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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 Tuesday, 23rd June 2015

commencing at 10.00 am

(Day 131)

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

1 Tuesday, 23rd June 2015

2 (10.00 am)

3 CHAIRMAN: Good morning, ladies and gentlemen. Can I just  
4 remind everyone, as always, to ensure that mobile phones  
5 have been turned off or placed on "Silent"/"Vibrate".  
6 I~must also remind you that no photography is permitted  
7 anywhere on the premises or indeed within the Inquiry  
8 chamber, and, of course, from time to time inevitably  
9 some names may be mentioned in the chamber where it  
10 would otherwise be difficult or impossible to follow  
11 what is being said. Where those names are covered by  
12 the Inquiry's designation policy, they cannot, of  
13 course, be used or repeated in any way outside the  
14 chamber.

15 Mr Aiken.

16 Opening remarks by COUNSEL TO THE INQUIRY (cont.)

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

18 We, as you know, covered a lot of ground yesterday with  
19 a lot of complex detail. I am afraid there is more to  
20 come today.

21 When we finished last evening, we had taken a little  
22 time to look at the then Cardinal Daly's public  
23 statement of 5th December 1994. If we can bring up,  
24 please, page 722 so we can remind ourselves of the  
25 statement. In it post-Smyth's first set of convictions

1 in Northern Ireland the cardinal was setting out what he  
2 knew of the affair and what steps he took, and arising  
3 out of this we looked at an exchange of correspondence  
4 between the then Bishop Daly and Abbot Kevin Smith.

5 So this statement was promulgated on 5th  
6 December 1994. It is a statement that didn't go down  
7 well with everyone in that the Archdiocese of Armagh has  
8 provided the Inquiry with a copy of a letter that  
9 Brendan Smyth sent to Cardinal Daly of  
10 6th December 1994. So the material that we looked at  
11 yesterday in terms of the summary and the interviews and  
12 some of the behaviour that we began to see demonstrated  
13 the manipulation, the grooming-type behaviour, but also  
14 through the medical reports we can see someone with the  
15 propensity of Smyth, the lack of insight that there was  
16 for someone in that situation in terms of their  
17 behaviour.

18 If we take a look at the letter he wrote -- it is at  
19 10504, please -- you will see it is written from  
20 Magilligan Prison. It is dated in the top right corner  
21 6th December 1994. It is written:

22 "Eminence."

23 In the cardinal's statement he was referring to the  
24 damage that Smyth had done to his victims and to the  
25 church. He said:

1            "It has been drawn to my attention that you recently  
2            stated, 'Father Brendan Smyth has done severe damage to  
3            the church'. If you have been misquoted, then please  
4            ignore this letter and destroy it. If you have not been  
5            misquoted, then I wish to express my anger and disbelief  
6            that a person with your lofty intellectual  
7            qualifications could possibly have made such  
8            a statement. Whatever my sins and failings, and they  
9            are many, it is not they but the media reporting of them  
10           which has created an atmosphere of mixed shame and  
11           embarrassment for the superficial Catholic and, need  
12           I say it, I did not in any way create or encourage the  
13           media extravaganza; rather the contrary. I pleaded  
14           guilty to wildly exaggerated and in some instances false  
15           charges to try to limit media coverage. In that I admit  
16           I failed dismally. As a moderately informed Catholic  
17           Christian I do not believe that it is possible for  
18           anyone to damage the church. The church is God's gift."

19           He goes on to talk about how the church cannot be  
20           damaged by anyone. He says:

21           "The present unsavoury tempest is a testing, trying,  
22           proving experience from which the church will emerge  
23           renewed and, if possible, strengthened."

24           There may be something in those words in terms of  
25           the witnesses have explained the significant changes

1 that have taken place in the church in terms of  
2 safeguarding, but I am not sure that's the reason that  
3 the author of the letter was referring to, but it gives  
4 you an idea into the mindset of someone in this type of  
5 cycle of behaviour.

6 I am going to shortly -- we had been looking  
7 yesterday, and this is, as you know, a complex picture  
8 -- we'd looked at the strand of the picture that relates  
9 to the Norbertine Order and we have been looking at  
10 Abbot Kevin Smith.

11 In the context of insight I am going to just show  
12 you three further entries from the council minutes at  
13 this point. We were looking at them yesterday. These  
14 come from 2... -- sorry -- from 1994.

15 The first is of 12th April 1994. So Smyth has not  
16 yet pleaded guilty in court. That takes place in June.  
17 If we look, please, at page 857 and the second  
18 paragraph, if we just -- yes, it is of 12th April 1994.  
19 We can see that on the page before, 856, but here in the  
20 second paragraph we can see:

21 "Father Abbot said he felt no personal guilt on  
22 Father Brendan Smyth's case. He said that over the  
23 years he had spoken many times to Father Brendan Smyth,  
24 made recommendations to him, warned him. At one time  
25 some years ago he had contemplated withdrawing car --

1 his car from Father Brendan Smyth, but in this way he  
2 was not supported by abbot's council."

3 You will recall there was at one stage a discussion  
4 in late 1978 and it was not clear what that was  
5 necessarily responding to. I suggested you might read  
6 into the document it is obviously something that  
7 required a car to facilitate, but the abbot, Kevin  
8 Smith, is saying at this point that he felt no personal  
9 guilt for how he had handled the matter.

10 Then on 24th May 1994, which is at page 861, this is  
11 at paragraph 4. There had been discussion of the Abbot  
12 Kevin Smith's own role and it is recorded in the  
13 council minutes:

14 "He did not see why he should be made the bearer of  
15 responsibility in respect of the Father Brendan Smyth  
16 case. He had taken care and trouble over the welfare of  
17 this confrere, at times obtaining for him specialists'  
18 attention. He had sought to debar Brendan Smyth's use  
19 of a car but had not obtained support of abbot's council  
20 for this measure."

21 It seems there was another abbot bringing some  
22 pressure to bear from outside the abbey on a course that  
23 that abbot considered Abbot Kevin Smith should take.

24 There is not in the council minutes the recording of  
25 the actual resignation of Abbot Kevin Smith, but we

1 know --

2 CHAIRMAN: Can you just scroll up to the page beyond that?

3 MR AIKEN: Can we just scroll up, please? Scroll up  
4 a little further.

5 CHAIRMAN: Where it says "Father Abbot's personal role".

6 MR AIKEN: You will note the last sentence that we are going  
7 to be coming to for a different reason in due course,  
8 but at this point -- it's something we can ask Father  
9 Fitzgerald about, but it doesn't seem to have been  
10 necessarily a unique problem to Brendan Smyth and the  
11 Holy Trinity Abbey.

12 CHAIRMAN: Just up a little bit further. Yes. Thank you.

13 MR AIKEN: Then as part of Operation Overview -- and the  
14 Panel will have heard me on a number of occasions, in  
15 Module 3 many occasions, describing Operation Overview,  
16 which was the police investigation of 1995 that  
17 encompassed 29 cases, case 29 of which was looking at  
18 children's homes. Cases 1 to 28 was looking at various  
19 members of the clergy and their sexual offences.

20 One of the Operation Overview cases -- in fact, it  
21 was case 1 of 29 -- looked at the behaviour of Abbot  
22 Kevin Smith in relation to his handling of Brendan Smyth  
23 and whether the Abbot Kevin Smith should face  
24 prosecution.

25 In this context on 21st November 1994 the father of

1 one of the first victims made a statement to the RUC  
2 about his meeting with Abbot Smith in early 1989. You  
3 heard me talk about that meeting earlier in the  
4 chronology to do with the Norbertines. That takes place  
5 in March 1989 in an hotel. According to the  
6 parent in the statement, which can be found in the  
7 bundle at 32114 through to 32116, and then his wife's  
8 statement can be found at 32108 and 32109, he records  
9 that Abbot Kevin Smith wrote down the details of the  
10 abuse the parents were disclosing, but according to the  
11 father, he didn't seem concerned. The parent reports in  
12 a statement that Abbot Kevin Smith informed the parents  
13 that Abbot Kevin Smith had been told about Brendan  
14 Smyth's abuse in as early as 1971.

15 Now there an accuracy to that, whether that's the  
16 first time he knew, but certainly we saw yesterday  
17 reference to incidents in 1971.

18 What I will ask you to note is that the children  
19 that this set of parents had gone to talk about Smyth's  
20 abuse to Abbot Kevin Smith about were not even born when  
21 Abbot Kevin Smith first claimed to those parents to have  
22 been aware of Brendan Smyth's propensity.

23 He also told them, according to the parents'  
24 statements, that he had arranged treatment for him and  
25 it was progressing well. He was to contact them later



1 in the year, and then the father of the child says he  
2 didn't bother. That can be found at 32108.

3 The same dad, though, does record that he got  
4 an angry phone call four years later around Christmas  
5 1993 from **FBS 52** from Holy Trinity Abbey, who  
6 is since deceased, who apparently said that he and Abbot  
7 Kevin Smith would meet the family to sort something out.  
8 It is said that he, according to the dad of the children  
9 -- **FBS 52** is claimed to have said that the  
10 parents were doing the Catholic Church a lot of harm.  
11 That reference can be found at 32109.

12 Now the fact of this exchange is borne out by the  
13 letter of 26th September 1994 that Abbot Kevin Smith  
14 sent to Chris Moore. The letter is at 975 through to  
15 977. If we can look, please, at 977 and the second  
16 paragraph, you can see:

17 "With my approval in December 1993 **FBS 52** ,  
18 one of our community, telephoned the father of one of  
19 the young people against whom Father Smyth had offended.  
20 Our purpose was to arrange a meeting with the young  
21 person's father to discuss Father Smyth's offending and  
22 its possible consequences for the victim and the  
23 community."

24 So there is from Abbot Kevin Smith himself  
25 corroboration of the exchange that the parent was saying

1 had taken place, and earlier in the same letter Kevin  
2 Smith talks about meeting the parents in 1989.

3 This letter, as you know, was written to the  
4 journalist who ultimately authored the book "Father  
5 Brendan Smyth" -- called "Betrayal of Trust: The Father  
6 Brendan Smyth Affair and the Catholic Church". He had  
7 been pursuing the Abbot Kevin Smith for answers to  
8 a series of questions about Smyth's behaviour and what  
9 was known about it and when.

10 In that same letter of 26th September -- I am not  
11 going to open it all now to you -- he set out for Chris  
12 Moore a series of revelations -- at that time they were  
13 revelations -- about Smyth and the abbot's own conduct.

14 The letter confirmed that Smyth's abuse of children  
15 began early in his religious life. That's at 975. That  
16 in those days frequent reassignment was the way the  
17 church handled paedophile priests. That's also at 975.

18 He explained then the medical treatment that they --  
19 he and the Order had sought for Smyth in 1968, 1973 and  
20 institutional treatment in 1974. That's at the bottom  
21 of 975 and moving on to 976.

22 He explained in the second paragraph on 976 that --  
23 you can see this on the screen:

24 "Father Smyth's behaviour has perplexed and troubled  
25 our community over many years. We always hoped that

1 a combination of treatment, Father Smyth's intelligence  
2 and the grace of God would enable Father Smyth to  
3 overcome his disorder. We did not adequately understand  
4 the compulsive nature of his behaviour or the serious  
5 and enduring damage which his behaviour could cause."

6 We looked yesterday at the paragraphs two further  
7 down where the abbot indicated that on two occasions  
8 Smyth had been sent to America without the receiving  
9 bishop being told of his propensity and that on both  
10 occasions further offending had occurred.

11 He claimed then in 977, if we scroll on to the last  
12 page, the third paragraph, that he was not aware that  
13 the RUC or the Garda were pursuing Smyth.

14 Now to what extent that's correct, because you saw  
15 yesterday a reference in the council minutes in 1991, a  
16 welcoming from the council that the difficulties with  
17 parties in Northern Ireland appeared to have been  
18 resolved. What that exactly means is not entirely  
19 clear.

20 But that's what the Abbot Kevin Smith was explaining  
21 to Chris Moore in 1994. Obviously there is a lot of  
22 accuracy that is now capable of being shown to the  
23 Inquiry about the content of the factual matters in this  
24 letter in terms of what Abbot Kevin Smith did know.

25 In April 1997 he travelled voluntarily to Northern

1 Ireland for the police to interview him. By that stage  
2 he had resigned. He had resigned, as I said, at the end  
3 of 1994, and his interview runs from 32129 through to  
4 32141.

5 He was asked -- if we can bring up 32139, please, he  
6 was asked by the police:

7 "Q. When ..."

8 If we can just scroll down, please, to the  
9 questions:

10 "Q. When did you first become aware of his criminal  
11 activity, that is his interfering with children?"

12 He says:

13 "In 1989."

14 He talks about the meeting with the family in  
15 Armagh.

16 "Q. What did they tell you?"

17 He is asked about that. Then he is asked:

18 "Q. Are you saying ..."

19 This is the fourth question down:

20 "Q. Are you saying this was the first time that you  
21 were aware that Father Smyth was interfering with  
22 children, North or South?"

23 **A. Yes."**

24 **Now it is difficult to say anything other than**  
25 **that's simply a lie told to police officers in Northern**

1 Ireland who were investigating the abbot's -- former  
2 abbot's behaviour.

3 He explains, if we look slightly further down, that  
4 the reason why he didn't consider -- he was asked:

5 "Q. As a result of what you were told", in this  
6 particular case at the start of the 1990s, "being  
7 mindful of the fact that you were in [Northern Ireland]  
8 at the time you were told it", because he was in Armagh,  
9 "did you consider reporting this to the authorities?"

10 A. No, because I did not realise it was a criminal  
11 offence and if I had realised that it is a criminal  
12 offence, I would have reported it. At that time  
13 I didn't know what paedophilia was."

14 He goes on to explain that the family wanted Smyth  
15 to have treatment and that he had then arranged that, as  
16 you know, Dublin hospital with Dr Delmonte.

17 When asked if that was the first time he had  
18 received treatment for his problem, the answer given to  
19 the police officers was:

20 "Yes, it was."

21 Then if we move over on to the next page of the  
22 interview, he explains to the police towards the bottom  
23 of the page what he considered his responsibilities  
24 were:

25 "Q. Is there anything you want to say in relation

1 to your responsibilities for Father Smyth?

2 A. My responsibilities is a spiritual one.

3 I wouldn't say to anybody you were a paedophile or  
4 committing adultery or stealing or whatever. That was  
5 for the civil authority.

6 I would like to add that at the time I met the  
7 family if I realised what they were telling me was  
8 a criminal offence, I would have encouraged and  
9 facilitated them to report the matter to the police."

10 Now the RUC were in no doubt that the abbot -- the  
11 former abbot had simply lied to them about the state of  
12 his knowledge of Smyth's criminality when interviewed by  
13 the RUC on 30th April 2007. The reference for that is  
14 at 32103.

15 Detective Inspector O'Sullivan, who was heavily  
16 involved in the Smyth Inquiry, summarised the view of  
17 the RUC in 1997 in respect of the behaviour of Abbot  
18 Kevin Smith as follows when he said -- if we can look at  
19 32175, please. Just scroll down, please. So the  
20 officer was clearly of the view that there had been  
21 a failure to report offences to the civil authorities  
22 and that appropriate action should be taken.

23 I am going to break off from the Norbertine Order at  
24 this point. Obviously what I have had to do is in  
25 a very condensed form set out a summary of the occasions

1 when knowledge of Smyth's abuses came to the attention  
2 of his superiors.

3 Stepping back from it for a moment, you are aware  
4 from the work that we did yesterday that that was  
5 potentially a number of people involved with Smyth right  
6 at the beginning of his career. It was the first abbot  
7 of the now autonomous from 1954 Holy Trinity Abbey,  
8 Abbot Colwell. It then was Abbot Kevin Smith. You have  
9 seen in the council minutes that it was also Abbot  
10 General Calmels, with whom the matter was discussed, who  
11 said "No, the second bishop to America shouldn't be  
12 told". So -- and you have from Father Fitzgerald  
13 a disclosure that there was a whole series of  
14 individuals within the community who were able to  
15 contribute to explaining various times whenever  
16 offending had come to the attention of members of the  
17 Order.

18 Stepping back from that broad canvas, I pose this  
19 question to the Panel at this point as we move on to  
20 look at what those in the wider Roman Catholic Church in  
21 Northern Ireland knew, and it is this. It may be  
22 through the eyes of 2015 that the Panel will have looked  
23 on with incredulity as what I have laid out has been  
24 considered. It is undoubtedly the case that today one  
25 failure of the type that we were looking at to deal

1 properly with a situation of this sort would lead to  
2 a veritable storm.

3 Witnesses have already said to the Inquiry that we  
4 are looking at events from an entirely different time,  
5 when there was a different or indeed lack of  
6 understanding about the sexual abuse of children and its  
7 effects, when there was a lack of knowledge or guidance  
8 about how to deal with it, when today's perhaps natural  
9 inclination to report matters to the civil authorities  
10 was not part of the psyche of the church or indeed the  
11 population in general.

12 The Panel will want to consider whether, bearing all  
13 that in mind, there can be any justification for the  
14 chronology that I have just laid out, because the  
15 inevitable consequence is that not one of the children  
16 in the children's homes that we have been looking at in  
17 this Inquiry would have been abused if the opportunities  
18 that were presented to deal with Smyth's behaviour had  
19 been taken. The issue for the Inquiry is whether what  
20 was done or not done, looking through the eyes at the  
21 time those events were occurring, whether those were  
22 systemic failings by the Order.

23 I am now going look at the position of the Diocese  
24 of Kilmore, in which Holy Trinity Abbey was situated.  
25 Father Francis John MacKiernan was appointed Bishop of



1 Kilmore on 11th October 1972 and he remained in that  
2 role for 26 years until his resignation on 16th  
3 October 1998. He was born on 3rd February 1926. He was  
4 ordained a priest for the Diocese of Kilmore on 17th  
5 June 1951, aged 25. After a short spell as curate at  
6 St. Malachy's in Belfast he spent the next ten years  
7 teaching in St. Patrick's College, Cavan, where he had  
8 also been a student. It is there it appears that he was  
9 a student alongside Abbot Kevin Smith. When he became  
10 Bishop of Kilmore in October 1972, he was aged 46. When  
11 he resigned in 1998, he was aged 72. He died on  
12 23rd December 2005 at the age of 79.

13 In his statement to the Inquiry Father Donal Kilduff  
14 on behalf of the Diocese of Kilmore -- the statement is  
15 at 742 through to 749 -- has explained a number of  
16 incidents that the Diocese of Kilmore can say came to  
17 the attention of the then Bishop MacKiernan.

18 They deal with one of those at paragraph 7(a), if we  
19 can look, please, at 744, and this is a matter relating  
20 to an individual called FBS 44 . His name should  
21 not be used outside the chamber. It relates to the  
22 period 1957. You can see at 7(c) -- I said 7(a). My  
23 apologies. 7(c):

24 "The third is an allegation by a man called FBS 44"  
25 -- or that is how he became known; his name is FBS 44

1 FBS 44 -- "now in his 70s and living in England, that he  
2 was abused by Brendan Smyth when he was an altar server  
3 in Kilnacrott around 1955. I understand this allegation  
4 may be the subject of legal proceedings."

5 Then you will see the last sentence:

6 " FBS 44 " -- it should be "FBS 44" rather than  
7 "Smith" -- indicated that he told his then teacher at  
8 that time, Father MacKiernan", later the Bishop.

9 He says:

10 "There are no documents to support this."

11 Now that is amplified further in paragraph 15, if we  
12 look at 747, please, where Father Kilduff explains that  
13 as a result of carrying out a detailed review of  
14 material held by the diocese they were in a position to  
15 say that they had received this allegation in May of  
16 2012.

17 This gentleman explains he was abused by Smyth when  
18 he was 11 or 12, around 1955, and what he said he told  
19 the then Father MacKiernan.

20 Now he provided a seven-page letter to the Diocese  
21 of Kilmore. There is an implication in it that he was  
22 then coming to meet with them. I have not as yet seen  
23 any record of a meeting, if that took place, but the  
24 seven-page letter of 22nd May 2012, I am just going to  
25 show you it, and then I am going to give you a typed

1 copy of the extracts that I want to draw to your  
2 attention.

3 So if we can look, please, at 763, so you can see  
4 the nature of the handwriting. So it would be  
5 time-consuming now to try and read through the letter.  
6 So what I am going to do is hand up a typed copy of the  
7 extracts that I am going to refer you to as I summarise  
8 the letter, and I am also giving you the letter in hard  
9 copy with the relevant parts highlighted. Perhaps as  
10 I name the pages if they could be scrolled through too,  
11 that would be helpful.

