemble the information and then invite the leaders of the various parties in the Oireachtas to look at the information and the trend and to consider what can be done. That is what we did regarding the issue of private property. It is fascinating that on a far less emotional and less politically sensitive issue, namely property rights, we got an Oireachtas committee to review the matter. We will shortly get a report on that issue. Yet this is a manifestly more sensitive issue, one more widely open to distortion, abuse, misrepresentation and the use of race — for those few in politics who wish to so use it as a political issue.

Since the issue arose, the question unanswered by the Government is what happened between 17 February and 10 March to persuade the Government that something that was not apparently being thought about on 17 February became a critical and urgent issue on 10 March. If there is evidence that it suddenly became critical, let us have it. If there is a case that suddenly became critical, let us have it. If neither of those exists, we must conclude that it was deemed to be politically expedient, meaning useful to Fianna Fáil and the Progressive Democrats, to hold the referendum on the same day as the local and European elections. If that is the decision, that is bringing race into our elections and the Government should be ashamed of itself.

Mr. Minihan: I second the Government amendment. Timing is everything. If one does not get timing right, one is either too late or too early. Unfortunately, this evening's debate falls into both categories. It is too late to affect the Government decision to hold a referendum on 11 June, given that the Government took the decision yesterday, and it is too early to have an informed discussion on the substantive issue, as we still await publication of the legislation accompanying the proposed constitutional amendment.

This debate allows us to address a number of points. In assessing any course of action, one must take into account the consequences. I spoke on this issue in this House a few weeks ago and although certain people have chosen to distort my words for their own political advantage, I clearly stated that if such a referendum were to take place in conjunction with the local and European elections, it would need to be clearly explained in order to avoid the playing of the race card by certain parties or individuals for personal electoral gain. Unfortunately, the tenor of this debate has already centred on racism rather than on the substantive issue. I make no apologies for voicing these concerns. I appeal again to all politicians and candidates in the forthcoming election to consider the damage that can be done by following this route.

While I believe this debate will be conducted in a responsible manner by the majority of people, I will recount my own experiences in the last general election as a salutary lesson as to what can happen if someone plays the race card. I contested the last general election in Cork North Central. As in all elections, the issues were wide and varied. However, the issue that sickened me to the core was that of non-nationals in Ireland. Given the huge increase over the previous few years in the number of non-nationals entering this country, this was certainly an issue which needed to be addressed. All politicians acknowledge this, but the manner in which one candidate used it for personal gain was grossly irresponsible.

Mr. B. Hayes: Hear, hear.

Mr. Minihan: For those Senators who have not experienced such a situation, I will say why I formed the opinion I did and why I spoke out against racism. I do so in the hope that the lesson I learned will serve as a reminder to some and a warning to others, between now and 11 June.

I attended a public meeting in Cork on a proposed location for the housing of asylum seekers. I heard there the most extreme views expressed on both sides, from those with open arms philosophy and those with a clear racist and closed doors philosophy. Deputy Noel O'Flynn lectured the meeting on our responsibilities. He produced a document purporting to be a copy of the Geneva Convention and left people in no doubt that we had responsibilities in this regard. Within a matter of days he did a complete U-turn on his position and directly attacked all asylum seekers. The result was a heightening of racial tensions in the city and while those of us who tried to contain the issue worked to that end, he saw political opportunism and exploited it.

For me, there were a few defining moments, which I will highlight in order to appeal to the candidates in the forthcoming election to act responsibly and be aware of the consequences of such action. A young Cork girl, a university student, visited me in a distressed state. Her father was from Hong Kong, her mother from

Cork. She was born and educated in Cork, and resided there. She was as much a Corkonian as I am. However, because of her different ethnic looks, she was now a victim of racial taunts. A mother of two foreign adopted children also contacted me. Her children had settled into school and had been in Ireland since they were a few months old. They were now being taunted in the school yard. Cork people who had married non-nationals who had integrated the community, and who had worked and lived in Cork for a number of years, contributing to our society, were now being racially abused. Elderly ladies living alone were in fear of being assaulted or raped by non-nationals, who, according to myth, were rampant on the streets of Cork. This was a result of stirring it up, of playing with people's emotions. Fuelled by some local journalists, the myths and tensions grew.

