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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, 22nd June 2015

commencing at 10.00 am

(Day 130)

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

1 Monday, 22nd June 2015

2 (10.00 am)

3 Opening remarks by CHAIRMAN

4 CHAIRMAN: Good morning, ladies and gentlemen.

5 MR PURVIS: Good morning, Mr Chairman.

6 CHAIRMAN: This is the 130th day of the Inquiry's public
7 hearings and the start of Module 6. During this module
8 the Inquiry will focus on issues arising from the sexual
9 abuse of children by Father Brendan Smyth in a number of
10 the children's homes in Northern Ireland. The abuse has
11 already been described by a number of witnesses who have
12 previously given evidence to the Inquiry, and as the
13 Inquiry's policy is to avoid recalling witnesses to
14 repeat evidence they have already given of their
15 experiences, we will not be calling them again in this
16 module, although reference will be made to what they
17 have said in previous modules. This module will,
18 therefore, concentrate on an examination of what
19 opportunities there were to prevent Smyth carrying out
20 the abuse of children, and the Inquiry Panel will
21 consider whether any steps taken or not taken to deal
22 with Smyth amount to systemic failings within our terms
23 of reference.

24 Mr Aiken.

25

1 Opening remarks by COUNSEL TO THE INQUIRY

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

3 Before I begin the opening that's going to take place
4 over the next two days there are appearances from all
5 bar one of the core participants in this module. I will
6 ask Mr Rooney, who has been here before, on behalf of
7 his client to begin giving those appearances now,
8 Mr Chairman.

9 CHAIRMAN: Yes, Mr Rooney?

10 MR ROONEY: Mr Chairman, Ms Doherty, Mr Lane, I appear on
11 behalf of the De La Salle Order with my learned friend
12 Miss McCluskey.

13 CHAIRMAN: Thank you. Mr Montague?

14 MR MONTAGUE: Morning, Chairman, Members of the Panel.
15 I appear on behalf of the Sisters of Nazareth with my
16 learned friend Miss Walkenshaw instructed by BLM
17 Solicitors.

18 CHAIRMAN: Thank you.

19 MR McKENNA: Chairman, Members of the Panel, I appear on
20 behalf of the Diocese of Down & Connor led by my learned
21 friend Mr Lockhart. We are instructed by BLM Solicitors
22 and I am attended today by Miss Liddy of that company.

23 CHAIRMAN: Thank you, Mr McKenna.

24 MS RAMSEY: Mr Chairman, Members of the Panel, I am
25 Miss~Ramsey. I appear this morning, instructing the

1 Diocese of Kilmore and Cardinal Sean Brady, and I am led
2 by Mr Lockhart.

3 CHAIRMAN: Thank you, Ms Ramsey.

4 MR PURVIS: Mr Chairman, Members of the Panel, I appear on
5 behalf of the Archdiocese of Armagh. I am led by
6 Mr Lockhart. I am instructed by BLM Solicitors.
7 Mr Canavan appears with me this morning.

8 CHAIRMAN: Thank you, Mr Purvis.

9 MR AIKEN: Chairman, Members of the Panel, the Norbertine
10 Order is also a core participant before the Inquiry in
11 this module. They are performing that role on
12 a voluntary basis, not being within the jurisdiction of
13 Northern Ireland. I will say a little more about that
14 in due course. They are represented by Mr Egan of
15 counsel, who is not available this morning, but he will
16 be present whenever the representative on behalf of the
17 Norbertine Order gives evidence later in the week. He
18 is instructed by a firm of solicitors in Dublin, who
19 will also appear on that occasion.

20 Chairman, Members of the Panel, this is Module 6 of
21 the HIA Inquiry's public hearings. This module will
22 look specifically but in a limited and focused way at
23 the sexual abuse of children perpetrated by John Gerard
24 Smyth, otherwise known as Father Brendan Smyth, a Roman
25 Catholic priest of the Norbertine Order, who perpetrated

1 the sexual abuse of children in Northern Ireland, the
2 Republic of Ireland and much further afield from the
3 late 1940s through to the early 1990s.

4 A self-confessed paedophile, as we will come to see,
5 he was convicted of multiple counts of the sexual abuse
6 of children in Northern Ireland in 1994 and again in
7 1995, offences that spanned several decades. Many of
8 the convictions related to the sexual abuse of children
9 resident in the children's homes the Inquiry has already
10 examined during Modules 3 and 4 of the Inquiry's public
11 hearings, the De La Salle Boys' Home in Kircubbin and
12 Nazareth House and Nazareth Lodge in Belfast. We will
13 look at those matters in more detail during the opening.

14 Smyth was also convicted in 1997 of multiple counts
15 of the sexual abuse of children in the Republic of
16 Ireland. In addition, there have been further
17 allegations and indeed in some cases accepted instances
18 of similar abuse being perpetrated by Smyth during
19 periods he spent in Scotland, Wales and the United
20 States of America.

21 Smyth perpetrated the sexual abuse of children over
22 a prolonged period likely to span over some forty years
23 from the late 1940s through to 1993, the year before he
24 finally went to prison in June 1994 in Northern Ireland.

25 In his own words, which will not have been heard

1 publicly before, but as said by him to a treating doctor
2 in February 1994:

3 "Over the years of religious life it could be that
4 I have sexually abused between 50 and 100 children.
5 That number could even be doubled, or perhaps even
6 more."

7 Smyth died in a prison in the Irish Republic on
8 22nd August 1997. The reality is that it will probably
9 never be known just how many lives his compulsive
10 offending blighted. His name and what is publicly known
11 to date about the horrendous story of child abuse
12 associated with him is notorious in this jurisdiction
13 and beyond, as are some of the stories of secrecy and
14 silence surrounding opportunities to stop him, such as
15 the 1975 church investigation involving the now Cardinal
16 Brady.

17 It is a piece of Irish history you may think truly
18 desiring of the title "a public scandal". First and
19 foremost, you have the litany of victims and their
20 families in this jurisdiction and internationally living
21 with the consequences of his abuse. For some of them
22 that sentence is likely to be life-long. Then you may
23 consider a different sentence has latterly been brought
24 to bear on those individuals and institutions involved
25 in what Cardinal Brady has told the Inquiry was

1 a culture of secrecy and silence that failed the
2 children they were supposed to protect.

3 In the words of the Archdiocese of Armagh to this
4 Inquiry:

5 "The Roman Catholic Church in Ireland can only look
6 back on all this with shame and in disgrace."

7 The ruin of reputations has not been confined to the
8 Roman Catholic Church. How the office of the then
9 Attorney-General of the Republic of Ireland handled the
10 RUC's 1993 request for Smyth's extradition from the
11 Republic of Ireland and how the fall-out from it was
12 dealt with led to what may be the shortest appointment
13 to the High Court bench in the common law world. It
14 also led to a more serious charge, made good, of
15 misleading Parliament, which resulted in the resignation
16 of the then Taoiseach of the Irish Republic in November
17 1994 and the collapse of his coalition government.

18 In reply to the Taoiseach's resignation speech the
19 then leader of the **Fianna** Gael opposition, John Bruton,
20 said words which sadly you may consider continue to
21 haunt the Smyth story, as will become apparent as this
22 opening unfolds. He said:

23 "The lesson is the truth should not come out in
24 installments. The truth, the whole truth, should be
25 given on the first day and let the cards fall as they

1 will after that."

2 That's a good lesson for all of us who aspire to
3 high office. It does not matter what happens at the end
4 of the day so long as at the earliest opportunity one
5 has told the truth. Let others manage the news once the
6 truth is already on the table.

7 However, the main focus of this module will be on
8 how and why it was possible in total and absolute
9 betrayal of the trust placed in him for Smyth to
10 perpetrate the prolific and sustained sexual abuse of
11 children over such a prolonged period, in particular of
12 children resident in children's homes in Northern
13 Ireland.

14 In that context the Inquiry will want to consider
15 what systemic failings of the Roman Catholic religious
16 order responsible for him and the wider Roman Catholic
17 Church in Ireland or beyond that may have caused,
18 facilitated or failed to prevent his abuse.

19 The story that's about to unfold over the coming
20 days from the material gathered by the Inquiry and the
21 oral evidence you will hear is steeped in the deep and
22 prolonged human suffering of the abused. However, you
23 will also have the opportunity to consider whether it is
24 also the story of a litany of missed opportunities to
25 properly deal with Smyth by a significant number of

1 individuals who were themselves in positions of
2 considerable trust, power and influence, not only over
3 him but also over his victims and their families. You
4 will have to consider whether missed opportunities by
5 individuals in prominent and important positions and who
6 you may consider should clearly have known better
7 unfortunately reflected a systemic practice of
8 protecting their institutions rather than the children
9 they were meant to serve.

10 While it would be a gross disservice to the victims
11 for this story to be told merely through bare
12 statistical facts, nonetheless you will have the
13 opportunity to reflect on the following as this opening
14 progresses.

15 Firstly, Smyth was convicted of a total of 117
16 counts of indecent assault against 41 children across
17 Ireland, north and south. In the Republic of Ireland
18 Smyth was convicted of 74 counts of indecent assault
19 against 20 individuals. In Northern Ireland Smyth was
20 convicted of 43 counts of indecent assault against 21
21 individuals. Of those 21 individuals in Northern
22 Ireland, 7 of them were children who resided in either
23 the Nazareth homes in Belfast or De La Salle in
24 Kircubbin.

25 His earliest offence for which he was convicted in

1 Northern Ireland was 1964. His latest was 1984. In the
2 Republic of Ireland his earliest offence for which he
3 was convicted was 1967 and his latest was 1993.

4 In addition to the offending he was convicted of
5 there are many more allegations, including from further
6 children who resided in the children's homes under
7 investigation by this Inquiry. Some of those
8 allegations Smyth himself accepted. In addition, he
9 identified children that he abused in the children's
10 homes who had not themselves made allegations against
11 him.

12 Regrettably one of the most difficult issues that
13 will have to be faced by those involved with the Inquiry
14 during this module is the reality of whether any lack of
15 action or any lack of adequate action they could
16 reasonably have been expected to take, even allowing for
17 the historical context, failed to prevent Smyth sexually
18 abusing all of the children in the homes this Inquiry
19 has been examining and indeed many more children who did
20 not reside in the homes.

21 When delivering the inaugural address to the
22 University of St. Andrew's on 1st February 1867, almost
23 150 years ago now, John Stuart Mill, MP and then the
24 Lord Rector of the university, declared in a quote that
25 has often been attributed in modified form to Edmund

1 Burke that:

2 "Bad men need nothing more to compass their ends
3 than that good men should look on and do nothing."

4 Whether that historical quotation accurately
5 describes the events surrounding the activities of Smyth
6 and those with authority over him over a period of over
7 forty years will be something this Inquiry will want to
8 consider.

9 Before I begin to look in detail at the activities
10 of Smyth and of those who had the knowledge and means to
11 stop him I want to say something about the structure of
12 this module and the form of the Inquiry's evidence
13 bundle.

14 The Inquiry's investigation in respect of this
15 module has produced an evidence bundle containing at
16 present some 6361 pages. Unlike some of the contents of
17 other evidence bundles, those over 6,000 pages are of
18 dense material, often comprising statements and
19 correspondence. It has been a time-consuming and
20 complex exercise to fit the various pieces of this
21 complicated jigsaw together. The bundle has the
22 following sections.

23 Section 1, beginning at 001 level, contains relevant
24 statements and their exhibits amounting to some
25 1242 pages.

1 Section 2, at 10,000 level, contains relevant
2 contemporaneous documentation, some 613 pages.

3 Section 3, at the 20,000 level, contains material
4 relevant to Inquiry applicants, 156 pages.

5 Section 4, at the 30,000 level, contains police
6 material that amounts to some 2897 pages.

7 Section 5, at the 40,000 level is documents from
8 civil claims that have been brought against those
9 connected to Smyth and amounting to some 803 pages.

10 Section 6, which would be for social work material,
11 at present has no documentation contained in it.

12 Section 7, at the 60,000 level, contains relevant
13 Inquiry transcripts from witnesses who have given
14 evidence relevant to Smyth. That amounts to some
15 218 pages of material.

16 Section 8, at the 70,000 level, contains the
17 extensive media material, including extracts from
18 relevant books and television programmes that there have
19 been on the Smyth story. That amounts to 432 pages.

20 Chairman, as you have already pointed out, the
21 Inquiry has already received the evidence of those who
22 applied to the Inquiry who said Father Brendan Smyth
23 sexually abused them in either of the Nazareth homes in
24 Belfast or the De La Salle home in Kircubbin. The
25 Inquiry will not be recalling those individuals to give

1 evidence of those matters again. Their evidence has
2 already been considered in detail by the Panel and is
3 contained in the evidence bundle. I will be referring
4 to it during this opening.

5 The Inquiry will, however, hear oral evidence on
6 behalf of five of the seven institutions or individuals
7 it has designated core participants in this module, as
8 it is they who face difficult and searching questions
9 about their conduct in the matters under consideration.

10 I want to begin now to say something about each of
11 the core participants in turn.

12 Firstly, the Norbertine Order. The Canons Regular
13 of Premontre, otherwise known as the Premonstratensians,
14 or perhaps more commonly the Norbertine Order, this is
15 the Roman Catholic religious order of priests, Brothers
16 and Sisters of which Father Brendan Smyth was a member.

17 The Inquiry has been provided with a very detailed
18 witness statement from Father William Fitzgerald, the
19 Prelate Administrator of Holy Trinity Abbey, Kilnacrott,
20 County Cavan in the Republic of Ireland. This was the
21 canonry to which Smyth belonged. That statement from
22 Father Fitzgerald and the extensive exhibits which
23 accompany it, which run from pages 819 to 1195 in the
24 bundle, addresses matters you may consider in
25 a refreshingly frank and full way.

1 However, what the statement discloses in that frank
2 and full way you may consider to be a sustained and
3 repeated catalogue of failings by Smyth's superiors over
4 many, many years. Much of the information the statement
5 contains will be new.

6 It should be noted that Father Fitzgerald and the
7 Norbertine Order have engaged voluntarily with the
8 Inquiry, as the Inquiry's powers of compulsion do not
9 extend to the Republic of Ireland. You may consider
10 that the content of this statement demonstrates a very
11 welcome and responsible commitment to cooperate in stark
12 contrast to the litany of failings it recognises and
13 apologises for.

14 If we can bring up, please, page 820, because in
15 paragraph 2 of the statement, Members of the Panel,
16 Father Fitzgerald sets out the position of the Order.
17 He says:

18 "Before I begin, for myself and behalf -- and on
19 behalf of my confreres, I unreservedly apologise to each
20 person who was sexually abused by Brendan Smyth and to
21 your families and friends. I apologise for the criminal
22 actions of Brendan Smyth and for the failures of the
23 Kilnacrott Canonry, of which I will speak further.

24 I recognise that words of apology sound hollow when
25 compared to the wreckage caused in the lives of so many.

1 The grave and inexcusable actions of Brendan Smyth have
2 caused incalculable damage. A most painful reality is
3 the fact that while Brendan Smyth's proclivities and the
4 crimes they led to were known over the years by his
5 superiors, attempts to bring his behaviour to an end
6 were totally inadequate."

7 In a very frank way Father Fitzgerald addressed
8 a specific question the Inquiry posed to the Norbertine
9 Order about what systemic failings they accept the Order
10 were responsible for. If we can look, please, at page
11 832, that was question 9 of a series of questions that
12 the Inquiry posed, and beginning at paragraph 77 -- if
13 we scroll down, please -- Father Fitzgerald gives the
14 answer. The question was:

15 "What, if any, systemic failures does the Norbertine
16 Order acknowledge in relation to their dealings with
17 Father Brendan Smyth and his ability to perpetrate
18 sexual abuse of children in residential institutions in
19 Northern Ireland?"

20 Father Fitzgerald says:

21 "I have reflected deeply upon the failings which
22 enabled Brendan Smyth to use his priesthood over
23 a 40-year period to perpetrate child sexual abuse. It
24 is clear that warning signs had surfaced prior to his
25 ordination."

1 We will look at that in some detail.

2 "I am unable to say how clear those warning signs
3 were, but in the light of what we now know the pattern
4 of behaviour by which Brendan Smyth maintained his
5 freedom to do as he chose was already apparent whilst he
6 was in formation. I must, therefore, begin by stating
7 that he ought never to have been ordained to the
8 priesthood. From my knowledge of Brendan Smyth I can
9 say he was a very intelligent man and, in fact, the
10 first confrere who studied at the Gregorian University
11 in Rome. On reflection, it is clear he used his
12 intelligence and naked cunning not only to engineer
13 circumstances where he could conduct abuse of children,
14 but also to intimidate and effectively oppose the
15 efforts of those who sought to confront him or restrict
16 his activities, however inadequate these measures were.
17 I am of the view that, whilst he never held any
18 significant position within the Kilnacrott Canonry, and
19 was never a member of council, he was, in fact,
20 a significant presence and influence and was able to
21 silence or ridicule those who would oppose him.

22 On each occasion throughout his time in the
23 Kilnacrott Canonry that Brendan Smyth became the subject
24 of suspicion or complaint a clear written record of the
25 information coming to light should have been created and

1 preserved. Insofar as the suspicions or complaints
2 involved actual criminal activity these should have been
3 reported immediately to the competent police authorities
4 of the relevant jurisdictions. Upon completion of any
5 criminal investigations there ought to have been full
6 and careful investigations in accordance with the laws
7 of the Catholic Church. It is probable that", says
8 Father Fitzgerald, "that had such investigations been
9 conducted, the clear necessity for a penal process to
10 impose the penalty of dismissal from the clerical state
11 on Brendan Smyth would have become apparent. Had
12 Brendan Smyth not died in September 1997, a penal
13 process for his dismissal would have proceeded. This,
14 however", says Father Fitzgerald, "would have been far
15 too little too late.

16 Brendan Smyth", he says in paragraph 79, "should not
17 have been permitted to exercise ministry after it had
18 become known that he was perpetrating acts of child
19 sexual abuse."

20 That will become a very significant statement for
21 the Panel as this opening unfolds.

22 "Dioceses and other places at which Brendan Smyth
23 was permitted to minister should have been alerted in
24 advance of his receiving any appointment -- they should
25 have been alerted of his history. Even allowing for the

1 increased awareness brought about through the exposure
2 of child sexual abuse over the past two decades, it is
3 most unlikely that Brendan Smyth would have been
4 permitted to minister anywhere if those who entrusted
5 him with ministry had been forewarned of his history.

6 This Inquiry has received complaints", says Father
7 Fitzgerald, "from adults who were sexually abused by
8 Brendan Smyth while they were being cared for in
9 residential institutions in Northern Ireland. It was
10 Brendan Smyth's practice, whilst based in Kilnacrott, to
11 travel north on his day off each week. It was
12 understood that on these occasions he was visiting
13 family and friends. The Abbey does not appear to have
14 known where he actually went or what he did or that he
15 was visiting children's homes. It is clear that he
16 visited Nazareth Lodge and Rubane House and that he
17 abused children who were in residential care in these
18 institutions. It is clear also from complaints that we
19 have received", says Father Fitzgerald, "that Brendan
20 Smyth gained access to children in school settings and
21 also in their family homes in Northern Ireland during
22 those years. I accept", says Father Fitzgerald on
23 behalf of the Norbertine Order, "that Brendan Smyth was
24 not a fit person to have access to children at any time
25 or under any circumstance."

1 Father Fitzgerald says in paragraph 81:

2 "Prior to 1994 the Kilnacrott Canonry does not
3 appear to have had any appreciation of the harm which
4 Brendan Smyth was causing. Upon complaints being
5 received, efforts should have been made to ensure that
6 victims received just acknowledgment of the wrong done
7 and the therapeutic and spiritual supports they
8 required. I am conscious that the needs of each person
9 affected are different. We should have set out to
10 identify and meet those needs. For many victims who
11 came forward to the Kilnacrott Canonry prior to 1994" --
12 and we will look at some of those -- "the sole concern
13 was to safeguard others. I am ashamed", says Father
14 Fitzgerald, "by our failure as a community to hear those
15 warnings and to act accordingly."

16 He says in paragraph 82:

17 "I'm aware that many of the systemic failings for
18 which we are culpable were addressed in 'Child Sexual
19 Abuse: Framework for a Church Response', the guidelines
20 adopted in the Catholic Church in Ireland in 1996. I am
21 also aware that the Catholic Church in Ireland and
22 universally has continued to develop and refine its
23 safeguarding systems in the years since 1996."

24 He points out:

25 "In Ireland today there is a National Board for

1 Safeguarding Children in the Catholic Church, which is
2 an independent body charged with responsibility for
3 oversight and the provision of guidance to bishops and
4 religious superiors. A cornerstone of the church's
5 response is recognition of the primacy of state law in
6 the investigation and prosecution of criminal offences
7 and in the safeguarding of children."

8 He says:

9 "During 1994 and 1995 and throughout the years since
10 then it has been the policy of the Kilnacrott Canonry to
11 report all complaints to the Gardai, the PSNI and the
12 relevant statutory child protection agencies."

13 I will pause there to pose the question to the Panel
14 that the Panel will want to consider: why it took until
15 then for that to be the approach.

