DÍOSPOIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN
TUAIRISC OIFIGIÚIL—Neamhcheartaithé
(OFFICIAL REPORT—Unrevised)

Insert Date Here
66. **Deputy Niall Collins** asked the Minister for Justice and Equality the discussions he has held with the Northern Executive in relation to the cessation of prosecutions of pre-1998 crimes related to the Troubles; and if he will make a statement on the matter. [52678/13]

**Deputy Niall Collins**: I have tabled this question in light of the comments by the Northern Ireland Attorney General, Mr. John Larkin, concerning a proposal to have a cessation of prosecutions for all pre-1998 crimes. The matter is relevant, given the recent publication of the Smithwick report.

In that context, I welcome last week’s apology by the Minister for Justice and Equality on behalf of the State. It was timely for the families concerned and for their communities.

**Minister for Justice and Equality (Deputy Alan Shatter)**: I thank the Deputy for his remarks. The Deputy himself dealt with the matter in a responsible and correct way, following on from the Smithwick report.

I assumed the Deputy was alluding in his question to the comments made recently by the Northern Ireland Attorney General, Mr. John Larkin, QC, in which he spoke about drawing a line, set at the time of the Good Friday agreement in April 1998, with respect to conflict-related prosecutions, inquests and other inquiries. I have had no such discussions with the Minister of Justice, David Ford, MLA, who is my counterpart in the Northern Ireland Executive. I do not think it would be helpful for me to comment on Mr. Larkin’s proposal which was made in the context of ongoing considerations on how to address issues of the past. The Deputy will be aware that Dr. Richard Haass has been asked to consider these issues with the Panel of Parties.
and to make proposals to the Northern Ireland Executive later this month. The opportunity offered by the Haass process should be grasped by everyone involved. The Government is fully committed to supporting that process in any way it can and to finding a way forward on all the issues within the remit of the Panel of Parties talks.

In seeking to address the legacy of conflict and the many violent incidents related to the Troubles, the victims and survivors must be paramount in our considerations. We must be conscious primarily of taking into account and addressing their needs. The Good Friday Agreement explicitly refers to the need to acknowledge and to take actions to address the individual suffering of the victims of conflict violence and their families. This is a necessary and important element of reconciliation. All efforts to address the legacy of the conflict should be motivated above all by a commitment to making progress towards reconciliation and a cohesive society.

For the sake of completeness, there is another good reason I have not discussed the issue with my Northern Ireland counterpart, namely, as Minister for Justice and Equality I have no function in taking decisions on criminal prosecutions. In accordance with the provisions of the Prosecution of Offences Act 1974, the Director of Public Prosecutions in this jurisdiction is charged with the prosecution of criminal offences and she is fully independent in carrying out this function. A similar arrangement applies in Northern Ireland in respect of this separation of powers.

**Deputy Niall Collins:** There is no doubt there was a great deal of energy surrounding the statement by the Northern Ireland Attorney General, Mr. John Larkin, QC, possibly, because it suited the political agenda of some people. More important, it greatly concerned the vast majority of people. Mr. Larkin proposed a general amnesty of pre-1998 crimes. Fianna Fáil has made it clear it would not support any form of general amnesty as proposed by Mr. Larkin. The Good Friday Agreement provided for the release of people who were involved in or committed crimes. To take this a step further and provide a general amnesty would not serve the victims or their families in an appropriate manner.

The notion of a truth commission has been floated in some quarters. We need to be honest about this. We do not need a truth commission for people to effectively tell the truth. We are all aware of the fall-out from the Smithwick report last week in terms engaging in the truth. Some people say there was engagement by the IRA with the Smithwick tribunal. However, that engagement was limited and not fulsome.

The Minister has stated that he has no plans to meet the Minister for Justice, David Ford, MLA, and that he has no role in regard to prosecutions, which we know and understand. However, perhaps he would clarify if he proposes to meet with Mr. Ford to discuss the matter. The Minister might also clarify if what was proposed by Mr. Larkin, which proposal I presume the Government is nailing on the head, would require legislation in this jurisdiction? Will he also confirm that the recommendations contained in the Smithwick report in terms of compellability in respect of future inquiries will straddle the two jurisdictions?

**Deputy Alan Shatter:** The Deputy has raised a series of issues of importance. I will do my best to respond to as many of them as I can. First, the Minister for Justice, David Ford, MLA, and I are in regular contact. My most recent meeting with him was in Brussels on Thursday of last week. We also met briefly on Friday. On Thursday we had some substantive discussions of a preliminary nature arising out of the Smithwick tribunal report and the recommendations relating to it. We have both requested our officials to do some work with regard to those rec-
ommendations. From memory, I believe I am right in saying that we are scheduled to meet on 17 December together with the Garda Commissioner and the Chief Constable. At that point we will continue our further discussions on the implementation of recommendations in the Smithwick report. Some aspects of the recommendations are happening in practice but we will discuss those issues at the meeting.

As I said to the Deputy in respect of the other issues, I do not want to get in the way of the Haass process. It is an important process. It is important the parties in Northern Ireland participate in the process. We will look constructively at what comes out of that process with a view to seeing what steps we might take.

I reiterate something I said earlier. We must be conscious of the victims of the conflict in Northern Ireland in decisions we make and the impact of any decisions on them. I share the view of Deputy Collins about the need for us to know the truth in respect of some aspects and matters. Perhaps I will come back to that.

Deputy Niall Collins: I wish to push the Minister on the notion floated by Mr. John Larkin of a general amnesty. Will the Minister state emphatically that he is ruling it out? It is our view that it is not a runner and that it would require legislation in this jurisdiction.

An important issue is arriving at fair justice for the victims and their families. As I stated in my introduction, people have benefited under the terms of the Good Friday Agreement for crimes they committed. To take it further and confer a free pass by way of a general amnesty is not a runner. Will the Minister give the House some clarity on that?

Deputy Alan Shatter: The Deputy is asking me again what he previously asked me, and I am going to repeat what I previously said, that is, I do not believe it would be helpful for me to comment on Mr. Larkin’s proposals which were made in the context of ongoing consideration on how to address the past. Dr. Richard Haass has been asked to do that.

Everyone across the floor of the House may have views in respect of certain aspects of these matters. There is a time when it is appropriate to express views and there is a time when one might be better keeping one’s views to oneself. However, it is important the engagement takes place.

In the context of dealing with the past, it is important not only that people tell the truth about the past but that they engage with that truth with a degree of insight, sensitivity and understanding of the impact of past conduct on individuals. It is unfortunate that some Members, in response to the Smithwick report, took it on themselves to blame the two former senior officers in the RUC for their own death. They failed to acknowledge that those directly responsible for the murders or assassinations - because assassinations is what they were - were the individuals holding the guns who fired the shots. I repeat in the House what I said outside the House, that is, I believe the comments made by Deputy Adams and, surprisingly and unfortunately, repeated by Deputy Mac Lochlainn were little short of nauseating.

**Law Reform Proposals**

67. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality to outline his plans to implement the recommendations from the Joint Committee on Justice, Defence and
Equality regarding changes to prostitution laws. [52790/13]

Deputy Pádraig Mac Lochlainn: In 1981, ten men died on hunger strike in order that they could not be labelled as criminals. Bobby Sands was elected as an MP. Kieran Doherty was elected as a Member to this House. We did not let Maggie Thatcher criminalise them and we are not going to let Fianna Fáil criminalise them today. I wanted to state that on the record in case they think any differently.

The Minister has the report on the changes to the prostitution laws. I am keen to hear his views on it and whether he will consider implementing the recommendations of the report.

Deputy Alan Shatter: It is unfortunate that the Deputy continues to defend murder and assassinations. If we want to deal with the truth of what happened in the North, we should confront the reality of conduct in which people were engaged.

Deputy Mary Lou McDonald: The Minister has no interest in the truth.

Deputy Alan Shatter: However, the Deputy appears to have greater insight into the area of prostitution than the conflict that took place on this island for 30 years.

In respect of the Deputy’s question on this area, no policy decisions have been taken in this matter as yet. The Deputy will be aware the joint committee published its report on hearings and submissions on the review of prostitution legislation on 27 June last. I have requested the views of the Attorney General and the Minister for Health on the report. I have also corresponded with the committee since it published its report to seek clarification and elaboration of some of its recommendations. The Chairman’s reply of 6 November provided very detailed and helpful responses and this has also been referred to the Attorney General and the Minister for Health for examination. Policy decisions by the Government must await their examination of the legal and health implications of the committee’s recommendations and each must have the opportunity to prepare considered views and advices.

Deputy Pádraig Mac Lochlainn: As the Minister is aware, a huge amount of work went into this report. There were approximately 800 submissions as a range of people appeared before the joint committee. It is an all-party report and the Minister will agree that, at present, those who avail of the services of prostitutes throughout Ireland walk away scot free, while the unfortunate people - very often foreign nationals - who are vulnerable, find themselves paraded in local newspapers and radio stations and with their lives reported on. A decision must be made to pass responsibility onto the users, rather than those who, in the vast majority albeit not all cases, are vulnerable, are being used by others and whose dignity is taken away by the process. I ask the Minister to do something courageous and to do what is right with regard to this all-party series of recommendations based on a great amount of work and deliberations. As the recommendations are crystal clear, I again ask the Minister whether he can implement them.

Deputy Alan Shatter: Obviously, the Deputy has greater insight into this area than that with which Members were dealing earlier.

Deputy Pádraig Mac Lochlainn: God almighty.

Deputy Alan Shatter: I have treated the Oireachtas Joint Committee on Justice, Defence and Equality with great seriousness. As the Deputy is aware, the Department held its own detailed one-day seminar on this particular issue some considerable time ago now. Some issues
arise from the report, including issues relevant to the Department of Health, based on the approach taken to this issue by the World Health Organization. Consequently, it is important to receive the observations of the Department of Health on the report. I greatly appreciate the detailed response I received from the joint committee to the series of queries I raised and it should form part of the public record of the engagement on this issue that both the queries I raised and the Department’s responses be published. I have written to the Chairman of the joint committee in proposing this and hopefully that will occur. There are also issues for the Attorney General’s office to deal with. There is one particular issue, which is whether any constitutional difficulties could arise. It may be the case that they do not, but advice is needed as to whether constitutional issues could arise with regard to implementing aspects of the recommendations received.

An Leas-Cheann Comhairle: Go raibh maith agat.

Deputy Alan Shatter: I hope to receive observations from the Department of Health, as well as legal clarification from the Attorney General’s office, early in the new year after which my Department will be in a position to bring matters for final consideration.

Deputy Pádraig Mac Lochlainn: Obviously I am aware of the Minister’s concerns or the clarifications he sought from the joint committee to which he now has the responses. I believe these responses deal adequately with the concerns he has raised and there comes a point in time at which one must make the decision. In the North of Ireland at present, a Bill sponsored by Maurice Morrow will be moving through the Assembly and going through the different Stages. I believe the outcome will be the introduction of the Swedish model with which the Minister is very familiar. I will ask the Minister a direct question. Does he believe those who avail of the services of people who in the vast majority of cases are vulnerable, are foreign nationals and are used, should be asked to take the penalty, rather than those who find themselves in that situation?

Deputy Alan Shatter: I have dealt with the Deputy’s questions. Robust legislation is in place that addresses organised prostitution and human trafficking for sexual exploitation, including the prostitution and trafficking of children. It is sometimes forgotten that such legislation is in place. I need to get the responses we have sought from the Department of Health and Children and from the Attorney General before we can adequately advance this matter. We will then need to make decisions based on the detailed report received, the diversity of views expressed, the recommendations of the committee and the legal advices obtained from the Office of the Attorney General. I hope we will be in a position to do all this next year, having engaged in a very careful deliberative process and having regard to the whole variety of issues. I cannot simply deal with this issue from a justice perspective as there are very serious and important health issues, some of which have been dealt with in great detail outside the State but which were not dealt with in detail by the committee. The committee was asked a question about certain health issues but it did not deal in the detail with which the matter is being considered elsewhere. I must be very careful that from the point of view of public policy we consider this issue comprehensively. I note with interest that the French Parliament has recently taken steps to implement in France the legislation applicable in Sweden. This issue is getting wider discussion across Europe and we will be engaged constructively in this discussion in 2014.
68. **Deputy Mick Wallace** asked the Minister for Justice and Equality if he will reconsider the refusal of his predecessors to order a wider investigation under section 106 of An Garda Síochána Act into the general practices, policies and procedures of An Garda Síochána in relation to Corrib Gas, in view of the recent serious allegations regarding the delivery of alcohol to gardaí; if he has concerns regarding the long history and high incidence of complaints to the Garda Síochána Ombudsman Commission in this area; and if he will make a statement on the matter. [52900/13]

**Deputy Mick Wallace:** In 2008 the Morris tribunal completed its work cataloguing corruption, systemic failures in senior Garda management and working practices and the failure of accountability systems. The Garda Síochána Act 2005 was presented as the answer to many of these problems but instead the force has been over-centralised and politicised since then. The Morris tribunal did not just identify malpractice and corruption on the part of individuals but also stressed that the problems were institutional. Will the Minister consider being proactive and order a Garda Síochána Ombudsman Commission investigation under section 106?

**Deputy Alan Shatter:** I am looking forward to the day when Deputy Wallace tells the House what work of the Garda Síochána he supports. It would be an interesting revelation.

**Deputy Mick Wallace:** Will I tell him now?

**An Leas-Cheann Comhairle:** Silence, please.

**Deputy Alan Shatter:** Significant protest activity over a number of years has occurred in the north Mayo area connected with the development of a very important natural resource. This has necessitated the temporary redeployment of large numbers of gardaí, including specially trained personnel, from throughout the western region into the Belmullet district. It is deeply regrettable that so much Garda resources have had to be tied up at the north Mayo site. However, this is absolutely necessary in view of the actions of some of the protestors, many of whom, as I have said previously in respect of the matter, are not from the area and who have engaged in acts of public disorder as well as damage to property. Such action cannot be tolerated and the Garda presence is there to prevent it. In that regard, from 2011 to 2013, 38 defendants were brought before the courts for public order offences, criminal damage and assault on gardaí.

The Garda Síochána has in the past been wrongly accused of facilitating the interests of a multinational company over the interests and safety concerns of local residents. In response to these allegations it has been consistently stated by the Garda Commissioner that the aim of the policing measures currently in place is to prevent public order offences and to ensure that people can go about their lawful business. I support this policy. An Garda Síochána is duty-bound to uphold the rule of law without fear or favour and that is what local Garda management will continue to do in what is a difficult and confrontational setting which is not of the Garda Síochána’s making.

I wish to inform the Deputy that the total cost of policing this issue has now reached in excess of €16 million. This does not include the significant cost of the basic salaries of the members who have performed duties at the Corrib gas project, as these arise in the normal course of their duty. This expenditure comes at a time of economic difficulty for the State and when such resources could be put to far better use elsewhere.
With regard to the specific allegations concerning the supply of alcohol, I am informed by the Garda authorities that on 19 September the allegations were referred by An Garda Síochána to the Garda Síochána Ombudsman Commission under section 85(1) of the Garda Síochána Act 2005. The Deputy will be aware that the Garda Síochána Ombudsman Commission is an independent statutory body. In these circumstances it is currently a matter for the Garda Síochána Ombudsman Commission to carry out its investigation and to arrive at a conclusion. The House will appreciate that I am not in a position to comment further on that matter.

On the issue of a request to the Garda Síochána Ombudsman Commission under section 106 of the Garda Síochána Act 2005, while the Garda role in the Corrib dispute has given rise to a number of complaints being made to the GSOC, it should be borne in mind that the majority of these were either found to be inadmissible or did not disclose wrongdoing on the part of the members of the force against whom complaints were made. Those complaints found to have disclosed breaches of discipline relate to matters which would not come within the remit of an examination under section 106 of the 2005 Act, that is, the practices, policies or procedures of An Garda Síochána. In the current circumstances, I do not believe an examination under section 106 of the Garda Síochána Act 2005 is warranted.

**Deputy Mick Wallace:** I do not suppose the Minister’s sums include the cost of the alcohol supplied.

There has been a high incidence of complaints in this area. A total of 111 complaints were made in 2007 to 2008 but no charges have been brought. It is clear there is a systemic problem in terms of Garda policy and procedure. The section 98 investigation will not address that but a section 106 investigation would, and I am disappointed the Minister would not consider introducing it. We can also see this defensive approach of the gardaí, the blue wall of silence and the Garda entrenched in automatic opposition to any kind of transparency in the refusal of the Minister’s friend, the Commissioner, to provide files in the Ian Bailey civil case against the State for wrongful arrest, and also in the Commissioner’s direction to the Data Protection Commissioner to seize the files in the possession of the Committee of Public Accounts relating to the cancellation of fixed charge notices. However, it is within the remit of the Minister to check that tendency and to hold the Garda to account. Sadly, his track record to date has been weak and bordering on cowardly. Ordering a section 106 investigation into issues surrounding the Corrib gas project would go some way to redressing that imbalance.

**Deputy Alan Shatter:** The Deputy still has not told us if he can identify a single action of benefit that An Garda Síochána do in the public interest.

Regarding the specific allegations concerning the supply of alcohol, I am informed by the Garda authorities that on 19 September the allegations were referred by An Garda Síochána to the Garda Síochána Ombudsman Commission, GSOC, under section 85(1) of the Garda Síochána Act 2005. The Deputy will be aware that the Garda Síochána Ombudsman Commission is an independent statutory body and in these circumstances it is a matter for the ombudsman commission to carry out its investigation and arrive at a conclusion. The House will appreciate that I am not in a position, therefore, to comment further on that matter.

On the issue of a request to the Garda Síochána Ombudsman Commission under section 106 of the Garda Síochána Act 2005, while the Garda role in the Corrib dispute has given rise
to a number of complaints being made to GSOC, it should be borne in mind that the majority of these were either found to be inadmissible or not to disclose wrongdoing on the part of the members of the force complained about. Those complaints found to have disclosed breaches of discipline relate to matters which would not come within the remit of an examination under section 106 of the 2005 Act, that is, on the practices, policies and procedures of An Garda Síochána. In the current circumstances I do not believe an examination under section 106 of the Garda Síochána Act 2005 is warranted.

In response to the Deputy I want to be clear that I expect members of An Garda Síochána to behave appropriately and to do their duty without fear or favour. Where there are issues that need to be dealt with, they will be addressed, but, unlike the Deputy, I do not labour under the illusion that the gardaí as a group do no public good, that the gardaí as a group should be under continuous attack in this House and that no recognition of any description should ever be given to them for the substantially important work they do in combating subversion on this island, dealing with criminal gangs, reducing the level of crime, providing protection for communities, giving advice with regard to crime prevention and engaging in crime investigation.

**Deputy Mick Wallace:** I believe the majority of gardaí do a very good job but, sadly, a section 98 investigation will scapegoat a couple of individuals whereas a section 106 investigation will tackle the underlying problems. A section 98 investigation will more than likely blame individual gardaí for decisions made by a higher authority. First, does the Minister honestly believe it is satisfactory that GSOC’s hands are tied unless the Minister consents to an investigation under section 106, a deficit that was criticised by the United Nations Special Rapporteur, Margaret Sekaggya, in her report in March last year. That is yet another example of the lack of independence of GSOC and the weakness in the current legislative structure of Garda oversight and monitoring. Second, can the Minister confirm he will implement legislative changes as recommended by the UN Special Rapporteur, Margaret Sekaggya, to amend section 106 of the Act?

Does the Minister not believe that gardaí will also get due process and fair procedures in the section 106 investigation and that under a section 106 investigation individual gardaí would not run the risk of being scapegoated for only implementing a policy decided at a much senior level? It is not the rank and file gardaí who are causing the problems; it is the people giving the orders.

**Deputy Alan Shatter:** The role of the gardaí with regard to Corrib is to preserve law and order. The role of the gardaí is to facilitate a lawful engagement in the development of that resource and its utilisation. The role of the protestors is to disrupt and sabotage and the gardaí have a very specific role.

**Deputy Mick Wallace:** I disagree completely.

**Deputy Alan Shatter:** Some of the protestors who visit are tourist protestors. They turn up in the summer when the weather is good and then they disappear again. I regard it as a scandal that €16 million of taxpayers’ money has been utilised to maintain law and order so that people can engage in lawful business engagement in that location. It is a waste of public money and Garda resources.

Does Deputy Wallace think it is appropriate that, to maintain law and order, it has been necessary to spend €16 million in the context of providing security in that area-----
Deputy Mick Wallace: I do not think the State should have spent €16 million defending Shell.

Deputy Alan Shatter: -----in respect of individuals who seek to prevent bringing in an important natural resource to the detriment of the economy of this country and of that region and who are intent on trying to sabotage jobs that are available to people in the local community?

Deputy Mick Wallace: We were there a few weeks ago and met a lot of decent people.

Property Trusts

69. Deputy Niall Collins asked the Minister for Justice and Equality the steps he has taken to address existing misleading property trusts that promise to help indebted home owners avoid repossession; and if he will make a statement on the matter. [52679/13]

Deputy Niall Collins: This matter was aired recently in the Topical Issue debate and it was dealt with by the Minister’s colleague, the Minister of State, Deputy Kathleen Lynch. Some additional information came out that up to 500 applications had been made to the Property Registration Authority. It was also indicated that the Minister intended to have a discussion with the Garda Commissioner on this matter. Given the nature and scale of the fraud and deception which has been perpetrated in a very public fashion, I raise this again as a matter of public interest.

Deputy Alan Shatter: As Deputy Collins is aware, this matter was the subject of a Topical Issue debate on 27 November 2013 which was dealt with by the Minister of State, Deputy Kathleen Lynch, in my absence. I should explain first that to address the problem of over-indebtedness, the Government has brought forward significant modernisation of the law, primarily through the enactment of the Personal Insolvency Act 2012 and reform of the Bankruptcy Act 1988. The Personal Insolvency Act established three new debt resolution mechanisms, of which the House is aware, namely, the debt relief notice, the debt settlement arrangement and the personal insolvency arrangement.

On the matter of property trusts, I can confirm that trust law allows for the legal title of land to be held by trustees not for their own benefit but rather for the benefit of the beneficiaries of the trust. The trust mechanism may be used in family situations where, for example, the intended beneficiary is a minor or is otherwise incapable of managing the property. Trusts are also commonly created in the context of wills where the testator may leave property to his or her spouse for life and afterwards to his or her children. The creation of trusts for charitable purposes is also common.

I am aware of only one property trust of the type referred to by the Deputy in his question. This trust has been the subject of significant media attention in recent times. Obviously, I would advise distressed debtors to examine the range of debt relief solutions available through the Insolvency Service of Ireland and to engage with their creditors in resolving their personal situations rather than pursuing unrealistic solutions being proposed by other groups or individuals.

The Property Registration Authority is the State authority which manages and controls the Land Registry and the Registry of Deeds. I am advised by the authority that in recent months more than 500 applications were received in the Land Registry office for registration of notices.
of certificate of acknowledgement of the living man’s claim of right. These appear to be applications to record on a State register the acknowledgement of the living man. The freeman on the land is one of a number of groups, originating in Canada and the US which advance the notion that the legal person and living person are two distinct entities, a particularly interesting concept. The living person is, in that belief system, not bound by law or court rulings unless and until the living person or freeman contracts to accept such law. I am advised that obtaining entry on a State register of the recognition of the living man or freeman on the land is often a first tactical step within these groups.

These applications were all rejected by the Property Registration Authority. I warn the public to be aware of spurious legal constructs which are presented to them by individuals who have an agenda but who do not have the legal expertise to know what they are talking about or the legal qualifications. People should be very aware of not getting caught up in such circumstances.

Additional information not given on the floor of the House

In so far as the Registry of Deeds is concerned, the documents that were presented for registration were not deeds within the meaning of section 32(1) of the Registration of Deeds and Title Act 2006. Therefore, no registration could be made in the office. In so far as the Land Registry is concerned, the registers, which are maintained in that office, must consist of information required to be recorded under the Registration of Deeds and Title Acts 1964 to 2006 and be authorised by the Land Registration Rules 2012. The applications received in these particular cases did not constitute applications for an authorised entry on the folios of the register and were not in a form prescribed by the Land Registration Rules 2012. I am advised by the Property Registration Authority that no applications appear to have been received from any other trust of this nature and staff continue to monitor the situation.

**Deputy Niall Collins:** I am not sure whether the Minister is aware that a High Court judge, Mr. Justice Sean Ryan, has described the activities of Charles Allen at Lota More, County Cork, as “unsatisfactory and unsavoury”. Mr. Justice Ryan further commented that trust documents could be a front for illegal activity. Has the Minister discussed this situation with the Garda Commissioner, as indicated by the Minister of State, Deputy Kathleen Lynch? Can he comment on the fact that firearms have been found in some of the properties under the control of this trust? I think that discovery underscores and emphasises the concerns raised by Mr. Justice Ryan. Who is responsible for policing and enforcing section 43 of the Consumer Protection Act 2007, which prohibits the use of misleading, false or deceptive information to attract new customers?

**Deputy Alan Shatter:** I am sure the Deputy will understand and appreciate that it is not appropriate for me to go into the detail of any investigation the Garda Síochána might be conducting. I can tell him the Garda Commissioner is aware of this matter. I hope the Deputy will understand if I do not take it any further. I agree entirely with what Mr. Justice Ryan had to say in court about this particular issue. Unfortunately, vulnerable people who are overwhelmed with debt can be led into believing that someone has invented a new solution to their problems and, in desperation, following a roadmap created by an individual without understanding where that road will lead. As Mr. Justice Ryan has pointed out, there is no legal validity to the presentation being made in this area. I have genuine concerns that this presentation was initially given some credibility. At an early stage, media reports on this matter, without any accompanying warnings, suggested that this was a route people might travel. Those who wrote about these issues
did not investigate the matter further. People should be cautious if they are told their difficulties might have a legal solution of which they were previously unaware. Frankly, they should not rely on individuals without qualifications or on what they read in the media. They should take the time to get some advice and assistance. People can readily access a great deal of important information and assistance on the website of the Insolvency Service of Ireland, in particular.

**Deputy Niall Collins:** As a said during a previous discussion on this matter, Mr. Allen even paid a visit to this House as part of his search for credibility. He spoke to my colleague, Senator Thomas Byrne, who reported the matter to the Garda and outlined his concerns after questioning Mr. Allen quite thoroughly. Senator Byrne said a mass deception was going ahead. Can the Minister confirm whether a formal Garda investigation into these activities of misrepresentation and deception is taking place? We do not know whether there is. The Minister has said he cannot comment on what the Garda is doing, but surely he can tell us whether a formal investigation is under way. The usual practice with this type of scheme, and with pyramid schemes in general, is that everybody stands back and lets it roll away until it collapses. All the fall-out from that must be dealt with then. It is a matter of trying to catch this as a work in progress, rather than catching it when all of the ill-gotten gains have been bagged and those involved have ridden off into the sunset. Many of the victims of this scam want to remain below the radar and are not prepared to make a formal report. Is a formal Garda investigation into this activity under way?

**Deputy Alan Shatter:** I hope the Deputy will be satisfied if I say two things. First, I hope this activity is no longer a work in progress. I hope its progress has been halted. Second, I encourage and ask the media outlets that gave such prominence to this activity at an early stage to give much more prominence to the court decision. I am surprised the decision was not given greater prominence because it is a thing of importance. I hope the Deputy will understand that I do not want to say anything that could prejudice the outcome of any Garda engagement in any way.

**Proposed Legislation**

70. **Deputy Pádraig Mac Lochlainn** asked the Minister for Justice and Equality when he plans to bring the mediation Bill before Dáil Éireann and if his attention has been drawn to the urgency of this Bill for many families across the State. [52792/13]

**Deputy Pádraig Mac Lochlainn:** In terms of reducing costs, this Bill is even more important than the Legal Services Regulation Bill, because it should encourage those in conflict over issues of family law or civil law to engage in mediation at an early stage rather than incurring the excessive costs of going through the courts. What are the Minister’s plans and how can we move this on?

**Deputy Alan Shatter:** I intend to publish the Bill early next year. The Bill, which is currently at an advanced stage of drafting, will promote mediation as a viable, effective and efficient alternative to court proceedings, thereby reducing legal costs and speeding up the resolution of disputes. It will introduce an obligation on solicitors and barristers to advise any person wishing to commence court proceedings to consider mediation as a means of resolving the matter before embarking on such proceedings. It will also provide that a court may, following the commencement of any such proceedings, on its own initiative invite parties to consider the mediation option and suspend the proceedings to facilitate such a process.
10 December 2013

I am at present giving consideration to the possible inclusion in the legislation of an overarching governance structure for the mediation sector. The Deputy may recall that this matter was raised by the Oireachtas Joint Committee on Justice, Equality and Defence in its constructive report on the general scheme of the Bill. Such a representative structure could, for example, play an important role in the promotion of mediation as an alternative to court proceedings and in the development of codes of practice for the sector. A number of mediation bodies have made submissions on mediation regulation and standards in the context of the future legislation and I shall have regard to the various views expressed when finalising the Bill for publication.

Deputy Pádraig Mac Lochlainn: The Minister will agree that the sooner this is under way the better. Right now the courts system is clogged up, which increases the sense of dispute and grievance between the various parties. In family law cases children can be caught into it, as the anger, resentment and hurt continues for people beyond the point that it should or is necessary. The legal fraternity has, unfortunately, benefited because the longer these cases drag on awaiting court hearing dates, the greater the level of dispute and the more those lawyers get paid. In some cases they get rewarded for not resolving the matters, which is what they should do. I am referring to some solicitors, but not all. We need to clear that out and give people a better avenue for resolving their differences.

Deputy Alan Shatter: On this issue the Deputy is preaching to the converted. I should make a declaration of interest, in that I am a qualified mediator. My view of the world is that far too many disputes end up in court hearings or are resolved outside the doors of the courts, after people have incurred very substantial expense, that could be dealt with at an earlier stage through the assistance of mediation. When enacted, the legislation is designed to ensure that mediation has a higher profile, that lawyers encourage people at an early stage to go to mediation rather than go to court and that we have a structure that is applicable to the varied types of dispute that substantially end up being dealt with in our court system. As the Deputy knows, the advantage with mediation is that it is a great deal less expensive than litigation.

I look forward to the enactment of the Bill in 2014. I do not want to give an exact date for its publication because, as is always the case, I am dependent on the technical drafting being completed in the Office of the Attorney General. However, I am optimistic that we will have the Bill in the first half of next year and enacted during next year. It will be a significant step in the right direction in trying to encourage people to litigate considerably less and to engage and negotiate more when disputes and difficulties arise.

Deputy Pádraig Mac Lochlainn: We are on the same page on this. There have been problems in clearing Bills through the Office of the Attorney General. While I accept the Legal Services Regulation Bill is very large, it has run on and on. I am absolutely certain the Minister will have full support across the House. I ask the Minister to exercise whatever influence he has in government in prioritising Bills to ensure the Bill is passed in 2014. That would be an even greater service to people in conflict in court than the Legal Services Regulation Bill.

Deputy Alan Shatter: Both Bills will be passed in 2014 and the Legal Services Regulation Bill should be enacted during the first half of 2014. We will publish the amendments to that Bill very soon. As Deputy Niall Collins knows, we originally hoped to continue Committee Stage in December. The good news is that this is now scheduled for 15 and 16 January 2014, immediately following our return from the Christmas vacation. The Deputies will shortly have sight of the amendments and the related back-up documentation requested in respect of the Bill. I expect that in 2014 both Bills will be enacted.
Deputy Niall Collins asked the Minister for Justice and Equality if he has considered establishing a special commission of investigation in relation to the Fr. Molloy case; and if he will make a statement on the matter. [52661/13]

Deputy Denis Naughten asked the Minister for Justice and Equality his plans for an independent review of all of the files held by the State into the circumstances surrounding the death of Fr. Niall Molloy in Clara, County Offaly, in July 1985; if he will accede to the request by the family for a meeting; and if he will make a statement on the matter. [52548/13]

Deputy Niall Collins asked the Minister for Justice and Equality if he will establish a special commission of investigation into the death of Fr. Niall Molloy; and if he will make a statement on the matter. [53021/13]

Deputy Niall Collins asked the Minister for Justice and Equality if he will clarify the remit and objectives of the senior counsel appointed to review the Fr. Niall Molloy case; if the senior counsel will have full access to all files; if the final report will be made publicly available; and if he will make a statement on the matter. [53022/13]

Deputy Niall Collins: The Minister is well aware of this case. It is a long-running cause of concern to the extended family of the late Fr. Niall Molloy who was killed in 1985. Will there be a commission of investigation? I understand that the Minister has briefed a senior counsel to examine the case. I am trying to elicit some more information about that from the Minister.