Together with Pat Cox I organised a public meeting in Cork City Hall and there we heard many stories relating to the same issues, all as a result of the racist card being played for political gain. I chose not to play it, I spoke against it, and I failed to be elected. Opinion polls showed Deputy O'Flynn moving from losing his seat to topping the poll.

An Leas-Chathaoirleach: The Senator cannot refer to Members of the Lower House.

Mr. Minihan: I disagree. This is a matter of public record as it was published in every newspaper in the country.

Senators: Hear, hear.

An Leas-Chathaoirleach: There is a precedent that no reference should be made to Members of the Lower House. Each House respects the other's Members.

Mr. Minihan: I have been named consistently in the Lower House over the past several days on this issue.

An Leas-Chathaoirleach: That is a matter for the other House. I rule that the Senator will respect the Members of the Lower House.

Mr. B. Hayes: A Leas-Chathaoirligh, this matter happened and is on public record.

An Leas-Chathaoirleach: It may well be, but the Chair rules that Senators respect Members of the Lower House.

Mr. Minihan: I will not refer to Deputy O'Flynn again, a Leas-Chathaoirligh.

I sleep with a clear conscience on this issue. I did not want to be elected to the Dáil on the back of the misfortune of others.

Mr. Ryan: Hear, hear.

Mr. Minihan: I am glad it was isolated to Cork city. However, I appeal to all Members to prevent this debate being replicated in such an outrageous manner throughout the country on 11 June.

Have I reservations about having the referendum on 11 June? Any Member would have reservations if he or she had a similar experience. The Government has made a decision which I respect. I hope the referendum can be addressed in a temperate and constructive manner to allow the people to decide. If this debate is used to incite racial tensions for personal political gain, there will be innocent victims. I hope there is a rational debate in the weeks ahead. When it is over, I hope we can hold our heads high in the knowledge that a difficult situation was dealt with in a humane and constructive manner, ensuring that what is good about Ireland, which we are proud of, remains intact. A coalition of extremes from both sides of the debate cannot be allowed to hijack this issue and defeat the silent majority's viewpoint. The one advantage of the 11 June date is that an acceptable degree of voter turnout is assured. I place my trust in the silent majority to exercise its democratic right responsibly. I spoke to the motion and I look forward in the weeks ahead to speaking on the substantive issue.

Mr. McCarthy: Hear, hear.

Mr. Ryan: Hear, hear.

Mr. Bradford: I congratulate Senator Minihan for his outstanding contribution to this debate. In addressing the House, Senator Minihan did not speak from the book of political theory but from the bible of political practice. He recounted, as Senator Ryan also did, what happened in the Cork North-Central constituency during the last election. It is a chilling reminder of what happens when individuals turn the sensitive issue of race and citizenship into a political football. Doing so is the last thing needed in this socially, economically and culturally changing republic. Unfortunately, the assured way of achieving this is by having a debate on citizenship and race when every town and townland will be discussing politics at local and European level. The political parties will be at each other's throats to win every vote they can. Throwing the issue of race into that political fire will only lead to a dangerous equation.

This motion calls on the Government to consult in detail with the Oireachtas before substantial decisions are made on this issue. However, this is no longer relevant because the decision was made yesterday. The Fine Gael Party requested that no prospective referendum be held on 11 June. I listened with interest to a very fair and balanced speech by the Minister for Justice, Equality and Law Reform. However, he did not address the central question of the timing of this proposed referendum. The Minister and the Minister of State at the Department of

Justice, Equality and Law Reform, Deputy O'Dea, have addressed this issue as fairly as possible. However, selecting a date divided by party politics should have been the last one. The Minister of State, Deputy O'Dea, indicated on RTE that he was not in favour of having the referendum on 11 June. A number of Government Senators, the Leader of the House and the Tánaiste all expressed similar sentiments. I am disappointed by the Government's decision to opt for 11 June.