16 In paragraph 84 Father Fitzgerald says:

17 "The life of the Kilnacrott Canonry changed forever
18 in 1994 when we were confronted with the reality of our
19 failings and their consequences. For each of my
20 confreres the shame of our failings is immense. We have
21 tried to atone for our failings. Father Gerald Cusack
22 provided leadership to the Canonry between 1994 and
23 2013. He endeavoured to demonstrate the deep remorse
24 felt within our community in his efforts to respond to
25 so many people who came forward with their accounts of

1 the abuse they had suffered and to parents, family
2 members and friends who felt so betrayed by Brendan
3 Smyth and by us. Our Canonry will continue to listen
4 and pray and to acknowledge the crimes of Brendan Smyth
5 and what he has done to the detriment of hundreds of
6 people. Although our Abbey is now closed, we are
7 thankful that the people for whom the Abbey had been
8 their place of prayer and spiritual comfort over decades
9 found it in their hearts to be forgiving and to continue
10 to support us in countless and unseen ways during the
11 past 21 years."

12 The Panel will notice in paragraph 85 of the
13 statement that Father Fitzgerald refers to the fact that
14 they have already dealt with 43 civil claims and they
15 have a number still outstanding.

16 Father Fitzgerald will give oral evidence to the
17 Inquiry on Wednesday. I anticipate there will be
18 further systemic failings that he will be prepared to
19 acknowledge arising from the material now available to
20 the Inquiry.

21 I would like to look at paragraph 92 of his
22 statement, please -- if we scroll down to 835 -- where
23 he finishes his statement in the following way:

24 "I have endeavoured to provide to the Inquiry all
25 the information that is known to me in relation to

1 Brendan Smyth. I hope that in providing answers to the
2 questions raised by the Inquiry that those who have
3 suffered abuse will consider that their questions have
4 also been answered. As a priest, I am profoundly
5 distressed at the betrayal of religious vocation in
6 seeking to live the same totally God-centred life shown
7 to us in the life of Jesus Christ. To profess this life
8 and then turn around to commit child abuse is a shocking
9 hypocrisy and I apologise once again to all of those who
10 have been harmed and who continue to suffer."

11 The statement that Father Fitzgerald has provided to
12 the Inquiry you will see as we progress through the
13 opening allowed the Inquiry to look at a series of
14 occasions whenever opportunities were presented to
15 Smyth's superiors to take steps to deal with him.
16 Without the statement from Father Fitzgerald that would
17 have been a much more difficult exercise.

18 The second core participant in this module is the
19 Diocese of Kilmore. Kilmore was the Roman Catholic
20 diocese where Holy Trinity Abbey, Kilnacrott was
21 located. Father Donal Kilduff, Chancellor and Diocesan
22 Secretary of the Diocese of Kilmore, has provided the
23 Inquiry with a witness statement on its behalf. It runs
24 from pages 742 to 749 in the bundle, again with
25 extensive exhibits from 750 to 803.

1 If we can bring up page 743, please, in paragraph 5
2 of his statement Father Kilduff wanted to begin saying
3 the following on behalf of his bishop and the diocese:

4 "Before dealing with the specific areas which the
5 Inquiry is looking at I would wish, on behalf of the
6 diocese, to express the deep sorry felt by the bishop of
7 Kilmore, Bishop Leo O'Reilly, and the diocese that any
8 child was abused by any member of the clergy. We
9 apologise unreservedly to any child abused by Brendan
10 Smyth for that abuse and for the hurt and harm caused.
11 The actions of Brendan Smyth must be condemned
12 unreservedly. The abuse of his position of power is
13 a cause of profound pain and suffering to all his
14 victims and a source of shame and deep sorrow to all in
15 the church he purported to represent."

16 As will become apparent during this opening, the now
17 deceased former Bishop of Kilmore, Bishop Francis
18 MacKiernan, instigated the now much publicised 1975
19 church investigation involving the then Father John
20 Brady, later Cardinal Brady. In paragraphs 18 and 19 of
21 the statement, if we can look, please, at 747, Father
22 Kilduff said this of that 1975 investigation. If we
23 scroll down, please, to paragraph 18:

24 "When we consider the steps taken in 1975 against
25 the knowledge that we have now, it is clear that the

1 necessary and appropriate steps were not taken to stop
2 Brendan Smyth from reoffending.

3 The diocese would accept that the failure of Bishop
4 MacKiernan to report the matter to the civil authorities
5 or to ensure that the matter was reported by Abbot Kevin
6 Smith to the civil authorities was a failing on his
7 part. In the light of what is now known about Brendan
8 Smyth and about the compulsive nature of paedophilia, it
9 is clear that the diocese should also have informed the
10 civil authorities in the jurisdictions where those
11 children lived. These children", as we will come to
12 see, "were named in the reports as having also taken
13 part in excursions with Brendan Smyth. There is nothing
14 in the files which throws any further light on the
15 question of why the names of the other children were
16 included in the reports of the investigations."

17 It will become apparent during the opening that
18 there are, you may consider, a number of further
19 historical systemic issues involving Bishop MacKiernan
20 and the Diocese of Kilmore which the diocese will want
21 to reflect on before Father Kilduff gives evidence later
22 this week.

23 If we can move, please, to page 749, Father Kilduff
24 finished the statement on behalf of the Diocese of
25 Kilmore in paragraph 21 saying this:

1 "Again, on behalf of the diocese, Bishop O'Reilly
2 would wish to repeat its unequivocal apology to any of
3 those who suffered as a result of the abuse carried out
4 by Brendan Smyth. This abuse of his position of trust
5 has affected many, not just the children whom he abused
6 but also their families, and also those who placed their
7 trust in him. The diocese apologises to the children
8 abused and to those who feel the pain of having been
9 deceived by Brendan Smyth."

10 The third core participant before the Inquiry in
11 this module is the Archdiocese of Armagh. The Roman
12 Catholic Archdiocese of Armagh is one of the four
13 metropolitan archdioceses of the Roman Catholic Church
14 in Ireland. The Archdiocese has eight suffragan
15 dioceses including Kilmore and Down & Connor, and
16 Armagh's Archbishop is also the Primate of All Ireland.

17 Father Toner has provided the Inquiry with a witness
18 statement on the archdiocese's behalf, which is at
19 pages 1210 through to 1216 in the bundle, with exhibits
20 from 1217 through to 1237.

21 The statement deals in paragraphs 12 to 17 with the
22 1975 investigation, which I will look at in some detail
23 later in this opening, and explains that although
24 a priest of the Archdiocese of Armagh participated in
25 one of the two interviews with children in 1975, it was

1 nonetheless a Kilmore investigation.

2 If we can look, please, at page 1214, Father Toner
3 summarises the position for the archdiocese in
4 paragraph 17 of the statement:

5 "In summary, from the copy of the material available
6 it appears that although **FBS 50** , a priest
7 of the Archdiocese of Armagh, was involved in the
8 interview with FBS38 in March 1975, no steps were taken
9 by the Archdiocese of Armagh to report the abuse to the
10 civil authorities. There is no knowledge or record of
11 anyone in the Archdiocese of Armagh reporting Brendan
12 Smyth to the police in Northern Ireland or in the
13 Republic of Ireland. It appears that the abuse of FBS38
14 was reported to the civil authorities by FBS38 himself
15 after Brendan Smyth had been prosecuted in Northern
16 Ireland."

17 That, Members of the Panel, was twenty years later.
18 In paragraph 18 Father Toner says:

19 "The greatest single failure in this appalling saga
20 was not reporting these matters to the civil authorities
21 in both Northern Ireland and the Republic of Ireland so
22 that they could investigate the allegations and monitor
23 the movements of Brendan Smyth in order to minimise risk
24 to children. Clearly there was also a failure to
25 exercise vigilance over Brendan Smyth and ensure that he

1 was not free to continue his abusive behaviour inside or
2 outside the confines of Kilnacrott Abbey. In the 1970s
3 there was an absence of safeguarding and risk-management
4 protocols, guidance and procedures at a systemic level
5 across dioceses and religious congregations in the
6 Catholic Church. With the development of guidelines in
7 1996 leading to 'Our Children, Our Church' and then
8 leading to the establishment of the National Board for
9 Safeguarding Children in the Catholic Church in Ireland
10 and the development of a one-church approach to
11 safeguarding, a much more proactive approach would be
12 taken today. The allegations, which had first been
13 received by a priest in " -- this is in
14 1975 -- "would be reported to the designated officer for
15 the , who would then", says Father Toner:

16 "Report the allegations to the Garda Siochana and
17 the **Health Service Executive** .

18 Would advise the designated officer for the Diocese
19 of Kilmore", where the child was resident.

20 "Would advise the designated officer for Kilnacrott
21 Abbey", who are responsible for the priest.

22 "Would advise the designated officer for the
23 Archdiocese of Armagh", where the investigation was
24 conducted.

25 Then Father Toner says this on behalf of the

1 Archdiocese of Armagh:

2 "The church today can only look back on all this
3 with shame and in disgrace."

4 We will hear from a witness from Armagh on
5 Wednesday.

6 The next core participant before the Inquiry is
7 an individual, in this case Cardinal Sean Brady. The
8 Archbishop Emeritus of Armagh, Cardinal Sean Brady has
9 provided three statements to the Inquiry about his role
10 in the 1975 Kilmore investigation when he was a teaching
11 priest in St. Patrick's College and part-time
12 administrative assistant to the then Bishop of Kilmore,
13 Bishop Francis MacKiernan. Two statements of 11th June
14 2015 can be found at 807 to 812 and then at 813 and
15 a third statement of the 19th June 2015 can be found at
16 1238 to 1242.

17 The cardinal will give oral evidence to the Inquiry,
18 but I wish to draw attention to paragraph 11 of his
19 third statement. If we can please look at 1240, he says
20 in paragraph 11:

21 "When I interviewed FBS39" -- this was the second
22 interview that was conducted by the then Father John
23 Brady -- "he was not accompanied by any parent. This
24 was wrong. His family were not told of the alleged
25 abuse. This was also wrong. This is not how matters

1 would be handled today. I deeply regret that FBS39 was
2 not accompanied by a family member or that his parents
3 were not told. I also deeply regret that the parents of
4 the other children of whom FBS38 spoke were not told of
5 those concerns."

6 Obviously, Members of the Panel, I repeat again
7 while we use names in the chamber, those names should
8 not be repeated beyond the chamber.

9 He goes on to say this in paragraph 14 of his
10 statement:

11 "I would like to say that I deeply regret and
12 apologise for the fact that the information provided by
13 FBS38 and FBS39" -- they were the two children that were
14 part of the 1975 investigation -- "was not reported to
15 the civil authorities both in Southern Ireland and
16 Northern Ireland. While I believed at the time that
17 I had done the right thing in reporting to my bishop, as
18 requested, I accept that these matters should have been
19 reported and that the names of the other children
20 identified were passed on to the proper authorities.
21 For that failing and the fact that other children were
22 abused as a result of these omissions I am truly sorry."

23 He explains then in paragraph 16 that:

24 "I have made a number of statements on this matter
25 over the last years in different contexts. On occasions

1 the allegations made against me have referred to my role
2 as Archbishop of Armagh and my response has been
3 reflective of the fact that the role I played in 1975
4 was as a priest of Kilmore and my later position as",
5 and one can read in, "as Cardinal or as Archbishop of
6 Armagh was different. This may lead or may have led to
7 a perception that I was avoiding my responsibilities,
8 which was not my intention. I repeat now that I was
9 asked by Bishop MacKiernan to assist in a process to
10 secure evidence against Brendan Smyth and that the
11 procedure followed was in hindsight flawed and did not
12 protect those we wanted to protect. Again I express my
13 personal sorrow for that failing."

14 Then in paragraph 17 the cardinal says this:

15 "I have been asked to consider the way information
16 of a safeguarding nature and concerns about priests or
17 the removal of faculties is communicated between bishops
18 or not communicated."

19 That is an issue, Members of the Panel, that I will
20 return to on a number of occasions.

21 "Sadly, at that time", says the cardinal, "there was
22 a culture within the church of secrecy and silence and
23 it was felt that these matters could be dealt with
24 within the church structures themselves. Further, there
25 was not a proper understanding of the devastating

1 consequences of child abuse. Many bishops believed that
2 psychiatric treatment of the individual perpetrator was
3 an adequate response. The full horror and long-lasting
4 impact of such criminal behaviour has now been grasped.
5 The church now obtains its guidance from the civil
6 authorities and reports all incidents of child abuse
7 immediately. All priests now carry a card called
8 a celbret ..."

9 The Members of the Panel will probably be aware that
10 that's not a new concept.

11 "... now carry a card called a celbret with them
12 issued by their diocese which gives them faculties.
13 This celbret can be requested by any priest before he
14 would allow another priest to conduct any ministry. The
15 bishop would require a priest from whom faculties had
16 been removed to hand over his celbret, which would mean
17 he could not then minister in another diocese. The
18 celbret would also allow any priest or bishop to call
19 the home diocese of a visiting priest to check his
20 credentials."

21 As I said, Members of the Panel, we will hear from
22 Cardinal Brady on Thursday of this week.

23 The next core participant that has been assisting
24 the Inquiry -- again this is done by someone who has
25 assisted on behalf of the Diocese of Down & Connor in

1 previous modules -- and providing a further detailed
2 statement for the assistance of the Inquiry is Father
3 Timothy Bartlett. His statement can be found at
4 page 712 of the bundle, with exhibits from 722 to 727.
5 I should have said to you it begins at 712 through to
6 721.

7 Father Bartlett sets out the position of the Diocese
8 of Down & Connor in paragraph 4 of his statement. If we
9 can look, please, at 712 -- the statement begins at 711,
10 Members of the Panel -- paragraph 4, Father Bartlett on
11 behalf of Down & Connor says this:

12 "From the outset the diocese acknowledges that
13 Brendan Smyth perpetrated the most heinous and
14 deplorable crimes against children on a prolific scale,
15 including children who were in the care of the
16 institutions that are the subject of this Inquiry. That
17 Brendan Smyth actively sought out opportunities to abuse
18 children already facing the challenges and trauma of
19 institutional care makes his evil behaviour all the more
20 shocking and unconscionable. These actions wrought
21 untold damage in the lives of many children and their
22 families and the diocese takes this opportunity to
23 express its profound regret that those with both the
24 knowledge of Brendan Smyth's risk to children and the
25 ecclesiastical authority to take action against him did

1 not do so decisively and effectively from the outset.
2 The consequences for the lives of many children has
3 been, quite simply, catastrophic and the legacy of
4 Brendan Smyth as a manipulative and prolific abuser of
5 children now features among the most notorious and
6 devastating in Irish history."

7 In paragraph 23, if we can look, please, at 719,
8 Father Bartlett identifies the manifest problems with
9 how Brendan Smyth was dealt with and says this:

10 "Notwithstanding the alacrity with which those
11 involved on behalf of the Diocese", of Down & Connor
12 that he is referring to, "responded to the allegations
13 received in 1990, the diocese acknowledges that key
14 principles, practices and procedures that are now known
15 to represent best practice in child safeguarding and
16 that are currently operative and regularly
17 professionally reviewed and updated in the diocese were
18 generally not in place before that time. Key elements
19 of this best practice that were notably absent in
20 relation to the Brendan Smyth case include:

21 (a) Reporting to the police and statutory
22 authorities. The critical importance of prompt and
23 effective reporting of allegations, concerns and
24 suspicions of sexual abuse to civil authorities is
25 highlighted by the profound inadequacy of the response

1 made by various church personnel, most notably the Abbot
2 of Kilnacrott, who had primary responsibility for
3 preventing Brendan Smyth from having access to children
4 as a known abuser, and others who were aware of concerns
5 about Brendan Smyth's risk to children in the decades
6 before his eventual arrest and conviction in the 1990s.
7 Current safeguarding procedures in the Diocese of Down &
8 Connor and across the Catholic Church in Ireland now
9 have as a fundamental commitment the prompt reporting of
10 allegations, suspicions and concerns to the relevant
11 statutory authorities. This, the diocese accepts, is
12 the most effective safeguard in reducing to the absolute
13 minimum any repetition of the travesty of abuse by
14 a Catholic priest or religious on this island and the
15 mishandling of such situations by those holding
16 positions of responsibility in the Catholic Church.

17 (b)", he says, "Appropriate communication and
18 sharing of information. Once promptly reported to the
19 civil authorities as a first principle of safeguarding,
20 the question of communicating to others that a person is
21 a potential risk to children is a vital consideration.
22 It is clear that the failure of those with relevant
23 information to do so was fundamental in allowing Brendan
24 Smyth to continue to abuse children on an international
25 scale for as long as he did. The Diocese of Down &

1 Connor operates a policy of complete cooperation with
2 the relevant statutory safeguarding bodies in regard to
3 the sharing of information about potential risk to
4 children and how it should be managed once an allegation
5 is received. The diocese accepts that once the
6 statutory authorities have been informed of
7 an allegation, they have the responsibility for making
8 decisions in this area and that it is for the
9 legislature on both parts of the island to ensure that
10 all policies and law about the appropriate sharing of
11 information about risk are kept under review to ensure
12 that the safety and best interests of children are
13 always the paramount concern."

14 The third element which you may consider relevant as
15 this opening unfolds is:

16 "Effective training of clergy and church personnel.
17 That some clergy in the church who received allegations
18 against Brendan Smyth claim they did not know how to
19 respond to such information in terms of basic principles
20 of reporting and safeguarding highlights the critical
21 need for effective and ongoing training of clergy and
22 other church personnel in this area. The Down & Connor
23 Safeguarding Office, staffed by fully trained
24 professionals, who work closely with the statutory
25 safeguarding agencies, provide mandatory training for

1 all priests and other key personnel in the diocese on
2 best practice in safeguarding children. This includes
3 regular training for lay parish safeguarding personnel,
4 who play a key role in developing a culture of
5 safeguarding at diocesan and parish level, in which the
6 safeguarding and welfare of every child is the paramount
7 concern. The culture and ethos of safeguarding in place
8 in the Diocese of Down & Connor today seeks to reinforce
9 not only a moral sense of shared responsibility to
10 recognise and respond promptly to allegations,
11 suspicions and concerns brought to an individual's
12 attention but also a greater awareness of the legal
13 requirement to take prompt action."

14 If we scroll down, please, in paragraph 24 Father
15 Bartlett then sums up the position of the Diocese of
16 Down & Connor:

17 "The Diocese of Down & Connor fully accepts that the
18 fact comprehensive safeguarding policies and procedures
19 are now in place and that both the societal and
20 ecclesial understanding of the critical importance of
21 such procedures has only developed over more recent
22 times, this is of no comfort to those who suffered
23 sexual abuse by Brendan Smyth and others who held
24 positions of trust and responsibility within the
25 Catholic Church. No apology can ever make up for the

1 appalling abuse that the victims of Brendan Smyth and
2 their families have endured through the repeated failure
3 to deal effectively with his criminal behaviour over
4 a long period of time. On behalf of the diocese,
5 therefore, I conclude by expressing deep sorrow and the
6 most profound regret that so many people, many of them
7 in positions of trust and responsibility in the church,
8 failed so many times to respond to the cries of the
9 'little ones', those whom our fundamental human and
10 Christian instincts alone should have compelled us to
11 protect and reach out to as a first priority. The
12 diocese remains committed to offering whatever pastoral
13 support it can to those who were so grievously and
14 repeatedly hurt by the actions of Brendan Smyth and to
15 ensuring that the safety and welfare of children
16 continues to be the paramount concern in all aspects of
17 diocesan life and ministry."

18 The penultimate core participant in this module is
19 the Congregation of the Sisters of Nazareth. The
20 Inquiry has recently completed the examination of their
21 Belfast homes during Module 4. It looked at their Derry
22 homes during Module 1. As the Panel is aware, during
23 Module 4 the Congregation repeatedly apologised to each
24 individual who came forward to the Inquiry who said they
25 were abused by Father Brendan Smyth whilst in their

1 care.

2 If we can turn, please, to 1207, we will see in
3 paragraph 7 of a statement from Sister Brenda McCall,
4 who wasn't someone who worked in any of these homes but
5 has been assisting the Inquiry on behalf of the Sisters,
6 she said this in paragraph 7:

7 "The Sisters are now aware of the activities of
8 Brendan Smyth and are appalled to learn about these in
9 later years when this became public knowledge. The
10 Sisters openly apologise to any child who suffered
11 sexual abuse at the hands of Brendan Smyth or any other
12 abuser. They", as in the Sisters, "were not aware of
13 his activities at the time when he was a visitor to
14 Nazareth House or Nazareth Lodge."

15 I will say more about the Congregation in due
16 course, as some excellent detective work from the
17 Inquiry legal team allows us to be clearer as to Smyth's
18 activities in the Nazareth homes, including the
19 week-long retreat that you heard about, which we are in
20 a position to say took place in Nazareth Lodge in 1976.
21 The significance of that date, given that it is after
22 1975, will be obvious.

23 The final core participant for the Inquiry in this
24 module is the Institute of the Brothers of the Christian
25 Schools, more commonly known to the Inquiry as the De La

1 Salle Order. The Order ran the De La Salle Boys' Home
2 in Kircubbin that the Inquiry examined during Module 3.

3 Brother Francis Manning, again a Brother who did not
4 work in the home but who has been assisting the Inquiry
5 on behalf of the Order, has provided a detailed further
6 statement for the assistance of the Inquiry of
7 5th June 2015. That can be found in the bundle at page
8 643 through to 647 with exhibits that run from 648
9 through to 694.