(Deputy Alan Shatter): I propose to take Questions Nos. 71, 99, 380 and 381 together.

I refer the Deputies to my reply to Parliamentary Questions Nos. 75 and 81 of 5 November 2013 wherein I indicated that in the interests of transparency, I was consulting with the Attorney General with a view to the appointment of a senior counsel to conduct an independent examination of the report of the serious crime review team on this case. I also indicated that the senior counsel will be asked to do two things, namely, first, to prepare a report which can be put into the public domain on any issues of public interest which may arise from the report, having regard to the rights of all those involved; and second, taking into account existing mechanisms for the investigation of offences, to identify matters, if any, of significant public concern arising from this examination and in respect of which such further inquiry would have a reasonable prospect of establishing the truth.

I am pleased to inform the Deputies that following consultation with the Attorney General, the specific terms of reference for this process have been finalised and arrangements are also now being put in train for the appointment of the senior counsel to carry out this task. I should also say that An Garda Síochána will be asked to cooperate fully with the person appointed.

I have recently written to a representative of the family to update them on progress and to provide them with the finalised terms of reference, which I will also make available on the Department’s website. As soon as a person is appointed I will be in touch with the family again but I do not think that a meeting would advance matters at this point.
My priority at this stage is to allow the senior counsel to carry out the examination so that the maximum amount of information can be put into the public domain at the earliest possible date, at which point I will also of course fully consider the outcome of the examination concerning any further inquiry.

**Deputy Niall Collins:** I thank the Minister. What will be the timeline given within the terms of reference for the senior counsel? Will it be open-ended or guillotined at a point so that the family will not feel that it will go on in perpetuity?

Is this a precursor to the establishment of a commission of investigation? Will the Minister tell us that he is not ruling out a commission of investigation into the whole matter?

**Deputy Alan Shatter:** To use that awful phrase, “I am not ruling anything out or anything in”. I do not want to prejudge what has been requested to be undertaken in this context. I did not envisage a timeline because there is a very detailed document for the senior counsel to read, consider, make recommendations on and to address according to the terms of reference. I do not envisage it being unduly long but I do not want to tie the hands of the individual who will be asked to undertake this task. I am not tending to suggest it must be done within a certain number of months. If I could put it in general terms, it may take a few months but I would not expect it to take more than that, and it is not something I envisage going on, for example, from 2014 into 2015. I could not fathom that would happen but there may be a few months in it. I believe we would all be concerned if some reasonable time was not spent on it because it requires very careful consideration and, under the terms of reference, a very careful report will have to be prepared that can allow for what is appropriate to go into the public domain and also to respond to the other issue to which the Deputy makes reference.

**Deputy Denis Naughten:** I thank the Minister for his announcement, which I acknowledge is a step forward. We would all agree we need to have clarity regarding the concerns that have been expressed over a long number of years about the death of Fr. Molloy.

Why is the senior counsel who is being appointed not being given access to all of the files and is only being given access to the cold case file? The last time we had a similar inquiry, Mr. George Birmingham SC was appointed in regard to the issue in Ferns. On that occasion, all of the Garda files and all of the HSE files were given to Mr. Birmingham but that is not the intention here. Why is this the case and will the Minister reconsider it?

**Deputy Alan Shatter:** First, the counsel appointed will be able to raise any questions or queries that arise with An Garda Síochána. I am presuming this will occur and that gardaí will fully co-operate with that. I am sure the Deputies will be interested to know I have received a detailed report which addresses all of the different issues that have been in the public domain and issues raised in the context of the Fr. Molloy case by a number of individuals, including issues that have been the subject of media reports. These issues have been dealt with in great detail. I would be anxious that we can put as much of that as possible into the public domain but there are certain legal issues around that.

The first job is for the appointed senior counsel to make decisions about the report and to allow it to be published. At the same time, however, there is the key issue, which I referenced, of “taking into account existing mechanisms for the investigation of offences, to identify matters, if any, of significant public concern arising from this examination and in respect of which such further inquiry would have a reasonable prospect of establishing the truth”. I am assuming that
on reading what will be furnished to the senior counsel, questions or queries may arise and they will be dealt with appropriately by An Garda Síochána.

**Deputy Niall Collins:** On the same point as that raised by Deputy Naughten, if it is the case that either the family or the senior counsel who is to undertake the role feel they are being inhibited in their work by not having access to the entire range of files, where do we stand then? How much restriction will be placed on the senior counsel in terms of access to files? For example, will all the Garda files be available to him or her? The Minister mentioned that whoever is appointed, he or she may raise queries and they will be dealt with? Is that adequate?

**Deputy Denis Naughten:** I have two questions. First, I question why a different approach seems to be taken than was taken in regard to the Ferns inquiry. The Minister might clarify this point. Second, there have been media reports that there are two separate drafts of the cold case file that was presented by the Garda, in that there was an original draft and there was then a request for a redraft of some elements in that, particularly, I understand, in regard to a recommendation for a public inquiry. If it is the case that there are a number of drafts of this report, will all of the drafts be given to the senior counsel?

**Deputy Alan Shatter:** There have been all kinds of media reports around this case. I ask the Deputy to withhold judgment on all that until a document is published. The job of the senior counsel is not to re-investigate what An Garda Síochána has investigated. The job of the senior counsel is to look at what is a very detailed report that for all sorts of legal reasons cannot be put into the public domain in its current form and address how the necessary and important - I do not want to use the word “appropriate” because it will be misunderstood - information in it that answers and addresses the myriad questions that have arisen around this case can be put into the public domain without creating a legal difficulty. That is the first issue. In the context of having read this report, the second issue relates to doing the second job and, to put it in simplistic terms, to do the second job in the context of ascertaining whether a further inquiry would have a reasonable prospect of establishing the truth, taking into account the existing mechanisms for the investigation of offences. They are the two key issues.

The Ferns report was different. I am speaking from memory. Mr. Justice George Birmingham was then a senior counsel. He went to Ferns to examine files and circumstances where there was no report and he produced a report which contained a very important body of work. Here we have a report which answers and addresses a range of questions which, because of the nature of the way it is constructed, cannot be put into the public domain for legal reasons. I want to put what is possible into the public domain to see where we go from there.

**Deputy Clare Daly:** The Fr. Niall Molloy case was one of the more high profile murders which have gone unresolved over decades but, sadly, it is not the only one. Access to information is important, particularly because these cases have allegedly been investigated internally by An Garda Síochána. With reference to the points made by the Minister concerning access of information, I am curious as to who will decide about how that access is granted. The Minister is aware there are other cases such as that of Shane Tuohy whose family is looking for answers. The Minister is similarly aware that access to information has been in the public domain recently. I know he is aware that the Director of Public Prosecutions refused to give information on foot of a court order in the case of Ian Bailey. In response to a question I tabled which did not get on the agenda today, I believe the Minister would appear to have no responsibility for the DPP. Information, access to information and the public having a right to scrutinise it are becoming increasingly important. Could the Minister enlighten us on that?
Deputy Mick Wallace: The Minister says he is interested in transparency and accountability in respect of how our police force operates. Given that, is he concerned about the fact the Garda Síochána Ombudsman Commission special report this summer pointed out that many of the recommendations of the Morris tribunal have still not been implemented? Is the Minister also concerned about the criticism by Judge Frank O’Donnell and Mr. Justice Barry White? Last week, the report of the Smithwick tribunal pointed out that reputation was put before honesty. Does the Minister not agree that the blue wall of silence is alive and well and that we are a long way away from transparency and accountability in the top echelons of An Garda Síochána?

Deputy Luke ‘Ming’ Flanagan: It is a great honour to be in the company of such important people, particularly the Minister. He has been in office for nearly three years and for three years, the word on the street where I live and in the midlands is that one can actually get away with murdering someone. If people actually believe that, how does it help confidence in An Garda Síochána? Why does it take three years to deal with this? Is it the case that it will be dealt with when hell freezes over because that is not going to happen very soon, is it?

3 o’clock

Deputy Alan Shatter: The Deputy said that the word on the street, at least in his constituency, is a person can get away with murder. I presume the Deputy is oblivious to the number of individuals An Garda Síochána has arrested in circumstances where homicides are alleged. He has not noticed the number of trials that have taken place. He has not noticed the number of convictions that have been obtained for murder or manslaughter.

Deputy Luke ‘Ming’ Flanagan: The Minister is not one for changing. I will give him that.

Deputy Alan Shatter: He is oblivious to the number of individuals currently in prison, sentenced to life terms for committing murder. The Deputy lives in some extraordinary world that is separated from the world inhabited by the rest of us. I know of the Deputy’s affection for certain substances-----

Deputy Luke ‘Ming’ Flanagan: Are they Rolex watches?

Deputy Alan Shatter: -----but it is unfortunate if that affects the Deputy’s judgment when it comes to addressing issues of public importance. No Member of this House with any sense of responsibility should give out a message from this House that, in this State, one can get away with murder. The reality is, if someone commits a homicide, the Garda investigates that rigorously.

Deputy Clare Daly: The Minister obviously has not read the files that were given to him a couple of weeks ago.

Deputy Alan Shatter: Where there is evidence, individuals are brought before the courts and prosecuted. Then there are two things, that are independent, of importance, something that the other Deputy mentioned that she does not seem to approve of.

Deputy Mick Wallace: She does not have a name anymore.

Deputy Alan Shatter: We have a Director of Public Prosecutions, DPP, who is rightly independent of political interference by Government and we have an independent courts system that, when people are prosecuted, as Deputy Wallace will be familiar with, determines their
guilt or innocence. That is the legal system that we have. No Deputy, whatever constituency he or she represents-----

**Deputy Mick Wallace:** The Minister is not answering the question.

**Deputy Alan Shatter:** -----should give out from this House a message that-----

**Deputy Clare Daly:** Just answer the questions that were asked.

**Deputy Alan Shatter:** -----people are free to murder, that justice will not be done and that the Garda will not properly investigate it.

**Deputy Mick Wallace:** The Minister is not answering the question.

**Deputy Alan Shatter:** It is a disgraceful message for any Deputy to give out.

**Deputy Clare Daly:** Talk to the families involved.

**Deputy Luke ‘Ming’ Flanagan:** Does the Minister have predictions for next Saturday’s soccer as well as fully irrelevant rubbish? Will Spurs win next week?

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**State Pathologists**

72. **Deputy Niall Collins** asked the Minister for Justice and Equality the steps he has taken to address concerns regarding the ongoing legal cases in view of the resignation of the Deputy State Pathologist; and if he will make a statement on the matter. [52659/13]

**Deputy Niall Collins:** Arising from the recent departure of the Deputy State Pathologist, there has been some commentary to the effect that a number of cases before the courts that might rely on his evidence may be in jeopardy.

**Deputy Alan Shatter:** The Deputy will appreciate that the prosecution of offences is a function which is reserved to the DPP who is fully independent in that area and it is up to her to determine how a particular prosecution should be dealt with. That being said, I have been advised generally that the resignation of Dr. Khalid Jaber from the post of Deputy State Pathologist should not prevent the prosecution of cases where he has carried out medical examinations. In this context, Dr. Jaber can be called as a witness for the prosecution to give evidence before the relevant court and I understand that he has indicated a willingness to make himself available for court proceedings. If, however, Dr. Jaber is not available, the file will, in accordance with the established practice in such matters, I am advised, be dealt with by another pathologist who will give evidence to the court.

I have also been informed that the State Pathologist, Professor Cassidy, has put the necessary operational arrangements in place to take account of the resignation of Dr. Jaber. In addition, the question of finding a replacement for him is being actively pursued by my Department and the filling of the post has been approved by the Department of Public Expenditure and Reform.

**Deputy Niall Collins:** I wish to tease out a point. Did I hear the Minister correctly, in that Dr. Jaber has made himself available to give evidence if so required? I am unsure as to whether he is still in the jurisdiction. Should he be unavailable by virtue of nothing being in the jurisdiction, is it the case that Professor Cassidy can take the files on which he worked and present
Deputy Alan Shatter: Firstly, the Deputy is right, in that I am advised that he will make himself available to give evidence. Also as I have explained, my overall understanding is that the resignation of Dr. Jaber should not prevent the prosecution of criminal cases where medical examinations have been carried out by him. There have been similar circumstances in the past. The Deputy will recall how Dr. Harbison became unwell at a time when there were cases pending and was not in a position to give evidence. I am advised that those matters were dealt with and addressed. Obviously, my response to the Deputy is based on the advice I received from inquiries made. I have no reason at present to believe the trials will not proceed appropriately, nor have I any reason to believe that Dr. Jabbar will fail to appear in cases to which he is relevant. However, that is an issue to be considered and addressed by Dr. Cassidy and the DPP, and I am advised that matters are in hand.

Magdalen Laundries Issues

73. Deputy Mary Lou McDonald asked the Minister for Justice and Equality when he will establish, fund, staff and accommodate a small dedicated unit charged to provide the following services for eligible Magdalen women as recommended by Mr. Justice Quirke and if this unit will publish quarterly reports on its work: a help-line accessible daily by the women to assist them to obtain the health, monetary and other benefits to which they will now be entitled; investigative and other help and assistance in obtaining such sheltered or other housing as they may be entitled to; investigative and other help and assistance in obtaining such educational assistance as they may be entitled to; practical and, if necessary, professional assistance to enable those women who wish to do so to meet with those members of the religious orders who have similar wishes to meet and interact; similar practical assistance to meet and interact with other Magdalen women; and the acquisition, maintenance and administration of any garden, museum or other form of memorial which the scheme’s administrator, after consultation with the advisory body or committee referred to, has decided to construct or establish. [52551/13]

Deputy Mary Lou McDonald: On 7 November last, the Minister announced that the Cabinet had agreed details of the implementation of the Quirke scheme for women who had been in Magdalen laundries. However, the announcement at the time only dealt with monetary payments, which the women still await, with no mention of the other strands of Mr. Justice Quirke’s recommendations. My question asks about those other strands, including a help-line that is accessible to survivors to assist them in achieving and maintaining health monitoring and the other benefits to which they are entitled.

Deputy Alan Shatter: The Government’s first priority is to facilitate the processing of applications under the scheme and to implement those measures necessary to provide the individual benefits recommended by Mr. Justice Quirke to the women who were admitted to and worked in the institutions in question. To this end, on 5 November 2013 the Government agreed to the payments and services to be provided on an individual basis to women who come within the scope of the scheme.

Within my Department a unit of nine officials is working full-time on engaging with the women and processing applications. They are available to answer a range of questions. Decisions on establishing a permanent and separate dedicated unit, its role and method of operation have not been finalised and will not be finalised until more progress has been made on process-
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ing applications and on the provision of payments and benefits. While some preliminary work has been done by my Department on exploring the question of a memorial, again priority is being given to processing applications and the provision of payments and benefits.

Deputy Mary Lou McDonald: I thought the Minister might give that answer. Obviously, the applications must be processed, but it is now ten months since the Taoiseach made the apology to the survivors of these laundries. Many of the survivors are asking whether they will ever see their redress. Two of the women concerned have died, sadly, without seeing a red cent, much less the support services promised under the scheme. Will the Minister be a little more precise? When can survivors expect to receive not only their monetary payments but also to have access to the services?

I have a related question with regard to disputes in respect of a woman’s length of stay in one of these laundries. Where does the balance of proof lie? I have a letter from a woman who spent a considerable length of time in the Good Shepherd laundry in Limerick. She is in dispute over the length of stay. The records in these laundries were vastly incomplete and women should not be penalised for the fact that these institutions did not keep, and cannot produce, full records.

Deputy Alan Shatter: To date, 636 applications have been received and these are being processed as quickly as possible by the Department. A total of 270 provisional letters were issued to applicants that are at an advanced stage of processing requesting them to agree or disagree with the provisional assessment made by my officials on the length of time they were in a relevant institution. Some 145 applicants advised that they agree with the provisional decision and formal letters of offer will issue to these women shortly. The Attorney General’s office is also finalising a waiver document which will be sent with the letter of formal offer. I have referred to that document previously.

The Deputy’s timeline is somewhat skewed. My recollection is that Mr. Justice Quirke’s report was published in June this year, not nine months ago. It recommended that as a precondition of receiving benefits under the scheme the women concerned should sign a waiver not to take proceedings against the State. Before signing the waiver the women will be encouraged to take independent legal advice and financial provision is made to facilitate them doing so. I expect some payments might be made before the end of the year.

Deputy Mary Lou McDonald: Given the length of time involved in processing these requests and applications, will the Minister consider increasing the number of staff in his Department dealing with these matters? As the Minister is well aware, because it has been reiterated repeatedly in this Chamber, the survivors are elderly and in many cases they are in ill health. In fact, two of them are now deceased not having seen a cent. Let us hope we do not see any more victims going to their Maker without the satisfaction of redress from the State.

When there is a dispute between a woman and the institution in question over the length of her stay, will the Minister clarify how that matter is mediated upon and decided? The records in these institutions were incomplete, as recognised by the McAleese report and, more importantly, by the UN Committee Against Torture.

Deputy Alan Shatter: I find it difficult to take the Deputy lecturing me on this issue when I compare it to the callousness of her and her colleagues’ response to the Smithwick report.

Deputy Mary Lou McDonald: Give over. Answer the question.

20
Deputy Alan Shatter: It is amazing how members of one party are sensitive to some issues, but lack the sensitivity to appropriately address or to recognise their responsibility for other issues. As the Deputy should know, matters relating to the scheme were finalised only on 5 November because of the complexity of the Quirke recommendations. My Department has done extraordinarily well since 5 November in sending out 270 provisional letters, 145 of which have been already accepted. Only two applicants have advised that they disagree with the provisional assessment. These cases will be reviewed by an officer of a higher grade and if the applicant still disagrees, we provide a procedure whereby the matter can be dealt with by the Ombudsman’s office.

Deputy Finian McGrath: Another cover-up.

Deputy Alan Shatter: The Deputy is focusing on one or two applicants who have run into a difficulty, out of 270 odd. I particularly welcome the fact that we have this scheme in place and are processing it. Former residents of the Magdalen laundries have furnished us with their applications and are engaging with us. So far, there has been substantial acceptance of offers made in the context of timelines. I look forward to the reality that in the not too distant future, residents of the Magdalen laundries will receive the funds to which they are entitled. The Government made important decisions to have this issue comprehensively addressed for the sake of residents in Magdalen homes who worked there for no reward. Without the necessity of any prodding from the Deputy, this Government will implement the commitment that was made to the women concerned.

Deputy Finian McGrath: The Minister is waffling again.

Deputy Mary Lou McDonald: Apparently not, but the Minister is just the sensitive soul of this Chamber.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Denis Naughten - the need to investigate the sale and reuse of HSE braces by a dentist employed in the Galway orthodontic department; (2) Deputy Thomas P. Broughan - the need to establish an independent commission of investigation into the Stardust tragedy; (3) Deputy Ann Phelan - Ireland’s position within the UN in respect of the devastating situation in the Central African Republic; (4) Deputy Patrick Nulty - the need to restore the Christmas bonus for carers, pensioners and those on long-term social welfare payments; (5) Deputy Peadar Tóibín - the need to improve structures and funding to meet the demand for Irish-medium education throughout the country; (6) Deputy Paudie Coffey - the need to address the issue of new rates to be imposed on businesses in Waterford contained in the Valuation (No. 2) Bill 2013; (7) Deputy Michael Lowry - the difficulties facing parents of children with special needs in south Tipperary in securing school transport; (8) Deputy Ciara Conway - the need to fill vacancies in the speech and language therapy services to the rehabilitation centre, St. Patrick’s Hospital, and community care in Waterford city; (9) Deputy Éamon Ó Cuív - Fógra gan choinne an Choimisinéara Teanga go bhfuil sé ag éiri as oifig luath agus na himpleachtaí a bhaineann leis an gníomhairí; (10) Deputy Michael Healy-Rae - the centralisation of emergency call centres; (11) Deputy Mattie McGrath - the need to review the proposal under the Local Government Bill 2013 to apply a 50% rates burden on all vacant property; (12) Deputy
Michael McNamara - the destruction of waste chemicals in Shannon; (13) Deputy Michelle Mulherin - the need to make adequate provision for nursing staff in special needs schools; (14) Deputy Billy Timmins - the funding allocated to Wicklow County Council for the renovation of Glending estate, Blessington, Co. Wicklow; (15) Deputy Anthony Lawlor - the need to establish two separate schools on the one campus in Maynooth, County Kildare; (16) Deputy Thomas Pringle - the need to restore the Christmas bonus; (17) Deputy Brendan Griffin - the difficulties being faced by small schools because of Government staffing policy; (18) Deputy Billy Kelleher - the position regarding top-up payments made to the director general of the HSE; (19) Deputy Seán Ó Fearghail - the position regarding support for sufferers of narcolepsy; (20) Deputy Clare Daly - the introduction of the new building control regulations; (21) Deputy James Bannon - the need to tackle the unemployment crisis in Mullingar, Co. Westmeath; (22) Deputy Mick Wallace - the impact of the new building regulations; (23) Deputy Richard Boyd Barrett - the Marks & Spencer’s strike and the need to protect the rights of workers; (24) Deputy Colm Keaveney - the standards of care at Stewarts Care; (25) Deputy Michael McGrath - the Central Bank assessment of the current state of credit unions in Ireland; (26) Deputy Dominic Hannigan - the preferred site for the development of the new secondary school in Kells, County Meath; and (27) Deputy Helen McEntee - the preferred site for the development of the new secondary school in Kells, County Meath.

The matters raised by Deputies Ann Phelan, Michelle Mulherin, Billy Kelleher and Peadar Tóibín have been selected for discussion.

Visit of Ukrainian Delegation

An Ceann Comhairle: Before proceeding with Leaders’ Questions, I wish on my own behalf and on behalf of the Members of Dáil Éireann to offer a céad mile fáilte, a most sincere welcome, to a delegation from the autonomous Ukrainian region of Crimea led by the Deputy Chairman of the Council of Ministers, Mr. Georgiy Psaryev.

I express the hope that you will find your visit enjoyable, successful and to our mutual benefit.

Leaders’ Questions

Deputy Micheál Martin: Listening to RTE Radio’s “Liveline” programme the other day was a harrowing experience for many people. The broadcast featured Louise Mac An tSaoi, the mother of Liam Mac An tSaoi, a young child who is spending his fourth Christmas in Crumlin Children’s Hospital. This is as a result of the failure of the health authorities to provide the necessary supports and funding to enable Liam to go home to Galway this Christmas. This is despite being promised by the Minister for Health, Deputy Reilly, more than 18 months ago that Liam would be sent home and would have the resources to enable him to return to Galway. That promise was broken and the situation is causing enormous strain on the family. Louise gave an account of her own experiences and those of the family as a result of this significant failing. Liam was born prematurely, has had up to 15 operations and requires 24-hour care. Incredibly, despite the fact that the Minister, Deputy Reilly, has been aware of this for more than two years, the package has not been put in place to enable Liam to go home so that the family can spend Christmas together this year. I am highlighting this case because it illustrates the
degree to which the health service is at breaking point in terms of providing basic and proper care packages for many sick children and adults.

This case is separate from that of the seven tracheostomy babies of whom we are also aware. They are fit to go home but cannot be discharged because of the lack of proper home-care packages being put in place. The Minister has been aware of this and yet it continues.

**An Ceann Comhairle:** A question please.

**Deputy Micheál Martin:** These are shocking cases. No mother should have to go on “Liveline” to highlight such a case, which has shocked many people. Will the Taoiseach ensure that the Government provides the requisite resources to enable Liam Mac An tSaoi and other children in similar situations to return home this Christmas? Will the Taoiseach change his policy direction on the health service? He is ploughing ahead with a €666 million cut that it simply cannot take. I meet workers at all levels of the health service around the country who are telling us that the system is at breaking point. Health staff at every level, from clerical officers to frontline workers, are saying that morale has never been lower and they are at their wit’s end. It is therefore time for a change of policy on the health service because it can take no more.

**Deputy Paul Kehoe:** The Deputy should know; he was there.

**The Taoiseach:** I do not have the details of the case Deputy Martin has raised. I would assume that if any child is in a fit medical condition to be allowed home, he or she will be. If, as Deputy Martin said, this little child requires an exceptional level of attention, I do not think that can be classed as what the Deputy called a basic level. Clearly, if the child is to go home, there is a duty to ensure that the package of care surrounding any child released in those circumstances is fully effective in the interests of the health of that child. I do not know if, in the context of the home care package, the problem is that there is, according to what Deputy Martin heard the child’s mother say, an element of professionalism or expertise lacking in it or if it is a question of the money surrounding it. I do not have an answer to that question but I will get it for the Deputy. No parent should feel that his or her child cannot be sent home because of an issue surrounding the extent or quality of a home care package. It is an issue that I will follow up on.

In regard to Deputy Martin’s comments on the health services in general, the Health Service Executive has forwarded its draft plan in respect of the delivery of services in 2014 to the Minister for Health. The Minister is currently examining the plan and has a specific length of time in which to amend or approve it. The impact of the health service plan must be the protection of front-line services and the personnel who deliver them. Patient care must and will be the central tenet of that plan. The Minister for Health will make his recommendations on the draft plan as submitted and will then bring it to the attention of the House. The fundamental issue is the quality of service delivered by professionals on the front line. Any adjustment in allocation must in the first instance ensure protection of those services. This is where the emphasis of the Minister will be.

I will follow up on the case raised by the Deputy.

**Deputy Micheál Martin:** The Minister for Health is aware of the case of Liam Mc An tSaoi and promised two years ago that he would not have to spend another Christmas in Crumlin children’s hospital. Liam’s family are from Galway and will require the support of Galway University Hospital. Liam’s mother Louise is a trained nurse. The issue is one of funding and an inability to put together a package to allow for Liam’s safe discharge from Crumlin chil-
In regard to home care packages, the Taoiseach is aware that there are seven babies in Crumlin children’s hospital who have had tracheotomies inserted and also cannot go home. The advocacy group involved has stated that the numbers in this regard are at crisis level. We are all aware of the challenges and difficulties in facilitating families in these situations in terms of bringing their children home and so on. The absence of funding and resources is preventing these children from leaving Crumlin children’s hospital.

An Ceann Comhairle: A question, please.

Deputy Micheál Martin: I referred earlier to morale in the health service. I invite the Taoiseach to speak to the nurses and doctors on the front line, those who work in the disability services and to clerical workers. When one meets anybody working in the health service, the message consistently is that morale is at an all time low and that patient safety is and will continue to be compromised if the health service plan, in terms of the level of cuts proposed, is accepted, which the Taoiseach envisages will be the case. I believe if the plan is accepted patient safety will be compromised and far more cases of the type I have outlined will be raised in this House.

The Taoiseach: The Deputy has spoken previously to nurses, doctors, patients and the people. He was an exceptionally talented Minister in terms of the production of reports without back-up action. I take his confirmation of having spoken to nurses, doctors and people at large without a large grain of salt.

Deputy Paul Kehoe: Hear, hear.

The Taoiseach: I understand that the little boy concerned, Liam, has spent all of his life in Crumlin children’s hospital and is now facing into his fourth Christmas there. I would like to confirm a couple of facts for Deputy Martin. Our Lady’s Children’s Hospital, Crumlin has been liaising with Galway University Hospital in regard to the case of little Liam. The HSE has advised that Galway University Hospital will facilitate the transfer of Liam as soon as is possible. Senior nursing staff at Galway University Hospital have already visited Our Lady’s Children’s Hospital to assess the child’s needs. Full details and an equipment list have been sent to Galway University Hospital. Both hospitals will continue to work together to get Liam to the hospital in Galway as soon as possible.

Deputy Micheál Martin: Four years.

The Taoiseach: I understand that senior staff at Galway University Hospital are in the process of identifying and recruiting staff so that the child’s particular care needs can be delivered much closer to his home in Galway. A home care package application was submitted in March 2012 but it was not followed through as the little boy was deemed medically not fit for discharge shortly after this. I do not know the medical details involved but I have undertaken to follow up on the case with the Minister, Deputy Reilly, in the interests of Liam’s mother and his family.

Deputy Micheál Martin: A promise was made two years ago to effect a transfer.

Deputy Gerry Adams: Every day brings a new revelation about the health services and the scandal of top-ups to senior executives continues to escalate. Hardly a week goes by without some revelation of how corruption and the culture which underpins it has contaminated many
sectors of this State. I do not make this charge against the Government, although it has a duty to bring about the necessary changes and reforms in this regard. The issue of top-ups is part of a wider problem arising from a culture embedded in this State of rewarding the elite by punishing ordinary decent citizens. The State’s saddling of citizens with private banking debt is a perfect example of this. So, too, is the Government’s top-up of its special advisers’ pay in breach of its own guidelines.

In this regard we need look no further back than yesterday when the HSE told families affected by narcolepsy that they would not get payments because they were suing the State. While the HSE director general has apologised for this, it is an informative insight into how the State works. Citizens were to be punished because they stood up for their rights. Children are kept in hospital because of a failure to provide them with home care packages. All the while, executives are allowed to top up their pay, often with charitable contributions.

Hearings by the Committee of Public Accounts into the CRC are important. It is vital that the former chief executive, Mr. Brian Conlan, and other personnel co-operate with the committee. Will the Taoiseach acknowledge that this problem is bigger than the CRC and that there is an onus on the Government to establish an inquiry into all independent and voluntary health agencies that are HSE funded? Citizens have the right to a full understanding of the scale and extent of this scandal. Will the Taoiseach accept that a full independent inquiry is now needed to get to the full facts of this scandal?

The Taoiseach: The Deputy started by saying that every day brings new revelations about other things.

Deputy Patrick O’Donovan: The Deputy is dead right.

(Interruptions).

The Taoiseach: The Deputy is correct and that does not just apply to the health service or issues about charities and so on.

Deputy Sandra McLeLLan: That is not the question.

The Taoiseach: Deputy Adams knows what I am talking about.

Deputy Gerry Adams: The Taoiseach needs to stop talking gobbledygook and answer the question.

Deputy Patrick O’Donovan: Deputy Adams is a great man for answering questions.

Deputy Sandra McLeLLan: This is Leaders’ Questions. The Taoiseach should answer the question asked.

The Taoiseach: Deputy Adams knows a great deal about gobbledygook.

Deputy Gerry Adams: Answer the question.

The Taoiseach: It is a pity Deputy Adams would not answer the questions. I note he has been seeking debates about the past.
Deputy Pádraig Mac Lochlainn: Is the Taoiseach taking up the offer?

The Taoiseach: Perhaps before getting into that Deputy Adams would answer some questions himself.

(Interruptions).

The Taoiseach: We saw Deputy Mac Lochlainn beaten into submission to give the same message.

Deputy Pádraig Mac Lochlainn: Does the Taoiseach see the men of violence all around him? He should look at all those statues.

An Ceann Comhairle: Thank you, without interruption, please.

The Taoiseach: The question that Deputy Adams asked about-----

Deputy Alan Shatter: Deputy Mac Lochlainn is embarrassing himself.

(Interruptions).

The Taoiseach: The question that Deputy Adams asked about top-up payments is the subject of a direction from the Minister for Health to the HSE to deal with this matter, whereby unapproved unauthorised top-up payments that breached the public pay service agreement were paid to certain personnel. The section 38 agencies have been called in before the HSE this week. The Central Remedial Clinic is in before the Committee of Public Accounts tomorrow. I expect there will be frank exchanges at all of these meetings. I do not agree that this warrants an independent public inquiry. I believe that the instructions given by the Minister for Health will be seen through by the HSE and, for its part, by the Committee of Public Accounts, in the discussions they have.

