
HISTORICAL INSTITUTIONAL ABUSE INQUIRY

being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Wednesday, 28th May 2014

commencing at 10.00 am

(Day 40)

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

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A P P E A R A N C E S

On behalf of the Health & Social Care Board:

Ms Moira Smyth BL

Ms Eileen Finnegan, solicitor

1 Wednesday, 28th May 2014

2 (10.00 am)

3 Submissions on finance by COUNSEL TO THE INQUIRY (cont.)

4 CHAIRMAN: Good morning, ladies and gentlemen.

5 Mr Aiken.

6 MR AIKEN: Chairman, Members of the Panel, good morning.

7 When we paused last evening, we were in 1958. We had
8 just looked at a memo from the Secretary at the Ministry
9 of Home Affairs to the Minister, then Walter Topping, in
10 relation to Mr McAteer's second application, the 1958
11 application, for second track funding which was to the
12 welfare authority asking for money for both homes as
13 a grant under section 118(2), and the welfare committee
14 in the city of Derry had recommended nothing for Bishop
15 Street based on their examination of the accounts, but,
16 in fact, double for Termonbacca compared to what
17 Mr McAteer had asked for.

18 The memo that we looked at last evening had the
19 Secretary indicating that from his examination of the
20 material and based on the policy that operated from 1950
21 he recommended refusal on the merits unless it was
22 considered by the Minister politically expedient to
23 grant the approval.

24 There we stopped with the cliffhanger. I did
25 receive overnight from a core participant request for

1 advance notice of the outcome, which I refused, and
2 I note the television media have arrived today to hear
3 what happened, but the position before we look at
4 precisely what happened, two days after the minute that
5 went up to the Minister Mr McAteer submitted another
6 application directly to the Ministry of Home Affairs.
7 If we can look at SND-13588, please. This is of 24th
8 July 1958. So the memo we looked at last evening was
9 22nd. This memo of 24th makes an application to the
10 Ministry under section 118(1), so the first track of
11 funding, for a capital grant for the installation of two
12 new boilers at Termonbacca, which were expected to cost,
13 and we can see in the second paragraph, £1,000. In
14 today's money that's £20,000.

15 On 8th August Mr Jackson from the Ministry writes
16 back, indicating that further information is required,
17 and when that information has been provided, the
18 application will be forwarded to the Maconachie
19 Committee, which is the Training Schools and Children's
20 Homes Committee that we looked at the setting-up of
21 yesterday. So Mr Jackson's letter is at SND-13582 and
22 SND-13583.

23 What I intend to do this morning is pick up the pace
24 now we have the general framework and I am going to give
25 you, Members of the Panel, a number of references as we

1 go without pulling up all of the material that shows the
2 sequence of what occurred in terms of the development of
3 the policy, but if there are occasions when I am going
4 too quickly and there is a particular document you want
5 more time, if you can indicate that to me, then we will
6 pause.

7 So the memo has gone to the Minister about the
8 welfare authority stream of funding and this further
9 application has come in directly for capital grant
10 funding, and as that's being processed we don't have
11 documents that record the actual decision-making by the
12 Minister in respect of the welfare authority grant that
13 he was being asked to look at by the Secretary, but we
14 do know that on 12th August, so four days after
15 Mr Jackson has written back about the boiler funding, at
16 SND-12979 we can see the Ministry writing back to the
17 town clerk in the city of Derry. Just maximise that,
18 please. So the Londonderry County Borough Welfare
19 Authority writing to the Secretary there and indicating
20 that:

21 "I am directed by the Minister of Home Affairs to
22 inform you that, after giving the matter very careful
23 consideration, the Ministry has decided that
24 contributions under section 118(2) of the Act towards
25 the running expenses of a voluntary children's home

1 cannot properly be approved. It is accordingly
2 regretted that the approval sought by the welfare
3 authority in the present instance cannot be given."

4 Now that rejection was discussed by the Londonderry
5 County Borough Welfare Authority, by their committee on
6 2nd September. They note three points about it and they
7 refer the matter to the Northern Ireland Association of
8 Welfare Committees. If I can just give you the
9 reference, that's at SND-6000. That record they create
10 of their recommendation on considering matters appears
11 to have made its way back to the Ministry. That
12 reference is at SND-5999. Annotations from October 1958
13 on that document show the Ministry's thinking that the
14 Londonderry County Borough Welfare Authority would be
15 able to properly explain the reasons for the refusal to
16 the Northern Ireland Association of Welfare Committees
17 when it met.

18 The Welfare Committee then discussed the matter
19 further on 15th September 1958. That's at SND-12982.
20 On 16th September the clerk wrote to Mr McAteer
21 informing him that the grant couldn't be made and
22 providing him with the Ministry's letter of 12th August
23 of 1958. That's at SND-12978.

24 Then on 26th September Mr McAteer received a further
25 letter, this time from the Private Secretary at the

1 Ministry of Home Affairs -- if we bring up, please,
2 SND-6004 -- indicating that the matter had been looked
3 at -- looked into in detail. We can see the author
4 indicates that:

5 "The Ministry has come to the conclusion that the
6 payment of contributions toward the running expenses of
7 a voluntary children's home under section 118(2) of the
8 Act would be improper use of that provision."

9 They indicate:

10 "Incidentally a similar interpretation is placed by
11 the Home Office authorities on the corresponding
12 provision in their children's code.

13 Therefore, the Ministry has no alternative but to
14 withhold approval of the Londonderry County Borough
15 Welfare Authority's latest proposal in this connection."

16 Now we see a reply at SND-6003 from Mr McAteer on
17 30th September 1958. He in his letter, if we can bring
18 that up, please, SND-6003 -- you will see in the last
19 paragraph:

20 "All that is needed here is a right act of will."

21 He indicates:

22 "The public purse is on a very good bargain."

23 He says they are getting £12,000 of first class
24 welfare work for a mere £1,000. Now at this point in
25 time -- and it is part of the Ministry's thinking we

1 have not brought up -- there are still no welfare
2 authority children placed in Termonbacca.

3 So if we can just pause there on that issue, which
4 does get fleshed out a little more, but we move back
5 then to the boiler application that Mr McAteer began,
6 because --

7 CHAIRMAN: Not so fast, please. Yes.

8 MR AIKEN: Mr McAteer has received, as we saw, communication
9 from Mr Jackson looking for more material in order that
10 it can be given over to the Maconachie Committee, and on
11 foot of that Mr Maxwell then takes up the pursuit of
12 this grant in place of Mr McAteer, and on
13 2nd October 1958 at SND-5851 we can see him writing to
14 the Ministry, having taken up the application, and
15 replying to some of the points raised by Mr Jackson.

16 On 8th August -- and I am just going to give you the
17 references for this -- on 8th August Mr Jackson writes
18 back -- sorry. He is replying to Mr Jackson's letter of
19 8th August about the information that's required and
20 giving some further detail about the application.

21 That application in relation to the boiler then
22 moves through its technical stages, including through
23 the Ministry of Finance. So there is a lot of papers
24 about an analysis of what was being done and whether
25 that was necessary and appropriate, and those references

1 begin at SND-5850 and they go in reverse through to
2 SND-5838.

3 So that process is taking place when Mr McAteer
4 writes again on 3rd October about the welfare authority
5 grant that has been refused -- if we can look at
6 SND-6001, please -- and this is the reply to that letter
7 that we saw encouraging the will. It is giving
8 a detailed response from the Ministry as to the thinking
9 behind the refusal. You can see in the third
10 paragraph they have a debate about the content of
11 a passage in Hansard and then:

12 "The basic principle is that it is not the intention
13 to supplement the funds of voluntary homes by government
14 grants. It is hoped with the cooperation of the
15 organisers to use the facilities of voluntary homes
16 where long-term institutional accommodation is called
17 for",

18 and to complete the picture in the penultimate
19 paragraph of column 1871:

20 "It was hoped that the voluntary homes would
21 cooperate with the welfare authorities by using the
22 facilities provided by the authorities for boarding out
23 children in voluntary homes whose cases did not call for
24 long stay institutional accommodation.

25 In terms of finance these three aspects of the one

1 problem contemplate that while voluntary homes will
2 continue to be independent charitable organisations,
3 responsible for their own financial upkeep, a welfare
4 authority will pay a home for the maintenance of any
5 child accepted by the home from the welfare authority
6 for institutional accommodation and conversely will take
7 over and pay the cost of boarding out any children in
8 voluntary homes who in the opinion of the managers would
9 be better boarded out than indefinitely sequestered in
10 an institution. It is to be regretted that more use has
11 not been made of this last mentioned practice, which
12 might have reduced the strain upon their accommodation
13 and funds, at times felt by some of the homes.

14 The use of section 118(1) is in a rather different
15 category and should not be confused with the 118(2)
16 welfare grants that we were looking at. The Minister
17 here is charged with the duty of ensuring that certain
18 physical standards", which might be including qualified
19 staffing to take an example of babies' home, "are
20 maintained in voluntary homes. If a home cannot
21 maintain or reach those standards, it is the duty of the
22 Ministry to withdraw its certificate of registration.
23 Many of the homes have been in existence for a long time
24 and to conform to the necessary standards major works of
25 improvement but not of increase of capacity or

1 replacement may be needed. Since Parliament has
2 recognised the value and place of these voluntary homes
3 in the general child welfare scheme, it is perfectly
4 logical for Parliament to provide in section 118(1) that
5 where the financial circumstances were such that the
6 home could not from its own resources cope with the full
7 cost of conforming to the standards, assistance could be
8 given from government funds and therefore indirectly in
9 part from local funds under the cost-sharing principle
10 to avoid the regrettable alternative of the withdrawal
11 of registration and so the loss of facilities provided
12 by the home. It is quite obvious in this connection
13 that contributions of this kind should be made only from
14 one source and that individual welfare authorities
15 cannot be allowed to duplicate or supplement assistance
16 given by the government after full review of the needs
17 of the case. All grants made under section 118(1) have
18 been made in strict conformity with the principles
19 enunciated above.

20 Having very carefully reviewed the subject and
21 having reached the conclusion indicated, the Ministry,
22 as the Private Secretary indicated in his last letter,
23 made inquiry of the Home Office, which administers a
24 provision in the English" -- please scroll down -- "in
25 the English Act couched in identical terms as to the

1 interpretation placed by the Department on the English
2 provision and it was ascertained that the interpretation
3 in England was exactly the same as that reached
4 independently here.

5 The small grant earlier approved cannot be taken as
6 a precedent" -- that's the first grant that we saw of
7 £250 in 1957 -- "since it was approved before the recent
8 intensive re-examination of the intention of the Act had
9 been made.

10 I hope this rather long letter will make the
11 position out to -- make the position clear to you and
12 that you appreciate the substantial grants already made
13 under section 118(1) to several homes, including
14 Termonbacca, are adequate proof that the will to help
15 where such help is within the structure of the Act is by
16 no means wanting."

17 You can see that's written by Mr Duff, who is
18 described as the Assistant Secretary at that point in
19 time. There ends the issue over this section 118(2)
20 application, but -- and I will give you at the end the
21 references for it -- you will recall that in 1957 the
22 application from Bishop Street came under the Welfare
23 Services Act, and although it was referring in
24 Mr McAteer's application to both old people and
25 children, that grant was given and it continued to be

1 given every year thereafter to Bishop Street, and, in
2 fact, when we get into the Board territory post-'73, we
3 will see it continuing to be given. The provision in
4 that Act is obviously different from what we are
5 concerned with in section 118(2).

6 So we then go back to the boilers at Termonbacca
7 that Mr Maxwell has taken up. There is a detailed memo
8 from Mr Jackson of 29th December 1958 where -- and it is
9 at SND-5836 and SND-5837. I am not going to spend any
10 time on it, but Mr Jackson analyses the application --
11 if you want, you can bring it up on the screen for me
12 just so it is there -- analyses the application, having
13 received the technical reports from the Ministry of
14 Finance on costs.

15 If we just scroll down to the next page, please,
16 just at the end he indicates that -- he raises the same
17 issue about the financial need issue and about the wider
18 organisation and their funds and accounts and says:

19 "Were this an ordinary, straightforward case the
20 next step would be to refer it to the Children's Home
21 and Training Schools Committee", so the Maconachie
22 Committee, "for their advice, but the fact that general
23 financial assistance has been provided by the Minister
24 -- by the mother house in the past suggests that the
25 Ministry should now ask Mr Maxwell if there's any reason

1 why the entire costs of the new scheme should not be met
2 out of the funds at the disposal of the mother house."