10 As we will in due course see, Smyth accepted that he
11 had abused four boys who were resident in Rubane. Three
12 of the boys had, or after Smyth's own admissions did,
13 come forward to the police. The fourth Smyth
14 volunteered himself. The Inquiry is in a position to
15 say that the abuse probably took place in Rubane between
16 1977, the dates during which each of the boys were in
17 Rubane at the same time, because the boys refer to being
18 aware of each other seeing Smyth, and 1979, when Smyth
19 left for another period in America. The significance of
20 the dates between 1977 and 1979, given they relate to
21 a period after 1975, will be obvious.

22 The means of access to Rubane appears to have been
23 Smyth using his position as a priest as justification to
24 call and visit boys with whom he had already become
25 acquainted and indeed abused in Nazareth Lodge. He used

1 the access of his position -- the position provided him
2 to then abuse the boys further in Rubane.

3 Brother Manning examines in considerable detail the
4 factual position as far as it can be determined for the
5 assistance of the Inquiry in terms of Smyth's movements
6 in connection with Rubane. He also refers in
7 paragraph 12 on page 645 to the Order's earlier
8 acceptance that BR1, the then head of the home, amongst
9 other failings by him, did not deal appropriately with
10 the disclosure to him by one boy, DL40, of the abuse he
11 suffered at the hands of Smyth.

12 That is a repeat, Members of the Panel, of
13 an admission made by Brother Manning in paragraphs 4 and
14 22 of his statement of 5th December 2014, which was
15 filed in Module 3. That statement for your ease can
16 also be found in the evidence bundle at 695 through to
17 710.

18 However, it is also the case that, despite BR1 not
19 dealing with the complaint appropriately, however it
20 happened, according to DL40, Smyth does not appear to
21 have returned to Rubane and, as it turns out, that may
22 be because he then was transferred back to America. For
23 your ease DL40 -- and his name shouldn't be used beyond
24 the chamber -- is DL40, who you heard from on two
25 occasions.

1 The Order also points out that there is no evidence
2 to justify the suggested linkage of BR1 and his
3 activities and Father Brendan Smyth and his that had
4 taken place in the media previously. In paragraphs 13
5 to 15 of his statement at 646 Brother Francis Manning
6 identifies for the Inquiry the positive evidence
7 available to the Inquiry against such a link.

8 If we can look, please, at 647, Brother Manning
9 repeats the Order's position in paragraph 20 of the
10 statement. He says:

11 "It is a matter of deep regret and sorrow that some
12 boys resident in Rubane were abused there by Father
13 Smyth."

14 Chairman, Members of the Panel, the detailed
15 statements from the core participants in combination
16 contain much new information that will not have become
17 public until now. In addition, where specific instances
18 of historical knowledge of Smyth's abuse of children
19 have become apparent to the Inquiry, the Inquiry has
20 sought and received, where available, witness statements
21 from specific priests who the Inquiry considered could
22 assist its work. We will also look at those statements
23 during the opening.

24 It is the case that a number of instances of
25 historical knowledge of Smyth's abuses have previously

1 been revealed through media investigation, reporting and
2 response. The involvement of Cardinal Brady, the then
3 Father John Brady, in the 1975 interviews with the two
4 boys is one example of that. However, this will be the
5 first time that an Inquiry has examined the issues and
6 gathered evidence about them.

7 Before I move to begin the detailed examination of
8 the activities of Smyth, I want to acknowledge the
9 cooperation that the Inquiry has received from the
10 various Roman Catholic dioceses, institutions and
11 individuals involved in this module, including the
12 frankness, you may think, of the clergy whom you have
13 already heard from through statement and will hear oral
14 evidence from. It will be evident to the Panel that the
15 approach adopted before the Inquiry in this module
16 endeavours to explain the wider church's acceptance of
17 immense shortcomings and failings, which, together with
18 catastrophic consequences, created a legacy of shame and
19 dishonour with which the church is still coming to
20 terms, but also through explanation of the present
21 safeguarding arrangements an attempt to communicate that
22 the past is truly a different country as far as the
23 church is concerned, with a determination that it will
24 not be a place ever visited again.

25 I also want to acknowledge the assistance given to

1 the Inquiry and to me by the legal representatives of
2 the core participants, who have been engaging with the
3 Inquiry on their behalf in this module. As the Panel is
4 all too aware, the volume of work the Inquiry has to
5 deal with in the context of its time limit is
6 an enormous undertaking. It would simply become
7 impossible for the Inquiry to achieve its aims without
8 the collaborative approach adopted by those with whom it
9 has had to engage.

10 I also want to acknowledge that the Norbertine
11 Order, and indeed to a more limited extent the Diocese
12 of Kilmore, are not within the jurisdiction of Northern
13 Ireland and consequently the Inquiry does not have the
14 power to compel them to participate, cooperate, produce
15 material or attend. Their agreement to voluntarily
16 participate and cooperate in the Inquiry process and the
17 manner in which they have done so has, therefore, been
18 essential for the Inquiry to be able to examine in
19 a holistic way the potential systemic failings that
20 facilitated or failed to prevent Smyth abusing children
21 in children's homes in Northern Ireland.

22 I also wish to acknowledge, Members of the Panel,
23 the assistance given to the Inquiry on an ongoing basis
24 by the Police Service of Northern Ireland. The vast
25 majority of the material amassed for this module, as was

1 the case in Module 3, has come from the production of
2 historical police material. Chief Inspector Brenda
3 Cairns, Inspector Gary Atkinson and their team in
4 producing material and dealing with queries and
5 questions from the Inquiry have expended much time and
6 effort, for which the Inquiry is grateful. In this case
7 that has included liaising with their counterparts in
8 the Garda Siochana. The Inquiry is grateful for that
9 assistance.

10 The Panel is also aware of the very considerable
11 pressure that is placed on the Inquiry staff. The
12 extent of their tireless commitment and efficiency in
13 very demanding circumstances is unfortunately less
14 widely known and not necessarily appreciated as it might
15 or perhaps ought to be. I want to acknowledge it
16 publicly again this morning. In particular, Members of
17 the Panel, I want to pay tribute to the members of the
18 legal team, who have assisted me with the preparation of
19 this module. As the Panel is aware, without the
20 assistance of Maria Dougan, Jennifer Kirkwood and
21 previously Anne Donnelly it would not have been possible
22 for me to stand here today. Nor would it have been
23 possible for the Inquiry to take the proactive steps
24 that have been undertaken in order to gather and
25 assimilate as much information in advance so that this

1 module can be completed in the aimed for four days.

2 I also want to acknowledge that the coming days of
3 this module are going to be difficult, difficult for all
4 the victims of Smyth's sexual abuse that will either be
5 present here in the Inquiry chamber or will hear or read
6 the reports of what is occurring, no doubt stirring very
7 painful memories from their childhood.

8 I also acknowledge that it will be difficult for the
9 individuals and institutions whose conduct is being
10 examined by the Inquiry. They, who may otherwise have
11 done much good in our society through the most difficult
12 of times, which is something the Panel will not
13 overlook, will nonetheless be confronted with the
14 devastating consequences of the choices they made to
15 protect their own rather than our children.

16 Members of the Panel, before I begin looking in
17 detail at the activities of Smyth and his modus operandi
18 and who knew what about him, Chairman, you may consider
19 this an appropriate point to take a short break.

20 CHAIRMAN: Yes. We will rise for a few minutes and resume
21 later this morning.

22 (11.25 am)

23 (Short break)

24 (11.40 am)

25 MR AIKEN: Chairman, Members of the Panel, I'm going to move

1 on to look at Father Brendan Smyth and his modus
2 operandi. Some of what I am going to outline about that
3 modus operandi is obviously going to be difficult to
4 hear, but in the context of where a large volume of
5 material is available to the Inquiry and therefore it
6 can assist with the type of assessment exercise that the
7 Panel have to do it is a necessary evil.

8 John Gerard Smyth was born in West Belfast on 8th
9 June 1927. The reference for that is at 30294. He
10 lived and went to school in Belfast. He left school at
11 18 and joined the Norbertine Order in 1945. The
12 references to that are at 31539 and 32216; also in
13 paragraph 19 of Father Fitzgerald's statement at
14 paragraph -- at page 822. I will explain a little more
15 about the Norbertine Order shortly.

16 He was ordained as a priest of the Norbertine Order
17 on 31st July 1951, aged 24. The reference for that is
18 at 31501, and again at paragraph 19 of Father
19 Fitzgerald's statement. He took on the religious name
20 "Brendan" when he joined the Norbertines and he became
21 known as "Father Brendan Smyth" after his ordination.
22 He was based at the Norbertine Order's abbey in Ireland
23 at Holy Trinity Abbey, Kilnacrott, County Cavan in the
24 Republic of Ireland.

25 He regularly travelled to Belfast, where he had

1 grown up, and it was his integration into the lives of
2 families he had grown up with that provided him with
3 access to their children. In addition, as we will come
4 to see, he integrated himself into Nazareth Lodge and
5 less so House in Belfast -- primarily the Lodge -- which
6 gave him access to children there. He then followed
7 some of those children to De La Salle in Kircubbin and
8 indeed to the Good Shepherd in Middletown.

9 His modus operandi generally concentrated on
10 befriending children, including providing them with
11 sweets and money, taking them on trips and holidays and,
12 having groomed them in that way, then engaging in
13 indecent assaults, often initially under the guise of
14 affectionate tickling, leading almost always to genital
15 touching, though masturbation with some boys was also
16 a feature of his offending. There have been also
17 allegations of more serious sexual offending both in
18 this jurisdiction and in the Republic of Ireland.

19 Smyth himself was interviewed by the then RUC on ten
20 occasions during the police investigation into his
21 activities that began in 1991 and essentially finished
22 in 1996. Transcripts of all of the interviews are
23 available to the Inquiry, and I am going to briefly
24 summarise their content in order for the Panel to be
25 aware in general terms of Smyth's approach. It will be

1 difficult to hear, but it will also assist the Panel in
2 considering the evidence, particularly that given
3 directly to the Inquiry in respect of Smyth.

4 The interviews are as follows. The first was on 8th
5 March 1991. It runs from 31493 to 31503. The second
6 was some three years later and a lot, as you know, took
7 place in between. It of 11th March 1994 runs from 31420
8 to 31459. There then are a series of interviews that
9 were conducted by very senior police officers,
10 Superintendent Sheehy and Detective Chief Inspector
11 Brannigan. They begin -- the fourth -- third interview
12 began on 23rd November 1994. It was at 30126 to 30129.
13 Then extensive interviews. The fourth interview was on
14 7th December 1994. It runs from 30129 to 30232. The
15 fifth interview was on 24th February 1995. It is at
16 30232 to 30293. The sixth was on 5th May 1995. It runs
17 from 30293 to 30308. Then the seventh interview was on
18 11th August 1995. It runs from 30478 to 30500. The
19 eighth interview was on 15th September 1995. It runs
20 from 30724 to 30744. The ninth interview was on
21 21st March 1996 at 30594 through to 30610. The tenth
22 and final interview in this jurisdiction was on
23 6th August 1996. It runs from 30656 to 30660.

24 It has not been possible for the Inquiry to obtain
25 whatever interviews there were in the Republic of

1 Ireland. The Inquiry does not have power to compel that
2 material and consequently the data protection
3 legislation that binds the Garda Siochana does not allow
4 it to provide that material, although the legislation is
5 being relooked at, as I understand.

6 During his first interview of 8th March 1991, which
7 related to the first victims who came forward -- and
8 again I am going to use the names, because otherwise the
9 story becomes extremely complicated to explain, but the
10 names shouldn't be used beyond the chamber. The first
11 victims who came forward to the police in early 1991
12 were FBS9 and FBS10, two boys, and ,
13 a boy and girl, all who lived in a particular part of
14 Belfast, and which Smyth would have said certainly as
15 far as the FBS9 and FBS10 were concerned involved his
16 most serious abuse that he accepted he undertook.

17 He explains -- and I accept some of this is
18 difficult, but it is necessary in order to understand
19 the context -- that he never had oral sex, because that
20 was something that in his words "turned him". The
21 reference for that is at 31499. We will see, however,
22 by 1994, when he was talking to his doctor in Stroud,
23 that he had -- he accepted that while he couldn't
24 remember it, he may well have performed oral sex on one
25 particular victim, who said that he did, and that was

1 one of the individuals that are part of this first
2 interview. The reference for that is at 915 in
3 paragraph 4.

4 The second point generally that comes out of this
5 interview is that he claimed that he never tried to have
6 sex -- sexual intercourse in his life. That's
7 a reference at 31499. He explained to his doctor in
8 Stroud in 1994 -- and the reference for that is at 911,
9 and I think it is probably necessary that we look at
10 that particular extract, as difficult as it is. If we
11 look, please, if we can bring up, please, page 911, and
12 we will see what he claimed to the doctor -- of course,
13 this is, as you will come to understand, a doctor in the
14 Paraclete Fathers' Our Lady of Victory Clinic in Stroud
15 in Gloucestershire in England and not somewhere -- it
16 was a place that treated addictions that priests had,
17 including eventually sexual difficulties, and you may
18 consider it is not a report that one might consider
19 likely to see or considered by the person who was
20 describing things to the doctor considered likely to see
21 the light of day. It is available because the
22 Norbertine Order obtained it and then produced it to the
23 Inquiry.

24 If we can bring up, please, page 911 and if we just
25 scroll down to the bottom. It is a full report that the

1 Panel will consider in its totality. Just at this stage
2 if I can refer to the penultimate paragraph, where he
3 says:

4 "I actually couldn't have intercourse, because
5 I can't have a full erection. I can get excited, but
6 I have premature ejaculation and then I don't have the
7 power to penetrate. This has always been the case."

8 Now that is a position repeatedly made by Smyth
9 during the police interviews as well, although it is the
10 case, as you know, that there have been allegations,
11 much more limited in number compared to the allegations
12 of indecent assault, that he did engage in sexual
13 intercourse and indeed rape.

14 So he -- if we take that down, please -- he -- the
15 third point that he makes in this first interview is
16 that he never had inclination to abuse before he became
17 a priest. As we know, he became a priest in 1951, but
18 he did disclose to the doctor in Stroud in 1994 his
19 interactions with other boys, some younger than him, as
20 a teenager. The reference for that -- I am not going to
21 bring it up now, but the Panel will have the report and
22 can consider the detail of it -- as a teenager at 914 in
23 the bundle that can be found, and he then also describes
24 the type of activity that he engaged in as a young
25 religious. So that would be during the period before he

1 is ordained as a priest and again his interaction with
2 boys during that period of his life. He describes
3 wrestling and the sexual effect that that had on him,
4 although the people he was engaged with would not
5 necessarily have known of that effect. Then some other
6 instances that are contained therein that you will have
7 the opportunity to read and reflect on.

8 He did confirm to the police in his first interview
9 that he was not sexually abused himself. If we just
10 look, please, if we can bring up 31502, please, you can
11 see he says:

12 "A. I know. I never had ..."

13 He's being asked:

14 "Q. We are asking these questions to establish
15 a cause for all that has occurred.

16 **A. I know. I never had an inclination before being**
17 **a priest. FBS 9 asked me when he confronted me if I'd**
18 **been sexually abused. I wasn't.**

19 Q. Why did you pick on children?

20 **A. Because I liked them, was able to work with them**
21 **and really because they were there."**

22 He explains in the same section that he had
23 relationships in terms of intimate relationships with
24 women, but again touching and masturbation, never
25 intercourse.

1 There are police statements that are available to
2 the Inquiry that disclose sexual fondling with adult
3 females, and one statement suggests on one occasion
4 involving a short attempt at oral sex with a female.
5 That can be found at 30960. I don't need to bring it
6 up, but it indicates that certainly in one instance,
7 although he didn't characterise it in that way, kissing
8 the female genitalia.

9 He explained to police -- if we just take that down,
10 please -- that, as you saw, he got involved because the
11 children were young. It didn't matter whether they were
12 a boy or a girl, although he explains in later
13 interviews that initially he thought he was homosexual,
14 because his interest was really towards boys and it
15 wasn't until the '70s that he developed an interest more
16 in girls of a similar age, generally between 10 and 14,
17 but not always.

18 He told the police, and it is the same context as we
19 have looked at, that he discovered over the incidents
20 that he could never have a full erection -- that's at
21 31502 -- and would often have premature ejaculation --
22 that's at 31503 -- but often with the rubbing that he
23 got children to do of him either outside his trousers or
24 sometimes touching him no ejaculation would take place
25 at all.

1 His second interview, as I have said, was some three
2 years later. It was on 11th March 1994 and after the
3 tumultuous events in the Republic of Ireland arising
4 from the failure to extradite him.

5 He was asked, if we can just look, please, at 31420:

6 "Q. Would you class yourself as a paedophile?

7 A. To a certain extent, yes.

8 Q. Could you explain what you mean by that?

9 A. Well, I'm attracted to fondle young people,
10 young people, not very small children. I'm talking
11 about from I suppose about 9 or 10.

12 Q. So you have a sexual attraction to pre-pubertal
13 children?

14 A. Well, 9, 10 to 14."

15 He accepted that what he had was a perversion, and
16 by this stage there had been the suggestion that he had
17 put his finger into the back passage of a child. He was
18 asked about that and said that he did that once to
19 an adult, but -- to see what it was like. It did
20 nothing for him and that he was not conscious of ever
21 having done that type of activity to a child. The
22 reference for that is at 31434. As is a feature of his
23 interviews, he considered that the fondling, as he
24 called it, was minor, and the reference for that is at
25 31440.

1 He accepted at 31446 during this interview that he
2 used his garb, as in his priestly attire, for easy
3 access to children. When he was asked about the means
4 of access and child protection, he said himself that
5 changes twenty years on, as it were, when he is being
6 interviewed, meant he could not walk into a school in
7 1994 the way he could have in the past and, as we know,
8 did. That's at 31454.

9 That in relation to taking kids on trips he would
10 ask the kids first about going on the trips, and if they
11 wanted to go, then he would ask the parents. That's at
12 31447. He accepted he knew what he did was wrong. If
13 we just look at 31459, please, he says:

14 "But I know what I did was wrong. I know that in
15 some cases it will have -- because I have to take that
16 from the medical men or the professional men or you men
17 in your profession -- that it will have hurt or damaged
18 them somewhat psychologically. I know that in order
19 cases -- I'm convinced in other cases it hasn't done any
20 harm, but I know I did wrong, certainly did wrong
21 legally, and therefore I'm quite prepared to pay for
22 having done wrong."

23 During a short and very general third interview on
24 23rd November he was asked where he worked in Northern
25 Ireland. I am just going to bring that up, please.

1 30809. You will see that to police he claimed, just at
2 the bottom, the last question -- scroll down, please:

3 "Q. Can you tell us where you worked in Northern
4 Ireland?"

5 Then he lists:

6 "Nazareth House.

7 Nazareth Lodge.

8 De La Salle, Kircubbin.

9 Middletown Convent."

10 So the four places that individuals in material
11 available to the Inquiry say that Smyth frequented. The
12 pattern seems to have been he would get to know the
13 children in Nazareth Lodge generally, some in Nazareth
14 House, and then if they were boys and went to De La
15 Salle, he would follow them there, and for some girls
16 who left Nazareth and were sent to the Middletown
17 Convent of the Good Shepherd, then he would have
18 followed them there. We will see that much later during
19 the opening.

20 In his fourth interview of 7th December 1994 he said
21 to police that he never touched anyone the first time he
22 met them but always established a relationship -- the
23 reference for that is 30844 -- and that he never had
24 a fear of disclosure, because he never would have done
25 something that someone was not happy about. So what he

1 is explaining at 30860 is winning the trust of
2 a particular age range of children that he was satisfied
3 wouldn't then talk about what he was then doing under
4 the guise of being affectionate and playing with them.

5 He said, same section of interview, that he never
6 touched or played with anyone in any way when it looked
7 as if he or she was in the least bit uncomfortable.

8 "If I thought they were the least bit uncomfortable,
9 I always stopped."

10 You will see from some of the statements from
11 individuals who made complaints about Smyth's behaviour
12 that they would say that when they evidenced some form
13 of distress, then he would stop. In some cases some of
14 the children would have said that it took their distress
15 to go on for a bit longer before he would stop, but
16 essentially corroborating that type of approach. Quite
17 a number of the statements refer to them making the
18 point that while they were abused and consider
19 themselves abused, they weren't forced by him, although
20 there are some statements that characterise it in
21 a different way.

22 In this interview he again talks about his age
23 preference of children between the ages of 11 and 16,
24 although we saw earlier he was referring to 9 and 10.
25 That's at 30860. In explaining the age of the girls he

1 chose, he explained that if you were dealing with
2 someone older, there was a danger of moving to full sex
3 and giving them a baby. That's at 30859.

4 Then he was being asked about his approach in school
5 and he said that he would have been careful not to be
6 taking children out of class too often or for too long,
7 because the teachers might then start to complain that
8 they were missing their education and as a result deny
9 him access. That's at 30894.

10 He claimed in this fourth interview that the two
11 FBS9 and FBS10 -- their name shouldn't be used beyond
12 the chamber -- which included instances of mutual
13 masturbation, were the worst cases that he engaged in.
14 That's at 30860.

15 Again in the context of dealing with a particular
16 allegation of multiple violent rapes that we will look
17 at later on in the opening, he again said that he never
18 had sexual intercourse in his life and he gave the same
19 reason as to why.

20 He pointed out that while he was accepting many of
21 the complaints that were being made, there were some
22 that he identified -- and we will look at them -- that
23 he did not accept and he believed they were false to get
24 money as a result of people being aware that he had
25 already stood accused of abusing others, which he

1 accepted he had done.

