

SEANAD ÉIREANN

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Déardaoin, 6 Bealtaine 2004.
Thursday, 6 May 2004.
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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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Paidir.
Prayer.
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Business of Seanad.

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

The need for the Minister for Education and Science to give an update on the urgent need to provide sufficient school places at primary and secondary level in Lucan, County Dublin.

I have also received notice from Senator Paddy Burke of the following matter:

The need for the Minister for Defence to outline in detail the type of accommodation provided for the members of the Defence Forces who were drafted into Dublin during the May Day demonstrations.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Order of Business.

Mr. Dardis: The Order of Business is No. 1, a motion, to be taken without debate, referred to the Joint Committee on Justice, Equality, Defence and Women's Rights, which has completed its deliberations, concerning the exercise by the State of the option under the fourth protocol to the Treaty of Amsterdam in respect of a Council decision establishing the European refugee fund for the period 2005 to 2010; No. 2, Electricity (Supply) (Amendment) Bill 2004, all Stages to be taken on the conclusion of the Order of Business and to conclude not later than 1.30 p.m., with the contributions of spokespersons not to exceed 15 minutes and all other Senators ten minutes and Members may share time; No. 3, Twenty-seventh Amendment of the Constitution Bill 2004, Report and Final Stages, to be taken at 3 p.m. and to conclude not later than 5 p.m.; and No. 4, to be taken immediately and without debate on the conclusion of No. 3, concerning the information the Department of the Environment, Heritage

and Local Government will be issuing to voters in respect of the forthcoming referendum and which will already have been discussed during the course of the passage of the Bill. There will be a sos from 1.30 p.m. to 3 p.m.

Mr. B. Hayes: I have no difficulty with the Order of Business as proposed by the Deputy Leader. I understand that my party's spokesperson supports the taking of all Stages on No. 2. While it is unusual that all Stages would be taken in one day, I understand that this is a minor matter.

As the Deputy Leader is aware, the process is well under way for the selection of a new President of the EU Commission. A decision on the matter will be taken by the EU leaders at the June Council meeting which will take place in the next five weeks or so. The Government has an unprecedented opportunity to put forward the name of the President of the European Parliament, Pat Cox, MEP, for that post. Mr. Cox has considerable experience and is intimately familiar with the new accession countries and their leaders because enlargement has been a pet political project of his for the past five years. He is head of the European Parliament and one of the first tasks for the new Parliament when it meets in Brussels after the European elections will be to ratify the nomination from the European Council. In addition, Mr. Cox comes from a small country which is a major advantage in Europe at present in light of the difficulties between France, Germany and Britain.

This is an unprecedented opportunity for the country to support the candidature of Pat Cox whose appointment to the position of President of the Commission would be good for Ireland and the European Union. In order to assist and bolster his case, the Government should state that its first choice in terms of the selection of a new EU Commissioner from this country would be Pat Cox. However, if he were to be appointed President of the EU Commission, the post of Commissioner would fall to someone else.

This is a gigantic political prize, which awaits Ireland and the European Union. I do not believe that political preferment should be used to select someone to be the new president. In the interests of this country, other small countries throughout the EU and the new accession states, Ireland should get behind the nomination of Pat Cox and put his name forward because he would make an excellent President of the EU Commission. Jacques Delors, one of the great EU Presidents, drove many of the advancements made in the 1980s. We need that kind of dynamic new vision for Europe and the country should get behind Mr. Cox.

Mr. O'Toole: I have no difficulty with the Order of Business. The Electricity (Supply) (Amendment) Bill is a classic example of an instance where all Stages should be taken in one

[Mr. O'Toole.]
day. The legislation is more like a schedule to a Bill than an actual Bill.

On the issue raised by the Leader of the Opposition, Senator Brian Hayes, I wish to indicate my great admiration for the retiring President of the European Parliament, Pat Cox, MEP, who has graced the House with his presence on a number of occasions. I also recognise that the Government has been open enough to appoint Deputy John Bruton, for example, to the constitutional committee in Europe and Mr. Alan Dukes to another senior position. However, as a disinterested Independent politician, I would be happier if the next Irish European commissioner was somebody with a hands-on rooted position in Irish politics. I said that on the previous occasion although I have no problem with the current commissioner. I would prefer to see somebody move from Irish politics to European politics. Mr. Pat Cox has a role to play in Europe and I support much of what he does. He has a huge contribution to make there. However, in terms of representing the needs of Ireland at this crucial time, I would like to see somebody who is rooted in Irish politics, of whatever party, get the nomination.

Over the past few days we have seen some changes in the movement of our economy. Ireland has moved up the competitiveness league and chief executives are paying themselves huge annual bonus increases. They are obviously rolling in money. We are also facing a new national agreement negotiation and the Government has found an unexpected extra €500 million in the bank. In the context of those changes, it would be useful to debate how we might help the Government to spend the €500 million. It should share it equally with workers and producers and spend it in the areas of health and education, particularly special education, which are crying out for support. It would be useful for us to go on the record on those issues. Health and education are raised on the Adjournment almost every night. We should say that we want this money spent in those areas and that we want it spent soon.

Mr. McCarthy: I welcome yesterday's statement by the Sisters of Mercy which unequivocally and unconditionally apologised to all those who had suffered while in institutions under their care over the years. It is time such an open and transparent apology was made. I welcome the fact that most victims' groups, if not all, have broadly welcomed the apology.

I agree with Senator Brian Hayes with regard to the merit of Mr. Pat Cox for the position of President of the European Commission. It is important that the Taoiseach seeks to find the best possible candidate for the job of commissioner. We missed a glorious opportunity to appoint a fine Irishman, Mr. Peter Sutherland, to the post in the past. We should not miss this opportunity. I pay tribute to Mr. Cox. As an

independent MEP he made a strong mark in European politics despite not having a political party behind him. He has also done a fine job as President of the European Parliament.

This morning's papers report that the Minister for Transport, Deputy Brennan, is threatening to remove the power to set speed limits from local authorities.

Mr. Norris: Good.

Mr. McCarthy: It will not make much difference in the many parts of the country where people are continually stuck in traffic jams. The Government has continually chipped away at the powers of local government over the past six or seven years. We recently debated the setting of the charges for refuse collection which is no longer a function of the elected members of county councils. It is disgraceful that five weeks before local elections and before the people return over 800 elected local government members, the Minister, Deputy Brennan, the Minister for press statements and for doing nothing, threatens to remove more powers from local democracy.

An Cathaoirleach: He is the Minister for Transport and other references are unnecessary.

Mr. Leyden: I did not realise that Mr. Pat Cox's application was being processed by the Seanad this morning. It is rather unusual.

Mr. B. Hayes: It is a job one cannot apply for, unlike the Senator's.

Mr. Leyden: I ask the Deputy Leader, Senator Dardis, to request the Minister for Education and Science, after meeting the four Deputies from the constituency in which Tom Sweeney resides, to come to the House this evening or tomorrow morning to make a statement on the progress, or lack of it, on the negotiations and discussions in his Department. The Department is aware of the situation regarding Mr. Sweeney who is on the 22nd day of a hunger strike.

An Cathaoirleach: While I admire the Senator's humanitarianism in this matter, I advise him to raise this issue on the Adjournment when we could have the Minister here.

Mr. Leyden: An Adjournment debate would be inadequate. The Minister should come to the House and make a statement to clarify the issues because the redress board is an independent organisation. I believe the board should meet today, overturn its decision and restore the allocation and compensation.

(Interruptions).

An Cathaoirleach: That is a matter for the redress board, which is independent of this House.

Mr. Leyden: The family requested me to raise the issue and I am prepared to stand up and do so. I was in touch with the Department of the Taoiseach and the Department of Education and Science this morning and spoke to officials. I also hope that the solicitor acting for Mr. Sweeney gives him proper advice in this regard.

An Cathaoirleach: Order please. We are not discussing the matter. While I said I admire the Senator's humanitarianism, he is going too far.

Mr. Leyden: I resent that young man over there making comments.

An Cathaoirleach: He is a Senator and Leader of the Opposition.

Mr. B. Hayes: Has the Senator said all he wants? He makes King Kong look good.

Mr. Finucane: I support the remarks of our leader, Senator Brian Hayes, with regard to Mr. Pat Cox. Many of us have read the eulogies to his performance in the newspapers over the past few days. He has been an excellent ambassador for Munster, the constituency he represents, over the past 15 years. A senior appointment in Europe for him would be significant as he would be an excellent ambassador for our country. I look forward to seeing some positive development in that regard.

I support the remarks made by Senator McCarthy concerning the Minister chipping away at the powers of local authorities. In the context of speed limits, is the Minister aware that local authorities have an agreement with the Garda and that it must usually approve the speed limit restriction signs before the local authorities implement them? The Minister should not have to chip away at the powers of the local authority because gardaí are already involved and have a significant input.

Reference was made to the excessive salaries of many chief executives in this country. Last weekend the newspapers reported on the chief executives of various banking institutions. I can understand the gall of many people when they consider the advice they received from such bankers on accounts and bogus accounts in the past. Many of those bank officials have been promoted. They earn excessive salaries and this causes much resentment because some people are almost penniless as a result of advice they received.

At last, the earnings of senior programme staff in RTE have been published for 2002. These people receive significant endorsements outside those earnings.

An Cathaoirleach: That is not a matter for this House.

Mr. Finucane: These people have chat shows and consistently chip away at politicians and what they earn in salaries and expenses.

An Cathaoirleach: We cannot discuss that now.

Mr. Finucane: In that context, they subject us to much cynicism and ridicule. When I compare what they earn to what we earn, it is a case of the kettle calling the pot black.

An Cathaoirleach: The Senator has made his point adequately.

Mr. Mooney: As a person who straddles the divide between RTE and politics, I would be happy to show my colleagues on all sides of the House how much I get from RTE. I assure Members that it comes nowhere the figures mentioned in the past week although I wish it did.

An Cathaoirleach: Senator Mooney, on the Order of Business please. That is not relevant.

Mr. Mooney: I am not a star or celebrity unfortunately.

I am sure the Deputy Leader will respond to the unfair allegations about the Minister for Transport. It is extraordinary that the Opposition has twisted and turned the simple and sensible suggestion he made.

In the absence of the Leader who is a former Minister for Education, and a good one, will the Deputy Leader comment on surveys from the National Youth Council of Ireland published in this morning's media? It should be of real concern to all politicians in both Houses that a nationwide survey of youngsters aged between 15 and 17 years indicates that not only do most of them not know who their MEP is, but they find it very difficult to name even one Dáil Deputy in their constituency and, most appalling of all, more than half of them cannot name a local councillor. Who is teaching the thousands of school children who have been coming through this and the other House over the years as a result of the very welcome introduction of civics into the school curriculum, and what are they being taught? Surely there is an obligation on us as politicians.

An Cathaoirleach: I do not know what we can do about that here.

Mr. Mooney: If the Chair would bear with me, I would like to ask the Deputy Leader whether he would consider inviting the Minister for Education and Science to the House to discuss how we as politicians could respond to this very stark and shocking survey. We talk about the threat to democracy but the greatest threat of all is apathy.

Mr. O'Toole: Teachers teach the curriculum. When the names are included in the curriculum the teachers will teach them.

Mr. Mooney: I am not suggesting there is anything wrong with the teaching. I am referring to the responsibilities of politicians.

An Cathaoirleach: Education is not under discussion here.

Mr. Mooney: I knew Senator O'Toole would immediately react. I want to put it on the record that I was not casting any reflection on teachers. It is important to say that.

An Cathaoirleach: Resume your seat.

Mr. Mooney: It is a pity Senator O'Toole is so defensive.

An Cathaoirleach: Resume your seat.

Mr. Mooney: I will be happy to do so. However, I hope Senator O'Toole understands I am not trying to cast aspersions on teachers.

Dr. Henry: Yesterday Senators from both sides of the House raised concerns about the advertising of spurious cures for serious illness by some medical and non-medical practitioners. As Senator Feeney pointed out, if they are advertised by a medical practitioner, something can be done about it. However, there is little that can be done if they are advertised by a non-medical practitioner. There has been legislation from the Department of Health and Children over the past 15 years to try to cover, with rules and regulations, the various professions such as physiotherapy, physical therapy and so forth. However, nothing has been done regarding the gifted amateurs who make these claims and apparently make a great deal of money from them. Will the Deputy Leader arrange for the Minister for Health and Children to come to the House to hear the suggestions Senators might have as to how we could deal with this? It is obviously a very serious issue all over the country.

Mr. Glynn: I call on the Deputy Leader to arrange a debate on animal welfare as soon as possible. Recent media reports on the operation of puppy farms has caused justified revulsion among all right-thinking people and legislation is necessary to address this very serious matter. The people involved in this practice are in it for gain. As a dog owner with a strong affection for the animal, I believe what is happening is nothing short of barbaric. I therefore call on the relevant Minister to come into this House as soon as possible and indicate what proposals he has to correct this inhumane practice.

Mr. Coghlan: I support everything Senator Brian Hayes said regarding the President of the European Parliament, Mr. Pat Cox MEP, who has done a wonderful job for the Parliament and, I am sure, would do an equally good job for the Commission.

(Interruptions).

An Cathaoirleach: Senator Coghlan, on the Order of Business.

Mr. Coghlan: I would never ignore the Chair here or anywhere else.

An Cathaoirleach: I know that. There is no need to emphasise it.

Mr. Coghlan: I thought the Chair was going to admonish me and tell me I should ask a question of the Deputy Leader.

An Cathaoirleach: On the Order of Business, Senator. You know we must adhere to a timeframe.

Mr. Coghlan: I do. The Chair knows how speedy I am. The Deputy Leader will be aware, as are many Members of the House, of the appalling service provided by Iarnród Éireann in the south-west. We have the worst carriages and a substandard second-class set-up. Passengers who change trains at Mallow must use pre-war carriages. The Minister for Transport must start taking notice and communicate with Iarnród Éireann regarding the unsuitability of carriages on the line. If we are to improve our tourism we should have luxury carriages. In addition, the people of the south-west should be treated similarly to people in other parts of the country. The service is appalling. I appeal to the Deputy Leader to use his good offices with the Minister in that regard.

Mr. Hanafin: On numerous occasions I have listened to debates here and they are well ordered, incisive and worth listening to. I am disappointed the media consistently refuse, for whatever reason, to take note of what is said in this House. As a matter of interest, Mr. Peter Sutherland, Mrs. Mary Robinson and President Mary McAleese have something in common — they failed to be elected to the Dáil. This House offers very good debate but that does not seem important to the editors of newspapers. I call on the Deputy Leader to contact the editors and ask them to include a report on the Seanad in their papers. We get good coverage on "Oireachtas Report". However, I am sad the useful debates that take place in an ordered manner that can be listened to are not being reported in the newspapers.

Mr. Norris: I was somewhat amused by the squawks of self-interested protest from Members of this House regarding the Minister's courageous and appropriate action in addressing the scandalous issue of speed limits. I have been saying this for the past two years here and I am glad somebody has taken notice. One cannot get respect for speed limits if one does not have two things, fairness and consistency. The local authorities have signally failed given that there are dual carriageways with 30 miles an hour speed limits. How could anybody respect that? It is a

money-making exercise and a promotion of certain aspects of the Garda Síochána. The Minister should take the power away from the local authorities and leave them only an advisory role. I would certainly support him in that and in dealing with the situation because citizens are entitled to a fair deal.

I would like to ask for a debate on the setting up of a press council. There have been a number of calls from all sides of the House for this. A very important decision was handed down yesterday by the House of Lords in Britain in the case of a woman media star who was photographed by the *Daily Mirror* leaving an addiction clinic. She lost her case in the High Court but the Lords upheld her right to privacy on appeal. That is a very interesting and important decision that will have consequences in this jurisdiction as well.

I ask again for a debate on Iraq. I saw Mr. Bush on television. I cannot call him a liar. The Chair would not allow it. However, he is certainly estranged from the truth. Will he now give an undertaking, since he is so horrified by torture, to stop the known exporting of people from the United States of America to Jordan, Lebanon, Syria and Egypt to be tortured, which is well documented by Amnesty International?

Regarding moves to remove patent protection from areas of micro-technology, in which this country is extremely advanced, I request the Leader of the House not necessarily to draw the Government's attention to it because it knows about it, but to express to the Government the support of everybody in this House for protecting these rights. I understand the European Commission takes a different view to the Parliament. We should strongly support our Government in protecting rights in an interest that is vital to our economy.

Mr. U. Burke: I call on the Deputy Leader to request the Minister for the Environment, Heritage and Local Government to come to the House as a matter of urgency to indicate what steps the Government intends to take regarding the housing crisis, particularly in the area of social housing. There are 60,000 families on housing lists throughout the country. The ESRI report on housing, poverty and wealth in Ireland, which was published in recent days, gives a clear indication of the direction in which we are going. Between 20% and 35% of local authority housing starts were in the social housing category in the 1970s and 1980s, but the rate has decreased to 10% today and continues to fall. It is impossible for unemployed persons and single parents to access the rental market. Rents have increased by 300% over the past five years. The Government seems to have a complete lack of policy ideas aimed at tackling the problem. Local authorities do not have any land banks. Members have tried to highlight the fact that 150,000 people are waiting for housing, which is a clear indictment of—

An Cathaoirleach: The Senator is seeking a debate.

Mr. U. Burke: The Government has failed.

An Cathaoirleach: We cannot debate the matter now.

Mr. U. Burke: I ask the Deputy Leader to invite the Minister to the House to indicate clearly the policies, if any, he intends to promote to rectify the crisis I have mentioned.

Mr. Kitt: I agree with those who have called for a debate on Iraq. In particular, we should discuss the treatment of prisoners and the quality of life of ordinary Iraqi people who are caught in the crossfire.

