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HISTORICAL INSTITUTIONAL ABUSE INQUIRY

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being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Monday, 15th December 2014

commencing at 10.00 am

(Day 79)

MS CHRISTINE SMITH, QC and MR JOSEPH AIKEN appeared as  
Counsel to the Inquiry.

1 Monday, 15th December 2014

2 (10.00 am)

3 CHAIRMAN: Good morning, ladies and gentlemen. Again,  
4 although we have no witnesses scheduled to give evidence  
5 this morning, can I remind everyone to ensure their  
6 mobile phones are switched off or at the very least are  
7 on "Silent/Vibrate" and that no photography is permitted  
8 anywhere in the premises or in the chamber.

9 May I also make the point to those who are present  
10 that what is going to happen now and again on Wednesday  
11 is we will be hearing oral submissions in relation to  
12 a number of those against whom allegations are made or  
13 on behalf of the institutions concerned, and it is quite  
14 possible that in the course of these submissions  
15 individuals who have been granted anonymity will be  
16 referred to by name. So it is to remind you all that  
17 any name which is mentioned as opposed to a designation  
18 -- any name which is mentioned must not be repeated  
19 outside the chamber.

20 Yes, Mr Aiken.

21 MR AIKEN: Chairman, Members of the Panel, good morning. As  
22 you have indicated, Chairman, today is a day for oral  
23 submissions from those against whom allocations have  
24 been made.

25 Before I invite Mr Arthur Harvey, QC, who has agreed

1 to step forward and begin that process, I want to say  
2 the Inquiry in respect of the Rubane module of evidence  
3 based on material it had received and applying its  
4 criteria to it identified 31 individuals that the  
5 Inquiry wanted to engage with and gave an opportunity to  
6 respond to various allegations that had been made  
7 against them.

8 Of that 31, the Inquiry was unable to contact ten  
9 such individuals. A further ten individuals were able  
10 to be contacted, but whether due to their own ill  
11 health, living outside the jurisdiction or the Inquiry  
12 determining as matters developed that it was not  
13 necessary to hear oral evidence from those individuals,  
14 then they did not give evidence.

15 That left a remaining eleven individuals that the  
16 Inquiry did hear oral evidence from. Three of that  
17 eleven were individuals who themselves had come forward  
18 to the Inquiry but then were also themselves subject to  
19 allegations, and the remaining eight were individuals  
20 against whom allegations were made.

21 Of that eleven that gave oral evidence to the  
22 Inquiry the Inquiry has received written submissions  
23 from six of them, with the other five electing not to  
24 make any written submission to the Inquiry.

25 In addition to that six, Mr Harvey represents three

1 Brothers who fell into the ill health category, who were  
2 not in a position to give oral evidence to the Inquiry,  
3 and the Inquiry has received a written submission on  
4 behalf of those Brothers, and today the Inquiry is  
5 likely to hear submissions orally on behalf of six  
6 individuals, three who gave evidence to the Inquiry  
7 orally and then the same three Brothers that Mr Harvey  
8 represents who were unable to give oral evidence.

9 So the opportunity has been given to each of the  
10 individuals who were subject of allegations to make both  
11 written submissions and oral submissions, and in  
12 a number of respects individuals have elected either not  
13 to make a written submission or, in making a written  
14 submission, then not to make oral submission. That is  
15 why the number that you will hear from by way of oral  
16 submission today is a lot lower than those who actually  
17 gave oral evidence to the Inquiry.

18 With that, Mr Chairman, I will invite Mr Harvey to  
19 begin on behalf of the five Brothers that he represents.

20 CHAIRMAN: Perhaps I should say before you do so, Mr Harvey,  
21 that in your case, and indeed for each of those who have  
22 put in written submissions, we have these very extensive  
23 and very detailed written submissions, and therefore on  
24 this occasion, as indeed at the conclusion of the first  
25 module, which was similar in its shape, we anticipate

1           that all counsel will wish to say on this occasion are,  
2           as it were, overarching submissions rather than taking  
3           us through the detail which we already have and have  
4           been able to look at.