2 In his fifth interview of 24th February '95 he
3 talked about a practice of sending Christmas cards and
4 how he says he would have sent about 300 Christmas cards
5 each year, and a number of children have talked about
6 receiving cards and letters from him. Indeed, in one of
7 the statements you will see one of the children as
8 an adult explaining that he got -- she received a letter
9 as the story about him was about to break and him
10 writing to her about that.

11 He explained in this interview that he wanted
12 children to be coming freely with him. The reference to
13 that is at 30908.

14 He said he wouldn't have involved himself with
15 children as young as 7 or 8, because he was very
16 conscious that they were liable to say something,
17 presumably inadvertently. That's at 30933.

18 He again reiterated, when asked again about the rape
19 claim, that he:

20 "... never had sexual intercourse in my life, lawful
21 or unlawful, with any person, male or female."

22 30950.

23 He made a particular remark in the interview which
24 the Panel can look at about his inexperience and how he
25 wouldn't have known what to do.

1 During his sixth interview -- I mentioned this to
2 you -- it was at 5th May 1995 -- that's where he pointed
3 out while he had not had oral sex, he had kissed
4 an adult once, a female adult. That's at 30961.

5 In his seventh interview of 11th August 1995 he
6 explained that his normal practice was fondling and
7 hugging, and masturbation was the exception, but he also
8 would have kissed children, he would say not with
9 tongues, but the children would say kissed them and some
10 children would go as far as to say with tongues. He
11 said again he was only attracted to 10s and 11s up at
12 30493.

13 In his eighth interview of 15th September -- this
14 was in the context of a complaint to do with Nazareth.
15 If we just can bring up, please, 30733. I think it was
16 the suggestion by a girl that she had just been brought
17 to see him. If we just scroll down, she talks about
18 being brought and you can see he says:

19 "A. Well, listen, it would never have happened that
20 one of the nuns there would have brought a girl down
21 whom I didn't know. Now she claims that, you know, she
22 never met me before that day in the room.

23 Q. Yes.

24 A. So I wouldn't have known of her existence even,
25 and that she brought her down to me and introduced her

1 to me. That never happened. Now any time I say anybody
2 I asked to see to them.

3 Q. 'Cos you knew them beforehand?", he's asked.

4 "A. 'Cos I -- well, like I knew them from there
5 maybe beforehand, you know.

6 Q. You see -- excuse me, Brendan. Yeah. You see,
7 with a lot of the children -- this girl was obviously
8 orphaned from a very young age."

9 Scroll down, please.

10 "A. Yes.

11 Q. And how do you, first of all, get to meet them
12 then?

13 A. No. The only way I would have met -- I would
14 have met her --

15 Q. Yeah.

16 A. -- and I presume I was in Nazareth a number of
17 times during that period -- now is that Nazareth House
18 or -- Lodge I think that would be, wouldn't it?

19 Q. The Lodge.

20 A. Lodge, yeah. Well, I was in Nazareth a number
21 of times during that period. I gave a retreat to the
22 nuns. So I was there one time for a full week, you
23 know, actually living in the place. Now that was the
24 only time I lived in it, of course, but just that full
25 week. Then I would call sometimes, because it was

1 a handy place when I'd come up from the country
2 sometimes, a handy place and I'd go in and say mass if
3 I hadn't got mass said elsewhere, you know, because you
4 would do it, say, in the afternoon, evening time when
5 you'd be passing by. Now I did ask to see people there,
6 once that I had met and knew, who I met once, and
7 they're already mentioned in your lists.

8 Q. That's right.

9 A. Something like that, that were altar servers and
10 ones like that, you see. At that time I knew a nun
11 there too, but she left the place afterwards and she --
12 you know, I didn't call there to see her, by the way.
13 She just happened she was stationed there.

14 Q. Again what you are saying, Brendan, is really
15 a stranger would never have been brought to you?

16 A. No.

17 Q. You'd have known them in some way prior to that?

18 A. I would have to have known to them prior to that
19 and I would have had to know what their name was to ask
20 for them."

21 He was asked again towards the end of the interview
22 about his past, and he again reiterated that he had no
23 recollection of anything in his past that triggered his
24 own behaviour. That's at 30740.

25 From he was about 14 on he was always involved with

1 younger boys in youth groups. 30741. That's the type
2 of activity that I am referring to that can be seen in
3 the Stroud report from 1994 covering that period from 14
4 on until he becomes a priest.

5 He describes in the same interview a long period
6 when he thought he was homosexual, because girls only
7 started to come into the picture in his abuse in the
8 '70s. That's at 30742.

9 In his ninth interview he explained -- it was
10 21st March 1996 -- that his practice could include
11 putting someone over his knee and spanking them.
12 Indeed, he explains that practice in the Stroud report,
13 but again he did not accept he ever inserted his fingers
14 in a child's back passage. That's at 30604.

15 He did accept fondling, hugging, kissing and that
16 sort of activity, indecent assault, at 30604.

17 In his final interview of 6th August 1996 he was
18 dealing with a single allegation that he had dropped his
19 trousers in a lift in Nazareth House in front of a girl
20 he had never met before. He pointed out that he built
21 up relationships over a period of time and never did he
22 touch a female without having known her at 30658. He
23 had no recollection of ever having been in a lift in
24 Nazareth House.

25 Members of the Panel, while that's a brief and yet

1 still difficult summary of the main general points that
2 come out of Smyth's interviews, it should, of course, be
3 said that that is not to say that they are accurate or
4 entirely truthful. It is the case that the RUC felt
5 Smyth tended to minimise his involvement and his level
6 of responsibility, as we will come to see, but it will
7 assist in understanding the general context of the many
8 allegations he faced between 1991 and 1996, and in the
9 vast swathes of allegations they were of the nature of
10 indecent assault as opposed to a more serious
11 allegation, and we will look at that as we go through
12 the opening.

13 In addition to the extensive police interviews that
14 are available to the Inquiry, the Inquiry has also now
15 received through a combination of sources a series of
16 medical reports, some of which will not have been
17 considered previously. It is clear, as we will come to
18 see as we look at a chronology of Smyth's activities
19 known to his Order, that he was sent for treatment on
20 a number of occasions beginning in the late 1960s,
21 a number of times in the 1970s to different
22 institutions, and again at the end of the 1980s and
23 start of the 1990s.

24 We know that he was sent to the Graham Clinic in
25 Purdysburn in Northern Ireland for treatment in 1968

1 through to 1969. The Norbertine Order sought that file
2 from that hospital as part of its handling of civil
3 proceedings during 2003. It has produced such of that
4 material as was provided to it to this Inquiry. It can
5 be found at 955 through to 967 in the bundle. There are
6 no clinical notes as part of it and therefore the
7 material, which is really correspondence about
8 appointments and a particular assessment questionnaire,
9 are not likely to otherwise assist the Inquiry.

10 In 1973 he was sent to St. Patrick's Psychiatric
11 Hospital in Dublin. The reference for that is at 32216.
12 Again the Norbertine Order has been trying to obtain
13 that file. They tried to obtain it in 2003, and while
14 it still existed, the hospital authorities for reasons
15 of patient confidentiality were not prepared to produce
16 it. The correspondence setting that out from the legal
17 representatives on behalf of the hospital can be found
18 at 942 and 944 in the bundle. I am aware those efforts
19 have been renewed to assist this Inquiry and it may be
20 that before the end of this module there will be some
21 progress in relation to that. I will bring that to the
22 Panel's attention if that becomes the case.

23 In 1975 Smyth was said to have been
24 institutionalised for treatment in Stroud in
25 Gloucestershire. That was the clinic properly known as

1 Our Lady of Victory at Brownhill in the England
2 Cotswolds run by the religious Servants of the
3 Paraclete. It, amongst other things, sought to treat
4 errant priests struggling with addictions, including in
5 later times it appears sexual problems. It closed its
6 doors in 2004.

7 As it transpires, Stroud did not actually treat
8 Smyth in 1975, though he did reside there for a month.
9 In any event the Servants of the Paraclete confirmed to
10 the Norbertine Order in 1994 that they had a policy at
11 that point in time, ie the '70s, that they destroyed
12 records after about five years. So they would not have
13 had anything to produce, even if they had treated him in
14 1975. The reference for that is at 926.

15 Smyth was sent again for treatment in 1989 to
16 a Dublin clinical psychologist called Dr Delmonte. He
17 saw Smyth it seems on a reasonably regular basis up to
18 1993. He provided a short report of 9th February 1994
19 to the solicitors acting for Smyth in his criminal
20 proceedings, and the Norbertines have produced that
21 report to the Inquiry. It can be found at 968 and 9.

22 It's an -- I am not going to open it at this stage.
23 The Panel will be able to read the report, but it is
24 an unfortunate fact that, despite an agreement between
25 Smyth and Dr Delmonte that's recorded by Dr Delmonte in

1 his report that there would be no more incidents of
2 paedophilia while Smyth was being treated, and
3 Dr Delmonte expresses a belief on his part that that
4 agreement was being honoured, Smyth, in fact, committed
5 a series of further offences with a particular teenage
6 girl in the Republic of Ireland where he had her remove
7 her top on a number of occasions for him to stare at her
8 body. There is no suggestion of him touching beyond
9 that.

10 In 1994 while Smyth was awaiting his first trial in
11 Northern Ireland his Order sent him back to Stroud and
12 the care of the Paraclete Fathers. The Norbertine Order
13 has produced to the Inquiry a ten-page report of the 1st
14 February 1994 from Dr The Reverend David Fitzgerald, who
15 was head of the Our Lady of Victory Clinic. He carried
16 out an in-depth personal assessment of Smyth in January
17 of 1994. We have looked at one particular passage from
18 that report earlier in the opening. That report, which
19 will be of particular assistance to the Inquiry Panel,
20 can be found at 909 through to 917 in the bundle.

21 I will make reference to particular passages at various
22 points as we go along.

23 Reverend Fitzgerald has also -- also sent Smyth to
24 an Oxford psychiatrist, Dr Seymour Spencer. He died in
25 2011. He was a member of the Catholic Medical

1 Association and also a treating psychiatrist in the
2 Oxford Hospital and appears to have seen priests on
3 behalf of the Catholic Church. The Norbertine Order has
4 also produced his report of 7th February 1994, which can
5 be found in the bundle at 918 through to 923.

6 During the criminal process in Northern Ireland in
7 1994, which I will come to in due course, Smyth's
8 defence team obtained reports from a well-known
9 consultant psychiatrist in this jurisdiction, Dr Gerry
10 Loughrey. I am going to open those three reports for
11 the Panel.

12 The first is of 14th June 1994. If we can look,
13 please, at 31967. So he explains his interview and
14 records the details and then he explains under "Past
15 psychiatric history" the occasions that I have referred
16 to.

17 If we just scroll down, please, he has not given
18 an emotional breakdown during proceedings, although he
19 explains particular thoughts that he had of suicide. If
20 we scroll down, please, his mental state is then
21 examined. Then his fitness to plead. He said:

22 "He is fit to plead."

23 He is diagnosed with what's described as
24 paedophilia.

25 Then Dr Loughrey says this:

1 "He is charged with serious offences. There have
2 been various treatment efforts in the past, and although
3 he would claim that as time has gone by his drive has
4 decreased and therefore his offences have become less
5 frequent, he cannot attribute any long-lasting change in
6 his behaviour or disposition to any of the treatment
7 efforts in the past.

8 He is subject to sexual dysfunction in that he
9 described partial impotence and premature ejaculation.
10 He describes his paedophile behaviour, especially in the
11 '60s and '70s, as having a compulsive quality.

12 He gives a fairly typical account of life-long
13 paedophilia, which is a psychiatric illness
14 characterised by the relatively isolated propensity to
15 engage in sexual relations with children. It can
16 co-exist with the capacity for normal adult sexual
17 relations, although obviously Father Smyth's
18 circumstances would tend to confuse the picture in this
19 regard. It is often associated with a degree of sexual
20 inadequacy and dysfunction, as is the case here.

21 Even with the best motivation, treatment for this
22 condition is most difficult. The two principal forms of
23 treatment nowadays are medication to reduce the sex
24 drive and to induce impotence or psychotherapy. The
25 medication approach would not be without its risks in

1 terms of physical health problems and in any event
2 sexual dysfunction has to some extent been one of the
3 causative factors here. Therefore I feel that it would
4 probably be inappropriate and in any case would still
5 lead to risks of various other offence behaviours
6 involving children. As for attempts at psychotherapy,
7 these principally would involve techniques aimed at
8 confronting the abuser with the reality of what they
9 have done in the hope that a more mature and balanced
10 understanding of sexuality and their victims would bring
11 about a cessation of offence behaviour. Most people
12 working in the field of psychotherapy for whatever
13 condition would acknowledge that significant
14 psychological change caused by psychotherapy is highly
15 unlikely in persons of Father Smyth's age, and since the
16 thinking patterns that are associated with paedophilia
17 are in any event notoriously resistant to change, then
18 I feel that any form of psychotherapy would also be
19 likely to be a blind alley.

20 One is then left with the simple issue of denying
21 the paedophile access to potential victims. Over and
22 above the custodial sentence, this would naturally
23 involve consideration of Father Smyth's age, and the
24 residential options open to him if he should live to
25 complete a custodial sentence."

1 The second report is of 28th November 1994. 31970,
2 please. Here Dr Loughrey sets out that:

3 "Paedophilia is a recognised psychiatric disorder in
4 which an adult has a sexual interest in children. It is
5 recognised as such because of the singular nature of the
6 behaviour and the behavioural characteristics which all
7 paedophiles share, namely involvement in sexual activity
8 with children. As with many other psychiatric
9 conditions, there is no consistent physical cause, such
10 as structural brain disease or genetic abnormality, to
11 account for this condition. Study of the subject has
12 been limited because of the relatively small number of
13 people who spontaneously come forward for treatment for
14 the condition and the bias in selection of those who are
15 seen or treated by mental health professionals.

16 Two types of paedophilia are described. The first
17 type is described as invariant or fixated and describes
18 people whose involvement or interest in children has
19 been consistent through the years and who have
20 frequently little social involvement apart from
21 paedophile behaviour. There is no real guilt or shame
22 over this kind of behaviour and these people tend not to
23 come forward" -- presumably he means the person does not
24 feel real guilt or shame -- "and these people tend not
25 to come forward for assessment or treatment unless under

1 duress. Father Smyth would tend to fall into this
2 category. The second type reflects people who are
3 typically more obviously emotionally inadequate, often
4 sexually inadequate, where the paedophile behaviour
5 occurs much more sporadically, often in conditions of
6 stress. These people may on the surface lead more
7 characterised as normal lives with normal social
8 relationships, even marriage.

9 Paedophilia always invariably involves men and is
10 seen in all age groups and social classes. Most
11 paedophiles are exclusively homosexual or heterosexual,
12 although some are mixed.

13 There is seldom any other psychiatric illness,
14 especially in the fixiated paedophile, and intelligence
15 level is normal. Research would tend to indicate the
16 majority have no criminal convictions other than for
17 sexual offences. Most treatment methods have focused on
18 psychotherapy, but it is generally held that the
19 psychological problems, while manifestly present, are so
20 deep-seated as to defy the efforts of psychotherapists
21 insofar as one looks for the traditional goals of
22 management and cure. Such gains which are claimed tend
23 to be partial, but the research literature is consistent
24 in describing a high rate of recidivism among this group
25 of offenders.

1 To summarise, the client falls within the category
2 of the fixiated paedophile, with little or no remorse
3 and no insight into the disorder and essentially no
4 motivation to change. Over the course of a lifetime the
5 number of offences involved may well be extensive, and
6 the self-centred nature of the paedophile, who tends to
7 project feelings on to the child and to focus on
8 gratification of his emotional needs rather than show
9 any sensitivity for the victims' true feelings, would
10 mean that precise recall of individual offences would be
11 as difficult as virtually asking the paedophile about
12 any emotionally neutral event, such as a meal eaten many
13 years ago."

14 Indeed, the type of sentiments that Dr Loughrey is
15 expounding can be found during the interviews, where
16 Brendan Smyth finds it difficult to recollect particular
17 children, particular events and significant work has had
18 to be undertaken in order to help him to allow (sic)
19 exactly who is being talked about.

20 The third report is of 18th September 1995. If we
21 can look at that, please, at 31972. This is in the
22 context then of the further charges that become part of
23 the second trial process that Smyth is involved in, and
24 Dr Loughrey says:

25 "It was a matter of no great surprise that further

1 charges have been levelled against Father Smyth in that
2 he has been engaging in paedophile behaviour for much of
3 his adult life and this has afforded him the opportunity
4 for carrying out a large number of offences. Since it
5 was clear from the original evaluation that his
6 paedophile behaviour was compulsive and repeated rather
7 than an isolated incident, then the disclosure of
8 further cases does not add significantly to the clinical
9 picture. The main priority remains ensuring the safety
10 of children in the future once Father Smyth should be
11 released from custody, since to all intents and purposes
12 certain that -- since I am to all intents and purposes
13 certain that Father Smyth will not have changed his
14 pattern of thinking over the last year. He still
15 retains the potential for re-engaging in this type of
16 behaviour and this must be looked on as effectively
17 a lifelong risk."

18 Then he talks about the options that are available.

19 Before I look, Members of the Panel, at the abuses
20 Smyth is known to or said to have committed, which will
21 begin with the first disclosures to the RUC in 1991,
22 I want to now look at what material gathered by the
23 Inquiry suggests that those in his Order or in the wider
24 church knew about his activities. Having some
25 understanding of what was known when and by whom in

1 advance of considering what comes to light from the
2 post-1991 police investigations will assist you with
3 your consideration of systemic failings.

4 I am going to begin with the Norbertine Order, of
5 which Smith was a member. The Order of Canons Regular
6 of Premontre was founded by St. Norbert in France in the
7 early 12th century. They are a group of Roman Catholic
8 priests, Brothers and Sisters. At present the
9 Norbertine Order has approximately 1,300 members with
10 a presence in many countries in Europe but also in
11 Africa, North and South America, India and Australia.
12 Norbertines profess poverty, chastity and obedience. As
13 will become apparent, unfortunately Brendan Smyth did
14 not display any of those characteristics.

15 The governance structure of the Norbertine Order,
16 although there is an Abbot General of the Order based in
17 Rome, appears to give a great deal of autonomy to
18 individual canonries or houses, such as the Holy Trinity
19 Abbey in Kilnacrott. Father Fitzgerald describes the
20 form of the Order as a union of independent houses.
21 Each canonry or abbey has its own abbot, who is
22 responsible for the members in that house. It would
23 appear, although this will have to be clarified with
24 Father Fitzgerald because of its relevance to Father
25 Brendan Smyth, that the local abbot can, in fact, ignore

1 the wishes and directions of the Abbot General.

2 The Norbertines came to Ireland at the invitation of
3 the then Bishop of Kilmore in 1924, when they
4 established a priory at Kilnacrott. Initially this
5 priory was a dependent house of the Canonry of Tongerlo
6 in Belgium. However, it became an autonomous,
7 independent abbey in its own right in 199... -- 1954,
8 when the then Abbot of Tongerlo granted it its autonomy.

9 The abbey has now been sold, and while the canonry
10 still exists for the present, no new vocations are being
11 accepted. You can anticipate that there will come
12 a point in the future when there will be no Norbertine
13 presence in Ireland, and no doubt that is due in part at
14 least to the activities of Brendan Smyth.

15 It was into this order that Smyth entered at the age
16 of 18 in 1945 and into which he was ordained in 1951.

17 I want to deal first, though, with the period
18 pre-1951, because Father Fitzgerald has revealed to the
19 Inquiry that the Norbertine Order believes that
20 knowledge of Smyth's proclivities existed prior to his
21 ordination, but yet he was ordained a priest in any
22 event.

23 If we can look, please, if we can bring up page 823
24 and paragraph 21 of Father Fitzgerald's statement, he
25 says this:

1 "It was around that time, in 1973 ..."

2 He is explaining his own knowledge of Brendan Smyth
3 during his period of time within the Norbertine Order.

4 He says:

5 "It was around that time, in 1973, that I was told
6 by a confrere that a complaint had been made about
7 Brendan Smyth when he was a student at the Curia
8 Generalizia Collegio in Rome in the late 1940s."

9 You saw in a document earlier Smyth was the first
10 person from Holy Trinity Abbey to be sent to Rome for
11 that training.

12 "According to the confrere, Brendan Smyth had been
13 accused of abusing a child in the vicinity of the
14 college", in Rome, "and when the time came for Brendan
15 Smyth to be ordained in the early 1950s, the Abbot
16 General", then, "advised against it and suggested that
17 Brendan Smyth's formation for religious life be
18 terminated. The Abbot of Tongerlo", because at that
19 stage Holy Trinity had not obtained its autonomy, so it
20 was a house under the Abbey at Tongerlo, "Brendan
21 Smyth's direct superior, however, ignored this advice.
22 It is said that he did not want the Abbot General
23 interfering in the business of the independent canonry
24 of which he was the prelate. As a result he proceeded
25 to permit Brendan Smyth's ordination in 1951."

1 If we can look then, please, at 825, paragraphs 30
2 through to 36 -- just scroll up a little, please --
3 Father Fitzgerald says:

4 "As already stated, to my knowledge suspicions of
5 child sexual abuse by Brendan Smyth first arose in the
6 late 1940s, when Brendan Smyth was a student in Rome.
7 In addition to the rumour I heard, however, I am told
8 that another confrere heard a different rumour about
9 Brendan Smyth, which alleged that he was found to have
10 photographs of Italian boys in his room in Rome. While
11 I had believed such rumours to be true, I had never seen
12 or knew of any records to support these suspicions."

