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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 Wednesday, 24th June 2015

commencing at 10.00 am

(Day 132)

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

1 Wednesday, 24th June 2015

2 (10.00 am)

3 (Proceedings delayed)

4 (12.35 pm)

5 CHAIRMAN: Good afternoon, ladies and gentlemen. I am sorry  
6 we are so late starting today, but unfortunately  
7 a number of documents became available at short notice  
8 and it has taken some time to assimilate them.

9 May I remind everyone, as always, that mobile phones  
10 must be switched off or placed on "Silent"/"Vibrate",  
11 and also that no photography is permitted either in the  
12 chamber or anywhere on the Inquiry premises; nor is any  
13 recording permitted.

14 There may be occasions, of course, when names have  
15 to be mentioned which are covered by a designation.  
16 These also must not be used or repeated anywhere outside  
17 the chamber.

18 Yes, Mr Aiken?

19 Opening remarks from COUNSEL TO THE INQUIRY (cont.)

20 MR AIKEN: Chairman, Members of the Panel, good afternoon.  
21 Again I'm sorry, Chairman, that we are late getting  
22 started. I had thought that yesterday I had finished  
23 taking you through relevant material in relation to this  
24 story, but despite the number of decades ago that it  
25 relates to, I am afraid more material does become

1 available and has become available.

2 I mentioned to you during yesterday that we had been  
3 trying to obtain the documents from St. Patrick's  
4 Hospital in Dublin and that is where Brendan Smyth was  
5 treated during 1973 and 1974. The Norbertine Order had  
6 been making efforts on behalf of the Inquiry to assist  
7 in the production of those documents and they have now  
8 become available, and because of their content, it is  
9 important that I open these documents to the Inquiry  
10 Panel before Father Fitzgerald gives evidence. As the  
11 Chairman -- as you have reminded everyone, Chairman,  
12 there will be names appear in the documents and those  
13 names shouldn't be used beyond the chamber.

14 The plan of action, Chairman, is that once I finish  
15 these documents, it probably will be time to take  
16 a short break for lunch before Father Fitzgerald then  
17 gives his evidence. The documents are of such import  
18 that it is necessary for them to be opened rather than  
19 to do that with Father Fitzgerald in the witness box.

20 The first document that I want to look at, which  
21 appears on the screen now at 10639, is dated you can see  
22 in the top right corner 25th May 1973. This appears to  
23 be a form of clinical note. It is typed and the  
24 handwritten version of it is not available in the papers  
25 that the Inquiry has received. This typed note is and

1 what it says you can see:

2 "Father Brendan Smyth.

3 His superior came to talk about him."

4 Now it is not clear who that is. At the time the  
5 Abbot in Holy Trinity Abbey was Abbot Kevin Smith. It  
6 may be him or the Prior or someone else. Whoever it is,  
7 they're being referred to as the superior.

8 "... came to talk to him."

9 That is .

10 "Said he was advised to come by .

11 Father Brendan Smyth has apparently had a homosexual  
12 problem for some years and had treatment in Belfast and  
13 also in America. A clever man, always regarded as a  
14 'bit crazy' with a 'screw loose'."

15 Those are obviously not medical terms. This is the  
16 document recording what was being said to him:

17 "Recently apparently he has seduced a girl of 12 and  
18 had intercourse with her."

19 Now I just pause there to say you will recall that  
20 yesterday we were looking at FBS 49

21 bringing a story to his bishop which he dated as 1973,  
22 and you saw that that was a reference in his statement  
23 he was told by the mother about sexual intercourse.

24 There was no then documents thereafter to explain what  
25 was done, but that we could see that in 1973 something

1 had prompted Smyth to be sent for treatment again.

2 However, you will see in the next sentence that the  
3 document -- if this document is accurate, then linking  
4 this description that's being provided to what Father  
5 **FBS 49** brought forward may not be accurate,  
6 because the next sentence indicates:

7 "Her father discovered the facts and complained."

8 We know from **FBS 49** 's recollection  
9 that the lady who came to see him described herself as  
10 having recently been deceased.

11 "The Order are now very concerned and anxious to  
12 know if anything can be done to help this man and avoid  
13 such incidents in the future. The patient does not know  
14 his superior is coming first."

15 So this is a meeting taking place with the superior  
16 of the Order and Brendan Smyth is not aware of it.

17 "Advised it would be better to see the patient  
18 without any foreknowledge. Send appointment to Father  
19 Brendan Smyth on behalf of ."

20 Then we have this entry of 25th May 1973. So we can  
21 say that the entry prior to that is on some date earlier  
22 than 25th May 1973. This is now a record of that  
23 meeting that was being set up with Brendan Smyth:

24 "A man of pyknic build who gives a free and frank  
25 account of himself. Has been aware of homosexual

1 tendencies with small boys for some years. Had some  
2 inversion treatment in Belfast in 1968 and things were  
3 better after this.

4 Over the past year he has become attracted to  
5 a little girl of 11 with whom he was thrown in contact.  
6 Some fairly elaborate sexual interference short of  
7 intercourse took place repeatedly until this girl  
8 apparently told her mother. On the whole there is no  
9 evidence of remorse, or shame, or any deep-seated  
10 appreciation of the gravity of this relationship from  
11 the point of view of the girl. Strikes one as  
12 an intelligent but rather egocentric and narcissistic  
13 man, who is interested in his sexual experience in  
14 a somewhat detached and objective way. As he says  
15 himself, he has no real concern with the other person,  
16 merely in his own reactions."

17 Then:

18 "Some clear evidence of mood swings. Says he is  
19 more likely to look for something to arouse him sexually  
20 when depressed."

21 He was given:

22 "... a prescription for Insidon and Valium in the  
23 hope that it will have a dampening effect on libido.  
24 Advice, explanation, worth seeing a few times. See  
25 letter to superior."

1           When being interviewed by the doctor, and for the  
2           same reasons we discussed about other medical evidence,  
3           there is no reason to believe that Brendan Smyth would  
4           have known that these documents would ever see the light  
5           of day. That's the account he gives.

6           Then on 28th May, some few days later, a letter is  
7           sent. If we move on to the next page, please, 28th  
8           May 1973, this letter is sent from the hospital to Abbot  
9           Kevin Smith:

10           "Dear Abbot Smith,

11           I am writing to you about Father Brendan Smyth, who  
12           came to see me on Friday afternoon. Since you are  
13           familiar with his history and background and present  
14           problem, there is no need to repeat details. Suffice it  
15           is to say I found him calm, cooperative and able to give  
16           an intelligent account of himself and his sexual  
17           difficulties over the years.

18           From my talk with him I formed the opinion that the  
19           sexual anomalies in his personality are manifestations  
20           of a deep-seated disturbance and I do not think there is  
21           any specific treatment likely to enable him to achieve  
22           a more adult heterosexual orientation. However, I do  
23           think that with more insight and understanding and  
24           perhaps some chemotherapy to help him to control the  
25           mood swings to which he appears to be subject I think it

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

11 I gave him some explanation and advice to Father  
12 Smyth along with a prescription for some tablets  
13 and arranged to have another talk with him in three  
14 weeks' time. I hope it will be possible for him to  
15 achieve a much better level of emotional control with  
16 this combination of chemotherapy and simple explanatory  
17 psychotherapy."

18 Now we can pause there, Members of the Panel, to  
19 identify that the doctor is identifying to the superior  
20 in the Norbertine Abbey that there is unlikely to be  
21 a resolution to the difficulties that leads Brendan  
22 Smyth to interfere with children, but at the same time  
23 with work he thinks that he could -- it could be  
24 possible for him to continue with his work and to give  
25 valuable and reliable service to the community, but that



1 comes with a health warning, that wherever he goes,  
2 whoever is receiving him should be told of his  
3 propensity. The fact that that eye, as it were, could  
4 be kept on him wherever he is might assist in not to  
5 offend further.

6 Now there is nothing in the document to suggest that  
7 it occurred to the doctor writing it that he was under  
8 some obligation to report to the civil authorities and  
9 there are no documents to suggest that he did.

10 Now it appears then that the doctor did see Smyth  
11 again in the few weeks that he referred to, because if  
12 we move on to the next page, please, at 10641, and this  
13 is a clinical note that's in handwriting. You see in  
14 the top left corner it is dated 15th June of '73. So it  
15 is about three weeks later. You will see about six  
16 lines down:

17 "Has had homosexual relations with a boy of 16 years  
18 on two occasions since."

19 So whatever form that took, since seeing the doctor  
20 and the doctor writing to Abbot Kevin Smith, there has  
21 been further sexual activity of some kind with  
22 a 16-year-old boy.

23 CHAIRMAN: Just while we are looking at this, this is a note  
24 made by a doctor, presumably , but a doctor.?

25 MR AIKEN: In St. Patrick's Hospital in Dublin in June of

1 1973.

2 Then I want to draw attention for purposes that will  
3 become clear as I go to the document on the next page at  
4 10642. It is a letter written by Brendan Smyth on 4th  
5 July 1973. It may appear as to its contents innocuous,  
6 but I will explain.

7 "I am sorry to have to trouble you with this note  
8 but I have mislaid the prescription for the pink pills  
9 which you gave me initially and I need to renew the  
10 supply if I am to continue taking them until I see you  
11 again at the end of August. Would you please send a  
12 copy of the prescription to me at the above address,  
13 where I'm directing a retreat at the moment?

14 Thanking you in anticipating of your kindness and  
15 once again offering my apologies for putting you to so  
16 much trouble."

17 Now you can see in the top right that this letter is  
18 being penned or typed from Our Lady's Retreat House,  
19 Finglas, Dublin on 4th July 1973. I would ask the Panel  
20 to note that location as I go on.

21 The next document in chronological order is a draft  
22 note that it appears a doctor was going to send to the  
23 Garda in Finglas. If we just scroll down, please, to  
24 the next page, you can see it is being written to the  
25 Garda Station in Finglas:

1 "Dear", whoever,

2 "Father Brendan is see me by appointment Wednesday  
3 31st October 1973 and I am aware of his problem. I have  
4 arranged for his admittance to the", unidentified,  
5 "hospital for treatment. He has been a patient of mine  
6 for some months and will be under my care for at least  
7 another twelve months.

8 I want or I trust that this arrangement is  
9 satisfactory to you and your superiors."

10 Then we see the actual letter that was written, if  
11 we move on to the next page, please, on 1st  
12 November 1973, entitled "Strictly private and  
13 confidential". It is written to an officer in the  
14 Finglas Garda Station, and we see:

15 "I have been asked to write to you by Father Brendan  
16 Smyth, Holy Trinity Abbey, Kilnacrott, who came to see  
17 me yesterday afternoon by appointment.

18 He has been a patient under my care for some months  
19 and I am familiar with the nature of his problems. I am  
20 writing to his superior suggesting that he should have  
21 a period of in-patient care in St. Patrick's Hospital or  
22 in St. Edmondsbury Convalescent Home as soon as I have  
23 a suitable vacancy. I hope this arrangement will be  
24 satisfactory to you and your superiors."

25 If I can just ask you to note, Members of the Panel,

1 before we move on the phrase:

2 "I am writing to his superior suggesting that he  
3 should have a period of in-patient care ..."

4 Then if we move on to the next page, please, 1st  
5 November 1973 he did write to Kevin Smith, the Abbot in  
6 Kilnacrott:

7 "Dear Abbot Smith,

8 I am writing to you again about Father Brendan  
9 Smyth, who came to see me yesterday afternoon. He is  
10 having some further difficulties and in the  
11 circumstances, if you are agreeable, I think it would be  
12 advisable for him to have a period in hospital for  
13 further evaluation and treatment. I have told him that  
14 I think he should take matters -- talk matters over with  
15 you and explain some of his recent difficulties.  
16 Perhaps some time later I might have the opportunity of  
17 talking to you about the whole problem he presents."

18 Now at this point in time all we know is that for  
19 some reason Brendan Smyth has asked the doctor looking  
20 after him to write a letter to Finglas Garda Station to  
21 say that he is going to be taken in for some in-patient  
22 treatment, and now we know that a signal is being given  
23 to Abbot Kevin Smith that there has been some further  
24 difficulties and that he should talk to Brendan Smyth  
25 about them, and that the doctor has made that point to

1 Brendan Smyth, that he should talk to his Abbot about  
2 them.

3 Then if we look at the next letter, please, of 5th  
4 November, Abbot Kevin Smith writes back to

5 and says:

6 "I am in receipt of your good letter of 1st re  
7 Father Brendan Smyth.

8 So far he did not mention any of his recent  
9 difficulties to me, although he did mention that on your  
10 advice he was going into hospital. I am quite agreeable  
11 to this suggestion.

12 Whenever you deem it opportune, I shall be quite  
13 happy to meet you. Please let me know."

14 So Kevin Smith is indicating a willingness to meet  
15 with to talk further about Brendan Smyth and  
16 his engagement with .

17 Then we have a letter of 30th November 1973 that --  
18 as you can see, it is addressed from in the top right  
19 corner St. Patrick's Hospital. It is from Brendan  
20 Smyth, as we will come to see. It is three pages in  
21 length. I am going to read it because of its  
22 importance.

23 "Dear ,

24 Realising how pressed you are for time here at the  
25 hospital and that it would be Wednesday before I would

1 be speaking with you again, I thought it better to write  
2 this letter so that you will be in a position to speak  
3 definitively about these matters then.

4 First of all, before I entered hospital you said  
5 that you would prefer if I would explain the full  
6 situation to my superior, Abbot Smith ..."

7 So this is the entering hospital as an in-patient in  
8 relation to the letter that was written to Finglas Garda  
9 to indicate that that step was being taken, and he is  
10 signalling that he was told to talk to Abbot Smith about  
11 it.

12 "... if I would explain the full situation to my  
13 superior, Abbot Smith, if necessary under the seal",  
14 ie in confession.

15 "This I was unwilling to do. So then and even after  
16 considering the matter for some days I felt I had to  
17 decide definitely not to do so. What perhaps may be  
18 misleading you at the moment is your concept of my  
19 position as a religious priest in a monastery or abbey.  
20 The changes in the Catholic Church over the past years  
21 have affected different religious orders in different  
22 ways and produced widely differing effects. With us in  
23 the Norbertine Order the position is this. My superior  
24 can ask me to undertake various kinds of spiritual  
25 activities but he cannot require or compel me to

1 undertake any one of them. On the other hand, should  
2 I request to be given a certain type of work to do, he  
3 can either permit or refuse as he thinks fit. You might  
4 be inclined to think that this situation lays itself  
5 wide open to the cultivation of parasites and to some  
6 extent the point is valid. As long as I am prepared to  
7 offer mass each day for the intentions of my superior  
8 and to hear confessions and preach in my turn in our  
9 abbey church, when not impeded from doing so, then  
10 I 'earn my daily bread' or, if you prefer, am entitled  
11 to my basic living wage -- basic living income.

12 So discussion of what type of work I should be doing  
13 is not something which necessarily requires discussion  
14 between my superior and yourself but rather between me  
15 and you. When I first came to you, I did so because my  
16 superior asked me if I was prepared to have treatment  
17 and I said I was. Then I asked him to arrange it  
18 through our doctor, , to save me having to do this  
19 myself. So I am your patient, as you emphasised to me  
20 more than once, and quite naturally your secretary sent  
21 your first account to me and I paid it, not my superior,  
22 ie it was paid with monies we own jointly. Now when the  
23 Garda complication arose, only I myself knew about it  
24 and the authorities were very insistent that they would  
25 not in any way be responsible for anyone even where

1 I lived learning about the problem. They simply made  
2 the request you know of and I agreed without any  
3 hesitation whatsoever."

4 Now the request it appears from the documents we  
5 saw, which was, "You have to go into hospital", and  
6 , if it is him, or a doctor arranged for that  
7 and wrote the letter to the Garda Station in Finglas,  
8 but something has come to the attention of the Garda and  
9 we will work on how we find and communicate what that  
10 is, but their response to whatever it was has been to  
11 arrange -- have Smyth -- he is going to have treatment  
12 as an in-patient, but whatever it was is not going to be  
13 communicated to his superiors.

14 "I am going to ask you to arrange for me to spend  
15 some time in a suitable hospital or nursing home."

16 Sorry. Let me just ...

17 "... without any hesitation. I was able in the  
18 circumstances quite truthfully to approach my superiors,  
19 say that I was unhappy with the way I was getting along  
20 with my problem and that I was going to ask you to  
21 arrange for me to spend some time in a suitable hospital  
22 or nursing home, so that I might be able to gain a bit  
23 of confidence in dealing with the situation in the  
24 future. My superiors were quite happy with my decision  
25 and assured me that I had a completely free hand as far



1 as they were concerned. This being so, I fail to see  
2 how any disclosure of the particular Finglas facts would  
3 make it possible for you to deal with the matter more  
4 effectively."

5 So you can see at this point that Brendan Smyth is  
6 making it clear to the doctor that he is not telling his  
7 superiors what happened in Finglas that brought him to  
8 the attention of the Garda and that resulted in him  
9 requesting to be an in-patient, and he is telling the  
10 doctor not to tell either and raising effectively the  
11 issue of patient confidentiality.

12 "Now when I was arranging with you to enter  
13 hospital, I mentioned that I had entered into a personal  
14 commitment to supply for a Birmingham crippled priest  
15 immediately after Christmas and that that and our annual  
16 canonry chapter would tie me up effectively until  
17 January 14th. Apart from that, I said I hoped it would  
18 be possible to arrange to have the treatment in such  
19 a way that I could be away ..." a particular day.

20 Then he says:

21 "These reasons I said, however, were not vital ones  
22 and it was not essential that things should be so  
23 arranged. I would like, professor, if you could see  
24 your way to allowing me to be absent ..."

25 He goes on to talk about wanting -- he says:

1 "Friends of mine have arranged to insert a stereo  
2 into the car for me as a Christmas present, but require  
3 to have the car that weekend in order to do so."

4 So he's explaining why he needs to be away and could  
5 he have the appointment arranged to suit him?

6 Now the next document that's relevant in the chain  
7 is of 4th December 1973, if we move through to the next  
8 page, and this document again marked "Confidential",  
9 again written to Abbot Kevin Smith, but if we just  
10 scroll down so it can be seen from the outset, that it  
11 appears according to the handwritten note on this  
12 document that it was not sent.

13 "I am writing to you about Father Brendan Smyth, who  
14 is a patient here. I should like to have a chat with  
15 you about the whole picture presented by his illness and  
16 also about his future.

17 Perhaps you could arrange to come to see me some  
18 time in the near future. If it's suitable to you,  
19 I~could see you here at the hospital on Monday next at  
20 12.15."

