
HISTORICAL INSTITUTIONAL ABUSE INQUIRY

being heard before:

SIR ANTHONY HART (Chairman)

MR DAVID LANE

MS GERALDINE DOHERTY

held at
Banbridge Court House
Banbridge

on Thursday, 25th June 2015

commencing at 10.00 am

(Day 133)

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

1 Thursday, 25th June 2015

2 (10.00 am)

3 (Proceedings delayed)

4 (11.00 am)

5 CARDINAL SEAN BRADY (called)

6 CHAIRMAN: Good morning, ladies and gentlemen. Can I, as
7 always, remind everyone to ensure that their mobile
8 phone has been either turned off or put on
9 "Silent"/"Vibrate" and can I also emphasise what I have
10 said before: there must be no recording, nor any
11 photography either in the Inquiry chamber or indeed
12 elsewhere on the Inquiry premises.

13 Finally, since I think there may well be a number of
14 people who have not been here before and are not
15 familiar, therefore, with our procedures, it may become
16 necessary from time to time to use the names of
17 individuals in the chamber, but those individuals have
18 been given designations, that is anonymity, by the
19 Inquiry. Those names must not be repeated or used
20 outside the Inquiry chamber in any circumstances
21 whatever unless the written permission of the person
22 concerned has been obtained beforehand.

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

24 The first witness today is Cardinal Sean Brady. The
25 cardinal is aware, Chairman, you are going to ask him to

1 take the oath.

2 CARDINAL SEAN BRADY (sworn)

3 CHAIRMAN: Please sit down.

4 Questions from COUNSEL TO THE INQUIRY

5 MR AIKEN: Cardinal, coming up on the screen will be the
6 three statements you have provided to the Inquiry.

7 I just want to ask you just to confirm if we look at the
8 first page of the first statement of 11th June -- that's
9 at 807 -- that you recognise the document. If we move
10 through, please, to the last page at 812, and can you
11 confirm that's your signature on the document?

12 **A. Yes.**

13 Q. Then if we move to the second statement, which is
14 a single-page statement of 11th June at 813, please,
15 again you confirm you recognise the document?

16 **A. Yes.**

17 Q. If we just scroll down so the cardinal can see his
18 signature, you have signed that statement. Then the
19 third statement is of 19th June. It is at 1238, please.
20 Again you recognise that document. If we look, please,
21 at 1242, again that's the last page, and you can confirm
22 you have signed that statement?

23 **A. I confirm.**

24 Q. You want to adopt the contents of the statements as your
25 evidence to the Inquiry?

1 **A. Yes, yes.**

2 Q. Now the Panel have had the opportunity to read your
3 witness statements, Cardinal, and the documents that are
4 connected to it that have been provided by the
5 Archdiocese of Armagh and also the Diocese of Kilmore.
6 We are going to look at some of that material, but you
7 can take it that the Panel have already had the
8 opportunity to see it all.

9 The -- what I am going to do, first of all, you were
10 born on 16th August 1939?

11 **A. That is correct.**

12 Q. And have reached -- do you want to bring the microphone
13 towards you a little bit if that makes it -- saves you
14 having to -- and are now aged 75?

15 **A. Yes.**

16 Q. You were ordained in Rome --

17 **A. Yes.**

18 Q. -- as a priest in 1964?

19 **A. Yes.**

20 Q. At that time you then began studying a doctorate of
21 canon law?

22 **A. Yes.**

23 Q. That was at the Lateran University?

24 **A. University.**

25 Q. You did that for three years until 1967?

1 **A. Correct.**

2 Q. You obtained your doctorate?

3 **A. Yes.**

4 Q. Then you came back to Ireland --

5 **A. Yes.**

6 Q. -- and taught between 1967 and 1980 in St. Patrick's
7 College in Cavan?

8 **A. That is true.**

9 Q. That was a secondary school?

10 **A. Yes.**

11 Q. You taught languages. I was asking you earlier what you
12 taught and you said Latin, French and football.

13 **A. Quite true.**

14 Q. Then I have to say it was of considerable personal
15 dismay to discover that you preferred Manchester United
16 over Liverpool.

17 **A. But I also something saw Liverpool win the European Cup.**

18 Q. In the year I was born. That rehabilitated matters
19 somewhat.

20 You were then -- having spent to 1980, you went off
21 to Rome again?

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

23 Q. Then having spent thirteen years in the Irish College in
24 Rome --

25 **A. I was thirteen years teaching from '67 to 1980 and then**

1 **thirteen years in the Irish College in Rome. First**
2 **I was seven years as Vice Rector, six years as Rector**
3 **until 1993, 1980 to 1993.**

4 Q. You came back to Ireland in 1993 and were a parish
5 priest for a short time until -- thirteen months
6 I think.

7 A. **For thirteen months. Thirteen is the number, but --**

8 Q. And then in 1994 you were elevated to become the
9 Archbishop of Armagh?

10 A. **Well, coadjutor Archbishop first from February 1995**
11 **until becoming Archbishop of Armagh in 1996, in November**
12 **I think.**

13 Q. Then you were elevated to the status of Cardinal in
14 1997?

15 A. **No, no, 2007.**

16 Q. 2007. The time period, as you know, that we are looking
17 at takes us back to 1975 --

18 A. **Yes.**

19 Q. -- and obviously that was some forty years ago now.

20 A. **Yes.**

21 Q. But you were the Archbishop of Armagh and the Primate of
22 All Ireland until your retirement last year?

23 A. **Last September.**

24 Q. In that context, as I was saying to you, I recall that
25 you were asked to and confirmed that the church would

1 fully cooperate with the Inquiry --

2 **A. Yes.**

3 Q. -- and you made it clear that was going to be the case,
4 and that was a message that you transmitted out to the
5 various dioceses who then had to be involved with the
6 Inquiry.

7 **A. That's true. I had no hesitation in saying that, that
8 we would cooperate, of course, fully with the Inquiry.**

9 Q. Going back to 1975, at the time you were teaching in
10 St. Patrick's and you were teaching 11 to 18-year-olds
11 in effect.

12 **A. Yes, yes. It was post-primary programme from -- yes, 11
13 to 18 would be roughly it, yes.**

14 Q. You had experience of dealing with teenagers as part of
15 that.

16 **A. Absolutely. In fact, I spent a lot of my time in their
17 company either teaching, or as a games master, or
18 supervising study, or saying mass for them.**

19 Q. It was at that point in your career that Bishop Francis
20 MacTiernan -- MacKiernan -- and you had been helping him
21 out on occasions as a personal assistant --

22 **A. Yes.**

23 Q. -- or secretary.

24 **A. Very occasional. Secretary really wasn't, because
25 secretary would imply I had a desk up in his house and**

1 **time, hours. As required occasionally to help him out**
2 **with some chores of a secretarial nature.**

3 Q. At that stage that we are coming to look at of
4 March 1975 you were 35 years old?

5 **A. Yes.**

6 Q. You were summoned to come and see Bishop Francis
7 MacKiernan, who had been appointed the bishop in '72.
8 So he had been bishop for three years. He was 46 when
9 he was appointed. So he was 49 at the time whenever you
10 go to see him in March of 1975.

11 There has been some confusion over what precisely
12 happened in terms of the investigation that has become
13 well-known in various media reporting. It is that that
14 we are going to look at, but the most helpful document,
15 as we were discussing this morning, is a document that
16 is in your own hand --

17 **A. Uh-huh.**

18 Q. -- which you think probably was written by you in the
19 last ten years.

20 **A. Yes.**

21 Q. Your handwriting is better than mine, but still it is
22 probably best if you help us understand what it says
23 rather than me trying to do that. If we bring up 10101,
24 there is about -- there is two sets of two pages,
25 Cardinal, which are probably --

1 A. Yes.

2 Q. -- the most helpful at explaining exactly what happened
3 and then we will look at some of the detail of it. So
4 you explain here that:

5 "I attended the ..."

6 Is that " " ?

7 A. "... church, in 1975 at the request of
8 my bishop, who had been contacted by a priest
9 from to make a complaint about Father Smyth.
10 The only reason the Bishop of Kilmore was contacted was
11 the priest did not know which Father Smith was
12 the abbot and which Father Smyth was the visitor to
13 . Strictly speaking, it is not ..."

14 Q. "It was none of Bishop MacKiernan's ..."

15 A. "Strictly speaking, it was none of Bishop MacKiernan's
16 business to commission an inquiry into the actions of
17 someone not within his -- under his authority which was
18 -- into the actions of someone who -- not under his
19 authority which were being committed outside his
20 diocese.

21 But I take as a measure of his concern and care and
22 sense of responsibility that I was despatched to
23 investigate the complaint. I listened to what FBS 38
24 had to say and I believed every word of it. I repeated
25 it back to Bishop MacKiernan, who immediately went to

1 **inform Father Brendan Smyth's superior, who was the**
2 **Abbot of Kilnacrott, Abbot Kevin Smith."**

3 Q. If we scroll down on to the next page then, please.

4 A. **"Bishop MacKiernan went in person. Withdrew faculties**
5 **from Father Brendan Smyth."**

6 **At the end of it there:**

7 **"If [inaudible] have achieved the same to blow the**
8 **whistle, I unreservedly apologise to you, son."**

9 **I think that was a draft of a letter or something**
10 **that was in the ...**

11 Q. It was in the Archdiocese of Armagh --

12 A. **Yes. It expresses my sentiments of wanting to**
13 **unreservedly apologise.**

14 Q. There is a second version that adds to the story,
15 Cardinal, that helps clarify some matters. If we look,
16 please, at 10112, this gives a little more detail and
17 also explains the context of the individuals who were
18 involved. I will begin this, because I can read part of
19 this and then you pick it up where I stumble:

20 **"FBS48 himself, ..."**

21 A. **"... member of the ..."**

22 Q. **"... member of the Order ..."**

23 A. **"... well aware of the exempt status of Norbertine --**
24 **the Norbertine Order, on receipt of a complaint by**
25 **a young boy of sexual abuse on the part of an exempt**

1 religious, Father Smyth of Kilnacrott, was immediately
2 minded to report the matter appropriately to the
3 religious authority at Kilnacrott, but on discovery that
4 the Abbot of Kilnacrott was himself a Father Smith, not
5 aware of the distinction of the two Father Smiths,
6 decided to approach Bishop Francis MacKiernan of
7 Kilmore, in whose diocese Kilnacrott is located, for
8 help. Bishop MacKiernan decided to take the matter
9 seriously and bring the matter to the attention of the
10 Abbot of Kilnacrott, Abbot Kevin Smith, who was the
11 local superior, but before doing so Bishop MacKiernan
12 wished to double-check the evidence. He commissioned me
13 to meet the boy and to hear his story. I requested
14 FBS50, a local priest, to help me take the evidence and
15 the meeting took place in the ,
16 presumably arranged by FBS48. I completed the evidence
17 in writing and gave it to Bishop MacKiernan, who
18 proceeded to Kilnacrott to report the matter to Abbot
19 Smith. Bishop MacKiernan withdrew faculties from Father
20 Brendan Smyth, which was in his remit to do so, and
21 informed FBS48 of what he had done, presumably with
22 a view to it being passed on to FBS38. The meeting took
23 place at the behest of the Bishop of Kilmore in the
24 Dominican Priory itself, an exempt place. FBS50 was
25 there in a personal capacity, since the matter was not

1 at any stage referred to the Diocese of Armagh. I would
2 have carried out a number of such rogatorial
3 commissions, usually in marriage annulment cases.

4 Once typed up, I handed them over to whoever
5 requested the evidence and that would be the end of my
6 involvement in the cases. That was the process followed
7 in this case also."

8 Q. We don't need to worry about the rest of it, which is
9 commentary about civil claims. If we just take that
10 down, please.

11 So putting those four pages together, what those
12 documents demonstrate is that the investigation that we
13 are going to look at was set up by the Bishop of
14 Kilmore, and Armagh was not involved in the setting up
15 of it, albeit , where you were going to go, was
16 within the Diocese of Armagh or the Archdiocese of
17 Armagh. From the documents --

18 A. Yes. That was the strange aspect of it, that it was --
19 I think really the -- normally there would be reference
20 to the Archdiocese of Armagh in a case like that, but
21 I think because of the urgency of getting the evidence
22 and taking it to the proper place where action could be
23 taken to end this activity, it was decided to proceed
24 directly in that way, involving FBS50 in that way.

25 Q. I am going to come on to that. You have a situation

1 where Bishop MacKiernan, according to those notes when
2 we put them together, he was dispatching you, as it
3 were, to carry out the investigation, and you then
4 explain in the notes that you enlist FBS50 in a personal
5 capacity. He wasn't there on behalf of the Archdiocese
6 of Armagh.

7 **A. No, but he was leading the investigation. I was the**
8 **notary.**

9 Q. I am going to ask you about that. He was six or seven
10 years older than you.

11 **A. Yes.**

12 Q. He was in the Archdiocese of Armagh, in fact, was
13 a priest in . When we look at the document that
14 related to FBS38, we can see he is asked:

15 "Do you know any priests?"

16 He says:

17 "I know you",

18 and "you" being the person who was asking the
19 questions, which in the first interview was -- I think
20 he was FBS50 at the time. He became FBS 50 ,
21 if I am right about that.

22 **A. Yes.**

23 Q. But him being there at all, in the handwritten notes
24 that you have recorded you asked him to come with you to
25 help you with this.

1 **A. Yes. Those handwritten notes were written many years**
2 **later, but that was my impression at that time, yes.**

3 Q. I was discussing with you this morning what -- you don't
4 have a recollection of how that came about, but doing
5 the best --

6 **A. No.**

7 Q. -- you can, it is likely, because he lived and worked in
8 , and this was being done in , and you
9 knew he had a doctorate in canon law, he was someone you
10 would have known from your days studying, that's
11 probably where the linkage to him comes about. Is that
12 a reasonable assumption?