Deputy Gerry Adams: I came in here to ask the Taoiseach a question which is pertinent to what is happening at this time. It is about revelations which have scandalised citizens. He then goes on a meander which is beyond my comprehension. If the Taoiseach wants to have a debate about the past or about any other issue, I am happy to do that with him. We can arrange that at any time in any place that the Taoiseach is prepared to have that debate with me. We will examine the role of the Taoiseach’s party historically, the role of the leaders of the Taoiseach’s party historically as well as my role and the role of anyone else involved in Irish republicanism. However, the Taoiseach should not use that issue to dodge the question.

An Ceann Comhairle: Could we have a question, please?

Deputy Gerry Adams: The fact is that the issue of top-ups and two-tierism is bigger. I commend and appreciate the work of the Committee of Public Accounts but this is a bigger issue. The Proclamation makes it very clear that citizens have the right to equality. It does not state that is so unless a person is disabled or a child from Galway who has been stuck in hospital for life or because a person is sick. It says that all citizens have the right to equality.

An Ceann Comhairle: Thank you, Deputy. A question, please.
Deputy Gerry Adams: Is it because-----

(Interruptions).

An Ceann Comhairle: Will you stay quiet, please? Thank you.

Deputy Gerry Adams: If it is because-----

Deputy Alan Shatter: Including the right to life, Deputy Adams should note.

Deputy Gerry Adams: The Minister, Deputy Shatter, should not nauseate me. Is it be-

cause-----

(Interruptions).

An Ceann Comhairle: Would you please allow the question? You are over time, Deputy. Thank you.

Deputy Gerry Adams: I am sorry, a Cheann Comhairle, but I expect that I should have order to put the question.

An Ceann Comhairle: I am trying to do that, but do not respond.

Deputy Gerry Adams: Try a little harder, with respect.

An Ceann Comhairle: Excuse me, I do not need any lectures from you about how I re-

spond.

Deputy Gerry Adams: Will the Taoiseach explain, now that he has said he will not have a full inquiry, why he will not have one? Citizens want to know what is happening within our health services. They want to know what is happening to money which they give to charities for dedicated causes and which are being used to top up already exorbitant payments to these top executives.

An Ceann Comhairle: Thank you, Deputy. You are over time.

Deputy Gerry Adams: Will the Taoiseach explain why he will not have a full inquiry?

The Taoiseach: Sometimes I wonder from what direction Deputy Adams is approaching the subject. He started off by making a comment and not asking a question.

Deputy Gerry Adams: I am allowed to do that.

The Taoiseach: The statement from Deputy Adams was that every day brings new revela-

tions. If Deputy Adams wants to have a debate about the past, then he should start by clarifying for everyone in the country whether he was a member of the IRA. No one believes him.

Deputy Gerry Adams: Let us have the debate.

(Interruptions).
The Taoiseach: Deputy Adams continues to live his lie.

(Interruptions).

Deputy Martin Ferris: Let us have the debate. The Taoiseach should think about what his party has done.

An Ceann Comhairle: Excuse me, this is Leaders’ Questions and there is a time limit. Please answer or reply to the supplementary question.

The Taoiseach: Deputy Ferris was not authorised-----

Deputy Martin Ferris: We can have the debate any time.

The Taoiseach: -----or those in his cell group were not authorised and were off duty when they perpetrated one of the greatest crimes ever in this country.

(Interruptions).

The Taoiseach: I put it to Deputy Adams that the Government is actively pursuing the question of the health service and the issues that have arisen following an audit of the section 38 hospitals and disability agencies. I agree with Deputy Adams that it is scandalous position to expect people to voluntarily give of their direct debits, flag days, voluntary commitment for collections for charities when they are uncertain whether these efforts are going to the children, adults and the facilities for which they were intended.

Deputy Gerry Adams: Then the Taoiseach should have an inquiry.

The Taoiseach: If we were to follow the logic of Deputy Adams and have another independent inquiry, we would still be inquiring in three or four years’ time. The Minister for Health has given a specific instruction to the HSE to call in the section 38 agencies tomorrow. The CRC will be before the Committee of Public Accounts. Does Deputy Adams not believe in the democratic process?

Deputy Gerry Adams: Of course I do.

The Taoiseach: He does. Then, in that case, he should allow the opportunity for the HSE to follow through on the Minister’s instructions and engage with these agencies directly to see what is the true situation. The same applies in respect of the CRC with-----

Deputy Gerry Adams: The IRA?

The Taoiseach: -----the personnel there.

I have this to say to Deputy Adams: the fact that the CRC has over the years provided an outstanding service to 4,000 people speaks for itself of the value of what it does. The diversion of some of the contributions and some of the opportunities for top-up payments is a matter that is now being examined. As I said before, the Government has made it clear that unauthorised
payments that have breached the public service agreement are not warranted and not acceptable and the matter has to be addressed. It will be addressed.

**Deputy Gerry Adams:** When?

**The Taoiseach:** As quickly as possible-----

**An Ceann Comhairle:** Thank you, we are way over time.

**The Taoiseach:** -----following the analysis by the HSE of the section 38 agencies and charities, and, for its part, the Committee of Public Accounts with the Central Remedial Clinic.

**Deputy Joan Collins:** The Taoiseach has at every opportunity described Ireland as the best little country in which to do business. It seems *Forbes* magazine agrees. However, I believe the question of whether Ireland is a good little country for the average person in which to try to earn a living needs to be raised. One of the reasons given for moving Ireland to the top of the *Forbes* list for pro-business countries is that wages have been driven down by 11% since 2008 in Ireland. Employers have used the economic crash and mass unemployment to attack wages and conditions.

I refer the Taoiseach to the industrial dispute involving 2,300 workers at the retail giant, Marks & Spencer, who were out on strike last Saturday *en masse*. This is a typical example of what is happening. The unions were called in this September by the management to hear the company’s proposed cost saving measures. These included a reduction of Sunday and public holiday premium pay, the elimination of contracted Christmas bonuses and a reduction in the number of section managers. The company assured the unions that these were the only items on the agenda. Then, a bombshell came. Despite this assurance, within weeks the company unilaterally announced the closure of the company’s defined benefit pension scheme on 31 October. I would like Deputy Stagg to listen to this because it should be of interest to him in respect of workers’ rights. This affects 900 long-term staff in the shop. The scheme is performing and has a €17 million surplus. What we have here is a blatant use of the economic crisis to change long-standing conditions and pay for workers. These measures, including the winding up of the pension scheme, mean a cut of between 20% and 25% in pay and benefits for these workers.

As with the ESB workers, who I congratulate on taking a stand and winning the right to defend their defined benefit pension, workers at Marks & Spencer deserve full support in resisting these attacks. Does the Taoiseach accept that making Ireland the best little country for business makes Ireland a difficult place for working people to defend their pay, conditions and pension rights?

**The Taoiseach:** No, I do not. The position is that we are in a very much more competitive situation than we were in the past. The economic crash and the catastrophe that befell us following the bubble in the property market and the conduct of the banks has left many pension funds in deficit. I am pleased the Labour Relations Commission was able to come to an agreement with management and the group of unions representing ESB workers that there will not be an electricity strike starting next Monday. This would have been catastrophic for business, for reputation and for ordinary people nationwide. I am glad the recommendations of the Labour Relations Commission have been accepted by both sides.

I regret that the workers in Marks & Spencer felt it necessary to have a strike on a busy weekend approaching Christmas. Clearly, this is an issue that must be resolved as one of
many pension funds that are in deficit. Deputy Joan Collins will be aware of the Bill is passing through the House at present. It will have completed its passage before Christmas and will be law before the end of the year. This will have an impact in part on some of these pension funds. I agree that given the circumstances in which many pension funds and, therefore, workers find themselves, there is a need to have reflection and debate on this subject in the new year. Differences exist between those who have just commenced work, those who have moved through with firms, organisations and pension funds and those who recently have retired. There are different sectors with disparate effects following the difficulties that so many pension funds face. While this Bill is going through, the opportunity exists to attempt to resolve all these issues using the well-tried and tested State machinery. Moreover, in the case of the ESB management and unions, use of the Labour Relations Commission enabled the issue to be resolved quite quickly in the interests of everyone in the country.

Deputy Joan Collins: The crisis has been used internationally and in Ireland by companies to drive down wages, conditions and pension rights. This is the reality people face every day. The company in question, Marks & Spencer, has stated it has problems but it will not show those problems in Ireland which has not introduced legislation to make it obligatory for companies to reveal their profits and turnover in Ireland alone. Instead, they merely show their international profits. Therefore, it is difficult for unions to negotiate and get such companies to prove their actual costs. The workers involved in this dispute in Marks & Spencer will lose between 20% and 30% of their wages. These workers are committed to mortgages, loans and the future of their children and have made plans on the basis of their current wages. However, on 31 October this company was able to unilaterally wind down the workers’ defined benefit pension scheme. Does the Taoiseach stand over that? Does he accept that a company can do this to workers in Ireland or will he stand with those workers and tell them they have the right to strike and to defend their pay, conditions and pensions? Moreover, these workers will be out again next Thursday, as well as Friday of next week, and I appeal to everyone not to pass those picket lines, if the doors are open, to defend these workers.

The Taoiseach: One issue with which the Government dealt in the first instance was the reversal in the reduction in the minimum wage and securing agreement about that from the troika.

Deputy Joan Collins: These are not workers on the minimum wage. They are attempting to protect their rights.

The Taoiseach: The second issue with which the Government dealt was to take 330,000 low paid workers out of the requirement to pay universal social charge. It is well known that practically every defined benefit pension scheme in the country is in difficulties.

Deputy Joan Collins: This scheme has a surplus of €17 million.

The Taoiseach: Clearly, the fact that in the case of the scheme that was dealt with last weekend, the company concerned is one of the strongest in the country speaks for itself. This is an issue that must be addressed nationally as a country and a people because as time goes on and people live longer, they will have a requirement to draw their pensions for a longer time. This issue must be reflected in the kind of pension scheme that operates and is put in place. It is not nice to see anyone on strike and obviously people have a right to do these things in particular circumstances. It is to be hoped the legislation that is going through will have its own impact but the country and the Oireachtas must decide on the nature of what it is we intend to do about pensions in general for the future, because all these schemes, practically without exception,
have a series of difficulties of one sort or another.

Ceisteaná - Questions (Resumed)

Government-Church Dialogue

1. Deputy Micheál Martin asked the Taoiseach if he has met religious leaders recently; and if he will make a statement on the matter. [39247/13]

2. Deputy Gerry Adams asked the Taoiseach if he will report on meetings he has held with religious leaders. [40740/13]

3. Deputy Gerry Adams asked the Taoiseach if he will report on his structured dialogue with religious and faith organisations. [40741/13]

4. Deputy Joe Higgins asked the Taoiseach if he will report on any recent meetings he has held with religious leaders. [40868/13]

5. Deputy Richard Boyd Barrett asked the Taoiseach the religious leaders he has met recently and the issues he has raised with them; and if he will make a statement on the matter. [47754/13]

The Taoiseach: I propose to take Questions Nos. 1 to 5, inclusive, together.

Like public representatives generally, I meet church leaders informally from time to time in the course of attending official or public events. I previously advised the House of my intention to engage in the process of structured dialogue with the churches, faith communities and philosophical non-confessional bodies envisaged in the Lisbon treaty. The structure for dialogue includes meetings at official and ministerial level, and meetings may be sought by either side on the basis of a proposed agenda agreed in advance of the meeting. Arrangements in this regard are made by my Department which provides the administrative support for the process. The process of structured dialogue is envisaged as a channel of consultation and communication on matters of mutual concern. It does not displace arrangements for the conduct of policy and administration by Departments and agencies in their functional responsibilities.

This year, I had formal meetings under the structured dialogue process with representatives of the Catholic Church, led by Cardinal Brady, and the Church of Ireland, led by Archbishop Michael Jackson. I was accompanied at the meeting with the Catholic Church by the Ministers for Education and Skills, Children and Youth Affairs and Health and at the meeting with the Church of Ireland by the Ministers for Education and Skills and Children and Youth Affairs. I also met an ecumenical delegation of European churches to discuss the Irish Presidency of the Council of the European Union. The delegation was made up of representatives of the Conference of European Churches and the Commission of the Episcopates of the European Community, as well as of the Irish Council of Churches and the Irish Catholic Bishops Conference.

The discussions at these meetings covered a range of topics of mutual concern, including Northern Ireland, education, issues regarding rural Ireland, care of the elderly, family and child support, peace and justice, Ireland’s Presidency of the European Union, and the stability, jobs
and growth agenda. There was also discussion with the representatives of the Catholic Church and the Church of Ireland on the protection of life during pregnancy. My schedule this year, which included the EU Presidency, did not permit meetings with other bodies but I expect to rectify this in the coming year.

Deputy Micheál Martin: I thank the Taoiseach for his reply. I wish to focus on two areas of the discussions the Taoiseach has had with religious leaders. First, with regard to education, the principals of minority schools appeared before the Joint Committee on Education and Social Protection last summer. They expressed concerns about the impact of cuts on their schools. In respect of the Church of Ireland schools, a statement was made to the committee which states:

[W]e are of the view that any policy that seeks to close or wind down a school of fewer than 56 pupils or two teachers will have a disproportionate effect on the Protestant minority. Based on the returns of 2011-12, 97 of our schools have fewer than 56 pupils.

The Church of Ireland made it clear that this accounts for almost 50% of all Protestant primary schools and a policy of closing schools of fewer than 56 pupils would close half the Protestant primary schools in Ireland. This is what it is facing and is the reason its representatives gave for that community being particularly anxious. Moreover, once a school closes, it is unlikely to reopen. This is a clear issue in the Border areas and for the Church of Ireland in general regarding the right of its members to an education through its ethos and in a school of their own faith.

The policies of the past two to three years implemented by the Minister for Education and Skills, which are designed to increase the pupil-teacher ratio for small rural schools in general, has caused great anxiety across rural Ireland and in two, three, four and five-teacher schools in particular. The policy was announced three years ago as a phased increase in the pupil-teacher ratio and an increase in the thresholds which will be required to retain teachers in such schools. Was this subject raised at the meetings between the Taoiseach and the leaders of the churches? This issue goes to the heart of rural Ireland and the sustaining of rural communities. I have travelled around rural Ireland and there is great concern about the vitality of life in rural communities. There is a sense that the Government is very Dublin-centric, so to speak, and that there is a predominance of a Dublin 4 ethos to the exclusion and the undermining of the needs of rural Ireland. There is a sense among people that rural Ireland is not getting the attention it deserves and nowhere is this more manifest than in the attitude to small schools, the majority of which are located across rural Ireland. There is a range of religious denominational schools in the Border counties.

Was the re-opening of the embassy to the Vatican discussed? The Tánaiste stated recently that he was considering a reversal of that decision. Is the Government considering re-opening the embassy to the Vatican? I ask the Taoiseach to outline what issues relating to the training of teachers were raised by the religious leaders. I refer to proposals relating to Dublin City University, St. Patrick’s and the Church of Ireland teacher training college. I ask the Taoiseach to outline whether this proposal was discussed with Archbishop Michael Jackson and Cardinal Brady.

The Taoiseach: In the case of the meeting with the Catholic Church we discussed a number of topics including Northern Ireland, the safeguarding of children, educational matters and the protection of life during pregnancy. Both Cardinal Brady and I expressed abhorrence at the street violence before and after Christmas last year in Northern Ireland and the potential dam-
age to Northern Ireland’s reputation and economic prospects. We discussed the positive engagement between the Government and the Executive. We agreed to work together on a number of matters, including the safeguarding and welfare of children, patronage of schools and the impact of the public service recruitment moratorium on Catholic chaplaincies in schools, hospitals and prisons.

The meeting with the Catholic Church leaders took place on 18 January 2013. I can confirm that Cardinal Brady said he wished to express his regret at the closure of Ireland’s embassy to the Vatican. He said he hoped that, in time, it could be restored. For my part I pointed out to him that the decision was taken solely on cost grounds but that the Cardinal’s point was noted. Deputy Martin is aware of the recent comment by the Tánaiste in respect of a regular review of embassies, consulates and diplomatic personnel.

The matters discussed with the Church of Ireland leaders included education, the protection of life during pregnancy, issues relating to rural Ireland, Bethany House, Northern Ireland, care of the elderly and child and family support. The subject of education took up quite a deal of the meeting. Both the Minister, Deputy Quinn and the church representatives said that they valued the level of ongoing co-operation and the free flow of information regarding concerns of particular importance for Church of Ireland schools and communities. The recruitment of chaplaincies to hospitals and schools was also discussed.

Archbishop Jackson referred to the concern about the more than proportionate impact of any cutbacks on Church of Ireland schools and communities. He made the point that the loss of any school could be devastating for a community. The church representatives inquired about the value for money review and in particular the position of the block grant. The Minister, Deputy Quinn, referred to the programme for Government commitment to improving educational outcomes, the commitment to the underlying values of recognising diversity and pluralism and to facilitating parents’ wishes. The value for money review is taking longer than anticipated but it will be submitted to the Government when the Minister receives it. The Minister assured the church representatives that he did not intend to rush the implementation of any of the findings of the review. He was very concerned and conscious of the importance of the schools to the communities and to their identity. In addition, he said that while the provisions of Article 44.2.4o of the Constitution are a constraint, there was no threat to the principle of the block grant. The Minister, the archbishop and their representatives said they valued the ongoing openness with which information and co-operation was given.

The budget did not make a reduction in the pupil-teacher ratio, which is a matter of considerable importance and interest to the Church of Ireland. We discussed this matter in some detail with regard to a number of schools around the country - not only those along the Border - which might have better facilities in some cases than other nearby schools of the same persuasion. The decision in that regard was well received.

I ask Deputy Martin to remind me of the other questions he asked me.

**Deputy Micheál Martin:** I asked about the embassy to the Vatican. The issue about small schools is the phased increase in the threshold for the retention of teachers. That was announced two to three years ago but it is having a negative impact on rural schools.

**The Taoiseach:** The Minister is well aware of the impact of the ultimate closure of any school. There was no change in the pupil-teacher ratio for Church of Ireland schools.
Deputy Micheál Martin: I asked whether the proposal for a multi-faith teacher training college for primary school teachers on the campus of DCU was discussed.

The Taoiseach: Archbishop Jackson confirmed to the Minister that the Church of Ireland was very appreciative of the arrangements made for the Church of Ireland training college. The Minister said he would consider the church’s request to have sight of the advice concerning Article 44.2.40 of the Constitution.

Deputy Gerry Adams: I have two questions, one about Bethany Home and the other about charities linked to the churches. I am sure the Taoiseach knows and appreciates very much that charities are in the front line in helping families and citizens who are badly affected by the Government’s austerity policies. These charities are now facing very great pressures on their resources. The Society of Saint Vincent de Paul has revealed that calls for assistance have more than doubled since 2009 and that it is struggling to meet the €40 million cost of providing help for needy families.

4 o’clock

We are in a new era where it is not just those on social welfare who suffer from poverty or from disadvantage because many people in low paid employment, the self-employed and some people who are in good employment are facing debts they cannot handle because of the impact of the economic crisis brought to us courtesy of Fianna Fáil and its cronies and, subsequently, by the Taoiseach’s Government’s policies. We are told by the Central Statistics Office that almost 750,000 people in the State are living in poverty. As I said earlier, the controversy, and the Taoiseach reflected this in some of his remarks, surrounding top-up payments from charities to their executives has a disproportionate and unfair impact upon all those very good people trying to raise funds for good causes. Will the Taoiseach join me in commending the good work of the Society of St. Vincent de Paul and all those other charities that work so hard to help people, particularly as we face into Christmas?

Has the Taoiseach had an opportunity to raise the issue of Bethany Home with the church leaders? As the Dáil rose for the summer recess this year the Government announced it did not intend to offer an apology or redress to the small number of men and women who survived their time in Bethany Home. That was announced outside the Dáil. I have not got my head around the reason the Taoiseach will not extend an apology or bring forward a redress scheme and why he ignored the Dáil when this statement was made outside of these precincts.

Bethany Home in Rathgar was not simply a mother and baby home, and any attempt by the Government to present it as such is deeply misleading. It was a Protestant maternity home, a children’s home and a place of detention for women on remand or convicted of crimes referred to the home by the courts. It was excluded from the residential institutions redress scheme on the basis that Bethany was a private home for which the State did not have responsibility. As a consequence, the survivors have also been excluded from the statutory trust fund that is the redress mechanism to replace the Residential Institutions Redress Board. That is very unfair. A very small number of people are involved. The State had responsibility for Bethany Home as it was subject to State inspections under the Registration of Maternity Homes Act 1934. The State also made a financial contribution to the cost of the nursing of children in some cases.

There is a wealth of information in the public domain detailing the barbaric neglect experienced by children in the home and in the homes to which they were temporarily fostered,
including Department of Local Government and public health inspector reports, and media reports of the time. There are no great secrets around much of this issue. Such was the neglect that between 1922 and 1949, 219 Bethany Home children died, and they lie in unmarked graves in Mount Jerome cemetery in the city of Dublin.

The residents of Bethany Home were treated appallingly while they were there, and that is being compounded by not embracing them and by the refusal to treat them fairly and include them in a redress scheme. Will the Taoiseach take the opportunity to do the right thing - I stress that there are only a handful of survivors - and commit to a proper redress scheme for these citizens and an acknowledgement that what was done to them was wrong?

The Taoiseach: For the information of Deputy Adams and the House, the members who attended at the engagement with the Catholic Church and with the Church of Ireland represented a broad church of people from throughout the country. The Irish Catholic Bishops Conference representatives present were Cardinal Brady, Bishop Colm O’Reilly, Bishop John Buckley and Bishop Brendan Kelly. Also present were Monsignor Gearóid Dullea, the executive secretary of the bishops conference, Father Michael Drumm, director of Catholic Schools Partnership, Dr. Nicola Rooney, the Bishops Council for Justice and Peace, Mr. Harry Casey, executive administrator of the bishops conference, and Fr. Timothy Bartlett, assistant to the bishops conference. Mr. Martin Long, director of the Catholic Communications Office, was also present for some of that meeting. The representatives of the Church of Ireland were the Archbishop of Dublin, Most Reverend Dr. Michael Jackson, the Right Reverend John McDowell, Bishop of Clogher, the Venerable Robin Bantry White, Archdeacon of Cork, Cloyne and Ross and Honorary Secretary of the General Synod. Also in attendance was the Reverend Kenneth Hall, the Dean of Clogher, the Reverend Eithne Lynch, Rector of Mallow, Mr. Sam Harper, who is honorary secretary of the General Synod, Ms Eithne Harkness representing the Archbishop of Armagh, Mrs. Janet Maxwell, head of Synod Services and Communications, Mr. Garrett Casey, synod officer, Dr. Ken Fennelly, secretary to the synod board of education, and Ms Lynn Glanville, the Dublin communications officer.

The two meetings were very good and a good discussion took place across all these issues. It is fair to say that everybody recognised the impact of the economic crisis on homes in every city and town in the country. The personnel who were present at the meeting clearly reflected that. Loneliness, disillusionment, pessimism and other such issues were discussed. We will not be able to deal with those issues unless the economy is functioning properly and the country is on a growth pattern, which is why from a Government point of view we must rectify those problems, and the only way we can do that is by creating employment, growing the economy and making things happen.

I recognise and agree fully with Deputy Adams about the work of the Society of St. Vincent de Paul and the many people involved in many other charities we both know who give their time voluntarily in the interests of looking after neighbours and people who, for one reason or another, require succour, comfort and facilities. Those people do an enormous amount of work. It is equally difficult for people who give their hard-earned money - in many cases their loose change - to everything from bucket collections to flag days to voluntary commitments. I would like to think those coins and that contribution goes directly to the people for whom it is intended.

I have said to the Deputy that we do not need an independent public inquiry into this matter but I hope it can be settled quickly and effectively, that straight answers are given to straight
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Questions, and that the section 38 agencies and charities dealing with disability come before the Health Service Executive and the Committee of Public Accounts in regard to the Central Remedial Clinic, CRC, homes. I note the Private Member’s motion from the Deputy’s party on today’s Order Paper.

In regard to the situation in rural Ireland in general, there was a recognition of what the Government was trying to do through the Common Agricultural Policy in retaining as much as possible of the direct payments system. As Deputy Adams is aware, that worked out at almost 97%, which was certainly against the head given that many others felt that could not be achieved. We must determine the backup that can be given in respect of the Pillar 2 facilities to provide employment and opportunities in rural Ireland. These are matters that were raised by representatives of both churches. The question of suicide was raised by them as a consequence of some things that are happening.

The Archbishop of Dublin, Archbishop Jackson, referred to the approaches he had from the Bethany Home group and the correspondence that had been received between Archbishop Clarke and the Minister for Justice and Equality.

He said he had taken a particular interest in the Bethany Home as it was in his own diocese but it had not been owned and managed by the Church of Ireland. The church needed a determination of the full facts here and he appreciated the complexity involved in that.

Sinn Féin set out a number of issues in regard to the Bethany Home in its Private Members’ business motion. This matter has been examined by two Governments and gone through exhaustively in the sense of equality of treatment with the Magdalen homes. However, it should be noted that the Bethany Home evolved from two private charities, namely, the Dublin Midnight Mission and Female Refuge and the Dublin Prison Gate Mission, which actually predated the existence, or the foundation, of the State. It moved from Blackhall Place to Orwell Road, Rathgar, in 1934 and remained there until it ceased operation in 1972.

It should also be noted that it operated as a charitable trust and carried out a pretty extensive range of functions but in 1940, the High Court found that the majority of cases it dealt with were maternity cases. It was also determined that the Bethany Home was registered as a maternity home and was inspected under the Maternity Homes Act 1934, so, therefore, it was not an enclosed institution. The Government acknowledges, for its part, that the Bethany Home operated at a time when poverty was widespread and infant mortality rates were very high and that life for those children without family support would clearly have involved serious hardship. I also recognise that those who were in homes and institutions as children have a right to access their personal records and the Government has always commended the efforts made to preserve and make those records more accessible.

I do not just give that as a response to the Deputy’s question. This was gone through exhaustively by two Government analyses and reports and it is a very different situation than that which applied in the Magdalen homes situation. I agree with the Deputy in respect of the Society of St. Vincent de Paul and the charities which do that work. The Deputy will have the opportunity later today to have a more detailed discussion in respect of the Bethany Home situation.

Deputy Joe Higgins: Will the Taoiseach detail to the Dáil the discussions and contacts he, or people representing him, had with the Catholic Church, in particular, in the run-up to the
passing of the Protection of Human Life in Pregnancy Bill 2013? Was the strong opposition to that Bill the reason he couched it in the narrowest possible terms, really catering for a very exceptional situation where the life of the woman was at risk? Was that the reason he did not include a provision in the Bill providing for termination of pregnancies in cases of fatal foetal abnormalities, which many people called on him to include?

Is the Taoiseach aware his Minister for Health met a group, Termination for Medical Reasons Ireland, representing women in this very tragic situation, and apparently empathised strongly with the suffering they had endured and the suffering this means for a woman, a couple, a family and whoever is involved? Will he say looking forward from here that he will consider, as a matter of some urgency, an amendment to the Bill providing for terminations in these cases at the very least, if not also for the protection of women’s health generally?

What influence has the Taoiseach’s relationship with the Catholic Church, which is in opposition to the views of the huge majority of Irish people as opinion polls and anecdotal evidence tell us, and how much is the church’s view responsible for his very great conservatism in this regard?

**The Taoiseach:** At my meeting with the representatives of the Catholic Church, the question of the A, B and C v. Ireland case was discussed. I emphasised to the delegation that the Government had no choice but to address the reality arising under Article 40.3.3 of the Constitution, the Supreme Court judgment and the European Court of Justice. At that stage, we had established an expert group, as provided for under the programme for Government, which had presented options to implement the A, B and C v. Ireland judgment. The Government made its decision that legislation and regulation was the best way, providing legal certainty for medical professionals in cases where an intervention is necessary to save the life of a mother.

I pointed out clearly that the complexity here was the question of suicide and how that should be dealt with. I made it perfectly clear that this was not an attempt to introduce, nor was the issue one of introducing, abortion on demand.

I made the point to the delegation that the legislation being drafted by Government would not include a provision for abortion in the cases of rape, foetal abnormalities or incest. It was not a case of pressure from the church bringing about the boundaries of the legislation being drafted. That was done strictly in accordance with the constitutional remit endorsed by the people and for which no legislation had been put through the House in more than 30 years.

My personal relationship with the Catholic Church is very good, solid and clear. During the early part of the year, I met off and on with members of the church on various occasions and functions in different parts of the country. I had then, and continue to have, a very good relationship with members of the church.

The intention here was to deal with the outcome of the referendum as decided by the people and the requirement to deal with the consequence of the Supreme Court judgment and the European Court of Justice judgment. It was for those reasons the legislation was drafted in the way it was.

It is not my intention to introduce an amendment to the Act in respect of fatal foetal abnormalities. I know this is an issue of great sensitivity for people, as are a number of other issues. The situation I set out to legislate for was the consequence of the referendum voted on and endorsed by the people-----

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**Deputy Joe Higgins:** Why not the others?

**The Taoiseach:** ----that is what we did. That is the position.

In answer to the Deputy’s question, there was not any pressure, extreme pressure or whatever the Deputy wants to call it to say the legislation must be this only. The decision was taken by Government to legislate in respect of a decision made by the people. That is the reason for the remit and I have no intention of amending the law beyond that.

**Deputy Joe Higgins:** Why will the Government not legislate for fatal foetal abnormalities?

**The Taoiseach:** I do not have any intention of amending the law beyond that.

**Deputy Richard Boyd Barrett:** I met somebody from the Termination for Medical Reasons group yesterday. She asked me what the group can do to influence the Government to end the absolutely unacceptable and tragic situation that is being inflicted on many women in this country. I refer to cases in which a woman who is happy to be pregnant and hopes to give birth to a child discovers the terrible fact that the foetus is suffering from a fatal abnormality - a condition that is incompatible with life - and has no chance of survival. A woman in such circumstances is currently forced to continue with the pregnancy even though the child has no chance of survival, or go to Britain without support for an abortion and possibly have to leave her dead child there. I know of an appalling case in which a woman in these awful, tragic and unbelievable circumstances had to bring the child back in the boot of a car. Is the Taoiseach seriously telling this woman, who told me last night she has met several people in the past few months - since the legislation was passed - who have gone through the same terrible circumstances she has gone through, that he intends to do nothing at all to end these tragedies? If that is what he is saying, it is absolutely beyond belief and I appeal to him to reconsider. If he does not intend to reconsider his position, perhaps he can advise me of what we should say to these women.

Did the Taoiseach discuss the issue of poverty, which church leaders have been raising, when he met them recently? In November of this year, the Archbishop of Dublin issued an appeal for basic foodstuffs because thousands of people are overwhelming the Crosscare food bank as they look for food. It was the first time since Archbishop Martin took up his position that he issued such an appeal on behalf of the food bank, which does not have enough food to meet the needs of hungry people from all sorts of sectors of society. In his speech in the Pro-Cathedral, the archbishop described how children are going to school hungry and are unable to learn as a result. He spoke about how university students are in dire straits. He said that these problems stem from the increases in unemployment and poverty that have resulted from the cuts associated with the policy of austerity. Did the archbishop raise these issues with the Taoiseach? Is he not ashamed, as the Taoiseach of this country, that church leaders are begging for food on behalf of the hungry people in our society? As we approach Christmas, this country will probably have more hungry people, more homeless people and more desperate people than at any time since the 1920s or 1930s. Is that not a matter of shame for the Government that it is presiding over this country at such a time? Should it not do something about it?

**The Taoiseach:** The Constitution and the law state quite clearly what has to apply here in Ireland. Any woman is entitled to a termination of a pregnancy only if there is a threat to her life. Those are the circumstances which are now explained in a law that was the source of a great deal of discussion by experts of one sort or another and ordinary people all over the country. That enshrinement in law, after many years of doing nothing about it, followed the
endorsement of the people and the vote of the people for what they wanted to be put into the Constitution. That is now reflected in the law. I hear about the question of fatal foetal abnormalities on a regular basis. Obviously, it is a matter of great sensitivity for the people involved. I am not in a position to determine absolutely a medical diagnosis on whether a child will live.