The Minister for Justice, Equality and Law Reform claims that once a signal that restrictions are to be put in place is sent abroad, lawyers will advise people to emigrate to Ireland before the gate is shut. That is a weak argument. If the Minister wishes to commence public consultation and give an indication that there will be some restrictions, simply adding that they will be implemented retrospectively solves that problem. It is difficult to find one good reason why this sensitive and substantive issue has to be thrown into the melting pot of town and county council and European elections. I am not convinced by the argument of taking political advantage of large voter turnout. Substantive questions about the broader issue must still be asked and answered. This is an issue that needs to be addressed but there is no unanimity on how to do so. Until the proposed wording to the referendum is published, a definitive answer cannot be given. From the Minister's speech, it is clear that the Government is attempting to solve the problem in a fair and balanced fashion. However, such an approach will be negated by holding the referendum on 11 June.

The Senators on the other side of the House must ask their Government colleagues to reflect on what they have done. Voices from the coalface, such as those of Senators Ryan and Minihan, who had to deal with what happens when one or two politicians turn this issue into a nasty political football must be listened to. I fear what happened in the 2002 general election in Cork city may happen throughout the country in the forthcoming local and European elections. We cannot legislate for good political behaviour or reason and fairness. By setting aside a separate date for the referendum, the extremists and bully boys on both sides would be marginalised. The Government made a decision yesterday, but it can be changed. It has already indicated decisions on social welfare cutbacks may be changed. However, limiting citizenship rights is a graver issue. The Minister of State should express to his senior colleague, Deputy McDowell, and his party colleagues his personal view, which is, I believe, that this serious issue needs to be addressed. This problem needs to be rectified and regulated, but the worst possible way of doing so is to proceed with the proposed referendum on 11 June. I say that sincerely. We must approach this issue in a calm and sensitive manner. If we want to keep party politics and naked racist

arguments out of the campaign, we should find a new date for the referendum.

Mr. B. Hayes: Hear, hear.

Dr. Mansergh: I would like to share my time equally with Senator Mooney.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Dr. Mansergh: If there were ever a case of a motion being overtaken by events, I suppose this is it. It does not matter whether we like the proposed timing of the referendum or the substance of the decision, because the decision has been taken. There are differing views on such matters. The Minister for Justice, Equality and Law Reform made a cogent and reasoned case for what he is doing. I welcome the generally calm tone of the debate in the House. Such a tone has not been a feature of all aspects of the debate on citizenship.

I completely disagree with the main thrust of the argument that has been made by speakers on the other side of the House. They have said that having a referendum on this issue on the same day as the European and local elections will heighten racist tensions. I recall that when there was a referendum on abortion, which is another emotive subject, on the same day as a general election in 1992, the issue being voted on in the referendum was practically buried. Some people might argue that it was not necessarily a bad thing, but the debate on the issue did not become highly emotive and did not affect people's voting decisions in the election.

I would like to make a prediction. I do not think that the substance of what is being proposed is very controversial. I notice that it has not been the subject of a full-frontal attack from any side in this House. I do not think that local council candidates will spend their time discussing or hyping it. It will be dealt with separately by a referendum. If we want to keep the temperature down, the proposed vote may not be such a bad way of proceeding.

I accept that there are tensions and that it is in all our interests to keep them down. I wish that Opposition speakers would not continue to throw charges of racism at the Government, as I do not think such charges can be sustained. The Government has done a remarkably good job in this area in the last six years. I accept there was an element of trial and error at the beginning, but that was because we were on a steep learning curve, not having faced the problem before. I would like us to have an asylum and immigration system in which people have confidence and which is fair, firm and reasonably liberal. I think the current regime, including this proposal, satisfies all those conditions. Such a system will reduce the tensions and pressures that exist.

I do not accept for a second that the Minister for Justice, Equality and Law Reform has

somehow had the wool pulled over his eyes by his Government partners in some sort of political conspiracy. He is very much his own man. He has brought forward these proposals, which have emerged from the Department of Justice, Equality and Law Reform. I totally reject the racist epithets applied to civil servants on the Order of Business this morning. I hope that the person who made the remarks receives a proper letter from the relevant trade union, which the Labour Party is supposed to represent.

