

1 Tuesday, 26 June 2018

2 (9.30 am)

3 LADY SMITH: Good morning. As we explained before we rose  
4 yesterday afternoon, the first witness is joining us by  
5 video link in Aberdeen. So I'll just hand over to  
6 Mr MacAulay to introduce that witness.

7 MR MacAULAY: Good morning, my Lady. This next witness  
8 wants to remain anonymous and he wants to use the name  
9 "Ian" in giving his evidence.

10 LADY SMITH: Good morning, Ian. Can you see me?

11 A. Yes, I can see you now, yes.

12 LADY SMITH: And you can hear me, obviously.

13 A. Yes.

14 LADY SMITH: I would like you to start by taking the oath,  
15 please.

16 "IAN" (sworn)

17 (The witness appeared via video link)

18 LADY SMITH: Ian, I hope you're able to make yourself  
19 comfortable in Aberdeen. I can't see exactly what your  
20 surroundings are, but do make sure you're seated  
21 comfortably. I'm now going to hand over to Mr MacAulay  
22 to start asking questions.

23 Questions from MR MacAULAY

24 MR MacAULAY: Good morning, Ian.

25 A. Good morning.

1 Q. As her Ladyship has just said, I'm Colin MacAulay and  
2 I'll be asking you questions this morning. The first  
3 thing I want to ask you to confirm is the year of your  
4 birth. Can you confirm that you were born in 1948?

5 A. Yes.

6 Q. Before you, you'll have a red folder, and in that red  
7 folder you'll find the statement that you have given to  
8 the inquiry. I'm about to give the reference of that to  
9 the stenographers and that's WIT.001.001.8630. Could  
10 I ask you to look at the last page of the statement.

11 A. Yes, with my signature.

12 Q. Can you confirm you have signed the statement?

13 A. Yes.

14 Q. And if you turn to the last paragraph in the statement,  
15 which you'll find on the previous page, do you tell us  
16 that you have no objection to your witness statement  
17 being published as part of the evidence to the inquiry?

18 A. I have no objection.

19 Q. Do you also go on to say that you believe the facts  
20 stated in the witness statement are true?

21 A. Yes.

22 Q. Thank you.

23 I understand, Ian, that you are a retired police  
24 officer; is that correct?

25 A. That's correct.

1 Q. Who did you work for before you retired?

2 A. Grampian Police.

3 Q. And for how long did you work for Grampian Police?

4 A. [REDACTED] years.

5 Q. When did you retire, as a matter of interest?

6 A. [REDACTED] 2003.

7 Q. Was one of the areas that you patrolled when you were  
8 a police officer on duty an area that involved  
9 Nazareth House in Aberdeen?

10 A. Yes, that's correct.

11 Q. Were you aware at the time that the home was run by the  
12 Sisters of Nazareth?

13 A. Yes.

14 Q. I think you tell us in your statement that, as you put  
15 it, on many nights when you were working you would  
16 receive reports from the home that one or more residents  
17 had run away; is that correct?

18 A. That's correct.

19 Q. Can you help me with that, Ian? How often did this  
20 happen?

21 A. It was fairly regular. Probably once a week, at least.  
22 I couldn't be precise after all these years, but it was  
23 a fairly regular occurrence.

24 Q. And over what period of time are we talking about?

25 A. Well, the time I was stationed there -- I joined in

1 [REDACTED] 1976 and was stationed there until about  
2 [REDACTED] then I was away at police college for six weeks,  
3 came back, and did about another five weeks there before  
4 being moved on, so I'd been there quite a bit over the  
5 period that I was stationed there.

6 Q. Just to be clear, how long do you say you were stationed  
7 there then?

8 A. Well, without counting the police college, I was there  
9 from [REDACTED] until about the end of [REDACTED].

10 Q. 1976?

11 A. Just into [REDACTED], yes.

12 Q. And did you move on to another position after that?

13 A. Yes, I moved to the city centre.

14 Q. So was it only when you were involved in this particular  
15 area for that period of quite a number of months that  
16 you were involved with the children that had run away  
17 from the home?

18 A. Yes, that's correct.

19 Q. Can you just tell me a little bit about the children  
20 themselves? What sort of age were the children?

21 A. Various ages -- the ones that stuck out in my mind  
22 certainly was two girls that regularly used to disappear  
23 or not come back to the home after school or whatever.  
24 I was there on several times for them.

25 Q. What about --

- 1 A. We always managed to trace them in the end. There  
2 weren't many places they could go to really in those  
3 days, so it was a case of going round the usual places  
4 and you knew you'd find them somewhere.
- 5 Q. What about boys? Did you come across boys?
- 6 A. I can't remember, you see. It was these girls that  
7 stuck out in my mind.
- 8 Q. And what would happen? Would you get a phone call to  
9 tell you that someone had run away? How would it happen  
10 that you would have to act?
- 11 A. We would get a phone call, they would usually phone the  
12 police control room, the missing persons, and then  
13 we would be notified at Fonthill police office because  
14 we covered that area. And that's how it would all start  
15 again, you know.
- 16 Q. What then was the procedure? I think you've indicated  
17 that there were certain places you would know where to  
18 look for the children; is that right?
- 19 A. Yes, but not only for them, for other missing children.  
20 There wasn't a lot of places in Aberdeen where they  
21 could certainly go. You're speaking about maybe two  
22 Wimpy bars, maybe down the seafront to the café down  
23 there, or the fairground. There just wasn't a lot of  
24 places for them to try and keep out of the way and be  
25 with people of their own age group.

1 Q. What then was the procedure once you had tracked the  
2 children down? What would happen next?

3 A. They'd be taken straight back to Nazareth House.

4 Q. Would you go to the police station first of all?

5 A. No. No, that was never done.

6 Q. When you spoke to the children, did they say anything to  
7 you as to why they had run away?

8 A. Yes. Basically, they didn't like being there. They  
9 didn't like the way they were treated by the staff. It  
10 was just not a nice place to be. That's their words,  
11 you know. I asked them what would happen to them when  
12 they were taken back. They said they would be slapped  
13 around, probably locked in the dormitory. How true  
14 is that? I never saw any marks on them. Nobody was  
15 willing to roll up their sleeves or anything and say,  
16 "Look at this bruise I've got here". So then you begin  
17 to say to yourself, "Are they telling the truth?"

18 Q. What did they say to you as to what was happening to  
19 them in the home before they ran away?

20 A. They didn't like it. Discipline was strict if they did  
21 anything wrong. It was just a very strict regime.

22 Q. Did they elaborate upon on that? Did they say what  
23 things were happening to them?

24 A. No, apart from being locked in their room, maybe a bit  
25 of a slapping for being bad, no. That's about all that

1 we really went into. If that was going to be taken any  
2 further, that would be the decision of senior officers.

3 Q. Indeed. Did they say who did the slapping?

4 A. The nuns.

5 Q. Just again, looking at the ages of the children, can you  
6 remind me, what ages did you think these children were?

7 A. I'm trying to remember. I'd say the 13/14-year-old age  
8 bracket. It could be a year or two ...

9 Q. You said earlier that they could be cheeky, the girls  
10 could be cheeky?

11 A. Oh, very much so, yes.

12 Q. Did you form a view as to why they were being cheeky?

13 A. At the time, not really; I just thought they were  
14 cheeky. That was just, you know -- it wasn't until much  
15 later that I began to think about the whole thing.  
16 I thought they were being cheeky for other reasons.

17 Q. What reasons?

18 A. They didn't want to be taken back there.

19 Q. And when you say "much later", what time frame are you  
20 talking about?

21 A. I must admit, it was some time and -- then much later,  
22 when I heard that there had been reports of abuse at the  
23 home, I thought it all over again and that's when  
24 I began to think, they were telling us the truth, they  
25 didn't want to go back there, and maybe by being cheeky

1 to us, we'd maybe arrest them and they would end up  
2 somewhere else. This is my personal take on it.

3 But it was very difficult (sic) at the time just to  
4 think, well, these are cheeky kids, you know, but it was  
5 always -- their allegations would always be put on  
6 paper. Nobody would ever ignore that. That would have  
7 to go up the line to make a decision as to whether that  
8 would be followed up.

9 LADY SMITH: But I think you made the point that at that  
10 time, as a young police officer, as I think you were  
11 explaining, you were in no position to make a decision  
12 about what was to be done in relation to these  
13 allegations; is that right?

14 A. Oh, absolutely right. I mean, I was there to watch and  
15 listen and learn.

16 LADY SMITH: All you could do is pass on the information to  
17 others and then get about your other work, I suppose.

18 A. Yes. That was it, yes, and to learn how to deal with  
19 it, how to find them, how to record it in the station  
20 log, fill in the missing person report forms, then move  
21 on to the next. It was a learning process.

22 MR MacAULAY: Can I follow through then what you would do?  
23 I think you said you'd take the children back to  
24 Nazareth House; is that correct?

25 A. That's correct.



1 Q. Can you tell me what would happen then when you got to  
2 Nazareth House?

3 A. I'd take them indoors, they were always led away by  
4 a nun, and then we got to sit with this other nun who  
5 would help us complete all the details for the forms.  
6 Very pleasant. You know, I never came across any  
7 unpleasantness from the nuns. It wasn't until later in  
8 the year, when you start to hear stories, you start  
9 think to yourself, was I -- you know ... were they good  
10 at covering up? Were they just plain lying to us?  
11 I don't know.

12 Q. Did you and would you have raised with the nuns what you  
13 had been told in connection with what was being alleged?

14 A. Yes, but it was always denied, point-blank denied that  
15 there was any ill-treatment. You know, it's got to be  
16 taken at face value. They're saying, no, this doesn't  
17 happen, it's the kids, they're making it up. What do  
18 you do?

19 Q. What was your reaction at the time to the denials?

20 A. Actually, I believed what the nuns were saying. I was  
21 brought up to have faith and belief in all members of  
22 the cloth, whatever religion they came from. I have no  
23 religious bias or anything against anyone. I always  
24 learned to respect the church and, you know, the people  
25 involved with the church. I had no reason to believe

1           they were telling me lies.

2       Q.   Well then, having dealt with the nuns, would you then go  
3           back to the police station to complete the paperwork?

4       A.   Yes.

5       Q.   And what would that involve?

6       A.   Entry into the station log that they had been traced,  
7           where they had been traced, and the missing person forms  
8           had been submitted to headquarters, and that was  
9           basically the end of that particular matter.

10      Q.   Would you record the nature of the allegations that were  
11           being made by the children?

12      A.   I may well have done, yes.  It would just be an entry  
13           into the station log and probably on the missing person  
14           forms.  What happened to it after that, well, that's a  
15           command decision.

16      Q.   Where would these reports go?

17      A.   The missing person form would go to the duty sergeant.  
18           He would initial it.  It would go to the inspector on  
19           duty in the town and then it would go up the stairs to  
20           the chief inspector.  I'm not sure who would see it  
21           after that.  But I have no reason to disbelieve that it  
22           may have gone as far as the superintendent.  It  
23           certainly wouldn't have been ignored, you know.

24      Q.   And it's at that level that any decision would be made?

25      A.   Oh yes, yes.

1 Q. Do you remember now if in fact you did record the  
2 allegations that were being made by the children in  
3 these forms?

4 A. Yes, it would have been noted that this was the  
5 allegations and why they had run away.

6 Q. And would you have any comment to make as to whether or  
7 not you yourself believed the allegations?

8 A. As I said before, I had a very open mind about them.  
9 I was dealing with two very cheeky children sitting  
10 in the back of a police car and mouthing off to you, you  
11 know. It was very hard to say, "I believe you", you  
12 know. Were they trying to get the nuns in trouble? It  
13 wouldn't have been for us to make a decision there as to  
14 whether the nuns should be apprehended and taken  
15 further.

16 Q. But are you yourself aware of any follow-up to any of  
17 these reports?

18 A. I must admit, no.

19 Q. You mentioned, I think, that you'd have two cheeky girls  
20 in the car. Was it normally the position that there  
21 would be two runaways rather than single runaways?

22 A. I can't remember. Sometimes it would be a single, if  
23 I remember right, but certainly these two girls always  
24 seemed to run together.

25 Q. What you say in your statement, Ian -- and this is at

1 paragraph 10 -- is that you thought that -- let's turn  
2 to that, paragraph 10 of your statement. You have  
3 touched on this already, that you've been brought up to  
4 respect all religious people from whatever faith they're  
5 from; is that correct? Is that what you say?

6 A. Yes.

7 Q. And you could not believe that a nun was lying to you  
8 and she was covering up the abuse within the home. That  
9 was your position?

10 A. Yes, it was.

11 Q. You do say that the atmosphere at Nazareth House was, as  
12 you put it, very bleak.

13 A. Yes, I put it down just to the building itself. On  
14 a nice sunny day, you know, as you maybe went down to  
15 look, it felt okay, but on a dark night I found it very  
16 intimidating. I wouldn't have liked to have lived  
17 there. It just wasn't a nice place. But that was just  
18 me. I just felt it, you know. I was always glad to get  
19 out of there.

20 Q. But you do say in your statement that, years later, as  
21 more and more abuse was being revealed, what you say is:

22 "I felt sick about it. I felt sick about things  
23 they did."

24 Can I just understand what you mean by that?

25 A. Well, as I say, I would never have believed it went on

1 and that the nuns were lying to us. Years later, when  
2 I began to read that there was abuse at the home, that's  
3 when I felt pretty bad about it. But looking back on  
4 it, at the time, anything I thought wouldn't mean very  
5 much because it would still have to be a command  
6 decision as to whether to investigate it further, which,  
7 I have no doubt, would mean the arrest of these nuns for  
8 questioning. And that's just -- it turns out that that  
9 was in their cards in those days because --

10 Q. Why not?

11 A. Well, I think the general life was that people of the  
12 clergy just did not do these things. It's just the way  
13 I was brought up anyway.

14 Q. And I think it's fair to say, Ian, that you yourself did  
15 not witness any ill-treatment of a child at  
16 Nazareth House.

17 A. No, I did not, no. It was all what was spoken about  
18 once we'd caught them. I don't recall if there was any  
19 children ever turned up at the police station and banged  
20 on the door and said, "I've been abused". It always  
21 came from the fact, when we caught them, the allegations  
22 would be made.

23 Q. When you took the children back on the occasions that  
24 you did, did you deal with the same nun or different  
25 nuns?

1 A. To be honest, I can't remember; it's 42 years ago.

2 MR MacAULAY: Okay. Very well, Ian. Thank you very much  
3 indeed for accommodating us and coming to answer my  
4 questions. I think you've answered my questions and  
5 also any questions that I've been asked to put to you.  
6 Thank you very much.

7 LADY SMITH: Ian, just let me check whether anybody else  
8 in the room has an application for questions  
9 outstanding. No.

10 There are no further questions for you, Ian. It  
11 just remains for me to thank you very much for taking  
12 the trouble to travel today to the video conference room  
13 and speaking to us over the link. That's been really  
14 helpful and I'm now able to let you go. Thank you.

15 A. Thank you, Lady Smith.

16 (Video link terminated)

17 MR MacAULAY: My Lady, perhaps we could have a short  
18 adjournment to set ourselves up for the next witness.

19 LADY SMITH: That makes sense; I'll adjourn briefly.

20 (9.57 am)

21 (A short break)

22 (10.10 am)

23 MR MacAULAY: My Lady, the next witness is Archbishop  
24 Mario Conti, and perhaps I can say that Mr O'Neill  
25 appears on behalf of the archbishop.

1 LADY SMITH: Thank you.

2 ARCHBISHOP MARIO CONTI (sworn)

3 LADY SMITH: Please sit down and make yourself comfortable.

4 Archbishop, it really helps us -- and it'll help you --  
5 if you stay in the right position for the microphone,  
6 not just so that everybody in the room can hear you, but  
7 also importantly so the stenographers can pick up your  
8 evidence, because they listen to you through the sound  
9 system.

10 You're ready with the red file and I think  
11 Mr MacAulay will explain more about that to you.

12 Mr MacAulay.

13 Questions from MR MacAULAY

14 MR MacAULAY: Good morning, archbishop.

15 A. Good morning.

16 Q. Are you Mario Conti?

17 A. I am.

18 Q. And were you born on [REDACTED] 1934?

19 A. You mightn't believe it, but it's true.

20 Q. You're now 84?

21 A. Yes.

22 Q. In the red folder, archbishop, you'll find the statement  
23 that you have provided to the inquiry. I'll provide the  
24 reference to the stenographers: WIT.001.001.9602. If  
25 you could ask you in the first instance to turn to the

1 last page. Can you confirm that you have signed the  
2 statement?

3 A. I have, yes.

4 Q. And do you say in the last paragraph:

5 "I have no objection to my witness statement being  
6 published as part of the evidence to the inquiry"?

7 Is that right?

8 A. That's true.

9 Q. And do you also say:

10 "I believe the facts stated in this witness  
11 statement are true"?

12 A. They are, yes.

13 Q. Thank you.

14 Can I begin by looking to your background and  
15 qualifications, archbishop. What you tell us in your  
16 statement is that you began, if we look at your position  
17 as a priest, by being at Blairs College in Aberdeen in  
18 1947.

19 A. Yes.

20 Q. And you moved from there to the Pontifical College in  
21 Rome?

22 A. That's correct, yes.

23 Q. And when you were there, did you study at the  
24 Gregorian University?

25 A. Yes, until 1959.



1 Q. What subjects were you looking at?

2 A. Three years' philosophy and four years' theology.

3 Q. Did you obtain what we would call degrees in these  
4 subjects?

5 A. Yes, they were carried licences: a licence in philosophy  
6 and a licence in theology.

7 Q. Was it in Rome that you were ordained a priest?

8 A. Yes, in 1958.

9 Q. And I'll look at your life as a priest shortly,  
10 archbishop, but just to say that today your principal  
11 reason here is so we can explore your connection with  
12 Nazareth House Aberdeen and your reaction to allegations  
13 that have been made. Do you understand that?

14 A. I do.

15 Q. Of course, within the broader context of the workings of  
16 the Catholic Church, you may have other relevant  
17 evidence to provide to the inquiry, but that may be at  
18 a later stage. Do you understand that?

19 A. Right, yes.

20 Q. That's not a threat; it's a possibility.

21 A. I see.

22 Q. When you began as a priest, did you begin as a curate at  
23 St Mary's Cathedral in Aberdeen?

24 A. I did. In 1959 I was appointed to St Mary's Cathedral  
25 as the junior priest, called a curate.

- 1 Q. I think you tell us you were there until 1962.
- 2 A. Exactly.
- 3 Q. That, of course, was your first posting --
- 4 A. Yes.
- 5 Q. -- as a priest?
- 6 A. Yes.
- 7 Q. How many priests were at the cathedral at that time?
- 8 A. There were three of us there. There was the priest in
- 9 charge and another ahead of me, and then me.
- 10 Q. There's been reference in the evidence to
- 11 a Father Ashworth; is that a name that rings a bell with
- 12 you?
- 13 A. It does ring a bell with me and I was aware that he had
- 14 been a lay vocation in the priesthood and therefore
- 15 I came across him, I think, in Rome first of all.
- 16 I knew him, but not as an intimate friend or anything.
- 17 Q. Was he based at the cathedral at the time?
- 18 A. No.
- 19 Q. Was he based at Nazareth House then?
- 20 A. To be truthful, I can't remember where he was based.
- 21 Q. There has been a suggestion that he may have been quite
- 22 elderly.
- 23 A. Oh, he was elderly, he was. He was a lay vocation of
- 24 the priesthood.
- 25 Q. Can you remember if he had trouble with his hearing or

1 not?

2 A. I think so. He was like old men of my age, who were  
3 a little bit insensitive to hear.

4 Q. The other priest's name, perhaps this is going back  
5 in the mists of time, a Canon Grant; is that a that  
6 rings any bells?