I also ask the Deputy Leader to organise a debate on the western rail corridor. Some of my colleagues and I have met the Minister for Transport in various towns along the corridor. Having listened to the Minister's comments this morning, it is clear that progress is being made. I hope that the development of commuter traffic to Galway city will be a priority. Although a suitable railway line is in place, no commuter service is being provided. I hope Iarnród Éireann, which has done all it can to create obstacles in the past by taking up sections of the railway line and removing signalling equipment at Athenry, will support on this occasion the service being sought by the Minister and public representatives in the west. The redevelopment of the passenger rail service between Sligo and Limerick should involve, in the first instance, the introduction of a commuter service to Galway.

Mr. J. Walsh: I support Senator Kitt's call for a debate on Iraq. If one reads the Official Report of the debate in this House before the invasion of Iraq, one will find that many of the apprehensions outlined by Senators at the time have, unfortunately, come to pass. Such a debate would be timely because current events in Iraq are sowing the seeds of conflict for a considerable time to come.

I would also like the House to debate the National Roads Authority soon. Having listened to some of the comments made by Senators about speed limits, I have to say I am not confident that a transfer of powers from local authorities to the NRA would bring about a significant change. I mentioned last week that millions of euro have been spent on improving the N11, on which I travel frequently, to dual carriageway standard between Glen of the Downs and Kilmacanogue. I understand that the road in question has speed limits of 40 mph and 50 mph at different sections at the direction of the NRA. I do not think one can have great confidence that we will see improvement if responsibility is passed to the NRA. I ask for a debate on the NRA because it is important that we get value for money from the current level of investment in the roads

[Mr. J. Walsh.]
network. The roads being built at present will have to stand the test of time and meet the needs of the transport industry.

Mr. Ross: I would like to take up Senator Hanafin's fair point about the Seanad not getting proper coverage from the media. We should examine the reasons we do not get the sort of coverage we would like to get. It is not the case that the House does not do important work, because it is involved in important and effective work. The media does not necessarily cover matters that are important or bodies that work effectively. The media is governed by other, more immediate, considerations. The House should examine the fact that the media does not consider it to be particularly relevant. Senator Hanafin rightly mentioned that RTE reports the proceedings of the House, but I contend that it does so because it has to cover us, rather than because it wants to cover us. It broadcasts Seanad reports late at night because nobody is watching late at night. RTE is obliged to cover the Dáil and Seanad because it has a public service obligation.

Mr. Leyden: Some 60,000 people watch the coverage.

Mr. Ross: In the context of the ongoing reform of the Seanad, we should examine the possibility of making the House more relevant, more appealing and more immediate in its powers and effect.

Mr. Dardis: I thank Senator Brian Hayes for agreeing, as Leader of the Opposition, to take all stages of the Electricity (Supply) (Amendment) Bill 2004 today.

Senators referred to the presidency of the European Commission. We have been extremely impressed by the work done by Mr. Pat Cox as MEP and as President of the European Parliament. As he retires as MEP for Munster, we wish him well in his future endeavours. I am sure his constituents will miss him. I do not doubt that he would make an excellent President of the European Commission. I would like him to be appointed to the post because he has all the qualities that one would hope for. Those of us who were fortunate to attend the accession function in Dublin Castle will be aware that he gave a *tour de force* performance at the press conference afterwards, accompanied by the Taoiseach and the current President of the European Commission, Mr. Prodi. I would like him to be appointed to the post. I am sure the matter will be discussed as the Taoiseach visits the capitals of the EU member states to discuss the proposed EU constitution.

I would like to add that Mr. David Byrne has been an excellent Commissioner. He was denigrated when he was appointed as Commissioner on the basis that it was not a job

at all, but it has proven to be an important job. He has fulfilled his remit extremely well.

Mr. Mooney: Hear, hear.

Mr. Dardis: Senator O'Toole made the point that it might be preferable to appoint a person whose feet are firmly planted in national politics, but I think Mr. Cox fulfils that criterion.

Mr. O'Toole: I was speaking about myself.

An Cathaoirleach: That is noted.

Mr. Dardis: We may have to judge whether the intervention of Senators Brian Hayes, Finucane and Coghlan on behalf of Mr. Cox was helpful. Perhaps another forum can adjudicate on the matter.

Mr. B. Hayes: He left the Progressive Democrats for other reasons.

Mr. Dardis: Mr. Cox is a member of the European Liberal, Democratic and Reformist Group.

Mr. B. Hayes: The Progressive Democrats does not have an MEP.

Mr. U. Burke: Mr. Cox is a substitute for the PDs.

Mr. Finucane: The Deputy Leader has no interest in Europe.

Mr. Dardis: I welcome figures that have emerged in the last 24 hours reporting that revenue of €750 million was collected from taxation in April. The Minister, Deputy McCreevy, has shown himself to be extremely capable of managing the economy efficiently and prudently. I am sure that will continue.

Mr. O'Toole: Perhaps he will allocate more money to special education.

Mr. Dardis: We look forward to the budget later this year to see how the Minister will distribute the funds available to him. I am sure that a debate on the issue would be helpful. I do not disagree with such a proposal. I will try to organise such a debate.

I share Senator McCarthy's sentiments in respect of the welcome statement from the Sisters of Mercy. It gave victims the reassurance they require. It was gratifying to see the reaction of the victims to the statement. This probably needs to be done on a broader basis.

Senators McCarthy, Finucane, Mooney, Norris and Jim Walsh raised the issue of speed limits. I heard the comments of the Minister, Deputy Brennan. I do not doubt that there is a huge inconsistency about the manner in which speed limits are operated on national roads. The Minister or the local authorities need to do

something to add coherence to the overall policy. The Minister and Mr. Conor Faughnan of the AA said that these problems are undermining the enforcement of speed limits and the penalty points system. People get frustrated when driving on certain sections of road on which it is possible to drive safely at a greater speed than the speed limits allow. This matter needs to be dealt with.

Senator Leyden raised the issue of Mr. Tom Sweeney's hunger strike. From a humanitarian point of view, one would wish to see it resolved as quickly as possible. I know the Minister for Education and Science, along with a deputation from the Department, met the four Deputies who represent Mr. Tom Sweeney. My only hope is that it will be concluded successfully and quickly and that anything to promote this will be done.

I know Senator Finucane's views on salaries in the private sector, particularly in banking. With regard to RTE, it is annoying that Members are subjected to vilification for what they earn, while there was total silence on what was earned by high profile people in the national station. I do not disagree that good broadcasters should earn high salaries as do good footballers. However, it is important the public knows what these people earn.

I am not interested in what Senator Mooney earns but if he wishes to tell me afterwards, I would be grateful. I note the Senator's comments on the National Youth Council of Ireland report. I heard the report this morning that one in two young people could name their local Dáil Deputy and nine out of ten could not name one single MEP. However, when we were that age, none of us had an idea who our local Deputy was and some may not even have known who was the Taoiseach. It is a characteristic of young people that they are not interested in these matters.

Mr. O'Toole: Except the young Progressive Democrats.

Mr. Dardis: That is not to say that they should not be encouraged to be interested in politics.

Mr. Mooney: Yet up to 70% of them want to vote.

Ms White: They want to vote.

Mr. Dardis: I do not regard that as surprising.

Mr. B. Hayes: They want to run for the Seanad.

An Cathaoirleach: The Deputy Leader without interruption.

Mr. Dardis: I agree with what Senator Henry said on spurious cures and that there are different criteria for medial practitioners and others. Either everybody should be regulated or nobody should be. I noted the appalling consequences of one treatment given for cancer. These matters will be brought to the attention of the Minister

for Health and Children. It would also be appropriate to debate the matter in the House.

Senator Glynn raised the issue of animal welfare and we are all appalled by what is happening at these puppy farms. There have been improvements in animal welfare. The Department of Agriculture and Food regulations on the transport of animals, both domestically and internationally, have done much to improve matters. However, there should be consistency across the board.

Senator Coghlan will be pleased to hear that I recently had the privilege of travelling by train from Killarney and it was a pleasure.

Mr. Coghlan: Did the Senator have to change at Mallow?

Mr. Dardis: The sojourn on the platform at Mallow was a pleasure. One meets all sorts of interesting people on that journey and I am sure Senator Coghlan would fall into that category. Investment in the rail infrastructure is ongoing and hopefully it will apply to the Killarney line.

Mr. B. Hayes: Progressive Democrats missionaries must have been on the train.

Mr. Dardis: Senators Hanafin and Ross raised the issue of media coverage of the House. I accept that only rows in the Houses attract the media's attention while important legislation is ignored. Deputy Cassidy, when Leader of the House, with members of the Committee on Procedure and Privileges met the national newspapers and RTE—

Mr. U. Burke: He is hardly ever mentioned in this House these days.

Mr. Dardis: —to express our concerns about coverage. Perhaps the Cathaoirleach will consider another meeting through the Committee on Procedure and Privileges.

Mr. O'Toole: This is classic in terms of the Fianna Fáil-Progressive Democrats Government. There is plenty of coverage but we do not deal with the issue. The e-government report could have been dealt with by the House and it would be covered in every newspaper in the land.

An Cathaoirleach: The Deputy Leader without interruption.

Mr. Dardis: I agree with Senator Norris that the establishment of a press council should be debated along with the whole issue of citizens' rights to privacy. The use of long focus lenses to photograph chief mourners at private funerals is increasingly prevalent. It is objectionable that people under pressure at the funeral of a loved one are splashed across the national media, particularly when the circumstances are tragic. It is a different standard for public figures.

[Mr. Dardis.]

Senators Kitt and Jim Walsh joined with Senator Norris in calling for a debate on the situation in Iraq. Everyone is appalled at the infringement of human rights there. There is a perception that the West is the sole custodian of human rights issues. It now transpires that is not the case as there can be serious transgressions in the West as anywhere else. One wishes to see this rectified.

Senator Norris also referred to the patentability of computer implemented inventions and technology. That matter is being discussed by the Sub-committee on European Scrutiny of the Committee of European Affairs with representatives from the Department of Enterprise, Trade and Employment. The directive has damaging consequences for the industry in Ireland but it is hoped to rectify it under the Irish Presidency of the EU.

I agree with Senator Ulick Burke's call for a debate on social housing. Senator Kitt raised the issue of the western rail corridor and I heard the comments of the Minister for Transport, Deputy Brennan, this morning. Happily, an expert group will examine it and I hope, as a result, the corridor will be developed to facilitate commuters to Galway.

Mr. O'Toole: Will that be before the local elections?

Mr. B. Hayes: More like the general election.

Mr. Dardis: I doubt it will be in time for the local elections.

Mr. O'Toole: It all sounded very cynical.

Mr. Dardis: I am sure a decision in principle will be reached. Senator Jim Walsh referred to the National Roads Authority and a wider issue of the speed limits. The National Roads Authority has been the subject of debate in the House before and it should be again.

Order of Business agreed to.

European Refugee Fund: Motion.

Mr. Dardis: I move:

“That Seanad Éireann approves the exercise by the State of the option, provided by Article 3 of the fourth Protocol set out in the Treaty of Amsterdam, to notify the President of the Council that it wishes to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision establishing the European Refugee Fund for the period 2005 — 2010 (COM (2004) 102),

a copy of which proposed measure was laid before Seanad Éireann on 2 April 2004.”

Question put and agreed to.

Electricity (Supply) (Amendment) Bill 2004: Order for Second Stage.

Bill entitled an Act to amend section 4 of the Electricity (Supply) (Amendment) Act 1954 and to provide for connected matters.

Mr. Dardis: I move: “That Second Stage be taken today.”

Question put and agreed to.

Electricity (Supply) (Amendment) Bill 2004: Second Stage.

Question proposed: “That the Bill be now read a Second Time.”

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): Molaim an Bille don Teach. I commend this Bill to Seanad Éireann.

The purpose of this Bill is to raise the ESB's statutory borrowing limit which will facilitate its major infrastructure investment programme being undertaken. This includes significant investment in renewing and upgrading the electricity network. The statutory borrowing limit currently stands at £1.6 billion which is equivalent to €2.03 billion, which has remained unchanged for the past 22 years. The Bill proposes raising this limit to €6 billion to take account of the current reality of the economy.

Management of the ESB's finances is a matter for the board and management of the company. The board has discharged its fiduciary duty prudently down through the years. Towards the end 2003, the ESB became more acutely aware of the constraint which the existing borrowing limit was putting on the company. It became apparent that for the company to accomplish its significant capital expenditure programme, it would need to rely more extensively on its borrowing capacity and that it could not continue business as usual within the confines of the existing limit.

The ESB's borrowing level is almost at €2 billion which is very close to the existing limit. Although the company has employed tight management of its cash outflows over the last several months, the remaining cash balance is expected to be exhausted by the end of May, assuming no unexpected demands for cash in the intervening period. The urgency in passing this legislation is, therefore, essential for the company to continue to operate effectively. I thank the Seanad for its co-operation in allowing for the possibility of the Bill passing all Stages today. The Government had initially decided to include the new statutory borrowing provision in the proposed Energy (Miscellaneous Provisions) Bill 2004. However, the Attorney General

subsequently advised me that a stand-alone Bill dealing solely with the ESB statutory borrowing issue would be more appropriate in view of the time constraint on the enactment of this new legislative provision. The Energy (Miscellaneous Provisions) Bill 2004 will now be published later this year.

I will outline the background to ESB's expenditure programme and overall borrowing requirement. In 1982, when the borrowing limit was last set, the annual capital expenditure for ESB was in the region of £200 million, which is approximately €254 million. This year, the approved annual capital spend will be up to €1.4 billion, nearly six times what it was in 1982. This is an all-time peak level for the company and is reflective of the enormous range of infrastructural development being undertaken at this time. However, capital spending of this magnitude is not envisaged as the norm for the foreseeable future. ESB views this trend as reaching its peak in 2004 and then taking a downward turn over the next five years. By 2008 the company expects its capital spend to be around €650 million, which is about half of the current expenditure levels. This will bring the company back in line with its more normal spending trends.

It is appreciated that tripling the limit from €2.03 billion to €6 billion in one go may seem to be a quantum leap. I will provide some context for the existing and proposed limit figures. A total of €2.03 billion in 1982 terms is now approximately equivalent to €4.31 billion in 2004 terms. This gives some perspective on the proposed new limit of €6 billion. ESB has advised that its borrowings will increase to nearly €4 billion by 2008. Facilities of €1 billion are required for liquidity purposes. It is intended that these facilities will remain undrawn unless absolutely necessary. It is proposed to factor in an additional €1 billion, thus bringing the limit to €6 billion in total. Given the ever-present pressures on Government legislation programmes, it is considered prudent to use Oireachtas time wisely and not to be returning for piecemeal statutory revisions on a frequent basis. It should also be remembered that the current statutory limit had sufficient headroom built into it to cover the company for the past 22 years. The actual requirements and the projected headroom built in to the amount of the proposed new limit of €6 billion should see the company in good stead for the foreseeable future.

The aim of ESB's debt strategy is to ensure there is sufficient liquidity in the company; to ensure flexible terms and conditions consistent with the achievement of the corporate strategy of the company; to minimise the cost of debt while optimising the debt mix; to develop strong relationships with a key group of banks; and to ensure a diversity of funding sources. ESB has many sources of financing, including the European Investment Bank, syndicated facilities and bilaterals, leases, the private placement

market and non-recourse financing. Having a range of different sources at its disposal provides the company with greater opportunity to avail of the best terms and keenest rates on offer. Keen funding rates underpin a more cost-effective capital expenditure programme.

The putting in place of the US private placement in December 2003 has given the company a significant financial boost. The \$1 billion deal, equivalent to €868 million, is intended to fund major improvements in the power infrastructure in this country. The private placement market was an attractive option for ESB because of the range of maturities and the competitive interest rates available. It provided ESB with another source of long-term financing at keen rates. Two leading banks, ABN Amro and Barclays Capital, jointly arranged the financial deal with the principal participants being insurance companies and some pension funds. The very positive response of the private placement market is a measure of the high standing in which ESB is held internationally and also a vote of confidence in the Irish economy. ESB has not ruled outsourcing further funds in the private placement market in the future. ESB also entered into a separate €500 million revolving credit facility at the end of 2003. The facility, which was co-ordinated by the Royal Bank of Scotland, will be drawn when necessary to ensure liquidity is constantly available and will therefore assist ESB's overall funding programme.

One of the main beneficiaries of the increased revenue stream is ESB's infrastructure investment programme. Investment over the next five years is expected to reach almost €4 billion. This is designed to cater for the strong increase in demand for electricity in the Irish market and will support development of the national economy. In 2003, ESB invested more than €650 million in the development and renewal of the network infrastructure in Ireland. The replacement and upgrading of almost 17,000 km of distribution network was completed and a record 77,000 new customers were connected to the system. For 2004, the company has a target of 20,000 km of network renewal scheduled for completion.

In any consideration of the future of ESB my views are already known. I strongly oppose the privatisation of the transmission and distribution systems, which are critical national assets and should remain in State ownership. I am also opposed to any privatisation which would result in a private monopoly or near-monopoly in the power generation sector. I confirm here what I said to the Oireachtas Joint Committee on Communications, Marine and Natural Resources recently, the privatisation of any part of the company is not on my agenda.

The renewal and investment in ESB's generation portfolio both here and abroad is continuing in line with the company's corporate strategy. During 2003 agreement was reached on

[Mr. D. Ahern.]

the closure of the old peat-fired generating stations at Rhode, Shannonbridge, Lanesboro, Caherciveen and Bellacorrick. Their orderly decommissioning will take place as two new state-of-the-art peat stations at Lanesboro and Shannonbridge come into production later this year and early next year respectively.

ESB's international investment programme promotes the good reputation of the company among global energy utilities. Two major international power generation projects are expected to come to fruition shortly. These are the new 400 MW plant which will be commissioned in early 2005 in Coolkeeragh, near Derry, and a new 750 MW plant in Amorebieta, near Bilbao in northern Spain, which is due to be commissioned in late 2005.