12 I am going summarise the letter in -- at 764  
13 this gentleman explains how his family moved to the  
14 area and his mother got him a role as an altar boy  
15 at Holy Trinity Abbey, where he met Brendan Smyth. He  
16 actually provided a photograph, which I am going to show  
17 you, if we can look, please, at 771. It was  
18 a photograph taken at Holy Trinity Abbey, and he has  
19 marked on another page and listed out who each of the  
20 individuals are, and number 4 towards the top left  
21 corner he points out is Father Brendan Smyth.

22 He asks the question at the end of the letter, which  
23 is at 769, as to how many of these children hold  
24 a secret, as he put it, but he explains at 764, if we go  
25 back to that, please, that he was 11 or 12 when he first

1 became aware of Smyth interfering with children, though  
2 he didn't know that was what it was at the time. He  
3 says -- he describes peeping through curtains of  
4 a particular room where he saw Smyth interfering with  
5 a girl. He says he knew it wasn't right.

6 Then he describes on 765 when Smyth first approached  
7 him and getting him to touch him until Smyth ejaculated.  
8 After a few days he explains, as we move through on to  
9 766, he told his mum about what he had seen. He  
10 specifically says in the letter he told his mum about  
11 what he had seen happening to the girl as opposed to  
12 what had happened to himself. He described how his mum  
13 -- if we just scroll up a little -- didn't believe him  
14 and said to him that he had the devil in him and  
15 threatened to take him to the bishop.

16 On the same page then he explains telling his dad,  
17 and that's the piece that's highlighted at the top at  
18 the moment, who did believe him, but told him not to  
19 mention it again, because if he did carry on, they --  
20 presumably the people -- would come in a van and take  
21 him to Monaghan and declare him insane.

22 So if -- obviously we are taking it from the  
23 letter -- if this is accurate, it might assist you with  
24 the type of mindset, of thinking that may have been the  
25 case certainly in this particular instance at the time.

1           Then he explains in 766, which is the large passage  
2           that's highlighted, that when he went to St. Patrick's  
3           in Cavan, he found the then Father Francis MacKiernan,  
4           a man he could talk to. He describes how he felt that  
5           he as in -- he felt Francis MacKiernan, who he spoke to,  
6           did believe him, because he said to him, according to  
7           this man in the letter, that he would look into it.

8           He then describes in the rest of the passage and  
9           over on to the next page being expelled from school,  
10          because he was considered a bad influence on the rest of  
11          the pupils, considering that a high percentage would go  
12          on to be ordained as priests. Now it is not clear if he  
13          is saying he was expelled arising specifically from what  
14          he told Father MacKiernan or if there were some other  
15          matters that were the subject of this, but it is one  
16          interpretation of the way the letter is framed, because  
17          it is the only subject that was being discussed in the  
18          letter, this disclosure of the abuse.

19          He then dates you will see on 767 his conversation  
20          with Father MacKiernan as happening in 1957. He  
21          explains on 768 how he goes on to eventually disclose  
22          the abuse to his wife in 1961, but otherwise kept  
23          silent, and then how he came to feel empowered to write  
24          about what happened when he was given an iPad and was  
25          able to see the story of FBS38 being , and that

1           caused him to feel that if FBS38 had been -- if he had  
2           been stronger, ie the author of this letter had been  
3           stronger, in 1955 and '57, or if the people that he told  
4           had done something at that time, those years of abuse to  
5           a lot of children, including FBS38, who had sparked his  
6           guilt, could have been avoided. Then he says, as you  
7           will see, what chance did he have? Who would have  
8           believed him?

9           So on a number of levels this is the type of  
10          communication that obviously has been coming out of the  
11          woodwork for various dioceses at various points in time.  
12          This is one that is said to involve the then Father  
13          Francis MacKiernan, because, as I said to you earlier,  
14          Francis MacKiernan then becomes Bishop MacKiernan in  
15          1972 at the age of 46.

16          In paragraph 7(b) of Father Kilduff's statement he  
17          reveals to the Inquiry again something which would have  
18          been new and was not something the Inquiry was aware of  
19          from any other material that it had gathered.

20          If we look, please, at 744, on behalf of the Kilmore  
21          Diocese he explains:

22                 "The second was a report by a priest,     FBS 49  
23                 FBS 49 , who told me that he had received a complaint  
24                 from a woman around 1973 that her 14-year-old daughter  
25                 had been abused by Brendan Smyth.                 FBS 49

1 said he informed Bishop MacKiernan about the alleged  
2 abuse."

3 Then if we move over to 746, please, paragraph 14,  
4 Father Kilduff says this:

5 "There is some evidence that Bishop MacKiernan may  
6 have been aware of Brendan Smyth's activities earlier  
7 than 1975" -- we're going to come to that -- "but there  
8 is no contemporaneous record of it in the archives of  
9 the diocese. A priest of the diocese, FBS 49

10 FBS 49 , says that he reported a complaint made to him  
11 by a woman -- he can't recall her name -- in the ,  
12 area that her daughter was abused by  
13 Brendan Smyth when she was about 14. FBS 49

14 FBS 49 said that the bishop reported it to the Abbot  
15 of Kilnacrott, who told the bishop that he would send  
16 him to a psychiatrist. According to FBS 49

17 FBS 49 , Bishop MacKiernan, Bishop Francis MacKiernan,  
18 sent a letter to him for him to give to the lady telling  
19 her that the Abbot of Kilnacrott had told him", the  
20 bishop, "that Father Smyth had been treated by  
21 a psychiatrist and that she could be assured this would  
22 not happen again. He said he passed the letter on to  
23 the lady. We can find no record of that letter in our  
24 records and the priest did not keep a copy. As he  
25 cannot recall this lady's name, we cannot trace this

1 matter any further at present."

2 Now we did see yesterday and I suggested to you  
3 perhaps an entry from 1973 that might relate to this,  
4 but it is not possible to be certain about that.

5 In light of what was said in Father Kilduff's  
6 statement and the fact that there was no documentation  
7 from which it could be substantiated, the Inquiry sought  
8 a witness statement from FBS 49 , and  
9 although again he is not within the jurisdiction of  
10 Northern Ireland, he voluntarily provided that statement  
11 for the assistance of the Inquiry. That statement is of  
12 11th June and it can be found at 816 and 817 in the  
13 bundle.

14 Now if we look, please, at 817, you will see that he  
15 is able to date this happening he believes in 1973,  
16 because it was while he was serving in the  
17 earlier -- area and he left that area in 1974.  
18 Therefore he says it would have been in and around 1973.

19 At paragraph 4, if we scroll down, please, you will  
20 see that what he discloses to the Inquiry is this:

21 "The woman told me how she had recently suffered the  
22 death of her husband, a young man, and how she was left  
23 with a young family to rear. Brendan Smyth had  
24 befriended her during that difficult time. She told me  
25 that Brendan Smyth suggested taking her 14-year-old



1 daughter to Dublin with him."

2 As you will know from police material, that is  
3 something he would have done:

4 "... taking her ... to Dublin with him, I suppose as  
5 a treat, how she had given her consent, feeling  
6 confident that her daughter was safe and not wanting to  
7 refuse him. They had stayed overnight at the  
8 Hotel. He had slept with the girl and had had sexual  
9 intercourse with the young girl."

10 Now this is obviously what FBS 49  
11 recollects that he was told and he is recounting that in  
12 his witness statement. He said he was:

13 "... shocked and enraged.

14 I told her that what Brendan Smyth had done was  
15 a criminal offence."

16 You may regard that as, if FBS 49 's  
17 recollection is accurate, then in 1973 a priest, not the  
18 bishop, but a priest was recognising that -- what was  
19 being described as a criminal offence:

20 "I asked if she had informed the Guards. She looked  
21 at me in dismay at the suggestion of the Guards and  
22 replied, 'I thought that I could come to you in  
23 confidence. I'm in enough trouble as I am. I couldn't  
24 take any more'. The woman was distraught. Her words  
25 cut through me. I could not make her situation worse.

1 I was still concerned for the welfare of her daughter.  
2 I asked her if she had brought her daughter to the  
3 doctor. She replied 'No'. I asked her to take her  
4 daughter to the doctor and to tell him what happened.  
5 I was worried that she might be pregnant. Besides, the  
6 doctor might be able to help the girl. He might know  
7 what to do. I was not remotely qualified to deal with  
8 something like that. The mother agreed to take her  
9 daughter. (Whether she did or not, I do not know.)

10 I told her that I had no choice but to report the  
11 matter to the bishop. An assault of this kind on  
12 a young girl by a priest had to be reported to the  
13 church authorities. My immediate authority was the  
14 bishop. Brendan Smyth's authority was the abbot. I was  
15 amazed at the poor woman's compassion for a man who had  
16 perpetrated such an evil deed on her daughter. She said  
17 to me not just once but three our four times, 'I do not  
18 want him to get into trouble'. She also said, 'I do not  
19 want it to happen to someone else'. I told her that  
20 I would report the matter to the bishop and tell him  
21 also what she had said. I do not remember any more  
22 about the conversation. I remember the above because it  
23 had such an impact upon me."

24 Then asked -- the Inquiry posed him a number of  
25 questions.

1           "How he knew he was obliged to tell Bishop  
2           MacKiernan about what he had been told."

3           He said:

4           "My anger would not allow me to rest. This man had  
5           criminally assaulted a young girl. His superior must be  
6           informed. He must be confronted with his actions. He  
7           must be held to account, and as far as I was concerned  
8           he must be disciplined. There was no choice in this  
9           matter.

10          What exactly he told Bishop MacKiernan.

11          I told the horrible story to Bishop MacKiernan as  
12          I have related it above. He took it seriously and said  
13          that he would deal with it. I do not remember either  
14          the circumstances of our conversation, nor the  
15          conversation itself. I passed on all I knew and did it  
16          immediately.

17          What Bishop MacKiernan told him he would do about  
18          it.

19          He said he would get in immediate contact with the  
20          abbot."

21          At this stage that is Abbot Kevin Smith.

22          "What further communication            FBS 49            had  
23          with the family who made the disclosure and what he told  
24          them.

25          The bishop came back to me in approximately ten days

1 insofar as I can remember. I was told that Brendan  
2 Smyth had been brought to a psychiatrist in Dublin, that  
3 he was receiving treatment, and an assurance was given  
4 that this kind of thing would never happen again.  
5 I accepted that response in good faith. I was happy  
6 that Brendan Smyth was receiving professional help.  
7 I was happy too with the promptness with which the  
8 matter had been dealt. I conveyed the response to the  
9 mother. I think I was given a letter. I am uncertain.  
10 I never heard from her again.

11 Why did you not report the matter to the civil  
12 authorities?

13 'I thought that I could come to you in confidence.  
14 I'm in enough trouble as I am. I couldn't take any  
15 more." I agreed that this woman was in no position to  
16 take any more pressure or trouble. Despite my personal  
17 feelings, I respected her wishes."

18 Then he says:

19 "No victim ever came to me to report anything about  
20 Brendan Smyth. More than 20 years later some stories  
21 emerged, but it was hearsay."

22 You will recall yesterday that we were looking at  
23 the fact that in 1973 Brendan Smyth was sent to  
24 St. Patrick's Hospital in Dublin. I postulated the  
25 question whether what paragraph 42 of Father

1 Fitzgerald's statement showed about something taking  
2 place in 1973, although it not being clear what that  
3 was, and suggesting that the entry which is at 837 in  
4 the council books may -- if we just look at 837, please,  
5 the entry of May 1973, you can see:

6 "The council was now asked by Abbot Kevin Smith to  
7 enter into consultation for the personal and private  
8 case of a particular confrere against whom a complaint  
9 had been received from outside the Abbey and for the  
10 remedies that could be taken."

11 Now obviously it is speculation as to whether those  
12 two entries match up, because the missing link is any  
13 record of Bishop Francis MacKiernan receiving the  
14 complaint from his bishop -- from his priest, <sup>FBS 49</sup>

15 FBS 49 , and then taking that complaint to Abbot Kevin  
16 Smith.

17 The Diocese of Kilmore have not been able to produce  
18 any record in the diocesan archives about this  
19 particular incident. So the Inquiry only has knowledge  
20 of it because FBS 49 has set out his  
21 recollection of what happened.

22 If the recollections of FBS 49 are  
23 correct, the issues that the Panel might like to  
24 consider is: why is there no record of it in the  
25 diocese? It was, whether it be correct or not,

1 a communication that rape had occurred. Why was that  
2 not reported?

3 FBS 49 has given his explanation for why  
4 he did not feel able to report it, but then his boss, as  
5 it were, the Bishop of Kilmore, is being told, and

6 FBS 49 is saying that he told him exactly  
7 what he had been told.

8 There, in addition, doesn't appear to have been any  
9 sanctions imposed by the bishop. We will see that by  
10 1975 a different course was taken, but in 1973 or  
11 whatever the precise date of this particular incident  
12 involving FBS 49 whatever the date of it,  
13 there doesn't appear to be any record of any steps being  
14 taken by the diocese to curtail Smyth in terms of the  
15 removal of his faculties, let alone reporting it to the  
16 civil authorities for him to be arrested.

17 There doesn't appear to be -- and this is an issue  
18 that we keep coming back to over and over again as we go  
19 through the various strands -- there doesn't appear to  
20 have been any certainly recorded communication that has  
21 been produced by any diocese to suggest that they were  
22 told by Bishop MacKiernan that there was a priest said  
23 to have done this type of very serious sexual offence  
24 within his diocese.

25 I am going to leave that issue and draw your

1 attention to the summer of 1974, when Father Bruno  
2 Mulvihill records in his police statement of 14th March  
3 1995 that at a golden jubilee celebration in Holy  
4 Trinity Abbey he claimed to the police -- I will just  
5 give you the reference for it -- I am not going to bring  
6 it up -- at 32126 -- that he spoke to Bishop MacKiernan,  
7 who was in attendance, and also Archbishop Alibrandi,  
8 who was the Papal Nuncio to Ireland, about what he  
9 describes in the police statement as irregularities  
10 surrounding Father Brendan Smyth.

11 Now there are no -- he says to the police -- Father  
12 Mulvihill, as you know, is deceased -- that he knew from  
13 his Prior in the Abbey, , that Bishop  
14 MacKiernan had been fully informed by the Prior of what  
15 was described by Father Mulvihill of this serious  
16 problem of Brendan Smyth.

17 He also claimed in the police statement to have  
18 written to the bishop in November 1994, and there is  
19 a typed copy of not the actual letter but a typeset of  
20 what the letter was said to contain in the papers, but  
21 there is no record of that letter ever being received by  
22 the Diocese of Kilmore at the time it was dated, which  
23 is in 19... -- November 1974, and equally that seems to  
24 be the same position for the Papal Nuncio's letter.

25 So I am not taking it any further forward other than

1           **saying there is a police statement from Father**  
2           **Mulvihill, who claims to have had this conversation with**  
3           **Bishop MacKiernan. It would simply be another instance**  
4           **of knowledge that's already established through FBS 49**  
5           **FBS 49 .**

6           **In any event, we then move to the 1975 Kilmore**  
7           **investigation. Perhaps before I start that, Chairman,**  
8           **if we take a short break.**

9   CHAIRMAN: Yes. Well, we will rise until 11.30.

10   (11.17 am)

11                                   (Short break)

12   (11.30 am)

13   MR AIKEN: Chairman, Members of the Panel, we are now going  
14           to look at the 1975 Kilmore investigation, and while  
15           this investigation has in various ways become the source  
16           of public scrutiny previously, its context we have just  
17           seen won't have been understood before. So as you  
18           consider the 1975 investigation that I am about to  
19           outline, the context of it is that the bishop who set it  
20           up had, according to           **FBS 49** , received and  
21           potentially dealt with a serious allegation about Smyth  
22           less than two years prior.

23           So we begin with on 23rd March 1975 -- and again  
24           I am going to use the names to otherwise make a very  
25           complex story as clear as I can, and they shouldn't be



1 used outside the chamber -- on 23rd March 1975 FBS38  
2 from , then 14 years old, disclosed to a local  
3 priest, **FBS 48** , that Brendan  
4 Smyth been sexually abusing him over the past year and  
5 a half.

6 **FBS 48** brought the matter to Bishop  
7 MacKiernan, the Bishop of Kilmore, the diocese where  
8 Holy Trinity Abbey was situated. It is not entirely  
9 clear how that managed to come about, although there is  
10 a handwritten note from Cardinal Brady that assists with  
11 how it might have come about, which we will look at not  
12 today.

13 FBS38 has in 2014 with the  
14 assistance of Darragh MacIntyre  
15 . That relates what his now lifelong friend and  
16 former priest, **FBS 48** , because he left the  
17 priesthood, told him of the steps leading up to the  
18 meeting with Bishop MacKiernan that sparked the Inquiry.

19 If we can look at 70150, please, so you can see:

20 "I know it never occurred to them in 1975 to report  
21 what had happened to the Gardai. **FBS 48** didn't  
22 go to the Garda either, but he told my parents. The  
23 very first thing that he had done was to make sure my  
24 parents knew. Then he set about alerting the church  
25 authorities to what Father Smyth was doing, just as he

1 had told my parents he would.

2 He went back to his own place and looked up the  
3 Catholic Directory, which contains all the names and  
4 addresses of priests and the religious in Ireland. He  
5 found the details of the Norbertine Order at Kilnacrott  
6 easily enough but then came upon a problem.

7 The directory listed two Smiths at the Abbey or  
8 rather one Smith and one -- one Smith", with an I, "and  
9 one Smyth", with a Y. "All that he could remember from  
10 his conversation with me was that it was a Father Smyth  
11 in Kilnacrott. To add to the confusion, the Smith with  
12 an I at the Abbey was the Abbot Kevin Smith. **FBS 48**  
13 **FBS 48** realised he couldn't differentiate between the  
14 two, but there was another avenue of recourse open to  
15 him.

16 Father Brendan Smyth was under the direct control of  
17 the Abbot Kevin Smith. Ultimate control of the  
18 Norbertine Order lay with the head of the Order based in  
19 Rome. I have talked to many lawyers over the years and  
20 read many legal opinions on where responsibility lay.  
21 One of those, canon law expert Father Tom Doyle, says  
22 that whenever Father Smyth was in a diocese, he was also  
23 under the control of the local bishop. The Abbey of the  
24 Holy Trinity at Kilnacrott was situated in Kilmore, then  
25 under the control of Bishop Francis MacKiernan.

1 Therefore Bishop MacKiernan could also exercise  
2 authority over Smyth."

3 Whether that's right or not is something we can ask  
4 some of the witnesses about.

5 " FBS 48 decided to bypass the Abbey and  
6 pursue this avenue instead. He arranged to drive to  
7 to meet Bishop MacKiernan. At the meeting he  
8 outlined what he knew."

9 Of particular relevance, if I can draw your  
10 attention of the Panel to this:

11 "According to FBS 48 , Bishop MacKiernan  
12 informed him that this was not the first time that  
13 Father Brendan Smyth's inappropriate activities with  
14 boys had been brought to his attention."

15 Now if that is right, then it is more than just the  
16 complaint two years previously about the girl, but it  
17 may be that it is not right and there has been confusion  
18 to refer to boys. It may be the reference is to the  
19 incident that we looked at that FBS 49 has  
20 explained, but whatever the right way of it, whether it  
21 is one or more, it is at least one, and FBS 49  
22 is recounting through FBS38's that that's what he  
23 was told in terms of the awareness of Bally... -- Bishop  
24 MacKiernan.

25 Cardinal Brady has explained in his witness

1 statement to the Inquiry of -- you will see, just if  
2 I finish that passage:

3 "He said that the Norbertine Order, to which Father  
4 Smyth belonged, had not taken the proper action after  
5 the last occasion. Bishop MacKiernan went on to say  
6 that it was time the matter was dealt with properly and  
7 explained he intended to set up an ecclesiastical  
8 court."

9 He then explains a few days later he was summoned  
10 to ...

11 "A few days after this meeting with Bishop  
12 MacKiernan **FBS 49** called to our home and invited  
13 me and my father to a meeting in the in  
14 . We were left in no doubt about the gravity  
15 of this meeting, but we had no idea what it would  
16 entail."

17 Cardinal Brady has explained in his witness  
18 statement to the Inquiry of 11th June -- that's from 807  
19 to 812 -- that he was summonsed to a meeting by Bishop  
20 MacKiernan in March 1975. He has explained he was  
21 a teacher in St. Patrick's College, Cavan at the time,  
22 though he explains in paragraph 4 of his statement at  
23 807 that he provided occasional secretarial assistance  
24 to Bishop Francis MacKiernan.

25 The Inquiry has received what you hopefully will

1 find a helpful document. If we can look, please, at  
2 40624, it appears to be a record of an interview with  
3 Bishop MacKiernan in June 1994. It was disclosed as  
4 part of the material that came from I believe the  
5 Diocese of Kilmore. It seems to have been someone from  
6 the -- on behalf of the Norbertine Order speaking to him  
7 about his recollection of these events in the context of  
8 -- they were preparing for a media response, which had  
9 been necessitated by the upcoming UTV programme that  
10 they were aware of, which, as you know, is "Suffer  
11 Little Children" that was broadcast in October 1994.