Mr. McCarthy: We represent everybody.

Dr. Mansergh: In my experience, such an allegation is absolutely without justification. Such attacks on civil servants should not be made.

I am aware that this matter has been discussed for some time. The meeting with the masters of the maternity hospitals may have been a catalyst for action, but it certainly did not represent the beginning of the discussion. It is obvious that there is a Northern dimension to the issue, but nobody raised the issue with me when I met representatives of all the Northern parties during two visits there in the past three or four days. The manner in which it is proposed to address the matter completely protects what was done in the Good Friday Agreement, which, of course, was introduced in substitution for the State's assertion, at least at a theoretical level, of jurisdiction over the entire island. This assertion meant that the people of the island were entitled to be part of the Irish nation. We can continue to be proud of that and I do not think it will be impinged on in any way by this change. We await the details of the referendum Bill to judge the matter further. It is also important that we bear in mind the diaspora dimension.

Mr. Mooney: I am grateful to Senator Mansergh. I appreciate the comments he made, which encapsulate in a concise manner much of what I intended to say. I agree with him that most people's concerns about this proposal do not relate to its concept, but to its timing. Although Opposition Members have every right to express their views, I am somewhat disappointed that the word "racism" has been used. I am afraid that it is not a new phenomenon, however.

I raised the question of citizenship in this House six months before the 2002 general election. It is somewhat ironic that my colleague, Senator Ryan, called for a debate on citizenship in the House this morning, as I called for such a debate over two years ago in the context of the arrival of large numbers of people to this country. Some friends of mine who work in the obstetrics departments of major Dublin hospitals have told me that it is obvious that people deliberately choose to arrive in the days before they are due to give birth. Their exclusive reason for arriving at such a late stage is to avail of the liberal nature of the laws introduced after the Good Friday Agreement. There were noble aspirations at the

[Mr. Mooney.]
time, but we took our eye off the ball in that legislation, despite the expert advice available to us. We did not take account of the possibility of what eventually became a reality. There should be no question of racism. I was accused of being racist by the Leader of the Opposition at that time because I raised a simple issue and asked for a debate on the concept of citizenship. The man in question later retracted his accusation.

Mr. B. Hayes: I did not accuse the Senator of being racist.

Mr. Mooney: I refer to a former Leader of the Opposition who ironically — I use the word “ironically” under privilege — is now in charge of human rights. I have my own views about the gentleman in question. He did not make the allegation in this House because he did not have the courage to do so, but he ran to the newspapers the day afterwards. He came up with an apology three months later. I do not want to be distracted from what I wish to say.

I share the belief of Senator Mansergh and others that there will not be a racist dimension to the local elections as a result of the decision to have this referendum. An overwhelming majority of people across the political spectrum is in favour of this measure. I am proud of my citizenship. I am proud to be Irish; I am proud of all that encompasses. That is not the same as being xenophobic or having a “little Ireland” view. Regardless of where they come from or the colour of their skin, I resent people who deliberately use the laws of this country to give birth to a child so that he or she automatically becomes a citizen without any knowledge or any care for what this country stands for, what it means or what we are as a people. I suggest to the Minister of State that the Government should consider some sort of nationality test for those who wish eventually to become Irish nationals. Perhaps such a test, which is in place in the United States, has already been discussed.

Mr. McCarthy: I wish to share my time with Senator Morrissey.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Mr. McCarthy: This is a very sensitive area and has only become controversial over the last number of years, for a plethora of reasons. The timing of this referendum is important. The Government has announced its intention to hold it on 11 June, but I am strongly of the opinion that it should not be held on the same day as the local and European elections, for a number of reasons. Those who turn out to vote will be more engaged with issues that normally arise during local or European elections. The poll provides an opportunity for some bad-minded people to use the issue of race, which applies to a category of people who are generally worse off than others, for electoral gain.