A decision on the future of the coal-fired station at Moneypoint must be made over the coming weeks. ESB is considering what commercial decisions it should take as an investment of around €250 million would be required for emissions cleaning technology to ensure compliance with environmental obligations and maintain the plant in operation for the long term. If Moneypoint is not to be upgraded to comply with the new environmental requirements it must close by 2011 and an alternative electricity generating plant, probably gas-fired, would have to be in place by that time. If the company is to justify major new investment in Moneypoint it must be in the context of benchmarked best practice in all respects.

The Bill before the House is short, with only two sections. Section 1 is the main provision and gives effect to the change of limit to €6 billion by amending subsection (4) of section 4 of the Electricity (Supply) (Amendment) Act 1954. This section of the 1954 Act was originally amended when the borrowing limit was raised to its current level of £1.6 billion by the Electricity (Supply) (Amendment) Act 1982. The new subsection (4) repeats exactly the wording of the existing subsection (4) except for the change from the amount in pounds to the new higher amount in euro.

Given the nature of the amendment and the size of the provision, the Office of the Parliamentary Counsel felt it more appropriate to restate the subsection in its entirety with the new higher amount rather than making the amendment by the isolated substitution of the monetary amount. I concur with this approach as it facilitates a clearer understanding of what is being proposed by all who will read this Bill. Transparency and clarity of understanding is a key tenet of the Government's White Paper on better regulation, which was launched by the Taoiseach in January this year and the approach being taken in this Bill is in line with the spirit of easier accessibility of legislative provisions. Section 2 provides for the Short Title, collective citation and construction of the Bill and is a standard drafting provision.

ESB is one of the major State companies and its operations and service affect the entire economy and every citizen. It is a major source of employment and its expenditure budgets are substantial by any standards. This year marks the company's 77th year in business. I commend the board, management and staff for their commitment and professionalism in delivering reliable electricity down through the years. There are many further challenges and opportunities facing ESB in the deregulated energy and electricity markets. ESB is changing and adapting to meet the new demands of the energy sector. I wish the company well as it continues to adjust in the new area of deregulation, and in its endeavours to give the country a high quality electricity supply and infrastructure. I hope the foregoing will give Senators a reasonable summary and outline of the ESB's borrowing requirement in the context of the present infrastructure investment programme. I will be glad to provide any further information to the Senators to facilitate their consideration of the Bill, and I thank them again for their forbearance in bringing the Bill quickly through the House.

Mr. Finucane: We have no difficulty with allowing all Stages of the Bill to be dealt with this morning because it is non-contentious. It simply raises the borrowing capacity of the ESB. Considering the context of modern Ireland and modern times, and having regard to the skill deployed in the ESB, it is understandable that the borrowing requirement should be revised accordingly.

The ESB was established in 1927. It has served the country well, and there is tremendous respect for what it has done over the years. In recent times the word "liberalisation" has crept in. Many people anticipated that with liberalisation, the overall cost of electricity would fall. It is a cause of concern over the past three years that ESB charges have increased by 25%, which is certainly not consistent with the overall inflation rate. That has caused concern to the business consumer as well as to the domestic consumer. The cost of electricity for the domestic customer is less in Ireland than it is on average in Europe, but for the business customer the cost is greater than the European average price. Liberalisation has had limited impact over the past few years. When it comes to generating capacity, there is one other strong player in the market, Viridian. In a submission to the Minister in 2002, the Competition Authority stated:

...because of the manner in which the EU electricity directive has been implemented, we have a regulated, nominally vertically separated, super-dominant undertaking which brings none of the proven benefits of competition (as shown in other countries), but which costs, apart from the efficiency losses associated with separation, additional wasted resources in terms of the increased regulatory burden.

That is quite a strong statement, but in reading the Competition Authority's assessment and the documentation it produced, as well as other documents, I wonder about the ESB's attitude to Eirgrid. The statutory instrument introduced in 2000, which deals with the separation of Eirgrid for the transmission aspect, has not yet been implemented. Questions are being raised more than three years later with regard to that separation and what is happening in that area. The Minister is well aware that after all this time, Eirgrid appears to be stillborn. There appears to be no enthusiasm among ESB staff to transfer to it. One wonders about the ownership of Eirgrid and whether what is happening in the European context is desirable. I know that the Commissioner for Energy Regulation, Mr. Tom Reeves, recently submitted his views on this matter to the Minister. I have a copy of his comments, and he appears to have reservations about whether Eirgrid should be established at this stage. I would like to know what is happening to that statutory instrument introduced in December 2003. The concept was one of evolution, with generation on one side and transmission on another, along with distribution and supply.

One element which I have raised before the Joint Committee on Communications, Marine and Natural Resources, is causing concern to the committee. The Minister is aware that there has been great enthusiasm in this country for the wind energy concept. Farmers in particular viewed it as an alternative form of income. Farmers with land which, was not of value to them looked enthusiastically at the possibility of wind turbines. The Minister promoted that concept in accordance with the Kyoto Protocol as something we would like to see in this country as part of a wind energy programme. The concept was enthusiastically grasped. In seven years, the level of wind energy going into the system is about 211 MW.

Already, by means of AER VI, it is hoped that another 828 MW will come on stream, which will bring the total to over 1,000 MW. There are also applications stacked up within the ESB regarding other wind energy projects totalling nearly 1,000 MW. My concern relates to the moratorium because concerns were expressed by the ESB about the stability of the system as a result of all these wind energy projects coming on stream. The ESB concerns led to a moratorium on further applications. I also understand that the energy regulator expected to have a report ready at the end of April, but I do not know if that has been achieved. The ESB also has an input to the various stipulations and criteria for further wind energy projects because it had concerns regarding turbines and other issues.

There is an element therefore of waiting to see what new projects will emerge. If there is a megawatt capacity between the North and South of Ireland of about 7,000 MW — including 5,500 MW in this country — when does someone

decide how many megawatts of energy the system can take if there are already concerns regarding the 211 MW within the system and concerns about stability? It is worth bearing in mind that concerns about stability have been expressed in many European countries, such as Denmark and Italy, which have enthusiastically grasped the wind energy concept.

At some stage, someone must say that the system can take only a certain amount of the wind energy and all the wind energy projects which have been given planning permission, as well as those stacked up in a queuing system within the ESB, will have to be reconsidered. In local authorities around the country, various wind energy projects are going through the planning process and there is an expectation from the people behind them — private companies as well as groups of farmers — that these wind energy projects will be established. I am concerned that with people having gone through all that process there will come a point when someone decides that no more projects can be accepted. What thinking has gone into bringing this jigsaw together to see what is achievable or desirable, where we might stop, and what would be sustainable? The wind energy aspect should be looked at very seriously by the Commission for Energy Regulation, within the ESB and within the Department. We should have a position paper regarding what level of wind energy is attainable, desirable or sustainable. That area concerns me.

The statutory instrument SI 445 was issued on 20 December 2000. At some stage, someone will have to say whether that statutory instrument is sustainable or feasible or whether it will ever be implemented. The Commissioner for Energy Regulation has written to the Minister in that regard, and someone in the Department must decide whether Eirgrid will ever get off the ground as a separate entity, or whether in the current context it is desirable that it should do so.

I recently met ESB personnel involved in the grid and transmission area. I was very surprised about the forced outages and availability across all generators, something about which the Minister should also be concerned.

We talk about electricity outages, breakdowns and faults but I was surprised to learn that from 1997 to 2004 there was a rapid deterioration in that area. There has also been a deterioration in terms of system availability and generation capacity. Concern has to be expressed in both those areas when one considers the major power outage that occurred in New York last year and those in other countries. I wonder if there is concern at this stage about the graphs which highlight difficulties in those areas and the ESB system being able to provide an efficient electrical output for the future in terms of the business plans and domestic consumers. I would be interested to hear the Minister's reaction to that point.

[Mr. Finucane.]

On the point the Minister raised about Moneypoint, it is easy to go back in history but I remember the debate at that time on establishing a coal-burning station at Moneypoint and the famous debate with regard to the proposed nuclear station at Carnsore Point. Nuclear energy was considered out of order and I welcome that because if it were to be considered now, especially with the scale of the disaster at Chernobyl, there would be a furore. However, we have to consider the alternative forms for the production of electricity.

When Moneypoint was going ahead, environmentalists suggested that scrubbers be put into the chimneys but, because of financial constraints on the ESB in building that generating station, they were not put into the chimneys. The European Union has now dictated that the ESB has to make a decision in that direction by 2011. My understanding is that a decision will be made in the next few months and it will have profound implications for Moneypoint. If it proceeds with spending the €250 million to address the environmental problems in Moneypoint and put in place environmental controls, which I hope it will do because it is a successful, established company, will it have the same generating capacity? Naturally, we will see an improvement in the environment as a result.

I grew up in Foynes, in Limerick, although I am now living in Newcastle West, and I was always concerned that nearly 50% of the country's sulphur dioxide emissions were being spewed into one specific area along the estuary. Due to the confluence of the winds it was usually spewed into an area surrounding Foynes. We often hear about acid rain and other environmental concerns but that was always a specific concern of mine. I always believed Moneypoint was a major contributor to that problem and that has been proven now. An improvement in the situation at Moneypoint is long overdue, and money has to be spent in that area. If there are concerns with regard to the generation aspect, the ESB will need a re-adapted Moneypoint because extra generating capacity will have to be created.

On the long-term stability of the electricity market, despite the reservations I expressed about wind energy and the experts' concerns about how that will affect the electricity supply, what is important now is an interconnector between the United Kingdom and here. The Minister will correct me if I am wrong but I understand the possibility of two interconnectors between the UK and Ireland is being considered. If we are concerned about stability in the future and so on, it is important to have that interconnector.

I read in a newspaper during the week, and this may be of concern to the Minister also, that the workers in the ESB have said that if certain concessions are not given with regard to negotiations for a pay increase, there may be a

threat to our supply in the next few weeks. I hope sanity will prevail and discussions take place because the last thing we need at this stage is an ESB strike which will inhibit supply. In fairness to the ESB, it has an excellent industrial relations record, with the exception of minor aberrations over the years, and I would like that to continue.

Mr. Kenneally: The purpose of this Bill is to provide, *inter alia*, for the raising of the statutory borrowing limit of the ESB from £1.6 billion to €6 billion as set out in section 1. It is necessary to amend the legislation where the borrowing limit is stipulated, something which has not been done for 22 years. This revision is necessary so that the ESB can fully, and in accordance with its statutory obligations, implement its capital expenditure programme. I am pleased to note there is no implications in terms of Exchequer costs or its staffing levels. I have no doubt this measure will find general favour, particularly in the light of the service which this organisation has given to the State and its people since it was founded in 1927.

The ESB has to be regarded as one of the success stories of Irish business and also one of the most successful of the many semi-State companies set up to bring us out of the economic stagnation of post-colonial Ireland. It has been involved in generating power since it built the first major power plant at Ardnacrusha, County Clare, in the late 1920s, a venture which was not without its critics and sceptics at the time. Now the company is at the leading edge of power generation with its newest plants, including the latest combined cycle gas turbine power plant at Poolbeg in Dublin. The ESB, and we as a nation, have come a long way in the past 77 years but it is essential that we examine the role of the ESB in a society which has changed dramatically since the board was founded over three quarters of a century ago.

For example, the ESB has stated that Ireland has one of the fastest growing electricity markets in the developed world. It grew by over 40% over the past ten years, far ahead of growth in the rest of Europe. The growth in the economy and the increasing number of new housing units and businesses is also reflected in its returns. In the past year alone, a total of 63,000 new customers were connected to the electricity network.

This Government has been trying to encourage competition in what is both a sizeable and lucrative market, and a vital national resource. We have lived with this service for so long and, in fairness to the board and its employees, have been served so well by them that we sometimes take them for granted and have little interest in finding out just what they are about and the size of the organisation. The ESB has never been a drain on the public finances because, by its very nature, its product has been in demand and it has had a monopoly position for decades. The ESB accepts that the days of that monopoly in the generation of electricity are over and that it has

special responsibilities in regard to the distribution of that power. The ESB's policy is clearly outlined on its website. It states:

With the progressive opening to competition of the electricity market in Ireland, it is essential that ESB Networks, which will remain a monopoly business in the new market, provide services in a transparent and equal basis to all electricity customers, irrespective of who their electricity supplier is. This requirement is clearly set out in the legislation that established the new electricity market structures in Ireland, and is incorporated into the licences issued to ESB by the Commission for Energy Regulation.

Like any major corporation, the ESB has had its share of critics over the years and has occasionally attracted bad press. Most of us at some stage have had occasion to grumble about power failures, missing street lights or a perceived absence of proper voltage. On the other side of the coin is the service its employees have given, often under the most extreme conditions. They have bravely worked to repair the damage caused by snow storms, major flooding and storm force winds, more often than not before those extreme conditions have abated, so that as few people as possible would be inconvenienced for the shortest time possible. It is appropriate to recall the individual acts of courage and heroism and acknowledge the contribution the workforce has made, often beyond the normal call of duty. Their safety record is to be envied, and in any broad assessment they must be seen as a company and workforce which have delivered for the State and its people.

Their operations have not of course been confined to the home market. A valuable arm of the ESB's business is in international consultancy, an area which has provided valuable revenue and also enhanced both our national and international reputations and that of the board worldwide. According to its own statistics, ESB International has a presence in over 25 countries worldwide and has carried out projects in over 100 countries. That is about half the entire number of countries around the world. Few, if any, Irish commercial companies can boast such an international presence. The company is currently developing power projects in Bilbao in Spain and Coolkeeragh in Northern Ireland. It employs over 1,400 people, 200 of whom are outside Ireland, and has representative offices in London, Cork, Bilbao, Glasgow, Bahrain, Abu Dhabi, Belgium, Vietnam and Malaysia.

If there is a reservation in anyone's mind about the possibility of interests from outside the country becoming players in the Irish electricity market, we might remember that the ESB itself and, by extension, we as a nation have benefited from its involvement in nearby Britain, where it has operated the country's first independent power plant at Corby since the early 1990s. It had been using that system in the north wall since the

early 1980s and it was the first station to use that modern technology in Europe.

In its annual results for 2002, the ESB group reported that turnover was €2.1 billion and profit before interest and tax increased to €250 million, an increase of 26% on the previous year. Capital investment was €864 million, the highest ever recorded by the company and an increase of 58% on the previous year. The ESB and its divisions are engaged in an investment of over €3.5 billion over the next five years, the largest ever by any company in the history of the State.

As I stated earlier, the ESB, in common with every other business in the country, has to take cognisance of the changing face of society and look to accommodate desirable changes and aspirations in Ireland. Among those is a desire on the part of the majority of people for a cleaner environment. One need only look at the enthusiastic way in which the people of Ireland have embraced two very desirable initiatives introduced by the Government in the last few years. First, there was the plastic bag levy designed to take unsightly and widespread litter from our roadsides, fences and hedgerows. It has been successful and implemented willingly by the people, who have been quite happy to forgo the dubious benefits of plastic bags for an enhanced environment. The second initiative was the smoking ban, which is almost universally accepted as a success and the benefits of which I need not labour here. I will limit myself to saying that the stiffest opposition did not come from smokers, who largely welcomed the measure, but from vested interests, meaning that it had a much narrower focus than that of the Minister for Health and Children.

Equally, the ESB is moving away from the less desirable methods of electricity generation and closing down several peat-burning stations. All of the existing peat generation units are due to be replaced by two brand-new peat stations, which are currently under construction and will be located at Shannonbridge and Lanesborough. That move has not been without industrial relations problems, but the plan is being implemented and our environment will be all the cleaner for it. It is interesting to note that the company is the largest green generator and supplier of renewable power, with hydroelectric power stations on the Erne, the Shannon, the Lee and the Liffey.

A wholly owned subsidiary of the ESB, Hibernian Wind, has been developing wind farms at Carnsore Point in County Wexford and Moneypoint in County Clare. Those who can remember back three decades ago will recall the proposal to build a nuclear power station in Carnsore, a suggestion that attracted widespread opposition and was dropped shortly afterwards. Moneypoint, the second site of wind generation, has been one of the less clean generating plants, using enormous quantities of coal with its resultant pollution potential. I am surprised and not a little disappointed at the attitude of sections

[Mr. Kenneally.]

of society, not least those who would class themselves as environmentalists, who have voiced very strong opposition to the location of wind power masts in sometimes remote locations. Spurious arguments such as the noise of the vanes lend nothing to the debate, as they are founded on misinformation. I am quite prepared to accept that the masts may be visually intrusive, but it is difficult to believe that there are no suitable remote locations, such as valleys where the wind funnels, which could not accommodate such masts, would be out of general sight. We cannot have an ever-increasing demand for electrical power on the one hand without conceding something on the other and wind power must be the cleanest means of generation.

I would similarly like to see resources being set aside for a full investigation of the potential of wave power. As the most westerly country in Europe, bordering the Atlantic, there must be potential for the use of estuaries and other areas of water for the generation of electricity from wave power. Turlough Hill, the pumped storage hydro scheme in County Wicklow, is still a showpiece of electricity generation in Ireland and shows the kind of innovation of which the ESB is capable. While it may have been built in the 1970s, it is still a relevant example of what can be achieved if a commitment exists to the best principles of the proper use of resources and care for the environment. It is the fifth largest generating station in Ireland and is particularly beneficial as it operates as a storage scheme.