5           Closing submissions by MR ARTHUR HARVEY, QC on behalf of  
6                           BR2, BR3, BR10, BR25 and BR62

7   MR HARVEY:   Might I say, Mr Chairman, Members of the Panel,  
8           it is not my intention to refer in any way to the  
9           written submissions that have been supplied but rather  
10          to make a generalised submission in relation to the  
11          background of this case as it is applicable to each of  
12          the Brothers on whose behalf I appear.

13                What I would respectfully submit, that in dealing  
14          with that, the historical background and context is as  
15          every bit as important for the Brothers as it was for  
16          the children.   What I respectfully submit is when  
17          Father~Bartlett last week indicated that the church had  
18          let the children down in the sense that it had not had  
19          primary regard to the welfare of those children, that is  
20          dealing within the hierarchical structure of the church  
21          rather than those who were charged with the provision of  
22          the front-line services to those children within the  
23          hospital (sic).

24                When one comes to look at the background to the  
25          landscape of policy and provision of services to

1 children within those homes, it undoubtedly is a fairly  
2 bleak and barren one. What one actually has to keep in  
3 mind throughout is that the nature of Rubane was that,  
4 in fact, whatever the intention when it began in 1950,  
5 during the course of its development from then until its  
6 close in 1985 it appeared to become a placement of last  
7 resort. As a placement of last resort, it simply meant  
8 that the children whom it received were undifferentiated  
9 in terms of how they were received, undifferentiated in  
10 terms of their emotional, psychological, educational and  
11 in terms of disabilities that they had. Today it is  
12 inconceivable that any organisation would receive  
13 a child in those conditions without a statement  
14 referring to the specific needs of the child, without  
15 resources being sought and allocated to meet those needs  
16 both in terms of personnel, finance and professional  
17 services.

18 What I respectfully submit perhaps is to look at  
19 just two instances of the type of child that was being  
20 received. One of those -- and I do not intend to go to  
21 it in detail, but it is contained in exhibit 13 to BR2's  
22 statement provided by the core participants -- it  
23 relates to one child, whose name, of course, which will  
24 not be reported, is . That child had  
25 had a very troubled background. He had been examined.

1           There was what appears to be a Social Services report on  
2           him, unlike many of the other boys. His mother,  
3           whenever he was being placed in care of Rubane,  
4           indicated that she felt                   behaviour was driving  
5           her insane. When she tackled him about his stealing, he  
6           became violent and he had struck her on several  
7           occasions. Ms                   felt, unless something was  
8           done, she would end up in Gransha again or else she  
9           would throw herself into the river. That happened in  
10           .

11           In           the           boys, who gave evidence before  
12           this tribunal, was that they were young children. Their  
13           father had died. There had been many attempts to get --  
14           to ensure that they would attend school and not be  
15           disruptive. Those failed. There are other matters  
16           which are known to the tribunal but not to the  
17           participants as to the precise nature of what occurred.  
18           They were brought to Rubane quite literally kicking and  
19           screaming. Their mother was brought down some five days  
20           later. This was on                   , and again they  
21           clung to their mother, did not wish to remain in Rubane,  
22           and eventually again for reasons known to the tribunal  
23           they only stayed for a very short period of time.