7 A. Canon Grant, yes -- Canon Grunt as they used to call him  
8 in Aberdeen, yes. Well, before my time.

9 Q. And he had moved on before you came to Aberdeen?

10 A. Oh, I think he was dead, yes.

11 Q. After Aberdeen then, archbishop, I think you tell us in  
12 your statement that you moved to be the parish priest in  
13 Caithness and Wick and Thurso?

14 A. Yes.

15 Q. How long did you spend there?

16 A. Nearly 15 years.

17 Q. I think that's from 1962 to 1977?

18 A. Exactly.

19 Q. Was it in 1977 that you were appointed bishop at  
20 Aberdeen?

21 A. Yes. 1977.

22 Q. Can you just give us some feel for the Aberdeen Diocese  
23 and the areas that it covered?

24 A. I could spend all day giving you a feel for that --

25 Q. A sentence or two will suffice.

1 A. [OVERSPEAKING] of Scotland and the Northern Isles. It  
2 extended all the way from south of Aberdeen from the  
3 North Esk, I think, right through to Shetland and west  
4 to Kyle of Lochalsh.

5 Q. So it was a very large area?

6 A. Very lovely. A beautiful, but extensive area.

7 Q. In 2002, were you appointed the archbishop of the  
8 Archdiocese of Glasgow?

9 A. Yes.

10 Q. Was that a position you held until you retired in 2012?

11 A. Exactly.

12 Q. Can I just understand, archbishop, what the bishop's  
13 role is in the management of a diocese? You were  
14 managing Aberdeen, you were the bishop of Aberdeen: what  
15 was the bishop's role?

16 A. It's a multi-faceted role, but basically it is as chief  
17 pastor of the Catholics of that area and therefore  
18 you're both a teacher, but you're also someone who  
19 administers the diocese, makes appointment of priests,  
20 sees that everything is operating according to canon  
21 law, one who gives the principal sacraments, ordains  
22 priests and so on. So it's a role that is both  
23 administrative and spiritual.

24 Q. Looking to the spiritual aspect, do you see that your  
25 constituents, if that's the right description, come

1 under your umbrella for pastoral care?

2 A. That's right -- and diocesans, I would refer to them as.

3 Q. And what does pastoral care mean?

4 A. Pastoral care is basically looking after their spiritual  
5 well-being. It's as broad as that, but that well-being  
6 is within the tradition of the Catholic Church,  
7 administered locally by priests. It is served by  
8 catechists, it is developed according to a pattern,  
9 which is based upon the sacraments of the church.

10 Q. And I think we've heard already in evidence that has  
11 been given, I think, by Monsignor Peter Smith that each  
12 diocese is autonomous.

13 A. Yes.

14 Q. That's correct. And I think you may know  
15 Monsignor Smith. He may have been your senior bishop --

16 A. I do, he was my chancellor for many years in Glasgow.

17 Q. But there is a body or there was a body known as the  
18 Scottish Hierarchy?

19 A. Yes.

20 Q. Was that essentially all the bishops?

21 A. That's the bishops of an area of a region, of a country,  
22 yes.

23 Q. Just as the diocese has autonomy, do religious  
24 institutes such as the Sisters of Nazareth also have  
25 autonomy?

1 A. They do. Canonically they are dispensed from some of  
2 the major -- what I would say were the responsibilities  
3 of the bishop towards diocesans, and that is to protect  
4 their particular charism. Only those, but most of them  
5 that we would come across today have a pontifical right.  
6 In other words, they have been given a constitution  
7 approved by the Pope and have been protected, as far as  
8 their internal life is and their particular work, from,  
9 shall we say, the interference, as some would see it, of  
10 the local bishop.

11 Q. I think what you're saying in relation to the Sisters of  
12 Nazareth is that, as an order, they have autonomy?

13 A. Yes.

14 Q. And you as a bishop could not interfere with the  
15 workings of the order?

16 A. Yes.

17 Q. Is that correct?

18 A. That's right, but that doesn't preclude the bishop  
19 having some responsibilities, in fact, with regard --  
20 for example, they have Mass in their place, they have  
21 the duty of educating the children in the faith and so  
22 on and that might touch upon the bishop's  
23 responsibility. But it's a case of them living  
24 according to a pattern, which has become traditional,  
25 which is covered -- which is protected, I would say,

1 canon law and ultimately by the Holy See. And that  
2 autonomy, they jealously hold to. We're all inclined,  
3 as it were, to value our own autonomy in the areas of  
4 our responsibility and of our work, and they did  
5 certainly.

6 Q. An institute such as the Sisters of Nazareth would  
7 require the consent of the bishop to be present in the  
8 diocese?

9 A. Absolutely. But if you accept them, you have to accept  
10 them under the conditions in which they would come. In  
11 other words, that their particular charism, the work  
12 they undertake, the rules that they live according to,  
13 the tradition of that order is protected.

14 LADY SMITH: What if a bishop became aware that actually,  
15 they were not living according to the provisions of that  
16 order or according to what they had said were the  
17 conditions under which they were coming to the diocese?  
18 What then?

19 A. Yes, my Lady, it's a good question. The fact of the  
20 matter is I think it's only when they don't do it that  
21 you have to address that question, when you come to  
22 a point when you say, these are not living according to  
23 what I know to be their charism or how they should be  
24 exercising it.

25 So with Nazareth House, as a young curate, and

1           certainly during my first three years and later as  
2           bishop when it was really closing down, I had less even,  
3           shall we say, cause to -- based upon my role as a priest  
4           in Aberdeen or as a bishop of the diocese to appear to  
5           interfere. But I think this is maybe what you're asking  
6           [OVERSPEAKING] --

7           LADY SMITH: I'm thinking really in general, not specific --  
8           no doubt we'll come specifically to Nazareth House. But  
9           in terms of the way the system operated, what would you  
10          do as bishop if you had a concern that an order was not  
11          doing what you had understood they were going to do?

12          A. I think the first stage would be to say to the Superior  
13          of the house, you know, I'm concerned, I have read  
14          certain claims about the way in which you're conducting  
15          the house, and so on, I don't want to interfere, but in  
16          fact I'm concerned as the local bishop --

17          LADY SMITH: All right. If she says, "You have no need to  
18          be concerned, please go away"; what then?

19          A. She wouldn't dare say that to a bishop but that kind of  
20          expression --

21          LADY SMITH: That might be the message, no doubt wrapped up  
22          in polite language.

23          A. Well, exactly. You would get the feeling that you were  
24          perhaps overstretching your role.

25                 I can speak of another order, a Benedictine order,



1           which was also in the diocese, when they closed the  
2           school without my even knowing about it. So these, what  
3           shall we say, rights that they had, canonically were  
4           very jealously guarded, though they were there in order  
5           to ensure their good work continued.

6           And the question you are asking is: if their good  
7           work is not operating, what does a bishop do? I think  
8           if I had discovered as a bishop that such work was not  
9           being undertaken properly, or if I had complaints, if it  
10          wasn't sufficient to go the Superior of that house, then  
11          I might go to the Provincial, which is further up in the  
12          chain of command, and ultimately one could go to Rome,  
13          to the Congregation for Religious --

14        LADY SMITH: I wondered if that, logically and technically  
15          perhaps, was the answer because originally their  
16          constitution would have to be given to them and approved  
17          by the Holy See --

18        A. That's right.

19        LADY SMITH: -- so it would be ultimately for the Holy See  
20          to deal with a problem of that sort --

21        A. Yes, that's right.

22        LADY SMITH: -- to police it or call them to account if  
23          there seemed to be a need to do so.

24        A. Absolutely.

25        LADY SMITH: Have I got that right?

1 A. Absolutely.

2 LADY SMITH: Thank you.

3 MR MacAULAY: You mentioned there in passing, archbishop,  
4 the closing of the school at Fort Augustus, and you  
5 weren't consulted.

6 A. Yes.

7 Q. Should you have been consulted?

8 A. I would have thought out of courtesy at least. The work  
9 they were doing was work which was undertaken at the  
10 agreement of the bishop of the time and so on, and I had  
11 documents which showed that. But in fact, in the first  
12 attempt to close, they decided not to close, so by the  
13 second time I was aware of their changed intentions.  
14 But there was no way in which I could interfere and say,  
15 "You can't close it".

16 Q. Coming back to the priest's role and indeed the bishop's  
17 role, fundamental to your role is of course the notion  
18 we've already discussed and that is pastoral care of  
19 those within your diocese.

20 A. Yes.

21 Q. So far as Nazareth House would be concerned, the  
22 children at Nazareth House would be under your umbrella  
23 of pastoral care?

24 A. Not directly. I mean, there's a sense in which that  
25 would be the case in that general sense of the bishop's

1 responsibility for his diocesans and they would be his  
2 diocesans and the children would really be, in a sense,  
3 diocesans, a special care, absolutely. But it's only if  
4 you saw or were involved that, you know, what is  
5 happening there is not in the best interests of the  
6 children and in the tradition of the church, then most  
7 certainly it would have been a duty to intervene. And  
8 I think many people will find it difficult to believe  
9 how, given the structure of the Catholic Church, and  
10 what has been described by me in answer to your  
11 questions, that the opportunity didn't arise or that the  
12 bishop did not see, that I did not see something that  
13 needed to be done in order to address what we now see,  
14 what we have come to believe, what we have seen the  
15 evidence for, inappropriate behaviour on the part of  
16 members of the community.

17 Q. And do you believe that now?

18 A. I do. I mean, I've seen the evidence, yes.

19 Q. We'll come back to that, archbishop. Can I then leave  
20 that topic aside for the moment and take you back to  
21 your days as a young priest in Aberdeen. Did you have  
22 dealings with Nazareth House at that time in the 1950s  
23 and 1960s?

24 A. Yes. "Dealings" is a broad word, isn't it? Was  
25 I engaged in any way with them? Yes, I was engaged

1            pastorally in the sense that -- as one of the priests of  
2            the cathedral. They were within the cathedral parish,  
3            we provided them with daily Mass, which would be for the  
4            benefit of the sisters, but in the tradition of a place  
5            like Nazareth House and other such institutions  
6            throughout the Catholic Church, it was the practice then  
7            of people to attend daily Mass and the children would be  
8            there for that half hour in the morning for Mass.

9            Otherwise, it was left to the priest if he wanted to  
10           visit or whatever, and I had a couple of friends who  
11           actually provided opportunities for the boys and girls,  
12           obviously, in their respective places to be in the  
13           Scouts and the Guides. I can remember going up  
14           occasionally there, just by way of support, because they  
15           were doing it as voluntary work, and I would be there  
16           and seeing it. I wouldn't be staying very long, it was  
17           just a case of looking in, "Here's Father Conti come to  
18           see you, children", or what have you, but there was no  
19           personal engagement.

20           And certainly with the couple -- yes, they were good  
21           friends of mine, but not with the children. Just  
22           a case, and I remember they seemed to be very happy, and  
23           waving to you and all that sort of thing.

24           Q. Just looking to your involvement then with  
25           Nazareth House, you'd go there to say Mass?

1 A. Yes.

2 Q. And was there a rota?

3 A. Yes, there was. We took it in turns, so it would be  
4 every three weeks I would be there.

5 Q. You'd be there on a three-weekly basis for the whole  
6 week?

7 A. Yes.

8 Q. What time was Mass at?

9 A. Oh gosh. It was quite early if I remember rightly.  
10 I think it was something like 8 o'clock or something  
11 like that.

12 Q. And apart from the sisters, I think you mentioned the  
13 children also attended the Mass?

14 A. Yes.

15 Q. On a daily basis?

16 A. Yes.

17 Q. I think you went on to say you would have -- there were  
18 other visits in connection with, let's say, the Scouts  
19 and so on that you also had to Nazareth House.

20 A. Yes.

21 Q. Do I take it from what you've been saying that you never  
22 saw anything in that connection that would cause you any  
23 concern?

24 A. No, no, no. I mean, I wouldn't even know today where  
25 they went for their breakfast. I knew the house, but

1 I didn't know the whole house. I wouldn't have known  
2 where they went to sleep, for example. I mean, it was  
3 a place I visited, it was a place where I went to the  
4 chapel, it was a place where I had my breakfast  
5 afterwards in a room near the front entrance. Apart  
6 from those occasional visits to a particular hall in the  
7 complex of buildings, I wouldn't have been there.

8 Q. A number of lay staff have been mentioned in the course  
9 of the evidence, one being [REDACTED] LDU . Was he somebody  
10 you knew at that time?

11 A. I remember the name. I remember the name very clearly.  
12 I can't visualise him but I remember the name.

13 Q. The other name mentioned in passing, perhaps a more  
14 experienced member of the lay staff, is [REDACTED] FAJ . Is  
15 she somebody --

16 A. Yes, I do remember her.

17 Q. She was working there at the time that you had some  
18 involvement with Nazareth House?

19 A. She was, and ultimately I remember her because the  
20 sisters had a sort of special event for her to thank her  
21 for her many years. [REDACTED]

22 [REDACTED] they had employed her and they asked  
23 me to obtain a papal award for her and that was quite an  
24 event.

25 Q. You provide us with a short history of Nazareth House in

1 your statement, archbishop. In particular, I think you  
2 say that, at a point in time, that had been -- the local  
3 church had been on that site, is that right, before you  
4 moved, before St Mary's Cathedral was constructed, or  
5 have I misunderstood that?

6 A. I'm not quite sure what you're asking there, but the  
7 short history contains this bit of information, which is  
8 interesting, which is that the sisters came at  
9 a particular time. In fact, it was the first house  
10 after their mother house at Hammersmith in London. So  
11 they were contacted and came up to continue a good work  
12 which had happened much earlier, at the beginning of the  
13 19th century, under Priest Gordon, a famous priest in  
14 Aberdeen, when he founded schools in Aberdeen, and  
15 started an orphanage.

16 When the cathedral was built, it released his  
17 house -- the presbytery, as we would call it -- and  
18 St Peter's church, and the sisters were invited to  
19 occupy it and to use the church for a period for their  
20 orphanage and so on until they managed to acquire a site  
21 in the city, and they transferred to that in 1862,  
22 I think.

23 Q. You do say in your statement, archbishop, that you  
24 understood that inspections of Nazareth House did take  
25 place.

1 A. Yes.

2 Q. What led you to that understanding?

3 A. The fact that I saw reports in a book which they held,  
4 but I obviously could have concluded that because we had  
5 no sort of pattern of visiting. We did not, as far as  
6 I knew -- as far as I know still, looking back -- had  
7 any responsibility.

8 But it's an interesting question, this visitation,  
9 because, normally speaking, one of the ways in which  
10 a bishop exercises his oversight of a diocese is  
11 precisely by visitation. He visits parishes, he visits  
12 schools, Catholic schools. He would normally visit --  
13 but, as Lady Smith asked earlier, would one not visit --  
14 and having a responsibility for that place -- and it's  
15 a question I think the church must address itself.  
16 Because if a religious order is given, if you like, that  
17 exclusion from some of the responsibilities, general  
18 responsibilities of a bishop, then what about this  
19 question of occasional visitation to ensure that they're  
20 fulfilling their role?

21 That is something for the church to address,  
22 I think.

23 Q. One, I think, can see a difference between an order  
24 that is, let's say, a closed order and has effectively  
25 no real connection with the outside world, but here



1           we're dealing with an order that's looking after  
2           children --

3       A.   Yes.

4       Q.   -- who, I think you do accept would come under your duty  
5           as priest, and indeed as bishop, to afford them pastoral  
6           care?

7       A.   Yes.  Well, the pastoral care would have been at that  
8           time thought to have been fulfilled with the priest  
9           going to say Mass, with his occasional visits, such as  
10          I've described, with the knowledge that there was always  
11          a chaplain appointed, but who actually was hearing  
12          basically the confessions of the sisters at a point in  
13          time, and also the children.  And I think it was  
14          conceived in those terms as probably sufficient.

15      Q.   Can you say if priests at the time when you went to  
16          Aberdeen were involved in any way in placing children  
17          into Nazareth House?

18      A.   I'm pretty sure -- certainly I don't remember in my time  
19          ever having said to the parish priest or the sisters --  
20          I do remember saying with regard to an old person,  
21          because they also looked after old people.  I don't ever  
22          remember saying, I've come across a family in my part of  
23          the parish, which is my responsibility as a curate,  
24          coming across a family that required special help there,  
25          where they couldn't look after their children or where

1 children had been -- lost their parent or whatever.

2 But I think, in all probability, that that gradual,  
3 if you like, dependence upon other visitators to keep an  
4 eye on those, if you like, concerns was something which  
5 developed -- certainly when Priest Gordon set up his  
6 schools, he was in charge, he was appointing the  
7 teachers, he was looking after the children pastorally,  
8 and the orphanage would have been part of that.

9 But as time went on and Local Authorities assumed,  
10 rightly, more and more responsibility for those  
11 services, which were provided within the area to which  
12 they sent, to which they referred children, that it was  
13 their responsibility, which they exercised occasionally,  
14 by sending inspectors in to see the place was being  
15 properly run.

16 Q. The inquiry has heard evidence -- and I'm not suggesting  
17 it was in your time in Aberdeen or indeed that it  
18 related to Aberdeen -- that priests could be involved in  
19 children being placed in a Nazareth House.

20 A. Yes, I'm sure that is true, but I have no experience of  
21 it myself. I could imagine a priest going and saying to  
22 the Reverend Mother, there's a family in the diocese  
23 here or the parish here, they have just lost their  
24 mother, their father, and I think they're unable -- the  
25 sisters were ready to take children like that, but the

1           general referrals during the time I was there, to the  
2           best of my knowledge, were through the local authority.

3       Q.   In any event, archbishop, what you're saying is that  
4           you, either as curate or as archbishop, had no real  
5           oversight in the way in which the home was being run?

6       A.   Practically speaking, that's correct.

7       Q.   So you would have little prospect of gaining any real  
8           insight into how the children were being treated?

9       A.   Yes.  With hindsight, unfortunately.

10      Q.   Why do you say that?

11      A.   Well, because it's evident that things were happening  
12           there which have come to light now and many children  
13           complaining that they were not well treated, that it had  
14           scarred their development and their life, and it's  
15           something painful for us to hear.

16      Q.   If I take you to the time when you became bishop in 1977  
17           through to 2002, would your involvement with  
18           Nazareth House as compared to when you were a curate be  
19           much less?

20      A.   In practice, yes.  The authority was greater, of course,  
21           of course it was, but if I had intervened then as the  
22           local bishop, they would have paid more attention  
23           certainly than I would as a curate -- probably  
24           I wouldn't have done it as a curate, it would have to be  
25           done through the parish priest.  But, of course, the

1           responsibilities for the diocese were enormous in terms  
2           of its space -- 70 churches and Mass(?) centres to be  
3           visited -- but not only that, it was some years after  
4           the Scottish Social Act, Social Care Act --

5   LADY SMITH: Are you thinking of the Social Work (Scotland)  
6           Act of 1968?

7   A. Thank you, my Lady.

8   LADY SMITH: And that would have been passed in between your  
9           times in Aberdeen --

10   A. That's right.

11   LADY SMITH: -- after you finished your time being a curate  
12           there and before you came back to --

13   A. 1968, I think.

14   LADY SMITH: Yes.

15   A. So after that, there was obviously a change in the way  
16           in which orphaned children and so on were going to be --  
17           there was a change in public opinion in respect of how  
18           they should be educated and cared for and so on. And  
19           gradually, over the period, the house gradually ran down  
20           until, I think, in 1980 or 1981, there was only  
21           12 children left.

22           So you know, even though there were two or three  
23           years at the end of their time when I was bishop, the  
24           house was virtually -- well, at one time it had as many  
25           as 300 children, so it was really petering out, if you

1 put it in those terms.

2 MR MacAULAY: But what did you see your duty as bishop  
3 towards the children to be during that period when the  
4 children were there and you were there as bishop?