As the public company in the field of electricity generation, the ESB should be more proactive in both those areas, and studies should be carried out and reports and recommendations produced as soon as possible. Perhaps there may even be the possibility of exporting power, with resultant benefits for the economy and the balance of payments. We might well take a look at the Danes' experience. There appears to be new broad agreement in their parliament regarding a commitment to the principle of wind power and ensuring continuity of supply on the Danish market. The Danish Wind Industry Association suggests that Danish politicians recognise that the wind industry is an important engine for growth and welfare which contributes billions of euros to the Danish balance of payments, as well as employment for more than 20,000 people. A new agreement in parliament there will result in upwards of 750 MW of new wind power capacity in Denmark over the next five years. Electricity provided by wind will increase from 20% to more than 25% of the annual national consumption.

I am no weather expert, but it appears to me that we are as well, if not better, placed than the Danes to take advantage of wind power, exposed as this island is to Atlantic winds. I often wonder why such an obvious possibility should be so neglected, from the point of view both of encouragement of and investment in research. The concept of wind energy is far from new, with

the windmill providing motive power for centuries all across Europe and the New World. With our modern technology and forward thinking, I have no doubt that it can still play a vital part in our development.

We are not alone in our reluctance to use natural and clean methods of electricity generation. Britain has only one commercially operating wave farm, Wavegen's plant on the island of Islay off the west coast of Scotland, which supplies power to about 400 local households. There may be a long way to go yet in refining that system, but it must be included as one of our options for the future. On the other hand, there are currently about 60 operating wind farms in the UK, supplying enough power for 250,000 homes each year or about 0.3% of total UK electricity consumption. There is also one commercially operating offshore wind farm which supplies enough energy to power up to 3,000 households.

There should be room also for the small operator in the power generation of the future. I know of one landowner in my constituency who is exploring the possibility of setting up a small hydro scheme on a stream running through his land which has the potential of powering a small town. Wherever there is clean energy available, we should encourage its use to the benefit of our economy and our environment. According to the ESB, 56% of the Irish electricity market has been opened to competition. The market will be fully open to competition in 2005, and the ESB has been facilitating that and made virtual independent power available at discount prices to the independent supply sector.

The electrical power industry is changing to accommodate modern thinking and the demands of today. It is up to the ESB to lead and shape that change, and it must be encouraged to do so wherever possible. We must facilitate that where we can, and increasing its required borrowing through this measure is a step in the right direction. I commend this Bill to the House.

Mr. Quinn: I am breaking one of my usual rules of objecting to the passage of all Stages of a Bill on the one day because the Minister has explained the position adequately. As Senator Finucane also said, this is a Bill for which we can make that exception.

I must confess that when I first read this short Bill I was taken aback by the huge amounts involved, but the Minister explained the position. Increasing borrowing powers from €2 billion to €6 billion at the stroke of a pen is dramatic. This is probably the largest such increase to be included in any legislation in the history of the State.

Notwithstanding that, I find myself asking whether this enormous figure is enough. The reason the figure is so big is because we have some catching up to do, owing to a failure over the past decade or more to invest in electricity

generation. Now that we have belatedly decided to play catch-up, my concern is whether we are doing enough to get back in step with the growth of demand. We should ensure we get this right, once and for all. We have come to expect electricity every time we switch it on. Many of us may recall visits to other countries and always finding a candle beside the bed in the hotel. One then realises not every country has enjoyed the satisfaction and confidence we have had with our electricity system over the years.

My concern is strengthened by recent events in other countries on this front. Within the past couple of years, there have been massive power outages in several places, most notably in the eastern part of the United States and, closer to home, in Italy, our European partner. In both cases, the economic damage caused by the system failures was enormous and out of all proportion to the length of the disruption. Apart from the direct economic cost, a high price was paid in social and human terms. However, I recall one occasion when we had a power failure and a number of people spoke to me afterwards of its benefits. Instead of sitting at home watching television or listening to the radio, they played chess or draughts or monopoly and even talked again with the family. Sometimes there are disadvantages to an uninterrupted power supply.

As regards the power failures in New York and Italy, I clearly remember that in each of those cases the blame for the system failure was put down to inadequate investment, mainly in the grid system that connects the network of generation plants and brings power down the line to customers. The reason for the inadequate investment was attributed, at least in part, to changes in the regulatory system, which apparently placed too little emphasis on this aspect of electricity supply.

My concern is deepened by the mixed experience we have had in this country as regards the regulation of the electricity industry. In the case of the telecommunications sector, I believe the telecommunications regulator was given the wrong instructions. The brief was to ensure there was fairness between the various competing bodies. My belief at the time was that we were incorrect in that regard. We probably should have said that the objective was to create competition, not just to ensure fairness between the various bodies. I am not sure whether that applies to deregulation in the electricity area. Deregulation undertaken by us on the initiative of the EU was meant to bring about more competition. More pertinently, it was meant to deliver lower prices to customers.

As far as I can see, the deregulated regime for electricity has not yet delivered on either of these points, competition or prices. For most customers, there is still no alternative supplier to the ESB. Meanwhile, the price of electricity to the end user has continued to rise instead of falling, as we had been led to believe it would. This is true particularly in business from whence

the knock-on effect of rising costs percolates through the whole economy.

It may well be that in addition to failing to deliver on its promises, deregulation is actually causing other problems that did not exist before, such as the way investment in the grid system is apparently being discouraged in some places. Perhaps the time has come for us to revisit the question of regulating the electricity industry, in the light of our experience to date. However, in saying this, I am not criticising the work of the electricity regulator. I am asking whether deregulation is delivering what we expected of it and, if not, whether there is anything we can do to improve matters. There is no reason whatever that, such arrangements, regardless of whether they originate in Europe, should be considered as cast in stone forever.

Let us examine the service we have come to expect every time we switch on. By and large, the ESB has served the country well for the best part of 80 years. We should ensure that it has all the necessary borrowing powers to carry out its job properly, as this Bill provides, and to ensure that it operates in a regulatory framework that helps rather than hinders its work. If I have a criticism of the ESB, it is that it has been slow over the course of its history to pay enough attention to the potential that exists in alternative methods of power supply. Previous speakers mentioned this aspect.

From the point of view of geography and climate, this country is well placed to exploit the potential of wind power and wave power, but these are both areas in which we have allowed other less favourably situated countries take the lead. Senator Kenneally talked about Denmark, for example, and Italy. In the 1930s we led the world in seeking to generate power from our peat resources. For many years, until economies of scale took over, peat-fired power generation played an important role not only in the economy, but in helping to develop many parts of the country that would otherwise have been devoid of any industrial activity. Those days are largely gone, but they have not been followed by a similar pioneering approach in developing alternative sources of energy production.

I realise that for the foreseeable future the vast majority of electricity generation needs must still be met from oil and coal. Other sources of energy probably will always be in the minority. However, that minority could be an important part of the overall effort. If for no other reason, our obligations under the Kyoto Agreement should encourage us to pull out all the stops in this regard.

I believe the House will support the Bill. Members recognise the need for it and the great work that has been done over the years. However, we recognise too that not enough attention has been paid to alternative sources of energy. I believe the Kyoto Agreement has put the onus on us to do something about that area. We must undertake those obligations with a spirit

[Mr. Quinn.]

of enthusiasm. I believe this initiative will give the ESB the opportunity to become more actively involved in that area. We should encourage it to do so. We should also ensure it has the necessary fuel to be able to do so.

Mr. Daly: I support the Bill and pay tribute to the ESB for its foresight and imagination in dealing with energy supply since its foundation. From the development of the plant at Ardnacrusha to that at Moneypoint, it has given a deep commitment to ensuring that the energy requirements of the country are adequately provided. It has also offered imaginative and forward-looking proposals and kept abreast of international developments in energy generation and electricity supply. I compliment it on its work at Moneypoint where up to 400 people are directly or indirectly employed providing a substantial proportion of the energy supply for the country.

The ESB has recently received approval from An Bord Pleanála to undertake a €200 million investment to clean up the emissions and bring it into line with international emission requirements. The board will decide before the end of June on proceeding with that development and I urge the Minister to use whatever influence he can with the ESB to ensure that it proceeds with this investment as planned. This would ensure not only that the station continued to meet international emissions standards but will also help the Government decide in 2008 whether Moneypoint should continue as it is or be re-equipped to use natural gas. Many people, locally, nationally and internationally, believe there is a great opportunity to exploit the potential of clean coal technology, which has been promoted very vigorously by the governments of France and Germany. This would utilise the large reserves of coal for energy generation at a time when energy supplies are tightening. Otherwise, we might be tempted to use our natural gas grid to generate electricity, which would be a waste of very valuable resources. We could continue to use Moneypoint, the most efficient energy generating station in the country and probably in Europe, as a centre for generating electricity from coal burning which has been very efficiently done elsewhere.

To close Moneypoint would damage the economy of the region. I urge the ESB to proceed with the €200 million investment cleared by An Bord Pleanála. The proposal came before An Bord Pleanála because An Taisce objected to the permission granted by the county council. An Bord Pleanála's report indicated that An Taisce's objections had no merit and were based on a misunderstanding of the role of the planning authorities and the overall policy issues which are matters for Government. An Taisce's decision to lodge objections to that decision, which was intended to protect the environment, has undermined the confidence of many in my

constituency in the role of An Taisce and is one of the main reasons for the present negative public perception of An Taisce. I have supported An Taisce although I have had many confrontations with it especially, for example, over the proposed heritage centre at Mullaghmore. In this instance, however, its objections had no merit. The report also found that it had misunderstood its own function and role. It is essential to proceed with the investment which will go ahead in June if the board of the ESB approves. The work will take from 2005 to 2007 and will be completed before the Government decides in 2008 on the future of Moneypoint. The future of the plant is critical for the reasons I have outlined, especially for the development here and bringing into effect a clean coal technology regime so that we can ensure the long-term survival of coal generating at Moneypoint

While the ESB has always been keenly aware of its importance in the economic and social development of the western areas, it is worth reminding it that its record has been one of very proud achievement especially in the context of the rural electrification scheme. I welcome the recent decision to modernise the rural network, especially along the western seaboard because in recent years there have been serious breakdowns and it is necessary to invest heavily in modernisation and fitting new transformers and lines in areas that have been underdeveloped and where demand for more and better supply increases daily. The consistent breakdown in the system is due to lack of investment. The ESB's decision is welcome and steps are already being taken to modernise and upgrade the network in the rural areas especially west Clare, north Kerry and the west. This is an important decision and a very valuable and timely opportunity. Some of the funding we are allocating and endorsing today will be available to upgrade and modernise the system to enable a continuous supply in the western areas.

I have had a long association with the ESB in some previous work, especially in the fisheries area and to an extent I am disappointed that the fisheries dimension of the board's activities has been played down in recent years. Since the inauguration of the Ardnacrusha plant and its involvement in the Shannon fisheries, it has played a major role in scientific research and developing the fishery aspect of its remit, for which the legislation provides. The emphasis recently has shifted from that and I hope that we could count on the ESB, in whatever new regime emerges, to again take the pioneering role in exploitation of fishery resources where it has hydro stations. It has made a very valuable contribution to investment in places such as Castleconnell whose salmon fisheries are internationally recognised and are a major tourist attraction. Some might ask what this has to do with the generation of electricity, but it has everything to do with the social and economic

development of which the ESB has always taken account.

I appreciate the work of the board and the co-operation it has given us at all levels. I have had many opportunities to talk to people in Moneypoint and in the ESB generally about various issues and always found them to be forthcoming and forthright in business where it maintains a very high standard. I am glad that in its magazine, which is delivered to us regularly here, we can see a record of the work the board is doing not only in areas such as Moneypoint and the hydrotechnical engineering but also its social dimension which is so important. The rural dimension was critical to the overall development of rural areas. I hope that dimension and Moneypoint will continue for the foreseeable future; the Government should recall the importance of that station and will consider clean coal technology to keep it going bearing in mind its economic impact on places such as west Clare and its social impact on more remote rural areas.

Mr. McCarthy: I welcome the Minister, Deputy Dermot Ahern. This is usually the area of responsibility of Senator O'Meara, but I have done some research for the purpose of the Bill.

I wish to raise a number of issues, including the sustained increase in ESB charges. An imbalance exists in this regard in terms of the profits made by the ESB in recent times. Last year there was an increase of 13.25% and a 5% increase was imposed in January of this year. The cost of first-time connections has increased by €200. The annual report for 2002 revealed that the ESB made profits in the region of €250 million, an increase on the previous year's €159 million.

The service is a good one on which we are dependent. I accept that it must be paid for, but it is difficult to reconcile the large profits being made and the increased charges passed on to householders. This is unfair on the consumer, especially in light of the dividend that the company pays to the Minister for Finance. Last year the ESB paid €70 million to the State, the highest dividend ever paid by a State company. There is sufficient leeway to ensure that charges of this magnitude are not levied against householders.

It has been estimated that recent increases have added an average of €12 to household ESB bills. The Minister should examine this matter with a view to putting some balance into the system and halting the inordinate increase in ESB charges, particularly in view of the profits made by the company and the dividend it pays the State.

The energy regulator, Tom Reeves, warned the Minister that significant losses could be incurred by the ESB if the efficiency of older power stations is not improved. His advice should be heeded. He also stated that stations must be more often available to the national grid during the year and breakdowns or forced outages must be reduced. He probably reiterated those points

when he recently addressed the Joint Committee on Communications, Marine and Natural Resources. I urge the Minister to take these points on board.

The deficit in the ESB pension fund has deteriorated by a further €100 million. The net deficit stands at €900 million. I understand that this is more to do with the actual investment as opposed to poor management, but it is a cause of great concern to employees and other interested parties.

Last February the Minister claimed that by developing an electricity interconnector project between Britain and Ireland, he was securing an electricity supply for the country. I welcome that fact. However, given the clear anti-nuclear policy of the Government, I wish to clarify if the project is dependent on energy produced at Sellafield. If that is the case, it flies in the face of Government policy. Will the Minister clarify the matter? The interconnector is a weak form of supply in the sense that we will only gain from it if there is a surplus in Britain, which cannot always be guaranteed.

There is widespread unease among the eight trade unions representing ESB workers. They warned that widespread industrial action might be on the cards following a number of weeks of talks between management and the Government. We can do without that type of industrial unease which has potential for strikes. The country was badly crippled for a number of weeks by the An Post dispute. Members of the House were aware of its negative effects. It is important that meaningful dialogue takes place between the Minister, his officials, ESB management and the unions representing workers.

Workers are seeking an 18.5% pay increase and a 20% stake in the company. Presenting a response to this will be difficult for the Government. Great credit is due to these workers in that the workforce has been reduced from 12,000 to 7,500 in recent years without them resorting to strike action, which is a considerable achievement given the number of unions involved.

The three year programme, Sustaining Progress, will lapse shortly. This provides an ideal opportunity for the Minister and others involved to reach agreement on the outstanding issues. We need to take a cautious approach. We do not wish to see a repeat of the industrial unease inflicted on the country in recent times by An Post. Many of the outstanding difficulties can be resolved through dialogue, thus avoiding strike action and power cuts.

The Labour Party has no difficulty accepting all Stages of the Bill. The role of the Seanad is to produce good legislation and it is incumbent on us to do so. By expressing our opinions in this forum we can contribute to stronger legislation.

Mr. U. Burke: I welcome the Minister. I also welcome the Bill, in so far as it indicates a clear acknowledgement of the need to upgrade the

[Mr. U. Burke.]

ESB network and continue its expansion. It is time to re-assess the provision of our electricity supply. In order to upgrade a plant such as Moneypoint to comply with EU regulations regarding CO₂, we have been told that the increased cost to the consumer could be as high as 20%. At the same time, we are effectively stifling the production of electricity by cleaner and less expensive means. Why can we not reconcile both approaches?

Over the years we have seen the phasing out of the old peat burning stations throughout the country. One of the first to go was Screeb in Connemara, followed by Bellacorick, Milltown Malbay and Caherciveen along the western seaboard. Peat burning stations in the midlands are now being closed, which we recognise is being done because of inefficiency.

We must also acknowledge the co-operation of Bord na Móna with the ESB over the years in the production of electricity and the provision of a continuous supply at difficult times when other sources of energy supply were threatened. Will the Minister comment on our potential for clean energy production, especially from wind?

In terms of what happened at Derrybrien in County Galway, enormous damage was done by a subsidiary of the ESB to the confidence people could have in alternative energy sources, a matter I raised previously with the Minister in the House. That subsidiary, Hibernian Wind Power, was reluctant to admit its failure at that site. Apart from fears among the local community concerning that incident, it had a serious impact in terms of the potential development of wind energy throughout the country.

Many local co-operatives groups and private individuals, who are landowners and engaged in joint farm ventures to gain an alternative source of income, had been progressing applications for wind farms. The confidence of potential financiers in terms of investing in these projects was immediately blown. They changed the methods and the way in which they would finance such projects in future as a result of the hesitancy and stubbornness of Hibernian Wind Power to come forward and recognise it was the cause of that landslide. Those engaged in many similar projects that were at planning stage or at advanced planning stage and in the process of being financed found it difficult to advance them. It is unfortunate regarding the development of wind energy that this happened and the way in which it was handled by that subsidiary of the ESB is regrettable.

Will the Minister comment on the fairness of access to and distribution of contracts to those seeking contracts with the ESB to access the national grid? From the distribution of contracts at the last offering, it is clear there is a strong bias in favour of subsidiaries of the ESB. I am not sure why that is the case. Is there a fear of competition from alternative sources of energy and alternative providers? Major investment and confidence in

alternative energy sources has been instilled by many private individuals, landowners and co-operative groups who have shown that this the way to go. However, there seems to be a reluctance within the ESB management or board to accept there are alternative and cleaner methods of supplying energy. Nobody wants to see Moneypoint closed by 2011 because of the major proportion of energy it supplies. If that happened, how could we replace the proportion of power generated by that station by alternative energy means or at alternative locations?

Will the Minister consult the ESB and ask it to be open and transparent about access to the national grid? As he is aware, the IDA and other industrial managers have indicated there is a deficit in energy supply to meet requirements in the west. We welcome the provisions of the Bill if it is proposed to upgrade the national network, particularly in the west where there is a deficit in supply identified by major industrialists who wanted to establish there.