Senator Minihan spoke eloquently and passionately about what happened in Cork North Central two years ago. Research was done, as it was in most areas, and according to this research, one candidate was at the bottom of the list. This generally suggests defeat. However one construes it, his exploitation of a certain issue led that candidate to head the poll. We all know who I am talking about. That person blatantly took advantage of the position of asylum seekers and passed unforgivable remarks about people who are less well off than others for a variety of reasons. That person was returned to Dáil Éireann and subsequently rewarded by the leader of his party with the chairmanship of a Dáil committee. That was not dealing with the matter. It was anything but doing so. If the Government had been made up of the Labour Party, Fine Gael and the Green Party and if swift action had not been taken to dismiss a person who made comments such as these, Fianna Fáil members would be the first to start jumping up and down about it. Nothing was done about this Deputy.

Dr. Mansergh: He was severely reprimanded.

Mr. McCarthy: There will be thousands of candidates in the local and European elections. There are no guarantees that people will not take advantage of this issue. I have yet to be convinced by the Minister, Deputy McDowell, and others that this will not happen.

The local and European elections are 65 days away. Why has this matter become so urgent? In the middle of February the Taoiseach said in the Dáil there would not be a referendum of any description. All of a sudden, on 10 March, a referendum was announced. What happened between 17 February and 10 March? Can the Minister of State deny that an American researcher was engaged by the main Government party to find out the main issue of concern to people in advance of the local elections and that the answer the person came up with was the issue of citizenship or some variant thereof? If that is the reason the Government proposes to change our Constitution — the charter which guarantees the fundamental rights of our citizens —

Dr. Mansergh: There is not a scintilla of truth in it.

Mr. McCarthy: Why is the Government attempting to change the Constitution —

Dr. Mansergh: That is not the reason.

Mr. McCarthy: —on the basis of this research?

Dr. Mansergh: That is complete rubbish.

Mr. McCarthy: I have yet to be convinced. I would welcome an attempt by the Government, particularly by Senator Mansergh and others, to convince me that is not the case.

The proposed referendum also has strong implications for the Good Friday Agreement.

The Agreement, which was ratified by people on both sides of the Border, guarantees citizenship to every person born on this island. Has the Government seriously thought about the effect on the Agreement of the proposed change in the wording of the Constitution? It is already receiving a hammering from a number of different interests. It is disgraceful that the Government would attempt to do something for electoral gain which would affect one of the finest——

Dr. Mansergh: It is not for electoral gain.

Mr. McCarthy: That is absolute nonsense. I have yet to be convinced it is not for electoral gain. I reiterate that I would welcome any attempt to convince me otherwise. I do not think it is a good idea to hold the referendum on 11 June. It would be wrong. I welcome the comments made by the Minister of State, Deputy O'Dea, on "Questions and Answers" on Monday night, without committing him to this as the reality of the situation is very different. It is characteristic of a wider view held in Government circles, whether in the Lower or Upper House. For an issue as serious as this, the Taoiseach and the Government would be much better off to engage in all-party talks. This was done, as Senator Ryan pointed out, when the issue of property rights was being discussed, and a reasoned and balanced debate took place. This referendum should be fought on the same basis. Unfortunately, that is not happening.

Mr. Morrissey: Some two to three weeks ago I, and representatives of all other political parties in the Oireachtas, attended a meeting in the Shelbourne at which we signed an agreement to have a non-racist local and European election campaign. In view of that, I do not see why some Senators continually refer back to what happened two years ago. All parties in the House have now signed up to that campaign.

Mr. Ryan: That Deputy signed up as well.

Mr. Morrissey: I hope the local election candidates will have more on their minds than this issue over the next 65 days. European election candidates should certainly have much more on their plates, with the enlargement of the EU and all that brings with it. We cannot go around with our eyes closed. There is a problem in our maternity hospitals. I and other Senators have friends working in Dublin maternity hospitals who tell us these stories. This is anecdotal evidence. They are true stories of people coming to this country and trying to obtain residency and citizenship. They are coming here because we have a liberal regime. According to the Minister for Justice, Equality and Law Reform, even if the Constitution is amended we will still have the most liberal regime in the EU. When this is put before the people and they see the minor alterations to the provisions on citizenship they will wonder what the hoo-ha is about.