21 So there clearly is an indication the doctor wants  
22 to talk to the Abbot about Smyth's condition. Whether  
23 that document, although dated 4th December, and marked  
24 "not sent" was prepared before the doctor had the  
25 opportunity to assimilate the rather lengthy letter we

1 have just looked at, which was dated 30th November, it  
2 is not possible to know, but the implication of the  
3 first copy of this document with the handwritten  
4 annotation is that the document was not actually sent to  
5 Abbot Kevin Smith.

6 You are aware that Abbot Kevin Smith describes and  
7 it is recorded in the statement from Father Fitzgerald  
8 about trying -- going to see and  
9 basically telling him he wasn't going to be telling him  
10 anything and asking him to leave. That may be a course  
11 that flows out of the documents we have just seen.

12 The next document is another copy of that same  
13 letter that doesn't have the handwritten annotation, but  
14 if we move on then to the next document, which is dated  
15 18th December 1973, this is a psychological testing  
16 report that's written by a senior clinical psychologist,  
17 and it says:

18 "Reverend Smyth seemed relaxed and cooperative and  
19 talked very freely about his problems.

20 Reverend Smyth's response to projective tests  
21 (Rorschach and TAT) suggests a diagnosis of schizoid  
22 personality disorder with an affective overlay. His  
23 Rorschach was quite disturbed and suggested marked  
24 difficulties in human relationships. In particular, his  
25 response to the mother card suggests he sees women as

1 cold, distant and unyielding. He has a very marked,  
2 undifferentiated affectional need and this is so strong  
3 that it periodically overwhelms him such that it seeks  
4 satisfaction in inappropriate ways. His TAT scores  
5 suggest that the reason he seeks consolation through  
6 young people is that he still sees other adults as  
7 frightening and probably unconsciously identifies  
8 himself more with children than with other adults.

9 There was also evidence of a manic/depressive  
10 element in that he either tends to overreact to any  
11 external support or encouragement in a rather manic way  
12 or else he retreats into himself.

13 The major problem in planning long-term treatment is  
14 that this overriding and unsatisfactory affectional  
15 need. If this could be partially met, perhaps through  
16 some type of long-term very supportive psychotherapy,  
17 then this may enable Reverend Smyth to control it  
18 sufficiently to prevent him seeking satisfaction in  
19 inappropriate ways. There were some quite hopeful signs  
20 on the Rorschach in that there is some capacity for  
21 insight and an obviously willingness to discuss  
22 problems."

23 So again, although this is not being communicated to  
24 Abbot Kevin Smith, the last communication he does have  
25 is May '73, which is recognising there is going to be

1 an ongoing issue that needs to be managed.

2 Then you have this document of 22nd February 1974.  
3 If we move through, please, you can see it is headed  
4 "Confidential Case Summary". You can see then that as  
5 early as February 1974 there was a diagnosis being given  
6 of paedophilia. You can see that it had an ICD  
7 classification, 302.2, which means that it was  
8 a recognised condition even as early as February 1974.

9 Then it records his family history and then this  
10 reference to primary and secondary education.

11 "Above average at school. Then joined the  
12 Norbertine Order. Studied theology in Rome. Ordained  
13 1951. Taught theology in a seminary for four years in  
14 Scotland. Did not get on well. Did parish work in  
15 Wales, also in Ireland. Since 1968 has been in Ireland  
16 running a charity office, he says, and conducting  
17 retreats."

18 Then his medical history is recounted and then his  
19 personality. Then this under "Psychiatric History":

20 "Psychosexual difficulties for many years. First  
21 developed in the novitiate. A recurring problem no  
22 matter where he has been stationed. His paedophilia  
23 brought him into contact with the police. This led him  
24 to seek medical attention."

25 Then "Condition on Admission":

1 "Tense, depressed. Physical examination revealed no  
2 gross evidence of organic disease.

3 Psychological testing suggested a diagnosis of  
4 schizoid personality disorder with an affective  
5 overlay."

6 Noting again difficulties from the testing in  
7 forming relationships.

8 "He was treated with Largactil and was given  
9 supportive psychotherapy with the aim of helping him to  
10 achieve a much better level of emotional control.  
11 During his stay in hospital he tended to be somewhat  
12 over-demanding and had not a good relationship with the  
13 nursing staff.

14 Diagnosis: This must remain guarded."

15 Just for the record the Norbertine Order were  
16 trying, if we just move through to the next page,  
17 please, as early as 1994 to get their hands on these  
18 medical notes and records, and their legal  
19 representative, Mr Gleason, made a number of attempts to  
20 do so over the last two decades as well. They have now  
21 come to light through the Inquiry and Mr Gleason trying  
22 to get them for the Inquiry.

23 I am going to pause there, Chairman, Members of the  
24 Panel. Perhaps if we take a short break for lunch  
25 before Father Fitzgerald gives evidence.

1 CHAIRMAN: Yes. We will try and start at 1.55, certainly no  
2 later than 2 o'clock.

3 (1.10 pm)

4 (Short break)

5 (1.55 pm)

6 FATHER WILLIAM FITZGERALD (called)

7 MR AIKEN: Chairman, Members of the Panel, good afternoon.

8 The first witness today is Father William Fitzgerald.

9 He is going to take the oath, Chairman. Because of his  
10 medical condition I would ask him just to stay seated.

11 FATHER WILLIAM FITZGERALD (sworn)

12 CHAIRMAN: Thank you.

13 Questions from COUNSEL TO THE INQUIRY

14 MR AIKEN: Father, I am going to bring up on the screen the  
15 first page of your witness statement, which is at 819 in  
16 the bundle. You will see it is entitled "Witness  
17 statement of Father William Fitzgerald, Prelate  
18 Administrator in Holy Trinity Abbey", a position you  
19 took up in 2013.

20 **A. Yes.**

21 Q. If we just scroll down so you can see the first section:

22 "I, Father William Fitzgerald ..."

23 Then you will recognise the content thereafter,  
24 Father.

25 **A. I do.**

1 Q. If we move through to 835, please, to the last page of  
2 your witness statement, you will see this is the end of  
3 the statement. Can you confirm that you have signed the  
4 witness statement?

5 **A. Yes, I can.**

6 Q. You want to adopt it as your evidence to the Inquiry?

7 **A. I do.**

8 Q. With the statement came a very substantial amount of  
9 documentation that you have provided for the assistance  
10 of the Inquiry.

11 **A. Yes.**

12 Q. That material runs from page 836 through to 1195. Now,  
13 as I was saying to you earlier, Father, I don't intend  
14 -- there is a huge volume of material. I don't intend  
15 to spend time taking you through all of the  
16 paragraphs in your statement and all of the material  
17 that I have opened to the Inquiry over the last two  
18 days. I am going to focus on some major issues and ask  
19 you to explain what you can in addition to what you said  
20 in your statement. I don't want this to last any longer  
21 than is absolutely necessary, because the Inquiry is  
22 aware that -- of your medical condition, that you are  
23 here on crutches.

24 You were born on 9th June 1954 --

25 **A. Correct.**



1 Q. -- which makes you presently 61 years of age.

2 **A. Uh-huh.**

3 Q. You are an Australian.

4 **A. That's correct.**

5 Q. You explain in your witness statement that you entered  
6 the Norbertine Order in May 1972 just before your 18th  
7 birthday -- you were 17 at the time --

8 **A. Yes.**

9 Q. -- into the St. Norbert's Priory in Queen's Park, Perth,  
10 Western Australia.

11 **A. Yes.**

12 Q. That canonry was a dependent house of the Kilnacrott  
13 Abbey that we have been talking about, Holy Trinity in  
14 Ireland.

15 **A. Yes.**

16 Q. To help us with something I was talking about over the  
17 first day of the opening, you being a dependent house of  
18 the Kilnacrott Abbey was like Kilnacrott being  
19 a dependent house of Tongerlo --

20 **A. That's correct.**

21 Q. -- in Belgium.

22 **A. Indeed.**

23 Q. Did I get the pronunciation right this time?

24 **A. Tongerlo. That's correct.**

25 Q. Tongerlo. Until 1954, when Kilnacrott was given its

1           autonomy.

2   **A. Yes.**

3   Q.   So you were like -- when you began, your house in  
4       Australia was like an extension of the abbey in Ireland  
5       --

6   **A. Yes.**

7   Q.   -- and had a lot of members from Kilnacrott being in  
8       your abbey.

9   **A. Yes. Everybody there was Irish. I was the only**  
10   **Australian.**

11   Q.   I was saying to you just I was being asked on Monday,  
12       "Tongerlo, where is that in Belgium?"   Near Antwerp.

13   **A. That's correct, yes.**

14   Q.   It is that abbey then and that abbot who was involved in  
15       deciding to ignore the suggestion from the Abbot General  
16       that perhaps Brendan Smyth shouldn't be ordained as  
17       a priest.

18   **A. Correct.**

19   Q.   I want to just ask you a little about that to assist the  
20       Panel, because the Panel has looked at different  
21       religious orders as part of looking at the children's  
22       homes that they ran.   In this context it is slightly  
23       different.

24           This Order, while it had an Abbot General, from your  
25       statement it appears that the Abbot General did not

1 necessarily have authority over the likes of Brendan  
2 Smyth, who was in Kilnacrott Abbey.

3 **A. That's correct. The Abbot General is a sort of**  
4 **a figurehead, a symbol of unity, but he doesn't have any**  
5 **authority over individual members of the Order. He is**  
6 **the superior of the superiors within the very definite**  
7 **confines of canon law, and that means only when there's**  
8 **an appeal, when the superior dies. In extreme**  
9 **circumstances he has authority over superiors, but**  
10 **that's it.**

11 Q. So the structure that existed was that the abbot of  
12 a particular canonry wasn't under the control of the  
13 Abbot General. So that if the Abbot General said,  
14 "Don't do this", the Abbot who was in charge of the  
15 canonry had the ability to ignore him?

16 **A. He did. He could say, "Thank you for your advice" and**  
17 **leave it at that.**

18 Q. So in trying to give an analogy, a modern day type  
19 analogy, of this type of arrangement, it was like  
20 a federation of houses. You come under the Norbertine  
21 Order and you have the same rules that apply in each  
22 house in principle --

23 **A. Uh-huh.**

24 Q. -- but there wasn't someone at the top, as it were, who  
25 had the ability to do something about Brendan Smyth.

1 The doing had to be done by the abbot who was in the  
2 house that Brendan Smyth was part of.

3 **A. That's correct.**

4 Q. Is that -- have I -- is that too simple an explanation  
5 for it or does that accurately --

6 **A. No, it actually reflects the general practice of the**  
7 **entire church. The Benedictines and the Cistercians,**  
8 **the Norbertines, all the ancient orders were actually**  
9 **originally just monasteries. They kind of federated for**  
10 **practical reasons and fellowship, but that's the level**  
11 **it stayed at. It was only with the Franciscans and**  
12 **Dominicans that a Father General was the superior of**  
13 **everybody in the Order. The Jesuits made it an art**  
14 **form, where the Jesuit General was so powerful he was**  
15 **called the Black Pope. He was a complete and utter head**  
16 **of every member of the Order who lives directly at the**  
17 **command of the Father General. That's impossible in our**  
18 **set-up.**

19 Q. In your set-up it is almost the exact opposite.

20 **A. It is.**

21 Q. Each abbot is in charge of the Brothers or the priests

22 --

23 **A. Of his group.**

24 Q. -- in his abbey.

25 **A. Uh-huh.**

1 Q. That applies to each of the houses.

2 **A. Yes.**

3 Q. And while you should respect and listen to and take into  
4 account what the Abbot General has to say, you didn't  
5 have to obey him --

6 **A. Correct.**

7 Q. -- if you were the abbot of another abbey.

8 You talk in paragraph 13 of your statement -- we'll  
9 just put it on the screen. 821, please. I will just  
10 summarise it. You talk about the General Chapter having  
11 power to legislate for all members of the Order, and how  
12 in paragraph 11 you mention that the Abbot General was  
13 effectively the executive of the Chapter.

14 Now when you say the Chapter had the power to  
15 legislate for everyone in the Order, does that mean that  
16 the Chapter, if something had been referred to them,  
17 could they have issued an edict to put somebody out or  
18 place restrictions on a particular priest in  
19 a particular abbey?

20 **A. Yes.**

21 Q. Did they have some more clout, if I can use that word?

22 **A. Yes, yes. The General Chapter is the highest authority**  
23 **in the Order and it's surpassed by no-one except the**  
24 **Pope himself. So the General Chapter meets every six**  
25 **years and it has complete power in the Order. It can**

1           **change the constitutions. Only it can change the**  
2           **constitutions, and the Abbot General is the organ of the**  
3           **General Chapter between General Chapters, and if he**  
4           **hasn't done what the General Chapter wanted, he will be**  
5           **reprimanded or even dismissed by the General Chapter.**

6    Q.    What I am thinking about, Father, is if at any stage  
7           either Abbot Colwell, as we will talk about shortly, or  
8           Abbot Kevin Smith had brought this issue of Brendan  
9           Smyth and his molesting of children to the General  
10          Chapter, could the General Chapter have acted against  
11          Brendan Smyth?

12   A.    **Absolutely.**

13   Q.    Do you know if that ever happened?

14   A.    **It never happened, no. I think they were a bit gun shy**  
15          **of the General Chapter --**

16   Q.    Yes.

17   A.    **-- the Irish abbots, because it was one of the smallest**  
18          **abbeys in the Order. They were not going to try and**  
19          **make a big impression at a General Chapter, even on**  
20          **an important issue.**

21   Q.    So while we will come to look at a particular reference  
22          where Abbot General Calmels, who was in position between  
23          1962 and 1982, it appears knew something in the late  
24          '70s about Smyth and his activities, you are not aware  
25          of the General Chapter ever deliberating about what to

1 do with Smyth?

2 **A. No.**

3 Q. I ask that because you describe in paragraph 20 of your  
4 statement at 822 some events, and I want to just ask you  
5 to elaborate a bit more arising from a conversation you  
6 and I were having this morning.

7 You were only in the abbey about a year whenever --

8 **A. The priory. The priory in Australia.**

9 Q. The priory. Sorry. At that stage a priory. My  
10 apologies. You will have to correct me quite a number  
11 of times, I imagine, Father, but hopefully I am on the  
12 right track to some extent.

13 The priory that you were in in 1973 in Australia,  
14 you are there a year whenever this conversation takes  
15 place at the dining table --

16 **A. Yes.**

17 Q. -- involving the headmaster of the school.

18 **A. Uh-huh.**

19 Q. Do you want to just explain in your own words to the  
20 Panel what you remember taking place?

21 **A. Yes. At that time government aid for independent**  
22 **schools was only beginning in Australia and had not**  
23 **worked itself out fully. So you really needed to have**  
24 **teachers that you didn't have to pay very big wages to.**  
25 **So members of religious orders just taught for**

1 a stipend, which was considerably less than what you had  
2 to pay a lay teacher, regardless of qualifications.

3 So one of the Fathers said, "Well, you know, why  
4 don't we get someone from Kilnacrott?" The headmaster  
5 said, "Great. Who?" He said, "Brendan Smyth", and he  
6 said, "Absolutely not", and he said, "You know, we have  
7 had to dismiss a teacher here for interference with one  
8 of the boys". He said, "I'm not having that fellow in  
9 this place". So he knew about Brendan's proclivities in  
10 1973.

11 Q. That's what I am coming to, because what that anecdotal  
12 -- your memory of this conversation reveals is that,  
13 while this priory was a house connected to Kilnacrott,  
14 Smyth's activity was well-known within the Order --

15 A. Oh, yes.

16 Q. -- by this time.

17 A. As you see elsewhere, he was even commented about by the  
18 parish priest of Corpus Christi in Manchester in  
19 England, FBS 54 , who said he should never have  
20 been ordained.

21 Q. Are you able to date when the -- that particular --

22 A. There is a reference to FBS 54 in here.

23 Q. Maybe it is something we can come back to. I am not  
24 sure I have been able to find a date for when  
25 FBS 54 --



1 **A. He was parish priest in Manchester in the '50s, the**  
2 **1950s.**

3 Q. So it's --

4 **A. So it would have been when Brendan was a student or**  
5 **a new priest, and he knew even then. He must have heard**  
6 **about Brendan's interference with the child near the**  
7 **general house in Rome.**

8 Q. That's what I am going to come to then, because you  
9 explain in paragraph 21 of your statement a second --

10 CHAIRMAN: If, Father, you look at paragraph 36 of your  
11 statement -- it has 826 at the top, top right-hand  
12 corner -- you will find the reference to FBS 54  
13 .

14 **A. Very good. FBS 54 . It was in the '50s**  
15 **that he was ...**

16 MR AIKEN: Yes. There's a council minute in 1994 that  
17 refers to the fact that this priest said this at  
18 a particular time.

19 **A. Yes.**

20 Q. But what I -- you are not entirely sure of precisely  
21 when he said it, but your recollection is that it was in  
22 the '50s?

23 **A. It was.**

24 Q. Yes.

25 **A. He was a very famous parish priest and very highly**

1           **regarded in the Order. For him to have made that**  
2           **comment and even be remembered by someone in Kilnacrott**  
3           **I mean says volumes.**

4    Q.   If we go back to 823, Father, you describe in  
5           paragraph 21 another conversation, but you were  
6           explaining to me this morning this is the same person  
7           who took you aside after the meal and explained to you  
8           why the headmaster had reacted in the way that he did at  
9           the mention of Brendan Smyth coming to work in  
10          Australia.

11   **A. It was probably the same conversation.**

12   Q.   You recount in paragraph 21 how this confrere -- have  
13          I got that right, confrere --

14   **A. Yes.**

15   Q.   -- explains to you what he had been told --

16   **A. Yes.**

17   Q.   -- Brendan Smyth had done in Rome --

18   **A. Yes.**

19   Q.   -- before he became a priest.

20   **A. Yes.**

21   Q.   So while he is a student.

22   **A. This man was himself at the time a novice, and he was**  
23           **walking down the cloister in the abbey and he wanted to**  
24           **go to confession. Father Brendan was coming the other**  
25           **way and he said, "Oh, Father Brendan, would you have**

1           time to hear my confession?" Brendan walked straight  
2           past him and ignored him.

3           Then within the month -- the old abbot used to call  
4           the Brothers in and ask, "How are things going?" He  
5           said, "Well, good, Father Abbot, except", he said, "one  
6           day I asked Father Brendan to go to confession and he  
7           just ignored me like I was a piece of dirt". He said,  
8           "It's because he can't. He can't hear confession. He  
9           can't say mass. He can't preach. He can't leave the  
10          abbey grounds except in the company of another priest  
11          and that's because he fiddled about with children in  
12          Rome".