13 **A. That's my -- yes, it's a reasonable assumption, but**
14 **I don't have any recollection, you know, of the details**
15 **of it or it -- as I say, I wrote down that there he was**
16 **contacted and agreed and played his part.**

17 Q. I was asking you one can presume that Bishop Francis
18 MacKiernan in summoning you told you what the allegation
19 was and told you to go and investigate it, but you don't
20 have a recollection now --

21 **A. I don't have a recollection.**

22 Q. -- of precisely --

23 **A. I don't know. I don't have a recollection of that,**
24 **precisely that, or whether, in fact, Father -- Bishop**
25 **MacKiernan contacted afterwards FBS50 to instruct him.**

1 **I cannot -- I have no recollection of what ...**

2 Q. Even your instructions in terms of -- we will talk about
3 -- getting the writing instructions from your boss to go
4 and do whatever it was you were to do -- because I think
5 one of the things that has happened over the years,
6 because you went on and was elevated and became the
7 Primate of All Ireland, one of the confusions that you
8 recognise --

9 **A. Absolutely.**

10 Q. -- is at the time this was happening you were not
11 Archbishop Brady.

12 **A. No.**

13 Q. You were Father John Brady, a teacher --

14 **A. Yes.**

15 Q. -- who was being sent by his boss, as it were.

16 **A. One thing I can be sure is that I was instructed to be
17 at the convent at a certain day on -- at
18 a certain time. Anything more than that I cannot
19 recollect.**

20 Q. No. All we can do is look at the documents.

21 **A. Yes, yes.**

22 Q. They say what they say.

23 **A. Yes.**

24 Q. You -- it appears when we piece the jigsaw together, as
25 it were, from the various sources of information that's

1 available that FBS38 -- and again I repeat we will use
2 names so that this is not complicated, but those names
3 shouldn't be used by anyone outside the chamber -- his
4 complaint seems to have been brought to Bishop
5 MacKiernan in and around or shortly after
6 23rd March 1975, and the meeting --

7 **A. It was brought -- well, he confided in FBS48 first --**

8 Q. Yes.

9 **A. -- who came --**

10 Q. Brought it to --

11 **A. -- referred, yes.**

12 Q. -- Bishop MacKiernan.

13 **A. Yes, I think approached Bishop MacKiernan for that**
14 **clarification of -- about which Father Smyth was which.**

15 Q. Yes. Can you remember now, Cardinal -- we over recent
16 days have looked at material that would suggest that
17 Bishop Francis MacKiernan had had previous reports about
18 Smyth. Can you remember being told by him --

19 **A. No.**

20 Q. -- that there was a previous problem?

21 **A. No.**

22 Q. You don't --

23 **A. No.**

24 Q. You don't remember that?

25 **A. Well, my recollection would be that I wasn't.**

1 Q. He didn't tell you about the previous ...?

2 **A. No, no.**

3 Q. And the meeting that takes place then with FBS38 is on
4 29th March.

5 **A. Yes.**

6 Q. I think it has been pointed out to me this morning that
7 that was Easter Saturday.

8 **A. Yes --**

9 Q. And --

10 **A. -- which was an indication of the urgency with which the**
11 **matter was being dealt with.**

12 Q. And the aim of what was about to unfold -- and we are
13 going to look at that in some little detail -- but the
14 purpose of it, as you understood it, when Bishop
15 MacKiernan was tasking you into this, was to get
16 evidence so that Smyth would be dealt with?

17 **A. Absolutely.**

18 Q. So that was the --

19 **A. To get the evidence robust enough to -- and clear enough**
20 **to be dealt with, as you say.**

21 Q. If we pause there, as we know, unfortunately, despite
22 that evidence being collated, the outcome of this was
23 ineffectual in that there was a removal potentially of
24 the faculties of confession in the Diocese of Kilmore
25 and then unfortunately within a year he is giving

1 a retreat in a children's home to nuns and meeting
2 various victims that he was then going to abuse.

3 **A. Well, I think it was the faculties of the diocese, but**
4 **the important thing was that that would -- well, at**
5 **least in the present code withdrew his faculties for all**
6 **dioceses --**

7 Q. Yes.

8 **A. -- but it was ignored obviously, the withdrawal. He**
9 **carried on.**

10 Q. If we look at the Easter Saturday meeting then that
11 takes place, what I am going to do, as I explained to
12 you, we are just going to identify whose hand some of
13 the documents are in --

14 **A. Yes.**

15 Q. -- and then I am going to ask you some questions about
16 them.

17 If we can bring up 10018, this is the handwritten
18 questions that ultimately are going to be posed to
19 FBS38. Now we can see from the top left of the document
20 that it is on paper, which
21 would suggest unless you had a stash of that paper in
22 advance --

23 **A. No.**

24 Q. -- it was written when you were there.

25 **A. That was -- yes, yes, that's -- but it's not my**

1 **handwriting.**

2 Q. So is this likely to be FBS50's handwriting?

3 **A. I don't know. I presume so.**

4 Q. You presume it was?

5 **A. Yes.**

6 Q. If we scroll through the questions, there are thirty
7 questions over a series of pages through to 10023. You
8 are satisfied none of that is in your hand --

9 **A. No, no.**

10 Q. -- Cardinal, but then we are about -- and we can see the
11 questions, come the end -- so this seems to have been
12 available by the end of the meeting, because it is
13 signed by FBS50 --

14 **A. Yes.**

15 Q. -- and by FBS38, by FBS48 and by you.

16 **A. Yes.**

17 Q. And it --

18 **A. My handwriting is the date and "at** ,
19 **", that is in my handwriting.**

20 Q. That's not your handwriting?

21 **A. That is.**

22 Q. That is your handwriting?

23 **A. And my signature.**

24 Q. But the rest of the document --

25 **A. No.**

1 Q. -- is authored by someone else?

2 **A. Yes.**

3 Q. Then if we move on to the next page, we will see the
4 answers to the questions that were asked. Is this
5 document in your handwriting?

6 **A. Yes.**

7 Q. So you have been taking down the answers --

8 **A. Yes.**

9 Q. -- as this ...?

10 If we just scroll up a little bit, please, so it is
11 not necessarily on the Priory paper, but if we scroll
12 down, we can see the answers are being recorded as per
13 the questions --

14 **A. That's right.**

15 Q. -- as it were, down the thirty questions.

16 **A. Yes.**

17 Q. When we get now to the end of the document, we can see
18 that again FBS38 has signed the documents and FBS50 and
19 someone has written "Interrogator".

20 **A. Not my name -- it's not my writing.**

21 Q. That's not written by you?

22 **A. No.**

23 Q. I was saying, as you reflect in 2015, describing it as
24 the interrogator, given this is a 14-year-old, is
25 regrettable.

1 **A. Yes.**

2 Q. Is that fair?

3 **A. I think so, yes. It's not in my handwriting anyhow and**
4 **it's regrettable.**

5 Q. You have signed then the document, as has FBS48.

6 **A. Yes.**

7 Q. Then is the date again in your writing?

8 **A. The date is in my writing, yes, and the place.**

9 **"29 March 1975 at _____", that's**
10 **in my writing.**

11 Q. Then if we move on to the next page at 10031, we will
12 see what has become colloquially known in various texts
13 which I think you have read -- for instance, in FBS38's
14 book, Cardinal, it's described as "the oath of secrecy":
15 "I, FBS38, hereby swear that I have told the truth,
16 the whole truth and nothing but the truth and that
17 I will talk to no-one about this interview except
18 authorised priests."

19 Then he signed the document and you have witnessed
20 it, but am I right in saying that the text of the oath
21 is not your handwriting?

22 **A. No.**

23 Q. Doing the best you can, who were the authorised priests
24 that he could talk to?

25 **A. I don't know.**

1 Q. The typed questions and answers and oath version, I just
2 want to look at them briefly now just so we confirm
3 them. 10010, please. What appears to have happened,
4 Cardinal -- and you tell me if I am wrong about this --
5 but the assumption that I have, you have got the
6 handwritten questions, which appear to be in FBS50's
7 hand, you have got the handwritten answers, which are in
8 your hand, and then this document is typed up. Would
9 you have had the capacity --

10 **A. Yes.**

11 Q. -- to type? You would have had that skill to --

12 **A. Limited capacity, as you see from the typing, but --**
13 **this --**

14 Q. I'm not sure there's anything -- I was going blame the
15 typewriter rather than the typer, but you --

16 **A. I would have --**

17 Q. -- you would have typed it up?

18 **A. I most certainly would, because I would not have been**
19 **entrust... -- the confidentiality under which I was**
20 **working was -- bound me to observe it and I certainly**
21 **would. I typed that up.**

22 Q. Yes. You wouldn't have asked someone else to do it.

23 **A. No.**

24 Q. We will look at these documents shortly. If we just
25 scroll down through so we can just see how it finishes,

1 you have noted your signature to each page in the bottom
2 right corner. If we just pause there.

3 So this -- it appears -- it's probably not possible
4 to say for certain that it was typed up the same day,
5 because it is typed word for word. So the typed date at
6 the end of 29th March is simply a reflection of what was
7 on the handwritten document.

8 **A. Yes.**

9 Q. The Latin beneath that, can you just confirm?

10 **A. That's written by me. It means "concordat cum**
11 **originale", that it concords with the original**
12 **handwritten document.**

13 Q. Yes. So what you did was take the handwritten pages and
14 type them word for word --

15 **A. Yes.**

16 Q. -- and then confirm that that's what you had done?

17 **A. Yes.**

18 Q. I am not going to open FBS38' because you have
19 read it already and I opened to the Panel
20 earlier this week, but , just so I can set
21 the context of the questions that I am going to ask you,
22 he describes his recollection of that experience

24

For the

1 Panel again it runs from 70152 to 70161 in the bundle.
2 In it he describes being frightened, that it felt like
3 an inquisition, that some of the questions were
4 inappropriate in his view as an adult reflecting back.
5 He felt it was all about him and what was his fault,
6 that the blame and the shame was being put back on him.

7 I was discussing with you this morning that that
8 wasn't the purpose for which you went to talk to him,
9 but you now, looking back, can appreciate, although you
10 went for the purpose of gathering evidence to be able to
11 assist with dealing with Smyth, you could recognise how
12 what was done may have had that impact on a 14-year-old.

13 **A. Yes, I can. Looking back -- at the time I was dealing**
14 **with 14-year-olds. I wouldn't -- I don't think I would**
15 **be intimidating them, but I can see that the situation**
16 **was intimidating for a 14-year-old, and his father**
17 **should have been present, but we were following probably**
18 **too closely the marriage tribunal procedures loosely.**

19 Q. That would have been -- just to give that context, the
20 marriage tribunals, you would have taken the evidence
21 from the person --

22 **A. On their own.**

23 Q. -- on their own.

24 **A. Yes.**

25 Q. They would have confirmed confidentiality --

1 **A. Yes.**

2 Q. -- and signed off that they wouldn't disclose what was
3 being said.

4 **A. Yes.**

5 Q. Just before I ask you some of the questions I am now
6 going to deal with, the context of this was that you had
7 never done this before in terms of investigating --

8 **A. No, no.**

9 Q. -- the activity of another priest. You -- had you ever
10 had to deal with sexual abuse by a priest?

11 **A. No, no, no, absolutely not. It was unchartered**
12 **territory as far as I was concerned. The only thing was**
13 **that I thought as a teacher of boys of that age I was at**
14 **home in their presence. I was quite willing to do this**
15 **-- this task to achieve the end which you have outlined**
16 **of getting -- getting the evidence to put a stop to this**
17 **activity, but looking back now, I can see that it was**
18 **intimidating.**

19 Q. If we look at 10010, I am just going look at some of the
20 questions, as we were discussing earlier, Cardinal. The
21 point I was making, this is the first interview which is
22 with FBS38. If we scroll down to question 9 at the
23 bottom of the page, you can see he is asked the
24 question:

25 "Do you know any priest associated with school?"

1 **A. I know you, none others."**

2 **Now that's what again demonstrates that FBS50 was**
3 **asking the questions, because he was a priest**
4 **that would have been known to FBS38. You had never met**
5 **FBS38 before.**

6 **A. No.**

7 Q. The -- we were discussing earlier, if we look at 10011,
8 and if we scroll down just a little more to the answers
9 to 17, what's being disclosed here by FBS38 is the names
10 of three other children, and while people can read those
11 names, those names shouldn't be repeated outside the
12 chamber. Here -- we were discussing this this morning,
13 Cardinal. It doesn't appear to have been properly
14 understood at the time or picked up at the time that he
15 was here telling about abuse that had been perpetrated
16 on him and on a boy from Belfast that's named here in
17 conjunction with this trip, because he said -- he talks
18 about it being done to him and the other fellow. Of the
19 four there only were two fellows, him and the other boy.
20 The other two were girls. But he has identified three
21 other individuals here who were in the company of and
22 staying over with this priest whom he describes as
23 having interfered with him.

24 Am I right in saying that for whatever reason no
25 thought was given to getting in touch with the bishops

1 who might have been responsible for these children and
2 finding out what happened to them, if anything?

3 **A. You are right in thinking that, because my main focus**
4 **was on getting the evidence and getting it corroborated**
5 **as soon as possible and taking it to the proper**
6 **authorities who had the power to deal with Brendan**
7 **Smyth.**

8 Q. Can you assist the Panel with -- this is difficult for
9 anyone looking back forty years and trying -- it is very
10 easy for me to say, "Well, what did you think then?",
11 but what I want you to consider whether you can assist
12 the Inquiry with, presumably now as you read it it's as
13 natural as night and day that, "Of course we should have
14 contacted the -- those who might be able to get accounts
15 from or find about or check on the other children". Can
16 you assist with why that would not have occurred to
17 either you or FBS50 or indeed, after you bring this
18 back, Bishop MacKiernan?

19 **A. As I say, the preoccupation was with procuring the**
20 **evidence to convict Father Smyth. Now, of course,**
21 **forty years later, we definitely know they should have**
22 **been contacted. That answer there:**

23 "Could you tell us simply what these things were?",
24 I didn't read it that there was another fellow with
25 him and the two girls, that he was telling me that the

1 **other fellow and the two girls were abused. I thought**
2 **he was just filling out the context.**

3 Q. Yes. I think that on reflection you probably can see
4 that he was telling a bit more than that in the record.

5 **A. Uh-huh. Yes.**

6 Q. I am not going to -- I don't think there is any merit in
7 us parsing that today --

8 **A. Yes.**

9 Q. -- but he certainly seems to be signalling another boy.
10 Regardless of whether the other boy was abused or not,
11 it doesn't or didn't at the time engage anyone's thought
12 process that they should find out about these children,
13 get in touch with them, check them?

