

# Debates on the Residential Institutions Statutory Fund Bill, 2012

## A summary

*Dail Eireann, second stage, 8th May 2012.* The Residential Institutions Statutory Fund Bill, 2012, was debated and passed by the Oireachtas over May - July 2012.<sup>1</sup> Introducing the Bill, the Minister for Education & Skills, Ruairi Quinn set the Bill in the context of the Ryan report, a report which had shocked the nation and the Oireachtas motion which followed thereon. This motion recognized that victims must be consulted on the type of support that they needed and called on the religious congregations to make further substantial contributions by way of reparations, including a trust to be set up and managed by the state for the support of victims and for other education and welfare purposes. The primary aim of the Bill was to establish the residential institutions statutory fund which would fund the provision of counselling, health, education, housing and other services for victims of abuse.

The minister, Ruairi Quinn recounted how the Commission to Inquire into Child Abuse had provided an opportunity for victims to tell their story and the Residential Institutions Redress Board had provided financial awards. The board was continuing to process applications and it was likely that some 15,000 former residents would receive awards. The establishment of this statutory fund was a further element in the state's response. While the redress scheme dealt with financial compensation, the statutory fund would meet ongoing needs and would be financed from contributions financed from the congregations. The government believed that the cost of the response was €1.36bn, to be shared 50:50. Under the 2002 indemnity agreement, 18 congregations contributed €128m in cash, property and counselling services. After the Ryan report, the Oireachtas had called on the congregations to provide further reparation and the congregations offered cash of €110m and agreed to transfer properties, mainly in health and education valued at €235.5m. A 50:50 sharing meant a contribution of €680m, so the congregations still fell short by €200m. The government subsequently identified 12 properties worth €60m and they were being pursued. He expressed his disappointment with the offers made to date and he continued to pursue the 50:50 division, including the transfer of school infrastructure. He added that he had no wish to bankrupt the congregations and he acknowledged their positive role in Irish life and their ageing nature, but they must still face their responsibilities.

As for the statutory fund, this would come from €110m cash contributions received, with €21.05m received and bearing interest in the Central Bank. Former residents who had received awards from the redress board or courts would be eligible to apply, with an anticipated total of 15,000 eligible. He was aware of demands to widen eligibility to include all former residents of institutions and relatives but if this were done, the amount available for these individuals would be greatly reduced and the effectiveness of the fund put at risk. He told the Dail that he would appoint a board a board of nine, four of whom must be former residents, the others being people who must have expertise in financial accounts, management and administration. He planned to

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<sup>1</sup> Dail Eireann

Second stage: Dail Eireann, Debates, 8th May 2012, 462-481; 13th June, 420-425; 14th June, 611-651.

Third stage/committee stage: Oireachtas committee on education and social protection, subcommittee on education and skills, 28th June 2012.

Fourth/fifth stage: 17th July, 68-80, 97-111.

Seanad Eireann

Second stage: Seanad Eireann, Debates, 19th July 2012, 1118-1140;

Third, fourth and fifth stage: 20th July, 1191-1207.

seek expressions of interest and would ensure the board was, as best as possible, gender balanced. Reasonable expenses would be covered, but there was no remuneration. It would serve four years and members could be appointed but for not more than two consecutive terms. Section 8 listed the services to be provided: mental health, counselling and psychological support; health and personal social services; education and housing support. He then outlined the procedures to be followed for eligible persons to apply for awards and how they would be determined. The Education Finance Board would be dissolved and its functions transferred to the new Residential Institutions Statutory Fund Board.

In the second stage debate which followed, deputies welcomed the Bill but spoke of the need for amendments on points of detail. Brendan Smith (FF, Cavan - Monaghan) expressed his concern about late applications to the redress board, especially from the Irish community abroad. Highly critical comments came from Mary-Lou McDonald (SF, Dublin C) who attacked the government from the outset for continuing to fail the women and children of the Magdalene laundries and the Bethany home. Neither government party had done anything to right the wrong done to them, despite having been so critical in opposition, remarks which she cited. The state had failed victims and must not do so again, she said. It seemed wrong to reduce this debate to pennies and pence but you could not really put a price on assisting survivors. She was concerned about those who had not received redress to date or a court settlement and they could be blocked from accessing the fund, so the state would have failed them again. 40% of applications came from outside the state, many living in poverty in Britain, the US or Canada. Many residents opposed the statutory fund, because they did not trust government to decide what their wants or needs might be or to deliver such services and she cited the current delays with counselling services. The redress scheme was for many a truly awful experience and she contrasted their poor treatment with the fortunes made by lawyers. She objected to the exclusion of children from the scope of the Bill, for many of them were now struggling to get the education denied their parents. Her colleague, Sandra McLellan (SF, Cork E) insisted the Bill must be amended to include the children of survivors; those who had not received compensation from the current redress board; and next of kin of survivors. The fund must be administered with minimum bureaucracy.

Joan Collins (PBP, Dublin SC) said that the Bill must be seriously re-examined to include those who had not yet come forward. When she first read the Bill, it had appeared reasonable, but on a second reading she saw that the operation of the new fund would be paid for from the fund itself and it had the potential to become a bureaucratic quango. 99% of the fund must go to survivors, not to pay people. She recounted cases of the difficulties experienced by survivors in accessing the funds of the Education Finance Board [set up after the 2002 agreement]. John Halligan (ind, Waterford) likewise expressed concern that the minister had not adequately ironed out the concerns of representative groups, such as the negative inter-generational consequences if families were excluded. Like other speakers, he criticized the religious orders for not providing more funding. Only one-fifth, €21.05m had been provided and the congregations must be made to pay every cent promised.