3 So he is signalling, "We could send the application
4 on were it not this -- about this issue suggesting that
5 there isn't the financial need", which is the principle
6 that the Ministry effectively applied.

7 Mr Alexander then takes that up and writes to
8 Mr Duff on 31st December. That's a memo at SND-13562.
9 This is as handwritten memo, and I am just going to
10 summarise it at this stage. It is at SND-13562 and goes
11 on to the next page at SND-13563. So he looks at the
12 technical aspects of what the legislation could cover
13 and the issue of financial need and then suggests
14 writing to -- if we just scroll down, please -- just
15 stop there -- he suggests writing:

16 "From an examination of the accounts and the home --
17 of the home available to the Ministry it is not apparent
18 to the Ministry that the St. Joseph's authorities are
19 prevented by lack of funds from meeting the whole of the
20 cost of this work. If, however, any special
21 circumstances exist which in the opinion of the home
22 authorities justify financial assistance from the
23 government, the Ministry will be prepared to consider
24 these in relation to the question of grant."

25 So having carried out the same analysis, looking at

1 the accounts, taking the view that this will be paid for
2 by the mother house, this is his suggestion as to how it
3 should be dealt with, and he says, and you can see at
4 the bottom:

5 "The financial position of the home is too vague at
6 the moment to send the papers to the Maconachie
7 Committee."

8 If we just -- scroll up for me a little, please,
9 just to the top -- bottom of the page before. Yes.
10 Just stop there. We see him recording a discussion
11 again about trying to get the accounts from the mother
12 house and he is recording that:

13 "... couldn't be established 100% to our
14 satisfaction unless we could see the accounts of the
15 organisation as a whole and discover the true financial
16 relationship between the central organisation and its
17 member homes. Messrs McGlade", who I think is
18 a political representative in the Republic of Ireland,
19 "and [REDACTED] and [REDACTED] BR 39", so that's [REDACTED] BR 39
20 [REDACTED] BR 39 of De La Salle, who is based in St. Pat's, "told
21 us recently that there was no hope of getting this."

22 How those individuals were aware of the position --
23 perhaps it was because application had been made in
24 England, perhaps they were made in the Republic of
25 Ireland as well, but it was being indicated that the

1 congregation won't change its position on not providing
2 its accounts.

3 Now on 8th January of 1959 Mr Duff then writes
4 a memo arising from what was written to him and that's
5 at SND-13559. He writes to the Secretary in the
6 Ministry. If you just maximise that for me, please. He
7 talks again about the policy of taking the finances of
8 the whole organisation into account. You will see in
9 the second -- third paragraph down he says:

10 "But I am convinced that the work will be done
11 whether we contribute or not and that in the end will
12 not deprive the children of one crust from their daily
13 rations."

14 Then he says:

15 "I think the Nazareth Order has already done very
16 well indeed from section 118(1)and I shouldn't -- and
17 I should be extremely reluctant to recommend any grant
18 in this case.

19 As Mr Alexander says in his minute, the question
20 resolves itself simply into whether we are to have our
21 future policy as ..."

22 CHAIRMAN: I think that's "to base our future policy".

23 MR AIKEN: My apologies.

24 "... to base our future policy", I think that might
25 be, "on the [something] local -- on the local financial

1 position of ..."

2 CHAIRMAN: It might be "on the invisible local financial
3 provision".

4 MR AIKEN: "Ostensible".

5 "... of the ostensible local financial position of
6 Nazareth establishments ..."

7 CHAIRMAN: "These Nazareth establishments", perhaps.

8 MR AIKEN: "... (in which case we shall permanently continue
9 to pay grants) or whether we are to take into account
10 the total resources of the order which we shall never be
11 able to ascertain but which we surmise are very ample"
12 or "suspect are very ample."

13 Now just pausing there, he makes this comment about
14 the Nazareth Order having already done very well indeed
15 from section 118, and in fairness to him what he is
16 referring to, we looked at yesterday the records showing
17 the amount of grants given between 1955 and 1958. If we
18 just look at that, please, SND-5800. Overnight I did
19 some analysis just to understand what he might have been
20 referring to.

21 When you take all of the grants between --
22 essentially one goes back early to 1951, but up to this
23 point in time in 1958 a total of £47,050 had been
24 awarded in capital grants amongst and we know from
25 yesterday there were twenty voluntary homes at this

1 point in time.

2 Now of that 47,000, which in today's terms is
3 £961,000 --

4 CHAIRMAN: I am sorry. Not so quickly.

5 MR AIKEN: I am sorry. So the total of grants awarded as
6 recorded on this sheet up to 1958 is £47,050, which
7 equates in today's terms to 961,000.

8 CHAIRMAN: That's to all the voluntary homes?

9 MR AIKEN: To those who are of the twenty --

10 CHAIRMAN: On the list.

11 MR AIKEN: -- on this list. There are essentially six homes
12 who receive money out of the twenty. Of the £47,050
13 total the Nazareth homes received £32,980.

14 CHAIRMAN: What does that equate to in modern -- present day
15 terms?

16 MR AIKEN: £674,000. The two other homes that received some
17 funding, we can see them listed, Glendhu and Manor
18 House, and Glendhu get some staff costs, as did Nazareth
19 Lodge on the next page. They received between them
20 £14,070, which in today's terms was 287,000.

21 So breaking that down into percentage terms, the
22 Nazareth Order up to 1958 had received 70.1% of all
23 grants given to voluntary homes.

24 The other point that comes out of the various
25 documents that we have looked at, and I haven't

1 highlighted it as we have gone for reasons of speed, but
2 the Ministry draws attention to the fact that there are
3 voluntary organisations like Dr Barnardo's, for
4 instance, who never receive any voluntary funding.

5 Now if we look again at Mr Duff's memo at SND-13559,
6 he makes another point, that he is convinced that the
7 reality of the position is that this work will get done
8 anyway and it won't deprive the children, in his
9 language, of a crust from their daily rations. This is
10 being written in January '59. In fact, he doesn't know
11 this, but he is right. The work was actually completed
12 the previous November. We can see that at SND-13561.

13 So:

14 "The Reverend Mother showed us over the premises.
15 Central heating by oil installed last November is
16 a great asset to the home."

17 That arises from an inspection that was carried out
18 a month after Mr Duff's memo, but it is recording what
19 was told to the inspectors as to when the system was
20 installed and operational.

21 Now his memo -- then the Secretary writes to them or
22 records at SND-13560, please -- on 20th March 1959 there
23 is a memo from the Secretary to Mr Duff recording:

24 "I have now discussed this case with the Minister
25 and he agrees that we should try to draw the Order on

1 the lines suggested in Mr Alexander's minute of
2 31st December 1958."

3 Then it records there is going to be a visit from
4 the Home Office:

5 "... and we are going to raise this subject with the
6 Home Office about their policy in relation to similar
7 grants in Great Britain."

8 So the Ministry has already found out the Home
9 Office's policy on the section 118(2) grants by welfare
10 authorities and they are now signalling when the Home
11 Office visit, they are going to try to find out how they
12 deal with the capital grants under section 118(1).

13 CHAIRMAN: Just if we go back a little,

14 Mr Alexander's minute of 31st December '58, did that
15 include a suggestion that the Ministry try and find from
16 the Order what its overall financial position was as
17 opposed to the local accounts?

18 MR AIKEN: Yes. Now then on 25th March 1959 at SND-13554
19 the Ministry reply to Mr Maxwell, on the direction of
20 the Minister, referring to the application and the
21 Ministry indicating in paragraph 2:

22 "The Ministry must be satisfied among other things
23 that the home in question is prevented by lack of funds
24 from meeting the cost of improvements, etc, from its own
25 resources. In determining this question in this case

1 where the application is in respect of one of a number
2 of homes run by a voluntary organisation, the Ministry
3 desires to take into consideration the resources of the
4 organisation as a whole and it will accordingly be
5 necessary for the Ministry to be informed of the
6 financial position of the Order of the Poor Sisters of
7 Nazareth. I am accordingly to request you to be good
8 enough to obtain and to furnish for the Ministry's
9 information accounts for the past two or three years,
10 which will clearly reveal the resources of this
11 organisation as a whole, and a statement from its
12 headquarters explaining the exact financial relationship
13 existing between the central organisation and its member
14 homes or other establishments."

15 If you scroll down, please:

16 "On receipt of this data your application will be
17 given further careful consideration."

18 I am not going to bring it up, but on the same date
19 -- and just for the record at SND-13557 -- Mr Alexander
20 also writes to the Home Office identifying the problem
21 and asking for the Home Office's approach to dealing
22 with it.

23 On 1st April 1959 at SND-13553 Mr Maxwell writes
24 back indicating that he has referred the matter to the
25 congregation, but he also points out the difficulty as

1 he sees it. He says:

2 "I have sent a copy of the letter to the Reverend
3 Mother of the home concerned ... I think, however, it
4 may be most difficult to have the matter attended to
5 exactly in the way you wish as the Sisters of Nazareth
6 are a worldwide organisation. However, I will see what
7 can be done particularly on the lines as set out in the
8 third paragraph of your letter, which would indicate
9 a general statement rather than a detailed one."

10 On 8th April -- and I am not going to bring this up
11 -- but at SND-13556 the Home Office indicate they are
12 going to come and visit and the matter will be
13 discussed.

14 Then on 10th April Sister Placidus, if we look at
15 SND-13552 -- so it is "Mother Vicareess" but signed
16 "Sister Placidus":

17 "With reference to the recent appeal for grant made
18 to you by St. Joseph's Home, Termonbacca" -- so this
19 seems to come from Hammersmith itself --"towards the
20 cost of improving the heating installation at these
21 premises and your letter to Mr Maxwell, we wish to state
22 that each separate community of the Order of Nazareth is
23 expected to support itself. These houses are situated
24 in different parts of the world and are independent
25 financially of the mother house, except in cases where

1 an individual branch house may be in debt. When this
2 occurs, the mother house may give a loan which is
3 expected to be repaid as soon as possible. The mother
4 house of the order is chiefly concerned with the
5 spiritual supervision."

6 In fact, this may be -- it is not clear from the
7 top -- it may come from Termonbacca itself rather than
8 from Hammersmith, but we can check that.

9 Now that's the position that's being set out. I am
10 not going to bring them up, but when we look at
11 inspections -- some of them will come up as we go for
12 other reasons -- but you are aware that, in fact, it
13 appears that Hammersmith did have control over finances,
14 because permission had to be sought and given for a shed
15 to be built, cattle to be sold, tractor to be replaced
16 and ultimately for the major building works that we come
17 to in Termonbacca.

18 The Ministry then writes back on 13th April at
19 SND-13550. It acknowledges the letter and refers to the
20 letter to Mr Maxwell and asks:

21 "... to be furnished with accounts for the past two
22 or three years, which would clearly reveal the resources
23 of the organisation as a whole, and I am to enquire
24 whether the Ministry may in due course expect to receive
25 these documents."

1 You will see, in fact, the letter from Mother
2 Vicaress does come from Hammersmith. So this is the
3 Ministry of Home Affairs writing to the mother house in
4 Hammersmith asking when they can expect to receive the
5 accounts.

6 Now the next day, following this letter at
7 SND-13547, Mr Alexander writes a long note. It is
8 shorter than I remember, but he records a discussion
9 that he's now had. He's obtained a note from the Home
10 Office as to their policy in making grants to voluntary
11 organisations.

12 "Their authority refers to their Children's Act. It
13 is the same as ours. In GB financial need must be
14 established and where the application is in respect of
15 one of a number of homes run by a voluntary organisation
16 the resources of the organisation as a whole must be
17 taken into account."

18 Then he says this:

19 "Marks of the Children's Department, who was my
20 correspondent, ends his letter as follows:-

21 'I understand that we have had several applications
22 in the past for grants to Nazareth Houses, but as we
23 have never', underlined -- just scroll down, please --
24 'managed to persuade them to produce accounts of the
25 Order, the applications have not been pursued'."

1 Now Mr Maxwell then takes up the issue again and
2 suggests a meeting at the Law Courts with
3 representatives from the Ministry. That meeting took
4 place on 14th May 1959 -- if we look at SND-13543,
5 please -- and we can see Mr Alexander's memo following
6 that meeting, and you can also see there are lots of
7 people within the Ministry who saw it after it was
8 written, and he indicates that he and Mr Jackson saw
9 Mr Maxwell.

10 "A lengthy discussion on Nazareth organisation
11 developed ..."