5 A. I suppose really to be satisfied that everything was  
6 hunky-dory, that everything was going well, that the  
7 tradition of caring for them -- and there had been no  
8 previous complaints during any of those years, to the  
9 best of my knowledge, that they were doing their work  
10 appropriately.

11 Q. So do I take it that you were satisfied then at that  
12 time that the children were being properly cared for?

13 A. Yes, but blindly satisfied.

14 Q. Why do you say "blindly satisfied"?

15 A. Because I wasn't seeing what now has been revealed.

16 Q. I think the position is that, as you've indicated, the  
17 church, the bishop, had no system of inspection or of  
18 going to see what was happening on the ground or indeed  
19 speaking directly to the children?

20 A. Yes.

21 Q. Is that fair comment?

22 A. Yes, very fair comment.

23 Q. Did you have any knowledge that children may have run  
24 away from Nazareth House?

25 A. Not at the time; I know now, yes.

1 Q. I want to refer you to a letter that you yourself  
2 mention in your statement, archbishop. I'll give the  
3 number to the -- the letter will come up on the screen.  
4 It's at BSC.001.001.0024.

5 You refer to this letter at paragraph 21 of your  
6 statement. It's a letter from Father Thomas Gibbons to  
7 yourself, dated 22 June 1981. This is towards the time  
8 when Nazareth House, as a children's home, was closing  
9 down. Father Gibbons is sending you a copy of a letter  
10 that he has sent to the Director of Social Work for  
11 Grampian region.

12 A. Yes.

13 Q. It's essentially dealing with the prospect of the  
14 children's home closing within the next due months;  
15 is that right?

16 A. Yes.

17 Q. What you say in your statement is that when you received  
18 this letter, it was clear to you that Father Gibbons had  
19 wanted to inspect the house and found it difficult to do  
20 so; that's what you say in paragraph 21 of your  
21 statement.

22 A. Yes. It's not coming up on the screen. It's the letter  
23 from Father Gibbons that's on the screen presently.

24 Q. It's, but if you look at your statement --

25 A. Oh, I see.

1 Q. We'll get it on the screen for you.

2 A. Yes, I see, yes.

3 Q. Halfway down, you say:

4 "I received the letter as local bishop and it was  
5 clear to me that Father Gibbons, seeking to report to  
6 the bishops, had wanted to inspect the house and found  
7 it difficult to do so as the sisters were very  
8 protective of their autonomy."

9 A. Yes.

10 Q. Can I just understand how you came to that opinion?

11 A. Well, because they were protected under canon law from  
12 the interference of the bishop. Once the bishop gave  
13 permission for an order to come in, after he considered  
14 that it was for the benefit of the local church, they  
15 ran their own shop. I mean, it's as basic as that. So  
16 when this question arose -- am I answering your  
17 question?

18 Q. Yes, carry on.

19 A. When this question arose about the closure of the house,  
20 it then became -- what happens now, now that this  
21 particular work is finishing? And I think it was  
22 assumed by the sisters -- and it was only when they  
23 actually left that we realised that, according to the  
24 initial document in their coming, the property which  
25 they had built for the purpose reverted to the diocese.

1           So what happens today is that Nazareth House has been  
2           transformed into Northcote House, run by laypeople, but  
3           in the continuity of practice. No sisters now are  
4           operating there, but it just shows the way in which  
5           things developed.

6           So at a critical point in their development it was  
7           appropriate and required, if they were going to change  
8           their mission in any way, for the local bishop to give  
9           his approval.

10          Q. What Father Gibbons seems to have had in mind at some  
11          point is that he had wanted to inspect the house --

12          A. Yes.

13          Q. -- but found it difficult to do so --

14          A. Yes.

15          Q. -- because the sisters were protective of their  
16          autonomy?

17          A. Yes.

18          Q. And what I'm trying to understand is whether there is  
19          a distinction between the sisters as an order and their  
20          autonomy and the children, in whose pastoral care the  
21          bishop or the priest would have a duty towards. Do you  
22          understand the distinction?

23          A. Well, I mean, you certainly can look at something from  
24          different angles in different respects, yes. I'm not  
25          sure what you're trying to suggest to me.



1 Q. What you say is that you had no immediate power under  
2 canon law to require them to admit Father Gibbons to  
3 conduct an inspection.

4 A. Yes.

5 Q. An inspection of what?

6 A. An inspection of what they were doing there. In other  
7 words, still caring for children but at a point where  
8 the house was likely -- had to change its purpose if it  
9 was going to continue. Already they had old people  
10 there, quite significant number of old people, but the  
11 question was: will they continue their double mission of  
12 looking after vulnerable children and vulnerable adults,  
13 basically, in today's terminology.

14 Q. If the homes were open today, I think you'd take  
15 a different approach, is that what you say in your  
16 statement, in that you'd insist on greater access?

17 A. Well, I think I addressed that in respond to  
18 Lady Smith's question earlier about how if one was not  
19 satisfied, one could intervene. What's interesting  
20 about this, Colin, is that is indicative, it seems to  
21 me, that the bishops perhaps were beginning to be  
22 concerned not just that the houses were closing but that  
23 perhaps the sisters were not really up to the mark with  
24 proper training for the work that they were undertaking  
25 and that the change in public opinion or in, what shall

1 we say, social work opinion, about how these children  
2 should be looked after, required greater skills than  
3 perhaps they had probably had training for previously,  
4 which would be one reason perhaps for us concluding that  
5 the care which was insufficient, the care which the  
6 children didn't get, which one was expecting that they  
7 would get, was due not to any lack of attempt on their  
8 part to look after them, but in a lack of their training  
9 to do so appropriately --

10 LADY SMITH: I think that the letter we looked at also made  
11 mention of the financing of the home. Maybe we could  
12 have it back on the screen a moment. Would that be  
13 possible?

14 MR MacAULAY: Yes. That's at BSC.001.001.0024.

15 LADY SMITH: You'll see, archbishop, in the main paragraph  
16 Father Gibbons makes reference to his view that unless  
17 they received from Grampian an assurance of usage and  
18 subsidised payments, then the children's home would have  
19 to be closed within the next few weeks.

20 A. Yes.

21 LADY SMITH: Does that tell us anything about the sisters'  
22 ability to manage the finances of the home effectively?

23 A. I think what it clearly illustrates is that if the  
24 number of children, which at one time or other was up to  
25 about 300 -- not at that time they would be subsidised

1 per child, per capita, I don't think. So the sisters  
2 even in this day, actually, in such houses do what's  
3 call questing, where they go round collecting in order  
4 to do the work that they have been authorised to do  
5 within a diocese.

6 Indeed, when I was up in Caithness -- I remember up  
7 in Caithness people would say, "When are the ladies  
8 coming?" At first I didn't know what they were talking  
9 about, but it was the sisters who went round to the  
10 farms and so on collecting in order to keep the houses  
11 going.

12 But as time went on, the subsidies presumably  
13 increased -- I'm not an expert or a historian about  
14 these developments, but I think the subsidies would have  
15 increased to a point where children in care -- and  
16 that's why the referral from the local authority was  
17 important -- would be supported on a per capita basis  
18 and, with the numbers reducing -- I mean none of us need  
19 to be hugely competent in financial matters to recognise  
20 it would have a deleterious effect on the management --  
21 on the continuing -- on the maintenance of the house and  
22 its work.

23 LADY SMITH: Was there any system whereby they could, for  
24 example, apply to the church for financial support to  
25 keep the home going?

1 A. Well, my Lady, I think they were doing that in the sense  
2 that they were welcome in the parishes to go and doing  
3 that period of collection.

4 LADY SMITH: That's asking people to donate money, the  
5 parishioners to give money.

6 A. That's correct.

7 LADY SMITH: I was thinking rather about the church itself,  
8 the Catholic Church, central funding, whether there were  
9 any funds available to support initiatives like this.

10 A. Well, by the time I was bishop, when I might have known  
11 about that, the house was running down and perhaps the  
12 interest of the bishops is indicative of the whole  
13 question of the financing of their work. I think you're  
14 probably right in noting that. But I don't think --  
15 I don't recall -- I have never seen a sort of fund which  
16 was specifically dedicated to the maintenance of these  
17 houses.

18 LADY SMITH: Right.

19 MR MacAULAY: I think in fact, if we look at the enclosure  
20 that Father Gibbons refers to, it's at  
21 BSC.001.001.0025 -- that'll come on the screen -- this  
22 is the letter of 22 June to the Director of Social Work  
23 by Father Gibbons.

24 Can we see in the second paragraph there are now  
25 only 12 children in residence --

1 A. Yes.

2 Q. -- as I think you've pointed out, but we see in the  
3 third paragraph that the home is seriously in debt --

4 A. Yes.

5 Q. -- and has borrowed significant sums of money.

6 A. It's actually then evidencing the answer that  
7 I attempted to give, yes.

8 Q. Indeed, but it was because the home was reliant upon  
9 local authority funding --

10 A. Yes.

11 Q. -- to preserve its existence.

12 A. Yes.

13 Q. But no funding from the Catholic Church as a church?

14 A. No, to the best of my knowledge.

15 Q. What you say in paragraph 22 of your statement at  
16 WIT.001.001.9606, is that:

17 "If the homes were open today, I am certain,  
18 particularly in the light of evidence presented to the  
19 inquiry, that the church would make a point of insisting  
20 that the local bishop had more access to them."

21 So can I just understand that? What do you say has  
22 changed that would promote that approach?

23 A. Well, I'm no expert on this aspect of the developments  
24 to do with social work and the connection of the church  
25 with that social work and so on and so forth. Can

1 I just read again what I saw there and what you said  
2 there?

3 (Reads sotto voce)

4 What I do know as background is that some decades  
5 ago, the Holy See -- if people understand what I mean by  
6 the Holy See -- issued a document addressed to bishops  
7 which obliquely, if not directly -- and I'm not quite  
8 sure whether it was oblique or direct. It certainly was  
9 a document that ended up saying something to the effect  
10 that those religious houses or religious communities  
11 within a diocese were part of the diocesan family.  
12 I can't remember much more about it, though at the time  
13 I was asked to address the issue at a particular meeting  
14 or other, which must have involved some religious, to  
15 try and explain to them what this was all about.

16 It was precisely against that background that  
17 I could make the point that I made there: in other  
18 words, the church was beginning to be concerned that  
19 something which was set up in order to protect a good  
20 was having some sort of negative results in terms of, if  
21 you like, the autonomy of such houses within the broader  
22 context of the diocese.

23 Q. It's hypothetical, of course, but what you say is:

24 "If the homes were open today, I am certain,  
25 particularly in the light of the evidence presented to

1 the inquiry, that the church would insist upon greater  
2 access."

3 What is it that has changed?

4 A. Well, the evidence, I suppose, the fact that we've been  
5 shocked by what had been undertaken in our name. I've  
6 got to be careful not to generalise this too much, but  
7 there are incidences of it -- and it is significant for  
8 us to be hugely concerned about it to the point where,  
9 knowing the goodwill of my fellow bishops and so on,  
10 they would not wish, if those orphanages were still open  
11 today, to continue a practice which has proved to be,  
12 what shall we say, not in the interests of those  
13 institutions.

14 LADY SMITH: And am I right that I should put your thinking  
15 in perhaps a worldwide context --

16 A. Yes.

17 LADY SMITH: -- knowledge of what was found to happen in  
18 Canada and the United States --

19 A. Yes.

20 LADY SMITH: -- in Australia, in Jersey, in the Republic of  
21 Ireland, Northern Ireland, what is being uncovered south  
22 of the border, here in Scotland, and what is about to be  
23 investigated in New Zealand as well?

24 A. I share the same concerns that you're expressing,  
25 my Lady, and that is why I'm saying that. What I said

1 a little bit before -- in a sense, from here I'm sort of  
2 addressing my colleagues somewhere or other and saying,  
3 this is something that really needs to be looked at  
4 again in terms of a practice that was canonically  
5 sanctified, or whatever verb I would want to use there,  
6 which was intended to ensure that a good work continued  
7 within the church without the bishops interfering with  
8 it. It was to protect them. But the protection has had  
9 this deleterious effect that because a bishop wasn't  
10 involved, the broader church wasn't involved, and  
11 we have landed up in those cases which have caused us  
12 such pain and anguish in recent years, and clearly,  
13 it'll have to change.

14 MR MacAULAY: Well, can I then move on, archbishop, to the  
15 time when you became aware of there being allegations of  
16 abuse being made, particularly in connection with  
17 Nazareth House Aberdeen?

18 You begin to address this in paragraph 25 when you  
19 first had knowledge. I think this was on the back of  
20 some press reporting; is that correct?

21 A. My memory is, Colin, that the first I heard about this  
22 was from two officers of the local police force, who  
23 came to see me -- I can still visualise it, it was soon  
24 after I moved house to Queen's Cross. I remember taking  
25 them into the room where I would receive visitors. They



1           said to me that there have been allegations of abuse at  
2           Nazareth House. I was taken aback and I don't remember  
3           exactly what I said to them, but I said, "I think you'll  
4           find that that is not the case".

5           Q. Did they disclose to you at the time what the nature of  
6           the allegations were?

7           A. No, I think it was general, just you know, this has  
8           come -- and we want to inform you as the local bishop  
9           that these allegations have been made.

10          Q. But then was it after that that there was some press  
11          reporting?

12          A. Oh absolutely, yes. From then on -- this would be  
13          towards the end of the 90s, wouldn't it? And it just  
14          escalated.

15          Q. There was, I think, an article in the News of the World  
16          in 1997 and there was some further press coverage  
17          thereafter.

18          A. Yes.

19          Q. What was your reaction to what was being said?

20          A. Well, I'll be perfectly frank about it, it was shock but  
21          also disbelief.

22          Q. What you say in your statement is that part of your  
23          reaction was to try and find out more.

24          A. Yes, exactly. That was because I couldn't believe it --  
25          not that I had set my mind against believing it, but I'm

1           saying that it came as such a shock that I thought,  
2           I really should try and find out a little bit more about  
3           this to see whether there's any justification for this.

4       Q.   What were the allegations that you were being made aware  
5           of over this period of time?

6       A.   Well, the ones that we've seen in the press; I don't  
7           need to describe them.

8       Q.   Well, I'd welcome if you'd at least let me know what  
9           allegations were causing you concern at the time.

10      A.   Well, the basic one is that children were mistreated in  
11           Nazareth House. That was the basic one.

12      Q.   We've heard allegations and evidence of beatings,  
13           force-feeding, humiliation in connection with  
14           bed-wetting, demeaning comments. Were these the types  
15           of allegations that you were focusing on in  
16           connection --

17      A.   I wasn't focusing on anything particular; I was focusing  
18           on the fact that they were things going on in  
19           Nazareth House which had led a significant number of  
20           people to complain that they had been badly treated.  
21           And then, as the press continued to make investigations  
22           and so on -- and I must say sometimes -- well, never  
23           mind my continuing that sentence.

24                    But they certainly continued to enquire of  
25           individuals, and those individuals put some sort of

1 detail, some sort of descriptions, some sort of -- what  
2 shall we say -- colour to precisely what these  
3 allegations were basically about, and that was not  
4 having proper treatment.

5 Q. Looking to the colour that was being presented at that  
6 time, if true, would you have considered what was being  
7 said to be the abuse of children at the time?

8 A. Well, any physical punishment of a child that exceeded  
9 what at the time -- because physical punishment was the  
10 rule at the time for unruly children -- and you didn't  
11 have to be terribly unruly to get the strap in school.  
12 Not everybody here can go back to that position, you  
13 know, 60 years ago, whatever, but I can, and it was  
14 taken for granted and it happened in the home, it  
15 happened at school, and so on and so forth. And you  
16 daren't tell your parents because you'd be told, "Well,  
17 you must have been misbehaving". The discipline of the  
18 time is something that shocks people today.

19 Q. Of course, corporal punishment was permitted at the  
20 time --

21 A. Yes.

22 Q. -- but looking to the nature of the allegations, did you  
23 consider that they simply amounted to some form of  
24 corporal punishment or something different?

25 A. It was corporal punishment, but corporal punishment can

1 be, in those days, a question of appropriate punishment,  
2 but never when it abuses a child to the point of  
3 damaging their health or damaging their -- or creating  
4 scars, mental scars, that would affect the rest of their  
5 lives. Any sensible person would make that distinction.

6 Q. Well, in any event, archbishop, you wanted to find  
7 out --

8 A. Yes.

9 Q. -- get more information in connection with what was  
10 being said. In connection with that, did you write to  
11 the press to invite people to come forward to you?

12 A. In one of my letters to the Evening Express, in which  
13 I said it's important that, before we condemn people,  
14 that we discover, you know, what precisely the  
15 allegations are and that they're submitted in a court  
16 somewhere to be proven. You know, we should consider,  
17 in the best tradition of justice, that people remain  
18 innocent until they are proved to be wrong. But I was  
19 more concerned about the general questions rather than  
20 the specifics at that time.

21 Some of the specifics -- and you're going to lead me  
22 to say this, lead me to address this -- were fantastical  
23 and some of them were unfortunately -- pardon?

24 Q. Can you give me an example of a fantastical specific?

25 A. I'm hesitating about bringing these things up again

1           because a lot of people are hurt again by these things  
2           being rehearsed, brought into the public sphere again,  
3           but if you ask me, I have to give you an answer. Are  
4           you asking me?

5           Q. Yes, I am asking you.

6           A. A number of them were macabre, like having to polish  
7           a nun's coffin or opening coffins and changing coffin  
8           lids and what have you. Nobody in their right mind  
9           knows that you, first of all, couldn't be able to do  
10          that and, secondly, a child wouldn't have the strength  
11          to do it, and what were they doing anyway, being sent  
12          down? They may have been sent down underneath --  
13          I don't know whether there was a crypt in the chapel in  
14          Nazareth House, but there must have been a place where  
15          those coffins were held.

16                 But these were fantastical. Let me tell you, it's  
17          things like that that have made people question the  
18          veracity, unfortunately, of those who had genuine  
19          experiences to declare and declared them.

20                 Now, to our conviction, many of them suffered from  
21          delivery of punishment which went beyond that which was  
22          legitimate and above that for children who were very  
23          vulnerable and lacking in that sort of affection, which  
24          one hoped that such a house would provide.

25          LADY SMITH: Archbishop, you told me that when the police

1           came to you, your recollection of your immediate  
2           response to them telling you of the allegations was that  
3           you thought they would find they were not true.

4           A.   Yes.

5           LADY SMITH:   That was your response at that time; is that  
6           right?

7           A.   Well, I don't think I would use the word "findings".  It  
8           was more general: we are receiving allegations and so on  
9           and we'll have to look into them.  I think I would want  
10          to say that if there had been findings at that time,  
11          we would have -- it would have been different.  The very  
12          fact that I asked people to write to me to give me their  
13          experiences in order to find something --

14          LADY SMITH:   Archbishop, you said just a few minutes ago  
15          that when the police came, you didn't remember exactly  
16          what you said, but you said, "I think you'll find that  
17          that is not the case", when they told you the  
18          allegations.

19          A.   Yes.

20          LADY SMITH:   I'm just trying to understand what you were  
21          feeling at the time.  It seems that as soon as you were  
22          told about these allegations, your immediate response  
23          was to say to the police, "They can't be true".  Is that  
24          the gist of what you were saying?

25          A.   Yes, I think that is correct.

1 LADY SMITH: Tell me this: at that time -- and that's when  
2 you're with the police, first report -- why was that  
3 your response?

4 A. Because I had seen no evidence of it. I had been, you  
5 know, in the city, this place was within the parish,  
6 nobody had ever said to me that the children had been  
7 badly treated there. None of those who had been in the  
8 house said so. And I was in contact with some of those  
9 who had formerly been boys in the house because they  
10 assisted me in the setting-up of a youth club.

11 LADY SMITH: Archbishop, that's a conclusion before you've  
12 heard any of the details. Your conclusion at the outset  
13 was these allegations will not be true.