Richard Boyd Barrett (PBP, Dun Laoghaire), like others, referred to the gravity of the crimes committed against the victims of institutional abuse. It was of the utmost importance that nothing more be done to add stress, difficulty, anxiety, humiliation or suffering to those who had already suffered too much. It was vital we get this right and listen carefully to what victims groups had to say. There should be no question of limiting eligibility: anyone who was a victim or a resident should be eligible. Resources should not be squandered on administration, salaries and expenses. Victim organizations proposed a much simpler system where we did not need large boards, a large staff and so on and we just give the money to people who were eligible. We could work out what should be due on the basis of information on the awards given by the Residential Institutions Redress Board. Many people had given up with the Education Finance Board. It must be

completely independent, but there is a problem if the minister were appointing the chief executive. Seamus Healy (ind, Tipperary S) argued that the costs of the new board should be borne by the minister's department, not the fund. He was worried about means-testing.

*Dail Eireann, 13th June* Paschal Donohoe (FG, Dublin C) described his own meetings with survivors and visiting the long corridors of the residential institutions and the effect that this had on him. It was important to accommodate those who came forward at a late stage. Even if there had been much publicity at home and abroad, he did not want a situation in which individuals or groups were excluded. There must be ease of access to the new system being established and it must not be cumbersome. It had to be well run and easy for people to access the funding to which they were entitled. He asked the minister to clarify the issue of means-testing and even if most of those applying had limited means, most of them had gone through enough. Imaginative ways must be found to meet individual needs. He acknowledged the government's response, but wished to register his unease.

Jerry Buttimer (FG, Cork SC) spoke of a second-generation survivor who, through education, was now breaking the cycle of poverty in her family. None of us had any idea of the pain suffered by survivors. While he welcomed the legislation, Charlie McConalogue (FF, Donegal NE) said that he could not help feeling that the state continued to ignore some victims of institutional abuse. The fund applied only to those who had received compensation from the residential institutions redress fund, in turn drawn from 139 institutions. A significant number, though, were not covered by the legislation, such as the Magdalene laundries. We did not need another review of their situation - all the victims must be included, there was no viable argument to suggest otherwise and we must not fail them again. He questioned why the religious congregations had not made their agreed payments - they claimed they were waiting for the legislation to pass, but we all knew it would pass. People had waiting for services since the Ryan report (2009) and they could not be made to wait any longer. He spoke of the distrust between survivor groups and the state, so the state should provide a simple, quick, appropriate, service. He was concerned that family members could not avail of the fund, but they were also victims. The old Education Finance Board, which would now be dissolved, did provide for educational opportunities for family members, but this was not the case with the new fund. He asked why was this no longer possible. He also questioned funding for survivor groups, which would also no longer be the case, nor funding for four outreach services in Britain.

*Dail Eireann, 14th June.* Robert Dowds (Lab, Dublin MW) spoke of how, like others, he had been approached by survivor's groups. Given the horrific experiences of people in institutions, it was essential that those administering the fund had empathy with victims of abuse. At the end of the day, the state was one of the guilty parties here. It was not appropriate that the administration of the fund should come from the fund itself, but from an outside source. He referred to the 400 students completing educational courses, but who might be cut off from funding before they were completed. People who had not put in claims to the Residential Redress Board were essentially locked out and he understood that there were still victims who did not go there and who should be given a second chance. Just because they did not claim redress did not mean that they had not suffered. He especially drew attention to Benthany House and the victims of the protestant institutions and their exclusion was a running sore.

Sean Kenny (Lab, Dublin NE) noted that as responsibility for information for survivors would be taken on by the fund, support for survivor groups would cease - but it was important that this transfer of responsibilities be handled in a correct way, with no mistakes or people falling through cracks. Martin Ferris (SF, Kerry N) referred to the constant criticism of survivors of the lack of meaningful consultation with the victims of abuse and that little or no effort had been made to listen to what they had to say. They had been kept on the margins of the decision-making process,

with no credence given to them as to what they wanted from the process of redress. Typically, their views had been sidelined or ignored. There was a straightforward means of consulting with them through the redress board's database of 15,000 people, an ideal way to facilitate their input. The minister must ensure that the congregations honour their commitments and financial obligations. Supports for children should be provided for, as education played an important role in helping families break out of the cycle of inter-generational abuse. He wanted the minister to confirm that anyone who had benefitted from the Education Finance Board could complete their course. The eligibility criteria were a serious flaw, being confined to those who had already benefitted. Many victims now lived lives on the margins of society and might be still unaware that they might qualify. Money should not be the deciding factor in concluding who was eligible. There was a perception that a significant amount of redress money went to the legal profession.

In a personal testimony, Martin Ferris told of how his 14-year old cousin was put into an institution, his leg was broken but he got no treatment, he had been abused, but he never sought any compensation because of the shame he suffered and he had carried this scar all his life. For that reason, the minister should consider incorporating the residual functions of the redress board into the new new Bill, which would mean that it could help new applicants who met the criteria. He condemned the refusal of government to provide meaningful help for those in the Magdalene laundries and Bethany home and he cited some of the conditions in the former. He quoted several Labour party deputies who had in opposition spoken out on the need for justice and if this government did not help then then it was no better than previous ones.

In a lengthy contribution, Dan Neville (FG, Limerick) spoke of the effects of child abuse and trauma experienced by those in institutional care, such as alcohol abuse, depression, lack of education, difficulty getting work and social isolation and they still found it difficult to sleep because most abuse took place by night. He told of psychosomatic effects, over-medication and bipolar disorder. Many threatened to take their own lives and some had done so. Many feared to speak out. Others lacked basic social skills and had very low self-esteem. Many had great difficulties forming relationships, especially normal sexual ones and in subsequent parenting.