14 **A. Unfortunately, no.**

15 Q. On reflection that's something that should have
16 happened?

17 **A. Yes, certainly.**

18 Q. When we look at the next page, 10012, please, top of the
19 page, he is asked what Brendan Smyth did to him and he
20 describes what he did in terms of having him open his
21 zip and vice versa. Then he is asked this question:

22 "Did you like this?"

23 Now I presume today, looking back, you look at that
24 question and cringe in horror --

25 **A. Absolutely.**

1 Q. -- because would you agree with me that it doesn't
2 really matter --

3 **A. It doesn't matter, yes.**

4 Q. -- whether the boy liked it or not? The fact is
5 a priest --

6 **A. Yes.**

7 Q. -- was doing this with a 14-year-old.

8 **A. Yes.**

9 Q. On reflection can you see why FBS38 might write that it
10 was being -- he felt the blame was being put on him?

11 **A. I can see that now, yes, definitely, but that was not,
12 I don't think, the intention of the questions, but I can
13 see how, as you pointed out, that the overall impact
14 could have had that effect on FBS38 certainly.**

15 Q. Can you assist the Inquiry with, because there is
16 a number of these questions that are of this order, why
17 the child, as it were, or the 14-year-old -- the impact
18 on the 14-year-old wasn't part of the mindset when this
19 was being conducted?

20 **A. I have reflected a lot on this and in a church inquiry
21 one of the reasons for such a inquiry would be to assess
22 the impact of the scandals -- the scandal of this
23 unspeakable crime being committed against a minor,
24 a child, was to see how that affected their own life,
25 the life of faith and morals. So that part possibly**

1 explains why that kind of question was put. I am not
2 saying -- I am not defending it. I am just trying to
3 explain how it may have happened.

4 Also, of course, this evidence was being taken so
5 that it would be robust and strong to achieve its
6 purpose, namely to convict Smyth, that it would
7 withstand cross-examination and scrutiny --

8 Q. Yes.

9 A. -- and we described the criminal activity which he would
10 -- which he was engaged in. That's out of my
11 reflection, my answer to your question.

12 Q. Yes, although whether he liked it or not --

13 A. Yes.

14 Q. -- was not really --

15 A. No, that was inappropriate.

16 Q. -- a factor.

17 A. Yes.

18 Q. From what you are describing if that was the purpose,
19 you can understand now that it achieved the opposite --

20 A. Yes.

21 Q. -- of what its purpose was --

22 A. Yes.

23 Q. -- because instead of it appearing it seems to the
24 person who was being questioned by the priests that
25 these or some of these questions were being asked to

1 look after him, he saw it as the blame was being put on
2 him --

3 **A. Yes.**

4 Q. -- that somehow he'd -- it was being suggested he'd
5 invited or enticed or encouraged the priest to behave in
6 this way, which was not, as you are explaining, what you
7 intended to communicate.

8 **A. Obviously we didn't put across -- convey to him clearly**
9 **enough what our purpose was in the questions or our**
10 **appreciation of his having the courage to come forward.**

11 Q. He was asked further down the page about -- in fact, it
12 is on the next page. If we just scroll down, he was
13 asked question 18 about going to confessions:

14 "Did these things keep you back from going to
15 communion and confession?"

16 Again is that similar context that he is being --

17 **A. I think that's the explanation of why questions of that**
18 **nature were put, to assess what impact the scandal of**
19 **his being criminally abused like that was having on him.**

20 Q. You can see, though, unfortunately slightly further down
21 he is asked:

22 "Would you have done these things in the first place
23 with another boy or a grown-up or a man?"

24 **A. No.**

25 Q. If not, why not?

1 **A. I didn't like doing this."**

2 **A. I just think some of those questions were inappropriate,**
3 **and when the next inquiry was carried out, a lot of**
4 **those questions I did not ask.**

5 Q. He reveals then on the next page at 10014 a second trip,
6 and that's why I was identifying to you from the earlier
7 page that the Belfast boy, FBS10, was being identified
8 as having been abused, because here he is giving
9 a different trip where he describes a boy called FBS39,
10 and here it is of going in Dublin rather
11 than going to Cork, but he is identifying FBS39 as this
12 happening to him, and as we will come to see, he is then
13 spoken to.

14 We have looked at the oath then that he was made
15 sign, and it looks as if you then in addition to typing
16 up the question and answers prepared a report, which
17 presumably you took to Bishop MacKiernan. The
18 handwritten version of that is at 10016. Is that in
19 your hand, Cardinal?

20 **A. Yes.**

21 Q. It has "sub secreto" in the top left-hand corner. So
22 "in secret".

23 **A. Yes. Just a confidential note.**

24 Q. That ethos -- and you talk at the end of your third
25 statement about the culture of secrecy and mindset that

1 existed in the church at the time, and we talked about
2 the crimen of 1962, which wouldn't necessarily have been
3 something you'd received --

4 **A. Uh-huh.**

5 Q. -- but the ethos behind it of things being secret, done
6 in quiet, kept under wraps, that ethos existed, never
7 mind what was in the '62 document. Is that fair?

8 **A. Absolutely, yes. I mean, the church calls this --**
9 **speaks about "the unspeakable crime". We don't speak**
10 **about these crimes, and that impacted very much on**
11 **people conducting these kind of investigations. They**
12 **were warned not to speak of them, not -- there was**
13 **a confidentiality resting upon us too, and -- what was**
14 **the question?**

15 Q. The nature of --

16 **A. Yes, the nature of the thing.**

17 Q. -- being in secret.

18 **A. In fact, that document, crimen sollicitationis, catches**
19 **the atmosphere well, even though we might not be**
20 **specifically aware of it, but it was the question at the**
21 **time. There was a shroud of secrecy and confidentiality**
22 **with a view to -- about not destroying the good name of**
23 **the church. The scandal that somebody who was ordained**
24 **to serve people should so abuse the trust as for their**
25 **own pleasure was appalling and it was -- and to offset**

1 **that scandal it was kept very secret, very, very secret,**
2 **and everybody involved in it -- I mean-- were bound to**
3 **secrecy too.**

4 Q. I suppose -- I was asking you earlier in the specific
5 context of the questions that were asked that they
6 created the impression of and achieved the opposite of
7 what they were meant to achieve.

8 **A. Yes.**

9 Q. In a way what you are describing now in a broader
10 context that's the same, that the purpose of the secrecy
11 to protect the good name of the church --

12 **A. That's correct.**

13 Q. -- the consequence of it has had the exact opposite
14 effect --

15 **A. Uh-huh. Yes.**

16 Q. -- which is why here we are in 2015 --

17 **A. Yes.**

18 Q. -- dealing with these types of things, with new material
19 still becoming available --

20 **A. Yes, yes.**

21 Q. -- as to what exactly occurred.

22 But going back to -- you bring this report, whether
23 you brought him the handwritten report by then or the
24 typed version, which we will come to see, but if we look
25 at the bottom of this document just for now, we can see

1 that it ends -- there is two pages of it. If we just
2 scroll slightly further down, you are reporting
3 basically on what he had to say, and it does appear at
4 the end, if we look here:

5 "This statement was then confirmed on oath by FBS38
6 and his father, [name redacted], confirmed that Father
7 Smyth often visited their home."

8 So although his father was not in the room while
9 this was being done, there must have been some
10 conversation between you and his father or someone and
11 his father in order to elicit that information for you
12 to record it.

13 **A. Yes. My recollection is that when we came out of the**
14 **room, that we met his father, who was in the building,**
15 **and that -- obviously that's from contemporaneous. So**
16 **that is true, what is said there. I think FBS38 said --**
17 **talked about his father wanting assurances that his son**
18 **would be safe or something. I forget. They were given,**
19 **but unfortunately were not realised. That's part of the**
20 **tragedy of it.**

21 **Q.** We're not going -- I'm not going to open them, but you
22 then dealt with a lot of correspondence and visiting
23 connected to this family, who made clear the anguish
24 that was flowing out as the years went on --

25 **A. Uh-huh. Uh-huh.**

1 Q. -- of the consequences of Smyth's behaviour in that
2 particular context, which then was something that was
3 brought to you.

4 But the second incident, the investigation in
5 relation to FBS39 then, takes place on 4th April. So
6 the sequence of this is on 29th March, Easter Saturday
7 --

8 **A. Yes.**

9 Q. -- you have spoken to FBS38 and done the paperwork in
10 relation to that. You have gone to Bishop MacKiernan
11 and spoken to him to tell him that you believed the boy,
12 and then between you, or him or you -- perhaps you can't
13 remember now -- the suggestion was, "Right. We'll go
14 and interview FBS39". You explained earlier, as per
15 your note, that was for corroboration --

16 **A. Yes.**

17 Q. -- to strengthen, as it were, what FBS38 was telling
18 you.

19 **A. Yes. I would have discussed the matter with Bishop**
20 **MacKiernan and it was decided, probably at his**
21 **suggestion, that this other boy, FBS39, should be --**
22 **should be spoken to. He was from our diocese. It was**
23 **clear in the -- in the evidence that we were being told**
24 **that he was being abused, and the main purpose was to**
25 **get that corroboration, and that had kind of blinded us**

1 to the other -- the other responsibilities, which now
2 all these years later are clear, but remember there was
3 no -- there were no guidelines. There is not the
4 guidance we have now as a result of all these years of
5 studying this terrible problem of how to -- and the
6 training people would get. We were motivated by
7 an anxiety to make an urgent response. The case had a
8 story. The matter was taken seriously. It was listened
9 to, heard.

10 Q. Cardinal, yesterday, for instance --

11 A. Yes.

12 Q. -- Father Fitzgerald gave evidence to the Inquiry about
13 the climate at the time, as he would have described it,
14 as the priest being almost untouchable. He said he
15 would have to commit murder to be brought low, as it
16 were. He gave an example of how if a teacher in
17 a school had done this, who was not a priest, then he
18 would have been put out, but where it was the priest,
19 a different set of rules applied, which he was decrying
20 as inappropriate, but he described what was being done
21 on these children as in Catholicism "a mortal sin",
22 something that you could be damned for. You have
23 described it as "unspeakable crime".

24 A. And also a mortal sin.

25 Q. And a mortal sin.

1 **A. Yes.**

2 Q. I am not -- I am not drawing a distinction between the
3 two, but I am talking about the gravity of that language
4 --

5 **A. Yes.**

6 Q. -- he used and you used. Can you assist then with why,
7 even without guidance and instruction on how to do this
8 -- you have got a 14-year-old boy, a 15-year-old boy;
9 a priest has committed a mortal sin, an unspeakable
10 crime on the child -- why the ethos then didn't realise
11 or recognise the need to look after the boy, involve the
12 parents? As we will come to see with FBS39, he appears
13 to have been brought along by his curate and the parents
14 not even told.

15 **A. And that was wrong.**

16 Q. You've made that clear that was wrong.

17 **A. Yes.**

18 Q. What I am trying to see can you assist the Inquiry with
19 how it came to pass that such a position ever was
20 reached that this type of thing would happen? Do you
21 understand what I am getting at? (Inaudible).

22 **A. Yes, yes. Well, personally I can say that I was so**
23 **preoccupied with getting the evidence and having it**
24 **corroborated, I felt that that would -- that would fix**
25 **the problem, there would -- measures would be taken to**

1 **ensure that this would not continue, and therefore that**
2 **we didn't take into account sufficiently at all the**
3 **impact and the care that was needed for the boys and**
4 **their parents. That was a mistake. That was wrong.**

5 Q. Even -- because I want to try and make sure -- it is a
6 responsibility as part of my duty to the Inquiry
7 reminding about -- it is 2015 -- the need to try and see
8 this through the eyes of 1975, when perhaps all that's
9 known now about the psychological consequences may not
10 have been understood then.

11 Even in that -- recognising that, you still have
12 what's seen in church circles as one of the most gravest
13 things happening.

14 Even without the knowledge of consequent psychology
15 and impact and damage, is it fair to say that the place
16 of a child in society and in church society in the '70s
17 then was not recognised? You will probably have heard
18 the phrase, things like, you know, "A child should be
19 seen and not heard", and that type of language, that
20 they weren't valued in the way that now children would
21 be looked at. Is that the type of ethos that, while not
22 wanting to endorse it, that it would have perhaps
23 pervaded?

24 A. **Perhaps, yes and no, but certainly the children I was**
25 **teaching each day were seen and were heard and were**

1 cared for, you know, in that sense that they -- but in
2 this kind of situation, where I suppose the good name of
3 the church was involved and the danger of giving
4 scandal, the need to recognise the dignity and the needs
5 of the child were overlooked unfortunately.

6 Q. Just picking up what you have said there, Cardinal, the
7 time that we are looking at, the good name of the church
8 and its priests at that point in time, that was what was
9 paramount. Is that fair?

10 A. Well, there wasn't the same appreciation of the
11 paramountcy of the safety of the child. That came in
12 later on I think. Now we know that this is the
13 paramount principle, the safety of the child, but in my
14 efforts -- in our efforts to bring that evidence to
15 the -- to the authority, to have this activity stopped
16 was in effect to ensure the safety of those children
17 promptly.

18 Q. What you are describing then, Cardinal, is that now
19 things have turned on their head, as it were, that the
20 primacy of the child is the central focus --

21 A. Absolutely, and I accept it.

22 Q. -- and some of the evidence the Inquiry heard is the
23 effect that that has had on priests in terms of doing
24 their daily work.