**Deputy Richard Boyd Barrett:** What?

**The Taoiseach:** Neither is Deputy Boyd Barrett.

**Deputy Richard Boyd Barrett:** These are medical conditions. There is no ambiguity.

**The Taoiseach:** So are many other conditions that apply. If a pregnant mother is told her child has a hole in the heart, is it likely that the child will die?

**Deputy Richard Boyd Barrett:** It is not likely - it is definite.

**Deputy Micheál Martin:** No, it is not.

**The Taoiseach:** No, it is not.

**Deputy Richard Boyd Barrett:** In cases of genetic abnormalities-----

**An Ceann Comhairle:** Sorry, Deputy, please allow the Taoiseach to continue without interruption.

**The Taoiseach:** Deputy Boyd Barrett is wrong in his assertion. I am not-----

**Deputy Richard Boyd Barrett:** No, I am not wrong in what I am saying about fatal foetal abnormalities.

**An Ceann Comhairle:** There are other Deputies in the Chamber.

**The Taoiseach:** The definition of a fatal foetal abnormality will depend on the extent of the medical diagnosis.

**Deputy Richard Boyd Barrett:** No.

**The Taoiseach:** Medical diagnoses are not perfect, no more than anything else in the world.

**Deputy Richard Boyd Barrett:** The Taoiseach does not know what he is talking about.

**The Taoiseach:** We disagree on that.

**Deputy Richard Boyd Barrett:** It is extraordinary.

**The Taoiseach:** I have made my point to the Deputy.

**Deputy Richard Boyd Barrett:** The Taoiseach would want to check his facts.

**The Taoiseach:** The issue of poverty was raised by the groups from both churches. We discussed the impact of the economic crisis on jobs and families, etc. Deputy Boyd Barrett always puts out the worst case possible. One would swear an oath after listening to the Deputy that every person in the country is starving. I commend all the groups, agencies and organisations that do so much work for people who are suffering hardship where there is a degree of poverty and hunger. That should not apply in a country like this. It is a case of working with the agencies
of Government, the voluntary organisations and the families to make sure their children are fed in the best way possible. In a country like Ireland in 2013, it should not be the case that a child should have to go to bed hungry, but unfortunately that happens in a number of cases. I think the programmes that are done through schools and in communities, such as breakfast clubs, have such a strong effect because these things are taken in hand by communities and parents - by women, in particular - with the support of many agencies and organisations. Communities have banded together far more effectively and far more closely to deal with the extent of what has happened in the recession than they did when people assumed everybody was well off, that everybody was a millionaire and that everybody had money for everything even though that was clearly not the case. As the Deputy and I are aware, there are serious difficulties in many homes in this country. Where that applies, this is always a difficulty. It may be a case of an addiction, of squandering money or of not having any money. Nobody wants to see that. When these things are identified by the many voluntary organisations, they make a sterling effort to see they are dealt with. I do not believe anybody in our country should be hungry in 2013, given the extent of what we produce. We produce enough food to feed 35 million people. This is a case of understanding who needs it and in what circumstances and how effectively that can be delivered on. It is a very strong social requirement and responsibility of the Government and its agencies to ensure these problem areas are dealt with and, where possible, to change the whole nature of motivation and interest so that people can get into the world of work, better themselves and, as a consequence, provide in a better way for their children.

An Ceann Comhairle: As Deputies can see from the clock, there are 16 minutes and 20 seconds left on Taoiseach’s questions. I will allow them to choose whether they want to ask further supplementary questions on this group of questions or to move on to the next group of questions.

Deputy Joe Higgins: I would prefer to ask further supplementary questions.

Deputy Richard Boyd Barrett: So would I.

An Ceann Comhairle: I suggest that if we take further supplementaries on this group, we can forget about the next group of questions.

Deputy Gerry Adams: I want to ask supplementaries.

Deputy Micheál Martin: We will take supplementaries.

An Ceann Comhairle: All right.

Deputy Micheál Martin: I put the issue of small rural schools and religious diversity to the Taoiseach earlier. The Government policy on school patronage runs contrary to the maintenance of diversity and pluralism. That is manifest in the policy regarding small rural schools and the deliberate targeting of the pupil-teacher ratios in small rural schools. It began two budgets ago and is progressive. It did not have to be announced this year, but it continues. In its dialogue with the religious authorities and in particular with minority faiths, has the Government undertaken any analysis of the impact of its policies on, for example Church of Ireland, Presbyterian or other minority-faith schools?

In his reply the Taoiseach said that the Minister for Education and Skills, Deputy Quinn, who attended the meeting in January, said he would not be rushing into implementing any of the findings from the value-for-money audit. I believe he indicated to the religious leaders that the
value-for-money audit was taking longer than anticipated. What is meant by saying the Minister will not be rushing into implementing any of the value-for-money audit findings regarding the review of rural schools? There is considerable anxiety in rural areas on this. If the Minister is not rushing into it, would he not be better abandoning what he is up to and just give people peace of mind, certainty and clarity to small rural schools, which represent approximately 50% of all schools in the country?

The Taoiseach: Everybody understands the importance of the small rural schools. As the Deputy is aware, it is evident that the population has decreased in many rural areas and it is very difficult to get planning permission. Family sizes have changed and as a consequence projected pupil numbers have changed also. The Government is very conscious of that and there was no change in the pupil-teacher ratio.

Deputy Micheál Martin: There is.

The Taoiseach: No school has closed as a consequence of this. In respect of the value-for-money audit of schools, the Minister carried out an assessment of what it means. The Government has no intention of closing any school. It is a different prospect if parents, themselves, decide to suggest amalgamating with another school or other schools, as happened with the schools in Richmond Eskeragh and Keenagh in my constituency. The parents, themselves, made the decision that in three schools in an area there should be closures and once the transport arrangements were addressed they made the decision. It is not a case of the Government having any intention here. The value-for-money audit-----

Deputy Micheál Martin: The Government changed the PTR.

The Taoiseach: The Deputy knows, as he once was Minister for Education and Science.

Deputy Micheál Martin: However, the Government changed it.

The Taoiseach: If having spent a certain amount on doing up two separate schools and the numbers reduce, is it worth keeping the two of them open?

Deputy Micheál Martin: That is another argument, but the Government worsened the PTR.

An Ceann Comhairle: Other Deputies wish to ask supplementary questions and we have only 12 minutes left.

Deputy Micheál Martin: The Taoiseach does not seem to be acknowledging that the Government did that.

The Taoiseach: There was no change in the PTR in the recent budget.

The Taoiseach: The Government made a decision two years ago to do so.

An Ceann Comhairle: Sorry, please-----

The Taoiseach: In the budget announced this year there was no change in the PTR and that is very clear. The Minister pointed out to the church group that he was not rushing into following through on the analysis from the value-for-money audit. That is what he has done; he has been very clear about it. He has followed through on his examination of patronage, which came from the Catholic Church, itself, which indicated it wanted to move on from the position it was
Deputy Gerry Adams: I return to the issue of the Bethany Home survivors. I thank the Taoiseach for his answer to my earlier questions. When he made a very commendable acknowledgement of and apology to the survivors of the Magdalen laundries in this Chamber, it had been preceded by a less than sure-footed initial response by him. While it may be wrong for me to make any presumption, I have always presumed this was because the State was concerned about issues of cost, liability and so forth. However, he then met the survivors of the Magdalen laundries and meeting those feisty women changed all of that. I have very fond memories of meeting some of them, particularly here, when one of them sang “The Fields of Athenry” to us. I believe the experience of meeting them here and in London led the Taoiseach to follow his instinct and better nature, and make the sound and good remarks he made.

The Bethany Home survivors, however, have been left out of this. There is no logic, rationale, justice or fairness in what is being done. I know we must judge things in their own time and we have different attitudes to many issues today. However, in 1939 when concerns were raised about the health and public safety of these children and the standards of care in Bethany Home, the Deputy Chief Medical Officer, Dr. Winslow Sterling Berry, said it was well known that illegitimate children were delicate and suffered from starvation. That is unacceptable today, regardless of its unacceptability or otherwise at the time. We have the benefit of hindsight and live in more enlightened times.

I appeal to the Taoiseach to take a more enlightened view of the issue. I stress that there is only a very small number of survivors. I know the Taoiseach is extremely busy and there is probably a tsunami of people waiting to meet him. However, if he took the time to meet some Bethany Home survivors it might have the same effect as his meeting with the survivors of the Magdalen laundries had on him. I again ask the Taoiseach to do the right thing by the small number of people involved in order to draw a line under it, have a proper redress scheme and let them move on.

The Taoiseach: This matter was the subject of two detailed analyses by two governments. I recall very well the impact of meeting the survivors of the Magdalen laundries. When I engaged with them we put in place a scheme that brought a conclusion to that and I am glad to see that the first payments are proceeding.

However, the Minister, Deputy Shatter, and the Minister of State, Deputy Kathleen Lynch, met members of the Bethany survivors group at their request on 15 April because of the justice element of what was involved. They raised the question of the Magdalen laundries scheme. At that meeting the members of the Bethany survivors group made it clear that they did not wish to be included in the Magdalen laundries scheme, nor did any of their complaints relate to any of the justice issues. Following that meeting the Minister for Justice and Equality raised the matter at the Government meeting on 11 July. He wrote to them with the response and the Minister of State, Deputy Kathleen Lynch, was pursuing the access to the records, which are very important to preserve.

It is a very different situation from that involving the Magdalen laundries. It has already been the subject of two inquiries and analyses by Government. The only element that related to the Department of Justice and Equality in all of this was in respect of a place of detention for women on remand or convicted of crimes referred by the courts. That did not give rise to calls of abuse or for compensation. The Minister of State at the Department of Justice, Equality
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Deputy Joe Higgins: Would the Taoiseach accept that when he and his Ministers as an institution meet the Church as an institution, it is like a meeting of two relics of an evolutionary process which halted at a certain stage, while the evolutionary process in ideas and outlook continued with the people that the Taoiseach is supposed to represent, which leaves him and the Church, in matters that they discuss, away behind the people in their thinking? Since a predecessor of the Taoiseach in the 1980s made himself into a hostage to the Catholic Church and pioneered the eighth amendment to the Constitution, with disastrous consequences, does the Taoiseach not think that he has the responsibility to undo the damage that was done by the overweening influence of the Church that stage? The Taoiseach keeps on saying that the tragic situation of fatal foetal abnormality is sensitive and sad but he does not understand it. I am asking him to review very seriously what is at stake here. There is no hope of survival in these cases. The Taoiseach cannot throw out trite phrases about a hole in the heart child. We are talking here about anencephaly, for example, where the serious malfunction of embryonic development is unfortunately the absence of a human brain and skull. There is no possibility of survival. Whereas I want the eighth amendment removed completely, lawyers raise the serious point that within its narrow confine the Government could legislate for a humane and dignified response to women, couples and families in this terrible situation, rather than force them to resort to the shameful and painful Irish solution of going out of the country. The Taoiseach has heard their testimonies. Why will he not legislate for this situation?

The Taoiseach: The Deputy talks about an evolutionary process when Government meets the Church and about a predecessor of mine. The Catholic Church is a separate entity from Government. It has its responsibilities. It has an enormous flock worldwide. I note the changes that Pope Francis is leading, changes in the way he goes about his work, the way he engages with people, the way he comments on issues that are of importance to people, and the change he is creating to bring about a Church that relates to people, to the poor and that leads from that point of view. These are separate entities and Government is not subject to the diktat of any religious group or any other organisation. It has a remit to operate on the basis of doing the thing it considers to be in the best interests of the people and the country. I do not accept we are way behind the thinking of our people. My responsibility as Taoiseach and as Head of Government is to legislate for what the people put into our Constitution, which is now reflected in the law.

When I speak to Deputy Boyd Barrett about the accuracy of medical diagnosis, and I am not competent to give a verdict on any of those cases, we have a difference about one particular issue. This was not legislated for. While these cases are always sensitive and very personal and individual, I have no intention of amending the law to reflect what the Deputy says.

Deputy Richard Boyd Barrett: In what is a very difficult and sensitive matter the Taoiseach needs to be informed of what he is talking about. There is no debate, dispute or controversy about Edwards syndrome, Patau syndrome or fatal foetal abnormalities. The view of doctors is conclusive, definitive and uncontested, that these conditions are incompatible with life. I know this among other things because I had a daughter who was born with one of these conditions. It is a very difficult thing to get one’s head around, that a child who is born or is yet to be born has a condition that is incompatible with life, that the child has no chance of life and cannot live. There is no dispute. It is not similar to other conditions in which a child might or might not live. The child cannot live and the mother is informed that the child cannot live. Must she be forced to go through with a pregnancy when the child cannot live? If she decides she can-
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not do that, must she be forced to go to Britain to have an abortion, or will she be looked after, nurtured and protected here, in these most appalling circumstances where a wanted pregnancy cannot conclude with a life? The people who have been victims of this terrible situation are asking the Taoiseach, if necessary, to amend the Constitution to allow for terminations in these circumstances.

I cannot believe the Taoiseach is seriously telling these women, and the many who will face the same situation every week because genetic abnormalities like this occur approximately in one in 10,000 pregnancies, that there is nothing he can do. Will the Taoiseach tell women who are in this appalling situation in years to come that there is nothing he can do? Will he tell them they are forced to go through this tragedy and that the State will do nothing for them? I cannot believe the Taoiseach is seriously saying that. If necessary he must amend the Constitution, although there is some legal opinion to the effect that it could be done within the current constitutional framework because we are not talking about the termination of a life that is viable. The Taoiseach should meet these women. If he does not understand the condition, he should meet the women and their doctors who know about it but he should offer them some hope.

The Taoiseach: Deputy Higgins asked whether it was my intention to amend the legislation in this matter and I said it was not my intention to do that.

Deputy Joe Higgins: Why not?

The Taoiseach: While I recognise these things are very sensitive, the Deputy always goes from what he describes as certainty to areas where there is uncertainty. Medical diagnosis cannot determine accurately where the might, the maybe or the uncertainty exists.

Deputy Richard Boyd Barrett: There is no uncertainty.

The Taoiseach: I have told Deputy Higgins that it is not my intention to introduce legislation to amend the situation to which the Deputy refers.

Written Answers follow Adjournment.

Order of Business

The Taoiseach: It is proposed to take No. 9, motion re referral to select sub-committee of proposed approval by Dáil Éireann of the terms of the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses; No.19, statements following the death of Nelson Mandela; No. 20, Health Insurance (Amendment) Bill 2013 - Order for Report, Report and Final Stages; No.10, Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013 [Seanad] – motion to instruct the committee; and No. 21, Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013 [Seanad] - Order for Report, Report and Final Stages.

It is proposed, notwithstanding anything in Standing Orders, that: in the event that a division is in progress at the time fixed for taking Private Members’ business, which shall be No. 132, motion re Bethany Home, the Dáil shall sit later than 9 p.m. and Private Members’ business shall, if not previously concluded, adjourn after 90 minutes; No. 9 shall be decided without debate; No. 19 shall be taken immediately following the Order of Business and the proceedings thereon shall, if not previously concluded, be brought to a conclusion after 50 minutes and the
following arrangements shall apply: the statement of the Taoiseach, the Tánaiste and the leaders of Fianna Fáil, Sinn Féin and the Technical Group, or persons nominated in their stead, who shall be called upon in that order, shall not exceed ten minutes in each case, and such Members may share their time, and the order shall resume thereafter with Topical Issues; and the proceedings in regard to No. 10 shall, if not previously concluded, be brought to a conclusion after 60 minutes and the following arrangements shall apply: the speech of a Minister or Minister of State and of the main spokespersons for Fianna Fáil, Sinn Féin and the Technical Group, who shall be called upon in that order and who may share their time, shall not exceed 15 minutes in each case. Tomorrow’s business after Oral Questions shall be the Health Insurance (Amendment) Bill 2013 - Report and Final Stages (resumed), if not previously concluded; and the Local Government Reform Bill 2013 - Order for Report, Report and Final Stages.

An Ceann Comhairle: There are four proposals to be put to the House. Is the proposal for dealing with Private Members’ business agreed to? Agreed. Is the proposal for dealing with No. 9 agreed to? Agreed. Is the proposal for dealing with No. 19 agreed to? Agreed. Is the proposal for dealing with No. 10 agreed to?

Deputy Gerry Adams: It is not agreed.

An Ceann Comhairle: I call Deputy Adams.

Deputy Gerry Adams: The proposal is a motion to instruct the committee. It is a last minute amendment and it not just a simple technical amendment as it is an amendment from the Minister, Deputy Howlin, to the Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013. He brings in a whole new area of legislation at the very last minute. Any new provisions on sick leave and the public service require full scrutiny and proper consideration so an hour’s discussion as an afterthought is not the way to do the business. I believe this is the Minister’s way of trying to avoid full scrutiny of this very important issue.

The Taoiseach: This is a procedural matter. When one brings in an amendment that is outside the scope of the Bill, one has to have a procedural motion in order to discuss the amendment. That is the only reason for it.

Question, “That the proposal for dealing with No. 10 be agreed to”, put and declared carried.

An Ceann Comhairle: I call Deputy Martin on the Order of Business.

Deputy Micheál Martin: The Taoiseach might indicate when the National Treasury Management Agency (amendment )(No. 1) Bill will be published. This Bill is to enable the investment platform of the NTMA to be established on a statutory basis, including NewERA and the National Pensions Reserve Fund investments into the strategic investment fund. Given the developments in Bank of Ireland last week, and so forth, clarity around this Bill is important.

Will the Taoiseach indicate when the national cultural institutions (galleries) Bill will come forward? Has the Government at any stage considered reflecting on the amalgamation of the National Gallery, the Irish Museum of Modern Art and the Crawford Gallery?

With regard to forthcoming legislation on health, will the Taoiseach indicate when the commitment in the programme for Government to legislate for stem cell research will see legislation brought forward? Legislation was also promised in the programme for Government to clarify the law surrounding assisted human reproduction, including the law relating to parental
relationships arising from assisted human reproduction. When does the Taoiseach expect the Minister to publish that Bill?

Will the Taoiseach indicate when the integrated care agency will be established and the legislation underpinning it published? When will the patient safety authority be established, given we are awaiting that legislation for quite some time? What is the position with the hospital insurance fund? Negotiations have commenced in regard to a new GP contract, which has been committed to in the programme for Government.

These are a minority of the issues that were solemnly committed to by the Government at the outset. Given we are nearly three years on, I want to know where we stand.

The Taoiseach: The Deputy asked about a long list of Bills. I will have to come back to him with regard to some of those in the health area. We hope to have the first Bill before we resume on 15 January. In respect of the second Bill, the heads were cleared in July of this year but I expect it will be mid-2014 before it is published. I do not have a date for legislation on stem cell research or assisted human reproduction, although this is part of the family relationships and children Bill which is scheduled for publication next year. The Deputy raised three or four health issues and I will give him a response on them tomorrow.

Deputy Gerry Adams: Ceist í seo maidir le reachtaíocht atá forógraithe. This concerns the Adoption Act 2010. I have raised this issue with the Minister for Children and Youth Affairs, Deputy Fitzgerald, on a number of occasions and I believe she is well disposed towards dealing with it. It concerns facilitating a number of Irish families who are seeking adoptions of Russian children, and the need to extend the validity of the declarations of suitability and eligibility. I understand the Minister, Deputy Fitzgerald, has sought the advice of the Attorney General. Some of the families have travelled to Russia and have met their prospective adoptive children. The Fennessys in County Waterford come to mind. They travelled to Russia, met and bonded with-----

An Ceann Comhairle: We will not go into individual cases.

Deputy Gerry Adams: -----a young lad called Alex. Since the summer, the adoptive process has been stalled.

I am sure the Taoiseach understands this is a very traumatic and distressing time for the families involved. Can he confirm whether the Attorney General’s advice has been received by the Minister and whether the amendment will be brought before the Dáil before the Christmas recess, as the Minister has indicated?

The Taoiseach: No, I cannot confirm that but I will check it for the Deputy. There was a great deal of discussion in legal circles about whether it was possible to do something about this, and the issue was raised by Deputy Troy on a number of occasions in recent weeks. I will give Deputy Adams the latest information I have tomorrow.

Deputy Frank Feighan: When will the sport Ireland Bill come before the House? The Bill provides for the establishment of sport Ireland, a new organisation to replace the other organisations.

The Taoiseach: That will be next year. Unfortunately, it will not get in before the end of this year.
An Ceann Comhairle: As Deputy McGrath is not present, I call Deputy Ó Cuív.

Deputy Éamon Ó Cuív: I bhfianaise an fhógra a thug an Coimisinéir Teanga go bhfuil i gceist aige éirí as oifig i mí Feabhra seo chugainn de bharr easpa gníomhaíochta an Rialtais i leith na Gaeilge, cén uair atá sí i gceist ag an Rialtas glacadh le cinn an Bhille ó thaobh Acht na dTeangacha Oifigiúla? An bhfuil sí i gceist na cinn sin a fhoilsiú agus an mbeidh deis ag coiste Dála iad a phlé sula réiteofar an Bille féin?

The Taoiseach: Tá a fhios agam go bhfuil an coimisinéir chun éirí as a phost mar chonaic mé an ráiteas a thug sé. Tá sé ar intinn ag an Aire fógra poiblí a fhoilsíú i dtreo agus gur féidir coimisinéir nua a thoghadh agus a chur ina áit. Má tá fonn ar an Teachta go mbeidh diospóireacht sa Teach anseo nó ag an gcoiste, ba chóir é seo a phlé ag cruinniú na nAOír amárach. Má chuireann an Teachta scéal chuig an Príomh Aoire, déanfaidh sé sin.

Deputy Éamon Ó Cuív: I asked the Taoiseach specifically about a piece of legislation. What I asked him, if he does not understand the first official language, is when the heads of the official languages (amendment) Bill will be agreed by Government and whether it was intended in the new process to publish those heads to allow for debate on them before the Bill is prepared.

An Ceann Comhairle: We do not deal with Government business but we can ask if the Bill is going to be referred to a committee.

The Taoiseach: Tuigim an príomh teanga go maith agus tuigim go maith céard atá i gceist ag an Teachta. Is féidir liom scéal a chur chuig an Teachta Ó Cuív maidir leis an mBille. Rachaidh an Bille roimh an choiste nuair a bheidh sé foilsithe agus cuirfidh mé sceál chuig an Teachta faoi sin.

5 o’clock

Deputy Éamon Ó Cuív: Ní bheidh deis ag an gcoiste na cinn a phlé.

An Ceann Comhairle: I call Deputy Healy-Rae.

Deputy Michael Healy-Rae: Could I ask the Taoiseach-----

The Taoiseach: Beidh cead ag an gcoiste é sin a dhéanamh.

Deputy Éamon Ó Cuív: An bhfuil an Taoiseach ag caint mar gheall ar an mBille nó na cinn?

An Ceann Comhairle: I have called Deputy Healy-Rae.

The Taoiseach: Ba mhaith liom go mbeadh sé de ghnáth go gcuirfear na cinn faoi bhráid na gcoistí. Tarloídh sé sin i gcás gach uile Bhille tar éis na Nollag nuair a thosóidh an chéad seisiún eile. B’fhéidir go gcuirfear cuid de na cinn chug na coisti idir seo agus sin. Tarloídh sé mar is gnách i gcás gach Bille tar éis na Nollag.

Deputy Éamon Ó Cuív: An mbeidh sé seo tar éis na Nollag?

Deputy Michael Healy-Rae: The continuity of the payment of the fair deal scheme is of paramount importance to our elderly people. The continuation of the good work that has been done by the institutions that take care of our elderly is also very important. I am asking this question in respect of the health and social care reform Bill. Can the Government give an as-
surance to elderly people that the fair deal will continue to be paid?

*The Taoiseach:* I am not sure which Bill Deputy Healy-Rae is referring to?

*Deputy Michael Healy-Rae:* The Taoiseach knows what the fair deal is.

*An Ceann Comhairle:* There is no Bill.

*The Taoiseach:* What Bill is the Deputy talking about?

*Deputy Michael Healy-Rae:* There is a Bill.

*An Ceann Comhairle:* What is the name of the Bill?

*Deputy Michael Healy-Rae:* It is the health and social care reform Bill.

*The Taoiseach:* I will have to come back to the Deputy with information on that.

*(Interruptions).*

*Deputy Joe Carey:* I want to establish when the Shannon aviation services and miscellaneous provisions Bill will come to the House. We have had a very good year in Shannon and would like to continue the momentum in 2014.

*The Taoiseach:* The Shannon aviation services and miscellaneous provisions Bill was due before the end of this session but I do not think that will happen so it will be early in the next session.

*Deputy James Bannon:* The management of our heritage depends very much on public awareness and education. We all know how important our heritage is to the tourism industry.

*An Ceann Comhairle:* We do indeed; now get to the Bill.

*Deputy James Bannon:* When can we expect the heritage (amendment) Bill to come before the House?

*The Taoiseach:* Deputy Bannon swept through a number of places in Longford yesterday with great ease. The heads of the Bill were cleared in November and it will be the new year before this Bill comes around.

*Deputy Peter Fitzpatrick:* When does the Taoiseach expect the publication of the trusts Bill, which is to reform and consolidate the general law relating to trustees so as to better deal with and protect trust assets?

*The Taoiseach:* The truth is I cannot give the Deputy an answer. I must give him a progress report on where we are regarding work on the heads of that Bill.

*Deputy Mattie McGrath:* In respect of the shambles surrounding the new National Driver Licence Service centres where people cannot get licences for work and holidays and the road transport Bill, when will the Taoiseach review this procedure because we do not want to see another SUSI or HSE?
An Ceann Comhairle: Wait until we get the Bill in first.

Deputy Mattie McGrath: In respect of the Protection of Employees (Temporary Agency Work) Act 2012, I am sure the Taoiseach is aware of the situation in the hostel in Tipperary and the FÁS workers there. When might the report of the FÁS and Pobal investigations be published?

An Ceann Comhairle: That is a parliamentary question.

Deputy Mattie McGrath: I have asked that the Taoiseach respond.

An Ceann Comhairle: I will get the Deputy the details of the Bill.

The Taoiseach: The Bill is scheduled for next year.

Deputy Sean Fleming: When can we expect to see legislation dealing with the provision of necessary adjustments that will be required to people’s various pension arrangements in the context of families that have undergone legal separation and divorce proceedings because that can have an impact on future pension arrangements? It is probably a family law or justice matter. It is promised anyway.

The Taoiseach: That is a matter for the Minister for Justice and Equality.

Deputy Sean Fleming: It concerns pension arrangements.

The Taoiseach: Is it the Legal Services Regulation Bill?

Deputy Sean Fleming: No, if anything, it would be a family law matter.

The Taoiseach: I will advise Deputy Fleming.

Deputy Bernard J. Durkan: The National Treasury Management Agency (amendment) (No. 2) Bill is promised legislation. Has it been approved and when is it likely to come before the House? Another issue that is becoming increasingly important is admission to schools, particularly in places where there is considerable population expansion and where there may be difficulty, particularly for children who may have been expelled from a school and who may find their second level education frustrated. What is the current situation regarding the education (admission to school) Bill?

The Taoiseach: The National Treasury Management Agency (amendment) (No. 2) Bill will be early next session. The heads of the education (admission to school) Bill were referred to the Oireachtas Committee on Education and Social Protection recently and I am sure the committee is holding hearings on it at the moment.

Thirty-Fourth Amendment to the Constitution (Neutrality) Bill 2013: First Stage

Deputy Seán Crowe: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Constitution.

The Bill seeks to amend the Constitution to ensure Ireland will not and could not aid foreign powers in any way in the preparation for war save with the assent of the Dáil. The Bill also af-
firms that Ireland is a neutral State and that the State would have a policy of non-membership of military alliances. I sought to introduce this Bill to ensure the Government cannot and will not continue to undermine Irish neutrality. The continued use of Shannon Airport for foreign military forces to facilitate their ongoing wars coupled with the increased militarisation of the EU and this State’s deeper integration into the EU military system ensure the Bill is timely. Sinn Féin believes if Ireland followed this policy of positive neutrality, our State could make a highly significant contribution towards the long-held global objective of international peace with justice and the goal of universal human security to which everyone has a right.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members’ Bill, Second Stage must, under Standing Orders, be taken in Private Members’ time.

Deputy Seán Crowe: I move: “That the Bill be taken in Private Members’ time.”

Question put and agreed to.


Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That the proposal that Dáil Éireann approves the terms of the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, done at New York on 21 May 1997, a copy of which was laid before Dáil Éireann on 5 December 2013, be referred to the Select Sub-Committee on Environment, Community and Local Government, in accordance with Standing Order 82A(3)(b) and (6)(a), which, not later than 19 December 2013, shall send a message to the Dáil in the manner prescribed in Standing Order 87, and Standing Order 86(2) shall accordingly apply.

Question put and agreed to.

Death of Nelson Mandela: Statements

The Taoiseach: It was with great sadness that we learned last week of the passing of Nelson Mandela - a global icon, a true champion of people of all nations and without question the greatest statesman of our generation. The mark he left on our world is indelible. His epic battle against injustice and discrimination is a powerful reminder of our responsibilities to stand up for what is right. Today, we can acknowledge a man whose name has come to represent the qualities of dignity and freedom and all that is right and good. His life was an example of forgiveness - not revenge - and was, therefore, an investment in trust and the future.

I was present in this Chamber when he addressed a joint sitting of the Houses of the Oireachtas on his visit to Ireland in 1990 just six months after his release from prison after 27 years.
On that day, speaking in the Chamber, he showed no bitterness, no resentment and no hostility towards the regime that had denied him his freedom and denied his fellow South Africans their basic human rights. Instead, on that July afternoon, his message was one of hope for a better future for South Africa and love for his fellow man.

It was also one of gratitude to the Irish people for the welcome he had received but, above all else, for their wholehearted and often sacrificial support for the anti-apartheid movement. Indeed, he referenced our own past struggles as a country, all the while hopeful that the South African people too would have a country which, as he said, will, as the great Irish patriots said in the Proclamation of 1916, “Cherish all the children of the nation equally”. He also referenced W. B. Yeats - “too long a sacrifice can make a stone of a heart” - and his refusal to allow that to be the case.

We recognise today, as did he, the 11 Dunnes Stores workers who saw the injustices at that time and who, despite great personal sacrifice in their young lives, did something about it. We can be proud today of the fact that Ireland pushed for and achieved EU sanctions against apartheid South Africa as well as forcing decolonisation and the fight against apartheid to the top of the UN agenda. The Irish Anti-Apartheid Movement, founded by Kader Asmal, was one of the most vocal and active chapters of the anti-apartheid movement globally. We should also be proud of all the Irish missionaries in apartheid South Africa who educated and cared for black South Africans when their Government had neglected them and failed to provide basic services.

So, on that beautiful day in July, Nelson Mandela expressed his appreciation to the Irish people for the solidarity and the assistance they gave to the people of South Africa in their struggle against the evil of apartheid. Today, we can be grateful to this giant among men who showed us so much, but most of all the incredible strength of the human spirit. That bar has now been raised even further by his lifetime of achievements. Indeed, I am reminded of the words of another great pacifist, Mahatma Gandhi, who stated: “I have nothing new to teach the world. Truth and non-violence are as old as the hills.”

The long march to freedom has ended for the baby who was born in the year that the Great War ended. I recall his invocation to the Springbok team before its rugby world cup victory as a demonstration of the unity of the Africa nation. I recall his taking the hand of F. W. de Klerk in doing business on behalf of South Africa, in banishing the apartheid regime and in preventing civil war. I recall his meetings with kings, queens, leaders and politicians of all descriptions from all over the world, but I recall in particular his birthday celebration with 2,000 disabled children. I recall his ease with people in recognising that his own work was almost done. I suppose we can all recognise his journey in the words of William Ernest Henley in his poem “Invictus”:

> Out of the night that covers me,\( \text{Black as the Pit from pole to pole,}\)\( \text{I thank whatever gods may be,}\)\( \text{For my unconquerable soul.}\)

He finished the poem by saying:

> It matters not how strait the gate,\( \text{How charged with punishments the scroll.}\)\( \text{I am the master of my fate;}\)\( \text{I am the captain of my soul.}\)

Slán abhaile, Madiba.