Maureen O'Sullivan (ind, Dublin C) applauded his understanding and compassionate speech and spoke of how this episode was one the country's darkest hours, whose impact persisted among some of those she had met. She welcomed positive points in the Bill, but there were alarm bells in the process of deciding on applications, with no emphasis on respecting the dignity of applicants. It seemed like a rigorous and intrusive process, requiring information that was probably available already, with the danger it be an onerous process. Victims should not be made to feel that they were coming to a begging bowl. Some were quite old and help should be given now. Many survivors were against the way the fund was administered and there must be a simpler system. Survivors said that they had not had a say in how this fund should be implemented.

Catherine Murphy (ind, Kildare N) commended the work of Christine Buckley and Mary Raftery, who had broken the silence. She spoke of her encounters with girls in Goldenbridge and the boys of Artane. Her main concern was that the people who needed help most were those least able to put themselves through a hurtful application process. Catherine Byrne (FG, Dublin SC) likewise asked that all former residents of state institutions be included. Sean Kyne (FG, Galway W) said he wished he could have no concerns about the administration of previous funds, but he did not. Unsettling matters had been brought to his attention about some organizations providing services for survivors. Bernard Durkan (FG, Kildare N) told of how he had met the victims of abuse and how they could not recall in the events in their past without becoming emotional and tearful and they had all had unhappy childhoods as a result of being put in the care of the state.

Finian McGrath (ind, Dublin NC) spoke of how the state had failed the children of these institutions and he drew attention to the continuing deficits in services for children and the insufficient rights of children. Paul Connaughton (FG, Galway E) spoke approvingly of the education role of the Education Finance Board in supporting residents and their children. Some survivors though had expressed the belief that the fund should only be available to former residents. In 2011, the Department of Education & Skills had funded groups in Ireland with €42,000 in Ireland and €227,000 in Britain, but some survivors questioned their mandate and accountability.

Anne Ferris (Lab, Wicklow) started with the church's limit of €128m agreed in the 2002 deal, which was still a mystery to her. She supported the minister's view that there should be further substantial contributions by the congregations. 17 orders had a reported asset base of €2.6bn, so offering more should not be beyond their reach. She welcomed the steps by the government to address past wrongs, but there was still some way to go. Frank Feighan (FG, Roscommon - Leitrim S) told of the neglect of 15,000 people, who he knew from his clinics were angry and felt let down. The €128m deal was not in the interests of the state, who got a raw deal. It was important that the fund be spent on frontline services, rather than administration. Mattie McGrath (ind, Tipperary S) told the Dail that he had met people who had suffered abuse, who had received some financial redress, but it was no good to them and they were given no meaningful counselling. They were unhappy about how money was channelled through a particular office and he was pleased this fund was being channelled through the Department of Education & Skills. He recounted how a family close to him had taken in 28 different children for foster care who had been transformed, but they never got a pension or credit or stamps and some recognition should be given for them. He praised the good work of many of the religious orders in education and social care. Survivors should not be required to make a case to 15 to 20 officials - the system should be kept slim and thin with the right people with vision, passion and understanding. We must try to reach out to those who had gone abroad or into hiding.

Terence Flanagan (ind, Dublin NE) expressed, like others before him, his shock at the Ryan report and the other investigations into abuse of children in institutions. Nothing could ever take away from the distress and damage that they suffered but the application process must be as simple and quick as possible to ensure that survivors did not endure any more pain or experience delays in getting support. Pat Breen (FG, Clare) recorded that he had met victims regularly at his constituency office in Ennis and each of them told of how when they had tried to tell their story, no one had listened. The consultation process had identified needs which the fund should address. Marcella Corcoran Kennedy (FG, Laois Offaly) described the fund as one step for our society to try to recognize and abhor what had happened to the victims, even if a fund could never compensate them for pain and horror. She asked that the fund be open to all people who could prove that they had been past residents and it seemed unfair that only the people who had accessed the redress board or the courts could apply. There might have been genuine reasons for not coming forward until now and it was wrong to compound neglect by this exclusion. Access to education was the best way out of poverty and the existing education fund was a success, so this should continue. We must also address the victims of the Magdalene laundries and the Bethany home, which should be done sooner rather than later. John Paul Phelan (FG, Carlow Kilkenny) described the circumstances under which people were sent to homes as dubious at best. Victims now needed services in health and education.

Huge numbers of victims were not satisfied with the Bill's provisions, said Clare Daly (ind, Dublin N). Although the Dail could agree that what had happened was one of the most disgraceful episodes in Irish history, this Bill did not rectify it. The minister had stated that he had engaged in extensive consultations with the many groups of survivors, but she simply did not buy this. Although she knew that the minister had met such groups, questions had been raised as to how

representative they were. The number of messages she had received raising objections was greater than the number of people consulted. All of us had received, she said, horrific correspondence from victims who were not happy with the method that had been proposed. Some organizations did not believe that a fund was even the best way forward - a fund should benefit survivors, rather than create an administrative bureaucracy to use up the money that then does not go to victims and she did not believe that this had been addressed properly. She wanted to put it on record that many victims who lived away from Ireland felt that they had been left out of the equation. The creation of another Act to regulate the use of €110m painfully recovered from catholic orders was another bureaucratic nightmare. It had taken ten years to disburse €12.7m from the education fund. The youngest victims were now 60 and were not getting any younger while many of them were significantly older. The longer the delays, the more bureaucratic one was, the less access these people would have access to resources. She understood that it was not admitted either by the minister or departmental officials that it would take at least two years after the fund was set up for the application process to kick in, 'a long and cumbersome process that would deny access to many victims'. What they legitimately sought was that the funds be divided up and distributed directly to that who needed them. There was a danger the money be used to support quangos or administration rather than the actual victims.