This is not the first time a referendum has been held in conjunction with a general or local election. In 1992 people were asked to sign green, pink and blue forms to vote on three issues concerned with abortion. They were well able to understand it. This is much less convoluted. It is about restricting the right of citizenship, North and South, to those who have been resident in the country for a certain period. I will support the amendment and I appeal to Senators and the wider public not to engage in a racist campaign. The points made by the Minister for Justice, Equality and Law Reform tonight should allay those fears. The Government parties will not be conducting a racist campaign.

Mr. B. Hayes: I thank everyone who contributed to the debate, which was an excellent one. Some important issues were raised. I passionately believe that the role of this House is fundamentally different from that of the other House when it comes to debating issues such as these. We feel lucky to be in the House when we hear the kind of spectacular contribution that was made by Senator Minihan. It was an honour to hear him speak outside the party box and put on the record, in a cool and honest way, what happened during the last general election campaign in Cork. We need that kind of honesty in politics. I compliment him on his remarks.

We are joined by the Minister of State, Deputy O'Dea, who gave us his view on the matter, a view he shares with many colleagues on that side of the House, last Monday. As Senators, we have a role to ensure that the Executive knows our views on these matters and tests them in the context of the debate. I do not accept the fatalistic view that the Government has made its decision and nothing more will happen. That is why we have a republic — so that open debate of this nature can be heard in the House, arguments can be tested and, most importantly, the Government can admit it is sometimes wrong. The Government would display much rationality if it stated that it would be wrong to proceed with this referendum on 11 June and if it listened to its Ministers, to significant figures in the House, such as the Leader, and to significant figures in the Government parties and then decided not to proceed.

The Minister of State should pass on my next point to the Minister for Justice, Equality and Law Reform. Will the Minister publish the minutes of the meeting between himself and the masters of the three Dublin maternity hospitals to give us an independent account of what occurred? I am sure his Department has the minutes.

The point was well made by Senator Ryan that the programme for Government contained a promise of all-party consultation and discussion before this matter would be put to the people, but that has not happened. A nine-page memorandum given to Opposition spokespersons three weeks ago is not the same as an all-party discussion. I disagree fundamentally with Senator Morrissey who said this is a straightforward and simple issue. It is not straightforward, it is highly

7 o'clock

[Mr. B. Hayes.]

complex. All these matters ultimately come before the Supreme Court and it is that court's interpretation which wins out. The suggestion that this legislation can be passed through the Oireachtas with a short debate before 11 June is nonsense. The very people who gave us the changes to Articles 2 and 3 of the Constitution, who framed those words and who brought the Bill before the Oireachtas, are now proposing amendments to our citizenship laws. The notion that Governments are infallible and never get things wrong is nonsense. The Government was wrong in 1998 and when we go through the detail of the forthcoming legislation, it may well be proven wrong again. That is why we need to proceed with this matter in a deliberative fashion.

I want to respond to the Minister's arguments about why we should not hold this referendum on the same date as the presidential election. All the candidates in the presidential election, if we have such an election, would not be asked their views on this matter because they would be pre-empting a decision of the Houses of the Oireachtas should the referendum be successful. The presidency is a fundamental part of the Oireachtas, so in the context of a presidential election this issue would be parked because the candidates would not be able to express their views. They could not do so because the Bill would not have gone through the Oireachtas.

In the context of the local elections and the experiences we have heard about from Senators Ryan and Minihan, the notion that this issue will be neatly parked during the campaign in the run up to polling day on 11 June is farcical. Government candidates in particular will be under much pressure in the elections. Those who

will want to play the race card by following the illustrious example of the honourable Member for the Dáil constituency of Cork North-Central, will play that card, if it suits them, to get back in for five years. That is the inherent danger that lies behind putting this proposal to the electorate on 11 June.