25 A. Uh-huh. Uh-huh. Yes.

1 Q. Then the oath of secrecy, if we scroll down, it's
2 slightly different. Now this is in your hand, Cardinal,
3 rather than --

4 **A. Yes.**

5 Q. Yes, and this is:

6 "I, FBS39, hereby swear that I have told the truth,
7 the whole truth and nothing but the truth, and that
8 I will not discuss this interview with anybody except
9 priests who have permission to discuss it. So help me
10 God."

11 So that language was slightly different. You were
12 saying you didn't know what was meant by --

13 **A. It was, yes.**

14 Q. -- the language from the previous oath, but on this
15 occasion you were -- was this designed to say, "Well,
16 you know, the people who are involved in the inquiry can
17 talk to you about it" --

18 **A. That's right. That's right.**

19 Q. -- "but you mustn't tell anybody else"?

20 **A. And the reasoning behind not telling anybody else, lest**
21 **the witness be intimidated or bullied into changing or**
22 **withdrawing their -- his evidence, but that was**
23 **a softening of the oath as I thought, and also it was**
24 **discuss the interview, you know, rather than child**
25 **sexual abuse.**

1 Q. You understand how a --

2 **A. Yes, I know that.**

3 Q. You were a two degree man by this point. A 15-year-old

4 --

5 **A. Yes.**

6 Q. -- would probably have, you would accept --

7 **A. Yes, I accept absolutely.**

8 Q. -- took that to mean he was not, for instance, to go

9 home to the tea table --

10 **A. Yes.**

11 Q. -- and describe what had just befallen him.

12 **A. Yes.**

13 Q. The typed questions then, if we move through to 10131,

14 and this is the same process. You have taken the

15 questions and answers and typed them up afterwards. If

16 we go through to 10132 to question 14, you will see,

17 Cardinal, that -- if we scroll down, you can see the

18 material that's on the page. I am not going to read it

19 out, but we can see:

20 "Did you like this?",

21 and presumably you look back in horror that you

22 asked a 15-year-old that. Is that fair?

23 **A. I do, yes. I suppose it was the preoccupation was to**

24 **get the essentials, but there was too much detail there**

25 **and some inappropriate questions, even though I left out**

1 **quite a number of the ones.**

2 Q. Yes. At 18, if we move through on to the -- in fact,
3 just scroll up a little, please. I just missed the
4 bottom. Again it is the same sort of question that puts
5 the ... --

6 A. **Uh-huh. Yes, I see that now.**

7 Q. -- on the boy.

8 A. **Yes, the focus on the boy, which was not -- not proper
9 at all.**

10 Q. If we move through to 10133, here, if we just move
11 slightly further down, please, you can see that the
12 person you are speaking to, a 15-year-old, is
13 identifying seven other children. When we add it up
14 between the two documents, I think we end up with there
15 is eight children identified. Two of them are spoken to
16 about what happened to them. Six of them are not.

17 You have made the point that, "Well, they weren't
18 necessarily being said by these others to have been
19 abused", but can you recall any conversation with Bishop
20 MacKiernan about, "Well, should we get in touch with
21 ...?", even to consider it and then decide not to do it
22 as opposed to not thinking about it at all?

23 A. **I cannot recall -- I cannot recall any such
24 conversation.**

25 Q. The report that we looked at, the handwritten version,

1 which was the summary, as it were, of the investigation,
2 that then was typed up, and if we look at the typed
3 version at 10009, and I drew attention to when we looked
4 at the handwritten document, Cardinal, that at the very
5 end of the second page there was the reference to having
6 spoken to FBS38's father. So this is a typed-up version
7 of the report. If we scroll down to the bottom of the
8 second page -- sorry -- if we just scroll up a little,
9 please, you can see the last three lines are additional
10 to the handwritten first report. So you, when you have
11 been typing it up, have added into the typed version of
12 the report:

13 "FBS39 has also been interviewed and he states that
14 Father Smyth engaged in similar activity with him on
15 a number of occasions. He so confirmed this statement
16 on oath."

17 You then go back to Bishop MacKiernan to tell him
18 about having interviewed FBS39 and that you believed
19 him.

20 **A. Yes. I would have gone back promptly as soon as**
21 **possible I think.**

22 Q. But the position is that his parents weren't informed
23 that it was happening.

24 **A. No.**

25 Q. They weren't asked to attend. They weren't told

1 afterwards that it had happened. They weren't told what
2 was to be done with the priest. They -- nothing was
3 done it seems to check with the boy as to how he was.
4 At no time were they visited about this issue. Do you
5 know if they have since been -- has any effort been made
6 to --

7 **A. I don't know.**

8 Q. You don't know. You did meet the [name redacted] family
9 --

10 **A. Yes.**

11 Q. -- but you are not aware of whether --

12 **A. Afterwards when I became Bishop -- Archbishop of Armagh.**

13 Q. Yes, and you have said to the Inquiry that, on
14 reflecting back, this was a flawed process. Given the
15 damage that you are aware, as FBS38 has described it,
16 and as we have looked through this, is that -- is that
17 a strong enough word for how you would look at this?

18 **A. No. It was -- it was totally inadequate and
19 ineffective.**

20 Q. The ineffectiveness I am going to ask you about, because
21 what we now know happens, you handed over, as it were --

22 **A. Yes.**

23 Q. -- and can you -- do you have any recollection of
24 whether Bishop MacKiernan ever engaged with you on the
25 subject again?

1 **A. I'm quite certain he didn't.**

2 Q. So it simply moved over to the Bishop of Kilmore now --

3 **A. Yes, yes.**

4 Q. -- to deal with it.

5 **A. Yes.**

6 Q. What we know is that he in a way that's rather -- not to
7 be unfair to him, but in a way that's rather confused --
8 because there is a letter that talks about withdrawing
9 the faculties of the diocese and then it ends with
10 faculties of confession, which is two different things.
11 One is very limited and one is the full panoply of
12 participation. In 1994, whenever Bishop MacKiernan was
13 being spoken to, he felt it was confession he was
14 restricting him to.

15 In any event that would prevent him turning up to
16 a -- if he honoured it -- turning up to a parish chapel
17 in Kilmore, but unless the abbot took his faculties away
18 it wouldn't stop him in the abbey and it wouldn't stop
19 him in any other diocese?

20 **A. It would -- it would stop him in any other diocese in
21 the present canonical dispensation, because you have to
22 have faculties from some diocese in order to practise in
23 other di... -- any other dioceses.**

24 Q. So it should have meant that he couldn't go --

25 **A. Yes.**

1 Q. -- to Down & Connor, for instance --

2 **A. Yes.**

3 Q. -- because sadly what we know is that, in addition to
4 doing the retreat with the nuns in 1976, he is also
5 saying mass in Whitehead and abusing children there, and
6 so it goes on.

7 **A. Obviously he ignored all of that.**

8 Q. But what we did hear yesterday from a representative on
9 behalf of the Archdiocese of Armagh is because the
10 bishop was a local ordinary and because these
11 unspeakable crimes had not happened in confession, the
12 Bishop of Kilmore could have instigated the penal
13 investigation in effect, which could have ended up with
14 very serious disciplinary sanctions against Smyth,
15 including ultimately his laicisation.

16 **A. Yes.**

17 Q. I suppose the question that might flow from all of this
18 is given that he was sending you to get the evidence so
19 that Smyth could be dealt with, you had got the evidence
20 that he had committed the unspeakable crimes, why didn't
21 the bishop, who had power to proceed in a way that might
22 have led to laicisation -- why was that not done?

23 I appreciate you can't answer for Bishop MacKiernan,
24 but can you help the Panel with at the time in 1975/1976
25 was that just not the done thing, that a bishop would

1 try to deal with a priest from a canonry, because if
2 the -- if you understand me, if the stated aim of this
3 was, "We want to deal decisively with Smyth and get this
4 ended so no other child is abused", it had the opposite
5 or it had no effect in achieving that end, but there was
6 a mechanism to achieve that end. Was it not something
7 that ever was on the radar at that point in time in the
8 church?

9 **A. It was -- that mechanism was contained in crimen**
10 **sollicitationis, which was promulgated in 1962, in**
11 **March, but I am not sure that it was widely used in this**
12 **country anyhow. It was in some dioceses, but very**
13 **limited.**

14 Later on there was a new -- a new kind of approach
15 in the church, which favoured mercy rather than
16 severity. That's in the opening discourse of the Second
17 Vatican Council, which was later on, October of 1962.
18 Rather than take the penal route, which was cumbersome
19 and long and prolonged, I think people took the pastoral
20 route, where people tried to rehabilitate the person.
21 Hence the whole list of going for counselling and to
22 achieve a conversion of heart, but obviously -- I mean,
23 it's well-known that penal law after -- in those years
24 just faded off the radar much. Even, in fact, somebody
25 told me yesterday in the code -- the present code is not

1 **very strong on penal law -- penal law.**

2 **There was a change of approach I think, and they**
3 **felt that this -- the pastoral approach could achieve**
4 **better results, but, of course, now we know there were**
5 **some cases where the penal route was the only one.**

6 **That's my read on it now to help you. I don't know if**
7 **that's of assistance to the Inquiry or not.**

8 Q. What there was, though, without any doubt was the law of
9 the land.

10 **A. Yes.**

11 Q. What was being done here was not only an unspeakable
12 crime in religious terms; it was activity that could
13 lead to imprisonment.

14 **A. Uh-huh.**

15 Q. Can you -- we have been trying to ask each of the
16 witnesses who can give an idea of the culture in the
17 1970s, for instance. We have been able to look back at
18 Smyth being known to have been offending in the '50s,
19 the '60s, the '70s, and being by his superiors known to
20 be doing it, moved to other areas, the receiving bishops
21 not told, more offending, back, sent somewhere else. So
22 it just goes on and on and on.

23 Can you assist with the thinking, the culture at the
24 time, that it simply wouldn't have dawned on anybody,
25 "We must tell the police", Garda in this context. If it

1 was in Belfast, the then RUC, but in this context it's
2 the Garda. Why was that not part of the thinking in
3 1975, for instance?

4 **A. First of all, I wasn't aware of Smyth's history, which**
5 **has now emerged, at all.**

6 Q. Yes.

7 **A. It just didn't cross my mind and I don't think it**
8 **crossed anybody else's mind to consider informing the**
9 **statutory authorities. Now, of course, it is the first**
10 **thing we do, because we -- from all the experience we**
11 **have learned that, and that's -- I suppose for various**
12 **reasons it was considered that the in-house way of doing**
13 **it ourselves was more prompt, we thought more effective,**
14 **but it wasn't, and it would entail -- it wouldn't entail**
15 **the boys having to take the witness stand. So it was**
16 **a culture that we would deal with this ourselves.**

17 Q. The repercussions of that culture then have again shown
18 --

19 **A. Sure.**

20 Q. -- that it had the very opposite effect --

21 **A. Yes.**

22 Q. -- and is still --

23 **A. Uh-huh.**

24 Q. -- I have described it to various witnesses over the
25 last two days as a poison --

1 **A. Yes.**

2 Q. -- that's still pervading, and I think the witness from
3 Armagh yesterday said it would in his view take
4 a considerable time before that poison was drawn out,
5 because it continues to pervade.

6 **A. Uh-huh.**

7 Q. You -- when you returned to Ireland and become the
8 Archbishop of Armagh, it is almost -- I think it
9 intersects Smyth's two sets of convictions in Northern
10 Ireland.

11 Can you remember -- and I appreciate it is still
12 twenty years ago, so I recognise that in asking you the
13 question, but at least it is not forty years ago -- can
14 you remember -- here you are. You are coming back. You
15 are going to be taking on the highest role, as it were,
16 within the church in Ireland, and right as that's
17 happening, either side of it, the spectre of this man is
18 coming back that you were trying to deal with in 1975.

19 Can you remember being aware of that in 1994/'95 and
20 "What's going to come of this?" Do you remember --

21 **A. I remember being aware of his being in prison --**
22 **arrested and imprisoned and then only gradually**
23 **realising that he had continued to abuse after 1975, and**
24 **I was horrified.**

25 Q. The legacy of -- we have looked over the last two days

1 that we had at the time a Taoiseach having to resign and
2 a government falling, a High Court President resigning.
3 We have had -- since then you have had to deal with this
4 particular issue connected with the 1975 that has
5 plagued you in your later years, and you have now
6 retired, and more and more material coming out about who
7 knew and the inadequacy, as you have said, of what was
8 done to bring it to an end and the litany of missed
9 opportunities that there were.

10 As you reflect on that now, presumably -- we only
11 get one go at this -- but you wish you could do it all
12 again. Would you do it differently if you had the
13 chance?

14 **A. And if I had the knowledge that I now have, certainly,**
15 **but at the time I was -- I did what I thought was right**
16 **with the -- with -- to achieve the protection of the**
17 **children being abused. Obviously it wasn't sufficient.**
18 **I realise that now. That's why down through the years**
19 **we have made so much efforts to rectify that position.**
20 **It is well-known in the documentation there and the**
21 **evidence about the --**

22 **Q. The systems that have been set up.**

23 **A. -- safeguarding and the National Board and all of that**
24 **has been set up, but after long discussion and, of**
25 **course -- and the education, the changing of the mindset**

1 to ensure -- to, first of all, bring home to people that
2 this is such a vital issue for the safety of children,
3 to just -- that has been a big, big struggle over these
4 years and we will have to continue -- there is no doubt
5 about that -- because -- because it is so necessary and
6 because the past practice was inadequate, totally
7 inadequate.

8 Q. You have identified in your statement and again today
9 the things that you recognise as having been wrong or
10 inadequate or inappropriate about the role you played
11 then as Father John Brady. One of the difficulties --
12 I was being frank with you this morning -- is that you,
13 because you were elevated and became the Archbishop of
14 Armagh, Primate of All Ireland, and a Cardinal, the
15 reflection and confusion that has arisen --

16 A. Yes.

17 Q. -- of you performing that role compared to what you were
18 doing as Father John Brady in 1975 at the instigation of
19 your bishop, but nonetheless you -- and I was discussing
20 with you the reality of getting to your type of position
21 where others are influencing and assisting with drafting
22 and shaping the message and all of that that comes with
23 it, but I was saying to you that today is your
24 opportunity to say what you want to say about the events
25 that you were part of, given what has unfolded relating

1 to Brendan Smyth. As I understand it, there is
2 something that you want to say --

3 **A. Yes.**

4 **Q.** -- about that.