Concluding the second stage debate, the minister, Ruairi Quinn told deputies he could not record a second stage with so many contributors and he was aware that victims had been in contact with many of them. Dealing with their individual points, eligibility could be considered after the fund was established in the event that there had not been a significant expenditure. Eligibility was not confined to those living in Ireland and 40% of applicants to the redress board now lived outside the state. So far, €21.05m of the €110m committed by congregations had been received and several had confirmed that more would be received on establishment of the fund. He had written to the others concerning confirmation of timescales for their contributions. Due to the country's financial situation, the exchequer was not in a position to top up the fund. Several deputies had suggested a *per capita* or *pro rata* allocation, but the fund had never been intended as a form of additional compensation, but to meet a range of needs and supplement existing services. Every effort had been made to keep administration to a minimum. There must be some kind of mechanism for distributing the money, but not a bloated inefficient quango.

So far the state had distributed €1.5bn to the 15,000 victims who had come forward. The deal done with the church by Dr Woods had been outrageous and he had consistently argued that costs should be shared 50:50. He would pursue that although he was aware that some religious congregations said that they had no more money to give. He was asking them to give the title deeds of the educational and medical infrastructure that they owned (*Hear! Hear!*). This would bring us close to 50:50 - it was not confiscation but a way of their making their contribution. They had extended the time for people to apply and 1,500 additional applications had been received before the closing date at the end of last year, but he was told it would take about 15 months to process the last tranche that came in in autumn 2011. The €110m fund would not be used to compensate for abuse, for that had already been done. They had chosen to avoid an extraordinarily bureaucratic quango-type operation that would come into operation if we were to open up eligibility to anyone and everyone again. The time involved in processing such an open-ended set of applications would be enormous, so they had decided pragmatically to use the database of the 15,000 known to have been given awards. He was aware that this would not satisfy everyone's requests and demands, but that was the logic and rationale. The Bill was approved 96-19.

*Oireachtas committee, third/committee stage, 28 June.* For the committee stage, the government was represented by the Minister of State at the Department of Education & Skills, Sean Sherlock. Amendment 1 was a technical government amendment to ensure that all congregations fell within the scope of the Bill and was agreed.

Amendment 2, Clare Daly, defined the Act as applying to any former resident of an institution. She described this as one of the key issues, her purpose being to extend the provision of the Bill to former residents. It was discussed with a similar amendment by Brendan Smith, which, he explained would also cover those who had not yet come forward. Mary Mitchell O'Connor (FG, Dun Laoghaire ) likewise asked the minister to give consideration to extending the fund to spouses, children and grandchildren. Brendan Ryan (Lab, Dublin N) said he was likewise inclined to the view that the statutory fund should be available to all past residents, such as those in Britain, who were socially isolated. It was estimated that only a couple of hundred additional people might come forward. He was supported by Aodhan O Riordain (Lab, Dublin NC).

The minister of state iterated his view that the minister had already addressed these points on second stage. The amendments would significantly widen eligibility. If this were done, the amounts available for services would be reduced greatly and the effectiveness of the fund put at risk. Were the fund now to investigate new applications to establish residence and injury, a considerable bureaucracy similar to the Residential Institutions Redress Board would be required. More than 900 applications to the redress board had been turned down because the person concerned had not been a resident of a scheduled institution. By limiting the fund to the 15,000 survivors who had already been through the redress board, this work had already been done. Widening eligibility to children would also broaden the scope of the fund beyond what was intended. It was always clear that the earlier fund would run out and we were now almost at that point. The redress board had run a comprehensive advertising campaign costing €900,000 over 2003-4 in Ireland, Britain the United States and Australia, placing 1,492 advertisements. If the fund were open again, it would not be possible to quantify the numbers who might come forward.

Brendan Smith, though, was concerned that there would be a small cohort denied the possibility to apply. Likewise, Clare Daly described it as incorrect to perpetuate the exclusion of a small number of people. There were no definitive numbers, but all the indications were that it was relatively small, some hundreds. They were getting older and every delay excluded them. There was no contradiction between using the database while allowing others not in the system to apply. It would not open the floodgates or lead to unnecessary delay and it was not realistic to include these people later on. Sean Crowe (SF, Dublin SW) proposed criteria of being resident in an institution, injury and proof of identity. It would be wrong to omit those outside the process.

The minister of state, Sean Sherlock, said that the state had made a good faith effort to reach out and advertise. As for wider eligibility, if persons did not come forward during the first process, we would need to set up a bureaucratic mechanism. There comes a point at which a line must be drawn. Clare Daly argued that Sean Crowe's proposal was not bureaucratic but straightforward. Hundreds of people could be brought in relatively quickly. To confuse the issue to claim that the process would continue forever and create a cumbersome bureaucratic nightmare was not fair. Likewise, Brendan Smith pointed out that the expertise of those who were in the redress board was still there. Sean Crowe added that the redress board had spent €166m on lawyers's fees - wasted money which should have been paid to survivors. Let us forget about bureaucracy and put in place the structure required, he pleaded. Sean Sherlock stated that 97% of those who applied availed of their entitlement to independent legal advice. Clare Daly's amendment was lost 7-3. Similar amendments by Sean Crowe and Brendan Smith were also lost.