12 You will see it records:

13 "Bishop MacKiernan handed me his file dealing with  
14 Father Smyth and suggested I read through the documents  
15 and then he would answer any questions."

16 If we scroll down, please:

17 "Bishop MacKiernan explained that these transcripts  
18 were the result of a canonical inquiry which he  
19 conducted in 1975."

20 Then he sets out some of the detail, but if we just  
21 scroll down, please, to 40625, he then records what the  
22 interview produced, and we will look at that shortly,  
23 but if we move slightly further down, we can see the  
24 explanation for what this inquiry was for:

25 "Bishop MacKiernan explained that the purpose of the

1 canonical inquiry was that he needed firm grounds for  
2 withdrawing faculties from Father Smyth, hence this  
3 Inquiry."

4 Now if we just break off from this document at that  
5 point. So that's the purpose for which the inquiry was  
6 set up, according to this note of what Bishop MacKiernan  
7 was saying in 1994.

8 On the evening then of 29th March 1975 Father John  
9 Brady, as he then was, and **FBS 50** ,  
10 a priest and canon lawyer from the Armagh Diocese,  
11 interviewed FBS38, then a 14-year-old boy, at  
12 in . FBS38's father was not  
13 present during the interview. If we look at 70154,  
14 which is out of FBS38's :

15 "I am not sure who answered."

16 This is them arriving at the .

17 "I can remember going into this room. My father was  
18 told he had to stay outside. He was left outside in  
19 an office, where he sat alone for the next hour."

20 Now the two priests who interviewed FBS38 with  
21 **FBS 48** there as well, there are handwritten  
22 questions and handwritten answers. I am just going to  
23 show those to the Inquiry now, because the Inquiry has  
24 received copies of them. It is at 10018, and then  
25 eventually I'm going to look at the typed versions.

1 10018, please. So you can see it is on  
2 notepaper. There is then a list of  
3 questions. On Thursday we can establish with the  
4 cardinals whose handwriting is whose.

5 If we just scroll through quickly, please, the  
6 questions for now, you can see questions are being  
7 listed out. Just keep going, please. Keep going,  
8 please. So some thirty questions we can see are being  
9 listed out. Then you can see, if we just pause there,  
10 please:

11 "Questions put by me, FBS 50 . Signed by  
12 FBS38, John B. Brady, FBS 48 , 29th March at  
13 ."

14 Then if we move on to the next page, we can see then  
15 the series of answers being recorded. Again if we just  
16 scroll through the answers for now. So you've got the  
17 thirty answers.

18 Then you can see that at the bottom of the last page  
19 again -- we have seen the number of pages; so that's not  
20 something that would have taken five minutes to do --  
21 signed by FBS38, FBS 50 , described as the  
22 interrogator, John B. Brady, FBS 48 , 29th  
23 March 1975.

24 Then if we look at 20031, please -- sorry -- 10031.  
25 10031. Apologies. We can see:

1 "I, FBS38, hereby swear that I have told the truth,  
2 the whole truth and nothing but the truth and that  
3 I will talk to no-one about this interview except  
4 authorised priests."

5 There is obviously some writing that has been scored  
6 out before the "except authorised priests". Again  
7 signed by FBS38, signed by John B. Brady, 29th  
8 March 1975.

9 Then this documentation, the handwritten set of  
10 questions, the handwritten answers and the -- both were  
11 compiled into a typewritten form and the combined  
12 typewritten questions, answers and oath can be found at  
13 10010. Can we just look at that to identify them,  
14 please? So you can see:

15 "Copy of replies made by FBS38 to questions put to  
16 him by FBS 50 , in the  
17 presence of FBS 48 and Reverend John  
18 Brady in on March 29th."

19 The thirty questions are then asked and answered,  
20 the question and answer interposed before the next  
21 question. I am going to leave that. If we just scroll  
22 through so we can identify it for the Panel, please.  
23 Obviously the Panel have the opportunity to consider  
24 this document and the nature of the questions that were  
25 posed and their appropriateness.



1           You can see in the end then it is finalised with  
2           typing out of the oath, and then you can see at the  
3           bottom, if you just scroll down a little further,  
4           please, you will see the handwriting. So it is signed  
5           off then. I apologise for my Latin. I presume that  
6           that is telling everyone this is a genuine copy of the  
7           handwritten version.

8           I am going to break off just there, because in his  
9           FBS38 describes his recollection of that experience

10

11                           It runs from 70152 to 70161 in the  
12           bundle.

13           In it he describes -- and I am just going to give  
14           you the references -- he describes being frightened at  
15           70154; that it felt like an inquisition, which is also  
16           at 70154; that some of the questions were inappropriate,  
17           70155 -- you will see I think what he is referring to  
18           when you read the content; but he felt it was all about  
19           him and what was his fault, 70156; that the blame and  
20           the shame was being put back on him, 70156.

21           Now whether that is what was intended or not, that  
22           is what he in           describes as an adult what he says he  
23           felt as a child at the time as he went through this  
24           process.

25           He describes then at 70159 his sense of sadness at

1 his dad sitting outside while his son was made feel  
2 complicit in what had taken place.

3 He also records at 70160 that his father was given  
4 an assurance that night that Smyth would be dealt with.

5 I will leave the Panel to read the thirty typed  
6 questions and answers, but what I would ask you to look  
7 at now is just question and answer 17. If we look at  
8 10011 in the context of -- the question that was being  
9 posed, if we scroll down, please, 17:

10 "You told **FBS 48** that he was doing  
11 things which worried you. Could you tell us simply what  
12 the things were?"

13 He said:

14 "I went on holiday with him to Cork. There was  
15 another fellow with him and two girls."

16 He names the boy and then he names the girls. You  
17 see those names are given and, in fact, an address and  
18 postcode is given. How -- whether that was obtained  
19 after the event and written in, when you look at the  
20 handwritten document, it may well have been. The  
21 cardinal may be able to assist with that. He is asked:

22 "Did he get your parents' permission?"

23 **A. He asked my parents first and I went on holidays**  
24 **with him. We went to Cork City, . He**  
25 **took his own car."**

1           Then he says this:

2           "At night he used to take one fellow into bed with  
3 him."

4           Now you can see from the answer that's already given  
5 that there only is one other fellow on the trip. Then  
6 he says that that happened to him as well. He describes  
7           the touching and masturbation that went  
8 on.

9           Now it would come to light then in the 1990s, as we  
10 will come to see, that the name that he gave was  
11 accurate, and ultimately Smyth was convicted of abusing  
12 that boy along with his brother, and as you know from  
13 the interviews, he described -- Smyth that is --  
14 described those as his worst two cases, as he put it.

15           The point that I am showing you this for is that it  
16 is unclear whether there was any effort made to inform  
17 the Diocese of Down & Connor that a child in their  
18 diocese, because his address is identified as to where  
19 he lives, may have been abused, which was disclosed  
20 during this investigation, nor whether there was any  
21 effort made -- in fact, it is clear now from the  
22 cardinal's third statement that it doesn't seem any  
23 effort was made to tell that child's parents that that  
24 was the position. As we will come to see, it is the  
25 brother of this child at the time who as an adult starts

1 talking to his uncle and aunt about his two cousins and  
2 that's whenever we get to the beginning of the end for  
3 Smyth in the early 1990s.

4 At question 21, if we look at 10014, please, he is  
5 asked:

6 "Did you tell anyone else? If so, what is his ...?"

7 A. No, I never told anybody, only the young chap",  
8 and he mentioned the same person as in question 17.

9 "Q. Did the other person or any other person to  
10 your knowledge do the same things with Father Smyth?  
11 Did they ever say they did?"

12 Then he gives the name of another boy from  
13 , which is where Holy Trinity Abbey was in  
14 Cavan.

15 Then he said that Smyth had taken him and this other  
16 boy to in Dublin.

17 "He did the same thing with that boy in bed that  
18 night and with me."

19 So this is a second incident on a trip, same type of  
20 fondling, masturbation being described. We will see  
21 that this boy was subsequently interviewed, but as the  
22 cardinal has -- we looked at a section of his statement  
23 yesterday. He confirmed that this boy's parents didn't  
24 know about this interview and weren't told about the  
25 abuse. We will come to that shortly.

1           What is -- if we look at the handwritten version,  
2           then there is a handwritten report of this interview  
3           which I want to show up. It is at 10016. I want to  
4           draw your attention to the title of it: "sub secreto",  
5           in secret, "-- confidential".

6           It then summarises the findings of that discussion  
7           or interview that had taken place.

8           In paragraph 10 of Cardinal Brady's statement -- if  
9           we just scroll down a little, please, so we can see the  
10          rest of the document. It's a detailed report. You can  
11          see at the bottom the last three lines refer to -- there  
12          was obviously some conversation took place with  
13          FBS 38    father in order for the last line to be  
14          present.

15          In paragraph 10 of Cardinal Brady's statement, if we  
16          look at 808, he explains that:

17          "I presented the written record of the meeting with  
18          FBS38 to Bishop MacKiernan. I believed FBS38 from the  
19          start and I advised Bishop MacKiernan of that. He  
20          decided that we should add weight to the evidence and  
21          corroborate the evidence of FBS38 by interviewing the  
22          other boy who FBS38 said had been abused. This boy  
23          lived in                   . With the help of the local  
24          curate, a meeting was set up to talk to the boy. At the  
25          interview the local curate attended to both give support

1 to the boy and also to give formality to the  
2 proceedings."

3 The cardinal says:

4 "I took a statement from the boy asking him some of  
5 the questions used by FBS 50 in the first  
6 interview. I also administered a similar oath of  
7 confidentiality for the same reason."

8 That's a repeat. If we just scroll down. The same  
9 page is in again. Then he says he:

10 "... returned with the second set of questions and  
11 answers and presented those to my bishop, again  
12 confirming that I had accepted the evidence of both  
13 boys."

14 So --

15 CHAIRMAN: Just scroll back up to the previous page.

16 MR AIKEN: Scroll up a little further. Just scroll up to  
17 paragraph 8 so we can see the reason being given for the  
18 oath.

19 CHAIRMAN: A little bit further, please.

20 MR AIKEN: A bit further up.

21 CHAIRMAN: Yes.

22 MR AIKEN: The cardinal has explained in his third statement  
23 that parts of this were inaccurate and that the  
24 investigation was carried on by Kilmore, and we have  
25 clarified how FBS 50 came to be involved, which

1 was at the cardinal's request, or Father John Brady's  
2 request, as he was at the time, to assist him.

3 CHAIRMAN: Yes. I see FBS 50 is described as DCL,  
4 presumably Doctor of Civil Law or Doctor or Canon Law.

5 MR AIKEN: Yes. Paragraphs 8 and 9 explain the thinking  
6 behind the oath. That's something we can pick up with  
7 the cardinal in his evidence. He indicates that the  
8 decision to interview the second boy, which was  
9 something that he did and FBS 50 wasn't  
10 involved in, was as corroboration in effect for the  
11 first complaint, FBS38. That's the import of  
12 paragraphs 10 and 11. He set out how that meeting was  
13 set up.

14 That meeting with the second boy from  
15 was on 4th April 1975. So it was four or five days  
16 later. Father John Brady, as he then was, interviewed  
17 that second boy, who was aged 15, in the presence of the  
18 local curate.

19 I am going to show you again the handwritten  
20 questions and answers. If we look, please, at 10123,  
21 again you can see the interview with the boy in  
22 question. It is dated 4th April 1975. If we just  
23 scroll on down through, please, the questions are listed  
24 out again. This time there are 32 questions. The  
25 questions are signed by presumably that curate who was

1 there along with Father Brady, and then if we move on to  
 2 the next page, please, we can see the answers being  
 3 recorded. Again if we just pause there, we can see it  
 4 is signed by the same individuals.

5 If we just move through on to the next page then,  
 6 please, we will see the oath. You will see that this  
 7 oath is slightly different. So on the last oath it was  
 8 a reference to "authorised priests". This one it's:

9 "I will not discuss the interview with anyone except  
 10 priests who have permission to discuss it."

11 Then a similar pattern to the last time. There is  
 12 then a typed combined questions and answers and oath  
 13 version. That begins at 10131. So if we just scroll  
 14 down, please, we can see the typed questions and then  
 15 the typed answers being interposed. If we scroll down  
 16 to the end, please, to question 30, and see:

17 "Q. Is there anything else you would like to tell  
 18 us?"

19 **A. We went that day from to**  
**back to .**

21 Q. Is there anybody else who could give some  
 22 information?"

23 Then you will see that identified is four further  
 24 names, one of whom was identified during the first  
 25 investigation. Obviously the implication that comes out



1 of this, you have FBS38 on 29th March explaining trips,  
2 two different trips, where two different boys and he  
3 each time were interfered with. On at least one of  
4 those trips there were two girls present.

5 In relation to this individual he is listing out  
6 a number of other children, and there's nothing to  
7 indicate that any of these other children were spoken to  
8 in order to ascertain whether they had any similar  
9 experience at the hands of Smyth.

10 There is nothing to suggest that any steps were  
11 taken to monitor the well-being of the boy who was  
12 interviewed on this occasion or indeed the boy who was  
13 interviewed on the occasion before.

14 In fact, in FBS38's indicates himself -- if  
15 we look at 70167, you can see the reference to  
16 is the second interview, the boy that we  
17 have just read. He was 15 when he was questioned. You  
18 can see on the right-hand side of the page, just halfway  
19 down the right-hand side:

20 "More than that, he said his parents were not told  
21 that he was being abused."

22 Then FBS38 says:

23 "The church, of course, said nothing and he said  
24 nothing to anyone, not to a soul, because he was sworn  
25 to secrecy about the process, just like me."

1           In the -- if we move through to 70170, please, and  
2           the right-hand side of the page, in the account that's  
3           given what's reproduced here is an interview with the --  
4           if you recall, in FBS38's interview he describes the  
5           first occasion whenever he and another boy are taken  
6           into bed one after the other on a trip, and that was one  
7           of the first two children who came forward then as  
8           adults, and his name, to save it being on the  
9           transcript.

10           This is a record of the interview that took place.  
11           These two boys now as adults meet and discuss what  
12           happened. You see what's said down in the right-hand  
13           corner:

14           "The interview was devastating and it went right to  
15           the heart of the matter. You see, this wasn't about  
16           going to the Gardai or to the police, not even about  
17           going to the Social Services. This was about a simple  
18           warning: 'Your man isn't safe with children. Keep yours  
19           well away from him'.

20           That never happened and so the abuse continued  
21           against that particular boy and then his younger sister  
22           for another seven years and his first four           --  
23           his four first           in turn."

24           He recounts           the documentary then that he  
25           featured in with the BBC. The references I will just

1 give you. It from 70172 to  
2 70182 he describes the -- it was, in fact, a BAFTA award  
3 winning documentary in which he featured called "The  
4 Shame of the Catholic Church".

5 What I would like you to note then -- we looked at  
6 the handwritten report, so not the questions and  
7 answers, but the report that was headed "in secreto"  
8 (sic).

9 There then is a typed version of that report.  
10 I just want to show you that. That's at 10009 I hope.  
11 Yes. So this is the typed-up version of the handwritten  
12 document we looked at. You recall that the handwritten  
13 document ended with the reference to the conversation  
14 that must have taken place with FBS38's father.

15 So if we scroll down to the bottom of the document,  
16 we can see the reference in the penultimate paragraph:

17 "This statement was then confirmed on oath by FBS38.  
18 His father also confirmed that Father Smyth often  
19 visited their home."

20 So that is where the handwritten document ended, and  
21 then you can see that on the typed version what appears,  
22 if I have understood the chronology of this correctly,  
23 to have been added in then is that:

24 "The second boy has also been interviewed and he  
25 states that Father Smyth engaged in similar activity

1 with him on a number of occasions. He so confirmed this  
2 statement on oath."

3 So that is, if you like, the corroboration that was  
4 being sought being then added to the typed report. As  
5 we were looking at, Cardinal Brady explained in his  
6 statement in paragraph 10 we have looked at already he  
7 returned with the second set of questions and answers  
8 and presented those to his bishop and confirmed that he  
9 accepted the evidence of both boys.

10 Then I want us to look again at the memo we looked  
11 at yesterday. If we look, please, at 780, so this --

12 CHAIRMAN: Just before we leave that could we look at that  
13 again?

14 MR AIKEN: Yes. Can we go back to the document, please? It  
15 is at 10009.

16 CHAIRMAN: Yes. Thank you.

17 MR AIKEN: Now there seems -- and it is something we can ask  
18 the cardinal -- to have been a lack of appreciation that  
19 from the document, from the record FBS38 was clearly  
20 describing two separate instances where him with two  
21 separate boys were interfered with. When one reads this  
22 report, the implication it carries is it is only the  
23 second incident that's being recorded here as having  
24 involved interference.

25 So this information is brought back then to Bishop

1 Francis MacKiernan. The documents come from the archive  
2 of Kilmore. So obviously this is what was there to be  
3 read or communicated to the bishop and/or read by him.

4 Then we are going look at the memo at 708, please,  
5 of 20th April 1975. You can see, if we just scroll down  
6 a little, please:

7 "On 12th April 1975 I reported the findings on  
8 Reverend Brendan Smyth to Abbot Kevin Smith. He  
9 indicated knowledge of former lapses ..."

10 Now if we just pause there, what is you may consider  
11 on one view strange about that sentence is that if the  
12 two individuals had had a previous conversation in 1973  
13 about the **FBS 49** incident, then the  
14 sentence wouldn't necessarily read:

15 "He indicated knowledge of former lapses ...",  
16 because both men would know of the former lapse, as  
17 it were, even if it was confined to just 1973, but in  
18 any event for whatever reason it reads as it does:

19 "He indicated knowledge of former lapses and  
20 psychiatric treatment under ...  
21 refused to discuss the case with the Abbot."

22 I will need to go back to that issue.

23 "I suggested consulting the St. John of God  
24 Brothers."

25 Then the memo indicates, because it is dated 20th

1 April, so it's eight days later, that the abbot did do  
2 that. They had apparently suggested a rest period with  
3 the Paraclete Fathers in Stroud. We looked at that  
4 yesterday. Smyth then is sent off to Stroud at the end  
5 of 1975, but they don't have any treatment for him and  
6 he spends the period there of a month as a retreat.  
7 Then it says:

8 "I have withdrawn his faculties to hear  
9 confessions."

10 So that's very specific from the memo that it was  
11 about confessions whereas if we scroll up to the letter  
12 that was dated two days beforehand written to Kevin  
13 Smyth, the Abbot:

14 "I hereby withdraw the faculties of the diocese from  
15 Brendan Smyth, a priest in your community, for the  
16 reasons which I explained to you in the course of my  
17 visit on Saturday, 12th April."

18 So it seems the bishop has gone to see Abbot Kevin  
19 Smith.

20 "He is therefore no longer approved to hear  
21 confessions. I ask you formally to communicate my  
22 decision to him."

23 If I can ask you to hold in your minds, Members of  
24 the Panel, there is potential confusion as to what this  
25 means between the faculties of the diocese, which are

1 a broader concept, encompassing everything, in fact,  
2 that a priest could do in terms of public ministry, as  
3 compared to faculties to hear confession, which is more  
4 specific to that particular subject, but what I'd ask  
5 you to reflect on is you may consider that this memo  
6 reveals that Bishop MacKiernan now knew that the two  
7 boys interviewed by the then Father Brady -- even if he  
8 hadn't picked up that there was, in fact, three boys in  
9 total who were being described as having been abused, at  
10 its minimum he knew that two boys interviewed by the  
11 then Father Brady were not the first victims of Smyth.  
12 If **FBS 49** dates are correct, then he  
13 knows about a more serious event already said to have  
14 happened. Whether that event was right or not, that's  
15 what he was told of it in 1973, but he certainly knows  
16 from this point from his discussion that's recorded in  
17 the memo that the two boys who were interviewed by his  
18 priest were not the first children to be abused.

19 The memo also reveals that Abbot Kevin Smith now  
20 knew there were two further cases of abuse that he  
21 hadn't known about before.

22 If we just scroll down a little, please, you may  
23 also consider it reveals that neither man knew whether  
24 the treatment Smyth had already received was of any  
25 consequence or not.

1           There is nothing recorded in the memo in relation to  
2 any consideration of reporting the criminality to the  
3 civil authorities. There is nothing recorded in  
4 relation to informing the parents of the children that  
5 were identified through the investigation. I think the  
6 number between the two interviews is six. There is  
7 nothing recorded in relation to the steps to be taken to  
8 ensure the welfare of the children known to have been  
9 abused or identified in connection with those known to  
10 have been abused. There is nothing in the memo that  
11 records any consideration of telling any other bishops  
12 about the fact that there was a priest in Kilmore who  
13 had and was known to have abused at least three  
14 children, taking it at its very minimum. There is  
15 nothing in the memo that records any consideration of  
16 how Smyth would be dealt with in order to ensure that he  
17 couldn't interfere with any more children. By that  
18 I mean in terms of the restriction of his movements,  
19 because it is clear from the memo that Bishop MacKiernan  
20 was making the suggestion to Abbot Kevin Smith about  
21 some further individuals who might be able to direct him  
22 in terms of the provision of further treatment than that  
23 which was already taking place.