5 **A.** I would want to repeat that, you know, I did what
6 I thought was the right thing to do. I wasn't aware of
7 these other, you know, needs to be done, which now I --
8 which obviously now I am very acutely aware of.

9 I would like to say that I want to thank you for the
10 opportunity to address this Inquiry. As you mentioned,
11 I replied to the Chair immediately saying we would
12 cooperate fully. You have been tasked with inspecting
13 a dark chapter in our history. I am confident, however,
14 that your patient and diligent work will cast
15 the welcome light of truth on the situation and so
16 hopefully lead to a better future.

17 I want to express my horror at the thought of any
18 child being sexually abused by a Catholic priest or
19 religious. I once again offer an unreserved apology to
20 all those who have suffered as a result of the crimes of
21 Brendan Smyth. I commend the courage of FBS38, who came
22 forward in 1975. I believed everything he said and set
23 about getting a prompt and effective response to his
24 complaint. Unfortunately the response it emerged was
25 neither adequate or effective. It was partly effective.

1 **For this I am truly sorry.**

2 Q. Cardinal, I am not going to ask you any more questions.
3 If you bear with us for a short time, the Panel Members
4 may want to ask you something.

5 Questions from THE PANEL

6 CHAIRMAN: Cardinal, I will give my colleagues the
7 opportunity to ask their questions first and then there
8 may be some I wish to ask you.

9 MR LANE: I would just like to clarify two or three of the
10 points that counsel has already raised with you. One is
11 that when you were setting up the discussions with
12 FBS38, you used the marriage inquiry system and you had
13 never come across this sort of inquiry before I think
14 you said.

15 In that case did you ever consider at all or was it
16 totally unthinkable to approach, shall we say, the
17 social services in the area, because they presumably had
18 dealt with child abuse and so on before and would have
19 had, you know, experience in questioning children?

20 A. Well, the -- the answer is no. We were bound by this
21 terrible weight of confidentiality. We -- somebody from
22 the diocese approached FBS50. I was probably involved
23 in it. He was involved in this marriage annulment
24 process work, and we took it from there, but the answer
25 -- the short answer to it is "no", and we would not

1 **be -- I mean, the structure under which we operated**
2 **would not have countenanced that at that time. It**
3 **probably would now. Our guidance, for example, is drawn**
4 **up by people from secular society.**

5 Q. They would, of course, have been used to dealing with
6 matters confidentially as well.

7 A. **Yes, yes.**

8 Q. That was really just not even considered and rejected?

9 A. **No, no.**

10 Q. The second question is I think you describe your role as
11 being a notary. Is that correct?

12 A. **Yes.**

13 Q. Now I know you took the notes, but what does the role
14 imply beyond notetaking?

15 A. **It implies guaranteeing the authenticity of the**
16 **narrative of the proceedings to me.**

17 Q. So that's a canon law term that is used?

18 A. **That's what a lawyer has quoted to me, that that's the**
19 **essential role of the notary, to -- you know, that by**
20 **his work you guarantee this is the account of what**
21 **actually took place.**

22 Q. But your role actually grew to something more than that
23 in that you actually undertook the inquiry with the
24 second boy.

25 A. **Well, when I came back to my bishop and that inquiry was**

1 suggested, yes, I was -- but that inquiry was regarded
2 as supplementary to what -- the main one in .
3 The purpose was to get the evidence confirmed by
4 a second witness so that it would withstand robust
5 criticism and opposition.

6 Q. Were you technically the interrogator in the second
7 inquiry?

8 A. Well, I put the questions. I asked the questions, yes.
9 The other person there I see was the local curate, who
10 had arranged the meeting. He stood in and witnessed it
11 too and that was -- yes, but again some of the questions
12 were not put.

13 Q. Another thing just to clarify a point that has been made
14 already. When there was this oath of secrecy, obviously
15 FBS38 was accompanied by his father in the sense that he
16 was in the building.

17 A. Yes.

18 Q. Were you actually expecting that father and son would
19 not talk together about this at all?

20 A. I don't know what I was expecting. I didn't draft that
21 oath.

22 Q. Is that the implication of the oath?

23 A. We didn't know how much Mr [name redacted] senior knew
24 about the thing, yes, but, yes, it wasn't well thought
25 out, but the purpose of the oath was, of course, to

1 **protect the process, to make sure that not just the**
2 **truth was told but that witnesses wouldn't be suborned**
3 **or evidence contemplated.**

4 Q. But his father was obviously going to have to comfort
5 him afterwards and so on.

6 A. **That's right. Those aspects were not adequately**
7 **considered at all.**

8 Q. My final question is in terms of the work you did, when
9 you had handed the report over to the bishop, you were
10 obviously expecting the bishop then to be the one who
11 took matters forward.

12 A. **Yes.**

13 Q. Did you discuss with him what precisely he was going to
14 do --

15 A. **No.**

16 Q. -- and what were your expectations of him?

17 A. **My expectations was that he would take action and**
18 **interact with the Norbertines.**

19 Q. That was the only piece of action that you were
20 expecting?

21 A. **Well, of course, that this activity, this criminal**
22 **activity of Brendan Smyth would be stopped.**

23 Q. Yes.

24 A. **That was -- that was the urgent aim.**

25 Q. But you had no discussion where various bits of action

1 like informing other bishops or anything like that --

2 **A. No.**

3 Q. -- was discussed?

4 **A. No.**

5 Q. Okay. Thank you very much.

6 MS DOHERTY: I am going ask you to move away from 1975 just
7 to ask your help with another matter. Can we bring up
8 FBS970, please? It should come up on the screen. This
9 is a letter of February 1991 and it is from Cardinal
10 Daly to Abbot Smith. I suppose for me it would be
11 helpful -- this is where he is really pointing out
12 therapy has not worked. Brendan Smyth is continuing to
13 abuse children, and he is saying really maybe some more
14 drastic steps need to be taken. I will give you the
15 chance to read it. Clearly there's -- you know, there
16 is a focus and a risk of grave scandal.

17 It would be helpful for me to understand -- and,
18 I mean, counsel has asked a wee bit of it earlier --
19 what other action could Cardinal Daly have taken? We
20 are in a position where he -- things have been referred
21 to the abbey. Action has not been taken. Can I
22 understand, you know, what -- was there work through the
23 Holy See? Would there have been work directly to Rome
24 that could have been done?

25 **A. I don't think it was within the remit of the Archdiocese**

1 of Armagh at that stage. He was urging the abbot to
2 assume his responsibilities and to -- obviously today
3 there would be a system like monitoring, confining him
4 to the monastery, risk assessment, risk management,
5 informing now the other ordinaries who would have
6 an interest in knowing of his activities.

7 Q. But at that time in 1991 are you saying that for the
8 archbishop there was no other route within the wider
9 church? There was no other way? I mean, one would
10 suspect that his confidence in how it might be dealt
11 with --

12 **A. Yes.**

13 Q. -- given that it had not been dealt with appropriately
14 before -- was there no other route within the wider
15 church that he could have taken to Rome or to say, "This
16 is a serious matter. This is a priest that's abusing
17 and continuing to abuse. It hasn't been dealt with
18 appropriately by the abbey". There was no other way it
19 could be dealt with?

20 **A. He could have -- he could have insisted that the Bishop**
21 **or suggested the Bishop of Kilmore initiate the process.**
22 **Whether he did that or not I do not know.**

23 Q. But that would have been just -- that was the only
24 option that was open to him. There would be no
25 reference to Rome. There would be no reference to the

1 Abbot General of the Order.

2 **A. On his part? Well, he could always of his own**
3 **initiative do so.**

4 Q. So there were -- I don't know if I am not making myself
5 clear enough. I am just trying to be clear. Had the
6 church -- if you have got -- if you have got an Order
7 who are operating within Ireland where there is an issue
8 of a priest that's continuing to abuse, and there's
9 a lack of confidence about how that's been dealt with by
10 the Order, in 1991 was there no other way that that
11 could have been dealt with by the church?

12 **A. As I say, the other -- the other -- the only other one**
13 **that comes to me is about the process which the Bishop**
14 **of Kilmore could have initiated. He could probably have**
15 **written to the Doctrine of the Faith, the Congregation**
16 **himself, you know. I don't know.**

17 Q. Okay, and can I just ask you would you have expected or
18 would it have been -- I am trying to understand the
19 relationship between an abbot and the archbishop, you
20 know, because in a sense this letter is, you know,
21 clearly a very polite letter and it doesn't ask for any
22 assurances. It does not ask for any report back. It
23 does not say, you know, "Can you let me know as soon as
24 possible what you are doing with this?" or whatever.
25 Would that have been --

1 **A.** He would be -- he would be conscious that this abbot was
2 what's known as an abbot of an exempt religious order
3 and that it was within -- that it was within his
4 governance too to take action. It was urging him
5 I think to -- whatever action had been taken before that
6 was not working, and to impel him to further action,
7 effective action, such as I have been outlining,
8 monitoring, confining him to monastery, not allowing him
9 to exit from the monastery unaccompanied.

10 **Q.** But there would not have been a sense of authority?

11 **A.** No.

12 **Q.** No. Okay. Thank you.

13 **CHAIRMAN:** Cardinal, I wonder if I could just ask you, first
14 of all, two somewhat technical points perhaps. Early in
15 your answers to Mr Aiken, and indeed later on you
16 repeated it in a sense, you were making the case, as
17 I understand it, that the first of these two meetings
18 that you were present at took place on Easter Saturday,
19 because of the urgency of the situation, because, of
20 course, that is one -- that is the greatest festival of
21 the Christian church, but you said that normally there
22 would -- the matter would be referred or there would be
23 reference to the Archdiocese of Armagh. What did you
24 mean by that?

25 **A.** Strictly speaking, following *crimen sollicitationis*,

1 **FBS48, instead of going to the Bishop of Kilmore, should**
2 **have gone to the Archbishop of Armagh, because this was**
3 **occurring -- it was in --**

4 Q. This was in the archdiocese. Is that right?

5 A. **Yes, and it was -- that's -- and FBS48 was in the**
6 **archdiocese, but, of course, eventually the Archbishop**
7 **of Armagh, after conducting the formal reception of the**
8 **denunciation of a crime -- that's the first stage in**
9 **this crimen sollicitationis -- would be referring it to**
10 **the Bishop of Kilmore.**

11 Q. Yes. So the --

12 A. **So there was a shortcut taken, if you like, again in the**
13 **interests of urgency.**

14 Q. We need I think always to keep in mind that the
15 jurisdiction of a bishop is essentially territorial.
16 Isn't that correct?

17 A. **Yes, yes.**

18 Q. And although in this instance FBS38 was telling these
19 things to a priest who happened to be in the Archdiocese
20 of Armagh, the Archbishop of Armagh would not have had
21 any at least formal or legal role in relation to Kilmore
22 other than his own position as the bishop of the diocese
23 --

24 A. **That's right.**

25 Q. -- in which the boy was telling these things.

1 **A. But he would have the right to receive the complaint in**
2 **the first instance from one of his subjects.**

3 Q. And then if that route had been followed --

4 **A. That's really -- that's really what the session in**
5 **did was compiled that denunciation of a crime.**
6 **That's what it was.**

7 Q. So that particular route would have been a somewhat more
8 circuitous one.

9 **A. Exactly.**

10 Q. It would have gone to the archbishop --

11 **A. Yes.**

12 Q. -- who then would have formally transferred it or
13 informed, I should say, the Bishop of Kilmore.

14 **A. No, no. Would have -- would have arranged for the**
15 **formal reception of this denunciation of a crime and**
16 **then transferred it to the Bishop of Kilmore.**

17 Q. Whose obligation it would then be to pursue the matter.
18 Is that right?

19 **A. Yes.**

20 Q. Thank you. But, as you have pointed out, because it was
21 urgent --

22 **A. Yes.**

23 Q. -- the procedure in a sense was shortcircuited --

24 **A. Shortcircuited, yes.**

25 Q. -- by Kilmore sending its representatives into the

1 Armagh archdiocese and speaking directly to those
2 concerned.

3 **A. Yes. FBS48 or the Bishop of Kilmore should have gone to**
4 **the Archbishop of Armagh, who would have informed the**
5 **CDF, carried out -- the Congregation of the Doctrine of**
6 **the Faith, carried out a reception of the denunciation**
7 **of a crime, and sent an authentic copy to Kilmore for**
8 **action.**

9 Q. Well, I appreciate those are the technicalities, which
10 are important --

11 **A. Yes.**

12 Q. -- but you mentioned there the Congregation for the ...

13 **A. Doctrine of the Faith, or the Holy Office, as it was.**

14 Q. That is the ultimate authority in the Vatican in these
15 matters. Is that right?

16 **A. Yes, that's right.**

17 Q. Do I understand you, therefore, to say that in this
18 instance if the archbishop had received this
19 denunciation, he would have had to have informed the
20 authorities in Rome?

21 **A. Yes.**

22 Q. Does that mean that Bishop MacKiernan should have
23 informed the authorities in Rome as well?

24 **A. Probably, yes.**

25 Q. I see. So your understanding of the position is now

1 that the bishop was under an obligation to report the
2 matter, to put it in a lay sense, to the ultimate
3 authority in Rome, the Congregation for the Faith, the
4 Holy Office?

5 **A. Yes.**

6 Q. Thank you. Then if we could turn to this very difficult
7 matter for lay people to understand, the question of the
8 faculties of the diocese. As has been explained to us
9 and you have reminded us, the abbey is an exempt
10 ecclesiastical jurisdiction within the territorial
11 Diocese of Kilmore, but because Father Smyth was
12 an ordained priest, because of his status, he would be
13 able to exercise all the functions of a priest within
14 the canonry itself, within the abbey. Isn't that right?

15 **A. Yes.**

16 Q. In order to perform those functions outside the bounds
17 of the abbey did he require at any stage to get
18 permission from the diocesan bishop to do so?