Senator Kenneally and other praised the ESB on its work. It is important to recognise the professionalism of its workers who deliver services at all levels throughout the country. The ESB has probably one of the greatest records and received the fewest number of complaints of any service provider in the country.

Much concern about the impact on health of living adjacent to high tension power lines has been expressed by people living close to them. This issue has never been fully addressed. While there is a concern in that regard, there will always be opposition, whether it is short-lived or otherwise, to the location of such lines. Many people have legitimate concerns that living adjacent to such power lines causes health risks. While the World Health Organisation has clearly indicated there is no health risk or link to cancer associated with living near such power lines, it is important if there is to be an increase in the ESB's expenditure, as proposed in the Bill, to upgrade the network that such concerns are addressed. I ask the Minister to comment on that issue. The upgrading of 17,000 km of the network is a very welcome development.

Mr. P. Burke: I welcome the Minister. When I was young I was told to keep away from two items, the fire and electricity, but I am not sure that is what youngsters are told today. The change that has taken place regarding the way electricity was installed in houses up to 50 years ago compared to the way it is done today is unbelievable. The average household uses far more electricity today than was used by a household 20 years ago. There are many more gadgets and implements powered by electricity than there were 20 or 30 years ago. It is easy to understand how the consumption of electricity has increased dramatically in the past number of years.

I greatly appreciate the work done by ESB employees. As Senator Kenneally pointed out, in

wind and rain, on a Monday or a Sunday, ESB workers always came to the rescue if power lines were down and whether it was for business or private individuals, they always did the work promptly and efficiently. The ESB was always a well-run State body and a model for other companies, many of which did not progress along the lines of the ESB. Everybody admired the way it went about its business.

I will not hold up the passage of the Bill but I come from an area where the infrastructure is not what it should be in comparison to other areas. As Senator Ulick Burke pointed out, there are some difficulties getting infrastructure in place when objections, are made by various people. I compliment Maol Muire Tynan, whom I am delighted to see in the Chamber, because since she joined the ESB she has done great work in outlining to public representatives what is happening there, how it is going about its business and what is required to help with the infrastructure. She has done a great job from a public relations point of view, which has major benefits for public representatives also.

The Minister said borrowing has not changed in the past 22 years and that the ESB has many sources of financing, including the European Investment Bank, syndicated facilities and bilaterals leases, the private placement market and non-recourse financing. He said the putting in place of the US private placement in December 2003 has given the company a significant financial boost.

The Minister also stated the ESB entered into a separate €500 million revolving credit facility at the end of 2003 and that this facility, which was co-ordinated by the Royal Bank of Scotland, will be drawn when necessary to ensure liquidity is constantly available and will, therefore, assist ESB's overall funding programme. He indicated the figure for borrowing, £1.6 billion, for the past 22 years has been much the same. However, the Royal Bank of Scotland is providing €500 million and there is a private placement with a US firm. If the ESB goes public, will those interests become involved in share dealing and will they be able to obtain a portion of the company? How does the private placement operate and is it another form of funding or borrowing?

The Minister stated the figure for borrowing, £1.6 billion or the equivalent of €2.3 billion, has remained unchanged for the past 22 years. However, I take it that the figure has changed because the ESB has borrowed further moneys through the private placement and from the Royal Bank of Scotland.

I welcome Minister's statement that he strongly opposes the privatisation of the transmission and distribution system because they are critical national assets and should remain in State ownership. It is a pity Eircom did not go down the same route because there are certain rural areas, which are not getting a fair deal from that company. There is no doubt that if the ESB was privatised, it would seek to supply electricity to

mass markets and more rural communities would be left on the hind tit.

I wish to comment on the closure of Bellacorick power station. People in the area are concerned about the loss of 100 jobs which will result from this. The Minister will have noted recently that a former Member of both the Seanad and the Lower House, Mr. Myles Staunton, was putting together a €100 million rescue package for Bellacorick which could lead to an alternative source of electricity being produced in the area. I hope the Department will give consideration to Mr. Staunton's proposals.

I compliment the Minister on the Bill. I hope it has a quick passage through the House.

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): I again thank Senators for their forbearance in allowing me to bring the Bill through the House in such an expeditious manner.

A number of Members referred to the cost of electricity. Senator Kenneally provided figures to show the cost of residential electricity in Ireland is below the EU average. The position is different for industrial users. However, with the opening of the market in 2005, large industries will have the opportunity to seek out other operators and suppliers because of increased competition. The cost of electricity is not an issue for the political system. The Houses passed legislation regarding the establishment of an office of independent regulator which determines the cost of electricity. I have no input, nor does my Department, in that area. Unfortunately, whether they are being tongue-in-cheek, displaying mere ignorance or engaging in political opportunism, some people continue to refer to the fact that Government charges are X, Y or Z. They continually refer to electricity, gas and telecommunications charges in this manner but these are all determined independently of the political process and based on criteria which allow the companies involved to invest in their infrastructures while obtaining some economic return.

People must accept that the companies in the areas to which I refer must invest in new technology and IT systems to ensure they can operate in the new open market as opposed to the closed market in which they operated heretofore. The ESB is significantly reducing its market share over time. Senator Finucane referred to the Competition Authority. However, this is one area in respect of which even those people in Europe who dictate the opening of the various markets have acknowledged that in a relatively small island market such as ours, the move towards competition in areas such as telecommunications, electricity and gas is much more difficult. It is easy to make provision on paper but it is more difficult to encourage competition in reality.

One of the reasons the Government decided to promote the construction of two 500 MW interconnectors was to sustain the security of

[Mr. D. Ahern.]

supplies going forward but also to introduce a further element of competition to the market. As Members are aware, we have already asked the CER to gauge the degree of interest in a private sector built and operated interconnector. The CER has undertaken to run a competition in this respect and there has been some significant interest from the private sector. If there is not sufficient interest, we will then proceed to construct and operate an interconnector which would be underpinned by a guaranteed regulated revenue stream. The latter would be regulated by the CER. We hope the interconnector will be in place by 2009.

Senators Finucane, Quinn and others referred to system availability. The CER is taking specific measures to ensure the level of availability of the ESB's infrastructure reaches an acceptable level. This legislation was introduced because the ESB is investing so much money. This is also relevant in terms of the cost of electricity in this country.

In terms of network reliability, the ESB is carrying out extensive work on renewing its network. In the period 2001 to 2005, the ESB will spend €200 million in Galway, €60 million in Sligo, €130 million in Mayo, €132 million in Donegal, €40 million in Roscommon and €54 million in Westmeath on network upgrades. Members will recognise that this represents a significant level of renewal of the ESB's infrastructure.

Many Members referred to wind energy and acknowledged that it is Government policy to consider sources of renewable energy. In the immediate future, we are of the opinion that the best hope of success lies in the area of wind energy. It is true that difficulties have arisen in this area, mainly because of our success of which we are victims.

Recently, I signed a statutory instrument providing for 44 new projects, mainly wind, to join the grid and generate new energy on the system. They were included before the moratorium was put in place by the CER on the advice of the ESB national grid. The moratorium relates to the technical restriction on the grid. If a huge amount of wind energy is added in one go, as is happening, it can lead to instability on the grid. The CER, therefore, must take that into account because we do not want to have a situation, as instanced by Senator Quinn, like that of the US, Italy and the UK which suffered significant breakdown in their networks. We must proceed cautiously.

As a result of the moratorium, significant discussions, negotiations and meetings were put in place between the various interests and I understand the CER will make a substantive decision shortly on the proposals from the ESB national grid regarding new wind connection offer policy. The system operators have agreed that no new offer will be made to a wind generator until the CER decision is made.

I share the concerns of Senator Finucane on the Eirgrid situation. This has been a dogged issue over the past number of years and is one of the issues I have found most frustrating. Our policy and desire was to separate the grid transmission system from the ESB, but this is not yet in place. It is disappointing that Eirgrid is not up and running. I said recently at a joint Oireachtas committee that I am opposed to reverting Eirgrid to the ESB because that would send negative signals to an opening market. Once we can get over the significant industrial relations issues, I believe the Eirgrid model will be effective and beneficial to all the players in the market. In a market where we are endeavouring to do all we can to ensure openness, transparency and competition, it is vital that people are confident that the grid is separated from the dominant company.

Senator Burke referred to his disappointment that the AER contracts were won by the ESB. My job would not be worth two minutes if I had intervened in the provision of contracts to any of the promoters of wind energy. It is somewhat disingenuous of people to constantly criticise the Minister or come knocking on his door when they, through the media and other commentators, insist there should be no political involvement in any of these areas. Of course, when things go wrong, they come knocking on the doors of the politicians. Neither I nor my Department had hand, act or part in the giving out of the AER contracts, and I stand over that. People may be disappointed but in effect that suggests that they want one of the low-bidding operators in an open market to be excluded from a competition. In other words, they suggest we should favour those people who came in with higher bids. I do not accept that in an open market situation.

Senator McCarthy raised the issue of the level of the company's profits. We should take pride in the fact that the ESB is such a significantly profitable company and not a company in difficulty, like some of the other semi-State companies. It has managed its position well and kept electricity prices relatively low, in comparison with other EU operators. It is up to the regulator to ensure that a company such as the ESB pays its overheads and costs and that at the same time it is able to reinvest to part-fund its extensive capital programme.

I thank Senator Kenneally for his positive remarks on the contribution of the ESB to Irish society. We often underestimate that contribution and only comment or compliment the ESB when difficult situations arise. ESB personnel are out in hail, rain or snow ensuring that every citizen has what we regard as an absolute right, electricity. I also thank the Senator for his comments on wind energy. Hopefully, the issue of the moratorium will be set right shortly.

Senator Daly mentioned the future operation of Moneypoint. As I said in my opening remarks, this is primarily an issue for the company. It is a significant decision for both those involved in

Moneypoint and the nation. A suggestion was made that the station should move to gas-fired energy generation. To do that would mean that approximately 80% of all the electricity we generate would be gas-fired. Given that average gas-fired energy generation in the EU is 33%, it would create a difficulty for us to be over reliant on it. Pie charts for Ireland showing our electricity generation, compared to those for the rest of Europe, show a massive gap in the area of nuclear energy generated electricity.

Ireland has decided it is vehemently against nuclear energy. However, there are downsides to that decision. The countries of Europe which have nuclear energy have a greater diversity of sources for electricity generation and are not over reliant on one type of generation. Nuclear energy is also cheaper in some instances and has, we are told, no effect on the ozone layer. As Ireland continues to be vehemently against nuclear energy, some of the downsides are the type of generation we can operate and price. The decision on the future of Moneypoint will have to be calculated not alone from the financial aspect but also from the security of supply aspect and fuel diversity.

My Department, in conjunction with the CER, has commissioned a study on fuel diversity and the future of Moneypoint. The study is being undertaken by DKM and the ESRI and is due to be completed shortly. The ESB is also carrying out its own studies and will ultimately make a decision. Any business case submitted to the company must be predicated on the introduction of a best practice agreement at the plant. This is a prerequisite for gaining shareholder approval.

Any Minister would be concerned at the result of the ballot by the ESB group of unions on industrial action. I am heartened that it will have no effect in the immediate term and I hope there will be no disruption in the future. The Department has had a number of discussions with the group of unions over the past months. While no further meetings are planned, my officials will be available to continue discussions at any time. I should explain that these discussions took place following the submission of a claim by the unions to increase their current shareholding of 5% to almost 20%. At the same time, they were negotiating with the company on an increase in their salaries of approximately 18%. Taken together that is very significant and must be dealt with in that context. In these discussions, the ESB group of unions has yet to set out any basis for its exorbitant claim to increase the shareholding from 5% to almost 20%.

The Electricity (Miscellaneous Provisions) Bill 2004, which will be brought forward later, will deal with emissions trading, windfall gains, the regulation of the interconnector between this and our neighbouring island and policy directions to the Commission on Energy Regulation. It will also deal with an anomaly regarding the shareholding of the Minister.

The purpose of this Bill is to increase the borrowing requirement for the ESB to allow it to invest in infrastructure and avoid the type of scenario witnessed in the USA, the UK and Italy where electricity supplies were interrupted across vast areas for some considerable time because of the failure of the governments in those countries to invest and a number of other reasons to do with interconnection with other countries, which is not a problem for us. We are investing now to ensure that does not happen here. Given that investment began in 2001, the ESB was already planning major investment in infrastructure in order to ensure there are no breakages in our electricity system.

People ask why electricity prices are increasing. We cannot invest €4 billion over four years and not expect somebody to pay for it. That must be paid for and that is one of the reasons the price of electricity has increased relatively significantly in the recent past. However, our electricity prices are still floating at approximately the EU average and below the EU average for residential users. It is not envisaged that electricity prices will increase significantly in the coming years because of the level of increases over the past while. The reason for this investment and the reason we introduced the Bill is to ensure the ESB is allowed to borrow and carry on its business. It is a good business and the ESB must be complimented on its foresight in investing in the necessary infrastructure. It would bring down this House and the Dáil if the electricity went off in the future. The ESB is, in effect, investing in the future supply of electricity. I again thank Senators for their complimentary remarks on the Bill.

Question put and agreed to.

Acting Chairman (Dr. Henry): When is it proposed to take Committee Stage?

Mr. Kenneally: It is proposed to take it now.

Agreed to take remaining Stages today.

Electricity (Supply) (Amendment) Bill 2004: Committee and Remaining Stages.

Sections 1 and 2 agreed to.

Bill reported without amendment and received for final consideration.

Question proposed: "That the Bill do now pass."

Minister for Communications, Marine and Natural Resources (Mr. D. Ahern): I thank the House for the expeditious passage of this legislation. It will allow the ESB to continue to invest. It is hoped that it will be quickly passed in Dáil and signed into law. I will return to the House with the more substantive Bill later this year. I thank the Senators for their remarks and my officials for the work they have carried out on this Bill.

Mr. Kenneally: I thank the Minister and his officials for coming here today. I thank Senators Finucane, Daly and others who contributed to the debate and for allowing this Bill to be passed so expeditiously.

Mr. Finucane: I concur with those sentiments.

Question put and agreed to.

Sitting suspended at 1.10 p.m. and resumed at 3 p.m.

An Bille um an Seachtú Leasú is Fiche ar an mBunreacht 2004: An Tuarascáil agus an Chéim Dheiridh.

**Twenty-seventh Amendment of the Constitution
Bill 2004: Report and Final Stages.**

An Cathaoirleach: I welcome the Minister for Justice, Equality and Law Reform. I remind Members that a Senator may speak only once on Report Stage, except in the case of the proposer of an amendment who may reply to the discussion on it. Amendments Nos. 1 to 3, inclusive, and amendment No. 5 are out of order. As Senator Tuffy is not present, amendment No. 4 cannot be moved.

Níor tairgeadh leasuithe Uimh. 1 go 5 a huile.

Amendments Nos. 1 to 5, inclusive, not moved.

An Cathaoirleach: Amendments Nos. 6 to 9, inclusive, amendment No. 11 and amendments Nos. 14 to 17, inclusive, are related and may be discussed together, by agreement. Amendment No. 6 is consequential on amendment No. 14, amendment No. 7 is consequential on amendment No. 15, amendment No. 8 is consequential on amendment No. 16 and amendment No. 9 is consequential on amendment No. 17.

Ms Terry: Tairgim leasú a 6:

I leathanach 5, idir línte 12 agus 13, an méid seo a leanas a chur isteach:

1.—Leasaítear leis seo mar a leanas Airteagal 2 den Bhunreacht:

(a) cuirfear an téacs atá leagtha amach i *gCuid 1 de Sceideal 1* a ghabhann leis an Acht seo isteach roimh na focail ‘Tá gach duine’ sa téacs Gaeilge,

(b) cuirfear an téacs atá leagtha amach i *gCuid 2 de Sceideal 1* a ghabhann leis an Acht seo isteach roimh na focail ‘It is the entitlement’ sa téacs Sacs-Bhéarla.”.

I move amendment No. 6:

In page 4, between lines 12 and 13, to insert the following:

1.—Article 2 of the Constitution is hereby amended as follows:

(a) the text which is set out in *Part 1 of Schedule 1* to this Act shall be inserted

before the words ‘Tá gach duine’ in the Irish text,

(b) the text which is set out in *Part 2 of Schedule 1* to this Act shall be inserted before the words ‘It is the entitlement’ in the English text.”.

I have arrived in the House to be given another letter informing me that my amendments are out of order. There must be a better way of conducting our business. Could Senators be given details in advance of the way in which amendments will be dealt with?

An Cathaoirleach: Senators are welcome to call to the Seanad office for a discussion before debates begin.

Ms Terry: I thank the Chair. I am not criticising any individual officials.

I do not intend to delay the debate, but I would like to highlight the reasons for my amendments. I want to outline the options that would have been available to the All-Party Committee on the Constitution if it had been allowed to examine and discuss the proposed amendment and to make suggestions on the Bill. The Government has dealt with this proposal in a manner that would not be generally recommended for dealing with legislation. When one is proposing to change the law, a constitutional amendment should be used only as a last resort. There are other ways of dealing with problems that arise. We acknowledge that a problem has arisen and that a loophole exists, but the matter should be considered in its fullest context. Are ways other than a constitutional amendment available to help us to close the loophole? The Government chose to solve the problem by holding a referendum without giving adequate time for interested parties, such as the All-Party Committee on the Constitution, the Human Rights Commission and many others, to express their views. Such bodies would have been glad to have, given their opinions if they had been asked to do so. We should not be dealing with this problem in such a manner.