12 He said:

13 "I doubt if Mr Maxwell or indeed any of the people
14 in the local Nazareth homes are fully aware of the
15 set-up, financial and otherwise, of the central
16 organisation. It was clear, however, that the central
17 organisation does exercise considerable administrative
18 control over the satellite homes. Mr Maxwell quoted one
19 instance where in the early days of St. Joseph's the
20 organisation of the home had become extremely defective,
21 misappropriation of home funds by members of staff, etc,
22 and the central organisation stepped in with very
23 drastic action, including discharge of employees."

24 Now we have no documents as to what that's about.

25 "On the financial side Mr Maxwell said that while

1 each separate home was expected to stand on its own feet
2 financially, the mother home in London would -- could
3 and would help with cash advances in years in which
4 local income was inadequate. We told Mr Maxwell that we
5 were already aware of these finances from an examination
6 of the accounts of St. Joseph's, in which the
7 transactions appeared as loans and that as far as we
8 could see no attempt was being made to repay.

9 Mr Maxwell explained this by saying that the home
10 would be told that these advances were not to be
11 regarded as out-and-out grants and that the mother house
12 would expect repayment if the resources in any year
13 would permit of this, eg if they got a substantial
14 legacy."

15 In fairness we do see there is one council note
16 where £1,000 was being paid back towards payments that
17 have been received from Hammersmith.

18 "I told Mr Maxwell that all the information he had
19 given us merely confirmed in my mind the rightness of
20 the Ministry's attitude in insisting that for purposes
21 of determination of financial need the resources of the
22 organisation as a whole should be taken into account and
23 that as far as the Ministry was concerned, the matter
24 must be regarded as resting with the Ministry's request
25 for a sight of the accounts and balance sheets of that

1 organisation.

2 I mentioned that in England the Home Office took the
3 same line and that, in fact, no grant had ever been paid
4 to a Nazareth home there, because the Home Office had
5 never managed to persuade the central organisation to
6 produce accounts.

7 My impression is that Mr Maxwell felt he had no case
8 to press if we were going to regard the organisation as
9 a whole for grant purposes and he left us saying that he
10 would return to Derry, inform the local people of his
11 discussion with us and tell them that he thought they
12 had better step up their efforts locally to raise
13 money."

14 You can see from the annotations on the side that
15 Miss Wright, Miss Forrest see this as well as others
16 and:

17 "This may now be", I think that's, "filed pending
18 any ..."

19 CHAIRMAN: I suspect it means "put aside".

20 MR AIKEN: "Put aside."

21 CHAIRMAN: "Pending any further ..."

22 MR AIKEN: "Move."

23 CHAIRMAN: "... move by the Nazareth people."

24 In other words, the Ministry's view is the ball's in
25 their court.

1 MR AIKEN: Yes.

2 CHAIRMAN: That's what it would seem to me.

3 MR AIKEN: Yes. If we scroll down, please, we can see
4 a series of further -- just stay, please, at the
5 handwritten annotations. Thank you. You can see that
6 a view is expressed I think by Mr Duff that --

7 CHAIRMAN: I think it says:

8 "My forecast is that we shall hear no more about
9 grants to Nazareth establishments in Northern Ireland."

10 MR AIKEN: Yes. As we will shortly see, that forecast was
11 wrong, and the matter was dealt with slightly
12 differently. So the effect of that was that in -- by
13 the end of 1959 the two applications that run along the
14 first two tracks of capital grant under (1) and through
15 the welfare Authority under (2) were both declined, but
16 the other avenue to make grant to Bishop Street under
17 the Welfare Services Act through the welfare authority
18 via the Ministry of Finance and local government did
19 happen.

20 Now the picture then moves to 1964, not because
21 there might not be other material and similar
22 applications may or may not have been made, but we don't
23 have any that show that happening, but we do have this
24 issue coming to the fore again in 1964, because you will
25 recall the questionnaires are completed for the Child

1 Welfare Council. Bishop Street indicates its resources
2 are satisfactory, but Termonbacca indicates that it
3 would like to do something and like to rebuild or
4 provide better accommodation, and I am not going to
5 bring them up, but those two references again are at
6 SND-7801 for Bishop Street answering questions 18 and 19
7 in the negative and Termonbacca at SND-7808 answering
8 them in the positive.

9 Now that form that was completed by the Sisters of
10 Nazareth in Termonbacca may have been completed at a
11 council meeting of the same date, because if we look at
12 SND-15254, we can see that this note indicates:

13 "The council met and voted to pay the bills. Since
14 our last meeting Mother General has granted permission
15 to erect a building for the boys at the cost of £25,000
16 and also granted permission to transfer £3,000 on
17 deposit and to transfer £1,000 from the farm to",
18 a different account, "to help for proposed building."

19 So you can see as another example the degree of
20 control from Hammersmith in terms of finance and, as we
21 saw last week, on 4th February 1964 Dr Simpson and
22 Ms Hill had visited, and the record of the foundation
23 book showed discussions about the building project and
24 about expressing a view that they would talk at Stormont
25 about a grant for the project. That's at SND-18258.

1 In June 1964, and just in passing, because I didn't
2 give you this when we were looking at it on the last
3 occasion, at SND-14255 the Mother General is recorded as
4 having given permission to build a farm shed and
5 pointing out that a third grant will be available from
6 the Ministry of Agriculture. So there was grants coming
7 because the farm was a normal operating farm.

8 Then we have on 1st July 1964 the then Minister of
9 Home Affairs, Bill Craig, prepares a detailed memorandum
10 for the Cabinet -- if we look at, please, SND-6017 --
11 and this is to do with the mooted building project at
12 Termonbacca, and you can see he says:

13 "An approach has been made to my Department for
14 a grant towards the cost of major improvement at St.
15 Joseph's, Termonbacca. It's a registered voluntary
16 home, 90 boys. The present standards of accommodation
17 at this home fall considerably below what my Department
18 would regard as desirable in a home for deprived
19 children and major improvements could certainly be said
20 to be necessary. No plans of the proposed improvements
21 have yet been prepared, but a figure of £50,000 has been
22 mentioned as a possible cost involved."

23 In the council book it was 25,000, but:

24 "Under section 118 my Department is empowered,
25 subject to the Ministry of Finance, to pay grants

1 towards expenses incurred by voluntary organisations in
2 improving the premises or equipment of voluntary
3 children's homes or in providing qualified staff. Apart
4 from such grants, the voluntary homes are financed
5 entirely by voluntary efforts except insofar as they
6 accommodate children who are in care of welfare
7 authorities ..."

8 Now at this point in 1964 you have a small number of
9 children who are placed in Termonbacca by the welfare
10 authority:

11 "... for whom they charge a weekly maintenance rate.
12 Voluntary homes are subject to inspection by my
13 Department and have to be conducted in accordance with
14 regulations made by the Department. Before paying
15 grants from public funds to voluntary homes it's been
16 the practice of my Department to satisfy itself that
17 there's a real financial need and that the home in
18 question is unable to meet the cost of necessary
19 improvements from its own resources.

20 A serious difficulty arises in attempting to apply
21 this test in the present case. While it is clear from
22 the accounts that St. Joseph's cannot finance the
23 proposed improvements from its own immediate resources,
24 the home cannot with certainty be said to be entirely
25 independent, since it is under the auspices of the Order

1 of Nazareth, a worldwide foundation with headquarters in
2 London. St. Joseph's is known to have received
3 substantial contributions" -- he gives examples in '53
4 to '57 -- "from these headquarters. On learning of
5 these contributions" -- scroll down, please -- "in
6 connection with a previous application for grant" -- so
7 that's the boiler application that we have looked at
8 from 1958 -- "my Department sought details of the
9 financial position of the Nazareth Order as a whole, but
10 was informed that the Order requires each of its member
11 houses to be self-supporting and will make payments to
12 them only when they are in serious financial
13 difficulties. It was explained that the payments are
14 loans and the mother house expects them to be repaid,
15 although, in fact, St. Joseph's has not so far made any
16 repayments. No details of the financial position of the
17 Order were forthcoming and it is extremely unlikely that
18 the Order would disclose such details to my Department.

19 In Great Britain the legislation on this point is
20 similarly worded and my Department understands that in
21 connection with applications for grant from homes of the
22 Nazareth Order in England and Wales requests for details
23 of the accounts of the Order as a whole have been made.
24 These details have not been forthcoming and the
25 applications have not been pursued. In Scotland,

1 however, grants have been made to homes of the Nazareth
2 Order and assurances that the homes are required to be
3 self-supporting have been accepted, though it has been
4 hinted that a more restrictive approach may be necessary
5 in future. These differences may be regarded as
6 reflecting the different roles of voluntary children's
7 homes in various parts of the United Kingdom. The
8 proportion of homeless children cared for by voluntary
9 organisation is very much higher in Northern Ireland
10 than in Great Britain and is rather higher in Scotland
11 than in England and Wales.

12 I should point out that the waiving of the strict
13 needs test in this case, ie by reference to resources of
14 the Order as a whole, could conceivably give rise to
15 difficulty in resisting claims from other multi-home
16 voluntary organisations, such as the Salvation Army,
17 which may have ample funds available at headquarters and
18 could possibly constitute a source of embarrassment to
19 other Departments in their consideration of any
20 financial aid to be given to bodies with close religious
21 affiliations. On the latter point in particular
22 I welcome the views and assurances of my colleagues.
23 Any further requests for details of the financial
24 position of the Nazareth Order as a whole will
25 undoubtedly be refused, as in the past, and to deal with

1 the applications for grant in this way would be
2 tantamount to outright refusal. While such refusal
3 would be a quite proper exercise of the Ministry's
4 discretion" -- please scroll down -- "I feel that in
5 deciding the issue, due weight should be given to the
6 following considerations:

7 (1) Relatively much greater reliance is placed on
8 voluntary homes in Northern Ireland than in other parts
9 of the United Kingdom.

10 (2) That in the special Northern Ireland
11 circumstances it could safely be assumed that quite
12 a large number of the children voluntarily accommodated
13 in homes like Termonbacca would, if these homes were not
14 available, have to be accommodated at much greater
15 expense by the welfare authorities.

16 (3) That there is no doubt that the children in
17 this home have at present an undesirably low standard of
18 accommodation and there is at the very least no
19 guarantee that the right sort of improvements or indeed
20 any improvements will be made if there is no possibility
21 of grant aid.

22 (4) That the role of voluntary organisations in the
23 child care field is at present under consideration by
24 the Child Welfare Council. In addition, there are
25 currently indications that Roman Catholic organisations

1 would be receptive to suggestions for introducing a more
2 enlightened and up-to-date approach in voluntary child
3 care. My Department would naturally wish to foster such
4 an approach and as far as possible would use the
5 availability of grant to achieve this. In view of these
6 factors I think it would be undesirable for my
7 Department to adopt what might be regarded as a negative
8 approach at the present time.

9 In all the circumstances I propose, unless my
10 colleagues foresee the possibility of embarrassing
11 repercussions in other fields, to refer the whole
12 question to the committee set up by my predecessor, the
13 late Judge Hanna, under the chairmanship of Miss Bessie
14 Maconachie, MP. The terms of reference of this
15 committee include the consideration of proposed
16 improvements or modifications of children's homes on
17 which the function of the committee is to advise the
18 Minister whether or not the circumstances appear to be
19 such as to call for special financial assistance from
20 public funds under the Act. The committee contains
21 representatives from the Child Welfare Council and the
22 local authorities."

23 Now the Cabinet met on 7th July 1964 and the agenda
24 for the Cabinet is at SND-6016, but this is discussed at
25 SND-6011. So this is the Cabinet meeting that takes

1 place on 7th July 1964. Just scroll down, please. We
2 can see all the Ministers are present. I wonder can we
3 try to make that -- the bottom section of the
4 page larger still, please, if that's possible, the
5 bottom section of page 2. I want to try to get --
6 that's excellent, but can you try to get all of the
7 annotation? If you take it back out. We have missed
8 a bit on the left side. Thank you. Thank you.

9 So the Minister introduces his memorandum.

10 "He explained the difficulty in grant aiding St.
11 Joseph's, where major improvement are needed, arose from
12 the fact that the home was not entirely independent,
13 since it was under the auspices of the Order of Nazareth
14 and had received financial assistance from the Order.
15 It had not been possible to obtain details of the
16 finance of the Order as a whole, and while it was clear
17 that St. Joseph's could not meet the cost of the
18 improvement from its own resources, the question now
19 posed was whether a grant could be made without the
20 financial position of the Order being obtained.

21 The Minister of Finance asked if St. Joseph's had
22 received any grants in the past and the Minister of Home
23 Affairs replied that a small grant for kitchen
24 improvement had been given in 1958" -- that's the very
25 first grant that was given -- "but no inquiries about

1 finances had been made.