14 A. With respect, we are entitled, as it were, to keep an  
15 open mind until we see evidence of what has been said.

16 LADY SMITH: Well, yes, but you were concluding that they  
17 were ill-founded.

18 A. No, I wasn't, I'm sorry. You're misinterpreting what  
19 I'm saying: I was saying my reaction was to find it  
20 unbelievable.

21 LADY SMITH: I see. Why? Simply because you hadn't  
22 explored all the evidence or was it something to do with  
23 your experience --

24 A. It wasn't because I hadn't explored the evidence. With  
25 respect, I'm not saying that. It wasn't for me to

1 explore the evidence. It was for me to come to terms  
2 with evidence that would eventually be produced, which  
3 I did do and have done -- and I wouldn't be here today  
4 apologising for what we now know to have been truthful  
5 in many instances, in most instances, the descriptions  
6 that were hurtful to those who received care in that  
7 house in those years.

8 LADY SMITH: I just wonder --

9 A. With respect, even allowing for the fact that things  
10 have changed in regard, for example, to corporal  
11 discipline.

12 LADY SMITH: Yes. Archbishop, I just wondered whether your  
13 immediate reaction was because of assumptions you were  
14 making about the nuns, that they weren't capable of that  
15 sort of behaviour; is that possible?

16 A. Yes, yes. I dare say.

17 LADY SMITH: Thank you.

18 MR MacAULAY: I think then, archbishop, what you did was you  
19 wrote a letter to the Evening News --

20 A. Yes.

21 Q. -- inviting responses.

22 A. Yes.

23 Q. Perhaps I can put that on the screen for you. It's at  
24 BSC.001.001.0034. We'll see this is dated 13 June 1997.

25 A. Yes.



1 Q. It's from your office. If we move down the page, can we  
2 see that you have signed the letter. It has been  
3 blanked out to protect your signature, but you can take  
4 it your signature is under the black mark.

5 A. Yes.

6 Q. If I can just read the first paragraph for you, what you  
7 say is:

8 "I speak for the Catholic community in the  
9 north-east of Scotland when I say that we are distressed  
10 at the allegations of abuse of children, and also of  
11 other older residents, at Nazareth House in Aberdeen."

12 Pausing there, did you see the allegations that were  
13 being made at the time as being allegations of the abuse  
14 of children?

15 A. Well, it wasn't for me to see -- I'm not sure what  
16 you're trying to get at, with respect.

17 Q. I'm merely focusing on what you say, archbishop, that  
18 you say:

19 "We are distressed at the allegations of abuse of  
20 children."

21 A. Yes.

22 Q. So that certainly tends to suggest that the allegations  
23 that were being made were allegations of the abuse of  
24 children.

25 A. Yes.

1 Q. In the next paragraph you make the point -- indeed  
2 you have made this point in your evidence already --  
3 about living in a very different culture --

4 A. Yes.

5 Q. -- from the times when the majority of these cases of  
6 harsh treatment are purported to have taken place. You  
7 go on to develop that. And then in the last three lines  
8 you say:

9 "Others have pointed out that, in addition to  
10 orphans and those from poor homes that could not cope  
11 with them in a crisis, were children who were disturbed.  
12 There was therefore a significant likelihood of some  
13 disruptive behaviour."

14 I just want to understand what you're seeking to say  
15 in those sentences when you're talking about children  
16 who may have been disturbed and also disruptive  
17 behaviour, as to what -- why is that relevant to what  
18 you're seeking to achieve here?

19 A. I thought, reading the letter, it was pretty relevant.  
20 The fact of the matter is I'm representing a community,  
21 I'm the bishop of a local community, which is taken  
22 aback at a whole series of allegations. Indeed, as yet,  
23 they're only allegations, we don't know if they're true  
24 or not. But the allegations themselves were disturbing  
25 us, were upsetting us, were shocking us. All right? So

1 I felt it necessary, prudent, or whatever -- I mean  
2 I could have doing nothing, I could have kept out of it,  
3 kept my head below the parapet. I felt that if  
4 something like this is happening within our community,  
5 within the community of the city of which the church is  
6 part, then at least I should be beginning to address it  
7 in some way to indicate where I stand on it.

8 First of all, I indicated I stand with the sisters  
9 because people are innocent until they're proved  
10 otherwise, and I have said that already. Secondly,  
11 I wanted to try and explain that, you know, this wasn't  
12 an ordinary school, it was an orphanage, it was an  
13 orphanage which also included children that were already  
14 disturbed and they'd been put there in order to have the  
15 discipline of the house in order to try and bring them  
16 up in a way which was becoming the education of a child.

17 So what else do you want me to say?

18 Q. Well, I just wondered why you make this reference to  
19 disruptive behaviour. Perhaps I can put it in this  
20 way: were you suggesting there that it would be the sort  
21 of behaviour that would require firm treatment at the  
22 very least?

23 A. I think I am, yes.

24 Q. Is that what you're suggesting?

25 A. Yes, because that was my understanding -- and I think

1           that is referred to on that -- I think we perhaps will  
2           see later, what do you call it, the Frontline --

3           Q. The Frontline Scotland programme?

4           A. Yes, where it describes the constituency of the house  
5           and it was a very wide constituency of children needing  
6           care, needing a home, because they had no home of their  
7           own, because their home was broken, because they were  
8           orphans or they were disruptive in society and had been  
9           put there by the Local Authority, who had been hoping  
10          the discipline of the home would assist them. There was  
11          a wide range of children there.

12                 Now, I didn't see that when I was there, because  
13                 I said my contact with the home was marginal in a way.  
14                 So I wasn't making distinctions about that. These are  
15                 distinctions that I picked up, that that was the  
16                 composition of the house, and therefore to say to  
17                 people, you know, understandably therefore there were  
18                 questions of discipline, there were questions of  
19                 disruptive behaviour, which we can understand given the  
20                 constituency of the house.

21                 But that word "disruptive" has been picked out,  
22                 I think. I know there's been some criticism of my using  
23                 that word, you know, "disturbed". If you look at the  
24                 dictionary, the word "disturbed" means restless,  
25                 agitated, and I remember at least on one occasion I saw

1           that when I went to Mass -- I had slept in and the poor  
2           kids were waiting and looking for their breakfast and  
3           here was the priest not arriving. You got a sense when  
4           you went in, it was all rather agitated and so on, but  
5           I didn't think it was other than you'd expect from  
6           children in those circumstances.

7       LADY SMITH: Archbishop, did you consult with the nuns at  
8           Nazareth House before writing this letter?

9       A. Oh, I can't remember, no. I can't remember. I don't  
10           think so probably.

11       LADY SMITH: You don't think you did?

12       A. No, no. When I wrote anything like this, I wrote off my  
13           own -- with my own authority and off my own bat.

14       LADY SMITH: I see. So at the time, if that's right, you  
15           wouldn't know if they would have agreed with your  
16           description of what they were dealing with in terms of  
17           the children there?

18       A. I think they would have been very happy that somehow  
19           somebody was saying, you know, we've got to look at this  
20           and be sure that in fact -- if we're shocked by it that  
21           we're rightly shocked. I mean, what are the facts? And  
22           I believe this inquiry is attempting to make sure about  
23           the facts and I'm very happy to contribute what  
24           I know --

25       LADY SMITH: Thank you.

1 A. -- in order that that can be achieved.

2 MR MacAULAY: Then in the last paragraph, archbishop, what  
3 you say, as you've already mentioned, is:

4 "I want to see justice done."

5 A. Yes.

6 Q. "For that reason I invite not only those who have  
7 a complaint to make, but also those who have good  
8 memories of their time at Nazareth, to write to me.  
9 I will only consider letters which have been signed. No  
10 credence will be given to unsigned allegations."

11 A. Yes.

12 Q. "Those who call others to account for their actions must  
13 be prepared to defend their own when they make  
14 allegations."

15 So that was the invitation that you made?

16 A. Yes.

17 Q. And you did get responses to that invitation?

18 A. I did.

19 Q. Broadly, are you able to say what the split, if you  
20 like, between positive and negative responses --

21 A. I have written in the report that they were roughly  
22 equal, but in fact, looking back over further documents,  
23 I discovered that in fact the majority were in favour of  
24 the sisters.

25 But the reaction was the sort of reaction that

1 I had, and I dare say that in the light of evidence  
2 which has been presented, that they will equally have  
3 moved to think, well, why didn't we go about this before  
4 and why did this happen? Why were children who were in  
5 need of care in many cases -- and I don't know how you  
6 describe it. I mean, let's face it, that place was open  
7 for 120 years, and they had literally tens of thousands  
8 of children in their care. But it's a significant  
9 number who give evidence that they were badly treated.  
10 Therefore we've got somehow or other to cope with that  
11 and cope with the fact that others said, who were  
12 contemporary with them, that in fact they were well  
13 looked after. I still haven't resolved that in my own  
14 mind.

15 Q. Let's look at one or two of the responses then to your  
16 invitation, archbishop. If I can put on the screen  
17 again, NAZ.001.003.2904.

18 (Pause)

19 A. It's interesting, it says on the screen, "In search of  
20 incredible". I think it rather illustrates what we've  
21 been struggling with.

22 (Pause)

23 LADY SMITH: If there's a problem identifying this -- it's  
24 coming, is it? We could accelerate the morning break if  
25 necessary.

1 A. Sorry?

2 LADY SMITH: It's all right, archbishop, we're just trying  
3 to sort out whether to take the morning break. Some of  
4 us have got it -- I'm not going to get it. I will get  
5 that later, thank you.

6 MR MacAULAY: I'm looking at a letter addressed to yourself,  
7 archbishop. It's quite a long letter, this one; it  
8 extends to two pages. It's dated 29 July 1997, so it is  
9 fairly shortly after your invitation.

10 What the author of the letter tells us in the second  
11 paragraph is that he and other family members went into  
12 Nazareth House in 1934, with the youngest not leaving  
13 until 1946, so we're going back pre and just post war.

14 Although I think the author does point to aspects of  
15 discipline such as a clip on the ear and a bang on the  
16 head or a wallop on the back of the legs, what he says  
17 towards the bottom of the page is:

18 "Our time in Nazareth House taught us a lot of  
19 independence, self-sufficiency and to respect authority,  
20 not to fear it."

21 Do you see those sentiments at the very bottom?

22 A. It's interesting, the reference to discipline.

23 Of course, discipline was one of the things in those  
24 days. We wouldn't put it first now in children's care,  
25 we would see appropriate discipline -- and remember the



1 sisters took a vow of discipline: poverty, chastity, and  
2 obedience.

3 Q. But this letter was a positive response, albeit that it  
4 does talk about aspects of discipline involving how  
5 bed-wetting was dealt with and other matters.

6 If we turn on to the second page on 2905, does the  
7 author say that when he returned to Aberdeen as an  
8 adult, he went to visit Nazareth House, as he puts it:

9 "Not to show [his] wife [who was with him] some  
10 hellhole, but to show her the place and to introduce her  
11 to the people who had cared for us and to whom so many  
12 owe so much."

13 Is that right? Do you see that?

14 A. Yes, "after my two brothers had left Nazzy"; is that  
15 where you are?

16 Q. I'm on the second page, I hope.

17 A. Yes:

18 "We continued to visit until ..."

19 It is a long letter.

20 Q. It's a paragraph that begins:

21 "I was called up for my national service."

22 And he tells us about his adulthood and how he went  
23 to visit --

24 A. Yes, I see.

25 Q. He said:

1           "While we were there we met one of the sisters who  
2           had been in charge of the boys while I had been there  
3           and I asked if she remembered me. She hesitated ...  
4           a member of the family and then remembered me. When  
5           I reminded me that she had given me many a clip on the  
6           ear her reply was, 'What makes you think I couldn't do  
7           it now?'"

8           So that's what he says. And towards the end he  
9           says:

10           "I hope that what I have written goes some little  
11           way to redress the balance."

12           I think you responded to this letter, archbishop,  
13           and I'll put your response on the screen.

14           A. Yes.

15           Q. It's at BSC.001.001.0042. So your response, we see, is  
16           dated 8 August 1997.

17           A. Yes.

18           Q. If we turn over to the next page, 0043, again your  
19           signature has been blanked out, but you can take it you  
20           signed it.

21           A. It's my letter, yes.

22           Q. Turning back to the previous page, 0042, in the second  
23           paragraph what you write is:

24           "Your letter was a great consolation to me since it  
25           redressed, as you yourself believed it would, so much

1 that has been said by way of allegations of abuse by the  
2 sisters over the years."

3 So that was your reaction at the time, archbishop;  
4 is that correct?

5 A. It was one of several letters. That one was  
6 particularly long and detailed, and I suppose it really  
7 is helpful -- certainly it's helpful to me to be able to  
8 see it again. But it's puzzled me or it's concerned me  
9 or it's something that I still haven't fully resolved,  
10 to what extent was the discipline of the house, the  
11 style, the regime, what had been inherited, probably  
12 unchanged from Victorian times, which was, if you like,  
13 the chief abuser of the children? Or whether -- and  
14 of course I'm prepared to accept this in the light of  
15 evidence -- it was the way in which, in some  
16 instances -- or many instances, I'm not the one to  
17 judge -- was the cause of the -- was the actual abuse,  
18 if you see what I mean?

19 Q. As you've pointed out, you also got letters that were  
20 negative.

21 A. Yes.

22 Q. And we'll perhaps look at one of these. It's at  
23 NAZ.001.003.2875.

24 (Pause)

25 That's not the document I'm hoping to have.

1 NAZ.001.003.2875.

2 (Pause)

3 We're nearly at break time, my Lady. I wonder  
4 whether we should have a short break.

5 LADY SMITH: I'm just glancing at the documents team: would  
6 it help if we took the morning break now? We'll take  
7 the morning break at this point, archbishop, and sit  
8 again at about 11.45.

9 (11.25 am)

10 (A short break)

11 (11.45 am)

12 LADY SMITH: Mr MacAulay, when you're ready.

13 MR MacAULAY: Before the break, archbishop, we had been  
14 looking at the responses to your own invitation for  
15 positive and negative comments in connection with  
16 Nazareth House and we had looked at a positive response.  
17 I now want to look at one of the negative responses.

18 This is at NAZ.001.003.2857. That is now on the  
19 screen that we have. I don't think it's on the screen  
20 further back because it hasn't been redacted, but at  
21 least you'll be able to see what it says and I'll read  
22 certain parts out so that it's in the evidence.

23 We see this is a letter dated 18 June 1997. Do you  
24 recollect receiving this letter as one of the responses  
25 to your invitation?

1 A. I don't think I've had a chance to see this one.

2 Could you put it up the screen a bit? Have I had this  
3 one before to look at? Just one second.

4 (Pause)

5 I think I have read that one at some point. I went  
6 through all the papers again on Saturday, which took me  
7 much of the day. I don't remember reading this one.

8 What were you going to ask me?

9 Q. This is a person, a male person, who is critical of the  
10 regime.

11 A. Yes.

12 Q. He says if you look at the second paragraph, for  
13 example:

14 "Bishop, your inferences in your letter are  
15 unfortunate. The only disturbed boys I knew were often  
16 traumatised, like myself, through lack of kindness or  
17 human understanding."

18 So that's his response to you, and we looked at the  
19 language in your letter a few moments ago. Then he goes  
20 on to describe, in particular in the main paragraph,  
21 just below halfway, aspects of the treatment that he was  
22 complaining of. For example, he says:

23 "Being hit on the hands repeatedly by a cricket  
24 wicket wielded expertly by a robust nun was no aid to  
25 joy, I assure you. My fingers would swell like sausages

1 and the nails turned blue. The pain was excruciating  
2 when the bruising appeared."

3 And he makes mention of particular sisters.

4 If that was true, if it was true, would you  
5 recognise that being the abuse of a child?

6 A. Oh, very much so. Absolutely, yes. Absolutely. As  
7 I said before, discipline at the time was stricter than  
8 it is today and things which today would be regarded as  
9 abuse of a child, an assault, were commonplace, but that  
10 doesn't excuse an application of discipline which is  
11 harmful, as he says, was in his case. I accept that  
12 completely.

13 LADY SMITH: Archbishop, can I just ask you about one thing  
14 when we're talking about disciplining children -- and  
15 certainly corporal punishment was something that could  
16 be administered in a school setting through much of the  
17 20th century.

18 A. Yes.

19 LADY SMITH: But don't I have to recognise that what was  
20 supposed to be provided here for children was a home  
21 setting, not a school setting with the sort of  
22 discipline that one might have to expect at school?  
23 Didn't it have to be different?

24 A. Exactly, my Lady, I agree entirely with you, and I think  
25 I make that comment somewhere: that's what was lacking,

1           sadly.

2       LADY SMITH:   Yes.

3       A.   Why was it lacking?  I think we've got to make some  
4           excuse that the resources were not sufficient for the  
5           care, at one time, of 300 children.  Discipline was part  
6           of the day.  The lack of training on the part of so many  
7           of the order.  They hadn't gone through the training  
8           which we'd see today would be essential for them to  
9           understand how to treat children.

10                 There was also, I think, within the order, in their  
11           development -- in the development of the sisters, in the  
12           training of sisters would be, of course, much to do with  
13           the spiritual life and obedience to rules and what have  
14           you.  But there was also this fear of special  
15           friendships, as -- I have mentioned it somewhere in  
16           my --

17       LADY SMITH:   Yes, it is your statement.

18       A.   You can imagine with a whole lot of women that had given  
19           up the hope of family life themselves, which was  
20           admirable in intention, but the natural instinct would  
21           be to have particular friendships with particular  
22           children.  You can just imagine if that was  
23           undisciplined within a community of sisters, of nuns, it  
24           could lead to a lot of disruption.

25       LADY SMITH:   Mr MacAulay.

1 MR MacAULAY: This person goes on towards the bottom of the  
2 page to talk about, in the second last paragraph, the  
3 1939 fire. We know from other sources that there was  
4 a rather bad fire and a young boy died in the fire. And  
5 what he says is:

6 "I was repeatedly and often blamed for not saving  
7 [REDACTED]'s life as his bed and mine were adjacent.  
8 I did not see a nun anywhere around at the time."

9 That was his perception then. Then moving on to the  
10 next page, 2858, can I just put this to you, archbishop.

11 A. Yes.

12 Q. Towards the top, he says:

13 "Canon Grant [and you've mentioned that's a name  
14 from the past, from St Peter's] used to say Mass and  
15 I always served Mass for him. He preferred me because  
16 I was clear and fast with the responses. I told him of  
17 my problems but he would not believe me, and threatened  
18 to tell Mother Superior. Father Fraser from the  
19 cathedral give me the impression that he knew what it  
20 was all about."

21 The suggestion there from this particular person  
22 is that he told the parish priest about matters that  
23 were going on in Nazareth House with no response. If  
24 that is true, does that surprise you?

25 A. You're asking me does it surprise me that there wasn't



1           some, what shall we say, clear addressing of the problem  
2           as if it were systemic?

3       Q.   Well, I'm asking you: if a child tells a parish priest  
4           that, for example, he is being ill-treated, then would  
5           you expect the parish priest to do something about that?

6       A.   I don't know if he did or did not.  He thinks he didn't.  
7           But if it was systemic, in other words if there were  
8           several people making those complaints, you would expect  
9           it to have repercussions in the way in which the house,  
10          the community was dealt with.  If it is a single one,  
11          I could imagine -- I don't know, but this is one of  
12          these questions of, you know, imagination.  In those  
13          circumstances, what would you expect?  Was it likely to  
14          happen that the priest would then go to the  
15          Mother Superior and say, "One of your children,  
16          whatever, whatever".  I really don't know how to respond  
17          to that.

