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HISTORICAL INSTITUTIONAL ABUSE INQUIRY  
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being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at

Banbridge Court House

Banbridge

on Monday, 15th September 2014

commencing at 10.00 am

(Day 50)

MS CHRISTINE SMITH, QC appeared as Counsel to the Inquiry.

1 Monday, 15th September 2014

2 (10.00 am)

3 Reading of statements of FIONNUALA McANDREW and HILARY

4 HARRISON

5 MS SMITH: Good morning, Chairman, Panel Members, ladies and  
6 gentlemen. Before moving on to submissions the Panel  
7 ought to be aware that the Inquiry has received three  
8 statements, which I am going to refer to briefly, two  
9 from Ms Fionnuala McAndrew, who is the Acting Chief  
10 Executive of the Health & Social Care Board. Her  
11 statements can be found at AUS5924 through to 5928.  
12 That's a statement dated 20th June 19... -- sorry --  
13 2014.

14 If I briefly deal with that statement first of all,  
15 you will see that she makes the statement on behalf of  
16 the Health & Social Care Board in response to a request  
17 for a witness statement from the Inquiry. If I can just  
18 go to paragraph 4 -- I don't propose to open any of  
19 these statements in detail -- but she confirms that  
20 without the consent of the Ministry no child in the care  
21 of a Welfare Authority in Northern Ireland could be  
22 migrated.

23 She states that the Children & Young Persons Acts  
24 did not make provision for welfare authorities to have  
25 any role in connection with the emigration of children

1 from voluntary homes in Northern Ireland. Thus the  
2 Welfare Authority she says had no role to pay in the  
3 emigration of children from voluntary homes in Northern  
4 Ireland.

5 At paragraph 6 she refers to one individual who was  
6 on the schedule of names from Termonbacca for whom they  
7 have records, but there is no mention of Australia or of  
8 the child migrant scheme in his records. This is  
9 someone who would have been -- contacted us from  
10 Australia.

11 Paragraph 7, she talks about the searches for  
12 documentation, and she said that the fact that they had  
13 not unearthed at that stage any evidence that the HSCB  
14 or its predecessors were informed by any voluntary  
15 organisation in Northern Ireland or any local authority  
16 in Northern Ireland that the voluntary organisation or  
17 local authority intended to send or had sent children  
18 from Northern Ireland on the Australian child migrant  
19 schemes is actually, as we know, incorrect, but the fact  
20 that the voluntary organisation didn't inform the Trusts  
21 is in keeping with the fact that the legislation did not  
22 impose any duty to notify the Welfare Authority on  
23 voluntary organisations or local authorities intending  
24 to send or having sent children. It is certainly true  
25 with regard to the voluntary organisations but not the

1 local authorities.

2 Paragraph 8 continues the same theme and it is  
3 clearly incorrect, but she does mention the fact that  
4 the files note there were two children who are named  
5 there, and whose names will subsequently be redacted  
6 before it is published on the website, Chairman:

7 "... noted two children who were brothers who were  
8 born in the 1930s were discharged from Marmion  
9 Children's Home to Australia in 1954, but it is unclear  
10 as to whether or not those children were sent there as  
11 a result of the child migration schemes or just simply  
12 went by some other means", maybe with their family.

13 She has filed a second statement, which can be found  
14 at 5989.

15 CHAIRMAN: Yes.

16 MS SMITH: Sorry, Chairman.

17 CHAIRMAN: Yes.

18 MS SMITH: It is a statement that is dated 10th September  
19 of this year. Again without opening it fully, it refers  
20 to further records which have been unearthed following  
21 more extensive searches by the Health & Social Care  
22 Board and that documentation refers to children that we  
23 have already heard about, in particular the child who  
24 was migrated by Tyrone County Welfare. She talks about  
25 the records in respect of those. It's clearly at

1 paragraph --

2 CHAIRMAN: If we look at paragraph 3, I was under the  
3 impression we provided much of this information, not the  
4 other way round.

5 MS SMITH: Well, we did provide information that we had  
6 received from PRONI, but extensive searches then  
7 disclosed files in relation to the child named, which  
8 helped in fairness, Chairman, to fill some of the gaps  
9 that were in the PRONI file with regard particularly to  
10 his brother.

11 CHAIRMAN: Well, one would get the impression reading this  
12 that the Inquiry learnt all of these matters from the  
13 Board. That's not the case at all. The Inquiry had to  
14 tell the Board where to find these things --

15 MS SMITH: Indeed, Chairman.

16 CHAIRMAN: -- and they provided the information, having  
17 earlier told us there wasn't any. I would have expected  
18 a rather more straightforward statement of the  
19 situation. Any outsider reading this might have thought  
20 that we were dependent on the Board for all the  
21 information we found. It is the other way round.

22 MS SMITH: I am sure Miss Smyth may have something to say  
23 about it in due course.

24 CHAIRMAN: I expect the Board to do better the next time  
25 round, Ms Smyth.

1 MS SMYTH: I think the names were provided.

2 CHAIRMAN: If we found this material on PRONI, so could your  
3 clients.

4 MS SMYTH: Yes, Chairman. I do take the point.

5 CHAIRMAN: Yes. When we gave you the names, your clients  
6 would often look further.

7 MS SMYTH: That's right. When we had the names, the  
8 searches into the names and dates of birth were  
9 conducted and the files were unearthed.

10 CHAIRMAN: After we told you who we were.

11 MS SMYTH: Yes, after the names were provided by the  
12 Inquiry.

13 CHAIRMAN: Yes. That's not stated here. This is  
14 misleading. I am not impressed.

15 MS SMYTH: I'm sorry, Chairman. It's certainly the policy  
16 --

17 CHAIRMAN: You can certainly give a wrong impression by not  
18 saying things.

19 MS SMYTH: I had no intention to do that.

20 CHAIRMAN: No, I am sure you didn't, but I expect the Trust  
21 to do better the next time.

22 MS SMITH: Chairman, returning to the statement at  
23 paragraph 4, it says that the records clearly show that  
24 the welfare authorities in Northern Ireland did  
25 participate in the Australian child migrant scheme and

1 in participating in it they were required to and did  
2 satisfy all of --

3 CHAIRMAN: We know all this. The Inquiry has put this out  
4 in exhaustive detail. We don't need to hear it again.

5 Now where is the information about the two children  
6 from Coleraine?

7 MS SMYTH: The and children?

8 CHAIRMAN: Yes.

9 MS SMYTH: Unfortunately there have been no returns in  
10 relation to the searches conducted thus far. There is  
11 no dates of birth available in relation to those two  
12 children and that has hampered searches producing  
13 fruitful results, chairperson. I can assure you that  
14 the searches have been and I am told continue, but the  
15 paucity of information available make it very difficult  
16 for successful outcomes to the searches.

17 CHAIRMAN: Is it the case that the County Londonderry County  
18 Welfare Committee did not keep as exhaustive records as  
19 County Tyrone did?

20 MS SMYTH: I am not sure I would say that. I would say --

21 CHAIRMAN: Then why haven't these files been found?

22 MS SMYTH: The difference with the HIA354 and files is  
23 that the full names and dates of birth were available to  
24 the people conducting the searches.

25 CHAIRMAN: You have got the names of these children, haven't

1           you?

2   MS SMYTH:   We do.

3   CHAIRMAN:   Yes.  You know when they were supposedly sent to  
4           Australia, because they are on the shipping manifest,  
5           the passenger list.

6   MS SMYTH:   That's right.

7   CHAIRMAN:   There can't be that many children with those  
8           names at that period of time who were in the care of  
9           this welfare committee.

10  MS SMYTH:   Chairman, you might remember the evidence from  
11           Miss Devine, who is the lead in the Western Trust for  
12           searching for the records.

13  CHAIRMAN:   Yes.

14  MS SMYTH:   Certainly it is no easy task.

15  CHAIRMAN:   I understand that.

16  MS SMYTH:   Dedicated members of staff are doing this work  
17           and certainly they are painstaking searches and  
18           difficult searches, but unfortunately they have not  
19           produced any results to date.  I can assure you -- I can  
20           assure of you that, Chairman.

21  CHAIRMAN:   I would be more impressed if your clients,  
22           instead of regurgitating what we told you, were able to  
23           find these two children's files, because at this moment  
24           we have no way of knowing what happened to them before  
25           they went or whether they did go.



1 MS SMYTH: All I can say is that the searches will continue  
2 and, of course, whenever documents are found, they will  
3 be passed promptly to the Inquiry.

4 CHAIRMAN: Well, I hope it is something that will bear fruit  
5 very soon.

6 MS SMYTH: Yes.

7 CHAIRMAN: Yes.

8 MS SMITH: Chairman, without going through the details of  
9 the -- what we have already outlined in respect of the  
10 HIA354 family, but if I can go to the final paragraph of  
11 that statement, which is at 59994 -- 5994, at (q) there  
12 it says:

13 "The foster carers came forward to ask to be  
14 considered to adopt the child, albeit at a late stage  
15 when he was about to emigrate to Australia. There is no  
16 evidence to suggest that this was given due  
17 consideration, which upon reflection I would have  
18 expected to happen."

19 So there seems to be an admission there that the  
20 child was selected for admission -- sorry -- for  
21 migration, and once the wheels had been put in motion,  
22 they simply weren't stopped when an alternative course  
23 of action presented itself.

24 The other statement which has been submitted to the  
25 Inquiry is on behalf of the Department of Health and

1 that's a statement of Dr Hilary Harrison. It can be  
2 found at AUS5962. You will see that she says that she  
3 has prepared it on behalf of the Department, and her  
4 qualifications and experience have already been  
5 notified. We have already heard from Dr Harrison in the  
6 last module. She has examined all of the module 2  
7 evidence received by the Department from the HIAI up to  
8 22nd August and based on that prepared the answers to  
9 the questions set out in our Rule 9 request letter. She  
10 signed it on 8th September 2014.

11 Again if we can go on to the next page, you will see  
12 here the report that she has compiled and answers  
13 various questions, but I think it is true to say also  
14 that this report has been, as she quite rightly points  
15 out, compiled from information that we have provided to  
16 the Department with a few additions of quotations from  
17 the House of Commons' Committee reports. I don't again  
18 propose to open this, as most of the material has been  
19 already opened in the course of the module.

20 However, at paragraph 15 I believe it ought to be  
21 pointed out that there is an error at 5966, please. It  
22 is talking about while the Ministry of Home Affairs had  
23 knowledge of the operation of the child migrant schemes,  
24 no evidence suggests Northern Ireland government was  
25 involved in the establishment of such schemes and is

1           apparently administrating authorities of voluntary homes  
2           responsible for sending children to Australia operated  
3           or had headquarters in England, namely the Sisters of  
4           Nazareth, but it is wrong to say that the Christian  
5           Brothers, who were a voluntary information, who we know  
6           received children in Australia, they are not the De La  
7           Salle Brothers who were responsible for Rubane House,  
8           and it would be wrong to link the two in the way that it  
9           has been done in this statement, Chairman.

10       CHAIRMAN:   Yes.

11       MS SMITH:   At paragraphs 22 through to 24 she sets out  
12           the -- why the Department thinks that emigration stopped  
13           in 1956, and essentially at paragraph 24 the view is  
14           that it was after the Ross report and the  
15           confidential -- the secret annexes, to which we referred  
16           earlier, resulted in the drawing-up of a blacklist, that  
17           that report being shared with the Ministry of Health  
18           here was likely to have brought about the end of  
19           emigration, but I think that might be a slight over-  
20           simplification of the reasons why children did not go.  
21           As we know, the Ministry of Home Affairs did not  
22           themselves send children.  So, therefore, the reasons  
23           for it stopping are perhaps more complex than that.

24           At 5971 at paragraph 35 in talking about the one  
25           child whom we opened the documents from Tyrone County

1 Welfare Committee in respect of, she said it was  
2 apparent from the communication from the -- that the  
3 Minister had given considered thought to the child's  
4 circumstances when he overrode the concerns expressed by  
5 his civil servant. She says there is no evidence to  
6 suggest that the foster carer's interests in adopting  
7 the child were shared with the Ministry of Health and  
8 the record of the visit would indicate that the Welfare  
9 Authority was determined that the request not be further  
10 pursued.

11 One thing that is pointed out at paragraph 51 at  
12 5975 --

13 CHAIRMAN: Just before we leave that --

14 MS SMITH: Sorry.

15 CHAIRMAN: -- it does appear to be the position that the  
16 approach by the foster carers was made just a few days  
17 before he was sent to Australia and after the date that  
18 the Minister had given his approval.