2 The Minister of Agriculture enquired if St. Joseph's
3 could be regarded as being in a privileged position in
4 comparison with, say, Dr Barnardo's if they were
5 exempted from producing accounts. The Minister of Home
6 Affairs replied that if Dr Barnardo's asked for a grant,
7 they would be required to produce the accounts of their
8 organisation as a whole. To this extent St. Joseph's
9 would be in a privileged position if they were exempted
10 from producing accounts.

11 The Prime Minister asked if the government would be
12 considered to be acting unreasonably in requiring
13 St. Joseph's to produce details of their" -- and if we
14 can scroll down, please -- "details of their financial
15 position. The Minister of Home Affairs said that when
16 his Department had attempted to obtain details of the
17 financial position of the Order in the past, the
18 applications for grants had always been withdrawn. The
19 embarrassment which had now arisen resulted from the
20 practice of giving grants in the past without the
21 accounts being required. It was, however, now necessary
22 to decide on the policy to be adopted for the future.

23 The Minister of Home Affairs explained that in
24 England and Wales it was the practice to ask for details
25 of the accounts of the Order as a whole, but no details

1 were ever produced and the applications were not
2 pursued. In Scotland ..."

3 It refers to what's said in Scotland as per the
4 memo. The recognition that there was greater reliance
5 on the voluntary homes in Northern Ireland:

6 "The Minister of Commerce said he thought the
7 position of St. Joseph's was no different from that of
8 the De La Salle home in Kircubbin, for which it seemed
9 a grant had been refused. If the case of St. Joseph's
10 were referred to the Maconachie Committee, it was
11 possible that payment of grant might be recommended by
12 the committee and in that event the government would be
13 placed in an embarrassing position."

14 Now as it turns out, as we will see slightly later,
15 what the Minister of Commerce is saying there is, in
16 fact, wrong.

17 "The Minister of Finance said that as the amount
18 which is now required for St. Joseph's is substantially
19 greater than anything in the past, he felt that the
20 Minister of Home Affairs should make a further attempt
21 to obtain the necessary information about the home's
22 financial position. The Minister of Home Affairs
23 commented that it was likely that a further refusal
24 would be forthcoming. The Minister of Labour and
25 National Insurance observed that at least if the

1 information was refused, the government would be in
2 a stronger position politically.

3 A suggestion that as St. Joseph's accommodated
4 a number of children from Donegal, the amount of any
5 grant proposed should be in proportion to the number of
6 Northern Ireland children in residence was also
7 considered.

8 It was decided that the Minister of Home Affairs
9 should review the position in the light of the
10 discussion and refer the matter to a further Cabinet
11 meeting."

12 Now this memo was prepared by Bill Craig and Bill
13 Craig who was at the Cabinet meeting was the Minister of
14 Home Affairs. On 22nd July Bill Craig was replaced by
15 Brian McConnell as the Minister of Home Affairs, and he
16 prepared the next memo, the memorandum for Cabinet of
17 15th January 1965 at SND-6024. In this memo he corrects
18 a number of points that other Ministers had raised at
19 the last Cabinet meeting. He wants, first of all, to
20 refer his colleagues to his predecessor's memo and the
21 review that was sought:

22 "In putting the matter once more before my
23 colleagues I should like first to clarify some of the
24 points which arose during discussion.

25 In the first place my Department has at no time paid

1 a grant to a voluntary organisation ... without first
2 enquiring into the financial position of the home
3 concerned."

4 That's right, because the documents we have seen
5 showed the accounts being looked at:

6 "It was in the course of such an inquiry in the case
7 of Termonbacca that the availability of loans to this
8 home from the mother house of the Nazareth Order first
9 came to light. There has been no evidence of any
10 similar contributions from a parent organisation in the
11 case of any other applications for grants, including
12 those from other homes of the Nazareth Order.

13 I have looked at the comparison that was made
14 between this home and Dr Barnardo's. The latter
15 organisation has never, in fact, sought grants of this
16 kind from the Ministry and its financial arrangements
17 are entirely centralised. Individual homes belonging to
18 Dr Barnardo's are not required to be financially
19 self-supporting.

20 A grant has not been refused in respect of the De La
21 Salle Boys Home at Kircubbin. In August 1961 the then
22 Minister of Home Affairs agreed that an application on
23 behalf of this home should be referred to the Maconachie
24 Committee. It has not yet been possible to reach final
25 agreement on the form of development which will be the

1 subject of the application. Although the De La Salle
2 Order is worldwide, there is no reason to suppose that
3 it could or would provide financial assistance for this
4 particular home; the establishment of this home was
5 financed largely by means of a bank loan on which a debt
6 of more than £20,000 was still outstanding in 1959."

7 In later documents we will see, in fact, this has
8 been erroneously referred to, because there is actually
9 a management committee set up to control Rubane,
10 although it's being operated by the De La Salle Order.

11 "The number of ..."

12 Sorry. An independent management committee.

13 "The number of children from Eire in St. Joseph's
14 was also mentioned."

15 Reference is made to a survey carried out in 1957:

16 "... indicate that no more than 28% of the children
17 in the two Roman Catholic children homes in Londonderry
18 were of Eire origin."

19 He points out:

20 "This is, however, a two-way traffic. Roman
21 Catholic children under two years of age coming into
22 voluntary care in this area are cared for in Fahan. The
23 obligation on public authorities in Northern Ireland to
24 care for deprived children doesn't depend on the place
25 of origin. If the benefits available under the

1 Children's Act to deprived children resident in Northern
2 Ireland were limited to those who had been born in
3 Northern Ireland, it would also be difficult to defend
4 publicly and to administer.

5 As was proposed at the meeting of 7th July,
6 a further attempt has been made to obtain details of the
7 finances of the Nazareth Order, but the mother house has
8 once again firmly refused to supply such details. My
9 Department has once again been assured that the payments
10 previously made to St. Joseph's by the mother house are
11 indeed loans and that there is a stricter than legal
12 obligation to repay them in due course.

13 It was made clear in my predecessor's memorandum
14 that there is no doubt as to the urgent necessity of
15 radical improvements in the accommodation provided at
16 this home, but it might assist my colleagues'
17 consideration of the question if I pointed out that if
18 the case were referred to the Maconachie Committee and
19 whatever that committee might recommend, I would in no
20 circumstances contemplate a grant of more than 50% to
21 75% of the cost of the project. This will still leave
22 a substantial contribution to be raised voluntarily
23 either from local sources or from the mother house. Any
24 grant paid could thus be regarded as representing no
25 more than a fair share of the costs of providing

1 adequate support for children whose maintenance would,
2 but for the existence of this home, fall entirely upon
3 the welfare authorities in Northern Ireland.

4 I should accordingly be grateful if my colleagues
5 would consider this question again in light of my
6 predecessor's memorandum and these observations and
7 decide whether this application should be referred to
8 the Maconachie Committee."

9 The Cabinet met on 27th January 1965. Go, please,
10 to SND-6023. It was the sixth item on the agenda that
11 was discussed. We can see:

12 "Introducing his memo, the Minister of Home Affairs
13 explained that the Maconachie Committee had been set up
14 as a buffer between his Department and Parliament to
15 which applications for grant under the 1950 Act could be
16 referred.

17 The Minister of Finance suggested and it was agreed
18 that this particular case should not be referred to the
19 committee. The Minister of Home Affairs should offer
20 grant at the rate of 25% while offering to reconsider
21 the question if the authorities responsible for the home
22 would agree to release those details of the finances of
23 the Nazareth Order which had been sought."

24 We can see at SND-14258 on 16th March 1965 the
25 Sisters in Termonbacca record that Mr McAteer tells

1 the pages, but just for your note the city accountant
2 looks at the application, recommends the payment of the
3 £500 that was sought. That's at SND-13017. 1st March
4 the Welfare Authority approves it at SND-13018. It
5 appears that the Welfare Authority, though, was keen at
6 that point to understand -- and this is at SND-13024 --
7 how many residents from Londonderry were actually in the
8 home and whether any other welfare committee contributed
9 to these grants. Mr McAteer replied on 1st April 1965
10 at SND-13025. If we can just bring that up, please,
11 because it serves a wider purpose. It is SND-13025.
12 Just maximise that for me, please. He indicates there
13 is difficulty about the figures, particularly for the
14 children. Gives the figures for Bishop Street. Then he
15 says:

16 "As to Termonbacca only ten were born within the
17 borough, but about thirty others are born of Derry City
18 mothers."

19 So that indicates perhaps -- SND228 was referring to
20 mother and baby homes, and it perhaps indicates what was
21 happening where illegitimate children were concerned.

22 He then says:

23 "A further number are thought to be attributable to
24 Derry City fathers, but statistics do not carry us any
25 further."

1 Then he says:

2 "There is no other welfare committee makes a grant
3 to either home."

4 Just for the record -- I am not going to bring it
5 up -- the town clerk on 30th March 1965 wrote to the
6 Ministry seeking approval -- SND-13023 -- and on
7 2nd April 1965 the Welfare Committee itself resolved to
8 request that, while it had decided to approve the grant,
9 subject to the Ministry, it decided to write to Tyrone
10 and Londonderry County Welfare Authorities asking them
11 to join in the contribution.

12 We have only a response from one at SND-6071 on 10th
13 April 1975 -- perhaps we could bring that up, because it
14 serves a wider purpose -- Londonderry County Welfare
15 Authority. We can see towards the bottom of the page --
16 in fact, just if you maximise that small portion at the
17 bottom beginning "Grant". Yes. Just there, please.
18 They have got a letter from the Londonderry County
19 Borough Welfare Authority stating that, subject to
20 Ministry approval, they proposed giving a grant and
21 asking about, because only a proportion of the residents
22 in both homes emanated from Londonderry City and no
23 other welfare committee makes a grant, Londonderry
24 County should consider joining the city authority in the
25 making of these grants.

1 Londonderry County resolves to inform Londonderry
2 City that, as county cases admitted to these voluntary
3 homes are paid for on the basis of the agreed standard
4 charge levied, committee is not in favour of making
5 a revenue grant.

6 It may turn out as we look across Northern Ireland
7 when we look at other homes in later modules that the
8 practice of what Mr McAteer was attempting to do may
9 turn out to be unique to the Londonderry County Borough
10 or the City Welfare Authority in asking them to make
11 a grant of this type. Unfortunately there is no
12 material to let us see what the outcome of this was,
13 although to the extent that one can safely speculate
14 from silence it is clear from other material which
15 I will be flagging up to you at the end that, as I said,
16 the Bishop Street grant via Welfare Services Act did
17 continue and this is the last example of this type of
18 application for Termonbacca.

19 So it's a matter for you, but it is possible this
20 was the last time this was attempted by Mr McAteer, and
21 presumably if the consequences were that it didn't
22 succeed, then it stopped as an avenue.

23 Now that takes us back to the rebuilding of
24 Termonbacca, and when we broke, we had looked at the
25 Cabinet position of writing, saying, "Well, you can have

1 25%. If you give us the accounts, we will look at it
2 again".

3 On 29th September 1966 then Minister McConnell, if
4 we look at SND-6031, please, produced another detailed
5 memo for Cabinet. It essentially dealt with his
6 proposal to abolish the Maconachie Committee and also
7 with his recommendation for a substantial grant to be
8 made to the De La Salle home at Rubane and explaining
9 why their position was different from the Nazareth
10 Order.

11 So if we can just look at that, please. If we can
12 just maximise this even more, please, and then just
13 scroll down as it is read. If you just maximise the
14 first half even. Thank you.

15 So he raises first the question relating to the role
16 of the Maconachie Committee. He says:

17 "I have been reviewing the position of the committee
18 in light of recent developments, particularly the
19 Cabinet decision that the Termonbacca grant should not
20 be referred to it and the recent report on the role of
21 voluntary homes by the Child Welfare Council."

22 That's the fourth Child Welfare Council report that
23 we have of 1966.

24 "I have come to the conclusion that applications for
25 grant should no longer be referred to this committee.

1 In reaching this conclusion I had in mind particularly
2 the facts:

3 (1) that the committee had not met for more than
4 five years;

5 (2) that it is not really in a position to gain such
6 experience of the problems involved as to give its
7 recommendations real weight and value;

8 (3) that it has no statutory basis and no right of
9 entry to the establishments it is supposed to visit;

10 (4) (as was recognised in the Termonbacca case) that
11 it is always a possibility that such a body could make
12 embarrassing or unacceptable recommendations; and

13 (5) that the final responsibility in these matters
14 is laid firmly by statute on myself and my department
15 (subject to the consent of the Ministry of Finance).