24           Now if one asks what qualifications did any of the  
25           Brothers whom I represent have which would have equipped





1           qualification. Not one of those experiences of life  
2           could have provided them with the most basic skills  
3           necessary to function within a school such as Rubane.  
4           The boarding schools that they would have attended as  
5           junior novitiates would have been disciplined. They  
6           would have been dealing with a fairly homogenous group  
7           of people and they would have been dealing with  
8           individuals who were intelligent and motivated towards  
9           achieving a benefit in their life. There would have  
10          been no disruption. There would have been no  
11          overwhelming personal problems which would have led to  
12          ill-advised behaviour. The sole assessment of  
13          individuals was as to whether or not they could meet the  
14          criteria of a religious life, but it is also a fact that  
15          anyone making such a decision at the young age of 12 or  
16          13 or 14 could never have anticipated that a life that  
17          was meant to be served in teaching within poor  
18          communities could have resulted in the silent transition  
19          into all of the difficulties that they would face in  
20          Rubane.

21                 What I respectfully submit is or ask -- invite the  
22          tribunal to consider is that such young men were, in  
23          fact, like all members of the Catholic community at that  
24          time, offered to consider the religious life as a way of  
25          life as a matter of duty, and when those decisions were

1       made, it is it is difficult to imagine that the one  
2       thing that provides identity to most human beings is  
3       their family, and when you leave that family behind, you  
4       leave behind the greater family, the small community  
5       from which you come. You become into a hierarchical  
6       system, where you accept without question the roles  
7       which you are allocated within life.

8               Those Brothers were invited to have a religious way  
9       of life for one reason and one reason only and that was  
10      the betterment of the life of those who were  
11      disadvantaged in terms of poverty and background.  
12      Christian charity is only a means to an end. The end is  
13      ultimately the improvement of people's lives. Christian  
14      charity and devotion of a life to the service of that  
15      cause is merely an instrumental way of achieving that  
16      end.

17             When Rubane was established in 1950, one thing was  
18      obvious, that it was the beginning of the welfare state  
19      and it was the end of the workhouse, and Northern  
20      Ireland had no shortage of workhouses and no shortage of  
21      people to fill them. In Belfast alone the Belfast City  
22      Hospital began life as the workhouse. As it took in  
23      more and more people, it also had to face the necessity  
24      of providing medical care. So it had a fever hospital.  
25      It also, because of the poor that it had at one time,

1           3500 people living in that one workhouse, it also had  
2           mental health problems. So it developed a mental health  
3           facility, which came to be known as Windsor House.

4           When the welfare system came in, the children who  
5           would have been formerly housed in workhouses had to be  
6           found placements, and while in 1950 the correspondence  
7           from the Ministry indicates the first preference for  
8           dealing with children was, firstly, to find them a home  
9           in terms of their own home by returning them or  
10          boarding, those that were left were those for whom no  
11          placement was available. There was overcrowding in both  
12          St. Patrick's Training School in Milltown and later the  
13          Glen Road, overcrowding in Nazareth Lodge.

14          The significant feature is when it was founded, it  
15          was intended that it should only have a primary school.  
16          Very quickly it was realised that most of the children,  
17          in fact, were post-primary school age. In other words,  
18          those children in whom behavioural problems had been  
19          established to such a degree that it was unlikely they  
20          would have found -- had it not been the case, they would  
21          have found placements earlier, and within a very short  
22          period of time it was accepted that most -- the majority  
23          of the children in Rubane had educational, behavioural  
24          and emotional needs that could not be fulfilled without  
25          the establishment of special needs and without the

1 establishment of an intermediate school.

2 The Ministry accepted that the school would have to  
3 be on the site of the home quite literally, because  
4 these children, because of the difficulties they had,  
5 that if they were to travel to the primary school two  
6 miles away or the secondary school, which was six miles  
7 away in Portaferry, the likelihood of them ever  
8 returning was small, and that they required a degree of  
9 discipline which was not provided within a normal school  
10 situation. That's the only training any of these  
11 Brothers had was within a normal school situation.

12 We have that as against the background of a home,  
13 whatever its intentions initially, grew organically.  
14 They grew without really policy decisions being made  
15 either by the Ministry or the diocese. The Brothers in  
16 those homes were left to devise a way of managing  
17 children with whom they had absolutely no experience.