18                Canon Grant, from other information that I have --  
19                because he was dead by the time I was a young priest in  
20                Aberdeen -- but it was always women telling me that when  
21                he visited them, so many of them had been abused by  
22                their husbands, unfortunately -- and unfortunately we  
23                still have cases of domestic violence -- that  
24                Canon Grant would sort of pull up his sleeves and say,  
25                "I'll thrash you", to the man who did it.  So he was

1 a toughie, but that's not in character with what is  
2 proposed there as somehow he ignored the child. Sorry,  
3 I can't really say more about it.

4 Q. Well, what the person, now adult, says that what  
5 happened was that Canon Grant threatened to tell the  
6 Mother Superior. I just wonder, what do you make of  
7 that, if that's true?

8 A. What is your implication?

9 Q. Well, I'm asking you about the reaction. Have you any  
10 comment to make, if it's true, that this boy told the  
11 parish priest about ill-treatment and the response was  
12 that the parish priest would threaten to tell the  
13 Mother Superior that he had made a complaint? Is that  
14 a reaction you'd recognise?

15 A. Sorry, you're asking me to make a judgement about  
16 something that happened way back in the 1940s with  
17 people who are long since dead and what would they  
18 likely have -- how would they have likely --

19 LADY SMITH: Archbishop, let me intervene for a moment here.

20 I think you may be at cross-purposes. Mr MacAulay is  
21 not asking you about this particular person and this  
22 particular instance. I think he is trying to get what  
23 recollection you have, if any, of how you think a priest  
24 would have reacted at the time if told by a child of the  
25 sort of things that this man was talking about.

1           Have I got that right, Mr MacAulay?

2       MR MacAULAY:   Yes, indeed.

3       LADY SMITH:   Yes.  Don't worry about being asked to dive  
4           into your memory for a recollection of specific people.

5       A.  I have no memory of that time.  1942, it was during the  
6           war.  I was a boy.  I don't know the characters here.  
7           I don't know how they would have reacted.  I did tell  
8           you that people used to tell me that this particular  
9           canon, Canon Grunt as they used to call him, was  
10          somebody who stood up for those who were abused.  
11          I therefore find it rather contradictory, but I don't  
12          know, I really ...  I would be using my imagination and  
13          perhaps justifying one or another and I don't think  
14          that's fair.  I shouldn't be expected to make judgements  
15          without all the evidence.

16       LADY SMITH:   How long did Canon Grant carry on in Aberdeen?

17       A.  For a long time, but I couldn't tell you offhand,  
18          my Lady.

19       LADY SMITH:   Was he still there when you started as  
20          a curate?

21       A.  No.

22       MR MacAULAY:   In any event, I think what you told us  
23          earlier, archbishop, is that although in your statement  
24          you thought -- paragraph 28 of your statement -- that  
25          the receipted letters were fairly evenly divided, that

1 on reflection you thought that the positives outweighed  
2 the negatives. Is that your present position?

3 A. Again, I didn't keep a tally of them. I just know that  
4 in response to somebody, among the correspondence I saw,  
5 I said fortunately more seemed to be in favour. That  
6 was at a time when we were trying to still get to the  
7 truth of it.

8 We're past that now. We have so many who have  
9 already given credible evidence of misbehaviour on the  
10 part of individuals or how the system did not serve  
11 their needs, as my Lady pointed out, of a sort of home  
12 environment and so on. I don't think these particular  
13 questions are going to add significantly, sorry, with  
14 respect.

15 Q. I was just looking to see how matters developed and  
16 how -- I understand, I think, that your attitude may  
17 have changed from your attitude way back in the late  
18 1990s and the early 2000s.

19 A. I'm sure many people's attitudes have changed because  
20 they have had the opportunity to see and to hear  
21 credible witnesses, not least that programme that we're  
22 expecting to see during the course of this afternoon's  
23 presentation, where the witnesses there seemed very  
24 credible.

25 Q. I'll come on to that programme shortly. But one of the

1 things you do distinguish in your statement -- and let's  
2 go back to your statement at page 9608 -- is the  
3 distinction between cruelty and the lack of affection.  
4 That's something you discuss.

5 A. Where is that?

6 Q. That's on paragraph 30. It's on the screen in fact, if  
7 you want to look at the screen.

8 A. I say:

9 "Cruelty is more than a lack of affection."

10 Q. Yes.

11 A. I recall standing at the end of Sister Alphonso's trial,  
12 even one case of -- stating at the end of  
13 Sister Alphonso's trial that even one case of child  
14 cruelty could be -- would be one too many.

15 With evidence of many cases offered to the inquiry  
16 there is understandable revulsion, and I continue to  
17 hope that reconciliation might ultimately be achieved,  
18 and I believe that that hope would not be unique to me.

19 Q. And what you say is that you had proposed a gathering at  
20 Nazareth House of sisters and survivors with a view to  
21 achieving such reconciliation.

22 A. Yes. I did. And there's correspondence showing that  
23 I suggested it to the Reverend Mother and so on. It was  
24 just prior to the trial and therefore I was told that  
25 that might seem improper in view of the trial, as if

1           somehow or other I was trying to interfere with its  
2           course, so we didn't do it. But it at least illustrates  
3           my attitude at the time was, yes, obviously there's  
4           something to be addressed here, there has been  
5           a breakdown in the relationships between those who  
6           administered care and those who received it, in many  
7           instances, and was there any hope of bringing them  
8           together in order to try and, as it were -- for those  
9           who had been abused, to receive from those who had  
10          abused them, or for the sisters, to understand what they  
11          had done to individuals, an opportunity for that to be  
12          healed.

13        Q. Can we look at the correspondence that you may have in  
14          mind, archbishop, and look at BSC.001.001.0050. That'll  
15          again come on the screen.

16                Here we have a letter dated 2 February 1998 and it's  
17          addressed to Sister Machar of Nazareth House. Was she  
18          the Mother Superior at the time?

19        A. Yes.

20        Q. I think you'll recognise this as a letter you wrote.

21        A. Yes.

22        Q. It begins by you saying:

23                "As is so often the case today, the paper did not  
24          report entirely accurately what I said to the reporter."

25                Clearly you were unhappy about something that had

1           been reported, that you had allegedly said, but in the  
2           second paragraph what you say is:

3                    "What I am suggesting, and we agreed on the  
4           telephone might be the appropriate way forward, is  
5           a Mass which enables me to show my concern for you all  
6           and which would give former children of Nazareth House  
7           Aberdeen a opportunity to show their support likewise."

8           A.   Yes.

9           Q.   At that time, did you have in mind that the children  
10          showing support were children who had come forward to  
11          say that they had positive experiences in  
12          Nazareth House?

13          A.   I think I was trying to ingratiate myself with the  
14          Mother Superior to say, "It'll be in your interest to  
15          have this, because you can expect some support".  That's  
16          the only reason.

17          Q.   You go on to put forward certain proposals --

18          A.   Yes.

19          Q.   -- and that you'd be saying the Mass.

20          A.   Yes.

21          Q.   And then if we go on to page 0051, the next page --

22          A.   I think I know what's coming up.

23          Q.   What you say --

24          A.   You're going to point out -- "the opposition", is that  
25          what you're going to point out?

1 Q. Let me read it to you, archbishop:

2 "It would be entirely appropriate if some  
3 refreshments were provided since it is necessary to be  
4 as prudent as the opposition is in winning support."

5 A. Yes.

6 Q. And the obvious question for you to face up to,  
7 archbishop, is: who did you have in mind there as "the  
8 opposition"?

9 A. Can I remind you, Colin, as I've just said, this was  
10 a letter to a Mother Superior who I was trying to  
11 persuade to do something that I thought they would be  
12 very reluctant to do, and suggesting that perhaps, if  
13 you think of them as opposition, this is an opportunity  
14 to alter that situation.

15 Q. But the opposition, do I take it, were those who were  
16 making the allegations?

17 A. As they would have seen it, yes.

18 Q. On reflection, do you consider that was an  
19 appropriate --

20 A. In a private letter, trying to persuade for  
21 a reconciliatory meeting, I think it was entirely  
22 appropriate. Does one not use one's, what shall we say,  
23 skill in writing to try and persuade, and therefore to  
24 try and identify with the person you're writing to in  
25 order to achieve what you want?



1 Q. You face up to this in your statement, archbishop, at  
2 paragraph 32, where you say:

3 "It is expected in the statement that I respond to  
4 allegations that I adopted a position relative to the  
5 accusations which was favourable to the sisters and  
6 critical of the complainants."

7 You go on to say:

8 "I think I can understand that complaint but would  
9 like to invite people to consider the position that  
10 I found myself in as a bishop."

11 Can you elaborate upon on that?

12 A. I can elaborate by reading on:

13 "I had on one hand a group of religious women who  
14 had dedicated theirs lives, giving up the opportunity of  
15 having families of their own, to the care of orphan  
16 children and others in need of residential care. On the  
17 other hand, I had a group of people whose complaints  
18 covered events which were alleged to have occurred over  
19 many years. The particular difficulty I faced was the  
20 hostility of certain sections of the press and the  
21 actions of a solicitor who, in undertaking the defence  
22 of the complainants, had in my judgement exceeded what  
23 was proper for someone in that position to have done."

24 Q. Yes. So did you feel that you were in a difficult  
25 position then, that --

1 A. Very, very.

2 Q. Because on the one hand, as you say, you wanted to  
3 defend the sisters?

4 A. I wanted to see justice done on both sides. And  
5 a solicitor who was acting, as I have put elsewhere,  
6 both as prosecutor and judge, and offering them all  
7 sorts of benefits by joining his team, seemed to me to  
8 be inappropriate, inappropriate behaviour on the part of  
9 a solicitor. In fact, I'm not surprised to find that he  
10 has been discharged as a solicitor.

11 Q. Although I think it was to do with accounting --

12 A. Well, whatever.

13 Q. -- rather than anything further.

14 LADY SMITH: It wasn't to do with his ethical conduct as  
15 a solicitor, archbishop --

16 A. Well, I'm glad to hear that --

17 LADY SMITH: -- it was to do with financial affairs.

18 A. -- I wouldn't want anybody removed from their office.  
19 But at the same time I would want to point out that what  
20 he was feeding the press with at that time was, in my  
21 view, inappropriate if the matter was coming to trial  
22 where he was already deciding that in fact they were  
23 guilty.

24 LADY SMITH: Archbishop, can I ask you about something  
25 separate that you have mentioned a couple of times now

1 to the effect that the nuns were women who had given up  
2 the chance of having their own family, and of course as  
3 a matter of fact, if they're true to their vows, that  
4 happens.

5 But I don't suppose you could properly assume that  
6 every single young woman who goes into an order would  
7 otherwise have wanted to have children; not all young  
8 women do.

9 A. Well, maybe you'd be better, what shall we say, to make  
10 that sort of judgement than I. It would be  
11 inappropriate for me to agree or disagree with that  
12 statement. But the fact of the matter is that many --  
13 and I think this is what you're getting at -- who came  
14 into the order were persuaded it was a good thing to do  
15 without necessarily having what was required of them to  
16 do the work to which they were dedicated.

17 LADY SMITH: That may be a problem partly of their youth, in  
18 being accepted when they were accepted into the order,  
19 and I think, as you've already alluded to, a lack of  
20 training.

21 A. Yes.

22 LADY SMITH: But I suppose we have to be careful before we  
23 make assumptions about their motivations in joining  
24 the --

25 A. Absolutely.

1 LADY SMITH: Because they're all individuals who would come  
2 to it with different backgrounds.

3 A. Yes.

4 LADY SMITH: And for different reasons.

5 A. My Lady, you led me down that path.

6 LADY SMITH: Yes, thank you.

7 MR MacAULAY: My Lady, this would be a convenient point in  
8 time to play the Frontline Scotland programme that the  
9 archbishop has already made reference to. I think it  
10 might be helpful to have a very short break so this can  
11 be set up. Can I just say, it'll only be shown on the  
12 screen here or the screens at the back.

13 LADY SMITH: It will be shown on the screens that are  
14 available for the seats behind the red rope but not on  
15 the individual computer screens; is that right? So if  
16 anyone is sitting in the area in front of the red rope  
17 and would wish to move to the area at the back while  
18 we have a break, they should feel free to do so.

19 MR MacAULAY: We have two free seats at the front here;  
20 I think most of my learned friends can see the screen.

21 LADY SMITH: Please feel free to move yourselves around if  
22 that's necessary.

23 Archbishop, it's really up to you. If you're happy  
24 to sit there whilst the screens get reorganised, please  
25 do so, but otherwise you can retreat and return.

1 A. I'm quite happy to continue. I'm just worried -- are  
2 they going to be looking at the screen above my head?

3 MR MacAULAY: We will be.

4 LADY SMITH: Will it be on the archbishop's screen? Yes, it  
5 will be on your screen.

6 MR MacAULAY: Behind you and in front.

7 LADY SMITH: Is that all right?

8 A. I'm thinking of people looking over my head and making  
9 comparisons -- and this is in my vanity -- as I was  
10 20 years ago and as I am today.

11 LADY SMITH: You're in no different position from the rest  
12 of us if we were being shown a comparison. I'm sure  
13 many of us would prefer that they look at the version  
14 that's 20 years younger, archbishop.

15 A. I'm comforted by that.

16 (12.12 pm)

17 (A short break)

18 (12.20 pm)

19 LADY SMITH: Yes, Mr MacAulay.

20 MR MacAULAY: My Lady, I understand we're ready to start.

21 (12.21 pm)

22 (Video played to the inquiry)

23 (12.47 pm)

24 LADY SMITH: Could I invite the archbishop to come back to  
25 the witness seat?

1                   Mr MacAulay.

2           MR MacAULAY: I understand, archbishop, that that programme  
3           was first shown in February 1998; did you see it at the  
4           time?

5           A. No.

6           Q. Can you explain why that was the case?

7           A. Because I was in Rome, I think, following the  
8           publication, the broadcasting of the programme, and it's  
9           only really within the last month, I think, that I've  
10          seen it.

11          Q. I think the position is certainly that the inquiry has  
12          provided your solicitors with a link to the programme.

13          A. That's right. And that's how I got it.

14          Q. Was that the first time you have seen the programme?

15          A. Yes.

16          Q. What was your reaction to what was shown in the  
17          programme?

18          A. I think, as I mentioned earlier today, it was when you  
19          saw -- when you saw individual people or heard  
20          individual people, like the ones we saw there,  
21          describing what they had experienced, you recognised  
22          that whereas others may have been fantastical, which  
23          I've referred to earlier, that there was solid ground  
24          for believing the children, where even according to the  
25          changed circumstances of the day, were in various

1 instances badly treated.

2 Q. Looking to the accounts that were given, would you  
3 regard these accounts as the abuse of children?

4 A. Sorry?

5 Q. Would you look upon these accounts that you have  
6 listened to as being the abuse of children at the time?

7 A. Yes, I would. I would indeed. I'm pretty horrified at  
8 some of the things.

9 Of course, the question of bed-wetting is a very  
10 specific one. I don't know whether you want to enter  
11 into that particularly, but there was this whole  
12 aversion theory of the time, according to which, if you  
13 could associate some difficulty, some unpleasant  
14 experience with bed-wetting, you would cure the child.  
15 It seems barbaric to us today to think that that was  
16 implemented as a way of solving that particular problem.

17 Q. Could you just elaborate on that, archbishop? When you  
18 talk about aversion --

19 A. Therapy.

20 Q. -- what do you mean by that?

21 A. Well, as I understand it, aversion therapy is  
22 associating, as I said a moment ago, something extremely  
23 unpleasant as a consequence of wetting your bed, then  
24 it would cure you. I wonder whether part of the sort of  
25 theory of the subconscious came into that to sort of, in

1           some people's simple minds, justify it. In other words,  
2           there was something within you, in your body, that could  
3           associate, without you being conscious of it, one action  
4           with another. I don't know. I mean, I studied  
5           theology -- psychology, but at a different sort of  
6           level. That really is a question for psychologists to  
7           say whether there was any justification for that.

8           It's humiliating. What we hear is terrible, and yet  
9           it proceeded for years, not just in Nazareth House  
10          Aberdeen, not just in Nazareth House elsewhere, but in  
11          other places as well, as my sister was able to tell me  
12          the other day who was for a short while in a particular  
13          convent that in the particular case, after 10 days, the  
14          cure seemed to go around and everybody was clapping this  
15          poor child that at last had achieved a dry bed.

16          So it was awful.

17        LADY SMITH: Archbishop, this is very interesting, you're  
18          maybe not aware that you're the first person who has  
19          given evidence to me in this case study -- and this is  
20          the eighth week of the case study -- who has suggested  
21          that what was going on was aversion therapy. That has  
22          not been put to me, until you have done so, as any sort  
23          of explanation for what I have been told by so many  
24          people about the treatment that was meted out to  
25          children when they were wetting the bed.



1 A. Well, I'm surprised at that -- not that you especially  
2 were unaware of it, because I know other people were  
3 unaware of it, but I was aware of it for some time.

4 LADY SMITH: I have read of the idea being promulgated  
5 in the 19th century, but also in the early 20th century  
6 of it being appreciated that there was no valid basis  
7 for it and no valid basis, for example, for thinking  
8 that putting a child in a cold bath would get rid of the  
9 smell of urine, which I think was the belief at one  
10 time.

11 Perhaps I should ask you this: in raising the  
12 possibility of the use of aversion therapy, are you  
13 telling me that you've discussed this with any members  
14 of the order and they've suggested to you that that is  
15 what they were doing?

16 A. No, that's my own observation.

17 LADY SMITH: I see, thank you.

18 A. And I think it also gives some evidence or gives some  
19 support to what I have said elsewhere: that in fact what  
20 was continuing in the 40s, through the 50s and 60s and  
21 so on, was a system, a regime, that had altered very  
22 little since Victorian days, even Dickensian days.

23 MR MacAULAY: Just within the context of bed-wetting, can  
24 I just understand which part of the therapy is the  
25 aversion part: is it the cold bath or is it more than

1           that?

2           A. Well, I think it wasn't just cold baths -- there was  
3           a hot bath there and there was putting linen, soiled  
4           linen on a child's head and so on. I find that  
5           shocking. I think it's disgraceful that it was allowed  
6           to continue so far by decent -- otherwise decent people.

7           LADY SMITH: What about calling the children names like  
8           "pissy beds" and the like?

9           A. I hadn't ... I didn't know that. Calling by surname  
10          was not unusual, I think.

11          LADY SMITH: No, no, that wasn't what I was thinking of. It  
12          was humiliating names.

13          A. Any humiliation of a child is abuse.

14          MR MacAULAY: We did hear you using the description  
15          "fantastical accusations" in that clip and I think  
16          you've explained what you had in mind there.

17          A. Yes.

18          Q. "Lawyers dangling a pot of gold" was one of the other  
19          expressions that you used, and I think there you make  
20          reference to the fact that there were civil claims  
21          in the pipeline. Did the people you saw speaking  
22          in that programme strike you as those who, as it were,  
23          were coming forward because they may have thought there  
24          was a pot of gold at the end of the tunnel?

25          A. I think the best way to answer you, Colin, is this: that

1           that programme, if you look at the dates of it, it  
2           occurred at the same time as that lawyer we mentioned  
3           before was suggesting that there was huge compensation  
4           available to people who would join his group of people  
5           who he was prepared to defend. In fact, as you heard,  
6           he was prepared to go with individual applications to  
7           court in order to try and -- well, I think anticipate,  
8           what's the word I'm looking for, get ahead of the  
9           court's decision with the paying of money to those who  
10          had declared themselves abused.

11                 So I think you've got to take that -- I was  
12          embarrassed when I saw that, to be truthful -- and as  
13          I said, I've only seen it recently -- and I thought, why  
14          did I say that? And looking through my papers, I now  
15          know, within three days of what that lawyer was saying  
16          publicly -- and also because when I looked at what I was  
17          asked by the BBC to reflect upon was: what was the  
18          attitude or what was the reaction of the Catholic Church  
19          in Scotland to the allegations?