I want to put a final argument, which has not been answered by the Minister. The Supreme Court ruling of January 2003 is very definite on this issue. It says that if a non-national child is born in this country it is automatically guaranteed citizenship but that its parents are not guaranteed citizenship or residency rights. What has changed so dramatically since that ruling? Has it led to a dramatic reduction in the number of people coming to this country? As Senator Ryan said, we do not even know the latest data concerning the total number of such people. It has not led to a radical reduction. The Minister should explain, therefore, why changing the constitution will alter the scenario in terms of the number of people who want to come here.

What we need are more midwives to deliver the babies being born here. We also need a bit more honesty on the issue of the unborn child. We have had great debates over the past 20 years concerning the unborn child but it seems that if a child is black or comes from a poor country, it will be forgotten about. Let us join up our thinking on this issue and get back to the notion of the Republic. Those who lay most claim to being republicans in this debate are acting in a most improper fashion. We have much thinking to do. We need more time and that is why this issue should not be put to the electorate on 11 June.

Amendment put.

The Seanad divided: Tá, 29; Níl, 14.

Tá

Bohan, Eddie.
Brady, Cyprian.
Brennan, Michael.
Cox, Margaret.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Kenneally, Brendan.
Kett, Tony.
Kitt, Michael P.
Leyden, Terry.
Lydon, Donal J.

MacSharry, Marc.
Mansergh, Martin.
Minihan, John.
Mooney, Paschal C.
Morrissey, Tom.
Moylan, Pat.
O'Brien, Francis.
Ó Murchú, Labhrás.
O'Rourke, Mary.
Ormonde, Ann.
Phelan, Kieran.
Scanlon, Eamon.
Walsh, Jim.
Wilson, Diarmuid.

Níl

Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Burke, Ulick.
Coghlan, Paul.
Coonan, Noel.
Finucane, Michael.

Hayes, Brian.
Henry, Mary.
McCarthy, Michael.
McHugh, Joe.
Ross, Shane.
Ryan, Brendan.
Terry, Sheila.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators U. Burke and McCarthy.

Amendment declared carried.

Motion, as amended, put and declared carried.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: At 11 a.m. tomorrow.

Adjournment Matter.

Citizenship Applications.

Mr. U. Burke: I welcome the Minister of State at the Department of Health and Children. I wish to raise the urgent need for the Minister for Justice, Equality and Law Reform to outline his proposals to rectify matters pertaining to persons who have resided in this State for more than five years, who have fulfilled the statutory and administrative requirements for citizenship and who submitted their applications in 2002 but still, after two years, have not had their citizenship applications finalised. It is ironic that today we discussed also the motion on the constitutional referendum on the issue of limiting citizenship.

I acknowledge the courtesy and effectiveness of the civil servants in dealing with representations in the Department of Justice, Equality and Law Reform. In an earlier debate I contrasted this as against other Departments.

In 1999 a total of 739 applications for citizenship and 1,242 declarations of post-nuptial citizenship was received. In 1999, 416 applications, approximately 50% were processed and 1,022 certificates of post-nuptial citizenship were issued. In 2003, the corresponding figures were 3,580 applications for citizenship and 2,369 declarations of post-nuptial respectively. Of those, 1,664 applications were processed and 2,227 certificates of post-nuptial citizenship were issued. The statistics bear out the serious increase in the volume of applications. Those particularly affected are medical personnel, for example non-national doctors who have worked under contract in hospitals for many years and are often selected to attend conferences abroad but because they are not Irish citizens they experience a great deal of hassle when travelling and often refuse to attend, thus missing out on very valuable experiences to increase their knowledge. I do not wish to mention specific individuals in case it would prejudice their case. However, I ask that cases that have been highlighted be treated with urgency so that the doctors can build their careers from the experience gained at international conferences. Many expecting a response to their applications in December 2003 are still waiting and I ask the Minister to expedite the process.

Minister of State at the Department of Health and Children (Mr. Callely): I thank Senator Ulick Burke for raising this matter. I appreciate that he

did not refer to individual cases, but has addressed the issue in a global sense.