**Minister for Social Protection (Deputy Joan Burton):** On behalf of the Labour Party, I
Wish to express my deep sadness on the death of Nelson Mandela, Madiba, a man who it can truly be said changed the world for the better. If I speak with great sadness, I also speak with the great conviction that the example Mandela set in fighting injustice, poverty and inequality will not be forgotten.

In his long life, Nelson Mandela was many things - the young boy born of the soil of the Eastern Cape, the educated, trailblazing young lawyer in Johannesburg, the political activist who educated his comrades and so many of his people, the prisoner whose personal fortitude gave strength to millions, the President who sought to bring about the unity of the South African people and create the rainbow nation, and the man who became an inspiration to the world.

He once stated: “It always seems impossible until it is done”. I think it is fair to say that few of us genuinely thought that the hated apartheid system would ever end in our lifetimes. Nelson Mandela thought differently, and through his courage and conviction, the tyrannical system was brought crashing down.

As someone who was both a long-standing member and honorary secretary of the Irish Anti-Apartheid Movement and who lived in Africa for a number of years, I saw up close both the struggle to free South Africa and the solidarity shown by campaigners across the world. I lived in Tanzania in the early to mid-1980s. It was then the home from home for many African National Congress, ANC, exiles and I was privileged to get to know some of them, including the late Marius Schoon, who was working in the ANC Solomon Mahlangu Freedom College, SOMAFCO, in Mazimbu, central Tanzania. It was a time of some considerable apprehension among those exiles because the apartheid regime’s military might was strengthening, a development that superficially at least appeared to guarantee its indefinite continuance.

Despite this military might, however, the apartheid system’s fundamental weaknesses were being exposed to the world. The continued imprisonment on Robben Island of Mandela, Walter Sisulu and others was provoking intense international anger. It was the time when the call to boycott apartheid was being heard all over the world. Companies had to choose between active disinvestment or a consumer boycott, while even the US Congress was moving towards a comprehensive sanctions policy. Films such as “Cry Freedom” and “A World Apart” were filling cinemas and telling the world the stories of Donald Woods, Joe Slovo and Ruth First. Eventually, even the regime’s military superiority came under threat, as it was unable to overcome or contain the freedom struggles in neighbouring countries like Namibia that threatened to surround South Africa with ANC-friendly states.

All of these separate components came together in one massive campaign to secure the release of Nelson Mandela and the political recognition of the ANC within South Africa. It was a powerful demonstration of how a mass movement could overcome the entrenched power of a dictatorial system. Numerous of my friends, colleagues, campaigners and I watched Mandela’s historic release from prison in 1990 in the home of Kader Asmal and his wife Louise, the founders of the Irish Anti-Apartheid Movement. Our initial fear that something would happen to derail the release turned to overwhelming joy that he was finally free.

On that note, like the Taoiseach I want to salute all those Irish friends of South Africa, ranging from the many missionaries and organisations such as Trócaire to the Dunnes Stores workers, the wider trade union movement and people of all political convictions and none, who took Mandela’s side and waged the fight to end apartheid.
While his release was a defining moment for campaigners, Mandela himself knew it was only a further step along the very long road. Years of patient negotiation for a new constitutional settlement, securing the agreement to free elections and the hard slog of office still lay ahead. Our own Kader Asmal was heavily involved in the constitutional talks and I recall vividly his description of the many obstacles that he had to overcome.

Nelson Mandela’s approach to these obstacles was built on two foundations, one political and one personal. His political approach was based on the principles of the Freedom Charter, which was to him and the ANC the equivalent of the US Declaration of Independence. The charter, adopted in 1955 at Kliptown, set out in bold, unequivocal terms what he and his colleagues wanted to achieve. The first clause of the charter is stark and simple:

WE, THE PEOPLE OF SOUTH AFRICA, declare for all our country and the world to know:

that South Africa belongs to all who live in it, black and white,

and that no government can justly claim authority unless it is based on the will of all the people.

Principles are one thing, and the personal negotiating skills involved in delivering them are quite another. This was Nelson Mandela’s second pillar of strength. He displayed consummate negotiating skills, combining patience and a shrewd eye for political advantage. In his memoir, Kader Asmal mentioned that Mandela had been a renowned boxer in his youth. He said: “In his political sparring, thrusting and counter-thrusting, feinting and then going for the hammer blow, he reminded me of what the young Mandela must have been like in the ring: a wily and dangerous adversary.”

Mandela was at his best in those months after he became president and had to build a government of national unity, reconstruction and development. This is not to say his time in office was entirely smooth sailing, because it was not. He inherited massive expectations that democracy would bring instant results. That, of course, was impossible in a short time, but there were, and are, substantial achievements in areas such as education and housing. He passionately believed that “education is the most powerful weapon which you can use to change the world”.

Of course, he also believed in forgiveness. The Truth and Reconciliation Commission was a landmark achievement of Mandela’s term in office and was in keeping with his historic address to the Dáil in 1990. On that occasion, as the Taoiseach said, he quoted William Butler Yeats, “too long a sacrifice can make a stone of the heart”. However, Mandela told the Dáil that vengeance – resolving to meet brutality with brutality - was the wrong approach. He said: “We understood that to emulate the barbarity of the tyrant would also transform us into savages. We had to refuse that our long sacrifice should make a stone of our hearts.” This they did.

He might have sought to remain president for life as others had done. Instead, he chose to relinquish office after one term, and in so doing demonstrated that South Africa was truly democratic. He remained in the public eye as an immense moral force both within his own country and on the international stage. As Cyril Ramaphosa put it, Mandela’s job “was to set the course, not to steer the ship.” His memory will remain alive in Africa and all over the world as long as there are people who have a thirst for justice and freedom. At the turn of the millennium, he said in a magazine interview that he dreamed of an Africa at peace with itself. As someone who lived in Africa and holds it dear in my heart, I hope his dream is one day realised.
In Tanzania, the national anthem is “Mungu ibriki Afrika”, Swahili for “God bless Africa”. I was thrilled to hear the same line in Xhosa, “Nkosi sikelel’ iAfrika”, also meaning “God bless Africa”, in the national anthem of the new South Africa, the rainbow nation. Peace would be Africa’s best blessing, and Nelson Mandela did more than anyone to set the course. I and everyone in the Labour Party extend our deepest sympathies to his family and to the people of South Africa. Ní beidh a leithéid ann arís.

Deputy Micheál Martin: Laoch den chéad scoth atá á cheiliúradh againn anseo inniu. Tá sé tábhachtach go bhfuilimid bailithe anseo chun ár meas i dtaoibh Nelson Mandela a chur in iúl. Ceannaire faoi leith a bhí ann - duine a thug dóchas, fís agus fuinneamh dá mhuintir féin. Fear lách, ciallmaiar, stuama, críonna a bhí ann. Is iontach an phribhléid é dúinn bheith anseo chun ár meas air a léiríú.

There are moments in history when the times demand so much that it seems impossible to meet them. Intractable conflicts or cross-generational feuds can settle on human affairs like an immovable permafrost. Each age has problems that seem too much to confront and cause many to shy away or to slip into an easy but barren anger. In the crucible of such historic tests heroes emerge, men and women who rise to the challenges of their generation. Nelson Mandela was such a hero, one who will endure across the ages.

He was, as President Obama put it, “the great liberator of the 20th century”, a man who met the historic task with which his time was presented. The pitch black horizon of apartheid South Africa seemed hopeless to many. A slide into the bloodstained feuds of racial civil war appeared inevitable when the cracks appeared in the regime. Against that backdrop of mounting tension, the calm presence of Nelson Mandela forged a common destiny that once seemed impossible. The rainbow nation was born under the remarkable leadership of a visionary who saw above and beyond the narrow limits that preoccupied others. His story is the perfect antidote to the relentless cynicism that infects politics, his achievements are a rallying cry to those engaged in the world around them and his legacy is an enduring challenge to all of us to transcend our prejudice.

Many in Ireland heard that rallying cry and stood up against the grave injustice they saw in the apartheid regime. The 12 Dunnes Stores workers who spent such long days on the picket line from 1984 to 1987 embodied direct action against the fundamentally flawed regime. For those 11 women and one man, the example of the lone figure of Mandela condemned to hard labour in the desolation of Robben Island inspired them to take a stand. Tony Ward, Hugo McNeill, Donal Spring, Moss Keane and Ciaran Fitzgerald, appalled by the sheer inequity of the South African state, spurned the chance to tour with the Irish team. They played their part in their way in rising to the challenges of the time. Mandela lauded the Irish as the “original freedom fighters”. These men and women made sure it rang true. It is easy in retrospect to join the cacophony of praise, but at the time it was a genuine moment of courage in that act of solidarity.

Years later, when I was speaking with Mandela’s successor, Thabo Mbeki, he impressed upon me the deep sense of appreciation that South Africans and particularly ANC members had for the work of the Irish anti-apartheid movement. Those who were located in the United Kingdom loved coming to Ireland for the more colourful and robust public gatherings and meetings of the anti-apartheid movement. They recall and recount them with some good humour and good stories, not all of it repeatable in this House. It illustrates that the small but personal acts of defiance by men and women on a small island on the fringes of Europe resonated with those in the midst of a great struggle against an historic injustice. Mandela’s visit here in 1990 electric...
Nelson Mandela embodied the fact that one man not only can make a difference but is morally obliged to, and across the globe people have responded to that call. The call has not faded with his death. The world from which he has departed still labours under grave injustices. The basic, inalienable equality of each man and woman by virtue of our shared spark of humanity remains a forlorn dream in many corners of the globe. South Africa found a true leader emerge as a beacon of light in the moral darkness of apartheid. Those of us who enjoy the basic rights of a democracy are charged with the solemn responsibility to support those people for whom government of, by and for the people is a distant hope.

Much ink has been spilled on the life of Mandela over the past days, and rightly so. However, I fear the humanity of the man may be buried under the avalanche of plaudits. The arc of his life’s journey from radical activist to peacemaker was undertaken at immense personal cost. The physical toll of hard labour was matched by the personal loss of strained marriages and a distant family during his incarceration. We cannot know the emotional price paid on the long road to freedom.

His imprisonment was not the consequence of a flash of youthful zeal, like so many revolutionaries. He reflected upon what actions were necessary and committed himself to them. He stood as the first accused and was committed to living for his beliefs but also, if necessary, to die for them because he fully appreciated their immense value.

He was 42 years of age, and married with children, when he was put in prison. He put all of this at risk because he firmly believed in the greater good. He endured the solitude of the prison system and the physical toil of hard labour sustained by that belief. There are thousands of prisoners of conscience scattered across bleak redoubts of despotism who share in that sacrifice. To emerge from it without a heart turned to stone is a truly remarkable testament to the man.

His life urges us to rise to the challenges of our time. His legacy demands that we are willing to raise the awkward questions and probe the complacent consensus even when it is more comfortable to turn a blind eye. He leaves us with his own challenge to elevate ourselves beyond the immediate to see what is important and to work for that.

Nelson Mandela will be laid to rest in the beautiful sweeping panorama of the South African plains, in the village where he was born. Back then, in 1918, South Africa was engaged in the bloody twilight of the First World War where black and white alike fought and died in the mire of war. Over his lifetime, a dramatically racist society institutionalised its worst aspects with the creation of apartheid in 1948. The South Africa he leaves behind in 2013 is unimaginably different from the one he was born into. This is thanks in so many ways to the moral and political leadership he showed in crucial moments.

Those times placed a great task before Mandela but he rose to the challenges and in the face of impossible odds secured a remarkable achievement of the rainbow nation. Today our thoughts and prayers are with his family and his people, but our work, convictions and inspiration from him live on and, in that sense, so does he. His heroism is his legacy.

Deputy Gerry Adams: Ba mhaith liom mo chomhghairt a thabhairt do chlann an iar-Uachtarán Mandela, do Uachtarán Zuma, do mhuintir na hAfraice Theas agus do phobal na hAfraice in Éirinn. Nelson Mandela, Madiba, was truly remarkable. He was a freedom fighter, political prisoner, negotiator, healer, peace maker, father, grandfather and husband. He was a
friend to those engaged in struggle for justice across the globe. He believed in Ubuntu - chreid sé gur ár scáth a chéile a mhaireann na daoine. He was a friend to the people of Ireland and many people here were his friends, particularly the heroic Dunne Stores strikers who took a stand when those in power did not.

The injustice of apartheid was an obscenity to humanity. Interestingly, given our own experience, the former South African Prime Minister, John Vorster, once famously said he would swap apartheid legislation for one clause of the infamous Special Powers Act in the North.

The ANC was banned, censored and its political actions were crushed. In the 1950s and early 1960s, ANC activists debated how best to challenge the state. Speaking of that period, Madiba said:

We have always believed in non-violence as a tactic. Where conditions demanded that we should use non-violence, we would do so. Where conditions demanded that we should depart from non-violence, we would do so.

He came to the opinion that the ANC had no alternative but armed and violent resistance. Those are his words, not mine. In 1961, along with Walter Sisulu and Jo Slovo, Madiba co-founded and became chairman of the armed organisation, Spear of the Nation, known as MK. MK engage in military actions against the South African regime through his period of imprisonment and following his release.

In prison for those decades, Madiba maintained his international perspective. In his cell, in common with all political prisoners, he was allowed a calendar on which he marked significant events. On 5 May 1981, he wrote a simple single line: “IRA martyr, Bobby Sands, dies”. That was a hand-written tribute on a paper calendar on a cell wall in South Africa, which recognises the bond of those who struggle for justice. His note on that prison wall is recognition of the courage and self sacrifice of the ten republican hunger strikers of our time. Walter Sisulu later told me that all the ANC prisoners marked and commemorated each of the hunger strikers who died, including former Deputy Kieran Doherty.

Today the world is in mourning. The people of South Africa have lost their leader and father. Humanity has lost our greatest statesman. Madiba was a leader who by his courage demonstrated that it is possible to reconcile differences. By his example, he showed us that it is possible to build peace out of conflict - something we tried to do on our own island - that a better and more equal future based on fairness is possible, and that unity can be forged out of division.

In the hard years when the western powers were against him, when he was vilified as a terrorist and denounced as a criminal, he kept the faith. He showed perseverance and vision. There are lessons in all of this for us but particularly for the people of the island of Ireland of all persuasions as we continue the necessary and challenging task of building the peace.

I first saw Nelson Mandela when he visited Dublin in 1990. That was the day when the Irish soccer team returned home. When he appeared, a section of the crowd began to chant “Oo, ah, Paul McGrath’s da”. So the good humour of Ireland shone through.

In 1995, I and several other Sinn Féin activists travelled to South Africa at the invitation of the ANC to speak to senior figures who had been centrally involved in the process of negotiations. That was when I met Madiba for the first time. One of the first demonstrations I ever attended was in Dublin against apartheid and the visit of the Springboks rugby team. I have
been a long-time supporter of the anti-apartheid movement, so I was delighted to be meeting with one of my heroes.

During the conflict there was also a close working relationship between Irish republicans and the ANC. The late Kadar Asmal did tremendous work here in the leadership of the Irish anti-apartheid movement, along with his wife Louise. He was not a supporter of the IRA. In his book, which was mentioned by the Minister for Social Protection, Deputy Burton, Kadar told how the IRA provided practical training, advice and assistance with military operations to MK. Kadar said that the famous attack of 31 May 1980 on the Sasol oil refinery near Johannesburg was carried out with the assistance of the Irish Republican Army.

Walter Sisulu, Cyril Ramaphosa, Thabo Mbeki, Ronnie Kasrils and many others in the ANC leadership were pleased to remember the long commitment of Irish republicans to their cause, as was Madiba himself. For our group the highlight of the intense process of meetings was with Madiba. He was self-effacing, modest, totally relaxed and very focused. He was also tough, stubborn, determined and committed as he needed to be to survive apartheid, and to survive over two and a half decades in prison with hard labour. He was immovable on core principles, issues and values, but pragmatic on tactics and other matters.

It is also interesting that the British Government at the time laboured and lobbied hard for Madiba not to meet with me, for what that is worth. When it was clear that the ANC and Madiba were determined that the visit would go ahead, the British Government lobbied that there should be no handshake or photograph. He ignored them. Along with other Sinn Féin representatives, I have been privileged and greatly honoured to have met Madiba many times after that in South Africa, here in Ireland and in Britain.

Pribhléid agus onóir mhór a bhí ann dom. He was hugely supportive of the Irish peace process. On several occasions when visiting Ireland activists from the ANC and former MK went into prisons and talked with Republican prisoners about the peace process. Nelson Mandela had an enormous depth of understanding of the twists and turns of our process and knew that there was an onus upon Governments as well as those involved in struggle to resolve issues. He believed, as I and all thinking people believe, that there is an onus to create the necessary environment for peaceful solutions.

Despite his age and, when I last met with him, increased physical frailty his mind was as sharp as a razor. He was conversant in world affairs, affairs on his own continent, the injustice of the wars in Iraq, Iran and Afghanistan. He was a very remarkable human being. I mo thuairim, ba é Nelson Mandela ceann de na ceannairí is fearr a raibh ann ariamh. Mar a deir an t-amhrán: “Sé mo laoch, Mo Ghile Mear”.

All of us remember the Special Olympics in Ireland in 2003. It was a wonderful ócáid galánta. When I met Nelson Mandela after that event he was as taken by all of the young athletes with whom he had met during the course of that great event as he was about issues to do with the North and the need for Governments to move on the necessary business of building peace.

He will continue to inspire. He will continue in death, as he did in life, to encourage oppressed people everywhere. In this way, his legacy will live on. One does not have to be a Nelson Mandela or Madiba to do the small things that make things better for those who suffer from injustice and deprivation and do not have freedom. If we all did that in a small way then heroes like Nelson Mandela would not have had to do the big things they had to do.
Walter Sisulu was a wonderful man and a life-long conspirator, political prisoner and comrade of Nelson Mandela. Anyone who has the time to do so should read Mandela’s farewell to him when he died, one line of which states: “Go well, rest in peace Madiba, hero among heroes”. Ni bheidh a leithéid ann arís. Ar dheis Dé go raibh a anam dílis.

Deputy Maureen O’Sullivan: I wish to share time with Deputies John Halligan and Finian McGrath.

Acting Chairman (Deputy Frank Feighan): Is that agreed? Agreed.

Deputy Maureen O’Sullivan: Is ócáid bhrónach í bás Nelson Mandela, i slí amháin, ach níl sé brónach i slí eile toise go bhfuil faoiseamh aige anois ón bhfulaingt, ón bpian agus ón drochshláinte a bhi aige le déanaí.

The title of Nelson Mandela’s autobiography, Long Walk to Freedom, encapsulates his life and work, which title he adapted from a statement by the late Indian Prime Minister Nehru entitled No Easy Walk to Freedom. For Mandela and his comrades it was a long walk to freedom. It certainly was not an easy walk to freedom for them. The opening paragraph of his autobiography describes the name given to him by his father, a name which literally means “pulling the branch of a tree” and colloquially, more accurately, means “a trouble-maker”. I guess that is what he was for most, if not all, of his life.

Nelson Mandela acknowledged being a member of the royal household, although trained not for rule but to counsel the rulers of the tribe. We know he was a ruler. In his writings and speeches and in the many roles he held he was a counsellor. His words and philosophy will be sources of wisdom, enlightenment and guidance for those in leadership roles, locally, nationally and personally.

He stood up to the political situation and tyranny, exploitation and oppression of his people. His commitment was to democracy. When speaking from the dock at his trial in 1964 he said that fear should not be allowed stand in the way of equality. He also said that his ideal was of a democratic and free society in which all persons lived together in harmony and with equal opportunities, an ideal for which he was prepared to die and which resulted in his being imprisoned on Robben Island for 27 years. Another quality was his humility. Following his release in 1990 he said in Cape Town that he stood before the people as their humble servant, placing his remaining years in the hands of his people.

The military wing of the ANC was formed in 1960, at which time the organisation resorted to an armed struggle. For Nelson Mandela and the giants of the Anti-Apartheid Movement, Walter Sisulu and Oliver Tambo, this was a defensive action against the violence of apartheid. It was in reaction to the massacre at Sharpeville, which was a peaceful protest met with violence. At that time he stated: “When all channels of peaceful protest had been barred to us a decision was made to embark on a violent form of political struggle.” They then reached the point of, as described by Robert Frost in “The Road not Taken”, two roads diverged in a yellow wood and had to decide whether to continue on the road to violence or take the other road. They chose the other road, of which Mandela said: “That made all the difference”. When being sworn in as President of South Africa in 1994 he committed to constructing a complete, just and lasting peace. He said at that time that it was: “Time for the healing of wounds and to bridge the chasms that divide”. Nelson Mandela and his comrades were able to turn from bitterness and hatred to reconciliation. There are many people today whose lives are consumed by bitterness.
and hatred, which bitterness and hatred brings suffering for other people.

I also speak today as the chairperson of the Irish section of the Association of European Parliamentarians with Africa, AWEPA, which was established in 1984 out of the struggle to eradicate apartheid. At that time, many European Parliaments set up groups to campaign for the abolition of apartheid and to create international pressure for Mandela’s release from prison. On his release Nelson Mandela met AWEPA members and encouraged them to continue their work to help strengthen democracy in Africa. His wife, Graca Machel, along with Archbishop Desmond Tutu are members of AWEPA’s eminent advisory board. That work continues. We know that democracy in Africa is constantly being challenged. Today, it is the Central African Republic, yesterday it was DRC, the day before it was Mali and tomorrow, who knows? So many countries are in fragile situations. There is certainly no easy road to freedom for these countries. Nelson Mandela sought justice, peace, work, bread, water and salt. Many countries are now deprived of these basic rights. The developing countries of Africa are under pressure from a different form of colonialism in the form of multinational companies who do not pay their just taxes. We see this in the competition between land for food for the developing countries and land for biofuels for developed countries.

In his 1994 speech, Nelson Mandela referred to the amnesty for the various categories of people then serving time in prison. I hope his words then will reach those countries in which prisoners are being held in unfair and unjust circumstances without charge and the right to a fair trial, be that in Northern Ireland, Israel, Sri Lanka, Colombia, Azerbaijan, Kurdistan or the Cuban five situation in America. Mandela had a particular interest in Cuba. He said he was inspired by the Cuban revolution of 1959 because Castro in Cuba opposed apartheid at a time when other countries were not supporting the ANC. Fidel Castro visited South Africa and Nelson Mandela visited Cuba. To see the American President, Barrack Obama, and Cuban President, Raúl Castro on the same platform today shaking hands was very moving. President Obama’s words today, which is International Human Rights Day, that, “There are too many of us who happily embrace Mandela’s legacy of racial reconciliation but passionately resist even modest reforms that would challenge chronic poverty and growing inequality”, were interesting.

We speak today about Nelson Mandela as a political leader but he was also a husband, father, grandfather and friend. I sympathise with all those who miss and mourn him.

**Deputy Finian McGrath:** Hear, hear.

**Deputy John Halligan:** It would be impossible to do justice to the remarkable influence which the former South African President and national leader had on his country and the world. Without a doubt, his reforms and ideals are something to which current political leaders should look for the betterment of their nations.

In the many tributes from all over the world, Mandela has been described as an inspiration, an icon, a luminary, a humanitarian, a radical, a leader. It is certainly difficult to find a comparative figure in history who was an iconic dissident figure and central to building a new political system. Some of the more interesting summaries and recollections I have read have drawn sharp contrasts with the lack of long-term vision which marks today’s world leaders apart from Mandela. Others have noted how younger generations might be inclined to think on Mandela as a kind, elderly statesman. One could forgive the mistake, given the direction that some of the revisionist celebrations of his life have taken. One cannot but be struck at the hypocrisy
of many who now praise the life of this former political prisoner. One of the most compelling articles of all was an obituary in *The New York Times*. The obituary quoted an interview with Mandela in 2007 in which he was openly scornful about his successor. Apparently, Mandela had requested that the *New York Times* not publish these comments until after his death. On the question of keeping hatred in check after everything he had endured, Mandela said: “Hating clouds the mind. It gets in the way of strategy. Great leaders cannot afford to hate”.

Leaders like Nelson Mandela are thin on the ground these days and strong ideals and convictions are almost as scarce. However, his unwavering support and advocacy for social inclusiveness is something that every government, including our Government, should strive towards.

The gap between Ireland’s rich and poor has widened dramatically in recent years. According to a new analysis by Social Justice Ireland, the top 20% of earners have increased their disposable income in Ireland since 2008 by 20% while the poorest in our society have lost 18.4% of real disposable income. As leaders of all parties stand today and pay tribute to the socially inclusive ideals of Nelson Mandela, I urge them to consider the increasing inequality which they are allowing to develop far closer to home and the shadow which this will cast over future generations.

**Deputy Finian McGrath**: I thank the Acting Chairman for the opportunity to speak to this important and sad occasion following the death of the great Nelson Mandela. I offer my sympathies to his immediate family and to all the people of South Africa.

When I think of Nelson Mandela, I think of the words inclusion, grace, dignity, love of country, humour, courage, reconciliation and a great sense of humanity. People in this country identify with Nelson Mandela because of our past and because of his contribution to our current peace process. Our histories are intertwined from the stonebraker’s yard in Robben Island to the yard in Kilmainham Gaol and those of us in the Dáil today should never forget it. Democracy and freedom should never be taken for granted. If we are genuine and serious about respecting and honouring Mandela we must strive each day for these ideals. Democracy justice, equality and freedom are real issues that have to be cherished. I urge all Deputies not only to talk about these ideals but to come out every day and implement them.

I pay tribute to the Dunnes Stores strikers, who, in 1984, took a stand against apartheid long before it was popular in this part of the world. I remember well attending the pickets and giving a few bob to the strikers for their fun when the needed it. Today, I salute the Dunnes Stores strikers but I also commend and thank people like Brendan Archbold and John Mitchell from the Irish Distributive and Administrative Union, IDATU, on their magnificent work on this important issue. They took a stand long before it became fashionable and trendy.

In honour of Nelson Mandela and the Dunnes Stores strikers it is important to state that the struggle for freedom and justice and equality still goes on today. We must be vigilant on issues like racism and sectarianism in our country. Let us not fool ourselves or become complacent. They are out there and we need to show a Mandela-type leadership on these matters. The same goes for our own peace process. Many in the House and outside need to focus on reconciliation, justice, healing, equality and a respect for difference and diversity. That is the Ireland that I want to work for, that is the new Ireland we should all push for and that is the new Ireland that I want to see North and South. This new Ireland should be based on the principles and ideals of Nelson Mandela, who, in turn, based his vision on our patriots.
Let us use this sad day to remember Nelson Mandela and his greatness, but let us also push on and stand with the Palestinian people, the Cuban people and the oppressed throughout world and build a world based on freedom, justice and equality. May he rest in peace.

**Acting Chairman (Deputy Frank Feighan):** That concludes statements following the death of Nelson Mandela.

**Deputy Peter Mathews:** Would it be possible for the others to say a few brief words?

**Acting Chairman (Deputy Frank Feighan):** The order of the day only allows for leaders of the groups to contribute.

*Members rose.*

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**Topical Issue Debate**

**Foreign Conflicts**

**Deputy Ann Phelan:** It is particularly poignant for me to be discussing this issue on the same day that the world celebrates the life of one of the most influential and courageous figures in our lifetime, Nelson Mandela. As someone who played such a pivotal role in the anti-apartheid regime in South Africa and whose name has become synonymous with peace and friendship and democracy, it would have deeply saddened him to hear of the atrocities being inflicted upon the citizens of the Central African Republic. Today, all the eyes of the world are fixed on the African continent. The Central African Republic is a nation of 4.5 million people, not unlike our own. It is bigger than France and in the heart of Africa. It has been gripped by violence since Muslim Séléka rebels, many of whom are fighters from neighbouring Sudan and Chad, seized power in the country in March this year. One tenth of the population has fled the sectarian violence since the Séléka rebel coalition seized power. It has developed rapidly into religious warfare, including targeted attacks on defenceless civilians, summary executions and mass displacement of communities.

The Central African Republic has experienced decades of coups and rebellions which have kept this mineral and diamond-rich country locked in a time warp since its independence from France in the early 1960s. Despite being rich in natural resources it remains one of the world’s least developed economies. It also remains highly dependent on foreign aid, NGOs and the presence of peacekeepers and refugee camps. The need for further peacekeeping missions has become all the more immediate in the light of the recent violence that has erupted between the Muslims and Christians which has contributed to the deaths of more than 400 civilians in the past two days. It has been a tit-for-tat killing spree. I read an account of a 13-year-old boy who was brought onto the street in front of the house of a Christian fighter and shot dead by Muslim militia. This was done purely out of frustration since the rebel fighter was unable to fight the person he was looking for.

The scale of the current conflict is unprecedented. This month, the UN Secretary General, Ban Ki-moon, ordered his officials to start preparing for the likely deployment of a UN peacekeeping mission. However, African leaders would prefer to give the African Union force time to stabilise the situation. Following the killing of French troops last night and given the scale
of the killings that have occurred in recent weeks I believe the time waiting is over. The need for humanitarian aid has magnified in recent days. Will the Minister of State outline what the United Nations proposes to do in light of this conflict, before it is descends into warfare of genocidal proportions, reminiscent of the worst days of the Rwandan conflict and genocide?

6 o’clock

Minister of State at the Department of Foreign Affairs and Trade (Deputy Paschal Donohoe): I thank Deputy Ann Phelan for raising this matter. I assure her the Government is seriously concerned about the deteriorating position in the Central African Republic that she has just outlined. As the Deputy has acknowledged, in recent weeks there has been an alarming breakdown in law and order and basic social structures in the country, as well as a worrying increase in intercommunal violence and gross violations of human rights. As highlighted by the United Nations Secretary General in his report to the Security Council on 15 November, this conflict has the potential to escalate with untold consequences for the people of the Central African Republic and for the wider region. It is clear the national authorities no longer are in a position to guarantee the security of their citizens and the concerted efforts of the international community will be critical to ensure that order can be restored.

The Government welcomes last week’s United Nations Security Council resolution that authorised the deployment of an African Union-led peacekeeping force for 12 months and the deployment of French troops to support the African Union mission. Acting under a United Nations mandate, the African Union-led peacekeeping mission will be responsible for the restoration of security in the Central African Republic from 19 December. At a summit in Paris last week, African leaders indicated that the number of African troops deployed to the Central African Republic would increase to 6,000. I commend the African Union on its leadership role in respect of the crisis and hopefully the peacekeeping mission can help to bring stability to the country and to restore security and public order, as well as helping to protect the civilian population. The African Union force is being complemented by up to 1,400 French peacekeeping troops on the ground. It was with deep sadness that I learned this morning that two French soldiers had lost their lives in the violence in the Central African Republic overnight. I extend my sympathy to their families and to the French Government. I also welcome the decision of the Security Council to put in place an arms embargo against the Central African Republic. Given the threat posed by armed gangs, banning the export of arms to the country is an important step. Ireland supports strongly the actions of the United Nations, the African Union and France in their efforts to re-establish peace and security in the Central African Republic. Ireland is coordinating closely with its European Union partners to consider how best to support the efforts on the ground. Ireland supports a European Union proposal to provide funding to the African Union peacekeeping mission under the European Union’s African peace facility fund.