13        Q. And this is -- the old Abbot you're talking about is  
14          Abbot Colwell?

15        A. Colwell, yes.

16        Q. So one of the difficulties -- and you've explained this  
17          in the statement -- is that there are not records from  
18          Abbot Colwell's time as abbot in Kilnacrott.

19        A. No, he didn't keep, or when he died, maybe his  
20          council minutes were burnt or something. That was  
21          fairly common.

22        Q. But what you are clear about is that you were being told  
23          that during Abbot Colwell's lifetime he had -- having  
24          become aware of Brendan Smyth molesting children in  
25          Rome, he had placed sanctions on his movements and his

1 activities in the abbey.

2 **A. He had. He had him sent for treatment and he imposed**  
3 **sanctions.**

4 Q. And the treatment -- the first treatment we can date is  
5 to the Graham Clinic in Purdysburn in 1968. So --

6 **A. Which is the year he died.**

7 Q. Yes. So the -- your recollection is that Abbot Colwell  
8 had taken some steps to curtail Smyth's movements.

9 **A. House arrest.**

10 Q. "House arrest" was the word you used for it earlier.

11 **A. Yes.**

12 Q. The difficulty that we've got then is that was  
13 considered the appropriate thing to do with someone of  
14 his proclivities. That abbot dies. Eventually the  
15 following year a new abbot comes in and those sanctions  
16 aren't imposed in the same way, and thereafter, as we  
17 know, unfortunately a raft of children are --

18 **A. Abused.**

19 Q. -- abused.

20 **A. The problem was that Father -- when Abbot Colwell died,**  
21 **Father Phillip was appointed -- Phillip Nash was**  
22 **appointed administrator. He was not in the know, you**  
23 **know, about anything. He was not -- he was not**  
24 **an official prior to that.**

25 So Brendan went to him and said, "These draconian

1 regulations that the abbot or restrictions the abbot has  
2 put on me, do they need to stay in place?" He said,  
3 "Oh, I think you had a personality clash, didn't you?"  
4 So he just thought it was a personality clash and  
5 Brendan was returned to the ministry.

6 Now Father Kevin was elected abbot and he knew about  
7 Brendan's problem, and he had actually gone on Abbot  
8 Colwell's behalf to speak to the doctor about him.

9 Q. In the Graham Clinic that would have been in  
10 Purdysburn in Belfast --

11 A. Yes.

12 Q. -- or Lisburn.

13 A. Yes, but he -- there had been no complaint about Brendan  
14 in the six months of the administration of Father  
15 Phillip. So he thought, "Oh, well, you know, this --  
16 the problem must have gone", you know.

17 Q. So there's this knowledge, and one of the issues -- and  
18 we will come to the systems failures at the end -- but  
19 this is one example of the breakdown that information --  
20 it was important to curtail someone with this man's  
21 problem. If you weren't putting him out, you've got  
22 the -- you were describing it as house arrest. Those  
23 sanctions are removed, as it were, because information  
24 is not conveyed properly from one individual to the  
25 next.

1 **A. That's correct.**

2 Q. You record that later in your statement -- we will come  
3 to that -- about how records were kept and passed.

4 You described this incident in Rome where before he  
5 was ordained it had taken place. You have also  
6 explained in your statement in considerable detail --  
7 I am not going to open that up again now -- but you  
8 explain your suspicion or your understanding from  
9 conversations you have had that Brother Valeer, who was  
10 not a priest but was a lay Brother involved -- was he  
11 involved in training?

12 **A. Yes, and sort of like an assistant to the Abbot General**  
13 **in terms of practicalities, like a valet or --**

14 Q. A PA.

15 **A. Yes.**

16 Q. A personal assistant.

17 **A. Yes.**

18 Q. He seemed from the records to be keeping a very close  
19 eye on Brendan Smyth.

20 **A. Very close, yes.**

21 Q. His -- from the material the reason for the close eye  
22 isn't explicit in the documents, but your understanding  
23 is that that's because his proclivity was known about.

24 **A. Right. I would suspect that Brother was in the room**  
25 **when the parent came to the Abbot General and said what**

1 had happened to their child, because his Italian was  
2 very good, even better than the Abbot General, and he  
3 would have had him around to make sure that he was  
4 getting all the nuances in Italian, and he would have  
5 heard the parent making the accusation.

6 Q. So that accusation came to the Abbot General in Rome?

7 A. It did.

8 Q. That wasn't Calmels. Calmels is '62 to '82.

9 A. Abbot Noots --

10 Q. Abbot Noots, an earlier Abbot General.

11 A. -- who had been a priest of the Abbey of Tongerlo.

12 Q. Ah!

13 A. The Abbot of Tongerlo didn't much care for him. So  
14 that's why the Abbot of Tongerlo ignored his former  
15 subject.

16 Q. And went ahead --

17 CHAIRMAN: Can you tell us how to spell the Abbot General's  
18 name, please?

19 A. N-O-O-T-S, Noots.

20 Q. Noots. Was he Belgian by nationality?

21 A. Belgian, yes.

22 Q. Thank you very much.

23 MR AIKEN: You are giving some examples and you have set out  
24 a number in your statement. Is it fair -- and I am  
25 trying to condense and summarise a lot of material. So

1 if this is not a fair characterisation, please don't  
2 accept it.

3 Was he, Smyth, effectively notorious within the  
4 Order?

5 **A. He would have been notorious in Rome. So anyone**  
6 **probably who was a student in the general house at the**  
7 **time -- the Abbot General may or may not have told his**  
8 **definitors -- probably not -- about what students were**  
9 **doing, because they were a lower classification of**  
10 **humanity.**

11 So the Romans would have known. The Belgians would  
12 have -- the Belgians of Tongerlo would have known.  
13 There is another five abbeys in Belgium as well as  
14 Tongerlo, but the Belgians of Tongerlo would have known.  
15 That's why FBS 54 knew in England, because he is  
16 part of Tongerlo. So that section, you know, Rome, one  
17 part of Belgium, Ireland, England would have known  
18 Brendan's reputation, and some of the Americans in  
19 Wisconsin knew, because some of them had been students  
20 in Rome at that time.

21 Q. Then by the '70s, whenever you are entering the Order,  
22 he is still notorious --

23 **A. Yes.**

24 Q. -- because he is the subject of conversation, and you  
25 have a colleague who is putting you in the picture as to



1 why the headmaster doesn't want him around.

2 **A. Exactly.**

3 Q. We were discussing -- I was using the teacher analogy  
4 with you earlier to try and explain why a priest was  
5 treated differently. We were talking about well, if the  
6 headmaster had found that a lay teacher in the school  
7 had done something like this, they would be shown the  
8 door.

9 **A. Indeed --**

10 Q. They would have been sacked.

11 **A. -- and if a seminarian had been guilty of it or someone**  
12 **in training right up to a deacon, they would be given**  
13 **the door, but the magic of the priestly ordination, as**  
14 **it were, you were in a class of the untouchable.**

15 Q. Are you saying then to the Inquiry, Father, that  
16 unfortunately, however it came about, by the '50s  
17 onwards, and certainly by the '70s when you are there,  
18 how a priest was treated who was molesting children was  
19 not the same as how an abbot would have treated somebody  
20 other than a priest?

21 **A. Correct.**

22 Q. I want to get you to look with me at paragraph 24 and  
23 here you explain to the Inquiry that you get what must  
24 now seem -- I know you are back trying to handle the  
25 difficulties that have befallen the Order in Ireland

1 since the Smyth affair has become public knowledge in  
2 2013, but you were there in Kilnacrott between 1987 and  
3 1989.

4 **A. Correct.**

5 Q. At that stage you were in charge of the church.

6 **A. Yes, and the novices.**

7 Q. You explain two examples of Smyth being around the altar  
8 servers -- presumably that's young boys -- and also the  
9 children's choir. Is that --

10 **A. Which was girls.**

11 Q. Girls. So you explain the -- you weren't having it, to  
12 be frank.

13 **A. Correct.**

14 Q. Can you just explain to the Panel in your own words how  
15 that went in terms of --

16 **A. Sure.**

17 Q. -- what your concern was and what you did?

18 **A. Well, when I came there as rector of the church, the**  
19 **altar server population was like one or two people, and**  
20 **you needed six or eight for the high mass on Sunday and**  
21 **for the full ceremonial. So I made an appeal preaching**  
22 **and then I asked some people, some parents would their**  
23 **sons serve.**

24 One particular lady, who had two boys, I said, "You  
25 know, would your sons serve?" She said, "Only if Father

1       Brendan has nothing to do with them", and I said, "Oh!"  
2       I said, "So the rumours about him are true?" and she  
3       said, "I know they're true". So she said, "The boys can  
4       serve, but only if you guarantee that he is nowhere near  
5       them". So that was -- that was for the altar servers.

6    Q. You explain then how you found him coming to visit the  
7       church.

8    A. Yes. The first time we had an altar servers' practice  
9       there were nine boys attended and there was Brother  
10       , who was a novice, who was really the person in  
11       charge, and I was there simply to be -- give extra  
12       advice on, you know, any formal points that he wasn't  
13       aware of.

14       The next thing Brendan turned up and I said,  
15       "Brendan", I said, "you know, there's only nine boys and  
16       there's two adults. We don't need three", and he said,  
17       "It's a free country. I'll be where I like". I said,  
18       "Can we just come out of earshot of the kids round the  
19       corner?" I said, "Listen, Brendan, in view of the  
20       rumours about you and your sexual activities towards  
21       children I will not have you anywhere near these kids  
22       under my watch" and he said, "I'll knock your head off".  
23       I said, "Oh, make my day, you bastard", I said. I said,  
24       "I'll knock your head clean off", and he stepped back  
25       and he never gave me any trouble again.

1 Q. Would it be fair to say, Father, at that period we are  
2 talking about you would have been in your 30s --

3 A. Yes.

4 Q. -- and you were a fit and formidable --

5 A. Yes.

6 Q. -- individual --

7 A. Yes.

8 Q. -- if you were going to be sharp with someone?

9 A. Probably about -- probably about 18 inches taller than  
10 him.

11 Q. Yes.

12 A. Yes.

13 Q. So -- but would it -- just in that context, because we  
14 were discussing earlier, others don't seem to have been  
15 able to stand up to him the way you did. What it was  
16 about him that others seemed to be intimidated by?

17 A. Well, they used to joke down there saying he was the --  
18 he was the Ian Paisley of Catholic Ireland. You know,  
19 he had a huge, loud, roaring voice, you know, and all he  
20 had to do was yell at someone and they would nearly jump  
21 out of their skin.

22 I remember going to a House Chapter, which was meant  
23 to be fraternal dialogue, and every time the abbot  
24 suggested anything Brendan jumped down his throat and  
25 roared and yelled and -- "I want to be heard". I said

1 -- I said, "Brendan, you are the only person who can be  
2 heard. You know, you've just dominated this entire  
3 meeting. Why don't you just shut up and give somebody  
4 else a chance to speak?" He went quiet again, and at  
5 the end of the Chapter the abbot said to me, "Oh, that  
6 was wonderful". He said, "You know, you should have  
7 been here for years to pull Brendan into place".  
8 I said, "Why didn't you do it?"

9 Q. This is Kevin Smith you are talking about?

10 A. Yes. He said, "I couldn't do it", he said. "He'd roar  
11 me out the door".

12 Q. So it is accurate to say that the man -- he had presence  
13 that other adults found difficult to handle.

14 A. Yes. It was like almost a kind of -- the way the  
15 newspaper keeps presenting that photograph, like a kind  
16 of diabolical power, you know. He was a scary  
17 individual.

18 Q. You explain then in paragraph 25 the incident with the  
19 choir. You were going to shut the choir down.

20 A. Yes. They were hopeless. I mean, they were not good  
21 singers. There were adults who did sing in the choir  
22 who were being put off tune by these kids, and he was  
23 bringing a car load of little girls and they could be  
24 from 6 to -- 6 to 11 maybe, and they sang like cats, you  
25 know. There's no musicality about them at all, and

1 I just said, "This is appalling". You know, I said,  
2 "This is distracting. So there'll be no more children's  
3 choir". "You're making a big mistake", and I said,  
4 "Well, leave the mistake to me".

5 Q. So it would be fair to say you and him didn't have  
6 a warm relationship between you.

7 A. Not a warm relationship, though when he used to go to  
8 Belfast frequently, he'd say, "Can I get you anything?"  
9 and I liked -- I liked beef sausages, which I couldn't  
10 get in -- round Cavan. So he'd always bring me back  
11 beef sausages from Belfast, but that's the extent of the  
12 good relationship.

13 Q. You were explaining to me on the subject of food that it  
14 -- and, of course, this is difficult, and we are going  
15 to come to how it ended up being that this group of men  
16 thought as they did, and we talked about that earlier,  
17 but you were saying to me there was a joke about -- by  
18 some that if you ever wanted a sweet, you only had to go  
19 to his car.

20 A. Yes, yes. He -- the boot of his car was -- literally  
21 the whole area was full of sweets, candy, you know.  
22 I mean, you couldn't have put a suitcase in there if you  
23 had to take someone to the airport. It was full of  
24 candy and that was his tool in dealing with children,  
25 and the seminarians of the abbey, the juniors in

1 formation, used to joke and just say, "Hey, if you --  
2 you don't have to go to town to buy sweets. Just go out  
3 and pop the boot of Brendan's car. It is full of them".

4 Q. Was it known amongst you why he had the sweets in the  
5 car?

6 A. They knew that he -- they knew that he had this thing  
7 for kids. Now how much -- I don't think the young men  
8 in formation were brought into the full realisation of  
9 what was going on, but they just said, you know, "Like  
10 he is so nice to kids and so terrible to everybody  
11 else", you know.

12 Q. Father, we were talking earlier, and I want to try and  
13 help you explain this for the Panel, because we were  
14 agreeing that from biblical times molesting children was  
15 known to be heinously wrong.

16 A. Yes, absolutely.

17 Q. You were talking about how in the canon law it's  
18 heinously wrong.

19 A. Yes, yes. I mean, the 6th Commandment, you know,  
20 forbids serious sins of the flesh as mortal sins that  
21 are damning to hell, you know, and unrepented --  
22 unrepented carnal sins like that -- you know, what  
23 I found puzzling was that something that could send  
24 a person's soul to hell for eternity, they could be left  
25 in a position where they are allowed to perpetrate that

1       **sin with any child they came across. I'm bewildered,**  
2       **just bewildered.**

3       Q. That's what I want to ask you. I appreciate for you it  
4       is the '70s and '80s, because you are sadly part of this  
5       period where the --

6       **A. The sexual revolution, yes.**

7       Q. In the '50s and '60s and '70s and '80s can you help the  
8       Panel to understand how it is that a group of men who  
9       know that molesting children is a heinous -- never mind  
10      a crime -- but in their own thinking a mortal sin -- how  
11      is it that the moral compass of those who knew of his  
12      activity had got so skewed, or whatever way you want to  
13      put it, that he wasn't stopped?

14      **A. Well, I think it's where you want to say that you**  
15      **believe in absolutes, that there are some things always**  
16      **right and some things always wrong, but that doesn't**  
17      **govern how you act. It didn't govern the way Brendan**  
18      **Smyth was allowed to continue to serially rape children**  
19      **and molest children.**

20      Q. Can you -- can you explain how in this -- for instance,  
21      you go in in the '70s and this is known and it is not  
22      being acted on. Now you are having to come in and deal  
23      with the aftermath of the fact it wasn't dealt with.

24             Can you give any insight into how it was that by the  
25      '70s and '80s the thinking of otherwise people trying to



1 lead a religious life was to -- for it not to occur to  
2 them that, "We must put a stop to this. We must get him  
3 arrested. We must put him out. We must ..." whatever?

4 **A. Yes. Arresting wasn't something that you ever did with**  
5 **a priest. Like maybe if a priest murdered somebody and**  
6 **there were witnesses present, well, yes, you know, you**  
7 **would involve the police, but anything short of murder**  
8 **or fiddling too much with the finances -- like, it would**  
9 **have to be like £1 million or something. A couple of**  
10 **hundred thousand he might get away with without going to**  
11 **the police over it. I know of cases, you know, where it**  
12 **was handled on the quiet and somebody eventually put the**  
13 **money forward or whatever, but it would have to be --**  
14 **like the only thing would really sort of be murder or**  
15 **serial killing or something that would ...**

16 **Q.** So are you saying that such was the -- I want to make  
17 sure I am not putting words in your mouth, but I am  
18 trying to -- such was the protectionism of priests that  
19 --

20 **A. Yes. It's a protectionism called clericalism. You**  
21 **know, clericalism -- you know, there's a difference**  
22 **between sacramentality, where we recognise a man as**  
23 **having a sacramental role for salvation of souls, and**  
24 **because at the baptismal font he breathes the life of**  
25 **God, as it were, into a soul, you could call him Father,**

1           because he has fathered the child at the font. That's  
2           sacramentality, but clericalism is where, "Just because  
3           I am ordained, I am untouchable. I am better than  
4           anyone else, you know. I get preferential treatment",  
5           and that was a very serious fault.

6    Q.   Do you think that as a result -- however that thinking  
7           style came about, and I take from what you are saying  
8           that it should never have been the case that that was  
9           the thinking style, has that thinking style been changed  
10          now so that that's not the position?

11   A.   Well, all of the -- all the protocols we have now,  
12          I mean, a priest is the same as anybody. I mean, you  
13          are afraid -- I am afraid to be in the sacristy with  
14          an altar server without another adult present for fear  
15          that someone's going to says, you know, you touched the  
16          child up or something.

17   Q.   So the --

18   A.   If a kid serves -- a child can come and serve mass on  
19          a winter's morning and the rain can be pouring down and  
20          the child needs to get home. You can't say, "I'll give  
21          you a lift home".

22   Q.   So there has --

23   A.   You have to make sure there's a second adult. You know,  
24          "Granny Smith, will you come and get in the car with me  
25          and make sure I don't touch this child?"

1 Q. So there has been a sea change?

2 **A. Oh, absolutely, yes, yes. Clericalism is largely gone.**

3 Q. The Abbot Kevin Smith -- you obviously didn't know Abbot  
4 Colwell, although you have been told --

5 **A. Yes.**

6 Q. -- about the steps that he took, and we have looked over  
7 the last couple of days, as you know, at a lot of  
8 instances when it appears Abbot Kevin Smith was made  
9 aware by families, made aware by the bishop.