I do not agree that the proposed referendum should take place on 11 June, as the local and European elections are taking place on that day. If the Government proceeds with its plans to hold the referendum on that date, I pray that racist comments will not be made as part of the debate on the matter during the local election campaign. The Minister is aware, as all Senators are, that certain individuals will use the referendum campaign to secure votes in the local elections in an opportunistic manner. Some people will use racism if they think it is the popular thing to do, but we should try to ensure that an opportunity to operate in such a manner is not presented to them. The holding of a referendum at the same time as the local elections is not the best way to proceed. We would have preferred if there had been more debate, if more time had been

provided and if a more appropriate date for the referendum had been selected. My amendments present the Minister with various options, although I doubt if he will consider them at this late stage. I have outlined the reasons for the amendments.

Ms Tuffy: I second the amendment. Given that I wish to oppose the section, should I speak at this stage or should I wait?

An Cathaoirleach: Sections cannot be opposed on Report Stage.

Ms Tuffy: I wish to discuss Senator Terry's amendments. The Labour Party did not propose similar amendments because it opposes the section and the Bill as a whole.

An Cathaoirleach: Such points should have been made on Committee Stage.

Ms Tuffy: I know.

An Cathaoirleach: I would like to point out that this is Report Stage.

Ms Tuffy: I understand.

An Cathaoirleach: I ask the Senator to discuss the group of amendments.

Ms Tuffy: I would like to consider some of the points made by Senator Terry. She made a good point about the timing of the proposed referendum, which is detracting from local issues. Many people who have grievances about local authority housing policies, for example, are focusing on the referendum as a solution to such problems. That is not right, especially as the vast majority of houses are not allocated to foreign nationals. I do not suggest that those who are disseminating such misinformation are engaging in racism. The proposed referendum will not help to clarify why an insufficient number of council houses is being built, for example. Better policies and better delivery by county councils are needed. Such matters will be forgotten if people's attention is focused on the referendum and if they consider that local authority issues will be resolved by a constitutional amendment.

Mr. J. Walsh: We are rehashing the debate on Second and Committee Stages to some extent. The timing of the referendum is a secondary issue and we should concentrate on the substance of the matter. It is not fair to say the Opposition has not been given enough time to deal with the matter. This has its genesis six years ago in the Belfast Agreement and the Supreme Court decision a year and a half ago. The issue has been debated in the House and at the relevant Oireachtas committee. These amendments that seek the Bill's referral to an all-party committee are not sensible. It is a simple constitutional amendment in which the people are being asked

to give the Oireachtas the right to make decisions on children born of non-nationals. The Minister for Justice, Equality and Law Reform has set out the proposed legislation in this area. Members should not be afraid of dealing with this issue. There is some feeling that we do not have the confidence to deal with this in a humane and responsible way. There will be differences of opinion. For example, Senator Tuffy argued that the three year period for residing in Ireland was too long while I argued it was too short. I look forward to the debate on the legislation. I do not subscribe to the arguments put forward by the other side of the House.

There has not been one iota of racist comment since it was suggested there would be in the newspapers.

Ms Terry: Let us hope it stays that way.

Mr. J. Walsh: The racism issue has only been raised by Members of the Opposition in this House. It is almost as if there is a wish that there might be something in that regard.

Ms Terry: That is not true. The Senator should withdraw his comments. There is no wish on this side of the House for racism to emerge in the debate.

An Cathaoirleach: Order. Senator Terry will have a right to reply.

Ms Terry: I do not have to reply to that. The Senator must withdraw his comments.

Mr. J. Walsh: I have no intention of withdrawing my remarks. It is an impression that I have come to from listening to the debates on this issue in the House. I ask the Opposition to put this above party politics. This is an issue that must be dealt with in the interests of the Irish people and those of immigrants and non-nationals. I ask that it be approached in a way, which will ensure no racist tendencies are prompted to pollute the debate on this issue.

Ms Terry: The Fianna Fáil Party did that in the last election.

An Cathaoirleach: Senator Terry, order please.

Mr. J. Walsh: There would be a greater risk of this happening if the referendum was held in isolation. By combining it with the forthcoming elections, there is less likelihood of racism emerging.

While canvassing for the forthcoming elections, I have noted that the members of the public also see it as a simple question. If it is left that way, there will be no difficulties. No politician should try to get in on the back of fears and prejudices. It would be disingenuous to do so.

Dr. Mansergh: I rise in support of my colleague, Senator Jim Walsh. He was not

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accusing any Member on the other side of racism. He simply pointed to the attempt to ascribe a racist motivation to the Government side as one of the main planks of the Opposition case against the referendum. There was nothing improper in making such a point in the moderate fashion in which it was made.

As we are at the end of the process, Members should resolve to treat this constitutional amendment on its merits. The Fine Gael Party has indicated it will support the substance of the amendment. From my experiences on the doorsteps, it will be neither an advantage, or disadvantage in the elections. As Senator Tuffey said, people are more preoccupied by housing issues and so forth. One should not exaggerate the public interest in this issue. I have seen it raised only once on the doorsteps. It is time that this issue was depoliticised. As the Fine Gael Party agrees with the underlying merit of the constitutional amendment, what benefit is there in alleging certain motivations behind it? On the doorstep I will be pushing Fianna Fáil local and European candidates and have no intention of raising the referendum, unless asked about it. It will not be of the slightest extra benefit even if a candidate puts it in his or her literature. As people will see it as a separate issue it will not make them vote for or against particular candidates.

It is time to take the emotion out of this debate and to stop attributing motives to this side of the House. All Members do not want racism in this society. Our economy, as the Minister for Justice, Equality and Law Reform eloquently explained, will need inward migration. The way to keep racism in check, and hopefully reduce it as people adjust to our changing society, is to have a fair, firm and humane immigration system which is not open to abuse. This debate is part of that wider picture.

Minister for Justice, Equality and Law Reform (Mr. M. McDowell): There is an element of "Groundhog Day" to this debate as we have been over this ground a number of times. I acknowledge that Senator Terry has tabled these amendments to tease out some of the issues and to show alternative views that can be taken into account to enrich the debate. I also acknowledge that the Fine Gael Party is taking a responsible course in this debate by examining the merits of the issue. Having regard to what it has said about the possibility of doing the same task by a different way or on a different occasion, it is informing the public that this proposal should be favoured rather than rejected. I appreciate that support, subject to the qualifications I mentioned.

It has been suggested that because the Fine Gael Party and the Labour Party were not concentrating on this issue, then no other party was exploring the alternatives. That is simply not the case. It is always a Minister's and his Department's first instinct to deal with any

problem by administrative or legislative action rather than by constitutional change. I looked at this matter prior to my appointment as Minister for Justice, Equality and Law Reform when I was Attorney General in the previous Government. It was an issue of concern when the number of asylum seekers rose to approximately 12,000 per year. This was prior to the L and O cases. At all times a considerable amount of intellectual effort went into the area of immigration, citizenship and its effect on asylum seeking. People scratched their heads and wondered how to deal with the issue because there were significant social implications if it was not dealt with. During that process, every single approach to this issue was considered. In particular, the legislative approach was considered at great length by me as Attorney General and by my successor. As Minister, I asked the Attorney General whether there was any way I could deal with the matter through legislation. I was told emphatically, in light of the second sentence of Article 2, about which I spoke yesterday evening, that neither he nor the Government could put their hands on their hearts and say they believed that legislation which had the effect of postponing, delimiting, refusing or confining the birthright entitlement to citizenship could be described as constitutional.

I confirmed yesterday that it is not possible for a Minister to know something is probably not constitutional but try to implement it anyway and that to attempt this would be to involve the Cabinet in a conspiracy to undermine the Constitution. If there was a 50:50 balance of probabilities or there was substantial doubt, different considerations could arise. In this case, however, the wording of Article 2, particularly the second sentence, makes it logically inescapable that there is currently a birthright entitlement to Irish citizenship, as the Taoiseach's letter to Deputy Quinn acknowledged so long ago, for everyone born on the island of Ireland regardless of circumstances. Given that this is the case, the Government has had no legislative option. Had there been such an option, it would have been taken.

I would like the House to accept the fairly elementary proposition that there is always a reluctance to amend the Constitution and that no Minister who wanted to amend the Constitution wantonly would be listened to for two seconds at Cabinet or anywhere else. Nobody in Cabinet genuinely thought this was a redundant exercise in plebiscitary democracy that was not required by the Constitution. There was no alternative.

It has been implied here today that somehow the motives of the Government in asking the people to vote on this proposition on 11 June are suspect, base and designed to achieve political advantage for the Government parties. I do not see how Fine Gael can be at a disadvantage, since it will be supporting the proposition. The Labour Party and other parties may take the view that because they want to oppose it, this might muddy the water. The purpose of a referendum under

the Constitution is to consult the people and allow them to make a decision. The best way to do this is under circumstances in which the turnout of voters is likely to be broadly representative of the community rather than of people who have a narrow interest in the subject. We saw at the time of the Nice referendum how 17% could defeat 14% — I have forgotten the exact figures — because of a poor turnout. It is desirable that an issue such as this should not be decided by people who have strong passions on the issue to the exclusion of people who are not greatly motivated by issues of immigration but are nonetheless entitled to an equal say, as citizens, about this simple proposition.

As I said before, we are now 40% into the life of this Government. There may or may not be a presidential election later this year. There may or may not be a referendum on the result of the IGC if a treaty is concluded. The one occasion prior to the next general election on which we can be reasonably sure significant numbers of people will be going to polling stations across Ireland with many issues on their minds is 11 June. That is the best time to test the real view of the people on this issue. I agree with Senator Walsh that a single-issue referendum may not produce a more enlightened or representative result. If I were to encourage people to go to the polls on a single issue this autumn, I would be lucky if 25% of people voted. In order to enthuse them I would have to go stomping around the country making speeches about how important this is. I am certain that in those circumstances I would be accused of being an obsessive who is trying to run people out of their houses. I would be asked why I was not dealing with the crime problem and where are the 2,000 extra gardaí. I can imagine it all — I could write the scripts myself, because I have been in Opposition and I know exactly what I would say about someone in my circumstances.

Dr. Mansergh: We remember that.

Mr. M. McDowell: That is an unlikely and contrived scenario. The simple, common sense thing to do is to put a simple proposition to the people when they are going to the polls.

I agree with Senator Mansergh and Senator Walsh — I do not believe anyone would gain a significant advantage by saying he would be running for the local urban district council and strongly favoured a “Yes” vote. People would look at him and tell him to visit a doctor on the way home.

Ms Terry: I am sure we will hear it.

Mr. M. McDowell: I do not believe that.

Ms Tuffy: That has not stopped Fianna Fáil candidates stating it in their literature.

Mr. M. McDowell: People are entitled to express a view on the issue. I do not believe many people are likely to switch their votes and vote in

councillors to local authorities on the basis that they agree with their views on a referendum. There will be such a variety of candidates on each side that people must make up their minds which party they support. They will make up their minds based on what representatives of these parties are saying on the doorstep about local election issues.

Senator Walsh made a statement which is true and Senator Terry will be replying to him so she might as well reply to me too. I have been accused of being responsible for racist deportations, engendering a racist referendum proposal and playing the race card. I have read all the articles in the newspapers about these issues. I will not dignify their writers by naming them, although I will state that some of them should keep taking the tablets. However, it is their prerogative to write this kind of stuff if they want to.

People are entitled to be passionate on this subject but I am trying to be rational and reasonable. I will take the slings and arrows of political debate. I have reasonably broad shoulders and I am quite happy to take a certain amount of abuse. However, as Senator Walsh said, all of these accusations about the motives of others have come from the people who are opposing this measure. I have not impugned the motives of the Labour Party, Sinn Féin or Fine Gael for taking the stances they have.

Ms Terry: I have not heard anyone in this House describing the Minister as racist.

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

Mr. M. McDowell: The Senator must not have been reading the newspapers if she thinks that. In this House, this has been described as a racist referendum. I have been strongly accused in both Houses of playing the race card, though we have had a much more moderate debate in this House than in other places. I have no interest in playing a race card. This is not a race card. The way to avoid the emergence in a PR-based democracy of parties of the extreme right on this issue, such as emerged in Austria, Holland, which we all look to as a liberal society, and Denmark, which is held up as an enlightened and liberal society, is for the Government of the day or successive Governments to approach the issue straight down the middle with a firm hand on the tiller. It must not be swayed by any temptation to play the race card nor must it be frightened away from doing the right thing by political correctness. One must go straight down the middle.

The Irish electorate understands that issue clearly. Our society is free from racism. Apart from a few people of passion who are writing newspaper articles, the great majority of people on the street are not excited by this proposal or scandalised by it. They are simply saying that it is sensible and they propose voting for it. They will

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not shower their number one votes on people who appear on one side of this issue rather than another when it comes to choosing their local authorities.

I agree with Senator Walsh's point that there seems to be a hypersensitivity to this issue being dealt with at all. There is a constant refrain that to deal with it in the political domain is somehow to risk or to be reckless as to whether racism emerges. I do not believe racism will emerge in Irish politics regarding this issue or that anyone will get a significant number of votes, more or less, depending on how they present this issue on 11 June. The Labour Party will get whatever share of votes it will get in the Dublin City Council election, and will not be affected by whether it says "yes" or "no" on this issue. The same holds for Senator Terry's party and for my own, I hope, as well as for Fianna Fáil. People will vote based on what they want to say about those parties' policies and their own local authority areas.

For all those reasons, I reiterate my point that now is the time to face up to this issue. There are certain urgencies involved, such as the Chen case. If that is decided against us in June, July, August, September, or whenever it happens, we would have a crisis on our hands. Everyone would be called on. Because of the publicity the Chen case would give rise to if the court decision went against the arguments of the Irish State and those of the United Kingdom, we would have to run through a referendum very rapidly so Ireland would not be allowed to become a place where every migrant in Europe who is worried about his or her status could come to avail of European Union citizenship.

Now is the time to face up to this simple issue. In one respect Fine Gael is right in saying this should be supported. To revert to Senator Terry's proposed series of amendments, and those of Senator Tuffy, the alternative approach, to reopen Articles 2 and 3 of the Constitution, though intellectually interesting to canvass would be so politically disastrous and so irresponsible in the present circumstances that it would be a wanton act of reckless vandalism with regard to the structure of the Good Friday Agreement. To go down that road would have catastrophic effects. I know that Senator Terry is not saying this should be done, merely that we might have considered it. It was considered. The Government took exactly the same view as Deputy Quinn in his celebrated letter and legal memorandum of 1998, that the intelligent way to approach this was to deal with a collateral amendment which qualifies the meaning of Article 2, but does so without doing it structural damage. That is what we are doing.

In those circumstances the people will understand that very clearly and will appreciate that this is the appropriate way to deal with the issue. It is a moderate proposal, and as Senator Walsh said, the important point is that it leaves

many issues to be determined, not simply in the first piece of implementing legislation, but in legislation designed to tweak or vary that, by these Houses over the years to ensure it is always fair, and is not subject to abuse or unforeseen consequences. We will restore to these Houses what they should always have had, and had until 1999, namely the right to legislate like most European democracies to deal with this sensitive issue.

We will do one more thing. We will bring Irish law on this issue, and European citizenship which derives from Irish citizenship, closer in line with the laws of other member states of the European Union. While doing so, if at the end of all of this the Government proposals are put into law in the Bill in the form we suggest, we will still have one of the most liberal nationality and citizenship regimes in Europe, and for immigrants one of the most accessible citizenships in Europe and one of the most generous systems not merely anywhere in Europe but anywhere in the world in terms of offering to people the right to become citizens.

The United States has a *jus soli* right to citizenship, and a migrant can go there and attempt to gain American citizenship. One can compare what is required there for citizenship status to what is required of a migrant coming to Ireland and seeking citizenship. Members might compare all the impediments to becoming a citizen of the United State to those cast in front of someone seeking Irish citizenship. Ireland compares very favourably in that area. If one talks of liberalism, generosity, inclusiveness, and of acknowledging that this society will have inward migration for a considerable period, just as in the past it had emigration, then if one looks to the likely character of Irish society after this referendum, if it is carried, we will still be one of the most generous nations in the world, and one of the countries in Europe where racism is least politically potent. We will also remain one of the European countries where some party of the far right has not emerged to exploit this issue, because the Government will be seen to have taken a sensible middle of the road course.

Ms Terry: In speaking in this House today and yesterday, I attempted to be very measured in my comments. When I said earlier that holding the referendum on 11 June, a local election day, could give rise to racist remarks by some candidates, I did not expect that to initiate a comment from the Government side that the Opposition wished for racist remarks to be made. That totally misinterprets what I said. I interrupted and asked Senator Jim Walsh to withdraw the remark.

An Cathaoirleach: He did not make such a remark.

Ms Terry: I wrote down what he said. He said it is almost as if we had a wish that the racism issue will be raised during the election campaign.

An Cathaoirleach: He did not accuse anyone of being racist.

Ms Terry: He said we have a wish. I wrote it down and I am sure it will be on the record.

An Cathaoirleach: That was a general contribution which did not apply to anyone, and I do not believe it needs to be withdrawn in that context. I am sure you will accept that, Senator Terry.

Ms Terry: I will accept that from you, a Chathaoirligh. I hope racism will not be an issue. In fact, I was the individual, representing Fine Gael one Sunday about two months ago, who signed a declaration to the effect that we will not engage in any racism. Representatives of all the political parties were there that day and they signed that declaration. I ask that members of my party, and all of us, make every effort to ensure racist remarks are not made during the election campaign.

We have got into the technicalities of this amendment, and I appreciate the time the Minister has given to explain the many aspects of it, but the bottom line is that we are dealing with human beings. We talk about the mothers who come here to have their babies but I ask myself if I would go to the same lengths as many of those women to give their child a better life. That is what this is all about. They take huge risks and leave their country and families far behind to come here to have a better life, but I accept that whole process has led to abuse in that it is not just those to whom we would like to grant asylum who come here. Many people come here for economic reasons and that is putting a huge strain on our resources. I accept we need to have proper immigration laws in place, which is something we are all working towards. I will conclude on that but the comments from the other side in regard to a minor remark that I made in good faith were unwarranted and over the top.