19 MS SMITH: That's absolutely correct.

20 CHAIRMAN: But there is no suggestion that I can recall in  
21 the records that the Welfare Authority were prepared to  
22 stop the proceedings that were already underway --

23 MS SMITH: Yes.

24 CHAIRMAN: -- or certainly it never occurred to anybody to  
25 inform the Minister.

1 MS SMITH: That's correct. That seems to be the position,  
2 that the wheels had been put in motion for emigration.  
3 The foster carers came somewhat belatedly to Tyrone  
4 County Welfare and were simply told that it was in the  
5 child's best interests that he would be emigrated.

6 CHAIRMAN: I think they had indicated earlier in relation to  
7 him or another child that they were not prepared to  
8 adopt or foster. So there seems to have been a change  
9 of mind on their position also.

10 MS SMITH: Yes. In the initial assessment of themselves as  
11 foster carers it had -- there was a provision or  
12 a section of the form where you could put down whether  
13 or not they were perspective adopters --

14 CHAIRMAN: Yes.

15 MS SMITH: -- and at that stage they weren't.

16 CHAIRMAN: So they had a change of heart as well.

17 MS SMITH: Obviously after the child came to live with them  
18 --

19 CHAIRMAN: Yes.

20 MS SMITH: -- and the effects that it was going to have, his  
21 removal, on their own family probably caused them to  
22 have a rethink. Again that's speculation just reading  
23 between the lines of what we have discovered in the  
24 documents, but certainly --

25 CHAIRMAN: Yes.

1 MS SMITH: -- the statement is correct. There is no  
2 evidence to suggest that the Minister of Home Affairs  
3 was informed of this potential alternative.

4 One wonders if the Ministry had been informed that  
5 there was an alternative option available to the child,  
6 whether the consent would have remained or not, but  
7 that's pure guesswork.

8 Just going on then to -- again I am not going  
9 through all the details, but at paragraph 51 at 5975 she  
10 talks about the Department not being aware of any  
11 inspections having been carried out by Northern Ireland  
12 officials or other bodies from Northern Ireland, but  
13 based on the evidence submitted to the Inquiry it  
14 understands that children's homes accommodating child  
15 migrants were subject to representing visitation and  
16 inspection by the Australian Department of Social  
17 Welfare. We have heard evidence from the -- clearly the  
18 foundation books of Geraldton that have been provided to  
19 the Inquiry record visits by officers of the Child  
20 Welfare Department in Australia, and we do know that  
21 there was visitations by the Sisters of Nazareth to  
22 their own homes there, and it would appear from what  
23 Sister Brenda told us last week that the boys' home --  
24 I think it was Castledare -- that we heard about the nun  
25 turning up there. So there was some follow-up, as it

1           were, if not a formal inspection, as to see what the  
2           homes were like, but from what we can see the  
3           responsibility for carrying out inspections in the  
4           children's homes fell squarely on the Australian  
5           shoulders, as it were, for those homes in Australia once  
6           the children had been migrated.

7           I don't think there is anything further that  
8           I require to draw to the Inquiry's attention from  
9           Dr Harrison's statement. Obviously it is in the  
10          bundle, and there is a final paragraph which I have no  
11          doubt my friend will wish to refer to in due course in  
12          the course of his submissions, Chairman. Unless there  
13          is anything further that the Inquiry wish me to draw to  
14          their attention in the statements, I will hand over to  
15          my colleagues for submissions.

16       CHAIRMAN: Thank you. Now who wishes to go first?

17       MS SMYTH: I will go first, Chairperson.

18       CHAIRMAN: Yes, Ms Smyth.

19                               Submissions by MS SMYTH

20       MS SMYTH: Panel, these are brief submissions. I will  
21          address, first of all, very briefly the legislative  
22          framework.

23                As outlined in Ms Smith's opening to module 2,  
24          various Acts of Parliament permitted the operation of  
25          the policy of child migration. Prior to the enactment

1 of the Children & Young Persons Act (Northern Ireland)  
2 1950 the relevant statutory provisions were found in the  
3 Children Act of 1908. It is clear from the statutes  
4 that the welfare authorities in Northern Ireland could  
5 only procure or assist in procuring the migration of any  
6 child in their care with the consent of the Ministry.  
7 Statutory provision is made for this in sections 91 --  
8 sorry -- 94(1) and (2) of the Children and Young Persons  
9 Act (Northern Ireland) 1950 and section 18 -- sorry --  
10 118(1) of the Children and Young Persons Act (Northern  
11 Ireland) 1968.

12 I have set out in my submission what the statute  
13 says. Just to read that, section 101(5) of the Children  
14 and Young Persons Act (Northern Ireland) 1950 required  
15 the Ministry to be satisfied about certain matters  
16 before empowering the Welfare Authority to arrange for  
17 the emigration of a child in its care. This was  
18 replicated then in section 118(2) of the 1968 Children &  
19 Young Persons Act, and -- which read:

20 "The Minister shall not give his consent to  
21 arrangements for the emigration of a child unless he is  
22 satisfied that the child (a) consents or (b) being too  
23 young to form or express a proper opinion on the matter  
24 is to emigrate (1) in the company with a parent,  
25 guardian or relative of his or for the purposes of



1 joining a parent, guardian, relative or friend, and also  
2 that his parents have been consulted, or that it is not  
3 practicable to consult them."

4 I want to address in a little detail the evidence of  
5 HIA354. The Inquiry heard oral evidence from HIA354 on  
6 3rd September. HIA354 is the only known applicant in  
7 this module whose migration to Australia was arranged by  
8 a Welfare Authority, namely the Tyrone County Welfare  
9 Committee. HIA354 migrated to Australia under the  
10 Presbyterian Church of Victoria scheme in November 1950  
11 when he was just eight years old. HIA354's mother had  
12 died shortly before from tuberculosis and he and his two  
13 siblings, a brother and a sister, were living in  
14 separate foster homes in Northern Ireland.

15 HIA354's testimony about his voyage to Australia and  
16 his life in Dhurringile was heart-rending. During his  
17 evidence HIA354 spoke about having to fight other boys  
18 for the entertainment of other passengers on MV Cheshire  
19 and how this traumatised him. He said:

20 "Being taken away from home, my brother and sister,  
21 the death of my mother, and then having this put on top  
22 of me was a bit -- I just couldn't work out why, why  
23 someone would do this and, in fact, it was only for the  
24 entertainment of the other passengers on board as well.  
25 This was the start of my duty of care."

1           The harshness of institutional life and the abuse  
2           sustained by HIA354 whilst living in Dhurringile as  
3           described in his own witness statement contrasts sharply  
4           with the impressions given in the progress reports sent  
5           by Dhurringile to the County Tyrone Welfare Authority  
6           between 1956 and 1963.

7           It appears now that HIA354 had a miserable life in  
8           Dhurringile, which is something that was never  
9           contemplated or known by the Welfare Authority  
10          throughout HIA354's minority. Rather, the Board  
11          suggests that the documentation before the Inquiry shows  
12          that in arranging for HIA354's migration in 1950 the  
13          Welfare Authority believed it was acting in HIA354's  
14          best interests and considered he would have greater life  
15          opportunities in Australia.

16          The documents also show that the Welfare Authority  
17          consulted with Reverend                   , Presbyterian  
18          minister and relative of the HIA354 family, who agreed  
19          that migration to Australia was in HIA354's best  
20          interests.

21          Documents also show that the Welfare Authority  
22          sought and gained the approval of the Welfare Committee  
23          and sought and gained the approval of the Ministry of  
24          Home Affairs.

25          The Board's analysis also shows that the documents

1 indicate that the Welfare proactively sought information  
2 from the authorities in Australia about HIA354's  
3 progress, health and development until he attained the  
4 age of 21 years.

5 CHAIRMAN: Just to interrupt there --

6 MS SMYTH: Yes.

7 CHAIRMAN: -- Ms Smyth, isn't it the case that there appear  
8 to have been no inquiries between about 1952 and 1956?

9 MS SMYTH: I think the records will show that Miss McFadden,  
10 the Welfare Officer, had been writing asking for  
11 information and -- with no replies, and you will  
12 recall -- I address this briefly into my submission --  
13 that she had to threaten taking the matter up with the  
14 High Commissioner.

15 CHAIRMAN: Yes. That was around 1956 and that produced the  
16 desired result.

17 MS SMYTH: There was a period -- I think the documents will  
18 show there was a period where Miss McFadden was writing  
19 asking for information and there was nothing coming  
20 back.

21 CHAIRMAN: Well, she certainly said to the Welfare  
22 Committee, and I think there's a letter to the same  
23 effect, that she had been writing. So no doubt the  
24 dates will or at least the time frame will appear from  
25 that correspondence.

1 MS SMYTH: Yes, I think that's right.

2           You will see that when the progress reports started,  
3 they went on until HIA354 attained the age of 21,  
4 shortly before that, before he reached his  
5 21st birthday, and what the Board says in the early  
6 years when information was not forthcoming, the Welfare  
7 Officer wrote to Social Services in Australia saying she  
8 would take the matter up with the High Commissioner if  
9 she did not receive a full progress report on HIA354 and  
10 a photograph for his sister in Northern Ireland.

11           It is the Board's view that the Welfare Authority  
12 actively encouraged indirect contact by way of  
13 photographs, letters and progress reports between HIA354  
14 and his siblings in Northern Ireland. One letter signed  
15 by the Welfare Officer dated 10th October 1956 refers to  
16 a policy of the Welfare Authority to maintain family  
17 links.

18           It is also noteworthy, Chairman, that the Welfare  
19 Authority's Children's Officer wrote to HIA354 in  
20 Australia, but also when a letter was received from  
21 another child complaining of conditions in Dhurringile  
22 Farm School, that the welfare officer asked a trusted  
23 contact in Australia to make inquiries and to report  
24 back.

25           The Board submits that the documents reflect that so

1 far as HIA354 is concerned he was not a child migrant  
2 who was out of sight, out of mind. On the contrary, the  
3 Welfare Authority kept a sustained and genuine interest  
4 in his progress and development after his move to  
5 Australia. Significantly, the Board would say, the  
6 Welfare Authority took active steps to promote sibling  
7 contact throughout the years, and HIA354's regular  
8 contact with his sister in particular is something he  
9 referred to in his evidence, and the Board would say  
10 that that indirect contact allowed an enduring sibling  
11 relationship to develop between HIA354 and his sister,  
12 and it appears, therefore, that the Welfare Authority's  
13 policy to maintain family links has had a meaningful and  
14 important legacy in this case.

15 However, the Board also considers it is important to  
16 acknowledge that before his migration in November 1950  
17 HIA354 had been living with foster carers since July of  
18 that year. In his evidence HIA354 explained that he  
19 remembers living with his foster family and how he has  
20 maintained contact with his family to the present time.

21 The documentation shows that at the eleventh hour  
22 the foster family came forward to the Welfare Authority  
23 and asked to adopt HIA354. As reflected in the Board's  
24 September 2014 statement, it does not appear that this  
25 request was given due consideration by the Welfare

1 Authority, and the Board recognises this is a serious  
2 matter when one considers HIA354's tender age and the  
3 magnitude of his impending move.

4 In conclusion, the Board will say that the decisions  
5 that led to the migration of an eight-year-old child,  
6 recently orphaned and separated from his brother and  
7 sister, to live in a large institution in Australia was  
8 at complete odds with the principles and practices that  
9 guide decisions relating to children in care now.

10 Nowadays there is an emphasis on keeping children close  
11 to their family of origin, and under Article 33 of the  
12 Children (Northern Ireland) Order 1955 the Health and  
13 Social Services Trust may only make arrangements for any  
14 child in its care to live outside Northern Ireland with  
15 the approval of a court. Such a safeguard was not part  
16 of the statutory scheme in the 1950s, and the Board  
17 wonders whether the exercise of independent judicial  
18 scrutiny would have served to further protect the  
19 interests of young children like HIA354. By today's  
20 standards what happened to HIA354 is unacceptable and  
21 not adequately child-centred. Yet the documents from  
22 HIA354's file show that the Welfare Authority did not  
23 break any rules and believed it was acting in his best  
24 interests in arranging his migration to Australia and  
25 the approval of the Welfare Committee and Ministry of

1 Home Affairs was sought and obtained in executing the  
2 plan.

3 The Board considers that in making the arrangements  
4 for HIA354's migration its predecessor, Welfare  
5 Authority, was misguided and wishes to apologise to  
6 HIA354, who suffered so terribly by virtue of his  
7 migration to Australia. As there are likely to be  
8 a small group of other children whose emigration to  
9 Australia was arranged by welfare authorities in  
10 Northern Ireland, any hardship, neglect or abuse that  
11 was suffered by them is similarly a matter of deep  
12 regret by the Board.

