

1 Thursday, 8th June 2017

2 (10.00 am)

3 LADY SMITH: Good morning.

4 Mr MacAulay, you have a fresh witness for us this
5 morning I think, yes?

6 MR MacAULAY: Yes, good morning, my Lady, I do. The first
7 witness this morning is Monsignor Peter Smith.

8 LADY SMITH: Thank you.

9 MONSIGNOR PETER SMITH (sworn)

10 Questions by MR MacAULAY

11 LADY SMITH: Thank you, do sit down.

12 Mr MacAulay, when you are ready.

13 MR MacAULAY: My Lady.

14 Monsignor, are you Peter Smith?

15 A. Correct, yes.

16 Q. Have you been put forward to respond to a number of
17 questions that have been put to the Bishops' Conference?

18 A. I have.

19 Q. Before we look at what these might be, can I just ask
20 you a little bit about yourself. I will put your
21 profile on the screen in front of you and that's at
22 INQ.001.001.0817. I think this is a profile you
23 provided to the Inquiry.

24 A. That is correct.

25 Q. You tell us you were born in Glasgow and, after your

1 secondary education, you spent two years at the
2 University of Glasgow studying education.

3 A. That is correct.

4 Q. It was after that that you went to study for the
5 priesthood?

6 A. Yes.

7 Q. You mention in your profile that you went to study at St
8 Peters College and I was trying to work out, was that
9 Cardross or Newlands?

10 A. Both; I was one of the group that transferred from
11 Cardross up to the big city.

12 Q. Because the Cardross building, I think it is quite
13 a famous building.

14 A. It is a very famous building but it was not a very nice
15 building to live in.

16 Q. After that six-year course you were ordained as a priest
17 of the archdiocese of Glasgow in 1984.

18 A. Correct.

19 Q. You spent a year in a parish and then you went off to
20 the Catholic University of America in Washington DC --

21 A. Yes.

22 Q. -- where you obtained a master's degree of licence in
23 canon law?

24 A. Yes.

25 Q. Was that a three-year course?

- 1 A. It was a two-year course.
- 2 Q. Do I take it that that course would at least straddle
3 the promulgation of the 1983 code in canon law?
- 4 A. No. The code was promulgated while I was in the
5 seminary. It became law in 1983 and I was ordained in
6 the June of 1984, so my main study was of the 1983 code.
- 7 Q. When you returned to Glasgow in 1987 you were appointed
8 Vice Chancellor of the Archdiocese of Glasgow and became
9 Chancellor in 1992.
- 10 A. Yes, I did.
- 11 Q. Can you give us some understanding of what being
12 a chancellor means?
- 13 A. It is one of those offices attached to the bishop which
14 means what the bishop wants it to mean, literally.
15 People tend to think it is something to do with the
16 finances of the diocese but it is nothing to do with
17 finance. Archbishop Conti used to describe me as his
18 "chef de cabinet". It was somebody responsible for the
19 running of the bishop's office, making arrangements,
20 writing letters, preparing documents, really working to
21 what the bishop wanted done in an administrative role.
- 22 Q. But I think you tell us that with your background in
23 canon law, giving advice on canon law would be one of
24 your functions?
- 25 A. Major functions, yes.

1 Q. You tell us in the penultimate paragraph of the profile
2 that you were, in March 2012, appointed as an attaché at
3 the permanent observer mission of the Holy See to the UN
4 in New York; how long was that for?

5 A. Two and a half years.

6 Q. So were you based in New York?

7 A. I was based in New York yes.

8 Q. What did your duties involve there?

9 A. Again it was mainly administrative, working with the
10 Holy See's mission to the UN. My main connections were
11 the General Assembly Committee on relations with the
12 host country, which sounds a lot grander than it is. It
13 was mainly due to arguments about bank accounts and so
14 forth, but it was mainly an administrative function to
15 assist the work of the Holy See at the United Nations
16 where we have permanent observer status.

17 Q. You returned to Glasgow after two years you and took up
18 the position of parish priest of St Paul's in Whiteinch,
19 Glasgow.

20 A. That is correct.

21 Q. Was that at about 2014?

22 A. That is correct.

23 Q. You also tell us you joined the board of the
24 Cora Foundation in 1999 and became chair in 2000.

25 A. Yes.

1 Q. I will be asking you about that later on.

2 A. Sure.

3 Q. You were also a member of the board of St Mary's
4 Kenmure.

5 A. Yes.

6 Q. Again I will ask you about that.

7 I think I saw you come in with something in your
8 hand? Is that a copy of the report that --

9 A. That is a copy of our report, yes.

10 Q. There is another copy beside you should you --

11 A. I made a couple of notes because there are a couple of
12 corrections that we need to make to the report. When
13 I re-read it in preparation for this, I noticed a couple
14 of things had just been mixed up.

15 Q. No doubt you will point these out to you.

16 A. Sure.

17 Q. So far as you are concerned, monsignor, you have been
18 put forward to respond to -- not all the points that
19 have been raised, but I think points 1 to 5 of the
20 report.

21 A. That is correct.

22 Q. Can you just tell me a little bit as to how the report
23 was actually compiled because my understanding is that
24 there was input from quite a number of different
25 sources; is that correct?

- 1 A. Yes, that is correct.
- 2 Q. Can you just elaborate on that?
- 3 A. Effectively we were pulled together as an organising
4 committee to make a response to this report and we went
5 through the report and decided that each person would
6 take on a particular question and answer it themselves.
7 Then we would collate those and try and edit it through
8 with one voice to try and iron out any inconsistencies
9 in style and so forth. So each person answered the
10 question that they were more likely to be able to answer
11 fully and correctly.
- 12 Q. We see when we look at your questions you are dealing
13 quite a bit with canon law and that clearly would be
14 your expertise.
- 15 A. Correct yes.
- 16 Q. In the main, would I be right in saying that, so far as
17 the questions you were responding to are concerned, you
18 are dealing essentially with structures and
19 relationships --
- 20 A. Yes.
- 21 Q. -- and, quite separately, with St Mary's Kenmure which
22 you were asked about quite specifically?
- 23 A. Yes.
- 24 Q. Can we then start to look at the report. That is at
25 INQ.001.001.0420 -- I will be putting out these long

1 numbers so I can get the reference on the screen.

2 A. Sure.

3 Q. I think that gives us the first page of the report.

4 A. Yes.

5 Q. But if we turn to 0424 -- that's now on the screen --
6 that's essentially repeating the question that you were
7 being asked in the request made by the Inquiry --

8 A. Yes.

9 Q. -- focusing essentially on the structure of the Catholic
10 Church in Scotland with a number of sub-points.

11 A. Yes.

12 Q. Can I then take you to 0425 of the report itself. I'm
13 inviting you now to give us a short history lesson on
14 the modern Catholic Church of Scotland; can you do that?

15 A. Sure. I think it's important to remember that for all
16 the Catholic Church has been around Scotland for
17 centuries, the modern structure really only dates from
18 1878 when the Holy See restored the ancient structure of
19 bishops running dioceses, as to the previous structure
20 where it was vicarious underneath the congregation for
21 foreign missions, effectively.

22 That's an unusual structure and the desire of the
23 church is always to return to the normal structure
24 whenever it can and so that was done in 1878 when we
25 were created into two archdioceses with four dioceses

1 attached thereto. That restored the structure which had
2 been there up until the death of Archbishop Beaton in
3 Paris in 1603.

4 Q. In fact I think now the structure has changed somewhat
5 in that, as you tell us, we now have, I think, rather
6 than six dioceses, eight dioceses --

7 A. That is correct.

8 Q. -- including two archdioceses?

9 A. Correct. The Archdiocese of Glasgow was a very large
10 diocese at the time it was created and in 1948 some
11 parts of that were split off to create the Diocese of
12 Motherwell and the Diocese of Paisley and those dioceses
13 had in them some of the institutions which this Inquiry
14 is interested in. So therefore the power that looked
15 after it changed in 1948.

16 Q. That was the creation, I think, as you said, of Paisley
17 and -- what was it?

18 A. Motherwell.

19 Q. On page 0426 you make a point there about some of the
20 institutions that pre-existed the restoration of the
21 hierarchy.

22 A. Yes.

23 Q. I will ask you shortly what the hierarchy is, but there
24 were institutions in place before the hierarchy was
25 restored?

1 A. Yes, although the hierarchy was established formally in
2 1878, the reality was, of course, that the
3 Catholic Church existed and was working in different
4 ways and in different times and missionaries were coming
5 to Scotland. In the early centuries they were coming
6 very quietly because it was illegal to celebrate mass
7 and then, as time went by and there was a significant
8 immigration, first of all, from the highlands and
9 islands of Scotland and then, of course, from Ireland
10 there came with them a need to service the Catholic
11 community and so priests appeared and started looking
12 after the community and there the structures started to
13 build up from below up, rather than sending a bishop in
14 to create a diocese and form everything.

15 Q. This was all before 1878?

16 A. That is correct.

17 Q. You make a particular mention of the original St Mary's
18 Industrial School, for example. Is that St Mary's
19 Kenmure, Bishopbriggs?

20 A. That is correct.

21 Q. You were able to identify that that school was in
22 existence from at least 1850 from the Ordnance Survey
23 map?

24 A. That is correct. I'm not when it started, but by 1850
25 it had started and appearing in Ordnance Surveys and

1 marked as St Mary's Industrial School.

2 Q. As we will see it continued to exist into the 20th

3 century --

4 A. Yes.

5 Q. -- and was operated, at least into the 1960s, by the

6 De La Salle Brothers; is that right?

7 A. I think we need to clarify what "operated" means and I'm

8 sure that is part of your aim today.

9 Q. Perhaps I would come back to that. But the De La Salles

10 had an involvement --

11 A. Absolutely.

12 Q. Can I ask you now about the structure from the point of

13 view of priests, bishops and archbishops; is that

14 a hierarchical structure?

15 A. It is referred to as hierarchy but officially when the

16 church talks about the hierarchy it is essentially talk

17 about the bishops. When we talk of the hierarchy of

18 Scotland, we are talking about the bishops as a whole.

19 The hierarchy of the church is structured between

20 deacons, priests and bishops. You are a deacon or you

21 are a priest or your a bishop. Sticking the title

22 "arch" in front of it or "cardinal" in front of it does

23 not make any difference to you as your power as

24 a bishop. You are a bishop. Sticking "monsignor" in

25 front of a priest's name doesn't make any difference to

1 your powers; he is still just a priest.

2 Q. So the Archbishop of Glasgow is, as it were, running the
3 Archdiocese of Glasgow?

4 A. That is correct.

5 Q. Where do you say a cardinal would fit in? We don't have
6 a cardinal at the moment --

7 A. A cardinal is simply a bishop who has a vote for who the
8 next pope will be.

9 Q. Would a cardinal then be running a diocese or
10 an archdiocese?

11 A. Yes.

12 Q. Can I then turn to one of the topics I know you are
13 familiar with and that is canon law. You do provide us
14 with some history leading up to the 1917 code. Can you
15 tell us about that?

16 A. Yes. The law of the church developed, as you can
17 imagine, over centuries and it was developed through
18 papal teaching and through meetings of synods and
19 councils, ie groups of bishops who got together in order
20 to create law to govern the church.

21 As you can imagine, if you get two committees to
22 discover the same thing you will get three different
23 answers and therefore the law of the church was
24 frequently questioned and the Pope was often asked to
25 judge between two opinions and therefore you got papal

1 teaching also.

2 But of course, in order to study the law you ended
3 up with a huge pile of papers that you had to work your
4 way through and these were brought together in what was
5 called the Concordance of Discordinate (sic) Canons,
6 where they pulled all these opinions together, put them
7 into a book with, here is a question, here is one
8 answer, here is another answer, and here's what the Pope
9 says, so that lawyers could understand what the law of
10 the church was. But of course what happened was we made
11 new laws, more laws and therefore they get added into
12 an extra book, the extravagantes, the ones which are
13 outside the first book. So we ended up becoming really
14 complex.

15 The church then decided that in order to make this
16 clear, sort it out and fix it, they would codify our
17 law, which of course was something that was happening
18 around Europe at the time. That codification was part
19 of the church's feeling that it was standing up as
20 a state in its own right, it had an earthly structure,
21 and that structure was similar to the structures around
22 it.

23 Of course, historically, we were still talking of
24 how the papal states had been suppressed and the Pope
25 was a prisoner of the Vatican, so we were kind of making

1 a point when we codified the law and made it similar to
2 the structures of the laws of other countries and hence
3 we pulled in the structures of Roman law and tried to
4 make ourselves look much more like a solid, unified
5 community.

6 Q. But you talk about "codifying our law", the code is the
7 law?

8 A. The code is the law of the church, yes.

9 Q. That lends the background to the 1917 code. Can
10 I digress a little bit and mention something to you
11 something I know you mention later on in your report and
12 that is the instruction known as Crimen
13 Sollicitationis.

14 A. Yes.

15 Q. In your report you mention that instruction promulgated
16 in 1962, but is it right to say that that instruction of
17 the law was promulgated in 1922?

18 A. I need to think about that one. The 1962 one is the one
19 that got all the publicity at the time of the
20 discussions about abuse in the church and that was one
21 which I responded to simply because it had been so
22 publicly discussed. I really wouldn't be able to
23 comment on the 1922 one.

24 Q. We may ask you to have a look at that a bit later.

25 A. Sure.

1 Q. You have given us the background to the 1917 code, but
2 of course we know there was also a code in 1983 and you
3 have mentioned that already. Can you give us the
4 background to that?

5 A. Again, when Pope John XXIII decided that it was time to
6 have an ecumenical council, which is a gathering of
7 every bishop in the world, in order to provide teaching
8 to the church, it was John XXIII's kind of response to
9 the modern world, to changes that were happening around
10 the church, and he said that he wanted the council to
11 examine what the church's teaching should be and to
12 revise the code of canon law to bring it up to date and
13 make it more modern.

14 That process of revision took a while because the
15 council took several years itself. Then to try to put
16 the teaching of the council into a codified form
17 obviously took a good number of years and so it was 1983
18 before the final version was promulgated.

19 Q. Insofar as the period covered by the Inquiry is
20 concerned, which is that period within living memory
21 then that would be a period that would be essentially
22 covered by the two codes, the 1917 code and the 1983
23 code?

24 A. No, not really, in the sense that the 1917 code remained
25 in force until the moment the 1983 code took over.

1 Q. So that period of the Inquiry that might relate to the
2 period prior to 1983 would be relevant to the 1917 code?

3 A. Yes. There were instructions, documents that clarified
4 certain parts of it or changed parts of it, which again
5 was one of the reasons why they wanted to re-do it, and
6 of course since they have redone it, they have redone it
7 again and so forth.

8 Q. What's the most up to date code then?

9 A. The 1983 is the most up to date but there are
10 instructions that supplement that in dealing with, for
11 example, marriage processes or something.

12 Q. My impression in reading the report that you have been
13 involved in, monsignor, is that when you make
14 a particular point about the 1983 code, you also
15 reference quite regularly the 1917 code. Do we find
16 then that although the 1983 code was a revamp, if you
17 like, of the position, many of its provisions relate
18 back to the 1917 code?

19 A. Very many, yes. It is not a complete break with the
20 history of the church or anything like it.

21 Q. Towards the bottom of page 0426, you tell us that the
22 legal framework within which the church operates is
23 based on subsidiarity.

24 A. Yes.

25 Q. We heard a little bit about that yesterday from

1 Father Crampsey; can you explain what you understand
2 that to mean?

3 A. Yes. That's one of the principles that people often
4 don't understand about the Catholic Church. People tend
5 to think of the Catholic Church as the Pope is in
6 charge, he has his generals, the cardinals, and they
7 have got their captains, the bishops, and right down,
8 down, down, down, down. Whereas in fact the church's
9 position is that where a decision is to be made, it is
10 made at the lowest possible level. It is not that the
11 decisions work down to people, unless it is something
12 that affects everyone, that affects the whole church.

13 Therefore the Holy See is very slow in a sense to
14 create legislation that governs everyone but a bishop
15 can create legislation to govern his diocese, a parish
16 priest can make rules to govern his parish, but he
17 can't, for example, do something that's outwith his
18 powers.

19 A simple one is finance. In Glasgow a parish priest
20 can't spend £10,000 without getting permission. It is
21 simply a way of -- the routine and small things are
22 decided there; the next level decides the bigger; right
23 up to the fact that, you know, the cardinals decide who
24 the new pope is going to be.

25 Q. Can we just develop some understanding then of the

1 different labels that you mention there. Let's take a
2 diocese, for example, and perhaps root this in the 1983
3 code and I will put this on the screen. That's at
4 INQ.001.001.0999.

5 If we scroll down a little bit to Canon 369, can we
6 see there we are told:

7 "A diocese is a portion of the people of God which
8 is entrusted to a bishop for him to shepherd with the
9 co-operation ..."

10 And so on and so forth. So that tells us what
11 a diocese is.

12 A. That is correct.

13 Q. A person in charge of any diocese is a bishop?

14 A. Routinely it is a bishop, yes.

15 Q. If you look towards the bottom of that page, at
16 Canon 374, are we told that:

17 "Every diocese or other particular church is to be
18 divided into distinct parts or parishes"?

19 A. That is correct.

20 Q. Is it for a bishop to decide whether or not a part is
21 a parish?

22 A. That is correct.

23 Q. While we have that on the screen, if we turn to
24 page 1002, at Canon 381, can we read there that:

25 "A diocesan bishop in the diocese entrusted to him

1 has all ordinary, proper and immediate power which is
2 required for the exercise of his pastoral function
3 except for cases which the law or a decree of the
4 Supreme Pontiff reserves to the supreme authority or
5 another ecclesiastical authority"?

6 Does that indicate the extent of the bishop's power?

7 A. That is right. The bishop's power come from the fact he
8 is a diocesan bishop. It is not that the Pope lets him
9 to run a diocese; the Pope appoints him to the diocese
10 and he automatically requires all that is needed to run
11 his diocese unless there is some kind of decree from
12 above saying, you can't do that particular thing.

13 I think that is significant in terms of when we come to
14 the question of abuse where Rome actually does in 2002
15 say, wait a minute, this is too important to be left
16 alone to the bishop, we want a say in what's happening.

17 Q. That was 2002?

18 A. 2002.

19 Q. Right, I think what you are saying is that as a matter
20 of law the bishop has these powers and he can exercise
21 them as --

22 A. Freely.

23 Q. If we turn to page 1003. This is at Canon 391, towards
24 the bottom of the page. When you look at that little
25 squiggle, is that a section or --

1 A. Paragraph.

2 Q. Paragraph 1. We are told there:

3 "It is for the diocesan bishop to govern the
4 particular church entrusted to him with legislative,
5 executive and judicial power according to the norm of
6 law."

7 I think that's what you just confirmed.

8 A. Yes, effectively the bishop has all three branches of
9 governance in himself, which civil lawyers might find
10 odd, I suspect.

11 Q. I think we are told in paragraph 2 that he can exercise
12 that power himself or he can delegate.

13 A. That is correct.

14 Q. So far as the parish priest is concerned, as you have
15 explained under reference to the principle of
16 subsidiarity, he, like his bishop, has a degree of
17 autonomy --

18 A. Absolutely.

19 Q. -- within the parish?

20 A. Within his parish.

21 Q. And that is once he is appointed to the parish?

22 A. Once he is given that office, then by law he has the
23 faculties required to govern that parish.

24 Q. When it comes to a parish priest to move, can he be told
25 to move by his bishop?

1 A. Kind of. As always, it is not quite as clear as that.
2 Most priests are asked by the bishop, will they move,
3 and they agree that they will. If the bishop suggests
4 a move and the parish priest is reluctant to do so, he
5 does have a right to hang on in office and the bishop
6 must go through a procedure which is found at the end
7 of -- the very end of the code. He must follow
8 a particular procedure in order to remove him, which
9 involves consulting with some of the priests of the
10 diocese, listening to the man himself, and eventually to
11 the point where he can force a move.

12 Q. If you turn to page 0428, when you are dealing with
13 parish priests, in the third paragraph down -- it is one
14 sentence -- you tell us:

15 "Scottish parishes don't have civic juridic
16 personality."

17 Can I just understand what you mean by that?

18 A. A parish could not buy property. All property is held
19 in the name of the trustees of the Archdiocese of
20 Glasgow. A parish cannot make legal transactions or
21 start up some kind of civil argument in the courts
22 without the diocese doing it, rather than the parish.
23 So that they are not actually created with their own
24 trustees or anything of that sort. They are not
25 individual charities. All the parishes share the

1 charity number of the diocese.

2 Q. In the next section --

3 LADY SMITH: Are you telling me each diocese is a separate
4 charity?

5 A. Yes, my Lady, yes.

6 LADY SMITH: How is it constituted? As a company limited by
7 guarantee or a deed of trust?

8 A. Most are constituted by a deed of trust. A deed of
9 trust -- and the same for the Bishops' Conference
10 itself, which again is a separate charity and
11 constituted by deed of trust.