10 Can you give the Panel any insight into why serious  
11 repercussions were not had for Brendan Smyth? By that  
12 I mean you talked about how the teacher would be  
13 literally dismissed. Why did Abbot Kevin Smith not --  
14 and his council not move much more against someone who  
15 was causing so much complaint to reach their door?

16 **A. I don't -- I don't know always how much all of his  
17 council knew. Some knew; some didn't. Why he acted the  
18 way he did I can't judge. I -- I'm baffled.**

19 Q. Well, let me ask you -- there appears to have been, we  
20 were discussing earlier, no consideration at any time  
21 about the children.

22 **A. No. It is always the perpetrator is the one concerned  
23 about. "Does he need treatment? Should we even put him  
24 out? You know, should there be a laicisation process?",  
25 whatever, but, you know, the victims were -- well, they**

1           might have said a -- might have said a Hail Mary for  
2           them maybe.

3       Q.   But can you begin to explain to the Panel how that type  
4           of approach --

5       A.   Yes.

6       Q.   -- managed to be the thinking?

7       A.   I don't know.  In Australia Cardinal Gilroy in Sydney  
8           had a report of a priest molesting a boy and there was  
9           another boy present who didn't get molested but the  
10          priest, if he'd had time, would have molested the second  
11          boy.

12                 The cardinal called the first boy in with his  
13                 parents and he said, "Tell me what happened" and the boy  
14                 told the cardinal what happened.  Then he said, "I will  
15                 be in contact within 24 hours".  Then he called the  
16                 second boy in, the witness, and he confirmed that the  
17                 first boy had been molested and he felt he was going to  
18                 be molested, but somebody had come to the presbytery and  
19                 the doorbell rang and he was saved by the bell, so to  
20                 speak.

21                 So then with the two testimonies the cardinal then  
22                 called the priest in and he said, "Is it true that on  
23                 such and such a day this happened?" and the priest broke  
24                 down and cried and said, "Yes, it did happen".  He said,  
25                 "Here is the deal.  £5000.  Laicisation.  You leave the

1 archdiocese. You leave the state, and you inform the  
2 police where you are going why you have relocated, and  
3 you write to me and tell me when you have done that and  
4 I will check with them that you have done it".

5 There was never any abuse that I know of during  
6 Cardinal Gilroy's reign as Archbishop of Sydney.

7 Now why that couldn't have happened in Ireland --  
8 because Ireland gave us the faith. They should have  
9 been showing us the way.

10 MS DOHERTY: Sorry. Can I just clarify when that was?

11 **A. That I believe was in the '40s.**

12 MS DOHERTY: Thank you.

13 MR AIKEN: On the subject of showing the way the Panel have  
14 seen admissions from Kevin Smith in his own hand that on  
15 at least two occasions -- once Abbot Colwell, once Kevin  
16 Smith -- Smyth was -- Brendan Smyth was sent to America  
17 on two occasions without the receiving bishop being told  
18 that, "You need to keep an eye on this man, because in  
19 addition to whatever good he can do he has this  
20 propensity for molesting children".

21 The Panel looked also at a note that appears in the  
22 council minutes, which in 1978 and '79 appears to  
23 suggest that it's been discussed with the Abbot General  
24 Calmels, whose approach was, "Yes. No, you don't need  
25 to tell the receiving bishop about" -- "Let him go with

1 clean slate" was Kevin Smith's words.

2 Was that the -- was that the approach in the '60s  
3 and '70s, that you just move them around, don't tell  
4 Anybody about it and just hope it doesn't happen again?

5 A. A couple of things. One is -- one is that if there had  
6 not been complaint for a time, they would presume that  
7 cure had taken over. You know, they didn't understand  
8 it to be a permanent condition. So if there had been no  
9 complaint about Brendan for a year or two, they'd  
10 probably think, "Well, it's behind him now", you know.

11 Secondly, one of the current members of the Order in  
12 Ireland told me that FBS 52 s keeping of minutes  
13 of the Abbot's council -- FBS 52 -- was  
14 very hit and miss. Sometimes they could go for five  
15 council meetings and there would be no minutes and then  
16 there might be a summary of, you know, half remembered  
17 what was said. So this priest said to me, "I don't even  
18 know that that is what the Abbot General said".

19 Q. There is no record of that effect beyond that council  
20 one?

21 A. FBS 52 's kind of garbled mention of it. FBS 52 was  
22 very loyal to Kevin Smith and he would not have wanted  
23 to see Kevin Smith look bad in any way. It may have  
24 even been an invention of his own memory or, you know --  
25 you know.

1 Q. You can't find any other material that backs up the  
2 suggestion that there's been a discussion?

3 A. No. I have contacted the Abbot General, the current  
4 Abbot General, this week. I haven't been able to get  
5 him, but I know from him that there are no -- there are  
6 no records in the generalate about correspondence  
7 regarding Brendan Smyth or any recommendations given.  
8 So I really doubt that that is accurate.

9 Q. There appears to have been -- and maybe you have  
10 answered this -- at various times some suggestion of  
11 reprimanding him in some way, taking some sort of step  
12 to curtail him, thinking about taking his car off him,  
13 thinking about laicisation, but really -- and I think  
14 you accept this yourself in the statement, and we will  
15 come to the things that you accept -- there wasn't  
16 really a determined effort to properly deal with this  
17 man.

18 A. Not at all, no. It was pathetic really. In fact, one  
19 time it is laughable where it says that he -- he was  
20 accused and accepted that he was guilty of sexually  
21 interfering with a boy, and his faculties, his public  
22 functioning as a priest, was taken off him for two  
23 weeks. Two weeks? It should have been the rest of his  
24 life, you know. Two weeks. It's just baffling.

25 Q. What I want to ask you, if we can look at 860, this was

1 a discussion we were having earlier, and I just want to  
2 see if you can assist the Panel, Father, with a document  
3 that we looked at, the council minute of 24th May 1994.  
4 Down towards the bottom it talks Abbot Mackin.

5 **A. What number is this?**

6 Q. This is internal page number -- it is on the screen,  
7 Father.

8 **A. Oh!**

9 Q. If you just -- at the bottom of the screen you can see  
10 the reference to Abbot Mackin of De Pere.

11 **A. Uh-huh.**

12 Q. You can see the very last sentence. He seems to have in  
13 1994 expressed some view or been spoken to by someone in  
14 Kilnacrott about the appropriateness of Kevin Smith  
15 continuing to be the Abbot. There has been some  
16 exchange of whether he should involve himself and so on,  
17 but right down at the bottom:

18 "Council members took account that Abbot Mackin was  
19 a canon lawyer and had experience in his own community  
20 of this problem."

21 What I was then asking you when we were talking  
22 about that earlier was: to what extent did the Order  
23 have these types of problems? Was Brendan Smyth unique  
24 and was he dealt with in the same way that others with  
25 similar propensities were dealt with by your Order?



1    **A.** My understanding in De Pere, Wisconsin, with two high  
2       schools and a third level college, I think it was in the  
3       high school there were two different priests at  
4       different times where there was one incident and one  
5       incident. Both of those were sent for treatment and  
6       taken out of ministry for something like three to four  
7       years and then returned afterwards to ministry and that  
8       was it and they never reoffended and were restored to  
9       ministry.

10       Those priests, their offences were against  
11       teenagers, not little children. So they were not  
12       paedophiles. They were ephebophiles I understand is the  
13       term they use, which seems to be a different condition  
14       to paedophilia, but that was the only instances there.

15    **Q.** And that happened --

16    **A.** There was no serial abuse. There was no serial -- no  
17       such thing as a serial, ubiquitous abuser --

18    **Q.** The way this man was.

19    **A.** -- the way Brendan was.

20    **Q.** You were talking to me about -- was it Wisconsin which  
21       had a -- I was asking you, well, was this type of --  
22       I am trying to be measured about it -- this type of lax,  
23       ineffectual dealing with someone with these difficulties  
24       something that was repeated in other houses in the Order  
25       or did other houses deal much more decisively and

1 effectively when these types of sexual problems were  
2 presenting themselves?

3 **A. There was one case in England of -- of a Brother, not**  
4 **a priest, who was interfering with servers. He was --**  
5 **he received treatment and then was laicised only**  
6 **afterward. So the Order accepted the bill, as it were,**  
7 **to pay for him to be treated. Then he was told he must**  
8 **laicise. "You can't remain in a religious state." So**  
9 **he was gone.**

10 There was a case of one priest looking through the  
11 keyhole at adult women in a public lavatory and he went  
12 away for treatment for that and never returned to that  
13 behaviour again. So -- but that was the only instances.

14 Q. What I want to do now, Father, you explain -- and  
15 we will just bring up paragraphs 77 and 78 and  
16 following, please, 832. I am going to work through --  
17 you have said to the Inquiry on behalf of the Order  
18 a number of things that you regard as failings that  
19 stand at the door of the Norbertine Order in terms of  
20 dealing with Smyth.

21 **A. At the door of the Kilnacrott.**

22 Q. At Kilnacrott.

23 **A. The Irish Norbertines, yes.**

24 Q. Yes. What you are saying is there was a problem with  
25 the way priests were ordained, because you say in

1 paragraph 77 he should never have been ordained. In  
2 fact, the way the Order was set up the Abbot General was  
3 able to be ignored and the Abbot of Tongerlo was able to  
4 appoint Smyth whenever it was clear perhaps that he  
5 shouldn't have been appointed.

6 **A. Exactly, yes.**

7 Q. Would -- is that situation capable of still taking place  
8 today, where the Abbot of Kilnacrott or the Prelate of  
9 Kilnacrott, if it were you, could ignore what the Abbot  
10 General wanted done?

11 **A. Yes.**

12 Q. So it's still -- it's the structure of the Order.

13 **A. It's the structure of the Order, yes. The Jesuit**  
14 **General could stop a Jesuit being ordained but our Abbot**  
15 **General does not have that power, nor should he.**

16 Q. In how your structure --

17 **A. Nor should he. I mean, I will defend -- I will defend**  
18 **the structure of the Order. It is a confederation of**  
19 **totally autonomous monasteries --**

20 Q. Yes.

21 **A. -- and the bill -- the bill stops with the Abbot.**

22 Q. So the problem in this case is that you are of the view  
23 that the Abbot of Tongerlo, as it were, had enough  
24 information to know Smyth should not be ordained.

25 **A. Correct.**

1 Q. The second issue that you talk about is that the  
2 record-keeping was not adequate where you were dealing  
3 with someone who was offending in this type of way.  
4 There should have been a proper record kept of the  
5 instances, of the communications about it, of the steps  
6 that were taken so that there was never going to be any  
7 doubt about what happened when to who and what was done  
8 about it.

9 **A. No concept whatsoever. No concept at all of keeping**  
10 **records about any of those things.**

11 Q. Yes, and you --

12 **A. Purely word of mouth like -- yes.**

13 Q. Then you talk in paragraph 78, if we just scroll down,  
14 please, that there should have been reporting of the  
15 criminal activity to the police.

16 **A. Yes. Of course, now there is a very strict requirement**  
17 **on that. Any -- I have actually received a couple of**  
18 **complaints about Brendan Smyth but also a complaint**  
19 **about Kevin Smith with an adult woman. Those I have**  
20 **given to the Gardai, you know, immediately. So ...**

21 Q. I just want to put this in context again, because it is  
22 important that the Panel have to try and see things as  
23 they were at the time they were happening. The position  
24 certainly in the Republic of Ireland was that there's  
25 not, like there is in Northern Ireland, a statute, a law

1 that says you must report particular criminal offences.  
2 There was an old common law law that applies in the  
3 Republic of Ireland in respect of very serious -- more  
4 serious criminal offences, which would have included  
5 rape. That would have an obligation to report, but what  
6 you are saying, if I understand it correctly, is, "From  
7 a moral perspective this was known to be wrong and our  
8 Order in Kilnacrott should have reported it, whether or  
9 not they were under a legal obligation to do that or  
10 not".

11 **A. Yes, but also there was rape. You know, Brendan did**  
12 **forcibly penetrate a 12-year-old girl and have**  
13 **intercourse with her. So that's rape.**

14 Q. Yes. That's the --

15 **A. Yes.**

16 Q. -- complaint that was brought to Kevin Smith that  
17 resulted in the May '73 treatment?

18 **A. Right. There should have also been policing as well as**  
19 **treatment. It should have been reported to the Gardai.**

20 Q. Yes, and can you assist with how it came to be that it  
21 appears there was simply no thought amongst a series of  
22 people, not just Kevin Smith, in the '60s, '70s, '80s --  
23 nobody seems to have thought about reporting. There are  
24 no records that say, "Well, shall we report this to the  
25 police?" "No, let's not" or "I don't think we should".

1 It is as if from the material that's available it never  
2 occurred to report.

3 **A. Well, I think to report anything to the police you were**  
4 **regarded as something of a low life, you know. Like**  
5 **neighbours with issues about, you know, their fence**  
6 **falling down or something, you didn't call the police to**  
7 **make your neighbours put the fence back. You know, if**  
8 **someone even ran to your car, you know, you didn't call**  
9 **the police. You dealt with their insurance and you**  
10 **dealt with them and you maybe gave them a box on the**  
11 **ear, but, you know, you didn't really call the police.**

12 Q. It just was not part of the --

13 **A. The culture.**

14 Q. -- the culture.

15 **A. Police were -- had better things to do with their time,**  
16 **I mean, you know, was the popular impression. So really**  
17 **serious crimes, and they just didn't -- you know, as we**  
18 **said, victims were not victims almost.**

19 Q. Yes. This wasn't seen or understood -- but certainly  
20 not seen as something --

21 **A. Yes.**

22 Q. -- serious.

23 **A. Yes.**

24 Q. Is that fair?

25 **A. It's appalling, but it's a fact.**

1 Q. You describe then in paragraph 78 there should have been  
2 a rigorous disciplinary process engaged in I was going  
3 to say each and every time, but I think your point is he  
4 should have been long gone, but each time -- I am not  
5 going to go through them. There is a whole --

6 **A. I would say that if -- Abbot Colwell I understand said**  
7 **to Brendan Smyth if he violated any of those conditions,**  
8 **like if he publicly preached, or heard a confession, or**  
9 **left the abbey without someone, he would have dismissed**  
10 **him from the Order and the priesthood. He would have**  
11 **begun the process immediately.**

12 Q. Yes, but after his time there's a legion, as it were, of  
13 instances making their way to Kevin Smith's door and --

14 **A. Nothing.**

15 Q. -- and your point is there should have been in addition  
16 to reporting the internal -- the Order's disciplinary  
17 machinery should have kicked into action and dealt with  
18 Smyth?

19 **A. Yes. That didn't happen. No reports to the police.**  
20 **Nothing. It was like a vacation for him.**

21 Q. You make the point in paragraph 79 that really once --  
22 and I think from your perspective you are saying it was  
23 very quickly known -- but once it became clear that he  
24 was carrying out this type of behaviour, he should have  
25 simply been -- I think you would have said he should

1 have been put out, but he at the very minimum should  
2 have been curtailed in the way Abbot Colwell was doing,  
3 house arrest, as it were. He should never be alone with  
4 a child, never be able to be alone with a child.

5 **A. That's correct.**

6 Q. Yes, and there was sufficient knowledge that he kept --  
7 whatever was understood about the long-term consequences  
8 of the behaviour for the child, it was sufficiently  
9 known and seen in religious terms as a mortal sin to  
10 know it shouldn't be happening and he should have been  
11 curtailed so that it wasn't possible for him to do it  
12 again, because he didn't seem to be able to stop doing  
13 it.

14 **A. Absolutely, yes. No question.**

15 Q. One of the practical things -- because, as you know, we  
16 are looking at children's homes in Northern Ireland --  
17 he got into his car and kept driving to these places.  
18 There is talk in the council minutes of various  
19 considerations. "Maybe we should take the car from him.  
20 Maybe we should make him have permission to drive", and  
21 so on. He simply shouldn't have been capable of driving  
22 up to Belfast to go into Nazareth Lodge, or Nazareth  
23 House, or to Rubane, or to Middletown. Is that a fair  
24 proposition?

25 **A. It is, but, you know, of course -- you know, normally in**



1 a parish or religious house a priest has one day a week  
2 off and nobody says, "Where are you going on your day  
3 off?" You know, I go -- would go from Cavan to the  
4 Trappists over in Mellifont, you know.

5 Q. Yes.

6 A. I could be getting on a ferry and going to a prostitute  
7 in Birmingham and back again the same evening.

8 Q. Yes.

9 A. I mean, on your day off there's no, you know -- you are  
10 an adult, you know.

11 Q. Yes, but that's you, who is not molesting children.

12 A. Uh-huh.

13 Q. Where it's known that someone is molesting children,  
14 well, they don't get a day off. Is that not fair?

15 A. Well, that's correct, yes, yes. Well, as Abbot Colwell  
16 had it, you know, he couldn't leave the grounds unless  
17 in the company of another adult.

18 That applies in one of the largest Benedictine  
19 abbeys in America, where there is 300 monks that belong  
20 to that abbey. There are six who have been accused, and  
21 all six live exactly under the Colwell discipline of  
22 Brendan Smyth, and if they failed to observe any of it,  
23 they're out.

24 Q. You -- I am not going to pour over the medical material,  
25 but he was being sent for medical treatment, such as it

1 was at the time. Would you -- if I paraphrase it this  
2 way, Father, there were enough examples of the message  
3 that, "This isn't working" for it to be clear to the  
4 superiors of Brendan Smyth that, "Our medical  
5 interventions aren't working".

6 **A. Yes, but then, you know, time and again doctors said,**  
7 **"Well, you know, he's okay now". Several times, you**  
8 **know, they were told, "Oh, he's fit for ministry again".**

9 Q. Yes, and, in fact, in the May '73 letter we were looking  
10 at the suggestion was he could go back to working,  
11 although the one caveat was the person who was receiving  
12 him had to be told, and that then, as we know, did not  
13 happen. So that medical advice was not followed.

14 **A. Well -- and there is the other case of where he was**  
15 **seeing a doctor about molesting children and then he**  
16 **told the doctor, "I am giving a children's retreat. So**  
17 **can I change my time for appointment?" --**

18 Q. Yes.

19 **A. -- and the doctor changed the time of the appointment.**

20 Q. That's the Finglas matter we were looking at today.

21 **A. Yes.**

22 Q. The allegation that seems to have made its way to the  
23 Garda is that during that retreat in a place in Finglas  
24 he interfered with children there. That came to the  
25 Garda's attention and was dealt with by way of this. He

1 had to be an in-patient for a period of time, but it  
2 seems that he was taking steps to make sure that the  
3 doctor didn't tell your abbot about that.