24           Now in 1994 -- we looked at the memo earlier of the  
25 meeting that took place with Bishop MacKiernan. If we



1 look at 40626, please, 40626, paragraph 2, Bishop  
2 MacKiernan was asked what he would do if the same thing  
3 happened:

4 "I asked Bishop MacKiernan if he would now take  
5 further steps in a situation such as this. His  
6 immediate response was that he would now inform the  
7 Gardai if youngsters made complaints of this kind."

8 You will note that in the -- it is a 1994 memo. If  
9 we look at the last paragraph, the then bishop addressed  
10 the question. You will see that:

11 "By letter of 20th August Brendan Smyth wrote  
12 seeking a return of diocesan faculties."

13 We will come back to that. If we just scroll up  
14 a little bit, please. Yes. Sorry. It is the passage  
15 above. Just scroll down a little bit:

16 "I asked Bishop MacKiernan whether he had any  
17 jurisdiction over Father Brendan Smyth other than the  
18 power to grant or remove faculties. He said that, as he  
19 understood it, his sole responsibility was granting him  
20 faculties to hear confession. He thought that there may  
21 be circumstances in which he could also withdraw  
22 faculties for the celebration of the Eucharist. Such  
23 did not arise here. He suggested again that we clarify  
24 the position with a canon lawyer."

25 So what that is suggesting is that as far as Bishop

1 MacKiernan was concerned his letter in 1975 was confined  
2 to the withdrawal of confessions.

3 When you look at Father Kilduff's statement, which  
4 I will come to shortly, we will see what he has to say.

5 CHAIRMAN: Just remind us. Who is the author of this  
6 document?

7 MR AIKEN: It is not clear who it is. If we go back to the  
8 first page, please --

9 CHAIRMAN: This is the memorandum?

10 MR AIKEN: It is the memorandum. It is somebody  
11 representing the Norbertine Order. It may be a legal  
12 representative. It may be some other personality. It  
13 is not clear from the document I don't think. If we  
14 just scroll down to the end of it so we can check  
15 whether there is ... No, there is nothing.

16 CHAIRMAN: We clearly on the screen don't have the full  
17 document, because it says "continued".

18 MR AIKEN: No.

19 CHAIRMAN: It is interesting that in 1994 the bishop only  
20 thinks he might refer this to the Abbot General of the  
21 Order.

22 MR AIKEN: That indeed is the next point I was going to draw  
23 to your attention, because you can see that not only is  
24 he saying he might not do it:

25 "He said in such circumstances he might refer the

1 matter to the Abbot General. Such circumstances had  
2 not, however, come to his attention."

3 So the implication of that note, if it is accurate,  
4 is that what he had found out wasn't sufficient to  
5 justify communicating with the Abbot General.

6 Now the memo that we were looking at at 780, which  
7 was Bishop MacKiernan's memo of 20th April, records him  
8 suggesting a consultation with the St. John of God  
9 Brothers and other religious order of Brothers engaged  
10 in healthcare. That appears to have happened. Then  
11 their recommendation is the Paraclete Fathers in Stroud.

12 When we looked at the memo -- if we just look at it  
13 again, please, at 780 just on this issue of what this  
14 sanction actually was, you can see -- just maximise that  
15 for me, please:

16 "He is therefore no longer approved to hear  
17 confessions",

18 but it began with:

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

20 Now Father Kilduff in paragraph 13 of his statement,  
21 if we look, please, at 746, refers to the meeting and  
22 then he refers to the minute:

23 "'I have withdrawn his faculties to hear  
24 confessions'. In a letter then of 18th it says, 'I  
25 hereby withdraw the faculties of the diocese' and asked

1 the abbot to communicate the decision to Brendan Smyth.  
2 Bishop MacKiernan uses the phrases 'faculties to hear  
3 confessions' and 'faculties of the diocese'  
4 interchangeably. The faculties of the diocese would  
5 include permission to celebrate public masses, preach  
6 and administer other sacraments, as well as the faculty  
7 to hear confessions. However, 'faculties to hear  
8 confessions' appears to have been understood in this  
9 wider sense generally, but strictly speaking it would  
10 apply only to the sacrament of penance (confessions)."

11 Now, as we have seen, Father Kilduff is not correct  
12 about that, because Bishop MacKiernan's -- the record of  
13 Bishop MacKiernan's discussion in June 1994 was that he  
14 understood it as referring to the -- if we look at  
15 40625, please, if we scroll down, please:

16 "I asked Bishop MacKiernan about the meaning of the  
17 term, 'withdraw his faculties to hear confessions'."

18 The last paragraph:

19 "It was his understanding that the withdrawal of  
20 faculties primarily related to the hearing of  
21 confessions. He thought that it would be important to  
22 clarify with a canon lawyer the precise meaning of the  
23 term."

24 You will recall yesterday when we were looking at  
25 the counsel minutes of the Norbertines that they

1 interpreted it as being limited to just hearing  
2 confessions. You may consider that there should be any  
3 ambiguity over this is another issue of difficulty.

4 I will ask you to note at this point that we will in  
5 due course see that by 1976 -- so this is all taking  
6 place in 1975 -- by 1976 Brendan Smyth was saying mass  
7 in Whitehead in the Diocese of Down & Connor and abusing  
8 children there, which came to the attention of the  
9 diocesan priest, and in 1976 he's recorded conducting  
10 a week-long retreat and saying mass for the Sisters of  
11 Nazareth in a children's home in Belfast, also in the  
12 Diocese of Down & Connor, and by 1977 was visiting  
13 children whom he had befriended at Nazareth in the De La  
14 Salle Children's Home in Kircubbin and indeed the Good  
15 Shepherd in Middletown.

16 In that context it is unclear at this stage,  
17 although you may regard it as clear, but it is unclear  
18 whether Bishop MacKiernan told his other bishops in the  
19 Armagh Metropolitan, as it were, that he had withdrawn  
20 the faculties from Smyth, whatever that was meant to  
21 mean, in 1975, or why he had done that.

22 You may wish to consider -- and each of the dioceses  
23 can reflect on this when they give oral evidence -- you  
24 may wish to consider whether any lack of a system of  
25 communication between bishops about priests who a bishop

1 had had to withdraw faculties from, whether that lack of  
2 a system, if there was such a lack, facilitated and  
3 failed to prevent abuse occurring.

4 You may consider it is also unclear what steps were  
5 taken, if any, by either Bishop MacKiernan or Abbot  
6 Kevin Smith to ensure that Brendan Smyth was, in fact,  
7 observing the ban. As I have hinted at already, it will  
8 become apparent that he was not observing the ban unless  
9 he had had faculties conferred to him by Down & Connor  
10 and there is nothing to suggest that he had. No  
11 documentation to suggest that Down & Connor had ever  
12 given faculties of the diocese to Brendan Smyth.

13 It would also appear that no steps were taken by the  
14 Bishop of Kilmore or the Abbot of Holy Trinity, Kevin  
15 Smyth, in respect of the welfare of any of the children.

16 Now having said that, I want to pause here to  
17 observe that the papers disclosed by the Diocese of  
18 Kilmore do show a different approach from the present  
19 Bishop of Kilmore, Bishop Leo O'Reilly. As it turns  
20 out, when you read closely the letter from **FBS 44** that  
21 we were talking about this morning, who claimed to have  
22 told Bishop MacKiernan in 1957, it turns out that

23 **FBS 44** and Mr O'Reilly were at school together at the  
24 time. There is an exchange that makes that clear in the  
25 correspondence.

1 I want to show you a letter that Bishop Leo O'Reilly  
2 wrote on 29th March 2010. That's at 803. He is writing  
3 here you can see to Bishop Noel Treanor, the Bishop of  
4 Down & Connor, in March 2010:

5 "The files relating to the two investigations  
6 conducted by Father Sean Brady, as he then was, on  
7 behalf of my predecessor into allegations by two boys  
8 that they were abused by Brendan Smyth are in the  
9 archives here. It was only when this matter became the  
10 subject of controversy that it even occurred to me that  
11 I should report the names in the files to the civil  
12 authorities. I am not sure if this had ever been done  
13 before. The fact that Brendan Smyth has been dead since  
14 before I became bishop made me think that his was one  
15 file I didn't need to worry about.

16 However, having taken advice, I have now reported  
17 the names of the two boys to the Gardai and the Health  
18 **Service** Executive. I have also given them the names of  
19 other boys and girls mentioned by them as having been  
20 abused by Smyth. Two of these have Belfast addresses  
21 and it was suggested to me that I should pass their  
22 names on to you. The main reason for giving them is  
23 that if you have an outreach programme for survivors of  
24 abuse, it might still be possible to offer them  
25 support."

1           Then he gives the names of the children. So the  
2           very things that I was raising with you a short time ago  
3           are the steps that were taken by the Bishop of Kilmore  
4           in 2010, which was to let the authorities know and then  
5           to arrange communication with the bishop of where the  
6           children resided in order that they get some pastoral  
7           support.

8           Unfortunately, as we will see and as you are  
9           probably aware already, during the rest of this opening  
10          it will become apparent that Smyth continued his sexual  
11          abuse of children unabated, despite the withdrawal of  
12          faculties, whatever that meant, by Kilmore in 1975.

13          Now then what I want to draw your attention to is  
14          the Diocese of Kilmore has also disclosed correspondence  
15          beginning with a letter from Brendan Smyth to Bishop  
16          MacKiernan of 20th August 1984. If we can look, please,  
17          at 781, you will see that he writes at the apparent  
18          instigation of Abbot Kevin Smith for the reinstatement  
19          of diocesan faculties. Now this -- 1984 he has come  
20          back from Fargo, North Dakota, where he was between 1979  
21          and 1983, and he is writing seeking the return of the  
22          faculties.

23          From the annotation -- if we scroll down a little so  
24          the Panel can see the annotation of 23rd August 1984 --  
25          Bishop MacKiernan did reinstate the diocesan faculties



1 to Smyth for a six-month period. It is unclear from the  
2 documentation what, if any, steps were taken by Bishop  
3 MacKiernan prior to reinstating faculties to Smyth.

4 However, in paragraph 17 of the statement from  
5 Father Kilduff, if we look, please, at 747, it is not  
6 clear where this comes from, but you can see:

7 "Bishop MacKiernan later confirmed that he had  
8 consulted with the abbot and he was satisfied that there  
9 didn't appear to have been any further occurrences  
10 similar to those previously complained of, and in the  
11 circumstances Bishop MacKiernan restored his faculties  
12 for a period of six months."

13 It may be that that's coming from the memo. So what  
14 he is saying is, "I got in touch with Abbot Smith to  
15 satisfy myself there was not any more incidents and then  
16 restored the faculties".

17 You will see in paragraph 18 Father Kilduff says:

18 "When we consider the steps taken in 1975 against  
19 the knowledge that we now have, it is clear that  
20 necessary and appropriate steps were not taken ..."

21 What he is saying about the faculties, if you look  
22 just the sentence above:

23 "The limited nature of the return of faculties  
24 suggests that Bishop MacKiernan wanted to monitor  
25 Brendan Smyth to ensure that he did not come up in any

1 further complaints, but that he believed that the  
2 treatment discussed had taken place and that it had  
3 worked."

4 That is correct, because -- correct in the sense  
5 that thereafter there were a series of annual  
6 applications for renewal. If we just go to 782, please,  
7 you can see this is 1st February 1985, and he is given  
8 for another six months. If we scroll down on to the  
9 next page, please, similarly this is -- this time it is  
10 for -- the date is not there. This is renewed until  
11 September '86. So for a year I think this time. If we  
12 scroll down on to the next one, again this one is  
13 written in '87 and the faculties are extended for a year  
14 to August of '88.

15 Of course, during this period of time the children  
16 of the family in Belfast are being abused by Smyth, who  
17 ultimately go to see Abbot Kevin Smith in March of 1989.  
18 So in March of 1989, because we are on the right page  
19 now, we know that Abbot Kevin Smith has the meeting with  
20 the family, the husband and wife, the parents of the  
21 children, and yet Brendan Smyth is in a position to  
22 write a letter in August 1989, which is the one on the  
23 right-hand side of the page, asking for his faculties to  
24 be restored.

25 So it would appear that Abbot Kevin Smith didn't

1 tell Bishop MacKiernan once he received the complaint  
2 from the Belfast family in 1989.

3 You will recall that, in addition, Abbot Kevin Smith  
4 explained to Chris Moore in his rely of 26th  
5 September 1994, and we have seen it from other  
6 documents, that the Norbertine Order had sent Smyth back  
7 for treatment this time to Dr Delmonte in 1989. So he's  
8 being treated again, and if we scroll down on to the  
9 next page, we will see that if that was communicated,  
10 and there is nothing to suggest that it was, then the  
11 faculties were simply renewed in any event, or you may  
12 consider it more likely that, in fact, Bishop MacKiernan  
13 was not told by Abbot Kevin Smith that in addition to  
14 the information that was brought to him by the family of  
15 abuse, he had sent this man for treatment again. His  
16 faculties were being renewed.

17 The renewal continues, if we scroll down, through  
18 August 1990, September 1991. What you will recall, if  
19 we just pause -- just pause it, please. Just scroll up  
20 a little. Move up to the one before so we have the  
21 context. The one on the right-hand side, 16th  
22 September 1991, at this point in time on 8th March 1991  
23 Smyth was charged after his police interview.

24 Now it is not possible to say what Abbot Kevin Smith  
25 knew, although, as the Panel is aware, the Abbot -- then

1 Abbot is alive, and the Inquiry did invite him in  
2 addition to what has been said on behalf of the Order  
3 whether he wanted to add anything further. At this  
4 point he said he didn't wish to do that.

5 But this renewal was taking place despite Brendan  
6 Smyth now being charged in Northern Ireland with  
7 a series of sexual offences.

8 In addition, and this takes us back to the point  
9 I was making about the systems issue about communication  
10 between the bishops, because in February 1991, as we saw  
11 when we looked at Cardinal Daly's, as he then was, memo  
12 as Bishop Daly of Down & Connor between August '82 and  
13 November 1990, he had written to Abbot Kevin Smith,  
14 having been contacted by the family. Just to be clear,  
15 it is the [name redacted] family, who in March 1990 --  
16 having seen Abbot Kevin Smith in 1989, they see Bishop  
17 Daly in February '90.

18 The letter that was sent to Abbot Kevin Smith, if we  
19 look, please, at 1218 -- so you can see that the  
20 renewals are taking place in '91, '92. This is a letter  
21 written by now Cardinal Daly. We saw this letter  
22 yesterday, but in this context it is written on  
23 11th February 1991. This is shortly before Smyth is  
24 charged, which is a month later, but you can see this  
25 time it is saying:

1 "I am afraid it looks as though he is using the  
2 excuse of his visits to Belfast for therapy to continue  
3 the practice about which we spoke some years ago."

4 As you know, the Abbot Kevin Smith replied saying,  
5 "Well, I have spoken to him. He says he hasn't done  
6 that for a couple of years". Here you have now the  
7 Archbishop of Armagh writing about this priest and at  
8 the same time the Bishop of Kilmore is renewing his  
9 faculties. He continues renewing them in September '91  
10 and then again September '92.

11 CHAIRMAN: Well, the archbishop writes in February 1991. We  
12 have been told technically he no longer had any  
13 jurisdiction over Down & Connor.

14 MR AIKEN: Yes.

15 CHAIRMAN: So it is not clear from that letter whether it  
16 was he personally receiving the complaints in his new  
17 capacity, but whatever happens, may we take it Down &  
18 Connor don't pass any information at that point?

19 MR AIKEN: No, and if we go back --

20 CHAIRMAN: Within a few weeks he is being charged in  
21 Northern Ireland.

22 MR AIKEN: Yes.

23 CHAIRMAN: So neither -- either the Archbishop of Armagh or  
24 the Bishop of Down & Connor, nor the Abbot, informed  
25 Bishop MacKiernan of what the courts would describe as a

1 material change of circumstances. The bishop appears to  
2 go on licensing this man to perform his priestly  
3 functions.

4 MR AIKEN: Yes.

5 CHAIRMAN: He doesn't appear to have realised from  
6 newspapers what was going on.

7 MR AIKEN: Yes. In fact, you can take it a step further  
8 back, because --

9 CHAIRMAN: It seems rather surprising the Bishop of Kilmore  
10 does not somehow discover that a priest who has been  
11 giving him a lot of trouble is now up in front of the  
12 courts in Belfast. One would assume that it was  
13 reported in the newspapers.

14 MR AIKEN: We will probably be able to vouch that.

15 CHAIRMAN: But in any event the Abbot doesn't appear to have  
16 told him as far as we know.

17 MR AIKEN: Yes.

18 CHAIRMAN: The Abbot surely must have known, because they  
19 were presumably required to provide an address for him  
20 to reside at or some contact with the police.

21 MR AIKEN: What the Abbot knew about the initial charging  
22 isn't clear from the material as yet, but --

23 CHAIRMAN: One might have thought they would either read the  
24 newspapers or listen to the radio or watch the  
25 television.

1 MR AIKEN: Yes. What we saw yesterday, because we can take  
2 it a year further back, the first meeting between Abbot  
3 Kevin Smith and the then Bishop Cathal Daly, who was  
4 Bishop of Down & Connor, was in March 1990. You will  
5 recall that there was reference in his letter to three  
6 priests bringing him information and the social worker,  
7 and that information from March 1990 does not make its  
8 way to the Bishop of Kilmore it appears, because if it  
9 did, one would wonder at the fact that would be renewed.

10 CHAIRMAN: I think one has to be careful here in  
11 distinguishing between charging by the police in the  
12 sense of an arrest and bringing him before a court.

13 MR AIKEN: Yes.

14 CHAIRMAN: Was he brought before the court in 1991 or merely  
15 arrested or interviewed under caution?

16 MR AIKEN: He was arrested, interviewed under caution and  
17 charged on 8th March 1991 and he was to appear in court  
18 on a date in early April.

19 CHAIRMAN: Yes.

20 MR AIKEN: Confusion took place over the date. He was  
21 marked as not appearing and that then sparked the three  
22 years before he would be back before the court.

23 What this renewing demonstrates is that the issue of  
24 what communication was taking place or what system of  
25 communication there was between bishops so that they

1 would each know about a problem that was occurring,  
2 because this was a man who was being licensed by Kilmore  
3 but who was causing a problem it was being said in Down  
4 & Connor.

5 Of course, perhaps -- I was going to say worst of  
6 all, but we now know that, contrary to the agreement  
7 with Dr Delmonte, between 1991 and 1993, when he was  
8 still being licensed, he commits -- or being granted the  
9 faculties of the Diocese of Kilmore, he commits further  
10 offences then in the Republic of Ireland.

11 It comes to an end with the application that was  
12 made in November 1993. So at 787, 787, this is the  
13 application from November 1993 explaining some of the  
14 work that he has been doing. Then if we scroll on to  
15 the next page, we can see the reply where the Abbot  
16 Kevin **Smith** is informed by letter of 18th December:

17 "I have been officially informed by the Bishop of  
18 Down & Connor that the Director of Public" -- by that --  
19 by this stage it is Bishop Walsh -- "that the Director  
20 of Public Prosecutions in Northern Ireland is bringing  
21 a criminal prosecution against Father Brendan Smyth,  
22 which may be heard about mid-January. In view of the  
23 seriousness of the allegation, I am withdrawing the  
24 faculties of the Diocese of Kilmore, which he enjoys at  
25 the moment. I am informing you as his major religious



1 superior and ask you please to convey my decision to him  
2 as contained in the enclosed letter."

3 Then if we scroll down, I think we will see the  
4 letter that was written of the same date.

5 So to try and bring all that complicated picture  
6 together, we will see that the Diocese of Down & Connor  
7 had been involved in the reporting to police of Smyth's  
8 abuse of children in March 1990. Yet it appears, and it  
9 is not yet clear why, it took until November 1993, some  
10 three and a half years later, for that information to  
11 reach the Diocese of Kilmore.

12 Chairman, I am happy to continue on for a ...

13 CHAIRMAN: Well, I think it is probably as good a time as  
14 any to adjourn and sit again at 2 o'clock.

15 (12.55 pm)

16 (Lunch break)

17 (2.00 pm)

18 MR AIKEN: Chairman, Members of the Panel, before lunch we  
19 finished looking at the Diocese of Kilmore. I'm going  
20 to move on now to the Diocese of Down & Connor, but  
21 I want to say that I have a considerable amount of  
22 material to still move through. I am going to do that  
23 at considerable pace -- obviously the Panel has access  
24 to the material and has considered some of it in advance  
25 -- because I want to complete this task today.