12 LADY SMITH: Thank you.

13 MR MacAULAY: Sorry, your parish church at Whiteinch, it is
14 not owned by the parish, it is owned by the diocese?

15 A. It is owned by the parish in canon law, and in civil law
16 by the diocese, which can cause confusion and problems
17 on occasion, as you may imagine.

18 LADY SMITH: Sorry, just explain that again. I got as far
19 as each diocese being a charity.

20 A. Yes.

21 LADY SMITH: As a charity, it owns the property in its
22 diocese?

23 A. Yes.

24 LADY SMITH: Then you explained the impact of canon law.

25 A. In canon law the parish, being a juridic person, has the

1 right of ownership. So in canon law the parish owns its
2 own property, but it would be extremely complicated for
3 us to have trustees for 100 parishes, etc, etc,
4 therefore the diocese holds the civil title to all
5 property.

6 MR MacAULAY: So the title that's recorded in Register
7 House -- or wherever these things are recorded
8 nowadays --

9 A. It is the trustees of the Archdiocese of Glasgow, yes --
10 but it may be different in canon law.

11 Q. The next topic you look at, monsignor, is looking to the
12 role of the Bishops' Conference and that's at page 0428.

13 The first thing you tell us, of course, is that the
14 establishment of the Bishops' Conference is of fairly
15 recent origin; is that correct?

16 A. That is correct. In the past the kind of arrangement of
17 bishops would be under an archbishop who would gather
18 the bishops who are seen to be suffragan to him, and
19 they are called suffragan because they have a vote into
20 any discussions. But that is about -- the only power
21 an archbishop would have over ordinary bishops is that
22 he can call the bishops together to make rules and laws.

23 But the church started to see that that it wasn't
24 just Glasgow and the area surrounding it might have
25 common issues that it wants to deal with, but in fact

1 the whole country would have issues that are common to
2 it, and therefore the bishops should gather and meet and
3 discuss those matters.

4 Q. I think this is mandated by the code.

5 A. It is, yes.

6 Q. If we look at 1006, and we look at Canon 447, are we
7 told that:

8 "A Conference of Bishops, a permanent institution,
9 is a group of bishops of some nation or certain
10 territory who jointly exercise certain pastoral
11 functions for the Christian faithful of their territory
12 in order to promote the greater good which the church
13 offers to humanity [and so on]"?

14 A. Yes.

15 Q. That's where we find reference to the --

16 A. That is right. It is important -- the important word
17 there is "pastoral". It is not a legislative body. It
18 is not executive in that sense; it is pastoral.

19 Q. Those of us of a certain generation have heard of the
20 Scottish Hierarchy; can you explain then the difference
21 between the Scottish Hierarchy and the Conference of
22 Bishops?

23 A. The Scottish Hierarchy would be the title you would use
24 when you are talking about bishops as people who have
25 been ordained to being bishops, who are bishops, whereas

1 the Conference of Bishops is a gathering of those
2 bishops in order to exercise their function together.
3 The hierarchy are the individual bishops as opposed to
4 the collective.

5 Q. I think we have seen this certainly in the past: if
6 a civil action were to be raised, then would that be
7 raised against the Scottish Hierarchy or against the
8 Bishops' Conference?

9 A. Against the Bishops' Conference. Officially it would
10 probably be against the Catholic National Endowment
11 Trust, which is the legal name which the Bishops'
12 Conference operates civilly under.

13 Q. Towards the bottom of that page, 0428, you tell us that
14 the membership of the Bishops' Conference includes
15 a number of different agencies including, for example,
16 a media office and so on and so forth.

17 A. Yes. These agencies would be considered to be part of
18 the Bishops' Conference. The people involved in it are
19 not members of the Conference, only bishops can be
20 members of the Bishops' Conference, but these agencies,
21 which are generally run by laypeople, are agencies which
22 act on behalf of the Bishops' Conference.

23 Q. On page 0429 you do tell us something about how often
24 the conference meets and you say that they meet seven
25 times a year --

1 A. Yes.

2 Q. -- to discuss this sort of topics mentioned?

3 A. Yes, two of the meetings last for three days; the other
4 meetings would be overnight meetings, so two days.

5 Q. You have a section thereafter in the report dealing with
6 "The nature and extent of diocesan autonomy". I think
7 you have touched upon this already and indicated that
8 although the bishop has a significant degree of
9 autonomy, there are limits to that autonomy.

10 A. That is correct.

11 Q. Can you just elaborate upon that?

12 A. The law presents limits on the bishop's autonomy mainly
13 because there are national interests for example or
14 there are international interests and therefore the
15 bishop must act in coordination with the others around
16 him. But as a general rule his autonomy is within his
17 diocese.

18 But in the example, for example, trying to move
19 a parish priest who doesn't move, he is not completely
20 able just to simply say, "You are doing it, shift", but
21 rather he has to go through a process and often his
22 autonomy is limited by the law to, "You must perform
23 this by this process".

24 Again, a bishop can't just spend £100 million on
25 a nice new house; he has got to get permission from

1 particular groups and indeed over a certain figure he
2 has to inform and get permission from the Holy See also.

3 So there are limits to how he performs. Generally
4 he can spend money, for example, but within limits --
5 just like the parish priest can spend money, but within
6 limits.

7 It is trying to maintain a normality that when
8 things are normal, a bishop can act, but when it is
9 something out of the ordinary he has to seek permission,
10 he has to consult, he has to be involved in a process.

11 Q. One limit you give an example of is that he has no
12 authority to or power to forgive someone who breaks the
13 seal of the confession.

14 A. Yes. This is part of what I'm saying about -- the
15 matters which involve the entire church would be
16 governed absolutely by the Pope, by the Holy See. For
17 example, the seal of confession, we would consider to be
18 so important and so sacrosanct that were someone to
19 break that seal and say, "Wee Mary MacPherson told me in
20 confession that she did ..." then that's such a breach,
21 such an offence, that for me to be forgiven of that
22 offence would require the intervention of the Holy See.

23 Q. Towards the bottom of page 430 of the report, you make
24 the point, at the very bottom, that:

25 "Within the church the diocesan autonomy may be

1 described as complete autonomy unless the canon law
2 explicitly limits that autonomy --

3 A. That is correct.

4 Q. -- and that's such limitations are few."

5 A. That is correct.

6 Q. Over the page on page 0431, you give us an example, that
7 as you point out may be relevant to this Inquiry, and
8 I do want to ask you about that. You give the example
9 of the -- what you call the commission of a sin of
10 sexual abuse of a minor by a member of the clergy.

11 Can we just have a look at that for a moment and
12 understand what message you are trying to convey here in
13 your report?

14 A. Sure. It has always been seen as a serious sin for
15 a cleric to offend sexually against a minor, always.
16 But that understanding of it was very much to do with
17 sin. A person has committed a sin and they are guilty.
18 The law of the church presented an opportunity for that
19 sin to, in a sense, be dealt with juridically, but that
20 was seldom done.

21 It could be taken to --

22 Q. Can I stop you there, when you say juridically what do
23 you mean by that?

24 A. The church has a court system in parallel to the civil
25 system. We have ecclesiastical judges, canon lawyers,

1 so a petition can be made against someone who has
2 committed an offence that is not just a sin, but it is
3 also against the law, as for example abuse -- against
4 church law, as for example abuse of a minor would be.

5 Q. We touched earlier on the Crimen Sollicitationis
6 instruction and that does, I think, set out a juridical
7 process --

8 A. That is correct.

9 Q. - whereby someone -- if I use the word "charged" -- with
10 a particular matter can be brought through that process.

11 A. Yes, that is correct. That process was established in
12 1962 because it was felt that the code, the 1917 code,
13 was not detailed sufficiently in dealing with this
14 matter and it brought it out. But you need to notice
15 that this is actually against the crime of solicitation
16 which is when someone comes to a priest in confession
17 and makes their confession and the priest makes a sexual
18 overture towards them. That is solicitation.

19 Q. I think the instruction goes beyond that had and we will
20 look at that.

21 A. It does. At the end it kind of adds the abuse of
22 a minor to that also and makes it the same process.

23 Q. I think I raised with you earlier whether or not this
24 process may have been available since 1922 and I think
25 you are going to think about that.

1 A. Yes. I mean certainly the 1917 code had a penal
2 process, so if someone had committed an offence against
3 the church then they could be -- and easily be -- taken
4 through a court tribunal system. I think from
5 understanding of it, that did happen on occasion where
6 someone had been charged over an offence which would be
7 considered sexual in nature. The only ones that I have
8 kind of come across were dealing with adults, but the
9 church could be quite severe on people if it felt that
10 was the case, that that was necessary.

11 Q. Can we then go back to the discussion -- I think
12 I interrupted you -- the discussion you were looking at
13 at the top of page 0431, where there is the commission
14 of a sin of sexual abuse of a minor by a member of
15 a clergy, how that might have been dealt with?

16 A. Yes. This document came out just at the same time as
17 the Second Vatican Council was starting to meet.
18 I don't think it is insignificant the effect that the
19 council had upon how that document was put into
20 practice.

21 Q. Let's leave the document aside for the moment and can
22 you just tell us in practice what happened?

23 A. In practice if someone was accused of a sexual offence
24 against a minor, a tribunal, a court, would be
25 established which -- a promoter of justice would create

1 a petition to the court saying, "It is alleged that
2 Father So-and-so committed this offence", and the judges
3 would then meet, look at the petition, accept the
4 petition, and start to instruct the case.

5 Q. But in reality -- I want to look at the reality here and
6 I think you talk about the reality towards the top of
7 the page -- although there were processes for dealing
8 with such a crime under canon law, what was the reality
9 in Scotland?

10 A. The reality was these processes were seldom used.
11 Seldom used.

12 Q. So what happened then in reality?

13 A. What happened was there was a feeling that these things
14 were sins and they were abhorrent sins, but there was
15 almost that feeling that this is so abhorrent and being
16 caught, being given into trouble, being given a row,
17 would be sufficient to make them never do it again.
18 There is a completely erroneous opinion as we know. But
19 if you got a bit of treatment, if you got a bit of
20 therapy, if you were encouraged to say your prayers,
21 then you could be sorted in that sense -- and that was
22 a dreadful misunderstanding and a dreadful lack.

23 Q. What you tell us is that although there were processes
24 in canon law for dealing with such a crime, and you have
25 mentioned these, these were only invoked when other

1 methods of pastoral correction -- therapy, etc -- had
2 been proven ineffective --

3 A. Yes.

4 Q. -- and a criminal trial in a church court, a tribunal,
5 was a relatively rare event --

6 A. Yes.

7 Q. -- since the law came to encourage other means of
8 satisfying justice and remedying a sin or crime.

9 A. Yes. It was seen to be -- it was better to repair the
10 person, to fix the person, to make them better, to stop
11 them sinning, to redeem them, to use ecclesiastical
12 terminology, and that was a huge mistake.

13 Q. What about the victim?

14 A. Well, indeed.

15 Q. But what interaction would there be with the victim in
16 such a case?

17 A. Again these things varied from case to case, from person
18 to person. Very often the victim simply made the report
19 and that was it, it was finished.

20 Sometimes the victim did report to, for example, the
21 police, it did, happen and the police were involved and
22 fiscals were involved as well. There were examples
23 where the Fiscal understood that we were trying to fix,
24 repair, do whatever kind of therapy for the man, and
25 therefore would allow us to do a certain amount of

1 reparation in terms of going to the retreat houses,
2 going through therapy, going away for a long time, and
3 the Fiscal would be prepared not to take a charge to the
4 court because they felt that this was dealt with
5 sufficiently.

6 But the victims I think, in all honesty, were dealt
7 with very differently on very different occasions. In
8 general victims had very different desires about what
9 they wanted to happen. Some, many of them, just wanted
10 a guarantee that this man would never be able to do this
11 to anyone else.

12 Q. Of course, that guarantee could not be given.

13 A. Well, it could in some senses. Some people were removed
14 completely from ministry. We did have a hospital
15 facility in Ireland where priests could be put and they
16 remained there until they died, you know. So there were
17 occasions when people were put right out and that was
18 it, it was finished, their ministry no longer was
19 allowed to function in any way. On other occasions it
20 was believed that the man was fixed, he was repaired,
21 and you could put him somewhere else and he would be all
22 right and of course that was --

23 LADY SMITH: I can see that the man may be out of the
24 church, but he is still in wider society; isn't that
25 right?

1 A. Not necessarily, my Lady. The hospital that I'm talking
2 about in Ireland, for example, these men could not
3 leave. They could not leave the premises.

4 LADY SMITH: Can I just go back to something you have
5 mentioned on a number of occasions? It is this notion
6 of therapy.

7 A. Yes.

8 LADY SMITH: Of course, in the modern world, if somebody
9 commits such an offence against children, one of the
10 things that is routinely done by a court is address the
11 issue of what risk they present.

12 A. Yes.

13 LADY SMITH: The court accesses quite often expert
14 assistance to enable a proper and full assessment of
15 that risk when working out what is the right sentence,
16 both to punish the individual and to do what the court
17 can to protect society from the individual in the
18 future.

19 When the church was addressing this issue of
20 therapy, what effort, if any, was being made to have
21 a proper assessment of the risk that this person
22 presented carried out?

23 A. There were most definitely assessments of the risk, but
24 I think that our understanding of the risk of
25 re-offending was very different. All of the places

1 where these people were sent for therapy were staffed by
2 qualified psychologists/psychiatrists/therapists, it
3 wasn't an amateur kind of arrangement. Such reports as
4 may have come back from them would give a risk
5 assessment. In all honesty, many of these places at the
6 time thought that the therapy was sufficient to repair
7 and we know sadly, and to the cost of many innocent
8 people, that that wasn't true.

9 MR MacAULAY: I would like to understand from what you said
10 a while ago -- and indeed I think you spell this out in
11 the report -- that the procurator fiscal would be
12 complicit with this arrangement whereby there would be
13 no prosecution provided that the offender was sent away
14 to be cured.

15 A. Yes. I think the Fiscal did on occasion try to work out
16 what his chances of a successful prosecution were and
17 what the benefits of a successful prosecution were
18 versus the benefits of someone actually getting, for
19 example, a year of full-time residential therapy and on
20 occasion could see that a year in prison might not be as
21 helpful as a year in therapy.

22 I'm not sure that "complicit" would be the word that
23 I would use, but that the Fiscal on occasion did feel
24 that it was appropriate to treat the person rather than
25 necessarily take him to court and punish.

1 Q. What you say in the report in the second paragraph on
2 0431 is that it could happen that sometimes a fiscal
3 would discuss the matter with a particular bishop and
4 decide that a period of therapy in a residential
5 establishment would be a better course of action than
6 taking the case to trial.

7 A. That is correct. These things were recorded and
8 discussed openly. It wasn't some kind of secret
9 arrangement. It was a genuine attempt to try and do the
10 best for stopping this happening again.

11 LADY SMITH: When you say discussed openly, openly amongst
12 whom?

13 A. My Lady, it would be the Fiscal and the bishop.

14 LADY SMITH: That doesn't sound really very open, does it?

15 A. Well, no.

16 LADY SMITH: The person, the complainer, and the
17 complainer's family would not be included in that
18 discussion?

19 A. I couldn't be sure in every case, but not as a routine
20 necessarily, no.

21 MR MacAULAY: When you used the word "recorded", do you mean
22 that there would be a written record kept of the
23 arrangement?

24 A. Sometimes by the diocese, but more often it would be
25 a case that there would be a note in the man's file and

1 that was what, for example, we were able to go back and
2 look at for the McLellan Commission to see who had been
3 accused, who had been -- and what ways they were dealt
4 with. So there were records of these things but not in
5 the kind of detailed recording that perhaps nowadays we
6 might think was appropriate.

7 Q. But there are records there?

8 A. Yes. I think some of those records -- well, those
9 records that we are aware of are found in the diocesan
10 responses to question 7.

11 Q. It is at this point in time in your report that you
12 mention the document Crimen Sollicitationis. You tell
13 us there that that was issued by the Holy See in 1962
14 and, as you explained a few moments ago, its main
15 purpose is dealing with the crime of solicitation by the
16 priest within the sacrament of confession.

17 A. Yes.

18 Q. But it went beyond that.

19 I will put the instruction on the screen
20 INQ.001.001.1035. We can see the heading is:

21 "Instruction of the Supreme Sacred Congregation of
22 the Holy Office."

23 It is addressed to all patriarchs, archbishops,
24 bishops, and other local ordinaries, and it is on the
25 matter of proceeding in causes of solicitation and we

1 see the date 1962.

2 We see what the instruction is and then we note it
3 is to be kept carefully in the secret archive of the
4 Curia for internal use -- I will come back to that,
5 I know you want to deal with that.

6 A. Right.

7 Q. Does paragraph 1 deal with the crime of solicitation
8 essentially and gives us some detail as to what it might
9 involve?

10 A. That is correct, it does.

11 Q. At paragraph 3 the reference to "local ordinaries" means
12 essentially the residential bishops for our purposes; is
13 that correct?

14 A. Yes. Although you notice there are abbots and so forth
15 which may be significant in other parts.

16 Q. If you turn to page 1045.

17 Towards the top of the page at paragraph 71, that's
18 at 1045, we read that:

19 "The term *crimen pessimum* (the foulest crime) is
20 here understood to mean any external obscene act,
21 gravefully sinful, perpetrated or attempted by a cleric
22 in any way whatsoever with a person of his own sex."

23 So that has gone beyond the solicitation offence.

24 A. That is correct.

25 Q. But at 73 can we read:

1 "Equated with the crimen pessimum, with regard to
2 penal effects, is any external obscene act, gravely
3 sinful perpetrated or attempted by a cleric in any way
4 with pre-adolescent children of either sex or with brute
5 animals"?

6 I think that is the paragraph you draw attention to
7 in your report.

8 A. Yes, because that made the effect of this document apply
9 to abuse of a minor.

10 Q. But this is 1962?

11 A. That is correct.

12 Q. But the examples you have been giving us as to what
13 happened in reality, did I understand these examples to
14 be post 1962 -- within your experience at least?

15 A. Absolutely.

16 Q. So notwithstanding the promulgation of this particular
17 provision, which described that type of offence as the
18 "foulest crime", nevertheless these foul crimes were
19 dealt with generally in the way you have already
20 described?

21 A. Yes. I think the circumstances of the
22 Second Vatican Council made a significant difference to
23 the whole way that the church proceeded. Prior to that
24 we proceeded fairly legalistically and fairly
25 authoritarianly (sic), whereas the Second Vatican

1 Council asked us to proceed pastorally and caring for
2 people -- and that pastoral care was exercised very
3 strongly towards the priests who had been accused and
4 I think perhaps less strongly towards those who had been
5 on the receiving end of such a vicious thing to do.

6 Q. You do discuss what's referred to there as "the secret
7 archive" on page 0432 of the report.

8 A. Yes.

9 Q. Before we look to see what you have said, can we just
10 perhaps look at what the code provides for that. That's
11 at 1009.

12 At 489, paragraph 9, can we read that:

13 "In the diocesan curia there is also to be a secret
14 archive, or at least in the common archive there is to
15 be a safe or cabinet, completely closed and locked,
16 which cannot be removed; in it documents to be kept
17 secret are to be protected most securely."

18 We read on at 490, paragraph 1:

19 "Only the bishop is to have the key to the secret
20 archive."

21 Can you develop this for us and explain what this is
22 all about?

23 A. I think part of the problem is the term "secret". There
24 is great mystery about the Vatican secret archive and
25 everybody believes they have got Noah's Ark down there

1 and those kind of things, but the word "secret" comes
2 from the word "secretary" and it is really the personal
3 archive of the bishop, hence only the bishop has the key
4 to it. It is not meant to be secret in the sense that
5 it is hidden from people. It is meant to be secret in
6 the sense that it is personally his and only he deals
7 with it. In reality, most dioceses don't have a secret
8 archive as described in the canons here.

9 Q. But the document we looked at, the
10 Crimen Sollicitationis, that was to be kept in this
11 particular location?

12 A. Yes.

13 Q. Why was that?

14 A. Because the matter was to be dealt with by the bishop
15 personally. It was a personal responsibility upon the
16 bishop. These things are so serious that he had to deal
17 with it. The process that is described in the document
18 involves the bishop starting the process, dealing with
19 the process, and supervising the process. It was his
20 and therefore it stayed with him because he was
21 responsible for it.

22 Q. Part of that process, as you tell us in fact on
23 page 0432, involved the document being kept in this
24 secret archive, was that of confidentiality.