13 Those are my submissions. If there is anything  
14 further, I am happy to answer your questions.

15 CHAIRMAN: Well, Ms Smyth, you say that to send  
16 an eight-year-old child to live in a large institution  
17 in Australia is at complete odds with the principles and  
18 practices that guide decisions relating to children in  
19 care now, but if we look at AUS11260, which we have seen  
20 before, in this case the Minister's officials advised  
21 him to refuse permission, because -- and part of the  
22 memorandum bears repetition -- the writer said and  
23 I quote:

24 "A child of eight years of age is obviously too  
25 young to form or express a proper opinion on the

1 advantages or disadvantages of emigration."

2 One would have thought that was a statement of the  
3 blindingly obvious --

4 MS SMYTH: I agree, yes.

5 CHAIRMAN: -- and yet the Australian authorities were  
6 sending people to Northern Ireland to interview children  
7 of this age at Omagh Labour Exchange, at Termonbacca  
8 apparently or Nazareth House, and then the writer says  
9 again:

10 "Whilst it is difficult to say at what age any  
11 particular child may reach the stage of mental  
12 development at which he is capable of forming a proper  
13 judgment on such a question, it is unlikely that such  
14 a stage will be reached before the age of 12 at the  
15 earliest."

16 The writer then goes on to say that unless other  
17 conditions are satisfied, the Ministry should refuse to  
18 consent. Now the Minister chose not to follow that  
19 advice, but I mention this because, whatever may have  
20 been the view of those in the Welfare Committee acting  
21 for the child's best interests, as they thought it was,  
22 or the same with the Sisters, there were other people at  
23 the time who said, "You just can't expect a child of  
24 that age to make an informed decision". So it wasn't  
25 that everybody thought that.



1           Indeed, if one goes back to the 1920s, we know from  
2           other documents that when Belfast Corporation was asked  
3           for its view, it again very firmly said they couldn't  
4           anticipate agreeing to any child I think under the age  
5           of 16. So there was a clear view held by some  
6           responsible individuals in official positions that ran  
7           counter to what actually happened.

8   MS SMYTH: I think that's right, and HIA354's young age is  
9           particularly aggravating circumstances when one looks at  
10          his case. Also I think it is helpful to note that the  
11          statute which sets out the criteria for the Minister  
12          giving consent or withholding it does provide for those  
13          cases where the child being too young to express  
14          a proper opinion on the matter, where those children are  
15          to migrate, it is conditional that the emigration is,  
16          one, in the company -- in company with a parent,  
17          guardian or relative or for the purposes of joining  
18          a parent, guardian, relative or friend, and that also  
19          that his parents have been consulted or that it is not  
20          practicable to consult them.

21   CHAIRMAN: But none of those conditions really applied in  
22          HIA354's case. He wasn't going to join a parent or  
23          guardian, a relative or a friend. He wasn't going to  
24          emigrate with a parent, a guardian or a relative,  
25          a guardian in that sense not meaning just the

1 institution in whose care he is but an individual who  
2 stands in loco parentis, who may be expected to have  
3 a closer personal connection with the child. None of  
4 those applied, and the Minister took it on himself to  
5 say, "Well, the child can go across to the other side of  
6 the world at the age of eight" on the recommendation of  
7 this Welfare Committee, provided he is going to what was  
8 thought then to be a responsible institution, and that  
9 that body would assume guardianship of the child or  
10 other reasonable arrangements made for travel and  
11 subsequent care.

12 Certainly the child was not put on the boat by  
13 himself --

14 MS SMYTH: No.

15 CHAIRMAN: -- but the reality is, when you strip away the  
16 phraseology, none of these conditions applied, because  
17 he was not going to emigrate in the company of a parent.  
18 He was being sent to an institution on the other side of  
19 the world at the age of eight.

20 MS SMYTH: I agree. At its height if one stands back, one  
21 might say that the Minister took a broad view of the  
22 word "guardian" as opposed to a narrow view and deemed  
23 --

24 CHAIRMAN: Well, we don't have the benefit of the Minister's  
25 views in any detail.

1 MS SMYTH: We don't and I accept that, but that's the only  
2 analysis that I can apply, that a broad interpretation  
3 of "guardian" was applied, that the Presbyterian Church  
4 scheme in Victoria was deemed to be a guardian, but  
5 I agree with you, Chairman, that there's nothing in the  
6 discovery file to date that would evidence that analysis  
7 as such.

8 CHAIRMAN: The Minister's view was as recorded:

9 "It would probably be in the interests of the child"  
10 -- I can't read the next word -- "if he comes to migrate  
11 under a scheme."

12 I am sure that was the view, speaking personally,  
13 that motivated many of the people who were, if not all  
14 of them, who were responsible for organising these  
15 things, but the point I would wish to emphasise is even  
16 then there were many responsible people who said, "You  
17 cannot expect a child of this age to be in a position to  
18 make their own decision".

19 MS SMYTH: I would obviously accept that, Chairman.

20 CHAIRMAN: The Minister made it for him. The Minister made  
21 it for him.

22 MS SMYTH: The decision was made on his behalf. That's  
23 right.

24 CHAIRMAN: Yes. Thank you.

25 Mr O'Reilly, do you wish to say anything for the

1 Department?

2 Submissions by MR O'REILLY

3 MR O'REILLY: Yes. At the outset, Mr Chairman, I can  
4 respond as fully as I am briefed in terms of a matter  
5 you raised at the end in relation to the Restoration  
6 Fund.

7 CHAIRMAN: Yes.

8 MR O'REILLY: The Department here got in touch with its  
9 counterparts in the mainland, and the response that came  
10 back was that not only does the Restoration Fund remain  
11 open, but, in fact, it has been extended until 2017.  
12 Unfortunately there were no direct answers to questions  
13 such as, "Was the particular witness a one-off in  
14 seeking an extension? Had others made application and  
15 had been refused?", but merely that as of last Thursday  
16 the fund was extended until 2017, and it is therefore  
17 open to those who qualify as having been child migrants.

18 CHAIRMAN: Well, I am sure that news will be extremely  
19 welcome not just to the witness who raised it but to  
20 anyone else in advancing years who may be contemplating  
21 trying to return to this part of the world --

22 MR O'REILLY: I would think so.

23 CHAIRMAN: -- for the purpose of a visit. We are most  
24 grateful to you for confirming that.

25 MR O'REILLY: Mr Chairman, Members of the Panel, I don't

1 intend to carry out an extensive review of all the  
2 material and the legislation that has been placed before  
3 the Inquiry, but at the outset could I attempt to dispel  
4 a myth that seems to have come into the Inquiry, and  
5 that is that under the 1940 Children & Young Persons Act  
6 in the United Kingdom the Secretary of State had power  
7 to control migration and migration schemes run by the  
8 voluntary homes.

9 There is absolutely no doubt that the Secretary of  
10 State was given the power to make regulations to that  
11 effect. Those regulations were not made until 1982, and  
12 that's referred to by Dr Harrison in paragraph 22 of the  
13 response to the Rule 9 request. Therefore, essentially  
14 Northern Ireland and the rest of the United Kingdom were  
15 in exactly the same position until 1982 and, of course,  
16 by that date no further migration had occurred in  
17 Northern Ireland.

18 What is of some interest -- may be of interest to  
19 the Panel is a discussion in the House of Lords in  
20 March 1948.

21 CHAIRMAN: Does that mean the Minister or the Secretary of  
22 State was acting unlawfully, because he hadn't made the  
23 regulations?

24 MR O'REILLY: No.

25 CHAIRMAN: He had not regulated the scheme, in other words?

1 MR O'REILLY: He didn't -- he didn't have power to control  
2 children coming from voluntary homes.

3 CHAIRMAN: You say he didn't make regulations until 1982?

4 MR O'REILLY: Yes.

5 CHAIRMAN: So this was essentially an unregulated area of  
6 activity. Is that what you are saying?

7 MR O'REILLY: What I am saying is under the Empire  
8 Settlement Acts, which didn't empower obviously the  
9 schemes, but they did empower the Secretary of State to  
10 provide funding where a scheme was brought -- sorry --  
11 where a scheme was brought forward, and where schemes  
12 were brought forward and he approved of them, then  
13 funding was provided, but what he could not do and what  
14 had been envisaged in the 1948 Act was to make  
15 regulations which would specify conditions about the  
16 age, ability of children in voluntary homes in the same  
17 way that he already had the power to do that in respect  
18 of children coming from the welfare authorities.

19 CHAIRMAN: But for whatever reason that was never done?

20 MR O'REILLY: Well, could I hand in a copy of the Hansard  
21 debate which -- the relevant section is actually  
22 clause 32. When it is being discussed, there are  
23 a number of interesting reasons given by the Government  
24 Ministers as to why it would prove impractical.  
25 (Handed.) It is particularly in the speech of the

1 Earl of Scarborough.

2 CHAIRMAN: Yes.

3 MR O'REILLY: The difficulties appear to have -- appear to  
4 be administrative as much as anything else. Although  
5 the regulations clearly had merit, it was felt obviously  
6 difficult that they could be implemented, and perhaps  
7 that's evidenced by the delay in bringing the  
8 regulations into force.

9 I don't suggest that the absence of equivalent  
10 powers in the Children and Young Persons Act (Northern  
11 Ireland) 1950 is for the same reason. It is clear that  
12 a decision to -- had very little to do with emigration  
13 powers and was taken on the advice of the second  
14 Parliamentary draftsman, Mr Leach, a well-known figure  
15 and certainly I believe a co-author of a treatise on the  
16 Trustee Act 1958 with the then Mr R.D. Carswell, now, of  
17 course, Lord Carswell, and Mr Leach's advice appears to  
18 have been accepted, and the powers of the Northern  
19 Ireland Government or the Ministry of Home Affairs was  
20 therefore limited to those that appear in sections 94  
21 and 111(5).

22 CHAIRMAN: The Northern Ireland Government would appear to  
23 have taken the view that these were a matter for what  
24 would then have been referred to as the Imperial, ie the  
25 Westminster, Government and in modern terminology it was

1 probably not, therefore, a devolved function.

2 MR O'REILLY: Indeed.

3 CHAIRMAN: So it was nothing to do with them.

4 MR O'REILLY: No, it was -- I presume that Ministers,  
5 although many of the Ministers were obviously or had  
6 been lawyers, nevertheless accepted advice proffered by  
7 the Parliamentary draftsman, and in this case it was  
8 clearly accepted.

9 CHAIRMAN: Yes. We only have that brief account of what the  
10 draftsman's views were. My understanding is that,  
11 despite exhaustive efforts, we haven't been able to find  
12 the draftsman's file on the Bill in the Public Record  
13 Office. That might well, of course, have had a more  
14 developed explanation as to the conclusions.

15 MR O'REILLY: It therefore follows that when Mr -- when  
16 Ms Smith referred to paragraph 5 of the Board's  
17 witness's first statement stating that it was the  
18 Ministry who had some sort of control over children who  
19 were being migrated from voluntary homes, that  
20 unfortunately is incorrect.

21 I don't wish to develop the point, but it is obvious  
22 to the Inquiry and from the information the Inquiry has  
23 provided to the parties that the vast majority of  
24 children who did emigrate from Northern Ireland had been  
25 residents in voluntary homes. The absence of any powers



1       vested in any Government Department, and particularly  
2       the Ministry of Home Affairs, meant that the Department  
3       could not require details such as the names of the  
4       children, the ages of the children, when the children  
5       were travelling to Australia or the institutions to  
6       which they were going to be placed in Australia. That  
7       in turn meant it could not check up on the children who  
8       had gone, because it didn't know who they were, and it  
9       didn't know the institutions to which they had been  
10      sent.

11           Of the children who did migrate with the consent of  
12      the Ministry of Home Affairs, that appears to have  
13      started around 1927 with the Malone Training School. In  
14      terms of training schools it was further developed in  
15      1950 with a number of boys from the St. Patrick's  
16      Training School on the Falls Road. In all those cases  
17      so far as we can see the request for emigration came  
18      from the boys themselves, and where it was possible  
19      parental consent was obtained, and, of course, none of  
20      those boys have made any complaints or were witnesses to  
21      this Inquiry.