An amendment by Sean Crowe (amendment §5) to include Bethany House was ruled out of order as being a charge on the exchequer. Sean Crowe expressed his regret that this should be the case, but there was a responsibility on the exchequer and on government to help them. Their exclusion would compound their hurt. He asked the minister of state to show some flexibility. At this stage, Aodhan O Riordain asked the minister of state about the review process on the Bill, whereupon the minister of state told him that there would be an annual report.

Sean Crowe moved an amendment (§9) to retain the counselling services presently being accessed by former residents. This reflected representations by survivors that they should be able to continue to work with existing counsellors who they now trusted. Clare Daly agreed that former residents should be free to choose their counsellor and was supported by Brendan Ryan.

The minister of state, Sean Sherlock, said he could not accept the amendment. He did not see how the position of existing residents would be threatened. If a counsellor met the criteria for services provided by the fund, it was difficult to see that the fund would have a problem with that. Such matters of detail should be left to the fund. Sean Crowe took the view that it this was the case, there was nothing wrong in putting it in the Bill. Simon Harris (FG, Wicklow) agreed: it was important to remove doubt and ensure that one had the right to choose one's counsellor. Similarly Clare Daly said that this would reassure people. When Sean Sherlock said he had an instinct to look at this at report stage and that his officials were accessible to further discussions, the amendment was withdrawn.

Sean Crowe moved two amendments (§11, 12) to require the new board to make information available to all those contacted by the redress board. The minister of state told him that there was no mechanism due to confidentiality restrictions in the redress process so the amendments were unnecessary and they were withdrawn. Unsolicited communication could be open to challenge on encroaching rights of privacy.

Sean Crowe moved an amendment (§14) to minimize legal and other expenses by the board. He cited the legal and associated costs of €166.34m in the redress board and quoted Justice and Healing for Institutional Abuse's views contrasting the fortune made by the legal fraternity with the poor treatment of survivors. No one wants the redress process to create millionaires and the amendment sought to impose limits on the income people could derive from the process by having fixed term contracts. The minister of state said that he accepted the point but that a legislative approach was not appropriate. It was the government's intention that the use of external advisors be minimized but the board should be given flexibility. Sean Crowe argued that this was about learning from the past and how the legal profession had made a killing. Sean Sherlock stated that the board was already required to make effective use of resources and that should cover the point. Mary Mitchell O'Connor argued that the money should go to the victims and not others who should cream it off. The minister of state pointed out that the minister could give directions to the board on compliance with government policies, which should cover it, so the amendment was withdrawn.

Sean Crowe moved amendments §15 and 16 to continue to provide support for children and grandchildren assisted by the redress board for their education. He was supported by Clare Daly who argued for the value of educational opportunity. Because of their age, most survivors did not access education and 75% of the take-up was from their descendants. It was a real opportunity to give something back to their families because of the difficulties hoisted on them and for them to have the opportunities they did not have. The minister of state said he could not accept the amendment: €12.7m had been set aside for education under the 2002 agreement, which was now virtually exhausted. The amendment was withdrawn, but Clare Daly said the issue would not go away.



An amendment by Sean Crowe to give a statutory housing entitlement to former residents returning to Ireland was ruled out of order for imposing a burden on the exchequer. Clare Daly pointed out that many victims had been forced to leave the country and even if they returned now they would be impeded by the habitual residency condition and she asked the minister to reflect on that.

Clare Daly moved an amendment (§20) to delete the term 'classes of former residents' as offensive, but the minister of state explained to her that this was purely to enable the board to define the type of services to be provided. He assured her that the term was not intended to be pejorative, demeaning or stigmatizing and the amendment was withdrawn.

Brendan Smith introduced an amendment (§21) to delete means-testing, which he described as mean and unnecessary. The minister of state told him that the provision in the Bill was not intended to introduce means-testing, but it did permit the board to target services and prevent the board being obliged to provide services on the same basis to a wealthy individual as someone who was not. Brendan Smith withdrew the amendment, but the provision was an unnecessary, unfair restriction, he said.

Clare Daly moved an amendment (§25) to prevent the chief executive being represented by someone else in giving evidence to any committee of Dail Eireann. The minister of state explained that the Bill sought to permit the chief executive to be replaced by an ordinary staff member for various functions and was designed for situations of absence or unavailability, which was a reasonable provision for situations that might arise from time to time. Clare Daly stated that this was necessary for accountability and to ensure that the chief executive was performing his or her functions. Mary Mitchell O'Connor thought it prescriptive and that it would prevent an acting chief executive from attending. The amendment was withdrawn.

Sean Crowe moved an amendment (§26) to limit the remuneration, allowances and expenses to €5,000, his purpose being that survivors should be those who benefit from the funds and not those administering them. Those who participate should do so out of public service and expenses should be kept to a minimum. People should serve on the board for the right reasons. The minister of state clarified that there was no remuneration for board members, only expenses, so the amendment was withdrawn.

Clare Daly moved an amendment (§27) that copies of the annual report be placed in public libraries - publication on the internet was not sufficient. The minister of state described it as 'hugely costly' to undertake large print runs to furnish copies to very public library. In this day and age, annual reports and published documents were issued electronically. The cost of dissemination and advertising the reports would be utterly prohibitive. The amendment was withdrawn.

Sean Crowe moved amendment §28 to the effect that benefitting from the fund should not affect a survivor's entitlement to medical cards or other means-tested benefits. The minister of state told him that the board could not decide this and an amendment to social welfare legislation would be more appropriate if problems emerged, so the amendment was withdrawn.