4 **A. Yes, and after he had been accused and the whole deal he**  
5 **was given a bene placitum, you know, a good permission**  
6 **letter to do chaplaincy at the children's hospital in**  
7 **York -- in Cork.**

8 Q. I think that's something the Chairman has noted on  
9 a couple of occasions, that despite all of this, we are  
10 into the '90s and he gets to go and be in a hospital in  
11 Cork.

12 **A. Children's hospital.**

13 Q. A children's hospital, and the -- I am not sure whether  
14 it was a children's hospital or -- I think it was  
15 an ordinary hospital in Cork, but obviously there was  
16 the potential for children to be in it.

17 **A. Children's ward.**

18 Q. The -- we have talked about how victims were treated.

19 There is two matters I want to cover with you in  
20 finishing, Father.

21 **A. Uh-huh.**

22 Q. The first is -- and I appreciate you have not included  
23 this in your statement, but it is a fact that I want to  
24 bring out, because it is relevant to the Inquiry.

25 You have explained that the Kilnacrott Abbey has

1 already dealt with 43 civil claims about Smyth and there  
2 is another series still --

3 **A. 14. I think 14. 14.**

4 Q. -- to be dealt with in some way. You have explained how  
5 the abbey has been sold, how a number of Brothers have  
6 been -- a number of priests have moved elsewhere. There  
7 are some living in Cavan --

8 **A. Nursing homes.**

9 Q. -- but here are no new admissions, as it were, into the  
10 Order.

11 **A. Actually there's a couple of young men that wanted to**  
12 **join the Order and I said, "You can't join it here,**  
13 **because there's nothing to join".**

14 Q. Yes.

15 **A. So they are going to England to join the Order in**  
16 **England.**

17 Q. Yes, and what I am coming to is this. The legacy of the  
18 poison, if I can call it that, of Smyth's behaviour and  
19 the failings of those who dealt with him has been the  
20 destruction of the abbey in Kilnacrott.

21 **A. Yes, and it is also unfortunately, you know -- because**  
22 **sometimes people say the Order and sometimes the Irish**  
23 **canonry.**

24 Q. Yes.

25 **A. Last time the Abbot General was here one of the priests**

1       said to him, "In Ireland the word 'Norbertine' means  
2       paedophile".

3       Q.   Yes.

4       A.   "You know, anyone who knows what is a Norbertine is,  
5       they just mark them, you know, with the brush of Brendan  
6       Smyth."  So -- and the Abbot General said, "Well, I am  
7       not an Irish Norbertine.  I'm not -- why should I be?"  
8       You know, the whole -- the whole Order from the top of  
9       Denmark to the bottom of Brazil has been slashed with  
10      the paedophile brush.

11      Q.   That's the legacy of how this was dealt with.

12      A.   Yes.  There's American Norbertines if they're saying  
13      mass in a place where -- like in Boston, where there's  
14      a lot of Irish, they won't wear the habit.  They will go  
15      in black.  They won't say, "I am Father William".  They  
16      will say, "I am Father Fitzgerald", because they might  
17      look like a religious priest if they use their saint's  
18      name, you know, because someone might say, "What Order  
19      are you?" and then they'd go, "Em, em, em, em ..."

20      Q.   So is the sense of shame palpable then within --

21      A.   It is.  It is, right through the Order.  In fact, in  
22      Northern California where we have a cloister of 35  
23      contemplative nuns, who get up at midnight and pray the  
24      divine office, who never eat meat, who live a completely  
25      penitential life, a guy came there bashing at the door

1       saying, "I was sexually abused by you people". The  
2       Prioress said, "What?" and he said, "It was in Nazareth  
3       House in Belfast, Brendan Smyth. You are Norbertines.  
4       He is a Norbertine". The Prioress said, "Who is Brendan  
5       Smyth?" She is a French woman.

6               She rang the Abbot in California and said -- in  
7       Southern California and said, "Who is Brendan Smyth?"  
8       and he said, "Oh, did you never ...?", and then when he  
9       told her, she nearly had a heart attack on the phone to  
10      hear what Brendan Smyth had done. The nuns have been  
11      doing acts of penance every day since she heard what  
12      Brendan had done to children.

13   Q.   So the legacy of this still haunts the Order.

14   A.   **The entire Order, yes.**

15   Q.   This may be the last time, Father, that in this type of  
16      forum the Norbertine Order gets to say what it wishes to  
17      say about the behaviour of Smyth and how it was dealt  
18      with by the Kilnacrott canonry. I just want to look at,  
19      if we can -- if we can bring up 820, please, because  
20      I was talking to you about this earlier, Father. In  
21      paragraph 2 of your statement, if we can bring up 820,  
22      please, you say:

23               "Before I begin, for myself and on behalf of my  
24      confreres I unreservedly apologise to each person who  
25      was sexually abused by Smyth and to his family -- to

1 your families and friends. I apologise for the criminal  
2 actions of Brendan Smyth and for the failures of the  
3 Kilnacrott canonry, of which I will speak further.

4 I recognise that words of apology sound hollow when  
5 compared to the wreckage caused in the lives of so many.  
6 The grave and inexcusable actions of Smyth have caused  
7 incalculable damage. A most painful reality is the fact  
8 that while Smyth's proclivities and the crimes they led  
9 to were known over the years by his superiors, attempts  
10 to bring his behaviour to an end were totally  
11 inadequate."

12 Then in paragraph 92, if we can move to 835, you  
13 explain that you have endeavoured to provide the Inquiry  
14 with all the information that you've been able to gather  
15 about Brendan Smith and you hope that in providing the  
16 answers to the questions raised by the Inquiry those who  
17 have suffered abuse will consider that their questions  
18 have also been answered.

19 You say then:

20 "As a priest I am profoundly distressed at the  
21 betrayal of religious vocation in seeking to live the  
22 same totally God-centred life shown to us in the life of  
23 Jesus Christ. To profess this life and then to turn  
24 around and commit child abuse is a shocking hypocrisy  
25 and I apologise once again to all of those who have been

1 harmed and who continue to suffer."

2 So you are making your position very clear and  
3 saying "Sorry" for the failings of those who went before  
4 you.

5 **A. Indeed, you know, and it's -- I mean, it's the sort of**  
6 **thing that -- it gives a lot of us sleepless nights, you**  
7 **know, at times, just to think of -- it is more thinking**  
8 **of the suffering of the people who are still here.**

9 You know, the youngest victim of Brendan Smyth that  
10 I know of is 28 years of age. She is going to be around  
11 for another 60 years maybe or longer, and every day of  
12 her life the horrible spectre of that man will be in her  
13 mind and what he did. How can -- how can anyone return  
14 anything to -- I mean, like give her 100 million Euros.  
15 It would do nothing to repair any damage that has been  
16 done to her. It's unspeakable, unspeakable.

17 **Q.** Father, I am not going to ask you any more questions.  
18 If you'll do me the courtesy of remaining where you are  
19 just for a short time, the Panel Members may want to ask  
20 you something. So just bear with us --

21 **A. Sure.**

22 **Q.** -- for a short period of time. Thank you.

23 Questions from THE PANEL

24 **CHAIRMAN:** Father Fitzgerald, you have been very frank with  
25 us as to the failings of the Norbertine Order. I should



1 say on behalf of the Inquiry that we are very grateful  
2 to you for coming and representing the Order here  
3 voluntarily, because the Inquiry would not otherwise  
4 have been able to compel you as a representative of the  
5 Order to come, and we acknowledge that willingness on  
6 your part and those who have legally advised you for the  
7 very frank way documents have been disclosed and matters  
8 disclosed to us.

9 Can I just pursue one or two aspects of what you  
10 have said? It is clear that there was widespread belief  
11 on the part of many members of the Order as early as the  
12 1950s, certainly the 1960s, and by that I mean members  
13 of the Order generally as opposed to those in positions  
14 of authority, that Brendan Smyth was behaving in this  
15 fashion. There also appears to have been a degree of  
16 knowledge at the level of those who were in positions of  
17 authority, such as Abbot Colwell and very likely the  
18 Abbot General, even before he was ordained. Isn't that  
19 right?

20 **A. Uh-huh.**

21 Q. Moving on from the fact that he was ordained against the  
22 clear representations of the Abbot General, subsequently  
23 when what he was believed to be doing and then known to  
24 be doing was established, should those in authority not  
25 have brought his case before the General Chapter of the

1 Order to have him expelled?

2 **A. Certainly, and even outside the General Chapter they**  
3 **could take it to the Congregation for Religious, the**  
4 **Congregation for Clergy, take it to the Nuncio in**  
5 **Dublin, and the process would have begun.**

6 Q. So there were a number of different ecclesiastical  
7 avenues --

8 **A. Recourses.**

9 Q. -- that could have been explored?

10 **A. Yes, yes.**

11 Q. Yes. You then told us that a colleague recounted to you  
12 this occasion when they were making their way to go  
13 to confession. Was that in Kilnacrott itself?

14 **A. Yes.**

15 Q. And were in the modern term blanked by Father Smyth as  
16 he was.

17 **A. Just, you know, walked straight past him.**

18 Q. Then the priest concerned speaks to Abbot Colwell and  
19 you have told us what the Abbot said to him. You then  
20 went on to say that the Abbot remarked, "He can't do  
21 these things. He can't preach" and so on.

22 Was it the position that when we get to the point of  
23 Smyth violating the conditions that Abbot Colwell had  
24 placed upon him -- you said that if he, Smyth, had  
25 violated the conditions, Abbot Colwell would have

1 dismissed him immediately. Is that your understanding  
2 of what the Abbot actually said to him or your belief,  
3 knowing Abbot Colwell as the man he was, that that is  
4 the course that he would have taken, if you see the  
5 distinction?

6 **A. Yes. He -- the priest who told me about it, the one who**  
7 **asked to go to confession and who was ignored, he told**  
8 **me that Abbot Colwell expressly said to Brendan Smyth,**  
9 **"If you violate these conditions, any of them, you're**  
10 **gone".**

11 Q. Yes. Thank you. I just wanted to be absolutely clear  
12 we had not misinterpreted that.

13 **A. Yes.**

14 Q. Since Abbot Colwell died in 1968 --

15 **A. '68.**

16 Q. -- that discussion and therefore that exchange must have  
17 been some time before that.

18 **A. It would have had to have been a year or two perhaps**  
19 **before, yes.**

20 Q. Yes. It was not long before --

21 **A. Not belong before his death.**

22 Q. -- the Abbot died. I see.

23 **A. No, no, because he had sent Brendan to -- he sent him to**  
24 **Wales and various things, and it was finally just when**  
25 **he was totally exasperated with him.**

1 Q. Yes, and we understood from what you said that, in fact,  
2 it was Abbot Colwell who had arranged for Brendan Smyth  
3 to go to the Purdysburn Hospital --

4 **A. Uh-huh.**

5 Q. -- in Belfast to receive some form of treatment.

6 **A. That's correct.**

7 Q. We know that was the late 1960s.

8 Can I ask you now a different question? We have  
9 heard quite a lot, and indeed you referred to it  
10 yourself when you told us about the practice he had of  
11 having lots and lots of sweets in the car. He was  
12 permitted to have his own car, was he?

13 **A. That I don't understand. He must have, because it was**  
14 **never brought up as a complaint against him having a**  
15 **car, but Kilnacrott always had a bit of a reputation in**  
16 **the Order. There was one abbot who would conduct a**  
17 **canonical visitation. So every six years the General**  
18 **Chapter appoints priests who inspect each abbey and**  
19 **report back to the General Chapter whether they are**  
20 **living the life.**

21 Q. Yes.

22 **A. This Abbot said to me, "Of course, you know, at**  
23 **Kilnacrott when you are ordained, you get a car and**  
24 **a cheque book" and I said, "What?" and he said, "Well,**  
25 **they all seem to have a car and they are not all**

1       community cars", and he said, "They have a solemn vow of  
2       poverty, which means that every penny they earn is  
3       handed in, and they would keep maybe £50 or something to  
4       not be embarrassed if they had to take someone out for  
5       dinner or something, but they have no right to bank  
6       accounts" --

7       Q.   Yes.

8       A.   -- and he said, "You know, I have seen them here", he  
9       said, "when they're visited. You know, they are signing  
10      cheques".

11      Q.   Well, that's exactly what I was going to ask you,  
12      because one of the vows he would be taken was one of  
13      poverty. Isn't that right?

14      A.   **Poverty. Exactly.**

15      Q.   Other than having essentially some form of pocket money  
16      I take it from what you say the general rule of the  
17      Order is he should have not have had access to private  
18      funds of that nature.

19      A.   **Exactly. Exactly. So he violated the vows of poverty  
20      and chastity and obedience.**

21      Q.   Yes. He does refer in one of the documents we were  
22      looking at just before lunch to having the car  
23      registered in his own name in Northern Ireland. So  
24      whether it was, as it were, a car he had been given by  
25      the abbey or one that he'd bought from his own

1 resources, he certainly had his own means of getting  
2 about, which is surprising.

3 **A. Yes. They believe those cars were generally brought by**  
4 **his brother --**

5 Q. I see.

6 **A. -- who is a layman who had done reasonably well,**  
7 **I think.**

8 Q. I see. It seems he paid large sums of money to people  
9 who made claims against him in North America.

10 **A. Yes, and where that came from I have no idea.**

11 Q. He was able to pay it seems again from the documents we  
12 looked at just before lunch or at least he implies that  
13 he was funding the treatment he was getting in Dublin  
14 privately.

15 **A. On one occasion, yes, yes.**

16 Q. Yes. Thank you very much.

17 **A. Very strange.**

18 MS DOHERTY: Thank you very much, Father. Can I just ask  
19 about visitations every six years? I mean, what was the  
20 process of them?

21 **A. So at the General Chapter the Abbot General says, "Could**  
22 **we have nominations of priests who know the mind of the**  
23 **Order?" that could inspect the various abbeys or**  
24 **visitate to increase bonds of charity. So to -- what do**  
25 **they say -- encourage and correct. So to praise the**

1           **good things and to correct the bad things that happen**  
2           **according to the constitutions.**

3    Q.   They would report back then to the --

4    **A.   Their written report is available at the General**  
5           **Chapter.**

6    Q.   If they were to find an abbey that they were concerned  
7           about in terms of things like having cars or money, or  
8           indeed how they were dealing with somebody who was  
9           abusing children, would that be discussed at the  
10          Chapter?

11   **A.   Yes, it would.**

12   Q.   You talked about the Abbot General only being able to  
13          intervene in extreme circumstances.

14   **A.   Yes.**

15   Q.   Would that not be sufficient to be considered extreme if  
16          there was a view --

17   **A.   If there was wholesale violation of the vows and**  
18           **wholesale violation of the constitutions, certainly,**  
19           **yes.**

20   Q.   Has that ever happened to you?

21   **A.   Oh, yes.   I was at a -- I was at a General Chapter where**  
22           **an abbot was denounced at the Chapter because he had**  
23           **a mistress living on a yacht in the Bay of Nice --**

24   Q.   Right.

25   **A.   -- and he was sailing around the Mediterranean with her.**

1           **Someone asked him at the Chapter. He said, "What**  
2           **business is it of yours?", he said.**

3    Q.    But there was the potential to deal with him and he was  
4           dealt with?

5    **A. Oh, he was dealt with. He was removed at that Chapter.**

6    Q.    So do you think that in relation to the Chapter their  
7           awareness of Brendan Smyth and how he was being dealt  
8           with, that wasn't felt sufficiently --

9    **A. Never -- it was never on the radar screen.**

10   Q.    You don't think that was ever on the --

11   **A. At a General Chapter, no. I was at two General**  
12           **Chapters, 1988 and another one since, and there was no**  
13           **mention.**

14   Q.    So it would be fair to say there was no mention, but not  
15           that it wasn't on the radar, because --

16   **A. Oh, there would be people there who knew.**

17   Q.    -- there were people who would have known, but didn't  
18           actually feel it was necessary to bring it up to be  
19           discussed?

20   **A. Yes, yes.**

21   Q.    Can I just -- I mean, I understand the issue about  
22           priests having days off and it is their own day off, but  
23           in relation to Brendan Smyth it was clear that he was  
24           going off to do retreats in Finglas and for the Nazareth  
25           Sisters in Belfast. So he was representing the Order



1 and was, you know, undertaking religious duties. Was --  
2 I mean, what was the -- did you have to seek approval to  
3 do that? Was there -- I mean, how --

4 **A. Generally people tend to inform. He would have**  
5 **informed, say, Kevin Smith, "I am going to do this.**  
6 **I am going to do that", because since I became Prelate,**  
7 **when someone comes to me and says, "Oh, I am going to go**  
8 **and do such and such", I say, "Are you telling me or**  
9 **asking me?" "Oh, I'm asking". I say, "Of course".**  
10 **I just don't like being told.**

11 **Q.** Yes. I mean, that is interesting, because in the letter  
12 that we saw that Brendan Smyth wrote to ,  
13 he suggests that is the relationship. He suggests he  
14 tells what he's going to do.

15 **A. Absolutely appalling.**

16 **Q.** So from your experience --

17 **A. That is one of the worst letters I have ever read. I**  
18 **mean, it would be a classic letter to take the names out**  
19 **and to present at a canon law class for a -- a total and**  
20 **utter violation of the religious life.**

21 **Q.** So his description of his ability to do what he wanted  
22 in relation to his religious life you are saying wasn't  
23 accurate?

24 **A. No.**

25 **Q.** But you have experienced --

1     **A. I mean, it was accurate in the sense of that's what**  
2     **happened, yes.**

3     Q. Yes, and you've experienced a culture even now where  
4     there is maybe a bit of that around?

5     **A. Yes.**

6     Q. So he would have had quite a free licence to engage  
7     with, for example, the Nazareth Sisters --

8     **A. Oh, yes.**

9     Q. -- or to do a retreat.

10    **A. There is one member of the community at the moment who**  
11    **has to tell me if they are leaving the country --**

12    Q. Okay.

13    **A. -- and he never does, never does, you know, and then**  
14    **when I broached the topic with him, he said, "We're not**  
15    **meant to be treated like children", and I said, "You are**  
16    **not allowed to leave the country according to the**  
17    **Gardai", and I had told the Gardai that he left the**  
18    **country.**

19    Q. Yes, but "Is he free to be in Ireland?", I ask, but  
20    anyway. In relation to -- you talked about the House  
21    Chapter and the notion that that was a kind of fraternal  
22    meeting.