22           It does appear likely, but unfortunately there is  
23      insufficient evidence available to provide further  
24      detail, that there may have been one or more children  
25      who were under the care of the Antrim County Welfare

1 Committee and the Down County Welfare Committee were  
2 migrated. Unfortunately nothing can be said other than  
3 I suppose by way of comfort that none of them have been  
4 complainants to the Inquiry.

5 I am conscious of the case of HIA354, HIA354, as he  
6 has been known this morning. I take on board your  
7 comments, Mr Chairman, as to whether or not the Minister  
8 could have been satisfied that the conditions required  
9 under section 111(5) had been met. At the same time it  
10 is right to say that where you have a child of any age,  
11 a newborn babe, that child may be suitable for  
12 emigration if either it is travelling with a parent,  
13 relative or guardian or is going to meet up with a  
14 parent, relative, guardian or friend. So age in itself  
15 is not a bar. It is, of course, a bar to achieving  
16 an informed consent, but it is not a bar to emigration.

17 I considered arguing in front of you, Mr Chairman,  
18 that, the Minister having been satisfied that emigration  
19 would be for the benefit of the child, he may have taken  
20 the view that the fact that the child would immediately  
21 become a guardian -- or rather come under the  
22 guardianship of the local government, as it were, in  
23 Australia, I could have argued that the child was going  
24 to meet a guardian. However, the definition of  
25 "guardian" in the Children & Young Persons Act 1950

1 I think precludes me from doing that, because it does  
2 indicate a guardian would normally be appointed by the  
3 court, and I would assume it means a court in Northern  
4 Ireland.

5 But if I may go back a little in time, it is right  
6 to say the Minister may have been mistaken in granting  
7 consent, but there was a continuing duty on the Tyrone  
8 County Welfare Committee to keep the Ministry apprised  
9 of all relevant events. Now even before it made its  
10 request to the Ministry or at the time it made its  
11 request to the Ministry it failed to inform the Ministry  
12 that HIA354 had a younger brother and a younger sister.  
13 It failed to inform the Ministry that two of the foster  
14 families were living almost directly opposite one  
15 another and in the case of a third child the mother in  
16 that family was the sister of the mother in one of the  
17 other families. None of this was brought to the  
18 attention of the Ministry.

19 But perhaps of most importance is the failure to  
20 inform the Ministry of the request for adoption by the  
21 foster family with which HIA354 was living. I think  
22 the remark made by one of the County Tyrone welfare  
23 officials, perhaps the Child Officer, was, "Let's hope  
24 it blows over", something to that effect.

25 I have to put to this Inquiry the position that the

1 Minister would have faced had he been -- had he been  
2 informed that, although HIA354 was an orphan, he had two  
3 younger -- a younger brother and a younger sister and  
4 there was a request for adoption. He would have been  
5 faced with two alternatives. One at one hand was let  
6 the child go to Australia and the other hand was,  
7 "Should I break up this family possibly forever?"

8 It is my respectful submission, with all the  
9 knowledge now available to this Inquiry, not available  
10 to the Ministry, a responsible Minister might well have  
11 taken the decision on emigration that consent should be  
12 withdrawn and the child retained in Northern Ireland.  
13 If that had been the situation, then a question of  
14 migration would have been excluded, and albeit that the  
15 consent was probably a mistaken belief in his powers  
16 would no longer have been relevant.

17 What is of some further relevance is the fact that  
18 when HIA354's younger brother achieved the age at which  
19 he was migrated, the Tyrone County Welfare Committee  
20 again gave consideration to a similar migration, and it  
21 was through no part of the Tyrone County Welfare  
22 Committee that the brother didn't migrate. It was on  
23 the basis that he was found of ill health and was  
24 described as backward and those were the reasons for  
25 non-migration. That's the fortunate scene, bearing in

1 mind the tear-jerking testimony we all heard from  
2 HIA354.

3 Various questions were posed in the Rule 9 request  
4 --

5 CHAIRMAN: If we just --

6 MR O'REILLY: Sorry.

7 CHAIRMAN: -- look at the family circumstances in a little  
8 more detail, Mr O'Reilly, in one sense if the younger  
9 brother had been well enough to go and otherwise  
10 suitable, there might have been a stronger case for  
11 sending him to join his other brother, but, of course,  
12 that still left the position of the younger sister.

13 MR O'REILLY: Yes.

14 CHAIRMAN: As it happened, the way it worked out was that  
15 the younger brother's health improved sufficiently to  
16 allow him to be fostered on a long-term basis apparently  
17 very successfully as far as one can judge.

18 MR O'REILLY: Not only that. With those foster parents who  
19 objected violently to the prospects of emigration,  
20 Mr Chairman.

21 CHAIRMAN: The younger sister eventually got a very  
22 responsible job with the local authority. So keeping  
23 them at home worked out well for them.

24 MR O'REILLY: That is the point I was hoping to make,  
25 Mr Chairman, yes.

1           There are a number of questions posed in the Rule 9  
2 request which I might respectfully submit are  
3 inappropriate for the Ministry of Home Affairs. For  
4 example, "What did the Ministry do about children it  
5 sent to Australia?" Of course no such children were  
6 sent by the Ministry of Home Affairs.

7           I have also taken some exception to some of the  
8 matters raised by my learned friend Ms Smith, as they  
9 appear to be an attempt to implicate the Ministry of  
10 Home Affairs as fully as possible. An example is when  
11 she was reading out the minute from Miss Kathleen  
12 Forrest of a meeting with I think the Mother Superior at  
13 Termonbacca, and I am grateful to Miss Doherty for  
14 pointing out that the word "their", T-H-E-I-R, referred  
15 to the Sisters of Nazareth and not to the Ministry of  
16 Home Affairs. This was a suggestion by Ms Smith of some  
17 deeper involvement by the Ministry in the migration of  
18 children.

19           I also noted her reference to a Miss Harrison from  
20 the Scottish Home Office, who on a visit to some of the  
21 homes in Australia made some sort of report afterwards.  
22 Even though she is referred to in the book by  
23 (inaudible), there is very little to go on as to the  
24 precise nature of her visit. From that it is clear that  
25 she did visit a number of homes and found most of them

1 to be in good standing, but we don't know whether she  
2 was visiting those homes to talk to children who had  
3 been migrated from Scottish Welfare Authorities,  
4 children who had come from Scottish voluntary homes. We  
5 don't know whether it was an official visit. It was the  
6 second trip she apparently had made in a number of  
7 years, and it smacks more of a situation that affected  
8 Mr John Moss, who is described as being in retirement  
9 and on a semi-retirement trip, and he makes his  
10 inspection in 1951.

11 I simply give those two examples to indicate  
12 a follow-up to some quite unusual and inappropriate  
13 questions that appeared in the Rule 9 request.

14 The position simply is that the Sisters of Nazareth  
15 simply did not provide, nor were they obliged to  
16 provide, the Ministry of Home Affairs with any details  
17 of the children who were being migrated from their  
18 various homes, nor did they provide them with details of  
19 the homes to which they were going, and so inspections  
20 of those homes, even if the Ministry had chosen to do  
21 so, couldn't be carried out.

22 It is therefore my respectful submission that, with  
23 the exception of the HIA354 case, the Ministry is in no  
24 way culpable for the very sad events that affected so  
25 many children, and even in the HIA354 case I trust you

1 will bear in mind my comments on the possibilities never  
2 occurring.

3 May I finish, Mr Chairman, by repeating paragraph 62  
4 of what I call the statement of Dr Harrison, but  
5 properly in response to the Rule 9 request. If you  
6 don't mind, I will read it out in full.

7 "On 4th February 2010 the then Prime Minister,  
8 Gordon Brown, on behalf of the United Kingdom Government  
9 apologised to former child migrants from the United  
10 Kingdom who had been sent -- who had been sent as  
11 children to Australia and other British colonies. In  
12 his statement the Prime Minister acknowledged that in  
13 too many cases vulnerable children suffered unrelenting  
14 hardship, neglect and abuse in the often cold and brutal  
15 institutions that received them."

16 Having read the moving and distressing statements  
17 made by former child migrants from Northern Ireland to  
18 the Historical Institutional Abuse Inquiry, the  
19 Department wishes to formally endorse everything that  
20 the former Prime Minister said and acknowledge that the  
21 child migration schemes, established in the hope that  
22 children would have a chance to forge a better life  
23 overseas, prove for our children to have been misguided.

24 Those complete my submissions, Mr Chairman.

25 CHAIRMAN: Thank you.



1 Mr Montague?

2 Submissions by MR MONTAGUE

3 MR MONTAGUE: Chairman, Members of the Panel, can I say at  
4 the outset that the core participants, including the  
5 Sisters of Nazareth, are indebted to and grateful to the  
6 Panel and to the Inquiry team for compiling the  
7 substantial body of research on the history of child  
8 migration schemes from Britain to Australia during the  
9 relevant period, and to you, Chairman, for commissioning  
10 a report from Dr McVeigh and Dr Humphreys on the  
11 experience of former child migrants from Northern  
12 Ireland in particular.

13 Although the public hearings of this module have  
14 been short and very efficiently conducted by my learned  
15 friend Ms Smith, Senior Counsel to the Inquiry, that  
16 does not reflect the huge work that was undertaken by  
17 the Inquiry team that enabled this module to run so  
18 efficiently.

19 Apart from the reports commissioned from Dr McVeigh  
20 and Dr Humphreys, you, Chairman, also commissioned  
21 a report from Tuart Place on the impacts and outcomes of  
22 child migration, and those impacts are universal and the  
23 evidence which the Inquiry has heard from applicants,  
24 both oral and documentary, reflects the key problems  
25 identified and summarised in the Tuart Place report as,

1           one --

2   CHAIRMAN:  Mr Montague, I have to correct you on one small  
3           point.  I didn't commission the report.  It was  
4           unsolicited --

5   MR MONTAGUE:  Volunteered.

6   CHAIRMAN:  -- but nonetheless --

7   MR MONTAGUE:  Even more noble, Chairman.

8   CHAIRMAN:  -- even more useful.

9   MR MONTAGUE:  Yes.  It highlights obstacles to access to  
10           information and records relating to former migrants'  
11           identity or their family history; two, loss of national  
12           identity and cultural heritage, and both of those have  
13           loomed large in this module.

14           Of those negative outcomes, the problem of loss of  
15           identity in the search for past records is having  
16           a major impact and a continuing one on some applicants'  
17           sense of self and identity.

18           We respectfully refer to you Chapter 9 of the  
19           Australian Senate Report 2004 and in particular to the  
20           recommendations therein.

21           The Sisters of Nazareth are anxious to assist former  
22           child migrants in assessing records in their possession  
23           and we welcome -- and I say that on behalf of the  
24           congregation -- this opportunity for the Inquiry to make  
25           recommendations on how to address this issue.

1           Whilst there has been much research generally on  
2           child migrants, this module has been unique in giving  
3           those who were emigrated from Northern Ireland a voice  
4           and a platform to be heard.

5           We know that apart from access to information and  
6           what they consider a great loss in losing their national  
7           identity and cultural heritage, particularly for those  
8           who were emigrated through the UK scheme and who were  
9           brought up or rather who were born and consider  
10          themselves Irish, and I will address that later in my  
11          submission, but another major issue for a number of the  
12          applicants to the Inquiry is their belief and indeed  
13          conviction in some cases that they were emigrated  
14          without the consent of their mother or other relative.  
15          I will address this in due course.

16          Sister Brenda McCall in her evidence to the Inquiry  
17          expressed regret at the congregation's participation in  
18          the child migrant programme. The genesis of their  
19          participation is reflected in the General Council  
20          chapters. I do not intend to open the relevant extracts  
21          from the chapters, which have already been opened at  
22          length. I have recited them in our submission, but  
23          there are a few matters that I would respectfully wish  
24          to highlight.

25          As early as 1923 the Mother General of the

1 congregation told her Council that:

2 "Major Macaulay was very anxious for us to send out  
3 children about 12 years of age to Australia and thinks  
4 the government would pay their passage and also for the  
5 Sisters that may accompany them, and if they could be  
6 sent to Brisbane after an arrangement has been made with  
7 Archbishop Duhig, who is also anxious for Catholic girls  
8 to go there, the members of the Council thought it would  
9 be a good thing, but the scheme would need to be well  
10 thought out."