25 A. Yes.

1 Q. Confidentiality, not only on the part of, for example,
2 the bishop, but also the person making the allegation.

3 A. Yes.

4 Q. Can you explain that? How was that managed?

5 A. I think that we need to understand a little bit about
6 the system of tribunals/court cases within the church.
7 In the civil law you would have an opportunity as
8 a lawyer to cross-examine the witness and to draw the
9 testimony. Whether that witness was for defence or
10 prosecution, one would be drawing the testimony, one
11 would be challenging it. In the church's system
12 testimony is taken by a lawyer with the witness alone,
13 only there together, and that testimony is recorded in
14 writing.

15 So very often the judges never actually set eyes
16 upon the witnesses. They are given the written
17 testimony of the witnesses and they draw their legal
18 conclusion from the written testimony --

19 LADY SMITH: How do you assess credibility on that basis?

20 A. Yes. When the lawyer who listens to the testimony is
21 finished, they write a report upon the testimony of the
22 person, their credibility -- and effectively, my Lady,
23 if you see something -- a story described by one person
24 and a story described by someone else, you can fairly
25 quickly pick out the differences and you can fairly

1 quickly pick out the issues. It is a very, very
2 different system from the system of the law.

3 LADY SMITH: When you see and hear a witness you have
4 a valuable tool in assessing whether or not that witness
5 is telling the truth, as we tell juries, week in, week
6 out, when they are assessing whether somebody has
7 committed a crime or not.

8 A. Yes, my Lady. Sometimes a judge will see the witness
9 directly and personally, but the judgment is made from
10 written testimony.

11 LADY SMITH: This lawyer who speaks to the witness, tell me
12 about that lawyer: where are they drawn from?

13 A. The tribunal would be created by three judges,
14 ecclesiastical judges, and they would appoint persons to
15 take the testimony from the witnesses.

16 But like the -- unlike the civil law, for example,
17 if someone lives outside my jurisdiction, my diocese,
18 you can get someone else to hear the evidence in the
19 jurisdiction in another diocese. For example, you would
20 send out someone -- a witness might live in Spain, so
21 you would send the testimony questionnaire to the
22 Spanish court, they would appoint the person who was
23 to -- they would prepare the testimony and they would
24 send it back. So it is a way of dealing with testimony
25 in a sense on the home territory of the witness rather

1 than before the court and in the court.

2 LADY SMITH: I am sorry maybe I didn't make myself clear:

3 I was interested in finding out how you identify the
4 type of person that's going to do this questioning. Do
5 they have to have legal qualifications, for instance?
6 You are calling them a lawyer; are they lawyers?

7 A. Most of them are canon lawyers. Some people are people
8 who would be considered to be tribunal experts, who have
9 particular training, for example, in taking testimony.

10 But the lawyer or the person taking the testimony is
11 not made to -- is not asked to make any judgement on the
12 merits of the case, simply an impression of the witness,
13 their credibility, their way of answering the questions.

14 It is a very, very different legal system, my Lady.

15 LADY SMITH: Yes. Thank you.

16 MR MacAULAY: The person making the allegation, would he be
17 under any obligation not to repeat the allegation to
18 a third party?

19 A. No, frankly. It is a bit like creating
20 a confidentiality clause in order to protect the
21 evidence from being tainted. In a civil case you do not
22 want the witnesses all sitting in the witness room
23 colluding about what's going on, so too with us. We
24 don't want the witnesses discussing with one another
25 what evidence they are going to give.

1 So I think I give the example of a marriage
2 annulment. We would swear the people involved in the
3 marriage annulment to confidentiality in the same way,
4 but before we deal with a marriage annulment, the people
5 already have to be divorced. Therefore the civil law
6 has already had this testimony. It is almost in the
7 public forum, but they still have to take that promise
8 of confidentiality because we don't want them discussing
9 their evidence with other witnesses.

10 It is not meant to silence them. It is not meant to
11 prevent them speaking to other people. It is definitely
12 not meant to make -- to prevent them from reporting it
13 to the police, but unfortunately I would say that some
14 people read it as that. Some people felt that that's
15 how they were being treated and made it very public that
16 the confidentiality limited their civil rights. That's
17 not true, but I don't think we made that clear to the
18 people who were involved.

19 Q. Does the notion -- let's take someone who makes
20 an allegation of sexual abuse against a cleric/priest.
21 Does the notion that that person would be advised by,
22 let's say, the bishop to whom the allegation has been
23 made that if he were to disclose that allegation to
24 a third party that he would risk excommunication? Does
25 that mean anything to you at all?

- 1 A. No, that wouldn't be the norm --
- 2 Q. It wouldn't be at all --
- 3 A. No --
- 4 Q. -- on the table?
- 5 A. I can't say that it wouldn't be in the mind of the
6 person hearing that they had to take a promise of
7 confidentiality. I can't say that it won't be in their
8 mind. But the penalties attached to breaking this
9 confidentiality are effectively non-existent.
- 10 Q. If we go back to page 0432 then, monsignor, you give the
11 example in fact the third/fourth paragraph of the
12 marriage annulment case that you mentioned, but you go
13 on to say that -- the last paragraph:
- 14 "Perhaps more pertinent is the fact that the
15 procedure described in this document ..."
- 16 There you are talking about the 1962 document.
- 17 A. Yes.
- 18 Q. "... seemed to be seldom actually used in practice and
19 was certainly, to most practical purposes, almost
20 forgotten by the 1970s."
- 21 A. Yes.
- 22 Q. So essentially the Crimen Sollicitationis section,
23 paragraph 73 dealing with minors, in effect was not
24 used?
- 25 A. It was not used in a judicial sense in that sense, no.

- 1 Q. Why was it forgotten? Can you tell us?
- 2 A. Because of the Second Vatican Council, that that kind of
3 institutional model which the 1917 code had of the
4 church as a perfect society, as a church with the same
5 sort of powers and systems as a state was taken over by
6 a more pastoral, communitarian spirituality which tried
7 to deal with the people of God as opposed to processes
8 and so the processes were let go sadly. The baby went
9 out with the bathwater.
- 10 Q. So those who might think that the Second Vatican Council
11 was to be a breath of fresh air into the Catholic
12 Church, at least in this context, that could not be
13 said?
- 14 A. No. No. It breathed fresh air through the system and
15 people didn't pay attention to some of the things that
16 might have been more important.
- 17 Q. Then, if we move on to page 0433 of the report, you
18 provide us there with a quote that one of your
19 colleagues, Monsignor Bob Oliver, made to the McLellan
20 Commission to try, I think, to sum up the church's
21 position; is that what it is?
- 22 A. Yes, I think it sums it up very well. We made horrible
23 mistakes.
- 24 Q. I think we have heard this before, but I will just get
25 it into the transcript, what Monsignor Bob Oliver said

1 was:

2 "We did not listen to victims and underestimated the
3 extent of the problem: we missed red flags and warning
4 signs; we were conned by many offenders; and believed,
5 often with professional advice, that some offenders
6 could be returned to the ministry."

7 A. I think that is a very good summary of where we were.

8 Q. And some offenders were returned to the ministry?

9 A. Yes.

10 Q. You make the point in the next paragraph that that
11 particular experience was not unique to Scotland; what's
12 your basis for making that observation?

13 A. Well, I mean to a certain extent all we need to do is
14 look next door to Ireland to see the same thing
15 happening, the same situation. It happened in the
16 United States. It happened in Australia. It happened
17 in many places around the world and that ultimately is
18 what drew the Holy See to create this documentation to
19 say that actually this is such a significant matter that
20 it affects the whole church, it is not just to do with
21 Scotland, it is affecting the whole church and therefore
22 we must insist upon a process that functions for the
23 whole church in the same way across the whole church and
24 thus Pope John Paul II produced the document in 2001
25 which is still in effect.

1 Q. I will come back to that, but do I take it from what you
2 have said then that although certainly in 1962 the
3 instruction Crimen Sollicitationis was promulgated by
4 the church, across the church -- not just in Scotland,
5 but across the church -- it seemed to have been ignored?

6 A. Yes. I'm not really aware of anywhere where it had any
7 kind of permanent use in that sense. There may be
8 dioceses around the world that did use it but I'm not
9 aware of anyone really using that system. And, in fact,
10 the matter was, even following that system, dealt with
11 by the bishop and by his tribunal and so it never went
12 any further than the local church. So if an offence
13 happened in one diocese, no other diocese would even
14 know about it. Indeed the thing was so embarrassing and
15 so horrible and so beyond our thought of what the church
16 should be that no bishop would ever mention it to
17 another bishop. You know, even at the time we were
18 ashamed that these things were happening.

19 Q. When you say "at the time", what time do you mean by
20 that?

21 A. I mean in the 1970s and so forth. These things are so
22 beyond the comprehension of people that you think, how
23 can this happen? And it can happen. This is horrible.
24 Therefore it wasn't talked about, it wasn't shared among
25 the bishops, they didn't come over and say, did you hear

1 we had one of these? No. It was embarrassing -- and
2 still is horrendously embarrassing -- that such things
3 should have been done by a priest to an innocent party.

4 Q. But what you are saying, monsignor, is that although it
5 was known by bishops and clergy that sexual abuse of
6 children was taking place, that knowledge effectively
7 was being ignored?

8 A. I wouldn't use the word "ignored". It was being dealt
9 with as was felt to be appropriate. It was also,
10 I think, true that we didn't realise the scale of the
11 problem -- partly because we weren't talking to each
12 other, partly because each bishop knew about their
13 situation, but not necessarily about other people's.

14 Q. You do move on to tell us about the instruction
15 promulgated by Pope John Paul II and that's the
16 Sacramentorum Sanctitatis Tutela. Can you tell us about
17 that document?

18 A. That was the response of the church to the fact that
19 these issues were arising in different places around the
20 world. The Holy See decided that it was appropriate
21 for -- that, in a sense, being dealt with by the bishop
22 alone was removed to being dealt with by the bishop
23 under the eye of the Holy See.

24 An offence when it is alleged credibly is now to be
25 referred to the Holy See and the full facts of the case

1 as are known at the time are given to them and they send
2 back to the bishop a response of how he is to proceed in
3 the case. They expect a full explanation of what
4 happened, how it has been dealt with, what's been going
5 on, so that in that sense the bishop's work in the
6 diocese is supervised by someone who has an overeye
7 (sic) of the entire problem.

8 Q. Would the submission in the first instance be made by
9 the bishop to the Holy See?

10 A. That is correct.

11 Q. I think you stress that this is on the back of
12 a credible accusation.

13 A. That is correct.

14 Q. Can you flesh out what that means here?

15 A. If an accusation is made that seems to have some basis
16 in fact -- that's all, some basis in fact, not that it
17 has been proven, not that it has been settled, but that
18 there seems to be something worth investigating. For
19 example, if someone comes and accuses a priest of having
20 performed sexual abuse in a Scottish town when in fact
21 the record shows clearly that at that time the priest
22 wasn't in that town and in fact he was serving on the
23 African missions in Zimbabwe or something and therefore
24 he couldn't possibly have done that, that would not
25 necessarily be a credible case.

1 But if someone is talking about a priest who was
2 appointed to that parish, was in that parish at the
3 time, and could easily have committed the offence, then
4 that offence must be investigated.

5 Q. Who forms the judgement?

6 A. The bishop.

7 Q. Would he take advice from, for example, the Chancellor
8 like yourself as the canon lawyer?

9 A. It would be the safeguarding -- we have safeguarding in
10 each diocese and we have the national safeguarding.

11 I know you are going to see Tina Campbell and she will
12 be able to explain in much more detail the process. But
13 the bishop would be referring these things to the
14 safeguarding and indeed the posters we have for child
15 protection in our parishes give you the telephone number
16 of the safeguarding person, not of the bishop. So in
17 most cases nowadays the bishop learns of an accusation
18 from the safeguarding person as opposed to from the
19 victim directly.

20 Q. I think you tell us this system has really been in place
21 since 2001.

22 A. That is correct.

23 Q. The 1962 instruction, is that still a live document?

24 A. No. The 1983 code abrogated all procedures and so forth
25 prior to its own promulgation. So in 1983 that document

1 was replaced by the code of canon law which has a penal
2 procedure in it and includes that crime.

3 Q. Yes. It is replaced, effectively?

4 A. That is correct.

5 Q. What you tell us at the end of this discussion then,
6 monsignor, is that in this particular way this is
7 an example of a way in which the autonomy of the
8 diocesan bishop has been limited.

9 A. That is correct, limited by the Holy See. It should
10 also be said that the autonomy of the diocesan bishop
11 has been limited by the diocesan bishops themselves in
12 the sense that these matters are dealt with by
13 a safeguarding person. You know, this is in a sense
14 an extra that the church in Scotland has created, that
15 these safeguarding people deal with this matter.

16 So the bishop has in a sense taken the process out
17 of his own hands and given it to someone else so in
18 a sense he is limited both from above and from below.

19 Q. But the limitation from above in a way is the one that
20 counts because the other one is self-imposed.

21 A. Yes.

22 Q. Does that reflect that, from the perspective of the
23 Holy See, bishops have failed to follow through the
24 instruction they had been given in 1962?

25 A. I think there is no doubt. It is not about the

1 instruction in 1962 that they have failed; they have
2 failed people who have received abuse at the hands of
3 a priest. That's why our bishops have apologised,
4 that's why our bishops have said, we made mistakes, we
5 did things wrong and we are sorry. Because there were
6 mistakes made and it is embarrassing and sad to say it,
7 but it is also true.

8 Q. Thank you.

9 I'm going to backtrack a little bit -- and this is
10 just to get to grips with the terminology, monsignor.
11 This is at page 0431 of the report. I'm going back to
12 pick up something you say in a footnote where you give
13 us a definition of a cleric. This is helpful to just
14 get a feel for what that involves; can you tell us about
15 that?

16 A. Yes. There is a difference in the theology in the
17 church between ordination and being a cleric. Being
18 a cleric involves the title "reverend", as we would have
19 it, and that is given by ordination to the diaconate,
20 priesthood or episcopacy. But a cleric is someone who
21 possesses certain rights and obligations according to
22 the law of the church, full stop.

23 Those rights and obligations can be removed from
24 you, but ordination cannot be removed from you. If I am
25 baptised, I am baptised, full stop. If I am ordained,

1 I am ordained, full stop. No one can revoke or change
2 that because it is sacramental, it is theological.

3 However, my status as a cleric -- as someone
4 entitled to, for example, wear clerical dress as I am
5 today, for someone to be able to take an office that's
6 reserved to a cleric, for example a parish priest --
7 then those rights can be removed from you and that's
8 commonly known as "defrocking". It is not a terminology
9 we would use; we would refer to it as laicisation where
10 they return to the lay state, you are a layperson, you
11 become ordained, you become a cleric, and you return to
12 a lay state if you are laicised.

13 That process of laicisation can be voluntary --
14 I decide this ministry is not for me, I want to leave,
15 and I ask the Holy See to return me to the lay state --
16 or it can be compelled upon me by the Holy See saying,
17 you are not appropriate to be holding this office, you
18 are not appropriate to be in this state, and we are
19 removing it from you.

20 Q. But how does that fit in with the notion that ordination
21 can never be removed or undone?

22 A. It is simply that you are not entitled therefore, if you
23 are not a cleric, to exercise the functions of
24 ordination. But it doesn't stop you being ordained.
25 You are not unordained. You can't reverse that from our

1 theological standpoint.

2 Q. The next section of your report that I propose to look
3 at then, monsignor, is at page 0434. This was the
4 second point that the Bishops' Conference was asked
5 about and that's the diocesan relationship with the
6 Bishops' Conference and with religious orders. A number
7 of points were raised.

8 You begin by telling us a little bit about the
9 historical framework. This is on page 0435. Can you
10 flesh that out for us?

11 A. Yes. Again, the whole image of religious working in
12 Scotland also has to be taken into that historical
13 context because before the Hierarchy where it
14 re-established, there was a kind of tendency for
15 religious to appear on and start working in dioceses in
16 a much more free way than it would have been after 1878.

17 A prime example might be for example the foundation
18 of the Religious Institute of the Franciscan
19 Missionaries of the Immaculate Conception. They were
20 founded because the parish priests had been on holiday
21 in Belgium and said to the nuns, it would be great to
22 have some of you working for us, and several months
23 later, late at night, the door went and here were three
24 nuns standing on his door. So things could be extremely
25 informal or they could be a much more formalised way, as

1 it was after 1878, where there was a necessity that they
2 got at least the acknowledgment of the bishop that they
3 were coming to his territory to establish a religious
4 house.

5 May I just point out that there are a couple of
6 corrections that ought to be made to that page. The
7 statistics are incorrect. There has been a mix-up
8 between what is where. Therefore where it says -- it
9 talks about 37 male institutes and 91 female ones.
10 That's a mixture of facts.

11 So let me clarify that in Scotland there are 31 male
12 institutes. These 31 male institutes have 40 separate
13 houses in the country and 171 members of those
14 institutes.

15 There are 44 female institutes who have 91 houses
16 throughout Scotland and the total number of religious
17 women is 360. I think that gives a better impression of
18 just the scale of the issue.

19 I don't know if the Inquiry has seen this
20 publication? (Indicates). I would propose to leave it
21 with you.

22 LADY SMITH: That would be very helpful.

23 A. It is the most up-to-date reference book for the church
24 in Scotland.

25 LADY SMITH: We don't need to deprive you of your copy; we

1 could get, I presume, our own copy.

2 A. I think there is plenty of them around. It is just
3 a very helpful reference for you as you are looking at
4 what the church is, what it does, who is who, where they
5 are and how they work.

6 LADY SMITH: Just going back to that last statistic then,
7 I think you said 91 houses, but 300 and something
8 members.

9 A. Sisters.

10 LADY SMITH: So there are only a handful of them in each
11 house?

12 A. In each house, yes.

13 LADY SMITH: The number of institutes was?

14 A. Was 44. For example, some communities have more than
15 one house.

16 LADY SMITH: Yes, I can see that.

17 A. But the reality is -- and this is one of the issues that
18 will no doubt we will come to with, for example,
19 St Mary's Kenmure -- where the number of these religious
20 men and women are falling dramatically and therefore
21 they can't perform the ministries that they may have
22 done in the past.

23 MR MacAULAY: Again, just as a matter of definition, you
24 give us a description or definition of what a religious
25 institute is. It is footnote 31 towards the bottom of

1 the page. That covers a variety of different types of
2 organisation. So the generic term is institute. If you
3 use the word "institute", that covers congregation,
4 orders and so on and so forth.

5 A. That is correct. "An institute of consecrated life" is
6 how we would refer to it.

7 Q. You do actually provide with us a document in the
8 appendix and I will put that on the screen; it is at
9 INQ.001.001.0492. So we see from the heading here that
10 it is described as:

11 "A list of religious houses in Scotland, 1802 to
12 1978."

13 This is a little bit out of date.

14 A. Yes.

15 Q. But it provides lists of different institutes. For
16 example, if we turn to page 0493, the next page, at
17 paragraph 5 there is provided there information about
18 the Daughters of Charity of St Vincent de Paul. Can we
19 see, for example, that a list of the -- is that of the
20 locations where they are based?

21 A. That is correct. That's where they have houses and the
22 date is when the house was opened and if the date
23 doesn't finish with the second date, then the house was
24 at that time still open. If there is a second date,
25 then the house closed on that date.

1 Q. If we look under reference to Lanark, Smyllum Park, then
2 according to this it was opened in 1864 and as of
3 1978 --

4 A. It was still open.

5 Q. And similarly there is an equivalent list for male
6 institutes.

7 A. Indeed.

8 Q. That's at page 0497 and that's headed "Orders of men".
9 We see, for example, at the top of the page the
10 reference to the Marist Brothers and a number of
11 establishments that they were connected with; is that
12 correct?

13 A. That is correct, yes.

14 Q. For example, there is Glasgow St Mungo's, 1858, and the
15 inference is that they are still involved there as at
16 1978.

17 A. Yes, indeed.

18 Q. What you do next in the report at 0435, you start to
19 look at the canonical framework involving religious
20 institutes. Can you just lead us into that?

21 A. Yes. I think that again our understanding of the
22 structure of the church from popular belief is that
23 everything is very kind of self-controlled in
24 a hierarchical way, that people are up and down the
25 ladder of promotion or demotion, whereas in fact it is

1 much more based around a particular institution or
2 a particular way of working.

3 So for example, a religious institute --
4 an institute of consecrated life has its own
5 constitution, its own template; I think I used the word
6 at one point. If a bishop says to the religious
7 institute, you may work in my diocese, it includes with
8 it automatically the permission to exercise their life
9 within those constitutions.

10 He cannot say, you can come into my diocese but you
11 cannot live this way, or, you cannot do this; if he
12 allows them in, he allows them in completely. If he
13 disallows them, then they don't get in at all. So there
14 is an autonomy about a religious community that is based
15 around their constitutions.