23    **A. Yes.**

24    Q. Did that mean -- we have heard from the De La Salle  
25    Order there was a kind of weekly meeting where Brothers

1 considered their behaviour, their personal behaviour and  
2 their behaviour to each other. Was that the same --

3 **A. That's the Chapter of Faults they call that.**

4 Q. Right.

5 **A. We have that in the Abbey in Southern California, but**  
6 **they haven't had it in Kilnacrott for fifty years**  
7 **probably.**

8 Q. Okay. So that --

9 **A. But the House Chapter, it would be -- they would expect**  
10 **there would be a House Chapter every month, and anybody**  
11 **can put an item for discussion up on the notice board,**  
12 **unless I disapprove it, if it is something very**  
13 **unsuitable, and there's free discussion, but it's not**  
14 **really -- it's not really a forum for making big**  
15 **decisions. It's an information exchange thing and so**  
16 **on.**

17 Q. But it was within the abbey's right not to have the  
18 faults meeting?

19 **A. Well, you would say according to the teaching of**  
20 **St. Norbert and our tradition, no, but not even the**  
21 **visitors of the General Chapter would check up on it,**  
22 **because most of them didn't have it, because people had**  
23 **lost all sense of accountability.**

24 Q. Okay.

25 **A. Well, accountability at that level anyway, you know, to**

1           **one another on a daily basis.**

2    Q.    Okay.  Thank you very much.

3    MR LANE:  Most of the things I wanted to ask have already  
4            been answered.  In terms of overall accountability of  
5            the Order do I understand there's a system within Rome  
6            that oversees all the different Orders?

7    **A.  There's a Congregation for Religious.**

8    Q.    Uh-huh.

9    **A.  They don't really inspect the Orders or -- unless**  
10           **there's, you know, major complaints.  Like the Jesuits**  
11           **took a vow of special obedience to the Holy See, and**  
12           **there were many Jesuits who taught anything but what the**  
13           **Pope taught, and so at one point they removed -- when**  
14           **Father Arrupe died, the General, the Pope appointed --**  
15           **Pope John Paul II appointed a General who was**  
16           **administrator sort of for about six years.  Then they**  
17           **had an election once it had calmed down.**

18    Q.    So there is a system of controls and checks in a sense?

19    **A.  Yes, indeed.  The Cardinal Prefect of the Congregation**  
20           **for Religious probably is -- he probably does get lots**  
21           **of complaints about particular religious orders.  I know**  
22           **some of the hardest cases are where there is**  
23           **difficulties between an order and a bishop.  Then that**  
24           **has to go to the Supreme Court of the Catholic Church to**  
25           **make a decision about what's happening then.**

1 Q. Is there a system of visitations of the Orders as well?

2 **A. No.**

3 Q. No. Just one small point.

4 **A. We don't want the Jesuits coming telling us what to do.**

5 Q. In terms of the money -- you were being asked about the  
6 question of poverty and so on. If Father Brendan Smyth  
7 had run a retreat or something like that and had been  
8 paid a fee, would he have kept that to himself or would  
9 that have gone to the abbey?

10 **A. We would be bound to hand that into the abbey.**

11 Q. Right. So he shouldn't have had other sources of money  
12 at all?

13 **A. No, none, none whatsoever.**

14 Q. My last question. In terms of the decision-making  
15 process of the council within the abbey in the minutes  
16 it shows a number of times when the abbot's  
17 recommendation was overturned. Were these majority  
18 decisions or a consensus? What was the sort of way that  
19 things ran?

20 **A. I'm trying -- I'm trying to think of an example.**

21 Q. Well, if he was recommending restrictions on Father  
22 Brendan Smyth and the others disagreed and Brendan Smyth  
23 was allowed to go somewhere, you know.

24 **A. The abbot is the individual superior of each man, and he**  
25 **should listen to what the others say, but he has to make**

1           **a decision in his own conscience about what is right and**  
2           **what has to be done. So they don't -- they don't have**  
3           **the authority to govern the abbot.**

4    Q.    So the decisions were all the abbot's decisions  
5           essentially?

6    **A.    Yes.**

7    Q.    And so he would have had his mind changed when he  
8           recommended something but the decision was different?

9    **A.    Yes. That's -- yes. He must have thought that they**  
10           **were really much wiser than he.**

11   Q.    Right, and when there are references to people speaking  
12           from the floor, who would that be?

13   **A.    At a House Chapter? At a Chapter meeting?**

14   Q.    Well, I think these are at the council meetings.

15   **A.    Oh, well, it would be just any member of the council**  
16           **putting something forward that was not on the agenda.**

17   Q.    Right, and typically the council was four or five people  
18           by the minutes?

19   **A.    Yes. Now the council is myself, one elected, one**  
20           **appointed. It was up until I came two elected, two**  
21           **appointed. We are only nine people. So, you know ...**

22   Q.    Thank you very much.

23   **A.    Good.**

24   CHAIRMAN: Well, Father, we are very grateful to you for  
25           coming to speak to us. We will rise just for a few

1 moments. Please feel free to remain where you are for  
2 the present, and then after a short break we will deal  
3 with the next witness.

4 (Witness withdrew)

5 (3.35 pm)

6 (Short break)

7 (3.45 pm)

8 FATHER DONAL KILDUFF (called)

9 CHAIRMAN: Yes.

10 MR AIKEN: Chairman, Members of the Panel, I know it has  
11 been a long day already and Father Kilduff has been here  
12 waiting to give evidence on behalf of the Diocese of  
13 Kilmore. He is aware, Chairman, that you are going to  
14 ask him to take the oath.

15 FATHER DONAL KILDUFF (sworn)

16 Questions from COUNSEL TO THE INQUIRY

17 MR AIKEN: Father, coming up on the screen, if we can have  
18 742, please, is the first page of your witness  
19 statement. I hope you recognise that.

20 **A. I recognise that.**

21 Q. If we move through to 749, which should be the last  
22 page of your witness statement -- can we just scroll  
23 down a little -- and can I just ask you to confirm that  
24 you have signed the witness statement?

25 **A. That's my signature, yes.**

1 Q. You want to adopt it as your evidence to the Inquiry?

2 **A. I do indeed.**

3 Q. With the statement you have given over fifty pages of  
4 exhibits that run from 750 to 803.

5 One of the matters, if we can go back to 742, you  
6 explain, Father Kilduff, in paragraph -- the bottom of  
7 paragraph 4 and then it moves on to paragraph 5 on the  
8 next page -- if we just pause there -- you explain the  
9 context of a canonry being in a diocese and the position  
10 of the abbot vis-a-vis the position of the bishop, and  
11 that the bishop didn't or wouldn't have had authority  
12 over the priest that's in the canonry to regulate  
13 anything to do with him in the canonry. That's correct?

14 **A. Yes, yes.**

15 Q. But he would have had and had the ability to regulate  
16 his activity beyond the canonry in the sense of he could  
17 withdraw or give the facilities or the faculties of the  
18 diocese to allow a priest from a canonry in his diocese  
19 to preach and give confession and other sacraments in  
20 the diocese.

21 **A. In effect, the priest would be visiting the diocese  
22 where the bishop had the authority, the territorial  
23 authority within the diocese, outside of the area in  
24 which the abbey was.**

25 Q. Yes. So the role here in terms of if you had a problem



1 in the diocese with a priest who is in a canonry is you  
2 can take steps to prevent him acting in your diocese  
3 beyond the walls of his canonry, but if you want more  
4 done than that, you have got to get the head of the  
5 canonry to deal with it?

6 **A. The authority for the person is the abbot, yes.**

7 Q. The abbot. That's the structure within which Holy  
8 Trinity was within the Diocese of Kilmore?

9 **A. Yes.**

10 Q. As you know, because you've brought a lot of information  
11 to the Inquiry, as we have tried to piece together this  
12 rather unpleasant jigsaw, that there were at least two  
13 significant occasions whenever information made its way  
14 to the then Bishop Francis MacKiernan of the Diocese of  
15 Kilmore.

16 **A. Yes.**

17 Q. The first you collected and then set out in your  
18 statement and then you had at our request FBS 49  
19 set out in a statement for the Inquiry the  
20 information that came to his ears in 1973, as he placed  
21 it, of a rape allegation against a 12-year-old girl or  
22 14-year-old girl, which he brought then he says to  
23 Bishop MacKiernan.

24 Doing the best that we can, piecing together  
25 material from other places, it may be that that did get

1           communicated to Abbot Smith, and it may be that was part  
2           of how Brendan Smyth ended up getting the beginning of  
3           treatment in Dublin in 1973, but because there are no  
4           records of what Bishop MacKiernan recorded and recording  
5           of what he did, it is not possible to be able to answer  
6           that completely.

7   **A. Yes.**

8   Q. The first issue that I wanted to raise with you is that  
9           lack of record-keeping, that a serious allegation has  
10          been brought to the top of the tree in the Diocese of  
11          Kilmore and there is no record of it that can be found.

12   **A. I can only say it's a failing. It wouldn't happen now,**  
13          **thank God, but it happened back then. I don't know why.**  
14          **Whether there was no -- as you say, there is nothing**  
15          **written. Whether it was verbal or whether it was**  
16          **a phone call we don't know, but it would not happen now**  
17          **--**

18   Q. Now today --

19   **A. -- presently.**

20   Q. -- there is much more emphasis --

21   **A. Much more robust --**

22   Q. -- on keeping proper records.

23   **A. -- guidelines and record-keeping in a procedure, yes.**

24   Q. The other -- the second part that arises out of the 1973  
25          matter that involves                    FBS 49                    --

1 **A. Uh-huh.**

2 Q. -- is -- and you probably heard me saying to Father  
3 Fitzgerald -- that is in the Republic of Ireland there  
4 was not an obligation necessarily under law of the state  
5 to report more minor criminal activity. So the fact you  
6 might become aware of a piece of criminal behaviour  
7 would not necessarily in the South have required you to  
8 report in the way that to a greater extent you had to in  
9 the North over the last fifty years, but for serious  
10 allegations -- whether it is correct or not, a serious  
11 allegation of rape was brought to the bishop, and that  
12 does not seem to have been reported to the civil  
13 authority, to the Garda.

14 Can you assist -- because at the moment there is  
15 nothing to suggest it was recorded --

16 **A. Yes.**

17 Q. -- can you assist with explaining to the Inquiry as best  
18 you can the culture and context that would help the  
19 Panel understand why a bishop in a diocese in Cavan  
20 wouldn't get the Garda involved in an allegation of  
21 someone raping a child?

22 **A. I can't explain about the bishop, because I haven't**  
23 **spoken to him about it (inaudible), but this is the only**  
24 **part of evidence that I submit that I -- is mine,**  
25 **because I took that statement from FBS 49 .**

1 Q. Yes.

2 A. So I have spoken to him about it. I have known <sup>FBS 49</sup> for  
3 a long time. From talking to <sup>FBS 49</sup> and he thought about  
4 -- FBS 49 -- he took a lot of thought and he had  
5 great anguish and I think it comes across in his  
6 statement, and whatever about a legal imperative to  
7 report this, he was so angered and he thought there was  
8 a moral imperative, and that this Brendan Smyth fellow  
9 just was an assault and disgrace to priesthood, and  
10 regardless whether he was a priest or not, this poor  
11 child was violated, and I think <sup>FBS 49</sup> used the word  
12 "criminal". So he knew that.

13 He wanted I think -- and it comes across in his  
14 statement -- he wanted to report it and the woman said,  
15 "No. I'm in enough trouble as I am", and he quoted her  
16 directly. <sup>FBS 49</sup> just felt and he -- I don't know whether  
17 it is in the statement. I think it is, but in  
18 explaining it he said, "This poor woman was in enough  
19 distress as it was". I think she also said, "I thought  
20 I could come to you in confidence" --

21 Q. Yes.

22 A. -- and it was -- and <sup>FBS 49</sup> I know is a man who is most  
23 respected in the diocese as somebody who is caring,  
24 compassionate and approachable, and this lady was not --  
25 I think <sup>FBS 49</sup> says he didn't know who she was, and I'd say

1           that she would have heard, "This is a compassionate man  
2           that you can approach and he will understand. He will  
3           listen", and she felt this is what she wanted, and she  
4           didn't want to bring it any further.

5    Q.    Yes.

6    A.    But he could give her what she wanted in being heard and  
7           be it catharsis or whatever.

8    Q.    Yes. You've --

9    A.    Sorry?

10   Q.    You have identified that his instinct was to take it  
11          forward.

12   A.    His instinct was this thing should be reported.

13   Q.    Nowadays, whether a person wanted or not, it would be  
14          reported.

15   A.    It's standard, yes.

16   Q.    Can you explain to the Panel was there a culture in the  
17          '70s that you just didn't take things to the Garda?

18   A.    I think there was. I think that not only in the '70s.  
19          I think throughout for a long time the authorities  
20          perhaps weren't -- weren't trusted and they were --  
21          maybe the process would take too long and some people  
22          took things into their own hands, but I think there was  
23          that culture of not going to the authorities and maybe  
24          it would get lost, you know.

25   Q.    Given the -- you are quite right. You have identified

1 from FBS 49 's statement the anger that he  
2 explains towards -- that he felt towards Brendan Smyth  
3 --

4 **A. Uh-huh.**

5 Q. -- but it looks like no action was taken --

6 **A. By the bishop.**

7 Q. -- by the bishop against him.

8 **A. I am just -- yes. Well, I am just wondering -- against**  
9 **Brendan Smyth?**

10 Q. Yes, other than it may be -- there is no record -- but  
11 it may be he communicated it to the Abbot Kevin Smith,  
12 but we know, as we will come to speak about 1975, that  
13 --

14 **A. Yes.**

15 Q. -- some action was taken in this situation, and it's  
16 a very serious allegation that has been brought.

17 **A. If you're asking me about why the bishop didn't report**  
18 **to the Guards, again I don't know, but --**

19 Q. I am leaving reporting to the Guards --

20 **A. Sorry.**

21 Q. -- because you have explained --

22 **A. Yes.**

23 Q. -- that there was a culture at the time of not  
24 necessarily taking things to the Guards --

25 **A. Uh-huh.**

1 Q. -- and that FBS 49 had a reason for not  
2 taking it further --

3 A. Yes.

4 Q. -- rightly or wrongly, at the time. It would now happen  
5 differently, regardless of what the person wanted.

6 A. Uh-huh.

7 Q. But what I'm moving on to is even internal to the church  
8 a very serious allegation has been made about a priest  
9 interfering with a child in a very serious way. You  
10 have got the receiving priest of that information,  
11 FBS 49, who is extremely angry and  
12 expressing, perhaps rightly, his view about Brendan  
13 Smyth.

14 A. Uh-huh.

15 Q. But the diocese, the bishop then doesn't seem to take  
16 any sanction. Whatever sanction he had the ability to  
17 take, withdrawing the faculties of the diocese, whatever  
18 it be, it doesn't seem that that was a course taken.

19 A. Oh, I accept that and I don't know why that happened or  
20 why it didn't happen. I'm sorry. I don't know.

21 Q. When it comes to the 1975 matters, Father, you again  
22 weren't involved in any of this, but speaking on behalf  
23 of the diocese the investigation that you are aware of  
24 that took place that Bishop Francis MacKiernan  
25 instigated --

1 **A. Yes.**

2 Q. -- the Diocese of Kilmore accept that was a Kilmore  
3 investigation?

4 **A. That was a Kilmore investigation.**

5 Q. Bishop MacKiernan had asked the then Father John Brady,  
6 who was his assistant at various times, to carry out the  
7 investigation.

8 **A. Uh-huh.**

9 Q. Kilmore are of the view that there was a second priest  
10 who was part of interview one, if I put it that way,  
11 with the child FBS38 --

12 **A. Yes.**

13 Q. -- and his name should not be used beyond the chamber --  
14 but that second priest, who came from the Armagh  
15 Diocese, it wasn't he was being sent by Armagh to do it.  
16 He was asked to help Kilmore doing this. Is that  
17 Kilmore's understanding of the position?

18 **A. It is Kilmore's understanding. I think, in fact, that  
19 the Armagh priest, if I can refer to him as such --**

20 Q. Yes.

21 **A. -- led the ...**

22 Q. The questioning of interview one?

23 **A. Yes, yes.**

24 Q. Yes.

25 **A. I think that Father Brady --**



1 Q. Yes.

2 A. -- as he was then, was a notetaker, and in the  
3 subsequent interview in --

4 Q. Yes.

5 A. -- it would appear, and again this only appeared to me,  
6 that because Father Brady was leading that --

7 Q. Yes.

8 A. -- that he took that as a model and he said, "Yes,  
9 (inaudible)".

10 Q. Yes, and I will ask him about that tomorrow --

11 A. Yes, yes.

12 Q. -- but what I mean is Kilmore are not suggesting they  
13 were doing this jointly with Armagh necessarily.

14 A. No, no, no, just like Kilmore.

15 Q. It was simply a Kilmore investigation.

16 A. Yes.

17 Q. It happened to be there was an Armagh priest helping  
18 Father John Brady.

19 A. Well, because the witness -- the witness was over there.  
20 So rather --

21 Q. Yes. He was in Armagh Diocese.

22 A. It was, yes.

23 Q. The investigation -- obviously you have seen the  
24 documents. Again that is probably not an investigation,  
25 a model that would happen today. Is that fair?

1     **A.** I think it is and I think that the child wouldn't be on  
2           their own. I don't think a child would be told to swear  
3           to secrecy. I think the model of it would be different.  
4           It's not -- and I don't think that -- again I'm only  
5           surmising, but I think that the priests were put in  
6           a situation when I said like they were asked to do this  
7           and they thought, "My God! How can we do -- what is the  
8           proper process?" and they used perhaps a marriage  
9           inquiry model -- they were doing their best I think --  
10          which nowadays would be seen as a bad model.

11    **Q.** Arising out of it, it looks like the parents of the  
12          first boy, FBS38, interview one -- again no names I use  
13          are to be used beyond the chamber -- interview one, his  
14          father at least was outside the room and knew about it.  
15          The interview two with the boy from                   , his  
16          parents don't seem ever to be told. Do you accept that  
17          really --

18    **A.** That was a failing.

19    **Q.** -- the parents should have been informed that their  
20          child (a) was being interviewed about a serious thing  
21          and then (b) told that their son might well have been  
22          sexually abused?