13 At the start of the statement Father Fitzgerald
14 points out what he is relating to the Inquiry, because
15 this is not material that's written down, is accounts
16 that have been given to him as he has tried to put
17 together what the Order can say that it is likely to
18 have known.

19 "Documents recently received from the Canonry of
20 Tongerlo, Belgium, however, while not specific, clearly
21 illustrate that some form of difficulty had arisen in
22 relation to Brendan Smyth prior to his ordination.
23 These documents are referenced at paragraphs 31 to 35."

24 He then describes -- I am going to try to explain
25 this as best I can, because it's a complicated picture,

1 but it is important for the Inquiry's findings.

2 "In a letter dated 13th October 1948 Brendan Smyth
3 apologised to the recipient of the letter 'for any
4 unwitting trouble' that he may have caused him while he
5 was staying in Tongerlo. The identity of the recipient
6 and the nature of the trouble caused by Brendan Smyth is
7 not clear from the letter. Subsequent correspondence
8 indicates, however, that this may have been a reference
9 to the difficulties that had arisen between Brendan
10 Smyth and a Brother attached to the Canonry of Tongerlo
11 by the name of Brother Valeer."

12 We will come to see now what that was about. Just
13 scroll up, please.

14 "In a letter to Brendan Smyth dated 5th April 1951
15 Father Hermans", who was Brendan Smyth's novice master,
16 "expressed his regret that he did not talk to Brendan
17 Smyth about the difficulties while he was visiting Rome.
18 The letter illustrates that Brendan Smyth was not
19 getting on with Brother Valeer and states that Brendan
20 Smyth had not reacted according to supernatural
21 principles in his handling of the matter. Brendan Smyth
22 was told in the letter to be intent on improving his
23 submission to the house discipline and to serve God by
24 doing much good around him, not in his own way but
25 rather in the way of his superiors. Brendan Smyth

1 responded to his novice master Father Hermans by way of
2 letter dated 9th April 1951. In the letter Smyth noted
3 that his clash with Brother Valeer had not arisen as the
4 result of a moment's loss of temper, but was the fruit
5 of two and a half years' subtle persecution. According
6 to Brendan Smyth, Brother Valeer had spied on him and
7 was for all intents and purposes the Abbot General's
8 pet. Brendan Smyth also noted that his issues with
9 Brother Valeer arose within the first fortnight of his
10 arrival in Rome and Brendan Smyth went on to describe
11 Brother Valeer as an exaggerated combination of
12 circator, rector, abbot general and pure and simple
13 dictatorial, interfering busybody. From Brendan Smyth's
14 account of Brother Valeer one could not be criticised
15 for forming the view", says Father Fitzgerald, "that
16 Brother Valeer was an annoyance to the students in Rome.
17 I am told, however", says Father Fitzgerald, "that this
18 is not a fair reflection of Brother Valeer's
19 personality. A fellow member of the Kilnacrott Canonry
20 recalls Father Valeer as exacting but a good character
21 and has stated that he never had any difficulties with
22 him.

23 The next letter" --

24 CHAIRMAN: That leads me to ask: do you know what the
25 position in the Order either in Belgium or in Rome of

1 Brother Valeer was?

2 MR AIKEN: It is not clear and it may be that Father
3 Fitzgerald will be able to assist, but it seems that
4 Brother Valeer was not a priest and there is reference
5 then to status in that, "Why should I be subject to this
6 lay person scrutinising my behaviour?" So it may be he
7 was a Brother member of the Order but not a priest and
8 seems to have been involved in training of some kind,
9 but Father Fitzgerald hopefully will be able to clarify.

10 CHAIRMAN: Yes, Mr Canavan?

11 MR CANAVAN: I appreciate the Norbertine representative is
12 not available today. I did speak to him. In their
13 statement there is a footnote which describes Brother
14 Valeer as a lay Brother within the Order, which may
15 explain why there would be a difference in status
16 attributed to him.

17 CHAIRMAN: Yes. My question was directed I think
18 principally at trying to establish what role he
19 performed. Was he simply a colleague of approximately
20 the same age and position or had he some form of
21 training or other responsibilities, but no doubt you
22 will explore this.

23 MR CANAVAN: I can raise that with the Norbertine's
24 representatives and see if I can bring further
25 information to the Inquiry.

1 CHAIRMAN: If one pauses at paragraph 32, it may give the
2 impression simply of a personality clash, but no doubt
3 that will be something you will try and explore.

4 MR AIKEN: The letter -- in paragraph 33:

5 "The next letter on record is one from Father
6 Hermans to Honourable Lord on 27th April 1951.

7 I believe the recipient to be the Abbot Stalmans of
8 Tongerlo."

9 So this is the abbot who is in charge in Tongerlo,
10 not the Abbot General. I want us to look at that letter
11 from Smyth's master novice to the Tongerlo abbot. If we
12 look, please, at 1012, it has been translated, because
13 it is written in a different language, but it is 27th
14 April 1951:

15 "Honourable Lord,

16 It is my duty to provide you with further details in
17 respect of the physical condition of Brother Brendan.
18 I am doing this at the request of Mr D'Hoine too.

19 Please find attached a photocopy of the letter which
20 I sent to Brendan after I returned home and a photocopy
21 of the letter with Brendan's response. The core problem
22 for Brendan is the fact that Brother Valeer usurps all
23 authority and according to Brendan the fact he
24 constantly spied on Brendan during his stay in Rome.
25 Brother Brendan has difficulties with dealing with these

1 circumstances. He fights against it and thinks that in
2 his case he is not being bound by the elementary
3 principles of brotherly love. Now we are faced with the
4 serious question: can he be ordained in this state?", as
5 in Brendan. "You already know that he received the
6 subdiaconate (October, Averbode). How are we going to
7 deal with him? What will be his reaction at his return
8 in Kilnacrott and above all what will be his reaction
9 later when he will be a professor?

10 Monsignor de General sticks with his standpoint."

11 So this is now a reference to the Abbot General of
12 the Order:

13 "He made that very clear again earlier this week.
14 This is what the Abbot General wrote. 'You need to live
15 here in order to be able to understand the
16 circumstances. Certainly Brother Valeer did wrong
17 because of his eagerness to do good, and I told him
18 that. He has a right view on Brendan, because of his
19 two years' experience. Brendan is very independent and
20 goes his own roads, which is also the case when he goes
21 out. He and '" -- and that was another Brother
22 training with Brendan who had gone to Rome -- "'He and
23 are the two elements who don't fit in the
24 community'.

25 It might be useful to know that in his last letter

1 Brendan was quite banal. It was around that time that
2 he wrote Monsignor. A novice showed me that letter,
3 commenting that this was not in order.

4 It would be a shame to see our first student failing
5 in Rome."

6 If we can then go back, please, to 825. So we have
7 looked at that letter of 27th April. If we just scroll
8 up a little, please, then you can see the last line of
9 paragraph 33 after that letter:

10 "As stated, Brendan Smyth was ordained to the
11 priesthood on 31st July 1951."

12 Now then:

13 "On 4th October 1951 Abbot Stalmans", who is the
14 Tongerlo abbot, so not the Abbot General, but in charge
15 in Belgium, which has still the authority over Holy
16 Trinity Abbey at Kilnacrott, "wrote a letter to the
17 Prior at Kilnacrott", so the person who was in charge
18 but subject to the Tongerlo Abbey, "and instructed him
19 that, 'If Brendan doesn't commit completely, he isn't
20 allowed to return to Rome'. The Prior at that time was
21 a confrere by the name of Father Paul D'Hoine."

22 We saw his name previously.

23 "The abbot requested that Brendan send him a written
24 promise in this regard."

25 I am going to pause there and look at the scathing

1 letter of 4th October 1951. It can be found at 1018.
2 If we can just maximise this as much as we can, please.
3 So the Belgian abbot in charge of Tongerlo has written
4 back to the Prior in Kilnacrott, but provided the Prior
5 in Kilnacrott with a letter from him to give to Brendan
6 Smyth, and this is the letter that the Abbot in
7 Tongerlo, not the Abbot General, who was -- who
8 essentially ignored the Abbot General's position in
9 relation to Smyth, this Belgian abbot from Tongerlo is
10 writing this letter. You can see:

11 "Father Prior wrote me a letter about the
12 difficulties he had with you.

13 It seems you cannot promise him that you are
14 prepared to accept ..." -- some of this is rather
15 difficult to translate -- "the life or role determined
16 by the superiors ..."

17 CHAIRMAN: "In Kilnacrott".

18 MR AIKEN: "In Kilnacrott".

19 CHAIRMAN: An abbreviation.

20 "... the life determined by the superiors and" --

21 MR AIKEN: "and the circumstances."

22 CHAIRMAN: -- "the circumstances."

23 MR AIKEN: "It seems also that you will take more freedom in

24 ..."

25 CHAIRMAN: "Relations".

1 MR AIKEN: "... relations with the people.

2 The time is too short to enquire about ..."

3 CHAIRMAN: "Your spirit".

4 MR AIKEN: "... your spirit, but I am inclined to believe
5 that the opinion of the Abbot General about your spirit
6 is the truth."

7 Now this is after the ordination has taken place:

8 "Therefore I think it is lost money and time to send
9 you back to Rome. There is no question of it that you
10 will go your own way afterwards. If you are not too --
11 if you are not prepared to obey ..."

12 Father Fitzgerald, as we're about to see, translates
13 this. I think he has picked up the second word wrong.
14 I think that is a Latin phrase. Basically, "You are
15 going to completely obey".

16 "I think the best for you should be to ask ..."
17 and again Latin for "laicisation".

18 CHAIRMAN: Yes.

19 MR AIKEN: "But I warn you you will ..."

20 CHAIRMAN: "Not remain".

21 MR AIKEN: "... in Kilnacrott and not go to England. You
22 will" -- if we move on to the next page, please -- "come
23 here to the Abbey", ie in Tongerlo in Belgium.

24 "My letter is hard. I hope my fear is exaggerated,
25 but any case you will send me through the hands of the

1 Prior a subscribed promise that you are prepared to obey
2 completely to every superior in the future."

3 He says:

4 "I'll pray for you. Dear Father Brendan, how is it
5 possible that so soon after your ordination to the
6 priesthood I have to send you such a letter? I hope you
7 will see ..."

8 He refers to a particular visitor.

9 CHAIRMAN: It looks like "visitor liberate te".

10 MR AIKEN: "Search the cause of the trouble in the Prior.

11 It is in yourself, my dear."

12 CHAIRMAN: "Confrere."

13 MR AIKEN: "... confrere. As long as you don't see it,
14 there is no hope for improving."

15 Then he gives an instruction about the matter and
16 then talks about hoping to see him. So the letter you
17 might consider fairly scathing in its terms, but he
18 elicited and sought a promise.

19 Then if we can scroll down, we can see that promise
20 being provided on 9th October 1951:

21 "I promise for the present and for the future to
22 live peacefully in the Kilnacrott community in complete
23 submission to its present superiors and its successors.
24 I also promise to keep all the rules and regulations to
25 the Order, to the house as determined and explained by

1 the superiors. Finally, I promise to accept whatever
2 duties will be given to me to fulfil and I pledge myself
3 to carry them out to the best of my abilities."

4 So in addition to the piece of information that
5 Father Fitzgerald himself recollects receiving in 1973
6 about a particular incident in Rome with Smyth and
7 a younger boy, it is clear that a Brother Valeer in Rome
8 was keeping a very close eye on Smyth over a period of
9 time, against which Smyth was recoiling; that the Abbot
10 General was of the view that he shouldn't be ordained,
11 but that, despite the reservations that had taken place,
12 whether it was to do with him being the first
13 representative from the Abbey that was sent or not, the
14 decision was taken by the Abbot of Tongerlo to ordain
15 him in any event, and then you have this exchange that
16 takes place in the months after the ordination, which
17 demonstrate that, in fact, there was some serious
18 concern and a suggestion of laicisation even then.

19 If we go back just to finish this at 825, please,
20 and just finish what Father Fitzgerald had to say, if we
21 scroll down, please, you can see he says:

22 "The letter was scathing and in it the abbot told
23 Brendan Smyth it seemed to him that he could not promise
24 that he was prepared to accept the Kilnacrott life
25 determined for him by his superiors and that he was

1 inclined to believe the opinion of the Abbot General
2 about him and the warning that's included".

3 and then reference to the promise that we have
4 looked at.

5 If we scroll down, please, on further down, please:

6 "The letters of early October 1951", says Father
7 Fitzgerald, "were written about the time that Brendan
8 Smyth would have been due to return to Rome for his
9 studies. A confrere of the Kilnacrott Canonry stated
10 that when he and Brendan Smyth were boarding the boat in
11 Dun Laoghaire in order to commence their journey to
12 Rome, Father D'Hoine showed up and told Brendan Smyth he
13 needed to speak to him. Brendan Smyth disembarked from
14 the boat and didn't return, leaving the other confrere
15 to travel to Rome alone. He subsequently turned up in
16 Rome a few days later. He did not offer the confrere
17 any explanation as to what had happened and the confrere
18 did not ask.

19 These early reservations", says Father Fitzgerald,
20 "regarding Brendan Smyth's suitability for the
21 priesthood are reflected in the minutes of an abbot's
22 council meeting from 12th April 1994, which contain
23 a sentence that as far as I can discern reads, 'Abbot
24 General ... had advised against ordination of Brendan
25 Smyth'. It is further noted in the same minute Father

1 Cross of Manchester had voiced his opinion that Brendan
2 Smyth was unsuitable for the priesthood."

3 We will look at those minutes in a different context
4 in due course.

5 CHAIRMAN: I see it is 1 o'clock.

6 MR AIKEN: I see the time. I will pause there.

7 CHAIRMAN: Would that be a convenient time? We will sit
8 again at 2 o'clock.

9 (1.05 pm)

10 (Lunch break)

11 (2.00 pm)

12 CHAIRMAN: Yes.

13 MR AIKEN: Chairman, Members of the Panel, before lunchtime
14 we had been looking at events around Brendan Smyth's
15 ordination and the suspicions that Father Fitzgerald has
16 set out in his statement. In addition, you will have
17 the opportunity to consider the medical report from the
18 Reverend Father Fitzgerald from 1994 wherein Smyth sets
19 out himself some of his activities during his novitiate,
20 when his predilection was beginning clearly to manifest
21 itself.

22 What we are going to look at now is some of the
23 occasions during the 1950s and onwards when abuse that
24 Smyth was perpetrating was coming to the attention of
25 his superiors in the Norbertine Order. So what I am

1 about to outline is not a comprehensive summary of the
2 abuse that Smyth perpetrated, but rather the events and
3 circumstances that the Order received knowledge of and
4 then what they dealt -- how they dealt with it.

5 So we are going to look at, please, first page 826
6 and paragraph 37 of Father Fitzgerald's statement,
7 because he explains -- obviously Smyth has come back to
8 Kilnacrott, Holy Trinity Abbey. Then he it is explained
9 in paragraph 37 goes off to work in Scotland. While
10 there is no documentation, the suggestion is that that
11 was to Annan in Scotland between 1957 and 1958.

12 CHAIRMAN: Sorry. Can you just go up a bit I think? Have
13 we seen -- have we dealt with this reference to Father
14 Cross? It's a bit further up.

15 MR AIKEN: Can we just go up a little further? I think we
16 have. We have covered that. There's a particular
17 reference in minutes of April 1994 when the Order is
18 looking back at the opportunities to be aware of the
19 unsuitableness of Smyth, and we will be looking at
20 that minute in a different context slightly further on.

21 CHAIRMAN: Yes, but do we know what period of time is
22 covered by the reference to Father Cross being a parish
23 priest in Manchester?

24 MR AIKEN: No. That's a question that Mr Egan is addressing
25 for me.

1 So in paragraph 37, Members of the Panel, Father
2 Fitzgerald says:

3 "When the priory at Kilnacrott became an independent
4 canonry in 1954, Father Felim Colwell became its first
5 abbot."

6 If I can ask you to keep his name. He is the abbot
7 in Kilnacrott, the Holy Trinity Abbey, until his death
8 in 1968. It is in then 1969 that Abbot Kevin Smith
9 becomes abbot of Holy Trinity Abbey. He then holds that
10 position until 1994 when he resigns. So from 1954 we
11 are dealing with Abbot Colwell. Father Fitzgerald
12 explains:

13 "There are no records of the council", which was the
14 governing body, as it were, of Holy Trinity Abbey,
15 "house chapter or canonry chapter meetings from that
16 time. Anecdotal evidence suggests, however, that
17 allegations of child sexual abuse by Smyth were known by
18 Abbot Colwell when he appointed Smyth to a mission in
19 Scotland in or about 1957."

20 So what Father Fitzgerald is saying is that there
21 has been behaviour, abuse taking place before he is sent
22 to Scotland in 1957 and that has come to the attention
23 of Abbot Colwell, his superior in the Holy Trinity
24 Abbey. Then he goes off to Scotland and what Father
25 Fitzgerald then says is:

1 "Smyth was recalled to Kilnacrott in 1958,
2 apparently following a request from a bishop in
3 Scotland, and a suggestion of interference with children
4 arose again."

5 So the suggestion in this phrase is that, having
6 been aware of the problem, having exported it to
7 Scotland, then a bishop in Scotland becomes aware of
8 some further offending or offence and sends Smyth back,
9 and this is known to Abbot Colwell in each instance.

10 Then Father Fitzgerald as part of his -- as
11 I explained earlier, he has talked to as many Norbertine
12 priests as he could about these matters.

13 "[Another] confrere that worked in Scotland from
14 1969 to 1987 had previously recalled that he had heard
15 rumours of Smyth being deprived of his faculties when he
16 was in Scotland."

17 Now there are no -- as Father Fitzgerald has
18 explained, there are no records that are available to
19 explain knowledge prior to being sent to Scotland, what
20 happened in Scotland, the sending back from Scotland
21 and/or any steps that were taken at that time to deal
22 with Smyth.

23 What we can say is that in the medical reports that
24 are now available to the Panel there is no suggestion
25 from Smyth himself that any effort was made to have him

1 receive treatment before 1968. So that whatever
2 response there may or may not have been to becoming
3 aware of these incidents, the Order was not sending him
4 for treatment in the late '50s, but it is the first set
5 of opportunities that presented themselves to an abbot
6 in Holy Trinity. It is also not clear, because there
7 are no documents, whether and if he communicated these
8 problems to the Abbot General and/or that the Abbot
9 General was asked or did anything about them.

10 Then, having been back for -- from 1958, Brendan
11 Smyth is appointed then to a parish ministry in Flint in
12 Wales in 1959. There he stays until 1963, so
13 a four-year period. Father Fitzgerald deals with this
14 in paragraph 38. He says:

15 "There is no record of a complaint being made to the
16 Kilnacrott Canonry during Smyth's time in Flint, though
17 a person abused by Smyth during his tenure there has
18 come forward in more recent years."

19 He explains why that has come about. So the Order
20 is not aware, at least as far as Father Fitzgerald can
21 put it forward, of matters coming to the attention of
22 Abbot Colwell from Wales, although we will see shortly
23 that there is a suggestion from a now deceased member of
24 the community that there was a problem in Wales and it
25 did come to the attention of the Order.

1 Now then --

2 CHAIRMAN: Can we stop there? The wording of paragraph 38
3 suggests, as you have pointed out, that it is only in
4 later years that it has become known to the canonry that
5 there may have been something that happened in Flint
6 during Brendan Smyth's period there.

7 MR AIKEN: Yes.

8 CHAIRMAN: Have we seen any documents that came from the
9 Bishop of Wrexham to the canonry that might throw some
10 light on that?

11 MR AIKEN: No. It is a question again I can pose to Mr Egan
12 to see whether there are any documents that are capable
13 of being produced in that regard. You can see that the
14 matter appears to have been referred to the Garda and
15 the **Health Service Executive** in the Republic of
16 Ireland. There is a difficulty in us obtaining whatever
17 material that might be.

18 CHAIRMAN: No, I appreciate that, but one would have thought
19 that the Order itself would be in a position to, for
20 example, ask the Bishop of Wrexham to send the
21 information to us. That's something perhaps we can
22 pursue.

23 MR AIKEN: We will check that and pursue it. So that covers
24 the period '59 to '63, although we will see shortly,
25 when we look at a statement made by Father Mulvihill,

1 a Norbertine priest, that perhaps there was something
2 known about a problem in North Wales known to his abbot.

3 What we then have is a period of time between 1965
4 and 1968 when Smyth went to Providence in Rhode Island
5 in the United States of America. Father Fitzgerald
6 deals with this in paragraph 39. He says that:

7 "Smyth was assigned to the Diocese of Providence,
8 Rhode Island in 1965 under Bishop McVinney. He was sent
9 back to Ireland in 1968 when issues arose in relation to
10 him. According to a letter" -- and we will look at it
11 shortly -- "according to a letter dated 15th February
12 '68 from Bishop McVinney to Abbot Colwell explaining his
13 decision to send him home, Smyth's rapport with the
14 adult parishioners was not good and it is further noted
15 that he seemed dedicated to the young people and in some
16 cases too much. In the years since the extent of
17 Smyth's offending has come to light, the Kilnacrott
18 Canonry has been informed of five cases of child sexual
19 abuse perpetrated by Smyth while he was in Providence."