16 In view of the earlier discussions I thought it
17 proper that my colleagues should be consulted."

18 Scroll down, please. Just keep scrolling until we
19 get the start. No. Yes.

20 "The second question concerns a proposed grant to
21 the voluntary home for boys run by the De La Salle Order
22 at Rubane. This home accommodates 80 boys. For many
23 years it has suffered from serious overcrowding,
24 unsuitable premises. Protracted negotiations have taken
25 place over proposed improvements. Agreement has now

1 been reached on a redevelopment. Process is expected to
2 cost about 130,000. The managers have raised 50,000 by
3 voluntary contributions but half of that is required for
4 a new intermediate school being built.

5 The position here differs from that at Termonbacca
6 in that, although it is staffed by the De La Salle
7 Order, Rubane is an independent home within the Diocese
8 of Down & Connor and is managed by a local voluntary
9 committee which is responsible for its finances. There
10 is no question in this case of a large undisclosed
11 source of funds being available from which the current
12 project could be financed."

13 We will see this management committee or voluntary
14 committee when we come to look in module 3 at Rubane.

15 "There is no doubt that the services of this home
16 are likely to be needed for many years to come."

17 He proposes to offer a grant of up to 50,000:

18 "Half of this will be recovered from local
19 authorities with whom the question will be fully
20 discussed before any offer is made."

21 He says:

22 "While this may seem a large sum to be offering to
23 a voluntary home, I am satisfied that it is appropriate
24 and that it is not likely to raise any serious
25 difficulty."

1 He then says:

2 "Voluntary homes play a very much larger role in
3 Northern Ireland than do their counterparts in Great
4 Britain. More than 500 of the children in voluntary
5 homes have been there on a voluntary basis and at no
6 cost to the welfare authorities."

7 Then he says this:

8 "If the voluntary homes were not doing this job and
9 the children were accommodated in welfare authority
10 homes, the cost to public funds could range from
11 a minimum of £7.10.- to a maximum of £13.-.- weekly for
12 each child. The welfare authorities are fully aware of
13 this. Even for the children in voluntary homes who are
14 in care of welfare authorities the cost to public funds
15 is very much lower than that of welfare authority homes.
16 The welfare authorities appreciate this also. Despite
17 the size of this grant, it will still bring the total of
18 grants to voluntary homes since 1950 only to the level
19 of about £6,000 annually. Considering only the purely
20 voluntary cases (and this is by no means the full extent
21 of the voluntary homes services) it represents a total
22 cost to public funds of a mere £12 annually for each
23 voluntary child. If the children were in care, the very
24 minimum cost to public funds would be £360 per child
25 annually.

1 I should also mention that at an early stage of
2 negotiations when one of my predecessors expressed some
3 misgivings about a proposed grant to this home, the
4 question was one of increasing ..."

5 That is more specific about the issue of a school in
6 Rubane.

7 So he set out his grounds for encouraging his
8 colleagues to support the proposition that he was making
9 towards making a grant at Rubane.

10 The Cabinet met then on 27th October 1966. That's
11 SND-6028. This was shortly after Bill Craig returned to
12 be the Minister of Home Affairs. He returned on
13 7th October, taking over from Mr McConnell. The
14 proposal in Brian McConnell's memo of 29th September was
15 approved.

16 If we just scroll down a little, please. Scroll
17 down, please. Can we just see -- if you enlarge the
18 bottom portion at 3 for me, please. So the Minister
19 indicates that he confirmed with Ms Maconachie she
20 wouldn't be upset if the committee lapsed. There's
21 a question raised by the Minister of Commerce which is
22 replied to. Scroll down, please. So he said -- back up
23 a little, please:

24 "The Minister of Home Affairs added that while he
25 was not particularly happy about extending the principle

1 of state grants to voluntary homes, the present proposal
2 would undoubtedly result in considerable economies to
3 the public purse. Replying to further points, he said
4 the only safeguard against an intake of children from
5 the Republic lay in relating the grant to the cost of
6 meeting ascertained local needs.

7 The proposals in the memorandum were approved."

8 So that sees a substantial grant being made to
9 Rubane and at that time 50,000 would have been almost
10 £700,000.

11 Now before we complete the picture with the
12 Termonbacca rebuild -- and we have no documents that we
13 found in PRONI relating to this -- but it is clear from
14 the Termonbacca council book, if we look at SND-14269,
15 please, that on 16th February 1968 the Ministry of Home
16 Affairs have made a further grant towards the cost of
17 a new minibus. Just scroll down, please:

18 "Now received a letter from the Ministry of Home
19 Affairs stating that they are considering making a grant
20 of £500 or 50% of the cost of the minibus, whichever is
21 less. This we will not receive until after April 1st.
22 Our share of the proceeds ..."

23 So there's a reference to an application being made
24 in respect of a minibus and an offer of 500 or 50% of
25 the cost.

1 Then we return to the issue of major grant for the
2 new premises at Termonbacca in 1970, and the then
3 Minister of Home Affairs, recently deceased, Sir Robert
4 Porter, QC, provided a memorandum of 3rd February 1970.
5 If we can look, please, at 6035, this is a memorandum
6 that he prepared for Cabinet. If you just -- would you
7 maximise the first half of the page and then we will
8 scroll down, because that makes the text as large as
9 possible? Yes.

10 So he refers to the previous memorandums that we
11 have seen and refers again to the issue of section 118
12 and the standards of accommodation. Then says:

13 "Before paying grants from public funds to voluntary
14 homes it is the practice to examine accounts of the
15 organisation to establish that there exists a real
16 financial need for assistance."

17 We saw where the previous application rested with
18 a letter to the Order asking for the accounts:

19 "Although loans are available from the mother house,
20 the member homes are required to be self-supporting.
21 Any requests for details of the financial position of
22 the Order as a whole have here and elsewhere always met
23 with a firm refusal.

24 At the Cabinet meeting in January 1965 a grant of
25 25% of the cost should be offered together with an offer

1 to reconsider if details of finances were released.

2 The offer was made to the home, but no progress
3 resulted due to the financial difficulties. Efforts
4 were made by the home towards the raising of finance
5 towards the project. In March 1966 my Department asked
6 St. Joseph's to consider the matter further, and in
7 particular to consider the possibility of introducing
8 more enlightened methods of care. The proposals so far
9 put forward had been limited because of cost, and my
10 Department was concerned lest these would perpetuate the
11 existing system of segregation of sexes and dormitory
12 sleeping.

13 After discussion with my Department St. Joseph's has
14 produced acceptable plans on modern lines for new house
15 units where children will live with staff. The cost is
16 estimated to be £93,500 and a formal application for
17 a grant of 50% of the cost has been made."

18 Now you may recall when we looked at inspections in
19 the council book, we had the meeting taking place in
20 1967 with Miss Forrest on the ground along with two
21 other representatives from the Ministry, and the record
22 talks of them explaining about how you should move into
23 a family home unit style, and that was then being taken
24 forward and these plans reflecting that were produced.

25 "Since the date of the last submission my Department

1 has learned from Scotland that they have not thought it
2 necessary to seek information about the financial
3 position of parent organisations and that, although
4 there is discretion to vary the percentage grant, the
5 normal pattern followed is to allow 60% of the estimated
6 costs or actual expenditure, whichever is the lesser."

7 Then it sets out the position in England and Wales.

8 "The proportion of homeless children cared for by
9 voluntary organisations is much less than in Northern
10 Ireland. The situation will be radically changed by the
11 1969 Act. There most voluntary homes will become either
12 controlled, ie have a preponderance of local authority
13 managers, in which cases the total costs will be borne
14 by the local authority, or they will be assisted, ie
15 they will have a minority of local authority managers,
16 in which cases the costs of running will be borne by the
17 voluntary organisations (fees being paid by local
18 authorities for children in their care) but the homes
19 will be eligible for 100% exchequer grant on necessary
20 building work."

21 So the assisted mechanism here appears to be broadly
22 similar to what was already existing, but with perhaps
23 more representation by the local authority on the
24 Management Board of the homes or effectively -- control
25 seems to be effectively -- it will remain in the name of

1 a voluntary home, but it will in effect be a state-run
2 home.

3 "My Department will study this new development, but
4 having regard to the extensive use of voluntary homes in
5 Northern Ireland, it may not be appropriate at the
6 present time to contemplate a similar development."

7 Then this is said:

8 "The Reverend Mother General of the Order visited my
9 Department last year and confirmed that each member
10 house was expected to be self-supporting in its own area
11 and that, where loans were made available, they were
12 under a stricter than legal obligation to make
13 repayment. There is no reason to doubt this position
14 and indeed the accounts indicate repayments of
15 substantial debts to the mother house. Further, it is
16 difficult to argue that the accounts of an organisation
17 covering some 60 or 70 foundations scattered throughout
18 the entire world and covering a wide range of social
19 need have any significant bearing on a children's home
20 in Londonderry.

21 St. Joseph's, Termonbacca, has now accumulated the
22 sum of £20,000 towards the project and Mr", that's
23 Frank, "Guckian, Chairman of the Termonbacca Aid
24 Association, has informed us that before the end of 1970
25 they hope to have a further £15,000 raised for the home;

1 at present they have £10,000 towards this target figure.
2 This will leave a balance of 58,500 to be met.

3 Because of the urgency of need for worthwhile
4 improvements and the special difficulties in
5 Londonderry, my colleagues may feel that a grant of
6 approximately 50%, say £45,000", which in today's money
7 is £607,698, "would be appropriate in present
8 circumstances. My view and that of ..."

9 Special difficulties in Londonderry. This is now
10 1970 that we are talking about.

11 "This would leave some 18,500 still to be met by
12 voluntary effort in addition to the 35,000 already
13 raised or promised from voluntary sources and, of
14 course, the day-to-day expenses of running the home
15 continue.

16 The grant would be payable ..."

17 We have had the 1968 Act come into force. So it's
18 the same provision as 118 but it is now section 152 of
19 the 1968 Act:

20 "... and would be subject to the usual conditions of
21 repayment in whole or in part in the event of the
22 premises ceasing to be used as a voluntary home."

23 He then makes the point:

24 "50% of the grant would be recovered from the
25 welfare authorities, who would undoubtedly make greater

1 use of the improved facilities for children in their
2 care. We will discuss the proposal with the welfare
3 authorities. In December 1969 31 of the 71 children in
4 residence at St. Joseph's, Termonbacca were in the care
5 of welfare authorities ..."

6 So we can see even by this stage in 1969 about 60%
7 are still voluntary placements.

8 "... care of welfare authorities, and with closer
9 cooperation between the statutory and voluntary
10 organisations, it may well be that many more of the
11 children in the home would be accepted by the
12 authorities as being within their statutory
13 responsibility, thus relieving the home of their cost of
14 maintenance.

15 The question of grant is clearly a statutory
16 responsibility of my Department but in view of the
17 previous considerations of this application I would be
18 most grateful if my colleagues would consider it again
19 in the light of changed circumstances."

20 So the Minister is signalling that, "We haven't been
21 able to get the accounts. If we continue to insist on
22 that, there won't effectively be a grant. There has
23 been interaction with the Ministry. The proposals being
24 put forward will involve modern child care practices.

25 I think that we should contribute", and effectively 50%

1 of the cost of the redevelopment is proposed by him as
2 the grant that should be made.

3 He indicated that there would be discussion with the
4 welfare authorities about it and that can be seen --
5 there was a meeting --

6 CHAIRMAN: Just before we turn to that, you did give us
7 I think, but I didn't catch it, the present day value of
8 the £45,000.

9 MR AIKEN: Yes. £607,698.

10 Now in passing -- and I have raised this with
11 Mr Montague -- there obviously is a meeting that takes
12 place between the Ministry and Hammersmith and
13 unfortunately the file that that might be in is one of
14 the five or six files that are -- appear to be
15 destroyed, and I have asked Mr Montague -- and
16 Mr Canavan can do likewise -- to check in Hammersmith
17 whether there isn't a record of, whether kept in
18 a Mother General type foundation book or some other form
19 that will show this meeting, some form of minute that
20 might have been kept by the Mother General when she came
21 back to report on --

22 CHAIRMAN: We haven't been given any correspondence from the
23 Mother General to the Mother Superior in Termonbacca,
24 Nazareth House respectively reporting on the outcome or
25 confirming the outcome of the meeting.