23    **A.** I think -- I think it shows a lack of understanding of  
24          the effect. I mean, not to minimise the sexual abuse,  
25          but even if I am brought in front of my headmaster for

1 not doing my homework or something, it is intimidation.  
2 So I think that the child -- that the parents might have  
3 been told, "Well, your child has had a situation here,  
4 like. So if he is not himself, you know ...", and  
5 that's the minor end of the thing, but not to say, "Your  
6 child has been through this terrible experience", and  
7 God forbid it was ongoing, and that the parents weren't  
8 aware was gross lacking and failing.

9 Q. Can you assist the Panel at all with trying to explain  
10 so they might understand why it wouldn't have been in  
11 the mind of someone like a bishop of a Roman Catholic  
12 diocese in Ireland to be thinking about the child that  
13 they are supposed to look after, one of their own  
14 members? Why would that not have been at this point in  
15 time in the '70s part of the mindset?

16 A. I don't know. I just think that the -- I mean, Father  
17 William spoke about a clericalism or a mindset within  
18 a church, minding the institution. I don't know whether  
19 that was in the bishop's head or I think definitely they  
20 wouldn't have an appreciation for the effect this was  
21 having on children and wouldn't have had  
22 an understanding of how damaging it was.

23 Q. Yes.

24 A. So I can again only guess, but I think there was no  
25 understanding of the effect, especially deep down, that

1           **this would have on anybody.**

2       Q. Do you think that might explain why in addition to not  
3       telling the parents about it there doesn't appear to  
4       have been communication with, "Look, make sure you are  
5       visiting this family. You need to be checking on the  
6       child. You need to be perhaps not organising  
7       counselling for them the way we would do, but that  
8       ongoing pastoral support ..."?

9       A. I'm not so sure that -- again it's a nasty thing to say,  
10       but I think they just thought, "Well, you know, if you  
11       take away the -- take him out of -- take the child out  
12       of the situation, like, they're young. They'll get over  
13       it". I don't know whether that was -- I mean, this  
14       would not be the attitude now. I'm only thinking maybe,  
15       trying to make sense of something that is senseless, and  
16       about why not to involve the parents, I am wondering  
17       whether they were afraid that -- "We are trying our best  
18       to create some evidence against Brendan Smyth and we  
19       don't want to dilute it, like, if he heard about this".  
20       We heard about how manipulative and authoritative he  
21       was. That they say, "Well, don't give him any chance to  
22       know this thing is coming until we hit him with the big  
23       one, you know". Again I don't know. I'm sorry.

24       Q. Again we dealt with it in the context of the '73  
25       allegation, but it doesn't appear that there was any

1 thought about, "Right. We need to tell the Guards about  
2 this", because the two interviews together brought out  
3 at least two children. In fact, in the interviews, when  
4 you read them, there is at least three children and  
5 other children are named, which might have given some  
6 thought to, "I wonder were they interfered with in the  
7 same way?" It doesn't seem again to have been in the  
8 mindset to tell the Garda about it.

9 **A. There wasn't and I can only say it was a failing of**  
10 **them. It's a terrible thing.**

11 Q. It is not something that would happen today?

12 **A. It is definitely not something that would happen today.**

13 Q. Again this time the then bishop, Bishop Francis  
14 MacKiernan, did take some measure on foot of the results  
15 of the two interviews and this investigation where he  
16 communicated a withdrawal of -- we talked earlier it is  
17 not entirely clear about what exactly was being  
18 withdrawn --

19 **A. The faculties, yes.**

20 Q. -- by means of whether it was faculties of confession or  
21 faculties of the diocese, but that having been done  
22 then, you are probably aware he eventually applied again  
23 and they kept being renewed, and the bishop does not  
24 appear to have been getting other information that might  
25 have changed the view about whether to renew and so on.

1           The steps that were taken then don't seem to have  
2           curtailed Smyth at all, because he goes the following  
3           year up to Belfast to live a week with the nuns and  
4           there meets a series of what becomes his subsequent  
5           victims. So that step of withdrawing faculties, however  
6           that was done, doesn't appear to have had the desired  
7           effect.

8   **A. Again I don't know. I think the bishop did or attempted**  
9   **to do as much as he thought he could do. Maybe he could**  
10 **have done more and I think perhaps he could have done**  
11 **more, but he just thought, "Well, if I feed some**  
12 **information to somebody, maybe they can do something",**  
13 **but it was ineffectual. I will admit that.**

14 Q. What is the more? I appreciate, Father, it is difficult  
15 for anybody coming after, who is looking with hindsight.  
16 The natural instinct is not to be criticising someone  
17 who went before.

18 **A. Yes.**

19 Q. When you say he could have done more and you think maybe  
20 he should have done more, what have you in mind that he  
21 might have done at the time that might have been the  
22 more?

23 **A. Well, perhaps there was a diocese inquiry. Maybe he**  
24 **could have put more pressure, checked up on the abbot,**  
25 **even if the abbot was his equal in standing, just to**

1           **check up and put a little bit more pressure on him.**  
2           **I mean, I am sure there are other things he could have**  
3           **done than depending on somebody who didn't wield all his**  
4           **authority.**

5    Q.   What I want to do, Father, is just to look at  
6           paragraph 2 of your statement. In fact, it is not. It  
7           is paragraph 5 of the statement. If we look at 743,  
8           please, you say on behalf of the Diocese of Kilmore that  
9           before dealing with the matters that you have then  
10          assisted the Inquiry by revealing to it you wanted:

11                 "... on behalf of the diocese to express the deep  
12           sorrow felt by the Bishop of Kilmore, Bishop Leo  
13           O'Reilly, and the diocese that any child was abused by  
14           any member of the clergy. We apologise unreservedly to  
15           any child abused by Brendan Smyth for that abuse and for  
16           the hurt and harm caused. The actions of Brendan Smyth  
17           must be condemned unreservedly. The abuse of his  
18           position of power is a cause of profound pain  
19           and suffering to all his victims and a source of shame  
20           and deep sorrow to all in the church he purported to  
21           represent."

22                 I described it earlier with Father Fitzgerald as it  
23           is like a poison that's still being felt, the effects of  
24           it. Is that your experience of --

25    **A. It is. I was listening to Father Smyth -- sorry --**

1       **Father Fitzgerald there and for thirty years I have been**  
2       **exercising ministry as a priest and children have been**  
3       **in the sacristy with me and they move around, but**  
4       **recently I was in the sacristy and some servers were**  
5       **there, and I realised there was no adult. That was the**  
6       **first time in thirty years that it impacted me and**  
7       **I pulled myself in and felt very vulnerable.**

8               **That -- that shows the state that -- how things have**  
9       **changed since then, that children are most important.**  
10       **I have got great appreciation for their protection, and**  
11       **just the very fact that an adult should -- should feel**  
12       **that way, and also that I have had people say to friends**  
13       **of mine, "You let your kids be friendly with him?" The**  
14       **very fact that children and priests are like**  
15       **nitroglycerine is a serious situation. Things have**  
16       **changed a lot.**

17    Q.    So it is a poison that affects you?

18    **A.    It affects every one of us.**

19    Q.    Father, I am not going to ask you any more questions.  
20            You weren't present making any of these decisions at the  
21            time they were made that we've been looking at. You  
22            have brought forward the material that you can to assist  
23            the Inquiry, and it may be we will need further  
24            assistance, and no doubt you will assist the Inquiry if  
25            that's necessary. I am not going to ask you any more



1 questions now. If you just bear with us for a few  
2 moments, the Panel Members may want to ask you  
3 something.

4 **A. Thank you.**

5 **Questions from THE PANEL**

6 CHAIRMAN: Father, might I just take up one point with you,  
7 something you mentioned just a few minutes ago, which  
8 may seem to the outsider to be a very arcane point, but  
9 you mentioned that the abbot was the bishop's equal,  
10 and, of course, we've noted that the abbot of each  
11 canonry was able to ordain a priest as opposed to  
12 conferring certain privileges on a Brother. So that  
13 means that an abbot is in the eyes of the church able to  
14 exercise episcopal ministry in that sense. He is,  
15 I take it, the successor to the apostles in that respect  
16 as well as a bishop, is he?

17 **A. Well, they were my words, but the -- a bishop is**  
18 **an ordinary --**

19 Q. Yes.

20 **A. -- in canonical terms and so too is an abbot an**  
21 **ordinary. So that's why I meant that the bishop had**  
22 **authority over his diocese and priests within his**  
23 **diocese --**

24 Q. Yes.

25 **A. -- whereas the authority over the priests in the**

1 **monastery was the responsibility of the abbot.**

2 Q. So the monastery is an exempt jurisdiction within the  
3 diocese --

4 **A. Uh-huh.**

5 Q. -- and as the ordinary, the abbot has certain privileges  
6 and rights and responsibilities.

7 **A. Uh-huh.**

8 Q. It is just that we noted in some of the correspondence  
9 it was as if when the bishop wrote to the abbot, he was  
10 almost writing as if he was writing to another bishop.  
11 Is that --

12 **A. It would be like that, yes.**

13 Q. It would be like that?

14 **A. I understand, yes.**

15 Q. Yes. Thank you.

16 MS DOHERTY: I don't have any further questions. Thank you.

17 **A. Thank you.**

18 MR LANE: Would the significance of the withdrawal of the  
19 faculty of confession -- I was wondering why  
20 particularly that as against some of the other faculties  
21 that could have been withdrawn?

22 **A. Well, the bishop, as I understand, can give faculties of  
23 confession and to preach --**

24 Q. Uh-huh.

25 **A. -- and this was why I drew up the distinction in my**

1 submission, that again I don't know what was in the  
2 bishop's mind, but I was trying to make sense of the  
3 distinction between confessions and faculties of the  
4 diocese. So the faculties of the diocese I would  
5 understand to include the faculty to preach.

6 Q. And say mass as well?

7 A. Yes.

8 Q. So would he have thought perhaps there was more chance  
9 of having contact with children in the course of  
10 confession than any other settings?

11 A. I don't know what the priest -- bishop was thinking, but  
12 I know that confession is one-on-one in a private place.  
13 So it is like a less public place. So I think the  
14 withdrawal -- the -- I mean, that's the practical thing  
15 about confessions, but also I think that if you take the  
16 sacramentality of giving absolution, I mean, if you are  
17 going to be in a position of exercising a public --  
18 sorry -- a sacrament or priestly ministry, if you are  
19 not a good priest, well, then I think that you shouldn't  
20 have that -- again that's me -- that you shouldn't have  
21 that, exercising that right.

22 Q. In terms of the bishop and the abbot, did they see a lot  
23 of each other? Were they in common contact or was this  
24 an unusual occasion?

25 A. I don't -- I don't know, but again Cavan and

1 Ballyjamesduff, or where Kilnacrott is, are only, what,  
2 thirty miles apart. They have got telephones. So  
3 I would imagine they would have been in regular -- what  
4 the regularity was -- but they would have been in more  
5 than occasional contact.

6 Q. One of the pieces of evidence referred to a sort of  
7 tension between the abbey and the diocese.

8 A. Yes.

9 Q. Now -- but I would have thought there was also  
10 a symbiotic bit, is there not, of the abbey supporting  
11 the diocese? Is that true?

12 A. Well, I think that is why the -- that was part of the  
13 invitation to come into the diocese, that the abbey  
14 would be self-sufficient and would offer supply within.  
15 So if I was unavailable for whatever reason in my  
16 parish, I could call on the abbey and they would supply  
17 is the term we would use a locum.

18 Q. Was this the only abbey actually within the diocese?

19 A. Yes, that I'm aware of, yes.

20 Q. Okay. Thank you very much.

21 A. You are very welcome. Thank you.

22 CHAIRMAN: Well, Father, thank you very much for coming to  
23 speak to us and to assist us in our work. We are  
24 grateful to you for that.

25 A. Thank you.

1 (Witness withdrew)

2 MR AIKEN: Chairman, if we took a short break, we should be  
3 able to very quickly move to the final witness today.

4 CHAIRMAN: Yes.

5 (4.35 pm)

6 (Short break)

7 (4.55 pm)

8 FATHER JOHN MCKEEVER (called)

9 MR AIKEN: Chairman, Members of the Panel, the final witness  
10 today is Father John McKeever, who is a priest in the  
11 Archdiocese of Armagh. He is aware, Chairman, you are  
12 going to ask him to take the oath.

13 FATHER JOHN MCKEEVER (sworn)

14 CHAIRMAN: Thank you very much. Please sit down.

15 Questions from COUNSEL TO THE INQUIRY

16 MR AIKEN: Now, Father McKeever, if we can bring up on the  
17 screen, please, 1210, this is the statement from the  
18 Archdiocese of Armagh that was penned, in fact, by  
19 Father Michael Toner.

20 **A. That's correct.**

21 Q. He was or is the Chancellor. Is that right?

22 **A. That's right.**

23 Q. He happens to be in Rome --

24 **A. Yes.**

25 Q. -- which is why you have been given the honour of

1 speaking to the statement on behalf of the Archdiocese  
2 of Armagh.

3 **A. That's correct.**

4 Q. I am not going to ask you what it is you have done to  
5 deserve that, but you are -- have had the opportunity to  
6 consider the statement?

7 **A. I have.**

8 Q. And to look at the documents that the statement was  
9 based on?

10 **A. That's right.**

11 Q. In addition, if we can move through, please, to 1216, so  
12 although the statement is signed by Father Michael  
13 Toner, you want to adopt the content of the statement  
14 and the exhibits as your evidence to the Inquiry on  
15 behalf of the Archdiocese of Armagh?

16 **A. Yes, and that's Father Toner's signature on the  
17 document.**

18 Q. What I want to do, first of all, Father McKeever, is  
19 just to confirm that you had no involvement yourself in  
20 any of the matters to do with Father Brendan Smyth that  
21 this Inquiry has been looking at.

22 **A. None of it.**

23 Q. Not only did you have no involvement in the matters that  
24 we have been looking at; you also had no involvement in  
25 any of the press statements that anyone connected to the

1 Archdiocese of Armagh or any other part of the Roman  
2 Catholic Church in Ireland have made about Father  
3 Brendan Smyth and the church's handling of matters  
4 related to him.

5 **A. That's right.**

6 Q. So that being said, Father McKeever, I want to say, so  
7 that it's on the record, that you are someone known to  
8 me, having studied with me at The Queen's University in  
9 Belfast.

10 **A. That's right.**

11 Q. I think whenever Professor Hadfield was trying to help  
12 us understand administrative law, she didn't have this  
13 day in mind.

14 **A. I don't think any of us did.**

15 Q. No. So I put on record that you and I are known to each  
16 other, but not in relation to any of the matters that we  
17 are looking at today, and the fact that you managed  
18 a First and I missed out slightly won't affect my  
19 handling of you in any way.

20 **A. I am relieved.**

21 CHAIRMAN: Well, provided you don't support Liverpool, you  
22 will be all right.

23 MR AIKEN: I have not canvassed that with him, Chairman.

24 What I want to do, Father McKeever, is just to  
25 confirm certain matters with you.

1           That as far as the Archdiocese of Armagh is  
2           concerned this was -- the 1975 investigation that has  
3           raised such public concern and awareness was conducted  
4           by the Diocese of Kilmore and not by Armagh?

5   **A. That's correct.**

6   Q. That the involvement of a priest in the Diocese of  
7    Armagh was not at the Archdiocese of Armagh's request to  
8    participate in this investigation in some way?

9   **A. We have no records at all in Armagh's archives regarding**  
10   **that Inquiry, save the witness statements that we**  
11   **obtained as part of civil disclosure only in recent**  
12   **years. So there's no absolutely no evidence to suggest**  
13   **that Armagh was involved with the origin Inquiry.**

14   Q. To take it one step beyond that in terms of a positive  
15    assertion, you would have expected if Armagh had had any  
16    official role in the investigation, that there would  
17    have been some record of it in the Armagh archive?

18   **A. If Armagh took the initiative in this Inquiry, then we**  
19   **would have expected the records to have been kept in our**  
20   **archive as opposed to Kilmore's.**

21   Q. The fact they were in Kilmore's is an additional matter  
22    that allows you to say it appears that Armagh were not  
23    involved?

24   **A. Kilmore were the instigators, yes.**

25   Q. The priest who accompanied the then Father John Brady



1 was a priest of the Armagh Diocese.

2 **A. That's true.**

3 Q. Lived in area or worked in the area.

4 **A. That's right. He was curate in that parish.**

5 Q. He had a Doctorate of Canon Law --

6 **A. That's right.**

7 Q. -- and would have been known as -- I think he was  
8 involved essentially in marriage tribunals?

9 **A. In marriage tribunal cases, yes.**

10 Q. And therefore would have been in the locality where this  
11 was to take place someone that you might turn to if you  
12 wanted assistance about (inaudible)?

13 **A. Yes, he would be a local canon lawyer there to avail of.**

14 Q. From the records it looks like he conducted the  
15 questioning in the first interview, but wasn't involved  
16 at all in the second interview.

17 The decision-making around what was to be done after  
18 the interviewing was conducted was something that was  
19 entirely a matter for the Bishop of Kilmore, because it  
20 was a Kilmore investigation?

21 **A. The results of the interviews were brought back to the  
22 Bishop of Kilmore, as we understand it. So it was up to  
23 him to decide what to do next.**

24 Q. And it doesn't appear from any material you have been  
25 able to ascertain that there was any decision-making

1 brought back for Armagh to engage in?

2 **A. No records of that.**

3 Q. You were explaining -- and it is set out in the  
4 statement to some degree, but I just want you to explain  
5 for the benefit of the Panel. We were having  
6 a discussion earlier. You don't yet hold your Doctorate  
7 of Canon Law. Whether that changes in due course ...

8 **A. No.**

9 Q. But you were explaining to me, and I want you to assist  
10 the Panel, that -- we were having a discussion with the  
11 last witness about an ordinary and the fact that the  
12 abbot was an ordinary in his canonry and the bishop was  
13 an ordinary, but there is, in fact, a subtle distinction  
14 between an ordinary in the canonry and a local ordinary,  
15 of which a bishop in a diocese would be one.

16 **A. Yes. A local ordinary is tied to a geographical**  
17 **territory. So that does give him certain different**  
18 **powers in some matters in canon law.**

19 Q. Now in that context, and a complicated beast is canon  
20 law, but if I can try and simplify it down in this way,  
21 post-1962 a local ordinary who becomes aware of child  
22 sexual abuse perpetrated by a priest as long as it  
23 doesn't take place in the confessional, which remains  
24 something excepted to the Holy See, the local ordinary  
25 bishop, as it were, can or could have instigated

1 a particular type of inquiry that would have involved  
2 having power to discipline someone like Brendan Smyth,  
3 even though he was a priest in a canonry within the  
4 diocese.