As the Deputy noted, the entire population of 4.6 million people is affected by the crisis. The humanitarian needs are huge and multifaceted, with up to one third of the country’s population of 4.6 million now in need of humanitarian assistance. The worsening security situation is increasingly limiting humanitarian access to vulnerable populations in need of assistance. Ireland is particularly concerned about the continued impact of the crisis on civilian populations who already were extremely vulnerable. Reports of widespread human rights violations, including killings, rapes and kidnappings are highly disturbing, as are increasing reports of sectarian violence. It is vital that all parties respect international humanitarian law, that civilians are protected and that humanitarian access be provided for United Nations agencies and non-governmental organisations working in the Central African Republic. Ireland has a clear
commitment to the Central African Republic and, since its establishment in 2008, has been one of the few long-standing supporters of the United Nations common humanitarian fund for that country. This year, Ireland has provided €2 million to the common humanitarian fund, thereby allowing the United Nations and non-governmental organisations present in the Central African Republic to undertake lifesaving work with the most vulnerable communities. Ireland will continue, in close co-operation with the United Nations, the European Union and non-governmental organisation partners, to monitor the humanitarian situation and to co-ordinate efforts in response to the unfolding and deep crisis in the Central African Republic. These issues will be addressed by the Foreign Affairs Council or in other words, by all the Foreign Affairs Ministers of the European Union, next Monday in Brussels.

Deputy Ann Phelan: I thank the Minister of State for his comprehensive response. I welcome the forthcoming addressing of these issues by the Foreign Affairs Council next Monday in Brussels because if one learns anything from history, it is that standing by is not an option. In 1994, the world stood idly by as warfare escalated in Rwanda and over a period of 100 days, 800,000 civilians were slaughtered. As a nation and as a member of the international community, Ireland has a responsibility and duty of care to the affected population of the Central African Republic, as in Rwanda and in respect of the current Syrian crisis.

I am conscious that children tend to be targeted in such conflicts. Children in conflict countries should be able to rely on adults, both inside and outside the country concerned, to take decisive steps to ensure their safety. This protection is their entitlement under humanitarian and human rights law, including the Geneva conventions. Unfortunately, in Syria these legal instruments have proven to be completely unable to fulfil any degree of security for children. I also am highly conscious that many of those who have been displaced have no access to shelter, food, water or any adequate living conditions. The World Medical Association has called for all those who are wounded or sick to be treated and able to obtain medical care without fear of being attacked when so doing. However, in the Central African Republic, I understand there are only eight or nine surgeons throughout the entire country and consequently, one can imagine what that situation must be like. I wish to recall that Nelson Mandela himself dreamed of in Africa at peace. If he proved anything to me, it was that an individual can make a difference and I wish to prevail on the Minister to ascertain whether he can make his difference in his deliberations in Brussels.

Deputy Paschal Donohoe: I note Deputy Ann Phelan began and ended with Nelson Mandela and invoked his spirit and vision for Africa at the outset of her contribution. I wish to emphasise to the Deputy what the United Nations are doing in this regard, the response of the international community and the Irish view of and support for that. A very important point of difference between the position in the Central African Republic and what happened in Syria, which offers an important analogy, is the strong response the regional presence, namely, the African Union, now has put in place. I refer to the African Union presence in the Central African Public, as well as the role that France now is actively playing, as the Deputy acknowledged in her contribution. I noted France has already suffered for the presence it has put into that republic. The other steps that have been taken and which offer another important point of difference to the Syrian conflict concerns the prompt implementation of the arms embargo to prevent additional weapons getting into the hands of those who would be willing to use them and who would be all too willing to target vulnerable communities. In addition, as I mentioned in my earlier contribution, a fund is in place, to which Ireland has contributed strongly.

The European Union will consider how it can respond and in response to the Deputy’s com-
ments, I assure her this will be the first item on the agenda of the meeting of all the Foreign Affairs Ministers that will take place on Monday and at which the Tánaiste and Minister for Foreign Affairs and Trade will be representing Ireland. Were he present in the Chamber, he would have wished to make this point to the Deputy. The European Union and in particular, Commissioner Georgieva, will play an active role in trying to put in place a humanitarian response to this crisis. In the middle of August, the European Commission put in place a €10 million fund on foot of what had been happening there in the post-coup environment. To date, €20 million has been provided to those most in need. I assure the Deputy that this humanitarian crisis will be given the attention it deserves. I refer to the role of the African Union which is operating under the mandate and the support of the United Nations. I thank the Deputy for raising this matter. She is correct in her view that it is a significant tragedy on a day when we would all wish for a better future for the people of Africa.

Special Educational Needs Staffing

Deputy Michelle Mulherin: I appreciate the opportunity to speak on this serious and unsatisfactory situation prevailing in some special needs schools which need to provide nursing care for pupils. A total of 127 special schools cater for the education of children and young adults with mild to moderate and severe learning disability. Many of these children have serious medical needs and life-limiting conditions which means they need nursing care while at school. However, there is a disparity in the provision of nursing care in the schools. Some nurses in some schools are funded by umbrella organisations while others are funded by a HSE grant and-or by the school board of management. In a small number of cases, nurses are directly employed by the HSE. Some schools have no nursing care for pupils but are trying to get it. Some schools in receipt of the HSE block grant must stretch their funding to cover not only a nurse, but also to provide for medical equipment and supplies, anything from medical gloves and syringes to thermometers and everything in between. In some cases if nurses are not in a position to attend school then students with severe medical conditions are unable to attend school on those days. This is a very unsatisfactory situation.

The manner in which the nurse has to work in the school environment is not satisfactory and that is the reason I have raised this issue. These nurses, for the most part, are working in isolation without the support of a professional medical body. There is no medical model set out for these nurses working in a school environment. There are no prescribed best practice and procedure or policies to which such a nurse can refer. This is contrary to the situation prevailing in the United Kingdom.

The board of management of a school is presiding over the work of a nurse but without any medical expertise or guidelines I question how the board of management can do so. While the board of management can provide management accountability for the operation of the school and the employment of staff, I ask how can it ensure that professional accountability and support is in place for the nurse. There is no professional accountability.

The situation needs proper funding to allow nurses to be permanently employed. A medical model needs to be put in place to ensure best practice and policy and professional accountability in order to support these nurses. There is a need for a nurse to be directly employed and funded by the HSE in co-operation with the Department of Education and Skills. The right to education for children with severe learning difficulties must be supported by nursing care in the case
of some children and young adults. However, the gap in the service has not been addressed. I ask for support and some form of framework for those nurses. The current situation is neither desirable for themselves, the boards of management nor the children and the families.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank Deputy Mulherin for raising this matter which reaches into every corner of Ireland. I have no doubt that everyone in the House is aware of the pressures on the health system to maintain services within the parameters of its budget. It has been a topic for discussion over many weeks. Deputy Kelleher has been actively engaged in that discussion. Notwithstanding these financial pressures, I assure Deputy Mulherin that the Government is fully committed to the ongoing delivery of vital services and supports to children with disabilities to the greatest extent possible within available resources.

Over the past number of years the health sector has invested significant resources in services for children with disabilities. For the first time we have discovered that the budget for all disability services is now more than €6 billion. Disability services for children have a long history and many organisations provide excellent support and interventions for children and their families. However, there is a wide variation in the services available in different parts of the country and for different categories of disability. The HSE is working on reconfiguring existing therapy resources into geographic-based teams for children aged from birth to 18 years of age. The HSE’s national programme on progressing disability services for children and young people aged from birth to 18 years, aims to achieve a national, unified approach to the delivery of disability services so that there is a clear pathway for all children to the services they need, regardless of where they live, what school they go to or the nature of their disability or developmental delay.

The Deputy raises the issue of professional accountability of nursing staff and their adherence to proper and standardised clinical procedures in special schools. I am not certain this is what the Deputy meant in her Topical Issue matter but I will deal with it. I do not want us to misunderstand each other.

It should be noted that all nurses are legally required to be registered with the Nursing and Midwifery Board of Ireland and are accountable to the public through the board. They must adhere to a code of professional conduct and a scope of practice guidance document. The scope of practice sets out the range of roles, functions, responsibilities and activities for which a registered nurse or registered midwife is educated, is competent and has the authority to perform. This is the case for all nurses, regardless of their employment setting, including a hospital or a special school. The provision of supports in special schools is an issue which involves both the health and education sectors. These special schools are mainly attached to non-statutory disability service-providers which are funded by the HSE. Many of these service-providers will have support staff, including nursing staff, in place. Special schools provide for those children with the most complex special educational needs, beyond what can be provided by mainstream education. Teaching supports are allocated on the basis of very small class sizes. The Department of Education and Skills also provides over 2,100 special needs assistants to special schools to assist in providing for the care needs of pupils attending those schools.

As a result of the considerable medical advances that have taken place in recent years, a small number of children survive premature births or serious illnesses. They continue to have chronic needs that require ongoing medical intervention to ensure their survival. Some special schools catering for children with severe or profound general learning disabilities now have a
small cohort of these children enrolled.

The National Council for Special Education, in policy advice to the Minister for Education and Skills earlier this year, recommended a more consistent approach to accessing nursing support for children with high medical needs in special schools through dedicated health service funding. This recommendation raises significant issues for the health and education sectors. The stakeholders involved, including the HSE, the Department of Education and Skills and the Department of Health, will need to examine this issue fully, including the resource and overall policy implications.

I thank the Deputy for raising this matter.

Deputy Michelle Mulherin: I thank the Minister of State for her reply. To be clear, the issue is not about the qualifications of nurses or the care they provide, rather it is to have a system of professional accountability and support. I know that these nurses working in special schools feel very isolated because there are no prescribed rules, practices and procedures for them to follow. At the very least that is a framework they require and that should be under the auspices of the Health Service Executive. We inspect various aspects of medical care from nursing homes to whatever, and I am aware that is the responsibility of the Health Information and Quality Authority. As the Minister rightly pointed out, we are talking about only a small number of cases but they are important because if nursing care is not provided for these children and young adults, they will not be able to attend school. It is beholding on the Minister that a proper system of support and accountability is put in place, in whatever form it takes. We must take into account the reality of financial constraints but these people cannot be left out on a limb as they are at the moment.

I urge that the recommendations of the National Council for Special Education would be taken on board and that ways are found to address the current shortcomings in the education system but which are the responsibility of the Department of Health.

Deputy Kathleen Lynch: I take on board everything the Deputy said and would disagree with very little of it other than to say I am always reluctant to move back to the medical model when it comes to disability because most people within the disability sector, and I am talking about the people who have a disability rather than those who would speak on their behalf, tell me clearly that they do not want a medical model of care and that it is more that. I understand fully the point the Deputy is making but there are major difficulties in regard to funding. However, I am sure our circumstances will improve and the recommendations from the National Council for Special Education will be taken into account.

HSE Staff Remuneration

Deputy Billy Kelleher: I want to say at the outset that I am conscious we are talking about an individual who is not here to speak for himself. I do not want to impugn anybody’s character or integrity but in the public interest I would be failing in my duties if I did not raise this issue. We need to get a full statement of clarification following reports that the director general of the Health Service Executive, HSE, Mr. Tony O’Brien, had received a salary top-up for a job he was no longer doing. It would appear that Mr. O’Brien initially received the payment when he was the head of the National Cancer Screening Service in 2006 and had taken on extra responsibilities as project director of the national plan for radiation oncology on which he did a very
fine job. It is now reported that he retained the top-up payment after he moved to the role of assistant director of the HSE in 2010 and continued to be paid until 2012 when he took over the running of the HSE. The error, as it was described, was only discovered when Mr. O’Brien took up his new role in 2012, and no fault on the part of Mr. O’Brien has been found. However, serious questions remain about how a senior HSE official could have been paid a salary top-up for a job he had already left. When the Department of Public Expenditure and Reform was initially asked to ratify the HSE director general salary of €195,000 a year, it refused amid concerns that 18% of Mr. O’Brien’s previous salary should not have been allowed. We need to know whether Mr. O’Brien legally retained an 18% top-up on his salary for two years after he left the job, and whether the HSE continued to pay the top-up regardless of the Department’s concerns.

We must remember the context in this regard because Mr. O’Brien has indicated that the HSE will claw back funds from any hospitals or health agencies that continue to flout a ban on top-up payments to senior officials. Could an arrangement be put in place whereby Mr. O’Brien’s salary is reduced by the relevant amount he received annually in the years after he joined the HSE?

I watched Mr. O’Brien’s appearance before the Committee of Public Accounts and he was quite forceful in saying that a full review of the agencies and voluntary hospitals would be carried out and, where possible, that the money would be recouped. He went on to state that the nod and wink practice of the past is over. If there is to be consistency and credibility in dealing with this issue we need a full statement from the director general and the Minister in that context.

There is another key question that must be addressed rather than me trying to extract this information over a period. When Mr. O’Brien was negotiating as director general designate with the Department of Health and the Department of Public Expenditure and Reform did he request, and this is critically important, that a top-up payment should be included in a financial package as part of the new salary? That is what we need to find out because we know that some section 38 voluntary organisations and agencies in hospitals have been involved in the practice of top-up payments. The Committee of Public Accounts is dealing with that and the HSE director general, Mr. Tony O’Brien, was very forceful on the issue but to be consistent and to have credibility we must have that information. The key question is whether Mr. O’Brien requested that top-up be included in his financial package when he was negotiating with the Department of Health and the Department of Public Expenditure and Reform and finalising that package for the role of director general designate of the HSE.

Deputy Kathleen Lynch: I thank the Deputy for raising this matter. The current director general of the HSE was in receipt of an allowance of approximately €26,000 between 2006 and 2012. This allowance was granted by the HSE to the Director General when he was chief executive of the National Cancer Screening Service in recognition of very significant additional responsibilities which he took on as project director for the National Programme for Radiation Oncology from 1 February 2006. Even the Deputy would agree we are all grateful for the people that introduced, including his party when in government.

While the allowance granted was intended to reflect very significant extra responsibilities, and these additional duties were discharged successfully over a number of years, this arrangement was put in place without the approval of the then Department of Health and Children and the Department of Finance. As I said, and to be transparent, that was in 2006.
In these circumstances the Department of Health wrote to the HSE in November 2012 requesting that it review its procedures for the sanctioning of pay levels, including allowances. In particular, the executive was asked to take the necessary steps to ensure that adequate governance and oversight controls are in place to ensure that the required sanctioning procedures are strictly adhered to.

The Department of Health has reviewed the circumstances of the case of the director general of the HSE and it is not proposed that recoupment of the unsanctioned allowances be sought. Deputy Kelleher referred to the context, and we have to see it in that context.

The approved salary rate for the post of director general is now €185,350. This rate is at a much lower level than the rate at which the chief executive officers of the HSE were paid in the period 2005 to 2012. The salary of the last chief executive officer of the HSE was €322,113 per annum plus additional benefits. It is important to point out that the role of director general of the HSE is one of the most challenging and onerous roles within the public service. I think we are all agreed on that.

As the Deputy is aware, I have requested urgent action to ensure that every section 38 agency is fully compliant with Government pay policy. The HSE has a team of senior managers following up with individual agencies. In addition, the director general of the HSE is meeting the chairpersons and the chief executive officers of all the section 38 organisations this Thursday. Separate meetings are also being held with the organisations concerned.

Due process will have to be followed in the examination of top-ups to senior staff in section 38 agencies. As outlined in the national pay policy, a section 38 provider may make a business case to the HSE to continue to pay a specific allowance. Where the HSE is satisfied that there are legitimate reasons for continuation of the allowance it may decide to apply to the Department of Health for sanction. Each such case will be determined on its merits and my Department will liaise, as appropriate, with the Department of Public Expenditure and Reform.

I am confident that the HSE will take whatever action is necessary to achieve full compliance with Government pay policy from the agencies concerned and that any governance deficits identified are comprehensively rectified immediately. I agree with Deputy Kelleher that this is an issue of public concern.

In regard to top-ups in areas where there is significant private and public funding, the public has cast its verdict on that. It is a legacy issue and it needs to stop.

Deputy Billy Kelleher: I appreciate the Minister of State’s reply in this context. As I said at the outset, this is not impugning anybody’s character but it would be remiss of me in my role as an Opposition spokesperson not to raise the issue and call for clarity and a statement from Mr. O’Brien as director general of the HSE which, bear in mind, oversees the spending of approximately €13 billion per year of public funds and has a critical role in the lives of people on a daily basis, as was discussed in the previous Topical Issue matter.

I did not expect the Minister of State to refer to it but Mr. O’Brien stated he was unaware this top-up continued to be paid and that it was an error in the context of the HSE not receiving sanction from the Department of Health or the Department of Public Expenditure and Reform. When Mr. O’Brien was appointed director general designate, did he at that stage request that top-up payment be rolled into the financial package, or remunerative package, he was looking for as director general designate of the HSE? If that is the case, then a major issue has to be
addressed because the error would have come to light at that stage and yet he would have still have insisted on it. That is the key issue. We have to ascertain whether that request was made. I do not know if it was but we need a statement from Mr. O’Brien and the Department that at no stage was a top-up requested to be formalised as part of his remunerative package as director general designate. That is the key issue because as the Minister of State and I have said, this is an issue of credibility and consistency and the idea that the nod and the wink practice of the past in regard to top-ups must be rooted out. Clearly, the person most in charge and responsible for rooting them out will be the director general himself and there cannot be any questions about that particular individual in terms of top-up payments when he is trying to root out a practice that has gone viral through lots of other agencies.

**Deputy Kathleen Lynch:** It is unfair to ask that question when we simply do not know. The only people who know are Mr. O’Brien and those who were present at that meeting. It is unfair to ask a question like that because it simply leaves it hanging there. The question will probably get a lot of publicity but if the answer is “No”, it will get very little airtime and we will have to come back to the House and make that very clear because it is about ensuring natural justice is applied not only to the man in the street but to those of us in whom great trust is placed.

**Gaelscoileanna Issues**

**Deputy Peadar Tóibín:** Imagine if there was a cost free solution with proven track records in regard to academic performance which would make it easier to learn a third or fourth language, would create a greater understanding of and openness to different cultures and languages around the world, would make it easier to score higher in English or mathematics and would improve the cogitative ability of students. There is such a process which is called bilingual education. Internationally, it is proved to show massive benefits for people and children as they go through the education system.

Currently, there are 139 Gaelscoileanna in this State which 30,000 children attend. Since this Government came to power two and a half years ago, it has not set up a single Gaelscoil. No Government in this State has ever set up a Gaelscoil. Without the activism of parents, there would not be a Gaelscoil sector in this State. Currently, 5% achieve a Gaelscolaíocht while the demand for same is 25%. Almost every Gaelscoil in the country has excess demand which cannot be said of any other sector.

In the past four years, four Gaelscoileanna have been built. As I said, no Government has ever created a Gaelscoil; parents create them. They are usually housed in very bad environments, in prefabs or in temporary accommodation for 15 to 20 years before the Government provides a solution. There are plenty of examples of this.

In the Sandymount-Ringsend area of Dublin, there was a competition in regard to patronage and despite there being 600 children on a waiting list who were refused access to three Gaelscoileanna in the locality, the competition was won by Educate Together. I am not saying Education Together should not have won the competition; it is not an either-or option. In fact, one could easily have a Gaelscoil Educate Together but that option is not given by the Department in regard to competitions for patronage.

Other areas which have shown excess demand for Gaelscoileanna include Navan, Kells and Oldcastle in my county, Crumlin in south Dublin, Fairview and Clontarf in north Dublin,
Kilkenny, New Ross and Clane. In north Cork, there is oversubscription to the four closest Irish medium schools and at least 13 section 29 cases have been taken against one of these schools but there is no new provision planned by the Government.

I have had discussions with English speaking schools. Many of them are struggling to get students and see any Irish language stream as an opportunity to gain extra students and to improve the service they provide to their students. I have contacted the Department of Education and Skills to try to seek support for these Irish language streams but I have been sent from Billy to Jack trying to find anybody who knows anything about such supports for Irish language streams. If one Googles Irish language streams in education, all of the results will be for the North of Ireland. There are no results on the first page will be for the South of Ireland. There is a serious demand for Irish language education and there are serious benefits but the Government is not providing anywhere near enough to meet that demand.

Minister of State at the Department of Education and Skills (Deputy Ciarán Cannon):

I thank the Deputy for raising this issue. Primary and post-primary education has a pivotal role to play in the preservation and expansion of the Irish language. The promotion of Irish has been an important aim of successive Governments and its place in our education system has been consistently protected. This is reflected in the fact that for the 2012-13 school year, there were 142 Gaelscoileanna in operation. A further three Gaelscoileanna commenced operation during this school year. There are also 104 all-Irish Gaeltacht primary schools and 928 primary schools where, apart from Irish itself, one or more subjects is taught through the medium of Irish.

At post-primary level, there were 45 Gaelchóláistí in operation for the 2012-13 school. Three more Gaelchóláistí are due to open in September 2014 under new arrangements introduced by the Minister, Deputy Quinn. There were also 11 all-Irish aonads in post-primary schools and there are nine post-primary schools where, apart from Irish itself, one or more subject is taught through the medium of Irish. Two more Irish Aonads are being established in post-primary schools next year.

As the Deputy will be aware, in June 2011, the Minister, Deputy Quinn, announced that 20 new primary and 20 new post-primary schools would be established across a number of locations. The Minister also announced new arrangements for the recognition and determination of patronage of these new primary and post-primary schools. The new arrangements provide a balanced approach to allow for prospective patrons to apply to establish schools. The criteria to be used in deciding on patronage of the new schools place a particular emphasis on parental demand, to which the Deputy referred, that also includes preference for all-Irish school provision. Since the new arrangements were introduced, parental preference has emerged to support the establishment of three new Gaelscoileanna and these have commenced operation. Furthermore, as part of the patronage determination process for the new post-primary schools, the Department proactively examined all-Irish provision at post-primary level in the areas where the new schools are to be established. It predetermined a requirement for all-Irish provision in three of the areas concerned. These schools will commence operation in 2014. In addition, it is open to new English-medium post-primary schools to establish an all-Irish aonad if there is sufficient parental demand to support such a development.

The Deputy will be aware that the report on the Forum on Patronage and Pluralism in the Primary Sector, the establishment of which was a key objective in the programme for Government, was published by the Minister in April 2012. As a follow-up to the outcome of the forum,
surveys of parental preferences with regard to the patronage of primary schools were conducted by the Department in 43 areas across the country. Sufficient parental demand for a wider choice of school patron emerged in 28 of the 43 areas surveyed. One of these areas demonstrated sufficient demand for an Irish-language national school. Some 35 of the 43 areas surveyed are already served by a Gaelscoil. Discussions are ongoing with the Catholic patrons in the areas concerned to make progress on this matter.

**Deputy Peadar Tóibín:** The truth is that a large proportion of primary teachers in this State’s education system do not have fluency in the Irish language. This makes it very difficult for them to pass on fluency to the children they teach. The teaching of Irish in our schools was heavily criticised by school inspectors recently. The point I am trying to make is that while I acknowledge there are Gaelscoileanna, there is a chasm between the demand for such schools and the supply of them. The Government’s ability to fill that chasm is extremely poor. It should not be necessary for me to tell a man from County Galway that the language is hanging by a thread. According to a really important research document that was published a number of years ago, the Irish language has 16 years left as a living language. The 20-year strategy is in tatters. The Language Commissioner resigned last week because he is frustrated by the Government’s inaction in implementing the law as it applies to the Irish language. He said that when children leave school, they are met with compulsory English from the State services.

We need to look at what is happening in other countries. The proportion of children in Wales who receive an all-Welsh education has increased from 18% to 23%. In the 1980s, just 5% of children in the Basque Country received a Basque-language education, but that figure has now increased to 65%. If the demand for Irish-language education that exists among 25% of this country’s parents were met, some 700 schools would change over to Irish-language education straight away. Approximately 150,000 students in the primary sector and 40,000 students in the secondary sector would change over to scoileanna lán-Gaelacha. That would meet the demand. It would be virtually cost-free to educate them in such a manner. The political will to do this is sorely missing, however. Despite its positive rhetoric at times, the Government is unfortunately sitting back and watching the corrosion of the Irish-language sector. It should be proactive in making a major change that would leave a legacy and would guarantee the future of Irish as a spoken language.

**Deputy Ciarán Cannon:** I agree with the Deputy when he says it is incumbent on all of us to protect this unique part of our heritage, our language, which should remain a living part of Irish society for the foreseeable future and for generations to come. There is a need for a fundamental examination of what we are setting out to do when we educate our children through Irish in this country. Are we happy to produce young people who have an understanding of Irish after 14 years in the education system - I would argue that most of them do not love the language - but also have a feeling that it has somehow been foisted upon them through the compulsory teaching of it across our school system?

**Deputy Peadar Tóibín:** That is not the experience. The experience is that the demand is not being met.

**Deputy Ciarán Cannon:** I would like to expand on the point I am trying to make. If the young people who learn this language from the age of five to the age of 18 were dropped into the relevant parts of County Galway or another Gaeltacht county, the vast majority of them could not hold the most basic conversation with their counterparts who live in the Gaeltacht and speak the language on a daily basis. In such circumstances, a fundamental re-examination
of why and how we teach Irish in our schools is needed. I agree with the Deputy that there is
significant demand for all-Irish provision. Anecdotal evidence to this effect is emerging from
parents in my county. The Deputy mentioned that up to 600 young people are on a waiting
list to access a Gaelscoil in his locality. It is important to note that the parents and children
presumably went to school elsewhere. The Deputy may be quite correct when he suggests that
a strong desire on the part of parents to have their children educated in an all-Irish medium is
emerging. They have the right to demand such provision in an English-medium school. If suf-
ficient demand of this kind emerges from within the parent community of any English-medium
school in the country, there is no reason that school cannot deliver all of its subjects through the
medium of Irish in junior infants, senior infants, first class and second class. That opportunity
has always existed in our school system. It remains within our school system.

Deputy Peadar Tóibín: Schools need support from the Department to be able to take that
daunting step.

Deputy Ciarán Cannon: I agree that it is a daunting step. I would be disappointed if
parents were to decide to found such a unit but sufficient support to enable that to happen did
not emanate from within my Department. I would certainly work towards addressing that
challenge. At this point, that national need does not seem to be emerging from within the gen-
eral school system. If that need were to emerge, it would be incumbent on the Department to
respond to it. I emphasise that if there is sufficient demand from within a school community
for a school to make the transition to at least some element of Irish-medium delivery, there is a
process to facilitate that. The right of the parent community to take this approach can be exer-
cised if those involved wish to do so.

Health Insurance (Amendment) Bill 2013: Order for Report Stage

Minister of State at the Department of Health (Deputy Kathleen Lynch): I move: “That
Report Stage be taken now.”

Question put and agreed to.

Health Insurance (Amendment) Bill 2013: Report Stage

Acting Chairman (Deputy Olivia Mitchell): For the information of Members, amend-
ments Nos. 4 and 5 have been ruled out of order.

Deputy Denis Naughten: I move amendment No. 1:

In page 4, between lines 2 and 3, to insert the following:

“(3) Paragraphs (b) and (c) of subsection (1) shall, cease to be in operation on and
from 1 January 2015, unless a resolution has been passed by each House of the Oireach-
tas resolving that that section should continue in operation.”.

The objective of this amendment is to provide that the hospital bed utilisation credit shall be
subject to a sunset clause. The credit was introduced 12 months ago partly as a means of distri-
buting the risk equalisation fund. That accounted for a small proportion of it, but a proportion
of it nonetheless. The intention here is to use it as an indicative measure of the actual level of compensation that will be provided to insurance companies. This is not being introduced out of the sky. The objective is that, down the road, it will provide a mechanism for evaluating health status. I do not think it is a good measurement of health status. The Minister agreed with me 12 months ago that this not a good mechanism for health status. I proposed a sunset clause at that time.

The Minister felt there was no need for that because we were moving to a far more elaborate system of evaluating health status.

The objective behind the amendment is to be able to differentiate among people who have private health insurance between those who are sick and those who are not putting the same demands on their health insurance policy, rather than the current age-related system. Age-related distribution of the fund is not a very effective way to do it because there may be younger people with chronic diseases who place a far greater burden on the health system than a 79 or 80 year old person who has been active all his or her life and is fit and healthy. Yet this is how it is being distributed at the moment.

We need a system that evaluates health status based on the physical health or mental well-being of that individual. It needs to have an inbuilt incentive to keep people out of hospital. All in this House agree that whatever incentives we have in our health system should exist to try to treat people as close as possible to their homes and to treat them outside the acute hospital setting in so far as possible. The Bill sets in statute the exact opposite. It recognises people who are treated within the acute hospital system. As we know, increasingly those people are being treated in regional centres of excellence rather than in their local hospitals. On Committee Stage the Minister pointed out that this calculation will not include day procedures. As we know, the increased throughput in many of our small hospitals is down to day procedures.

I am sure the brief before the Minister of State on this matter states that this has a negligible impact on the overall cost of health insurance and is only being used as an indicative measure. However, if we could move to a proper system of health status and move away from the age-related credit we have at the moment, we could have a far more effective and hopefully balanced system of community rating without the continual upward pressure on insurance premia we have at the moment. In January those who typically are on VHI plan B will face an extra €259 per person on their policies. That is a significant increase in the cost of health insurance for an elderly couple on a fixed income, particularly for those who have paid into their health insurance over 40 or 50 years and may have had a very healthy lifestyle over that period. They are now being priced out of the health insurance market. The introduction of health status as a weighting mechanism makes far more sense.

There is no sense of urgency in the Department of Health to introduce a realistic mechanism for health status. I understand it cannot be introduced overnight, which is why I made the argument 12 months ago for introducing a sunset clause to the hospital bed utilisation credit that would kick in 12 months later. I again make that proposal. The responses I got from the Minister on Committee Stage did not indicate there had been any progress in developing clear criteria to evaluate health status. Perhaps the Minister of State, Deputy Kathleen Lynch, can enlighten me when she responds as to whether progress is being made on that. If that is the case, I cannot understand why she could not support the amendment. Let us put in the clause, as it would give an incentive to the Department to ensure this system is put in place. The health insurers advise me that they could in conjunction with the hospitals put such a system in place.
Dáil Éireann

Minister of State at the Department of Health (Deputy Kathleen Lynch): In the past our health system has suffered - I hope it will not suffer in the future - from decisions being made too quickly and not based on evidence or clear criteria.

The hospital bed utilisation credit, provided for in the Health Insurance (Amendment) Act 2012, was payable in respect of each overnight stay in a hospital bed in private hospital accommodation by an insured person where the health insurance cover of their contract covers that hospital stay. The Bill provides that this credit will also be payable from 1 January 2014 where a private patient occupies a public bed and there is a charge payable under section 55 of the Health Act 1970 for such stay. The definition of “relevant amount” is amended to provide that the amount payable in respect of hospital bed utilisation credit covers each overnight stay in a hospital bed where a charge is payable under section 55 of the Health Act in respect of a private patient in a public hospital bed.

The Deputy’s proposed amendment would have the effect of ceasing the payment of the hospital bed utilisation credit in respect of private patients occupying a public bed from 1 January 2015 while the payment would continue in respect of a private patient occupying a private bed. The resulting inequality is not desirable and while I expect that is not what the Deputy had in mind, I will not in any event be accepting the amendment.

The hospital bed utilisation credit was introduced as a proxy indicator of health status, pending the introduction of a more refined health status measure. The Deputy is quite right in that; it is exactly what it is. Unlike the age-related credit which is payable in respect of all members aged 60 years and over, the hospital bed utilisation credit is payable in respect of all qualifying insured persons who have an overnight stay in a hospital bed so all insurers benefit. However, the Minister is committed to introducing a more refined measure of health status, for example, through the use of diagnostic related groups, as is the case in many other countries. I am aware that the consultative forum on health insurance, comprising representatives from the industry, the regulator and the Department is committed to working together to overcome the obstacles that existing information deficits present to the development of a robust measure of health status. I am sure the Deputy knows - as would anybody with an interest in the health area - that our information gathering has not been the best and we need to refine and enhance it.

The Deputy sought to introduce a sunset clause for hospital bed utilisation credit last year. Each year the rates contained in Schedule 3 and Schedule 4 are amended by primary legislation when, in line with Deputy Naughten’s desire, the Houses of the Oireachtas have an opportunity to debate it. When a policy decision is made to discontinue the hospital bed utilisation credit, the rate will be amended to read “nil”. This is a more appropriate method of dealing with the issue in legislative terms rather than what the Deputy may have sought to achieve.

However, I agree with the Deputy that we need to move to a more refined indicator of health. He is equally right in terms of people’s health status given that it is possible to have a chronically ill 20 year old and an extraordinarily healthy 80 year old. While more refined indicators are needed, this is just a mechanism to ensure we have some balance in risk equalisation and who pays.