1 MR AIKEN: No.

2 CHAIRMAN: One would assume that either or both of the local
3 heads of the houses would have been at the meeting.

4 Perhaps not.

5 MR AIKEN: It is unclear.

6 CHAIRMAN: We don't know.

7 MR AIKEN: The surmise -- we can take from this that
8 a meeting took place, and we know at least the Mother
9 General was at it. One might surmise that the General
10 Council of the Order will have reflected on this,
11 because obviously by this point in time we are now
12 talking about huge sums of money that are being
13 potentially foregone by this policy of not producing the
14 accounts. So one would expect some decision-making
15 documentation relating to that and I know Mr Montague is
16 going to take that forward to see if anything can be
17 found.

18 CHAIRMAN: We know from what we have heard already that the
19 Order's records show that the Mother General suggested
20 in 1959 that they should consider changing in
21 Termonbacca from the type of provision that was being
22 made to the type of provision that's now being planned
23 --

24 MR AIKEN: Yes.

25 CHAIRMAN: -- ten years later. So one might assume that

1 somewhere in Hammersmith there would be some record or
2 other of the meeting we are talking about.

3 MR AIKEN: Yes. This has been pieced together from files
4 other than the Termonbacca file that we can't find, but
5 it is mostly from government material, apart from the
6 council book for Termonbacca, which helps show the
7 issues over finance at times being discussed, but there
8 must be one would have thought some further material in
9 Hammersmith where Hammersmith were engaged in this
10 discussion and I know that's going to be looked into.

11 CHAIRMAN: Yes, Mr Canavan?

12 MR CANAVAN: The requests were made last night and an e-mail
13 was sent this morning specifically identifying the type
14 of material which may be in existence. So that will be
15 forwarded, if anything can be found, or an explanation
16 provided to the Inquiry.

17 CHAIRMAN: That's an illustration of a point I intend to
18 make on behalf of the Panel at the end of this module,
19 which is there may well be a number of issues which the
20 Inquiry wishes to pursue with an individual core
21 participant. Documents may therefore be sought and
22 produced of this particular type as an example.
23 Therefore we may well continue to pursue matters even
24 though the public hearings in relation to this module
25 have finished.

1 MR CANAVAN: The Order does understand that. Disclosure is
2 a continuing responsibility on them. As material is
3 found, it will be forwarded.

4 MR AIKEN: So what we have is the memo going to Cabinet and
5 an indication that there is going to be discussion with
6 the welfare authority to explain the impact, because
7 obviously now £45,000 is a substantial sum to be divided
8 up between the welfare authorities to be clawed back,
9 and that discussion and the fact it is going to be done
10 by way of staged payment, as we saw when we were looking
11 at the inspection material, can be seen at SND-6120. It
12 was considered on 11th March 1970. As we can see, if we
13 just maximise the size of that, please, you can see in
14 a letter dated 3rd March:

15 "The Ministry have advised that St. Joseph's Home
16 has now produced plans for the modernising of the home
17 which were likely to cost in the region of 93,000."

18 The indication of the grant and how it is going to
19 be spread over the financial years. So one might
20 surmise this is taking on board the types of complaints
21 that were being made previously about loading a very
22 substantial financial clawback into a particular year on
23 the welfare authorities.

24 At SND-6131 on 16th September there is another
25 committee minute just that records that the cost has

1 gone up of the project, as inevitably is the more modern
2 way, to 103,500. I am not going to bring up the pages,
3 but we saw when we looked at the inspections in passing
4 the grants being paid. So in 1971 there are payments at
5 SND-14327, SND-14328, SND-14330 and SND-14331. Then
6 there are more payments in 1972, SND-14332, SND-14333
7 and SND-14334.

8 Now on 30th March 1972 then we have the Parliament
9 of Northern Ireland being prorogued by the Northern
10 Ireland (Temporary Provisions) Act 1972 and effectively
11 the Secretary of State for Northern Ireland takes on
12 through the NIO responsibility for the operation of the
13 Ministry of Home Affairs via Direct Rule, and on 10th
14 January 1973 then a further grant of this time £12,500,
15 which in today's money is 131,935, which brings the
16 total towards this build of grant to 57,500, so just
17 slightly more than 50%, and in today's terms that was
18 a total contribution of 740,000. We can see that at
19 SND-14282. This is the council book recording the
20 further receipt of the grant.

21 CHAIRMAN: Yes. I think the detailed figures were set out
22 in Sister Brenda McCall's statement --

23 MR AIKEN: Yes.

24 CHAIRMAN: -- and it was unclear what the origin of the
25 £12,500 was --

1 MR AIKEN: Yes.

2 CHAIRMAN: -- or, more accurately, under what head it was
3 being given, whether it is revenue or capital, but it is
4 clear it is a capital payment.

5 MR AIKEN: It is. It appears to reflect the increase in the
6 build cost and therefore bringing the grant up to still
7 being 50% of the build cost.

8 CHAIRMAN: Those of us with long memories will remember that
9 inflation was very severe at that time.

10 MR AIKEN: There are a series of references that show that
11 12,500 coming about. I am just going to give you them
12 for the record. Representatives now from the NIO
13 visited in December '72. That's at SND-14336. That was
14 following a request from the congregation in September
15 '72 for an increase in the grant. That's at SND-14280,
16 and discussions that were said to be taking place
17 between the then MP John Hume and Mr Whitelaw, who was
18 the first Secretary of State, discussions in his office
19 in November '72 at SND-14336.

20 If we just look at HIA-2719, please, HIA rather than
21 SND, this is a document from -- it seems to have been
22 an attempt to get away from retrospectivity and a more
23 clear child care capital programme in terms of budgetary
24 allocation in subsequent years, and this is written in
25 August 1973 and it is intimating the spend to come over

1 the next number of years as far as those projected
2 budgets were concerned in 1973.

3 If we just scroll down a little, we can see that --
4 just a little further, please:

5 "To this programme should be added the agreed
6 programme for voluntary homes as follows."

7 Then we have set out a number of voluntary grants
8 that are going to be made. That includes £10,000 to St.
9 Joseph's, Termonbacca.

10 Now --

11 CHAIRMAN: The figures in brackets, are they percentages?

12 MR AIKEN: That's my assumption, but I can't -- I can't be
13 sure that that's the case.

14 There the picture I am afraid -- we seem to have
15 been able to find more elderly material than modern
16 material. There is no reason to suspect that the same
17 type of process didn't continue, because we can see in
18 May 1983, for instance, after Termonbacca has closed,
19 Bishop Street make an application for a capital grant
20 for replacement windows. That's at SND-13422. That
21 application seems to have been processed and was
22 successful, because we can see a letter from the Mother
23 Superior on 11th July 1984 at SND-13409 where she thanks
24 the Department for the funding that was received. By
25 this stage we are now still called Child Care Branch but

1 we are in the Department of Health & Social Services as
2 from 1974.

3 Similarly we can see in 1986 an application for
4 grant in respect of fire prevention work. That's at
5 SND-13331. That then passed up through various
6 processes of finance -- don't bring the pages up -- but
7 at SND-13309, and then as that's being processed
8 a concern is expressed at SND-13308 that if you are
9 going to give a grant to a home -- if we just bring up,
10 please, SND-13308 -- you are aware the issue over the
11 per capita funding at this point has been going on, and
12 this is some analysing the application and the accounts
13 and raising the issue of the fact it seems to be running
14 at a loss. His initial reaction is that:

15 "Grant should not be afforded at this stage in view
16 of the substantial deficits for the three years."

17 He advises that:

18 "The reason why the home is continuing to run at
19 a loss should ..."

20 MS DOHERTY: "Be established."

21 MR AIKEN: Yes.

22 "... should first be established."

23 I am grateful.

24 "The Department could not undertake to fund if
25 a home/organisation was not financially viable, which

1 would appear to be the case in the Nazareth House
2 circumstances."

3 So concerns being raised that the homes -- like
4 anything, you don't want to pour money into something
5 that's not going to survive, and that seemed to arise,
6 if we look at SND-13307, from a document that gave the
7 impression -- have I got it wrong? Yes. You can see if
8 we just scroll up a little, please -- yes. Keep going
9 up. You can see the type of deficits that are being
10 suggested in the accounts for the children's home.

11 Now I haven't had the time or the capacity to carry
12 out an examination of the accounts, but there seems to
13 have been a number of sets of accounts, because there
14 were a number of operations going on as part of the
15 Bishop Street facility, and how the accounts were framed
16 in terms of what may have been placed in one set of
17 accounts and therefore not placed in the other isn't
18 something that I have been able to look at, but the
19 suggestion from these figures are that a substantial
20 deficit was emerging in '84, '85, '86, although those
21 who then look at these figures comment on what perhaps
22 to an accountant might appear something that would
23 require explanation. So the likes of, if you look at
24 the administration, in '86 it manages to be three times
25 or more what it was in '84 and similarly the property is

1 three times what it was in '84. So question -- and
2 equally the '84 maintenance payments are at 61, then '85
3 it is 19 and '86 it is 92. So issues were being raised
4 about the shape of these accounts and that they didn't
5 appear to be easily capable of being understood. You
6 can see that the old people's home then was being said
7 to be running also at a substantial deficit.

8 Just scroll down a little, please. Just scroll on
9 to the next page. You can see:

10 "A large deficit couldn't be sustained by a central
11 body over a long period."

12 So concerns being expressed if a grant is going to
13 be given about whether the home is sustainable.

14 Advice is sought from the Social Services
15 Inspectorate about that and also of the Board about the
16 intended use of the home. If we can look, please, at
17 SND-13305, you can see this is the Child Care Branch
18 writing to Mr O'Brien. He is the Social Services
19 Inspector who has provided reports on Bishop Street that
20 we looked at last week. He is asking -- or the author
21 of this note, Ms Harson, is asking for Mr O'Brien's
22 opinion on the viability of Nazareth House as
23 a children's home for the next five years.

24 CHAIRMAN: Well, if we pause at that point, just looking at
25 the previous document you showed us --

1 MR AIKEN: SND-13306, please.

2 CHAIRMAN: -- you drew attention to a very substantial
3 overall deficit, although there is an indication at the
4 end that it is hoped that the old people's home part of
5 Bishop Street was now -- one may be brutal about it --
6 trading financially.

7 MR AIKEN: Yes.

8 CHAIRMAN: But on any showing the children's home aspect of
9 the operation was running at a very substantial loss,
10 which was getting larger, although there is an issue as
11 to whether or not the figures themselves are accurate in
12 the sense it is not clear what is attributed to each
13 heading --

14 MR AIKEN: Yes.

15 CHAIRMAN: -- but overall it is running at a substantial
16 deficit.

17 MR AIKEN: Yes. The one health warning to that is in the
18 documents we are going to look at now in April and
19 May 1987 -- and this is why perhaps some work will need
20 to be done by the Board and the Department to explain
21 certainly at this period exactly what's happening,
22 because it may be that we are about to see an injection
23 of cash from the Board going back in, and it may be,
24 therefore, that these figures are missing, ie there were
25 payments to be made that hadn't been agreed and

1 eventually when they are agreed, they are going in,
2 which then writes off some --

3 CHAIRMAN: Yes, but if one stands back from the detail,
4 there's an argument, for example, as to whether or not
5 the charges for previous years were too low and there
6 could be a backdating of an increase, and we know from
7 the material we have received in or around this period
8 that there were constant discussions about the level of
9 the weekly charge and so on and whether it was
10 realistically set, matters of that sort, but it does
11 appear to be the case, whether or not there is
12 an injection of cash by the Board, that there is
13 an increasing realisation certainly on the part of the
14 Department that may suggest that the children's home
15 aspect of Nazareth Street (sic) is simply not
16 sustainable.

17 MR AIKEN: Yes.

18 CHAIRMAN: Is the corollary of that that it was the Sisters
19 were carrying the debt that was building up; in other
20 words, until somebody puts money in, a deficit has
21 accumulated which on the face of it is the
22 responsibility of the sisters?

23 MR AIKEN: Yes, save that it is difficult from this document
24 to take those conclusions potentially, because we know
25 it continues until 1998 and that by the early '90s

1 whatever has gone on at this point in time has got
2 resolved.

3 CHAIRMAN: Yes.

4 MR AIKEN: How it was resolved is not entirely clear from
5 the material as available at the moment.

6 CHAIRMAN: Well, perhaps the point I am looking at is not so
7 much what happened at the end of the exercise, but if we
8 stop at this point in 1987 or thereabouts, there's
9 a realisation that, however large it may actually prove
10 to be, the Sisters have accumulated and are continuing
11 to accumulate a deficit on the running of the children's
12 home --

13 MR AIKEN: Yes.

14 CHAIRMAN: -- and unless the money is found from somewhere
15 presumably the Sisters have to meet that deficit with
16 their bankers.