19 **A. Yes. Faculties are powers given by a religious superior**
20 **to another cleric lower to perform, either validly in**
21 **some cases or licitly, certain actions like sacramental**
22 **actions, hearing confessions, solemnising marriages. He**
23 **would have to get faculties for some dioceses, and the**
24 **present code says then, having got those, he has them**
25 **for every other diocese unless they are withdrawn from**

1 **him specifically.**

2 Q. We have heard that --

3 **A. That's why -- sorry -- that the withdrawal of faculties**
4 **was not a small matter, you know. It was ...**

5 Q. We understand the point you make about now if it is
6 withdrawn in one diocese, it has the effect of being
7 withdrawn in all. Is that right?

8 **A. If it is withdrawn from the diocese who issued the**
9 **faculties in the first case.**

10 Q. Yes.

11 **A. Back in '75 I think -- that was before the present code**
12 **I think -- you had to get them for each diocese.**

13 Q. This is just what I was coming to ask you, because
14 yesterday it was explained to us that -- or at least the
15 understanding I have is that in the earlier years it was
16 open to a particular bishop, if he so wished, to impose
17 what were in effect additional restrictions; in other
18 words, he could say, "If you come into my diocese, you
19 must do this", but that may not have been a universal
20 practice. Is that the position?

21 **A. Each bishop would be entitled to issue the faculties and**
22 **to attach the conditions that they saw fit.**

23 Q. I see. If we then go back to the position of the
24 canonry, it was located in the Diocese of Kilmore. We
25 have been told that at least one of the functions of the

1 priests there was to give assistance to the diocesan
2 authorities in that if a diocesan priest was ill or
3 unavailable for some reason, essentially a supply
4 function would be performed. So there was this resource
5 available to the bishop to call upon to help further
6 diocesan objectives -- is that right -- by asking the
7 priest to come and say --

8 **A. Well, that was one of their functions. It was an Order.**
9 **They prayed there. There was liturgy, but also they**
10 **were available for -- to supply in parishes and they**
11 **still are. That would be an arrangement with the**
12 **individual priest in the parish.**

13 Q. I see. Was their purpose in being in the abbey
14 primarily a local purpose in the sense that they
15 operated as a community internally whereas other orders,
16 such as the Sisters of Nazareth we have heard about,
17 looked after children? Others like De La Salle had
18 a teaching apostolate. What was the function of the
19 Norbertines in Kilmore itself?

20 **A. I think when they came first, it was fundamentally that**
21 **of worship and prayer, but then they did open**
22 **a secondary school at one stage.**

23 Q. I see. From the bishop's point of view I take it it was
24 a very desirable thing to have an additional supply of
25 priests to whom he could turn to perform additional

1 roles in the diocese that otherwise might be difficult
2 to do?

3 **A. Well, I think the main purpose was -- would have been**
4 **the supplying in parishes (inaudible).**

5 Q. From what you have said and indeed from what was said by
6 Brendan Smyth to those who questioned him, it seems to
7 have been the position that that was an arrangement
8 priest to priest, in other words, the parish priest
9 would ring somebody he knew, either presumably the abbot
10 saying, "Can you send me somebody?" or perhaps directly
11 to a particular priest and say, "Can you cover for me
12 next Sunday?" or whatever.

13 **A. Yes, but it was always presumed that he had faculties to**
14 **function.**

15 Q. Yes, of course, assuming that.

16 I wonder, Cardinal, can I now then turn to perhaps
17 broader issues on which we would like to ask you to
18 comment, given that in your former ecclesiastical
19 position you were the, if I can use the expression,
20 titular or nominal head of the Catholic Church here in
21 Ireland as well as being the archbishop of a particular
22 diocese, but before I do so perhaps I should you put in
23 context that our terms of reference require us, and this
24 is why we are looking at these matters, to investigate
25 whether there have been systemic failings in relation to

1 abuse in residential homes in Northern Ireland.

2 Now I say that because there is no doubt from what
3 we have been told, and indeed the criminal convictions
4 in Northern Ireland and the Republic of Ireland make
5 this clear, that Brendan Smyth was able to abuse
6 children in many places and not just in residential
7 homes. So what I am about to say does not in any way
8 seek to overlook that his activities extended well
9 beyond residential homes in Northern Ireland, into
10 schools, families, other places -- and other places
11 outside Northern Ireland and outside the Republic,
12 whether it was in Wales or Scotland or, as we believe,
13 in the United States of America.

14 But looking at it in the Northern Ireland homes'
15 context, I take it you would agree he was able to
16 perpetrate these crimes because of his position as
17 a priest; in other words, when he came to a family or to
18 a residential home or wherever he perpetrated abuse, his
19 status as a priest conveyed tremendous respect for that
20 office from those who were receiving him into wherever
21 it was. Isn't that the position?

22 **A. Oh, yes.**

23 Q. It was that position that gave him the opportunity to do
24 what he did.

25 **A. Access, yes.**

1 Q. In doing that, he was abusing the trust of --

2 **A. Absolutely.**

3 Q. -- the parents, other priests, other religious, who took
4 him on trust --

5 **A. Absolutely.**

6 Q. -- unless, of course, they had some reason to believe
7 that they shouldn't do so.

8 This brings me to a broader question, because he was
9 able to do so, it would seem from what we have heard,
10 because there have been admitted failures by a number of
11 separate bodies or institutions, organisations, however
12 you categorise them, within the church in its widest
13 sense in that the Norbertine Order, whose primary
14 responsibility he was, but also the Diocese of Kilmore,
15 the Diocese of Down & Connor, all of whom at various
16 times had reason to be concerned that he was not what he
17 seemed, and as the years went by, that reason it appears
18 clear became stronger and stronger. Isn't that so?

19 **A. Yes.**

20 Q. Would you accept that there were steps open to the abbot
21 in the first instance -- and I think perhaps you have
22 when you talked about confining him to the abbey,
23 carrying out risk assessments and so on, all sorts of
24 things that don't seem to have been actually done, but
25 there were disciplinary steps, practical steps that

1 might have been taken but weren't. Isn't that so?

2 **A. Yes, absolutely. I have mentioned some of them: being**
3 **confined to the abbey, not being allowed out**
4 **unaccompanied --**

5 Q. Yes.

6 **A. -- that type of thing.**

7 Q. But sadly those effective steps were not taken by those
8 who perhaps even with limited authority but still with
9 some authority could have contributed towards confining
10 him and restraining him and thereby preventing more
11 abuse.

12 **A. Yes.**

13 Q. Well --

14 **A. Of course, nowadays we have what's known as the**
15 **celebret, which says that a priest is in good standing.**
16 **It is more and more being requested when someone**
17 **presents themselves to, for example, celebrate mass. It**
18 **can be withdrawn by the bishop from somebody who is not**
19 **deserving to hold it. It is one part of the control**
20 **that has been introduced now, but there is still room**
21 **for great vigilance, and people have been authorised**
22 **when they come in for retreats to check with their**
23 **superiors.**

24 Q. Yes. That card you are holding up I think we were told
25 about yesterday. It is in effect your authority in the

1 sense of you can show it to someone, but can I ask you
2 this, Cardinal: it would seem from what we have heard
3 that various dioceses, for example, at the time may not
4 have told other dioceses; in other words, Kilmore may
5 not have told Down & Connor and so on.

6 Should the church at that time have had better
7 procedures for sharing concerns, even if they fell short
8 of definite information, about Brendan Smyth across the
9 whole island to ensure that others would be warned and
10 could take steps to prevent him getting access to
11 children, even if they could not formally stop him
12 performing some aspects of ministry?

13 **A. Well, obviously with hindsight they should have had**
14 **better systems, but a lot of discussion has gone on**
15 **about how exactly the information is to be shared and**
16 **the confidentiality. In the two jurisdictions it**
17 **differs a bit. So I know that the National Board is**
18 **actively engaged in that at the moment, about how to**
19 **improve that sharing of information.**

20 Q. Well, I am sure, Cardinal, that you and your colleagues
21 since these events became known have spent much time
22 reflecting upon the implications --

23 **A. Yes.**

24 Q. -- of what happened.

25 **A. Now there may have been sharing of information vivo voce**

1 **when it wasn't put in written form, you know.**

2 Q. Yes, and, of course, one of the drawbacks about vivo
 3 voce communication is that it may be limited. Not
 4 everyone may be alerted to it, or there may be confusion
 5 about what has been said, or a lack of specificity, but
 6 standing back at the end of this terrible account of
 7 what has happened, which we know has happened, no matter
 8 whether there is some dispute as to whether it extended
 9 to this or that, do you recognise that the different
 10 parts of the church in their different ways contributed
 11 to the perpetuation of the situation which allowed him
 12 to continue abusing children for many years?

13 A. **Yes. I'm sure the fact that he -- exactly that, the**
 14 **different parts and their not being responsible to each**
 15 **other and not even communicating with each other**
 16 **facilitated his abusing.**

17 Q. Yes. Thank you very much indeed, Cardinal. We are very
 18 grateful to you for coming to in person confirm the
 19 assistance which, as you have already pointed out, you
 20 readily gave to the Inquiry when we sought it some time
 21 ago. We are very grateful to you for coming to speak
 22 today. Thank you.

23 (Witness withdrew)

24 MR AIKEN: Chairman, we have one more witness today.

25 I notice the time. Perhaps if we took an early lunch

1 and resumed -- resume as shortly as ...

2 CHAIRMAN: About 1.50.

3 (12.50 pm)

4 (Lunch break)

5 (1.50 pm)

6 FATHER TIMOTHY BARTLETT (called)

7 Questions from COUNSEL TO THE INQUIRY

8 CHAIRMAN: Father Bartlett, of course, has been sworn
9 before.

10 MR AIKEN: Yes. He attended on Day 78 of the public
11 hearings, which was on 11th December of 2014 and gave
12 evidence on that occasion.

13 If we can bring up on screen, please, 711, Father
14 Bartlett has provided another detailed statement for the
15 assistance of the Inquiry on behalf of the Diocese of
16 Down & Connor. You will you recognise the first page,
17 Father Bartlett. If we can go to the last page at 721,
18 please, and can you confirm, Father, that you have
19 signed the statement?

20 **A. Yes. That's my signature.**

21 Q. And you want to adopt it as your evidence to the Inquiry
22 on behalf of the Diocese of Down & Connor?

23 **A. Yes, I do.**

24 Q. Attached to the statement are a number of exhibits that
25 run from 722 through to 724.

1 In addition, as the Panel is aware, I have opened
2 a number of documents that relate to Down & Connor over
3 the first two days when we were looking in detail at the
4 documentation.

5 Father Bartlett, there is an issue that I just want
6 to clarify with you for the assistance of the Panel at
7 this point. There was discussion yesterday from Father
8 McKeever about a potential route of reporting Brendan
9 Smyth, that is a bishop reporting Brendan Smyth to
10 a Congregation of the Doctrine of the Faith, and
11 thereafter instigating a disciplinary process that could
12 have led to his laicisation.

13 Cardinal Brady at the end of his evidence referred
14 to that same route and said Bishop MacKiernan could have
15 and then went as far as to say should have reported him
16 --

17 **A. Yes.**

18 Q. -- to the Congregation.

19 What I want to clarify with you is that at the time
20 that we were talking about in terms of the 1975
21 investigation, at that stage there was not an obligation
22 on a bishop receiving such a complaint to report to the
23 Congregation of the Doctrine of the Faith, but he could
24 do so if he considered that what was being complained of
25 was grave enough.

1 A. That's certainly my understanding, that in 1962 the
2 document that has been referred to several times
3 already, *crimen sollicitationis*, gave the bishop
4 discretion to make that decision whether it could be
5 dealt with sufficiently and adequately locally or
6 whether the matters were grave enough to send it to Rome
7 with that recommendation, but it was a discretionary
8 judgment essentially, as I understand it, at that stage
9 on the part of the bishop.

10 In 2001 under the then Cardinal Ratzinger, later
11 Pope Benedict XVI, he very famously insisted -- wrote to
12 every bishop in the world and insisted no, that that
13 would stop and that every allegation would come to the
14 Congregation for the Doctrine of the Faith and be
15 adjudged by them ultimately in terms of the penalties
16 that should apply.

17 That was rather euphemistically described by some in
18 the press as an attempt to actually cover the matter up.
19 I would see it from the inside as an effort to actually
20 bring some harmonisation and additional authority to the
21 gravity of the matter, and it is the practice even today
22 that as soon as any allegation is received that Rome
23 would be notified through the Congregation of the
24 Doctrine of Faith.

25 All other ecclesiastical processes cease today once

1 that is done and the diocese informed, and the civil
2 authorities take over the complete process and guide it,
3 but then once the civil process is concluded, then the
4 ecclesiastical process will continue, and the
5 Congregation for the Doctrine of the Faith remains
6 nowadays, since 2001, central to that.

7 Q. So --

8 CHAIRMAN: I think, Father, we are going to have to get --
9 and this is not in any way disparaging what you have
10 just said -- an authoritative statement to the Inquiry
11 from a suitably qualified canon lawyer --

12 A. Yes.

13 Q. -- because what the Archbishop -- the Cardinal said this
14 morning was in answer to my question:

15 "Q. Do I understand you, therefore, to say in this
16 instance if the Archbishop had received this
17 denunciation, he would have had to inform the
18 authorities in Rome?"

19 to which he answered:

20 "Yes."

21 So he appeared to be saying in relation to the
22 Archbishop of Armagh if it had gone to him in the way
23 that he envisaged, the Archbishop had no discretion.

24 A. Yes.

25 Q. Then, to be fair, he -- the next question was:

1 "Q. Does you mean that Bishop MacKiernan should
2 have informed the authorities in Rome as well?