18 BR2 spent years of his life there and the measure  
19 of his life is measured in his diary. One cannot help  
20 but read it and wonder at the reverence in which he held  
21 those in his care, because every day produced a new  
22 trial: children absconding; children who lived vast  
23 distances in terms of the transport that would have been  
24 available in the from where they were, and yet  
25 they managed to make their own way home; appearing in

1 police stations to have children returned; looking for  
2 help from the local community, from local psychiatrists,  
3 local doctors, but not as a matter of policy, just  
4 a matter of a natural, decent, human reaction to, "How  
5 do I cope with the problems I see before me?"

6 In fact, over the years one can see even when the  
7 administration of corporal punishment was necessary, BR2  
8 in his diary reflects having talked to one boy about the  
9 dreadful background of his family, a boy called DL95.  
10 Within three days the boy, who had been very disruptive  
11 throughout his stay, was disruptive again and he was  
12 punished. The diary entry was:

13 "I punished DL95. Felt awful."

14 Hardly the reaction of an individual who had been so  
15 dulled by the constant experience of failure in terms of  
16 the effort being made and the outcomes that were being  
17 achieved. It was the reactions one would expect of  
18 a decent human being.

19 Even worse than that, after a short stay in  
20 in , he returned on and his diary  
21 entry is:

22 "What a tale of woe meets me! Wholesale absconding.  
23 £200 stolen from . So many implicated. I feel like  
24 getting up and running away."

25 Again I respectfully submit if you look at the

1 diary, the diary in its totality reflects what is  
2 possibly the most important thing not only in Christian  
3 life but in all life. It is reflecting upon what is  
4 happening, and not seeing what is, but asking "Can you  
5 make it better?", and when you can't and feel low and  
6 frustrated, not running away, staying and making the  
7 best of it. Should any Brother have been placed in that  
8 position in a home that was under-resourced in terms of  
9 finance, under-resourced in terms of the physical  
10 buildings in which it was operating, under-resourced in  
11 terms of the personnel, the Brothers, under-resourced in  
12 terms of the lay staff, under-resourced to such  
13 an extent that it quite literally wasn't the teaching  
14 job that you anticipated when you went into the Order,  
15 working at 9.00 in the morning until 3.00 in the  
16 afternoon, trying to assist people who had support  
17 within their families and their community to advance  
18 themselves and elevate their position as best as they  
19 could according to the talents that they had?

20 When you found yourself in a place like Rubane with  
21 -- BR2 started off teaching in a class. One  
22 has to remember one can sometimes get carried away with  
23 the use of the word "school". There were 70 boys.  
24 There were two classes. There were a massive amount of  
25 different needs that had to be met within the school,

1 but then within the home itself those needs became  
2 totally different, because there was no structure, and  
3 structure had to be imposed.

4 If one looks at what one now knows about what ought  
5 to be done and looks at the life of BR10, BR10 was  
6 a teacher. He was asked to give up his life as a  
7 teacher to come to Rubane. He was asked to do that  
8 quite simply because the Brother who had initially  
9 agreed was coming towards retirement and declined. His  
10 function, therefore, within the home was to achieve what  
11 everyone now would recognise as significant and  
12 important. That is when boys are deprived of a family  
13 life, they learn as much from the socialisation with  
14 others in a background which is as normal as possible  
15 and involves skills such as sport, music, which elevate  
16 and lift the quality of life. That was his function  
17 within that home. He worked there for years, but it  
18 is never the life that he was prepared for, never the  
19 problems that he was qualified to meet, but like the  
20 other Brothers, what he brought not were qualifications  
21 but qualities as a human being, the qualities of  
22 decency, the qualities of a desire to improve other  
23 people's lives as best one could.

24 What I respectfully submit, when one comes to deal  
25 with all of this, the church not only let the children

1 down, but it let these Brothers down. The State not  
2 only let the children down. The State was willing to  
3 see burdens imposed on those who were unqualified to  
4 meet them, but they were meeting the needs of the poor  
5 in a secluded community in the country far away from the  
6 observation of the public eye, and they were meeting it  
7 at the cost which was minimal to the state.