16 However, if they are doing some public exercise, for
17 example, they have a chapel at which the people of the
18 community come to celebrate mass, then they must follow
19 diocesan law on the celebration of mass. But what they
20 do in their own time as a community in their own life
21 the bishop would not interfere with or have any power to
22 interfere with at all.

23 Q. You do deal with the relationship between diocese and
24 religious institutes, I think, at page 0437. Can I just
25 flesh that out. The first point you make is that

1 a religious institute needs the written consent of the
2 diocesan bishop to establish a house in his diocese.

3 A. That is correct.

4 Q. If we look at the code, that's at INQ.001.001.1021, we
5 have a section there dealing with religious houses and
6 their erection and suppression.

7 At 608 we are told that:

8 "A religious community must live in a legitimately
9 established house under the authority of a superior
10 designated according to the norm of law."

11 Then at 609:

12 "Houses of religious institutes are erected by the
13 authority competent according to the constitutions, with
14 the previous written consent of the diocesan bishop."

15 A. Yes.

16 Q. So I think that's the point you are making?

17 A. Yes, the bishop gives them permission but the house is
18 erected by the person in the constitution, by the
19 religious themselves, not by the bishop. So the bishop
20 doesn't create a house and say, go and fill it. They
21 create the house, having received the consent of the
22 bishop before they do so.

23 LADY SMITH: Do I take it from that they can't say to the
24 bishop that he should contribute financially to the
25 construction of the house, they have to look to their

1 own resources?

2 A. You are absolutely right, my Lady. That is a very
3 fundamental part of the -- in a sense the structures
4 that we have between religious and diocesan authority.

5 LADY SMITH: I suppose a feeling that it is fair enough to
6 say that to the religious institutions on the basis that
7 they can run their institution, subject to the few
8 controls you have mentioned, as they think fit?

9 A. Yes. There would be one kind of exception in what we
10 call the mendicant orders -- for example, the
11 Franciscans -- who live upon begging. If you give them
12 permission to be there, then they have permission to
13 beg.

14 LADY SMITH: You used an expression a few moments ago
15 "diocesan law" when you were referring to the
16 requirement that an order should perform the mass in
17 accordance with diocesan law.

18 A. Yes.

19 LADY SMITH: Does that take us back to what you were telling
20 us earlier about the powers of a bishop to dictate rules
21 at this lower -- "lower" doesn't feel the right word
22 because the way in which you celebrate the mass is
23 terribly important, but at that level, the practical
24 level for his area?

25 A. That is right.

1 LADY SMITH: Thank you.

2 MR MacAULAY: My Lady, I see we are approaching 11.30 am.

3 LADY SMITH: Would that be a convenient place to break?

4 MR MacAULAY: Yes.

5 LADY SMITH: We will have a break now and we will try to
6 resume the evidence again at 11.45 am please, if that
7 suits.

8 A. Absolutely, thank you my Lady.

9 (11.30 am)

10 (A short break)

11 (11.45 am)

12 LADY SMITH: Mr MacAulay.

13 MR MacAULAY: My Lady. Before the break, monsignor, we had
14 started to look at the role and relationship between
15 religious institutes and bishops in particular dioceses.
16 You tell us on page 0437, as we discussed, that the
17 written consent of the bishop would be needed to
18 establish a house in his diocese. But under particular
19 reference to schools, I think you said -- you say that
20 under the 1917 code there was additional permission
21 required to build and open a school; is that correct?

22 A. That is correct.

23 Q. What about the 1983 code, did that --

24 A. That's slightly different. It was a school or
25 a hospital, but in the 1983 code a school still requires

1 the consent of a bishop.

2 Q. I want to look then at the position of schools in
3 particular because I imagine you are aware that there
4 were a number of schools that were being run, managed,
5 used -- whatever term you were to use -- by different
6 religious institutes.

7 A. Yes, there were.

8 Q. So if we take the De La Salle Brothers, for example --
9 and we will see the documents relating to this
10 shortly -- they ran, for example, St Mary's Kenmure.

11 A. I think part of our problem is the word "ran"; it means
12 so many things to so many people.

13 Q. What word would you like to use?

14 A. I am not sure. I wish I could give you a statement but
15 they did run on a daily basis the school but they didn't
16 govern the school in that sense.

17 Q. I understand what you mean by that and we will look at
18 that. But it wasn't just St Mary's Kenmure; there were
19 other schools that they were involved with in a direct
20 way.

21 A. That is correct.

22 Q. That's just one example.

23 A. Yes.

24 Q. The Christian Brothers are another example?

25 A. Yes. Most of these religious members were employed to

1 work at the school, as opposed to it being a foundation
2 of the religious community. There is a difference in
3 a sense between the De La Salle Brothers creating
4 a school and working for a school. They didn't create
5 the schools, as far as we can tell, though. As I said.
6 St Mary's is kind of lost in the mists of time, but they
7 didn't create them.

8 Q. They were -- in the first instance they had the consent
9 of the bishop to be present in the diocese?

10 A. That is correct.

11 Q. In relation -- the point you are making is that in
12 relation to the schools, the schools may have been there
13 and they were working in the schools?

14 A. Yes. I think it might even have been more than just the
15 permission of the bishop in that on occasion the bishop
16 would say to a religious community, "Listen, I have got
17 this school in the diocese and we really could do with
18 some people to be working there", so sometimes their
19 appearance was a response to a request by the bishop.

20 Q. I think we might see that that is more often the case
21 than not. For example, I think it may be that the
22 position with St Mary's was that that was at the
23 invitation of the archbishop --

24 A. Yes.

25 Q. Can we look at the code in relation to schools in

1 particular because that's what we will be dealing with
2 in large measure.

3 First of all if you look at the bottom of page 0437,
4 before I go to the code, you are talking here about the
5 authority that the bishop has within the diocese and in
6 particular, although he cannot limit the autonomy of the
7 institute, he has authority for example in relation to
8 matters such as nursing and education within his
9 diocese.

10 A. Yes, because those things affected the people in his
11 diocese. In other words, the religious community was
12 moving out from its own house into the community and
13 therefore the bishop had a responsibility for that
14 public part of their ministry.

15 Q. If we look at the code, just at INQ.001.001.1047. If we
16 look at Canon 683, there is a provision in paragraph 1
17 which tells us that:

18 "At the time of pastoral visitation and also in the
19 case of necessity, the diocesan bishop, either
20 personally or through another, can visit churches and
21 oratories which the Christian faithful habitually
22 attend, schools and other works ... entrusted to the
23 religious, but not schools which are open exclusively to
24 the institute's own students."

25 Does that tell us that even although a school is

1 entrusted to a religious institute, the bishop can --
2 would you call it a duty or a power to visit?

3 A. The bishop has the power to visit the school, with
4 "visit" being a formal term for an examination of the
5 school. In most cases, school visitation was carried
6 out by religious inspectors of schools which were
7 Catholic and produced by us. They had no legal status
8 in that sense of religious inspectors of schools. Those
9 inspectors were responsible for really coming in and, in
10 all honesty, checking that the children knew their
11 prayers and knew how to say the Angelus and the grace
12 before meals. Those religious inspectors existed even
13 in my time at a state Catholic school. The teachers
14 would have you prepared for weeks about how to say the
15 Angelus and how to say this, that and the other, so that
16 when the inspector asked you to say a particular prayer
17 you could.

18 Q. Would you then have expected that these religious
19 inspectors would have had some involvement with a school
20 like St Mary's Kenmure when that was being staffed by
21 the De La Salle Brothers?

22 A. I am not sure whether it was or not because when the
23 schools were being looked after by the religious
24 directly there was a kind of feeling that these things
25 would be done anyway. So I'm not sure if the religious

1 inspectors actually went into the schools for which
2 these people, the religious, had responsibility. I am
3 not sure. I haven't really investigated it at all but
4 they could have. I'm not sure that they did do.

5 Q. Can I take you to another section of the code? We don't
6 have it on the screen but I think there are hard copies
7 of this that have been circulated. Your Ladyship will
8 have a copy on the bench. I think you should have that
9 in front of you, monsignor.

10 It is a section of the code dealing with -- it is
11 headed "Vigilance and Visitation of Catholic schools".

12 A. Yes.

13 Q. You do refer to this in your report, it is Canon 806.

14 We read that:

15 "The diocesan bishop has the right to watch over and
16 visit the Catholic schools in its territory, even those
17 which members of religious institutes have founded or
18 direct.

19 "He also issues precepts which we pertain to the
20 general regulation of Catholic schools. These precepts
21 are valid also for schools which these religious direct
22 without prejudice however to their autonomy, regarding
23 the internal direction of their schools."

24 So do we there get a sense of two things: first of
25 all, the internal autonomy of a religious order is one

1 thing, but the running of the school is another?

2 A. Yes. It is complicated in Scotland by the use of the
3 word "Catholic schools" to describe State schools which
4 are denominational.

5 In the code a Catholic school is a school founded by
6 and run by the church, whereas our Catholic schools are
7 founded by and run by the State. So it is a bit
8 different for us in that sense.

9 However, the diocesan bishop would certainly have
10 a vigilance over even the State schools, but he has no
11 power for example to dismiss a teacher from a State
12 school. He has no power to deal with that because the
13 Catholic schools in Scotland are run by the local
14 authorities, are run by the education authorities and
15 not by the church.

16 LADY SMITH: I think some of the Catholic schools in
17 Scotland were not founded by the State but were taken
18 over by the State at the request of the church, isn't
19 that right?

20 A. (Overspeaking) Yes, my Lady. When the Catholic church
21 started to re-build itself, there was a concern for
22 education -- and particularly for education in the
23 faith. The schools that existed, the State schools in
24 Scotland, did not guarantee the teaching of the Catholic
25 faith. Indeed, those schools were very strongly Church

1 of Scotland and therefore there would have been
2 a certain concern about allowing the children to be
3 educated in a religion which was different from the
4 Catholic one.

5 We find very frequently in the history of the
6 Scottish church at the beginnings of our presence, again
7 at the time of the restoration of the Hierarchy, that
8 the first thing a parish did was to build a school, even
9 before a church, and we had the schools there.

10 I think that over the passage of time these schools
11 became so many and so big that the State became
12 concerned that this was a whole system of education
13 outwith their control, outwith their supervision, and
14 they wanted to be involved in it.

15 There were negotiations for a long time before the
16 1918 Education Act which allowed the church to negotiate
17 with the State about the handing over, indeed the
18 purchasing of Catholic schools by the State and them
19 having authority then over them. There was a certain
20 reticence among the Catholic community about this, to be
21 honest, and indeed the money that was raised from the
22 sale of that remained kind of in the bank for about
23 40 years just in case we needed to build new schools
24 again.

25 But, in fact, the 1918 Education Act and its

1 successors are effectively still at work today.

2 MR MacAULAY: Yes, I think the qualification in the 1918 Act
3 was that the church would have a say in relation to the
4 religious education in Catholic schools.

5 A. That is correct. Basically the religious curriculum and
6 the approval of teachers in Catholic schools.

7 Q. But the Inquiry's focus in particular is on residential
8 schools --

9 A. Yes.

10 Q. -- that were run, if I can use that word, staffed by
11 religious orders?

12 A. Yes.

13 Q. I just want to understand from you, monsignor, what role
14 you would see the bishop -- on the part of bishop or his
15 nominee, the religious inspector as you mentioned --
16 what role would you say they would have to play, under
17 reference to the canons in the code that we looked at,
18 in connection with these schools?

19 A. Again, it is difficult to understand the origin of some
20 of these schools. They literally are lost in the mists
21 of time and we find religious by and large arriving to
22 staff schools which pre-existed.

23 When you look at the arrangements for that, it is
24 quite clear the legislation required -- I think that's
25 already been spoken about -- that a board of managers

1 existed who were the governors of the school and the
2 bishop's only responsibility was to appoint people to
3 that board of governors and for them to govern the
4 school and employ religious to run it.

5 So it is in a sense a little different from
6 a completely Catholic school in the sense that the State
7 required a board of managers to exist, and therefore
8 they did exist, but it wasn't the normal way in which
9 a Catholic school would be established.

10 From the very beginning, as far as we can tell, the
11 State had a hand in -- certainly the approved type
12 schools -- that the State had a hand in those which
13 therefore made it very different from a school that was
14 completely existent upon the authority of the church.

15 From earlier times we can see that the State had
16 a certain inspection role, at least theoretically, on
17 those approved or industrial schools. So the church
18 didn't have the same direct responsibility that it might
19 have if we built, for example, a Catholic primary school
20 out of our own authority.

21 Q. Although I think if we take the example of St Mary's
22 Kenmure, the De La Salle Brothers were invited
23 effectively to come in and staff that school.

24 A. Yes. But they were invited to come in and staff the
25 school and then became employees of the school. The

1 arrangement with the diocese seems to have been that
2 they were staffing the school and had a certain number
3 of places on the board of governors as opposed to being
4 completely responsible for the school.

5 Q. But if we look at what you say on page 0438, just below
6 halfway, under reference to the provisions of the code
7 that we have looked at, 806, you say:

8 "The bishop has a specific right of vigilance over
9 all Catholic schools in his diocese, even those
10 established or directed by religious."

11 A. Yes.

12 Q. Would that include a place like St Mary's Kenmure?

13 A. Absolutely.

14 Q. I want to understand what that right of vigilance would
15 entail in practice?

16 A. In practice it would effectively be that the Catholic
17 religious inspectors would go in and check that the
18 children were being educated in a Catholic way. They
19 would not be inspecting maths or science. They would go
20 in to see that the children knew their catechism, knew
21 their prayers, were being brought up in a Catholic way.
22 I think that would be the limit of that vigilance.

23 Q. We have mentioned St Mary's Kenmure on a number of
24 occasions. Perhaps we can look at one of the documents
25 that you have made available to the Inquiry and that's

1 at INQ.001.001.0499.

2 That will come up shortly I hope. If we can just
3 read sideways, it is a minute of agreement between the
4 directors of the Catholic Industrial Schools of Glasgow
5 and the Superior General of the De La Salle Brothers.

6 Is this a minute of agreement between those
7 directors and the De La Salles in connection with
8 St Mary's?

9 A. That is correct.

10 Q. If we turn to the next page, 0500, are we told in the
11 clause "first" that:

12 "The property shall continue to belong to the
13 archdiocese."

14 So the school buildings belonged to the archdiocese?

15 A. Yes, that was a fairly common practice that the land was
16 provided by the diocese and the schools were -- made use
17 of that land.

18 Q. Is this effectively a written agreement in accordance
19 with the code whereby the De La Salles were permitted to
20 staff the school or is it something different?

21 A. I think it is something different. I think this is more
22 to do with the civil arrangements. It has a certain
23 amount of an agreement between the two, but you will
24 notice that the signatory to this agreement is not the
25 bishop; it is Monsignor or Canon Dyer, who is the

1 chairman of the board of managers, and it is he who is
2 making that agreement. It is not the bishop saying De
3 La Salle can come into his diocese or do this. This is,
4 I think, a civil agreement whereby there's a document
5 that can be shown to the Scottish Government, here is
6 the board of managers, here is the way we are
7 functioning, here's what's happening.

8 Q. As a precursor to this then the bishop would have
9 already given his consent?

10 A. Yes.

11 Q. If we look at clause "second" we are told:

12 "The school shall continue under the industrial
13 school directors ..."

14 It was, at that time, an industrial school?

15 A. Yes.

16 Q. I think we know from other regulations in due course it
17 would become an approved school --

18 A. Yes.

19 Q. -- and indeed subsequently it was a List D school.

20 A. And now a secured unit.

21 Q. Yes. At clause "tenth" on page 0502, can we see that
22 there is a provision there that a chaplain would be
23 provided to the school?

24 A. Yes, that would be fairly common.

25 Q. I think the last date of signature -- if you look at

1 0503, it seems to have been the Superior General of the
2 order in France, in fact. The bottom line says it was
3 on the 13th day of December 1915.

4 A. Yes. You will also notice that Archbishop McGuire
5 approves it. It is difficult to say what kind of
6 authority the signature has there, but he approves what
7 they have done.

8 Q. I think the point you are making is that although the De
9 La Salle Brothers were in situ in the school, the school
10 was managed by a board who employed the De La Salle
11 Brothers in the school.

12 A. That is correct. They were staff in that sense,
13 although staff with a particular responsibility in that
14 automatically one of them was a head teacher,
15 automatically the head teacher was on the board, that
16 kind of special arrangement.

17 Q. I think you tell us in your report that when a religious
18 institute was leaving a diocese, there was a provision
19 in the code -- and we needn't look at that, but the
20 bishop had to be consulted.

21 A. Yes, supposedly.

22 Q. Pardon?

23 A. Supposedly. It was one of those things that was in the
24 law but effectively the reality was that usually
25 an institute had decided it was going and the bishop

1 kind of heard about it through the grapevine more than
2 an official -- he didn't have to consent to them going.

3 There was nothing --

4 Q. So it is consultation, not consent?

5 A. Yes. But even then, you know, frequently a bishop found
6 out something was finished as opposed to something was
7 going to be finishing.

8 LADY SMITH: From what you have told us, the bishop was
9 hardly in a position to tell them they weren't allowed
10 to leave.

11 A. Correct, my Lady. Correct.

12 LADY SMITH: No doubt what this is getting at is an effort
13 to make sure the bishop knows as soon as possible that
14 an order is departing so that other arrangements, if
15 appropriate, can be put in place.

16 A. Yes. I do know of an example where a bishop learned of
17 a fairly significant community leaving his diocese when
18 he read his evening paper. So manners are not
19 necessarily legislated for, as you are aware, my Lady.

20 Q. The bishop however did have some power in relation to
21 the individual religious and we can see that from the
22 code if we look at I think it is -- it is at page 1047
23 and it is Canon 679 at the top of the page. I think we
24 looked at this yesterday, but we read:

25 "When a most grave cause demands it, a diocesan

1 bishop can prohibit a member of religious institute from
2 residing in the diocese if his or her major superior,
3 after being informed, has neglected to make provision;
4 moreover, the matter is to be referred immediately to
5 the Holy See."

6 So there is that power -- there was that power open
7 to the bishop?

8 A. Yes, if there is a grave reason why this person should
9 not be living in the diocese, then the bishop has the
10 authority to say they have to go. If the superior
11 doesn't make that happen, then the bishop can ask the
12 Holy See to encourage, and indeed force, such a move.

13 Q. Do you have any knowledge as to what extent that
14 happened in practice?

15 A. I think it would be very unusual for that to happen in
16 practice. I'm not aware of any cases where it did
17 happen in my experience.

18 Q. Then moving on then to the third point that you were
19 asked to look at -- and I think we have been looking at
20 this to some extent already, in fact -- and that is the
21 diocesan or British or Bishops' Conference involvement
22 in the creation, oversight, governance and management of
23 any children's residential care establishments run by
24 the religious orders.

25 What you tell us, of course, is the Bishops'

1 Conference as such has no involvement in that, in the
2 creation, oversight or governance. You tell us a little
3 bit about a short period of time when there was some
4 involvement with the Good Shepherds in Bishopton.

5 A. Yes.

6 Q. What was the background to that?

7 A. The background to that was the departure of the Good
8 Shepherds' Sisters from the community in Bishopton --
9 and while the sisters were leaving, there was no desire
10 to stop the institute, the school and the various things
11 that were connected to it from closing. Therefore, we
12 needed to create very quickly a new board of managers in
13 order that the school would conform to the law.
14 Therefore in that period where we were trying to get
15 that board drawn together, the bishops, as a group, took
16 on the responsibility of the board of managers and dealt
17 with it for a very short period, months or a year or
18 so -- it wasn't very long at all -- and then a board of
19 managers was established as normal for the schools and
20 carried on. It was in order to protect the good work
21 that was going on at the time.

22 Q. You do mention in the next paragraph the National
23 Committee for Catholic Child Care?

24 A. Yes.

25 Q. Can you just tell us a little bit about that?

1 A. Yes. It is quite an interesting group and we do have
2 some minutes, or some reports rather, to the Bishops'
3 Conference about the work of this group. It seems to
4 have been quite forward-thinking at its time, even
5 employing a social worker to help keep the group on the
6 right road.

7 Again, it is one of those groups that has the power
8 to persuade but not the power to force. So they were
9 trying to persuade religious communities and people who
10 were running care homes and schools and so forth to
11 adopt the best practice of the day and hence they
12 started to talk about things like trying to reduce the
13 size of units in children's homes to a more homely --
14 I think 20 was the number in a group -- more homely.
15 I am not sure many of us have experienced a home of 20
16 people, but that was a difference where the children
17 were kind of treated as a group of 200 all the time.
18 They wanted them treated in smaller groups so they would
19 be better looked after.

20 They tried to run training days for the religious
21 who were in these schools to bring them up to date with
22 the best practice on how things were to be -- even at
23 that time it was still possible for children to be in
24 a residential home, a care home, an orphanage as it
25 would have been called, without the knowledge

1 effectively of the local authority.