1           In respect of the Diocese of Down & Connor we will  
2           come to see later that when we take a closer look at the  
3           pattern of abuse, Brendan Smyth abused children in  
4           Whitehead in County Antrim. That's where his brother  
5                    lived. According to the then local curate,  
6           **FBS 51**           , Smyth had offered to assist him when  
7           he was down visiting his brother. The reference for  
8           that is at 32150. He would have been called on to say  
9           mass on occasions by **FBS 51**           and cover for him when  
10          he was off.

11          In June 1976 the brother of one of Smyth's victims  
12          -- and I am going to use the names because this part  
13          gets quite confusing, but the names shouldn't be used  
14          outside the chamber -- June 1976 the brother of one of  
15          Smyth's victims, a FBS40, had moved with his family to  
16                    . During that process his sister FBS37 --  
17          and her statement to police of 12th December '95 can be  
18          found at 30580 through to 30583 -- she had disclosed  
19          being sexually abused by Smyth. At the request of his  
20          mother FBS40, when back in Northern Ireland, called to  
21          see their local parish priest in Whitehead, **FBS 51**  
22          **FBS 51**. FBS40 explains in his police statement of  
23          12th December 1995, which runs from 32147 to 32149 --  
24          and I am just going to look, please -- can we bring up  
25          32147, where he sets out what he records and recalls

1           happening? If we scroll down, please, he said:

2           "I was going to Ireland back to Whitehead to see  
3           a friend. My mother asked me to call and see **FBS 51**  
4           **FBS 51**, who was the local priest at Whitehead. She asked  
5           me to tell him that" -- scroll down, please -- "Father  
6           Smyth had abused my sister **FBS37**. I also suspected that  
7           Father Smyth abused my brother [name redacted]. I went  
8           to see **FBS 51** when I got to Whitehead. This was  
9           in 1976. I called at **FBS 51** house. I was taken  
10          into a room on the left. I told **FBS 51** that  
11          I suspected that Father Smyth had abused my sister and  
12          brother. **FBS 51** told me that he couldn't speak to  
13          me now, because Father Smyth was upstairs at the time.  
14          I also told him that I believed he had also abused  
15          a friend of my sister's called **FBS35**."

16          We will see that is correct.

17          " **FBS 51** suggested that we go down south of  
18          Ireland and speak to someone who would have been in  
19          charge of Father Smyth. The next day I went along with  
20          **FBS 51** in his car to a location in the south of  
21          Ireland. I recall it was to a hotel on the far side of  
22          Dublin. I remember the hotel had a large stone circle  
23          which stood about 6 foot off the ground. There was  
24          a number of these stones all in a circle. I met a man  
25          who was dressed as a priest. He was of high rank than

1           FBS 51       or Father Smyth. I was introduced to him  
2       by       FBS 51       , but I cannot remember his name.  
3       I spent about two and a half hours with him. I told him  
4       that I suspected that Father Smyth had abused my sister  
5       and brother and also FBS35. Although I spent two and  
6       a half hours with him, we had a general conversation  
7       with him. It was left that they would look into it and  
8       I was assured that if they found out that Father Smyth  
9       had abused FBS37, [name redacted] or FBS35 or any other  
10       child for that matter that it would be reported" --  
11       scroll down, please -- "to the police. I was then taken  
12       back to Whitehead by       FBS 51       ."

13           He then talked about an exchange which takes place  
14       in the parish hall where FBS35's family are involved  
15       with       FBS 51       explaining from their perspective what  
16       their daughter was saying.

17           FBS 51       corroborated what FBS40 had to  
18       say in his police statement of 8th January 1996. Can we  
19       look at that, please, at 32150?

20           You can see he explains that he is a priest  
21       presently attached as a curate to                               . In  
22       the early '70s he was attached to                               , working  
23       in Whitehead.

24           "I got to know Brendan Smyth, who is the brother of  
25       one of the parishioners. Although he was

1 from the Norbertine Order, he offered to help me in the  
2 parish when he was visiting his brother. I appreciated  
3 this offer and did call upon him to say mass  
4 occasionally or to stand in when I was off.

5 In '76 I remember being visited by FBS40, who made  
6 certain allegations of misbehaviour by Brendan Smyth  
7 against his sister, FBS37. He was very annoyed and  
8 angry at the Catholic Church in general and said that  
9 Father Smyth had sexually abused his sister. I was  
10 quite embarrassed about the situation really for his  
11 sake rather than my own.

12 I contacted Abbot Smith at Kilnacrott Abbey,  
13 Ballyjamesduff and told him briefly the allegations and  
14 arranged a meeting with him and FBS40. Within a few  
15 days I took FBS40 to meet Abbot Smith at the  
16 near Dundalk. We had our dinner  
17 together and then I left Abbot Smith and FBS40 together  
18 saying, 'You've business to discuss'. I don't remember  
19 talking about the matter on the way home, but I remember  
20 feeling that FBS40 was happy at what Abbot Smith assured  
21 him. I felt at that time I had done my job at this  
22 stage."

23 Then he talks about being aware of the second  
24 incident. He confirms in the next passage that:

25 "Another family, friendly with the [name redacted],

1 told him about Smyth and their daughter, FBS35, a close  
2 friend of FBS37, and explained how she was encouraged by  
3 FBS40 to disclose to **FBS 51** what happened."

4 Her police statement, which is of 26th October 1995,  
5 can be found at 30584 through to 30586.

6 **FBS 51** explains in the statement that's on the  
7 screen that he had a vague recollection of speaking to  
8 police in 1996 about Mrs [name redacted] talking about  
9 her daughter being abused.

10 FBS40 recollects the matter in his statement, which  
11 is at the bottom of 32148. The impression from his  
12 statement is that FBS35 was not at that point disclosing  
13 abuse.

14 Whatever the way of it, by 1976 a priest in Down &  
15 Connor was aware that Father Brendan Smyth was said to  
16 have abused a child or children and had arranged for  
17 Smyth's superior in his Norbertine Abbey to be informed.

18 There the issue did not rest, though, because Father  
19 **FBS 51** goes on to explain in his police statement of 8th  
20 January 1996 at 32145 that some years later he came to  
21 hear that Father Brendan Smyth was trying to get work in  
22 the Diocese of Down & Connor. You can see that:

23 "Some years later I heard that Father Smyth was  
24 trying to get work within the Diocese of Down & Connor.  
25 From my knowledge of him in Whitehead I felt it my duty

1 to inform the bishop that he was not a suitable  
2 candidate for a position here. I wrote a letter to  
3 Bishop Philbin, who acknowledged it and thanked me for  
4 drawing his attention to this. He said he had also  
5 heard rumours and Father Smyth was not appointed."

6 He explains that he wrote the letter to Bishop  
7 Philbin. Bishop William Philbin was the Bishop of Down  
8 & Connor from June 1962 until August 1982. Therefore,  
9 if **FBS 51** recollection in 1996 is correct, the  
10 letter pre-dated August 1982. According, as you see, to

11 **FBS 51**, Bishop Philbin replied, thanked him for  
12 drawing the issue to his attention and indicated he had  
13 also heard rumours about Smyth, and he was then not  
14 appointed.

15 Father Tim Bartlett on behalf of the Diocese of Down  
16 & Connor speaks about this issue in paragraphs 20 and 21  
17 of his statement on behalf of the diocese. If we look,  
18 please, at 717, paragraph 20, if we scroll down, please,  
19 where he talks about being made aware. The Inquiry  
20 brought these statements to the attention of the diocese  
21 and Father Tim Bartlett made a point of seeking out

22 **FBS 51**, who is still alive, although now  
23 83 years of age, and spoke to him about what the  
24 statement suggested.

25 If we scroll down, please, he recounts much of what

1 I have just drawn your attention to. Then you can see  
2 about halfway down the paragraph:

3 "When I explained that the diocese had checked the  
4 archives of every bishop of the diocese during Brendan  
5 Smyth's tenure as a priest and that no record of such  
6 a letter had been found, he remained quite adamant that  
7 he had written such a letter to one of the bishops. He  
8 informed me that in the early '90s -- he was not able to  
9 be more specific -- two police officers had come to his  
10 door."

11 That's likely to have been a recollection that  
12 resulted in the 1996 statement that we saw:

13 "I have advised **FBS 51** that this is new  
14 information to me and to the present administration of  
15 the diocese and that he may be asked to provide a formal  
16 statement. He indicated his willingness to assist."

17 He had also spoken to retired Bishop Patrick Walsh  
18 and Bishop Anthony Farquhar:

19 "... and both have separately confirmed they have no  
20 knowledge of the letter sent to a former bishop of the  
21 diocese by **FBS 51** or of his having reported any  
22 allegations against Brendan Smyth to the diocese."

23 So the position is, therefore, that the letter  
24 **FBS 51** sent or the letter that Bishop Philbin sent  
25 back, neither of those documents are available to the



1 Inquiry.

2 In light of this position, as this story unfolded,  
3 the Inquiry sought and received a witness statement from  
4 **FBS 51**, who, as I said, is now 83. That can be  
5 found at pages 814 to 816 in the bundle. He says in  
6 paragraph 3 at 814 -- he admits he can't recall now  
7 making the police statement in 1996. If we go, please,  
8 to 814, in paragraph 5 he explains why he did not report  
9 it to anyone. He says:

10 "My recollection is that it was both parents who  
11 came to see me. My memory is not clear about that."

12 In fact, it seems to have been FBS40, the brother,  
13 came first.

14 "I was appalled at what I was told. I cannot  
15 remember if they gave me details of the allegations or  
16 a summary. I was aware of the very confidential and  
17 personal nature of the information they were telling me  
18 and felt it was of a highly confidential nature.  
19 Because of that, I did not report it to anyone else."

20 Then if we move through to paragraph 6, please, he  
21 says:

22 "I had not received any training or guidance in my  
23 training or after I was ordained and had no basis to  
24 work on. I had never heard of this type of thing  
25 before.

1 I did know Brendan Smyth. His brother and  
2 sister-in-law lived in the parish, and when he came to  
3 visit, he would ask my permission to say a mass. This  
4 was usually midweek and would have been a private mass  
5 and not one of the usual masses I would perform for the  
6 parish. He would often call after mass to have a cup of  
7 tea with me."

8 He then refers to the statement of FBS40 about the  
9 meeting that he arranged.

10 "I don't recall speaking with FBS40 at all. I moved  
11 parish shortly afterwards in 1977. I had no contact  
12 with Brendan Smyth after that. I also note that FBS40  
13 says in his statement that I brought him to meet the  
14 superior of Brendan Smyth's religious order.

15 I have read a statement which appears to have been  
16 made by me. I do recall meeting two police officers who  
17 called at my house. I don't recall them writing out a  
18 statement, nor do I recall giving a statement.

19 I note the statement agrees with FBS40 in that  
20 I appear to have contacted the superior of Brendan  
21 Smyth's Order and arranged for FBS40 to meet with him to  
22 report his allegations. I would have understood that  
23 Abbot Smith, the superior of the Order, was the person  
24 with the authority to deal with the allegations.

25 Later I recall hearing some rumour that Smyth was

1 looking for a role in the diocese. I was unhappy about  
2 this and I wrote to Bishop Philbin to express my  
3 reservations about Smyth having any role in the diocese.  
4 I don't believe I gave him details of what I had been  
5 told. Again I felt it was highly personal and  
6 confidential. This must have been shortly after the  
7 original complaints were passed to me, as Bishop Philbin  
8 retired in 1981."

9 I think it was 1982.

10 "Bishop Philbin confirmed he noted my concerns and  
11 said he would not allow Brendan Smyth any role in the  
12 diocese."

13 Then if we move through, please, to the next page,  
14 he says, does **FBS 51** :

15 "Even reading these statements, which have helped my  
16 memory a little, I have difficulty recalling the details  
17 of the whole thing. I do not remember meeting FBS40 as  
18 he describes. I do not recall contacting or travelling  
19 to meet Abbot Smith with FBS40 and I don't recall the  
20 scene described by FBS40 where the girls were speaking  
21 directly to me. I do not wish to deny that these events  
22 happened and the description of reporting the matter to  
23 the superior of Brendan Smyth's Order would be  
24 a reasonable step for me to have taken. I knew Brendan  
25 was a Norbertine, having met with him many times, and

1 would have known how to contact his superiors."

2 He says this then at paragraph 13:

3 "Looking back, I regret not reporting to the police,  
4 but if the statements are correct, I believe I would  
5 have reported the matter to Brendan Smyth's superior in  
6 the Order, as he was in a position to deal with him."

7 So, Members of the Panel, on **FBS 51** own  
8 admission he didn't report the matter to anyone, save  
9 making his bishop aware at a subsequent stage whenever  
10 there was a possibility of Smyth working in the diocese  
11 to which he belonged.

12 Without being unfair to **FBS 51**, you may  
13 consider that the modern mindset of church child  
14 protection, of which you have heard much in the  
15 statements that I opened yesterday, that of one church,  
16 though it must be emphasised that that concept has its  
17 origin obviously in something very far from modern, it  
18 wasn't part it seems of **FBS 51** thinking at the  
19 time, because the concentration was on him not working  
20 in Down & Connor.

21 It also appears that the Diocese of Down & Connor  
22 does not have any records of Smyth seeking  
23 an appointment in the diocese or how that was dealt  
24 with.

25 I am afraid we are not in a position then to take

1 that matter any further forward except to add it, as  
2 I did try to yesterday, to the chronology of what the  
3 Norbertine Order would have been aware of in terms of  
4 this was a matter coming to the attention of Abbot Kevin  
5 Smith after the faculties in whatever form had been  
6 removed in the Diocese of Kilmore as a result of Bishop  
7 MacKiernan's intervention.

8 What I want to do then, I want to leave the diocese  
9 at this point, and hopefully I have brought together the  
10 strands of information that's available to the Inquiry  
11 as to what each of the dioceses knew when as well as  
12 looking at what the Norbertine Order knew when.

13 I am going to say just a very little bit about the  
14 Nazareth homes. I am going to do that in a very limited  
15 way now, because we have looked at that material to  
16 a degree during Module 3. I am just going to draw out  
17 some matters that have come to our attention as we have  
18 worked on this module.

19 Smyth explained during his police interview of 24th  
20 February 1995 how he got access to Nazareth. If we just  
21 look at that briefly, please, at 30273.

22 Miss Dougan rightly points out to me I said  
23 we looked at this during Module 3. It was, in fact,  
24 Module 4. Both of them seem a very long time ago now.

25 What he is being asked here, he is asked about some

1 children and then he is asked the question:

2 "Q. How would you have got access to Nazareth  
3 House?

4 A. First of all" -- he says this -- "it was a heck  
5 of a long time, but still I'd better stick to the time  
6 when I was a priest and became a member. Why did I go  
7 there first? I think it was there was a girl who at  
8 that" -- scroll down, please -- "she's never known any  
9 more by the way, but a girl I knew from Belfast, whose  
10 brother I knew. They were a brother and a sister and  
11 I'd known them quite well, knew their family. She was  
12 a nun and I -- I got friendly -- it was a family I was  
13 friendly with when I was young, and she became  
14 a Nazareth -- she was a civil servant first and then she  
15 left the civil service and became a Nazareth nun.

16 Q. What was her name?

17 A. FBS 53 .

18 Q. FBS 53 . Where was she originally from?

19 A. ."

20 I ask you to note that date -- that address:

21 " or something like that. Oh,  
22 she's gone I think now, but I know -- I knew her when  
23 she was a child. I knew the family when she was young.  
24 The reason I knew her was through her brother. Her  
25 brother belonged -- I was a prefect of the boys'

1           confraternity in Clonard at the time and he was in the  
2           -- what do you call it -- in the section, but that's all  
3           I knew him. He happened to be an altar boy in Clonard  
4           afterwards. They were people I know and it's just by  
5           coincidence her father's brother was a neighbour of mine  
6           where I lived growing up in Nansen Street, you know. So  
7           anyway she was in the Civil Service. Didn't see her  
8           then. Didn't see her before she went away to be a nun  
9           either, you know. I was completely out of touch with  
10          them during those years, but she became a nun, but  
11          I always sent a Christmas card or anything to the  
12          family, and I discovered that she was becoming -- she  
13          was going to be received or make profession or something  
14          in Hammersmith in London in the convent there, and I was  
15          still working in North Wales at the time" -- so that's  
16          '59 to '63 -- "or -- yes. So I took a short holiday --  
17          I can't remember whether it was a week or only a long  
18          weekend -- to go and be present at it, you know. I knew  
19          her at Nazareth all right. So I kept in touch with her,  
20          and she was stationed about in Birmingham, and stationed  
21          in other places, Reading and all that, but eventually  
22          she was in Belfast, and I think it was because she was  
23          in Belfast at that time that I called at Nazareth House  
24          just to make her acquaintance -- to renew her  
25          acquaintance with her, and I'd call on and off to see

1 her now. She wasn't in charge of any of these at all"  
2 -- as in the children; she wasn't in charge of the  
3 children -- "but then when I had been calling at  
4 Nazareth House or went up a few times -- it's Nazareth  
5 Lodge by the way, not Nazareth House.

6 Q. Okay.

7 A. The [name redacted] were Nazareth House, but all  
8 these others were Nazareth Lodge."

9 Then he says:

10 "But I was invited to give a retreat to the nuns,  
11 not to the children or anything like that, and it was  
12 while I was giving the retreat -- it was a full week's  
13 retreat, seven days or something like that, you know.  
14 We used to have mass and all the rest of it, and they  
15 had their own altar boys there from among the boys, and  
16 that actually was where I first met [name redacted]."

17 This is an individual who never complained to the  
18 police but who Smyth confessed himself to abuse.

19 Then he is asked:

20 "Q. Did this girl <sup>FBS 53</sup> then give you access to it?

21 A. Well, the point of calling --

22 Q. Giving you the introduction.

23 A. Was the introduction. That caused me to meet  
24 her, and I didn't meet the children normally up to that  
25 point, you know.



1 Q. But after that, after that when --

2 A. I think she was gone by then from there by the  
3 time after I'd given the retreat. I don't think she was  
4 even on that retreat, you know.

5 Q. But after that did you just go along and speak  
6 to whoever was in charge?

7 A. Yes, that's what I would do. I would go along."  
8 And then said:

9 Q. Did you know the people in charge over the  
10 years?

11 A. Well, probably. Names, no, but I knew there  
12 was, you know, a lady who was on the door all the time.  
13 She was not a nun, by the way, the lady who was on the  
14 door all the time. She has left since. She has retired  
15 since.

16 Q. What was her name?

17 A. She was [name redacted] something."

18 That's NL5.

19 "I even have her address, but I can't think of her  
20 surname. She lives down off now."

21 You recall NL5 gave evidence to you that she wanted  
22 to know, "Why do you keep coming to Belfast?" and he  
23 would have told her about his appointments.

24 "She lives down off now, lives in  
25 apartments there. Never been to the house, but that's

1           **the address I have for her.**

2           Q. Did you know the nun in charge then?

3           **A. Yeah. You see, when I was giving the retreat,**  
4           **I actually lived in the place for that week.**

5           Q. In the Lodge?

6           **A. In the Lodge, 'cos they had an apartment there**  
7           **for any visiting priest, but that's the only time I ever**  
8           **lived in it, by the way, for that week, and, of course,**  
9           **when I wouldn't be doing things then, I wandered round**  
10          **and visited the place and I got -- that's how I really**  
11          **got to know the ones. It was during that week of the**  
12          **retreat. It was not before that. Before that I would**  
13          **only be visiting, call on the nun and chat. I might see**  
14          **one or two kids around the place, but I wouldn't know**  
15          **any of them, you know, and by the way it was only after**  
16          **when they invited me. I don't know how they came to**  
17          **invite me. Possibly they heard I was visiting her", as**  
18          **in FBS 53 , "and they were wanting somebody and she**  
19          **maybe suggested. I don't know whether she did or not.**  
20          **I never asked her by name.**

21          Q. But did all the staff over the years that you  
22          were visiting both Nazareth House and Nazareth Lodge  
23          know you?

24          **A. Yes, but Nazareth Lodge was the main one.**

25          Q. Yeah.

1           **A. Nazareth House was only an occasional visit,**  
2           **because I was visiting old people there. All the staff**  
3           **in -- the staff in the Lodge should have known me at the**  
4           **time.**

5           Q. Well, whenever you would have arrived at the  
6           door of the place."

7           Then it goes on about moving to how he got access to  
8           De La Salle.

9           So you saw at the beginning of that extract from the  
10          interview he identified the acquaintance that he knew as  
11          his access at **FBS 53** . The reference for that is at  
12          30273. He identified her address to police.