Tarraingíodh siar an leasú faoi chead.

Amendment, by leave, withdrawn.

Níor tairgeadh leasuithe Uimh. 7 go 18 a huile.

Amendments Nos. 7 to 18, inclusive, not moved.

An Cathaoirleach: Amendment No. 19 is in the name of Senator Tuffy and amendment No. 20 is an alternative. It is proposed to discuss amendments Nos. 19 and 20 together, by agreement.

Ms Tuffy: Tairgim leasú a 19:

I leathanach 7, línte 5 agus 6, “, an tráth a shaolaítear an duine sin,” a scriosadh agus

I leathanach 7, línte 16 agus 17, “, at the time of the birth of that person,” a scriosadh.

I move amendment No. 19:

In page 6, lines 5 and 6, to delete “, an tráth a shaolaítear an duine sin,”

and

In page 6, lines 16 and 17, to delete “, at the time of the birth of that person,”.

We discussed this issue at some length yesterday. This proposed amendment of the Constitution is flawed. I understand the difficulty of drafting a wording that would incorporate a person whose parent had died before they were born, without allowing for a person whose parent became a citizen after they were born. I understand the reason for inserting the wording but it is flawed. This is not a simple issue and a simple wording should not be inserted. Every word in the Constitution counts and any word could be the one on which a Supreme Court decision rests, and that is the difficulty in coming up with a wording. We experienced this problem in the past. The amendment we made to the Good Friday Agreement has resulted in this proposal, and on other occasions when we amended the Constitution we had to revisit the issue concerned. It is a complicated process. People continue to say it is a simple issue but it is not. In closing one loophole we are opening others. This is just one the Labour Party has identified but we are probably creating other loopholes with this amendment.

As I said yesterday, there was no loophole to be exploited. If we take the case, the name of which escapes me at the moment, which found that because a child has a right to citizenship it did not give their parents that right——

Mr. M. McDowell: The L and O case.

Ms Tuffy: The L and O case highlighted the fact that those parents could not exploit a loophole, therefore, this referendum is not necessary. The Minister mentioned the Chen case. I do not know enough about that case to come back to him on it but we do not yet know the decision in that case. Should we hold a referendum in anticipation of a case that has not yet been decided? The only person who could exploit this is a child when he or she reaches adulthood, but that is not a bad thing. The Labour Party would be prepared to examine the issue, but in a definitive way. We should have a fully informed debate and then decide if a referendum is required, which was done in the case of the housing issue with the all-party committee.

We talked about America earlier. People have similar rights in America. The Minister said America has more stringent rules on citizenship but that is not necessarily bad in that it should not grant citizenship in the way we did in the past, when people literally bought citizenship. America

[Ms Tuffy.]

has a comprehensive green card system, however, and the Labour Party has proposed such a system. The Minister said earlier that the Labour Party was not concentrating on the issue while he was working away on it. That is not true. We published a document, *Ending the Chaos*, which outlines a comprehensive green card system that the Minister has said he is considering introducing. That was even welcomed at the time by the bodies which support refugees.

We are not saying there should not be a system. The Minister is right when he says that if we have a proper immigration system it will combat racism. We are in favour of that. We do not believe there should be an open door policy or that this issue should be taken lightly. That is the reason we came up with a policy. We stand over that policy and that is the Labour Party position I will try to impart on the doorsteps.

I would have liked a more comprehensive examination of other alternatives. For example, when people talk about the X case, the Labour Party's position is that we should legislate within that and perhaps within the parameters of the decision on the L and O case and of the Chen case when it is made. That was an option but it appears not to have been considered.

I became very annoyed about this issue yesterday, as I am sure did many other people. It is something that is unlikely to happen to most people but if it did, it would be very upsetting for people to know that they had a constitutional right to something before this referendum and that we have taken it away through legislation. We know that it is wrong that they do not have that constitutional right if their parent died before their birth. Since that tragic thing has happened to them, they are denied constitutional rights, which are important. We would not have them if they were not so. It is dealt with by legislation, and I accept that the Minister said that. However, that is not the same as having a constitutional right. They have it now, but after this referendum, it will be taken away, and that is wrong.

Ms Terry: I second the amendment.

An Cathaoirleach: Does the Senator wish to speak?

Ms Terry: I have already spoken today.

An Cathaoirleach: I call Senator Jim Walsh, who is fast out the traps.

Mr. J. Walsh: I listened to Senator Tuffy yesterday. To be fair, she has raised an interesting point in this regard. I am not sure she is quite correct when she says people have that right now, since no one has a right under the Constitution until they are born, so the right does not come into play until then. It is not as if we are depriving

someone of a right that he or she has at present. That point must be made.

While one could examine the wording of the constitutional amendment, as the Minister mentioned yesterday, there is a need to have it reasonably concise and clear-cut. Senator Tuffy has acknowledged that this will apply only in exceptional circumstances, but that does not mean we should not have regard to those circumstances when they occur. It is all predicated on "unless provided for by law". I have not discussed it with the Minister and do not know what is in his mind. However, I would be disappointed if the legislation did not in some way address the issue, either as published or as it goes through the House. The Senator's point is fair, and if we were discussing the legislation, I would support it.

However, that is probably the place for it, since many other aspects of how people qualify for citizenship will be included in the legislation. With respect, that is probably the place for it in this instance, since it relates specifically to children born of non-nationals. Therefore, there is a certain logic in having it all included in the legislation rather than part of it being attached to the Constitution, which is very specific about how people acquire citizenship as a birthright. While I sympathise and concur with the Senator's sentiments regarding the point raised, in practice the legislation will cater for it. It is probably preferable in the legislation rather than trying to have a much more detailed content in the Constitution. Much of what is in the Constitution is interpreted in various laws, which must conform with it. There would not be anything irregular about this either.

Dr. Mansergh: We all like to think of the Constitution as a rock on which this State rests. However, the Constitution, no matter how it is written on whatever theme, is subject, as we have discovered in certain instances, to legal and judicial interpretation. I am quite confident that, if there were no legislation and this failed to be interpreted by the Supreme Court, "at least one parent who is an Irish citizen" would be interpreted to include "was" if need be. In recent years, the Supreme Court seems in any case to have adopted much more of what one might call a pragmatic, common-sense approach to interpretation. In that context, I am personally glad the core of nationality and citizenship is again written into the Constitution. As I said, it was there at the beginning, between 1922 and 1937. I equally accept there are many matters at the margins which need to be regulated by legislation and if necessary, from time to time, changed by it. However, I am not unhappy that the core is in our fundamental law. There should be some statement on citizenship and nationality in it.

I very much agree with the Minister that it is not satisfactory to put off problems until we absolutely have to deal with them and there is an

emergency on our hands. The situation highlighted by the Chen case is very unsatisfactory. A person with no intrinsic connection with Ireland came from outside the EU to Belfast, which is not even within our jurisdiction, thereby acquiring Irish citizenship and, probably more important from that person's point of view, EU citizenship. That must be dealt with in principle. To be frank, I regard that as the only compelling reason to hold a referendum. I know there are issues surrounding pressures on services. Those may be powerful arguments, but the Chen case regarding a back door to EU citizenship is a compelling issue. It is far better to deal with it now than to be subjected to political pressure from our EU partners, who will certainly not continue to take a disinterested approach to the question, or pressure from people rushing in to beat deadlines. It is best to deal with the problem now before it gets any bigger.

Mr. M. McDowell: We discussed this matter at some considerable length yesterday. However, overnight I have had an opportunity to look again at the Government proposals document of April 2004. We can take some heart from the fact that the Parliamentary Counsel retained to translate the Government's intentions into legal effect looked at precisely the same issue as Senator Tuffy and said that, in each case, no one should be disqualified from Irish citizenship if his or her Irish parent deceased during the pregnancy, in other words, if the person who was the Irish parent ceased to be such at the time of birth, under one meaning of the term "parent". The parliamentary draftsman specifically included, under each of the grounds necessary to give effect to the four exceptions that the Government put in place, a paragraph extending the right to Irish citizenship to someone who, when born, was the child of a parent who had been an Irish citizen and who had died during the pregnancy. That goes as far as we can on this, but I do not at all dismiss the argument put forward by Senator Mansergh today and by Senator Maurice Hayes yesterday that, under one view of the term "parent", one's parents do not cease to exist because they die but remain one's parents, since everyone must have two, short of cloning. The identity or nature of people's parents is not transformed by death. On that reading of the Constitution, perhaps what the Parliamentary Counsel is inserting here would not be necessary at all. As Senator Tuffy has conceded, no wording is absolutely certain.

4 o'clock
 Whichever view is taken let us remember that the whole purpose is to give to this and the other House the right to address all those hard cases and to deal with them in the measured way that is proposed. The second point raised by Senator Tuffy is whether, in the light of the L and O decision, we can attempt to legislate within it. In her view, the L and O case effectively said that coming to Ireland with a view to having a child here presents no problem and the L and O case effectively knocks on the head the notion that parents can stay in Ireland because of their child's

Irish citizenship. I reiterate what I said yesterday, that the L and O case is not that meat cleaver type of decision which just hands to the Minister for Justice, Equality and Law Reform the right to despatch people out of Ireland on a whim.

I will quote again what Mr. Justice Hardiman said in his judgment in the L and O case: "It seems to me that the existence of an Irish-born child does not fundamentally transform the rights of the parents, though it requires the specific consideration of the Minister, who must reasonably be satisfied of the existence of a grave and substantial reason favouring deportation."

Ms Terry: The Minister did not outline what that would mean exactly yesterday.

Mr. M. McDowell: A grave and substantial reason means that it cannot be, in effect: "There is an Irish citizen over there. The child's two parents are foreigners. Out." It is not to say as a matter of policy that we do not like that child being in Ireland and so out it must go. It must be a grave reason. There has to be a reason why a citizen child of Ireland should be excluded. One of the matters stated in the L and O case as a ground which the Minister could take into account was whether such a decision would, in fact, be warranted having regard to the necessity to maintain the integrity of Irish immigration laws. It does not mean that anybody who occupies my position as Minister can start signing deportation orders without any consideration as to what the implications are for an Irish citizen child — as to whether it is a reasonable decision. It is not enough for the Minister to say decisions are always made "along these lines" and that his or her mind cannot be changed now. I want to make that point clear.

One grave and substantial reason is the necessity to prevent our immigration laws from being trampled down and to maintain their integrity. It does not mean that it is a matter of automatic policy that the Minister simply dismisses from Ireland all children who are Irish citizens and who are entitled to have their cases looked at because of the L and O case.

A point, which the House might, have less sympathy for is also significant. There are approximately 640 public servants working in the immigration area of my Department. By any standard this is a sizeable cohort of the public service. Approximately 420 of them are people devoted to the asylum seeking process. It is immensely labour intensive, even to come to a decision based on the L and O principles as to whether somebody should or should not go. I would like Senators to come to my office some day to see the enormous files that arrive in for decision and to look at the amount of work already going into this penultimate stage as to whether I, as Minister, should be advised that a person should be sent home. This is not a matter

[Mr. M. McDowell.]

where computers spit out deportation orders because somebody presses a button and a load of files fall into a legislative meat mincer from where results come out. Every single case is fat, larger than a telephone directory, with documents piled into it, submissions this way and that, considerations of the original evidence and advice to the Minister. That is the way the decisions are made.

A point which has been lost continuously in the flak which has gone on so far in this debate is that the UN Convention on the Reduction of Statelessness means nobody will be left without a state. Therefore, every child born in Ireland, who is not otherwise entitled to be a citizen by descent of his or her parent's state, will be given Irish citizenship. If one turns that coin over it means that the only people to be affected by the Government's proposals will be those who already have one citizenship available to them and whose parents have a small or tenuous connection with this State — they were here during the child's birth and nothing more. They are asking the State to accept that while the baby is entitled to citizenship of their country, by descent, they want to give him or her, in addition, the right to choose Irish and EU citizenship as well. It is only that category of people, who already have one citizenship, so to speak, in the bag and who ask to be given second and third citizenships — Irish and EU — on the basis of a fleeting connection with Ireland who will be adversely affected by this move.

Take any country one likes, for example, Sri Lanka. If a couple comes here and their child is born in Ireland and will not get Sri Lankan citizenship as a matter of entitlement, he or she will be entitled to Irish citizenship. Otherwise, the child would be stateless. If the child, however, is entitled to Sri Lankan citizenship, what we are saying is Irish and EU citizenship may not be claimed in addition to that entitlement if there is not a substantial connection to the island of Ireland, other than a fleeting visit or the happenstance that one was born here for whatever reason. That is all. When one looks at it in that light it is not a major step and neither is it a dramatic change. It is not an injustice because the child already has one citizenship, that of his or her parents. What the child is actually seeking is a second citizenship of another state, and also citizenship of the European Union, in addition to what he or she is already entitled to by reference to the parents' nationality.

I have not heard that point made. I tried to make it in one article, which was published in *The Irish Times*. I have not heard anyone who is opposed to the referendum comment on it. The reason they have not commented on it is that, when it is looked at in the round, our position is so reasonable and defensible that it is not an area

which any opponent of this referendum would like contemplated by the public at large. It sounds a slightly subtle point and it will be difficult to get it across in the course of the referendum debate. Most people do not want to hear about conventions against statelessness and do not want to think through the logic as I have just explained it. The only people who would be denied citizenship here are those who have some other option available but are attempting to opt instead for Irish citizenship. If that sinks home with the public I believe a large number of whatever fraction of the population is doubtful about this referendum would accept the proposal as reasonable.

Cuireadh an leasú agus faisnéiseadh go rabhthas tar éis diúltú dó.

Amendment put and declared lost.

Níor tairgeadh leasú a 20.

Amendment No. 20 not moved.

Ms Tuffy: Tairgim leasú a 21:

I leathanach 7, líne 9, “nó náisiúntacht” a scriosadh

agus

I leathanach 7, línte 18 agus 19, “or nationality” a scriosadh.

I move amendment No. 21:

In page 6, line 9, to delete “nó náisiúntacht” and

In page 6, lines 18 and 19, to delete “or nationality”.

This was also discussed at length yesterday. Senator Mansergh appeared to say that nationality and citizenship are different. Is that right?

Dr. Mansergh: To a degree.

Ms Tuffy: To a degree. If that is true and this referendum is about citizenship, why does one need to refer to nationality? If it is not true and nationality and citizenship are the same, why is it necessary to use the two words? I do not see why the two terms are necessary, which is why we propose to delete them.

Ms Terry: I second the amendment.

Dr. Mansergh: Without going over yesterday's whole debate, they are different things. The people of Northern Ireland have Irish nationality. They are members of the Irish nation but they are also citizens of this State. We decided to give citizenship of this State to members of the nation and to entrench that in the Constitution. In

principle, citizenship and nationality are not the same thing. It would be difficult for us to deny that people living in Northern Ireland who wish to have Irish nationality do not have it. One or two commentators have suggested that is what we should have done, but that would not be possible. Nonetheless, being a state with a jurisdiction confined to 26 counties, without its being in the Constitution it would not necessarily be automatic that because people have or claim Irish nationality they have citizenship of the State. I do not know what all the international parallels are, but I can imagine that there are national minorities in various states who do not necessarily have citizenship of the country to which they feel most affinity. Both concepts have validity; nationality is one thing, citizenship is another. We have decided to make them the same, but the state is of a different extent to the nation. There is no disputing that in territorial terms. We have to keep both concepts alive in the Constitution.

Citizenship evokes civic duties. Nationality is a sense of identity and identification. They are different political and philosophical concepts. Both are in the Constitution and I would like to keep them there, rather than to settle completely for one as against the other.

Mr. M. McDowell: This was discussed at great length yesterday. I did not have an opportunity to verify whether I was right or wrong about certain countries up to the 1930s distinguishing between nationals and citizens. It is my belief that until comparatively recently, citizenship in certain states in Europe was confined to the male gender whereas “nationals” included everyone. Surprising though it may be, Mr. de Valera’s Constitution of 1937 specifically stated that citizenship was available to both genders. It was regarded as a statement of importance at the time, that it was not possible to disqualify from citizenship one gender, which in the mores of the time was more likely to be the female gender. One never knows, the way things are going, perhaps at some future time men will have their citizenship under threat in some society. In this case I do not believe that the word “citizenship” or the word “nationality” has the significance Senator Tuffy’s amendment seems to imply. If one goes to the famous second sentence in Article 2:

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.

It is clear that citizens are entitled to be nationals. It is not clear if nationals can be disqualified from being citizens, although I suppose that could

happen by way of renunciation. It is a metaphysical distinction for the purpose of this debate.

Tarraingíodh siar an leasú faoi chead.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendment No. 23 is an alternative to amendment No. 22. They can be discussed together by agreement. Is that agreed? Agreed.

Ms Tuffy: Tairgim leasú a 22:

I leathanach 7, línte 9 agus 10, “mura ndéanfar socrú ina chomhair sin le dlí” a scriosadh agus an méid seo a leanas a chur ina ionad:

“i gcás ina socraítear amhlaidh le dlí arna achtú de bhun an ailt seo, ach sin faoi chuimsiú aon eisceachtaí nó coinníollacha a shonrófar leis an dlí sin”

agus

I leathanach 7, líne 19, “unless provided for by law” a scriosadh agus an méid seo a leanas a chur ina ionad:

“where a law enacted pursuant to this section so provides, but subject to any exceptions or conditions specified by such law”.

I move amendment No. 22:

In page 6, lines 9 and 10, to delete “mura ndéanfar socrú ina chomhair sin le dlí” and substitute the following:

“i gcás ina socraítear amhlaidh le dlí arna achtú de bhun an ailt seo, ach sin faoi chuimsiú aon eisceachtaí nó coinníollacha a shonrófar leis an dlí sin”

and

In page 6, line 19, to delete “unless provided for by law” and substitute the following:

“where a law enacted pursuant to this section so provides, but subject to any exceptions or conditions specified by such law”.