2 I think at one point they identified 279 children
3 around the place who were in orphanages but had no
4 paperwork.

5 Q. Identified by the National Commission?

6 A. By the commission, yes, just by looking around and they
7 then said, these need to be registered and we need to
8 make sure they are registered, and so that was done,
9 that was -- let's get that done, let's get these
10 officially known by the local authority, and no one goes
11 into a home without being registered by a local
12 authority.

13 Q. They also had an inspectorate role; is that correct?

14 A. Yes, they did, but again it was an inspectorate to try
15 to encourage best practice. It was not an inspectorate
16 that had in that sense force to insist that this was
17 happening. What they did was they would go to the
18 places and look and say, for example, "Actually having
19 200 children together at one time and trying to govern
20 them all at the same time is not a good idea, they
21 should be in smaller units", that kind of inspectorate.
22 But I am not aware of -- and we haven't yet found -- any
23 specific reports of such inspections.

24 Q. I was about to ask you about records. Are there records
25 at all that have been generated by this committee?

1 A. Reports that -- we have some records of reports to the
2 Bishops' Conference that they exist but we haven't yet
3 found any specific records of, for example,
4 an inspection report and so forth. But, as I wish to
5 emphasise, we are still on a major hunt for records and
6 we will very happily acknowledge when we find such.

7 Q. You do make that point in your report that you have
8 people who are hunting away, as you put it --

9 A. Yes, indeed.

10 Q. -- for records that might be relevant to the Inquiry's
11 work.

12 A. Yes, indeed. For the residential schools we have two
13 full-time employees employed just for this purpose, to
14 search for records for you.

15 LADY SMITH: Thank you.

16 MR MacAULAY: The National Committee for Catholic Child
17 Care, do they still exist?

18 A. No, they don't. They were taken up into the Social
19 Care Commission of the Bishops' Conference and that
20 still does exist.

21 Q. Do you know when that occurred?

22 A. It was the early 1980s, I think.

23 Q. You tell us on page 0442 that the diocesan bishops would
24 be copied into minutes of board meetings of residential
25 schools.

- 1 A. Yes.
- 2 Q. So there was that degree of involvement?
- 3 A. Yes.
- 4 Q. Right?
- 5 A. Yes. I would say, however, that in all honesty, you
6 know, in a pile of mail, the minutes of a board meeting
7 may not necessarily -- a bishop would expect that he
8 would somehow hear if there was a major problem as
9 opposed to having to read it in the minutes of a board.
- 10 Q. Are these records -- do they still exist, these minutes?
- 11 A. Some of them do, yes. Boards of managers -- obviously
12 there is a certain civil requirement to keep these
13 records so that there are records of boards of managers
14 around, yes.
- 15 Q. On page 0442, towards the bottom, you have a section
16 dealing with responsibility for Catholic residential
17 schools. We have, I think, looked at this to some
18 extent already. Again you mention the Education
19 (Scotland) Act (1918) and the impact that had. In
20 relation to inspection, you make the point at the bottom
21 that residential Catholic schools were regularly
22 inspected by the appropriate inspectors and departments.
- 23 A. As far as we know, yes.
- 24 Q. What is your source for saying that or is that simply
25 an expectation?

1 A. Yes, it is simply an expectation and an understanding of
2 that's what used to go on, that these schools were, in
3 that sense, from a very, very early stage -- much before
4 like care homes or orphanages were looked after by local
5 authorities -- there was some government involvement in
6 these industrial and approved schools from a much
7 earlier stage than the other schools.

8 Q. On page 0443, you have a section dealing with nature and
9 extent of pastoral care provided to residential
10 establishments run by religious orders.

11 A. Yes.

12 Q. There would be pastoral care in the sense of the priest
13 going in and saying mass and so on; is that correct?

14 A. Yes. Usually they talked about a chaplain but usually
15 the chaplain was the priests in the local parish and
16 they would take turns to go and say mass on a Sunday or
17 a holiday of obligation, that kind of thing, but it
18 wouldn't be a direct -- especially in schools where
19 religious were on the staff, there wouldn't be a direct
20 pastoral care because the religious would be expected to
21 provide pastoral care also.

22 Q. If you take the De La Salle Brothers as an example, they
23 are a religious institute, but not ordained?

24 A. Not priests, that is correct.

25 Q. They are not priests.

1 A. So therefore a priest would have to come in and
2 celebrate mass for them any time that mass was required.

3 Q. I think that takes us onto the third, or still part of
4 the third point actually that you are looking at. On
5 page 0444 you provide some information in relation to
6 junior seminaries established by religious orders. What
7 you tell us is the Bishops' Conference would have no
8 involvement in the creation, oversight and governance of
9 these seminaries.

10 A. That is correct. Remember earlier we looked at that
11 comment that the bishop had no power over a school
12 established for members of the institute. These would
13 be considered members of the institute as their
14 seminarians.

15 Q. You have listed, I think, five seminaries. Do any of
16 these -- are any of these still in existence?

17 A. None of them.

18 Q. In the next part of the report, this is at page 0445,
19 you were asked to consider a number of Catholic
20 establishments and disclose the church's involvement
21 over the time frame of the Inquiry. You have listed on
22 the page, and into the next page -- well, on that
23 particular page, from A to H, different institutes that
24 you were being asked about --

25 A. Yes.

1 Q. -- and the establishments that they may have had some
2 involvement with.

3 A. Yes.

4 Q. Again, we have talked about the De La Salle Brothers and
5 can we see that, according to the list, they had
6 an involvement with five separate establishments:
7 St Joseph's, St Ninian's, St Mary's, St John's and
8 St Mungo's?

9 A. Yes.

10 Q. If we look at the response in the report, can we see
11 that the way that this was managed by Monsignor Bradley,
12 who was the general secretary of the Bishops'
13 Conference, that he wrote to all eight Scottish dioceses
14 to seek responses to this, and some other questions, and
15 that the responses are separately set out in appendices.

16 A. Yes. The Bishops' Conference, we said, had no
17 responsibility in these things, but in order to try to
18 provide some kind of response to it rather than just
19 say, it wasn't us, we asked each individual diocese what
20 knowledge they had, not just of those that might be in
21 the diocese, but all of these institutions.

22 The individual dioceses have made individual
23 responses, some of them having more awareness than
24 others, but the Bishops' Conference had no awareness.
25 But in order to help facilitate and move this Inquiry

1 forward, we thought it better to give you some guidance
2 of what individual dioceses had in terms of their
3 records of these involvement, which is very different
4 from what, for example, a religious order may have.

5 Q. You yourself can't speak directly to that information
6 because the information is supplied by the diocese?

7 A. Yes.

8 Q. If we take an example just to see how this is set out.
9 On page 0510, in appendix 4, can we see the Archdiocese
10 of St Andrews in Edinburgh have provided, over the next
11 few pages, quite a lot of detailed information in
12 relation to at least some of these establishments?

13 A. Yes. I think it is interesting that the Archdiocese of
14 Edinburgh seems to be much more involved in pushing this
15 forward than perhaps, for example, the Archdiocese of
16 Glasgow was.

17 Q. Just to take the example of the Christian Brothers at
18 St Ninian's in Fife, there is a record that:

19 "On 5th May 1952, there was a proposal by Major
20 Crichton-Stuart to convey Falkland House to the
21 Archdiocese of St Andrews in Edinburgh who would in turn
22 lease it to the Christian Brothers."

23 So that is an example of the archdiocese being
24 directly involved in the --

25 A. Yes, facilitating the establishment and the continuing

- 1 work of a school.
- 2 Q. Again, if we look at St Joseph's Tranent, again we are
3 told:
- 4 "The land and buildings were owned by the
5 Archdiocese of St Andrew's in Edinburgh. From 1888 to
6 2015, management of the school was entrusted to the De
7 La Salle Brothers in terms of an 1914 agreement."
- 8 A. Yes and I assume that agreement is similar to the one we
9 examined already between Glasgow.
- 10 Q. But clearly under reference to what's set out on that
11 page, and moving on to several pages, in response to
12 this particular point, there are records there that can
13 provide us with information as to what the position was?
- 14 A. Yes.
- 15 Q. If you take the example of the Diocese of Aberdeen, at
16 0531, can we see that on that page we have a relatively
17 short response from the bishop -- I think it is
18 Bishop Gilbert -- and certainly there's nothing there to
19 indicate that they had any records relating to a number
20 of the schools on the list.
- 21 A. That is correct.
- 22 Q. There is some mention of Fort Augustus.
- 23 A. Yes.
- 24 Q. And Nazareth House?
- 25 A. Yes they were the major ones in that diocese. For all

1 it is a large diocese, there is not a large Catholic
2 population.

3 Q. That is point: if it is a diocese like, for example,
4 Aberdeen or indeed Argyll and the Isles, the
5 institutions we have looked at would have no relevance?

6 A. Correct.

7 Q. The final point that you were being asked to look at
8 yourself, monsignor, was to do with the church's role in
9 connection with Kenmure St Mary's after the De La Salle
10 Brothers left in 1966.

11 A. Yes.

12 Q. You tell us a little bit about that on page 0448 of the
13 report. So the De La Salles, as you pointed out, they
14 were employed at the school and they decided to leave in
15 about 1996.

16 A. Yes.

17 Q. So what happened then?

18 A. Effectively, the running of the school was entrusted to
19 a new headmaster, employed through the usual process of
20 interview, etc. The board of managers which had been
21 established and was functioning continued as it had
22 before and in a sense it was almost like the headmaster
23 retiring and moving on and with a couple of staff going
24 with them because the Brothers were effectively a fairly
25 small number of the staff in the school because, as you

1 can imagine, between the teaching staff, the social care
2 staff, all the staff that -- they were not a huge number
3 of people so the school effectively continued quite as
4 if nothing had happened almost, except for a change of
5 head.

6 Q. And the employment of more laypeople --

7 A. Yes.

8 Q. -- instead of religious?

9 A. That is correct.

10 Q. The site, as I think we have already established, was
11 owned by the Archdiocese of Glasgow and you tell us that
12 the diocese subsequently sold the site to the
13 Cora Foundation. When was that? I do not think you
14 give us a date.

15 A. It was in order to build the current secure unit that
16 was opened in 2000. The situation for the build of that
17 school, which, as you can imagine, was an extremely
18 expensive capital project, the Scottish Government
19 provided a certain amount of the funding. The rest of
20 the funding we had to furnish from basically a bank loan
21 and the bank, of course, wanted security over the land
22 before it would allow us to borrow. Therefore
23 Cora Foundation, which was taking out the loan on behalf
24 of the managers, had to acquire the land from the
25 archdiocese so as to give security to the bank over that

1 land and that's the reason for that transaction.

2 Q. But the Cora Foundation took over the running of the
3 establishment or not?

4 A. No, the board of managers maintained the running. The
5 Cora Foundation is effectively a group that helps to
6 facilitate the work of the managers of the different
7 schools, but it has no governance over any of the
8 schools.

9 Q. I think we saw from your profile that you were the chair
10 of the Cora Foundation --

11 A. That is correct.

12 Q. -- in 2000?

13 A. 2000.

14 Q. As at that time, had the arrangements you have told us
15 about in connection with St Mary's taken place?

16 A. They were already in place because St Mary's, the new
17 building, opened in 2000, if I remember correctly.

18 Q. And this is in Bishopbriggs, is it?

19 A. Correct.

20 Q. Were the old buildings demolished?

21 A. They were.

22 Q. What happened in the interim then when that was
23 happening to the residents?

24 A. The site was big enough that we could do the new build
25 in a different part of the building and the residents

1 simply moved across to the new building which there were
2 varying degrees of happiness to do because it was a much
3 more modern and self-contained building with much better
4 facilities, individual rooms, and little family groups,
5 six children at a maximum in a unit.

6 Q. I think you tell us that the current facilities that you
7 have described opened in June 2000.

8 A. Yes, in 2000.

9 Q. By then all the redundant buildings on the campus known
10 as Kenmure St Mary's had been demolished?

11 A. Once the children had moved out of them they were
12 demolished.

13 Q. The state of play there at the moment there is -- you
14 have indicated these are small units; is that correct?

15 A. Yes, it is one large building, but it is designed in
16 such a way that the children live and function in small
17 units of six children in a unit, effectively with groups
18 of -- two groups of three on each side of the unit
19 sharing, for example, kitchen and living facilities,
20 television, but each child with their own private
21 en suite room.

22 Q. What age groups are you looking at here?

23 A. Theoretically between 12 and 16; 18 is our maximum age
24 for having children in the unit.

25 Q. Who places the children in the unit?

1 A. The local authority or the Scottish Executive Government
2 or whichever, depending on the route the child came to
3 the unit from. Some children come to the unit through
4 the court system and the Scottish Government places
5 them. Other children come through the Children's Panel
6 system and the local authority places them.

7 Q. Coming back to the Cora Foundation, from what you have
8 said, the Cora Foundation had an involvement in
9 St Mary's Kenmure and also other institutions as well.

10 A. Yes, mainly a facilitating function. We were able to,
11 in that sense, pool together certain resources and make
12 things able to happen for the boards that couldn't have
13 been done by the boards on their own and, in particular,
14 mortgages, bank loans, that kind of thing. The
15 Cora Foundation had, in that sense, the ability to pool
16 together the resources of the schools and make it more
17 satisfying for the banks to make loans towards us.

18 Q. Was one of the other institutions that the
19 Cora Foundation was involved in the Good Shepherds in
20 Bishopton?

21 A. Yes, and it still is.

22 Q. And still is?

23 A. I'm also a member of the board at Good Shepherd.

24 Q. Is that a similar type of set up to Kenmure St Mary?

25 A. Yes, again the Cora Foundation, through the Good

1 Shepherds, arranged with the bank for the loans to be
2 taken and -- you can't build a building like that
3 without taking a loan.

4 Q. Very well, monsignor. I think that's all I would like
5 to ask you today. I think you are going to check out
6 what I said about the 1922 position.

7 A. Yes.

8 MR MacAULAY: My Lady, no written questions have been
9 submitted, so I don't know if anything further needs to
10 be said.

11 LADY SMITH: No I'm seeing heads being shaken all round.

12 We are very grateful to you, Monsignor Smith. We
13 have kept you here for quite a while this morning but
14 that has been of enormous assistance to our
15 understanding. No doubt if any other queries arise in
16 the course of the Inquiry we will be able to revert to
17 the Bishops' Conference and I am sure they will be as
18 helpful as they have been already --

19 A. Absolutely. The bishops have been very clear that major
20 accommodation and help and assistance as much as we
21 possibly can.

22 LADY SMITH: Please extend our thanks to them for what they
23 have done so far.

24 A. Thank you, my Lady.

25 (The witness withdrew)

1 LADY SMITH: Mr MacAulay.

2 MR MacAULAY: My Lady, the next witness I would like to call
3 is Father Dougan.

4 LADY SMITH: Thank you.

5 The witness is on his way; he will be a couple of
6 minutes. (Pause)

7 FATHER FRANK DOUGAN (sworn)

8 Questions by MR MacAULAY

9 LADY SMITH: Do sit down.

10 A. Thank you.

11 LADY SMITH: Mr MacAulay.

12 MR MacAULAY: My Lady.

13 Father Dougan, are you Frank Dougan.

14 A. Yes.

15 Q. I think you have been put forward by the Bishops'
16 Conference to address essentially two of the issues that
17 were raised with them by the Inquiry.

18 A. Yes.

19 Q. Before we look at that, can I just look at your profile
20 that you have provided us with. I will put it on the
21 screen so you can have it in front of you. It is at
22 INQ.001.001.0821.

23 You provide us with some details of your education
24 and in particular that you were a seminarian at
25 Scots College in Rome --

- 1 A. Yes.
- 2 Q. -- from 1998 to 2001?
- 3 A. Well, two periods: 1990 to 1995 and then 1998 to 2001.
- 4 Q. Before that you had graduated with an MLD degree from
5 the University of Glasgow?
- 6 A. Yes, that was between periods.
- 7 Q. You have given us some information about what you have
8 done since you were ordained. You were ordained in 2001
9 and you have held a number of different positions since
10 that time.
- 11 A. Yes.
- 12 Q. Including in fact you were Vice Rector of the Pontifical
13 Scots College in Rome from 2006 to 2012.
- 14 A. Yes.
- 15 Q. From 2012 to present you are the parish priest of
16 St Mark's and St Anthony's in Rutherglen; is that
17 correct?
- 18 A. Yes.
- 19 Q. Is that in the Diocese of Motherwell?
- 20 A. It is, it is right on the edge.
- 21 Q. Because you tell us you are the canonical adviser to
22 Bishop Toal, who is the president of the Bishops'
23 Conference.
- 24 A. No, but in regards to safeguarding, he is the bishop
25 that is tasked to do with that.

1 Q. The first question you were asked to look at -- and this
2 is set out in the report at 0456 -- was with specific
3 reference to the Catholic seminaries, the junior
4 seminaries --

5 A. Yes.

6 Q. -- and also any other residential establishment for
7 which the church had direct responsibility. You were
8 being asked to set out what allegations of abuse have
9 been made over the time frame of the Inquiry. That's
10 one of the things you looked at?

11 A. Yes, I didn't write the report, but more to be able to
12 speak to it, so the answers were given by the individual
13 dioceses.

14 Q. You circulated the dioceses and invited responses to
15 this question. When I say "you", Monsignor Bradley.

16 A. Yes.

17 Q. Yes. If we look at the report of the Diocese of
18 St Andrews in Edinburgh and turn to page 0527, are we
19 provided on this page -- and indeed for the next number
20 of pages -- with information relating to cases of abuse
21 rather in connection with particular individuals?

22 A. Yes.

23 Q. This is information simply that was supplied to you, you
24 don't know this offhand yourself?

25 A. Exactly. I know it as it is contained in there.

- 1 Q. I think what we can take from this is that under
2 reference to the information provided, there were
3 allegations of abuse made in connection with the
4 St Mary's College, Blairs?
- 5 A. Yes.
- 6 Q. Were the allegations made against two particular
7 individuals?
- 8 A. Yes, as far as I know.
- 9 Q. If you look at what's said at page 0528, is that setting
10 out, without looking too much at the detail, information
11 that a particular person made a complaint to the
12 archdiocese in April 1990 -- do you see that at the top
13 of the page --
- 14 A. Yes.
- 15 Q. -- with the result that the person against whom the
16 complaint was made was sent for assessment?
- 17 A. Yes.
- 18 Q. And indeed also, I think, sent for therapy; do we see
19 that?
- 20 A. Yes.
- 21 Q. It was only later, I think, as we read this that the
22 police became involved and there was a conviction.
- 23 A. Yes.
- 24 Q. The response from the Archdiocese of Glasgow, if we look
25 at that, that is at page 0551. Can we see on this

1 page -- and indeed on to the next page -- there is
2 information provided to the Inquiry about a number of
3 allegations that were made by a number of people
4 against, I think, a number of priests?

5 A. Yes. I'm not sure if it is a number of priests or one
6 priest; the redacted form is what I have.

7 Q. Very well. I fully understand you simply can only tell
8 us what's there and we can take it for ourselves.

9 LADY SMITH: Can you tell us, please, what the age range for
10 seminarians was?

11 A. Yes, it was high school age. When Blairs was the only
12 college, it would be first year through to 16, so 11/12
13 through to 17/18. I was 11 when I went.

14 LADY SMITH: Thank you.

15 MR MacAULAY: I think that is actually the second question
16 you are being asked to look at. So your Ladyship has
17 anticipated that.

18 But if you turn to page 0458 of the report, at
19 item 10, you are being asked to write some details
20 about, in particular, the junior seminaries.

21 If you turn to page 0459, do you tell us there that
22 there were two junior seminaries, St Mary's College,
23 Blairs, in Aberdeen, founded in 1829, and that was to
24 educate boys of secondary school age, from about 12 to
25 18; is that right?

- 1 A. Yes.
- 2 Q. And that closed in 1986?
- 3 A. Yes.
- 4 Q. You also tell us that St Vincent's College in Langbank
5 opened in 1961 to teach boys for the first two years; is
6 that roughly from 12 to 14?
- 7 A. Yes.
- 8 Q. So for a period of time the two colleges ran in tandem,
9 so to speak?
- 10 A. Yes, after the second year in Langbank you would move on
11 to the third year in Blairs.
- 12 Q. But I think you tell us that St Vincent's College in
13 Langbank closed in 1978.
- 14 A. Yes.
- 15 Q. So since the closure of St Mary's College, Blairs, in
16 1986 are we to understand there are no junior seminaries
17 for secular priests in Scotland?
- 18 A. That is right.
- 19 Q. You give us an indication as to the roles of these two
20 establishments. If we look at appendix 12, which is
21 0569, you have listed here the student numbers attending
22 both the seminaries. As we look at the numbers, can we
23 see that for example, in 1985, the year just before
24 closure, there was 109 at Blairs?
- 25 A. Yes.