11 So already from a very early stage -- in fact, the  
12 earliest record available, 1923 -- we can see the  
13 appeals that are being made of the congregation to send  
14 children to Australia and that that would be with the  
15 blessing and approval and support -- financial that is  
16 -- of both governments.

17 The next relevant entry is 1928. The Christian  
18 Brothers in Australia had offered the Mother General to  
19 take 50 boys to a farm that they had acquired there and  
20 to be entirely responsible for their education. It was  
21 noted that reports were very satisfactory in respect of  
22 the girls who had emigrated under the care of the  
23 congregation and had been received in the Sisters' house  
24 in Brisbane. It is also reported that the bishop there  
25 was very interested in the scheme.

1           Then fast forward to 1938. The Reverend Mother  
2           General asked the opinion of her Council on the proposal  
3           of a Catholic gentleman in London who had called her two  
4           years prior to that and asked the congregation "to send  
5           out our girls to Australia for the spread of  
6           Catholicity". The matter was brought before the General  
7           Council and all were in favour of it, provided that this  
8           could be satisfactorily arranged. Again one can see  
9           from the note the involvement of the Catholic hierarchy  
10          in Australia and again the involvement of Archbishop  
11          Duhig.

12          The observation that is contained in the chapter is  
13          significant we say in assessing why the Sisters were  
14          attracted to this proposition. What it records is that  
15          arrangements could be made to have the children sent to  
16          their home in Brisbane in the first instance and:

17                 "They could help with the work and be trained more  
18                 or less for situations for about two years or so, and  
19                 that there are much better openings for girls in  
20                 Australia than at home, and as a rule they get on  
21                 better."

22          You see, Chairman, and have already noted, the  
23          matter was discussed at some length and the scheme was  
24          approved.

25          Now these extracts, not only do they reflect the

1 appeals made to the Sisters of Nazareth and the  
2 involvement of the government bodies in the Catholic  
3 hierarchy, but they are confirmed also by Dr McVeigh in  
4 her thesis, "A History of the Child and Juvenile  
5 Migration Schemes to Australia". She said, if you will  
6 bear with me while I quote it:

7 "The Roman Catholic agencies tried to encourage as  
8 many as possible children in their care to take  
9 advantage of the 'wonderful opportunity' offered to  
10 them. In the initial stages of the Catholic scheme the  
11 only children considered eligible were voluntary cases  
12 'most of whom had been deserted by their parents' and  
13 children under the old Poor Law system and from the old  
14 industrial schools. Later all children in the care of  
15 the Catholic agencies were offered this choice. In the  
16 voluntary cases there was considerable reluctance on the  
17 part of Catholic authorities to send children overseas  
18 if they were not genuine orphans and parental consent  
19 was unobtainable. That reluctance had to be balanced  
20 against what were perceived to be the considerable  
21 advantages of growing up in Australia rather than in  
22 Britain. It is also the case that each child was  
23 interviewed by officials from Australia House in London  
24 before being accepted for migration. This was in part  
25 to establish parental consent or the validity of the

1 reasons for its absence."

2 Those extracts, Chairman, reflect and encapsulate  
3 the essence of the participation of the Sisters of  
4 Nazareth in this scheme.

5 The influence of BAU4, whose name has also featured  
6 prominently in the evidence in this module, cannot be  
7 underestimated. He was clearly a force in Australia and  
8 in the entire migrant programme during his lifetime. He  
9 was described in the Tardun records as being "a highly  
10 educated gentleman of an intensive practical mind", and  
11 Ms Smith has already opened to the Inquiry the  
12 correspondence from the Archbishop of Perth, who  
13 commissioned BAU4 to seek out children from the United  
14 Kingdom and to emigrate to Australia.

15 One can see from the letter of 20th July 1937 that  
16 the Prime Minister of Australia was also involved:

17 "I~have just been speaking to the Prime Minister  
18 over the telephone with regard to the emigration of  
19 children. He is of the opinion that everything is now  
20 in order. He has spoken to the Premier, Mr Willcock,  
21 who is favourably disposed towards a subsidy similar to  
22 that granted to Fairbridge."

23 You see also contained within that letter:

24 "Generally speaking, adult emigration is not  
25 favoured in Australia, but there is a strong feeling

1       which favours child emigration, being the best solution  
2       to the problem of feeling -- of putting our" -- sorry --  
3       "filling our empty spaces with the most suitable types  
4       of citizens."

5             It is clear from the correspondence they were  
6       sending BAU4 to negotiate and finalise all matters in  
7       connection with the scheme in England.

8             In 1938 the Prime Minister of Australia wrote to  
9       BAU4 confirming government funding, and it was against  
10      that background on 12th May 1938 that  
11      Superior General of the Sisters of Nazareth at  
12      Hammersmith, wrote to BAU4 as follows:

13            "With reference to our conversation this morning  
14      about the emigration scheme for Western Australia, we  
15      have considered your proposal and have decided to send  
16      two Sisters to look after the boys on the voyage on the  
17      condition that a Brother will accompany each party. We  
18      are hoping that your good Superior General will be able  
19      to arrange for a Brother accustomed to teaching and  
20      looking after the boys."

21            There was actually an agreement between the Superior  
22      General and BAU4. It's a written agreement that is set  
23      out in the bundle.

24            Now, Chairman, this Inquiry has examined a number of  
25      child migration forms in which the consent to emigration



1 was signed by BAU4. We have also heard evidence from  
2 former child migrants, and indeed from former residents  
3 in the home who did not emigrate, of BAU4 coming to the  
4 Nazareth homes in Northern Ireland to talk to children  
5 about going to Australia.

6 An example of that was the evidence of HIA278, sadly  
7 now deceased. In her statement of evidence at  
8 paragraph 10 she recalled BAU4 coming to Nazareth House  
9 in Bishop Street and calling out her name.

10 HIA309 said at paragraph 9 of his statement that  
11 BAU4 came in 1946 to talk to the boys about going to  
12 Australia, and he described him as a very good brother,  
13 who did not hit him or any of the other boys, and that  
14 was in the context of his experience of BAU4 when he  
15 emigrated to Australia.

16 HIA284 told the Inquiry that he recalled BAU4  
17 visiting Nazareth Lodge also in 1946 to give a talk to  
18 30 or 40 boys. He describes how they had to sit a test  
19 in order to qualify to get to Australia, and that BAU4  
20 brought books about Australia and he reassured them life  
21 would be good in Australia, and the Inquiry has heard  
22 the words attributed to him. Suffice to say that those  
23 words were certainly to induce children as to the  
24 attraction of what was being portrayed as a wonderful  
25 opportunity and a great lifestyle.

1           As the Inquiry has heard and you, Chairman, have  
2           observed, it was not only the two governments and the  
3           Catholic hierarchy which supported emigration. A number  
4           of charitable bodies and religious congregations of  
5           different denominations participated in the scheme.  
6           Interestingly, as early as 1910 there was debate in the  
7           British Medical Journal by way of published  
8           correspondence on the merits of child emigration.

9           It reflects what you, Chairman, brought up with  
10          Ms Smyth and Mr O'Reilly, particularly Ms Smyth, about  
11          there were -- there were dissenting voices from the  
12          early part of the last century, and it is reflected in  
13          part by this letter in respect of the Child Migration  
14          Scheme and it is in response to another letter  
15          published:

16          "Does he mean that power should be given to the Poor  
17          Law authorities to take children away from such parents  
18          as 'cannot afford to, will not maintain them properly'  
19          and send them to the colonies even without the consent  
20          of parents? Such a power could not be exerted except in  
21          cases in which the grossest cruelty or neglect could be  
22          proved, and who is to decide upon the amount of  
23          unworthiness on the part of parents that would justify  
24          such a measure?"

25          So even in 1910 they are touching upon informed

1 consent, and the reality, as we know, and as Sister  
2 Brenda acknowledged, how on earth could young children  
3 properly consent?

4 You will note when he discusses the various  
5 possibilities and the difficulties and he says, and I am  
6 reading from page 13, Chairman, penultimate paragraph:

7 "The solution to these difficulties possibly lies in  
8 the farm school method which is a policy I believe of  
9 the Society for Furtherance of Child Emigration founded  
10 last year at Oxford by colonials. The society proposes  
11 to take waif children to the colonies at the age of 8 to  
12 10 and to give them a complete general and agricultural  
13 education on the society's farms in the two colonies."

14 I haven't included this, what I am about to say, in  
15 the written submission which is in ease of your notes,  
16 but it is something that you did raise, Chairman, with  
17 Sister Brenda, and that was the evidence that the  
18 Inquiry heard in module 1 from SND1 -- or SND482 --  
19 I beg your pardon -- SND482, Day 32, and the time was  
20 20.3, and that evidence was that and the  
21 Mother Superior had declared that no more boys were  
22 going away, and they were not -- effectively in terms  
23 what he is reporting is that they were not going to  
24 tolerate it. As you indicated, Chairman, there was  
25 a dichotomy or certainly a difference in practice then

1 between the Derry homes and the Belfast homes, because  
2 they continued to select children for emigration, which  
3 they stopped from Derry.

4 I have taken further instructions on that point  
5 since it was raised and this difference in policy,  
6 Chairman, does reflect the semi-autonomous nature of the  
7 homes. Now although each home would have kept the  
8 Superior General and her Council informed of children  
9 emigrating, and the scheme could not have been  
10 participated in the first instance without their  
11 permission and approval, it was up to the individual  
12 homes and the Mother General of those homes to put it  
13 into practice as they saw best in the interests of the  
14 children under their care.

15 A document, Chairman, which I would ask to be put  
16 up, which is AUS4078, please, because it may give a hint  
17 as to what resulted in the change of approach on the  
18 part of the Sisters in the homes in Derry. This is  
19 a quarterly report of 1949 from the ACIC. You note the  
20 first paragraph:

21 "General position regarding migration. The position  
22 in Scotland and Northern Ireland with regard to the  
23 emigration of children to Australia must be viewed at  
24 this time with dissatisfaction. Although in 1947 well  
25 over 100 children were sent out to Australian homes and

1       convents, the numbers since then have gradually dropped  
2       and the last group sent out consisted of less than half  
3       a dozen children. There are so far as can be  
4       ascertained many reasons for this fall of -- fall in  
5       numbers, the main ones being as follows."

6             Those are:

7             "(a) Personal attachment to the children.

8             (b) General dislike to letting the children leave  
9       the country, and

10            (c) Unwillingness to have the numbers in the homes  
11       depleted."

12            I think I am on solid ground, Chairman, by saying  
13       that (c) was not a factor, because we know that the  
14       homes in both Derry and Belfast during this time were  
15       not only full but we have already accepted were  
16       under-staffed.

17            But we also know from the letter from Kathleen  
18       Forrest that has featured already this morning in  
19       submissions -- it is at AUS1560, and I know you,  
20       Chairman, and the Panel are fully aware of its content  
21       by now, but this may also give a clue as to why the  
22       Belfast homes considered -- continued to send children  
23       to Australia up to 1956. I do read it again.

24       Penultimate paragraph:

25            "Reverend Mother now wonders if perhaps they may yet

1 manage to place the Fox Lodge two to five year olds in  
2 the wing of the babies' home, as I suggested long ago.  
3 However, there are obvious difficulties of dividing the  
4 cost. I don't quite see how the subject can be tackled  
5 except by Reverend Mother herself in the first instance.

6 She also tells me she is sending 23 boys to their  
7 homes in Australia soon and may send another 20 later.  
8 Rubane can't absorb all their output and this is how  
9 they are to be disposed of."

10 A very unfortunate use of language by Miss Forrest,  
11 but nevertheless you will see it continues:

12 "This is being arranged" -- this is the emigration  
13 to Australia -- "by a priest from Australia now  
14 collecting children here.

15 She wondered" -- that's the Reverend Mother --  
16 "whether Mr Murphy, their aftercare officer, could cope  
17 with the negotiations and formalities for her."

18 Miss Forrest said she didn't see why he shouldn't do  
19 so. So you can see there at the very least direct  
20 knowledge of the pressure on the Mother Superior in --  
21 Mother Superior in Nazareth Lodge with the sheer force  
22 of numbers coming into their care. So that may well --  
23 the combination of those sentiments expressed in those  
24 documents may well reflect why the Sisters in Derry were  
25 so opposed to it and had this change.