17 MR AIKEN: Yes.

18 CHAIRMAN: So they have to find the money, and there are
19 various ways they can seek to do that, one of which is
20 to look to government.

21 MR AIKEN: Yes, and that's what we see happening, and there
22 isn't complete clarity on this, but there is a debate
23 then that ensues in April and May 1987 between the
24 Department and the Western Board as to what happened to
25 funding of between 65,000 and potentially another 50,000

1 that was earmarked for Nazareth House, and there is
2 a suggestion -- there is definite clarity that they
3 received a cheque for £47,642 and that's at SND-14769,
4 but if we look at a memo of April '87 at SND-13186,
5 please, we can see it being said:

6 "The Sisters of Nazareth, Nazareth House,
7 Londonderry have contacted Mr O'Brien to confirm that --
8 or to inform that the" --

9 CHAIRMAN: "Western Board".

10 MR AIKEN: -- "Western Board have paid 47,642 by way of
11 one-off grant towards the home's deficit. Denis has in
12 mind that the grant sum was 50,000."

13 Then you can see an annotation written of:

14 "65,000 is being suggested."

15 CHAIRMAN: "See attached papers" it says.

16 MR AIKEN: "Has called me to check."

17 They are trying to collate the papers relevant to
18 the deficit funding issue. You can see the question
19 that's being asked, whether the matter was with the
20 Department or left to the Board.

21 There is then a letter of 17th April from SND502 to
22 Mr O'Brien at SND-13182. She says:

23 "I had promised to contact you regarding Nazareth
24 House's capitation charge and would advise you that the
25 monies we received were on a non-recurring basis ..."

1 So a one-off deficit payment, as it were:

2 "... and that means therefore as a Board we are
3 still not in a position to increase the capitation
4 charge other than by the cost of living increase.
5 I~have asked our finance department to attend to this at
6 this moment -- at the moment, but as you will
7 appreciate, it means the problem in Nazareth will
8 continue to be a problem, and I didn't know whether or
9 not it was proper to bring this to your attention, as
10 I~am sure I am not going through the proper channels,
11 but in fairness felt I ought to alert you to it."

12 That's followed by a memo of 11th May at SND-13181.
13 If we just maximise that. So we looked at the minute of
14 17th April:

15 "I spoke to Denis O'Brien, who has been in contact
16 with SND502 of the Western Board. The Board paid the
17 47,000 to Nazareth House, the deficit for the year ended
18 '85/'86."

19 So we can see that was filling back in some of that
20 hole, as it were, that was appearing on the balance
21 sheet.

22 "Denis pointed out that the home had an accumulated
23 deficit and that 65,000 had been allocated to the Board
24 from shortfall to" --

25 MS DOHERTY: "Provide assistance."

1 MR AIKEN: -- "provide assistance to voluntary children's
2 homes. As Nazareth House is the only voluntary home in
3 the Western Board area, the full allocation should have
4 gone to it. When he asked what had happened to the rest
5 of the 65,000, SND502 told him that the Board had paid
6 an outstanding bill of £8,000 to Rubane and she could
7 not say what became of the rest of the allocation."

8 We can see:

9 "I attach a copy of a letter allocating to the Board
10 a further 50,000 specifically for Nazareth House, which
11 Denis suggested to SND502 could be used to increase the
12 per capita rates. A copy of SND502's response is also
13 attached."

14 On 12th May at SND-13180 we can see this being
15 further discussed, saying the same matters. If we just
16 scroll down a little further, there is reference to
17 using some of it to pay Rubane, and SND502 is not able
18 to say what happened to the rest.

19 "Although the Board's total allocation could have
20 gone to Nazareth House, Rubane was also a voluntary home
21 and I would accept that the 8000 paid was properly used.
22 Do you wish to take up the balance with the -- take up
23 the question of the balance with the Western Board?"

24 I am not sure I am able from the papers we have to
25 take that any further, but what we can see is in April

1 1987 -- so there's a suggestion that 65,000 was
2 allocated and 47 of it went.

3 There then is a further £50,000 allocated, which we
4 will see at SND-13183. Now it is described in this
5 budget allocation letter from the Department as -- at
6 2(c), if we just scroll down, please:

7 "£50,000 for increased payments to Nazareth House
8 children's home in connection with the implementation of
9 the Hughes Report."

10 Now it is not stated any further as to what that
11 means, but if you think back to the memo from
12 Mr O'Brien, he said -- he referred to another 50,000 and
13 how that could be used towards the capitation charge.
14 We can see that at SND-14769, please. We can see -- if
15 you just scroll down -- this is a record of the per
16 capita charge, and you can see the 47,000 coming back in
17 and then the various increases that occur in the
18 following years.

19 So we move from a position in '88 where £193 per
20 week is paid to a position in '93 where £418 per week is
21 paid. So there is a substantial -- you know, within
22 five years there is more than 100% increase in the
23 weekly rate that was paid, and there are indications of
24 other payments, and by that I mean in 1989, for
25 instance, if we look at SND-8093, we can see £10,000 is

1 being paid. SR2 is writing saying:

2 "I take this opportunity to thank you for the sum of
3 £10,000 to increase the capitation fee."

4 We can see in July 1992 at SND-8497 SR2 writing to
5 the Western Board looking for additional funding. Just
6 scroll down, please. Scroll down a little further.
7 Stop.

8 "I would like to thank you for your continuing
9 support.

10 Therefore I must ask you to consider making
11 additional funds available to allow us to achieve the
12 aforementioned aim."

13 That's to do with the additional staff.

14 The reply, SND-8498, of 22nd July doesn't really
15 appear to address that issue. It may address other
16 issues in the letter. There is no real mention of
17 a response to the funding request other than suggesting
18 a reduction in a number of places and then referring to
19 effectively the Foyle Community Unit contract
20 and suggesting discussion with the unit managers about
21 staffing requirements, but we can see then in 19... --
22 September 1993 at SND-8140 a cheque being enclosed to
23 cover two further members of staff. If we look
24 SND-8143, please, you can see that SR2 is writing here
25 thanking the Foyle Community Unit for the cheque of

1 51,000 to cover night coverage and a down payment to
2 help the cash flow.

3 Then in December '94 at SND-6933 we can see the
4 Department writing granting money for phones and fire
5 recommendations and directing them to a new area for
6 their applications.

7 Now we know and we saw -- if we just turn to
8 SND-9803, please -- in November 1992 the Social Services
9 Inspectorate report was raising -- just scroll down,
10 please -- that current staffing was unacceptably low and
11 setting out the disparity if one just looks at the
12 figures between what's being paid and the costs of
13 others, but you will recall we did look at some
14 documents that indicated that you are not comparing like
15 with like necessarily here and therefore what appears
16 stark on the page may not be capable of being read in
17 precisely that way.

18 But if I can summarise the position in terms of the
19 Bishop Street funding issue, it is not clear that we
20 have received all of the documents from either the
21 Board, the congregation, the Department around this
22 issue. It is -- what I have been able to present to you
23 is a bitty picture that indicates there are clearly
24 issues, that there constantly is a tension it seems
25 between the home and what it was looking for, the Board

1 in terms of what it was giving and the Department in
2 terms of what it was able to make available on whatever
3 basis to the Board. So it may be if we need to look at
4 that any further, we will have to go back and ask the
5 core participants to try and create a much more
6 comprehensive picture of what's happening.

7 As I said to you in finishing, the grants that
8 Bishop Street received at the instigation of Mr McAteer
9 did continue through the '60s and I am just going to
10 give you the page references for the record that show
11 that happening:

12 SND-12991. That's 1961.

13 1962 SND-13001.

14 They incrementally increase to £1,000 in 1965,
15 SND-13014.

16 £1,200 in 1966 at SND-13031.

17 In 1967 it stays at £1200 at SND-13041.

18 Now again the documentation is not complete, but the
19 pattern suggests that there was an annual grant that was
20 given in this form to Bishop Street, because we can see
21 in 1974, if we look at SND-14350, please, the -- there's
22 a grant of £1,000 that comes from what is now the
23 Western Board.

24 CHAIRMAN: But surely these grants were being made for the
25 support of the elderly people.

1 MR AIKEN: They were, except that when the application
2 process began with Mr McAteer, he was applying for both
3 and the figure that he came to was based on both, and
4 then because that grant didn't run into the same
5 difficulty as that under the 1950 Act, that continued,
6 and in subsequent pages the number of old people and the
7 number of children are given.

8 Now whether by this point in time and the Board's
9 involvement it can be more precisely delineated as being
10 towards the old people ... There is a foundation book
11 for Bishop Street from the Order from 1937 on, which --
12 you will know we got great benefit out of the
13 Termonbacca version. We don't have as yet the Bishop
14 Street version from '37 on, which may be a goldmine of
15 further information, and I understand from Mr Montague
16 that that book may have recently been found, and
17 hopefully then we will shortly receive it, but the
18 position is that -- if you just scroll down so we can
19 see the reference that I am referring to, please. Yes.
20 The usual -- and this is why I say it seems to have
21 become a regular thing -- the usual annual grant of
22 £1,000 was received from the Western Health & Social
23 Services Board, and in 1977 at SND-14296 we can see that
24 increasing. That's:

25 "The Western Health & Social Services Board have

1 increased their annual grant from £1000 to £2000 this
2 year and are giving us an additional grant of £1000 for
3 the refurnishing and general improvements to the home
4 directly related to the care of the children."

5 So while there is a capitation fee debate raging, it
6 seems that certainly -- we don't have this material from
7 the Board, but there are references in the council books
8 of the Order, and there may be more when we get the
9 foundation book, and equally the Board can look at what
10 they did in terms of finance, that there is a practice
11 of these annual capital grants to Bishop Street, albeit
12 their value is going down as the years go on, if I can
13 put it that way, in real terms, because it is £1000 or
14 £1200, which obviously hasn't the same impact in 1977 as
15 it would have had in 1958.

16 There is also a record -- and I am not going to turn
17 it up but just for -- we have talked about the
18 Termonbacca farm and the council books indicate that
19 that received substantial government subsidy and it
20 appears to have been running at a considerable profit at
21 times. There is a reference at SND-14259. I am not
22 going to go into it, but we saw the undertakings had to
23 be given in respect of grants that were made under the
24 1950 Act, and that caused difficulty for the Department
25 whenever Termonbacca closed, and a summary of that

1 debate is at SND-6148, but it was resolved ultimately in
2 1987 with a very small repayment compared to what would
3 have been due. I think the recoupment was of £65,000
4 potentially and a sum of £2000 was paid in recoupment at
5 SND-6141.

6 In closing can I thank the Panel for their patience
7 in bearing with me on what is a complicated and dense
8 subject and can I say again to put on record my thanks
9 to Miss Dougan and Miss Caslin and Miss Rafferty for
10 their help with a huge amount of work that had to be
11 done to try and pull this together in some sort of
12 manageable way. Obviously I hope it has been of some
13 assistance to the Panel in understanding the mechanisms
14 that were involved in the funding issue and the debates
15 that arose over their interpretation and their
16 management, and unless there's anything further that
17 you'd like me to address, I don't propose at this point
18 to say any more, save that certainly for the later
19 period if there is more work that will be of value to
20 the Panel, then we will have to ask for that from the
21 core participants, because there's clearly an area where
22 there are gaps that might possibly be still capable of
23 being filled.

24 CHAIRMAN: Well, thank you very much, Mr Aiken. We
25 appreciate the massive amount of work that has gone into

1 presenting us with what is in many respects similar to
2 a jigsaw that still has quite a few missing sections,
3 but from which there is nonetheless a much clearer and
4 helpful picture emerging as to the nature of the
5 finances of both homes and their relationship to various
6 forms of State and other public funding over the period
7 we are primarily concerned with. No doubt we will have
8 to return to this issue with other homes and, as you
9 say, we may have to seek further information from
10 various core participants either for these two homes or
11 other homes that we will be looking at later, but that's
12 a matter we can deal with by way of correspondence.

13 Our programme anticipates we will be receiving
14 submissions from the Department and from the Trusts this
15 afternoon.

16 MR AIKEN: Potentially.

17 CHAIRMAN: Well, we still have to complete our study of
18 Ms~Smyth's submissions. So we will rise now and we will
19 not sit before 2 o'clock. We will let you know as soon
20 as possible, ladies and gentlemen, after that when we
21 are ready.

22 Yes, Mr O'Reilly?

23 MR O'REILLY: Can I indicate, Mr Chairman, there will be no
24 oral submissions on behalf of the Department.

25 CHAIRMAN: Thank you very much. That's very helpful. So we

1 can look forward to giving Ms Smyth a clear run this
2 afternoon.