1 Q. Would that be the final number then that attended the
2 Blairs college?

3 A. Yes.

4 Q. And likewise in 1977, 84 at Langbank?

5 A. Yes.

6 Q. I take it then that some of the 84 at the Langbank
7 college would have moved onto the Blairs college?

8 A. Which is why you see the numbers going up for the year
9 after to Blairs.

10 Q. You make a point about how these numbers are calculated.
11 If you look at the note that -- is there a note -- these
12 numbers are given on a year to year basis. So since
13 a student is likely to have attended a period for
14 a period of 5 to 7 years, that would be carried on in
15 the yearly figures?

16 A. Okay.

17 Q. That's not your note?

18 A. It is not my note.

19 Q. Right, very well.

20 LADY SMITH: To look at that another way, I suppose it is
21 warning us that if, for example, we wanted to get
22 an idea of how many students in total had attended
23 between 1944 and 1985, what we shouldn't do is add up
24 all those numbers because the same student will be
25 appearing perhaps six or seven times in the overall

- 1 numbers?
- 2 A. Yes.
- 3 MR MacAULAY: Someone has in fact carried out that exercise,
4 I think. If we look at page 0571 of the report.
- 5 A. Okay.
- 6 Q. Looking towards the bottom of the page, we are told:
7 "A reasonable conclusion would be that we believe
8 that the number of distinct pupils who attended the
9 schools is somewhere between 1,590 and 1,670. Therefore
10 we can, with some degree of confidence, conclude that
11 the number of distinct pupils was no more than 1,700."
12 So that gives us an idea of the numbers.
- 13 A. Yes.
- 14 LADY SMITH: Compared, as you have done already, to a high
15 school it is a very small school.
- 16 A. It is a small school and small classes as well.
- 17 LADY SMITH: Yes.
- 18 MR MacAULAY: If you go back to the body of the report
19 itself at page 0459.
20 Towards the bottom of that page, we can read that
21 both colleges were operated as boarding schools.
- 22 A. Yes.
- 23 Q. So you were residential within the school?
- 24 A. Yes.
- 25 Q. And they were registered with the Scottish Education

1 Department as independent schools. We then read:

2 "As such, they were subject to annual inspection,
3 visits by Her Majesty's Inspectorate of Education, until
4 the frequency of such visits was altered in the 1970s."

5 Do you think anything about that?

6 A. I don't know what exactly the frequency would have been
7 or the change would have been.

8 Q. But we are told that copies of the reports of these
9 visits are available in the Scottish Catholic Archive?

10 A. Yes.

11 Q. Have you seen any of these?

12 A. I haven't seen any.

13 Q. So far as staffing is concerned -- and you look at that
14 on the next page, 0460 -- I think the Bishops'
15 Conference did provide us with lists of names, which we
16 haven't published at the moment, but what we do read
17 here is that each college was managed by a rector.

18 A. Yes.

19 Q. Is that correct?

20 A. Yes.

21 Q. So a rector for both of these colleges?

22 A. Yes.

23 Q. And staffed mainly by priests?

24 A. Yes.

25 Q. And the priests taught at these colleges?

- 1 A. Yes, they would.
- 2 Q. Do you know if they were trained as teachers?
- 3 A. Not always trained as teachers. In many cases, as is
4 said there, they would have a variety of degrees, but
5 they wouldn't necessarily be trained specifically to
6 teach.
- 7 Q. But also staffed by religious sisters who worked as
8 domestic staff?
- 9 A. Yes.
- 10 Q. And also, I think you tell us, some laypeople as well.
- 11 A. Yes, including lay teachers.
- 12 Q. We also read here that the rector of each college
13 submitted a short written report to the Hierarchy once
14 or twice a year.
- 15 A. Yes.
- 16 Q. Could you tell us if these reports would still be
17 available or not?
- 18 A. I don't know the answer to that because in terms of the
19 archives there's still an ongoing kind of search of the
20 archives to get the full archive of what's available
21 from the college.
- 22 Q. Very well, father, that's all I propose to ask of you
23 today. It has been quite a short visit.
- 24 A. It has, thank you.
- 25 MR MacAULAY: I don't know if anyone else -- I do not think

1 any questions have been submitted in writing.

2 LADY SMITH: Anything else?

3 Thank you very much for that assistance. I'm very
4 grateful. You are free to go now.

5 (The witness withdrew)

6 That then takes us to?

7 MR MacAULAY: Father Boyle, I will call him next.

8 LADY SMITH: Father Thomas Boyle; he is on his way.

9 MR MacAULAY: We are obviously moving too quickly, my Lady.

10 (Pause)

11 FATHER THOMAS BOYLE (sworn)

12 Questions by MR MacAULAY

13 LADY SMITH: Do sit down, Father Boyle.

14 A. Thank you.

15 LADY SMITH: Mr MacAulay.

16 MR MacAULAY: Father Boyle, are you Thomas Boyle.

17 A. Yes.

18 Q. I think this is your second appearance at the Inquiry.

19 A. I did make the opening statement on behalf of the
20 bishops last week, yes.

21 Q. You have been put forward by the Bishops' Conference to
22 deal with a number of questions that were put to them by
23 the Inquiry; is that correct?

24 A. Yes.

25 Q. Before I look at these, can I look at your profile that

1 you provided to the Inquiry? That's at
2 INQ.001.001.0818. You set out your qualifications, if
3 you look at the top of the page. Perhaps you can just
4 tell us what these letters all mean.

5 A. Well, I have a diploma in theology, I studied for the
6 priesthood in St Patrick's College in Thirlestane,
7 County Tipperary, in Ireland. It was associated with
8 the Pontifical University of Maynooth and they granted
9 diplomas to St Patrick's College in --

10 LADY SMITH: Father Boyle, I hesitate to interrupt, but
11 could I ask you to speak a little bit more slowly -- not
12 too much in content, but it will help with accurate
13 transcription if you can slow down a little.

14 A. Okay, it is a general diploma in theology, it doesn't
15 specialise in any particular subject.

16 In 1992 I went to St Andrews College in Bearsden,
17 which was the Catholic teacher training college, and
18 qualified as a secondary teacher because I was becoming
19 the RE adviser for the Diocese of Paisley, which is my
20 diocese. I never actually practised as a teacher, but
21 I was qualified and I was a member of the GTC for about
22 20 years.

23 In that context, I worked for the diocese and then
24 nationally in education for the church and I did
25 a master's in education at the University of Strathclyde

1 at Jordanhill on educational policy making and I wrote
2 about how to close a school and how to keep a school
3 open which was live at that time.

4 Then I became the Treasurer of the Diocese of
5 Paisley when Bishop Tartaglia became the Bishop of
6 Paisley. Not having much experience in dealing with
7 property and things like that or administering
8 organisations, I did a master's in business
9 administration. So those are the qualifications I have.

10 Q. That latter qualification was in 2013?

11 A. Yes, I completed it in 2013. It was the
12 Open University, so it was over -- you know, I had
13 a year or two where I didn't do modules for one reason
14 or another.

15 Q. But most recently you tell us that you have been the
16 assistant general secretary of the Bishops' Conference.

17 A. Yes.

18 Q. Is that still your position?

19 A. No. That finished in December 2016 because my bishop
20 moved me to a parish, St Mary's in Greenock, where I'm
21 the parish priest now, which is a much larger pastoral
22 responsibility. I really don't have time to be doing
23 serious things outside of the parish any more. But
24 because I was involved with this and because I was
25 involved in McLellan, I'm doing these until -- probably

1 my involvement with the Inquiry will finish when
2 I finish here today, hopefully -- unless you call me
3 back -- and with McLellan it should be the end of the
4 year because that's when we have envisaged in the plan
5 that the McLellan implementation will be complete.

6 Q. I think Dr McLellan was carrying out his inquiry when
7 you were the general secretary --

8 A. I was the assistant. With the general secretary -- we
9 both worked with Dr McLellan, yes.

10 Q. On page 0819, you set out, at the top of the page -- and
11 it will come on the screen in a moment -- what your
12 appointments have been.

13 A. Yes.

14 Q. As you told us a moment ago, you are now at St Mary's
15 Greenock?

16 A. Yes.

17 Q. You then give us some insight into your diocesan roles
18 over the years.

19 A. Yes.

20 Q. For example, I think, as you mentioned, you were
21 Diocesan Treasurer, 2006 to 2013.

22 A. Yes.

23 Q. And that is for --

24 A. The Diocese of Paisley.

25 Q. Then on the next page, 0820, you provide information

1 about the national bodies that you have been attached
2 to. The last two you have mentioned already, the
3 Bishops' Conference, and from 2016 to the present you
4 are on the Board of Catholic Education for the
5 University of Glasgow?

6 A. Yes, that's just begun.

7 Q. Well, can we then look at those parts of the report that
8 you were asked to consider and to give evidence on,
9 Father Boyle?

10 The first, I think, we can turn to is on page 0449
11 of the report. There is a hard copy of the report in
12 front of you but this will also appear on the screen if
13 you want to look at the screen.

14 The first point that you are being asked about, or
15 the Bishops' Conference was being asked about, is to
16 tell us, if at all possible, about the involvement of
17 local priests in placing children into care, whether
18 residential care or some other form of foster care.
19 A number of different points were being made.

20 The response of the Bishops' Conference is to be
21 found, I think, on page 0450. Perhaps you can tell us
22 what that response is.

23 A. Well, we didn't -- there was no policy, either by any
24 diocese or by the Conference or the Hierarchy that
25 proceeded the Conference, in terms of placing children

1 in care.

2 Prior to the Social Work Act (1968), in all
3 possibility, priests were involved in pastoral responses
4 to situations, that people in dire situations, needing
5 children to be cared for, they were probably involved,
6 in an ad hoc way, in saying, right, okay, well let's go
7 see a Mother at Nazareth House or whatever and see if it
8 is suitable for your children to go there just now.
9 There were those informal things that probably happened
10 because that's what the practice was like at the time.
11 But that ceased obviously when social work became
12 professional and the whole sort of care aspect that
13 local authorities had in relation to children became
14 more formalised.

15 Q. Are you speculating about whether this happened or not
16 or do you know --

17 A. That's all we can do is speculate because there is no
18 evidence. We don't have anything on file that says
19 there was a policy and nothing on file that says, "We
20 reviewed how father did whatever". Nothing exists. So
21 I'm speculating. The reason I'm speculating is that
22 that's the kind of thing we would have done in the sense
23 of responding to a need.

24 Q. Even anecdotally, can you say that this was something
25 that happened?

1 A. I have no experience, I could not say that, no.

2 LADY SMITH: But you are drawing on your knowledge of the
3 way in which the priests would work in the community?

4 A. Yes, absolutely.

5 LADY SMITH: And inferring what would be likely?

6 A. Yes, what would be likely. If you read "Oh Glorious
7 Within", which is a very famous little novel about the
8 priesthood in the early 20th century Scotland, the
9 priest is responding to the needs of poverty in the
10 surroundings where he is. If you watch any film, like
11 "Going My Way", or anything like that, the priest
12 responds in a familiar and in a patronal -- as a father
13 would to a need. So that is why I'm speculating in the
14 sense that I wouldn't be surprised if priests did that
15 sort of thing.

16 Q. If we had some evidence to the effect that there was
17 some involvement by the parish priest, you would not at
18 all be surprised by that?

19 A. No. But I would not see it as sinister either.

20 Q. I am not suggesting it is.

21 You do say something -- and we have heard about this
22 already at page 0450 -- about the National Committee for
23 Catholic Child Care.

24 A. Yes.

25 Q. What do you wish to say about that?

1 A. Well, I only know what's there, which is that we
2 discovered that this existed. It had fallen out of the
3 memory of all of us involved, that such a body existed,
4 but when we looked at the archives, this National
5 Committee for Catholic Child Care appeared. What it
6 appeared to be doing was Catholic residential schools,
7 orphanages and that, it was about sharing best practice
8 with them and encouraging the professionalising of care
9 in the early 1960s, at a time when that sort of thing
10 was happening broadly across society, that there was
11 a more professional approach being taken to care.

12 MR MacAULAY: My Lady, we are just at about 1 o'clock, that
13 might be a useful time to adjourn.

14 LADY SMITH: Certainly. We are going to pause now for the
15 lunch break, Father Boyle, and we will start again at
16 2 o'clock, so if you could be ready by then please.

17 We will now adjourn until 2.00 pm.

18 (1.00 pm)

19 (The luncheon adjournment)

20 (2.00 pm)

21 LADY SMITH: Mr MacAulay.

22 MR MacAULAY: May it please your Ladyship.

23 Father Boyle, can I then take you to one of the
24 other points you were asked about in this report and
25 that is at 0451, if we could look at that.

1 That was point 7 in the list where the Bishops'
2 Conference was asked to tell us about the church's
3 knowledge of the existence of abuse, whether physical,
4 emotional or sexual, of children in the care of the
5 religious orders.

6 A. Yes.

7 Q. In particular, the Conference was being asked whether
8 there was an awareness of the existence of any abuse and
9 the location and whether local-level priests ought to
10 have been aware of abuse and what duties, if any, rested
11 on a priest to whom a child reported abuse at
12 confession. These were the sort of areas that you were
13 being asked to cover.

14 Looking to page 0452, I think what you tell us there
15 is that, where dioceses were advised of such incidents,
16 these were detailed in the diocesan reports. I think
17 what happened was that Monsignor Bradley had circulated
18 each diocese, inviting each diocese to respond to this
19 issue.

20 A. Yes.

21 Q. Can I take it from that that you yourself have no direct
22 knowledge; you are simply relying on what the dioceses
23 have reported?

24 A. That is how it works because religious orders do not
25 exist in Scotland with the blessing of the Bishops'

1 Conference; they exist in the diocese with the blessing
2 of the local bishop. He allows them to come into his
3 diocese. The Bishops' Conference has no locus in that
4 decision --

5 Q. I'm not suggesting they do.

6 A. Whenever there is a recourse to the diocese in our
7 answers, it is because the Bishops' Conference has no
8 responsibility for that, but the local bishop does, in
9 terms of answering that question. All that we did was
10 take the question and send the question to the diocese
11 and that is detailed in the diocesan responses in the
12 appendices.

13 Q. Let's look at the example of the archdiocese of St
14 Andrews in Edinburgh, and that's at page 0516.

15 A. Yes.

16 Q. It would appear from the response provided here, which
17 extends to a number of pages, that this diocese does
18 have information in relation to allegations of abuse, is
19 that correct --

20 A. Yes.

21 Q. -- from what has been submitted?

22 A. Yes.

23 Q. Would it appear that from what's been submitted that the
24 first knowledge of any allegation of abuse by this
25 diocese was in January 1993?

- 1 A. That's what the diocese has found in their files --
- 2 Q. Yes.
- 3 A. -- that they first came to knowledge of individual
4 accusations, whether a person came to the diocese and
5 made the complaint about something having happened in
6 the context of a religious house, or that the religious
7 then were in touch with the diocese saying, this has
8 happened, we have had this accusation. The knowledge
9 came in a variety of ways.
- 10 Q. It would appear that this particular instance that is
11 referred to at paragraph 1, it may have been from the
12 institution to the diocese.
- 13 A. Yes.
- 14 Q. We are also provided some information about what are
15 described as numerous applications of Legal Aid being
16 submitted by former pupils of St Joseph's in Tranent,
17 for example.
- 18 A. Yes.
- 19 Q. Again this is information the diocese has?
- 20 A. The diocese has this in its files because, for whatever
21 reason, either their lawyers or the diocesan curia has
22 a copy of these things that happened.
- 23 Q. If we turn to pages 517 and 518 and through to 519, has
24 the archdiocese provided a list of what looks like
25 allegations against a number of people over periods of

- 1 time?
- 2 A. Yes.
- 3 Q. Taking the first reference under reference to
4 St Joseph's, it would appear to cover a period way back
5 in 1947/1948.
- 6 A. Yes.
- 7 Q. That's what's been reported?
- 8 A. That doesn't necessarily mean the accusation was made
9 then.
- 10 Q. I follow that. As we said, I think the first allegation
11 was in the 1990s.
- 12 A. Uh-huh.
- 13 Q. So, I think I have taken from what you have said that
14 this particular archdiocese would have records to
15 support the information provided in this appendix?
- 16 A. Oh yes.
- 17 Q. So far as the Diocese of Aberdeen is concerned, if we
18 look at the appendix and what they submitted, that's at
19 0531, this is a much shorter response by Bishop Gilbert.
20 For example, are we told in relation to Fort Augustus
21 and Nazareth House that they have checked their records
22 and they have found no records which relate to abuse.
23 That's the position there?
- 24 A. Each diocese -- it just depends what they have in their
25 files and whether people referred to them or whether the

1 orders reported to them that these things were
2 occurring. As the Diocese of Aberdeen says, they
3 learned about the Fort Augustus accusations and
4 accusations against Nazareth House from the media.

5 Q. We didn't look at the responses, but Argyll and the
6 Isles, and Dunkeld have a similar position in that they
7 have no knowledge of abuse.

8 A. Yes.

9 Q. If we look at the Diocese of Galloway, at page 0539,
10 that's now on the screen. They were able to provide
11 information in connection with allegations that were
12 made within the context of their diocese. There are two
13 pages listed there.

14 A. Yes, and the source of the allegation or the source of
15 the report rather.

16 Q. If we look at the Archdiocese of Glasgow, beginning at
17 0541, we read there that the archbishop directed his
18 officials to make available all information held which
19 might assist the Inquiry and if we turn to -- just bear
20 with me.

21 Yes, they provide information over the next few
22 pages in connection with a number of different
23 institutions and then on page 0546 they list incidents
24 of abuse of which they have some record; do you see
25 that?

- 1 A. Yes.
- 2 Q. Would it appear that looking at the list that the first
3 record listed is in 1997?
- 4 A. Yes.
- 5 Q. And we can go through the next few pages and again can
6 we see there are similar lists provided in relation to
7 records that they had?
- 8 A. Mm.
- 9 Q. Perhaps we can look on to the diocese of -- perhaps we
10 can leave that. The Diocese of Paisley, which I think
11 is your diocese.
- 12 A. Yes.
- 13 Q. That is 0564. If we turn to 0566, sorry. There are
14 some records found in relation to allegations of abuse.
- 15 A. Mm.
- 16 Q. Is it clear then, without spending too much time in
17 these appendices, because that's information that has
18 been supplied by third parties, that a number of
19 dioceses do have records in relation to allegations of
20 abuse that may be of interest to the Inquiry.
- 21 A. Yes.
- 22 Q. The next question that you were asked to I think
23 consider by the Bishops' Conference was to do with the
24 migration of children; is that correct? Perhaps we can
25 look at the report at page 0453.

1 You will see there that the point that you are being
2 asked about is the knowledge and involvement in the
3 migration of children in care from Scotland, and
4 a number of bullet points have been made. Did you
5 yourself look at this --

6 A. I wrote this answer --

7 Q. That's a relief!

8 A. -- in the week the answers were submitted because the
9 knowledge of it came to us very late, in that there was
10 nothing in the archives of the Bishops' Conference about
11 child migration. But the dioceses were all asked about
12 it as well and the Archdiocese of St Andrews in
13 Edinburgh had in their archives, held at the
14 National Archive, some information from the archbishop
15 at the time in 1946, whose name escapes me,
16 correspondence between him and a body that became the
17 British Overseas Settlement for Scotland and Northern
18 Ireland Catholic Enquiry office, which nobody had ever
19 heard of.

20 So I phoned the general secretary in England and
21 Wales, the Bishops' Conference in England and Wales, and
22 said to him "Do you know anything about this?" He then
23 gave me a steer to what we reference there in the
24 answer, the enquiry of the House of Commons in 1998,
25 I think it was --

1 Q. Yes.

2 A. -- looking at the Parliamentary report into child
3 migration.

4 In that answer and in looking at the details of what
5 Edinburgh's records -- or the records held on behalf of
6 Edinburgh at the National Archive, there was, after the
7 war, an approach from the Australian
8 church/government -- it was a government scheme, but the
9 Catholic church in Australia were involved -- to England
10 and Wales and then subsequently to Scotland -- and they
11 included Northern Ireland within Scotland -- looking for
12 people to emigrate to Australia, adults and some
13 children in care, but the details are very sketchy and
14 what was held by the Archdiocese of St Andrews in
15 Edinburgh -- and we have listed as much detail as is in
16 the archives.

17 The body began in England and Wales before the war,
18 in the 1930s, promoting immigration to Canada. It was
19 only subsequent to the war that Australia came on board
20 with this, "We want people to come to Australia". The
21 church co-operated with the request from the Catholic
22 church in Australia to promote emigration. It seems to
23 have co-operated. We have no detail as to where
24 parishes circulated, whether there were appeals or what,
25 but what we do know is that at some stage there were

1 people who were waiting to go and who couldn't go
2 because of delays for one reason or another, because
3 there were letters of complaint, why is nothing
4 happening.