Clare Daly moved amendment §29 to delete provision to no longer consider applications if a person did not furnish required information: it was too prescriptive, she said and there might be a valid reason. The minister of state insisted that it was reasonable for the board to seek information and to refuse to consider it further if it were not provided. For example, medical information might be required to make a determination. There must be a degree of cooperation, or the process could

go on for years. The amendment was withdrawn. Amendments §31,32 by Clare Daly required applicants to be informed of the disclosure of information by exempted confidentiality categories, such as the gardai, but the minister of state was of the opinion that they were neither necessary nor did they add to the Bill. They were withdrawn.

Sean Crowe moved amendment §34 to compel the religious congregations to pay the full amount owed under the 2002 indemnity agreement by six months from enactment. Clare Daly added that it was shameful that so little money had come in and we must be seen to address the problem. The minister of state said that he shared the sentiment, he could not accept the amendment. The Chief State Solicitor's Office was continuing to pursue the requirements under the agreement. One could not put a timeframe on completion due to the complex nature of the transfers, but every effort was being made. Responding to a further amendment by Clare Daly (§35) on interest, he said that €250,000 had been earned on interest in the Central Bank on contributions lodged.

*Dail Eireann, 4th stage, 28th July and conclusion.* The Bill returned to the full Dail for the fourth or report stage. The government moved a number of technical and wording amendments, the principal ones to facilitate the making of contributions by the congregations. Clare Daly returned with a substantive amendment (§2) to include former residents, the biggest area where people had asked for change. Survivors had said that the scope of the Bill was too restrictive and unjust. She did not accept the argument that by including them, it would delay the process and the money for everyone else. Very strong arguments had been put forward about the small number of applicants living outside the state, no more than a couple of hundred people and they would certainly not break the bank. Responding, the Minister for Education and Skills, Ruairi Quinn repeated that to widen eligibility would reduce the services for everyone else and put the effectiveness of the fund at risk. The restriction to 15,000 survivors who went through the redress process was a deliberate decision for good reasons. If new investigations were required to establish entitlement, then it would need a considerable structure and deflect the board from its purpose. The same was true of widening eligibility to children and grandchildren. The education fund had done valuable work but it was always clear that that fund would run out and we were now almost at that point. He urged deputies to see the logic of the government's position. In view of the considerable concerns expressed, he was prepared to commit to reviewing the operation of the fund two years after its establishment.

Her amendment was supported by Sean Crowe and Brendan Smith. Sean Crowe reiterated that there were people who had not benefitted from the redress board for a variety of reasons, such as people pursuing court action. The money was small compared to what was given away to zombie banks. There was a need for flexibility. He gave figures of 150,000 children who went through orphanages, industrial schools and places for young offenders and 100,000 leaving Ireland afterward. Brendan Smith referred to his meetings with the individuals and groups involved and he was more convinced than ever of the need to put in place a mechanism to ensure people who had not been to the redress board were not excluded. The group was small. He did not accept that this would involve an unnecessary layer of bureaucracy, because there were enough competent people to do the job. Those who had been given educational help were to be assisted throughout their courses, but the legislation would not enable this to continue. Clare Daly said it was simply wrong to exclude this diminishing, aging group that was becoming smaller and for whom two years was too long to wait. Brendan Smith wondered how many of them would still be alive when that time came. The amendment was lost 77-34.

Sean Crowe moved an amendment (§7) for the possibility of a one-off payment. Survivors should be allowed to decide for themselves how they might use a payment and they were opposed to the state asserting its power that it must operate within the parameters of the fund. Rather than use money for counselling, there should be more flexible access. Clare Daly insisted that they must

listen to those who had been excluded. She spoke of the representations made to her by survivors: their needs would be better met if they had control over the fund. The minister, though, argued that the purpose of the fund was never to provide additional compensation, but was intended for support. The victims should make that call, said Clare Daly. The amendment was lost 86-21.

Under amendment §9, Sean Crowe moved for the setting up of an assessment panel to examine applications from those who had not made one to the redress board. The minister again reiterated his concerns about widening eligibility, for this would compromise the purpose of the fund. Sean Crowe said that a panel would deal with the danger that such a process might be bureaucratic. According to Clare Daly, this mechanism would ensure it was not a free-for-all but a procedure that would control numbers. The minister reminded them that the process had been kept open much longer than originally planned, but we could not keep that open indefinitely. The minister told them that in two years' time, in late summer 2014, he would have a look at where we were and make some kind of progress report by way of a review. The amendment was lost.

Clare Daly moved amendments §10 and 11 to make educational services available to children and grandchildren of former residents. It was one of the issues that had drawn most attention from some of the groups. The key point was the trans-generational nature of abuse. She said she would not read out the letters from survivors that education was no good to those too old to avail of it - but they wanted their children and grandchildren looked after, while Sean Crowe cited examples known to him. The minister told them that he understood that the Education Finance Board would not be in a position to support some individuals, but it was never intended to be an open mandate. Clare Daly questioned him as to who defined their needs - the survivors were best placed to do so. The amendment was lost.

Clare Daly moved a further amendment (§14) for the continuation of counselling services and the choice of counsellor, but the minister said he did not accept that an additional level of protection was required. Safeguards were already built in. The amendment was withdrawn, as was her subsequent amendment (§15) to replace the term 'classes' with 'categories'. Brendan Smith proposed (amendment §16) the removal of the term 'financial' which he felt might permit the reintroduction of means-testing, but the minister argued that the board must have the power to target resources. The overwhelming majority of applicants would have modest means and the term was not designed to prevent vulnerable people from benefitting, nor was it intended to introduce a general means test. A clear message must be sent that there would not be a means test and when the minister undertook to take such steps, the amendment was withdrawn.