Deputy Denis Naughten: I would have loved to have tabled the amendment the Minister of State has suggested. However, the rules of this House do not allow me to do that and, like
Deputy Ó Caoláin, my amendments would be ruled out of order. I am glad the Minister of State at least accepts what the intention of my amendment is, which is not to differentiate between public and private beds, but to get rid of what I believe is an ineffective system.

7 o’clock

It writes into law something with which every Member of this House fundamentally disagrees, the use of a hospital bed to distribute funds for risk equalisation. There should not be any incentive whatsoever. The Minister of State will argue that this small sum of money is not an incentive but we are writing it into statute law and it is wrong. I have had no indication from the Minister of State or the Minister that any progress has been made on this issue in the past 12 months.

The Minister of State is right that the public hospital system cannot collate that information but it is available to the health insurers. The frustrating aspect of this is that in January and February older people will be left to ask whether they can continue to keep their health insurance. Will they have to reduce their level of cover because there is no effective system to distribute the risk equalisation fund? If we had a more effective distribution system the sickest people would get those additional resources but healthy people would not. That would reduce the overall cost of insurance across the board and put more downward pressure on its cost rather than pricing it out of the market for people who have paid in for years, who are healthy and yet are being forced out of the system because we have not come up with the data systems and ways of capturing that data in our health system.

Deputy Kathleen Lynch: To a great extent the Deputy and I are agreed on the central issue, how to introduce a more refined health indicator when we do not have the information with which to do that. Where I disagree with him, however, is that while this is a stand-alone Bill, as introduced, there is a combination of issues that need to come together in respect of how we treat people who need treatment, whether in the acute hospitals, or in community-based services. We are desperately trying to provide community-based services, whether in primary care, which is progressing, although it is difficult to see that unless it pops up next door to one, or in the review of the fair deal scheme or home-based services. We will make significant progress on this next year. The insurers are beginning to do the same, as the Deputy rightly says. The type of service they are starting to deliver at home is incredible. It is a combination of issues. Health services have always suffered from the quick fix, knee-jerk reaction to what is in fact very delicate. One needs to stand back and consider it in a more nuanced and protracted way. This is a stand-alone Bill. It is on the way to what we need to do. We are dealing with a complicated system of many strands and are working our way through it.

Deputy Denis Naughten: I thank the Minister of State for her response. The difficulty is that 12 months down the road I have not been given any indication that we are anywhere closer to bringing in any evaluation of health status. That is very disappointing. If we are to commit to universal health insurance we need a system like this in place and I do not see any progress in that regard.

The Minister of State is right that primary care is the way we need to go but we are introducing a system, in a Bill that we will deal with later, in which under-fives will have GP access. There are huge waiting lists of children trying to avail of physiotherapy, occupational therapy and psychology services and it would be far better in the short term to clear those backlogs, to ensure that children, when they are diagnosed, can get the treatment they require. I am disap-
pointed that we are not seeing any progress in this area. I will continue to table these amendments. I will table this one again in 12 months’ time and hope at that stage I will get a more substantive response from the Department of Health on its progress in respect of health status.

Amendment put and declared lost.

**Deputy Denis Naughten:** I move amendment No. 2:

In page 4, between lines 2 and 3, to insert the following:

“4. Section 7A of the Principal Act is amended—

(a) in subsection (6), by deleting “may by regulation” and substituting “shall introduce by 1 January 2015 regulations which shall”, and

(b) in subsection (7), by deleting “Regulations under subsection (6) may” and substituting “Regulations under subsection (6) shall, inter alia,”.”

The purpose of this amendment is to introduce a measure that this House passed in 2001, lifetime community rating. Its objective is to act as an incentive to encourage people to take out health insurance earlier in life. While many young families are leaving the health insurance system, there is bizarrely a 7% increase in over-50s in the system. A significant number of young people, particularly young families have dropped out of the system. They are the ones under huge financial pressure. It disguises the scale of the problem within the health insurance system.

I am scared because the Minister for Finance has defended the changes he introduced in respect of tax credits on the basis that only 7.5% of people have cancelled their health insurance. This is a complete underestimation of the situation because people over 50 are joining for the first time. It is not right that someone who is 65 years of age, who has paid into their health insurance system for 40 years now faces significant increases in the cost of health insurance on 1 January while someone who is joining for the first time pays the exact same rate for that policy. Every one of the four health insurers, including the Health Insurance Authority has given evidence at Oireachtas committees and has stated categorically that the one single step that could make a direct impact on the cost of health insurance would be the enactment of that 2001 provision for lifetime community rating.

If we fail to introduce lifetime community rating, there will be a significant problem in the new year in respect of health insurance. People will leave the system but on top of that we are seeing a very dangerous trend, which started earlier this year when Laya and Aviva introduced a measure whereby they excluded several public hospitals from health insurance cover. Six of these plans were launched earlier this year. From January, that number will be more than doubled. People will not only have to consider the level of cover they are purchasing, but to see whether the cover includes their local hospital. Geographic discrimination should not be built in to our health insurance system but that is happening. From the beginning of the year, approximately 20 health insurance plans will have built-in geographic discrimination and people will not be able to get treatment in their local hospital. That is a worrying trend.

The reduction in tax relief will cost people who have private health insurance an extra €170 million per annum. In addition, €130 million will have to be paid for public hospital beds following the introduction of legislation this year. Is it fair that people in their 60s taking out
insurance for the first time pay the same rate as those who have been in the system for 40 years? That is a key question. Changing that provision would encourage younger people to take out health insurance for the first time. The argument that will be made by the Minister of State is that if we are going to introduce universal health insurance in a couple of years, then there is no incentive to do this.

The difficulty is that we now have a sizeable cohort of people, which is getting bigger by the day, who do not have private health insurance and are not eligible for a medical card. This happens for two reasons, first, because the price of health insurance has increased significantly but also, at the other end, the number of those entitled to medical cards is decreasing annually due to the thresholds. Moreover, I am not just talking about the over 70s medical card because, as we know, there has been a significant reduction in recent years in regard to the thresholds for the standard medical card as it has not been linked to increases in social welfare. This means someone who has an income which is €1 over the social welfare level is not entitled under the income thresholds to a medical card. Therefore, at both ends of the system, we are taking people out of cover.

This leaves a greater cohort of people, some 7% of the population at present, who do not have any cover, whether by way of medical card or private health insurance, and this figure will probably go over the 10% mark next year. This makes the introduction of universal health insurance far more difficult. The Dutch system, on which ours is being modelled, was based on near universal coverage before universal health insurance was introduced, so Dutch people had some form of private health insurance up to that point. Not only are we undermining the current private health insurance system and putting additional pressure on the public hospital system, we are also undermining the objective of Government to introduce universal health insurance.

I have no doubt that, unless something drastic is done quickly, we will see private hospitals in particular locations, not just in Dublin, close next year. This will remove options for people and remove services from particular regions, which will put hardship not only on people who have private health insurance but also on those who rely on the services of the private hospitals but who are within the public system.

I urge the Minister to State to look again at this provision. I have put down a fair amendment in that I am seeking a period of 12 months to have this up and running, and I am not looking for it to be changed overnight. I ask the Minister of State to seriously consider the amendment.

Deputy Billy Kelleher: I support the general points made by Deputy Naughten. We have been debating this issue both in this House on Committee Stage and in general health debates for some time. The bottom line is that while the Department of Health puts its head in the sand, thinking the health insurance market will improve, the opposite is the case. We have had more alarming figures today with regard to the number of people falling out of health insurance. The most surprised man in this House during the budget was the Minister for Health himself when the Minister for Finance announced a cap on tax relief for private health insurance.

I was accused of being alarmist when I said this drives a coach and four through the Government’s policy on universal health insurance, but it certainly does. The theory and principle behind universal health insurance is that there would be a vibrant, sustainable health insurance market that could underpin the funding of health services. It is not a complex system in terms of the principle but the Government is making it exceptionally difficult. Deputy Naughten is right that if the Government continues to not incentivise young people to take out private health
insurance, the burden will fall on fewer shoulders over a period and, as we said, the death spiral will take rapid effect and dismantle private health insurance in this country.

While we talk about profit and loss, and private health insurance companies making all of this money, the fact is they do not make a lot of money. Private health providers have been laying off staff in recent days and hospitals will be on the verge of closing in the coming months. The private health insurance market is under stress and the private health providers are under stress and duress. At the same time, the Department of Health seems to be in a state of denial, along with the Minister himself, with regard to the crisis.

I take the historical lecture week in, week out from the Minister, Deputy Reilly, on the downturn in the economy, and we take that as a given. However, the Government has compounded this by having the Minister for Finance limit the tax relief on what are not gold-plated policies. There is an acceptance that these involve ordinary families whereas we were initially told it was only for gold-plated private health insurance policies. There is no such thing as gold-plated private health insurance when a family is put to the pin of its collar trying to retain private health insurance.

Private health insurance lightens the burden on the State in terms of providing care for those who take it out, and they are already entitled to care by the very fact they are citizens and taxpayers of this country. What are we doing, however? We are deciding to destroy and dismantle any chance of there being a vibrant private health insurance market. Competition is being downgraded and we now see health insurers coming forward with downgraded policies. For example, elderly people must have ophthalmology, orthopaedics, oncology and cardiology in their cover and they must also have inpatient cover. However, because of the bungling of health policy, there is an issue with regard to advanced and non-advanced policies. Clearly, therefore, while the Government looks at universal health insurance as the model, it is putting obstacles in the way of getting to the nirvana of universal health insurance as outlined in the programme for Government.

Community rating is an integral part of this. My belief is that the Government will not introduce this because it would be admitting failure in terms of the rollout of universal health insurance. The Minister of State will tell us that universal health insurance will be in place in a matter of years. However, I doubt very much that we will have a sustainable health insurance market that will be able to underpin universal health insurance. We talk of young healthy people in the context of “cross-subsidisation”, “community rating” and “intergenerational solidarity”. These are meaningful words; they are not just policy written on a piece of paper. They actually mean something and they underpin a very important principle in this society, namely, that young healthy people will cross-subsidise those who need it most, which is the principle behind intergenerational solidarity and community rating. While we talk about this a lot, the policies are the exact opposite.

I urge the Minister of State, as a rational person, to talk to the senior Minister and try to get him to understand that private health insurance is in crisis, and to get the senior officials and the HIA to sit down and acknowledge they can no longer continue in this vein of absolute denial. If universal health insurance is to come in at some stage in the future, the Government should in the meantime incentivise lifetime community rating and incentivise young people. What is happening is that young people are not taking up health insurance. They are deciding that as there will be universal health insurance down the road, the State will either provide for them or they will be compelled to take out insurance, depending on their means and income. However,
we will still have the difficulty that if universal health insurance struggles to be introduced in the coming years, people aged 60 to 65 will then take out health insurance without having made any contribution during their earlier life, and further draw on the system. That is the problem. While we talk about universal health insurance, in the meantime, young people are dropping out because they can see that, at some stage, they will be provided for or they will have to provide for themselves under legislation on universal health insurance. However, if it never happens, they can always rejoin without any penalty.

There is already a model in Australia, which should be looked at. I believe most people dealing with the private health insurance market do not understand it, and I am no expert in the area. However, we have had bungling in the answers from the Minister and people appearing at committees who seem to pretend that everything is fine. The daily statistics show that we are haemorrhaging the very people we want in private health insurance to underpin a principle dear to everybody, that of intergenerational solidarity where those who are young and healthy subsidise those who need health services more. For all those reasons, we must look at that principle and try to embrace it in the legislation. Otherwise, if universal health insurance drifts, it will continue to drift and, in the meantime, another cohort of young people who should be cross-subsidising and supporting older people will be making no contribution. We will then be asking older people to fund themselves and the spiral will continue.

An elderly couple over 70 can pay up to €4,000 next March for their private health insurance. This is not gold plated. It does not involve a person going up to the Shelbourne Hotel and having somebody look after them for three or four days in a nice room. This is very basic health insurance. This does not involve going into exclusive private areas of clinics. It is about basic private health insurance and people who have made the sacrifice and contribution and who at the very least deserve to be supported when it is their turn to draw from the system when they need it most. We are saying we will not, which is quite shameful.

**Deputy Kathleen Lynch:** Before I get back to dealing with the Bill, because that clearly had nothing to do with it, I wish to say we are trying to change a system that was permitted to become embedded in this country. It was a two-tier health system where if a person had private health insurance, he or she had greater access to health services and if he or she did not have such insurance, regardless of medical need, he or she had to wait. In respect of Deputy Kelleher’s remark about people taking advantage, it always astonishes me that people have such foresight on certain issues when they clearly had none on others a few years ago.

**Deputy Billy Kelleher:** Neither did the Minister of State. She never rang me to say things were going to fall off a cliff.

**Deputy Kathleen Lynch:** People aged 60 and over cannot simply join private health insurance schemes. There is a mechanism whereby they must wait to have pre-existing conditions dealt with, and this waiting period is sometimes between five and ten years. People should keep that in mind. I will get back to the Bill.

The proposed amendment inserts an explicit provision in the existing health insurance legislation that regulations to provide for lifetime community rating will be introduced, and it includes a commitment that such regulations will be in place by 1 January 2015. I was amazed to hear the Deputy say he does not want me to do it overnight. In terms of the Government and the Department of Health, that is overnight.
Single rate community rating applies where age at entry to health insurance does not determine the premium paid. Everyone is charged the same premium for a particular health insurance plan irrespective of age, gender and current or likely future state of their health. Under lifetime community rating, the premium paid by a person increases with the age at which they enter the private health insurance market. I am sure this is what the Deputy wanted. The introduction of lifetime community rating is one of a number of options being considered by the Minister to help address the decreasing membership of persons holding private health insurance. There are a number of technical issues which must be considered before any possible introduction of lifetime community rating, such as the age at which premium loading should commence and the rate at which loading should apply. In addition, prior to the introduction of lifetime community rating, it would be necessary to consult commercial insurers to keep the industry informed of any changes taking place and to consult consumers to provide as much advance notification to the public as possible of impending changes to allow them an appropriate grace period to purchase cover before any additional loading or premium prices would take effect.

The Minister has recently instructed officials to commence work immediately on assessing the full implications of introducing such a measure to the health insurance market to ensure that if subsequently pursued, it can be introduced in an appropriate and balanced manner. This and other regulatory issues will be examined further by the Department in the coming months to ascertain their merits and potential benefits to the private health insurance market. The existing health insurance legislation provides for the Minister to introduce regulations allowing for late entry loading should he decide to do so. This is a key pillar in lifetime community rating. In view of this and the steps under way as outlined, it is not necessary to insert an amendment to the Bill. I am not accepting the amendment.

**Deputy Denis Naughten:** I thank the Minister of State for her response. I acknowledge that there seems to be at least some movement within the Department on this. The difficulty is that the Minister told us 12 months ago that it was a good idea to look at this so it has taken 12 months for him to direct his officials to look at it and come forward with proposals.

I do not agree with the Minister of State’s assertion that there are technical issues involved. This legislation was passed 12 years ago. If there were technical issues, we had 12 years in which to resolve them instead of looking at them now. The reason we are so frustrated in this respect is because when older people get their renewal notices next January, February and March, they will have to make a decision as to whether they will need a knee replacement or ophthalmology services. It is a case of whether my sight is more important than my walk and which one I will prioritise in respect of the level of cover I take out because I cannot afford to continue to pay my current level of cover. That is the decision those older people must make when they get their renewal notices. The frustrating thing about it is that actually getting their grandchildren to take out insurance cover helps spread the burden across the board, but we are providing no incentive to the parents of those children to take out that cover. The bizarre thing was that there was an incentive built into the amendment that was brought forward on budget night, and last week the Minister for Finance shoved through an amendment to it. The difficulty is that if any young person asked the reason they should take out health insurance cover, there is no answer for them and this forces older people to have to make decisions as to whether their eyes or knees are more important. Sadly, those are the kind of decisions that will be forced on those people next year because the Minister did not look at this 12 months ago.

**Acting Chairman (Deputy Olivia Mitchell):** Is the Deputy pressing the amendment?
Deputy Denis Naughten: Yes.

Amendment put and declared lost.

Bill recommitted in respect of amendment No. 3.

Deputy Kathleen Lynch: I move amendment No. 3:

In page 6, between lines 37 and 38, to insert the following:

“(3) Schedule 3 to the Principal Act, as amended by subsection (1), only applies in the case of a health insurance contract entered into or renewed on or after 1 March 2014 (and, accordingly, that Schedule, as in force immediately before that date, shall continue to apply in the case of a health insurance contract entered into or renewed before that date).”

This is simply a technical amendment to insert the date at which the charges kick in. It specifies that the revised date for the hospital bed utilisation credit of €60 applies only to contracts renewed or entered into on or after 1 March 2014 and confirms that the specified date for the hospital bed utilisation credit for contracts entered into after 31 March 2013 remains at the higher rate of €75.

Deputy Denis Naughten: The new charges kick in from 1 January. My understanding is that this is why we were providing the cover in respect of the public hospital beds. Why is it kicking in from March if we are talking about the charges kicking in from January?

Deputy Kathleen Lynch: The question of private patients in public beds is different. This amendment relates to private patients in private beds. The date will be 1 March.

Deputy Denis Naughten: This amendment only covers private patients in private beds.

Deputy Kathleen Lynch: Yes.

Amendment put and declared carried.

Bill reported with amendment.

Amendments Nos. 4 and 5 not moved.

Bill, as amended, received for final consideration.

Health Insurance (Amendment) Bill 2013: Fifth Stage

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

Deputy Caoimhghín Ó Caoláin: May we take the opportunity to say a few brief words?

Acting Chairman (Deputy Olivia Mitchell): Very briefly, as we have moved into Private Members’ time.

Deputy Caoimhghín Ó Caoláin: It is important nevertheless. Two of my amendments have been disallowed. I want to-----
Acting Chairman (Deputy Olivia Mitchell): I am sorry, but is the Deputy going to make a speech? We have gone into Private Members’ time and I will need to stop the debate if the Deputy is going to speak for half a minute. The Bill can resume tomorrow.

Deputy Caoimhghín Ó Caoláin: It would be preferred that the Bill would close at this point.

Acting Chairman (Deputy Olivia Mitchell): In that case, I will ask the Deputy to-----

Deputy Caoimhghín Ó Caoláin: I am not opposing its final passage. I just wanted to make a couple of remarks.

It is important to understand that we accept that risk equalisation is essential if we are to have community rating where we will see a situation where the same premium for particular health insurance plans, regardless of age, gender or health, are accessible. It is only in the context of the health insurance market and the type of health funding that exists in this State currently that we are prepared to tolerate what this Bill and its predecessor pieces of legislation provide for. Ultimately, it is critically important that we move to a situation where we have equal and speedy access to health care on the basis of need alone and paid for through fair and progressive taxation. This is a situation that we need to get away from, not to perpetuate.

That said, and given the shortness of time, I will not have the opportunity to make a few other points that I wanted to make, but I am willing to accept that the legislation should progress and I will not be opposing its final passage.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank the Deputy. I also thank all of the contributors for their contributions.

Question put and declared carried.

Bethany Home: Motion [Private Members]

Deputy Mary Lou McDonald: I move:

That Dáil Éireann:

accepts that Bethany Home, Rathgar (1922 – 1972) was a maternity home, a children’s home 1959 and a place of detention for women on remand or convicted of crimes referred by the courts;

further accepts that Bethany Home was subject to inspection under the Registration of Maternity Homes Act 1934;

recognises the State’s failure to vindicate the rights of sick and dying Bethany children after receiving reports of neglect by the Deputy Chief Medical Adviser;

acknowledges that 219 Bethany Home children died between 1922 and 1949, and these same children currently lie in unmarked graves in Mount Jerome Cemetery, Dublin;

further acknowledges Department of Local Government and Public Health inspector
The reasons set out by the Government for denying justice to the Bethany survivors are as mealy-mouthed as those of the last Administration. In July, the Minister for Justice and Equality, Deputy Shatter, and the Minister of State, Deputy Kathleen Lynch, jointly wrote to the Bethany Home Survivors Group. After two and a half years spent considering redress for Bethany survivors, the Minister and Minister of State arrived at the same conclusion as the last Government, namely, survivors were not entitled to redress because, according to them, Bethany operated as a mother and baby home. This Government, like the last, does not want to address any issue surrounding mother and baby homes.

Bethany was not just a mother and baby home and the Government’s attempt to rewrite history does not stand up to scrutiny. Bethany was a Protestant maternity home and a children’s home from which children - young, vulnerable citizens of this State – were fostered in and out of neglectful homes. It was also a place of detention for women on remand or convicted of crimes. Evidence in the public domain and records held by Departments tell us this, yet the Minister of State will table an amendment to the Sinn Féin motion that is beyond a distortion of the truth. She has underpinned her amendment with an argument set out in the same vein as that used by the State’s deputy chief medical adviser in the 1930s. He was of the view that children born outside of marriage were prone to starvation and, judging by the amendment before us, it appears the Government shares this view.

It is outrageous that the Minister of State would suggest that the State had no duty of care to children in the institutions inspected by it. It is scandalous that the Government would attempt to disregard the significant mortality rate in Bethany, the deaths of young children and babies in a State-inspected institution, in such a cavalier fashion.

The children were poor, as the Minister of State’s amendment points out. Of that there is no doubt. However, the 219 souls who lie in unmarked graves in Mount Jerome cemetery did not die of poverty. The children buried there were two years of age and under. They were babies. The small number of survivors of Bethany Home tell a tale of poverty, but that is simply the backdrop to their stories of neglect, cruelty and suffering. We will hear some survivor testimony this evening.

The State was aware of these children’s existence and the neglect and cruelty meted out to them. The State on which these defenceless children relied to vindicate their rights and for protection turned a blind eye to their suffering. Today, the Minister of State and her Government is dismissing them once again. That is an unimaginably cruel thing to do. It is also dishonest. It is a lie to say that Bethany Home was a private institution in which the State had no interest. This is a very familiar lie. It was repeated time out of number as the State sought to dodge its
Dáil Éireann

responsibilities and distance itself from the Magdalen laundries. The State inspected Bethany Home under the Registration of Maternity Homes Act 1934. Minutes of the Bethany Home management committee refer to the first inspection, which happened in 1936. Between 1935 and 1944, 132 Bethany children died, averaging 14 children every year. A State inspection report dated 30 November 1938 noted a previous inspection in November 1937 and stated that, of the 57 children in the home since the last inspection, 14 had died. Those children died as the State authorities looked on.

In 1939, the State’s Deputy Chief Medical Officer visited Bethany and attributed the ill health of children - rickets, scalding and purulent conjunctivitis - in the home to the fact that they were “illegitimate” and, therefore, “delicate” and prone to starvation. Are the Minister of State and the Government supporting that view in 2013?

In 1945, Bethany Home was designated as a place of detention for Protestant women on the nomination of the Church of Ireland Archbishop of Dublin at the invitation of the then Minister for Justice, Gerald Boland of Fianna Fáil. As with the Magdalen laundries, women were sent to Bethany by the courts for a variety of crimes, including petty crime, concealment of birth and infanticide. Bethany was also a place for detaining prisoners on remand. The last media report of such a case was as late as 1965.

The reality is the State had a multitude of reasons for oversight of the institution. However, it chose to turn its back on these children and their mothers, just as it did to the children who were battered and abused in industrial schools and to the enslaved women and girls of the Magdalen laundries. From 1949 the State made direct payments to Bethany Home in the form of the maternity and child welfare grant. The State’s fingerprints were all over this institution, as the Minister of State well knows.

Children were temporarily fostered from Bethany Home, and reports held in the then Department of Local Government and by public health inspectors graphically set out the often barbaric neglect of these children. The Minister of State is aware of this too. In fact, the State actively sought to minimise instances of horrific neglect and to protect the perpetrators. That is the evidence. When reviewing one inspector’s draft report regarding the neglect of a Bethany child in foster care, the State’s deputy chief medical adviser crossed out the word “dying” and replaced it with the term “low”. The same original report includes a request that the dispensary doctor “order” the child’s removal to the county home, but again the medical adviser for the State instructs this to be omitted. In addition, another section in the draft is crossed out, with an instruction to omit a piece which reads:

I was informed by the sergeant of the Civic Guard [the Garda] that they had received unfavourable reports of foster mother before, and that another child from Bethany Home died within one month of being sent to her. I consider that the authorities of Bethany Home were culpable to send child in the condition of health out to nurse.

The State was acutely aware of the suffering of children in these foster homes but nothing was done to protect them.

The Bethany survivors have been consistently frustrated in their efforts to gain recognition of their suffering and the failure of the State to protect them. The Fianna Fáil-led Government excluded them from the State redress scheme. Many, including Labour Party and Fine Gael Deputies, were outraged by this decision at the time. In 2010, the Minister of State, Deputy
Kathleen Lynch, was so incensed at the mistreatment of survivors that she described the continued refusal of the Fianna Fáil Government to include former residents of Bethany Home under the provisions of the residential institutions redress scheme as “a running sore”. Deputy Lynch went on to add: “As a result, the survivors have been deprived of the opportunity of having their case heard and of obtaining some justice and redress for the abuse they suffered as young, innocent and vulnerable children.”

The Government cannot credibly discuss children’s rights or survivors’ rights today if it refuses even to acknowledge the State’s failure to protect children in the past. The State failed the children of Bethany Home. The Government knows and understands this. Both parties made the same case when they sat on this side of the House. Mother and baby homes were included in the residential institutions redress scheme. Bethany Home was subject to State inspections, as were the foster mothers who cared for the Bethany children when they were fostered. Indeed, the State paid for those children’s care in some instances. Barbaric neglect was recorded by the State, even if it was doctored and amended. The State was aware of very high numbers of children dying in the home. The courts detained women in Bethany.

Bethany survivors were excluded from the residential institutions redress scheme on a false pretext. As I said, mother and baby homes were added to that scheme. The involvement of the State in respect of these institutions is proven and documented and cannot be contested. These are the facts, and no amount of mealy-mouthed words will change them.

The survivors and I were rather stunned last summer when the Minister of State, Deputy Kathleen Lynch, and the Minister for Justice and Equality, Deputy Shatter, sent their missive to the survivors via their solicitor. They dismissed out of hand any hope or prospect of a fair hearing, recognition, justice, an apology or redress for those people. I thought that was a new low, until today when I saw the amendment that has been tabled by the Government to the fair and fact-based motion tabled by my party on behalf of the survivors. There is no recognition in it of the suffering the Minister of State knows these children and babies endured. There is not even a proper recognition of the reality of the unmarked graves in Mount Jerome cemetery. Will the Minister of State explain why that is the case? In the face of overwhelming evidence of State involvement, State inspection and State subvention and the overwhelming evidence of suffering not only from survivor testimony but also from the records in official State documents, why does the Government continue to frustrate the legitimate claims of these survivors for simple truth and justice?

I do not know if the Minister of State can explain that this evening, but I suspect she cannot. As people who took such a keen interest in this case and who told survivors they would stand by them in their journey for justice, I cannot understand how the Minister of State and the Government can so callously turn their backs on them now. The decision in the summer was devastating for the survivors. They had hoped that a Government that had finally come out on the right side with regard to the Magdalen laundries would be able to be honest and fair and to give justice to this small group of survivors. The amendment pays to those hopes. I do not know how the Minister of State, with a shred of decency or honesty, can defend this amendment-----

**Deputy Kathleen Lynch:** The Deputy would know a lot about decency.

**Deputy Mary Lou McDonald:** The Minister of State knows that, which is why she is reacting in this manner. She knows what should and must be done. She knows these people...
deserve recognition, that their case should be set out to the gaze of the public, that they are due an apology and that they should never have been excluded from State redress. The Minister of State, Deputy Kathleen Lynch, knows that, and no words on behalf of a deeply dishonest Government, for whom she speaks, will change it.

Deputy Kathleen Lynch: I know about honesty too.

Deputy Mary Lou McDonald: I look forward to her remarks.

Deputy Sandra McLellan: Patrick Anderson-McQuoid was a survivor of Bethany Home. His mother entered the home in March 1947. He gave testimony in February 2013 which reflects and illustrates the heartbreaking story of so many mothers and children who passed through these homes and the anguish and uncertainty the experience caused them. These people very much deserve redress and justice. I wish to read his testimony into the record.

My birth mother came from County Wicklow and entered Bethany Home in March 1947; she was five months pregnant with me. She went into the Rotunda Hospital and gave birth to me on 24 July 1947. Both of us returned to live in Bethany Home. My mother stayed in Bethany with me until November (4 months) when she left me. Two weeks later I was removed from Bethany Home and taken to a nurse mother in Roscrea in County Tipperary.

My first memory came from that period of time. I was one year old. The strength of the sun’s rays were broken by the flinching movement of tree branches within a rectangular dark-edged frame. The scene was broken by the image of a person’s head wearing a round big hat.

This small piece of memory relates to more information that I will explain later.

In April 1950, I was removed from my nurse mother in County Tipperary by a Church of Ireland vicar to the Fold and Boley Home in Monkstown, Dublin, run by the ICM. I was examined by a doctor. It was noted that: “This child came to us in very poor condition with cold blue extremities, continuous anaemia and obvious rickets of the head. He was not talking much and would not play with other children. His heart was irregular. Cheeks and lips blue.”

At this time, the Bethany Home had a duty of care for me but they placed me with a nurse mother that failed to care for me, at all, ending with me being very ill indeed, as I described.

While at the Boley Home, my birth mother signed a form with the ICM giving away her rights to me and not to interfere with any arrangements made by the ICM or communicate with me. Also, she was asked to pay £6 per month for the next five months. In January 1951, ICM transferred me to the Elliot Home, part of the Smiley’s Homes.

In May 1951, I was taken from Smiley’s Home to Northern Ireland. This transfer was arranged by the ICM and was illegal. It transpires that when I was removed to Northern Ireland I was given to my nurse mother’s sister. I was adopted in Northern Ireland in 1952, to a farmer and his wife, both aged 51 years of age. I was just over three years of age and can remember it in detail. I was traumatised as a result of the emotional, physical and physiological experiences that up to that young age I went through.

I will move on, but in passing I wish to point out that my time with my adopted parents was a situational trauma which built up over time due to being brought up in a very strict religious routine tied in with Victorian values. I do not wish to go into the details of that today.
When I was 13 years of age my adopted mother died. I did the cooking, cleaning and also farm work. I bunked off school, hid during the day in a tree hut on the farm. At the age of 15 years I got a part time job, saved £12 and got on the Belfast to Liverpool ferry and on to London, sleeping rough until I got my life on track.

During the 70s and 80s I tried to get my records here in Ireland and Northern Ireland where I found it was not legal to do so. I never gave up hope in finding my identity and history.

I got involved in the visual arts as an artist and other cultural work, and lived in Cornwall. I moved to Cork City where I worked with the Irish Ballet Company for two years as an assistant stage manager doing lighting and sound. I left the ballet company and opened my own gallery in Paul Street, Cork. Later, I spent over one year working on opening an arts centre for Cork. This I achieved in 1978 when I was the artistic director and founder of the Triskel Art Centre. Almost 35 years later it is going well.

After leaving Triskel and Cork, I lived in London working in a major gallery. In the mid-1980s I had a serious illness and found out that I had a hole in my heart and later was refused life insurance cover of any kind. Due to my previous details of my removal from Ireland I never had any medical records.

I came back to Ireland in 1989 and settled in County Leitrim where I still live. In 1980, the law changed in Northern Ireland and I found my birth mother’s name. I also contacted PACT but was told they had no records of me. I traced my birth mother after over a year of searching. She had changed her name by getting married and moving from County Wicklow. Through a third party I made contact but she refused to meet me. I had a breakdown and was hospitalised and had counselling after a suicide attempt.

A while later I received a letter from the PACT with a copy of a birth cert. It was of another child that my mother had four years after my own birth. Seven years later my half-brother contacted by chance my third-party contact in Wicklow, trying to find his mother. He was told she was alive and that I was his brother and was searching for him. He lived in Utah, USA, and was removed from Ireland to the USA when he was three months old. I went to Utah in early 1999 and we met. Also, we contacted our mother via the Church of Ireland but, sadly, yet again she refused to have any contact with us.