5 Q. You have effectively, I think, summarised some of the
6 information that has been provided, particularly by the
7 Archdiocese of St Andrews in Edinburgh --

8 A. Yes, I have.

9 Q. -- who have records of dealing with this scheme.

10 A. It is just about seven or eight letters, that is all.
11 It is not a vast archive about it.

12 Q. For example, you tell us that during 1948, at three of
13 the meetings of the Hierarchy, there was discussion of
14 the scheme.

15 A. Yes.

16 Q. Are there records of the minutes of the meetings?

17 A. Once we knew this scheme existed then we went back and
18 looked at the minutes for those years. It was discussed
19 three times when the bishops met together as the
20 Hierarchy, prior to the establishment of the Bishops'
21 Conference.

22 Q. If we look at the third paragraph, what you tell us is
23 that the 1948 minutes reveal that the scheme had stalled
24 somewhat and that people were unhappy that their
25 successful applications had not led to emigration to

1 Australia; this of course refers to adults.

2 A. Families, yes.

3 Q. But you go on to say that the papers held at the

4 Scottish Catholic Archives reveal that of 102 children

5 waiting to emigrate under the Catholic child scheme,

6 about 51 were from Scotland and Northern Ireland.

7 A. Yes.

8 Q. You tell us there are no names to identify who they are.

9 A. No. It was obviously something that was handled by that

10 office and this is just a report -- a general kind of

11 overview of what's happening in that office to the

12 Archbishop of St Andrews in Edinburgh.

13 Q. You go on to say that mention is made that the number of

14 children interviewed by Brother Conlon from Australia

15 had fallen to 30, you then quote, "due to the parents'

16 consent not being forthcoming". So that has been

17 recorded?

18 A. That's recorded, yes.

19 Q. The next bit that you set out, where you talk about,

20 again in quotes "contacts in connection with adult &

21 child migration", a number of Scottish Catholic contacts

22 are listed, Nazareth House, for example, in Lasswade,

23 Aberdeen and Kilmarnock, the Good Shepherd convent, and

24 also you have a list -- there is St Vincent de Paul's

25 Society, Glasgow and Edinburgh, and then "clergy

- 1 unnamed"; what did you take from that?
- 2 A. Just obviously that they had been in touch with priests,
3 God knows where, but you would imagine it would be in
4 the poorer parts of the cities saying, "Are there
5 children who would benefit from this in some way from
6 migration?" -- or families rather, not just children.
- 7 Q. When you move on to page 0455 then, where you provide
8 some detail as to how the age groups of young people
9 were to be looked after in Australia, again was that
10 information taken from records?
- 11 A. Yes, that is the report that the Archbishop of
12 St Andrews in Edinburgh must have received from that
13 Catholic migration office at some stage.
- 14 Q. Have you seen that report?
- 15 A. I have seen a photocopy of what's in the archive, yes.
- 16 Q. So what is --
- 17 A. What is written there is a direct quote from it, yes.
- 18 Q. The quote is:
- 19 "Some will be in Catholic children's homes, others
20 in convent boarding schools, and some suitable boys will
21 be placed in farm and trade schools, all of which will
22 be controlled by religious teachers."
- 23 That is the quote?
- 24 A. Yes.
- 25 LADY SMITH: You made reference to surmising, I think, that

1 the question would be asked, "Which children would
2 benefit from this?" But have you come across any
3 records showing that steps were taken to ascertain what
4 actually was going to happen at the other end or was it
5 being assumed that it would be beneficial to these
6 children?

7 A. It was just an assumption, but that's the answer there
8 in terms of what their destination was because the
9 Secretary of State for Scotland at one point objected
10 to -- not objected, but would not give his consent
11 because he had to give his consent to each individual
12 child leaving because he was personally responsible for
13 that child until they reached Australia.

14 So, that's part of the reason why that scheme was --
15 that's what it seems like -- that's in the report of ...
16 the House of Commons report that is detailed in that
17 report, that the Secretary of State for Scotland --
18 I think there was a Children's Act in 1948, or something
19 like that, and he was waiting for the provisions of that
20 to come into force.

21 LADY SMITH: Anyway, nothing that has been submitted to the
22 Bishops' Conference tells you that the church was making
23 any effort itself to discover what actually the
24 conditions would be for the child at the other end?

25 A. No.

1 LADY SMITH: But I think you said earlier, in a way, what
2 was happening was, you were responding -- by "you",
3 I mean the church -- to a request from the Catholic
4 church in Australia.

5 A. Yes. It is clear from the report in the House of
6 Commons that the Catholic church in Australia said to
7 the Australian Government, if you are going to be
8 bringing people from Britain, make sure there are
9 Catholics. So that is why that part of it was there.
10 It wasn't that the Catholic church decided on its own
11 back in Australia, we want Catholics to come from
12 Britain, but the Australian Government was encouraging
13 this scheme in a way which -- you know, some of it is
14 encouraging British stock, creating a new England in
15 that part of the world, which is kind of laughable today
16 when you read it, but the Catholic church in Australia
17 seemed to be keen that there would be Catholics amongst
18 those who would migrate to Australia.

19 MR MacAULAY: You also make some reference there -- I think
20 the quote we had before was for 6 to 14 year olds, but
21 then for 14 to 19 year olds, the papers detail concerns
22 by the Australian bishops that no definite plan is in
23 place save:

24 "... co-operating with the governments to cater for
25 the training and placement of these young people when

1 they reach Australia."

2 That's all the information you really had as to what
3 would happen at the other end?

4 A. That's all, uh-huh.

5 Q. This is all, I think, under reference to the response by
6 the Archdiocese of St Andrews in Edinburgh.

7 A. Yes.

8 Q. That response begins on page 0522 of the report.

9 They have provided what they call a summary of the
10 archive records and a number of documents are
11 identified.

12 A. Yes. Once I read this, I asked to see those documents.

13 Q. If you look onto the next page 0523, at number 9, there
14 is a document:

15 "Agreement between the Hierarchy of Australia
16 represented by their secretary ... and the secretary of
17 the Catholic Council for British Overseas Settlement for
18 Scotland and Northern Ireland"

19 You saw that agreement?

20 A. Yes, it was an agreement just to establish the office
21 for 12 or 18 months, whatever the period was, in the
22 Catholic Enquiry Office which existed in the heart of
23 Edinburgh.

24 Q. At page 0524, at number 12, there appears to have been
25 an up-to-date list then of children required immediately

1 as at 26th November and details of the number and ages
2 of girls and boys, but they were not named --

3 A. No.

4 Q. Where they were to go, were these places identified?

5 A. No, I don't recall that they were.

6 Q. The report that is mentioned at paragraph 13 I think is
7 dated October 1914 and it gives details of the types of
8 application and the types of nomination plus numbers
9 since May 1949.

10 It is split up in different ways. If we look
11 towards the bottom of the paragraph we can read:

12 "The Secretary of State for Scotland is now prepared
13 to give consent to the emigration of children maintained
14 by a local authority providing that the provisions of
15 the Act are complied with in regard to guardianship and
16 that the child is over ten years of age and therefore
17 capable of an opinion."

18 I think you touched upon the fact that until the
19 1948 Act was passed, the Secretary of State would not
20 consent, according to your understanding?

21 A. That's my understanding of what I have read, yes.

22 Q. But then we read on:

23 "Where a child is under 10 and has no personal
24 guardian or relative in Australia, permission will not
25 be given."

1 In the note at the bottom:

2 "There are approximately 102 children waiting to
3 emigrate under the Catholic child scheme."

4 That's what has been recorded?

5 A. Yes.

6 Q. Looking to who these children might be at page 0525, at
7 the very bottom of the page, there is a paragraph that
8 reads:

9 "Various categories of eligible migrant children:
10 those who are destitute and without parents; resident in
11 children's homes; those with living parents unable or
12 unwilling to provide for them; those with parents able
13 to provide for them but who consider it would be in the
14 future interests of the child to emigrate while it is
15 still young."

16 So these were the categories of children who were
17 being identified?

18 A. It seems to have been, yes.

19 Q. Really, was it the Archdiocese of St Andrews in
20 Edinburgh that provided you really with real information
21 on this topic?

22 A. Yes, all the information that was used to write the
23 answer to the question was provided in these documents
24 which were held in the archive of the Archdiocese of St
25 Andrews in Edinburgh at the National Catholic Archives.

1 Q. Moving on then to the next issue that you were asked to
2 consider -- and that's to be found on page 0470 of the
3 report. I think, Father Boyle, you probably touched
4 upon this in your opening submission to the Inquiry but
5 this is really looking at an acknowledgment by the
6 church of the abuse of children in care by persons for
7 whom the church had responsibility.

8 A. Yes.

9 Q. Does the church accept that children in care were abused
10 by persons for whom the church bears responsibility?

11 A. Yes.

12 Q. I think you do say on page 0471 that there was
13 a systematic failure. I think you accept that, don't
14 you?

15 A. To understand abuse, yes.

16 Q. What you say is:

17 "The principal systematic failure was a lack of
18 understanding of abuse."

19 You talk about the position at Blairs College as
20 an example of that.

21 A. Yes.

22 Q. Can you elaborate upon that? Why was there such a lack
23 of understanding?

24 A. Well, which of us had an understanding of abuse until
25 recently? As a child, you know, I am sure, like I was,

1 most of us would have been warned to stay away from
2 strangers, but there was no -- our parents or those that
3 were responsible for us in school or youth clubs or
4 Scouts or church or anything like that didn't have
5 an understanding of the nature of who an abuser could be
6 and how he might operate or she might operate and that
7 it could -- that it was a thing that was beyond control
8 in a sense for that individual, that in the end they
9 could never be trusted in these circumstances. We
10 didn't have that understanding of what abuse meant.

11 It was regarded, when it did come to light, as
12 almost like a moral fault, you know, as if it was the
13 same as anybody who committed adultery, in that they
14 would be sorry for it and they would not do it again
15 because they realised what a serious offence they had
16 caused to their partner, husband or wife, or whoever,
17 but it was a much more seriously profound issue in terms
18 of a personality disorder. None of us was aware of that
19 level or had that level of understanding of what abuse
20 was.

21 Q. But now you are focusing on the abuser.

22 A. Yes.

23 Q. What about the person abused? Surely it is not
24 difficult to understand that the victim of abuse is
25 a victim?

1 A. Yes, absolutely.

2 Q. Why was there no understanding of that aspect of it?

3 A. I was at the Bishops' Conference on Tuesday talking
4 about the next stage of the implementation of McLellan
5 in looking at how do we deal with an accusation that
6 occurs. One of the bishops said, I can't remember which
7 one it was, said, "What McLellan has done for us is it
8 has helped us not to be frightened of survivors".

9 I thought that was a very profound thing to say in the
10 sense that, you know, in encountering survivors you have
11 a fear that you could make things worse because you are
12 not a skilled person, if you are just encountering them,
13 but as well as that that we let them down in the past.

14 I did say in the opening statement for the bishops
15 last week, we didn't hear survivors, we didn't listen to
16 them. But it was once again a misunderstanding or
17 a limited understanding of what it means to be
18 a survivor because, like for the majority of people in
19 society who have grown up in the context of a family and
20 a school and any organisations you were involved in,
21 whether it was Scouts or church or youth clubs or
22 anything like that, if you grow up never having felt
23 intimidated or never having felt threatened by any
24 adult, it is very difficult to put yourself in the place
25 of someone for whom adults are just a threat

1 continuously because of what's happened to them at
2 a very formative part of their life.

3 Once again, that is not an excuse but I am just
4 trying to explain how difficult it is sometimes to
5 understand the profound damage that's done to survivors
6 by abuse.

7 Q. But when you said a moment ago you didn't hear
8 survivors, you didn't listen to them, are you alluding
9 there to times when the victims of abuse complained
10 about being abused?

11 A. No, what I mean is that we didn't hear them, you know.
12 We listened, but we didn't hear necessarily what they
13 were saying and understand -- and we went on in
14 statement last week to say we didn't understand the
15 nature of abuse that, you know, it wasn't just a moral
16 fault that could be rectified by prayer and retreat,
17 send them away for three months and he comes back -- and
18 even that the psychological services in the past would
19 have been advising that sometimes after treatment that
20 someone could go back into pastoral ministry, some often
21 in a limited way, but we didn't understand, you know?

22 I mean I don't think I could overstate how
23 profoundly sorry we feel for that, about not
24 understanding the effect that this had on children who
25 became adults who are the survivors of today.

1 Q. Again there a moment ago you seemed to focus on the
2 abuser and the notion that somehow an abuser could be
3 cured, if I put that in inverted commas. But again it
4 shifts the focus away from the victim of the abuse. Why
5 was the focus not on the victim? That is what I'm
6 trying to understand.

7 A. Yes. I suppose in a sense "I don't know" is the answer
8 to that, why we didn't pay more attention to people who
9 made complaints. You know, because when you look at the
10 evidence, you see that -- you know, I think 1991 is
11 possibly the first time it is recorded in diocesan
12 responses of someone coming forward -- that is the
13 Blairs case, for example.

14 But even at that stage we didn't understand how
15 pervasive the issue could be and the effect that that
16 would have on someone, you know, or that, as an example,
17 that a survivor would go to a church function and see
18 his or her abuser, who is on a limited ministry or not
19 in any ministry, but is allowed to attend an ordination
20 or a funeral which that person is also at and not think
21 that that would be a serious issues for the
22 person/survivor.

23 There was an inability or a lack of understanding of
24 the effects of abuse on survivors, yes, without a doubt.
25 Without a doubt.

1 LADY SMITH: Your observations seem to relate to the time
2 when somebody has become a survivor, they have finished
3 their time in care, they have become adult, and it is
4 I think to do with you understanding now what the
5 long-term effects could be on them. But I would be
6 interested to know whether you have had any thoughts
7 about the time while the person is still in care, the
8 child, and what it could have been that was not being
9 done then or not noticed then.

10 Could it really have been the case that people were
11 not aware that some people working in the residential
12 institutions were a risk, they were a problem, either
13 because the punishment they used was too harsh or there
14 was something about the familiarity they had with the
15 children that was just not right?

16 A. Well, I was talking to somebody about this the other
17 day. I grew up in Linwood. I went to the local
18 Catholic secondary school and there were children who
19 came there from Quarriers and from an associated
20 Catholic institution in Bridge of Weir. Most of those
21 kids were off the wall. You know, their behaviour in
22 school, they were always trouble, and we used to just
23 think, that's because they are bad boys or bad girls, as
24 fellow pupils. When I look back now I think, what had
25 happened to those kids? You know?

1 I suppose that's the learning curve that all of us
2 have been on and we have been on in the church as to
3 confusing, like, behaviour in children with moral
4 choice, as in they are just bad boys or bad girls, and
5 not asking, why is he so or why is she so disturbed?

6 LADY SMITH: A failure to look at things through the eyes of
7 the child?

8 A. Yes.

9 LADY SMITH: And listen to the voice of the child and try
10 and understand it and encourage the voice of the child
11 perhaps?

12 A. I think that was -- I was at school at that time, I was
13 belted at school on a number of occasions, numerous
14 occasions probably. If I had hit the teacher back,
15 I would have been expelled. The focus was never on the
16 child.

17 LADY SMITH: Yes.

18 A. Never. The focus was on authority, it was on the person
19 who was in charge, it was trying to get a child to
20 adhere or to conform to a pattern, to a set of
21 behaviour. It was not on: what are your needs, son?
22 That was just not the case.

23 MR MacAULAY: We heard from Monsignor Smith this morning,
24 I think along similar lines, in that if a report of
25 abuse was made and went to the bishop, that the focus

1 would be on the abuser to see whether or not therapy,
2 for example, would assist and not so much on the child
3 who might have been making the allegation.

4 A. Yes. Well, I can only agree with that, but having no
5 experience of dealing with that as such, yes, because
6 that's the way things were.

7 Q. Well, the next question that the Conference was asked to
8 look at was in connection with Archbishop Tartaglia's
9 apology to abuse victims in August 2015, following the
10 McLellan Commission report. You look at that at
11 page 0473 of the response to that. I think you draw
12 attention, first of all, to the fact that there had been
13 other apologies?

14 A. Yes. The question asked was why was it not made
15 earlier?

16 Q. Indeed.

17 A. I was just pointing out actually it was.

18 Q. That's the point. You say, for example, an apology was
19 made by Archbishop O'Brien in December 2001? What was
20 the background to that apology, can you tell me?

21 A. I'm not really sure. I suspect it was that the First
22 Minister had made an apology, Jack McConnell.

23 Q. I think it was later than that.

24 A. Was it later than that; the First Minister's apology?

25 Q. I think it was 2004.

1 A. I really don't know what the background to that then is,
2 I can't answer that.

3 Q. Then, in November 2013, there was a letter read out by
4 the -- on behalf of the archbishop, is that correct?

5 A. Yes.

6 Q. What was the background to that?

7 A. That was the establishment of McLellan. That was the
8 announcement, it was the Feast of Christ being the last
9 Sunday in November, telling the Catholic community, as
10 well as the Scottish community, that the Bishops'
11 Conference had proposed three things, which was the
12 establishment of McLellan, the publication of all audits
13 in terms of accusations that had been made that we had
14 recorded since 2006, because they had been recorded in
15 a systematic way. This is not just in care. This was
16 any allegation. And they were all published. And the
17 establishment of the historic audit from 1947, which was
18 the year that the eight dioceses existed from because
19 Glasgow was split into three in 1947, so we chose that
20 as the starting date.

21 Q. I think we might hear from Mrs Campbell about that
22 because that historic audit, which was retrospective, is
23 that correct?

24 A. Yes, it was 1947 to 2005. Because we hadn't recorded in
25 a systematic way, except from 2006 onwards, how many

1 allegations there had been.

2 Q. But the historic audit, although there hadn't been
3 an annual audit from 1947, there were records available
4 upon which you could build the historic --

5 A. Dioceses were asked to look at their archives and find
6 any accusation that had been made, as were all religious
7 orders in Scotland. So those figures were compiled.

8 There were some delays because dioceses were vacant
9 and when a diocese is vacant, the administrator does not
10 have the same ability to act the way that the diocesan
11 bishop does. So we had to wait ultimately until the
12 Bishop of Argyll was ordained in February 2016 to get
13 the final figures and so that historic audit is at the
14 moment with an analyst, who is looking at the figures,
15 and we hope to publish it soon.

16 Q. As I am sure you are aware, the Inquiry is rather
17 interested in seeing this audit.

18 A. Yes, but it is much wider than simply in care.

19 Q. I understand that.

20 Coming back to the Archbishop's apology, you do set
21 out that on page 0473 and what he said was:

22 "We say sorry. We ask forgiveness. We apologise to
23 those who have found the church's response slow,
24 unsympathetic, or uncaring and reach out to them as we
25 take up the recommendations of the McLellan

1 recommendation."

2 That was in response to the McLellan report?

3 A. The first thing, the principal recommendation 1 begins
4 with the Catholic Church in Scotland should make
5 an apology to all the survivors of abuse. So the report
6 was published I think at 11.30 and that apology was made
7 publicly by Archbishop Tartaglia at 1.00pm mass in
8 St Andrew's Cathedral in Glasgow.

9 Q. I think then the final question that you have looked at
10 yourself, Father Boyle, is to do with the McLellan
11 Commission, is that correct?

12 A. Yes.

13 Q. We can see what you were asked on page 0478 and,
14 essentially, you are being asked to set out the
15 responses made to implement the McLellan Commission and,
16 to remind ourselves, the McLellan Commission was
17 essentially a review of the current safeguarding
18 policies, procedures and practices within the
19 Catholic Church in Scotland?

20 A. Yes.

21 Q. By the time Dr McLellan started to look at this you
22 already had procedures in place?

23 A. Absolutely. It had been in place since 2006. The
24 "awareness and safety", I've brought that with me, there
25 is "safeguarding the volume guide", there is a file

1 which is in every parish, every Catholic institution in
2 the country. You know there was that, a summary of good
3 practice for paid and voluntary workers outlining: you
4 must; you must not.

5 So there were lots of procedures, you know, robust
6 procedures, and the McLellan report says that, there is
7 much that is praiseworthy in safeguarding in the
8 Catholic church in Scotland.

9 It was not ground zero. We were not starting in
10 2013 to learn everything.

11 Q. No, but nevertheless Dr McLellan did make certain
12 recommendations with some, I think, main recommendation
13 with back up?