5 A. Actually post-1962 the situation was that there were  
6 certain crimes reserved to what was the Holy Office in  
7 those days. It is now the Congregation for the Doctrine  
8 of the Faith. Those crimes were solicitation in the  
9 confession, abuse of a pre-pubescent child, homosexual  
10 acts by a cleric or bestiality by a cleric. Those were  
11 cases reserved to the Holy Office.

12 The 1917 code then in force forbade religious  
13 superiors, which would have included the Abbot of  
14 Kilnacrott, from interfering in any cases reserved to  
15 the Holy Office. The component authority for those was  
16 a local ordinary, that is the bishop in charge of  
17 a diocese or his equivalent in law.

18 In 1962 the law was slightly modified to say that if  
19 solicitation had not taken place, the sacrament of  
20 penance was not involved, then an ordinary, a religious  
21 superior, could investigate the case. Now whether they  
22 would have been aware of that or not I don't know, but  
23 that was the one subtle change. It would not have  
24 changed the authority of the local ordinary to have  
25 investigated anyway, even if the religious superior did

1       **not want to investigate. His original authority**  
2       **remained intact.**

3       Q. So stepping that out, what the effect of the system in  
4       place prior to 1962 and post-1962 is that what Brendan  
5       Smyth was doing should have gone to the Council for the  
6       Doctrine of the Faith.

7       **A. They should have been consulted, but the local diocesan**  
8       **tribunal could have instructed the case --**

9       Q. As far as the --

10      **A. -- as long as Rome had been notified about it.**

11      Q. As far as Kilnacrott Abbey is concerned --

12      **A. Uh-huh.**

13      Q. -- and the Abbot of Holy Trinity Abbey, he should have  
14      been talking to the Council of the Doctrine of the  
15      Faith.

16      **A. Post-1962 he could have spoken to the Congregation for**  
17      **the Doctrine of the Faith and -- yes --**

18      Q. Congregation.

19      **A. -- and investigated.**

20      Q. But as far as Bishop Francis MacKiernan is concerned, he  
21      could have as a local ordinary conducted  
22      an investigation that gave him powers of discipline over  
23      Brendan Smyth?

24      **A. Yes, having notified the congregation in Rome.**

25      Q. The point you made, and which seems to have come from

1           what we have seen to date, he has this form of inquiry,  
2           which we will talk to Cardinal Brady about tomorrow,  
3           that resulted in him giving information of some sort to  
4           the local abbot.

5   **A. Yes.**

6   Q. What you are saying is the mechanism, properly utilised,  
7       would have been a disciplinary procedure which was run  
8       by the bishop himself.

9   **A. He could have followed through on that original**  
10   **complaint on the basis of those interviews.**

11   Q. Would that ability that was available to him have  
12       included being able to discipline Brendan Smyth?

13   **A. Yes.**

14   Q. To what extent could that discipline extend?

15   **A. In the most serious cases laicisation was possible.**

16   Q. Now the statement that has been filed that you are  
17       speaking to, Father McKeever, if we look at paragraph 18  
18       -- just on -- if we move up. Yes, if we move on to  
19       1215, please, one of the matters that's set out in  
20       paragraph 18 -- and we were discussing it earlier -- was  
21       that today this issue immediately moves into the hands  
22       of the civil authority --

23   **A. Indeed.**

24   Q. -- and the archdiocese in terms -- or any diocese in  
25       terms of -- we were talking about the horizontal

1 communication between bishops and so on, "You need to  
2 know that I have got X or Y in my patch and they are  
3 wrong in doing whatever they are doing". That now  
4 immediately communicated to the police and the police  
5 would be the entity who give permission for any diocese  
6 to tell anybody else --

7 **A. Yes.**

8 Q. -- about it so as not to spoil the investigation the  
9 police were doing.

10 **A. Yes. We would be very much aware of that, that before**  
11 **we would share information even within the church that**  
12 **we would make sure we wouldn't be contaminating any**  
13 **evidence or interfering with a police inquiry.**

14 Q. So the safeguarding structures that now exist, which are  
15 is it fair to say a complete world away from 1975 --

16 **A. Totally different.**

17 Q. -- that would involve the police giving permission and  
18 then dissemination of information beyond that.

19 **A. Uh-huh.**

20 Q. The Social Services are also automatically involved  
21 where a child is concerned.

22 **A. As well, yes.**

23 Q. What the archdiocese then have said to the Inquiry is  
24 that, having set out what they can and what they know,  
25 which you are speaking to, they have said that:

1 "The church today can only look back on all this" --  
2 and by "this" I am talking about the Brendan Smyth  
3 affair and how he -- the abuse that he perpetrated and  
4 how he was dealt with -- "with shame and in disgrace."

5 **A. Yes. From what the two previous witnesses have spoken**  
6 **of, how this has affected the lives of priests, this is**  
7 **our penance for this. The church did fail those**  
8 **children and the painful effects of that now in the life**  
9 **of the church are a small penance compared to the great**  
10 **suffering that the victims went through. So this shame**  
11 **and this disgrace and the effect of that will remain**  
12 **with us for a very long time.**

13 Q. I think I described it earlier, Father McKeever, as  
14 a poison.

15 **A. Yes. It is a poison and it will take a long time for**  
16 **that poison to be drawn out of the system.**

17 Q. I am not going to ask you any more questions. If you  
18 stay where you are for a short while, the Panel Members  
19 may want to ask you something.

20 Questions from THE PANEL

21 CHAIRMAN: Father, can I just pursue in a little bit more  
22 detail what may to outsiders seem a very arcane  
23 legalistic position in relation to the powers of bishops  
24 and so on?

25 If we start with the technical position, as

1 I understand it, in the Roman Catholic Church the chief  
2 ecclesiastical person in generally speaking  
3 a geographical location is technically the ordinary, who  
4 will either be a bishop or an archbishop in the normal  
5 way. Isn't that right?

6 **A. Yes. He is the local ordinary in any given territory.**

7 Q. Exactly. So Bishop MacKiernan, to take in his  
8 geographical area of jurisdiction, it was the diocese  
9 effectively containing the counties of Cavan and Leitrim  
10 --

11 **A. That's right.**

12 Q. -- and a little bit of other counties as well.

13 **A. That's right.**

14 Q. Within that local jurisdiction there is provision for  
15 and there was in this instance another ecclesiastical  
16 jurisdiction which was exempt in certain respects.

17 **A. Exempt religious. Uh-huh.**

18 Q. In this case it was a monastery or an abbey, I should  
19 say.

20 **A. That's right.**

21 Q. Interestingly I see in the Archdiocese of Armagh there  
22 are quite a number of different religious orders who are  
23 resident in the archdiocese. Is that right?

24 **A. We would have a monastery in Cavan, but then there would**  
25 **be other religious orders as well, such as the**



1           **Dominicans.**

2    Q.   But they are not necessarily exempt in the way that  
3           Kilnacrott Abbey was?

4    **A.   Dominicans would be exempt religious.  It all depends**  
5           **upon the history and the status of the Order.**

6    Q.   I see.  Well, we understood from what Father Fitzgerald  
7           said that the Norbertines are one of the more ancient of  
8           the monastic orders.

9    **A.   And they would be exempt religious.**

10   Q.   Yes.  Does that mean that the abbot as an exempt  
11          ordinary in that particular instance, since he could  
12          ordain priests, was also someone who exercised episcopal  
13          functions?

14   **A.   No.  He can't actually ordain.  Only a bishop can**  
15          **sacramentally perform the act of ordination.**  
16          **An ordinary in the sense of a religious superior can**  
17          **recommend that one of his students be ordained, but he**  
18          **must then find a bishop willing to do the ordination for**  
19          **him.**

20   Q.   I see.

21   **A.   He cannot do it personally --**

22   Q.   So that explains --

23   **A.   -- unless the abbot is himself a bishop.  There are**  
24          **a few territorial abbotcies in the world.**

25   Q.   Yes.

1 **A. They're jurisdictions analogous to a diocese with some**  
2 **territory attached to them, and the abbot may actually**  
3 **receive episcopal orders himself.**

4 Q. I think there may have been one in Western Australia at  
5 the time we were looking at child migrants, but we heard  
6 in this instance that at one time the Abbot General was  
7 also a bishop. Was that a personal position in the  
8 sense of someone already a bishop was brought in to be  
9 an abbot as well or a Norbertine became a bishop?

10 **A. It could have been that there was a Norbertine who was**  
11 **appointed a bishop in some other function of the church**  
12 **and then became Abbot General --**

13 Q. Yes.

14 **A. -- or it could be that he was made Abbot General first**  
15 **and then perhaps as a sign of personal esteem to him the**  
16 **Holy Father decided to appoint him as a bishop.**

17 Q. Yes. So if we go back to what happened to Father  
18 Brendan Smyth in this instance, because we have been  
19 told earlier that the Kilnacrott Abbey as a dependent  
20 abbey upon an abbey in Belgium went ahead and ordained  
21 him, but technically what would have happened is they  
22 would have presented him for ordination --

23 **A. Yes.**

24 Q. -- either to the Bishop of Kilmore or another bishop.

25 **A. It could be any bishop resident in Rome. It depends who**

1           **the abbot issued the dimissorial letters to. Those are**  
2           **the letters of permission for an ordination to take**  
3           **place.**

4    Q.   A bishop normally ordaining clergy for his own diocese  
5           presumably has an ultimate responsibility not to ordain  
6           a priest he knows or suspects not to be fit to perform  
7           his ministry functions.

8    A.   **That's right. If they have been his student over the**  
9           **years, he should know them well enough to make that**  
10           **decision whether to ordain them or not.**

11   Q.   Whereas in the time when Brendan Smyth was ordained and  
12           the circumstances, he would effectively have been  
13           presented to a willing bishop, who presumably would  
14           simply take on trust that he was appropriate.

15   A.   **Yes. He would have received letters of testimony --**

16   Q.   Yes.

17   A.   **-- from the abbot saying that he was worthy to be**  
18           **ordained and he would have received letters of**  
19           **permission from the abbot to ordain him. That's my**  
20           **understanding.**

21   Q.   So he -- yes. He would then rely on those documents --

22   A.   **He would rely on them.**

23   Q.   -- which I take it are provided for in canon law, and if  
24           they weren't there, he would say, "I am sorry. I can't  
25           ordain you". So someone in the Norbertine Order had to

1 make a decision to present him with these  
2 qualifications, effectively certificates of suitability  
3 I suppose --

4 **A. Yes, yes, you could say that.**

5 Q. -- if you regard it that way, and yet they chose not to  
6 reveal what their internal concerns were.

7 **A. Yes, that probably was the case.**

8 Q. An even more arcane point: we see from time to time  
9 correspondence between, for example, Archbishop Daly, as  
10 he was at the time --

11 **A. Uh-huh.**

12 Q. -- writing to Abbot Smith and the abbot replying almost  
13 as if it is one bishop writing to another. In terms of  
14 protocol is that -- the standing of an abbot almost but  
15 not quite a bishop, if I may put it that way?

16 **A. Yes, but an abbot would be treated with great respect by  
17 a bishop, yes.**

18 Q. Because, of course, abbots have been part of the fabric  
19 of the church since certainly well before the 12th  
20 century. Isn't that so?

21 **A. And, of course, they are -- it be seen they even look  
22 like bishops. They get to carry a crozier. They wear  
23 a pectoral cross. They wear a mitre.**

24 Q. Yes.

25 **A. They don't have the sacramental powers of a bishop, but**

1           **outer appearance, they look like him.**

2    Q.    They sign their correspondence with a cross as a bishop  
3           would do.  Isn't that right?

4    **A.    I wouldn't be aware of that now.**

5    Q.    Well, that's what seems to have happened here.  It is  
6           not very easy to make out, but that makes it a great  
7           deal clearer to us at least.  Whether it does to anybody  
8           else is another matter.  Thank you very much.

9    MS DOHERTY:  Just one short question going across from his.  
10           There was mention of when Brendan Smyth went to work in  
11           the hospital in Cork, he had a letter to go with him to  
12           give his -- can you just explain that a wee bit?

13   **A.    That would be a letter of commendation basically to say**  
14           **that he is a priest in good standing and that the**  
15           **authority who was sending him to Cork -- in this case**  
16           **I presume it was his abbot -- there was no reason why he**  
17           **cannot exercise his ministry.  We are all issued with**  
18           **these.  Nowadays they take the form of almost like**  
19           **a little driving licence card so that if you are in**  
20           **a territory outside your own diocese where you are not**  
21           **known and you seek to exercise priestly ministry, you**  
22           **can present this card, and it is a way of showing that**  
23           **you are a priest in good standing.  You are not under**  
24           **any penalty or under any suspension.**

25    Q.    Okay.  So they come with a lot of trust then, if you

1 were in a different ...

2 **A. Well, the church regards these as very, very serious**  
3 **documents and canon law says that they must be no more**  
4 **than twelve months old. So they are frequently reviewed**  
5 **so that if a priest does misbehave in any way within**  
6 **those twelve months, that they can be withdrawn, and**  
7 **they must carry a date on them.**

8 Q. Okay. Thank you very much. That's really helpful.

9 CHAIRMAN: If I can just follow up perhaps to underline  
10 something I hope we have understood correctly and  
11 underlies much of what we are discussing. The basic  
12 position is that, as I understand it, Father, a priest  
13 who is if one might use the expression licensed or  
14 approved to exercise priestly functions in the area of  
15 one ordinary cannot just walk into the area of another  
16 ordinary, another diocese, for example, and carry on  
17 without some form of episcopal or other notification and  
18 then the bishop into whose area he comes gives him  
19 permission to do whatever it is. Is that right?

20 **A. Not really, Chairman. Once a priest receives his**  
21 **faculties from his own ordinary -- so in the case of**  
22 **a diocesan priest that's his bishop; in the case of**  
23 **a religious priest, like a Norbertine priest, from his**  
24 **religious superior -- once he has received those**  
25 **faculties, he can exercise his ministry pretty much**

1           **anywhere in the church unless the bishop of the**  
2           **territory he is entering has created his own rules that**  
3           **you cannot exercise ministry there without his express**  
4           **permission.**

5    Q.    I see. Do I take it that's not necessarily always the  
6           case?

7    A.    **It is not necessarily always the case. The general**  
8           **practice at least in Ireland is that if you are a priest**  
9           **in good standing with your own ordinary, you are free to**  
10          **license elsewhere. Now if later the ordinary of the**  
11          **place that you have gone into finds a problem with you,**  
12          **they can withdraw your faculties to exercise in that new**  
13          **territory that you have entered.**

14   Q.    Yes. You see, it is of some significance potentially at  
15          least in this instance, because Father Brendan Smyth had  
16          been -- had current faculties from the Bishop of  
17          Kilmore. Does that mean he was not obliged to say to  
18          the Bishop of Down & Connor, "I am coming into your  
19          diocese. I have been asked to conduct a retreat", for  
20          example, "by the Sisters of Nazareth"? He doesn't need  
21          to either notify the Bishop of Down & Connor or even get  
22          some form of permission to do it --

23   A.    **Once he had.**

24   Q.    -- unless, of course, there are these local rules?

25   A.    **Once he had faculties from his own abbot in Kilnacrott,**

1       **he could have gone into Down & Connor, heard**  
2       **confessions, tended to the sick, said mass in the**  
3       **diocese.**

4       Q.   And does that mean that he could do the same in Kilmore  
5       until the Bishop of Kilmore withdrew --

6       A.   **Uh-huh.**

7       Q.   -- the faculties?

8       A.   **Yes, and then in that particular territory, the Diocese**  
9       **of Kilmore, he could not operate.**

10      Q.   I suppose, strictly speaking, what he was doing was not  
11      withdrawing but forbidding him to exercise --

12      A.   **Yes.**

13      Q.   -- because the permission came originally from the  
14      abbot, not from the bishop.

15      A.   **That's right. That's where the original faculties came**  
16      **from.**

17      Q.   But the bishop still had the power to say,  
18      "Notwithstanding that, I am forbidding you to do it in  
19      my diocese".

20      A.   **"You cannot preach. You cannot hear confessions. You**  
21      **cannot minister in this diocese." That's right.**

22      Q.   So effectively he was free to travel wherever he wanted  
23      to by invitation, perform any priestly function, such as  
24      conducting retreats in Dublin or Belfast, wherever --

25      A.   **Yes, he could.**



1 Q. -- and until or unless an ecclesiastical authority in  
2 a particular locality had reason to do so, he was  
3 entitled to act as a priest?

4 **A. He was. That's right.**

5 Q. The bishop in the area concerned would have had to have  
6 some specific reason presented to him I presume before  
7 he would have considered prohibiting him by preventing  
8 him from exercising those functions?

9 **A. Yes. If he received a concern, something that would**  
10 **have worried him about Brendan Smyth, then he could have**  
11 **done exactly as the Bishop of Kilmore did.**

12 Q. Yes, but until and unless something was drawn to the  
13 bishop's attention --

14 **A. Attention.**

15 Q. -- there is no legal reason in canon law for anybody,  
16 whether it is a school --

17 **A. Uh-huh.**

18 Q. -- or a parish or whatever, to invite somebody like  
19 Brendan Smyth in as a visiting priest to perform  
20 whatever functions they wished --

21 **A. Yes.**

22 Q. -- take -- hear confessions, conduct retreats, solemnise  
23 marriages and whatever.

24 **A. That's correct. Marriages are different in canon law.**  
25 **You always need the permission of the local parish**

1           **priest if you are a visitor.**

2    Q.   Yes, but the parish priest, not the bishop?

3    **A.   Not the bishop.   The parish priest.**

4    MS DOHERTY:   Can I just ask one supplementary?   If somebody  
5           has their facilities withdrawn by one bishop --

6    **A.   Uh-huh.**

7    Q.   -- is there any communication between the bishops to  
8           say, "I have done this and this is why I have done it"?

9    **A.   I don't know.   That will be -- that's my honest answer**  
10           **on that.   In this case clearly there doesn't seem to**  
11           **have been.**

12   Q.   Seem to have.

13   **A.   If a bishop did that, and if there was no police**  
14           **investigation, that he wasn't forbidden to share**  
15           **information, there is nothing to stop him saying to**  
16           **bishops of dioceses where he knows the man is likely to**  
17           **go or has been.**

18           There have been times where we have received  
19           warnings from our own bishop for priests, maybe even  
20           from different counties, from Australia or America, who  
21           have lost the faculties of their own bishop, who are not  
22           in good standing, and yet are going around chancing  
23           their arm, trying to get work as supply priests in  
24           different area.   We would be warned, "Watch out for this  
25           man.   If he presents himself, do not let him minister"



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