8 What I respectfully would ask the Tribunal to  
9 consider -- the Inquiry to consider is when it comes  
10 along to men such as this, you have had the opportunity  
11 of seeing both these men. What I respectfully submit  
12 about BR2, almost years of age, there is a memoir of  
13 Elie Wiesel, who was in Auschwitz. It is a memoir. He  
14 said as he got older, every time he looked in the mirror  
15 he saw a young man looking back at him and asking the  
16 simple question, "What did you do with my life?" Each  
17 time I am sure BR2, BR10, BR3, BR25 and BR62 look in the  
18 mirror, they ask, "What did I do with that life I was  
19 given as a young man?", and for the last twenty years  
20 they have had the unenviable problem of facing the  
21 allegations against them. What it does in effect, when  
22 those allegations are false, it hollows out the meaning  
23 and value of your life. Every day may be precious, but  
24 every day reflecting, as BR2 had to do, at a trial in  
25 2011, and when he gave evidence, it was quite obvious he



1 was not able to go on, because they do question -- he  
2 was asked the question, "Looking back on it, what do you  
3 think?" "Well, I think I would have been happier if  
4 I had followed a different path". Undoubtedly he would.  
5 Undoubtedly that goes for the other Brothers that  
6 I represent, but a lot of children who did actually  
7 benefit from their time in Rubane, not because of the  
8 resources, but because of the commitment of the  
9 Brothers, would have been much worse. That is why the  
10 people who abused within this home not only betrayed the  
11 children, not only betrayed their sacred oath. They  
12 betrayed the 95% of Brothers who strove to fulfil their  
13 Christian obligation of justice and charity. They were  
14 able to use the cover of those who fulfilled their  
15 duties to perpetrate their acts, and in doing so they  
16 brought misery to lots of children who deserved better,  
17 and they have embroiled the other Brothers who served  
18 with distinction in a non-differentiated, unexamined  
19 belief that this abuse spread across virtually everyone  
20 that was involved, and facilitates, I respectfully  
21 submit, allegations being made which are false, and  
22 allegations can be false for many reasons other than  
23 sheer mendacity or malice. It is pointed out in our  
24 submissions there are lots of reasons why memories can  
25 be false, but the effect of those false allegations are

1 far beyond in terms of the consequences they have for  
2 those against whom they are made than the motive as to  
3 why they are made.

4 Ultimately what I respectfully submit is that the  
5 work of this tribunal is in many respects a healing one,  
6 and I believe -- I would ask the court -- the tribunal  
7 to consider that it should be healing for those against  
8 whom allegations have been made which are not justified.

9 Thank you.

10 CHAIRMAN: Thank you, Mr Harvey.

11 MR AIKEN: Chairman, Members of the Panel, the next  
12 submission is going to be on behalf of HIA147 and that's  
13 going to be made by a solicitor, Mr McAteer, who is  
14 present.

15 CHAIRMAN: Yes, Mr McAteer.

16 Closing submissions by MR McATEER on behalf of HIA147

17 MR McATEER: Chair and Members of the Inquiry, this is  
18 a submission on behalf of HIA147, HIA147, who did appear  
19 and give evidence at the Inquiry. Subsequently another  
20 person appeared, HIA21, who made a number of quite  
21 serious allegations against HIA147. A written  
22 submission has been put in and it is just a few brief  
23 points to outline that.