20 Now if we can look at Bishop McVinney's letter, we
21 can see that at 938, please. This is a letter from
22 Bishop McVinney, Bishop of Providence, of 15th
23 February 1968. He says to Abbot Colwell:

24 "I regret to have to inform you that I have sent
25 Father Brendan Smyth home. I was under the impression

1 I was doing very -- he was doing very well in the parish
2 to which he was assigned. To my amazement it is now
3 reported to me that he doesn't measure up on several
4 counts. His rapport with the adult parishioners has not
5 been happy. He seemed dedicated enough to the young
6 people, and in some cases too much. So we feel that for
7 the good of the parish and the souls and for his own
8 sake he should return to his monastery."

9 You can see:

10 "He had already planned to go back to Ireland within
11 a couple of weeks. I told him to remain at his post
12 until he has made definite arrangements to depart and
13 once in Ireland not to plan to return.

14 I am sorry to share this disappointment with you."

15 Now Father Bruno Mulvihill was a Norbertine priest
16 who featured in a Northern Ireland television
17 documentary about Smyth and indeed he has also discussed
18 -- interviews with him were conducted in Chris Moore's
19 book. He, in fact, died in a car crash in Germany in
20 2004, aged 59, but he had made a statement to the RUC in
21 March of 1995. That runs -- it is an extensive
22 statement, so I am not going to open it all to you, but
23 it runs from 32123 to 32129.

24 If we look, please, at 32124, this is what Bruno
25 Mulvihill said to the police. He said:

1 "Early one morning in 1968 after morning community
2 office I took a phone call from Diocesan Bishop Russell
3 McVinney of Providence, Rhode Island asking for Abbot
4 Colwell. As the abbot was in hospital, he asked me to
5 convey the news that Father Brendan had been dismissed
6 from his posting in East Greenwich and was at that
7 particular time on his way back to Ireland. He
8 explained this was a result of Father Smyth's sexual
9 misdemeanour. Accompanied by the then Prior, Phillip
10 Nash (now deceased), I passed on this information in the
11 afternoon to Abbot Colwell, who obviously disappointed
12 but not altogether surprised told us that this had been
13 the third time Father Brendan had been involved" -- if
14 we scroll down, please -- "been involved in sexual
15 deviant activities. The first time was in Annan, the
16 Diocese of Galloway, Scotland, the second time being in
17 North Wales in the Diocese of Menevia in the county of
18 Gwynedd. In the summer of 1968 ..."

19 So what he is saying is, "I took a call, a telephone
20 call from Bishop McVinney and I went and had a
21 conversation with my abbot, Abbot Colwell, who is in
22 hospital, and this is what I was given to understand by
23 Abbot Colwell to be the case".

24 Now --

25 CHAIRMAN: Is the Diocese of Menevia the ecclesiastical term

1 for Wrexham?

2 MR AIKEN: I am not sure about that, Chairman. I will need
3 to check.

4 CHAIRMAN: Some of these dioceses have rather unusual names.

5 MR AIKEN: I am sure Miss Kirkwood will Google for me.

6 CHAIRMAN: I am afraid my -- I am afraid my Welsh geography
7 doesn't extend to saying whether Gwynedd contains
8 Wrexham or not.

9 MR AIKEN: We will have a look at that and try to clarify
10 it.

11 What we can say is the decision to send Smyth to
12 Rhode Island was obviously a decision made by Abbot
13 Colwell, but -- and there are no records about it and
14 the council minutes are not available, as Father
15 Fitzgerald has explained, but what we can say, that
16 according to his successor, that is Abbot Colwell's
17 successor, Abbot Kevin Smith, who wrote what you may
18 consider to be a very revealing letter to Chris Moore,
19 the journalist, on 26th September 1994 -- we will look
20 at this at various times for various reasons. If we can
21 look, please, at 976, and the fourth paragraph of the
22 letter, here Abbot Kevin Smith, as he then was in
23 September 1994, was replying to a detailed letter from
24 Chris Moore asking a series of searching questions about
25 the movements of Smyth and who knew what about them, and

1 here Abbot Kevin Smith says:

2 "On two occasions Father Smyth was sent on temporary
3 assignment to do parish work in America. On neither
4 occasion was the bishop of the diocese to which he was
5 sent notified of his propensity to molest children. On
6 both occasions Father Smyth offended against young
7 parishioners."

8 Then he says:

9 "I acknowledge that I, as his religious superior,
10 committed a grave error in sending Father Smyth abroad"
11 -- that's a single occasion, which is the second
12 American trip I am going to come to -- "without warning
13 the bishop to whom I sent him."

14 So Abbot Kevin Smith is at that point acknowledging
15 that Abbot Colwell sent Smyth to America, Rhode Island,
16 without informing Bishop McVinney of his propensity to
17 molest children.

18 But it is relevant that I draw to the Panel's
19 attention that whatever one says about the Norbertine
20 Order and its decision-making, because in none of this
21 is there any suggestion to date of any concern or effort
22 made to look after, check on or otherwise deal with the
23 welfare of the children who may have been involved in
24 Smyth's offending, nor any communication with their
25 families, nor any attempt it seems to communicate with

1 the police about it, equally Bishop McVinney is writing
2 a letter which does not convey any suggestion that he is
3 going to be doing any of those things either.

4 Now going back to Bruno Mulvihill for a moment, if
5 I may, in his RUC statement of 14th March 1995 he
6 claimed that -- it seems, Chairman, I am being handed
7 a map of Wales, which I will give you. That shows
8 Menevia was a different area from Wrexham. So whether
9 Father Mulvihill is mistaken and/or there was more than
10 one difficulty that arose, it is unclear. Bruno
11 Mulvihill in his police statement -- and this is the
12 passage. I am not going to open it now. I am just
13 going to explain it. It runs from 32124 to 32125. He
14 says that when he was cleaning a room that Smyth had
15 used in the abbey, he found a copy of a decree from the
16 Congregation of the Religious in Rome. He claimed that
17 it said that Smyth was not to leave the abbey precincts
18 without permission and never alone. It apparently also
19 withdrew his faculties for confession for life, and he
20 explains in his statement that he gives this decree to
21 the Sub Prior, who was going to give it to the Prior, so
22 that would have been Phillip Nash, as a new abbot had
23 not yet been elected to replace Abbot Colwell, who had
24 since died. That's why Bruno Mulvihill says he can date
25 this incident as between January 1968 and June 1969, so

1 between the death of Abbot Colwell and the appointment
2 of Kevin Smith.

3 Now he also explains in the statement for presumably
4 the uninitiated RUC officer he was talking to that the
5 mechanism for this decree to be handed down is the
6 Congregation of Religious handing it to the Abbot
7 General in Rome, who in turn gives it to the relevant
8 abbot where the priest was based. The Abbot General of
9 the Norbertine Order between 1962 and 1982 -- and this
10 will be relevant for other reasons further on -- was the
11 French bishop Norbert Jules Francois Calmels. So he is
12 the Abbot General for a 20-year period between '62 and
13 '82.

14 Now if I can just pause there, not only, when one
15 thinks through what Father Mulvihill is saying, before
16 one got to the point of the Council of Religious issuing
17 a decree, that decree being given to the Abbot General
18 and being given to the abbot of Holy Trinity and then to
19 Smyth for it to be left in the bedroom, one would have
20 to have had a situation where the matter was reported to
21 the Council of Religious and they conducted some form
22 of, whether on papers or otherwise, inquiry that led
23 them to issue such a decree, and the Norbertine Order's
24 position is that such a decree was never obtained or
25 issued by the Council of Religious, ie they never

1 reported it to them, they never investigated it and they
2 never issued a decree on foot of it. Therefore whatever
3 Bruno Mulvihill is talking about, he is either wrong
4 about what it is he picked up in the bedroom or he is
5 simply wrong entirely about this episode, because in
6 1995 the Norbertine Order asked the Council of
7 Religious -- if we can bring up, please, 979 -- to check
8 -- having been made aware of this allegation that there
9 was a decree issued, they asked the Council of Religious
10 to check their archives and confirm that they did not
11 issue such a decree.

12 In a letter of 23rd March 1995 then the Council so
13 confirmed. You can see that they say:

14 "A thorough search has been made in the archives of
15 this Congregation and we have to inform you that we can
16 find no record of any such document."

17 Then a further letter was written to the Council of
18 Religious by the then Prior of Holy Trinity, Gerald
19 Cusack, on 12th June 2007. Now these letters -- if we
20 just look at -- if you are content, if we look at his
21 letter to the Council of Religious, it shows the context
22 at the time. They were dealing with civil claims in
23 2007 and orders were being made in the Republic of
24 Ireland for the production of relevant documents.

25 If we can look, please, at 987, the Prior, Gerald

1 Cusack, that Father Fitzgerald refers to in his
2 statement points out that the judge dealing with the
3 case in the High Court has directed that he write.

4 "The allegation that a decree was issued was made by
5 the late Bruno Mulvihill in a television programme and
6 also in a book published about the abuses of Smyth. He
7 alleged that a rescript was issued in 1967 from your
8 congregation by which Smyth was forbidden to leave the
9 grounds of Kilnacrott Abbey except in the company of
10 another priest."

11 That year is wrong. It would have been 1968 if this
12 happened. He is being asked -- the Council of Religious
13 are being asked to check again and confirm what the
14 position is.

15 So a reply -- if we look at 989, please, a reminder
16 letter was sent and then a reply was received on
17 2nd July 2007. It is slightly more difficult to read,
18 but:

19 "With your letter of 12th June you asked for
20 information about the degree by the Holy See during the
21 '60s would have taken measures pertaining to the
22 Reverend Father Brendan Smyth.

23 Given the importance of such a document for the
24 forthcoming judicial proceedings, this dicastery
25 carefully searched our archives, especially for the

1 period of 1967, in which the rescript would have been
2 issued.

3 In our archives there is no mention or trace, direct
4 or indirect, concerning a Smyth case before 1994, when
5 this dicastery was first asked for a copy of the degree
6 in question.

7 This reply is a bit delayed owing to the time spent
8 searching the archives."

9 So the position of the Council of Religious is that
10 they at no stage issued a decree of the type that Bruno
11 Mulvihill was saying he had found. We will later come
12 to see that Abbot General Calmels certainly did know of
13 Smyth's abuse and considered that it didn't need to be
14 communicated to receiving bishops as far as the second
15 trip to America is concerned. We will come to that in
16 due course.

17 Father Mulvihill did make other claims about steps
18 he says he tried to take, including those to draw
19 attention to Smyth's activities. They can be seen in
20 the police statement and are contained in the literature
21 that I have referred to. He describes in the early '70s
22 how he says he reported to the then Abbot Kevin Smith
23 his concerns of likely further abuse by Smyth in the
24 abbey to do with bingo and children being present. He
25 said he was rebuffed by the abbot about that. Whether

1 that's the case or not, it is not possible to take any
2 further. He's -- Father Mulvihill has since died. You
3 will note that Father Fitzgerald does not list those
4 instances among those that the Order, the Norbertine
5 Order, accepts came to their attention.

6 We do know, however, that on Smyth's coming back
7 from Rhode Island he was sent by the Order for treatment
8 to the Graham Clinic, the psychiatric unit in Purdysburn
9 Hospital. The records show that he was registered as
10 being looked after by Dr Patten there from April 1968
11 through to May 1969. Dr Patten was a consultant
12 psychologist. It appears that he spent a period of time
13 as an in-patient and thereafter was seen on out-patient
14 appointments. According to Smyth himself in the medical
15 reports that are available to you during this time he
16 received electric shock therapy under the care of
17 Dr Patten.

18 Abbot Colwell died on 24th September 1968. The
19 reference for that is at 32125. Abbot Kevin Smith was
20 elected Abbot of Holy Trinity Abbey, Kilnacrott on
21 12th June 1969. That's at 32125 as well. He plays
22 a prominent role in all of the subsequent events I am
23 going to outline.

24 In paragraph 41 of Father Fitzgerald's statement, if
25 we can go to 827, please, Father Fitzgerald reveals that

1 the Order accepts that it was aware that at some time
2 around 1971/'72 a woman informed Abbot Kevin Smith that
3 Brendan Smyth had sexually abused her son. In this
4 account that Father Fitzgerald is setting out for the
5 Inquiry it is said that:

6 "The abbot put the allegation to Smyth, who denied
7 it, but that Abbot Kevin Smith nonetheless suspended
8 Brendan Smyth for two weeks as a punishment, which meant
9 that he was not permitted to function publicly as
10 a priest during that time."

11 Now there are again no records to vouch what Father
12 Fitzgerald is saying and he is simply, as I understand
13 it -- and we can check this with him when he gives
14 evidence -- recounting evidence that he has gathered
15 from talking to colleagues about what was known.

16 Then the next incident -- so that's now 1971/'72.
17 Not only has Abbot Colwell had a series of occasions
18 that he has become aware and taken the step, or the
19 Order has taken the step, if Abbot Colwell wasn't
20 responsible, of sending him to the Graham Clinic. Now
21 another episode has taken place, if it's correct, in
22 1971/'72 under the new abbot, and he is recorded, if it
23 is correct, with having punished Smyth for that
24 activity. Again there is no suggestion, as I have said,
25 which is the case throughout this unfortunately, of any

1 reference to the children, their parents or the
2 authorities.

3 Then in paragraph 42 we move into 1973. Father
4 Fitzgerald's statement draws attention to another report
5 of abuse that must have taken place in 1973, because he
6 refers -- Father Fitzgerald in order to pen this
7 particular paragraph is referring to relevant extracts
8 from the Abbey's council's books that he has had
9 produced for the Inquiry.

10 I want us to look at the entry for May 1973. That's
11 at page 837, please. You can see item 3:

12 "The council was now asked by abbot", that's Abbot
13 Kevin Smith, "to enter into consultation for the
14 personal and private case of a particular confrere
15 against whom a complaint had been received from outside
16 the abbey and for the remedies that could be taken."

17 Then there's further reference in the minute of 5th
18 May 1975:

19 "Provision for Father Brendan's future service in
20 the Order."

21 Reference to:

22 "Suggested doctors in Stillorgan -- seek assistance
23 from Paraclete Fathers."

24 That's 1975. So I want to pause at the 1973
25 reference and draw your attention to the fact that this

1 entry in 1973 may relate, as we will shortly come to see
2 when we look at the Diocese of Kilmore in some detail,
3 to a report made to Bishop Francis MacKiernan by one of
4 his priests of a serious sexual assault by Smyth on
5 a girl reported to him by her mother. When we come to
6 look at those documents, we'll see that the priest was
7 made aware by the mother. The priest then goes to see
8 Bishop MacKiernan. Bishop MacKiernan promises to deal
9 with it and, in fact, writes a letter back to the
10 mother, which the priest then delivered. The mother was
11 assured the matter would be dealt with. Doing the best
12 we can, it may be this reference in May 1973 is the
13 outworking of Bishop MacKiernan approaching Abbot Smith
14 about that particular instance. So I would ask you to
15 keep this instance in your mind for when we come to the
16 Bishop of Kilmore.

17 But what it does not do, there are no documents to
18 take this any further. If we go back to Father
19 Fitzgerald's statement, please, at 827, the last part of
20 paragraph 42, Father Fitzgerald explains that there is
21 no record of a subsequent discussion or any remedies to
22 be imposed is recorded, and although a name is not used,
23 it is assumed that it is referring to Smyth. There is
24 nothing that explains what they did other than, as
25 Father Fitzgerald points out in paragraph 43, that it

1 appears that the abbey then sent Smyth for treatment
2 again, this time to St. Patrick's Hospital in Dublin.

3 Now you can see in paragraph 43 that Father
4 Fitzgerald is explaining that between May '73 and June
5 '74 Smyth was under the care of a in
6 St. Patrick's Hospital in Dublin. He appears to have
7 again been an in-patient for three weeks and then
8 treated as an out-patient thereafter. You can see that
9 was asked -- according to Father Fitzgerald,
10 asked by Abbot Kevin Smith to explain how the treatment
11 of Smyth was progressing. It is recorded that:

12 " was not forthcoming with any information
13 on the basis of doctor/patient confidentiality and asked
14 Kevin Smith to leave."

15 Now -- I apologise for the disruption. The Inquiry
16 has literally as we speak just received the material
17 from St. Patrick's Hospital and we are going to have to
18 work through what precisely we can do with that
19 information, but --

20 CHAIRMAN: Well, would it be appropriate to rise for
21 a few minutes to allow that to be assimilated?

22 MR AIKEN: Yes. It may be that there is a course we can
23 take. Just bear with me for one moment, Chairman, if
24 you would. It may be, Chairman, if we took
25 a few minutes to see if there's a way of dealing with

1 this today rather than having to come back to it out of
2 sequence.

3 CHAIRMAN: Very well.

4 (2.45 pm)

5 (Short break)

6 (3.00 pm)

7 MR AIKEN: Chairman, Members of the Panel, we were looking
8 at Smyth's stay in St. Patrick's Hospital in Dublin in
9 1973 and 1974. I was explaining that the Inquiry has
10 become aware that the hospital records from that
11 admission do still exist, and in fairness to the
12 Norbertine Order, they were trying to get them produced.
13 In 2003, when they were doing that, the hospital
14 authority were not prepared to release them. The
15 evidence for that is at 942.

16 What we are in a position to do -- in fairness to
17 the Norbertine Order, they renewed that request in order
18 to assist the Inquiry, and the position is that I have
19 now -- this is happening in real time -- just received
20 the records from St. Patrick's Hospital. There is going
21 to be some working through of how we deal with that
22 material, but what I am in a position to say, although
23 I am not going to take it any further at this stage, is
24 that the Inquiry has received a letter of 28th May 1973,
25 which appears to have been written by a doctor in the

1 hospital to the then abbot, Kevin Smith, and in that
2 letter, amongst other things, it is said that:

3 "I think it is important that he learns by the
4 unfortunate experience of the past year and to this
5 I think it would be prudent that wherever he is
6 stationed, his superior should be aware of his
7 difficulties. The fact that his tendencies are known
8 and that any deviations from reasonable behaviour could
9 be called into question at once should have a salutary
10 effect on his relationships with boys and girls."

11 CHAIRMAN: I see, just looking at the letter, something that
12 happens quite frequently is a misspelling, but I take we
13 have no reason to believe that Abbot Smith with an I was
14 any relation to Brendan Smyth with a Y.

15 MR AIKEN: No. In fact, Kevin Smith is spelt correctly and
16 it's Brendan Smyth is spelt incorrectly.

17 CHAIRMAN: Exactly.

18 MR AIKEN: So, Chairman, I think it is important, Members of
19 the Panel, that that piece of the jigsaw is in the
20 chronology at this point in time. How we deal with the
21 management of this material is something we will have to
22 work on, but for the purposes of today, so I can
23 continue, the position is that in May 1973 the head of
24 the Order in Holy Trinity was told to ensure that
25 wherever he was being sent, that receiving entity or

1 individual was made aware of his propensity.

2 Now Brendan Smyth himself explained that during this
3 period of time in St. Patrick's Hospital he received
4 a heavy dosage of drugs and sedatives while he was
5 there. You can find the reference to that at 913. It
6 is in the -- one of the medical reports that the Inquiry
7 has received, wherein Smyth sets out his history.

8 He also explained to a different doctor, if we can
9 just look, please, at 921 -- if we can bring up 921. So
10 this is the document from Father Fitzgerald or the
11 Reverend Fitzgerald. He says:

12 "He thinks he was in St. Patrick's Hospital in the
13 early '70s under , the well-known physician
14 superintendent, though he is unsure of the name. Again
15 he was given drugs to knock him out and kept in bed for
16 several days. He said recommended him a change
17 of job, by which I think is meant laicisation, though he
18 is unsure."

19 So he is recording -- this is in 1994 Smyth
20 recording to the Dr or Reverend David Fitzgerald what he
21 recalled being told by in St. Patrick's in
22 Dublin.

23 Now it is the case -- and we will be looking at this
24 document for a different reason -- that if we look at
25 780, please, this is a memo that was maintained by

1 Bishop Francis MacKiernan about another incident, which
2 we are going to come to. If we just scroll down to the
3 second part of it for now, you can see that a meeting
4 took place on 12th April between Bishop MacKiernan and
5 the abbot, Kevin Smith. You will see:

6 "He indicated knowledge of former lapses and
7 psychiatric treatment under ...
8 refused to discuss the case with the abbot."

9 So how that sits with the letter that the Panel has
10 seen is not entirely clear, but it is clear that this
11 treatment was being sought and it appears to have been
12 obtained and there is now some suggestion that a message
13 was sent with it back to the abbot.

14 Now Father Fitzgerald then reveals --

15 CHAIRMAN: Sorry. Who is this letter to?

16 MR AIKEN: This is a memo from Bishop Francis MacKiernan,
17 the Bishop of Kilmore, about a meeting that he had with
18 Abbot Kevin Smith. We are going to come back to this
19 document in its particular context, but I wanted you to
20 know that it was being said in 1975 by Abbot Kevin Smith
21 that had not been prepared to discuss the case
22 with him. We now know that was treating
23 Brendan Smyth in 1973 and at least to some extent
24 appears to have communicated certain matters to Abbot
25 Smith.