The constitutional right that currently exists should be retained until a new law is enacted. The purpose of the amendment is to avoid any possibility that a number of children could be caught in limbo pending the enactment of new legislation. I accept that the current Act would be in place, but just in case a question should arise, this amendment would deal with the issue to the effect that the existing constitutional right would remain in place until the new legislation is given effect.

[Ms Tuffy.]

The other amendment has the same purpose.

Ms Terry: I second the amendment.

Mr. M. McDowell: One day I woke up at 5 a.m. and thought there could be an interregnum period of the kind alluded to by the Senator. I had a bad two hours thinking I had put my foot in it. A consoling phone call from my officials told me that the current law would continue and, therefore, the passage of the referendum would not create a limbo period. It is worthwhile to take a look at the way it is phrased. The provision states “unless provided for by law.” If we phrased it differently and said that persons shall be Irish citizens only on foot of a law enacted on foot of this section, then one could have the nightmare scenario that gave me that momentary panic, that one could have a lacuna between the passage of the referendum and the passing of legislation.

I ask the Senator to accept from me that the situation now is that if the people vote in favour of this on 11 June and the President subsequently signs it into law, the amendment of the Constitution will take effect from that day and the law that exists on that day, the generous law we have at present, will continue in existence until such time as the new measures proposed by the Government, which are delimiting and restricting measures, come into effect. The existing statute law, which gives everybody born on the island of Ireland the entitlement to claim Irish citizenship, will keep going until such time

as the two Houses in their wisdom choose to bring in measures, either in accordance with the Government’s proposals or as the two Houses deem fit. There will not be a void which, in all honesty, for a couple of hours one morning I thought I had perhaps created.

Tarraingíodh siar an leasú faoi chead.

Amendment, by leave, withdrawn.

Níor tairgeadh leasú a 23.

Amendment No. 23 not moved.

Glacfar an Bille chun an breithniú deiridh a dhéanamh air.

Bill received for final consideration.

Cuireadh an cheist: “Go rithfear an Bille anois.”

Question proposed: “That the Bill do now pass.”

Ms Terry: I object to the Bill and I will vote against it for the reasons I outlined. As the Minister is aware, I agree, in principle, with the thrust of the Bill, but I must vote against it because of the way in which it has been dealt with.

Cuireadh an cheist.

Question put.

Rinne an Seanad vótáil: Tá, 28; Níl, 11.

The Seanad divided: Tá, 28; Níl, 11.

Tá

Brady, Cyprian.
Brennan, Michael.
Callanan, Peter.
Daly, Brendan.
Dardis, John.
Dooley, Timmy.
Feeney, Geraldine.
Fitzgerald, Liam.
Glynn, Camillus.
Hanafin, John.
Kenneally, Brendan.
Kett, Tony.
Leyden, Terry.
Lydon, Donal J.

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

Níl

Bradford, Paul.
Browne, Fergal.
Burke, Paddy.
Coghlan, Paul.
Finucane, Michael.
McHugh, Joe.

Norris, David.
Phelan, John.
Ross, Shane.
Terry, Sheila.
Tuffy, Joanna.

Tellers: Tá, Senators Minihan and Moylan; Níl, Senators Terry and Tuffy.

Faisnéiseadh go rabhthas tar éis glacadh leis an gceist.

Question declared carried.

Statement for Information of Voters: Motion.

Ms O'Rourke: Tairgim:

GO ndéanfar an ráiteas atá leagtha amach sa Sceideal a ghabhann leis an Rún seo a fhorordú mar eolas do vótálaithe de bhun alt 23 d'Acht an Reifrinn 1994 (Uimh. 12 de 1994), i ndáil leis an togra chun Airteagal 9 den Bhunreacht a leasú, atá ar áireamh sa Bhille um an Seachtú Leasú is Fiche ar an mBunreacht 2004, agus is ábhar do reifreann Bunreachta.

An Sceideal

1. Is é atá beartaithe leis an mBille um an Seachtú Leasú is Fiche ar an mBunreacht 2004 an t-alt seo a leanas a chur isteach i ndiaidh alt 1 d'Airteagal 9 den Bhunreacht:

‘2 1° D’ainneoin aon fhorála eile den Bhunreacht seo, maidir le duine a shaolaítear in oileán na hÉireann, ar a n-áirítear a oileáin agus a fharraigí, agus nach bhfuil aige nó aici, an tráth a shaolaítear an duine sin, tuismitheoir amháin ar a laghad is saoránach d’Éirinn nó atá i dteideal a bheith ina shaoránach nó ina saoránach d’Éirinn, níl teideal ag an duine sin chun saoránacht nó náisiúntacht Éireann, mura ndéanfar socrú ina chomhair sin le dlí.

2° Ní bhainfidh an t-alt seo le daoine a saolaíodh roimh dháta achtaithe an ailt seo.’

2. MÁ THOILÍONN TÚ leis an togra, caith do vóta ar shlí amháin de na slite seo a leanas:

(a) Má tá tú ag vótáil le meaisín vótála leictreonaí, brúigh an cnaipe TÁ.

(b) Mura bhfuil tú ag vótáil le meaisín vótála leictreonaí, cuir X os coinne an fhocail TÁ ar an bpáipéar ballóide.

3. MURA dTOILÍONN TÚ leis an togra, caith do vóta ar shlí amháin de na slite seo a leanas:

(a) Má tá tú ag vótáil le meaisín vótála leictreonaí, brúigh an cnaipe NÍL.

(b) Mura bhfuil tú ag vótáil le meaisín vótála leictreonaí, cuir X os coinne an fhocail NÍL ar an bpáipéar ballóide.

4. Is féidir cóip den Bhille a iniúchadh nó a fháil saor in aisce in aon Phost-Oifig.

I move:

THAT the statement set out in the Schedule to this Resolution be prescribed for the information of voters pursuant to section 23 of the Referendum Act 1994 (No. 12 of 1994), in relation to the proposal to amend Article 9 of the Constitution which is contained in the Twenty-seventh Amendment of the Constitution Bill 2004 and is to be the subject of a constitutional referendum.

Schedule

1. The Twenty-seventh Amendment of the Constitution Bill 2004 proposes to insert the following section after section 1 of Article 9 of the Constitution:

‘2 1° Notwithstanding any other provision of this Constitution, a person born in the island of Ireland, which includes its islands and seas, who does not have, at the time of the birth of that person, at least one parent who is an Irish citizen or entitled to be an Irish citizen is not entitled to Irish citizenship or nationality, unless provided for by law.

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

2. IF YOU APPROVE of the proposal, cast your vote in one of the following ways:

(a) If you are voting by means of an electronic voting machine, press the button marked YES.

(b) If you are not voting by means of an electronic voting machine, mark X opposite the word YES on the ballot paper.

3. IF YOU DO NOT APPROVE of the proposal, cast your vote in one of the following ways:

(a) If you are voting by means of an electronic voting machine, press the button marked NO.

(b) If you are not voting by means of an electronic voting machine, mark X opposite the word NO on the ballot paper.

4. A copy of the Bill can be inspected or obtained free of charge at any Post Office.

Cuireadh agus aontaíodh an cheist.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Ms O'Rourke: Tomorrow at 10.30 a.m.

Adjournment Matters.

School Accommodation.

Ms Tuffy: I have raised this matter on a number of occasions. A local Fianna Fáil candidate recently obtained information, by way of the freedom of information process, about the number of applicants for school places in Lucan compared to the number of places available. The candidate in question obtained some interesting figures which he probably would have got free of charge had he approached the Minister, Deputy Noel Dempsey, directly.

According to the information to which I refer, there appears to be a shortfall of approximately 300 places. I accept that there is a difficulty in terms of people making applications on their children's behalf to several schools. However, I am aware that there is still a problem in respect of primary school places. This is despite the fact that a great deal has been done in recent months in that approval has been granted for the construction of certain school buildings. I know people who have had to enrol their children in schools outside the area because they were turned away by schools in Lucan. I do not know the extent of the problem in that I do not have precise figures. However, more needs to be done at primary level.

Too much of what has happened in the area has been as a result of initiatives taken by local parents or schools. For example, a new Educate Together school was established as a result of pressure exerted by parents. However, there is a limit on how much can be achieved in this manner. It is the responsibility of the Department, the Minister and the Government to resolve the difficulties and anticipate needs and ensure that they are met. I would like to hear the Department's proposals in this regard. If it is a case that existing schools should expand, the Government, the Minister and the Department should approach the schools involved and indicate their proposals to meet the shortfall.

As regards secondary school places, in the most recent reply I received from the Minister, I was informed that pupils who cannot gain a place in the area should go outside it to Leixlip, Palmerstown, etc. That is not satisfactory. People need to attend schools in their local areas. Most people do not want their children to have to travel outside their areas to attend school and they feel that their children have a right to go to school locally. It is much better for the children, their parents and the community if they can attend school in their local areas.

A new school building is to be constructed at Adamstown. There is no reason that the Department cannot take the initiative and state that the school can provide for some of the

secondary school needs in the area now and that it will be built early. That was the intention of the planners of South Dublin County Council when they adopted the Adamstown plan.

Minister for Defence (Mr. M. Smith): I thank Senator Tuffy for providing me with the opportunity of outlining to the House the extensive interventions taken by the Department of Education and Science to address the school accommodation needs of the Lucan area.

I wish to clarify that the Department did not state in reply to a freedom of information request that there is a shortfall of 300 pupil places in the Lucan area. The Department has no evidence to suggest any such shortfall and is confident that the range of measure undertaken by it in recent years and those planned for the future will be sufficient to meet the needs of the area in the future.

As the Minister for Education and Science has stated publicly on a number of occasions, he is fully conscious that Lucan is the fastest growing area in the country and that, as a result, there has been a marked increase in the demand for school places, particularly at primary level. To meet this demand, his Department has taken major steps to increase capacity in the area by a combination of building new schools and increasing capacity at existing providers.

In the past five years primary and post-primary schools have shared in a massive and sustained capital investment programme of almost €19 million, which has significantly boosted capacity and substantially improved facilities. A total of €7 million has been invested in post-primary building projects and €12 million has been invested in primary school projects.

The position at primary level is that building projects were completed in 2003 at Scoil Áine junior school and St. Thomas's senior school to increase the capacity of each to 16 classrooms. Construction of the new Lucan Educate Together national school was also completed in 2003 and the capacity of this school is 16 mainstream classrooms, together with an autistic unit.

To further increase primary provision in the area, the Department requested that Archbishop Ryan national school reorganise to form a junior school and a senior school. The school authority and patron have agreed to this course of action to commence operation in September 2004. Temporary accommodation will be provided to facilitate this reorganization, which will enable the school to increase capacity considerably. In addition, the building unit of the Department approved the tender last year for the installation of two prefabricated classrooms at the Archbishop Ryan school to cater for immediate accommodation needs. A building project for the provision of permanent accommodation for the new Archbishop Ryan senior national school is

also at an advanced stage in the architectural planning process and it is envisaged that the project will go to construction this year.

A further new school, Griffeen Valley Educate Together national school, was established in the Lucan area in September 2002. The school is currently located in the temporary accommodation recently vacated by Lucan Educate Together national school.

As the Senator is aware, the local authority, at the request of the Department of Education and Science, reserved a site in the Griffeen Valley area for primary school purposes. The Department has purchased this site and construction work has commenced on permanent accommodation comprising 16 classrooms for the Griffeen Valley Educate Together school. The target date to have the new building in operation is September 2004.

At post-primary level, there are four post-primary providers operating in the Lucan area, with a current enrolment of 2,420 students. With the near completion of extension projects in both St. Joseph's College and Coláiste Pádraig, and a project to provide a new building for Coláiste Cois Life, a developing all-Irish college which will proceed to tender and construction later this year, there will be capacity for 3,027 pupils in the Lucan area.

I wish to point out that there are also four schools in the adjoining areas to Lucan, namely Palmerstown, Leixlip and Clondalkin, which have experienced a significant decline in pupil numbers over the past five years. The accommodation freed up by this decline provides an option in terms of facilitating any further growth in the Lucan area.

The Minister is satisfied that the combination of all the measures outlined will satisfy the demand for primary and post-primary school places in the Lucan area into the future. However, the Department will continue to monitor developments to ensure that any emerging additional demands are addressed as expeditiously as possible.

Defence Forces Accommodation.

Mr. P. Burke: I welcome the Minister for Defence and thank him for coming in to take this motion. As Fine Gael spokesperson on defence, I have been requested by a number of members of the Defence Forces to ask the Minister about the accommodation used for the May Day demonstrations. It has been brought to my attention that the accommodation used for the Defence Forces from the Western Command was inadequate and of a poor standard. Approximately 300 men had to sleep in a hangar with no heat. The washing facilities were poor and at quite a distance from the sleeping quarters. Health and safety regulations were breached and

soldiers had to boil their water by gas in the sleeping area.

We consider Ireland to have a modern Defence Force and the May Day demonstrations were well flagged in advance. Therefore, adequate time was available for the planning of proper accommodation for the Defence Forces. No expense was spared on the European Presidency yet our Defence Forces did not get, and do not always get, the best treatment. I am particularly disappointed for the people of the Western Command who had to move base to the Dublin area because of the May Day demonstrations.

The Minister must agree that it is inappropriate to use gas to boil water in an unheated area being used as sleeping quarters by up to 300 men. I urge the Minister to ensure that in the future more consideration is given to our forces. The facilities for this occasion should have been well planned as it was not a spur of the moment decision. It would be different if immediate plans had to be made for such an occasion.

I thank the Minister for coming to the House. I hope he can throw some light on the situation and that this is the last time we see such inadequate facilities being provided for some of our Defence Forces.

Mr. M. Smith: I am extremely proud as Minister for Defence to note the dignity which the Defence Forces added to the very special and significant events in the Phoenix Park on 1 May. The professionalism with which they performed their duties over the weekend is a credit to them.

In Ireland, the Garda Síochána has the primary responsibility for law and order, including the protection of the internal security of the State. However, among the roles assigned to the Defence Forces is the provision of aid to the civil power, meaning in practice to assist the Garda Síochána when requested. There has been a long history of the Defence Forces being called upon to support the Garda in its various duties, particularly during the course of the Troubles in the North.

The level and demand for Defence Forces assistance depends on security assessments undertaken by the Garda and the Defence Forces, and there is ongoing consultation between them in this regard. The Defence Forces are usually deployed only in the specific circumstances of a particular situation and then for a limited period. However, the primary responsibility for the maintenance and restoration of the public peace always rests with the Garda Síochána, with the Defence Forces acting in support of the Garda.

In the case of the recent deployment of the Defence Forces on 1 May, a significant amount of preplanning was undertaken by the Garda and the Defence Forces regarding the deployment and the respective roles of the deployed

[Mr. M. Smith.]

personnel. Defence Forces were mainly deployed at Farmleigh and on the periphery road inside the Phoenix Park. Extensive preparations were put in place by the Defence Forces to provide additional training in riot and crowd control and more than 2,500 personnel were deployed in various roles. In addition, the Naval Service was on patrol in the Irish Sea and the Air Corps provided air traffic control capability and support to operations both at Casement Aerodrome, Baldonnell and in the Phoenix Park. The Garda air support unit was also very active on 1 May providing top cover support to Garda operations. A temporary restricted flight area was in place over Dublin and the Air Defence regiment provided air defence cover for Dublin Airport, Farmleigh and Casement Aerodrome and Baldonnell in this regard. The Defence Forces EOD units, its chemical biological, nuclear and radiological units and its engineering and communications specialists also provided support for the operation. I am glad to say there was no requirement to call on the Defence Forces to provide additional support to the Garda in the maintenance of public order in this instance and that the Garda was able to fully contain the actions of a relatively small number of troublemakers who endeavoured to breach the security cordon.

Where the Defence Forces are deployed in an ATCP role, it is usually only in very specific circumstances and then for a limited period. In the case of the 1 May events the major deployment was from 6 p.m. on Friday, 30 April to midnight on Saturday, 1 May. Defence Forces personnel to support this operation were drawn from across the country and all permanent accommodation available within the Eastern Brigade area was used. The numbers involved also necessitated the use of tentage for a limited period. However, the majority of this tented accommodation was set up close to permanent shower blocks and canteen facilities and each

member of the Defence Forces would have been provided with a camp bed and would have had an all-weather sleeping bag.

The Defence Forces are trained and available to respond to the demands placed on them in the various roles assigned by Government. Their primary responsibility is to respond in an effective manner and to deploy where and when they are called upon. The issue of their accommodations comes second to the task in hand. To operate in any other manner would render the force moribund, ineffective and thus superfluous.

In the case of 1 May, the appropriate level of accommodation was provided having regard to the short duration of the deployment. Moreover, I am not aware that any members of the Defence Forces or their representative associations have complained about the arrangements made in respect of their accommodation and deployment. I can only assume that a very small number of personnel who are not representative of the wider Defence Forces who performed their duties professionally on the day and, in the course of the flag raising ceremony, with great respect and dignity, are seeking to create trouble where none exists. I suggest that they consider what contribution, if any, they have to make to the modern Defence Forces. We should remember that Army personnel are trained to operate in the field in all conditions.

I again extend my thanks and gratitude to all those in the Defence Forces who contributed so well to a wonderful celebration over the May bank holiday weekend.

Mr. P. Burke: I thank the Minister for his reply. I have the height of respect for our Defence Forces and the work they carry out throughout the world. However, I would like the Minister to ensure that health and safety regulations are not breached in terms of accommodation.

The Seanad adjourned at 4.55 p.m. until 10.30 a.m. on Friday, 7 May 2004.