14 A. Yes, lots of subsidiary ones.

15 Q. What is the position then in relation to implementing in
16 full the McLellan report?

17 A. In all probability it will be complete by the end of
18 this year.

19 Q. What stages have you gone through to get to where you
20 are at the moment?

21 A. What's outlined there in the answer. But, as I said to
22 you earlier, the thing that we are looking at at the
23 moment is how allegations are handled. A discussion of
24 what's the role of the bishop? How do we treat
25 survivors and their families? What do we do with

1 a person who is accused, if they are employed, if they
2 are a cleric, if they are a bishop? What do we do with,
3 if it is a cleric, how do we support his family? How do
4 we support parishioners in the parish where he might be
5 serving or have served and then how do we relate in
6 public to the media? So we have been looking at these
7 areas in relation to allegations.

8 That's the work we are involved in at the moment.
9 As well as that we are reviewing the training procedures
10 and we have established -- the most recent thing is the
11 Independent Review Group, which is we are working with
12 those people nominated to that group to -- on their
13 remit and how they are going to work with us in the
14 future.

15 Q. Is that the group that is to be chaired by
16 Baroness Liddell?

17 A. Yes.

18 Q. Has that group been set up or is it something that's
19 still to happen?

20 A. Baroness Liddell has met with her group once so far.

21 LADY SMITH: Remind me, when was it established? It seems
22 a little while ago now.

23 A. It was established -- she was invited and she accepted
24 in November, I think, 2016.

25 LADY SMITH: And they have met once?

1 A. The membership only came together once, yes. She has
2 been asking people ever since. Their work at the moment
3 is to review or to comment on the implementation. Their
4 work of review of the safeguarding work of the church
5 will be based upon the audit of the dioceses and the
6 National Office which will be sent out in January 2018.
7 It is 2018 when their work becomes live in a sense, if
8 you know what I mean.

9 LADY SMITH: Has she been given a specific remit with
10 a delivery date? Is that what you are telling me?

11 A. Yes, well, we are -- what we have proposed to them is
12 that -- what normally happened in the past was that the
13 audit was sent out each year from the National Office
14 and --

15 LADY SMITH: This is the safeguarding audit?

16 A. Safeguarding audit.

17 LADY SMITH: Right.

18 A. Dioceses would send it to parishes and parishes would
19 fill in their part of the audit and dioceses would fill
20 in their part, and it was all to be submitted to the
21 Office by the end of March in the year. Then the
22 safeguarding coordinator, at the moment Mrs Campbell,
23 would make comment on that for each diocese and send
24 that back to each diocese and then in the November
25 meeting of the Bishops' Conference she would make

1 a general report, in terms of allegations that had been
2 received and how they had been dealt with in that year,
3 and that then was published in the December.

4 So what we have asked the Independent Review Group
5 to do is to do all those things, to look at the audit,
6 comment on the National Office, how the Bishops'
7 Conference functions in terms of safeguarding and
8 perhaps each year to look at two dioceses very
9 specifically so that, in a four year period, each
10 diocese would have been looked at in a very detailed
11 way.

12 LADY SMITH: So they have a four year life from last year,
13 is that what you are telling me? Or is this setting up
14 a system that's going to work indefinitely?

15 A. This is a system that we hope will work indefinitely.

16 LADY SMITH: I was just thinking back to Baroness Liddell
17 and when we can expect to hear what her committee's
18 conclusions have been. Do we know?

19 A. The first report that they would produce for the bishops
20 would be in November 2018.

21 LADY SMITH: I see.

22 A. It will become public after that.

23 MR MacAULAY: Do I understand you correctly that the
24 membership of that group has not yet been finalised or
25 has it?

1 A. It has not been finalised.

2 Q. It has not been finalised?

3 A. Well, they are keen at the moment to try and work
4 themselves, get to know each other, and they were not
5 keen on publicity at the moment. So that is why we have
6 not announced anything about it.

7 They had their first meeting just a couple of weeks
8 ago at which I was there for the first half hour or so
9 and explained how we got to this point and then they met
10 together as a group subsequent to that to discuss the
11 remit and to come back to us.

12 They have not come back to us yet about what their
13 conclusions were from the meeting.

14 Q. When you say "they", do you mean the independent group?

15 A. Yes.

16 Q. Just to come back to my question, there are some members
17 then?

18 A. There are seven.

19 Q. How many do you anticipate there to be once the group is
20 finalised?

21 A. Well, they might say: "we need somebody from this field,
22 we need someone" -- because our view is that that
23 organisation, that Independent Review Group should be
24 drawn from safeguarding people and people who are used
25 to analysing organisations and can make recommendations

1 based upon an audit.

2 One of the principal recommendations is about review
3 and -- I haven't got my folder.

4 LADY SMITH: Are you referring to Dr McLellan's
5 recommendations?

6 A. Yes. It is to fulfil two of those recommendations about
7 independence, in terms of the managing of safeguarding
8 in the church, and the second one is about planning for
9 the future and learning. I can't remember the word.

10 MR MacAULAY: Is this to meet the recommendation that asks
11 for external and independent scrutiny on the one hand?

12 A. Yes.

13 Q. And also a method for measuring the effect and
14 improvement?

15 A. Yes.

16 Q. These are the two recommendations you are trying to deal
17 with by this --

18 A. Yes, the audit will be the tool and they will be the
19 people who will comment on the development plan that
20 a diocese will have, that the National Office will have.
21 It is to be the introduction, or the, you know, a more
22 professional approach to the handling of safeguarding
23 that organisations would be expected to have today.

24 Q. I think you tell us in the report that the
25 implementation plan for the McLellan report was adopted

1 by the Bishops' Conference at their January 2016
2 meeting.

3 So that implementation plan was on the table at that
4 time?

5 A. Yes.

6 Q. And did it include a provision for this independent
7 scrutiny?

8 A. Well, no, because that was one of the things that
9 emerged from: how do we do independent review? Because
10 Dr McLellan asked us to look at the various models that
11 exist and its closest equivalent is the USA, where they
12 have a thing called the National Review Board, which
13 doesn't do it in a systematic way of doing so many
14 dioceses per year as because there are 200 dioceses in
15 the US, not eight.

16 But what it does is, if a bishop wants to invite the
17 National Review Board to come in and make comment on his
18 diocese, that's how the National Review Board operates.

19 I learned about the National Review Board by
20 speaking to the Chair of the National Review Board US at
21 one of the Anglophone Conferences of Safeguarding that
22 takes place in Rome each year.

23 Q. When do you anticipate, and perhaps you have answered
24 this, that you will have implemented in full, I think,
25 the eight recommendations made by Dr McLellan?

1 A. The new handbook will be complete by the end of this
2 year, we are placing it online. We are not producing
3 a book. We are putting it online and dioceses are
4 meeting together after the summer to begin to make their
5 development plans as to how they are going to work all
6 that into what they do.

7 Q. So the end of 2017, the new manual will be available?

8 A. Yes.

9 LADY SMITH: But the first you expect to hear from the
10 independent body chaired by Baroness Liddell would be
11 towards the back end of 2018 at the earliest?

12 A. Yes.

13 LADY SMITH: This is against the background of Dr McLellan's
14 report having been published in August 2015?

15 A. Yes.

16 MR MacAULAY: Do you think that is a timeless(?) response
17 looking to what is involved?

18 A. Well, Dr McLellan took two years to report, and the
19 reason that we designed the two year implementation
20 process was that the first year was about culture. It
21 was about ensuring that everyone was on board and it was
22 also an acknowledgement of how the Bishops' Conference
23 works, that it is not in session all the time, it meets
24 on a semi-regular basis. Not every month and sometimes
25 for three days. So it was about how do you get this

1 passed through the Bishops' Conference because they all
2 need to agree to make this a national way of working.

3 So that first year was about the theology which they
4 have written, it was about: how do the dioceses relate
5 to the National Office? What are the responsibilities
6 of the National Office in relation to safeguarding
7 within dioceses? What are the qualifications that you
8 would look for in a safeguarding person in a diocese?

9 It was about ensuring that the bishops and each
10 diocese's safeguarding people, but not only the
11 safeguarding people but the curial officials in the
12 diocese, that everyone was on board with the McLellan
13 recommendations being implemented the way they should be
14 implemented.

15 So the first year was about culture and the second
16 year was about then the other things that we need to do.

17 LADY SMITH: Is there any reason why the Bishops' Conference
18 shouldn't meet more often, particularly in relation to
19 a subject of critical importance?

20 A. Well, we had at least one extra meeting to deal with
21 McLellan.

22 LADY SMITH: When was that?

23 A. That was in May 2016.

24 LADY SMITH: So that is one meeting?

25 A. Yes.

1 LADY SMITH: And that is the only extra meeting?

2 A. Yes.

3 LADY SMITH: Otherwise we are looking at the timescale
4 already alluded to?

5 A. It is about changing organisations and how you effect
6 change. The most interesting bit when I did the MBA
7 was: how do you effect change in any organisation and
8 you don't effect change in an organisation just by
9 legislating.

10 MR MacAULAY: But I think to follow through her Ladyship's
11 question, is there in fact any reason why the Bishops'
12 Conference could not have more meetings than the ones
13 already planned in order to accelerate this process?

14 A. Apart from the bishop's diaries, and all the other
15 things they are responsible for, each in their own
16 diocese? But, yes, there could have been more meetings,
17 but it was also about the process, it was about ensuring
18 that it was done properly and not necessarily speedily.

19 Q. Can I take you to the top of page 0482 where you tell us
20 that discussions have also been held on the matter of
21 redress and you put that within the context of what's
22 happened following the Irish Inquiry and also the Royal
23 Commission that is in Australia.

24 Can you just elaborate upon that? What have these
25 discussions been about?

1 A. There have just been informal discussions among the
2 bishops themselves about -- well, one of the bishops met
3 with one of the members of the Pontifical Commission for
4 Minors and she had said to him that sometimes
5 a willingness to enter into a discussion about some sort
6 of compensation at the very beginning of an encounter
7 helped the encounter. You know, helped addressing the
8 needs of the survivor.

9 So there has been a discussion about that, but there
10 have been no conclusions drawn about it. The
11 Archdiocese of Glasgow has started this pilot scheme
12 along those lines. I don't know much detail about that,
13 but I could find it for you, if you wished.

14 Q. That would be helpful. Does this envisage then that
15 there will be some discussion about -- in the context of
16 redress, financial compensation to survivors?

17 A. McLellan has asked us to look at that. It doesn't make
18 it as a recommendation, but it says the question of
19 redress should be considered.

20 Q. So how is it being considered? Can you explain that to
21 me.

22 A. Well, we haven't had any formal discussions about it
23 yet. There are no proposals. But as I said, one
24 diocese has this pilot scheme of restorative justice
25 with survivors.

1 LADY SMITH: Well, what we normally understand restorative
2 justice as meaning is something rather different from
3 paying compensation, but bringing together the wrongdoer
4 and the victim to see if any form of healing engagement
5 can be achieved.

6 A. That is the --

7 LADY SMITH: That is a different matter.

8 A. Yes, well, the ultimate is that the victim and the
9 perpetrator would come together. But as a step on that
10 process, in that process, there might be things that --
11 a person feels that their career was blighted and
12 therefore it might be helpful if they were assisted in
13 doing a course in X, Y or Z and that's what I mean by
14 compensation. I don't mean as in a legal compensation
15 but just that a willingness to support people to find
16 a resolution in their life.

17 LADY SMITH: So you are not aware of the question of cash
18 payments being considered?

19 A. Except in legal cases in terms of if there is a --

20 LADY SMITH: That's a different matter, but in the context
21 of this one discussion that you referred to taking
22 place?

23 A. There has not been a discussion about should
24 compensation be paid in a formal way, no.

25 LADY SMITH: You will be aware that it has been paid in

1 other jurisdictions?

2 A. Yes.

3 LADY SMITH: Substantial sums?

4 A. Yes.

5 MR MacAULAY: The pilot scheme you mention, and you are
6 going to provide with us some details of that, did you
7 say that is being run by the Archdiocese --

8 A. The Archdiocese of Glasgow.

9 Q. The mention you make of the liaison group, this was
10 something that I think just recently has been
11 authorised, March 2017. This is a liaison group with
12 survivors?

13 A. Yes.

14 Q. Can you perhaps tell us a little bit about that?

15 A. Well, McLellan asked us to use -- the report asked us to
16 use survivors as the basic resource and it was: how do
17 you do that?

18 That first year was about structures and about
19 cultures within the church and it was hard to know how
20 the survivors would contribute to that as such because
21 that is a formal kind of -- it is about how the church
22 operates internally. But, in dealing with questions
23 like, "how do we handle an allegation?" and the
24 theology?

25 For example, I recently gave them the theology to

1 look at, and there has been a little bit of feedback,
2 there hasn't been a great deal of feedback yet, but next
3 week I shall be giving to Roisin the paper I gave to the
4 bishops on Tuesday of this week, about how we will lay
5 out in the new manual how allegations are addressed,
6 because that of course pertains to them very seriously.

7 Q. Roisin is Roisin McGoldrick?

8 A. Yes.

9 Q. Who had been a member of the McLellan Commission?

10 A. She had been a member of the McLellan Commission. She
11 teaches at Strathclyde University in the Social Work
12 Department.

13 Q. Just to understand then, the formation of the liaison
14 group has been authorised by the bishops?

15 A. Absolutely.

16 Q. At some point in the future that group will be formed
17 and headed by Roisin McGoldrick?

18 A. Yes, she meets with -- Roisin stayed in touch with some
19 of the survivors who had approached -- one of the
20 problems we had subsequent to McLellan was that it
21 destroyed its records. So we didn't know and were not
22 told which survivors had come to McLellan to speak.

23 So there was no way that we could get in touch with
24 them. But, Roisin came to us and said some of the
25 survivors are speaking to me saying: "What's happening?"

1 And I don't mind I will be a conduit for that."

2 That's where the idea came that Roisin could speak
3 to those survivors that had still remained in touch with
4 her about the work that we have been doing and as well
5 as that, recently, Bishop Toal and Monsignor Bradley,
6 the General Secretary, met with people from INCAS and
7 agreed with them that we would give them copies of the
8 work that we are doing at the present for their comment.

9 Q. So the liaison group which is still to be formed, as
10 I understand it --

11 A. Well, it is an informal group. It is not a group that
12 will meet because of course you can't necessarily put
13 all survivors in a room together. That is a matter for
14 Roisin's judgment as to how she reaches out to
15 survivors, the ones that she is still involved with.
16 And the bishops have agreed that those survivors who
17 have come to them and who want to get involved, that we
18 will give their names to Roisin if they agree.

19 LADY SMITH: Do I understand you to say that you are,
20 through Roisin, at least, trying to engage survivors in
21 I think what you referred to as the work we are doing?

22 A. In a consultation, yes.

23 LADY SMITH: Does that still involve looking about cultures
24 within the church?

25 A. Obviously they are going to say respond about how they

1 were treated when they came forward with their
2 allegation and that will affect, yes.

3 LADY SMITH: That does deal with a query I had in the light
4 of one of your earlier answers when you said it was hard
5 to know how survivors would be able to contribute to
6 looking at correction of your cultures, for instance.

7 A. Structures, yes.

8 LADY SMITH: Structures, I can see that, but if you are
9 talking about the culture, surely in this journey you
10 are on of working out where you are going by reference
11 to an understanding of where you have been, what
12 survivors can tell you about their experience of being
13 a child in the church's culture would be invaluable,
14 wouldn't it?

15 A. Yes, well, I suppose we should also have mentioned there
16 that after the apology each bishop received contact from
17 survivors, a variety of survivors. So there has been
18 an on-going dialogue that I'm aware of in most of the
19 dioceses between bishop and survivors from all
20 backgrounds.

21 What the apology did for some survivors was give
22 them the courage or the reassurance that if they came
23 forward they would be heard. We are kind of half
24 expecting that what we said last week might have the
25 same effect, you know, that people would come forward

1 and that's why we said it and in media interviews
2 subsequently we said we wanted people to come forward to
3 you, my Lady, to the Inquiry, because we want this to be
4 a success. We want to learn from past mistakes.

5 MR MacAULAY: But when you engage with survivors through the
6 group, and issues such as redress are raised, is there
7 a position that will be taken then?

8 A. Yes.

9 Q. What is it? Do we know?

10 A. No, we have not got there yet.

11 Q. The final point I think you make on page 482 is, you
12 have already mentioned this, is the revised manual and
13 that you say will be available by the end of 2017?

14 A. Yes.

15 Q. But that was recommendation 2 by Dr McLellan where
16 I think the recommendation was that the manual should be
17 completely revised or re-written?

18 A. Yes.

19 Q. And essentially is that what's happening?

20 A. Yes, all the work we have been doing will feed into that
21 new manual. That manual will contain the structures of
22 the safeguarding service in Scotland nationally, and in
23 each diocese; the kind of expectations of the people who
24 are safeguarding people in diocese and nationally, their
25 qualifications, their skills, the training that everyone

1 who is involved in the life the church and working with
2 children or vulnerable adults, the training that is
3 expected each year.

4 The theology is going to be an introduction and part
5 of the theology will probably be chapter headings or
6 introductions to each chapter of the manual, and it will
7 contain the work of the Independent Review Group. It
8 will contain for the first time written down anywhere
9 how an allegation is handled because that's not written
10 down anywhere, you know. We recognised that was a big
11 problem --

12 Q. Even in your present processes that's not written down?

13 A. If a case comes in relation to a priest, there are
14 procedures which come from the Vatican on how a case
15 should be handled, yes. But that's not written down in
16 public for anyone to see. More importantly, what's not
17 written down is: if you come forward as a survivor this
18 is how you will be treated; the person who looks after
19 you will not be the same person who is relating to the
20 person that you are accusing, which is one of McLellan's
21 recommendations.

22 So there are all those things that will be in the
23 manual, some of which will be written down for the first
24 time, as well as addressing all the kind of standard
25 questions and standard safeguarding issues which are

1 already there in the present manual, as I said, but will
2 be revisited and with the best practice as it exists at
3 the moment.

4 LADY SMITH: Mr MacAulay have you a little way to go with
5 Father Boyle yet?

6 MR MacAULAY: Actually not really, a few minutes my Lady.

7 LADY SMITH: We will carry on. I will take a five minute
8 break quite soon but --

9 MR MacAULAY: I think I am nearly finished you will be
10 pleased to hear, Father Boyle.

11 I just wanted to root this, what you have been
12 saying, in Dr McLellan's recommendation, which is
13 recommendation 6.

14 What Dr McLellan said was justice must be done and
15 justice must be seen to be done for those who have been
16 abused and for those against whom allegations of abuse
17 are made.

18 Is that what you are trying to achieve in this
19 procedure you are looking at?

20 A. Yes, absolutely. We like to think that what we have
21 been doing in recent years that justice has been done.

22 Now that that hasn't been properly extended or
23 understood or had a proper effect in the lives of
24 survivors is, of course, what we need to address.

25 Because for the last -- we have had managers

1 reporting to the authorities for ten years. In terms of
2 that, criminal justice has been addressed immediately
3 and as well as that if there had been serious
4 allegations against a priest, the Vatican introduced
5 these new ways of dealing with it, which we have been
6 following as long as they have existed.

7 So that level of justice. But the wider sense of
8 justice, yes, that justice should be seen to be done and
9 that survivors feel satisfied. Like the one time I went
10 to the Scottish Human Rights Encounter with Survivors,
11 I was sitting beside the man that you quoted widely last
12 week.

13 Q. Mr Docherty?

14 A. Yes. He was such a lovely old man and like you I am
15 sorry that he is not here to see this day. Because he
16 said to me, "Father, I have had everything. I have had
17 counselling. I have had this, I have had that. I just
18 want justice. I just want an Inquiry."

19 And that's what we want for him and it is what we
20 want -- I mean we want survivors to have peace. We want
21 survivors to be able to live lives as if those things
22 didn't happen to them. It would be great if we could
23 give them their childhood back, we can't do that.

24 MR MacAULAY: I think that is what Mr Docherty said in fact.

25 Thank you Father Boyle, I have no more questions for

1 you and none have been submitted, my Lady.

2 LADY SMITH: Is that right, there are no outstanding
3 questions for Father Boyle?

4 Father Boyle, thank you very much for your
5 assistance today. I am now able to let you go and we
6 will have a five minute break at this stage as well
7 please.

8 MR MacAULAY: My Lady, we will probably have to have
9 a longer break than that because my next witness is
10 coming tomorrow morning.

11 LADY SMITH: I thought that she was going to be here this
12 afternoon to start. It is down for tomorrow morning?

13 MR MacAULAY: It is.

14 LADY SMITH: Very well, in that case, we will rise now for
15 the day and we will sit again at 10 o'clock tomorrow
16 morning please.

17 (3.06 pm)

18 (The Inquiry adjourned until 10.00 am
19 on Friday, 9th June 2017)

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21

22

23

24

25

INDEX

PAGE

MONSIGNOR PETER SMITH (sworn)1

 Questions by MR MacAULAY1

FATHER FRANK DOUGAN (sworn)95

 Questions by MR MacAULAY95

FATHER THOMAS BOYLE (sworn)105

 Questions by MR MacAULAY105

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