20                 So I was reflecting at that time, what was being  
21          said. This is before everything, before all the  
22          evidence was put together, before the court case and  
23          what have you. So you've got to read it in that  
24          context. I wouldn't say that today, naturally,  
25          because -- yes, I wouldn't say that today. It was

1           imputing a motive, but I was looking for reasons why  
2           there was an avalanche of criticism, of allegations.

3       Q. My question to you, archbishop -- and I don't think  
4           you've truly answered it -- is this: having listened to  
5           the testimonies that you listened to there, did these  
6           people strike you as people who were influenced by this  
7           pot of gold that you mentioned?

8       A. I think I answered that earlier when you enquired about  
9           whether I was convinced by those, and I referred to what  
10          we anticipated seeing, saying they were very credible  
11          witnesses.

12      Q. If I go back to your statement, archbishop, at  
13          paragraphs 34 through to 36, you touch upon this, and  
14          I think at paragraph 35, if you have that, what you say  
15          below halfway is:

16                "I now say we were not going to abandon the sisters  
17                in their hour of need."

18                You go on to say:

19                "It was my attempt to be fair and balanced before  
20                the start of the criminal trial."

21                And there you're talking about the Sister Alphonso  
22                trial; is that right?

23      A. Sorry, I didn't catch the last question.

24      Q. I'm trying to pick up what you say. It's actually in  
25          paragraph 35 -- I think I said 36, but it's on the next

1 page, page 9611. You're quoting something that you said  
2 about the lawyer using intemperate language --

3 A. Yes.

4 Q. -- and that it would be imprudent for anyone to prejudge  
5 the issue because of the positive responses that you had  
6 seen and so on and so forth. And then you go on to say:

7 "I now say we are not going to abandon the sisters  
8 in their hour of need."

9 And you say:

10 "It was my attempt to be fair and balanced before  
11 the start of the criminal trial."

12 You have already touched upon that, archbishop.

13 A. Yes.

14 Q. You then go on to express some further sentiments; what  
15 do you say there?

16 A. I'm deeply ashamed of what has been revealed and  
17 I express my pain and sorrow to those who were abused.  
18 Then I go for the hope because, clearly, all that we are  
19 doing, or what her Ladyship is presiding over, is an  
20 attempt to get to the truth and provide an opportunity  
21 for some redress, at least in terms of saying sorry to  
22 those who have had such bad experiences. I hope they  
23 will find it in their hearts, I say, to forgive their  
24 abusers and to forgive me if they feel I was insensitive  
25 to their pain by being partial to the sisters.

1 Q. Do you think, looking back, that you were insensitive to  
2 the pain of those who you now accept did suffer abuse?

3 A. Certainly that is the sense that they had. This  
4 morning, we looked at something that I said about the  
5 difficulty of a bishop in those circumstances having two  
6 sets of people, both of them hurt, and nobody, as it  
7 were, prepared within the community at that stage to say  
8 something when everybody was asking, "What are you going  
9 to say about this? What is the judge going to say about  
10 this? What are we going to do about this?"

11 And I was preparing, as I said elsewhere in  
12 a letter, that if in fact these allegations had  
13 something of a ring of truth or were certainly worth  
14 considering, they ought to be considered in an  
15 appropriate court, in an appropriate legal setting, and  
16 I'd like to think that we have arrived there with this  
17 inquiry.

18 MR MacAULAY: My Lady, I'm not quite finished with  
19 Archbishop Conti, he'll be sad to hear. I haven't got  
20 too far to go, but a little bit to go.

21 LADY SMITH: I think we will stop for the lunch break now  
22 and I will sit again at 2 o'clock, please.

23 (1.00 pm)

24 (The lunch adjournment)

25 (2.00 pm)

1 LADY SMITH: Mr MacAulay.

2 MR MacAULAY: Good afternoon, archbishop.

3 A. Good afternoon.

4 Q. I want to go back to a couple of documents, one of which  
5 we looked at this morning, and that's your invitation  
6 letter of 13 June. If we can have that back on the  
7 screen; it's at BSC.001.001.0034.

8 We looked at this letter this morning. One sentence  
9 I have been asked to raise with you -- it's the very  
10 last sentence in fact of the letter, where you are  
11 making the invitation and what you say there is:

12 "Those who call others to account for their actions  
13 must be prepared to defend their own when they make  
14 allegations."

15 What's been suggested to me is that this could be  
16 seen by some survivors as a threat. What did you mean  
17 by making that remark at the time?

18 A. Well, I think it's related to the previous sentence:

19 "I will only consider letters which have been  
20 signed. No credence will be given to unsigned  
21 allegations."

22 Q. So that's the way you would have it read?

23 A. Yes.

24 Q. The other document, which I don't think I put to you  
25 this morning, is at BSC.001.001.0045. This is

1 a statement from the bishop's office. If we turn over  
2 the page to the next page, 0046, can we see that it is  
3 dated 28 January 1998?

4 A. Yes.

5 Q. This would be a document that you would have been aware  
6 of, at least at the time, when it was issued?

7 A. It's my document.

8 Q. It's your document?

9 A. Yes.

10 Q. Again, I have been asked to put this to you -- and you  
11 may have covered some of this already in your  
12 evidence -- but after the first paragraph, what is said  
13 in the document is:

14 "The diocese wants it to be known that it stands by  
15 the sisters."

16 And the question might arise: well, why choose  
17 sides?

18 A. Again, I think we have to read it in the light of the  
19 circumstances of the time. Reference is made elsewhere  
20 and in the press to the fact that the sisters were  
21 silent, none of them were defending themselves, they  
22 were not coming forward, and people were asking  
23 themselves: does that suggest that they have already  
24 acknowledged their faults or whatever, whatever? And  
25 I felt that the only way in which to deal with such



1 serious allegations, because they were mounting at that  
2 time and there was plenty of corroboration for them, was  
3 at a court.

4 But until they were found guilty, and I have said  
5 this already, I think the policy was you stand by  
6 those -- whether that's still the rule today, I should  
7 think it ought to be in jurisprudence -- that until  
8 somebody is proven to be guilty of a fault, you stand by  
9 them.

10 Q. The question might be: why not stand by the -- why stand  
11 by the sisters as opposed to former residents, children,  
12 for whom you had pastoral obligations?

13 A. Why didn't I say we stood by those who made the  
14 allegations you mean?

15 Q. Yes.

16 A. Again, I think you have to look at the times. The  
17 allegations were made through the press --

18 Q. Yes.

19 A. -- and so what we were up against, what the sisters were  
20 up against, was what the press was saying, having  
21 alleged, having interviewed various people, that this is  
22 what they were alleging. I don't know whether that's  
23 a satisfactory answer, but it seems to me, as I say,  
24 you've got to look at these letters and the terminology  
25 used in the light of what the times were. It wasn't

1 a case of sort of saying, well, we're not going to have  
2 you, you're the opposition or whatever -- you've already  
3 dealt with that word, opposition, in terms of a private  
4 letter to the sisters.

5 Yes, I mean, I don't think if I was writing these  
6 today in the light of subsequent revelations that  
7 I would say that -- I mean, I would say I stand to see  
8 justice done or something, rather than say I stand with  
9 one group. I think there's a fair comment there, yes.

10 LADY SMITH: Archbishop, help me with this: I'm a little  
11 puzzled, given the clear explanation you gave us earlier  
12 about the autonomous nature of the order --

13 A. Yes.

14 LADY SMITH: -- they ran themselves, it was up to them to do  
15 their own thing, if you like, behind the closed doors of  
16 Nazareth House and not for you or the church to  
17 interfere. It might be said it then seems odd that when  
18 these allegations emerged, and the sisters, one must  
19 take it, chose to remain silent, that despite their  
20 autonomy and freedom of choice for themselves, you  
21 thought you should be speaking up for them. Do you see  
22 what I mean?

23 A. I do, I do.

24 LADY SMITH: It could seem odd today.

25 A. I think it's a fair question, my Lady. It's a fair

1 question. I suppose I was coming in at that stage by  
2 default. They did eventually produce their own  
3 statement, which is much stronger than anything I made.  
4 I think we have got that -- those papers.

5 MR MacAULAY: Yes, you're correct in saying that.

6 A. I'm correct in saying that?

7 Q. Yes, they did produce a statement at some point.

8 But I think the point is: why choose the sisters as  
9 against those who were making the allegations when you  
10 didn't know whether or not the allegations were true?

11 A. Yes, it's a difficult one to answer, I appreciate that,  
12 and I'm going to say, well, I'm sorry if it looked as if  
13 I was partial. We touched on that in my statement just  
14 before we adjourned for lunch, that it appeared that  
15 I was partial to the sisters.

16 I think what I said to her Ladyship a moment ago --  
17 I was thinking it was a moment in which there was  
18 silence on it, people were expecting something to be  
19 said. People would naturally look to the bishop because  
20 it was regarded, Nazareth House -- people regarded it as  
21 part of our outfit, as it were, but we had to point out  
22 in fact it was autonomous. But at least there was that  
23 expectation that they were part of it.

24 Now you might say any child that had been in  
25 Nazareth House now subsequently making allegations could

1 have been conceived of being also part of my concern as  
2 sometimes -- by dint of the fact that they were in  
3 Aberdeen and at Nazareth House and part of my diocesans.  
4 They weren't really. Maybe some of them were, but not  
5 all of them.

6 Q. The other point, if I could take you to the second page  
7 of this statement, 0046. It comes out of the last  
8 paragraph, where you say:

9 "In the light of the many favourable testimonies  
10 written by former Nazareth children, it would be  
11 imprudent for anyone to prejudge the issue. The  
12 sympathy of the bishop, clergy and people of the diocese  
13 goes out to the sisters who are presently serving the  
14 community by caring for 70 old people in Nazareth House,  
15 Aberdeen. It would also be extended to all who feel  
16 hurt whose complaint can be verified."

17 A. Well, exactly.

18 Q. What did you mean by verification?

19 A. I mean that if you've got sympathy for the sisters,  
20 we would also have sympathy for those who feel hurt and  
21 whose complaint can be verified.

22 Q. But what did you mean by verified?

23 A. Well, it's in the context of saying it's not for me to  
24 judge. It's not for anyone else to judge at this stage.  
25 It's for those competent to make a judgment in the

1 matter. If in fact what is suggested or implied is  
2 criminal behaviour, it's not the press, it's not the  
3 community -- although the press often seems to me to  
4 adopt that role -- it's for the court to make the  
5 decision. It's for the judicial authorities to weigh  
6 the evidence, for them to at least say that there is  
7 ground here for further consideration in the light of  
8 the number of witnesses and the number of therefore --  
9 the corroboration of what those witnesses were saying.

10 LADY SMITH: When you wrote this, did you know what the nuns  
11 had to say about these allegations?

12 A. Well, I think we've heard already, but certainly it's  
13 among the documents that they were maintaining a silence  
14 and suggesting that they were not at fault.

15 LADY SMITH: You've told me you didn't consult with them  
16 before writing the letter to the press.

17 A. Yes, that's right.

18 LADY SMITH: When you wrote this in January 1998, am I to  
19 take it that you at that stage hadn't spoken to them  
20 about what their position was in response to the  
21 allegations either?

22 A. I wrote that letter without consultation with any of the  
23 sisters.

24 LADY SMITH: Yes, you told me that. This isn't a letter;  
25 this is the statement, the subsequent statement.

1 A. That was written by me.

2 LADY SMITH: What I was wondering, archbishop, was whether  
3 these were both written at a stage where it was  
4 possible, if you had spoken to the nuns, that they said,  
5 "Yes, we're really worried because we think some of  
6 these allegations are true".

7 A. Well, I never had that conversation with them, no.

8 LADY SMITH: No. That could have been their position; you  
9 just didn't know?

10 A. The general attitude -- well, I don't know. We're going  
11 back 20 years to when I wrote that. I can't remember  
12 the particular event. I certainly was in touch with  
13 them at the time. I'm not going to deny that. It was  
14 very natural for me to be concerned. How are you  
15 getting on, sisters, in the light of the abuse that  
16 you're getting in the press? Because they were.  
17 I mean, some of the descriptions of them, "evil nuns"  
18 and talking about "sadistic sisters". You know, "Wicked  
19 nun blinded me" was a poster within 100 yards of  
20 Nazareth House.

21 You know, it was natural for me, natural as  
22 a bishop, and natural for other people in the diocese to  
23 say somebody should be standing by these sisters because  
24 they're being publicly abused.

25 MR MacAULAY: That indeed was your plan because we have seen

1 a letter this morning that you wrote to the  
2 Mother Superior, which was very shortly after this  
3 statement --

4 A. Yes.

5 Q. -- suggesting a get-together where support could be  
6 provided. That was the line you were taking at that  
7 time?

8 A. That's right and nothing I said there and elsewhere in  
9 any way altered the courses of events subsequently  
10 because I was in favour of the court action that went  
11 ahead for one of the sisters, who pled guilty to four  
12 such charges, and I suppose it was a test case.

13 Q. I'll come to that. Can I take you back to your  
14 statement then, archbishop, at WIT.001.001.9611. If  
15 we can go back to that. It'll come on the screen.  
16 I want to go to paragraph 36 where we, I think, had come  
17 to before lunch.

18 As you've said on more than one occasion, if we just  
19 scroll down the page, this inquiry has heard the  
20 testimony of many survivors who have been not only at  
21 Aberdeen but at other Nazareth Houses in Scotland.  
22 I take it that you have been following the testimony of  
23 these survivors in one way or another? Have you been  
24 following the inquiry --

25 A. Not directly, no, not directly.

1 Q. But you've read what's been reported?

2 A. I'm aware of it, yes. I've got obviously legal advice  
3 on how this inquiry works and what might be expected of  
4 me.

5 Q. Yes.

6 A. But I didn't want to follow it because I didn't really  
7 want any, as it were, on my part -- I'm getting tired,  
8 I'm terribly sorry. I didn't want any ... I've read  
9 the documents that had been sent to me. I've scoured my  
10 memory to drag up anything that needed to be ...  
11 I didn't want to look at the press because I'm afraid,  
12 if you want me to go further, it's going to be critical  
13 of the press and I don't want to go down that line  
14 either.

15 LADY SMITH: Just briefly, let me pick up -- archbishop, I'm  
16 not surprised you're tired, you've been answering  
17 questions for a long time and I know it's probably very  
18 difficult. You must let me know if you want a break at  
19 any point.

20 A. Thank you.

21 LADY SMITH: Don't just sit there feeling in need of one and  
22 not saying anything. Please, will you?

23 A. Thank you.

24 MR MacAULAY: I understood this morning, archbishop, for you  
25 to accept that you've come to a realisation that



1           allegations that had been made in the past were true.

2           A. That's a conviction that I think is universal and  
3           I share it.

4           Q. Yes. Then if we look at paragraph 36, what you say is:

5                     "This inquiry has now heard the testimony of  
6           survivors and it gives me the opportunity to state that  
7           I do stand with all those who have been abused and  
8           express my pain and sorrow and profound regret that this  
9           should have happened to them."

10          A. Yes. What can you ask me about that? I've written  
11          that, I've presented that as my evidence to this inquiry  
12          and I stand by what I've written.

13          Q. Indeed. The point I'm trying to make in your favour  
14          is that you are not standing by the sisters now, as you  
15          did in the past.

16          A. I'm grateful for that, yes.

17          Q. You're standing by the survivors.

18          A. Yes. It has been a process from shock within the  
19          community, with contrary positions being put forward, it  
20          has been adversarial and so on and so forth. I think  
21          we've reached, through this inquiry, an opportunity to  
22          look at things, what shall we say, in a broader context  
23          with various people called to give evidence. Even  
24          if I haven't followed that evidence day by day, I know  
25          where it has reached and I'm happy today to be invited

1 to give what I see, from the past, as -- well, what  
2 I can contribute to that operation.

3 Q. You've touched on Sister Alphonso's conviction and  
4 I don't want to spend very much time on that. I think  
5 at the time it was your view that there had been  
6 a miscarriage of justice and that she was wrongly  
7 convicted. At least that is how you've been reported.

8 A. Well, that's not true. That's not true. Though  
9 a lawyer did say to me -- but that was before the final  
10 judgment.

11 Q. In any event --

12 A. A lawyer did say to me, I've never been at a court where  
13 I'm so convinced -- and this wasn't a member of the  
14 Catholic Church, not one known to me as somebody who was  
15 in the street. And if one thing's been said and it's  
16 hearsay, well, let me hearsay that he said, "I have  
17 never been at a court where I felt that there was  
18 a miscarriage of justice". Now, I'm not necessarily  
19 agreeing with that, I'm not saying that, but there were  
20 perceptions at the time that -- you know, the sister was  
21 having a hard time of it, with accusations which would  
22 have, if they had been, as it were, agreed, they had  
23 been undertaken by parents and grandparents and so on,  
24 would have resulted in so many of them being in court  
25 and being regarded as criminal.

1 Q. Very well.

2 A. We have changed so much in those decades and perhaps  
3 it's only somebody of my age who can sense that and see  
4 how far we've got and how in fact we are therefore more  
5 ready to listen, I think, today to those who have  
6 expressed themselves about the sort of treatment they  
7 got within an orphanage, within an institution of that  
8 time, and how unreasonable it was, if you have the care  
9 for children, to have used a system like that and abused  
10 that system in the case of individuals.

11 Q. Have you been advised, archbishop, that in the course of  
12 this inquiry Sister Alphonso has accepted that she was  
13 properly convicted of those charges on which she was  
14 convicted? Have you been advised of that?

15 A. She did so at the time. She did so at the time.

16 Q. I'm sorry?

17 A. She did so at the time.

18 Q. Accept that she had been properly convicted?

19 A. Yes. She did so at the time. That's why the press is  
20 wrong to suggest that it took her 20 years to  
21 acknowledge her faults.

22 Q. Very well. To whom did she accept at the time --

23 A. At the court. At court.

24 Q. When your statement was taken from you, archbishop,  
25 a number of issues were raised with you that had been

1 raised by a number of people who have given evidence to  
2 this inquiry. You begin addressing these issues from  
3 paragraphs 38 onwards in your statement.

4 Can I perhaps look at some of that. At paragraph 38  
5 you respond to what was put about a certain lady who  
6 gave evidence and who took the pseudonym "Christina".  
7 What's recorded in your statement is:

8 "A certain lady gave evidence to the effect that at  
9 some unstated date, while I was archbishop in Glasgow,  
10 she spoke to me at the Church of the Immaculate  
11 Conception in Maryhill about her treatment at  
12 Nazareth House, whether at Aberdeen or Glasgow was not  
13 stated. Her complaint was that I gave her short  
14 shrift."

15 Do you have any recollection of that event?

- 16 A. No. I met so many people. How can I expect to remember  
17 everything? I normally have -- I've got a reputation  
18 sometimes of being the last out of any such gathering  
19 because I enjoy going round and speaking to people, and  
20 I'm prepared to say that publicly, and for anyone to  
21 suggest otherwise, I don't think that's likely. The  
22 fact of the matter is, what are the circumstances of  
23 this? She's at the back of a church, drinking coffee,  
24 apparently, and I'm supposed to have been there for some  
25 funeral or other.

1 Q. Yes.

2 A. What are the circumstances? What are you suggesting?  
3 That somehow I've done something wrong?

4 Q. I just want to put to you what she said because I think  
5 she was taken aback. I will put the transcript of what  
6 she said in her evidence. TRN.001.003.1682.

7 (Pause)

8 This is her giving her evidence about what happened  
9 that particular day. She mentions between lines 11 and  
10 12 that:

11 "[She] was upset and this other priest took [her] in  
12 for a cup of tea and that Archbishop Conti was actually  
13 there saying a Mass for somebody who had passed away."

14 So that's the context, archbishop.

15 Then she goes on to say at line 17:

16 "I kind of started explaining to him and all he said  
17 to us is, 'Times were different then', and walked out."