I concur with his view on the benefit we derive from non-nationals with identified skills that meet our skills shortage and that they play an important role in the provision and delivery of services, particularly in the area under the remit of the Department of Health and Children. A user-friendly system is in place to accommodate people and those in the medical and health service are prioritised for work visas and work permits processed by the Department of Enterprise, Trade and Employment.

The issue of citizenship is more complex. Some confusion about the process and the procedures exists, particularly statutory procedures. It may assist the Senator if I outline the procedures. Section 15 of the Irish Nationality and Citizenship Act 1956, as amended in 1988 and 2001, provides that the Minister for Justice, Equality and Law Reform may grant a certificate of naturalisation, at his absolute discretion, if he is satisfied that the applicant is of full age; is of good character; has had a period of one year's continuous residency in the State immediately before the date of the application and, during the eight years immediately preceding that period, has had a total period of residence in the State, amounting to four years, but two years in respect of the spouse of an Irish citizen; intends in good faith to continue to reside in the State after naturalisation; has made, either before a judge of the District Court in open court or in such a manner as the Minister for special reasons allows, a declaration in the prescribed manner, of fidelity to the nation and loyalty to the State. In addition, the Minister may also, at his absolute discretion, grant naturalisation where the conditions for naturalisation are not fulfilled, but where certain other circumstances are present, for example, where the applicant is of Irish descent or has Irish associations.

It might be of benefit to the Senator, if the procedures involved in processing of an application for naturalisation were outlined. When an application is received, it is examined initially to ensure that the applicant meets the residency requirements and that the application forms are fully completed and correctly witnessed. If the application is in order in this regard, it is filed to await processing in chronological order with other applications on hand. The next stage of processing involves a fuller examination of the application and its supporting documents to ensure that requested documentation has been supplied and that a clear profile of the applicant is available to the Minister so that he or she can make a decision. The last stage of the process involves obtaining a report from the Garda on the applicant's background. When these various stages of processing have been completed, the application is submitted to the Minister for a decision. Due to all the elements involved, coupled with the large increase in the number of applications being

[Mr. Callely.]

received, this process can take a lengthy time to complete.

The number of applications for naturalisation received in the Department of Justice, Equality and Law Reform has increased substantially during the last number of years. In 2001, a total of 1,431 applications for naturalisation was received and 1,012 certificates were issued. In 2002, the equivalent figures were 3,574, an increase of approximately 2,100, and 1,332 certificates were issued. In 2003, the figures were 3,580 and 1,664 certificates were issued. Indications are that the number of applications being received is continuing to rise, similar to the rate of increase I have outlined. There has been quite an increase in the number of applications since 2001.

At the start of 2001, the processing time for an application was approximately two and a half years. Through a combination of the assignment of additional staff and the streamlining of procedures, the average processing time was reduced to 15 months by the end of 2001. Due to the significant increase in the number of applications received in the last couple of years, the average processing time is currently around 18 months. It must be stressed that some applications will be processed more quickly than others. Processing time depends on the level of inquiries required in connection with a given application.

Senator Ulick Burke should be aware that the acquisition of citizenship through naturalisation is

a privilege rather than a right. That it is bestowed generously by the Minister is demonstrated by the 1,664 certificates he granted in 2003. It is not, however, a privilege granted without careful examination of each case to ensure the statutory requirements are fulfilled. Any discretion vested in the Minister is exercised in a manner appropriate to the nature of the privilege being granted. Consequently, it is not the case that where a person appears *prime facie* to comply with legal requirements or supplies a specified list of documents, he or she will be naturalised within a specified period. In certain cases the inquiries which must be made and the consideration required will take longer than the average 18-month processing period. The Minister asks the House to be conscious of the danger of drawing general conclusions from specific cases.

More than 600 Civil Service staff work on immigration and citizenship related duties in the Department of Justice, Equality and Law Reform. More than 70% of them are engaged in the processing of asylum claims or in the provision of accommodation for asylum seekers. The Minister is satisfied that an average 18-month waiting period for naturalisation is reasonable given the pressure on public finances and the serious nature of the determination to be made.

The Seanad adjourned at 7.35 p.m. until 11 a.m. on Thursday, 8 April 2004.