1           If I may move on to what we acknowledge is a major  
2           source of upset to former child migrants and it goes  
3           right to the root of the search for their identity.  
4           I say this on behalf of the congregation, but no-one  
5           could have failed to have been moved by the accounts  
6           that this Inquiry has heard, not just in oral testimony  
7           in the chamber, but by way of videolink, which didn't  
8           diminish in any way the emotion that the migrants were  
9           expressing, or former migrants, and also the documentary  
10          accounts which eloquently reflect what they endured and  
11          also reflect their quite incredible stoicism, at least  
12          amongst the vast majority, and unbelievable resilience.

13          One phenomenon that historically we respectfully say  
14          is relevant and that is there was a high increase --  
15          sorry -- a significant increase in the number of  
16          illegitimate children born in the post-World War II  
17          period, and there were many obstacles to maintaining  
18          records to a child's parents, not least because mothers  
19          wished to maintain confidentiality, particularly in  
20          respect of illegitimate children.

21          Now this evidence was not given by Sister Brenda,  
22          but my instructions are that there would have been  
23          occasions when the Mother General would have been the  
24          only person in the home to have known who the mother of  
25          a child was and that would have been kept completely

1 confidential.

2 CHAIRMAN: Do you mean the Mother Superior?

3 MR MONTAGUE: Yes.

4 CHAIRMAN: The Mother General is the head of the Order.

5 MR MONTAGUE: The Mother Superior. Sorry. Yes, yes, the  
6 Mother Superior in the home. Now while commentators  
7 have stated that post-war conditions in the United  
8 Kingdom were no excuse for the emigration schemes, this  
9 was undoubtedly what is accepted by historians as a new  
10 social phenomena, that is the spike in illegitimate  
11 births during the war years.

12 Indeed Mr Lane, Panel Member, in his review of the  
13 two-part TV documentary "Love Child" wrote of the  
14 parental pressure during the post-war era on girls who  
15 got pregnant, many of whom were sent away to mother and  
16 baby homes for the duration of the pregnancy and birth  
17 and only being allowed home when the baby had been  
18 adopted.

19 Mr Lane commented:

20 "In the 1950s and 1960s the stigma of illegitimacy  
21 was such that many young women in their late teens and  
22 early 20s were more or less forced to give up their  
23 babies. They were expected to go away to mother and  
24 baby homes and six weeks later sign over their child to  
25 someone else. They were then expected to make a fresh



1 start and forget the babies they gave away."

2 Mr Lane also observed in that review that it was not  
3 until the Children's Act of 1975 that children were  
4 given the right to search for their birth parents, and  
5 that was in England and Wales. I believe it was much  
6 later in this jurisdiction, but I defer to the family  
7 lawyers in the chamber.

8 What the admission records of Termonbacca disclose  
9 is that in the period 1930-1934 there were only 7 of 63  
10 admissions who were illegitimate; in 1934-1940 42 of 85  
11 admissions were illegitimate; for the period 1940-1945  
12 43 of 104 admissions were illegitimate; and 1950-1955 47  
13 of 80 admissions were illegitimate.

14 That social stigma that was sadly attached to  
15 illegitimacy at that time was such that mothers would  
16 often conceal the pregnancy and would not disclose it  
17 except perhaps to a close relative even at a later date.  
18 It was very real, Chairman, and I think the Panel will  
19 take -- it is not even a matter of judicial notice but  
20 a matter of common sense that it was very real in both  
21 urban and rural communities, but perhaps heightened in  
22 rural communities. The map that was provided by the  
23 Child Migrant Trust just shows the spread of --  
24 certainly suggests the spread of single mothers came  
25 from all over Northern Ireland to seek the help of the

1 Sisters of Nazareth.

2 HIA333 has featured very much in this Inquiry. His  
3 mother discovered she was pregnant in 1937. She was  
4 unmarried and resided in a village, and the Panel know  
5 where that village is, but very much rural west of  
6 Northern Ireland. She kept her pregnancy a closely  
7 guarded secret according to the stories -- the  
8 publications, rather, in respect of HIA333. We tried to  
9 provide those last week by the usual method of scanning,  
10 Chairman, and there was some technical glitch, but hard  
11 copies will be provided, including correspondence, but  
12 in those accounts which have been published of HIA333's  
13 history and in particular his mother's history, it is  
14 suggested, and it is speculative, that a maximum of  
15 three persons knew about her pregnancy: herself, the  
16 child's father and the local parish priest, and to that,  
17 of course, could be added the Mother General who  
18 accepted HIA333 into the home. What we say is that  
19 would have been typical of the experience of many single  
20 mothers in Ireland during the relevant period.

21 Can I pause there, Chairman, and also remind the  
22 Inquiry of the evidence that was given by SND228 in the  
23 first module about what he encountered in the 1960s in  
24 Derry, about the sadness of families who already had  
25 pressure of space in their homes because of the number

1 of children they had in their home, or they may have had  
2 a teenage daughter that got pregnant and they simply  
3 could not care, such was the deprivation that was being  
4 suffered, even in the '60s.

5 All of that, when it is gathered together, it does  
6 impinge, Chairman, we respectfully say on what we  
7 acknowledge is the minimal record-keeping during that  
8 relevant period.

9 An example of one of the obstacles to identifying  
10 mothers is revealed in correspondence from the Catholic  
11 Family Care Society to the Catholic Child -- that's  
12 Northern Ireland -- to the Catholic Child Migrant Centre  
13 in Perth concerning a child migrant who had been in  
14 Nazareth House in Derry. His unmarried mother had  
15 booked into hospital for her son's birth, but she did so  
16 under the child's father's name, and a line of Inquiry  
17 has then pursued by the hospital but it threw them on  
18 a wild goose chase. Fortunately it was the records from  
19 Nazareth House that enabled the mother's surname to be  
20 ascertained.

21 But it is something -- it is a challenge, if I might  
22 respectfully say so, for the Inquiry in making its  
23 recommendations, because this module impacts on all the  
24 modules in the Inquiry, because it is a reflection on  
25 and a study of childcare in the last -- greater part of

1 the last century. It is then: what can we do about it,  
2 because that's the challenge? What can be done in the  
3 best interests of the children and what can we learn  
4 from history?

5 What I am at pains to say is the Sisters of Nazareth  
6 have instructed me clearly and unequivocally that they  
7 wish to do anything that's within their power to assist  
8 former migrants or indeed other applicants to the  
9 Inquiry in coping with the past.

10 That willingness to assist former child migrants,  
11 Chairman, is reflected in the correspondence relating  
12 to -- I am naming him, but he is obviously -- two people  
13 who are not to be named: and Mrs

14 . In respect of we have  
15 correspondence from SR2, again who should not be named,  
16 with both the Catholic Family Care Society and also with  
17 Dr Humphreys of the Child Migrants Trust, and in respect  
18 of Dr Humphreys SR2 corresponded with and met her and  
19 corresponded with members of the family. That is not  
20 Dr Humphreys. That's , and in a letter from  
21 the Superior General of Nazareth House in Hammersmith in  
22 December 1993 the Superior General stressed that the  
23 congregation was anxious to help migrants. She provided  
24 the particulars of a Mr Michael Lyons, who had been  
25 appointed by the Catholic Children's Welfare Society in

1 England to assist any migrant in any way possible  
2 regarding any information relating to the families,  
3 records, etc, and it notes, and I make no apology for  
4 saying so, that the Sisters of Nazareth and the  
5 Christian Brothers are paying for the services of  
6 Mr Lyons.

7 Now that correspondence was followed up again by SR2  
8 and by a letter dated 24th January 1994. She explained  
9 that in the 1930s and 1940s the files were not kept as  
10 they are today. She went on to say:

11 "With regard to your request for papers stating that  
12 your brother was actually in care in Nazareth House,  
13 I wish to confirm that according to our records there is  
14 no evidence of ever being in care here."

15 That is Nazareth House, Derry.

16 "However, he was admitted to Termonbacca on  
17 1946 and was discharged from there on  
18 1953.

19 In relation to your request for school papers and  
20 school group photographs, I regret to inform you that we  
21 would not have access to the Christian Brothers'  
22 records, who incidentally are no longer residing in  
23 Derry. As regards to health and farm records, to our  
24 knowledge none were kept at that time.

25 I enclose a copy of all the information I have on

1 record and unfortunately I feel this will be of little  
2 consolation, as you already have this. I can offer my  
3 sympathy and my regrets, but I cannot be of further help  
4 to you."

5 Now the Sisters of Nazareth were not alone in having  
6 minimal records during that period. Mr Luce of the  
7 Department of Health in his evidence to the Health  
8 Committee Third Report in the United Kingdom said as  
9 follows, and if you'll forgive me for reading this:

10 "Our perception is that the voluntary organisations  
11 who in the past were emigrating children are doing what  
12 they can to make available their records to the children  
13 themselves or to others with a bona fide interest. It  
14 is not a particularly easy thing to do. I think I am  
15 right in saying that until well after the war, until  
16 1955 that there was actually no legal obligation on any  
17 childcare agency to keep records for a specified time.  
18 I think I am right in saying that it was only in 1991  
19 under regulations made through the Children Act of two  
20 years previously that the Department of Health put  
21 an obligation on local authorities and other agencies  
22 dealing with children to keep records for I think it is  
23 now 75 years. The sending agencies do appear to have  
24 actually kept records. They do appear to have kept  
25 records, although naturally over a very long period some

1 of those records will have met with accidents. They  
2 will have been lost or there will have been fires or  
3 whatever, but our perception is that they are really  
4 trying to be helpful. I note that there were  
5 perceptions particularly in the late 1980s when quite  
6 a lot of the contacts appear to have started from the  
7 emigrated children and organisations acting on their  
8 behalf. There were perceptions at that time that the  
9 going was very slow and there may have been some  
10 reluctance. I do not think that is something I can  
11 comment upon. Our perception is that sending agencies  
12 are ready to be helpful."

13 What we would say to that, Chairman, is whatever the  
14 position was in the late '80s, it is certainly not the  
15 position now. You will note -- I am not going to read  
16 it, Chairman -- at paragraph 13 he had misgivings and  
17 scepticism about a comprehensive database, although it  
18 was noted by the Health Committee that the Catholic  
19 Child Welfare Council had a developed database since  
20 1994 containing details of all known former migrants  
21 sent to Australia through Catholic agencies and  
22 institutions.

23 I don't want to labour the point, Chairman, but you  
24 have -- the Panel has heard evidence in respect of that  
25 database and the acknowledgment by the compiler of the

1 material or rather Rosemary Keenan, who did an analysis  
2 of the database, who published that:

3 "Considerable credit should go to the Sisters of  
4 Nazareth, who spent 1500 hours cross-checking the  
5 references to children sent by the Order against extant  
6 records from the 26 Nazareth homes across the UK which  
7 sent children to Australia."

8 The Health Committee noted that:

9 "The Nazareth House Sisters throughout the country  
10 have spent £1.4 million supporting the reunions back  
11 here in England."

12 In the interim report of the Western Australia  
13 Western Committee into Child Migration, that's  
14 November 1996, it is recorded that:

15 "The United Kingdom investigative visit was hosted  
16 in Hammersmith by the Sisters of Nazareth."

17 I am quoting directly from the report:

18 "Whilst at the headquarters we were shown the  
19 impressive arrangements which were in place for the  
20 storage and improved accessibility of their records. It  
21 was clear that much work was being done to provide as  
22 much information as possible for a complete database of  
23 all Catholic migrants."

24 Now we respectfully say those examples that are  
25 cited reflect the will on the part of the Sisters of



1 Nazareth to do their utmost to make available records to  
2 former child migrants or to persons acting on their  
3 behalf.

4 I wish to move on, Chairman, to the consent issue,  
5 a very contentious issue and a very emotive one, quite  
6 understandably. Our analysis of the extracts from the  
7 registers in Hammersmith, those that are available,  
8 disclose that there are forty children for whom consent  
9 was sought or for whom it was not possible to seek  
10 consent by reason of parents being dead or some medical  
11 reason. Now that goes beyond the 20% of cases of  
12 consent that have been cited by Rosemary Keenan for the  
13 whole of the UK. I am not going to go through the  
14 extracts, Chairman. They are there for you to see and  
15 they do need to be redacted, but in addition to those  
16 forty children there are we know from the evidence from  
17 both module 1 and module 2 that other children in  
18 addition to those forty children also were given  
19 parental consent or a relative's consent, and at page 23  
20 I refer to HIA324, deceased. That's a statement. He  
21 recalled he'd no visitors at all in Termonbacca except  
22 for one and that was a woman who visited and gave him  
23 thruppence before he went to Australia. Now we  
24 respectfully say, Chairman, that that was hardly  
25 a coincidence and it is more likely that attempts were

1 made by the Sisters of Nazareth to get parental consent  
2 or to inform relatives of HIA324.