1 CHAIRMAN: I see at the top of the page about Brendan Smyth
2 no longer being approved to hear confessions.

3 MR AIKEN: Yes.

4 CHAIRMAN: So this presumably accompanied the letter.

5 MR AIKEN: Yes. I am going to come to that in sequence.

6 That's another event that we will look at shortly.

7 So we have this treatment taking place in 1973.

8 There is an in-patient stay of a few weeks in 1973, but
9 then in paragraph 44 of Father Fitzgerald's statement,
10 if we can go back, please, to 827, in paragraph 44

11 Father Fitzgerald says:

12 "In or around 1974 I am told that the Prior of the
13 Kilnacrott Canonry" -- so this is not Kevin Smith; this
14 is his second in command -- "received" -- whose identity
15 I am not yet clear about -- "received a complaint of
16 sexual abuse by Brendan Smyth from a family in Belfast.
17 The Prior received this complaint in the absence of
18 Abbot Smith, who was working overseas at the time, and
19 he travelled to meet with the family to discuss their
20 concerns. I am told that the Prior confronted Brendan
21 Smyth and he did not deny the allegation. The Prior
22 also reported the incident to Abbot Kevin Smith upon his
23 return to Holy Trinity Abbey."

24 So this is a -- it is not possible from other
25 material to establish who the family in Belfast were who

1 were meeting the Prior. It is possible in other
2 incidents where matters are being referred to to be able
3 to see from the police material who it is is likely to
4 be being referred to and see their version of the
5 meeting or the discussion that takes place. It is not
6 possible to match up this particular incident that is
7 said to have involved the Prior learning of a particular
8 incident with any that are in the police material.

9 That's not to say that perhaps it is not one of them,
10 but simply there is a mix-up over dates or some other
11 confusion that doesn't allow the matching to take place,
12 but if the date is right, then it is another instance of
13 known abuse taking place even after the -- certainly
14 coming to light after the medical treatment that had
15 taken place in 1973.

16 CHAIRMAN: Dr Fitzgerald made some reference to this
17 episode, did he not, in the report we have just seen?

18 MR AIKEN: The --

19 CHAIRMAN: Children to Belfast. However, we will come back
20 to that.

21 MR AIKEN: It is another incident that we are going to come
22 back to. So we are in 1974. There is no reference in
23 the council minutes that have been produced to this
24 matter or what was done about it, if anything.

25 Then that takes us to the 1975 investigation, which

1 has been something that to a degree has been publicly
2 known before today. In early 1975 the Bishop of
3 Kilmore, so that's Bishop Francis MacKiernan, received
4 a further report from a priest from of
5 Smyth's sexual abuse on a boy. That boy was FBS38. The
6 Bishop of Kilmore, that is Francis MacKiernan, had
7 an investigation conducted, and that was carried out on
8 his behalf by the then Father Sean Brady, or Father John
9 Brady, as he was at the time. We will look at the
10 actual investigation in further detail in due course
11 when I look at Bishop Francis MacKiernan, but what
12 I want to look at at this point is the result of it, the
13 result of the investigation, which we are going to look
14 at. So I appreciate I am having to step outside of
15 doing this in absolute chronological order, but if the
16 Panel will bear with me, the result of the
17 investigation, following an interview that took place
18 with two boys then on two different occasions and
19 evidence from that material that you will come to see
20 that there was more than just those two boys who were
21 being referred to as abused, led Bishop MacKiernan to
22 meet with Abbot Kevin Smith on 12th April 1975.

23 Now we looked at the note from Bishop MacKiernan
24 just a moment ago about the meeting. We will look at
25 the memo again, please, at 780. This is what -- if we

1 just scroll down to the bottom first, please, so we can
2 see, the memo is of 20th April, but it is saying:

3 "On 12th April I reported the findings on Brendan
4 Smyth to Abbot Kevin Smith", says Bishop Francis
5 MacKiernan, the Bishop of Kilmore. "He indicated", as
6 in the Abbot Kevin Smith, "indicated knowledge of former
7 lapses and psychiatric treatment under of
8 St. Patrick's Hospital. refused to discuss the
9 case with the abbot.

10 I", that is Bishop Francis MacKiernan, "suggested
11 consulting the St. John of God Brothers", about Brendan
12 Smyth.

13 So that's something he must have done in and around
14 12th April, but then the memo eight days later records
15 that:

16 "The abbot did this", ie he did consult with the
17 St. John of God Brothers, "and they suggested a rest
18 period with the Paraclete Fathers in Gloucester" --
19 that's the Stroud facility we touched on -- "under a
20 Dr McGrath."

21 It is recorded that:

22 "Father Smyth had agreed to go there."

23 Then you have this reference to:

24 "I have withdrawn his faculties to hear
25 confessions."

1 If we scroll up, we will see the letter
2 communicating of 18th April the withdrawal of the
3 faculties:

4 "I hereby withdraw the faculties of the diocese ..."

5 We will see the faculties of the diocese are not the
6 same as the faculties of confession:

7 "I withdraw the faculties of the diocese from
8 Brendan Smyth, a priest in your community, for the
9 reasons which I explained to you in the course of my
10 visit on Saturday, 12th April. He is therefore no
11 longer approved to hear confessions. I ask you formally
12 to communicate my decision to him."

13 Now we will come back to this issue in the context
14 of Bishop MacKiernan and the Diocese of Kilmore and what
15 they understood was happening, but --

16 CHAIRMAN: If you just pause at this point, I hope someone
17 is going to explain to us what the extent of the
18 bishop's jurisdiction over the priests in this canonry
19 and Father Brendan Smyth in particular were, because we
20 understand from what has been said so far that a canonry
21 such as this was exempt to some degree at least from the
22 ecclesiastical jurisdiction of the diocese within which
23 it was positioned. It is not clear to me at least
24 whether what the bishop was doing was preventing Father
25 Brendan Smyth hearing confessions outside the abbey but

1 in the diocese, or he was purporting in some way to
2 limit his ability to function as a priest even inside
3 the abbey, because depending on the nature and extent of
4 his authority, the next question might be, "Well, why
5 didn't he do something more than that?"

6 MR AIKEN: I think it will be said -- and we will see this
7 story develop through the material when we look at
8 Bishop MacKiernan -- that it is the latter, that he was
9 preventing -- he had -- the understanding, whether it is
10 right or not, is that he had no authority to prevent
11 Smyth administering sacraments and hearing confessions
12 within the abbey, but he was preventing him from hearing
13 confessions, because there is a debate about what this
14 document actually means, but he was taking some step to
15 prevent his activity in the diocese --

16 CHAIRMAN: Yes.

17 MR AIKEN: -- beyond the abbey, because the Norbertine
18 priests had a practice of being an assistant, going out
19 to -- if someone was off sick or on holiday or -- being
20 the cover, as it were, for various diocesan priests, and
21 this was that activity potentially being stopped,
22 although when we come to look at Bishop MacKiernan, we
23 will see there's a lack of clarity over what effect this
24 was going to have and what effect it was meant to have
25 --

1 CHAIRMAN: Yes.

2 MR AIKEN: -- but it is an issue that I will explore with
3 Father Fitzgerald and then with Father Kilduff.

4 Father Fitzgerald then speaks of this event in
5 paragraph 45 of his statement, if we look at 827,
6 please. So he says that:

7 "In March or April '75 Bishop MacKiernan, then
8 Bishop of Diocese of Kilmore, carried out a canonical
9 inquiry into allegations of sexual abuse by Brendan
10 Smyth against two children in his diocese."

11 Then he refers to the note we just looked at.

12 "On 18th April 1975 Bishop MacKiernan wrote to Abbot
13 Smith and informed him that he had withdrawn the
14 faculties (ie the right to function publicly as a priest
15 of the diocese) from Brendan Smyth for the reasons which
16 he states he explained to the abbot", Kevin Smith,
17 "during their meeting on 12th April."

18 Now I ask you to note a caveat there at the point,
19 because when we come on to look at material from
20 a different angle, we will see it was understood
21 differently elsewhere.

22 "No record of this meeting between Abbot Smith and
23 Bishop MacKiernan can be located", other than the memo
24 we have looked at, which came from Kilmore, not from the
25 Norbertines, "and according to the minutes of a council

1 meeting ..."

2 It is that that I want us to turn to now. If we can
3 look at the council book minute of 5th May 1975. That's
4 at 837, please. Just scroll down the page, please, to
5 5th May 1975. So there's reference to him:

6 "Suggested doctors in Stillorgan. Seeking
7 assistance from Paraclete Father. Works undertaken by
8 Father Brendan Smyth in the past."

9 So you can see there's a reference to:

10 "Retreat to nuns, teaching theology, parish work in
11 Scotland, Wales and US."

12 Then there is this entry:

13 "It is submitted presently Father Brendan has
14 permission to offer mass but not to dispense the
15 sacraments publicly. This work to be of service. This
16 work to have reasonable safeguards."

17 So you can see that the Norbertines, at least those
18 sitting on this council, were interpreting the removal
19 of the faculties as not preventing Smyth offering mass,
20 but that it was preventing him dispensing the sacraments
21 publicly. Then you can see the next sentence:

22 "Value of transferring Father Brendan from house to
23 house -- one order has followed this practice."

24 I take that reference to be the practice of sending
25 him from canonry to canonry at sufficiently short

1 intervals so as to prevent the attachment, friendship
2 developing with children in a particular place.

3 If we go back, please, to Father Fitzgerald's
4 statement at 827, if we scroll down to the bottom,
5 please, and then:

6 "The meeting was informed Brendan Smyth had
7 permission to offer mass" -- move down, please -- "but
8 was not allowed to dispense the sacraments publicly."

9 So it recounts what's recorded in the minute. Then
10 in paragraph 46, as you saw in the minute, reference to
11 the Paraclete Fathers. You saw there had been talk of
12 St. John of God and then rest with Paraclete Fathers,
13 having been what Father Brendan Smyth gleaned from the
14 conversation that Bishop MacKiernan recommended he have.

15 That then led to Brendan Smyth travelling to Stroud
16 in Gloucestershire to the Our Lady of Victory Clinic run
17 by the Paraclete Fathers. He spent a month there from
18 13th November 1975 until 11th December 1975. The
19 reference for that and those dates is at 950. I touched
20 on that was the clinic that treated errant priests. It
21 closed its doors in 2004.

22 But in a Stroud report, which the Panel have, from
23 1994 Smyth tells the then head of the Stroud facility
24 that when he attended -- if we just look at this. 913,
25 please, the second paragraph. In the second part of the

1 second paragraph you can see he said he does not
2 remember much after that.

3 "Brendan then indicated he was in Our Lady of
4 Victory, Stroud, about 20 years ago by mistake. He said
5 that when he arrived, the priest in charge here told him
6 that there was no programme here for people with his
7 type of problem. He said he remembers being here about
8 two to three weeks and that he was told to make it
9 a retreat."

10 So you have had the episode of treatment in Dublin,
11 the communication there appears to have been about how
12 -- Smyth and about him being communicated, and then you
13 have these episodes coming to light involving Bishop
14 MacKiernan and the 1975 investigation. You have his
15 faculties being curtailed in some respect by the Kilmore
16 bishop, and you then have him being sent to Stroud,
17 where they tell him, you know, "You can stay here as
18 a retreat, but there is no treatment we have for you".
19 Then he comes back to Holy Trinity Abbey.

20 Then Father Fitzgerald explains in paragraph 47 of
21 his statement, if we look at 828, please, that while he
22 was spending the month in Stroud at the end of 199... --
23 1975, Father Fitzgerald explains in paragraph 47 that he
24 is told that about the same time two further incidents
25 came to light.

1 "Further concerns regarding Smyth's behaviour around
2 children were brought to the attention of a confrere at
3 Kilnacrott by a priest. The exact nature of those
4 concerns is not clear. Another allegation was also made
5 around that time by another woman. Smyth was already in
6 Stroud for treatment when these concerns were raised."

7 So you had two further matters coming to light with
8 the community in 1975 after the 1975 Kilmore
9 investigation and while Smyth is in Stroud not being
10 treated. These further complaints that Father
11 Fitzgerald is referring to don't appear to have been
12 recorded and they don't appear in the council minutes
13 that have been reproduced for the Inquiry.

14 So at the start of 1976 Brendan Smyth comes back to
15 Holy Trinity Abbey. In due course we will see that
16 through the auspices of a Down & Connor priest, this
17 time a **FBS 51**, an uncle of another girl -- another
18 abused girl from , where Smyth's
19 and where he went and would have said mass to the
20 assistance of **FBS 51**, that uncle of that girl was
21 taken by **FBS 51** to meet Abbot Kevin Smith. We
22 will look in due course when we come on to Down & Connor
23 about what exactly that man, who was a FBS40 -- his name
24 shouldn't be used beyond the chamber -- said to Abbot
25 Kevin Smith and what Abbot Kevin Smith assured him and

1 what **FBS 51** understood Abbot Kevin Smith had
2 assured in terms of how Brendan Smyth would be dealt
3 with. That complaint, doing the best that FBS40 and
4 **FBS 51** can do, as well as the two abused girls
5 that ultimately it turns out to relate to, because it is
6 not just the niece of FBS40, is in 1976.

7 Now it is unclear, if we look, please, at 837,
8 whether the abbot's council meeting of 10th May 1976 --
9 so you can see just before we move down the last
10 sentence on the page is 10th May 1976. If we scroll
11 down, please, we can see then -- it is unclear whether
12 this entry is a response to that further disclosure that
13 resulted in that meeting between **FBS 51** , FBS40 and
14 Abbot Kevin Smith or whether this entry is not a record
15 of that further disclosure, but simply has arisen for
16 some other reason.

17 You can see in the penultimate:

18 "Father Abbot said that Father Brendan's case was
19 different and had been going on over a number of years."

20 You can see there was a suggestion should the
21 community not take a firmer stand in regard to Brendan.
22 The same individual had identified that Brendan Smyth's
23 personal problem had consequences for the community.
24 Now there is nothing more to be seen of the working out
25 of that discussion.

1 Then we move into 1978. If we can go back, please,
2 to Father Fitzgerald's statement at 828, please,
3 paragraphs 49 and 50, he explains that there's a record
4 of an extraordinary meeting of the council of the
5 Norbertine -- the abbot's council in Holy Trinity from
6 May 1978, where the first item discussed was "The
7 personal case of Brendan Smyth". The minutes noted
8 that:

9 "Smyth be deprived by way of penalty of active and
10 passive vote for community offices and services and that
11 he be required to seek permission for the use of a car
12 for journeys."

13 He says:

14 "The circumstances leading up to the imposition of
15 these penalties is not clear",

16 but he is prepared to presume, and the Inquiry may
17 be prepared to do likewise, that the council considered
18 whatever it was he did leading up to May 1978 to be
19 quite serious, as it was suggested that he might
20 consider laicisation.

21 Then you can see in paragraph 50 Father Fitzgerald
22 saying that in November 1978, so that's five months
23 later, Abbot Smith is reporting back the recommendations
24 of the Abbot General. The Abbot General at this point
25 up to 1982 was Abbot General Calmels that we touched on

1 previously.

2 "According to the minutes it was recommended that
3 after a trial period of 12 months priestly work should
4 be sought for Father Brendan."

5 So one might reasonably assume, Members of the
6 Panel, that something else has come to light in early
7 1978. If we look, please, at the minute, because you
8 may find this minute revealing, at 838, please, the
9 bottom half of the page, if we scroll down, please, you
10 can see:

11 "Personal case of Brendan Smyth."

12 So the cause of it is not explained.

13 "By way of penalty Father Brendan Smyth is be
14 deprived of active and passive vote for community
15 offices.

16 Brendan should be required to seek permission for
17 the use of a car for journeys."

18 So if one can reasonably assume that the sanctions
19 being imposed are related to what it is he must have
20 been reported as having done, then it is something that
21 a car facilitated him doing.

22 "The meeting pursued then the discussion at length
23 on ways in which Smyth could be assisted. It was
24 suggested he might undertake a retreat of some duration
25 for personal assessment and benefit.

1 It was suggested he might consider laicisation. In
2 this event the council agreed that it would assist
3 Father Brendan to smooth his path into the world."

4 Again through all of this -- and we have now reached
5 1978, and I don't want this to be lost as we work
6 through the detail in chronological order -- is that
7 there still remains not one discussion about any child,
8 their parents or reporting Smyth to the police.

9 Now if we just scroll down the page, please, on to
10 the next page, we can see that in June 1978, which is
11 the entry at the top of the page:

12 "Father Abbot reported on the way the case of Smyth
13 was proceeding. It was agreed that the policy accepted
14 at a previous meeting be pursued; in particular, the
15 provision that personal availing of a car be denied
16 Brendan Smyth.

17 It was suggested that the right approach was done to
18 take the important steps of penalising, but to take
19 these in an even, not an abrupt way. It was agreed that
20 the Abbot General", that's Abbot General Calmels, "and
21 the Prosecutor General" -- I will not sure that's
22 a correct translation; it is meant to be "Procurator
23 General" -- "be informed of this case at Kilnacrott."

24 So we have in June an intention of communicating
25 whatever it is Smyth had done to the Abbot General.

1 Then in November --

2 CHAIRMAN: Well, just pause at that point. Whether it is
3 Prosecutor General or Procurator General, it would seem
4 to suggest that consideration is being given at a local
5 level to invoking some form of internal disciplinary
6 process against Father Brendan Smyth.

7 MR AIKEN: Yes.

8 CHAIRMAN: When I say "internal", not locally, but internal
9 to the Order.

10 MR AIKEN: Yes, but it won't take long to count up the
11 number of instances before June 1978 to see just how
12 many opportunities to take a more firm approach were
13 missed or not taken.

14 CHAIRMAN: If you just scroll up to get the date of that
15 meeting.

16 MR AIKEN: Just scroll up, please. That's 12th June 1978.
17 That's found on page 838 and 839.

18 Now we can see that the June entry is telling us he
19 will be -- the Abbot General will be spoken to about
20 this. If we scroll down, you can get -- it is obviously
21 not possible at this stage to say what exactly was said
22 to the Abbot General, which, of course, would be
23 relevant to what exactly he was answering, but what the
24 record records of 13th November 1978 is that:

25 "Father Abbot reported the recommendations of Father

1 Abbot General."

2 So that's Abbot Kevin Smith is reporting what Abbot
3 General Calmels has had to say about whatever it is
4 Abbot Kevin Smyth has told him. That is:

5 "Brendan Smyth should be provided work of some kind.
6 After a trial period of 12 months priestly work should
7 be sought for Father Brendan."

8 So you can see and might reasonably infer that in
9 May of 1978 the Abbot Kevin Smith and his colleagues are
10 talking about discipline and removing a car and within
11 a number of months and the involvement of the Abbot
12 General those matters seem to have gone and in their
13 stead is getting the man some work.

14 Now it is unclear, and in fairness again Mr Egan is
15 looking into this to assist the Inquiry as to whether
16 this communication between the Abbot Kevin Smith and the
17 Abbot General was in writing, and if it was, whether
18 that material can be found and produced. It may be it
19 was not in writing and therefore there are no documents,
20 or if there were documents, they no longer exist.

21 Then you have -- I am not going to dwell on them,
22 but the Panel can consider them -- you have a series of
23 references to Smyth and getting him work, but I want to
24 move down to that of October 1979 at page 840, please.

25 CHAIRMAN: Just a moment.

1 MR AIKEN: Just pause for a moment.

2 CHAIRMAN: It seems in April there are some unidentified
3 problems --

4 MR AIKEN: Yes.

5 CHAIRMAN: -- and Father Brendan Smyth then appears to
6 request or invoke some form of procedure of having his
7 case discussed by the entire community in Kilnacrott --

8 MR AIKEN: Yes.

9 CHAIRMAN: -- or at least by the council.

10 MR AIKEN: There's a discussion about possible undertakings
11 that could be sought from him and offers that could be
12 made to him. That appears to be a reflection of the
13 suggestion that he be given some form of work.

14 If we scroll down to the entry of 29th October 1979,
15 if we just pause there, now this is Abbot Kevin Smith
16 saying that he has interviewed Brendan Smyth in October,
17 that:

18 "It was his mind that an initiative must now be
19 taken to secure ministry to apostolate for this
20 confrere. Father Abbot reported that he had accordingly
21 presented Father Brendan with the option of two
22 apostolates, missionary work in Ghana, Africa, or
23 pastoral work in North Dakota", United States of
24 America.

25 "Brendan had expressed interest in the second option

1 and had indicated that he was willing to take up this
2 work if his doctor thought it was feasible for him.

3 He had consulted his doctor within a number of days
4 and obtained medical approval for the undertaking."

5 Now I'm not -- I don't think that's reference to
6 . I think that's reference to a physical mental
7 condition to do with -- I will not go into that medical
8 condition, but it wasn't to do with his interference
9 with children.

10 Then:

11 "Abbot Kevin Smith outlines the meeting -- to the
12 meeting the nature of the ministry in North Dakota that
13 was being offered to Kilnacrott priests. The offer came
14 from the Bishop of Fargo, North Dakota in north central
15 United States, adjoining the state of Montana, where
16 American Norbertines had a mission. There were 100,000
17 Catholics there, a region for which great population
18 expansion was likely because of the mineral resources.
19 There was missionary opportunity in addition to the
20 existing parishes with North American Indians. Priests
21 were urgently needed and the Bishop of Fargo had
22 extended a welcome in writing to Father Abbot", so Abbot
23 Kevin Smith, "for Kilnacrott priests to undertake
24 ministry in his diocese. One religious order presently
25 serving in the diocese was the Benedictines."

1 Then if we scroll up, please:

2 "Father Abbot", so Abbot Kevin Smith, "now asked the
3 meeting if it would give its support for this pastoral
4 mission being entrusted to Father Brendan Smyth. It was
5 accordingly asked whether Kilnacrott would be obliged to
6 send a personal dossier on the confrere being seconded
7 to the bishop in question. Father said that it
8 was his recollection from a message received from the
9 Abbot General", that is Abbot General Calmels, "that
10 Kilnacrott was not so obligated."