3 MS SMYTH: Chairman, I will be brief, in the region of
4 fifteen to twenty minutes at most.

5 CHAIRMAN: That's very encouraging. No doubt we would
6 appreciate that when we finished reading your
7 submissions, but we need to take a little time to do
8 that. So we will aim to sit somewhere after 2 o'clock.
9 We will notify you when that will be.

10 (12.47 pm)

11 (Lunch break)

12 (2.00 pm)

13 Closing submissions by counsel for the Health & Social Care
14 Board

15 CHAIRMAN: I am sorry we kept you waiting, Ms Smyth, but it
16 took us rather longer than we had anticipated to read
17 your submission and two documents to which you made
18 extensive reference and which we wished to see in their
19 entirety. We are now ready to hear your closing
20 submissions.

21 MS SMYTH: Very well, Chairman. Before I begin I should say
22 I am going to mention certain witnesses and others named
23 in the document by name. I do that on the basis clearly
24 that the anonymity provisions apply.

25 Members of the Panel, I begin my submissions with

1 the Inquiry's remit uppermost in my mind. I remind
2 myself that the Inquiry is tasked with investigating if
3 there were systemic failings by institutions of the
4 State in their duties towards children in their care
5 between 1922 and 1995.

6 The Inquiry will appreciate that these submissions
7 are necessarily interim in nature, because although
8 module 1 is about to close, I am very conscious that the
9 work of the Inquiry is still at an early stage; as yet
10 much work to do.

11 As I represent the Health & Social Care Board,
12 I have paid particular attention in my written
13 submissions to some of the duties of its predecessors,
14 who in module 1 are Londonderry County Borough Welfare
15 Authority, Londonderry County Welfare Authority and the
16 Western Health & Social Services Board. I have set out
17 the section 81 duty in the 1950 Children and Young
18 Persons (Northern Ireland) Act. It was reenacted in
19 section 103 of the 1968 Children and Young Persons
20 (Northern Ireland) Act.

21 In my written submission I have considered certain
22 lines of enquiry that were developed with some of the
23 Health & Social Care Board witnesses, such as using
24 section 103 to admit children who were privately placed
25 in voluntary homes into the care of the State, and the

1 Panel will know that by "privately placed" I mean those
2 children in Termonbacca and Nazareth House who were
3 placed there from a source other than the welfare
4 authorities. You will see from my written submission
5 that I say that neither the 1950 nor the 1968 Children &
6 Young Persons Act gave welfare authorities in Northern
7 Ireland authority to take such a step. My analysis is
8 that even in the 1950s, '60s and '70s such a step would
9 have amounted to significant State interference into the
10 private lives of families and the arrangements those
11 families chose to make for their own children. This
12 would have required express legal authority.

13 Panel Members, you will see that I have asked you to
14 reflect upon the evidence of SND502 when she talked
15 about referrals forming the basis of section 103
16 intervention. I submit that this is an important piece
17 of evidence and I ask you to think about the nature and
18 development of our Social Services system here in
19 Northern Ireland, which I think at its heart is
20 referral-based and one which is responsive to identified
21 and assessed need.

22 Panel Members, again remaining focused on the
23 Inquiry's remit, I have also addressed in my written
24 submission some of the duties that I say rested on the
25 voluntary homes to notify welfare authorities and later

1 boards of key events in the lives of the children they
2 were looking after. These duties that I chose to
3 address were, first, the duty to notify the welfare
4 authority when intending to board out a child, either
5 permanently or for holiday periods, as set out in
6 section 1 of the 1968 Act, and then also the duty to
7 notify -- the duty on the voluntary homes to notify the
8 welfare authority that a young person in the care of
9 a voluntary home has reached school leaving age and
10 ceased to be in the care of the organisation. That's as
11 set out in section 103(2) of the 1950 Act and
12 section 131(2) of the 1968 Act.

13 Now in my submission those are very important
14 duties. Section 1 of the 1968 Act was aimed at ensuring
15 the welfare authorities approved of boarding out
16 arrangements and the aftercare provision in
17 section 103(2) of the 1950 Act and section 131(2) of the
18 1968 Act were designed to ensure young people leaving
19 care were receiving support.

20 Sadly, however it, appears in my submission neither
21 of these duties were really complied with in Termonbacca
22 or Nazareth House. In respect of the boarding out
23 notice in section 1 of the 1968 Act I have found only
24 one such notice, and the evidence from the -- in
25 relation to one person who is named in the documents,

1 a SND132, and also the evidence from the applicants and
2 Sister McCall and the documents combine in my submission
3 to form a clear picture of the voluntary homes in Derry
4 placing children with families arranged by local priests
5 in the 1950s and '60s without the welfare authorities
6 being notified.

7 Similarly the evidence is that the voluntary homes
8 in Derry, often with the assistance of St. Vincent de
9 Paul, made aftercare accommodation and sometimes
10 employment arrangements without notifying the welfare
11 authorities. From the examples that I gave in my
12 written submission you can see that this occurred in the
13 1950s, '60s and '70s, spanning three decades.

14 Turning to the institutions, Members of the Panel,
15 I say that the tenor of the evidence given by the Health
16 & Social Care Board witnesses was that Termonbacca and
17 Nazareth House were indeed very large, imposing
18 buildings which were not ideal conditions in which to
19 place children. However, those same witnesses all
20 testified that they believed the children placed there
21 by them received good care and were safe there.

22 In terms of the relationship between the voluntary
23 homes and the statutory sector in Derry I say that it is
24 clear that this did evolve over time and in my written
25 submissions I have identified some key things.

1 The first it is the esteem in which voluntary
2 societies and voluntary homes were held in Northern
3 Ireland. One of the references in the document from the
4 Child Welfare Council I think refers to them as
5 "pioneers in child care".

6 The other theme is or another theme is the
7 determination of the voluntary homes in Northern Ireland
8 to retain their independence from the State. This is
9 documented in the Child Welfare Report of 1966, which
10 says that the voluntary homes -- which say -- says the
11 voluntary homes resisted the Child Welfare Committee's
12 attempts in previous years, 1956 and '60, to encourage
13 voluntary homes to seek advice and help from the welfare
14 authorities.

15 Another theme is the growing number of children who
16 were being placed by the welfare authorities in the
17 voluntary homes. There appears in my submission to have
18 been a very sizeable shift in this direction in the
19 Derry homes towards the late 1970s and early '80s.

20 Another theme, the final theme I think, that
21 I identify is that in Derry there was a conscious effort
22 on the part of the Western Board and Nazareth House in
23 the 1980s to develop a collaborative working
24 relationship, which I think is best evidenced in TL4's
25 involvement with Nazareth House, the assistance he gave

1 to SR2, and the high level of support and training that
2 he offered to the staff there. In my submission the
3 role undertaken by TL4 amounts to excellent social work
4 practice, and I say that that is fortified by his
5 obvious dedication to the job.

6 In terms of the evolving relationship between the
7 two sectors in Derry it is my submission this was
8 perhaps not the easiest fusion, because Termonbacca and
9 Nazareth House were homes that were built up and
10 developed as autonomous and self-financing institutions
11 with long traditions stretching back to the late 1800s
12 of admitting young children who were looked after by the
13 Sisters really for the duration of their childhoods.

14 Then in the 1970s, as the '70s progressed, these
15 same homes were gradually taking on children placed by
16 Social Services when the children were older and had
17 often come to the attention of Social Services because
18 of the neglectful or abusive care they were receiving at
19 home. Often these were children with very high levels
20 of need, who exhibited emotional and behavioural
21 disturbance, which was most likely rooted in their
22 experiences in parental care.

23 Members of the Panel, it is perhaps interesting to
24 note that whilst the collaborative working relations
25 were developing between Nazareth House and the Western

1 Board and TL4 was providing high levels of practical
2 advice, support and guidance to the home, negotiations
3 about funding were also taking place as between the home
4 and the Western Board. In my written paper I set out
5 some detailed correspondence and internal memos from the
6 Western Board for the 1980s and 1990s, which in my
7 submission demonstrate the following key points.

8 First, that the Western Board really valued and
9 appreciated the services provided by the Sisters of
10 Nazareth.

11 Second, that there was a professional will in the
12 Western Board to meet the requests for increased funds.

13 Thirdly, the Western Board was genuinely constrained
14 by its own inadequate budget.

15 In my submissions, my written submissions, I have
16 asked the Panel to exercise caution when interpreting
17 figures, for example, comparing weekly rates for a child
18 placed in voluntary homes versus a child placed in
19 a statutory home. The Panel should be careful that it
20 is comparing like with like, as pointed out in TL19's
21 recent witness statement dated 23rd May this year.

22 In this module I ask the Panel to place some weight
23 on TL19's May 2014 statement, in which he explains the
24 baseline for funding in the new boards in 1973, when
25 they were created, and the implications of this for the

1 Western Board.

2 I also ask the Panel to note that this was not
3 comprehensively addressed until the Capitation Formula
4 Review Group was established in the 1990s to review
5 resource allocation across the four Board areas and
6 achieve a more equitable distribution of resources.

7 Turning now to the issue of sexual abuse and finally
8 befriending, I say that there is good evidence that the
9 Western Board had identified and signposted peer sexual
10 abuse as an issue in the 1980s, and I have referred the
11 Panel to the section relating to this in the Residential
12 Child Care Policy booklet written by TL4 and published
13 by the Western Board and distributed to all residential
14 homes there in 1988.

15 I also say that it is important for the Panel to
16 note that the Western Board took appropriately proactive
17 steps to train staff in the residential homes in the
18 area of sexual abuse, including peer sexual abuse, and
19 the Western Trust responded in an effective and timely
20 way to peer sexual abuse within homes in its areas by
21 establishing the Bunting review and providing the waking
22 night cover in Harberton House and Nazareth House. The
23 evidence also points to the Western Board responding
24 appropriately whenever allegations of a sexual nature
25 were made by a child in its care.

1 Finally, on befriending, in the evidence to date the
2 Inquiry has heard the term "befriending" being used in
3 association with just one witness and that is SND38,
4 who, as the Panel is aware, was employed by the Sisters
5 of Nazareth until his dismissal from their employment.
6 It is my submission that is significant, because it
7 corroborates what the Health & Social Care Board
8 witnesses had to say about befriending in the Board
9 area. They say that befriending by key workers was
10 a very exceptional circumstance. You will recall that
11 both SND500 and TL4 both only knew of two examples
12 throughout their professional careers to date.

13 This also supports -- the fact that this is
14 an isolated case where this term is -- the "befriending"
15 term is used, Members of the Panel, also in my
16 submission supports the evidence of TL4 and SND500 that
17 there was no policy or practice approved by social
18 workers in the Western Board whereby key workers were
19 encouraged to take children home. Rather there was
20 a specific written policy about befriending, which was
21 set out in the Residential Child Care Policy booklet
22 I~have already referred to, which was produced in 1988.

23 In my submission it is also significant that in his
24 evidence to the Inquiry SND38 referred to himself as
25 a befriender, but he is not referred to as a befriender

1 in any of the substantial volume of documents filed in
2 connection with HIA127. The only reference to
3 befriending is in a review report dated May 1989
4 prepared by SND38 himself where he recommends
5 a befriender for HIA127.

6 I should also say that the Health & Social Care
7 Board rejects suggestions made in submissions yesterday
8 on SND38's behalf about a lack of care planning for
9 HIA127. The Inquiry will have read the detailed records
10 relating to HIA127, and in my submission those evidence
11 a comprehensive approach to planning for that young
12 person, and it is of note that those records also show
13 that SND38 pursued contact with HIA127 even after he was
14 placed with foster carers to the extent the child social
15 worker was asked to speak to him to back off.

16 In respect to SND38 the Health & Social Care Board
17 submits that he was not a befriender. Rather he appears
18 to have overstepped the mark in his role as key worker
19 in Nazareth House, which undoubtedly encompasses the
20 development of a meaningful relationship, but in
21 a controlled setting.

22 Members of the Panel, in closing I wish to reiterate
23 the Health & Social Care Board's continued support for
24 the important work of the Inquiry and a commitment to
25 continue to work collaboratively with the Inquiry team

1 in future modules. Thank you.

2 CHAIRMAN: Thank you, Ms Smyth. Well, we will rise now and
3 spend the rest of the afternoon reading Mr Montague's
4 submissions, those we received, and we will therefore
5 resume tomorrow at 10 o'clock.

6 (3.00 pm)

7 (Hearing adjourned until 10 o'clock tomorrow morning)

8 --ooOoo--

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