3 **A. Probably, yes."**

4 **So I think we will need to have --**

5 **A. Yes, some clarification.**

6 Q. -- some clarification about that.

7 **A. Yes. I was understanding it in relation specifically to**
8 **Bishop MacKiernan and the acknowledgment that that was**
9 **not the process that had been strictly -- you know, that**
10 **should have been strictly followed at that time, yes.**

11 **Uh-huh.**

12 Q. Your understanding -- and we will take this up further
13 --

14 **A. Yes, yes.**

15 Q. -- with the various diocese to confirm it -- but your
16 understanding is that he could have done that?

17 **A. Yes.**

18 Q. It may well be that the Cardinal was saying to the
19 Inquiry in his view he should have done it.

20 **A. Should have done it, yes.**

21 Q. But --

22 CHAIRMAN: That's one possible explanation, but, of course,
23 the Cardinal, having been in this position as the
24 Archbishop and a distinguished canon lawyer --

25 **A. Indeed, which I am not.**

1 CHAIRMAN: -- which -- well, no doubt reflected on, but if
2 he has made a mistake, it will have to be clarified.

3 MR AIKEN: You will assist with that from Down & Connor's
4 perspective?

5 **A. Of course, absolutely, yes, yes.**

6 Q. The other legal representatives of the various dioceses
7 can -- will have to look at the matter.

8 **A. I would just add one further observation, which I am**
9 **sure the Panel is already alerted to. I mean, it seems**
10 **that that document, crimen sollicitationis, was not --**
11 **as the Cardinal I think acknowledged, was not**
12 **necessarily well-known within the church, perhaps even**
13 **not well-rehearsed or acknowledged by bishops**
14 **themselves, you know. So that might have added a little**
15 **bit to the confusion at the time.**

16 Q. Leaving that issue aside, from the position of Down &
17 Connor obviously a lot of Smyth's abuse took place in
18 the diocese in the children's homes that we have already
19 been looking at, and you on behalf of your diocese have
20 gone through your archives and have done your best to
21 deal with such matters as there were.

22 For instance, you were aware from a book that was
23 written that there was an issue about a school in your
24 diocese --

25 **A. Yes.**

1 Q. -- and you took the steps and have set out to the
2 Inquiry what you could get in terms of evidence from
3 those who were said to have been on the ground at the
4 time.

5 **A. Yes.**

6 Q. You became aware additionally about FBS51 from papers
7 that the Inquiry had received from the police, and you
8 have set out in your statement then your discussion,
9 having gone to see FBS51, about what he could remember
10 and then we have thereafter got a statement from him.

11 I opened that material, as you know, as part of the
12 process over the first two days. If FBS51's
13 recollection is right, then he was a parish priest or
14 a curate who was receiving serious allegations about
15 sexual abuse, and he didn't -- he was saying it was
16 totally for him at the time something he didn't know
17 what to do with, kept it to himself. He didn't report
18 it up the line. He was saying there was no guidance
19 about that, but obviously when something as serious as
20 that was brought to a priest's attention, is it not
21 something that ought to be reported up the line, even
22 allowing for the time frame that we are talking about?

23 **A. Absolutely. There is no question of that, and frankly**
24 **I was shocked when FBS51 confirmed to me that he had**
25 **actually received those allegations in the year in**

1 question, and his view was he received it as a family
2 telling him about a confidential matter, that he didn't
3 understand the criminal dimension applying to what he
4 was being told, and that he felt there was an obligation
5 to keep it confidential, and he is absolutely adamant he
6 did not tell anybody else in the diocese until somewhat
7 later.

8 Q. He seems to have, although he doesn't now -- he is an
9 elderly gentleman now -- he does not remember the doing
10 of it, but he certainly said to the police in 1996 that
11 he did do it. He seems to have taken the step which he
12 expresses the view would have been in his view the right
13 step to take, which was to ring the abbot --

14 A. **Yes.**

15 Q. -- and, of course, he would have on one view known who
16 the abbot was and where he was, because Brendan Smyth
17 had been coming --

18 A. **Yes.**

19 Q. -- and was in the house on the day that FBS40 came to
20 tell him about these matters.

21 A. **Yes.**

22 Q. So that might explain why Abbot Kevin Smith in
23 Kilnacrott was easily identifiable to him. He seems to
24 have arranged for a meeting to take place for that
25 information to be communicated. What does not seem to

1 have happened, as you have said, he does not seem to
2 have reported it to his bishop, but what he does say
3 then that you are aware of, and I know you have looked
4 to try and find the evidence of this taking place, but
5 he remains adamant both in his police statement to you
6 and then to the Inquiry that he did become aware at
7 a later point in time, still in Bishop Philbin's era, so
8 prior to 1982, that Brendan Smyth was looking for some
9 sort of role in the diocese, and he didn't want him on
10 his patch, if I can put it like that --

11 **A. Yes.**

12 Q. -- and corresponded in some form with Bishop Philbin,
13 who corresponded back, acknowledging what he was being
14 told and, if FBS51's recollection of the correspondence
15 is correct, giving the impression to FBS51 that this was
16 not new news to him as the Bishop of Down & Connor.

17 The issue that that raises is the record-keeping
18 aspect, especially when you are dealing with something
19 as serious as the sexual abuse of children. You simply
20 cannot find any record of this exchange of
21 correspondence or a record that refers to its existence
22 about any disclosure in and around that period of time?

23 **A. No. I mean, I can assure the Panel that I have gone**
24 **through literally thousands of documents and checked**
25 **everything we are -- we know to have on record, but**

1 absolutely nothing relating to that matter has arisen or
2 appeared.

3 I think it may also be helpful just to explain that
4 FBS51 has explained to me that he is not at all clear
5 that in writing to Bishop Philbin that he might other
6 than have expressed a very general but deep concern
7 without being specific about the nature of the concern.

8 Q. Yes.

9 A. He may or he may not, but he feels it is quite possible
10 it was more general than specific and that the bishop's
11 response similarly he would have interpreted in a more
12 general than a specific way. The simple answer is we
13 don't know and tragically we don't have any record to
14 the best of our knowledge.

15 Q. On the subject of delphic correspondence --

16 A. Yes.

17 Q. -- and, as you know, Ms Doherty raised a particular
18 letter with the Cardinal during his evidence.

19 A. Yes.

20 Q. This was a letter written by the then Bishop Daly in
21 1991. He had received the communication through FBS47,
22 and I suppose what this episode illustrates is the
23 beginning of what perhaps some would say had been a slow
24 process, but the beginning of that change, because the
25 social worker within the Catholic Family Welfare gets

1 the disclosure and it goes up through I think three
2 priests to the then bishop and it is also then taken to
3 the police. So the letter that we are about to look at
4 is in the context of that process being underway that
5 saw the reporting to the civil authorities.

6 The letter that was written -- if we can look at the
7 one of 11th February 1991. So this is about a year
8 after the balloon has gone up, if I can put it that way.

9 **A. Yes.**

10 Q. If we can look at 970, please, now this is a letter you
11 are familiar with now --

12 **A. Yes.**

13 Q. -- Father Bartlett.

14 **A. Indeed.**

15 Q. It is -- the tone of it and this issue about writing in
16 a very respectful and deferential way, and in fairness
17 whenever Cathal Daly goes on to become the Archbishop,
18 there is similar correspondence that's measured, if
19 I can describe it in that way. You were saying to me
20 you have had the opportunity, beneficial or otherwise,
21 to read through a lot of correspondence --

22 **A. Yes.**

23 Q. -- that's within your diocese, and do you just want to
24 explain to the Panel that this is not out of keeping for
25 the manner in which Bishop Daly would have communicated

1 in letters?

2 A. Well, as I say, I have read every letter that the then
3 Bishop of Down & Connor, Bishop Cathal Daly, read --
4 issued during his time there. It does strike me that he
5 was a very -- as you know, a very erudite, courteous,
6 polite, gracious man. This actually struck me as quite
7 a strong and directive letter by that style, and given
8 that correspondence between religious superiors would by
9 its very essence generally be courteous, this is quite
10 strong in terms of saying, "I am not happy. You have
11 gave me a commitment when we met that things would be
12 sorted out. You need to do something more".

13 I think it is also important, if I may suggest, that
14 it is seen through the prism of two things from his
15 point of view that strike me anyway. One is that he is
16 very clear that the statutory authorities in Northern
17 Ireland are already aware of the allegation against
18 Brendan Smyth. So I presume his concern is less about
19 that side of it than the obligation of the abbot to do
20 what he can to keep this man under control, but who has
21 been seen in Belfast by some of the victims of Brendan
22 Smyth in the interim, and the Archbishop, as he now is,
23 is clearly very concerned about that.

24 The second thing is, I mean, even then as Archbishop
25 of Armagh, there is no evidence that Archbishop Daly had

1 any knowledge other than of the one allegation he had
2 received in Down & Connor in 1990. So while we have the
3 benefit of the burden of the whole history of sequence
4 of allegations, he is acting out of an urgency and
5 a response to just that one allegation, sufficient as it
6 is for him to be deeply concerned, "This man needs to be
7 kept under control and dealt with within your power as
8 abbot".

9 So I just think they are two important caveats to
10 understand that letter. As I would see it, having read
11 through his correspondence, it is actually quite strong
12 and directive, as I see it.

13 Q. On that subject if I can -- the manner in which a bishop
14 might have written to an abbot might not be the way that
15 lawyers would write to each other. Is that the point
16 you are making, that this -- a religious superior
17 reading this letter wouldn't be in any doubt about the
18 message that's being conveyed? Is that what you are --

19 A. In my opinion. In my opinion that is very, very clear
20 that the archbishop is very unhappy and he is expecting
21 the abbot to get his act together within his own
22 responsibility.

23 Q. The response that he received is at 971. As you know,
24 I have spent a long time condensing and summarising.
25 I might take this seven or eight lines down to two words

1 with a brush off.

2 Does the content of that letter, where a religious
3 superior is writing back to the Primate of All Ireland
4 now at this point, surprise or is that, well, he has
5 taken on board the question that was asked of him and --

6 **A. No.**

7 **Q.** -- set out his view that, well, he is not misbehaving;
8 he is simply doing the various things that are set out
9 in the letter?

10 **A. No. I would find that a very surprising level of**
11 **response. It is basically, "I have got this under**
12 **control. What are you worried about? This is in my**
13 **business in a sense. There is, you know, practical**
14 **reasons why I can't expect this man not -- to be in the**
15 **monastery all the time as you suggest".**

16 What leaps out at me, though, is:

17 "I have spoken to the man ..."

18 He says:

19 "I have spoken to the man in question and he assures
20 me that there has been no incident of that nature for a
21 couple of years now."

22 I have the benefit, having been here over the last
23 couple of days, of knowing just how, to put it politely
24 -- and it does not deserve politeness in my view --
25 redundant and empty that comment is in terms of Abbot

1 **Smith's knowledge of the repeated behaviour of Brendan**
2 **Smyth even under psychiatric care and also to**
3 **commitments by Brendan Smyth, repeatedly given. So**
4 **I actually would regard that, to be very frank, as**
5 **a dishonest reply to the Archbishop of Armagh.**

6 Q. One of the issues -- and I want to try and keep it at
7 a general level, Father Bartlett, rather than taking you
8 into specific examples of it, but you have been here to
9 hear me look at the material. One of the issues --
10 and let me frame the issue and then I'll give you the
11 specific example of it -- is the lack of communication
12 between bishops. Nowadays that may not for the reasons
13 I think Father McKeever gave be as necessarily pressing,
14 because if the machinery works appropriately now, it
15 immediately goes to the civil authority, and what
16 communication is to take place appropriately thereafter
17 is a matter that the civil authority can assist with,
18 but given that that was not the course that was being
19 taken in the '70s, '80s and now we are starting to see
20 it at the start of the '90s, you have a scenario where
21 in Kilmore, for instance, a number of instances are
22 known. They are reported. A disciplinary sanction,
23 however ineffective, is taken, and that does not appear
24 to have been communicated to any other bishops.

25 Of course, unfortunately the Bishop of Down & Connor

1 is not told. So the consequence of that -- perhaps it
2 would have made a difference; perhaps it would not --
3 but you have a priest who is then in the Diocese of Down
4 & Connor when he shouldn't be, because he doesn't have
5 faculties to hear confession or faculties of the
6 diocese. It is rather confused. But had that message
7 been communicated, then at least there was
8 an opportunity for the Bishop of Down & Connor to decide
9 how to make everyone who might come into contact with
10 such an individual aware of the need to be aware.

11 Why do you -- can you give -- I appreciate you were
12 not involved at the time of any of this, but can you
13 give any assistance to the Panel in understanding why
14 that what might be considered fairly basic communication
15 about a serious issue of a man who is in the fraternity
16 abusing children isn't shared around?

17 **A. Again, but obviously with the caveat, as you have**
18 **acknowledged, that this is with the benefit of**
19 **hindsight, I just find that bewildering that there**
20 **wasn't even a basic human instinct to say either to**
21 **colleagues, whom they would have known had Brendan Smyth**
22 **operating in their vicinity, or indeed, as has been**
23 **rehearsed here previously, to the parents of children or**
24 **whatever. That's just bewildering.**

25 In relation to the ad intra communications within

1 the church structures, my guess best at this -- the
2 Panel will make its own judgment obviously -- but as
3 somebody who has been immersed in the church's
4 structures since I was ordained in 1992, which is
5 actually when this was all beginning to unfold, there
6 was within individual dioceses and individual religious
7 congregations their own particular culture, their own
8 particular identity.

9 You know, by and large that was always marked by
10 a kind of amicable mutual relationship between all of
11 those entities working together, but there was also
12 almost, you know, families within families and a culture
13 of, "Well, if we are having a difficulty and it is
14 a very difficult, dark situation that reflects badly on
15 one of our own", I suspect there was a dynamic at work
16 which was along the lines of, "Well, unless we
17 absolutely have to, we will not necessarily mention it
18 to anybody else".

19 As others have said, I am sure there was genuinely
20 a deep sense of responsibility where serious charges and
21 allegations against people were being made, you know, to
22 protect the reputation of the person until such times as
23 it is absolutely clear. However, this threshold had
24 already been most clearly reached in this matter decades
25 before.

1 So I simply find it bewildering, and I think it is,
2 as the Cardinal explained earlier, a culture that had
3 grown up around secrecy, but which even within the
4 church structures itself became a matter of, "Don't
5 share with others the problems we have within our little
6 family", whether that little family is the diocese or
7 whether that little family is the Norbertine Order or
8 the Jesuits or the ...