18 She was explaining what had happened to her when she  
19 had been in care.

20 From what you're saying, archbishop, you have no  
21 recollection of this happening?

22 A. No, I've got no recollection, but I don't know what I'm  
23 supposed to be defending: that I spoke to her and didn't  
24 give her the time that she was wanting? I don't know  
25 whether I had the time because I don't remember the

1 event. If it was a funeral I may have been expected to  
2 go with the hearse. I just don't know. In any case,  
3 what is the huge significance of this particular piece  
4 of evidence in the wider question of the abuse of  
5 children at Nazareth House?

6 Q. If it was correct, it might disclose a certain attitude,  
7 because if we read on to page 1683, at line 11, you see  
8 what she says is:

9 "Answer: Well, I told him that I had been, aye, in  
10 Nazareth House and that I'd been abused and he just  
11 tried to brush it off. In fact, he couldn't leave fast  
12 enough."

13 She's asked:

14 "Question: Can you remember exactly what he said?

15 "Answer: The main thing I can recall him saying is,  
16 'Times were different then, people should move on'."

17 Now --

18 A. You're asking me if it's a question of attitude. If all  
19 you can produce, Colin, sorry, is that one letter of  
20 circumstances, which I don't recall, for somebody who's  
21 expecting more of me and I didn't give her the time, I'm  
22 sorry about that. And if you still -- if she's still,  
23 as it were, listening to this or following my evidence,  
24 I apologise to her.

25 Q. Let's then leave it at that, archbishop.

1 A. Yes, I'm happy to leave it at that, but I don't think  
2 you can, from that sort of incident, make a general  
3 statement about my attitude.

4 Q. That was your attitude according to her at the time.

5 A. That one person. If in fact it is true.

6 Q. If it is true.

7 You were also asked at paragraph 39, if we go back  
8 to your statement at 9612, about another person who  
9 phoned you at the time responding to your invitation to  
10 people who had experience of Nazareth House in Aberdeen,  
11 whether positive or negative.

12 The suggestion was that you responded in some way by  
13 saying that you were not accountable to anyone. You  
14 were asked about that and I think you provide us with  
15 a response to that.

16 A. I provided my response in the submission to this  
17 inquiry.

18 Q. Yes. And what is your response?

19 A. Well, you have it in front of you somewhere.

20 Q. No doubt, but we would like to hear evidence --

21 A. I can remind you where it is.

22 Q. Can you tell us?

23 A. I know that I did not say that since I've never held  
24 that to be the case. We're all accountable to those we  
25 serve, to the Lord, who's appointed us with the church,

1 and ultimately to God himself for all our actions.

2 Indeed, to whom much is entrusted. I'm so sorry she  
3 misunderstood what I was trying to convey.

4 Q. Do you recollect the phone call?

5 A. I do recollect the phone call and I do recollect that  
6 she was already told somewhere that in fact she had  
7 misunderstood me, but I believe it's come up again.

8 I can't say anything more than to say that is not what  
9 I said. I said to her clearly -- you can deduce from  
10 what is written there that I said to her: we are not  
11 personally responsible, the diocese is not responsible  
12 for Nazareth House other than in ways that I've  
13 qualified to you in the course of the interview today.

14 Therefore the conclusion is that she's mistaken in  
15 what she says, that I said we weren't accountable to  
16 anyone. We are accountable and I've never held that  
17 view that we were never accountable. We are  
18 accountable. But in the fact of what was going on in  
19 Nazareth House, by reason of all that has been  
20 explained, we were not personally accountable. I'm  
21 sorry about that.

22 My Lady asked me earlier if, had we known, would  
23 we have taken responsibility and done something about  
24 it, and I've assured her that we would. I can't do  
25 better than that, I'm sorry.



1 Q. Another example or incident that was given to you was  
2 under reference to the name of a gentleman by the name  
3 of Christopher Booth, who was a child migrant and who  
4 said that he saw you in Aberdeen. If I can put this  
5 document in front of you. This is NAZ.001.003.1659.

6 We have a letter dated 21 May 2001. You'll see it's  
7 from the bishop's office, and on the second page it has  
8 been signed by you, although I think your signature will  
9 have been blanked out. Do you have any recollection,  
10 archbishop, of seeing Mr Booth?

11 A. I haven't seen this.

12 Q. It is addressed to the Mother Superior. I think what  
13 you're trying to do here is to help Mr Booth, if I may  
14 say so. What you say is:

15 "I had a long chat last night with a former  
16 Nazareth House boy. He was in Nazareth House for  
17 a short period, something like six months in the 40s.  
18 He's one of the children who went to Australia."

19 And you talk about what happened. You go on to say:

20 "There is little doubt that his childhood  
21 experiences were not altogether happy to say the least  
22 and this would apply above all to his experiences in  
23 Australia."

24 So on the back of this, you seem to have had  
25 a meeting with Mr Booth, he's given you some explanation

1 as to what his experiences were like, and what you're  
2 trying to do, I think, is to see whether or not there is  
3 any information available that would provide him with  
4 some background to why he went to Australia.

5 A. Well, I haven't had a chance to look at this, but it  
6 seems to me I've said to the Reverend Mother, as part of  
7 the healing process that he's engaged in or wants to be  
8 engaged in, he's trying to deal with hurts and  
9 injustices as he sees them. Among the latter is having  
10 been sent to Australia and, as he explains it:

11 "... being robbed of his country with the result  
12 that, having returned home, he is no longer considered  
13 a citizen of Scotland and his eligibility for a pension  
14 becomes a matter of concern. He's trying to establish  
15 that he was sent abroad without his consent."

16 At the age 11 or 12 years of age it's difficult to  
17 see how someone could give informed consent:

18 "Is there any chance of further documentation being  
19 held either at Nazareth House, here or in London, beyond  
20 that which he has, a statement of basic information from  
21 Boys' Town in Tasmania, for example?"

22 And it goes on like that.

23 Q. Yes.

24 A. That's an indication, whatever about my attitude you  
25 thought before, it's trying to help this person.

1 Q. I'm not denying that. Indeed, that's why I'm putting it  
2 to you. I can put the good and bad to you.

3 A. Well, I am grateful for that.

4 Q. What I'm asking you is whether you have any recollection  
5 of meeting this individual.

6 A. Is that the same one that I've referred to in my --

7 Q. It's the same person you're asked about in your  
8 statement.

9 A. Yes, okay.

10 Q. Do I take it that you've little recollection of seeing  
11 this?

12 A. I remember that gentleman coming to me, yes. What do  
13 I say in the statement that might add significantly to  
14 what you've just said?

15 LADY SMITH: Archbishop Conti, we might make quicker  
16 progress if you let Mr MacAulay ask the questions.  
17 That's what he's there for.

18 MR MacAULAY: I think you thought in your statement that  
19 Mr Booth believed that you acknowledged some  
20 responsibility for what happened and, in particular, the  
21 sending of children to Australia, to which he clearly  
22 strongly objected. Then you go on to say:

23 "I was totally aware of the practice. The church,  
24 to the best of my knowledge, had no part in what was  
25 a government project."

1           That was your response.

2           You don't actually make clear whether you have any  
3           real recollection of seeing Mr Booth, but I think  
4           you have some recollection of seeing him.

5           A.   Recollection of?

6           Q.   Of having a meeting with him.

7           A.   Yes.  I have no difficulty about that.  I do remember  
8           him calling to see me.

9           Q.   In relation to the church playing a part in the  
10          migration of children, at the time you gave your  
11          statement your position was you had no knowledge of the  
12          church --

13          A.   I had no knowledge of it, but I've since discovered,  
14          must have discovered at that time, it was a government  
15          project which enabled the sisters to do what they were  
16          persuaded was in the interests of their children to do,  
17          to send them to a land of opportunity.

18          Q.   But the Hierarchy had some involvement at the time?

19          A.   I don't know.

20          Q.   Well, we needn't go into it today, but the  
21          Bishops' Conference have responded to the inquiry to  
22          confirm that the Hierarchy did have some involvement.  
23          But that's news to you?

24          A.   I perhaps wasn't a member at that time.

25          Q.   The other person that you were asked about -- and this

1 is at paragraph 41 of your statement -- was a witness  
2 called Joseph Currie. Do you remember being asked about  
3 Mr Currie?

4 A. Yes.

5 Q. If we look at your statement, what he alleges is that he  
6 told you in the confessional that he had been sexually  
7 abused by [REDACTED] LDU and when he gave his evidence he  
8 thought at first it was 1961 but perhaps later in 1967.  
9 Your response to that, of course, is that you weren't  
10 there in Aberdeen in 1967, but you were in 1961.

11 Do you have any recollection of a child from  
12 Nazareth House coming to you in the confessional and  
13 talking --

14 A. No, none whatever, none whatever. I wasn't there in  
15 Aberdeen at that time. In 1961, he would have been much  
16 younger and yet there is further evidence there that at  
17 the same time he's supposed to have come to me in  
18 confession, he was putting a report in a cupboard or  
19 behind a cupboard in Nazareth House at the same time,  
20 which is 1967. I wasn't there. I was 200 miles away.  
21 I was rarely in Aberdeen. I have given you evidence of  
22 that. I've reported that to the inquiry.

23 Q. Can I ask you this, archbishop -- and it is  
24 a hypothetical question: if a child had come to you in  
25 confession and said something about sexual abuse at

1 Nazareth House, I suppose that -- well, would you feel  
2 bound by the Seal of the Confessional not to do anything  
3 about it? Can you help me with that? What would your  
4 position be?

5 A. My Lady, am I required to answer a hypothetical  
6 question?

7 LADY SMITH: It would be very helpful to me if you answered  
8 this one --

9 A. Okay.

10 LADY SMITH: -- given things we've explored.

11 A. Tell me precisely what you would like me to respond to.

12 LADY SMITH: I will invite Mr MacAulay to explain again.

13 MR MacAULAY: This is a hypothetical question: if someone  
14 comes and reports something to you in the confessional,  
15 are you bound by the Seal of the Confessional simply --

16 A. I am bound by the Seal of the Confessional.

17 Q. In that situation, would it be open to you however, if  
18 that happened, to approach the individual outwith the  
19 confessional?

20 A. The confessional is a place where people come to confess  
21 their sins, not to report the sins of others, so  
22 it would be a question of people outside the  
23 confessional, if they had something to say about  
24 something that was done to them, which was upsetting  
25 them and what have you, and maybe had an impact on them,

1           they would have every opportunity to do that.

2       LADY SMITH:   Archbishop, we are exploring a hypothesis, but  
3           let me add this to your considerations: that what was  
4           going on or what is going on in the mind of the  
5           hypothetical child is that they are doing something  
6           wrong.

7       A.   Yes, I realise that.

8       LADY SMITH:   This is very common amongst children when they  
9           are being abused.   In this particular case, what you  
10          refer to as a report were actually described as "letters  
11          to God" that this boy was writing -- and they do read  
12          like that -- as if he's trying to make a bargain with  
13          God that he won't be involved in this any more.

14          But putting the details to one side, I think what  
15          Mr MacAulay is asking you to consider is if you hear in  
16          the confessional a child explaining to you that they are  
17          involved in what obviously is an abusive relationship  
18          with an adult, what do you do?

19       A.   You could say to that child, you must tell the  
20          Mother Superior that that's happened, or you tell  
21          somebody else or you tell me.   But what you tell --

22       LADY SMITH:   But what if I'm the child and I say, "I can't,  
23          she will never believe me.   I've tried, she doesn't  
24          believe me.   There is nobody else I can tell" --

25       A.   My Lady --

1 LADY SMITH: -- because that's very common amongst the  
2 children.

3 A. I accept that. I accept that. I accept that a child  
4 can feel that in some way they are responsible.

5 The case we are talking about didn't happen because  
6 I would have remembered it and I wasn't there.

7 LADY SMITH: I've got your position on that, I'm really  
8 wanting to explore -- this is important, archbishop. If  
9 you are faced with this child who is disclosing  
10 something deeply alarming and, from what they're saying,  
11 they feel there's nowhere else they can go, this is the  
12 place that they have come to talk about it, what do you  
13 do?

14 A. Well, what you could do is to say to the child, you'll  
15 have to tell someone else, but you can also tell me.  
16 But here we're talking about your sins and you're saying  
17 sorry to God for what it is, I can assure you you have  
18 done nothing wrong, but if you want you can wait behind  
19 and speak to me outside.

20 MR MacAULAY: So that would be an approach that would, as it  
21 were, get over the problem of the Seal of the  
22 Confessional because you could --

23 A. I find it very difficult, sorry, to deal with this.  
24 It's really a matter of moral theology, it's a matter of  
25 church practice, it's a matter so serious in the mind of



1 the church that if I were to take out of the  
2 confessional something as serious as that, or even if  
3 somebody had murdered somebody, and reported it, I would  
4 be automatically excommunicated. That's how serious  
5 it is in the eyes of the church, because the  
6 confessional is a sacrament and it's hugely important  
7 that people know that they can go to that sacrament, ask  
8 the forgiveness of God through the ministry of the  
9 church, and be assured that they have it.

10 A priest can in certain circumstances refuse to give  
11 absolution until such a person does what's required of  
12 him. For example, if he had stolen something from  
13 somebody, unless that person, he or she, is prepared to  
14 make recompense, he or she can be refused absolution.  
15 So there are ways of dealing with it but I'm not too  
16 sure -- I can understand the concern of the inquiry  
17 about that hypothetical question, but I would suggest  
18 that I've said enough on that.

19 Q. I think you have answered the hypothetical question in  
20 a very practical way, and that is to tell the child,  
21 "Speak to me outwith the confessional". That's an  
22 answer which should provide the child with a viable  
23 option.

24 A. Right. But I can assure you that that did not happen.

25 Q. That's why we're in the realm of hypothesis.

1 A. Right, okay.

2 Q. Archbishop, when you gave your statement -- and this is  
3 beginning at paragraph 45 -- you make some comments on  
4 the attitude of the Catholic Church to child protection  
5 in the 1960s to the present. You make in particular  
6 reference to the working party, "In the Image of God",  
7 which was published in 2018.

8 In a real sense, this material is not directly  
9 related to the case study that we're dealing with at the  
10 moment, which is into the Sisters of Nazareth, although  
11 it will of course be relevant to other aspects of the  
12 inquiry's work. But just looking at this, very briefly,  
13 you were involved until your retirement in this whole  
14 process; is that correct?

15 A. Yes.

16 Q. And in particular, you were part of the working party  
17 that was looking into this whole area?

18 A. Not quite that, but let me say that while I was in  
19 Thurso, I was chairing the local branch of the Royal  
20 Society for the Protection of Children. When I became  
21 bishop, I was a member of the Hierarchy and therefore  
22 would have been involved in what the bishops were doing  
23 at that time.

24 But really, the work became more seriously addressed  
25 in 2000, after the court case in 2000 and what have you.

1 I became Archbishop of Glasgow in 2002.

2 I think I have said something there about that. It  
3 was my suggestion to the Bishops' Conference that not  
4 only should there be -- I was party to my colleagues in  
5 appointing someone as a childcare officer -- or whatever  
6 it was called, but that we should have a reference  
7 group, and I chaired that reference group all the time  
8 I was Archbishop of Glasgow. We had worked on  
9 a document which had been prepared by that working party  
10 to which you referred and brought it to a different  
11 stage. That was the position. We were still working at  
12 it, really, through the years. It would be done in  
13 chapters and brought to the Bishops' Conference -- and  
14 as the law changed it would be changed as well, until  
15 the point when, about the time that I retired, the  
16 bishops decided to ask to consider a review of the whole  
17 document in the light of further legislation and they  
18 invited the former moderator of the Church of Scotland,  
19 McLellan, to look at it and a team was set up of  
20 experts.

21 So if you like, it was a development of the  
22 reference group, but the reference group did good work  
23 and it involved a canon lawyer, a civil lawyer, a member  
24 of the police force. It involved the sister who we saw  
25 on that video earlier, Sister Ros who chaired the

1 Notre Dame child clinic, and so on and I'm proud of the  
2 work it did, and I chaired that, which is indicative,  
3 I think, surely, of my attitude to this whole question  
4 about child abuse.

5 Q. And that's why I said in introducing this section of  
6 your statement that, really, although it's very  
7 important work and interesting work, it's really for  
8 another day rather than looking at it in a short-term  
9 way in the course of your evidence.

10 A. Yes.

11 LADY SMITH: Archbishop, just let me follow through on the  
12 hypothetical child in the confessional who has talked to  
13 you about terrible abuse. You say, "Speak to me  
14 afterwards outside", and by the time you've finished  
15 in the confessional box, you go out and the child's run  
16 away. You, as priest, are then left with this terrible  
17 burden of knowledge and the knowledge that the person  
18 that the child has talked about may be abusing not just  
19 that child but other children as well. Are you telling  
20 me that within the rules that apply within your church,  
21 you cannot do anything about it?

22 A. No, I'm not saying that, my Lady --

23 LADY SMITH: Well, help me understand: what can you do about  
24 it?

25 A. Give me a chance, I will. We're talking about

1 a particular child and so on, and it was thought, well,  
2 you're prepared to believe it didn't happen, because it  
3 seems to be impossible that it happened as he described  
4 it, and I would have had a memory of it if in fact it  
5 had happened.

6 LADY SMITH: Archbishop, forgive me for interrupting: I'm  
7 not asking you about that particular child; I want to  
8 ask about the church's practices.

9 A. I am going onto that, my Lady. The question was: then  
10 what could I do in respect of that child? You've taken  
11 it a step further, if I understand you, in saying  
12 suppose the child had run away and so on and so forth.  
13 The fact that you have knowledge of that, you can't not  
14 have it. So it would alert the confessor, it would  
15 alert him to the possibility that something is going on  
16 or more than the possibility and alert him to it.

17 The point is, you see, it's there to defend the  
18 sacrament, to defend the secrecy, the nature of someone  
19 being able to go to the confession, to say sorry to God  
20 and ask for the pardon of God through the service of the  
21 church.

22 If we were to break that, it would alter people's  
23 attitude to that sacrament, to the whole sense of what  
24 they're doing is done before God and it's not going to  
25 be reported to others, but it doesn't prevent us being

1 alerted to something and to be therefore on our guard.  
2 And one would expect in those circumstances the priest  
3 would look around and begin to ask questions. Those  
4 questions would not, as it were, alert anyone to the  
5 fact that a child had said something in the confession  
6 to him. They might think, maybe somebody has reported  
7 it, but it doesn't alter the fact that the secrecy of  
8 that child's confession or what he said in confession --  
9 the secrecy is not being maintained. But you can't  
10 alter what people know from other circumstances, from  
11 those circumstances.

12 LADY SMITH: And what if the person in the confessional,  
13 in the case, is the alleged abuser? What do you do  
14 then?

15 A. Sorry?

16 LADY SMITH: It is the alleged abuser who tells you, "I'm  
17 abusing children". I fully understand the spiritual  
18 need to try and help that person talk to God about it  
19 and deal with it in their relationship with the  
20 Almighty. But separately, that person lives in society  
21 and you are then alerted to the fact that there are  
22 children at risk. What do you do?

23 A. You could say to that person, the priest could say to  
24 that person, you're not going to receive absolution from  
25 me without you going and reporting what you've done.

1 LADY SMITH: Right. Thank you.

2 Mr MacAulay.

3 MR MacAULAY: One thing you do do in this section of your  
4 statement, archbishop, is compare the present, as  
5 developed through your group, to the past.

6 A. Yes.

7 Q. Perhaps we'll just look at that very briefly. If you  
8 turn to paragraph 49 on page 14 of the statement.

9 A. "Reflecting on the past"?

10 Q. Yes. What you say is:

11 "Reflecting on the past, I think the allegation that  
12 there was a cover-up by the Catholic Church in relation  
13 to allegations of abuse is unfair."