11 Then you can see the last paragraph:

12 "Kevin Smith -- Abbot Kevin Smith submits that he
13 would like the confrere -- he would like Brendan Smyth
14 to go out from the house to have nothing against him
15 from the past."

16 Then there is reference to him being:

17 "... in a commitment of trust to face his new work
18 as a challenge",

19 and said:

20 "Father Abbot", Abbot Kevin Smith, "could
21 communicate the bishop on the interests of Brendan in
22 regard to ministry."

23 So they regarded the Abbot General Calmels as
24 telling them that they didn't need to tell the Bishop of
25 Fargo about Smyth's proclivities. That appears to be in

1 spite of the letter from the doctor who saw Smyth in
2 1973 saying that's exactly what they should do.

3 CHAIRMAN: Can we just go back up a page?

4 MR AIKEN: Scroll up, please.

5 CHAIRMAN: Just a little bit. That's fine. It seems the
6 abbot expresses the opinion he would like Father Brendan
7 Smyth to go out of there with a clean slate.

8 MR AIKEN: Clean slate.

9 CHAIRMAN: Then if we scroll down the page -- yes -- there
10 is this somewhat delphic comment about imposing the
11 abbot or telling the abbot of another canonry nearby --
12 when I say "nearby", in American terms -- in the next
13 state.

14 MR AIKEN: Yes.

15 CHAIRMAN: What does he mean I wonder by "Kilnacrott's
16 undertaking"? It could mean one of two things. It may
17 simply mean as a matter of courtesy telling
18 a neighbouring abbot that priests from Cavan are coming
19 not into his area but close to it, no doubt to help them
20 in whatever way they felt appropriate on a fraternal
21 basis. Another view, of course, might be that they were
22 being told about Father Brendan Smyth but the bishop
23 wasn't.

24 MR AIKEN: I think it is likely to be the former, Chairman,
25 in that the Abbot of De Pere had clearly sent priests to

1 the adjoining state of Montana. Now the Kilnacrott
2 Abbey was sending a priest to the neighbouring state,
3 but you are quite right. It is not possible to know
4 whether some other, deeper communication was being
5 shared with the Abbot of De Pere, who may have had some
6 reason to know about Smyth. I'm afraid there is no
7 documents that I have that can assist with that.

8 CHAIRMAN: Yes.

9 MR AIKEN: What we do know -- and we have already looked at
10 this, so I am not going to bring it up again -- but
11 Abbot Kevin Smith, when he replied to Chris Moore in
12 September 1994, told -- and we looked at this passage
13 earlier -- he indicated that he had sent Smyth to the
14 Bishop of Fargo without telling him about his history
15 and that he accepted that that was a very grave error on
16 his part.

17 In paragraph 52 of Father Fitzgerald's statement, if
18 we go back, please, to 829, you will see that -- again
19 it is not entirely clear, and again Mr Egan is kindly
20 trying to assist me with this -- that if you look at the
21 latter part of the paragraph, it is evident that at
22 a later stage the Bishop of Fargo alerted the canonry,
23 Holy Trinity Abbey, Kilnacrott, that there had been
24 complaints, allegations about Brendan Smyth in Fargo
25 and, in fact, in Chris Moore's book he pursues and

1 interviews some of the -- and indeed in the television
2 programme -- individuals that are connected with that.
3 Indeed, there's a suggestion of a very substantial sum
4 of money for a priest with a vow of poverty being sent
5 by Brendan Smyth to one of the individuals in Fargo, and
6 -- but it is not clear from this material as far as we
7 have it at the moment that there was a message coming
8 back at the time in 1983 -- because he spends November
9 '79 through to April '83 in Fargo in North Dakota -- it
10 is not clear there was a message coming back of abuse in
11 1983.

12 It is the case that he clearly at the same time was
13 a popular priest with others, because there are
14 documents that the Norbertines have produced to show
15 that a group of parishioners obtained a -- began and
16 circulated a petition wanting him to stay, because he
17 got into conflict I think over theological grounds with
18 others connected to the school, and clearly amongst some
19 he was seen as popular, but it is certainly the case
20 that it is now known -- it is unclear what was known in
21 1983 -- it is now known that his proclivity continued in
22 Fargo in North Dakota.

23 Now that takes us -- what we are in a position to
24 know is that -- and this will become clear tomorrow --
25 when Smyth comes back, there is more offending. So

1 I was saying to you earlier this morning the period just
2 prior, '77 to '79, involved Smyth being in Nazareth
3 Lodge and abusing there, being in De La Salle and
4 abusing there. He goes off to America, and when he
5 comes back in 1983, then there are a series of matters
6 affecting one particular family in the mid-'80s, which
7 is what ultimately sets off the beginning of the end in
8 1990.

9 What I want to just draw your attention to briefly,
10 so we have the chronology set, is that in 1989 in
11 paragraph 54 Father Fitzgerald alerts -- he describes
12 a meeting that Abbot Kevin Smith had with -- and I am
13 going to use their names for clarity, and they are not
14 to be used outside the chamber -- with the parents of
15 the **FBS 14, FBS 16** children. He meets the parents in
16 an Armagh hotel in early -- either February or the start
17 of March 1989. They explain what has befallen their
18 children, and that is a result of the involvement with
19 FBS9, who spoke to his aunt and uncle about what Smyth
20 had done to him at a much earlier stage in the late
21 '60s/early '70s, and the -- we will look at this from
22 a different angle tomorrow, but at this point if we
23 look, please, at 829 -- sorry. I have got the wrong
24 reference. If we just scroll down so we can see. Just
25 stop there.

1 "On 14th March 1989 Kevin Smith informs a council
2 meeting that Brendan has been involved in certain
3 improper and wrong behaviour in regard to a boy in
4 Northern Ireland. The abbot told those in attendance
5 that he had met with the family and they had outlined
6 their concerns to him."

7 Well, if this is the [name redacted] meeting, they
8 were not just outlining about the single boy.

9 "According to Kevin Smith, the family had told him
10 that they wanted Brendan Smyth to be sent for treatment.
11 This treatment was arranged and Brendan Smyth was sent
12 to a psychiatrist in Dublin by the name of Dr Michael
13 Delmonte in April 1989."

14 Father Fitzgerald then says:

15 "I am told that Brendan Smyth attended Dr Delmonte
16 on a regular basis, initially weekly and then monthly.
17 I am not certain when he stopped."

18 Then he refers to a report that the Norbertines have
19 produced. It is correct that Smyth was sent, as it
20 seems a reaction to this incident coming to Abbot Kevin
21 Smith's attention, to Dr Delmonte, a clinical
22 psychologist in Dublin. He first saw Brendan Smyth on
23 21st April 1989 and he continued to see him as a patient
24 through to 1993 on a regular basis. What is now known,
25 as I was drawing your attention to earlier this morning,

1 is that his abuse, of course, continued as well as his
2 treatment, and he explained that to his treating doctor
3 in Stroud -- that's the Reverend Fitzgerald -- in 1994.
4 That can be found at 912 in paragraph 2 and then 915,
5 the penultimate paragraph. So that's in the medical
6 report that you have from Stroud.

7 Chairman, Members of the Panel, I know that it's
8 approaching 4 o'clock. We have been looking at matters
9 in considerable detail, but I wonder perhaps if we took
10 a short break and then we can try to make some further
11 headway possibly.

12 CHAIRMAN: How much?

13 MR AIKEN: Any more that I make is progress. If we maybe
14 took another half an hour after we took a short break.

15 CHAIRMAN: Well, we need to finish by 4.30. So we will rise
16 at 4.30. So we will take five minutes.

17 (3.55 pm)

18 (Short break)

19 (4.05 pm)

20 MR AIKEN: Chairman, Members of the Panel, we have been
21 looking at Dr Delmonte then, who treated Brendan Smyth,
22 and you have his report from 1994. That treatment began
23 in April 1989 in response to the **FBS 14, FBS 16** family
24 meeting with Abbot Kevin Smyth, but if we can then look,
25 please, at 829, Father Fitzgerald in his statement,

1 paragraphs 55 and 56, records that Bishop Cahal Daly,
2 the then Bishop of Down & Connor, telephones and
3 requests a meeting with Abbot Kevin Smith. You can see
4 that Father Fitzgerald says:

5 "In March 1990 Abbot Smith reported to the council
6 on a meeting he had had with Cahal Daly, then of the
7 Diocese of Down & Connor, in relation to Brendan Smyth.
8 According to the minutes of the council meeting, Bishop
9 Daly had telephoned Kilnacrott to request the meeting,
10 which had taken place on 12th March.

11 At the meeting on 12th March Bishop Daly told Abbot
12 Smith that three of his priests had brought him word
13 that Father Brendan Smyth had been involved in apparent
14 unlawful behaviour with young persons. He also told the
15 abbot of the complaint that had been made by a young
16 girl to the Catholic Family Welfare Society, which he
17 understood had been communicated to the police in
18 Northern Ireland."

19 Now if I can just pause there to set the scene for
20 this, the reference -- what has happened in March 1990
21 is that the **FBS 14, FBS 16** family, who had met with
22 Abbot Kevin Smith the year before in March 1989, have
23 now raised the matter with the Bishop of Down & Connor,
24 and that comes via one of their children telling
25 a social worker who worked for the Catholic Family

1 Welfare Society, and we will see her name in due course
2 is **FBS 47** . Again her name shouldn't be used
3 beyond the chamber. **FBS 47** then reports it to
4 her boss in the Catholic Family Welfare Society. It
5 comes to Bishop Daly's attention. He arranges to talk
6 to Abbot Smith. At the same time **FBS 47** reports
7 the matter to the RUC and thus begins the investigation
8 that the RUC conducts. That goes on until 1996. We
9 will see when we come to look at the detail of that that
10 statements were shortly thereafter take from the
11 children and now as adults FBS9 and FBS10.

12 In his public statement of 5th December 1994, by
13 which time Smyth has been convicted for the first set of
14 convictions in Northern Ireland and is in prison and the
15 story -- the UTV have run a programme in October 1994
16 about Smyth and what was known about him and who knew
17 it, and then in a public statement of 5th December 1994,
18 by now as Cardinal Daly and Archbishop of Armagh and
19 Primate of All Ireland, if we can look, please, at 722,
20 he, that is Cardinal Daly, explained in this public
21 statement -- I want to look specifically at paragraph 6
22 for this purpose, the middle column. He said -- he
23 talks in paragraph 5 about:

24 "On 7th March a formal statement of complaint was
25 made to the police by a member of the same family."

1 This is the we are talking about.

2 "Within the next two or three weeks thereafter
3 statements were made to the RUC by other members of the
4 family."

5 Then he describes in paragraph 6 what he does:

6 "As soon as I was informed about the complaints
7 I telephoned Brendan Smyth's religious superior, Abbot
8 Kevin Smith, who alone had ecclesiastical jurisdiction
9 over him. Because of the gravity of the matters
10 reported to me, I sought a meeting with the abbot. The
11 meeting took place on 12th March 1990. I informed the
12 abbot about the complaints. I told him that a social
13 worker had seen the client and that the allegations of
14 abuse had been reported to the RUC. The abbot accepted
15 full responsibility for Father Smyth and undertook to
16 take prompt and appropriate steps to deal with the
17 matter."

18 Now what is being discussed in the preceding
19 paragraphs is only the incidents to do with the member
20 of the FBS 14 family who spoke to the social
21 worker.

22 You will see, though, if we scroll down to the
23 bottom of 3 and 4, that the cardinal -- then Cardinal
24 Brady (sic) explains how he had already in May 1987 as
25 a result of conversations he had had with the statutory

1 social worker -- this is paragraph 3 -- he had alerted
2 -- the social worker had alerted the cardinal to
3 problems of child sex abuse not in the context of abuse
4 by priests or religious, and he asked the Director of
5 the Down & Connor Catholic Family Welfare Society to
6 ensure the society's social workers had specialised
7 knowledge and skills needed to handle cases of child sex
8 abuse and he instructed priests, should such cases to
9 their attention -- come to their attention, to avail of
10 the services of such trained personnel.

11 "I advised my priests that children who report
12 incidents of this nature should be presumed to be
13 telling the truth and should be treated very
14 sympathetically."

15 Indeed we have in the bundle that guidance being
16 rolled out in 1987 in the relevant newsletter to
17 priests, but you have then the instigation of the
18 particular matter that I have mentioned to you set out
19 in paragraph 4 that was brought to the social worker of
20 the Catholic Family Welfare Society by one of the **FBS 14**
21 children.

22 Then Cardinal Daly goes on to say what he did. He
23 has had this meeting. You have looked at what Father
24 Fitzgerald had to say about the meeting, but if we can
25 look then at the abbot's council minutes of

1 22nd March 1990, which is ten days following the
2 meeting, if we can look, please, at 844. So as far as
3 Cardinal Daly is concerned, he has told them -- told
4 Abbot Smith, who has accepted full responsibility for
5 Brendan Smyth, and he is going to be dealt with. If we
6 scroll down, please. So:

7 "Father Abbot", Abbot Kevin Smith, "offered the
8 council a report on an interview he had had with Bishop
9 Cahal Daly of Down & Connor.

10 Bishop Daly had telephoned to request the meeting.
11 They met at Maynooth.

12 Bishop Daly told Abbot Kevin Smith that three of his
13 priests ..."

14 So this information, if it is correct, is not
15 contained in the press statement, which focuses on the
16 particular individual who has spoken to the social
17 worker, but what Abbot Kevin Smith is recording is that
18 the then Bishop Daly told him that:

19 "Three of his priests had brought him word that
20 Father Smyth had been involved in apparent unlawful
21 behaviour with young persons. A social worker had also
22 given testimony."

23 So that is the reference to the
24 disclosure.

25 "Bishop Daly said he understood the police had been

1 given some information."

2 That's right, because the social worker reported the
3 matter to the police. Then it is said:

4 "Bishop Daly showed himself understanding in the
5 whole matter, acknowledging that other priests have
6 difficulties of this kind."

7 Then it is said that:

8 "Abbot Kevin Smith informed the bishop of
9 Kilnacrott's superiors' endeavours in the matter. Up to
10 very recently Father Smyth, Brendan Smyth, had been
11 attending a course of treatment given by
12 a psychiatrist."

13 So that is Dr Delmonte.

14 "On his return to the abbey Father Kevin -- Abbot
15 Kevin Smith had communicated to Brendan Smyth Bishop
16 Daly's submissions. Brendan Smyth had answered that he
17 was not prepared to accept the truth of any of the
18 recent charges. Brendan Smyth said that he did not
19 envisage any personal danger for himself in returning to
20 Belfast. The Abbot Kevin Smith did not pursue the
21 matter further."

22 So stepping back from this for a moment, what you
23 have is the then well-known Bishop of Down & Connor
24 meeting the head of the Norbertine abbey and telling
25 him, if this note is accurate, that three different

1 priests had brought him word about Smyth's -- it is
2 referred to "in apparent unlawful behaviour with young
3 persons". So to what extent detail was provided is not
4 clear, but he is bringing him that information that
5 three priests are communicating that message to him, the
6 bishop, and then the fourth matter is the

7 disclosure to the social worker. The police
8 have been informed, and what the abbot tells his council
9 is that he put these matters to Smyth. Smyth did not
10 accept them and that's the end of it.

11 At this stage what I am doing is looking at these
12 matters through the lens of the Norbertine Order, not
13 through the lens of Down & Connor.

14 So then we move to February 1991. So that was
15 March 1990. We are moving into February 1991, so eleven
16 months later. If we go back, please, to the public
17 statement that Cardinal Brady gave -- sorry -- Cardinal
18 Daly gave -- that's at 722, please -- and we look at
19 what Cardinal Daly says in paragraphs 8 and 9, if we
20 scroll down, please, he recounts in paragraph 7 the
21 steps that Down & Connor took. Then he says:

22 "In February 1991, by which time I'd gone to Armagh"
23 -- so now he is the Bishop -- Archbishop of Armagh in
24 February 1991 -- "I was contacted by the same family."

25 So that's again the family

1 contacting Archbishop Brady (sic). He says:

2 "I immediately contacted the abbot again" -- this is
3 -- so contacting Kevin Smith again in Kilnacrott --
4 "drawing his attention once more to the complaints of
5 this family and strongly emphasising the need for him to
6 take firm action to deal with Father Brendan Smyth."

7 He then talks about the pastoral step he took of
8 contacting the parish priest at the parish in Belfast
9 where they lived and asking for pastoral support. He
10 then says:

11 "The abbot wrote to me on 21st February 1991. He
12 told me that Father Smyth had denied that there had been
13 any incident of that nature for a couple of years now
14 and that Smyth only goes to Belfast to visit his doctor
15 and otherwise only visits his own family."

16 If we just scroll up, please, so we can see the top
17 of the page. Then he says at paragraph 10 at this stage
18 he learns of the fact the police are investigating the
19 matter.

20 Now it has to be said, looking at it from
21 Kilnacrott's perspective, the Norbertine Order, that
22 there are lots of instances which come to their
23 attention prior, and they are recorded and Father
24 Fitzgerald has explained them. These are reports coming
25 back of what is said to have happened and, as we will

1 "It is not for me to say what action should be taken
2 ...",

3 but nonetheless expressing his view.

4 "I am sorry for raising the matter with you again,
5 but I hope you'll forgive me, since the matters at stake
6 are so grave and might easily become public."

7 Now this is the Primate of All Ireland writing.

8 We can see at 971 the reply that Abbot Kevin Smith
9 makes. He says:

10 "I am in receipt of your good letter of 11th inst.

11 I have spoken to the man in question and he assures
12 me that there has been no incident of that nature for
13 a couple of years now. He only goes to Belfast to visit
14 his doctor, Dr Murphy (at Ballyowen Health Centre,
15 Andersonstown) and the Royal Hospital. Otherwise he
16 only visits his own family. For his therapy he goes
17 twice monthly to St. James Hospital, Dublin, and he
18 assures me that it is helping him. I have made him
19 aware of the contents of your letter and also asked him
20 to be prudent in the matter.

21 With every good and kind wish."

22 So you have -- we can see from the minutes back in
23 1978 the suggestion of taking the car from him and yet
24 this is thirteen years later. The -- he is driving and
25 the response that the then archbishop gets is, "Well, he

1 says that he's only visiting and he's not committing
2 offences".

3 It may be that -- and I can't give you any material
4 that shows otherwise -- it may be that that at that
5 point in time was an accurate description from Smyth as
6 to his position, but the question that the Panel may
7 want to ask is whether, even if that was accurate at
8 that point in time, this position should ever have been
9 arrived at where this type of discussion was taking
10 place and the man was travelling unaccompanied to
11 Belfast.

12 There is no record in the abbot's council minutes
13 recording that the Primate of All Ireland had written in
14 this way to the Norbertine Abbey. Instead the minutes
15 of 8th April -- and with this I will finish this evening
16 -- if we look at 845, please, finishes with what you
17 might consider, Members of the Panel, is a truly bizarre
18 entry. If we scroll down, please, to that of 8th April
19 1991, you will see that it is said:

20 "Council acknowledged with gratification the happy
21 outcome of the difficulties between Father Brendan and
22 parties in Northern Ireland."

23 So it seems, however this has come about, that in
24 spite of the letter that was written two months
25 previously by the Primate of All Ireland the abbot's

1 council are pleased to acknowledge that these
2 difficulties that Brendan Smyth was having with parties
3 in Northern Ireland have been resolved.

4 CHAIRMAN: Can we just scroll down to the next page? So
5 they were actively considering sending him back to the
6 United States?

7 MR AIKEN: Yes.

8 CHAIRMAN: At least one priest seems to have felt it was
9 appropriate that if that happened, the bishop should be
10 told that Father Brendan, as it is put, "has a problem".

11 MR AIKEN: Yes, a personal weakness.

12 Now what I want to do just, and I say this in
13 closing today, so that I ask the Panel a question
14 perhaps, if you would reflect on it, perhaps
15 a fundamental question -- because there's a danger that
16 one might consider today through the eyes of today. One
17 instance of what we looked at in a different context
18 might have been a resigning matter for someone of not
19 dealing properly with this type of event. There's
20 a danger because we have seen over a very long period
21 a litany of such events that they become normalised.

22 The question I want to ask is -- the Inquiry will
23 wish to consider is, given the Inquiry must consider
24 decisions at the time they were made rather than with
25 the benefit of hindsight, is how it is that many

1 individuals that we have seen or will come to see were
2 involved in the life of Smyth and were aware of his
3 activities thought as they appear to have thought at the
4 time. By that I mean if you are satisfied that certain
5 individuals genuinely thought they were doing the right
6 thing with Smyth and not choosing to deliberately fail
7 in their duties, how could it have been that otherwise
8 decent and influential people in our society ever came
9 to think like that?

10 There is one last aspect to the Norbertine story
11 that relates to Kevin Smith. I will pick that up in the
12 morning.

13 CHAIRMAN: Can we just go back to page 844? Just scroll up
14 to it. Scroll down a bit further. What happened about
15 the hospital chaplaincy? Is that when he went to Cork?

16 MR AIKEN: Yes, I think he did. I will try and get some
17 clarity on that.

18 CHAIRMAN: Well, on that note we will adjourn for today and
19 resume tomorrow morning.

20 (4.30 pm)

21 (Inquiry adjourned until 10 o'clock tomorrow morning)

22 --ooOoo--

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