9 As things have unfolded in recent years, when I have
10 been more involved, I think it was genuinely
11 a revelation to religious superiors and congregations
12 and to bishops in recent years just how widespread the
13 problem was in other people's dioceses and religious
14 congregations. I think that was a genuine revelation,
15 but it all stems from this same basic structural
16 problem.

17 I would like to argue, though, if I may, that what
18 really bewilders me about this is a much more
19 fundamental human systemic failure, and that is why
20 would you not see the issue of the protection and safety
21 of children as a basic paternal instinct by men in my
22 case and other men in this case who gave up their lives
23 of being fathers in that literal biological, physical
24 sense, as I did in 1992, that tremendous, sometimes very
25 painful, human sacrifice, but with a very clear sense

1 that that was to bring forth a sense of paternity and
2 paternal responsibility for all the children in your
3 pastoral care. The first and foremost instinct or
4 reflex is to protect and to do all that you can to
5 protect.

6 At the risk of going on a little long about this
7 I will just give one example of how this came home to me
8 very quickly after I was ordained and brings me into
9 this very matter. As the Brendan Smyth case was kind of
10 becoming very public in '94, I was a very young priest.
11 I was asked to go on to the "Hearts and Minds" programme
12 here in Northern Ireland about the whole issue of child
13 abuse and the church. I remember in the course of that
14 interview simply making the comment that, "Look, I am
15 an uncle, you know, and if anybody did anything on my
16 nephew or nieces, I wouldn't want to be held accountable
17 for what I would do first before I investigate or ask
18 questions later". Now setting aside the legal propriety
19 of that, it was a reflex.

20 What shocked me was the number of people who said to
21 me afterwards, "We never thought of you as a priest like
22 that". So there was something very profound going on in
23 the culture of -- I am sure it is not unique to the
24 Catholic Church -- but in the Catholic Church in my case
25 about priesthood and how people imagine priesthood,

1 when, in fact, the very best, if I may say, in my view
2 -- what drove me or led me in part to the priesthood was
3 the example of outstanding women and men in the history
4 of the church who out of that paternal and maternal
5 instinct as a universal sense of charity and love did
6 great works, set up these great projects, but something
7 happened where that just seems to have been lost as
8 a basic human reflex at this particular time in a very
9 profound way, and I am not equipped to analyse that, but
10 I think it's a part of this that as a systemic issue
11 might well be beyond the remit of even the Inquiry, but
12 leaves me very bewildered as a basic human reflex.

13 Q. You are touching in a wider sense on what Father
14 Fitzgerald had to say yesterday, because he obviously
15 was faced with being part of a community who had lots of
16 knowledge about Brendan Smyth and they did not --
17 whether it was the superior ultimately with
18 ecclesiastical or legal responsibility, they all knew,
19 in his own words, they had lost their moral compass on
20 dealing with what was -- we have heard the words used "a
21 mortal sin", "the unspeakable crime", but yet the
22 reaction to those definitions, albeit those definitions
23 came before any knowledge of the psychological impact on
24 children of being abused, those definitions existed long
25 before that was known, the moral compass by this stage

1 of '50s, '60s, '70s and '80s does not seem to have
2 reacted to the fact "This is -- we are saying this is
3 an unspeakable crime in our language. We are saying
4 this is a mortal sin in our language. What will we do
5 with it?" Not very much.

6 A. Well, you know, I think again I would not wish
7 personally to find any level of excuse in this matter,
8 given, as you have articulated, our own law within the
9 church, setting aside the civil responsibilities, our
10 own law within the church, the biblical prescription
11 about the protection of the little ones and the failure
12 to do so, you will be better to put a brick around your
13 neck and be thrown into the sea. How could we have
14 missed the level of gravity of all of that coming from
15 our own fundamental value system?

16 So I would argue it wasn't so much a loss of moral
17 compass, perhaps moral clarity. I would certainly as
18 someone who even in 1992 still is amazed at the
19 manipulative, recidivist nature of a paedophile,
20 a determined paedophile like Brendan Smyth and his
21 capacity to dupe people and so on, but nonetheless, you
22 know, I still find it just incredible that there was
23 a lack of moral courage, and we shouldn't fail to
24 acknowledge that that's what it was in the end, to bring
25 us home to that determination to make sure something was

1 **done.**

2 **I think several people came very close to it, and if**
3 **I may say, I think Cardinal Brady as a young priest came**
4 **very close to it within the process that he -- and what**
5 **drove him to act with alacrity. He then trusted others**
6 **to act, but there was a lack of moral courage to make**
7 **sure that this man was stopped. That's my personal**
8 **assessment.**

9 Q. One of the -- you and I moved off the discussion that
10 began around the issue of the communication gap, because
11 the Panel had the opportunity to see even after Down &
12 Connor are writing -- when I say Down & Connor, I am
13 talking about the Bishop of Down & Connor -- is writing,
14 communicating, meeting Abbot Smyth in 1990, explaining
15 the position, here it is now Armagh but writing in 1991.

16 That lack of mechanism it appears -- leaving aside
17 what Abbot Kevin Smith did not bother to tell Bishop
18 Francis MacKiernan, Bishop Francis MacKiernan is
19 relicensing or certifying, whatever the appropriate term
20 is, Brendan Smyth in '90, '91, '92. It is not until the
21 end of 1993 that the then Bishop Walsh appears to
22 communicate with Bishop MacKiernan and he then withdraws
23 his faculties at the end of November/December 1993.

24 So that communication deficit, albeit it is already
25 reported to the civil authorities, but that you could

1 have a priest who is still -- whether he would have
2 obeyed it or not is a different issue -- but in terms of
3 the procedure and mechanism and the structure he is able
4 or licensed to engage as a priest for three more years,
5 almost four more years, from it is first reported to the
6 police that this man has been abusing children. Is that
7 not something that's incredible?

8 **A. Absolutely bewildering. Part of what I also find**
9 **a little bit difficult about it and I think in terms of**
10 **what we as a church need to reflect on from all of this**
11 **is, you know, there were any numbers of opportunities**
12 **for bishops to, as Cardinal Brady suggested earlier on,**
13 **speak about this vivo voce even. I mean, they were**
14 **meeting four times a year as bishops at a minimum.**
15 **There was opportunities to even informally say, "Listen,**
16 **Bishop X, just be aware of and if you're ...", you know.**
17 **We don't know whether that happened or didn't, as the**
18 **Chair said earlier.**

19 Part of the danger of that is the lack of records,
20 clarity and so on and so forth, but I don't think again
21 we should step from the fact there were plenty of
22 opportunities for that kind of sharing of information
23 and it is just bewildering that a man who is already
24 under the interest of police in Northern Ireland,
25 clearly known by the Archbishop of Armagh, as he was at

1 **that time, to be subject to allegations, serious**
2 **allegations, and that the local Bishop in Kilmore does**
3 **not appear to know that, I -- who can explain that?**

4 Q. Just so that it is not solely confined to the church, if
5 I can just draw attention to the fact, as we did at the
6 end of Module 4, the Department's head was equally
7 raising the issue, "Why didn't we know?" So it is more,
8 just to be clear, than just the church issue in terms of
9 communication, but you have answered very frankly the
10 position in relation to the lack of communication.

11 Father Bartlett, you explain in paragraph 4 of your
12 statement, if we look at 712, in a frank way:

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

1 ecclesiastical authority to take action against him did
2 not do so decisively and effectively from the outset.
3 The consequences for the lives of many children has been
4 quite simply catastrophic and the legacy of Brendan
5 Smyth as a manipulative and prolific child abuser of
6 children -- prolific abuser of children now features
7 among the most notorious and devastating in Irish
8 history."

9 That is the sentiment of the Diocese of Down &
10 Connor about the matters that we have been looking at
11 this week.

12 **A. Yes. If I may just take this opportunity to say on**
13 **behalf of the diocese that we are profoundly, profoundly**
14 **sorry to all of those who were abused by Brendan Smyth.**

15 Could I also maybe take the opportunity to say that
16 in the light of what has been revealed through the
17 Inquiry publicly in recent days there are obviously
18 an awful lot of people still out there who have never
19 come forward, and insofar as the diocese can play any
20 part in offering whatever modicum of justice through
21 restitution, or assistance in providing or assisting in
22 getting any other support service that is available,
23 I would appeal to people to come forward and to seek
24 that justice, that redress and that assistance through
25 whatever form they can, and also to help us to get the

1 full truth of the level of damage that this man, who
2 frankly I can only describe in spiritual, moral,
3 religious terms as, you know, being diabolical literally
4 in his behaviour -- that those who have suffered as
5 a result of that and through the inadequacy --
6 profoundly fundamentally inadequate response of the
7 church over successive stages to come forward and to
8 make themselves known.

9 I might just also, if I may, say -- I was going to
10 add a little bit more to the previous question that --
11 I think there were two stages that I have observed in
12 more recent times in the Catholic Church in Ireland's
13 particular response to this phenomena generally. One
14 was in the early '90s, when the Brendan Smyth case was
15 then becoming public, the fundamental realisation that
16 the statutory authorities -- the duty -- the moral and
17 civil and legal duty to report to the statutory
18 authorities was fundamental to any adequate response to
19 such allegations.

20 However, it was not really even until the early
21 2000s that the really important additional development
22 took place, and that is the concept of the paramountcy
23 principle, that in everything the welfare of the child
24 should be the paramount consideration, and that I think
25 is the difference between maybe a bishop thinking he was

1 dealing with it in his own diocese and not realising
2 actually this is a wider safeguarding issue here as
3 opposed to a legal obligation to share it with Bishop X
4 or Abbot Y or whatever. The concept of safeguarding and
5 making that the first priority in all decisions I think
6 was the most fundamental and important development after
7 the acknowledgment that the civil authorities needed to
8 take the lead and be informed immediately in these
9 matters. So insofar as the paramountcy principle should
10 have been blatantly obvious to anyone who professed and
11 preached the gospel of Jesus Christ, I think that in our
12 own terms is an incredibly fundamental failing, and for
13 that too I want to apologise on behalf of the diocese.
14 That was not as obvious as it should always have been.

15 Q. Father Bartlett, I am not going to ask you any more
16 questions. If you just stay where you are for a short
17 while, the Panel may want to ask you some others.

18 Questions from THE PANEL

19 CHAIRMAN: One very perhaps obvious question, Father, but
20 just to get it on record, you said that the bishops had
21 many opportunities for meeting and you referred to four
22 meetings a year. I take it you are referring to the
23 quarterly meetings of the Irish Conference of Bishops
24 usually in Maynooth. Is that right?

25 A. That's correct. The Irish Bishops' Conference meets

1 four times a year. In addition, there are four other
2 preceding meetings of the Standing Committee, which
3 would number about half of the bishops of the whole
4 conference, to plan the agenda for the general meeting
5 of the bishops' conference. There were also other
6 committees and subcommittees around particular issues or
7 areas. So bishops met relatively regularly
8 predominantly in Maynooth for the administration of
9 church affairs, you know.

10 Q. Were there any more localised meetings on
11 an ecclesiastical province basis, in other words, all of
12 the eight or nine bishops of the province of Armagh
13 getting together?

14 A. Unfortunately I can't speak to that with any authority.
15 I could maybe do a little more research on that. I know
16 in more recent years -- I am actually secretary to the
17 bishops of Northern Ireland. So they would meet perhaps
18 three, four times a year at present in addition. That's
19 certainly been going on for the ten years I have been
20 their secretary. I know there was some level of
21 pre-history to that. How far back it goes I am not
22 sure.

23 There was, however, the -- there was some tradition
24 of bishops meeting provincially within the four
25 provinces, ecclesiastical provinces. The frequency of

1 **that I am afraid I just don't know, but the concept of**
2 **it was certainly there for some time, you know.**

3 Q. Thank you very much.

4 Well, I am sure you will be relieved to hear that we
5 don't have any more questions for you --

6 **A. Thank you very much.**

7 Q. -- today, Father Bartlett. We are very grateful to you
8 indeed for coming to speak to us. I am not sure whether
9 we will have the pleasure of hearing from you again, but
10 thank you for coming today.

11 **A. I think in the St. Patrick's Training School module**
12 **perhaps.**

13 Q. I thought that was a possibility.

14 **A. Thank you very much.**

15 **(Witness withdrew)**

16 MR AIKEN: Chairman, Members of the Panel, that concludes
17 the oral evidence.

18 The core participants are aware of the need for
19 written submissions to be provided by Friday of next
20 week.

21 Unless there is anything further that you want me to
22 address at this stage, I don't propose to say anything
23 further. There are two matters that we are aware of
24 that we will have to continue to look at and come back
25 to, but beyond that I don't intend to say anything more.

1 CHAIRMAN: Thank you.

2 Well, ladies and gentlemen, as in each module, there
3 may well be other matters than those we have expressly
4 referred to today where the Inquiry will seek further
5 information or further elucidation from core
6 participants by way of written correspondence. That
7 process, of course, goes on continually, depending upon
8 what may come to light in other documents.

9 This, however, the 133rd day of our public hearings,
10 brings to an end the schedule of hearings of modules
11 until the autumn. For those who might think otherwise,
12 whilst I am sure everyone will need some form of
13 holiday, the work of the Inquiry does go on, because not
14 only do we have to reflect on what we have heard and the
15 enormous number of documents that have been placed
16 before us, but the work has to prepare for the next
17 module and this does take quite a considerable period of
18 time, but on that note I thank you for your attendance
19 today and we anticipate the next day that the Inquiry
20 will sit publicly will be 1st September.

21 (2.45 pm)

22 (Inquiry adjourned until 10.00 am
23 on Tuesday, 1st September 2015)

24 --ooOoo--

25

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CARDINAL SEAN BRADY (called)3
 Questions from COUNSEL TO THE INQUIRY4
 Questions from THE PANEL57

FATHER TIMOTHY BARTLETT (called)77
 Questions from COUNSEL TO THE INQUIRY77
 Questions from THE PANEL103