24 HIA21 gave evidence on 20th November last. He gave  
25 evidence that he had suffered abuse from HIA147 for

1 a period of approximately years. He had also given  
2 evidence that one of the houseparents had also troubled  
3 him, albeit with while quite serious but of a lesser  
4 nature than the complaints against HIA147. He made  
5 complaints to the Brothers about the houseparent and  
6 that houseparent . However,  
7 he made no complaints during a -year period to the  
8 Brothers against HIA147. He also in conclusion to his  
9 submission said that he had been very, very happy during  
10 his period in Rubane, which would seem to be somewhat at  
11 odds with the facts that he was outlining of the abuse  
12 that he had received. As I stated, a written submission  
13 has already been put in and this is just merely to  
14 emphasise some of those points. Thank you.

15 CHAIRMAN: Thank you, Mr McAteer.

16 MR AIKEN: Chairman, Members of the Panel, I see the legal  
17 representatives for DL1, who was in the  
18 school, present, and I believe Mr Taylor is going to say  
19 something by way of oral submission about DL1.

20 Closing submissions by MR TAYLOR on behalf of DL1

21 MR TAYLOR: Yes. Morning, Mr Chairman, Members of the  
22 Panel. We are in a similar position in respect of DL1,  
23 who has been designated as DL1. Submissions on behalf  
24 of DL1 have been reduced to writing. Subject to the  
25 views of the Panel, I don't intend to add any oral

1 submissions to what has already been reduced to writing.

2 It serves no new information.

3 CHAIRMAN: Yes. Very well. We do have the written  
4 submission to which you have referred, Mr Taylor. As  
5 I said earlier, we therefore are in a position to look  
6 at the detail contained in these. It is really to allow  
7 anyone such as yourself representing DL1 to have the  
8 opportunity to say what they wish in addition to that.  
9 So if there is isn't anything more you wish to say, we  
10 are quite content with that.

11 MR TAYLOR: No, Mr Chairman. Thank you.

12 MR AIKEN: Chairman, then Mr Fahy appears on behalf of BR77.  
13 He is nodding his head to me. So I think he is in  
14 a position to deal with his oral submission at this  
15 point, and I believe, subject to anybody correcting me,  
16 that will then bring the oral submissions to an end for  
17 the six individuals that are --

18 CHAIRMAN: Yes. Now, Mr Fahy, we are grateful to you for  
19 coming rather earlier than your allotted slot. It is  
20 a matter for you, but if you are ready to proceed with  
21 your submissions, we are certainly in a position to  
22 receive them.

23 MR FAHY: Mr Chairman, the only issue is that my instructing  
24 solicitor is on his way and will be hear imminently. If  
25 it wasn't testing anyone's patience unduly, my

1 preference would be to wait until his arrival. It  
2 should be within the next five to ten minutes, given the  
3 communications he has made to me.

4 CHAIRMAN: Certainly. We will rise for a few minutes and  
5 perhaps you would let us know when you are ready to  
6 start.

7 MR FAHY: Yes, of course.

8 (11.42 am)

9 (Short break)

10 (11.50 am)

11 Closing submissions by MR DES FAHY on behalf of BR77

12 CHAIRMAN: Yes, Mr Fahy.

13 MR FAHY: Mr Chairman, Members of the Panel, as you know,  
14 I have represented BR77, with the designation BR77, in  
15 the course of these proceedings. I have submitted  
16 an initial witness statement on his behalf. There has  
17 during the course of the Inquiry been written  
18 communications with Counsel to the Inquiry in terms of  
19 suggested written questions and issues, and finally you  
20 will have closing submissions that I have prepared in  
21 relation to BR77 and the totality of the evidence.

22 In keeping with the guidance of the Panel thus far  
23 I don't intend to rehearse those. What I hope to do in  
24 short order really is to draw on some of the themes that  
25 are present in all of the documentation that has been

1 presented to the Inquiry on BR77's behalf.