3 HIA332 also points up what, Chairman, you have  
4 already, if I may respectfully say so, have acknowledged  
5 or at least postulated in the chamber, because this is  
6 an example where the consent forms were signed by BAU4  
7 and the Mother Superior, not by HIA332's mother, but the  
8 mother had consented. We believe rather -- I am  
9 submitting that the mother must have consented, and you  
10 note again that on the day of his departure a woman  
11 arrived and shook his hand. We say that could not be  
12 a coincidence.

13 HIA349, his consent was again signed by BAU4 and the  
14 Mother Superior, because unfortunately his mother had  
15 died before he emigrated.

16 I have referred to others who were consented to.  
17 Interesting case, HIA311, whose mother consented to him  
18 going to Australia. In fact, she wanted him to go to  
19 Australia to prevent adoption by his aunt and uncle.  
20 She did write to him in Tardun in Australia. So she  
21 also clearly knew of his whereabouts, and we say that is  
22 consistent with the Sisters' efforts to maintain contact  
23 at least to some extent.

24 Paragraph 9. This is a statement that was read,  
25 Chairman, and again commented upon by yourself. It is

1 a statement of who should not be  
2 named. We say that's an important document, because it  
3 does reveal the rationale for adoption where there was  
4 no contact from a natural parent. We respectfully agree  
5 with your observation that that statement was obtained  
6 for -- most likely for court proceedings in Australia to  
7 approve the adoption. The statement is silent on  
8 whether the mother consented to emigration, and it may  
9 well be that the congregation did apply the same  
10 criteria for emigration if the home had lost all contact  
11 with a child's parents or relatives.

12 That is consistent, Chairman, with the evidence that  
13 was given to the Australian Senate Committee by  
14 Professor Sherrington and Dr Coldrey. Now I refer to  
15 Dr Coldrey and I do so with some apprehension, because  
16 I know that he is a controversial figure and there is  
17 much contained in the bundles disapproving of quite  
18 a substantial proportion of the sentiments and  
19 conclusions which he has reached in his various studies  
20 and papers, but I think in this instance it is not just  
21 him that's saying this, but Professor Sherrington.

22 "They stated on many occasions that societies and  
23 orphanages simply lost contact with parents. Professor  
24 Sherrington noted that the organisations then formerly  
25 -- formally" -- sorry -- "or informally assumed the role

1 of in loco parentis. Dr Coldrey had written that  
2 consent -- with regard to consent of parents that  
3 sometimes the mother had left the child in the care of  
4 the church, would return for the child when their  
5 situation improved, but often visits by the mother  
6 became more infrequent and the child was 'abandoned and  
7 deserted for all practical purposes and migration to  
8 Australia seemed the best option'. As Dr Coldrey has  
9 noted in some instances, the agreement by parents to the  
10 adoption of their child was taken by institutions as  
11 agreement to migration. The Committee received evidence  
12 that some parents had agreed to adoption, but at no time  
13 were they informed that adoption could mean migration to  
14 Australia."

15 Then:

16 "CCS Westminster, formerly the Crusade of Rescue,  
17 submitted to the Western Australia Select Committee  
18 entry child migration that extant records show that  
19 attempts were made to locate relatives prior to  
20 migration, but a number of letters returned as the  
21 whereabouts of the addresses were unknown."

22 Then:

23 "Professor Sherrington noted that on other occasions  
24 efforts were made to protect children from their past,  
25 particularly if their mothers were unmarried when they

1        were born. Professor Sherrington concluded that the  
2        relationship between parents, their children and  
3        institutions were complex and depended upon a number of  
4        circumstances."

5            If there is one thing we know, Chairman, or we have  
6        learned, rather, from the first two modules of this  
7        Inquiry is that the relationship between parents,  
8        children and institutions can in many circumstances be  
9        very complex indeed, and unfortunately, as Mr Lane  
10       observed in his review of the documentary I have  
11       referred to, not all reunions are successful. We have  
12       heard that sadly in this module but also in the last  
13       module where children did not emigrate to Australia.

14           In her statement to the Inquiry HIA150 told how she  
15        was taken by her father to a family to a looked after  
16        and the Inquiry will know -- remember this lady without  
17        probably having to look at the relevant notes, but they  
18        looked after her until she was seven and then she was  
19        admitted to Nazareth House, Derry. Sadly she had  
20        a brother and sister who were admitted to the Nazareth  
21        House in Belfast for some years and her mother visited  
22        them on Sundays, but she didn't visit her daughter who  
23        was in care in Derry. She told -- she was subsequently  
24        told, rather, that the Sisters of Nazareth came to the  
25        family who had reared her for the first seven years of

1 her life and they had advised that family that it would  
2 be better for HIA -- I think I must have made a mistake  
3 on the cipher there -- that she would have a better life  
4 in Australia. She also told the Inquiry that upon  
5 leaving Geraldton that SAU7 had told her she should  
6 write to the family that cared for her in Derry. That  
7 is, we respectfully say, another example of the  
8 congregation consulting with the relatives or the  
9 persons who had direct contact with the child and indeed  
10 then of encouraging the child to engage in  
11 correspondence.

12 Paragraph 12, Chairman, I refer to Dr McVeigh and  
13 her thesis. I am not going to read it out, although on  
14 page 28 there is a quotation from SR2 who features:

15 "From 1947 all children were interviewed personally  
16 at least twice by Australian -- Australia House  
17 officials, plus a further medical examination. They  
18 were always asked if they wished to go to Australia.  
19 Permission was sought from a parent or guardian. No-one  
20 was considered without full consent. Months beforehand  
21 a lot of work went into this preparation. Birth  
22 certificates and baptismal certificates had to be  
23 procured, a medical clearance and school report  
24 obtained."

25 Then it continues:

1           "The agency took the view that abandoned children  
2           should not be prevented from migration if it was  
3           considered in their best interests by an inability to  
4           obtain the parents' consent. Another reason why consent  
5           from a parent may not have been forthcoming may have  
6           been that the parent was incapable of making the proper  
7           decision."

8           Then I refer to the example where there was consent  
9           not forthcoming for three out of twelve boys from  
10          Northern Ireland and in another example it was the  
11          child's grandmother who refused consent.

12          Now can I move forward? I don't intend to read  
13          paragraph 13, but I can move forward.

14          CHAIRMAN: Can I just ask --

15          MR MONTAGUE: Sorry, Chairman.

16          CHAIRMAN: -- you to go back, if I may --

17          MR MONTAGUE: Certainly.

18          CHAIRMAN: -- to page 21 of your --

19          MR MONTAGUE: Certainly.

20          CHAIRMAN: -- written submission?

21          MR MONTAGUE: Yes, the extracts.

22          CHAIRMAN: Now I have not had the opportunity to look at our  
23          designation list, but are these all the applicants who  
24          applied in respect of whom there are records held by the  
25          Sisters or are they -- in other words, may there be

1 people here who are not applicants.?

2 MR MONTAGUE: I think there are. I am not sure. I can't  
3 answer that now on my feet.

4 CHAIRMAN: In other words, there are 46 possibles. There  
5 are 40 listed and then you refer to another six.

6 MR MONTAGUE: Yes. I think --

7 CHAIRMAN: Now we know that --

8 MR MONTAGUE: -- I think they are all included in the total.

9 CHAIRMAN: Of 111?

10 MR MONTAGUE: Yes, as reflected in Sister Brenda's  
11 statement.

12 CHAIRMAN: But they are not all necessarily applicants to  
13 the Inquiry --

14 MR MONTAGUE: No, exactly.

15 CHAIRMAN: -- because, you see, one name that is missing  
16 from this list --

17 MR MONTAGUE: Yes.

18 CHAIRMAN: -- is that of 273, who says that -- who asserts  
19 that her husband -- her father's signature was forged.

20 MR MONTAGUE: Yes.

21 CHAIRMAN: There is another applicant who I think is --

22 MR MONTAGUE: Yes. Sorry, Chairman. Can I --

23 CHAIRMAN: 308, who says that he doubted that his mother  
24 signed.

25 MR MONTAGUE: That's right.



1 CHAIRMAN: Now I just haven't --

2 MR MONTAGUE: That's right.

3 CHAIRMAN: I don't think his name is on this list either.

4 MR MONTAGUE: Can I refer to the first example, Chairman?

5 CHAIRMAN: Now, of course -- yes.

6 MR MONTAGUE: My understanding was from her evidence that

7 that was a forged signature but it wasn't going to be

8 discussed. It was a family matter. I'll have to look

9 at the transcript again, but I didn't think she was

10 alleging bad faith on the part of the congregation, but

11 I may be mixing her up with another lady. I see Ms

12 Smith wishes to --

13 MS SMITH: Chairman, if I can assist, my recollection of her

14 evidence -- and again we are subject to the transcript

15 -- is that she knew that it wasn't her father's

16 signature, but she didn't want to explain why she knew

17 that, because that she considered to be a family matter.

18 MR MONTAGUE: Well, I heard it a different way, because she

19 was a forthright lady, quite properly too, and I don't

20 think that -- I didn't certainly think that her evidence

21 was this was directed to the Sisters, but I think it

22 probably would benefit from a re-reading.

23 CHAIRMAN: I think one would need to look at it again.

24 MR MONTAGUE: I respectfully agree.

25 CHAIRMAN: There is another witness -- in fact, it was the

1 next witness I think that day -- 308, who -- he was  
2 concerned whether his mother had actually signed the  
3 document.

4 MR MONTAGUE: Yes.

5 CHAIRMAN: This is the one which caused us some difficulty,  
6 because you remember that the witness was a clergyman in  
7

8 MR MONTAGUE: I do recall that.

9 CHAIRMAN: Our inquiries would suggest that he was  
10 a chaplain or a curate who couldn't be found anywhere  
11 else to live and ended up in a slightly unusual address  
12 above a shop.

13 The point I am really making here is there are  
14 possibly two and there may be more -- one would have to  
15 check again -- instances where the applicant has cast  
16 doubt on the validity of the signature.

17 MR MONTAGUE: Unquestionably.

18 CHAIRMAN: There are at least two explanations. One may be  
19 that the signature was forged. The other may be that --  
20 there may possibly be three. One may be that another  
21 member of the family took it on themselves to sign. The  
22 third explanation is that they did sign and have lacked  
23 the moral courage later on to say to the child --

24 MR MONTAGUE: Exactly.

25 CHAIRMAN: -- that they did, in fact, agree to their going

1 to Australia.

2 MR MONTAGUE: We heard that from the very first witness who  
3 gave evidence, who was a very, if I might say so,  
4 refreshing applicant, who made light at best he could of  
5 the trauma that he endured and the negative outcomes for  
6 him emotionally, and what he did say, that he didn't  
7 believe his mother when she told him she had gone to get  
8 him out of the home.

9 CHAIRMAN: Yes.

10 MR MONTAGUE: I think that that -- one can understand why  
11 a mother would be very reluctant to face that many years  
12 later in accepting that she had given up her child.

13 What I respectfully -- this may be an opportune time  
14 to say this. What I am going to ask the Inquiry to do  
15 and I submit respectfully to the Inquiry is that whilst  
16 history quite properly condemns the child migrant  
17 schemes and that they were shameful, and not just in  
18 retrospect, because there were dissenting voices, but  
19 I would respectfully submit that history should judge  
20 the Sisters of Nazareth much more kindly, because they  
21 were induced really to enter this programme and they  
22 were motivated for all the best reasons, thinking it was  
23 in the interests of their children. In the same way as  
24 Atticus Finch, a wise lawyer and very wise parent,  
25 counselled his daughter Scout that sometimes you have to

1 get into someone else's skin and walk around in it to  
2 understand them and their emotions, and I say the same  
3 about the mothers, who felt so compelled and pressurised  
4 to give up their children, and equally would find it  
5 difficult thirty or forty years later to have a reunion  
6 when they have had their own lives and kept this  
7 terrible dark secret and they have had to cope with it  
8 all their lives. We know there have been instances of  
9 that, which is why this module has been such a powerful  
10 one, if I might respectfully say so, because one is  
11 seeing so many features, and it is also right to say  
12 that they featured also in our first module. What  
13 distinguishes them I respectfully say now, of course, is  
14 that the additional burden on the Australian migrants is  
15 this, what they -- and I am going to go on to touch on  
16 it briefly -- the loss of their culture and heritage and  
17 that's something they certainly would not have lost had  
18 they remained here. That's with them acknowledging that  
19 many of them have made good lives for themselves there.  
20 They know that. They have been successful. They have  
21 found employment. Some of them are very wealthy and --  
22 but they have this deep sense of loss and this desire  
23 for belonging.