The minister introduced a government amendment (§30) for a special account to be set up in the name of the Minister for Health so that any cash contributions over €110m would go to the new national children's hospital. This was agreed. The Bill was presented for final consideration and passed. In final comments, Sean Crowe expressed disappointment about amendments: the Bill was flawed 'and we have let people down again'. Clare Daly spoke of the deficiencies in the Bill and that was why they would oppose it on final stage. It was approved 82-13.

*Seanad Eireann, 19th July.* The Bill was introduced to the Seanad by the Minister for Education and Skills, Ruairi Quinn. The longest journey on the Bill had been travelled by victims. Although no words could ever address the hurt that they endured, he personally apologized to them and this Bill was one way of trying to compensate them, but 'we will never fully do so and I want you to personally understand that'. Averil Power (FF, industrial & commercial) spoke of her disbelief that this abuse had happened and how it had become a dark and horrible part of our history. She welcomed the Bill, although she believed that it was flawed, too restrictive and unfair. There were many, such as those who became homeless, were in places of detention or mental health services who were not in a position to make claims to the redress board and who would not now be helped

by the fund, for whom the state would have failed them twice. She wanted the Bill amended, including the gaping gap of the need to provide for the residents of Bethany home and the Magdalene laundries. She was angry that the religious orders had not stepped up to the plate with their 50% contribution, but the minister pointed out that they had not accepted the principle. They should have, she said and it was an utter disgrace that the minister still had to talk to them.

Jim D'Arcy (FG, Taoiseach nominee) described the minister as very accommodating and he trusted him 100% to undertake the review. He hoped that he would work out an arrangement with the religious institutions. He compared the fund to the Haemophilia HIV Trust set up in 1989 and which was still assisting people and he saw it performing a similar function. David Norris (ind, Dublin University) saluted the courage of the survivors and how they had achieved dignity. He had been appalled by the deal done by the previous minister, Michael Woods, without advice from government or the attorney general. He stood 100% behind the current minister in seeking the 50:50 arrangement. He welcomed the prospect of establishing a monument, for monuments had power, like Yad Vashem in Jerusalem, where the reading of names like Auschwitz and Belsen was electrifying, for we had a list here, like Letterfrack, Goldenbridge and Artane. By and large, it was a good Bill, but he wanted something done for the survivors of the Magdalene laundries and Bethany House. The Archbishop of Dublin, John Neill, had asked that this be redressed. He had been to Mount Jerome Cemetery where 300 children had been buried in an unmarked grave. He would like to see the survivors of abuse as one of the nominating bodies for Seanad elections.

Mary Moran (Lab, Taoiseach nominee) also urged the minister to pursue the religious congregations for their share and it was appalling that they had got away with it for so long. Kathryn Reilly (SE, industrial & commercial) recorded her disappointment that the rights of victims in the Bethany home and the Magdalene laundries had not been acknowledged. The needs of survivors outside the state should still be met. There had been major problems communicating with the wider diaspora and it was possible that only a fraction had become aware of the work of the redress board. We should not turn our backs on them now because of stringent eligibility criteria. Survivors had waited long and legislation must be tightened to ensure that suffering was not drawn out any further. Amendments would be presented to make the fund fit for purpose.

Martin Conway (FG, administrative) commended the minister's contribution, capabilities and genuine interest. It was still not too late for the religious congregations to do the right thing. This was a difficult subject on which to speak without becoming emotional and all we can do now is try to take correct, proper steps in the right direction. Marie Moloney (Lab, labour) spoke of how her father had been in an orphanage, had been lucky to be adopted by a lovely couple, but he never once spoke about his days in an orphanage. She commended the media for having blown the whole issue open. She was glad the fund would not be used in substitution for publicly available services, because we knew the length of the waiting lists at present.

Ronan Mullen (ind, National University) criticized the provision that only those who had benefitted from the redress board were eligible, for that undermined all the government's pretensions to goodwill: 'either the Bill cares for people who have suffered or it does not'. He could not see how the minister had the moral authority to call on the religious orders to contribute if he excluded people, but he was open to a humane explanation. There was a tendency to shift a moral responsibility onto the religious orders without assessing those which had contributed and it was entirely wrong to mix the issue with their divestment from education.

James Heffernan (Lab, agricultural) spoke especially of the horror of Letterfrack. Although the industrial school was open from 1885 to 1974, it was difficult to find, there were no signposts for it, only notices for Connemara national park. There was no physical reminder of what had gone on

there. It was like the place had been swept under a rug and painted over so we could all forget. Eventually he came across a sign for a small graveyard with 77 little headstones and read their names and ages: it was quite shocking. He welcomed the idea of a national monument to what Mannix Flynn had called our holocaust.

Responding to the debate, the Minister for Education and Skills, Ruairi Quinn told senators that the government had to make a difficult decision to form a benchmark of the 15,000 people who had gone through the process. It did not include all the people who had been through the institutions, but there must be a cut-off point so that the €110m have some remedial, effective, impact. It was for another time to address the Bethany House and Magdalene laundries people. Not everyone had been to the redress board got compensation, for all sorts of reasons that we would never fully understand. We had to confine it to be people who had been through the process and were recognized. The minister said that his undertaking to review the fund in two years was sincere. It was his intention to tell the incoming board to keep a running record so that they could review progress to assess whether progress was being achieved. If there were spare money available, we could look at that but we must get the money in first.

The minister specifically addressed the issue of the contribution of the religious and he challenged the religious who told him they did not own their property any more because it had been assigned to a trust. He cited their 'massive infrastructure' for example St Vincent's hospital and the Mater. When they no longer used buildings for education, they could deed them to the state, rather than sell them off [a lengthy set of exchanges about the broader role of the catholic church followed between the minister and Ronan Mullen]. The Bill was put to vote on the second stage, but as fewer than five senators demanded a vote, the Bill was declared passed with the names of the dissenting members recorded for the record (David Cullinane, Trevor O Clochartaigh and Kathryn Reilly (SF)).