13          As it turns out from some excellent detective work  
14          from Miss Dougan and Miss Kirkwood, that was actually  
15          **FBS 53**           that he was referring to.

16          If we can look at 10599 please, if we scroll down,  
17          this is a letter being written. So it is being written  
18          by           **FBS 53**           . She was in the Nazareth Lodge --  
19          she was in Nazareth Lodge between 9th October 1973 and  
20          27th June 1974.

21          Now there is a suggestion in terms of Nazareth House  
22          that he perhaps was in Nazareth House before this in  
23          order to meet certainly the first of the [name redacted]  
24          children.

25          If we just scroll on down, please, so we can see --

1 yes, so this is in the same -- you can see the address  
2 of this letter is . That was the  
3 address of **FBS 53** . If we scroll down, this is in  
4 the same hand as the **FBS 53** letter we have  
5 just looked at. If we scroll down, please, and just  
6 keep going. So we can see it is a letter from <sup>FBS 53</sup>  
7 **FBS 53**. We are going to see the same thing on the next  
8 page. Move on down, please. Again **FBS 53** writing.  
9 Move on down again, please. Just stop there for  
10 a moment. So it's signed **FBS 53**  
11 of the Congregation of the Sisters of Nazareth". She  
12 was having dispensation from her vows in 1975.  
13 If we scroll down again, please. Just keep going down  
14 again.

15 So we are satisfied that this is the lady that  
16 Brendan Smyth is referring to as the person he returned  
17 to make the acquaintance of in Nazareth Lodge, but it  
18 may well be that he had already been visiting Nazareth  
19 House to some degree.

20 It is clear and you saw in the interview that Smyth  
21 was saying he'd conducted a retreat in Nazareth Lodge.  
22 That, as it turns out, was in January 1976. If we can  
23 look, please, at 10612, 10612, the page before. Just  
24 magnify. No. 10612, just the next page down, please.  
25 Just magnify that for me, please. It is the very top

1 left entry. The reference is to a retreat, 3rd to 10th  
2 January. You can see in the fourth line down it was  
3 conducted by "Reverend B. Smyth, Norbertine Father".  
4 The further one gets away from the screen the clearer  
5 the writing becomes bizarrely.

6 As Smyth revealed himself, he lived in the home for  
7 that week. When he was admitting to abusing DL41 -- and  
8 we saw his name at the end of the section we were  
9 looking at, someone who did not complain to the police  
10 -- during his interview on 7th December 1994 -- and  
11 I will just give you the reference, 30849 -- Smyth  
12 explained that he got to know him because he was  
13 an altar server during the retreat that he conducted.  
14 It appears that the four boys who ultimately were  
15 children he got in touch with and abused again in Rubane  
16 were all there at the same time in Nazareth Lodge and  
17 were aware that each other were seeing Smyth when he  
18 called to visit them in Rubane.

19 A retreat appears to have been conducted by the nuns  
20 annually. So there is nothing particularly unusual  
21 about that appearing in the Nazareth council books.  
22 I will leave Mr Montague in his written submission to  
23 set out some other examples of that, which he has kindly  
24 already brought to my attention. This just happens to  
25 be a particular retreat that on this particular occasion

1 is being conducted by Brendan Smyth.

2 As you saw in the interview section that we looked  
3 at, Smyth himself said he mostly visited the Lodge.  
4 What we can say, doing the best we can -- this is  
5 a complicated exercise to be undertaken in order to say  
6 this, but we are reasonably satisfied that we have got  
7 this as accurate as we can.

8 At the broad sweep across all of the material that  
9 we have, the stuff that was gathered in 1995, '96 and  
10 today post-2009 with the police and with the Inquiry, we  
11 can say that there appears to have been six children who  
12 alleged they were abused in Nazareth House by Smyth.

13 In respect of those six he faced four allegations at  
14 the time he was alive. Two of the allegations he  
15 accepted and was convicted in respect of. Sorry. I got  
16 that slightly wrong. Two of the allegations he  
17 accepted. He was convicted of one of them, because the  
18 second person that he accepted fondling and generally  
19 interfering with went on to allege in 1995 much more  
20 serious offences, and whenever that was examined, the  
21 police formed a view that those more serious allegations  
22 were not credible. So we will come to see then they did  
23 not proceed with the matter that he had already  
24 accepted.

25 So let me do that again clearer. Six children in

1 total in the House. Four he faced allegations of while  
2 he was alive. He was convicted of one of them. He  
3 partially accepted the other, though it was not  
4 proceeded with, and in respect of the other two during  
5 his lifetime they were not his normal modus operandi and  
6 he denied that he had anything to do with the children  
7 concerned. Then there are two individuals who have made  
8 claims post-2009 about their time in the House.

9 Given how complex that was for six, the Lodge is  
10 slightly more complicated than that. In total in  
11 respect of Nazareth Lodge there are 18 individuals who  
12 make allegations. Ten of the 18 made allegations in  
13 1995 and 1996. Smyth was convicted of abusing five of  
14 those children. He denied four individuals' allegations  
15 for similar reasons about the modus operandi and saying  
16 he would not ever engage with a stranger and so on,  
17 those types of responses.

18 The tenth was a person who the police decided not to  
19 put to him, because what she was describing about  
20 sitting on his knee probably wouldn't have amounted to  
21 an indecent assault.

22 So that dealt with the ten of the 18 that were known  
23 to him and put to him and dealt with in the criminal  
24 process in 1995/'96.

25 That leaves eight further individuals making

1 allegations that were made either to the police or the  
2 Inquiry post-2009. I will say a little bit more about  
3 those towards the end.

4 There is one additional category, if I can add it  
5 in. It is not a 19th person, but it's a person who was  
6 part of the original ten, was one of the original five  
7 of the ten that he was convicted of, but then post-2009  
8 makes more serious allegations than he'd made in '95,  
9 which Smyth pleaded guilty to.

10 So when you put that all together, you have a total  
11 from the children's homes of 24 individuals in respect  
12 of the Nazareth homes. Of that 24, he was convicted of  
13 abusing seven children in total. I am not going to  
14 drill down into the figures more than that at this  
15 stage. It is complicated enough, you may think, but you  
16 will note that about ten individuals in total didn't  
17 make allegations before his death. I think that's  
18 right. Ten individuals didn't make allegations before  
19 his death.

20 There are, as you saw during Module 4, a number of  
21 instances where children said they complained in some  
22 way to nuns about Brendan Smyth and those were looked at  
23 to some degree during Module 4 and no doubt Mr Montague  
24 will address those particular examples in his written  
25 submission. I am not going to say anything more about



1           them at this stage.

2           The position of the Sisters of Nazareth I read out  
3           yesterday is that they didn't have sufficient knowledge  
4           at the time this man was visiting their homes to be  
5           aware of what he was doing to the children. You did see  
6           in the police interview one of the nuns describing  
7           herself as having been naive and feeling that he did  
8           give her the creeps, but she didn't see the matter any  
9           more seriously than that. We will bring that material  
10          together in Mr Montague's written submission.

11          What I want to do now, if I may, Members of the  
12          Panel, is the last section of what I am going to say is  
13          called "the beginning of the end". The events that  
14          spell the beginning of the end of Smyth's criminality  
15          began in March 1989. I am going to use the names at  
16          this stage, because to do other is very complicated, but  
17          the names should not be used beyond the chamber.

18          In March 1989 FBS9 spoke to his uncle and aunt,  
19          FBS12 and FBS13, about the abuse that he'd suffered. By  
20          that stage FBS9 was 33 years of age. He asked about  
21          whether the children of the [name redacted], who were  
22          younger, had been abused. The three older children of  
23          the [name redacted] family slowly and reluctantly  
24          disclosed abuse to their parents.

25          FBS13 sets that out in her statement to police of

1 5th April 1990 at 31480. She explains that as that  
2 disclosure process began to them in around April 1989,  
3 they'd a meeting with Abbot Kevin Smith in the Armagh  
4 hotel, which we have touched on. She explained in her  
5 police statement that the abbot did not seem surprised  
6 and revealed a previous complaint in early 1970/'71.  
7 Was sent for treatment. Thought he was cured.  
8 Reference to being in a hospital in Dublin. The abbot  
9 was to get back in touch with them once they had been  
10 investigated. Then she explained that did not happen.

11 Her husband gives a similar account. As we looked  
12 at earlier for a different reason, Abbot Kevin Smith  
13 acknowledged in his 1989 meeting -- acknowledged that  
14 meeting with the [name redacted] in his letter to Chris  
15 Moore of 26th September 1994. That reference can be  
16 found at 32218. He explained what he did thereafter,  
17 which was further treatment for Smyth with Dr Delmonte  
18 in Dublin.

19 However, the following year on 23rd February 1990  
20 FBS14, then 17, so a daughter of FBS13 and FBS12,  
21 disclosed to **FBS 47**, a social worker within the  
22 Catholic Family Welfare Society in Belfast, that she had  
23 been sexually abused by Brendan Smyth. A week later on  
24 1st March **FBS 47** reported FBS14's allegations to  
25 the RUC.

1           There is just a handwritten record I want to show  
2           you. It is at 32509. This appears to be the report.  
3           You can see on the left the date and time being  
4           recorded, the reference to indecent assault. Then  
5           recounting the history of what had been told to <sup>FBS 47</sup>  
6           **FBS 47** . She explained -- **FBS 47** that is --  
7           explained the circumstances in her police statement of  
8           9th April 1990. That's at 31479.

9           Then over time FBS14, her younger sister FBS15,  
10          younger brother FBS16 and her cousin FBS9, who began the  
11          discussion with the [name redacted] parents, made  
12          allegations against Brendan Smyth.

13          In March 1990 the RUC began their investigation. As  
14          we saw, at the same time as the police were doing that  
15          the then Bishop of Down & Connor, Cardinal Cathal Daly,  
16          was getting in touch with Abbot Kevin Smith, sought  
17          a meeting with him and explained about what three  
18          priests and a social worker had told him. We saw that  
19          yesterday in documents that we looked at. We saw that  
20          Cardinal Daly was pointing out that Abbot Smith had  
21          accepted full responsibility for Smyth.

22          Now in March 1990 -- and I am going to cover this  
23          ground very quickly, but the material is in the bundle  
24          -- but in March 1990 FBS14, FBS15, FBS16 and FBS9 all  
25          made statements to the police, and they describe the

1 form and nature of the abuse in keeping with the type of  
2 modus operandi that I was articulating to you yesterday.

3 In FBS9's case he described how he confronted Smyth  
4 in his aunt's house in and around February 1989. The  
5 reply from Smyth was, "I thought you would have  
6 forgotten about that". FBS9 explained to the police  
7 that Smyth admitted what he had done to FBS9 as a child  
8 and FBS9 described him to the police as -- and I will  
9 just show you this at 31491, please:

10 "I asked him to cast his mind back 20 something  
11 years to what he did to me as a child. He said  
12 something like, 'I thought you would have forgotten  
13 about that by now'. He implied that it was water under  
14 the bridge and that I should have forgotten about it now  
15 as he felt it wasn't of any significance. He asked me  
16 if I had affected my marriage sexually and I said that  
17 it was none of his business, that it wasn't relevant in  
18 this situation. I just wanted him to realise that he  
19 had played a role in my marriage break-up. I asked him  
20 did he admit to what happened to me as a child. He said  
21 'Yes'. He was really rather pathetic. I told him that  
22 I'd already been in touch with his superior about this  
23 and he assured me that he would arrange treatment for  
24 him. Smyth told me he had been in treatment before,  
25 though it wasn't in Northern Ireland. I told him that

1 as long as he received appropriate treatment I wouldn't  
2 report it to the appropriate authorities. Then last  
3 month the [name redacted] told me that they had decided  
4 to report the abuse. So I decided that this was the  
5 appropriate time for me to come forward."

6 When Smyth was interviewed about these various  
7 matters, he accepted but minimised his role to some  
8 extent with the suggestions of oral sex with one boy,  
9 but he described this incident of the confrontation  
10 where he said of the suggestion about counselling that  
11 he was glad of the spur to go for counselling and  
12 suggested that he could go to FBS9's counsellor. FBS9  
13 explained to him that that wasn't appropriate.

14 Having been interviewed initially on 8th March 1991  
15 -- and I gave you yesterday -- the interview runs from  
16 31493 to 31503 -- the RUC then charged Smyth that same  
17 day. We can see that at 31516, please. You see the  
18 charge sheet. If we just scroll down, you can see there  
19 were four charges that were put at that stage. That was  
20 not ultimately how the matter panned out, but he appears  
21 to have been released on police bail to appear at  
22 Belfast Magistrates' Court on 5th April 1991. Due to  
23 the misunderstanding according to the RUC documents at  
24 that point through no fault of Smyth's the case was  
25 marked as "no appearance" and there appears to have been

1 a mix-up over the date. Then, as you know, it would be  
2 a number of years and after the fall of the government  
3 before Smyth would face a Northern Ireland court.

4 CHAIRMAN: Just remind me of the date he was meant to turn  
5 up.

6 MR AIKEN: He was meant to turn up on 5th April 1991. We  
7 can see, please, if we look at 31472, if we just scroll  
8 down, please, we can see the bottom two paragraphs.

9 "He was charged, released and bailed to appear on  
10 5th April.

11 Due to a misunderstanding and through no fault of  
12 Smyth's the case was marked 'no appearance' on that  
13 date."

14 On 7th May then Detective Constable Marks provided  
15 his report to the -- and this was on RUC file.  
16 Ultimately there were six police files and the first  
17 police file , which dealt with -- I am going  
18 to call it for ease the [names redacted] file. You can  
19 see he recommended, as per the initial charge sheet,  
20 a charge of gross indecency in respect of FBS9 and  
21 indecent assaults on the others.

22 On 20th May 1991 Detective Inspector Nairn in  
23 a hard-hitting report sets out the long-lasting effects  
24 of Smyth's abuse on the [names redacted] families and  
25 endorsed the approach of Detective Constable Marks.

1 I~am just going to show you that, because the next  
2 document is of particular interest in the context of  
3 difficulty of prosecuting historical matters. If we  
4 look at 31475, please, so he sets out the facts of the  
5 four individuals and then talks about the interview. He  
6 refers to:

7 "... stating, 'seeking sexual gratification and  
8 curiosity to see how I'd feel'. A disgusting litany of  
9 offences committed by a man who wore the cloth, but,  
10 worse, it was a trusted family friend. From the  
11 statements of the children it is plain to see they were  
12 quite afraid of Smyth and when [name redacted] was  
13 recently questioned about the matter, he would not even  
14 speak of it.

15 The repercussions have been horrendous, particularly  
16 for FBS9. Marriage ... when one reads his statement, it  
17 is a tragic case and clearly indicates the effect of  
18 sexual abuse on children even in adult years.

19 Despite the time lapse between the offences, Smyth  
20 being interviewed by police, despite his age, 64 years,  
21 or position, I feel these are very serious offences or  
22 at least the surrounding circumstances are serious and  
23 I therefore strongly recommend prosecution as follows  
24 against Brendan Smyth."

25 He then endorses the same charges that were

1 envisaged by Detective Constable Marks.

2 Now then the matter moves to Superintendent Timoney.  
3 If we move on to the next page, please, we will see he  
4 was the supervising officer. If we just scroll down to  
5 the bottom so we can ground this document, if we move on  
6 to the next page, please, and just down to the bottom,  
7 so you can see it's Superintendent Timoney on  
8 23rd May 1991. If we go back up, please, to the top of  
9 the page, he says:

10 "There is no evidence in these papers to  
11 substantiate the charges of indecent assault on three of  
12 the individuals. The statements from these three  
13 persons may suggest that there may have been an indecent  
14 connotation to Smyth's contact with them over a period  
15 of time. This is denied by Smyth and there is no  
16 evidence to support the suggestion. I don't consider  
17 the charges in respect of these three persons are  
18 sustainable.

19 In regard to the outstanding and more serious charge  
20 of gross indecency towards FBS9, I'd make the following  
21 observations. The offences are now over 20 years old  
22 and admitted by Smyth. There is no doubt that they took  
23 place. However, these offences have come to police  
24 attention after what now appears to be unsubstantiated  
25 allegations by one during a counselling session which



1 was not in respect of any form of abuse but in  
2 connection with another matter. I do not know if there  
3 were any other reasons for the need for counselling, but  
4 Smyth's involvement with her does not appear on the face  
5 of it to have been a contributory factor to the need for  
6 counselling. In consideration of this then FBS9's  
7 complaint against Smyth at this late stage in support of  
8 other unsubstantiated allegations does smack of  
9 unfairness. The complaint of FBS9 was made more than  
10 two years after his personal confrontation with Smyth  
11 and after agreement between the parties concerned that  
12 if Smyth sought treatment, he would be satisfied and not  
13 report the matter. If FBS9 was satisfied for that  
14 period of over two years, then the circumstances suggest  
15 that other/maybe family reasons have prompted the  
16 present complaint. I do not wish to diminish in any way  
17 the offence or injury caused to FBS9 by the actions of  
18 Smyth, but practical common sense must indicate that  
19 there may be other reasons for reporting at this late  
20 stage.

21 It is not clear from these papers, but I understand  
22 that Smyth lives outside the jurisdiction and his  
23 presence at this station for interview was voluntary and  
24 by prior arrangement. What is clear is that Smyth has  
25 admitted the most serious offence, which can be

1 substantiated, and his interviews with the investigating  
2 officers appear frank and truthful. The circumstances  
3 surrounding this matter are not normal. The occupation  
4 of the offender, his age and the fact that he was  
5 involved in not just a confrontation with the injured  
6 party but also was willing to participate in joint  
7 counselling all culminate in making this an exceptional  
8 case. I am not convinced that proceedings are in the  
9 circumstances required. The offences against FBS9, the  
10 only sustainable offences, are not only stale, but  
11 because of their nature cannot be repeated. My own  
12 opinion in this matter is that I do not believe that  
13 there is anything to be gained by prosecution in this  
14 case. Had the circumstances of this case been brought  
15 to my attention at the time of investigation, I would  
16 have directed that Smyth be reported in the  
17 circumstances and not charged.

18 I forward these papers for direction."

19 The DPP are then sent the file. They do not agree  
20 and it is considered that Smyth should be prosecuted.  
21 On 25th July 1991 the DPP issue a direction on the file  
22 in respect of six counts of indecent assault against  
23 three individuals: FBS9, FBS14 and FBS12 (sic). They  
24 don't direct charges in FBS15's case. They also  
25 directed that FBS9's brother FBS10 be interviewed as

1 soon as possible.

2 From then steps are taken in 1991 to have Smyth  
3 returned. You can see that at one stage it appears the  
4 legal representative of Smyth asked the Bishop of Down  
5 & Connor, Patrick Walsh, to speak to the Abbot Kevin  
6 Smith, and Bishop Walsh gave a police statement on 29th  
7 May 1997 and he confirmed that on 3rd August 1991 he  
8 telephoned and got the Prior and on a later date when he  
9 spoke to the then Abbot.

10 Now from the timing you may consider it likely that  
11 the intervention of the Bishop of Down & Connor at the  
12 request of Smyth's legal representative may have been  
13 encourage -- may have been to encourage Smyth's return.  
14 If that's the case, you may consider it likely to call  
15 into question the Abbot's assertion to Chris Moore in  
16 his September '94 letter that he didn't know of any  
17 desire by police to interview or serve papers on Smyth.

18 On 6th December 1991 Detective Constable Marks spoke  
19 to Smyth himself by telephone at Kilnacrott. That's at  
20 31317. Smyth said to him he would be travelling to  
21 Northern Ireland some time the following year. The  
22 officer formed the view that Smyth would not be making  
23 himself available for summons and PE papers to be served  
24 and sought further guidance about how to deal with the  
25 situation.

1           In January 1992 then the process began of the matter  
2 being referred back to the DPP for consideration of  
3 extradition proceedings. The reference for that is at  
4 31320.

5           There are further directions on the file to tidy  
6 some administrative matters, and then in January of  
7 1993 FBS10, then 32, is interviewed. Smyth had already  
8 admitted abusing him during the interview of 8th  
9 March 1991.

10           Then on 15th February 1993 the DPP issued a further  
11 direction on the file that reframed the charges so that  
12 now there were charges against the two [name redacted]  
13 brothers and the two [name redacted] siblings with nine  
14 counts of indecent assault in all against those four  
15 individuals.

16           The preliminary inquiry eventually took place after  
17 all of the difficulties of seeing Smyth returned to the  
18 jurisdiction on 21st January 1994. He was returned for  
19 trial to Belfast Crown Court on nine charges in respect  
20 of the four individuals.

21           As a result of the media coverage of the preliminary  
22 inquiry in January 1994, five further women, now each in  
23 their 30s, came forward to the RUC to disclose their  
24 experiences at the hands of Smyth. It is recorded in  
25 the police file that they felt they had seen others,

1 that's the [name redacted] and [name redacted], had the  
2 courage and strength to come forward and it was their  
3 duty to do so as well. The reference for that can be  
4 found at 31395.