24 We know that through HIA333's efforts over more than  
25 a decade to try and find out his mother, and then he

1 is -- he is a success story, because although he didn't  
2 find his mother, he has found and got great comfort and  
3 joy from his relatives.

4 So, Chairman, I am sorry. I got distracted there  
5 with the matters that you raised with me, and certainly  
6 I do consider those are worth looking at, particularly  
7 the findings that you will make or obviously you and the  
8 Panel Members will make in respect of that. I think it  
9 is probably something that can be easily clarified with  
10 the witness -- first witness that you referred to.

11 That brings me, Chairman, to another vexed issue and  
12 that is who consider themselves and indeed were Irish  
13 citizens who were emigrated under the UK migrant scheme  
14 and it has been a recurring call from a number of them,  
15 demanding answers as to why they were emigrated through  
16 a UK migrant scheme.

17 It is interesting and poignant, because, Chairman,  
18 you have already referred to the dissenting voices. One  
19 can infer that the Irish Taoiseach, Eamon de Valera, was  
20 -- he clearly was a dissenting voice. Whether it was  
21 for the same reasons or not we don't know, but the  
22 record shows:

23 "In spite of a meeting with the Irish Prime  
24 Minister, de Valera, the Irish government refused to  
25 participate in the scheme. In a memo dated 22nd July

1 1938 the Department of the Taoiseach noted:

2 "That BAU4 should be informed that the government do  
3 not propose to participate in the scheme."

4 In a letter dated 16th August BAU4 was informed that  
5 the scheme was not approved. That makes, and we  
6 recognise, the hurt all the greater and the anger even  
7 more for those residents who were born in the Republic  
8 of Ireland and ended up being emigrated.

9 CHAIRMAN: Can I ask where does that quotation come from?

10 MR MONTAGUE: I had the reference, and it's my -- I am  
11 remiss, because I had dictated it, and I am sorry.  
12 I missed it wasn't in. It is in the bundles. Yes, it  
13 is in the bundles. I will give it to you this  
14 afternoon, Chairman.

15 CHAIRMAN: Just send an e-mail.

16 MR MONTAGUE: Yes, I will indeed. Now what I say, Chairman,  
17 is -- respectfully I would submit, I should say, that  
18 there is no evidence that the Sisters of Nazareth  
19 actually even contemplated the issue of citizenship or  
20 nationality. We are obviously prejudiced by reason of  
21 the delay. I don't mean prejudiced in the legal sense,  
22 but the only surviving Sister from the period is SR23,  
23 whom we have heard is 102 years of age. Her role was  
24 limited to accompanying children on the ship to  
25 Australia. I mean, we have the example of HIA305.

1           So this is an issue which the Panel has to grapple  
2           with. I suppose there is this anomaly, of course, as  
3           well in Northern Ireland that those born in Northern  
4           Ireland can opt for British or Irish citizenship and  
5           there are many people living, born and bred in Northern  
6           Ireland who have Irish passports.

7   CHAIRMAN: Well, many of these instances where this issue  
8           has been raised happened before the government of what  
9           was then technically the Irish Free State --

10   MR MONTAGUE: Certainly.

11   CHAIRMAN: -- announced its intention to declare Ireland  
12           a republic.

13   MR MONTAGUE: Yes.

14   CHAIRMAN: So there was a very complex political and legal  
15           situation that existed --

16   MR MONTAGUE: Very, very.

17   CHAIRMAN: -- because it may be that technically some of  
18           them were still British citizens, even though they did  
19           not regard themselves as such.

20   MR MONTAGUE: Yes, indeed.

21   CHAIRMAN: So I think the Inquiry will have to look very  
22           carefully --

23   MR MONTAGUE: I respectfully agree.

24   CHAIRMAN: -- at the position in relation to nationality and  
25           law at that stage. Looking at it in a broader way, the

1 reality is most people simply ignored the border in  
2 relation to social, educational, sporting, religious  
3 connections --

4 MR MONTAGUE: Exactly.

5 CHAIRMAN: -- and moved backwards and forwards to school or  
6 university or for medical care --

7 MR MONTAGUE: That's so.

8 CHAIRMAN: -- or to live with families. They didn't really  
9 pay much attention to the existence of the border --

10 MR MONTAGUE: No.

11 CHAIRMAN: -- no matter what their apparent political  
12 sympathies may have been thought to be.

13 MR MONTAGUE: Yes. I respectfully agree.

14 Chairman, I have not put in writing any submission  
15 in respect of the suggestion that there was a financial  
16 incentive for the Sisters to take part in the scheme.  
17 Suffice to say Sister Brenda has reflected that utterly.  
18 The records show we respectfully say that that was not  
19 at all part of rationale for so doing.

20 Can I conclude, Chairman, with reference to the  
21 apology that the Inquiry has already heard from Sister  
22 Brenda McCall? Really what I wanted to say is that  
23 that's not the first apology that was given by the  
24 Sisters. In 2005 they issued an apology to the  
25 Australian Child Migrant Project. I don't intend to



1 read it out other than to say that it -- they apologised  
2 and were deeply saddened by the pain and distress  
3 suffered by so many men and women as a result of the  
4 scheme, and they wholeheartedly commit themselves to  
5 continue to support those who contact them, and warmly  
6 welcome each one to Nazareth House, welcoming  
7 accommodation if required. My instructions again are  
8 unequivocal. That commitment is continuing, and even  
9 right up to the present time they continue to welcome  
10 and to assist all former child migrants who contact  
11 them. Within the last year they have accommodated  
12 former migrants and their families.

13 Other than that, Chairman, that concludes my  
14 submission.

15 CHAIRMAN: Thank you very much.

16 Ms Smith.

17 MS SMITH: Chairman, we have the extracts of the transcript  
18 in relation to what HIA273 said. If I can just read out  
19 what she said. I questioned her and said:

20 "Although his signature appears on it, it may be  
21 that someone else filled in the incorrect details of his  
22 address."

23 Her response to me was:

24 "Well, I can tell you for a start that's not his  
25 signature -- okay -- and I won't elaborate any further

1 as it will involve my family. That is not his  
2 signature."

3 CHAIRMAN: That's certainly the impression I gained  
4 personally from what she said.

5 MS SMITH: In respect --

6 CHAIRMAN: We will have to look at the documents again.

7 MS SMITH: Yes. In respect of HIA308, reading from his  
8 statement, I said that he -- in his statement he said:

9 "... told me that she did not respond to them.

10 That is the reason why I doubt that was, in fact, her  
11 signature'",

12 and he responded:

13 "Yes, I stated that and that is what I say is  
14 correct, that my mother did tell me she did not respond"

15 -- this was to letters sent by the congregation --

16 "because I did have the time to ask her a few questions.

17 Like, for example, I asked her, 'Who was my father?',

18 but she wouldn't go there. I asked her, 'Did you know

19 I was coming to Australia?' She said -- I think she

20 said, 'I don't know'. I'm not absolutely sure, but she

21 said, 'They sent me a letter and I didn't sign it'.

22 I even doubt if she even read it, but what her reply

23 was, that she didn't respond."

24 Closing statement in module 2 by CHAIRMAN

25 CHAIRMAN: Yes. Well, ladies and gentlemen, this brings us

1 to the end of the public sessions relating to what we  
2 have described as module 2 relating to the investigation  
3 which we are carrying out into the Australian migrant  
4 scheme in the context of Northern Ireland.

5 I would like to take this opportunity again to thank  
6 those witnesses from Australia who came forward to  
7 assist us with our work and to again thank them in  
8 particular for the many documents they have provided,  
9 which not only helped us very considerably in saving  
10 work but also provided many valuable leads for us to  
11 follow up, and our work would have taken much longer and  
12 perhaps been less comprehensive in its results had those  
13 documents not been provided.

14 However, I have said this is the end of the public  
15 sessions. As I explained at the end of the first  
16 module, and the same applies here, we will return to the  
17 child migrant schemes which we have been investigating  
18 when we hear from some applicants who were not called  
19 during this module, a small number of them altogether,  
20 but they will be called either during the Rubane module,  
21 which will be the next, or later when we look at the two  
22 homes run in Belfast by the Sisters of Nazareth. There  
23 are reasons in relation to the evidence of each of those  
24 persons to explain why they haven't given evidence  
25 during this module, but when they give evidence, we will

1 on occasion have to return to this, just as we have  
2 returned in this module to consider Termonbacca and  
3 Nazareth House in Derry.

4 There may well be further matters which we wish to  
5 pursue and we will do that in the first instance at  
6 least by correspondence with the parties concerned.  
7 There are a number of matters, some of which we have  
8 touched on briefly today, for example, which on further  
9 consideration we may wish to seek further information  
10 about from one or other of the parties concerned, and we  
11 will wherever possible do that by correspondence and  
12 hopefully sooner rather than later.

13 One matter that I would like to take this  
14 opportunity to refer to is that in this particular  
15 module, as we explained at the beginning of it, not  
16 every witness gave live evidence because many had their  
17 statements read out. That, of course, was because their  
18 recollections of their times in the various homes in  
19 Northern Ireland was very limited, if indeed they had  
20 any recollection because of their age, but those who did  
21 give evidence either by coming here in person, because  
22 they happened to be in this part of the world at the  
23 time, or who gave evidence by Livelink from Australia  
24 showed to us yet again the importance to the work of the  
25 Inquiry of people coming to give evidence of these

1       distressing matters and not simply relying on the  
2       statements they have made or indeed on their accounts to  
3       the Acknowledgment Forum, if they were people who spoke  
4       to the Forum. Their oral evidence is of great value to  
5       us, because we hear first-hand from them in a way which  
6       is more graphic and sometimes much more revealing than  
7       anything that can be done in the form of a written  
8       statement. Often what they have said has thrown a new  
9       light on something. Often they have been asked about  
10      documents or information which were not in our  
11      possession at the time they made a statement to our  
12      legal team and which it is important that they be asked  
13      about.

14           I say this because the Inquiry is constantly  
15      discovering more information and therefore the continued  
16      involvement of all the witnesses who remain to give  
17      evidence as well as those who have done so, those  
18      witnesses who give evidence in person is of great  
19      importance to us as we examine and assess the  
20      significance of the evidence that we have obtained,  
21      often, as I perhaps somewhat forcefully pointed out  
22      recently, at a very large stage shortly before the  
23      witness comes to give evidence.

24           Now if I may turn to a different matter, because  
25      I want to again express our thanks to the staff of the

1 Royal Commission into Institutional Responses to Child  
2 Sexual Abuse, the Australian Royal Commission, for the  
3 assistance which their staff have given to us and which  
4 we look forward to receiving from them again when those  
5 other witnesses to whom I referred a moment ago give  
6 evidence in the Rubane and later modules.

7 I would again like to urge through the media anyone  
8 in Australia who may be following our proceedings but  
9 for whatever reason has not yet contacted the Royal  
10 Commission to do so if they wish to describe any abuse  
11 which they say they suffered in Australia. If that step  
12 is not taken by them, then, of course, there is a risk  
13 that some important matter may escape the attention of  
14 the Royal Commission, or the individual concerned may  
15 not obtain for themselves the considerable benefits  
16 which it is obvious to us that many witnesses find by  
17 speaking about these matters for the first time.

18 However, that's all I wish to say about this module  
19 and I will conclude by reminding everyone that we will  
20 resume our public hearings on Monday, 29th September at  
21 10 o'clock in the morning, when we will proceed to  
22 examine allegations relating to the home run by the De  
23 La Salle Order at Rubane, and we have already announced  
24 that that is what we will be doing. So we will adjourn  
25 now and resume again here in Banbridge on that date at

1           that time. Thank you for your attendance throughout,  
2           ladies and gentlemen, and the help you have given to us.

3           (12.17 pm)

4                               (Hearing adjourned until 10 o'clock  
5                               on Monday, 29th September 2014)

6                                       --ooOoo--

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