14 You go on and develop that thought in that this was  
15 this natural instinct on the part of the church to solve  
16 the problem in a pastoral way. We've heard about this  
17 already from Monsignor Smith when he gave evidence on  
18 this --

19 A. Yes.

20 Q. -- in that what the church sought to do in the past was  
21 to, for example, see if the perpetrator could go and  
22 receive some form of treatment that might assist, and  
23 that was an approach that was prevalent in the past;  
24 is that right?

25 A. Yes.

1 Q. You say on the next page, for example:

2 "The bishops did not take into account that some of  
3 these allegations were criminal in nature."

4 That's your own view, is it?

5 A. Clearly, yes.

6 Q. You go on to say:

7 "The fault of the church was in dealing with them  
8 without sufficient consideration for victims."

9 A. That's what we're being accused of and I think there's  
10 a lot of justification for that.

11 Q. You would accept that?

12 A. Uh-huh.

13 Q. You go on to say:

14 "There were perpetrators who promised they would  
15 never do such a thing again."

16 A. Yes.

17 Q. And there are you talking about priests who gave  
18 promises that if they had --

19 A. It would be mainly priests, I think, yes. It's the  
20 instinct of the church, I mean ... Our instinct is  
21 different from other institutions, judicial institutions  
22 and so on and so forth, in looking to get at a truth  
23 with a view to punishing if a person has been guilty of  
24 an event, imprison them, whatever, whatever, whatever.

25 The instinct of the Catholic Church is to try and



1           heal what has happened, it's to try and ensure that the  
2           person who has done that is not going to do it again.  
3           It's a call to an individual to say sorry -- more than  
4           sorry, to confess his fault and to pledge it -- what we  
5           fail to understand, and we were not alone in this, is  
6           that there is something about child abuse which tends to  
7           be addictive, so much so that you cannot risk ever again  
8           putting someone who's abused a child in any way close to  
9           children that would allow it to happen again. That is  
10          something that we've learned over the last couple of  
11          decades.

12         Q. But what has happened in the past, that perpetrators --

13         A. Yes.

14         Q. -- were allowed the freedom to do it again.

15         A. Yes -- and I'm not talking about Aberdeen, I'm just  
16         talking generally.

17         Q. Absolutely, yes.

18                 Archbishop, you do provide us with your hopes for  
19                 this inquiry.

20         A. Yes.

21         Q. Can you tell us what these are?

22         A. Well, it's a big hope, it's a big hope. Wouldn't it be  
23         marvellous if the inquiry was a step into  
24         a reconciliation, an opportunity for those who have felt  
25         sore about the treatment that they got, who have had the

1 courage to come and report it and to stand up for it,  
2 and to give us an opportunity of understanding what  
3 happened to them with a view to changing a system that  
4 was abusive?

5 It would be great if this inquiry could be one step  
6 further, as it were, or could be a step in the direction  
7 of that reconciliation. It's a big, big question, isn't  
8 it? I mean, reference was made to the fact that  
9 I attempted to do it at a certain stage and was advised  
10 against it.

11 I think we're beyond that stage now and I think if  
12 the church has recognised that those who have been  
13 accused of abusing children have acknowledged their  
14 faults, they've acknowledged they did it, we are in  
15 a new situation where in fact they've got to show, those  
16 who have been accused and have been found guilty, that  
17 they are sorry for what they've done, and the  
18 institution to say, insofar as we failed in respect of  
19 these things, then we are sorry also.

20 But it's also to those who have accused us or made  
21 allegations to say, well, now you have heard our  
22 allegations, you've heard our evidence, you have  
23 acknowledged it, you are ready to say sorry for what has  
24 happened to us, can we now go that step further and be  
25 reconciled? And we will never be happy, there will

1 never be satisfaction on anyone's part without that  
2 forgiveness.

3 MR MacAULAY: Thank you, archbishop, for these final  
4 thoughts. Thank you for answering my questions.

5 I have put most of the questions that I have been  
6 asked to put to you and thank you for dealing with  
7 those.

8 A. Thank you for asking me so courteously.

9 LADY SMITH: Let me check whether there are any outstanding  
10 applications for questions of the archbishop. No.

11 Archbishop, those are all the questions we have for  
12 you. Thank you very much for engaging with the inquiry,  
13 both by providing your written statement and by coming  
14 along today to answer the questions that have been put  
15 to you and to allow Mr MacAulay and me to explore  
16 matters with you in the way that we have done. It has  
17 been very helpful indeed. I'm now able to let you go.

18 A. Thank you, my Lady, and I wish you well in your final  
19 report and I will take a lot of interest in it.

20 LADY SMITH: Thank you.

21 MR O'NEILL: My Lady, I have an application -- this is  
22 Aidan O'Neill QC.

23 LADY SMITH: Is this an application for a question of the  
24 archbishop?

25 MR O'NEILL: It's an application in terms of final

1           submissions.

2       LADY SMITH: I'm going to let the archbishop go. I suspect  
3           he would really quite like to get away and rest.

4                               (The witness withdrew)

5       LADY SMITH: Mr O'Neill, I normally take a break at about  
6           this stage in the afternoon to allow the stenographers  
7           a breather, so I'm going to do that now for about  
8           10 minutes or so, and I'd appreciate it if in the break  
9           you could let Mr MacAulay know what the application  
10          is that you want to make. Thank you.

11       (2.55 pm)

12                               (A short break)

13       (3.11 pm)

14       LADY SMITH: Yes, Mr O'Neill.

15       MR O'NEILL: Obligated, my Lady. My application really is  
16           just one to do with the timetabling for the written  
17           submissions. I understand that your Ladyship has  
18           indicated that she would wish written submissions from  
19           all parties to this stage of the inquiry to be in by,  
20           I think, 4 o'clock on this coming Friday.

21       LADY SMITH: That was indicated the week before last. Twice  
22           this week -- yes, twice this week -- those instructing  
23           you have simply asked for the time in your case to be  
24           extended until next Monday and reasons were sent to  
25           them -- I don't know if you've seen what was written to

1           them earlier today.

2           MR O'NEILL:  Indeed, my Lady, I have, and it's in the light  
3           of those that I would briefly wish to put forward my  
4           application.

5           Your Ladyship is correct and has indeed anticipated  
6           that I would be seeking the possibility of putting  
7           in the written submissions, which will be spoken to by  
8           my learned junior, Mr Inglis, as I am otherwise engaged  
9           in court on Tuesday and Wednesday, but if we can put  
10          those written submissions in by Monday morning ...

11          I will set out the reasons why I make that  
12          application, my Lady.  The application comes on the head  
13          of fairness to this individual witness and also the  
14          proper application of the principle of equality of  
15          treatment.  As your Ladyship is of course aware, equal  
16          treatment means that one treats the same cases in the  
17          same way and different cases differently.

18          In this case the witness is an individual, he is not  
19          a representative of the Scottish Bishops' Conference,  
20          he wasn't called for that purpose here.  He was being  
21          asked about his personal knowledge and his actions as  
22          a priest in Aberdeen and subsequently as a bishop in  
23          Aberdeen and Archbishop in Glasgow.  So the fact, for  
24          example, that the Bishops' Conference are separately  
25          represented and have indeed been granted leave to appear

1 in this case study some months ago and have been  
2 represented throughout is not directly relevant to the  
3 issue of this witness and the submissions which are to  
4 be made on his behalf.

5 I am aware that closing submissions should be  
6 focused solely on what facts the chair might be able to  
7 find to have been established. I am aware that it is  
8 expected that the written submissions be relatively  
9 short documents. But it is clear that written  
10 submissions are very important documents for the  
11 tribunal and they deserve full care, time and attention.

12 Clearly, in the case of the archbishop, as opposed  
13 to perhaps in the situation of other parties whose  
14 witnesses have already given evidence, the submissions  
15 cannot have been prepared in advance as they are  
16 reflective of the evidence which has been given today  
17 and, therefore, they can only be prepared by myself from  
18 this moment on.

19 The fact is, my Lady, that the original scheduling  
20 for the archbishop to give evidence was, I think, on  
21 Friday of last week and that was then rescheduled by the  
22 inquiry. What was not rescheduled, however, was the  
23 time period in which the written submissions were to be  
24 lodged and what was not rescheduled, it would appear,  
25 is that that time period was further brought forward by

1 the request last week that the written submissions,  
2 which are to be spoken to on Tuesday and Wednesday of  
3 next week, have to be before the tribunal by 4 pm on  
4 Friday.

5 What has happened as a result of the bringing  
6 forward or postponing of the archbishop's oral evidence  
7 is that the time available has been drastically  
8 shortened, in particular the weekend, which one had  
9 thought was available, would no longer be available,  
10 were we to have to put these submissions in on Friday at  
11 4 pm.

12 I frankly, personally, have a number of court  
13 commitments this week. My learned junior is in court on  
14 Wednesday and Thursday of this week. I will be working  
15 on this matter full in all the time that I have  
16 available, but on my professional responsibility, my  
17 position is that I would not be able to produce  
18 submissions which had been produced in time for the  
19 archbishop to look over and approve, that they were in  
20 fact an accurate summation of his nuanced approach to  
21 matters, and in those circumstances, because the  
22 specifics of this case, of the fact that we are recently  
23 instructed for the archbishop alone, we are not core  
24 participants --

25 LADY SMITH: I do want to say something on that, Mr O'Neill.

1           If you have seen the letter written by the deputy  
2           solicitor to the inquiry that was sent today, it is the  
3           case that -- I think it was the very first witness,  
4           eight weeks ago, who gave evidence about  
5           Archbishop Conti and Archbishop Conti's reaction to  
6           allegations being aired with him, and other evidence  
7           about what he had said and what his responses had been,  
8           followed very shortly thereafter, including references  
9           to reports that were in the press around 1998 or so.

10           So if one is looking at whether the witness has had  
11           adequate notice of what he had to respond to, it  
12           actually began, in inquiry terms, eight weeks ago.

13       MR O'NEILL:  Indeed, my Lady, but that's a quite a different  
14           point from the point I'm putting.  I'm not suggesting  
15           there has been any breach of the duties under  
16           regulation 13 or the like; what I am talking about is  
17           the time required for written submissions to be prepared  
18           by his counsel.

19           I can also point out, my Lady, that we were given  
20           permission only in the past, I think, less than two  
21           weeks to appear as counsel for Archbishop Conti  
22           personally.

23       LADY SMITH:  No application for leave was made before then,  
24           Mr O'Neill.

25       MR O'NEILL:  We are where we are.  I'm giving where we are,



1 my Lady. I myself -- there's mention of access to the  
2 transcripts and witness evidence. I myself received the  
3 password to allow access to those materials this  
4 morning. I have had no prior opportunity to look at  
5 that.

6 LADY SMITH: They have been on the website.

7 MR O'NEILL: My Lady, they have not. I have been trying to  
8 access a number of witnesses' evidence and have been  
9 unable to, in particular the evidence of Sister [REDACTED]  
10 and the like.

11 So all I can say is this is where we are, my Lady.  
12 My position is that on the accelerated time which has  
13 been created by the fact of Archbishop Conti's evidence  
14 having been postponed to be heard today, there is  
15 insufficient time for me to prepare a document, which is  
16 clearly of incredible importance to the inquiry and  
17 incredible importance to the archbishop, for it to be  
18 before this inquiry by Friday at 4 o'clock.

19 What I can say is that we will have that before the  
20 inquiry by Monday, as soon as the inquiry wishes, but on  
21 Monday. What that does allow for is for the archbishop  
22 to look over, over the weekend, if need be, because  
23 I think that a draft might be able to be prepared by  
24 late Friday, for him to look over matters on Saturday,  
25 for me to take on board any comments he might have on

1 Sunday, so that the inquiry will have his approved  
2 written submissions by Monday morning. That will not  
3 cause any prejudice to the inquiry at all.

4 The dates set for the oral giving of that written  
5 submission will remain as they are. So on the one hand,  
6 you have, on my estimation, potential prejudice and  
7 unfairness to my abilities to properly represent the  
8 archbishop against lack of particular prejudice to the  
9 running of the inquiry and no change at all in its  
10 timetable.

11 I make those submissions, therefore, my Lady,  
12 against a general background, as the tribunal is  
13 doubtless aware, under Section 17 (3) of the Inquiries  
14 Act 2005, that making any decision as to the procedure  
15 or conduct of an inquiry, the chairman must act with  
16 fairness --

17 LADY SMITH: Mr O'Neill, you don't need to remind me of the  
18 terms of Section 17; they are engraved on my heart. I'm  
19 well aware of the need to be fair to all parties.

20 I don't know if you appreciate this -- and there's  
21 no reason why you should because you weren't involved in  
22 the last case study -- the reason why I required the  
23 submission of the written submissions to the inquiry by  
24 close of business on Friday was to give adequate  
25 opportunity to all parties to see what each other were

1 saying in their written submissions.

2 This isn't to do with the inquiry's -- with my  
3 convenience or what I would like best, but it's what we  
4 did in the Daughters of Charity and it is what, in my  
5 judgement, was the way to move forward to see to it that  
6 everybody involved saw what each other was saying in  
7 good time before Tuesday. That remains my concern.

8 I will shortly be asking others who are here,  
9 particularly perhaps those who are representing  
10 survivors, as to what their response is to what you're  
11 asking for, but it's really not for you to tell me the  
12 inquiry won't be prejudiced. I need, as you know, to  
13 hear what everybody has to say about this application.

14 MR O'NEILL: Indeed, my Lady. If I can finish off then  
15 in the sense that if other parties are going to be  
16 invited to speak, although I'm not reminding the  
17 tribunal of matters, I may be airing the matter  
18 publicly. But the fact is at common law, bases of  
19 fairness, it has been noted in a number of cases -- and  
20 I think I've already highlighted a number to the  
21 tribunal -- but the tribunal, although not conducting  
22 adversarial litigation, and there are no parties for  
23 whom it must provide safeguards, the tribunal is under  
24 an obligation at common law to achieve for witnesses  
25 procedures that will ensure procedural fairness.

1           In particular, that's a quotation from Lloyd v  
2           McMahon, 1987, appeal cases, 625 at 702 by Lord Bridge  
3           of Harwich. In particular, as has been noted in the  
4           case of Mahon v Air New Zealand 1983, appeal cases, 803,  
5           that:

6           "Persons liable to be criticised or evidence  
7           commented upon by a commission of inquiry should  
8           generally be given a fair opportunity in the  
9           participation in the process."

10          So this does actually focus not just on other  
11          witnesses but the focus has to be on this particular  
12          witness and what fairness requires of his treatment. As  
13          I say, because I am able and willing to work over the  
14          weekend on this, then the parties will have an  
15          opportunity as from Monday to look over and see what is  
16          being proposed on the part of the archbishop in terms of  
17          written submissions and, no doubt, make oral submissions  
18          on that matter on the Tuesday and Wednesday, having had  
19          an opportunity of seeing others who have put in  
20          submissions earlier.

21          So in sum, my Lady, this is a case in which the  
22          principles set out at common law, in terms of common law  
23          fairness, as applied to tribunals of inquiry such as the  
24          present statutory tribunal, that there has to be a fair  
25          opportunity for persons appearing before the inquiry and

1 giving evidence who may be subject to criticism, whether  
2 by the inquiry itself or by other parties, to have  
3 a full and fair opportunity of presenting their case.

4 I say that that fair and full opportunity is one  
5 which requires, in this case, not that we put in our  
6 submissions by Friday at 4 o'clock but that we be given  
7 the weekend to allow those to be reviewed by the  
8 archbishop so that he can put them in on Monday.

9 The fact is, because of professional commitments,  
10 there is very little time as it is this coming week, but  
11 we will be working on that within those limits. So on  
12 that basis, my Lady, I renew my motion or application.

13 LADY SMITH: Let me turn to Mr Scott first. Mr Scott,  
14 I don't know if there's anything you wish to say in  
15 response to the application that's been made.

16 MR SCOTT: Relatively little, my Lady.

17 I should say that your Ladyship's decision to have  
18 parties circulate submissions ahead of the date of  
19 closing for the first case study was extremely helpful  
20 and thus far there has been no reason to question the  
21 fairness of any aspect of these proceedings at all. We  
22 welcome the fact that the same approach is being taken  
23 at this stage.

24 It is clearly not a matter for me to state an  
25 objection or the like but, for what it is worth, and

1           having listened to my learned friend's submissions, I am  
2           happy that he has the opportunity to see submissions, as  
3           everyone else will, to see submissions or draft  
4           submissions on behalf of INCAS, and if he feels that he  
5           requires over the weekend to properly put in place  
6           submissions on behalf of the archbishop, that would not  
7           cause me any difficulties.

8           LADY SMITH: That's very helpful. Thank you, Mr Scott, for  
9           that.

10           Mr Anderson, there is a screen between you and me,  
11           but is there anything you would wish to say on this,  
12           does this cause you a problem?

13           MR ANDERSON: No, it doesn't, my Lady. I have no difficulty  
14           on my part, and with those instructing me, submitting  
15           a statement by the close of business on Friday, but  
16           I equally have no difficulty with my learned friend's  
17           application, and after that, I'm content to leave it in  
18           my Lady's hands.

19           LADY SMITH: And Scottish government, have we got somebody  
20           here?

21           MS KERR: My Lady, we have no objection.

22           LADY SMITH: Thank you. Mr Lindsay?

23           MR LINDSAY: Yes, the position is the same as the other  
24           interested parties. The Congregation is content to be  
25           guided by your Ladyship's good judgement on whether my

1 learned friend's application should be granted.

2 LADY SMITH: Mr MacAulay.

3 MR MacAULAY: No, my Lady, I have nothing that I can say  
4 that can usefully help.

5 LADY SMITH: Can I just add this, again, Mr O'Neill. I'm  
6 a little concerned at the impression I'm getting that  
7 you think that in asking for closing submissions in  
8 writing I'm asking for a long, detailed document; that's  
9 not so. What proved to be very effective in the last  
10 case study was that the written submissions were really  
11 quite succinct. It does not need to be a lengthy  
12 document.

13 Also, when it comes to speaking to the document that  
14 has been lodged and making oral submissions next week,  
15 I will be doing what I did on the last occasion and  
16 putting a cap of 45 minutes on the time to address me,  
17 but in the expectation that in the case of those whose  
18 interest, whilst important, has been quite limited --  
19 and the archbishop does fall into that category, he  
20 doesn't have as much to deal with at all as many of the  
21 other parties here -- I would expect that the time taken  
22 would be significantly less than 45 minutes. Indeed, on  
23 the last occasion some were able to deal with it in  
24 10 minutes.

25 What I would ask is that you aim at 4 pm on Friday

1           for, at the very least, a draft.  If it is simply in  
2           bullet points so as to alert people to the lines that  
3           you expect to be taking, I'm sure that would be helpful,  
4           and with that to be followed up by the start of  
5           business -- well, I will give a relaxed start of  
6           business on Monday to 9 am; the inquiry starts working  
7           long before 9 am every morning -- but until 9 am on  
8           Monday morning for whatever you wish to put in in its  
9           final form.  That's what I will do.

10           But I would urge you to let us have even a draft  
11           document, as I say, with bullet points or short notes by  
12           close of business on Friday so that some notice is given  
13           of what the line of thinking is, please.

14  MR O'NEILL:  I'm very much obliged, my Lady.

15  LADY SMITH:  Thank you.

16           Is there anything else we need to raise today,  
17           Mr MacAulay?

18  MR MacAULAY:  No, my Lady, only for me to say that tomorrow  
19           we have two witnesses who will give evidence together.

20  LADY SMITH:  Yes.  Finishing in the same way as we did with  
21           the Daughters of Charity?

22  MR MacAULAY:  Indeed.

23  LADY SMITH:  Yes, that worked very well.

24           I will rise now until 10 o'clock tomorrow morning.  
25  (3.30 pm)



(The hearing adjourned until 10.00 am  
on Wednesday 27 June 2018)

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"IAN" (sworn) .....1

    Questions from MR MacAULAY .....1

ARCHBISHOP MARIO CONTI (sworn) .....15

    Questions from MR MacAULAY .....15

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