On my return and two weeks later in Leitrim I learned that my birth mother had passed away. I went to the funeral on my own with two yellow roses from myself and my half-brother, my identity unknown to those there.

Over a year later, after contact with my mother’s family, two half-sisters and a half-brother arranged by a third party, it broke down and now there is no contact.

In 2003, I suffered a breakdown and spent a year and a half getting counselling every week. I survived that and later in 2005 I met my nurse mother’s daughter who confirmed my first memory for me of the journey to Belfast in 1951 as it was her who took me on the train. She also told me in more detail of myself being in trauma at the time and also of another child named Joseph that died.

At last in 2010, I traced my records and found out what I have just read to you all here today. The pain of that search is still with me. I joined together the memories with factual truth.
So two years ago at the age of 63 years old, I could introduce myself to myself and understand what had happened on the way. I was removed from my place of birth, but returned to leave something good and long-lasting for the benefit of Ireland, meaning the Triskel Arts Centre.

As a member of Bethany Survivors, I seek in simple terms that the records are removed from PACT and placed in open access; a memorial at the Mount Jerome Cemetery for the 219 small infant children from the Bethany Home that are buried in an unmarked mass grave; and, most of all, justice from our Government, the Church of Ireland, and redress in some form.

Deputy Martin Ferris: The Bethany Home was excluded from the residential institutions redress scheme on the basis that Bethany was a private home for which the State had no responsibility. As a consequence the survivors have also been excluded from the statutory trust fund - the redress mechanism that is to replace the Residential Institutions Redress Board.

Clearly the State has a responsibility for the Bethany Home as it was subject to State inspections under the Registration of Maternity Homes Act 1934. In some instances, the State also made financial contributions to the cost of nursing children.

There can be no doubt that the Bethany Home is another shameful episode of our past in this State, which must be dealt with now, fairly and with respect for the human rights of survivors of what was a horrific regime which caused immeasurable suffering to women, but mainly to children.

There is evidence in abundance of the fact that the Bethany Home in Rathgar, Dublin, was a maternity home, a children’s home and a place of detention for women on remand and women who had been convicted by the courts. There is no doubt about that, so the exclusion of survivors from the redress schemes is a cruel and despicable act.

The litany of wrongs done to the people in those homes is horrific and the blind eye that was turned to it was as bad. If we see the causes of death recorded, we find that the common denominators are neglect and cruelty.

The State colluded. In 1939, for example, the deputy chief medical adviser, Dr. Winslow Sterling Berry, dismissed public concerns and even the concerns of his own health inspectors, by claiming that it was “well known that illegitimate children are delicate and marasmic” - in other words, that they suffered from starvation.

8 o’clock

It makes one wonder about the qualifications of the same Dr. Berry to hold the position of deputy chief medical adviser. Most notable about his contribution to this scandal is that although he visited the home three times in 1939, his first action was to force the home to stop admitting Roman Catholics. His first visit to Bethany Home that year was because of reports of the neglect of children in the home and in a place in County Monaghan to which they had been fostered out. The sectarianism of his mindset is unbelievable. This so-called medical adviser, rather than protect the babies and children from the cruelty and neglect which his inspectors found, was more concerned that Catholic children committed there might become Protestants.

We hear apologists for such cruelty speak a great deal about former times being different, harder and more cruel but when this episode is examined, even from the distance of decades, it
is hard to believe that this man’s priorities were so sectarian and lacking in human compassion. There is no doubt that the chief medical adviser, Dr. Berry, failed in his duty, the State’s duty, to protect the sick and dying children. I would like to read into the record one of Dr. Berry’s reports about one poor child fostered out to a woman in Monaghan. It reads:

The baby appeared to me to be in a low condition. It was dirty and neglected and sore and inflamed from a filthy napkin which cannot have been changed for a very long time [possibly more than two weeks]. As I knew the baby was suffering I had the dispensary doctor telephoned to ask him to call to see the child. The foster mother who has had to nurse children under the [Children Act ] before, knows the law well and failed to register the child. The Board of Assistance should be asked to deal drastically with the woman and to prosecute.

It transpires that this woman was not prosecuted. Instead of focusing on his statutory obligation to save the lives of these children, Dr. Berry instead decided to focus his attention on the religious tensions between Protestant and Catholic organisations.

In a confidential memo for the then Department of Health he wrote that he would meet the Bethany committee, not to call it to account for the horrific conditions he found but instead “to get them to consent to put an end to this most objectionable [proselytising] feature of their work (taking Catholic children and turning them Protestants).” That was his concern, which is disgraceful. He later added a note to record that he had returned to the home where a resolution was passed at a special meeting on 27 October 1939 in the inspectors’ presence. He said this “should satisfy any Roman Catholics concerned by Bethany’s proselytising activities”. The naked sectarianism of it. As long as the children were not Catholics, it seems their fate was unimportant to this State. The shame that 219 children died between the foundation of this State and 1949 is compounded by the fact that they are buried in unmarked graves in Mount Jerome cemetery, Dublin.

After two years of consideration on the matter of an apology and redress the Minister for Justice and Equality, Deputy Shatter, and Minister of State, Deputy Kathleen Lynch, jointly wrote on 23 July 2013 to the Bethany survivors group stating:

We do not doubt the life experiences recounted by the survivors of Bethany Home. The question of inclusion of Bethany Home within the residential institutions redress scheme was considered in 2004 but a decision was made that the home should not be included as the Department of Health and Children was unable to locate any evidence of a public body having a regulatory or inspection function.

In May 2007, the Department of Health and Children advised that the evidence of a regulatory or inspection function had been located and that inclusion of Bethany Home in the redress scheme could again be considered. However, as the information located identified that the home operated as a mother and baby home, it was not regarded as eligible to be considered for inclusion in the scheme. Following publication of the Ryan report in May 2009, there was a range of requests and calls for the redress scheme to be extended, one of which was that Bethany Home be considered on the basis that it operated as a children’s home as well as a mother and baby home. The then Government decided against extending the redress scheme. The Department of Education and Skills advised that the Minister, Deputy Quinn, met Bethany Home survivor groups in May 2011 and had not at that time found any basis to revisit the 2010 decision. The position remains unchanged. That is an indication of where the then Deputy Lynch stood when
on this side of the House and where, as Minister of State, she now stands. The State failed in its duty and must apologise for this. The survivors must be included in existing redress schemes and must also be given access to their records.

I hope it is not the case that the sectarianism of Dr. Berry and his ilk back in the 1930s and 1940s continues and that the media emphasis and attention remains with the marginalisation of Catholic unwed mothers and their children, stories which often are more concerned with the Catholic Church than the victims. There is a deficit of knowledge among the public about Bethany Home. Among the marginalised, the Bethany survivors are marginalised again. The miserly, mean-spirited offer of this Government to make a contribution to just one monument on the unmarked graves of the 219 children who died is indicative of the attitude shown to these survivors. After two years thinking about this, the Minister of State, Deputy Lynch, told the Bethany survivors this summer that the Government position in relation to their inclusion in redress schemes had not changed. This beggars belief. There is no justification for not dealing with the survivors properly now. I urge all Deputies to support this motion.

Deputy Dessie Ellis: I welcome the opportunity to speak on this issue and to do my small part in representing the wishes of a group of people who have been forgotten for far too long. First, I pay tribute to Niall Meehan and all the others involved in Bethany Home survivors group who have kept on the pressure over the years. I pay tribute to my colleague, Deputy Mary Lou McDonald, and her officials who have helped to highlight this case of gross injustice.

I am disappointed by the Government amendment, on which we will be forced to vote tommorrow. The amendment seeks to deny any State responsibility for the abuse perpetrated in Bethany Home despite clear evidence that the Government of the day was aware of and did little or nothing to stop it. It cannot be stated loud enough that Bethany Home was not simply a mother and baby home. Any effort by Government to portray it as such is deeply dishonest.

The Registration of Maternity Homes Act 1934 referred to in the Government amendment was enacted to protect children. Speaking in the Houses in 1934, Dr. Ward, parliamentary secretary to the Minister for Local Government and Public Health said:

[I]t is a well-known fact that in some of our large cities there are maternity homes of a very poor class which are availed of largely by unmarried mothers. We are not at all satisfied that those homes are properly managed. As a matter of fact, we have information to the contrary in the report published in 1927 on the relief of the sick and destitute poor. The Commission drew attention to different evils which they traced to the poor-class maternity homes, or to the not too scrupulous management of those homes, particularly the connivance of the management at the secret disposal of children to unsuitable foster parents, and the consequent high death rate amongst the children.

This quotation blows the Government’s claims out of the water. The reference to “evils”, “very poor-class” unsatisfactory management who were “not too scrupulous” and engaged in “connivance” against the interests of children in their care indicates, even if only vaguely, that the State was aware of the problems. State inspections of Bethany children fostered out document the horrendous neglect from which the 1934 Act was supposed to protect children. Women were referred to Bethany Home by the courts. According to the Irish Independent of 1931, one woman who pleaded guilty in the Central Criminal Court to concealment of birth was bound to the peace for two years, with an undertaking that she should remain in a home. She was sent to Bethany Home.
In January 1940 *The Irish Times* and *Irish Independent* published reports from the High Court to the effect that the civic guards, the Garda, were in the habit of sending any homeless Protestant girl to Bethany Home. It is untrue for any Minister of State to come to the House and paint a picture of private institutions where women simply went to have their babies. We know it and the Minister of State knows it as well. I call on the Minister of State to admit the facts clearly shown in the reports and records I have quoted from. This is not the sin of this Government. No Minister before the House is responsible for the State’s failure to protect these women and children. However, the Government does have the opportunity to help them to begin a healing process long denied. If the Government denies these people that salve of recognition then it begins to bear some responsibility since it would be capitulating with the State in protecting itself from the truth of its crimes and failures. Such a move would be especially wrong if it were motivated by a desire to avoid having to pay any redress.

Justice delayed is justice denied. For far too long the Government has feared that the gates will open. It is high time that we, as a society, and the Government admitted that a terrible injustice was done and that the State had a direct involvement in the tragedies that befell the women and children. They were victims of an archaic system long since universally condemned for destroying the lives of so many of our citizens. The Minister of State knows that Bethany Home victims should have been included in the redress scheme. I rest my case.

**Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):**

I move amendment No. 1:

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

“notes that Bethany Home:

— evolved from two private charities, the Dublin Midnight Mission and Female Refuge and the Dublin Prison Gate Mission, which predate the existence of the State; and that in 1934 it moved from Blackhall Place to Orwell Road, Rathgar, Dublin and remained there until it ceased operation in 1972;

— operated as a charitable trust and carried out a range of functions, but in 1940 the High Court found that the majority of cases it dealt with were maternity cases;

— was registered as a maternity home and was inspected under the Maternity Homes Act 1934; and

— was not an enclosed institution;

acknowledges that Bethany Home operated at a time when poverty was widespread, infant mortality rates were high and that life for those children without family support could involve serious hardship;

recognises that those who were, as children, in homes and institutions have a right to access their personal records; and

commends the efforts being made to preserve and make more accessible relevant records.”

I have been surprised by the people in Sinn Féin putting down this motion because I had been waiting for it for several months. The fact that it did not come before now threw me.
That is what Sinn Féin does. It is always about the next impossible task. I call on the sensible and reasonable members of Sinn Féin to reflect on the work of this Government, which has dealt with symphysiotomy, the Magdalens laundries women, Mr. Neary and all the other major legacy issues that will have a substantial cost on the State. Do they seriously believe that if we could have included the small number of people involved in the Bethany Home, we would not have done so? I do not believe that is what they think. It is simply another case of standing up and talking the rhetoric of transparency, honesty and integrity. I find it a little difficult to take from Sinn Féin.

**Deputy Mary Lou McDonald:** Having read the Government amendment, I find what the Minister of State has said difficult to take.

**Deputy Kathleen Lynch:** I acknowledge the hardships faced by those born in Bethany Home. There is no doubt they faced hardships. Up to the 1950s, poverty and the diseases associated with poverty were widespread in Ireland. Infant mortality rates were high. Children were not cherished the way they are today and were often seen as a burden or a form of cheap labour. There was no provision for legal adoption. Life was tough for many, not least if a child was without the support of a family.

Many of those who were born in Bethany Home only spent a short time there. I acknowledge clearly the contribution of Deputy McLellan in this regard. It bears out what we found in our analysis. Sometimes those born in the home were there less than a month before being fostered out. Others spent longer there but the indications are that infants could not be kept there once they reached the age of four or five years.

Bethany Home closed down in 1972. As a result of the lapse of time there are few if any comprehensive first-hand accounts of the home. However, in its day it must have been a well-known charity particularly to the readers of *The Irish Times*, which carried notices of its annual meetings and gift days.

I have been able to establish that it appears some time before 1922 the Dublin Midnight Mission and Female Refuge, founded in 1898 or earlier, merged with another charity, the Dublin Prison Gate Mission, which was established in 1876 by a Quaker woman to assist women recently released from prison. By 1922 the merged charity was known as the Bethany Home and was based in Blackhall Place in Dublin, not in Rathgar as put forward incorrectly in the Sinn Féin motion. It was 1934 before Bethany Home moved into premises in Orwell Road, Rathgar, Dublin. It remained there until it ceased operation in 1972 and the home was put up for sale. The indications are that it was run as a charitable trust established by trust deed. It would also appear that the trustees were predominantly people from a Protestant background but not necessarily with any formal link to a particular denomination. It was run by a management committee on a voluntary basis.

A court affidavit, dated 20 January 1940, by an honorary secretary of the Bethany Home stated that it was well known to the public that all the members of the managing committee were and always had been Protestants. However, the affidavit confirmed that up to 1939 the home accepted all women including Catholic clients. There was no element of sectarianism. All those resident were, however, expected to participate in evening prayers of a Protestant ethos. In 1945 the Department of Justice was informed that all Protestant sects were represented on the committee of management in Bethany Home. In 1938 the home had six full-time staff including a nurse and midwife.
The role of Bethany Home reflected the aspirations of the founding charities and was mainly for distressed women from the least well off sections of society. It was not limited to a single purpose. However, the High Court found in a civil case in 1940, referring to Bethany Home’s annual report, that 73 out of 79 cases helped were maternity, that is, fully 90% of its work. Department of Health records confirm that in the 1930s, Bethany Home was registered as a maternity home and was inspected under the Maternity Homes Act 1934. Records for 1952 show that after the three main maternity hospitals, Bethany Home was the largest registered maternity home in Dublin by bed size. The 1938 inspection records indicate that in addition to being a maternity home it was also a children’s home for those up to three years. It is reasonable to presume that for most of its operation in this State it was primarily a mother-and-baby home.

Other work the home engaged in included taking in unmarried mothers and their babies. In line with the purpose of one of the two original charities, women before the criminal courts were on occasion to reside in Bethany Home for a specific period rather than go to prison and it is likely that the home assisted women on release from prison.

The only formal link with the criminal justice system was the fact that Bethany Home was registered as a place of detention or remand centre under section 108 of the Children Act 1908 on 17 April 1945 for offending female non-Catholic children and young persons under 17 years of age. For the purposes of Part V of the Children Act 1908, committals to Bethany Home were either court-ordered remands, which would have been for some days while awaiting a court date, or court-ordered detentions, following conviction for short periods not exceeding one month. There have been no complaints as to the criminal justice work of the Bethany Home.

The number of children who died at Bethany Home is quite shocking and it is a point, together with the unmarked grave in Mount Jerome graveyard, that strikes one about the history attached to all this. It is both sad and quite distressing. Unfortunately, poverty and disease were commonplace in Ireland up to the 1950s and this was reflected in infant mortality rates. Infant mortality rates in the 1940s were at a level that is hard to comprehend today, that is, approximately 20 times higher than at present and this figure applies across the entire population. For those who were malnourished and subject to disease and a lack of hygiene, the figures could have been even higher.

It was public knowledge at the time that there was a serious problem with standards in maternity homes. During the Seanad debate on the Registration of Maternity Homes Bill that took place on 11 April 1934, the Parliamentary Secretary to the Minister for Local Government and Public Health stated:

it is a well-known fact that in some of our large cities there are maternity homes of a very poor class which are availed of largely by unmarried mothers. We are not at all satisfied that those homes are properly managed. As a matter of fact, we have information to the contrary in the report published in 1927 on the relief of the sick and destitute poor. The Commission drew attention to different evils which they traced to the poor-class maternity homes, or to the not too scrupulous management of those homes, particularly the connivance of the management at the secret disposal of children to unsuitable foster parents, and the consequent high death rate amongst the children.

While Deputy Ellis also quoted this speech, I believe it makes the Government’s case, rather than that of the Opposition, but again, when looking back, this is quite shocking. The Registration of Maternity Homes Act 1934 was considered an advance on the pre-existing position.
Registered homes were required to have a qualified nurse or midwife and to keep records on births, deaths and the removal of children and the addresses to which they were removed and they were subject to annual inspection. However, infant mortality rates remained high and poverty widespread.

Neither the number of infant deaths in Bethany nor the conditions there were a secret. It was not an enclosed institution and members of the public had access to the home on a regular basis. Newspaper archives indicate there were sales of work, Bethany gift days and an annual public general meeting. All deaths would have been recorded and included in the inspection reports. Death certificates would have been required and a coroner’s inquest could have been held, where appropriate. There does not appear to be any question of the infant mortality rate being hidden and this is known from the evidence from Mount Jerome.

**Deputy Mary Lou McDonald:** Cant.

**Deputy Kathleen Lynch:** There were public allegations of children being neglected in Bethany in 1939 and 1940. These were investigated and rejected by the health authorities. There were suggestions that some of the complaints were motivated by sectarian concerns but it is not possible to make any determination from this distance as to whether the investigation was adequate. It is very difficult to put these matters into context 70 years later. It was public knowledge at the time and is a matter of historical fact that infant mortality rates were high and poverty, ill health and child neglect widespread. I am simply not in a position to assert that the infant mortality rate was higher in Bethany than other comparable homes or that the standard of care was good or bad by the standards of the day. In 1952, there were considerably more than 100 non-hospital maternity homes. There also were other Protestant institutions very similar to Bethany Home, such as the Magdalen Asylum for Penitent Females in Lower Leeson Street.

Indeed when Bethany Home closed down, some of its funding passed on to the Leeson Street institution. The members of the Bethany Survivors Group have made it clear they are primarily seeking redress for what happened to them after they left Bethany Home and went to foster parents. I can understand this in terms of lifelong trauma. Fostering was common practice at the time and undoubtedly there were abuses. I certainly can sympathise with those who had to endure hardship, neglect and poverty in their foster families. They were not given a good start in life. However, those from Bethany Home were not alone in their experiences and the State cannot accept liability for everything that happened in families when it had no direct involvement.

The inclusion of the Bethany Home within the redress scheme was considered by the Department of Education and Science in 2004 but a decision was made that the home could not be included as the Department of Health and Children was unable to locate any evidence of a public body having a regulatory or inspection function. Subsequently, in May 2007, the Department of Health and Children advised that evidence of a regulatory or inspection function had been located and Bethany Home’s inclusion in the redress scheme could be considered.

However, as the information located identified that the home operated as a mother and baby home, it was not regarded as eligible to be considered for inclusion in the scheme. Following the publication of the Ryan report in May 2009, there was a range of requests and calls for the redress scheme to be extended. One such request was for the Bethany Home to be considered on the basis that it operated as a children’s home as well as a mother and baby home. The then Government decided against extending the redress scheme. This decision meant the exclusion of a number of institutions, which could have been considered for inclusion. The Minister for Education and Skills, Deputy Quinn, met the Bethany Home Survivors Group in May 2011.
The Minister reassured the group that contrary to some suggestions, the religious ethos of an institution was not a criterion for inclusion within the redress scheme. While acknowledging the hurt and pain that remains with the survivors, having reviewed the papers on the home and having taken all the circumstances into account, the Minister regretted that he found no basis to revisit the 2010 Government decision and this remains the position. The Bethany Survivors Group has made it clear that its members never regarded Bethany Home as falling within the same category as the Magdalen laundries. They do not seek to be included in any compensation scheme for Magdalen women. The Department of Health has no plans to introduce a scheme of redress for those who were in mother and baby homes.

Under the Data Protection Acts, a living person has a statutory right of access to their personal data. The person who holds that data, the data controller, must provide access. This right is limited to his or her own information only. Information relating to a third party, a person who was deceased, such as a parent or a relative such as a sibling, is not covered. One could not ask about the existence of siblings as being personal information, which many people would consider to be personal to them. The sibling has his or her individual right to privacy and he or she is the only one who can access his or her personal information. If I understand correctly, the main problem is a question of preservation of records, particularly of institutions which have long since closed and where the records may be held by private individuals. The Data Protection Acts apply to such individuals but there is no legal obligation on them to preserve such records. The Departments of Children and Youth Affairs and Health and the Health Service Executive may all have a role in addressing this issue and following our meeting with the Bethany group, I undertook to pursue this matter. I am exploring which State body would be in the best position to hold and preserve such records. I have also undertaken to write to persons or bodies identified as having possession or control of relevant records relating to the Bethany Home to explore how the preservation of and access to such records could be facilitated.

In conclusion, I am disappointed that Sinn Féin has not bothered to check its basic facts. It would do nothing to enhance the reputation of this House to pass motions containing factual inaccuracies.

Deputy Mary Lou McDonald: There is no factual inaccuracy in our motion.

Deputy Kathleen Lynch: However, I would be more concerned at rushing into passing judgment on those who ran Bethany Home without hearing their side of the story.

Deputy Mary Lou McDonald: Shame on the Minister of State.

Deputy Kathleen Lynch: Deputy McDonald would know a lot about shame.

Deputy Mary Lou McDonald: Shame on the Minister of State. Who wrote this? Was it the Minister, Deputy Shatter?

An Leas-Cheann Comhairle: The Minister of State, without interruption.

Deputy Kathleen Lynch: The Constitution demands we respect the rules of natural justice. While Sinn Féin may not accept this, people are entitled to a fair hearing and an opportunity to protect their good name. This is something at which Sinn Féin would be good.

As I stated earlier, the infant mortality rate in Bethany Home was very high by current standards and children there did suffer from diseases associated with poverty and neglect. How-
ever, it seems to have been accepted at the time that Bethany Home was run by people with charitable motives.

**Deputy Mary Lou McDonald:** As were the Magdalen laundries. Does the Minister of State remember that?

**Deputy Kathleen Lynch:** Did Bethany Home improve the lot of those who passed through its doors or did it make their lives worse by the standards that existed at the time? I am not here to defend those who ran Bethany Home - it cannot have been a pleasant experience - but I am certainly not in a position to condemn them out of hand in the way proposed by Sinn Féin. Having listened——

**Deputy Mary Lou McDonald:** That is a disgraceful statement.

**Deputy Kathleen Lynch:** Deputy McDonald would know a lot about disgrace. She has the old rhetoric of shame and disgrace, which she probably learned from those shouting it at her.

**Deputy Niall Collins:** The publication of Senator Martin McAleese’s seminal report on the Magdalen laundries brought to the fore the grim chronicle of abuse that scarred this country in the past. The recognition of the truth and steps towards meaningful redress have marked a path towards bringing a measure of justice for those women. A dark chapter in the State’s history is finally closing. The victims of the Bethany Home have not had such a sense of closure or the succour of justice. Today’s motion is a welcome move towards addressing that gaping chasm in the lives of survivors.

There is something poignant and deeply tragic about the searing image of 40 unmarked graves in Mount Jerome graveyard. They are the physical testimony to the institutional system for so called fallen women, an attitude that crisscrossed between the Catholic and Protestant religions. The insensitivity and lack of compassion in the system belies its religious foundation. The dearth of human kindness that seems to have defined these institutions despite their ostensible religious motivation is one of the most disturbing aspects of the institutions. For the children of Bethany Home their suffering demands redress.

It is important to acknowledge the Ireland from which these residential homes emerged. The dire poverty of early 20th century Ireland ranked among the worst in the Western world. The infant mortality rate soared above that of Calcutta while swathes of the population dwelled in derelict tenement slums. Out of these desperate circumstances residential institutions emerged to fill the widening vacuum caused when families were unable or unwilling to care for children. The State had an obligation to effectively supervise these homes but failed to do so. The grim chronicle of child mortality at the home exposes a dark place in the Bethany Home which operated from 1922 to 1972, ultimately settling in Rathgar. It underlines the kind of atmosphere in which women and their newborns lived. A total of 219 Bethany graves in Mount Jerome were discovered for the period 1922 to 1949. Records reveal that 54 of the children had died from convulsions, 41 from heart failure and 26 from marasmus, a form of malnutrition. As many as 86 deaths, or well over one third of Bethany’s 219 child deaths in the 28 years between 1922 and 1949, occurred in one five-year period, from 1935 to 1939. Almost two thirds, or 132 children, died in the ten-year period from 1935 to 1944. There is something deeply disturbing about the numbers, even in the context of the standards of the time.

The Residential Institutions Redress Act 2002 specified named institutions and section 4 of the Act allowed for the inclusion in the scheme of certain categories of institution by ministe-
rial order. The legislation provided the Minister could broaden the remit of the original Act to encompass the Bethany Home survivors. The work uncovered by the Bethany survivors organisation demands at least a debate on the issue and a meaningful engagement by the current Administration. The previous Government decided against including Bethany Home in a limited definition of mother and baby homes. Subsequent evidence and action on Magdalen laundries deserves a meaningful discussion in the Oireachtas. The State’s obligations under the Maternity Act 1934 demand to be fully addressed.

Survivors are of the view that the exclusion of Bethany Home represents sectarian discrimination against the Protestant minority. It is difficult to see how churches of all religious shades that have failed so acutely in their responsibilities should be treated differently in compensating for those failings. Suffering knew no boundary in religious belief.

In contrast, the actions taken to address the Magdalen laundries have, after some prevarication, been far stronger. The report of Senator Martin McAleese was initiated in June 2011 and charts the grim details of the experiences of at least 10,000, but up to 12,000, women in the ten Magdalen laundries operated by four religious orders across Ireland from 1922 to 1996. The inhumane conditions of work, the de facto slave labour status of the women and the gross unfairness of the indefinite incarceration in the laundries mark a grave breach of the human rights and dignity of the women involved. The evidence definitively reveals that the Irish State colluded in the operation of the laundries as the justice system sent women into them and State agencies such as hospitals employed the services of these laundries.

The courts system sent women into the laundries. Some 26% of entries were by way of the State system while the Garda Síochána returned runaways from the institutions. The system was evidently not a voluntary mechanism. The State failed the women by failing to implement effective supervision of the laundries, by failing to uphold its own health and safety standards and by failing to provide for the education and social welfare rights of the women.

The story of Bethany Home is far smaller in scale and size but no less profound for the survivors, of whom there are 25 to 30. A small but determined band of people are committed to securing justice for what happened in that place. As a country we have taken meaningful efforts to confront the bleak reality of the past on this island. The grave failures of responsibility by the State and the heinous crimes committed by rogue agents of institutions that commanded public respect have been systematically uncovered and steps taken to address them. The previously hidden and unspoken histories have justifiably emerged from the void of silence. As legislators we are obliged to right old wrongs and move beyond them to ensure such travesties of justice never occur again. The saga of Bethany Home is another such challenge.

The Government amendment sweeps around the issue but it hits upon the importance of revealing the truth behind what happened in Bethany Home. Full access to the file is an important step towards capturing, understanding and addressing the legacy of Bethany Home. Full access to the personal records of each individual is an intrinsic right for each survivor and should be immediately addressed.

Tonight’s motion is a welcome discussion on a sensitive and demanding topic. This small group of survivors who have grappled their entire lives with the grim legacy of the Bethany Home deserve our attention. More than that, they are entitled to our support. I hope the Government judges the motion on its merits so that we can take action in providing a meaningful solution for the survivors.
Deputy Maureen O’Sullivan: The Bethany Home is part of that dark time in our history along with what happened in the Magdalen laundries and in institutions such as the industrial schools. As the motion points out, the Bethany Home in Rathgar was a maternity home for women of the Protestant faith, a children’s home, and a place of detention for women on remand or convicted of crimes. We know also that it was inspected and as a result of those inspections there were reports showing very serious neglect of Bethany Home children.

The 219 Bethany Home children who died and are currently buried in unmarked graves in Mount Jerome cemetery is particularly sad because we Irish are very respectful when it comes to death and funerals. We look after the graves of our loved ones and we mark their anniversaries. Those 219 children do not have that acknowledgement of their lives and their identities and the call for funding towards a memorial for them in Mount Jerome cemetery is one that could be easily addressed. It also reminds me of the work being done in regard to the cillíní that are in so many parts of the country, including quite a number in the Leas-Cheann Comhairle’s county. There is a sadness about people who were buried in secret because they do not have their identity. They were just left in unmarked graves.

The high fatality rate among the children is attributed to the physical abuse and neglect they experienced in the home. That was borne out by the Government’s chief medical adviser, Dr. Berry, as far back as 1939 when on three visits he commented on the ill-health of the children in the home. The irony, as many people have pointed out, is that this home was set up to deal with a social problem, namely, women caught up in a judicial system who were pregnant outside marriage. It was set up with good intentions. They were possibly well-meaning people, members of the Church of Ireland, but it is obvious there was very little equality or respect for the women in dealing with them as human beings and, consequently, all the maltreatment followed.

The call for an inquiry from Dr. Jackson, the Church of Ireland Archbishop of Dublin, in February was positive. He supported calls for redress, stating he was open to exploring a church contribution to the cost.

Another point that is brought up concerns the records. The promised adoption Bill will ensure that all adoption records are held by a single State agency. The records of the Bethany Home are held by the Protestant Adoption Service, PAS, along with records of the other Church of Ireland social services, but other questions arise for people who were adopted in trying to locate their records. The length of time people are looking for those records is ridiculous.

It was very difficult for the survivors of the Bethany Home when they saw what was happening with the survivors of the Magdalen laundries. They could not understand why they were not included in the scheme. Along with others, we have received e-mails in which they outline they believe they have been totally neglected. They have been excluded from both the residential institutions redress scheme and the Magdalen redress scheme, despite initial indications that the Bethany Home would be considered for inclusion in the latter scheme. I hope there may be room to make provision in that regard.

It took years to achieve a redress process for the Magdalen ladies. A good deal of progress has been made but there are still problems for the ladies in terms of the inadequacies of the report and in terms of their health care. Those issues must be addressed. An important development was the apology from the Taoiseach and this country for what had happened, a recognition of their dignity and respect for their rights. It was a long drawn-out battle. Some of the women have died in the meantime and their issues have not been addressed. We do not want the same
long wait for access to provisions such as health services, as experienced by the Magdalen survivors. Many of the surviving Bethany Home children who are now adults suffer from the maltreatment they received as children in care.

I draw attention to another campaign highlighting the abuse of mixed race Irish in institutional care. A number of those people were in the Dáil recently to discuss those issues and one of the ladies stated, “The key point is that if you were mixed race back in the ’50s and ’60s you were 99 per cent sure of being put in an institution.” She further stated:

I was not held because of my colour. When I was held the carers wore gloves because they felt contamination.

Those people have launched a campaign for recognition of mixed race survivors. We should put them all together, namely, the Bethany Home survivors, the Magdalen laundries survivors, the industrial school survivors and the group that has emerged now. The Government did not cause this issue but it is in the Minister’s remit to do something about it and to ensure solutions are found to the difficulties that arose in those institutions.

An Leas-Cheann Comhairle: I ask Deputy O’Sullivan to adjourn the debate.

Deputy Mary Lou McDonald: Is there no one from Fine Gael or Labour contributing?

An Leas-Cheann Comhairle: Time was made available for everybody so-----

Deputy Mary Lou McDonald: Who did not take their time?

An Leas-Cheann Comhairle: We gained time during the debate. It is as simple as that.

Deputy Mary Lou McDonald: We did not gain that much time.

Debate adjourned.

The Dáil adjourned at 8.45 p.m. until 9.30 a.m. on Wednesday, 11 December 2013.