*Seanad, 20th July, committee and remaining stages.* On the committee stage, Kathryn Reilly moved amendment §1 to include former residents within the scheme of the Bill, taken with amendments 2,3 and 7. Averil Power wished to include those who did not avail of the redress scheme, for many reasons, such as being homeless or out of the country or, despite the best efforts of government, were unaware of the scheme. Her amendments also included education services for relatives and that there not be means-testing. David Norris argued that if some of these people applied now, he did not think it would impose an enormous additional burden on the exchequer. He added that many survivors had different views on some of these points - they were not a homogenous group - and some did not feel they needed to be offered education. Marie Moloney agreed - some survivors had done well, not let the system drag them down and were now well educated and did not need that money. Once eligible applicants were dealt with the fund should be opened to those who failed to apply in 2002. Fidelma Healy Eames (FG, labour) asked the minister could there be room for those who had not yet applied to do so now. The self-esteem of survivors of abuse would be on the floor and there were extenuating circumstances. Finance was only one of their concerns, for their big concern was healing. Redress should help them heal. If we excluded them, that was likely to make healing harder.

Paul Bradford (FG, agricultural) explained that he was sympathetic to the amendments, but had to acknowledge the political reality faced by the minister. Much good will would come from passing the Bill as it was. We should not see this as the end of the road and he noted the minister's indication that he could broaden the criteria if more funding were available. They were anxious to get this legislation in place without delay. He acknowledged that they had received many communications from people who were 'genuinely hurt more than angry' and were looking for redress and support. The signal should go out that they were not shutting down the prospect of

support for these people: 'we recognize that there may be others who remain excluded and we will seek to assist them as soon as possible. I know the minister is sympathetic to people in that position and will do his best to assist them. Those who have lived without hope for most of their life should be given some degree of optimism for the future'.

Labhras O Murchu (FF, cultural & educational) quoted the axiom that justice delayed was justice denied and all could agree that for victims of abuse, justice had been delayed for a long time. It would be an aberration to deny people justice on the basis of their failure to meet a designated time constraint. He was not sure whether this difficulty was largely legal or economic and he could not quantify the money involved. We were dealing, though, with an exceptional situation and it added to the trauma of victims if they were to be denied justice on the basis of an arbitrary timeframe.

Ivana Bacik (Lab, Dublin University) recalled that she had represented some survivors before the redress board and had some appreciation of the level of harm, damage and wrong done. The key imperative was to get the Bill through and the minister had indicated that eligibility could be reviewed, especially if applications did not result in significant spending. That assurance from the minister should meet the concern of those who put forward amendments and this would go some way to meeting their needs.

Responding, the Minister for Education & Skills Ruairi Quinn explained that if the amendments were accepted, then a considerable investigative structure similar to the redress board would be required and this would entail considerable costs. Extensive media and information campaigns had been run to facilitate claims to the redress board. The initial closing date had been 2005, but the board continued to take applications until September 2011, receiving 2,766 late submissions, of which it had allowed 1,136, disallowed 214 and still had 1,256 to consider. At the end of two years, we would take stock: 'It will not simply be a case of pressing the review button in two years' time. The board will be engaging in an ongoing monitoring process so that at the end of the two-year period we will be in a position to make a quick decision on whether we should respond in respect of the matters to which the amendments relate'.

Averil Power told the senate that she was still of the view that restricting the fund was wrong, especially as vulnerable people would be excluded. David Norris considered that the minister had responded in a reasoned way and left the door open for some amelioration further down the line. Kathryn Reilly questioned the review: would it focus merely on expenditure or on eligibility? She cited a case of a person whose case was thrown out in the High Court because of the delays in having it heard, and then being refused by the redress board: how could that be right? Jillian van Turnhout (ind, Taoiseach nominee) said that she understood the minister's explanations, but the house must send a signal and she would support the amendment.

The minister told them that the average paid by the redress board was €60,000, which was compensation for damage done. But there was a need to separate that from what we were doing here, which was not additional compensation but a fund to help people adjust their lives. Averil Power asked him, granted that only €20m was in, what was the timescale for the rest? Would the board proceed to work or will it be delayed while waiting for the congregations to do the right thing? David Norris warned the minister against accepting at face value the property offered by the religious and it must be independently assessed to get value for money. There was no point in their offering land or buildings of no value that could serve no purpose. The minister repeated that he would review the measure in two years and in the meantime he hoped to have the new board up and running by September. The text of the Bill was upheld 22-13. Amendment §1, to include former residents, was defeated 22-13; amendment §2, concerning services for the children of former residents, was lost 23-11.

Kathryn Reilly moved amendment §5 for a one-off payment, which would, she said, ensure that people who had not come forward could have their claims assessed in a fair way and allow them to spend it whatever way they felt fit. The minister rejected this, insisting that this fund was not an additional form of compensation. The amendment was lost. She moved amendment §6 to set up an assessment panel, along the lines of the previous amendment, but the minister again insisted that the new fund had no role in making awards and the amendment was lost. A similar amendment, §10, was also lost. Her amendment §7, to ensure there were educational and employment supports for children and grandchildren, was defeated 22-12. Averil Power moved amendment §9 to delete 'financial' from the criteria of assessment so that there should not be means-testing. The minister argued that the clause was not intended as a means test, but it was not unreasonable that financial circumstances might be taken into account. It was defeated 24-13. It was then proposed that the Bill do now pass and this was agreed *nem con*.