5 One of these five women, and this was the first, was  
6 a former resident of Nazareth House, the first of the  
7 individuals who were abused by Smyth in the Nazareth  
8 homes to come forward. That was HIA195, who is  
9 an applicant to the Inquiry. She is "HIA195". She gave  
10 evidence on Day 101 on 11th March 2015. She was  
11 resident in Nazareth House between January '71 and May  
12 '77. She set out in her police statement of  
13 January 1994, which can be found at 31400 to 31403, what  
14 she said Smyth did to her in terms of touching and that  
15 was repeated to the Inquiry. She made the case, as  
16 I indicated previously, that she had told SR31 after the  
17 first time and that she was not believed and that she  
18 received a slap. That's at 31402. She then talks in  
19 a further police statement about him putting his finger  
20 in her back passage.

21 Smyth was interviewed about HIA195's allegations on  
22 11th March '94. He accepted much of the allegations  
23 save for the last part.

24 In relation to the suggestion that HIA195 had told  
25 the nun, head nun at the time, SR31, she was interviewed

1 on 19th June 1996. The relevant part of her interview  
2 runs from 32407 to 32428. The allegation was put to her  
3 and she said that she didn't know Smyth and wasn't ever  
4 told about him abusing anyone and didn't hit HIA195.

5 That was the first individual of the five. There  
6 then are two sisters who lived near the [name redacted]  
7 in Belfast who came forward to explain Smyth abusing  
8 them while on a trip to .

9 The fourth individual was a girl who went to school  
10 in . She records in her police statement  
11 about Smyth visiting her in school and how on the last  
12 occasion she says in her police statement that she told  
13 FBS20.

14 Smyth was interviewed about that and he accepted  
15 fondling of her, but he -- it doesn't appear that FBS20  
16 was interviewed. However, Father Timothy Bartlett on  
17 behalf of the Diocese of Down & Connor does deal with  
18 this matter, although at the time it was being dealt  
19 with it was taking the account of an otherwise anonymous  
20 individual in Chris Moore's book. So he picks that up  
21 and I am able to patch in we are talking about the same  
22 person.

23 If we look, please, at 716. So the suggestion the  
24 girl gave was that she told FBS20 and FBS20 intervened  
25 with Smyth and ensured that he couldn't abuse her

1 further, but if we scroll down, please, what Father  
2 Timothy Bartlett records, he refers to the extract from  
3 the book, the reference to the pseudonym "Sarah" in --  
4 talking about abuse in a visiting room at school, and  
5 the record about having complained to two nuns, FBS21  
6 and FBS20, the principal:

7 "... who assured the parents of Sarah that Smyth  
8 would not be allowed back in the school and that the  
9 incident would be referred to a higher church  
10 authority."

11 Now if we scroll down, please:

12 "Given the possibility that any such report to  
13 a higher church authority might involve a report to  
14 someone in the diocese, I contacted the  
15 Sisters to clarify their understanding of this reported  
16 event. I have been advised and have independently  
17 confirmed that FBS20 has suffered from severe dementia  
18 for some time and is in full-time care in a nursing home  
19 in Dublin. FBS21, however, is still quite well and  
20 claims to recall this particular incident very clearly.  
21 In my conversation with her about the matter she  
22 confirmed that when Brendan Smyth arrived to the school  
23 that particular day and asked the school secretary to be  
24 allowed to see the girl called Sarah, because he was  
25 a friend of Sarah's father, it was FBS21 who conveyed

1 the request to the pupil referred to as Sarah, who was  
2 in class at the time. FBS21 was adamant to me that  
3 Sarah simply indicated that she did not like Father  
4 Smyth and didn't wish to see him, and this was  
5 sufficient for FBS21 to advise Sarah to go back to class  
6 while the secretary informed Father Smyth that Sarah was  
7 not available to meet him. FBS21 went on to say to me  
8 that she did inform the principal, FBS20, about the  
9 incident and FBS20 had indeed phoned Sarah's father that  
10 evening to express concern about a family friend  
11 visiting during school hours. FBS21 recollects that  
12 FBS20 told her that Sarah's father had been quite angry  
13 that Father Smyth had asked to see Sarah during school  
14 hours, and both had agreed that Father Smyth should not  
15 be allowed to visit Sarah in the school again. When  
16 I asked FBS21 if FBS20 had made any report of the  
17 incident to anyone in the diocese, she was adamant that  
18 the matter had not gone any further, since there was no  
19 question in either of their minds at that time of abuse  
20 having taken place or being suspected, and the parents  
21 had agreed with the school that Brendan Smyth should not  
22 be allowed access to Sarah while she was in school."

23 Father Bartlett explains he checked all of the  
24 records he can possibly check and to the best of his  
25 knowledge there is no record of any such report being



1 made to anyone in the diocese.

2 So it is certainly the case that Brendan Smyth did  
3 abuse this girl in the school and that is explained by  
4 her and he accepts doing it, but what FBS21 is saying is  
5 that the recollection as to how that came to an end of  
6 Smyth seeing her is not the same as her recollection as  
7 to how it came to an end, and that it wasn't because of  
8 abuse that this matter was referred to the parents and  
9 brought to notice in that way.

10 The fifth individual who made a report to police  
11 also lived near the same families in West Belfast. He  
12 again accepted -- Smyth -- when he was interviewed  
13 fondling, but the nature of that fondling was not such  
14 as to stand an indecent assault charge.

15 When Smyth was interviewed about the series of  
16 allegations of the five individuals in March 1994, he  
17 accepted four out of the five. In fact, he accepted the  
18 fifth incident as well, but it didn't proceed.

19 As a result on 18th May 1994 Detective Constable  
20 Marks submitted the second file or his report  
21 recommending on the second file that Smyth be prosecuted  
22 for indecent assaults of these five further women and  
23 drawing attention to a further matter disclosed by one  
24 on the original file.

25 The DPP then issued a direction on what I am calling

1 RUC file 2 or the HIA195 file in respect of this time  
2 another eight counts of indecent assault against four of  
3 the women. The DPP did not proceed with one of the  
4 accounts.

5 Smyth was arraigned at Belfast Crown Court on 17th  
6 June on bill 13 of '94. That related to the nine counts  
7 of indecent assault against the [name redacted] and  
8 [name redacted] on the [name redacted] file. He was  
9 also arraigned on the same day on bill 131 of '94 on the  
10 eight counts of indecent assault against the four of the  
11 five women.

12 Smyth pleaded guilty before The Right Honourable Sir  
13 Robert Porter QC, the Recorder of Belfast, at Belfast  
14 Crown Court on that date, 17th June, and was then  
15 sentenced on 24th June 1994. He was given in respect of  
16 the first bill, 13 of '94, dealing with the [name  
17 redacted] and [name redacted], in respect of the boys he  
18 was given four years on each count of indecent assault  
19 and in respect of the girl 21 months, all the sentences  
20 to run concurrently. On the second bill with the four  
21 women who had come forward after the PE he was given  
22 a sentence of three years on each of the eight counts of  
23 indecent assault, again all of the sentences to run  
24 concurrently. So in total after files 1 and 2 Smyth was  
25 convicted of 17 counts of indecent assault on the eight

1 individual, five girls and three boys.

2 The transcript of the hearing before Judge Porter  
3 can be found in the bundle. It is at 31978 to 32001 and  
4 his sentencing remarks are at 31974 to 31977.

5 On 4th August 1994, if we can just bring this up,  
6 please, at 31360, the DPP through now Resident  
7 Magistrate or District Judge White wrote to the RUC  
8 expressing his appreciation of the considerable efforts  
9 engaged in by the RUC and Detective Constable Marks in  
10 particular. He said:

11 "At the conclusion of this long-running case, which  
12 involved a prolonged attempt to extradite Smyth,  
13 followed by a series of new allegations against him,  
14 I wish to place on record my appreciation of the work  
15 put into this case by the investigating officer,  
16 Detective Constable Reginald Marks.

17 Detective Constable Marks responded readily and  
18 willingly to the many onerous requests made of him by  
19 both this office and the Crown Solicitors Office. In  
20 addition, one of the most notable features of his work  
21 was the concern and attention he paid at all stages of  
22 the case to the interests of the injured parties and  
23 their families. I have no doubt that the interest he  
24 displayed in this regard helped to alleviate the  
25 frustration those persons must have felt at the time it

1 took to bring Father Smyth to justice.

2 I would be grateful if you would convey my views to  
3 Detective Constable Marks' authorities."

4 That unfortunately was not the end of the matter,  
5 because on 6th -- perhaps if we take a short break.

6 CHAIRMAN: Yes. We will take ten minutes, ladies and  
7 gentlemen.

8 (3.20 pm)

9 (Short break)

10 (3.30 pm)

11 MR AIKEN: Chairman, Members of the Panel, we'd looked at  
12 the first two RUC files that made up the two bills of  
13 indictment that resulted in the two sets of convictions  
14 in June 1994. I was saying to you as we broke that the  
15 matter did not end there, because on 6th October 1994  
16 UTV broadcast the programme "Suffer the Little  
17 Children". The transcript of the programme is in the  
18 bundle at 31200 to 31274. The fact that the programme  
19 included further victims, who had not featured in the  
20 1994 proceedings, prompted a further police  
21 investigation, which involved the police seeking out the  
22 individuals who had spoken to the programme. The  
23 reference for that is at 31198.

24 This produced another extensive RUC police file,  
25 this time of '95. That runs from 30555 in the

1 bundle to 31185. For ease I am going to call this RUC  
2 file 3 or the DL59 file. Again no names that we use  
3 should be used beyond the chamber. This file dealt with  
4 the complaints of nine individuals, outlining what the  
5 reporting police officer described as "a catalogue of  
6 oral sex, masturbation and digital fondling". The  
7 reference for that is at 30756.

8 Now I am not going to go through these in detail,  
9 because the Panel members have access to the material to  
10 which it relates, but the first individual was DL59, who  
11 was the younger brother of HIA195, who was an applicant  
12 to the Inquiry. He explained that while he met Smyth in  
13 Nazareth House, it was actually in De La Salle that he  
14 was abused by him. He describes the type of activity  
15 which you have heard about in respect of Smyth.

16 He also said that Smyth would have called down to  
17 Rubane about once a month and he would then have been  
18 called down to a room to see him. He said that at  
19 30770. He also said Smyth would have seen two other  
20 boys in De La Salle and he named HIA41, who is another  
21 applicant to the Inquiry, "HIA41", and DL41, who was not  
22 an applicant and never spoke to the police.

23 Smyth was interviewed and he accepted kissing,  
24 touching and possibly masturbation, and was asked again  
25 about that in his interview and he accepted, and Smyth

1 also accepted abusing DL41, because the name was put to  
2 him at interview. There had been no statement to  
3 police. Smyth explained he got to know him, as  
4 I indicated earlier, at the retreat that he had  
5 conducted in Nazareth Lodge. He described seeing him  
6 also in De La Salle. He was someone who -- he and DL59  
7 had overlapped.

8 The second individual that's part of the nine is  
9 HIA41, who was an applicant to the Inquiry. He  
10 explained in his police statement in 1995 -- it's of  
11 January '95 and it runs from 30777 to 30781. He  
12 described how he had been given sweets and money and  
13 would have been indecently assaulted. He then said he  
14 only saw him on a few occasions in De La Salle. He  
15 would have been sent for and went to the visitors' room.

16 When Smyth was interviewed, he had no recollection  
17 of fondling HIA41 as described, but accepted that he  
18 could have. Those were the first two individuals and  
19 both of those individuals, as you know, were resident in  
20 children's homes that the Inquiry has been  
21 investigating.

22 The third and fourth individuals were girls who  
23 lived in Belfast and went to schools that Smyth had  
24 access to them. Again similar allegations.

25 Similarly with the fifth girl. She lived in the

1 area. Again he had had access to her,  
2 and again indecent assaults and suggestion of the use of  
3 his fingers. She continued to receive letters from him  
4 when he went to America.

5 The sixth individual similarly, a girl resident in  
6 Belfast, describing similar abuse, and the seventh girl  
7 was someone that Smyth -- and I am not going to open it  
8 to you today, but it's a statement that you may wish to  
9 reflect on at 30797 through to 30799, because the  
10 statement describes how Smyth began the abuse at 11,  
11 when she was aged 11, but it continued, interaction  
12 between the two, after she moved into adulthood. She  
13 described how she would be taken to various places where  
14 he would visit, including Nazareth Lodge, and she  
15 remembers being taken down to Kircubbin, where he would  
16 have gone inside to make his visit and then she would  
17 have been in the car and she would have -- he'd continue  
18 to engage with her then after he returned.

19 He accepted at interview having a very long  
20 relationship, as he described it, with her from about  
21 the age of 12. He was interviewed about that in May  
22 1995.

23 The eighth individual of the nine was another boy  
24 from Nazareth Lodge, NL59. He is "NL59". He explained  
25 to the police how he was introduced to Smyth by the nuns

1 he said. Smyth would visit him and his sister NL88.  
2 I will ask you to note that name, because that will come  
3 back. He goes on to explain on the occasions what Smyth  
4 would do, again the indecent assault character of the  
5 offending.

6 In fact, Smyth had volunteered abusing NL59 in  
7 an earlier police interview. So he had actually offered  
8 that name to police as someone he had abused on  
9 7th December 1994, but, in fact, the boy in question  
10 then gave the statement to police on 26th April 1995.

11 The ninth individual that was part of this third  
12 police file was another resident in Nazareth Lodge,  
13 DL56. Now the Inquiry is aware that this individual was  
14 abused by James McGuigan, who was an individual who  
15 featured in the Rubane module, Module 3, and he  
16 described in his police interview what he says happened  
17 to him at the hands of Smyth. This perhaps shows the  
18 complexity of the difficulties for police investigating  
19 these matters at times, because the police for reasons  
20 that they set out, which I am not going to go into now,  
21 didn't believe his account about his abuse by Smyth,  
22 because it was totally out of keeping with Smyth's modus  
23 operandi. The suggestion was that randomly in the hall  
24 he was touched in the hall and the living room by Smyth,  
25 someone that he didn't know. That was a matter that the



1 police expressed the view to the DPP shouldn't be  
2 proceeded with.

3 Now as part of this RUC file 3 or DL59 file there  
4 were an additional twelve individuals who were mentioned  
5 during interviews with Smyth, some of whom he accepted  
6 abusing, but who didn't wish the matter to be pursued.  
7 None of those individuals were resident in a children's  
8 home.

9 As part of this investigation that was part of the  
10 RUC file 3 four of the interviews that were conducted  
11 related to this file. As I have been explaining, Smyth  
12 made admissions in respect of eight of the nine  
13 individuals, with DL56 being the one exception, where  
14 Smyth said, "Well, that's just not true. I didn't and  
15 wouldn't do that type of thing to someone I didn't know,  
16 not in that way".

17 On 14th June 1995 the investigating officer, again  
18 Detective Constable Marks, recommended that Smyth be  
19 again prosecuted for indecent assault on eight of the  
20 nine individuals. That was a view shared by his  
21 Detective Inspector Pentland and Detective Chief  
22 Superintendent Anderson.

23 On 11th July 1995 the DPP issued directions on this  
24 RUC file 3 and Smyth was to face 16 counts of indecent  
25 assault against those eight individuals. Those 16

1 counts of indecent assault against the eight individuals  
2 were ultimately to form bill of indictment 245 of '95.  
3 That can be found at 31841 through to 31845.

4 The time period that's involved in these offences,  
5 which included DL59 in a children's home '74 to '80 --  
6 in HIA41's case it covered both homes. The charge  
7 period was '70 to '79. In respect of NL59, '74 to '80.  
8 So you can see the time period vis-a-vis what was known  
9 by the Norbertine Order and then what was known by the  
10 various dioceses.

11 Smyth was arraigned in respect of this bill of  
12 indictment 245 of '95 on 8th August 1995. He was  
13 sentenced in respect of this bill on 22nd September.  
14 The sentences for the indecent assaults on males  
15 attracted a sentence of three years on each count --  
16 sorry -- attracted four years on each count -- no, I'm  
17 sorry -- three years on each count, and in respect of  
18 the females 21 months on each count, all sentences again  
19 to run concurrently. So they were going to run in with  
20 the sentence that he was already subject to.

21 However, before that sentence was handed down on  
22 22nd September 1995 the RUC were already investigating  
23 the complaints of another set of individuals, which  
24 would form a fourth file. I am going to call that RUC  
25 file 4 or the DL40 file for ease. This file was

1 submitted to the DPP on 30th August 1995. So you can  
2 see the time pressure to try and deal with this, because  
3 he was already coming towards hearing in respect of  
4 file 3.

5 So this file 4 consisted of allegations by a further  
6 nine individuals. The first two were sisters from  
7 , who again described the types of indecent  
8 assaults and psychological difficulties that flowed for  
9 them. Smyth again accepted fondling but not digital  
10 penetration.

11 The third individual then was a resident in Nazareth  
12 Lodge. That was NL88. I mentioned her name earlier in  
13 the context of NL59, who was someone that Smyth was  
14 going to soon be convicted for arising from RUC file 3.  
15 She explains in her police statement that she was around  
16 10 when she first was interfered with. That would have  
17 been around 1977. She describes the type of touching  
18 that Smyth would have engaged in in the vestry after  
19 mass and a parlour type room in Nazareth Lodge. She  
20 recounts talking to SR46 about it and her recollection  
21 was to another member of staff and being told to stay  
22 away from him. She said sometimes he would come to  
23 a group room together, sometimes he sent for her and  
24 also went to see her in her school. He, Smyth, had  
25 already spoken of abusing her in his interview of

1 December 1994 and her police statement was in July 1995.

2 The fourth individual was again someone that we have  
3 mentioned before, who was in Nazareth Lodge, DL40. He  
4 came forward to assist the Inquiry and gave evidence  
5 twice to the Inquiry on Day 70 and 95. He went into  
6 Nazareth Lodge and was there until September of '77,  
7 when he went to Rubane.

8 He describes both abuse taking place in a dark  
9 corridor in Nazareth Lodge and also then being abused as  
10 well in Rubane. He recalls -- he explained how BR1, the  
11 head of the home, used to call him down, saying Smyth  
12 had come to see him. The abuse took the same form and  
13 then on a number of occasions slightly more interference  
14 than had taken place before.

15 He explained in his police statement that he was  
16 aware of seeing two other boys going to see Smyth. That  
17 was DL59 and DL41, whom I have mentioned previously.

18 He also explained that Smyth did not return after  
19 he, DL40, had told the head of the home, BR1. He refers  
20 in his police statement to being given sweets and money  
21 and letters.

22 Smyth was interviewed about it on 11th August 1995.  
23 He accepted kissing and touching and external  
24 masturbation, but says he was never spoken to by anyone  
25 from the De La Salle Order.

1           The fifth individual and the third from children's  
2 homes was FBS8. She entered Nazareth Lodge in '73 and  
3 was there until '75. In her police statement of  
4 1st August '95 she says Smyth would have come to take  
5 mass from time to time. She would have taken -- have  
6 been taken to the ground floor room with a long  
7 table and chandeliers where he sat on -- she would be  
8 made to sit on his knee, kissed and fondled. It  
9 happened on a number of occasions and was given sweets  
10 and money.

11           Smyth at interview said he may have hugged her, but  
12 had no recollection of other, and does not believe he  
13 would have touched her as alleged.

14           Then the sixth individual was someone who was older  
15 and worked, and it was in her place of work that she  
16 felt Smyth had touched her. She spoke to police about  
17 that. Smyth denied that, said he wouldn't have  
18 attempted to touch an adult like that.

19           The seventh individual was a FBS26, who was also  
20 a resident in Nazareth Lodge. He described Smyth he  
21 said getting into bed beside him and fondling him and  
22 getting him to touch his private parts. In fact, this  
23 priest had got into bed with his clothes on. Smyth,  
24 when he was interviewed, said he had never got into bed  
25 with anyone like that with his clothes on. He

1 definitely would remember if that is what he had done.

2 The police took the view that this allegation was  
3 vague and it could not name or identify the priest and  
4 lacked detail and wasn't something that could be  
5 proceeded with.

6 The eighth individual was NHB92. She made  
7 a statement to police in August of 1995. Refers to  
8 being sat on a priest's knee, but there was no reference  
9 to abuse, and she could not recall being abused and  
10 could not say if it was Smyth's knee. That was the  
11 eighth individual.

12 The ninth individual was then FBS7. She was the  
13 sister of HIA195 and brother of DL59 (sic) and older  
14 sister of both. We have seen Smyth had already accepted  
15 abusing them. I am not going to go into lengthy setting  
16 this out, but the position was that she explained to  
17 police that in November 1994 that she said that she was  
18 the subject of multiple violent rapes. Initially she'd  
19 made that case while file 3 was progressing, but because  
20 of its very serious nature and the complicating factors  
21 in relation to the account, there was a separate file to  
22 follow. That's why it formed a part of file 4.