2 At the outset can I make it clear to the Panel, as  
3 it should be in terms of the level of engagement that  
4 there has been, that at all points throughout this  
5 process BR77 has cooperated fully. He has met through  
6 myself and my instructing solicitor all of the time  
7 limits set down in terms of the submission of written  
8 documentation. As the Panel will no doubt be aware,  
9 a level of engagement does not necessarily end with  
10 attendance at the Inquiry or the submission of written  
11 documentation. There have been many hours of  
12 consultation which take place outside of this Inquiry  
13 room. BR77's geographical situation has meant that he  
14 has had to travel on a number of occasions to consult  
15 with me, and a significant amount of work and time has  
16 gone into the submission of the written documentation  
17 that the Panel has and to the oral evidence that you  
18 heard.

19 Picking up on Mr Harvey's theme earlier this  
20 morning, you will no doubt recall the oral evidence of  
21 BR77 in terms of what he told you about the teacher  
22 training that he received at between  
23 and , and with the benefit of hindsight how wholly  
24 inadequate that was to prepare him for the life that was  
25 presented to him when he arrived at Rubane House. He

1 was someone who had been within the De La Salle Order  
2 since early teenage years. He had lived within that  
3 environment and within the same set of strictures and  
4 regulations that Mr Harvey referred to in relation to  
5 Brothers whom he represents.

6 Perhaps the most telling aspect of his evidence was  
7 his expressions of reluctance to his Superior to go to  
8 Rubane, because he himself realised in -- sorry --

9 that he was not prepared and had not received  
10 sufficient instruction for what lay ahead of him at  
11 Rubane House.

12 That may be echoed in the picture that emerges in  
13 relation to many of the other Brothers who were there,  
14 but it is certainly BR77's immediate experience, and  
15 everything that occurred during the years he was at  
16 Rubane House should in my respectful submission be  
17 properly viewed in that context. Perhaps if there are  
18 lessons to be learned at this remove or observations to  
19 be made at this remove, they might focus initially  
20 certainly on the lack of preparedness of many of the  
21 teaching Brothers for the dual roles that were expected  
22 of them not only as teachers but as carers for the boys  
23 and who were at that home.

24 Notwithstanding that a picture, I respectfully  
25 submit, has emerged of the many positive aspects that

1 BR77 brought to life for the boys at Rubane, and it  
2 appears clear from his oral evidence, and even in terms  
3 of evidence that was perhaps inimical to him, that he  
4 attempted to broaden the curriculum and to introduce  
5 a dimension to the lives of the boys that may well have  
6 been absent prior to their arrival at Rubane and may not  
7 have been provided by any other resource or educational  
8 establishment at the time.

9 You have seen photographs. There have been  
10 references to diaries, which indicate efforts that he  
11 made consistently to try to bring new experiences to  
12 those boys in terms of outdoor trips, in terms of  
13 sporting activities and competition, and my respectful  
14 submission is that that is a significant and positive  
15 contribution that he in conjunction with religious and  
16 non-religious staff attempted to bring to the boys.

17 Notwithstanding all of that, there is no attempt --  
18 and I make this clear in the written submission and  
19 repeat it -- there is no attempt to equivocate or to  
20 deny everything that flows from the convictions in 1981  
21 for the three assaults. I on behalf of BR77 wish to  
22 make it clear there is full acceptance of culpability  
23 for that and that matters that I raise either orally or  
24 in written submissions are an attempt to explain that  
25 behaviour, but not to excuse that behaviour. His



1 position remains that there was no repeat of that type  
2 of behaviour after 1981, and there were no instances  
3 where any sexual assault of any kind was perpetrated by  
4 him on any boy at Rubane.

5 One of the tasks that he faces or one of the  
6 challenges that he faces through my submissions to the  
7 Inquiry is the impact of a denial and on occasions  
8 attempts by him to prove a negative, that is to say,  
9 allegations that are made did not happen and he has no  
10 explanation as to why the allegations would be made.

11 Now on occasion the Inquiry has heard rebuttal  
12 evidence of his denials and I would ask the Inquiry to  
13 consider that in that context, because, like many others  
14 who face allegations before this Inquiry, which they  
15 deny, there is a grappling for an explanation as to why  
16 those allegations would be made, and if that is at times  
17 imperfect, again it is in the context of allegations  
18 which are denied by him.