23 She describes how she got to meet Smyth, because she  
24 was in Nazareth House. She was introduced and refers to  
25 the type of touching and indecent assaults while there,

1 but she then says thereafter much more serious offending  
2 took place, particularly in Middletown, where she moved,  
3 and because of the severity of the offending that was  
4 alleged, the police undertook a lengthy and protracted  
5 police investigation. They spoke to a whole series of  
6 individuals that were identified as potentially  
7 corroborating the account, including friends of this  
8 complainant as well as SR31 in Nazareth Lodge and SJM11  
9 in Middletown.

10 While there is no doubt that Smyth visited, because  
11 Middletown diaries -- and I am just going to show you  
12 these, because on 2nd October 1973, if we can look,  
13 please, at 30470, if we just scroll down, please --  
14 scroll down a bit further, please, so we can see -- yes,  
15 you see the entry at the bottom, 22nd October:

16 "In good form today. FBS7's friend Father Smyth  
17 called this afternoon. FBS7 was in school but we sent  
18 for her. She is really cool with him. One wonders why  
19 he bothers coming to see her at all."

20 Then the next entry is of 13th November '73 at  
21 30472:

22 "FBS7 had a visit from Father Smyth today. He is  
23 really good to her, but she could not care less."

24 On 21st March '74 then at 30473, if we scroll down,  
25 please, to 21st:

1 "Father Smyth called to see FBS7 today. He is  
2 really very good to her. He comes to -- so often to see  
3 her. Never empty handed."

4 So there is no doubt that he was by now -- having  
5 met her in Nazareth, was now visiting her in the Good  
6 Shepherd, but for various reasons, which I am not going  
7 to go into, which the Panel will be aware of, steps  
8 taken by the police to try and get to the bottom of the  
9 allegations led them to conclude that there was serious  
10 issues about the account and, in fact, SJM11, you will  
11 see in her statement at 30115 that she is attributed  
12 with receiving knowledge, and she explains what, in  
13 fact, she was told, and various friends of the  
14 individual were spoken to, who were said to have gone  
15 with her, and they gave different accounts.

16 In the end the police concluded that -- it should be  
17 made clear whenever Smyth was interviewed, he accepted  
18 fondling this girl without any question, but denied that  
19 he had ever had intercourse with her and certainly not  
20 in the violent way that she was describing on a number  
21 of occasions. The police were of the view that that  
22 would not be something that would sustain a criminal  
23 charge.

24 There were a series of interviews that were  
25 conducted that relate to these nine individuals. That



1 resulted at the conclusion on 11th August -- sorry -- on  
2 23rd August 1995 the investigating officer, DC Foster,  
3 recommended that Smyth be prosecuted in relation to five  
4 of the nine individuals who made allegations and  
5 recommended no prosecution in respect of the four  
6 others. He explained the basis for so doing. I am not  
7 going to go into that now, but I am going to give you  
8 the reference, which is at 30054.

9 That was concurred in by Detective Inspector  
10 Pentland, save that he did recommend that another charge  
11 against the older adult that I mentioned in the place of  
12 work. So that would have made six rather than five, but  
13 Detective Chief Superintendent Anderson agreed that  
14 there should be six individuals put forward.

15 The file was submitted to the DPP on 30th August  
16 of 1995. DC Foster made the point in what is now RUC  
17 file 4, and you have seen a whole series of individuals  
18 now that amount to 21, and the point that Detective  
19 Constable Foster makes in the report, which can be found  
20 at 30010, is that no other victim during the course of  
21 the entire investigation into the activities of Smyth  
22 had claimed that he had ever attempted to or did have  
23 sexual intercourse with them.

24 On 12th September 1995 the DPP issued a further  
25 direction on this file, which is file 4, the DL40 file,

1 in relation to the allegations of the nine individuals,  
2 and they directed that Smyth be prosecuted for ten  
3 counts of indecent assault relating to five individuals.  
4 As you know, three of those were children who resided in  
5 the children's homes that we have looked at. The  
6 allegations from the four other individuals were dealt  
7 with in the same direction and no charges were to be  
8 preferred.

9 The charges were dealt with by way of voluntary bill  
10 of indictment so that they could be dealt with alongside  
11 those relating to the third file, which was to take  
12 place on 22nd September 1995. These ten counts against  
13 the five individuals were ultimately to form bill of  
14 indictment 274 of '95. Again the time ranges are from  
15 '68 through to '77, then on into '82.

16 Smyth was arraigned by voluntary indictment in  
17 respect of the bill on 22nd September. He then entered  
18 guilty pleas to the ten counts in respect of the five  
19 individuals.

20 He was sentenced on the same day,  
21 22nd September 1995, by Mr Justice Campbell, as he then  
22 was, and he received a further series of concurrent  
23 custodial sentences. For the indecent assaults on DL40  
24 he received three years in prison on each count and then  
25 in respect of the females he received 21 months in

1 prison on each count. All sentences were to run  
2 concurrently with those already imposed in 1994.

3 So Smyth pleaded guilty and was convicted of a total  
4 of 26 further counts of indecent assault against  
5 a further 13 children. As we discussed earlier, that  
6 brought the total convictions in Northern Ireland to 43  
7 counts of indecent assault against 21 individuals.  
8 Prior to the sentencing Dr Loughrey provided the updated  
9 report that we looked at yesterday.

10 Now what I want you to look at now, in keeping with  
11 how we began today, is a letter that Smyth wrote on  
12 22nd September. 31957, please. This is the day that he  
13 was being dealt with at court:

14 "For a second time within 16 months I have undergone  
15 a trial for sexually abusing young people for whom I had  
16 affection and friendship. That these crimes to which  
17 I have unreservedly pleaded guilty took place in the  
18 main 20 to 30 years ago does not make them any the less  
19 wicked and I have welcomed the prison sentences imposed  
20 by the courts as a fitting means of paying my debt to  
21 society.

22 I would like to take this opportunity to express my  
23 deep sorrow to anyone who had in any way suffered as  
24 a result of my actions and also to those relatives,  
25 friend and also members of my religious community who

1           suffered because of the media treatment of these matters  
2           for a long time now. I have been at peace with" --  
3           scroll down, please -- "peace with my God and I trust  
4           that they too will find a similar peace."

5           Signed Brendan Smyth. You see it is addressed to  
6           his solicitor.

7           "Note. I suggest the above for release after  
8           sentencing -- at your discretion."

9           Now, unknown to Smyth, on 20th September 1995 now  
10          RUC file 5 was provided to the DPP. That included fresh  
11          allegations from a further six individuals. They were  
12          of a similar type. One of them related to a girl who  
13          had resided in Nazareth Lodge, although her claim was  
14          that -- she was taken to meet Smyth in a room. She was  
15          saying that she didn't know this person and Smyth said,  
16          as he'd said in the interviews we've looked at, he  
17          wouldn't have had some stranger brought to him. That's  
18          not how he operated.

19          You will see the fifth of the sixth individuals was  
20          again someone that Smyth continued a relationship with,  
21          which began as a child and then continued with her as  
22          an adult. That statement may be of some interest. It  
23          begins at 30678.

24          Detective Inspector Pentland and DC Marks  
25          interviewed Smyth on 15th September along with

1 colleagues from the Garda Siochana, because some of the  
2 matters related to the Republic of Ireland. The police  
3 recorded that, as he was to face trial on  
4 22nd September, they recommended that four indecent  
5 assaults on four individuals that he had accepted  
6 abusing -- so there were two cases that he did not  
7 accept -- be taken into consideration, but the DPP  
8 directed on 26th September there be no further  
9 prosecution on the basis that there was no reasonable  
10 prospect of him receiving any additional sentences to  
11 those that had been imposed already. So there were four  
12 further matters, none relating to children's homes,  
13 which Smyth accepted as part of RUC file 5, but which  
14 the DPP directed didn't need to proceed.

15 The final file then, RUC file 6, was submitted on  
16 1st May 1996. This time there were three further  
17 individuals who made allegations, and two of those we  
18 have looked at in the context of Down & Connor, because  
19 they were FBS35 and FBS37, FBS37 being the sister of  
20 FBS40, who was taken by **FBS 51** to meet Abbot Kevin  
21 Smith in 1976.

22 In respect of both FBS35 and FBS37 Smyth accepted  
23 during interview that he had abused FBS35 and FBS37, not  
24 necessarily to the extent that they claimed, and again  
25 it was an indecent assault, but he didn't accept that he

1 had abused the third girl, who was someone who said --  
2 was said to be in Nazareth, although we have not been  
3 able to find any record relating to her in Nazareth, but  
4 in any event her claim was that in a lift in Nazareth  
5 Lodge Smyth had fondled her. He made the case that  
6 he could never remember being in a lift and wouldn't  
7 have done that with something (sic) he didn't know.

8 Now that same girl claimed to have had a discussion  
9 with the same nun who had given a warning to NL88 to  
10 stay away from Smyth if you didn't want to be near him.  
11 The nun in question, SR46, said in her police statement  
12 when she was interviewed in 1996 that she hadn't -- she  
13 certainly had spoken to NL88 about Smyth, and we saw her  
14 in police file 4, but she certainly had not spoken to  
15 this individual who had come forward that was part of  
16 police file 6.

17 The police file the police report on 23rd April 1996  
18 and on 3rd May the DPP directed no further prosecution  
19 in respect of the matters on the same basis that there  
20 would be no additional charge.

21 I erroneously told you there were six police files.  
22 There were, in fact, seven. The seventh police file was  
23 on 19th August 1996. It related to another member of  
24 the [name redacted] family, a particular allegation that  
25 was made that was investigated by the police, the

1 suggestion of being abused in a lift by a person who  
2 dropped their trousers and that that was Smyth. He was  
3 interviewed about that and denied that that was  
4 something he ever did or would have done. He explained  
5 in the interview again how he built up relationships  
6 over time with children and would never have touched  
7 a female without knowing her.

8 The police submitted a report expressing a view that  
9 the complaint was in the police's words "a total  
10 fabrication". You can find the reference for that at  
11 30645. They recommended no prosecution.

12 On 21st March 1997 Smyth was released from  
13 Magilligan Prison, having served his prison sentences in  
14 Northern Ireland, and was thereafter extradited by  
15 consent to the Republic of Ireland to face trial there.  
16 He pleaded guilty in the Circuit Criminal Court in  
17 Dublin on 22nd April 1997. On 25th July 1997 Smyth was  
18 sentenced by His Honour Judge Cyril Kelly in respect of  
19 74 charges of indecent assault relating to 20 children.  
20 He was given combined sentences that amounted to  
21 12 years' imprisonment. On 5th June the Garda Siochana  
22 asked the RUC to obtain victim impact statements from  
23 two individuals in Northern Ireland, which was done, and  
24 Smyth then died in prison in Dublin in August 1997.

25 Now there the matter largely rested in terms of the

1 making of allegations until 2009. Post-2009 the PSNI  
2 recorded statements from a number of individuals who  
3 made allegations against Father Brendan Smyth. There  
4 were 14 in total. Some of these individuals were  
5 individuals who had spoken to police during the RUC  
6 investigations between '91 and '96, but spoke to police  
7 again post-2009. Some of these individuals don't appear  
8 to have come forward during the RUC investigation in the  
9 '90s. Eight of the 14 individuals also applied to this  
10 Inquiry and have given evidence in some form.

11 The first was HIA41. We looked at Smyth's  
12 conviction in relation to him. On 10th September 2010  
13 he made a further statement to police about his time in  
14 children's homes and there is another statement of  
15 September 2011. He gave evidence to the Inquiry on Day  
16 67 and also on Day 89. His Inquiry witness statement is  
17 in the bundle at 008 to 0036. He was in Nazareth Lodge  
18 latterly between August '73 and May '77 and in De La  
19 Salle from May '77 to July '81. He described, as you  
20 will recall, in the 1995 police investigation being  
21 indecently assaulted by Brendan Smyth and that Smyth  
22 pleaded guilty to two counts of indecent assault to  
23 cover the time in Nazareth Lodge, one, and the time in  
24 Rubane, the other.

25 He made a statement to police in January 1995 where



1 he explained about being let in -- letting Smyth into  
2 the property. Given sweets and money, and would have  
3 had his bum felt and his penis felt, but never took his  
4 penis out, and how Smyth always behaved in a nice  
5 manner, and only seeing him on a few occasions in De La  
6 Salle, being sent for and went to the visitors' room and  
7 abused in a similar fashion.

8 He gave a very detailed account of his experiences  
9 to a consultant psychiatrist, Dr Bones, on 29th  
10 September 2009. That can be found at 40051 to 40063.  
11 The relevant part which sets out his account of what  
12 took place is at 40052 to 40054.

13 In his 2010 and 2011 police statements he then  
14 repeated to the Inquiry HIA41 says he was repeatedly  
15 raped by Brendan Smyth in Nazareth Lodge in his bedroom  
16 and in De La Salle. That is consistent with what's in  
17 the police statement of September 2011 also.

18 The second individual was HIA48, who is "HIA48".  
19 She'd made a statement to the police on 8th December  
20 2010 at 32235 and 6. She was in Nazareth Lodge again  
21 between '71 and '76 and between the ages of 5 and 12.

22 She gave evidence to the Inquiry on Day 108. Her  
23 Inquiry witness statement is at 1196 to 1200.

24 In her 2010 police statement she talks about Smyth  
25 rubbing up against her. She did make a statement to

1 police on 24th July '95 where she did complain of  
2 physical abuse by a member of staff in Nazareth Lodge  
3 but said she could not recall a Father Brendan Smyth in  
4 Nazareth Lodge.

5 The third individual was HIA149. He gave an ABE  
6 interview to police on 26th January 2012. Says he was  
7 repeatedly raped by Smyth in Nazareth Lodge. Gave  
8 evidence to the Inquiry on Day 67 and also gave evidence  
9 on Day 95. His Inquiry witness statement is at 052 to  
10 058. He was in Nazareth Lodge laterally between 1969,  
11 aged 2, until 29th April 1977, aged 10. He had given  
12 a statement to police on 21st May 1980 during the  
13 initial Rubane investigation when he was at  
14 St. Patrick's -- he was 14 at the time -- and he was the  
15 one who brought to the authorities' attention what James  
16 McGuigan had done to his brother DL56 and James  
17 McGuigan was subsequently convicted of abusing his  
18 brother. He explained in that same statement what James  
19 McGuigan tried to do to him but then did do to his  
20 brother.

21 The fourth individual was HIA50, "HIA50". He made  
22 a statement to the police on 9th August 2012. He gave  
23 evidence to the Inquiry on Day 90. His Inquiry witness  
24 statement is at 037 to 051. He was in Nazareth Lodge  
25 between 7th March 1985 and 6th April 1985, so one month.

1           He said in his police statement that SR2 walked in  
2           whilst he was being penetrated, to use his words, by  
3           Smyth. SR2 came to Nazareth Lodge in August 1983 until  
4           September '86. Was interviewed about this on 11th March  
5           2013. The interview is available to the Inquiry at  
6           32895 to 32897. She made it clear that she had never  
7           seen Smyth at Nazareth Lodge and did not walk in on  
8           Smyth sexually abusing anyone.

9           We can say to the Inquiry that Smyth did visit  
10          Nazareth Lodge on 7th December 1986, because he signed  
11          the visitors' book on that occasion, but that was a year  
12          after HIA50 had left and also after SR2 had left. We  
13          can't find any other indication of Smyth being there at  
14          that time. That's not to say he wasn't. We haven't  
15          found any further documents that we can bring to the  
16          Inquiry's attention.

17          The fifth individual is HIA154, who was "HIA154".  
18          He made a statement to police on 15th August of 2012.  
19          He said he was raped in Nazareth Lodge approximately  
20          thirty times in a nun's bedroom. He gave evidence to  
21          the Inquiry on Day 113. His Inquiry witness statement  
22          is at 613 to 618 in the bundle. He was in Nazareth  
23          Lodge between April '73 and remained there until  
24          November '75. He had made a statement to police on 26th  
25          June 1995, when he did disclose that it was a caretaker

1 or gardener who made him touch him, and that was the  
2 worst thing that happened to him and stuck out in his  
3 mind twenty years on. There was -- there had not been a  
4 mention of Brendan Smyth in that police statement.

5 The sixth individual was HIA10. I read the material  
6 out relating to her on Day 104 of the Inquiry. It can  
7 be found at 60170 to 60205. Her Inquiry witness  
8 statement is at 001 to 007. She describes there at  
9 paragraph 12 one occasion that could potentially amount  
10 to an indecent assault. In 2007 in a criminal injuries  
11 claim that she'd initiated she did, however, allege very  
12 serious sexual abuse by Smyth, and in page 4 of her  
13 police statement of 21st May 2010 she said she had -- he  
14 had rubbed her leg up to her groin on one occasion. In  
15 her police statement of 23rd August 1995, when  
16 describing physical abuse by a nun, she said she could  
17 not recall a priest by the name of Smyth. That's at  
18 32432.

19 The seventh individual is HIA257, who was "HIA257",  
20 who was in Nazareth House from August '66 to February  
21 '76. She says in her Inquiry statement that a priest  
22 sat her on his knee and need to digitally penetrate her.  
23 She thinks it was Father Brendan Smyth but was not sure  
24 and never made a complaint to the police.

25 The eighth individual was "HIA397", HIA397, who was

1 in Nazareth Lodge from May '73 to March '78. He says in  
2 the Inquiry statement that Smyth interfered with his  
3 genitalia and did the same to a boy in the next bed. He  
4 also saw Smyth with a coloured boy, who was crying.  
5 I did ask a particular witness you are aware of about  
6 that.

7 Those are the eight individuals who were applicants  
8 to the Inquiry who made allegations post-2009 about  
9 Smyth.

10 There then are a further six individuals, in fact,  
11 I think I said -- seven individuals who have made  
12 allegations to police in the years since 2009. I am not  
13 going to go into those in any further detail now other  
14 than to acknowledge that the police in the material,  
15 even in the more modern format not really taking issue  
16 with accounts, did take issue with some of the accounts  
17 that they were receiving, and obviously by this stage  
18 Brendan Smyth was dead.

19 The final matter is a statement that we found  
20 amongst different police papers, but which did make  
21 reference to Smyth putting a particular girl on his knee  
22 and she did not like the way she was touched, but that  
23 doesn't appear to have been something that was ever put  
24 to Smyth.

25 Now, Members of the Panel, I have moved swiftly

1 through a very large body of material, because  
2 ultimately the issue in this module you may consider is  
3 more related to: well, could and should the abuse that  
4 Smyth perpetrated have been stopped? Does what was done  
5 or not done through the various occasions that we have  
6 looked at through the material represent systemic  
7 failings on behalf of those core participants who are  
8 before the Inquiry to not deal with Smyth as they should  
9 have?

10 I repeat again something you have heard me say  
11 a lot, because we are looking at matters that were  
12 taking place by and large in the late '60s, early '70s  
13 in terms of the opportunities to ensure that none of the  
14 children in the homes that we have been investigating  
15 were abused, and therefore the need to not judge with  
16 hindsight but with looking at the decision-making at the  
17 time.

18 The question ultimately that will fall for the Panel  
19 is, even having regard to the time, whether the  
20 decision-making was such as to amount to systemic  
21 failings on behalf of those who had the opportunities to  
22 deal with Smyth and did not do so.

23 Each of the core participants have explained to the  
24 Inquiry how matters today are not like matters as they  
25 were at the time period that's being investigated by

1           this Inquiry. Nonetheless obviously the implications of  
2           the decisions that were made at the time that the  
3           Inquiry is looking at are of very serious import, given  
4           that they had the potential to ensure that not one child  
5           in the homes that we were looking at were sexually  
6           abused by this self-confessed paedophile.

7           We will hear over the next two days from five  
8           witnesses, beginning tomorrow with representatives from  
9           the Norbertine Order, the Archdiocese of Armagh and the  
10          Diocese of Kilmore and then on Thursday from Cardinal  
11          Brady, who will speak of the 1975 investigation that  
12          Bishop Kilmore -- the Bishop of Kilmore, Francis  
13          MacKiernan, asked him to conduct and then from Father  
14          Timothy Bartlett on behalf of the Diocese of Down  
15          & Connor.

16          Unless there is any other matters that the Inquiry  
17          would wish me to deal with at this point in time, that  
18          concludes the opening of a vast swathe of material which  
19          I am very grateful for your patience in allowing me to  
20          try to assimilate and lay out as best as I could.

21          CHAIRMAN: Well, ladies and gentlemen, we will adjourn now  
22          and we will resume the hearings tomorrow at 10 o'clock  
23          or as soon thereafter as is convenient.

24          (4.25 pm)

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

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Opening remarks by COUNSEL TO THE .....2  
INQUIRY (cont.)