19 At particular instances of my written submissions,  
20 and specifically at paragraph 16, but I am not going to  
21 read those into the record in oral submissions, but  
22 there are detailed observations in relation to  
23 inconsistencies in the evidence and patterns that emerge  
24 where allegations are made either on a piecemeal basis  
25 or not made consistently throughout interviews or

1        submissions to the Inquiry, and the Inquiry has that  
2        both in terms of the original witness statement and, as  
3        I say, at paragraph 16 of the final submissions that  
4        have been submitted to the Inquiry.

5            I would respectfully ask the Inquiry to consider and  
6        reflect on the evidence that it has heard in terms of  
7        specific allegations viewed against the observations  
8        that I have made on BR77's behalf in relation to  
9        inconsistencies and manifest difficulties at times in  
10       relation to the credibility of some of the allegations  
11       that were made.

12           BR77 through me understands that the Inquiry has  
13        a particular interest in the structures that persisted  
14        at Rubane throughout the time that he was there, and who  
15        have heard oral evidence from BR77 that I repeat in the  
16        written submissions of attempts that he made to report  
17        specific allegations that were made to him, and there  
18        was an awareness by him of a structure or a chain of  
19        command that existed within Rubane, and on at least one  
20        occasion you have heard evidence from him that he  
21        attempted to utilise that to the aid or the benefit of  
22        the boys who had come to him making allegations.

23           Finally, Mr Chairman and Members of the Panel, in  
24        the final paragraph of my submissions I set out the time  
25        frame within which all of this has occurred, because the

1           allegations that have specifically been made against  
2           BR77 have been a part of his life effectively since  
3           1980. So that means that they have been a feature for  
4           some 34 years. The convictions date from events in 1980  
5           that came before a court in 1981, and I would  
6           respectfully ask the court to take due account of the  
7           passage of time that has elapsed since then with no  
8           repeat of that scenario.

9           I have dealt with the impact and the significance of  
10          a denial or denials that are made. I would respectfully  
11          ask the Panel to take the view that the impact of one  
12          denial need not necessarily be diluted by the fact that  
13          it is repeated in respect of a number of allegations of  
14          either physical or sexual abuse.

15          He has continued to be the subject of RUC and PSNI  
16          inquiries throughout the period between 1980 and today  
17          and there have been no further prosecutions of him,  
18          despite the spotlight that has been shone on the  
19          allegations made to this Inquiry and allegations that  
20          were previously made against him in the course of those  
21          RUC and PSNI investigations.

22          Those are my submissions, Mr Chairman and Members of  
23          the Panel. Thank you.

24   CHAIRMAN: Well, thank you very much, Mr Fahy. Well, unless  
25          there is anyone else who wishes to make a submission on

1           behalf of anyone, that would seem to bring us to the end  
2           of this morning's proceedings.

3           We will sit again on Wednesday, which we anticipate  
4           will be the last day that we will devote to this module,  
5           when we will hear closing submissions on behalf of,  
6           amongst others, the De La Salle Order as opposed to the  
7           individual Brothers, whose submissions have been made  
8           this morning, and no doubt on behalf of others as well.

9           So until Wednesday morning at the usual time, ladies  
10          and gentlemen.

11         (12.10 pm)

12                         (Hearing adjourned until 10.00 am  
13                         on Wednesday, 17th December 2014)

14                                 --ooOoo--

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I N D E X

Closing submissions by MR ARTHUR .....5  
HARVEY, QC on behalf of BR2,  
BR3, BR10, BR25 and BR62

Closing submissions by MR McATEER on .....18  
behalf of HIA147

Closing submissions by MR TAYLOR on .....19  
behalf of DL1

Closing submissions by MR DES FAHY .....21  
on behalf of BR77